

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

March 15, 2016

The Judicial Conference of the United States convened in Washington, D.C., on March 15, 2016, 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 Jeffrey R. Howard
Judge Paul J. Barbadoro,
District of New Hampshire

Second Circuit:

Chief Judge Robert A. Katzmann
Judge William M. Skretny,
Western District of New York

Third Circuit:

Chief Judge Theodore A. McKee
Chief Judge Leonard P. Stark,
District of Delaware

Fourth Circuit:

Chief Judge William B. Traxler, Jr.
Judge Robert J. Conrad, Jr.,
Western District of North Carolina

Fifth Circuit:

Chief Judge Carl E. Stewart
Chief Judge Louis Guirola, Jr.,
Southern District of Mississippi

Sixth Circuit:

Chief Judge Ransey Guy Cole, Jr.
Judge Paul Lewis Maloney,
Western District of Michigan

Seventh Circuit:

Chief Judge Diane P. Wood
Chief Judge Michael J. Reagan,
Southern District of Illinois

Eighth Circuit:

Chief Judge William Jay Riley
Judge Karen E. Schreier,
District of South Dakota

Ninth Circuit:

Chief Judge Sidney R. Thomas
Judge Claudia Wilken,
Northern District of California

Tenth Circuit:

Chief Judge Timothy M. Tymkovich
Judge Martha Vazquez,
District of New Mexico

Eleventh Circuit:

Chief Judge Ed Carnes
Judge Federico A. Moreno,
Southern District of Florida

District of Columbia Circuit:

Chief Judge Merrick B. Garland
Chief Judge Richard W. Roberts,
District of Columbia

Federal Circuit:

Chief Judge Sharon Prost

Court of International Trade:

Chief Judge Timothy C. Stanceu

The following Judicial Conference committee chairs also attended the Conference session: Circuit Judges Richard R. Clifton, Steven M. Colloton, Allyson K. Duncan, Julia Smith Gibbons, Thomas M. Hardiman, Anthony J. Scirica, and D. Brooks Smith; and District Judges John D. Bates, Catherine C. Blake, Gary A. Fenner, David R. Herndon, Wm. Terrell Hodges, Irene M. Keeley, Royce C. Lamberth, Donald W. Molloy, Lawrence L. Piersol, Danny C. Reeves, Richard Seeborg, Rodney W. Sippel, and Lawrence F. Stengel. Attending as the bankruptcy judge and magistrate judge observers, respectively, were Chief Bankruptcy Judge Marcia Phillips Parsons and Magistrate Judge Kevin N. Fox. Clarence Maddox, of the Sixth Circuit, represented the circuit executives.

James C. Duff, Director of the Administrative Office of the United States Courts, attended the session of the Conference, as did Jill C. Sayenga, Deputy Director; Sheryl L. Walter, General Counsel; Katherine H. Simon, Secretariat Officer, and Helen G. Bornstein, Senior Attorney, Judicial Conference Secretariat; Cordia A. Strom, Legislative Affairs Officer; and David A. Sellers, Public Affairs Officer. District Judge Jeremy D. Fogel, Director, and John S. Cooke, Deputy Director, Federal Judicial Center; and Chief District Judge Patti B. Saris, Chair, and Kenneth P. Cohen, Staff Director, United States Sentencing Commission, were in attendance at the session of the Conference, as was Jeffrey P. Minear, Counselor to the Chief Justice, and Ethan V. Torrey, Supreme Court Legal Counsel.

Deputy Attorney General Sally Quillian Yates addressed the Conference on matters of mutual interest to the judiciary and the Department of Justice. Representatives Ander Crenshaw, Bob Goodlatte, and Darrell Issa spoke on matters pending in Congress of interest to the Conference.

REPORTS

Administrative Office Director James C. Duff reported to the Judicial Conference on the judicial business of the courts and on matters relating to the Administrative Office. Judge Jeremy D. Fogel spoke to the Conference about Federal Judicial Center (FJC) programs and Chief Judge Patti B. Saris reported on United States Sentencing Commission activities. Judge Thomas M. Hardiman, Chair of the Committee on Information Technology, presented a special report on information technology security.

EXECUTIVE COMMITTEE

STRATEGIC PLAN PRIORITIES

The *Strategic Plan for the Federal Judiciary*, updated by the Judicial Conference in September 2015, identifies strategies and goals to enable the federal judiciary to continue as a model in providing fair and impartial justice (JCUS-SEP 15, pp. 5-6; JCUS-SEP 10, pp. 5-6). The approach to strategic planning, approved by the Conference when the *Plan* was first adopted, provides for the identification, every two years, of strategies and goals from the *Plan* that should receive priority attention. These priorities are identified by the Executive Committee, with suggestions from Conference committees (JCUS-SEP 10, p. 6).

At its February 2016 meeting, the Executive Committee considered suggestions from the Conference committees regarding which strategies and goals should receive priority attention in the next two years. The Committee noted continuing broad support among the committees for the priorities that had been identified in 2011 and affirmed in 2013, and agreed with a suggestion from two committees that Goal 4.1d relating to security of judiciary records be given priority attention in light of the increasing importance of information technology security. After discussion, the Committee added one new goal (Goal 4.1d) and affirmed the four strategies and one goal previously identified to establish the following as priorities for the next two years:

Strategy 1.1 Pursue improvements in the delivery of justice on a nationwide basis.

- Strategy 1.3** Secure resources that are sufficient to enable the judiciary to accomplish its mission in a manner consistent with judiciary core values.
- Strategy 2.1** Allocate and manage resources more efficiently and effectively.
- Strategy 4.1** Harness the potential of technology to identify and meet the needs of court users for information, service, and access to the courts.
- Goal 4.1d** Refine and update security practices to ensure the confidentiality, integrity, and availability of judiciary-related records and information.
- Goal 7.2b** Communicate and collaborate with organizations outside the judicial branch to improve the public’s understanding of the role and functions of the federal judiciary.

