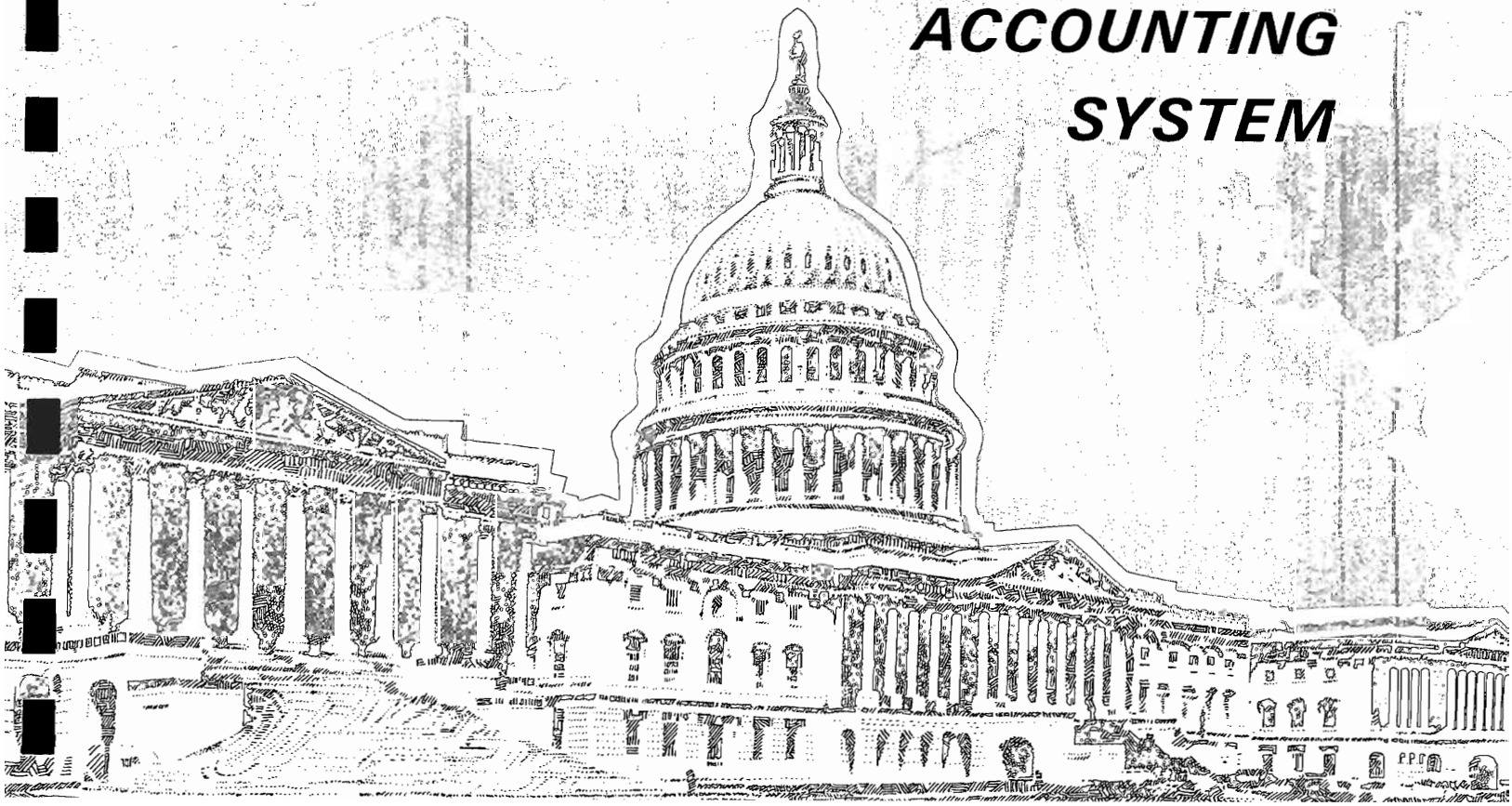


# **FEDERAL AGENCY HEARINGS**

***A UNIFORM CASELOAD  
ACCOUNTING  
SYSTEM***



FEDERAL  
AGENCY  
HEARINGS

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*A PROPOSED CASELOAD ACCOUNTING SYSTEM*

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A management study report  
prepared for the  
Administrative Conference of the United States

by

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## SUMMARY

Federal agencies make hundreds of thousands of administrative decisions directly affecting rights and obligations of private persons each year. The Administrative Procedure Act requires that agencies hold hearings of record in many of these instances before final decisions are reached. The various agencies now employ over 800 administrative law judges to conduct such proceedings.

Formal proceedings cover an enormously wide range of subject matter: disability entitlements under social security; violations of health and safety regulations in mines, mills, packing plants and factories; contested or denied broadcast license renewals and power facilities expansions; authorizations of rail, motor, air and-water carrier routes, including approvals of mergers; operational safety violations in aircraft, ships and land vehicles; regulatory law violations in product advertising, securities marketing, transportation tariffs, electrical and gas power rates, and labor-management relations. There are large differences, both within and between agencies, in the complexities and judicial time demands associated with various classes of proceedings. Typical case processing time varies from a few weeks for some agencies (SSA) to a few months (NLRB) to a few years for others (FTC, FPC).

The Administrative Conference was empowered by its enabling act to collect statistics on administrative proceedings. 5 U.S.C. § 574(3). In 1969, the Conference recommended that each agency maintain its own statistics (Rec. 69-6), but to date only a handful of agencies have developed statistical programs that comply. Only four or five agencies statistically monitor and publicly report time intervals occurring between key steps in proceedings. Only a few enforce fixed time limits within which cases must normally be pressed to final decision. And very few agencies have even informally established a per judge caseload standard. The lack of reliable case statistics compiled on a government-wide basis has lent credence to frequently heard criticism that administrative proceedings take too long, cost too much, and involve red-tape incommensurate with the size of the individual claim.

The present study was undertaken for two purposes: to determine the adequacy of existing agency statistics and to establish a reasonable reporting and caseload accounting system which will reflect overall agency performance throughout the government. **Such a system is described on page 24 below; beginning 1 July 1974, the proposed system would operate, under supervision of the Administrative Conference, for a trial period of from three to five years.**

Most agency proceedings have three distinct segments, and thus suffer triple exposure to procedural inefficiency and delay. The proposed caseload accounting method is designed to help all agencies guard against these dangers and assess such matters as:

- a) case processing time — in pre-hearing, hearing and post-hearing phases,
- b) manpower needs, with respect to both judges and staff personnel, and
- c) impact and cost of inefficient or overly complex procedure.

Many features of the proposed system are based upon ideas and suggestions from administrative law judges (ALJs), agency staff, and others interested in improving the processes of administrative justice.

The organizational mission of the Administrative Conference includes the provision of assistance for those agencies wishing to explore and evaluate proposals for change. **Therefore, the Administrative Conference will also make available to federal agencies, during the 3 to 5-year caseload accounting experiment, an informational and advisory service on the management aspects of handling large numbers of formal APA-type proceedings.**

## BACKGROUND

The 1964 Act (now 5 U.S.C. Sections 571-576) which established the Administrative Conference as a permanent agency recognized a need for better statistics about federal administrative proceedings. It assigned to the Conference as one of three specifically mentioned responsibilities the duty to

“collect information and statistics from administrative agencies and publish such reports as are considered useful for evaluating and improving administrative procedure.”

The Conference's initial effort in this field sought to foster the development of statistical data by the agencies themselves. Recommendation 69-6, adopted in October 1969, urged the agencies to maintain statistics that would show:

- (a) numbers and kinds of proceedings that are
  - newly opened,
  - terminated,
  - pending at the beginning of the year, and
  - pending at the end of the year;
- (b) numbers of days that elapsed between steps of any proceeding concluded during the year;
- (c) the manner in which cases were disposed of; and
- (d) the number of cases appealed to the courts.

The Recommendation urged that “each agency should periodically analyze all of the information thus compiled and should develop improved techniques fitted to its particular needs to reduce delays and expense and otherwise to improve its administrative process. A copy of this analysis (including descriptions of specific steps taken) should be submitted to the Administrative Conference of the United States.”

The final effect of Recommendation 69-6 was to leave statistical initiatives to the 25 to 30 agencies that conduct formal administrative proceedings. Each was to monitor itself and to report periodically to the Chairman of the Conference. By and large this has not proven to be an effective system for collecting useful statistics. Only five agencies substantially meet the minimum standards set out in Recommendation 69-6: the National Labor Relations Board, the Interstate Commerce Commission, the Social Security Administration (H.E.W.), the Occupational Safety and Health Review Commission, and the Civil Aeronautics Board.

In the fall of 1971, the Administrative Conference made a general call on agencies for their current caseload statistics. They were asked to provide data for the prior year, by class of proceeding, with respect to

- (a) the number of cases newly opened, terminated, and pending, and
- (b) the average age of the pending cases within a given class.

The Conference's intention was to consolidate and publish these reports in a government-wide compilation. However, because there was so little comparability in the separately developed workload data of the various agencies, it was found impracticable to publish them; they could not be presented in any useful format.

# DEFICIENCIES IN AGENCY STATISTICS

The subject matter of formal proceedings is of widely varying complexity. Therefore, the amount of time and effort representative cases will consume differs greatly between agencies; even within the same agency there can be wide variation in the demands of different classes of cases.

Not much data is available on these time and effort variations but some idea of their range can be obtained from a few rough figures on the length of the hearings themselves. Disability and pension claims appealed in the Social Security Administration (SSA), for example, are frequently heard in less than two hours. Labor dispute hearings in the National Labor Relations Board (NLRB) average under two days. Hearings on contested penalties for occupational safety or health violations, conducted by the Occupational Safety and Health Review Commission (OHSRC), usually run under one day. Motor carrier operational authority hearings by the Interstate Commerce Commission (ICC) average about a day and a half. Unlawful merger hearings in the Federal Trade Commission (FTC) often last more than 30 days (a 1963 time study showed an average of 43 hearing days). Gas rate hearings in the Federal Power Commission (FPC) have averaged 17 days.

