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## **MATERIALS**

### **JUDICIAL DEPARTMENT OF THE SUPREME COURT OF THE RF STUDY TOUR TO THE UNITED STATES**

**Washington, D.C  
Reno, Nevada  
San Francisco, California**

**February, 1999**

**NATIONAL JUDICIAL COLLEGE  
in cooperation with  
Committee of International Judicial Relations of Judicial Conference of the United States  
Administrative Office of the United States Courts  
Federal Judicial Center  
Administrative Office of the California Courts  
University of San Francisco College of Law**

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### **Judge Betty Barteau, Chief of Party, Russian-American Judicial Partnership**

After receiving a law degree from Indiana University School of Law - Indianapolis, Judge Barteau was in private practice for 10 years. During this time she also served as a deputy prosecutor, a defense attorney, county attorney and as a city court judge. She was elected to the Marion Superior Court in Indianapolis, Indiana in 1974 where she served for 16 years. In 1991 she joined the Indiana Court of Appeals, leaving that court in 1998 to become the Chief of the Russian American Judicial Partnership, a USAID funded project of the National Judicial College and Chemonics International based in Moscow, Russia. This project is providing and developing judicial education and training for the Commercial and General Jurisdiction courts of Russia, as well as working with the courts in the development of technical support systems and legal publications. She received her LLM in the Judicial Process from the University School of Law in 1994. Judge Barteau is past president of the Association of Family and Conciliation Courts and was a founding member of the National Association of Women Judges. She has received many awards including being named Indiana Women of the Year in 1978 for her contribution in furthering equality for women in the business and professional fields. Judge Barteau is a 1975 graduate of the National Judicial College, has been on the faculty since 1978, and was the 1993 recipient of the Griswold Award for Excellence in Teaching. She was a charter member of the NJC Faculty Council and served as its chair for the year 1990.

### **Michael W Dolan, Chief, Article III Judges Division**

Before joining the Administrative Office of the U S Courts, Mr Dolan practiced tax and legislative law for nine years with the Washington Office of Winthrop, Stimson, Putnam & Roberts. Prior to entering private practice, Mr Dolan spent fourteen years at the U S Department of Justice where he served as Deputy Assistant Attorney General for Legislative Affairs under both Democrat and Republican administrations. While serving in the Department of Justice, Mr Dolan received numerous awards, including the John Marshall Award. A graduate of the University of Kansas, Mr Dolan received a JD (with honors) from the George Washington University National Law Center in 1969. Following law school, he clerked for the Hon Catherine B Kelly of the District of Columbia Court of Appeals. In 1981, he received a Master of Laws in Taxation from Georgetown University.

### **Peter G McCabe, Assistant Director for Judges Programs**

As Assistant Director for Judges Programs, Mr McCabe provides management and oversight of judicial officer programs through the Article III Judges Division, Bankruptcy Judges Division, and Magistrate Judges Division. He oversees the formulation of federal rules of practice and procedure through Rules Committee Support Office, and has served as Secretary to the Committee on Rules of Practice and Procedure and its Advisory Committees on Appellate, Bankruptcy, Civil, Criminal, and Evidence Rules since 1992. Before becoming an Assistant Director, Mr McCabe was the first chief of the Magistrate Judges Division, serving in that capacity from 1969 to 1982. Before joining the Administrative Office in 1969, he was employed as a trial attorney with the United States Civil Service Commission for four years, and before that as a law clerk first to Chief Judge Wilson Cowen and then to Chief Trial Judge Marion T Bennett of the United States Court of Claims (now United States Court of Appeals for the Federal Circuit). Mr McCabe received a bachelor of arts degree from Columbia University in 1961, and a jurist doctor degree from Harvard Law School in 1964.

### **Judge Michael M Mihm, U S District Judge Central District of Illinois**

Judge Mihm was appointed in 1982 and has served as Chief judge from November, 1991 to present. Prior to his appointment to his Federal Judicial position Judge Mihm served as Assistant prosecuting Attorney, St Louis Missouri, 1967-68, Assistant State's Attorney, Peoria County, Illinois, 1968-69, Peoria County State's Attorney, 1972-80, private practice, 1980-1982. Judge Mihm received his BA from Loras College, Dubuque, Iowa in 1964 and his JD from St. Louis University, St. Louis Missouri in 1967.

**Leonidas Ralph Mecham, Director, Administrative Office of the US Courts**

Director since 1985, Leonidas Ralph Mecham earned his BS at the University of Utah, his JD degree at George Washington University and holds a MPA from Harvard. He was awarded a congressional fellowship to Harvard in 1963 and a graduate fellowship by Harvard in 1965. In addition to his position as Director of the Administrative Office, Mr. Mecham is a member of the Executive Committee of the Judicial Conference, is secretary to the Judicial Conference of the United States and serves on the Board of directors of the Federal Judicial Center. Mr. Mecham was Vice President in charge of government relations for the Anaconda Company until it was acquired by the Atlantic Richfield Company. He then served as Washington representative for the Atlantic Richfield Company until he accepted the Administrative Office directorship. Mr. Mecham is a member of the Utah and District of Columbia Bar Associations. He served 11 years on the University of Utah Advisory Committee, most recently as Chairman.

**Robert M. Wily, Clerk, United States Bankruptcy Court, Eastern District of Virginia**

Mr. Wily has served in this position since December 1988, having previously served as chief deputy clerk of that court for two years. Mr. Wily attended the University of Utah, where he received a bachelor's degree in 1975 and a law degree in 1978. Immediately following law school, Mr. Wily engaged in the private practice of law in Salt Lake City. He was then employed by the United States Bankruptcy Court in Utah, first as the court's estate administrator and later as the clerk of the court, before coming to the Eastern District of Virginia.

**David M. Vaughn, Deputy Chief of Party, Russian-American Judicial Partnership**

Mr. Vaughn currently serves as Deputy Chief of Party in Moscow for the Russian-American Judicial Partnership project with is assisting the judicial leadership of Russia to implement judicial reforms. Prior to this assignment, he served in Almaty, Kazakhstan, as a volunteer liaison for the American Bar Association Central and East European Law Initiative, where he ran two fully-staffed field offices and was responsible for a variety of legal reform programs aimed at judges and lawyers. While in Kazakhstan, he also worked closely with the Parliament on improving the quality of legislation. He obtained a BA in Russian language and an MA in political science for the University of Vermont in Burlington, and a JD concentrating in international law for the American University in Washington, DC. He received Russian language training at the Pushkin Institute of the Russian Language in Moscow and the University of Khar'kov in Ukraine. He has over six years experience in international, constitutional, and criminal law, and has a background in international affairs and human rights issues.

## **SECTION 1**

### **U.S. Constitution with Amendments**

**THE CONSTITUTION OF THE UNITED STATES**

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America

**Article I**

Section 1 All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives

Section 2 The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature

No person shall be a Representative who shall not have attained to the age of twenty five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other Persons The actual Enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct The number of Representatives shall not exceed one for every thirty thousand, but each state shall have at least one Representative, and until such enumeration shall be made, the state of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three

When vacancies happen in the Representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies

The House of Representatives shall choose their speaker and other officers, and shall have the sole power of impeachment

Section 3 The Senate of the United States shall be composed of two Senators from each state,

chosen by the legislature thereof, for six years, and each Senator shall have one vote

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and the third class at the expiration of the sixth year, so that one third may be chosen every second year, and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States and who shall not, when elected, be an inhabitant of that state for which he shall be chosen

The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided

The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the office of President of the United States

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside. And no person shall be convicted without the concurrence of two thirds of the members present

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law

Section 4 The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the legislature thereof, but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day

Section 5 Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide

Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy, and the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the journal

## SECTION 1

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Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting

Section 6 The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same, and for any speech or debate in either House, they shall not be questioned in any other place

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time and no person holding any office under the United States, shall be a member of either House during his continuance in office

Section 7 All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other Bills

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States, if he approve he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it If after such reconsideration two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States, and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill

Section 8 The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States, but all duties, imposts and excises shall be uniform throughout the United States,

To borrow money on the credit of the United States,

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes,

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies

## SECTION 1

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throughout the United States,

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures,

To provide for the punishment of counterfeiting the securities and current coin of the United States,

To establish post offices and post roads,

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries,

To constitute tribunals inferior to the Supreme Court,

To define and punish piracies and felonies committed on the high seas and offenses against the law of nations,

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water,

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years,

To provide and maintain a navy,

To make rules for the government and regulation of the land and naval forces,

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions,

To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress,

To exercise exclusive legislation in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings,--And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof

Section 9 The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it

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No bill of attainder or ex post facto Law shall be passed

No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken

No tax or duty shall be laid on articles exported from any state

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another nor shall vessels bound to, or from, one state, be obliged to enter, clear or pay duties in another

No money shall be drawn from the treasury, but in consequence of appropriations made by law, and a regular statement and account of receipts and expenditures of all public money shall be published from time to time

No title of nobility shall be granted by the United States and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state

Section 10 No state shall enter into any treaty, alliance, or confederation, grant letters of marque and reprisal, coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts, pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility

No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing it's inspection laws and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the Congress

No state shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay

## Article II

Section 1 The executive power shall be vested in a President of the United States of America He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows

Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves And they shall make a

## SECTION 1

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list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed, and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President, and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each state having one vote. A quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President, neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen Years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation --"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

Section 2 The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States, he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur, and he shall nominate, and by and with the advice and consent of the Senate shall appoint ambassadors, other public ministers and consuls,

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judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session

Section 3 He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient, he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, he shall receive ambassadors and other public ministers, he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States

Section 4 The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors

### **Article III**

Section 1 The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office

Section 2 The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority,--to all cases affecting ambassadors, other public ministers and consuls,--to all cases of admiralty and maritime jurisdiction,--to controversies to which the United States shall be a party,--to controversies between two or more states,--between a state and citizens of another state,-- between citizens of different states,--between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make

The trial of all crimes, except in cases of impeachment, shall

be by jury, and such trial shall be held in the state where the said crimes shall have been committed, but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed

Section 3 Treason against the United States, shall consist only in levying war against them, or in

adhering to their enemies, giving them aid and comfort No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted

## **Article IV**

Section 1 Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof

Section 2 The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due

Section 3 New states may be admitted by the Congress into this union, but no new states shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States, and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state

Section 4 The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence

## **Article V**

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the

several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress, provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article, and that no state, without its consent, shall be deprived of its equal suffrage in the Senate

## **Article VI**

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding

The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution, but no religious test shall ever be required as a qualification to any office or public trust under the United States

## **Article VII**

The ratification of the conventions of nine states, shall be sufficient for the establishment of this Constitution between the states so ratifying the same

Done in convention by the unanimous consent of the states present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty seven and of the independence of the United States of America the twelfth In witness whereof We have hereunto subscribed our Names,

**G Washington-President and deputy from Virginia**

**New Hampshire John Langdon, Nicholas Gilman**

**Massachusetts Nathaniel Gorham, Rufus King**

**Connecticut Wm Saml Johnson, Roger Sherman**

**New York Alexander Hamilton**

**New Jersey Wil Livingston, David Brearly, Wm Paterson, Jona Dayton**

**Pennsylvania B Franklin, Thomas Mifflin, Robt Morris, Geo Clymer, Thos FitzSimons, Jared Ingersoll, James Wilson, Gouv Morris**

**Delaware** Geo Read, Gunning Bedford jun, John Dickinson, Richard Bassett, Jacob Broom

**Maryland** James McHenry, Dan of St Thos Jenifer, Danl Carroll

**Virginia** John Blair--, James Madison Jr

**North Carolina** Wm Blount, Richd Dobbs Spaight, Hu Williamson

**South Carolina** J Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler

**Georgia** William Few, Abr Baldwin

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*Amendments 1-10 of the Constitution*

The Conventions of a number of the States having, at the time of adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added, and as extending the ground of public confidence in the Government will best insure the beneficent ends of its institution,

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all or any of which articles, when ratified by three-fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution, namely

**Amendment I**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances

**Amendment II**

A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed

**Amendment III**

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law

#### **Amendment IV**

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized

#### **Amendment V**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use, without just compensation

#### **Amendment VI**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense

#### **Amendment VII**

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law

#### **Amendment VIII**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted

**Amendment IX**

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people

**Amendment X**

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people

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**AMENDMENTS TO THE CONSTITUTION**

*For the First 10 Amendments, see the*

**Amendment XI**

(1798)

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state

**Amendment XII**

(1804)

The electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves, they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate,--The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted,--the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed, and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President But in choosing the President, the votes shall be taken by states, the representation from each state having one vote, a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice\*And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President, a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States

### **Amendment XIII**

(1865)

Section 1 Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction

Section 2 Congress shall have power to enforce this article by appropriate legislation

### **Amendment XIV**

(1868)

Section 1 All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws

Section 2 Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state

Section 3 No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof But Congress may by a vote of two-thirds of each House, remove such disability

Section 4 The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations and claims shall be held illegal and void

Section 5 The Congress shall have power to enforce, by appropriate legislation, the provisions of this article

**Amendment XV**

(1870)

Section 1 The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude

Section 2 The Congress shall have power to enforce this article by appropriate legislation

**Amendment XVI**

(1913)

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census of enumeration

**Amendment XVII**

(1913)

The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years, and each Senator shall have one vote The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies Provided, that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution

**Amendment XVIII**

(1919)

Section 1 After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited

Section 2 The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation

Section 3 This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several states, as provided in the Constitution, within

seven years from the date of the submission hereof to the states by the Congress

### **Amendment XIX**

(1920)

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex

Congress shall have power to enforce this article by appropriate legislation

### **Amendment XX**

(1933)

Section 1 The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified, and the terms of their successors shall then begin

Section 2 The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day

Section 3 If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified, and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified

Section 4 The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them

Section 5 Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article

Section 6 This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission

### **Amendment XXI**

(1933)

Section 1 The eighteenth article of amendment to the Constitution of the United States is hereby repealed

Section 2 The transportation or importation into any state, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited

Section 3 This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress

## **Amendment XXII**

(1951)

Section 1 No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this article shall not apply to any person holding the office of President when this article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this article becomes operative from holding the office of President or acting as President during the remainder of such term

Section 2 This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission to the states by the Congress

## **Amendment XXIII**

(1961)

Section 1 The District constituting the seat of government of the United States shall appoint in such manner as the Congress may direct

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a state, but in no event more than the least populous state, they shall be in addition to those appointed by the states, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a state, and they shall meet in the District and perform such duties as provided by the twelfth article of amendment

Section 2 The Congress shall have power to enforce this article by appropriate legislation

## **Amendment XXIV**

(1964)

## SECTION 1

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Section 1 The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any state by reason of failure to pay any poll tax or other tax

Section 2 The Congress shall have power to enforce this article by appropriate legislation

### **Amendment XXV**

(1967)

Section 1 In case of the removal of the President from office or of his death or resignation, the Vice President shall become President

Section 2 Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress

Section 3 Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President

Section 4 Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President, otherwise, the President shall resume the powers and duties of his office

### **Amendment XXVI**

(1971)

Section 1 The right of citizens of the United States, who are 18 years of age or older, to vote,

shall not be denied or abridged by the United States or any state on account of age

Section 2 The Congress shall have the power to enforce this article by appropriate legislation

**Amendment XXVII**

(1992)

No law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened

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## **SECTION 2**

### **Seven Principles Under Which the Judicial System of the U.S. Operates (available in Russian)**

## СЕМЬ ПРИНЦИПОВ ДЕЙСТВИЯ СУДЕБНОЙ СИСТЕМЫ СОЕДИНЕННЫХ ШТАТОВ АМЕРИКИ

*Подготовлено Федеральным Судейским Центром*

**ПЕРВЫЙ ПРИНЦИП** Власть закона - Власть закона - концепция, охватывающая комплекс установленных и признанных принципов, законоположений, уставов и правил, которым подчиняются все граждане и которые объективно применяются независимыми судьями в соответствии с установленными процедурами. По закону, судебная система достаточно отделена от политических властей, чтобы дать возможность законопослушным гражданам и другим лицам, находящимся в ведении этих органов, отстаивать свои права.

**ВТОРОЙ ПРИНЦИП** Разделение властей - В соответствии с принципом разделения власти, три ветви власти - законодательная власть, исполнительная власть и судебная власть - имеют различные обязанности и функции. В упрощенном виде можно сказать, что законодательная власть, состоящая из представителей народа, разрабатывает и принимает законы, исполнительная власть претворяет законы в жизнь, а судебная власть толкует законы и применяет их в конкретных судебных процессах и при разрешении конфликтов.

**ТРЕТИЙ ПРИНЦИП** Независимость судов - В соответствии с этим принципом, судебная власть независима от внешних влияний со стороны представителей или органов исполнительной или законодательной власти, а также частных лиц и организаций. Судебные распоряжения и решения выносятся судьями в соответствии с законом и признанными юридическими принципами и установлениями, а не в зависимости от положения тяжущихся сторон, указаний или влияния лиц внутри или вне правительства или указаний или влияния какого-либо государственного или частного агентства.

**ЧЕТВЕРТЫЙ ПРИНЦИП** Судебный пересмотр - Принцип судебного пересмотра дает судье, рассматривающему спорное дело, право и вменяет ему в обязанность объявить недействительным постановление или распоряжение законодательной или исполнительной власти, если это постановление или распоряжение противоречит Конституции, на базе которой суд действует, или какому-либо законоположению, надлежаще принятому законодательной властью.

**ПЯТЫЙ ПРИНЦИП** Федерализм - В соответствии с этим принципом, существуют две системы властей, включая судебные, из которых одна принадлежит центральному правительству и одинаково распространяется на все штаты и всех граждан, другая же принадлежит правительством каждого штата и действует в границах данного штата, распространяется на граждан и других лиц, находящихся в пределах этих штатных границ.

**ШЕСТОЙ ПРИНЦИП** Состязательный процесс - Этот принцип определяет способ рассмотрения дел в судебном процессе. В соответствии с этим принципом, адвокаты тяжущихся сторон развернуто и убежденно излагают доказательства и правовые

доводы в пользу своих клиентов, таким образом представляя судье и присяжными все факты и версии дела в интересах вынесения справедливого решения

**СЕДЬМОЙ ПРИНЦИП** Надлежащий процесс - Требование надлежащего процесса обеспечивает лицам, потерпевшим ущерб или иначе пострадавшим от действия правительства или конкретного законодательства, право официального слушания, где они могут изложить свою жалобу, объяснить свою позицию и просить о возмещении ущерба или смягчения приговора

## **SECTION 3**

### **Court Organization (available in Russian)**

## ОРГАНИЗАЦИЯ СУДЕБНОЙ ВЛАСТИ В США

### *Двухуровневая судебная система*

В Соединенных Штатах Америки сложилась двухуровневая судебная система, в соответствии с которой в одних и тех же географических регионах параллельно сосуществуют независимые друг от друга федеральные суды и суды отдельных штатов. В то время как юрисдикция судов конкретного штата распространяется только на те правовые конфликты, которые ограничиваются территорией этого штата, а также конфликты, в которые вовлечены резиденты этого штата, юрисдикция федеральных судов распространяется на территорию всей страны. В некоторых странах существует единая судебная система. В отличие от этих стран, действующие в США принципы федерализма предоставляют штатам возможность самостоятельно осуществлять предоставленные им властные полномочия, в том числе и в сфере судебной власти, и решать вопросы, которые Конституцией США не отнесены к исключительному ведению федеральных органов власти. Все суды США обладают ограниченной юрисдикцией, в соответствии с которой подразумевается, что они имеют право принимать к производству только дела, имеющие отношение к категориям граждан, территории или правовым конфликтам, которые конституцией штата, федеральной конституцией или иными законодательными актами отнесены к сфере компетенции этих судов. Например, местный суд по мелким тяжбам, как правило, принимает к рассмотрению только дела, явившиеся следствием правовых конфликтов в пределах территории конкретного города, или дела, в которых сумма иска составляет менее одной тысячи долларов (или же исковая сумма определена примерно на таком же, заранее известном уровне). Сфера компетенции судов по мелким тяжбам ограничивается делами, которые удовлетворяют указанным критериям. Точно так же имеет свои ограничения и сфера компетенции Верховного суда США, хотя этот суд является наивысшей судебной инстанцией государства. Так, например, в том случае, если в судебном процессе разбираются вопросы, регулируемые конституцией штата, и не затрагиваются вопросы, регулируемые Конституцией США или иными федеральными законодательными актами, то скорее всего судебной инстанцией, принимающей окончательное решение по данному делу, будет Верховный суд соответствующего штата, а не Верховный суд США. Верховные суды штатов осуществляют толкование законодательных актов своих штатов. Таким образом, ни один суд в США не обладает полномочиями для разрешения всех возможных правовых конфликтов.

В случае возникновения конфликта правового характера, если одна из сторон, желая использовать заложенные в судебной системе возможности по разрешению конфликтов, принимает решение о возбуждении судебного процесса, адвокату, представляющему интересы этой стороны, следует прежде всего определить подсудность данного дела. В некоторых случаях рассмотрение дела может быть осуществлено не в одном суде, а в нескольких, особенно, если сторонами в данном споре являются стороны, проживающие в разных штатах. В таких случаях адвокат должен принять решение о том, какой из судов с наибольшей долей вероятности примет благоприятное для истца решение. Этот выбор может быть обусловлен целым рядом факторов. Истец может принять решение возбудить дело в том суде, который ближе всего расположен к его (или ее) дому, вынудив, таким образом, своего оппонента, проживающего вдали от этого суда, терпеть все неудобства и затраты, связанные с рассмотрением дела в этом суде. Выбор конкретного географического расположения суда может оказать давление на находящегося вдали от этого суда ответчика и вынудить его разрешить конфликт путем переговоров, что позволит ему избежать значительных транспортных расходов, связанных

## **SECTION 4**

### **Outline of Federal Judicial Organization and Administration**

SUMMARY OF FEDERAL JUDICIAL ORGANIZATION AND ADMINISTRATION

Office of Judges Programs  
Administrative Office of the United States Courts  
March 1998

**A Judicial Organization**

The judiciary is an independent branch of the federal government. It is not subject to the jurisdiction of the President, the Department of Justice, or any other agency of the executive branch.

The judiciary has explicit statutory authority for its own governance, including policy-making bodies and administrative organizations at the national, regional, and local levels. It has a separate budget not subject to control by the Office of Management and Budget. The courts, moreover, are not covered by most of the laws governing the executive branch and the civil service system.

Although the United States Constitution guarantees judicial independence and the separation of powers, the judiciary does not in fact enjoy complete operational independence from the other two branches of the Government. It is subject to a number of statutes and executive branch regulations governing administrative matters, such as financial procedures, procurement, and property management. Court buildings, moreover, are constructed and maintained by the executive branch.

Most significantly, the Congress determines the jurisdiction and structure of the federal courts, and the judiciary must obtain its funding from the Congress each year through the appropriations process.

**B Supreme Court of the United States**

1 28 U.S.C. §§ 1-6

2 Administration

- a The Supreme Court as an institution does not generally supervise the *administrative operations* of the lower federal courts.<sup>2</sup>
- b The Supreme Court has its own, internal administrative and policy-making structure. It is not subject to the authority of the Judicial Conference.

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<sup>1</sup> Title 28 of the United States Code contains most of the statutory provisions governing the federal judiciary.

<sup>2</sup> The Chief Justice of the United States, however, is *ex officio* the presiding officer of the Judicial Conference and head of the federal judicial system. In that capacity, the Chief Justice has substantial power to shape federal judicial administration at the national level. (See section C *infra*.)

- c The Court has its own, separate appropriation account within the omnibus budget for the federal judiciary
  - d The Court appoints a clerk, marshal, reporter, and librarian 28 U S C §§ 671-675
- 3 Federal Rules
- a The Supreme Court has the statutory authority to prescribe rules of practice and procedure and rules of evidence for cases in the district courts and the courts of appeals, subject to potential Congressional veto 28 U S C § 2072
  - b The Judicial Conference of the United States recommends to the Court rules amendments it believes are appropriate 28 U S C § 331

### C Chief Justice of the United States

- 1 Governance responsibilities
  - a Presides over the Judicial Conference of the U S —28 U S C § 331
  - b Appoints the chairs and members of all Judicial Conference committees
  - c Appoints the Director and Deputy Director of the Administrative Office of the United States Courts, after consulting with the Judicial Conference—28 U S C § 601
  - d Chairs the Board of the Federal Judicial Center—28 U S C § 621
  - e Appoints three members to the Board of the Federal Judicial Center Foundation—28 U S C § 629
  - f Appoints an administrative assistant—28 U S C § 677
- 2 Assigns judges to other courts
  - a Assigns circuit judges and district judges to serve temporarily in other circuits—28 U S C §§ 291-292
  - b Designates and assigns retired justices and judges to perform judicial duties in other circuits and districts—28 U S C § 294
  - c Designates seven judges to serve on the Judicial Panel on Multi-District Litigation and assigns judges for temporary service in districts in which multi-district proceedings are consolidated—28 U S C § 1407(d)

### D Judicial Conference of the United States

- 1 28 U S C § 331
- 2 Membership
  - a The Chief Justice of the U S (presiding officer)
  - b The chief judge of each of the 13 circuit courts of appeals
  - c One district judge from each of the 12 geographic circuits, elected by all the Article III judges<sup>3</sup> of the circuit
  - d The chief judge of the Court of International Trade

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<sup>3</sup> “Article III judges” are appointed by the President and confirmed by the Senate under Article III of the U S Constitution They serve during “good Behaviour,” *i e* , for life

## 3 Meetings

- a By statute, the Conference must meet at least annually
- b Actually, it meets twice a year, in March and September

## 4 Responsibilities

- a. Is the central policy-making body and national voice for the judiciary (But the Conference does not have plenary authority to make administrative rules governing the judiciary or individual courts )
- b Must “make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary”—28 U S C § 331
- c “Shall also submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business”—28 U S C § 331
- d “Supervises” and “directs” the Director of the Administrative Office of the United States Courts (AO) in the performance of a wide variety of management and administrative functions—28 U S C § 604
- e Approves the judiciary’s budget, as prepared by the Director of the AO—28 U S C § 605
- f Elects six judges to serve on the Board of the Federal Judicial Center 28 U S C § 621(a) (The other two members of the Board are the Chief Justice and the Director of the AO)
- g Legislation—
  - (1) Submits proposed new legislation affecting the judiciary
  - (2) Comments on some pending legislation that would affect the courts<sup>4</sup>
  - (3) Implements legislation by promulgating regulations, guidelines, and policies and by approving regulations promulgated by the Director of the AO
- h Federal Rules of Practice and Procedure—28 U S C § 331
  - (1) Carries on “a continuous study of the operation and effect of the rules of practice and procedure”—28 U S C § 331
  - (2) Makes recommendations to the Supreme Court for changes in, and additions to, the federal rules in order to promote—
    - (A) simplicity in procedure
    - (B) fairness in administration
    - (C) just determination of litigation
    - (D) elimination of unjustifiable expense and delay
- i Judicial discipline responsibilities—28 U S C § 372
  - (1) Acts on referrals and certifications from the circuit councils regarding misconduct or disability proceedings against judges
  - (2) Prescribes procedural rules regarding the above

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<sup>4</sup> The Conference comments on legislation that may affect court workloads resources, or procedures, but it does not normally comment on substantive legislative matters

J Many other statutes delegate specific authority and duties to the Judicial Conference  
Examples

