

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

September 11, 2012

The Judicial Conference of the United States convened in Washington, D.C., on September 11, 2012, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. § 331. The Chief Justice presided, and the following members of the Conference were present:

First Circuit:

Chief Judge Sandra L. Lynch
Chief Judge Mark L. Wolf,
District of Massachusetts

Second Circuit:

Chief Judge Dennis Jacobs
Chief Judge Carol Bagley Amon,
Eastern District of New York

Third Circuit:

Chief Judge Theodore A. McKee
Chief Judge Gary L. Lancaster,
Western District of Pennsylvania

Fourth Circuit:

Chief Judge William B. Traxler, Jr.
Chief Judge Deborah K. Chasanow,
District of Maryland

Fifth Circuit:

Chief Judge Edith Hollan Jones
Chief Judge Sarah S. Vance,
Eastern District of Louisiana

Sixth Circuit:

Chief Judge Alice M. Batchelder
Judge Thomas A. Varlan,
Eastern District of Tennessee

Seventh Circuit:

Chief Judge Frank H. Easterbrook
Chief Judge Richard L. Young,
Southern District of Indiana

Eighth Circuit:

Chief Judge William Jay Riley
Judge Rodney W. Sippel,
Eastern District of Missouri

Ninth Circuit:

Chief Judge Alex Kozinski
Judge Robert S. Lasnik,
Western District of Washington

Tenth Circuit:

Chief Judge Mary Beck Briscoe
Judge Robin J. Cauthron,
Western District of Oklahoma

Eleventh Circuit:

Chief Judge Joel F. Dubina
Judge W. Louis Sands,
Middle District of Georgia

District of Columbia Circuit:

Chief Judge David Bryan Sentelle
Chief Judge Royce C. Lamberth,
District of Columbia

Federal Circuit:

Chief Judge Randall R. Rader

Court of International Trade:

Chief Judge Donald C. Pogue

The following Judicial Conference committee chairs attended the Conference session: Circuit Judges Julia Smith Gibbons, Robert A. Katzmann, Diarmuid F. O'Scannlain, Reena Raggi, John M. Rogers, Anthony J. Scirica, Jeffrey S. Sutton, and Timothy M. Tymkovich; District Judges Nancy F. Atlas, Robert Holmes Bell, David G. Campbell, Rosemary M. Collyer, Joy Flowers Conti, Claire V. Eagan, Sidney A. Fitzwater, David A. Katz, Joseph H. McKinley, Jr., J. Frederick Motz, Joel A. Pisano (incoming chair), Michael A. Ponsor, Julie A. Robinson, and Richard W. Story; and Bankruptcy Judge Eugene R. Wedoff. Attending as the bankruptcy judge and magistrate judge observers, respectively, were Bankruptcy Judge Michael E. Romero and Magistrate Judge Thomas C. Mummert, III. Betsy Paret of the District of Columbia Circuit represented the circuit executives.

Judge Thomas F. Hogan, Director of the Administrative Office of the United States Courts, attended the session of the Conference, as did Jill C. Sayenga, Deputy Director; Robert K. Loesche, General Counsel; Laura C. Minor, Assistant Director, and Jeffrey A. Hennemuth, Deputy Assistant Director, Judicial Conference Executive Secretariat; Cordia A. Strom, Assistant Director, Legislative Affairs; and David A. Sellers, Assistant Director, Public Affairs. District Judge Jeremy D. Fogel, Director, and John S. Cooke, Deputy Director, Federal Judicial Center, and District Judge Patti B. Saris, Chairman, and Judith W. Sheon, Staff Director, United States Sentencing Commission, were in attendance at the session of the Conference, as was Jeffrey P. Minear, Counselor to the Chief Justice. Scott Harris, Supreme Court Counsel, and the 2012-2013 Supreme Court Fellows also observed the Conference proceedings.

Attorney General Eric H. Holder, Jr., addressed the Conference on matters of mutual interest to the judiciary and the Department of Justice. Senators Patrick J. Leahy, Amy Klobuchar, and Jeff Sessions, and Representatives Lamar S. Smith, John S. Conyers, Jr., and Steve Cohen spoke on matters pending in Congress of interest to the Conference.

REPORTS

Judge Hogan reported to the Conference on the judicial business of the courts and on matters relating to the Administrative Office (AO). Judge Fogel spoke to the Conference about Federal Judicial Center (FJC) programs, and Judge Saris reported on United States Sentencing Commission activities. Judge Gibbons, Chair of the Committee on the Budget, presented a special report on budgetary matters.

EXECUTIVE COMMITTEE

RESOLUTION

The Judicial Conference approved a recommendation of the Executive Committee to adopt the following resolution recognizing the substantial contributions made by Judicial Conference committee chairs whose terms of service end in 2012:

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

HONORABLE DAVID A. KATZ

Committee on Audits and Administrative Office Accountability

HONORABLE CLAIRE V. EAGAN

Committee on Defender Services

HONORABLE GEORGE H. KING

Committee on the Administration of the Magistrate Judges System

HONORABLE MARK R. KRAVITZ

Committee on Rules of Practice and Procedure

HONORABLE JEFFREY S. SUTTON

Advisory Committee on Appellate Rules

Appointed as committee chairs by the Chief Justice of the United States, these outstanding jurists have played a vital role

in the administration of the federal court system. These judges served with distinction as leaders of their Judicial Conference committees while, at the same time, continuing to perform their duties as judges in their own courts. They have set a standard of skilled leadership and earned our deep respect and sincere gratitude for their innumerable contributions. We acknowledge with appreciation their commitment and dedicated service to the Judicial Conference and to the entire federal judiciary.

MEETING PLANNING AND ADMINISTRATION POLICY

In May 2012, the Executive Committee, acting on behalf of the Judicial Conference, approved a recommendation of the Committee on the Judicial Branch to establish a new, judiciary-wide policy on the planning and administration of conferences and meetings that involve some participant travel. The new policy is intended to assure that meetings are planned and administered cost-effectively. It requires planners to justify meeting arrangements, as well as obtain advance approval and make public disclosure when meeting costs exceed certain levels. In September 2012, the Executive Committee, at the request of the Judicial Branch Committee, acted on behalf of the Judicial Conference to approve a few clarifying changes to the policy to emphasize the balanced manner in which the policy should be applied. The policy, which can be found in the *Guide to Judiciary Policy*, Vol. 19, Ch. 9, has an effective date of October 1, 2012, and applies to events planned on or after that date.

