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

March 11-12, 1982

Washington, D.C.
1982

**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.

TABLE OF CONTENTS

**REPORT OF THE PROCEEDINGS OF THE
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March 11-12, 1982

	Page
Call of the Conference	1
Report of the Director of the Administrative Office of the United States Courts	3
Committee on the Judicial Branch	4
Judicial Survivors Annuities	4
Judicial Salary Control Act of 1981	5
Biennial Salary Commission	6
Committee on Court Administration	7
Staff Attorneys	7
Staffing Formula for Clerks Offices	7
Court Reporters	8
Civil Case Management	12
United States Marshals Service	14
Court-Annexed Arbitration	15
Places of Holding Court	15
Biennial Survey of Judgeship Needs	16
Salaries of Article I Judges and Supporting Judicial Officers	16
Retirement of Article I Judges	17
Prisoner Civil Rights Cases	18
National Court of Appeals and Intercircuit Tribunal of the United States Courts of Appeals	18
Divisional Venue in Civil Cases	19
Interim Designation of a United States Attorney or United States Marshal	19
National Judicial Study Commission and a State Justice Institute	20
Committee on the Budget	21
Appropriations for the Fiscal Year 1982	22
Amendments to the Budget Request for the Fiscal Year 1983	22
Judicial Ethics Committee	23
Reporting Form and Instructions	23
Social Security Income	23
Amendments to the Ethics in Government Act	23

Fees for Copies of Disclosure Reports	24
Review of Financial Disclosure	
Statements	24
Advisory Committee on Codes of Conduct	25
Activities of the Committee	25
Senior Judges as Arbitrators	25
Committee on the Administration of the	
Federal Magistrates System	26
Salaries of Part-Time Magistrates	26
Changes in Magistrates Positions	26
Legal Assistant Positions	36
Committee on the Administration of the	
Bankruptcy System	36
Arrangements for Bankruptcy Judges	37
Bankruptcy Administrator	37
Committee on the Administration of the	
Probation System	37
Sentencing Institutes	38
Committee on the Administration of the	
Criminal Law	38
Criminal Code Revision	38
Committee on the Operation of the	
Jury System	40
Jury Trials in Land Condemnation Cases	40
Witnesses Before Grand Juries	40
Voir Dire Examination	41
Periodic Reporting—Jury Selection	41
Security of Juror Deliberations	42
Committee on Intercircuit Assignments	42
Committee to Implement the Criminal	
Justice Act	43
Appointments and Payments	43
Budget Requests—Federal Public Defenders	44
Guidelines	44
Community Defender Organizations—	
Conditions of Grant	45
Revisions to the Criminal Justice Act	45
Committee on Rules of Practice	
and Procedure	45
Amendments to the Federal Rules of	
Civil Procedure	45
Bankruptcy Rules	46
Appellate Rules	47
Criminal Rules	47
Implementation Committee on Admission	
of Attorneys to Federal Practice	47

Ad Hoc Committee on the Disposition of Court Records	48
Elections	48
Additional Judgeships	49
Study Group on Selection of Law Clerks	49
Committee on Judicial Vacancies	49
Court Security	49
Prepermission of Terms of the Courts of Appeals	50
Resolution	50
Release of Conference Action	51

**REPORT OF THE PROCEEDINGS
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March 11-12, 1982

The Judicial Conference of the United States convened on March 11, 1982, pursuant to the call of the Chief Justice of the United States, issued under 28 U.S.C 331, and continued in session on March 12th. The Chief Justice presided and the following members of the Conference were present:

First Circuit:

Chief Judge Frank M. Coffin
Chief Judge Raymond J. Pettine, District of Rhode Island

Second Circuit:

Chief Judge Wilfred Feinberg
Chief Judge Lloyd F. MacMahon, Southern District of
New York

Third Circuit:

Chief Judge Collins J. Seitz
Chief Judge Gerald J. Weber, Western District of
Pennsylvania

Fourth Circuit:

Chief Judge Harrison L. Winter
Chief Judge Charles E. Simons, Jr., District of South
Carolina*

Fifth Circuit:

Chief Judge Charles Clark
Chief Judge John V. Singleton, Jr., Southern District of
Texas

*Designated by the Chief Justice in place of Judge Robert R. Merhige, Jr., who was unable to attend.

Sixth Circuit:

Chief Judge George C. Edwards, Jr.
Chief Judge Frank J. Battisti, Northern District of Ohio

Seventh Circuit:

Chief Judge Walter J. Cummings
Judge S. Hugh Dillin, Southern District of Indiana

Eighth Circuit:

Chief Judge Donald P. Lay
Judge Albert G. Schatz, District of Nebraska

Ninth Circuit:

Chief Judge James R. Browning
Judge Manuel L. Real, Central District of California

Tenth Circuit:

Chief Judge Oliver Seth
Chief Judge Howard C. Bratton, District of New Mexico

Eleventh Circuit:

Chief Judge John C. Godbold
Judge William C. O'Kelly, Jr.

District of Columbia Circuit:

Chief Judge Spottswood W. Robinson, III
Chief Judge John Lewis Smith, District of Columbia

Court of Claims:

Chief Judge Daniel M. Friedman

Court of Customs and Patent Appeals:

Chief Judge Howard T. Markey

Circuit Judges Irving R. Kaufman, Otto R. Skopil, Edward A. Tamm, and Gerald B. Tjoflat; Senior District Judges Elmo B. Hunter and Thomas J. MacBride; and District Judges C. Clyde Atkins, Robert E. DeMascio, Edward T. Gignoux and Alexander Harvey II, attended all or some of the sessions of the Conference.

The Attorney General of the United States, Honorable William French Smith, and the Solicitor General of the United States, Honorable Rex E. Lee, addressed the Conference briefly on matters of mutual interest to the Department of Justice and the Conference.

Honorable Robert W. Kastenmeier, Chairman of the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice addressed the Conference briefly on matters pending in the Congress of interest to the Judiciary. Richard W. Velde of the staff of the Senate Judiciary Committee and John G. Osthaus of the staff of the House Appropriations Subcommittee attended portions of the Conference and briefly addressed the Conference.

William E. Foley, Director of the Administrative Office of the United States Courts; Joseph F. Spaniol, Jr., Deputy Director; James E. Macklin, Assistant Director; William J. Weller, Legislative Affairs Officer; Michael J. Remington, Deputy Legislative Affairs Officer; Deborah H. Kirk, Chief, Office of Management Review; and Charles W. Nihan, Deputy Director of the Federal Judicial Center, attended sessions of the Conference. The Director of the Federal Judicial Center, A. Leo Levin, reported briefly on the activities of the Center since the last session of the Conference. John Yoder of the Supreme Court staff was also in attendance.

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

The Director of the Administrative Office of the United States Courts, William E. Foley, submitted to the Conference a brief report on the caseloads of the United States courts during the calendar year 1981.

Mr. Foley reported that the appeals docketed in the United States courts of appeals increased to 27,445 in 1981, a

13.8 percent increase over the 24,122 appeals docketed during 1980. During the year there were 26,757 appeals terminated, an increase of 16.9 percent over the number terminated in 1980, but 688 appeals less than the number filed. Again the number of appeals pending on December 31, 1981 reached a new all-time high of 22,117, an increase of 3.2 percent in one year.

Civil cases filed in the district courts in 1981 increased 9.2 percent to a record 190,430. There were 180,799 civil cases disposed of during the year, an increase of 5.7 percent over the previous year, but 9,631 cases fewer than the number filed. As a result the backlog of pending civil actions increased to a record 196,646 as of December 31, 1981.

During 1981 there were 31,566 criminal cases filed in the district courts, a 5.7 percent increase over 1980. There were 30,197 criminal cases disposed of and the number of criminal cases pending on December 31, 1981 increased to 16,174, a 9.2 percent rise. Prosecutions for weapons and firearms violations and prosecutions for marihuana violations increased almost 40 percent during the year.

In 1981 a record 523,825 separate estates filed for bankruptcy in the United States bankruptcy courts, an increase of 10.9 percent over 1980 and a new all-time record high. There were 383,481 bankruptcy estates closed during the year, compared with 233,442 estates closed in 1980. As of December 31, 1981 there were 685,330 estates pending on the dockets of the bankruptcy courts.

COMMITTEE ON THE JUDICIAL BRANCH

Judge Irving R. Kaufman, Chairman of the Committee on the Judicial Branch, submitted the Committee's report.

JUDICIAL SURVIVORS ANNUITIES

Judge Kaufman stated that the Judicial Conference approved bill to amend the Judicial Survivors Annuity Act had been introduced in the Congress as H.R. 4763, 97th Congress. A similar bill, S. 1874, 97th Congress, has been introduced in the Senate. The differences between the two bills are minor and Judge Kaufman assured the Conference that a compromise

could be easily developed. Both bills would provide for an increase in the maximum annuity payable to the surviving spouse of a judge, provide a minimum annuity equal to 30 percent of the average salary over the last three years, and increase substantially the annuities payable to surviving minor dependent children. In addition the bills would increase the contribution of participants in the system from 4.5 percent of salary to 5 percent of salary. The bills would also allow a judge to withdraw from the system and receive a refund of contributions. The Committee recommended, however, that both bills be amended to include a provision permitting an open season to allow a judge to join or withdraw from the system. This provision would be similar to that contained in the 1976 amendments to the Judicial Survivors Annuity System. The Conference approved the Committee's recommendation.

JUDICIAL SALARY CONTROL ACT OF 1981

S. 1847, 97th Congress, is a bill to prohibit any future increases in salaries of Federal judges absent an affirmative record vote in both Houses of Congress, and to require an annual review by both Houses of Congress of all standing substantive program authorizations for Judicial Branch activities. The bill was reviewed by the Committee on the Judicial Branch and the Committee on Court Administration. In regard to judicial salaries both Committees noted that the Conference had previously recommended legislation to create a biennial Commission on Federal Judicial Salaries and remove the Judiciary from the scope of the Federal Salary Control Act of 1967, 2 U.S.C. 356. The draft bill provides that any salary increases recommended by the existing "quadrennial" commission would become effective only after submission to the Congress and an affirmative expression of approval manifested by roll-call votes in both Houses. Judge Kaufman also pointed out that the provision in S. 1847 which would require Congressional approval of comparability adjustments creates an ambiguity in the law since it does not expressly repeal the procedures of the Executive Salary Cost-of-Living Adjustment Act of 1975. Upon the recommendation of both Committees the Conference reaffirmed its recognition of the ultimate final authority of Congress to set judicial salaries, and expressed its preference for the draft legislation which has already been transmitted to the Congress by the Conference.

