

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

March 12, 2013

The Judicial Conference of the United States convened in Washington, D.C., on March 12, 2013, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. § 331. The Chief Justice presided, and the following members of the Conference were present:

First Circuit:

Chief Judge Sandra L. Lynch
Judge Paul J. Barbadoro,
District of New Hampshire

Second Circuit:

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

Third Circuit:

Chief Judge Theodore A. McKee
Judge Joel A. Pisano,¹
District of New Jersey

Fourth Circuit:

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

¹Designated by the Chief Justice as a substitute for Chief Judge Gary L. Lancaster, Western District of Pennsylvania, who was unable to attend.

Fifth Circuit:

Chief Judge Carl E. Stewart
Chief Judge Sarah S. Vance,
Eastern District of Louisiana

Sixth Circuit:

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

Seventh Circuit:

Chief Judge Frank H. Easterbrook
Judge Ruben Castillo,
Northern District of Illinois

Eighth Circuit:

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

Ninth Circuit:

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

Tenth Circuit:

Chief Judge Mary Beck Briscoe
Judge Dee V. Benson,
District of Utah

Eleventh Circuit:

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

District of Columbia Circuit:

Chief Judge Merrick B. Garland
Chief Judge Royce C. Lamberth,
District of Columbia

Federal Circuit:

Chief Judge Randall R. Rader

Court of International Trade:

Chief Judge Donald C. Pogue

The following Judicial Conference committee chairs attended the Conference session: Circuit Judges Julia Smith Gibbons, Robert A. Katzmann, Diarmuid F. O’Scainnlain, Anthony J. Scirica, Jeffrey S. Sutton, and Timothy M. Tymkovich; District Judges Nancy F. Atlas, Robert Holmes Bell, Catherine C. Blake, David G. Campbell, Rosemary M. Collyer, Joy Flowers Conti, Sidney A. Fitzwater, Joseph H. McKinley, Jr., J. Frederick Motz, Lawrence L. Piersol, Joel A. Pisano, Michael A. Ponsor, Reena Raggi, Julie A. Robinson, and Richard W. Story; and Bankruptcy Judge Eugene R. Wedoff. Attending as the bankruptcy judge and magistrate judge observers, respectively, were Bankruptcy Judge Michael E. Romero and Magistrate Judge Thomas C. Mummert III. Samuel W. Phillips of the Fourth Circuit represented the circuit executives.

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

Attorney General Eric H. Holder, Jr., addressed the Conference on matters of mutual interest to the judiciary and the Department of Justice.

Senators Patrick J. Leahy and Christopher Coons and Representative Bob Goodlatte spoke on matters pending in Congress of interest to the Conference.

REPORTS

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

ELECTION

The Judicial Conference elected to membership on the Board of the Federal Judicial Center for a term of four years Magistrate Judge Jonathan W. Feldman, United States District Court for the Western District of New York, and Chief Bankruptcy Judge Coleman Ray Mullins, United States Bankruptcy Court for the Northern District of Georgia, to succeed Magistrate Judge John Michael Facciola, United States District Court for the District of Columbia, and Chief Bankruptcy Judge James B. Haines, Jr., United States Bankruptcy Court for the District of Maine.

EXECUTIVE COMMITTEE

BUDGETARY MATTERS

The Executive Committee continued to discuss how to address anticipated budgetary shortfalls resulting from implementation of the Budget Control Act of 2011, Pub. L. No. 112-25. That Act originally required budget sequestration—i.e., automatic, across-the-board cuts to federal government (including judiciary) spending—unless Congress enacted legislation to achieve deficit reduction before the sequester was scheduled to take effect on January 2, 2013. In December 2012, after obtaining the views of the Conference’s Budget Committee and program committees, and the Administrative Office’s Budget and Finance and Human Resources Advisory Councils, the Executive Committee approved a package of emergency measures to be taken if necessary. Subsequently, Congress enacted the

American Taxpayer Relief Act of 2012, Pub. L. No. 112-240, which deferred from January 2 until March 1, 2013, the effective date for sequestration, and included revenue and spending changes that effectively reduced the volume of spending cuts that the sequesters would require. At its February 2013 meeting, the Executive Committee modified the package of emergency measures accordingly. The revised measures were implemented beginning March 1, 2013. The Committee continues to monitor and promote efforts by Conference committees to pursue cost-containment initiatives so that the judiciary can be better positioned to weather an uncertain, longer-term, budgetary future.

