

Template for Chief Circuit Judges' Deskbooks

Federal Judicial Center 2001

This Federal Judicial Center publication was undertaken in furtherance of the Center's statutory mission to conduct and stimulate research and development for the improvement of judicial administration. The views expressed are those of the author and not necessarily those of the Federal Judicial Center.

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Part One: Introduction to the Deskbook and to the Office of the Chief Circuit Judge

I. Origin, Purpose, and Organization of this Template

A. Origin

The Federal Judicial Center prepared this document in response to requests in 1998 from chief circuit judges. The Center has produced a companion volume, *Deskbook for Chief District Judges* (2d ed. 1993), which the Judicial Conference Advisory Committee on Bankruptcy Rules and the Administrative Office used to create a separate manual, *Deskbook for Chief Judges of United States Bankruptcy Courts* (2d ed. 1995).

B. Purpose

The Center produced the initial version of this *Template for Chief Circuit Judges' Deskbooks* in early 2000. Such a deskbook can provide a transparent statement of circuit administrative practices and be especially helpful to new circuit judges. We responded that the diversity of administrative procedures in the thirteen circuits would make a common deskbook prohibitively difficult to create and maintain, and that a more practical approach would be to provide the circuits with a common template that each circuit could use to develop its own deskbook. This approach, endorsed by the chief circuit judges, would relieve each circuit of having to design its deskbook and identify all relevant topics. Furthermore, deskbooks prepared and maintained by the circuits but based on a common template and readily available on-line would allow chief circuit judges to compare their administrative procedures with those in other circuits and provide, in the aggregate, a comparative reference for procedures in all the circuits.

To date, few circuits have used the template in this fashion. We have, however, elected to publish the template itself because, even without annotations, it provides a fairly comprehensive list of activities that chief circuit judges and others undertake pursuant to statute, Judicial Conference policies, or simply because of the imperatives of administering the circuit.

C. Organization

This deskbook template organizes the duties and activities of chief circuit judges into three parts.

Part One describes the *Template* and provides a brief history of the evolution of the position of chief circuit judge.

Part Two lists the formal duties assigned to the chief circuit judge by statute or the Judicial Conference. Individual circuits can supplement this list with duties assigned by rules or orders of the court of appeals or circuit judicial council.

Part Three, the heart of the *Template*, is a functional outline of the duties and responsibilities involved in running the circuit or its court of appeals—duties and responsibilities that the chief judge is either likely to fulfill, to supervise, to monitor, or otherwise have some direct involvement. These duties include, but unlike those listed in Part Two are not limited to, those imposed by statute or the Judicial Conference. They also include duties that have been or might be created by individual courts of appeals or circuits, or that have simply emerged as necessary or valuable for the administration of the court of appeals or the circuit. This section of the *Template* also lists the related responsibilities of the circuit judicial council. Individual circuits can insert descriptions of circuit-specific practices within the lists of statutory or Judicial Conference-created duties.

References throughout are to the “chief circuit judge.” In fact, however, statutory provisions refer either to the chief judge of the circuit (for example, provisions governing selection,¹ Judicial Conference membership, convening the circuit council, conference, and sentencing institutes,² and judicial discipline³) or the chief judge of the court (for example, provisions involving judicial emergencies on the court of appeals⁴ or appointment of senior staff attorneys⁵).

II. Evolution of Chief Circuit Judge Position

Congress created judicial circuits in 1789⁶ and intermediate appellate courts for them in 1891,⁷ but did not create the title “chief circuit judge” until 1948, when it revised and codified previous judicial acts into Title 28.⁸

The 1891 Evarts Act created the “senior circuit judge,” a precursor to the chief circuit judge. The Act created a circuit court of appeal in each circuit: a Supreme Court justice and two circuit judges (a third was authorized within ten years⁹). The Act authorized each court to appoint a marshal and a clerk of court and “to

1. 28 U.S.C. § 45(a)(1) (1994).

2. 28 U.S.C. §§ 331, 332, 333, 334 (1994).

3. 28 U.S.C. § 372(c) (1994).

4. 28 U.S.C. § 46(b) (1994).

5. 28 U.S.C. § 715(a) (1994).

6. Act of September 24, 1789, 1 Stat. 73.

7. An Act to Establish Circuit Courts of Appeals and to Define and Regulate in Certain Cases the Jurisdiction of the Courts of the United States; and for Other Purposes, 26 Stat. 826 (1891).

8. 62 Stat. § 45 (1948).

9. Administrative Office of the U.S. Courts, History of Federal Judgeships, Table K (1998) (<http://jnet.ao.dcn/judgescorner/history/contents/html>).

establish all rules and regulations for the conduct of the business of the court . . . as conferred by law.” It also provided that in the absence of the Supreme Court justice, “the circuit judges in attendance . . . shall preside in the order of the seniority of their respective commissions.”¹⁰ Such a designation was a practical response to the expectation that Supreme Court justices would participate little in the judicial business of the courts of appeals.

