



1990

**ANNUAL
REPORT**

Presented To
Sixth Circuit Judicial Conference
March 22-24, 1990
Hilton Head Island, South Carolina
Honorable Gilbert S. Merritt
Chief Judge

Front Cover

Pictured are the Circuit and District Judges of the Sixth Circuit taken at the 50th Annual Sixth Circuit Judicial Conference held May 10-13, 1989 at the Radisson Plaza Hotel in Lexington, Kentucky.

From left to right: **Row 1**, Judges Hull and Engel; **Row 2**, Judges Jordan, Turner, Merritt, McRae, Brown, Siler, Wellford, Rice; **Row 3**, Judges Cook, Suhrheinrich, Robert Bell, Gadola, Johnstone, Todd, Krenzler, White, Spiegel; **Row 4**, Judges Rubin, Kinneary, Graham, Duggan, La Plata, Gilmore, Gibson, Batchelder, Sam Bell, Jones, Ballantine, Weber, Meredith; **Row 5**, Judges Battisti, Young, Allen, Contie, Milburn, Hillman, Wiseman, Norris, Gibbons, Lambros, Manos, Wilhoit, Lively, Keith; **Row 6**, Judges Unthank, Feikens, Kennedy, Harvey, Smith, Boggs, Horton, Judge John Godbold, Director of the Federal Judicial Center, Enslen, Dowd, Potter, Edwards; **Row 7**, Judges Zatkoff, Thomas, DeMascio, Walinski, Aldrich, Simpson, Woods, Peck; **Row 8**, Judges McQuade, Edgar, Jarvis, Holschuh and Nelson; **Row 9**, Judge Higgins.

FOREWORD

From Marquette to Youngstown to Pikeville to Memphis, the Sixth Judicial Circuit of the United States inhabits more than 35 courthouses and 200 courtrooms - 160 judges, a staff of 1500 employees and a budget of \$95 Million. Our bailiwick circumambulates the Great Lakes, the Ohio, Tennessee and Mississippi River Valleys, the Smokies and the Southern Appalachian range. Our cases span the cotton plantations of the Delta, the fruit orchards and wineries of Grand Traverse Bay, the coal fields of Kentucky, the automobile and machine tool plants of Michigan and Ohio (now spreading into Kentucky and Tennessee) and the distinctive political and ethnic traditions of the great cities of our Circuit.

Counting all the filings and proceedings in bankruptcy, magistrate, district and appellate courts, the courts of the Sixth Circuit resolved some 200,000 cases last year. These cases directly affected the lives of many, if not all, of almost 35 million people who live within our region -- their liberties, personal security, prisons, pensions, jobs, contracts, utility rates and income taxes, not to mention the pay rates and income of the distinguished and underpaid lawyers of the Sixth Circuit.

Our courts and staffs in the Sixth Circuit are approximately fifteen percent of a national judicial system generally acknowledged to be the least imperfect in the world, despite all its flaws. Although growing and ever changing, our federal judicial system must remain a calm and stable anchorage for our society, a place where evenhanded laws are intelligently administered and the liberties of a free people are maintained. That is our mission.

In striving to approach this ideal, the major problem for us all -- judges and lawyers alike -- is to find the time to give thoughtful, complete and objective consideration to all of the litigants and cases that engage our attention each day. The danger is thoughtless justice rendered in haste without adequate consideration and understanding. Although there is much we can be proud of about our judicial system, there is much we can improve.

What follows is a brief picture of the work of the Sixth Circuit for the last year.

As I begin my new duties as Chief Judge of the Sixth Circuit, I want to praise good work done by my immediate predecessors, former Chief Judges Pierce Lively and Albert J. Engel, as well as by my mentor, Chief Judge Harry Phillips of Nashville, who during his life by example set the ideal for all of us who knew him. It is my good fortune to inherit the responsibility for administering a strong, well functioning Circuit.

Gilbert S. Merritt
Chief Judge

JUDICIAL ADMINISTRATION IN THE SIXTH CIRCUIT

Introduction

It is appropriate that the first Sixth Circuit Judicial Conference of the new decade focuses on the future of the federal judiciary. The Federal Courts Study Committee was established by Act of Congress as a part of the Judicial Improvements and Access to Justice Act of 1988. The fifteen member Study Committee is chaired by the Honorable Joseph F. Weis, Jr., Senior Circuit Judge of the United States Court of Appeals for the Third Circuit. The Committee was given a broad mandate to study the problems and issues currently facing the Federal courts and to develop a long-range plan for the future of the federal judiciary, including revisions of the law or other appropriate actions. The entire Conference program this year will be devoted to an examination of the findings and recommendations of the Federal Courts Study Committee.

The federal courts in the Sixth Circuit represent a microcosm of the problems examined by the Federal Courts Study Committee. In 1990 there are fifteen active and seven senior circuit judges, fifty-six active and fifteen senior district judges, thirty-five bankruptcy judges and thirty-four full-time magistrates serving in the Sixth Circuit. During 1989 there were 4,214 cases filed in

IN ADDITION TO THE EXAMINATION OF THE REPORT OF THE FEDERAL COURT STUDY COMMITTEE, THE SIXTH CIRCUIT HAS TWO SIGNIFICANT LONG RANGE STUDY ACTIVITIES OF ITS OWN, DEALING WITH THE PROBLEMS OF GROWTH OF THE SIXTH CIRCUIT COURT OF APPEALS AND THE FUTURE DIRECTION OF THE SIXTH CIRCUIT JUDICIAL CONFERENCE.

the court of appeals, 28,477 cases filed in the district courts, and 89,450 bankruptcy cases filed in the Sixth Circuit. These numbers represent the significant growth that has occurred in the federal courts in the last twenty years. By comparison, in 1970, there were 911 cases filed in the court of appeals, 8,080 cases filed in the district courts, and 38,061 cases filed in the bankruptcy courts of the Sixth Circuit.

The Sixth Circuit has two significant long range planning activities of its own. Because of its increasing caseload, the court of appeals has requested five additional judgeships, and a long range planning committee has been established within the court of appeals to consider the workload and organizational impact of the addition of five more active judgeships to the court of appeals. Also ongoing is a study of the future of the Sixth Circuit

Judicial Conference itself. The court has authorized a study committee chaired by Chief Judge Merritt to plan and arrange the 1992 conference in Columbus, Ohio which will permit some experimentation with program format and delegate selection.

JUDICIAL CONFERENCE OF THE UNITED STATES

The Judicial Conference of the United States is the chief policy-making body for the federal judiciary. Established in 1922 as the Conference of Senior Circuit Judges, the Conference oversees the general performance of the federal judiciary and makes various policy recommendations for changes in policies or procedures of the courts. The Conference also performs a number of responsibilities which have a direct impact on the day-to-day operations of the judiciary. Some of those responsibilities include:

- Formulation of the budget for the judicial branch and presentation of the budget to the Congress.
- Submission of recommendations to Congress for additional judgeships.
- Determination of the number, location and salary of magistrates.
- Submission to the Supreme Court, subject to Congressional approval, of amendments to the Federal Rules of Procedure and Evidence.
- Supervision of judicial ethics and discipline.

The Judicial Conference meets twice each year - in March and September. The Conference is composed of the Chief Justice, the Chief Judge of each of the twelve geographic circuits, the Chief Judge of the Federal Circuit, the Chief Judge of the Court of International Trade, and a district judge representative from each of the twelve circuits. The district judge representative is elected by vote of the judges of the circuit he or she represents and serves for a term of three years. Senior District Judge James P. Churchill of the Eastern District of Michigan was elected last May to fill an unexpired term which ends in August of 1990.

The spring and fall meetings of the Conference are only a small part of the total work of the Conference. Much of the work of the Conference is done by standing and ad hoc committees. Membership on the committees is by appointment by the Chief Justice and is not limited to members of the Conference.

The following persons from the Sixth Circuit currently serve on committees of the Conference:

- J. Vincent Aprile, Esq. - *Federal Court Study Committee*
Frankfort, Kentucky
- Hon. William O. Bertelsman - *Committee on Rules of Practice and Procedure*
Eastern District of Kentucky
- Hon. James G. Carr - *Committee on Criminal Law and Probation Administration*
Northern Ohio
- Hon. Julian Abele Cook, Jr. - *Committee on Judicial Ethics*
Eastern Michigan
- Hon. Avern L. Cohn - *Committee on the Administration of the Magistrate System*
Eastern Michigan
- Hon. Benjamin F. Gibson - *Committee on Judicial Improvements*
Western Michigan
- Hon. Horace W. Gilmore - *Committee on Judicial Ethics*
Eastern Michigan
- Hon. Ralph B. Guy - *Committee on the Judicial Branch*
Sixth Circuit
- Hon. John D. Holschuh - *Advisory Committee on Codes of Conduct*
Southern Ohio
- Hon. Odell Horton - *Committee on Defender Services*
Western Tennessee
- Hon. Charles W. Joiner - *Committee to Review Conduct and Disability Orders*
Eastern Michigan
- Hon. Damon J. Keith - *Committee on the Bicentennial of the Constitution*
Sixth Circuit
- Hon. David Kennedy - *Administration of the Bankruptcy Law*
Western Tennessee
- Edward F. Marek, Esq. - *Advisory Committee on Criminal Rules*
Northern Ohio
- Hon. Boyce F. Martin, Jr. - *Committee on Federal-State Jurisdiction*
Sixth Circuit
- Hon. Gilbert S. Merritt - *Committee on Judicial Resources*
Sixth Circuit
- Hon. David A. Nelson - *Committee on Criminal Law and Probation Administration*
Sixth Circuit
- Joseph Patchen, Esq. - *Advisory Committee on Bankruptcy Rules*
Cleveland, Ohio
- Hon. James L. Ryan - *Committee on Space and Facilities*
Sixth Circuit

Distinguished Service Rendered. Following recommendations made to him shortly after his appointment, Chief Justice Rehnquist has followed a policy of generally limiting appointments to the Judicial Conference Committees to two three-year terms. The following judges completed service as committee members and were released from further service with the appreciation of the Chief Justice: Hon. Pierce Lively; Committee on Rules of Practice and Procedure; Hon. Harry W. Wellford, Committee on Criminal Law and Probation Administration; Chief Justice Robert F. Stephens of Kentucky, Committee on Federal - State Jurisdiction; Hon. Thomas A. Wiseman, Committee on Bankruptcy Rules; Hon. Ralph H. Kelley, Committee on the Budget. **New Appointments.** Hon. David A. Nelson was appointed to a three year term as a member of the Committee on Criminal Law and Probation Administration, and Hon. William O. Bertelsman was appointed to a three year term on the Committee on Rules of Practice and Procedure.

*Ad Hoc Committee on Federal Habeas Corpus
Review of Capital Sentences*

An additional special committee of the Judicial Conference of the United States was appointed by the Chief Justice to consider the substantial logistical problems posed by habeas corpus petitions seeking review of state criminal convictions in capital cases. The committee was chaired by retired Supreme Court Justice Lewis F. Powell, Jr., and includes among its members judges from the Fifth and Eleventh Circuits, where the preponderance of such cases now occur.

The Special Committee submitted its report to the September 1989 meeting of the Judicial Conference and was discharged. The Conference voted to defer discussion and action on the report until the March 1990 session.

JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

The Judicial Council of the Sixth Circuit is, in many respects, the counterpart at the circuit level of the Judicial Conference of the United States. The council plays a major role in formulating the policies established by the Judicial Conference as well as in executing those policies. For example, the council reviews any proposals regarding additional judgeships or magistrate positions and submits recommendations to the Conference. The council also reviews a variety of matters involving the management of judicial resources for compliance with Conference established standards such as the plans for jury selection, criminal representation under the Criminal Justice Act, speedy trial, and the management of court reporters. The council also formulates circuit policy in a wide range of matters such as the allocation of personnel and approval of space and facilities matters, and it is authorized to issue orders for the division of business and the assignment of cases within a district court if the district judges are unable to agree.

**BANKRUPTCY JUDGE AND
MAGISTRATE ADDED TO
JUDICIAL COUNCIL.**

The Judicial Council, which is established by 28 U.S.C. 332, is authorized to issue "all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit." It consists of all of the active judges of the court of appeals and five district judges. The Chief Judge of the Circuit presides over the council. Four of the district judge representatives to the council are selected on the basis of seniority within their state. Ordinarily the district judge representative will be a chief district judge. However, when each incumbent chief judge from a state has served a three-year term on the council, the next most senior active judge from that state becomes the council representative. The fifth district judge member is elected annually by the District Judges Association of the Sixth Circuit. The district judges currently serving on the council are:

Hon. Julian Abele Cook, Jr.¹
Chief Judge, Eastern District of Michigan
Hon. Thomas D. Lambros
Chief Judge, Northern District of Ohio
Hon. Edward H. Johnstone
Chief Judge, Western District of Kentucky

¹Judge Cook replaced Judge James P. Churchill of the Eastern District of Michigan who assumed senior status December 30, 1989.

Hon. Odell Horton
Chief Judge, Western District of Tennessee
Hon. S. Arthur Spiegel²
Southern District of Ohio

In December of last year the Court of Appeals authorized the Chief Judge to invite a bankruptcy judge and a magistrate to participate as non-voting members of the council. Bankruptcy Judge William T. Bodoh of the Northern District of Ohio and U.S. Magistrate Paul J. Komives were selected by their peers to be representatives to the council.

Although not as extensive as the committee structure of the Judicial Conference of the United States, the council also operates through a committee structure. The committees of the council are as follows:

Investigating Committee

Honorable Gilbert S. Merritt, Chair
Honorable Boyce F. Martin, Jr.
Honorable Cornelia G. Kennedy
Honorable Nathaniel R. Jones
Honorable H. Ted Milburn
Honorable Douglas W. Hillman
Honorable William O. Bertelsman
Honorable Thomas A. Higgins
Honorable S. Arthur Spiegel

Jury Utilization Committee

Honorable Cornelia G. Kennedy, Chair
Honorable Robert B. Krupansky
Honorable Harry W. Wellford

Court Reporter Committee

Honorable Cornelia G. Kennedy, Chair
Honorable Robert B. Krupansky
Honorable Ralph B. Guy, Jr.
Honorable Leroy J. Contie, Jr. (Advisory)

Local Rules Review Committee

Honorable Robert B. Krupansky, Chair
Honorable H. Ted Milburn
Honorable Odell Horton
Honorable Thomas D. Lambros

²Judge Spiegel is the representative of the District Judges Association.

Senior Judge Personnel and Facilities Committee

Honorable Robert B. Krupansky, Chair

Honorable Danny J. Boggs

Honorable Odell Horton

Ad Hoc Committee on the Appointment of Bankruptcy Judges

Honorable Harry W. Wellford, Chair

Honorable Gilbert S. Merritt

Honorable Boyce F. Martin, Jr.

Honorable Nathaniel R. Jones

Honorable Ralph B. Guy, Jr.

Honorable Julian Abele Cook, Jr.

Honorable Thomas D. Lambros

Honorable Edward H. Johnstone

Honorable Odell Horton

The council meets in regular session twice each year, including a meeting in conjunction with the circuit judicial conference. Special meetings are held as necessary, and much of the routine business of the council is transacted by mail votes. The circuit executive provides the staff and administrative support for the council.

At its regular meeting in May of 1989, the council established a seven member executive committee to handle many of the routine matters submitted to the council and to act for the full council when action is required before the opportunity to schedule a regular council meeting. The executive committee currently consists of:

Executive Committee

Honorable Gilbert S. Merritt, Chair

Honorable Cornelia G. Kennedy

Honorable Boyce F. Martin, Jr.

Honorable Nathaniel R. Jones

Honorable Harry W. Wellford

Honorable Edward H. Johnstone

Honorable S. Arthur Spiegel

The following is a brief overview of some of the more significant actions of the Council in the past year:

Appointment of Bankruptcy Judge

The Bankruptcy Amendments and Federal Judgeship Act of 1984, P.L. 98-353, provides for the appointment of bankruptcy judges by the Court of Appeals for a term of 14 years from a list of not more than three persons recommended by the judicial council. In the appointment process the council has chosen to make use of merit selection panels in each district made up of judges and lawyers who assist the council by screening and evaluating the applicants for appointment. The initial review of the recommendations of the merit selection panels is performed by the Ad Hoc Committee on the Appointment of Bankruptcy Judges, but the full council reviews the recommendations of the panels and the ad hoc committee.

During 1989 the council was involved in the screening and recommendation of persons to fill a vacant bankruptcy judge position in the Western District of Kentucky which was filled during 1989 by David T. Stosberg. In the Eastern District of Kentucky, which was authorized an additional bankruptcy judgeship by Public Law 100-587, the Court of Appeals accepted the recommendations of the council and selected William S. Howard of Lexington for appointment to the vacancy.

Additional Judicial Officers

The council approved a request for five additional circuit judgeships for the Court of Appeals, a request for an additional bankruptcy judgeship for the Middle District of Tennessee and a request for the creation of an additional full-time magistrate for the Western District of Tennessee. The additional circuit judgeships and the additional bankruptcy judgeship await Congressional approval. The additional full-time magistrate for the Western District of Tennessee awaits approval by the Judicial Conference of the United States and funding by Congress.³

Other Items

The council approved the establishment of a death penalty resource center for Ohio through the Ohio Public Defender Office, and the council recommended a minimum rate of \$100.00 per hour be established for compensation of counsel in death penalty cases in federal court.

³Previously approved by the judicial council and awaiting Congressional action are the following additional district court judgeships: one temporary judgeship for the Western District of Michigan; one additional permanent and one additional temporary judgeship for the Northern District of Ohio; one additional permanent and one additional temporary judgeship for the Southern District of Ohio; one additional permanent judgeship for the Eastern District of Tennessee; and one temporary judgeship for the Western District of Tennessee.

OTHER CIRCUIT-WIDE ACTIVITIES OR ISSUES OF INTEREST TO THE BENCH AND BAR

Bicentennial Committee

**BILL OF RIGHTS PLAQUES
AVAILABLE FOR FEDERAL
COURTHOUSES.**

The celebration of the Bicentennial of the Constitution continues until 1991, the two hundredth anniversary of the ratification of the Constitution. As part of the judiciary's participation in the celebration of the Bicentennial of the Constitution, the Judicial Conference of the United States created a special committee on the Bicentennial made up of one representative of each circuit. The Conference also requested that each circuit establish its own Bicentennial Committee. The Honorable Damon J. Keith serves as the Chairman of the Bicentennial Committee of the Judicial Conference of the United States and as the Chairman of the Sixth Circuit Bicentennial Committee.

The special emphasis this year is on activities designed to remind judges, lawyers and other citizens of the adoption of the Bill of Rights. On October 18, 1989, Hofstra University, the Judicial Conference Committee on the Bicentennial, and New York State jointly sponsored the dedication of the Bill of Rights Plaza in Uniondale, New York, in front of the U.S. Courthouse. The site was marked with a bronze plaque of the Bill of Rights, and the Committee has made arrangements for duplicate bronze plaques to be distributed to federal courthouses throughout the country. To date over sixty federal courthouses have requested plaques, and several, including the U.S. Courthouses in Cincinnati and Detroit, have received their plaques.

