

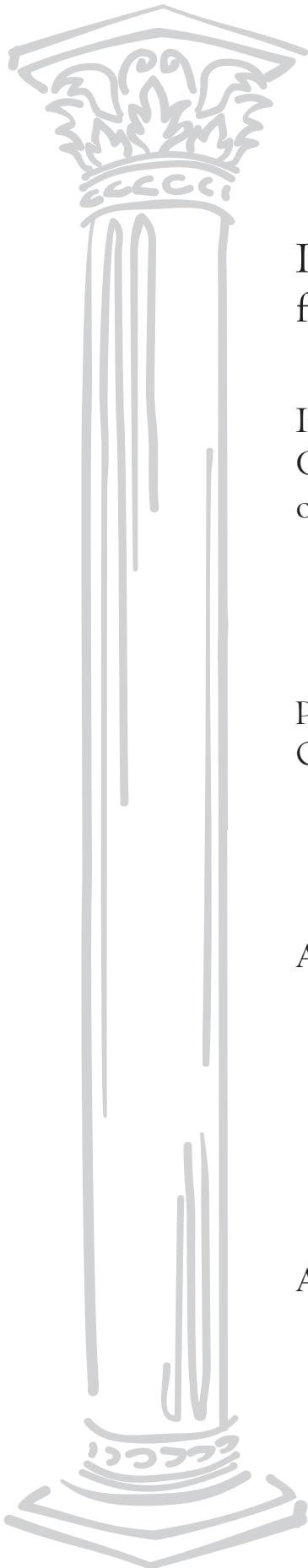


IMPLEMENTATION
OF THE
LONG RANGE PLAN
FOR THE
FEDERAL COURTS

Status Report

April 2008

Administrative Office of the U.S. Courts



Implementation of the Long Range Plan for the Federal Courts

Implementation Status Reported by
Committees of the Judicial Conference
of the United States

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Implementation of the Long Range Plan for the Federal Courts

Table of Contents

Part One: Implementation Status Summary

Introduction	I-1
Assessment Process	I-2
Summary of Assessment Results	I-3
Judicial Federalism	I-4
Structure	I-6
Adjudication	I-8
Governance: Management and Accountability	I-10
Resources	I-12
Federal Courts and Society	I-15
Review of Trends	I-18
Long-Range Planning	I-19
Future of Planning	I-21

Part Two: Implementation Status Details

Description	II-1
Detail Table	II-2

Part One: Implementation Status Summary

April 2008

Introduction

In December 1995, the federal judiciary published a *Long Range Plan for the Federal Courts*. The *Plan*, approved by the Judicial Conference, provides an integrated vision to guide future policy development and administrative action by the Judicial Conference, its committees, courts, and other judicial branch entities. The *Plan* is still relevant today. The mission and core values articulated in the *Plan* are still in effect, and many of the issues addressed in the *Plan* remain relevant. Among the issues articulated in the *Plan* that continue to resonate are:

- preserving judicial independence
- defining and maintaining a limited federal jurisdiction
- obtaining adequate resources
- ensuring lifetime service on the bench
- making effective use of judicial resources
- maintaining excellence and accountability
- fostering communication with the other branches and the public

This report documents the progress made by the judiciary in implementing the *Plan's* recommendations and implementation strategies that were approved by the Judicial Conference. This Part summarizes what has been accomplished, and Part II contains detailed status information on the 93 recommendations and 81 implementation strategies.

Generally, the recommendations in the *Plan* state broad, overarching goals and/or general principles. In many instances, the recommendations are supported by one or more specific implementation strategies that suggest the means to achieve the particular recommendation. Not all recommendations and implementation strategies are a call to immediate or, in some cases, any action. Some items reflect values and aspirations that might never be fully operational. Others seek to maintain the existing state of affairs. In the thirteen years since the adoption of the *Long Range Plan*, many of its recommendations and implementation strategies have been implemented through specific measures or represent the judiciary's current policies, business practices or values.

It is apparent that the individual committees and the judiciary as a whole have achieved much of what was envisioned in 1995. The judiciary and the public have benefitted from the completion of specific tasks or implementation of policies.

Assessment Process

The Executive Committee requested a status assessment of the *Long Range Plan*. Committees of the Judicial Conference were asked to review the *Plan's* recommendations and implementation strategies relating to their areas of jurisdiction,¹ and provide input on the status of implementation. On some items, multiple committees have shared responsibility and, thus, each of those committees was asked to respond. Committees were invited to comment on other recommendations and implementation strategies if they wished to do so. In addition, committees were invited to comment more broadly on trends, developments and issues covered in the 1995 *Plan*, and whether they have occurred as forecast.

The committees were asked to select an implementation status category for each item:

- A. Implementation Completed.** These are recommendations and strategies that called for specific actions to be taken, or specific objectives to be met. There is no further action required because the recommended action or a similar action has been taken.
- B. Effected Through Policy or Practice.** This category refers to recommendations or implementation strategies that express a long-term principle, policy, goal, or core value of the judiciary that guides actions. Many recommendations and implementation strategies in this category will continue to be pursued. They often use terms such as “increase,” “enhance,” “strengthen,” or “improve.” In some cases, there is a mechanism in place to ensure ongoing attention to the underlying issue.
- C. Implementation Not Complete.** Committees were asked to cite on or more of the following reasons to explain why an item remained incomplete.
 - C1. Opportunity to Implement Has Not Occurred.** There has not yet been an opportunity to implement the specific recommendation.
 - C2. Partial Implementation.** There has been progress in implementing the recommendation or strategy, but some portion remains undone.

¹In 1995, committees were assigned primary responsibility for implementing specific recommendations and implementation strategies in the *Plan*, with other committees being asked to weigh in on particular matters within their respective jurisdictions. Approximately 20 items were assigned to multiple committees. Generally, these assignments specified the aspect of the recommendation or implementation strategy for which each committee is responsible – e.g., the Federal-State Jurisdiction Committee is responsible for implementing Recommendation 1 with respect to matters of federal court civil jurisdiction, while the Criminal Law Committee is responsible with respect to matters of criminal jurisdiction.

- C3. Underlying Conditions Changed.** There has been a significant change to the issue that the recommendation or strategy sought to address. If action has been taken, it varies from the specific outcome expressed in the recommendation or strategy.
- C4. Legislation Proposed/Pending.** Legislation has been proposed to implement the recommendation.
- C5. No Action Taken.** No action has occurred on the recommendation to date, or action was considered and declined.

Committees were also asked to provide narrative descriptions of the status of implementation.

Summary of Assessment Results

The following summarizes the status of the *Long Range Plan* recommendations and implementation strategies based on the committees' assessments.

- Approximately 12 percent of the recommendations and implementation strategies have been identified as complete.
- A much larger percentage (57 percent) has been identified as being “effected through policy or practice.”
- The remainder of the recommendations and implementation strategies (31 percent of the reported items) were characterized as not yet complete. For items in this category, committees cited the following reasons:
 - ▶ partial implementation (57 percent of the incomplete items)
 - ▶ opportunity to implement has not occurred (6 percent of the incomplete items)
 - ▶ underlying conditions have changed (24 percent of the incomplete items)
 - ▶ legislation has been proposed or is pending (17 percent of the incomplete items)
 - ▶ no action has been taken (11 percent of the incomplete items).

Because a majority of the recommendations in the *Long Range Plan* articulate general concepts and values rather than desired actions, it is not surprising that a large number of recommendations have been identified as “effected through policy or practice” or as partially implemented. The committees' detailed assessments are included in Part II of this report.

The *Plan's* recommendations and implementation strategies were stated in six chapters (four through nine) covering the following subject-matter areas: Judicial Federalism; Structure; Adjudication; Governance: Management and Accountability; Resources; and The Federal Courts and Society.

Judicial Federalism

The *Plan* observes that judicial federalism relies on the principle that the state and federal courts together comprise an integrated system for the delivery of justice in the United States. State courts have broad subject matter jurisdiction and serve as the primary forum for most civil disputes and criminal prosecutions. In contrast, the federal courts have limited jurisdiction as defined in the U.S. Constitution and as granted by Congress. Over the years, Congress has increasingly “federalized” crimes and created civil causes of actions historically resolved in the state courts, thereby threatening the concept of judicial federalism. The 15 recommendations and 11 implementation strategies in chapter 4 of the *Plan* provide guidelines for limiting federal jurisdiction and maintaining a sound judicial federalism.

Summary of Federalism-Related Items

Implementation Completed	Effected Through Policy or Practice	Implementation Not Complete
0	19	7

According to the responses received from Judicial Conference committees, many of the recommendations and implementation strategies in this area are statements of general principle with continuing validity that may be applicable to a broad range of legislative proposals, rather than encouraging specific actions. Most of the recommendations and implementation strategies in this area are effected through policy or practice, for example, the judiciary encourages Congress to conserve the federal courts as a judicial forum of limited jurisdiction, to exercise restraint in assigning new civil and criminal jurisdiction to the federal courts, and to take into account the impact of new legislation on both the federal and state courts. The judiciary has consistently opposed efforts to create specialized courts in areas such as patent law and social security, and opposed legislation that would result in an unwarranted “federalization” of state crimes, particularly in the area of juvenile justice. The judiciary regularly provides assessments of the potential budgetary and caseload impact of various legislative proposals on the federal judiciary.

The Judicial Conference has also made modifications to the Biennial Survey of Judgeship Needs to ensure that the growth of the Article III judiciary is limited to the number of judges necessary to exercise federal court jurisdiction (Recommendation 15). A process for recommending the elimination of a judgeship or leaving a judicial vacancy unfilled has been implemented. More detailed information on the use of senior, visiting, and magistrate judges is being collected. Also, the standard for recommending additional district judgeships (number of weighted filings per judgeship) was raised.

Two committees noted that environmental changes affected the implementation of certain strategies. In reference to the strategy (9a) to seek legislation to improve the adjudicative process for Social Security disability claims by establishing a new mechanism for administrative review of administrative law judge decisions and limiting the scope of appellate review in the Article III courts, the Committee on Federal-State Jurisdiction noted that the Social Security Administration has recently issued proposed regulations that would accomplish much of its intended result.

The Committee on Criminal Law raised an issue about the continuing merits of two implementation strategies (4a and 4c), one seeking an increase in federal resources provided to state courts for prosecution of matters handled by federal prosecutors due to a lack of state resources, and the other authorizing state courts concurrent jurisdiction over certain federal crimes. That Committee has suggested these two strategies should be reconsidered in light of the current budget climate limiting increases in non-Homeland Security discretionary spending and the potential budgetary impact they may have on the judiciary.

The following recommendations and implementation strategies have not been implemented.

- Encouraging Congress to reduce the number of federal court proceedings based on diversity of jurisdiction remains Conference policy, but it has not been pursued primarily due to strong opposition from the organized bar and limited support from Members of Congress (Recommendation 7). The Committee on Federal-State Jurisdiction continues to support indexing the amount-in-controversy jurisdictional requirement to the rate of inflation.
- Encouraging the states to adopt certification procedures under which federal courts could submit novel or difficult state law questions to state supreme courts has been partially implemented (Recommendation 8). Forty-five states authorize the certification of questions of state law from federal courts of appeals, but only 19

states authorize district courts (a few states authorize bankruptcy courts) to certify such questions. The Committee on Federal-State Jurisdiction suggests that the judiciary should continue to pursue full implementation of this recommendation.

- Encouraging Congress to enact legislation generally prohibiting agencies from adopting a policy of non-acquiescence to federal court rulings, and requiring agencies to demonstrate special circumstances for re-litigating an issue when a uniform precedent has already been established in multiple courts of appeals (Recommendation 11) originally was a response to practices implemented in the late 1980s by the Social Security Administration (SSA). Non-acquiescence persists among agencies although the practice has been reduced by SSA. Because the underlying circumstances have changed, the Committee on Federal-State Jurisdiction suggests that implementation of this recommendation should continue to be a goal of the judiciary.
- Efforts to encourage Congress to refrain from providing federal court jurisdiction over disputes that primarily raise questions of state law or involve workplace injuries where the state courts have substantial experience have been made, but without much success (Recommendation 12). Three specific related proposals encountered opposition and were later deferred. The Committee on Federal-State Jurisdiction suggests that these strategies should be reexamined.

Structure

The *Plan* asserts that the federal courts should be structured in a manner that best facilitates access for litigants; affords procedural fairness; ensures the correctness of individual decisions; promotes the consistent, accurate application of federal law; and maintains the independence of judges to decide matters before them. The 12 recommendations and two implementation strategies in Chapter 5 were intended to ensure such a structure would exist in light of expected modest growth in the size and workload of the federal courts. The *Plan* recommended no major structural changes. Nine of the 12 recommendations focus on the organization of the appellate function.

Summary of Structure-Related Items

Implementation Completed	Effected Through Policy or Practice	Implementation Not Complete
5	7	2

The responses from the various Conference committees indicate that most of the recommendations are completed or effected through policy or practice.

Four of the recommendations and one of the implementation strategies have been completely implemented. For example, the Federal Court Improvements Act of 1996 (Public Law No. 104-317) eliminated the option of appealing the judgment of a magistrate judge in a civil consent case to a district judge, making such judgments reviewable only in the courts of appeals (Recommendation 23).

In 1997, the National Bankruptcy Review Commission completed a study of the then-existing two-step mechanism for appealing the dispositive orders of bankruptcy judges (i.e., review by the district court or bankruptcy appellate panel, followed by a review by the regional court of appeals) (Recommendation 21), and recommended that such orders be directly appealable to the courts of appeals. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Public Law No. 109-8) modified the bankruptcy appellate structure by allowing direct appeals of bankruptcy court decisions to the regional courts of appeal under certain circumstances, including certification by the district court or bankruptcy appellate panel that the decision involves a question of law needing immediate review (Recommendation 22).

Another seven recommendations involving general principles or goals are effected through policy or practice, including maintaining the current appellate structure. For example, the federal appellate function remains primarily generalist with courts of appeal established in each regional circuit and a federal court of appeals that has nationwide jurisdiction over certain subject matter areas (Recommendation 16); the Supreme Court continues to be the sole arbiter of conflicting precedents among the courts of appeals (Recommendation 19); and actions by administrative agencies and decisions of Article I courts are frequently reviewable directly to the regional courts of appeals (Recommendation 20). The judiciary has consistently opposed the creation of a national court of appeals with jurisdiction to hear appeals from the regional courts of appeals, as well as the establishment of courts with specialized jurisdiction. The district courts continue to be allocated among and within the states so that each district comprise a single state or part of a state (Recommendation 25).

One recommendation and one implementation strategy have not been implemented. No action has been taken to equalize workload among judges of the courts of appeals nationally (Recommendation 18). Indeed, the judiciary has opposed efforts to move certain types of cases, such as immigration appeals, to a specialized appellate forum.

An implementation strategy (27b) to encourage Congress to clarify the authority of the bankruptcy courts, including contempt authority, has only been partially implemented because the underlying conditions have changed. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Public Law No. 109-8) changed many aspects of bankruptcy practice, and it may take many years to resolve issues related to bankruptcy court authority. Contempt authority, however, has largely been clarified through court decisions and rule changes.

Adjudication

The adjudication section of the *Plan* encompasses a number of different functions, from managing the preliminary phases of cases and appeals to conducting proceedings, making decisions, and overseeing their implementation. The *Plan* anticipated that the federal courts would be challenged to manage their increased caseloads efficiently and effectively, while satisfying the interests of justice; and that courts would feel tensions among several sets of competing values while balancing the objective of consistent results against individualized justice, national uniformity against local variation, law declaration against dispute resolution, the overall generalist's approach against more specific subject matter expertise, and excellence against delay. The 12 recommendations and 14 implementation strategies in chapter 6 focus on possible areas of innovation: rules of practice and procedure, criminal sentencing, the jury system, *pro se* litigation, cost of litigation, and case management.

Summary of Adjudication-Related Items

Implementation Completed	Effected Through Policy or Practice	Implementation Not Complete
6	15	5

Several recommendations and implementation strategies have been completed. A special conference of court of appeals judges was held in 1998 to exchange ideas on appellate case management (Recommendation 35). Information provided at the conference was analyzed and compiled in a publication entitled *Case Management Procedures in the Federal Courts of Appeals* (Recommendation 36). This publication was most recently updated in 2002, and another update will be done after the appellate case management/electronic case files (CM/ECF) system is fully implemented in all the regional courts of appeals.

The courts of appeals have adopted internal procedures and organizational structures to promote the delivery of high-quality justice and maintain the consistency of circuit law (Recommendation 37). For example, all circuits now have appellate settlement programs, and by early 2009 they will be using the same case management system. Under Rule 31.2 of the Federal Rules of Appellate Procedure, adopted in 2006, courts of appeals can no longer prohibit the citation of “unpublished” or “not precedent” opinions. One of the reasons this rule was adopted was to promote the consistency of circuit law.

Many of the recommendations and implementation strategies are effected through policy or practice. The federal rules of practice and procedure are regularly revised to promote simplicity in procedure, fairness in administration, and a just, speedy determination of litigation (Recommendation 28). A strategic study of the probation and pretrial services system was completed in 2004 (Recommendation 31). Work is underway toward implementation of one of its major recommendations to develop an outcome measurement system. High-quality new officer and officer safety programs are now offered through the Federal Law Enforcement Training Center.

The Judicial Conference continues to express its concerns to Congress about federal sentencing policy (Recommendation 29). Because of the Supreme Court’s decision in *United States v. Booker* and *United States v. Fanfan*, 543 U.S. 220, 125 S.Ct. 738 (2005), the sentencing guidelines are now advisory. In 2005, the Conference opposed legislation that would have effectively reversed the *Booker* decision by raising the upper limit of each guideline and expanding the use of mandatory minimum sentences. The judiciary also supports judicial discretion in sentencing by encouraging both uniformity of practice and attention to individual circumstances (Recommendation 30). Under the direction of the Committee on Criminal Law, the Federal Judicial Center regularly plans and conducts National Sentencing Policy Institutes with the assistance of the U.S. Sentencing Commission and the Administrative Office. Activity on sentencing-related legislation continues to be important to provide appropriate judicial discretion. For example, the judiciary has consistently encouraged Congress not to impose or expand mandatory minimum sentences (30a).

The Alternative Dispute Resolution Act of 1998 (Public Law No. 105-315) required the federal courts to provide a wide variety of alternative dispute resolution (ADR) techniques, procedures and resources (Recommendation 39). The Federal Judicial Center has been asked to provide a current report on ADR programs and, based on its findings, it will be determined whether any additional efforts in this area are necessary.

A few recommendations and related implementation strategies have not been fully implemented. There has been substantial progress toward implementing a recommendation to study and improve all aspects of the jury system (Recommendation 32). Improvements include an automated Jury Management System, workshops on optimal juror utilization, and encouraging the courts to adopt procedures lessening the burden on jurors. The judiciary is seeking amendments to the Jury Selection and Service Act, 18 U.S.C. § 1861 et. Seq., which would increase the penalties for failing to respond to a jury summons.

Recommendation 38, to encourage the district courts to enhance efforts to manage cases effectively, is also partially implemented. The judiciary reports to the public on case-processing statistics for each court and judge. The CM/ECF system has enabled the courts to manage cases more efficiently. The ability for attorneys and others to open cases and file and retrieve documents over the Internet, and for courts to maintain and access records in an electronic format has changed court practices. A statistical system for evaluating effective case processing has been developed and support is offered to courts experiencing difficulties.

Governance: Management and Accountability

The *Plan* notes that the nature and mission of the federal courts require an approach to internal governance that is different from executive branch agencies and other more hierarchical institutions. The *Plan* identifies the following six principles of federal court governance: separation of powers; judicial independence and accountability; decentralized authority; broad participation; functional, not proportional representation; and evolutionary development. The 14 recommendations and 18 implementation strategies in chapter 7 were intended to provide the federal courts with the means to retain their unique character and perform their constitutional mission, while at the same time meeting their legal, ethical, and societal responsibilities.

Summary of Governance-Related Items

Implementation Completed	Effected Through Policy or Practice	Implementation Not Complete
4	17	11

The majority of recommendations or implementation strategies in this area are complete or are effected through policy or practice. The Chief Justice remains the head of the federal judicial system, retaining the traditional authority and responsibility of that

office in matters of court administration (Recommendation 41). The Judicial Conference continues developing policy and exercising oversight for the judiciary (Recommendation 42). The leadership role of the Executive Committee has evolved over the years (Recommendation 43), taking an increasingly proactive stance to ensure that important issues are addressed by the appropriate committees and the Conference itself. Examples are the Executive Committee's key role in developing the long-range cost-containment strategy for the judiciary in 2004, and its recent efforts to demonstrate the judiciary's commitment to high ethical standards.

Governance structures and mechanisms continue to strike a careful balance among national and regional entities, the individual court, and individual judge autonomy (Recommendation 40). The basic organization and authority of judiciary governance institutions has remained constant since the adoption of the *Plan* (Recommendation 47). Senior judges have been given a greater opportunity to participate in national and regional court governance (Implementation Strategy 50b). The Federal Courts Improvement Act of 1996 (Public Law 104-317) allows senior judges to serve as district judge members of the Judicial Conference and serve as members of the FJC Board. Senior judges are now authorized by statute to serve on judicial circuit councils, and the Court Security Improvement Act of 2007 (Public Law No. 110-177) provides that senior judges with substantial caseloads may participate in district court activities in the same manner as an active district judge. Magistrate judges now may be members of the FJC Board (Implementation Strategy 50c).

The judiciary has launched a number of initiatives to develop and enhance the capabilities of court administrators and managers (Recommendation 48). Training sessions and guides for management oversight and stewardship have been provided to judges and court managers. Educational programs, such as Managing the Court Budget and the Contracting Officers Technical Representative (COTR) Program, have been developed. Web-based training has expanded the delivery of training opportunities. Method Analysis Working Groups, consisting of court managers and subject matter experts, have identified and published best practices for many operations and functions.

The judiciary is primarily responsible for the administration of federal court facilities, programs and operations (Recommendation 51). For example, the judicial conduct disability complaint process is a self-policing mechanism for the federal judiciary. There remain two areas where the judiciary relies on the executive branch: security and facilities. Because the judiciary's relationship with the U.S. Marshals Service has improved recently, the Committee on Judicial Security at this time does not deem it necessary for the judiciary to assume sole responsibility for its own security. Also, the judiciary is not currently seeking independent real property authority.

No action has been taken on an implementation strategy (43b) that would give consideration to at least partially reducing the judicial workload of the chair of the Executive Committee. Several implementation strategies aimed at increasing the participation of district judges, senior judges, and non-Article III judges in judiciary governance have not been fully accomplished.

Resources

This chapter of the *Plan* contemplated constrained federal court budgets that could threaten the quality of justice. It emphasized the need to seek resources necessary to carry out tasks assigned by Congress, to compete vigorously for new talent, and to seek congressional and public support to maintain the standards of the federal courts and sustain our system of justice. The 24 recommendations and 12 implementation strategies in this chapter revolve around obtaining and properly utilizing judicial and court operations resources, including maintaining an adequate number of judicial officers who are well-supported, using technology to improve operations, and providing excellent public service.

Summary of Resource-Related Items

Implementation Completed	Effected Through Policy or Practice	Implementation Not Complete
3	20	13

Most of the recommendations are statements of ongoing efforts. The committees report that one recommendation and two implementation strategies in this area have been fully implemented. The Federal Courts Improvement Act of 2000 (Public Law 106-518) provided magistrate judges with summary criminal contempt authority and expanded civil contempt authority (Recommendation 66). Under the Home Intrusion Detection Systems Program, every federal judge was offered the opportunity to have a home security system installed at their primary residence (61a).² Also, the courts of appeals have adopted new policies and procedures governing the number of visiting and senior judges that can serve on a panel in light of prolonged judicial vacancies (67d).

²The Emergency Supplemental Appropriations Act for Defense, the War on Terror, and Tsunami Relief Act of 2005 (Public Law No. 109-13) provided \$11.935 million to the U.S. Marshals Service to increase judicial security outside of courthouse facilities, including the installation of home detection intrusion systems for federal judges.

Given the tight fiscal climate in recent years, the judiciary has been relatively successful in obtaining sufficient resources to ensure the proper discharge of constitutional and statutory duties (Recommendation 54). When new legislation affecting the federal courts is introduced, the judiciary encourages Congress to appropriate sufficient funds to cover additional costs (Recommendation 55). Information on the financial impact of pending information is provided to Congress.

The Judiciary Benefits Initiative was launched in 1998 as an incentive to attract and retain the best-qualified persons as judges (Recommendation 59). The judiciary introduced its flexible benefits program and long-term care insurance program well ahead of the Executive Branch, and its participation rates are far in excess of the rates for other employers. In 2000, the judiciary secured legislation (Public Law No. 106-113) that authorized the Director of the Administrative Office to pay on behalf of all active and senior Article III judges age 65 and over who are enrolled in the Federal Employees Group Life Insurance (FEGLI) program “the full amount of any increases in the cost (and any expenses associated with such payments) of the judges’ insurance imposed after April 24, 1999.” This has saved some judges tens of thousands of dollars. The new benefits programs have also helped improve the working conditions and arrangements for court support personnel (Recommendation 75).

New, more flexible guidelines for the intracircuit and intercircuit assignment of Article III judges, bankruptcy judges, and magistrate judges are in place (Recommendation 62). Senior Article III judges and recalled bankruptcy and magistrate judges provide much needed assistance to the courts thereby helping to achieve the judiciary’s goal of carefully controlled growth (Recommendation 63).

Close attention is given to the problem of frequent, prolonged judicial vacancies (Recommendation 67). The judiciary publicizes the existence of “judicial emergencies” in certain courts, encourages courts with vacancies to use visiting judges, and encourages judges intending to retire or take senior status to provide substantial advance notice (if possible, 12 months) of the contemplated action. High-quality educational programs in such areas as information technology and case management are developed and provided to judges and court managers (Recommendations 76 and 77).

Since the adoption of the *Plan*, the use of court-related technologies has substantially increased (Recommendation 69). New CM/ECF systems are operating in nearly all district and bankruptcy courts and are currently being deployed in the courts of appeals. Judiciary staff are beginning to plan for the next generation of case-management systems. The Public Access to Court Electronic Records (PACER) system allows the public to obtain case and docket information via the Internet. Courtrooms are being

equipped with video-evidence presentation systems, video-conferencing systems, and electronic means of taking the record. Other new judiciary-wide systems that have been implemented over the years include the Financial Accounting System for Tomorrow, Human Resources Management Information System, Probation and Pretrial Services Automated Case Tracking System, and Jury Management System.

Judges and court employees are also taking advantage of emerging technologies (Recommendation 70). For example, some judges use instant messaging technology to receive real-time legal support from their law clerks during court proceedings. Probation and pretrial services officers use Global Positioning Systems to monitor the location of offenders and defendants in the community. New drug-testing technologies (e.g., transdermal) provide more timely and accurate results.

The judiciary continually reviews its data-collection and information-gathering needs (Recommendation 73). After the *Plan* was published, there was a comprehensive assessment of the appellate, district, and bankruptcy courts' data needs, and changes were made to the information being collected.

Significant progress has been made during the 110th Congress on a recommendation that federal judges should receive adequate compensation as well as cost-of-living adjustments granted to all other federal employees (Recommendation 56). Both the Senate and House Judiciary Committees have reported out a federal salary restoration bill (S.1638; H.R. 3753), which would:

- raise federal judges' salaries 29 percent;
- repeal Section 140 of Public Law No. 97-92 so there no longer would be a requirement for Congress to affirmatively give judges a cost-of-living adjustment;
- delink judges' salaries from congressional salaries; and
- authorize judges' annual cost-of-living pay adjustments at the General Schedule level with all other civilian federal employees.

Enacting this legislation remains a difficult challenge, but the judiciary is working diligently to overcome remaining hurdles.

Implementation will never be completed for several recommendations. Substantial progress has been made on providing adequate security for judges and court personnel inside and outside the courthouse (Recommendation 61). The judiciary and the U.S. Marshals Service (USMS) work closely together to improve judicial security. The USMS recently opened its new Threat Management Center, which collects, analyzes and disseminates information about threats to the judiciary. A pilot program having the

USMS take over the responsibility for perimeter security at selected courthouse will begin later this year. Home security systems continue to be offered to new judges. Guidelines for protecting personal information on the Internet have been provided to the courts.

The judiciary's highly successful budget decentralization program continues to be enhanced and refined (Recommendation 68). The judiciary also continues to study alternative methods of organizing and allocating judicial support functions (Recommendation 72). No progress has been made on a recommendation to categorize constitutionally mandated functions of federal courts as mandatory (rather than discretionary) spending for federal budget scorekeeping purposes (Recommendation 57). The general sentiment in both Congress and the Office of Management and Budget is to reduce, not increase, the number of activities that are categorized as mandatory spending.

