

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

September 12, 2023

The Judicial Conference of the United States convened on September 12, 2023, 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 David Jeremiah Barron
Judge Aida M. Delgado-Colón,
District of Puerto Rico

Second Circuit:

Chief Judge Debra Ann Livingston
Chief Judge Margo K. Brodie,
Eastern District of New York

Third Circuit:

Chief Judge Michael A. Chagares
Chief Judge Renée Marie Bumb,
District of New Jersey

Fourth Circuit:

Chief Judge Albert Diaz
Judge John Bailey,
Northern District of West Virginia

Fifth Circuit:

Chief Judge Priscilla Richman
Chief Judge Debra M. Brown,
Northern District of Mississippi

Sixth Circuit:

Chief Judge Jeffrey S. Sutton
Judge S. Thomas Anderson,
Western District of Tennessee

Seventh Circuit:

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

Eighth Circuit:

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

Ninth Circuit:

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

Tenth Circuit:

Chief Judge Jerome A. Holmes
Chief Judge William Paul Johnson,
District of New Mexico

Eleventh Circuit:

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

District of Columbia Circuit:

Chief Judge Srikanth Srinivasan
Chief Judge James Emanuel Boasberg,
District of Columbia

Federal Circuit:

Chief Judge Kimberly A. Moore

Court of International Trade:

Chief Judge Mark Barnett

Also participating in this session of the Conference were the following current or incoming Judicial Conference committee chairs: Circuit Judges Jennifer Walker Elrod, D. Michael Fisher, Amy J. St. Eve, Michael Y. Scudder, Richard J. Sullivan, and William B. Traxler, Jr.; District Judges Micaela Alvarez, John D. Bates, David G. Campbell, Sara Darrow, James C. Dever III, Nicholas G. Garaufis, Jeffrey J. Helmick, Marcia Howard, Brian Stacy Miller, Kevin Michael Moore, Randolph D. Moss, Mary Elizabeth Phillips, Robin L. Rosenberg, Rodney W. Sippel, and Gregory F. Van Tatenhove; and Bankruptcy Judge Rebecca Buehler Connelly. Attending as the bankruptcy judge and magistrate judge observers, respectively, were Bankruptcy Judge Margaret M. Mann and Magistrate Judge Patricia D. Barksdale. Susan Y. Soong of the Ninth Circuit represented the circuit executives.

Participating from the Administrative Office of the United States Courts were Judge Roslynn R. Mauskopf, Director; Lee Ann Bennett, Deputy Director; Joshua C. Lewis, Judicial Conference Secretariat Officer, and WonKee Moon, Deputy Judicial Conference Secretariat Officer; David T. Best, Legislative Affairs Officer; and Peter P. Kaplan, Public Affairs Officer. John S. Cooke, Director, and Clara J. Altman, Deputy Director, Federal Judicial Center, as well as Laura E. Mate, Vice Chair, and Kenneth P. Cohen, Staff Director, United States Sentencing Commission, also participated, as did Judge Robert M. Dow, Jr., Counselor to the Chief Justice and Ethan V. Torrey, Supreme Court Legal Counsel.

Attorney General Merrick B. Garland addressed the Conference on matters of mutual interest to the judiciary and the Department of Justice. Senators Susan Collins, Dick Durbin, and Sheldon Whitehouse and Representatives Henry C. “Hank” Johnson, Darrell Issa, Jim Jordan, and Steve Womack spoke on matters pending in Congress of interest to the Conference.

REPORTS

Judge Mauskopf reported to the Judicial Conference on the judicial business of the courts and on matters relating to the Administrative Office. Mr. Cooke spoke to the

Conference about Federal Judicial Center programs, and Ms. Mate reported on United States Sentencing Commission activities.

EXECUTIVE COMMITTEE

RESOLUTION

The Judicial Conference approved a recommendation of the Executive Committee to adopt the following resolution recognizing the substantial contributions made by the Judicial Conference committee chairs whose terms of service end in 2023:

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

HONORABLE KEVIN MICHAEL MOORE
Committee on Audits and Administrative Office Accountability

HONORABLE SARA DARROW
Committee on the Administration of the Bankruptcy System

HONORABLE RANDOLPH D. MOSS
Committee on Criminal Law

HONORABLE MICAELA ALVAREZ
Committee on Defender Services

HONORABLE D. MICHAEL FISHER
Committee on Federal-State Jurisdiction

HONORABLE DAVID L. BUNNING
Committee on Financial Disclosure

HONORABLE JEFFREY J. HELMICK
Committee on Space and Facilities

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.

EXCEPTION TO TEMPORARY BROADCASTING POLICY

In March 2020, the Executive Committee acted on an expedited basis on behalf of the Judicial Conference, at the recommendation of the Committee on Court Administration and Case Management, to approve a temporary exception to the Judicial Conference policy generally prohibiting the broadcasting of proceedings in federal trial courts (JCUS-SEP 1990, pp. 103-104; JCUS-SEP 1994, pp. 46-47). The exception allows a judge to authorize the use of telephone conference technology to provide the public and the media audio access to court proceedings while public access to federal courthouses generally, or with respect to a particular district, is restricted due to health and safety concerns during the COVID-19 pandemic (JCUS-SEP 2020, p. 5). This authorization would expire upon a finding by the Judicial Conference that the emergency conditions due to the emergency declared by the President with respect to COVID-19 are no longer materially affecting the functioning of the federal courts generally or a particular district. The Judicial Conference subsequently approved extending the authorization until 120 days after the Conference makes this finding (JCUS-SEP 2022, p. 11).