In regard to the mandatory requirement for an annual program authorization for the entire Judicial Branch, the

Committee on Court Administration concluded that existing oversight by the Judiciary Committees in both Houses of Congress, in conjunction with established budgetary oversight procedures followed by the Appropriations Committees in both Houses, already fully achieves the same oversight objectives to be achieved under S. 1847. In addition, the ambiguous language of the bill, as presently drawn, may encourage improper intrusions into the work of the courts, which Congress has always recognized should be left to the courts themselves. The Committee recommended that the Conference advise Congress that the enactment of the bill would therefore serve no useful purpose and might also raise a broad spectrum of potential future policy problems for both the Legislative and Judicial Branches of the Federal Government. The Conference unanimously agreed that the bill's objectives are both unnecessary and unwise, and authorized both Committees to so advise the Congress.

BIENNIAL SALARY COMMISSION

H.R. 4886, 97th Congress, would amend the Federal Salary Act of 1967 to authorize a biennial rather than a quadrennial commission on Executive, Legislative and Judicial Salaries. Upon the recommendation of the Committee the Conference adopted the following resolution:

Because H.R. 4886, which, by amending the Federal Salary Act of 1967, provides that recommendations for the adjustment of executive, legislative, and judicial salaries be made biennially instead of quadrennially, could accelerate correction of inequities in salaries of members of the Federal bench, it is resolved that the Judicial Conference of the United States endorses H.R. 4886, insofar as it applies to the Judiciary. Furthermore, the Judicial Conference once again endorses its own legislation, which, by providing amendments to the Federal Salary Act of 1967, would create a separate Biennial Commission to determine judicial salaries only.

The Conference authorized the release of the Committee's report to all Federal judges.

COMMITTEE ON COURT ADMINISTRATION

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

STAFF ATTORNEYS

The Conference in September 1981, Conf. Rept. p. 69, adopted a policy "that the number of staff attorneys in each circuit court, including the senior staff attorney, should not exceed the number of active judgeships authorized for that court", but permitted retention of already authorized positions in excess of that number "for a period of two years or until expressly approved by the Judicial Conference following a showing of specific and well-documented justification, whichever shall occur first." The Court of Appeals for the Ninth Circuit had requested approval for the retention of its 30 currently authorized staff attorneys, a number which exceeds the 23 authorized judgeships. Judge Hunter stated that the Committee was impressed by the fact that this number was specifically justified to the staff of the House Appropriations Subcommittee in answer to their questioning of the number during the presentation of the Judiciary's appropriations request for the fiscal year 1982 and was subsequently approved by the House. The Committee further noted that during the past year the Ninth Circuit not only had 23 active judges, but also had 7 senior judges and about 10 visiting judges each month, thus adding significantly to the workload placed before the staff attorney's office. Upon the Committee's recommendation the Conference accepted the justification submitted and approved the 30 positions for the staff attorney's office in the Court of Appeals for the Ninth Circuit.

STAFFING FORMULA FOR CLERKS OFFICES

The Committee submitted to the Conference the results of a work measurement study of the clerks offices of district courts conducted by the Administrative Office at the request of the Budget Committee of the Conference. Recognizing that the new formula was based upon the output of average clerks and deputy clerks, and that some courts might not need all the personnel indicated by the formula, the Committee recommended approval of the new staffing formula as a guide with additional positions to be made available only when requested, and upon a demonstrated justification of need. The Conference approved this recommendation.

COURT REPORTERS

The Conference in September 1981, Conf. Rept. p. 72, returned to the Committee for further consideration various proposals and policies relating to the court reporting system and requested that the circuit judicial councils review the proposals and comment thereon to the Committee. Judge Hunter informed the Conference that the Committee had reviewed the comments received from the circuit councils and from the United States Court Reporter's Association. As a result some of the original proposals have been revised to incorporate many of the desires of the circuit councils in a manner designed to promote good management of court reporter resources within the individual courts. Judge Hunter advised the Conference that the revised proposals now include a role for the circuit councils in assuring the proper supervision and utilization of court reporters. The proposals submitted by the Committee are as follows:

1. Court Reporter Management Plan

That the Conference recommend that the judicial council require each district court, subject to such exceptions as may be granted by the circuit council, to develop a court reporter management plan that will provide for the day-to-day management and supervision of an efficient court reporting service within the court. Each plan is to provide for the supervision of court reporters in their relations with litigants as specified in the Court Reporter Act, including fees charged for transcripts, adherence to transcript format prescriptions and delivery schedules. The plan must also provide that supervision be exercised by the clerk of court, district court executive, judge or other person designated by the court; that reporting tasks are to be apportioned equitably at the same site; and that, through scheduling, the use of temporary or contractual services is to be minimized to every extent practicable. Each "Court Reporter Management Plan" is to be approved by the judicial council of the circuit and a copy filed with the Administrative Office. The Administrative Office will assist the courts in establishing supervised court reporting services and productivity standards.

2. Swing Reporters

That the Conference establish as a policy that, in the future, permanent swing reporters may only be authorized when a court in fact has implemented a system in which each reporter is fully utilized. Swing reporters will be granted only on a showing of demonstrated need and the full use of existing personnel. When, in rare cases, existing full-time reporters do not meet all the reporting needs of the court, and a swing reporter is not justified, those needs will be met by contract reporters on an intermittent basis.

Production of daily and hourly transcripts is not to be subsidized by the court. If extra reporters are required to produce expedited transcripts, their fees are to be paid out of the earnings derived from those higher transcript rates established by the Judicial Conference. Other reporters from the pool may, however, assist with the production of daily transcript when there are no other judicial proceedings to record, including those of magistrates, and when no transcript backlog will result.

3. Certification of Transcript Rates

That to insure compliance with regulations of the Judicial Conference, each court be directed to take any necessary action including, but not limited to, dismissal of the court reporter or restitution of overcharges, whether they arise out of a violation of page rates, page format, or time limits for delivery. In order for the public to be aware of the maximum transcript fees to be charged, a schedule of the prescribed fees is to be posted prominently in the clerk's office. The reporter is required to certify on each invoice that the fee charged and the page format used conform to the regulations of the Judicial Conference.

4. Late Delivery of Transcripts

That for transcript of a case on appeal not delivered within 30 days of the date ordered and payment received therefor, or within such other time as may be prescribed by the circuit council, the reporter may charge only 90 percent of the prescribed fee; that for a transcript not delivered within 60 days of the date ordered and, payment received therefor, or within such other time as may be prescribed by the circuit council, the reporter may charge only 80 percent of the prescribed fee. No fee may be charged which would be higher than the fee corresponding to the actual delivery time. In the case of a transcript which is subject to F.R.A.P. Rule 11(b), the reduction in the fee may be waived by the clerk of the court of appeals for good cause shown. Nothing contained herein should be construed as sanctioning untimely delivery, nor should this provision be considered the only penalty that could be imposed by the court or circuit council on habitual offenders.

5. Job Security

That the Conference enunciate the policy already set forth in 28 U.S.C. 753 that court reporters are not employed by, nor do they form part of the personal staff of, an individual judge. They are employed by the court en banc which controls their assignments. In conformity with 28 U.S.C. 753(a) a reporter should continue to retain his employment at the pleasure of the court en banc, regardless of the death, resignation, or retirement of an individual judge or other reason creating a judgeship vacancy. In the period between such an occurrence and the appointment of a new judge, the reporter should continue to serve other active judges, senior judges and magistrates. If the volume of work in the long run does not justify the retention of the full complement of reporters, a reduction should be accomplished through relocation, attrition, or by giving a reasonable notice for termination of the appointment.

6. Sick Leave

That when a reporter is disabled because of a bona fide medical reason, substantiated by a doctor's certificate, a substitute reporter may be provided for the court on a contractual basis if other official reporters are not available to cover the proceedings; provided, however, that no reporter is to be maintained in a sick leave status for absences aggregating more than 30 calendar days during any calendar year without the prior approval of the Director of the Administrative Office.

7. Salaries of Reporters

That the salaries of court reporters be adjusted to reflect the government-wide pay increases which were effective in October, 1981 and that pay increases of 5 percent should be given at 5, 10, and 15 year intervals, rather than just one increase after 10 years of service, as set out in the schedule contained in the Committee's report.

8. Electronic Sound Recording

That the Conference approve the draft bill submitted by the Committee which would enable any district court, at its election, to utilize electronic sound recording or other technologically feasible methods as the exclusive means of creating an official record, and would authorize the use of contract reporting services whenever improved effectiveness and efficiency is demonstrated.

9. Reporters for Senior Judges

That reporting services for senior judges are to be provided through a combination of official employees and contract reporting services. Each district court plan should allocate the official reporters in a manner which will best meet its actual court reporting needs, regardless of whether the services are for

active judges, senior judges, or other judicial officials. If the number of court reporters required exceeds the ratio of one reporter per active judge, the district court must obtain the concurrence of its judicial council to seek the allocation of additional reporters. Any additional swing reporters will be authorized in such numbers as the Judicial Conference deems appropriate, including fully or less-than-fully salaried positions and/or combination positions if in the public interest. This policy will become effective one year after the date of its adoption. Until that time no court will lose court reporters currently assigned to it.

The Director of the Administrative Office will continue to approve emergency appointments as authorized by law not to exceed a three-month period, in order to give the judicial councils time to review district court plans and the Judicial Conference time to consider authorizing additional personnel.

Judge Hunter discussed briefly the reasons for each of the above nine recommendations in amplification of explanations given in the Committee report. After full discussion the Conference approved the recommendations of the Committee except the recommendations on salaries which were referred to the Committee for further consideration. The draft bill to authorize the use of electronic sound recording was amended to require the recording of all proceedings in open court "except oral argument."

The Conference also requested the Committee to consider the question of annual leave for court reporters and whether the Conference should forbid reporters to engage in outside reporting work.