Federal Courts and Society

Chapter 9 of the *Plan* covers a diverse array of topics revolving around the role that federal courts play in the broader society. As the *Plan* noted:

“Planning the federal courts' role in the justice system is no easy task; planning for their proper role in society is even harder. While the Constitution's Framers intended the federal courts to be ultimately accountable to the people, they also sought to insulate the courts from direct popular pressure. This tension endures to this day.”

This chapter of the *Plan* recognizes the many customers, constituents and stakeholders in the federal courts. In particular, it is noted that “all members of society, therefore, should have a meaningful opportunity to use and participate in the judicial process. All must be treated as valued customers of the courts. To that end, judicial proceedings should be comprehensible, physically accessible, and affordable to ordinary users, including persons with disabilities and litigants not represented by counsel.” Of particular importance are those individuals accused of crimes, and the *Plan* recognizes the special needs of that group.

The 16 recommendations and 24 implementation strategies recognize the importance of regular, direct, formal channels of communication between the judiciary and its coequal branches, closer working cooperation between federal and state courts, and actions to enhance general public understanding of the federal courts.

Summary of Courts and Society-Related Items

Implementation Completed	Effected Through Policy or Practice	Implementation Not Complete
3	21	16

The majority of recommendations and implementation strategies in this chapter are considered fully implemented or effected through policy or practice. *Pro se* law clerks are now allocated to each district court to screen *pro se* cases (85c). A legislative “checklist” was prepared that could be used by both judicial and congressional staff to identify technical problems in proposed legislation (91b). The Committee on Federal-State Jurisdiction noted that advocating a requirement that congressional staff should comply with a particular drafting standard created by the judiciary, however, could have resulted in unnecessary tensions in the relations between the legislative and judicial branches, so the use of such standards was not pursued.

Revisions to the *U.S. Courts Design Guide* have made public areas of court facilities accessible to individuals with disabilities (Recommendation 80) and compliant with the requirements of the Americans with Disabilities Act of 1990 (Public Law No. 101-336). The AO offers guidance to judges and court managers on “reasonable accommodations” and other technology requests for persons with disabilities.

Communication and coordination between the Judicial and the Executive branches have improved (Recommendation 91). For example, relations between the judiciary and the General Services Administration have significantly improved recently. A two-branch conference involving judiciary and congressional leaders is planned for later this year. The federal judiciary also communicates and cooperates regularly and effectively with the state courts (Recommendation 92), and works closely with the bar to enhance the quality of representation and elicit support for needed improvements in the courts (Recommendation 93). Litigants continue to pay reasonable fees (Recommendation 82).

Publications such as *Understanding the Federal Courts*, *Welcome to the Federal Courts*, and *Federal Courts and What They Do* enhance the public’s understanding of the federal judiciary’s constitutional role (Recommendations 86 and 87). Federal judges and courts have participated in the planning and conducting of a series of Open Doors to Federal Courts programs aimed at educating high school students about the judiciary. On specific issues, the judiciary does seek public support (Recommendation 89). Probably

the best example of this is the current judicial salary restoration initiative, which has garnered a wide level of support.³

Two initiatives related to defender services have not been fully implemented. Substantial progress has been made on a recommendation to establish a federal defender organization (FDO) in all 94 districts (Recommendation 83). Since the *Plan* was adopted, the number of districts represented by a FDO has risen from 57 to 90. Efforts are underway to establish FDOs in three additional districts. The fourth (the Northern Mariana Islands) lacks the workload to support FDO coverage.

Maintaining highly qualified, fairly compensated, and optimally sized panels of private attorneys remains crucial for providing effective representation to CJA clients (Recommendation 84). In response to a 2004 survey about the quality of representation, judges rated CJA panel attorney services substantially lower than those provided by federal defenders, and the Committee on Defender Services supports continuing to pursue this initiative. An important component in recruiting and retaining highly qualified panel attorneys is obtaining increases in congressional funding to provide them with fair compensation.

The recommendation to make court interpreter services available in a wider range of court proceedings so that justice is more accessible to those who do not speak English is partially implemented (Recommendation 81). The judiciary approved a certification program for Spanish-language interpreters in 1996. Federal court forms are being translated into Spanish and posted on the J-Net. There remains a critical need for interpreters in languages other than Spanish and alternatives for qualifying these interpreters are being explored. A comprehensive program to educate jurors about the role and function of the federal courts has not yet been fully developed (Recommendation 88). The AO has posted general information about jury service on the judiciary's web site and the FJC has produced a videotaped orientation program for jurors. A similar videotaped program is being produced for grand jurors.

³While 18 U.S.C. § 1963 generally prohibits the judiciary from using appropriated funds for “grass roots” lobbying, the Judicial Conference may, and frequently does, communicate with Congress and other interested parties in regard to official Conference policies.

Review of Trends

The *Plan* devoted a chapter and appendix to trends that could threaten the judiciary's core values of providing equal justice, maintaining high standards of legal excellence, and sustaining legitimacy in the eyes of the public. Forecasts suggested the possibility of continued caseload increases at both the trial and appellate levels, and concomitant growth in the size of the judiciary.

Caseload and Judgeships: Forecasts versus Actuals

	Forecasts		Actual	
	2000	2010	2000	2007
District Cases Commenced	364,800	610,800	322,262	325,920
Criminal Cases	47,800	62,000	62,745	68,413
Civil Cases	317,000	548,800	259,517	257,507
Appeals	85,700	174,700	54,697	58,410
Authorized Appellate Judges	440	870	167	167
Authorized District Judges	890	1,430	665	692

Although the large growth trends forecast in 1995 have not borne out, new and unanticipated challenges have arisen such as the increase in immigration cases.

Individual committees continue to examine trends closely. The Committee on the Administration of the Bankruptcy System noted that while “the 1995 plan does not contain any explicit projection of trends in the bankruptcy system, there is at least an implicit assumption that the bankruptcy system would continue in its historical form into the foreseeable future. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 radically altered the basis for that assumption, making extensive changes to the substantive, procedural and administrative aspects of bankruptcy law and practice.” As it concerns the future of the bankruptcy system, the Bankruptcy Committee notes that “as part of its long-range planning, the [committee] will have to evaluate what that steady state might look like, as well as how future economic developments...will affect the system.”

The Committee on Budget commented on the reduced discretionary spending predicted in the *Plan*. The Committee noted that projected shortfalls between requirements and appropriations led to the development of a cost-containment strategy in 2004.

The Committee on Criminal Law remarked on the dramatic change in the landscape of federal sentencing that has occurred over the past few years, which was not predicted in the *Plan*. Today's advisory guidelines system will require years of yet-to-be-decided case law and careful statistical analysis to determine the impact of this system and for the judiciary to offer recommendations that improve the fair administration of justice. The Criminal Law Committee also identified an important trend that was largely overlooked in the *Plan*: "While the 1995 *Plan* considered the important role that technology would play in the judiciary, it could not have foreseen just how rapidly new technology would emerge and how dependent judges and court staff would be on technology. It would be hard to predict the changes in the next few years, but the judiciary needs to commit to keeping pace with technological innovations that result in improved services for the court and community."

Long-Range Planning

After the Judicial Conference approved the *Long Range Plan for Federal Courts* in September 1995, Chief Justice William H. Rehnquist determined that the individual Judicial Conference committees should be responsible for long-range and strategic planning, and released the Long Range Planning Committee. Since planning is decentralized among the committees, the Judicial Conference's Executive Committee was assigned a coordinating role for long-range planning. One member of the Executive Committee serves as long-range planning coordinator. The coordinator works with staff of the Administrative Office of the U.S. Courts (AO) to plan semi-annual long-range planning meetings of committee chairs and members of the Executive Committee. In 1999, the chairs of Judicial Conference committees were tasked with leading the planning activities within each committee.

Most committees continue to actively plan in areas within their jurisdiction. Each committee has devised a process that best meets its needs. The twice-yearly long-range planning meetings serve as forums for the exchange of information and discussion of planning issues that cut across committee lines. The *Plan* includes a recommendation specifically addressing the need for continued long-range planning. Recommendation 49 notes that "(a)ll judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes." Long-range

planning is an important aspect of committee work and many committees have active planning subcommittees.

All committees support branch-wide long-range planning and see tangible benefits that result from these activities. Several committees took the opportunity to comment about how the planning process could be enhanced and what should be included in future plans. The Executive Committee noted that the Conference and other judicial governance authorities could do more to achieve the goal of "integration" of planning into their regular decision-making processes, as recommended by a June 2007 report from the National Academy of Public Administration (NAPA) on *Budgeting for the U.S. Judiciary: Preparing for the Future*.

The Committee on Federal-State Jurisdiction reported that many of the *Plan's* recommendations are "statements of general principle with continuing validity," and suggested that these statements would be more appropriate in a preamble to a new strategic plan, and/or as statements of general policy to guide the judiciary. The committee emphasized the need for a strategic plan that includes "measurable goals" that can be met within a specific time period. Such measurable goals would be helpful to the Committee in identifying areas within its jurisdiction that should be given priority for efforts to secure legislation or other activities. Also referencing the NAPA report on *Budgeting for the U.S. Judiciary*, the Committee suggested that the strategic plan should include: 1) goals intended to be achieved over the long term through the judiciary's efforts; 2) specific measurable objectives to be achieved in the near term; 3) alternative courses of action to achieve those objectives; and 4) a system for measuring progress in implementing the plan. Such a plan would provide a context for the particular issues assigned to the Committee.

The Committee on the Administrative Office strongly supports the idea of an integrated strategic planning process. That committee noted that a strengthened process for addressing broad concerns should involve cross-committee planning, the analysis of trends and issues, and the identification of important judiciary-wide strategic issues and goals.

Most committees also described the planning activities in which they are currently engaged. The Bankruptcy Committee has a standing Long Range Planning and Budget Committee that has addresses long-range planning issues at virtually every meeting of the Committee. The Budget Committee relies on long-range budget estimates to evaluate the long-term fiscal environment for the judiciary. The Committee on Space and Facilities has developed a long-range strategic plan and periodically reviews it. Like the other committees, the Committee on Judicial Resources fully integrates planning and analysis

into its decision-making. Several recent notable examples were provided by the committee. The Statistics Subcommittee addresses long-range planning in the development of Article III judgeship recommendations. The Defender Services Committee, its subcommittees, and the AO's Office of Defender Services continue to engage in long-range planning.

Future of Planning

The *Long Range Plan* envisioned an on-going planning process as follows:

[T]he judiciary must not only consider the impact of subsequent events on the specific contents of the plan, but must also revisit the plan's basic premises in view of evolving conditions. In short, there is a continuing need for planning at the national, as well as other, levels in the judicial branch.

The Executive Committee and committee chairs are considering options for enhancing the judiciary's planning process. The enhanced process will rest on the foundation created by the *Plan* and will incorporate information from this assessment and other sources.

Part Two: Implementation Status Details

April 2008

This part presents the status assessment of the *Long Range Plan's* recommendations and implementation strategies by the Judicial Conference committees. Where more than one committee reported on items, the response from the lead committees are listed first.

Recommendations and Status Information

Recommendation or Implementation Strategy	Committee	Status	Comments
<p>1: Congress should be encouraged to conserve the federal courts as a distinctive judicial forum of limited jurisdiction in our system of federalism. Civil and criminal jurisdiction should be assigned to the federal courts only to further clearly defined and justified national interests, leaving to the state courts the responsibility for adjudicating all other matters.</p>	<p>Committee on Federal-State Jurisdiction</p>	<p>Effectuated through Policy or Practice</p>	<p>The Committee believes that this recommendation is a statement of general principle with continuing validity. However, members believed that the statement more appropriately belongs in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. It does not define measurable goals that can be obtained within a specified period of time.</p>
<p>1: Congress should be encouraged to conserve the federal courts as a distinctive judicial forum of limited jurisdiction in our system of federalism. Civil and criminal jurisdiction should be assigned to the federal courts only to further clearly defined and justified national interests, leaving to the state courts the responsibility for adjudicating all other matters.</p>	<p>Committee on Criminal Law</p>	<p>Effectuated through Policy or Practice</p>	<p>The Judicial Conference has opposed efforts to create specialized courts (see, JCUS-SEP 62, p. 54; JCUS-SEP 86, p. 60; JCUS-SEP 90, p. 82) and has opposed legislation that resulted in the unwarranted federalization of state crimes, particularly in the area of juvenile justice (see, JCUS-SEP 92, p. 57; JCUS-SEP 97, p. 65).</p> <p>The Committee understands that the recommendation is a statement of general principle that may be applicable to a broad range of legislative proposals. While progress may be made towards reaching this goal, the Committee recognizes that this recommendation may never be fully satisfied. It may, however, serve as a guiding policy for the judiciary. The Committee believes that any legislation that is reviewed should be considered under these principles.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
<p>2: In principle, criminal activity should be prosecuted in a federal court only in those instances in which state court prosecution is not appropriate or where federal interests are paramount. Congress should be encouraged to allocate criminal jurisdiction to the federal courts only in relation to the following five types of offenses: (a) The proscribed activity constitutes an offense against the federal government itself or against its agents, or against interests unquestionably associated with a national government; or the Congress has evinced a clear preference for uniform federal control over this activity. (b) The proscribed activity involves substantial multistate or international aspects. (c) The proscribed activity, even if focused within a single state, involves a complex commercial or institutional enterprise most effectively prosecuted by use of federal resources or expertise. When the states have obtained sufficient resources and expertise to adequately control this type of crime, this criterion should be reconsidered. (d) The proscribed activity involves serious, high-level, or widespread state or local government corruption, thereby tending to undermine public confidence in the effectiveness of local prosecutors and judicial systems to deal with the matter. (e) The proscribed activity, because it raises highly sensitive issues in the local community, is perceived as being more objectively prosecuted within the federal system.</p>	Committee on Criminal Law	Effectuated through Policy or Practice	<p>The Judicial Conference has opposed legislation that resulted in the unwarranted federalization of state crimes (see, JCUS-SEP 92, p. 57; JCUS-MAR 93, p. 13; JCUS-SEP 97, p. 65).</p> <p>The Committee understands that the recommendation is a statement of general principle that may be applicable to a broad range of legislative proposals. While progress may be made towards reaching this goal, the Committee recognizes that this recommendation may never be fully satisfied. It may, however, serve as a guiding policy for the judiciary. The Committee believes that any legislation that is reviewed should be considered under these principles.</p>
<p>3: Congress should be encouraged to review existing federal criminal statutes with the goal of eliminating provisions no longer serving an essential federal purpose. More broadly, a thorough revision of the federal criminal code should be undertaken so that it conforms to the principles set forth in Recommendation 2 above. In addition, Congress should be encouraged to consider use of "sunset" provisions to require periodic reevaluation of the purpose and need for any new federal offenses that may be created.</p>	Committee on Criminal Law	Effectuated through Policy or Practice	<p>While the Judicial Conference has identified obsolete statutory provisions that are ripe for repeal (e.g., references to the Narcotics Addict Rehabilitation Act (JCUS-MAR 02, p. 13)), a thorough revision of the federal criminal code has not been sought. In light of the Supreme Court's decision in <i>United States v. Booker</i>, 543 U.S. 220 (2005), the Committee closely followed a proposal to revise the federal criminal code; however, that legislation was ultimately not pursued in the Congress.</p> <p>The Committee has not actively pursued the inclusion of sunset provisions, but will consider recommending such provisions if it is deemed consistent with this plan.</p>
<p>4: Congress and the executive branch should be encouraged to undertake cooperative efforts with the states to develop a policy to determine whether offenses should be prosecuted in the federal or state systems.</p>	Committee on Criminal Law	Effectuated through Policy or Practice	<p>The Judicial Conference has not opposed efforts to authorize the Department of Justice to issue grants that would allow the states to use federal funds to prosecute criminal offenses; however, the judiciary has not played an active role in promoting these programs or facilitating any dialogue between the executive branch and the states.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
4a: There should be an increase in federal resources allocated to state criminal justice systems for prosecution of matters now handled by federal prosecutors because of lack of state resources.	Committee on Criminal Law	Effectuated through Policy or Practice	<p>The Judicial Conference has not opposed efforts to authorize the Department of Justice to issue grants that would allow the states to use federal funds to prosecute criminal offenses; however, the judiciary has not played an active role in promoting these programs or facilitating any dialogue between the executive branch and the states.</p> <p>While this recommendation continues to have merit, it must be considered in light of the current budget climate in which discretionary, non-Homeland Security, and non-Defense spending is limited. The states' use of federal funds to prosecute offenses should be supported; however, it can not come at the expense of adequate funding for the judiciary's own programs.</p>
4b: The practice of cross-designating both federal and state prosecutors to gain efficiencies of prosecution should be increased.	Committee on Criminal Law	Effectuated through Policy or Practice	This recommendation appears to be one that can only be implemented by the Department of Justice. There has not been any opportunity for the judiciary to encourage the Department or the states to expand this practice.
4c: State courts should be authorized to adjudicate certain federal crimes for which there currently is no statutory grant of concurrent jurisdiction.	Committee on Criminal Law	Effectuated through Policy or Practice	This recommendation would require Congressional (and possibly state) legislation, which has not been introduced. While the judiciary has several legislative requests pending before the Congress (e.g., Criminal Judicial Procedure, Administration, and Technical Amendments Act of 2007), this recommendation is not one of them. The Committee believes that such legislation, if introduced, could be supported, but would need to be considered in light of the impact it may have on the judiciary's budget.

Recommendation or Implementation Strategy	Committee	Status	Comments
<p>5: The executive branch should be encouraged to develop standards on which the Justice Department will base the promulgation of prosecutorial guidelines. Specifically, standards should be considered-(a) that are consistent with sound jurisdictional boundaries for federal criminal prosecution as described in Recommendation 2; and(b) under which the potential for harsher federal sentencing policies and greater capacity in the federal prisons would be insufficient grounds, by themselves, to warrant prosecution under a federal, rather than a state, criminal statute.</p>	Committee on Criminal Law	Effected through Policy or Practice	<p>In his March 16, 2006, testimony before the House Subcommittee on Crime, Terrorism, and Homeland Security, former Committee Chair Paul Cassell identified several discrete areas where legislative or administrative action on sentencing issues might be valuable from the judiciary's perspective to facilitate the administration of justice, to preserve judges' traditional sentencing discretion, and to avoid various practical and technical problems. Among the issues discussed was an evaluation of the Department of Justice's practice of recommending departures for substantial assistance.</p>
<p>6: Congress should be encouraged to exercise restraint in the enactment of new statutes that assign civil jurisdiction to the federal courts and should do so only to further clearly defined and justified federal interests. Federal court jurisdiction should extend only to civil matters that-(a) arise under the United States Constitution; (b) deserve adjudication in a federal judicial forum because the issues presented cannot be dealt with satisfactorily at the state level and involve either (1) a strong need for uniformity or (2) paramount federal interests; (c) involve the foreign relations of the United States; (d) involve the federal government, federal officials, or agencies as plaintiffs or defendants; (e) involve disputes between or among the states; or (f) affect substantial interstate or international disputes.</p>	Committee on Federal-State Jurisdiction	Effected through Policy or Practice	<p>The Committee believes that this recommendation is a statement of general principle with continuing validity. However, members believed that the statement more appropriately belongs in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. It does not define measurable goals that can be obtained within a specified period of time.</p>
<p>7: Congress should be encouraged to seek reduction in the number of federal court proceedings in which jurisdiction is based on diversity of citizenship through the following measures: (a) eliminating diversity jurisdiction for cases in which the plaintiff is a citizen of the state in which the federal district court is located; and (b) otherwise limiting diversity jurisdiction by (1) amending the statutes conferring original and removal jurisdiction on the district courts in diversity actions to require that parties invoking diversity jurisdiction plead specific facts showing that the jurisdictional amount-in-controversy requirement has been satisfied; (2) raising the amount-in-controversy level and indexing the new floor amount to the rate of inflation; and/or (3) amending the statutory specification of the jurisdictional amount to exclude punitive damages from the calculation of the amount in controversy.</p>	Committee on Federal-State Jurisdiction	<p>Implementation not Complete</p> <p>Partial Implementation</p>	<p>The Long Range Plan should continue to include a goal of limiting the growth of the federal courts' caseload with respect to cases based on diversity of citizenship jurisdiction. The Committee supports (b)(2) and notes that a proposal to index the amount in controversy will be transmitted to Congress in the near future as part of the proposed Federal Courts Jurisdiction and Venue Clarification Act of 2008. However, the other proposals included in Recommendation 7 have not been pursued by the judiciary for a number of years and have encountered strong opposition from the organized bar and generated little support among members of Congress. The Committee is of the view that these proposals should be reconsidered and, accordingly, has not responded to the question of 'merit.'</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
8: The states should be encouraged to adopt certification procedures, where they do not currently exist, under which federal courts (both trial and appellate) could submit novel or difficult state law questions to state supreme courts.	Committee on Federal-State Jurisdiction	Implementation not Complete Partial Implementation	This recommendation should continue to be included in the Long Range Plan. Although 45 states authorize certification of questions of state law from the federal courts of appeals (see Wright, Miller, Cooper & Amar, Fed. Prac. And Proc. 3rd, § 4248 n. 30), only 19 authorize district courts to certify such questions (id., n. 31, 32). In addition to those 19 (some of which permit a bankruptcy court also to certify a question to the state supreme court), three other states expressly authorize certification of questions by bankruptcy courts, but do not refer to district courts (id., n. 32). As the certification procedure is intended to save time spent in litigation, the advantages of authorizing district court certification would be significant. This is an area meriting further attention from the Committee. It was noted, for example, that larger states with multiple federal district courts may have concerns that authorizing certification by a district court could impose caseload burdens on their supreme courts.
9: Congress and the agencies concerned should be encouraged to take measures to broaden and strengthen the administrative hearing and review process for disputes assigned to agency jurisdiction, and to facilitate mediation and resolution of disputes at the agency level.	Committee on Federal-State Jurisdiction	Effectuated through Policy or Practice	The Committee believes that this recommendation is a statement of general principle with continuing validity. However, members believed that the statement more appropriately belongs in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. It does not define measurable goals that can be obtained within a specified period of time. It does, however, enable the judiciary to comment on efforts undertaken by the affected agencies or interested parties or to bring to the attention of Congress or a particular agency problems that are occurring at the administrative level that affect the adjudication of cases by the federal courts.

Recommendation or Implementation Strategy	Committee	Status	Comments
9a: Legislation should be requested to improve the adjudicative process for Social Security disability claims by establishing a new mechanism for administrative review of ALJ decisions and limiting the scope of appellate review in the Article III courts.	Committee on Federal-State Jurisdiction	Effectuated through Policy or Practice	This implementation strategy should be reviewed in light of developments since its adoption, and accordingly, the Committee has not responded to the question of 'merit.' Over the past 15 years, the Committee has monitored proposals by SSA to make changes in the administrative disability claims process, including efforts to eliminate the Appeals Council, which currently provides a final level of administrative review before a claimant can file an action in federal court. The Committee has engaged in discussions with the Commissioner and other officials of SSA, and has testified before Congress regarding the impact of the proposed changes on the federal judiciary. Recently, SSA has issued proposed regulations that would reverse an earlier decision to limit administrative appellate review. The new regulations would grant all parties the right to seek administrative appellate review of an adverse ALJ decision prior to seeking review in the federal courts. The policy underlying the implementation strategy continues to be valid as a statement of general policy, but many of the changes are being implemented through regulation rather than legislation. The Committee may also want to review that part of the implementation strategy limiting the scope of appellate review in Article III courts.
9b: Legislative and other measures should be pursued to give agencies the requisite authority and resources to review and, where possible, achieve final resolution of disputes within their jurisdiction.	Committee on Federal-State Jurisdiction	Effectuated through Policy or Practice	The Committee believes that this recommendation is a statement of general principle with continuing validity. However, members believed that the statement more appropriately belongs in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. It does not define measurable goals that can be obtained within a specified period of time.
10: Where constitutionally permissible, Congress should be encouraged to assign to administrative agencies or Article I courts the initial responsibility for adjudicating those categories of federal benefit or regulatory cases that typically involve intensive fact-finding.	Committee on Federal-State Jurisdiction	Effectuated through Policy or Practice	The Committee believes that this recommendation is a statement of general principle that may appropriately belong in a preamble to the plan or as a statement of general policy to guide the judiciary. At the same time, the Committee believes that it would be beneficial to discuss the relationships among federal courts, administrative agencies, and Article I courts.

Recommendation or Implementation Strategy	Committee	Status	Comments
<p>11: Congress should be encouraged to enact legislation to-(a) generally prohibit agencies from adopting a policy of non-acquiescence to the precedent established in a particular federal circuit; and (b) require agencies to demonstrate special circumstances for relitigating an issue in an additional circuit when a uniform precedent has been established already in multiple courts of appeals.</p>	<p>Committee on Federal-State Jurisdiction</p>	<p>Implementation not Complete</p> <p>Underlying Conditions Changed; Legislation Proposed/Pending</p>	<p>This goal should continue to be included in the Long Range Plan. Although it was originally a response to practices in the late 1980's by the Social Security Administration, some members reported that the problem of agency non-acquiescence persists despite the reduction of the practice by SSA. In the past, the Judicial Conference has supported efforts to enact legislation that would generally prohibit agency non-acquiescence practices within a judicial circuit as well as encourage agencies to avoid unnecessary relitigation of legal issues consistently resolved against the government in three or more circuits. Although the legislation met with some legislative success (H.R. 1544 (105th Congress) passed the House of Representatives on February 25, 1998), it was not enacted.</p>
<p>12: Congress should be encouraged to refrain from providing federal district court jurisdiction over disputes that primarily raise questions of state law or involve workplace injuries where the state courts have substantial experience. Existing federal jurisdiction in these matters should be eliminated in favor of dispute-resolution or compensation mechanisms available under state law.</p>	<p>Committee on Federal-State Jurisdiction</p>	<p>Implementation not Complete</p> <p>Underlying Conditions Changed; Legislation Proposed/Pending</p>	<p>This recommendation should be reviewed and, accordingly, the Committee has not responded to the question of 'merit.'</p>
<p>12a: Congress should be encouraged to eliminate federal court jurisdiction over work-related personal injury actions, such as that provided by the Federal Employers' Liability Act and the Jones Act, where the states have proven effective in resolving worker compensation disputes in other industries and occupations.</p>	<p>Committee on Federal-State Jurisdiction</p>	<p>Implementation not Complete</p> <p>Legislation Proposed/Pending</p>	<p>This implementation strategy should be reviewed and, accordingly, the Committee has not responded to the question of 'merit.' This proposal was offered as a means to limit the growth of the federal courts' caseload, but it encountered strong opposition from the organized bar and generated little support among members of Congress. In previous biennial reviews of legislative positions, the Committee has recommended to the Executive Committee that efforts to secure enactment be deferred.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
12b: The jurisdiction of the federal courts to adjudicate routine claims for benefits under ERISA employee welfare benefit plans should be abolished, except when application or interpretation of federal statutory or regulatory requirements are at issue.	Committee on Federal-State Jurisdiction	Implementation not Complete Legislation Proposed/Pending	This strategy should be reviewed and, accordingly, the Committee has not responded to the question of 'merit.' As noted with regard to Implementation Strategy 12a, this proposal was offered as a means to limit the growth of the federal courts' caseload, but it encountered strong opposition from the organized bar and generated little support among members of Congress. In previous biennial reviews of legislative positions, the Committee has recommended to the Executive Committee that efforts to secure enactment be deferred.
12c: Any new cooperative federal-state program to establish national standards for employee benefits (e.g., health care) should designate state courts as the primary forum for review of benefit denial claims. However, any such program should include establishment of an administrative remedial process that must be exhausted before a state court action may be filed.	Committee on Federal-State Jurisdiction	Implementation not Complete Underlying Conditions Changed	This strategy should be reviewed and, accordingly, the Committee has not responded to the question of 'merit.' This proposal was offered as a means to limit the growth of the federal courts' caseload at a time when it was anticipated that a federal health care program might be proposed and some proposals contemplated federal court review of certain causes of action. That legislative effort did not succeed, but health care policies continue to evolve at both the federal and state levels. As health care remains an important societal issue, the role of the federal and state courts will continue to be an important part of that discussion.
13: When legislation is considered that may affect the federal courts directly or indirectly, Congress should be encouraged to take into account the judicial impact of the proposed legislation, including the increased caseload and resulting costs for the federal courts.	Committee on Federal-State Jurisdiction	Effected through Policy or Practice	The Committee believes that this recommendation is a statement of general principle with continuing validity. However, members believed that the statement more appropriately belongs in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. It does not define measurable goals that can be obtained within a specified period of time. The judiciary provides assessments of the potential budgetary and caseload impact on the judiciary of various legislative proposals. The Committee views this as an ongoing responsibility of the judiciary to ensure that the judiciary has the necessary resources to carry out its responsibilities.
13: When legislation is considered that may affect the federal courts directly or indirectly, Congress should be encouraged to take into account the judicial impact of the proposed legislation, including the increased caseload and resulting costs for the federal courts.	Executive Committee	Effected through Policy or Practice	This recommendation embraces the practice of providing Congress with analyses of the potential impact of proposed legislation on the courts, although it expresses an aspiration that cannot be definitively achieved.

