

THE JUDICIAL COUNCIL OF THE FIFTH CIRCUIT

In Re: Duties and Responsibilities Delegated
to the Circuit Executive

Before: STEWART, Chief Judge, CLEMENT, W.E. DAVIS, SMITH,
DENNIS, PRADO, OWEN, ELROD, GRAVES, HIGGINSON,
LEMMON, BRADY, DRELL, AYCOCK, STARRETT, MCBRYDE,
HINOJOSA, L.E. DAVIS, AND GARCIA

R E S O L U T I O N

Concluding that it is appropriate to memorialize formally the various assignments of duties and responsibilities which this Council has delegated to the Circuit Executive, the Judicial Council of the Fifth Circuit formally resolves as follows:

WHEREAS, 28 U.S.C. § 332(e) statutorily delegates certain nonexclusive duties to the Circuit Executive and further states: *"The circuit executive shall exercise such administrative powers and perform such duties as may be delegated to him [or her] by the circuit council."* Acting pursuant to this authority the Judicial Council of the Fifth Circuit first delegated certain duties in April 1972, amending that delegation by resolutions dated March 13, 1991 and July 10, 1995.

WHEREAS, the duties, responsibilities, accountability, range of assignments, and size of support staff of the Circuit Executive have increased substantially since the office was created and continues to evolve.

WHEREAS, using the language and format of the statute as a category guide, the Council now confirms and restates its delegation of duties, and to the extent necessary delegates to the Circuit Executive the following responsibilities:

- (1) Exercising administrative control of all non-judicial activities of the court of appeals of the circuit in which he [or she] is appointed. [§ 332(e) (1)]**

Court Directories - Update the online court directories of all judges and clerks of the Fifth Circuit. [Delegation from the Court of Appeals]

Information Technology - Procure, install, maintain, service, and support information technology (IT) in circuit judges' chambers and in the offices of the circuit executive, clerk of court, library, staff attorneys, and appellate conference attorney. Duties include supporting PC and mobile software applications, user training, word processing, e-mail, data communications, local and wide-area networks, remote access, video conferencing, IT security, and managing the development of custom applications. Interpret and enforce Judicial Conference and Court of Appeals IT acceptable use and security policies. Recommend new Court of Appeals IT policies, and changes to existing policies, as appropriate. [Delegation from the Court of Appeals]

New Circuit Judges - Assist with investitures and orientation of new judges. [Request from Court of Appeals]

Continuity of Operations (COOP) - Coordinate the development, testing, and training of the Court of Appeals' Continuity of Operations Plan with all court units. Duties include assisting each court unit in developing its own unit specific annex and the development and maintenance of other annexes as needed to ensure the smooth transition of the Court of Appeals to emergency operations. [Delegation from the Judicial Council, April 2002, and from the AO, August 2002]

- (2) Administering the personnel system of the court of appeals of the circuit [§ 332(e) (2)]**

Fifth Circuit Personnel Work - (a) discuss personnel problems with Clerk of Court, Senior Staff Attorney, Circuit Librarian, and Senior Conference Attorney; (b) act as the reviewing officer on employee grievances; (c) serve as EEO/EDR Coordinator; (d) maintain, distribute, and update the Personnel Guidelines for circuit court unit employees; (e) coordinate the voluntary leave transfer program in the circuit executive's office; (f) administer the Court Personnel System and classify all jobs for the offices of circuit executive, conference attorney, and circuit library; and (g) handle such other personnel matters as may be requested or required. [Delegation from the Court of Appeals]

(3) Administering the budget of the court of appeals of the circuit. [§ 332(e) (3)]

Financial Management - Coordinate the budget decentralization program and its operating procedures for the Court of Appeals under the guidance of the budget proctor and in accordance with the Court of Appeals' Budget Organization and Plan. Coordinate the budget call, spending plan, interunit fund reprogramming, and final accounting of all four line court units and issue periodic reports to the budget proctor and court. Monitor the Cost Control Monitoring System for the allocation of salary funds to the circuit executive's office. [Delegation from the Court of Appeals]