On September 21 and 22, 1989, the Bicentennial Committee, together with Georgetown University and the Supreme Court Historical Society, sponsored a conference on the Judiciary Act of 1789, a forum for the scholarly review of the act that created the federal court system. The program included Members of Congress, Supreme Court Justices, federal judges and legal academics who reviewed the history and present status of the federal court system.

On February 2, 1990, the federal courts throughout the Sixth Circuit, including the Court of Appeals, held special programs in honor of the 200th anniversary of the first meeting of the Supreme Court of the United States.

Ad Hoc Committee to Review The Sixth Circuit Judicial Conference

The work of the Committee to review the Sixth Circuit Judicial Conference continues. As part of its mandate to examine the size and composition of the conference, to review the substantive elements of the conference program, and to evaluate whether the conference, as presently structured, conforms to the mandate of 28 U.S.C. § 333, the full committee met twice and recommended that the 1992 conference be considered an experimental conference. The Judicial Council approved the recommendation, and Columbus, Ohio has been selected as the site of the 1992 conference. Chief Judge Douglas W. Hillman of the Western District of Michigan has been selected as chair of a subcommittee that is working on the development of the substantive program as well as alternate methods of delegate selection for the 1992 conference. The full membership of the committee and the advisory committee is as follows:

**EXPERIMENTAL JUDICIAL
CONFERENCE TO BE HELD
IN COLUMBUS, OHIO IN
1992.**

Study Committee

Honorable Gilbert S. Merritt, Chair
Honorable Damon J. Keith
Honorable Boyce F. Martin, Jr.
Honorable Harry W. Wellford
Honorable David A. Nelson

Advisory Committee

Honorable Pierce Lively, Senior Circuit Judge
Honorable Charles W. Joiner, Senior District Judge
Honorable Douglas W. Hillman, Chief District Judge
Honorable John D. Holschuh, District Judge
Honorable S. Arthur Spiegel, District Judge
Honorable Henry R. Wilhoit, District Judge
Honorable Julia S. Gibbons, District Judge
Honorable George C. Paine, II, Bankruptcy Judge
Honorable James Carr, U.S. Magistrate
Charles F. Clarke, Esq., Life Member (Ohio)
Robert G. Stachler, Esq., Life Member (Ohio)
Kathleen Lewis, Esq., Life Member (Michigan)
Katherine Randall, Esq., Life Member (Kentucky)
Alfred H. Knight, III, Esq., Life Member (Tennessee)
Kay Lockett, Assistant Circuit Executive, Reporter

In addition to the growing size of the conference, which could reach as high as 1,000 attendees during this decade, the committee will examine concerns about the increasing costs of the conferences as well as the matter

of the fairness of the current delegate selection process. The small number of women and minority delegates also is a serious problem as is the failure to provide attorney attendees with a more substantive role in the conference programs.

It is anticipated that the 1992 experimental conference will try an entirely different delegate selection process and probably will not provide for automatic inclusion of life members so that there can be a much smaller conference with a program designed to bring about a closer interchange among the judges and attorneys.

The future direction of the circuit conferences remains to be seen. It has been suggested, for example, that the conference alternate each year between a "mini" and a "maxi" conference. The study committee emphasizes, however, that no general consensus exists that the present structure of the conference, which includes life members, be disbanded. The committee welcomes thoughts, comments, and suggestions from all members of the conference.

Judicial Discipline

The Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 (28 U.S.C. 372(c)) establishes a procedure whereby any person may file a complaint of misconduct or disability against any judicial officer of the circuit. A complaint is submitted first to the Chief Judge of the Circuit, who may dismiss a complaint which he finds to be directly related to the merits of a decision or procedural ruling of the judge complained against or which he finds to be frivolous. The Chief Judge also may close a complaint if he concludes that appropriate corrective action has been taken.

If the Chief Judge cannot dispose of the complaint, he must certify the complaint to the Investigating Committee of the Council. The Investigating Committee must conduct an investigation and prepare a report with recommendations for appropriate action by the Council. Sanctions which may be imposed by the Council, if necessary, include certification of disability, request that a judge voluntarily retire, temporary suspension of case assignments, or public or private censure or reprimand.

The Sixth Circuit Judicial Council first published Rules for Processing Complaints of Judicial Misconduct in 1981. Upon the recommendation of the Conference of Chief Circuit Judges that some degree of uniformity among the circuits was desirable in the handling of conduct or disability matters, the Sixth Circuit Judicial Council has adopted the illustrative rules proposed by the Conference of Chief Judges, with slight modifications.

Copies of the rules are available from the circuit executive's office or from any clerk's office in the Sixth Circuit.

During the year ended December 31, 1989, 31 complaints were filed in the Sixth Circuit, and 24 complaints were terminated. Twenty-nine of the complaints were filed by disappointed litigants, several of whom were prison inmates. Fifteen of the complaints were dismissed in whole or in part by the Chief Judge as directly related to the merits of a decision or procedural ruling. Eight complaints were dismissed by the Chief Judge in whole or in part as not in conformity with the statute, and nine complaints were dismissed in whole or in part as frivolous.⁴ One complaint was closed by the Chief Judge upon his determination that appropriate corrective action had been taken. No complaints were referred to the special investigative committee of the Judicial Council during 1989.

Death Penalty Task Forces

Under the able leadership of Circuit Judge Nathaniel R. Jones, and with the support of the Chief Justices and leaders of the bar in Tennessee, Kentucky and Ohio, the death penalty task forces continue to evaluate the potential problems and to plan for the resources necessary to deal with the potential onslaught of federal habeas corpus petitions filed by defendants in capital cases. Each of the task forces include district judges, magistrates, federal and state public defender organizations, attorneys general, representatives of the private defense bar, and state bar associations.

During the past month the fundamental importance of the capital punishment work was accentuated by the committee chaired by Retired Justice Lewis F. Powell. The Powell Committee made recommendations designed to limit the time and number of appeals in habeas corpus matters. The American Bar Association also has issued a report which takes a much different approach to the problem. Its recommendations would impact less directly on the traditional use of habeas corpus, but instead would place more responsibility on state trial courts to ensure the providing of competent counsel at trial.

An early decision by each of the task forces was to explore the capital punishment resource center concept as perhaps the most effective way of dealing with the problems of providing training,

THE ESTABLISHMENT OF CAPITAL CASE RESOURCE CENTERS IN KENTUCKY, OHIO AND TENNESSEE WILL ENABLE THE FEDERAL COURTS OF THE SIXTH CIRCUIT TO RESPOND IN A SYSTEMATIC AND RESPONSIBLE MANNER AS CAPITAL CASES BEGIN TO REACH THE FEDERAL COURTS.

⁴Some complaints contained multiple allegations and may have been dismissed on multiple grounds.

assistance and support for attorneys appointed to represent petitioners in death penalty habeas corpus cases. A status report for each of the three states with the death penalty follows:

Kentucky. The Kentucky Capital Litigation Resource Center has been fully staffed for nearly eight months. The staff consists of two attorneys, a paralegal, an investigator and a secretary. Among its activities have been attempts at recruiting attorneys to handle capital post conviction cases state-wide. Those who have responded have shown an interest in handling cases at the state level as well as federal habeas corpus.

The staff and/or lawyers of the Department of Public Advocacy are currently providing representation to all Kentucky death row inmates who have federal habeas corpus petitions pending. Presently there are 25 inmates on death row in Kentucky. Twelve of those inmates are involved in a state direct appeal, and eleven are in some stage of post-conviction proceedings. The representation of these inmates at the post conviction stage by the staff counsel from the Department of Public Advocacy and by contractually-retained private lawyers recruited by the Resource Center provides a continuity of representation that is highly desirable.

Nevertheless, it has become clear that recruiting of private attorneys who have the dedication, basic skills and resources to do capital post conviction litigation work is time-consuming. For example, the Resource Center participated in a pro bono conference sponsored by the Louisville Bar Association. It was very well attended by the litigation managers of many of Louisville's large and medium-sized firms. Although the meeting was considered to be very positive, only one attorney present expressed any interest in providing pro bono representation.

A significant portion of this year is being devoted to recruiting private attorneys and the development of ongoing publications for use by resource centers and attorneys involved in post conviction litigation.

Ohio. The Defender Services Committee, at its January meeting, approved the Ohio Resource Center for funding in 1991. This action was taken following the amendment of the Criminal Justice Act Plan under which the federal district courts in Ohio had been operating. Chief Judge Rubin and Chief Judge Battisti obtained the approval of their colleagues to an addendum to the plans, thus setting the stage for the Judicial Council to endorse them before their submission to the Defender Services Committee and the Congress.

Ohio, a state with 96 persons on death row, has been working to qualify the Ohio Public Defender Office as the Resource Center for the state. That office is the only established state-wide defense service organization in Ohio.

It was the logical choice to be designated as the Resource Center because it currently provides representation in all capital cases in Ohio courts that have reached the state post conviction stage except in conflict situations.

Of the 96 persons on death row in Ohio, 24 are currently in the state post conviction stage while others are on direct appeal. It is expected that 5 habeas corpus cases involving the death penalty will be filed in the federal courts in Ohio during the current year, 15 new cases in 1991, and 10 to 15 new cases during 1992. Given the length of time it takes to litigate these cases, it is expected that there will be considerable overlap. Given this, the value of the Ohio Resource Center is evident. The amendments to the Criminal Justice Act, now permit the Center, when appointed by the courts, to provide direct representation to death-sentenced persons eligible for appointed counsel when they seek habeas corpus relief.

The Ohio Resource Center, along with those operating in Kentucky and Tennessee, will recruit, screen and train qualified members of the private bar who agree to provide representation at both the trial and appellate level. It is contemplated that a special panel of lawyers available for appointment will be maintained and presented to each district court in those cases where the Resource Center is not itself providing direct representation.

For purposes of cost effectiveness, given the number of capital habeas corpus cases expected to be filed in Ohio federal courts during 1990, the Center will initially operate on a voucher basis. This will allow for direct representation and consulting services in individual cases upon approval by the court of a voucher or standard CJA compensation form. As the cases increase, the Resource Center will apply to the Defender Services Committee for a sustaining grant. The Ohio plan allows for flexibility in that it also recognizes the Resource Center as a Community Defender organization.

Tennessee. The achievements of the Tennessee task force in establishing its Capital Case Resource Center is one of the most exciting chapters in this entire undertaking. Led by Chief Judge Odell Horton of the Western District of Tennessee and Federal Public Defender Henry Martin of the Middle District of Tennessee, the task force moved to mobilize a powerful coalition of the Tennessee legal community. They enlisted the active support of then-Chief Justice Harbison and Cletus McWilliams, Executive Secretary of the Tennessee Supreme Court. The new Chief Justice, Frank Drowota, and the new Attorney General, Charles W. Burson, have brought their energies and commitment to the program.

Following the approval of the appropriate amendments to the Criminal Justice Act Plans by the district court judges of the Eastern, Middle, and Western Districts of Tennessee, the Task Force was able to obtain funds

from the State of Tennessee to match federal funds for the purpose of establishing the Resource Center. The Governor signed the state budget on May 19, 1988, appropriating \$150,000 for this purpose.

The Resource Center in Nashville is off to a good start, under the direction of William P. Redick, Jr. and his staff. He reports that there are 77 persons on death row. Approximately 32 percent of them are on direct appeal, 41 percent are in post conviction status, and 22 percent are pending federal habeas corpus review. Approximately five percent are awaiting resentencing hearings.

The Center has carried on a host of programmatic endeavors since it commenced operations. These activities, in addition to the monitoring of the status of all capital murder cases in Tennessee, include the continued development of a comprehensive resource file, the continued development of a data base of experts critical to the various areas of capital litigation, ongoing training of staff, meetings with prominent local attorneys representative of the legal community, the training and orientation of appointees to the new statewide public defender system, and research of criteria established in other states for appointment of counsel in capital cases preparatory to developing standards for Tennessee and interacting with other resource centers. During the months of July, August and September, for instance, staff attorneys spent a total of 1543.2 hours, an average of 10.6 hours per day per attorney.

Pattern Criminal Jury Instructions

**DRAFT JURY
INSTRUCTIONS TO BE
DISTRIBUTED IN JUNE FOR
COMMENT.**

The Sixth Circuit Pattern Criminal Jury Instruction Committee was formed in 1986 to explore the feasibility of drafting pattern criminal jury instructions for suggested use throughout the Circuit. The Committee consists of six district judges and is chaired by Judge Julian Abele Cook, Jr. of the Eastern District of Michigan.

Pattern Criminal Jury Instructions Committee

Honorable Julian Abele Cook, Jr., Chair

Honorable Carl B. Rubin

Honorable Thomas A. Wiseman, Jr.

Honorable Ann Aldrich

Honorable William O. Bertelsman

Honorable Walter H. Rice

The committee has nearly completed its work. By the end of 1989, the committee had completed drafting approximately 85 instructions, plus

approximately 150 pages of explanatory legal commentary. The committee anticipates distribution of its work for comment by June 1, 1990.

The instructions will be organized into nine chapters. Chapter 1 will contain general principles that arise in every criminal case, such as presumption of innocence, burden of proof, reasonable doubt, and the like. Chapter 2 will cover the elements of the crime charged, using a general offense definition format that easily can be adapted to most crimes along with the particular offense definitions already developed. Chapter 3 will contain a comprehensive treatment of the law of conspiracy. Chapters 4 and 5 will cover accomplice liability and attempts. Chapter 6 will cover special defenses such as alibi, entrapment, insanity, duress, and self-defense. Chapter 7 will include special evidentiary matters, such as expert witnesses, impeachment, informer and accomplice testimony, and similar problems that may arise in particular cases. Chapter 8 will deal with general matters relating to the jury's deliberations and verdict, and Chapter 9 will cover special problems that may arise after deliberations have begun, including questions from the jury, deadlocked juries, and partial verdicts.

Each of the instructions has gone through a five step drafting process designed to insure that it is legally correct, understandable to lay jurors, and amenable to daily use by busy district judges. Step one has been a thorough legal review by the committee's two reporters, both of whom are law professors. The second step has been review by a plain English expert. Step three has been a review by a task force of judges, prosecutors, and defense attorneys from throughout the circuit, followed by a fourth step review by a separate "reactor" group of judges, prosecutors and defense attorneys. The final step has been a second review by the committee, taking into account the comments, criticisms and suggestions obtained through the review process.

After a final review by the plain English expert to insure internal consistency among all the instructions, the final draft will be released for widespread comment by bench and bar within the Sixth Circuit in June. After review of the comments from bench and bar, the final product will be submitted to the Sixth Circuit Judicial Council for approval in principle only, at which time West Publishing Company will print and distribute the final pattern jury instructions.

Sixth Circuit Advisory Committee

The 1989 Sixth Circuit Judicial Conference marked the fifth anniversary of the Sixth Circuit Advisory Committee on Rules of Practice. Despite five productive years, this committee remains practically unknown to the practicing attorneys whose viewpoint it is charged to represent to the judges of the United States Court of Appeals for the Sixth Circuit. As the Committee enters the second half of its first decade, it seeks to continue offering an additional line of communication between the practitioners and the judges of the circuit court on issues of practice and procedure.

The Committee was established under 28 U.S.C. 2077(b), which requires each court of appeals to "appoint an advisory committee for the study of rules of practice and internal operating procedures..." The Committee, in turn, "...shall make recommendations to the court concerning such rules and procedures." In response to the statutory mandate, the Court adopted Rule 27, which establishes the Committee and governs its operations. Pursuant to that rule, then Chief Judge Pierce Lively appointed the charter members of the Advisory Committee, who held their first meeting in May of 1984 in conjunction with the meeting of the Circuit Conference in Cincinnati. The Committee was ably chaired by J. Vincent Aug of Cincinnati.

SIXTH CIRCUIT ADVISORY COMMITTEE SEEKS INPUT FROM ATTORNEYS REGARDING ANY ISSUES RELATED TO PRACTICE BEFORE THE SIXTH CIRCUIT.

Sixth Circuit Rule 27 provides for a twelve member committee drawn from each state in the circuit, which is to meet at least once a year. Currently serving on the Committee are J. Vincent Aug of Cincinnati, William H. Baughman, Jr., of Cleveland, William Bell of Cincinnati, Paul Borman of Detroit, Donald A. Davis of Grand

Rapids, Robert Campbell of Knoxville, Maura Corrigan of Detroit, Frank E. Haddad, Jr., of Louisville, Katherine Randall of Lexington, Edward Stopher of Louisville, Nick Zeppos of Nashville, and Leo Bearman, Jr of Memphis.

The Committee members have diverse practice backgrounds, which enhances the quality of the Committee's deliberations. Six members come from a private civil practice background, one has a private criminal defense practice, one is a Federal Public Defender, two have served as federal prosecutors, and two are law professors. Several members have served as law clerks to federal circuit judges.

Recommendations of the Committee regarding rules and internal operating procedures are made to the Chief Judge and the Court's Rules Committee. If the Advisory Committee's recommendations are approved, they may be implemented by order of the Chief Judge or proceed to a vote by the full Court.

Internal Operating Procedures. One of the Committee's first assignments was to review and comment to the Court on the proposed internal operating procedures, the publication of which was mandated by 28 U.S.C. 2077(a). With the guidance of Clerk of Court John P. Hehman and Chief Deputy (now Clerk) Leonard Green, the Committee assisted in the development of a unified collection of those operating procedures which guide the work of the Court.

Since that time the Committee has undertaken an ongoing review of the circuit court's internal operating procedures. A standing subcommittee has primary responsibility for initial consideration of any additions or amendments to those procedures.

Rules of Practice. Another early project of the Advisory Committee was the review of the local rules of the Court of Appeals. This review disclosed that some rules no longer reflected the current practice of the Court, that other rules duplicated requirements clearly set out in the Federal Rules of Appellate Procedure, and that some rules contained information not directly related to requirements imposed upon attorneys practicing before the Court.

The Committee adopted three objectives for its recommendations regarding local rules. First, it determined to update the rules by deleting obsolete matter and by adding new, relevant matter. Second, it eliminated unnecessary duplication of the federal rules. To assist counsel in identifying all applicable local and federal rule requirements, the Committee drafted comments to the local rules. These comments specifically cite federal rules related to local rules and discuss the relationship between the local and federal rules. Finally, the Committee attempted to reduce the local rules to a concise statement of the requirements imposed upon attorneys practicing before the Court. The Committee recommended moving useful information that imposed no procedural requirement on counsel to the internal operating procedures.

This project took several years and proceeded in several phases. The Court enthusiastically received the Committee's recommendations on rules and adopted most of them. The recommendations implemented included a major revision to the rule on the joint appendix and new rules covering cross-appeals and appeals from decisions of magistrates.

As with the internal operating procedures, the Committee's work on rules is ongoing through a standing subcommittee.