CIVIL CASE MANAGEMENT

The General Accounting Office's report to the Congress in February 1981 on the management of the courts recommended that the Judicial Conference encourage the district courts to use their clerks offices more appropriately in the administration of the courts, particularly for case management and docket control. Judge Hunter informed the

Conference that the staff of the Administrative Office had conducted a survey among the clerks of the district courts to determine the level of case management within each court and to identify policies, procedures and local rules effective in reducing or eliminating civil case backlogs. Using this information the staff of the Administrative Office thereafter made presentations to the clerks of district courts and circuit executives in five circuits and to circuit and district judges in two other circuits outlining effective case management procedures and recommending policies and local rules which the court should consider adopting to improve case management. The Committee's analysis of the case management information compiled by the Administrative Office resulted in the following suggested guidelines for obtaining efficient case management:

- A. Establish time frames for various stages of civil litigation and assure there is always a pending action or activity with a deadline;
- B. Establish a monitoring system in the clerks office to insure that cases not litigated according to their time frames are noted and appropriate action is taken by the court, (for example, dismissing cases for lack of prosecution), and that those cases being pursued proceed timely to the next phase;
- C. Adopt local rules setting forth expected time frames, impose sanctions for noncompliance, and set out procedures and responsibility for action;
- D. Prepare statistics and other information for the court so that problem areas can be identified and appropriate action can be taken.

The Conference, upon the recommendation of the Committee, took the following action:

1. Requested the district courts to develop and establish an efficient case management system based on the utilization of the clerk's office to centralize case management and docket control, taking into consideration the foregoing suggested guidelines.

2. Requested the judicial council of each circuit to broaden its role in improving the administration of justice by taking action to assist in the establishment of effective case management in all courts within its circuit.
3. Directed the Administrative Office to continue to study the information available on case management practices and the rules in effect; to comply with court requests to make presentations on appropriate guidelines for establishing and developing better case management; and to provide the courts with a compendium of the most effective means of eliminating excessive backlogs of cases and assuring the prompt processing of civil litigation.

UNITED STATES MARSHALS SERVICE

Judge Hunter advised the Conference that the Attorney General's task force had completed a draft report on court security which includes recommendations for developing a comprehensive security system for the Federal Judiciary and sets out criteria and guidelines for determining when and what services the Marshals Service should provide. The Committee is monitoring these developments and will report further to the Conference. Judge Hunter also stated that the National Conference of Federal Trial Judges had recommended the transfer of the United States Marshals Service from the Department of Justice to the Federal Judiciary with a limitation on the Marshals law enforcement authority to that necessary to carry out court related duties. The Committee concluded that law enforcement of whatever nature is the responsibility of the Executive Branch of government and therefore rejected the recommendation.

The Committee also considered whether the responsibility for holding cells in court facilities which are used by marshals to carry out their custodial duties, should be the responsibility of the United States Marshals Service or the Judiciary. Since holding cells are used by the marshals to assist in carrying out their law enforcement functions in maintaining custody of criminal defendants, the Committee recommended that the Conference adopt the position that the

Marshals Service is responsible for holding cells, recognizing that the Judiciary must coordinate with the Marshals Service for space acquisition and alteration, so that the Marshals Service can determine and plan for the installation of necessary holding cells. This recommendation was approved by the Conference.

COURT-ANNEXED ARBITRATION

Judge Hunter informed the Conference that the Committee had reviewed a report of the study conducted by the Federal Judicial Center on the pilot court-annexed arbitration program initiated in three district courts in 1978. In addition the Committee received comments from the Department of Justice and from the chief judges in two of the three pilot districts, the Eastern District of Pennsylvania and the Northern District of California. Although the pilot program has been terminated in the District of Connecticut, reports from the other two districts indicate that it has had modest success. In view of the recommendations contained in the Federal Judicial Center report and the comments received from Chief Judges Joseph S. Lord III, and Robert F. Peckham, the Committee recommended that funds be requested so that the pilot program can be continued in the Eastern District of Pennsylvania and the Northern District of California. This recommendation was approved by the Conference.

PLACES OF HOLDING COURT

S. 260, 97th Congress, is a bill to authorize Jackson as a place of holding court in the District of Wyoming. Judge Hunter advised the Conference that the bill had been approved by the district court, the Judicial Council of the Tenth Circuit, by a majority of the members of the Court Administration Committee, and was finally approved by the Executive Committee of the Conference. The appropriate Committees of the Congress have been so informed.

BIENNIAL SURVEY OF JUDGESHIP NEEDS

Judge Hunter informed the Conference that the Subcommittee on Judicial Statistics had completed a preliminary analysis of judgeship requirements in the district courts and in the courts of appeals and had transmitted its recommendations to the chief judge in each circuit requesting that the circuit council review the judgeship needs of the courts within the circuit and make its recommendation to the Subcommittee. Each court will have an opportunity to comment on the Subcommittee's analysis and provide additional supporting materials. The Subcommittee will meet in May 1982 to formulate its final recommendations.

SALARIES OF ARTICLE I JUDGES AND SUPPORTING JUDICIAL OFFICERS

The Conference in September 1981, Conf. Rept. p. 72, agreed with the Committee's conclusion that it would be desirable for the Conference to establish a comprehensive arrangement of basic salary levels for supporting judicial officers, including the salaries of Article I judges in the Judiciary, and directed the Administrative Office to draft appropriate legislation. After reviewing its previous recommendation the Committee determined, however, that it would not be appropriate to create special salary classifications with fixed salary ceilings which would have to be amended from time to time by legislation. The Committee proposed that, with certain exceptions, the Director of the Administrative Office be given the authority to fix the salaries of all Article I judges and other supporting judicial officers, subject of course to the supervision and direction of the Judicial Conference. The salaries of the Directors of the Administrative Office and of the Federal Judicial Center and the salary of the Deputy Director of the Administrative Office would continue to be fixed by statute as at present. The Conference approved this recommendation with an amendment to limit salaries payable thereunder to 85 percent of the salary of a district judge, and authorized the Director of the Administrative Office to prepare the necessary legislation in accordance with the Committee's report and transmit it to the Congress.

RETIREMENT OF ARTICLE I JUDGES

The Chairman of the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice had requested clarification of the Conference position regarding the retirement of bankruptcy judges. Previously the Conference had recommended that bankruptcy judges serving in an Article I status should receive Article I retirement benefits; that bankruptcy judges reappointed to serve after April 1, 1984 should be permitted to credit their years of service during the transition period toward their Article I retirement; and that bankruptcy judges not appointed to serve after April 1, 1984, should be entitled to retire only under the existing provisions of the Civil Service Retirement Act. (Conf. Rept. Mar. 1980, p. 31.)

It was the view of the Committee that service as a bankruptcy judge during the transition period should be credited for retirement purposes on the same basis as service in Article I status and the Conference agreed, provided that the amount of any resulting annuity does not exceed the salary received at the time the individual relinquishes office.

The Committee further recommended that 28 U.S.C. 373, the statute pertaining to the retirement of an Article I judge, be amended to harmonize with the terms of appointment for bankruptcy judges. Specifically the Committee recommended that the right to receive an annuity vest after eight years of service, except that the right to retire for disability should vest after five years of service; that a full annuity be payable after fourteen years of service; and that a lesser annuity be payable in the ratio that the number of years of service bears to fourteen. The Conference approved these recommendations, but further recommended that an annuity, other than a disability annuity, commence at age 65, instead of age 55 as recommended by the Committee; that United States magistrates be permitted to elect retirement benefits under Section 373; and that judges currently receiving annuities under Section 373 be permitted to retain these annuities, or elect to receive an annuity under the amended section. The Conference authorized the preparation of draft legislation in accordance with the Committee's report and recommendations, as modified above, and its submission to the Congress. The draft bill should also include an amendment to Section 371 to authorize a graduated scale of eligibility for retirement or resignation for Article III judges beginning at age 65 with 15 years of service. The Conference directed that any problems

with the legislation be referred to the Executive Committee of the Conference.

PRISONER CIVIL RIGHTS CASES

Judge Hunter called attention to the January 1980 publication of the Federal Judicial Center entitled "Recommended Procedures for Handling Prisoner Civil Rights Cases in the Federal Courts". This oft-cited report, the product of a Federal Judicial Center Committee under the chairmanship of Judge Ruggero J. Aldisert, has never been specifically recognized by the Conference. Upon the recommendation of the Committee the Conference formally recognized the significance of this report and urged the district courts to implement the procedures and the suggested forms contained therein.

NATIONAL COURT OF APPEALS AND INTERCIRCUIT TRIBUNAL OF THE UNITED STATES COURTS OF APPEALS

H.R. 4762, 97th Congress, would create an intercircuit tribunal of the United States courts of appeals composed of not less than 14 nor more than 22 circuit judges in regular active service or senior status who would be assigned to serve on the tribunal for a period of five years. The Chief Justice would designate the judges to serve on the court and would designate one of the judges to serve as the presiding judge. Service on the court would be in addition to the regular duties of the assigned judges.

The intercircuit tribunal would have jurisdiction over cases referred to it by the Supreme Court. Referral would be made either after the Supreme Court denies certiorari or before it notes probable jurisdiction of an appeal. The tribunal could deny a review of any case referred to it, unless the Supreme Court directs that it be heard. All decisions of the tribunal would be binding on all courts of the United States and with respect to questions arising under the Constitution, laws, or treaties of the United States, on all other courts. Any case decided by the tribunal could be further reviewed by the Supreme Court by writ of certiorari granted upon the petition of any party to any case before or after rendition of judgment or decree. The intercircuit tribunal is sunsetted after five years. Due to the court's temporary nature there are report-back provisions so that Congress can determine whether the tribunal should be continued.

S. 1529, 97th Congress, would establish a permanent National Court of Appeals consisting of a judge and eight associate judges to be appointed by the President, by and with the advice and consent of the Senate, to serve on the same basis and at the same salaries as judges of the courts of appeals. The jurisdiction of the court would be the same as that of the intercircuit tribunal.

The Conference voted to express no position on the question of whether a new court or tribunal should be created at this time and remanded the question to the Committee for further study. The Chief Justice abstained from taking any part in the discussion of these proposals.

DIVISIONAL VENUE IN CIVIL CASES

Judge Hunter stated that the Committee had considered a proposal, recently put forward in the Congress as an amendment to pending legislation but then withdrawn, to repeal 28 U.S.C. 1393 which provides for divisional venue in civil cases. The Committee noted that divisional venue in criminal cases was abolished in 1966 as a result of an amendment to Rule 18, Federal Rules of Criminal Procedure, and that no apparent harm to litigants, or to the fair and expeditious administration of justice, resulted. Upon the recommendation of the Committee the Conference approved the repeal of the divisional venue statute, 28 U.S.C. 1393, and directed that an appropriate bill be drafted and transmitted to the Congress.