MISCELLANEOUS ACTIONS

The Executive Committee —

- Reviewed the determinations of the other Conference committees as to whether the judiciary should pursue in the 113th Congress, or defer pursuit of, Conference-approved legislative proposals within those committees' jurisdictions.
- Adjusted the jurisdictions of the Committees on the Administration of the Bankruptcy System, Defender Services, Intercircuit Assignments, Judicial Resources, and the Administration of the Magistrate Judges System to achieve better coordination and oversight of judiciary resources.
- At the request of the Committee on Judicial Security, agreed to seek the Chief Justice's approval for expanding that committee's membership to include an Article III judge representative from each regional circuit.²
- Asked the Committee on Intercircuit Assignments to explore additional ways to anticipate and meet the courts' judicial resource needs through visiting judge assignments.
- Asked the Committee on Judicial Resources and the Committee on Codes of Conduct to consider and, after consultation with the Committee on the Judicial Branch, take appropriate action with respect

²The Chief Justice subsequently approved the request.

to the use of volunteer law clerks, extern, and interns in the federal courts.

- Asked the Committee on Court Administration and Case Management to explore the possibility of achieving administrative efficiencies and cost-savings through changes in the number and alignment of judicial districts within states.
- Received a report from the Director of the Administrative Office on the agency's continued progress in pursuing internal cost-containment initiatives that have positioned the AO to deal with the impact on the agency of budget sequestration.
- Discussed pursuit of legislative changes to eliminate needless operating expenses and remove unnecessary barriers to cost-containment efforts.
- Approved on behalf of the Judicial Conference a resolution recognizing Judge David Bryan Sentelle, former Chair of the Executive Committee, for his service as a member of the Judicial Conference and the Executive Committee from 2008 to 2013.
- Determined that the four strategies and one goal from the *Strategic Plan for the Federal Judiciary* that were identified as judiciary-wide priorities for the last two years should continue to receive priority attention during the next two years.

COMMITTEE ON AUDITS AND ADMINISTRATIVE OFFICE ACCOUNTABILITY

COMMITTEE ACTIVITIES

The Committee on Audits and Administrative Office Accountability reported that it endorsed two initiatives to ensure that audit activities and internal control requirements address the judiciary's greatest risks. The Administrative Office will work with court and defender organization stakeholders to develop a risk-based approach to updating the judiciary's cyclical financial audits of courts and federal public defender organizations. The Administrative Office will also work with the stakeholders to (a) eliminate redundant or unnecessary internal control requirements; and

(b) ensure that the judiciary’s internal control policies are designed to prevent, detect, correct, and mitigate risks of material financial misstatement and significant non-compliance with financial-related law, regulation, or policy.

COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM

BANKRUPTCY JUDGESHIPS

The Judicial Conference conducts biennial surveys to evaluate requests for additional bankruptcy judgeships and transmits its recommendations to Congress, which establishes the number of bankruptcy judgeships in each judicial district (28 U.S.C. § 152(b)(2)). Based on the 2012 biennial survey of judgeship needs, the Committee on the Administration of the Bankruptcy System recommended that the Judicial Conference ask Congress to (a) authorize 31 additional judgeships (29 permanent and 2 temporary) and (b) convert 20 existing temporary judgeships to permanent status, with language in the transmittal letter that acknowledges the dire fiscal realities the country and the federal government face and the possibility that all the judgeships will not be created and that some prioritization may have to occur. The Conference adopted the Committee’s recommendation, agreeing to transmit the following request to Congress with the qualifying language referenced above (“P” denotes permanent; “T” denotes temporary; “T/P” denotes conversion of temporary to permanent):

New Hampshire	1 T
New York (Southern)	2 P
Delaware	1 T, 5 T/P
New Jersey	1 T/P
Maryland	2 T/P
North Carolina (Eastern)	1 T/P
North Carolina (Western)	1 P
Virginia (Eastern)	1 T/P
Mississippi (Northern)	1 P
Michigan (Eastern)	3 P, 1 T/P
Tennessee (Western)	1 T/P
Illinois (Northern)	1 P
Arizona	3 P
California (Central)	4 P, 3 T/P
California (Eastern)	2 P, 1 T/P

Nevada	2 P, 1 T/P
Colorado	1 P
Utah	1 P
Florida (Middle)	4 P
Florida (Northern)	1 P
Florida (Southern)	1 P, 2 T/P
Georgia (Northern)	2 P
Georgia (Southern)	1 T/P

COMMITTEE ACTIVITIES

The Committee on the Administration of the Bankruptcy System reported that it approved development of a new cost-containment initiative to assist bankruptcy courts in the effective use of existing judicial resources and technology and that it is reviewing the acceleration of other cost-containment initiatives. The Committee also discussed and raised no objection to changes to its jurisdictional statement that had been tentatively approved by the Executive Committee. The Committee continues to provide oversight of the recall program for retired bankruptcy judges and has endorsed two additional miscellaneous bankruptcy fee proposals for consideration by the Court Administration and Case Management Committee.

