

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

**September 20, 2022**

The Judicial Conference of the United States convened on September 20, 2022, 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 Leo Sorokin,<sup>1</sup>  
District of Massachusetts

Second Circuit:

Chief Judge Debra Ann Livingston  
Chief Judge Stefan R. Underhill,  
District of Connecticut

Third Circuit:

Chief Judge Michael A. Chagares  
Chief Judge Freda L. Wolfson,  
District of New Jersey

Fourth Circuit:

Chief Judge Roger L. Gregory  
Judge John Bailey,  
Northern District of West Virginia

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<sup>1</sup> Designated by the Chief Justice as a substitute for Judge Aida M. Delgado-Colón of the District of Puerto Rico, who was unable to attend.

Fifth Circuit:

Chief Judge Priscilla Richman  
Chief Judge S. Maurice Hicks, Jr.,  
Western District of Louisiana

Sixth Circuit:

Chief Judge Jeffrey S. Sutton  
Judge Sara Lioi,  
Northern District of Ohio

Seventh Circuit:

Chief Judge Diane S. Sykes  
Chief Judge Jon DeGuilio,  
Northern District of Indiana

Eighth Circuit:

Chief Judge Lavenski R. Smith  
Judge John R. Tunheim,  
District of Minnesota

Ninth Circuit:

Chief Judge Mary H. Murguia  
Judge Leslie E. Kobayashi,  
District of Hawaii

Tenth Circuit:

Chief Judge Timothy M. Tymkovich  
Judge Claire V. Eagan,  
Northern District of Oklahoma

Eleventh Circuit:

Chief Judge William H. Pryor, Jr.  
Chief Judge Scott Coogler,  
Northern District of Alabama

District of Columbia Circuit:

Chief Judge Srikanth Srinivasan<sup>2</sup>  
Chief Judge Beryl A. Howell,  
District of Columbia

Federal Circuit:

Chief Judge Kimberly A. Moore

Court of International Trade:

Chief Judge Mark Barnett

Also participating in this session of the Conference were the following Judicial Conference committee chairs: Circuit Judges Jay S. Bybee, Jennifer Walker Elrod, Raymond M. Kethledge, Amy J. St. Eve, Michael Y. Scudder, Richard J. Sullivan, and William B. Traxler, Jr.; District Judges John D. Bates, Sara Darrow, Robert M. Dow, Jr., Audrey G. Fleissig, Jeffrey J. Helmick, Marcia Howard, Brian Stacy Miller, Kevin Michael Moore, Randolph D. Moss, Patrick J. Schiltz, Rodney W. Sippel, Sidney H. Stein; and Bankruptcy Judge Dennis Dow. Attending as the bankruptcy judge and magistrate judge observers, respectively, were Bankruptcy Judge Margaret M. Mann and Magistrate Judge Patricia D. Barksdale. Lorie Robinson of the Fifth Circuit represented the circuit executives.

Participating from the Administrative Office of the United States Courts were Judge Roslynn R. Mauskopf, Director; Lee Ann Bennett, Deputy Director; William S. Meyers, General Counsel; Katherine H. Simon, Secretariat Officer, and WonKee Moon, Supervisory Attorney Advisor, Judicial Conference Secretariat; David T. Best, Legislative Affairs Officer; and David A. Sellers, Public Affairs Officer. John S. Cooke, Director, Federal Judicial Center, as well as Judge Carlton W. Reeves, Chair, and Kenneth P. Cohen, Staff Director, United States Sentencing Commission, also participated, as did Jeffrey P. Minear, Counselor to the Chief Justice.

Attorney General Merrick B. Garland addressed the Conference on matters of mutual interest to the judiciary and the Department of Justice. Senator Sheldon Whitehouse and Representatives Darrell Issa and Hank Johnson spoke on matters pending in Congress of interest to the Conference.

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<sup>2</sup> Participated by telephone.

## REPORTS

Judge Mauskopf reported to the Judicial Conference on the judicial business of the courts and on matters relating to the Administrative Office. Mr. Cooke spoke to the Conference about Federal Judicial Center programs, and Judge Reeves reported on United States Sentencing Commission activities. Judge Sullivan presented a special report on judicial security.

## EXECUTIVE COMMITTEE

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### RESOLUTION

The Judicial Conference approved a recommendation of the Executive Committee to adopt the following resolution recognizing the substantial contributions made by Judicial Conference committee chairs whose terms of service end in 2022:

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

**HONORABLE AUDREY G. FLEISSIG**

Committee on Court Administration and Case Management

**HONORABLE SIDNEY H. STEIN**

Committee on International Judicial Relations

**HONORABLE DENNIS DOW**

Advisory Committee on Bankruptcy Rules

**HONORABLE RAYMOND M. KETHLEDGE**

Advisory Committee on Criminal Rules

Appointed as committee chairs by the Chief Justice of the United States, 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—

