

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

**March 14, 1995**

The Judicial Conference of the United States convened in Washington, D.C., on March 14, 1995, 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 Juan R. Torruella  
Chief Judge Joseph L. Tauro,  
District of Massachusetts

Second Circuit:

Chief Judge Jon O. Newman  
Judge Charles L. Brieant,  
Southern District of New York

Third Circuit:

Chief Judge Dolores K. Sloviter  
Chief Judge Edward N. Cahn,  
Eastern District of Pennsylvania

Fourth Circuit:

Chief Judge Sam J. Ervin, III  
Judge W. Earl Britt,  
Eastern District of North Carolina

Fifth Circuit:

Chief Judge Henry A. Politz  
Chief Judge Morey L. Sear,  
Eastern District of Louisiana

*Judicial Conference of the United States*

Sixth Circuit:

Chief Judge Gilbert S. Merritt  
Chief Judge John D. Holschuh,<sup>1</sup>  
Southern District of Ohio

Seventh Circuit:

Chief Judge Richard A. Posner  
Chief Judge Michael M. Mihm,  
Central District of Illinois

Eighth Circuit:

Chief Judge Richard S. Arnold  
Judge Donald E. O'Brien,  
Northern District of Iowa

Ninth Circuit:

Chief Judge J. Clifford Wallace  
Chief Judge Wm. Matthew Byrne, Jr.,  
Central District of California

Tenth Circuit:

Chief Judge Stephanie K. Seymour  
Judge Clarence A. Brimmer,  
District of Wyoming

Eleventh Circuit:

Chief Judge Gerald B. Tjoflat  
Judge Wm. Terrell Hodges,  
Middle District of Florida

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<sup>1</sup>Designated by the Chief Justice

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District of Columbia Circuit:

Chief Judge Harry T. Edwards  
Chief Judge John Garrett Penn,  
District of Columbia

Federal Circuit:

Chief Judge Glenn L. Archer, Jr.

Court of International Trade:

Chief Judge Dominick L. DiCarlo

Circuit Judge Otto R. Skopil, Jr., and District Judges Maryanne Trump Barry, Robert C. Broomfield, Richard P. Conaboy, Julia S. Gibbons, Philip M. Pro, Alicemarie H. Stotler, and Ann C. Williams attended the Conference session. Circuit Executives Vincent Flanagan, Steven Flanders, Toby Slawsky, Samuel W. Phillips, Lydia Comberrel, James A. Higgins, Collins T. Fitzpatrick, June L. Boadwine, Gregory B. Walters, Robert L. Hoecker, Norman E. Zoller, and Linda Ferren were also present.

Attorney General Janet Reno addressed the Conference on matters of mutual interest to the judiciary and the Department of Justice. Senators Joseph R. Biden, Jr., and Charles E. Grassley, and Representative Patricia S. Schroeder spoke on matters pending in Congress of interest to the Conference.

L. Ralph Mecham, Director of the Administrative Office of the United States Courts, attended the session of the Conference, as did Clarence A. Lee, Jr., Associate Director for Management and Operations; William R. Burchill, Jr., Associate Director and General Counsel; Karen K. Siegel, Assistant Director, Judicial Conference Executive Secretariat; Arthur E. White, Acting Assistant Director, Legislative and Public Affairs; Wendy Jennis, Deputy Assistant Director, Judicial Conference Executive Secretariat; and David A. Sellers, Public Information Officer. Judge William W. Schwarzer and Russell R. Wheeler, Director and Deputy Director of the Federal Judicial Center, also attended the session of the Conference, as did Harvey Rishikof, Administrative Assistant to the Chief Justice; Richard Schickele, Supreme Court Staff Counsel; and Barbara Perry, Bob Deyling and Sarah Wilson, Judicial Fellows.

## **REPORTS**

Mr. Mecham reported to the Conference on the judicial business of the courts and on matters relating to the Administrative Office. Judge Schwarzer spoke to the Conference about Federal Judicial Center programs and Judge Conaboy, Chairman of the United States Sentencing Commission, reported on Sentencing Commission activities.

## **ELECTIONS**

The Judicial Conference elected to membership on the Board of the Federal Judicial Center Circuit Judge Bruce M. Selya of the First Circuit, vice Judge Edward R. Becker, and District Judge Richard P. Matsch of the District of Colorado, vice Judge Martin L. C. Feldman.

## **EXECUTIVE COMMITTEE**

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### **"CONTRACT WITH AMERICA"**

The Executive Committee reviewed memoranda from relevant Judicial Conference committees concerning several bills which Republicans in the House of Representatives introduced early in the 104th Congress as part of their "Contract with America." Since positions on the following issues would have been untimely if delayed, the Executive Committee acted on behalf of the Conference and agreed to:

- 1) Support a two-year study of the impact on the judiciary of applying to the Third Branch disclosure, workplace, and labor laws currently applicable to the private sector and the Executive and Legislative Branches, in lieu of applying the "Congressional Accountability Act of 1995" (Public Law No. 104-1) to the judiciary;
- 2) Ratify the position of the Budget Committee that the judiciary should be excluded from a line-item veto provision;
- 3) Make no change in existing Judicial Conference positions on provisions of the proposed "Taking Back Our Streets Act of 1995" (H.R. 3, 104th Congress) related to:
  - Habeas corpus reform
  - Amendment of Rule 22, Federal Rules of Appellate Procedure

- Federalization of firearms offenses
  - Mandatory restitution
  - Exclusionary rule; and
- 4) Authorize the chairs of the Criminal Law and Federal-State Jurisdiction Committees to negotiate appropriate limitations to the scope of provisions of the "Taking Back Our Streets Act" if enactment appears likely, with the proviso that prior to taking a position with Congress that would deviate from a Conference position, they coordinate their actions with the Chair of the Executive Committee and the Director of the Administrative Office.

The Executive Committee also considered recommendations from the Court Administration and Case Management Committee regarding two provisions in the Contract with America's "Common Sense Legal Reforms Act of 1995" (H.R. 10, 104th Congress). With respect to a diversity-based fee-shifting provision, the Executive Committee determined to take no position, considering the matter to be one which is properly left to Congress. However, the Committee noted that a fee-shifting statute could increase the volume of litigation, and expressed hope that the Congress would consider the judiciary's need for additional resources should it enact fee-shifting legislation. Regarding a proposal that would have made prior notice a prerequisite to bringing suit in federal district court, the Executive Committee endorsed the recommendation of the Court Administration and Case Management Committee and reaffirmed previous Conference opposition to a pre-filing notification requirement.