All the administrative agencies maintain raw caseload figures from which it is possible to develop simple caseload comparisons across agency lines. However, most of the agencies do not publish or maintain much detailed information about the time and effort the various classes of proceeding require. Only four agencies have developed data on time intervals between key steps in proceedings; less than half have subdivided their termination figures so as to show the various ways cases were disposed of.

If administrative case statistics are to be useful management tools, more detailed knowledge must be acquired of the time and effort normally consumed in the various classes of proceedings. The number of calendar days that elapse in disposing of typical cases of a given class must also be ascertained. And it is important to have figures on the various methods of termination. Putting these additional dimensions into the picture will enable cases to be categorized by the similarity of their judge-effort and process-time characteristics, and will enable the terminations by various types of disposition to be compared with process-time data. Tentative caseload-per-judge comparisons between agencies can be made, as well as year-to-year, within the same agency.

Eventually, each department or agency should be able to arrive at reasonable yardsticks that will answer these two questions regarding any given class of proceeding:

- I. HOW LONG SHOULD IT TAKE TO DISPOSE OF THE AVERAGE CASE?
- II. HOW MANY PROCEEDINGS SHOULD THE AVERAGE JUDGE REASONABLY BE EXPECTED TO HANDLE PER YEAR?

# RELEVANCE OF COURT STATISTICS TO AGENCY PROCEEDINGS

A. **The Purpose of Court Statistics.** Because of certain obvious similarities between what administrative law judges and federal court judges do, the way court statistics are used may have relevance to agency proceedings. The Federal judiciary needs statistics for at least three purposes:

- to gauge workload conditions and the currency of dockets in individual courts.
- to support judicial management decisions relating to new judgeship requests, assignment of visiting judges, opening or closing of court facilities, and court staffing needs.
- to provide facts needed to evaluate recommended legislation, procedural changes, and reorganization proposals — such as a currently commissioned survey to realign federal circuit court boundaries.

The achievement of such purposes should be of comparable importance to the management of administrative proceedings. Federal executive departments and agencies collectively process a larger caseload than the United States courts. They affect the rights of a larger number of citizens. And they employ more than twice as many administrative law judges as there are active judges in federal trial courts.

B. **Caseload Accounting in the Federal Judiciary.** Federal court statistics are developed from a constant stream of individual case reports. The volume of federal cases has climbed to over 150,000 new cases per year. Mechanically, the data collection scheme is uncomplicated. A single card report is mailed in by the court every time a new federal case is filed, and another card is sent when the case closes.

The opening case card furnishes party names, dates of filing, docket number, nature of suit or offense, the recovery sought and the basis for federal jurisdiction. The closing card gives facts about how and when the case terminated, the dates of issue, pretrial and trial. It shows whether the case was settled or dismissed; whether there was a judge or a jury trial; how long trial lasted; and which judge handled the case.

Later in this report a proposed system for reporting administrative proceedings is described and illustrated. It is designed to be as informative and unburdensome as the federal judiciary's system, after which it is patterned.

C. **Statistics as a Management Tool.**

1) **Weighting cases.** Statisticians in the Administrative Office of the United States Courts have wrestled for thirty years with two difficult problems: one, how to compare the workloads of large and small court; and two, how to compare cases of greatly dissimilar complexity. In recent years, the former problem has been solved by converting all district court caseloads to "per judgeship" terms. It has proven more difficult to cope with the great differences between various classes of cases in probable impact on judge time, but the Administrative Office has finally developed a workable case weighting system.

Following trial-and-error test periods begun about ten years ago, federal court statisticians devised a system of weight factors whereby cases in some classifications are presumed to take more judge time than those in other classes. Weights were arrived at from studies of judges' time logs and data on frequency and duration of trials. Classes of cases considered to be — for the more part — "average" were given weights of **one**: e.g., tax suits, most personal injury litigation, and labor law cases. Classes known from time studies and trials to be far more time-consuming than "average" cases were weighted at multiples of one: e.g., anti-trust actions — **eight**; patent

actions — **four**; civil rights actions — **three**. Classes of cases known to take less than "average" time were weighted in fractions of one: e.g., immigration cases — **one third**; marihuana smuggling — **two thirds**; social security claims cases — **two thirds**; suits on negotiable instruments — **one third**.

A given court's caseload is not only tallied as raw filings but its fictional or "weighted" count is also computed. A court with an abnormally high or abnormally low number of hard cases will attain a weighted caseload figure much different from its raw filings figure. Using the examples of class weights given above, a court receiving one anti-trust case would be considered as taking on the workload equivalent of twenty-four immigration cases (i.e., the ratio between eight and one-third).

Relatively few of the courts fall into one or the other of the extremes of non-representative caseload mixtures. The Mexican border districts, for example, have large numbers of relatively simple immigration and marihuana smuggling cases. U.S. courts in New York and a few other major metropolitan centers see disproportionately large numbers of the heavily weighted anti-trust and patent actions. It is primarily for these dozen or so courts, among 94 U.S. districts, that the weighted caseload has been a helpful management tool; it provides a substitute for deceptive raw case counts.

2) **Time Standards.** The question of how much time it should take to get cases through federal court, as a statistical standard, has also received considerable study. Six months to a year is the present rule of thumb for civil cases. The overall civil "median", the time lapse for the middle case, was 9 months in 1972.

The two major determinants of "time" norms in judicial process are: (1) the inherent difficulty of the kind of case, and (2) the court's local situation, particularly the adequacy of its number of assigned judges.

Among the local reasons courts fall behind, and find their processing times lengthening, are

- long-term judge vacancies or illnesses,
- an unusual number of difficult cases in process, and
- abnormal community circumstances affecting the court's business.

When a Chief district court judge learns through published statistics that his court's disposition times lag significantly behind the national norm, the knowledge usually prods him into investigating what has caused the calendar delay and what can be done to correct it.

As to how much of an effect the other determinant, the inherent difficulty of the particular case, has upon processing time, some recent computations are revealing. A nationwide analysis of federal case processing times by class of civil suit or criminal offense showed that some classes of civil action were significantly above the overall national norm of nine months (for all types of civil case) and some were significantly below. For marine tort or admiralty cases, for example, the median case was 17 months, for patent actions — 16 months, anti-trust actions — 14 months, motor vehicle injury suits — 12 months, insurance contract cases — 10 months, civil rights actions — 7 months, real property actions — 7 months, U.S. forfeiture and penalty suits — 3 months, and U.S. suits on negotiable instruments — 3 months.

Criminal cases are expected under current rules to reach trial within 90 days; when found still pending (in the central computer file) one year after the filing date, they are automatically categorized as judicial emergencies, listings are sent to the courts concerned, and judges are asked to explain the delay in a special report.

3) **Budgetary and Congressional Requirements.** The most common statistical indices used by the Judicial Conference and Congressional committees in evaluating the workload situation of given courts, are (a) numbers

of new filings and terminations per judge per year, and (b) numbers of months (i.e., median) taken to terminate civil and criminal cases.

During the early 1960's the judiciary made an arrangement with committees of the Congress whereby it agreed to submit to the Congress only once every four years a composite request for whatever numbers of new federal judgeships could be shown to be needed. This arrangement intensified the courts' reliance on workload statistics; and the judiciary committees of both Houses have called for increasing refinements and variations in those statistics. In Senate Subcommittee hearings during 1973, evaluating nationwide needs for new federal judges, the Subcommittee staff applied firm statistical criteria to all districts requesting judges. In the judiciary's experience, good court statistics have proven to be the most persuasive evidence that can be offered in support of specific new judgeships, where they are legitimately needed.

**4. What Statistics Do for Court Management.** In simplest terms the messages court statistics have for management are few but telling. They are:

- 1) **raw volume;** whether it is on the increase or decrease,
- 2) **processing times;** whether they are longer than reasonable observers feel they should be, and
- 3) **productivity;** the number of cases disposed of per judge or per other manpower unit.

A fourth is **procedural efficiency** but this really comes by inferences drawn from the other three.

Some will argue that qualitative values such as legal sufficiency and fairness should also be reached by court statistics. To a degree, these questions do become illuminated by data on the frequency and outcome of appeals. However, measuring the quality of judicial effort, if that is possible, would mean going beyond statistical evidence into matters of substantive law, advocacy, and individual judge competence.

# WILL COURT STATISTICS FIT AGENCY PROCEEDINGS

As discussed below, a simplified version of federal caseload accounting methods could be adapted to agency proceedings. The information gained from such a system might not influence management efforts in the same way as for courts, because of different institutional needs, but it seems clear that court-type statistics, if applied to agencies, would result in

- a) **equally useful information on raw volume**
- b) **equally useful information on process time, and productivity, and**
- c) **more useful information relating to procedural efficiency.**

**A. The Three-Tiered Process of Administrative Determination.** Administrative law judges (ALJs) and federal court judges operate within substantially different circumstances. The effect of applying the same statistical indices to both situations needs to be examined.

The civil non-jury court case is under almost complete control of the judge from the beginning to end. That is hardly true of an agency proceeding. The administrative case has often lingered down other agency paths for months before it reaches the ALJ. In the Social Security Administration (SSA), for example, before the ALJ sees a disability or pension claim appeal at least two of the federal agency's own departments have passed upon the claim, as well as the state agency concerned. In most regulatory agencies the ALJs do not receive cases until they have filtered through field organizations, technical bureaus, separate investigative or legal staffs, and — commonly — have been the object of at least two formal issuances by the regulatory board or commission itself, i.e., complaint orders, and hearing orders.

In most agencies, when the ALJ gets the case he shepherds it through pleadings, a pre-hearing conference, a hearing of record — including written and/or oral testimony and cross examination — submission of briefs, and finally the preparation and release of his initial decision. In almost all agencies, ALJs buttress their decisions with extensive written findings and conclusions.

