

**REPORT OF THE PROCEEDINGS  
OF THE JUDICIAL CONFERENCE  
OF THE UNITED STATES**

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*MARCH 14, 2001  
WASHINGTON, D.C.*

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CHIEF JUSTICE WILLIAM H. REHNQUIST,  
PRESIDING  
LEONIDAS RALPH MECHAM, SECRETARY*

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**REPORT OF THE PROCEEDINGS  
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**March 14, 2001**

The Judicial Conference of the United States convened in Washington, D.C., on March 14, 2001, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. § 331. The Chief Justice presided, and the following members of the Conference were present:

First Circuit:

Chief Judge Juan R. Torruella  
Chief Judge D. Brock Hornby,  
District of Maine

Second Circuit:

Chief Judge John M. Walker, Jr.  
Judge Charles P. Sifton,  
Eastern District of New York

Third Circuit:

Chief Judge Edward R. Becker  
Chief Judge Sue L. Robinson,  
District of Delaware

Fourth Circuit:

Chief Judge J. Harvie Wilkinson III  
Chief Judge Charles H. Haden II,  
Southern District of West Virginia

Fifth Circuit:

Chief Judge Carolyn Dineen King  
Judge Hayden W. Head, Jr.,  
Southern District of Texas

Sixth Circuit:

Chief Judge Boyce F. Martin, Jr.  
Judge Thomas A. Wiseman, Jr.,  
Middle District of Tennessee

Seventh Circuit:

Chief Judge Joel M. Flaum  
Chief Judge Marvin E. Aspen,  
Northern District of Illinois

Eighth Circuit:

Chief Judge Roger L. Wollman  
Judge James M. Rosenbaum,  
District of Minnesota

Ninth Circuit:

Chief Judge Mary M. Schroeder  
Judge Judith N. Keep,  
Southern District of California

Tenth Circuit:

Chief Judge Deanell R. Tacha  
Chief Judge Frank Howell Seay,  
Eastern District of Oklahoma

Eleventh Circuit:

Chief Judge R. Lanier Anderson  
Chief Judge Charles R. Butler, Jr.,  
Southern District of Alabama

District of Columbia Circuit:

Chief Judge Harry T. Edwards  
Judge Thomas F. Hogan,<sup>1</sup>  
District of Columbia

Federal Circuit:

Chief Judge Haldane Robert Mayer

Court of International Trade:

Chief Judge Gregory W. Carman

Circuit Judges W. Eugene Davis, David R. Hansen, Dennis G. Jacobs, Jane R. Roth, Anthony J. Scirica, Walter K. Stapleton, and William W. Wilkins, Jr., and District Judges Lourdes G. Baird, Robin J. Cauthron, John G. Heyburn II, David F. Levi, John W. Lungstrum, Edwin L. Nelson and Harvey E. Schlesinger attended the Conference session. Jan Horbaly of the Federal Circuit represented the Circuit Executives.

Leonidas Ralph Mecham, Director of the Administrative Office of the United States Courts, attended the session of the Conference, as did Clarence A. Lee, Jr., Associate Director for Management and Operations; William R. Burchill, Jr., Associate Director and General Counsel; Karen K. Siegel, Assistant Director, Judicial Conference Executive Secretariat; Michael W. Blommer, Assistant Director, Legislative Affairs; David Sellers, Assistant Director, Public Affairs; and Wendy Jennis, Deputy Assistant Director, Judicial Conference Executive Secretariat. Judge Fern Smith and Russell Wheeler, Director and Deputy Director of the Federal Judicial Center, also attended the session of the Conference, as did Sally Rider, Administrative Assistant to the Chief Justice.

Senator Jeff Sessions and Representatives Howard Coble and F. James Sensenbrenner spoke on matters pending in Congress of interest to the Conference. Attorney General John Ashcroft addressed the Conference on matters of mutual interest to the judiciary and the Department of Justice.

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<sup>1</sup>Designated by the Chief Justice.

## **REPORTS**

Mr. Mecham reported to the Conference on the judicial business of the courts and on matters relating to the Administrative Office (AO). Judge Smith spoke to the Conference about Federal Judicial Center programs, and Judge Diana E. Murphy, Chair of the United States Sentencing Commission, reported on Sentencing Commission activities.

## **ELECTIONS**

The Judicial Conference elected to membership on the Board of the Federal Judicial Center, each for a term of four years, Chief Bankruptcy Judge Robert F. Hershner, Jr. of the Middle District of Georgia to replace Bankruptcy Judge A. Thomas Small, and Magistrate Judge Robert B. Collings of the District of Massachusetts to replace Magistrate Judge Virginia M. Morgan.

## **EXECUTIVE COMMITTEE**

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### **FINANCIAL DISCLOSURE LEGISLATION**

The authority to redact information from financial disclosure reports when the release of such information could endanger a judge or judicial employee was granted to the Judicial Conference by the Identity Theft and Assumption Deterrence Act of 1998 (Public Law No. 105-318), which modified section 105(b) of the Ethics in Government Act of 1978 (5 U.S.C. app. § 105(b)). However, this grant of authority is scheduled to expire on December 31, 2001. On recommendation of the Committee on Financial Disclosure, concurred in by the Committee on Security and Facilities, the Executive Committee determined, on behalf of the Judicial Conference, that the judiciary should take prompt action to seek the elimination of the sunset provision found in section 7 of the Identity Theft and Assumption Deterrence Act (5 U.S.C. app. § 105(b)(3)(E)).

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### **FEDERAL COURTS IMPROVEMENT BILL**

Every two years, each Conference committee considers legislative initiatives within its jurisdiction that were approved by the Conference but not



yet enacted to decide whether those provisions should be pursued in the upcoming federal courts improvement bill, and notifies the Executive Committee of its determinations. At its February 2001 meeting, the Executive Committee reviewed the positions of the committees on whether pending Conference positions should be pursued in the 107<sup>th</sup> Congress. With two exceptions (which were referred back to the relevant committees for further consideration), the Executive Committee concurred in the determinations of the committees to include or not to include these provisions in the bill.

The Executive Committee also reviewed a legislative provision within its own jurisdiction that had not been enacted and the pursuit of which had previously been suspended by the Committee since its enactment was unlikely. This provision would establish a Judicial Conference Foundation to receive and expend private contributions in support of official programs (JCUS-MAR 95, p. 6). The Committee determined to continue to defer pursuit of such a foundation.