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#### **CAMERAS IN THE COURTROOM**

At its September 1994 session, the Judicial Conference declined to expand a pilot program which authorized camera coverage in civil proceedings in six district and two appellate courts (JCUS-SEP 94, pp. 46-47). In December 1994, the Court Administration and Case Management Committee determined not to make any additional recommendations to the Judicial Conference in this area. In order to provide further guidance, the Judicial Conference slightly modified and then adopted the following resolution recommended by the Executive Committee:

The report of the Committee on Court Administration and Case Management reflects uncertainty of the direction that Committee should take regarding the further study of cameras in the courtroom. The Judicial Conference clarifies that the Court Administration and Case Management Committee is not prohibited from proposing pilot

programs or conducting other studies necessary to the making of further recommendations on cameras in the courtroom in civil cases which differ from those disapproved by the Judicial Conference at its September 1994 session.

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#### **JUDICIAL CONFERENCE FOUNDATION**

In September 1994, the Judicial Conference approved a Memorandum of Understanding with the Federal Judicial Center (FJC) Foundation Board and the FJC Board so that the FJC Foundation can accept and administer public and private gifts for Judicial Conference-sponsored international initiatives (JCUS-SEP 94, p. 52). Because there is no direct relationship between the FJC Foundation and the Judicial Conference, the Executive Committee agreed that in order to assure that the priorities and unique needs of the Judicial Conference and its committees are given maximum consideration, it would be best for the Judicial Conference to have its own foundation. On recommendation of the Committee, the Conference agreed to pursue legislation to create a Judicial Conference Foundation that can receive and expend private contributions in support of official programs.

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#### **"GATT" LEGISLATION**

The World Trade Organization (WTO) has jurisdiction to resolve trade disputes arising under the General Agreement on Tariffs and Trade and its accompanying Uruguay Round Agreements Act (collectively referred to as "GATT"). The Executive Committee reviewed provisions in proposed legislation (S. 16, 104th Congress) that would establish a "WTO Dispute Settlement Review Commission" composed of five federal circuit judges who would review certain reports concerning trade disputes. On recommendation of the Intercircuit Assignments Committee, the Executive Committee, on the Conference's behalf, agreed to recommend to the Congress the exclusion of federal judges from consideration for Commission membership. The Committee further agreed that if the Judicial Conference is unable to convince the Congress to exclude federal judges, it would seek an amendment that only judges who have either retired under 28 U.S.C. § 371(a) or resigned their positions be eligible for selection as Commissioners. Further, if the Judicial Conference is unsuccessful in persuading the Congress to remove the provision for appointment of active or senior judges as Commissioners, the Committee agreed that, at a minimum, the Conference would seek an amendment that the judges to be considered for the appointment be nominated by the Chief Justice with the concurrence of their chief circuit judges.

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**RESOLUTIONS**

In response to an unfairly critical article concerning the Administrative Office which appeared in the *Legal Times*, the Executive Committee agreed that a published reply was appropriate and unanimously<sup>2</sup> expressed its support for the Director and the Administrative Office by approving the following resolution:

Having reviewed carefully the article by Naftali Bendavid in the October 24, 1994 *Legal Times*, it is the unanimous view of the Executive Committee of the Judicial Conference of the United States that the article is inaccurate and unfair.

Since he began in 1985, Director L. Ralph Mecham has been instrumental in leading the Administrative Office toward the accomplishment of its statutory mission: providing high quality support and service to the federal judiciary. Under Director Mecham's outstanding leadership, the Administrative Office has successfully dedicated itself to the achievement of these goals. This success helps ensure an effective, smoothly running judicial machine – one upon which the public can and does rely with confidence and respect.

The Executive Committee supports fully the work of the Administrative Office and endorses the goals of the agency as set by its Director. We encourage the Administrative Office and its Director to continue to provide the same caliber of excellence in its service to the courts and the public at large.

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On behalf of the Judicial Conference, the Executive Committee adopted the following resolution honoring the outgoing Director of the Federal Judicial Center:

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

**WILLIAM W SCHWARZER**

Director of the Federal Judicial Center from April 1990 through March 1995.

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<sup>2</sup>The Director, L. Ralph Mecham, did not participate in this vote.

Judge Schwarzer came to the Federal Judicial Center after fifteen years of service on the United States District Court for the Northern District of California, having distinguished himself as one of the nation's most creative and effective trial judges and as a prolific writer and teacher, especially concerning federal procedure and the management of complex litigation.

Under his leadership, the Federal Judicial Center significantly broadened its work in service of its statutory mission "to further the development and adoption of improved judicial administration in the courts of the United States." Through its education programs and reference manuals, the Judicial Center has increased its practical assistance to judges on the vexing problems of effective litigation management, including the special challenges of cases presenting complex scientific and technical evidence. Judge Schwarzer recognized the importance of the supporting personnel of the court system through creation of a separate Judicial Center division for their education and training.

Under Judge Schwarzer, Judicial Center research for Judicial Conference committees has increased substantially in such areas as appellate court structure, litigation management and revisions to the federal procedural rules, sentencing, and long-range planning. The Judicial Center has also helped promote understanding and cooperation between the state and federal judiciaries and provided assistance and information to the judiciaries in emerging democracies.

During much of Judge Schwarzer's tenure, the Judicial Center, and indeed the entire judiciary, experienced demand for services that outpaced the resources available. He has led the Judicial Center creatively and effectively during these difficult times, sustaining the morale and challenging the creativity of the Judicial Center staff, and earning the appreciation of the judges and employees of the federal courts.

We are pleased to acknowledge Judge Schwarzer's dedicated service to the judiciary, most recently as Director of the Federal Judicial Center, and we extend our sincere gratitude and esteem to him and to Mrs. Schwarzer as they return to California.



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**MISCELLANEOUS ACTIONS**

The Executive Committee:

- Approved and subsequently revised the fiscal year 1995 spending plan for the Salaries and Expenses appropriations account, and approved the spending plans for the Defender Services, Fees of Jurors, and Court Security accounts;
- Reaffirmed the need for fifteen new magistrate judge positions previously approved by the Judicial Conference (see JCUS-SEP 93, pp. 52-56; JCUS-MAR 94, pp. 23-27);
- Agreed to change the location of the part-time magistrate judge position at Lancaster in the Central District of California, to Bakersfield or Mojave in the Eastern District of California (contingent upon circuit council approval), and authorized the part-time position at Bakersfield or Mojave in the Eastern District of California to serve also in the adjoining Central District of California in accordance with 28 U.S.C. § 631(a);
- Approved the transfer of the official duty stations of two bankruptcy judges in the District of Maryland from Rockville to Greenbelt and the redesignation of Rockville as an additional place of holding bankruptcy court;
- Declined to approve a request from a chief circuit judge to extend the term of the incoming Judicial Conference district judge representative to a full three years in lieu of his serving for the unexpired term of his predecessor;
- Agreed that the Executive Committee chair would contact the president of the American Bar Association in an effort to improve coordination;
- Requested the Defender Services Committee to complete a thorough study concerning the oversight of Community Defender organizations;
- Authorized exceptions to the interim policy on employee relocation in three instances, including one which was contingent upon circuit council approval;
- Referred to the Committee on Automation and Technology, in coordination with the Committee on the Budget, a letter concerning the procurement process for computer-assisted legal research;

