A New Judge's Introduction to Federal Judicial Administration

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Introduction

As a new federal judge, you will hear about organizations in Washington, D.C., in your circuit, and in your court that tend to the administration of the federal judicial system. The federal judicial administrative system is unlike those in most states. This pamphlet provides a brief introduction to the agencies and organizations that see to the nonjudicial business of the courts, most of which were created by Congress or the federal courts themselves. The Federal Judicial Administration chart on the following pages shows the elements of governance. Not discussed here are the United States Sentencing Commission or the Judicial Panel on Multidistrict Litigation. The commission is a quasi-legislative body that promulgates rules that govern sentencing. The panel transfers, for pretrial, actions pending in different districts that involve common questions of fact.

The federal judicial system is smaller than the court systems in many states. There are 13 intermediate federal appellate courts and 188 trial courts (94 district courts and 94 separate bankruptcy courts as "units" of each district court). There are about 1,600 federal judges, comprising more than 800 district and court of appeals judges and about the same number of bankruptcy and magistrate judges. There are about 30,000 supporting personnel. Given its geographic breadth, however, the federal judicial system, even with its common set of laws and administrative policies, embraces many diverse judicial cultures, which reflect in part the different states and regions that compose it.

The instruments of federal judicial administration accommodate this diversity: a national council of judges (the Judicial Conference of the United States), regional judicial councils, and the individual courts themselves. The federal judicial administrative system is a product of accretion rather than specific design, but it is a system that members of the governance and administrative agencies have affirmed several times. Most recently,

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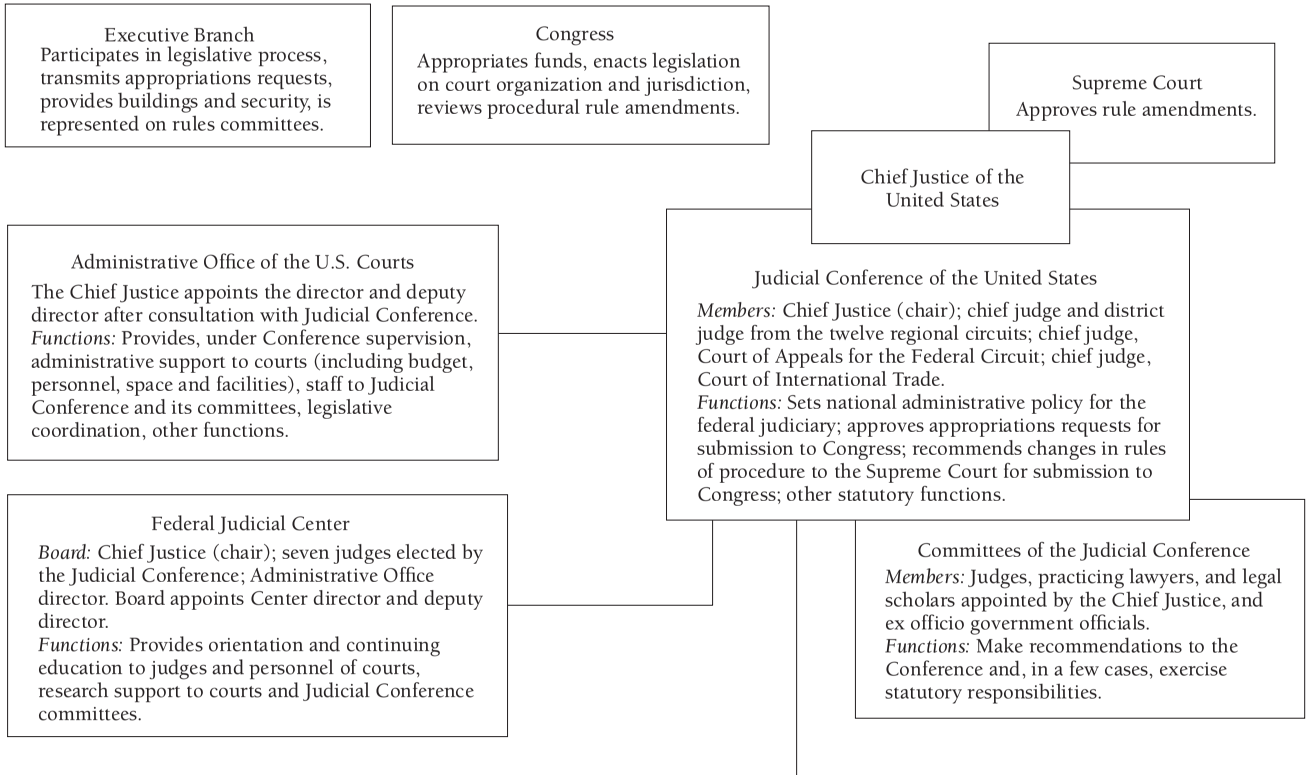