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## **MISCELLANEOUS ACTIONS**

The Executive Committee—

- Agreed to adjust for inflation the alternative subsistence rate for judges itemizing travel expenses and to reinstate the annual automatic inflation adjustment to that rate, subject to Executive Committee review;
- Supported the Financial Disclosure Committee's adoption of a standard for granting waivers of the fee for obtaining copies of financial disclosure reports (i.e., a demonstrated inability to pay), and the application of that standard to deny a waiver for a media organization requesting the 1999 financial disclosure reports of all Article III judges;
- Received a report of the Magistrate Judges Committee on the growth of the magistrate judges system;
- Asked the Committee on the Administrative Office to undertake a review of reports required by law to be produced by the Administrative Office;

- Approved a resolution honoring Representative Harold Rogers, former Chairman of the House Appropriations Subcommittee on the Departments of Commerce, Justice, State, the Judiciary, and Related Agencies; and
- Agreed on the need for prompt action to minimize any non-business related activity that is being conducted on court computers; determined to encourage all chief judges to establish policies in their courts on the appropriate use of the Internet; and asked the Committee on Automation and Technology to continue current efforts in information technology (IT) security and to develop a comprehensive plan for improving IT security in the courts.

## **COMMITTEE ON THE ADMINISTRATIVE OFFICE**

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### **WIRETAP REPORTS**

The Omnibus Crime Control and Safe Streets Act of 1968 requires the Administrative Office to report to Congress annually the number and nature of federal and state applications for orders authorizing or approving the interception of wire, oral or electronic communications (“wiretap orders”) based on reports submitted to the agency by federal and state judges and prosecutors (18 U.S.C. § 2519(1), (2), and (3)). In March 1992, the Judicial Conference determined to seek legislation to have this responsibility transferred to the United States Department of Justice (JCUS-MAR 92, p. 14), but has been unable to win sufficient support in Congress to accomplish this end. In an effort to simplify the process, at this session, the Conference approved an Administrative Office Committee recommendation that the judiciary seek an amendment to 18 U.S.C. § 2519(1) to allow judges to submit a single annual report to the Administrative Office, no later than January of each year, that reports on all wiretap orders for the preceding calendar year rather than an individual report each time a wiretap order is approved or denied. This change would reduce the burden on the judges and their staffs without impacting the accuracy or timeliness of the AO’s report, and would not be mandatory for judges who wish to continue submitting reports throughout the year.

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## **COMMITTEE ACTIVITIES**

The Committee on the Administrative Office reported that it reviewed the status of several major initiatives and studies undertaken by the Administrative Office. The Committee was briefed on the AO's investigative assistance to the courts in resolving allegations against judiciary employees or others having business with the courts, and on how the judiciary's administrative oversight mechanisms had been used effectively to identify potential irregularities in the courts. The Committee endorsed oversight enhancement initiatives, including a handbook for chief judges and programs that increase chief judges' awareness of administrative management and internal control issues. The Committee also received a comprehensive briefing on the Administrative Office's human resources initiatives, including the success of new benefits programs and efforts to seek legislation that would provide the Director of the Administrative Office with independent benefits authority; the successful implementation of the new Human Resources Management Information System in the Administrative Office, the Federal Judicial Center, and the U.S. Sentencing Commission, and plans to expand the system to the courts; and implementation of new staffing formulae in the courts.

## **COMMITTEE ON AUTOMATION AND TECHNOLOGY**

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### **LONG RANGE PLAN FOR INFORMATION TECHNOLOGY**

Pursuant to 28 U.S.C. § 612 and on recommendation of the Committee on Automation and Technology, the Judicial Conference approved the 2001 update to the *Long Range Plan for Information Technology in the Federal Judiciary*. Funds for the judiciary's information technology program must be spent in accordance with this plan.

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### **LOCATION OF COURT RECORDS**

Section 457 of title 28, United States Code, requires that the "records of district courts and courts of appeals shall be kept at one or more of the places where court is held." However, for electronic records, developments in computer and network technology have virtually eliminated physical location

of the hardware on which such records reside as a factor in accessing those records, and the ability to store information electronically in multiple locations dramatically reduces potential loss from manmade or natural disasters. On recommendation of the Committee on Automation and Technology, the Judicial Conference agreed to seek a legislative change to 28 U.S.C. § 457 to delete any reference to physical location requirements so as to accommodate electronic records and supporting repositories.

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## **COMMITTEE ACTIVITIES**

The Committee on Automation and Technology reported that it had received the results of a comprehensive, independent study of the judiciary's national information technology program, which concluded that the judiciary has established a national information technology program using significantly fewer resources than other government organizations. The Committee also discussed Internet and electronic mail traffic and requested further analysis; reviewed progress in an ongoing study of lawbooks and libraries; and received updates on a number of other information technology projects and issues, such as implementation of the new case management/electronic case files system and new technologies for obtaining remote access to the judiciary's data communications network.

## **COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM**

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### **REAPPOINTMENT OF BANKRUPTCY JUDGES**

In March 1997, the Judicial Conference added a chapter to the selection and appointment regulations for bankruptcy judges (chapter 5) to provide for reappointment of incumbent bankruptcy judges without subjecting them to the full application and merit screening process required of candidates for new positions (JCUS-MAR 97, p. 13). Chapter 5 was subsequently amended to address appellate court concerns with certain time frames set forth in those regulations (JCUS-SEP 00, pp. 43-44). At this session, on recommendation of

the Committee on the Administration of the Bankruptcy System,<sup>2</sup> the Judicial Conference made additional changes to chapter 5 to (a) clarify that a court of appeals will consider an incumbent bankruptcy judge who seeks reappointment before considering other qualified candidates; (b) remove a phrase from section 5.01(b) that might appear to create a presumption of reappointment; (c) empower the chief judge of a court of appeals to extend time periods set forth in the reappointment regulations, rather than requiring a vote of the active members of that court; (d) eliminate a requirement in section 5.01(c) that the court of appeals take an initial vote to determine whether the incumbent appears to merit reappointment, and provide that the court of appeals proceed directly to the public comment period; and (e) extend from 30 to 60 days the time period during which the court of appeals must vote on the reappointment following receipt of public comment.

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## **PLACE OF HOLDING BANKRUPTCY COURT**

On the recommendation of the Bankruptcy Committee, and in accordance with 28 U.S.C. § 152(b)(1), the Judicial Conference approved the request of the Western District of Missouri and the Eighth Circuit Judicial Council to designate Carthage, Missouri, as an additional place of holding bankruptcy court in the Western District of Missouri, and delete the designation of Joplin, Missouri.