Where a board or commission heads the agency it usually is the final reviewing body. Some agencies delegate this review function to intermediate boards of the agency's own employees. Where these boards are found — as in the Federal Communications Commission (FCC), for example — ALJ decisions are sometimes reviewed by both the intermediate board and the Commission itself. Most agencies review **all** their ALJ decisions; a few, such as the Civil Aeronautics Board (CAB) and the National Transportation Safety Board (NTSB), review only those which involve apparently significant legal issues.

While the civil court case, then, might be considered a one act drama, the administrative case unfolds in three acts:

- Act I — **Administrative actions prior to formal proceedings.** This begins with the agency's first investigative action or petitioner's inquiry; it may lead through extensive staff legal work and technical research; and it ends when the agency — usually the Board or Commission's immediate staff — refers the case to the office of ALJs.
- Act II — **Formal proceedings.** This stage begins with referral to the ALJs for hearing and ends with the ALJ decision. (Significantly, the administrative judge has the Second Act's starring role but no part in Acts I and III.)

Act III — **Agency review of ALJ decision.** This begins when the ALJ releases his decision (the “initial decision” or “recommended decision”) and ends when all agency review functions, including a possible review hearing and oral argument before the review authority, are completed and the agency issues its final decision.

**B. What Statistics Can Show About the Efficiency of the Administrative Law Judge Stage of the Decisional Process.** A concrete example may be useful in demonstrating the possible utility of government-wide statistical data on administrative proceedings. Focusing only on the second of the three phases of administrative decision described above, Table A shows, on the basis of statistics gathered in connection with the present report, the number of judge-terminated cases currently disposed of per year in most of the agencies having administrative law judges. It displays enormous variation from a low of 6-10 (CAB) to a high of 150-180 (SSA).

Even more striking is a comparison with the average number of judge-terminated cases disposed of annually, per judge, by United States district courts (265-275) — this latter figure being almost double that of the highest agency figure, and 6 to 10 times greater than that for most agencies.\*

\*The 265-275 average for the United States district judges does not include an average of 85 cases terminated on parties initiative without any judge attention. It includes an average of 47 trials per judge.

**TABLE A**

**Principal Agencies That Conduct Formal Proceedings**

	<b>No. of Cases Terminated Per Judge Per Year**</b>	<b>Number of Judges</b>
Civil Aeronautics Board (CAB)	6 to 10	20
Federal Communications Commission (FCC)	35 to 40	15
Federal Maritime Commission (FMC)	15 to 20	8
Federal Power Commission (FPC)	10 to 14	13
Federal Trade Commission (FTC)	8 to 12	11
Interstate Commerce Commission (ICC)	15 to 20	71
Dept. of Interior (Mine Safety Cases)	130 to 150	15
Federal Maritime Administration (FMA)	20 to 25	2
National Labor Relations Board (NLRB)	15 to 20	87
National Transportation Safety Board	80 to 90*	6
Securities & Exchange Commission (SEC)	15 to 20	7
Social Security Administration (SSA)	150 to 180	446
Department of Agriculture	15 to 20	5
Department of Labor	18 to 24	17
United States Coast Guard	60 to 70	13
Occupational Safety & Health Review Commission (OSHRC)	24 to 30	39
United States District Court	265 to 275	400

\*92 percent of this Board's decisions in fiscal years 1973 were oral.

\*\*Includes dismissals and other terminations without hearings in which ALJ participated.

It goes without saying that there are many factors which contribute to this wide variation, both among the agencies themselves and between the agencies and the district courts. CAB ratemaking and route application cases, for example, tend to be very technical, to embrace multiple issues, and to generate an enormous quantity of depositions, exhibits, transcripts and briefs. In contrast, the average Social Security disability case has issues which are typically few and simple, and the evidence is relatively brief. It is obviously not reasonable to compare the caseloads of administrative law judges in those two agencies without using some weighting system such as that described above in use for the federal district courts.

Even more obviously, the caseloads of administrative law judges as a whole cannot be compared with those of the United States district judges without taking into account the significant divergence in their powers and duties. Since the Federal judge, unlike the administrative law judge, issues the final decision, he can more readily exert influence to expedite civil actions by means of such devices as stipulations and pretrial agreements. He can dismiss, or grant summary judgment, as the administrative law judges in some agencies cannot. He can subpoena witnesses, as the administrative law judges in a few agencies cannot. He can drop major issues from the case while the administrative law judge usually has no choice but to take testimony on issues specified by the agency in its hearing order. Whereas in jury cases district judges provide no written opinion, and even in non-jury cases relatively brief ones, a substantial proportion of an administrative law judge's time is spent on opinion writing — normally without any drafting or research assistance from law clerks. For example — according to some internal agency reports — ALJ's average 65 hours per decision in the ICC (not counting motor carrier "modified procedure" cases), 13 hours in the Social Security Administration, 75 hours in the NLRB. In federal court, briefing of legal points is normally provided by parties' counsel; in some administrative proceedings, private parties and even the agencies are frequently unrepresented, so that this assistance is wanting. Finally, United States district judges have long since ceased to ride circuit, whereas administrative law judges in many agencies must travel to and from hearings in localities remote from their duty station.

The point, therefore, of the single set of statistical data set forth in Table A is not necessarily that administrative law judges in some agencies are more efficient than in others, or less efficient than U.S. district judges. That indeed may be the conclusion but it cannot be drawn until the other factors alluded to above are isolated and analyzed. And those factors themselves are not constants. They may be changed, and should be, if statistical comparisons convince the agencies involved or the Congress that the value of particular limitations upon the power of administrative law judges or of particular additions to their duties is outweighed by the accompanying loss of efficiency. Agencies which display a case output significantly lower than that of other agencies with comparable business may be induced to examine and reconsider the provisions of law or of their own regulations which account for the difference. For example, agencies with cases comparable to those disposed of by the National Transportation Safety Board may be induced by statistical analysis to consider the practice of oral opinions, which the NTSB alone among the agencies now employs. Similarly, the efficiency value of subpoena power, of the ability to delete issues, of administrative law judge participation in settlement negotiations, of law-clerk assistance, and of many other variations which now exist among the agencies and between the agencies and the courts, can be more intelligently assessed.

The point is that an agency cannot make an intelligent evaluation of the procedures and practices applicable to the functions of administrative law judges, or of the judges' productivity, solely by the process of self-analysis — any more than a single United States district court can effectively evaluate its own performance in isolation from the performance of judges in other districts. And one of the most effective and persuasive devices for comparative analysis is a statistical program of the sort here proposed.

C. *What Statistics Can Show About Overall Delay.* Disturbingly long delays in the progress of proceedings has long been a problem for the executive departments and independent agencies. This was a matter of concern to the temporary Administrative Conferences in 1953 and 1962. It was a prominent consideration of the Congress in 1964, when it passed the Act making the Administrative Conference a permanent body.

In 1963 a comprehensive time study of all classes of administrative proceeding was conducted by the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee. It showed that, of all cases disposed of in all agencies during fiscal year 1963, the elapsed time for the average case was about 19 months — not including the time expended on staff functions preceding referral of the cases to ALJs. In several major classes of proceeding, however, the average case had taken somewhat longer than 19 months. In the Federal Power Commission, for example, gas rate cases averaged 31 months, and certificates of necessity for gas facilities expansion averaged 25½ months. In the Interstate Commerce Commission, rate complaints averaged 23 months. In the Securities and Exchange Commission, broker-dealer license revocation and denial cases averaged 21 months. In the Federal Trade Commission, deceptive practice cases averaged 36 months, restraint of trade cases 56 months, and unlawful merger cases 62 months.

A questionnaire survey of ALJ activities completed by the Civil Service Commission in January 1974 indicates that the general picture of processing time for administrative cases has significantly improved for some agencies in the last ten years; but in many other the main classes of proceeding continue to register delays averaging two to three years. This more recent questionnaire study also shows that some agencies are still taking a long time in the last of the three stages of the administration process. The period of time following the ALJ's decision — while the agency reviews it or simply delays action on it — is often much longer than the time required by the ALJ to complete formal proceedings.

Whether or not such delays are needed cannot be fully assessed by the agency concerned unless it has at hand reliable statistics showing in detail the time consumed in each step of its process, beginning with the earliest burden-assuming action and ending with final agency decision. Moreover, if the agency assessment is effectively to rise above the level of self-contemplation, those statistics must be readily comparable with equivalent data developed for other agencies with generally similar business. It is such a program which this study proposes. Without it, the continuing citizen complaints about delay in the administrative process cannot persuasively be met — and indeed cannot even be said to have been thoroughly investigated.

**D. A Case History of Use of Statistics in the Judicial System.** As an example of the dramatic results that can be achieved by intelligent use of statistical comparison, it might be useful to describe a single example of the benefits derived from the system established by the Administrative Office of the United States Courts. In 1969, that system showed that a United States district court in an Eastern city was the slowest of the 93 federal courts. Of the civil cases it terminated that year the median case had taken 33 months, as compared to a system-wide median of 10 months.

The singling out of the acute backlog problem of this particular court through statistical analysis led to an intensive search for its causes. It was found that they were twofold: First, the court's 13 judges were on a master calendar; thus no one had clear responsibility for observing the status of individual cases or prodding them to conclusions or settlements until they were assigned to a specific judge for trial purposes — often one or two years after initial filing. The second cause was found to pertain to the court's huge admiralty docket. Statistics revealed that fewer than 20 lawyers in the city's highly concentrated admiralty bar were handling 85% of the courts' admiralty cases.

A three-judge calendar control committee was formed. This committee forced admiralty firms either to transfer some of their cases to other law firms or to put more of their own lawyers on them. As a consequence, frequent delays caused by attorney appearance conflicts soon dwindled. In addition, the master calendar was converted to an individual calendar. New civil cases were immediately assigned to specific judges who assumed responsibility for the litigation's progress at an early stage.