- Approved final fiscal year 2022 financial plans for the Salaries and Expenses, Defender Services, Court Security, and Fees of Jurors and Commissioners accounts.
- Approved interim fiscal year 2023 financial plans for the Salaries and Expenses, Defender Services, Court Security, and Fees of Jurors and Commissioners accounts and endorsed a strategy for distributing court allotments among court programs.
- Approved on behalf of the Conference a resolution recognizing Judge Claire V. Eagan, whose term of service as a member of the Judicial Conference and Chair of the Executive Committee ends on October 1, 2022.
- Acting on behalf of the Judicial Conference on an expedited basis at the recommendation of the Committee on Financial Disclosure, clarified 1990 and 2017 delegations from the Judicial Conference to the Committee on Financial Disclosure (JCUS-SEP 1990, p. 85; JCUS-SEP 2017, p. 13) to authorize that Committee to adopt and amend regulations under the Ethics in Government Act of 1978, as amended by the Courthouse Ethics and Transparency Act of 2021, Pub. L. No. 117-125, and for any future amendments to the Ethics in Government Act of 1978, as amended.
- Acting on behalf of the Judicial Conference on an expedited basis at the recommendation of the Committee on the Administration of the Magistrate Judges System, approved a request to authorize an additional magistrate judge position in the Northern District of Oklahoma at Tulsa and designate the new position for accelerated funding effective April 1, 2023, subject to available funding.

- Requested that the Committee on Court Administration and Case Management consider the judiciary’s guidance on highly sensitive documents (HSDs) and assess whether any changes may be warranted, and, in consultation with the Committee on Information Technology (IT), the Judiciary IT Security Task Force, and other relevant advisory groups, consider whether it would be helpful to issue guidance on ways courts could safeguard other types of sensitive documents and judiciary work product that may not necessarily fall within the HSD definition.
- Determined that there is a need to communicate to the judiciary community the importance of the Director of the Administrative Office using her general authorities with respect to cybersecurity and other information technology management issues to ensure critical information technology security issues are addressed consistently throughout the judiciary.
- Directed Judicial Conference committees with programmatic budget responsibilities as well as the Committee on the Judicial Branch to develop proposals, in coordination with the Committee on the Budget, to help limit the growth of the judiciary’s budget, with a particular (but not exclusive) focus on must-pay requirements, and requested the Committee on the Budget to consult with the Branch Committee and program committees as they develop their proposals.
- Requested that the Committees on Criminal Law and Judicial Resources consider potential additional flexibilities to retain chief and deputy chief probation officers beyond the current mandatory separation age.
- Approved schedules of events for the sessions of the Judicial Conference to be held in calendar year 2025.

## **COMMITTEE ON AUDITS AND ADMINISTRATIVE OFFICE ACCOUNTABILITY**

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### **REPORTING ON INVESTIGATIVE OUTCOMES**

The Judicial Conference has authorized the Administrative Office (AO) Director to provide fraud, waste, or abuse investigative assistance at the request of a chief judge, circuit judicial council, federal public defender organization (FPDO), or bankruptcy administrator (BA) (JCUS-SEP 1988, p. 57; JCUS-SEP 2019, pp. 5-6;

*Guide to Judiciary Policy*, Vol. 1, Ch. 14, § 1440). While the AO reports to the Committee on Audits and AO Accountability on the status of investigations in which it provides assistance, it must request information from the court, FPDO, or BA about the outcome of those investigations. In addition, there is no requirement for courts, FPDOs, or BAs to report information regarding allegations received, investigated, and resolved at the local level to the AO. To permit the Committee on Audits and AO Accountability to exercise more effective oversight of fraud, waste, or abuse issues in the judiciary, the Committee recommended that the Judicial Conference amend its policy on the resolution of fraud, waste, or abuse allegations to support the enhanced reporting on the outcomes of such allegations by requiring that the outcome of any fraud, waste, or abuse investigation of or by a court unit, BA, or FPDO be reported to the AO Deputy Director's Office. The Judicial Conference approved the recommendation.

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## **COMMITTEE ACTIVITIES**

The Committee on Audits and Administrative Office Accountability reported that it was updated on the status and results of various audits and engagements, including cyclical financial audits of court units and FPDOs. The Committee was briefed on the AO's Enterprise Risk Management Program, which is a business strategy to identify, assess, and prepare for risks which may threaten the judiciary's operations and objectives. In addition, it was updated on the planning and timeline for implementing changes to the judiciary's financial reporting model.

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

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### **CONTINUING NEED FOR BANKRUPTCY 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 authorized bankruptcy judgeships. By December 31 of each even-numbered year, the Conference reports to Congress its findings and any recommendations for the elimination of an authorized bankruptcy judgeship when a vacancy exists by reason of resignation, retirement, removal, or death. On recommendation of the Committee on the Administration of the Bankruptcy System, which relied on the results of the 2022 continuing needs assessment, the Conference agreed to take the following actions:

- a. Recommend to Congress that no existing bankruptcy judgeship be statutorily eliminated; and
- b. Advise the appropriate circuit judicial councils to consider not filling vacancies that currently exist or may occur because of resignation, retirement, removal, or death, until there is a demonstrated need to do so in the following districts: Alabama-Northern, Alaska, Arizona, Arkansas-Eastern & Western, California-Central, California-Eastern, California-Northern, California-Southern, Colorado, Connecticut, Florida-Middle, Florida-Southern, Georgia-Middle, Georgia-Northern, Georgia-Southern, Idaho, Illinois-Central, Illinois-Northern, Illinois-Southern, Indiana-Northern, Indiana-Southern, Iowa-Northern, Iowa-Southern, Kansas, Kentucky-Western, Louisiana-Eastern, Louisiana-Western, Maine, Maryland, Massachusetts, Michigan-Eastern, Michigan-Western, Minnesota, Missouri-Eastern, Missouri-Western, Nebraska, Nevada, New Jersey, New York-Eastern, New York-Northern, New York-Southern, New York-Western, North Carolina-Eastern, North Carolina-Middle, North Carolina-Western, Ohio-Northern, Ohio-Southern, Oklahoma-Northern, Oklahoma-Western, Oregon, Pennsylvania-Eastern, Pennsylvania-Middle, Pennsylvania-Western, Puerto Rico, South Carolina, South Dakota, Tennessee-Eastern, Tennessee-Western, Texas-Northern, Texas-Western, Utah, Virginia-Eastern, Virginia-Western, Washington-Western, Wisconsin-Eastern, and Wisconsin-Western.

