

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

March 13, 2018

The Judicial Conference of the United States convened in Washington, D.C., on March 13, 2018, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. § 331. The Chief Justice presided, and the following members of the Conference were present:

First Circuit:

Chief Judge Jeffrey R. Howard
Chief Judge Nancy Torresen,
District of Maine

Second Circuit:

Chief Judge Robert A. Katzmann
Chief Judge Colleen McMahon,
Southern District of New York

Third Circuit:

Chief Judge D. Brooks Smith
Chief Judge Christopher C. Conner,
Middle District of Pennsylvania

Fourth Circuit:

Chief Judge Roger L. Gregory
Judge Robert James Conrad, Jr.,
Western District of North Carolina

Fifth Circuit:

Chief Judge Carl E. Stewart
Chief Judge Lee H. Rosenthal,
Southern District of Texas

Sixth Circuit:

Chief Judge Ransey Guy Cole, Jr.
Judge Joseph M. Hood,
Eastern District of Kentucky

Seventh Circuit:

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

Eighth Circuit:

Chief Judge Lavenski R. Smith
Judge Linda R. Reade,
Northern District of Iowa

Ninth Circuit:

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

Tenth Circuit:

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

Eleventh Circuit:

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

District of Columbia Circuit:

Chief Judge Merrick B. Garland
Chief Judge Beryl A. Howell,
District of Columbia

Federal Circuit:

Chief Judge Sharon Prost

Court of International Trade:

Chief Judge Timothy C. Stanceu

The following Judicial Conference committee chairs also attended the Conference session: Circuit Judges Michael A. Chagares, Richard R. Clifton, Thomas M. Hardiman, Debra Ann Livingston, Raymond J. Lohier, Jr., and Anthony J. Scirica; District Judges John D. Bates, Susan R. Bolton, David G. Campbell, Wm. Terrell Hodges, John W. Lungstrum, Ricardo S. Martinez, Donald W. Molloy, Karen E. Schreier, Richard Seeborg, Rodney W. Sippel, Rebecca Beach Smith, Lawrence F. Stengel, and Anthony John Trenga; and Bankruptcy Judge Helen E. Burris. Attending as the bankruptcy judge and magistrate judge observers, respectively, were Bankruptcy Judge Catherine Peek McEwen and Magistrate Judge Candy W. Dale. Susan J. Goldberg of the First Circuit represented the circuit executives.

James C. Duff, Director of the Administrative Office of the United States Courts, attended the session of the Conference, as did Lee Ann Bennett, Deputy Director; Sheryl L. Walter, General Counsel; Katherine H. Simon, Secretariat Officer, and WonKee Moon, Supervisory Attorney Advisor, Judicial Conference Secretariat; Cordia A. Strom, Legislative Affairs Officer; and David A. Sellers, Public Affairs Officer. District Judge Jeremy D. Fogel, Director, and John S. Cooke, Deputy Director, Federal Judicial Center, and Circuit Judge William H. Pryor, Jr., Acting Chair, and Kenneth P. Cohen, Staff Director, United States Sentencing Commission, were in attendance at the session of the Conference, as was Jeffrey P. Minear, Counselor to the Chief Justice.

Attorney General Jeff Sessions addressed the Conference on matters of mutual interest to the judiciary and the Department of Justice. Senator Chuck Grassley and Representatives Jerrold Nadler and Hank Johnson spoke on matters pending in Congress of interest to the Conference.

REPORTS

Mr. Duff reported to the Judicial Conference on the judicial business of the courts and on matters relating to the Administrative Office. Judge Jeremy D. Fogel

spoke to the Conference about Federal Judicial Center (FJC) programs and Judge William H. Pryor, Jr., reported on United States Sentencing Commission activities. Mr. Duff also presented a special report on the work of the Federal Judiciary Workplace Conduct Working Group.

EXECUTIVE COMMITTEE

JUDICIARY STRATEGIC PLANNING

Strategic Plan Priorities. The *Strategic Plan for the Federal Judiciary*, adopted by the Judicial Conference in September 2010 and updated by the Conference in September 2015, identifies strategies and goals to enable the federal judiciary to continue as a model in providing fair and impartial justice (JCUS-SEP 10, pp. 5-6; JCUS-SEP 15, pp. 5-6). The approach to strategic planning approved by the Conference when the *Strategic Plan* was first adopted provides for the identification of strategies and goals from the *Strategic Plan* that should receive priority attention. These priorities are identified by the Executive Committee, with suggestions from Conference committees (JCUS-SEP 10, p. 6).

At its February 2018 meeting, the Executive Committee considered suggestions from the Conference committees regarding which strategies and goals should receive priority attention in the next two years. In support of the Chief Justice's direction that the judiciary examine its practices and address issues regarding workplace conduct, the Executive Committee identified as a priority ensuring the sufficiency and effectiveness of current safeguards in the judiciary to protect all employees from wrongful conduct in the workplace. This priority is embodied in the *Strategic Plan* core value of accountability (which calls for stringent standards of conduct and the self-enforcement of legal and ethical rules) and Goal 3.2b (which calls for development of programs and special initiatives that will allow the judiciary to remain an employer of choice while enabling employees to strive to reach their full potential). The Executive Committee therefore identified the core value of accountability and Goal 3.2b as priorities for the next two years along with the four strategies and two goals from the *Strategic Plan* that were previously identified as priorities (Strategies 1.1, 1.3, 2.1, and 4.1 and Goals 4.1d and 7.2b) as set forth below:

Core Value: Accountability: stringent standards of conduct; self-enforcement of legal and ethical rules; good stewardship of public funds and property; effective and efficient use of resources.

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

- Strategy 1.3** Secure resources that are sufficient to enable the judiciary to accomplish its mission in a manner consistent with judiciary core values.
- Strategy 2.1** Allocate and manage resources more efficiently and effectively.
- Goal 3.2b** Identify future workforce challenges and develop programs and special initiatives that will allow the judiciary to remain as an employer of choice while enabling employees to strive to reach their full potential.
- Strategy 4.1** Harness the potential of technology to identify and meet the needs of court users and the public for information, service, and access to the courts.
- Goal 4.1d** Refine and update security practices to ensure the confidentiality, integrity, and availability of judiciary-related records and information.
- Goal 7.2b** Communicate and collaborate with organizations outside the judicial branch to improve the public's understanding of the role and functions of the federal judiciary.

Implicit Bias and Racial Fairness. The Executive Committee agreed that the strategic planning process would be an effective mechanism for consideration of committee actions to study and address racial fairness, implicit bias, diversity, and related topics.

