
REPORT
of the
PROCEEDINGS OF THE
JUDICIAL CONFERENCE OF THE
UNITED STATES

September 21, 22, 1978

Washington, D.C.
1978

**ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS**

**William E. Foley
Director**

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THE JUDICIAL CONFERENCE OF THE UNITED STATES, 28 U.S.C. 331

§ 331. JUDICIAL CONFERENCE OF THE UNITED STATES

The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of Claims, the chief judge of the Court of Customs and Patent Appeals, and a district judge from each judicial circuit to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the conference may be called by the Chief Justice at such times and places as he may designate.

The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit at the annual judicial conference of the circuit held pursuant to section 333 of this title and shall serve as a member of the conference for three successive years, except that in the year following the enactment of this amended section the judges in the first, fourth, seventh, and tenth circuits shall choose a district judge to serve for one year, the judges in the second, fifth, and eighth circuits shall choose a district judge to serve for two years and the judges in the third, sixth, ninth, and District of Columbia circuits shall choose a district judge to serve for three years.

If the chief judge of any circuit or the district judge chosen by the judges of the circuit is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit. If the chief judge of the Court of Claims or the chief judge of the Court of Customs and Patent Appeals is unable to attend, the Chief Justice may summon an associate judge of such court. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the sessions of the conference and advise as to the needs of his circuit or court and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

The conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary, and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.

The conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law. Such changes in and additions to those rules as the conference may deem desirable to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in accordance with law.

The Attorney General shall, upon request of the Chief Justice, report to such conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.

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Report of the Proceedings of the Judicial Conference of the United States

September 21-22, 1978

The Judicial Conference of the United States convened on September 21, 1978, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. 331. The following members of the Conference were present:

District of Columbia Circuit:

Chief Judge J. Skelly Wright
Chief Judge William B. Bryant, District of Columbia

First Circuit:

Chief Judge Frank M. Coffin
Chief Judge Andrew A. Caffrey, District of Massachusetts

Second Circuit:

Chief Judge Irving R. Kaufman
Chief Judge T. Emmet Clarie, District of Connecticut

Third Circuit:

Chief Judge Collins J. Seitz
Judge Alfred L. Luongo, Eastern District of Pennsylvania

Fourth Circuit:

Chief Judge Clement F. Haynsworth, Jr.
Judge Charles E. Simons, Jr., District of South Carolina

Fifth Circuit:

Chief Judge John R. Brown
Chief Judge William C. Keady, Northern District of Mississippi

Sixth Circuit:

Chief Judge Harry Phillips
Chief Judge Charles M. Allen, Western District of Kentucky

Seventh Circuit:

Chief Judge Thomas E. Fairchild
Chief Judge James B. Parsons, Northern District of Illinois

Eighth Circuit:

Chief Judge Floyd R. Gibson
 Chief Judge James H. Meredith, Eastern District of Missouri

Ninth Circuit:

Chief Judge James R. Browning
 Judge Morell E. Sharp, Western District of Washington

Tenth Circuit:

Chief Judge Oliver Seth
 Judge Wesley E. Brown, District of Kansas

Court of Claims:

Chief Judge Daniel M. Friedman

Court of Customs and Patent Appeals:

Chief Judge Howard T. Markey

Circuit Judges Edward A. Tamm and Gerald B. Tjoflat; Senior District Judges Dudley B. Bonsal and Roszel C. Thomsen; and District Judges C. Clyde Atkins, Edward J. Devitt, Alexander Harvey II, Elmo B. Hunter, James Lawrence King, Robert E. Maxwell, John Lewis Smith, Jr., and Edward Weinfeld attended all or some of the sessions of the Conference.

The Attorney General of the United States, Honorable Griffin B. Bell, accompanied by the Solicitor General, Honorable Wade H. McCree, attended the morning session of the first day of the Conference and addressed the Conference briefly on matters of mutual interest to the Department of Justice and the Conference.

William E. Foley, Director of the Administrative Office of the United States Courts; Joseph F. Spaniol, Jr., Deputy Director; James E. Macklin, Jr., Assistant Director; and Mark W. Cannon, Administrative Assistant to the Chief Justice, attended all sessions of the Conference.

The Director of the Federal Judicial Center, A. Leo Levin, reported on the activities of the Center since the last session of the Conference.

**REPORT OF THE DIRECTOR
 OF THE ADMINISTRATIVE OFFICE
 OF THE UNITED STATES COURTS**

The Director of the Administrative Office of the United States Courts, Mr. William E. Foley, submitted to the Con-

ference the annual report of the Director for the year ended June 30, 1978, and two separate reports on the operation of Titles I and II of the Speedy Trial Act of 1974. The Conference authorized the Director to release the annual report immediately in preliminary form and to revise and supplement the final printed edition. The Conference also authorized the Director to transmit to Congress the reports on the Speedy Trial Act of 1974.

ANNUAL REPORT

For the first time since 1958 fewer cases were filed in the United States courts of appeals than in the previous year. There were 18,918 appeals filed, a decrease of a little more than one percent from the 19,188 appeals filed during the previous year. The courts of appeals disposed of 17,714 appeals during the year compared to 17,784 in 1977. On June 30, 1978 there were 16,648 appeals pending on the dockets of the courts of appeals, eight percent more than a year ago.

Civil cases filed in the United States district courts in the year ended June 30, 1978, were 138,770, a six percent increase over the 130,567 civil actions filed in 1977. Civil cases filed by the United States government increased from 16,320 in 1977 to 22,534 in 1978, an increase of 38 percent. During the year the district courts terminated 125,914 civil cases, almost eight percent more than the number closed in 1977, but 12,856 cases less than the number filed. As a result, civil cases pending on the dockets of the district courts on June 30, 1978, climbed to a record high of 166,462.

Criminal cases filed in the United States district courts continued to decline in 1978 to 35,983, a decrease of 13.5 percent compared to the 41,589 cases filed in 1977. The number of criminal cases terminated also declined to 37,286, but were 1,303 more than the number filed. Criminal cases pending on June 30, 1978, were 15,847, which is 7.6 percent less than the number pending a year earlier.

For the third straight year bankruptcy cases filed in the United States district courts also declined to 202,951, a decrease of 11,448 cases from the number filed in 1977, or 5.3 percent. Since 1975 bankruptcy cases filed in the district courts have declined more than 20 percent. During the year

216,733 bankruptcy cases were closed and the number pending on June 30, 1978, fell to a three-year low of 240,147.

REPORT OF THE FEDERAL JUDICIAL CENTER

The Director of the Federal Judicial Center, A. Leo Levin, reported to the Conference that the Center is currently planning seminars for new district judges to be appointed under the pending omnibus judgeship bill. Work at the Center is also progressing on the COURTRAN system of record-keeping in the district courts and on various other innovative and developmental projects designed to assist the courts through the use of computers.

JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

The report submitted on behalf of the Judicial Panel on Multidistrict Litigation indicated that during the year ending June 30, 1978, the Panel had acted upon 777 civil actions pursuant to 28 U.S.C. 1407 and that 696 civil actions were transferred for coordinated or consolidated pretrial proceedings in accordance with the statute. Transfer of 81 actions was denied by the Panel. Since the establishment of the Panel in 1968 over 6,500 civil actions have been consolidated for pretrial proceedings and over 4,000 of these cases have been remanded to the originating district for trial or have been terminated by settlement or dismissal in the transferee courts.

COMMITTEE ON COURT ADMINISTRATION

Judge Elmo B. Hunter, Chairman of the Committee on Court Administration, presented the report of the Committee.

UNIFORM RULES OF DISCIPLINARY ENFORCEMENT

The Committee submitted for the consideration of the Conference Model Rules of Disciplinary Enforcement drafted by

a Committee of the American Bar Association and approved by the House of Delegates last February. The Model Rules would require a small contribution from each attorney practicing in a federal court to be paid into a trust fund to be administered on a local basis. The Administrative Office of the United States Courts would be the central depository of these funds, as trustee for the courts which adopt the Model Rules. The funds received would be for the sole use of the administration of the program and would not be monies received for the use of the United States. Upon the recommendation of the Committee the Conference after full discussion approved the Model Rules and authorized their distribution to all circuit and district courts with a recommendation that they be adopted by these courts on an optional basis.

ATTENDANCE AT CIRCUIT CONFERENCES

In recent years the Administrative Office has been receiving an increasing number of requests for the authorization of expenses of travel and subsistence for court personnel, other than judges, to attend the judicial conferences of the circuits. Recognizing the need for policy guidance in this area, the Conference adopted the following resolution:

Resolved, That the Administrative Office of the United States Courts is authorized to pay for the travel and subsistence expenses to circuit conferences of those magistrates, bankruptcy referees and federal defenders who are specifically authorized to attend such conferences by the chief judge of the circuit, so certified by him in writing to the Administrative Office, with the proviso that only a representative group may be so authorized to attend.

STAFF AND QUARTERS FOR SENIOR JUDGES

In September 1950, Conf.Rept.p. 31, the Conference directed that retired judges be permitted to retain their personnel and be furnished with suitable quarters, provided that they continue to perform substantial judicial work, and that the question as to whether or not the services performed are substantial will be a matter of determination by the particular circuit judicial councils involved. The Conference resolution, however, did not extend to senior judges of the Court of

Claims and the Court of Customs and Patent Appeals. In order to establish uniformity, the Conference, upon recommendation of the Committee, amended the last sentence of the resolution to read:

Whereupon, the Conference directed that the Director permit retired judges to retain their personnel and be furnished with suitable quarters, provided that they continue to perform substantial judicial work, that the question as to whether or not the services performed are substantial will be a matter for determination by the particular circuit judicial councils involved, with respect to senior judges of the circuit and district courts, and by the Chief Judges of the Court of Claims and the Court of Customs and Patent Appeals, with respect to the senior judges of those courts.

MEMBERSHIP OF DISTRICT JUDGES ON CIRCUIT COUNCILS

Judge Hunter advised the Conference that the Fifth Circuit District Judges Association had recommended that the statute, 28 U.S.C. 332, be amended to authorize representation by district judges on the judicial councils of the circuits. He informed the Conference that a number of studies are now being undertaken with regard to circuit judicial councils and that the Subcommittee on Judicial Improvements has been asked to review these studies and to report its recommendations to the next meeting of the full Committee.