COMMITTEE ON THE BUDGET

CAPITAL INVESTMENT FUND

At the request of the Judicial Conference, Congress approved a Capital Investment Fund pilot program for a four-year period beginning in fiscal year 2009. Under the program, court units could return up to \$50,000 for deposit into the Capital Investment Fund, to be used in future years for the following purposes: tenant alterations, cyclical facilities maintenance, capital goods, courtroom technology, and multi-year contracts for services that enhance major projects and acquisitions. On completion of the pilot program and an examination of its efficacy, the Budget Committee recommended that the Conference seek approval from Congress to make the fund a permanent tool available to the courts, with the following two changes to the program:

- a. Include a mechanism for adjusting for inflation the threshold amount that can be maintained in the fund; and

- b. Create a new category of permitted use, entitled “capital assets,” that would subsume the capital goods and courtroom technology categories already permitted and add information technology infrastructure as an appropriate use.

The Conference adopted the Committee’s recommendation.

COMMITTEE ACTIVITIES

The Committee on the Budget reported that it focused much of its discussions on the bleak budget outlook facing the judiciary in 2013 and the next several years and on the many cost-containment initiatives that it believes should be accelerated and implemented as quickly as possible. The Committee also discussed the extensive membership changes in the 113th Congress on the House and Senate Appropriations Committees and their Financial Services and General Government appropriations subcommittees. These changes will require the Committee to enhance its congressional outreach efforts, with a particular focus on educating members about the judiciary’s cost-containment efforts, its stewardship of taxpayer funds, and the importance of maintaining an adequately funded federal judiciary.

COMMITTEE ON CODES OF CONDUCT

CODE OF CONDUCT FOR JUDICIAL EMPLOYEES

Noting that the Code of Conduct for Judicial Employees had not been significantly revised since it was adopted in 1995, the Committee on Codes of Conduct undertook a comprehensive review and evaluated the need for changes to select provisions. Based on its review, and after considering comments from judges and judiciary personnel, the Committee recommended that the Judicial Conference adopt a revised Code and delegate to the Committee authority to make non-substantive or technical amendments to the Code. The revisions clarify issues related to (a) applicability of the Code to interns, externs, and other volunteers; (b) conflicts of interest of staff attorneys and law clerks with regard to previous practice of law; (c) acceptance of governmental appointments by judicial employees; and (d) political activity by certain lawyers employed by the courts. The Conference adopted the Committee’s recommendations.

COMMITTEE ACTIVITIES

The Committee on Codes of Conduct reported that since its last report to the Judicial Conference in September 2012, the Committee received 39 new written inquiries and issued 38 written advisory responses. During this period, the average response time was 15 days. In addition, the Committee chair responded to 50 informal inquiries, individual Committee members responded to 190 informal inquiries, and Committee counsel responded to 542 informal inquiries.

COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT

ELECTRONIC PUBLIC ACCESS FEE SCHEDULE

Noting that the Electronic Public Access Fee Schedule has been amended a number of times, and that as a result, the schedule and accompanying note are lengthy and difficult for courts to administer, the Committee on Court Administration and Case Management proposed revisions to those documents to simplify and clarify them. On recommendation of the Committee, the Judicial Conference amended the schedule and accompanying note to (a) make format and style changes; (b) clarify the principles underlying the exemption policy; (c) clarify that attorneys of record and parties in a case (including pro se litigants) may receive one free electronic copy of all documents filed electronically via the notice of electronic filing (or notice of docket activity); and (d) clarify that non-case specific reports are not subject to the 30-page fee cap.

STATISTICAL REPORTS

The judiciary issues two statistical bankruptcy reports that were previously available only on PACER for a fee: the monthly Table F-2, which summarizes the total bankruptcy filings by chapter, district, and circuit; and the quarterly Table F-5a, which summarizes the number of bankruptcy petitions filed by chapter, for a twelve-month period. On recommendation of the Committee, the Judicial Conference agreed to make these statistical reports available to the public for free on the judiciary's uscourts.gov website.