- (1) Determines the number, location, and salary of magistrate judge positions—28 U S C § 633(b)
- (2) Submits recommendations to the Congress regarding the number of bankruptcy judges for each district—28 U S C § 152(b)
- (3) Determines the official locations of bankruptcy judges and places of holding bankruptcy court—28 U S C § 152(b)
- (4) Promulgates regulations for the selection of bankruptcy judges and magistrate judges—28 U S C §§ 153(b), 631(b)—and for the recall of retired bankruptcy judges and magistrate judges—28 U S C §§ 155(b), 636(h)
- (5) Determines the number of court reporters for each court, sets the qualifications for court reporters, and promulgates regulations governing the verbatim recording of court proceedings—28 U S C § 753(a) and (b)
- (6) Prescribes the fees to be collected by the courts—28 U S C §§ 1913, 1914(b), 1926(a), 1930(b)
- (7) Promulgates rules determining the level of work that senior judges must perform in order to continue receiving the salary of the office (including annual adjustments)—28 U S C § 371(f)(2)
- (8) Approves regulations prescribed by the Director of the AO governing judges' travel—28 U S C § 456(a)
- (9) Oversees continued efforts to reduce litigation expense and delay under the Civil Justice Reform Act of 1990—28 U S C §§ 471, 479(b)-(c)
- (10) Recommends judges to serve on the U S Sentencing Commission—28 U S C § 991(a)
- (11) Submits a report to the U S Sentencing Commission commenting on the operation of the sentencing guidelines—28 U S C § 994(o)
- (12) Approves “high locality” hourly rates for Criminal Justice Act panel attorneys—18 U S C 3006A(d)
- (13) Approves grants for community defender organizations—18 U S C § 3006A(g)(2)
- (14) Approves on an annual basis a long range automation plan for the judiciary—28 U S C § 612(b)
- (15) Promulgates rules for the disposal of court records and papers (consistent with Title 44, United States Code)—28 U S C § 457
- (16) Sets guidelines for the compensation of court-appointed arbitrators—28 U S C § 657(a)
- (17) Identifies languages for certification of court interpreters—28 U S C § 1827
- (18) Promulgates regulations governing district court jury selection plans—28 U S C § 1863(a)
- (19) Promulgates regulations implementing the Ethics Reform Act of 1989, including limitations on the receipt of gifts, honoraria, and outside earned income

## SECTION 4

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- 5 Judicial Conference committee system
  - a The Conference acts on the reports and recommendations of its committees. The committees are established along subject matter lines.
  - b All members of the committees are appointed by the Chief Justice.
    - (1) The AO's Office of the Judicial Conference Secretariat maintains a list of potential committee members and encourages judges to volunteer to serve on committees.
    - (2) Nearly 300 judges serve on Judicial Conference committees.
  - c Chairs and members of the committees are mostly Article III judges, but bankruptcy judges and magistrate judges serve on most committees. State chief justices, practicing attorneys, law professors, and government officials are members of some committees.
  - d The committees are broadly representative. Over half the committees include one judge from each geographic circuit.
  - e Chairs and members serve for 3-year terms. Members may be reappointed to a second 3-year term, for a maximum of 6 years' service.
  - f Committees generally meet twice a year, usually about two months before the Judicial Conference meets.
  - g The Administrative Office provides the staff support for all the committees and prepares committee agenda items, minutes, and reports.
  - h The Federal Judicial Center provides committees with requested research and educational support.
  - i Executive Committee of the Judicial Conference
    - (1) Acts for the Conference in emergencies and between sessions.
    - (2) Sets the agenda for the Conference.
    - (3) Resolves differences among committees.
    - (4) Approves the judiciary's spending plan each fiscal year.
    - (5) Has a special role to coordinate legislative actions.
  - j Other Judicial Conference committees
    - (1) Standing Committee on Rules of Practice and Procedure
      - Advisory Committee on Appellate Rules
      - Advisory Committee on Bankruptcy Rules
      - Advisory Committee on Civil Rules
      - Advisory Committee on Criminal Rules
      - Advisory Committee on Rules of Evidence
    - (2) Budget
      - Economy Subcommittee
    - (3) Bankruptcy Administration
    - (4) Magistrate Judges System
    - (5) Criminal Law
    - (6) Defender Services
    - (7) Automation and Technology
    - (8) Court Administration and Case Management
    - (9) Judicial Resources (Article III judgeships and personnel matters)

- (10) Security and Facilities
  - (11) Administrative Office
  - (12) Codes of Conduct
  - (13) Financial Disclosure
  - (14) Federal-State Jurisdiction
  - (15) Intercircuit Assignments
  - (16) Judicial Branch
  - (17) Review of Circuit Council Conduct and Disability Orders
  - (18) International Judicial Relations
- k Judges may seek input to Judicial Conference committee agendas through the chairs and members of the committees and through the AO
  - l Judicial Conference actions are set forth in the *Reports of the Proceedings of the Judicial Conference*, which is published together with the *Annual Report* of the Director of the AO and distributed to all judges
  - m The *Long Range Plan for the Federal Courts*, approved by the Judicial Conference in 1995, sets forth a series of recommended strategic goals and policies for judicial branch administration and organization

#### E Judicial Councils of the Circuits—"Circuit Councils"

- 1 28 U S C § 332
- 2 Membership
  - a Includes the chief judge of the court of appeals as chair plus an equal number of circuit (court of appeals) judges and district (trial court) judges
  - b The number of circuit and district judges and their terms are determined by majority vote of all active Article III judges of the circuit
  - c Some circuit councils have non-voting senior judge, bankruptcy judge, and magistrate judge observers
- 3 Must meet at least twice a year, but most meet more often
- 4 Responsibilities
  - a Broad authority to "make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit" 28 U S C § 332(d)(1)
  - b "All judicial officers and employees of the circuit shall promptly carry into effect all orders of the judicial council" 28 U S C § 332(d)(2)
  - c The councils are the principal enforcement mechanism of the federal judiciary
  - d Miscellaneous specific authorities of the councils are set forth in statutes
    - (1) Recommends bankruptcy judgeships and locations—28 U S C § 152(b)
    - (2) Recommends magistrate judge positions—28 U S C § 633(b)
    - (3) Evaluates bankruptcy judge candidates and recommends finalists to the court of appeals—§ 120 of Pub L No 98-353
    - (4) Approves district court Criminal Justice Act plans—18 U S C § 3006A(a)

- (5) Approves district court jury selection plans (acting as the circuit council plus the chief judge or another judge from the district whose plan is being reviewed)—28 U S C § 1863(a)
  - (6) Approves district court Speedy Trial Act plans (acting as the circuit council plus the chief judge or another judge from the district whose plan is being reviewed)—18 U S C § 3165(c)
  - (7) Reviews and may abrogate local court rules (28 U S C § 2071, FED R. CIV P 83, FED R. CRIM P 57, FED R. BANKR P 9029)
  - (8) Approves chambers and courtroom space at authorized places of holding court—28 U S C § 462(b)
  - (9) “Pretermits” regular sessions of a district court for insufficient business or other good cause—28 U S C § 140
  - (10) Transfers bankruptcy judges temporarily between circuits—28 U S C § 155(a)
  - (11) Reviews disability and prejudicial conduct reports regarding judges—28 U S C §§ 372(c)(5)-(7)
  - (12) Issues orders for the division of business and the assignment of cases among district judges if a district court is unable to reach agreement—28 U S C § 137
  - (13) Recalls retired bankruptcy judges and magistrate judges to service—28 U S C §§ 155(b), 636(h)
  - (14) Identifies and evaluates the need of the districts within the circuit for interpreters—28 U S C § 1827(b)(1)
- e Monitors court workloads and cases held under advisement by judges
  - f Authorizes temporary law clerk and other personnel for judges within the courts of the circuit
  - g Authorizes exceptions to space design standards
  - h Appoints the circuit executive—28 U S C § 332(e)

#### F. Circuit Executive

- 1 28 U S C § 332(e)
- 2 Appointed by the judicial council of the circuit
- 3 The duties delegated to circuit executives by the councils vary from circuit to circuit. By statute, they may include the following
  - a Serving as secretary for the circuit council
  - b Exercising administrative control of circuit court nonjudicial activities
  - c Providing budget, personnel, accounting system, property control, space and facilities assistance
  - d Conducting studies of the business of the courts within circuit and making recommendations to the council
  - e Collecting and preparing statistics
  - f Maintaining liaison with states, marshals, bar associations, civic groups, and the media
  - g Preparing an annual report

- h Providing automation assistance to the courts in the circuit
  - i Coordinating telephone services
  - j Making arrangements for the annual circuit conference
  - k Serving as special assistant to the chief judge of the circuit
  - l Serving as a problem-solver and trouble-shooter for the circuit
- 4 In several circuits, the circuit executive supervises the library program

### G United States Court of Appeals (as an administrative organization)

- 1 There are 12 geographic circuit courts of appeals with general jurisdiction, plus the United States Court of Appeals for the Federal Circuit with special subject matter jurisdiction
- 2 Components of the court of appeals
  - a Chief circuit judge—28 U S C § 45
    - (1) The judge in regular active service on the court who is senior in commission among the judges and who
      - (A) Is 64 years of age or under
      - (B) Has served for 1 year or more as a circuit judge, and
      - (C) Has not previously served as chief judge
    - (2) May not serve more than 7 years nor beyond age 70
    - (3) Statutory authority, set forth at 28 U S C § 45(b), is very limited. “The chief judge shall have precedence and preside at any session of the court which he attends ”
    - (4) Substantial legal and administrative authority, however, is vested in the court as a whole, *i e* , in all the judges as a body, and the chief judge speaks for the court.
    - (5) The *Desk Book for Chief Judges of U S District Courts*, published by the Federal Judicial Center, provides helpful guidance While not a statement of official judiciary policy, the *Desk Book* suggests that “Nevertheless, the predominant view is that the chief judge is ultimately responsible for seeing that the court is administered effectively and efficiently (and in compliance with statutes, Judicial Conference and circuit judicial council policies, and Conference-approved Administrative Office regulations) ”
  - b Circuit judges (appointed under Article III of the Constitution)—28 U S C § 441
    - Local rules of court, administrative decisions, and court-wide personnel appointments (*i e* , other than chambers staff) are made collegially, by decision of all the judges of the court
  - c Clerk of court—28 U S C § 711
  - d Librarian—28 U S C § 713 (The librarian is appointed by the court of appeals, but serves the needs of all the judges and courts within the circuit )
  - e Staff attorneys—28 U S C § 715
  - f Technical assistants (Federal Circuit only)—28 U S C § 715(c)

**H. United States District Court (as an administrative organization)**

- 1 There are 91 geographic district courts in the U S , plus 3 territorial district courts, exercising general jurisdiction over civil, criminal, and bankruptcy cases
- 2 Components of the district court
  - a Chief district judge—28 U S C § 136
    - (1) The judge in regular active service in the district who is senior in commission of the judges who
      - (A) Is 64 years of age or under,
      - (B) Has served for 1 year or more as district judge, and
      - (C) Has not served previously as chief judge
    - (2) May not serve more than 7 years nor beyond age 70
    - (3) Statutory authority, set forth at 28 U S C § 136(b), is very limited “The chief judge shall have precedence and preside at any session which he attends”
    - (4) Substantial legal and administrative authority, however, is vested in the court as a whole, *i e* , in all the judges as a body, and the chief judge speaks for the court
    - (5) The *Desk Book for Chief Judges of U S District Courts*, published by the Federal Judicial Center, provides helpful guidance While not a statement of official judiciary policy, the *Desk Book* suggests that. “Nevertheless, the predominant view is that the chief district judge is ultimately responsible for seeing that the court is administered effectively and efficiently (and in compliance with statutes, Judicial Conference and circuit judicial council policies, and Conference-approved Administrative Office regulations)”
  - b District judges (appointed under Article III of the Constitution)—28 U S C § 134
    - Local rules of court, administrative decisions, and personnel appointments (other than chambers staff) are accomplished collegially, *i e* , by consensus decision or majority vote of all the judges of the court.
  - c Magistrate judges—28 U S C § 631
    - (1) Magistrate judges are appointed by vote of the district judges for 8-year terms (full-time magistrate judges), and they serve as judicial officers of the district court
    - (2) Several district courts have designated one of the magistrate judges to serve as “chief” or “presiding” or “administrative” magistrate judge
  - d District court executive—in three district courts only
  - e Clerk's office—28 U S C § 751
  - f Probation office—18 U S C § 3602
  - g Pretrial services office—18 U S C § 3602
  - h Court reporters—28 U S C § 753
  - i Bankruptcy court
    - (1) Bankruptcy judges—28 U S C § 151 (The bankruptcy judges, although appointed by the court of appeals, constitute a “unit of the district court” and are judicial officers of the district court )

- (2) Bankruptcy jurisdiction is vested by statute in the district courts—28 U S C § 1334—but it is referred by the district courts to the bankruptcy judges 28 U S C § 157
- (3) Chief bankruptcy judge—28 U S C § 154 (The chief bankruptcy judge is appointed by the district court )  
 “The chief judge of the bankruptcy court shall ensure that the rules of the bankruptcy court and of the district court are observed and that the business of the bankruptcy court is handled effectively and expeditiously ” 28 U S C § 154(b)
- (4) Office of the bankruptcy clerk—28 U S C § 156(b)  
 The bankruptcy clerk is appointed by the bankruptcy judges The bankruptcy clerk's office may not be consolidated with the district clerk's office without the prior approval of the Judicial Conference and the Congress 28 U S C § 156(d)
- 2 Other offices that interact with the court, but are not a part of the court itself—
- a Judicial branch offices
- (1) Federal public defender organization (salaried employees of the judicial branch)—18 U S C § 3006A(g)(1)(A)
- (2) Community defender (a non-profit, private organization funded by annual financial grants from the Judicial Conference)—18 U S C § 3006A(g)(1)(B)
- (3) Bankruptcy administrator (responsible for bankruptcy administration in the 6 judicial districts in Alabama and North Carolina only)—§ 302(d)(3), Pub L No 99-554
- b Department of Justice (executive branch) offices
- (1) United States attorney—28 U S C § 541
- (2) United States marshal—28 U S C § 561
- (3) United States trustee (is responsible for bankruptcy administration in 86 districts)—28 U S C § 581
- c Various law enforcement agencies of the executive branch
- d General Services Administration (GSA)—space, procurement, and property
- 3 Committees of the district court.
- a Many district courts (*and courts of appeals*) develop court policies and oversee court operations through a system of court committees appointed by the chief judge to address specific subject areas (*e g* , local rules, budget, space, etc ) or to supervise court units (*e g* , clerk's office, probation office) The committees are composed of judges of the court In many districts, magistrate judges and bankruptcy judges serve on the court committees
- b The clerk of court serves as committee secretary in most districts
- c Court Security Committee
- (1) The court security committee is responsible for identifying and resolving security problems, developing and implementing a district-wide security plan, and requesting resources to support the plan
- (2) The chief judge of the district court, or the chief judge's designee, serves as chair of the committee, and the U S marshal is the coordinator for the committee Other

members of the committee are a representative of the court of appeals (if there are circuit judges or staff within the district), a representative of the bankruptcy court, a magistrate judge, the clerk of the district court, the U S attorney, and a GSA representative, if appropriate

- (3) The U S marshal is responsible for providing security for all judges, court employees, and court facilities The marshal is the first point of contact for the court on all security matters
- 4 Civil Justice Reform Act advisory group (appointed by chief district judge and includes attorneys and non-attorneys)—28 U S C § 478<sup>5</sup>
- 5 Advisory committee on the court's local rules, comprised generally of practicing attorneys (*applicable also to courts of appeals*)—28 U S C § 2077(b)
- 6 The Judicial Conference has encouraged all courts to
  - a review how administrative services are delivered in their districts, and
  - b adopt the most efficient structures for delivering those services to the court family
- 7 The Judicial Conference encourages all courts “to examine their administrative services delivery systems, consider the applicability of alternative administrative models [as described in a 1996 report submitted by the National Academy of Public Administration] and, where appropriate, adopt more efficient structures for the provision of administrative services” Specific areas where coordination and sharing of efforts among all components of the court may be of substantial benefit include
  - a Uniform local rules and procedures
  - b Budget development and execution
  - c Financial management
  - d Space and facilities management
  - e Court security
  - f Personnel administration, including—
    - (1) Record keeping and information services
    - (2) Recruitment and equal employment opportunity
    - (3) Training and career development
  - g Contracts and procurement
  - h Property management
  - i Automation management
  - j Telephones and communications

## I Special National Courts

- 1 Court of International Trade
  - a 28 U S C §§ 251-257
  - b 9 judges

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<sup>5</sup> The authorizing legislation lapsed in 1997, but several district courts have opted to continue their committees in order to provide advice to the court on civil litigation issues

- c Established under Article III of the Constitution
- d Located in New York City
- e Jurisdiction—28 U S C § 1581
  - (1) Tariff Act cases
  - (2) Trade Act cases
  - (3) Trade Agreements Act
  - (4) Customs matters
- 2 Court of Federal Claims
  - a 28 U S C §§ 171-178
  - b 16 judges
  - c Established under Article I of the Constitution Judges have 15-year terms of office
  - d Located in Washington, D C
  - e Jurisdiction—28 U S C § 1491
    - (1) Claims against the U S for money damages
    - (2) Patent infringement where U S is involved
    - (3) Tax cases
    - (4) Miscellaneous other statutes
- 3 Foreign Intelligence Surveillance Court and Court of Review (comprised of 7 district judges designated by the Chief Justice)—50 U S C § 1803(a) & (b)
- 4 Alien Terrorist Removal Court (comprised of 5 district judges designated by the Chief Justice)—8 U S C §§ 1531-1537
- 5 The Tax Court, Court of Veterans Appeals, and the military courts are *not* part of the judicial branch

## J Standing Judicial Branch Agencies

### 1 Judicial Panel on Multi-District Litigation

- a 28 U S C § 1407
- b Membership
  - 7 circuit and district judges designated by the Chief Justice
- c Responsibilities
  - (1) Transfers pending civil actions involving common issues from different districts to a single district for consolidated pretrial proceedings
  - (2) Consolidates and transfers Clayton Act cases to a single district for both pretrial purposes and trial
  - (3) Consolidates petitions for review and enforcement of administrative orders in a single circuit court of appeals—28 U S C § 2112
- d Officials
  - (1) Charman
    - Judge John F Nangle

- (2) Executive Attorney  
Robert A Cahn
- (3) Clerk of the Panel  
Patricia D Howard
- e Judicial Panel Telephone—(202) 273-2800

## 2. United States Sentencing Commission

- a 28 U S C §§ 991-998
- b Membership
  - (1) 7 voting members appointed by the President with the advice and consent of the Senate and one non-voting ex officio member, the Attorney General of the United States or his or her designee
  - (2) At least three of the voting members must be judges selected from a list approved by the Judicial Conference
  - (3) Voting members serve for 6-year terms
- c Responsibilities
  - (1) Establishes and revises the sentencing guidelines
  - (2) Monitors the operation of the guidelines
  - (3) Conducts sentencing-related research
  - (4) Assesses the effectiveness of the guidelines
  - (5) Trains judges, attorneys, and probation officers in the sentencing process

## 3. Federal Judicial Center

- a 28 U S C §§ 620-629
- b Board of 9 includes Chief Justice, AO Director, 2 circuit judges, 3 district judges, 1 bankruptcy judge, and 1 magistrate judge—28 U S C § 621
- c Director and Deputy Director are appointed by the Board—28 U S C § 625
- d Basic duties of the FJC—28 U S C §§ 620 and 623
  - (1) Education and training of judges, court personnel, and others, through seminars, workshops, media programs, publications, and local training support
  - (2) Research on federal judicial processes, court management, sentencing, and in support of planning in the judiciary
  - (3) Development and promotion of federal judicial history programs
  - (4) Research and educational support for the Judicial Conference and its committees
  - (5) Provides information and advice to foreign courts

SECTION 4

f Federal Judicial Center Foundation (*privately funded*)—28 U S C § 629

4. Administrative Office of the United States Courts

- a. 28 U S C §§ 601-612
- b. Director and Deputy Director are appointed by the Chief Justice, after consulting with the Judicial Conference—28 U S C § 601
- c. The Director by statute receives the same salary as a district judge
- d. The AO does not establish policy. It implements regulations and policies promulgated by the Judicial Conference and statutes enacted by the Congress
- e. Summary of the AO's basic duties—*see* 28 U S C § 604
  - (1) Secretariat for Judicial Conference
  - (2) Staff all Judicial Conference committees and subcommittees
  - (3) Legislation and legislative relations
  - (4) Legal services for the judiciary
  - (5) Public relations and information services (for the courts, the press, Congress, etc.)
  - (6) Program management and operational support to court operations
  - (7) Analysis, studies, and long-range planning
  - (8) Promulgation of administrative procedures and forms to be used in the courts
  - (9) Manuals and other publications
  - (10) Annual reports and special reports to Congress
  - (11) Personnel and payroll services
  - (12) Statistics and statistical analysis
  - (13) Budget formulation and execution
  - (14) Disbursement of money and auditing of vouchers
  - (15) Contracting and procurement services
  - (16) Records management
  - (17) Space and facilities (in coordination with the executive branch, *i e*, GSA)
  - (18) Automation and technology
  - (19) Training judges and court personnel in automation and administrative matters
  - (20) Liaison with Department of Justice and other government agencies

## **SECTION 5**

### **Judicial Conference Procedure Chart — Judicial Conference of the U.S.**

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The  
Judicial Conference  
of the United States

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and its Committees

*Approved by  
the Judicial Conference  
September 15, 1998*

## I. OVERVIEW OF THE JUDICIAL CONFERENCE

The Conference of Senior Circuit Judges was created by Congress in 1922 to serve as the principal policy making body concerned with the administration of the United States Courts. In 1948, Congress enacted section 331 of title 28, United States Code, changing the name to the Judicial Conference of the United States. District judges were added to the Conference in 1957.

### A. Historical Background

The fundamental purpose of the Judicial Conference is to make policy for the administration of the United States courts. Section 331 of title 28 specifically provides that the Judicial Conference shall

- Make a comprehensive survey of the conditions of business in the courts of the United States,
- Prepare plans for the assignment of judges to or from courts of appeals or district courts, where necessary,
- Submit suggestions to the various courts in the interest of promoting uniformity of management procedures and the expeditious conduct of court business,
- Exercise authority provided in 28 U S C § 372(c) for the review of circuit council conduct and disability orders filed under that section, and
- Carry on a continuous study of the operation and effect of the general rules of practice and procedure in use within the federal courts, as prescribed by the Supreme Court pursuant to law

### B. Duties and Responsibilities

The Judicial Conference also supervises the Director of the Administrative Office of the United States Courts in the performance of the Director's duties as the administrative officer of the courts of the United States under 28 U S C § 604. In addition, certain statutes authorize the Judicial Conference to act in a variety of specific areas dealing with the administration of the courts.

The Chief Justice is required to submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.

The Chief Justice of the United States is the presiding officer of the Judicial Conference. Membership is comprised of the chief judge of each judicial circuit, the chief judge of the Court of International Trade, and a district judge from each regional judicial circuit.

### C. Conference Membership

A circuit chief judge's term on the Conference is concurrent with his or her term as chief judge of the circuit. Section 45 of title 28, United States Code, provides that, with limited exceptions, the chief judge of a circuit may serve for

seven years or until attaining the age of seventy years whichever comes first. Similar provisions apply to the chief judge of the Court of International Trade. See 28 U.S.C. § 258.

District judge representatives are elected for terms of not less than three nor more than five successive years as established by majority vote of all circuit and district judges of the circuit. 28 U.S.C. § 331. By Conference policy, terms are effective on October 1 of any given year.

## D. Conference Sessions

The statute requires the Chief Justice to summon the Judicial Conference into session annually at such time and place in the United States as he may designate. Traditionally the Chief Justice has called the annual meeting in September and a semi-annual session in March. The members are required to attend each session unless excused by the Chief Justice who will then designate a replacement. The Conference generally meets in Washington, D.C., at the Supreme Court Building.

Separate meetings of the circuit chief judges and the district judge representatives typically follow the Conference session and are chaired by judges selected from the membership. These meetings are held at the Thurgood Marshall Federal Judiciary Building in Washington, D.C.

## E. Organization and Operating Procedures

The Conference operates through a network of committees created to address and advise on a wide variety of subjects such as automation, personnel, probation pretrial services and sentencing, space and security, and judicial salaries and benefits. The Chief Justice has sole authority to make committee appointments. The Executive Committee of the Judicial Conference serves as the senior executive arm of the Conference, acting on its behalf between sessions on matters requiring emergency action as authorized by the Chief Justice. The Executive Committee is not a policy-making committee of the Judicial Conference. Among its responsibilities, the Executive Committee reviews the jurisdiction of Conference committees, prepares proposed consent and discussion calendars for meetings of the Conference, and establishes and publishes procedures for assembling agendas and schedules of events in preparation for Conference sessions. Details on the schedules and the consent and discussion calendars are found at Section II C.

The Director of the Administrative Office of the United States Courts serves as Secretary to the Judicial Conference and is also an ex-officio member of the Executive Committee. The Assistant Director of the Office of the Judicial Conference Executive Secretariat in the Administrative Office, coordinates administrative support to the Conference itself and its Executive Committee, and also coordinates the activities of the Executive Secretariat, which consists of senior members of the Administrative Office's professional staff who dedicate all or a substantial portion of their time to the work of the Judicial Conference committees. See Section III A.

## II. COMMITTEES OF THE JUDICIAL CONFERENCE

Judicial Conference committees review issues within their established jurisdictions and make policy recommendations to the Conference. The committees are policy advisory entities and are not involved in making day-to-day management decisions for the United States courts or for the Administrative Office. Judicial Conference committees derive their jurisdiction and legal basis for existence from the Conference itself and the Chief Justice as presiding officer. The committees and their chairs have no independent authority or charge apart from those conferred upon them by the Conference or its Executive Committee, which may act for the Conference on matters requiring emergency actions as authorized by the Chief Justice.<sup>1</sup>

All matters are ordinarily reviewed by a committee prior to Judicial Conference consideration. Sources for matters to be studied and considered by Conference committees include

- The statement of jurisdiction approved by the Judicial Conference through its Executive Committee,
- Statutory requirements (*e g* , the federal rules program, financial disclosure, review of circuit council conduct and disability orders, and appropriations acts), and
- Special assignments from the Chief Justice, the Conference, or the Executive Committee

In addition, chairs may consider requests from chief judges on behalf of their courts and from individual judges, circuit councils, and the Congress. A copy of any such request should be directed to the Conference Secretary, or, if there is doubt concerning the appropriate committee or committees having jurisdiction in the matter, the request should be submitted directly to the Conference Secretary who will assign it to the appropriate committee(s). In either case, the Conference Secretary will then follow the request to ensure that it is properly considered and that prompt notice of the action taken is given to the requester. See Section II B 4.

Committees may consider matters on their own initiative that fall within their jurisdictional mandates. In so doing, however, the chair and designated staff members should coordinate with the Conference Secretary to avoid duplication, increase awareness of another committee's efforts in similar matters, provide or obtain relevant history and current information, and ensure adequate staff support.

Jurisdictional boundaries of the committees have been carefully structured. Committees should be mindful that the actions they take are within those bound-

<sup>1</sup> A small number of committees such as the Committee on Rules of Practice and Procedure and the Committee to Review Circuit Council Conduct and Disability Orders are created by statute and are thus bound by certain statutory requirements. As a result, these committees' practices and procedures may differ from those outlined in this document.

### A. Matters Before Committees

aries. If a jurisdictional question arises between committees, the Conference Secretary will refer the matter to the Executive Committee for resolution on a priority basis.

**B.**  
Role of  
Committee  
Chairs

Committee chairs are appointed by the Chief Justice in his capacity as presiding officer of the Judicial Conference, and serve at his pleasure. The chairs play a major role in the administration of the federal courts and steer the process of developing policy recommendations for submission to the Conference.

**1. Delegation  
of Authority**

Committee chairs have authority to call and preside over meetings of their committees as required and to consent to or deny inclusion of items on the committee's agenda (with the exception of matters referred by the Chief Justice to the Judicial Conference, or the Executive Committee, which must be included).

In a limited number of specified cases, the Judicial Conference has delegated authority to committees to act on its behalf on routine matters. In those circumstances, power should be exercised by the full committee or by members appointed by the chair, only in rare instances should a committee chair act alone on such matters, and then only at the request of the full committee. A discussion of delegated actions taken should be included in the next report of the committee to the Conference.

**2 Subcommittees**

It is the Conference's preference that work be performed by full committees, and standing subcommittees are discouraged. Chairs may appoint subcommittees composed of committee members to consider specific topics as necessary, but the number of subcommittees and meetings should be held to the minimum needed to accomplish the work of the committee. The approval of the Chief Justice, through the Conference Secretary, is required to appoint non-members to subcommittees, ad hoc committees, task forces, etc. The Conference Secretary maintains a list of all existing subcommittees, and chairs should notify the Secretary when one is established. If the work of a subcommittee requires a face-to-face meeting, the meeting should be held contiguous to a regular committee meeting or in Washington, D.C.

**3 Attendance at  
Judicial Conference  
Sessions**

Committee chairs of the following committees are invited to attend the sessions of the Judicial Conference: Committee on the Administrative Office, Com-

mittee on Automation and Technology, Committee on the Administration of the Bankruptcy System, Committee on the Budget, Committee on Court Administration and Case Management, Committee on Criminal Law, Committee on Defender Services, Committee on Federal-State Jurisdiction, Committee on the Judicial Branch, Committee on Judicial Resources, Committee on the Administration of the Magistrate Judges System, Committee on Rules of Practice and Procedure and its Advisory Committees on Civil Rules and on Criminal Rules, and Committee on Security and Facilities. A chair whose term will expire shortly and whose committee has no items on the discussion calendar will yield to the incoming chair his or her invitation to attend the Conference session just prior to the expiration of the outgoing chair's term.