CIVIL ARBITRATION PILOT PROGRAM

Judge Hunter advised the Conference of the current status of the civil arbitration pilot program and that the Committee would continue to monitor its progress and provide a further report to the Conference at a later date.

PUBLIC USE OF FEDERALLY OWNED BUILDINGS

The General Services Administration has publicly announced a program to make public buildings available for the use of the public. The announcement has generated some concern about the use of court facilities by the public. No action was taken by the Conference at this time.

PLACES OF HOLDING COURT

Judge Hunter reported that the Subcommittee on Judicial Improvements had reviewed the existing Judicial Conference policy governing the evaluation of legislative proposals either to authorize locations at statutorily designated places of holding court, or to implement changes in the organizational or geographical configuration of individual judicial districts. The existing procedure does not require consideration of the views of the Department of Justice and United States Attorneys and implies that, at the district level, only the opinion of the chief judge rather than the aggregate opinion of the court is controlling. Recognizing the need for clarification of policy, the Committee recommended and the Conference approved the following resolution:

The Judicial Conference reaffirms its previously stated belief that changes in the geographical configuration and organization of existing federal judicial districts should be enacted only after a showing of strong and compelling need. Therefore, whenever Congress requests the Conference's views on bills to:

1. create new judicial districts;
2. consolidate existing judicial districts within a state;
3. create new divisions within an existing judicial district;
4. abolish divisions within an existing judicial district;
5. transfer counties from an existing division or district to another division or district;
6. authorize a location or community, including facilities, as a statutorily designated place at which "court shall be held" under Chapter 5 of title 28, United States Code; or
7. waive the provisions of Section 142 of title 28, United States Code, respecting the furnishing of accommodations at places of holding court—the Director of the Administrative Office shall transmit each such bill to both the chief judge of each affected district and the chief judge of the circuit in which each such district is located, requesting that the district court and the judicial council for the circuit evaluate the merits of the proposal and formulate an opinion of approval or disapproval to be reviewed by the Conference's Court Administration Committee in recommending action by the Conference. In each district court and circuit council evaluation, the views of affected U.S. Attorneys' offices, as representa-

tive of the views of the Department of Justice, shall be considered in addition to caseload, judicial administration, geographical, and community-convenience factors. Only when a proposal has been approved both by the district courts affected and by the appropriate circuit judicial council, and only after both have filed a brief report with the Court Administration Committee summarizing the reasons for their approval shall that Committee review the proposal and recommend action to the Judicial Conference.

NATIONAL ART BANK ACT OF 1978

The Chairman of the Senate Committee on Human Resources had requested the views of the Conference on S. 2645, 95th Congress, a bill to establish a National Art Bank. The bill would create an administrative unit within the National Endowment of the Arts to make available government-owned works of art for public display in all federal facilities, including United States courthouses. The loaned works of art displayed in federal courthouses would be placed under the "supervisory authority" of the Director of the Administrative Office. Similar supervisory authority is conferred upon the Administrator of the General Services Administration and the Architect of the Capitol. The Conference agreed with the recommendation of the Committee that the Director of the Administrative Office not be included in the bill in light of the reality that almost all administration of the physical facilities for the courts is today vested in the General Services Administration. To place the Director of the Administrative Office, and by virtue of his delegation of authority, the clerks of courts, in a position of responsibility for such works of art would constitute an undesirable and unnecessary bifurcation of supervisory authority.

APPELLATE REVIEW OF DECISION OF THE COURT OF MILITARY APPEALS

A proposed amendment to S. 1353, 95th Congress, would provide for the review of decisions of the Court of Military Appeals by writ of certiorari to the United States Court of Appeals for the Fourth Circuit. In commenting to the

Congress regarding this proposal, Chief Judge Haynsworth of the Fourth Circuit perceived two major problems, an increase in the caseload of approximately 40 cases per judge on his court and a procedure which would result in decisions of national impact being made by a court of appeals encompassing only five states. The Conference endorsed the views expressed and recommended disapproval of the amendment.

AIR DISASTER LITIGATION

The Chairman of the House Judiciary Committee had requested the views of the judiciary on H.R. 10917, 95th Congress, a bill to create a uniform body of law governing liability for "injury to or loss of property or any personal injury or death" arising out of aviation activity and to improve procedures for litigating controversies arising out of airline disasters. After full discussion the Conference returned the bill to the Committee for further study in the light of discussions in the Conference.

OPINION PUBLICATION PLANS

Judge Hunter submitted to the Conference a separate report of the Subcommittee on Jurisdiction on opinion publication plans which sets forth the historical development of these plans, the activities of the Subcommittee, the significant features of the present circuit plans, the impact of opinion publication plans on the workloads of the courts of appeals, and the criticism the plans have generated. Judge Hunter reported that the Subcommittee has been relieved from any further formal task of continual review of the operation of circuit opinion publication plans, but has been authorized to encourage further and continued academic inquiry and debate and to report from time to time on new developments.

SALARIES OF CLERKS OF COURT

Judge Hunter reported that the Committee had considered a proposal that clerks of court be placed in graded positions rather than in ungraded positions as they have been since

1957. At the present time the salaries of clerks of court are governed by the salary schedule developed in 1971 by a special committee under the chairmanship of Judge William Hastie. Judge Hunter pointed out that a return to a graded schedule would enable clerks of court to receive comparability adjustments, as do their subordinates and the vast majority of judicial employees. Upon recommendation of the Committee the Conference adopted the following resolution:

The Conference notes that the assumptions upon which the Hastie Schedule was based have been rendered obsolete by acts of Congress and other circumstances. It is, therefore, resolved that it be abolished, along with the 90 percent rule for chief deputies.

It is further resolved that the salaries of clerks of court, the only remaining salary fixed by the abolished Hastie Schedule, be returned to the graded JSP Schedule with the salaries fixed as follows: Clerk, Court of Appeals, Customs Court, Court of Claims, and Court of Customs and Patent Appeals—JSP-16; Clerk, large district court—JSP-16; Clerk, medium district court—JSP-15; Clerk, small district court and territorial court—JSP-14.

It should be noted that, for its own reasons, any court may pay a clerk the appropriate salary of a lower grade, as determined by the rules followed by the Administrative Office in fixing proper grades and steps in the Judiciary Salary Plan.

For salary-conversion purposes of the individuals occupying clerk of court positions at the time of conversion, they shall be placed in that step of the grade which first meets the current ungraded salary. All future pay actions for clerks of court shall be effected in accordance with the laws, rules, and regulations governing pay in the JSP Schedule, as derived from the General Schedule (GS), with the proviso that neither the salary of any clerk of court nor of any subordinate personnel in the clerk's office shall exceed the salary of Executive Level V or the maximum salary permitted for Circuit Executives, less \$2,000, whichever is smaller.

The above grades are fixed with the understanding that the clerk of court is delegated the authority for and charged with the responsibility for performing those functions contained in the Missions and Functions Statement approved by the Conference at its September 1977 session, Conf. Rept., p. 48.

CAREER LAW CLERKS

The Conference in March 1978, Conf. Rept., p. 12, returned to the Committee for further study a proposal to authorize increased salary levels for career law clerks. Judge Hunter informed the Conference that during the last 10 years the number of career law clerks in the federal judiciary has declined from 36 to 24 and that additional salary levels for these career positions should be provided. The Conference thereupon adopted the following resolution:

It is the sense of the Conference that the best interests of the judiciary are better served through continuation of the traditional practice of appointing recent graduates as law clerks for periods of one to two years. In recognition of unusual situations, the Conference approves changes in the qualification standards for law clerks on the personal staffs of federal judges to provide that, after five years of experience as a law clerk to a federal judge, a grade JSP-12 law clerk may be considered qualified for promotion to grade JSP-13 upon recommendation by the judge, subject to the availability of funds.

CERTIFICATES OF OFFICIAL COURT REPORTERS

Since September 1961 court reporters have been required to certify quarterly that they have filed transcripts or electronic sound recordings of all arraignments, pleas and sentences in criminal cases as required by the statute, 28 U.S.C. 753(b). The Committee reported that the court reporters are currently complying with the statute and that the submission of the quarterly certificate no longer serves a useful purpose. The Conference thereupon voted to eliminate the requirement of submitting this certificate (A.O. Form 188).

JUDICIAL TENURE

It was brought to the attention of the Conference that the provisions of the proposed Judicial Tenure Act, S. 1423, 95th Congress, vary from those of S. 4153, 93rd Congress, which the Conference approved in principle at its session in March 1975, Conf. Rept., p. 5. The Conference at that time suggested that "neither a justice nor a judge of the United States may be removed from office except by the impeachment

process." To clarify its position with respect to S. 1423 the Conference adopted the following resolution:

The action of the Judicial Conference concerning S. 1423, 95th Congress, has been widely misunderstood and the Conference hereby reaffirms "its genuine concern that enactment of any bill authorizing removal of a judge from office by a method other than impeachment will raise the fundamental question of the Act's constitutionality."

The Conference expresses its disapproval of any legislative provision which purports to delegate to any other tribunal or entity the constitutional power of Congress to remove a federal judge from office.

The Conference also adopted the following resolution:

The Conference directs its Committee on Court Administration to conduct a study to determine whether legislation is necessary to clarify the power of the judicial councils of the circuits to adopt procedures for the examination of judicial conduct in cases where it is warranted and to take appropriate action with respect to such instances. The Committee is instructed to undertake such a study and report back at the next meeting of the Judicial Conference.

CONTRACT DISPUTES

The Subcommittee on Federal Spending Practices and Open Government of the Senate Committee on Governmental Affairs had requested the views of the Conference on S. 2787, a bill to provide for the resolution of claims and disputes relating to government contracts awarded by executive agencies. The bill would provide for the first time an orderly and rational structure for the litigation of claims involving government contracts, in place of the present fragmented and non-systematized arrangement. It would aid small contractors for whom the high cost of litigation is a serious and sometimes insufferable burden by providing an inexpensive, expedited method for adjudicating their claims. Finally, it would decrease the workload of the district courts by giving the Court of Claims exclusive jurisdiction to review those claims. The Conference voted to approve the bill.

