



The Federal Judicial Center
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Administrative Office of the U.S. Courts
Washington, DC 20544

September 30, 1992

TO: Clerks of Court, United States District Courts
CJRA Staff, United States District Courts
Chairs, Advisory Groups Appointed Under the Civil Justice Reform Act of 1990
Reporters, Advisory Groups Appointed Under the Civil Justice Reform Act of 1990

FROM: Donna Stienstra, CJRA Project Director for the Federal Judicial Center
Abel Mattos, CJRA Project Director for the Administrative Office

SUBJECT: Updated Materials and Information Regarding Implementation of the CJRA

We are writing to inform you of several matters concerning implementation of the Civil Justice Reform Act and to send you several items we believe will be useful in your CJRA efforts.

CONTACTS AT THE FEDERAL JUDICIAL CENTER AND ADMINISTRATIVE OFFICE

During the past year and a half, the Federal Judicial Center and Administrative Office have provided assistance to the courts and advisory groups on a variety of CJRA implementation questions. We will continue to do so for the duration of the statute, but from a **new address**. Please note that on October 2 the Judicial Center and the Administrative Office will move to the new Federal Judiciary Building and can be reached at the addresses given above. Both agencies will be closed on October 2 and October 5.

To assist you in directing your inquiries, we have listed below the names and **new telephone numbers** of staff members involved in CJRA implementation:

Donna Stienstra, FJC: 202-273-4070	General assistance
Abel Mattos, AO: 202-273-1539	General assistance
John Shapard, FJC: 202-273-4070	Caseload analysis
Dave Cook, AO: 202-273-2240	Caseload data
Dennis Wysocki, AO: 202-273-1534	Budget information

MAILING LISTS

Enclosed you will find updated lists of the addresses and telephone numbers of clerks of court, CJRA court staff, and advisory group chairs and reporters. We have tried to stay informed about changes in the districts, yet some of the information on these lists may be incorrect. Where that is the case - or where information is missing - please contact Donna Stienstra.

EARLY IMPLEMENTATION DISTRICTS/STATUS OF OTHER DISTRICTS

Thirty-four courts, including the ten pilot courts, completed reports and plans by December 31, 1991. The Judicial Conference has granted early implementation status to these courts. You will find a list enclosed. Advisory groups in about twenty additional districts expect to complete reports by early 1993.

QUESTIONNAIRE REPOSITORY

Many advisory groups have developed questionnaires, interview protocols, and docket coding forms to collect information. To assist groups who are still in the data collection stage and who wish to adapt the questionnaires and forms of others, we have maintained a repository. To bring it up to date, we ask that you send us your instruments if you are not on the enclosed list. Please send them to Donna Stienstra.

THE JUDICIAL BRANCH BUDGET FOR FISCAL 1993

As many of you have heard or experienced, the budget for the next fiscal year will be lean. Although that may appear to place constraints on CJRA implementation, please keep in mind that districts that have already completed their work are a valuable source of materials, information, and advice. For example, if you are considering hiring a consultant to assist in designing a questionnaire, consider first whether you can adapt another group's questionnaire.

ACCESS TO REPORTS AND PLANS ON WESTLAW/CLOSING OF ELECTRONIC BULLETIN BOARD

One of the most valuable resources for advisory groups has been the reports and plans of districts that have already completed the process. ~~Unfortunately, neither the Judicial Center nor the Administrative Office can provide copies of these documents, so you must call each district. Recognizing the burden that imposes, we have asked West Publishing and Mead Data to consider placing the documents in their electronic databases. West has agreed to do this (Mead yet may) and is already entering the documents into a new WESTLAW database created for the CJRA. This database will be available in early 1993.~~

Because the reports and plans will be more readily available through WESTLAW than through the electronic bulletin board established at the Judicial Center, we are closing the bulletin board on October 1.

TECHNICAL ASSISTANCE IN ALTERNATIVE DISPUTE RESOLUTION (ADR) AND DIFFERENTIATED CASE MANAGEMENT (DCM)

A number of advisory groups and courts have asked about the availability of technical assistance with ADR and DCM. ~~The Administrative Office maintains a list of court personnel and outside consultants with expertise in these areas.~~ These individuals can assist courts and advisory groups in a number of ways, ranging from general information on types of ADR to on-site assistance in setting up a DCM system. Please call Abel Mattos if you need information about technical assistance with ADR or DCM.

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CJRA EARLY IMPLEMENTATION DISTRICTS

(includes the ten pilot districts, which are statutorily EIDs, and
four of the five demonstration districts)

First Circuit	Massachusetts
Second Circuit	New York Eastern New York Southern (P)
Third Circuit	Delaware (P) New Jersey Pennsylvania Eastern (P) Virgin Islands
Fourth Circuit	Virginia Eastern West Virginia Northern (D) West Virginia Southern
Fifth Circuit	Texas Eastern Texas Southern (P)
Sixth Circuit	Michigan Western (D) Ohio Northern (D) Tennessee Western (P)
Seventh Circuit	Illinois Southern Indiana Northern Indiana Southern Wisconsin Eastern (P) Wisconsin Western
Eighth Circuit	Arkansas Eastern
Ninth Circuit	Alaska California Eastern California Northern (D) California Southern (P) Idaho Montana Oregon
Tenth Circuit	Kansas Oklahoma Western (P) Utah (P) Wyoming
Eleventh Circuit	Florida Southern Georgia Northern (P)

