

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

September 20, 1994

The Judicial Conference of the United States convened in Washington, D.C., on September 20, 1994, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. § 331. The Chief Justice presided, and the following members of the Conference were present:

First Circuit:

Chief Judge Juan R. Torruella
Judge Francis J. Boyle,
District of Rhode Island

Second Circuit:

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

Third Circuit:

Chief Judge Dolores K. Sloviter
Chief Judge John F. Gerry,
District of New Jersey

Fourth Circuit:

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

Fifth Circuit:

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

Judicial Conference of the United States

Sixth Circuit:

Chief Judge Gilbert S. Merritt
Chief Judge Thomas D. Lambros,
Northern District of Ohio

Seventh Circuit:

Chief Judge Richard A. Posner
Chief Judge Barbara B. Crabb,
Western District of Wisconsin

Eighth Circuit:

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

Ninth Circuit:

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

Tenth Circuit:

Chief Judge Stephanie K. Seymour
Chief Judge Richard P. Matsch,
District of Colorado

Eleventh Circuit:

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

District of Columbia Circuit:

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

Federal Circuit

Chief Judge Glenn L. Archer, Jr.

Court of International Trade:

Chief Judge Dominick L. DiCarlo

Circuit Judge William W. Wilkins, Jr., and District Judges Maryanne Trump Barry, Carolyn Dimmick, Paul A. Magnuson, Stanley Marcus, Michael M. Mihm, Alicemarie H. Stotler, Ann C. Williams, and Rya Zobel attended the Conference session. Circuit Executives Vincent Flanagan, Steven Flanders, Toby Slawsky, Samuel W. Phillips, Lydia Comberrel, James A. Higgins, Collins T. Fitzpatrick, June L. Boadwine, Gregory B. Walters, Robert L. Hoecker, Norman E. Zoller, and Linda Ferren were also present.

Senators Charles E. Grassley and Orrin Hatch, and Representatives Jack E. Brooks and William J. Hughes spoke to the Conference on matters pending in Congress of interest to the judiciary.

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

REPORTS

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

EXECUTIVE COMMITTEE

VOLUNTARY SEPARATION INCENTIVE PAYMENTS

To assist in the judiciary's efforts to equalize staffing levels among court units, the Judicial Resources Committee proposed the use of voluntary separation incentive payments (known as "buyouts"), which were authorized by the Federal Workforce Restructuring Act of 1994 (Public Law No. 103-226). The Executive Committee approved a buyout plan which allowed, in fiscal year 1994, the use of voluntary separation incentive payments in clerks', probation, and pretrial services offices that were over their respective staffing equalization limits. The Executive Committee placed a cap of \$2.4 million on the program (see also "Staffing Equalization," *infra* p. 60).

SOCIAL SECURITY DISABILITY REENGINEERING PROPOSAL

In April 1994, the Social Security Administration (SSA) announced its intention to streamline the processing of social security disability claims and sought public comments on its proposal. The new procedures would significantly alter the administrative appeals process. In particular, the proposal would eliminate the requirement that a dissatisfied claimant must request SSA Appeals Council review before seeking judicial review. Instead, the Appeals Council would be authorized to seek systematically the remand of cases filed in U. S. district court for the purpose of reviewing the administrative law judge's decision. This proposed role for the Appeals Council creates jurisdictional problems and has significant caseload ramifications. On recommendation of the Committee on Federal-State Jurisdiction, concurred in by the Committee on Court Administration and Case Management, the Executive Committee agreed to communicate to the Social Security Administration on behalf of the Judicial Conference its serious concerns regarding the restructuring of the Appeals Council.

REIMBURSEMENT OF RELOCATION EXPENSES

Under the current policy governing reimbursement of relocation expenses, relocation benefits are limited to overseas law clerks and to situations where a court has no option for staffing a position except to order the relocation of one of its employees and the relocation has been determined to be in the "interest of the government." Because of a significant increase in claims for relocation reimbursement, the Executive Committee instituted a

two-level court approval process for reimbursement of court-ordered relocations. First, a chief judge must certify that the relocation is in the interest of the government, as defined by the current policies. Second, the circuit judicial council will review the certification and approve or disapprove it based on the needs of the judiciary in light of the estimated costs to be incurred. The Committee also approved the transfer of \$600,000 from the fiscal year 1994 reserve to fund the additional costs of relocation benefits for the remainder of the year.

In addition, the Executive Committee reviewed a request for reimbursement of moving expenses from a magistrate judge who will be relocating upon his appointment to the district court bench. The Committee took no action on the request pending review by the Judicial Council of the Eighth Circuit.

RESOLUTIONS

On behalf of the Judicial Conference, the Executive Committee adopted the following resolution honoring its esteemed outgoing Chair:

The Judicial Conference of the United States at its September 1994 session in Washington, D.C., hereby recognizes the Honorable

JOHN F. GERRY

Chief Judge of the United States District Court for the District of New Jersey and Chairman of the Executive Committee of the Judicial Conference of the United States, for his numerous contributions to the federal judiciary and the administration of justice.

In 1990, after having served more than one year on the Judicial Conference Committee on the Administrative Office, Chief Judge Gerry was elected by the judges of the Third Circuit to serve a three-year term as district judge representative to the Judicial Conference. His level-headed manner and insight earned him the respect of other Conference members and the confidence of Chief Justice Rehnquist who, in January 1991, appointed Judge Gerry to serve on the Conference's Executive Committee. One year

later, further recognizing his outstanding leadership qualities, the Chief Justice selected Judge Gerry to be Chairman of the Executive Committee -- the first district judge chosen for this significant position. The Third Circuit subsequently elected him to an unprecedented second term as that Circuit's district judge representative to the Conference. Since 1991, Judge Gerry has also been serving on the Ad Hoc Committee on Gender-Based Violence.

Judge Gerry's decision to step down as Executive Committee Chairman and district judge representative to the Judicial Conference from the Third Circuit, has been received with universal disappointment. We will miss his leadership: Presiding in the Chief Justice's absence, Judge Gerry infused Conference sessions with his wisdom and common sense, his commitment to the judicial system as a whole, and of course, his wit.