MODEL CONFIDENTIALITY STATEMENT (FORM AO-306)

The Model Confidentiality Statement (Form AO-306) was approved by the Judicial Conference for use by courts and judges to promote awareness among judicial employees of their confidentiality obligations under Canon 3D of the Code of Conduct for Judicial Employees (JCUS-SEP 11, p. 13). Noting concerns that law clerks and other judicial employees might misinterpret the Statement as impeding them from reporting workplace misconduct to the appropriate authorities, the Committee on Codes of Conduct, after receiving input from the Federal Judiciary Workplace Conduct Working Group, asked the Executive Committee to act on behalf of the Judicial Conference on an expedited basis to rescind the Statement for immediate review and revision to clarify that it does not prevent any judicial employee from revealing or reporting misconduct, including sexual or other forms of harassment, by a judge or any other person. By email ballot, the Executive Committee approved the request.

RESOLUTION

The Judicial Conference approved a recommendation of the Executive Committee to adopt the following resolution recognizing the substantial contributions made by Judge Julia Smith Gibbons, who completed her term of service as chair of the Committee on the Budget on January 31, 2018:

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

HONORABLE JULIA SMITH GIBBONS Committee on the Budget

Appointed as committee chair by the Chief Justice of the United States, Judge Gibbons, an outstanding jurist, has played a vital role in the administration of the federal court system. She served with distinction as the leader of the Committee on the Budget while, at the same time, continuing to perform her duties as a judge in her own court. Judge Gibbons has set a standard of skilled leadership and earned our deep respect and sincere gratitude for her innumerable contributions. We acknowledge with appreciation her commitment and dedicated service to the Judicial Conference and to the entire federal judiciary.

MISCELLANEOUS ACTIONS

The Executive Committee—

- Approved an adjustment to the fiscal year (FY) 2019 budget request to reflect changes in the FY 2018 funding assumptions.
- Referred the final report of the Ad Hoc Committee to Review the Criminal Justice Act Program to the Committees on Audits and Administrative Office Accountability, the Budget, Criminal Law, Defender Services, Information Technology, the Judicial Branch, and Judicial Resources for consideration and report to the September 2018 Judicial Conference session; agreed to form a subcommittee of the Executive Committee to coordinate the views of the Conference committees considering the report and to facilitate the Executive Committee's consideration of report recommendations within its jurisdiction.

- Agreed with the determination of the Committee on the Judicial Branch that an inflationary adjustment to the judges' maximum subsistence allowance was not warranted at this time, but that the inflationary adjustment to the maximum reimbursement for the actual cost of meals should be allowed to go into effect (see *Guide to Judiciary Policy*, Vol. 19, Ch. 2, § 250.20.20(b)(1) and § 250.20.30).
- Approved costs related to the 2019 Ninth Circuit judicial conference, pursuant to § 230(a)(2) of the Judicial Conference regulations on meeting planning and administration, *Guide to Judiciary Policy*, Vol. 24, Ch. 9.

COMMITTEE ON AUDITS AND ADMINISTRATIVE OFFICE ACCOUNTABILITY

COMMITTEE ACTIVITIES

The Committee on Audits and Administrative Office Accountability reported that it was briefed on the results of financial statement audits of Central Violations Bureau (CVB) and Public Access to Court Electronic Records (PACER) program receipts, retirement funds for judges and judicial survivors, and registry investments. Other audit results reported to the Committee included debtor audits in the six bankruptcy administrator districts in Alabama and North Carolina. The Committee was also briefed on follow-up actions relating to audit results that were reported to the Committee at its June 2017 meeting.

COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM

DUTY STATIONS AND ADDITIONAL PLACES OF HOLDING COURT

The Judicial Conference determines the official duty stations of bankruptcy judges and additional places of holding bankruptcy court, based upon recommendations submitted by the Director of the Administrative Office in consultation with the relevant circuit judicial council (28 U.S.C. § 152(b)(1)). In December 2016, the Committee on the Administration of the Bankruptcy System asked the Administrative Office to perform a comprehensive review of official bankruptcy judge duty stations and additional places of holding court to ensure that the designations were current and accurate. Based on this review, and after consulting

with the circuit judicial councils, the Administrative Office proposed, and the Committee agreed to recommend, new or changed locations to reflect the expiration of temporary judgeships and changes to the nature and mix of cases, and to provide more flexibility in the placement of judgeships and the use of facilities. The Judicial Conference approved the recommendations. The changes in official bankruptcy judge duty stations and additional places of holding court are set forth below.

Changes in Official Duty Stations for Bankruptcy Judges

<u>District</u>	<u>Former Duty Station(s)</u>	<u>New Duty Station(s)</u>
New York, Southern	New York City (8)	New York City (7)
Virgin Islands	Christiansted	None – Delete
Virgin Islands	St. Croix	None – Delete
Louisiana, Western	Opelousas	Lafayette
Mississippi, Southern	Biloxi	Gulfport
Texas, Southern	Corpus Christi	McAllen
Texas, Western	Waco	El Paso
Michigan, Eastern	Flint or Bay City	Flint or Detroit
Illinois, Central	Danville	Urbana
California, Eastern	Modesto	Sacramento (5)
Alabama, Northern	Birmingham (3)	Birmingham (2)
Georgia, Northern	Newnan	Newnan or Atlanta

Changes in Additional Places Of Holding Bankruptcy Court

<u>District</u>	<u>Location</u>	<u>Change</u>
Puerto Rico	Ponce	Delete
New York, Northern	Syracuse	Delete
Vermont	Burlington	Delete
Vermont	Montpelier	Delete
Vermont	Rutland	Add
Pennsylvania, Middle	Scranton	Delete
Virgin Islands	Charlotte Amalie	Delete
Virgin Islands	St. Croix	Add
Maryland	Rockville	Delete
North Carolina, Eastern	Elizabeth City	Delete
North Carolina, Eastern	Wilson	Delete
North Carolina, Western	Statesville	Add
North Carolina, Western	Wilkesboro	Delete
South Carolina	Charleston	Delete
South Carolina	Spartanburg	Delete