Recommendation or Implementation Strategy	Committee	Status	Comments
<p>14: In considering measures that would shift jurisdiction away from the federal courts or provide new jurisdiction through the establishment of concurrent jurisdiction, Congress should also be encouraged to consider and address the impact of the proposed legislation on the states. Specifically, it should be urged to (a) consult with state authorities and state judicial leaders in defining any new limits on federal jurisdiction; and (b) provide federal financial and other assistance to state justice systems to permit them to handle the increased workload that would result from the reduction or elimination of existing federal court jurisdiction or the creation of new concurrent jurisdiction.</p>	<p>Committee on Federal-State Jurisdiction</p>	<p>Effectuated through Policy or Practice</p>	<p>The Committee believes that this recommendation is a statement of general principle with continuing validity. However, members believed that the statement more appropriately belongs in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. It does not define measurable goals that can be obtained within a specified period of time. Given its responsibility to facilitate communications between the federal and state courts, the Committee consistently considers the impact of federal legislative initiatives on the state courts, particularly when there is a shift in jurisdiction that threatens to undermine the traditional boundaries of the federal and state courts or when new burdens would be placed upon the state courts to implement national policies.</p>
<p>14: In considering measures that would shift jurisdiction away from the federal courts or provide new jurisdiction through the establishment of concurrent jurisdiction, Congress should also be encouraged to consider and address the impact of the proposed legislation on the states. Specifically, it should be urged to (a) consult with state authorities and state judicial leaders in defining any new limits on federal jurisdiction; and (b) provide federal financial and other assistance to state justice systems to permit them to handle the increased workload that would result from the reduction or elimination of existing federal court jurisdiction or the creation of new concurrent jurisdiction.</p>	<p>Executive Committee</p>	<p>Implementation not Complete Partial Implementation</p>	<p>Part (a) expresses an aspiration that cannot be definitively achieved but serves to guide the Federal-State Jurisdiction Committee in its consideration of potential jurisdictional changes that can affect the state courts. It is unclear to what extent part (b) states an approach that has been pursued to date, or whether the judiciary would find it appropriate to pursue that approach in the future.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
15: The growth of the Article III judiciary should be carefully controlled so that the creation of new judgeships, while not subject to a numerical ceiling, is limited to that number necessary to exercise federal court jurisdiction.	Committee on Judicial Resources	Effectuated through Policy or Practice	In 1996, the Judicial Conference approved a recommendation from the Committee on Judicial Resources (JRC) to include in the Biennial Judgeship Survey a review of courts in which it may be appropriate to recommend eliminating a judgeship or leaving a vacancy unfilled. In 1999, the judgeship survey questionnaire was modified to collect more detailed information on the use of senior, visiting, and magistrate judges in order to demonstrate that courts are maximizing the use of available judicial resources before requesting additional judgeships. The JRC's Statistics Subcommittee also coordinates with the Committee on the Administration of the Magistrate Judge System regarding recommendations for additional magistrate judge positions. For the 2005 Survey, the Subcommittee modified the standard for considering requests for additional judgeships from current weighted filings above 430 per authorized judgeship to weighted filings above 430 with the addition of the requested judgeship.
15a: The limited jurisdiction of the federal courts should be preserved as described in Recommendations 1 through 12.	Committee on Federal-State Jurisdiction	Effectuated through Policy or Practice	The Committee believes that this implementation strategy is a statement of general principle with continuing validity. However, members believed that the statement more appropriately belongs in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. It does not define measurable goals that can be obtained within a specified period of time.
15a: The limited jurisdiction of the federal courts should be preserved as described in Recommendations 1 through 12.	Committee on Criminal Law	Effectuated through Policy or Practice	The Judicial Conference has opposed efforts to create specialized courts (see, JCUS-SEP 62, p. 54; JCUS-SEP 86, p. 60; JCUS-SEP 90, p. 82) and has opposed legislation that resulted in the unwarranted federalization of state crimes, particularly in the area of juvenile justice (see, JCUS-SEP 92, p. 57; JCUS-SEP 97, p. 65). The Committee understands that the recommendation is a statement of general principle that may be applicable to a broad range of legislative proposals. While progress may be made towards reaching this goal, the Committee recognizes that this recommendation may never be fully satisfied. It may, however, serve as a guiding policy for the judiciary. The Committee believes that any legislation that is reviewed should be considered under these principles.

Recommendation or Implementation Strategy	Committee	Status	Comments
15b: The Judicial Conference should employ up-to-date, comprehensive methods to evaluate judgeship needs.	Committee on Judicial Resources	Effectuated through Policy or Practice	The Statistics Subcommittee's evaluation of judgeship requests includes a thorough review of the caseload in each court that requests additional judgeships. Also, the Subcommittee has expanded the depth of its analysis regarding the use of senior, visiting, and magistrate judges. In 2004, the Subcommittee recommended and the Committee approved new district court case weights which were used for the first time in the 2005 survey.
15c: The need for additional judgeships should be reduced through control of federal court caseloads as described in this plan (including the appropriate reallocation of cases to state courts and other forums), and by operational improvements in the courts that increase efficiency without sacrificing either quality in the judicial work product or access to the remedies available only in a federal forum.	Committee on Federal-State Jurisdiction	Effectuated through Policy or Practice	The Committee believes that this recommendation is a statement of general principle with continuing validity. However, members believed that the statement more appropriately belongs in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. It does not define measurable goals that can be obtained within a specified period of time.
16: The federal appellate function should be performed primarily in: (a) a generalist court of appeals established in each regional judicial circuit; and (b) a Court of Appeals for the Federal Circuit with nationwide jurisdiction in certain subject-matter areas.	Committee on Federal-State Jurisdiction	Effectuated through Policy or Practice	The Committee believes that this recommendation is a statement of general principle with continuing validity. However, members believed that the statement more appropriately belongs in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. It does not define measurable goals that can be obtained within a specified period of time.
17: Each court of appeals should comprise a number of judges sufficient to maintain access to and excellence of federal appellate justice. Circuit restructuring should occur only if compelling empirical evidence demonstrates adjudicative or administrative dysfunction in a court so that it cannot continue to deliver quality justice and coherent, consistent circuit law in the face of increasing workload.	Committee on Court Administration and Case Management	Effectuated through Policy or Practice	In response to a request from the Executive Committee, CACM compiled and analyzed statistical information on the adjudicative and administrative functioning of the Ninth Circuit. No further requests have been made for such information for the Ninth Circuit or any other circuits.
18: To the extent practicable, workload should be equalized among judges of the courts of appeals nationally.	Committee on Court Administration and Case Management	Implementation Not Complete No Action Taken	Appears to be an aspirational recommendation. Judiciary has opposed efforts to move certain types of cases, such as immigration cases, out of the circuit in which they arose to a specialized circuit.

Recommendation or Implementation Strategy	Committee	Status	Comments
19: The United States Supreme Court should continue to be the sole arbiter of conflicting precedents among the courts of appeals.	Committee on Federal-State Jurisdiction	Effectuated through Policy or Practice	The Committee believes that this recommendation is a statement of general principle with continuing validity. However, members believed that the statement more appropriately belongs in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. It does not define measurable goals that can be obtained within a specified period of time. In the years prior to the development of the Long Range Plan, Congress had considered several proposals to establish a national court of appeals to which part of the Supreme Court's caseload could be assigned. This recommendation appears to have been developed in response to those proposals.
20: In general, the actions of administrative agencies and decisions of Article I courts should be reviewable directly in the regional courts of appeals. For those cases in which the initial forum for judicial review is the district court, further review in the court of appeals should be available only on a discretionary basis except with respect to constitutional matters and questions of statutory or regulatory interpretation.	Committee on Federal-State Jurisdiction	Effectuated through Policy or Practice	The Committee believes that this recommendation is a statement of general principle that may be appropriate in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. At the same time, the Committee believes that, as with Recommendation 10, it would be beneficial to discuss the relationships among federal courts, administrative agencies, and Article I courts.
21: The existing mechanism for review of dispositive orders of bankruptcy judges should be studied to determine what appellate structure will ensure prompt, inexpensive resolution of bankruptcy cases and foster coherent, consistent development of bankruptcy precedents.	Committee on the Administration of the Bankruptcy	Implementation Completed	A study was conducted. In 1997, the National Bankruptcy Review Commission studied this issue and recommended that orders of bankruptcy judges be directly reviewable in the courts of appeals, eliminating the existing two-step path for bankruptcy appeals (i.e., review by the district court or bankruptcy appellate panel, followed by court of appeals review). Section 1233 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 modifies the bankruptcy appellate structure by allowing parties, under certain circumstances, to bypass intermediate appellate review by a district court or a bankruptcy appellate panel, and obtain direct circuit court review of the bankruptcy court decision, including an interlocutory order.

Recommendation or Implementation Strategy	Committee	Status	Comments
22: Pending completion of the study of bankruptcy appellate structure recommended above, the dispositive orders of bankruptcy judges should be reviewable directly in the court of appeals in those cases where the district court or bankruptcy appellate panel (BAP) certifies that such review is needed immediately to establish legal principles on which subsequent proceedings in the case may depend.	Committee on the Administration of the Bankruptcy	Implementation Completed	Section 1233 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 modifies the bankruptcy appellate structure by allowing parties, under certain circumstances, to bypass intermediate appellate review by a district court or a bankruptcy appellate panel, and obtain direct circuit court review of the bankruptcy court decision, including an interlocutory order. These circumstances include the establishment of legal principles on which subsequent proceedings in the case may depend. Specifically, judgments, orders, and decrees may bypass intermediate appellate review when the parties acting jointly, or the bankruptcy court, the district court, or the bankruptcy appellate panel certify that: a) they involve a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involve matters of public importance; b) they involve a question of law requiring resolution of conflicting decisions; or c) an immediate appeal may materially advance the progress of the case or proceeding in which the appeal is taken.
23: Where parties to a civil action have consented to the case-dispositive authority of a magistrate judge, judgments entered in such actions should be reviewable only in the courts of appeals, and not by a district judge.	Committee on the Administration of the Magistrate Judges System	Implementation Complete	In October 1996, the Federal Court Improvements Act of 1996, Pub. L. No. 104-317, amended 28 U.S.C. § 636(c), to eliminate the option of appealing the judgment of a magistrate judge in a civil consent case to a district judge.
24: Except in certain limited contexts (i.e., bankruptcy proceedings, international trade matters, and claims against the federal government), the primary trial forum for disputes committed to federal jurisdiction should be a generalist district court whose judges are affiliated with, and required to reside in, the court's general geographic region, and whose facilities are reasonably accessible to litigants, jurors, witnesses, and other participants in the judicial process.	Committee on Federal-State Jurisdiction	Effected through Policy or Practice	The Committee believes that this recommendation is a statement of general principle with continuing validity. However, members believed that the statement more appropriately belongs in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. It does not define measurable goals that can be obtained within a specified period of time.
25: The judicial districts should continue to be allocated among and within the states so that each district comprises a single state or part of a state.	Committee on Court Administration and Case Management	Effected through Policy and Practice	Title 28 was amended to allow for courts in emergency circumstances to hold proceedings outside their district or circuit. However, strict reporting and time deadlines were required to prevent any long-term use of out-of-district or circuit facilities.

Recommendation or Implementation Strategy	Committee	Status	Comments
26: The impact of district alignment on access to the courts and efficient judicial administration should be studied periodically. Any such study should examine the functional and administrative costs and benefits which merger or division of districts would produce.	Committee on Court Administration and Case Management	Effectuated through Policy and Practice	The Conference has had in place since 1978 a process for determining whether it will support changes in the make-up of districts or places of holding court within a district. The Conference does not consider any proposed changes unless the affected court(s) and circuit(s) both support the changes. Any request for changes must take into account a number of factors such as caseloads, convenience of jurors, and the views of the U.S. Attorney.
27: Each district court should continue to include a bankruptcy court consisting of fixed-term judges with expertise in the field of bankruptcy law.	Committee on the Administration of the Bankruptcy	Implementation Completed	This recommendation has assisted the judiciary in responding to proposals to change bankruptcy judge tenure and the organizational placement of bankruptcy courts, such as a 1997 recommendation of the National Bankruptcy Review Commission that the bankruptcy courts be reestablished under Article III of the Constitution with life-tenured judges.
27a: The bankruptcy court should exercise the original jurisdiction of the district court in bankruptcy matters to the extent constitutionally and statutorily permissible.	Committee on the Administration of the Bankruptcy	Implementation Completed	This implementation strategy supports the idea that bankruptcy courts should exercise pervasive jurisdiction over matters affecting a debtor's bankruptcy. This strategy provides a starting point for the articulation of Judicial Conference positions on more specific issues regarding the jurisdiction of bankruptcy courts (such as contempt powers and approval to conduct jury trials).
27b: Congress should be encouraged to clarify the authority of the bankruptcy courts. For example, legislation should be enacted that expressly recognizes the civil contempt power of bankruptcy judges and also affords them limited jurisdiction to hold litigants or counsel criminally liable for misbehavior, disobedience, or resistance to a lawful order.	Committee on the Administration of the Bankruptcy	Implementation not Completed Partial Implementation; Underlying Conditions Changed	Passage of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 has complicated the issue of bankruptcy court authority, among many other aspects of bankruptcy practice. Experience over a number of years will indicate issues that might require legislative attention. Congress is unlikely to revisit issues of court authority in the immediate future. The specific example, contempt authority, has been largely clarified through court decisions and rule changes.

Recommendation or Implementation Strategy	Committee	Status	Comments
28: Rules of practice, procedure, and evidence for the federal courts should be adopted and, as needed, revised to promote simplicity in procedure, fairness in administration, and a just, speedy, and inexpensive determination of litigation.	Committee on Rules of Practice and Procedure	Effectuated through Policy or Practice	<p>The Rules Enabling Act directs the Standing Committee to recommend to the Judicial Conference proposed amendments to the rules of practice, procedure, and evidence “as may be necessary to maintain consistency and otherwise promote the interest of justice.” 28 U.S.C. § 2073. The federal rules of practice and procedure regulate litigation in the federal courts and are designed to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay. See generally Federal Rule of Civil Procedure 1 (“[t]hese rules . . . shall be construed and administered to secure the just, speedy, and inexpensive determination of every action”); Federal Rule of Evidence 102 (“[t]hese rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined”). Among other things, the Standing Committee began work in 1991 on restyling the federal rules of practice and procedure, making them simpler and easier to read and promoting uniformity among all sets of rules, without changing their substantive meaning. In 2006, the Standing Committee approved comprehensive style amendments to the Federal Rules of Civil Procedure and style revisions to the Illustrative Civil Forms, which were approved by the Judicial Conference and Supreme Court and took effect on December 1, 2007. The restyled Civil Rules became the third set of restyled rules following the restyling of the Federal Rules of Appellate Procedure in 1998 and the restyling of the Federal Rules of Criminal Procedure in 2002. The Advisory Committee on Evidence Rules is in the early stage of restyling the Federal Rules of Evidence, which are tentatively scheduled to become effective in 2011.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
28a: Rules should be developed exclusively in accordance with the time-tested and orderly process established by the Rules Enabling Act.	Committee on Rules of Practice and Procedure	Effectuated through Policy or Practice	<p>The Rules Enabling Act establishes a statutory structure under which the judiciary prescribes rules of procedure, practice, and evidence for the federal courts, after giving the bench, bar, and public an opportunity for input. Congress retains the ultimate authority to accept, reject, amend, or defer proposed amendments to the rules. The process works well and has been described as “perhaps the most thoroughly open, deliberative, and exacting process in the nation for developing substantively neutral rules.”</p> <p>The Rules Committees continually monitor congressional activity in the rulemaking process. Committee chairs communicate with members of Congress on preserving the Rules Enabling Act process and have testified before congressional committees expressing the views of the Judiciary relating to rules-related issues in legislation.</p>
28b: The national rules should strive for greater uniformity of practice and procedure, but individual courts should be permitted limited flexibility to account for differing local circumstances and to experiment with innovative procedures.	Committee on Rules of Practice and Procedure	Effectuated through Policy or Practice	<p>A local rule must be consistent with — but not duplicative of — federal statutes and national rules of practice and procedure adopted under the Rules Enabling Act. The Rules Committees have periodically undertaken studies of local rules of court not only for consistency with the federal rules, but also for possible adoption as amendments to the federal rules. For example, the Advisory Committee on Civil Rules is currently analyzing local district court rules in conjunction with its study of Civil Rule 56. The advisory committee has prepared a draft rule amendment, which incorporates practices and procedures found in many local court rules. In addition, the Advisory Committee on Appellate Rules considered a proposed amendment to Federal Rule of Appellate Procedure 28, making briefing requirements uniform throughout the circuits. To inform its deliberations, the advisory committee asked the Federal Judicial Center to conduct an empirical study of local circuit court rules. The study revealed that a number of circuits impose briefing requirements that are not found in the national rules. The chair of the advisory committee wrote to the chief judges in the circuits, requesting that the circuit consider whether briefing requirements imposed by local rules should be reduced or eliminated. A number of circuits agreed to reconsider their local rules on briefing.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
<p>28c: In developing rules, the Judicial Conference and the individual courts should seek significant participation by the interested public and representatives of the bar, including members of the federal and state benches.</p>	<p>Committee on Rules of Practice and Procedure</p>	<p>Effected through Policy or Practice</p>	<p>The Rules Committees actively reach out to the bench, bar, and public to involve them in the federal rulemaking process. The committees post on the judiciary’s Federal Rulemaking web site proposed rules amendments and new rules, committee minutes and reports, public comments on proposed amendments, schedules of upcoming rules committees’ meetings and public hearings, committee agenda materials, and other information. After a proposed rule amendment or new rule is approved for public comment, the Standing Committee’s secretary arranges for printing and distribution of the proposal to the bench and bar, legal publishers, and general public. More than 18,000 persons and organizations are on the mailing list, including points of contact that have been established with 53 state bar associations. In addition, the advisory committees often seek input from the bar outside the context of specific pending amendments. For example, the Advisory Committee on Civil Rules has invited bar organizations to send representatives to attend its meetings, and it has, in appropriate cases, solicited the views of lawyers and professors on preliminary proposals before they were drafted. In 2007, the Civil Rules Committee held several major conferences in New York and Washington, D.C., involving prominent judges, practicing attorneys, and law professors to discuss proposed amendments to Civil Rule 56 on summary judgment and Civil Rule 26 on the discovery of expert witness reports.</p> <p>The Rules Committees frequently hold their meetings, conferences, and public hearings at law schools, courthouses, and other public venues to encourage greater interest and participation in the rulemaking process. Rules Committees have met recently at the Ninth Circuit Courthouse in San Francisco, United States District Courthouse in New York, United States District Courthouse in Dallas, Boston College Law School, University of Chicago Law School, University of North Carolina School of Law, Fordham University School of Law, and Vanderbilt University School of Law.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
29: The Judicial Conference should continue and strengthen efforts to express judicial concerns about sentencing policy.	Committee on Criminal Law	Effectuated through Policy or Practice	The Committee, on behalf of the Judicial Conference, has maintained and enhanced its efforts to express concerns about sentencing policy. Committee members have testified before Congress and the U.S. Sentencing Commission in matters ranging from federal cocaine sentencing policy, mandatory minimum sentencing, and federal sentencing post-Booker. In addition, the Committee, in conjunction with the Federal Judicial Center and the Sentencing Commission, continues to host biannual Sentencing Policy Institutes at which federal sentencing policy is discussed.
30: The legal standards for criminal sentencing should encourage both uniformity of practice and attention to individual circumstances.	Committee on Criminal Law	Effectuated through Policy or Practice	<p data-bbox="1409 594 1902 789">On behalf of the Judicial Conference, the Committee has worked with the Sentencing Commission to develop national judgment forms that facilitate the sentencing process post-Booker. The Committee and the Commission have issued several joint memoranda to judges and court unit executives to encourage uniform practices, and have used the Sentencing Policy Institutes to convey information on preferred practices.</p> <p data-bbox="1409 821 1902 1110">At the same time, the Committee has sought to preserve judicial discretion by testifying before Congress in opposition to mandatory minimums and by encouraging Congress to take a deliberative approach to any post-Booker sentencing legislation. In 2005, the Conference resolved to oppose legislation that would respond to the Supreme Court's Booker decision by (1) raising directly the upper limit of each guideline range or (2) expanding the use of mandatory minimum sentences. In 2006, the Conference also considered the consequences of mandatory minimum terms in opposing the existing differences between crack and powder cocaine sentences.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
30a: Congress should be encouraged not to prescribe mandatory minimum sentences.	Committee on Criminal Law	Effectuated through Policy or Practice	<p>The Judicial Conference has consistently opposed mandatory minimum sentences for more than fifty years. At its September 1953 meeting, the Conference endorsed a resolution from the Judicial Conference of the District of Columbia Circuit, opposing enactment of laws that compelled judges to impose minimum sentences and that denied judges the ability to place certain defendants on probation. Since then, the Judicial Conference has condemned mandatory minimum sentences with some regularity. In September 1961, the Conference considered several criminal bills pending before Congress. While the Conference took no position on the substantive merits of the bills, it 'disapproved in principle those provisions requiring the imposition of mandatory minimum sentences.' By the next year, opposition to mandatory minimum sentences was considered to be the official position of the Judicial Conference. In March 1962, the Conference approved a bill, 'consistent with the established policy of the Conference concerning mandatory minimum sentences.' Legislation containing mandatory minimum sentencing provisions was opposed on these grounds in 1965, 1967, and 1971.</p> <p>In 1976, the Conference affirmed its opposition, noting that there was no demonstrated need for legislation imposing mandatory minimum terms for certain offenses, and concluding that such legislation would 'unnecessarily prolong the sentencing process and engender additional appellate review and would increase the expenditure of public funds without increase in additional benefits.'</p> <p>In 1981, the Conference disapproved a bill that would have imposed extended and strengthened mandatory penalties for the use of firearms in federal felonies. The Conference noted that proposed legislation typically required the imposition of a minimum term while prohibiting probation and parole eligibility.</p> <p>In March 1990, the Conference noted that the Third, Eighth, Ninth, and Tenth Circuits had all passed resolutions against mandatory minimum sentences, and voted to 'urge the Congress to reconsider the wisdom of mandatory minimum sentence statutes and to restructure such statutes so that the U.S. Sentencing Commission may uniformly establish guidelines for all criminal statutes to avoid unwarranted disparities.' In May 1990, the Executive Committee reaffirmed this position in the form of approving a recommendation of the Federal Courts Study Committee to repeal mandatory minimum</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
			<p>sentencing provisions, whereupon the U.S. Sentencing Commission should reconsider the guidelines applicable to the affected offenses. The Conference's longstanding opposition to mandatory minimum terms was reaffirmed in July and August of 1991 by the Executive Committee when it opposed amendments to the Violent Crime Control Act of 1991.</p>
			<p>In September 1991, the Conference approved a proposed statutory amendment that would provide district judges with authority to impose a sentence below a mandatory minimum when a defendant has limited involvement in an offense. The Conference noted that '[w]hile the judiciary's overriding goal is to persuade Congress to repeal mandatory minimum sentences, for the short term, a safety valve of some sort is needed to ameliorate some of the harshest results of mandatory minimums.'</p>
			<p>In March 1993, in the context of a long range planning initiative, the Conference again agreed to renew efforts to reverse the trend of enacting mandatory minimum prison sentences. Later, in September 1993, the Conference considered the Controlled Substances Minimum Penalty: Sentencing Guideline Reconciliation Act of 1993, legislation presented by the Chairman of the U.S. Sentencing Commission that attempted to reconcile mandatory minimum sentences with the sentencing guidelines. 'The Committee on Criminal Law believed that, although the proposed legislation would not solve all of the problems associated with mandatory minimum sentences, it addresses the essential incompatibility of mandatory minimums and sentencing guidelines and represents a promising approach.' On recommendation of the Committee on Criminal Law, the Conference endorsed the concept.</p>
			<p>On May 17, 1994, 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 despite the burden that retroactivity may impose upon the judiciary.</p>
			<p>More recently, when considering the appropriate responses to the Supreme Court's decision in the United States v. Booker in 2005, the Conference resolved to 'oppose legislation that would respond to the Supreme Court's decision by (1) raising directly the upper limit of each guideline range or (2) expanding the use of</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
30b: The United States Sentencing Commission should be encouraged to develop sentencing guidelines that-(1) afford sentencing judges the ability to impose more alternatives to imprisonment; (2) encourage departures from guideline levels where factual differences should appropriately be taken into account; and (3) enable sentencing judges to consider within the guideline scheme a greater number of offender characteristics.	Committee on Criminal Law	Effectuated through Policy or Practice	<p data-bbox="1409 248 1892 345">mandatory minimum sentences.¹ In 2006, the Conference also considered the consequences of mandatory minimum terms in opposing the existing differences between crack and powder cocaine sentences.</p> <p data-bbox="1409 375 1892 594">The Committee understands that the recommendation is a statement of general principle that may be applicable to a broad range of legislative proposals. While progress may be made towards reaching this goal, the Committee recognizes that this recommendation may never be fully satisfied. It may, however, serve as a guiding policy for the judiciary. The Committee believes that any legislation that is reviewed should be considered under these principles.</p> <p data-bbox="1409 659 1892 930">Since the initial promulgation of the guidelines, the Committee, on behalf of the Judicial Conference, has supported efforts to make the guidelines more flexible (see, JCUS-SEP 95, p. 47; JCUS-MAR 93, p. 13; JCUS-SEP 90, p. 69). In the wake of the Supreme Court's Booker decision, and as clarified in the Court's 2007 opinions, <i>Kimbrough v. U.S.</i>, 128 S.Ct. 558 (2007) and <i>Gall v. U.S.</i>, 128 S.Ct. 586 (2007), the guidelines are now advisory. Nonetheless, since 18 U.S.C. § 3553(a) still requires the court's to consider the guidelines and policy statements, this recommendation still has merit.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
<p>31: A well supported and managed system of highly competent probation and pretrial services officers should be maintained in the interest of public safety and as a necessary source of accurate, adequate information for judges who make sentencing and pretrial release decisions.</p>	<p>Committee on Criminal Law</p>	<p>Effectuated through Policy or Practice</p>	<p>There have been several developments towards achieving this goal. The Committee has endorsed the central recommendations of the 2004 IBM Strategic Assessment on the Probation and Pretrial Services System, including the emphasis on empirical measurement of results. See JCUS-SEP 04, p. 15 (noting that 'the Committee endorsed a strategic approach that (a) the probation and pretrial services system be organized, staffed, and funded in ways to promote mission-critical outcomes; and (b) the capacity be developed to empirically measure the results'). Preliminary work has been conducted on an outcome measurement system, but it will be several years before such a system is fully implemented and before collected data will be available to assist the Committee and Judicial Conference in making their decisions.</p> <p>Since 2004, the Administrative Office has held 'partner' status with the Federal Law Enforcement Training Center (FLETC), which provides high quality training to probation and pretrial services officers. New officers receive instruction on working within the judicial branch, including how to prepare bail reports and presentence reports and how to supervise defendants and offenders. Experienced officers can also return to FLETC to receive certification in various safety programs.</p> <p>While FLETC has provided outstanding training to new officers, it lacks sufficient staffing to train all new officers, resulting in a waiting period more than one year to enroll. The Criminal Law Committee has resolved to support the hiring of additional FLETC staff in order to establish a system of better-trained probation and pretrial services officers.</p> <p>With FLETC assuming the role of providing training for new officers, the Federal Judicial Center (FJC) was free to focus on continuing staff development. Through its Professional Educational Institute (PEI), the FJC provides operational- and management-oriented training programs for officers and administrative staff. Through PEI, officers can satisfy the Conference's requirement that officers complete 40 hours of continuing education each year.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
32: In the interests of promoting justice and fairness, all aspects of the administration and operation of the jury system-grand juries, criminal, petit, and civil-should continue to be studied and improved.	Committee on Court Administration and Case Management	Implementation Not Complete Legislation Proposed/Pending; Partial Implementation	<p data-bbox="1409 256 1881 302">There have been a number of initiatives to improve jury services following the adoption of the LRP.</p> <p data-bbox="1409 331 1845 427">In 1999, FRCrP 6(d)(2) was amended to permit interpreters to assist grand jurors who are speech or hearing impaired during the jury's deliberations and voting.</p> <p data-bbox="1409 456 1898 651">The AO implemented the Jury Management System (JMS) in 1999. The software prints and scans qualification questionnaires, prints one and two-step summonses, tracks jurors, maintains statistics, and provides financial calculations for juror payment. A Web Page is being added to the JMS in 2008 that will allow prospective jurors to go online to complete jury forms and to receive information about their jury service.</p> <p data-bbox="1409 680 1898 1000">In 2004, the AO prepared a statistical analysis of each district court, indicating how its juror usage rates had changed over the preceding 10 years. The CACM Committee, through its chair, provided this information to each district chief judge and clerk of court, along with more general information regarding techniques that could assist courts in improving juror utilization. The Committee also provided the circuit chief judges with the analyses of the districts within their respective circuits. Based on these communications, a number of courts and circuits looked at identifying and implementing better juror management practices to improve their utilization of jurors.</p> <p data-bbox="1409 1029 1898 1252">The Federal Judicial Center addressed optimal juror utilization by developing and scheduling several workshops on juror management and utilization that took place in 2001, 2004 and 2005. The AO has resumed its 'Report on Juror Utilization' twice a year beginning in 2006. The JCUS adopted the CACM Committee recommendations to update the Model Grand Jury Charge in 2005 and to amend the 'Handbook for Grand Jurors' in 2006.</p> <p data-bbox="1409 1281 1898 1474">On recommendations of the CACM Committee, the JCUS agreed to seek amendments to statutes in the Jury Selection and Service Act, 28 U.S.C. 1861 et. Seq., establishing penalties for failure to appear in response to summonses relating to jury service and for employer's violation of the protection of juror's employment, to increase the amount of the fine and to offer an option for community service. There is also legislation pending to</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
33: Steps must be taken to confront the growing demands pro se litigation places on the federal courts.	Committee on Court Administration and Case Management	Effectuated through Policy and Practice	raise the juror fee from \$40 to \$50 per day and to reduce the number of days before jurors on long trials receive an additional \$10. For the June 2007 meeting, the CACM Subcommittee on Juries looked at a number of options to improve jury service and determined that it would never really be possible to fully compensate jurors for their service. The Committee did endorse a recommendation adopted by the Conference that courts should , whenever possible, use procedures that reduce the burden on jurors, such as one day-one trial or limited periods during which a juror may be called for service.
33a: A broad-based study, with participation from within and outside the courts, should be conducted to evaluate the impact of pro se litigation and recommend changes.	Committee on Court Administration and Case Management	Effectuated through Policy and Practice	A Pro Se Law Clerk Staffing Formula Working Group is being established in 2008 to develop a work Center Description for pro se law clerks that will be used to update the staffing formula. CACM's Long Range Planning Subcommittee is studying access to the courts and has asked the AO to gather information on what is being done in the federal courts to assist pro se litigants, especially in light of the adoption of CM/ECF. This effort will also cover prisoner pro se litigants.
33b: Alternative avenues for pro se prisoner litigation should be explored.	Committee on Court Administration and Case Management	Implementation Not Complete Partial Implementation	The Prison Litigation Reform Act of 1996 (Pub. L. No. 104-134, Tit. VIII) contained provisions that significantly affect procedures and limit remedies in prisoner civil rights litigation in the federal courts.
33c: The courts should develop workable standards for addressing the substantive and procedural problems presented by pro se prisoner litigation.	Committee on Court Administration and Case Management	Implementation Not Complete Partial Implementation	The efforts to assist access to the courts discussed above will assist prisoners in filing more readable and understandable documents and will also assist the court in reviewing and making determinations regarding these claims.