COMMITTEE ON THE BUDGET

The report of the Committee on the Budget was submitted by the Chairman of the Committee, Chief Judge Robert E. Maxwell.

APPROPRIATIONS FOR FISCAL YEAR 1979

The Conference was advised that the budget estimates submitted to the Congress for the fiscal year 1979 (exclusive of the Supreme Court) were initially in the amount of \$475,945,000. The Appropriations Committee in the House of Representatives added an additional \$577,000 to the estimates for the Temporary Emergency Court of Appeals which had heretofore been financed out of appropriations to the Department of Energy. The sum of \$471,357,000 was included in the bill approved by the House of Representatives on July 20, 1978, which was \$5,165,000 less than the amount requested but an increase of \$36,230,000 over appropriations for the fiscal year 1978.

The Senate Appropriations Committee amended the bill to include an additional \$8,150,000; \$5,000,000 for pretrial services agencies, \$1,041,000 for additional magistrates, \$348,000 for reclassification of judges' secretaries, and \$1,761,000 for additional temporary secretaries and law clerks for the courts of appeals. When the bill was considered on the floor of the Senate, an amendment was adopted reducing the appropriation for "space and facilities" by \$1,000,000. Conferees thereafter agreed to the Senate version of the bill.

The Conference authorized the Director of the Administrative Office to submit to the Congress requests for supplemental appropriations for the fiscal year 1979 for "pay costs", and for implementation of new legislation and actions of the Conference, and for any other reason he considers necessary and appropriate.

BUDGET ESTIMATES FOR FISCAL YEAR 1980

The Conference approved the budget estimates for the fiscal year 1980 which, exclusive of the Supreme Court, the Customs Court, and the Federal Judicial Center, aggregated

\$529,681,000, an increase of approximately \$56,000,000 over the fiscal year 1979. The sum of \$32,000,000 was included to cover salaries and expenses in anticipation of the passage of the bill to create 152 new judgeships. The estimates take into account the recommendations of the respective committees of the Conference which will require additional funding. The Director of the Administrative Office was authorized to amend the budget estimates as may be required because of new legislation or for any other reason the Director considers necessary and appropriate.

The Conference also authorized the consolidation of the appropriations for "space and facilities" and "furniture and furnishings" in the budget estimates for the fiscal year 1980 and a transfer of funds for the rental of space, alterations, and other related services to the respective appropriations of the Court of Customs and Patent Appeals, the Customs Court, the Court of Claims, the Administrative Office of the United States Courts and the Federal Judicial Center.

The Committee reported that it had deferred any requests of funds for deputy clerks for the district courts pending completion of the work measurement studies by the Administrative Office previously authorized by the Conference, and had deferred requests for funds for additional personnel for the Probation Service pending experience in administering the drug aftercare program and the reevaluation of the staffing formula. The Committee was authorized to adjust the requests for clerical personnel in the bankruptcy courts in the light of the decline in bankruptcy case filings or because of any new bankruptcy legislation.

REVIEW COMMITTEE

The report of the Review Committee was presented by the Chairman, Judge Edward A. Tamm.

Judge Tamm reported that during the last reporting period the Review Committee had examined a total of 1,722 reports of judges, bankruptcy judges, magistrates, probation officers, clerical employees, circuit executives and public defenders. Fifty reports were received too late to be considered at the

last Committee meeting and therefore will be examined at the next meeting of the Committee.

Under current requirements, circuit executives, staff council, public defenders and certain officers in the Administrative Office of the United States Courts and the Federal Judicial Center are required to file semi-annual reports of extra-judicial income with the Committee. At this time there are no Conference-approved standards governing the outside employment and outside affiliations of these officers and employees. Accordingly, the Joint Committee on the Code of Judicial Conduct has been requested by the Review Committee to draw up proposed standards for the consideration of the Conference.

Judge Tamm stated that the Committee has been conducting a continuing study of the forms for reporting extra-judicial income with a view to minimizing the burden of executing the form. As a result of these studies, the Committee has asked the Director of the Administrative Office to make certain changes in the form to facilitate its preparation.

Judge Tamm advised the Conference that 10 district judges, one senior circuit judge, and two U.S. magistrates have not filed reports of extra-judicial income for the period January 1 to June 30th, 1978, as follows:

Adjudicatory Officials who have not filed, as
of October 18, 1978, Reports of Extra-
Judicial Income for the Period Ending
June 30, 1978

<i>Second Circuit:</i> Edmund L. Palmieri Sr. District Judge Sylvester J. Ryan Sr. District Judge Edward Weinfeld District Judge	Inzer B. Wyatt Sr. District Judge <i>Sixth Circuit:</i> Frank J. Battisti District Judge W. Thomas Dillard, III U.S. Magistrate <i>Eighth Circuit:</i> Pat Mehaffy Sr. Circuit Judge	<i>Ninth Circuit:</i> Warren J. Ferguson District Judge Peirson M. Hall Sr. District Judge Harry Pregerson District Judge Manuel L. Real District Judge Stanley A. Weigel District Judge
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JOINT COMMITTEE ON THE CODE OF JUDICIAL CONDUCT

The report of the Joint Committee on the Code of Judicial Conduct, chaired by Judges Edward A. Tamm and William B. Jones, was presented by Judge Tamm.

FINANCIAL ACTIVITY

Canon 5c(2) of the Code of Judicial Conduct prohibits a judge from serving "as an officer, director, manager, advisor, or employee of any business other than a business wholly owned by members of the judge's family . . .". The Committee has expressed concern that this Canon may permit a judge, serving as a partner in a business enterprise, to do many things he could not otherwise do under the Canon. Upon recommendation of the Committee, the Conference amended the Canon by adding therein the words "active partner". As amended Canon 5c(2) reads as follows:

(2) Subject to the requirements of subsection (1), a judge may hold and manage investments, including real estate, and engage in other remunerative activity, but should not serve as an officer, director, active partner, manager, advisor, or employee of any business other than a business wholly owned by members of the judge's family, all of whom are related to the judge or his or her spouse within the third degree of relationship calculated according to the civil law system.

CODES OF CONDUCT FOR CLERKS OF COURT AND PROBATION OFFICERS

Judge Tamm reported that a Subcommittee composed of Judge Bernard M. Decker, Chairman, Chief Judge Frank M. Coffin, and Judge Edward T. Gignoux, with the assistance of a representative group of clerks and probation officers, had developed codes of conduct pertaining to the activities and affiliations of clerks of court and probation officers. The two codes are identical in most respects and follow the format of the *Code of Judicial Conduct for United States Judges*. The Committee believes that these codes will adequately deal with existing problems and provide standards as high or higher than those of the Executive Branch of the Government. Upon

recommendation of the Committee the Conference adopted the *Code of Conduct for United States Clerks* to be applicable to all clerks of court and deputy clerks of court and the *Code of Conduct for United States Probation Officers* to be applicable to all probation officers and pretrial services officers.

The Conference further directed that the semi-annual reports of nongovernmental income, provided for in these codes, be filed with the Review Committee, with the chief judge of the court which the clerk or probation officer serves, and with the clerk of that court. The Advisory Committee on Judicial Activities was authorized to render advisory opinions concerning the application and interpretation of these codes only when requested by the chief judge of a circuit court, a chief judge of a district court, or by the Review Committee.

FILING FINANCIAL REPORTS

At its April 1976 session, Conf. Rept., p. 8, the Conference approved a Committee recommendation "that judicial officers who are appointed and qualify within the last 60 days of a reporting period not be required to file a public report of extra-judicial income for that period". Upon the request of the Committee the Conference extended this exception to all persons required to make semi-annual financial reports.

NATURALIZATION PROCEEDINGS

A proposal to amend the Code of Judicial Conduct to authorize the taking of "still photographs" in connection with naturalization proceedings was referred to the Committee for further study.

ADVISORY COMMITTEE ON JUDICIAL ACTIVITIES

The report of the Advisory Committee on Judicial Activities, chaired by Judge William B. Jones, was made by Chief Judge Frank M. Coffin, a member of the Committee.

Judge Coffin reported that in the past six months 22 new inquiries were received by the Committee, compared with 16

during the previous six-month period, and that the Committee has issued the following formal opinion:

Advisory Opinion No. 56—Disqualification in cases in which a former law firm appears.

In addition, the Committee is preparing two other formal opinions for publication. To date the Committee has considered and acted upon 191 formal docketed inquiries, not including 35 matters acted upon prior to the installation of the docketing system.

COMMITTEE ON THE ADMINISTRATION OF THE FEDERAL MAGISTRATES SYSTEM

The report of the Committee on the Administration of the Federal Magistrates System was presented by Judge John Lewis Smith, Jr., a member of the Committee, in the absence of the Committee Chairman, Judge Charles M. Metzner.

CHANGES IN MAGISTRATE POSITIONS

After consideration of the report of the Committee and the recommendations of the Director of the Administrative Office, the district courts and the judicial councils of the circuits, the Conference approved the following changes in salaries and arrangements for full-time and part-time magistrates. Unless otherwise indicated, these changes become effective when appropriated funds are available. The salaries for full-time magistrate positions are to be determined in accordance with the Judicial Conference Salary Plan.

DISTRICT OF COLUMBIA CIRCUIT

District of Columbia

- (1) Continued the full-time magistrate position which is due to expire on January 17, 1979, for an additional eight-year term.

FIRST CIRCUIT

District of Maine

- (1) Continued the part-time magistrate position at Bangor for an additional four-year term at the currently authorized salary of \$2,550 per annum.

- (2) Converted the "back-up" part-time magistrate position at Portland, which is currently vacant, to a deputy clerk-magistrate position at the currently authorized salary of \$850 per annum.

District of Massachusetts

- (1) Continued the full-time magistrate position at Boston, due to expire on February 28, 1979, for an additional eight-year term.
- (2) Continued the part-time magistrate position at Springfield for an additional four-year term.
- (3) Increased the salary for the part-time magistrate position at Springfield from \$4,250 to \$5,950 per annum.
- (4) Discontinued the part-time magistrate position at Worcester.
- (5) Changed the official location of the part-time magistrate position at Ayer to "Worcester or Ayer."

SECOND CIRCUIT

Connecticut

- (1) Continued the full-time magistrate position at New Haven for an additional eight-year term.