MISCELLANEOUS FEES

Pursuant to its statutory authority to prescribe miscellaneous fees for the courts,³ the Conference periodically reviews the fees to determine if changes are appropriate. At this session, the Committee on Court Administration and Case Management recommended that the Conference—

- a. Amend Item 14 on the District Court Miscellaneous Fee Schedule to clarify that the \$50 administrative fee does not apply to an application for a writ of habeas corpus, noting that Congress set the filing fee for such actions at \$5, and to set a significantly higher administrative fee would counter Congress’s intent in establishing a lower fee for such filers.
- b. Add a \$50 administrative fee (Item 12) to the Court of Federal Claims Miscellaneous Fee Schedule for filing a civil action, suit, or proceeding in the Court of Federal Claims, similar to the administrative fee adopted in both district and bankruptcy courts; and
- c. Amend Item 11 on the Bankruptcy Court Miscellaneous Fee Schedule to raise the fee for filing a motion to reopen a Chapter 9 or Chapter 15 case from \$1,000 to \$1,167, as these fees were intended to track the chapter 11 filing fee, which was raised from \$1,000 to \$1,167 by the Temporary Bankruptcy Judgeships Extension Act of 2012, Public Law No. 112-121.

The Conference adopted the Committee’s recommendations.

FEE LEGISLATION

The proposed Bankruptcy Administration Improvement Act of 2012 (H.R. 6349, 112th Congress) would have amended 11 U.S.C. § 330(b)(2) to increase from \$15 to \$75 the component of the Chapter 7 trustee fee assessed through the Bankruptcy Court Miscellaneous Fee Schedule. The Committee recommended that the Conference oppose this bill (or similar proposed

³See 28 U.S.C. §§ 1913 (courts of appeals); 1914 (district courts); 1926 (Court of Federal Claims); 1930 (bankruptcy courts); 1932 (Judicial Panel on Multidistrict Litigation).

legislation) to the extent that it would fund an increase in private bankruptcy trustee compensation through an increase in fees under the miscellaneous fee authority of the Judicial Conference. The Conference adopted the Committee's recommendation.

RECORDS DISPOSITION SCHEDULES

Bankruptcy Case Files. The records of certain cases filed under the Bankruptcy Acts of 1898 and 1978 were designated as temporary in 1980 (and thus eligible for destruction after a set period of time), and then re-designated as permanent in 1983. Between 1980 and 1983, those case records were transferred to Federal Records Centers (FRCs) along with other temporary cases. Noting that these cases are few in number, and that retrieving their records from the FRCs for permanent storage would be prohibitively expensive, the Committee recommended that the Conference amend the bankruptcy court records disposition schedule, Item A(14)c, to provide that a 2.5 percent sample of the records of cases under the Bankruptcy Acts of 1898 and 1978 that were transferred to the FRCs prior to 1984 be designated as permanent and the remainder of such case records be designated as temporary, and authorize transmittal of the revised schedule to the National Archives and Records Administration (NARA) for concurrence. The Conference adopted the Committee's recommendation.

Complaints under the Judicial Conduct and Disability Act. Noting that records related to complaints filed under the Judicial Conduct and Disability Act of 1980 had not previously been scheduled, the Committee recommended that the Judicial Conference amend Records Disposition Schedule 1 (for the courts of appeals) and Records Disposition Schedule 2 (for all other courts) (*Guide to Judiciary Policy (Guide)*, Vol. 10, App. 6A and 6B, respectively) to add a new item to address such records. Orders and memoranda of decision, along with accompanying reports would be classified as permanent, and other documents relating to those proceedings would be classified as temporary and destroyed after five years. The Judicial Conference adopted the Committee's recommendation and authorized the revised schedules to be transmitted to NARA for concurrence.

Court Reporter Notes. The Committee recommended that the Judicial Conference amend Item A(18)a on the district court records disposition schedule, which pertains to original court reporters' notes of proceedings, so that disposition of those records would be linked to the schedule for the case type to which the records pertain. The Conference agreed to (a) add a new

item that provides for the permanent retention of original court reporter notes or electronic sound recordings filed with the court in lieu of transcript in criminal death penalty cases or civil capital habeas corpus trial cases, and (b) provide that electronic sound recordings of arraignments, pleas, and sentencing that are filed with the court in lieu of transcript in non-death penalty criminal cases be disposed of 20 years after the close of the case. All other original notes and recordings will continue to be disposed of after 10 years. The Conference authorized the revised schedule to be transmitted to NARA for concurrence.