FISCAL YEAR 2013 INTERIM FINANCIAL PLANS

Pending final congressional action on the judiciary's appropriations for fiscal year (FY) 2013, the Executive Committee approved FY 2013 interim financial plans for the Salaries and Expenses, Defender Services, Court Security, and Fees of Jurors and Commissioners accounts. For purposes of developing the interim plans, the Executive Committee assumed a hard freeze in appropriations at FY 2012 levels for all four accounts, which, given inflation and reductions in non-appropriated funds, will provide funding for court allotments in the Salaries and Expenses account at 5.2 percent below what was provided in FY 2012, and equates to FY 2008 allotment levels.

OTHER BUDGETARY MATTERS

Under the Budget Control Act of 2011, Pub. L. No. 112-25, a series of across-the-board cuts to federal government spending (sequestration) will be imposed, starting on January 1, 2013, and continuing through fiscal year 2021, unless Congress enacts at least \$1.2 trillion in spending cuts before mandatory sequestration begins. To prepare for this contingency, the Judicial Conference committees with program responsibility for portions of the judiciary budget were asked to provide to the Executive Committee their views on how best to apply the potential spending cuts in general, and in their respective areas of concern. The Executive Committee discussed sequestration at its August and September 2012 meetings, and noted that it is prepared to take any appropriate action, including modification of the approved financial plans, as required under the circumstances. As a follow-up to the September 2012 meeting, Chief Judge Sentelle, chair of the Executive Committee, established a special subcommittee of the Executive Committee to develop strategies and options for the full Committee to consider.

UNITED STATES SENTENCING COMMISSION

The Executive Committee recommended, and the Judicial Conference approved by mail ballot, the following names of judges for presentation to the President for appointment, subject to the advice and consent of the Senate, to fill current and upcoming vacancies on the United States Sentencing Commission: Charles R. Breyer, Northern District of California; William S. Duffey, Jr., Northern District of Georgia; Claire V. Eagan, Northern District of Oklahoma; Paul L. Friedman, District of Columbia; Catherine D. Perry, Eastern District of Missouri; and Lawrence F. Stengel, Eastern District of Pennsylvania.

MISCELLANEOUS ACTIONS

The Executive Committee —

- Approved on behalf of the Judicial Conference a delegation to the United States Supreme Court of the Conference's authority under the newly enacted Stop Trading on Congressional Knowledge ("STOCK") Act, Pub. L. No. 112-105, with respect to Supreme Court personnel.

- Approved on behalf of the Judicial Conference a recommendation from the Committee on Space and Facilities to grant an exception to the square footage requirements in the *U.S. Courts Design Guide* so that chambers for a new circuit judge could be constructed in Anchorage, Alaska, provided that (a) the cost of moving the U.S. trustee's office does not exceed \$150,000, and (b) the Ninth Circuit covers any project expenses that exceed \$958,200.
- Determined to grant primary jurisdiction to the Committee on Intercircuit Assignments with respect to temporary assignments of bankruptcy judges and magistrate judges outside of their home circuits and asked that committee, working in collaboration with the Committees on the Administration of the Bankruptcy System and Magistrate Judges System, to recommend to the Judicial Conference a process through which temporary intercircuit assignments of bankruptcy and magistrate judges will be subject to prior review by the Intercircuit Assignments Committee; and
- Prohibited routine invitations of former Judicial Conference committee members to attend one last committee meeting after their terms of service expire and approved conforming amendments to the *Judicial Conference of the United States and Its Committees* to reflect this policy.

COMMITTEE ON AUDITS AND ADMINISTRATIVE OFFICE ACCOUNTABILITY

COMMITTEE ACTIVITIES

The Committee on Audits and Administrative Office Accountability reported that an independent audit firm provided a detailed briefing to the Committee on the cyclical financial audits it had conducted of courts and federal defender offices. The Committee discussed whether the scope of these audits addresses the highest risks facing the federal judiciary, and asked the Administrative Office to analyze the costs and benefits of different audit approaches. Another independent audit firm briefed the Committee on cyclical audits of community defender organization grantees and Chapter 7 bankruptcy trustees, as well as a special audit of a Chapter 13 bankruptcy trustee. In addition, the Committee endorsed a set of recommendations to

improve the Administrative Office's management and program reviews of court and federal defender organizations.

COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM

CONTINUING NEED FOR BANKRUPTCY JUDGESHIPS

In accordance with 28 U.S.C. § 152(b)(3), the Judicial Conference conducts a comprehensive review of all judicial districts every other year to assess the continuing need for authorized bankruptcy judgeships. By December 31 of each even-numbered year, the Conference reports to Congress its findings and any recommendations for the elimination of any authorized bankruptcy judgeship position that can be eliminated when a vacancy exists by reason of resignation, retirement, removal, or death. On recommendation of the Bankruptcy Committee, which relied on the results of the 2012 continuing needs survey, the Conference agreed to take the following actions:

- a. Recommend to Congress that no bankruptcy judgeship be statutorily eliminated; and
- b. Advise the Eighth Circuit Judicial Council with regard to the District of South Dakota and the Northern District of Iowa, and the Ninth Circuit Judicial Council with regard to the District of Alaska, to consider not filling vacancies in those districts that currently exist or may occur by reason of resignation, retirement, removal, or death, until there is a demonstrated need to do so.

RECALL OF RETIRED BANKRUPTCY JUDGES

National Standards. Under 28 U.S.C. § 155(b), a retired bankruptcy judge may, with the judge's consent, be recalled to serve as a bankruptcy judge in any judicial district if approved by the judicial council of the circuit within which the district is located. To ensure effective oversight of the recall program, the Committee on the Administration of the Bankruptcy System recommended, and the Judicial Conference approved, amending the regulations governing the ad hoc recall (for a fixed period not to exceed one year and a day) and extended service recall (for a fixed period of more than

one year but not more than three years) of retired bankruptcy judges (*Guide to Judiciary Policy*, Vol. 3, Chs. 9 and 10) to—

- (a) establish national standards for approval of recall of retired bankruptcy judges and for approval of staff for recalled judges;
- (b) provide for Bankruptcy Committee approval of any request for funds for a recall of a retired bankruptcy judge that exceeds \$10,000 in judicial salary, Office of Personnel Management annuity reimbursement, travel, and subsistence, and any request for staff for a recalled bankruptcy judge;
- (c) establish October 1, 2012, as the effective date for the amended regulations and authorize all bankruptcy judges serving on recall at the time the amended regulations become effective, as well as all staff to recalled judges on-board at that time, to complete their current terms, notwithstanding the amendments to the regulations; and
- (d) make non-substantive, stylistic changes.

See infra, p. 28, “Recall of Retired Magistrate Judges,” for similar amendments to the regulations governing the recall of retired magistrate judges.