Recommendation or Implementation Strategy	Committee	Status	Comments
33d: The district courts should make more effective use of pro se law clerks.	Committee on Court Administration and Case Management	Effectuated through Policy and Practice	The FJC workshops on prisoner litigation (see I.S. 33c) include sessions on the role of pro se law clerks.
34: The federal court system should continue to study possible shifting of attorneys' fees and other litigation costs in particular categories of cases.	Committee on Court Administration and Case Management	Effectuated through Policy or Practice	The CACM Committee has considered this issue numerous times and believes that it is a policy issue more appropriate for the Congress to consider. The Committee is concerned that such a change in policy would affect the ability of pro se and public interest litigants to file cases.
35: The courts of appeals should exchange information on appellate case management.	Committee on Court Administration and Case Management	Implementation Completed	A special conference of court of appeals chief judges was held in Chicago in November 1998 for purposes of sharing appellate case management information. The report discussed in comments on Recommendation 36 below was an outgrowth of that conference. Once CM/ECF is up and running in all the appellate courts, it would be beneficial to repeat this effort.
36: The federal court system should collect and analyze information on various courts of appeals' case management practices.	Committee on Court Administration and Case Management	Implementation Completed	This was done by the FJC and compiled in a report entitled 'Case Management Procedures in the Federal Courts of Appeals' published in 2000. The Appellate Court Administration Division updated the material in the report in 2002. Once all the appellate courts are using CM/ECF, it would likely be an opportune time to do a new report on these practices.
37: The courts of appeals should adopt internal procedures and organizational structures to promote the effective delivery of high-quality appellate justice and to maintain the consistency of circuit law.	Committee on Court Administration and Case Management	Implementation Completed	All courts of appeals have adopted such procedures and structures. Under Rule 32.1 of the Federal Rules of Appellate Procedure adopted in 2006, courts are not allowed to prohibit the citation of opinions designated as 'unpublished' or 'not precedent' or similar designations. One of the purposes of the rule was to assist in maintaining the consistency of circuit law in each circuit.

Recommendation or Implementation Strategy	Committee	Status	Comments
37a: There should be further development of appellate adjudicative programs, such as the Civil Appeals Management Plan ("CAMP").	Committee on Court Administration and Case Management	Implementation Completed	All circuits now have appellate settlement programs. The Center recently published in 2006 a second edition of 'Mediation and Conference Programs in the Federal Courts of Appeals: A Sourcebook for Judges and Lawyers.' It provides detailed information on the programs in all the circuits. No further action is necessary.
37b: Innovative management of appeals should continue and be expanded as needed.	Committee on Court Administration and Case Management	Implementation Not Complete Partial Implementation	The full implementation of CM/ECF in all courts of appeals will provide an opportunity for innovations in the management of appeals.
37c: Appellate courts should consider the use of nonjudicial staff and adjunct judicial officers to handle certain routine matters that do not involve the appellate review function reserved to Article III judges.	Committee on Court Administration and Case Management	Effectuated through Policy and Practice	Appellate courts now generally use staff attorneys to review and handle certain routine matters under the supervision of the judges. The use of adjunct judicial officers is no longer under consideration.
37d: Opinions should be restricted to appellate decisions of precedential import. A uniform set of procedures and mechanisms for access to court of appeals opinions, guidelines for publication or distribution, and clear standards for citation should be developed.	Committee on Court Administration and Case Management	Implementation Completed	With the adoption of F.R.A.P. 32.1 in December 2006, this issue has been resolved.
37e: Internal efforts to maintain the consistency of circuit law should be continued and enhanced.	Committee on Court Administration and Case Management	Effectuated through Policy and Practice	The electronic availability of court opinions, both published and unpublished should assist greatly in the efforts to maintain consistency of circuit law. No further action necessary.

Recommendation or Implementation Strategy	Committee	Status	Comments
38: The district courts should enhance efforts to manage cases effectively.	Committee on Court Administration and Case Management	Implementation Not Complete Partial Implementation	<p>The CACM Committee has developed a statistical system for evaluating effective case processing and provides information and support to courts experiencing case processing difficulties. The Committee and Conference have continued the CJRA Reporting requirements, made the reports available to all on PACER and added social security appeals and bankruptcy appeals to the reporting requirements to enhance the ability of courts and judges to manage cases more effectively.</p> <p>The Administrative Office has also supported continued efficiencies in district court case management through the application of its Methods Analysis Program or 'MAP.' This is a process by which representatives from several courts outline specific civil and criminal case management processes with the goal of identifying the 'best practices' and efficiencies for accomplishing the task.</p> <p>The Administrative Office and the CACM Committee have continued to support the development, implementation and operation of the CM/ECF system which has made it possible for courts to automate many aspects of case management and certainly manage cases more efficiently. The operation of the CM/ECF system has further benefitted from an annual user forum hosted by the AO that brings together court users to share experiences and suggestions for optimal use of CM/ECF. The CM/ECF system is continually evaluated for software improvements to further improve operational effectiveness.</p>
39: District courts should be encouraged to make available a variety of alternative dispute resolution techniques, procedures, and resources to assist in achieving a just, speedy, and inexpensive determination of civil litigation.	Committee on Court Administration and Case Management	Implementation Complete	<p>The ADR Act of 1998 required courts to provide a wide range of ADR opportunities and they have been doing do. The FJC has produced reports on the ADR used in the courts and the Committee has requested a more current report from the FJC to determine whether any other efforts are necessary.</p> <p>The AO continues to fund clerks' office staffing for district court ADR programs that meet the Judicial Conference's approved criteria, including funding for a higher level of staffing for courts with established robust programs.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
40: 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. Governance structures and mechanisms should continue to strike a careful balance among individual judge autonomy, local court initiative and control, and coordination of effort.	Committee on Court Administration and Case Management	Effectuated through Policy or Practice	The adoption of budget decentralization and the Stewardship training programs have addressed this issue in a positive way.
40: 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. Governance structures and mechanisms should continue to strike a careful balance among individual judge autonomy, local court initiative and control, and coordination of effort.	Executive Committee	Effectuated through Policy or Practice	The first sentence reflects the status quo. The second sentence expresses an aspiration that cannot be definitively achieved but serves to guide the Committee on Court Administration and Case Management and other Conference committees in addressing proposals that may affect the distribution of governance authority within the judiciary.
40a: The judicial branch should obtain funding for the operation of the courts solely through appropriations administered by the Administrative Office of the United States Courts and expended under the direction and supervision of the Judicial Conference of the United States. Appropriated funds should not be obtained directly by a circuit council or any other regional or local body.	Committee on the Budget	Effectuated through Policy or Practice	28 USC 605 requires the Director of the Administrative Office, under supervision of the Judicial Conference, to submit to the Office of Management and Budget (OMB) annual estimates of expenditures and appropriations necessary for the maintenance and operation of the courts. This allows the judiciary's budget request to be transmitted to Congress with the President's annual budget request. To ensure that efforts to acquire resources from Congress are focused and strategic in nature, the Budget Committee created a Congressional Outreach Subcommittee in January 2005 to work with the Director in securing favorable appropriations. The Congressional Outreach Subcommittee, supported by the AO Financial Liaison and Analysis Office (FLAO), coordinates all efforts of the judiciary in acquiring the needed funding from Congress through the annual appropriations process.
40a: The judicial branch should obtain funding for the operation of the courts solely through appropriations administered by the Administrative Office of the United States Courts and expended under the direction and supervision of the Judicial Conference of the United States. Appropriated funds should not be obtained directly by a circuit council or any other regional or local body.	Executive Committee	Effectuated through Policy or Practice	This recommendation reflects the status quo.

Recommendation or Implementation Strategy	Committee	Status	Comments
40b: The agencies of judicial administration at the national level should continue to decentralize administrative responsibility wherever appropriate, while maintaining sufficient oversight to ensure that courts are accountable for the proper use of the authority vested in them.	Committee on the Administrative Office	Implementation not Complete Partial Implementation	<p data-bbox="1409 256 1898 578">The Director of the Administrative Office is vested by statute with most administrative authorities for the federal courts. Beginning in the mid-1980s, major delegations of administrative authorities by the Director to the courts have occurred in budget management, human resources, procurement, property management, and space and facilities. Decentralization has given chief judges and court managers significant latitude in deciding how to spend their funds and structure their workforce to meet their operational needs. The National Academy of Public Administration's 2004 report on budget decentralization concluded that it has been an overwhelming success.</p> <p data-bbox="1409 607 1898 1073">Recommendation 40b has been successfully implemented as the Administrative Office continues to decentralize administrative responsibilities and authorities to the courts wherever appropriate, while maintaining sufficient oversight to ensure the courts are accountable for the proper use of the authority vested in them. A new decentralization effort is underway in the area of space and facilities as part of the judiciary's cost-containment efforts. Circuit judicial councils have the statutory responsibility to determine space needs, but the rental costs have been managed centrally. Under a new policy endorsed by the Judicial Conference, rent budget caps will be set at the circuit level in 2008. Each circuit will consider the rent implications in determining which facilities projects it wishes to pursue within the established caps. Also, at the direction of the Judicial Conference, the Budget Committee and the Administrative Office are studying the feasibility of establishing chambers-level budgets.</p> <p data-bbox="1409 1105 1898 1349">The Administrative Office provides oversight by developing appropriate guidelines and management controls for the execution of delegated authorities. Audits and reviews are conducted to measure compliance with applicable statutes, policies, guidelines and procedures, and to ensure that appropriate systems of internal controls are in place. The Committee on the Administrative Office has monitored the agency's decentralization efforts since 1988, and its audit and review activities.</p> <p data-bbox="1409 1382 1898 1476">The consideration of administrative structures and responsibilities, including the appropriate mix of decentralization and centralization, should continue to be strategic considerations. Providing sufficient oversight</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
41: The Chief Justice of the United States should remain the head of the federal judicial system, retaining the traditional authority and responsibility of that office in matters of judicial administration.	Executive Committee	Effectuated through Policy or Practice	to ensure accountability and proper performance of delegated authorities is also a matter of continuing importance. This recommendation reflects the status quo.
42: Consistent with the authority conferred by Congress, the Judicial Conference of the United States should continue to develop policy and exercise oversight with respect to matters of judicial branch administration in which a unified national approach is necessary and appropriate. The Conference should continue to focus attention on broad-scale policies and critical issues.	Executive Committee	Effectuated through Policy or Practice	In part, this recommendation reflects the status quo concerning the role of the Judicial Conference in setting national policy and overseeing judicial administration. In other respects, it expresses an aspiration (i.e., that the judiciary's national leaders focus on matters worthy of their attention) that the Conference and its committees honor in principle, though not always in practice.
43: The leadership role of the Judicial Conference's Executive Committee should be enhanced.	Executive Committee	Effectuated through Policy or Practice	The Executive Committee's "leadership role" has not changed since the Long Range Plan was adopted in 1995, in terms of the formal description of the Committee's authority and responsibilities in its jurisdictional statement and in "The Judicial Conference of the United States and Its Committees." However, the actual role the Executive Committee plays in steering the development of Conference policies has evolved during that time, with the Committee taking an increasingly proactive stance to ensure that important issues are addressed appropriately by the other committees and by the Conference itself. Key examples of this trend can be found in the Executive Committee's leadership on development of a cost-containment strategy for the judiciary in 2004, its subsequent support for sometimes-unpopular cost-containment measures, and its spearheading of efforts in recent years to demonstrate the judiciary's commitment to high ethical standards.

Recommendation or Implementation Strategy	Committee	Status	Comments
43a The Executive Committee should be allowed a more active role in steering the Conference and acting on its behalf.	Executive Committee	Effectuated through Policy or Practice	As noted under the principal recommendation, the Executive Committee's role in "steering" the Conference organization has grown in practice since 1995, even though its formal authority in that regard has not increased. Its authority to act "on behalf of" the Conference, however, has not expanded either formally or in practice, and, indeed, the Executive Committee's willingness to act in emergencies has become somewhat more circumscribed in practice - limited to relatively non-controversial matters and situations in which waiting for the next Conference session would make action untimely.
43b Consideration should be given to at least partial reduction in the chair's judicial workload, so as to offset the time required for performance of administrative duties.	Executive Committee	Implementation not Complete No Action Taken	Although this implementation strategy has not been pursued as a matter of uniform policy (particular arrangements between individual chairs and their courts notwithstanding), recent Executive Committee chairs have been afforded the option of hiring an additional chambers staff member to assist with committee work. This is an example of where the Plan was fairly explicit in prescribing how a more general objective should be achieved - an approach that should be reevaluated in future planning efforts.
44: The Judicial Conference should continue to rely on a broad committee structure for policy development. It should strengthen the committees' ability to provide sound advice and needed information.	Executive Committee	Effectuated through Policy or Practice	This first sentence reflects the status quo. The second sentence expresses an aspiration that cannot be definitively achieved but serves to guide the Executive Committee and the AO in coordinating and supporting the work of the committees.
44a: Membership in Conference committees should continue to rotate periodically, to provide new and diverse perspectives while at the same time preserving the insight, experience, and legislative contacts that come with long-term committee service.	Executive Committee	Effectuated through Policy or Practice	This implementation strategy expresses an aspiration that cannot be definitively achieved but serves to guide the Chief Justice and others involved with the committee appointments process.

Recommendation or Implementation Strategy	Committee	Status	Comments
44b: The Conference should afford the committee chairs a meaningful role in relevant Conference debates and an opportunity to meet together at least once a year.	Executive Committee	Effectuated through Policy or Practice	This implementation strategy expresses an aspiration that cannot be definitively achieved but serves to guide the Executive Committee in establishing Conference procedures and coordinating the work of the committees. For example, the recent change in policy that allows all committee chairs to attend Conference sessions regularly, and the Executive Committee's renewed interest in holding periodic meetings with the committee chairs, are consistent with this strategy.
45: The number of judges participating in the Judicial Conference and its committees should not increase in proportion to growth in the judiciary overall.	Executive Committee	Implementation not Complete Opportunity to Implement has not Occurred; Underlying Conditions Changed	This recommendation was based on the former Long Range Planning Committee's concern that the national judicial governance structure would become too large and unwieldy if the judiciary were to grow significantly in size and structure (e.g., through creation of additional circuits) to accommodate rising caseloads, and if the number of Judicial Conference members and committee representatives were to be expanded accordingly. Because the anticipated judiciary growth has not occurred, the Planning Committee's concern has not been realized. In addition, it is unclear whether and to what extent the judiciary would support the changes in statutory rules and other policies required to implement this recommendation even if the requisite circumstances were to arise.
46: The Administrative Office of the United States Courts and the Federal Judicial Center should retain their separate institutional status and respective missions. The officially adopted policies of the Judicial Conference represent the view of the judicial branch on all matters and should be respected as such by the Administrative Office and the Federal Judicial Center when dealing with members of Congress or the executive branch.	Executive Committee	Effectuated through Policy or Practice	The first sentence reflects the status quo. The second sentence expresses an aspiration that cannot be definitively achieved but serves to guide both the AO and the FJC in their dealings with the other branches of government. In its focus on respect for Conference policies, this recommendation is an artifact of the difficult relationship between the two agencies (and, to some degree, a conflict between the FJC and the Conference over certain policies) at the time that the Long Range Plan was written.
47: The basic organization and authority of governance institutions at the regional and individual court levels should be retained.	Committee on Court Administration and Case Management	Implementation Completed	Of an aspirational nature. No efforts to change the basic organization and authority of governance institutions at the regional and individual court level have been made since the adoption of the plan.

Recommendation or Implementation Strategy	Committee	Status	Comments
47a: Circuit judicial councils should continue to provide administrative coordination and oversight to all courts within the respective regional circuits.	Committee on Court Administration and Case Management	Implementation Not Complete Underlying Conditions Changed; Partial Implementation	The circuit judicial councils have been encouraged to have greater involvement in case processing issues in the district courts and in space and facilities determinations.
47b: The chief judges of the courts of appeals and district courts should continue to be selected on the basis of seniority subject to statutory limitations on age and tenure.	Committee on Court Administration and Case Management	Effectuated through Policy or Practice	No effort has been made to change this procedure since the adoption of the plan.
48: To assist the governance process and enforce its decisions, the judicial branch should continue to develop and enhance the capabilities of court administrators and managers.	Committee on Court Administration and Case Management	Effectuated through Policy and Practice	<p>Following a study on the cost and delivery of administrative services by IBM, the AO created the Administrative Services Methods Analysis Program (ASMAM) steering group to explore best practices for the efficient delivery of administrative services. This group consists of court managers and is looking at the best way to deliver administrative services in several specific areas: procurement, human resources, budget and finance and information technology. Specific recommendations on best practices for procurement services are being finalized, and the ASMAM steering group will address other areas for review</p> <p>The AO and the FJC each continue to provide technical assistance and educational programs, respectively, to aid court clerks and other managers in carrying out their duties. The NAPA report on trial court administrative structures (see Rec. 72) includes a recommendation that judges and staff be afforded training and/or technical assistance to help them explore how best to organize administrative functions. Training sessions and guides on oversight and stewardship have been provided to judges and court managers.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
48: To assist the governance process and enforce its decisions, the judicial branch should continue to develop and enhance the capabilities of court administrators and managers.	Committee on Judicial Resources	Effected through Policy or Practice	<p>The Judiciary Online University (JOU) serves as a web-based vehicle for delivery of learning and resources to support employee productivity in the judiciary. During FY 2007, the number of registered JOU students expanded from 2,481 to over 4,000. Books24x7, the complementary on-line program book collections, provides (IT Pro, Office Essentials, and Business Pro) that enable quick on-the-job research capability for employees whenever they need it. In FY 08, each JOU license will include access to Books24x7. Increased usage of CourtsLearn (hosted by Blackboard) for on-line judiciary-specific training indicates its success as a cost-effective component of blended learning solutions, as well as a stand-alone computer based training system. Court Personnel System (CPS) training was presented as a blended solution, utilizing CourtsLearn to deliver informational course content, followed by onsite Instructor-led classes. Similarly, 'Managing the Court Budget,' created and sponsored by the AO's Budget Division, was transferred to CourtsLearn and serves as a blended learning solution that saves money by reducing travel and time away from the job. Employees must complete the on-line module prior to attending the hand-on case study portion of the course. The Contracting Officers' Technical Representative (COTR) Certification Program was converted from instructor-led format to on-line training. Now court executives have a just-in-time training option for certification of new COTRs and re-certification of current ones. Due to these recent successes, the Administrative Office continues to market CourtsLearn to the courts as a means to deliver and host local training. In FY 08, the Blackboard Community system was added to CourtsLearn. This system allows individual court units to have their own branded Blackboard site to develop, deliver, and track web-based training in and for a specific court unit. The Administrative Office also launched a web-based training version of the 'Management in the Judiciary: The Rules, Tools, and Tips of Good Stewardship' training program in late December 2006 to enable the judiciary to increase the stewardship training target audience to include new-to-position unit executives, chief deputies, divisional managers, analysts, and administrators. On the recommendation of the JRC in September 2007, the Judicial Conference approved extending the recruitment and retention bonus programs beyond information technology CPS positions to include other hard-to-fill or mission-critical positions within the CPS. This action will give unit executives greater flexibility to compensate</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Executive Committee	Effectuated through Policy or Practice	<p>staff as they deem appropriate. Further enhancing this flexibility, the Conference approved a relocation bonus program which will enable the courts to recruit experienced applicants from other commuting areas by offering a one-time payment incentive. These bonus programs will be particularly helpful where the high cost of living adversely affects recruitment efforts. As with existing bonuses, courts will fund bonuses for hard-to-fill CPS positions through decentralized funding. Projections that indicate an increasing number of executives eligible to retire now through the next few years, as well as recruiting difficulties, experienced by certain courts in high-cost areas, signal an important need to address effective succession planning for the courts. The JRC's Diversity Ad Hoc Subcommittee is focused on expanding court unit executive recruitment efforts for minorities. Executive pay is currently being examined as one of many other components critical to attracting the best and the brightest in a highly competitive environment.</p> <p>The Judicial Conference and its committees continue to pay at least moderate attention to the judiciary's planning needs - as evidenced by the biannual planning meetings of committee chairs, the programmatic planning that occurs in the areas of information technology, human resources, and court facilities, the numerous cost-containment initiatives since 2004, and this effort to assess the status of Plan implementation and revisit the assumptions of the 1995 document. Similarly, a number of individual courts and circuits have engaged in planning activities of various kinds. A key question is whether the Conference and other judicial governance authorities wish to do more to achieve the goal of this recommendation: "integration" of planning into their regular decision-making processes. Among other things, that issue is posed in the June 2007 report from the National Academy of Public Administration on "Budgeting for the U.S. Judiciary: Preparing for the Future."</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on Information Technology	Effectuated through Policy or Practice	The judiciary's information technology program is governed by annual updates to the Long Range Plan for Information Technology, which the Committee on Information Technology considers and the Judicial Conference approves.
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on Defender Services	Effectuated through Policy or Practice	The Defender Services Committee, its subcommittees, and the AO's Office of Defender Services continue to engage in responsible long-range planning efforts that provide for accountability without compromising the program's constitutionally mandated mission - to provide effective representation in federal criminal matters to persons who cannot afford to pay for their representation by counsel or for other necessary services. The Committee first approved its Outline of the Defender Services Program Strategic Plan (Strategic Plan Outline) in December 2000. The outline is regularly updated and: (1) articulates the program's mission, goals, strategies, and performance measures, and (2) provides a framework for federal defenders and Criminal Justice Act (CJA) panel attorneys to assist, as members of AO advisory and working groups, in the long-range planning process. The Committee's Subcommittee on Long-Range Planning and Budgeting meets, at least semi-annually, to consider matters that have (or may have) long-term impact on the capability of the Defender Services program to accomplish its mission, including initiatives for (a) improvement in the quality of representation provided under the CJA and related statutes, (b) cost containment, (c) management of the program and its appropriation, and (d) evaluation of and improvement in program performance.
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on the Judicial Branch	Effectuated through Policy or Practice	In view of the Judicial Branch Committee's charge (directing it to study and report to the Judicial Conference on past, present, and possible future relationships with Congress, the executive branch, media, bar, and the general public), the Committee as a matter of course incorporates long range planning into everything it considers. The Chair also participates in the Executive Committee's bi-annual meetings of Judicial Conference committee chairs.

