

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

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*SEPTEMBER 24, 2002  
WASHINGTON, D.C.*

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*JUDICIAL CONFERENCE OF THE UNITED STATES  
CHIEF JUSTICE WILLIAM H. REHNQUIST,  
PRESIDING  
LEONIDAS RALPH MECHAM, SECRETARY*

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OF THE UNITED STATES**

**September 24, 2002**

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**REPORT OF THE PROCEEDINGS  
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**September 24, 2002**

The Judicial Conference of the United States convened in Washington, D.C., on September 24, 2002, 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 Michael Boudin  
Chief Judge D. Brock Hornby,  
District of Maine

Second Circuit:

Chief Judge John M. Walker, Jr.  
Chief Judge Frederick J. Scullin, Jr.,  
Northern 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 Martin L. C. Feldman,  
Eastern District of Louisiana

Sixth Circuit:

Chief Judge Boyce F. Martin, Jr.  
Chief Judge Lawrence P. Zatkoff,  
Eastern District of Michigan

Seventh Circuit:

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

Eighth Circuit:

Chief Judge David R. Hansen  
Chief 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 J. L. Edmondson  
Chief Judge Charles R. Butler, Jr.,  
Southern District of Alabama

District of Columbia Circuit:

Chief Judge Douglas H. Ginsburg  
Chief Judge Thomas F. Hogan,  
District of Columbia

Federal Circuit:

Chief Judge Haldane Robert Mayer

Court of International Trade:

Chief Judge Gregory W. Carman

Circuit Judges Edward E. Carnes, Dennis G. Jacobs, Michael J. Melloy, Jane R. Roth, and Anthony J. Scirica, and District Judges Lourdes G. Baird, John G. Heyburn II, David F. Levi, John W. Lungstrum, Edwin L. Nelson, Patti B. Saris, Harvey E. Schlesinger, and Frederick P. Stamp, Jr. attended the Conference session. Betsy Shumaker of the Tenth 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 M. Smith and Russell Wheeler, Director and Deputy Director of the Federal Judicial Center, were in attendance at the session of the Conference, as was Judge Diana Murphy, Chair of the United States Sentencing Commission. Sally Rider, Administrative Assistant to the Chief Justice; Scott Harris, Supreme Court Legal Counsel; and the 2002-2003 Judicial Fellows also observed the Conference session.

Senators Patrick J. Leahy, Orrin G. Hatch, and Jeff Sessions and Representatives F. James Sensenbrenner and Howard Coble 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.

## **REPORTS**

Mr. Mecham reported to the Conference on the judicial business of the courts and on matters relating to the Administrative Office (AO), and Judge Smith spoke to the Conference about Federal Judicial Center programs.

## **EXECUTIVE COMMITTEE**

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### **RESOLUTIONS**

The Judicial Conference approved a recommendation of the Executive Committee to adopt the following resolution in recognition of the substantial contributions made by Judicial Conference committee chairs who will complete their terms of service in 2002:

The Judicial Conference of the United States recognizes with appreciation, respect and admiration the following judicial officers:

**HONORABLE CHARLES H. HADEN II**  
Executive Committee

**HONORABLE ROBIN J. CAUTHRON**  
Committee on Defender Services

**HONORABLE MILTON I. SHADUR**  
Advisory Committee on Rules of Evidence

Appointed as committee chairs by Chief Justice William H. Rehnquist, these outstanding jurists have played a vital role in the administration of the federal court system. These judges served with distinction as leaders of their Judicial Conference committees while, at the same time, continuing to perform their duties as judges in their own courts. They have set a standard of skilled leadership and earned our deep respect and sincere gratitude for their innumerable contributions. We acknowledge with appreciation their commitment and dedicated service to the Judicial Conference and to the entire federal judiciary.

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## MISCELLANEOUS ACTIONS

The Executive Committee—

- On recommendation of the Court Administration and Case Management Committee, agreed to endorse S. 848 (107<sup>th</sup> Congress), the Social Security Number Misuse Prevention Act of 2001, provided certain amendments affecting court records are made to the legislation;
- Approved minor revisions to *The Judicial Conference of the United States and its Committees*, a document outlining Conference and committee practices and procedures;
- Agreed to a request from the Security and Facilities Committee to remove the word “large” from paragraph six of the mail handling policy adopted by the Judicial Conference by mail ballot in July 2002 (*see infra*, “Mail Handling Policy,” pp. 61-63) that referred to funding for design and construction of mail facilities in “large” court-only buildings;
- Approved a request of the Committee on Rules of Practice and Procedure that congressional leaders be advised of an inadvertent omission of one sentence in the “style” revisions to the Federal Rules of Criminal Procedure that had previously been approved by the Conference (JCUS-SEP/OCT 01, p. 70) and the Supreme Court and transmitted to Congress in April 2002, and that Congress be asked to enact legislation to correct the error;
- Approved a recommendation of the Court Administration and Case Management Committee that the Conference (a) seek legislation to designate Plattsburgh, New York, as a place of holding court in the Northern District of New York and St. Clairsville, Ohio, as a place of holding court in the Southern District of Ohio; and (b) support legislation authorizing the Southern District of Iowa to conduct proceedings at the federal courthouse in Rock Island, Illinois, during the renovation of the Southern District of Iowa’s courthouse in Davenport;
- Approved proposed interim financial plans for fiscal year 2003 for the Salaries and Expenses, Defender Services, Fees of Jurors and Commissioners, and Court Security accounts, and authorized the Director of the Administrative Office to make technical and other

adjustments as deemed necessary. The Executive Committee will be consulted as necessary concerning significant changes in the financial plans that might be required once a full-year appropriation is enacted; and

- Approved the concept of an off-site court operations support center; authorized the release to Congress of a report entitled, “Court Operations Support Center and Continuity of Operations Housing Plan,” which addresses the feasibility, requirements, costs, and benefits of establishing an off-site facility; and approved funding for fiscal year 2003 start-up costs for the center.