Background Investigations. Bankruptcy judges must undergo a full-field background investigation by the Federal Bureau of Investigation (FBI) prior to taking office for a 14-year term. However, no further background investigation has been required when a retired bankruptcy judge agrees to recall duty after a break in service. To help ensure that individuals selected for recall service meet the appropriate standard of trust and confidence necessary for maintaining the integrity of the office, the Committee recommended, and the Judicial Conference approved, amendments to the ad hoc and extended service recall regulations for retired bankruptcy judges (*Guide to Judiciary Policy*, Vol. 3, Ch. 9 and Ch. 10), to—

- (a) require that any bankruptcy judge who is eligible and consents to serve on recall, and has been approved for recall service, but has been separated from federal judicial service for more than 1 year but not more than 10 years, be subject to a name and fingerprint check by the FBI, a tax check by the Internal Revenue Service, and a credit check by the Office of Personnel Management; and

- (b) require that a bankruptcy judge who is eligible and consents to serve on recall, and has been approved for recall service, but has been separated from federal judicial service for more than 10 years, be subject to a full-field background investigation by the FBI with a 15-year scope.

OFFICIAL DUTY STATION

On recommendation of the Bankruptcy Committee, and in accordance with 28 U.S.C. § 152(b)(1), the Judicial Conference approved a request from the Eighth Circuit Judicial Council and the District of South Dakota to authorize the designation of Sioux Falls as the official duty station for Bankruptcy Judge Charles L. Nail, Jr.

COMMITTEE ACTIVITIES

The Committee on the Administration of the Bankruptcy System reported that it continues to discuss cost-containment initiatives and encourage shared services to assist the judiciary in addressing its current and anticipated budget situation and to assist the bankruptcy courts in the effective use of judicial resources in districts with severe workload pressure. To increase oversight of the bankruptcy administrator program, the Bankruptcy Committee endorsed a centralized solicitation and contracting process for audits of chapter 13 trustee offices that will be administered by the AO. The Bankruptcy Committee recommended that the Director of the AO approve the study and reports required by the Dodd-Frank Act on the efficiency and effectiveness of the Bankruptcy Code and submit the reports to Congress.

COMMITTEE ON THE BUDGET

FISCAL YEAR 2014 BUDGET REQUEST

Taking into consideration the limited funding Congress is likely to have available in fiscal year 2014, as well as the resources the judiciary requires to continue functioning effectively, the Committee on the Budget recommended to the Judicial Conference a fiscal year 2014 budget request that is 2.4 percent higher than assumed fiscal year 2013 appropriations. The Judicial Conference approved the Budget Committee's budget request for

fiscal year 2014, subject to amendments necessary as a result of (a) new legislation, (b) actions of the Judicial Conference, or (c) any other reason the Executive Committee considers necessary and appropriate.

COMMITTEE ACTIVITIES

The Committee on the Budget reported that it discussed the Budget Control Act and its potential impact on the judiciary if the across-the-board cuts (sequestration) are implemented in January 2013. The Committee will continue its congressional outreach efforts to key congressional members and will bring to the members' attention the impact sequestration could have on the judiciary, both nationally and locally. Considering the difficult budget situation, the Budget Committee also discussed the need to accelerate several high profile cost-containment initiatives. The Budget Committee will continue to seek opportunities to increase judge and staff awareness about cost containment.

COMMITTEE ON CODES OF CONDUCT

COMMITTEE ACTIVITIES

The Committee on Codes of Conduct reported that since its last report to the Judicial Conference in March 2012, the Committee received 20 new written inquiries and issued 18 written advisory responses. During this period, the average response time was 14 days. In addition, the Committee chair responded to 42 informal inquiries, individual Committee members responded to 110 informal inquiries, and Committee counsel responded to 359 informal inquiries.

COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT

SHARED ADMINISTRATIVE SERVICES

As part of a judiciary-wide cost-containment initiative, the Committee on Court Administration and Case Management was asked to develop strategies and mechanisms for the sharing of administrative services among

court units, with the goal of achieving savings while at the same time preserving effective court operations. Expressing the view that a collaborative effort within every district and circuit was necessary to effectively implement shared administrative services, the Committee recommended that the Judicial Conference request the individual court units within each district (district court, probation and pretrial services office, and bankruptcy court) to work together to adopt a shared administrative services plan. The plans should be submitted to the chief judge of the circuit and the circuit executive, and be provided to the Committee on Court Administration and Case Management by February 15, 2013. The Conference approved the Committee's recommendation.

PRINTING OF OPINIONS

Noting that there appears to be little, if any, reason why slip opinions cannot be transmitted electronically, the Committee recommended that the Judicial Conference endorse the elimination of central funding for the printing of court of appeals slip opinions, with a one-year exception for courts that have contracted with vendors, prior to September 11, 2012, for services to be provided in FY 2013. The Committee also recommended that the Conference encourage courts to use electronic dissemination in lieu of printing. After discussion, the Conference adopted the Committee's recommendations.

MISCELLANEOUS FEES

Transfer of Claim Fee. Noting that approximately 1.6 million bankruptcy claims are transferred each year, the Committee recommended that the Conference amend the Bankruptcy Court Miscellaneous Fee Schedule to add a \$25 fee for filing a transfer of claim, to be effective on May 1, 2013. The Conference approved the Committee's recommendation.

Fees Based on the Chapter 11 Filing Fee. Several items on the Bankruptcy Court Miscellaneous Fee Schedule are intended to be equal to the Chapter 11 filing fee prescribed in 28 U.S.C. § 1930(a)(3). Since the Chapter 11 filing fee was recently raised from \$1,000 to \$1,167 by the Temporary Bankruptcy Judgeships Act of 2012, Pub. L. No. 112-121, the Committee recommended conforming amendments to the Bankruptcy Court Miscellaneous Fee Schedule. The Conference approved the Committee's recommendation to increase from \$1,000 to \$1,167 the filing fees for

reopening a Chapter 11 case (Item 11, bullet 2), dividing a joint Chapter 11 case filed under 11 U.S.C. § 302 (Item 18, bullet 2), and filing a Chapter 15 case (Item 15), effective November 21, 2012.

Administrative Fee. On recommendation of the Committee, the Conference amended the District Court Miscellaneous Fee Schedule to add a \$50 administrative fee for filing a civil action, suit, or proceeding in a district court. This fee does not apply to persons granted in forma pauperis status under 28 U.S.C. § 1915 and will become effective May 1, 2013.

Electronic Public Access. The Committee recommended amendments to the Electronic Public Access Fee Schedule to raise the record search fee (Item III) from \$26 to \$30, and the returned check fee (Item V) from \$45 to \$53, to adjust those fees for inflation. The Conference adopted the Committee's recommendation, effective October 1, 2012.