INTERIM DESIGNATION OF A UNITED STATES ATTORNEY OR UNITED STATES MARSHAL

S. 1921, 97th Congress, would amend 28 U.S.C. 546 and 565 to authorize the Attorney General to appoint an interim United States attorney or interim United States marshal when there is a vacancy in either office, in lieu of an appointment by the United States district court. This change provides for the appointment of an Executive Branch officer by a senior representative of the Executive Branch which is more in accord with the doctrine of separation of powers than the present system. Upon the recommendation of the Committee the Conference approved S. 1921.

NATIONAL JUDICIAL STUDY COMMISSION AND
A STATE JUSTICE INSTITUTE

S. 675, 97th Congress, would establish a Federal Jurisdiction and Review Commission to make a two-year study of the jurisdiction of the courts of the United States and of the several states, and to make recommendations to the President and Congress on needed revisions, if any, in related provisions of the Constitution and laws of the United States. S. 675 is identical to S. 3123, 96th Congress. In March 1981, Conf. Rept. p. 21, the Conference expressed its approval of the objective to be served by S. 3123, namely, a general review of the relationship between Federal and State court jurisdictions.

S. 1530, 97th Congress, would create a temporary "Federal Courts Study Commission" to draft a long-range plan for the future of the Judiciary and to make recommendations to a permanent "Federal Courts Advisory Council on the Future of the Judiciary." The Council would review the commission's report and make recommendations to the President and the Congress. Thereafter the Council would: (1) oversee Federal court jurisdiction review and the proposed revisions; (2) stimulate the evaluation of and provide an eventual solution to problems currently facing the courts; (3) review the findings of the legislative study group; (4) order, receive, and review reports from all dispute resolving bodies, including courts, administrative agencies, and Federal justice centers; and (5) afford continuity and uniformity to the ongoing study of the Judiciary.

The Committee recommended that the Conference reaffirm its general approval of the objectives of S. 675, noting that the creation of a temporary Commission to study the jurisdiction of State and Federal courts is desirable. In this regard the Committee also endorsed the creation of a temporary Federal Court Study Commission as envisioned in S. 1530. Nonetheless, the Committee believed that the establishment of a permanent Advisory Council is unnecessary at this time and therefore should be opposed. Further, the Committee noted that the creation of any study commission should not interfere with the enactment of jurisdictional changes previously recommended by the Conference, such as the abolition of diversity of citizenship jurisdiction.

S. 537 and H. R. 2407, 97th Congress, are companion measures to aid state and local governments in strengthening and improving their justice systems through the creation of a

State Justice Institute. The Institute would be a private, non-profit corporation governed by a board of directors consisting of six judges and one State court administrator appointed by the President from a list of nominees submitted by the Conference of State Chief Justices. In addition the President would appoint four members from the private sector. Although the Institute would be a separate private corporation, its staff would be employees of the United States for various personnel purposes. The Institute would be authorized to accept nonfederal funds and would be granted federal funding for three years. Federal funds, however, could not be used for operational purposes, and matching state funds in a smaller amount than Federal contributions would be required.

It was the view of the Committee that the creation of an organization to foster improvements in state court systems is desirable and in the long run would be beneficial to the Federal courts. It therefore recommended the creation of a State Justice Institute, and the Conference approved provisions in S. 537 and H.R. 2407 which would achieve that objective.

In its examination of the provisions in all these bills authorizing studies of the allocation of jurisdiction between Federal and State courts, the Committee noted that, while the State Court Institute bill's provisions would achieve the study objectives, the Committee preferred the Commission membership approaches in S. 675 and S. 1530, because they would guarantee a better ratio of Federal judicial participation than does the State Justice Institute proposal. Because of the multiplicity of issues presented by several aspects of S. 675 and S. 1530, however, Judge Hunter informed the Conference that his Committee would prefer to review them further at its next meeting. The Conference approved that course of action, provided that, if the need arises, the Chairman of the Committee is authorized to present tentative views to the Executive Committee of the Conference for its consideration.

COMMITTEE ON THE BUDGET

Judge Charles Clark, Chairman of the Committee on the Budget, submitted the Committee's report.

APPROPRIATIONS FOR THE FISCAL YEAR 1982

Judge Clark informed the Conference that the Appropriations Bill for the Judiciary for the Fiscal Year 1982 was approved by the House of Representatives but remains to be acted on in the Senate. The Judiciary had requested a total of \$728,941,000 for 1982 and the House-passed bill authorized \$701,800,000, which was later reduced by the Senate Appropriations Committee to \$697,000,000. This is the spending limit for the current fiscal year.

The Administrative Office has also transmitted to Congress a request for a supplemental appropriation in the amount of \$24,143,000 for the Fiscal Year 1982 to cover the 4.8 percent salary increase authorized last October. In addition, a supplemental request to cover a projected deficiency of \$2,350,000 in the appropriation for Defender Services has been submitted to the Congress.

AMENDMENTS TO THE BUDGET REQUEST
FOR THE FISCAL YEAR 1983

Filings of civil and criminal cases in the district courts are rising much more rapidly than originally projected. To manage this increased workload the Budget Committee has requested an amendment to the 1983 budget request in the amount of \$3,605,000 for an additional 133 deputy clerk positions. The Committee has also requested that contingency funds be added to the request for bankruptcy court appropriations in the amount of \$2,523,000 for 39 deputy clerk estate administrator positions in the event that the United States trustee program in the pilot districts is not funded by the Department of Justice, and an additional \$1,599,000 to convert 3 part-time magistrate positions to full-time status and to provide 25 additional legal assistants to magistrates, items that are being recommended to the Conference at this session. Judge Clark also informed the Conference that the 1983 appropriation request to cover fees of jurors and commissioners was reduced from \$51,100,000 to \$48,000,000 because of an unexpected carry forward from 1981 and reductions in mileage allowances.

JUDICIAL ETHICS COMMITTEE

Judge Edward A. Tamm, Chairman of the statutory Judicial Ethics Committee, presented the Committee's report.

REPORTING FORM AND INSTRUCTIONS

In accordance with Sec. 303(c) of the Ethics in Government Act of 1978 the Conference approved the revised financial disclosure report form and instructions submitted by the Committee. The Director of the Administrative Office was authorized to have the new forms and instructions printed and distributed promptly to those individuals who are required to file annual reports by May 15, 1982.

SOCIAL SECURITY INCOME

The Committee had previously determined that Social Security income should be reported on the financial disclosure statement. Last year the instructions accompanying the report form were amended to so indicate. Judge Tamm stated that upon reconsideration the Committee now believes that Social Security income, which is received from the Government, need not be reported. Furthermore, the Committee has been advised that the reporting of Social Security income is not required by the Executive Branch of the Government. Accordingly, the requirement of reporting Social Security income has been deleted from the instructions.

AMENDMENTS TO THE ETHICS IN GOVERNMENT ACT

The Ethics in Government Act of 1978 requires the Judicial Ethics Committee, with the approval of the Judicial Conference, to "submit to the Congress and the President recommendations for legislative revision of this title." Judge Tamm stated that the Committee had carefully reviewed the Act and had voted to recommend these changes: (1) an amendment to Sec. 302(a)(6) to make it clear that the reporting period for reporting items under this subdivision is the year of the report and not the current calendar year, and a further amendment to strike the reference in the subdivision to positions held in "political" entities; (2) an amendment to Sec.

302(e)(1), relating to the disclosure of the income, assets and gifts received by a spouse or dependent child, to eliminate the requirement of reporting "category of value" and to make it clear that gifts or reimbursements to a dependent child must also be reported; (3) an amendment to Sec. 308(10), relating to the definition of a "judicial employee", to give the Judicial Ethics Committee a degree of flexibility in determining which employees, other than those authorized to perform adjudicatory functions, must file financial disclosure statements; and (4) the repeal of Sec. 302(g) pertaining to the reporting of "political campaign funds". Upon the recommendation of the Committee the Conference approved these proposed amendments to the statute and authorized the Director of the Administrative Office to draft a bill for prompt submission to the Congress.

FEES FOR COPIES OF DISCLOSURE REPORTS

Judge Tamm stated that the Committee has determined that the cost of furnishing copies of financial disclosure statements, including the cost of postage, exceeds the fee of 25 cents per page previously recommended by the Committee and approved by the Conference, Conf. Rept., March 1979, p. 22. Upon the recommendation of the Committee the Conference increased the copy fee from 25 cents per page to 50 cents per page.

REVIEW OF FINANCIAL DISCLOSURE STATEMENTS

In the last three years the review of financial disclosure statements has been conducted entirely by the judges who are members of the Committee. The work has been time-consuming. Judge Tamm stated that the Committee has now decided to compare current reports with those filed in prior years and for this reason the Committee will require staff assistance. Accordingly, the Committee has called upon the Director of the Administrative Office to provide the Committee with temporary staff assistance during the period April 15 to June 15, 1982 to conduct, on a pilot or trial basis, the initial review of all financial disclosure statements for the calendar year 1981 in order that the initial, confidential review will be conducted under uniform standards and will include comparisons with the reports filed for prior years. The financial disclosure statements together with notations of any deficiencies and recommendations will then be sent to

Committee members for further review and recommendations for action. At its next meeting the Committee will review this procedure and report further to the Conference.

ADVISORY COMMITTEE ON CODES OF CONDUCT

Chief Judge Howard T. Markey, Chairman of the Advisory Committee on Codes of Conduct, presented the Committee's report.

ACTIVITIES OF THE COMMITTEE

Judge Markey informed the Conference that since its last report the Committee has received 16 inquiries from persons subject to the various Codes of Conduct and has issued nine advisory responses. In addition to the three opinions referred to in its last report, the Committee has published three other opinions relating to the disqualification of a judge in a class action, disqualification after oral argument, and the use of the title "Judge" by former judges in connection with proceedings before Federal courts.

SENIOR JUDGES AS ARBITRATORS

Judge Markey also informed the Conference that the Committee had been requested to consider whether Canon 5E would preclude senior judges from acting as arbitrators. Although an appropriate arbitration program could assist in meeting at least a part of the problem presented by congested court dockets, the Committee concluded that Canon 5E would indeed preclude a Federal judge from arbitrating a dispute not subject to Federal court jurisdiction. After full discussion the Conference requested the Chief Justice to appoint a committee to study and report back on the concept of senior judges serving as arbitrators and the details of a program implementing that concept.

COMMITTEE ON THE ADMINISTRATION OF THE FEDERAL MAGISTRATES SYSTEM

The report of the Committee on the Federal Magistrates System was presented by the Chairman, Judge Otto R. Skopil, Jr.