The members of the Executive Committee, in particular, will feel the void created by Judge Gerry's absence. His sensitivity, practicality, patience, and good humor created an atmosphere favoring consensus and cooperation. As a result, the Committee was both cohesive and productive. Facilitated greatly by the keen intellect and objectivity of its Chairman, the Executive Committee was able to tackle critical, difficult, and often complex matters, most notably, fashioning judiciary spending plans during times of severe fiscal constraints and promoting enhanced communications among the three branches of government.

Judge Gerry is an exceptional individual -- one of a kind -- and he has significantly enriched us by his presence. While we will miss his wise counsel at Conference and Executive Committee sessions, we look forward to working with him in the future on judicial administration matters and to our continued friendships with him and his wife, Jean, in the years to come.

* * * * *

On recommendation of the Executive Committee, the Judicial Conference adopted the following resolution in recognition of the substantial

September 20, 1994

contributions made by the Conference Committee chairs who completed their terms of service on October 1, 1994:

RESOLUTION

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

THOMAS F. JACKSON

Committee on the Administrative Office

RYA W. ZOBEL

Committee on Automation and Technology

THOMAS F. HOGAN

Committee on Intercircuit Assignments

DEANELL R. TACHA

Committee on the Judicial Branch

CAROLYN R. DIMMICK

Committee on Judicial Resources

LEVIN H. CAMPBELL

Committee to Review Circuit Council Conduct
and Disability Orders

Appointed as committee chairmen by Chief Justice Rehnquist, these outstanding jurists have played a vital role in the administration of the federal court system. These judges served with distinction as leaders of their Judicial Conference committees while, at the same time, continuing to perform in their regular capacities as judges in their own courts. They have set a standard of skilled leadership and earned our deep respect and sincere gratitude for their innumerable contributions. We acknowledge with appreciation their commitment and dedicated service to the Judicial Conference and to the entire federal judiciary.

MISCELLANEOUS ACTIONS

The Executive Committee:

- Agreed not to oppose retroactivity of "safety valves" included in pending crime legislation to ameliorate some of the harshest results of mandatory minimum sentences;
- Approved a request of the Chairman of the Long Range Planning Committee to distribute publicly a draft of the long range plan prior to its consideration by the Judicial Conference;
- Referred to the International Judicial Relations Committee a suggestion that interaction among the judiciaries of the United States, Mexico, and Canada might be beneficial, in light of the North American Free Trade Agreement (NAFTA);
- Approved a statement of "Cooperation, Assistance, and Coordination" between the federal judiciary and the American Bar Association;
- Agreed that the Judicial Conference would co-sponsor a National Conference on Court Management of Mass Tort Cases to be held in November 1994 and funded by the State Justice Institute;
- Declined to grant an exception to a longstanding Conference policy disapproving the practice of federal judges traveling abroad to take testimony or depositions in criminal cases before them;
- Concurred in the Judicial Branch Committee's recommendation to leave to the discretion of the individual courts whether to release judges' travel vouchers to the public upon request;
- Ratified the decision of the Director of the Administrative Office to reprogram \$6.7 million in fiscal year 1994 automation funds to be used for the Data Communications Network;
- Approved a twelve-month waiver for Southeast flood victims of all miscellaneous bankruptcy fees associated with obtaining copies of discharge orders and other documents required by the Federal Emergency Management Administration (FEMA) in applying for emergency aid. The Committee also requested the Court

Administration and Case Management Committee to study whether the Conference should adopt a general policy on waiver of administrative fees where a natural disaster occurs and FEMA is involved;

- Approved revisions to the jurisdictional statements of the Bankruptcy and Intercircuit Assignments Committees to clarify the roles of the Committees with respect to the intercircuit assignment of bankruptcy judges;
- Approved a request of the Bankruptcy Committee to authorize nine, rather than eight, temporary positions (with no increased funding) to assist the bankruptcy courts participating in the *in forma pauperis* pilot study (see JCUS-MAR 94, p. 11). The Committee also approved the reprogramming of \$85,638 in fiscal year 1994, so that the temporary positions could be filled prior to October 1, 1994; and
- Continued efforts to enhance communication with the other branches of government, including participation in quarterly meetings with the Attorney General of the United States, and agreed that the Chair should appoint an ad hoc subcommittee to propose ideas for improving the coordination of the judiciary's contacts with Congress.

COMMITTEE ON THE ADMINISTRATIVE OFFICE

COMMITTEE ACTIVITIES

The Committee on the Administrative Office considered a number of topics including Administrative Office support for independent counsels and the District of Columbia Public Defender Service; the Court Personnel System (CPS) and impact of its implementation on the Administrative Office; legislative activities; Administrative Office organizational changes; current and future budgets of the judiciary and the Administrative Office; employee payment adjustments issues; general financial management issues; the state of automation; Administrative Office goals and objectives; and evaluation and assessment activities. In addition, the Committee resolved to oppose the pursuit of legislative change regarding the authority of the Administrative Office Director to grant employment-cost-index (ECI) increases to Administrative Office employees.

COMMITTEE ON AUTOMATION AND TECHNOLOGY

BUSINESS PROCESS REENGINEERING

The Automation and Technology Committee determined that there was a need for the judiciary to reassess business methods used by the courts so that procedures being automated would be effective and efficient. It found that the need for "reengineering" of work processes or court functions cuts across all organizational boundaries. Therefore, it recommended that the Chief Justice appoint a new, non-technical *ad hoc* committee of the Judicial Conference to study work processes of the courts with a goal of making fundamental changes in processes and to make recommendations about how new technology techniques can be applied to make those changes successful. The Judicial Conference voted to recommit this recommendation to the Committee.

JURY MODERNIZATION PROJECT

The Jury Modernization Project will provide a modularly-designed automated jury system with components that can be customized, created, or replaced at the local level. Courts may determine locally how much of the system to utilize. On recommendation of the Committee, the Judicial Conference approved a policy that any court electing not to deploy the Jury Modernization System in whole or in part be provided with funding comparable to that provided to equivalently-sized courts using the system (see also "Juror Qualification Form," *infra* pp. 49-50).

COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM

BANKRUPTCY JUDGESHIPS

Beginning in 1994, the Conference is required by 28 U.S.C. § 152(b)(3) to conduct a comprehensive review of all judicial districts every two years to assess the continuing need for bankruptcy judgeships in each district and to make recommendations to the Congress for the elimination of certain positions. Utilizing the Judicial Conference-approved weighted caseload formula, the Bankruptcy Committee examined the needs of every

district. It also conducted more extensive studies and on-site surveys in five districts. On recommendation of the Bankruptcy Committee, the Conference determined to recommend to Congress that no bankruptcy judgeship positions be statutorily eliminated. In addition, the Conference agreed to advise the appropriate judicial councils that if a vacancy were to occur by reason of resignation, retirement, removal, or death in the districts of South Dakota, Alaska, or Maine, the Eastern District of Wisconsin, or the Western District of Kentucky, the council should consider deferring the filling of the position, particularly if such action would result in a weighted caseload per judge of fewer than 1,000 hours.

COMMITTEE ON THE BUDGET

ALTERNATIVE BUDGET REQUEST FOR THE FISCAL YEAR 1996

The Judicial Conference approved an alternative, or lower, budget request for the fiscal year 1996, subject to amendments necessary as a result of (a) new legislation, (b) actions of the Judicial Conference, or (c) other reasons the Director of the Administrative Office considers necessary and appropriate.

COST CONTROL MONITORING SYSTEM

The new Court Personnel System (CPS) is scheduled to be implemented in selected courts beginning in March, 1995 (see JCUS-SEP 93, pp. 49-50). Under CPS, cost control for supporting personnel salaries will no longer be accomplished by the Administrative Office's regulation of the number of positions authorized for a court unit and by its central management of the classification process. Rather, salary controls will be based on the distribution to court units of two-year funding ceilings within which to pay for all supporting personnel. On recommendation of the Budget Committee in coordination with the Judicial Resources Committee, the Judicial Conference adopted the Cost Control Monitoring System (CCMS) as a new system for the allotment of personnel compensation funds under budget decentralization. The Conference also approved the implementation of the CCMS in fiscal years 1995 and 1996 in courts that have been selected to begin implementation of the CPS in fiscal years 1995 and 1996, respectively.

COMMITTEE ON CODES OF CONDUCT

COMMITTEE ACTIVITIES

The Committee on Codes of Conduct reported that since its last report to the Judicial Conference, it received 47 new written inquiries (including one request for reconsideration) and issued 40 written advisory responses. The average response time was 21 days. The Chairman received and responded to 48 telephonic inquiries. In addition, individual Committee members responded to 72 inquiries from their colleagues.

ETHICS REFORM ACT REGULATIONS

The Judicial Conference approved the recommendations of the Committee to revise the Ethics Reform Act gift regulations. The principal substantive changes include the following: (1) definition of the term "gift" in a new section 3; (2) incorporation in a new section 4 of the existing statutory prohibition on solicitation of gifts; (3) clarification of the reach of sections 4(b) and 5(b) (formerly 3(c) and 3(a)(2)); (4) authorization in a new section 5(h) of the acceptance of *de minimis* gifts by persons other than judges and their personal staffs; (5) revision of section 6 (formerly 3(b)) prohibiting the acceptance of gifts in violation of other statutes and regulations, or where reasonable persons would believe that the public office is being used for private gain; and (6) description in a new section 9 of procedures for the return or disposal of gifts that may not properly be accepted.

Upon recommendation of the Committee, the Judicial Conference approved revisions to the Ethics Reform Act outside employment regulations, to incorporate useful provisions from the Executive Branch regulations and to make technical amendments designed to clarify the application of the regulations.

COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT

CAMERAS IN THE COURTROOM

The Judicial Conference considered a report and recommendation of the Court Administration and Case Management Committee to authorize the

photographing, recording, and broadcasting of civil proceedings in federal trial and appellate courts. The Committee's report included an evaluation conducted by the Federal Judicial Center of a three-year pilot project in six district and two appellate courts, as well as an analysis of studies conducted in state courts. Based upon the data presented, a majority of the Conference concluded that the intimidating effect of cameras on some witnesses and jurors was cause for concern, and the Conference declined to approve the Committee's recommendation to expand camera coverage in civil proceedings. In light of this action, additional Committee recommendations relating to cameras in the courtroom in civil cases were determined to be moot. No action was taken with regard to the ongoing pilot program, which is scheduled to sunset on December 31, 1994 (see JCUS-MAR 94, p. 15). See also "Criminal Rules," *infra* p. 67.

MISCELLANEOUS FEE SCHEDULES

In September 1993, the Judicial Conference approved an amendment to the miscellaneous fee schedule promulgated under 28 U.S.C. § 1913 to provide a fee for electronic access to court data for the appellate courts, but reserved for future consideration the issue of whether to extend the fee to electronic access to slip opinions (JCUS-SEP 93, pp. 44-45). The Court Administration and Case Management Committee recommended that the Judicial Conference authorize collection of a fee for electronic access to slip opinions by amending the fee schedule to delete the sentence, "No such fee shall be charged for usage of ACES/EDOS." The Judicial Conference approved the amendment, which makes no change in the provision allowing courts to exempt, for good cause, persons or classes of persons from the fees.