Together with the addition of five new judgeships since 1969, these two bold measures have brought a dramatic change in general docket conditions. Within five years, this United States court has cut its civil case disposition time in half, dropping from a 33-month median in 1969 to 17 months for cases terminated in 1973.

It is too much to expect many instances of such dramatic results from the application of a comparable statistical program to the administrative agencies. But surely appreciable improvements can be made to achieve quicker and more efficient determinations. Some years ago, for example, the Interstate Commerce Commission responded to an acute backlog problem by the introduction of a more efficient "modified procedure." In the hundreds of cases adjudicated in this fashion each year, the agency estimates it has trimmed 12 months from the time which would have been expended under the earlier practice. A government-wide statistical program will facilitate additional improvements of this nature.

## HOW STATISTICS CAN HELP

A. **Before Referral of Case to ALJ.** A common criticism is that many actions destined to end in formal proceedings drag on too long in staff operations before the agency directs them to the ALJ for hearing. The reasons for this vary from agency to agency; but the causes for criticism fall into several categories.

**First — number of decision points.** In some regulatory agencies the view was expressed that too many persons or units of the organization are involved both at bureau and field level, thus prolonging the issuance of each key decision. **What does it cost, in terms of procedural delay, to have so many checkpoints in the decisional process and can their number be reduced?** Statistical and process-time data will help answer these questions.

**Second — need for delegation of authority.** In some regulatory agencies, complaint making, as well as orders to investigate, might advantageously be delegated to enforcement bureau or division chiefs or to the appropriate field officials, perhaps subject to the condition that in certain categories of violation the complaint, prior to actual release, may be modified or stayed by a member of the Commission on his initiative. In order to judge whether such a delegation is worthwhile, agencies must know how much time is spent on the complaint decision, who participates in the process, when, why, and how often. Statistics will shed some light on these questions and clarify the cost, in procedural efficiency, of retaining all complaint-issuing authority in the Commission.

**Third — procedures prior to assignment to the ALJ may be too cumbersome, or agency time limits too liberal.** Either of these conditions may lead to unnecessarily protracted and costly administrative efforts. For example, in the Federal Trade Commission the agency's rules of procedure provide for a grace period (formally ten days but subject to extensions usually given) which must elapse after complaints are issued. During the grace period the respondent may seek clarifications or offer such immediate concessions as are sufficient to justify terminating the prosecution at this early stage. Where these early terminations are not reached, the complaint is then referred to the office of ALJ's and the agency moves ahead with prosecution. Since the FTC often suspends its preparation of the case until after the grace period plus all extensions have run their course, this procedure may produce a delay that is weeks or months longer than the grace period itself. Statistics on such matters as the average grace period extended and the percentage of acceptable concessions achieved would enable the cost and the worth of this procedural device to be more intelligently assessed.

In some of the regulatory agencies, the technical bureaus' investigative efforts — a broadcast license application before the FCC, for example — account for large portions of the time which elapses before a case is referred to the ALJ. Better statistics on these time periods and activities may suggest the desirability of such measures as

- (a) delegating certain decisional functions;
- (b) upgrading or enlarging technical staff; and
- (c) permitting staff in more than one technical division (e.g., legal and engineering) to review an application simultaneously rather than in sequence.

B. **During ALJ's Custody of the Case.** There are countless ways in which caseload statistics might help prove or disprove the validity of present or proposed agency methods for handling formal proceedings.

1) **Making formal proceedings more efficient.** Persons interviewed in several agencies felt they did not have enough settlement machinery. Comments about this agency shortcoming had varying emphasis: "Our agency lacks systems for compromise" ... "This agency does not put enough authority in ALJ hands to participate in and

encourage settlements" ... "Our procedures are too rigid, permitting no course but one toward full scale formal hearing and subsequent formal decision."

Some of the steps various agencies might take to achieve more terminations with fewer hearings, or to make the hearings themselves more efficient, for which supportive statistical evidence would certainly be helpful, include:

- a) **Delegating more settlement initiative authority** to regional or field staffs;
- b) **Changing those agency rules or practices which work to the detriment of settlement** — for example, by adopting use of discovery in agencies where it is not permitted;
- c) **Relaxing certain statutory provisions that now require formal hearings;**
- d) **Encouraging fuller use of pre-hearing conference;**
- e) **Giving added authority to the ALJ** in ways which will strengthen his role as a conciliator and expediter;
- f) **Relaxing rules of agency procedure which tend to force a matter to hearing once a certain stage is reached;**
- g) **Establishing alternatives to formal hearings** — for example, enabling penalties to be assessed at a settlement conference;
- h) **Giving ALJs authority to dismiss cases on motion** (as per Rule 41 of the Federal Rules of Civil Procedure), without requiring prior approval of the agency;
- i) **Restricting the use of interlocutory appeals;**
- j) **Substituting summary "show cause" actions for regular hearing procedures.**

2) **Managing the calendar.** Statistics might show that Chief Administrative Law Judges in some agencies do not have enough voice either in setting of cases for hearing or in scheduling other events relevant to the orderly and timely decision of cases. They might also reveal that some or all of the agency's judges are not exerting enough control over the progress of their proceedings. For example, they may be granting too many continuances.

Statistics will help the Chief ALJ to establish calendar management standards. Specifically, after a few years' time, he should be able to determine how many cases of a given type the average judge can be expected to dispose of per year. More importantly, he should be able to arrive at reasonable guidelines on the length of time a normal case of a given type should take to its final disposition.

3) **Preparation of decisions.** The writing of decisions appears to command more ALJ time than any other single function. However, very little work-time data, of the kind that a good case accounting system could provide, is available on this aspect of the decisional process. Such statistics would facilitate evaluation of such proposed changes as:

- Improved indexing or topical retrieval systems covering earlier agency decisions.
- Increased use of "per curiam" decisions or other shortened decisional formats (even cases withdrawn or dismissed before hearing now require written decisions in some agencies).

- Use of oral decisions issued from the bench at the close of the hearing.
- Provision of law-clerk assistance for ALJs.

C. **The Need for Statistics on Agency Review Procedures.** All but three agencies (NTSB, CAB, OSHRC) provide for systematic review of every administrative law judge decision.\* Usually it is the agency board or commission itself that performs the review, but in some agencies the task is delegated to panels of permanent employees or an individual judicial officer. In many agencies, review is not only automatic but its scope goes beyond questions of law and agency policy (limits comparable to those of appellate courts) into a “de novo” reappraisal of the facts, the findings and the issues.

Available statistics show agency review to be one of the most significant factors affecting the length of administrative proceedings. In some of the older regulatory agencies judges estimate that, following release of the ALJ’s decision, cases are held up in review channels for an additional six to twelve months, at the minimum, and more often for ten to twenty months.

Statistical determinations can be of considerable use to agencies wishing to establish the costs and weigh the benefits of the review process. Statistical data will help show the extent to which review

- prolongs case disposition times, and
- achieves significant modification of the judge’s decisions.

Such data would illuminate or answer many questions regarding the wisdom of specific aspects of the review policy or procedure. For example: Should review be automatic or discretionary? What limits should be placed on interlocutory review? What agency circumstances make establishment of intermediate review panels worth while? Under what conditions, if any, should review be undertaken by, or appeals be permitted to, both an intermediate panel and the agency board? What amount of staff and legal effort can justifiably be expended on re-writing judges’ opinions at the review authority level?

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\*At the National Transportation Safety Board (NTSB) a judge’s decision automatically becomes final after ten days unless the Board selects it for review. Board selection, which happens in less than 20% of all cases, is either on its own initiative or because it accepts a party’s grounds for appeal. In CAB and OSHRC internal review is discretionary (by certiorari or by the agency’s own motion) and limited as to grounds on which review may be sought.

## CONCLUSIONS

1) *Only four of the 25 to 30 agencies which regularly conduct formal proceedings under the Administrative Procedure Act maintain caseload statistics that satisfy the minimum standards suggested by the Administrative Conference in 1969.*

2) *Inadequacies in the remaining agencies' workload statistics should be corrected, and government-wide comparability of basic statistical data assured, by the establishment of a centralized compilation of data about administrative cases.*

3) *Such a compilation should provide data on critical aspects of all three stages of the administrative process:*

- (A) administrative preparation by agency staff;*
- (B) formal adjudication by administrative law judges;*
- (C) agency review.*

4) *The work of judicial and of administrative courts is sufficiently comparable, notwithstanding some important distinctions, to give a reasonable basis for applying an adapted version of the federal judiciary's caseload accounting system to agency proceedings. If such a program were undertaken on a trial basis it could be determined in three to five years whether it should be made permanent.*

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## RECOMMENDATIONS

**One:** *That the Administrative Conference, for a trial period of three to five years,*

- a) **Establish and supervise a uniform system of accounting for formal administrative proceedings,** from which standardized caseload data will be collected in a series of quarterly reports from every agency concerned (see the system description in next section and Appendix).*
- b) **Publish semi-annual statistical and graphic presentations** based upon analysis of data obtained in the quarterly reports (see the illustration in Appendix).*

**Two:** *That the Administrative Conference make available to administrative agencies, for the duration of the uniform caseload accounting trial, an informational exchange and advisory service on the management aspects of handling formal proceedings. including the pre-hearing, hearing and agency review stages.*

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# THE ESSENTIAL FEATURES OF A PROPOSED CASELOAD ACCOUNTING SYSTEM FOR ADMINISTRATIVE AGENCY PROCEEDINGS