Human Resources Records. On recommendation of the Committee, the Conference agreed to amend Records Disposition Schedules 1 and 2 (*Guide*, Vol. 10, App. 6A and 6B, respectively) to update and expand coverage for human resources records to reflect the judiciary's current personnel practices. The Conference authorized the revised schedules to be transmitted to NARA for concurrence.

COMMITTEE ACTIVITIES

The Committee on Court Administration and Case Management reported that it considered its ongoing cost-containment initiatives, including reducing costs in the judiciary's library and records programs, as well as promoting shared administrative services in the courts. The Committee also provided the Executive Committee with several suggestions on the judiciary's proposed emergency plan to operate with reduced funding due to sequestration. The Committee discussed proposals related to the Conference's privacy policy, the Next Generation of CM/ECF project, and the ongoing patent pilot program. The Committee also considered methods to promote more comprehensive data collection under the cameras-in-the-courtroom pilot project.

COMMITTEE ON CRIMINAL LAW

COMMITTEE ACTIVITIES

The Committee on Criminal Law reported that it discussed the feedback it received on the National Sentencing Policy Institute that was held in Memphis, Tennessee, on October 1-3, 2012, and was jointly sponsored by the Committee, the Federal Judicial Center (FJC), the Bureau of Prisons, and

the U.S. Sentencing Commission. Institute attendees—consisting of federal judges, probation officers, U.S. attorneys, federal defenders, and representatives from the sponsoring agencies—discussed topics such as disparity in sentencing, the application of evidence-based practices to sentencing and community corrections, and the sentencing of offenders convicted of child pornography offenses. The Committee also discussed its concerns that, during a time in which high-risk/high-need caseloads continue to rise, ongoing funding cuts to the probation and pretrial services program will jeopardize public safety.

COMMITTEE ON DEFENDER SERVICES

DEFENDANTS' TRANSPORTATION AND SUBSISTENCE EXPENSES

Section 4285 of title 18, United States Code, authorizes courts to order the United States Marshals Service (USMS) to provide a released defendant, pending further court appearances, with non-custodial transportation and subsistence on the way to (but not on the return from) court proceedings where the individual's appearance is required, when the interest of justice would be served and the client is financially unable to pay the transportation costs. In March 1993, the Judicial Conference agreed to seek legislation authorizing the courts to order the USMS to provide transportation and subsistence to defendants returning home from court proceedings or traveling to consult with counsel, and to furnish subsistence while attending all court proceedings (JCUS-MAR 93, p, 28). At this session, the Committee noted that pursuit of the portion of the March 1993 position regarding transportation and subsistence for defendants to consult with counsel has been deferred in previous years, and that enactment would result in substantial cost to the USMS and may hinder the possibility of the remainder of the proposal passing. Therefore, on the Committee's recommendation, the Conference agreed to rescind its position to seek an amendment to 18 U.S.C. § 4285 to provide authority for the courts to order the USMS to provide transportation and subsistence to non-custodial defendants traveling to consult with counsel.

COMMITTEE ACTIVITIES

The Committee on Defender Services reported that in response to a request from the Executive Committee, the Defender Services Committee

discussed tentative changes to its jurisdictional statement and related changes to the Judicial Resources Committee's jurisdictional statement. It was also updated on the current status of the Electronic CJA Voucher Submission and Processing Project, which is designed to transform the current paper-based Criminal Justice Act voucher process into an automated system that will allow for electronic preparation, submission, and processing of vouchers. In addition, the Committee reviewed several cost-containment initiatives, including an interim status report on an analysis being conducted to identify the costs and potential savings from integrating information technology services for the courts and federal defender organizations.

COMMITTEE ON FEDERAL-STATE JURISDICTION

COMMITTEE ACTIVITIES

The Committee on Federal-State Jurisdiction reported that it discussed several legislative proposals under consideration in the 112th Congress (which had just concluded) that could have affected the work of the federal courts, including proposed legislation that would have permitted state and local governments to periodically seek the vacating or modification of federal consent decrees, and proposed legislation that would have made significant changes to the Administrative Procedure Act and modified the rules governing judicial review of administrative actions. The Committee also reviewed legislation, which was later enacted and signed by the President, that amended 28 U.S.C. § 1442 to expand the circumstances under which state prosecutions of federal law enforcement officers could be removed to federal court. Members were also briefed on initiatives to establish expedited procedures for consideration of certain patent and copyright infringement cases involving damages below a specified amount.