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## **COMMITTEE ACTIVITIES**

The Bankruptcy Committee reported that it addressed several fee issues. It proposed to the Court Administration and Case Management Committee, for recommendation to the Conference, an amendment to the Bankruptcy Court Miscellaneous Fee Schedule to provide that fees for appeals or cross-appeals by bankruptcy trustees (and debtors in possession in chapter 11 cases) be payable only from the estate and to the extent that an estate is realized, in order to encourage trustees to pursue estate assets. The Committee also concurred in the recommendations of the Committee on Court Administration and Case Management with regard to the revision and restructuring of electronic public

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<sup>2</sup> The Bankruptcy Committee's original recommendations were revised prior to the Judicial Conference session in response to concerns raised by the Executive Committee.

access fees, and it endorsed other amendments to the Bankruptcy Miscellaneous Fee Schedule (*see infra* “Miscellaneous Fee Schedules,” pp. 12-15).

## **COMMITTEE ON THE BUDGET**

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### **TRANSFER OF RETIREMENT FUNDS**

The Judicial Conference adopted a recommendation of the Budget Committee that the Conference rescind its March 1993 decision to pursue legislation that would allow the judiciary’s contributions to the Civil Service Retirement Fund to be returned to the judiciary when bankruptcy and magistrate judges for whom the benefits are paid elect to transfer out of the Civil Service Retirement System (JCUS-MAR 93, p. 6). The proposal has been rejected by the last four Congresses, and there is little likelihood of its enactment.

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### **COMMITTEE ACTIVITIES**

The Committee on the Budget reported that it discussed efforts to establish a greater linkage between the annual budget formulation process and the use of the long-range budget estimates. To assist the Committee in these efforts, the Administrative Office will develop long-range budget estimates in the fall of each year rather than in the spring. This change will enable the Budget Committee to review updated estimates at its January meetings and use these estimates in preparing the budget guidance to the program committees for the following spring/summer budget cycles. The Committee also discussed strategies for presenting the 2002 budget request to Congress and the need to emphasize the quality of justice when justifying annual requests for resources.

## **COMMITTEE ON CODES OF CONDUCT**

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### **CODE OF CONDUCT FOR JUDICIAL EMPLOYEES**

Canon 3F(4) of the Code of Conduct for Judicial Employees requires certain designated employees to keep informed of their own and their close

relatives' financial interests in order to avoid conflicts of interest. The Committee on Codes of Conduct recommended amending Canon 3F(4) to add a definition of "financial interest" and to clarify that judicial employees have no duty to inquire about relatives' fiduciary interests. These amendments would conform the "duty of inquiry" provisions for judicial employees to the corresponding provisions applicable to judges under Canon 3C(2) of the Code of Conduct for United States Judges (*see* JCUS-SEP 99, p. 52). The Committee also proposed limiting application of Canon 3F(4) to the employees specified in Canon 3F(2)(a) (i.e., law clerks and staff attorneys), as these are the only employees who, like judges, are subject to automatic disqualification due to financial interest. The Conference approved the amendments to Canon 3F(4), which read as follows (new language is in italics; deleted language is struck through):

(4) A judicial employee who is subject to Canon 3F(2)(a) should keep informed about his or her personal, ~~financial~~ and fiduciary *financial* interests and make a reasonable effort to keep informed about ~~such~~ *the personal financial* interests of a spouse or minor child residing in the judicial employee's household. *For purposes of this canon, "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:*

*(i) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the employee participates in the management of the fund;*

*(ii) an office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;*

*(iii) the proprietary interest of a policy holder in a mutual insurance company, or a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;*

*(iv) ownership of government securities is a “financial interest” in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.*

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## COMMITTEE ACTIVITIES

Since its last report in September 2000, the Committee on Codes of Conduct received 25 new written inquiries and issued 26 written advisory responses. During this period, the average response time for requests was 19 days. The Chairman received and responded to 23 telephonic inquiries. In addition, individual Committee members responded to 135 inquiries from their colleagues.

## COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT

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### MISCELLANEOUS FEE SCHEDULES

Electronic Public Access. Pursuant to 28 U.S.C. §§ 1913, 1914, 1926(a), 1930(b) and 1932, the Judicial Conference is authorized to prescribe fees to be collected by the appellate and district courts, the Court of Federal Claims, the bankruptcy courts, and the Judicial Panel on Multidistrict Litigation, respectively. While the various fees included in these miscellaneous fee schedules are often court-specific, the fees pertaining to electronic public access (EPA) to court information cut across fee schedule lines. The Judicial Conference approved a Court Administration and Case Management Committee recommendation that EPA fees be removed from the various courts’ fee schedules and reissued in an independent miscellaneous EPA fee schedule that would apply to all court types.

The Committee also recommended three substantive amendments to the EPA fee schedule. The first amendment concerned the user fee for Internet access to the judiciary’s new case management/electronic case files (CM/ECF) system. Pursuant to section 404 of Public Law No. 101-515, which directs the Judicial Conference to prescribe reasonable fees for public access to information available in electronic form, the judiciary established a seven cents per page fee for Internet access to electronic court records that will apply to CM/ECF when it is introduced (JCUS-SEP 98, p. 64). In response to



concerns about the effect of these fees on open access to court records, especially with regard to litigants, the Committee recommended that the schedule be amended to state that attorneys of record and parties in a case (including pro se litigants) receive one free electronic copy of all filed documents, if receipt is required by law or directed by the filer, which could then be printed and saved to the recipient's own computer or network. The Committee further recommended that no fee under this provision be owed until an individual account holder accrued charges of more than \$10 in a calendar year. This would allow free access to over 140 electronic pages, providing a basic level of public access consistent with the services historically provided by the courts. After discussion, the Conference adopted the Committee's recommendations.

The Committee's second proposal was for the establishment of a new fee of 10 cents per page for printing paper copies of documents through public access terminals at clerks' offices. This proposed fee, set at a level commensurate with the costs of providing existing services and developing enhanced services, is less than the 50 cents per page fee currently being charged for retrieving and copying court records and would therefore encourage the use of public access terminals and reduce demands on clerks' offices. The Conference approved the Committee's recommendation.

Lastly, the Committee recommended, and the Conference approved, the establishment of a Public Access to Court Electronic Records (PACER) Service Center search fee of \$20. The PACER Service Center provides registration, billing, and technical support for the judiciary's EPA systems and receives numerous requests daily for particular docket sheets from individuals who do not have PACER accounts. This fee would be consistent with the fees currently imposed "for every search of the records of the court, and for certifying the results thereof" in the other fee schedules.