Liaison with the Bar. A third standing subcommittee addresses matters of mutual concern to the bench and bar that go beyond the limited scope of specific rules or operating procedures. This subcommittee has undertaken a

comprehensive study of attorney discipline rules in effect in other circuits and has made recommendations regarding attorney discipline in this circuit.

Additionally, this subcommittee has worked to obtain the promulgation of state rules of court or procedures permitting state supreme courts to rule on questions of state law certified to them by federal courts. These efforts have contributed to the adoption of such rules by the Supreme Court of Ohio. Each of the states in the circuit now permits such referrals.

Important and Controversial Issues. The Advisory Committee's first five years have included consideration of significant issues that relate to practice before the court. Among the matters discussed have been (1) the policy of not announcing oral argument panels until the morning of the argument, (2) the question of whether oral argument should remain available as a matter of right in all criminal appeals, (3) the practice of announcing decisions in certain cases from the bench immediately following oral argument, (4) the policy on unpublished opinions, and (5) the policy of deeming briefs to be filed when received in the clerk's office rather than when mailed by attorneys.

In addressing each issue, the Committee seeks to reflect the interests and concerns of the attorneys who practice before the Court. At times administrative considerations or judicial needs have made it impossible to change practices or policies in ways most consistent with the preferences of the practicing bar. Nevertheless, through the Advisory Committee, the Court becomes aware of those preferences and has the opportunity to take them into account in setting policy on practice and procedure.

1989 Activities. In 1989 the Committee reviewed the Court's internal policies and made recommendations regarding the incorporation of certain of those policies into the internal operating procedures. It also considered the so-called "appendix" to the circuit's rules and recommended that certain information therein move to either the rules or the internal operating procedures. Also reviewed was the proposed rule on procedures applicable where the trial court record consisted of videotape or audio tape only.

The Committee has under consideration recommendations regarding the handling on appeal of records sealed by the trial court and the potential problem created when a district judge sits by designation on an appeal presenting legal issues also pending before the Court in another appeal from an order entered by that district judge.

The Future. While the Advisory Committee has completed major projects on rules and internal operating procedures, ongoing review in these areas will continue. The Committee will also review the rules and internal operating procedures of other circuits with an eye toward improving those of

this circuit. Also underway are evaluations of the procedures relating to attorney discipline and of the plan for expediting criminal appeals.

At this time the Committee actively seeks ways to communicate with attorneys who practice before the Court regarding their needs and their perspectives on the rules and internal operating procedures. This effort will receive some assistance as a result of the Judicial Branch Improvements Act of 1988, which requires notice of and a comment period for all local rule changes not of an emergency nature. The Court adopted its own rule outlining the procedures for such notice and comment on September 18, 1989.

Additionally, the Committee is exploring the possibility of providing open forums in cities throughout the circuit in which attorneys can meet with Advisory Committee members and perhaps judges to discuss concerns of practice and procedure. These forums may be coupled with continuing legal education programs dealing with various aspects of practice before the Court.

The Committee welcomes and invites feedback from attorneys regarding any issues relating to practice before the Sixth Circuit. Those having such feedback should contact any member of the Committee or direct their comments in writing to Leonard Green, Clerk of Court, 538 U.S.P.O. and Courthouse, Cincinnati, Ohio 45202-3988.

OFFICE OF THE CIRCUIT EXECUTIVE

The Office of the Circuit Executive occupies a somewhat unique position within the administrative structure of the Sixth Circuit. Although appointed by the Sixth Circuit Judicial Council, the Circuit Executive is administratively attached to the Court of Appeals and performs a variety of administrative responsibilities relating to all of the courts of the circuit. In recent years the office has become increasingly involved in the management of circuit-wide funds for court construction and renovation projects and in providing automation technical support and coordination of the judiciary's long-range plan for court automation.

As secretary and executive officer of the Council, the Circuit Executive provides administrative and staff support to the Council and its committees. For example, the Circuit Executive's office provides staff support for each of the Bankruptcy Merit Selection Panels, and it administers the complaint

procedure under the Judicial Councils Reform and Judicial Conduct and Disability Act.

For the Court of Appeals, the Office of the Circuit Executive exercises administrative control over all non-judicial functions of the court. The Circuit Executive serves as chief of staff of the Court of Appeals senior staff, and his office administers the budget, personnel, procurement and facilities management policies for the Court of Appeals. In addition, the Office of the Circuit Executive, under the supervision of the Chief Judge, prepares the panel assignments for the Court of Appeals and makes arrangements for scheduling visiting judges to sit with the court.

The Office of the Circuit Executive also provides administrative staff support to the Chief Judge of the Circuit and to other circuit-wide activities such as the Sixth Circuit Judicial Conference. Included is assistance with the liaison with other federal courts, state courts and various departments and agencies of the government, and assistance with the intracircuit designation and assignment of circuit, district and bankruptcy judges.

JUDICIAL PERSONNEL IN THE SIXTH CIRCUIT

Death

C. G. Neese. The Honorable C. G. Neese, Senior United States District Judge for the Eastern District of Tennessee, died on October 22, 1989. Judge Neese was appointed United States District Judge for the Eastern District of Tennessee on November 20, 1961. Judge Neese assumed senior status on August 31, 1982 and moved to Nashville at that time. After taking senior status, Judge Neese continued to render valuable service to the District Court.

Senior Status

Albert J. Engel. The Honorable Albert J. Engel assumed senior status on October 1, 1989. Judge Engel was appointed to the United States Court of Appeals for the Sixth Circuit on December 19, 1973. He served as Chief Judge from April 1, 1988 to October 1, 1989. Judge Engel continues to render valuable service to the Court as a senior judge.

James P. Churchill. The Honorable James P. Churchill assumed senior status on December 30, 1989. Judge Churchill was appointed to the United States District Court for the Eastern District of Michigan on December 20, 1974. He served as Chief Judge of the District from February 5, 1989 to December 30, 1989. Judge Churchill continues to render valuable service to the District Court.

Resignation

Richard B. McQuade, Jr. The Honorable Richard B. McQuade, Jr., United States District Judge for the Northern District of Ohio at Toledo, resigned September 30, 1989. Judge McQuade was appointed to the District Court on September 15, 1986. Judge McQuade resigned to become President and Chief Operating Officer of Blue Cross and Blue Shield of Ohio.

Circuit Court Elevation

Gilbert S. Merritt. The Honorable Gilbert S. Merritt became the Chief Judge of the United States Court of Appeals for the Sixth Circuit on October 1, 1989. Judge Merritt was appointed to the Court of Appeals on October 31, 1977. Judge Merritt succeeds Judge Albert J. Engel who assumed senior status on October 1, 1989.

District Court Elevations

Thomas D. Lambros. The Honorable Thomas D. Lambros became the Chief Judge of the United States District Court for the Northern District of Ohio on January 15, 1990. Judge Lambros was appointed to the District Court on August 18, 1967. Judge Lambros succeeds United States District Judge Frank J. Battisti who served as Chief Judge of the District for over 20 years.

Julian Abele Cook, Jr. The Honorable Julian Abele Cook, Jr. became the Chief Judge of the United States District Court for the Eastern District of Michigan on December 30, 1989. Judge Cook was appointed to the District Court on September 23, 1978. Judge Cook succeeds Senior United States District Judge James P. Churchill as Chief Judge of the District.

John D. Holschuh. The Honorable John D. Holschuh became the Chief Judge of the United States District Court for the Southern District of Ohio on March 15, 1990. Judge Holschuh was appointed to the District Court on May 23, 1980. He succeeds United States District Judge Carl B. Rubin who served as Chief Judge of the District for over ten years.

New Appointments

United States Bankruptcy Court

David Thomas Stosberg. The Honorable David Thomas Stosberg was appointed United States Bankruptcy Judge for the Western District of Kentucky at Louisville on June 30, 1989 to fill the vacancy created by the

death of Chief Bankruptcy Judge G. William Brown. Prior to his appointment, Judge Stosberg was a partner in the law firm of Wyatt, Tarrant & Combs in Louisville.

United States Magistrate

Timothy P. Greeley. The Honorable Timothy P. Greeley was appointed United States Magistrate for the Western District of Michigan at Marquette on December 21, 1989. Prior to his appointment as full-time magistrate, Magistrate Greeley had served the District as a part-time magistrate since January of 1988.

JUDICIAL WORKLOAD IN THE SIXTH CIRCUIT

Workload in the District Courts

The trend of decreasing civil filings, with a slight increase in criminal filings reappeared in the district courts of the Sixth Circuit last year.⁵

During 1989 civil filings decreased by 11%, while criminal filings increased by only 1%, leading to an overall decrease in total filings of approximately 10%. Civil terminations also decreased by 5%, but criminal terminations increased by 4%. Accordingly, the number of cases pending in the District Courts of the Sixth Circuit decreased by about 3%. **Figure 1** depicts the history of filings in the district courts of the Sixth Circuit by major category of case over the last ten years.

**District Court Filings by Type of Case
1979 - 1989**

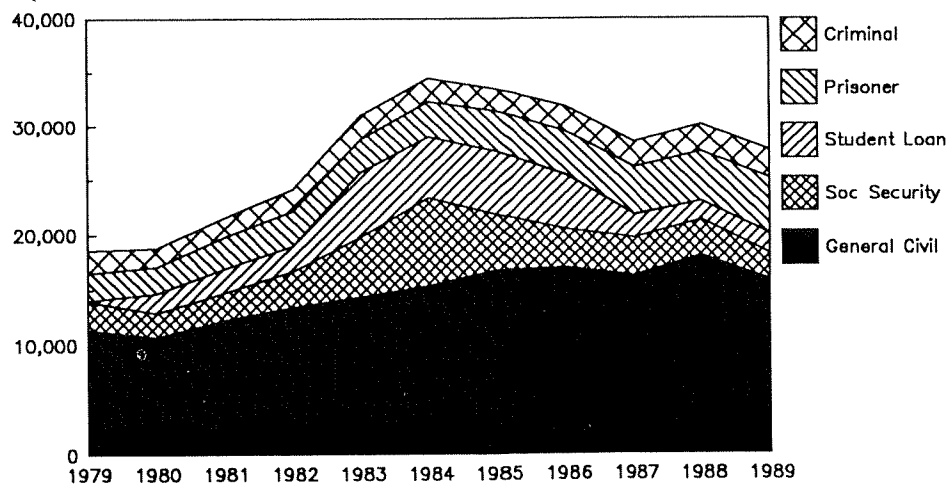


Figure 1

⁵Because of the early date of this year's judicial conference, the normal year end statistics were not available at the time of printing of the annual report. Therefore all statistics for 1989 are for the 12 month period ending June 30, 1989.

Filings. The number of cases filed decreased in all of the district courts of the Sixth Circuit during the reporting period, with the exception of the Eastern and Western Districts of Tennessee. The Northern District of Ohio and the Middle District of Tennessee experienced the largest decreases in filings. (Figure 2)

District Courts – Sixth Circuit
Comparison of Filings 1987 – 1989

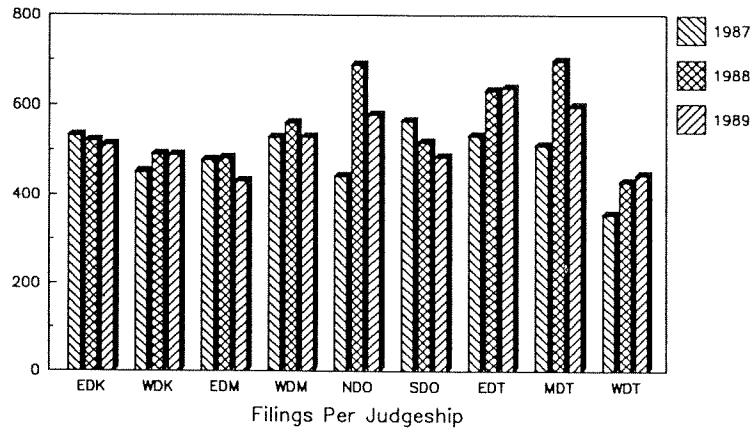


Figure 2

Terminations. Total terminations increased in all districts in the Sixth Circuit last year, with the exception of the Eastern District of Michigan and the Northern and Southern Districts of Ohio. The Eastern District of Tennessee experienced the largest increase in terminations per judge during 1989. (Figure 3)

District Courts – Sixth Circuit
Comparison of Terminations 1987 – 1989

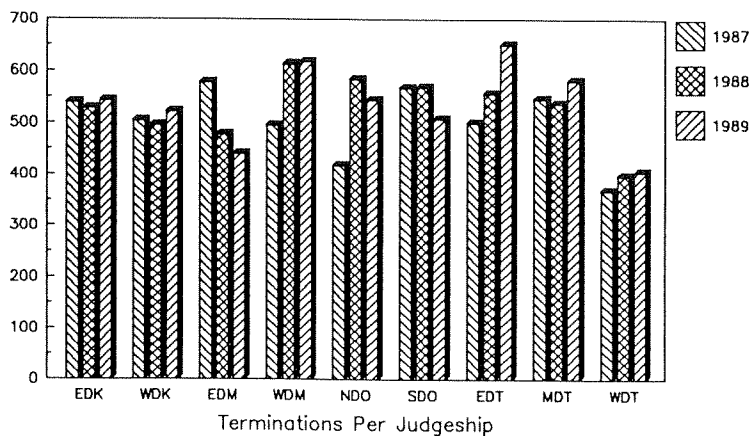


Figure 3

Pending. Figure 4 shows a comparison of pending cases per judgeship in each of the districts in the Sixth Circuit. The Eastern District of Kentucky, the Western District of Michigan and the Middle District of Tennessee experienced increases in the number of pending cases per judgeship, while each of the other districts showed no change or some decrease. The Northern District of Ohio had the only significant decline in the number of pending cases per judgeship.

District Courts – Sixth Circuit
Comparison of Pending Cases 1987 – 1989

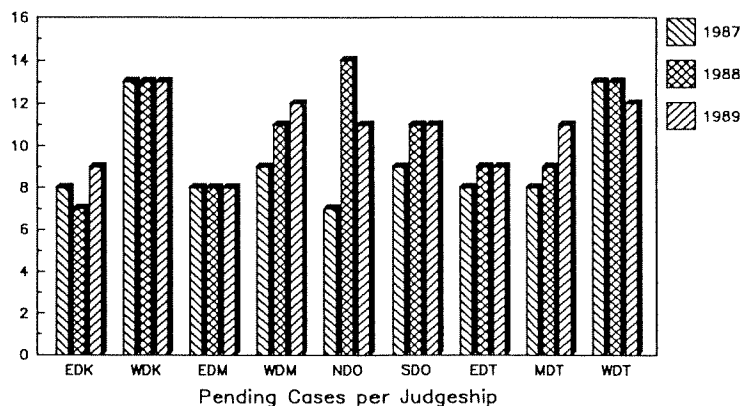


Figure 4

Median Disposition Times. The median number of months from filing to disposition of civil cases increased in the Western District of Michigan and the Middle District of Tennessee. The Northern District of Ohio achieved a large drop in the median months for disposition, and the Western District of Tennessee achieved a more modest decrease.

District Courts – Sixth Circuit
Median Months for Disposition

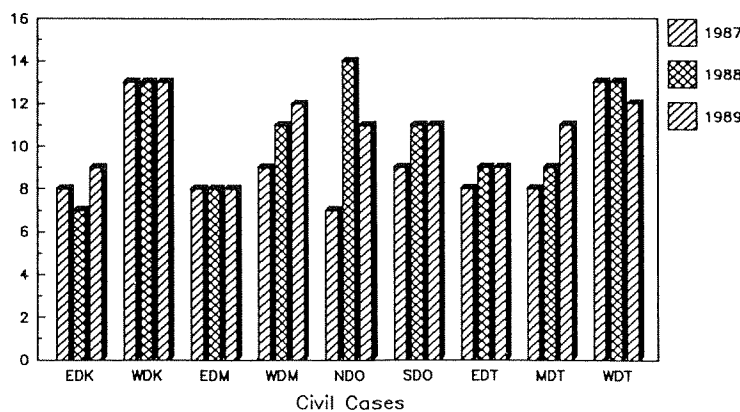


Figure 5

District Courts – Sixth Circuit
Percentage of 3yr Old Cases

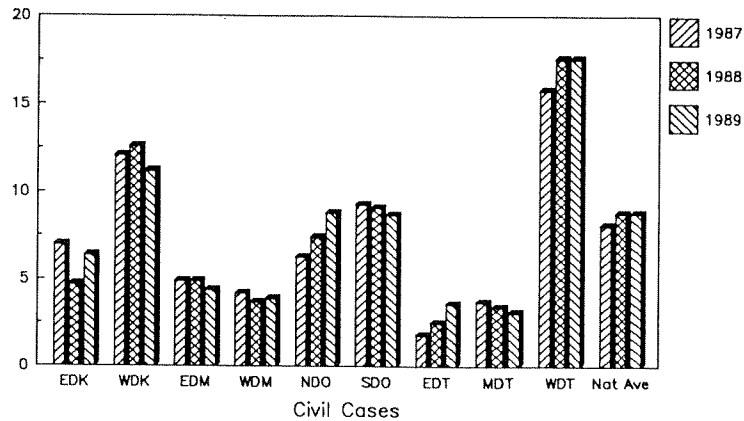


Figure 6

Figure 5 shows the median disposition times for civil cases in each of the districts in the Sixth Circuit during 1987, 1988 and 1989, and Figure 6 shows the civil actions

three years old or older as a percentage of pending cases for 1987, 1988 and 1989 for each of the district courts in the Sixth Circuit.

Juror Utilization.

Figure 7 depicts the juror utilization trends (measured as the percentage of jurors not selected, serving or challenged on the first

Jurors Not Selected Serving or Challenged
Jury Utilization Trends 1987 - 1989

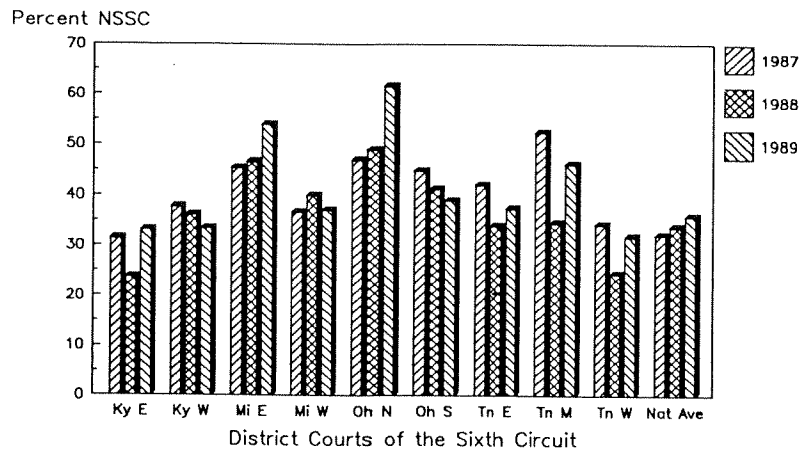


Figure 7

day of service) for each of the districts in the Sixth Circuit compared to the national average over the last three years. Again in 1989 the district courts in the Sixth Circuit do not compare favorably with the national average. The Sixth Circuit average remains one of the highest in the nation, and only the Eastern District of Kentucky and the Western District of Tennessee had a jury utilization record in 1989 that compared favorably with the national average.

