Programs & Materials for New District Judges

2004

Federal Judicial Center
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This Federal Judicial Center Publication was undertaken in furtherance of the Center's statutory mission to develop and conduct education programs for judicial branch employees. The views expressed are those of the author and not necessarily those of the Federal Judicial Center.
Introduction

This pamphlet describes programs and materials for new district judges that supplement the orientation programs offered by the Federal Judicial Center (i.e., the initial seminar for small groups of judges near the beginning of a judge’s tenure, and the one-week Washington seminar during the judge’s first year on the bench), as well as programs that the Administrative Office offers to acquaint new judges with its services.

The pamphlet is in two parts. Part I describes programs that some courts have for new judges. It presents a range of approaches to creating such programs and suggests relevant considerations with respect to each. Part II is an outline of subjects that are common sources of problems. It serves as a guide to a new judge seeking assistance. It is annotated with references to written, audiovisual, and Web-based materials available from the Center, the Administrative Office, and other agencies.

Mentor programs and the materials listed in this pamphlet can demystify those parts of the work that may be foreign to the new judge’s experience. They can provide

• quick access to help when and where the judge needs it;
• an opportunity to ask questions (including questions the judge might hesitate to ask in a group setting); and
• an opportunity to observe and discuss live proceedings.
Part I: Court-Based Mentor Programs

Court-based mentor programs supplement existing orientation programs by providing new judges with an opportunity to watch experienced home-court colleagues in action, to ask questions, and to learn about important features of the work, practices, and policies of the court. The programs help new judges avoid potential pitfalls, identify options, and learn how some judges in the district handle particular tasks and why they do things the way they do.

Some courts have such mentor programs. Courts that do not have mentor programs may want to consider fashioning such programs in light of the suggestions that follow, the experiences of other courts, and their own particular situation. Those courts that now have mentor programs may want to consider refining them in light of the following suggestions:

- The program should be offered to new judges as a recommended option. Making the program mandatory may set the wrong tone.
- The program should be available early, if possible before the judge becomes immersed in his or her caseload.
- To suit local needs and circumstances, planning and implementation of each program should be in the hands of the court, under the direction of the chief judge, a committee of judges, or a judge designated by the chief judge.
- The court may wish to designate a standing mentor judge or panel of judges, or make ad hoc assignments as the need arises. In selecting the mentor judge or judges, courts typically consider these factors:
  1. the availability of judges (having more than one mentor judge exposes new judges to a variety of techniques and spreads the burden);
  2. the experience of the judges to be designated and their records and accomplishments as trial judges and case managers;
  3. the judges’ ability to serve and interest in serving as mentors; and
  4. the new judges’ preferences.
- Alternatively, new judges may be scheduled to spend time with and observe each of the court’s judges (who want to participate). Small districts may want to make arrangements for exchanges with nearby districts to supplement their resources and broaden the exposure to different approaches.
- In any event, new judges should observe courtroom proceedings and chambers activity, including chambers conferences and interaction with chambers staff (law clerks and courtroom deputy).
• The program should provide new judges with the opportunity to observe several critical proceedings (conducted by the mentor judges or arranged through them), such as jury empanelment; civil and criminal motion calendars; Rule 16, final pretrial, and settlement conferences; suppression hearings; plea taking; and sentencing proceedings. Ideally, new judges should observe most of the important types of proceedings within their first two weeks on the bench.

• The program should give new judges a hands-on introduction to chambers organization and management, including, where feasible and appropriate, introduction to the court’s computer systems (probably provided by the court’s automation support staff).

• The program should introduce new judges to the various departments of the court—the magistrate judges, the bankruptcy court and its judges, the clerk’s office, and the probation and pretrial services offices—and provide an opportunity to learn where they are, who they are, and what they do. The judges should also consider meeting the U.S. attorney, the U.S. marshal (for a security briefing), the federal public defender, and persons who administer any court-wide alternative dispute resolution programs. A walk-through of the various departments will help new judges familiarize themselves with each department’s work.