The senior circuit judge, however, was also positioned to assume informal administrative responsibilities that Supreme Court justices and circuit judges (one per circuit) had exercised when the justices and judges traveled about the circuits, sitting with the district judges as members of the system’s major trial court, the circuit court, which convened in each district of the circuit. The justices exercised rudimentary administrative oversight when, for example, they admonished district judges to avoid leaks to the press, provided information about events in Washington, or designated judges to serve elsewhere in the circuit.¹¹

The 1922 Judiciary Act¹² strengthened the administrative role of the senior circuit judges by authorizing them to gather information from the district courts about the state of the district courts’ dockets and the need for additional judicial assistance, and to report that information to an annual conference that the statute directed the Chief Justice to convene. On the basis of these reports, the conference would prepare plans for the assignment and transfer of judges. To implement these plans, the statute authorized the senior circuit judge to designate district and circuit judges of the circuit, and district judges from other circuits (with the consent of the other senior circuit judge), to sit temporarily on other district courts.

Under the 1922 Act, the senior circuit judges under the leadership of Chief Justice Taft and then Chief Justice Hughes met annually—the meeting became known as the “conference of senior circuit judges.” This conference created a rudimentary communications and advisory mechanism for the federal courts.

Senior circuit judges’ role shifted to governance in the aftermath of President Franklin Roosevelt’s 1937 judicial reorganization proposals, the best known feature of which was an enlarged Supreme Court. However, Roosevelt also proposed a Supreme Court-appointed proctor to manage the federal courts, which was until then a Justice Department function. In 1939 Congress enacted a variation of the proposal, creating the Administrative Office of the U.S. Courts. “The Director,”

10. An Act to Establish Circuit Courts of Appeals and to Define and Regulate in Certain Cases the Jurisdiction of the Courts of the United States; and for Other Purposes, § 3, 26 Stat. 826, 827 (1891).

11. Russell Wheeler, *The Future of the Judicial Council of the Ninth Circuit—Until 1939*, in *Long-Range Planning for Circuit Councils* 7, 12 (Federal Judicial Center 1992).

12. An Act for the Appointment of an Additional Circuit Judge for the Fourth Judicial Circuit, for the Appointment of Additional District Judges for Certain Districts, Providing for an Annual Conference of Certain Judges, and for Other Purposes, 42 Stat. 837 (1922).

the statute said, “shall be the administrative officer of the United States courts and shall have charge, under the supervision and direction of the conference of senior circuit judges, of” an array of administrative and support services for the courts, as well as the preparation and submission of the annual judicial branch requests for appropriations.

The 1939 statute enhanced the administrative role of the senior circuit judge in two other ways. One section gave official status to circuit-wide conferences of the bench that some circuits had convened for over ten years. The Administrative Office Act directed the senior circuit judge to designate the time and place of an annual circuit judicial conference and directed the court of appeals of each circuit to adopt rules for the participation of the bar.

A more consequential section directed the senior circuit judge to call, at least twice a year, “a council composed of the circuit judges [of the circuit], . . . at which council the senior circuit judge shall preside.” Again, this provision gave statutory status to previously informal arrangements whereby the senior circuit judge and other circuit judges had overseen the work of district judges outside the channels of litigation.¹³ The senior circuit judge was to submit to the council quarterly reports on the state of the dockets in the district courts, so that the councils could issue what orders were necessary “[t]o the end that the work of the district courts shall be effectively and expeditiously transacted.” Subsequent statutes have altered the conferences, and more so the judicial councils, both as to membership and duties.

Since then the administrative responsibilities of chief circuit judges have been formally recognized. In 1948, Congress codified the various judiciary statutes into a revised Title 28, which, in section 45(a), denoted the circuit judge senior in service as the “chief judge of the circuit.”¹⁴ According to the Reviser’s Notes, Congress adopted the term “chief judge” “in recognition of the great increase in administrative duties of such judges.”¹⁵ Twenty years later came the idea of administrative assistants, in response to a report the Judicial Conference had commissioned by retired Administrative Office director Will Shafroth in the wake of the significant increase in appellate caseloads that had begun earlier in the decade. Mr. Shafroth recommended appointing administrative assistants in two circuits as a pilot project to test the utility of officials who could analyze “the methods of court administration in the circuit, [develop] improved methods of screening the cases, [study] ways of saving time of the judges for hearing and deciding cases,

13. See, e.g., Peter G. Fish, *Guarding the Judicial Ramparts: John J. Parker and the Administration of Federal Justice*, 3 Just. Sys. J. 105 (1977).

14. 62 Stat. 871 (1948).