MISCELLANEOUS ACTIONS

The Executive Committee —

- Agreed on behalf of the Judicial Conference, on an expedited basis, to change the effective date from December 1, 2015, to June 1, 2016, of a previously approved increase (from \$25 to \$30) in the fee assessed for processing violation notices through the Central Violations Bureau to provide sufficient time for implementation of the change.
- Approved and transmitted to the Supreme Court on behalf of the Judicial Conference, on an expedited basis, proposed amendments to Rules 7008, 7012, 7016, 9027, and 9033 of the Federal Rules of Bankruptcy Procedure. These amendments had been approved by the Judicial Conference in 2013 and transmitted to the Supreme Court for approval, but were subsequently withdrawn at the request of the Committee on Rules of Practice and Procedure and recommitted to that committee pending disposition of Supreme Court litigation implicating the amendments. Following a decision in *Wellness Int'l Network, Ltd. v. Sharif*, 135 S. Ct. 1932 (2015), the Rules Committee determined that the proposed amendments should move forward as originally drafted.

- Approved on behalf of the Conference, on an expedited basis, holding in abeyance reductions, for fiscal year (FY) 2016, in pro se and death penalty law clerks positions due to reductions in case filings, pending Conference consideration of new staffing formulas for those positions for use in FY 2018. *See also infra*, “Pro Se and Death Penalty Law Clerk Staffing Allocations,” pp. 20-21.
- Approved on behalf of the Conference, on an expedited basis, a minimum staffing level of 3,186 full-time equivalent positions for FY 2016 in implementing staffing formulas for bankruptcy clerks’ offices, pending Conference consideration of new staffing formulas for those offices for use in FY 2018. *See also infra*, “Bankruptcy Clerks’ Offices Staffing Level,” p. 22.
- Approved final financial plans for the Salaries and Expenses, Defender Services, Court Security, and Fees of Jurors and Commissioners accounts for FY 2016 based on appropriations included in the Consolidated Appropriations Act of 2016, Pub. L. No. 114-113, updated requirements, carryforward balances, and estimated fee collections.
- Was advised by the Judicial Branch Committee that an annual inflationary adjustment to the judges’ alternative maximum subsistence allowance was not warranted at this time, but that an inflationary adjustment for reimbursement of the actual cost of meals would be allowed to go into effect (*see Guide to Judiciary Policy*, Vol. 19, Ch. 2, § 250.20.20(b)(1)) and § 250.20.30(b)).
- Was informed by the Director of the AO that with regard to the recently completed national cameras in the courtroom pilot program (*see infra*, “Committee Activities,” p. 12), the Ninth Circuit Judicial Council, in cooperation with the Judicial Conference, authorized the three district courts in the Ninth Circuit that participated in the national pilot (California-Northern, Washington-Western, and Guam) to continue the pilot project under the same terms and conditions as the national pilot, to provide longer term data and information to the Committee on Court Administration and Case Management.
- Approved on behalf of the Conference a resolution recognizing Chief Judge Willaim B. Traxler, Jr., whose term of service as a member of the Judicial Conference and Chair of the Executive Committee will end in July 2016.

COMMITTEE ON AUDITS AND ADMINISTRATIVE OFFICE ACCOUNTABILITY

COMMITTEE ACTIVITIES

The Committee on Audits and Administrative Office Accountability was briefed by an independent audit firm on the draft results of an audit of the judiciary's appropriations for Salaries and Expenses, Defender Services, the Federal Judicial Center, and the Administrative Office, for FY 2013 and FY 2014. Administrative Office staff reported on actions planned and underway to address likely recommendations from the audit, including efforts to improve financial reporting, the recording of obligations, and financial system information technology controls. The audit firm also reported to the Committee on the draft results of a pilot program to test an updated, risk-based approach to cyclical audits of court units and federal public defender organizations, and the Committee discussed lessons learned from that pilot. The Committee also discussed internal control program enhancements, including updates to software applications that assist court units and federal public defender organizations in assessing internal controls.

COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM

TEMPORARY BANKRUPTCY JUDGESHIPS

On recommendation of the Committee on the Administration of the Bankruptcy System, the Conference authorized the Director of the Administrative Office, after consultation with the Bankruptcy Committee, and subject to approval of the Executive Committee, to seek separate legislation to convert to permanent status any or all temporary judgeships that are included in the March 2015 Judicial Conference bankruptcy judgeship recommendation (JCUS-MAR 15, pp. 6-7). Granting this authority will enable the judiciary to take advantage of every legislative opportunity to preserve temporary judgeships while pursuing more comprehensive bankruptcy judgeship legislation.

OFFICIAL DUTY STATION

On recommendation of the Bankruptcy Committee, and in accordance with 28 U.S.C. § 152(b)(1), the Judicial Conference approved a request from the Eastern District of California, with the approval of the Ninth Circuit Judicial Council, to redesignate the official duty station of Chief Bankruptcy Judge Ronald H. Sargis from Modesto to Sacramento in the Eastern District of California.