The outline in Part II is a checklist of subjects from which the mentor program and new judge can develop a framework tailored to the new judge’s needs.
Part II: Subject Outline

This outline is a checklist of subjects on which new judges most commonly need information and guidance. Its annotations provide references to available materials that bear on the particular subject. Some of these materials are included in the shipments routinely sent to newly nominated district judges by the Center and the Administrative Office, and they are so identified, and some of the video programs listed in the outline are shown to new judges at the initial orientation seminar. Other materials are available on request. Unless otherwise noted, all written and audiovisual materials listed in this outline are Federal Judicial Center products and may be ordered from the Center’s Information Services Office. An order form for Center products follows this outline. Administrative Office publications are specifically identified as such. Further questions about Administrative Office publications should be directed to its Article III Judges Division at (202) 502-1860. Many of the documents cited below, as well as other relevant information for new judges, can also be found on the Center’s site on the judiciary’s intranet at http://jnet.fjc.dcn and on the Judges’ Corner of the J-Net at http://jnet.ao.dcn/Judges. Both of these sites are accessible to federal judiciary users only.

The referenced materials are not exhaustive, nor are there materials for all subjects suggested in the outline. The Center will update the references in this outline periodically. Note, however, that this outline is a general guide and introduction, not a compendium of recent legal developments; in some respects, the law may have changed since some of the referenced material was prepared.
A. General Information for New District Judges

(The primary source of reference for general information of the type in Section A is the office of the clerk of court. The monograph Getting Started as a Federal Judge: An Administrative Guide to Assist New Judges During Their First Year on the Bench covers a wide range of topics important to new judges. Getting Started is available from the Administrative Office and on the Judges’ Corner of the J-Net. For additional references, contact the Administrative Office’s Article III Judges Division at (202) 502-1860.)

1. Organization of the Judicial Branch
The Judicial Conference and Its Committees (available on the J-Net at http://jnet.ao.dcn/judicial_conference)
WEB SITE: Inside the Federal Courts (available on the Center’s site on the courts’ intranet at http://jnet.fjc.dcn)
VIDEO: An Introduction to the Federal Courts (a multipart orientation program about federal court case processing for new clerk’s office employees that is also helpful to new judges) [1832-V/91 (1991) (29 mins.)]

2. Compensation and Benefits
Life and health insurance, survivor benefits, etc.
MONOGRAPH: Senior Status and Retirement for Article III Judges, Judges Information Series (available from the Administrative Office)

3. Administrative Procedures
Travel, reimbursement, etc.

4. Ethics and Judicial Conduct
a. Codes of conduct—conflicts, relations with former firm or office, judicial conduct and ethical obligations, recusal

*Automatically sent to newly nominated district judges.
b. Ethics legislation and regulations
   MANUAL: Guide to Judiciary Policies and Procedures, Vol. II, Ch. 6
   (available on the Judges’ Corner of the J-Net at http://jnet.ao.dcn/Guide)
   MANUAL: Judges Manual, Vol. III-C, Ch. 2 (available on the Judges’

   c. Financial reporting
   MANUAL: Guide to Judiciary Policies and Procedures, Vol. II, Ch. 6
   (available on the Judges’ Corner of the J-Net at http://jnet.ao.dcn/Guide)
   MANUAL: Judges Manual, Vol. III-C, Ch. 2 (available on the Judges’
   VIDEO: The Judicial Conference Committee on Financial Disclosure: An
   Overview of Responsibilities [4364-V/02 (2002) (8 mins.)]
   Forms, instructions and computer programs are sent annually to all
   judges by the Administrative Office and are also available on the
   Disclosure.html.