Virginia, Western	Staunton	Delete
Louisiana, Western	Lafayette	Delete
Mississippi, Southern	Meridian	Delete
Mississippi, Southern	Vicksburg	Delete
Texas, Eastern	Lufkin	Add
Texas, Eastern	Sherman	Add
Texas, Eastern	Texarkana	Add
Texas, Southern	Corpus Christi	Add
Texas, Southern	McAllen	Delete
Texas, Western	El Paso	Delete
Texas, Western	Waco	Add
Michigan, Eastern	Bay City	Delete
Michigan, Eastern	Flint	Delete
Ohio, Southern	Portsmouth	Delete
Ohio, Southern	Springfield	Delete
Ohio, Southern	St. Clairsville	Delete
Ohio, Southern	Zanesville	Delete
Tennessee, Eastern	Greeneville	Delete
Tennessee, Eastern	Johnson City	Delete
Tennessee, Western	Jackson	Delete
Illinois, Northern	Geneva	Delete
Illinois, Northern	Joliet	Delete
Illinois, Northern	Waukegan	Delete
Illinois, Northern	Wheaton	Delete
Illinois, Northern	Du Page County	Add
Illinois, Northern	Kane County	Add
Illinois, Northern	Lake County	Add
Illinois, Northern	Will County	Add
Illinois, Southern	Alton	Delete
Illinois, Southern	Benton	Delete
Illinois, Southern	Effingham	Delete
Indiana, Southern	Kokomo	Delete
Indiana, Southern	Muncie	Delete
Indiana, Southern	Richmond	Delete
Wisconsin, Eastern	Kenosha	Delete
Wisconsin, Eastern	Racine	Delete
Wisconsin, Eastern	Sheboygan	Delete
Wisconsin, Western	LaCrosse	Delete
Wisconsin, Western	LaCrosse County	Add
Arkansas, Eastern/Western	Harrison	Delete
Arkansas, Eastern/Western	Fayetteville	Delete
Arizona	Flagstaff	Add
Arizona	Sierra Vista	Delete

California, Eastern	Modesto	Add
California, Northern	Eureka	Delete
California, Northern	McKinleyville	Add
Guam	Agana	Delete
Guam	Hagatna	Add
Idaho	Twin Falls	Delete
Nevada	Elko	Delete
Nevada	Ely	Delete
Oregon	Coos Bay	Delete
Oregon	Klamath Falls	Delete
Oregon	Roseburg	Delete
Oregon	Salem	Delete
Washington, Western	Bremerton	Delete
Washington, Western	Everett	Delete
Washington, Western	Kalama	Delete
Washington, Western	Marysville	Add
Washington, Western	Port Orchard	Add
Colorado	Durango	Add
Alabama, Northern	Gadsden	Delete
Alabama, Northern	Jasper	Delete
Alabama, Northern	Talladega	Delete
Florida, Middle	Viera	Delete
Georgia, Middle	Thomasville	Delete
Georgia, Southern	Brunswick	Delete

REDESIGNATION OF DUTY STATION IN THE EASTERN DISTRICT OF OKLAHOMA

At the request of the Tenth Circuit Judicial Council, the Committee recommended, and the Conference approved, redesignation of the official bankruptcy judge duty station in the Eastern District of Oklahoma from Okmulgee to Muskogee, and the removal of Okmulgee as an approved place of holding bankruptcy court, effective upon the bankruptcy court’s relocation to Muskogee. The district is collocating the district and bankruptcy courts in Muskogee as part of its space reduction efforts.

GUIDELINES FOR DESIGNATIONS OF BANKRUPTCY JUDGE DUTY STATIONS AND ADDITIONAL PLACES OF HOLDING COURT

Noting that the judiciary had no guidelines for evaluating requests to establish or change the location of a bankruptcy judge duty station, and that its guidelines on designating places of holding bankruptcy court were over 30 years old, the Committee recommended that the Conference rescind the outdated guidelines and approve new guidelines to serve two purposes: a) assist circuit judicial councils and bankruptcy courts in providing relevant information in their requests for approval of designations of duty stations and additional places of holding court; and b) provide a structure and framework for the Committee to use in evaluating such requests and making recommendations to the Conference. Adopting the Committee's recommendation, the Conference rescinded the Guidelines for Designation as an Authorized Place of Holding Court, approved proposed Guidelines for Designations of Bankruptcy Judge Duty Stations and Additional Places of Holding Court, *Guide to Judiciary Policy*, Vol. 3, Ch. 15, and delegated authority to the Committee to make non-substantive, technical, and conforming changes to the Guidelines.

MULTI-DISTRICT DESIGNATION

With the approval of the Judicial Conference and each of the judicial councils involved, a bankruptcy judge may be designated to serve in any district adjacent to or near the district for which the bankruptcy judge was appointed (28 U.S.C. § 152(d)). In September 2016, the Judicial Conference adopted regulations setting forth factors for the judicial councils and the Conference to consider in evaluating requests for multi-district designation. One of the factors is whether one of the districts is a single-judge district (JCUS-SEP 16, pp. 7-8; *Guide to Judiciary Policy*, Vol. 3, Ch. 14). Noting that the District of Columbia bankruptcy court is a single-judge district and has an ongoing need for additional judge resources when the judge is recused or unavailable, the Committee recommended that the Conference approve the request from the Judicial Councils for the District of Columbia Circuit and the Fourth Circuit for the multi-district designation of Judge Wendelin I. Lipp (Bankr. D. Md.) to serve in the United States Bankruptcy Court for the District of Columbia through the expiration of her current term on April 2, 2020. The Conference adopted the Committee's recommendation.

COMMITTEE ACTIVITIES

The Committee on the Administration of the Bankruptcy System reported that it continues to monitor the judgeship vacancy pilot, which was approved by the Judicial Conference in September 2014 (JCUS-SEP 14, p. 7) and has identified a new district to replace a district that determined it no longer needed the additional judicial assistance provided through the pilot. The Committee agreed to ask the FJC to begin designing a study to develop new case weights to replace the current ones, which are nearly a decade old. It also received a briefing on unclaimed funds attributable to bankruptcy cases and recommended that a task force be created on unclaimed funds comprised of judges, clerks of court, a bankruptcy administrator, and AO staff, as well as representatives from the Department of Justice Executive Office for United States Trustees, to assist the Committee with further exploration of this matter. In addition, the Committee received an update on the horizontal consolidation pilot that was approved by the Judicial Conference in March 2016 (JCUS-MAR 16, p. 8) and the two additional courts that agreed to participate in the pilot.