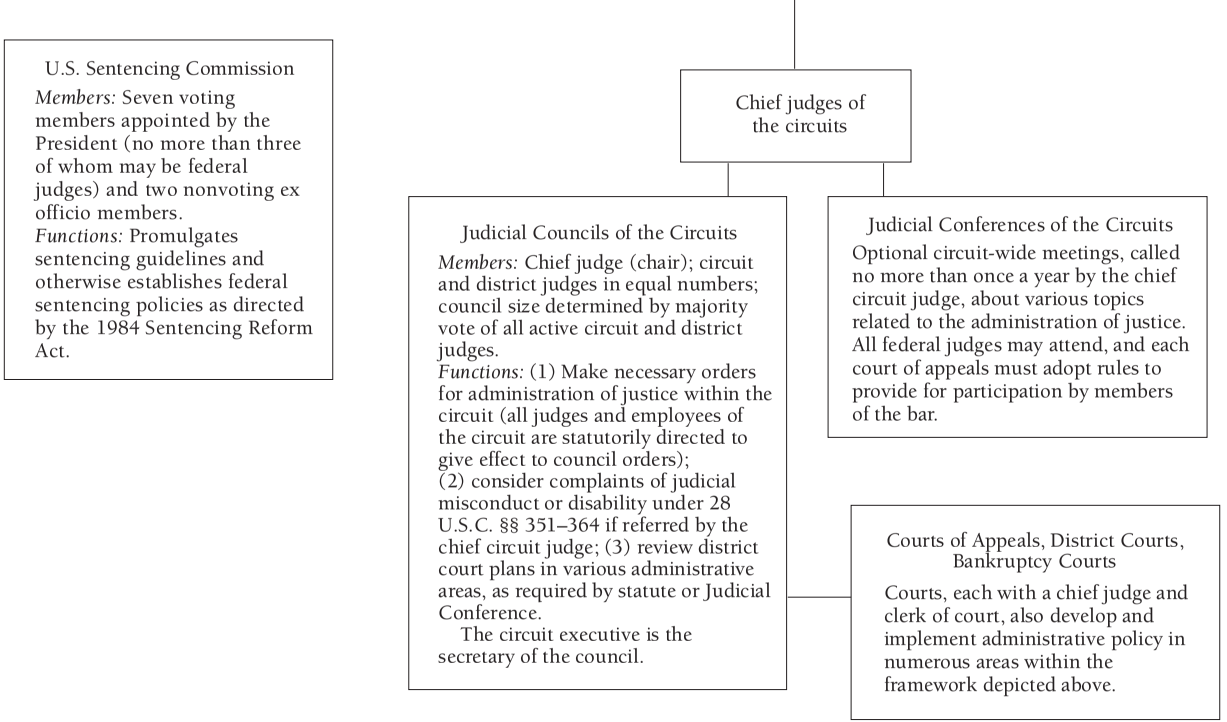

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the Judicial Conference stated, "In the interests of administrative efficiency, accountable resource utilization, and effective external relations, the present distribution of governance authority among the national, regional (circuit), and individual court levels should be preserved."[1]

This pamphlet describes, in turn, national, regional, and local elements of federal judicial administration, and then agencies concerned with state–federal judicial relations.

National Agencies

Within the judicial branch, the key administrative officials and agencies are the Chief Justice of the United States, the Judicial Conference of the United States and its committees, the Administrative Office of the U.S. Courts, and the Federal Judicial Center. Although the judicial branch is responsible for its own administration, Congress and the executive branch influence that administration. Most important, Congress annually provides appropriations to a large account that funds the salaries and expenses of most of the courts and to smaller accounts that fund separate items (such as the Supreme Court, the administrative agencies, fees for jurors, and the federal defender program). Congress acts on requests developed and defended by judges and judicial branch officials. By law, the judicial branch submits its requests for inclusion in the overall government budget that the President forwards to Congress each January, and executive officials must include the submissions unchanged. (The executive branch has in recent years "commented" on the judicial branch's requests, however, and that has been a point of contention.)

Congress also determines the size and structure of the judicial system, and Congress's authority to enact substantive and appropriations legislation gives it an oversight role in judicial branch operations. The executive branch affects federal judicial administration by its participation in the legislative process, and by its responsibility to provide buildings and security for the courts through the General Services Administration and the U.S. Marshals Service.

Chief Justice of the United States

The Chief Justice is at the apex of the judiciary's governance pyramid. By law, the Chief Justice presides over the Judicial Conference, selects the Administrative Office's director and deputy director, and chairs the Board of the Federal Judicial Center. Moreover, the Chief Justice speaks to Congress and the nation regarding the judicial branch's needs and activities; for example, since the 1980s, the Chief Justice has released a "Year-End Report on the Federal Judiciary," which includes not only federal court workload data but also commentary on such matters as unfilled judgeships and judicial salaries.