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## **SELECTION AND APPOINTMENT REGULATIONS**

On recommendation of the Bankruptcy Committee, the Conference approved revisions to the *Regulations for the Selection and Appointment of Bankruptcy Judges, Guide to Judiciary Policy (Guide)*, Volume 3, Chapter 3. The revisions (1) ensure vacancy notices are published to a broad and diverse audience; (2) encourage circuit judicial councils to appoint merit selection panels that reflect a broad range of backgrounds and professional and life experiences; and (3) increase the minimum number of merit selection panel members from three to five.

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## **BANKRUPTCY ADMINISTRATOR REGULATIONS**

On recommendation of the Bankruptcy Committee, the Conference amended the *Judicial Conference Bankruptcy Administrator Regulations, Guide*, Volume 9, Chapter 2. The amendments are intended to enhance consistency and clarity and to reflect current practices and procedures, including to permit conditional trustee



appointments pending a background investigation and clarify that all trustees must undergo reinvestigation every five years, to require bankruptcy administrators (BAs) to convene meetings of creditors, and to require BAs to notify the United States attorney when it appears that a debtor or other entity has violated any law related to bankruptcy.

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## **CHAPTER 7 DEBTORS' ATTORNEY FEES**

Current law prohibits post-petition collection of unpaid attorney fees for legal work performed in connection with filing a chapter 7 bankruptcy case. After considering certain structural concerns related to the compensation of chapter 7 debtors' attorneys, including that the dischargeability of such fees in chapter 7 hinders access to justice and to the bankruptcy system, the Bankruptcy Committee recommended that the Judicial Conference seek legislation to amend the Bankruptcy Code to (1) except from discharge chapter 7 debtors' attorney fees due under any agreement for payment of such fees; (2) add an exception to the automatic stay to allow for post-petition payment of chapter 7 debtors' attorney fees; and (3) provide for judicial review of fee agreements at the beginning of a chapter 7 case to ensure reasonable chapter 7 debtors' attorney fees. The Conference adopted the recommendation.

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## **COMMITTEE ACTIVITIES**

The Bankruptcy Committee presented to the Judicial Conference a second interim report on the horizontal consolidation pilot of bankruptcy clerks' offices, prepared by the Federal Judicial Center in consultation with the Committee. The Committee reported that it continued to defer consideration of whether to identify additional courts to participate in the bankruptcy judgeship vacancy pilot, approved by the Conference in September 2014 (JCUS-SEP 2014, p. 7), until bankruptcy filings increase. The Committee discussed the ongoing impact of reduced filing levels on bankruptcy court budgets and staffing and how to employ existing bankruptcy judicial and technological resources more efficiently. The Committee, in partnership with the Committee on the Administration of the Magistrate Judges System, is hosting a second national diversity event on April 3, 2023, "Roadways to the Bench: Who Me? A Bankruptcy or Magistrate Judge?" Finally, the Committee received an update on the Supreme Court's June 6, 2022, decision in *Siegel v. Fitzgerald*, No. 21-441, holding that Congress' enactment of a fee increase solely in U.S. trustee districts (thereby excluding BA districts) violated the uniformity requirement of the Constitution's Bankruptcy Clause.

## **COMMITTEE ON THE BUDGET**

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### **FISCAL YEAR 2024 BUDGET REQUEST**

After considering the budget requests of the program committees, the Budget Committee recommended to the Judicial Conference a fiscal year (FY) 2024 budget request of \$8.69 billion in discretionary appropriations, which is 8.4 percent above assumed discretionary appropriations for FY 2023, but \$36.4 million below the funding levels requested by the program committees. The Judicial Conference approved the Budget Committee’s FY 2024 budget request, subject to amendments necessary as a result of (a) new legislation, (b) actions of the Judicial Conference, (c) changes in standard inflation factors or funding assumptions, or (d) any other reason the Executive Committee considers necessary and appropriate.

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### **COMMITTEE ACTIVITIES**

The Committee on the Budget reported that it discussed the status and outlook of FY 2023 appropriations, the continued importance of congressional outreach, and resources needed for cybersecurity in the judiciary. In addition, the Budget Committee invited House and Senate Financial Services and General Government (FSGG) Appropriations Subcommittee leadership to its July 2022 meeting, with the goal of further strengthening the judiciary’s relationship with the congressional appropriations committees. Representative Steve Womack (R-AR), ranking member of the House FSGG Appropriations Subcommittee, attended the Budget Committee meeting and discussed his perspective on the budget outlook for FYs 2023 and 2024 and his funding priorities within the FSGG bill.