COMMITTEE ON THE BUDGET

COMMITTEE ACTIVITIES

The Committee on the Budget reported that it discussed the judiciary's overall budget outlook. It also reported on the status of the judiciary's cost-containment efforts, including initiatives to encourage alternative organizational models, and noted the continued need to emphasize to Congress that the judiciary's cost-containment efforts are reducing costs and slowing growth in the judiciary's budget. The Committee requested that the Administrative Office, working through its advisory structure, develop possible financial incentives for court and office consolidations. The Committee also discussed a proposal to convert the U.S. Court of Federal Claims to an Article III court and provided comments on areas within its jurisdiction, but made no recommendations to the Judicial Conference (*see also infra*, "Consolidated Report on a Proposal to Convert the U.S. Court of Federal Claims to an Article III Court," pp. 29-31). The Committee unanimously recognized outgoing chair, Judge Julia Smith Gibbons, for her tireless efforts on behalf of the judiciary and distinguished service to the Committee during her thirteen years as chair of the Committee.

COMMITTEE ON CODES OF CONDUCT

COMMITTEE ACTIVITIES

The Committee on Codes of Conduct reported that since its last report to the Judicial Conference in September 2017, the Committee received 24 new written inquiries and issued 23 written advisory responses. During this period, the average response time for requests was 16 days. In addition, the Committee chair responded to 77 informal inquiries, individual Committee members responded to 150 informal inquiries, and Committee counsel responded to 493 informal inquiries, for a total of 720 responses to informal inquiries. As noted, *supra*, p. 5, the Committee also asked the Executive Committee to act on behalf of the Judicial Conference on an expedited basis to rescind the Model Confidentiality Statement (Form AO-306) for immediate review and revision to clarify that it does not prevent any judicial employee from revealing or reporting misconduct, including sexual or other forms of harassment, by a judge or any other person, and the Executive Committee approved the request.

COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT

MISCELLANEOUS FEE SCHEDULE

The Committee on Court Administration and Case Management recommended that the Judicial Conference amend Item 1 of the Bankruptcy Court Miscellaneous Fee Schedule, Item 4 of the District Court Miscellaneous Fee Schedule, Item 4 of the Court of Appeals Miscellaneous Fee Schedule, Item 2 of the United States Court of Federal Claims Fee Schedule, and Item 3 of the Judicial Panel on Multidistrict Litigation Fee Schedule, to add a new fee of \$31 for providing an electronic copy of a record that is stored outside a court's CM/ECF system and is therefore not available through the judiciary's Public Access to Court Electronic Records (PACER) system. Typically, these electronic records are not stored in CM/ECF due to file size and storage restrictions, and are stored on a digital video disk (DVD) or hard drive instead. The \$31 fee is the same as existing fees to conduct a search of court records or to reproduce a recording of a court proceeding. The Committee also recommended conforming changes to the existing fees for reproducing a record in paper form to distinguish it from the proposed new fee. The Conference adopted the Committee's recommendations, effective September 1, 2018.

COMMITTEE ACTIVITIES

The Court Administration and Case Management Committee reported that it was briefed on the progress of its cost-containment subcommittee, including the subcommittee's plan to provide information and resources for courts interested in considering alternative organizational models. The Committee also discussed its efforts, in conjunction with the Task Force on Protecting Cooperators, to counteract the misuse of court records to identify and harm cooperators. In addition, the Committee endorsed its records subcommittee's recommendation to create a webpage on the JNet where judges could easily access information about managing chambers papers that are created and maintained in an electronic format.

COMMITTEE ON CRIMINAL LAW

SUPERVISION OF FEDERAL OFFENDERS

On recommendation of the Committee on Criminal Law, the Judicial Conference approved substantial revisions to *The Supervision of Federal Offenders*, Monograph 109, *Guide to Judiciary Policy*, Vol. 8, Pt. E, including changing the name to "*Post-Conviction Supervision*." The monograph was revised to ensure that the policy aligns with the most current research on effective supervision. Among other things, the revised policy explicitly establishes evidence-based practices as the overall framework for effective supervision; adds lawful self-management as a goal of supervision; emphasizes that probation offices as a unit, rather than individual probation officers, are responsible for effective supervision; replaces the term "offender" with "person under supervision"; suggests that probation officers are the primary "change agents" in the supervision process; recommends the use of actuarial risk instruments that predict specific types of offenses when available; and recommends that probation offices reassess risk using professional judgment when certain changes in circumstances occur.

COMMITTEE ACTIVITIES

The Committee on Criminal Law reported that it met with the Director of the Federal Bureau of Prisons and shared its concern about recent closures of residential reentry centers (RRCs) and the fact that the closures took place without consulting with, or notifying, the judiciary. Additionally, as part of its continuing evaluation of judge-involved supervision programs, the Committee visited the reentry court program in the Eastern District of Pennsylvania. It met with reentry court working group

members and a social scientist who has conducted evaluations of the program's effectiveness, observed a meeting where the working group members discussed the progress of program participants, and observed a reentry court session where participants reported on their progress and discussed plans to address obstacles to effective reintegration into society with the reentry court judge.

COMMITTEE ON DEFENDER SERVICES

COMMITTEE ACTIVITIES

The Committee on Defender Services reported that it met with two members of the Ad Hoc Committee to Review the Criminal Justice Act Program, Judge Kathleen Cardone, Chair, and Dr. Robert E. Rucker, Assistant Circuit Executive for Court Policy and Research for the Ninth Circuit Court of Appeals. The Committee also met with the members of the AO's Defender Services Advisory Group to receive preliminary feedback from representatives of the federal defender and panel attorney community on the recommendations presented in the Ad Hoc Committee report. The Committee created a subcommittee whose members were tasked with making recommendations to the full Defender Services Committee regarding the Ad Hoc Committee report. The Committee approved conducting the next round of national surveys regarding the administration of the CJA program in FY 2020, subject to the availability of funds, and recommended surveying assistant federal defenders in addition to the stakeholder groups that have been surveyed in the past (federal judges, chief federal defenders, panel attorney district representatives, and individual panel attorneys).

COMMITTEE ON FEDERAL-STATE JURISDICTION

AMENDMENTS TO TITLE 28

As part of its jurisdictional improvements project, the Committee on Federal-State Jurisdiction recommended that the Judicial Conference adopt amendments to title 28 of the United States Code to delete references to the now defunct district court of the Canal Zone and to add appropriate references to other territorial district courts and to clarify federal district court authority to transfer cases to cure defects in personal jurisdiction. The Conference approved the recommended amendments as follows:

- a. Amend title 28 to delete references to the now defunct district court for the Canal Zone and to add appropriate references to other territorial district courts; and
- b. Amend title 28 to narrow section 1631 to subject matter jurisdiction defects and to clarify that section 1406(a) authorizes transfer to cure defects in both venue and personal jurisdiction.