LEGAL RESEARCH MATERIALS

In furtherance of the judiciary's ongoing cost-containment efforts, the Committee recommended several amendments to the judiciary's policy on legal research materials, *Guide to Judiciary Policy*, Vol. 21, Ch. 3, particularly with regard to law book collections. The amendments would encourage sharing of resources within a courthouse and across circuits to avoid costly subscriptions for chambers; encourage judges to consult with librarians regarding alternate, less costly sources; and replace the list of suggested titles for chambers collections with more general suggestions that emphasize cost control and avoid implying an entitlement to a particular title. The Committee also recommended minor technical changes to the policy. The Judicial Conference approved the Committee's recommendation.

RECORDS MANAGEMENT

The Committee recommended that the Judicial Conference amend the records disposition schedule for bankruptcy courts to add a retention period for miscellaneous bankruptcy records (e.g., records of administrative actions), as well as for attorney disbarment proceedings. The Conference adopted the Committee's recommendation. The schedule will be transmitted to the National Archives and Records Administration for acceptance of the changes.

PUBLIC ACCESS TO DISTRICT AND BANKRUPTCY COURT OPINIONS

In March 2010, the Judicial Conference approved a joint pilot project with the Government Printing Office (GPO) to provide access to judicial opinions through GPO's Federal Digital System (FDsys), which is an advanced, internet-based digital system that allows searches across opinions and across courts (JCUS-MAR 10, p. 9; *see also* JCUS-MAR 11, p. 12). At this session, after considering the amount of access and searchability the pilot provides and the positive feedback received, the Committee recommended that the Conference approve national implementation of the program and encourage all courts, at the discretion of the chief judge, to participate in the program. The Conference approved the Committee's recommendation.

COMMITTEE ACTIVITIES

The Committee on Court Administration and Case Management reported that it endorsed several policy recommendations from its CM/ECF subcommittee regarding the Next Generation of CM/ECF system, including possible rules amendments for consideration by the Committee on Rules of Practice and Procedure. The Committee also agreed that a comprehensive review of both the standard and local CM/ECF event dictionaries was necessary to ensure the effectiveness of many of the requirements for the Next Generation system. With regard to the challenges of handling civil pro se litigation, the Committee agreed to draft revisions to the Conference's attorney admission fund guidelines to explain permissible uses of the fund for pro se litigant programs or resources and to obtain more information on how courts process pro se cases more efficiently and effectively. It also asked the Administrative Office to perform a Methods Analysis Program review on courts' handling of civil pro se litigation to identify best practices in this area.

COMMITTEE ON CRIMINAL LAW

SUPERVISION OF FEDERAL OFFENDERS, MONOGRAPH 109

Supervision of Federal Offenders, Monograph 109 (Monograph), Guide to Judiciary Policy, Vol. 8, Part E, § 450.10, authorizes probation officers to make limited disclosures to law enforcement agencies of information about

offenders, but provides no examples of the kind of information that may be released. The Committee on Criminal Law noted that disclosure of certain information is required by statute and should be specified in the Monograph, and that disclosure of other information, such as a photograph of the offender, could facilitate law enforcement agency identification and supervision of offenders and should be enumerated as well. On recommendation of the Committee on Criminal Law, the Judicial Conference amended the Monograph to clarify the types of information that a probation officer may disclose.

JUDGE-IDENTIFYING SENTENCING DATA

Reacting to a number of requests made to the U.S. Sentencing Commission from the Committee on the Judiciary of the House of Representatives for judge-specific and judge-identifying sentencing information, the Committee on Criminal law recommended that the Conference adopt the following statement in order to clarify the judiciary's policy on that topic:

That, because the independence of the federal judiciary requires that judges make case-related decisions freely in accordance with the law and without fear or intimidation, the Judicial Conference—

- a. re-affirm its existing positions with regard to the release of judge-specific sentencing data by judicial branch organizations, and
- b. with regard to judge-identifying information, specifically oppose any:
 - i. effort to hold judges individually accountable for their sentencing decisions except through established processes for appellate review;
 - ii. congressional use of judge-identifying sentencing data for the purpose of singling out individual judges for denigration, harassment, questioning, or retaliation; and

- iii. release to Congress of judge-identifying data by the Sentencing Commission in the continuing absence of an articulated legitimate legislative purpose for acquiring such data.

After discussion, the Conference declined to adopt this statement.

COMMITTEE ACTIVITIES

The Committee on Criminal Law reported that it received a report on the Department of Justice's efforts to manage the cases of civilly committed sexually dangerous persons and the need for close collaboration among the Bureau of Prisons, U.S. attorneys' offices, and probation offices when developing release plans in these cases. The Federal Judicial Center provided the Committee with a report on the status of its study of federal reentry court programs, which is designed to assess the efficacy and cost-effectiveness of these programs and assist the Committee in recommending appropriate models for use by the courts. The Committee also received an update on the implementation of evidence-based practices in the probation and pretrial services system, including the adoption of the pretrial and post-conviction risk assessments.

COMMITTEE ON DEFENDER SERVICES

CRIMINAL JUSTICE ACT GUIDELINES

To address possible concerns regarding familial relationships among individuals providing services on the same Criminal Justice Act (CJA) representation, the Committee on Defender Services recommended that the Judicial Conference amend the CJA guidelines for non-capital and capital cases (*Guide to Judiciary Policy*, Vol. 7A) to require the following notifications:

- (a) appointed counsel should notify the presiding judge, prior to engaging relatives for compensable services (other than as associate counsel in the same law firm), of the relationship and the services to be provided; and
- (b) counsel should notify the presiding judge, prior to an appointment or as soon as practicable, if counsel is aware that he or she is related to any

attorney on the same representation or being considered for appointment on the same representation.

The Conference adopted the Committee's recommendations.

COMMITTEE ACTIVITIES

The Committee on Defender Services considered applications from seven courts of appeals and allocated among six circuits the four new case-budgeting attorney positions to be included in the FY 2013 financial plan, subject to the availability of funding. The Committee approved a training plan for federal defender staff and CJA panel attorneys for FY 2013 that is limited to the reduced training spending it authorized for FY 2012. The Committee received a preliminary assessment of the use of coordinating discovery attorneys, contractors who assist CJA panel attorneys and federal defender staff with the management of large volumes of discovery.

COMMITTEE ON FEDERAL-STATE JURISDICTION

COMMITTEE ACTIVITIES

The Committee on Federal-State Jurisdiction reported that it discussed proposed legislation regarding domestic violence in Indian country that had been incorporated into bills to reauthorize grant programs under the Violence Against Women Act. The provisions of S. 1925, 112th Congress, would expand criminal and civil authority of tribal courts over non-Indians accused of domestic violence occurring in Indian country, and the provisions of H.R. 4970, 112th Congress, would authorize federal courts to issue civil protection orders to protect victims of domestic violence in Indian country. The Committee also received a status report on a joint project of federal and state courts to develop resources to improve cooperation among courts regarding related litigation filed in multiple jurisdictions. Draft legislation (the proposed United States Court of International Trade Modernization and Trade Facilitation Act) to consolidate in the Court of International Trade certain actions related to international trade was also reviewed by the Committee.

