

U.S. Department of Justice Makes Grant to U.W. to Study Costs of Civil Litigation



Professor Trubek

Everyone knows that the cost of litigation is rising, and that these increasing costs create problems for litigants and the courts. But little is known about why costs are going up, or what should be done about it. A new study recently begun at the Law School will help to get answers to these questions.

In January, the U.S. Department of Justice awarded a \$1.3 million contract for a two year investigation of the costs of litigation and alternative dispute processing mechanisms. The award went to the University of Wisconsin Dispute Processing Research Program, an interdisciplinary effort established by the Law School in 1977 to coordinate studies in this growing field. Working with the UW group will be members of the Dispute Resolution Program of the University of Southern California. A national research corporation, Mathematica Policy Research of Princeton, New Jersey, will assist in the survey aspect of the study.

"This is one of the largest empirical studies of the legal process ever undertaken," said Project Director David M. Trubek, Professor and Associate Dean for Research at the Law School. The study will involve interdisciplinary analysis of several thousand cases to be drawn from federal

and state courts, arbitration, mediation, administrative agencies, etc. Over 10,000 interviews will be conducted with lawyers, litigants, government agencies, corporations and the general public.

The project team includes researchers with backgrounds in law, economics, political science, and sociology. Team members are: Professors Neil Komesar, Stewart Macaulay, and Marc Galanter from the Law School, Joel Grossman and Herbert Kritzer from the Political Science Department and William Felstiner and Earl Johnson, Jr. from USC. Richard Miller, a young sociologist, serves as project manager.

The project will make important contributions to basic knowledge about the legal process. Wisconsin has been a pioneer in the development of theories about the use of courts and alternative forms of dispute processing, and the project will draw heavily on prior work by Macaulay, Galanter, Komesar and Grossman. "But with this project", Trubek observed, "We will be breaking new ground in theoretical work on the courts, and testing these theories with massive and detailed empirical data."

The project should contribute to the growing policy debate over the appropriate role for courts in our society, and the effectiveness of alternative systems for dispute processing like arbitration. With new programs and legislation being considered at the federal and state level, policy makers are looking to the project to help resolve important issues in civil procedure and related fields.

"This project is an important milestone in the history of the Law School," said Associate Dean Trubek. There are very few — if any — Law Schools with the tradition and commitment Wisconsin has to interdisciplinary research, and thus with the capacity to conduct a national study of this nature. "By winning this competition," he concluded, "we have demonstrated the importance of this tradition, and at the same time secured an opportunity to expand our research efforts into new and exciting areas."