## **COMMITTEE ON CODES OF CONDUCT**

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### **COMMITTEE ACTIVITIES**

The Committee on Codes of Conduct reported that since its last report to the Conference in March 2022, the Committee received 12 written inquiries and issued 11 written advisory opinions. During this period, the average response time to written inquiries was 10 days. In addition, the Chair responded to 42 informal inquiries, individual Committee members responded to 152, and Committee staff counsel responded to 884, for a total of 1078 responses to informal inquiries during the past six months.

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

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### **USE OF TELEPHONE CONFERENCING TO PROVIDE PUBLIC AND MEDIA ACCESS TO COURT PROCEEDINGS**

In 2020, the Executive Committee acted on an expedited basis on behalf of the Judicial Conference to approve a temporary exception to the 1994 Judicial Conference policy generally prohibiting the broadcasting of proceedings in federal trial courts (JCUS-SEP 1994, pp. 46-47) to allow a judge to authorize the use of telephone conference technology to provide the public and the media audio access to court proceedings while public access to federal courthouses generally, or with respect to a particular district, is restricted due to health and safety concerns during the Coronavirus Disease 2019 (COVID-19) pandemic (JCUS-SEP 2020, p. 5). This authorization would expire upon a finding by the Judicial Conference that the emergency conditions due to the emergency declared by the President with respect to COVID-19 are no longer materially affecting the functioning of the federal courts generally or a particular district. To alleviate concerns that this exception did not allow for any grace period upon its expiration to accommodate hearings already scheduled in reliance upon it and could thus cause disruptions to district and bankruptcy court operations, the Committee on Court Administration and Case Management recommended that the Judicial Conference amend its 2020 temporary exception to the broadcasting policy to allow a judge to authorize the use of teleconference technology to provide the public and the media audio access to civil and bankruptcy court proceedings until 120 days after the Conference finds that the emergency conditions due to the emergency declared by the President with respect to COVID-19 are no longer materially affecting the functioning of the federal courts generally or a particular district. The Conference approved the recommendation.

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### **COMMITTEE ACTIVITIES**

The Committee on Court Administration and Case Management reported that it was updated on the status of the project to modernize CM/ECF, including decisions made by the Administrative Office on how to proceed, expected staffing structure and timeline, and the outside consultants that are assisting on the project (including General Services Administration's 18F and the National Center for State Courts). The Committee also discussed the progress of the patent case assignment study that was begun in response to a November 2, 2021, letter from Congress raising concerns about

forum shopping in patent cases. The Committee considered the study’s latest data and formulated appropriate next steps.

## **COMMITTEE ON CRIMINAL LAW**

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### **COMMITTEE ACTIVITIES**

The Committee on Criminal Law reported on its continuing efforts to review and improve upon the federal criminal justice system’s implementation of the Bail Reform Act (Pub. L. No. 89-465) and the Committee’s goal of reducing unnecessary pretrial detention. Among other things, the Committee is monitoring efforts to enhance systemwide literacy in the use of the Federal Pretrial Risk Assessment to guide release decisions and is working with the Federal Judicial Center (FJC) to plan for pretrial release and detention discussions at the next National Sentencing Policy Institute, scheduled for October 2022. The Committee also discussed courts’ differing interpretations of their authority to impose a combined sentence of probation and imprisonment (known as a split sentence) for the same or multiple charges in petty offense cases. The Committee reiterated its support for a March 2012 Judicial Conference position to amend 18 U.S.C. § 3561(a)(3) to clarify a judge’s authority to impose a split sentence (JCUS-MAR 2012, p.13). Finally, the Committee reported that it continues to work with the FJC and other stakeholders on a pilot study, approved by the Judicial Conference in September 2021, to evaluate the inclusion of comparative sentencing statistics in presentence reports.

## **COMMITTEE ON DEFENDER SERVICES**

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### **PANEL ATTORNEY PAYMENTS**

On recommendation of the Committee on Defender Services, the Judicial Conference agreed to seek legislation to amend the Criminal Justice Act and related statutes, as necessary, to authorize the payment of compensation and reimbursement of expenses under the Act to an appointed attorney’s associated law firm. The Committee noted that the proposed amendment would simplify financial operations, reduce administrative burdens for panel attorneys, and facilitate accurate tax reporting and compliance with tax laws and regulations.

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## COMMITTEE ACTIVITIES

The Committee on Defender Services reported that it continued to discuss its high-priority initiative to establish federal defender organizations (FDOs) in every district that meets the statutory caseload requirement of at least 200 appointments each year. The Committee urged the Judicial Conference to continue to support compliance with its policy that an FDO should be established in every such district (JCUS-SEP 2018, p. 39). In addition, the Committee approved operational guidelines for the capital component of the Defender Services Fellowship Program and received an update on the non-capital component, including the selection of the first cohort of 12 non-capital fellows to begin their two-year terms in September 2022. The Committee received a status update on the implementation of the *Model Federal Public Defender Organization (FPDO) Employment Dispute Resolution (EDR) Plan*, approved by the Judicial Conference in September 2021 (JCUS-SEP 2021, pp. 23-24), and considered a national workplace survey proposed by the Committee on Judicial Resources (*see infra*, p. 19) that, among other things, would seek to assess the effectiveness of the *Model FPDO EDR Plan*. Finally, the Committee met with Deputy Attorney General Lisa Monaco and discussed the need for continued collaboration on issues that have a significant impact on the Defender Services program, including the remote detention of pretrial detainees, the federal death penalty, and efforts to promote the cost-efficient management of discovery in federal criminal cases.