Recommendation or Implementation Strategy	Committee	Status	Comments
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on Intercircuit Assignments	Effectuated through Policy or Practice	The Committee continues to review the current voluntary system of intercircuit assignments to ensure that it is meeting the judiciary's need. The Committee has: 1) identified steps to increase the awareness and efficiency of the intercircuit assignment process, and 2) in coordination with the Committee on Judicial Resources, developed a mechanism to collect data on travel costs associated with visiting judge assignments that may affect future resource requests.
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on the Administration of the Bankruptcy	Effectuated through Policy or Practice	The Bankruptcy Committee has a standing Long-Range Planning and Budget Committee that has addressed long-range planning issues at virtually every meeting of the Committee. At its January 2008 meeting, the Committee established a Long-Range Planning Working Group that will make a comprehensive, multi-disciplinary evaluation of the long-range prospects of the bankruptcy system.
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on Federal-State Jurisdiction	Effectuated through Policy or Practice	<p>The Committee believes that this recommendation is a statement of general principle with continuing validity. However, members believed that the statement more appropriately belongs in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. It does not define measurable goals that can be obtained within a specified period of time.</p> <p>A strategic plan setting forth measurable goals for the federal judiciary could be helpful to the Committee in identifying areas within its jurisdiction that should be given priority for efforts to secure legislation or other activities to implement the general goals of the long range plan. Such a plan should include: 1) goals intended to be achieved over the long term through the judiciary's efforts; 2) specific measurable objectives to be achieved in the near term; 3) alternative courses of actions to achieve those objectives; and 4) a system for measuring progress in implementing the plan (NAPA report, p. 57). Such a plan would provide a context for the particular issues assigned to the Committee.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on Criminal Law	Effectuated through Policy or Practice	<p>The governance structure of the federal judiciary is unique in that there are both local and national institutions. At the national level, the AO has committed to including input from various stakeholders through working groups, advisory groups, and advisory councils. The input from these groups shapes the direction of national initiatives.</p> <p>The Criminal Law Committee is fortunate that the chair of the chiefs advisory group attends the Committee's meetings and provides input to the Committee members on the work of probation and pretrial services officers. Through coordination, long term goals, like the development of an outcome based system, gets communicated to the AO, Committee, and advisory groups at the national level, and to each chief judge and chief probation and pretrial services officer at the local level.</p>
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on the Administrative Office	<p>Implementation not Complete</p> <p>Partial Implementation</p>	<p>The Executive Committee and committee chairs have been considering ideas to enhance the current long-range planning process. The National Academy of Public Administration has also recommended improvements to planning and the establishment of an "enterprise-wide priority-setting mechanism." The Committee believes that enhancing the planning process should be a top priority. It would be interested in participating, along with others, in a comprehensive strategic planning process. In particular, addressing broad concerns through an enhanced planning process should involve cross-committee planning, the analysis of trends and issues, and the identification of important judiciary-wide strategic issues and goals.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on Judicial Resources	Effectuated through Policy or Practice	<p>The Statistics Subcommittee addresses long-range planning in the development of Article III judgeship recommendations through the Biennial Judgeship Survey, analysis of the potential growth in the number of senior judges over the next five to ten years, periodic updates to case weights, the most recent of which occurred in 2004, and ongoing reviews of statistical data collection and reporting policies. The growth and staff support requirements of future senior judges is under study by the JRC's Senior Judge Ad Hoc Subcommittee. Improvements to employee benefits require long-range planning and commitment and is carried out by the Benefits Liaison Group with membership provided by the Committees on Judicial Resources, Judicial Branch, and Administrative Office. The JRC's Workforce Analysis Ad Hoc Subcommittee tasked the Office of Human Resources (OHR) to develop a more comprehensive decision support capability. This initiative will seek to integrate data from multiple existing systems to provide more informed analyses of workforce demographics, compensation trends by occupation and geographic area, retirement eligibility and acceptance rates, association of work measurement data and occupational demands and qualifications, diversity opportunities and challenges, and budgetary implications. The long-range budget forecast indicates development of a potentially significant budget shortfall across the next decade, driven primarily by staff growth and compensation. The JRC and the Budget Committee conducted an extensive study on court compensation and placed additional emphasis on the work measurement process as cost-containment initiatives. The Judicial Conference approved five compensation recommendations with a potential savings of \$280 M through the year 2017. The JRC established an ad hoc subcommittee to manage implementation of the compensation study results, modernize classification and grading of CPS positions, and propose national guidelines for performance management. The Committee also established an ad hoc subcommittee to oversee a more rigorous work measurement process, ensure timely update of work measurement formulas, and ensure judge involvement in the development of work measurement formulas. OHR's Strategic Plan builds upon the JRC's Human Resources (HR) Transformation initiative, and the work of the HR Transformation Subcommittee that involved key stakeholder groups including the HR Advisory Council, the HR Specialists Advisory Group, and senior managers from the Administrative Office. The outcome was clear direction that has guided</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on the Administration of the Magistrate Judges System	Effectuated through Policy or Practice	<p>development of the OHR Strategic Plan and several multi-year initiatives needed by the courts in areas such as automating transactions, developing competency-based HR training, providing expandable and accessible HR guidance, and developing a flexible compensation and benefits system.</p> <p>The Magistrate Judges Committee considers matters of magistrate judge involvement in court governance on an ongoing basis as part of long range planning efforts for full utilization of magistrate judges in the courts. In a March 2006 report following the long-range planning meeting of Judicial Conference committee chairs, the Conference committees were asked to consider strategic issues facing the judiciary, its programs, and each committee and to assess each committee's objectives and initiatives. At its June 2006 meeting, the Magistrate Judges Committee decided, in light of this request, to consider a number of issues as part of its long-range planning effort. In addition, a list of strategic issues for the Magistrate Judges Committee was adopted by the Committee in June 2007 and transmitted to the Executive Committee's long-range planning coordinator. The strategic issues are (1) evaluating the efficiency and effectiveness of magistrate judge utilization; (2) promoting utilization practices whose efficiency and effectiveness enable courts to obtain the greatest benefit from their magistrate judges; (3) ensuring that the judiciary has the benefit of magistrate judge participation in district court, regional, and judiciary-wide governance institutions; (4) meeting the need for legal and other support services for magistrate judges; (5) ensuring that magistrate judge positions continue to be authorized as and where they are shown to be needed; (6) supporting efforts to ensure that compensation, benefits, and other conditions of employment remain sufficient to attract highly qualified individuals to seek, and remain in, magistrate judge positions; and (7) promoting actions courts can take to enhance diversity in the magistrate judge selection process.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on Judicial Conduct and Disability	Implementation not Complete No Action Taken	Long-range planning may be far more appropriate and feasible for some Conference committees than for others. This Committee, for example, does not have ongoing involvement in policy-making. It has considered policy matters only incidentally, in responding to recommendations in occasional studies of the Judicial Conduct and Disability Act. (It did so most recently in crafting the procedural reforms recommended by the September 2006 report of the Judicial Conduct and Disability Act Study Committee.) The Committee's routine business, moreover, is remote from the planning issues faced by Conference committees required to formulate policy or allocate resources. In particular, the low rate at which conduct and disability complaints reach this Committee for review, the manner in which the Committee considers those complaints, the Committee's exercise of its other oversight authority, and the Committee's interpretation of the Judicial Conduct and Disability Act bear little relation to the extrinsic conditions - financial, demographic, and political - whose mutability would justify a long-range planning effort.
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on Court Administration and Case Management	Effectuated through Policy and Practice	A number of individual courts and court units are engaged in, have completed, or are contemplating strategic planning activities. To aid these efforts, the FJC presents occasional workshops on strategic planning for judges and court staff and, upon request, the Center and the AO each provide advice and technical assistance to local court planners.
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on Judicial Security	Effectuated through Policy or Practice	Since its formation in October 2005, the Committee on Judicial Security has performed its work through its subcommittees, one of them being the Strategic and Long-Range Planning Subcommittee. The Subcommittee has put together a concept paper on how to meet Judicial Security needs of the future and has had discussions with the On-site and Off-site Subcommittees on how to integrate elements of the paper into each Subcommittee's long term goals. This Subcommittee is currently in transition as it has a new chair. Work will continue by the Subcommittee on a strategic long-range plan for judicial security.

Recommendation or Implementation Strategy	Committee	Status	Comments
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on the Budget	Effectuated through Policy or Practice	The Budget Committee relies on long-range budget estimates to evaluate the long-term fiscal environment for the judiciary. These estimates have been instrumental in shaping policies of the judiciary, specifically cost-containment and budget caps. Each year, the Committee receives an update of these estimates and crafts appropriate guidance to program committees with budget responsibility.
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on Rules of Practice and Procedure	Effectuated through Policy or Practice	The Standing Committee schedules a long-range planning agenda item for every meeting.
49: All judicial governance institutions should continue to develop and integrate long range planning capabilities into their policy-making processes.	Committee on Space and Facilities	Effectuated through Policy or Practice	The Committee has developed a long-range strategic plan and periodically reviews and modifies its long-range strategic plan to support its jurisdiction. In March 2006, upon recommendation of the Committee, the Judicial Conference endorsed a set of core values as consistent principles upon which to base its strategic issues and long-range facilities planning process. Based on those core values, the Committee endorsed an updated long-range strategic plan in December 2006.
50: There should be broad, meaningful participation of judges in governance activities at all levels.	Committee on Court Administration and Case Management	Effectuated through Policy and Practice	<p>The Oversight and Stewardship Program was an effort to make judges aware of the budget of their courts and the importance of all judges being involved in decision making.</p> <p>Information has been collected on various ways in which local courts conduct their administrative affairs, including the use of committees or liaisons for various areas such as budget and IT and has been made available to courts on request.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
50: There should be broad, meaningful participation of judges in governance activities at all levels.	Executive Committee	Effectuated through Policy or Practice	This recommendation expresses an aspiration that cannot be definitively achieved but continues to guide decision-making.
50a: District judges should be afforded the opportunity to participate effectively in national and regional governance. To that end -- (1) district judge members of the Judicial Conference should be afforded a term of service comparable to the average tenure of chief circuit judges (i.e., five years); and	Executive Committee	Implementation not Complete Partial Implementation	As amended by section 601(a) of the Federal Courts Improvement Act of 1996, Pub. L. No. 104-317, section 331 of title 28, U.S. Code now authorizes district judge members of the Judicial Conference to serve for terms of not less than 3 nor more than 5 years, as established by majority vote of the circuit and district judges in the respective circuits. Only two circuits (the Fourth and Eighth) have used this authority to extend the terms of their district judge members (to 5 and 4 years, respectively). The district judge members from other circuits continue to serve for 3-year terms as authorized prior to the 1996 legislation, and some circuits have shown interest in even shorter terms. These developments call into question whether implementing this strategy more completely ought to remain among the judiciary's long-term objectives.
50a: District judges should be afforded the opportunity to participate effectively in national and regional governance. To that end -- (2) each circuit judicial council should have an equal number of district judge and circuit judge members, including the chief circuit judge.	Committee on Court Administration and Case Management	Implementation Not Complete Underlying Conditions Changed	The proposed Federal Courts Improvement Act of 1997 passed by the House of Representatives on March 18, 1998 (H.R. 2294) includes a provision (sec. 207) that would count the chief circuit judge among the equal numbers of circuit and district judges authorized to serve on a circuit judicial council. It was later withdrawn from the bill at the request of the Judicial Conference and no further efforts have been made to reverse that determination.
50b: Senior judges should be afforded a greater opportunity to participate in governance. To that end -- (1) senior judges should be expressly authorized to serve on the Judicial Conference;	Executive Committee	Implementation Complete	Section 331 of title 28, United States Code, as amended by section 601(a) of the Federal Courts Improvement Act of 1996, Pub. L. No. 104-317, now expressly authorizes senior judges to serve as district judge members of the Judicial Conference. By definition, chief circuit judges must be judges in regular active service.

Recommendation or Implementation Strategy	Committee	Status	Comments
50b: Senior judges should be afforded a greater opportunity to participate in governance. To that end -- (2) senior judges should be authorized to serve on the Board of the Federal Judicial Center;	Executive Committee	Implementation Complete	Section 621(a)(2) of title 28, United States Code, as amended by section 601(b) of the Federal Courts Improvement Act of 1996, Pub. L. No. 104-317, now authorizes senior judges to serve on the FJC Board.
50b: Senior judges should be afforded a greater opportunity to participate in governance. To that end -- (3) senior judges should be authorized to serve on circuit judicial councils; and	Committee on Court Administration and Case Management	Implementation Not Complete Underlying Conditions Changed	Senior judges are now authorized by statute to serve on circuit judicial councils.
50b: Senior judges should be afforded a greater opportunity to participate in governance. To that end -- (4) individual courts should take appropriate steps to include senior judges in local governance mechanisms.	Committee on Court Administration and Case Management	Implementation Not Complete Underlying Conditions Changed	The Court Security Improvement Act of 2007 provides for full participation for senior judges in all district court governance activities in the same manner as an activedistrict judge. The bill has been recently enacted into law and CACM, in cooperation with relevant Conference committees, has been assigned to review judiciary policies on senior judges in appellate and district courts.
50c: Non-Article III judges should be afforded the opportunity for meaningful participation in governance. To that end -- (1) the Board of the Federal Judicial Center should include a magistrate judge as well as a bankruptcy judge; and	Executive Committee	Implementation Complete	Section 621(a)(2) of title 28, United States Code, as amended by section 601(b) of the Federal Courts Improvement Act of 1996, Pub. L. No. 104-317, now includes a magistrate judge member on the FJC Board. The Board had already included a bankruptcy judge member at the time that the Plan was adopted.
50c: Non-Article III judges should be afforded the opportunity for meaningful participation in governance. To that end -- (2) individual district courts should take appropriate steps to involve bankruptcy judges and magistrate judges in local governance.	Committee on Court Administration and Case Management	Implementation Not Complete Partial Implementation	CACM has agreed with this principle and benefits from the active participation of a bankruptcy and magistrate judge in its decision making. The Bankruptcy and Magistrate Judges Committee have taken leading roles in this area.

Recommendation or Implementation Strategy	Committee	Status	Comments
51: Administration of federal court facilities, programs, or operations should be primarily the responsibility of the judicial branch.	Executive Committee	Effectuated through Policy or Practice	As revealed by Implementation Strategy 51a (for which the Space and Facilities, Judicial Security, and Bankruptcy Committees are primarily responsible), this recommendation was intended principally to enshrine in the Long Range Plan the pre-existing Judicial Conference positions on shifting to the judiciary the authority and responsibility held then (and now) by the executive branch with respect to construction, maintenance, and operation of court buildings, protection of judicial security, and administration of bankruptcy estates. Although those positions are not being actively pursued at this time, the recommendation states a more general aspiration (i.e., judiciary control of instrumentalities that directly impact court operations and functions) that still serves to guide policy development for the judiciary in various contexts, including recent efforts to secure a greater role for the judicial branch in defining its own security requirements and opposition to proposals to impose on the judiciary an inspector general who reports to Congress on internal judicial branch operations.
51: Administration of federal court facilities, programs, or operations should be primarily the responsibility of the judicial branch.	Committee on Space and Facilities	Implementation not Completed Partial Implementation	The Judicial Conference, in March 2006, upon the recommendation of the Committee, reaffirmed its continued support for legislation to establish independent real property authority for the judiciary separate from GSA, with the form and timing of seeking and implementing such authority to be subject to approval by the Executive Committee in consultation with the Space and Facilities Committee and the Budget Committee. A bill to grant independent real property authority to the judiciary was introduced in the 109th Congress was not enacted. At the present time, the judiciary is not seeking independent real property authority.
51: Administration of federal court facilities, programs, or operations should be primarily the responsibility of the judicial branch.	Committee on Judicial Conduct and Disability	Effectuated through Policy and Practice	The judicial conduct and disability complaint process was designed specifically to be a self-policing mechanism for the federal judiciary. It must remain so, for the sake of both its own effectiveness and Third Branch autonomy.

Recommendation or Implementation Strategy	Committee	Status	Comments
51: Administration of federal court facilities, programs, or operations should be primarily the responsibility of the judicial branch.	Committee on Judicial Security	Implementation not Complete Underlying Conditions Changed	Since the Long Range Plan was approved by the Judicial Conference, the USMS has become much more responsive to the judiciary's security needs. There was a period in the early part of this decade when the judiciary considered assuming full responsibility for its own security. Due to the many positive changes in the USMS, however, at this time the Committee no longer deems it necessary for the judiciary to assume sole administration of its own security. Should circumstances change, the idea might have merit.
51a: Administrative oversight and policy-making responsibility for the following programs should reside with the institutions of judicial governance or agencies operating under their supervision: judicial space and facilities program, court and judicial security program; and bankruptcy estate administration (i.e., the U.S. trustee system).	Committee on Space and Facilities	Implementation not Completed Partial Implementation	See response to Recommendation 51.

Recommendation or Implementation Strategy	Committee	Status	Comments
51a: Administrative oversight and policy-making responsibility for the following programs should reside with the institutions of judicial governance or agencies operating under their supervision: judicial space and facilities program, court and judicial security program; and bankruptcy estate administration (i.e., the U.S. trustee system).	Committee on Judicial Security	Implementation not Complete Underlying Conditions Changed	<p>1) In October 2005, the Committee on Judicial Security was created to focus solely on issues of judicial security. Prior to this Committee's creation, the Security and Facilities Committee was tasked with addressing both security and space issues, which was depriving each important policy concern of the attention that it deserved. Through its On-site, Off-site, and Strategic and Long-Range Planning Subcommittees, the Committee on Judicial Security has been a thorough and proactive policy maker on security issues for the federal judiciary.</p> <p>2) The Court Security Improvement Act of 2007, Public Law No. 110-177, was enacted January 7, 2008. The new law includes a provision that amends 28 U.S.C. § 566 by adding the following: 'The Director of the United States Marshals Service shall consult with the Judicial Conference of the United States on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources.' The Committee believes this new provision codifies the collaborative relationship that presently exists between the judiciary and the USMS. In addition, the Committee is committed to seeking greater interaction with the USMS to insure that they are fulfilling their primary statutory mandate to provide for the security of the judiciary.</p> <p>The USMS has instituted many new programs on behalf of the judiciary including, but not limited to, a new threat assessment center to handle threats against judges, implementation of a home intrusion detection system program for all federal judges who wanted to have a government-funded alarm system installed in their primary residence, an increase in the number of court security officers serving at federal courthouses, and a pilot project to assume the perimeter security duties at courthouses formerly provided to the judiciary by the Federal Protective Service (FPS). The Committee recognizes the importance of these programs, and continues to work collaboratively with the USMS to provide policy oversight for these and other USMS initiatives.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
51a: Administrative oversight and policy-making responsibility for the following programs should reside with the institutions of judicial governance or agencies operating under their supervision: judicial space and facilities program, court and judicial security program; and bankruptcy estate administration (i.e., the U.S. trustee system).	Committee on the Administration of the Bankruptcy	Implementation not Completed Opportunity to Implement has not Occurred	<p>3) There is a Memorandum of Understanding (MOU) between the Department of Homeland Security (DHS), the Department of Justice through the U.S. Marshals Service (USMS), and the Administrative Office (AO) of the United States Courts. The MOU identifies the roles and responsibilities of DHS, USMS, and the AO with respect to court security. The original agreement was executed in 1984 between the USMS and the AO to establish guidelines and procedures to implement the recommendations of the Attorney General's Task Force Report on Court Security. The 1984 MOU was supplemented by a 1987 Memorandum of Agreement (MOA) between the USMS, the AO, and the General Services Administration (GSA). The 1987 MOA defined the areas of responsibility of each agency with respect to the security of the federal courts. The 1987 MOA was updated in 1997 to include a new GSA delegation that provided the USMS with the authority to determine the level of access control at all GSA-managed facilities that house a judicial officer. The agreement was reaffirmed in 2004 following the transfer of GSA's Federal Protective Service to DHS.</p> <p>The position of the Judicial Conference continues to be that the U.S. Trustee program should be located in the judicial branch. Proposals to this effect have, however, routinely been intentionally omitted by Congress from draft legislation over the years. The Bankruptcy Committee has therefore recommended to the Executive Committee of the Conference that legislative proposals on this matter be deferred.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
51b: Responsibility for developing and presenting to Congress requests for funding of the federal courts and agencies of judicial administration should remain solely within the judicial branch.	Committee on the Budget	Effectuated through Policy or Practice	28 U.S.C. 605 requires the Director of the Administrative Office (AO), under supervision of the Judicial Conference, to submit to the Office of Management and Budget (OMB) annual estimates of expenditures and appropriations necessary for the maintenance and operation of the courts. This allows the judiciary's budget request to be transmitted to Congress with the President's annual budget request. To ensure that efforts to acquire resources from Congress are focused and strategic in nature, the Budget Committee created a Congressional Outreach Subcommittee in January 2005 to work with the Chair and the Director to provide advice and guidance to the Committee and to coordinate Congressional outreach by judges across the country, with the goal of securing favorable appropriations.
52: The judicial branch should continue to develop and enhance a mechanism for effective coordination and review in budget formulation and execution.	Committee on the Budget	Effectuated through Policy or Practice	The Budget Committee has a long-standing practice of working closely with the program committees to develop the judiciary's annual budget request. The Economy Subcommittee performs an OMB-like function to critically examine each committee's request and to recommend a budget to the full Budget Committee. Additionally, the Budget Committee has supported periodic efforts to review the judiciary's budget formulation and execution process. Most recently, the National Academy of Public Administration (NAPA) conducted a study of these processes in 2006 and concluded that the judiciary's budget formulation and execution reflect sound stewardship of federal funds.
52: The judicial branch should continue to develop and enhance a mechanism for effective coordination and review in budget formulation and execution.	Executive Committee	Effectuated through Policy or Practice	This recommendation expresses an aspiration that cannot be definitively achieved but continues to guide the Executive Committee, the Budget Committee, and the AO in their continuing efforts to improve budgetary procedures.

Recommendation or Implementation Strategy	Committee	Status	Comments
53: The existing mechanisms for judicial discipline should be retained. In particular, the impeachment process should continue to be the sole method of removing Article III judges from office.	Committee on Judicial Conduct and Disability	Effectuated through Policy and Practice	Long-standing statutory mechanisms for judicial discipline remain in place, although the Committee is now proposing to adjust associated procedural rules in response to the Judicial Conduct and Disability Act Study Committee's September 2006 recommendations. Impeachment should and does remain the only means of removing an Article III judge from office.
54: The federal courts should obtain resources adequate to ensure the proper discharge of their constitutional and statutory mandates.	Committee on the Budget	Effectuated through Policy or Practice	The Budget Committee is committed to its fiscal responsibility to present and defend the budget approved by the Judicial Conference to Congress. To ensure that efforts to acquire resources from Congress are focused and strategic in nature, the Budget Committee created a Congressional Outreach Subcommittee in January 2005 to work with the Director in securing favorable appropriations. The Congressional Outreach Subcommittee, supported by the AO Financial Liaison and Analysis Office (FLAO), coordinates all efforts of the judiciary in acquiring the needed funding from Congress through the annual appropriations process.
55: Congress, when enacting legislation affecting the federal courts, should be encouraged to appropriate sufficient funds to accommodate the cost to the courts of the impact of new legislation.	Committee on the Budget	Effectuated through Policy or Practice	Almost without exception, the judiciary is not in a fiscal position to absorb the costs of new legislation. Thus, in keeping with existing practices, the judiciary's budget request seeks funding for current policies only. When new legislation is introduced that results in increased requirements, a budget amendment or supplemental appropriation is generally sought (e.g., new judgeships). The Budget Committee works closely with the AO in determining the best strategy for seeking additional funding. Further, when legislation is under consideration, the judiciary provides information to Congress on the financial impact of pending legislation.
56: Federal judges should receive adequate compensation as well as cost-of-living adjustments granted to all other federal employees.	Committee on the Judicial Branch	Implementation not Completed Legislation Proposed/Pending	Since the adoption of the Long Range Plan for the Federal Judiciary, the Judicial Conference has unsuccessfully sought on several occasions legislation that would effectuate the above objectives. Legislation has been introduced in the 110th Congress, which, if enacted, would accomplish these objectives.

Recommendation or Implementation Strategy	Committee	Status	Comments
56a: Congress should be encouraged to refrain from the current practice of linking judicial and congressional pay raises.	Committee on the Judicial Branch	Implementation not Completed Legislation Proposed/Pending	Since the adoption of the Long Range Plan for the Federal Judiciary, the Judicial Conference has unsuccessfully sought on several occasions legislation that would effectuate the above objectives. Legislation has been introduced in the 110th Congress, which, if enacted, would accomplish these objectives.
56b: Congress should be encouraged to repeal section 140 of Public Law No. 97-92.	Committee on the Judicial Branch	Implementation not Completed Legislation Proposed/Pending	Since the adoption of the Long Range Plan for the Federal Judiciary, the Judicial Conference has unsuccessfully sought on several occasions legislation that would effectuate the above objectives. Legislation has been introduced in the 110th Congress, which, if enacted, would accomplish these objectives.
57: Congress should be encouraged to include appropriations for the constitutionally mandated functions of federal courts as part of the non-discretionary federal budget.	Committee on the Budget	Implementation not Complete Opportunity to Implement has not Occurred	The Congress and OMB make the determination as to whether an expenditure is categorized as mandatory or discretionary spending for budget scorekeeping purposes. In 1990, the salaries and benefits of Article III judges as well as the judicial retirement funds account were determined to be mandatory spending. The salaries and benefits of bankruptcy judges were determined to be mandatory spending beginning in 1994. Beginning in the early 1990's, the AO sought to also have categorized as mandatory spending the salaries of all judicial officers as well as appropriations for the Fees of Jurors account and attorney compensation costs in the Defender Services account. In 1999, Congress and OMB considered the judiciary's request to categorize as mandatory the salaries and benefits of Court of Claims and magistrate judges as well as appropriations for Fees of Jurors, and defenders and panel attorney compensation costs. Congress and OMB determined that those expenditures should continue to be scored as discretionary. Since 1999, the Judiciary has made repeated attempts to have these costs categorized as mandatory but Congress and OMB have denied those requests. The general sentiment in Congress and OMB is to reduce, not increase, the number of activities that are categorized as mandatory.

Recommendation or Implementation Strategy	Committee	Status	Comments
58: The federal courts, including the bankruptcy courts, should obtain funding primarily through general appropriations.	Committee on the Budget	Effectuated through Policy or Practice	All federal court units, including the bankruptcy courts, are funded primarily through appropriations made to the Salaries and Expenses account, and to a much lesser extent, fee collections. The financial plans approved by the Executive Committee and Congress allocate resources to each program type- appeals, bankruptcy, district, probation, and pretrial services.
59: Incentives should be created to allow the courts to attract and retain the best-qualified persons as judges and eliminate disincentives to long judicial service. Federal judges should be encouraged to stay on the bench for the lifetime tenure that the Constitution contemplates and guarantees.	Committee on the Judicial Branch	Effectuated through Policy or Practice	Upon the recommendation of the Judicial Branch Committee, the Administrative Office undertook to design and introduce a judiciary-wide flexible benefits program and a long-term care insurance program. Earlier, the judiciary successfully sought legislation to mitigate the effect of a proposal by the Office of Personnel Management to double the Federal Employees' Group Life Insurance premiums for judges aged 65 and above (Public Law No.106-113). This legislation authorized the Director of the Administrative Office, as directed by the Judicial Conference, to pay the cost of any such increase on behalf of Article III judges. The Judicial Branch Committee continues to consider ways in which the judiciary can improve the quality of life and the status of judges, including alternatives to enhance the Judicial Survivors' Annuities System.
60: Service-year credit toward benefits vesting for service already rendered as federal judicial officers should be awarded to bankruptcy and magistrate judges elevated to the Article III bench.	Committee on the Judicial Branch	Implementation not Completed Underlying Conditions Changed	In June 1996, the Judicial Branch Committee considered seeking legislation to implement this recommendation but declined to recommend action at that time in light of potential congressional reaction and other judiciary priorities. The Judicial Branch Committee reconsidered this issue at its June 1997 meeting, and the committee again determined to take no action on the recommendation after consulting with the Committee on the Administration of the Bankruptcy System and the Administrative Office's advisory groups of magistrate judges and bankruptcy judges.

Recommendation or Implementation Strategy	Committee	Status	Comments
60: Service-year credit toward benefits vesting for service already rendered as federal judicial officers should be awarded to bankruptcy and magistrate judges elevated to the Article III bench.	Committee on the Administration of the Magistrate Judges System	Implementation not Complete Opportunity to Implement has not Occurred	<p data-bbox="1409 256 1892 602">Shortly after the adoption of the Long Range Plan, a district judge wrote to the Chair of the Judicial Branch Committee to request that the Committee urge the Judicial Conference to implement Recommendation 60. However, at the time, the Committee did not believe that Congress would react favorably to the Judiciary on the question of expansion of the 'rule of 80.' In addition, the Committee decided that its preeminent concerns for the remainder of the 104th Congress was the repeal of section 140 of Public Law No. 97-92 and securing a cost-of-living adjustment for judges. As a result, the Committee concluded in its September 1996 report to the Judicial Conference that no action should be taken by the Conference at that time.</p> <p data-bbox="1409 630 1892 927">In 1997, a year after that decision, the Executive Committee of the Judicial Conference asked the Judicial Branch Committee to reconsider its recommendation to take no action on the issue. After reconsideration, the Committee again voted to take no action on the proposal, stating that it was the consensus of the Bankruptcy Committee, as well as the Bankruptcy Judges Advisory Group and the Magistrate Judges Advisory Group, that 'bringing this issue to the attention of Congress is unlikely to result in an improvement of the present retirement provisions for bankruptcy and magistrate judges.'</p> <p data-bbox="1409 954 1892 1373">In June 2004, the Magistrate Judges Committee again considered this issue at the request of another district judge, who was a former magistrate judge. At that time, an evaluation of how judges are affected by the lack of credit for past service as a magistrate judge was updated and it was determined that 38 former magistrate judges lost years of service credit for retirement upon taking the Article III bench. However, the Committee decided that in view of the uncertainty over the judiciary's budget at that time, and the risks associated with raising the issue with Congress, as well as the ongoing effort to secure salary relief for all judges, the Committee determined that the Judicial Branch Committee and the Judicial Conference would not be receptive to another proposal to amend 28 U.S.C. § 371 to provide credit for service as a magistrate judge, as recommended in the recommendation.</p> <p data-bbox="1409 1401 1892 1448">The Magistrate Judges Committee will revisit the issue at its next meeting in June 2008.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
61: Adequate security protection should be provided for judges and court personnel at all court facilities and when they are away from the courthouse.	Committee on Judicial Security	Implementation not Complete Partial Implementation	The provision of adequate security protection involves constant improvements in, and analysis of, changes in technology, equipment, and personnel. For example, the Committee and the USMS are working to improve screening equipment at courthouses, security of judges' personal information on the internet, and implementation of other pertinent policies, as well as working with state legislatures to keep judges' personal information safe.
61a: Where necessary, home security systems and portable emergency communications devices should be provided.	Committee on Judicial Security	Implementation Complete	The Home Intrusion Detection Systems Program was funded by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief of 2005. The Act provided \$11.935 million in appropriations to the USMS to 'increase judicial security outside of courthouse facilities, including home intrusion detection systems for Federal judges.' Pursuant to this funding, in 2006 every federal judge was offered the opportunity to have a home intrusion detection system installed at their primary residence. The USMS, working with the Administrative Office of U.S. Courts, administered the program.
61a: Where necessary, home security systems and portable emergency communications devices should be provided.	Committee on Information Technology	Implementation Completed	The judiciary has provided home security systems and portable emergency communication devices where necessary.