## **COMMITTEE ON THE ADMINISTRATIVE OFFICE**

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### **COMMITTEE ACTIVITIES**

The Committee on the Administrative Office reported that it reviewed the progress of several major initiatives, including the AO’s efforts to obtain legislative and spending authority for the AO Director to provide benefits for judges and judicial branch employees, the AO’s support of continuity of operations planning in the courts and a study of the need for an off-site support center to ensure continuation of core court support operations in the event of an emergency affecting the Thurgood Marshall Federal Judiciary Building in Washington, D.C., and the judiciary’s management oversight and internal controls initiatives. The Committee considered the results of a review the AO conducted of its communications with the courts and noted several procedural improvements made in response to feedback garnered from advisory groups. The Committee endorsed proposed changes to the Administrative Office’s advisory group structure and reviewed and provided comments on a draft publication for judges regarding travel regulations and procedures that the AO is developing in response to the Committee’s request.

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

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**BANKRUPTCY JUDGESHIPS**

New Judgeships. The Judicial Conference is required by 28 U.S.C. § 152(b)(2) to submit recommendations for new bankruptcy judgeships to Congress, which establishes the number of such judgeships for each judicial district. In March 1991, the Conference adopted a policy that provides for a national survey of judgeship needs every two years and establishes criteria for evaluating requests for additional bankruptcy judgeships (JCUS-MAR 91, 12-13). Based on the 2002 biennial survey of judgeship needs, the Committee on the Administration of the Bankruptcy System recommended that the Judicial Conference transmit to Congress proposed legislation to convert two existing temporary bankruptcy judgeship positions to permanent status, extend for an additional five-year period the temporary bankruptcy judgeships in four districts, create 36 additional bankruptcy judgeships, and convert the bankruptcy judgeship shared by the Middle and Southern Districts of Georgia to a full-time position for the Middle District of Georgia. Congress has not acted on the additional judgeships requested by the Conference since 1992 despite a dramatic rise in bankruptcy filings and judicial workloads. The Conference approved the Committee's recommendations, which are in lieu of previous Conference recommendations.

Continuing Need for Existing Judgeships. In accordance with 28 U.S.C. § 152(b)(3), the Judicial Conference conducts a comprehensive review of all judicial districts every other year to assess the continuing need for all authorized bankruptcy judgeships. By December 31 of each even-numbered year, the Conference reports its recommendations to Congress for the elimination of any authorized bankruptcy judgeship position that can be eliminated when a vacancy exists by reason of resignation, retirement, removal or death. As a result of the 2002 continuing need survey, the Bankruptcy Committee recommended, and the Judicial Conference agreed, that the Conference take the following actions:

- a. Recommend to Congress that no bankruptcy judgeship be statutorily eliminated; and
- b. Advise the Eighth and Ninth Circuit Judicial Councils to consider not filling vacancies in the Districts of South Dakota and Alaska,

respectively, that currently exist or may occur by reason of resignation, retirement, removal, or death, until there is a demonstrated need to do so.

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## **VENUE IN BANKRUPTCY CASES**

In order to eliminate existing uncertainty in the case law and help address concerns about forum shopping in bankruptcy cases and proceedings, the Bankruptcy Committee recommended that the Judicial Conference seek an amendment of the bankruptcy venue statute (28 U.S.C. § 1412) to allow a judge to raise an issue of venue and to transfer a bankruptcy case *sua sponte*. The Conference adopted the Committee's recommendation.

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## **OFFICIAL DUTY STATIONS**

On recommendation of the Bankruptcy Committee, and in accordance with 28 U.S.C. § 152(b)(1), the Judicial Conference approved the request of the Eastern District of New York and the Second Circuit Judicial Council to designate the official duty station for the judge selected to replace Bankruptcy Judge Dorothy Eisenberg in the Eastern District of New York as "Brooklyn or Central Islip," and the request of the District of New Jersey and the Third Circuit Judicial Council to transfer the official duty station of Bankruptcy Judge Morris Stern from Trenton to Newark in the District of New Jersey.

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## **COMMITTEE ACTIVITIES**

The Bankruptcy Committee reported on the steps being taken to finalize a report of its mass tort litigation subcommittee on the treatment of mass future claims in bankruptcy. In addition, the Committee, conscious of the need for fiscal restraint, recommended that funding in fiscal year 2004 for the areas within its program oversight remain at the adjusted current services levels for fiscal year 2003. At the request of the Budget Committee's Economy Subcommittee, the Bankruptcy Committee also discussed the sharing of administrative functions by the courts, information technology investments and staffing, and development of a new case-weighted formula for evaluating additional bankruptcy judgeship requests. The Committee received briefings on a wide range of topics, including inter-court relationships, bankruptcy judge reappointment issues, and workforce diversity.

## COMMITTEE ON THE BUDGET

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### FISCAL YEAR 2004 BUDGET REQUEST

In light of the congressional budget environment, the Budget Committee recommended a fiscal year 2004 budget request lower than the funding levels proposed by the program committees. The Judicial Conference approved the budget request subject to amendments necessary as a result of new legislation, actions of the Judicial Conference, or other reasons the Executive Committee considers necessary and appropriate.<sup>1</sup> The approved budget request includes funding for a panel attorney compensation rate of \$113 per hour for non-capital representations, which was subsequently a subject for discussion at this Conference session in relation to a recommendation by the Defender Services Committee that the rate be increased to \$120 per hour in fiscal year 2004. The Conference declined to adopt the Defender Services Committee's recommendation (*see infra*, "Panel Attorney Compensation," pp. 44-45).

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### OFFICIAL ACCOUNTING SYSTEM FOR THE COURTS

On recommendation of the Budget Committee, the Judicial Conference endorsed the Financial Accounting System for Tomorrow (FAS<sub>4</sub>T) as the official accounting system of the courts necessary to support the decentralization of various budget and financial management authorities. FAS<sub>4</sub>T is a commercial, off-the-shelf financial application that has been tested and certified by the Joint Financial Management Improvement Program, a cooperative effort by the Department of the Treasury, the General Accounting Office, the Office of Management and Budget, and the Office of Personnel Management, to improve financial management practices in the government. The implementation of a single, standard financial system in all courts will better enable the judiciary to meet its stewardship responsibilities in a cost-effective manner.