P Pilot Court
D Demonstration District

CJRA Data Collection Instruments in FJC Repository

September 29, 1991

AZ	Docket coding form
AR-E	General questionnaire to attorneys Questionnaire to attorneys in prisoner petition cases Questionnaire to litigants who responded to newspaper ad Questionnaire to attorneys in cases 18 months old or older Questionnaire to judges, magistrate judges, law clerks, and c.r. deputies
DC	Attorney questionnaire, designed by Ernst & Young Docket review form Judges pre-interview list of questions Judges interview protocol
GA-N	Attorney questionnaire, case specific Litigant questionnaire, case specific (adaptations of FL-S Q; includes Qs about ADR)
FL-S	Attorney questionnaire, case specific Litigant questionnaire, case specific (adaptations of FJC Q) Interview schedule for judges Docket coding forms
IL-C	Attorney questionnaire, case specific Attorney questionnaire, not case specific Litigant questionnaire, case specific Judge and court staff questionnaire, not case specific Media questionnaire, not case specific (all are adaptations of TN-E Qs)
IN-S	Attorney questionnaire (adaptation of TN-E Qs)

LA-E Attorney questionnaire, case specific (color-coded for pl, def, and 3rd party)
Attorney questionnaire, not case specific
Litigant questionnaire, case specific (color-coded for pl, def, and 3rd party)

MA Judge questionnaire

NC-E Attorney questionnaire, case specific
Attorney questionnaire, not case specific

NY-E Attorney questionnaire, designed by Ernst Young

NV Attorney questionnaire, case specific
Attorney questionnaire, not case specific
Litigant questionnaire, represented by counsel, case specific
Litigant questionnaire, pro se, case specific

PR Attorney questionnaire, not case specific

TN-E Attorney questionnaire, civil cases, case specific
Attorney questionnaire, criminal cases, case specific
Attorney questionnaire, civil cases, not case specific
Attorney questionnaire, criminal cases, not case specific
Litigant questionnaire, case specific
Judge interview schedule
Docket coding form
(adaptation of FL-S Q, but extended to ADR & diversity jurisdiction)

Utah Attorney questionnaire, not case specific, designed by university survey center
Litigant questionnaire, not case specific, designed by university survey center

WA-W Attorney questionnaire, not case specific (color-coded for several types of att's)

WY Questionnaire to attorneys, not case specific
Questionnaire to litigants, not case specific



JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

January 21, 1992

L. RALPH MECHAM
Secretary

MEMORANDUM TO: CHIEF JUDGES, UNITED STATES COURTS OF APPEALS
CHIEF JUDGES, UNITED STATES DISTRICT COURTS

SUBJECT: Circuit Committee Reviews Under the Civil Justice Reform Act

I am writing with regard to certain review requirements of the Civil Justice Reform Act of 1990. The Act requires, in § 474, two separate reviews of the advisory group reports and court plans. One review is to be conducted by a committee composed of the chief judges of each district court in a circuit and the chief judge of the circuit (or those chief judges' designees). The other review is to be conducted by the Judicial Conference.

The statute does not specify the timetable, procedures, or standards for these reviews. The Court Administration and Case Management Committee, which I chair, has been delegated oversight of the implementation of the Civil Justice Reform Act and decided at its meeting on December 9, 1991, to prepare a set of guidelines on these matters. Enclosed is a manual containing these guidelines.

Over the next two years all district court plans and reports must be reviewed, but the immediate task is to review the documents from the courts seeking Conference designation as "early implementation districts" (i.e., districts that implement their plans by 1/1/92). For two reasons, there is some urgency regarding this task. First, the Committee wishes to designate the early implementation districts promptly. Second, the statute requires the Judicial Conference to report to Congress by June 1, 1992, on the experience of the early implementation districts. Therefore, the Committee has adopted the following timetable for the circuit committee and Judicial Conference reviews:

- circuit committee review completed March 31, 1992
- Judicial Conference review completed April 30, 1992

The Court Administration and Case Management Committee asks that each circuit committee organize itself for its review process and call on staff assistance from within the circuit. Because the statute requires each district to send a copy of its report and plan to the district chief judges and the judicial council within the circuit, the circuit committee members should each receive copies of the documents they are to review.

If you have any questions regarding the CJRA review process, I suggest you contact Donna Stienstra at the Federal Judicial Center (FTS/202 633-6341) or Abel Mattos at the Administrative Office (FTS/202 633-6221). Of course, I would also be happy to speak with you.

Robert M. Parker

**GUIDELINES FOR REVIEW OF
CJRA ADVISORY GROUP REPORTS AND COURT PLANS**

Prepared for the Circuit Review Committees

and

Recommended by the Judicial Conference Committee on
Court Administration and Case Management

January 1992

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GUIDELINES FOR REVIEW OF CJRA ADVISORY GROUP REPORTS AND COURT PLANS

I. PURPOSE OF THIS MANUAL

This manual provides a timetable and guidelines for review of the cost and delay reduction plans and reports adopted under the Civil Justice Reform Act of 1990. It has been prepared for use by the circuit review committees mandated by the Act. The guidelines set forth in the manual are recommended by the Court Administration and Case Management Committee of the Judicial Conference of the United States, under authority delegated by the Executive Committee of the Judicial Conference.