HORIZONTAL CONSOLIDATION PILOT PROJECT

As part of judiciary’s ongoing initiative to evaluate cost-containment proposals pertaining to the judiciary’s organizational structure, the Bankruptcy Committee proposed a three-year pilot project to evaluate horizontal consolidation of bankruptcy court clerks’ offices (i.e., consolidation of the bankruptcy clerk’s office in one district with that in another district) to determine whether such arrangements could produce savings without a decrease in services. The pilot would also evaluate whether horizontal consolidation could be an efficient and cost-effective alternative to vertical consolidation (i.e., consolidation of the bankruptcy court clerk’s office with the district court clerk’s office in the same district). Under the pilot’s parameters, participation would be voluntary, and participating bankruptcy courts and clerks of court would be guaranteed that upon termination of the pilot (1) funds would be available to repopulate clerk’s office staffs as if the pilot never occurred and (2) the position of “bankruptcy clerk” would not be removed or terminated even if the position is vacant during the pilot. On recommendation of the Committee, the Judicial Conference approved the proposed pilot project and delegated to the Bankruptcy Committee the authority to issue and amend guidelines to assist the pilot participants consistent with the pilot’s parameters.

COMMITTEE ACTIVITIES

The Committee on the Administration of the Bankruptcy System reported that it is continuing to review and provide oversight of bankruptcy judgeship resources. These efforts include updating the continuing need and additional needs judgeship survey processes and addressing issues related to temporary judgeships, multi-district designations, the bankruptcy vacancy

pilot project, and recalled bankruptcy judges. The Committee also informed the Court Administration and Case Management and Judicial Resources Committees that the proposal to consolidate the district and bankruptcy clerks' offices in the District of Vermont demonstrated a projected cost savings and substantially complied with the Judicial Conference guidelines for vertical consolidation (*see* "Consolidation of the District and Bankruptcy Court Clerks' Offices in the District of Vermont," *infra*, p. 10).

COMMITTEE ON THE BUDGET

COMMITTEE ACTIVITIES

The Committee on the Budget reported that although the judiciary has received essentially full funding for three consecutive years, Congress may be challenged to support basic inflationary adjustments and address new priorities in the coming year due to flat non-defense discretionary caps for FY 2017. The Budget Committee believes future budget constraints are likely and cost containment will need to continue to be a top priority of the judiciary. The Committee expressed appreciation for the unprecedented funding (\$948 million) for courthouse construction and noted that it is imperative that the judiciary stay within the overall funding provided by Congress for these projects.

COMMITTEE ON CODES OF CONDUCT

CERTIFICATES OF DIVESTITURE REGULATIONS

On recommendation of the Committee on Codes of Conduct, the Judicial Conference adopted amendments to the Certificates of Divestiture Regulations and Application for Certificate of Divestiture to aid the Committee in readily obtaining the necessary information to respond to a judge's request for a certificate of divestiture. The changes require applicants to state the acquisition date for the property they plan to divest, and state where in the judge's latest financial disclosure report the property they plan to divest is reported, or explain why the property does not appear in that report.

COMMITTEE ACTIVITIES

The Committee on Codes of Conduct reported that since its last report to the Judicial Conference in September 2015, the Committee received 30 new written inquiries and issued 28 written advisory responses. During this period, the average response time for those inquiries was 13 days. In addition, the Committee chair responded to 19 informal inquiries, individual Committee members responded to 159 informal inquiries, and Committee counsel responded to 496 informal inquiries, for a total of 674 informal inquiries.

**COMMITTEE ON COURT ADMINISTRATION
AND CASE MANAGEMENT**

**CONSOLIDATION OF THE DISTRICT AND BANKRUPTCY COURT
CLERKS' OFFICES IN THE DISTRICT OF VERMONT**

The district and bankruptcy courts in the District of Vermont submitted a joint proposal, endorsed by the Second Circuit Judicial Council, to consolidate the clerks' offices for those courts pursuant to 28 U.S.C. § 156(d) and the Judicial Conference's Procedures for Combining Functions of the Clerks' Offices in the District Courts and Bankruptcy Courts (JCUS-MAR 98, pp. 10-11; *Guide to Judiciary Policy*, Vol. 4, Ch. 2). The Committee on Court Administration and Case Management reviewed the proposal and determined, after consulting with the Bankruptcy Committee, that it met the Conference requirements, including that the consolidation is voluntary and is expected to produce cost savings without decreasing the quality of services to judges, the bar, and the public. On recommendation of the Committee, the Judicial Conference approved the proposed consolidation. The proposal will be submitted to Congress as required by 28 U.S.C. § 156(d). *See also* "Committee Activities," *supra*, pp. 8-9 and "Second Type II Chief Deputy Clerk Position for the District of Vermont," *infra*, p. 20.

FEES FOR THE ELECTRONIC RETRIEVAL OF RECORDS

The Judicial Conference establishes miscellaneous fee schedules for the courts of appeals, district courts, the United States Court of Federal Claims, bankruptcy courts, and the Judicial Panel on Multidistrict Litigation, pursuant to 28 U.S.C. §§ 1913, 1914, 1926, 1930, and 1932, respectively. The

Committee recommended that the Judicial Conference amend the item in each of these fee schedules pertaining to fees for retrieval of records from a Federal Records Center, the National Archives, or other storage location removed from the place of business of the court to add a new fee for the electronic retrieval of records. In addition to a paper records retrieval service, the National Archives and Records Administration now offers a “SmartScan” service that provides requesters with same-day electronic delivery. The Conference adopted the Committee’s recommendation, amending Item 7 of the Court of Appeals and District Court Miscellaneous Fee Schedules, Item 12 of the Bankruptcy Court Miscellaneous Fee Schedule, Item 11 of the United States Court of Federal Claims Fee Schedule, and Item 4 of the Judicial Panel on Multidistrict Litigation Fee Schedule as follows (new language in bold):

For retrieval of one box of records from a Federal Records Center, National Archives, or other storage location removed from the place of business of the court, \$64. For retrievals involving multiple boxes, \$39 for each additional box. **For electronic retrievals, \$10 plus any charges assessed by the Federal Records Center, National Archives, or other storage location removed from the place of business of the courts.**