The Chief Justice must balance these court governance tasks with the role of leader of the Supreme Court. Either role might seem to be more than a full-time job in itself, but administrative assistance is available from the Judicial Conference's Executive Committee and officials who direct the judicial branch's support agencies. The Chief Justice also appoints an administrative assistant;[2] the legislative history of the statute creating that office clearly contemplated that the administrative assistant would deal largely with matters of court governance and administration.[3]

The Chief Justice has considerable latitude in meeting the formal and informal expectations of the position. Observers have occasionally argued that the demands now placed on the Chief Justice are too great and that some part of the job should be delegated to a high-ranking judicial official (e.g., a "Chancellor for the Federal Courts"), but those proposals have attracted little support.[4]

Supreme Court

The Supreme Court's associate justices have practically no formal role in federal judicial administration. This situation distinguishes the Court from the highest courts of many states, and it reflects a conscious decision by Congress and judicial leaders in 1939 to vest supervision of the newly created Administrative Office in the Judicial Conference rather than in the Court. Chief Justice Hughes supported that decision, on the view that mem-

bers of the Court had little firsthand experience in the administrative processes and problems facing the courts of appeals and district courts.

The Court's only governance task involves reviewing amendments to the Federal Rules of Evidence and of Procedure forwarded by the Judicial Conference. The Court, in its discretion, may promulgate these amendments, although there is a statutory layover period during which Congress can block their taking effect.[5] Promulgating the amendments is usually a formality, but the Court has occasionally disapproved amendments based on their substance, and some justices have said that the Court should not give its sanction to rules that may later be challenged in litigation.

Occasionally, participants in the governance process lament the justices' non-participation. One wrote, for example, that the work of the Conference committees would benefit from the justices' perspectives.[6] However, there has been no serious effort to change the status quo.

Judicial Conference of the United States

The Judicial Conference is, for practical purposes, a national federal judicial council (and was sometimes called that in its early years). Today, unlike the judicial councils in most of the states,[7] the federal Judicial Conference comprises judges only and exercises actual power over the administration of the judicial branch. The Judicial Conference has no role, however, in selecting judges and only a limited role in dealing with judicial misconduct and disability, characteristics which, along with its judge-only membership, distinguish it from judicial councils in Europe and Latin America.[8]

At Chief Justice Taft's urging, Congress created the Conference's forerunner, the Conference of Senior Circuit Judges, in 1922. It provided an annual forum in which the presiding judges of the courts of appeals could try to improve district court performance by developing plans for intercircuit assignments and recommending changes in court operations. The Conference's role increased substantially in 1939, when Congress transferred

responsibility for federal court budget preparation and administration and data gathering from the Justice Department to the newly created Administrative Office of the U.S. Courts. Congress directed the Administrative Office to function under the Conference's supervision. In 1948, Congress changed the Conference's name to the Judicial Conference of the United States.

The Chief Justice presides over the Judicial Conference, which includes the chief judges of the thirteen courts of appeals, one district judge from each of the twelve regional circuits, and the chief judge of the Court of International Trade. The circuit judges are Conference members as long as they are chief judges (presumptively, seven years). The Conference statute provides that the district judge members be chosen by the circuit and district judges of their respective circuits (in some circuits, circuit judges do not participate in the selection). District judges by statute may serve a term of from three to five years, the precise length to be specified by the judges of each circuit. The Conference works on the federal model: Each member has one vote, despite variations in circuit size from almost 300 judgeships in the Ninth Circuit to about 30 judgeships in the District of Columbia Circuit.

The statute directs the Chief Justice to call at least one annual meeting; in fact, the Conference meets once in the spring and once in the fall. Each meeting presents the Conference with a diverse set of proposals from its committees. The Conference may, for example, in one meeting approve the judicial branch's annual appropriations submission to Congress, support or oppose legislation that may affect federal court structure or operations, approve or reject changes to federal procedural and evidentiary rules, and act on major changes to the judicial branch personnel system. In the same meeting, it might also approve a time-in-grade requirement for judges' secretaries, authorize a bankruptcy court in a district to close a place of holding court, and approve changes to jury-box dimensions in the *U.S. Courts Design Guide*. The Conference approves uncontroversial matters without debate by adopting a "consent calendar" that its

Executive Committee proposes in advance. The Conference also hears remarks or reports from key Justice Department officials, members of House and Senate judiciary and appropriations committees, and the directors of the Administrative Office and the Federal Judicial Center and the chair of the U.S. Sentencing Commission.