The chairs of the committees not listed above will attend a Conference session only if committee items appear on the Conference's discussion calendar or requested by the Chief Justice to do so. If items appear on the discussion calendar and the chair is unable to attend, another member of the committee should be designated to represent the committee. In that case, both the Chief Justice and the Conference Secretary should be notified as far in advance as practicable.

Schedules of events for the Judicial Conference sessions, approved by the Executive Committee, indicate the dates of the sessions and are distributed by the Conference Secretary well in advance. Chairs should be aware that they may be required to attend a Conference session almost at the last moment if Conference members request discussion of items contained in a committee report.

#### **4 Communications**

Committee chairs serve as communications links between the Judicial Conference and its committees. Similarly, chairs serve as points of contact for their colleagues, and each member may serve as a point of contact between the committee and the members' colleagues within his or her circuit. Communications from a committee that are to receive wide distribution should be forwarded to the Conference Secretary for dissemination on the committee's behalf.

If a committee acts upon a request submitted by a judge or court, the committee chair or a designee should notify the judge or court in question promptly. When the Administrative Office recommends to a committee that a request submitted by a judge or court be disapproved, the Administrative Office will notify the judge or court in sufficient time to permit the submission of responsive material to the committee before a decision is reached.

Committees are responsible for developing and recommending to the Judicial Conference substantive positions on legislative matters within their respective jurisdictions. Between Conference sessions, committee chairs should seek any needed policy guidance in legislative matters from the Conference Secretary.

Committee chairs play a key role in the administration of the federal court system, as they are often the spokespersons for the judiciary on matters within

the jurisdiction of their committees. While any individual judge is free to speak out publicly on items of interest, committee chairs bear a special responsibility to support Judicial Conference policy to Congress and the executive branch. When a chair voices an opinion to a member of the executive or legislative branch that differs from Conference policy or on which the Conference has no policy, the chair should expressly act as an individual judge, and not as chair or spokesperson for the committee or the Conference. This applies to committee members as well, and chairs should ensure that members are so advised.

## C. Committee Meetings and Reports

If business requires, committees meet twice each year, preceding the spring and fall sessions of the Judicial Conference. Committees are encouraged to use telephone conferencing or mail balloting when appropriate to save the time and expense of meetings. Such procedures are particularly useful if urgent issues arise between meetings.

In emergency matters, the Executive Committee has authority to act on the Conference's behalf as necessary and as approved by the Chief Justice. Matters requiring immediate action between committee meetings or Judicial Conference sessions should be coordinated through the Conference Secretary or the Judicial Conference Executive Secretariat. A discussion of these matters should be included in the committee's report to the next regular session of the Conference.

### 1 **Schedule of Events for the Judicial Conference and the Committees**

Committee meeting dates should be set in accordance with the schedule of events for the Judicial Conference session approved by the Executive Committee. Committees must meet no later than a date specified in the published schedule of events so that committee reports can be timely filed with the Conference Secretary. Program committees (committees that customarily recommend items proposing the expenditure of funds) need to plan their summer meetings to meet the additional scheduling requirements of the Budget Committee and its budget formulation process. Chairs of the program committees may be invited to meet with the Budget Committee at its summer meetings to review budget matters.

When scheduling meetings, chairs and staff should be sensitive to national and religious holidays. Observance of some holidays may include traditions or dietary considerations that may restrict travel to and from meeting sites. It is prudent, therefore, to avoid scheduling meetings on, or immediately before or after, generally recognized national or religious holidays.

## **2 Location of and Participation in Meetings**

Although comfort, convenience, and suitable accommodations cannot be compromised, appearances of extravagance and unnecessary meetings should be avoided. As in all matters, committees should be cost-conscious in selecting locations for committee meetings, and in extending invitations to non-members and supporting staff who will attend at the expense of the judiciary. Meetings outside Washington, D C often may be more economical with respect to both travel and lodging, but when there is a requirement for major participation by Administrative Office staff members, or when attendance of other governmental leaders of the executive and legislative branches is required, Washington, D C should be the location of choice.

## **3 Development of Committee Agendas**

Chairs have final approval over inclusion of items within the committee's jurisdiction on committee agendas, except that matters referred by the Chief Justice, the Conference, or the Executive Committee must be included. It is within a chair's prerogative to impose a cutoff (such as 30 days prior to the committee's meeting) on adding new matters to the agenda, to ensure adequate time for staff work and deliberation.

The Executive Committee has delegated to the Conference Secretary the responsibility of assigning matters to the appropriate committees of the Judicial Conference. Courts and judges desiring to have matters considered by the Conference or a committee are encouraged to transmit their requests, in writing, to the Conference Secretary, who will in turn notify the requesting court or judge promptly of the committee to which the request has been referred.

## **4. Committee Reports to the Judicial Conference**

Committee reports to the Judicial Conference should include discussion of all committee activities since the prior Conference session, whether or not the committee met during that time. This includes items for action by the Conference, as well as matters discussed by the committee on which no Conference action is sought. Each committee report should bear a summary of recommended actions to be considered by the Judicial Conference and of subjects addressed in the report that are submitted for information. Committee reports containing recommendations that require the expenditure of funds should include a budget impact statement. In addition, the reports should contain a notice informing the reader that the recommendations in the report do not represent the policy of the Judicial Conference unless approved by the Conference itself.

The Conference Secretary's designated staff (the Executive Secretariat) will assist committee chairs in recording activities of the committee, taking notes at meetings when held and preparing proposed committee reports in the prescribed format for approval by the chair and subsequent distribution to committee members. The Judicial Conference Executive Secretariat coordinates the preparation, publication and distribution of the committee reports to comply with the schedules of events established by the Executive Committee. See Section III.

## **5 The Judicial Conference Consent and Discussion Calendars**

The Judicial Conference has delegated authority to the Executive Committee to prepare and determine the consent and discussion calendars for Conference sessions. To do so, the Executive Committee has established the following procedures:

- In filing their committee reports, committee chairs are to suggest to the Executive Committee which items requesting action by the Judicial Conference should be placed on the consent calendar and which on the discussion calendar.
- After review by the Executive Committee, proposed consent and discussion calendars are distributed by the Conference Secretary to the full Conference membership two to three weeks prior to the sessions.
- No later than ten calendar days prior to the commencement of a Judicial Conference session, or a date certain specified by the Executive Committee in the schedule of events, any Conference member may, by giving notice to the Conference Secretary, move an item from the consent to the discussion calendar. In addition, items presented in a committee report for information may be moved to the discussion calendar if a Conference member believes action and/or discussion by the Conference is appropriate. Chairs are encouraged to contact Conference members who have moved items to discuss their concerns, so that the chair can be better prepared and the Conference debate more focused.
- A matter not on a Conference calendar will not be taken up except by a three-fourths vote of the Conference membership.

The Conference Secretary will notify an affected chair promptly in the event an item is moved requiring the chair to attend a session or if supplementary information has been requested from the committee.

## **6 Access to Committee Reports and Other Material**

The public record of Judicial Conference activity is the *Report of the Proceedings of the Judicial Conference of the United States*, submitted to the Congress by

the Chief Justice as required by 28 U S C § 331. Copies are widely distributed throughout the judiciary and the legislative and executive branches and are available on request through the Judicial Conference Executive Secretariat. Likewise, the full texts of Conference Proceedings from 1922 through the present, as well as committee reports since 1978, are available on WESTLAW for use within the judicial branch.

The following guidelines apply for access to, and dissemination of, reports and materials (with the exception of the rules committees whose materials are generally available to the public by statute):

*Committee Reports* Committee reports are distributed to Judicial Conference members, committee chairs, circuit executives, and Administrative Office and Federal Judicial Center senior staff several weeks in advance of a Conference session. Conference members have the discretion to share the reports within the judiciary to obtain the views of their colleagues as they consider appropriate, but because such reports do not represent Conference policy until the Conference acts, and because they are occasionally modified before Conference consideration due to intervening events, they should not be considered public documents until the relevant Conference session is concluded. Requests for pre-session release of committee reports other than as described above should be addressed to the Chair of the Executive Committee.

After the Judicial Conference meets, committee reports are available to the public upon request. Recipients of Judicial Conference committee reports should be made aware that committee reports do not necessarily represent the policies of the Conference. Judicial Conference action may have modified or disapproved a committee's recommendation, and this would not be reflected in the committee report.

Reports approved by the Conference for transmission to Congress shall not be publicly released prior to their submission to Congress except with the approval of the Judicial Conference or its Executive Committee.

*Agenda Materials* Background materials, files, minutes and the like, are considered working papers of the Conference and its committees and generally are not available to the public. Chairs are authorized to provide access to agenda materials of their committees to persons or organizations within the Judicial Branch on a need-to-know basis. Chairs may also, at their discretion, provide access to materials to other individuals who attend committee meetings by invitation.

The Secretary of the Judicial Conference surveys all judges biennially to identify those who are interested in committee service and to determine their committee preferences. The Chief Justice retains all appointment authority, assisted by the Secretary of the Judicial Conference and the Administrative Assistant to the Chief Justice, and exercises full discretion in selecting those he wishes to appoint and in determining their tenure.

**D.**  
Committee  
Appointments

With limited exceptions committee appointments rotate on the first of October each year and terms are staggered. By Conference policy membership on the Executive Committee is restricted to members of the Judicial Conference. With regard to the remaining committees the Chief Justice generally adheres to the following guidelines for committee appointments:

- Normally all circuits are represented on the following committees
 

Automation and Technology	Defender Services
Bankruptcy Administration	Judicial Branch
Codes of Conduct	Judicial Resources
Court Administration and Case Management	Magistrate Judges
Criminal Law	Security and Facilities
- As a general rule, members are limited to a single appointment. Simultaneous memberships on more than one committee or on a committee and board, panel or special court are to be avoided.
- Committee terms are usually three years in duration with one reappointment possible.
- Open terms are applied due to the unique nature of certain committees' functions (*e.g.* Executive Committee Budget Committee, Judicial Branch Committee) and as with all the committees members serve at the pleasure of the Chief Justice.
- Six years of committee service (aggregating all committee assignments past and present) is generally the maximum a member may serve.
- Appointments and reappointments are contingent among other things upon judges being current in their judicial work.

### III. Judicial Conference And Committee Support

The Secretary to the Conference is responsible for providing staff support to the Conference and its committees to prepare for, facilitate, and implement decisions reached at sessions of the Judicial Conference and meetings of its committees. The Director is assisted in carrying out this responsibility by the Assistant Director, Office of the Judicial Conference Executive Secretariat, who in turn coordinates the work of the Executive Secretariat, established within the Administrative Office to support the Conference and its committees. These individuals are responsible for providing the chairs and committees information on pending issues, and for maintaining continuity in committee and Conference procedures. They serve as the chair's primary point of contact with regard to committee matters.

Working with the chairs, and based on the needs and desires of the committees and the timetables established by the Executive Committee, the Executive Secretariat

**A.**  
Judicial  
Conference  
Secretary

staff is available to provide such services as the following

- preparing and assembling agendas and supporting material including conducting analyses and studies as necessary and identifying cost implications of issues before the committee
- arranging for committee meetings (including hotel accommodations meeting arrangements and security)
- making available necessary additional resource support including added staffing
- coordinating agenda materials to ensure formulation of agency-wide positions
- circulating information among the committee members other Executive Secretariat staff or others as necessary
- taking notes and drafting minutes of committee meetings if the committee chair determines minutes are required in addition to the committee's report or if required by statute
- drafting the committee's report to the Judicial Conference for the approval of the chair to meet due dates established by the Executive Committee
- following-up on committee matters as appropriate including preparing for dissemination by the Conference Secretary information on matters of judiciary-wide interest and
- accompanying the chair (or other designee) when called upon to testify in Congress or visit or work with members of the executive and legislative branches and other key policy-related entities

In summary the Executive Secretariat staff serves as a resource to the chair provides for whatever preparation, implementation or additional work is necessary or desired to conduct committee business, serves as a Washington, D C -based liaison between the chair and members of the executive and legislative branches, and keeps the committee abreast of legislative and other developments



The Federal Judicial Center also provides research and other assistance to Conference committees pursuant to its statutory mandate in 28 U S C § 620(a)(4) Committee chairs should contact the Center's Director or the Director's designee to request such assistance

The Conference Secretary will furnish, when needed, additional staff support through reporters or other contractual assistance in special situations Certain Judicial Conference committees have traditionally utilized reporters on an ongoing basis, e g , the standing Committee on Rules of Practice and Procedure and its advisory committees The use of such reporters is approved, through the Conference Secretary, by the Chief Justice, who makes all appointments to these positions

**B.**  
Additional  
Support

## SECTION 5

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A committee should look first to the Executive Secretariat to provide staff support for the work of the committee and to the Federal Judicial Center for its assistance as stated above. Efforts will be made by the office or division of the Administrative Office staffing the committee or the Federal Judicial Center to meet fully the committee's needs. Where a committee has identified a specific project that cannot be staffed adequately within the Administrative Office or the Federal Judicial Center, it may seek authority from the Conference Secretary to hire a consultant for a definite term and specified purpose who should report to the Administrative Office staff. Requesters should be mindful of budget requirements and fiscal constraints.



*Questions about the operation of the Judicial Conference and its committees may be addressed to the Office of the Judicial Conference Executive Secretariat, Administrative Office of the United States Courts, One Columbus Circle, N.E., Washington, DC 20544, telephone number (202) 273-1140. Beginning January 1999, (202) 502-2400.*

**Judicial Conference  
Of The United States**

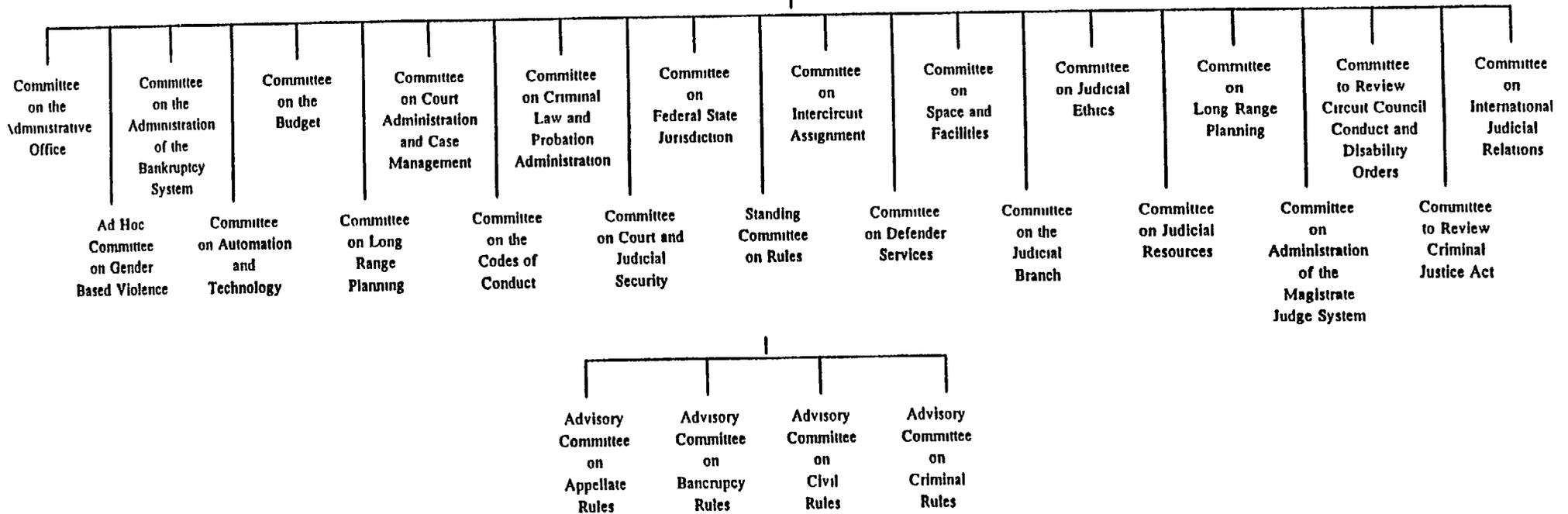
Chief Justice of the  
United States Supreme Court

Chief Judges  
of the 13  
Courts of Appeal      One District Court  
Judge From Each  
Circuit      Chief Judge  
of the Court  
of International Trade

Administrative  
Office

Executive  
Committee

Federal  
Judicial Center



## SECTION 6

### Brief description of A.O. and F.J.C.

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### **MISSION OF THE ADMINISTRATIVE OFFICE**

**C**reated by an Act of Congress in 1939, the Administrative Office of the United States Courts provides a broad spectrum of management and program support and administrative services to the federal courts. It implements the policies of the Judicial Conference of the United States and provides staff support and legal counsel to the Judicial Conference's committees. As provided by statute (28 U S C § 602(d)), all functions of the Administrative Office are vested in the Director and may be delegated to such officers and employees of the judicial branch as the Director may designate.

The services provided by the Administrative Office include program and legal assistance to Article III, bankruptcy and magistrate judges, coordination between and among the judiciary, the legislative branch, the executive branch, and state courts, long range planning support, evaluation of judiciary operations, and advice and assistance on equal employment opportunity. The Administrative Office is responsible for management of the nationwide judiciary facilities program, provision of personnel and payroll services, delivery and management of automation services, provision of financial management services, oversight and assistance with procurement activities, and collection and reporting of judicial statistics. The Administrative Office also supports program activities in the areas of court administration, defender services, and probation and pretrial services.

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## **DIRECTOR**

**T**he Director of the Administrative Office of the U S Courts is appointed by the Chief Justice after consultation with the Judicial Conference to carry out the responsibilities detailed under Title 28 U S C § 604, including serving as the chief administrative officer of the United States court system. The Director serves under the supervision and direction of the Judicial Conference of the United States. Some of the Director's many responsibilities, as required by statute or direction of the Judicial Conference, are to

Oversee the operations of the Administrative Office of the United States Courts and its divisions and offices

Supervise all administrative matters relating to the offices of magistrate judges, clerks and other clerical and administrative personnel of the courts

Serve as Secretary to the Judicial Conference of the United States and provide the principal staff support and assistance to the Judicial Conference and its committees

Serve as ex-officio member of the Executive Committee of the Judicial Conference

Examine the state of the dockets of the courts, secure information as to the courts' need of assistance, and prepare statistical data and reports as to the business of the courts

Report on the status of the activities of the Administrative Office and the state of the business of the courts to the Judicial Conference, the Congress and the Attorney General

Provide accommodations for the courts

Prepare and submit to Congress the budget of the courts, disburse moneys appropriated for the maintenance and operation of the courts, audit vouchers and accounts of the courts, and establish procedures and mechanisms within the judicial branch for processing fines, restitution, forfeitures of bail bonds or collateral, and assessments

Serve as a permanent member of the Board of the Federal Judicial Center

## **ASSOCIATE DIRECTOR FOR MANAGEMENT AND OPERATIONS**

**T**he Associate Director for Management and Operations is responsible for ensuring that activities of all agency elements are functioning in support of the Director's goals. In particular, the Associate Director's duties include the following:

Act in behalf of the Director in his absence

Ensure that management and policy decisions are coordinated thoroughly and that directives are carried out properly

Review and improve as necessary the agency's systems for coordination and control of management and policy decisions and directives. Review all correspondence prepared for the Director's signature

Chair the Administrative Office Budget Review Committee

Monitor progress toward achieving the Administrative Office's planning and management objectives, through quarterly reports and briefings by Administrative Office divisions and offices

Chair the Management Controls Advisory Council

Ensure that adequate systems are in place and functioning efficiently and effectively for management of the day-to-day business of the Administrative Office

Oversee the Office of Audit, Office of Management Coordination, and the Office of Program Assessment, and ensure the agency has an effective system for audit, review and evaluation

Ensure, through oversight of the Executive Correspondence Unit, that agency correspondence is routed to appropriate people, that responses are timely with appropriate sign-offs, and that a system of controls for correspondence is established

**OFFICE OF AUDIT**

MISSION

The Office of Audit (AUD) performs comprehensive financial audits to measure compliance with applicable statutes, regulations, policies, plans and procedures, assess effectiveness of financial operations, and determine efficiency and economy of financial management operations

**OFFICE OF MANAGEMENT COORDINATION**

MISSION

The Office of Management Coordination (OMC) provides management and policy analysis support to the Administrative Office Director and Associate Director for Management and Operations. It conducts studies and provides advice on management and organization, and coordinates and monitors management improvement efforts agency-wide to enhance organizational performance.

**OFFICE OF PROGRAM ASSESSMENT**

MISSION

The Office of Program Assessment (OPA) oversees the judiciary's review and assessment processes to ensure the integrity and effectiveness of federal judiciary programs, operations, and systems. It also serves as liaison with the General Accounting Office (GAO) and the Office of Independent Counsel and coordinates or conducts special reviews, evaluations, or investigations as requested.

**OFFICE OF GENERAL COUNSEL**

MISSION

The Office of General Counsel (OGC) provides legal counsel and services to the Director and staff of the Administrative Office, the Judicial Conference of the United States and its committees, and other judiciary officials. The General Counsel also acts as a senior policy advisor to the Director.

## **OFFICE OF JUDICIAL CONFERENCE SECRETARIAT**

### MISSION

The Office of Judicial Conference Secretariat (OJCS) ensures that the Administrative Office performs capably the staff functions of the Judicial Conference and its committees, and provides staff support and assistance in planning the Judicial Conference's plenary sessions

## **OFFICE OF LEGISLATIVE AND PUBLIC AFFAIRS**

### MISSION

The Office of Legislative and Public Affairs (OLPA) provides legislative counsel and services to the Director and staff of the Administrative Office and to the Judicial Conference of the United States and its committees. It is responsible for both the performance and coordination of activities which involve the relationships of the federal judiciary with Congress, the media, and the public

## **OFFICE OF INTERGOVERNMENTAL AND EXTERNAL AFFAIRS**

### MISSION

The Office of Intergovernmental and External Affairs (OIEA) coordinates various issues and activities affecting the judiciary with federal/state-related entities, the executive branch, and bar associations, legal institutions, and other relevant legal groups

**OFFICE OF AUTOMATION AND TECHNOLOGY**

The Assistant Director for Automation and Technology manages the Information Resources Management (IRM) program for the federal judiciary through the acquisition, integration, implementation, and guidance and support of users of automated data processing, office automation, information systems, and data processing resources. In fulfilling these responsibilities, the Assistant Director and the Deputy Assistant Director manage the assimilation of the *Long Range Plan for Automation in the Federal Judiciary* and the implementation of the national automation and telecommunications system serving the judiciary. The Office of Automation and Technology (OAT) provides services in four discrete functional areas, development, testing, support and education, and automation IRM services (e.g., acquisition). The Assistant Director chairs the Director's Automation Planning Council. The Assistant Director also provides staff support and assistance to the Judicial Conference Committee on Automation and Technology. In addition, the Assistant Director is responsible for supervising the operations of the Arizona Training Center and Texas Training and Support Centers.

**AUTOMATION PLANNING AND POLICY FORMULATION OFFICE**MISSION

The Automation Planning and Policy Formulation Office (APP) provides judiciary-wide automation Information Resources Management policy development, budgeting, planning, resource allocation, and liaison services.

**TECHNOLOGY ENHANCEMENT OFFICE**MISSION

The Technology Enhancement Office (TEO) conducts technology assessment studies, develops prototype technology applications, and studies system design methodologies to identify, demonstrate, evaluate, and promote cost-effective technological and procedural innovations that might benefit the courts.

## **AUTOMATION TRAINING AND SUPPORT CENTERS**

### MISSION

The Arizona Training Center (AZTC) and the Texas Training and Support Centers (TXTSC) provide training, analysis, and technical and operational support services to the courts for automated systems developed on a variety of platforms. The training and support centers also assist the courts in making effective use of authorized automation applications.

## **COURT SYSTEMS DIVISION**

### MISSION

The Court Systems Division (COSD) designs, develops, enhances, tests, documents, delivers, and supports automated systems applications in the courts. COSD also develops and conducts automation training for court systems managers.

## **INFORMATION RESOURCES MANAGEMENT SERVICES DIVISION**

### MISSION

The Information Resources Management Services Division (IRMSD) provides overall management of the delivery of Information Resources Management (IRM) services, and recommends and coordinates guidelines, standards, and procedures. It also manages automation and telecommunications acquisition activities for those organizations within the federal judiciary for which the Director of the Administrative Office has procurement responsibility.

## **INTEGRATED TECHNOLOGY DIVISION**

### MISSION

The Integrated Technology Division (ITD) coordinates and manages the integration of automated systems, office automation systems, and telecommunications necessary for the planned implementation of the nationwide judiciary data communication system.

## **SYSTEMS TECHNOLOGY DIVISION**

### MISSION

The Systems Technology Division (STD) provides site preparation, installation, maintenance, enhancement and testing support for computer systems in the courts, and supplies technical expertise in specialized areas, such as operation of mainframe computers. It also develops plans, procedures, and guidelines for automated data processing standards, quality assurance, and computer security for the judiciary.

## **OFFICE OF COURT PROGRAMS**

The Assistant Director for Court Programs (OCP), through the Appellate Court and Circuit Administration Division, Bankruptcy Court Administration Division, Defender Services Division, District Court Administration Division, and Probation and Pretrial Services Division is responsible for the oversight and support of the judiciary's clerks offices, staff attorneys, court reporters, and interpreters, as well as the Criminal Justice Act, public defender, and probation and pretrial services programs. The Assistant Director is responsible for general oversight of the operations of the Central Violations Bureau and the Public Access to Court Electronic Records billing center, which is co-located with the Texas Training and Support Centers.

## **COURT ADMINISTRATION POLICY STAFF**

### MISSION

The Court Administration Policy Staff (CAPS) monitors and evaluates the effectiveness of existing nationwide court administration programs, supports the development of new programs, and assists in the implementation of national policy. It provides regular support for the Judicial Conference Committee on Court Administration and Case Management and to other Conference committees, as requested, and provides technical assistance and guidance on case management to the courts.

## **APPELLATE COURT AND CIRCUIT ADMINISTRATION DIVISION**

### MISSION

The Appellate Court and Circuit Administration Division (ACCAD) serves as liaison among the appellate courts, the judicial councils of the circuits, the circuit executives, and the Administrative Office on matters relating to the circuit executives, clerks of court, staff attorneys and preargument conference attorneys. It assists the Director and the appellate courts in discharging their administrative responsibilities, implements staffing formulas for resource allocation, manages automation projects, and identifies and develops effective and efficient management procedures (including case management) to assist the appellate courts and the circuit executives in their operations.

## **BANKRUPTCY COURT ADMINISTRATION DIVISION**

### MISSION

The Bankruptcy Court Administration Division (BCAD) serves as liaison between the bankruptcy courts and the Administrative Office on matters relating to the clerks of court. It assists the Director and the bankruptcy courts in discharging their administrative responsibilities, implements staffing formulas for resource allocation, manages automation projects, and identifies and develops effective and efficient management procedures to assist the bankruptcy courts in their operations.

## **DEFENDER SERVICES DIVISION**

### MISSION

The Defender Services Division (DSD) is responsible for administering the federal appointed counsel program pursuant to the Criminal Justice Act (CJA), including guidance and support to federal public and community defender organizations.

## **DISTRICT COURT ADMINISTRATION DIVISION**

### MISSION

The District Court Administration Division (DCAD) serves as liaison between the district courts and the Administrative Office on matters relating to the clerks of court, district court executives, pro se law clerks, court interpreters and court reporters. It assists the Director and the district courts in discharging their administrative responsibilities, implements staffing formulas for resource allocation, manages automation projects, and identifies and develops effective and efficient management procedures to assist the district courts in their operations.

## **PROBATION AND PRETRIAL SERVICES DIVISION**

### MISSION

The Probation and Pretrial Services Division (PPSD) provides general oversight, policy guidance, management assistance, training, and program evaluation to federal probation and pretrial services offices.

## **OFFICE OF FACILITIES, SECURITY AND ADMINISTRATIVE SERVICES**

**T**he Assistant Director for Facilities, Security and Administrative Services (OFSAS), through the Court Security Office, the Relocation and Travel Management Office, the Contracts and Services Division, and the Space and Facilities Division, is responsible for the oversight and management of the judiciary's security, relocation and travel, procurement, and space and facilities functions. Through the Administrative Office Internal Services Division, the Assistant Director is responsible for providing administrative support and services to the Administrative Office, including management of the Thurgood Marshall Federal Judiciary Building. The Assistant Director provides staff support and assistance to the Judicial Conference Committee on Security, Space and Facilities.