The guidelines in this manual are derived from statutory requirements but are not themselves specifically mandated by the Act, which does not provide timetables, procedures, or specific standards for review. However, at its meeting in December 1991, the Committee decided to develop a set of guidelines for the review process in the belief that they will ease the task of the review committees and that the reviewing bodies, the courts, and Congress will benefit from application of basic guidelines for review.

The manual includes the following items:

- a brief statement of the statutory requirements relevant to the review process;
- a recommended timetable and procedure for conducting the review;
- recommended guidelines for reviewing the advisory group reports and court plans; and
- a recommended reporting form.

If you have any questions about the use of this manual, please contact Donna Stienstra at the Federal Judicial Center (phone: FTS/202 633-6341; FAX: FTS/202 633-6335) or Abel Mattos at the Administrative Office (phone: FTS/202 633-6221; FAX: FTS/202 786-6561).

Please Note: Because of a special statutory provision, described below, it is important that the circuit committees act by March 30, 1992, to review the reports and plans of the early implementation districts (see II.D and III.B).

II. THE REQUIREMENTS OF THE ACT

II.A. Advisory Group Report and Court Plan.

The Civil Justice Reform Act, at 28 U.S.C. § 471, requires each federal district court to adopt an expense and delay reduction plan (see Appendix 1 for a copy of the Act). Except as noted below in II.D., each court must adopt a plan by December 1, 1993 (Sec. 103(b), Pub. L. 101-650). The plan is to be adopted after consideration of recommendations made by an advisory group that is representative of litigants in the district (28 U.S.C. §§ 472(a), 478(b)).

II.B. Review of the Report and Plan.

The Act requires two reviews of the advisory group reports and court plans, one by a committee composed of the chief judges of each district court in the circuit and the chief judge of the appellate court of that circuit (or the chief judges' designees), the other conducted by the Judicial Conference (28 U.S.C. § 474). Courts may implement their plans before review by the circuit committee or Judicial Conference.

II.C. Actions to be Taken After the Review.

After completing its review, the circuit committee may "make ... suggestions" (28 U.S.C. § 474(a)(1)(B)) for such additional actions or modified actions as it believes appropriate for reducing expense and delay in a district. The Judicial Conference may "request" (28 U.S.C. § 474(b)(2)) a district court to take additional action if the Conference determines that the court has not adequately responded to the conditions relevant to the civil or criminal dockets or to the recommendations of the advisory group.

II.D. Special Requirements Regarding Pilot Courts and Early Implementation Districts.

The statute requires ten district courts, selected by the Judicial Conference, to implement expense and delay reduction plans by December 31, 1991 (Sec. 105, Pub. L. 101-650) and encourages all other courts to implement plans by this date and thus become eligible for designation as "early implementation district courts" and for additional resources to implement the plan (Sec. 103(c), Pub. L. 101-650). Because the statute requires the Judicial Conference to report to Congress by June 1, 1992, on the plans adopted by the early implementation districts (Sec. 103(c)(3), Pub. L. 101-650), the guidelines set out below provide a special timetable for review of these districts' reports and plans (see III.B). Also, because the Judicial Conference adopted a formal definition of

“implementation” and because the statute imposes additional requirements on the pilot courts, the recommended standards for review differ somewhat for the early implementation districts and the pilot courts (see IV.B).

III. RECOMMENDED TIMETABLE AND PROCEDURES FOR REVIEW

III.A. Timing of the Review.

The Committee believes the reviews it conducts on behalf of the Conference will benefit from the circuit committees' reviews and therefore recommends a sequential review process. To provide each court prompt review of its plan, the Committee asks that each circuit committee complete its review of each report and plan within three months of the circuit committee's receipt of the district's plan. The Committee will complete its review on behalf of the Conference within one month of receipt of the circuit committee's review. This recommended timetable is summarized below:

• circuit committee review	completed within three months of receipt of court plan
• Court Administration and Case Management Committee review	completed within one month of receipt of circuit committee's review

III.B. Special Timetable for Early Implementation Districts.

Because the Judicial Conference must prepare a report to Congress on the plans of the early implementation districts, the review timetable for these districts is linked to the June 1, 1992, deadline for that report. The Committee asks that the circuit committees complete their review of each early implementation district's report and plan by March 30 (see Appendix 2 for a list of the districts intending to be early implementation districts). The Committee will complete its reviews by April 30. Because the Committee will have to review approximately 35 plans in a short time span, each circuit committee should send its reviews to the Committee as they are completed, rather than waiting until March 31 to submit all the reviews from that circuit.

The table below summarizes the timetable for review of the early implementation districts' reports and plans:

- | | |
|---|-----------------------------|
| • circuit committee review | completed by March 31, 1992 |
| • Court Administration and Case Management Committee review | completed by April 30, 1992 |

III.C. Providing a Written Review to the Courts and the Court Administration and Case Management Committee.

The circuit committee should provide its review to the court in written form, including in the review any suggestions in response to the provisions of 28 U.S.C. § 474(a)(1)(B). The circuit committee should also send a copy of its review to the Court Administration and Case Management Committee at the following address:

Committee on Court Administration and Case Management
% Robert Lowney
Administrative Office of the U.S. Courts
Mail Code OCP-CAD
Washington, DC 20544

Upon completion of its review, the Committee will send the district court a written review, along with any requests pursuant to 28 U.S.C. § 474(b)(2).