Because of the range of its actions, the Judicial Conference is rightly called the "federal courts' national policy-making body."[9] No single statutory directive assigns the Conference such a role, however, and the Conference's authority does not reach all aspects of national administrative policy. Its organic statute[10] directs it only to "make a comprehensive survey of the condition of business" in the federal courts, prepare plans for temporary assignment of judges, study the operation of federal procedural rules, and submit suggestions for legislation through the Chief Justice's report to Congress on Conference proceedings. Other statutes prescribe various specific duties for the Conference, ranging from acting on complaints of judicial misconduct or disability referred to it by judicial councils or the judge involved[11] to determining the number of court reporters in each federal district court.[12]

The Conference's broad authority arises mainly from the primary statute of the Administrative Office of the U.S. Courts, which directs the Administrative Office to exercise its responsibilities "under the supervision and direction of the Judicial Conference."[13] Those responsibilities have accreted over the years into a large number of functions, including developing the annual judicial branch appropriations request,[14] fixing the compensation of nonjudicial personnel,[15] and maintaining the statistical reporting systems.[16] Many of the Conference's duties stem, directly or indirectly, from its responsibility to administer the judicial branch's appropriations.

The Conference has no plenary authority to order action, however, and in 1991, it deferred indefinitely a recommendation that Congress provide it with such authority.[17] On matters that do not fall within its limited direct statutory authority or within the broader statutory authority of the Administrative

Office, the Conference must rely on federal judges' respect for it or agreement with its position. For example, when the Conference expressed its opposition to televising federal court proceedings, it could rely on a long-standing federal procedural rule with respect to criminal proceedings,[18] but for appellate and civil proceedings, it could only "strongly urge each circuit judicial council" to adopt orders allowing electronic media in the appellate courts but prohibiting it in trial courtrooms and to rescind local rules permitting cameras.[19] Almost all the councils complied with that request.

Conference committees

The Conference's committees perform a vital role in its policy making. They include committees that frame the annual appropriations request, propose automation and technology policies, develop amendments to the procedural rules, review judges' and top officials' financial disclosure statements, consider changes in the personnel system, consider the special needs of the bankruptcy courts and magistrate judges, oversee the federal defender system, interpret the federal courts' codes of conduct, and develop proposals in other areas ranging from docket management to helping the judiciaries of other countries.[20]

The Chief Justice appoints the more than 200 committee members and chairs, with assistance from the Administrative Office director and the Administrative Assistant to the Chief Justice.[21] Most committee members (including the chairs) are not Conference members, but all are judges. A few committees include Justice Department officials, state supreme court justices, law professors, and practicing lawyers. Committees normally meet twice each year for one or two days to prepare recommendations for the Conference. The Administrative Office staffs the committees, which also receive research support from the Federal Judicial Center.

Since the mid-1980s, the Judicial Conference's Executive Committee has become a significant player in federal judicial administration. It prepares the Conference agendas, approves an annual "spending plan" for the judicial branch appropria-

tions, which the Administrative Office administers, and acts for the Conference on some matters between meetings. Unlike the members of other Conference committees, all Executive Committee members (other than the Administrative Office director) must be members of the Conference.

Administrative Office of the U.S. Courts

Congress created the Administrative Office of the U.S. Courts (AO) in 1939. Until then, the federal courts' centralized administrative support, such as it was, had been provided, successively, by the Departments of State, Treasury, Interior, and Justice. The AO's director and deputy director, who were appointees of the Supreme Court until 1990, are now appointed and removed by the Chief Justice, following consultation with the Judicial Conference. The director appoints additional staff; in 2003, about 1,000 people worked for the AO, most of them at its Washington, D.C., headquarters, but some at automation training centers in Arizona and Texas.

The statute that created the AO identifies the director as "the administrative officer of the courts," who is to perform the extensive statutory duties assigned to the director under the "supervision and direction of the Judicial Conference."[22] The Conference has explicitly recognized the AO director as secretary to the Conference and designated the director as an ex officio member of the Executive Committee.[23]

Federal Judicial Center

Congress created the Federal Judicial Center in 1967,[24] based on the Conference's view that a separate agency in the judicial branch should be responsible for conducting research on federal court operations and procedures, and for providing orientation and continuing education to judges and court employees, a view the Conference has reiterated several times.[25] The director and deputy director of the Center are appointed by the Center's Board. The Board is a nine-member body comprising the Chief Justice as chair, the AO director as a permanent member, and two circuit judges, three district judges, a bankruptcy

judge, and a magistrate judge. The judge members are elected by the Judicial Conference; none may be a member of the Conference. The Center's workforce, which is based at its Washington, D.C., headquarters, is about a tenth the size of the Administrative Office.