COMMITTEE ON FINANCIAL DISCLOSURE

COMMITTEE ACTIVITIES

The Committee on Financial Disclosure reported that it affirmed its January 2012 determination that, because the holdings within a managed asset account are owned by the individual investor, sections 102(a)(3) and 102(a)(5) of the Ethics in Government Act of 1978 (5 U.S.C. app. §§ 102(a)(3) and 102(a)(5)) require that the assets and transactions be detailed in the filer's

financial disclosure report. The same reporting requirements also are applicable to trusts. The Committee also reported that as of January 1, 2013, it had received 4,490 financial disclosure reports and certifications for calendar year 2011, including 1,341 reports and certifications from Supreme Court justices, Article III judges, and judicial officers of special courts; 389 reports from bankruptcy judges; 608 reports from magistrate judges; and 1,905 reports from judiciary employees.

COMMITTEE ON INFORMATION TECHNOLOGY

COMMITTEE ACTIVITIES

The Committee on Information Technology reported that it considered the impact on the judiciary's information technology (IT) program of a potential funding reduction of \$54.4 million should budget sequestration occur. It determined that, if required, a reduction of this magnitude would result in suspending development of most national systems, as well as associated testing, training, and related services; eliminating new funding for research and development efforts; and making targeted reductions to ongoing operations. The Committee endorsed a national IT security policy on password management, which calls for courts and national application program offices to establish password management practices and standards, and for national application program offices to adopt the same password management practices and standards to the greatest extent possible.

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

COMMITTEE ACTIVITIES

The Committee on Intercircuit Assignments reported that 105 intercircuit assignments were undertaken by 76 Article III judges from July 1, 2012, to December 31, 2012. During this time, the Committee continued to disseminate information about intercircuit assignments and aid courts requesting assistance by identifying and obtaining judges willing to take assignments.

COMMITTEE ON INTERNATIONAL JUDICIAL RELATIONS

COMMITTEE ACTIVITIES

The Committee on International Judicial Relations reported on its involvement in rule of law and judicial reform activities throughout the world, highlighting activities in East Asia and the Pacific, Europe and Eurasia, Latin America and the Caribbean, and the Middle East. Briefing reports about international rule of law activities were provided to the Committee by the Department of State, the Department of Justice, the United States Agency for International Development, the United States Patent and Trademark Office, the United States Institute of Peace, the Open World Program at the Library of Congress, the William H. Rehnquist Center on the Constitutional Structures of Government, the Federal Judicial Center, and the Federal Court Clerks Association. The Committee also reported on foreign delegations of jurists and judicial personnel that received briefings at the Administrative Office.

COMMITTEE ON THE JUDICIAL BRANCH

COMMITTEE ACTIVITIES

The Committee on the Judicial Branch reported that its initiative to develop internet website “toolboxes” for courts has been expanded to include development and hosting services for courts. The Committee also met with Lamar S. Smith (R-TX), chair, and John Conyers (D-MI), ranking member, of the House Judiciary Committee to discuss interbranch relations. In conjunction with the First Amendment Center, a non-profit media organization that works to preserve and protect First Amendment freedoms, the Committee conducted a program for judges and journalists in Washington, D.C., on topics including the impact of social media on jurors and the effect of changing technology on coverage of courts in the 21st century.

COMMITTEE ON JUDICIAL CONDUCT AND DISABILITY

COMMITTEE ACTIVITIES

The Committee on Judicial Conduct and Disability reported that it discussed matters on which its guidance had been sought regarding complaints under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364. The

Committee also reviewed complaint-related orders issued in 2012 by chief judges and circuit judicial councils, examined various interpretive issues regarding the Judicial Conference’s Rules for Judicial-Conduct and Judicial-Disability Proceedings, and renewed its focus on judicial disability issues. The Committee and its staff have continued 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

ARTICLE III JUDGESHIPS

The Committee on Judicial Resources considered requests and justifications for additional judgeships in the courts of appeals and the district courts as part of its 2013 biennial judgeship survey process. Based on its review, and after considering the views of the courts and the circuit judicial councils, the Committee recommended that the Judicial Conference recommend to Congress, for the courts of appeals, the addition of 5 permanent judgeships and 1 temporary judgeship, and for the district courts, the addition of 65 permanent judgeships and 20 temporary judgeships, plus the conversion to permanent status of 8 existing temporary judgeships. The Committee also recommended that language be included in the transmittal letter to Congress that acknowledges the dire fiscal realities the country and the federal government face and the possibility that all the judgeships will not be created and that some prioritization may have to occur . The Conference adopted the Committee’s recommendations, agreeing to transmit the following request to Congress with the qualifying language referenced above (“P” denotes permanent; “T” denotes temporary; “T/P” denotes conversion of temporary to permanent):