On recommendation of the Court Administration and Case Management Committee, the Executive Committee acted on an expedited basis on behalf of the Judicial Conference to find that, as of May 24, 2023, the emergency conditions due to the emergency declared by the President with respect to COVID-19 no longer materially affect the functioning of the federal courts generally or a particular district. In making its recommendation, the Court Administration and Case Management Committee noted that the April 10, 2023 termination of the Presidentially-declared emergency served as a good indicator that COVID-19 may no longer be materially affecting the functioning of the federal courts, that many courts had already allowed their orders authorizing the use of video and teleconferencing technologies for certain criminal proceedings under the Coronavirus Aid, Relief, and Economic Security Act to expire, and that most courts had resumed in-person operations. That Committee also

observed that the proposed effective date would allow the temporary exception to continue through September 21, 2023, which would promote a smooth transition from current practices to the updated remote public access policy (*see infra*, at p. 10).

EXCEPTION TO THE *U.S. COURTS DESIGN GUIDE*

A multi-party courtroom is considered an exception to the *U.S. Courts Design Guide (Design Guide)* if (1) there are fewer than four planned district courtrooms; or (2) more than one such courtroom is provided in a facility (JCUS-MAR 2021, p. 30). The Sixth Circuit Judicial Council, on behalf of the Eastern District of Tennessee, requested an exception to the *Design Guide* to include a multi-party courtroom in the program of requirements for a new courthouse construction project in Chattanooga, Tennessee, which is projected to have only three district courtrooms. The Committee on Space and Facilities noted that the 100-mile distance between Chattanooga and the multi-party courtroom in Knoxville presents unnecessary logistical and administrative burdens. On recommendation of the Committee, the Executive Committee acted on an expedited basis on behalf of the Judicial Conference to approve an exception to the *Design Guide* to include a multi-party courtroom in the program of requirements for the new courthouse construction project in Chattanooga, Tennessee.

MISCELLANEOUS ACTIONS

The Executive Committee—

- Acting on behalf of the Judicial Conference on an expedited basis, provided guidance to a circuit judicial council in response to an inquiry regarding the application of the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351–364, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings.
- Agreed to reconstitute its subcommittee to facilitate, as needed, the engagement of Judicial Conference committees in the consideration of issues related to the 2017 Report of the Ad Hoc Committee to Review the Criminal Justice Act Program.
- Approved interim fiscal year 2024 financial plans for the Salaries and Expenses, Defender Services, Court Security, and Fees of Jurors and Commissioners accounts.

- Approved costs related to the 2024 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. 2.
- Approved schedules of events for the sessions of the Judicial Conference to be held in calendar year 2026.

COMMITTEE ON AUDITS AND ADMINISTRATIVE OFFICE ACCOUNTABILITY

COMMITTEE ACTIVITIES

The Committee on Audits and Administrative Office (AO) Accountability reported that it was updated on the status and results of various audits and engagements, including audits of bankruptcy trustees, community defender organizations, the judiciary’s retirement funds, and the judiciary’s appropriations, as well as cyclical financial audits of court units and federal public defender organizations. It was also briefed on the AO’s progress in addressing corrective actions relating to the AO’s contract management process and updated on the planning and timeline for implementing changes to the judiciary’s financial reporting model. In addition, the Committee responded to the request of the judiciary’s planning coordinator to report on its strategic initiatives, including the improvement of internal control tools and outreach regarding such tools, as well as continued work on AO contract management and acquisition.

COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM

RECALL REGULATIONS

On recommendation of the Committee on the Administration of the Bankruptcy System, the Judicial Conference approved revisions to the ad hoc, extended service, and five-year recall regulations for retired bankruptcy judges, *Guide to Judiciary Policy*, Vol. 3, Ch. 9, 10, and 16, to promote consistency and clarity across all three sets of bankruptcy judge recall regulations. The revisions, among other things, (a) incorporate changes to the factors that the Committee evaluates when considering funding approval of a proposed ad hoc or extended service recall

appointment to ensure that recall requests are evaluated using the same standards, regardless of the duration of recall; (b) add provisions to the ad hoc and extended service recall regulations consistent with the five-year recall regulations regarding reporting requirements and termination of recall service; and (c) provide greater structure and specificity to the substantial service certification requirement in the extended service recall regulations consistent with the five-year recall regulations.

OFFICIAL DUTY STATIONS

On recommendation of the Committee on the Administration of the Bankruptcy System and in accordance with 28 U.S.C. § 152(b)(1), the Judicial Conference approved a request from the Ninth Circuit Judicial Council to reduce the number of official bankruptcy judge duty stations in the Central District of California from 24 to 21, by removing two in Los Angeles and one in the San Fernando Valley, to reflect the lapse of three temporary judgeships in that district.

COMMITTEE ACTIVITIES

The Committee on the Administration of the Bankruptcy System reported that it requested that the Federal Judicial Center start its planned study to develop new bankruptcy case weights in or around October 2023. The Committee also continued to defer consideration of whether to identify additional courts to participate in the bankruptcy judgeship vacancy pilot, approved by the Conference in September 2014 (JCUS-SEP 2014, p. 7), until bankruptcy filings increase. The Committee approved for publication a video it commissioned to educate the public about the role of bankruptcy judges and the process by which they are selected and appointed. Finally, on April 3, 2023, the Committee, in partnership with the Committee on the Administration of the Magistrate Judges System, hosted its second national diversity event titled “*Roadways to the Bench: Who Me? A Bankruptcy or Magistrate Judge?*” The event included a live broadcast panel discussion followed by local roundtable discussions in 38 cities across the United States.

COMMITTEE ON THE BUDGET

FISCAL YEAR 2025 BUDGET REQUEST

After considering the budget requests of the program committees, the

Committee on the Budget recommended to the Judicial Conference a fiscal year (FY) 2025 budget request of \$9.0 billion in discretionary appropriations, which is 7.6 percent above assumed discretionary appropriations for FY 2024, but \$95.3 million below the funding levels requested by the program committees. The Judicial Conference approved the Committee's FY 2025 budget request, subject to amendments necessary as a result of (a) new legislation, (b) actions of the Judicial Conference, (c) changes in standard inflation factors or funding assumptions, or (d) any other reason the Executive Committee considers necessary and appropriate.