The Center provides educational programs for judges and court employees through traditional seminars and workshops, but increasingly relies on distance education technologies, such as satellite broadcasts, especially in its programs for court employees. The Center does most of its research at the request of Judicial Conference committees, including analyses of the operation of procedural rules, assessments of the impact of innovations such as alternative dispute resolution methods or new technologies for presenting evidence at trial, and surveys of judges or lawyers on key policy issues. The Center also has statutory mandates to encourage the study of federal judicial history and to provide information and assistance to foreign judicial personnel.

Regional and Local Governance Elements

The Administrative Office Act of 1939[26] gave form to a concept of federal judicial administration comprising both central administrative support supervised by a national council of judges and decentralized administration through regional councils of judges. That concept persists today despite many specific changes in administrative structure and agencies.

Circuit

The argot of federal litigation often uses "circuit" and "court of appeals" interchangeably (e.g., "There's a split among the circuits."). In fact, however, the circuit is a discrete component of federal judicial administration, distinct from its court of appeals. Circuits were originally created to arrange the geographic regions in which itinerant Supreme Court justices performed the trial court responsibilities that were part of their duties until 1891. In 1891, Congress created intermediate courts of appeals, one per circuit, and in 1939, created administrative councils in

each circuit, composed of the judges of the respective circuits' courts of appeals. With the broadening of the councils' membership to include district judges, and creation of executive staff for the councils, the circuits have become administrative units in their own right.[27] (By statute each member of the Supreme Court is assigned to one or more circuits as a "circuit justice," but this role does not entail administrative responsibility.)

Chief judge of the circuit

The chief judge of the circuit is the chief judge of the circuit's court of appeals and comes to the position as a function of seniority on that court and of age.[28] The current method of determining the chief judge, enacted in 1982, seeks to balance the values of continuity and fresh perspective by encouraging but not requiring chief judges to serve the full seven-year terms authorized and requiring them to relinquish the position at age 70. In fact, the average tenure of chief judges (district and circuit) selected under the statute has been about four or five years, because many chiefs have elected not to serve the full seven years available to them.

The chief circuit judges create a personal link between national and regional court governance elements. The statute assigns to the chief judge little formal governance or administrative responsibility for the appellate court, noting only that the chief shall "have precedence and preside" at court sessions that he or she attends. The chiefs' explicit governance authority arises through the statutes creating the circuit judicial councils, described below. At the national level, the chief judges govern through their ex officio membership on the Judicial Conference; they have a small presumptive edge over the district judges, in that they may serve for seven years, whereas district judges' maximum term cannot exceed five years (and reelection is rare).

A particularly important circuit-wide responsibility of the chief judge arises under the Judicial Conduct and Disability Act of 1980,[29] which authorizes "[a]ny person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging

that such judge is unable to discharge all the duties of office by reason of mental or physical disability" to file a written complaint with the clerk of the court of appeals.[30] The statute provides a range of sanctions and procedural steps, including reference to the judicial council and review by the Judicial Conference. In fact, chief judges and councils dismiss the great majority of complaints as either related to the merits of a litigation or simply frivolous.[31]

Circuit judicial councils

In the same 1939 statute that established the Administrative Office, Congress created circuit judicial councils to oversee the administration of the district courts and to serve as the "administrative linchpin" of the judiciary, by implementing some national policies of the Judicial Conference as well as being affected by them.[32] Congress has significantly changed the councils. The membership of the council was originally the same as that of the courts of appeals but now consists of equal numbers of circuit and district judges, plus the chief circuit judge. The statute leaves determination of council size to the active life-tenured judges within the circuit.[33] The councils have ranged in size from twenty-one to nine, and there is no direct relationship between the number of judges in a circuit and the size of its judicial council. Bankruptcy and magistrate judges may not be members of the councils, but in some circuits they meet with the councils as "non-voting members."[34]

The councils' mission has also widened from the 1939 charge to see that "the work of the district courts shall be effectively and expeditiously transacted."[35] Today, a council's mandate is to "make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit."[36] The statute further directs the judges and employees of the circuit to carry out council orders expeditiously.[37] Although the councils, unlike the Judicial Conference, have explicit order-making authority, it appears that they use this authority quite sparingly.