Northern District of New York

- (1) Converted the part-time magistrate position at Syracuse to full-time status.
- (2) Continued the part-time magistrate position at Syracuse at the currently authorized salary of \$2,550 per annum, until the appointment of the full-time magistrate at Syracuse.
- (3) Continued the part-time magistrate position at Albany for an additional four-year term at the currently authorized salary of \$21,600 per annum.
- (4) Continued the part-time magistrate position at Auburn at the currently authorized salary of \$21,600 per annum, until the appointment of the full-time magistrate at Syracuse.
- (5) Continued the part-time magistrate positions at Champlain and Watertown for additional four-year terms at the currently authorized salaries of \$5,950 and \$1,700 per annum, respectively.
- (6) Discontinued the part-time magistrate positions at Rome and Binghamton upon the expiration of the incumbents' current terms.

Eastern District of New York

- (1) Continued the part-time magistrate position at Patchogue for an additional four-year term at the currently authorized salary of \$4,250 per annum.

Western District of New York

- (1) Continued the full-time magistrate position at Buffalo for an additional eight-year term.
- (2) Continued the part-time magistrate positions at Rochester, Elmira and Niagara Falls for additional four-year terms at the currently authorized salaries of \$2,500, \$850 and \$850 per annum, respectively.

District of Vermont

- (1) Continued the part-time magistrate position at Burlington for an additional four-year term at the currently authorized salary of \$3,400 per annum.
- (2) Continued the part-time magistrate position at Newport for an additional four-year term.
- (3) Decreased the salary for the part-time magistrate position at Newport from \$3,400 to \$1,700 per annum.

THIRD CIRCUIT

District of New Jersey

- (1) Continued the full-time magistrate position at Trenton for an additional eight-year term.

Middle District of Pennsylvania

- (1) Continued the part-time magistrate position at Williamsport for an additional four-year term at the currently authorized salary of \$3,400 per annum.

Western District of Pennsylvania

- (1) Continued the two full-time magistrate positions at Pittsburgh for additional eight-year terms.
- (2) Continued the part-time magistrate position at Erie for an additional four-year term.
- (3) Increased the salary for the part-time magistrate position at Erie from \$5,950 to \$9,350 per annum.

FOURTH CIRCUIT

Eastern District of North Carolina

- (1) Increased the salary of the part-time magistrate at Fayetteville from \$21,600 to \$24,200 per annum.

Middle District of North Carolina

- (1) Continued the full-time magistrate position at Greensboro for an additional eight-year term.

- (2) Discontinued the part-time magistrate position at "Laurinburg or Rockingham."

Eastern District of Virginia

- (1) Increased the salary for the part-time magistrate position at Richmond from \$850 to \$24,200 per annum.
- (2) Increased the salary for the part-time magistrate position at Williamsburg from \$21,600 to \$24,200 per annum.

Northern District of West Virginia

- (1) Continued the full-time magistrate position at Elkins for an additional eight-year term.
- (2) Continued the part-time magistrate position at Wheeling for an additional four-year term at the currently authorized salary of \$1,700 per annum.
- (3) Authorized a new part-time magistrate position at Martinsburg at a salary of \$850 per annum.

FIFTH CIRCUIT

Northern District of Alabama

- (1) Continued the full-time magistrate position at Birmingham, due to expire on February 7, 1979, for an additional eight-year term.
- (2) Continued the part-time magistrate position at "Huntsville or Decatur" for an additional four-year term at the currently authorized salary of \$14,450 per annum.
- (3) Continued the part-time magistrate position at Florence for an additional four-year term.
- (4) Increased the salary for the part-time magistrate position at Florence from \$3,400 to \$4,250 per annum.
- (5) Discontinued the part-time magistrate position at "Anniston or Gadsden" upon the expiration of the incumbent's current term.

Middle District of Alabama

- (1) Continued the part-time magistrate positions at Dothan or Opelika for additional four-year terms at the currently authorized salaries of \$19,000 and \$4,250 per annum, respectively.

Southern District of Alabama

- (1) Continued the full-time magistrate position at Mobile for an additional eight-year term.
- (2) Continued the part-time magistrate position at Selma for an additional four-year term at the currently authorized salary of \$1,700 per annum.

Southern District of Florida

- (1) Continued the full-time magistrate position at Miami due to expire on January 14, 1979, for an additional eight-year term.
- (2) Authorized a new part-time magistrate position at Fort Pierce at a salary of \$2,550 per annum.

Northern District of Georgia

- (1) Continued the part-time magistrate positions at Rome, Gainesville, and "Newnan or La Grange" for additional four-year terms at the currently authorized salaries of \$11,050, \$5,950 and \$1,700 per annum, respectively.

Eastern District of Louisiana

- (1) Continued the full-time magistrate position at New Orleans, due to expire on January 24, 1979, for an additional eight-year term.

Middle District of Louisiana

- (1) Continued the part-time magistrate position at Baton Rouge for an additional four-year term at the currently authorized salary of \$850 per annum.

Western District of Louisiana

- (1) Converted the part-time magistrate position at Lafayette to full-time status.
- (2) Continued the part-time magistrate position at Lafayette at the currently authorized salary of \$24,200 per annum until the appointment of the new full-time magistrate.
- (3) Continued the part-time magistrate positions at Lake Charles, Alexandria, Leesville, and Monroe for additional four-year terms at the currently authorized salaries of \$19,000, \$19,000, \$11,050 and \$3,400 per annum, respectively.

Northern District of Texas

- (1) Continued the two full-time magistrate positions at Dallas for additional eight-year terms.
- (2) Continued the magistrate position at Lubbock as a part-time magistrate position for an additional four-year term at the currently authorized salary of \$19,000 per annum.
- (3) Continued the authorization for conversion of the part-time magistrate position at Lubbock to a full-time combination referee-magistrate position.
- (4) Continued the part-time magistrate position at Wichita Falls for an additional four-year term.

- (5) Increased the salary for the part-time magistrate position at Wichita Falls from \$5,950 to \$7,650 per annum.
- (6) Continued the part-time magistrate positions at Amarillo and San Angelo for additional four-year terms at the currently authorized salaries of \$4,250 and \$850 per annum, respectively.

Eastern District of Texas

- (1) Authorized a second full-time magistrate position for the district to serve at Tyler.
- (2) Continued the authorization for the part-time referee in bankruptcy at Tyler to perform the duties of a part-time magistrate at the currently authorized additional compensation of \$4,250 per annum for such service, until the appointment of the full-time magistrate at Tyler.
- (3) Continued the part-time magistrate position at Texarkana for an additional four-year term at the currently authorized salary of \$1,700 per annum.

Southern District of Texas

- (1) Continued the two full-time magistrate positions at Houston, due to expire in early 1979, and the full-time magistrate position at Brownsville, for additional eight-year terms.

Western District of Texas

- (1) Converted the part-time magistrate position at Austin to full-time status.
- (2) Continued the part-time magistrate position at Austin at the currently authorized salary of \$24,200 per annum, until the appointment of the new full-time magistrate.
- (3) Continued the full-time magistrate position at San Antonio, due to expire on February 7, 1979, for an additional eight-year term.
- (4) Increased the salary for the part-time magistrate position at El Paso from \$21,600 to \$24,200 per annum.
- (5) Continued the part-time magistrate positions at Waco and Pecos for additional four-year terms.
- (6) Increased the salary for the part-time magistrate position at Waco from \$21,600 to \$24,200 per annum.
- (7) Increased the salary for the part-time magistrate position at Pecos from \$9,350 to \$16,750 per annum.
- (8) Continued the part-time magistrate positions at San Antonio, Del Rio, Eagle Pass, Big Bend National Park and Marfa for additional four-year terms at the currently authorized salaries of \$21,600, \$19,000, \$14,450, \$11,050 and \$5,950 per annum, respectively.

SIXTH CIRCUIT

Western District of Kentucky

- (1) Continued the full-time magistrate position at Louisville for an additional eight-year term.
- (2) Continued the part-time magistrate positions at Hopkinsville, Bowling Green, and Owensboro for additional four-year terms at the currently authorized salaries of \$21,600, \$4,250 and \$3,400 per annum, respectively.
- (3) Discontinued the part-time magistrate position at Mammoth Cave National Park upon the expiration of the incumbent's current term.

Eastern District of Michigan

- (1) Continued the full-time magistrate position at Detroit, due to expire on February 11, 1979, for an additional eight-year term.
- (2) Authorized a fourth full-time magistrate position at Detroit.

Western District of Michigan

- (1) Authorized a second full-time magistrate position at Grand Rapids.
- (2) Continued the part-time magistrate position at Kalamazoo for an additional four-year term at the currently authorized salary of \$5,950 per annum.

Northern District of Ohio

- (1) Converted the part-time magistrate position at Toledo to full-time status.
- (2) Continued the part-time magistrate position at Toledo at the currently authorized salary of \$9,350 per annum, until the appointment of the new full-time magistrate.

Southern District of Ohio

- (1) Continued the full-time magistrate position at Columbus for an additional eight-year term.
- (2) Continued the part-time magistrate positions at Portsmouth, Steubenville and Zanesville for additional four-year terms, each at the currently authorized salary of \$850 per annum.

Middle District of Tennessee

- (1) Continued the part-time magistrate position at Columbia for an additional four-year term at the currently authorized salary of \$4,250 per annum.

SEVENTH CIRCUIT

Northern District of Illinois

- (1) Continued the three full-time magistrate positions presently serving at Chicago for additional eight-year terms.

Eastern District of Illinois

- (1) Continued the part-time magistrate position at Belleville for an additional four-year term at the currently authorized salary of \$14,450 per annum.

Southern District of Illinois

- (1) Continued the part-time magistrate position at Peoria for an additional four year term at the currently authorized salary of \$5,950 per annum.
- (2) Authorized the clerk of court at Peoria to serve as a part-time magistrate without additional compensation.

Northern District of Indiana

- (1) Converted the part-time magistrate position at South Bend to full-time status.
- (2) Continued the part-time magistrate position at South Bend at the currently authorized salary of \$4,250 per annum, until the appointment of the new full-time magistrate.
- (3) Continued the part-time magistrate position at Fort Wayne for an additional four-year term.
- (4) Decreased the salary for the part-time magistrate position at Fort Wayne from \$5,950 to \$3,400 per annum, effective upon the appointment of the new full-time magistrate at South Bend.
- (5) Continued the part-time magistrate position at Lafayette for an additional four-year term at the currently authorized salary of \$850 per annum.