15. Reviser’s Note, Epochal Legislation, New Title 28, United States Code, Judiciary and Judicial Procedure, United States Code Congressional Service, Appendix, 1701 at 1706 (1948).

and, to the extent the Chief Judge desires, the assuming of some of the administrative burdens now carried by him.”¹⁶ The conference instead recommended that each chief circuit judge be authorized to hire an administrative assistant, a proposal that led to the enactment of the Circuit Executive Act in 1971.

The next formal change affecting chief circuit judges came in 1982, when Congress modified the strict seniority rule for chief judge selection in an effort to prevent chief judges serving very brief or very long terms.¹⁷ The change had been recommended by the Commission on Revision of the Federal Court Appellate System in order to “minimize the impact of a chief judge who lacks administrative abilities, while allowing the chief judges who are good administrators sufficient time to have a beneficent effect on the functioning of their circuits.”¹⁸ The *Long Range Plan for the Federal Courts* that the Judicial Conference approved in 1995 recommended no significant changes in the authority of chief circuit judges, except to alter the composition of circuit judicial councils: Instead of an equal number of circuit and district judges, plus the chief circuit judge, the plan recommended including the chief circuit judge among the “equal number” of circuit judges.¹⁹ In 1998, however, the Judicial Conference withdrew its endorsement of that recommendation.²⁰

III. Selection of Chief Circuit Judges

28 U.S.C. § 45(a) provides that when a chief judge vacancy occurs it will be filled by the judge in regular active service who, at the time of the vacancy, (1) is senior in commission, (2) is under the age of 65, (3) has served at least a year as circuit judge, and (4) has not previously served as chief judge. The statute has provisions in the event that no judge of the court meets these criteria. The statute limits the chief judge’s term to seven years and bars any chief judge to serve beyond the age of 70 unless no other judge is available to serve or act as chief judge. (Service as chief judge is not mandatory: 28 U.S.C. § 45(c) allows a chief judge to advise the Chief Justice that he or she wishes to step down, whereupon the next eligible judge becomes chief.)

In 1995, the Judicial Conference affirmed the seniority selection method when it adopted the *Long Range Plan for the Federal Courts*, which provides that chief

16. Will Shaforth, *Survey of U.S. Courts of Appeals*, 42 F.R.D. 243, 289 (1968).

17. 96 Stat. 52 (1982).

18. Commission on Revision of the Federal Court Appellate System, *Structure and Internal Procedures: Recommendations for Change* at 68 (1975).

19. Judicial Conference of the United States, *Long Range Plan for the Federal Courts, Implementation Strategy* 50a(2) at 83 (1995).

20. Memorandum from Leonidas Ralph Mecham, *Preliminary Report of the Actions Taken by the Judicial Conference of the United States*, in session, Sept. 15, 1998, Sept. 18, 1998, at 12.

circuit and district judges should continue to be selected on the basis of seniority subject to statutory limitations on age and tenure.²¹ The commentary for this provision notes that while selecting chief judges on the basis of seniority does not ensure administrative ability, alternative selection methods, such as “merit selection or election by the court,” also meet with skepticism. The commentary notes that the current selection system “has generally worked well in practice,” encourages continued study of possible alternatives as part of the continuing planning process, and recommends training and technical assistance for chief judges.²²

IV. Duties of Chief Circuit Judges

Probably owing to the incremental evolution of the position, chief circuit judges do not operate under an explicit grant of administrative authority. (By contrast, Congress has specifically directed chief bankruptcy judges to “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.”²³) Rather, the duties described in this *Template*—those nationally applicable, derived from statute and Judicial Conference actions, and individual circuit provisions anticipated by this document’s template format—create a patchwork of duties and responsibilities as to the court of appeals as a judicial body and the circuit as an administrative entity.

Despite the paucity of statutory authority, however, and the fact that chief judges come to office by virtue of seniority, there is a consensus view that the chief circuit judge is ultimately responsible for seeing that the court, and the circuit as an administrative entity, is administered effectively and efficiently (and in compliance with statutes, Judicial Conference and circuit council policies, and Conference-approved Administrative Office regulations).²⁴ That consensus in turn provides chief judges a sizable reservoir of authority—authority that chief judges can enhance depending on their personal leadership skills and their willingness and ability to capitalize on the prestige of the position.

21. Long Range Plan for the Federal Courts, Implementation Strategy 47b at 81–82 (1995).

22. Long Range Plan for the Federal Courts, Commentary at 82 (1995).

23. 28 U.S.C. § 154(b) (1994). There is likewise no explicit grant of authority to chief district judges.

24. This discussion derives in part from the analysis of chief district judges’ responsibilities in the *Deskbook for Chief Judges of U.S. District Courts* 5–9 (Federal Judicial Center, 2d ed. 1993).

Part Two: Formal, Nationally Designated Duties of Chief Circuit Judges

This section provides a list of the duties that Congress and the Judicial Conference have assigned to chief circuit judges. It serves as a reference for those duties, prescribed by law or Conference policy, that chief judges must either carry out themselves or delegate to others.