PROPOSAL TO CONVERT THE U.S. COURT OF FEDERAL CLAIMS TO AN ARTICLE III COURT

A proposal to convert the U.S. Court of Federal Claims to an Article III court was considered by the Committees on the Budget, Federal-State Jurisdiction, Intercircuit Assignments, the Judicial Branch, and Judicial Resources, each with regard to issues falling within its jurisdiction. The Committees on Federal-State Jurisdiction, the Judicial Branch, and Judicial Resources made recommendations to the Judicial Conference on the proposal. Those recommendations were presented to the Conference in one consolidated report and are discussed *infra*, “Consolidated Report on a Proposal to Convert the U.S. Court of Federal Claims to an Article III Court,” pp. 29-31.

COMMITTEE ACTIVITIES

The Committee on Federal-State Jurisdiction reported that it continued its discussion of litigation reform legislation that would amend statutory provisions governing federal court diversity jurisdiction and jurisdiction in personal injury and wrongful death cases, class actions, and multi-district litigation. In addition, the Committee was briefed on immigration reform legislation introduced in the House in the 115th Congress, with a focus on those provisions that would limit or preclude judicial review. The Committee also reported on activities in furtherance of its initiatives to enhance federal-state court cooperation, including the successful participation of Committee members in an education program at the 2017 Annual Meeting of the Conference of Chief Justices titled “Promoting Cooperation Between State and Federal Courts,” and next steps in an ongoing project with the FJC to update the 1997 *Manual for Cooperation Between State and Federal Courts*.

COMMITTEE ON FINANCIAL DISCLOSURE

COMMITTEE ACTIVITIES

The Committee on Financial Disclosure reported that it was updated on efforts to procure and implement a new electronic financial disclosure reporting system, and it provided input pertaining to the development of software for the system. The Committee stated that as of December 12, 2017, it had received 4,162 financial disclosure reports and certifications for calendar year 2016 (out of a total of 4,224 required to file), including 1,261 annual reports from Supreme Court justices and Article III judges; 338 annual reports from bankruptcy judges; 580 annual reports from magistrate judges; 1,556 annual reports from judicial employees; and 427 reports from nominee, initial, and final filers.

COMMITTEE ON INFORMATION TECHNOLOGY

COMMITTEE ACTIVITIES

The Committee on Information Technology reported that it approved a security policy requiring that centrally managed firewalls be installed at each court and federal public defender office location. It also agreed that a proposed policy to manage information security risks for judiciary personnel while traveling outside the United States and its territories be resubmitted to a 30-day judiciary-wide review process and presented again for its consideration. In addition, it asked for renewed efforts to help judges and chambers staff transition from WordPerfect so that they could take advantage of the collaboration features, such as document sharing, of the forthcoming unified communications solution and that an analysis be conducted to determine the number of users potentially impacted.

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

COMMITTEE ACTIVITIES

The Committee on Intercircuit Assignments reported that 114 intercircuit assignments were undertaken by 98 Article III judges from July 1, 2017, to December 31, 2017. During this time, the Committee continued to disseminate information about intercircuit assignments and aided courts requesting assistance by identifying and obtaining judges willing to take assignments. The Committee also reviewed and concurred with four proposed intercircuit assignments of bankruptcy judges, which

primarily involved cases related to the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) and 15 assignments of magistrate judges, which primarily related to District of Puerto Rico criminal cases involving defendants displaced by Hurricanes Irma and Maria. In addition, the Committee informed the Judicial Conference that it had no further views on a proposal to convert the U.S. Court of Federal Claims to an Article III court (*see also infra*, “Consolidated Report on a Proposal to Convert the U.S. Court of Federal Claims to an Article III Court,” pp. 29-31).

COMMITTEE ON INTERNATIONAL JUDICIAL RELATIONS

COMMITTEE ACTIVITIES

The Committee on International Judicial Relations reported about its involvement in rule of law and judicial reform initiatives throughout the world, highlighting activities in Europe and Eurasia, the Near East, East Asia and the Pacific, Western Asia, and the Western Hemisphere. The Committee received oral and written reports about international rule of law activities from the Office of the Chief Justice, the Department of State, the Department of Justice, the United States Agency for International Development, the Department of Commerce, the United States Patent and Trademark Office, the Open World Leadership Center at the Library of Congress, the Federal Judicial Center, the Administrative Office and its Defenders Services Office, and U.S. court administrators. The Committee also reported on foreign delegations of jurists and judicial personnel that received briefings at the Administrative Office.

COMMITTEE ON THE JUDICIAL BRANCH

JUDGES’ TRAVEL REGULATIONS

The Committee on the Judicial Branch recommended, and the Judicial Conference approved, amendments and clarifications to the Travel Regulations for Justices and Judges, *Guide to Judiciary Policy*, Vol. 19, Ch. 2, relating to the reimbursement methods for subsistence expenses, the reimbursement allowances when lodging is provided, and the governance and education travel policy. Several technical changes were made as well, including relocating the section on death while in travel status.

PROPOSAL TO CONVERT THE U.S. COURT OF FEDERAL CLAIMS TO AN ARTICLE III COURT

A proposal to convert the U.S. Court of Federal Claims to an Article III court was considered by the Committees on the Budget, Federal-State Jurisdiction, Intercircuit Assignments, the Judicial Branch, and Judicial Resources, each with regard to issues falling within its jurisdiction. The Committees on Federal-State Jurisdiction, the Judicial Branch, and Judicial Resources made recommendations to the Judicial Conference on the proposal. Those recommendations were presented to the Conference in one consolidated report and are discussed *infra*, “Consolidated Report on a Proposal to Convert the U.S. Court of Federal Claims to an Article III Court,” pp. 29-31.

COMMITTEE ACTIVITIES

The Committee on the Judicial Branch reported that it participated in the seventh Judicial-Congressional Dialogue, an initiative that began in 2014, with the goal of increasing understanding between the legislative and judicial branches. The event was held December 5, 2017, and featured excerpts from the comedic opera, “Scalia/Ginsburg.” Judge Deanell Reece Tacha (ret.), former judge of the Tenth Circuit and former Dean of Pepperdine University School of Law, attended the Committee’s meeting to lead a discussion on legal education and the judiciary.