Recommendation or Implementation Strategy	Committee	Status	Comments
61b: New judges and their families should receive security briefings.	Committee on Judicial Security	Effected through Policy or Practice	New judges receive a presentation and handouts about security by a representative of the USMS during their nominee orientation. In addition, the Off-Site Security Subcommittee of the Committee, in conjunction with the USMS, is working on a project on personal security entitled 'Project 365' that will be presented at circuit judicial conferences to make sure security is ever present in the minds of judges and their families. The Federal Judicial Center (FJC), also has presentations on security at their Phase I orientation programs for district, magistrate, and bankruptcy judges. At the Phase I program for district judges, the FJC asks the deputy U.S. marshal heading the security detail to speak to the new judges for a few minutes about security issues, and provide information on any particular security issues in the city where the Phase I program is being held.
61c: Training for judges in security should be made available.	Committee on Judicial Security	Implementation not Complete Partial Implementation	The Committee has posted material on the J-Net to assist judges with protecting their personal information on the internet. Also, pursuant to the recommendation of its Off-site Judicial Security Subcommittee, the Committee has encouraged circuit judicial conferences to administer security training and briefings for judges. Project 365, discussed above, is part of that training initiative. Finally, the Committee has encouraged court security committees in each district to meet regularly to discuss the availability of security training for judges and court staff.
61d: Judges and probation officers should receive information whenever prisoners are released. The notification should include an assessment of the violent nature of the prisoner and the potential risk he or she poses to judicial branch personnel.	Committee on Judicial Security	Implementation not Complete No Action Taken	There has been no discussion by the Committee or any of its Subcommittees on this issue, but it is one that the Committee plans to address in the future. Work on the issue will involve consultation with USMS, which has created and has been refining its new threat assessment center. The Committee leadership believes, however, that this recommendation has questionable merit and that judges should only receive information about when prisoners are released in limited circumstances. Specifically, this information should be provided when the USMS or probation office believes there is a potential danger to the judge or judicial branch personnel.

Recommendation or Implementation Strategy	Committee	Status	Comments
62: Standards and procedures for the assignment of circuit, district, magistrate, and bankruptcy judges to perform judicial duties in other jurisdictions should be flexible.	Committee on Intercircuit Assignments	Effectuated through Policy or Practice	In 1994, in anticipation of the approved recommendations of the Long Plan for the Federal Courts of 1995, the Committee revised the 'Guidelines for Intercircuit Assignment of Article III Judges' (ICA Guidelines), operating procedures, and forms. Specifically, the ICA Guidelines relating to the 'borrower/lender' rule and long-term assignments were revised to increase flexibility in the temporary assignment of judges to courts in need of assistance. The Committee also agreed to distribute updated guidelines and any other pertinent information to all Article III judges whenever the Chief Justice approves revisions. Subsequently, substantial changes to the guidelines were made in 1997, 2002, and 2004. The changes included new guidelines related to: 1) the intercircuit assignment of active judges only when there is a certified need of assistance; 2) the Committee's policy that intercircuit assignments are not suitable for weddings or naturalization ceremonies; and 3) a long-standing policy that no judicial action should be taken by a visiting judge until an assignment is approved and filed. The Committee also recommended, and the Chief Justice approved, changes to the existing lender/borrower rule, long-term assignment guideline, and the policy related to the length of assignments to courts of appeals to allow for more flexibility in intercircuit assignments. At the same time, minor changes were made to the operating procedures and forms associated with intercircuit assignments.
62: Standards and procedures for the assignment of circuit, district, magistrate, and bankruptcy judges to perform judicial duties in other jurisdictions should be flexible.	Committee on the Administration of the Magistrate Judges System	Implementation Complete	In 1998, the Judicial Conference approved guidelines for the intercircuit and intracircuit assignment of magistrate judges, facilitating such assignments by lending clarity and regularity in the process that governs them.
62: Standards and procedures for the assignment of circuit, district, magistrate, and bankruptcy judges to perform judicial duties in other jurisdictions should be flexible.	Committee on the Administration of the Bankruptcy	Effectuated through Policy or Practice	The Judicial Conference has promulgated guidelines for the intercircuit assignment of bankruptcy judges. Individual circuits have developed guidelines for intracircuit assignments. The procedures have proven highly successful in enabling the bankruptcy system to respond flexibly to local variations in caseload.

Recommendation or Implementation Strategy	Committee	Status	Comments
63: The courts should use senior and recalled judges-a significant portion of federal judge power-as much as needed to achieve the goal of carefully controlled growth.	Committee on Intercircuit Assignments	Effectuated through Policy or Practice	In 1994, the Committee distributed a questionnaire to all senior Article III judges to update the Committee's Roster of Senior Judges maintained under 28 U.S.C. § 295. The Committee also distributed a questionnaire to all active Article III judges to compile a new roster of active judges willing to take intercourt assignments. A high percentage of active and senior judges responded to the questionnaires. A survey of judges willing to take intercourt assignments is conducted on an ad hoc basis to keep current the senior and active judge roster. Surveys were conducted in December 1997, 2002, and 2004. In addition, a judge receives a questionnaire soon after taking senior status.
63: The courts should use senior and recalled judges-a significant portion of federal judge power-as much as needed to achieve the goal of carefully controlled growth.	Committee on the Administration of the Magistrate Judges System	Effectuated through Policy or Practice	Recalled magistrate judges are an important component of the magistrate judges system. A number of modifications to the standards and procedures for recalled magistrate judges have been made in recent years to clarify recall authorization procedures, workload standards, background checks, approval of staff for recalled magistrate judges, length of service, and the like. The number of recalled magistrate judges has remained more or less the same over the years. Currently, 36 retired magistrate judges serve the district courts on full-time or part-time recall throughout the country. A recent cost-benefit study showed that the most expensive aspects of the recalled magistrate judges program are the salaries and benefits of the recalled judges' staffs. The study concluded that the magistrate judge recall program continues to be effective in providing needed assistance to courts at a lower cost than authorizing additional permanent magistrate judge positions and should be continued.

Recommendation or Implementation Strategy	Committee	Status	Comments
63: The courts should use senior and recalled judges-a significant portion of federal judge power-as much as needed to achieve the goal of carefully controlled growth.	Committee on the Administration of the Bankruptcy	Effectuated through Policy or Practice	The Judicial Conference has promulgated regulations governing the recall of retired bankruptcy judges. The Bankruptcy Committee continuously monitors the recall system to assure that retired judges are used in the most efficient and effective manner possible. Recalled judges have provided invaluable assistance in managing the workload of the bankruptcy system. The Bankruptcy Committee recently instituted an automated register of retired bankruptcy judges willing to serve on recall. Retired judges were also recently added to an e-mail group that receives updates on developments in bankruptcy law and administration so that they will be up to date if they choose to serve in recalled status.
64: The value of senior judge status should be recognized, and policies and procedures that affect senior judges should be periodically reviewed, in order to insure that senior judge status is an attractive alternative.	Committee on the Judicial Branch	Effectuated through Policy or Practice	At the recommendation of the Judicial Branch Committee, the March 1996 Judicial Conference approved a new policy under which issues of senior judge discipline and disability, including their inability to perform judicial duties, will be handled only in accordance with former 28 U.S.C. sec. 372(c) (now secs. 351 et seq.). Section 301 of the Federal Courts Improvement Act of 1996 (Pub. L. No. 104-317) mitigated the workload certification requirement under 28 U.S.C. sec. 371(f) by allowing a senior judge to obtain retroactive certification when additional workload in a subsequent year is sufficient to offset reduced workload in a prior year. Upon the recommendation of the Judicial Branch Committee, the Judicial Conference adopted in September 1997 revised "Rules for Certification of Senior Judges" that implemented the statutory change.

Recommendation or Implementation Strategy	Committee	Status	Comments
64: The value of senior judge status should be recognized, and policies and procedures that affect senior judges should be periodically reviewed, in order to insure that senior judge status is an attractive alternative.	Committee on Judicial Resources	Effectuated through Policy or Practice	Several Judicial Conference committees are considering the implications of the expected growth in the number of senior judges over the next five to ten years, particularly with regard to budget, space, and human resources planning. At the request of the JRC, the Budget Committee, and other committees, in September 2006 the JRC's Judicial Statistics Subcommittee staff analyzed, on a nation-wide basis, the number of judges who will be eligible, who will take senior status, and who will fully retire. Staff presented its analysis at the September 2006 Judicial Conference committee chairs' long-range planning meeting and estimated a net national increase of 74 Article III senior judges between January 1, 2006 and December 31, 2011. The staff continues to analyze and share information regarding the number of senior judges with committees as they consider relevant policy and planning questions. In 2007, the JRC created an ad hoc Subcommittee on Staffing Resources for Senior Judges to consider issues relevant to senior judges.

Recommendation or Implementation Strategy	Committee	Status	Comments
<p>65: Magistrate judges should perform judicial duties to the extent constitutionally permissible and consistent with sound judicial policy. Individual districts should retain flexibility, consistent with the national goal of effective utilization of all magistrate judge resources, to have magistrate judges perform judicial services most needed in light of local conditions and changing caseloads.</p>	<p>Committee on the Administration of the Magistrate Judges System</p>	<p>Implementation not Complete Partial Implementation</p>	<p>Implementation of this Recommendation is ongoing. The Committee has closely observed the use of magistrate judges in all districts and has found lessons to be learned from courts' experiences. The Committee has approved a document, <i>Suggestions for Utilization of Magistrate Judges</i>, that offers a list of suggestions for consideration by the district courts. It is shared with new judge nominees and new chief judges and is available on the J-Net. The list encourages courts to (1) utilize magistrate judges to perform judicial duties; (2) avoid needless duplication of judicial effort; (3) utilize magistrate judges as generalists; (4) distribute assignments to magistrate judges randomly and evenly; (5) encourage and facilitate parties' consent to full adjudication of civil cases by magistrate judges; (6) establish a preference for assigning magistrate judges entire cases or entire phases of cases rather than individual duties; (7) arrange for magistrate judges to receive most assignments automatically; (8) ensure that each assignment to a magistrate judge is efficient, effective, and consistent with Judicial Conference policy; (9) make court-wide decisions on magistrate judge utilization, reduce them to writing, and adjust them in light of experience; and (10) educate the bar on the role and authority of magistrate judges. These suggestions have been adopted to varying degrees by the district courts. The Magistrate Judges Division continues to work with the individual district courts to improve magistrate judge utilization and to advise the Committee in this area.</p>
<p>66: Magistrate judges should be vested with a limited contempt power to punish summarily for misbehavior committed in their presence, and to punish for disobedience or resistance to their lawful orders in civil cases referred to them for disposition with the consent of the parties.</p>	<p>Committee on the Administration of the Magistrate Judges System</p>	<p>Implementation Complete</p>	<p>The Federal Courts Improvement Act of 2000, Pub. L. No. 106-518 amended 28 U.S.C. 636(e) to provide magistrate judges with summary criminal contempt authority and expanded civil contempt authority.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
67: Attention should be given to the problem of frequent, prolonged judicial vacancies in the federal courts. The executive branch and the Senate should be encouraged to fill vacancies promptly, and the judicial branch should utilize procedures and policies to mitigate the impact of vacancies on the capacity of the courts to conduct judicial business.	Committee on Judicial Resources	Effectuated through Policy or Practice	The JRC has coordinated with the Committee on Intercircuit Assignments regarding procedures to encourage the use of visiting judges until vacancies are filled. In addition, the definition of judicial emergency was changed to include any vacancy in a district court where weighted filings are in excess of 600 per judgeship or any vacancy in existence more than 18 months where weighted filings are between 430 and 600 per judgeships; and any vacancy in a court of appeals where adjusted filings per panel are in excess of 700 or any vacancy in existence more than 18 months where adjusted filings are between 500 and 700 per panel. In 2001, the definition of judicial emergency in district courts was amended to include any court with more than one authorized judgeship and only one active judge.
67: Attention should be given to the problem of frequent, prolonged judicial vacancies in the federal courts. The executive branch and the Senate should be encouraged to fill vacancies promptly, and the judicial branch should utilize procedures and policies to mitigate the impact of vacancies on the capacity of the courts to conduct judicial business.	Committee on the Judicial Branch	Effectuated through Policy or Practice	Over the years, the Chief Justice has spoken to the delays in the confirmation process and the urgent need to effectively and efficiently fill judicial vacancies. This subject has also been the story of a number of Third Branch articles as well as media commentary. Notwithstanding all of these efforts, the presence of numerous judicial vacancies on specific courts continues to be a serious concern. To address this nagging problem, the judiciary periodically assigns visiting judges (both inter-circuit and intra-circuit) to courts that are in need of assistance. By utilizing visiting judges (many of whom are in senior status), the judiciary has had additional flexibility in managing caseload increases in a cost effective manner.
67a: Delays in filling judicial vacancies should be reduced by encouraging retiring judges and those taking senior status to provide substantial (i.e., six-month or one-year) advance notice of that action.	Committee on Judicial Resources	Effectuated through Policy or Practice	In 2003, the Judicial Conference approved the following language which strengthened the policy on advance notification of changes in status: The Judicial Conference strongly urges all judges to notify the President and the Administrative Office of the United States Courts as far in advance as possible of a change in status, and if possible, twelve months before the contemplated date of change in status.

Recommendation or Implementation Strategy	Committee	Status	Comments
67a: Delays in filling judicial vacancies should be reduced by encouraging retiring judges and those taking senior status to provide substantial (i.e., six-month or one-year) advance notice of that action.	Committee on the Judicial Branch	Implementation Completed	This position, originally endorsed by the March 1998 Judicial Conference (JCUS-MAR 88, pp. 31-32) is periodically brought to judges' attention through such Administrative Office publications as The Third Branch and Senior Status and Retirement for Article III Judges.
67b: Statistics should be maintained concerning the number, length, and impact of judicial vacancies (including data which relates to judicial emergencies) in each court, and benchmarks or timelines should be created for the nomination and confirmation of all judges. The judicial branch should publicize all vacancies extending beyond these limits, and all data on judicial emergencies, to Congress and the President by means of semi-annual reports.	Committee on Judicial Resources	Effectuated through Policy or Practice	The Administrative Office lists all judgeship vacancies, and a separate list of judicial emergencies, on the judiciary's public web site at www.uscourts.gov . The vacancy information is updated daily.
67c: Procedures for the temporary assignment of judges should emphasize the importance of providing assistance to courts with vacant judgeships.	Committee on Intercircuit Assignments	Implementation Not Completed Underlying Conditions Changed	In 1994, using vacancies deemed "judicial emergencies" and requests for judgeships as a proxy for "excessive caseload," the Committee wrote to the chief judges of 78 courts encouraging them to use visiting judges (intercircuit or intracircuit) while the vacancies persisted or until the judgeship requests were filled, and informed them of the assistance available from the Committee. The letters did not generate a significant increase in the number of intercircuit assignments. As a result, the Committee has not attempted to contact specific courts. Instead, the Committee has made broader efforts to communicate with courts and judges about intercircuit assignments. For example, intercircuit assignment information is included in orientations for new judges and new chief judges; the Committee Chair personally briefs new chief judges and discusses the particular court's needs for visiting judges.
67d: Procedures and policies governing the transaction of court business should seek to address special circumstances arising as a result of prolonged judicial vacancies. Among other things, rules governing the number of visiting or senior judges serving on panels in the courts of appeals should be held in abeyance during the existence of vacancies on a court constituting a judicial emergency.	Committee on Court Administration and Case Management	Implementation Completed	The appellate courts have had to adopt such procedures in light of the number of unfilled vacancies in the courts of appeals.

Recommendation or Implementation Strategy	Committee	Status	Comments
68: To match responsibility with authority, the budget execution function should be further decentralized so that each court may control spending of appropriated funds to meet its needs.	Executive Committee	Implementation not Complete Partial Implementation	The Budget Committee and the AO have, with the support of the Judicial Conference, continued to enhance and refine the system of budget decentralization. However, a portion of the judiciary's appropriations (e.g., chambers personnel and travel) is still centrally managed. This raises a question concerning the degree to which the judiciary intends to expand decentralization beyond what is presently authorized.
68: To match responsibility with authority, the budget execution function should be further decentralized so that each court may control spending of appropriated funds to meet its needs.	Committee on the Budget	Effectuated through Policy or Practice	The Budget Committee has jurisdiction over the budget decentralization policies of the judiciary. Under current Judicial Conference policies, The Director of the Administrative Office has delegated the management authority of local resources to each court's chief judge. Chief judges, in turn, delegate the day-to-day management of court budgets to unit executives. Budgets are managed locally to enable local priorities to be addressed more directly and expeditiously. Broad reprogramming authorities provide courts the opportunity to move funding within a court unit's budget as well as to other units within a district. Budget decentralization has proven to be a very successful program which has led to the development of cost-effective practices, cost-savings, and enhanced management of limited resources. The Budget Committee remains extremely supportive of the program and frequently considers issues to enhance or strengthen the program (e.g. updating allotment formulas or considering new reprogramming policies).
69: Use of court-related technology should be expanded to improve the ability of the federal courts to provide efficient, fair, and comprehensible service to the public.	Committee on Information Technology	Effectuated through Policy or Practice	The Electronic Public Access Program was established more than 10 years ago and gives the public electronic access to court information at a reasonable cost. Also, beginning in fiscal year 2007, funds for court-related technology, based on a formula for courtroom technologies, have been provided to the courts using fee revenue from the Electronic Public Access Program.

Recommendation or Implementation Strategy	Committee	Status	Comments
69: Use of court-related technology should be expanded to improve the ability of the federal courts to provide efficient, fair, and comprehensible service to the public.	Committee on the Judicial Branch	Effectuated through Policy or Practice	Implementation of CM/ECF has been completed in nearly all federal courts. PACER has also enhanced public access to case information at a low cost. Information is available to litigants, their attorneys, and the public on each court's internet website. Information concerning the judiciary is also accessible on www.uscourts.gov and the Federal Judicial Center's website.
69: Use of court-related technology should be expanded to improve the ability of the federal courts to provide efficient, fair, and comprehensible service to the public.	Committee on Space and Facilities	Effectuated through Policy or Practice	The Committee has conducted a comprehensive review of the U.S. Courts Design Guide since 2004 and, during that revision, has adopted changes to certain space standards that were triggered by the implementation of various court-related technology, such as CM/ECF. The Committee is also responsible for oversight of the courtroom technology (e.g., video evidence presentation) program.
69: Use of court-related technology should be expanded to improve the ability of the federal courts to provide efficient, fair, and comprehensible service to the public.	Committee on Federal-State Jurisdiction	Implementation not Complete Partial Implementation	This goal should continue to be included in the Long Range Plan. This is an area in which cooperation between federal and state courts could provide significant benefits, particularly in the area of electronic communications between the two courts systems. Accordingly, the study of cooperative efforts with the state court systems should be given greater priority. Some Committee members advised that cooperation on information technology between state and federal courts had yielded significant benefits. In some courts, federal IT personnel have met with state court IT personnel to discuss coordination, particularly when a case moves from one system to the other.
69: Use of court-related technology should be expanded to improve the ability of the federal courts to provide efficient, fair, and comprehensible service to the public.	Committee on Judicial Security	Effectuated through Policy or Practice	Court Security Appropriations requests include requests for new security systems and equipment as well as money to repair existing systems and equipment. This is needed to ensure the safety of judicial personnel in the courtroom as well as members of the public who visit the courts in search of redress for harms suffered.

Recommendation or Implementation Strategy	Committee	Status	Comments
69: Use of court-related technology should be expanded to improve the ability of the federal courts to provide efficient, fair, and comprehensible service to the public.	Committee on Court Administration and Case Management	Implementation Completed	CACM has provided oversight and support to the development of CM/ECF and PACER access to court documents. The federal courts have taken the lead in providing an excellent level of services to the public.
69: Use of court-related technology should be expanded to improve the ability of the federal courts to provide efficient, fair, and comprehensible service to the public.	Committee on Criminal Law	Effectuated through Policy or Practice	<p>As part of its commitment to developing an outcome-based system, the Committee has supported several enhancements to the technology programs in probation and pretrial services offices. The Probation/Pretrial Services Automated Case Tracking System (PACTS) will serve as the backbone to the outcome measurement system, and will feed data to the Committee, the AO, and the chiefs and judges locally. When coupled with other data sources (e.g., BOP's databases, CM/ECF), information can be analyzed in entirely new ways.</p> <p>Case-related information maintained by probation and pretrial services offices is not typically available to the public, except through published reports. Nonetheless, most probation and pretrial services offices have developed public Internet sites that provide helpful information about the office and the services that are provided.</p>
69: Use of court-related technology should be expanded to improve the ability of the federal courts to provide efficient, fair, and comprehensible service to the public.	Committee on Judicial Conduct and Disability	Effectuated through Policy and Practice	Court web sites have been and continue to be adjusted to improve public access to the judicial conduct and disability complaint process. Intranet and online database management capabilities are being increasingly deployed to improve judges' access to past decisions on conduct and disability complaints and to other information on the Judicial Conduct and Disability Act, on the operation of the complaint process, and on substantive standards that govern complaints.

Recommendation or Implementation Strategy	Committee	Status	Comments
69: Use of court-related technology should be expanded to improve the ability of the federal courts to provide efficient, fair, and comprehensible service to the public.	Committee on Rules of Practice and Procedure	Effected through Policy or Practice	<p data-bbox="1409 256 1898 378">During the past several years, the Rules Committees have considered and approved a number of proposed amendments and new rules that applied advances in technology to increase productivity, efficiency, and cost savings for courts and litigants.</p> <p data-bbox="1409 407 1898 873">Protecting Privacy and Security Concerns Raised in Electronic Case Filings. Section 205(c)(3) of the E-Government Act of 2002 requires the Supreme Court to 'prescribe rules . . . To protect privacy and security concerns relating to electronic filing of documents and the public availability . . . Of documents filed electronically.' The Act also requires, among other things, that the rules 'provide to the extent practicable for uniform treatment of privacy and security issues throughout the federal courts.' The Rules Committees approved uniform amendments to the Appellate, Bankruptcy, Civil, and Criminal Rules that implement the E-Government Act of 2002 in 2006. The amendments, which took effect on December 1, 2007, require that personal identification information be redacted from documents filed with the court, e.g. Social Security and taxpayer identification numbers, names of minor children, financial account numbers, dates of birth, and, in criminal cases, home addresses.</p> <p data-bbox="1409 902 1898 1198">Authorize Electronic Filing. In 2005, the Rules Committees approved proposed amendments to Federal Rules of Appellate Procedure 25 (filing and service), Federal Rules of Bankruptcy Procedure 5005 (filing and transmittal of papers), and Federal Rules of Civil Procedure 5 (service and filing of pleadings), which authorize a court to require electronic case filing by local rule. The amendments, which were approved by the Supreme Court in April 2006, were considered on an expedited basis because they are expected to result in significant cost savings for the courts. The amendments took effect on December 1, 2006.</p> <p data-bbox="1409 1227 1898 1398">Discovery of Electronic Information. The Rules Committees approved a package of proposed amendments to the Civil Rules relating to the discovery of electronically stored information. The proposals, which took effect on December 1, 2006, address serious problems arising from the increasingly frequent use of electronic discovery.</p> <p data-bbox="1409 1427 1898 1472">Electronic Notice in Bankruptcy Proceedings. In 2004, the Rules Committees approved proposed amendments to</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
69: Use of court-related technology should be expanded to improve the ability of the federal courts to provide efficient, fair, and comprehensible service to the public.	Committee on Intercircuit Assignments	Effected through Policy or Practice	<p>Federal Rules of Bankruptcy Procedure 2002 (notices to creditors and others), 9001 (definitions), and 9036 (notice by electronic transmission), which facilitate the transmission of electronic notices to creditors. The amendments were considered on an expedited basis and took effect on December 1, 2005. The amendments save the courts considerable amounts of money in mailing and administrative expenses.</p> <p>Search and Seizure of Electronic Information. In August 2007, the Rules Committees published for public comment a proposed amendment to Criminal Rule 41 clarifying procedures for the search and seizure of electronic information. The comment period ends in February 2008, and the proposed amendment is scheduled to take effect in December 2009.</p> <p>In 2002, the Intercircuit Assignment Database System (ICADS) was developed to automate the intercourt assignment process. ICADS facilitates the routing of documents between judicial officials for decisions and approvals and provides notification to necessary court officials. Pursuant to U.S.C. 28 §§ 291-297, chief circuit judges are responsible for certifying that there is a need for a judge from outside the circuit to sit in their courts. In addition, the visiting judge or chief circuit judge of the lending court, depending on the judge's status, must consent to the assignment. The Committee on Intercircuit Assignments is responsible for recommending assignments, through the Administrative Office, to the Chief Justice. Courts are notified of the approved assignment as provided by 28 U.S.C. § 295. ICADS also provides a centralized data repository for intercourt assignments, with planned expanded access to circuit court participants.</p>
69: Use of court-related technology should be expanded to improve the ability of the federal courts to provide efficient, fair, and comprehensible service to the public.	Executive Committee	Effected through Policy or Practice	This recommendation expresses an aspiration that cannot be definitively achieved but serves to guide the judiciary's IT program and technology-related initiatives in other specific programs.

Recommendation or Implementation Strategy	Committee	Status	Comments
69: Use of court-related technology should be expanded to improve the ability of the federal courts to provide efficient, fair, and comprehensible service to the public.	Committee on the Budget	Effectuated through Policy or Practice	The Budget Committee supports enhanced efforts that enable electronic access to the federal judiciary. Through its liaison functions with the Information Technology and Court Administration and Case Management Committees, the Economy Subcommittee discusses policy issues that have a budget impact ensuring that each committee's fiscal needs are identified and understood. In January 2007, the Budget Committee endorsed the IT Committee's multi-part strategy to reduce unobligated balances in the Judiciary Information Technology Fund which included expansion of the use of Electronic Public Access (EPA) funds for IT efforts without reducing fees. Authorized by Congress in the fiscal year 2007 appropriations, use of EPA funds was expanded to provide courtroom technology allotments to the courts in fiscal year 2008.
70: The courts must remain current with emerging technologies and how they can be employed to improve the administration of justice generally.	Committee on Intercircuit Assignments	Effectuated through Policy or Practice	A project has been initiated to replace the existing proprietary ICADS with an updated system that makes better use of open standard technologies to meet the judiciary's needs. The Committee will continue to identify and apply new technologies to its business of processing intercircuit assignments that will improve operations and result in savings.

Recommendation or Implementation Strategy	Committee	Status	Comments
70: The courts must remain current with emerging technologies and how they can be employed to improve the administration of justice generally.	Committee on Judicial Security	Effectuated through Policy or Practice	The Committee is briefed regularly by the USMS on emerging technologies and equipment to improve the security in courthouses and the administration of justice generally. In addition, the Off-site Security Subcommittee developed a strategy, approved by the Committee, to help judges protect their personal information on the internet. Pursuant to the Committee's direction, the J-Net's 'Personal Security' page includes a list of websites that share personal information and the means by which to opt-out from those pages, if possible; draft opt-out letters for judges that can be sent to certain websites; USMS bulletins on the issue; and a link to an electronic copy of the Chicago Bar Association's booklet entitled 'Protecting Your Personal Privacy: A Self-Help Guide to Judges and Their Families.' In addition to the availability of 'Protecting Your Personal Privacy' on the J-Net, all judges have been provided a paper copy of the booklet, which was sent with a cover memo providing information about the Committee's other educational initiatives and the J-Net page link to all judges.

Recommendation or Implementation Strategy	Committee	Status	Comments
70: The courts must remain current with emerging technologies and how they can be employed to improve the administration of justice generally.	Committee on Criminal Law	Effectuated through Policy or Practice	<p>The Committee strongly supports this recommendation, especially as it relates to the administration of the probation and pretrial services system. Several emerging technologies have been identified that will assist officers carrying out their official duties. In the area of supervision, initiatives are already under way to employ biometric authentication (e.g., voice identification, fingerprint or retina scan) and remote reporting (e.g., internet or kiosks) for certain lower risk defendants and offenders. The use of remote monitoring technology (e.g., Global Positioning Systems (GPS)) will allow officers to monitor the location of defendants and offenders while they are in the community. New drug testing technologies (e.g., transdermal) will allow for more timely and accurate results. 'Smartphones,' equipped with full internet and PACTS access, allow officers to get up-to-the-minute information (including recent law enforcement contacts, test results, and court ordered conditions) on defendants and offenders whom they supervise in the community.</p> <p>Cybercrime, particularly offenses involving child sexual offenses, present a growing challenge for probation and pretrial services officers. Defendants and offenders continue to employ sophisticated ways to conceal their computer-related criminal conduct, and our officers will need the training and equipment (e.g., hardware, software) to monitor certain offenders' computer activity.</p> <p>Pretrial services and presentence investigations will also benefit from the use of emerging technologies. Server consolidation will ultimately allow for investigative information to seamlessly flow between districts, thereby speeding up the process and reducing the likelihood of errors. The incorporation of 'smartforms' (forms created by pulling data from PACTS or other databases) will further reduce the amount of typing and the possibility of errors.</p> <p>Technology will continue to develop at a rapid pace, and the judiciary must remain current to improve the administration of justice.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
70: The courts must remain current with emerging technologies and how they can be employed to improve the administration of justice generally.	Committee on the Administration of the Bankruptcy	Effectuated through Policy or Practice	The bankruptcy system is quick to adopt useful new technologies. For example, some judges use instant messaging technology to receive real-time legal support from their law clerks during court proceedings. In December 2007, an ad hoc future of bankruptcy CM/ECF planning group met for the first time to begin the process of planning for the successor to the current CM/ECF system.
70: The courts must remain current with emerging technologies and how they can be employed to improve the administration of justice generally.	Committee on the Judicial Branch	Effectuated through Policy or Practice	The Judicial Conference and its committees have facilitated the use of new technologies in the courtroom, including videoconferencing equipment, real-time court reporting, and evidence-presentation systems that can display digital photos, documents and other evidence. Web-based technology has assisted the Administrative Office staff in implementing the Judicial Conference's policies on privately funded seminars and non-case related travel.
70: The courts must remain current with emerging technologies and how they can be employed to improve the administration of justice generally.	Committee on Information Technology	Effectuated through Policy or Practice	As noted in the fiscal year 2008 update to the Long Range Plan for Information Technology, for judges and court staff, using information technology is no longer discretionary; rather, it is simply the way they do their work.
70: The courts must remain current with emerging technologies and how they can be employed to improve the administration of justice generally.	Committee on Court Administration and Case Management	Implementation Not Complete Underlying Conditions Changed	The Committee is now looking a ways that technology can be used to provide more effective access to pro se litigants.
70: The courts must remain current with emerging technologies and how they can be employed to improve the administration of justice generally.	Committee on Space and Facilities	Effectuated through Policy or Practice	The Committee has conducted a comprehensive review of the U.S. Courts Design Guide since 2004 and, during that revision, has employed changes, such as access flooring, so that courts may remain current with emerging technologies. The Committee is also responsible for oversight of the courtroom technology (e.g., video evidence presentation) program.