Southern District of Indiana

- (1) Continued the full-time magistrate position at Indianapolis, due to expire on May 26, 1979, for an additional eight-year term.
- (2) Continued the part-time magistrate positions at New Albany and Terre Haute for additional four-year terms, each at the currently authorized salary of \$1,700 per annum.

Eastern District of Wisconsin

- (1) Continued the part-time magistrate positions at Appleton and Green Bay for additional four-year terms, each at the currently authorized salary of \$850 per annum.

- (2) Continued the part-time magistrate position at Fond du Lac for an additional four-year term.
- (3) Decreased the salary for the part-time magistrate position at Fond du Lac from \$1,700 to \$850 per annum.

Western District of Wisconsin

- (1) Continued the part-time magistrate position at Wausau for an additional four-year term at the currently authorized salary of \$850 per annum.
- (2) Continued the authorization for the part-time referee in bankruptcy at Eau Claire to perform the duties of a part-time magistrate for an additional four-year period at the currently authorized additional compensation of \$850 per annum.

EIGHTH CIRCUIT

Eastern District of Arkansas

- (1) Continued the part-time magistrate positions at Jonesboro and West Memphis for additional four-year terms, each at the currently authorized salary of \$1,700 per annum.

Western District of Arkansas

- (1) Continued the part-time magistrate positions at Hot Springs, El Dorado, and Texarkana for additional four-year terms at the currently authorized salaries of \$5,950, \$2,550 and \$1,700 per annum, respectively.
- (2) Continued the part-time magistrate position at Harrison for an additional four-year term.
- (3) Increased the salary for the part-time magistrate position at Harrison from \$2,550 to \$3,400 per annum.
- (4) Discontinued the part-time magistrate position at Fayetteville upon the expiration of the incumbent's current term.

Southern District of Iowa

- (1) Continued the part-time magistrate position at Council Bluffs for an additional four-year term at the currently authorized salary of \$1,700 per annum.

District of Minnesota

- (1) Continued the authorization for the part-time referee in bankruptcy at Duluth to perform the duties of a part-time magistrate for an additional four-year period at the currently authorized additional compensation of \$24,200 per annum.

- (2) Continued the part-time magistrate position at Bemidji for an additional four-year term at the currently authorized salary of \$850 per annum.
- (3) Discontinued the part-time magistrate position at International Falls at the expiration of the incumbent's current term.

Western District of Missouri

- (1) Continued the full-time magistrate position at Kansas City, due to expire in 1979, for an additional eight-year term.

District of Nebraska

- (1) Continued the part-time magistrate positions at Lincoln, "Gering or Scottsbluff" and North Platte for additional four-year terms at the currently authorized salaries of \$1,700, \$850 and \$850 per annum, respectively.

District of North Dakota

- (1) Continued the part-time magistrate positions at Minot, Grand Forks and "Devil's Lake or Minnewaukan" for additional four-year terms at the currently authorized salaries of \$2,550, \$2,550 \$1,700 per annum, respectively.

District of South Dakota

- (1) Converted the part-time referee/magistrate position at Sioux Falls to a part-time magistrate position.
- (2) Increased the salary for the part-time magistrate position at Sioux Falls from \$4,250 to \$7,650 per annum.

NINTH CIRCUIT

District of Alaska

- (1) Continued the part-time magistrate positions at Juneau, Ketchikan and Nome for additional four-year terms, each at the currently authorized salary of \$850 per annum.

District of Arizona

- (1) Continued the full-time magistrate positions at Phoenix and Tucson for additional eight-year terms.
- (2) Continued the part-time magistrate positions at Grand Canyon National Park and Yuma for additional four-year terms at the currently authorized salaries of \$19,000 and \$14,450 per annum, respectively.

Northern District of California

- (1) Continued the two full-time magistrate positions at San Francisco, due to expire during 1979, for additional eight-year terms.

- (2) Continued the part-time magistrate position at Oakland for an additional four-year term.
- (3) Increased the salary for the part-time magistrate position at Oakland from \$21,600 to \$24,200 per annum.
- (4) Continued the part-time magistrate positions at San Jose and Eureka for additional four-year terms at the currently authorized salaries of \$14,450 and \$850 per annum, respectively.

Eastern District of California

- (1) Continued the full-time magistrate position at Sacramento for an additional eight-year term.
- (2) Continued the part-time magistrate position at Merced for an additional four-year term.
- (3) Increased the salary for the part-time magistrate position at Merced from \$1,700 to \$4,250 per annum.
- (4) Continued the part-time magistrate positions at "Sequoia and Kings Canyon National Parks," Bakersfield, Bishop, South Lake Tahoe, Modesto, Alturas and Yreka for additional four-year terms at the currently authorized salaries of \$14,450, \$7,650, \$5,950, \$1,700, \$1,700, \$850 and \$850 per annum, respectively.

District of Hawaii

- (1) Continued the part-time magistrate positions at Hilo, Johnston Island, Lihue and Wailuku for additional four-year terms at the currently authorized salaries of \$1,700, \$850, \$850 and \$850 per annum, respectively.

District of Idaho

- (1) Continued the part-time magistrate positions at Pocatello, Lewiston and Twin Falls for additional four-year terms at the currently authorized salaries of \$3,400, \$1,700 and \$1,700 per annum, respectively.

District of Montana

- (1) Continued the part-time magistrate positions at Kalispell, Butte, Great Falls, Missoula, Helena, Cut Bank and Miles City for additional four-year terms at the currently authorized salaries of \$4,250, \$3,400, \$2,550, \$2,500, \$1,700, \$850 and \$850 per annum.

District of Nevada

- (1) Increased the salary for the part-time magistrate position at Reno from \$19,000 to \$24,200 per annum.

District of Oregon

- (1) Continued the full-time magistrate position at Portland, due to expire on January 13, 1979, for an additional eight-year term.
- (2) Continued the part-time magistrate position at Bend for an additional four-year term at the currently authorized salary of \$850 per annum.

Eastern District of Washington

- (1) Converted the part-time magistrate position at Spokane to full-time status.
- (2) Continued the part-time magistrate position at Yakima for an additional four-year term.
- (3) Decreased the salary for the part-time magistrate position at Yakima from \$21,600 to \$7,650 per annum, effective upon the appointment of the full-time magistrate at Spokane.
- (4) Continued the part-time magistrate positions at Spokane and Yakima, each at the currently authorized salary of \$21,600 per annum, until the appointment of the full-time magistrate at Spokane.

Western District of Washington

- (1) Continued the full-time magistrate position at Tacoma for an additional eight-year term.

TENTH CIRCUIT

District of Colorado

- (1) Continued the full-time magistrate position at Denver, due to expire on February 28, 1979, for an additional eight-year term.
- (2) Continued the part-time magistrate positions at Colorado Springs and "Steamboat Springs or Craig" for additional four-year terms.
- (3) Increased the salary for the part-time magistrate position at Colorado Springs from \$14,450 to \$19,000 per annum.
- (4) Increased the salary for the part-time magistrate position at "Steamboat Springs or Craig" from \$850 to \$1,700 per annum.
- (5) Continued the part-time magistrate positions at Rocky Mountain National Park, Grand Junction, and "Cortez or Durango" for additional four-year terms at the currently authorized salaries of \$11,050, \$2,550 and \$1,700 per annum, respectively.

District of New Mexico

- (1) Continued the full-time magistrate position at Albuquerque for an additional eight-year term.

- (2) Continued the part-time magistrate position at Las Cruces for an additional four-year term.
- (3) Increased the salary for the part-time magistrate position at Las Cruces from \$11,050 to \$12,750 per annum.
- (4) Continued the part-time magistrate positions at Clovis and Roswell for additional four-year terms, each at the currently authorized salary of \$850 per annum.

Northern District of Oklahoma

- (1) Continued the part-time magistrate position at Miami for an additional four-year term at the currently authorized salary of \$4,250 per annum.

Eastern District of Oklahoma

- (1) Continued the part-time magistrate position at Hugo for an additional four-year term at the currently authorized salary of \$1,700 per annum.

Western District of Oklahoma

- (1) Continued the full-time magistrate position at Oklahoma City for an additional eight-year term.
- (2) Authorized a second full-time magistrate position at Oklahoma City.
- (3) Continued the part-time magistrate position at Lawton for an additional four-year term.
- (4) Increased the salary for the part-time magistrate position at Lawton from \$21,600 to \$24,200 per annum.
- (5) Discontinued the part-time magistrate position at "Enid or Ponca City" upon the expiration of the incumbent's current term.

District of Utah

- (1) Converted the part-time magistrate position at "Ogden or Salt Lake City" to full-time status.
- (2) Changed the official location of the full-time magistrate position from "Ogden or Salt Lake City" to Salt Lake City.
- (3) Continued the part-time magistrate position at "Ogden or Salt Lake City" until the appointment of the full-time magistrate at Salt Lake City.
- (4) Increased the salary of the part-time magistrate position at "Ogden or Salt Lake City" from \$21,600 to \$24,200 per annum, until the appointment of the full-time magistrate at Salt Lake City.

- (5) Authorized the clerk of court at Salt Lake city to perform the duties of a part-time magistrate without additional compensation.
- (6) Authorized a part-time magistrate position at Cedar City at a salary of \$4,250 per annum.
- (7) Authorized a part-time magistrate position at "Moab or Monticello" at a salary of \$2,550 per annum.
- (8) Authorized a part-time magistrate position at "Vernal or Roosevelt" at a salary of \$2,550 per annum.

District of Wyoming

- (1) Continued the part-time magistrate position at Yellowstone National Park for an additional four-year term at the currently authorized salary of \$19,000 per annum.
- (2) Continued the part-time magistrate position at Lander for an additional four-year term.
- (3) Increased the salary for the part-time magistrate position at Lander from \$1,700 to \$2,550 per annum.
- (4) Continued the part-time magistrate positions at Green River, Worland, Cody and Casper for additional four-year terms, each at the currently authorized salary of \$850 per annum.
- (5) Discontinued the part-time magistrate position at Laramie upon the expiration of the incumbent's current term.