Workload in the Bankruptcy Courts

For the third straight year bankruptcy filings increased in the Sixth Circuit, with the total filings (Figure 8) up by 6% circuit-wide. Chapter 7 filings increased by 6% (Figure 9). Chapter 11 filings increased by 4% (Figure 10), and Chapter 11 filings increased by 6.5% (Figure 11).

Bankruptcy Courts – Sixth Circuit
Comparison of All Chapter Filings

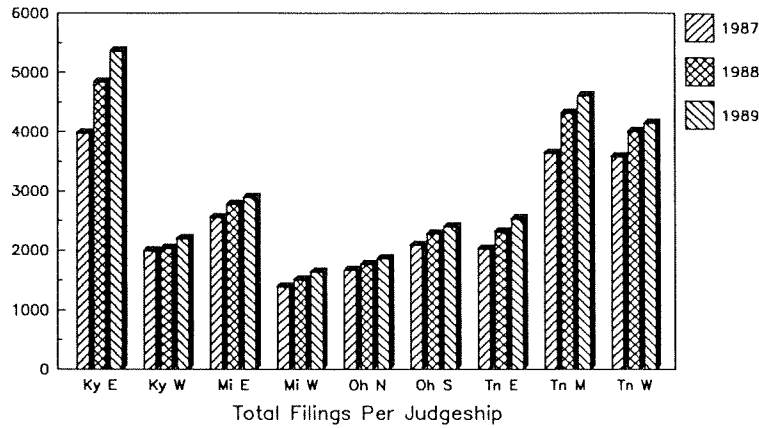


Figure 8

Bankruptcy Courts – Sixth Circuit
Comparison of Chapter 7 Filings

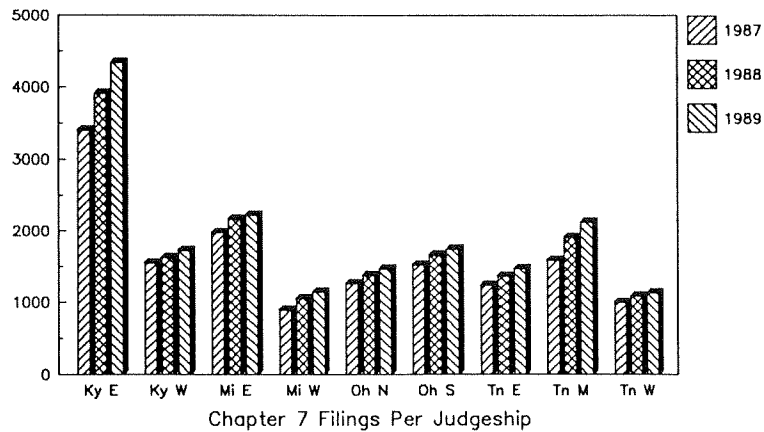


Figure 9

Bankruptcy Courts – Sixth Circuit
Comparison of Chapter 11 Filings

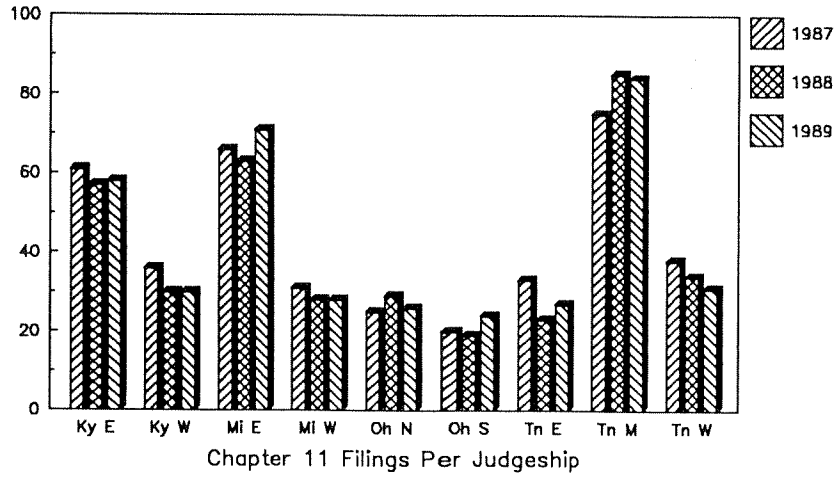


Figure 10

Bankruptcy Courts – Sixth Circuit
Comparison of Chapter 13 Filings

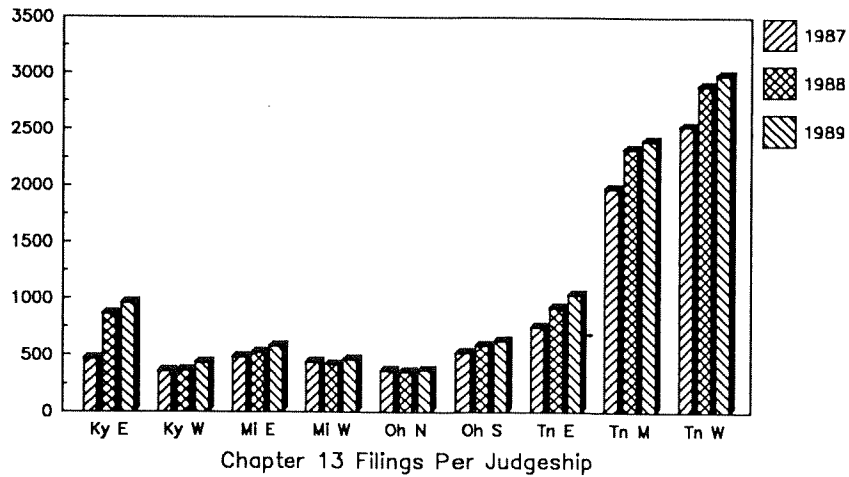


Figure 11

REPORT OF THE COURT OF APPEALS

CLERK'S OFFICE

Leonard Green, Clerk

Janice E. Yates, Chief Deputy

During 1989 the court of appeals' docket continued the pattern of the previous year, with an increase in the level of new filings met by an increase in the level of case dispositions. During the twelve months ended December 31, 1989, 4,214 new appeals were filed, representing an increase of 6.7% over the previous twelve months. Dispositions, on the other hand, more than kept pace, increasing by 8.8% to a total of 4,278. As a result, the court has managed to keep the volume of pending cases relatively stable for the past two years, avoiding the backlogs developing in other circuits. Such an achievement does not come easily; the judges continue to bear one of the heaviest workloads of any of the federal circuit courts. Detailed statistics describing the docket may be found at the end of this Report.

Two particular components of the docket warrant special note. The full brunt of the increased appellate filings spawned by the Sentencing Reform Acts of 1984 and 1987 has made its impact felt. The sector of the docket claimed by criminal appeals, some 16.5%, is significantly larger than last year, and far and away greater than the levels of pre-sentence reform years. Virtually one in every four cases on the court's oral argument calendar is now a criminal appeal. Prisoner filings also continue to claim an increased share of the docket, which in 1989 climbed to 30%. For the first time the Sixth Circuit has more prisoner filings than any other circuit. One of the continuing challenges confronting the court is to deal with these cases in a manner which guarantees full protection of the rights of the litigants, yet which does not detract from its ability to focus its full and timely attention on the rest of the docket.

Throughout a year which saw it operating with less than its full statutory complement of fifteen active judges, the court maintained a hearing schedule fully consistent with its traditional and continuing commitment to oral argument as a central element of appellate review. The vigorous participation of senior circuit judges and district judges enabled the court to maintain its high proportion of argued cases.

The past year saw several changes to the Sixth Circuit Rules, the most notable of which was the adoption of Rule 31. This rule provides that notice be given the bar of any proposed changes to the local rules, with a period for public comment on any such proposals. This opportunity for the bar to share

with the court its perspective on the local rules complements the efforts of the Attorney Advisory Committee, which brings to its review of the court's rules and procedures the points of view of different elements of the practicing bar and academia. The Advisory Committee, chaired by William Baughman, Jr., of Cleveland, Ohio, continues to play a significant role in the shaping of the court's processes.

As 1989 drew to a close the clerk's office was preparing for the implementation of an electronic bulletin board, dubbed CITE, which represents a new dimension in making readily available to the bar and public information about the court's decisions and activities. CITE makes available to anyone who wishes to dial in via their own communications software the full text of opinions designated for publication issued by the court that day and for the previous two weeks; docket information in individual cases; information about upcoming hearing calendars; the court's Rules and Internal Operating Procedures, and other items of interest. CITE can be accessed by calling (513) 684-2842.

The role and function of the court of appeals are widely misunderstood and misinterpreted. In order that the public might have a better understanding, the court has created an Office of Public Information, to which the media, the bar, and the general public may look for reliable and consistent information about court-related activity. The post of Public Information Officer has been filled by Ms. Debra Nagle, an attorney and experienced journalist.

Such measures as are noted above continue the efforts of the clerk's office to provide as much assistance as possible to those whose dealings bring them before the court, so that the appellate process will be less onerous, confusing, and consumptive of time and resources than would otherwise be the case. As always, the office welcomes suggestions as to how it might improve upon the delivery of its services.

OFFICE OF THE STAFF ATTORNEYS

Kenneth A. Howe, Jr. Senior Staff Attorney

Michael C. Cassady, Supervisory Staff Attorney

Staff attorneys were first employed by the Sixth Circuit in 1971. At that time, three attorneys were hired for these newly budgeted positions in the clerk's office. Over the years the number of staff attorneys increased. In 1976, the court appointed its first senior staff attorney and created the Staff Attorneys' Office as a separate entity, both administratively and operationally, from the other support offices of the court. Title 28 U.S.C. 715(a) and (b), which became effective October 1, 1982, codified each circuit court of appeals prior budget authority to appoint a senior staff attorney, staff attorneys and secretaries. The Sixth Circuit's Staff Attorneys' Office and all its personnel are located in Cincinnati. The senior staff attorney, Kenneth Howe, is responsible to the court for administrative, personnel and operational activities of the office. Additional personnel in the office include two supervisory staff attorneys, fifteen staff attorneys and six secretaries. All personnel are employed in the office as permanent career-oriented professionals.

The office provides various support services to the court. The primary service is to review all pro se and prisoner related appeals and to prepare legal research memoranda for those cases which do not appear to require oral argument. The criteria used in this review process are set forth in Sixth Circuit Rule 9 and Federal Rule of Appellate Procedure 34. If a case falls within one of the enumerated criteria, it is assigned to a staff attorney for review of the record and briefs and the performance of any necessary research. If the case is amenable to the court's Rule 9 process, the staff attorney prepares a memorandum on the facts and law for consideration by a panel of the court.

Another responsibility of the office is to review all pro se and prisoner related cases for proper appellate jurisdiction. A research memorandum for consideration by a motions panel of the court is prepared in cases lacking proper appellate jurisdiction or where a substantive motion is filed. Additionally, the office now issue indexes all civil (excluding Rule 9 cases) and criminal cases on the basis of the appellant's preargument statement and appellate briefs. Codes are assigned to each issue, type of decision appealed, and relief granted or denied. A numerical weight is also assigned on the basis of complexity of the appeal. Such coding and weighting

provides information for the preparation of the court calendars, allows monitoring of cases raising the same or similar issues, and assists in the identification of additional cases for consideration under Sixth Circuit Rule 9.

The Office of the Staff Attorneys provides assistance to the court in the processing of a large number of appeals. During calendar year 1989, 866 legal memoranda were prepared for panels considering the merits of cases without oral argument pursuant to Sixth Circuit Rule 9. Motions panel research memoranda prepared on substantive motions and appeals lacking proper appellate jurisdiction increased from 278 in 1988 to 433 in 1989. Over 3,600 appeals were issue coded in 1989.

PRE-ARGUMENT CONFERENCE PROGRAM

Robert W. Rack, Jr., Senior Conference Attorney

Lance Olwell, Conference Attorney

Deborah Ginocchio, Conference Attorney

The Court established the Pre-Argument Conference Program in 1981 to mediate settlements in civil appeals. Secondary objectives are to reduce procedural problems and to clarify issues on appeal. Pursuant to Local Rule 18, a staff of three conference attorneys initiates confidential discussions in as many new civil appeals as possible and works with all sides to thoroughly explore and evaluate settlement possibilities.

Most conferences are scheduled randomly from eligible appeals before briefs are submitted. Eligible civil cases include all except habeas corpus, prisoner and pro se appeals and most agency cases. About 25 percent of the conferenced cases are scheduled at the request of one or more of the parties. The program treats requests for conferences as confidential. Occasionally cases are referred to the program from the Court's oral argument calendar. In such cases, the conference attorneys report back to the court only whether or not the case is settled.

More than 95 percent of conferences and subsequent negotiations are conducted by telephone. Program involvement in about 20 percent of the cases goes no further than the initial conference. In the most active 25 percent of the cases, however, conference discussions are much more involved, often lasting a month or longer.

SETTLEMENT STATISTICS FOR CALENDAR YEAR 1989 ⁶			
	Number Of Cases	Number Settled ⁷	Settlement Rate
All Cases	776	330	43%
Requested Conferences	174	89	51%
Referred by the Court	10	7	70%

⁶All statistics are from cases in which program involvement was concluded in 1989.

⁷Generally, counted here as settlements are all cases voluntarily terminated following program involvement without judicial review of the merits. These include cases remanded to District Courts on joint motions pursuant to *First National Bank of Salem v. Hirsch* to implement settlement terms negotiated by the parties. No judgment on the merits is required for such remands. Also included are cases dismissed for failure to make timely filings following negotiated settlements. These two categories of cases are counted by the Clerk respectively as

CIRCUIT LIBRARY

Kathy Joyce Welker, Circuit Librarian

Pamela Schaffner, Deputy Circuit Librarian

Introduction. 1989 was a year of rapid growth in the Sixth Circuit Library System. Staffing levels rose to 75% of the congressionally approved ratio of 1 library staff to every 6 judicial officers. This is an increase from 48% in 1988. With the establishment of new satellite libraries and the provision of technical support staff in existing satellite libraries, services to Sixth Circuit judges increased both in quantity and in quality.

Personnel Growth and Changes. Due to the resignation of Janice Harju as the Grand Rapids Satellite Librarian, Janette Ransom-Bergstrom was hired to replace Ms. Harju. Ms. Ransom-Bergstrom began her duties in August.

Eight positions were added in 1989 which translated into ten individuals (some of which were hired as part-time employees). This brought the total full-time equivalency staffing level from 13 to 21 positions to be located in nine locations throughout the circuit.

The staff added are as follows:

Cincinnati Library

Reference/ILL Technician	Cheryl Calhoun
Temporary Special Projects Librarian	Elizabeth Bourner
Temporary 3/4 Time Supplementation Technician	Donna Vice

Cleveland Library

Library Technician	Jeffrey Koloze
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Columbus Library

Satellite Librarian	Connie Whipple
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Detroit Library

Library Technician	Linda Ochoa
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Summary Dispositions and Dismissals for Want of Prosecution, thus accounting for the higher number of "settlements" reported in this section of the Court's annual report.

Grand Rapids Library

1/4 Time Library
Technician

Gerard Gregels

Memphis Library

1/4 Time Library
Technician

Donna Windham
replaced by
Ruth Hicks

Nashville Library

3/4 Time Library
Technician

Jessie Hughes

Toledo Library

Temporary 1/4 Time
Library Technician

Patricia Jones

Satellite Librarian
(Hired in '89, begins
February '90)

Marianne Mussett

Establishment of Columbus Satellite Library. The Columbus Satellite Library opened officially in May when Connie Whipple began her duties as Satellite Librarian. Ms. Whipple assumed the responsibilities of providing library and legal research services to judicial officers located within the geographical boundaries of the Southern District of Ohio (excepting Cincinnati which is served by the Cincinnati Library).

The existing library space on the first floor continued as the location for the satellite library. However, plans were developed to relocate the library temporarily to expanded space on the fifth floor and eventually to the fourth floor.

Establishment of Toledo Satellite Library. In September, a staff position was funded to be placed in Toledo. This position was used on a temporary basis to provide a filer/library technician 10 hours per week while the formal search for a Satellite Librarian proceeded. In December, Marianne Mussett was chosen as Satellite Librarian. She will begin her duties in Toledo in February, 1990.

The library space will remain the same as in the past in Toledo but will be expanded in size to incorporate space currently occupied by the Probation Offices and part of the Bankruptcy Clerk's Office.

Planning for Louisville Library. A position became available in August to be placed in Louisville. Because space was inadequate for the

establishment of a satellite library in the Louisville courthouse, the Louisville position was temporarily used in Cincinnati. Plans were formulated by the Louisville judges to develop library space on the second floor. A satellite librarian will be hired in mid-1990 to establish library and legal research support services to Kentucky judicial officers.

Reference and Legal Research Support Services. Supporting legal research in the courts is the primary purpose for the existence of circuit libraries. Yet, these services are not easily measured. During 1989, all of the Sixth Circuit library staff members began maintaining statistics that attempted to quantify the provision of reference and legal research support services.

A major category measured was the number of reference transactions occurring. These transactions included any questions directed to library staff and ranged from "Where do I locate a particular book?" to "Could you put together a legislative history for me?". The total number of reference transactions recorded in Sixth Circuit libraries was as follows:

Directional questions	4961
Research/Substantive questions	3327

Another measure of services provided could be described as sharing centrally-held collections with judicial officers and their staffs wherever they may be located. This sharing is accomplished through a number of means including circulation, interlibrary loan transactions, mailing materials, mailing photocopied materials, and faxing materials. All of these services were counted and are enumerated out below:

Circulation	5,292 volumes
Interlibrary loan and mailing services	417 volumes
Photocopying services in 945 transactions	- 16,578 pages
Fax services in 453 transactions	2,842 pages

Coordination of the Provision of CALR Services. The "CALR Access in Chambers" program continued to require significant involvement by librarians in 1989. 52 applications and 11 amended applications were filed. These applications broke down as follows:

Circuit Judges

1 Application

0 Amended Applications

District Judges

34 Applications

7 Amended Applications

year. Expenditures for continuations for library locations accounted for 26% of the total continuations costs.

A volume count for all of the circuit libraries (excluding Columbus and Toledo) was done for the first time in 1989. The count was as follows:

LIBRARY	1/1/89	12/31/89	'89 GROWTH
Cincinnati	53,513	55,337	1,824
Cleveland	27,482	28,281	799
Detroit	30,929	31,717	788
Grand Rapids	18,039	18,425	386
Memphis	8,094	9,887	1,793
Nashville	18,326	18,626	300
Total	156,383	162,273	5,890

Organization of and access to library collections was enhanced by the continuing cataloging project which is developing cataloging record in machine-readable form. This record will ultimately form the basis for library catalogs being made available on-line both in the libraries and in judges chambers.