Concept	A system requiring administrative agencies to account for, and report in a uniform manner on, matters referred by the agency to administrative law judges for proceedings under Sections 7 and 8 of the Administrative Procedure Act of 1946, 5 U.S.C. §§556, 557.
Agencies affected	Any federal agency which <ul style="list-style-type: none"><li>— conducts formal Proceedings under sections 7 and 8 of the Administrative Procedure Act, and</li><li>— employs at least one full time administrative law judge</li></ul>
Reporting requirement	Quarterly reports, illustrated in the Appendix, will be submitted to the Administrative Conference of the United States within ten days after the close of each fiscal quarter. The reporting requirement will go into effect as of 1 July, 1974 and remain in effect for three years (through 30 June, 1977). The first quarterly report will be due 10 October, 1974.
Character and purpose of information	<p>Reports will ask for a minimum of information. Design of the report form is subject to change where experience and agency consultation prove it desirable. The aim is simply to compile key facts about administrative proceedings that agency management and judicial personnel will find helpful in their evaluations of workload and procedure.</p> <p>Essentially, four categories of information are requested:</p> <p><b>One — Lapsed time and the progress of proceeding</b> between key steps, from earliest agency action to final agency decision, especially</p> <ul style="list-style-type: none"><li>— time elapsed in agency handling of the case before it is referred to the ALJ (or chief ALJ)</li><li>— time in ALJ custody</li><li>— time spent in agency's review of ALJ decision.</li></ul> <p><b>Two — Manner in which cases are terminated.</b> The numbers of cases going all the way to full hearing and written decisions, and numbers disposed of by settlements, withdrawals, and other expediting means.</p> <p><b>Three — Type of agency review made and the outcome of review.</b></p> <p><b>Four — Factual details that indicate relative amounts of judge time</b> spent in hearings and in other administrative efforts, from which various classes of proceedings can be assessed for comparability of demand upon ALJ and agency staff.</p>

**Reporting form**

All agencies will report on the form contained in the Appendix. This is a simplified version of the federal judiciary's reporting system — tailored to administrative proceedings. For each case, the report requires transmittal of two copies of the form — the first at the end of the quarter in which the case is commenced (referred to ALJ) and the second at the end of the quarter in which the case closes (by final agency decision). These forms are to be batch mailed quarterly under a transmittal form carrying summarizing totals by class of proceeding.

In the early stages of the new system's operation it is expected that space allocations on the form might be changed and that slightly different versions might be made available to those agencies that need more space for the required information.

**Proceedings to be reported**

(1) **Reportable new proceedings** are those which the agency has, during the quarter being reported, referred to administrative law judges for formal proceedings — regardless of whether they were eventually terminated by formal means. Matters that potentially could have been but were not actually referred for formal proceedings are not to be reported. (The enormous volume of such cases and probable difficulties in defining them make their inclusion in this initial system impractical).

(2) **Reportable closed proceedings** are those previously referred to the agency's ALJ's, however long ago, which were terminated during the quarter being reported. The first quarter's report will include all terminations between 1 July and 30 September, 1974 regardless of how many months or years ago the particular proceedings were initiated.

The initial report will disclose the time spent in administrative preparation of cases prior to referral to the ALJ. The final report will disclose the time spent on the final decision by the agency.

**Data to be compiled and published by the central collections unit of ACUS**

Statistical data about agency proceedings will be compiled by staff and computer services arranged for by the Administrative Conference. Selected presentations of data, developed in consultation with judicial and management personnel in the agencies concerned, will be published no less often than semi-annually. Wherever possible, graphic presentations and analytical techniques such as those illustrated in the Appendix will be used rather than tabular display of numbers.

# **APPENDIX**

# THE AGENCY

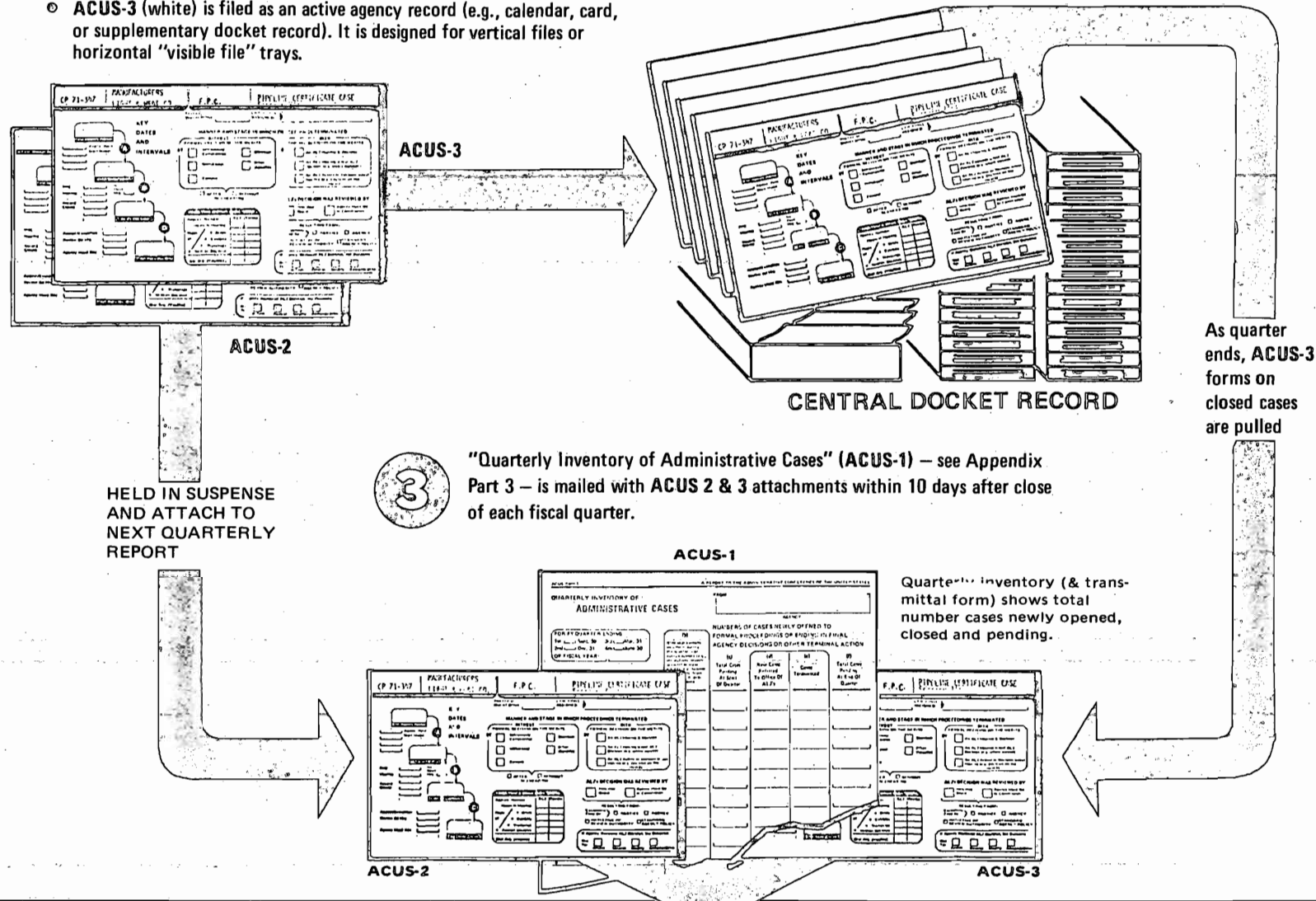
1

When agency, by hearing designation order or other action, refers new case to Office of ALJs a two ply carbon interleaved form (ACUS 2 & 3) is prepared.

- ACUS-2 (yellow) is then simply stored in a file and attached to next quarterly report (ACUS 1) for mailing to Administrative Conference.
- ACUS-3 (white) is filed as an active agency record (e.g., calendar, card, or supplementary docket record). It is designed for vertical files or horizontal "visible file" trays.

2

Key dates and other data (see Appendix Part 2) regarding procedural steps, and agency review of the case are posted on the ACUS-3, either as they happen or when the case reaches final decision. At end of each quarter ACUS-3 forms for all cases terminated during the quarter are pulled from files and attached to ACUS-1 form for mailing to Administrative Conference.



STATISTICAL DATA ABOUT AGENCY PROCEEDINGS WOULD BE COMPILED USING STAFF AND COMPUTER SERVICES ARRANGED FOR BY THE ADMINISTRATIVE CONFERENCE. SELECTED PRESENTATIONS OF DATA WOULD BE PUBLISHED NO LESS OFTEN THAN SEMI-ANNUALLY. GRAPHIC TECHNIQUES SUCH AS THOSE ILLUSTRATED IN APPENDIX PART 4 WOULD BE MORE PROMINENTLY USED THAN TABULAR DISPLAYS OF CASELOAD NUMBERS.

# THE CLOSING REPORT

ON AN ADMINISTRATIVE CASE

WILL SHOW ...