Courts of Appeals

Sixth Circuit	1 P
Ninth Circuit	4 P, 1 T

District Courts

New York (Eastern)	2 P
New York (Southern)	1 P, 1 T
New York (Western)	1 P
Delaware	1 P

New Jersey	2 P, 1 T
Virginia (Eastern)	1 T
Texas (Eastern)	2 P, 1 T/P
Texas (Southern)	2 P
Texas (Western)	4 P, 1 T
Tennessee (Middle)	1 T
Indiana (Southern)	1 P
Wisconsin (Western)	1 P
Minnesota	1 P, 1 T
Missouri (Eastern)	1 T/P
Missouri (Western)	1 T
Arizona	6 P, 4 T, 1 T/P
California (Northern)	5 P, 1 T
California (Eastern)	6 P, 1 T
California (Central)	10 P, 2 T, 1 T/P
California (Southern)	3 P, 1 T
Idaho	1 P
Nevada	1 P, 1 T
Oregon	1 T
Washington (Western)	2 P
Colorado	2 P
Kansas*	1 T/P
New Mexico	1 P, 1 T/P
Alabama (Northern)	1 T/P
Florida (Northern)	1 P
Florida (Middle)	5 P, 1 T
Florida (Southern)	3 P, 1 T/P
Georgia (Northern)	1 P, 1 T

* If the temporary judgeship in this district lapses, the Judicial Conference's recommendation would be amended to one additional permanent judgeship.

CHAMBERS STAFF

After discussion, the Judicial Conference agreed to permit withdrawal of the Committee's recommendation that the Judicial Conference (a) amend the chambers staffing allocation to replace the secretary position with a new Judiciary Salary Plan (JSP) position, called a "chambers administrative

position,” (b) adopt qualification standards for the new position, and (c) modify the qualification standards for the assistant secretary position.

PROBATION AND PRETRIAL SERVICES

As a cost-containment measure, the Budget Committee asked the Judicial Resources Committee, in consultation with the Committee on Criminal Law, to consider recommending a change in the Judicial Conference’s staffing policy so that centralized funding would no longer be provided for both a chief probation officer and a chief pretrial services officer within the same district. The Committee on Judicial Resources and the Criminal Law Committee jointly solicited comments from district courts and circuit judicial councils with separate probation and pretrial service offices, and the Judicial Resources Committee plans to consider those comments at its June 2013 meeting. As an interim measure, the Judicial Resources Committee recommended that the Judicial Conference encourage the 22 district courts with separate probation and pretrial services offices with vacancies in chief positions to consider not making permanent appointments to such positions pending the Conference’s decision on whether to modify the existing policy. The Conference adopted the Committee’s recommendation.

PRIVATE ASSOCIATION TRAINING

After discussion, the Judicial Conference declined to approve a Committee recommendation to impose a three-year moratorium on decentralized and centralized funding of travel for court employees to attend learning and development programs provided by private associations at their meetings.

COMMITTEE ACTIVITIES

The Committee on Judicial Resources reported that, at the Executive Committee’s request, it provided its views regarding proposed revisions to the jurisdictional statements of the Judicial Resources Committee and three other committees that were intended to clarify committee jurisdiction over compensation and staffing of non-judge personnel in the courts and defender organizations. Also at the request of the Executive Committee, the Judicial Resources Committee reviewed the current method of allocating court reporter funding to the courts, with a view toward ensuring more efficient use of

existing court reporter resources. The Committee asked the Administrative Office to gather additional cost data and provide information on potential approaches for maximizing the utilization of court reporter resources.

COMMITTEE ON JUDICIAL SECURITY

COMMITTEE ACTIVITIES

The Committee on Judicial Security reported that it endorsed changes recommended by the U.S. Marshals Service to the court security officer (CSO) staffing standards, noting that there will be no net reduction in CSO requirements nationwide under the newly endorsed standards. The Committee referred to a subcommittee for study the issue of whether all court and chambers personnel should pass through a metal detector, and whether their carried objects should pass through an x-ray machine, before they are allowed entry to court space.

COMMITTEE ON THE ADMINISTRATION OF THE MAGISTRATE JUDGES SYSTEM

CHANGES IN MAGISTRATE JUDGE POSITIONS

At the request of the respective district courts, and with the approval of the respective circuit judicial councils, the Committee on the Administration of the Magistrate Judges System recommended that the Judicial Conference redesignate the locations of the following magistrate judge positions:

- (a) in the Eastern District of North Carolina, the full-time magistrate judge position at Greenville as Wilmington, and the part-time magistrate judge position at Wilmington as Greenville; and
- (b) in the Southern District of Florida, a full-time magistrate judge position at Miami as Fort Lauderdale.