A major addition to the catalog is the creation of CALR database records. LEXIS files have been fully cataloged and work has begun on WESTLAW files.

Computerization. By the end of 1989, computers had been installed in five of the existing satellite libraries with only Columbus still awaiting funding. The Sixth Circuit also participated in a nation-wide effort to obtain computers for all libraries and plans were developed to provide a computer for every two staff members out of appropriated funds. By the end of 1989, it appeared that funding for this goal was forthcoming.

With the placement of computers in most of the satellite libraries, it became possible to produce book orders using the circuit's computerized purchase order program. Three of the satellite libraries began using this program in 1989.

Court History Project. Library staff began developing plans for the establishment of a court archives/history collection. With the placement of a temporary librarian position in Cincinnati, a librarian was hired to coordinate plans for setting up an archives collection, indexing historical information and updating the Sixth Circuit history book originally published in 1976. Chief Judge Merritt is appointing an archives committee of circuit judges to oversee this project.

Conclusion. With a significant increase in staffing levels, the library system went through a period of rapid expansion. New libraries were established and services were expanded. Although the shortage of funding for needed equipment and materials was a difficult problem, overall, service enhancements were evident throughout the library system.

REPORTS OF THE DISTRICT COURTS

Introduction

In order to give a more complete picture of the business of the courts in the Sixth Circuit, the Chief Judge of each district was invited to submit for inclusion in this report a separate report for his district highlighting particular achievements or problems which may have been experienced in the preceding year. Pursuant to this invitation, separate reports were received from Chief Judge Siler of the Eastern District of Kentucky, Chief Judge Johnstone of the Western District of Kentucky, Chief Judge Cook of the Eastern District of Michigan, Chief Judge Hillman of the Western District of Michigan, Chief Judge Lambros of the Northern District of Ohio, Chief Judge Rubin of the Southern District of Ohio, and Chief Judge Horton of the Western District of Tennessee. The reports follow.

**United States District Court
Eastern District of Kentucky**

1989 Annual Report

During 1989, the Eastern District of Kentucky continued its trend for the past six years by terminating more cases than were filed. This is a remarkable achievement, because the district had one vacancy during the entire year, and the two Senior Judges were ill for part of the period.

The Court has been grateful to the two Senior Judges, Hons. Scott Reed and G. Wix Unthank, who have each carried more than one-half load for a full-time judge.

The Eastern District of Kentucky has continued its cooperation with the Western District of Kentucky under the Joint Local Rules, which simplify the procedures in all the federal courts in Kentucky.

Bankruptcy Judge Joe Lee had to contend with all the bankruptcy work in the district, until Bankruptcy Judge Clive Bare came in to assist him. Although a new Bankruptcy Judge was authorized for the Eastern District of Kentucky, to be based in Lexington, no appointment has been made during the calendar year. However, the appointment is expected to be made at any time, thus relieving Judge Lee of some of his enormous backlog.

Respectfully submitted,

Honorable Eugene E. Siler
Chief Judge

**United States District Court
Western District of Kentucky**

1989 Annual Report

The year of 1989 will be remembered as one of enthusiastic cooperation and progress. This report will call attention to some of the highlights.

Appointment of Bankruptcy Judge. The Honorable David T. Stosberg entered into service as the third judge for our bankruptcy court on June 30, 1989.

Staff Librarian Position. A staff librarian position for the Eastern and Western Districts of Kentucky has been authorized at Louisville. Plans providing for librarian's office space and expansion of the library have been approved.

Automation Chief Bankruptcy Judge J. Wendell Roberts chaired the court's Automation Committee. The committee was established to ensure uniformity and compatibility for all computers acquired by the various branches of the court. All offices of the court were represented on the committee. After extensive study and review, the committee chose the PC (UNIX) computer system. This system is compatible with the UNIX system being installed in our clerk's office. It enables the users to perform multiple tasks and, most importantly, the installation and maintenance of the system will create a substantial savings for the taxpayers. Indeed, the Committee was responsible for saving \$42,000 in initial purchase costs and at the same time provided broader computer access.

Workload. The Western District of Kentucky has 4.5 judgeships. In the past the docket problems in the Eastern District of Kentucky have consumed most of the time of Judge Eugene E. Siler, Jr., who is assigned to both districts. We are happy to report that Judge Siler has offered to handle a larger number of our cases. His offer was enthusiastically accepted.

During the calendar year 1989 there has been an increase in civil filings and in the civil and criminal terminations in the district court. The total civil and criminal pending caseload is less than in 1988.

Despite an increase in filings of over 12% in the past four years, the bankruptcy court has improved its filing-to-pending ratio. In 1986 there were 10% **more** cases pending than were filed. In 1989 there were 9% **fewer** cases pending than were filed. This trend commenced under the leadership of the late Chief Bankruptcy Judge G. William Brown and has been ably maintained by his colleagues and successors.

Emergency Motion Docket. With the consent of all concerned judges, an Emergency Motion Docket was established in the district to expedite ruling on motions which had been pending for more than sixty days. Each district judge accepted an equal number of cases from this emergency motion list. Significantly, and in the highest spirit of cooperation, Circuit Judges Boyce F. Martin, Jr. and Danny J. Boggs accepted designations to handle many of these matters. The project was well received by the judges and appreciated by the lawyers involved in the cases. We are deeply grateful and highly indebted to Judge Martin and Judge Boggs for their generous contribution to this court.

Probation. The probation officers accepted and met the challenge presented by recent legislative enactments. The judges of this court invited input and suggestions from the line officers for improving past procedures. One of the suggestions has resulted in a recommendation to alter requirements for prebail investigations of defendants charged with Class "A" misdemeanors on military posts. These offenses primarily involve shoplifting from a post exchange by military personnel or their dependents. The charges against the defendants are of a non-violent nature. These defendants present no danger to the community nor risk of flight. Substantial time is required for preparation of the reports. Experience has taught us that the statute requiring the report in each of these cases serves no useful purpose but creates a substantial expense to the public.

Facilities. Each judge of the court and the chief magistrate now enjoys beautiful chambers in the courthouse in Louisville. Renovation of two of our courtrooms is in progress. Plans have been approved for several other construction projects which will provide more courtrooms, decent jury accommodations, adequate quarters for the bankruptcy court and probation office, and improvements in division offices.

With these accomplishments, court personnel can now more readily address judicial functions.

Summary. We have enjoyed a respectable year, marked by dedicated service from all levels of court personnel. Their attitude and respect for one another has been the basis for exceptional service to the citizens of our district.

Respectfully submitted,

Edward H. Johnstone,
Chief Judge

**United States District Court
Eastern District of Michigan**

1989 Annual Report

IN MEMORIAM

CHIEF JUDGE PHILIP PRATT

1924 - 1989

No member of the extended family of the United States District Court for the Eastern District of Michigan will soon forget 1989. It was The Year of Three Chief Judges.

Judge Paul V. Gadola was sworn into office on January 6, 1989 at the Marie R. Prahll College Center of Mott Community College in Flint, Michigan. Acting Chief Judge James P. Churchill presided in the absence of Chief Judge Philip Pratt. Most of the Judges of the Court were in attendance.

On February 7, 1989, Chief Judge Philip Pratt lost his long and painful battle with cancer. His three-year Chief Judgeship was beset with unremitting health problems of the gravest nature. He suffered a major heart attack three weeks after becoming Chief Judge. Less than a year later, he underwent cancer surgery for a second time, followed by chemotherapy and radiation treatments, followed by more surgery. He was not without great pain for the last 18 months of his life. Through it all, he continued to fulfill the role and duties of Chief Judge. He put in three full days per week until November 1988 and was still working two days a week as late as January 20, 1989. Four days prior to his death, knowing that he would not be able to chair the Judges' Meeting which was scheduled three days later, Chief Judge Pratt spent 45 minutes going over the agenda items with the Court Executive. The memory of his life and service is a continuing inspiration to his colleagues and to all of those who knew and worked with him.

Having already announced his intention to take senior status on December 30, 1989, Judge James P. Churchill found himself thrust into the role of Chief Judge following Chief Judge Pratt's death. Hampered somewhat by the fact that Bay City was his official station, Chief Judge Churchill nonetheless threw himself into the administrative duties of the Chief Judgeship with boundless energy and enthusiasm. With his new responsibilities, he made many trips to Detroit and met with District Judges, Bankruptcy Judges, Magistrates and court staff on a regular basis. Chief Judge Churchill provided leadership in dealing with increasing caseloads in

Bay City and Flint. The Court approved Judge Churchill's proposal that 25% of the new civil cases filed in Flint and 25% of the new civil and criminal cases filed in Bay City be assigned to him after he took senior status. Judge Paul V. Gadola was designated by the Court to be the Judge regularly holding court in Bay City.

On April 7-8, 1989, the Judges and their spouses gathered at the Hyatt Regency Hotel in Dearborn for the annual retreat of the Court. Speakers were Dr. Andrew S. Watson of the University of Michigan on "Some Psychological Aspects of the Trial Judge's Decision Making" and Professor Jeffrey Sachs, Harvard University Economist on "Pressing Economic Issues of the Day".

On April 28, 1989, many Judges and lawyers (including three-quarters of his former law clerks) attended a dinner in honor of Judge Ralph M. Freeman for 35 years as a Judge of this Court.

Under the leadership of Chief Judge Pratt and Chief Judge Churchill, the Judges of the Eastern District approved a Long-Range Facilities Plan which will lead to a substantial renovation of the U.S. Courthouse in Detroit over the next five years. Four additional courtrooms and chambers will be built on the 1st and 2nd floors, and six Magistrate facilities will be created on the 6th floor. In order to accomplish this, the Clerk's Office will be moved from the 1st to the 5th floor. As a result, the Bankruptcy Court will be able to expand into the space that had been vacated by the Magistrates on the 10th floor.

The Year of Three Chief Judges ended on December 31, 1989, when Judge Julian Abele Cook, Jr., became Chief Judge. Chief Judge Churchill and Judge Cook had been working closely together throughout the year to effect a smooth transition.

Respectfully submitted

Julian Abele Cook, Jr.
Chief Judge

**United States District Court
Western District of Michigan**

1989 Annual Report

I am pleased to report that the United States District Court for the Western District of Michigan experienced another eventful and successful year during 1989. Major changes occurred in personnel, facilities, automation, the probation office and court workload.

Another successful Trial Skills Workshop was held in Grand Rapids on January 29-31st, and, for the first time, in Marquette on August 27-29th, teaching basic advocacy skills to a total of 146 attorneys. The success of this program is attributed to the combined efforts of the Western District Judiciary and the West Michigan Chapter of the Federal Bar Association. Similar workshops are planned for 1990.

Personnel. In March, the Judicial Conference Committee on the Administration of the Federal Magistrate System approved the full-time magistrate position in Marquette. On October 6th, Timothy P. Greeley was selected to fill that position. Magistrate Greeley has been serving as part-time magistrate since January 11, 1988. Magistrate Greeley was sworn in as the first full-time magistrate in the Marquette Northern Division on December 21, 1989.

The district judges have continued throughout the year to meet monthly and, during November, all the judges and the clerk spent two days meeting in Kalamazoo on court goals as well as other important topics of mutual concern.

Facilities. A new computer room along with offices for the Systems Manager, Systems Administrator, plus space for staff training and conferences were completed in March.

The Lansing multi-purpose courtroom was completed in August. This courtroom is shared with Bankruptcy Court and its joint use by both courts has worked out very well.

A renovation construction project for the chambers and courtroom for the full-time Marquette magistrate and Bankruptcy Court was approved in September; in addition, a renovation construction project for the Kalamazoo division was approved in October.

An open house was held on November 17th at the Kalamazoo Courthouse, for the recently renovated magistrate facility. The open house

included a reception sponsored jointly by the Kalamazoo County Bar Association and the Federal Bar Association, West Michigan Chapter.

Automation. The financial division went "live" on its computer in January and has the capability to track fine payments, bonds, and any other court funds.

The Western District received the UNISYS 5000 computer system and went "live" September 15, 1989. The system provides electronic docketing and immediate access to cases filed, along with statistical reports needed for caseload management. The district handles CJA vouchers on computer, facilitating payment approvals for expert witnesses and attorney fees.

By the end of the year, personal computers were available in the offices of the district judges and magistrates as well as the clerk's office.

Since the District Court and the Bankruptcy Court are sharing the UNISYS 5000 computer, court personnel are meeting regularly to address automation issues of mutual concern.

Probation. Under the direction of Chief Probation Officer Brent, the court personnel continue to study the new sentencing guidelines. In addition, the probation office has developed a sentencing recommendation review committee. The committee reviews PSI recommendations and will also review the probation/parole revocation hearings. The Probation Office continues to provide the court quality service.

At the beginning of 1989, the supervision caseload numbered 402 persons. By year's end, 261 new individuals were placed under probation supervision, while 222 individuals were removed from supervision.

In addition, there were 67 active magistrate cases. Probation received 51 new cases, removed 50 cases and ended the year with 68 magistrate cases under supervision.

Committees. The Local Court Rule Committee is putting the finishing touches on revised rules. It is anticipated that the final draft of the rules will be completed, published for comment, and then adopted in 1990.

The U. S. Courts Committee of the State Bar of Michigan is organizing a state-wide conference for federal judges, magistrates and delegates which is planned for the fall of 1990.

Court Workload. During 1989, new filings in the district reached 2,061 civil and criminal cases, a slight decrease from 1988. Terminations totaled 2,325. The pending current caseload in the entire district totals 1,792 cases.

Courts traditionally measure their success (or failure) by looking at the number of cases terminated during the year. Using that measure we rank very high. We had the second highest terminations in the Sixth Circuit (second out of nine districts) and eighth out of 94 districts countrywide.

Visa and MasterCard were implemented within our district in April, which simplifies the handling of filing fees and other payments to the Court.

The court's Jury Plan was approved by the 6th Circuit in July, 1989.

The court's archiving program continued with 595 boxes of records shipped to the Federal Records Center in Chicago, Illinois.

The district also provided 23 audio, video and local in-house training programs for staff, ranging from civil procedure to stress management.

Our district is proud of the hard work of all the judges and court staff, not only in the quantity of cases handled, but also in the quality of service which we have given to the citizenry that we serve.

Respectfully submitted,

Douglas W. Hillman
Chief Judge

**United States District Court
Northern District of Ohio**

1989 Annual Report

The Northern District of Ohio took many strides forward this past year, building a solid foundation for future growth and accomplishment. This district is among the larger districts in the country, encompassing both major metropolitan areas, such as Cleveland, Akron, and Toledo and medium sized cities, such as Youngstown and Canton. Although seldom realized outside the parameters of this geographic area, the Cleveland metropolitan area contains the third largest concentration of "Fortune 500" corporate headquarters in America. As a result, this court has a high preponderance of complex civil litigation.

Over the past year we have had very substantial increases in both our civil and criminal filings. I believe these to be far beyond increases experienced nationally. The judges of this court have all worked far beyond capacity, and each must be commended for his effort. Our job has been made even more arduous as a result of the resignation of one of our colleagues, who chose to take a position in the private sector. A court which had operated with eleven active district judges must now operate with ten.

Court Workload. During 1989 this court experienced a tremendous increase in both civil and criminal filings over previous years. Criminal filings increased by 27.2% while civil filings were up a very substantial 35.3%. This represents an increase of 1,789 case filings, including both civil and criminal, over 1988. On a weighted basis, our new filings per judge were 649, compared with the national average of 466. As of January 1, 1990 our pending caseload was 9,858. Even so, the docket of this court is current, with a substantially lower percentage of cases pending for more than three years than the national average.

Our criminal case disposition increased by 25.2%, totaling 456 dispositions as compared with 364 dispositions in 1988. On the other hand, burdened by the loss of a judgeship for a substantial part of 1989 and as a result of the need to process the huge influx of new case filings, our disposition rate slowed somewhat this year as compared with last year. While overall we have experienced an 11.3% decrease in civil case dispositions, on average, our per judge disposition rate closely approximates 1988 levels.

Asbestos-related personal injury suits continue to be filed in large numbers in this district. In 1989, 3,513 of these cases were brought as compared with 1,777 in 1988, an increase of nearly two hundred percent.

These cases are all being handled under our "Ohio Asbestos Litigation Case Management Plan," known as "OAL." Typically, cases processed under the OAL plan result in dispositions within eighteen months of their filing, keeping this mass tort docket among the most current in the nation.

Judgeships. In 1988 this court had eleven active district judges, ten permanent and one temporary. The 1988 Biennial Judgeship Survey of the Judicial Conference recommended that the temporary judgeship be converted to a permanent position, and that one additional temporary judgeship be added. Unfortunately, no action has been taken on that recommendation. In our response to the 1990 judicial needs survey, we outlined the necessity for twelve permanent judgeships in this district. In order to compensate for the loss (through resignation, as indicated above) of an active district court judge in our Western Division, additional burdens have been shouldered by several of our senior judges and, to the limited extent possible, by our United States Magistrates. As a result of our increased caseload and the loss of a judge, all the judicial officers of this court have been working far beyond normal capacity.

Court Administration. A comprehensive effort has been made within all areas of the court to improve efficiency through the use of automated systems. In our Clerk's Office we have now fully implemented the Speedy Trial Index Replacement System (SIRS) which automates our case tracking, motion list and attorney roll capabilities. That office was also identified as one of a few nationally to begin implementation of the new "CIVIL" computerized docketing system. That system will be enhanced in order to provide case management capabilities along with the more usual docketing procedures.

Financial processing for the Court is also in the process of being automated through computerization. The Court Financial System (CFS) is a complete financial management package that will enable us to more efficiently process our financial reports to the Administrative Office, along with being of substantial assistance in the Court's budgeting process.

Other administrative applications of our ongoing computerization process includes the processing of reports ranging from personnel to court reporters. The personnel system, for example, maintains records for all court employees, tracking leave, retirement and insurance information. It also assists in the preparation of our annual EEOC report.

The Court has also been involved in a pilot program with the Probation Department. The Probation Automated Client Tracking System (PACTS) has been implemented as a replacement for the Probation Information

Management System (PIMS). This new program enables the Probation Office to more accurately manage their client roster. Probation Offices throughout the district have direct access to our computer for instantaneous consultation.

Finally, our Court has been authorized for the purchase of more than fifty computer workstations to be placed, primarily, in chambers. Each chambers will soon have the capability of directly accessing Westlaw and Lexis, along with other information systems.

Magistrate System. Our Magistrate system is well integrated into the processing of the court's workload. Our five Magistrates have conducted more than five thousand proceedings, both criminal and civil, over the last year, making them among the most active teams in the nation. As the caseload of this court continued to grow over the past year, our Magistrates were called upon even more often than they had been in the past. By fully utilizing these very capable judicial officers, we were able to somewhat alleviate the burdens placed upon this court as a result of our increased workload and the loss of a judge.