The Committee recommends use of the reporting form included at Appendix 3, which provides both a standardized report format as well as opportunity for written comments. Use of this form will greatly assist those, including other courts and the Committee, who subsequently consult the circuit committees' reviews.

III.D. Organizing the Review Process Within the Circuit.

The Committee asks each circuit committee to organize itself for its review process and to call on staff assistance from within the circuit. Because the statute requires each district to send a copy of its report and plan to the district chief judges and the judicial council within the circuit, each circuit committee member should already have received copies of the documents they are to review.

IV. GUIDELINES FOR REVIEW

IV.A. The Basis for the Committee's Recommended Guidelines for Review.

The Court Administration and Case Management Committee has developed guidelines for review of both the advisory group reports and court plans. Although some have questioned the necessity of reviewing the advisory group reports, the Committee decided for two reasons to provide guidelines for review of these reports. First, the statute plainly calls for such a review (28 U.S.C. §§ 474(a)(1)(A), (b)(1)). Second, the plan-making process depends in part on the adequacy of the advisory group report. The plan may not, for example, include adequate cost and delay reduction provisions because the advisory group report did not identify them, or the plan may not respond adequately to docket conditions because the report did not properly analyze them.

Because the Act provides no explicit review guidelines, the Committee looked to the Act's implicit guidelines. Regarding the courts' plans, the statute directs the circuit committees to "make such suggestions for additional actions or modified actions of that district court as the committee considers appropriate for reducing cost and delay in civil litigation" (28 U.S.C. § 474(a)(1)(B)). The directive suggests that the circuit committees assess whether a court's plan includes sufficient and appropriate actions, if such are necessary, for reducing cost and delay.

Guidelines for reviewing the advisory groups' reports - and additional guidelines for reviewing the courts' plans - can be found in other sections of the statute. Section 472 states with some specificity the matters to be addressed in the advisory group report. Likewise, 28 U.S.C. § 473 sets out the contents of the court plan. These requirements form the basis for the review guidelines recommended by the Committee.

In addition to the review guidelines implied by the statute's requirements, the Committee has included in its recommended guidelines several questions it believes may be helpful to the circuit committees in assessing whether the reports and plans achieve the goals of the Act. The Committee invites the circuit committees to address these questions.

The guidelines for review are presented at IV.D.

IV.B. Special Review Guidelines for Early Implementation Districts and Pilot Courts.

The Early Implementation Districts. The ten pilot courts selected by the Judicial Conference pursuant to Sec. 105 are required by statute to implement their plans by December 31, 1991. Any other district may elect to implement a plan by that date (Sec. 103(c), Pub. L. 101-650). The Judicial Conference adopted a formal definition of the term "implementation," which was sent to all courts on September 5, 1991 (see page 2 of the memorandum in Appendix 4) and has been incorporated into the guidelines for review presented below.

The Judicial Conference's definition does not require the pilot courts and early implementation districts to have all components of their plans in place by December 31, 1991. However, the definition does require each court's plan to contain a schedule for effectuating the plan that shows a "good faith effort" to make it "fully operational as promptly as feasible." The Judicial Conference statement indicates that circuit committee and Judicial Conference review are not required before implementation. The circuit committees may expect the plans of these courts to reflect a variety of stages of program implementation.

The Judicial Conference will designate as early implementation districts the courts that have met the requirements of the statute. To the Committee's knowledge, 25 courts have indicated their intention to be early implementation districts. These courts, along with the ten pilot courts, are listed at Appendix 2.

The Pilot Courts. In addition to the requirements above, Sec. 105(b) Pub. L. 101-650 states that the plans of the ten pilot courts "shall include the 6 principles and guidelines of litigation management and cost and delay reduction" set out in 28 U.S.C. § 473(a). These litigation management principles and guidelines are included in the standards for review given below. As noted above, however, these plans do not have to be fully operational on January 1, 1992, provided the court's plan includes a schedule showing a good faith effort to have the plan operational as soon as possible.

IV.C. Special Note Concerning the Demonstration Districts.

Sec. 104(b), Pub. L. 101-650, designates five courts as demonstration districts. Two are to experiment with differentiated case tracking. Three others are to experiment with such litigation management programs as they and the Judicial Conference select. At

this time the Conference, through the Court Administration and Case Management Committee, has concurred in the demonstration programs selected by Missouri Western and West Virginia Northern. The Committee expects to adopt the California Northern program shortly.

All five demonstration districts have indicated their intention to be early implementation districts. To receive that designation, those courts, like any others, must comply with the requirements of the statute and conform to the Judicial Conference definition of "implementation." Most of the demonstration districts intend to implement their demonstration programs in early 1992.

IV.D. The Guidelines for Review and How to Use Them.

The review guidelines ask for a simple assessment of whether each advisory group, in preparing its report, and each court, in developing and adopting its plan, carried out the tasks assigned by the statute. Thus, the guidelines comprise a minimum set of standards for evaluating the reports and plans. A circuit committee may wish to go beyond such a basic assessment in reviewing the reports and plans. If so, the Committee requests that the circuit committee indicate in its review any other standards relied on, so the courts reviewed by that committee and the Court Administration and Case Management Committee may understand on what basis the circuit committee reached its conclusions.