## **COURT SECURITY OFFICE**

### MISSION

The Court Security Office (CSO) provides security advice and assistance to the judiciary and the Administrative Office, formulates and executes security policies for the judiciary, and monitors the U S Marshals Service's implementation of the Judicial Facility Security Program

## **RELOCATION AND TRAVEL MANAGEMENT OFFICE**

### MISSION

The Relocation and Travel Management Office (RTMO) serves as the central relocation and travel management office for the judiciary and provides a central point for coordination of meeting planning activities

## **ADMINISTRATIVE OFFICE INTERNAL SERVICES DIVISION**

### MISSION

The Administrative Office Internal Services Division (AOISD) provides administrative support and services to the Administrative Office, including personnel services, and facilities management assistance for the Thurgood Marshall Federal Judiciary Building (TMFJB)

## **CONTRACTS AND SERVICES DIVISION**

### MISSION

The Contracts and Services Division (CSD) directs and carries out the procurement, property management, printing, records management, and non-automation contracting programs for the judiciary

## **SPACE AND FACILITIES DIVISION**

### MISSION

The Space and Facilities Division (SFD) carries out the Director's statutory responsibility to provide accommodations to the judiciary and assists the courts in meeting their space needs

## **OFFICE OF FINANCE AND BUDGET**

**T**he Assistant Director for Finance and Budget (OFB) is the chief financial officer for the judiciary and as such serves as the chief advisor to the judiciary and the Director of the Administrative Office on all financial resource matters. Specific responsibilities include oversight and management of the accounting, budget, financial program support, and judicial impact analysis functions and serving as Administrator of the judiciary's retirement and survivors annuities trust fund. The Assistant Director also provides oversight of the National Fines Center, an automated system being developed to provide current information on the payment of criminal fines and assessments imposed by the federal courts. In addition, the Assistant Director provides staff support and assistance to the Judicial Conference Committee on the Budget.

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## **FINANCIAL ANALYSIS OFFICE**

### MISSION

The Financial Analysis Office (FAO) performs financial analysis of judiciary and Administrative Office programs and serves as the judiciary's point of contact for Congress on budget matters.

## **JUDICIAL IMPACT OFFICE**

### MISSION

The Judicial Impact Office (JIO) administers, coordinates, and produces Judicial Impact Statements analyzing the operational and resource effects on the judiciary of legislative and executive branch proposals and enacted legislation.

## **ACCOUNTING AND FINANCIAL SYSTEMS DIVISION**

### MISSION

The Accounting and Financial Systems Division (AFSD) provides fiscal and accounting services to the Administrative Office and the judiciary. It also centrally maintains the financial records of the judiciary.

## **BUDGET DIVISION**

### MISSION

The Budget Division (BUD) coordinates the formulation of the budget request to the Congress for the maintenance and operation of the courts and the Administrative Office. It apportions funds, allocates resources, monitors spending, and produces special analyses and reports on budgetary issues.

## **OFFICE OF HUMAN RESOURCES AND STATISTICS**

**T**he Assistant Director for Human Resources and Statistics (OHRS), through the Human Resources Division and the Statistics Division, is responsible for the oversight and management of the judiciary's human resources and statistics functions. The Chief, EEO and Special Projects Office, reports directly to the Director on equal employment opportunity matters, and to the Assistant Director for Human Resources and Statistics, on all other matters. The Assistant Director provides staff support and assistance to the Judicial Conference Committee on Judicial Resources. In addition, the Assistant Director is responsible for managing the educational, training and development program for the Administrative Office and court personnel.

## **ANALYTICAL SERVICES OFFICE**

### MISSION

The Analytical Services Office (ASO) performs special statistical analyses for senior Administrative Office officials, other Administrative Office organizations, the courts, and other agencies with an interest in the operations of the federal judiciary. It administers the judiciary's work measurement program. It also advises other organizations in the Administrative Office on statistical matters.

## **EQUAL EMPLOYMENT OPPORTUNITY AND SPECIAL PROJECTS OFFICE**

### MISSION

The Equal Employment Opportunity and Special Projects Office (EE-OSP) develops and coordinates all equal employment opportunity initiatives in the federal judiciary and performs special projects, as requested

## **HUMAN RESOURCES DIVISION**

### MISSION

The Human Resources Division (HRD) administers personnel, payroll, retirement and insurance programs for the judiciary

## **STATISTICS DIVISION**

### MISSION

The Statistics Division (SD) designs and maintains statistical systems providing information on the workload of the federal courts, prepares reports to meet the Director's statutory requirements for reporting to the Judicial Conference and the Congress, and provides statistical expertise to the judiciary for the purposes of planning for and allocating resources

## **EDUCATION AND TRAINING BRANCH**

### MISSION

The Education and Training Branch (ETB) administers the education and training responsibilities of the Director of the Administrative Office. The Education and Training Branch serves as a consultant to agency offices and divisions, providing advice and assistance on educational program development including needs assessment, and providing oversight of the training budget

## **OFFICE OF JUDGES PROGRAMS**

**T**he Assistant Director for Judges Programs (OJP) is responsible for management and oversight of judicial officer programs through the Article III Judges Division, the Bankruptcy Division, and the Magistrate Judges Division. Responsibilities also include long range planning for the judiciary and support for the Rules Committees through the Long Range Planning Office and Rules Committee Support Office, respectively. The Assistant Director serves as Secretary to the Committee on Rules of Practice and Procedure and its Advisory Committees on Appellate, Bankruptcy, Civil, Criminal, and Evidence Rules. In addition, the Assistant Director provides staff support and assistance, either directly or through the organizations that report to him, to thirteen Judicial Conference committees.

### **LONG RANGE PLANNING OFFICE**

#### MISSION

The Long Range Planning Office (LRPO) provides strategic planning advice, support and assistance to the Judicial Conference Committee on Long Range Planning and to others in the judiciary.

### **RULES COMMITTEE SUPPORT OFFICE**

#### MISSION

The Rules Committee Support Office (RCSO) provides staff support and assistance to the Judicial Conference Committee on Rules of Practice and Procedure and to its Advisory Committees on Appellate, Bankruptcy, Civil, Criminal, and Evidence Rules.

### **ARTICLE III JUDGES DIVISION**

#### MISSION

The Article III Judges Division (JD) serves as the Administrative Office's focal point for the needs and concerns of the Article III and Court of Federal Claims judges and develops policies and procedures enhancing and expediting services that the Administrative Office as a whole provides to judges and their staffs.

## **BANKRUPTCY JUDGES DIVISION**

### MISSION

The Bankruptcy Judges Division (BJD) oversees and provides support to the U S Bankruptcy System to ensure the integrity and improve the effectiveness and efficiency of bankruptcy operations

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## **MAGISTRATE JUDGES DIVISION**

### MISSION

The Magistrate Judges Division (MJD) supports and administers the nationwide magistrate judges system and performs those responsibilities for the system placed upon the Administrative Office Director by the Judicial Conference and by statute

## **SECTION 7**

### **Excerpts from Getting Started as a Federal Judge**

- **Summary of the Judicial Personnel System**
- **Summary of Space and Facilities Program**
- **Summary of Property and Procurement**
- **Local Court Governance**
- **Duties of Clerks of Court**
- **Duties of Circuit Executives**

# GETTING STARTED AS A FEDERAL JUDGE

*An Administrative Guide  
to Assist New Judges  
During Their First Year on the Bench*

JULY 1997

Judges Information Series  
Nº 1

OFFICE OF JUDGES PROGRAMS  
ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Thurmond Marshall Federal Judiciary Building,  
Washington D.C. 20544  
(202) 273 1800

## CLERKS OF COURT

Each court has a clerk of court who is appointed by and serves at the pleasure of the court. As the chief non-judicial officer of the court, the clerk of court has been compared to a chief executive officer of a corporation with the judges serving as members of the board and the chief judge acting as chair of the board.

Clerks of court oversee the administrative operations of the court and report directly to the court through the chief judge. The traditional duties of the clerk of court include:

- maintaining the files and records of the court
- entering orders and judgments of the court
- scheduling cases under rules established by the court
- collecting and accounting for filing fees
- arranging for the publication of court opinions
- maintaining the roster of attorneys admitted to practice before the court
- collecting statistical information about the work of the court
- administering oaths and
- giving procedural assistance to attorneys and litigants

The clerk of a district court also has primary responsibility for managing the jury selection process.

Clerks' duties that are newer in origin but just as important as more traditional duties include:

- managing the courts budget
- overseeing space and facilities issues
- administering the courts personnel system and
- coordinating the courts information technology systems

Clerks also serve commonly as liaison with other courts the circuit executives office the Administrative Office and other government agencies

The Administrative Office with the assistance of an editorial board of clerks of court has published two clerks manuals the *Clerks Manual for the United States District Courts* (vol IV of the *Guide to Judiciary Policies and Procedures*) and the *Clerks Manual for the United States Bankruptcy Courts* (vol V of the *Guide to Judiciary Policies and Procedures*) These manuals are designed as comprehensive guides for clerks and judges to assist them in complying with the various administrative requirements found in statutes rules and Judicial Conference resolutions

#### RELATIONSHIP BETWEEN BANKRUPTCY COURTS AND DISTRICT COURTS

Despite the close statutory link between district and bankruptcy courts most bankruptcy clerks offices operate independently of the district court clerks Currently there are only three consolidated clerks offices — in Idaho the Western District of Missouri and the Southern District of Texas

The bankruptcy clerk is the official custodian of the records of the bankruptcy courts and is accountable for fees costs and other monies collected Moreover by statute the bankruptcy clerks office may not be consolidated with that of the district clerk without the approval of the Judicial Conference and Congress See 28 U S C § 156(d)

The district court may make and amend the local rules governing practice and procedure in bankruptcy cases provided those rules are not inconsistent with the Federal Rules of Bankruptcy Procedure The district court may also delegate authority to the bankruptcy court to promulgate its own local rules governing practice in the bankruptcy court

#### COURTROOM DEPUTY CLERKS

A courtroom deputy clerk is an employee of the clerks office although the deputy also serves the judge to whom he or she is assigned The courtroom deputy also sometimes referred to as a “minute law clerk” or a “case manager” helps manage the judges caseload and provides courtroom and other assis-

tance by managing court calendars attending court proceedings recording pertinent results for minutes and drafting judgments While courtroom deputies have duties that vary from court to court nearly all are assigned the task of recording the minutes of the court and assisting the judge in scheduling trials or hearings The deputy also generally handles communication with the attorneys and schedules their appearances for hearings Other duties of the courtroom deputy may include administering oaths maintaining custody of trial exhibits entering in court records a description of all relevant actions taken in open court or in chambers and serving as a liaison between the judges chambers and the clerk of courts office (Note This material is adapted from the Federal Judicial Center publication entitled *Chambers Handbook for Judges Law Clerks and Secretaries* 122-23 (1994) )

#### DOCKET CLERKS

The docket clerk is responsible for maintaining the official record for each case pending before the court Docket clerks record each event in a case as a docket entry Every event in the case from opening to final disposition must be recorded on the docket which now is maintained in automated form The docket clerk is generally responsible for knowing where the docket and official case file is at all times Public access to the official records in a case is available through the docket clerk and through automated systems but except upon order of the court a court record may be taken from the clerk of courts office only by a judge or a designee

#### AUTOMATION/SYSTEMS STAFFS

The automation/systems staff is responsible for the automated systems within the court through the introduction application operations coordination and integration of all software and hardware serviced Responsibilities also include training personnel in automated systems use and coordinating and integrating all office automation equipment within the court Although generally located in the clerks office this responsibility has been transferred from several appellate clerks offices to the circuit executives offices

#### CIRCUIT EXECUTIVES

Since 1971 each circuits judicial council has had the authority to appoint a circuit executive who performs duties delegated by the circuit judicial coun-

## SECTION 7

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See 28 U.S.C. § 332(e). Among other things, circuit executives work closely with the chief judge of the circuit and are considered to be general ombudsmen and problem solvers who attempt to preserve the institutional interests of their circuits and courts of appeals. Although the duties of circuit executives vary considerably from circuit to circuit, often they include a full range of administrative tasks, some of which relate only to the court of appeals while others are circuit-wide.

Specific tasks assigned to circuit executives in the courts of appeals may include administering the personnel system and the budget. Circuit-wide tasks may include collecting statistics, conducting studies, and preparing reports on the work of the courts; serving as the circuit's liaison to state courts, bar groups, the media, and the public; and arranging and serving as secretary for circuit judicial council and conference meetings. The circuit executive may also maintain an accounting system or establish a property control and space-management system. Some circuit executives provide substantial advice and assistance on automation and circuit-wide training, and their staffs are involved with the installation and maintenance of the judiciary's Data Communications Network within the circuit. Additional duties may include assisting judges and committees in processing judicial misconduct and disability matters. Further information on the role of the circuit executive may be found in vol. III of the *Guide to Judiciary Policies and Procedures*.

### DISTRICT COURT EXECUTIVES

This position was authorized in 1981 at the request of the Judicial Conference for six courts as a pilot program designed to relieve chief judges of heavy administrative burdens. Presently, there are district court executives located in the Northern District of Georgia, the Eastern District of New York, the Southern District of New York, and the Central District of California.

Administrative responsibilities vary for those courts participating in the pilot program, but generally include the following: arranging meetings, preparing agendas, and serving as secretary to ad hoc or standing committees of judges of the court; administering the Equal Employment Opportunity Plan; serving as public relations officer; reviewing and recommending changes in the local rules, the Jury Selection and Service Act Plan, the Speedy Trial Plan, and the Criminal Justice representation plan; and establishing and maintaining a space management program.

## 16

LOCAL

GOVERNANCE

The individual appellate and district courts are the basic building blocks of the federal judiciary. Reflecting and supporting the jurisprudential independence that is the hallmark of the federal judiciary, the courts operate with considerable autonomy under national guidance, with only the essential elements of court structure, governance, budgetary allocations, and procedures and plans set at the regional or national levels. The following sections discuss each of these elements as they apply to the individual courts.

#### COURT STRUCTURE AND GOVERNANCE

The courts of appeals and the district courts, through largely autonomous self-governance, perform many of the basic tasks of judicial administration in the federal court system. Local rules of court, administrative decisions, and personnel appointments (except for chambers staff) are made collectively by all the active judges of the court. In a sense, each active Article III judge of a particular court functions as a member of the board of directors of the court. The chief judge, by analogy, is the chair of the board and is ultimately responsible for seeing that the court is administered effectively and efficiently. Many courts develop court policies and oversee court operations through a system of court committees or liaison judges appointed by the chief judge to address specific subject areas (e.g., budget, space, or local rules) or to supervise court units (e.g., the clerk's office or the probation office).

The *Long Range Plan for the Federal Courts* includes a recommendation that there should be broad, meaningful participation of judges in governance activities at all levels. The *Plans* commentary further notes that “[i]t is essential that the different perspectives and experiences of trial and appellate judges

and of life tenured and fixed term judges be reflected in the decision making process. By tradition many courts involve their senior judges, bankruptcy judges, and magistrate judges in judicial governance, but by statute the Article III judges in active service constitute their respective courts and are therefore responsible for most decisions concerning hiring, local court rules, and other policy matters.

The governance structure of the judiciary is often described as decentralized. This means that Article III judges, as independent judicial officers enjoying salary and tenure protections, retain considerable autonomy over matters of court administration. The judiciary governs itself primarily through local mechanisms, with the Judicial Conference and the circuit councils providing guidance and setting policy when specific needs arise. Further information concerning national and regional governance mechanisms is provided in Chapters 17 and 18.

Judges at the local level enjoy considerable latitude to structure their court operations to suit local conditions. Workload, while monitored on a national basis, may be structured and divided based on the needs of the individual court and its judges. Courts may issue local rules and operating procedures to address situations that may be unique to the local court. Moreover, personnel policies are set locally, and hiring is done by individual judges or courts. Similarly, bankruptcy courts, while units of the district courts, are generally administered autonomously. The following sections describe several features of local governance in greater detail.

## COURT PROCEDURES AND PLANS

Each federal court develops a number of individualized procedures and plans to conduct its business. Procedures and plans relating to local rules, case assignments, case calendaring, alternative dispute resolution, and long range planning are developed by local option; others — such as those pertaining to jury selection, indigent representation, and civil and criminal case disposition — are mandated by statute.

### Local Rules

The United States Code and the federal rules of procedure authorize courts of appeals, district courts, and (where delegated by the district court) bankruptcy courts to adopt local rules of practice and procedure. See 28 U.S.C. § 2071; Fed. R. App. P. 47; Fed. R. Bankr. P. 9029; Fed. R. Civ. P. 83; Fed. R. Crim. P. 57. These rules must be consistent with but not duplicative

of federal law and rules. Local rules may be adopted only after public notice and comment.

The relevant circuit judicial council must periodically review the local rules of district courts and bankruptcy courts within the circuit, and the circuit council has the authority to modify or abrogate them. See 28 U.S.C. §§ 332(d)(4), 2071(c)(1). Similarly, the local rules of courts of appeals may be modified or abrogated by the Judicial Conference of the United States. See *id.* § 2071(c)(2). Recent amendments to the federal rules of procedure require that local rules follow any uniform numbering systems established by the Judicial Conference of the United States. The Conference has mandated that all courts adopt numbering systems for local rules of court by April 15, 1997, that correspond with the relevant federal rules of practice and procedure. In addition, these rule revisions do not allow courts to impose sanctions for failure to follow local rules, unless the alleged violator has been furnished in the particular case with actual notice of the requirement.

Topics generally covered by local court rules include the procedures for admitting attorneys to practice in the court, the term of the court, the functions of the clerk of the court, and the rules regarding the filing of motions. Some courts also establish detailed requirements concerning the number of copies of documents to be filed, the length of memoranda, the time within which memoranda must be filed, and page length, typeface, and margin size.

The local rules of district courts and bankruptcy courts may further specify procedures for setting cases for trial, scheduling pretrial conferences, setting motions for oral argument, serving memoranda of law, and other details relating to trial. Courts of appeals have established local rules concerning procedures for ordering transcripts, filing and docketing appeals, calendaring motions, summary disposition of appeals, setting cases for oral argument, time limitations on oral argument, rehearing and en banc consideration, and stay of mandate. By statute, the courts of appeals must publish their locally adopted rules. See 28 U.S.C. § 2077. (This section was adapted from Federal Judicial Center, *Chambers Handbook for Judges, Law Clerks and Secretaries*, 104-05 (1994).)

### Case Assignments

Every court with more than one judge must utilize procedures for assigning responsibility for cases to its judges. Common methods of case assignment in the district courts include random assignment, rotational assignment, subject matter assignment, and assignment by geographic division of the court.

Using computer software provided by the Administrative Office, most federal district and bankruptcy courts randomly assign a case to a particular judge at the time it is filed or soon thereafter, and that judge has complete responsibility for the case until it is terminated. Random assignment generally helps to ensure an equitable distribution of workloads and also prevents judge shopping. Under a rotational assignment system, a judge or judges are allotted a shift during which all incoming cases are assigned to them.

Some courts have successfully implemented case assignment systems in which the civil part of the docket is allocated randomly while the criminal docket is assigned rotationally. Such systems help to clear time for judges to handle civil matters without the frequent interruptions occasioned by criminal cases. Subject matter and divisional assignment systems are used less frequently as they tend to create workload disparities and may also lead to improperly close relations between the bench and the bar. Courts, however, often use the subject matter of certain types of cases — such as Social Security appeals and prisoner petitions — to determine assignments to magistrate judges.

In the courts of appeals, cases are normally assigned by random selection to three judge panels. If a judge is unable to attend one or more sessions of the panel, he or she will normally trade places with another judge not assigned to the panel (subject to the approval of the chief judge).

Many courts have also implemented special procedures for reassigning cases in which a judge is disqualified, for assuring that related cases are all assigned to the same judge or panel, and for special assignment of unusual and protracted cases. The local rules of the court or the courts' civil justice expense and delay reduction plan (see *infra*, pages 150-51) will normally detail these special procedures.

In addition to receiving new cases through the court's case assignment system, new judges will frequently inherit old cases from judges who have left the court or who have taken a reduced caseload. In such situations, new judges may face the unenviable position of starting out behind. Nevertheless, the number of old cases a new judge receives may be subject to negotiation with the other judges of the court.

### **Court Calendaring**

Two different methods are typically used to schedule or calendar cases: the individual calendar system and the master calendar system. Most trial court judges maintain individual calendars and are responsible for scheduling cases from the time of filing until the cases are resolved. Under a master calendar sys-

tem cases remain unassigned until judicial attention is required after that point the next available judicial officer handles the case until resolution Automated databases which may be accessed through programs such as Chambers Access to Selected Electronic Records (CHASER) facilitate calendaring by district court judges and their staffs

In the courts of appeals the calendar is maintained centrally by the clerk of court Cases are assigned to the calendar pursuant to priorities developed in each circuit

#### **Jury Selection Plans**

Each district court is required by 28 U.S.C. § 1863 to formulate a plan for random selection of grand and petit jurors The statute sets out a number of requirements for jury selection plans Plans must designate either a jury commission or the clerk of the court to manage the jury selection process They also must specify the sources of names for juror pools the use of voter registration lists or lists of actual voters is required and courts may supplement voter lists with lists derived from other sources Furthermore plans must stipulate the procedures governing the random selection of jurors from source lists to ensure random selection Other provisions of § 1863 exempt certain occupational classes from federal jury service and permit the district court plans to excuse other groups Plans are subject to approval by the circuit judicial council and the chief judge of the district court or a designee

#### **Civil Justice Reform Act Plans**

In 1990 Congress passed the Civil Justice Reform Act (CJRA) with the goal of reducing costs and delays incident to civil litigation in United States district courts See 28 U.S.C. §§ 471-482 The CJRA requires that each district court in consultation with an advisory group develop a civil justice expense and delay reduction plan Under the legislation the chief judges of the district courts are responsible for appointing the advisory groups which must be balanced and must include the United States attorney for the district or a designee and attorneys and other persons who are representative of major categories of litigants 28 U.S.C. § 478(b)

The Act directs district courts to consider a variety of procedures during the formulation of these plans including differential treatment of different types of civil cases early and proactive involvement of judicial officers in establishing firm timetables for cases and effective supervision and control of discovery processes Each district court is required to review its CJRA plan on an annual basis

In addition, the CJRA mandates a semiannual report that includes information for each district judge and magistrate judge concerning motions that have been pending for over six months, bench trials that have been submitted for over six months, and cases that have not been terminated within three years of filing. This report is prepared by the Administrative Office of the United States Courts and is made available to the public.

In May 1997, the Judicial Conference issued a final report to the Congress on the results of court experimentation under the Act. For additional information on that report or CJRA reporting requirements (see also Chapter 11, page 110), contact the Administrative Offices Court Administration Policy Staff at (202) 273-1539. For further information on CJRA plans, see the Federal Judicial Center publication entitled *The Civil Justice Reform Act: Expense and Delay Reduction Plans: A Sourcebook* (1995). Copies are available from the Centers Information Services Office at (202) 273-4153.

#### **Criminal Justice Act Plans**

Enacted to revamp the system for providing legal counsel to indigent persons involved in federal criminal proceedings, the Criminal Justice Act of 1964 requires each district court to implement representation plans. See 18 U.S.C. § 3006A. Each plan must be approved by the judicial council of the circuit.

In addition to authorizing payments to counsel at trial and on appeal, the Act provides for the payment of expenses relating to investigative, expert, and other services necessary for adequate representation. 18 U.S.C. § 3006A(a). The Act sets dollar limitations on the hourly and total compensation that may be authorized but permits courts to grant exceptions to the maximum amount limitations.

A court's plan may provide for representation by assigning cases to attorneys in private practice. If at least 200 persons within a district require the appointment of counsel annually, a district court may establish and assign cases to a federal public defender organization or to a community defender organization. These organizations are discussed further in Chapter 15 at pages 142-143.

Assistance is available from the Administrative Offices Defender Services Division at (202) 273-1670.

#### **Speedy Trial Act Plans**

The Speedy Trial Act of 1974, as amended (18 U.S.C. §§ 3161-3174), required each district court to develop a plan for the disposition of criminal cases in accordance with the time limits established by the Act. This plan was

to be prepared by a planning group consisting of at a minimum the chief district judge, a magistrate judge (if the chief district judge designates one), the United States attorney, the clerk of court, the chief probation officer, the federal public defender (if any), two private attorneys (one experienced in criminal defense litigation and one in civil litigation) and a criminal justice expert to act as a reporter. Each plan was to be approved by a reviewing panel consisting of the circuit judicial council and the chief judge of the district court (or a designee). With the reviewing panels approval, the district court is permitted to modify the plan at any time. The district courts were required by the Act to forward their initial plans and any subsequent modifications to the Administrative Office, which must report annually on the operation of the plans to the Judicial Conference of the United States.

Speedy Trial Act plans must include the frequency of, and an explanation of, extensions of time beyond statutory and district standards, periods of delay permitted under the Act, and sanctions invoked (or not invoked) for noncompliance with time standards. The Act further requires that the plans provide information concerning new timetables established in response to extensions, the effect on criminal justice administration of the current time limits and sanctions, pretrial detention, cases having special characteristics that warrant different time standards than those established under the Act, extensions relating to the filing of indictments, and the impact of compliance with the Act on the district courts' civil calendar. Other provisions of the Act mandate that the plans include data covering the processing of various civil and criminal matters, as well as recommendations for rule or statutory changes to aid in the administration of justice and for reporting forms, procedures, and time requirements. The Act also requires the Administrative Office to provide information concerning the plans to Congress.

#### **Alternative Dispute Resolution Mechanisms**

Courts have developed several forms of court annexed alternative dispute resolution (ADR) programs over the past decade, primarily to promote settlement. (Litigants may, of course, agree to avail themselves of private ADR programs that are not affiliated with the court.) The Civil Justice Reform Act directs all courts to consider the adoption of an ADR referral system (28 U.S.C. § 473(i)(6)), which has led to an increased use of these programs. Some ADR programs may be more suitable for certain types of cases than others. The following is a brief description of the principal court annexed programs, which include court annexed arbitration, mediation, early neutral evaluation, non-binding summary jury trials, and nonbinding summary bench trials.

In arbitration, the litigants present their cases to an outside neutral (or panel of neutrals). Attorneys from the local community generally serve as the arbitrators. The presentations are generally less formal than at a trial, and rules of evidence are suspended. The arbitrator issues a nonbinding decision. If the parties accept the decision, the case is terminated with no right to appeal. If the parties do not accept the decision, they may proceed to trial *de novo* or may agree on an outcome different from the arbitrator's decision. Arbitration may promote settlement, even when the parties reject the arbitrator's decision, by suggesting the likely outcome if the parties were to proceed in court. At present, 10 federal district courts are authorized to utilize presumptively mandatory arbitration, and another 10 courts are authorized to offer voluntary arbitration. See 28 U.S.C. §§ 651-658. The statutory authority for this model arbitration program ends in 1997. The Judicial Conference of the United States has adopted policies in support of permitting all courts to offer voluntary arbitration.

Mediation involves meeting with an outside neutral, either court-appointed or selected by the litigants, for in-depth settlement discussions. Mediators are often experts in the subject matter of the case and are usually attorneys, magistrate judges, or sometimes serve as mediators. Mediators do not render a decision but instead assist the litigants in identifying key issues and developing a settlement package. If the case does not settle, the parties may proceed to trial.

Under early neutral evaluation, the court refers the litigants early in the case to an outside neutral who is generally an attorney with expertise in the subject matter of the case. The parties each present their side to the evaluator, who then offers an opinion about the case's likely outcome. Settlement is facilitated by enhancing communication and providing litigants with a more realistic assessment of their prospects. Even if settlement does not occur, the issues for trial may be narrowed, and the cost and duration of litigation may be reduced.

A nonbinding summary jury trial, in which the court conducts an abbreviated trial before a regularly impaneled jury, is another strategy for reducing the costs of traditional courtroom litigation. The jury offers a nonbinding advisory verdict, and the lawyers are generally permitted to question the jurors about their decision. Settlement may be promoted by giving the parties an idea of the likely outcome if they go to trial. If the case does not settle, the parties may proceed to trial. This strategy is generally only useful when a lengthy trial is expected. The nonbinding summary bench trial is a related approach, except tried to the judge.