Reproduction of Recordings. The miscellaneous fee schedules for the appellate, district, and bankruptcy courts include a provision requiring that a fee be charged for "reproduction of magnetic tape recordings, either cassette or reel-to-reel...including the cost of materials." The Committee recommended that this fee be modified to account for the expanded variety of media technologies, including the use of digital equipment, rather than magnetic tape recordings. In addition, the Committee recommended that the current exemption from the fee for the federal government be eliminated when the requested record is available through the judiciary's CM/ECF system. Approving the Committee's recommendations, the Conference amended

Item 5 of the appellate and district court miscellaneous fee schedules and Item 3 of the bankruptcy court miscellaneous fee schedule relating to the reproduction of recordings to read as follows:

For reproduction of recordings of proceedings, regardless of the medium, \$20, including the cost of materials. This fee shall apply to services rendered on behalf of the United States, if the reproduction of the recording is available electronically.

The Conference also agreed to amend the preambles to the appellate, district, and bankruptcy court miscellaneous fee schedules to eliminate the exemption for federal agencies from the fee for reproduction of recordings.

Local Rules. The Conference adopted a Committee recommendation to amend provisions in the appellate, district, and bankruptcy court and Court of Federal Claims miscellaneous fee schedules (Item 11, Item 12, Item 18, and Item 6, respectively) to reflect that local rules may be provided by means other than printing a paper copy, such as electronically via the Internet. The provisions were amended as follows (new language is in italics; deleted language is struck through):

The court may charge and collect fees, ~~commensurate with the cost of printing,~~ for copies of the local rules of court *commensurate with the cost of providing such copies.* The court may also distribute copies of the local rules without charge.

Amendments in Bankruptcy Cases. On recommendation of the Committee, the Conference amended Item 4 of the Bankruptcy Court Miscellaneous Fee Schedule, which prescribes a fee of \$20 for each amendment to a debtor's schedules of creditors or lists of creditors, to make clear that amendments to the matrices or to the mailing lists of creditors, which are often used by clerks' offices to notify creditors and other parties of actions relating to the bankruptcy case, would also generate the \$20 fee. This provides an incentive to debtors to make certain that matrices and mailing lists are accurate when filed.

Miscellaneous Documents. Both the district and the bankruptcy court miscellaneous fee schedules impose a fee for filing or indexing a miscellaneous document not in a case or proceeding for which a filing fee has been paid, except that the district court provision sets forth four specific

instances in which the fee is applicable while the bankruptcy court provision is more general. For consistency, the Judicial Conference, on recommendation of the Committee, amended both Item 1 of the District Court Miscellaneous Fee Schedule and Item 7 of the Bankruptcy Court Miscellaneous Fee Schedule to read as follows:

For filing or indexing any document not in a case or proceeding for which a filing fee has been paid, \$30.

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## **CIVIL LITIGATION MANAGEMENT MANUAL**

On recommendation of the Committee and as required by the Civil Justice Reform Act of 1990 (CJRA) (*see* 28 U.S.C. § 479(c)(1)), the Judicial Conference approved for publication a civil litigation management manual that describes those litigation management and cost and delay reduction principles, techniques, and programs deemed most effective by the Judicial Conference and the Directors of the Administrative Office and the Federal Judicial Center.

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## **JUROR QUALIFICATION QUESTIONNAIRE**

In September 2000, the Judicial Conference revised the juror qualification questionnaire to conform the categories on race and ethnicity to those used by the Census Bureau for the 2000 census (JCUS-SEP 00, pp. 47-48). The Census Bureau and other executive branch agencies have since revised the terminology used to describe some of those categories. Specifically, the term “Black” has been changed to “Black or African American”; the term “Hispanic” has been changed to “Hispanic or Latino”; and the term “Native American Indian” has been changed to “American Indian or Alaska Native.” So that the juror qualification questionnaire terminology will continue to mirror that used by the Census Bureau, the Conference approved a Committee recommendation that Question 10 of the juror qualification questionnaire be revised to incorporate these changes.

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## **SOCIAL SECURITY REPORTING REQUIREMENTS**

Social security appeals are included in the Civil Justice Reform Act statistical reports in the same way as motions in civil cases, but with a pending

date from which the six-month clock begins to run set at 120 days after the filing of the transcript in the case (JCUS-SEP 98, p. 63; JCUS-SEP 99, p. 58). A small number of courts have adopted procedures that have the effect of delaying by up to two months the date from which the clock begins to run by allowing the transcript to be filed with the court when the Commissioner of Social Security files the responsive brief, rather than when the transcript is served on the claimant. These procedures are similar to the “holding” procedures for civil motions discussed by the Conference in September 1999 (JCUS-SEP 99, pp. 57-58), in that they raise concerns about the uniformity of the reporting requirements and about compliance with Rule 5(d) of the Federal Rules of Civil Procedure (which requires all papers served upon a party to be filed with the court “within a reasonable time after service”). On recommendation of the Committee, the Conference agreed to amend the instructions for the CJRA report on social security appeals pending over six months, as published in the *Guide to Judiciary Policies and Procedures*, to define the “pending date” for such appeals to be reported as 120 days after the filing of the transcript in the case, or in cases where the transcript is served upon a party before it is filed with the court, then 120 days after the initial service of the transcript. The Conference further agreed to request that each circuit council review local rules with “holding” procedures for social security cases to ensure compliance with Federal Rule of Civil Procedure 5(d).

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## **COMMITTEE ACTIVITIES**

The Committee on Court Administration and Case Management reported on a number of issues relating to electronic case filing, including the Committee’s extensive work on a judiciary-wide privacy policy for consideration by the Conference, and its evaluation of existing local court rules and practices pertaining to electronic filing. In other areas, the Committee provided its views on courtroom sharing for magistrate and bankruptcy judges to the Committee on Security and Facilities; considered the development of processes for identifying and assisting “high workload courts,” as recommended by the Judicial Officers Resources Working Group; and began consideration of the issue of the changing nature of litigation in the district courts.

## **COMMITTEE ON CRIMINAL LAW**

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### **RISK PREDICTION INDEX**

In March 1997, the Judicial Conference approved the use of the Risk Prediction Index (RPI) by probation officers to assist in the assessment of the risk of recidivism posed by offenders being supervised on terms of probation and supervised release (JCUS-MAR 97, p. 21). Studies conducted by the Federal Judicial Center, at the request of the Criminal Law Committee, demonstrate that the RPI can also be useful in identifying those individuals released to pretrial services supervision who are likely to succeed and those who are likely to have their release status revoked. Accordingly, the Committee recommended, and the Judicial Conference approved, the use of the Risk Prediction Index by pretrial services officers (and probation officers in combined districts) to assist in the assessment of risk posed by defendants under pretrial services supervision.