1

HOW MUCH TIME ELAPSED IN EACH OF THE THREE MAJOR SEGMENTS OF AGENCY PROCESS

A

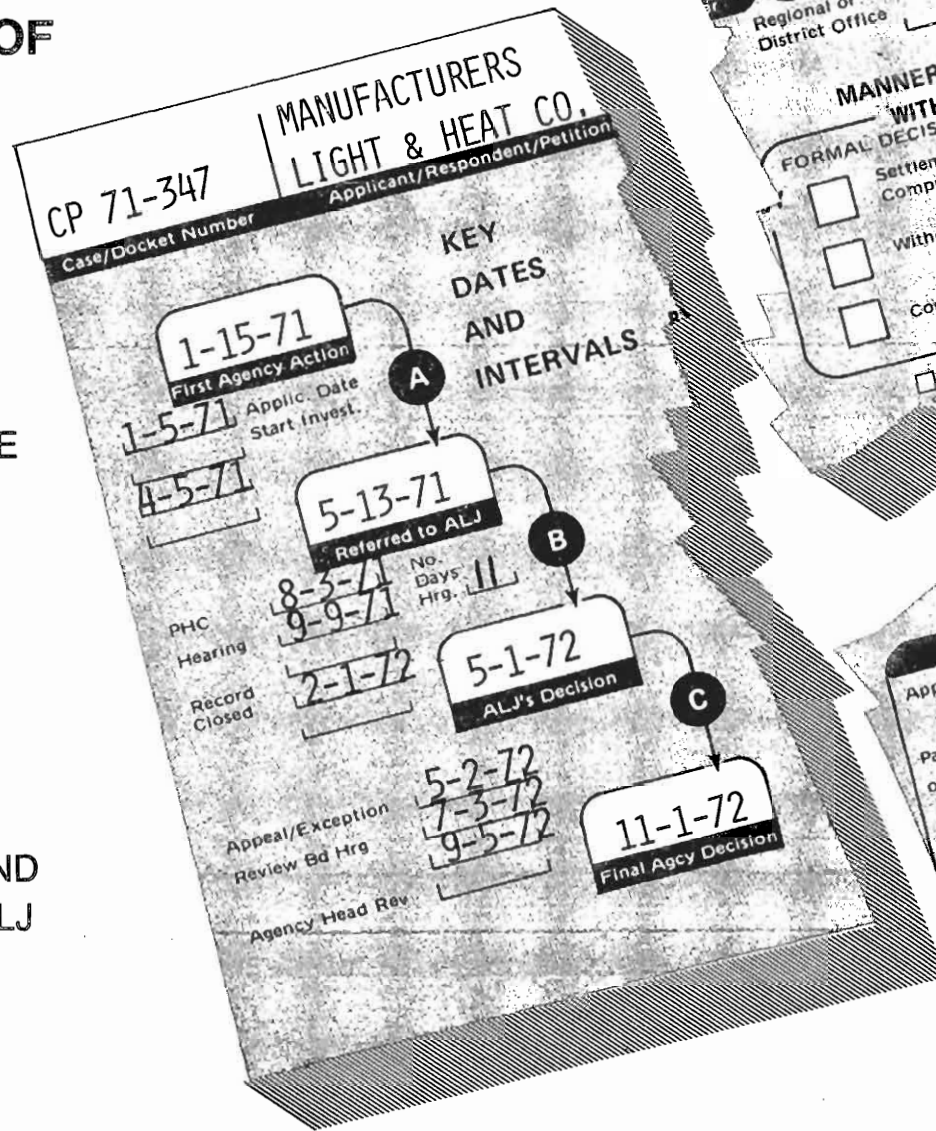
ADMINISTRATIVE STEPS BEFORE CASE IS REFERRED TO ALJ'S

B

PROCEEDINGS CONDUCTED AND DECISION BY ALJ

C

THE AGENCY'S REVIEW OF ALJ'S DECISION



2

THE MANNER IN WHICH PROCEEDINGS TERMINATED

F.P.C. Agency: Regional or District Office  
PIPELINE CERTIFICATE CASE SECTION 7(C)  
Type or Class of Case and Statutory Section  
LAW JUDGE ASSIGNED: SMITH

MANNER AND STAGE IN WHICH PROCEEDINGS TERMINATED

BY:

- WITHOUT FORMAL DECISION ON THE MERITS
  - Settlement/Compromise
  - Withdrawal
  - Consent
  - Dismissal
  - Other (Specify)
- WITH FORMAL DECISION ON THE MERITS
  - An ALJ Hearing & Decision
  - An ALJ Hearing w/out ALJ Decision (e.g. where waived)
  - An ALJ Action or Decision w/out Hearing (e.g. Decision on the record)

AFTER ALJ HEARING  WITHOUT

3

THE NATURE AND EFFECT OF AGENCY REVIEW OF ALJ'S DECISION

ALJ'S DECISION WAS REVIEWED BY

Intermed. Board  Agency Head/Bd or Commission

RESULTING FROM:

Exceptions Filed By:  PARTIES  AGENCY

INITIATIVE OF REVIEW AUTHORITY  STANDARD AGENCY POLICY

If Agency Reviewed ALJ Decision, the Outcome Was To:

Affirm  Reverse  Modify  Remand/Other

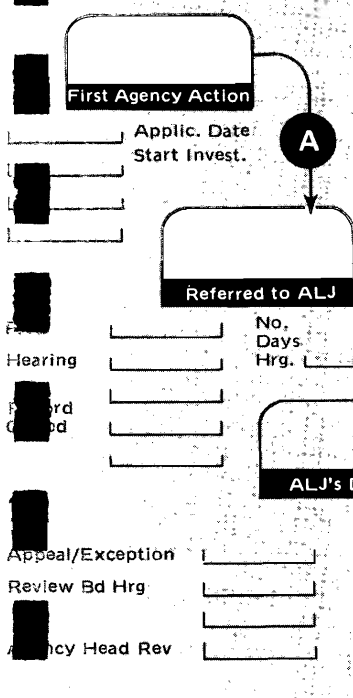
4

THE AMOUNT OF JUDICIAL TIME AND EFFORT EXPENDED (Based upon limited available indices of effort)

Time & Effort Index		ALJ Review
Approx. Number	Hours in Hearing	60 / 10
Pages of	• Briefs	300 / -
	• Exhibits	950 / -
	• Transcript	750 / -
	• Written Decision	YES / NO
Oral Arg. (Yes/No)		

Case/Docket Number \_\_\_\_\_ Applicant/Respondent/Petitioner \_\_\_\_\_ Agency \_\_\_\_\_ Type or Class of Case and Statutory Section \_\_\_\_\_  
 Regional or District Office \_\_\_\_\_ LAW JUDGE ASSIGNED \_\_\_\_\_

**KEY DATES AND INTERVALS**



**MANNER AND STAGE IN WHICH PROCEEDINGS TERMINATED**

**WITHOUT FORMAL DECISION ON THE MERITS**

BY  Settlement/Compromise  Dismissal  
 Withdrawal  Other (Specify) \_\_\_\_\_  
 Consent

**WITH FORMAL DECISION ON THE MERITS**

BY  An ALJ Hearing & Decision  
 An ALJ Hearing w/out ALJ Decision (e.g. where waived)  
 An ALJ Action or Decision w/out Hearing (e.g. Decision on the record)

AFTER ALJ HEARING  WITHOUT ALJ HEARING

**ALJ's DECISION WAS REVIEWED BY**

Intermed. Board  Agency Head/Bd or Commission

**Time & Effort Index**

Approx. Number	ALJ	Review
Hours in Hearing		
Pages of		
• Briefs		
• Exhibits		
• Transcript		
• Written Decision		
Oral Arg. (Yes/No)		

**RESULTING FROM:**

Exceptions Filed By  PARTIES  AGENCY  
 INITIATIVE OF REVIEW AUTHORITY  STANDARD AGENCY POLICY

If Agency Reviewed ALJ Decision, the Outcome Was To:

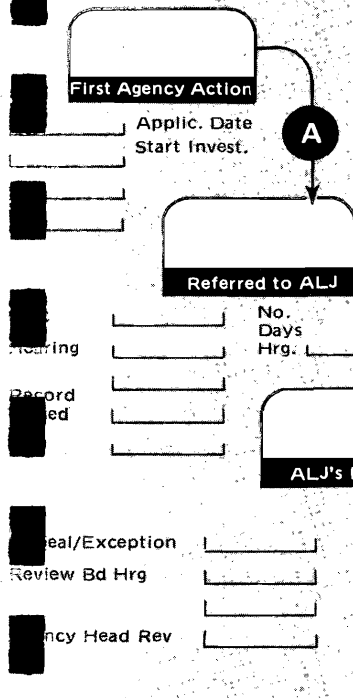
Affirm  Reverse  Modify  Remand/Other

**OPENING REPORT (yellow)**

**CLOSING REPORT (white)**

Case/Docket Number \_\_\_\_\_ Applicant/Respondent/Petitioner \_\_\_\_\_ Agency \_\_\_\_\_ Type or Class of Case and Statutory Section \_\_\_\_\_  
 Regional or District Office \_\_\_\_\_ LAW JUDGE ASSIGNED \_\_\_\_\_

**KEY DATES AND INTERVALS**



**MANNER AND STAGE IN WHICH PROCEEDINGS TERMINATED**

**WITHOUT FORMAL DECISION ON THE MERITS**

BY  Settlement/Compromise  Dismissal  
 Withdrawal  Other (Specify) \_\_\_\_\_  
 Consent

**WITH FORMAL DECISION ON THE MERITS**

BY  An ALJ Hearing & Decision  
 An ALJ Hearing w/out ALJ Decision (e.g. where waived)  
 An ALJ Action or Decision w/out Hearing (e.g. Decision on the record)

AFTER ALJ HEARING  WITHOUT ALJ HEARING

**ALJ's DECISION WAS REVIEWED BY**

Intermed. Board  Agency Head/Bd or Commission

**Time & Effort Index**

Approx. Number	ALJ	Review
Hours in Hearing		
Pages of		
• Briefs		
• Exhibits		
• Transcript		
• Written Decision		
Oral Arg. (Yes/No)		

**RESULTING FROM:**

Exceptions Filed By  PARTIES  AGENCY  
 INITIATIVE OF REVIEW AUTHORITY  STANDARD AGENCY POLICY

If Agency Reviewed ALJ Decision, the Outcome Was To:

Affirm  Reverse  Modify  Remand/Other

# QUARTERLY INVENTORY OF ADMINISTRATIVE CASES

UNDER 5 U.S.C., SECTIONS 556 & 557

FROM

[Empty box for FROM]

AGENCY

NUMBERS OF CASES NEWLY OPENED TO FORMAL PROCEEDINGS OR ENDING IN FINAL AGENCY DECISIONS OR OTHER TERMINAL ACTION

FOR FY QUARTER ENDING

1st  Sept. 30    3rd  Mar. 31

2nd  Dec. 31    4th  June 30

OF FISCAL YEAR:

(b)

Give approximate volume — during the quarter — of agency actions (e.g., inspections, investigations) or transactions (e.g., license applications) from which A.P.A. proceedings could emerge

CLASS OF PROCEEDING (a)

1
2
3
4
5
6
7
8
9
10

(c) Total Cases Pending At Start Of Quarter	(d) New Cases Referred To Office Of ALJ's	(e) Cases Terminated	(f) Total Cases Pending At End Of Quarter
[ ]	[ ]	[ ]	[ ]
[ ]	[ ]	[ ]	[ ]
[ ]	[ ]	[ ]	[ ]
[ ]	[ ]	[ ]	[ ]
[ ]	[ ]	[ ]	[ ]
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[ ]	[ ]	[ ]	[ ]
[ ]	[ ]	[ ]	[ ]
[ ]	[ ]	[ ]	[ ]

Attach Form 2's

Attach Form 3's

COMMENTS

-----SIGNATURE----- DATE -----

**INSTRUCTIONS:**

- Col (a) Use agency's usual way of referring to specific category of case
- (b) Furnish this figure only when reasonably applicable
- (c) & (f) All cases which, some time in the past, were referred to office of ALJ's and have not been terminated by such action as withdrawal, dismissal or settlement, or by a final agency decision

- Col (d) All new cases referred during quarter to office of ALJ
- (e) All cases terminated by final agency decision (on merits) or by such action as withdrawal or settlement by parties. Report a case as closed upon final agency decision even though it could be reopened or re-considered under motions permitted by the agency's rules.