For further information on ADR see e.g. Federal Judicial Center & the Center for Public Resources *ADR and Settlement Procedures in the Federal District Courts* (1996) Federal Judicial Center *Alternatives to Litigation Do They Have a Place in the Federal Courts?* (1995) *Alternative Dispute Resolution Issue FJC Directions No 7* (Dec 1994) Center for Public Resources *Judges Deskbook on Court ADR* (1993) Copies of these publications are available from the Federal Judicial Centers Information Services Office (202) 273 4153 (This section was adapted from Federal Judicial Center *Chambers Handbook for Judges Law Clerks and Secretaries* 34 36 (1994) )

Assistance is available from the Administrative Offices Court Administration Policy Staff at (202) 273-1539 The Research Division of the Federal Judicial Center ((202) 273 4070) also provides advice on ADR techniques adopted by courts and by individual judges and provides assistance in evaluating such programs

### **Long-Range Planning**

Individual courts may engage in planning particularly in such areas as automation space and facilities work force organization service to the public case management and coping with reduced resources Comprehensive long range planning efforts have been undertaken — and many have recently begun — by courts of appeals district courts and bankruptcy courts as well as individual court units (e.g. clerks offices) Support for these activities is available from the Long Range Planning Office of the Administrative Office which first produced and distributed a *Judicial Branch Planning Guide* in 1993 and a *Planning Handbook for Federal Courts* in 1994 Judiciary wide planning efforts culminated in the publication of the Judicial Conferences *Long Range Plan for the Federal Courts* in December 1995 The Federal Judicial Center also promotes planning at the individual court and court unit levels by sponsoring introductory training sessions for judges and court staff

For further information contact the Long Range Planning Office of the Administrative Office at (202) 273 1810 or the Court Education Division of the Federal Judicial Center at (202) 273 4110

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## ADMINISTRATIVE PROGRAMS

The judiciary forms a separate branch of the federal government with explicit powers under the Constitution's system of checks and balances. These powers guarantee that federal judges maintain judicial independence from political pressures and heated public sentiment as they administer justice. And judicial independence entails a certain amount of administrative independence to allow the federal courts to operate with the requisite autonomy.

At the same time, the federal courts are accountable to the Congress and the people for the efficient management of their resources and the responsible oversight of public monies. This chapter discusses the judiciary's roles and responsibilities in five areas that influence the administrative independence of the federal courts — the budget, the personnel system, contracting, and procurement, financial regulations, and space and facilities.

### THE JUDICIARY'S BUDGET

The Congress has the sole authority under the Constitution to raise revenue and appropriate funds. Thus, the judiciary is dependent upon Congress to enact an appropriation that will provide the courts with the necessary resources to discharge their constitutional and statutory responsibilities.

The judiciary retains a significant amount of autonomy over its budget after an appropriation has been enacted. The federal courts have managed their own financial affairs since 1939, the year Congress transferred most administrative and budget functions to the newly created Administrative Office of the United States Courts and placed the agency under the supervision of the Judicial Conference. Prior to that time, budget development and implementation

tion as well as day-to-day budget management had been carried out by the executive branch through the Department of Justice.

Under the supervision of the Judicial Conference, budget estimates for the federal courts (the Supreme Court and two other Article III courts with nationwide jurisdiction are exceptions) are prepared at the national level by the Administrative Office with the input of the program committees of the Judicial Conference. Budget execution, however, is performed locally by each individual court under a process known as budget decentralization. As a result, the clerk of court and other court unit heads manage and spend court funds under the supervision of the chief judge, a committee of judges, or the court as a whole, within procedural guidelines for the use of decentralized budgets provided by the Administrative Office.

### General Description

**Statutory authority.** Budget estimates for the operation of the federal court system must be approved by the Judicial Conference of the United States before submission to Congress. The Director of the Administrative Office, under the supervision of the Judicial Conference, submits budget estimates for the operation of the federal court system to Congress. For the purpose of incorporation into the overall budget of the federal government, the judiciary also submits its estimates to the executive branch's Office of Management and Budget. See 28 U.S.C. § 605. The OMB, however, is precluded by law from reducing the judiciary's request. See 31 U.S.C. § 1105(b). The Supreme Court, the Court of Appeals for the Federal Circuit, and the Court of International Trade approve their budget estimates separately.

Detailed information is contained in vol. I, ch. VII, pt. C of the *Guide to Judiciary Policy and Procedures*. Questions about the appropriations process may be directed to the Office of Finance and Budgets, Financial Liaison Office at (202) 273-2028.

**Preparation of budget estimates.** Budget estimates are developed initially through the Judicial Conference's committee system. The estimates are based on congressionally authorized judgeships, Judicial Conference policies (including work measurement formulas for staff positions), caseload estimates prepared by the Statistics Division of the Administrative Office, programmatic considerations, standard inflationary factors, and guidance provided by the Judicial Conference Budget Committee.

Judicial Conference committees whose programs have budgetary impact (known as the program committees) develop budget estimates for their respec-

tive program areas usually 16 months in advance of the fiscal year under consideration. Their proposals are provided to the Budget Committee for review, consolidation, and development of a recommendation to the Conference.

The Budget Committee has established an Economy Subcommittee to coordinate the efforts of the judiciary to achieve fiscal responsibility, accountability, and efficiency in its overall operations. This subcommittee works with the program committees early in the process to develop the judiciary's budget.

**Review and approval of estimates** The Judicial Conference considers the Budget Committee's recommendations and approves a budget submission at its September meeting, approximately 12 months in advance of the fiscal year under consideration. The proposed budget is then submitted to the Office of Management and Budget and transmitted to the Congress in January or February, about eight months prior to the start of the fiscal year.

Usually, Congress holds hearings on the judiciary's request and develops and passes an appropriations bill by October 1st to provide funding for the coming fiscal year. The judiciary's funding is included in an appropriations bill that also funds programs for the Departments of Justice, State, and Commerce. In order to continue operations on and after October 1 of a new fiscal year, an appropriations bill must be enacted by the Congress and signed by the President, or a continuing resolution must be signed in its place. A continuing resolution generally allows the judiciary to maintain current operations pending completion of the appropriations legislation.

**Financial plan** The Executive Committee of the Judicial Conference is assigned jurisdiction for working with the Director of the Administrative Office to fashion spending plans for the judiciary's congressionally approved appropriations. The financial plan apportions the appropriated funds provided by the Congress to continue the operations of the courts and to implement the priorities of the Judicial Conference and congressional directives.

**Allocation and allotment of funds** Once the financial plan has been approved, the judiciary's appropriation is divided into allocations within each program area (e.g., courts of appeals, district courts, bankruptcy courts, probation and pretrial services, and defender services), providing authority to incur obligations against appropriated funds. The program divisions within the Administrative Office are responsible for making funding available to the courts within their particular program areas through allotments and other authorizations to obligate funds.

**Disbursement of funds** The clerk of each court serves as the financial officer for that court and is accountable for the proper handling of funds entrusted to the court. Thus, clerks of court are designated by the Director of the Administrative Office as disbursing officers with authority to spend appropriated funds.

Judges, clerks of court, and the heads of other court units are authorized to serve as approving officers. This authority allows a judge to approve travel expenditures, reimbursement claims, training invoices, and other vouchers incurred by the judge personally or by chambers staff for payment by the clerk. A judge has the discretion to delegate this authority to a staff member. More information on judges' fiscal responsibilities is available from the clerk of court or can be found in vol. I, ch. VII, pt. A of the *Guide to Judiciary Policies and Procedures*.

### **Budget Decentralization**

Budget decentralization places the responsibility for planning, management, and control of allotted funds at the local court unit level, where reaction to local needs can occur quickly. Courts have the discretion to reprogram funds between most accounts and between units within their district courts. (Not all funds are fully decentralized, however. For example, salary and travel funds for judges and chambers staff are held centrally by the Administrative Office and are not included under budget decentralization.)

The Judicial Conference and the Administrative Office decentralized budget management several years ago in order to provide courts with greater autonomy in long-range planning, improved cost control, flexibility in meeting local needs, and an enhanced sense of cooperation between court units. Under budget decentralization, each court unit (including the district clerk's office, the bankruptcy clerk's office, and the probation office) is responsible for requesting and managing funds that are allotted to different budget categories, such as salaries, travel, consumable supplies, and office automation equipment.

Each spring, the Administrative Office analyzes the judiciary's budgetary needs for the fiscal year beginning the following October. A proposed financial plan, with several alternatives, is developed for review and approval by the Executive Committee of the Judicial Conference based on the estimated level of funding from Congress, current services program requirements, and necessary program increases. Detailed court requirements are obtained from a budget call distributed to the courts of appeals, the district courts, the bankruptcy courts, and the probation and pretrial services offices. The courts provide projections for the next fiscal year for staffing, travel, tenant alterations, equip-

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ment and other budget categories. Funds are allotted to the courts at the beginning of the fiscal year based on the appropriation enacted by Congress and the financial plan approved by the Executive Committee of the Judicial Conference.

The courts receive their funds in allotments for three different budget categories (i.e. salaries, operating expenses, and automation). Courts prepare a local financial plan based on the allotments received, and they may move money between accounts and between court units (within limits) to meet local expenses. Most courts have established a committee of judges to oversee the budget development and implementation process and to establish court priorities for the expenditure of funds. The monies have been given to the court as a whole, so all active Article III judges (and often senior judges and non-Article III judges by custom) have a role in the courts' decisions to expend funds. Bankruptcy courts receive their own operating funds, so the active bankruptcy judges perform the same role for their court.

Recently, the judiciary has implemented a new system called the Cost Control Monitoring System to deliver salary allotments to the courts. It is described in greater detail in this chapter at pages 180-81. Questions regarding budget decentralization policies and procedures may be directed to the clerk of court or to the Policy and Procedures Office of the Budget Division at (202) 273-2150.

### JUDICIARY PERSONNEL SYSTEM

In 1995, the federal judiciary began implementing a new personnel resource management system that decentralizes personnel decision making to the court unit level. Courts will be provided with the funds each year to pay local salaries, thus creating incentives to manage personnel resources locally instead of being provided with less flexible position allocations. The new system has two major components — the Court Personnel System (CPS) and the Cost Control Monitoring System (CCMS).

Judges and their chambers staffs will continue to be covered by the existing personnel system, the Judiciary Salary Plan (JSP). (Personnel issues for chambers staff are discussed in Chapter 6.) Top court unit executives will also remain under the

#### NOTE

A videotape entitled *An Overview of the Court Personnel System for Federal Judges* has been designed for judges with specific questions about CPS. Call (202) 273-1288 for copies.

JSP Other court staff including courtroom deputies have converted to the CPS Employment arrangements for court reporters will remain unchanged

#### **Judiciary Salary Plan (JSP)**

The Judicial Conference implemented the Judiciary Salary Plan in the 1960s Under the JSP most decisions on job classification and salaries are made centrally through the Judicial Conference of the United States its committees and the Administrative Office

The JSP grade structure and compensation system are patterned on the civil service system used for most federal employees in the executive branch The JSP has 18 grades and defines most jobs in the courts in landmarks (more than 180 in number) prescribing job title listing typical duties and responsibilities and showing the JSP grades available for the job

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#### **Court Personnel System (CPS)**

In 1989 the Judicial Resources Committee of the Judicial Conference directed the Administrative Office to undertake a study of the JSP in cooperation with court managers and employees Based upon the findings of that study a recommendation was made to create a new personnel management system After a development effort that included court managers the Court Personnel System was approved by the Judicial Conference in September 1993 The first courts converted to the new system in March 1995 and all courts were phased in by October 1996

The Court Personnel System simplifies the job classification system and grade structure used in the JSP The CPS also contains a wider pay range for each position giving the court manager more flexibility in setting and adjusting an employees pay No limitations are placed on spending for promotions or hiring decisions as long as the court unit is able to fund its personnel actions from the salary dollars provided under the Cost Control Monitoring System

Many elements of the personnel system did not change with the implementation of CPS including employee leave policies retirement systems disability and survivors benefits health insurance life insurance and other employee benefits and protections Conversion did not result in a reduced salary for any employee

#### **Cost Control Monitoring System (CCMS)**

Under the Judiciary Salary Plan cost control for salaries is accomplished by the Administrative Office which regulates the number of positions authorized for a court unit under a work measurement formula and by centrally

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managing the classification process. Funding is granted to a court unit based upon the number of positions and classifications that the Administrative Office has authorized.

The Cost Control Monitoring System will continue to use work measurement formulas as the basis for determining salary allotments for individual court units. In lieu of personnel positions, however, the allocation will be based on approved work units that are converted to salary dollars for purposes of the annual salary allotments. Thus, the system will be cost-driven rather than position-driven, as is the JSP.

Under CPS and CCMS, court managers have significant discretion in determining the number, compensation, and classification of individual employees. This includes the flexibility to combine duties to best meet the court unit's needs, as well as to have fewer employees with higher salaries or more employees with lower salaries. Thus, controlling costs under the CCMS will require a system of local management and control.

Cost control under the CCMS is achieved by issuing a first year base salary allotment accompanied by a second year annualized salary cost ceiling. Future annualized costs of a court unit's personnel decisions during the first year may not exceed the annualized salary cost ceiling. This forces the court to consider the future impact of personnel decisions into the current fiscal year.

More specific information is available from an AO videotape entitled *An Overview of the Court Personnel System for Federal Judges*. The Court Personnel Systems Program Staff of the Human Resources Division (202) 273-1288 can provide copies and can also address questions about the Court Personnel System or the Cost Control Monitoring System.

### CONTRACTS, PROCUREMENT, AND PROPERTY MANAGEMENT

Judges and officers of the United States are charged with the responsibility to exercise due care in their management and oversight of federal monies and property under their control. Moreover, the judiciary is generally covered by federal statutes and rules relating to contracting, procurement, and property management. Assistance in exercising this responsibility and complying with applicable federal government requirements can be obtained from the clerk of court and the Contracts Division of the Administrative Office. Training for court procurement officers is provided periodically by staff of the Contracts Division.

By statute, the Director of the Administrative Office is responsible for handling contracting, procurement, and property management and disposal issues for the federal courts. See 28 U.S.C. § 604. The Director has delegated

this authority to the chief judges of the various courts. See 28 U.S.C. § 602(d). Responsibility for managing these programs may be assigned in writing by the chief judge to court unit executives or other court employees. For further information, see vol. I, ch. VIII of the *Guide to Judiciary Policies and Procedures*.

### **Contracting and Procurement**

Chief judges have the authority to obtain automation and non automation goods and services for their courts on the open market in amounts not exceeding \$25,000. Contracts involving more than \$25,000 are supported in most cases by the Administrative Offices Contracts Division for non automation resources and by the Technology Policy Planning and Acquisitions Office for automation resources. In the automation arena, chief judges also have delegated authority to obtain goods and services up to \$50,000 under the General Services Administration's Schedule Contract program. More detailed information on these procurement authorities can be found in vol. I, ch. VIII (non automation) and vol. XIII, ch. XIV (automation) of the *Guide to Judiciary Policies and Procedures*.

Upon their appointment, new judges receive an allocation for the purchase of furniture and furnishings for chambers and courtrooms. (For further information, see Chapter 7 at pages 80-81.) The clerk of court will assist judges in arranging for purchases and can provide guidance in establishing procedures for property management and disposal.

### **Property Management**

Property management includes receiving and storing property, maintaining records and conducting periodic inventories, issuing property passes to remove government owned property from judicial facilities, and disposing of excess property. Judges may perform these responsibilities personally, but the chief judge normally designates an individual in the clerk of courts office to handle these duties and to serve as custodial officer. The clerk of court may also be able to assist judges with performing some of these tasks. Additional information is available in vol. I, ch. VIII, pt. C of the *Guide to Judiciary Policies and Procedures*.

## **FINANCIAL REGULATIONS**

The clerk of court serves as the chief financial officer for the court and is responsible for the proper collection, maintenance, accounting, and disbursement of all monies that come into custody of the court. Typical sources of funds handled by the court include

- court allocations for operating expenses (appropriated funds)
- filing fees and other statutory assessments
- court assessed costs and fines in civil and criminal cases and
- attorney admission fees (nonappropriated funds)

It is not unusual for the clerks office to hold millions of dollars at any given time and to issue hundreds or thousands of receipts and checks each year. Thus, each court must have in place a program to closely monitor and supervise financial activities in the court in order to comply with the rules and regulations for public monies issued by the Judicial Conference, the Department of the Treasury, the Administrative Office, and the court itself. Contact the clerk of court regarding the courts procedures for the receipt of public monies. See also vol. I, ch. VII, pt. I of the *Guide to Judiciary Policies and Procedures*.

#### Personal Liability

In most cases, individuals in the clerks office will collect monies paid into the court, relieving judges and their staffs from this task. Occasionally, however, judges or their staffs will be required to accept funds on behalf of the clerk and must account for the collections. (This most often occurs with after hours receipt of bail or forfeiture of collateral in petty offense cases held at remote locations.) Absent exceptional circumstances, however, judges in situations without clerks office support should use a lockbox for receipt of collateral forfeitures, fines, and assessments. (The lockbox is a post office box established by a financial institution in Atlanta under contract with the Department of the Treasury.) Offenders mail their payments directly to the lockbox using pre-addressed envelopes provided by the judge.

Judges and other federal employees having custody or possession of public monies are required to safeguard the money, deposit it in the Treasury promptly and without deduction, and keep accurate records of each amount received, transferred, and paid. See 31 U.S.C. § 3302.

Judges like other federal employees having custody of or responsibilities for public funds are personally liable for improper payments or shortage or loss of funds. See 31 U.S.C. § 3527.

#### N O T E

It is essential that judges follow the judiciary's depositing and transmitting procedures for public funds if they accept fines or other monies on behalf of the clerk of court. See vol. I, ch. VII of the *Guide to Judiciary Policies and Procedures*.

### SPACE AND FACILITIES PROGRAM

The federal courts are located in over 750 separate facilities that are either government owned or leased occupying over 19 million square feet of space. As with most other federal entities, the judiciary has no direct authority to acquire facilities for its own use. By law that responsibility lies exclusively with the General Services Administration (GSA), an executive branch agency.

The judiciary like other GSA tenants pays rent to GSA. (In fact, 19.2% of the judiciary's fiscal year 1997 budget is applied to rental payments.) It is GSA's responsibility to plan for the space needs of its clients.

Many of the federal courthouses currently in use were built in the 1930s as combination post offices and courthouses and are on the National Historic Register. Over the subsequent 50 years, most critical space needs were addressed by the construction of makeshift facilities in existing federal buildings, which in many cases were not built to accommodate modern day court operations. Large increases in caseloads and the staff to do the new work have combined with the age of many of these structures to render them obsolete.

Dramatic growth in the federal court system during the 1980s has resulted in a proliferation of court facilities with varying degrees of functional and security deficiencies. In 1991, GSA began a major program to replace aging court facilities by approving nearly 90 major renovation and construction projects. This is the largest public works project authorized by Congress since the 1930s. Recent efforts by Congress and the executive branch to reduce federal spending have resulted in cuts to the courthouse construction and renovation program.

#### Statutory and Regulatory Responsibilities

The statutory and regulatory relationship between the judiciary and the General Services Administration is the basis for the acquisition of court accommodations for the judicial branch. Under the Federal Property and Administrative Services Act of 1949 (the Property Act), GSA serves as the landlord for virtually the entire federal government, including the judiciary. See 40 U.S.C. § 751 *et seq.* As the landlord for the federal court system, GSA is charged with providing space in either public buildings or leased facilities and with providing certain levels of services in these accommodations.

To supplement the provisions of the Property Act and other statutes, the Administrator of General Services has promulgated the Federal Property Management Regulations. See 41 C.F.R. subch. D, pts. 101.16 to 101.21. The regulations apply to Federal agencies, which term encompasses any executive agency or any establishment in the legislative or judicial branch of the

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Government 40 U.S.C. § 472(b) 41 C.F.R. § 101-17.003-23 Thus these regulations are applicable to the judiciary

The regulations set out in detail how government-owned or leased space in GSA and Postal Service facilities is to be assigned and utilized (41 C.F.R. pt. 101-17) how real property is to be acquired (41 C.F.R. pt. 101-18) how public buildings are to be constructed and altered (41 C.F.R. pt. 101-19) how buildings and grounds are to be managed (41 C.F.R. pt. 101-20) and how monies for these projects are to be collected from agencies and deposited in a special account for future construction projects called the Federal Buildings Fund (41 C.F.R. pt. 101-21)

Complementing the responsibilities given to GSA for acquiring space are statutory provisions imposing duties on the Director of the Administrative Office. The Director has a statutory role to provide accommodations including chambers and courtrooms to the courts. See 28 U.S.C. § 604(a)(12). The Director is generally authorized to provide accommodations only at places where regular sessions of court are authorized by law to be held subject to a determination by the circuit judicial council that the accommodations are necessary. See 28 U.S.C. § 462(b). These responsibilities are carried out through the Administrator of General Services. See 28 U.S.C. § 462(f).

In 1984 the Judicial Conference approved the *United States Courts Design Guide* and other documents to provide guidelines and standards to the Administrator of General Services and to design architects for the construction and furnishing of federal courthouses. GSA has adopted these standards and guidelines for the design, construction and furnishing of federal courthouses and continues to work closely with the Administrative Office.

The Committee on Security, Space and Facilities provides nationwide policy recommendations to the Judicial Conference on matters relating to the space and facilities program. One of the Committee's responsibilities is to recommend revisions to the *Design Guide*, copies of which are available from the clerk of court or circuit executive and from the Administrative Offices, Space and Facilities Division. (202) 273-1230

### Maintenance of Court Space

As landlord, it is GSA's responsibility to provide levels of standard operating and maintenance services equivalent to those available commercially including periodic repainting, repairs and alterations and physical protection and security of the buildings perimeter. (Note that GSA provides perimeter security only, as distinguished from the courtroom security and personal security services for judges provided by the United States Marshals Service.)

GSA may provide special services over and above standard levels of maintenance on a cost reimbursable basis. See 40 U.S.C. § 490(f)(6) 41 C.F.R. §§ 101-20.106, 101-21.401. Special services may include overtime utilities or utilities for specialized equipment, security systems, and construction and alterations for agency program equipment. Depending on the estimated costs, reimbursements for special services are paid by the court, the circuit, or the Administrative Office.

Requests for routine maintenance or for special services should be directed to the clerk of court or circuit executive. They work closely with the GSA building manager on court needs. At times, GSA tenants may become dissatisfied with the level of maintenance services provided by the local GSA building manager. A frequent question is whether the Administrative Office or the courts may withhold rent from GSA until the necessary services are performed. By regulation, federal agencies furnished space and related services by GSA may request billing credits only by adjustments to rents through the applicable GSA regional office. See 41 C.F.R. subpt. 101-21.6. Since GSA rent bills are paid centrally by the Administrative Office, assistance may be provided by the Space and Facilities Division at (202) 273-1230.

#### **Requests for New Construction or Renovation**

Requests for new construction or renovation projects should be presented to the chief judge. Many controls are in place to monitor courthouse construction and renovation projects, and no appropriation may be made for a public building project that exceeds \$17 million unless the prospectus of the proposed building has been approved by the Congress. See 40 U.S.C. § 606.

After approval by the chief judge, the judicial council must approve each request made within the circuit. See 28 U.S.C. § 462(b). Next, the request is reviewed by Administrative Office staff for compliance with judiciary design standards before it is submitted to the appropriate GSA regional office. GSA's regional office determines whether to pursue alterations or an extension to existing facilities or new construction. The request is reviewed by GSA's central office and the Office of Management and Budget before it is submitted to the Congress. (The Director of the Administrative Office has no statutory authority to propose funding directly to the Congress for construction projects.) A space request is examined by four congressional committees before legislation authorizing construction and appropriating the necessary funds is passed by the Congress and sent to the President to be signed into law.

## **SECTION 8**

### **The Court Administrator: A Manual**



## *Introduction*

THE NATIONAL ASSOCIATION FOR COURT MANAGEMENT (NACM) has prepared this manual to provide a better understanding of court administration for judges and other interested parties. It describes the history and importance of professional court administration, the role of the court administrator, and qualifications and resources for selecting court administrators.

## *Background*

A heightened awareness of the need for managerial expertise to direct the complex operations of courts has resulted in the appearance and rapid growth of a new profession *court administration*. The inability of many courts to keep pace with swelling caseloads, increasing public concern about the performance of the judicial system, and the availability of federal funds following enactment of the 1968 Safe Streets Act have all contributed to the "court administration explosion."

In August 1969, soon after he became chief justice of the United States, Warren E. Burger observed, "The courts of this country need management, which busy and overworked judges, with drastically increased caseloads, cannot give. We need a corps of trained administrators or managers to manage and direct the machinery so that judges can concentrate on their primary duty of judging. Such managers do not now exist, except for a handful who are almost entirely confined to state court systems. We must literally create a corps of court administrators or managers and do it at once."

As a result of Chief Justice Burger's efforts and those of other leaders in the field, court administrators have become an increasingly important part of the federal, state, and local courts in recent years. Today, court administrators serve in most court systems at the federal, state, and local levels. Administrators are found in general, limited, and special jurisdiction courts. The administrator's primary

role is to facilitate the administrative functions of the court under the general guidance of the chief judge. Together, they provide the court with an executive leadership team, capable of confronting the increased complexity and necessity of change that characterize a modern court system.

## *Why Court Administration?*

THE INCREASING COMPLEXITY OF AMERICAN LIFE AND the scope of litigation in the United States have created an administrative burden on the courts that cannot be handled by judges and traditional court staff alone. Courts need professional administrators to organize and manage nonjudicial matters under the guidance of judges, just as city managers, school superintendents, and hospital administrators manage other institutions.

Virtually every writer in the field of judicial administration has stressed the courts' need for good management by trained professionals. This concept has been endorsed by the American Bar Association, the National Advisory Commission for Standards on Court Organization, and many other national conferences and commissions.

Professionally trained administrators, thoroughly schooled in judicial procedures and modern administrative practices, either on the job or through the universities, provide court systems with the administrative competence that the courts traditionally have lacked. Typical duties of a court administrator are detailed in the following job profile.

## *Administration and Management*

The duties of court administrators vary, depending on the location and size of the court in which they are employed. The court administrator functions in administrative areas rather than legal areas.

and needs the skills required of any professional position with managerial responsibility. One Los Angeles presiding judge states, “We have plenty of lawyers in the court. What we need is someone who has managerial background and knows what management is.” Basic functions performed by court administrators include the following:

- *Human Resource Management*—recruiting, selecting, training, developing, and counseling court employees, establishing ethical standards, administering wage, salary, and performance appraisal and reward systems, and facilitating personnel matters for judicial staff
- *Fiscal Administration*—preparing court budgets, administering accounting, purchasing, payroll, and financial control functions, and guiding the budget through state and local government review processes
- *Caseflow Management*—evaluating pending caseloads, developing and implementing systems (both automated and procedural) that support effective calendar management
- *Technology Management*—evaluating opportunities for technologies that expand the capacity of the court system. These include the use of personal computers to navigate on-line information systems, provision for the electronic transmission of and access to data, images, and other files in automated records management and retrieval systems, assessment of emerging technologies for video and telecommunications systems, multimedia tools for education, training, and information delivery, and other computer-assisted systems that can improve the performance of the courts
- *Information Management*—developing the capacity to deliver information to decision makers at critical events, monitoring system performance to milestones established by the court, informing court system employees of events that are outside performance measures established by the court and triggering the appropriate means of intervention, providing appropriate elec-

tronic access to court information for attorneys, litigants, governmental agencies, and the general public

- *Jury Management*—managing the jury system in the most efficient and cost-effective way
- *Space Management*—managing physical space to assure access to all citizens, provide adequate room for work and circulation, and instill public confidence
- *Intergovernmental Liaison*—acting as a liaison to other governmental agencies and departments to promote collaboration, integration of systems, and facilitation of change while maintaining the integrity of the court as a separate but equal branch of government
- *Community Relations and Public Information*—acting as a clearinghouse for the release of information to the media and the public, collecting and publishing data on pending and completed judicial business and internal functions of the court system
- *Research and Advisory Services*—identifying organizational problems and recommending procedural and administrative changes
- *Secretariat Services*—acting as staff for judicial committees or organizations

## *The Relationship of the Administrator to the Bench*

JUDGES AND COURT ADMINISTRATORS WORK IN A complex environment characterized by ambiguity and adherence to local custom, both political and organizational. Within that environment, one of the most significant relationships is that between the judges and the court administrator. Judges ultimately are responsible for effective administration of the court. Frequently, constitutions and statutes make this duty clear, other times, the duty is implied. In

either case, effective administration takes place when the judiciary and the court administrator manage the court together. Effective systems of administration provide for the participation of all judges in the development of policy and planning for the court. Through the collaborative efforts of the court administrator and the chief judge, court policy is implemented, monitored, and facilitated.