- Approved the "Civil Justice Reform Act Report: Development and Implementation of Plans by the United States District Courts" for filing with the Congress as required by 28 U.S.C. § 479;
- Agreed to poll members of the Judicial Conference regarding proposed legislation concerning new Federal Rules of Evidence 413-415 (see *infra* "Federal Rules of Evidence," p. 30);
- Agreed that a proposed amendment to Rule 26(c), Federal Rules of Civil Procedure, would be placed on the discussion calendar for the March Judicial Conference session in lieu of a poll of the Conference prior to the session (see *infra* "Federal Rules of Civil Procedure," p. 30); and
- Approved a request of the International Judicial Relations Committee to sponsor an Indo-United States Legal Exchange.

## COMMITTEE ON THE ADMINISTRATIVE OFFICE

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### COMMITTEE ACTIVITIES

The Committee on the Administrative Office reported that it considered a number of topics including: the implications of changes in the Congress; the agency's budget; organizational changes within the Administrative Office and an overview of agency activities; the *Legal Times* article on the Administrative Office and the agency's response (see *supra* "Resolutions," p. 7); ongoing General Accounting Office activities; and evaluation and assessment activities. The Committee also received detailed briefings on activities of the agency's Office of Facilities, Security and Administrative Services and the Office of Judges Programs.

## COMMITTEE ON AUTOMATION AND TECHNOLOGY

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### *LONG RANGE PLAN FOR AUTOMATION*

In accordance with 28 U.S.C. § 612, the Judicial Conference approved the fiscal year 1995 update to the *Long Range Plan for Automation in the Federal Judiciary* recommended by the Committee on Automation and Technology.

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## PROCESS INNOVATION

At its September 1994 session, the Judicial Conference recommitted to the Committee on Automation and Technology a recommendation that an *ad hoc* group be appointed to study work processes of the courts and to recommend necessary process changes and the application of new technology techniques to effect those changes (JCUS-SEP 94, p. 44). At this session, the Conference approved a Committee plan to identify and implement several process innovation experiments. Pilot programs will be conducted in such areas as filing and docketing, attorney electronic filing of bankruptcy petitions, attorney electronic filing and docketing in mass tort cases, Central Violations Bureau imaging and electronic transfer, technology transfer, or alternative areas of similar character and scope. All of these pilots will include plans for evaluation and will sunset in April 1998.

## COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM

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### INTERCIRCUIT ASSIGNMENTS OF BANKRUPTCY JUDGES

Under 28 U.S.C. § 155(a), a bankruptcy judge may be transferred for temporary service in any judicial district other than that for which the judge was appointed upon approval of the judicial councils of the involved circuits. The Judicial Conference approved *Guidelines for Intercircuit Assignments of Bankruptcy Judges* at its September 1988 session (JCUS-SEP 88, pp. 59-60). After study of the effectiveness of the *Guidelines*, the Committee on the Administration of the Bankruptcy System recommended, and the Judicial Conference approved, the following amendment to item 3 of the *Guidelines* (new language is underlined):

3. The chief judges of the respective lending and borrowing appellate, district, and bankruptcy courts shall be notified of the proposed intercircuit assignment when the request is made. The chief judge of the borrowing circuit shall be entitled to full access to all pertinent information concerning the borrowed bankruptcy judge.

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### BANKRUPTCY ADMINISTRATOR PROGRAM

Bankruptcy administrators in the six judicial districts in Alabama and North Carolina perform administrative functions that are almost identical to those performed by the United States trustees in the other districts. However, there are a number of

administrative responsibilities that bankruptcy administrators cannot perform because they lack statutory authority comparable to that given to United States trustees. On recommendation of the Committee, the Judicial Conference endorsed and approved for transmittal to the Congress proposed legislation that would authorize bankruptcy administrators to appoint trustees, examiners, and committees of creditors and equity security holders; to fix the maximum annual compensation and percentage fees of standing trustees; and to serve as trustees in bankruptcy cases when necessary.

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### **PLACES OF HOLDING BANKRUPTCY COURT**

Pursuant to 28 U.S.C. § 152(b)(1), the Judicial Conference determines the places of holding bankruptcy court. On recommendation of the Committee after consultation by the Director of the Administrative Office with the pertinent circuit judicial councils, the Conference approved the designations of Santa Fe, New Mexico, and Ely and Elko, Nevada, as additional places of holding bankruptcy court.

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### **AMENDMENTS TO THE BANKRUPTCY CODE**

In the discharge provision for chapter 12 of the Bankruptcy Code (the family farmer chapter) set forth at 11 U.S.C. § 1228, three references to section 1222(b)(10) are erroneous and should be replaced with references to section 1222(b)(9). The Judicial Conference approved the recommendation of the Committee to transmit to the Congress proposed technical amendments to section 1228 of the Bankruptcy Code.

## **COMMITTEE ON THE BUDGET**

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### ***BUDGET DECENTRALIZATION GUIDELINES AND PROCEDURES***

On recommendation of the Budget Committee, the Judicial Conference approved an amendment to the *Budget Decentralization Guidelines and Procedures* to allow courts to reprogram funds into the Judiciary Automation Fund with prior notification to the Administrative Office, and to remove limits on the number of transfers into the Judiciary Automation Fund from the Salaries and Expenses appropriation. These changes, which give increased flexibility to the courts, are effective immediately.

## **COMMITTEE ON CODES OF CONDUCT**

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### **COMMITTEE ACTIVITIES**

The Committee on Codes of Conduct reported that it had reviewed public comments concerning the widely-distributed proposed consolidated code of conduct, and made a number of substantive revisions thereto. The Committee plans to circulate the proposed revised consolidated code for an additional period of public comment. The Committee also plans to circulate for public comment a proposed revised code for federal public defenders. In addition, the Committee reported that it had received 40 new written inquiries and issued 44 written advisory responses. The Chairman received and responded to 38 telephonic inquiries, and individual Committee members responded to 46 inquiries from their colleagues.

## **COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT**

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### **BIAS IN THE COURTS**

The Judicial Conference approved the following resolution presented by the Committee on Court Administration and Case Management:

Invidious discrimination has no place in the federal judiciary. The circuit judicial councils are encouraged to study whether bias exists in the federal courts, based on gender, race or other invidious discrimination, and whether additional education programs are necessary.