# PROCESSING TIME ANALYSIS

PART 1

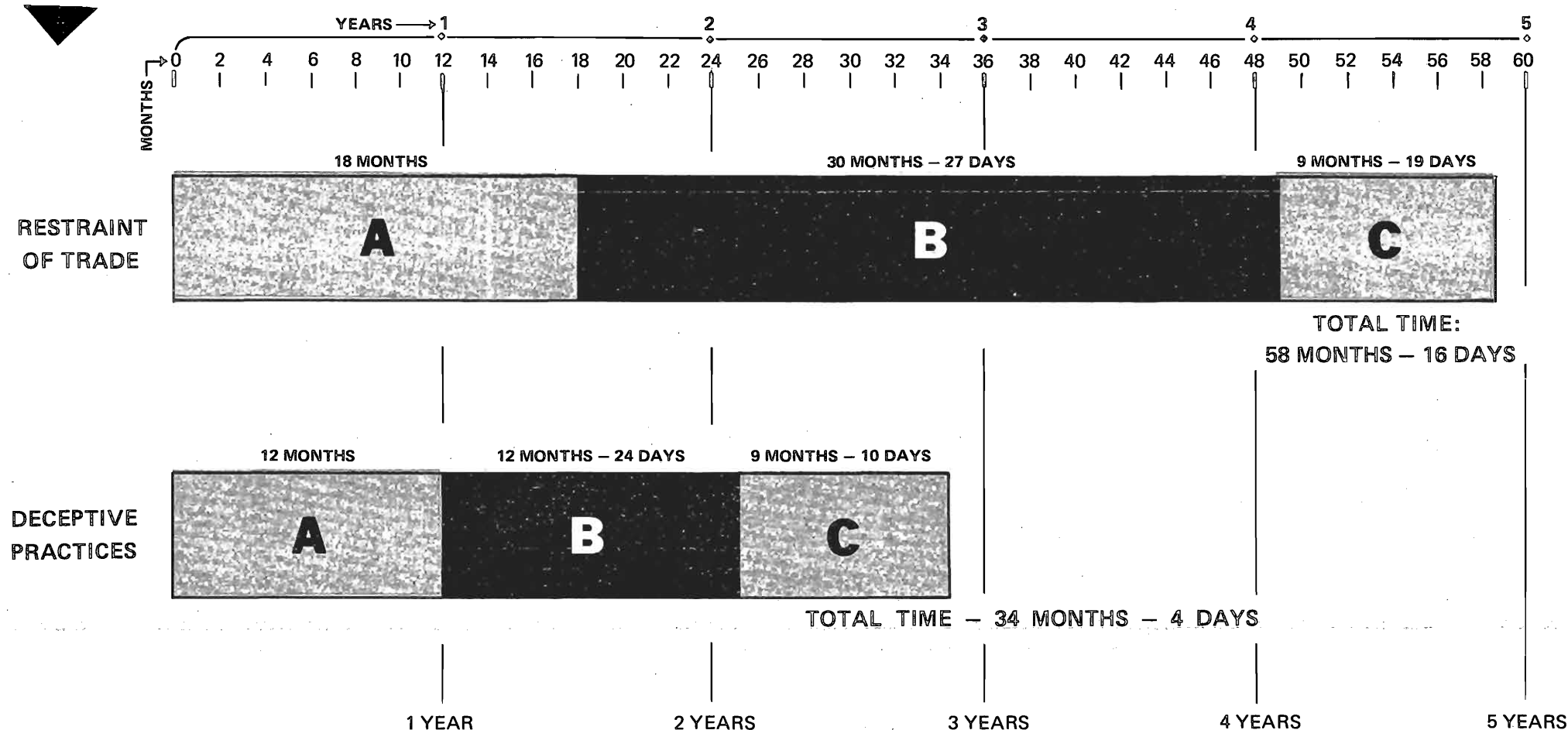
## FEDERAL TRADE COMMISSION

FEDERAL ADMINISTRATIVE PROCEEDINGS

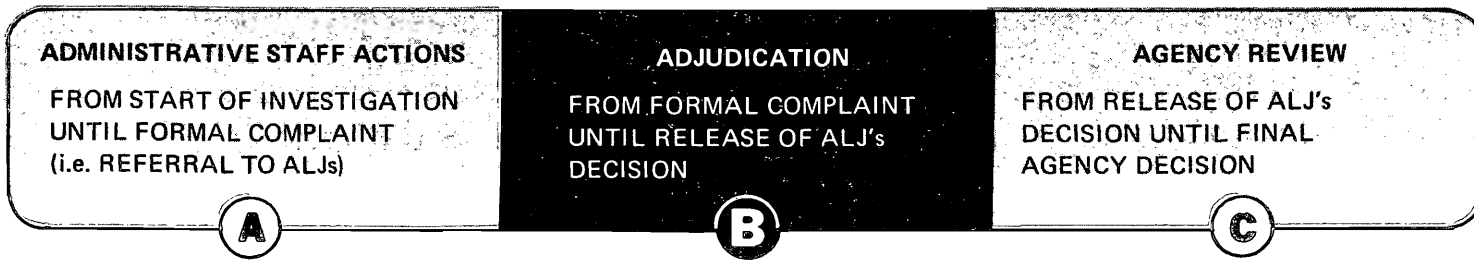
BASIS | FOR "B" & "C": FROM 1963 SENATE JUDICIARY SUBCOMMITTEE'S REPORT  
FOR "A": ROUGH ESTIMATES BASED ON AGENCY DATA FOR RECENT YEARS

TYPE OF PROCEEDING

NUMBER OF YEARS, MONTHS AND DAYS THAT ELAPSED IN DISPOSITION OF *MEDIAN* CASE



LEGEND



# PROCESSING TIME ANALYSIS

PART 2

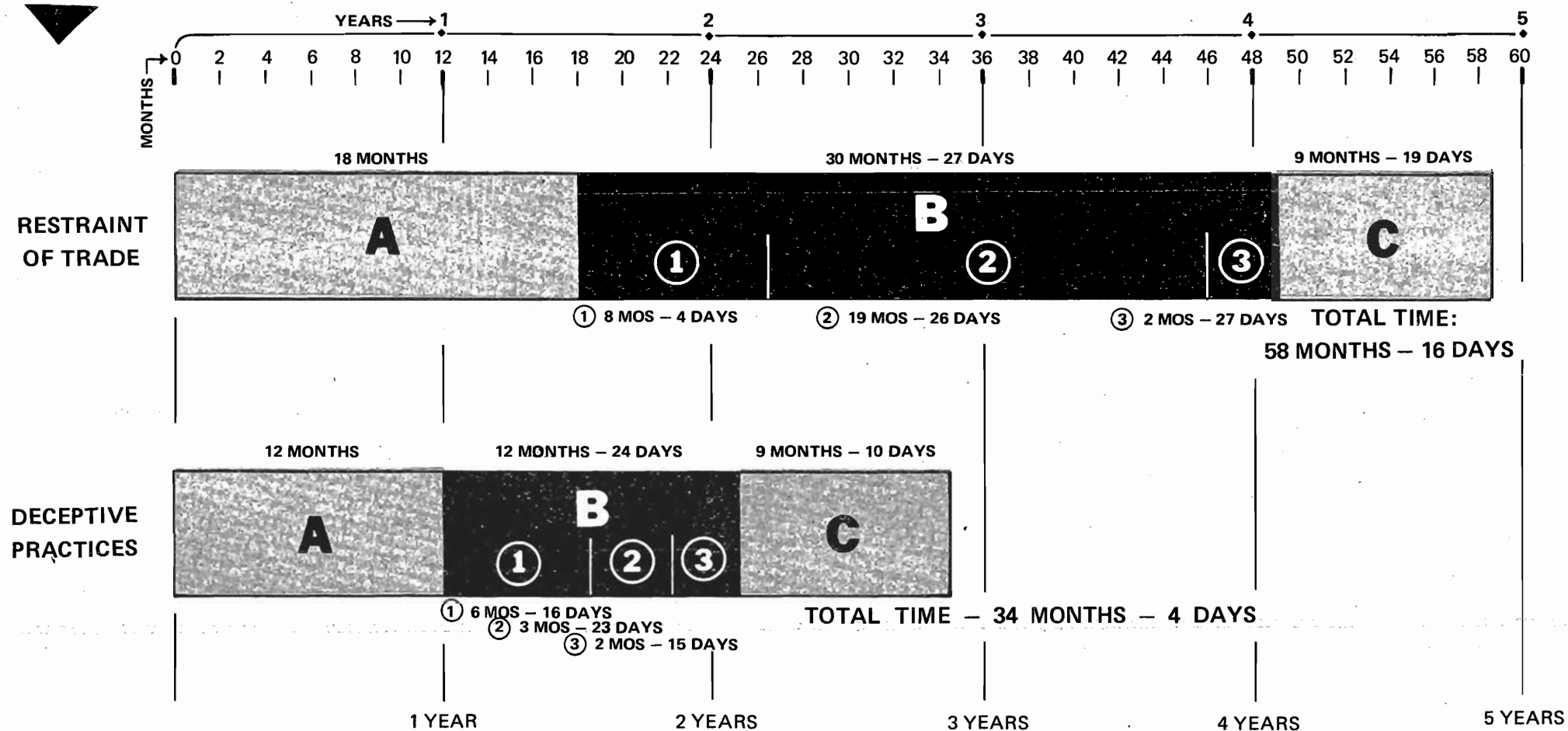
## FEDERAL TRADE COMMISSION

FEDERAL ADMINISTRATIVE PROCEEDINGS

BASIS | FOR "B" & "C": FROM 1963 SENATE JUDICIARY SUBCOMMITTEE'S REPORT  
FOR "A": ROUGH ESTIMATES BASED ON AGENCY DATA FOR RECENT YEARS