SELECTION OF MAGISTRATES

The Conference was informed that the Senate-passed bill, S. 1613, relating to the jurisdiction of magistrates, would require the Judicial Conference to promulgate procedures and standards to be followed by the courts in the selection of magistrates. These procedures and standards would supersede the guidelines previously approved by the Conference. A bill under consideration in the House of Representatives, however, would require the use of "magistrate selection panels" by the district courts.

In view of the likelihood of the enactment of legislation during the current session of the Congress, the Committee has requested the staff of the Administrative Office to provide copies of the pending legislation and the Conference's previously-approved selection guidelines to those district courts which will be appointing or reappointing magistrates in the next several months. Specifically, the district courts are being advised to comply with the selection procedures set

forth in the House bill in order to insure the validity of pending appointments in the event the House version of the bill is enacted.

RULES OF PROCEDURE FOR MAGISTRATES

Judge Smith reported that the Committee has authorized the staff of the Magistrates Division of the Administrative Office to work with the Committee on Rules of Practice and Procedure on needed revisions in various rules in the light of the expansion of the jurisdiction of magistrates that would be authorized by pending legislation.

COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM

The report of the Committee on the Administration of the Bankruptcy System was presented by the Chairman, Judge Edward Weinfeld.

SALARIES AND ARRANGEMENTS FOR REFEREES

The Conference considered the Committee report, together with the recommendations of the Director of the Administrative Office, the judicial councils of the circuits, and the district courts concerned, and took the following action relating to referee positions and changes in salaries and arrangements. The Conference directed that these actions become effective on October 1, 1978, unless otherwise indicated.

SECOND CIRCUIT

Eastern District of New York

- (1) Changed the headquarters of the referees at Westbury from Westbury to Hempstead.
- (2) Discontinued Westbury as a headquarters and place of holding bankruptcy court.
- (3) Directed that these changes become effective when facilities at Hempstead are available.

FOURTH CIRCUIT

District of Maryland

- (1) Authorized the continuance of the part-time referee position at Hyattsville to become vacant by expiration of term on November 1, 1978, for a term of six years, effective November 2, 1978, at the authorized salary, with the regular place of office, territory, and places of holding court to remain as at present, subject to conversion to full-time status.
- (2) Changed the part-time referee position at Hyattsville to full-time status as soon as appropriated funds become available, at the salary authorized for a full-time referee.
- (3) Designated Rockville as an additional place of holding court for the two full-time referees in the District in addition to Baltimore, Hyattsville, Salisbury, Easton, and Hagerstown.
- (4) Continued concurrent district-wide jurisdiction over all cases for the full-time referees in the District.

FIFTH CIRCUIT

Northern District of Alabama

- (1) Authorized the continuance of the full-time referee position at Birmingham to become vacant by expiration of term on November 14, 1978, for a term of six years, effective November 15, 1978, at the authorized salary, the regular place of office, territory and places of holding court to remain as at present.
- (2) Authorized the continuance of the part-time referee position at Decatur to become vacant by expiration of term on April 30, 1979, for a term of six years, effective May 1, 1979, at the authorized salary, with the regular place of office, territory, and places of holding court to remain as at present.

Western District of Louisiana

- (1) Authorized the continuance of the full-time referee position at Shreveport to become vacant by expiration of term on November 2, 1978, for a term of six years, effective November 3, 1978, at the authorized salary, with the regular place of office, territory, and places of holding court to remain as at present.

SIXTH CIRCUIT

Western District of Michigan

- (1) Authorized the continuance of the full-time referee position at Grand Rapids to become vacant by expiration of term on April

14, 1979, for a term of six years, effective April 15, 1979, at the authorized salary, with the regular place of office, territory, and places of holding court to remain as at present.

Northern District of Ohio

- (1) Discontinued Bucyrus as a place of holding court for the referee at Canton.

SEVENTH CIRCUIT

Northern District of Illinois

- (1) Designated Chicago, Waukegan, Wheaton, Geneva, Ottawa, Joliet, Rockford, Freeport, Sterling, and Dixon as places of holding court for all referees in the district.
- (2) Discontinued specific designations of places of holding court for individual referees in the district.

Northern District of Indiana

- (1) Authorized the continuance of the full-time referee position at South Bend to become vacant by expiration of term on November 10, 1978, for a term of six years, effective November 11, 1978, at the authorized salary, with the regular place of office, territory, and places of holding court to remain as at present.

EIGHTH CIRCUIT

Eastern and Western Districts of Arkansas

- (1) Authorized the continuance of the full-time referee position at Little Rock to become vacant by expiration of term on January 31, 1979, for a term of six years, effective February 1, 1979, at the authorized salary, with the regular place of office, territory, and places of holding court to remain as at present.

NINTH CIRCUIT

District of Oregon

- (1) Authorized the continuance of the full-time referee position at Portland to become vacant by expiration of term on January 31, 1979, for a term of six years, effective February 1, 1979, at the authorized salary, with the regular place of office, territory, and places of holding court to remain as at present.

Western District of Washington

- (1) Designated Bremerton as an additional place of holding court for the referees in this district, in addition to Seattle, Everett, Bellingham, Tacoma, and Vancouver.

COMMITTEE ON THE ADMINISTRATION OF THE PROBATION SYSTEM

The report of the Committee on the Administration of the Probation System was presented by the Chairman, Judge Gerald B. Tjoflat.

SENTENCING INSTITUTES

The Committee submitted to the Conference a plan for a Joint Institute on Sentencing for the Judges of the First, Fourth, and District of Columbia Circuits to be held at Raleigh, North Carolina, April 18-21, 1979, with one day at the Federal Correctional Institution at Butner, North Carolina. The Conference approved the time, place, participants and agenda for this Sentencing Institute.

A major portion of the agenda for this Institute and for future institutes on sentencing will address legislative proposals, under active consideration by the Congress, that would revise the Federal Criminal Code, bring about major changes in the whole field of sentencing and provide for the appellate review of sentences. The Committee accordingly recommended that circuit judges be encouraged to attend sentencing institutes and the Conference concurred.

REIMBURSEMENT OF ATTORNEYS' FEES AS A CONDITION OF PROBATION

At the request of the Department of Justice the Committee on the Administration of the Criminal Justice Act had previously considered whether, as a matter of policy, probationers should be required to reimburse the government for fees paid to their attorneys under the Criminal Justice Act as a condition of probation. The Committee believed that the reimbursement of attorneys' fees paid under the Criminal Justice Act should not be made a condition of probation, but concluded that the question should be referred to the Probation Committee as a matter within its jurisdiction. Judge Tjoflat informed the Conference that the Probation Committee agreed with the conclusions of the Committee on the Criminal Justice Act. The Conference, however, voted to take no action.

PROBATION INFORMATION SYSTEM

In September 1977, Conf. Rept., p. 74, the Conference endorsed the concept of a new probation information system. Judge Tjoflat informed the Conference that as a first step in developing a new system the probation offices in four selected districts have submitted documents on the information systems currently in use in their offices. These documents are being analyzed by the Probation Division of the Administrative Office to identify information needs and the cost thereof. This study will lead to the design of an improved system to meet the needs of probation officers in the field, the judge in his day-to-day sentencing problems, needs at the national level for budget planning and management control, and the needs of researchers studying the treatment of offenders. The project has taken on particular significance in view of the legislative proposal under consideration in the Congress to require the Judicial Conference to establish advisory sentencing guidelines.

NARCOTIC AFTERCARE PROGRAM

H.R. 12290, 95th Congress, would transfer the responsibility for drug aftercare programs from the Bureau of Prisons to the Federal Probation System. If enacted, the transfer would become effective on October 1, 1979.

COMMITTEE ON THE ADMINISTRATION OF THE CRIMINAL LAW

The report of the Committee on the Administration of the Criminal Law was presented by the Chairman, Judge Alexander Harvey II.

CRIMINAL CODE REVISION

Judge Harvey informed the Conference that the Subcommittee on Criminal Justice of the House Judiciary Committee conducted hearings last spring on the Senate-passed Criminal Code Revision bill, S. 1437, and had reported to the full House Judiciary Committee a new bill, H.R. 13959, for the

recodification of the Federal Criminal Code. Judge Harvey stated that the Committee would continue its study of both bills and report to a future session of the Conference.

AMENDMENTS TO THE SPEEDY TRIAL ACT OF 1974

The Conference in March 1978, Conf. Rept., p. 29, reaffirmed its previous approval of amendments to Title I of the Speedy Trial Act, 18 U.S.C. §§3161-3174, drafted by a Subcommittee of the Committee on Court Administration, chaired by Judge Carl Rubin. Judge Harvey reported that the Committee had reviewed the final speedy trial plans recently adopted by the district courts, which were not available to Judge Rubin's Subcommittee. Based upon its study the Criminal Law Committee recommended the following additional amendments to Title I of the Speedy Trial Act, which were approved by the Conference:

(1) *Elimination of the time limit between indictment and arraignment.* The Conference had previously recommended that the time limits of the Speedy Trial Act be extended to 60 days from arrest to indictment, 20 days from indictment to arraignment, and 100 days from arraignment to trial, provided that trial not commence within 30 days of arraignment without the consent of the defendant. The Committee endorsed these new time limits, but further recommended that the provision requiring a defendant to be arraigned within 20 days of indictment be eliminated so that there would be only one time limit of 120 days from indictment to trial. This change would give greater flexibility to trial judges administering the Act, but would not change the total time for the commencement of the trial of a defendant following his indictment.

(2) *Excludable time.* The Committee's study of the excludable time provisions of 18 U.S.C. 3161(h) indicated that much needless litigation could be avoided if the highly technical and ambiguous provisions of this section could be made more flexible. The Committee therefore recommended an amendment to section 3161(h) to permit the court to extend time limits to accommodate delays reasonably necessitated by the kinds of events that are now dealt with as exclusions. Under the proposed amendment there would be no automatic extensions of time limits, but extensions would be permitted if the judge found that the event in question resulted in ex-

cludable delay. If this recommendation is not adopted, the Committee further recommended that the date when the Act becomes fully effective be postponed from July 1, 1979 to July 1, 1980, so that the courts may have another full year of experience before the harsh sanctions of the Act, including the dismissal of indictments with prejudice, become effective.