The duties listed here appear also among Part Three's much broader array of functions that are either part of the role of the chief circuit judge or are implicated by that role.

(This list is adapted from § 2.2 of the Seventh Circuit's *Chief Judge's Manual*. All statutory references are to title 28 unless otherwise noted.)

I. Appointments

- A. With court of appeals, approves, appoints, and removes senior staff attorney; approves appointment and removal of staff attorneys and secretarial and clerical employees in the office of the staff attorneys [§ 715(a), (b)].
- B. Appoints bankruptcy judge if majority of circuit judges cannot agree [§ 152(a)(3)].
- C. Serves or assigns a designee to serve on panel to select chief pretrial services officer for a district [18 U.S.C. § 3152(c)].

II. Assignment of Judges

- A. For intracircuit and intercircuit assignments
 1. Certifies that emergency exists on the court of appeals to allow fewer than three judges, or a majority of judges not of the court, to constitute a panel [§ 46(b)].
 2. Designates and assigns circuit judges to hold district court [§ 291(b)].

3. Designates and assigns district judges to sit with the court of appeals or to hold district court in another district within the circuit [§ 292(a), (b)].
 4. Designates and assigns senior circuit or district judges to perform judicial duties within the circuit [§ 294(c)].
 5. Certifies the need for a temporary assignment of a district judge from another circuit to serve on a district court or the court of appeals [§ 292(d)].
 6. Approves all designations and assignments of active judges to another circuit [§ 295].
- B. For particular types of cases
1. Designates and assigns a circuit or district judge for temporary service in a transferee district in multidistrict litigation [§ 1407(b)].
 2. Designates two judges, one of whom must be a circuit judge, for a three-judge district court to hear cases challenging the apportionment of congressional districts or any statewide legislative body [§ 2284(b)(1)].
 3. Designates three-judge district court in voting rights cases filed by the United States [42 U.S.C. § 1971(g)].
 4. Designates district or circuit judge to hear employment discrimination cases filed by the Attorney General [42 U.S.C. § 2000e-5(f)].
 5. Designates a bankruptcy judge to conduct proceedings upon petition of a municipality [11 U.S.C. § 921(b)].

III. Criminal Justice Act

- A. Reviews and approves vouchers under Criminal Justice Act which are over the statutory maximum [18 U.S.C. § 3006A].
- B. Approves payments that exceed the statutory amounts in Criminal Justice Act cases; may have designee (active circuit judge) perform this duty [18 U.S.C. §§ 3006A(d)(3), (e)(3)].

IV. Bodies on Which the Chief Judge Serves as a Member or Chair

- A. Has “precedence” (absent the circuit justice) and presides over any session of the court of appeals that chief judge attends, including court meetings [§ 45(b)].
- B. Serves on the Judicial Conference of the United States [§ 331].
- C. Convenes and presides at the circuit judicial council [§ 332].
- D. May convene and may preside at the circuit judicial conference; excuses members and designates replacements [§ 333].
- E. Serves, or assigns a designee to serve, with chief district judges of the circuit on a committee to review the civil justice expense and delay reduction plans [§ 474(a)].

(See also Part Two, ¶ I.C, *supra*)

V. Judicial Conduct and Disability

- A. Signs a certificate of disability on behalf of a circuit or district judge desiring to retire [§ 372(a)].
- B. Reviews judicial conduct and disability complaints and takes appropriate action [§ 372(c)].

VI. Supervisory Roles

Supervises the circuit executive’s performance of the duties delegated by the circuit council [§ 332(e)].

VII. Miscellaneous

- A. Requests the Judicial Conference of the United States to convene institutes and joint councils on sentencing (statutory sentencing institutes); invites district judges within the circuit to attend [§ 334].
- B. Receives applications for an order to continue the term of a grand jury [18 U.S.C. § 3331(b)].
- C. Receives semi-annual statistical reports from the AO [§ 604(a)(2)].

- D. Annually certifies senior judges' eligibility for salary increases other than cost-of-living increases [§ 371(f)].
- E. Receives notification of retirement of bankruptcy judges who sought but failed to obtain reappointment [§ 377(b)].
- F. Designates procurement officer for court of appeals [Vol. 1-A, Guide to Judiciary Policies and Procedures, Ch. XIII].
- G. Designates custodial officer for court of appeals [Vol. 1-A, Guide to Judiciary Policies and Procedures, Ch. XIII].

Part Three: Administration of the Courts of Appeals and Judicial Circuits—Functional Areas and Tasks

This part outlines the many functions involved in administering the circuit and the court of appeals that that the chief judge is either likely to do, to supervise, to monitor, or otherwise have some direct interest in. (All statutory references are to title 28 unless otherwise noted.)