Councils tend to work informally whenever possible and to tread lightly on all issues that might interfere with the legitimate independence of the judges.[38] At the same time, more formal governance operations at the level of the judicial council have been created by increased delegation of budgetary authority to individual courts, pressure from Congress to reduce costs, and enhanced capacity of circuit executives to staff the councils. The council also shares with the chief circuit judge responsibility for actions on complaints of judicial misconduct and disability.[39]

Throughout their history, the councils have been eyed with some suspicion by district judges who have resented the forum they provide for circuit judges to superintend the work of the district courts. Since 1990, the councils have been composed of almost equal numbers of circuit judges and district judges (the chief circuit judge's ex officio position as chair always gives the circuit judges one additional member), but that has not eliminated occasional tension. In a 1992 survey, 60% of the district judges moderately or strongly supported "[e]liminat[ing] appellate court administrative supervision of district courts," but only 14% of the circuit judges supported the idea.[40]

Circuit executive

Congress has authorized each judicial council to hire a "circuit executive" and to assign the executive a range of duties.[41] The circuit executive's responsibilities vary from circuit to circuit, but most executives work closely with the chief circuit judges, serve as secretaries to the councils, and superintend operations that assist the courts of the circuit in such areas as automation, space and facilities, and local education programs. The clerk of the court of appeals is responsible for supervising the flow of cases to the judges for decision, and the circuit executive is responsible for administering the appellate court's budget and other matters as well as serving the judicial council as staff and as its agent in dealing with courts of the circuit. Most circuit executives have staffs of twenty to thirty employees.

Circuit judicial conference

The "circuit judicial conference" is indeed a "conference" (a meeting) and thus a very different animal than the Judicial Conference of the United States. The circuit conferences, created by the same 1939 statute that created the Administrative Office and the circuit councils, were supposed to allow judges and lawyers to meet annually "for the purpose of considering the business of the courts and advising means of improving the administration of justice within" each circuit.[42] The conferences never fully met that goal, at least in most circuits, and in the 1990s, Congress amended their charter to authorize rather than mandate both holding the conferences and judges' attendance at them. Most circuits continue to hold conferences every year, however.

Conference programs vary; some reflect procedural and administrative matters, and others, a broader range of topics. The circuit justice usually addresses the conference (often reporting on how the Supreme Court, in the term just ending, disposed of appeals from the circuit's court of appeals). Administrative Office and Federal Judicial Center officials are usually invited to speak at the conferences as well.

(These statutory meetings should not be confused with the periodic "circuit workshops," which are continuing education programs for district and circuit judges arranged and funded by the Federal Judicial Center.)

Chief district judge and district court

Like chief circuit judges, chief district judges attain the position through seniority and age, and not all serve the seven-year term contemplated by the statute. Although district judges recognize the chief judge as the court's leader, no statute gives the chief judge plenary administrative authority over the district court. There are many specific statutory responsibilities and a substantial tradition, however, which together make the office of the chief judge an important element in decentralized court governance.[43]

Chief district judges' responsibilities have grown since 1985, as the Administrative Office has implemented a broadscale de-

centralization program. Using the AO director's authority to delegate duties to court officials, the program's goal is to delegate authority to exercise some statutory duties of the AO that the courts themselves can probably perform better than AO personnel. This decentralization has provided the federal courts with greater discretion in directing resources in the ways most needed in their particular circumstances, and, as a corollary, has heightened the need for chief judges and others to understand the administration of their courts.

Each district court selects its own clerk, who acts as the court's administrative agent, particularly in regard to national policies and local financial and personnel matters.

Magistrate judges are essential to the work of the district court, and about a third of the courts recognize a position of "chief magistrate judge" to exercise administrative and coordinating duties. Nevertheless, the magistrate judges and staff who support them do not constitute a separate governance unit similar to the bankruptcy court.

Chief bankruptcy judge and bankruptcy court

The bankruptcy court is a unit of the district court with its own chief judge and, in almost all districts, a separate clerk's office. The district court designates the chief bankruptcy judge.[44] Unlike the chief circuit or chief district judge, the chief bankruptcy judge has a specific statutory charge to ensure that the business of the court is handled effectively and expeditiously.[45] Although bankruptcy courts are units of their district courts, most operate with substantial autonomy.

Instruments of State–Federal Judicial Relations

More so perhaps in the 1960s, 1970s, and 1980s than now, the practical implementation of federal supremacy in state–federal judicial conflicts has created tension, as have the day-to-day operations of two judicial systems that share to some degree the same bar and the same jurisdiction. There have been not only jurisdictional clashes but also calendar and scheduling conflicts.