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<sup>1</sup>Subsequent to the Conference session, by mail ballot concluded on October 9, 2002, the Executive Committee approved technical adjustments to the fiscal year 2004 budget request.

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## **COMMITTEE ACTIVITIES**

The Budget Committee reported that it unanimously agreed to make recommendations to various Judicial Conference committees pertaining to short- and long-term planning and economy issues. The Committee recommended that consideration be given to, among other things, identifying all costs associated with information technology investments; advancing the schedule for reviewing the court support staffing formulae; and sharing of administrative functions such as information technology support, human resources management, financial management, and procurement among court units.

## **COMMITTEE ON CODES OF CONDUCT**

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### **CAPITAL GAINS ROLLOVER LEGISLATION**

The Committee on Codes of Conduct, in consultation with the Committee on the Judicial Branch, recommended that the Judicial Conference seek legislation extending to the judicial branch the capital gains rollover treatment available to the executive branch by virtue of Internal Revenue Code § 1043. That provision allows for the rollover of investments without an immediate recognition of taxable capital gains where the sale was undertaken to comply with conflict-of-interest requirements. Such a provision would provide financial relief to judges willing to divest financial holdings in order to avoid disqualification and resulting disruptions of court dockets. The Conference approved the Committee's recommendation.

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## **COMMITTEE ACTIVITIES**

Since its last report to the Judicial Conference in March 2002, the Committee on Codes of Conduct received 36 new written inquiries and issued 32 written advisory responses. During this period, the average response time for these requests was 16 days. The Chairman received and responded to 27 telephone inquiries. In addition, individual committee members responded to 120 inquiries from colleagues.

## **COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT**

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### **ELECTRONIC PUBLIC ACCESS FEES**

The Committee on Court Administration and Case Management reviewed the way in which courts have implemented the limited exemptions allowed by the Judicial Conference from the collection of electronic public access (EPA) fees. The Committee found a wide variation in the application of these exemptions. Noting that such variation detracted from what the Conference intended to be a national policy, the Committee recommended, and the Conference approved, the following policies with regard to the EPA fee schedule:

- a. The EPA fee schedule and its limited exemptions should be applied in a similar manner in all courts, rather than through individual court practices and policies; and
- b. Review of a court's compliance with the EPA fee schedule and its exemptions should be included in the court financial audit process.

Implementation guidelines will be developed for the Conference's approval.

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### **COMMITTEE ACTIVITIES**

The Committee on Court Administration and Case Management reported that it examined the issue of workforce diversity in court clerks' offices and unanimously agreed that achieving and maintaining workforce diversity be identified as a strategic long-range issue for the federal courts. The Committee also reported that it was briefed on a number of other issues, including the creation of the position of Court of Appeals Emergency Preparedness Officer; an overview of the operation of the Court Personnel System; a review of the principles of the judiciary's decentralized budgeting; a report on videoconferencing in the federal courts; and an update on the Federal Judicial Center's ongoing major initiatives.

## **COMMITTEE ON CRIMINAL LAW**

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### **OFFICER SAFETY PROGRAM**

On recommendation of the Committee on Criminal Law, the Judicial Conference approved a “use of force continuum” to govern self-defense responses by probation and pretrial services officers and authorized the Director of the Administrative Office to develop an officer safety program to include, among other things, implementing policies regarding the use of force, officer safety instructor certification, resource materials, and training. The use of force continuum, which will provide the general structure for the safety program, is a set of defensive options consisting of five progressive levels governing an officer’s response to threatening situations.

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### **COMMITTEE ACTIVITIES**

The Committee on Criminal Law reported that it received information on various court practices regarding the content and format of presentence investigation reports. The Committee also was informed about the practices of the Federal Bureau of Prisons (BOP) with regard to the redisclosure of such reports and agreed to consult with representatives from the AO, the Department of Justice (including BOP), the United States Sentencing Commission, and others to examine concerns raised. The Committee was updated on a strategic assessment of the probation and pretrial services system, including the results of a recently completed survey of chief probation and pretrial services offices. The Committee unanimously agreed to adopt achieving and maintaining workforce diversity as a Committee long-range strategic issue and to recommend that workforce diversity be adopted as a long-range, crosscutting, strategic issue for the judiciary.

## **COMMITTEE ON DEFENDER SERVICES**

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### **PANEL ATTORNEY COMPENSATION**

As noted above, the fiscal year 2004 budget request recommended by the Budget Committee and approved at this session by the Conference included funding for a panel attorney compensation rate of \$113 per hour for non-capital representations (*see supra*, “Fiscal Year 2004 Budget Request,” p. 41), the same rate sought in fiscal years 2002 and 2003. The Committee on Defender

Services recommended that the Conference include funding in the fiscal year 2004 budget request to increase the panel attorney rate to \$120 per hour, which reflects a \$75 per hour base rate of pay plus cumulative annual federal pay Employment Cost Index adjustments authorized by Congress and approved by the Conference but never fully funded. After discussion, the Conference declined to approve the Defender Services Committee's recommendation of \$120 per hour.

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## GRANT AND CONDITIONS AGREEMENT

The Judicial Conference approved a recommendation of the Committee on Defender Services to revise Clause 8 (Audits) of the Grant and Conditions Agreement with Community Defender Organizations (CDOs) to delete language that permits CDOs to contract for local accounting services with the contract auditor selected and paid for by the Administrative Office to perform an annual audit of the grantee's financial activities. This modification is consistent with newly revised auditor independence requirements under the Government Auditing Standards. On recommendation of the Committee, the Conference also amended Clause 8 to add payroll, disbursing, and record-keeping services to the list of services for which CDOs can contract with local accountants. This modification makes explicit that CDOs may use local accountants for such activities, as they have done in the past. The new clause reads as follows (new language in bold italics and deleted language in ~~strikeout~~):

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; ***payroll, disbursing, and record-keeping services;*** 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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## **COMMITTEE ACTIVITIES**

The Committee on Defender Services reported that, under its delegated authority from the Judicial Conference (JCUS-MAR 89, pp. 16-17), it approved fiscal year 2003 budgets for 73 federal defender organizations totaling \$329,227,600. The Committee also reported that, consistent with Judicial Conference policy (JCUS-MAR 95, pp. 18-19), it recommended seeking an immediate amendment to the Criminal Justice Act to raise the case compensation maximums for panel attorney representations, and the Administrative Office transmitted to Congress proposed legislation including such an amendment. The Committee reaffirmed its position that developing and sustaining workforce diversity should be recognized as a long-range planning strategic issue for the Defender Services program. The Committee was briefed on other significant long-range planning initiatives for the Defender Services program, including a joint state/federal defender conference on quality of criminal defense representation.