Recommendation or Implementation Strategy	Committee	Status	Comments
70: The courts must remain current with emerging technologies and how they can be employed to improve the administration of justice generally.	Committee on the Administration of the Magistrate Judges System	Implementation not Complete Partial Implementation	Implementation of this Recommendation is ongoing. Magistrate judges handle a large number of felony criminal preliminary proceedings and various probation and pretrial release matters. Magistrate judges have many more options for home detention and other pretrial confinement options utilizing emerging tracking technology. Likewise, they are called upon to understand the use of internet and cellular technology in addressing requests for wiretaps, pen registers, and delayed-notice search warrants.
70: The courts must remain current with emerging technologies and how they can be employed to improve the administration of justice generally.	Committee on Rules of Practice and Procedure	Effectuated through Policy or Practice	The Rules Committees have formed numerous subcommittees to study advances in technology and how technology can be used to proposed rules amendments that increase efficiencies and cost-savings in the courts. The technology subcommittees' findings and recommendations inform the Rules Committees' deliberations on proposed rules amendments.

Recommendation or Implementation Strategy	Committee	Status	Comments
71: The judicial branch should maintain a comprehensive space and facilities program, giving careful attention to economy in a time of austerity.	Committee on Space and Facilities	Effectuated through Policy or Practice	<p>The Committee has undertaken a variety of cost-containment initiatives that address this recommendation. Since September 2004, the Judicial Conference endorsed four cost-containment initiatives to reduce its space costs, including: (1) endorsement of a two-year moratorium on the courthouse construction plan; (2) a systematic review of the 1997 U.S. Courts Design Guide; (3) review of the judiciary's long-range facilities planning methodology and implementation of asset management planning as an objective methodology for scoring new courthouse construction projects nationwide with an emphasis on cost savings; and (4) adoption of new closure criteria for non-resident judicial facilities. Some of these initiatives have been completed, while others are still underway:</p> <p>(1) A two-year space moratorium on courthouse construction and major renovations became effective in September 2004. The moratorium has permitted the judiciary to pursue other cost-containment initiatives concurrently, intended to reduce the judiciary's space costs. When the space moratorium for non-prospectus space expired in March 2006, the Judicial Conference reaffirmed that all space requests are subject to the budget check process. The moratorium also allowed the judiciary to work on the development and endorsement by the Judicial Conference, in concept, annual budget cap for space rental costs. A space rental budget cap at an average of 4.9% was endorsed by the Judicial Conference in March 2007. (2) The judiciary has reviewed significant portions of its 1997 edition of the U.S. Courts Design Guide to reduce and update space standards, which will ultimately help control the costs of building new courthouses. (3) The judiciary has re-examined the planning assumptions, criteria, and practices behind its long-range facilities planning process, which culminates in the Five-Year Courthouse Project Plan, and endorsed in principle an asset management planning methodology for scoring courthouse projects. The asset management planning methodology will be presented to the Judicial Conference in March 2008 for approval. Asset management planning evaluates and compares all options for space by using a cost-benefit analysis to help the judiciary get the greatest support for the judiciary's operations at the least cost and risk. It will also work in conjunction with the budget caps to prioritize strategies and projects under a variety of budgetary scenarios. It attempts to extend tenancy in an existing building as long as practicable. The Committee is currently working on a pilot project of the</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
72: To achieve economies of scale, eliminate unnecessary duplication, and otherwise improve administrative efficiency and effectiveness, the courts should study alternative methods of organizing and allocating judicial support functions.	Committee on Court Administration and Case Management	Implementation Not Complete Partial Implementation	<p>methodology. (4) The Committee has also developed new criteria factors and weights for the closure of non-resident court facilities that will help enable the calculation of an overall closure score by comparing a weighted average of three criteria scores which create an effectiveness score (facility usage, location, and building condition) to the fourth criterion score, building operating cost. The factors selected are those that are objectively comparable throughout the country and will help the judiciary determine whether the benefit of the facility outweighs its costs. If not, it will be recommended for closure. While the ultimate decision to close a facility is left to circuit judicial council, these criteria will help councils decide what facilities to close, which can help reduce rent costs.</p> <p>CACM was involved in the recent study on the cost and delivery of administrative services. As a follow-up to the study a working group was formed to facilitate the sharing of administrative services by making changes in the way budget allotments are made so that courts which share services are not penalized in the budget allotment process for doing so and have less difficulties in adopting sharing arrangements. As discussed above in response to Recommendation 48, there is also an ASMAP group composed of court managers from a different units working on more cooperative ways of delivering administrative services in various areas.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
73: To refine both operations and policy, the federal courts should define, structure and, as appropriate, expand their data-collection and information-gathering capacity.	Committee on Judicial Resources	Effectuated through Policy or Practice	The AO Director created a task force to coordinate implementation of Recommendation 73, which was divided into three phases: bankruptcy, appeals, and district courts. Each phase involved a comprehensive assessment of the judiciary's information needs and data collection and reporting policies and practices that included input from court staff, Administrative Office program staff, and outside researchers. The assessment included a review of statistical information already being collected, what additional information would be useful for policy, planning, and reporting, and the feasibility of collecting additional information. The task force also examined all possible methods for data collection and reporting, such as the Case Management/Electronic Case Files software. In addition to changes in the types of data being collected, this review highlighted the need to have statistical data collected as a by-product of general docketing, rather than as a separate process, to ensure complete and accurate data. The Subcommittee continually reviews statistical data collection and reporting needs to determine if additional information should be collected and/or maintained centrally by the Administrative Office.
73a: To obtain better data for reporting, policy-making, and planning purposes, the Judicial Conference should establish a steering group to coordinate and define the process. Members of the group should include representatives from all primary data sources, judicial branch users, and outside researchers.	Committee on Judicial Resources	Effectuated through Policy or Practice	See Recommendation 73.
73b: This steering group should: (1) Conduct a data needs assessment that includes but is not limited to: courts of appeals, district courts, and bankruptcy courts; magistrate judge reporting; Administrative Office program reporting; research; budgetary impact analysis; and long range planning. (2) Inventory and catalog data collection efforts. Utilize recent surveys conducted by Conference committees and other organizations. (3) Evaluate the ability of current statistical data holdings to support planning and policy. (4) Determine how best to collect and maintain such data. Determine how best to organize and manage such efforts. Determine training requirements. (5) Design the most appropriate single or coordinated network of data bases.	Committee on Judicial Resources	Effectuated through Policy or Practice	See Recommendation 73.

Recommendation or Implementation Strategy	Committee	Status	Comments
74: The courts should maintain and foster high-quality judicial support services.	Committee on Judicial Resources	Effectuated through Policy or Practice	<p>The Judiciary Online University (JOU) serves as a web-based vehicle for delivery of learning and resources to support employee productivity in the judiciary. Since JOU's inception in August 2005, court staff have accessed more than 14,000 courses, completed 6,554 on-line courses, and used JOU as a resource (accessed job aids, skill briefs and course summaries) a total of 54,289 times. Books24x7, the complementary on-line program book collection, enables quick on-the-job research capability for employees whenever they need it. Since the inception of Books24x7 in October 2006, court staff have accessed Books24x7 nearly 5,000 times, for a total of 36,104 book pages online viewed. Increased usage of CourtsLearn (hosted by Blackboard) for on-line judiciary-specific training indicates its success as a cost-effective component of blended learning solutions, as well as a stand-alone computer based training system. Court Personnel System (CPS) training was presented as a blended solution, utilizing CourtsLearn to deliver informational course content, followed by on-site Instructor-led classes. 103 court employees completed informational courseware on CourtsLearn, and then attended follow-up live training in April (60 participants) and August (43 participants) of 2007. OHR is currently expanding the on-line training for judiciary employees with HR responsibilities to provide a full training curriculum which will form the basis of an HR Academy. Similarly, 'Managing the Court Budget,' created and sponsored by the AO's Budget Division, and transferred to CourtsLearn, saves money by reducing travel and time away from the job. 59 judiciary employees completed 'Managing the Court Budget,' and an additional 120 are in the process of completing the training. Employees must complete the on-line module prior to attending the hand-on case study portion of the course. Added benefits of this delivery mode include 24/7 availability of content, as well as the ability to complete informational aspects of the content at the learner's own pace. Follow-up instructor-led components provide interaction with subject-matter experts, as well as an opportunity for the exchange of ideas and best practice among peers. Time in the classroom is used more efficiently for interactive learning, since employees master informational content prior to attending the live portion of the course. The Contracting Officers' Technical Representative (COTR) Certification Program provides a just-in-time training option for certification of new COTRs and re-certification of current ones. Thus far, 50 employees have been certified as judiciary</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
75: The courts should improve working conditions and arrangements for all court support personnel.	Committee on Judicial Resources	Effectuated through Policy or Practice	<p>COTRs, while an additional 125 are in the process of completing the course created by the AO's Procurement Management Division. The web-based training version of the 'Management in the Judiciary: The Rules, Tools, and Tips of Good Stewardship' training program is provided at a fraction of the cost of the face-to-face format and is an effective training tool for mid-level management to communicate the importance of good stewardship to their staff. As of the end of October 2007, 577 employees have logged into the course, collectively completing over 3,916 modules. Of these 577 employees, 216 have fully completed the on-line course.</p> <p>The judiciary introduced the Flexible Benefit Program in 2000. This program allows judges and employees to save on health care and dependent care needs by paying health insurance premiums tax-free, and setting aside up to \$10,000 a year tax-free for health care expenses and up to \$5,000 tax-free for dependent care expenses. In 2007, more than 11,600 judges and employees enrolled in the Flexible Benefit Program, marking the seventh straight year of increased enrollment since the program began in 2000. The judiciary's participation rate of 36 percent jumped from 33 percent in 2006, and it continues to be far in excess of rates for other employers. Judges and employees realized nearly \$36 million in tax savings in 2007 through this program, with an average increase in take-home pay of \$3,150 for judges and \$2,400 for judiciary employees.</p>
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Committee on Judicial Resources	Effectuated through Policy or Practice	<p>The AO's Fair Employment Practices Office (FEPO) provides guidance and advice to judges, Employment Dispute Resolution (EDR) Coordinators, supervisors, and employees on the administrative nature and procedure of EDR hearings using distance technologies, as well as in-person training. FEPO also examines diversity in the judiciary and considers programs, policies, and training on issues related to diversity and fair employment practices.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Committee on the Administration of the Bankruptcy	Effectuated through Policy or Practice	The Federal Judicial Center and the Administrative Office have collaborated effectively for many years in presenting cutting edge continuing education programs for bankruptcy judges through regional seminars and FJTN programs.
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Committee on Judicial Security	Effectuated through Policy or Practice	The FJC has Phase I orientation programs for district, magistrate, and bankruptcy judges. At the Phase I program for district judges, the FJC asks the U.S. Marshal heading the security detail to speak to the new judges for a few minutes about security issues, and provide information on any particular security issues in the city where the Phase I program is being held.
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Committee on the Budget	Effectuated through Policy or Practice	The Budget Committee supports providing budget-related education for all employees of the judiciary, including judges. The AO uses opportunities such as new chief judge orientation sessions and judges' conferences to train judges on the judiciary's budget process. In fiscal year 2008, a DVD on the judiciary's budget process will be distributed to all judges.
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Committee on the Administration of the Magistrate Judges System	Implementation not Complete Partial Implementation	Implementation of this Recommendation is ongoing. The Administrative Office works with the FJC to offer substantive national workshops for both new and experienced magistrate judges using experienced magistrate judges as faculty. The Magistrate Judges Division transmits periodic information memoranda to all magistrate judges summarizing recent cases, statutes, and articles of interest. The Division also acts as a clearinghouse on magistrate judge utilization practices as well as the use of magistrate judges in conducting settlement conferences and other alternative dispute resolution processes. The Magistrate Judges Committee encourages courts to consider diversity in the selection and appointment of magistrate judges.

Recommendation or Implementation Strategy	Committee	Status	Comments
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Executive Committee	Effectuated through Policy or Practice	This recommendation expresses an aspiration that cannot be definitively achieved but serves to guide the FJC in providing judicial education programs. However, the reference to specific educational topics raises a question of whether the aspiration should be stated more broadly to cover a wider range of topics in which judicial education is currently needed or may be required in the future.
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Committee on Judicial Conduct and Disability	Effectuated through Policy and Practice	Judges should also receive periodic education on Code of Conduct issues, and on statutory and regulatory provisions regarding financial disclosure, conflicts of interest, gifts, honoraria, and limitations on outside income.
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Committee on Space and Facilities	Effectuated through Policy or Practice	The Committee periodically informs and educates judges of space and facilities related issues through broadcast memoranda, postings on the J-Net, in-service training sessions on court construction, when warranted, and through chief judge orientation programs.
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Committee on Rules of Practice and Procedure	Effectuated through Policy or Practice	The Rules Committees continually work with the Federal Judicial Center and other major legal organizations to present to judges and court staff educational programs and materials on rules-related matters.

Recommendation or Implementation Strategy	Committee	Status	Comments
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Committee on Criminal Law	Effectuated through Policy or Practice	<p>The Committee has supported this recommendation through its role in organizing and facilitating the Sentencing Policy Institutes and by working with the AO and the FJC to develop programs that meet the needs of judges across the system.</p> <p>In the years to come, the Committee would like to see educational programs for judges include topics such as sentencing law post-Booker and information about the latest evidenced-based practices in corrections and community corrections. This type of training will enable judges to fashion sentences that not only meet the goals set out in 18 U.S.C. § 3553(a), but also are more effective in curbing recidivism and conscientious of the costs of such sentences.</p>
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Committee on Defender Services	<p>Implementation not Complete</p> <p>Partial Implementation</p>	<p>Judicial Conference Guidelines encourage courts to use case budgeting in panel attorney capital cases and non-capital representations that are, or are likely to become, 'extraordinary in terms of cost.' In such cases, appointed counsel submit a proposed initial litigation budget for court approval, which is subject to modification and monitored as the case proceeds. This process has great potential for avoiding unnecessary expenditures through the effective management of high-cost criminal panel attorney representations, without compromising the quality of services provided. It would be beneficial to include case budgeting as part of 'case management' in the continuing education programs for judges. It could also be helpful to inform judges about the case-budgeting experts and other national program resources available to assist them with capital case matters (e.g., the Federal Death Penalty Counsel, Capital Habeas Resource Counsel, and 2255" Projects).</p>
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Committee on Court Administration and Case Management	<p>Implementation Not Complete</p> <p>Underlying Conditions Changed; Partial Implementation</p>	<p>The CACM Committee has provided suggestions to the FJC regarding its educational programs for judges. AO and FJC staff are currently working on a revised version of the Litigation Management Manual to assist in the continuing education of judges in the areas of case management and ADR.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Committee on Federal-State Jurisdiction	Implementation not Complete Partial Implementation	This goal should continue to be included in the Long Range Plan. A broader range of topics would be of interest and benefit to both federal and state judges.
76: High-quality continuing education for judges should focus on the law, case management (including use of appropriate dispute-resolution processes), and cultural diversity.	Committee on the Judicial Branch	Effectuated through Policy or Practice	Video and audio programs (as well as articles and publications) on the law, case management, and cultural diversity are available to judges on the Federal Judicial Center's intranet website.
77: All federal court staff should be trained to ensure outstanding service to the public through adopting a "customer service" approach to justice. They should be educated regularly in the use of court technology.	Committee on Judicial Resources	Effectuated through Policy or Practice	The Judiciary Online University (JOU) provides five books on customer service which covers a program for turning each customer interaction into a peak experience and gives readers fundamentals on how to take the critical steps toward truly outstanding customer service. The JOU provides five courses on the fundamentals of customer service, excellence in internal customer service, and professional skills for customer service agents. There are five simulations covering the art of effective customer service and handling complaints.
77: All federal court staff should be trained to ensure outstanding service to the public through adopting a "customer service" approach to justice. They should be educated regularly in the use of court technology.	Committee on Information Technology	Effectuated through Policy or Practice	Among the objectives contained in the fiscal year 2008 update to the Long Range Plan for Information Technology are providing the public and the bar with easy access to appropriate court and case information, access to the adjudicative process, and utilizing cost-effective training methods to ensure the full use of existing court information technology capabilities by court employees and attorneys.
78: Since both intentional bias and the appearance of bias impede the fair administration of justice and cannot be tolerated in federal courts, federal judges should exert strong leadership to eliminate unfairness and its perception in federal courts.	Committee on Court Administration and Case Management	Effectuated through Policy or Practice Partial Implementation	Gender bias studies have been completed and reports have been made. CACM supported the gender bias study efforts.

Recommendation or Implementation Strategy	Committee	Status	Comments
78: Since both intentional bias and the appearance of bias impede the fair administration of justice and cannot be tolerated in federal courts, federal judges should exert strong leadership to eliminate unfairness and its perception in federal courts.	Committee on Judicial Resources	Effectuated through Policy or Practice	The FEPO monitors and promotes diversity within the federal judicial workforce and considers programs, policies and training on issues related to diversity and fair employment practices. Moreover, it establishes and encourages on-line diversity outreach, in part, by developing a family of on-line products that enable courts to select the appropriate tools that help create and maintain an environment that embraces and celebrates differences among gender, age, ethnic origins, and different abilities and races. To this end, FEPO also hosts a Heritage celebration series and prepares Heritage Source books and other materials for each of five groups: African Americans, Women, Asian and Pacific Islanders, Hispanics, and Native Americans during the month each group is nationally recognized. Lastly, members of the Judicial Resources Committee attend and make presentations at circuit judicial conferences highlighting the Committee's concern about the lack of diversity among non-Article III judges, court unit executives, and law clerks.
79: Federal judges and all court personnel should strive to understand the diverse cultural backgrounds and experiences of the parties, witnesses, and attorneys who appear before them.	Committee on Court Administration and Case Management	Effectuated through Policy or Practice	The FJC's curriculum guide for local diversity training programs continues to help court staff in understanding the diversity of court users.
79: Federal judges and all court personnel should strive to understand the diverse cultural backgrounds and experiences of the parties, witnesses, and attorneys who appear before them.	Committee on Judicial Resources	Effectuated through Policy or Practice	See Recommendation 78
80: Justice should be made fully accessible to individuals with disabilities. Facilities should be constructed or renovated to ensure physical access and to remove attitudinal barriers to providing full and equal justice to those with disabilities.	Committee on Space and Facilities	Effectuated through Policy or Practice	The Committee has conducted a comprehensive review of the U.S. Courts Design Guide since 2004 and, during that revision, has made the areas of public access compliant with the requirements of the Americans with Disabilities Act.

Recommendation or Implementation Strategy	Committee	Status	Comments
80: Justice should be made fully accessible to individuals with disabilities. Facilities should be constructed or renovated to ensure physical access and to remove attitudinal barriers to providing full and equal justice to those with disabilities.	Committee on Judicial Resources	Effectuated through Policy or Practice	The FEPO offers guidance to judges and court managers on reasonable accommodation and other assistive technology requests for persons with disabilities. To this end, FEPO developed a Reasonable Accommodation Road Map based on the Reasonable Accommodation Guidelines for Persons with Disabilities to provide federal judiciary employees with procedural and resource information. Moreover, the AO entered into an interagency agreement with the United States Department of Agriculture (USDA) to provide judiciary employees access to the USDA TARGET (Technology Accessible Resources Gives Employment Today) Center's state-of-the-art evaluation center for accessible technologies and accommodations. To this end, the Target Center contains adaptive equipment, software, ergonomic solutions, and other accommodations, as well as resource information in a variety of formats in areas of accessible technologies and reasonable accommodations for people with disabilities.

Recommendation or Implementation Strategy	Committee	Status	Comments
81: Court interpreter services should be made available in a wider range of court proceedings in order to make justice more accessible to those who do not speak English and cannot afford to provide these services for themselves.	Committee on Court Administration and Case Management	Implementation Not Complete Partial Implementation	<p>For several years, the CACM Committee has recognized the need to safeguard equal access to the courts for non-English speaking individuals. In this regard, the Committee has been very involved in the effort to provide court information and forms in languages other than English. These efforts were initiated by the Committee's long-range planning subcommittee established to help the increasing segment of the population with limited English proficiency (LEP) to understand and have better access to the courts. Throughout this process the Committee continues to emphasize that any official filing made in federal court must be made in English. As part of this effort the Committee looked at the data from the 2000 Census to determine if there were any issues or trends which the federal courts should address. One glaring issue arose from the fact that there are now 37 million people in the U.S. who speak a language other than English, 21 million of whom speak Spanish. Of those Spanish speaking people, 32 percent or about 6.9 million do not speak English well or at all. The Committee decided to pursue the translation of federal court forms into Spanish to address this access to justice issue.</p> <p>At its June 2007 meeting, the Committee was informed that translated forms presently available from courts had been posted on the J-Net, an important first step in providing assistance to courts. To assist in this effort, the Committee formed a subcommittee to oversee the translation process. The subcommittee has been working with interpreters from Puerto Rico to review the documents already posted and translate additional documents. Now that the forms have been finalized, the Administrative Office will ask a group of court translators with backgrounds in various types of Spanish dialects to review the forms for accuracy, clarity and usage from their perspective. Final versions of model forms will emerge from this effort. At the December 2007 CACM meeting, the subcommittee provided an update of the translated forms project.</p> <p>Regarding court participants with communications challenges, in September 1995 the Judicial Conference adopted the policy (upon a CACM recommendation) that all Federal courts provide reasonable accommodations to persons with communications disabilities. Pursuant to this policy, each federal court is required to provide, at judiciary expense, sign language interpreters or other appropriate auxiliary aids and services to participants in</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
82: Litigants should pay reasonable filing fees, and certain services above a basic level should be funded by reasonable user fees.	Committee on Court Administration and Case Management	Effectuated through Policy or Practice	<p>federal court proceedings who are deaf, hearing-impaired, or have other communications disabilities. The court shall give primary consideration to a participant's choice of auxiliary aid or service. Such services may include provision of qualified interpreters, assistive listening devices or systems, or other effective methods of making aurally delivered materials available to individuals with hearing communications challenges.</p> <p>Presently, 28 U.S.C. 1827, provides that interpreter services may be provided only for court proceedings initiated by the United States (with the limited exception of providing sign language interpreters for hearing impaired for any proceeding regardless of whether it was initiated by the United States). A statutory changes would be necessary to provide language interpreter services in court proceedings not initiated by the United States. This may require significant additional resources and has not been considered by the CACM Committee.</p> <p>In March 1996, the Judicial Conference directed that all resources available for certification of court interpreters be devoted, with an emphasis on appropriate cost savings, only to certification of Spanish-language interpreters. Certification of interpreters in all other languages is suspended pending an AO reevaluation of the alternatives to certification. Fed. R. Crim. P. 6 provides for the use of interpreters in grand jury proceedings.</p> <p>The Committee continues to review fees on a periodic basis and to determine whether fees should be increased at the rate of inflation. At its last meeting the Committee determined not to increase the fees for inflation due to recent filing fee increases included in Congressional legislation. The Committee will continue to monitor the fee structure.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
82: Litigants should pay reasonable filing fees, and certain services above a basic level should be funded by reasonable user fees.	Committee on the Administration of the Bankruptcy	Effectuated through Policy or Practice	The Bankruptcy Committee has focused intensely on the issue of fees, seeking to balance a fair revenue for the judiciary with appropriate public access to justice. The substantial drop in bankruptcy filings caused by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, coupled with statutory adjustments of fees, has complicated the work of the Committee in this area. The Committee, with the assistance of the FJC, continues to study potential sources of fee revenue.
83: Federal defender organizations should be established in all judicial districts (or combined districts), where feasible, to provide direct representation to financially eligible criminal defendants and serve as a resource to private defense counsel who provide such representation.	Committee on Defender Services	Implementation not Complete Partial Implementation	The commentary to this recommendation cites a March 1993 Judicial Conference report, which had also endorsed establishment of FDOs. At that time, 57 of the 94 judicial districts were served by an FDO. Significant progress has occurred since then, as 90 districts are now served by an FDO. Efforts continue with respect to three of the four remaining districts without an FDO; the fourth (the Northern Mariana Islands) currently lacks sufficient CJA appointments to support FDO coverage.
83a: Full-time federal defenders should train and serve as a resource to panel attorneys, thus assuring competence of appointed counsel.	Committee on Defender Services	Implementation not Complete Partial Implementation	Historically, FDOs have provided local training events and other educational resources for CJA panel attorneys, to supplement the regional and national training programs provided by the AO's Office of Defender Services (ODS) and the Federal Judicial Center. At its June 2003 meeting, the Committee on Defender Services adopted a resolution formally requiring FDOs to provide annual training for local CJA panel attorneys and to report on these events to ODS beginning in FY 2004 (the FDOs continue to report annually on their local training activities). In each of the four districts without an FDO, CJA resource counsel (with ODS assistance) help to organize panel attorney training, pursuant to contracts with the AO, but this is not a substitute for the support that would become available if an FDO were established within those districts.

Recommendation or Implementation Strategy	Committee	Status	Comments
83b: A study should be conducted to determine whether guidelines may be developed to enable federal defender organizations to represent more than one defendant in a multi-defendant case, if such representation is otherwise appropriate.	Committee on Defender Services	Implementation Completed	<p>The CJA provides that 'separate' counsel must be appointed for defendants 'having interests that cannot properly be represented by the same counsel, or when other good cause is shown.' 18 U.S. C. § 3006A(b). In multi-defendant cases, potential or actual conflicts arise to such an extent that it has long been the practice for an FDO to represent only one client in such circumstances. This is consistent with ethical rules that, with some limited exceptions, generally (1) restrict lawyers from representing clients where concurrent conflicts of interest are involved, and (2) provide for the disqualification of all attorneys in the firm, because the knowledge of one is imputed by inference to the others. The governing ethical rules vary among the state bars, with respect to what constitutes a waivable conflict, whether a public defender organization is a 'firm' subject to imputation, and whether a 'firewall' could be structured to remove actual or potential conflicts to ensure independent advocacy for the clients. The 1995 Long-Range Plan suggests that making multiple appointments to FDOs in multi-defendant cases could be a way to 'control the heavy costs of the CJA system.' The idea has been explored on several occasions since the CJA was amended in 1970 to authorize establishment of FDOs. It has been observed that, even if a firewall were ethically permissible, the costs to construct the separate control, administration, and operational structures reasonably necessary to ensure the requisite independence of counsel (for each co-defendant) would likely be high. It has become clear, based on more than 37 years of experience with FDO appointment, management, and operational matters, that the current practice of assigning not more than one client to the FDO in a multi-defendant case is prudent and should be continued; it provides for compliance with diverse ethical rules, addresses cost factors, and supports the delivery of effective, independent representation to eligible clients. Regarding seeking improved compensation for panel attorneys, see also Recommendation 84 and Implementation Strategies 84d and 84e.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
83c: Federal defender organizations should represent individuals who present more complicated issues or otherwise require more defense resources.	Committee on Defender Services	Effectuated through Policy or Practice	This is highly desirable, but possible to sustain only where FDOs are funded adequately to secure the personnel and other resources necessary to provide representation in such cases, in addition to retaining the capacity to consistently meet the courts' other CJA appointment needs.
84: Highly qualified, fairly compensated, and optimally sized panels of private attorneys should be created to furnish representation in those cases not assigned to a defender organization.	Committee on Defender Services	Implementation not Complete Partial Implementation	These interdependent objectives remain crucial for providing effective representation to CJA clients. They are included in the Committee's Strategic Plan Outline and receive (and require) continuing emphasis, especially in pursuing increases in congressional funding to provide fair compensation for panel attorneys, at a level that includes recurring, annual cost-of-living adjustments and will help the courts recruit and retain enough qualified panel attorneys, available and willing to accept CJA appointments. In September 2004, judges (responding to a survey about the quality of representation) rated CJA panel attorney services substantially lower than those provided by federal defenders, confirming the need to pursue improvements to provide consistently high-quality services, nationwide.
84: Highly qualified, fairly compensated, and optimally sized panels of private attorneys should be created to furnish representation in those cases not assigned to a defender organization.	Committee on the Budget	Implementation not Complete Legislation Proposed Pending	The Budget Committee supports efforts to achieve the statutory maximum non-capital panel attorney rate. In July 2007, the Budget Committee developed a two-year strategy to seek the maximum hourly rate believing that Congress would find a request to seek the maximum in a single year excessive and unreasonable. The Budget Committee plans to discuss with Congress throughout the fiscal year 2009 appropriations cycle the need to achieve the maximum rate. In the fiscal year 2009 budget request, the Budget Committee recommended seeking a \$118 per hour rate, with the balance to attain the statutory maximum (projected to be \$136 per hour) to be requested in fiscal year 2010.