The review guidelines are presented as a set of questions. Those derived from the statute's requirements should be answered with a yes. If the answer to any question about a *court's plan* is not yes, the circuit committee should consider what suggestion to make to the court regarding revision of its plan (28 U.S.C. § 474(a)(1)(B)). If the answer to any question about the *advisory group's report* is not yes, the circuit committee may wish to keep this in mind when reviewing the court's plan. The circuit committee may also wish to make suggestions to the advisory group regarding its continuing responsibility to serve in an advisory capacity to the district court (28 U.S.C. § 475).

The guidelines below also present the additional questions suggested by the Court Administration and Case Management Committee. These questions are listed after those derived from the statute's requirements. Some of these questions may be answered with a yes or no, while others ask for a more substantive response. The answers to these questions may prompt the circuit committees to make additional suggestions to the court

or advisory group. The answers will also substantially assist the Judicial Conference in its review of the implementation of the plans.

The review guidelines are listed on the next four pages and have also been compiled into the reporting form at Appendix 3. This form, although not mandatory, will provide a uniform format that will greatly assist those who use the reviews for other CJRA-related efforts.

**GUIDELINES FOR REVIEW OF DISTRICT COURT
CJRA REPORTS AND PLANS**

CIRCUIT REVIEW COMMITTEES

NOTE: These same guidelines are used in the form at Appendix 3.

I. Guidelines for Review of the Advisory Group's Report

Please answer each of the questions listed below. For each question, please answer yes, no, or not clear. It would be helpful if the circuit committee could provide the report's page or section number on which each answer is based. If the circuit committee finds it appropriate or necessary, it may provide a page or section citation when answering no or unclear, as well as when answering yes. Please provide additional written comment as necessary.

1. Does the advisory group report include, as required by 28 U.S.C. §§ 472(b)(1) and (c)(1), each of the following?
 - 1.a. a determination of the condition of the civil and criminal dockets
 - 1.b. identification of trends in case filings and in demands on court resources
 - 1.c. identification of the principal causes of cost and delay, including both court procedures and the way in which litigants and attorneys conduct litigation
 - 1.d. an examination of the extent to which costs and delays could be reduced by better assessment of the impact of new legislation
2. Does the advisory group report include, as required by 28 U.S.C. § 472(b)(2), the basis for its recommendation that the court develop its own plan or select a model plan?
3. Does the advisory group report include, as required by 28 U.S.C. § 472(b)(3), recommended measures, rules, and programs?
4. Does the advisory group report include, as required by 28 U.S.C. § 472(b)(4), an explanation of the manner in which the advisory group's recommended plan, or its recommendations in whatever other form, complies with the requirements of 28 U.S.C. § 473?
5. In developing its recommendations, did the advisory group take into account, as required by 28 U.S.C. § 472(c)(2), the particular needs and circumstances of the district court, the litigants, and the litigants' attorneys?

Continued on next page

6. Do the recommendations of the advisory group ensure, in accordance with 28 U.S.C. § 472(c)(3), that significant contributions will be made by the court, the litigants, and the litigants' attorneys toward reducing cost and delay?

The Committee asks the circuit committees to consider the following additional question regarding the advisory group report.

7. Does the advisory group report adequately recognize and address any special conditions in the district, such as those listed below?
 - 7.a. disparate civil or criminal caseloads or filings among places of holding court in the district
 - 7.b. the necessity of travel over substantial distances by litigants and attorneys
 - 7.c. judicial vacancies or inadequate judicial power
 - 7.d. the impact of a high volume of complex cases, repetitive mass tort cases, or prisoner civil rights cases
 - 7.e. procedures, rules, or programs that meet the requirements of 28 U.S.C. § 473 and pre-dated the effective date of the Act

II. Guidelines for Review of the Court's Plan

Please answer each of the questions listed below. For questions 1-7, please answer yes, no, or not clear. Questions 8-11 require a more substantive response. It would be helpful if the circuit committee could provide the plan's page or section number on which each answer is based. If the committee finds it appropriate or necessary, it may provide a page or section citation when answering no or unclear, as well as when answering yes. Please provide additional written comment as necessary.

1. Has the court, in accordance with 28 U.S.C. § 471, implemented a cost and delay reduction plan?
2. Does the plan meet its statutory purpose, stated in 28 U.S.C. § 471, which is to "facilitate [the court's] deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy, and inexpensive resolutions of civil disputes"?
3. Was the plan developed, as required by 28 U.S.C. § 472(a), after consideration of the recommendations of the court's CJRA advisory group? Note that "consideration of" does not necessarily mean "acceptance of."