COMMITTEE ON JUDICIAL CONDUCT AND DISABILITY

COMMITTEE ACTIVITIES

The Committee on Judicial Conduct and Disability reported that it held a joint session with the Committee on Codes of Conduct, and with AO Director James C. Duff, to discuss current safeguards to protect judiciary employees from wrongful conduct in the workplace. In addition, the Committee considered complaint-related matters under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351–364 (Act), and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules). The Committee and its staff continue to address inquiries regarding the Act and the Rules, and to give other assistance as needed to chief judges and circuit judicial councils.

COMMITTEE ON JUDICIAL RESOURCES

CHAMBERS STAFF FOR CHIEF DISTRICT JUDGES

Under Judicial Conference guidelines on the number of staff authorized in judges' chambers, district judges are generally allocated three staff positions. However, chief district judges in courts with five or more authorized judgeships are allocated four positions. See *Guide to Judiciary Policy*, Vol. 12, § 615.50; JCUS-SEP 91, p. 66. In March 2017, the Judicial Conference approved a waiver of its chambers staffing allocation policy to allow the chief district judges in the District of Delaware, the Northern District of Florida, and the Western District of New York, who were in courts with four authorized judgeships, but were recommended for a fifth judgeship by the Conference, to have an additional staff position, with terms to expire at the conclusion of their terms as chief judge (JCUS-MAR 17, p. 18). The term of the current chief judge of the Northern District of Florida expires in June 2018. At this session, noting that the Northern District of Florida continues to demonstrate a need for the additional staff position, the Committee recommended that the Conference approve a waiver to allow the incoming chief judge to have an additional staff position in chambers upon assuming the position of chief judge. The term of the additional staff position will expire at the conclusion of that judge's term as chief judge. The Conference approved the Committee's recommendation.

COURT LAW CLERK PILOT PROGRAM

The Judicial Conference has approved three phases of a pilot program to evaluate whether providing additional law clerks in courts with extremely heavy caseloads could expedite case resolution (JCUS-MAR 11, p. 23; JCUS-MAR 14, p. 21; JCUS-SEP 15, p. 21). The pilot program is scheduled to end on September 30, 2018. The Committee decided that before it could consider whether the program should be made a permanent national program, or allowed to end, it needed information on the possible parameters for a national program. It therefore recommended that the Judicial Conference extend the court law clerk pilot program for one additional year, from September 30, 2018 to September 30, 2019, and asked the Administrative Office to develop options for the Committee's consideration in December 2018. The Conference approved the Committee's recommendation.

COURT REPORTER STAFFING FORMULA

In September 2017, the Judicial Conference adopted the first staffing formula for court reporters, which had a one-year phase-in period (JCUS-SEP 17, p. 18). In

order to give the Administrative Office time to analyze the concerns raised by several courts and the Administrative Office's District Clerks Advisory Group regarding implementation of the formula, on recommendation of the Committee, the Conference agreed to extend the phase-in period from one year to two years, through September 30, 2019, for all courts where onboard staff exceeds formula results.

TRANSCRIPT DELIVERY CATEGORIES

Three-Day Transcripts. At the suggestion of its Court Reporter Advisory Group, the Administrative Office conducted a survey of official court reporters to determine whether there was a need for an intermediate transcript delivery category that falls between the expedited (7 day) and daily categories. Noting that more than three-quarters of the respondents supported creation of an intermediate category, and the majority supported a three-day, over a four-day category, the Committee recommended, and the Conference agreed to adopt, a new three-day transcript delivery category, defined as "a transcript to be delivered within three (3) calendar days after receipt of an order," with rates of \$5.45 per page for original transcript, \$1.05 per page for the first copy, and \$0.75 per page for additional copies to the same party.

Clarification of Transcript Category Definitions. The current definitions for the daily and realtime transcript categories state that the transcripts must be delivered within a certain time of "adjournment," and the hourly transcript definition does not specifically reference a point in time from which the clock begins to run. Noting that parties often request daily transcripts, hourly transcripts, and realtime printouts of proceedings days or even months after adjournment, the Judicial Resources Committee recommended amendments to the definitions of the daily, hourly, and realtime transcript categories that would clarify that the rates are applicable as of when a transcript is ordered from the court reporter, rather than when the underlying proceeding ends. On recommendation of the Committee, the Judicial Conference adopted the following amendments to the transcript delivery categories (new language in bold; deleted language struck through):

Daily Transcript: A transcript to be delivered ~~following adjournment and prior to the normal opening hour of the court on the following~~ **morning calendar day following receipt of the order (regardless of whether or not it actually is a court day that calendar day is a weekend or holiday), prior to the normal opening hour of the clerk's office.**

Hourly Transcript: A transcript of proceedings ~~ordered under unusual circumstances~~ to be delivered within two (2) hours **from receipt of the order.**

Realtime Transcript: A draft unedited transcript produced by a certified realtime reporter as a byproduct of realtime to be delivered electronically during proceedings or immediately following adjournment receipt of the order.

STAFF COURT INTERPRETER

The Committee on Judicial Resources recommended, and the Judicial Conference approved, the conversion of the vacant Navajo staff court interpreter position in the District of New Mexico to a Spanish staff court interpreter position.

PROPOSAL TO CONVERT THE U.S. COURT OF FEDERAL CLAIMS TO AN ARTICLE III COURT

A proposal to convert the U.S. Court of Federal Claims to an Article III court was considered by the Committees on the Budget, Federal-State Jurisdiction, Intercircuit Assignments, the Judicial Branch, and Judicial Resources, each with regard to issues falling within its jurisdiction. The Committees on Federal-State Jurisdiction, the Judicial Branch, and Judicial Resources made recommendations to the Judicial Conference on the proposal. Those recommendations were presented to the Conference in one consolidated report and are discussed *infra*, “Consolidated Report on a Proposal to Convert the U.S. Court of Federal Claims to an Article III Court,” pp. 29-31.

COMMITTEE ACTIVITIES

The Committee on Judicial Resources reported that it received a report from its Subcommittee on Judicial Statistics. Based on recommendations from that subcommittee, it approved continuing to refrain from recommending new temporary judgeships in the 2019 Biennial Judgeship Survey, and agreed to create a new Nature of Suit code for civil cases filed pursuant to the Telephone Consumer Protection Act. The Committee also received a report from its Subcommittee on Diversity. In addition, the Committee was updated on the Online System for Clerkship Application and Review (OSCAR), judiciary benefits programs, and the judiciary’s background checks and investigations program.