5. Security (including ensuring the privacy and safety of the judge and the
   judge’s family)
   MANUAL: Judges Manual, Vol. III-C, Ch. 6 (available on the Judges’
   VIDEO: Judicial Security [18 mins.] (available from the U.S. Marshal’s
   Office)
   AUDIO: Security at Home and at Work [2902-A/95 (1995) (1 tape)]
   (1 tape)]
   AUDIO: Security Issues for Judges: An Update on Threat Management and
   Risk Assessment [3858-A/99 (1999) (1 tape)]
   WEB SITE: Court Security (available on the J-Net at http://jnet.ao.dcn/
   Court_Security)

6. Media Relations
   AUDIO: Media Relations [4496-A/03 (2003) (1 tape)]

B. Setting Up Chambers
   1. Arrangements for Induction Ceremony
   2. Personnel
      a. Secretaries

*Automatically sent to newly nominated district judges.
3. Space and Facilities
   a. Procurement (library, furniture, etc.)
   b. Chambers automation

4. Managing the Paper Flow
   Filing systems, file and document retention, etc.

C. Components of the District Court

1. Bankruptcy Court
   AUDIO: A Review of Bankruptcy Jurisdiction [4501-A/03 (2003) (1 tape)]

2. Magistrate Judges—arrangement of duties and obligations
   MONOGRAPH: Inventory of United States Magistrate Judge Duties (available from the Administrative Office)

*Automatically sent to newly nominated district judges.
MONOGRAPH: A Constitutional Analysis of Magistrate Judge Authority [1993] (available from the Administrative Office)
VIDEO: The Role of the U.S. Magistrate Judge [2461-V/98 (1998) (21 mins.)]
AUDIO: Magistrate Judge Authority and Utilization [4603-A/04 (2004) (1 tape)]

3. Clerk's Office
   Court assignment plan, courtroom deputies, court reporters
   (available on the Judges' Corner of the J-Net at http://jnet.ao.dcn/Guide)
   VIDEO: Perspectives on the Role of the Courtroom Deputy in the District Courts [2069-V/92 (1992) (30 mins.)]
   VIDEO: Taking the Interpreter's Oath to Heart [3910-V/99 (1999) (29 mins.)]

4. Probation and Pretrial Services
   AUDIO: Pretrial Services and Detention Issues [4247-A/01 (2001) (1 tape)]
   WEB SITE: Probation and Pretrial Services (available on the J-Net at http://jnet.ao.dcn/Probation_and_Pretrial_Services)

5. Marshal's Office
   WEB SITE: Court Security (available on the J-Net at http://jnet.ao.dcn/Court_Security)

*Automatically sent to newly nominated district judges.
D. The Civil Litigation Process

1. General Introduction to the Process
   VIDEO: *How Civil Cases Move Through the District Courts* [2784-V/95
   (3 hrs. 40 mins.)] (an orientation program for new clerk’s office
   employees that is also helpful to judges without experience in civil
   cases) (available on the Center’s site on the courts’ intranet at http://jnet.fjc.dcn)
   WEB SITE: *Inside the Federal Courts* (available on the Center’s site on the
   courts’ intranet at http://jnet.fjc.dcn)