SALARIES OF PART-TIME MAGISTRATES

The Federal Magistrates Act, 28 U.S.C. 634(a), authorizes the Judicial Conference to set the salaries of part-time magistrate positions in amounts up to one-half the maximum salary payable to full-time magistrates. Under this authority the Conference established a system of 15 standard salary levels for part-time magistrates ranging from \$900 per annum to \$26,750 per annum. Effective January 1, 1982 the salary of a full-time magistrate was increased to \$58,500 per annum. The Conference, upon the recommendation of the Committee, established a new standard salary level of \$29,250 for part-time magistrates. The Conference also approved the recommendation of the Committee that the 4.8 percent "comparability" salary increase granted to government employees generally on October 1, 1981 not be granted across the board to all part-time magistrates. The Conference agreed that the salaries for part-time positions should be set in accordance with the normal survey process.

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 magistrate positions. Unless otherwise indicated, these changes are to become effective when appropriated funds are available. The salaries of full-time magistrate positions are to be determined in accordance with the salary plan previously adopted by the Conference.

FIRST CIRCUITMaine

- (1) Converted the part-time magistrate position at Portland to a full-time magistrate position.

Massachusetts

- (1) Continued the part-time magistrate position at Springfield for an additional four-year term.
- (2) Increased the salary of the part-time magistrate position at Springfield from \$6,400 to \$8,200 per annum.
- (3) Discontinued the part-time magistrate positions at New Bedford and Pittsfield.

Rhode Island

- (1) Authorized the clerk of court at Providence to perform the duties of a part-time magistrate for an additional four-year term at the currently authorized aggregate salary of JSP-16.

SECOND CIRCUITNorthern District of New York

- (1) Authorized the clerk of court at Albany to continue to perform the duties of a part-time magistrate after the appointment of a full-time magistrate at Albany.
- (2) Continued the part-time magistrate position at Champlain/Plattsburgh for an additional four-year term at the currently authorized salary of \$6,400 per annum.
- (3) Continued the part-time magistrate position at Watertown for an additional four-year term at the currently authorized salary of \$1,800 per annum.

Western District of New York

- (1) Continued the part-time magistrate position at Rochester for an additional four-year term at the currently authorized salary of \$2,700 per annum.
- (2) Continued the part-time magistrate positions at Elmira and Niagara Falls for additional four-year terms at the currently authorized salary of \$900 per annum each.

THIRD CIRCUIT

Western District of Pennsylvania

- (1) Continued the part-time magistrate position at Erie for an additional four-year term at the currently authorized salary of \$10,000 per annum.

Virgin Islands

- (1) Converted the combination bankruptcy judge-magistrate position at Christiansted to a part-time magistrate position at a salary of \$20,300 per annum.

FOURTH CIRCUIT

Maryland

- (1) Increased the salary of the part-time magistrate position at Prince Georges County (Hyattsville) from \$17,900 to \$29,250 per annum.
- (2) Changed the official location of the part-time magistrate position at Prince Georges County (Hyattsville) to Upper Marlboro.
- (3) Continued the part-time magistrate position at Hagerstown for an additional four-year term at the currently authorized salary of \$6,400 per annum.
- (4) Continued the part-time magistrate position at Salisbury for an additional four-year term.
- (5) Increased the salary of the part-time magistrate position at Salisbury from \$1,800 to \$3,600 per annum.

Eastern District of North Carolina

- (1) Converted the part-time magistrate position at Fayetteville to a full-time position.
- (2) Increased the salary of the part-time magistrate position at Fayetteville from \$26,750 to \$29,250 per annum pending conversion of the position to full-time status.

South Carolina

- (1) Continued the part-time magistrate position at Florence for an additional four-year term at the currently authorized salary of \$3,600 per annum.
- (2) Continued the part-time magistrate position at Aiken for an additional four-year term at the currently authorized salary of \$900 per annum.

Eastern District of Virginia

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

FIFTH CIRCUIT

Middle District of Louisiana

- (1) Converted the combination bankruptcy judge-magistrate position at Baton Rouge to a part-time magistrate position at a salary of \$10,000 per annum.

Eastern District of Texas

- (1) Continued the part-time magistrate position at Texarkana for an additional four-year term.
- (2) Increased the salary of the part-time magistrate position at Texarkana from \$1,800 to \$2,700 per annum.

Western District of Texas

- (1) Converted the part-time magistrate position at El Paso to a full-time magistrate position.

- (2) Increased the salary of the part-time magistrate position at El Paso from \$26,750 to \$29,250 per annum pending conversion of the position to full-time status.
- (3) Decreased the salary of the part-time magistrate position at Midland/Odessa from \$15,500 to \$6,400 per annum, effective upon the appointment of the new full-time magistrate at El Paso.

SIXTH CIRCUIT

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 \$4,500 per annum.

SEVENTH CIRCUIT

Central District of Illinois

- (1) Authorized the clerk of court at Peoria to perform the duties of a part-time magistrate for an additional four-year term without additional compensation for magistrate duties.

Southern District of Indiana

- (1) Continued the part-time magistrate position at New Albany for an additional four-year term at the currently authorized salary of \$1,800 per annum.
- (2) Continued the part-time magistrate position at Terre Haute for an additional four-year term.
- (3) Increased the salary of the part-time magistrate position at Terre Haute from \$1,800 to \$4,500 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 \$900 per annum.

- (2) Authorized the bankruptcy judge at Eau Claire to perform the duties of a part-time magistrate for an additional four-year term at the currently authorized salary of \$900 per annum for magistrate duties.

EIGHTH CIRCUIT

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 \$6,400 per annum.
- (2) Increased the salary of the part-time magistrate position at Burlington from \$2,700 to \$3,600 per annum.

Eastern District of Missouri

- (1) Continued the part-time magistrate position at Hannibal for an additional four-year term at the currently authorized salary of \$900 per annum.

Nebraska

- (1) Continued the part-time magistrate positions at Gering/Scottsbluff and North Platte for additional four-year terms at the currently authorized salary of \$900 per annum each.

North Dakota

- (1) Continued the part-time magistrate position at Bismarck for an additional four-year term at the currently authorized salary of \$6,400 per annum.
- (2) Continued the part-time magistrate positions at Grand Forks, Minot and Minnewaukan/Devils Lake for additional four-year terms at the currently authorized salary of \$2,700 per annum each.

NINTH CIRCUIT

Alaska

- (1) Continued the part-time magistrate position at Fairbanks for an additional four-year term at the currently authorized salary of \$20,300 per annum.

Arizona

- (1) Continued the part-time magistrate position at Grand Canyon National Park for an additional four-year term at the currently authorized salary of \$20,300 per annum.
- (2) Continued the part-time magistrate position at Yuma for an additional four-year term at the currently authorized salary of \$15,500 per annum.
- (3) Authorized the appointment of a new part-time magistrate position at Tucson at a salary of \$23,100 per annum.
- (4) Discontinued the part-time magistrate positions at Douglas/Bisbee and Nogales, effective upon the appointment of the new part-time magistrate at Tucson.
- (5) Authorized the part-time magistrate at Page to exercise jurisdiction in the District of Utah in accordance with 28 U.S.C. § 631(a).

Eastern District of California

- (1) Authorized a part-time magistrate position at Sacramento at a salary of \$17,900 per annum.
- (2) Discontinued the part-time magistrate position at Modesto.
- (3) Continued the part-time magistrate position at South Lake Tahoe for an additional four-year term.
- (4) Increased the salary of the part-time magistrate position at South Lake Tahoe from \$1,800 to \$6,400 per annum.
- (5) Increased the salary of the full-time magistrate position at Yosemite National Park from \$34,250 to \$35,894 per annum.

Southern District of California

- (1) Increased the salary of the part-time magistrate position at San Diego from \$26,750 to \$29,250 per annum pending conversion of the position to full-time status.

Montana

- (1) Converted the part-time magistrate position at Billings to a full-time magistrate position.
- (2) Continued the part-time magistrate position at Great Falls for an additional four-year term.
- (3) Decreased the salary of the part-time magistrate position at Great Falls from \$15,500 to \$8,200 per annum, effective upon the appointment of the full-time magistrate at Billings.
- (4) Continued the part-time magistrate position at Kalispell for an additional four-year term at the currently authorized salary of \$4,500 per annum.
- (5) Continued the part-time magistrate position at Missoula for an additional four-year term at the currently authorized salary of \$2,700 per annum.
- (6) Continued the part-time magistrate position at Helena for an additional four-year term at the currently authorized salary of \$1,800 per annum.
- (7) Continued the part-time magistrate position at Cut Bank for an additional four-year term at the currently authorized salary of \$900 per annum.
- (8) Continued the part-time magistrate position at Butte for an additional four-year term.
- (9) Decreased the salary of the part-time magistrate position at Butte from \$3,600 to \$1,800 per annum, effective at the beginning of the new term.
- (10) Continued the part-time magistrate position at Wolf Point for an additional four-year term.

- (11) Decreased the salary of the part-time magistrate position at Wolf Point from \$2,700 to \$1,800 per annum, effective at the beginning of the new term.
- (12) Discontinued the part-time magistrate position at Miles City at the end of the current term.

Nevada

- (1) Increased the salary of the part-time magistrate position at Reno from \$26,750 to \$29,250 per annum pending conversion of the position to full-time status.

TENTH CIRCUIT

Colorado

- (1) Continued the part-time magistrate position at Colorado Springs for an additional four-year term at the currently authorized salary of \$20,300 per annum.
- (2) Continued the part-time magistrate positions at Cortez and Steamboat Springs/Craig for additional four-year terms at the currently authorized salary of \$1,800 per annum each.
- (3) Continued the part-time magistrate position at Monte Vista for an additional four-year term.
- (4) Increased the salary of the part-time magistrate position at Monte Vista from \$900 to \$1,800 per annum.
- (5) Discontinued the part-time magistrate positions at Fort Collins and Lamar.

New Mexico

- (1) Continued the part-time magistrate position at Las Cruces for an additional four-year term.
- (2) Increased the salary of the part-time magistrate position at Las Cruces from \$13,600 to \$15,500 per annum.

Wyoming

- (1) Increased the salary of the full-time magistrate position at Yellowstone National Park from \$29,000 to \$30,392 per annum.

ELEVENTH CIRCUITNorthern District of Alabama

- (1) Continued the full-time magistrate position at Birmingham which is due to expire on October 13, 1982 for an additional eight-year term.