In March 1993, the Judicial Conference eliminated the traditional federal agencies' exemption from court fees for electronic access to court data and, in limited circumstances, for reproducing court records and conducting searches of court records (JCUS-MAR 93, p. 11). Federal agencies funded from judiciary appropriations continue to be exempted from fees. On recommendation of the Committee on Court Administration and Case Management, the Conference agreed to a technical amendment of the miscellaneous fee schedules promulgated under 28 U.S.C. §§ 1913, 1914, 1926, and 1930, to clarify that government programs funded from the federal judiciary's appropriations, as well as government agencies so funded, were exempt from fees. The amendment reads as follows (new language is in italics):

No fees under this schedule shall be charged to federal agencies or programs which are funded from judiciary appropriations, *including, but not limited to, agencies, organizations, and individuals providing services authorized by the Criminal Justice Act, 18 U.S.C. § 3006A and Bankruptcy Administrator programs.*¹

PRO SE LAW CLERKS

Recognizing that the work of the pro se law clerks is legal in nature and that the pro se law clerk serves the entire court as a legal expert in prisoner cases, the Judicial Conference approved *in principle* a Court Administration and Case Management Committee recommendation that the pro se law clerk program no longer be a component of the clerk's office. The chief judge of each district will appoint and supervise pro se law clerks, under the authority of 28 U.S.C. § 752, and will have the discretion to delegate this authority to another judicial officer or to the clerk of court, as appropriate for the court. Notwithstanding its approval of the new pro se law clerk policy in concept, the Conference, on recommendation of the Committee, referred specific issues raised by the implementation of this proposal to the Judicial Resources Committee for its consideration and subsequent Conference action, as appropriate. Implementation of this proposal will be deferred pending consideration of these issues by the Judicial Resources Committee.

VIDEO-CONFERENCING

On recommendation of the Committee, the Judicial Conference authorized the bankruptcy court in the Western District of Texas to conduct a six-to twelve-month video-conferencing pilot program, subject to the availability of funds. The program offers an opportunity to evaluate the use of video-conferencing to conduct bankruptcy proceedings between the district's Austin and Midland locations.

¹ The phrase "and Bankruptcy Administrator programs" will be omitted from the amendment to the miscellaneous fee schedule promulgated under 28 U.S.C. § 1930 because that schedule already exempts bankruptcy administrators from all fees.

REALTIME COURT REPORTING

Realtime reporting technologies allow the stenotype record to be electronically transcribed in the courtroom using software that translates the shorthand instantaneously and displays it on a monitor in front of the reporter, judge, and attorneys. The Judicial Conference, on recommendation of the Committee, endorsed the use of realtime reporting technologies by official court reporters in the district courts² to the extent that funding is available to support their use.

Implementation issues remain, and the Judicial Conference requested the Committee on Judicial Resources to consider (1) developing qualification criteria for official court reporters who have the skill to stenotype realtime or operate a computer-integrated courtroom; (2) developing salary incentives for official court reporters who have the skill to stenotype realtime and operate computer-integrated courtroom systems; and (3) examining whether changes to the categories and costs of transcript page rates are necessary to reflect current services available with the use of realtime and computer-integrated courtroom technologies. In addition, the Conference requested that the Committee on Automation and Technology consider developing standards (1) for software and hardware that may be used by official court reporters in a computer-integrated courtroom; and (2) for the management of computer systems and information within the courtroom.

JUROR QUALIFICATION FORM

The new Jury Modernization Project, implementation of which is expected in fiscal year 1997, involves the establishment of a nationwide contract for vendor services to provide master wheel creation and scannable qualification questionnaire processing (see also "Jury Modernization Project," *supra* p. 44). The new system includes the development of a new optical scanning juror qualification questionnaire form. Section 1869(h) of title 28 requires the Judicial Conference to approve juror qualification forms prescribed by the Administrative Office. On recommendation of the Committee, the Judicial Conference approved a scannable juror qualification

² At its March 1994 session, the Judicial Conference disapproved the use of realtime reporting systems in bankruptcy courts because they did not appear to be cost effective (JCUS-MAR 94, p. 16).

questionnaire form for courts electing to use the system provided by the Jury Modernization Project.

SIGN LANGUAGE INTERPRETERS

The Judicial Conference approved a Committee recommendation that it seek an amendment to the Court Interpreters Act, 28 U.S.C. § 1827, to remove the prohibition on the use of appropriated funds to provide sign language interpreters to hearing-impaired parties and witnesses in proceedings not initiated by the United States. Such an amendment would provide judicial officers the discretion to decide what services to provide to hearing-impaired parties and witnesses, subject to the availability of funds.

COMMITTEE ON CRIMINAL LAW

COMMITTEE ACTIVITIES

The Committee on Criminal Law reported that it had discussed the potential impact on the federal courts of the provisions of the Violent Crime Control and Law Enforcement Act of 1994 pending before the Congress. In addition, the Committee was briefed on the following: the implementation of the enhanced supervision of offenders program, policies for the management of confidential informants, a review of the Substance Abuse Treatment Program, an analysis of the pretrial services workload, a study of the Bail Reform Act of 1984, and training programs on alternatives to detention.

COMMITTEE ON DEFENDER SERVICES

DEFENDER ORGANIZATION FUNDING REQUESTS

Under its delegated authority from the Judicial Conference (JCUS-MAR 89, p. 16), the Defender Services Committee approved supplemental funding requests for the fiscal year 1994 for Federal Public Defender organizations in the amount of \$683,300 and for Death Penalty Resource Centers in the amount of \$260,566. In addition, the Committee approved funding of \$20,000 for two new community defender organizations to become operational in fiscal year 1994, subject to congressional authorization.

CRIMINAL JUSTICE ACT COMPENSATION VOUCHERS

The Judicial Conference approved a one-year pilot project in the Ninth Circuit to centralize and expand the scope of the Criminal Justice Act (CJA) voucher review process. The project will fund from the Defender Services appropriation the employment in one district of up to two staff persons in the clerk's office to review CJA compensation vouchers.

COMMITTEE ON FEDERAL-STATE JURISDICTION

NORTHERN MARIANA ISLANDS

At the request of the Pacific Islands Committee of the Ninth Circuit Judicial Council, the Committee on Federal-State Jurisdiction, noting the commonwealth status and exclusive federal jurisdiction of the Northern Mariana Islands district court, recommended that the Judicial Conference support legislation that would establish Article III status for the district judgeship authorized for the Commonwealth of the Northern Mariana Islands. The Judicial Conference approved the Committee's recommendation.

COMMITTEE ON FINANCIAL DISCLOSURE

COMMITTEE ACTIVITIES

The Committee on Financial Disclosure reported that as of July 14, 1994, it had received 2,547 financial disclosure reports and certifications for the calendar year 1993, including 1,093 reports and certifications from justices and Article III judges, 296 from bankruptcy judges, 393 from magistrate judges, and 765 from judicial employees.