COMMITTEE ON FINANCIAL DISCLOSURE

DISCHARGE OF STATUTORY DUTY UNDER 5 U.S.C. APP. § 104(B)

A Judicial Conference member sought to have the Conference discuss the issue of how the Conference discharges its statutory duty, under 5 U.S.C. app. § 104(b), to determine whether an individual has willfully failed to file a financial disclosure report or has willfully falsified or failed to include required information in such a report. On the Conference floor, the member moved to disapprove the most recent report of the Committee on Financial Disclosure and require the Committee to file amended reports that provide information about Committee actions taken pursuant to the authority delegated to it by the Conference to carry out duties under 5 U.S.C. app. § 104(b). The Judicial Conference decided to postpone consideration of the motion so that the Committee may first consider the matter and report back to the Conference.

COMMITTEE ACTIVITIES

The Committee on Financial Disclosure reported that it determined to undertake a detailed review of the Ethics in Government Act of 1978, as well as of the Conference's legislative proposal to amend the Act to establish separate financial disclosure requirements for the judiciary, and other proposals, to determine whether there are changes that might facilitate the financial disclosure process but not cause additional difficulties for the filers or the judiciary. As a result of progress in the development of the Financial Disclosure Online Filing System (FiDO), Committee staff is working with staff in the White House, the Department of Justice, and the appropriate Senate committees to permit the electronic filing and review of the financial disclosure reports of judicial nominees, which will expedite review of these reports. As of July 1, 2012, the Committee had received 3,651 financial disclosure reports and certifications for calendar year 2011, including 1,169 reports and certifications from Supreme Court justices, Article III judges, and judicial officers of special courts; 325 reports from bankruptcy judges; 519 reports from magistrate judges; and 1,638 reports from judicial employees.

COMMITTEE ON INFORMATION TECHNOLOGY

SINGLE NETWORK INFRASTRUCTURE

On recommendation of the Committee on Information Technology, the Judicial Conference agreed to require that a single information technology network infrastructure be installed in new buildings, new annexes, newly leased space, and repairs and alteration projects where new space is being configured for use by multiple court units. Exceptions to this policy must be approved by the appropriate circuit judicial council and, if approved, any increased costs, including facilities-related costs, resulting from duplicate infrastructure must be funded locally. The Committee cited the additional costs for duplicate equipment, installation, and maintenance, as well as higher ongoing costs for space, power, HVAC (heating ventilation, and air conditioning), and other facilities-related requirements as reasons for recommending the policy change.

LONG RANGE PLAN FOR INFORMATION TECHNOLOGY

Pursuant to 28 U.S.C. § 612 and on recommendation of the Committee on Information Technology, the Judicial Conference approved the fiscal year 2013 update to the *Long Range Plan for Information Technology in the Federal Judiciary*. Funds for the judiciary's information technology program will be spent in accordance with this plan.

COMMITTEE ACTIVITIES

The Committee on Information Technology reported that it discussed a number of initiatives that will result in operational efficiencies, long-term cost savings, cost avoidances, and improved information technology (IT) capabilities for the judiciary. These include implementation of a national internet protocol telephone service and a national videoconferencing service; a reduction in the number of national data centers; centralization of the judiciary's e-mail servers; provision of virtual servers to courts over the judiciary's wide-area network; establishment of data exchange standards and an enterprise registry of web services for applications developed by the judiciary; and consolidation of the judiciary's data warehouse systems. The Committee endorsed policies requiring each court to maintain an IT security log and to develop an IT security incident response plan, as well as security standards for

mobile devices and standards for passwords used to access the judiciary's national identity authentication system.

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

COMMITTEE ACTIVITIES

The Committee on Intercircuit Assignments reported that 96 intercircuit assignments were undertaken by 74 Article III judges from January 1, 2012, to June 30, 2012. During this time, the Committee continued to disseminate information about the intercircuit assignment process and aided courts requesting assistance by identifying and obtaining judges willing to take assignments.

COMMITTEE ON INTERNATIONAL JUDICIAL RELATIONS

COMMITTEE ACTIVITIES

The Committee on International Judicial Relations reported on its involvement in rule of law and judicial reform programs throughout the world, highlighting activities in Africa, East Asia and the Pacific, Europe and Eurasia, Latin America and the Caribbean, and the Middle East. Briefing reports about international rule of law activities were provided by the Department of State, the Department of Justice, the United States Agency for International Development, the United States Patent and Trademark Office, the Open World Program of the Library of Congress, the Deputy Secretary General of the United Nations, the Director of the United Nations' Rule of Law Unit, the United States Mission to the United Nations, the Federal Judicial Center, and U.S. court administrators. The Committee also reported on briefings of foreign delegations of jurists and judicial personnel hosted at the Administrative Office.

COMMITTEE ON THE JUDICIAL BRANCH

JUDGES' TRAVEL REGULATIONS

On recommendation of the Committee on the Judicial Branch, the Judicial Conference approved an amendment to section 250.40.20(b) of the Travel Regulations for United States Justices and Judges, *Guide to Judiciary Policy*, Vol. 19, Ch. 2, to clarify that whenever a judge is provided a continental breakfast in connection with a judiciary meeting and the continental breakfast consists of more than “light refreshments” as defined under judiciary policy, the judge’s subsistence allowance should be reduced accordingly.

COMMITTEE ACTIVITIES

The Committee on the Judicial Branch reported that it developed, in cooperation with the Administrative Office, a “toolbox” that can be used by appellate courts, district courts, and bankruptcy courts to enhance their external internet websites. The Committee also received reports from the Transportation Security Administration and the Administrative Office concerning an initiative to expedite the security screening of federal judges and other “trusted travelers” at airports. In addition, the Committee recommended a new judiciary-wide policy on conference and meeting planning, which was adopted by the Executive Committee on behalf of the Judicial Conference (*see supra*, “Meeting Planning and Administration Policy,” p. 5).

COMMITTEE ON JUDICIAL CONDUCT AND DISABILITY

COMMITTEE ACTIVITIES

The Committee on Judicial Conduct and Disability reported that although no petitions for review are currently pending before it under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364, it has conferred confidentially with circuit chief judges and other judges concerning certain matters relating to administration of the Act. In addition, the Committee and its staff continue to address courts’ inquiries regarding the judicial misconduct and disability complaint process.