## COMMITTEE ON FEDERAL-STATE JURISDICTION

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### COMMITTEE ACTIVITIES

The Committee on Federal-State Jurisdiction reported that it discussed recent developments and pending legislation relating to immigration policy and the creation of a new immigration court. The Committee determined to add the citizenship of non-corporate entities (such as limited liability corporations) for the purpose of diversity jurisdiction as a topic of study for the Committee's ongoing jurisdictional improvements project. It also received an update on the criminal jurisdiction of tribal courts and received a report on behalf of the state chief justice members of the Committee on state courts' efforts to mitigate disruptions caused by the COVID-19 pandemic, concerns regarding the backlog of cases resulting from the pandemic, and other issues of importance to state courts. Finally, the Committee discussed the ongoing impact of *McGirt v. Oklahoma*, 591 U.S. \_\_\_\_\_ (2020), on federal and tribal court jurisdiction in Oklahoma.

## COMMITTEE ON FINANCIAL DISCLOSURE

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### COMMITTEE ACTIVITIES

The Committee on Financial Disclosure reported that it was updated on efforts to develop and implement a new electronic financial disclosure system that would include features needed for filing, redacting, and releasing financial disclosure reports. The Committee concurred that the release feature, including an online database for the public release of judges' financial disclosure reports, should be developed as soon as possible instead of being deployed at the same time as the rest of the system to meet a new statutory requirement to establish an internet database by November 9, 2022. See Courthouse Ethics and Transparency Act ("CETA"), Pub. L. No. 117-125, 136 Stat. 1205 (2022). The Committee also decided that the financial disclosure reports of all judges, including bankruptcy judges, magistrate judges, and special trial judges, including part-time and recalled judges, should be included in the new online database. The Committee released interim guidance to judges on CETA's requirement that judges submit periodic reports for certain securities transactions starting August 11, 2022, and on interim procedures for preparing judges' reports for publication to the new internet database.

In addition, the Committee approved revisions to the Filing Instructions for Judicial Officers and Judicial Employees and the financial disclosure regulations in the *Guide to Judiciary Policy*, Volume 2, Part D, Chapters 1 and 3, to clarify that publicly traded mutual funds and exchange-traded funds registered with the Securities and Exchange Commission are widely held investment funds that meet the statutory criteria that exempt filers from reporting the holdings of such funds. As of May 31, 2022, the Committee had received 4,666 financial disclosure reports and certifications for calendar year 2020 (out of a total of 4,671 required to file), including 1,320 annual reports and certifications from Supreme Court justices and Article III judges; 321 annual reports from bankruptcy judges; 577 reports from magistrate judges; 1,872 annual reports from judicial employees; and 576 reports from nominee, initial, and final filers.

## COMMITTEE ON INFORMATION TECHNOLOGY

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### ***LONG RANGE PLAN FOR INFORMATION TECHNOLOGY IN THE FEDERAL JUDICIARY***

Pursuant to 28 U.S.C. § 612 and on recommendation of the Committee on Information Technology, the Judicial Conference approved the fiscal year 2023 update to the *Long Range Plan for Information Technology in the Federal Judiciary*. Funds for the judiciary's information technology program will be spent in accordance with this plan.

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### COMMITTEE ACTIVITIES

The Committee on Information Technology reported that it received an update on efforts to move the judiciary out of the San Diego internet data center under an accelerated timeline due to the data center owner changing the move date. The Committee endorsed the Judiciary IT Modernization and Cybersecurity Strategy, a multi-year modernization and security plan for the judiciary's entire IT infrastructure. Following discussion on multi-factor authentication (MFA), the Committee agreed that MFA should be required to access desktops and laptops following an interim period where courts can implement Duo Mobile for desktop/laptop access as they prepare for implementing facility access cards, which will be the long-term solution. The Committee endorsed an exposure draft of a proposed policy to make mandatory the annual completion and submission of data security categorization workbooks by court units. The Committee endorsed the establishment of a mandatory requirement for all court units to fully collapse into National Active Directory by the end of calendar year 2023 as well as for the use of national credentials (JENIE) for logging into any device accessing judiciary assets (systems, applications, and devices). It also endorsed implementing an enterprise identity, credential, and access management solution across the judiciary as a foundational and critical element of an effective zero trust architecture (an information security model that requires verification for every user, device, and application attempting to access an organization's network resources, regardless of device type or ownership, and limits access to network resources to only those authorized), as well as a logical framework for an effective MFA system. Finally, the Committee approved the budget request for fiscal year 2024 for programs under its jurisdiction.

## **COMMITTEE ON INTERCIRCUIT ASSIGNMENTS**

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### **COMMITTEE ACTIVITIES**

The Committee on Intercircuit Assignments reported that 51 Article III judges undertook 70 intercircuit assignments from January 1, 2022, to June 30, 2022. 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 11 proposed intercircuit assignments of bankruptcy judges and 14 of magistrate judges.