### *Dual Function*

The court administrator serves the dual function of increasing the amount of time a judge has for adjudication and bringing professional management knowledge and capability to the judiciary. In courts where judges lack administrative support, they must divide their time between judicial and administrative functions. With mounting caseloads and increased pressure for more case dispositions, judges have little time to direct the day-to-day operations of the court system, plan for the implementation of new technologies, or integrate new procedures that can improve system performance. A court administrator can help the court develop and recommend policies and coordinated work processes that enhance system performance, while maintaining the independence of individual judges. Court administrators can also help develop goals for the courts, prepare and execute budgets, recognize changes in caseload or demographics that will affect court operations and funding, manage court personnel and programs for their professional development, improve jury systems and services to the public, implement automated information systems, plan for space requirements, administrate systems for assessing and collecting fees, and establish procedures for handling information requests.

### *Perceptions of the Judiciary*

The attitudes and perceptions of the judiciary, especially those of the chief judge, are of key importance to a court administrator.

Usually, a court administrator serves as an appointee of the entire court but is subject to the supervision and direction of the chief or presiding judge. In addition, many functions performed by a court administrator were traditionally duties of the chief judge. Therefore, how the chief judge perceives the court administrator's role will determine, to a great extent, the exact duties of the court administrator.

If the chief judge views the functions of the court administrator as separate but supportive of his or her own functions, the judge may be more likely to entrust the administrator with broad responsibilities. In this situation, a chief judge sees the court administrator as a professional and as the main source of support, advice, and information on managerial matters facing the court. The chief judge and the court administrator can increase each other's effectiveness by establishing a relationship based on mutual respect for one another and exploiting the skills each brings to the task at hand.

### *Job Success Factors*

The court administrator's success in assuming administrative and supervisory responsibility for the court's nonjudicial activities depends on several factors.

The court must actively support the administrator. Acceptance and support for the position are achieved most easily when the role of the court administrator is well defined. The judges must be willing to delegate to the court administrator those duties that do not involve legal decisions. The judges must understand that delegating duties and responsibilities does not constitute a loss of control. As policymakers, they collectively control the activities of the court administrator, and through the administrator, the administrator's staff and all court personnel. Judges will discover that their knowledge of court operations will increase because a professional administrator provides an excellent communications link. The success of a court's administrator depends on a clearly defined job description, accep-

tance by the judges, appropriate funding, and good communication between the court administrator and others in the court system

### *Personal and Professional Skills*

The court administrator's success depends on personal and professional skills. An ability to analyze problems, formulate recommendations, build consensus, empower people, and foster change are among the attributes of a successful administrator. Successful court administrators working in a complex court environment exhibit the following:

- *Learning Skills*—learning to learn is basic to all other skills, court administrators are required to respond quickly, adapt to changes in technologies and work load, and enable the development of appropriate responses to organizational change
- *Communication Speaking, Writing, and Listening Skills*—most of our daily routine is taken up with communication in one form or another. As work processes and procedures are negotiated, monitored, and changed, the ability to communicate clearly is fundamental to success
- *Adaptability Problem Solving and Creativity Skills*—in any rapidly changing environment, successful administrators create opportunity and exploit new technologies or create new organizational relationships to overcome barriers to court system goals
- *Motivation and Goal-setting Skills*—the ability to link court system goals and performance measures with work processes and employee reward and staff development programs
- *Interpersonal Skills*—the ability to relate to individuals, both within and outside the court system, through appropriate styles that communicate trust, understanding, and loyalty to court system values
- *Negotiation Skills*—the ability to overcome conflict through problem-solving and collaboration strategies that focus on organizational goals and values as arbiters of conflict and choice

- **Teamwork Skills**—the ability and confidence to empower court system employees and interorganizational staff to take responsibility for court system goals and performance standards
- **Leadership Skills**—the ability to clearly communicate organizational values that influence others to take individual responsibility for achieving court system values and goals and to instill the confidence to change and adapt as changes in work load, funding, or technology reshape existing work processes or relationships

### *Delineation of Duties*

Many court administrators serve in judicial systems where their duties are not detailed in a job description or sanctioned by statute or court rule. Instead, the court administrator assumes the responsibilities in an ad hoc manner, either through informal delegation of duties by judges or by assumption of various administrative functions as the need arises. Given this situation, conflict is certain. Courts should clarify the duties of the administrator, thus reducing role confusion.

### *Court System Leadership*

It should be emphasized that all judges, particularly the chief judge, are responsible for the administration of the court. In effect, the judges are a board of directors, the chief judge is the chairman of the board, and the court administrator is the executive officer responsible for executing policies adopted by the board. The chief judge and the court's administrator form the court's leadership team. As such, they perform several interrelated and interdependent actions on behalf of the court. "They manage time, set agendas, cultivate networks, build teams, empower colleagues, coach subordinates, create visions, make meetings, use power, search for quality, motivate individuals, systematize feedback, develop norms, communicate values, and understand themselves" (Stupak)

## *Hiring a Court Administrator*

HAVING MADE THE DECISION TO EMPLOY A COURT administrator, the court needs to answer the following question: Exactly what functions does the court want its court administrator to perform? Without identifying these functions, it is difficult to determine the necessary qualifications and to formulate criteria for evaluating the candidates.

Ideally, the court administrator will combine the technical skills of a manager with a knowledge of public and business administration and an understanding of the duties and the problems peculiar to the courts.

Specifically, the court administrator should have completed considerable study of public and business administration or have on-the-job experience in these fields. To this end, many courts require that a court administrator hold a degree in business, public, or judicial administration or be a graduate of the Court Executive Development Program of the Institute for Court Management. In addition, the court administrator should be familiar with courts and government as well as with business organization and operations.

### *Selection*

Once a court has decided to hire an administrator and agrees on the position's functions, the court is ready to screen applications and interview top candidates.

A court administrator should be selected by a process that includes a majority vote of all the judges in a multi-judge court. In very large urban courts, a selection committee chaired by the chief judge and representative of the entire bench can select the administrator. The position of court administrator is the most important nonjudicial position in the court, therefore, each judge should participate in the hiring process.

Many courts delegate appointment and removal authority to the chief judge. Because the court administrator serves the entire court, a policy of majority appointment and removal ensures continuity when, and if, a change of the chief judge occurs. The term of the court administrator should be indefinite, since a court administrator serves at the pleasure of the court.

To find qualified candidates, the court should launch a nationwide search. The National Center for State Courts, which provides secretariat services to selected professional organizations such as the National Association for Court Management and the Conference of State Court Administrators, lists job openings at no charge to the court.

## *Professionalization*

THE NATIONAL ASSOCIATION FOR COURT MANAGEMENT (NACM), whose membership currently exceeds 2,000, was formally established by consolidation of the National Association of Trial Court Administrators (NATCA) and the National Association for Court Administration (NACA) in Boston in September 1984.

Through NACM, court administrators can prepare for the rapidly changing requirements of their profession. One of NACM's objectives is to distribute information received from scholars, technicians, and experienced court administrators. NACM is the voice of effective, well-informed, and professional court administrators.

Included in the ranks of the association are administrators of most of the country's courts, a number of whom have pioneered innovative systems for resolving major administrative problems. Through meetings, correspondence, publications, and standing committees, NACM members solve problems of court operations. Members are kept abreast of developments in the field through *The Court Manager*, NACM's official quarterly publication, and the *Forum*.

*Conventions*, its newsletter. NACM also conducts periodic surveys to monitor trends in the profession and provides detailed reports on the findings to its members.

Many of NACM's activities revolve around its annual conference, which usually takes place in the summer. The focus of the conference is the educational program. Additionally, meetings of the association's committees, the annual business meeting, and the election of officers are conducted. NACM members seeking information on topics related to court administration can contact the NACM secretariat office located at the National Center for State Courts' headquarters in Williamsburg, Virginia. The creation of the Institute for Court Management in 1970 and the addition of court administration curricula in universities throughout the country represent landmarks in the movement toward recognition of and respect for the profession. In addition, the Conference of State Court Administrators also speaks on a national level to enhance the profession of court administration.

## *Professional Standards*

ACCORDING TO STANDARDS ESTABLISHED BY NACM, THE court administrator should have these qualifications:

- Administrative ability demonstrated by substantial experience in progressively more responsible management positions in government or the private sector,
- Experience in current business and management techniques, including use and implementation of automated data processing,
- A demonstrated ability to plan and conduct studies to improve court administration and to prepare recommendations and implement them when approved,
- Good judgment, understanding and tact—ability to maintain working relationships with other courts and with local, state, and federal government officials, members of the bar, and the public,

- The ability to conduct conferences and meetings and communicate clearly in writing and speech to employees, the judges of the courts, representatives of government agencies, industry, and the public,
- Formal training in court administration and managerial experience, in addition to familiarity with court procedures,
- Creativity, leadership, planning ability, organizational skills, initiative, decisiveness, and dedication to making productive changes in operating methods,
- High ethical standards,
- A fundamental understanding of and loyalty to the court's purpose and goals as a separate branch of government,
- Knowledge of and ability to adapt to the unique court environment,
- Ability to follow as well as to lead in the implementation of policies created by the judiciary,
- Respect for the requirements of confidentiality and loyalty when entrusted with the confidence of the judges,
- Educational qualifications related directly to the functions that the court administrator's position requires

### *Preferred Qualifications*

A graduate degree in judicial administration, public administration, business administration, or law with management training or experience in a court for three or more years with proven competency in administration and management

### *Minimum Qualifications*

A bachelor's degree in one of the fields named above or three years of experience in a responsible elected or appointed position, with training in court administration

## *Model Code of Conduct*

### *Introduction*

The National Association for Court Management (NACM) recognizes the importance of ethical conduct by its members in the administration of justice. NACM members hold positions of public trust and are committed to the highest standards of conduct. NACM members observe these standards of conduct to preserve the integrity and independence of the judiciary. The NACM Code embodies our dedication to upholding and increasing the public's confidence in the judicial branch of government and also reflects our commitment to promoting integrity within our association and profession.

### **ARTICLE I. Abuse of Position and Conflict of Interest**

- A Members shall not use or attempt to use their official positions to secure unwarranted privileges or exemptions for that member or any other person.
- B Members shall not accept, agree to accept, dispense, or solicit any gift or favor based upon an understanding that the official actions of the member would be influenced thereby.
- C Members shall act so that they are not unduly affected or appear to be affected by kinship, position, or influence of any party or person.
- D Members shall not request or accept any compensation or fee beyond that received from their employer for work done in the course of their public employment. However, members may engage in outside employment as long as it does not conflict with the performance of their official responsibilities or violate this code.

- E Members shall use the resources, property, and funds under their control judiciously and solely in accordance with prescribed legal procedures
- F Members shall avoid conflicts of interest, or the appearance of conflicts, in the performance of their official duties

## ARTICLE II. Confidentiality

- A Members shall not disclose to any unauthorized person confidential information
- B Members shall not give legal advice unless specifically required to do so as part of their official position

## ARTICLE III. Political Activity

- A Members are free to participate in political campaigns/organizations during nonworking hours if such activity does not use, or appear to use, the member's official position or court in connection with such activities
- B Members who obtain their official positions by means of election are exempted from the provisions above to the extent that the member is known as the incumbent while seeking reelection and may cite appropriate judicial branch experience while campaigning

## ARTICLE IV Performance of Duties

- A Members should carry out their responsibilities to the public in a timely, impartial, diligent, and courteous manner, strictly adhering to the principles embodied in this code
- B Members shall not discriminate on the basis of, nor manifest by words or conduct, a bias or prejudice based upon race,

color, religion, national origin, gender, or other groups protected by law, in the conduct of service to the court and public

- C Members shall enforce or otherwise carry out any properly issued rule or order of court and shall not exceed that authority except to perform other duties of their positions
- D Members shall promote ethical conduct as prescribed by this code and report any improper conduct by any persons to appropriate authorities
- E Members shall support and protect the independence of the judicial branch of government. Members shall also protect the public's interest and justice for all persons
- F Members shall uphold the Constitution, laws, and legal regulations of the United States and all other governments they serve and never be a party to their evasion
- G Members shall promote the growth and development of professional court management by improving their work skills and supporting research and development in the field
- H Members shall avoid any activity that would reflect adversely on their position or court
- I Members shall immediately report to appropriate authorities any attempt to induce them to violate these standards

## *Acknowledgments*

THE NATIONAL ASSOCIATION FOR COURT MANAGEMENT extends its appreciation to the staff of the National Center for State Courts for technical support in the production of this publication. We would also like to thank Kent Battv, Norman Mever, Samuel Shelton, and Bob Zastany for their comments on earlier drafts of this pamphlet.

*The Court Administrator A Manual*

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For further information on court administrators, NACM, and its survey results or to learn more about retaining a court administrator, contact the

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*1992*

## SECTION 9

### Excerpts from the Judiciary's Strategic Business Plan

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## **The Administration of Justice A Strategic Business Plan for the Federal Judiciary**

**A**rticle III of the United States Constitution established the judicial branch of the federal government. The principle of a co equal and independent judiciary was considered by the Founding Fathers to be essential for the provision of fair and equal justice to the citizens of the United States. The independence of federal judges is ensured by the guarantees of lifetime tenure during good behavior and undiminished compensation. These protections apply to the justices of the US Supreme Court and to the US circuit and district judges, all of whom are nominated and appointed by the President with the advice and consent of the Senate.

The Constitution separates explicitly the powers of the legislative, executive and judicial branches. The judicial branch exercises only judicial powers which include interpreting the Constitution and the law to decide cases and controversies. The federal courts cannot make laws, which is a function of the legislative branch, nor execute and enforce laws, functions of the executive branch.

The American system of government rests on the principle of Federalism that the national government is a government of delegated powers in which residual powers are reserved to the states or to the people. The concept of judicial federalism means that the state and federal courts together comprise an integrated judicial system for the United States. Federal courts are courts of limited jurisdiction; they can only hear cases and controversies which are identified in the Constitution.

**EQUAL JUSTICE UNDER LAW**

The fundamental mission of the federal courts is described in these four words carved in the stone front of the United States Supreme Court. This mission is further explained:

*The federal courts exist to maintain and enhance the rule of law by providing just and timely resolutions of the disputes that the Constitution and Congress have assigned to them. Within a system of checks and balances the federal judiciary constitutes a separate branch of government responsible for preserving and protecting the individual rights and liberties guaranteed by the Constitution and for interpreting and enforcing treaties, federal statutes, and regulations through fair and impartial judgments.*

*As tribunals of limited jurisdiction, the federal courts are committed to principles of judicial federalism under which the state courts are responsible for adjudicating matters that, in the light of history and a sound division of authority, rightfully belong in that forum.*

The federal courts are often called the guardians of the Constitution. Throughout history, federal judges—sometimes at great personal sacrifice in the face of hostile disagreement by a majority of local citizens—have enforced adherence to the law of the land. Federal judges have protected unpopular movements and individuals, punished corruption that seemed immune from accountability under local laws, and reined in popularly elected officials whose action had strayed beyond the Constitution's mandates.

While accomplishing these difficult and delicate tasks, the federal courts have been able to retain the nation's confidence and obtain ready acquiescence to their rulings. They have been able to do so in no small part because of society's faith that federal courts follow certain norms— that federal judges are selected by an exacting process, that federal judges decide cases without improper influences, that federal judges' rulings are supported and constrained by well-articulated legal principles, and that those decisions are reviewable by an appellate system that will correct errors, reject arbitrary judicial conduct, and be faithful itself to the constitutional limits imposed on the judiciary. If society loses this faith, the federal courts cannot carry out their mission.

Our society's trust and respect for the federal court system depend upon the adherence to the fundamental principles of equal justice and the rule of law. The judiciary's goals reflect these and other related core values underlying the American system of justice.

### ***To Safeguard the Rule of Law***

Our nation accepts as its ideal that we are governed by the rule of law, which stands in opposition to the personal rule of one individual or body of persons. Key features of the principle of the rule of law are the predictability, continuity and coherence of the law, the visibility of the decision-maker, and judges' commitment to the principle that law, rather than personal preference, provides the basis for making decisions.

### ***To Guarantee Equal Justice***

Every federal judge takes an oath to "administer justice without respect to persons" and to "do equal right to the poor and the rich," meaning that bias, partiality, and the parties' economic circumstances will play no role in the fair administration of justice.

### ***To Preserve Judicial Independence***

Federal judges must be able to perform their duties in an atmosphere free from fear that an unpopular decision will threaten their livelihood or existence. For that reason, the Constitution provides for life tenure and protection against salary decreases. Alexander Hamilton wrote in the *Federalist Papers* that these protections "are the best expedients which can be devised in any government to secure a steady, upright, and impartial administration of the laws." Although the autonomy to make impartial decisions is at the heart of judicial independence, the concept extends further, as a judge's ability to function independently can be affected by more than a simple threat of job loss or salary reduction.

### ***To Sustain Our System of Federalism with National Courts of Limited Jurisdiction***

Our federal system of government is based on the fundamental constitutional principle that the national government is a government of delegated powers in which the residual power remains in the states. Judicial federalism relies on the principle that the state and federal courts together comprise an integrated system for the delivery of justice in the United States.

### ***To Maintain Excellence***

The federal courts have successfully resolved many of society's most contentious and important issues that have come before them because they have maintained high standards of legal excellence, obtained adequate resources, and attracted talented personnel. Public esteem for the federal courts is a vital ingredient of our constitutional system.

### ***To Ensure Accountability***

American government is, at its root, government by the people. Under our Constitution, however, the judicial branch must resolve disputes according to law rather than the majority's wishes. Preserving the power of the courts to do what is right while sustaining their legitimacy in the eyes of the public is one of the most delicate balancing acts of our constitutional system.

**T**he Supreme Court was established in the US Constitution. The Judiciary Act of 1789, passed by the first Congress, defined further the judiciary's basic structure and jurisdiction. It organized the Supreme Court and defined two lower levels of review: districts and circuits. It tied the federal court system to the states by creating districts separated geographically by state boundaries and the circuits by district boundaries. It created the offices of Clerk of Court, US Attorney General, and US Marshal. The basic framework established in 1789, while modified slightly over more than two hundred years, still exists today.

The organization of the judiciary, the district and circuit boundaries, the places of holding court, and the number of federal judges are established by laws passed by Congress and signed by the President. The number of federal judges in each district and in the courts of appeals is authorized by Congress on the basis of workload. In addition to the adjudication of cases, other related functions, such as the provision of criminal defense services and the supervision of offenders, are prescribed by statute. The governance and support apparatus for the judicial branch is also established by statute.

### ***United States Supreme Court***

The United States Supreme Court consists of nine justices, one of whom is appointed as Chief Justice of the United States. The Supreme Court is the final arbiter in the federal court system.

### ***United States Courts of Appeals***

There are 13 courts of appeals and 179 authorized appellate court judgeships nationwide. Twelve of the courts of appeals have jurisdiction over cases within a regional area, or a circuit. The 12 regional courts of appeals review cases from the United States district courts and the United States Tax Court, and orders and decisions from a number of federal administrative agencies.

The Court of Appeals for the Federal Circuit has national jurisdiction and hears appeals from the US Court of International Trade, the US Court of Federal Claims, the US Court of Veterans Appeals, the International Trade Commission, agency Boards of Contract Appeals, the Patent and Trademark Office, the Merit Systems Protection Board, appeals of patent decisions by US district courts, and certain decisions of the Secretaries of the Departments of Agriculture and Commerce.

### ***United States District Courts***

There are 94 district courts in the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the territories of Guam, the US Virgin Islands, and the Northern Mariana Islands. The US District Courts are the courts of general jurisdiction in the federal court system, and most federal cases are initially tried and decided in these courts. There are 649 authorized district court judgeships nationwide.

The Federal Magistrates Act of 1968 created the office of magistrate judge to assist the district court judges. Magistrate judges are non Article III judges appointed by the district judges, and they serve for a term of years rather than a lifetime appointment. Full time magistrate judges serve a term of eight years and may be reappointed.

### ***United States Bankruptcy Courts***

The bankruptcy courts are separate units of the district courts. United States bankruptcy judges are non Article III judges appointed by the courts of appeals for a term rather than a lifetime appointment. They serve for a term of 14 years and may be reappointed.

### ***United States Court of International Trade***

The Court of International Trade, consisting of nine judges, handles cases concerning the classification and valuation of imported merchandise, customs duties and unfair import practices.

### ***United States Court of Federal Claims***

The Court of Federal Claims has nationwide jurisdiction over certain types of claims against the federal government. Its 16 judges are appointed for a term of 15 years by the President with the advice and consent of the Senate and they do not have the tenure and salary protections of Article III.

### ■ *Judicial Conference of the United States*

The Judicial Conference of the United States is the policy-making body for the federal judiciary. The Chief Justice presides over the Judicial Conference, which is composed of 26 other members: the chief judge from the 12 circuit courts of appeals, one district judge from each circuit, and the chief judges of the Court of Appeals for the Federal Circuit and the Court of International Trade. The Chief Justice has established Judicial Conference committees along subject matter lines – such as budget, rules of practice and procedure, codes of conduct, court administration and case management, criminal law, administration of the bankruptcy system, federal/state jurisdiction, defender services, and automation and technology – to consider matters of importance and make recommendations to the Judicial Conference. The Chief Justice appoints judges from throughout the federal courts to serve as committee members.

### ■ *The Administrative Office of the United States Courts*

The Director of the Administrative Office of the U.S. Courts is the chief administrative officer for the federal courts and Secretary to the Judicial Conference of the United States, and performs these duties under the supervision and direction of the Judicial Conference. The Administrative Office provides staff support and counsel to the Judicial Conference and its committees, and implements and executes the Judicial Conference's policies. The Administrative Office provides a broad range of administrative, legal, management, program, communications, and technical support and services to the federal courts. The agency collects and reports statistics, develops plans and budgets, allocates resources, conducts studies and evaluations, develops and manages new programs, monitors and assesses judiciary operations and programs, provides technical assistance and advice to the courts, and fosters communications within the judiciary and with the other branches of government and the public.

### ■ *Federal Judicial Center*

The Federal Judicial Center is the judiciary's research and training agency. The Federal Judicial Center's Director is supervised by a Board composed of the Chief Justice as chair, six federal judges, and the Director of the Administrative Office. The Center undertakes research and evaluation of judicial operations and procedures for both the committees of the Judicial Conference and the courts themselves, and provides judges, court personnel, and others orientation and continuing education and training through seminars, curriculum units for in-court use, monographs and manuals, and audio, video, and interactive media programs.

### ■ *U.S. Sentencing Commission*

The U.S. Sentencing Commission promulgates sentencing policies, practices, and guidelines for the federal criminal justice system. The Chairman, three Vice Chairs, and three other voting commissioners are appointed by the President with the advice and consent of the Senate.

### ■ *Judicial Councils of the Circuits*

The Judicial Councils of the Circuits are composed of the Chief Judge of the Circuit Court of Appeals who chairs the judicial council, and an equal number of court of appeals and district judges from the circuit. A judicial council of the circuit has specific authority to issue all necessary and appropriate orders for the expeditious administration of justice within its circuit. The judicial councils of the circuits prescribe rules for and conduct reviews of complaints of judicial disability or conduct, they review district court plans for providing counsel to indigent defendants in criminal cases, Speedy Trial Act plans, local rules for consistency with national rules, and plans for the random selection of jurors.

They also approve accommodations necessary for the courts in the circuit and make temporary reassignments of judges within the circuit.

### ■ *Courts of Appeals and District Courts*

Each court carries out its business independently, within the constraints of statutes, rules, Judicial Conference policies, and Circuit Judicial Council orders. For administrative purposes, each court has a chief judge whose responsibilities do not impinge on the judicial independence of the court's judges. Each court determines local rules and issues administrative orders for the conduct of business in the court. Court employees administer the court's operations and serve at the pleasure of the court.

No organization can control completely the environment in which it operates nor predict absolutely the future that it faces. What can be done is to identify key strategic issues, determine which of those can and should be addressed, and develop plans to address them. For the federal judiciary, the articulation of practical objectives requires the identification of factors that most imperil the judiciary's ability to attain its goals as well as those that offer the most promise for preserving and enhancing its cherished values and goals. Its ability to do this successfully underlies the judiciary's continued effectiveness as an institution in carrying out its mission.

The judiciary's business is largely defined by others. While the independence of judicial decision-making stands as a firm principle of our system of government, the work and operations of the federal courts are largely responsive and reactive to external forces that the judiciary does not control. Simply stated, the courts decide matters that are brought to them, they do not determine what those matters will be, when they will come, how many will come, or who will bring them.

The other two branches of federal government have a substantial impact on the operations of the judicial branch. The Congress passes on judicial appointments, appropriates funds for the operation of the judiciary, and enacts legislation regarding the jurisdiction, size, process and structure of the judiciary. The President nominates and appoints federal judges, and the executive branch is a primary litigant in the federal courts. The executive branch promulgates federal regulations and executes and enforces federal programs. The executive branch determines the government's prosecutorial and civil litigation strategies that have substantial impact on the work of the courts. Executive branch agencies provide facilities and security for the judiciary.

Substantially increasing the volume and complexity of work in the federal courts are these catalysts: new legislation and regulations; expanding federal jurisdiction, more law enforcement activities, and increasing litigiousness. Also important are complex economic and social developments that may drive bankruptcy filings up or down. More work for the federal courts requires additional judges, staff, and facilities. Increasing workload also requires more processing of information, more defense services, more supervision of offenders, more juror usage, and more security measures.

Other global, societal or external factors affect the work and operation of the federal courts. The federal courts are influenced in many ways by the state of the economy, business practices, population changes, the number of attorneys, the quality of legal education, the level of interest in resolving disputes through the courts, the availability of information, political developments and changes in

public attitudes and concerns, the development of new technologies, scientific developments, expanded communications, growing violence, and changes in the types and amounts of illegal activity. Also, the federal judiciary operates within a larger context of judicial systems including the court systems of the states, tribal judicial systems, international courts and the judicial systems of other nations.

How do these factors influence the planning process? Certainly, forecasting or anticipating changes within this dynamic environment is a challenge. The strategic business plan is formulated to take into consideration the limits, forces, changes and developments that may either contribute to or constrain the judiciary's ability to achieve its goals, but it does not attempt to predict precisely what those forces and developments will be. Any such predictions would be in the form of speculation that would serve no useful strategic planning purpose. Instead, this plan lays a foundation upon which other plans build.

Although it may not control the work assigned or the level of resources provided, the judiciary can and does control, to a large extent, how it under

takes the work and how it uses its resources. The judiciary's governance and operating entities are regularly engaged in researching and analyzing issues and trends, and identifying ways to accommodate more work, contain costs, improve services, and do things better. The judiciary's ongoing planning processes take into account, on a more timely and therefore more reliable basis, the developments that may directly affect the judiciary. Such assessments occur in formulating workload forecasts, in developing the budget and other resource plans, in defining new programs or policies, in planning, developing and installing automation capabilities and information technologies, and in developing facilities plans. In addition, the judiciary's long range planning efforts focus on broad concerns and issues for the future.

# THE FEDERAL JUDICIARY'S PRINCIPAL STRATEGIC OBJECTIVES SUPPORT ITS MISSION AND GOALS

- ENSURE ACCESS TO THE FEDERAL COURTS BY THE CITIZENS
- STRIVE TO RETAIN THE INDEPENDENCE AND INTEGRITY OF THE JUDICIARY, ITS COLLEGIALLY AND ITS PREMINENT LEGAL COMPETENCE
- MAINTAIN SYSTEMS OF ACCOUNTABILITY
- MAINTAIN EFFECTIVE GOVERNANCE MECHANISMS
- OPERATE WITH ECONOMY AND EFFICIENCY WITHOUT SACRIFICING EFFECTIVENESS AND CARE FOR THE INDIVIDUAL CASE AND THE REQUIREMENTS OF JUSTICE
- SEEK AND ENCOURAGE INNOVATIONS THAT IMPROVE SERVICE

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■ MAKE EFFECTIVE USE OF TECHNOLOGY AND INFORMATION

■ SEEK TO CONTROL GROWTH, OBTAIN ADEQUATE RESOURCES, AND MANAGE RESOURCES EFFECTIVELY

■ ATTRACT INVESTMENT AND RETAIN A HIGHLY COMPETITIVE WORKFORCE

■ PROVIDE FOR ADEQUATE FUNDING FOR THE PROTECTION OF JUDGES, STAFF, AND PUBLIC

■ COMMUNICATE EFFECTIVELY WITH ALL BRANCHES OF FEDERAL GOVERNMENT AND THE PUBLIC

■ FOSTER COOPERATION AND COMMUNICATION WITH OTHER AMERICAN AND FOREIGN JUDICIAL SYSTEMS AND BODIES

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The judiciary's strategic objectives are pursued by various means in the governance and performance of the programs and activities of the judicial branch. The judiciary's business activities can be described in six categories:

■ **ADJUDICATION**

■ **ADMINISTRATION OF THE COURTS**

■ **SUPERVISION OF DEFENDANTS  
AND OFFENDERS**

■ **DEFENDER SERVICES FOR ELIGIBLE  
CRIMINAL DEFENDANTS**

■ **POLICY-MAKING AND NATIONAL  
ADMINISTRATION**

■ **RULEMAKING**

## ADJUDICATION

Adjudication encompasses a number of different judicial functions, from the preliminary phases of cases and appeals to the making of final decisions. These functions include researching law and fact, conducting proceedings and considering evidence, facilitating the resolution and settlement of disputes, seating and instructing impartial juries, making

rulings and decisions, and overseeing their implementation.

consistent and accurate application of law, and maintains the independence of judges to decide matters before them. Of paramount importance is the making of just decisions. However, the disposition of all cases as speedily and economically as is consistent with justice is also important to the perception and realization of justice.