2. Maintaining and Managing the Civil Calendar

3. Civil Case Management (including appropriate treatment of reassigned
   cases and newly assigned cases)
   a. General
      MANUAL: *Civil Litigation Management Manual* [2001, 463 pp.]*
      VIDEO: *Case Management and Civil Pretrial Procedure* [1717-V/98
      (1998) (33 mins.)]
      AUDIO: *Civil Case Management: Panel Discussion* [3801-A/99 (1999)
      (2 tapes)]
      AUDIO: *Thoughts on Avoiding Reversible Error* [3293-A/96 (1996)
      (1 tape)]
   b. Determining subject-matter jurisdiction
      VIDEO: *Subject-Matter Jurisdiction: An Overview for Law Clerks* [3994-V/00 (2000) (1 hr.)]
      VIDEO: *Removal Jurisdiction: Hot Topics* [3957-V/00 (2000) (56 mins.)]
   c. Scheduling
      pp.]*
      AUDIO: *Scheduling: Panel Discussion* [3602-A/98 (1998) (1 tape)]
   d. Conducting Rule 16 conferences
      pp.]*
      VIDEO: *Case Management and Civil Pretrial Procedure* [1717-V/98
      (1998) (33 mins.)]
      AUDIO: *Civil Case Management: Panel Discussion* [3801-A/99 (1999)
      (2 tapes)]
   e. Alternative dispute resolution procedures
      pp.]*
      MANUAL: *Judge’s Deskbook on Court ADR* [1993, 101 pp.]
      VIDEO: *Mediation and Case Management: Do’s and Don’ts on the Way to
      Successful Mediation* [4492-V/03 (2003) (1 hr., 29 mins.)]

*Automatically sent to newly nominated district judges.
f. Discovery management and control
   WEB SITE: Materials on Electronic Discovery (available on the Center’s site on the courts’ intranet at http://jnet.fjc.dcn)

g. Motions
   Management, hearings, and decisions
   AUDIO: Management of Civil Case Motion Practice [4256-A/01 (2001) (1 tape)]
   Summary judgment, etc.
   AUDIO: Pretrial Resolution of Cases by Dispositive Motions [3106-A/96 (1996) (1 tape)]

h. Settlement
   VIDEO: Communications Between Judges, Settlement Judges, and Mediators: What’s OK, What’s Off Limits [4308-V/02 (2002) (1 hr., 59 mins.)]

i. Final pretrial conferences

j. Rules of evidence
   AUDIO: Evidence: A Discussion of Some of the Key Challenges Facing the Trial Courts [3846-A/99 (1999) (1 tape)]

*Automatically sent to newly nominated district judges.
4. Special Proceedings

a. Temporary restraining orders and injunctions—procedure and standards

b. Habeas corpus petitions
   VIDEO: Capital Case Issues Update [3982-V/00 (2000) (1 hr. 20 mins.)]
   WEB SITE: Resources for Managing Capital Cases (available on the Center’s site on the courts’ intranet at http://jnet.fjc.dcn)

c. Pro se litigation and appointment of counsel

d. Social Security cases
   AUDIO: Overview of Social Security Issues [4076-A/00 (2000) (1 tape)]

e. Sanctions

f. Contempt, civil/criminal
   MANUAL: Benchbook for U.S. District Court Judges § 7.01 (criminal), § 7.02 (civil) [4th ed., 2000 rev., 244 pp.]*
   AUDIO: Use of Contempt and Other Sanctions [2914-A/95 (1995) (1 tape)]

g. Attorneys’ fees awards

h. Recusal motions

*Automatically sent to newly nominated district judges.
5. Jury Trials
   a. Jury selection, voir dire, management
      MANUEL: Bermant, Jury Selection Procedures in U.S. District Courts [1982, 60 pp.]*
      VIDEO: The Civil Trial [1718-V/98 (1998) (46 mins.)]
      VIDEO: Called to Serve (orientation video for prospective jurors—judges should check their district’s policy, if any, on its use) [2980-V/95 (1995) (19 mins.)]
   b. Jury instructions and verdict forms
      Circuit manual on model/pattern jury instructions (where available)
      VIDEO: The Civil Trial [1718-V/98 (1998) (46 mins.)]
   c. Trial management
      Inventory of United States Magistrate Judge Duties (available from the Administrative Office)
      VIDEO: The Civil Trial [1718-V/98 (1998) (46 mins.)]
      AUDIO: Managing the Trial in Progress [3604-A/98 (1998) (1 tape)]
   d. Courtroom technology