COMMITTEE ACTIVITIES

The Committee on the Budget reported that it discussed the status and outlook of FY 2024 appropriations and the continued importance of congressional outreach. In addition, the Committee invited leadership from the House and Senate Financial Services and General Government (FSGG) Appropriations Subcommittees to its July 2023 meeting, with the goal of further strengthening the judiciary's relationship with its congressional appropriations committees. Representative Steve Womack (R-AR), Chairman of the House FSGG Appropriations Subcommittee, attended and discussed his perspective on the budget outlook for FYs 2024 and 2025 and funding priorities within the FSGG bill. The Committee also discussed participating committees' work on potential strategic budget initiatives and requested that committees submit cost estimates or articulate efficiencies to be gained and prioritize initiatives for the Committee's review during its January 2024 meeting. Finally, the Committee approved updates to the non-salary funding allotment formulas for use in FY 2024.

COMMITTEE ON CODES OF CONDUCT

COMMITTEE ACTIVITIES

The Committee on Codes of Conduct reported that since its last report to the Conference in March 2023, the Committee received nine requests for a confidential advisory opinion and issued nine such opinions. During this period, the average response time to a request for a confidential advisory opinion was 8.5 days. In addition, the chair responded to 64 informal inquiries, individual Committee members responded to 168, and Committee staff counsel responded to 725, for a total of 957 responses to informal inquiries during the past six months.

COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT

REMOTE PUBLIC ACCESS TO COURT PROCEEDINGS

Judicial Conference policy generally prohibits the broadcasting, televising, recording, or photographing of non-ceremonial trial court proceedings except in certain limited circumstances (JCUS-SEP 1990, pp. 103-104; JCUS-SEP 1994, pp. 46-47). However, a temporary exception to this policy adopted in 2020 authorized the use of teleconferencing technology to provide the public and media audio access to court proceedings while public access to courthouses generally, or with respect to a particular district, was restricted due to health and safety concerns during the COVID-19 pandemic (*see supra*, pp. 5-6). The Committee on Court Administration and Case Management noted that as in-person operations have rebounded closer to pre-pandemic levels, courts have continued to provide remote public access to non-criminal proceedings in at least some circumstances, and that members of the court community and public have expressed strong interest in permanently providing such access.

The Committee recommended, with the concurrence of the Committees on the Administration of the Bankruptcy System and the Administration of the Magistrate Judges System, that the Judicial Conference revise its broadcasting policy (JCUS-SEP 1990, pp. 103-104; JCUS-SEP 1994, pp. 46-47) to permit a judge presiding over a civil or bankruptcy non-trial proceeding, in his or her discretion, to authorize live remote public audio access to any portion of that proceeding in which a witness is not testifying, taking care to include measures, consistent with the parties' responsibilities, to safeguard any confidential, sensitive, or otherwise protected information. The Committee suggested a continued focus on remote access to civil and bankruptcy proceedings since the Federal Rules of Criminal Procedure prohibit the broadcasting of criminal proceedings from the courtroom, and that audio-only access should be provided for consistency with the temporary exception. The Conference adopted the Committee's recommendation. The Committee will continue to examine further potential policy changes to provide additional remote public access, bearing in mind a continued commitment to the fair, effective, and impartial administration of justice.

MISCELLANEOUS FEE SCHEDULES

The Committee on Court Administration and Case Management recommended that the Judicial Conference amend Item 1 of the Court of Appeals Miscellaneous Fee

Schedule to increase the fee for docketing a case on appeal or review, or docketing any other proceeding, from \$500 to \$600, noting that approximately 10 years had elapsed since this fee was last increased. It also recommended, with the concurrence of the Committee on the Administration of the Bankruptcy System, that the Conference amend Item 14 of the Bankruptcy Court Miscellaneous Fee Schedule to increase the additional fee upon notice from the court of appeals that a direct appeal or direct cross-appeal has been authorized, from \$207 to \$307, in order to maintain parity with Item 1 since Item 14 is intended to be tied to the docketing fee assessed under Item 1. The Conference approved the Committee's recommendations, effective December 1, 2023.

RECORDS MANAGEMENT

The retention and disposition of judiciary records is controlled by records disposition schedules jointly established by the Judicial Conference and the National Archives and Records Administration (NARA) (28 U.S.C. § 457). The records disposition schedules currently address case-related court orders, but not a court's collection of standing orders. The Committee on Court Administration and Case Management recommended that the Judicial Conference approve amendments to Records Disposition Schedules 1 and 2 to incorporate records disposition requirements for standing orders, noting that standing orders are the de facto historic record of a court's internal policies, that they often address subjects discussed in local rules (which are designated as permanent records in the schedules (JCUS-SEP 2019, p. 9)), and that their inclusion in the schedules would help promote public awareness of them and their searchability. The Conference approved the Committee's recommendation and authorized the revised schedules to be transmitted to NARA for its concurrence.

COMMITTEE ACTIVITIES

The Committee on Court Administration and Case Management reported that it endorsed a project to test the use of shared and remote court reporting services to help address the increasing difficulty nationwide in recruiting and retaining qualified court reporters. The Committee will also provide guidance to district judges to encourage expanded use of Electronic Sound Recording (ESR) as a method of taking the official record, especially for non-trial, non-evidentiary proceedings, and study whether and how judiciary policy might be amended to require broader use of ESR. The Committee also finalized a report on the study of patent case assignment in district courts and is expanding its review beyond patent cases to collect and explore viable practices that district courts can employ to promote random case assignment in civil cases in order to deter perceived or actual forum shopping. Additionally, the

Committee adopted a definition of Highly Sensitive Documents (HSDs) and augmented guidance for identifying and handling HSDs. Finally, the Committee was updated on the modernization of CM/ECF and PACER, including the activities of the Case Management Modernization Board, and, along with the Committee on Information Technology, endorsed a plan beginning at the end of fiscal year 2024 to limit technical support for NextGen CM/ECF to allow more resources to be directed toward transitioning to a new modernized case management system.