Continued on next page

4. Does the plan reflect that the court, in consultation with its advisory group, considered the following six principles and guidelines of litigation management and cost and delay reduction set out in 28 U.S.C. § 473(a)?
 - 4.a. systematic, differential treatment of civil cases
 - 4.b. early and ongoing judicial control of the pretrial process, including case planning, early and firm trial dates, control of discovery, and deadlines for motions
 - 4.c. discovery/case management conference(s) for complex or other appropriate cases, at which the judicial officer and the parties explore the possibility of settlement; identify the principal issues in contention; provide, if appropriate, for staged resolution of the case; prepare a discovery plan and schedule; and set deadlines for motions
 - 4.d. encouragement of voluntary exchange of information among litigants and other cooperative discovery devices
 - 4.e. prohibition on discovery motions unless accompanied by certification by the moving party that a good-faith effort was made to reach agreement with opposing counsel
 - 4.f. authorization to refer appropriate cases to alternative dispute resolution programs

5. Does the plan reflect that the court, in consultation with its advisory group, considered the following litigation management and cost and delay reduction techniques set out in 28 U.S.C. § 473(b)?
 - 5.a. a requirement that counsel for each party present a joint discovery/case management plan at the initial pretrial conference
 - 5.b. a requirement that each party be represented at each pretrial conference by an attorney with authority to bind that party to all matters previously identified by the court for discussion at the conference
 - 5.c. a requirement that all requests for extension of discovery deadlines or for postponement of trial be signed by the attorney and party
 - 5.d. a neutral evaluation program for presentation of the legal and factual basis of a case to a neutral court representative at an early nonbinding conference
 - 5.e. a requirement that, upon notice by the court, representatives of the parties with authority to bind them in settlement discussions be present or available by telephone during settlement conferences
 - 5.f. such other features as the district court thinks appropriate after considering the advisory group's recommendations

Continued on next page

6. Does the plan indicate, as required by 28 U.S.C. § 474, that the court has a plan for taking such action as is necessary to reduce cost and delay in civil litigation?
7. **Special requirements for pilot courts and early implementation districts:**
 - 7.a. If the court is one of the ten pilot courts, its plan must include the six principles and guidelines of litigation management required by 28 U.S.C. § 473(a) and listed under point 4 of these standards. Does it include these six principles and guidelines?
 - 7.b. If the court is a pilot court or is seeking designation as an early implementation district, its plan must have complied with the following Judicial Conference requirements by December 31, 1991 (see Judicial Conference memorandum of September 5, 1991, at Appendix 5 of this manual).
 - 7.b.1. Has an advisory group report been filed, as required by 28 U.S.C. § 472(b)?
 - 7.b.2. Has the court reviewed the advisory group report and adopted an expense and delay reduction plan, as required by Sec. 103(c)(1), Pub. L. 101-650?
 - 7.b.3. Does the plan contain a schedule for effectuating the various components of the plan that evidences a good-faith effort to make the plan fully operational as promptly as feasible?

The Committee suggests that the following additional questions may be helpful to the circuit committees in determining whether implementation of the plan under review is likely to achieve the goals of the Civil Justice Reform Act.

8. Does the plan require the court (judges, magistrate judges, and/or staff) to make significant contributions to reducing cost and delay in civil litigation? If yes, what significant contributions are required?
9. Does the plan require litigants to make significant contributions to reducing cost and delay in civil litigation? If yes, what significant contributions are required?
10. Does the plan require attorneys to make significant contributions to reducing cost and delay in civil litigation? If yes, what significant contributions are required? Please describe the contributions required of the various categories of attorneys, such as those who practice in the district and those from outside the district; in-house counsel and outside counsel; hourly fee and contingent fee attorneys, attorneys whose fees are set by statute or the fact finder, and attorneys paid on some other basis.
11. Are the principal components of litigation costs - such as attorneys' fees incurred during discovery, during motion practice, and for trial time; expert witness expenses; travel time; court reporting; and video expense - likely to be reduced under the court's plan?

APPENDIX 3

Recommended Report Form

**Recommended for Use by the Circuit Committees for
Review of the CJRA Reports and Plans**

**Court Administration and Case Management Committee
of the Judicial Conference of the United States**

January 1992

REPORT FORM

CIRCUIT COMMITTEE REVIEW OF CJRA REPORTS AND PLANS

This form is for use by the circuit review committees established by the Civil Justice Reform Act of 1990. Please use this form to review the advisory group report and court plan adopted pursuant to 28 U.S.C. §§ 471-473. Please use one form for each district court. If you have any questions about the use of this form, call Donna Stienstra at the Federal Judicial Center (FTS/202 633-6341) or Abel Mattos at the Administrative Office (FTS/202 633-6341). Upon completion, please send this form to:

The district court under review

and

Committee on Court Administration and Case Management
% Robert Lowney
Administrative Office of the U.S. Courts
Mail Code OCP-CAD
Washington, DC 20544

Name of district court
being reviewed: _____

Date of this review: _____

Circuit committee
contact person:

Name: _____

Address: _____

Telephone: _____

Review of the Advisory Group's Report

After examination of the advisory group report prepared pursuant to 28 U.S.C. § 472, please answer the questions below. For each question, answer either yes, no, or not clear. It would be helpful if the circuit committee could provide the report's page or section number on which each answer is based. If the committee finds it appropriate or necessary, it may provide a page or section citation when answering no or unclear, as well as when answering yes.

If you wish, please provide written comments on additional sheets of paper and attach them to this form. Please key the written comments to the relevant question numbers.

1. Does the advisory group report include, as required by 28 U.S.C. §§ 472(b)(1) and (c)(1), each of the following items?