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

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### **COMMITTEE ACTIVITIES**

The Committee on Federal-State Jurisdiction reported that it has continued to explore alternative approaches to legislation pending before Congress to address class action litigation in the federal and state courts. The Committee declined to endorse a recommendation, forwarded to it by the Committee on Rules of Practice and Procedure for its consideration, relating to the use of minimal diversity in such actions, but recognized the importance of continuing to explore less intrusive and less burdensome means, both statutory and non-statutory, to redress the problems presented by overlapping and competing class actions. In addition, the Committee endorsed five proposals to foster state-federal judicial educational opportunities, including the creation of a website reflecting state-federal judicial education programs. As part of its jurisdictional improvements project, the Committee also continued its review of several proposals to reform the standards for, and process of, removal and remand.

## **COMMITTEE ON FINANCIAL DISCLOSURE**

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### **COMMITTEE ACTIVITIES**

The Committee on Financial Disclosure reported that as of July 1, 2002, it had received 3,578 financial disclosure reports and certifications for the calendar year 2001, including 1,243 reports and certifications from Supreme Court justices, Article III judges, and judicial officers of special courts; 339 from bankruptcy judges; 512 from magistrate judges; and 1,484 from judicial employees. The Committee continued its efforts to ensure that all filers are aware of the obligation to file a report that accurately reflects the information required by the Ethics in Government Act of 1978 (5 U.S.C. §§ 101-111). Members of the Committee participated in a series of orientation seminars run by the Federal Judicial Center for newly appointed district judges and workshops run by the Administrative Office for judges' secretaries and judicial assistants. In addition, the Committee developed a one-hour presentation on the ten most common errors that filers make in completing the financial disclosure report, which was aired on the Federal Judiciary Television Network.

## **COMMITTEE ON INFORMATION TECHNOLOGY**

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### **MODEL USE POLICY**

In September 2001, the Judicial Conference adopted, on an interim basis, a policy establishing a national minimum standard for appropriate use of government office equipment, including information technology. The Conference adopted the policy, based on one developed for use in the executive branch, with the understanding that the Committee on Information Technology would tailor it for the judiciary. Individual courts retained the right to impose or maintain more restrictive policies. The Conference also reaffirmed that individual courts have responsibility to enforce appropriate use policies and directed the Administrative Office, as part of its regular audit process, to examine and comment upon the adequacy of the courts' enforcement methods (JCUS-SEP/OCT 01, pp. 43-44). At this session, on recommendation of the Committee, which proposed modifications to the interim policy to make it specific to the judiciary, the Conference approved on a permanent basis the policy governing personal use of government office equipment, including

information technology. The tailored policy does not vary substantively from the interim policy.

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## **COMMITTEE ACTIVITIES**

The Committee on Information Technology reported that it endorsed the engagement of the National Security Agency to conduct an assessment of the adequacy of security measures for the judiciary's data communications network, determined that no movement should be made to decentralize funding for long-distance telephone services at this time, and received the results of a preliminary analysis on how the courts expend decentralized funds for information technology. The Committee also endorsed resource requirements and priorities for the programs under its jurisdiction and received updates on a number of information technology projects and issues.

## **COMMITTEE ON INTERCIRCUIT ASSIGNMENTS**

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### **COMMITTEE ACTIVITIES**

The Committee on Intercircuit Assignments reported that during the period from January 1, 2002, to June 30, 2002, a total of 108 intercircuit assignments, undertaken by 75 Article III judges, were processed and recommended by the Committee on Intercircuit Assignments and approved by the Chief Justice. In addition, the Committee aided courts requesting assistance by both identifying and obtaining judges willing to take assignments. The Committee also reported on changes to the intercircuit assignment process that would increase efficiency and timely processing of requests.

## **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 throughout the world, highlighting those in the Russian Federation, Rwanda, China, Venezuela, Romania, and Algeria. Judge Michael Mihm of the Central District of Illinois and Judge Lloyd George of the District of Nevada were recognized by the

Council of Judges of the Russian Federation for the assistance they have provided in the ten years since the Council's establishment.

## **COMMITTEE ON THE JUDICIAL BRANCH**

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### **TRAVEL REGULATIONS FOR JUSTICES AND JUDGES**

On recommendation of the Committee on the Judicial Branch, the Judicial Conference approved an amendment to the Travel Regulations for United States Justices and Judges to allow judges to claim reimbursement for personal luggage handling as a miscellaneous transportation expense. Previously, judges could claim reimbursement for tips for transporting personal luggage only where the judge claimed reimbursement for actual expenses of subsistence.

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### **COMMITTEE ACTIVITIES**

The Committee on the Judicial Branch reported that it continues to concentrate much of its attention on the critical question of judicial compensation. The Committee prepared documentation to submit to the Second National Commission on the Public Service (the "Volcker Commission") regarding the judiciary's compensation needs, focusing upon the significant erosion in the purchasing power of judicial salaries, the upward trajectory in the salaries of other legal professionals, and trends in judicial retirements and resignations. The Committee also devoted considerable time and attention to the status of the judiciary's benefits initiative, the Judicial Survivors' Annuities System, and the Federal Employees Health Benefits Program.