## **COMMITTEE ON INTERNATIONAL JUDICIAL RELATIONS**

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### **COMMITTEE ACTIVITIES**

The Committee on International Judicial Relations reported on international rule of law work that was supported by federal judges from September 2021 through May 2022. In advance of the Committee's May 2022 meeting, written reports concerning federal judicial Rule of Law activities were provided by the Administrative Office, Federal Judicial Center, Congressional Office for International Leadership, U.S. Department of State (International Narcotics and Law Enforcement Bureau and Judicial Liaison's Office), U.S. Department of Justice Office of Overseas Prosecutorial Development Assistance and Training, U.S. Patent and Trademark Office, U.S. Commerce Department – Commercial Law Development Program, U.S. Agency for International Development, and Federal Court Clerks Association. The Committee also received a report from the chair of the Committee on Court Administration and Case Management's Subcommittee on Foreign State Interference regarding the impact of social media disinformation on federal courts. In addition, the Committee received three Ukrainian Members of Parliament, who briefed the Committee on the state of the judiciary in Ukraine and Ukraine's efforts for justice and accountability during the ongoing war with Russia.



## **COMMITTEE ON THE JUDICIAL BRANCH**

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### **COMMITTEE ACTIVITIES**

The Committee on the Judicial Branch reported that it discussed recent legislative items of interest to the judiciary, including those related to judicial security, judgeships, workplace conduct, ethics and transparency, and reform of the judiciary’s case management system. The Committee met with Representative Darrell Issa, Ranking Member of the House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet. The Committee received briefings from the Judicial Integrity Officer on the status of workplace conduct initiatives and from staff to the Committee on Financial Disclosure on the automated release of financial disclosure reports and newly enacted legislation concerning securities transaction reporting. In addition, the Committee continued its discussion of the private seminars disclosure policy and concerns about disinformation and the politicization of the branch, and was briefed on civics education activities across the judiciary.

## **COMMITTEE ON JUDICIAL CONDUCT AND DISABILITY**

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### **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. §§ 351–364 (Act), and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules). The Committee also discussed the ongoing work of the Federal Judiciary Workplace Conduct Working Group and the Ad Hoc Subcommittee on Conflict Screening. The Committee and its staff have also continued to address inquiries regarding the Act and the Rules, and to give other assistance as needed to circuit judicial councils and chief judges.

## **COMMITTEE ON JUDICIAL RESOURCES**

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### **PRO SE AND DEATH PENALTY LAW CLERK SUPERVISORY POSITION**

In 2019, the Judicial Conference established a supervisory pro se/death penalty law clerk position, including a qualification standard for the position (JCUS-SEP 2019, pp. 18-19). Noting that the qualification standard effectively limits this position

to candidates who have worked under the specific position titles of pro se law clerk or death penalty law clerk within the federal judiciary and thus do not provide courts the opportunity to consider potential applicants with other closely related legal experience, the Committee on Judicial Resources recommended that the Judicial Conference amend the qualification standard for the supervisory pro se/death penalty law clerk position (*Guide to Judiciary Policy (Guide)*, Vol. 12, Ch. 5, Appx. 5F) to broaden qualifying specialized legal experience. The Conference approved the recommendation.

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## **TRANSCRIPT RATES**

In order to ensure court reporter income keeps pace with inflation and remains competitive, the Committee on Judicial Resources recommended, and the Judicial Conference approved, increases to the original and copy transcript fee rates for fiscal years 2024 and 2025. This would result in an approximately 10 percent increase in each of these fiscal years subject to the availability of funds, for an approximately 20 percent increase overall, which equates to what the transcript rates would have been if the rates had been increased on an annual basis since the last rate increase in 2007.

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## **HIGHEST PREVIOUS RATE RULE**

The highest previous rate rule is a pay-setting flexibility that allows an appointing official in a court or federal public defender organization to consider the highest rate of base pay previously received by an employee in a federal civilian position when setting that employee's rate of pay (JCUS-SEP 2007, p. 27; JCUS-SEP 2012, p. 25; *Guide*, Vol. 12, Ch. 6, §§ 640.50.50 and 645.70). This rule applies only to rates of pay received in federal civilian positions, not to rates of pay received during military service. Expanding this pay-setting flexibility to include military service would increase the judiciary's applicant pool by attracting additional candidates with military backgrounds, and may allow greater flexibility to recruit applicants that have training and experience to forward the judiciary's mission. It would also place candidates with prior military service on an equal footing with candidates with prior federal civilian service. The Committee on Judicial Resources accordingly recommended that the Judicial Conference expand the highest previous rate rule to include prior military service. The Conference adopted the Committee's recommendation.

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## **RECRUITMENT, RELOCATION, AND RETENTION BONUSES**

The judiciary's recruitment, relocation, and retention bonus programs are currently available for hard-to-fill Court Personnel System positions using decentralized funds (JCUS-SEP 2007, p. 22; *Guide*, Vol. 12, Ch. 6, §§ 655 and 670), but not for non-chambers Judiciary Salary Plan (JSP) positions. To respond to courts' critical hiring needs and provide them with flexibility to recruit and retain high quality employees for hard-to-fill positions, the Committee on Judicial Resources recommended that the Judicial Conference amend the *Guide*, Vol. 12, Ch. 6, §§ 655 and 670 to expand the recruitment, relocation, and retention bonus policies for hard-to-fill positions to non-chambers JSP positions. The Conference approved the recommendation.