	Yes	No	Not Clear	Page or Section
1.a. a determination of the condition of the civil and criminal dockets	1	2	3	_____
1.b. identification of trends in case filings and demands on court resources	1	2	3	_____
1.c. identification of the causes of cost and delay due to court procedures	1	2	3	_____
1.d. identification of the causes of cost and delay due to the way litigants and their attorneys conduct litigation	1	2	3	_____
1.e. examination of the extent to which cost and delay could be reduced by better assessment of the impact of legislation	1	2	3	_____

2. Does the advisory group report include, as required by 28 U.S.C. § 472(b)(2), the basis for its recommendation that the court develop its own plan or select a model plan?

- 1 Yes
2 No
3 Not clear

Page or Section _____

3. Does the advisory group report include, as required by 28 U.S.C. § 472(b)(3), recommended measures, rules, and programs?

1 Yes
2 No
3 Not clear

Page or Section _____

4. Does the advisory group report include, as required by 28 U.S.C. § 472(b)(4), an explanation of the manner in which the advisory group's recommended plan, or its recommendations in whatever other form, complies with the requirements of 28 U.S.C. § 473?

1 Yes
2 No
3 Not clear

Page or Section _____

5. In developing its recommendations, did the advisory group take into account, as required by 28 U.S.C. § 472(c)(2), the particular needs and circumstances of each of the following?

	Yes	No	Not Clear	Page or Section
5.a. the district court	1	2	3	_____
5.b. the litigants	1	2	3	_____
5.c. the litigants' attorneys	1	2	3	_____

6. Do the recommendations of the advisory group ensure, in accordance with 28 U.S.C. § 472(c)(3), that significant contributions will be made by each of the following?

	Yes	No	Not Clear	Page or Section
6.a. the district court	1	2	3	_____
6.b. the litigants	1	2	3	_____
6.c. the litigants' attorneys	1	2	3	_____

The Committee asks the circuit committees to consider the following additional question regarding the advisory group report.

7. Does the advisory group report adequately recognize and address any special conditions in the district, such as those listed below?

	Yes	No	Not Clear	Page or Section
7.a. disparate civil or criminal caseloads or filings among places of holding court in the district	1	2	3	_____
7.b. the necessity of travel over substantial distances by litigants and attorneys	1	2	3	_____
7.c. judicial vacancies or inadequate judicial power	1	2	3	_____
7.d. the impact of a high volume of complex cases, repetitive mass tort cases, or prisoner civil rights cases	1	2	3	_____
7.e. procedures, rules, or programs that meet the requirements of 28 U.S.C. § 473 and pre-dated the effective date of the Act	1	2	3	_____

8. If you have any other comments about the advisory group report, please write them on a separate sheet of paper and attach it to this form.

Review of the Court's Plan

After examination of the court's expense and delay reduction plan prepared pursuant to 28 U.S.C. §§ 472-473, please answer the questions below. For questions 9-15, answer either yes, no, or not clear. Questions 16-19 require a more substantive response. It would be helpful if the circuit committee could provide the plan's page or section number on which each answer is based. If the committee finds it appropriate or necessary, it may provide a page or section citation when answering no or unclear, as well as when answering yes.

If you wish, please provide written comments on additional sheets of paper and attach them to this form. Please key the written comments to the relevant question numbers.

9. Has the court, in accordance with 28 U.S.C. § 471, implemented a cost and delay reduction plan?

- 1 Yes
- 2 No
- 3 Not clear

Page or Section _____

10. Does the plan meet its statutory purpose, stated in 28 U.S.C. § 471, which is to "facilitate [the court's] deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy, and inexpensive resolutions of civil disputes"?

- 1 Yes
- 2 No
- 3 Not clear

Page or Section _____

11. Was the plan developed, as required by 28 U.S.C. § 472(a), after consideration of the recommendations of the court's CJRA advisory group? Note that "consideration of" does not necessarily mean "acceptance of."

- 1 Yes
- 2 No
- 3 Not clear

Page or Section _____

12. Does the plan reflect that the court, in consultation with its advisory group, considered the six principles and guidelines of litigation management and cost and delay reduction set out in 28 U.S.C. § 473(a) and listed below?

If the court is a pilot court, does the plan reflect that the court, as required by Sec. 105(b), Pub. L. 101-650, included the six principles and guidelines of litigation management and cost and delay reduction set out in 28 U.S.C. 473(a) and listed below?

	Yes	No	Not Clear	Page or Section
12.a. systematic, differential treatment of civil cases	1	2	3	_____
12.b. early and ongoing judicial control of the pretrial process, including:				
b.1. case planning	1	2	3	_____
b.2. early and firm trial dates	1	2	3	_____
b.3. control of discovery	1	2	3	_____
b.4. deadlines for motions	1	2	3	_____
12.c. discovery/case management conference(s), at which the judicial officer and the parties explore the possibility of settlement; identify the principal issues in contention; provide, if appropriate, for staged resolution of the case; prepare a discovery plan and schedule; and set deadlines for motions	1	2	3	_____
12.d. encouragement of voluntary exchange of information among litigants and other cooperative discovery devices	1	2	3	_____
12.e. prohibition of discovery motions unless accompanied by certification by the moving party that a good faith effort was made to reach agreement with opposing counsel	1	2	3	_____
12.f. authorization to refer appropriate cases to alternative dispute resolution programs	1	2	3	_____

13. Does the plan reflect that the court, in consultation with its advisory group, considered the following litigation management and cost and delay reduction techniques set out in 28 U.S.C. § 473(b)?