Middle District of Alabama

- (1) Continued the full-time magistrate position at Montgomery for an additional eight-year term.
- (2) Continued the part-time magistrate position at Dothan for an additional four-year term at the currently authorized salary of \$20,300 per annum.
- (3) Discontinued the part-time magistrate position at Opelika at the expiration of the current term.

Southern District of Alabama

- (1) Continued the part-time magistrate position at Selma for an additional four-year term at the currently authorized salary of \$1,800 per annum.

Middle District of Florida

- (1) Continued the full-time magistrate position at Jacksonville which is due to expire on August 28, 1983 for an additional eight-year term.
- (2) Continued the full-time magistrate position at Orlando for an additional eight-year term.
- (3) Continued the part-time magistrate position at Fort Myers for an additional four-year term at the currently authorized salary of \$900 per annum.

Northern District of Georgia

- (1) Continued the part-time magistrate position at Gainesville for an additional four-year term at the currently authorized salary of \$6,400 per annum.
- (2) Continued the part-time magistrate position at Rome for an additional four-year term.
- (3) Increased the salary of the part-time magistrate position at Rome from \$11,800 to \$26,750 per annum.
- (4) Continued the part-time magistrate position at Newnan/La Grange for an additional four-year term.
- (5) Increased the salary of the part-time magistrate position at Newnan/La Grange from \$1,800 to \$2,700 per annum.

Middle District of Georgia

- (1) Authorized the part-time magistrate at Columbus to exercise jurisdiction in the Middle District of Alabama in accordance with 28 U.S.C. § 631(a).

LEGAL ASSISTANT POSITIONS

Judge Skopil advised the Conference that the Committee had reviewed requests for an additional 44 legal assistant positions for United States magistrates, had approved 26 requests and had deferred action on the remaining 18 requests. The Committee advised the Conference that a magistrate need not be authorized to try civil cases on consent of the litigants under 28 U.S.C. 636(c) in order to qualify for a legal assistant position as long as the magistrate otherwise performs a full range and an appreciable volume of judicial duties for the court under 28 U.S.C. 636(b).

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

Judge Robert E. DeMascio, Chairman of the Committee on the Administration of the Bankruptcy System, presented the Committee's report.

ARRANGEMENTS FOR BANKRUPTCY JUDGES

The Conference upon the recommendation of the Committee took the following action with respect to changes in arrangements for bankruptcy judges. These changes are to become effective when appropriated funds are available.

SECOND CIRCUIT**Eastern District of New York**

- (1) Designated Westbury as the headquarters for the bankruptcy judges now located at Westbury and discontinued Hempstead as the headquarters and a place of holding bankruptcy court in the district.
- (2) Designated Hauppauge in Suffolk County as an additional place of holding bankruptcy court for the bankruptcy judges in this district.

ELEVENTH CIRCUIT**Northern District of Alabama**

- (1) Transferred the part-time bankruptcy judge position at Birmingham to Decatur and combined it with the existing part-time position at Decatur to increase that position to full-time status.

BANKRUPTCY ADMINISTRATOR

The Conference postponed for consideration at its next session a proposal of the Committee to create the position of bankruptcy administrator in the Federal Judiciary in the event the United States trustee system is not funded by the Congress, or is otherwise discontinued.

**COMMITTEE ON THE ADMINISTRATION OF THE
PROBATION SYSTEM**

Judge Gerald B. Tjoflat, Chairman of the Committee on the Administration of the Probation System, presented the Committee's report.

SENTENCING INSTITUTES

The Conference in September 1981, Conf. Rept. p. 88, approved the time, place, participants, and tentative agenda for a joint sentencing institute for the judges of the Eighth and Tenth Circuits to be held in the vicinity of the Medical Center for Federal Prisoners at Springfield, Missouri, April 26-27, 1982. The Committee submitted the final agenda for the Sentencing Institute which the Conference approved. The Conference also approved the attendance at this Institute of newly appointed district judges of the 5th, 6th, 7th, and 9th Circuits who have not previously attended a sentencing institute, subject to the availability of travel funds. The Conference also authorized the Chairman of the Committee to invite selected members and staff of the House and Senate Judiciary Committees to attend the Institute.

The Conference in September 1978, Conf. Rept. p. 73, encouraged circuit judges to attend sentencing institutes. Upon the recommendation of the Committee the Conference reaffirmed its previous action and strongly encouraged both circuit and district judges to attend future sentencing institutes.

COMMITTEE ON THE ADMINISTRATION OF THE CRIMINAL LAW

Judge Alexander Harvey II, Chairman of the Committee on the Administration of the Criminal Law, presented the Committee's report.

CRIMINAL CODE REVISION

Judge Harvey reported that the Committee had reviewed S. 1630, H.R. 1647 and H.R. 4711, 97th Congress, which are bills to revise the criminal code, and had re-examined a number of positions taken by the Conference in the past.

At the Committee's suggestion the Conference reaffirmed the following recommendations previously made to the Congress regarding the provisions of a new Federal criminal code:

- (1) That the code not include ancillary or "piggyback" jurisdiction over certain violent crimes occurring during the commission of a specified federal offense;
- (2) That the Congress adopt the Conference's definitions of the terms "knowingly", "intentionally", "recklessly" and "negligently";
- (3) That the defenses of insanity, intoxication, mistake of law or fact, reliance upon official misstatement, duress, protection of persons and property, and renunciation be left to case law development and not be defined in the code;
- (4) That the code not include the offense of "criminal solicitation"; and
- (5) That the code include certain provisions of the Youth Corrections Act permitting a court to set aside the conviction of a youthful offender.

The Conference also voted to oppose provisions in the pending bills requiring the Attorney General to issue guidelines governing the exercise of Federal jurisdiction when there is concurrent state jurisdiction over a crime, requiring the court to share its contempt powers with the prosecutor, and placing a ceiling on the punishment a court may impose for criminal contempt.

The Conference also voted to recommend that the new code become effective on January 1st following the fourth year after its enactment, but it further recommended that any amendments to the Criminal Justice Act of 1964, particularly the increase in the rates of compensation payable to court-appointed counsel, should become effective upon enactment. The Committee was authorized to confer with the Committee on the Implementation of the Criminal Justice Act to determine a proper method of compensating guardians ad litem appointed in criminal cases in which juveniles are defendants, as would be authorized by the code. The Committee was also authorized to reconsider, in light of the discussions in the Conference, its proposed amendments to the draft bill on the treatment of mentally incompetent persons, which had been previously approved by the Conference.

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.

JURY TRIALS IN LAND CONDEMNATION CASES

The Chairman of the House Judiciary Committee had requested the views of the Conference on H.R. 3691, 97th Congress, which is a bill to amend Rule 71A(h), Federal Rules of Civil Procedure, to restore the right to a jury trial in certain cases involving the exercise by the United States of the power of eminent domain. The bill would grant an absolute right to a trial by jury in land condemnation cases, thus removing the court's discretion to appoint a special commission to consider the question of just compensation. The Committee pointed out that the use of commissions in land cases has brought consistency in the valuation of parcels of land in the same geographical area, has obviated the difficulty and expense of having a jury view the property in question, and has minimized the increasing difficulty juries have in determining the valuation of air rights and other sophisticated forms of property rights. Upon the recommendation of the Committee, the Conference voted to express its opposition to the enactment of H.R. 3691.

WITNESSES BEFORE GRAND JURIES

H.R. 4272, 97th Congress, is a bill to provide for the assistance of counsel for witnesses appearing before grand juries and to authorize the court to appoint and compensate counsel for any person subpoenaed to appear before a grand jury who is financially unable to obtain counsel. The bill would guarantee the assistance of counsel "during any time that such person is being questioned in the presence of" the grand jury. It would preclude the grand jury from receiving evidence or hearing testimony from any subpoenaed person who is financially unable to obtain counsel and who did not waive counsel, unless counsel was appointed for such person. The Committee was concerned that allowing attorneys to be present in the grand jury room would impede the investigative process of the grand jury, making it more closely resemble an adversary proceeding contrary to the essential nature and

historical traditions of the grand jury system. The presence of attorneys would also make it more difficult to maintain the secrecy of the proceedings, a concern recently expressed by the General Accounting Office. Upon the recommendation of the Committee the Conference adopted the following resolution:

The Judicial Conference resolves and recommends to the Congress in opposition to H.R. 4272, a bill to amend Title 18, United States Code, and which provides in part that counsel shall be allowed to be present in the grand jury room during its sessions. Among the serious concerns raised by this bill are (1) that the investigative work of the grand jury would be seriously impaired by permitting this adversary practice, and (2) that it would exacerbate the substantial existing problems which inhere in the representation by the same attorney of multiple witnesses or targets before a grand jury. It is the position of the Conference that the interests of witnesses are substantially served by the present practice of permitting a witness to confer with counsel outside of the grand jury room as necessary during its sessions.

VOIR DIRE EXAMINATION

S. 1532, 97th Congress, is a bill to amend Rule 24(a), Federal Rules of Criminal Procedure, and Rule 47(a), Federal Rules of Civil Procedure, to permit the parties or their attorneys to conduct the voir dire examination of prospective petit jurors. In the past the Conference has consistently expressed its opposition to this legislation, and Judge Atkins informed the Conference that its previously expressed views had already been communicated to the Senate Judiciary Committee. Upon the recommendation of the Committee, the Conference expressed its disapproval of S. 1532.

PERIODIC REPORTING -JURY SELECTION

The Conference in March 1975, Conf. Rept. p. 14, approved the recommendations of the Committee requiring the

district courts upon the refilling of jury wheels to make a random sample of returned questionnaires to determine whether the jury wheels comply with the randomness and nondiscrimination provisions of 28 U.S.C. 1861 and 1862 and to report the results to the Administrative Office. Judge Atkins stated that it was the view of the Committee that the clerks of the district courts should continue to collect the statistical information previously required, but that it is no longer necessary to report such information to the Administrative Office. The responsibility for complying with the requirements of the Jury Act would remain with the district court, and the judicial councils of the circuits should exercise oversight responsibility. The Conference recommitted this proposal with the request that the Committee consider whether a clerk of the district court can discharge the court's responsibility under the Jury Act.

SECURITY OF JUROR DELIBERATIONS

Judge Atkins stated that the Committee has been concerned that any future reduction in the resources of the United States Marshals Service for court security may imperil the availability of deputy marshals to tend upon juries, particularly when they are deliberating in civil cases. Upon the recommendation of the Committee the Conference adopted the following resolution:

The Judicial Conference has received and concurs in the expressions of concern by United States district judges that the personal security of jurors serving in their courts, as well as the security of jury deliberations, must not be compromised during this time of constricted resources for court security generally.