To accomplish these functions, federal courts are structured in a manner that facilitates access for litigants, affords procedural fairness, ensures the correctness of individual decisions, promotes the

### Objectives

- Seek to obtain sufficient judgeships, and provide to judges adequate resources and facilities, and legal, administrative, and technical support services to enable them to accomplish their judicial functions
- Provide judges adequate time and support to reach fair decisions
- Provide continuing education and training to enable judges to carry out their duties
- Make available accurate and timely case-related and legal research information
- Develop and evaluate approaches, techniques, procedures, technologies and methods to promote more effective and efficient management and disposition of cases
- Maintain stringent standards of ethics and conduct, and provide appropriate accountability and review mechanisms for judicial disability and conduct.
- Promote the effective use of magistrate judges
- Provide secure, efficient, and cost-effective court facilities
- Continue to study and improve the administration and operation of the jury system

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## ADMINISTRATION OF THE COURTS

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While the basic business conducted in courts nationwide is similar, the management and administrative requirements and procedures may vary according to size, location, and local rules and practices. The 94 district courts, 90 bankruptcy courts, and 13 appeals courts occupy nearly 800 facilities across the country. The courts vary considerably in size and geographic dispersion. A single district court may have courthouse facilities, judges, and staff in several locations throughout a state, a single courthouse may have one resident judge or more than 20.

Judges are the heart of the judiciary, but the federal courts contain other court staff and organizations that support the process and legal machinery of justice. Judges' chambers staff consist of law clerks and secretaries. Other court staff include circuit executives, clerks of court and administrative staff, librarians, staff attorneys, court reporters and interpreters, probation officers, pretrial services officers, and others. These court employees provide legal, technical and administrative services including legal research, intake, processing and management of records, maintaining court dockets, providing courtroom services, issuing notices and orders, administering juries, operating automation systems, collecting and processing fees and other monies, reporting statistics, and other support services such as administering attorney admissions, budget and financial management, and procurement functions.

The information technology function focuses on collecting, managing, manipulating, disseminating, and protecting information used by the judiciary, the bar, the public and others. Automated systems assist with case management, docketing, financial data management, public access to case information, personnel management, statistical analysis, jury administration, the processing of notices and other important judicial administrative activities.

### Objectives

- Manage human, financial, information, and material resources effectively and efficiently
- Develop, identify, and communicate effective, efficient and economical court administrative practices and procedures
- Recruit, develop, and retain a highly competent staff to support court functions and serve the public
- Identify opportunities for the use of automation technologies and deploy cost-effective automation technologies and applications that meet critical process and information requirements
- Ensure appropriate access to the courts and to electronic information at a reasonable cost to the judiciary, the bar, litigants, the public, and other government agencies
- Maintain internal control mechanisms to ensure the integrity of funds, information, operations and programs

The Criminal Justice Act provides that courts shall appoint counsel from federal public and community defender organizations or from a panel of private attorneys (panel attorneys) established by the court. Nearly 85 percent of the criminal cases prosecuted in federal courts require court-appointed counsel.

### **Objectives**

- **Furnish effective legal representation to financially-eligible persons charged with crimes in federal court.**
- **Develop and employ appropriate methods and systems to monitor and evaluate performance and costs of defender services**
- **Provide adequate training for court-appointed defense counsel**
- **Pursue the implementation of a fair compensation system for panel attorneys**
- **Establish federal defender organizations, in as many judicial districts as feasible, to provide direct representation and to advise and train panel attorneys**

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## **POLICY-MAKING AND NATIONAL ADMINISTRATION**

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The independence of federal judges is supported by a governance process that is highly collegial and broadly participatory. The judiciary's governance structures and mechanisms are uniquely suited to the judiciary and strike a careful balance among national, regional, and individual court levels of responsibility and authority. The judiciary has an interwoven structure of governing bodies and authorities that provide internal checks and balances to carry out the administration of justice.

The Judicial Conference of the United States sets national policies and primarily through its committees and through the Administrative Office of the U.S. Courts studies and monitors judiciary programs and operations and undertakes new initiatives. The circuit judicial councils oversee the courts within their regions and the individual courts do so for their own operations. Under the supervision of the Judicial Conference, the Administrative Office of the U.S. Courts is the judiciary's support agency for program development, management and assessment, budget and financial management, legislative liaison, technology development, installation, training and support, administrative guidance and services, communications, and other areas. The

Administrative Office, working with others throughout the judiciary, guides and supports change processes, identifies opportunities for cost-reductions and efficiencies, and proposes and designs new approaches and systems. The agency also provides assistance to individual courts through assessments of organization, operations, methods and systems.

The Federal Judicial Center, an independent agency within the judicial branch, provides education and training for judges and judiciary staff, and conducts and stimulates research for the Judicial conference and the courts, thus ensuring that judges and staff in their court work and judges in their policy-making functions may be informed by a range of perspectives.

These internal checks and balances are further enhanced by the system of checks and balances among the co equal branches of the federal government. It is important to acknowledge the relationships and responsibilities of each of the three branches with regard to the structure and operations of the judicial branch.

### ***Objectives***

- **Maintain national, regional and local systems of governance that are collegial, inclusive, and respectful of judicial independence, that facilitate the identification of issues and opportunities for improvement, and that develop and implement good ideas in the form of new programs, practices or policies**
- **Maintain a balance between centralized and decentralized administration to sustain flexibility, appropriate levels of coordination, and accountability**
- **Develop and promulgate plans, policies, programs, technologies, systems, and procedures that will sustain and improve the ability of the federal courts to conduct their business effectively and efficiently in carrying out the judiciary's mission**
- **Maintain an appropriate and effective system for audit and review**
- **Sustain a non-political and sound process to identify funding and other legislative requirements affecting the administration of justice**
- **Maintain effective communications with the Congress and the executive branch on matters of significance to the administration of justice**

- Promulgate and implement stringent standards of conduct, and ensure appropriate review mechanisms are in place
- Undertake studies and analyses to identify ways to improve the efficiency or effectiveness and economy of judiciary programs and operations
- Engage in a strategic planning process and life-cycle management process for the effective design, development, use and management of automation technology in the federal judiciary
- Provide adequate continuing education and training for judiciary staff
- Maintain effective communications and cooperation with State court systems, tribal judicial systems, international judicial bodies, and judicial systems of other nations

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## RULEMAKING

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The federal rules facilitate fair and impartial resolution of cases i.e. on findings of fact that are as close to the truth as it is reasonably possible to make them and that follow the law, as interpreted and applied with fidelity to the Constitution, statutes and precedents. Under the Rules Enabling Act of 1934, the Supreme Court prescribes nationally applicable rules of practice, procedure and evidence for the federal courts based on recommendations from the Judicial Conference of the United States. The Judicial Conference is specifically charged by the Act with drafting and recommending rules that 'promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay'. An open and participatory process for reviewing and recommending revisions to the federal rules is administered by the Judicial Conference Committee on Rules of Practice and Procedure. Effective participation in the rulemaking process by judges, lawyers and the public is essential to ensure a thoughtful, exacting, and meticulous review of the rules.

### Objectives

- Support the development of substantively neutral and fair rules by the Judicial Conference Committee on Rules of Practice and Procedure and its Advisory Committees on Appellate Rules, Bankruptcy Rules, Civil Rules, Criminal Rules, and Evidence Rules
- Encourage participation of the public and the bar in the rulemaking process

## **SECTION 10**

**Summary of Federal Judicial Budget.  
Budget in Brief.  
Fiscal Year 1998.  
(available in Russian)**

## **СУДЕБНАЯ СИСТЕМА Краткое описание бюджета 1998 финансовый год**

ПОДГОТОВЛЕНО АДМИНИСТРАТИВНОЙ КАНЦЕЛЯРИЕЙ  
СУДОВ СОЕДИНЕННЫХ ШТАТОВ  
ВАШИНГТОН, ОКРУГ КОЛУМБИЯ  
Март 1997

### **ПРЕДИСЛОВИЕ**

Заявки по бюджету судебной системы на 1998 финансовый год составили 3,6 миллиарда долларов США, что на 280 миллионов или на 7,8 процентов превышает сметные обязательства 1997 года. Это потребует увеличить ассигнования на 11,6 процента.

Рабочая нагрузка федеральных судов постоянно растет. Заявка судебной системы о выделении средств подготовлена с целью удовлетворить потребности, связанные с объемом работы, и предоставить высококачественные услуги судьям, адвокатам и населению, при этом принимаются во внимание растущие ограничения федерального бюджета.

Являясь отдельной и независимой ветвью власти, судебная система осознает свои обязательства мудро распоряжаться средствами налогоплательщиков. В то же самое время, судебная система осознает свою ответственность по осуществлению функций, предусмотренных законодательством и конституцией. Среди равных ветвей власти роль и обязанности судебной системы уникальны. Настоящий бюджет представляет собой добросовестную попытку сбалансировать основные обязанности судебной власти.

Согласно требованиям об отчетных формулировках, сопровождающих ассигнования для судебной системы на 1997 год, впервые наша бюджетная заявка основывается на общих обязательствах, а не фокусируется на ассигнованных средствах. Поэтому в настоящем изложении основное внимание уделяется изменениям общих обязательств между 1997 и 1998 финансовыми годами.

Сводка для выделения Конгрессом бюджетных средств включает в себя обзор объема работы и требующихся ресурсов, затем следуют сводные таблицы и разъяснения увеличения средств по отдельным программам в связи с каждым ассигнованием.

Джон Г. Хейбурн II  
Федеральный районный судья США  
Западного Округа Кентукки  
офиса

Леонидас Ралф Мечам  
Директор  
Административного

### **ОБЗОР**

Заявка судебной системы на выделение бюджетных средств на 1998 год содержит баланс наших двойных обязанностей - тратить деньги разумно, и в то же время выполнять работу согласно требованиям Конституции и Конгресса.

## **SECTION 11**

### **Elements of Judicial Education**

Judge William W Schwarzer  
Director, Federal Judicial Center

**ELEMENTS OF JUDICIAL EDUCATION AND TRAINING**

June 29, 1992 - Legal Seminar for NIS

1 Preparatory education and training

Attending schools, clerkship

2. Orientation for new judges

Briefing & discussions with experienced judges on how to  
be a judge

Mentor programs--sitting with an experienced judge

Lectures and manuals on substantive law

Judicial skills training generally

3 Continuing education for judges

Periodic meetings with other judges to learn of new  
developments in law and exchange ideas and  
experiences on performing judicial duties

Lectures and manuals on new developments in law

Management and court administration training for  
presiding judges

Programs conducted at central location (training institute)  
and also local seminars at courts or in judges'  
home cities

4 Associational (collegial) activities

Meetings with lawyers to exchange ideas about problems  
and improve court processes

Meetings of judges to discuss common problems, strengthen  
collegiality and sense of belonging, and plan ways  
of improving status of judges

5 Communication and publication

Publication and distribution to inform judges of new laws  
and important court decisions



# CODE OF CONDUCT

## FOR UNITED STATES JUDGES



Committee on Codes of Conduct  
Judicial Conference of the United States

Prepared by  
Office of the General Counsel  
Administrative Office of the United States Courts  
Washington, D C 20544  
Phone (202) 273-1100

March 1997

**CODE OF CONDUCT  
FOR UNITED STATES JUDGES<sup>1</sup>**

**Introduction**

This Code applies to United States Circuit Judges, District Judges, Court of International Trade Judges, Court of Federal Claims Judges, Bankruptcy Judges, and Magistrate Judges. Certain provisions of this Code apply to special masters and commissioners as indicated in the "Compliance" section. In addition, the Tax Court, Court of Veterans Appeals, and Court of Appeals for the Armed Forces have adopted this Code. Persons to whom the Code applies must arrange their affairs as soon as reasonably possible to comply with the Code and should do so in any event within one year of appointment.

The Judicial Conference has authorized its Committee on Codes of Conduct to render advisory opinions concerning the application and interpretation of this Code only when requested by a judge to whom this Code applies. Requests for opinions and other questions<sup>2</sup> concerning this Code and its applicability should be addressed to the Chairman of the Committee on Codes of Conduct as follows:

Chairman, Committee on Codes of Conduct  
c/o General Counsel  
Administrative Office of the  
United States Courts  
One Columbus Circle, N E  
Washington, D C 20544

(202) 273-1100

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<sup>1</sup> The Codes of Conduct for United States Judges was initially adopted by the Judicial Conference on April 5, 1973, and was known as the Codes of Judicial Conduct for United States Judges. At its March 1987 session, the Judicial Conference deleted the word "Judicial" from the name of the Code. Substantial revisions to the Code were adopted by the Judicial Conference at its September 1992 session. Section C of the Compliance section following the code was revised at the March 1996 Judicial Conference. Canons 3C(3)(a) and 5C(4) were revised at the September 1996 Judicial Conference.

<sup>2</sup> Procedural questions may be addressed to: Office of the General Counsel, Administrative Office of the United States Courts, Thurgood Marshall Federal Judiciary Building, Washington, D C, 20544, (202) 273-1100.

CODE OF CONDUCT FOR UNITED STATES JUDGES<sup>1</sup>

CANON 1 A JUDGE SHOULD UPHOLD THE INTEGRITY AND  
INDEPENDENCE OF THE JUDICIARY

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and should personally observe those standards, so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

COMMENTARY

Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depend in turn upon their acting without fear or favor. Although judges should be independent, they should comply with the law, as well as the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.

The Canons are rules of reason. They should be applied consistent with constitutional requirements, statutes, other court rules and decisional law, and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The Code is designed to provide guidance to judges and nominees for judicial office. The Code may also provide standards of conduct for application in proceedings under the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 (28 U.S.C. §§ 332(d)(1), 372(c)), although it is not intended that disciplinary action would be appropriate for every violation of its provisions. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable application of the text and should depend on such factors as the

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<sup>1</sup> This Code governs the conduct of United States Circuit Judges, District Judges, Court of International Trade Judges, Court of Federal Claims Judges, Bankruptcy Judges, and Magistrate Judges. In addition, certain provisions of this Code apply to special masters and commissioners as indicated in the "Compliance" section.

seriousness of the violation, the intent of the judge, whether there is a pattern of improper activity, and the effect of the improper activity on others or on the judicial system. Many of the proscriptions in the Code are necessarily cast in general terms, and it is not suggested that disciplinary action is appropriate where reasonable judges might be uncertain as to whether or not the conduct is proscribed. Furthermore, the Code is not designed or intended as a basis for civil liability or criminal prosecution. Finally, the purpose of the Code would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding.

**CANON 2      A JUDGE SHOULD AVOID IMPROPRIETY AND THE  
                  APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES**

- A    A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- B    A judge should not allow family, social, or other relationships to influence judicial conduct or judgment. A judge should not lend the prestige of the judicial office to advance the private interests of others, nor convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.
- C    A judge should not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion, or national origin.

**COMMENTARY**

**Canon 2A.** Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. Actual improprieties under this standard include violations of law, court rules or other specific provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose, a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, and competence is impaired.

**Canon 2B** The testimony of a judge as a character witness injects the prestige of the judicial office into the proceeding in which the judge testifies and may be misunderstood to be an official testimonial. This Canon, however, does not afford the judge a privilege against testifying in response to an official summons. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.

A judge should avoid lending the prestige of judicial office for the advancement of the private interests of the judge or others. For example, a judge should not use the judge's judicial position to gain advantage in litigation involving a friend or a member of the judge's family. In contracts for publication of a judge's writings, a judge should retain control over the advertising to avoid exploitation of the judge's office.

A judge should be sensitive to possible abuse of the prestige of office. A judge should not initiate the communication of information to a sentencing judge or a probation or corrections officer but may provide to such persons information in response to a formal request. Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees seeking names for consideration, and by responding to official inquiries concerning a person being considered for a judgeship.

**Canon 2C** Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge's impartiality is impaired. Canon 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. See New York State Club Ass'n, Inc. v. City of New York, 487 U.S. 1, 108 S.Ct. 2225, 101 L.Ed.2d 1 (1988), Board of Directors of Rotary International v. Rotary Club of Duarte, 481 U.S. 537, 107 S.Ct. 1940, 95 L.Ed.2d 474 (1987), Roberts v. United States Jaycees, 468 U.S. 609, 104 S.Ct. 3244, 82 L.Ed.2d 462 (1984). Other relevant factors include the size and nature of the organization and the diversity of persons in the locale who might reasonably be considered potential members. Thus the mere absence of diverse membership does not by itself demonstrate a violation unless reasonable persons with knowledge of all the relevant circumstances would expect that the membership would be diverse in the absence of invidious discrimination. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex, or national origin persons who would otherwise be admitted to membership.

Although Canon 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, religion or national origin, a judge's membership in an organization that engages in any invidiously discriminatory membership practices prohibited by applicable law violates Canons 2 and 2A and gives the appearance of impropriety. In addition, it would be a violation of Canons 2 and 2A for a judge to arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, sex, religion, or national origin in its membership or other policies, or for the judge to use such a club regularly. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Canon 2A.

When a judge determines that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Canon 2C or under Canons 2 and 2A, the judge is permitted, in lieu of resigning, to make immediate and continuous efforts to have the organization discontinue its invidiously discriminatory practices. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within two years of the judge's first learning of the practices), the judge should resign immediately from the organization.

### **CANON 3     A JUDGE SHOULD PERFORM THE DUTIES OF THE OFFICE IMPARTIALLY AND DILIGENTLY**

The judicial duties of a judge take precedence over all other activities. In performing the duties prescribed by law, the judge should adhere to the following standards:

#### **A     Adjudicative Responsibilities**

- (1) A judge should be faithful to and maintain professional competence in the law, and should not be swayed by partisan interests, public clamor, or fear of criticism.
- (2) A judge should hear and decide matters assigned unless disqualified, and should maintain order and decorum in all judicial proceedings.
- (3) A judge should be patient, dignified, respectful, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and should require similar conduct of those subject to the judge's control, including lawyers to the extent consistent with their role in the adversary process.

- (4) A judge should accord to every person who is legally interested in a proceeding, or the person's lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte communications on the merits, or procedures affecting the merits, of a pending or impending proceeding. A judge may, however, obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond. A judge may, with consent of the parties, confer separately with the parties and their counsel in an effort to mediate or settle pending matters.
- (5) A judge should dispose promptly of the business of the court.
- (6) A judge should avoid public comment on the merits of a pending or impending action, requiring similar restraint by court personnel subject to the judge's direction and control. This proscription does not extend to public statements made in the course of the judge's official duties, to the explanation of court procedures, or to a scholarly presentation made for purposes of legal education.

B Administrative Responsibilities

- (1) A judge should diligently discharge the judge's administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.
- (2) A judge should require court officials, staff, and others subject to the judge's direction and control, to observe the same standards of fidelity and diligence applicable to the judge.
- (3) A judge should initiate appropriate action when the judge becomes aware of reliable evidence indicating the likelihood of unprofessional conduct by a judge or lawyer.
- (4) A judge should not make unnecessary appointments and should exercise that power only on the basis of merit, avoiding nepotism and favoritism. A judge should not approve compensation of appointees beyond the fair value of services rendered.
- (5) A judge with supervisory authority over other judges should take reasonable measures to assure the timely and effective performance of their duties.

C Disqualification

- (1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances in which
  - (a) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding,
  - (b) the judge served as lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness
  - (c) the judge knows that, individually or as a fiduciary, the judge or the judge's spouse or minor child residing in the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be affected substantially by the outcome of the proceeding,
  - (d) the judge or the judge's spouse, or a person related to either within the third degree of relationship, or the spouse of such a person
    - (i) is a party to the proceeding, or an officer, director, or trustee of a party,
    - (ii) is acting as a lawyer in the proceeding,
    - (iii) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding, or
    - (iv) is to the judge's knowledge likely to be a material witness in the proceeding
  - (e) the judge has served in governmental employment and in such capacity participated as counsel, advisor or material witness concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy
- (2) A judge should keep informed about the judge's personal and fiduciary financial interests, and make a reasonable effort to keep informed about the personal financial interests of the judge's spouse and minor children residing in the judge's household

- (3) For the purposes of this section
- (a) the degree of relationship is calculated according to the civil law system, the following relatives are within the third degree of relationship parent, child, grandparent, grandchild, great grandparent, great grandchild, sister, brother, aunt, uncle, niece and nephew, the listed relatives include whole and half blood relatives and most step relatives,
  - (b) “fiduciary” includes such relationships as executor, administrator, trustee, and guardian,
  - (c) “financial interest” means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that
    - (i) ownership in a mutual or common investment fund that holds securities is not a “financial interest” in such securities unless the judge participates in the management of the fund,
    - (ii) an office in an educational, religious, charitable, fraternal, or civic organization is not a “financial interest” in securities held by the organization,
    - (iii) the proprietary interest of a policy holder in a mutual insurance company, or a depositor in a mutual savings association, or a similar proprietary interest, is a “financial interest” in the organization only if the outcome of the proceeding could substantially affect the value of the interest,
    - (iv) ownership of government securities is a “financial interest” in the issuer only if the outcome of the proceeding could substantially affect the value of the securities
  - (d) “proceeding” includes pretrial, trial, appellate review, or other stages of litigation
- (4) Notwithstanding the preceding provisions of this Canon, if a judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing

in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification

- D Remittal of Disqualification A judge disqualified by the terms of Canon 3C(1), except in the circumstances specifically set out in subsections (a) through (e), may, instead of withdrawing from the proceeding, disclose on the record the basis of disqualification. If the parties and their lawyers after such disclosure and an opportunity to confer outside of the presence of the judge, all agree in writing or on the record that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

#### COMMENTARY

**Canon 3A(3)** The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and businesslike while being patient and deliberate.

The duty under Canon 2 to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary applies to all the judge's activities, including the discharge of the judge's adjudicative and administrative responsibilities. For example, the duty to be respectful of others includes the responsibility to avoid comment or behavior that can reasonably be interpreted as manifesting prejudice or bias towards another on the basis of personal characteristics like race, sex, religion, or national origin.

**Canon 3A(4)** The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted. It does not preclude a judge from consulting with other judges, or with court personnel whose function is to aid the judge in carrying out adjudicative responsibilities. A judge should make reasonable efforts to ensure that this provision is not violated through law clerks or other staff personnel.

An appropriate and often desirable procedure for a court to obtain the advice of a disinterested expert on legal issues is to invite the expert to file a brief amicus-curiae.

**Canon 3A(5)** In disposing of matters promptly, efficiently and fairly, a judge must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays and unnecessary costs. A judge should encourage and seek to facilitate settlement, but parties should not feel coerced into surrendering the right to have their controversy resolved by the courts.

Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with the judge to that end.

**Canon 3A(6)** The admonition against public comment about the merits of a pending or impending action continues until completion of the appellate process. If the public comment involves a case from the judge's own court, particular care should be taken that the comment does not denigrate public confidence in the integrity and impartiality of the judiciary in violation of Canon 2A. This provision does not restrict comments about proceedings in which the judge is a litigant in a personal capacity, but in mandamus proceedings when the judge is a litigant in an official capacity, the judge should not comment beyond the record.

"Court personnel" does not include the lawyers in a proceeding before a judge. The conduct of lawyers is governed by the rules of professional conduct applicable in the various jurisdictions.

**Canon 3B(3)** Appropriate action may include direct communication with the judge or lawyer who has committed the violation, other direct action if available, and reporting the violation to the appropriate authorities.

**Canon 3B(4)** Appointees of the judge include officials such as referees, commissioners, special masters, receivers, guardians, and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by this subsection.

**Canon 3C(1)(d)(ii)** The fact that a lawyer in a proceeding is affiliated with a law firm with which a lawyer-relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "the judge's impartiality might reasonably be questioned" under Canon 3C(1), or that the lawyer-relative is known by the judge to have an interest in the law firm that could be substantially affected by the outcome of the proceeding" under Canon 3C(1)(d)(iii) may require the judge's disqualification.



**CANON 4      A JUDGE MAY ENGAGE IN EXTRA-JUDICIAL ACTIVITIES  
TO IMPROVE THE LAW, THE LEGAL SYSTEM, AND THE  
ADMINISTRATION OF JUSTICE**

A judge, subject to the proper performance of judicial duties, may engage in the following law-related activities, if in doing so the judge does not cast reasonable doubt on the capacity to decide impartially any issue that may come before the judge

- A A judge may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice
- B A judge may appear at a public hearing before, or otherwise consult with, an executive or legislative body or official on matters concerning the law, the legal system and the administration of justice to the extent that it would generally be perceived that a judge's judicial experience provides special expertise in the area. A judge acting pro se may also appear before or consult with such officials or bodies in a matter involving the judge or the judge's interest
- C A judge may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. A judge may assist such an organization in planning fund-raising activities and may participate in the management and investment of funds, but should not personally participate in public fund-raising activities. A judge may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system and the administration of justice. A judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority. A judge shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or is essentially a fund-raising mechanism
- D A judge should not use to any substantial degree judicial chambers, resources, or staff to engage in activities permitted by this Canon

**COMMENTARY**

**Canon 4** As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that the judge's time permits, the judge is encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the

improvement of the law Within the boundaries of applicable law, *see, e.g.*, 18 U S C § 953, a judge may express opposition to the persecution of lawyers and judges anywhere in the world if the judge has ascertained, after reasonable inquiry, that the persecution is occasioned by conflict between the professional responsibilities of the persecuted judge or lawyer and the policies or practices of the relevant government

**Canon 4C** Service on the board of a public, as well as private, law school is permissible

A judge may attend fund-raising activities of a law-related organization although the judge may not be a speaker, guest of honor, or featured on the program of such an event

**CANON 5 A JUDGE SHOULD REGULATE EXTRA-JUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL DUTIES**

A Avocational Activities A judge may write lecture, teach, and speak on non-legal subjects, and engage in the arts sports and other social and recreational activities, if such avocational activities do not detract from the dignity of the judge's office or interfere with the performance of the judge's judicial duties

B Civic and Charitable Activities A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of judicial duties A judge may serve as an officer, director, trustee or non-legal advisor of an educational religious charitable fraternal, or civic organization not conducted for the economic or political advantage of its members subject to the following limitations

- (1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court
- (2) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of the judicial office for that purpose, but the judge may be listed as an officer director or trustee of such an organization A judge should not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or is essentially a fund-raising mechanism
- (3) A judge should not give investment advice to such an organization, but may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions

C Financial Activities

- (1) A judge should refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of judicial duties, exploit the judicial position, or involve the judge in frequent transactions with lawyers or other persons likely to come before the court on which the judge serves
- (2) Subject to the requirements of subsection (1), a judge may hold and manage investments, including real estate, and engage in other remunerative activity, but should not serve as an officer, director, active partner, manager, advisor, or employee of any business other than a business closely held and controlled by members of the judge's family. For this purpose, "members of the judge's family" means persons related to the judge or the judge's spouse within the third degree of relationship calculated according to the civil law system, any other relatives with whom the judge or the judge's spouse maintains a close familial relationship, and the spouse of any of the foregoing
- (3) A judge should manage investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge should divest himself or herself of investments and other financial interests that might require frequent disqualification
- (4) A judge should not solicit or accept anything of value from anyone seeking official action from or doing business with the court or other entity served by the judge, or from anyone whose interests may be substantially affected by the performance or nonperformance of official duties, except that a judge may accept a gift as permitted by the Judicial Conference gift regulations. A judge should endeavor to prevent a member of a judge's family residing in the household from soliciting or accepting a gift except to the extent that a judge would be permitted to do so by the Judicial Conference gift regulations
- (5) For the purposes of this section 'members of the judge's family residing in the judge's household' means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household
- (6) A judge should report the value of any gift, bequest, favor, or loan as required by statute or by the Judicial Conference of the United States

- (7) A judge is not required by this Code to disclose his or her income, debts, or investments, except as provided in this Canon and Canons 3 and 6
- (8) Information acquired by a judge in the judge's judicial capacity should not be used or disclosed by the judge in financial dealings or for any other purpose not related to the judge's judicial duties

D Fiduciary Activities A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties "Member of the judge's family" means any relative of a judge by blood, adoption, or marriage or any other person treated by a judge as a member of the judge's family

As a family fiduciary a judge is subjected to the following restrictions

- (1) The judge should not serve if it is likely that as a fiduciary the judge will be engaged in proceedings that would ordinarily come before the judge or if the estate, trust or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction
- (2) While acting as a fiduciary a judge is subject to the same restrictions on financial activities that apply to the judge in his or her personal capacity

E Arbitration A judge should not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law

F Practice of Law A judge should not practice law Notwithstanding this prohibition a judge may act pro se and may without compensation, give legal advice to and draft or review documents for a member of the judge's family

G Extra-judicial Appointments A judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system or the administration of justice, unless appointment of a judge is required by Act of Congress A judge should not, in any event, accept such an appointment if the judge's governmental duties would interfere with the performance of judicial duties or tend to undermine the public confidence in the integrity, impartiality, or independence of the judiciary A judge may represent the judge's country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities

- H Chambers, Resources, and Staff A judge should not use judicial chambers, resources, or staff to engage in activities permitted by this Canon, except for uses that are de minimis

#### COMMENTARY

**Canon 5A** Complete separation of a judge from extra-judicial activities is neither possible nor wise, a judge should not become isolated from the society in which the judge lives

**Canon 5B(1)** The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine if it is proper for the judge to continue the judge's relationship with it. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication

**Canon 5B(2) and (3)** A judge may attend fund-raising activities of the organization although the judge may not be a speaker, a guest of honor, or featured on the program of such an event. Use of an organization's letterhead for fund-raising or membership solicitation does not violate Canons 5B(2) and (3) provided the letterhead lists only the judge's name and position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation

**Canon 5C** Canon 3 requires a judge to disqualify in any proceeding in which the judge has a financial interest, however small, Canon 5 requires a judge to refrain from engaging in business and from financial activities that might interfere with the impartial performance of the judge's judicial duties, Canon 6 requires a judge to report all compensation received for activities outside the judicial office. A judge has the rights of an ordinary citizen with respect to financial affairs, except for limitations required to safeguard the proper performance of the judge's duties. A judge's participation in a closely held family business, while generally permissible, may be prohibited if it takes too much time or involves misuse of judicial prestige or if the business is likely to come before the judge's court. Owning and receiving income from investments do not as such affect the performance of a judge's duties

**Canon 5C(4)** Reimbursement or direct payment of travel expenses may be a gift and, if so, its acceptance is governed by Canons 5C(4) and (5). A judge or employee may receive as a gift travel expense reimbursement including the cost of

transportation, lodging, and meals, for the judge and a relative incident to the judge's attendance at a bar-related function or at an activity devoted to the improvement of the law, the legal system, or the administration of justice

**Canon 5D** Mere residence in the household of a judge is insufficient for a person to be considered a member of the judge's family for purposes of this Canon. The person must be treated by the judge as a member of the judge's family.