EASTERN DISTRICT OF ARKANSAS DIVISIONAL BOUNDARIES

At the request of the Eastern District of Arkansas, and with the approval of the Eighth Circuit Judicial Council, the Committee recommended that the Judicial Conference seek legislation to amend 28 U.S.C. § 83(a) to consolidate the district’s five divisions, the Eastern Division, the Western Division, the Pine Bluff Division, the Northern Division, and the Jonesboro Division, into three divisions as follows: the Delta Division (comprising the counties of Arkansas, Chicot, Crittenden, Desha, Lee, Monroe, Phillips, and Saint Francis); the Northern Division (comprising the counties of Clay, Craighead, Cross, Fulton, Greene, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Sharp, and Woodruff); and the Central Division (comprising the counties of Cleburne, Cleveland, Conway, Dallas, Drew, Faulkner, Grant, Jefferson, Lincoln, Lonoke, Perry, Pope, Prairie, Pulaski, Saline, Stone, Van Buren, White, and Yell). Court for the Delta Division would be held at Helena, court for the Central Division would be held at Little Rock, and court for the Northern Division would be held at

Jonesboro. The Committee noted that the proposal was designed to accommodate the closure of courthouses in Batesville and Pine Bluff; balance the caseload among the proposed new divisions, including work generated by correctional facilities; address the geography of the district; and enhance community accessibility. The Judicial Conference adopted the Committee's recommendation. *See also supra*, "Miscellaneous Actions," pp. 5-6.

COMMITTEE ACTIVITIES

The Committee on Court Administration and Case Management reported that it continued its efforts to develop and evaluate structural and organizational cost-containment proposals for the judiciary. In addition, after consulting with relevant committees and consideration of a Federal Judicial Center report that identified instances of harm and threats of harm to cooperating defendants, the Committee endorsed a set of guidelines for courts to consider adopting via local rule to prevent court documents from being used to identify government cooperators. The Committee also agreed to ask the Committee on Rules of Practice and Procedure to consider potential rules changes that would limit access to cooperation information in court filings. The Committee reviewed a report from the Federal Judicial Center on the Judicial Conference's cameras in the courtroom pilot project, and agreed that the findings of the report did not justify any change to the Judicial Conference's current broadcasting policy at this time. *See also supra*, "Miscellaneous Actions," pp. 5-6.

COMMITTEE ON CRIMINAL LAW

CYBERCRIME POLICY AND PROCEDURES

Noting the steady increase in the number of defendants and offenders who use technology to facilitate their criminal activities and the limited national guidance for probation and pretrial services officers in handling these complex cases, the Criminal Law Committee recommended, and the Judicial Conference approved, a new policy governing the management of defendants and offenders whose conditions of release or supervision include internet and computer management conditions. The policy presents officers with an array of computer restrictions to facilitate the goals of release or sentencing, including (1) requiring daily logs of computer and internet activities; (2) limiting the defendant or offender to one device capable of accessing the internet; (3) mandating the disclosure of internet service provider information

and passwords for computers, email accounts, and social network accounts; (4) imposing qualified internet bans; (5) using internet filtering software; and (6) conducting internet and computer monitoring and computer searches.

LOCATION MONITORING POLICY AND PROCEDURES

On recommendation of the Committee, the Judicial Conference approved revisions to the Federal Location Monitoring Program, *Guide to Judiciary Policy*, Vol. 8, Pt. F, to update the guidance on the program and to separate the over-arching policies associated with managing the location monitoring program from the administrative and technical procedures related to implementation of those policies. The technical and administrative procedures will be included in a new publication, *The Location Monitoring Procedures Manual*, which will be a separate resource from the *Guide*.

WITNESS SECURITY MANUAL

The Department of Justice operates the federal witness security (WITSEC) program and determines whether to authorize protection for a cooperating witness. When a witness is terminated from the WITSEC program, the Department is no longer obligated to provide protection. However, probation and pretrial services officers who investigate or supervise WITSEC cases are guided by the *Witness Security Manual* approved by the Judicial Conference (JCUS-MAR 95, p. 18), pursuant to which probation and pretrial services officers generally continue to treat former protected witnesses as though they were still active witnesses. The Criminal Law Committee recommended that the Judicial Conference approve revisions to the *Witness Security Manual* to align probation and pretrial services practices with those of the Department of Justice to provide that all former WITSEC participants are subject to standard procedures. Districts retain discretion to provide additional protection where specific security concerns are cited. The Conference approved the Committee's recommendation.

SENTENCING REFORM LEGISLATION

The Senate and House of Representatives introduced major sentencing reform legislation in the 114th Congress, S. 2123 (Sentencing Reform and Corrections Act of 2015) and H.R. 3713 (Sentencing Reform Act of 2015).

These bills would, among other things, retroactively reduce several mandatory minimum penalties and otherwise moderate their effects. Based on the Conference's longstanding views opposing mandatory minimums and supporting efforts to ameliorate their effects, the Criminal Law Committee recommended that the Conference support the retroactivity provisions in S. 2123 and H.R. 3713, or any similar legislation, designed to ameliorate the effects of mandatory minimum sentences, and encourage Congress to provide the resources needed to implement the provisions efficiently and effectively. The Conference adopted the Committee's recommendation.

COMMITTEE ACTIVITIES

The Committee on Criminal Law reported that it was briefed on trends in federal pretrial release and detention rates and discussed strategies designed to reduce unnecessary pretrial detention and reasonably ensure that released defendants will appear in court as required and not pose a danger to the safety of the community pending their appearance. The Committee also continued its review of the standard and special conditions of probation and supervised release, and worked closely with the United States Sentencing Commission (USSC) as it considered amending the list of standard conditions in the USSC *Guidelines Manual*. Finally, the Committee was briefed on the revisions to the probation and pretrial services office review protocols, which were made in response to the Committee's request to promote the independent nature of the reviews and ensure that chief judges are informed of the progress made by their offices in addressing findings related to community safety.