TYPE OF PROCEEDING

NUMBER OF YEARS, MONTHS AND DAYS THAT ELAPSED IN DISPOSITION OF *MEDIAN* CASE



LEGEND

<b>ADMINISTRATIVE STAFF ACTIONS</b> FROM START OF INVESTIGATION UNTIL FORMAL COMPLAINT (i.e. REFERRAL TO ALJs) <b>A</b>	<b>ADJUDICATION</b> ① FROM COMPLAINT TO OPENING OF HEARING ② FROM OPENING OF HEARING UNTIL CLOSE OF RECORD ③ FROM CLOSE OF RECORD TO ALJ DECISION <b>B</b>	<b>AGENCY REVIEW</b> FROM RELEASE OF ALJ'S DECISION UNTIL FINAL AGENCY DECISION <b>C</b>
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# PROCESSING TIME ANALYSIS

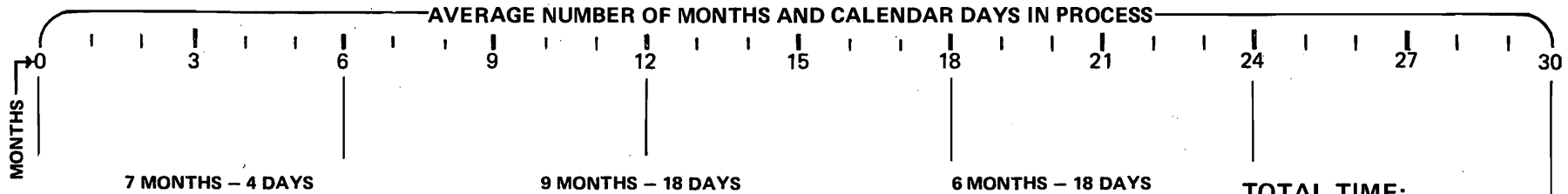
PART 1

## FEDERAL POWER COMMISSION

FEDERAL ADMINISTRATIVE PROCEEDINGS

DATA PERIOD: CASES TERMINATED DURING CALENDAR 1969 & 70 BASED UPON  
DATA FURNISHED BY CHIEF ADMINISTRATIVE LAW JUDGE

TYPE OF  
PROCEEDING



PIPELINE  
CERTIFICATE  
CASES



**ADMINISTRATIVE STAFF ACTIONS**  
FROM APPLICATION OR OTHER INITIATING  
ACTION IN AGENCY UNTIL REFERRAL TO  
OFFICE OF ALJs (HEARING ORDER)

**A**

**ADJUDICATION**  
FROM REFERRAL TO ALJs (OR HEARING  
ORDER) UNTIL RELEASE OF ALJ'S INITIAL  
DECISION

**B**

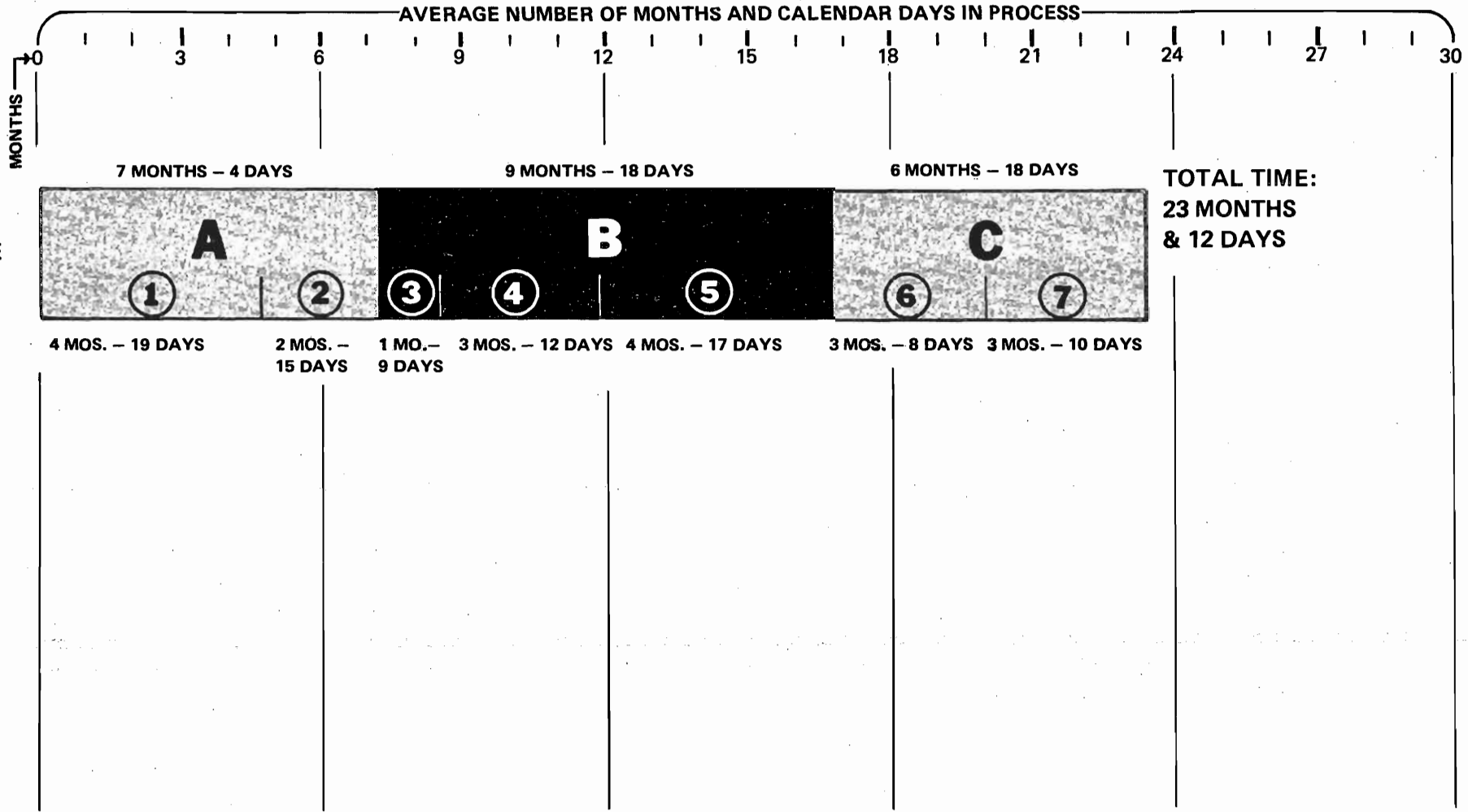
**AGENCY REVIEW**  
FROM INITIAL DECISION UNTIL FINAL  
AGENCY DECISION

**C**

### FEDERAL ADMINISTRATIVE PROCEEDINGS

DATA PERIOD: CASES TERMINATED DURING CALENDAR 1969 & 70 BASED UPON DATA FURNISHED BY CHIEF ADMINISTRATIVE LAW JUDGE

TYPE OF PROCEEDING



PIPELINE CERTIFICATE CASES

① FROM APPLICATION TO TECHNICAL BUREAU'S RECOMMENDED HEARING;  
② FROM TECHNICAL BUREAU RECOMMENDATION UNTIL HEARING ORDER (REFERRAL TO OFFICE OF ALJs)

**A**

③ FROM HEARING ORDER UNTIL INITIAL PRE-HEARING CONFERENCE ④ FROM PRE-HEARING CONFERENCE UNTIL CLOSE OF HEARING ⑤ FROM CLOSE OF HEARING UNTIL RELEASE OF INITIAL DECISION

**B**

⑥ FROM ALJ'S INITIAL DECISION UNTIL OSA ANALYSIS  
⑦ FROM OSA ANALYSIS UNTIL COMMISSION (FINAL AGENCY) DECISION

**C**

**AGENCIES WHICH EMPLOY FULL TIME ADMINISTRATIVE LAW JUDGES\***

Agency	Number of Judges
Atomic Energy Commission	1
Civil Aeronautics Board	19
Department of Agriculture	5
Department of Labor	17
Environmental Protection Agency	2
Federal Communication Commission	15
Federal Maritime Commission	6
Federal Power Commission	14
Federal Trade Commission	10
Internal Revenue Service, Department of the Treasury	1
Interstate Commerce Commission	71
Maritime Administration, Department of Commerce	2
National Labor Relations Board	87
National Transportation Safety Board	4
Occupational Safety and Health Review Commission	38
Office of the Secretary, Department of the Interior	34**
Postal Rate Commission	1
Securities and Exchange Commission	7
Social Security Administration, Department of Health, Education, and Welfare	478***
U.S. Civil Service Commission	1
U.S. Coast Guard, Department of Transportation	14
U.S. Postal Service	2
	<hr/> 829

\*List does not include approximately ten additional agencies which borrowed Administrative Law Judge from agencies listed above during calendar year 1972 & 73.

\*\*Total number includes 11 Indian Probate Judges.

\*\*\*Total number includes 37 Temporary Judges.

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**ADMINISTRATIVE CONFERENCE  
OF THE UNITED STATES**