(3) *Judicial emergency.* In the event of an emergency the chief judge of a district court, pursuant to 18 U.S.C. 3174, may apply to the judicial council of the circuit for a suspension of the Act's time limits. The council in turn may apply to the Judicial Conference for a suspension of the time limits for a period not to exceed one year. The Act does not provide for the suspension of any time limits during the period required for processing an application by a judicial council or by the Judicial Conference. The Committee recommended that the Act be amended to grant authority to the chief judge of each district court to declare a temporary judicial emergency and suspend the time limits not to exceed 30 days pending an application to the circuit council and to the Conference for a longer suspension. The Conference, however, was further of the view that the judicial councils of the circuits should have authority to grant suspensions and that the Judicial Conference should not be involved. Until the Act is so amended, the Conference authorized its Executive Committee to act for the Conference on applications for the suspension of speedy trial time limits.

The Committee also recommended that the exclusions of 18 U.S.C. 3161(h) be made applicable to defendants in custody, or high risk defendants, a recommendation previously approved by the Conference.

DOMESTIC SURVEILLANCE OF FOREIGN INTELLIGENCE

Judge Harvey informed the Conference that S. 1566, a bill relating to the domestic surveillance of foreign intelligence, had passed the Senate. The bill provides for a special court of seven district judges designated by the Chief Justice and conforms to the recommendations approved by the Conference last March, Conf. Rept., p. 8. A similar House bill, H.R. 7308, provides for a special trial court consisting of at least one judge from each circuit nominated by the chief judge of the circuit and designated by the Chief Justice, and a special appeals court of judges residing in the vicinity of the District

of Columbia. Upon recommendation of the Committee the Conference reaffirmed its endorsement of the Senate-passed bill.

COMMITTEE ON THE OPERATION OF THE JURY SYSTEM

Chief Judge C. Clyde Atkins, Chairman of the Committee on the Operation of the Jury System, presented the report of the Committee.

MODEL GRAND JURY CHARGE

Judge Atkins submitted to the Conference a model grand jury charge drafted by a Subcommittee consisting of Judges Myron L. Gordon, Howard F. Corcoran, and Robert E. Varner, which is designed for the use of district courts in instructing grand juries at the commencement of their service. The Conference approved the model grand jury charge as submitted and authorized its distribution to all district judges with a recommendation that each district court give consideration to its regular use in the empanelling of grand juries.

TRIAL STANDARDS AND PEREMPTORY CHALLENGES

Judge Atkins informed the Conference that a Subcommittee of the Committee on the Operation of the Jury System had reviewed the American Bar Association Standards and had concluded that the federal trial courts are in substantial compliance with these standards and that no further action is necessary. The Subcommittee further determined not to make any recommendations with respect to procedural and technological innovations contained in the Standards on the basis that their use should be left to the discretion of each individual trial judge, nor to make any further recommendation regarding the number of challenges of jurors to be allowed in criminal cases in view of Congressional action declining to permit an amendment to Rule 24(b), Federal Rules of Criminal Procedure, as previously recommended by the Conference. The report was approved by the Conference.

VOTER REGISTRATION LISTS

The Conference, upon recommendation of the Committee, reaffirmed its approval of draft legislation to establish a statutory presumption that jurors selected solely from voter registration lists are representative of a fair cross-section of the community for purposes of the statutory jury selection requirement and to require a judicial finding that the voter lists do not represent such a fair cross-section before other sources of juror names may be prescribed by a district court. The Director of the Administrative Office was authorized to transmit draft legislation to the Congress.

SIX-PERSON CIVIL JURIES

Judge Atkins informed the Conference that 80 out of 95 United States district courts are now operating under local rules providing for civil juries of less than 12. He therefore suggested that no further attempt be made to seek legislation on this subject and the Conference agreed.

JUROR UTILIZATION

The Committee reported that very substantial efforts to train and educate judges and court personnel in techniques of juror utilization had been carried on in recent years and that substantial improvements have been made. This training program to improve utilization of jurors in the district courts will be continued under the auspices of the Committee and the Federal Judicial Center.

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

The written report of the Committee on Intercircuit Assignments, submitted by the Chairman, Judge George L. Hart, Jr., was received by the Conference.

The report indicated that during the period from February 16, 1978 through August 15, 1978, the Committee had recommended 69 intercircuit assignments to be undertaken by 51 judges. Of this number, five were senior circuit judges, one was an active circuit judge, 10 were district judges in active status,

and 26 were senior district judges. Sixteen assignments involved two active judges and two senior judges of the Court of Claims, two active judges of the Customs Court and three active judges of the Court of Customs and Patent Appeals.

Five senior circuit judges, 12 senior district judges and two senior judges of the Court of Claims carried out 25 of the 35 assignments to the courts of appeals which were recommended during this period. One active circuit judge, one active district judge, two active judges of the Court of Customs and Patent Appeals, and two active judges of the Court of Claims participated in the other 10 assignments to the courts of appeals. Of the 34 assignments to the district courts, 15 senior district judges participated in 18 assignments and the remaining 16 assignments were carried out by nine active district judges, two active judges of the Customs Court and two active judges of the Court of Customs and Patent Appeals.

COMMITTEE TO IMPLEMENT THE CRIMINAL JUSTICE ACT

The report of the Committee to implement the Criminal Justice Act was presented by the Chairman, Judge Dudley B. Bonsal.

APPOINTMENTS AND PAYMENTS

The Conference authorized the Director of the Administrative Office to distribute copies of the report on appointments and payments under the Criminal Justice Act for the six-month period ending March 31, 1978 to all chief judges, all federal defender organizations and to others who may request copies. The report indicated that the sum of \$24,095,000 would be available for defense services during the fiscal year 1978 and that projected obligations are \$23,688,500.

During the six-month period ending March 31, 1978 approximately 20,300 persons were represented by appointed counsel and defenders, as compared to 20,600 in a similar period in fiscal year 1977, a decrease of approximately one percent. The Committee anticipates that the total number of

appointments for the year will rise to 48,000, an increase of approximately four percent.

The average cost per case of representation under the Criminal Justice Act, including appeal, is now estimated to be \$453 for private panel attorneys, \$467 for community defender organizations, and \$513 for federal public defender offices.

BUDGET REQUESTS—FEDERAL PUBLIC DEFENDER

The Criminal Justice Act, as amended, requires that each federal public defender organization, established pursuant to 18 U.S.C. 3006A(h)(2)(A), submit a proposed budget to be approved by the Judicial Conference in accordance with section 605 of Title 28, United States Code. The Conference approved the following budgetary requests for these offices:

	Fiscal Year 1979				Fiscal Year 1980			
	<i>Supplemental Requests</i>				<i>Budgetary Requests</i>			
	<i>Staff</i>				<i>Staff</i>			
	<i>Attorneys</i>	<i>Investigators</i>	<i>Secretaries</i>	<i>Amount</i>	<i>Attorneys</i>	<i>Investigators</i>	<i>Secretaries</i>	<i>Amount</i>
<i>Arizona</i>								
Requested	—	—	—	\$—	13	2	7	\$ 632,514
Approved	—	—	—	—	12	2	7	604,000
<i>Calif. (N)</i>								
Requested	—	—	—	—	9	1	5	504,144
Approved	—	—	—	—	9	1	5	504,144
<i>Calif. (E)</i>								
Requested	—	—	1	23,643	7	2	5	465,052
Approved	—	—	—	12,000	7	2	4	450,000
<i>Calif. (C)</i>								
Requested	—	—	—	—	18	5	12	1,009,983
Approved	—	—	—	—	18	5	12	1,009,983
<i>Colorado</i>								
Requested	—	—	—	—	4	1	2	219,979
Approved	—	—	—	—	4	1	2	219,979
<i>Connecticut</i>								
Requested	—	—	—	—	4	1	2	217,580
Approved	—	—	—	—	3	1	2	190,000
<i>Fla. (N)</i>								
Requested	—	—	—	—	2	1	2	142,826
Approved	—	—	—	—	2	—	2	133,000
<i>Fla. (M)</i>								
Requested	1	1	1	87,560	6	3	4	317,062
Approved	1	—	1	68,000	6	2	4	298,000
<i>Fla. (S)</i>								
Requested	—	—	—	—	8	2	5	428,254
Approved	—	—	—	—	8	2	5	428,254

	Fiscal Year 1979				Fiscal Year 1980			
	<i>Supplemental Requests</i>				<i>Budgetary Requests</i>			
	<i>Staff</i>				<i>Staff</i>			
	<i>Attorneys</i>	<i>Investigators</i>	<i>Secretaries</i>	<i>Amount</i>	<i>Attorneys</i>	<i>Investigators</i>	<i>Secretaries</i>	<i>Amount</i>
<i>Ga. (S)</i>								
Requested	—	—	—	—	3	—	2	150,477
Approved	—	—	—	—	3	—	2	150,477
<i>Kansas</i>								
Requested	—	—	—	—	4	1	2	254,780
Approved	—	—	—	—	4	1	2	254,780
<i>Ky. (E)</i>								
Requested	—	—	1	8,723	3	1	2	179,426
Approved	—	—	1	8,723	3	1	2	179,426
<i>La. (E)</i>								
Requested	—	—	—	—	5	1	3	254,973
Approved	—	—	—	—	5	1	3	254,973
<i>Maryland</i>								
Requested	—	—	—	—	7	2	4	419,953
Approved	—	—	—	—	7	2	4	408,000
<i>Mo. (W)</i>								
Requested	—	—	—	—	8	1	4	425,129
Approved	—	—	—	—	7	1	4	400,000
<i>Nevada</i>								
Requested	—	—	—	—	4	1	2	241,151
Approved	—	—	—	—	4	1	2	237,000
<i>New Jersey</i>								
Requested	—	—	—	13,630	8	3	4	452,390
Approved	—	—	—	13,630	8	3	4	452,390
<i>New Mexico</i>								
Requested	—	—	—	—	3	1	2	186,244
Approved	—	—	—	—	3	1	2	180,000
<i>Ohio (N)</i>								
Requested	—	—	—	—	4	1	2	235,308
Approved	—	—	—	—	4	1	2	235,308
<i>Pa. (W)</i>								
Requested	—	—	—	—	3	1	2	230,409
Approved	—	—	—	—	3	1	2	224,000
<i>Puerto Rico</i>								
Requested	4	2	2	197,859	6	2	3	336,480
Approved	—	—	—	—	2	—	1	138,621
<i>South Carolina</i>								
Requested	—	—	—	4,000	3	1	2	179,347
Approved	—	—	—	4,000	3	1	2	179,347
<i>Tenn. (W)</i>								
Requested	—	—	—	—	2	—	1	104,642
Approved	—	—	—	—	2	—	1	104,642
<i>Texas (S)</i>								
Requested	—	—	—	—	7	2	5	403,706
Approved	—	—	—	—	7	2	5	403,706
<i>Texas (W)</i>								
Requested	—	—	—	—	7	2	5	416,255
Approved	—	—	—	—	7	2	5	416,255