COMMITTEE ON DEFENDER SERVICES

COMMITTEE ACTIVITIES

The Committee on Defender Services reported that it received an update on the comprehensive, impartial review of the Criminal Justice Act (CJA) program currently underway. The chair of the Defender Services Committee and the chair of the Committee's Budget Subcommittee will testify in April 2016 at a public hearing of the ad hoc committee established by the Chief Justice to conduct the review. The Defender Services Committee also received an update on the final results of national surveys of judges, CJA panel attorneys, and federal defenders, that are used to assess the quality and effectiveness of the Defender Services program.

COMMITTEE ON FEDERAL-STATE JURISDICTION

COMMITTEE ACTIVITIES

The Committee on Federal-State Jurisdiction reported that it continued its discussion of issues raised by a resolution adopted by the American Bar Association urging Congress to amend the diversity jurisdiction statute, 28 U.S.C. § 1332, to redefine the citizenship of unincorporated associations. Under the proposal, unincorporated associations would be treated like corporations for purposes of determining diversity. The Committee also reviewed several legislative proposals of interest to the federal judiciary, including legislation related to fraudulent joinder, jurisdictional provisions in patent reform legislation, immigration reform legislation, and legislation that would amend section 1500 of title 28 concerning the jurisdiction of the United States Court of Federal Claims and the district courts when cases are filed in both forums.

COMMITTEE ON FINANCIAL DISCLOSURE

COMMITTEE ACTIVITIES

The Committee on Financial Disclosure reported that filers will no longer be permitted to report assets as aggregate ownership arrangements, which allowed the income and value of the underlying assets in certain individual retirement accounts, trusts, investment clubs, and similar arrangements to be combined into a total value and a total income. Instead, each reportable asset must include its value and income. In addition, for the convenience of the filers and staff, the Committee determined that grants of redaction will expire uniformly on December 31 of the year granted, as opposed to one year from the date of the grant.

As of January 4, 2016, the Committee had received 4,301 financial disclosure reports and certifications for calendar year 2014 (out of a total of 4,424 required to file), including 1,325 annual reports from Supreme Court justices and Article III judges; 343 annual reports from bankruptcy judges; 563 annual reports from magistrate judges; 1,714 annual reports from judicial employees; and 356 reports from nominees and initial and final filers.

COMMITTEE ON INFORMATION TECHNOLOGY

COMMITTEE ACTIVITIES

The Committee on Information Technology reported that it received a preliminary report of an independent security review and testing of the judiciary's information technology systems. It approved three new security policies: (1) requiring automated tools to prevent malicious software from entering the local area network through internet connections; (2) restricting assignment of administrative accounts; and (3) clarifying the Administrative Office's network security management responsibilities to include penetration testing, comprehensive security assessment, emergency measures, blocking malicious activity (including connectivity to known hostile sites and prohibited technologies such as peer-to-peer with external parties), and the use of technologies to detect vulnerabilities and block malicious activity within encrypted connections.

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

GUIDELINES FOR THE INTERCIRCUIT ASSIGNMENT OF ARTICLE III, BANKRUPTCY, AND MAGISTRATE JUDGES

In February 2013, the Executive Committee amended the jurisdiction of the Committee on Intercircuit Assignments to give that committee primary responsibility for recommending guidelines to the Judicial Conference governing the intercourt assignment of bankruptcy and magistrate judges. The Committee already had jurisdiction over the intercourt assignment of Article III judges. The intent was to foster the coordinated, consistent, and cost-conscious utilization of visiting judges by having a single lead committee provide oversight and policy advice regarding all visiting judge assignments. In furtherance of this goal, the Committee on Intercircuit Assignments reviewed the guidelines for the three judge types and, after consulting with the Committees on the Administration of the Bankruptcy System and the Magistrate Judges System, recommended changes to the guidelines to make them consistent in style and content, where appropriate. Revisions included limiting long-term intercourt assignments to six-month intervals for all judge types, requiring the consent of the visiting judge for all judge types, and adding provisions on cost effectiveness. The Judicial Conference approved the amendments to the guidelines for the intercourt

assignment of bankruptcy judges and magistrate judges. The guidelines for the intercircuit assignment of Article III judges are approved by the Chief Justice.

COMMITTEE ACTIVITIES

The Committee on Intercircuit Assignments reported that 74 intercircuit assignments were undertaken by 55 Article III judges from July 1, 2015, to December 31, 2015. During this time, the Committee continued to disseminate information about intercircuit assignments and aided courts requesting assistance by identifying and obtaining judges willing to take assignments. The Committee also reviewed and concurred with two proposed intercircuit assignments of bankruptcy judges.

COMMITTEE ON INTERNATIONAL JUDICIAL RELATIONS

COMMITTEE ACTIVITIES

The Committee on International Judicial Relations reported about its involvement in rule of law and judicial reform activities throughout the world, highlighting activities in Africa, Europe and Eurasia, Latin America, the Middle East, and East and South Asia. Briefing reports were provided by the United States Department of State, Department of Justice, Agency for International Development, and Patent and Trademark Office, as well as the Open World Leadership Center at the Library of Congress, the Federal Judicial Center, the Administrative Office, and U.S. court administrators. The Committee also reported on hosting foreign delegations of jurists and judicial personnel for briefings at the Administrative Office.