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 August 15, 1981 to February 16, 1982 the Committee recommended 109 assignments to be undertaken by 63 judges. Of this number 14

were senior circuit judges, 2 were active circuit judges, 30 were senior district judges, 1 was an active district judge, 5 were active judges of the Court of Customs and Patent Appeals, 1 was a senior judge of the Court of Claims, 7 were active judges of the Court of Claims, 2 were active judges of the Court of International Trade, and 1 was a retired justice of the Supreme Court.

Forty-four judges undertook 67 assignments to the courts of appeals and 23 judges undertook 30 assignments to the district courts. In addition the 5 active judges of the Court of Customs and Patent Appeals were assigned to serve on the Court of Claims and the 7 active judges of the Court of Claims were assigned to serve on the Court of Customs and Patent Appeals.

COMMITTEE TO IMPLEMENT THE CRIMINAL JUSTICE ACT

Judge Thomas J. MacBride, Chairman of the Committee to Implement the Criminal Justice Act, presented the report of the Committee.

APPOINTMENTS AND PAYMENTS

Judge MacBride submitted to the Conference a summary report on appointments and payments under the Criminal Justice Act for the fiscal year ending September 30th, 1981. The report indicated that Congress appropriated \$24,000,000 for "defender services" during the fiscal year and that an unobligated balance of approximately \$6,000,000 had been carried forward from the fiscal year 1980 making a total of \$30,000,000 available for obligations during the fiscal year 1981. Projected obligations for the year are \$28,000,000, leaving an estimated balance of \$2,000,000 to carry forward into the fiscal year 1982. During the year approximately 43,500 persons were represented under the Criminal Justice Act, compared to 43,060 persons represented during the fiscal year 1980, an increase of 1 percent. Of these persons, Federal Public and Community Defender Organizations represented 22,526 or 51.8 percent of the total representations compared to 49.7 percent in the fiscal year 1980 and 48.1 percent in the fiscal year 1979.

BUDGET REQUESTS - FEDERAL PUBLIC DEFENDERS

The Conference at its last session deferred action on the budget request for the Federal Public Defender Office for the Western District of Washington for the fiscal year 1983. Upon the recommendation of the Committee the Conference approved a request in the amount of \$357,526 for the Federal Public Defender Office in that district for the fiscal year 1983.

Judge MacBride stated that the District of Hawaii had amended its plan for the implementation of the Criminal Justice Act to provide for a Federal Public Defender Organization and that the Judicial Council of the Ninth Circuit had approved the amended plan. The authorized staff for this office will include one full-time attorney in addition to the Federal Public Defender. Upon the recommendation of the Committee the Conference approved a budget request in the amount of \$165,812 to establish the Federal Public Defender Organization and to provide six months of operation during the fiscal year 1982. The Conference also approved a budget request in the amount of \$222,658 for the fiscal year 1983.

GUIDELINES

The Committee submitted to the Conference the following amendments to the Guidelines for the Administration of the Criminal Justice Act which were approved by the Conference:

1. An amendment to paragraph 2.31, the redesignation of paragraph 3.15 as 3.16 and the addition of a new paragraph 3.15 to provide guidance with regard to the utilization of law students and computer-assisted legal research;
2. An amendment to paragraphs 2.30 and 3.06 and the addition of new Appendices E and F to provide sample "memorandum orders" authorizing interim payments of compensation under the Criminal Justice Act; and
3. An amendment to Appendix C to clarify the sample memorandum pertaining to advance approval for obtaining expert or investigative services.

COMMUNITY DEFENDER ORGANIZATIONS - CONDITIONS OF GRANT

The Conference, upon the recommendation of the Committee, approved an amendment to clause 19 of the "Community Defender Organization Grant Terms and Conditions" to require the establishment of an Equal Employment Opportunity Program.

REVISIONS TO THE CRIMINAL JUSTICE ACT

At the suggestion of Judge MacBride the Conference urged the Congress to take action on the Conference-approved legislation to amend the Criminal Justice Act which is urgently needed.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

Judge Edward T. Gignoux, Chairman of the Committee on Rules of Practice and Procedure, presented the Committee's report.

AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE

Judge Gignoux submitted to the Conference proposed amendments to Rule 4 of the Federal Rules of Civil Procedure pertaining to the service of process in a civil action. The proposed amendments are designed to relieve the United States marshals of the duty of serving summonses and complaints in most civil actions in which the government is not a party. Any person who is not a party to the litigation and who is not less than 18 years of age would be permitted to serve the summons and complaint. In addition, the amendments would permit service of summonses and complaints by registered or certified mail, return receipt requested and delivery restricted to the addressee. A default or default judgment could not be entered unless it appears of record that the defendant accepted or refused to accept service by mail.

At the request of a party, the United States marshals would continue to serve the summons and complaint on behalf of a person authorized to proceed in forma pauperis, 28 U.S.C.

1915, or of a seaman authorized to proceed without the prepayment of costs, 28 U.S.C. 1916; when required by Federal statute; and pursuant to a court order which is necessary to guarantee effective service in a particular action. The marshals would continue to serve forms of process which require an enforcement presence, such as temporary restraining orders, injunctions, attachments, arrests and orders relating to judicial sales.

Judge Gignoux stated that the proposed amendments to Rule 4 are occasioned by the reduction in appropriations available to the United States Marshals Service and the pending legislation to relieve marshals of the duty to serve the summons and complaint in private civil litigation. Upon the recommendation of the Committee the Conference approved the proposed amendments to Rule 4 and authorized their immediate transmission to the Supreme Court with a recommendation that the amendments be approved by the Court and transmitted to the Congress pursuant to law.

Judge Gignoux also advised the Conference that the Advisory Committee on the Federal Rules of Civil Procedure has conducted public hearings on the proposed amendments to the civil rules distributed to the bench and bar last June. The Advisory Committee has reviewed all comments received and will be submitting its proposals in final form at the next meeting of the Standing Committee.

BANKRUPTCY RULES

The Advisory Committee on Bankruptcy Rules has prepared a draft of new bankruptcy rules and official forms to govern bankruptcy procedure under the new Bankruptcy Code, Title 11 of the United States Code, and the Standing Committee has authorized their distribution to the bench and bar, and the public generally, for comment. Public hearings will be held in New York, Chicago, and San Francisco during the summer months and written comments will be received until August 1st. The Advisory Committee will meet in August to complete its work and submit its final proposals to the Standing Committee which plans to submit the proposed bankruptcy rules to the Conference at its session next September.

APPELLATE RULES

The Advisory Committee on Appellate Rules is presently without a chairman because of the recent death of Judge Robert A. Ainsworth, Jr. The reporter to the Committee is continuing to work on matters previously assigned and to circulate information to the Advisory Committee members pending the appointment of a new chairman.

CRIMINAL RULES

In February the Advisory Committee on the Federal Rules of Criminal Procedure conducted public hearings on proposed amendments to the criminal rules distributed to the bench and bar last October. Comments will continue to be received until May 15th and thereafter the Advisory Committee will report its recommendations to the Standing Committee.

IMPLEMENTATION COMMITTEE ON ADMISSION OF ATTORNEYS TO FEDERAL PRACTICE

The written report of the Implementation Committee on the Admission of Attorneys to Federal Practice, of which Judge James Lawrence King is Chairman, was received by the Conference.

The report indicated that the Committee had arranged with the Federal Judicial Center to conduct a second informational meeting of pilot court representatives to be held April 13-14, 1982 in Kansas City, Missouri. The meeting will be attended by the chief judge or other judge overseeing the program in each pilot district and, in addition, by a working member of the local bar implementing committee.

The Committee further reported that six out of the fourteen pilot courts originally selected to participate now have operational programs and that seven others have made substantial progress. Several courts are preparing to implement their programs in the near future. The pilot districts on the whole continue to receive exceptional cooperation from the bar and the legal community.

AD HOC COMMITTEE ON THE DISPOSITION OF COURT RECORDS

Judge Walter J. Cummings, Chairman of the reactivated Ad Hoc Committee on the Disposition of Court Records, presented the report of the Committee.

Judge Cummings informed the Conference that pursuant to the action taken by the Conference in March 1981 (Conf. Rept. p. 12) the Chief Justice had reactivated the Ad Hoc Committee on the Disposition of Court Records to consider problems that have arisen since the approval of the records disposition schedule in March 1980. Judge Cummings stated that the Committee had consulted with the Archivist of the United States, representatives of the Federal Court Clerks Association and representatives of various historical societies. As a result the Committee with the assistance of the staff of the Administrative Office has developed a revised records disposition schedule and program. Upon the recommendation of the Committee the Conference authorized the circulation of the Committee's report and the attached draft of a revised records disposition schedule and program regulations to all judges and other interested court officers with a request that comments thereon be submitted to the Committee. A final report will be submitted at the next session of the Conference.

ELECTIONS

The Conference, pursuant to 28 U.S.C. 332(f), reelected Chief Judge Howard T. Markey to membership on the Board of Certification for Circuit Executives for a term of three years, until July 1, 1985.

The Conference also authorized the Executive Committee of the Conference to select a district judge to serve as a member of the Board of the Federal Judicial Center for a term of four years succeeding Judge Aubrey E. Robinson, Jr. whose term expires on March 28, 1982.

ADDITIONAL JUDGESHIPS

In response to the Department of Justice's announcement of a major initiative against crime in the Southern District of Florida, and the Department's prediction that criminal caseloads in that district will increase dramatically in future months, the Conference, at the Department's request and on motion of Judge Godbold, recommended the creation of three new permanent judgeship positions for that district, either by enactment of special legislation or by revision of presently pending legislation which would authorize one permanent and one temporary position for that court, whichever would be most expeditious. The Conference also agreed that, once created, the positions should be filled as expeditiously as possible.

STUDY GROUP ON SELECTION OF LAW CLERKS

On motion of Chief Judge Coffin the Conference authorized the Chief Justice to appoint a small study group of judges to explore the prospects of coordinating the selection of law clerks by Federal judges to avoid the confusion that now exists.

COMMITTEE ON JUDGESHIP VACANCIES

At the suggestion of Chief Judge Wilfred Feinberg the Chief Justice appointed a committee, to consist of Judges Feinberg, Seitz and Smith, to consider means of expediting the filling of judicial vacancies. Judge Feinberg was named the Chairman of the Committee.