## **COMMITTEE ON JUDICIAL RESOURCES**

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### **PRO SE LAW CLERKS**

The Judicial Conference, at its March 2002 session, approved a procedure whereby if a court wants to extend a pro se law clerk position beyond the time that it would be permitted to do so under the staffing formula, the court would turn first to its own decentralized funding and then to its circuit's Temporary Emergency Fund (JCUS-MAR 02, p. 22). However,

because pro se law clerks are funded centrally by the Administrative Office, this policy blurred the distinction – key to budget decentralization – between centrally held and decentralized funds. At this session, the Conference approved the recommendation of the Judicial Resources Committee that the policy be modified so that a court wishing to extend a pro se law clerk position beyond the time that its staffing formula would allow would request funds to do so from its circuit’s Temporary Emergency Fund.

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### **DEATH PENALTY LAW CLERKS**

In March 1999, the Judicial Conference adopted a staffing formula for death penalty law clerks of one law clerk for each 15 capital habeas corpus cases in a district, if requested by the circuit judicial council (JCUS-MAR 99, p. 24). Noting that death penalty law clerks, like pro se law clerks, develop extensive knowledge and experience in their respective subject-matter areas, the Committee recommended that the Judicial Conference approve the use of a stabilizing policy similar to that recently adopted for pro se law clerks (JCUS-MAR 02, p. 22). The Conference agreed and approved a stabilizing policy that provides that the number of allocated death penalty law clerk positions will only be reduced if the number of pending capital habeas corpus cases does not meet the formula standard for two consecutive years.

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### **ALTERNATIVE DISPUTE RESOLUTION**

In March 1998, the Judicial Conference approved a “basic” and a “robust” staffing factor for clerk’s office positions performing duties related to alternative dispute resolution (JCUS-MAR 98, pp. 20-21). The basic staffing factor was intended to apply to most district courts’ alternative dispute resolution (ADR) programs, while the robust factor was intended for a limited number of courts with extensive ADR programs. Citing a significant growth in its ADR program and the strong support it receives from the bench and bar, the Eastern District of Missouri requested application of the robust factor to support its ADR program. On recommendation of the Committee, the Judicial Conference approved the district’s request.

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### **COURT INTERPRETERS**

Based on established criteria, the Committee recommended, and the Conference approved, four additional court interpreter positions for fiscal year

2004: two positions for the Southern District of California, one position for the Northern District of Illinois, and one position for the District of Nevada. These positions will address the steady growth in the number of Spanish/English interpreter events in those districts.

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### **CHIEF DEPUTY CLERK**

Noting the unique responsibility and workload of the clerk's office for the District of the District of Columbia stemming from its location in the nation's capital, the Committee recommended that the Judicial Conference authorize a second JSP-16 Type II chief deputy clerk position for that district, using existing decentralized funding available to the court. The Conference adopted the Committee's recommendation.

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### **DISTRICT COURT EXECUTIVE PILOT PROGRAM**

The district court executive pilot program, authorized by the Judicial Conference in 1981, was designed to provide supervisory administrative assistance to chief district judges in courts with enhanced non-judicial, managerial responsibilities (JCUS-MAR 81, p. 68). Three of the six districts that participated in the pilot program have retained the district court executive position; the other three merged the functions of the position into the clerk's office. The Committee on Judicial Resources consulted with the Court Administration and Case Management Committee, which conducted a review of the pilot program. Based on the latter committee's review, which noted the growth of cross-unit administration and the flexibility of budget decentralization to allow the development of management positions suited to a particular court's needs, the Judicial Resources Committee recommended that the district court executive pilot program be terminated. Also in keeping with the views of the Committee on Court Administration and Case Management, the Judicial Resources Committee recommended continuing existing staffing allocations for the courts that participated in the pilot program (allowing the courts to maintain the positions should they so choose), since the existing positions created under the pilot program continue to provide valuable services to the courts and much of the work for which district court executive positions are responsible has been incorporated into the staffing and funding allocations for all six districts. The Judicial Conference adopted the Judicial Resources Committee's recommendations.

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## RELEASE OF PERSONNEL INFORMATION

On recommendation of the Judicial Resources Committee, the Judicial Conference approved a policy regarding the release by the Administrative Office of personnel information pertaining to judges and judiciary employees. The policy refines the procedures for the release of aggregate personnel data and restricts the type of individual information that is allowed to be released to the public without express written authorization of the judge or employee. The new policy will be set forth in the *Guide to Judiciary Policies and Procedures*, Volume I, Chapter X.

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## BACKGROUND CHECKS/INVESTIGATIONS

The Judicial Conference discussed and adopted a recommendation of the Judicial Resources Committee to expand the use of background investigations and checks in the courts. The new policy creates two categories of positions based on the nature of the work and the position's potential to impact the judiciary adversely. For "sensitive" positions, a Federal Bureau of Investigation (FBI) fingerprint check is required, and a credit check is optional depending on the duties of the position. For "high-sensitive" positions, an Office of Personnel Management (OPM) ten-year single-scope background investigation is required, as well as five-year updates. Five-year updates are also required for all employees in high-sensitive positions who had FBI background investigations prior to this policy being implemented. The policy applies to all new hires of court and federal public defender organization employees, and also applies to current court and federal public defender organization employees who are hired for or promoted into high-sensitive positions.<sup>2</sup> The policy will be published in the *Guide to Judiciary Policies and Procedures*, Volume I, Chapter X.

Also on recommendation of the Committee, the Judicial Conference authorized the Administrative Office to use OPM in lieu of the FBI for conducting pre-employment background investigations of probation and pretrial services officers and officer assistants. OPM background investigations provide

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<sup>2</sup>This policy does not apply to probation and pretrial services officers and officer assistants, bankruptcy administrators, and chapter 13 standing bankruptcy trustees because they are covered by previously approved policies on background investigations (*see* JCUS-SEP 68, pp. 68-69; JCUS-SEP 99, p. 60; JCUS-SEP 87, p. 81; and JCUS-SEP 92, p. 61).

the same level of investigative coverage as FBI investigations at half the cost and can be expedited from 120 days to as little as 35 days for a modest additional fee. Moreover, because OPM already conducts all required reinvestigations of officers and officer assistants, the process for investigations will be streamlined.