RELEASE OF FINANCIAL DISCLOSURE REPORTS

In its August 1993 report, the National Commission on Judicial Discipline and Removal recommended that the Judicial Conference reexamine the practice of specifically notifying a federal judge when a request

for access to the judge's financial disclosure forms is made, to determine if valid security or other concerns justify continuation of the practice. The Financial Disclosure Committee, in consultation with the Committee on Security, Space and Facilities, reexamined the current notification procedures and found that security risks that could emanate from the release of financial information justify continuation of the current policy of notifying a federal judge when a request for access to the judge's financial disclosure forms is made.

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

COMMITTEE ACTIVITIES

The Committee on Intercircuit Assignments reported that during the period from January 1, 1994, through June 30, 1994, 92 intercircuit assignments, undertaken by 71 Article III justices and judges, were recommended by the Committee and approved by the Chief Justice.

COMMITTEE ON INTERNATIONAL JUDICIAL RELATIONS

NON-JUDICIARY FUNDS FOR INTERNATIONAL PROGRAMS

The Judicial Conference approved a Memorandum of Understanding with the Federal Judicial Center (FJC) Foundation Board and the FJC Board to accept and administer public and private gifts for Conference-sponsored programs and other appropriate international initiatives.

COMMITTEE ON THE JUDICIAL BRANCH

MILITARY SURVIVOR BENEFIT PLAN

Currently, federal judges who are military retirees, unlike other federal employees, are not permitted to withdraw from participation in the military's survivor annuity plan when they elect coverage under the Judicial Survivors' Annuities System (JSAS). On recommendation of the Committee on the Judicial Branch, the Judicial Conference agreed to pursue legislation to amend chapter 73 of title 10, United States Code, to permit federal judges

to choose the JSAS rather than the Military Survivor Benefit Plan for their surviving dependents.

TAXATION FOR GOVERNMENT-PROVIDED HOME-TO-WORK TRANSPORTATION

In 1993, the Internal Revenue Service promulgated new regulations that require that the value of any home-to-work transportation provided to any employee for security reasons be included in gross income. The Judicial Conference approved a Committee recommendation to seek to include in appropriate legislation the requisite amendment to exempt from taxation the entire value of any transportation provided to federal judges for security reasons.

COMMITTEE ON JUDICIAL RESOURCES

ADDITIONAL JUDGESHIPS

After evaluating the request for two additional temporary judgeships in the Second Circuit utilizing interim criteria adopted in 1993, the Judicial Resources Committee recommended that the Judicial Conference authorize transmittal to Congress of a request for one additional temporary court of appeals judgeship for the Second Circuit. The Judicial Conference approved the recommendation, which will be transmitted along with its September 1993 recommendation for 19 additional temporary court of appeals judgeships (JCUS-SEP 93, pp. 51-52).

On recommendation of the Committee on Judicial Resources, which reviewed requests for additional district court judgeships utilizing a weighted caseload formula and considering any special factors, the Judicial Conference approved transmittal to Congress of a request for an additional 18 permanent and five temporary district judgeships, and the conversion of three existing temporary judgeships to permanent, as follows:

Permanent Judgeships

Northern District of Texas (1)
Southern District of Texas (1)
Eastern District of Tennessee (1)
District of Colorado (1)
District of New Mexico (1)
District of Arizona (2)
Southern District of California (2)
District of Nevada (2)
Eastern District of New York (3)
Middle District of Florida (4)

Temporary Judgeships

Western District of New York (1)
Western District of North Carolina (1)
District of South Carolina (1)
Middle District of Louisiana (1)
Middle District of Alabama (1)

Conversion of Temporary to Permanent Judgeships

Northern District of New York (1)
Eastern District of Virginia (1)
Northern District of Alabama (1)

These recommendations will be transmitted in lieu of those previously approved by the Judicial Conference in September 1992 (JCUS-SEP 92, pp. 69-71).

NORTH AMERICAN FREE TRADE AGREEMENT

The Judicial Conference recommitted to the Judicial Resources Committee a Committee recommendation regarding the use and selection of senior judges on panels and committees established under NAFTA.

TEMPORARY EMERGENCY PERSONNEL FUND

The Judicial Conference, on recommendation of the Judicial Resources Committee, revised the procedure for distributing funds for temporary emergency personnel in chambers. Rather than making a distribution based on historical need, effective in fiscal year 1995, the Administrative Office will distribute such funds to the circuits and the Court of Federal Claims based upon the number of authorized judicial officers in that circuit or court. The Conference also agreed to set aside five percent of the temporary emergency personnel funds in a reserve to be managed by the Administrative Office for unanticipated needs.

In order to make maximum use of resources, the Judicial Resources Committee also recommended that the circuit judicial councils be authorized, but not required, to adopt a policy that excludes employees hired under the temporary emergency personnel fund from the Conference's provisions regarding the awarding of within-grade increases and locality pay. The Judicial Conference approved the recommendation and agreed that funding for these programs will continue to be allocated to the councils, so that additional staff could be hired utilizing temporary emergency personnel funds, if a circuit council so desired.

In addition, the Judicial Conference approved a Judicial Resources Committee recommendation to modify the salary matching/advanced in-step appointment policy to cover temporary emergency personnel fund law clerks hired at the JSP-11 level (at step 6 or lower). The change would apply only to law clerks who also qualify for appointment at the JSP-12 level. The new policy provides the flexibility to offer an advanced step in the lower grade yet effect a cost savings by offering a salary lower than JSP-12.

CIRCUIT EXECUTIVES' OFFICES

On recommendation of the Judicial Resources Committee, the Judicial Conference approved for inclusion in the fiscal year 1996 budget request four additional permanent positions in circuit executives' offices: one each in the District of Columbia and Fifth Circuits and two in the Sixth Circuit. All requested positions are within the staffing ceilings established by the Conference in September 1991 (JCUS-SEP 91, p. 63). In addition, the Conference approved the Committee's recommendation to include in the fiscal year 1996 budget request a two-year temporary position to be

established at the request of the circuit judicial council in any circuit currently performing, or contemplating performing, a study of bias in the courts.