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### **JUDGMENTS IN A CRIMINAL CASE**

On the Committee's recommendation and after discussion, the Conference approved revised forms for judgments in a criminal case (AO 245B-AO 245I) for publication and distribution to the courts. The judgment forms were revised to include express language indicating adjudication of guilt. In addition, in order to protect the identity of cooperating defendants, the portion of the forms entitled "Statement of Reasons," which includes sensitive information about whether a defendant's substantial assistance served as the basis for a sentence departure, was revised to become an attachment to the judgment forms, and will not be disclosed to the public. However, the complete judgment form, including the Statement of Reasons, will continue to be forwarded to appropriate entities, such as the United States Sentencing Commission, the Federal Bureau of Prisons, defense counsel, government attorneys, and the appellate courts.

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### **COMMITTEE ACTIVITIES**

The Committee on Criminal Law reported on the status of a strategic assessment of the probation and pretrial services system and on the activities of an ad hoc work group that is reviewing and revising the pretrial services

and post-conviction supervision monographs. The Committee also reviewed a report on an independent study of the federal judiciary's home confinement program, which will be published and disseminated to the courts later this year.

## **COMMITTEE ON DEFENDER SERVICES**

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### **COMMUNITY DEFENDER ORGANIZATION GRANT AND CONDITIONS AGREEMENT**

On recommendation of the Defender Services Committee, the Judicial Conference approved revisions to clause 8 of the grant and conditions agreement to prohibit community defender organizations (CDOs) from using Criminal Justice Act (CJA) grant funds to contract locally for audit services that would duplicate the AO's national contract audit. The revisions would also require prior approval of the AO's Defender Services Division before a CDO may use grant funds to engage an expert to respond to findings of a national contract audit. The fourth paragraph of clause 8 was amended to read as follows (new language is in italics):

The grantee may contract with local accountants or with the Auditor, for any accounting and financial services necessary for the operation of its office, including, but not limited to, the preparation of all required federal and state tax returns and any additional annual audit reports required by the Board of Directors *that do not duplicate the national contract audit. Notwithstanding the foregoing, a grantee may use grant funds to contract with an expert for the purpose of responding to a finding of the Auditor in the annual audit when authorized in advance to do so by the Defender Services Division.*

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### **REASONABLE ACCOMMODATION FOR EMPLOYEES WITH DISABILITIES**

Section 3102 of title 5, United States Code, as recently amended by section 311 of Public Law No. 106-518, the Federal Courts Improvement Act of 2000, authorizes the head of each agency in the judicial branch to provide personal assistants for disabled judges or employees, as determined necessary

by the agency head. In order to implement this legislation with respect to federal defender organizations, the Committee on Defender Services recommended that the Judicial Conference take the following actions:

- a. Designate federal public defenders as “agency heads” for purposes of appointing personal assistants for individuals with disabilities in federal public defender organizations;
- b. Provide executive directors of community defender organizations with the same authority as federal public defenders with respect to individuals with disabilities in those organizations; and
- c. Authorize the Administrative Office to develop guidelines for federal public defenders and executive directors of community defender organizations to use in determining when and in what circumstances the creation of a personal assistant position is appropriate.

The Conference adopted the Committee’s recommendations. *See also infra*, “Reasonable Accommodation for Employees with Disabilities,” pp. 25-26.

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## **PROFESSIONAL LIABILITY INSURANCE**

The judiciary’s fiscal year 1999 appropriations act (Public Law No. 105-277), as amended by Public Law No. 106-58, requires the judiciary to reimburse judges and certain judicial employees for up to half the cost of professional liability insurance. The guidelines adopted by the Judicial Conference to implement this program for federal public defender organization (FPDO) employees (JCUS-SEP 99, pp. 61-62; JCUS-MAR 00, p. 7), placed a \$150 cap on the amount of reimbursement an eligible individual was entitled to receive. Due to an increase in premiums, the Committee on Defender Services recommended that the guidelines for FPDO employees be amended to lift the \$150 cap and permit reimbursement of up to one-half the cost of the policy, regardless of the dollar amount. The Judicial Conference approved the recommendation. *See also infra* “Professional Liability Insurance,” p. 26.

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## **AMICUS CURIAE POLICY FOR FEDERAL DEFENDERS**

On recommendation of the Committee on Defender Services, the Judicial Conference approved the addition of a new paragraph to Chapter IV (“Defender Organizations”) of the Guidelines for the Administration of the Criminal Justice Act and Related Statutes (CJA Guidelines), which sets forth the circumstances in which federal defenders may participate as *amicus curiae* in CJA cases. The new section formalizes a longstanding practice of permitting federal defenders to participate as *amicus curiae* when requested to do so by an appellate court, and in death penalty habeas corpus cases. The section further authorizes federal defenders to participate as *amicus curiae* in cases where, in the defender’s judgment, a legal issue affects the case of a client whom the defender represents, i.e., “on behalf of a client as an ancillary matter appropriate to the proceedings.” See 18 U.S.C. § 3006A(c). The new paragraph reads as follows:

4.06 Participation as *Amicus Curiae*. Pursuant to governing court rules, Federal Public Defenders and Community Defenders may participate as *amicus curiae* in federal court at the invitation of the court, in death penalty habeas corpus cases, or on behalf of a client as an ancillary matter appropriate to the proceedings.

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## **USE OF CJA RESOURCES**

In an effort to provide specific guidance on the use of CJA resources by panel attorneys for automation-related needs involving unusual or extraordinary expenses, the Defender Services Committee recommended, and the Conference approved, a revision to paragraph 3.16 of the CJA Guidelines. The revision requires, among other things, that panel attorneys consult with the Defender Services Division prior to requesting court authorization to use CJA funds to acquire computer hardware or software costing more than \$300, or to obtain computer systems and automation litigation support personnel and experts whose services are expected to have a combined cost exceeding \$10,000, and that any computer hardware or software acquired with CJA funds remains the property of the United States. The Conference also approved a model order, to be included in Appendix C (“Advance



Authorization”) of the CJA Guidelines, for authorizing the acquisition of computer hardware and/or software in conformance with the revised guideline.

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## **COMMITTEE ACTIVITIES**

Under its delegated authority from the Judicial Conference (JCUS-MAR 89, pp. 16-17), the Committee on Defender Services approved fiscal year 2001 budgets for 56 federal public defender organizations totaling \$210,417,000, and for 15 community defender organizations in the total amount of \$57,960,400.

The Committee on Defender Services reported that it met with the Chairman of the Budget Committee to discuss budgetary matters, with particular attention to the judiciary’s request for FY 2002 funding for a \$113 hourly panel attorney rate, as approved by the Conference in September 2000 (JCUS-SEP 00, pp. 44-45; 50). The Committee continued its strategic planning effort by examining fundamental aspects of the Defender Services program from a broad-based perspective.