Recommendation or Implementation Strategy	Committee	Status	Comments
84a: The judiciary should establish local qualification standards, provide better training, and seek improved compensation for panel attorneys.	Committee on Defender Services	Implementation not Complete	Local qualification standards, better training, and improved panel attorney compensation are absolutely necessary to populate CJA panels with enough qualified members to accept appointments not made to FDOs. Generally, at the district level, establishing a CJA panel and creating a CJA committee are two key elements for administering successful CJA programs; the CJA committees include court, panel attorney, and federal defender members, and assist the court in recruiting, evaluating, selecting, and monitoring the performance of panel members. Over the past 10 years, CJA panels and CJA committees have been established in most districts. The Vera Institute of Justice has conducted two contract studies for the AO, focusing on the management and administration of CJA panel attorney programs, which were completed in December 2002 and January 2006 and distributed to federal judges nationwide. The first report identifies suggestions for courts to consider to improve the selection, appointment, compensation, and training of district panel attorneys. The second report offers recommendations for enhancing appeals court CJA programs in areas such as continuity of counsel, the use of circuit CJA panels and FDO appellate specialists, and compensation review. These studies have been valuable tools for courts to use to make changes in panel management and administration, tailored to improve local circumstances. Panel attorney training is provided by the ODS Training Branch and federal defenders, at times with the assistance of local courts. More funding and training staff are needed to expand panel training opportunities. Regarding seeking improved compensation for panel attorneys, see also Recommendation 84 and Implementation Strategies 84d and 84c.
		Partial Implementation	
84b: To improve the quality of representation, adequate funding should be obtained so that the Administrative Office, in coordination with the federal defenders, the Federal Judicial Center, the United States Sentencing Commission, bar associations, and local courts, can provide panel attorneys with the training needed to assure effective assistance of counsel to their clients.	Committee on Defender Services	Implementation not Complete	This strategy is only partially implemented because of funding limitations. The Office of Defender Services has increased the amount of training available to panel attorneys as fully as possible, given the staffing and other resources available, and federal defenders have enhanced their training efforts by working with state or local groups to reach more panel attorneys.
		Partial Implementation	

Recommendation or Implementation Strategy	Committee	Status	Comments
84c: In districts and locations where it is not feasible to establish a federal defender organization, the courts should be encouraged and afforded sufficient funding to establish panel attorney support offices which can provide the needed advice and assistance.	Committee on Defender Services	Implementation not Complete Underlying Conditions Changed	This strategy is obsolete. The Committee deleted this strategy from its Strategic Plan Outline in December 2006, based upon recommendations from its Subcommittee on Long-Range Planning and Budgeting and the AO's Defender Services Advisory Group. Alternative approaches to panel attorney support -- e.g., CJA Supervising Attorneys, CJA Resource Counsel, and FDO contracts with local copying services for both FDO and panel attorney needs -- are being explored and utilized. It is now feasible to establish an FDO in 93 of the 94 federal districts (only the Northern Mariana Islands lacks the requisite number of CJA appointments). As noted above (see Recommendation 83 and Implementation Strategy 83a), 90 districts are currently served by FDOs, and the panel attorneys in each of the four remaining districts (including the Northern Mariana Islands) receive support from CJA Resource Counsel.
84d: The Judicial Conference should continue its efforts to obtain sufficient funding to permit compensation rates to be adjusted up to the maximum amount authorized by law.	Committee on Defender Services	Implementation not Complete Partial Implementation	This is absolutely essential to accomplishing the mission of the Defender Services program. Data collected from panel attorneys in early 2005 revealed an average hourly panel attorney overhead cost of \$64, producing an average 'net' compensation rate of just \$26 per hour for CJA non-capital cases, calculated at the then-current rate of \$90. This means that at today's rate of \$100 (which became effective on January 1, 2008), panel attorneys net an average of \$36 per hour, before taxes, assuming that average overhead costs have not increased since 2005. This is far below market rates (and about one-fourth of the average \$148 hourly net rate paid in retained criminal cases in 2005) and compels panel attorneys to subsidize the cost of defense services that the government is constitutionally mandated to provide. In an era of highly complex federal criminal practice, this is neither practical nor fair. The Budget Committee supports a two-year (2009 and 2010) strategy to seek funding from Congress for the statutory maximum non-capital hourly rate.

Recommendation or Implementation Strategy	Committee	Status	Comments
84e: The federal courts should continue to seek authority under the Criminal Justice Act to establish and modify dollar limitations on panel attorney and other compensation.	Committee on Defender Services	Implementation not Complete Legislation Proposed/Pending	The Judicial Conference's March 1993 report on the federal defender program (p. 31) recommended seeking the legislative authority set forth in Implementation Strategy 84e. As an interim solution, the Judicial Conference's policy is that case compensation maximums should be adjusted in proportion to, and simultaneously with, any increase in the hourly panel attorney compensation rate (JCUS-MAR 95, p. 18). The CJA was amended to increase the attorney case compensation maximums in the Federal Courts Improvement Act of 2000, to account for the hourly rate adjustments funded by Congress from 1990 to 2000, and amended again by the FY 2005 Omnibus Appropriations Act to reflect the increase to \$90 in the non-capital hourly rate, implemented in May 2002. Congress has not amended the CJA to adjust the case maximums for the subsequent changes funded by Congress, raising the rate for FY 2006 to \$92 (effective January 1, 2006), to \$94 for FY 2007 (effective May 20, 2007), and to \$100 for FY 2008 (effective January 1, 2008). In April 2007, the AO forwarded the judiciary's proposed 'Criminal Judicial Procedure, Administration, and Technical Amendments Act of 2007' to the 110th Congress, which would (if enacted) amend 18 U.S.C. § 3006A(d)(2) to automatically increase the attorney case compensation maximums in proportion to, and simultaneously with, any increase in the hourly attorney compensation rate. Those same provisions were transmitted to the previous Congress as part of proposed legislation that ultimately was not enacted. The judiciary should continue its efforts to achieve these statutory adjustments.
84f: Adequate funding for the defender services program should be secured by ensuring that the program is efficient and well-managed.	Committee on Defender Services	Implementation not Complete Partial Implementation	Financial audits and program assessments indicate that the program is efficient and well-managed. Sufficient funding is needed to (1) ensure that FDOs will be able to meet changing case loads and continue to meet district appointment needs on a consistent basis, and to (2) provide fair compensation rates to panel attorneys, sufficient to enable the courts to attract and retain enough qualified panel attorneys to accept CJA appointments.

Recommendation or Implementation Strategy	Committee	Status	Comments
84g: Courts should be discouraged from preemptorily reducing fees to panel attorneys and should strive to create a system that ensures fair compensation to such attorneys.	Committee on Defender Services	Implementation not Complete Partial Implementation	The Judicial Conference CJA Guidelines were revised in March 2006 to help foster a fair system of compensation for panel attorneys by (1) articulating procedures for courts to follow prior to reducing a voucher and (2) advising judges not to delay or reduce voucher payments for the purpose of limiting Defender Services program costs (JCUS-MAR 06, pp. 15-16). CJA Guideline 2.22E specifies that the court should notify panel attorneys of proposed voucher reductions (for other than mathematical or technical errors) and the reasons for them, and should also provide the attorneys an opportunity to respond before a final decision is made. CJA Guideline 2.22D provides that payments on vouchers should not be delayed or reduced for the purpose of diminishing Defender Services program costs in response to adverse financial circumstances. It has been observed that, as of November 30, 2007, not all district and appeals courts have fully implemented the new voucher review guideline. All district and appeals courts should be encouraged to follow Guidelines 2.22D and E.
85: Provision of counsel should be increased for civil litigants, and mechanisms, including legal aid societies and similar organizations, for handling indigent and pro se cases in federal courts should be enhanced.	Committee on Court Administration and Case Management	Effectuated through Policy and Practice	No Comment
85a: Bar associations should be encouraged to promote pro bono programs to make civil counsel available to assist litigants who otherwise would have to represent themselves in federal courts. Funding sources should be developed for provision of legal assistance by legal aid societies and similar organizations.	Committee on Court Administration and Case Management	Implementation Not Complete Partial Implementation	Some courts have formed pro bono panels for representation of pro se litigants. Those efforts might provide models for development of similar programs in other courts.
85b: Law schools should be encouraged to expand legal clinics to provide competent counsel for prisoner claims, and to low and moderate income persons in need of counsel.	Committee on Court Administration and Case Management	Implementation Not Complete No Action Taken	The contact with law schools is more appropriately done on a local basis by courts that can best determine their needs and the resources of local law schools.

Recommendation or Implementation Strategy	Committee	Status	Comments
85c: Federal courts should adopt local rules authorizing law students involved in legal clinics to represent - with appropriate supervision - parties in need of counsel in federal courts.	Committee on Court Administration and Case Management	Implementation Not Complete No Action Taken	This Committee has long viewed the issue of the determination of the attorney admissions as a local court matter and has not taken any action in this regard.
85c: Federal courts should adopt local rules authorizing law students involved in legal clinics to represent -- with appropriate supervision -- parties in need of counsel in federal courts.	Committee on Rules of Practice and Procedure	Implementation not Complete Opportunity to implement has not occurred	<p>In the late 1990s, the Standing Committee considered national rules governing attorney conduct in federal courts. This grew out of the Local Rules Project, which had the goal of promoting national uniformity and reducing or eliminating inconsistent and inappropriate local rules. The Standing Committee found that the local attorney conduct rules in the federal courts vary enormously: (1) among the federal courts nationally; and (2) between federal courts and state courts within the same state.</p> <p>After extensive discussion over a number of years, the Standing Committee decided not to move forward with possible rules amendments governing attorney conduct, recognizing that there were many sensitive and difficult issues that made proposing a national rule problematic.</p>
85d: Special mechanisms should be created to handle pro se cases efficiently. The frequency of pro se filings, and the frequency of repeat filings by particular litigants, should be tracked through the judiciary's statistical system to allow informed assessment of the amount and impact of judge time and court resources devoted to pro se filings.	Committee on Court Administration and Case Management	Effectuated through Policy and Practice	<p>(see Rec. 33 and I.S. 73a.) Following adoption of the Prison Litigation Reform Act, each circuit adopted procedures for the handling of pro se prisoner petitions.</p> <p>Individual courts have created manuals and procedures to assist pro se litigants. Pro Se Work Measurement study should provide a great deal of information on impact of pro se filings.</p> <p>The PACER Party/Case Index was created in part to address the tracking of repeat filings by pro se litigants.</p> <p>Statistics are now maintained on the frequency of pro se filings.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
85d: Special mechanisms should be created to handle pro se cases efficiently. The frequency of pro se filings, and the frequency of repeat filings by particular litigants, should be tracked through the judiciary's statistical system to allow informed assessment of the amount and impact of judge time and court resources devoted to pro se filings.	Committee on Judicial Resources	Effectuated through Policy or Practice	The Committee established an ad hoc subcommittee to oversee a more rigorous work measurement process, ensure timely update of work measurement formulas, and ensure judge involvement in the development of work measurement formulas. The pro se law clerks staffing formula is being revised during FY 2008-2009. The new formula will be used to establish pro se law clerks staffing requirements for the FY 2010 Financial Plan.
85e: Through the use of centralized staff operating under court supervision, district courts and courts of appeals should continue to screen pro se cases.	Committee on Court Administration and Case Management	Implementation Completed	Pro Se law clerks are allocated to each district court to screen pro se cases. See recommendations 78 and 33 above.
86: The judicial branch should act to enhance understanding of the federal courts and ensure that the fundamentals of the litigation process are understood by all who use it. The federal courts should encourage feedback from the public on how successfully the judicial branch meets public expectations about the administration of justice.	Committee on the Judicial Branch	Effectuated through Policy or Practice	<p>The Administrative Office is working to revise and improve the existing publication, Understanding the Federal Courts, and to develop other publications to inform the public better about the judiciary and how it operates. New editions of 'Welcome to the Federal Courts' and 'Federal Courts and What They Do' are now in use in the federal courts, and translations are being made available to foreign judiciaries. The Commerce Department's National Audio-Visual Center continues to make available to the public the Federal Judicial Center court employee training videos that provide a general orientation to the federal courts and dramatize federal criminal, civil, bankruptcy, and appellate cases. Many of the Center's reports and educational materials are also available to the public on the Center's Internet home page.</p> <p>Federal judges have participated in the planning and conduct of events such as "Fair and Independent Courts: A Conference on the State of the Judiciary," and other similar programs.</p> <p>In addition, the Administrative Office and individual courts are active in the area of civic education. The Administrative Office has produced off-the-shelf materials that are available for use by the courts electronically.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
86: The judicial branch should act to enhance understanding of the federal courts and ensure that the fundamentals of the litigation process are understood by all who use it. The federal courts should encourage feedback from the public on how successfully the judicial branch meets public expectations about the administration of justice.	Committee on the Administration of the Bankruptcy	Effectuated through Policy or Practice	Bankruptcy judges and court personnel frequently participate in public educational programs on the court system. They have also enthusiastically embraced programs to enhance financial literacy and prevent unwise use of credit. The Bankruptcy Committee, working with the FJC, has developed a self-assessment program that bankruptcy judges can use to evaluate and improve their performance.
86: The judicial branch should act to enhance understanding of the federal courts and ensure that the fundamentals of the litigation process are understood by all who use it. The federal courts should encourage feedback from the public on how successfully the judicial branch meets public expectations about the administration of justice.	Executive Committee	Implementation not Complete Partial Implementation	The first sentence expresses an aspiration that cannot be definitively achieved but serves to guide the judiciary's public outreach programs. It is unclear to what extent efforts are made at the national (as opposed to local court) level to carry out the second sentence.
86a: Information on using the courts should be provided through community institutions and in formats aimed at an increasingly diverse citizenry.	Committee on the Judicial Branch	Effectuated through Policy or Practice	<p>The Administrative Office is working to revise and improve the existing publication, 'Understanding the Federal Courts,' and to develop other publications to inform the public better about the judiciary and how it operates. New editions of 'Welcome to the Federal Courts' and 'Federal Courts and What They Do' are now in use in the federal courts, and translations are being made available to foreign judiciaries. The Commerce Department's National Audio-Visual Center continues to make available to the public the Federal Judicial Center court employee training videos that provide a general orientation to the federal courts and dramatize federal criminal, civil, bankruptcy, and appellate cases. Many of the Center's reports and educational materials are also available to the public on the Center's Internet home page.</p> <p>Federal judges have participated in the planning and conduct of events such as "Fair and Independent Courts: A Conference on the State of the Judiciary," and other similar programs.</p> <p>In addition, the Administrative Office and individual courts are active in the area of civic education. The Administrative Office has produced off-the-shelf materials that are available for use by the courts electronically.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
86b: Judicial outreach programs should be brought to educational and community organizations and other public institutions.	Committee on the Judicial Branch	Effectuated through Policy or Practice	<p>The Administrative Office is working to revise and improve the existing publication, 'Understanding the Federal Courts,' and to develop other publications to inform the public better about the judiciary and how it operates. New editions of 'Welcome to the Federal Courts' and 'Federal Courts and What They Do' are now in use in the federal courts, and translations are being made available to foreign judiciaries. The Commerce Department's National Audio-Visual Center continues to make available to the public the Federal Judicial Center court employee training videos that provide a general orientation to the federal courts and dramatize federal criminal, civil, bankruptcy, and appellate cases. Many of the Center's reports and educational materials are also available to the public on the Center's Internet home page.</p> <p>Federal judges have participated in the planning and conduct of events such as "Fair and Independent Courts: A Conference on the State of the Judiciary," and other similar programs.</p> <p>In addition, the Administrative Office and individual courts are active in the area of civic education. The Administrative Office has produced off-the-shelf materials that are available for use by the courts electronically.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
86c: Relations with the bar and law schools should be maintained and enhanced by participating in legal education and training programs and activities that enlist those institutions in educating the public about the legal system.	Committee on the Judicial Branch	Effectuated through Policy or Practice	<p>The Administrative Office is working to revise and improve the existing publication, <i>Understanding the Federal Courts</i>, and to develop other publications to inform the public better about the judiciary and how it operates. New editions of <i>Welcome to the Federal Courts</i> and <i>Federal Courts and What They Do</i> are now in use in the federal courts, and translations are being made available to foreign judiciaries. The Commerce Department's National Audio-Visual Center continues to make available to the public the Federal Judicial Center court employee training videos that provide a general orientation to the federal courts and dramatize federal criminal, civil, bankruptcy, and appellate cases. Many of the Center's reports and educational materials are also available to the public on the Center's Internet home page.</p> <p>Federal judges have participated in the planning and conduct of events such as "Fair and Independent Courts: A Conference on the State of the Judiciary," and other similar programs.</p> <p>In addition, the Administrative Office and individual courts are active in the area of civic education. The Administrative Office has produced off-the-shelf materials that are available for use by the courts electronically.</p>
86c: Relations with the bar and law schools should be maintained and enhanced by participating in legal education and training programs and activities that enlist those institutions in educating the public about the legal system.	Executive Committee	Effectuated through Policy or Practice	This recommendation expresses an aspiration that cannot be definitively achieved but certainly reflects current practice.
86d: Press and public access to court proceedings should be presumptively unrestricted, but access should be balanced with the court's primary mission to administer justice.	Committee on Court Administration and Case Management	Effectuated through Policy and Practice	The Conference continues to oppose cameras in the courtroom legislation. Appeals courts do have the discretion on a court-by-court basis to allow cameras. A pilot program has been begun of posting audio tapes of proceedings for download on PACER. Also, courts have been experimenting with allowing bloggers to transmit real time information on court proceedings to the public in high profile cases.

Recommendation or Implementation Strategy	Committee	Status	Comments
87: Public understanding of the nature and significance of the federal judiciary's role in the constitutional order (and the constraints under which the judiciary functions) should be improved.	Committee on the Judicial Branch	Effectuated through Policy or Practice	<p>The Administrative Office is working to revise and improve the existing publication, <i>Understanding the Federal Courts</i>, and to develop other publications to inform the public better about the judiciary and how it operates. New editions of <i>Welcome to the Federal Courts</i> and <i>Federal Courts and What They Do</i> are now in use in the federal courts, and translations are being made available to foreign judiciaries. The Commerce Department's National Audio-Visual Center continues to make available to the public the Federal Judicial Center court employee training videos that provide a general orientation to the federal courts and dramatize federal criminal, civil, bankruptcy, and appellate cases. Many of the Center's reports and educational materials are also available to the public on the Center's Internet home page.</p> <p>Federal judges have participated in the planning and conduct of events such as "Fair and Independent Courts: A Conference on the State of the Judiciary," and other similar programs.</p> <p>In addition, the Administrative Office and individual courts are active in the area of civic education. The Administrative Office has produced off-the-shelf materials that are available for use by the courts electronically.</p>

Recommendation or Implementation Strategy	Committee	Status	Comments
88: A comprehensive program should be developed to educate jurors about the role and function of federal courts.	Committee on Court Administration and Case Management	Implementation Not Complete Underlying Conditions Changed; Partial Implementation	<p>1. The FJC is producing a videotaped orientation program for grand jurors that should be available in 2008.</p> <p>2. The AO has posted general information about jury service in the federal courts at http://www.uscourts.gov/jury/welcomejuror.html. Also, at the encouragement of the CACM, many district courts' websites provide jurors easy access to a variety of information before they report for duty such as a set of frequently-asked questions, a juror handbook, a discussion of juror etiquette, and information about jury summonses and selection.</p> <p>3. The AO has also designed programs for courts to use with students to introduce them to the jury system through mock trials. A number of district courts have participated in this effort.</p> <p>The FJC has produced for the district courts a videotaped orientation program for jurors, "Called to Serve."</p>
89: The judiciary should seek public support on specific issues where the objective is approved by the Judicial Conference and where the issue has wide acceptance among the judiciary as a whole.	Committee on the Judicial Branch	Effected through Policy or Practice	While 18 U.S.C. sec. 1913 generally prohibits the judiciary from using appropriated funds for "grass roots" lobbying efforts, the judiciary through the Judicial Conference may communicate with Congress and other interested parties in regard to official Conference policies. There is probably no better example of this dynamic than this past year's initiative to improve judicial compensation.
89: The judiciary should seek public support on specific issues where the objective is approved by the Judicial Conference and where the issue has wide acceptance among the judiciary as a whole.	Executive Committee	Implementation not Complete Partial Implementation	Although the judiciary continues to seek support from the public, including the legal community and the private business sector, on issues of special importance to the judiciary (e.g., judicial salary restoration), it is unclear to what extent that approach should be followed by the judiciary in other areas.

Recommendation or Implementation Strategy	Committee	Status	Comments
90: Mechanisms should be established or simplified to receive and address public complaints about improper treatment by judges, attorneys, or court personnel in federal court proceedings and operations.	Committee on Judicial Conduct and Disability	Effectuated through Policy and Practice	As already noted in connection with Recommendation 53, existing mechanisms for complaining about improper treatment by a judge are now being adjusted to improve their effectiveness. And, court web sites are being modified to make the public more aware of those mechanisms. Complaints regarding attorneys and court staff, however, are beyond the reach of both the Committee and the statutes it oversees. For these non-judges' misconduct, other recourse is available: complaints targeting court staff may be lodged with the clerk of court or the chief judge, and those targeting attorneys may be referred to the applicable state or federal bar.
90: Mechanisms should be established or simplified to receive and address public complaints about improper treatment by judges, attorneys, or court personnel in federal court proceedings and operations.	Executive Committee	Implementation not Complete Partial Implementation	The Judicial Conference recently agreed to the Breyer Committee's recommendation to direct the circuit councils to require courts to provide information on their websites about Judicial Conduct and Disability Act complaint procedures and otherwise publicize the provisions of the Act (JCUS-SEP 07, pp. 20-21). However, it is unclear to what extent the judiciary has taken action, or would need to take action, to establish or simplify complaint procedures concerning improper treatment by non-judges involved in federal court proceedings or operations.
91: Positive communication and coordination between the judicial branch and the executive and legislative branches should be enhanced.	Executive Committee	Effectuated through Policy or Practice	This recommendation expresses an aspiration that cannot be definitively achieved but continues to guide the Executive Committee, other Conference committees, and the AO in conducting the judiciary's ongoing relationships with the other two branches of government. For example, the goals of positive communication and effective coordination with the executive and legislative branches underlie the Executive Committee's periodic meetings with the Attorney General and the frequent interactions between the relevant Conference committees and officials of the United States Marshals Service and the General Services Administration. They are also the basis for the judiciary's involvement in an upcoming "two-branch" conference of judicial branch representatives and congressional leaders.

Recommendation or Implementation Strategy	Committee	Status	Comments
91a: The Chief Justice should annually deliver an address to the nation regarding the state of the federal judiciary.	Executive Committee	Effectuated through Policy or Practice	This implementation strategy reflects the status quo.
91b: Congress should be encouraged to require the legislative staff of all substantive congressional committees and the Offices of Legislative Counsel in the Senate and the House of Representatives, when reviewing proposed legislation for technical problems, to satisfy to the greatest extent possible a legislative "checklist."	Committee on Federal-State Jurisdiction	Implementation Complete	This recommendation should not be included in a future Long Range Plan. After the approval of the Long Range Plan, the checklist included in that document was transmitted to the Legislative Counsel of the Senate and the House of Representatives. Although such a checklist may be of value for both judicial and congressional staff preparing draft legislation or reviewing pending legislation, advocating a requirement that congressional staff comply with a particular standard of drafting created by the judiciary may result in unnecessary tension in the relations between the legislative and judicial branches of government.
91c: Judicial branch representatives should continue to hold periodic meetings with Justice Department officials and members of Congress to discuss matters of common interest.	Executive Committee	Effectuated through Policy or Practice	Although judicial branch representatives continue to meet frequently (but on an ad hoc basis) with Justice Department officials and congressional members and staff (see comment under Recommendation 91), this implementation strategy was intended to promote more concerted efforts (i.e., through ongoing working groups and similar mechanisms) to improve communication and coordination among the branches. This raises a question of whether the judiciary is interested in pursuing this particular strategy more fully in the future.
91e: All courts of appeals should be encouraged to participate in the pilot project to identify technical deficiencies in statutory law and to inform Congress of same.	Committee on the Judicial Branch	Effectuated through Policy or Practice	The Statutory Housekeeping Initiative was revitalized at the request of Congress in the summer of 2007. At the time, Judge D. Brock Hornby (who chairs the Committee on the Judicial Branch), Judge Robert Katzmann (a member of the Judicial Branch Committee), and AO Director James Duff wrote to all circuit judges to encourage increased judicial participation in this project.

Recommendation or Implementation Strategy	Committee	Status	Comments
92: The federal and state courts should communicate and cooperate regularly and effectively.	Committee on Federal-State Jurisdiction	Effected through Policy or Practice	The Committee believes that this recommendation is a statement of general principle with continuing validity. However, members believed that the statement more appropriately belongs in a preamble to the Plan and/or as a statement of general policy to guide the judiciary. It does not define measurable goals that can be obtained within a specified period of time. This recommendation embodies the purpose of the Committee on Federal-State Jurisdiction and over the past 20 or more years, the Committee has sought better ways to enhance communication and cooperation between the federal and state courts. There are four state chief justice members on the Committee on Federal-State Jurisdiction. Federal judges attend meetings of the Conference of Chief Justices. In addition, there are state judges who serve on the rules advisory committees. Representatives of the federal and state courts continually review legislative proposals to determine how they affect federal-state relations and jurisdiction. In addition, the Committee has supported the establishment of local state-federal judicial councils to promote dialogue between courts within those states, as well as informal methods of communication between the federal and state judiciaries, including the sharing of information regarding educational programs of interest to federal and state judges.
92: The federal and state courts should communicate and cooperate regularly and effectively.	Executive Committee	Effected through Policy or Practice	This recommendation expresses an aspiration that cannot be definitively achieved but serves to guide the Federal-State Jurisdiction Committee and others in the judiciary who deal regularly with the state courts.

Recommendation or Implementation Strategy	Committee	Status	Comments
91d: A permanent National Commission on the Federal Courts should be created, consisting of members from the executive, legislative, and judicial branches of the federal government, and members from the state judiciary and academic world, to study on a continuing basis and to make periodic recommendations regarding a number of issues concerning the federal courts including, but not limited to, their appropriate civil and criminal jurisdiction.	Executive Committee	Implementation not Complete No Action Taken	Although the judiciary has, from time to time, participated in two- or three-branch conferences and similar forums to discuss questions about appropriate federal court jurisdiction and other matters of common interest (a conference with the legislative branch is being planned for the coming year), the idea of creating a permanent body of this kind - similar in purpose to the short-term Federal Courts Study Committee of the late 1980s and early 1990s) - has not been seriously considered since the Long Range Plan was adopted in 1995. This is another example of the Plan setting forth a general goal (positive inter-branch communication and cooperation) but also prescribing a fairly specific means of implementation -- an approach that should be reevaluated in future planning efforts.
93: The federal courts should work closely with the bar to enhance the quality of representation, to elicit support for needed improvements in the courts, and to generate better understanding of the special role of the federal courts in the justice system.	Committee on the Judicial Branch	Effected through Policy or Practice	The Executive Committee, along with Director Duff and the Chair of the Judicial Branch Committee, meet with the leadership of the American Bar Association annually prior to the September Judicial Conference session. In addition, the Chair of the Judicial Branch Committee and representatives of the Administrative Office participate in the mid-year and annual meetings of the ABA's National Conference of Federal Trial Judges and its Standing Committee on Judicial Improvements. Other individual judges participate in these activities as well. Further, judiciary representatives regularly confer with representatives of the Federal Bar Association (and its state and local affiliates), Justice at Stake, and other legal associations on matters of mutual interest and concern.
93: The federal courts should work closely with the bar to enhance the quality of representation, to elicit support for needed improvements in the courts, and to generate better understanding of the special role of the federal courts in the justice system.	Executive Committee	Effected through Policy or Practice	This recommendation expresses an aspiration that cannot be definitively achieved but serves to guide judicial branch authorities at all levels who interact with the bar.