COMMITTEE ON CRIMINAL LAW

COMMITTEE ACTIVITIES

The Committee on Criminal Law reported on its continuing discussion of efforts to reduce unnecessary pretrial detention, including its support for enhancing systemwide literacy in the use of the Federal Pretrial Risk Assessment (PTRA) and studying whether and how incorporation of the PTRA in the bail report impacts judicial decision-making. The Committee also provided public comment and testimony to the U.S. Sentencing Commission on several guideline amendments proposed during the Commission's 2022-2023 amendment cycle, including with respect to compassionate release, a proposed alternative to the categorical approach for career offender purposes, and the potential retroactive application of a criminal history amendment. In addition, the Committee approved amendments to the transfer of jurisdiction form to include a section highlighting the rationale for the transfer request. Finally, the Committee supported preliminary plans to mark the centennial of the probation system in 2025.

COMMITTEE ON DEFENDER SERVICES

COMMITTEE ACTIVITIES

The Committee on Defender Services reported that it reviewed the Federal Judicial Center (FJC)'s final report regarding the judiciary's implementation of adopted interim recommendations from the 2017 Report of the Ad Hoc Committee to Review the Criminal Justice Act Program (Cardone Report) and the degree to which those actions have addressed the concerns identified in the Cardone Report. In light of the FJC's findings, which are consistent with those of the Prado Committee in 1993 and the Cardone Committee in 2017, the Committee reconstituted its working group to gather existing information and scholarship on public defense systems and report back

to the Committee to inform future discussions of the Cardone Report’s final recommendation regarding structural independence. The Committee approved requests from the Seventh and Eighth Circuits for full-time circuit Criminal Justice Act (CJA) case-budgeting attorney positions, replacing a previously shared position, to expand the availability of case-budgeting assistance in complex CJA representations. It also provided feedback on proposed federal defender organization staffing formula options to replace the initial set of formulas adopted by the Judicial Conference in September 2015 (*see infra*, p. 19) and provided recommendations regarding the extension and expansion of the Defender Services Diversity Fellowship Program to the Committee on Judicial Resources for consideration at its December 2023 meeting. Finally, the Committee met with Deputy Attorney General Lisa O. Monaco, who expressed support for ongoing collaboration on several issues, including efforts to ensure all CJA clients have meaningful access to counsel during their initial appearances and to address remote detention of pretrial detainees.

COMMITTEE ON FEDERAL-STATE JURISDICTION

COMMITTEE ACTIVITIES

The Committee on Federal-State Jurisdiction reported that it continued its analysis of the citizenship of non-corporate entities, such as limited liability corporations, for the purpose of diversity jurisdiction. The Committee decided to examine potential suggested amendments to 28 U.S.C. § 1447(e) to address the situation where a plaintiff, with leave of court or as of right, adds a diversity-spoiling defendant after a case has been removed from state court. The Committee received a report from its state chief justice members on attempts to improve access to justice through changes to the regulation of legal services, and on legislative efforts to improve judicial security in several states, among other topics. The Committee also discussed recent developments and pending legislation relating to immigration policy, including intersections between state and federal decisions and actions regarding immigration.

COMMITTEE ON FINANCIAL DISCLOSURE

FINANCIAL DISCLOSURE REPORT PREPARATION

In 2001, the Judicial Conference authorized the reimbursement of judges and judiciary employees for professional fees up to \$1,000 for the preparation of financial

disclosure reports, with the exception of nomination reports, and in 2019 increased the maximum amount of reimbursement to \$1,370 to account for the increase in costs incurred by report filers since 2001 (JCUS-SEP 2001, p. 59; JCUS-MAR 2019, pp. 21-22). The reimbursement limit applies to all work performed in the preparation of initial, annual, and final reports through the closure of the report (*Guide to Judiciary Policy*, Vol. 2D, Ch. 2, § 230). The Committee on Financial Disclosure considered whether to recommend a further increase proportional to the change in the Consumer Price Index since 2019, as well as authorization for the reimbursement of professional fees incurred in the preparation of periodic transaction reports. The Committee recommended, and the Judicial Conference authorized, an increase to the reimbursement of judges and judicial employees for professional fees, not to exceed \$1,685, for the preparation of each initial, annual, and final financial disclosure report filed on or after January 1, 2024, with the maximum reimbursement authorized for each annual or final report to include fees incurred to prepare periodic transaction reports for transactions occurring on or after January 1, 2024 that are reportable in the annual or final report.

COMMITTEE ACTIVITIES

The Committee on Financial Disclosure reported that it was updated on efforts to develop and implement a new electronic financial disclosure filing and release system, including an update to the online database for public access to judges' financial disclosure reports that would allow the public to sort filings by pre-defined data elements. The Committee authorized the continued waiver of late filing fees for periodic transaction reports in light of the need to upgrade systems to facilitate assessment and tracking of fees. The Committee was also updated on the status of the ongoing review of public written allegations of errors or omissions in a filer's financial disclosure reports that were referred to it since the Conference's last session.

As of May 2, 2023, the Committee had received 4,639 financial disclosure reports and certifications for calendar year 2021 (out of a total of 4,649 required to file), including 1,315 annual reports and certifications from Supreme Court justices and Article III judges; 320 annual reports from bankruptcy judges; 572 annual reports from magistrate judges; 1,767 annual reports from judicial employees; and 665 reports from nominee, initial, and final filers.