## **COMMITTEE ON FEDERAL-STATE JURISDICTION**

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### **RESIDENT ALIEN PROVISIO**

The Committee on Federal-State Jurisdiction identified a need to amend the "resident alien proviso" in section 1332(a) of title 28, United States Code, to clarify the scope of diversity of citizenship jurisdiction in disputes involving aliens admitted to the United States as permanent residents. Congress added this proviso to the section in 1988 to "deem" an alien admitted for permanent residence as a citizen of the state in which the alien is domiciled with the specific purpose of denying federal jurisdiction in suits between a citizen of a state and an alien permanently residing in the same state. However, the proviso's deeming language has been interpreted as applying to other litigation circumstances involving aliens. For example, under section 1332(a)(2), a non-resident alien has been permitted to sue a United States citizen and a resident alien by deeming the resident alien to be a citizen of the state of his domicile. Such application of the proviso has broadened the scope of diversity jurisdiction beyond that contemplated when the statute was enacted. Thus, upon recommendation from the Committee on

Federal-State Jurisdiction, the Judicial Conference agreed to propose legislation to resolve conflicting interpretations of the resident alien proviso in 28 U.S.C. § 1332(a) by deleting that proviso and substituting therefor text providing that the district courts shall not have diversity of citizenship jurisdiction under subsections 1332(a)(2)-(3) where the matter in controversy is between a citizen of a state and a citizen or subject of a foreign state admitted to the United States for permanent residence and domiciled in the same state.

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## **COMMITTEE ACTIVITIES**

The Committee on Federal-State Jurisdiction reported on its continuing assessment of legislative proposals that would, among other things, permit individuals in federal and state custody to request post-conviction DNA testing and provide a system for ensuring competent counsel in the states for indigent defendants in capital cases. The Committee also informed the Conference of its consideration of mass torts/class action issues, attorney conduct rules in the federal courts, the Committee's project to ascertain amendments for jurisdictional improvements, and the Federal Judicial Code Revision Project of the American Law Institute.

## **COMMITTEE ON FINANCIAL DISCLOSURE**

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### **COMMITTEE ACTIVITIES**

The Committee on Financial Disclosure reported that as of December 31, 2000, the Committee had received 3,521 financial disclosure reports and certifications for the calendar year 1999, including 1,285 reports and certifications from Supreme Court Justices, Article III judges, and judicial officers of special courts; 365 from bankruptcy judges; 509 from magistrate judges; and 1,362 from judicial employees.

## **COMMITTEE ON INTERCIRCUIT ASSIGNMENTS**

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### **COMMITTEE ACTIVITIES**

The Committee on Intercircuit Assignments reported that during the period from July 1, 2000, to December 31, 2000, a total of 89 intercircuit assignments, undertaken by 70 Article III judges, were processed and recommended by the Committee and approved by the Chief Justice. During calendar year 2000, a total of 190 intercircuit assignments were processed and approved. In addition, the Committee aided courts requesting assistance by both identifying and obtaining judges willing to take assignments.

## **COMMITTEE ON INTERNATIONAL JUDICIAL RELATIONS**

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### **COMMITTEE ACTIVITIES**

The Committee on International Judicial Relations reported on its involvement in rule-of-law and judicial reform activities relating to Africa, Asia, Europe, and Latin America, including United States Agency for International Development-funded programs to build upon the already-established partnership between the Russian and U.S. judiciaries, and a presentation to the European Court of Human Rights on appellate court structure, case management, and rules. The Committee is also working with the Library of Congress' Russian Leadership Program, which brings policymakers and leaders from the Russian Federation to communities throughout the United States, in developing a rule-of-law component that will provide Russian judges an opportunity to obtain an appreciation for the United States judicial system and the role of judges in American society.

## **COMMITTEE ON THE JUDICIAL BRANCH**

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### **JUDICIAL COMPENSATION**

The value of federal judges' salaries continues to decline due to the combination of the denial of many annual Employment Cost Index (ECI) adjustments and inflation. At the same time, the salaries of private sector lawyers and law school deans have skyrocketed. This pay erosion and pay disparity have a negative effect on judges' morale, recruitment, and retention

and represent a real threat to Article III’s guarantees of judicial independence, lifetime tenure, and undiminished compensation. Accordingly, the Judicial Conference modified slightly and then unanimously approved a Judicial Branch Committee recommendation that the Conference pursue vigorously—

- a. An Employment Cost Index adjustment for federal judges, Members of Congress, and top officials in the executive branch for 2002 and subsequent years, as provided by law;
- b. Legislation to give judges and other high level federal officials a “catch-up” pay adjustment of 9.6 percent to recapture Employment Cost Index adjustments previously foregone; and
- c. Appointment of a presidential commission to consider and make recommendations to the President on appropriate salaries for high-level officials in all three branches of government.

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## **COMMITTEE ACTIVITIES**

The Committee on the Judicial Branch reported that it has continued to devote its attention to securing salary relief for all federal judicial officers. The Committee received an update on developments in the judiciary’s benefits program and on the status of two cases raising issues concerning taxation of judicial compensation.

## **COMMITTEE ON JUDICIAL RESOURCES**

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### **BIENNIAL SURVEY OF JUDGESHIP NEEDS**

As part of the Biennial Survey of Judgeship Needs, workloads in district and appellate courts with low weighted caseloads are reviewed for the purpose of determining whether to recommend that an existing or future judgeship vacancy not be filled. Through this process, in March 1999, the Judicial Conference recommended to the President and the Senate that an existing or future judgeship vacancy not be filled in the District Courts for the District of Columbia, the District of Delaware, the Southern District of West Virginia, and the District of Wyoming (JCUS-MAR 99, pp. 22-23). After conducting the 2001 judgeship needs survey, the Committee on Judicial Resources determined that either the caseload or the courts’ resources in the

District of Delaware and the Southern District of West Virginia had changed sufficiently to support a recommendation that any future vacancy in those courts be filled. On recommendation of the Committee, the Judicial Conference voted to amend its March 1999 position to delete the District of Delaware and the Southern District of West Virginia from the list of courts in which a vacancy should not be filled.