SELECTION AND APPOINTMENT REGULATIONS

On recommendation of the Committee, the Judicial Conference amended the Regulations of the Judicial Conference of the United States

Establishing Standards and Procedures for the Appointment and Reappointment of United States Magistrate Judges, *Guide to Judiciary Policy*, Vol. 3, § 420.30.20(c), to allow retired magistrate judges and bankruptcy judges who are not serving on recall to serve on magistrate judge merit selection panels. Previously, the regulations precluded all federal judges, including retired judges, from serving on such panels. After weighing the value that retired magistrate judges and bankruptcy judges could bring to the process against any concerns that such judges would be perceived as still part of the court, the Committee, in recommending amendment of the regulations, concluded that district courts should have the discretion to include them.

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), the Committee chair approved filling six full-time magistrate judge position vacancies and one part-time magistrate judge position vacancy in seven district courts during the period between the Committee's June 2012 and December 2012 meetings. The Committee adopted revisions to the document entitled "Suggestions for Utilization of Magistrate Judges," which serves as an advisory resource on magistrate judge utilization. The Committee also formed a subcommittee to make recommendations to the full Committee on requests for the recall of retired magistrate judges when such requests require review by the Committee in between meetings. The Committee communicated its views to the Executive Committee on changes to its jurisdictional statement that had been tentatively approved by the Executive Committee.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

FEDERAL RULES OF CIVIL PROCEDURE

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference a proposed amendment to Civil Rule 77 (Conducting Business; Clerk's Authority; Notice of an Order or Judgment), together with committee notes explaining its purpose and intent. The Judicial Conference approved the 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.

COMMITTEE ACTIVITIES

The Committee on Rules of Practice and Procedure reported that it approved for publication proposed amendments to two Federal Rules of Civil Procedure. The proposed amendment to Civil Rule 6(d), the rule allowing an additional 3 days after certain kinds of service, is intended to defeat the argument that a party who must act within a specified time after making service can extend the time to act by choosing a method of service that provides added time. The proposed amendment to Rule 55(c), the rule regarding setting aside a default or default judgment, is intended to make clear that the standards of Rule 60(b) apply only to the setting aside of a final default judgment. The proposed amendments are expected to be published for public comment in August 2013.

COMMITTEE ON SPACE AND FACILITIES

SECURITY PAVILIONS

As security concerns have increased in recent years, some courts have determined that lobbies in their courthouses do not have adequate room to accommodate the equipment and queuing space necessary for security screening, or are not engineered to withstand the force of a package bomb, and have looked to exterior security pavilions as a solution. However, in at least two recent instances, the funding for those security pavilions (which were constructed as annexes to existing courthouses) was obtained outside of the regular Judicial Conference space request and approval process. Noting that once built, these annexes increase the judiciary's recurring space and security costs, the Committee recommended that all future security pavilion annexes receive both appropriate committee and Conference approval prior to construction. Specifically the Committee recommended that—

- a. The current Circuit Rent Budget program process for approval of Component B projects should be applied to any request for construction of a security pavilion to adjoin an existing court building, so that any potential increase in rent costs can be considered along with other aspects of the project. These projects must receive Committee and Conference approval.

- b. The Committee on Judicial Security must review any request for construction of a security pavilion before it is considered by the rent management subcommittee of the Committee on Space and Facilities, so that the need for the pavilion from a security standpoint, as well as the impact of the project on the Court Security appropriation, can be taken into account.

The Conference approved the Space and Facilities Committee's recommendations.

COMMITTEE ACTIVITIES

The Committee on Space and Facilities reported that at the request of the Budget Committee's Economy Subcommittee, the chairs of the Space and Facilities Committee, the Court Administration and Case Management Committee, and the Judicial Resources Committee have been working together to review the space, staffing, and collection costs of the library program to see if further cost containment is possible. The House Transportation and Infrastructure Committee's Subcommittee on Economic Development, Public Buildings, and Emergency Management asked the Government Accountability Office (GAO) to study the judiciary's development of its capital planning process; it is anticipated that a final report on this study will be presented to the House subcommittee in April 2013. The GAO was also asked by that subcommittee to study the judiciary's use and disposal of old federal courthouses; staff will monitor the status of this study.

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