PREARGUMENT ATTORNEY OFFICES

The Judicial Resources Committee reported that it had given preliminary approval in principle to a new staffing methodology for use in evaluating the future requests for positions in preargument attorney offices in courts of appeals. Upon final Committee action, the methodology will be presented to the Judicial Conference for approval. In the interim, the Judicial Conference took the following actions regarding preargument attorney offices as recommended by the Committee:

- 1) Approved a five-year cap of 22.5 conference attorney positions and 18.5 support staff positions for inclusion in budget requests beginning with the request for fiscal year 1996, with caps for individual courts set at levels that have been identified by the chief circuit judges;
- 2) Provided that individual positions requested by courts be included in a given year's budget request by the Administrative Office upon a determination that the requests meet established criteria (being developed by the Committee for later consideration by the Conference);
- 3) Provided that, should a court request positions in excess of its cap, its request be considered by the Judicial Resources Committee for approval by the Conference;
- 4) Provided that a new five-year cap be set by the Committee for approval by the Conference at the end of the first five-year period; and
- 5) Approved for inclusion in the fiscal year 1996 budget request, six attorney positions and 7.5 support positions for preargument attorney offices in eight courts of appeals, to be allocated to the requesting courts upon Administrative Office determination that they satisfy the criteria that are ultimately approved by the Conference.

In addition, the Judicial Conference agreed to provide sufficient funding to promote one line conference attorney each in the Sixth and Tenth

Circuits to the JSP-16 level and the remaining two line conference attorneys in the Sixth Circuit to the JSP-15 level.

COURT INTERPRETERS

On recommendation of the Judicial Resources Committee, the Judicial Conference approved a revised staffing methodology to better assess a court's interpreting needs. The new methodology includes an improved definition of the workload term "interpreting events" and requires courts to submit a profile of information when requesting new staff interpreter positions. In addition, the Conference approved a modification of the coordination factor in the district clerks' work measurement formula to increase the staffing credit for non-Spanish interpreting in courts with staff court interpreters to the same level currently allowed in courts without staff court interpreters.

At the request of the district court and on recommendation of the Judicial Resources Committee, the Judicial Conference converted to permanent a temporary court interpreter position in the District of Rhode Island.

ADDITIONAL COURT REPORTER POSITIONS

On recommendation of the Committee, the Judicial Conference approved one additional court reporter position each for the Districts of Nevada and Rhode Island, the Northern District of Georgia, the Central District of Illinois (subject to the confirmation of Judge Baker's successor), and the Northern District of Oklahoma. In addition, the Conference set the current ceiling of reporters at 16 for the Eastern District of New York, provided the three senior judges on the court continue full-time, and allowed the hiring of one additional reporter for each new judge confirmed.

CHAMBERS LAW CLERKS

At the request of the Economy Subcommittee of the Judicial Conference Committee on the Budget, the Judicial Resources Committee authorized a study on the grades of law clerks on the personal staffs of federal judges (chambers or "elbow" law clerks). After careful consideration of the study findings and the comments received from judges nationwide, the

Judicial Resources Committee recommended, and the Conference took, the following actions:

- 1) With regard to grades:
 - a) Removed, effective October 31, 1994, the current freeze on appointments and promotions of "elbow" law clerks above JSP-13;
 - b) Rescinded, effective October 31, 1994, the September 1990 Judicial Conference action which raised to JSP-16 the highest grade attainable for elbow law clerks;
 - c) Provided all current JSP-16 elbow law clerks with two-year "saved grade" protection commencing on October 31, 1994, and "saved pay" protection commencing two years later, subject to the normal provisions of the policy;
 - d) Established JSP-15 as the highest grade attainable for elbow law clerks who entered on duty as an elbow law clerk with the federal judiciary on or before October 31, 1994, except as limited by subsections (f) and (g) and section 3 below;
 - e) Established JSP-14 as the highest grade attainable for elbow law clerks who enter on duty after October 31, 1994, except as limited by subsection (f) below;
 - f) Provided that, effective October 31, 1994, a judge's personal staff may include only one elbow law clerk position at JSP-14 or above, except as provided in subsection (g) below;
 - g) Provided the following with respect to law clerks covered under subsection (d) above, in addition to the provisions of subsections (d) and (f):
 - i. On or after October 31, 1994, a judge may promote one such law clerk to JSP-15 when so qualified, if there is no other law clerk on his or her staff at JSP-15 or above; and

- ii. Effective October 31, 1994, law clerks at JSP-14 or JSP-15 (beyond the limit of one for each judge's personal staff) may continue at their grade for the duration of their appointment with that judge. (Current JSP-16 elbow law clerks are covered by subsection (c) above.)
- 2) With regard to qualifications: For elbow law clerks who enter on duty after October 31, 1994, reestablished the pre-September 1989 Judicial Conference policy requiring one year of federal elbow law clerk experience for appointment at or promotion to JSP-13, and two years of that type of experience for JSP-14 (see JCUS-SEP 87, pp. 62-63).
- 3) With regard to elbow law clerks returning to the courts after a break in service: Provided that subsections 1(e) and 2 above shall apply to elbow law clerks who, after October 31, 1994, return to court employment from a break in service of more than thirty consecutive calendar days.

DISTRICT CLERKS' WORK MEASUREMENT FORMULA

In September 1992, the Judicial Conference approved a new district clerks' work measurement formula for implementation over a five-year period (JCUS-SEP 92, p. 72). In March 1994, on recommendation of the Judicial Resources Committee, the Executive Committee, on behalf of the Conference, agreed to implement the full work measurement formula, provided that this would not result in additional positions for district clerks' offices but instead would be used only for redistribution of existing positions among district clerks' offices (JCUS-MAR 94, pp. 4-5). At this session, in the interest of equitable staffing policies for all court support units, the Judicial Resources Committee recommended, and the Judicial Conference approved, full implementation of the district clerks' work measurement formula for fiscal year 1995, even though such implementation, without additional funding, would reduce the percentage level of allocation for other court support units. See also "Court Interpreters," *supra* p. 57.