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## **REASONABLE ACCOMMODATION FOR EMPLOYEES WITH DISABILITIES**

As previously noted with respect to federal defender offices (*see supra* “Reasonable Accommodation for Employees with Disabilities,” pp. 18-19), the Federal Courts Improvement Act of 2000 gives the judiciary the authority to use appropriated funds to hire personal assistants for judges and employees with disabilities. Under this legislation, which amends 5 U.S.C. § 3102, the head of each agency in the judicial branch may provide for personal assistants that the agency head determines are necessary to enable a disabled judge or employee to perform his or her official duties. On recommendation of the Committee on Judicial Resources, the Judicial Conference took the following actions to implement this new law with respect to judicial officers and court employees:

- a. Approved creation of a personal assistant position under the Judiciary Salary Plan and the Court Personnel System to provide appropriate work assistance, as needed, to judges and judiciary employees with disabilities;
- b. Endorsed the Administrative Office’s use of classification flexibility currently existing under the Judiciary Salary Plan to classify personal assistant positions appropriately;
- c. Designated each chief judge, or the chief judge’s designee, as the “agency head” for judges and chambers staff, and each court unit executive as the “agency head” for employees of that unit, for purposes of appointing personal assistants for individuals with disabilities;
- d. Authorized use of central funding for personal assistant positions, as necessary, under the Judiciary Salary Plan for support of eligible judges and chambers staff;

- e. Authorized provision of an allotment to a court after receipt of a request for a personal assistant position under the Court Personnel System and an Administrative Office determination that AO guidelines were met; and
- f. Authorized the Administrative Office to develop guidelines for designated agency heads to use in determining when and in what circumstances the creation of a personal assistant position is appropriate.

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### **PROFESSIONAL LIABILITY INSURANCE**

Guidelines adopted by the Judicial Conference to implement, in accordance with Public Law No. 105-277, as amended by Public Law No. 106-58, a professional liability insurance reimbursement program for court staff (JCUS-SEP 99, pp. 66-67; JCUS-MAR 00, p. 7) placed a \$150 cap on the amount of reimbursement an eligible individual is entitled to receive. In the face of increased cost of premiums for such insurance, the Conference, on recommendation of the Committee on Judicial Resources, agreed to amend those guidelines to remove the \$150 cap, retroactive to October 1, 1999 (*see also supra*, “Professional Liability Insurance,” p. 19).

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### **RECRUITMENT AND RETENTION BONUSES**

In March 1999, the Judicial Conference authorized the use of recruitment and retention bonuses for automation positions in the courts on a two-year pilot basis (JCUS-MAR 99, p. 27). Based on findings that the program fulfills a genuine need in the courts and is being used judiciously, the Committee recommended, and the Judicial Conference agreed, that the program be made permanent.

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### **LAW CLERK STUDENT LOANS**

In September 1988, the Judicial Conference agreed to seek an amendment to 20 U.S.C. § 1077(a)(2)(C) to include full-time judicial law clerks among those occupations entitled to defer repayment, during service, of the principal on federally insured educational loans (JCUS-SEP 88, p. 90). At this session, on recommendation of the Committee, the Conference slightly

modified its September 1988 position. It determined to seek legislation deferring interest *as well as* principal on such loans during the clerkship, for a period not to exceed three years of service.

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## COMMITTEE ACTIVITIES

The Committee on Judicial Resources reported that it had asked the Administrative Office to conduct a comprehensive study, including a survey of Article III, bankruptcy, and magistrate judges, to determine if they are having difficulty recruiting and retaining highly qualified individuals to serve as law clerks, and, if so, to propose monetary and non-monetary solutions. The Committee also decided to ask the Administrative Office to undertake a comprehensive review of the Temporary Emergency Fund (TEF). The review will address such issues as whether there should be criteria for the allocation of law clerk and secretary positions to judges who need them and how to collect sufficient information regarding the use of the TEF. The Committee will coordinate this project with other Judicial Conference committees, as appropriate.

## COMMITTEE ON THE ADMINISTRATION OF THE MAGISTRATE JUDGES SYSTEM

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### REIMBURSEMENT REGULATIONS

Regulations for the reimbursement of expenses incurred by part-time magistrate judges, adopted pursuant to 28 U.S.C. § 635(b), allow a part-time magistrate judge to claim reimbursement for salary expenses actually incurred for secretarial or clerical assistance rendered in connection with official magistrate judge duties, but do not make reference to reimbursement of support staff expenses for holidays, vacation leave, or sick leave. Noting that certain part-time magistrate judges at the higher salary levels require full-time or extensive staff support, the Committee on the Administration of the Magistrate Judges System recommended, and the Judicial Conference approved, amendments to the regulations to authorize reimbursement for holidays and annual and sick leave taken by judges' support staff, not to exceed federal employee entitlements. The revised regulations do not require reimbursement for holidays and leave, but only set upper limits for

reimbursement for those part-time magistrate judges who choose to claim reimbursement for such expenses.

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## **CHANGES IN MAGISTRATE JUDGE POSITIONS**

After consideration of the report of the Committee and the recommendations of the Director of the Administrative Office, the district courts, and the judicial councils of the circuits, the Judicial Conference approved the following changes in positions, salaries, locations, and arrangements for full-time and part-time magistrate judge positions. Changes with a budgetary impact are to be effective when appropriated funds are available.

### **THIRD CIRCUIT**

District of New Jersey

1. Authorized an additional full-time magistrate judge position at Newark; and
2. Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

### **FOURTH CIRCUIT**

Middle District of North Carolina

Made no change in the number, locations, or arrangements of the magistrate judge positions in the district.

Western District of Virginia

Made no change in the number, locations, or arrangements of the magistrate judge positions in the district.

Northern District of West Virginia

1. Redesignated the full-time magistrate judge position at Elkins as Clarksburg or Elkins;



2. Redesignated the part-time magistrate judge position at Clarksburg as Martinsburg upon the appointment of a full-time magistrate judge at Clarksburg or Elkins; and
3. Made no other change in the number, locations, salaries, or arrangements of the magistrate judge positions in the district.

Southern District of West Virginia

Made no change in the number, locations, or arrangements of the magistrate judge positions in the district.

**FIFTH CIRCUIT**

Western District of Louisiana

Increased the salary of the part-time magistrate judge position at Monroe from Level 4 (\$33,633 per annum) to Level 3 (\$44,844 per annum).

**SIXTH CIRCUIT**

Western District of Michigan

Made no change in the number, locations, or arrangements of the magistrate judge positions in the district.

Southern District of Ohio

1. Authorized an additional full-time magistrate judge position at Dayton; and
2. Made no change in the number, locations, or arrangements of the other magistrate judge positions in the district.

Eastern District of Tennessee

Made no change in the number, locations, or arrangements of the magistrate judge positions in the district.

Western District of Tennessee

Made no change in the number, locations, or arrangements of the magistrate judge positions in the district.

**EIGHTH CIRCUIT**

Western District of Missouri

Made no change in the number, locations, or arrangements of the magistrate judge positions in the district.