COMMITTEE ON JUDICIAL RESOURCES

STAFFING FORMULAS

Bankruptcy Clerks' Offices. On recommendation of the Committee on Judicial Resources, the Judicial Conference agreed to replace the existing staffing formula for bankruptcy clerks' offices with six formulas that accommodate the differences in court size in determining staffing needs. The Conference approved separate staffing formulas for bankruptcy courts with one, two, three, four-to-six, seven-to-ten, and 24 authorized judgeships, respectively, for implementation beginning in fiscal year 2013. In addition, to reduce staffing volatility from year to year, on the Committee's recommendation, the Conference agreed that staffing formula calculations for a given fiscal year should be weighted by using 60 percent of workload data from the statistical year (July 1 to June 30) immediately preceding that fiscal year and 40 percent of workload data from the statistical year that ended 15 months before the start of that fiscal year.

Shared Administrative Services Component. At its August 2011 meeting, the Executive Committee endorsed a number of cost-containment initiatives, one of which was to incorporate a shared administrative services component into new staffing formulas being developed for the bankruptcy and district court clerks' offices. To assist in this endeavor, the Court Administration and Case Management Committee developed a list of administrative services considered suitable for sharing, including human resources, education and training, finance, budget, information technology, property management, contracts and procurement, space and facilities, mail room management, and continuity of operations (COOP) and emergency planning. Extensive input was sought and received from the court community on how to implement the shared administrative services initiative. Of the issues raised by court personnel, two in particular generated concerns: (a) whether to include a shared administrative services component in the bankruptcy clerks' offices staffing formula for fiscal year 2013 or defer it until 2014 when the district clerks' offices staffing formula would be ready for adoption; and (b) whether to include information technology, budget, and finance functions in the sharing component. After considering these issues, the Committee recommended, and the Judicial Conference approved, a shared administrative services component for use with the new staffing formulas for bankruptcy clerks' offices with the following stipulations:

- a. Presumed shared administrative services reductions would be deferred in fiscal year 2013;
- b. Presumed shared administrative services reductions for fiscal year 2014 would exclude information technology, budget, and finance functions;
- c. Presumed shared administrative services reductions for fiscal year 2015 would exclude budget and finance functions, but include an appropriate percentage of information technology functions, currently estimated at 19 percent; and
- d. Presumed shared administrative services reductions for fiscal year 2016 would exclude budget and finance functions, but would include all information technology functions.

Pro Se Law Clerks. In response to requests from a number of courts, the Committee on Judicial Resources agreed to revisit the staffing formula for pro se law clerks, which was adopted in September 2009 (JCUS-SEP 09, p. 20), to determine whether the types of cases considered in the formula should continue to be limited to prisoner litigation only, or should include other types of cases, such as social security cases and pro se non-prisoner, non-social security cases. Also, in light of the judiciary's continuing need for cost containment, the Committee revisited the formula's provision of at least one pro se law clerk in districts earning any pro se law clerk credit, and the decision in 2009 to grandfather then-current pro se law clerks until the number of on-board pro se law clerks equaled the number authorized by the staffing formula. After a comprehensive work measurement study, the Committee recommended that the Conference take the following actions:

- a. Establish a staffing formula for pro se law clerks in fiscal year 2013 based on prisoner cases only, providing a credit of 13.4 hours per civil rights case for nature of suit codes 540 (Mandamus & Other), 550 (Civil Rights), 555 (Prison Condition), and 560 (Civil Detainee - Conditions of Confinement); and a credit of 8.3 hours per habeas corpus case for nature of suit codes 463 (Alien Detainee (Prisoner Petition)), 510 (Motions to Vacate Sentence), 530 (General), and 535 (Death Penalty);
- b. Retain the two-year stabilization policy, which requires prisoner case filings to drop below a staffing threshold for two consecutive years before decreasing staff allocations;

- c. Eliminate the one full-time equivalent minimum allocation per district and allocate pro se law clerk positions in 0.5 full-time equivalent increments;
- d. Eliminate grandfathering for pro se law clerks with the implementation of the new formula;
- e. Defer until December 31, 2013, termination of current minimum staffing and grandfathered pro se law clerks;
- f. Provide no additional resources for cases that do not involve a prisoner-plaintiff, including civil rights and social security cases; and
- g. Encourage sharing or pooling of pro se law clerks and death penalty law clerks to enable the most efficient and effective use of resources.

The Conference adopted the Committee's recommendations.

TYPE II CHIEF DEPUTY CLERK

In September 2004, the Judicial Conference authorized any unit in a district or bankruptcy court with ten or more authorized judgeships to establish a second Judiciary Salary Plan (JSP)-16 Type II deputy position upon notification to the Administrative Office, to be funded with the court's decentralized funds (JCUS-SEP 04, p. 23). The Central District of California has requested authorization and full funding (i.e., from centralized funds) for a third JSP-16 Type II chief deputy clerk position for its district clerk's office, citing the size of the court's staff, the number of judges supported, and the number of court locations and building projects in the district. The Committee noted that this request for a third Type II chief deputy was the first of its kind and would require an exception to the September 2004 policy. After consideration of the unique challenges confronting the Central District of California, the Committee recommended that the Conference authorize the requested position, but require that it be funded only from the court's decentralized funds. The Conference adopted the Committee's recommendation.

HIGHEST PREVIOUS RATE RULE

The highest previous rate rule is a pay-setting flexibility that allows an appointing official in a court or federal public defender organization to consider the highest rate of base pay previously received by an employee in a federal civilian position when setting that employee's pay upon re-employment, transfer, reassignment, promotion, demotion, or change in type of appointment. Within the appropriate pay grade or classification level, the pay may be set at any rate from step one through the lowest step that is equal to, or exceeds, the highest previous rate. Currently, the rule may only be applied at the time an employee takes a qualifying position. In order to provide appointing authorities greater discretion in using this tool, the Committee recommended, and the Conference agreed, that the rule be amended to permit courts to use the highest previous rate rule prospectively at any time within one year of re-employment, or within one year of the last transfer, reassignment, promotion, demotion, or change in type of appointment. This would allow courts to create a "probationary" period before applying the highest previous rate rule, if warranted. Federal public defender organizations are excluded from the change in the rule to maintain pay parity with United States attorneys offices.