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### **ELECTRONIC PUBLIC ACCESS FEES**

The Judicial Conference took action on several matters related to fees for electronic access to court data.

First, the Judicial Conference at previous sessions has prescribed a \$1 per minute fee for electronic access to court data for the district, bankruptcy, and appellate courts and for the United States Court of Federal Claims (see JCUS-MAR 91, p. 16; JCUS-MAR 94, p. 16; JCUS-SEP 94, p. 47), and the fee has been incorporated into the miscellaneous fee schedules for each of these federal courts. The revenue generated by the fee is to be used to support and enhance the electronic public access

systems. Because of the expectation that income accruing from the fee will exceed the costs of providing the service, the Committee recommended that the fee for electronic public access be reduced from \$1 to 75 cents per minute. The Judicial Conference approved the recommendation.

Second, sections of the miscellaneous fee schedules relating to electronic public access provide that a court "may, for good cause, exempt persons or classes of persons from the fees, in order to avoid unreasonable burdens and to promote public access to such information." On recommendation of the Committee on Court Administration and Case Management, the Judicial Conference approved the addition of an advisory note as an appendix to the miscellaneous fee schedules promulgated under 28 U.S.C. §§ 1913, 1914, 1926, and 1930, to clarify the judiciary's policy with respect to granting exemptions from electronic public access fees prescribed under those schedules. The advisory note is as follows:

#### APPENDIX

The Judicial Conference has prescribed a fee for electronic access to court data, as set forth above in the miscellaneous fee schedule. The schedule provides that the court may exempt persons or classes of persons from the fees, in order to avoid unreasonable burdens and to promote public access to such information. Exemptions should be granted as the exception, not the rule. The exemption language is intended to accommodate those users who might otherwise not have access to the information in this electronic form. It is not intended to provide a means by which a court would exempt all users.

Examples of persons and classes of persons who may be exempted from electronic public access fees include, but are not limited to: indigents; bankruptcy case trustees; not-for-profit organizations; and voluntary ADR neutrals.

Finally, to the extent that a court grants exemptions from payment of the electronic access fee that do not fit within the above-established policy, the Committee recommended that the court not receive reimbursement from the fee revenues of its costs of providing electronic public access services, including, for example, the funding of new and upgraded equipment and peripherals, and operational costs such as telephone line charges attributable to electronic access services. The Conference agreed and approved the following policy:

Adherence to the Judicial Conference policy for granting exemptions will be necessary to receive funding for electronic public access-related services to the extent such funding is derived from fees for electronic access.

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**MISCELLANEOUS FEE SCHEDULE -  
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

The statutory authority for the Judicial Conference to establish miscellaneous fee schedules for the appellate, district and bankruptcy courts, and the United States Court of Federal Claims (28 U.S.C. §§ 1913, 1914, 1926, and 1930), does not extend to the Judicial Panel on Multidistrict Litigation. In order to maintain consistency, the Judicial Conference approved a recommendation of the Committee that legislation be proposed authorizing the Conference to establish a miscellaneous fee schedule for the Judicial Panel on Multidistrict Litigation. The Conference also endorsed a Committee recommendation that the Conference seek legislation to authorize the deposit of the electronic public access fees collected by the Judicial Panel on Multidistrict Litigation into the Judiciary Automation Fund as offsetting collections to reimburse the expenses of providing the service.

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**MISCELLANEOUS BANKRUPTCY FEES**

The Federal Emergency Management Administration (FEMA) requires that applications for emergency aid following a natural disaster be accompanied, when relevant to the applicant, by copies of discharge orders and other documents related to bankruptcy proceedings. In 1993 and in 1994, in order to alleviate the financial and emotional hardships associated with obtaining copies of the required documents, the Judicial Conference, through its Executive Committee, granted one-year waivers of certain miscellaneous bankruptcy fees for flood victims from the Midwest and Southeast regions, respectively (JCUS-SEP 93, p. 39; JCUS-SEP 94, p. 42). Rather than review requests for waivers on a piecemeal basis, the Committee on Court Administration and Case Management recommended that the Conference adopt a general policy to allow a waiver for victims of natural disasters of miscellaneous fees associated with obtaining copies of documents required by FEMA in applying for emergency aid. This policy would permit waiver of copying, search, microfiche or microfilm copying and retrieval of archived documents fees and would not apply to filing fees under 28 U.S.C. § 1930(a) or the \$30 administrative fee. The Judicial Conference approved the recommendation.

On another bankruptcy fee-related matter, the Bankruptcy Reform Act of 1994 (Public Law No. 103-394) mandates a \$15 increase in compensation of chapter 7 trustees, and requires that a method be devised for raising sufficient funds for the increase. In consultation with the Committee on the Administration of the Bankruptcy System (which had carefully considered a number of alternatives), the Court Administration and Case Management Committee recommended that the Judicial Conference amend the bankruptcy court miscellaneous fee schedule promulgated pursuant to 28 U.S.C. § 1930(b) to add a new \$15 trustee fee surcharge, and the Conference agreed, as follows:

(8.1) Upon filing of a petition under chapter 7 of the Bankruptcy Code, the petitioner shall pay \$15 to the clerk of the court for payment to the trustee serving in the case as provided in 11 U.S.C. § 330(b)(2). An application to pay the fee in installments may be filed in the manner set forth in Federal Rule of Bankruptcy Procedure 1006(B).

(8.2) Upon the filing of a motion to convert a case to chapter 7 of the Bankruptcy Code, the movant shall pay \$15 to the clerk of court for payment to the trustee serving in the case as provided in 11 U.S.C. § 330(b)(2). Upon the filing of a notice of conversion pursuant to section 1208(a) or section 1307(a) of the Code, \$15 shall be paid to the clerk of the court for payment to the trustee serving in the chapter 7 case as provided in 11 U.S.C. § 330(b)(2). If the trustee serving in the case before the conversion is the movant, the fee shall be payable only from the estate in the superseded case and only to the extent that there is an estate realized.

The Judicial Conference further agreed that the \$15 fee surcharge would be effective August 1, 1995, and that the surcharge would apply in any chapter 7 case filed on or after that date and in any case converted to chapter 7 on or after that date, regardless of when the case was filed.

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#### **SENIOR CIRCUIT JUDGES**

In an effort to clarify provisions of 28 U.S.C. § 46(c) relating to participation of circuit judges who take senior status after hearing argument in an en banc case but before the decision is issued, the Judicial Conference agreed to support enactment of S. 353 (104th Congress). This bill would amend the section by adding at the end the following sentence:



A circuit judge who is in regular active service at the time of a rehearing en banc, but who retires from active service prior to the issuance of a decision, shall be competent to participate in such en banc decision.