	Fiscal Year 1979				Fiscal Year 1980			
	<i>Supplemental Requests</i>				<i>Budgetary Requests</i>			
	<i>Staff</i>				<i>Staff</i>			
	<i>Attorneys</i>	<i>Investigators</i>	<i>Secretaries</i>	<i>Amount</i>	<i>Attorneys</i>	<i>Investigators</i>	<i>Secretaries</i>	<i>Amount</i>
<i>Virgin Islands</i>								
Requested	—	—	—	—	3	2	2	237,440
Approved	—	—	—	—	3	2	2	237,440
<i>Wash. (W)</i>								
Requested	1	1	1	91,488	6	2	4	365,321
Approved	—	1	1	60,000	5	2	4	335,000
<i>West. Va. (S)</i>								
Requested	—	—	—	—	2	—	1	123,036
Approved	—	—	—	—	2	—	1	123,036
TOTALS								
Requested	6	4	6	\$ 426,903	159	43	96	\$ 9,133,861
Approved	1	1	3	\$ 166,353	151	39	93	\$ 8,751,761
Net	-5	-3	-3	\$ -260,550	-8	-4	-3	\$ -382,100

NEW DEFENDER OFFICES—BUDGET REQUESTS

Judge Bonsal informed the Conference that a new public defender office was established last February in the Middle District of Tennessee, that a single federal public defender office to serve both the Eastern and Southern Districts of Illinois was established in May, and that the half-time community defender office in the District of Minnesota was being converted to a full-time federal public defender office. This increases the total number of federal public defender offices to 31. Upon recommendation of the Committee the Conference approved the following budgetary requests for these offices:

	Fiscal Year 1979				Fiscal Year 1980			
	<i>Staff</i>				<i>Staff</i>			
	<i>Attorneys</i>	<i>Investigators</i>	<i>Secretaries</i>	<i>Amount</i>	<i>Attorneys</i>	<i>Investigators</i>	<i>Secretaries</i>	<i>Amount</i>
<i>Ill. (E. & S.)</i>								
Requested	2	—	1	\$ 113,155	2	—	1	\$ 119,794
Approved	2	—	1	109,000	2	—	1	115,000
<i>Minnesota</i>								
Requested	2	—	2	138,333	2	—	2	141,890
Approved	2	—	2	138,333	2	—	2	141,890
<i>Tenn. (M)</i>								
Requested	3	1	2	166,690	3	1	2	117,115
Approved	3	1	2	166,690	3	1	2	177,115
TOTALS								
Requested	7	1	5	\$ 418,178	7	1	5	\$ 438,799
Approved	7	1	5	\$ 414,023	7	1	5	\$ 434,005
Net	—	—	—	\$ -4,155	—	—	—	\$ -4,794

AMENDMENTS TO CRIMINAL JUSTICE ACT GUIDELINES

Judge Bonsal submitted to the Conference proposed amendments to the *Guidelines for the Administration of the Criminal Justice Act* to indicate that a guardian ad litem appointment under 18 U.S.C. 1534 is not eligible to receive compensation under the Criminal Justice Act and that secretarial expenses are considered part of a lawyer's overhead and should not be allowed absent an "exceptional situation". He also submitted general guidelines on the allowance of "excess compensation" under the Act. These amendments to the guidelines were approved by the Conference.

ADMINISTRATION

Judge Bonsal informed the Conference that the Administrative Office has been directed to draft an agreement to be executed annually by community defender organizations to be forwarded with each request for a grant. Meanwhile the Administrative Office has been directed to require an annual audit of each community defender's expenditures of federal grants, on a federal fiscal year basis, as a prerequisite to receiving such a grant.

The Administrative Office has also prepared regulations governing the appointment of counsel to represent United States citizens imprisoned in foreign countries who have requested transfers pursuant to treaties entered into by the United States with foreign nations.

Judge Bonsal also pointed out that circuit council approval must be obtained for additional public defender positions before the Committee will recommend approval of funds to support these positions. He suggested that each circuit council seek the advice and recommendation of the Criminal Justice Act Division of the Administrative Office prior to approving new positions.

COMMITTEE ON RULES OF PRACTICE
AND PROCEDURE

The Report of the Committee on Rules of Practice and Procedure was submitted by the Chairman, Judge Roszel C. Thomsen.

APPELLATE RULES

On recommendation of the Committee, the Conference approved for transmittal to the Supreme Court of the United States a series of proposed amendments to Rules 1, 3, 4, 5, 6, 7, 10, 11, 12, 13, 24, 27, 28, 34, 35, 39 and 40, Federal Rules of Appellate Procedure. The Conference was advised that the proposed rules had been previously circulated to the bench and bar for comment and that the Advisory Committee on Appellate Rules, under the chairmanship of Judge Bailey Aldrich, had fully considered the comments received.

CRIMINAL RULES

On recommendation of the Committee, the Conference approved for transmittal to the Supreme Court of the United States proposed amendments to Rules 6, 7, 9, 11, 17, 18, 32, 35, 40, 41 and 44, Federal Rules of Criminal Procedure, and proposed new criminal Rules 26.2 and 32.1; a proposed amendment to Rule 410 of the Federal Rules of Evidence; a proposed amendment to Rule 10 of the rules governing Section 2254 cases; and proposed amendments to Rules 10 and 11 of the rules governing Section 2255 proceedings for the United States district courts. These proposals had previously been submitted to the bench and bar for comment. For the most part, the proposed changes are in the nature of corrective amendments to bring the criminal rules into conformity with other changes in law and in recent court decisions.

CIVIL RULES

Judge Thomsen advised the Conference that the Advisory Committee on the Federal Rules of Civil Procedure had circulated proposed amendments to the bench and bar last March with a request that comments be submitted within 90 days. The Attorney General of the United States and several organizations subsequently requested that the time for submitting the comments be extended to permit further consideration of the proposed changes. Because of the controversial nature of some of the proposed amendments and the short period of time originally allowed for comment, the Advisory Committee extended the date for submitting comments

to November 30, 1978 and scheduled hearings on the proposed changes to be held in Washington, D.C. on October 16th and in Los Angeles on October 26th. The Advisory Committee plans to meet early in December to review all comments and suggestions received and to complete its work on the proposed amendments in time for presentation to the Standing Committee in January and to the March session of the Judicial Conference.

PARTICIPATION OF BENCH AND BAR IN RULE-MAKING

Judge Thomsen stated that the Standing Committee from time to time has received criticism of the rule-making process because of the length of time required to effect change. He reported that the Standing Committee has considered the need to speed up the rule-making process on the one hand, and on the other hand to permit adequate time for the formulation and submission of proposed changes. As a result, the Standing Committee has suggested to the advisory committees that they conduct public hearings on all important proposed amendments to the rules and give consideration to the appropriate period of time to be allowed for comment.

COMMITTEE ON PACIFIC TERRITORIES

The written report of the Committee on Pacific Territories, chaired by Judge Richard H. Chambers, was received by the Conference. The report advised the Conference on developments in the Territories of Guam and American Samoa, in the Northern Mariana Islands, and in the Trust Territory of the Pacific Islands. The Committee is currently considering problems involving federal appellate review of the decisions of local courts in these areas.

COMMITTEE ON THE BICENTENNIAL OF INDEPENDENCE AND THE CONSTITUTION

A written report of the Committee on the Bicentennial of Independence and the Constitution, chaired by Judge Clement F. Haysworth, Jr., was received by the Conference.

The report indicated that Congress has approved the expenditure of the funds remaining in the Committee's original appropriation for celebrating the Bicentennial of Independence to plan for the judiciary's participation in the Bicentennial of the Constitution. Other groups have started to plan for this event and coordinating efforts among these groups have begun.

COMMITTEE TO CONSIDER STANDARDS FOR ADMISSION TO PRACTICE IN THE FEDERAL COURTS

Judge Edward J. Devitt, Chairman of the Committee to Consider Standards for Admission to Practice in the Federal Courts, submitted the report of the Committee.

The report included the following tentative recommendations:

1. Minimum uniform standards of competency for attorneys in federal trial courts should be implemented by uniform rules providing for an examination in federal practice subjects and four trial experiences in actual or simulated trials.
2. Each district court should establish a performance review committee to review instances of inadequate trial performance.
3. A uniform district court student practice rule should be adopted.
4. Law schools should make available greater opportunity for students to take trial practice courses.
5. Continuing legal education programs on trial advocacy should be established.
6. District courts should sponsor federal practice programs.
7. The American Bar Association should consider making more specific the Code of Professional Responsibility as it relates to trial advocacy.

The Conference, after full discussion, authorized the Committee to publish its report and tentative recommendations, to hold public hearings, and to receive comments and communications thereon from the bench and bar and other interested parties. A final report and recommendations will be submitted to the Conference at its session in September 1979.

PRETERMISSION OF TERMS OF THE COURTS OF
APPEALS

The Conference, pursuant to 28 U.S.C. 48, approved the pretermission of terms of the courts of appeals in the following circuits during the calendar year 1979: the Fourth Circuit at Asheville, North Carolina; the Fifth Circuit at all designated places outside of New Orleans, Louisiana; the Eighth Circuit at Kansas City, Missouri and Omaha, Nebraska; and the Tenth Circuit at designated places outside of Denver, Colorado.

RELEASE OF CONFERENCE ACTION

The Conference authorized the immediate release of matters considered at this session where necessary for legislative or administrative action.

Warren E. Burger
Chief Justice of the United States

November 16, 1978

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