COMMITTEE ON THE JUDICIAL BRANCH

REPORTING OF NON-CASE RELATED TRAVEL

On recommendation of the Committee on the Judicial Branch, the Judicial Conference approved non-substantive amendments to its policy on reporting of non-case related travel (Travel Regulations for Justices and Judges, *Guide to Judiciary Policy*, Vol. 19, Ch. 2, § 270) to clarify ambiguous

language, remove redundant phrases, organize the categories of reportable travel, and enhance the examples of what is not considered reportable.

DUTY STATION DEFINITION FOR SENIOR AND RECALLED JUDGES

On recommendation of the Committee, the Judicial Conference amended the definition of official duty station set forth in the Travel Regulations for Justices and Judges, *Guide to Judiciary Policy*, Vol. 19, Ch. 2, § 210.30.50(f), pertaining to Article III judges in senior status, and § 210.30.50(g), pertaining to recalled bankruptcy and magistrate judges, to conform to the definition of official duty station set forth in 28 U.S.C. § 374. The Conference also amended section (g) to make it applicable to recalled Court of Federal Claims judges, as they are governed by the same statute (28 U.S.C. § 374) as recalled bankruptcy and magistrate judges. The travel regulations now provide that the official duty station for a senior judge or a recalled bankruptcy, magistrate, or Court of Federal Claims judge is the actual abode in which he or she customarily lives (i.e., the judge's primary residence), in conformance with the statute.

COMMITTEE ACTIVITIES

The Committee on the Judicial Branch reported that it participated in the third Judicial-Congressional Dialogue, an initiative that began in 2014 with the goal of increasing understanding between the legislative and judicial branches. Associate Justice Stephen Breyer joined 20 judges and several members of the Senate and House Judiciary Committees, including committee leadership, for the event. The Committee also met with Mr. Howard Berman, a former U.S. Representative and senior member of the House Judiciary Committee, and Mr. Richard Hertling, former chief counsel of the House Judiciary Committee. Both Mr. Berman and Mr. Hertling emphasized the importance of informal, non-agenda interaction with Congress and open lines of communication with the legislative branch.

COMMITTEE ON JUDICIAL CONDUCT AND DISABILITY

COMMITTEE ACTIVITIES

The Committee on Judicial Conduct and Disability reported that it discussed and considered complaint-related matters under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, as well as reviewed complaint-related orders issued in 2014-2015 by chief judges and circuit judicial councils. In addition, the Committee hosted a presentation by Dr. Michael Gendel on challenges facing the federal judiciary from a medical perspective. The Committee and its staff have continued to address inquiries regarding the Act and the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and to give other assistance, as needed, to chief judges and circuit judicial councils.

COMMITTEE ON JUDICIAL RESOURCES

DISTRICT COURT CASE WEIGHTS

Weighted caseload per judgeship is one of the factors considered in determining the need for additional district judgeships. Noting that district court case weights had not been updated since 2004, the Committee on Judicial Resources asked the Federal Judicial Center to conduct an event-based study of time spent by judges on criminal and civil cases in district court. The study combined both objective and subjective measures of judicial time expended on each case type. Based on this study, the Committee recommended, and the Judicial Conference approved, new district court case weights for each civil and criminal case type.

COURT LAW CLERKS

The Judicial Conference has approved three phases of a test program to evaluate whether providing additional law clerks in courts with extremely heavy caseloads could expedite case resolution (JCUS-MAR 11, p. 23; JCUS-MAR 14, p. 21; JCUS-SEP 15, p. 21). The first phase has ended and the second and third phases will end on September 30, 2017 and September 30, 2018, respectively. The Committee recommended that the expiration date for the second phase be extended to September 30, 2018, so that the second and

third phases end together. The Conference approved the Committee's recommendation.

SECOND TYPE II CHIEF DEPUTY CLERK POSITION FOR THE DISTRICT OF VERMONT

At this session, the Judicial Conference approved a proposal to consolidate the district and bankruptcy court clerks' offices in the District of Vermont, which will be submitted to Congress as required by 28 U.S.C § 156(d) (*see* "Consolidation of the District and Bankruptcy Court Clerks' Offices in the District of Vermont," *supra*, p. 10). As part of that proposal, the Second Circuit Judicial Council and the District of Vermont requested a second Judiciary Salary Plan (JSP)-16 Type II chief deputy clerk position to address the new demands of a consolidated environment. Because the District of Vermont has fewer than ten authorized judgeships, even as a consolidated court, Judicial Conference approval is required (*see* JCUS-SEP 04, p. 23). Concluding that a second JSP-16 Type II chief deputy clerk position was necessary to the successful consolidation of the district and bankruptcy clerks' offices under the proposal, and noting that the Committee on Court Administration and Case Management, in consultation with the Bankruptcy Committee, recommended approval of the consolidation, the Judicial Resources Committee recommended approval of a second JSP-16 Type II chief deputy clerk position for the District of Vermont, to be funded with the court's decentralized funds, assuming consolidation of the district and bankruptcy court clerks' offices in this district. The Conference approved the Committee's recommendation.

PRO SE AND DEATH PENALTY LAW CLERK STAFFING ALLOCATIONS

In response to a request from a chief district judge, joined by 78 chief district judges, the Committee on Judicial Resources recommended that the Judicial Conference hold in abeyance for FY 2016 and FY 2017 any reductions in pro se law clerk allocations due to reductions in case filings, pending consideration of a new pro se law clerk staffing formula for implementation in FY 2018. The Committee also recommended that death penalty law clerks be treated similarly, as pro se and death penalty law clerks have integrated their workload in many districts, and a new death penalty law clerk staffing formula will also be considered for implementation in FY 2018. The Committee noted that several factors weighed in favor of the request, including that the data on

which the staffing formulas are based are becoming outdated and a more comprehensive data collection method is now used to develop staffing formulas. Because FY 2016 terminations were scheduled to occur on December 31, 2015, prior to the March 2016 Conference session, the Executive Committee acted on behalf of the Judicial Conference on the portion of the recommendation pertaining to FY 2016 terminations (*see* “Miscellaneous Actions,” *supra*, pp. 5-6). At this session, the Judicial Conference agreed to continue to suspend such terminations through FY 2017, pending consideration of new staffing formulas for FY 2018.