COMMITTEE ON JUDICIAL SECURITY

COMMITTEE ACTIVITIES

The Committee on Judicial Security reported that it was updated on the status of several courts that were impacted by natural disasters in 2017, as well as on efforts to improve emergency management preparedness through new tools and workshops. The Committee was also briefed on an initiative underway to improve collaboration on judicial security matters among the Administrative Office, the courts, the U.S. Marshals Service, the Federal Protective Service, and the General Services Administration (GSA), resulting in a newly formed Interagency Judicial Security Council. The Committee agreed that several ongoing Committee initiatives that will involve interagency solutions, including the perimeter security pilot program, criminal history checks on GSA contract workers, and court security officer lawsuits, could benefit from the Council's input and guidance.

COMMITTEE ON THE ADMINISTRATION OF THE MAGISTRATE JUDGES SYSTEM

CHANGES IN MAGISTRATE JUDGE POSITIONS

At its September 2017 session, the Judicial Conference approved a new five-level salary structure for part-time magistrate judges (JCUS-SEP 17, pp. 19-20). At this session, after considering the views of the Administrative Office and the relevant circuit judicial councils and district courts, the Committee on the Administration of the Magistrate Judges System recommended, and the Judicial Conference designated, a salary level within that structure for each of the 25 filled part-time magistrate judge positions. The criteria for each salary level include flexible hours guidelines that roughly correspond to the percentage of pay of a full-time magistrate judge that salary level represents. Other factors, such as location and ability to recruit and retain qualified candidates, were considered. Three of the 25 judges' salaries were reduced and the remaining salaries were increased. The effective date for the increases in salary levels is April 1, 2018. The effective date for the decreases is April 1, 2019, or the end of the current incumbent's term, whichever occurs earlier.

After considering the recommendations of the Administrative Office, the district courts, the circuit judicial councils, and the Committee, the Conference also made several changes to the number, location, and arrangements for magistrate judge positions.

The changes to magistrage judge positions, including changes in part-time magistrate judge salaries, are set forth below.

SECOND CIRCUIT

Southern District of New York

Designated the salary of the part-time magistrate judge position at Poughkeepsie, currently \$32,126 per annum, as Level 4 (\$38,272 per annum), effective April 1, 2018.

Northern District of New York

Designated the salary of the part-time magistrate judge position at Plattsburgh, currently \$48,195 per annum, as Level 4 (\$38,272 per annum), effective October 1, 2018.

THIRD CIRCUIT

District of New Jersey

Designated the salary of the part-time magistrate judge position at Fort Dix, currently \$88,364 per annum, as Level 1 (\$95,680 per annum), effective April 1, 2018.

Western District of Pennsylvania

Designated the salary of the part-time magistrate judge position at Johnstown, currently \$88,364 per annum, as Level 1 (\$95,680 per annum), effective April 1, 2018.

FOURTH CIRCUIT

District of Maryland

Designated the salary of the part-time magistrate judge position at Salisbury, currently \$32,126 per annum, as Level 4 (\$38,272 per annum), effective April 1, 2018.

Eastern District of North Carolina

Designated the salary of the part-time magistrate judge position at Greenville, currently \$88,364 per annum, as Level 1 (\$95,680 per annum), effective April 1, 2018.

SEVENTH CIRCUIT

Southern District of Indiana

1. Designated the salary of the part-time magistrate judge position at Terre Haute, currently \$16,060 per annum, as Level 5 (\$19,136 per annum), effective April 1, 2018; and
2. Designated the salary of the part-time magistrate judge position at New Albany, currently \$16,060 per annum, as Level 5 (\$19,136 per annum), effective April 1, 2018.

Eastern District of Wisconsin

Designated the salary of the part-time magistrate judge position at Green Bay, currently \$48,195 per annum, as Level 4 (\$38,272 per annum), effective April 1, 2019.

EIGHTH CIRCUIT

District of Minnesota

Designated the salary of the part-time magistrate judge position at Bemidji, currently \$16,060 per annum, as Level 5 (\$19,136 per annum), effective April 1, 2018.

District of South Dakota

1. Designated the salary of the part-time magistrate judge position at Pierre, currently \$88,364 per annum, as Level 1 (\$95,680 per annum), effective April 1, 2018; and
2. Designated the salary of the part-time magistrate judge position at Aberdeen, currently \$48,195, as Level 3 (\$57,408 per annum), effective April 1, 2018.

NINTH CIRCUIT

District of Alaska

1. Authorized filling the full-time magistrate judge position vacancy at Anchorage that the Judicial Conference had previously not allowed to be filled;
2. Designated the salary of the part-time magistrate judge position at Anchorage, currently \$80,330 per annum, as Level 1 (\$95,680 per annum), effective April 1, 2018;
3. Discontinued the part-time magistrate judge position at Anchorage upon the authorization and filling of the vacant full-time magistrate judge position at Anchorage;
4. Designated the salary of the part-time magistrate judge position at Fairbanks, currently \$48,195 per annum, as Level 2 (\$76,544 per annum), effective April 1, 2018;
5. Designated the salary of the part-time magistrate judge position at Juneau, currently \$32,126 per annum, as Level 4 (\$38,272 per annum), effective April 1, 2018; and
6. Discontinued the part-time magistrate judge position at Ketchikan, effective April 1, 2018.

Central District of California

Designated the salary of the part-time magistrate judge position at Santa Barbara, currently \$88,364 per annum, as Level 2 (\$76,544 per annum), effective April 1, 2019.

District of Hawaii

Discontinued the part-time magistrate judge position at Kwajalein, effective April 1, 2018.

District of Oregon

Designated the salary of the part-time magistrate judge position at Pendleton, currently \$64,263 per annum, as Level 2 (\$76,544 per annum), effective April 1, 2018.

Western District of Washington

Designated the salary of the part-time magistrate judge position at Bellingham, currently \$32,126 per annum, as Level 4 (\$38,272 per annum), effective April 1, 2018.

TENTH CIRCUIT

District of Colorado

1. Designated the salary of the part-time magistrate judge position at Grand Junction, currently \$64,263 per annum, as Level 1 (\$95,680 per annum), effective April 1, 2018; and
2. Designated the salary of the part-time magistrate judge position at Durango, currently \$48,195 per annum, as Level 3 (\$57,408 per annum), effective April 1, 2018.

District of New Mexico

1. Designated the salary of the part-time magistrate judge position at Roswell, currently \$48,195 per annum, as Level 3 (\$57,408 per annum), effective April 1, 2018; and
2. Designated the salary of the part-time magistrate judge position at Farmington, currently \$32,126 per annum, as Level 4 (\$38,272 per annum), effective April 1, 2018.