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## **TRANSCRIPT RATES**

Noting that transcript and transcript copy fee rates for federal official court reporters have not been increased in more than a decade, the Committee on Judicial Resources recommended, and the Judicial Conference approved, a ten percent increase in such rates to be effective in fiscal year 2003.<sup>3</sup> The increase is subject to the availability of funding in the Defender Services appropriation for any necessary increase in that appropriation to defray the increased rates.

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## **COMMITTEE ACTIVITIES**

The Committee on Judicial Resources reported that in response to a request for input on several long-range planning issues from the Economy Subcommittee of the Committee on the Budget, the Committee encouraged the Administrative Office to conduct a study on ways to structure increasingly complex courts to ensure the highest quality and most professional administrative support without impairing their local authority. The Committee Chair briefed the Committee on his testimony regarding the judiciary benefits program before a House subcommittee, which applauded the judiciary's Flexible Benefit Program and indicated its interest in the judiciary serving as a model for the other branches of the government. The Committee also reported that it supported the identification of workforce diversity as a cross-cutting, long-range planning issue.

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<sup>3</sup>This increase will not apply to rates for original transcripts in six large metropolitan district courts that previously received approval to increase those rates by ten or twenty percent from the Director of the Administrative Office pursuant to his Conference-delegated authority to increase transcript rates when the circumstances justify it (JCUS-MAR 81, pp. 7-8).

## **COMMITTEE ON THE ADMINISTRATION OF THE MAGISTRATE JUDGES SYSTEM**

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### **PARTICIPATION AT CIRCUIT JUDICIAL CONFERENCES**

On recommendation of the Committee on the Administration of the Magistrate Judges System, the Judicial Conference agreed to seek an amendment to 28 U.S.C. § 333 to include magistrate judges among the judicial officers who may by statute be summoned to a circuit judicial conference. Magistrate judges regularly attend circuit judicial conferences in all circuits. They were not included in section 333 upon its original enactment in 1939 because the modern office of magistrate judge did not exist at that time.

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### **CHANGES IN MAGISTRATE JUDGE POSITIONS**

After consideration of the report of the Committee on the Administration of the Magistrate Judges System 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.

#### **FIRST CIRCUIT**

District of Massachusetts

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

#### **SECOND CIRCUIT**

District of Connecticut

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

**THIRD CIRCUIT**

Middle District of Pennsylvania

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

**FIFTH CIRCUIT**

Eastern District of Texas

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

**SEVENTH CIRCUIT**

Eastern District of Wisconsin

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

**EIGHTH CIRCUIT**

District of Minnesota

Increased the salary of the part-time magistrate judge position at Bemidji from Level 8 (\$3,477 per annum) to Level 6 (\$11,592 per annum).

**NINTH CIRCUIT**

Eastern District of California

1. Converted the part-time magistrate judge position at Bakersfield to full-time status;
2. Increased the salary of the part-time magistrate judge position at Redding from Level 4 (\$34,776 per annum) to Level 3 (\$46,368 per annum);
3. Increased the salary of the part-time magistrate judge position at South Lake Tahoe from Level 5 (\$23,184 per annum) to Level 4 (\$34,776 per annum); and

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

District of Nevada

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

**TENTH CIRCUIT**

District of New Mexico

1. Authorized an additional full-time magistrate judge position at Las Cruces;
2. Authorized an additional full-time magistrate judge position at Albuquerque;
3. Increased the salary of the part-time magistrate judge position at Roswell from Level 7 (\$5,795 per annum) to Level 5 (\$23,184 per annum);
4. Discontinued the part-time magistrate judge position at Clovis or Portales, effective April 1, 2003; and
5. Made no other changes in the number, locations, salaries, or arrangements of the magistrate judge positions in the district.

Eastern District of Oklahoma

1. Converted the part-time magistrate judge position at McAlester to full-time status; and
2. Made no change in the location or arrangements of the other magistrate judge positions in the district.

District of Wyoming

Increased the salary of the part-time magistrate judge position at Lander from Level 7 (\$5,795 per annum) to Level 6 (\$11,592 per annum).

## **ELEVENTH CIRCUIT**

### **Middle District of Florida**

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

### **Southern District of Florida**

1. Authorized an additional full-time magistrate judge position at Miami;
2. Authorized an additional full-time magistrate judge position at Fort Lauderdale;
3. Authorized an additional full-time magistrate judge position at West Palm Beach or Miami; and
4. Made no other change in the number, locations, salaries, or arrangements of the magistrate judge positions in the district.

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## **ACCELERATED FUNDING**

On recommendation of the Committee, the Judicial Conference agreed to designate for accelerated funding in fiscal year 2003 the nine new full-time magistrate judge positions approved by the Conference.

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## **COMMITTEE ACTIVITIES**

The Committee on the Administration of the Magistrate Judges System reported that it discussed the issue of workforce diversity in the context of the magistrate judges system and recognized the need for diversity in magistrate judge appointments. The Committee voted unanimously to write to all district court chief judges to emphasize the importance of diversity and to encourage

courts to continue efforts to achieve diversity in all aspects of the magistrate judge selection process. The Committee also discussed the issue of magistrate judge involvement in court governance. The Committee agreed to write to the chief judges of those circuits without a magistrate judge on the circuit council to encourage them to consider including magistrate judges on their respective circuit councils.

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

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### **INFORMATION ON COMPLAINT PROCEDURES**

In recognition of the increasing importance of on-line availability of information for the transaction of legal business, and at the suggestion of two members of Congress, the Committee to Review Circuit Council Conduct and Disability Orders recommended that the Judicial Conference:

- a. Urge every federal court to include a prominent link on its website to its circuit's forms for filing complaints of judicial misconduct or disability and its circuit's rules governing the complaint procedure; and
- b. Encourage chief judges and judicial councils to submit non-routine public orders disposing of complaints of judicial misconduct or disability for publication by on-line and print services.

The Conference adopted the Committee's recommendations.