COURT SECURITY

The Conference resolved that the Judicial Councils of the Circuits maintain oversight of the implementation of the recent Attorney General's Task Force Report on Court Security.

**PRETERMISSION OF TERMS
OF THE COURTS OF APPEALS**

The Conference, pursuant to 28 U.S.C. 48, approved the pretermission of terms of the United States courts of appeals during the calendar year 1982 at the following locations: at Asheville, North Carolina in the Fourth Circuit; at Kansas City, Missouri and Omaha, Nebraska in the Eighth Circuit; and at Oklahoma City, Oklahoma and Wichita, Kansas in the Tenth Circuit.

RESOLUTION

On the motion of Chief Judge Charles Clark, the Conference adopted the following resolution:

With deep regret, the Judicial Conference of the United States notes the passing on December 22, 1981, of one of its most stalwart workers, Robert Andrew Ainsworth, Jr.

Prior to his appointment as a judge of the United States District Court for the Eastern District of Louisiana in 1961, he was a member of the Louisiana State Senate from 1950 to 1961. During this time, he also served as the President of the National Legislative Conference, Chairman of the Board of Managers of the Council of State Governments and a member of the Advisory Commission on Intergovernmental Relations.

On August 31, 1966, Judge Ainsworth entered on duty with the United States Court of Appeals for the Fifth Circuit. One year earlier, he began his many years of dedicated service to the Judicial Conference when he was appointed as a member of the Committee to Implement the Criminal Justice Act. Subsequent to that time, he served on six different committees, three of which he chaired. In 1968, Judge Ainsworth served as a member of the Committee on Committees, the recommendation of which brought about the present committee structure of the Conference. He was appointed a member of the Committee on Court Administration in 1969 and served as its chairman from 1971 to 1977. At the

time of his death, he chaired the Ad Hoc Committee on Judicial Review Provisions in Regulatory Reform Legislation, as well as the Advisory Committee on Appellate Rules and he was a member of the recently constituted Committee on the Judicial Branch.

As Chairman of the Court Administration Committee he testified before committees of Congress on numerous occasions. In his usual calm manner, he demonstrated to all his dedication to the law and its practical administration. During the more than sixteen years of service on various Conference committees, his knowledge of the law and the judiciary, his common sense, his persuasive influence, and his constant good humor have done much to shape and guide the business of the Federal Courts.

The Conference extends its deepest sympathy to his devoted wife Elizabeth and their children and requests that a copy of this resolution be sent to his family.

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

May 17, 1982

INDEX

	Page
Additional Judgeships	49
Administrative Office, U.S. Courts	
Report of the Director	3
Admission of Attorneys to Federal Practice	
Committee on, Report of	47
Ainsworth, Robert A., Jr., Memorial Resolution	50
Appellate Rules	47
Appointments and Payments, Criminal Justice Act	43
Appropriations (see Budget)	
Arbitration:	
Court-Annexed Arbitration	15
Senior Judges as Arbitrators	25
Bankruptcy Rules	46
Bankruptcy System:	
Arrangements for Bankruptcy Judges	37
Bankruptcy Administrator	37
Committee on, Report of	36
Biennial Salary Commission	6
Biennial Survey of Judgeship Needs	16
Budget:	
Amendments to Budget Request, FY 1983	22
Appropriation for FY 1982	22
Committee on, Report of	21
Budget Requests—Federal Public Defenders	44
Certification Board, Circuit Executives	48
Civil Cases:	
Divisional Venue in	19
Management of	12
Civil Rights Cases, Prisoners'	18
Civil Rules, Amendments to	45
Clerks' Offices, Staffing Formula for	7
Codes of Conduct:	
Activities of Committee	25
Committee on, Report of	25
Senior Judges as Arbitrators	25
Committees:	
Judgeship Vacancies	49
Law Clerks, Study Group on Selection of	49
Senior Judges as Arbitrators, Study of	25
Community Defender Organizations, Conditions of Grant	45

Court Administration:	
Biennial Survey of Judgeship Needs	16
Civil Case Management	12
Committee on, Report of.....	7
Court-Annexed Arbitration	15
Court Reporters	8
Divisional Venue in Civil Cases.....	19
Interim Designation of U.S. Attorney and U.S. Marshal.....	19
Marshals Service	14
National Court of Appeals and Intercircuit Tribunal of U. S. Courts of Appeals	18
National Judicial Study Commission and State Justice Institute	20
Places of Holding Court	15
Prisoner Civil Rights Cases	18
Retirement of Article I Judges	17
Salaries of Article I Judges and Supporting Judicial Officers	16
Staff Attorneys	7
Staffing Formula for Clerks' Offices	7
Court Reporters:	
Certification of Transcript Rates.....	9
Court Reporter Management Plan	8
Electronic Sound Recording.....	11
Job Security	10
Late Delivery of Transcripts	10
Reporters for Senior Judges	11
Salaries of Reporters	11
Sick Leave	11
Swing Reporters	9
Court Security	14,49
Courts:	
Courts of Appeals:	
National Court of Appeals and Intercircuit Tribunals of Courts of Appeals	18
Ninth Circuit Staff Attorneys.....	7
Pretermission of Terms	50
District Courts:	
Additional Judgeships.....	49
Places of Holding Court	15
Criminal Code Revision	38

Criminal Justice Act:	
Appointments and Payments	43
Budget Requests—Federal Public Defenders.....	44
Committee on, Report of.....	43
Community Defender Organizations—Conditions of Grants	45
Guidelines.....	44
Revisions to the Criminal Justice Act	45
Criminal Law:	
Committee on, Report of.....	38
Criminal Code Revision	38
Criminal Rules.....	47
Elections:	
Board of Certification, Circuit Executives	48
Board of Federal Judicial Center	48
Electronic Sound Recording.....	11
Ethics in Government Act	23
(see also "Judicial Ethics")	
Federal Judicial Center:	
Election to the Board	48
Recommended Procedures for Handling Prisoners' Civil Rights Cases.....	18
Study on Court-Annexed Arbitration	15
Federal Public Defenders—Budget Requests.....	44
Financial Disclosure Reports:	
Fees for Copies of Disclosure Reports.....	24
Forms and Instructions	23
Review of Disclosure Reports	24
Grand Juries, Witnesses before	40
Guidelines:	
Civil Case Management	13
Criminal Justice Act	44
Intercircuit Assignments:	
Committee on, Report of.....	42
Intercircuit Tribunal of U. S. Courts of Appeals and National Court of Appeals	18
Judges:	
Article I Judges:	
Retirement of	17
Salaries of	16
Bankruptcy Judges, Arrangements for	37
Senior Judges:	
Court Reporters for	11
Senior Judges as Arbitrators	25

Judgeships:	
Additional.....	49
Biennial Survey of Judgeship Needs	16
Committee on Judgeship Vacancies	49
Judicial Branch:	
Biennial Salary Commission.....	6
Committee on, Report of.....	4
Judicial Salary Control Act of 1981	5
Judicial Survivors Annuities	4
Judicial Conference:	
Call of.....	1
Release of Action	51
Judicial Councils:	
Civil Case Management	14
Court Security	49
Periodic Reporting - Jury Selection	41
Judicial Ethics:	
Amendment to Ethics in Government Act.....	23
Committee on, Report of.....	23
Fees for Copies of Disclosure Reports.....	24
Reporting Form and Instructions	23
Review of Financial Disclosure Reports	24
Social Security Income	23
Judicial Salary Control Act of 1981	5
Judicial Survivors Annuities	4
Jury System:	
Committee on, Report of.....	40
Jury Trials in Land Condemnation Cases.....	40
Periodic Reporting—Jury Selection	41
Security of Juror Deliberations.....	42
Voi Dire Examination	41
Witnesses before Grand Juries	40
Land Condemnation Cases, Jury Trials in	40
Law Clerks, Study Group on Selection of	49
Legal Assistant for Magistrates	36
Legislation:	
Additional Judgeships	49
Biennial Salary Commission.....	6
Criminal Code Revision	38
Divisional Venue in Civil Cases.....	19
Ethics in Government Act, Amendments to	23
Interim Designation of U.S. Attorney or U.S. Marshal.....	19
Judicial Salary Control Act of 1981	5
Judicial Survivors Annuity Act	4
Jury Trials in Land Condemnation Cases.....	40

Legislation (Cont'd):	
National Court of Appeals and Intercircuit Tribunal of Courts of Appeals	18
National Judicial Study Commission and State Justice Institute	20
Places of Holding Court	15
Retirement of Article I Judges	17
Revision of the Criminal Justice Act.....	45
Salaries of Article I Judges and Supporting Judicial Officers	16
Voi Dire Examination	41
Witnesses Before Grand Juries	40
Magistrates System:	
Changes in Magistrates Positions	26
Committee on, Report of.....	26
Legal Assistant Positions.....	36
Salaries of Part-Time Magistrates	26
Marshals Service	
Court Security	49
Security of Juror Deliberations.....	42
National Court of Appeals and Intercircuit	
Tribunal of U. S. Courts of Appeals	18
National Judicial Study Commission and State	
Justice Institute	20
Places of Holding Court	15
Pretermission of Terms of Courts of Appeals.....	50
Prisoners' Civil Rights Cases.....	18
Probation System:	
Committee on, Report of.....	37
Sentencing Institutes	38
Records Disposition:	
Committee on, Report of.....	48
Release of Conference Action	51
Resolution, Memorial on the death of	
Judge Robert A. Ainsworth, Jr.	50
Retirement of Article I Judges	17
Rules of Practice and Procedure:	
Appellate Rules.....	47
Bankruptcy Rules	46
Civil Rules, Amendments to	45
Committee on, Report of.....	45
Criminal Rules.....	47
Salaries:	
Article I Judges and Supporting Judicial Officers	16
Court Reporters	11
Part-Time Magistrates	26
Salaries and Arrangements, Magistrates	26

Security	14,49
Security of Jury Deliberations	42
Sentencing Institutes	38
Social Security Income	23
Staff Attorneys	7
Staffing Formula for Clerks' Offices	7
State Justice Institute; National Judicial Study Commission and	20
Statistics:	
Bankruptcy Courts	4
Courts of Appeals	3
District Courts	4
Intercircuit Assignments	42
Supporting Judicial Officers, Salaries of	16
Transcripts:	
Electronic Sound Recording	11
Late Delivery of	10
Rates, Certification of	9
United States Attorney and U. S. Marshals;	
Interim Designation of	19
Voir Dire Examination	41
Witnesses before Grand Juries	40