COMMITTEE ON INFORMATION TECHNOLOGY

LONG RANGE PLAN FOR INFORMATION TECHNOLOGY IN THE FEDERAL JUDICIARY

Pursuant to 28 U.S.C. § 612 and on recommendation of the Committee on Information Technology, the Judicial Conference approved the fiscal year (FY) 2024 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 approved a new policy restricting access to non-public judiciary networks and systems from outside the United States and its territories and limiting government-furnished equipment that may be taken internationally, along with an accompanying two-phase implementation plan, as well as a new policy mandating certain cybersecurity training for judiciary IT professionals. In addition, the Committee (along with the Committee on Court Administration and Case Management) endorsed a plan beginning at the end of FY 2024 to limit technical support for NextGen CM/ECF to allow more resources to be directed toward transitioning to a new modernized case management system. The Committee received an update on the relocation of the judiciary’s internet data center, as well as on the work of the Administrative Office’s Judiciary IT Security Task Force. Finally, the Committee submitted to the Committee on the Budget a Judiciary Information Technology Fund budget request for FY 2025.

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

COMMITTEE ACTIVITIES

The Committee on Intercircuit Assignments reported that 70 Article III judges undertook 112 intercircuit assignments from January 1, 2023, to June 30, 2023. 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 eight proposed intercircuit assignments of bankruptcy judges and 12 of magistrate judges.

COMMITTEE ON INTERNATIONAL JUDICIAL RELATIONS

COMMITTEE ACTIVITIES

The Committee on International Judicial Relations reported on international rule of law work by federal judges since the Committee's last report to the Judicial Conference. The Committee considered reports addressing work by federal judges in rule of law programs from the: Supreme Court of the United States; Administrative Office; Federal Judicial Center; Federal Court Clerks Association; Congressional Office for International Leadership; U.S. Agency for International Development; U.S. Patent and Trademark Office; and U.S. Departments of Commerce, Justice, and State. The Committee also received a report on the judiciary's Civil Discourse and Difficult Decisions program and a briefing from the World Justice Project on global trends in the rule of law and judicial independence. Finally, the Committee considered constitutional, statutory, and ethical considerations for federal judges participating in international programs and provided feedback on a proposed judiciary policy being considered by the Committee on Information Technology regarding access to non-public judiciary networks and systems from outside the United States and its territories.

COMMITTEE ON THE JUDICIAL BRANCH

CIVICS EDUCATION

In March 2020, the Judicial Conference affirmed that civics education is a core component of judicial service, endorsed regularly held conferences to share and promote best practices of civics education, and encouraged circuits to coordinate and promote education programs (JCUS-MAR 2020, pp. 17-18). On recommendation of the Committee on the Judicial Branch, the Judicial Conference endorsed the establishment of *The Honorable Robert A. Katzmann Conference on Civics Education and the Federal Courts*, a recurring national civics conference.

COMMITTEE ACTIVITIES

The Committee on the Judicial Branch reported that it discussed recent legislative items of interest to the judiciary, including those related to judgeships, ethics and transparency, and modernization of the judiciary's case management system. The Committee met with Representative Jim Jordan, Chair of the House

Judiciary Committee, and with the general counsel and chief minority counsel for the Senate Judiciary Committee. The Committee received a briefing from the Chief Information Officer and Associate Director of the Administrative Office’s Department of Technology Services on IT security matters and the efforts of the Judiciary IT Security Task Force. The Committee also continued its discussion regarding circuit-wide judicial health and wellness programs and was briefed on civics education activities across the judiciary.

COMMITTEE ON JUDICIAL CONDUCT AND DISABILITY

COMMITTEE ACTIVITIES

The Committee on Judicial Conduct and Disability reported that it discussed and considered complaint-related matters under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351–364 (Act) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules), and issued one decision in May 2023 under Rule 21(a). The Committee also approved for publication on the judiciary’s website a set of selected illustrative orders, in accordance with Rule 24(b). The Committee and its staff have continued to address inquiries regarding the Act and the Rules, and to give other assistance as needed to circuit judicial councils and chief judges.

COMMITTEE ON JUDICIAL RESOURCES

TEMPORARY STAFFING

On recommendation of the Committee on Judicial Resources, the Judicial Conference approved amendments to the *Guide to Judiciary Policy (Guide)*, Vol. 12, Ch. 6, to clarify existing resources and flexibilities available for meeting temporary staffing needs when chambers staff are absent for extended periods due to parental or medical reasons. Among other things, the amendments clarify that centrally funded temporary replacements can be hired on a part-time or intermittent basis, and that the four-year limit on term law clerk employment does not apply to temporary and term appointments to meet temporary staffing needs.

TEMPORARY BANKRUPTCY LAW CLERK PROGRAM

The Committee on Judicial Resources, at the request of the Committee on the Administration of the Bankruptcy System, recommended that the Judicial Conference approve amendments to the *Guide*, Vol. 12, Ch. 5, § 510 and Ch. 6, § 615.50 to incorporate information about the Temporary Bankruptcy Law Clerk Program. The Committee noted that providing information about the program in the *Guide* sections governing other types of temporary chambers law clerks, and including guidelines approved for the program in 2020 by the Committee on the Administration of the Bankruptcy System, would make authority and information on the program easier to find, reduce confusion, and further the goal of centralizing the judiciary's administrative policies. The Conference approved the Committee's recommendation.

TRANSCRIPT DELIVERY CATEGORIES

To alleviate confusion regarding transcript delivery times, the Committee on Judicial Resources recommended specifying the turnaround time in the transcript category names for the ordinary, expedited, daily, and hourly transcript categories. On recommendation of the Committee, the Judicial Conference amended the names of four transcript delivery categories as follows (new language in bold; deleted language struck through), effective October 1, 2023:

~~Ordinary Transcript (30 day)~~ **30-Day Transcript (Ordinary)**: A transcript to be delivered within thirty (30) calendar days after receipt of an order.