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### **COMMITTEE ACTIVITIES**

The Committee to Review Circuit Council Conduct and Disability Orders continued to monitor the status of H.R. 3892 (107<sup>th</sup> Congress), legislation to amend (in several minor respects) the Judicial Conduct and Disability Act, 28 U.S.C. § 372(c), that was introduced on March 7, 2002.

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

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### **FEDERAL RULES OF APPELLATE PROCEDURE**

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed technical amendments to Appellate Forms 1 (Notice of Appeal to a Court of Appeals From a Judgment or Order of a District Court), 2 (Notice of Appeal to a Court of Appeals From a Decision of the United States Tax Court), 3 (Petition for Review of Order of an Agency, Board, Commission or Officer), and 5 (Notice of Appeal to a Court of Appeals From a Judgment or Order of a District Court or a Bankruptcy Appellate Panel). The Judicial Conference approved the amendments and authorized their transmittal to the Supreme Court for its consideration with the recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

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### **FEDERAL RULES OF BANKRUPTCY PROCEDURE**

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed amendments to Bankruptcy Rules 1005 (Caption of Petition), 1007 (Lists, Schedules, and Statements; Time Limits), 2002 (Notices to Creditors, Equity Security Holders, United States, and United States Trustee), 2003 (Meeting of Creditors or Equity Security Holders), 2009 (Trustees for Estates When Joint Administration Ordered), 2016 (Compensation for Services Rendered and Reimbursement of Expenses), and new Rule 7007.1 (Corporate Ownership Statement), together with Committee notes explaining their purpose and intent. The Judicial Conference approved the amendments and the new rule and authorized their transmittal to the Supreme Court for its consideration with the recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

The Committee also submitted, and the Conference approved, proposed revisions to Bankruptcy Official Forms 1 (Voluntary Petition), 5 (Involuntary Petition), and 17 (Notice of Appeal Under 28 U.S.C. § 158(a) or (b) From a Judgment, Order, or Decree of a Bankruptcy Judge) relating to multilateral clearing banks and child-support creditors, to take effect on December 1, 2002, and proposed privacy-related revisions to Bankruptcy Official Forms 1 (Voluntary Petition), 3 (Application and Order to Pay Filing Fee in Installments), 5 (Involuntary Petition), 6 (Schedules), 7 (Statement of Financial Affairs), 8 (Individual Debtor's Statement of Intention), 9 (Notice of Commencement of Case Under the Bankruptcy Code, Meeting of Creditors, and

Deadlines), 10 (Proof of Claim), 16A (Caption (Full)), 16C (Caption of Complaint in Adversary Proceeding Filed by a Debtor), 17 (Notice of Appeal Under 28 U.S.C. § 158(a) or (b) From a Judgment, Order, or Decree of a Bankruptcy Judge), and 19 (Certification and Signature of Non-Attorney Bankruptcy Petition Preparer (See 11 U.S.C. § 110)), to take effect on December 1, 2003.

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## **FEDERAL RULES OF CIVIL PROCEDURE**

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed amendments to Civil Rules 23 (Class Actions), 51 (Instructions to Jury: Objection), 53 (Masters), 54 (Judgments; Costs), and 71A (Condemnation of Property), and revisions to Forms 19 (Motion to Dismiss, Presenting Defenses of Failure to State a Claim, of Lack of Service of Process, of Improper Venue, and of Lack of Jurisdiction Under Rule 12(b)), 31 (Judgment on Jury Verdict), and 32 (Judgment on Decision by the Court), together with Committee notes explaining their purpose and intent. The Judicial Conference approved the changes and authorized their transmittal to the Supreme Court for its consideration with the recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law. Included in these proposed amendments is a substantial reworking of Rule 23 class action procedures focusing on four areas of class action litigation: the timing of the certification decision and notice; judicial oversight of settlements (which was discussed at the Conference session); attorney appointment; and attorney compensation.

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## **FEDERAL RULES OF CRIMINAL PROCEDURE**

The Bail Bond Fairness Act of 2001, H.R. 2929, 107<sup>th</sup> Congress, would amend Criminal Rule 46(e) to eliminate the current power of a judge to forfeit a bail bond for failure to satisfy a condition of release, other than “if the defendant fails to appear physically before the court.” Noting that current Rule 46(e) provides judges with the flexibility to impose added safeguards to ensure a defendant’s compliance with conditions of release, *e.g.*, refraining from drug use, and that absent such assurance, judges might decide to retain a defendant in custody, the Committee recommended that the Conference oppose such legislation. The Conference adopted the Committee’s recommendation.

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## **FEDERAL RULES OF EVIDENCE**

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference a proposed amendment to Evidence Rule 608(b) (Specific instances of conduct), together with Committee notes explaining its purpose and intent. The Judicial Conference approved the amendment and authorized its transmittal to the Supreme Court for its consideration with the recommendation that it be adopted by the Court and transmitted to Congress in accordance with the law.

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## **COMMITTEE ACTIVITIES**

The Committee on Rules of Practice and Procedure unanimously endorsed the findings and recommendations of the Advisory Committee on Civil Rules dealing with problems raised by filings of duplicative and overlapping class actions and transmitted them to the Committee on Federal-State Jurisdiction for its consideration. The Committee supports “the concept of minimal diversity for large, multi-state class actions, in which the interests of no state are paramount, with appropriate limitations or threshold requirements so that the federal courts are not unduly burdened and the states’ jurisdiction over in-state class actions is left undisturbed.” The Committee also approved for publication proposed amendments to Rule 9014 of the Federal Rules of Bankruptcy Procedure, Rule 41 of the Federal Rules of Criminal Procedure, Rule 804 of the Federal Rules of Evidence, and a comprehensive revision of the Rules Governing Section 2254 Cases and Section 2255 Proceedings.

## **COMMITTEE ON SECURITY AND FACILITIES**

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### **MAIL HANDLING POLICY**

In response to concerns raised by the recent anthrax contamination of the United States mail system, the Committee on Security and Facilities contracted with an independent consultant to conduct a study of current judiciary mail handling facilities and practices and to recommend procedures and infrastructure guidelines to improve mail handling safety in federal courthouses.