I. Management of Circuit Administrative Entities

A. Circuit judicial council

1. Circuit council operations

- a. Frequency and types of meetings: Section 332(a)(1) directs the chief judge to convene the circuit council at least twice each year and preside at its meetings.

- (1) Agenda preparation

- (2) Dissemination of information about actions taken

- b. Membership: Section 332(a) prescribes membership formulas, directs all members to attend unless excused by the chief judge, and directs the chief judge to designate replacement members in the event of death, resignation, etc.

- (1) Composition

- (2) Excusing members, naming replacements

2. Committees

- a. Rules of procedure, operating procedures of the court and council: Section 2077(b) directs each court of appeals to appoint an advisory committee to study the rules of practice and internal operating procedures of the court, and the rules of the judicial council of the circuit.

3. Circuit executive

a. Selection: Section 332(e) directs the circuit council to appoint a circuit executive.

(1) Method of selection

(2) Performance appraisal, monitoring

b. Duties: Section 332(e) lists duties that the circuit council may delegate to the executive, and provides that the executive is to perform whatever duties are delegated under the general supervision of the chief judge.

(1) Service as administrative assistant to the chief judge

(2) Additional circuit council duties not specified in § 332(e)

(3) Additional court of appeals duties not specified in § 332(e)

B. Circuit judicial conference

1. Organization: Section 333 authorizes but does not direct the chief judge of the circuit to summon all the judges of the circuit to a circuit judicial conference and provides that those summoned “may attend” (attendance is not mandatory). Section 333 also directs the court of appeals to provide in its rule for representation and active participation by members of the bar at the circuit judicial conference.

a. Lawyer participation, invitations

2. Finances

3. Committees

4. Program planning

II. Circuit-Wide Elements of Court and Circuit Administration

A. Personnel—judges (see also Appointments, Intracircuit and Intercircuit Assignments)

1. Certifications and approvals
 - a. Senior judges
 - (1) Salary—§ 371(e)(1) directs the chief judge of the circuit to certify that senior judges are performing substantial judicial service and are thus entitled to earn the salary of the office.
 - (2) Chambers and staff—In a related area, the Judicial Conference directed circuit councils to determine the number of supporting positions needed by senior judges so certified [Report of Proceedings, Sept. 1982, at 81].
 - (a) Application of Judicial Conference *Rules for Certification of Senior Judges*
 - b. Disability: Section 372(a) authorizes the chief judge to sign a certificate of disability on behalf of a circuit or district judge desiring to retire under its provisions.
 - c. Judges' outside income: Section 5(d)(3) of the Regulations of the Judicial Conference under Title VI of the Ethics Reform Act of 1989 requires chief circuit judges to approve or reject judges' requests for compensated teaching [*Guide to Judiciary Policies and Procedures, Code of Conduct*, VI-39 (11/3/94 transmittal)].
2. Judicial conduct and disability
 - a. Rules of procedure: Section 372(c)(11) directs the circuit council to prescribe rules for the conduct of proceedings relating to judicial conduct and disability.
 - b. Processing complaints about judicial conduct and disability
 - (1) Initial action by chief judge
 - (a) Section 372(c)(3) and (4) direct the chief judge to review complaints of misconduct and disability, conclude them, dismiss them, or appoint an investigating committee.
 - (b) Committee composition

- (2) Committee review and circuit council action
 - (a) Section 372(c)(6) directs the circuit council to act on investigative committee reports, for example, by certifying disability, stopping case assignments, censuring or reprimanding, or dismissing the complaint.
 - (b) Committee procedures
- c. Reporting
 - (1) National reporting: Section 332(g) directs the circuit council to submit an annual report to the Administrative Office on the number and nature of orders issued.
 - (2) Other reporting
- d. Judicial conduct and disability—additional provisions re term-limited judges
 - (1) Magistrate judges: The circuit council, in the event of a tie vote by the district court, must consent to removal of a magistrate judge from office for misconduct during a term [§ 631(i)].
 - (2) Bankruptcy judges: The circuit council may remove a bankruptcy judge for cause during a term of office [§ 152(e)].
- 3. Judicial education
 - a. Committees
 - b. Bench-bar programs
 - c. Sentencing institutes: The chief circuit judge may request the Judicial Conference to convene institutes and joint councils on sentencing (statutory sentencing institutes); invites district judges within the circuit to attend [§ 334]. (Statutory sentencing institutes, last held in September 1993, are different from non-statutory “sentencing policy institutes,” which are planned by the Judicial Conference Committee on Criminal Law and the Federal

Judicial Center and are not circuit-based; the last sentencing policy institute was held in September 2000.)