## COMMITTEE ON CRIMINAL LAW

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### PRESENTENCE/POSTSENTENCE REPORTS

The Judicial Conference approved a recommendation of the Committee on Criminal Law to revise Publication 107, *The Presentence Report*, establishing standards for the preparation of petty offense presentence and postsentence reports for publication and distribution to probation officers. The revisions, which impose fewer requirements, were developed as part of a program to economize operations in probation and pretrial services offices.

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### JUDGMENT IN A CRIMINAL CASE

On recommendation of the Committee, the Judicial Conference approved revisions to the "Judgment in a Criminal Case," including the creation of an "Amended Judgment," for distribution to the courts. The modifications (1) implement new requirements created by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law No. 103-322) in the areas of drug possession, drug testing, and the probation officer's duty to report address changes of certain offenders to law enforcement agencies; (2) assist in the implementation of national collection procedures of the National Fine Center; and (3) reflect case law regarding restitution.

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### UNITED STATES SENTENCING COMMISSION

The Judicial Conference approved a Criminal Law Committee proposal that the Conference recommend to courts from which judge-commissioners appointed to serve on the United States Sentencing Commission are drawn that, if a judge-commissioner so desires, the judge's workload on the court be adjusted to accommodate service on the United States Sentencing Commission.

In addition, the Conference approved the *Annual Report of the Judicial Conference to the United States Sentencing Commission* for submission to the Commission. The Judicial Conference is required under 28 U.S.C. § 994(o) to submit a written report to the United States Sentencing Commission, at least annually.

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**WITNESS SECURITY PROGRAM**

The Conference approved a recommendation of the Criminal Law Committee relating to the witness security program.

**COMMITTEE ON DEFENDER SERVICES**

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**DEFENDER ORGANIZATION FUNDING REQUESTS**

Under its delegated authority from the Judicial Conference (JCUS-MAR 89, pp. 16-17), the Defender Services Committee approved funding requests for the fiscal year 1995 for Federal Public Defender organizations in the amount of \$113,150,600, and for Community Defender organizations in the amount of \$30,027,500. In addition, the Committee approved \$19,354,400 for Post-Conviction Defender organizations, formerly known as "Death Penalty Resource Centers."

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**DEATH PENALTY REPRESENTATION**

The Violent Crime Control and Law Enforcement Act of 1994 (Public Law No. 103-322) amended section 3005 of title 18, United States Code, to set new standards and procedures for the appointment of counsel in federal capital prosecutions. To implement the amendment, the Committee on Defender Services recommended, and the Judicial Conference approved, revisions to paragraph 6.01 of the *Criminal Justice Act Guidelines (CJA Guidelines)*. The revisions include new guidelines regarding the number of counsel to be appointed in federal capital prosecutions, their qualifications, and the procedures for Federal Public Defender organizations and the Administrative Office to follow in making recommendations to the courts on the assignment of counsel in such cases.

The Conference also approved the Committee's recommendation to amend paragraph 6.01(A) of the *CJA Guidelines* to provide that judicial officers "should consider appointing" at least two counsel in capital habeas corpus cases.

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**CRIMINAL JUSTICE ACT COMPENSATION**

At its March 1993 session, the Judicial Conference agreed to propose that Congress amend the Criminal Justice Act (CJA) to delegate to the Conference

authority to set case compensation maxima for panel attorneys and experts (JCUS-MAR 93, p. 27). After reaffirming its support for such an amendment to the CJA, the Conference at this session adopted the following alternatives in the event that authority to establish case compensation maxima is not granted:

- 1) The CJA should be amended to authorize the Judicial Conference to increase the case compensation maxima immediately within particular districts and circuits in proportion to the increases in CJA hourly rates implemented since 1986 in those districts or circuits;
- 2) The CJA should be amended to authorize the Judicial Conference to increase the case compensation maxima periodically in proportion to any future increases in CJA attorney compensation rates; and
- 3) If the Judicial Conference is not authorized to increase case compensation maxima, the Congress should amend the CJA to increase the case compensation maxima immediately for attorneys and experts.

The Conference also approved a Committee recommendation to amend paragraph 2.11(A) of the *CJA Guidelines* to permit appointed counsel to claim compensation for work performed by attorneys other than associates or partners, with the prior authorization of the court.

In addition, the Defender Services Committee, pursuant to the authority delegated to it by the Judicial Conference (JCUS-SEP 91, p. 57), approved a maximum rate of \$75 per hour for both in-court and out-of-court services of appointed counsel for the District of South Dakota, subject to the availability of funds. This brings to 89 the number of districts for which an alternative CJA panel attorney compensation rate of \$75 per hour has been authorized. Due to funding limitations, alternative rates have been implemented in only 16 of these districts.

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#### **PANEL ATTORNEY TIME RECORDS**

In an effort to monitor and control costs, the Committee recommended, and the Judicial Conference approved, an amendment to the *CJA Guidelines* to add an explicit requirement that CJA panel attorneys maintain and retain contemporaneous time records to assist in the review of questioned vouchers by the presiding judicial officer and to facilitate the audit of payments. The amendment reads as follows:

2.32 Record Keeping. Appointed counsel must maintain contemporaneous time and attendance records for all work performed, including work performed by associates, partners, and support staff, as well as expense records. Such records, which may be subject to audit, must be retained for three years after approval of the final voucher for an appointment.

## **COMMITTEE ON FEDERAL-STATE JURISDICTION**

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### **COMMITTEE ACTIVITIES**

The Committee on Federal-State Jurisdiction reported that it has been analyzing the implications to the judiciary of a number of legislative initiatives, mostly related to the House Republicans' "Contract with America," including habeas corpus reform; prisoner civil rights litigation; judicial review and new civil actions; product liability reform; requirements for reports issued by committees of the House of Representatives; and private securities litigation reform.

## **COMMITTEE ON FINANCIAL DISCLOSURE**

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### **COMMITTEE ACTIVITIES**

The Committee on Financial Disclosure reported that as of December 27, 1994, it had received 2,874 financial disclosure reports and certifications for the calendar year 1993, including 1,203 reports and certifications from justices and Article III judges, 344 from bankruptcy judges, 442 from magistrate judges, and 885 from judicial employees.

## **COMMITTEE ON INTERCIRCUIT ASSIGNMENTS**

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### **COMMITTEE ACTIVITIES**

The Committee on Intercircuit Assignments reported that during the period from July 1, 1994, through December 31, 1994, 83 intercircuit assignments, undertaken by 64 Article III justices and judges, were recommended by the Committee and approved by the Chief Justice.