Clerk of Court. The Clerk's office has implemented a district-wide training program with the assistance of a training coordinator. Each deputy clerk has received formal training on both basic and applied use of our UNISYS computer system, such as finance, jury, purchasing, receipt processing, case opening and closing, motion tracking and attorney admissions. All chambers personnel have received basic personal computer training, and the Clerk's Office has coordinated the training of all judicial secretaries in the use of our new word processing computer software.

The office has developed a highly skilled, professional corps of case managers in order to keep pace with our increased case filings. This management team has participated in the Applied Supervision course provided by the Federal Judicial Center and will participate in the FJC's Frontline Leadership course for supervisors this year.

Facilities. A new U.S. Courthouse and Federal Building in Youngstown is well into the design stage, and it is contemplated that construction will begin in the next year. In addition to the U.S. District Courtroom and chambers, the 22,000 square foot building will house the Bankruptcy Court, Probation Department and Pretrial Services Office, the U.S. Attorney's regional office and a U.S. Marshal office. Also contemplated in the design is space for a United States Congressional office.

Along with the expanding caseload of this Court and the facilities needs resultant thereto, it has been necessary to implement the "Space Plan" for this district by asking the GSA to find appropriate space outside of the

historic U.S. Courthouse for the Bankruptcy Court in Cleveland. In addition, space is being sought for the Probation Office in our Western Division.

Pretrial Services. During its first full year of operation, our Pretrial Services Office ranked twelfth among the ninety-three reporting districts in the number of cases activated. Three offices have now been established and are fully operational in the district, and through cooperation with other offices and agencies, the Pretrial Services Office has already established itself as an integral part of the Court system.

Probation Department. The Probation Department in this district has been among the most active nationally, completing well over 1,500 investigations in 1989. Nearly 1,200 persons were supervised by the 28 probation officers, who were assisted by 20 probation clerks.

Naturalization of New Citizens. The Northern District of Ohio takes great pride in its naturalization program. This one non-litigational function is considered vital to our strength as an institution, both because of the importance of the process itself and because it provides an important link between the Court and the community. Our naturalization ceremonies are conducted approximately every two weeks and on special occasions, in conjunction with the Immigration and Naturalization Service. In addition to the swearing-in ceremony itself, the judges and their supporting staff work along with the Women's Forum and other cooperative civic organizations and the Cleveland Public Library in sponsoring a "Salute to New Citizens" educational program and reception for our new U.S. citizens immediately following each ceremony. We consider the naturalization proceedings to be one of the highlights of the Northern District of Ohio.

Circuit Satellite Library. Since 1985 the Northern District of Ohio has had the installation and services of a Circuit Satellite Library. In 1989 preparations were made in our Western Division for the opening of another satellite library. That library will be open in early 1990. In 1989 our library increased its collection substantially, adding over 90 new titles. Total volumes in the library collection at the close of 1990 equalled 28,281 volumes. Our very able and skilled librarians provide regular seminars on use of the many mediums of information available, and have responded to thousands of legal research inquiries and requests. With our newly acquired computer terminals in chambers, we may now access virtually unlimited sources of information from and through our library.

Conclusion. Over the last year this court has made modest gains in its juror utilization. That will be among our top objectives for this coming year. The court has also made a concerted effort to address the health needs of

our personnel and has implemented a "Wellness Program" towards that end. Among the benefits of that program have been CPR training, stress management seminars, and health screenings conducted by the Cleveland Clinic Foundation for a nominal charge.

The year 1989 was very challenging for this court, particularly in terms of its increased caseload and our loss of an active District Judge. Nevertheless, this district has taken many strides forward, and next year looks more promising still. As we enter a new decade the Northern District of Ohio will continue to be a major participant in creating new and innovative methods of dispute resolution.

We expect to see the evolution of a new, fairer and more efficient model of advocacy. That model will be nurtured by this court, and will seek to combine the energies of the judges, lawyers, and law schools in this endeavor. By maximizing the efficiency and fairness of our system, we will doubly benefit the parties; first, by reducing transactional costs associated with litigation, and, second, by enhancing the quality and dimension of due process.

Respectfully submitted,

Thomas D. Lambros, Chief Judge

**United States District Court
Southern District of Ohio**

1989 Annual Report

The Southern District of Ohio reports no significant change from its position as previously reported. During calendar 1989 we have operated a full strength with eight Judges, including one Senior Judge, and with five Magistrates. A Pretrial Services Department began its activities January 15, 1990, with offices in all three of the cities.

The Court has expended substantial effort in programs designed to instruct both law students and lawyers. A program known as "Judge in Residence" continues at the University of Cincinnati College of Law. Under this program a District Court case is tried in the courtroom of the College of Law on the University of Cincinnati campus. The students have an opportunity to see lawyers trying an existing case. The Honorable James L. Graham of Columbus served as Judge in Residence in 1990. Through efforts of the District Judges in Columbus, an American Inn of Court was established in that city in January, 1990. It joined the Potter Stewart American Inn of Court at Cincinnati in this worthwhile program.

In fiscal 1989 the number of filings in this District have decreased by 12.8% and the pending cases are at their lowest number in the past six years. The District ranks fourth in the Circuit in weighted filings and fifth in the Circuit in terminations. Like all other Districts, we are experiencing an increase in the number of criminal cases that must be tried. So far, the Southern District of Ohio has succeeded in trying its civil cases without excessive disruption, but if the trend continues in criminal cases it must inevitably effect the civil docket.

In accordance with the previously reported district-wide project to reduce the number of pending cases which are three years old, a ten percent reduction in such cases was achieved over fiscal 1988. We have reached a number which for the first time in four years is below the national average. In the same fashion we have reduced the percentage of jurors not selected, serving or challenged by approximately ten percent over 1988 and likewise report the smallest percentage thereof in the past four years.

Remodeling at Cincinnati has been completed and Judge Weber occupies adequate and comfortable quarters for the first time. We still await remodeling of our second Magistrate's quarters in Cincinnati which will begin, hopefully, in fiscal 1990. The situation in Columbus in terms of remodeling is far from completed, although some progress has been made. Construction of chambers and a courtroom for Judge Smith will commence

during this fiscal year and should improve the current crowded conditions in Columbus. The District continues to maintain an "all purpose" courtroom in Cincinnati which is used by the United States Court of Appeals for the Sixth Circuit, Visiting District Judges, Magistrates and the Bankruptcy Court.

Automation has finally arrived with computer terminals available in the chambers of each Judge and Magistrate. A satisfactory faxing program enables the courts in each city to communicate by the transfer of documents. Despite the district operation in three separate cities, the Southern District of Ohio continues to function in a satisfactory manner.

Respectfully submitted,

Carl B. Rubin, Chief Judge
1979 - 1990

John D. Holschuh, Chief Judge
1990 -

**United States District Court
Western District of Tennessee**

1989 Annual Report

Workload. The most significant thing that affected our court in 1989 was the continued increase in the criminal caseload. For the year that ended on June 30, 1989, the Western District of Tennessee ranked tenth in the nation in felony cases filed per judgeship, and the rate of increase continued after July 1. Considerably more than half of the felony cases filed were drug cases. The number of narcotics cases filed in the district more than doubled from 1988 to 1989; and ten times as many narcotics cases were filed in the district in 1989 as in 1985. New personnel in the United States Attorney's office and other factors have given us reason to believe that the trend will continue.

The increased felony caseload has, of course, had a severe impact on the court's ability to deal with its civil cases. The court has, however, been able to conclude a large number of civil cases through the use of an accelerated trial docket, settlement conferences, and other expedients.

Personnel. A new part-time magistrate, Judge Billy Jack Goodrich, came on duty in Jackson in January of 1989. Previously, there had been no magistrate in Jackson, which is 86 miles from Memphis where the two full-time magistrates are stationed. District Judge James Todd had been handling most of the magistrate duties in Jackson.

Around the middle of 1989 we realized that the workload of the district, particularly the large number of drug cases with their attendant detention and preliminary hearings, made it necessary that we seek a third full-time magistrate. A survey was conducted by the Administrative Office, which recommended upgrading the part-time magistrate at Jackson to full-time for service in either Jackson or Memphis. That recommendation is pending before the Judicial Conference.

Accelerated Trial Docket. For the second consecutive year the court established an accelerated trial docket. This year, 69 civil jury cases, which could likely be tried in three days each, were selected to be tried during a three week period in October. All the district judges made themselves available to handle these cases for that period, and Circuit Judges Bailey Brown and Harry Wellford also agreed to help out. Judge Julia Gibbons was the coordinator of the docket again this year. The two magistrates in Memphis held pretrial and mandatory settlement conferences in each case.

The results achieved persuaded us that the accelerated docket is a worthwhile procedure for concluding cases. Of the 69 cases initially placed on the docket, 10 cases, or 14%, were removed by the assigned judge. Six cases, or 9%, were dismissed or had summary judgments granted. Thirty-nine cases, or 57%, were settled. Fourteen cases, or 20%, remained for trial. In seven of these cases the parties consented to trial by a magistrate to be held shortly after the docket ended. The net result was that the court concluded 59 civil cases in a relatively short period of time.

Local Rules Committee. In the spring of 1989 the court created a local rules committee, with Judge Julia Gibbons as the chairperson. In addition to Judge Gibbons, there are 24 members of the committee, only four of whom are connected with the court. One other district judge, one magistrate, the clerk of court, and the chief deputy clerk are members. The other members represent a broad cross section of the legal community in West Tennessee. The committee has been divided into subcommittees, with each subcommittee working on a specific area. The subcommittees have made their reports and submitted proposed rules. The entire committee will review the work of each subcommittee and, we hope, come up with a new set of local rules for our district that will represent a consensus of the diverse elements of the district's legal community.

Criminal Justice Act Committee. A committee has been formed to revise the method of selecting lawyers for our Criminal Justice Act panel. The chairman of the committee is Judge James Todd. Two other members of the court are on the committee, U.S. Magistrates James Allen and Billy Jack Goodrich. The remainder of the committee is comprised of lawyers from the district, both civil and criminal. The committee is surveying members of the current panel to determine how many appointments per year attorneys can reasonably take, so the size of the new panel can be set. The committee is also talking with lawyers in some of the civil firms in the district in an effort to gain their participation in the C.J.A. panel, at least on a limited basis.

Court Library. The Memphis branch of the Sixth Circuit library has seen a lot of activity during the year. Our librarian, Barbara Zimmerman, has coordinated the expansion of Westlaw and Lexis into the chambers of the judges and magistrates, to be used in connection with new computers that have been installed in all chambers. The library staff has instituted a pilot project with the Senior Citizens Services of Memphis whereby senior citizens,

who are paid by the Department of Labor under the Manpower Training Act, will work for the library. This program has provided needed help in the library without any cost to the court.

Respectfully submitted,

Honorable Odell Horton
Chief Judge
Honorable Julia S. Gibbons
Honorable James D. Todd
Honorable Jerome Turner
Honorable Robert M. McRae
Senior Judge

MEMORIAL RESOLUTION

**Memorial Resolution
for
Charles G. Neese
United States District Judge
Eastern District of Tennessee
and
Middle District of Tennessee**

1916 - 1989

United States Senior District Judge Charles G. Neese closed the record of his service as a member of the Sixth Circuit on October 22, 1989. A native of Henry County, Tennessee, he was born on October 3, 1916, a graduate of the public school system there where he excelled in academics, athletics and extra-curricular activities. He graduated from Cumberland Law School in 1937 and was admitted to the bar in 1938.

From the moment he began to study law until the day he passed away, Judge Neese demonstrated a deep and unqualified love for the profession of law and all it entailed.

Judge Neese was talented and articulate, a man of many parts. Important among his qualities was his gentleness toward his acquaintances who had different views from his in politics, law, religion, art in its many forms, or the written word; he tolerated and countenanced divergences shown by others on such matters with a graciousness sometimes undeserved by those with whom he differed.

He was appointed to the federal judiciary by his close friend Senator Estes Kefauver in 1961 after directing the Senator's political efforts in Tennessee and the nation for much of the 1950's from his Nashville law office. He served the judiciary in the Eastern District of Tennessee, primarily in Greeneville, his home, for many years, and Winchester, until he took senior status and with Althea returned to Nashville. He was welcomed to the Middle District of Tennessee by his colleagues there, and performed valuable service as a Senior Judge.

Although Charley Neese's skills as a political advisor to Senator Kefauver were constantly relied upon by the Senator until his untimely death, Charley never lost his love for the law nor his dream to be a judge. Although he would leave the practice of law for periods of time to serve Senator Kefauver, it was always temporary duty and he would not consider a permanent change of station.

He was a distinguished jurist with a keen sense of fairness and what was right and wrong. He truly believed in those maxims of equity we learned in law school: substance over form, equity delights in doing complete justice, one must come into Court with clean hands.

As a judge, Charley Neese felt that in conducting official business of his Court, it should be done in a formal, no-nonsense atmosphere to exhibit both in fact and appearance that his Court was a place where justice was dispensed. As a result, in Court, he was a strict disciplinarian.

When not involved in Court duties, his entire personality was to the contrary. He loved people and had hundreds of devoted friends. One of his greatest pleasures was to visit with old friends to discuss all manner of subjects, including other friends, politics, history, current events, former pleasant occasions, sports, or any other subject which might come up in the conversation.

It was not unusual for one of Judge Neese's closest personal friends in the trial of a hotly contested case in his Court to find himself the recipient of stern admonition during the trial; yet spend a very pleasant evening with the Judge after the adjournment of Court. Such has been the experience of some of the members of this Committee. Judge Neese found no inconsistency in his conduct on and off the bench. When he was on the bench, he labored to see that justice was done. When he left the Courthouse, his duties remained in Court and he was free to enjoy the company of friends. As a result, all those who knew him intimately recognized that in Court he was an excellent Judge, striving to attain complete impartiality, but out of Court he became, not a judge, but a warm, lovable friend.

He had a tremendous sense of and a keen interest in, history -- especially Tennessee history -- that was wonderful and, frankly, irreplaceable. Nobody enjoyed watching a good baseball, basketball or football game more than Charley Neese. After obtaining senior status he often agreed to sit specially on the Sixth Circuit Court of Appeals; however, he was especially pleased when he could combine a trip to Cincinnati for this purpose with a visit to the ballpark to see the Reds.

He loved politics at all levels -- local, state and national -- and, of course, prior to becoming a judge, was an active participant. He was also a walking encyclopedia on the subject. Friends and acquaintances could sit and listen for hours to Charley Neese on politics.

He was a happy person who thoroughly loved life and all it entailed. He always looked for the good, not the bad. Charley Neese loved people and people loved Charley Neese. He was warm, gracious and down to earth and discussed any question that might arise with logic and clarity. He always had

the ability to cut through to the real questions and disregarded surplusage and irrelevancy. He had a keen understanding and compassion for his fellow man. Judge Neese was unfailingly courteous to litigants and to the lawyers who appeared in his Court; but he had little patience with a lawyer who had failed to properly prepare his lawsuit. He believed that a lawyer is paid to present his client's case and that a lawyer who came to Court unprepared was not treating his client fairly.

He was always positive and knew that as surely as the rainy days were with us, sunshine would be following closely behind.

His family was very important to him and there was no one like his beloved Althea.

He worshipped God with a deep and abiding faith. He was a devoted member of McKendree Methodist Church in Nashville and a Sunday School teacher there for many years.

We probably had him with us for ten years longer than we had any right to expect based on his medical history. Those extra ten years he was generally healthy, very happy and productive; and when his time came, he went exactly as he had wanted -- without being a burden or a problem to anyone.

Charley Neese, though an eloquent gentleman, was a man of simple tastes: a plain suit, a good hat, scotch of any variety, an inexpensive cigar, an old-time hymn, a baseball game to watch from little league to major league, good old beef (which he wasn't supposed to eat), today's newspaper, a TV set, a legal, historical or political project or two, loved ones and friends -- that is about all he required to live life to the fullest, and he did.

The bar and the judiciary of the sixth circuit have been vastly enriched by his love of his profession and his keen sense of justice. We have been honored and blessed by his life and record and we will miss Charley Neese.

He is survived by his wife, Althea; sons, Jerry and Chuck; and daughter, Rhonda.

NOW, THEREFORE, BE IT RESOLVED that the Fifty-First Judicial Conference of the Sixth Circuit in session at Hilton Head Island, South Carolina, this 22nd day of March, 1990 pays tribute and appreciation to the memory of Charles G. Neese who served the nation and this Circuit faithfully and well.

BE IT FURTHER RESOLVED that a copy of this Resolution be preserved upon the records of this Conference and that copies be furnished to the family as a mark of sympathy and esteem.

Respectfully submitted:

Gilbert S. Merritt
Chief Judge
United States Court of Appeals
Sixth Circuit

Thomas A. Wiseman, Jr.
Chief Judge
United States District Court
Middle District of Tennessee

Lewis Conner, Esq.
Nashville, Tennessee

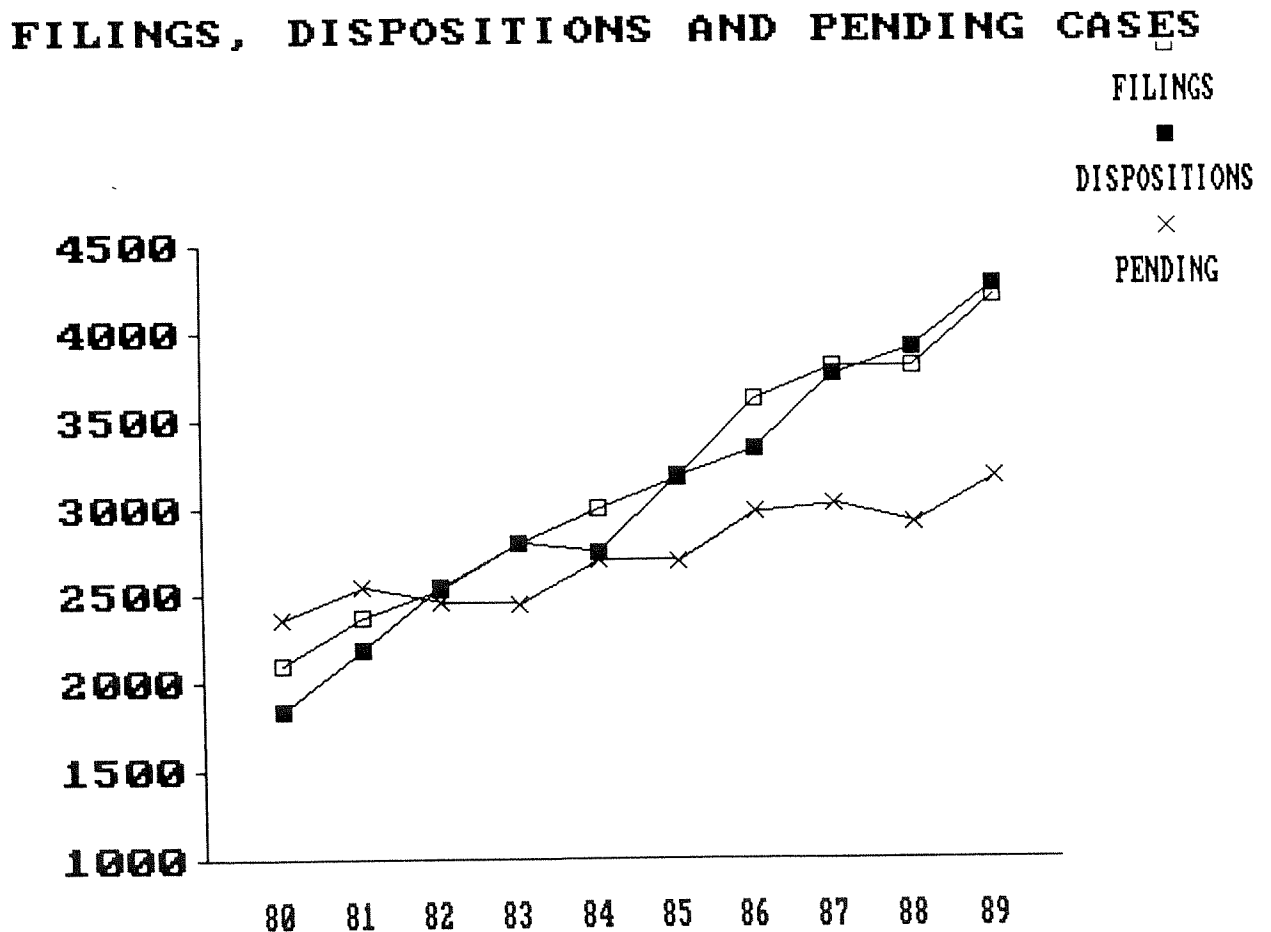
APPENDIX

STATUS OF THE DOCKET

Changes in the status of the Court of Appeals docket during the 1980's are illustrated in the graph below.