4. Problem solving and counseling
- B. Personnel—staff and general (see also Appointments, in other sections)
1. Circuit-wide EEO activities
 - a. Review of court EEO plans
 - b. Review of court dispute resolution plans that modify Model EDR plan
 2. Circuit-wide codes of conduct activities
 3. Staff education committees
 4. Meetings with unit executives, circuit-wide
- C. Information management and dissemination
1. Automation
 2. Records management: Section 457 directs the circuit council to designate places where records of the district courts and the court of appeals are to be kept.
 - a. Relations with National Archives and Records Administration
 - b. Policies and procedures regarding non-official records
 3. Circuit library system
 4. Dissemination of information within and about the circuit
 - a. Circuit newsletter
 - b. Annual reports
- D. Space and facilities
1. Approving accommodations: Section 462(b) directs the circuit council to approve accommodations, including chambers and courtrooms, for courts and judges.

2. Acquisition of new space and facilities
 - a. Monitoring circuit's and courts' long-range space and facilities plans
3. Construction and alteration budgets
 - a. Procedures and policies for nonprospectus alterations
 - (1) Procedures for projects for which the AO requires council approval
 - (2) Procedures for projects for which the AO does not require council approval
 - b. Prospectus-level projects
- E. Circuit historical organizations
- F. Liaison with those outside the federal courts
 1. State courts
 - a. State–federal judicial councils
 - b. Tracking certifications of state law issues
 - c. Special cases (e.g., liaison re death penalty cases)
 2. Legislatures
 - a. U.S. Congress, relations with legislative delegations of the states comprising the circuit
 - b. State legislatures
 3. The bar
 - a. Circuit bar groups
 - b. Specialty bar groups
 - c. National bar groups

4. Law schools
 - a. General
 - b. Clinical, other programs
 5. Press (circuit-wide public information activities)
 - a. Public information officer
 - b. Public outreach programs
- G. Long-Range Planning: Recommendation 49 of the *Long Range Plan for the Federal Courts* directs “[a]ll judicial governance institutions [to] continue to develop and integrate long range planning capabilities into their policy-making processes.”

III. Administration of the Court of Appeals

(For information on case management, see Case Management Procedures in the Federal Courts of Appeals (FJC 2000).)

- A. Intracircuit and intercircuit assignments
 1. Certifications of necessity: Section 294(d) requires the chief judge of the circuit to certify the necessity for a judge to be assigned from another circuit.

Section 46(b) authorizes the chief circuit judge to declare an emergency, thus allowing three–judge panels to consist of a majority of judges who are not judges of the court.

If all judges of a circuit disqualify themselves in a given matter, the chief judge notifies the chair of the Judicial Conference Committee on Intercircuit Assignments who, in consultation with the Chief Justice, will select a visiting judge or panel to act in the matter [Guidelines for the Intercircuit Assignment of Article III Judges, October 21, 1997].
 2. Designations within circuit: The chief circuit judge may assign temporarily for service on the court of appeals any active district judge, and any retired circuit or district judge, within the circuit [§§ 292(a), 294(c)].

- a. Contacts with and notifications of visitors
 - b. Services for visiting judges
 - (1) Case-related services
 - (2) Orientation, hospitality
 3. Designations outside circuit : Section 295 authorizes the chief judge to approve all designations and assignments of active judges to another circuit. Courts that certify the need to borrow active judges from other circuits may not designate active judges for service in other circuits [Guidelines for the Intercircuit Assignment of Article III Judges, October 21, 1997].
- B. Rules and internal operating procedures
1. Preparing/amending rules and operating procedures
 - a. Internal committees, processes
 - b. External advisory groups

Section 2077(b) directs each court of appeals to appoint an advisory committee to study its rules of practice and internal operating procedures.

 - (1) Membership
 2. Disseminating rules and operating procedures: Section 2077(a) directs each court of appeals to publish its rules and internal operating procedures.
- C. Administration of the court
1. Chief judge
 - a. Methods of balancing judicial duties and administrative duties (court of appeals and circuit)
 - (1) Chief judge reduced caseload
 - (2) Other methods (e.g., administrative days)
 - b. Executive assistance for court of appeals administration

2. Administrative meetings
3. Personnel
 - a. Appointments
 - (1) By the court of appeals: Sections 711, 713, and 714 authorize the court of appeals to appoint the clerk, the librarian, and a crier.
 - (2) By the chief judge: Section 715 authorizes the chief judge to appoint and remove a senior staff attorney, with the approval of the court, and approve appointment and removal of staff attorneys and clerical and secretarial employees.
 - b. Orientation
 - (1) New judges
 - (2) New law clerks
 - (3) Other
 - c. EEO plan and enforcement
 - d. EDR plan review and implementation
 - e. Codes of conduct
 - f. Employee recognition and awards
4. Financial management
 - a. Appropriated funds
 - (1) Development and review of submissions
 - b. Non-appropriated funds
5. Procurement: Vol. 1-A, Guide to Judiciary Policies and Procedures, Ch. XIII, directs the chief judge to designate a procurement officer and a custodial officer for the court of appeals.
6. Security: Court of appeals security committee