District of Utah

Designated the salary of the part-time magistrate judge position at St. George, currently \$80,330 per annum, as Level 1 (\$95,680 per annum), effective April 1, 2018.

District of Wyoming

1. Designated the salary of the part-time magistrate judge position at Casper, currently \$16,060 per annum, as Level 5 (\$19,136 per annum), effective April 1, 2018; and
2. Designated the salary of the part-time magistrate judge position at Lander, currently \$16,060 per annum, as Level 5 (\$19,136 per annum), effective April 1, 2018.

ELEVENTH CIRCUIT

Northern District of Florida

1. Redesignated the full-time magistrate judge position at Gainesville as Panama City or Gainesville; and
2. Redesignated the part-time magistrate judge position at Panama City as Gainesville or Panama City.

COMMITTEE ACTIVITIES

The Committee on the Administration of the Magistrate Judges System reported that pursuant to Judicial Conference policy regarding the review of magistrate judge position vacancies (JCUS-SEP 04, p. 26), for the period between its June 2017 and November-December 2017 meetings, the Committee, through its chair, approved filling 19 full-time magistrate judge position vacancies in 17 district courts. At its November-December 2017 meeting, the full Committee considered and approved one request to fill a magistrate judge position vacancy and, as noted above, recommended that the Judicial Conference authorize the District of Alaska to fill a magistrate judge position vacancy that the Conference had previously not allowed the court to fill. The Committee also considered and approved requests for the recall or extension of recall of fifteen retired magistrate judges. The Committee discussed concerns related to provisions of the proposed “Building America’s Trust Act” (S. 1757, 115th Congress), a border security and immigration enforcement bill, and agreed to monitor the proposal.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

COMMITTEE ACTIVITIES

The Committee on Rules of Practice and Procedure reported that the Advisory Committee on Civil Rules has formed two new subcommittees. The first subcommittee is charged with considering a suggestion made by the Administrative Conference of the United States that a uniform set of procedural rules be developed for cases under the Social Security Act in which an individual seeks district court review of a final administrative decision of the Commissioner of Social Security pursuant to 42 U.S.C. § 405(g). The second subcommittee will consider three proposals for specific rules for multidistrict litigation proceedings – actions transferred for “coordinated or consolidated pretrial proceedings” under 28 U.S.C. § 1407.

COMMITTEE ON SPACE AND FACILITIES

COMMITTEE ACTIVITIES

The Committee on Space and Facilities reported that it discussed the progress of the judiciary's space reduction program, including the annual rent cost avoidance achieved to date, and that it continues to track national and circuit progress and assist circuits in reaching their space reduction goals. The Committee also discussed strategies for determining how the transfer of vacant space in former return-on-investment priced buildings should be counted toward the national and/or circuit space reduction goals. The Committee was briefed on the status of the comprehensive review and revision of the *U.S. Courts Design Guide (Design Guide)* and the working group that has been established to help produce the new *Design Guide*.

COMMITTEES ON FEDERAL-STATE JURISDICTION, THE JUDICIAL BRANCH, AND JUDICIAL RESOURCES

CONSOLIDATED REPORT ON A PROPOSAL TO CONVERT THE U.S. COURT OF FEDERAL CLAIMS TO AN ARTICLE III COURT

In May 2017, the chief judge of the U.S. Court of Federal Claims requested consideration by the relevant committees of the Judicial Conference of a proposal to seek legislation to convert the U.S. Court of Federal Claims to an Article III court. The proposal was referred to the Committee on Federal-State Jurisdiction (designated as the lead committee) as well as the Committees on the Budget, Intercircuit Assignments, the Judicial Branch, and Judicial Resources. The committees were beginning to hold their spring 2017 meetings when the request was received and, therefore, only initial discussions were held at that time. Subsequently, the Administrative Office learned that the proposal was receiving attention from Congress and that some judges had been asked by members of Congress about the Judicial Conference's position on the proposal. Based on concerns that members of Congress or their staffs might make decisions about the proposal without having the benefit of knowing the views of the judiciary, the committees were asked to consider the proposal on an expedited basis and provide their views and any recommendations to the Judicial Conference. The Committees on Federal-State Jurisdiction, the Judicial

Branch, and Judicial Resources made recommendations to the Judicial Conference, which were consolidated for the Conference’s review as follows:¹

That the Judicial Conference —

1. Oppose conversion of the U.S. Court of Federal Claims and its judges to Article III status because:
 - a. The establishment of the U.S. Court of Federal Claims as an Article III court conflicts with the Conference’s long-standing general opposition to the establishment of specialized Article III courts in the judicial branch (JCUS-SEP 16, p. 19; JCUS-MAR 92, pp. 22-23; JCUS-SEP 90, p. 82; JCUS-SEP 86, p. 60) (Committee on Federal-State Jurisdiction);
 - b. If granted Article III status, the U.S. Court of Federal Claims could no longer entertain claims on reference from Congress under 28 U.S.C. § 2509, necessitating a further legislative fix (Committee on Federal-State Jurisdiction);
 - c. The drafting and presentation of a proposal regarding the judgeship needs of the judiciary without Judicial Conference consideration and approval is contrary to and undermines the way in which the Third Branch communicates those needs to the legislative branch (Committee on the Judicial Branch);
 - d. The proposal to “transition” Article I judges to Article III judges and alter their commission from 15 years to life tenure by legislative act would raise serious concerns under the Appointments Clause of the U.S. Constitution, which requires Article III judges be appointed by the President with the advice and consent of the Senate (Committee on the Judicial Branch);
 - e. The grant of authority to the President to select the chief judge of an Article III court would create an executive branch infringement on judicial branch governance (Committee on the Judicial Branch);

¹ The Committees on the Budget and Intercircuit Assignments did not make recommendations to the Judicial Conference (*see supra*, “Committee Activities,” pp. 12 and 17).

- f. The Article III judges of the U.S. Court of Federal Claims would have a retirement benefit unavailable to all other Article III judges (Committee on the Judicial Branch); and
 - g. Such conversion would not address the needs of the judiciary and could undermine the integrity of the process by which such recommendations are developed, including current or future recommendations by the Judicial Conference regarding the creation of needed additional Article III judgeships in the appellate and district courts and the conversion of existing temporary Article III district court judgeships to permanent status (Committee on Judicial Resources).
2. Express concern that any proposed conversion of incumbent Article I judges to Article III status by legislative act may trigger potentially disruptive challenges under the Appointments Clause of the United States Constitution (Committee on Federal-State Jurisdiction).

The Conference approved the Committees' recommendations by mail ballot.

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