*Automatically sent to newly nominated district judges.
6. Bench Trials

7. Handling Unusual or Complex Cases
a. Complex and class actions
WEB SITE: Class Action Notices (available on the Center's site on the courts' intranet at http://jnet.fjc.dcn)
AUDIO: Management of a Complex Civil Case [1845-A/91 (1991) (1 tape)]
AUDIO: Managing Class Action/Mass Tort Cases—Panel Discussion [4469-A/03 (2003) (1 tape)]

b. Patent/copyright/trademark litigation
VIDEO: An Introduction to the Patent System [4342-V/02 (2002) (17 mins.)]
AUDIO: Developments in Copyright and Trademark Law [4616-A/04 (2004) (1 tape)]
AUDIO: Intellectual Property [4459-A/03 (2003) (1 tape)]

*Automatically sent to newly nominated district judges.
c. Section 1983 litigation

d. Employment discrimination litigation

e. Antitrust litigation
   VIDEO: The Architecture of Antitrust [3895-V/99 (1999) (1 hr., 13 mins.)]
   AUDIO: Antitrust and Intellectual Property in the Information Age [4106-A/00 (2000) (1 tape)]

f. State-federal judicial relations

8. Judicial Writing
   MANUAL: Judicial Writing Manual [1991, 41 pp.]*
   AUDIO: Opinions: Effective Writing, Efficient Editing [4139-A/00 (2000) (1 tape)]

E. The Criminal Litigation Process

1. General Introduction to the Process
   MANUAL: Legal Manual, Magistrate Judges (available from the Administrative Office)
   VIDEO: How Criminal Cases Move Through the District Courts (an orientation program for new clerk’s office employees that is also helpful to judges without experience in criminal cases) [1618-V/98 (1998) (3 hrs., 45 mins.)]
   WEB SITE: Inside the Federal Courts (available on the Center’s site on the courts’ intranet at http://jnet.fjc.dcn)

*Automatically sent to newly nominated district judges.
2. Arraignment


VIDEO: Criminal Pretrial Proceedings [1720-V/92 (1992) (68 mins.)]


3. Pretrial Release/Detention/Bail


VIDEO: Criminal Pretrial Proceedings [1720-V/92 (1992) (68 mins.)]


AUDIO: Criminal Pretrial [3608-A/98 (1998) (1 tape)]

AUDIO: Pretrial Services and Detention Issues [4247-A/01 (2001) (1 tape)]

4. Counsel

a. Criminal Justice Act—appointment of counsel, federal and community defender, and panel counsel


b. Conflicts


VIDEO: Criminal Pretrial Proceedings [1720-V/92 (1992) (68 mins.)]

c. Waiver and advisory counsel


VIDEO: Criminal Pretrial Proceedings [1720-V/92 (1992) (68 mins.)]

5. Competency Hearings


VIDEO: Criminal Pretrial Proceedings [1720-V/92 (1992) (68 mins.)]

6. Motions—Motions to Suppress, Motions in Limine, etc.

VIDEO: Criminal Pretrial Proceedings [1720-V/92 (1992) (68 mins.)]


*Automatically sent to newly nominated district judges.
7. Guilty Pleas and Plea Bargains
   a. Rule 11 procedure
      VIDEO: Criminal Pretrial Proceedings [1720-V/92 (1992) (68 mins.)]
   b. Guideline problems

8. Criminal Pretrial Conferences
   VIDEO: Criminal Pretrial Proceedings [1720-V/92 (1992) (68 mins.)]
   AUDIO: Criminal Process: General Discussion with Audience Participation [3298-A/96 (1996) (1 tape)]

9. Trial
   a. Generally
      VIDEO: Criminal Trial Procedures [1721-V/92 (1992) (60 mins.)]
      AUDIO: Special Trial Problems (panel discussion) [3609-A/98 (1998) (1 tape)]
   b. Jury selection, voir dire, and juror challenges
      MANUAL: Benchbook for U.S. District Court Judges §§ 2.05, 2.06 [4th ed., 2000 rev., 244 pp.]*
      MONOGRAPH: Bermant, Jury Selection Procedures in U.S. District Courts [1982, 60 pp.]*
      VIDEO: Called to Serve (orientation video for prospective jurors—judges should check their district’s policy, if any, on its use) [2980-V/95 (1995) (19 mins.)]
      VIDEO: Criminal Trial Procedures [1721-V/92 (1992) (60 mins.)]
      AUDIO: Voir Dire in the Federal Criminal Case [1423-A/90 (1990) (1 tape)]