VERA AND VSIP PROGRAMS

The Voluntary Early Retirement Authority (VERA) (“early retirement”) and Voluntary Separation Incentive Payment (VSIP) (“buyout”) programs are workforce planning tools that courts and federal public defender organizations can employ to restructure or downsize their organizations. Noting that court unit executives have successfully utilized these programs to better position their workforces to have the skills needed in the future, as well as to deal with significant budget constraints, the Committee recommended that the Conference amend the programs to apply to the following Judiciary Salary Plan (JSP) positions, so that all potentially eligible JSP positions are covered:

- (1) Court interpreter (already covered under VERA);
- (2) Court staff law clerk (bankruptcy appellate panel, death penalty, and pro se law clerk) (already covered under VERA);
- (3) Chambers judicial assistant/secretary and paralegal; and
- (4) Career chambers law clerk;

Subject to the provision that any such positions will be:

- (1) Eliminated;
- (2) Replaced with a substantially different position or skillset; or
- (3) Replaced at a lower grade

To ensure that the programs continue to serve their intended purposes, including furthering the judiciary’s cost-containment efforts, the Committee recommended that the Conference ask the Administrative Office to provide a utilization report to the Judicial Resources Committee in June 2018. The Conference approved the Committee’s recommendations.

BANKRUPTCY CLERKS' OFFICES STAFFING LEVEL

Staffing in bankruptcy clerks' offices has decreased significantly over the last several years in part due to the significant decline in bankruptcy filings. Additional positions were scheduled to be eliminated in FY 2016 as a result of implementation of the staffing formula module for presumed sharing of administrative services. At the request of the Budget Committee, the Judicial Resources Committee considered options for ensuring that, in light of these staffing reductions, the bankruptcy clerks' offices would nonetheless have sufficient staff to perform their core functions and to rapidly reconstitute a trained workforce in the event of a sudden increase in bankruptcy filings. The Committee determined that the best option was to recommend that the Judicial Conference establish an interim minimum staffing level of 3,186 full-time equivalent positions for the bankruptcy clerks' offices in implementing the staffing formulas for FY 2016 and FY 2017, pending consideration of new formulas for use in FY 2018. In order for the necessary funding to be included in the judiciary's final fiscal year 2016 Salaries and Expenses financial plan, the Executive Committee acted on behalf of the Judicial Conference on an expedited basis to adopt the minimum staffing level for FY 2016 (*see* "Miscellaneous Actions," *supra*, pp. 5-6). At this session, on recommendation of the Committee, the Conference agreed to continue the minimum staffing level of 3,186 full-time equivalent positions for FY 2017.

COMMITTEE ACTIVITIES

The Committee on Judicial Resources reported that in response to a request from the Executive Committee, it examined the standards for recommending additional Article III judgeships in the courts of appeals and district courts, as well as the standards for recommending leaving vacancies in such judgeships unfilled, and determined that the standards did not need to be revised. The Committee declined a request to authorize a permanent supervisory pro se law clerk position at the Judiciary Salary Plan grade 15 level, but approved including an analysis of supervisory pro se law clerk and death penalty law clerk positions, as well as salary grades, in the work measurement studies for updated staffing formulas for pro se and death penalty law clerks.

COMMITTEE ON JUDICIAL SECURITY

COMMITTEE ACTIVITIES

The Committee on Judicial Security reported that it received a final report from an independent consultant that was tasked to perform an assessment of the judiciary’s Physical Access Control Systems (PACS) and develop a strategy for modernizing system that included lifecycle cost estimates. In response to the report, the Committee agreed to form an ad hoc subcommittee to focus on the PACS issue in greater detail, examine the recommendations presented by the consultant, and strategize next steps. The Committee was also updated on the status of the Administrative Office’s efforts to work with the General Services Administration (GSA) to conduct enhanced background checks for GSA’s custodial and service contractors. In addition, the Committee toured the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. FLETC is an interagency law enforcement training facility serving federal, state and international agencies including the U.S. Marshals Service and the Federal Protective Service.

COMMITTEE ON THE ADMINISTRATION OF THE MAGISTRATE JUDGES SYSTEM

COMMITTEE ACTIVITIES

The Committee on the Administration of the Magistrate Judges System reported that after consideration of eight cyclical district-wide magistrate judge survey reports prepared by the Administrative Office, the Committee determined not to recommend any changes in the number, locations, salaries, or arrangements of the magistrate judge positions in those district courts. Pursuant to Judicial Conference policy regarding the review of magistrate judge position vacancies (JCUS-SEP 04, p. 26), for the period between its June 2015 and December 2015 meetings, the Committee, through its chair, approved filling 16 full-time magistrate judge position vacancies in 15 courts. At its December 2015 meeting, the full Committee considered and approved requests to fill two magistrate judge position vacancies. The Committee also considered requests from ten courts for the recall or extension of recall of 12 retired magistrate judges.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Noting the forms-driven nature of bankruptcy practice and the need to ensure that forms are accurate and up-to-date, the Committee on Rules of Practice and Procedure recommended that the Judicial Conference delegate authority to the Advisory Committee on Bankruptcy Rules to implement non-substantive, technical, or conforming amendments to the Bankruptcy Official Forms, subject to later approval by the Rules Committee and notice to the Judicial Conference. The Conference approved the Committee's recommendation.