7. Liaison with those outside the federal courts
 - a. State courts
 - (1) State-law certification
 - b. Legislatures
 - (1) U.S. Congress & legislative delegations
 - (2) State legislatures
 - c. The bar
 - (1) Circuit bar groups
 - (2) Specialty bar groups
 - (3) National bar groups
 - d. Law schools
 - (1) General
 - (2) Clinical, other programs
 - (3) Arranging court of appeals sittings at law schools
 - e. Public information activities
 - (1) Press services
 - (a) Court of appeals public information officer
 - (b) Press days
 - (c) Synopsis and press releases
 - (2) Community outreach
- D. Court of appeals historical committee/society
- E. Long-range planning: Recommendation 49 of the *Long Range Plan for the Federal Courts* directs “[a]ll judicial governance institutions [to] continue to develop and integrate long range planning capabilities into their policy-making processes.”

IV. District Courts

- A. Appointments: Most district court appointments that are vested in the judiciary are vested in the district courts themselves. However:
 - 1. Magistrate judges: The district courts appoint magistrate judges, but the circuit council must certify that “substantial service is expected to be performed” by a retired magistrate judge, if recalled [§ 375(a)(1)], and must approve a district court’s majority vote for the continuation in office of a magistrate judge for up to 180 days after expiration of the term of appointment [§ 631(f)].
 - 2. Federal defenders (i.e., the head of the federal defender office): The court of appeals appoints federal public defenders for a term of four years, after considering recommendations from the district court(s) to be served; the court of appeals may remove federal public defenders and may agree to allow a defender whose term has expired to continue to serve for up to a year or until a successor is appointed, whichever comes first [18 U.S.C. § 3006A(g)].
 - 3. Pretrial services
 - a. The circuit council recommends, jointly with a district court, the creation of pretrial services in the district [18 U.S.C. § 3152].
 - b. A panel consisting of the chief circuit judge, chief district judge, and an U.S. magistrate judge, or their designees, appoints the chief pretrial services officer [18 U.S.C. § 3152(c)].
- B. General oversight
 - 1. Basic authority: Section 332(d)(1) directs the circuit council to issue “all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit” but § 332(d)(3) directs it to deal with the regular business of a court only if “an impediment to the administration of justice is involved.”
 - 2. Resolving disagreements: The circuit council should resolve deadlocks at the district court level regarding the residence of judges at or

near a place of holding court [§ 134(c)] or regarding the division of the business of the court among the judges [§ 137].

3. Pretermission: Under § 140(a), the circuit council must consent to district court decisions to pretermite a regular court session.

C. Oversight of district court litigation

1. Local rules: The circuit council should periodically review local rules promulgated by the circuit's district courts for consistency with national rules and modify or abrogate any inconsistent rule [§ 332(d)(4)].
2. Acting on state-of-docket reports: Section 604(a)(2) directs the chief judge to receive the semiannual statistical reports from the Administrative Office, and § 332(c) directs the chief judge to present them to the circuit council, which should take such action on them "as may be necessary."
 - a. National reports
 - (1) Semiannual AO reports
 - (2) CJRA reports
 - (3) Other
 - b. Auxiliary reports (circuit or district based)
 - c. Corrective action
3. Speedy Trial Act requirements: Statutes direct the circuit council to review and approve or modify Speedy Trial Act plans [circuit council plus chief judge of the district whose plan is under review; 18 U.S.C. § 3165] and to promulgate guidelines for use by all district courts to implement the act [18 U.S.C. § 3166].
4. Civil Justice Reform Act requirements: The chief judge serves with chief district judges of the circuit on a committee to review the civil justice expense and delay reduction plans pursuant to the Civil Justice Reform Act of 1990 [§ 474(a)(1)(A)]; most of the requirements of the CJRA have sunset; however, every six months districts are required

to report by judge the identity and number of motions that have been pending for more than six months, bench trials that have been submitted for more than six months, and cases that are over three years old [§ 476(a)(1)(2)(3)].

D. Juries

1. Grand juries: The chief judge must review and approve district court applications for an order to continue the term of a grand jury [18 U.S.C. § 3331(b)].
2. Petit juries: The circuit council, plus the chief judge of the respective district, must review and approve or direct the creation of an alternative plan for the random selection of jurors [§ 1863].

E. Court interpreters: The circuit council evaluates the needs of district courts for certified interpreters [§ 1827(b)(1)].

F. Court reporters

1. The circuit council receives chief district judges' advice about the adequacy of court reporter services and may request contract reporters [§ 753(g)].
2. The circuit council reviews court reporter plans that the council may require district courts to develop [Report of the Judicial Conference, Mar. 1982, at 8].