**Canon 5D(1)** The Applicable Date of Compliance provision of this Code qualifies this subsection with regard to a judge who is an executor, administrator, trustee, or other fiduciary at the time this Code becomes effective.

**Canon 5D(2)** A judge's obligation under this Code and the judge's obligation as a fiduciary may come into conflict. For example, a judge should resign as trustee if it would result in detriment to the trust to divest it of holdings whose retention would place the judge in violation of Canon 5C(3).

**Canon 5F** This prohibition refers to the practice of law in a representative capacity and not in a pro se capacity. A judge may act for himself or herself in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. However, in so doing, a judge must not abuse the prestige of office to advance the interests of the judge or the judge's family.

**Canon 5G** Valuable services have been rendered in the past to the states and the nation by judges appointed by the executive to undertake important extra-judicial assignments. The appropriateness of conferring these assignments on judges must be reassessed, however, in light of the demands on judicial resources created by today's crowded dockets and the need to protect the courts from involvement in extra-judicial matters that may prove to be controversial. Judges should not be expected or permitted to accept governmental appointments that could interfere with the effectiveness and independence of the judiciary.

The dangers attendant upon acceptance of extra-judicial governmental assignments are ordinarily less serious where the appointment of a judge is required by legislation. Such assignments ordinarily do not involve excessive commitments of time, and they typically do not pose a serious threat to the independence of the judiciary.

A code of conduct ought not compel judges to refuse, without regard to the circumstances, tasks Congress has seen fit to authorize as appropriate in the public interest. Although legislatively prescribed extra-judicial assignments should be

discouraged, where Congress requires the appointment of a judge to perform extra-judicial duties, the judge may accept the appointment provided that the judge's services would not interfere with the performance of the judge's judicial responsibilities or tend to undermine public confidence in the judiciary

**CANON 6      A JUDGE SHOULD REGULARLY FILE REPORTS OF  
COMPENSATION RECEIVED FOR LAW-RELATED AND  
EXTRA-JUDICIAL ACTIVITIES**

A judge may receive compensation and reimbursement of expenses for the law-related and extra-judicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing the judge in the judge's judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions

- A    Compensation    Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity
  
- B    Expense Reimbursement    Expense reimbursement should be limited to the actual costs of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or relative. Any payment in excess of such an amount is compensation
  
- C    Public Reports    A judge should make required financial disclosures in compliance with applicable statutes and Judicial Conference regulations and directives

**COMMENTARY**

Additional restrictions on the receipt of compensation by judges are imposed by the Ethics Reform Act of 1989 and regulations promulgated by the Judicial Conference thereunder. That Act and those regulations should be consulted before a judge enters into any arrangement involving the receipt of compensation. The restrictions so imposed include, but are not limited to: (1) a prohibition against receiving "honoraria" (defined as anything of value received for a speech, appearance, or article); (2) a prohibition against receiving compensation for service as a director, trustee, or officer of a profit or nonprofit organization; (3) a requirement that compensated teaching activities receive prior approval; and (4) a 15% limitation on the receipt of "outside earned income."

**CANON 7 A JUDGE SHOULD REFRAIN FROM POLITICAL ACTIVITY**

- A A judge should not
- (1) act as a leader or hold any office in a political organization,
  - (2) make speeches for a political organization or candidate or publicly endorse or oppose a candidate for public office,
  - (3) solicit funds for or pay an assessment or make a contribution to a political organization or candidate, attend political gatherings, or purchase tickets for political party dinners, or other functions
- B A judge should resign the judicial office when the judge becomes a candidate either in a primary or in a general election for any office
- C A judge should not engage in any other political activity, provided, however, this should not prevent a judge from engaging in the activities described in Canon 4

**COMPLIANCE WITH THE CODE OF CONDUCT**

Anyone who is an officer of the federal judicial system performing judicial functions is a judge for the purpose of this Code. All judges should comply with this Code except as provided below.

- A Part-time Judge A part-time judge is a judge who serves on a continuing or periodic basis, but is permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. A part-time judge
- (1) is not required to comply with Canons 5C(2), D, E, F, and G, and Canon 6C,
  - (2) except as provided in the Conflict-of-Interest Rules for Part-time Magistrate Judges, should not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, or act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto
- B Judge Pro Tempore A judge pro tempore is a person who is appointed to act temporarily as a judge or as a special master

- (1) While acting as such, a judge pro tempore is not required to comply with Canons 5C(2), (3), D, E, F, and G, and Canon 6C, further, one who acts solely as a special master is not required to comply with Canons 4C, 5B (except the first sentence thereof), 5C(4), and 7
  - (2) A person who has been a judge pro tempore should not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto
- C Retired Judge A retired judge who is retired under 28 U S C §§ 371(b) or 372(a), or who is recalled to judicial service, should comply with all the provisions of this Code except Canon 5G, but the judge should refrain from judicial service during the period of an extra-judicial appointment not sanctioned by Canon 5G All other retired judges who are eligible for recall to judicial service (except those in Territories and Possessions) should comply with the provisions of this Code governing part-time judges A senior judge in the Territories and Possessions must comply with this Code as prescribed by 28 U S C § 373(c)(5) and (d)

#### APPLICABLE DATE OF COMPLIANCE

Persons to whom this Code becomes applicable should arrange their affairs as soon as reasonably possible to comply with it and should do so in any event within the period of one year following appointment If, however, the demands on the person's time and the possibility of conflicts of interest are not substantial, such a person may continue to act, without compensation, as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a member of the person's family, if terminating such relationship would unnecessarily jeopardize any substantial interest of the estate or person and the judicial council of the circuit approves



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## **SECTION 13**

### **Judge's Code of Honor of the Russian Federation**

*ADOPTED  
by the Decision  
of the Council of Judges  
of the Russian Federation  
on October 21, 1993*

**JUDGE'S CODE OF HONOR  
OF THE RUSSIAN FEDERATION**

This Code shall establish the rules of a judge's conduct in his professional and extra-office activities, binding every judge in the Russian Federation, unrelated to his position, as well as retired judges who retain the title of judge and membership in the judicial community

**Article 1. General requirements established for judges**

1 In his activity, a judge shall be obliged to be guided by the Constitution as well as other legislative acts which are in force in the Russian Federation, by generally accepted ethical standards and rules of conduct, to support the assertion of public confidence in fairness, impartiality, and independence of the judiciary

2 For a judge, performance of duties related to administration of justice should take precedence over any other occupations

3 A judge should avoid anything that could diminish the authority of the judicial power. A judge has no right to cause damage to the prestige of his profession in favor of his personal interests or interests of other persons

4 In any situation, a judge should maintain personal dignity, care about his honor, avoid anything that could harm his reputation or cast a doubt on his impartiality and independence in administration of justice

**Article 2. Rules of judge's carrying out professional activities**

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2

1 A judge is obliged to be impartial, not allowing for influencing his professional activities by anyone, including his relatives, friends, or acquaintances

2 When deciding on a case, a judge should be free of adherence to any of the parties, of influence exerted by public opinion, of any fears of being criticized for his performance

3 A judge is obliged to maintain his qualification on a high level necessary for proper execution of his duties in administration of justice

4 A judge should be patient, polite, tactful, and respectful to parties in a trial and other persons he communicates with in the course of execution of his professional duties. A judge should require the same from court staff members

5 A judge is obliged to observe professional secrecy as to information obtained in the course of execution of his duties

A judge has no right to speak or comment in public or appear in the media in relation to cases being handled by the court until rulings on such cases have come into legal force. A judge has no right to question in public and beyond the limits of his professional duties court rulings which have come into legal force or any actions taken by his colleagues

6 A judge should respect and understand the media's desire to cover court activities, and provide them with necessary assistance, if this does not interfere with conducting a trial or may be used for exerting influence on court

7 A judge should faithfully perform his professional duties and take all necessary measures for consideration of cases and materials on time

### **Article 3 Judge's extra-office activities**

1 No extra-office judge's activities should cause any doubts as to his impartiality, fairness, or integrity

3

2. A judge has the right to be engaged in any activities as long as this does not contradict the requirements of the RF Law *On the Status of Judges in the RF* and of this Code

3 A judge may be engaged in any social activities as long as they do not cause harm to the authority of the judiciary or a judge's proper execution of his professional duties

4 A judge may participate in public meetings or otherwise contact legislative or executive bodies or their officials in connection with matters related to the law, legal system, or administration of justice, unless such contacts are conducive to exertion of influence upon a judge concerning execution of his professional duties or cause doubts in his impartiality

5 No judge can belong to political parties or movements, support them financially or in any other way, or express in public his political views, participate in any processions or demonstrations of political nature, or in any other political actions

6 A judge should avoid any personal contacts which can harm his reputation or affect his honor and dignity.

7 A judge should refrain from any financial or business connections which can infringe upon his impartiality or hinder his proper execution of professional duties

#### **Article 4. Judge's responsibility for non-observance of this Code**

1 A judge shall be responsible for committing a malfeasance or other wrong in accordance with current legislation provided the established guarantees of his immunity are observed

2 Violations of the requirements established by this Code shall be considered by qualification collegia of judges, which shall take into account all the circumstances of a wrong committed, its gravity, and harm inflicted to the authority of the judicial power

4

3 A judge's powers may be terminated by a qualification collegium for committing a wrong which disgraces his honor and dignity or diminishes the authority of the judicial power following the procedure established by the RF *Law On the Status of Judges in the Russian Federation*

**Note.** A wrong which disgraces honor and dignity of a judge means an act or omission to act which, while not being criminal, is not compatible by its nature with the high title of judge

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## **SECTION 14**

**Law of the RF “On Judicial Department”**

**A FEDERAL LAW OF THE RUSSIAN FEDERATION  
#7-Φ3 from January 8, 1998**

**ON JUDICIAL DEPARTMENT  
UNDER THE SUPREME COURT  
OF THE RUSSIAN FEDERATION**

Adopted by the State Duma on December 19, 1997  
Approved by the Council of Judges on December 24, 1997

**Chapter 1  
General Provisions**

**Article 1 Judicial Department under the Supreme Court of the Russian Federation**

1 The Judicial Department (hereinafter - Judicial Department) under the Supreme Court of the Russian Federation is a federal body which coordinates the work of supreme courts of the republics, krai and oblast courts as well as courts of cities with the federal status, courts of the autonomous oblast and autonomous okrugs, military and special purpose courts (further on courts), bodies of judiciary. It also coordinates financing of the justices of the peace.

2 Support of the court activities in the present federal law is understood as an implementation of a system of measures of an organizational, personnel, financial, logistical and other nature with the aim of creating conditions for the complete and independent administration of justice.

3 The activity of the Russian Federation Supreme Court is supported by its administration.

**Article 2 System of the Judicial Department**

1 Judicial Department, its offices in the regions of the Russian Federation and institutions which are being established by the Judicial Department shall form a system of the Judicial Department.

2 Judicial Department and its regional offices shall be legal entities, with their own seals and bearing their titles and the state emblem as well as bank accounts, including hard currency bank accounts.

**Article 3 Legal Basis for the Activity of the Judicial Department**

1 Judicial Department, its offices and institution follow the Constitution of the RF, the present federal law, other federal laws and decrees of the President of the Russian Federation, resolutions of the Government, orders of the Chairman of the Supreme Court and decisions of the bodies of the judiciary adopted within their competence.

**Article 4 Non-Interference With the Administration of Justice**

Judicial Department, its offices and bodies are to assist in strengthening independence of the courts and judges and do not have any right to interfere with the administration of justice.

## Article 5 Financing of the Courts, Collegia on Judicial Qualifications and Judicial Department

1 The courts, justices of the peace, qualification collegia and Judicial department are financed from the federal budget

2 The general director of the Judicial Department under the Supreme Court of the Russian Federation (further on "General director of the Judicial Department") within the established period of time submits to the Government of the Russian Federation his proposals on financing of the courts, justices of the peace, qualification collegia for the next fiscal year. Such proposals shall be agreed upon with Chairman of the Supreme Court and Council of Judges of the Russian Federation

General Director of the Judicial Department has the right to participate in discussing draft federal budget for the next fiscal year on issues which fall under the competence of the Judicial Department. In case there is any disagreement on certain issues the government of the Russian Federation shall attach to the draft federal budget proposals on courts financing submitted by the General director of the Judicial Department with its comments

3 Judicial department is financed from the federal budget. Financing of the Judicial department shall be a separate article in the federal budget

## **Chapter II Powers, Structure And Activity Of The Judicial Department**

## Article 6 Powers of the Judicial Department

1 The Judicial Department shall

- 1) support the activities of the supreme courts of the republics, krai and oblasts, courts of the autonomous oblasts and krai, courts of the cities of the federal level as well as military and special purpose courts, bodies of the Judicial Department, All-Russia Congress of Judges and other bodies of judiciary it may form,
- 2) manage bodies and organizations of the Judicial Department,
- 3) develop draft laws and legal normative acts on issues within its competence ,
- 4) develop and submit to the Government proposals on financing courts, justices of the peace and collegia on judicial qualifications approved by the Chairman of the Supreme Court and Council of Judges of the Russian Federation,
- 5) analyze activities of the courts and develop proposals on the improvement,
- 6) submit to the Supreme court proposals on establishing or abrogation of courts,
- 7) determine the need in personnel for the courts, provide for selection and training of candidates for positions of a judge in the courts, interact with educational institutions specializing in the training of judges and improvement judicial qualifications,
- 8) be responsible for selection and professional training of the Judicial Department employees as well as employees of its divisions and organizations,
- 9) based on the results of scientific research determine the workload for judges and court employees,
- 10) in case of a vacancy, upon the agreement with the supreme courts of the republics, krai and oblasts, courts of the autonomous oblasts and krai, courts of the cities of the federal level as well as military and special purpose courts assign candidates for a position of a judge to fill in such vacancy,
- 11) maintain statistics and keep personal records of personnel employed in courts and Judicial Department,

- 12) collect court statistics, support clerical work as well as work of the archives in courts, interact with bodies of the judiciary on issues related to preparing a consolidated statistical report,
  - 13) within its competence review complaints and applications filed by citizens,
  - 14) render logistical and other support to divisions and bodies of the Judicial Department, provide for and finance scientific research in the field of the activity of judiciary,
  - 15) organize construction, and provide for maintenance and repairs, equipment for courts, and bodies of the Judicial Department,
  - 16) provide for development and installation of computer software required for case management and administrative work and information support, work on systematizing the legislation, maintain a data base on normative legal acts of the Russian Federation and directories of the legislation,
  - 17) in conjunction with the bodies of judiciary, courts and law enforcement bodies ensure independence, immunity and safety of judges and members of their families,
  - 18) provide material and social support of judges, retired judges, members of their families and court personnel, in accordance with the federal legislation provide them with housing, medical and spa treatment,
  - 19) establish and maintain contacts with governmental and other bodies, institutions and organizations, including foreign companies with the aim to improve organization of courts and bodies of the Judicial Department and to increase the efficiency of their work,
  - 20) interact with the Bar, law enforcement and other governmental bodies on issues related to proper support of judicial activity,
  - 21) carry out other activities aimed at supporting courts, bodies of judiciary, divisions of the Judicial Department
- 2 Within its competence the Judicial Department shall have the right to
- 1) request at the state and other bodies of judiciary documentation and necessary materials
  - 2) monitor expenditures of courts and bodies of the judiciary,
  - 3) for the purposes of drafting laws, research and consulting attract government employees, employees of the different institution and organizations, specialists and consultants,
  - 4) submit to the Supreme Court and Government of the RF proposals on improving working and living conditions of judges, personnel of the Judicial Department and its bodies and organizations within its system

#### Article 7 Structure of the Judicial Department

1 The Judicial Department consists of the following subdivisions

board for organizational and legal support of courts,

board for support of military courts,

financial and economy board,

board of the state service and personnel,

auditing board,

administrative unit,

board for construction and use of buildings and facilities,

department of training and educational institutions,

international department

2 Upon submission of a proposal of the General Director of the Judicial Department the collegia of the Judicial Department (further on "collegia") has the right to establish other departments or boards

Article 8 General Director of the Judicial Department

1 The Judicial Department shall be headed by the General Director who is appointed and removed from the position by the Chairman of the Supreme Court of the Russian Federation upon the approval of the Council of Judges

2 Financial and social support of the General Director shall be the same as of a federal minister

Article 9 Deputies of the General Director of the Judicial Department

The General Director has his/her deputies who are appointed and removed from the position by the Chairman of the Supreme Court of the Russian Federation upon recommendation of the General Director

Article 10 Powers of the General Director of the Judicial Department

1 General Director of the Judicial Department shall

- 1) manage the activity of the Judicial Department and its bodies and organizations under its supervision,
- 2) represent courts in the Government of the Russian Federation, federal executive bodies and bodies of the state power on issues within competence of the Judicial Department,
- 3) provide for drafting provisions on subdivisions of the Judicial Department and submit them to collegia for approval,
- 4) within his/ her competence issue orders, decrees and instructions mandatory for the bodies and organizations of the Judicial Department and supervise their execution Such orders, decrees and instructions shall be mandatory for courts in the part related to their organizational support,
- 5) assign duties to the employees,
- 6) appoints and removes from the position personnel of the central office of the Judicial Department and executives of the bodies and organizations of the Judicial Department,
- 7) approve the number of staff and salaries of the employees of the Judicial Department, upon recommendation of the head of a regional division approves the number of staff and salaries for this division,
- 8) on the annual basis report to the Chairman of the Supreme Court and Council of Judges on the activity of the Judicial Department and submit reports to the All-Russia Congress of Judges,
- 9) award classification ranks to the personnel of the Judicial Department and bodies and organizations within its system as well as to court employees, petition for awarding them with state awards and titles,
- 10) represent Judicial Department in the state and other bodies and organizations,
- 11) exercise other powers in compliance with the present federal law and other legal acts

2 General Director of the Judicial Department shall be personally responsible for execution of tasks assigned to the Judicial Department

Article 11 Collegia of the Judicial Department

1 The Judicial Department shall form a collegia which shall consist of the General Director who will be its chairman, his/ her deputies and other employees of the department

Members of the Collegia, except for those whose position or title require their membership, are approved by the Chairman of the Supreme Court

2 The Chairman of the Supreme Court, his deputies and members of the Council of Judges shall have the right to participate in the work of the collegia

3 The collegia acts in accordance with the regulation on collegia, approved by the Chairman of the Supreme court upon submission by the General Director of the Judicial Department

4 On the basis of the decisions made by the collegia General Director issues order and instructions

#### Article 12 Personnel of the Judicial Department

1 Employees of the Judicial Department and its bodies and organizations shall be government employees Rights and responsibilities of the above-mentioned employees are established by the federal laws and other normative acts on federal government service

2 Employees of the Judicial Department and its bodies and organizations are awarded with classification ranks and special titles in accordance with the federal legislation Employees of the main board for support of military courts can be also awarded with military titles

*Decree of the President of the RF On the order of awarding classification ranks to the government employees of the Judicial Department' from December 10 1998 # 1548*

### **Chapter III Powers, Structure and Activity of the Regional Divisions of the Judicial Department**

#### Article 13 Regional Division of the Judicial Department

1 Regional division of the Judicial Department shall be its structural unit

2 Regional division of the Judicial Department shall report to the General Director of the Judicial Department and regional Council of Judges,

#### Article 14 Powers of Regional Division of the Judicial Department

Regional division of the Judicial Department provides organizational support to the district courts, bodies of the judiciary in the region and finances justices of the peace Within its competence regional division shall

- 1) select candidates for a position of a judge in accordance with the requirements of the Law of the Russian Federation "On the status of Judges in the Russian Federation",
- 2) organize the work of an examination commission which shall conduct qualifying examination for a position of judge,
- 3) analyze the activities of regional courts and take steps aimed at their improvement,
- 4) collect court statistics, support clerical work as well as work of the archives in courts,
- 5) be responsible for financing of district courts and regional collegia on judicial qualifications, monitor their expenditures out of budget funds, control their financial and economic activity,
- 6) provide district courts with computer software necessary for case management and administrative and clerical work as well as for information support of the activities of these courts,
- 7) provide district courts with equipment and vehicles, organize construction, repair and installation of equipment at the court facilities,
- 8) upon agreement with the chairman of a regional court petition for awarding employees of this court with government awards and titles,
- 9) in conjunction with the bodies of judiciary, courts and law enforcement bodies ensure independence, immunity and safety of judges and members of their families,

- 10) provide material and social support of judges, retired judges, members of their families and court personnel, in accordance with the federal legislation provide them with housing, medical and spa treatment,
- 11) carry out other activities aimed at supporting district courts and regional bodies of judiciary

#### Article 15 Head of a Division of the Judicial Department

- 1 Head of a division is appointed and removed from the position by the General Director of the Judicial Department upon agreement with the chairman of the supreme court of the republic or krai or oblast court, chairman of the court of the city of the federal level, court of the autonomous republic or autonomous okrug, with the Council of Judges of the Russian Federation as well as with the body of power in the region of the division in the order established by the law
- 2 Head of a division of the Judicial Department has his/her deputies who are appointed and removed from the position by the General Director of the Judicial Department upon recommendation of the head

#### Article 16 Powers of the Head of a Division

- 1 Within his/her competence the head of a division shall
  - 1) manage the activities of the division
  - 2) issue orders, decrees and instructions mandatory for the employees of the division and supervise their execution Such orders, decrees and instructions shall be mandatory for district courts in the part related to their organizational support,
  - 3) approve the number of staff for the division and their salaries,
  - 4) appoint and removes from the position personnel of the division and administrators of the district courts,
  - 5) in case of a vacancy at a district court, upon the agreement with the supreme court of a republic, krai and oblast, court of an autonomous oblast or krai, court of a city of the federal level and considering the opinion of the chairmen of the courts where there is a vacancy, assign candidates for a position of a judge to fill in these vacancies,
  - 6) on the annual basis report to the regional Council of Judges on the activity of his/her division,
  - 7) assign classification ranks to the personnel of the division and court employees,
  - 8) interact with bodies of the state power in the region and local government on issues within the competence of the division,
  - 9) exercise other powers in compliance with the present federal law and other legal acts

#### Article 17 Court Administrator

- 1 Work of the supreme court of a republic, krai or oblast courts, court of a city of the federal level, courts of an autonomous okrug or district court is supported by the administrator of the correspondent court
- 2 Administrator of the supreme court of a republic, krai or oblast court, court of a city of the federal level, or court of an autonomous okrug shall exercise his/her powers under the supervision of the correspondent divisions of the Judicial Department and in coordination with them and administrator of a district court - under the supervision of the district division of the Judicial Department and in coordination with it

#### Article 18 Appointment and Removal of an Administrator

- 1 An administrator of the supreme court of a republic, krai or oblast court, court of a city of the federal level, or court of an autonomous okrug is appointed and removed from the position by the chief of the head office for organization and legal support of the court activities upon recommendation of the chairman of the correspondent court and an administrator of the district

court - by the district division of the Judicial Department upon recommendation of the chairman of the district court

2 Court administrator reports to the chairman of the correspondent court and follows all his directions

#### Article 19 Powers of Court Administrator

Court administrator shall

- 1) provide organizational support to the court and its activity of preparing to and conducting court proceedings,
- 2) interact with the Bar, law enforcement institutions and other government bodies on issues related to court activities,
- 3) provide for appropriate living and social conditions as well as medical care and spa treatment for judges and court employees,
- 4) provide judges and court employees with text of the normative legal acts, legal literature, manuals and other reference materials,
- 5) provide for information and legal support of the court activities, for keeping court statistics, for organizing clerical and secretarial activity and work of the archives,
- 6) make arrangements to ensure security of the court buildings, facilities and property out of hours, ensure uninterrupted operation of court transport, systems of communications and work of the building maintenance department,
- 7) provide for building construction, renovation and equipping court facilities,
- 8) draw draft budgets which shall be approved by the chairman of the court and submit them to the correspondent division of the Judicial Department for approval,
- 9) exercise other powers on supporting activity of the court

### **Chapter IV Final Provisions**

#### Article 20 Entering into Force of the Present Federal Law

The present federal law shall enter into force from the date of its official publication

#### Article 21 Transitional Provisions

1 Within one month from the date of the official publication of the present law to instruct the Government of the Russian Federation to

provide funding on changing the system of organizational support of the courts,

establish and order of transferring buildings, facilities and other property of the federal courts of general jurisdiction from the balance sheet of the ministry of justice over to the balance sheets of the Judicial Department and transfer to the latter the right of operational management of the above-said property

2 Prior to adoption of the federal constitutional law "On military courts of the Russian Federation" funding of the military courts, Board of military courts under the Ministry of Justice and Military collegia under the Supreme Court of the Russian Federation and their logistical support shall be carried out in the order establish by the federal law "On certain issues of organization and activities of military courts and bodies of military justice"

3 Law of the RSFSR from July 8, 1981 "On Judicial Organization and Administration in RSFSR" with changes and amendments thereto (Bulletin of the Supreme Soviet of the RSFSR, 1981, # 28, article 976, Bulletin of the Congress of the Peoples Deputies and Supreme Soviet of

the RSFSR from 1992 # 27, article 1560, # 30, article 1794, 1993, # 33, article 1313, Guidelines on the legislation of the Russian Federation, 1994 # 32, article 3300) shall be used in the part which is not controversial to the present federal law