## **COMMITTEE ON INTERNATIONAL JUDICIAL RELATIONS**

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### **COMMITTEE ACTIVITIES**

The Committee on International Judicial Relations reported that it has received hundreds of responses to its survey concerning the interest of judges and court administrators in providing assistance to foreign judiciaries. The survey will assist the Committee in providing referrals to parties interested in identifying judges and court personnel for rule of law programs and other judiciary-related international matters.

## **COMMITTEE ON THE JUDICIAL BRANCH**

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### **MILITARY SURVIVOR BENEFIT PLAN**

At its September 1994 session, the Judicial Conference agreed to seek legislation to permit federal judges who are military retirees to choose the Judicial Survivors' Annuities System (JSAS) rather than the Military Survivor Benefit Plan for their surviving dependents (JCUS-SEP 94, pp. 52-53). Because there are some anomalies in the treatment of judges who are military retirees which will not be remedied by its September 1994 action, the Conference, at this session, approved a recommendation of the Committee on the Judicial Branch to authorize the Director of the Administrative Office to fashion and submit to the Congress legislation to correct various aberrations in the treatment of judges who are enrolled in the JSAS and the Military Survivor Benefit Plan. This action is taken in lieu of the Conference's September 1994 position seeking amendment to chapter 73 of title 10, United States Code.

## **COMMITTEE ON JUDICIAL RESOURCES**

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### **RELEASE OF JUDGE-SPECIFIC DATA**

Since 1974, based on a decision of the former Committee on Court Administration, the Administrative Office has been following a practice of providing statistics regarding individual judicial workloads only on an "impersonal basis" and, for the most part, limiting disclosure of names of individual judges when compiling statistical information about the caseload of the courts. Recognizing the potential for judge-specific information taken out of context to be misinterpreted, the administrative burden of compiling information to satisfy outside requests, and the availability to

researchers of the information from individual courts, the Committee on Judicial Resources recommended that the Judicial Conference endorse the current practice prohibiting disclosure (except to the extent required by law) of judge-identifying information from statistical databases, while the Committee continues to study the matter. The Judicial Conference approved the recommendation.

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#### **PREARGUMENT ATTORNEY OFFICES**

On recommendation of the Committee on Judicial Resources, the Judicial Conference approved a new staffing methodology for allocating preargument conference attorney positions. The methodology establishes criteria, including staffing benchmarks of 200 settlement conferences for each conference attorney and 400 settlement conferences for each support position. The benchmarks would not be applied automatically, but would be used within the framework of the criteria, taking into consideration the uniqueness of each circuit's program.

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#### **ELECTRONIC COURT RECORDER OPERATOR POSITIONS**

The Judicial Conference approved modifications, as recommended by the Committee on Judicial Resources, to the methods for allocating electronic court recorder operator positions for active district judges. In the future, electronic court recorder operator positions will be allocated in the same manner as court reporter positions, removed from the district clerks' work measurement formula, and exempt from percentage staffing level limitations for district clerks' offices. Electronic court recorder operators will remain under the supervision of the clerk, and incumbents of these positions will continue to perform other deputy clerk functions when not performing court recording functions. In addition, the same credit will be provided in the district clerks' work measurement formula for supervision of electronic court recorder operators for active district judges as is provided for court reporter supervision. Allocation of electronic court recorder operator positions for senior district judges, bankruptcy judges and magistrate judges is not affected by this action.

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#### **TRANSCRIPT FORMAT GUIDELINES**

In order to conform to available technology, the Judicial Resources Committee recommended, and the Judicial Conference approved, an amendment to the transcript format guidelines to delete the requirement that words be hyphenated at the end of a line of transcript text. The guidelines are published in the *Guide to Judiciary Policies and Procedures*, Volume VI, Chapter XVIII.

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### **SAVED-GRADE AND SAVED-PAY**

Upon the death of a judicial officer, the secretaries to that judge are covered by the saved-grade and saved-pay plan. The plan provides that the secretaries are entitled to a two-year saved-grade period, except that the amount of time the secretaries have been retained in their positions beyond the death of the judge is subtracted from that two-year period. The Judicial Conference approved a Committee recommendation that law clerks on the personal staff of a judge who dies are subject to the same requirement as judges' secretaries with respect to the saved-grade period.

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### **LEAVE PROGRAM**

The 103rd Congress passed several pieces of legislation that affect court employees under the leave program. On recommendation of the Committee, the Judicial Conference approved the issuance of leave policy changes to replace current guidance appearing in the *Guide to Judiciary Policies and Procedures*, Volume I, Chapter X, Subchapters 1630.1 and 1630.2.

## **COMMITTEE ON LONG RANGE PLANNING**

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### **PROPOSED LONG RANGE PLAN**

The Judicial Conference took the following actions with regard to the *Proposed Long Range Plan for the Federal Courts*:

- 1) Received the Long Range Planning Committee's submission of the *Proposed Long Range Plan for the Federal Courts (Plan)*;
- 2) Agreed to refer to the appropriate Judicial Conference committees for further study and report to the September 1995 Judicial Conference any of the *Plan's* numbered recommendations upon the specific request of a Conference member made no later than April 11, 1995;
- 3) Approved, effective April 12, 1995, all recommendations of the *Plan* not identified by a Conference member as requiring further study (as provided above). Approval of the *Plan* recommendations shall include approval of the implementation strategies but shall not include approval of the commentary; and

- 4) Authorized public distribution of the proposed *Plan* with the following disclaimer: "The Committee on Long Range Planning has proposed this *Long Range Plan* for consideration by the Judicial Conference of the United States. None of the recommendations presented herein represents the policy of the Judicial Conference unless approved by the Judicial Conference."

The Conference also agreed to maintain a planning mechanism in its decision-making process and promote continued planning at all levels of the federal court system.

## **COMMITTEE ON THE ADMINISTRATION OF THE MAGISTRATE JUDGES SYSTEM**

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### **MISDEMEANOR AND PETTY OFFENSE CASES INVOLVING JUVENILE DEFENDANTS**

Magistrate judges have the authority to try and sentence juvenile defendants accused of certain misdemeanor offenses and infractions, but not others. In addition, although magistrate judges may order the pretrial detention of juvenile defendants, they have no authority to sentence juvenile defendants to terms of imprisonment in any case. The Judicial Conference approved a Magistrate Judges Committee recommendation to endorse amendment of the Federal Magistrates Act, 18 U.S.C. § 4301(g), to give magistrate judges authority over Class A misdemeanor cases involving juvenile defendants and to provide magistrate judges with the authority to sentence juvenile defendants to terms of imprisonment in petty offense and misdemeanor cases.