PROBATION AND PRETRIAL SERVICES WORK MEASUREMENT FORMULA

The Judicial Conference approved a recommendation of the Judicial Resources Committee to amend the probation and pretrial services work

measurement formula to include in fiscal year 1995 a factor for supervising electronic monitoring and home confinement cases. The factor reflects the work being performed in the new functional responsibility of supervising these individuals with special conditions.

STAFFING EQUALIZATION

The judiciary implemented a staffing equalization plan in fiscal year 1994 for all clerks', probation, and pretrial services offices to address the problem of disparities in staffing levels among these offices (JCUS-MAR 94, p. 4). The plan encouraged movement of personnel from court units staffed above an established limit to court units staffed below a designated level. The Judicial Conference approved a Judicial Resources Committee recommendation to continue equalization efforts in fiscal year 1995 and to provide that positions over the staffing limit not be funded beyond September 30, 1995. The Conference further agreed to continue in fiscal year 1995 the equalization incentives used in fiscal year 1994 and to establish a 45-day window for voluntary separation incentive payments as early in the fiscal year as practicable in those court units over the designated limit (see also "Voluntary Separation Incentive Payments," *supra* p. 38).

COMMITTEE ON LONG RANGE PLANNING

COMMITTEE ACTIVITIES

The Long Range Planning Committee reported that it has continued its intensive efforts to develop a long range plan for the federal court system. A proposed plan will be disseminated for public comment prior to its submission to the Judicial Conference.

COMMITTEE ON THE ADMINISTRATION OF THE MAGISTRATE JUDGES SYSTEM

ADMINISTRATIVE LAW JUDGE CORPS

On recommendation of the Committee on the Administration of the Magistrate Judges System, the Judicial Conference raised issue with the special master and fact-finder provisions contained in § 599(D)(d) of the

September 20, 1994

"Reorganization of the Federal Administrative Judiciary Act" (S. 486, 103d Congress). The Conference expressed concern that the provision, by allowing and presumably encouraging federal courts to utilize Executive Branch administrative law judges not supervised by the courts to perform judicial functions in federal court proceedings, may blur the distinction between the functions of the Executive and Judicial Branches.

CHANGES IN MAGISTRATE JUDGE POSITIONS

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

SECOND CIRCUIT

New York (Eastern)

- 1) Authorized an additional full-time magistrate judge position at Brooklyn;
- 2) Authorized an additional full-time magistrate judge position at Uniondale or Hauppauge;
- 3) Discontinued the part-time magistrate judge position at Patchogue at the end of the incumbent's term in April 1995; and
- 4) Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

FOURTH CIRCUIT

North Carolina (Eastern)

- 1) Redesignated the official location of the full-time magistrate judge position at Fayetteville as Raleigh;

Judicial Conference of the United States

- 2) Redesignated the official location of the full-time magistrate judge position at New Bern as Wilmington, effective upon the expiration of the term of the incumbent full-time magistrate judge in New Bern; and
- 3) Redesignated the official location of the part-time magistrate judge position at Wilmington as Greenville, effective upon the expiration of the term of the incumbent part-time magistrate judge in Wilmington.

North Carolina (Middle)

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

South Carolina

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

SIXTH CIRCUIT

Kentucky (Eastern)

- 1) Converted the part-time magistrate judge position at London to full-time status;
- 2) Increased the salary of the part-time magistrate judge position at London from Level 6 (\$10,320 per annum) to Level 5 (\$20,640 per annum), effective October 1, 1994, until the position is converted to full-time;
- 3) Redesignated the official location of the full-time magistrate judge position at Ashland or Catlettsburg as Ashland; and
- 4) Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

Kentucky (Western)

- 1) Converted the part-time magistrate judge position at Owensboro to a full-time position at Louisville or Owensboro;

September 20, 1994

- 2) Discontinued the authority of the chief deputy clerk to perform magistrate judge duties; and
- 3) Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

SEVENTH CIRCUIT

Illinois (Northern)

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

Wisconsin (Western)

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

EIGHTH CIRCUIT

Iowa (Northern)

Increased the salary of the part-time magistrate judge position at Sioux City from Level 6 (\$10,320 per annum) to Level 4 (\$30,960 per annum).

Minnesota

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

NINTH CIRCUIT

California (Northern)

- 1) Authorized an additional full-time magistrate judge position at San Francisco; and

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

TENTH CIRCUIT

Colorado

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

New Mexico

- 1) Authorized an additional full-time magistrate judge position at Albuquerque;
- 2) Authorized an additional full-time magistrate judge position at Las Cruces;
- 3) Discontinued the part-time magistrate judge position at Santa Fe upon the appointment of the new magistrate judge at Albuquerque;
- 4) Discontinued the part-time magistrate judge position at Alamogordo upon the appointment of the new magistrate judge at Las Cruces;
- 5) Discontinued the part-time magistrate judge position at Farmington; and
- 6) Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

Wyoming

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

ELEVENTH CIRCUIT

Alabama (Northern)

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

Florida (Southern)

- 1) Converted the part-time magistrate judge position at Fort Pierce to full-time status;
- 2) Authorized an additional full-time magistrate judge position at Miami;
- 3) Increased the salary of the part-time magistrate judge position at Fort Pierce from Level 4 (\$30,960 per annum) to Level 1 (\$56,760 per annum), effective October 1, 1994, until such time as a full-time magistrate judge is appointed at Fort Pierce;
- 4) Decreased the salary of the part-time magistrate judge position at Key West from Level 3 (\$41,280 per annum) to Level 4 (\$30,960 per annum); and
- 5) Made no change in the number, locations, salaries, or arrangements of the other magistrate judge positions in the district.

ACCELERATED FUNDING FOR MAGISTRATE JUDGES

The accelerated funding program was established to provide prompt magistrate judge assistance to judicial districts seriously affected by drug filings or the Civil Justice Reform Act. Based on the recommendations of the Magistrate Judges Committee, the Judicial Conference designated the new full-time magistrate judge positions at Brooklyn, New York; Uniondale or Hauppauge, New York; San Francisco, California; Las Cruces, New Mexico; and Fort Pierce, Florida for accelerated funding in FY 1995.