Efforts to create institutions to mediate that tension or reduce its effects stem from the call of newly appointed Chief Justice Warren Burger in 1970 for a "state–federal judicial council" in each state "to maintain continuing communication on all joint problems" and mitigate the "friction in relations between state and federal courts."[46] As the Chief Justice noted, a few such councils were operating informally, but in the aftermath of his address, many state and federal courts used their order-making authority to create councils, which at least discussed many potential points of friction and reached agreements in some areas to promote cooperation. An oft-cited example are protocols to resolve conflicts when both a state judge and a federal judge demand a lawyer's appearance in their respective courtrooms at the same time.[47]

State–federal judicial councils have ebbed and flowed, however. The most recent data suggest that although councils are in place in about thirty states, not all of them necessarily meet regularly.[48]

The 1992 National Conference on State–Federal Judicial Relationships,[49] sponsored by the State Justice Institute, National Center for State Courts, Federal Judicial Center, and other organizations, promoted various types of state–federal cooperation and led to a series of regional state–federal conferences, although that effort has not continued on a sustained basis. For a few years there also existed a National State–Federal Judicial Council, created on the recommendation of the Federal Courts Study Committee,[50] but that body lapsed into desuetude. State judges, however, serve on the Federal–State Jurisdiction Committee of the Judicial Conference, which is primarily concerned with developing recommendations about legislation affecting state and federal jurisdiction, but which also promotes state–federal judicial cooperation.

Concluding Commentary

The creation of federal judicial administrative structures in the twentieth century transformed the federal judiciary from a collection of courts into a judicial branch. These structures pro-

vide judges with some control over administrative decisions that can influence not only how they do their jobs but also how independently they do their jobs. Although Congress exercises oversight of the federal courts, decides how much money is necessary to operate the judicial branch, and can alter judicial branch structure and procedures, those authorities are part of the accountability necessary in representative government. Judges are no longer at the will of the executive branch for the distribution of resources, however, and they deal with Congress directly, rather than through the chief litigant in the federal courts, the Department of Justice. The instruments of administration also put the responsibility for effective administration in the hands of people who should have a compelling interest in achieving it.

The federal judicial administrative system is not without its critics, including some who believe it primarily serves judicial self-interest.[51] Others argue that the administrative apparatus is too cumbersome, owing to its representative nature, or alternatively, not representative enough of the diverse interests of a federal judiciary spread across the nation.[52] Despite these occasional complaints, however, one senses little interest, within or without the federal judiciary, for major changes.

Endnotes

1. Judicial Conference of the United States, Long Range Plan for the Federal Courts, Recommendation 40, at 75 (1995).

2. 28 U.S.C. § 677 (2000).

3. *Administrative Assistant to the Chief Justice: Hearings on H.R. 6953 and H.R. 7377 Before Subcomm. No. 5 of the House Comm. on the Judiciary,* 92d Cong. (1971).

4. The literature and arguments, pro and con, are summarized in Russell R. Wheeler & Gordon Bermant, Federal Court Governance: Why Congress Should—And Why Congress Should Not—Create a Full-Time Executive Judge, Abolish the Judicial Conference, and Remove Circuit Judges from District Court Governance 30–33, 54–60 (Federal Judicial Center 1994).

5. This process is governed by the Rules Enabling Act, codified at 28 U.S.C. §§ 2071–2077 (2000).

6. Richard A. Posner, The Federal Courts: Challenge and Reform 12–13 (1995).

7. Bureau of Justice Statistics, State Court Organization 1998, at 80–89, tbl.15 (2000).

8. *See* Mario Melgar Adalid, El Consejo de La Judicatura Federal (2d ed. 1997); Adrián Ventura, Consejo de la Magistratura, Jurado de Enjuicamiento (1998) (describing primarily the councils in Mexico as of 1997 and in Argentina, respectively, but with comparative commentary).

9. Administrative Office of the U.S. Courts, Understanding the Federal Courts 26 (1999).

10. 28 U.S.C. § 331 (2000).

11. 28 U.S.C.A. §§ 354, 355, 357 (Supp. 2003).

12. 28 U.S.C. § 753(a) (2000).

13. *Id.* § 604(a).

14. *Id.* § 605.

15. *Id.* § 604(a)(5).

16. *Id.* § 604(a)(3), (a)(13), (d)(2).

17. Report of the Federal Courts Study Committee, April 2, 1990, at 148 (1990); Report of the Proceedings of the Judicial Conference of the United States, March 1991, at 11.

18. Fed. R. Crim. P. 53.

19. Report of the Proceedings of the Judicial Conference of the United States, March 1996, at 17.

20. A complete list of committees is available on the Administrative Office of the U.S. Courts' internal judicial branch Web site at jnet.ao.dcn.

21. *See* The Judicial Conference of the United States and Its Committees, § II.D, on jnet.ao.dcn.

22. 28 U.S.C. § 604(a) (2000).

23. Report of the Proceedings of the Judicial Conference of the United States, Sept. 1990, at 66.

24. *See* 28 U.S.C. §§ 620–629 (2000). The Center's creation is documented in Russell R. Wheeler, *Empirical Research and the Politics of Judicial Administration: Creating the Federal Judicial Center,* 51 Law & Contemp. Probs. 31 (1988).

25. Judicial Conference of the U.S., Long Range Plan for the Federal Courts, Recommendation 46, at 80–81 (1995); Report of the Proceedings of the Judicial Conference of the United States, March 1998, at 31–32.