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### **CHANGES IN MAGISTRATE JUDGE POSITIONS**

After consideration of the report of the Committee and the recommendations of the Director of the Administrative Office, the district courts, and the judicial councils of the circuits, the Judicial Conference approved the following changes in salaries and arrangements for full-time and part-time magistrate judge positions. Changes with a budgetary impact are to be effective when appropriated funds are available.



**FOURTH CIRCUIT**

North Carolina, Eastern

- 1) Increased the salary of the part-time magistrate judge position, upon redesignation as Greenville, from Level 5 (\$20,640 per annum) to Level 4 (\$30,960 per annum); and
- 2) Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

District of South Carolina

Converted the part-time magistrate judge position at Florence to full-time status.

Eastern District of Virginia

- 1) Authorized an additional full-time magistrate judge position at Alexandria; and
- 2) Made no change in the number, locations, salaries, or arrangements of the other full-time magistrate judge positions in the district.

**FIFTH CIRCUIT**

Eastern District of Louisiana

Made no change in the number, locations, salaries, or arrangements of the magistrate judge positions in the district.

Western District of Louisiana

Made no change in the number, locations, salaries, or arrangements of the magistrate judge positions in the district.

Southern District of Mississippi

- 1) Authorized an additional full-time magistrate judge position at Hattiesburg or Biloxi or Gulfport; and
- 2) Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

Northern District of Texas

Made no change in the number, locations, salaries, or arrangements of the magistrate judge positions in the district.

Southern District of Texas

- 1) Authorized an additional full-time magistrate judge position at Corpus Christi; and
- 2) Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

**SIXTH CIRCUIT**

Southern District of Ohio

Discontinued the part-time magistrate judge position at Portsmouth upon the expiration of the term of the incumbent on April 30, 1995.

**SEVENTH CIRCUIT**

Central District of Illinois

Authorized the full-time magistrate judges at Peoria, Danville (or Champaign-Urbana), and Springfield, in the Central District of Illinois, to serve in the adjoining Southern District of Iowa in accordance with 28 U.S.C. § 631(a).

**EIGHTH CIRCUIT**

Southern District of Iowa

- 1) Authorized the two full-time magistrate judges at Des Moines and the part-time magistrate judges at Council Bluffs and Burlington, in the Southern District of Iowa, to serve in the adjoining Central District of Illinois and District of Nebraska in accordance with 28 U.S.C. § 631(a);
- 2) Redesignated the part-time magistrate judge position at Burlington as Burlington or Davenport; and
- 3) Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

District of Nebraska

- 1) Authorized the full-time magistrate judges at Omaha and Lincoln, in the District of Nebraska, to serve in the adjoining Southern District of Iowa in accordance with 28 U.S.C. §631(a); and
- 2) Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

District of South Dakota

- 1) Increased the salary of the part-time magistrate judge position at Sioux Falls from Level 5 (\$20,640 per annum) to Level 2 (\$51,600 per annum); and
- 2) Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

**NINTH CIRCUIT**

District of Hawaii

Increased the salary of the part-time magistrate judge position at Wailuku from Level 7 (\$5,160 per annum) to Level 4 (\$30,960 per annum) for a five-month period commencing on April 1, 1995, with a reduction back to Level 7 thereafter, subject to the availability of funds.

District of Montana

Made no change in the number, locations, salaries, or arrangements of the magistrate judge positions in the district.

District of Nevada

- 1) Authorized an additional full-time magistrate judge position at Reno; and
- 2) Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

**TENTH CIRCUIT**

Eastern District of Oklahoma

Made no change in the number, locations, salaries, or arrangements of the magistrate judge positions in the district.

**ELEVENTH CIRCUIT**

Middle District of Alabama

- 1) Authorized an additional full-time magistrate judge position at Montgomery; and
- 2) Made no change in the number, locations or arrangements of the other magistrate judge positions in the district.

Northern District of Florida

- 1) Authorized an additional full-time magistrate judge position at Pensacola or Gainesville; and
- 2) Upon the appointment of a magistrate judge to fill the newly-authorized position, agreed to:
  - a. discontinue the part-time magistrate judge position at Panama City if the court decides to locate the new full-time magistrate judge position at Pensacola; or
  - b. discontinue the part-time magistrate judge position at Gainesville if the court decides to locate the new full-time magistrate judge position at Gainesville.
- 3) Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

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**"CONTRACT WITH AMERICA"**

Section 301(e) of the "Violent Criminal Incarceration Act of 1995" (H.R. 667, 104th Congress), which has passed the House of Representatives, provides that only a United States magistrate judge may be appointed to serve as a special master or

monitor in a prison conditions case. It states that a special master in such a case shall make proposed findings on the record on complicated factual issues, "but shall have no other function," and that parties "may not by consent extend the function of a special master beyond that permitted under this subsection." On recommendation of the Committee, the Judicial Conference opposed section 301(e) of H.R. 667 because it would limit the authority of a district court to appoint special masters under Rule 53 of the Federal Rules of Civil Procedure and could be interpreted to limit the authority of a magistrate judge under the Federal Magistrates Act (see 28 U.S.C. § 636). The Judicial Conference also agreed to request that if the measure is adopted, adequate resources be provided for the judiciary to carry out its mandate.

## **COMMITTEE TO REVIEW CIRCUIT COUNCIL CONDUCT AND DISABILITY ORDERS**

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### **COMMITTEE ACTIVITIES**

In March 1994, the Judicial Conference adopted a series of recommendations made by the Committee to Review Circuit Council Conduct and Disability Orders in response to recommendations contained in the Report of the National Commission on Judicial Discipline and Removal (JCUS-MAR 94, pp. 27-31). Many of the recommendations require the development of language amending the "Illustrative Rules Governing Complaints of Judicial Misconduct and Disability." The Committee reported that it is preparing revisions to the "Illustrative Rules," which will be circulated for comment within the judiciary in the near future.

## **COMMITTEE ON RULES OF PRACTICE AND PROCEDURE**

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### **OFFICIAL BANKRUPTCY FORMS**

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed amendments to the Official Bankruptcy Forms made necessary by the enactment of the Bankruptcy Reform Act of 1994 (Public Law No. 103-394). The Judicial Conference approved the Committee's proposals to amend Official Bankruptcy Forms 1, 3, 6, 7, 8, 9A, 9C, 9D, 9E, 9E(Alt.), 9F, 9F(Alt.), 9G, 9H, 9I, 10, 16A, 16B, 16C, 17, and 18, and to adopt new Official Forms 16D and 19. The amendments take effect immediately.