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

NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL

The Committee to Review Circuit Council Conduct and Disability Orders reported that it will continue to address issues raised by the recommendations of the National Commission on Judicial Discipline and Removal (National Commission). In March 1994, the Judicial Conference adopted a majority of these recommendations (JCUS-MAR 94, pp. 28-31), but tasks remain, including the development of language amending the

Illustrative Rules Governing Complaints of Judicial Misconduct and Disability. In addition, several recommendations by the National Commission which did not come within the jurisdiction of the Committee to Review Circuit Council Conduct and Disability Orders have been referred by the Conference Secretary to other committees for appropriate action.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

APPELLATE RULES

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed amendments to Rules 4 (Appeal as of Right - When Taken), 8 (Stay or Injunction Pending Appeal), 10 (The Record on Appeal), and 47 (Rules by Courts of Appeal) of the Federal Rules of Appellate Procedure. The proposed amendments were accompanied by Committee notes explaining their purpose and intent. The Conference approved the amendments for transmission to the Supreme Court for consideration, with the recommendation that they be approved by the Court and transmitted to Congress pursuant to law.

BANKRUPTCY RULES

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed amendments to Bankruptcy Rules 8018 (Rules by Circuit Councils and District Courts) and 9029 (Local Bankruptcy Rules), together with Committee notes explaining their purpose and intent. These amendments were approved by the Conference, which authorized their transmittal to the Supreme Court for consideration, with the recommendation that they be adopted by the Court and transmitted to Congress pursuant to law.

CIVIL RULES

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed amendments to Rules 50 (Judgment as a Matter of Law in Action Tried by a Jury; Alternative Motion for New Trial; Conditional Rulings), 52 (Findings by the Court; Judgment on Partial Findings), 59 (New Trials; Amendment of Judgments) and 83 (Rules By

District Courts) of the Federal Rules of Civil Procedure. Committee notes explaining their purpose and intent were transmitted with the proposals. The Conference approved these amendments and authorized their transmittal to the Supreme Court for consideration, with the recommendation that they be approved by the Court and transmitted to Congress pursuant to law.

CRIMINAL RULES

The Committee on Rules of Practice and Procedure submitted to the Judicial Conference proposed amendments to Rules 5 (Initial Appearance Before the Magistrate Judge), 40 (Commitment to Another District), 43 (Presence of the Defendant), 49(e) (Service and Filing of Papers), 53 (Regulation of Conduct in the Court Room), and 57 (Rules by District Courts) of the Federal Rules of Criminal Procedure, together with Committee notes explaining their purpose and intent. The Conference approved amendments to Rules 5, 40, 43, 49, and 57 and authorized their transmittal to the Supreme Court, with the recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law. The Conference disapproved a proposed amendment to Criminal Rule 53 regarding cameras in criminal proceedings. See also "Cameras in the Courtroom," *supra* pp. 46-47.

FEDERAL DEFENDER PROGRAM

In its *Report of the Judicial Conference of the United States on the Federal Defender Program* (March 1993), the Judicial Conference referred to the Committee on Rules of Practice and Procedure, for consideration in accordance with the Rules Enabling Act, a proposal to require the prosecution to provide copies of discoverable materials to the defense and allocate the costs of duplication (*Federal Defender Report, March 1993, p. 42*). On recommendation of the Rules Committee, the Judicial Conference determined to refer the proposal to allocate certain discovery costs between the government and the defense in criminal cases to the Committee on Defender Services since the subject is more appropriately handled by statutory authorization.

FILING BY FACSIMILE

In September 1993, the Judicial Conference referred to the Committee on Rules of Practice and Procedure, in coordination with the Committees on Automation and Technology and Court Administration and Case Management, the question of whether, and under what technical guidelines, filing by facsimile on a routine basis should be permitted (JCUS-SEP 93, p. 45). On recommendation of all three Committees, the Judicial Conference determined to continue the existing policy on facsimile filing (see JCUS-SEP 91, pp. 52-53), and take no action to permit facsimile filing on a routine basis.

COMMITTEE ON SECURITY, SPACE AND FACILITIES

UNITED STATES COURTS DESIGN GUIDE

In an effort to ensure that the policy on accommodating handicapped accessibility will be uniform across the country, the Committee on Security, Space and Facilities recommended and the Judicial Conference approved amendments to the *United States Courts Design Guide* to add standards for handicapped accessibility.

ADJOURNMENT

The Judicial Conference adjourned in honor of its outgoing Executive Committee Chairman, Chief Judge John F. Gerry.

FUNDING

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

September 20, 1994

RELEASE OF CONFERENCE ACTION

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

A handwritten signature in cursive script, reading "William H. Rehnquist".

**Chief Justice of the United States
Presiding**

November 30, 1994

JUDICIAL CONFERENCE OF THE UNITED STATES

COMMITTEE ON FEDERAL-STATE JURISDICTION - ADDITIONAL ITEM

HEALTH CARE REFORM LEGISLATION

On August 9, 1994, by mail ballot, the Judicial Conference endorsed the following four principles related to remedies and enforcement provisions included in health care reform legislation:

1) Exhaustion of Administrative Remedies

The full exhaustion of administrative remedies for benefit denial claims should be a requirement for any health care legislation. Such a requirement enhances the efficiency and effectiveness of the review of such claims. Claimants should not be permitted to bypass administrative remedies and to proceed directly into a court of competent jurisdiction.

2) Court Jurisdiction

Following the exhaustion of administrative remedies, and consistent with the general principles of federalism, state courts should be designated as the primary forum for the review of benefit denial claims.

3) Discrimination

Traditional discrimination claims and actions should be handled differently from benefit denial claims based on issues such as medical necessity.

4) Administrative and Judicial Support

To ensure the effectiveness of the enforcement provisions of any health care legislation, it is critical that sufficient resources be provided to the responsible administrative and judicial entities.