COMMITTEE ACTIVITIES

The Committee on Rules of Practice and Procedure reported that it approved for publication proposed amendments to Appellate Rules 28.1, 31, and 41, and Bankruptcy Rule 3002.1. Proposed amendments to Appellate Rules 28.1 (Cross-Appeals) and 31 (Serving and Filing Briefs) extend the time period for filing a reply brief to 21 days. The proposed amendments are in response to the pending elimination of the "three-day rule" from the federal rules, which would reduce the effective time period for filing a reply brief from 17 days to 14 days. Proposed amendments to Appellate Rule 41 (Mandate: Contents; Issuance and Effective Date; Stay) are intended to (1) clarify that a court must enter an order if it wishes to stay the issuance of the court's mandate; (2) address the standard for stays of the mandate; and (3) restructure the Rule to eliminate redundancy. Bankruptcy Rule 3002.1 (Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence) prescribes several noticing requirements for home mortgage creditors in chapter 13 cases. The proposed amendments are expected to be published for public comment in August 2016.

COMMITTEE ON SPACE AND FACILITIES

SPACE REDUCTION

In response to reduced congressional appropriations, the Judicial Conference adopted several space reduction policies, including a policy that the judiciary reduce its space footprint by 3 percent by the end of fiscal year 2018

(subject to certain conditions and exclusions) and a policy that any increase in square footage within a circuit needs to be offset by an equivalent reduction in square footage identified within the same fiscal year (the latter policy referred to as the “No Net New” policy) (JCUS-SEP 13, p. 32; JCUS-SEP 14, p. 29). As an incentive to circuits to reduce space to the greatest extent possible, at this session, the Committee recommended that the Judicial Conference adopt a policy allowing a circuit to “bank” space released in excess of its pro rated space reduction target for use in fiscal years beyond 2018 to offset acquisition of new space in compliance with the No Net New policy. The Conference adopted the Committee’s recommendation.

U.S. COURTS DESIGN GUIDE

At the request of the General Services Administration (GSA) and on recommendation of the Committee, the Judicial Conference agreed to include in the *U. S. Courts Design Guide* the judiciary’s parking policy, which was adopted by the Conference in March 1999 (JCUS-MAR 99, p. 36) and is currently in the *Guide to Judiciary Policy*, Vol. 16, Ch. 6, § 630, and its policy on co-tenancy of federal judiciary agencies with other federal agencies, which had previously been in the *Design Guide*, but was omitted in 2007. Inclusion of these policies will clarify these standards for GSA in its role as the judiciary’s landlord. In addition, to streamline the process for keeping the *Design Guide* current, the Conference agreed to adopt a recommendation of the Committee to delegate to the Director of the Administrative Office authority to make non-substantive, technical, and conforming revisions to the *Design Guide*.

SECURITY PAVILION

At its March 2013 session, the Judicial Conference approved treating requests for security pavilions as Component B projects under the Circuit Rent Budget program and required that they be reviewed by the Committee on Judicial Security and then approved by the Committee on Space and Facilities and the Judicial Conference (JCUS-MAR 13, pp. 23-24). The First Circuit Judicial Council, on behalf of the District of Puerto Rico, requested approval for a security screening pavilion at the entrance to the federal campus in Hato Rey, which contains a courthouse and a federal building. On recommendation of the Committee, the Judicial Conference approved the construction of an exterior security pavilion for the federal campus in Hato Rey, Puerto Rico.

EXCEPTION TO THE *U.S. COURTS DESIGN GUIDE*

San Antonio, Texas. The Western District of Texas requested two exceptions to the *U.S. Courts Design Guide* for the proposed new San Antonio, Texas courthouse project. The first was to increase the allotted usable square footage for the jury assembly suite by 1,150 usable square feet (USF) to provide capacity for 200 instead of 140 potential jurors. The court reported that it has required jury selection pools for certain trials, as well as for multiple cases occurring on the same date, that exceed 140 people. The second is for construction of a regional urinalysis lab in the new courthouse that would exceed by 838 USF the square footage provided for in the *Design Guide*. The proposed lab would replace the regional urinalysis lab currently operated by the pretrial services office in the district, which provides services to six districts (Texas Western, Texas Southern, Iowa Northern, Alabama Northern, Nebraska, and Maine) and occupies a space roughly equivalent in size to that being requested. Noting that both exceptions would yield multiple operational benefits for the court, as well as increase the space-efficiency of the project, the Committee recommended that the Conference approve both requests, and the Conference agreed.

Greenville, South Carolina. The District of South Carolina requested an exception to the *Design Guide* for an expanded jury assembly suite in the proposed new Greenville, South Carolina courthouse project, to provide capacity to hold 146 potential jurors instead of 100. This would increase the jury assembly suite from 2,751 USF to 3,526 USF. The court projected that it would need to regularly accommodate 146 potential jurors by 2026. On recommendation of the Committee, the Conference approved the District of South Carolina's request.

COMMITTEE ACTIVITIES

The Committee on Space and Facilities reported that while over half of the judiciary's goal of reducing its space footprint by 3 percent has been achieved, the Committee will continue to monitor the program to ensure success. The Committee received the final report from Group V of the joint judiciary and GSA Service Validation Initiative. The Committee was also updated on the development of the National Joint Training program that will be used to educate court unit executives and GSA regional executives about the important and substantive changes to policies and procedures made as a result of the Initiative. The Committee approved the Federal Building and U.S.

Courthouse in Paducah, Kentucky for participation in the Capital Security Program. A request from the Eastern District of Washington for the construction of a district judge courtroom in the Richland, Washington courthouse was also approved.

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