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## **WORKPLACE SURVEYS**

In January 2018, the Director of the Administrative Office established the Federal Judiciary Workplace Conduct Working Group (Working Group) to examine the sufficiency of the safeguards in place within the judiciary to protect employees from wrongful conduct in the workplace. The Working Group submitted a report in June 2018 outlining various recommendations to strengthen existing protections, followed by a second report in March 2022 with additional recommendations to build on progress to date. The March 2022 report included a recommendation to conduct periodic nationwide climate surveys of all judiciary employees to assess the workplace environment and to provide insight into the prevalence of workplace conduct issues and the impact and effectiveness of the improvements the judiciary has made to its policies and processes. On recommendation of the Committee on Judicial Resources, the Judicial Conference approved periodic national workplace surveys of all court and federal public defender organization employees, administered by the Federal Judicial Center. The surveys will be designed to protect the anonymity and confidentiality of data collected.

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## **COMMITTEE ACTIVITIES**

The Committee on Judicial Resources reported that it established a new subcommittee on workplace conduct to review and consider workplace conduct-related matters before formal action is taken by the Committee. The Committee endorsed a plan for developing a data-driven methodology to assess the need to

allocate a fourth chambers position to chief district judges and expects to consider results from the administrative workload analysis in June 2023. The Committee also submitted to the Committee on the Budget a fiscal year (FY) 2024 budget request for programs under the Judicial Resources Committee’s jurisdiction that was equivalent to a 6.7 percent increase over the FY 2023 assumed obligations.

## **COMMITTEE ON JUDICIAL SECURITY**

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### **COMMITTEE ACTIVITIES**

The Committee on Judicial Security reported that it was updated on efforts to pass legislation to protect the personally identifiable information of judges and their immediate families. The Committee also received an update on the status of the Vulnerability Management Program, which will provide regional security support to federal judges, courts, and judiciary personnel through a Judiciary Security Operations Branch and Threat Monitoring Branch at the Administrative Office. The program has begun hiring judiciary security officers and expects to fill all of these positions by the end of 2022. It has also begun identifying, analyzing, and removing PII and other online information creating vulnerabilities for judges and their immediate families. Finally, the Committee discussed the Home Intrusion Detection System program and tasked its Subcommittee on Operations, Technology, and Education with developing strategies to increase enrollment.

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

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

After considering the recommendations of the Committee on the Administration of the Magistrate Judges System and the views of the Administrative Office, the district courts, and the judicial councils of the circuits, the Judicial Conference agreed to (a) make no change in the number, locations, or arrangements of the magistrate judge positions in the Southern District of Ohio; and (b) redesignate the

location of the full-time magistrate judge position at Eureka to McKinleyville in the Northern District of California.

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## COMMITTEE ACTIVITIES

The Committee on the Administration of the Magistrate Judges System reported that it considered seven district-wide surveys and, where appropriate, endorsed suggestions regarding magistrate judge utilization in those districts. Between its December 2021 and June 2022 meetings, the Committee, through its chair, approved filling 20 magistrate judge position vacancies in 14 district courts (JCUS-SEP 2004, p. 26), and the Committee approved four recall requests and one request to modify the recall of a magistrate judge serving with staff in one district, to allow that judge to assist another district in a different circuit. At its June 2022 meeting, the Committee also approved requests from five courts for the recall, extension of recall, or extension of staff or clerk's office support, for seven retired magistrate judges. The Committee approved substantial revisions to the *Suggestions for Utilization of Magistrate Judges*, including renaming the document *Policies and Principles for Magistrate Judge Utilization (Policies and Principles)*, modifying language regarding the referral of motions to magistrate judges, more clearly identifying practices disapproved of under Judicial Conference policy (JCUS-MAR 2020, pp. 22-23), and adding an appendix of examples of applications of the *Policies and Principles*. The Committee also reviewed its major cost containment initiatives, many of which are ongoing, and discussed ideas for new cost containment initiatives. Finally, the Committee received an update on the Federal Judicial Center's survey of chief district judges on their courts' efforts to address diversity in the magistrate judge selection process and on the "Roadways to the Bench" national diversity event.

## 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 amendments to Appellate Rules 2 (Suspension of Rules), 4 (Appeal as of Right—When Taken), 26 (Computing and Extending Time), and 45 (Clerk's Duties), together with committee notes explaining their purpose and intent. The Judicial Conference approved the proposed amendments and authorized their transmittal to the Supreme Court for consideration with a 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 3011 (Unclaimed Funds in Chapter 7 Liquidation, Chapter 12 Family Farmer’s Debt Adjustment, and Chapter 13 Individual’s Debt Adjustment Cases), 8003 (Appeal as of Right – How Taken; Docketing the Appeal), and 9006 (Computing and Extending Time; Time for Motion Papers), and proposed new Rule 9038 (Bankruptcy Rules Emergency), together with committee notes explaining their purpose and intent. The Judicial Conference approved the proposed amendments and new rule and authorized their transmittal to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

The Conference also approved, on recommendation of the Committee, revised Official Bankruptcy Forms 101 (Voluntary Petition for Individuals Filing for Bankruptcy), 309E1 (Notice of Chapter 11 Bankruptcy Case (For Individuals or Joint Debtors)), and 309E2 (Notice of Chapter 11 Bankruptcy Case (For Individuals or Joint Debtors under Subchapter V)), effective December 1, 2022, and revised Official Bankruptcy Form 417A (Notice of Appeal and Statement of Election), effective December 1, 2023, for use in all bankruptcy proceedings commenced after the effective date and, insofar as just and practicable, all proceedings pending on the effective date.