~~Expedited Transcript (7 day)~~ **7-Day Transcript (Expedited)**: A transcript to be delivered within seven (7) calendar days after receipt of an order.

~~Daily Transcript~~ **Next-Day Transcript (Daily)**: A transcript to be delivered on the calendar day following receipt of the order (regardless of whether that calendar day is a weekend or holiday), prior to the normal opening hour of the clerk's office.

~~Hourly Transcript~~ **2-Hour Transcript (Hourly)**: A transcript of proceedings to be delivered within two (2) hours from receipt of the order.

STAFFING FORMULAS FOR FEDERAL DEFENDER ORGANIZATIONS

On recommendation of the Committee on Judicial Resources, the Judicial Conference approved updated staffing formulas for federal defender organizations to be implemented in fiscal year (FY) 2024 that—

- a. Provides an increase of 196.69 full-time equivalent (FTE) positions from the current formulas.
- b. Excludes the Eastern District of Oklahoma and the Northern District of Oklahoma from calculating staffing requirements using the staffing formulas until either the caseload levels stabilize, or the next work measurement study is conducted.
- c. Includes a two-year phased implementation period (until FY 2026) for any federal defender organization that will gain or lose 20 percent or 10 or more FTE positions, whichever is less, compared to FY 2023 authorized allocation levels.

TELEWORK POLICY

The Judicial Conference first adopted a telework policy in 1999 (JCUS-MAR 1999, p. 28), and has since amended it several times, with the most recent amendment occurring in 2011 (JCUS-SEP 2004, p. 8; JCUS-SEP 2010, p. 24; JCUS-SEP 2011, pp. 29-30). Noting that the increased prevalence of telework throughout the judiciary following the COVID-19 pandemic has provided an opportunity to re-examine existing policy, the Committee on Judicial Resources recommended, and the Judicial Conference approved, changes to the telework policy. The changes clarify, among other things, that official duty stations for telework must be within the United States and its territories, that court units and federal public defender organizations (FPDOs) may require full-time teleworkers to attend meetings or trainings, the types of tasks that may be suitable for telework, and the types of equipment that may be provided to employees while teleworking (*Guide*, Vol. 12, Ch. 10 and Appendix 10A).

CIRCUIT INFORMATION TECHNOLOGY SECURITY POSITIONS

At the request of the circuit executives and with the support of the Committee

on Information Technology (IT), the Committee on Judicial Resources considered staffing requirements needed to address the IT security staffing needs of circuits. The Judicial Resources Committee recommended that the Judicial Conference approve proposed standard position descriptions for IT security officer, IT security specialist, and cybersecurity specialist positions. These new circuit-level positions would assist circuits in approaching critical IT security gaps at the local court unit level in a centralized, consistent, and holistic manner. The Conference adopted the Committee's recommendation.

VOLUNTEER SERVICES

In 2014, the Judicial Conference approved a policy on the use of volunteer services in the courts (JCUS-SEP 2014, pp. 22-24) and in 2015 expanded it to include volunteer services in federal public defender organizations (JCUS-SEP 2015, pp. 25-26). With certain limited exceptions, the policy requires volunteer arrangements to focus, either exclusively or primarily, on providing an educational experience for the volunteer. As a result, volunteer arrangements with retired former employees of the judiciary have been impermissible. On recommendation of the Committee on Judicial Resources, the Conference amended its policy on volunteer services to authorize courts and federal public defender organizations to enter into volunteer arrangements with retired former judiciary employees to provide on-the-job training or mentoring to less experienced employees and to promote civics education, community outreach, or related activities. Such volunteers may not be used to replace or interfere with the career opportunities of any employee and are subject to all requirements outlined in the *Guide*, Ch. 5, Vol. 12, § 550 but are exempt from the requirement that the arrangement focus on providing an educational experience for the volunteer.

PROVISIONAL HIRING OF PROBATION AND PRETRIAL SERVICES OFFICERS

In March 2002, the Judicial Conference approved medical qualification standards for probation and pretrial services officers and officer assistants and required all final candidates for these positions to undergo medical examinations by Public Health Service (PHS) physicians using these standards (JCUS-MAR 2002, p. 23). Noting recent extended delays in the scheduling and completion of such examinations and concomitant public safety concerns regarding the impact that corresponding hiring delays have had on officer workload, morale, and recruitment, the Judicial Resources Committee, with the concurrence of the Committee on Criminal Law, recommended

that the Judicial Conference temporarily authorize provisional hiring of probation and pretrial services officers and officer assistants pending the results of medical examinations conducted by the PHS pursuant to the Conference’s March 2002 policy, where a candidate meets one of the following criteria:

- a. Has been examined, at the candidate’s expense, by a private licensed physician, consistent with the medical standards established by the Conference’s 2002 policy;
- b. Is currently employed as a federal law enforcement officer by another federal agency and has been determined within the past three years to meet the medical requirements appurtenant to that position; or
- c. Is a former probation and pretrial services officer or officer assistant, with a break in service of six months or less.

Provisionally hired officers and officer assistants described in subparagraph (a) above are ineligible to be issued a firearm or to attend Federal Law Enforcement Training Center training until a final determination of medical fitness is made by the individual court following the completion of a full medical examination by PHS physicians. The Conference approved the Committee’s recommendation.