**TENTH CIRCUIT**

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District of Wyoming

Increased the salary of the part-time magistrate judge position at Casper from Level 7 (\$5,605 per annum) to Level 6 (\$11,211 per annum).

**ELEVENTH CIRCUIT**

Northern District of Georgia

1. Converted the part-time magistrate judge position at Rome to full-time status;
2. Authorized one additional full-time magistrate judge position at Atlanta; and
3. Made no change in the number, locations, or arrangements of the other magistrate judge positions in the district.

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**COMMITTEE ACTIVITIES**

The Committee on the Administration of the Magistrate Judges System reported that it discussed at length the issue of the growth of the magistrate judges system. The Committee concluded that it is appropriate for it to continue to consider requests from courts for additional magistrate judge positions and to recommend approval of those requests that meet the criteria

established by the Judicial Conference, as it has to date, and that it will continue to monitor the growth of the magistrate judges system carefully. The Committee forwarded background materials and a statement of the issues on this topic to the Executive Committee (*see supra*, “Miscellaneous Actions,” p. 5).

## **COMMITTEE TO REVIEW CIRCUIT COUNCIL CONDUCT AND DISABILITY ORDERS**

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### **COMMITTEE ACTIVITIES**

The Committee to Review Circuit Council Conduct and Disability Orders reported that it has distributed to the courts a pamphlet containing the current version of the Illustrative Rules Governing Complaints of Judicial Misconduct and Disability and related materials that may be useful to judges and court staff in implementing the complaint procedure established by 28 U.S.C. § 372(c).

## **COMMITTEE ON RULES OF PRACTICE AND PROCEDURE**

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### **COMMITTEE ACTIVITIES**

The Committee on Rules of Practice and Procedure reported that it approved for immediate publication proposed amendments to Rule C of the Supplemental Rules for Certain Admiralty and Maritime Claims to conform with recent legislation. The Committee's Subcommittee on Technology is working with the Committee on Court Administration and Case Management studying privacy issues that arise from electronic case filing and developing guidance for courts to implement an electronic case filing system. The Advisory Committees on Appellate, Bankruptcy, Civil, and Criminal Rules are reviewing comments from the public submitted on amendments proposed to their respective sets of rules, including most significantly a proposed comprehensive style revision of the Federal Rules of Criminal Procedure.

## **COMMITTEE ON SECURITY AND FACILITIES**

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### **CONSTRUCTION SUBMISSION PROCESS/ FIVE-YEAR COURTHOUSE PROJECT PLAN**

For the last four fiscal years, the Office of Management and Budget has either eliminated or substantially reduced funding for courthouse construction projects in the General Services Administration portion of the President's budget requests. The Committee on Security and Facilities recommended that the Judicial Conference approve a formal courthouse construction submission process that presents the current budget-year housing requirements approved by the circuit judicial councils and the Judicial Conference in the Five-Year Courthouse Project Plan, for transmission to executive branch officials, the leadership of the House and Senate, the relevant appropriations and authorizing committee chairmen, and others deemed appropriate. The submission would not be a budget request, but a formal narrative statement of the judiciary's housing requirements to educate key legislative and executive branch decision makers about these requirements. The Judicial Conference approved the Committee's recommendation by mail ballot concluded on January 30, 2001.

At the same time, the Judicial Conference, after taking into consideration the comments of the circuit judicial councils, approved the Five-Year Courthouse Project Plan for fiscal years 2002-2006 on an expedited basis, so that it could be used to prepare the courthouse construction submission. The Conference also approved by mail ballot a related recommendation that it recognize the Eleventh Circuit Court of Appeals' critical need for additional office space to house court staff in Atlanta, Georgia. (This latter proposal is not included in the Five-Year Plan because the intended building would accommodate court staff rather than judges.)

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### **RELEASE OF SPACE**

Pursuant to 28 U.S.C. § 462(f), and on recommendation of the Committee, the Judicial Conference approved the release of space and closure of the non-resident facilities in Ada in the Eastern District of Oklahoma, and in Enid in the Western District of Oklahoma.

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## **ERGONOMICS IN THE JUDICIAL WORKPLACE**

Ergonomics is the applied science of workplace equipment design intended to maximize productivity by reducing employee fatigue and discomfort. In order to prevent work-related musculoskeletal injuries and minimize financial liability for the judiciary, the Committee on Security and Facilities, with the encouragement of the Committee on Judicial Resources, recommended that the Judicial Conference endorse the concept of ergonomics in the judicial workplace and authorize the provision of information on ergonomic assessments and the acquisition of ergonomic furniture, as local funding permits, to assist courts when addressing ergonomic issues. The Conference adopted the Committee's recommendation.

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## **BANKRUPTCY JURY BOXES**

The Committee on Security and Facilities recommended to the March 2000 Judicial Conference that the *U. S. Courts Design Guide* be amended to state that an eight-person jury box should be provided "when determined necessary," in order to clarify that jury boxes in bankruptcy courtrooms are not required in every new courthouse. At that session, the Conference voted to recommit the recommendation to the Committee so that it might obtain the views of the Committee on the Administration of the Bankruptcy System, provided that while the matter was under reconsideration, a moratorium would be imposed on the design or construction of jury boxes in new or existing bankruptcy courtrooms (JCUS-MAR 00, p. 28). The Bankruptcy Committee considered the issue and concurred in the view that bankruptcy courtrooms do not normally require a jury box unless there is a demonstrated need. The Judicial Conference approved the Security and Facilities Committee recommendations that the *Design Guide* be amended to clarify that jury boxes in bankruptcy courtrooms are not required in every new courthouse and that the March 2000 moratorium on design and construction of jury boxes in new or existing bankruptcy courtrooms be lifted.

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## **COMMITTEE ACTIVITIES**

The Committee on Security and Facilities reported that, with the strong concurrence of the Judicial Branch Committee, it had rejected an Ernst & Young facilities study recommendation that senior judges have access to a

dedicated courtroom only for the first two years of senior status and share courtrooms thereafter, in favor of the existing Judicial Conference planning assumption that permits a dedicated courtroom for a senior judge for ten years after taking senior status. The Committee endorsed a proposal that requires court security officer (CSO) contractors to designate physicians to conduct physical examinations of CSOs and directed the U.S. Marshals Service to implement CSO medical standards endorsed by the Committee in June 2000.

## **FUNDING**

All of the foregoing recommendations that require the expenditure of funds for implementation were approved by the Judicial Conference subject to the availability of funds and to whatever priorities the Conference might establish for the use of available resources.

Chief Justice of the United States  
Presiding

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