	Yes	No	Not Clear	Page or Section
13.a. a requirement that counsel for each party present a joint discovery/case management plan at the initial pretrial conference	1	2	3	_____
13.b. a requirement that each party be represented at each pretrial conference by an attorney with authority to bind that party to all matters previously identified by the court for discussion at the conference	1	2	3	_____
13.c. a requirement that all requests for extension of discovery deadlines or for postponement of trial be signed by the attorney and party	1	2	3	_____
13.d. a neutral evaluation program for presentation of the legal and factual basis of a case to a neutral court representative at an early nonbinding conference	1	2	3	_____
13.e. a requirement that, upon notice by the court, representatives of the parties with authority to bind them in settlement discussions be present or available by telephone during settlement conferences	1	2	3	_____
13.f. other features the district court thinks appropriate after considering the advisory group's recommendations	1	2	3	_____

14. Does the plan indicate, as required by 28 U.S.C. § 474, that the court has a plan for taking such action as is necessary to reduce cost and delay in civil litigation?

- 1 Yes
2 No
3 Not clear

Page or Section _____

15. If the court is a pilot court or is seeking designation as an early implementation district, does its plan comply with the following Judicial Conference requirements?

	Yes	No	Not Clear	Page or Section
15.a. An advisory group report was filed by December 31, 1991.	1	2	3	_____
15.b. The court reviewed the advisory group report and adopted an expense and delay reduction plan by December 31, 1991.	1	2	3	_____
15.c. The plan contains a schedule for effectuating the various components of the plan that evidences a good-faith effort to make the plan fully operational as promptly as feasible.	1	2	3	_____

The Court Administration and Case Management Committee suggests that the following four additional questions may be helpful to the circuit committees in determining whether implementation of the plan under review is likely to achieve the goals of the Civil Justice Reform Act.

16. Does the plan require the court (judges, magistrate judges, and/or staff) to make significant contributions to reducing cost and delay in civil litigation?

- 1 Yes
- 2 No
- 3 Not clear

Page or Section _____

If yes, what significant contributions are required?

17. Does the plan require litigants to make significant contributions to reducing cost and delay in civil litigation?

- 1 Yes
- 2 No
- 3 Not clear

Page or Section _____

If yes, what significant contributions are required?

18. Does the plan require attorneys to make significant contributions to reducing cost and delay in civil litigation?

- 1 Yes
- 2 No
- 3 Not clear

Page or Section _____

If yes, what significant contributions are required? Please describe the contributions required of the various categories of attorneys, such as those who practice in the district and those from outside the district; in-house counsel and outside counsel; hourly fee and contingent fee attorneys, attorneys whose fees are set by statute or the fact finder, and attorneys paid on some other basis.

19. Are the principal components of litigation costs - such as attorneys' fees incurred during discovery, during motion practice, and for trial time; expert witness expenses; travel time; court reporting; and video expense - likely to be reduced under the court's plan?

- 1 Yes
- 2 No
- 3 Not clear

Page or Section _____

20. Has the circuit review committee made suggestions to the court regarding such "additional actions or modified actions of that district court as the committee considers appropriate for reducing cost and delay" (28 U.S.C. § 474(a)(1)(B))?

- 1 Yes
- 2 No

If yes, please attach a copy of the circuit committee's communication to the court.

21. If you have any additional comments about the court's plan, please write them on a separate sheet of paper and attach it to this form.

THANK YOU



The Federal Judicial Center
One Columbus Circle, N.E.
Washington, DC 20002



Administrative Office of the U.S. Courts
Washington, DC 20544

September 30, 1992

TO: Clerks of Court, United States District Courts
CJRA Staff, United States District Courts
Chairs, Advisory Groups Appointed Under the Civil Justice Reform Act of 1990
Reporters, Advisory Groups Appointed Under the Civil Justice Reform Act of 1990

FROM: Donna Stienstra, CJRA Project Director for the Federal Judicial Center
Abel Mattos, CJRA Project Director for the Administrative Office

SUBJECT: Updated Materials and Information Regarding Implementation of the CJRA

We are writing to inform you of several matters concerning implementation of the Civil Justice Reform Act and to send you several items we believe will be useful in your CJRA efforts.

CONTACTS AT THE FEDERAL JUDICIAL CENTER AND ADMINISTRATIVE OFFICE

During the past year and a half, the Federal Judicial Center and Administrative Office have provided assistance to the courts and advisory groups on a variety of CJRA implementation questions. We will continue to do so for the duration of the statute, but from a **new address**. Please note that on October 2 the Judicial Center and the Administrative Office will move to the new Federal Judiciary Building and can be reached at the addresses given above. Both agencies will be closed on October 2 and October 5.

To assist you in directing your inquiries, we have listed below the names and **new telephone numbers** of staff members involved in CJRA implementation:

Donna Stienstra, FJC: 202-273-4070	General assistance
Abel Mattos, AO: 202-273-1539	General assistance
John Shapard, FJC: 202-273-4070	Caseload analysis
Dave Cook, AO: 202-273-2240	Caseload data
Dennis Wysocki, AO: 202-273-1534	Budget information