COMMITTEE ACTIVITIES

The Committee on Judicial Resources reported that, as part of the strategic budget initiative to reexamine the need for additional chambers support for chief judges, the Committee will expand its development of a data-driven methodology for assessing the need to provide a fourth chambers position to chief district judges to also examine the need for the sixth chambers position currently authorized for chief circuit judges. Additionally, the Committee submitted to the Committee on the Budget an FY 2025 budget request for programs under the Committee’s jurisdiction that was equivalent to a 7.6 percent increase over the FY 2024 assumed obligations.

COMMITTEE ON JUDICIAL SECURITY

COMMITTEE ACTIVITIES

The Committee on Judicial Security reported that it submitted to the Committee on the Budget a fiscal year 2025 budget request that supports court security

officer positions, Federal Protective Service security services, security systems and equipment managed by the U.S. Marshals Service (USMS), and staff to support overall program administration at the USMS and the Administrative Office. The Committee also discussed the implementation of the Daniel Aderl Judicial Security and Privacy Act of 2022, which was signed into law in December 2022 and intended to improve the safety of judges and their family members through protection of their personally identifiable information online. In addition, the Committee discussed the status of the Courthouse Hardening Program, including progress made on obligating and spending the \$127.5 million received to date for this program. Finally, the Committee discussed the Home Intrusion Detection System program, a program managed by the USMS to provide intrusion detection systems in judges' primary residences.

COMMITTEE ON THE ADMINISTRATION OF THE MAGISTRATE JUDGES SYSTEM

MAGISTRATE JUDGE POSITION VACANCY

The Eastern District of Pennsylvania requested permission to fill an upcoming magistrate judge position vacancy at Philadelphia. Noting, among other things, the district's overall caseload and the workload of its magistrate judges, the Committee on the Administration of the Magistrate Judges System recommended that the Judicial Conference not authorize the district to fill the upcoming magistrate judge position vacancy. The Conference adopted the Committee's recommendation.

RECALL REGULATIONS

On recommendation of the Committee on the Administration of the Magistrate Judges System, the Judicial Conference approved revisions to the ad hoc, extended service, and five-year recall regulations for retired magistrate judges, *Guide to Judiciary Policy*, Vol. 3, Ch. 11, 12, and 17, to promote consistency and clarity across all three sets of magistrate judge recall regulations. The revisions, among other things, (a) incorporate changes to the factors that the Committee evaluates when considering funding approval of a proposed ad hoc or extended service recall appointment to ensure that recall requests are evaluated using the same standards, regardless of the duration of recall; (b) add provisions to the ad hoc and extended service recall regulations consistent with the five-year recall regulations regarding reporting requirements and termination of recall service; and (c) provide greater structure and

specificity to the substantial service certification requirement in the extended service recall regulations consistent with the five-year recall regulations.

COMMITTEE ACTIVITIES

The Committee on the Administration of the Magistrate Judges System reported that it considered eight district-wide surveys and, where appropriate, endorsed suggestions regarding magistrate judge utilization in those districts. Between its December 2022 and June 2023 meetings, the Committee, through its chair, approved filling 21 magistrate judge position vacancies in 17 district courts (JCUS-SEP 2004, p. 26), and the Committee approved one request to approve the extension of an intercircuit assignment of a recalled magistrate judge serving with staff in one district, to allow that judge to continue to assist another district in a different circuit. At its June 2023 meeting, the Committee also approved requests from two courts to fill magistrate judge position vacancies and requests from four courts for the recall, extension of recall, or extension of staff or clerk's office support, for six retired magistrate judges. The Committee continued to discuss the development of a standardized, quantitative model for evaluating the utilization of magistrate judges, and again referred the matter to its Utilization Subcommittee to address various issues. The Committee discussed the Federal Judicial Center (FJC) survey of district courts' efforts to address diversity in the magistrate judge selection and appointment process and endorsed the FJC's proposed next step of gathering additional information from recently appointed magistrate judges. The Committee also received an update on the April 3, 2023 national diversity event titled "*Roadways to the Bench: Who Me? A Bankruptcy or Magistrate Judge?*", which it hosted in partnership with the Committee on the Administration of the Bankruptcy System.

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 32 (Form of Briefs, Appendices, and Other Papers), 35 (En Banc Determination), and 40 (Petition for Panel Rehearing), and the Appendix of Length Limits, together with committee notes explaining their purpose and intent. The Judicial Conference approved the proposed amendments and authorized their transmittal to the Supreme Court for consideration with a

recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

FEDERAL RULES OF BANKRUPTCY PROCEDURE

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed restyled Bankruptcy Rules, proposed amendments to Bankruptcy Rules 1007 (Lists, Schedules, Statements, and Other Documents; Time Limits), 4004 (Grant or Denial of Discharge), 5009 (Closing Chapter 7, Chapter 12, Chapter 13, and Chapter 15 Cases; Order Declaring Lien Satisfied), 7001 (Scope of Rules of Part VII), and 9006 (Computing and Extending Time; Time for Motion Papers), and proposed new Rule 8023.1 (Substitution of Parties), together with committee notes explaining their purpose and intent. The restyling of the Bankruptcy Rules is the fifth and final effort in a series of comprehensive style revisions to simplify, clarify, and make more uniform all of the federal rules of practice, procedure, and evidence. The Judicial Conference approved the proposed restyled rules, amendments, and new rule, and authorized their transmittal 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 Conference also approved, on recommendation of the Committee: the abrogation of Official Bankruptcy Form 423 (Certification About a Financial Management Course), effective in all bankruptcy proceedings commenced after December 1, 2024, and, insofar as just and practicable, all proceedings pending on December 1, 2024; and revised Official Bankruptcy Form 410A (Proof of Claim, Attachment A), effective December 1, 2023, for use in all bankruptcy proceedings commenced after the effective date and, insofar as just and practicable, all proceedings pending on the effective date.