G. Criminal Justice Act

1. The circuit council approves each district court's plan for furnishing representation to persons financially unable to obtain adequate representation [18 U.S.C. § 3006A(a)].
2. The chief circuit judge reviews and approves vouchers under Criminal Justice Act which are over the statutory maximum [18 U.S.C. § 3006A] and approves payments that exceed the statutory amounts in Criminal Justice Act cases; may have designee (active circuit judge) perform this duty [18 U.S.C. §§ 3006A(d)(3), (e)(3)].

- a. Review procedures
- b. Explanations of modifications

H. Interdistrict and intercircuit assignments

1. General

The chief circuit judge:

- designates and assigns circuit judges to hold district court [§ 291(b)];
- designates or assigns temporarily a district judge to sit on another district court in the circuit [§ 292(b)];
- certifies the need for a temporary assignment of a judge from another circuit to serve on a district court or the court of appeals [§ 292(d)];
- consents to the assignment of an active district or circuit judge to another court [§ 295];
- designates and assigns senior district judges to perform judicial duties within the circuit [§ 294(c)] and certifies the need for a temporary assignment of a senior judge from another court to serve on a district in the circuit [§ 294(d)].

a. Controlling interdistrict assignments

- (1) Circuit standards and requirements for assigned judges
- (2) Standard orders allowing transfers between certain districts

2. Specific litigation types

The chief circuit judge:

- designates and assigns temporarily a circuit or district judge for service in a transferee district in multidistrict litigation [§ 1407(b)];
- designates two judges, one of whom must be a circuit judge, for a three-judge district court to hear cases challenging the appor-

tionment of congressional districts or any state-wide legislative body [§ 2284(b)(1)];

- designates three-judge district court in voting rights cases filed by the United States [42 U.S.C. § 1971(g)];
- designates district or circuit judge to hear employment discrimination cases filed by the Attorney General [42 U.S.C. § 2000e-5(f)].

3. Magistrate judges: The Judicial Conference authorized the circuit councils to approve the reassignment of existing magistrate judge positions within the district [Report of Proceedings, Sept. 1984 at 72].

- I. Meetings with chief district judges

- V. Bankruptcy

- A. Appointments

1. Bankruptcy judges

- a. Initial appointment

- (1) The court of appeals appoints bankruptcy judges after considering recommendations of the Judicial Conference as to the duty stations of bankruptcy judges [§§ 152(a)(1) & (b)].
- (2) The chief circuit judge appoints bankruptcy judges when the court of appeals cannot agree upon an appointment [§ 152(a)(3)].

- b. Extensions, reappointments, retired judges

- (1) The circuit council may approve sitting of a bankruptcy judge for up to 180 days after expiration of the term of appointment [§ 152(a)(1)].
- (2) The chief circuit judge receives notification of bankruptcy judges who failed to obtain reappointment [§ 377(b)].
- (3) The circuit council may recall a retired bankruptcy judge to active service [§ 155(b)].

- (4) The circuit council must certify that “substantial service is expected to be performed” by a retired bankruptcy judge, if recalled [§ 375(a)(1)].
 2. Bankruptcy appellate panels: The circuit council may establish a bankruptcy appellate panel service (and recommend to the Judicial Conference a joint bankruptcy appellate panel with another circuit) and appoint bankruptcy judges to it [§ 158(b)(1)].
 3. Clerk of the bankruptcy court: The circuit council accepts the certification of a district’s bankruptcy judges that the number of cases and proceedings warrants appointment of a clerk [§ 156(b)].
- B. Intracircuit and intercircuit assignments
1. General: The circuit council may approve the temporary transfer of a bankruptcy judge to or from a court within the circuit [§ 155(a)], and approve the intercircuit assignment of bankruptcy judges [Report of Proceedings, Sept. 1988, at 62].
 2. Specific litigation: The chief judge designates a bankruptcy judge to conduct proceedings upon petition of a municipality [11 U.S.C. § 921(b)].
- C. Facilities and services
1. Additional places of holding court: Section 152(b)(1) directs the circuit council to consult with the Administrative Office to set places of holding court and duty stations for bankruptcy judges.
 2. Bankruptcy noticing—facilities paid for by the estate: The circuit council should set limits on the use of facilities and services to provide administrative information in bankruptcy cases in which the costs of such facilities and services are paid by the assets of the estate [§ 156(c)].
- D. Meetings with chief bankruptcy judges
- E. Rule making (see District Courts, above)

VI. Chief Judges' Roles in Respect to Agencies of National Judicial Administration

- A. Judicial Conference of the United States: Under § 331, ¶1, the chief circuit judge is a member of the Judicial Conference. Under § 331, ¶3, the Chief Justice will direct another judge of the circuit to attend if a regular member cannot attend. Those who attend must remain throughout the Conference unless excused by the Chief Justice.
 - 1. Conference of chief judges
 - 2. Pre- and postconference information dissemination within the circuit
- B. Administrative Office of the United States Courts
- C. Federal Judicial Center
 - 1. Appointments to educational planning committees
- D. Sentencing Commission