The table on the next page provides the actual number of filings, dispositions and pending cases for each year in the past decade. The bar graph presents the same filing and disposition data in an alternate format.

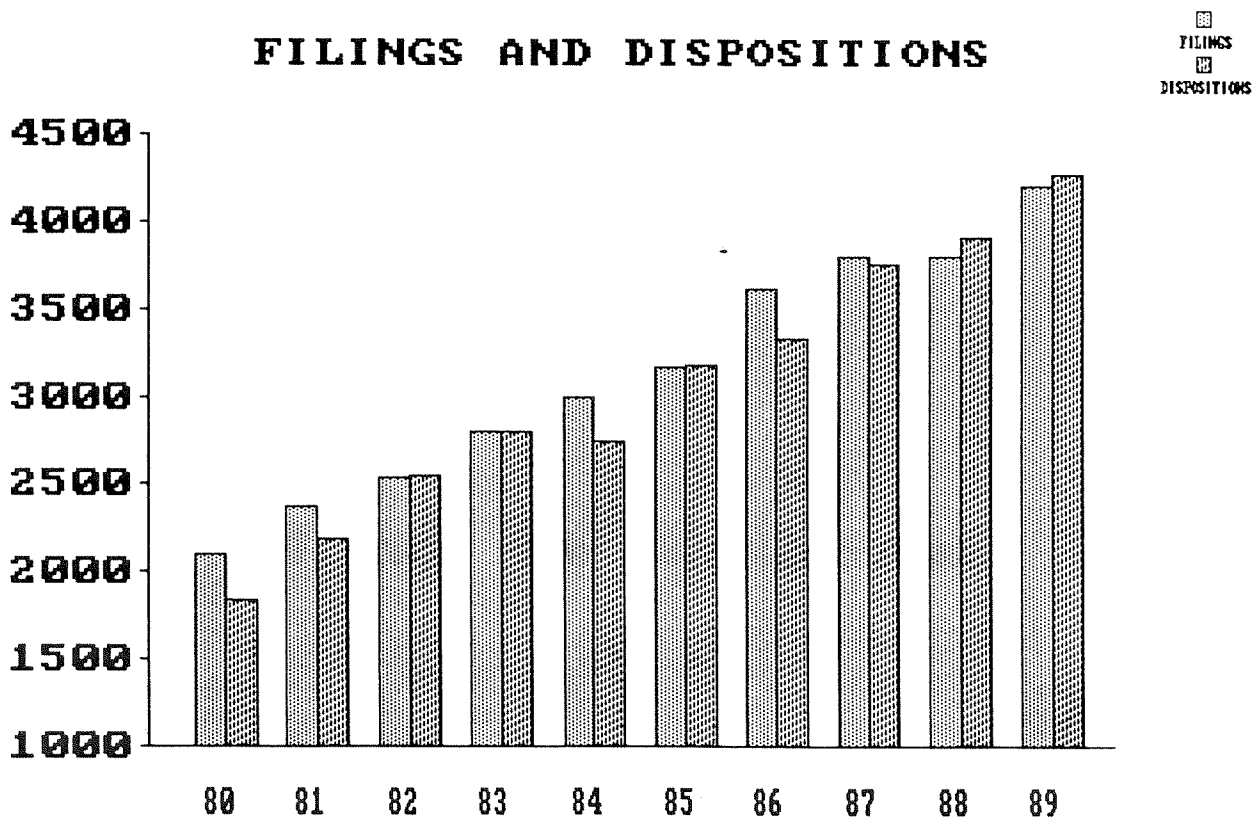
In each of the following tables and graphs the figures for the years 1980 through 1986 are based on the twelve-month period ending June 30. Figures for 1987 through 1989 are for the twelve months ending December 31.



FILINGS, DISPOSITIONS AND PENDING CASES

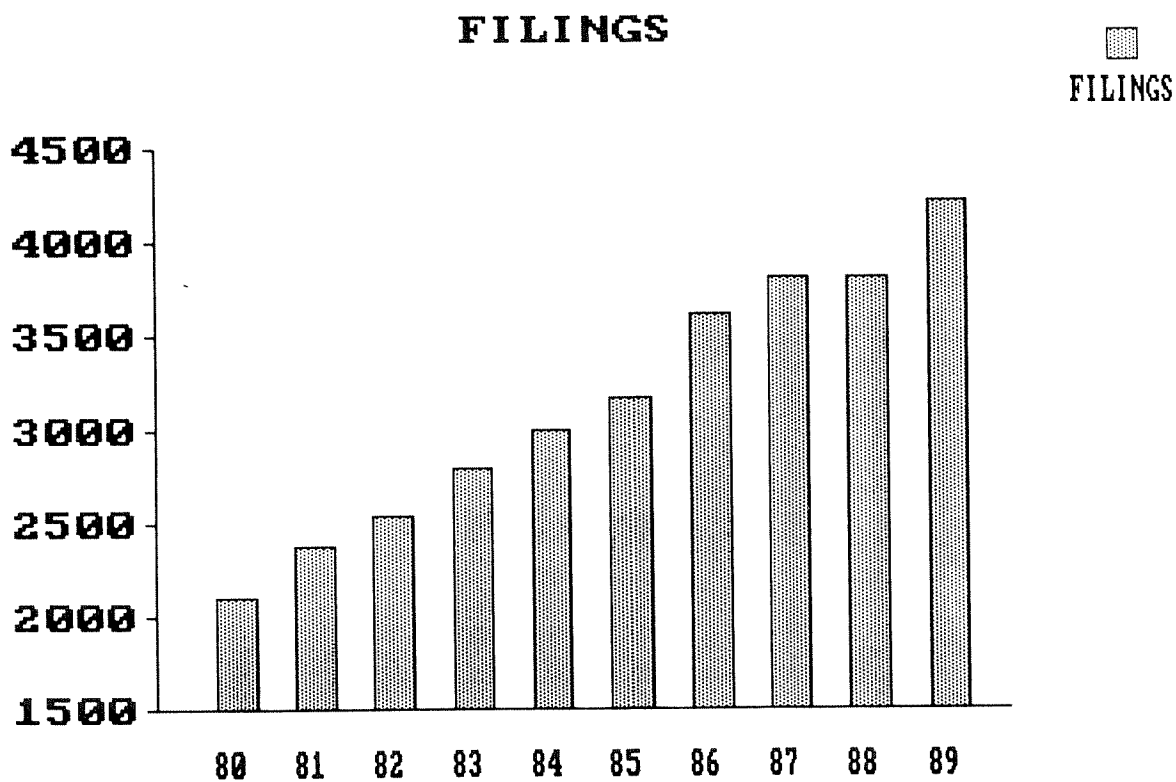
	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
FILINGS	2103	2376	2541	2795	2996	3172	3618	3845	3951	4214
Annual Increase	11.3%	13.0%	6.9%	10.0%	7.2%	5.9%	14.1%	6.3%	2.8%	6.7%
DISPOSITIONS	1832	2189	2551	2803	2743	3183	3337	3602	3932	4278
Annual Increase	12.2%	19.5%	16.5%	9.9%	-2.1%	16.0%	4.8%	7.9%	9.2%	8.8%
PENDING	2366	2553	2457	2449	2702	2691	2972	3215	3234	3170
Annual Increase	12.9%	7.3%	-3.9%	-.3%	9.4%	-.4%	9.5%	7.6%	.6%	-2.0%

FILINGS AND DISPOSITIONS



FILINGS

New filings have increased annually throughout the decade, with the total number of new filings in 1989 doubling the total for 1980.



FILINGS, (cont.)

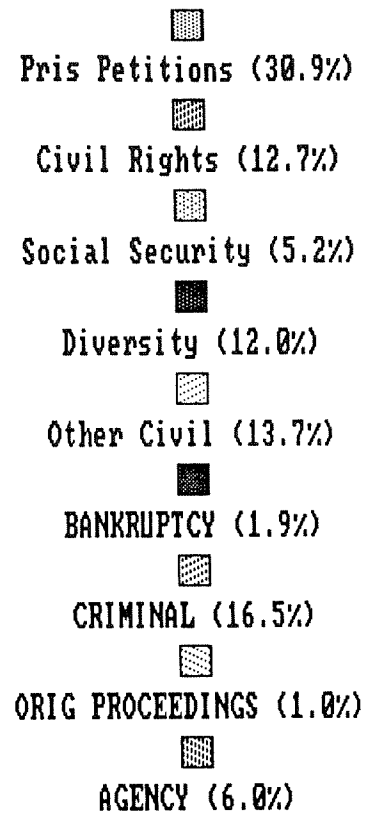
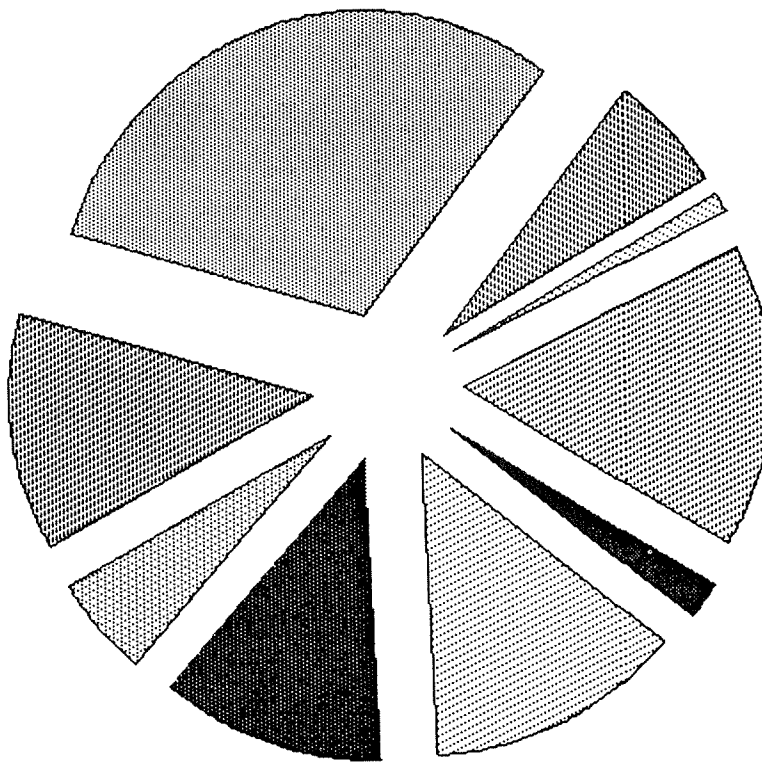
The following table presents a summary of filings during the decade, and identifies the types of cases that have comprised the court's docket during that period.

The two pie charts on the next page show the proportions of filings by case type and by source of filing.

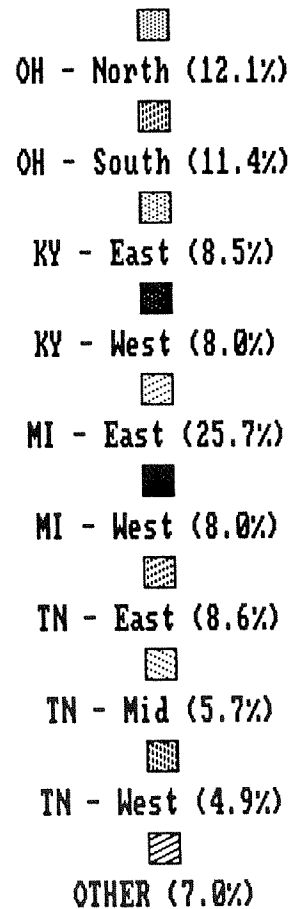
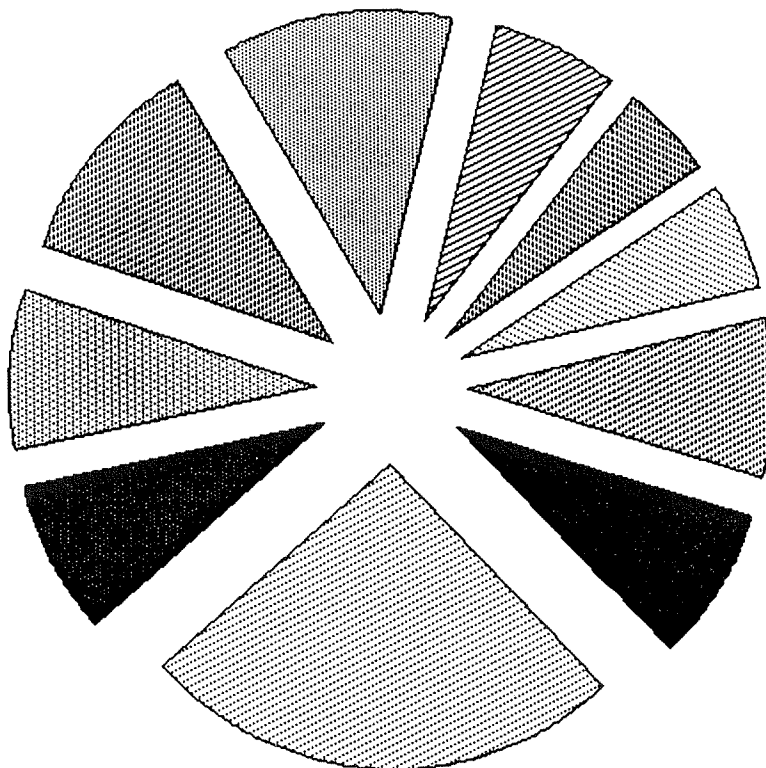
FILINGS BY CASE TYPE

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
TOTAL CIVIL	1476	1665	1866	2038	2198	2347	2843	3061	2963	3144
Pris Petitions	420	546	517	568	551	731	953	1098	1045	1303
Civil Rights	272	304	396	411	405	502	553	621	570	536
Social Security	142	150	165	197	284	240	321	238	198	221
Diversity	212	254	261	240	231	288	389	408	431	506
Other Civil	430	411	527	622	727	586	627	696	719	578
BANKRUPTCY	21	44	52	63	97	93	80	62	71	80
CRIMINAL	347	351	347	380	405	386	395	448	575	694
ORIG PROCEEDINGS	21	33	21	32	29	40	32	23	36	44
AGENCY	238	283	255	282	267	306	268	251	306	252
TOTAL CASES FILED	2103	2376	2541	2795	2996	3172	3618	3845	3951	4214

TOTAL FILINGS BY CASE TYPE



SOURCES OF FILINGS



January 1, 1989 - December 31, 1989

FILINGS BY SOURCE

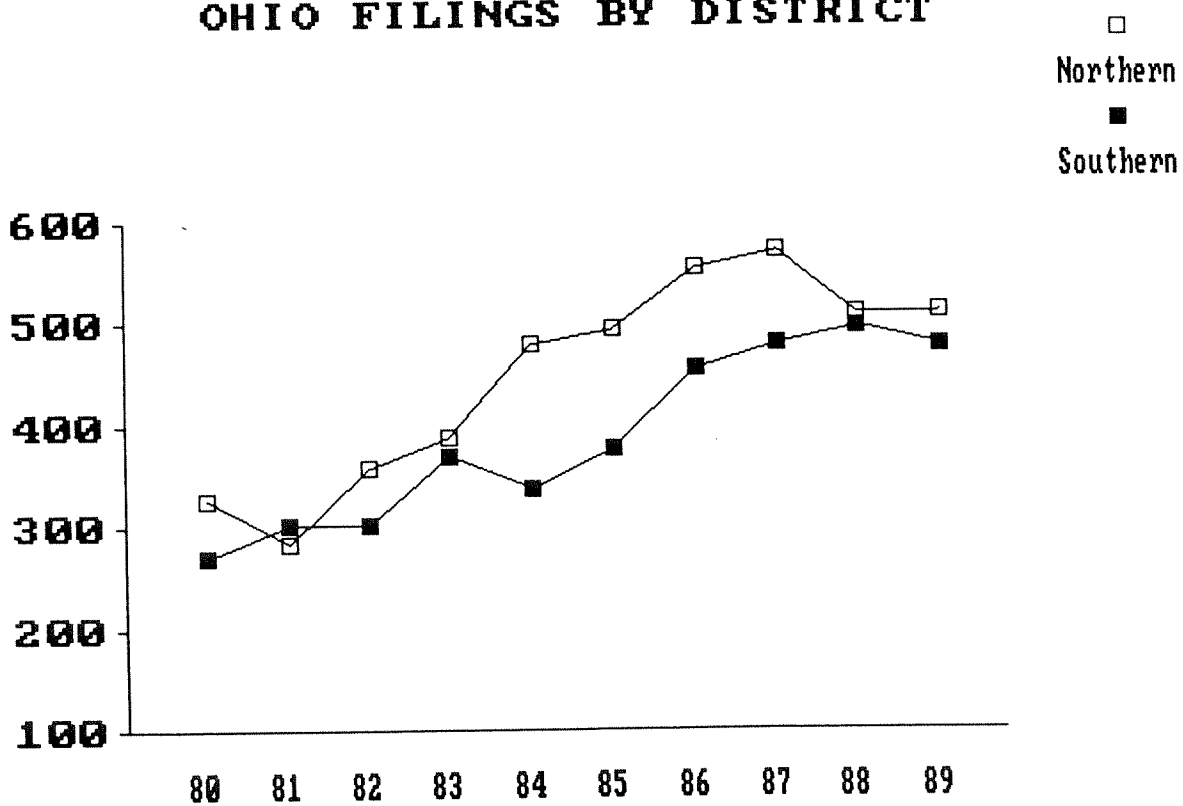
The table below shows the new appeals filed during each of the past nine years, showing the number of appeals originating in each of the individual districts within the circuit.