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## **FEDERAL RULES OF CIVIL PROCEDURE**

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed amendments to Civil Rule 26 (General Provisions Governing Discovery; Duty of Disclosure). The proposed amendments grew out of a cooperative process in which the Advisory Committee on Civil Rules responded to concerns expressed by Congress in a number of legislative proposals. The amendments sought to meet the concern that protective orders may conceal information that could protect against ongoing risks to public health and safety, without imposing onerous procedural requirements that might weaken the benefits of protective orders in litigation over issues that do not involve any risk to public health or safety. The amendments were circulated to the bench and bar and discussed at a public hearing, and modifications were made to the original proposal in response to comments received. After voting to modify the proposed rule by striking the phrase "on stipulation of the parties," the Judicial Conference recommitted to the Committee on Rules of Practice and Procedure for further study the proposed amendments to Civil Rule 26(c).

The Rules Committee also recommended to the Conference that it propose to the Congress that the service provisions contained in the Suits in Admiralty Act, 46 U.S.C. § 742, which are different from the service provisions in Civil Rule 4, be deleted. The Committee noted that § 742 was enacted before the Civil Rules were adopted, and concluded that there is no apparent reason to have inconsistent time periods for service of process or to treat suits in admiralty differently from other civil actions. The Conference approved the Committee's recommendation.

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## **FEDERAL RULES OF EVIDENCE**

Under the "Violent Crime Control and Law Enforcement Act of 1994" (Public Law No. 93-322), new Rules 413-415 of the Federal Rules of Evidence, dealing with the admission of character evidence in certain sexual misconduct cases, were to take effect in February 1995 unless the Judicial Conference submitted alternative recommendations for amending the Evidence Rules as they affect the admission of evidence of a defendant's prior sexual assault or child molestation crimes in cases involving sexual assault or child molestation. By mail ballot concluded February 8, 1995, the Judicial Conference approved a Rules Committee recommendation to urge that Congress reconsider its policy determinations underlying Evidence Rules 413-415. In the alternative, the Conference proposed amendments to Evidence Rules 404 and 405 in lieu of new Evidence Rules 413, 414, and 415. The Conference's report was transmitted to the Congress on February 9, 1995.

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## COMMITTEE COMPOSITION

The "Violent Crime Control and Law Enforcement Improvement Act of 1995" (S. 3, 104th Congress), includes a provision that would require that the number of representatives from the Department of Justice on the Appellate, Criminal, Evidence, and Standing Rules Committees be equal to the number of non-judge committee members who represent defendants. The Judicial Conference endorsed a Committee recommendation that it oppose legislation regulating the composition of the committees constituted to advise the Judicial Conference and the Chief Justice of the United States.

## COMMITTEE ON SECURITY, SPACE AND FACILITIES

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### COURT SECURITY COMMITTEES

Each district has established a security committee to ensure that court security matters are addressed promptly and systematically. In order to reflect accurately the nature and composition of the committees, the members of which may include individuals from outside the district court, such as the United States Marshal, the United States Attorney, and representatives from the court of appeals and General Services Administration (GSA), the Committee on Security, Space and Facilities recommended that the name be changed from "district court security committee" to "court security committee." The Judicial Conference approved the recommendation.

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### SETTING PRIORITIES FOR COURTHOUSE CONSTRUCTION PROJECTS

For some time, Congress and the General Services Administration have been urging the judiciary to prioritize courthouse construction project requests. Recognizing the complexity of the process and its implications for court governance, the Committee nonetheless determined that adoption of a process of setting priorities for construction projects would be beneficial during these times of severely limited financial resources and enhanced fiscal accountability. On recommendation of the Committee, the Judicial Conference agreed to adopt a process for prioritizing courthouse construction and alteration projects requiring congressional authorization. The process involves the circuit judicial councils, the Committee, and the Judicial Conference as follows:

- 1) The local court develops its long range facilities plan;
- 2) The circuit judicial council exercises statutory authority to consider the need for proposed projects resulting from the plan;
- 3) Circuit councils and courts receive from the Security, Space and Facilities Committee listings of all council-approved projects for their respective districts or circuits;
- 4) Courts forward comments on listings to the circuit councils;
- 5) Councils consider court comments and provide feedback to the Committee;
- 6) The Committee compiles a proposed national five-year plan taking into account court and council comments and spending caps, and utilizing a set of criteria based on urgency of need, including (a) the length of time that space has been needed; (b) the number of judicial officers impacted by the lack of space; (c) alternatives available to provide temporary solutions; and (d) the severity of security problems;
- 7) The Committee provides its recommendations to relevant courts and councils for review;
- 8) Any comments received are considered by the Committee and all comments will be made available to the Judicial Conference;
- 9) A proposed five-year plan is provided to the Judicial Conference for its consideration; and
- 10) If approved by the Conference, the plan is provided to GSA for integration with the government-wide construction program.

## **MEMORIAL RESOLUTIONS**

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Noting the deaths of Judge John F. Gerry and Judge Vincent L. Broderick, the Judicial Conference adopted the following resolutions:



March 14, 1995

The Judicial Conference of the United States notes with deep sadness the death of the Honorable

**JOHN F. GERRY**

of Moorestown, New Jersey, on March 10, 1995.

Judge Gerry served with distinction on the federal bench for over twenty years, including seven years as chief judge of the District of New Jersey. As a member of the Judicial Conference and three of its committees, most notably as chairman of the Executive Committee, Judge Gerry played a pivotal role in shaping federal judicial administration. We will miss his wisdom, common sense, and ever-present wit. He has left a legacy that will not soon be forgotten.

The members of the Judicial Conference convey their deepest sympathies to Judge Gerry's widow, Jean Gerry, and to his family.

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The Judicial Conference of the United States notes with deep sadness the death of the Honorable

**VINCENT L. BRODERICK**

of New York City, New York, on March 3, 1995.

Judge Broderick served the judiciary with distinction for over nineteen years. In addition to his contributions as a district judge in the Southern District of New York, he made a significant impact on federal judicial administration through his work as a member and chairman of the Judicial Conference Committee on Criminal Law.

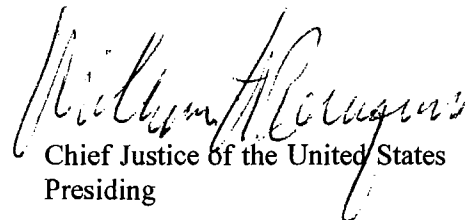
The members of the Judicial Conference convey their deepest sympathies to Judge Broderick's widow, Sally Broderick, and to his family.

## **FUNDING**

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

## **RELEASE OF CONFERENCE ACTION**

The Conference authorized the immediate release of matters considered by this session where necessary for legislative or administrative action.

  
Chief Justice of the United States  
Presiding

April 28, 1995