HONORARY AWARDS

An honorary award is a gesture of formal and symbolic recognition of an employee's significant contribution and value to the judiciary or to a court, and may consist of any symbolic item that does not convey a sense of monetary value. The maximum cost for all non-monetary awards (which include both honorary and informal recognition awards) is \$100 per court employee, per year. *Guide to Judiciary Policy*, Vol. 12, Ch. 8, §§ 830.35(b) and 830.36. In response to requests from the courts for more flexibility in the granting of such awards, the Committee recommended that the Judicial Conference modify its policy on honorary awards to allow courts to—

- a. Incur the reasonable cost associated with engraving or other personalization of an honorary award;
- b. Provide a plaque in addition to a framed certificate or court seal for a retiring employee, subject to the \$100 per court employee, per year limitation; and

- c. Permit probation and pretrial services officers to receive their nonfunctional deactivated badges and/or credentials at retirement, subject to the \$100 per court employee, per year limitation.

The Conference adopted the Committee's recommendation.

TRANSCRIPT RATES

In September 1991, the Judicial Conference adopted guidelines to regulate the sale of transcripts on computer diskettes (JCUS-SEP 91, p. 66). Noting that diskettes are no longer a preferred method for delivering electronic transcripts, the Committee recommended, and the Conference approved, the revision of the September 1991 transcript rates policy and guidelines to reflect newer technologies.

MODEL EMPLOYMENT DISPUTE RESOLUTION PLAN

The judiciary provides communication channels through which court and federal public defender employees may report violations of law or suspected fraud, waste, abuse, or mismanagement of funds by employees or by entities doing business with the court (known as "whistleblowing"). However, the judiciary did not provide a specific administrative remedy for employees who face adverse personnel actions as a result of whistleblowing, such as that provided to executive branch employees in the Whistleblower Protection Act of 1989, 5 U.S.C. § 2302(b)(8). On recommendation of the Committee, the Judicial Conference amended the 2010 Model Employment Dispute Resolution Plan to provide whistleblower protection to employees.

COMMITTEE ACTIVITIES

The Committee on Judicial Resources reported that its budget request to the Budget Committee for fiscal year 2014 is 2.2 percent above fiscal year 2013 assumed funding levels. The Committee requested that the Administrative Office conduct a comprehensive update on chambers issues, including cost-containment considerations, the changing nature of chambers staff administrative workload, and the variations in workload borne by chambers staff. The Committee asked the Federal Judicial Center to conduct a cost-benefit study of alternative dispute resolution in the district courts in

coordination with the comprehensive study on alternative dispute resolution that the Federal Judicial Center is conducting on behalf of the Committee on Court Administration and Case Management.

COMMITTEE ON JUDICIAL SECURITY

COMMITTEE ACTIVITIES

The Committee on Judicial Security reported that it continued its discussion of cost-containment initiatives for the Court Security account arising out of the September 2011 cost-containment summit of Conference committee representatives, and was updated on the status of efforts that are currently underway. In addition, the Committee was updated on the implementation of the Capital Security Program, which is designed to assist courts at locations that have security deficiencies but may not qualify for a new courthouse building. The Committee also was briefed on the status of the Judicial Facility Security Program and on ongoing initiatives to provide security education and training for judges.

COMMITTEE ON THE ADMINISTRATION OF THE MAGISTRATE JUDGES SYSTEM

CHANGES IN MAGISTRATE JUDGE POSITIONS

After considering the report of the Committee on the Administration of the Magistrate Judges System and the recommendations of the Administrative Office, the district courts, and the judicial councils of the circuits, the Judicial Conference agreed to (a) redesignate the location of a full-time magistrate judge position in the Western District of Oklahoma from Oklahoma City to Lawton or Oklahoma City; and (b) reduce the salary of the full-time magistrate judge position at Yellowstone National Park in the District of Wyoming from 80 percent of the salary of a full-time magistrate judge position (currently \$128,064 per annum) to 55 percent (currently \$88,044 per annum).

RECALL OF RETIRED MAGISTRATE JUDGES

As part of the judiciary's cost-containment efforts, the Committee on the Administration of the Magistrate Judges System was asked to examine the magistrate judge recall program to ensure effective use of recalled judges and their staffs. Based on its review and after receiving input from judges and court personnel, the Committee recommended that the Judicial Conference amend its regulations governing the ad hoc and extended service recall of retired magistrate judges (*Guide to Judiciary Policy*, Vol. 3, Chs. 11 and 12) to (a) provide for Magistrate Judges Committee approval of any request for staff for recalled magistrate judges and any request for funds for recall of a retired magistrate judge that exceeds \$10,000 in judicial salary, Office of Personnel Management annuity reimbursement, travel, and subsistence; (b) provide workload standards for recalled magistrate judges when staff is requested; and (c) make non-substantive, stylistic changes in the regulations. The Conference adopted the Committee's recommendations. *See supra*, pp. 8-9, "Recall of Retired Bankruptcy Judges," for similar amendments to the regulations governing the recall of retired bankruptcy judges.

COMMITTEE ACTIVITIES

The Committee on the Administration of the Magistrate Judges System reported that during the period between the Committee's December 2011 and June 2012 meetings, the Committee chair approved filling vacancies in 20 full-time magistrate judge positions and one part-time magistrate judge position in 18 district courts. At its June 2012 meeting, the Committee approved filling five vacancies in magistrate judge positions and voted to defer consideration of one request to fill a vacancy in light of the circuit judicial council's decision to defer consideration of the request until next year. The Committee also determined to reevaluate the document entitled "Suggestions for Utilization of Magistrate Judges," which the Committee adopted in 1999 to identify and encourage "best practices" in magistrate judge utilization, and the chair appointed a subcommittee to undertake an initial review.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

FEDERAL RULES OF APPELLATE PROCEDURE

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed amendments to Appellate Rules 13 (Review of a Decision of the Tax Court), 14 (Applicability of Other Rules to the Review of a Tax Court Decision), 24 (Proceedings In Forma Pauperis), 28 (Briefs), and 28.1 (Cross-Appeals), and to Form 4 (Affidavit Accompanying Motion for Permission to Appeal In Forma Pauperis), together with Committee Notes explaining their purpose and intent. The Conference approved the amendments and agreed to transmit them to the Supreme Court for its consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

FEDERAL RULES OF BANKRUPTCY PROCEDURE

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed amendments to Bankruptcy Rules 1007 (Lists, Schedules, Statements, and Other Documents Required), 4004 (Grant or Denial of Discharge), 5009 (Closing Chapter 7 Liquidation, Chapter 12 Family Farmer's Debt Adjustment, Chapter 13 Individual's Debt Adjustment, and Chapter 15 Ancillary and Cross-Border Cases), 9006 (Computing and Extending Time), 9013 (Motions: Form and Service), and 9014 (Contested Motions), together with Committee Notes explaining their purpose and intent. The Conference approved the amendments and agreed to transmit them to the Supreme Court for its consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

The Committee also submitted to the Judicial Conference proposed revisions of Official Bankruptcy Forms 7 (Statement of Financial Affairs), 9A–9I (Notice of Commencement of Case Under the Bankruptcy Code, Meeting of Creditors, and Deadlines), 10 (Proof of Claim), and 21 (Statement of Social-Security Number or Individual Taxpayer-Identification Number (ITIN)). The Conference approved the revised forms to take effect on December 1, 2012.