*Automatically sent to newly nominated district judges.
c. Jury management

VIDEO: Criminal Trial Procedures [1721-V/92 (1992) (60 mins.)]

d. Jury instructions

Circuit manual on model/pattern jury instructions (where available)

e. Courtroom technology


f. Closing trial


10. Sentencing

(An extensive collection of materials on sentencing is available on the U.S. Sentencing Commission Web site www.ussc.gov, including publications, reports to Congress, guidelines manuals and amendments, guideline training and education materials, and federal sentencing statistics.)

a. Probation officers and presentence report

VIDEO: The Presentence Process [1121-V (1989) (34 mins.)]
AUDIO: Judicial Findings and the Presentence Report [4389-A/02 (2002) (1 tape)]

*Automatically sent to newly nominated district judges.
b. Understanding the Sentencing Guidelines


OUTLINE: *Guideline Sentencing: An Outline of Appellate Case Law on Selected Issues* [2002]*

VIDEO: *Sentencing and Guidelines: Basic Application* [4149-V/01 (2001) (1 hr., 53 mins.) (2 tapes)]

VIDEO: *Sentencing and Guidelines: Criminal History Issues* [4219-V/01 (2001) (58 mins.)]

VIDEO: *Sentencing and Guidelines: Departure Analysis* [3955-V/00 (2000) (1 hr., 58 mins.) (2 tapes)]

VIDEO: *Sentencing and Other Criminal Post-Trial Matters* [2783-V/95 (1995) (79 mins.)]

AUDIO: *Special Problems in Guideline Sentencing* [3383-A/97 (1997) (2 tapes)]


c. Conducting sentencing hearings


d. Fashioning sentences—incarceration, fines, probation and alternatives, supervised release, restitution, etc.


VIDEO: *Sentencing and Other Criminal Post-Trial Matters* [2783-V/95 (1995) (79 mins.)]

VIDEO: *Restitution: Determining Victims and Harms* [3883-V/99 (1999) (2 hr., 29 mins.)]

AUDIO: *PROTECT ACT: The Statement of Reasons* [4573-V/04 (2004) (1 tape)]

11. Release Pending Appeal


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About the Federal Judicial Center
The Federal Judicial Center is the research and education agency of the federal judicial system. It was established by Congress in 1967 (28 U.S.C. §§ 620–629), on the recommendation of the Judicial Conference of the United States.

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.

The Director's Office is responsible for the Center's overall management and its relations with other organizations. Its Systems Innovation & Development Office provides technical support for Center education and research. Communications Policy & Design edits, produces, and distributes all Center print and electronic publications, operates the Federal Judicial Television Network, and through the Information Services Office maintains a specialized library collection of materials on judicial administration.

The Education Division plans and produces educational programs, services, and resources for judges and for nonjudicial court personnel, such as those in clerk's offices and probation and pretrial services offices. Its products include travel-based and in-court programs that participants attend in person, Web-based programs and publications, television programs broadcast by satellite, and manuals, monographs, and other print publications.

The Research Division undertakes empirical and exploratory research on federal judicial processes, court management, and sentencing and its consequences, often at the request of the Judicial Conference and its committees, the courts themselves, or other groups in the federal system.

The Federal Judicial History Office develops programs relating to the history of the judicial branch and assists courts with their own judicial history programs.

The Interjudicial Affairs Office provides information about judicial improvement to judges and others from foreign countries and identifies international legal developments of importance to personnel of the federal courts.