Based on this study, the Committee recommended that the Judicial Conference take the following steps to enhance judiciary mail handling policies and procedures:

- a. Issue guidance to courts on mail handling procedures, and consider establishing a central mail facility in court-only and possibly in multi-tenant buildings for screening, sorting and opening the mail;
- b. Require a court's full concurrence on the adoption and implementation of the study's enhanced mail handling policies and procedures prior to construction of a central mail facility;
- c. Approve funding for design and construction of central mailrooms for the Moakley Courthouse in Boston, the Moynihan U.S. Courthouse in New York City, and the Bryan Courthouse in Alexandria to prepare for the high-threat trials;
- d. Approve updating the *U. S. Courts Design Guide* to incorporate the new standards for mailrooms in new courthouses;
- e. Approve issuing design changes or change orders to the General Services Administration (GSA) on all courthouses in the design and construction phases to provide a central mail facility that meets the current Interagency Security Committee and *U. S. Courts Design Guide* standards and proposed prototype architectural and mechanical standards for bio-chemical safety;
- f. Approve funding design and construction for mail facilities in large<sup>4</sup> court-only buildings and ask the circuit councils to work with GSA to develop costs for specific buildings so that priorities can be set; and
- g. In FY 2003, approve construction of mail facilities for remaining court-only and multi-tenant buildings as funding permits.

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<sup>4</sup>The Security and Facilities Committee subsequently came to believe that the word "large" in this section was too restrictive and would limit the circuit judicial councils in setting local priorities in this area. The Committee sought the removal of the word "large" from this provision of the mail handling policy. The Executive Committee approved the change on behalf of the Judicial Conference (*see supra*, "Miscellaneous Actions," p. 37).

Since the process of designing and constructing new mail facilities is a lengthy one, the Committee requested and the Judicial Conference agreed to an expedited review of these recommendations so that safety measures could be put in place as soon as possible. By mail ballot concluded on July 18, 2002, the Judicial Conference approved the recommendations.

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## **FIVE-YEAR COURTHOUSE PROJECT PLAN**

In March 2002, the Conference approved the Five-Year Courthouse Project Plan for fiscal years 2003-2007 with fiscal year 2003 projects displayed in two columns to distinguish those projects unfunded in fiscal year 2002 and prior years from those scheduled for funding in fiscal year 2003. Funding priority between the two columns was not established (JCUS-MAR 02, p. 31). At this session, on recommendation of the Committee on Security and Facilities, the Conference agreed to take the following actions regarding the Five-Year Courthouse Project Plan:

- a. Endorse placement of projects in the first year of each Five-Year Plan that gives priority in descending order by score: (1) first, to any unfunded projects remaining from earlier years; and then (2) to projects planned for that first year;
- b. Approve the placement of new projects in the Five-Year Plan in score order with other projects in any of the last three years of any Five-Year Plan;
- c. Endorse the early acquisition of sites (including donated sites) for courthouse projects; however, projects with donated sites shall maintain their original placement in score order on the Five-Year Plan; and
- d. Authorize the Administrative Office to work with GSA prior to submission of the President's budget request to OMB in any given fiscal year.

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## **JURY ROOM SIZE**

In September 2000, the Judicial Conference amended the *U. S. Courts Design Guide* to reduce the number of jurors to be accommodated in a standard district courtroom from 18 to 16, unless otherwise required, since courts had

advised that they seldom convened 18 jurors for a trial (JCUS-SEP 00, pp. 66-67). However, courts have noted that on those occasions when they do empanel 16 to 18 jurors, particularly for trials expected to last a week or longer, a 350 square foot jury deliberation room is not large enough for jurors' comfort. In order to accommodate such cases, the Conference adopted the recommendation of the Committee on Security and Facilities to amend the *Design Guide* to—

- a. Permit one in four district court jury deliberation rooms to be 500 square feet;
- b. Permit one jury deliberation room to be 500 square feet in courthouses with fewer than four courtrooms; and
- c. Stipulate that, if a special proceedings courtroom is planned for a new courthouse project, the 500 square foot jury deliberation room should be placed adjacent to it.

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## **SPECIAL PROCEEDINGS COURTROOMS**

On recommendation of the Committee, and after discussion, the Judicial Conference agreed to amend the *Design Guide* to add language that would permit a special proceedings courtroom for new court buildings planned with fewer than four district courtrooms, in states with small, widely dispersed populations, to accommodate multi-defendant trials in those locations. Special proceedings courtrooms in such locations will no longer be considered “special requirements” necessitating approval of circuit judicial councils.

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## **SECURITY IN THE COURTROOM**

To provide a framework for decision-making for the judiciary-funded court security program, the Committee recommended, and the Conference approved, guiding principles for federal judicial security. Those principles state that federal judges, court staffs and visitors to courthouses are targets; that the federal judiciary is responsible for identifying the judiciary's strategic security needs, in conjunction with the United States Marshals Service and others; that protection of the judiciary is the primary U.S. Marshals Service task; that resources provided by the judiciary to the U.S. Marshals Service or to any other executive branch agency are a supplement to, not a substitute for, the resources

otherwise available to those agencies for protecting the federal judiciary; and that a unified program is essential.

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## COMMITTEE ACTIVITIES

The Committee on Security and Facilities reported that it considered ways to enhance the court security program and recommended that the Administrative Office convene a focus group of judges to discuss “what works and what does not work” with regard to court security, and develop an orientation program for chief judges to reinforce the vital role of the court security committee in the overall security program of each judicial district. The Committee also reviewed an evaluation of the first year of implementation of the cyclical maintenance program for court space and concluded that the results, which showed that 80 percent of the funds were expended on court buildings over 20 years old, reinforced the need for the program approved by the Judicial Conference in September 2000 (JCUS-SEP 00, p. 67). The Committee was briefed on the recent, significant agreement between GSA and the judiciary that allows the judiciary to plan for ten years of expansion room in a new courthouse from the date of occupancy, rather than from the date of design, as has been done in the past.

## 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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