FEDERAL RULES OF CIVIL PROCEDURE

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed amendments to Civil Rules 37 (Failure to Make Disclosures or to Cooperate in Discovery; Sanctions) and 45 (Subpoena), together with Committee Notes explaining their purpose and intent. The Conference approved the amendments and agreed to transmit them to the Supreme Court for its consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

FEDERAL RULES OF CRIMINAL PROCEDURE

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference a proposed amendment to Criminal Rule 11 (Pleas), together with Committee Notes explaining its purpose and intent. The Conference approved the amendment and agreed to transmit it to the Supreme Court for the Court's consideration with a recommendation that it be adopted by the Court and transmitted to Congress in accordance with the law.

FEDERAL RULES OF EVIDENCE

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference a proposed amendment to Evidence Rule 803 (Exception to the Rules Against Hearsay — Regardless of Whether the Declarant is Available as a Witness), together with Committee Notes explaining its purpose and intent. The Conference approved the amendment and agreed to transmit it to the Supreme Court for the Court's consideration with a recommendation that it be adopted by the Court and transmitted to Congress in accordance with the law.

COMMITTEE ACTIVITIES

The Committee on Rules of Practice and Procedure reported that it approved publishing for public comment proposed amendments to Appellate Rule 6; Bankruptcy Rules 1014(b), 7004(e), 7008, 7012, 7016, 8001-8028, 9023, 9024, 9027, and 9033, and Official Forms 3A, 3B, 6I, 6J, 22A-1, 22A-2, 22B, 22C-1, and 22C-2; Criminal Rules 5(d) and 58; and Evidence Rules

801(d)(1)(B) and 803(6)-(8). Among the proposals are amendments to Part VIII of the Bankruptcy Rules, which governs appeals to district courts and bankruptcy appellate panels. The published proposals are the product of a multi-year project to (1) bring the bankruptcy appellate rules into closer alignment with the Federal Rules of Appellate Procedure; (2) incorporate a presumption favoring the electronic transmission, filing, and service of court documents; and (3) adopt a clearer and simpler style.

COMMITTEE ON SPACE AND FACILITIES

CLOSURE OF NON-RESIDENT FACILITIES

In March 2006, the Judicial Conference approved a methodology for determining whether a facility without a resident judge should be recommended for closure (JCUS-MAR 06, p. 28). Under this methodology, a weighted average of the scores for three criteria (facility usage, location, and building condition) is compared to the score of a fourth criterion (building operating cost) to come up with an overall closure score. In 2012, circuit judicial councils were provided a list of all the non-resident facilities that were ranked using the above methodology and asked to consider whether any of these facilities in their circuits should be closed. Based upon the recommendations of the respective circuit judicial councils and on the recommendation of the Committee on Space and Facilities, the Conference endorsed the closure of six non-resident facilities in the following locations: (a) Wilkesboro, North Carolina, upon the completion of the renovation of the courthouse in Statesville, North Carolina; (b) Beaufort, South Carolina, at the end of the lease term in 2014; (c) Meridian, Mississippi; (d) Amarillo, Texas, upon the cancellation of the lease for the bankruptcy court space at the earliest point at which it is economically feasible; (e) Pikeville, Kentucky, to release the bankruptcy courtroom and chamber in leased space; and (f) Gadsden, Alabama.

DESIGN GUIDE EXCEPTION

On recommendation of the Committee, the Judicial Conference approved an exception to the *U.S. Courts Design Guide* for the chambers and courtroom project in Clarksburg, West Virginia, which exceeds space standards as a result of the configuration and layout of the existing space. The Conference's approval was subject to the following conditions: design may begin, but (a) no construction can commence until (i) the judge to be replaced

provides formal notice that she will take senior status upon a date certain, and (ii) the court commits that a district judge will reside in the chambers being constructed; and (b) Component B funding for design and construction may not be obligated until the beginning of fiscal year 2013.

CIRCUIT RENT BUDGET BUSINESS RULE

In September 2007, the Judicial Conference approved a circuit rent budget allotment methodology and delegated to the Committee the authority to adopt and amend business rules to implement the methodology (JCUS-SEP 07, p. 36). Business Rule No. 1, as originally adopted, provided that when a court unit released space, the rent savings was allotted to the circuit judicial council to reuse immediately or to bank for later use wherever in the circuit the need arose. In order to encourage court units to relinquish space, at this session, the Committee recommended amending Business Rule No.1 to provide that when a court unit releases space accepted by General Services Administration (GSA) as marketable, an allotment equal to one year's rental savings would be made available for use within two years by the chief judge of the relevant court (district, bankruptcy, or appellate), on behalf of the court unit that released the space. That court could use the allotment to (a) fund requirements related to space relinquishment, such as tenant alterations or furniture, or (b) fund other activities or items necessary for their operations. Because this change would shift certain authority from the circuits to individual courts, the Committee recommended the change to the Conference rather than exercise its delegated authority. The Conference adopted the Committee's recommendation.

FIVE-YEAR COURTHOUSE PROJECT PLAN

On recommendation of the Committee on Space and Facilities, the Judicial Conference approved the *Five-Year Courthouse Project Plan for FYs 2014-2018*, which moves the projects from the previous five-year plan up by one year and adds supplemental design funding for Norfolk, Virginia, in the first year of the plan.¹

¹Projects in Greenbelt, MD and Los Angeles, California had already been removed from the *Five-Year Plan for FYs 2013-1017* in February 2012.

COMMITTEE ACTIVITIES

The Committee on Space and Facilities reported that it is moving forward with plans for FY 2013 and beyond for the Capital Security Program, in close coordination with the Committee on Judicial Security, GSA, and the U.S. Marshals Service (USMS). In May 2012, both the Space and Facilities Committee and the Judicial Security Committee approved projects in the following locations to undergo capital security studies for potential participation in the Capital Security Program for FY 2013: (1) Raleigh, North Carolina; (2) St. Thomas, Virgin Islands; (3) Texarkana, Texas; (4) Columbus, Georgia; and (5) Monroe, Louisiana. Once the capital security studies are complete, the judiciary, the GSA, and the USMS will select which projects, and specifically, which security enhancement options proposed for each project, should be recommended for participation in the program for FY 2013.

FUNDING

All of the foregoing recommendations that require the expenditure of funds for implementation were approved by the Judicial Conference subject to the availability of funds and to whatever priorities the Conference might establish for the use of available resources.

Chief Justice of the United States
Presiding