FEDERAL RULES OF CIVIL PROCEDURE

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference a proposed amendment to Civil Rule 12 (Defenses and Objections: When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing), together with committee notes explaining its purpose and intent. The Judicial Conference approved the proposed amendment and authorized its transmittal to the Supreme Court for 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 proposed amendments to Evidence Rules 613 (Witness’s Prior Statement), 801 (Definitions That Apply to This Article; Exclusions From Hearsay), 804 (Exceptions to the Rule Against Hearsay—When the Declarant Is Unavailable as a Witness), and 1006 (Summaries to Prove Content), and proposed new Rule 107 (Illustrative Aids), together with committee notes explaining their purpose and intent. The Judicial Conference approved the proposed amendments and new rule and authorized their transmittal to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

COMMITTEE ACTIVITIES

The Committee on Rules of Practice and Procedure reported on the continuing coordinated work among the Appellate, Bankruptcy, Civil, and Criminal Rules Advisory Committees to allow expanded access to electronic filing by self-represented (pro se) litigants. In addition, the Committee reported on the initial work of the Criminal Rules Advisory Committee concerning the standards for issuance of third-party subpoenas and a decision by the Evidence Rules Advisory Committee to table any proposed amendments concerning the standards that should apply when jurors are permitted to pose questions for witnesses. The Committee also approved publication of proposed amendments to several rules of procedure, including amendments that would clarify the Appellate Rules governing appeals in bankruptcy cases and costs on appeal, several Bankruptcy Rules amendments and new Bankruptcy Forms, and amendments to the Civil Rules concerning discovery materials withheld on the basis of privilege or as trial-preparation materials, as well as a proposed new rule providing a framework for the initial management of multidistrict litigation. The public comment period for the proposed rules amendments is open from August 2023 until February 2024.

COMMITTEE ON SPACE AND FACILITIES

COURTHOUSE PROJECT PRIORITIES

The *Federal Judiciary Courthouse Project Priorities (CPP)* identifies the

judiciary's priorities for new courthouse construction. Part I lists the projects for which the judiciary will request funding in its annual budget submission, while Part II consists of the judiciary's out-year courthouse construction priorities. The priority order of all projects on Part I is maintained until a project is fully funded, at which time the project is removed from the list. The priority order of projects on Part II is updated each year based on the project's urgency evaluation score, which is developed as part of the judiciary's Asset Management Planning process (JCUS-MAR 2008, p. 26). On recommendation of the Committee on Space and Facilities, the Judicial Conference adopted a fiscal year (FY) 2025 *CPP*, which carried forward all the projects on Part I and Part II of the FY 2024 *CPP*, and added a project in Rochester, New York to Part II. The projects on the FY 2025 *CPP* were approved in the following priority order:

- a. Part I: (1) Hartford, Connecticut; (2) Chattanooga, Tennessee; and (3) Bowling Green, Kentucky; and
- b. Part II: (1) Macon, Georgia; (2) Anchorage, Alaska; (3) Greensboro/Winston Salem, North Carolina; (4) McAllen, Texas; (5) Rochester, New York; and (6) Norfolk, Virginia.

SPACE PLANNING POLICY FOR NEW COURTHOUSE CONSTRUCTION PROJECTS

In March 2022, the Judicial Conference approved a space planning policy requiring that the circuit judicial council and the chief judge of the appropriate district court certify, as part of the approval process for new courthouse construction projects, their commitment to any necessary relocation of judges and/or closure of facilities associated with the planned project, subject to exemptions due to unforeseen circumstances beyond the court's control. The certification would be provided to and acknowledged by all judges in the affected district, as well as any later-confirmed judge in the district at the time the judge's duty station is established. JCUS-MAR 2022, pp. 26-27; *Guide to Judiciary Policy*, Vol. 16, Ch. 1, § 130.10(e)(2)(C). The Committee on Space and Facilities noted that limiting the acknowledgement requirement to only those judges who will be impacted by the relocation plan would achieve the purpose of the policy while avoiding unnecessary delays that could result from the need to obtain acknowledgement by all judges in the district. On recommendation of the Committee, the Judicial Conference amended its space planning policy to provide that only impacted judges in an affected district are required to acknowledge a circuit judicial council and chief judge's certification of

their commitment to any necessary relocation of judges and/or closure of facilities associated with a planned courthouse construction project.

CONGRESSIONAL REVIEW OF PROSPECTUS-LEVEL PROJECTS

The Public Buildings Act of 1959, as amended, requires the General Services Administration to submit a prospectus for capital and lease projects with an estimated cost exceeding certain dollar thresholds to two congressional committees for authorization prior to project execution. Noting that raising these thresholds could expedite building improvement projects that fall under the relevant threshold and avoid delays and associated cost increases that occur while projects await congressional authorization, the Committee on Space and Facilities recommended that the Judicial Conference endorse a legislative proposal from the General Services Administration to raise the prospectus threshold for new construction, site acquisitions, and leases from \$3.613 million to \$10 million, and to raise the prospectus threshold for lease alterations from \$1.8 million to \$5 million. The Conference approved the Committee's recommendation.

COMMITTEE ACTIVITIES

The Committee on Space and Facilities reported that it approved, subject to funding availability, 16 requests for Component B funding pursuant to the Judicial Conference approved rent allotment methodology (JCUS-SEP 2007, pp. 36-37), and two requests for funding for No Net New projects in support of the Judicial Conference's No Net New policy adopted in September 2013 (JCUS-SEP 2013, p. 32). Additionally, following approval by the Committee on Judicial Security, the Committee approved Capital Security Program studies for three courthouse locations with security deficiencies. Finally, the Committee discussed the space-related initiatives referred to the Committee for evaluation as part of the judiciary's strategic budget initiative and the Committee's ongoing efforts to re-evaluate the judiciary's space needs after the COVID-19 pandemic and to identify opportunities for cost efficiencies.

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