		SOURCE OF FILINGS									
		1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
OHIO	Northern	327	284	359	388	481	496	556	573	510	512
	Southern	271	303	303	369	337	378	455	480	497	479
	TOTAL	598	587	662	757	818	874	1011	1053	1007	991
KENTUCKY	Eastern	118	190	174	166	239	213	252	314	352	358
	Western	184	213	200	166	181	191	260	285	296	339
	TOTAL	302	403	374	332	420	404	512	599	648	697
MICHIGAN	Eastern	482	496	578	704	683	722	887	1018	960	1081
	Western	75	124	139	173	129	171	171	215	298	339
	TOTAL	557	620	717	877	812	893	1058	1233	1258	1420
TENNESSEE	Eastern	147	144	164	157	225	213	265	263	292	361
	Middle	78	113	152	135	162	184	183	208	209	241
	Western	141	149	144	160	166	165	209	246	192	208
TOTAL	366	406	460	452	553	562	657	717	693	810	
AGENCY, TAX COURT & ORIGINAL PROCEEDINGS		238	283	255	282	267	306	268	243	345	296
TOTAL		2061	2299	2468	2700	2870	3039	3506	3845	3951	4214

FILINGS BY SOURCE, cont.

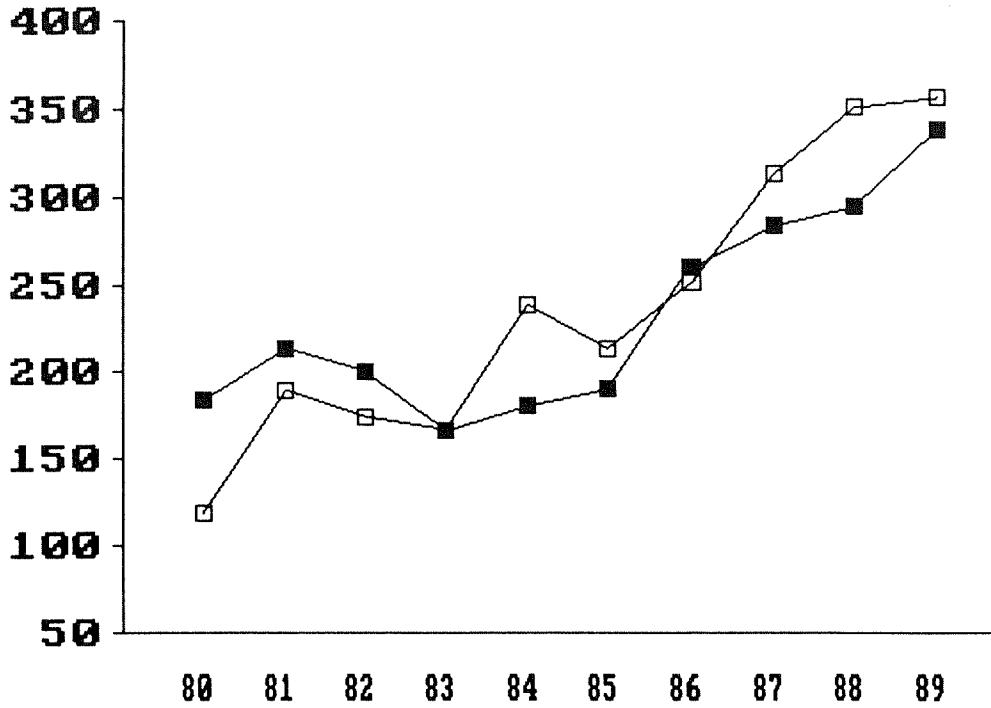
The graphs on the following pages show filings from the district courts of each state. The last graph in this section shows changes in agency and bankruptcy case filings along with cases originating in the court of appeals.

OHIO FILINGS BY DISTRICT



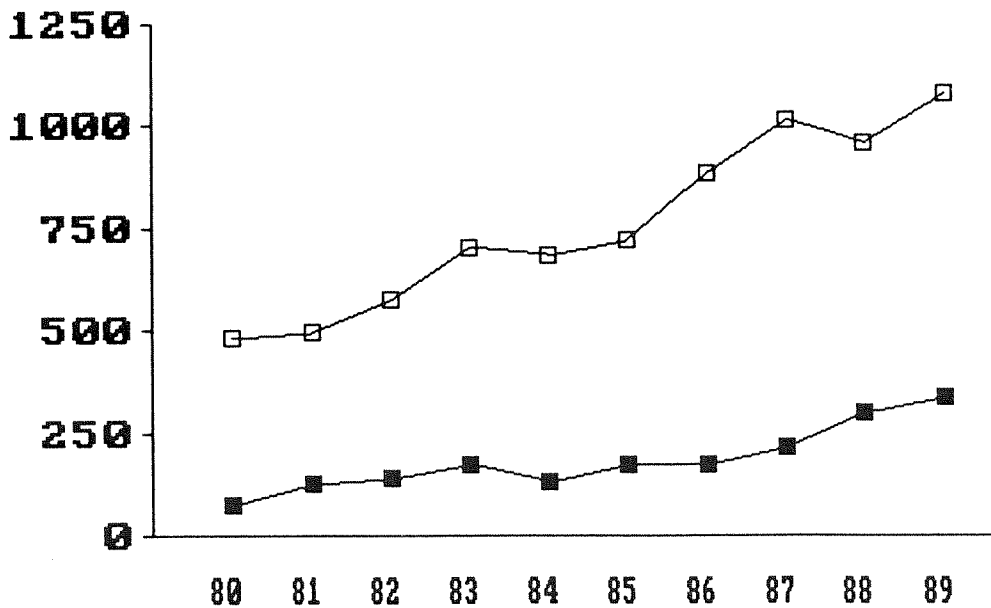
KENTUCKY FILINGS BY DISTRICT

□ Eastern
■ Western

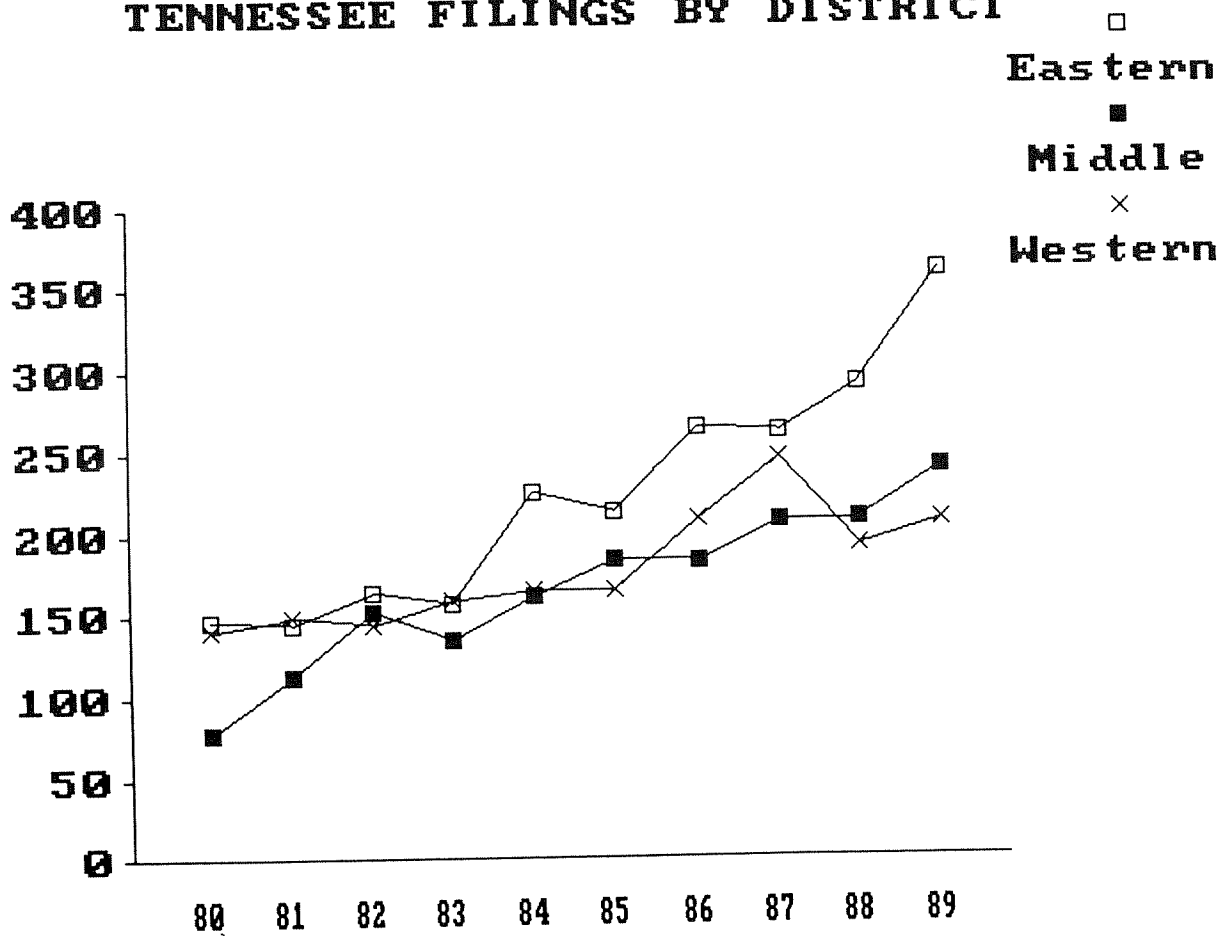


MICHIGAN FILINGS BY DISTRICT

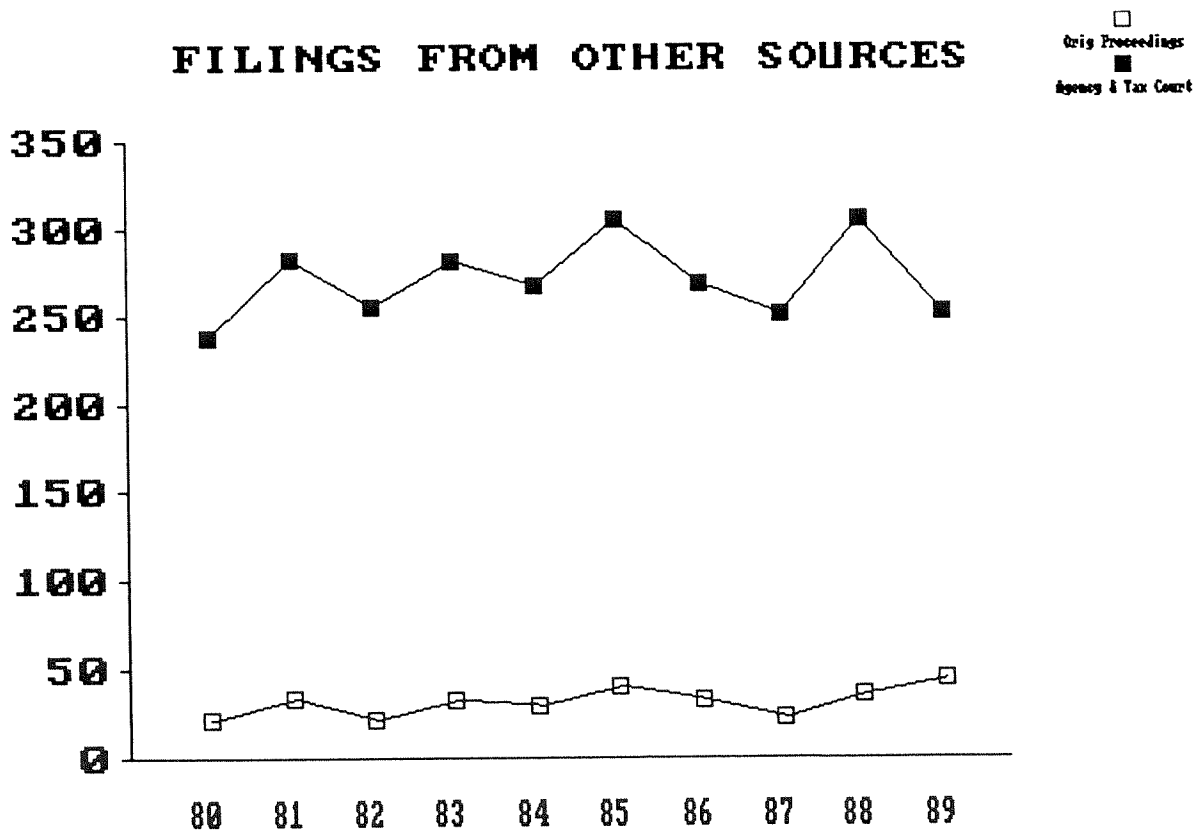
□ Eastern
■ Western



TENNESSEE FILINGS BY DISTRICT

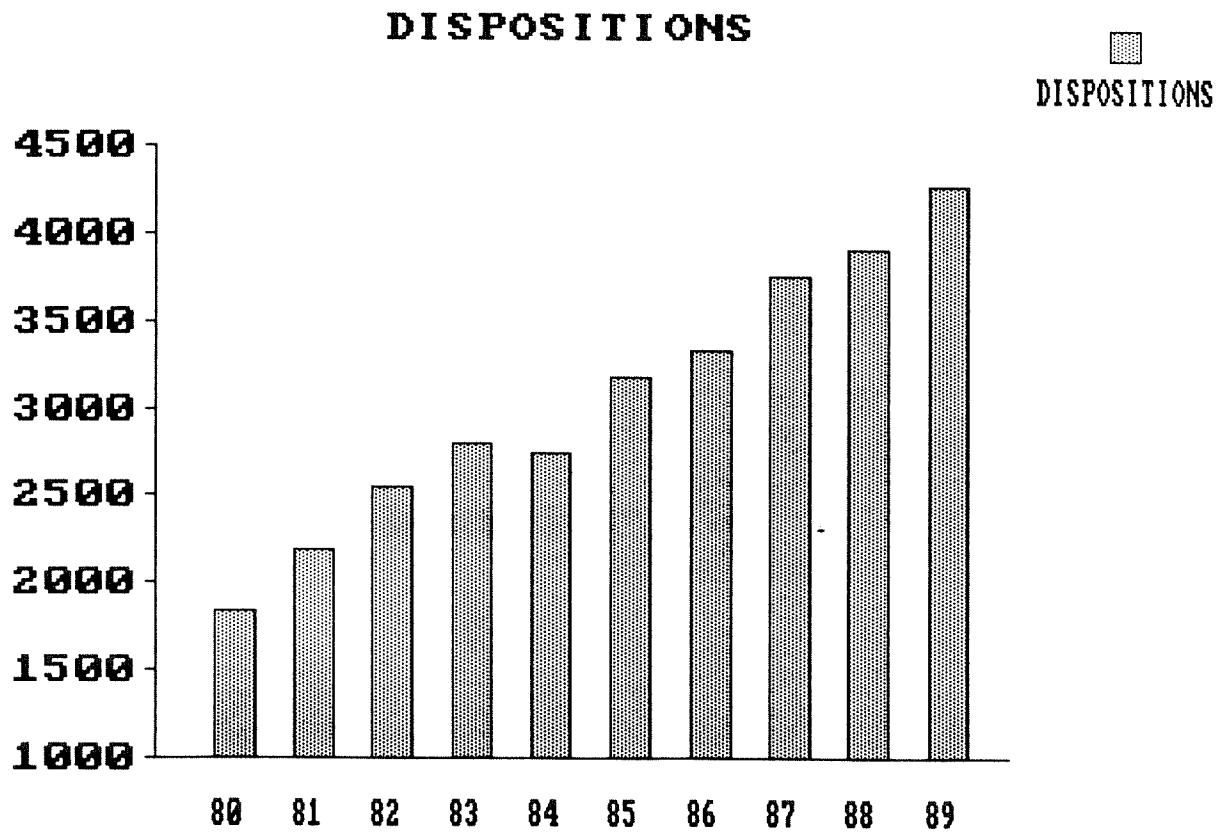


FILINGS FROM OTHER SOURCES

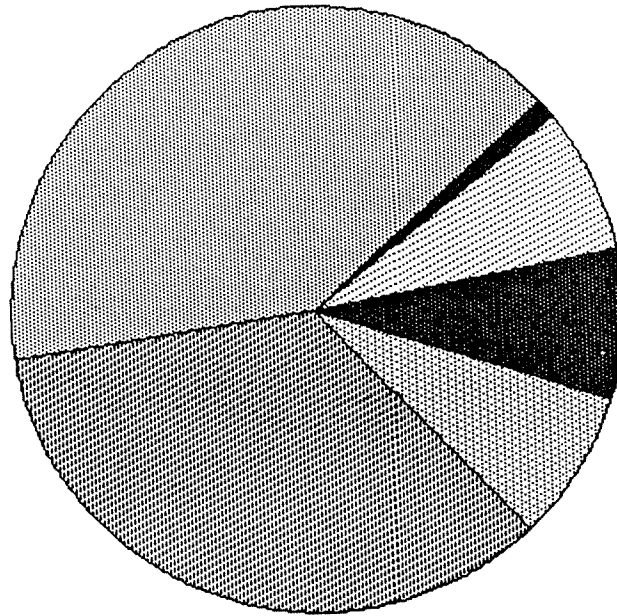


DISPOSITIONS

The bar graph below shows the case dispositions for each year since 1980. The pie chart on the following page identifies how cases were disposed of in 1989 by category of disposition. The table below that chart provides a breakdown of dispositions by category for the past nine years.



SUMMARY OF DISPOSITIONS



- Oral Argument (40.6%)
- Summary Dispositions (34.4%)
- Voluntary Dismissals (8.1%)
- Want of Prosecution (8.0%)
- Settlement Program (7.7%)
- Other (1.2%)

1989

SUMMARY OF DISPOSITIONS

	1981	1982	1983	1984	1985	1986	1987	1988	1989
ORAL ARGUMENT	1327	1233	1354	1366	1461	1428	1628	1667	1738
SUMMARY DISPOSITIONS (Rule 9)	444	574	646	618	817	989	1122	1302	1470
VOLUNTARY DISMISSALS	344	445	382	353	375	340	383	413	345
DISMISSALS FOR WANT OF PROSECUTION	107	187	217	211	321	340	266	207	342
SETTLEMENT PROGRAM		14	101	132	164	211	172	299	330
OTHER	42	98	103	63	45	29	31	44	53
TOTAL	2264	2551	2803	2743	3183	3337	3602	3932	4278

PENDING CASES

The chart below shows pending cases at the end of each of the last nine years. The court's efforts in managing its docket and increasing its level of dispositions have led to a slight decrease in the pending caseload.