26. 53 Stat. 1223 (Aug. 7, 1939).

27. The evolution of the circuits is described in Russell R. Wheeler & Cynthia Harrison, Creating the Federal Judicial System (Federal Judicial Center, 2d ed. 1994), and Report of the Commission on Structural Alternatives for the Federal Courts of Appeals 25–28 (1998).

28. 28 U.S.C. § 45 (2000).

29. 28 U.S.C.A. §§ 351–364 (Supp. 2003).

30. *Id.* § 351(a).

31. *See, e.g.,* Administrative Office of the U.S. Courts, Judicial Business of the United States Courts, 2002, Annual Report of the Director, tbl.11, at 33 and tbl.S-22, at 69–70.

32. Peter G. Fish, The Politics of Federal Judicial Administration 387 (1973).

33. 28 U.S.C. § 332(a)(1) (2000).

34. Data gathered by the Federal Judicial Center, on file with the Research Division.

35. Act of Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223, 1224 (current version at 28 U.S.C. § 332(d)(1) (2000)).

36. 28 U.S.C. § 332(d)(1) (2000).

37. *Id.* § 332(d)(1), (d)(2).

38. Doris Marie Provine, *Governing the Ungovernable: The Theory and Practice of Governance in the Ninth Circuit, in* Restructuring Justice: The Innovations of the Ninth Circuit and the Future of the Federal Courts 247 (Arthur D. Hellman ed., 1990); Jeffrey N. Barr & Thomas E. Willging, *Decentralized Self-Regulation, Accountability, and Judicial Independence Under the Federal Judicial Conduct and Disability Act of 1980,* 142 U. Pa. L. Rev. 25, 131–44, 173–77 (1993).

39. 28 U.S.C. §§ 354–364 (Supp. 2003).

40. Federal Judicial Center, Planning for the Future: Results of a 1992 Federal Judicial Center Survey of United States Judges 12, 34 (1994).

41. 28 U.S.C. § 332(e) (2000).

42. *Id.* § 333.

43. The roles and responsibilities of chief district judges are described in Deskbook for Chief Judges of U.S. District Courts (Federal Judicial Center, 3d ed. 2003).

44. 28 U.S.C. § 154(b) (2000).

45. *Id.*

46. Warren Burger, *The State of the Judiciary—1970*, Address at the American Bar Association annual meeting (August 1970), *in* 56 A.B.A. J. 929, 933 (1970).

47. A description of councils and their activities is in *State–Federal Councils, in* James G. Apple et al., Manual for Cooperation Between State and Federal Courts 93–105 (Federal Judicial Center, National Center for State Courts, State Justice Institute 1997).

48. On file with the Research Division of the Federal Judicial Center.

49. Papers and commentary are collected in *National Conference on State–Federal Judicial Relationships,* 78 Va. L. Rev. 1655 (1992).

50. Report of the Federal Courts Study Committee 52–53 (1990).

51. *E.g.,* Judith Resnik, *Trial as Error, Jurisdiction as Injury: Transforming the Meaning of Article III,* 113 Harv. L. Rev. 924 (2000).

52. Wheeler & Bermant, *supra* note 4, catalogs the arguments pro and con, about the current governance arrangement.

About the Federal Judicial Center

The Federal Judicial Center is the research and education agency of the federal judicial system. It was established by Congress in 1967 (28 U.S.C. §§ 620–629), on the recommendation of the Judicial Conference of the United States.

By statute, the Chief Justice of the United States chairs the Center's Board, which also includes the director of the Administrative Office of the U.S. Courts and seven judges elected by the Judicial Conference.

The Director's Office is responsible for the Center's overall management and its relations with other organizations. Its Systems Innovation & Development Office provides technical support for Center education and research. Communications Policy & Design edits, produces, and distributes all Center print and electronic publications, operates the Federal Judicial Television Network, and through the Information Services Office maintains a specialized library collection of materials on judicial administration.

The Judicial Education Division develops and administers education programs and services for judges, career court attorneys, and federal defender office personnel. These include orientation seminars, continuing education programs, and special-focus workshops.

The Court Education Division develops and administers education and training programs and services for nonjudicial court personnel, such as those in clerks' offices and probation and pretrial services offices, and management training programs for court teams of judges and managers.

The Research Division undertakes empirical and exploratory research on federal judicial processes, court management, and sentencing and its consequences, often at the request of the Judicial Conference and its committees, the courts themselves, or other groups in the federal system.

The Federal Judicial History Office develops programs relating to the history of the judicial branch and assists courts with their own judicial history programs.

The Interjudicial Affairs Office provides information about judicial improvement to judges and others from foreign countries and identifies international legal developments of importance to personnel of the federal courts.