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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 6 (Computing and Extending Time; Time for Motion Papers), 15 (Amended and Supplemental Pleadings), and 72 (Magistrate Judges: Pretrial Order), and proposed new Rule 87 (Civil Rules Emergency), together with committee notes explaining their purpose and intent. The Judicial Conference approved the proposed amendments and new rule and authorized their transmittal to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

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## **FEDERAL RULES OF CRIMINAL PROCEDURE**

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed amendments to Criminal Rules 16 (Discovery and Inspection), 45 (Computing and Extending Time), and 56 (When Court is Open), and proposed new Rule 62 (Criminal Rules Emergency), together with committee notes explaining their purpose and intent. The Judicial Conference approved the proposed amendments and new rule and authorized their transmittal to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

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## **FEDERAL RULES OF EVIDENCE**

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed amendments to Evidence Rules 106 (Remainder of or Related Writings or Recorded Statements), 615 (Excluding Witnesses), and 702 (Testimony by Expert Witnesses), together with committee notes explaining their purpose and intent. The Judicial Conference approved the proposed amendments and authorized their transmittal to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

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## **REPORT ON ADEQUACY OF PRIVACY RULES**

The E-Government Act of 2002 (Pub. L. No. 107-347) directed that rules be promulgated under the Rules Enabling Act to protect privacy and security concerns relating to electronic filing of documents, and that every two years, the Judicial Conference submit to Congress a report on the adequacy of the privacy rules to protect privacy and security. On recommendation of the Committee on Rules of Practice and Procedure, the Judicial Conference approved the 2022 Report of the Judicial Conference of the United States on the Adequacy of Privacy Rules Prescribed Under the E-Government Act of 2002 for transmission to Congress.

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## **COMMITTEE ACTIVITIES**

The Committee on Rules of Practice and Procedure reported on the status of restyling the Bankruptcy Rules. The third and final set of the restyled rules were

approved for publication for public comment in August 2022. The restyled rules are expected to take effect December 1, 2024, if approved at each stage of the Rules Enabling Act process, and if Congress takes no contrary action. The Committee also approved publication of proposed amendments to several rules of procedure and evidence, including amendments that would consolidate Appellate Rules 35 and 40 governing en banc and panel rehearing, several Bankruptcy Rules amendments, and amendments to the Evidence Rules addressing illustrative aids, summaries of evidence, and the hearsay rule. The public comment period for the proposed rules amendments is open from August 2022 until February 2023.

## COMMITTEE ON SPACE AND FACILITIES

### *COURTHOUSE PROJECT PRIORITIES*

The *Federal Judiciary Courthouse Project Priorities (CPP)* identifies the judiciary's priorities for new courthouse construction. Part I lists the projects for which the judiciary will request funding in its annual budget submission, while Part II consists of the judiciary's out-year courthouse construction priorities. The priority order of all projects on Part I is maintained until a project is fully funded, at which time the project is removed from the list. The priority order of projects on Part II is updated each year based on the project's urgency evaluation score, which is developed as part of the judiciary's Asset Management Planning process (JCUS-MAR 2008, p. 26). On recommendation of the Committee on Space and Facilities, the Judicial Conference adopted a fiscal year (FY) 2024 *CPP*, which carried forward all the projects on Part I and Part II of the FY 2023 *CPP*, and added a project in Macon, Georgia to Part II. The projects on the FY 2024 *CPP* were approved in the following priority order:

- a. Part I: (1) Hartford, Connecticut; (2) Chattanooga, Tennessee; and (3) Bowling Green, Kentucky; and
- b. Part II: (1) Macon, Georgia; (2) Anchorage, Alaska; (3) Greensboro/Winston Salem, North Carolina; (4) Norfolk, Virginia; and (5) McAllen, Texas.



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## **FEASIBILITY STUDIES**

In accordance with the Asset Management Planning policy, courthouse construction projects must have a completed General Services Administration (GSA) feasibility study prior to being placed on the *CPP* list (JCUS-MAR 2008, p. 26; *Guide to Judiciary Policy*, Vol. 16, Ch. 1, § 130.10(c)). After considering the space, security, and building needs at the courthouses in Riverside, California and South Bend, Indiana, the Committee on Space and Facilities recommended that the Judicial Conference request that the GSA conduct Phase I feasibility studies for those courthouses. The Judicial Conference approved the recommendation.

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## **COMMITTEE ACTIVITIES**

The Committee on Space and Facilities reported that it approved five requests for funding for No Net New projects in support of the Judicial Conference's No Net New policy adopted in September 2013 (JCUS-SEP 2013, p. 32), all subject to funding availability. The Committee also approved an amendment to the No Net New Business Rules to modify the formula for calculating the break-even points for space avoidance projects. Further, the Committee discussed the need to proactively re-examine the judiciary's space needs due to ongoing and expected future flexible work arrangements following the COVID-19 pandemic, to determine if there are opportunities for cost-efficiencies. Finally, the Committee approved a proposal for the Administrative Office (AO) rather than the GSA to manage the Phase I feasibility study for a pending project, after which the Committee will consider whether additional AO-managed feasibility studies should be pursued in the future to potentially increase the number of studies that can be performed each year.

## **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