(4) Maintaining a modern accounting system. [§ 332(e) (4)]

Non-Appropriated Funds - Serve as custodian and comptroller of two non-appropriated funds, the Bench and Bar Fund and the Judicial Conference Fund. Safeguard, deposit, invest, disburse, and account for both funds, periodically reporting status. [Delegation from the Court of Appeals]

Audits - Review, analyze, and make recommendations to the Chief Judge on all financial audit reports prepared by the Administrative Office or its contractor covering any court of the Fifth Circuit. [Delegation from the Chief Judge]

(5) Establishing and maintaining property control records and undertaking a space management program. [§ 332(e) (5)]

Space Management Program - Manage a circuit-wide Space and Facilities Management Program for judicial construction and renovation projects under prospectus level, and perform associated administrative and liaison tasks. Prepare analyses and reports for the Space and Staffing Committee to act on behalf of the Council in matters affecting accommodations for courts and court support offices of the circuit. Provide space planning, interior design, and architectural services for courts and court support offices of the circuit. [By joint delegation from the Director of the AO and the Chief Judge]

Space & Facilities and Building Oversight at 600 Camp Street - Arrange for necessary space for resident and non-resident circuit judges and court support offices in the John Minor Wisdom U.S. Court of Appeals building in New Orleans, and coordinate all maintenance, repair, and renovation of that building. [Delegation from the Court of Appeals]

Space & Facilities and Building Oversight at 600 South Maestri Place - Manage space and coordinate renovations for the court support offices of the clerk of court and staff attorneys in the F. Edward Hébert Federal Building. [Delegation from the Court of Appeals]

Furniture and Furnishings - Serve as Court of Appeals Procurement Officer for furniture and furnishings; account for all funds received and disbursed for that purpose; and maintain an up-to-date inventory of all property and furniture. [Delegation from the Court of Appeals]

Furniture Cost Ceilings - Research and recommend action, or act, on requests which exceed cost ceilings on furniture purchases. [*Guide to Judiciary Policy*, Vol. 16, Chapter 4, and by delegation from the Judicial Council]

Asset Management Plan (AMP) - Advise in the Asset Management Plan to identify planning alternatives and strategies to optimize court facilities, support operational needs, and ensure cost efficiency and effectiveness. [JCUS Reports, March 2006]

Circuit Rent Budget (CRB) - Monitor and manage the Circuit Rent Budget initiative program for determining rent budget resource allocation. [JCUS Reports, September 2007]

Occupancy Agreements - Receive, review, and sign Occupancy Agreements (OA) defining the amount of space to be rented, the duration of the occupancy, the services provided, and the cost of the rent. [JCUS Reports, March 2006, and delegation from AO]

Information Technology - Serve as Court of Appeals Procurement Officer, Custodian, and Disposal Officer; maintain an up-to-date inventory of all information technology equipment. [Delegation from the Court of Appeals]

- (6) Conducting studies relating to the business and administration of the courts within the circuit and preparing appropriate recommendations and reports to the chief judge, the circuit council, and the Judicial Conference. [§ 332(e)(6)]**

Judicial councils derive their powers and responsibilities from numerous sections under Titles 18 and 28, United States Code, as well as from other authorities. The following is a list of specific charges to the Council. The circuit executive functions as the research arm and

advisor to the Council and serves as the secretary of the Council on all of these matters. Council duties include:

Acting on reports of judicial misconduct presented by special committees appointed by the chief circuit judge to investigate complaints, taking appropriate action on the complaints, and if appropriate, recommending action to the Judicial Conference of the United States. [28 U.S.C. §§ 351-361]

Approval of amendments to district and bankruptcy court rules. [28 U.S.C. § 2071(c)(1); 28 U.S.C. § 332(d)(4); Rule 83, Fed.R.Civ.P.; Rule 57, Fed.R.Crim.P.; Rule 9029, Fed R.BankrP.]

Approval of district court Jury Selection Plans and any amendments. [28 U.S.C. § 1863(a)-(c)]

Approval of district court CJA Plans and any amendments. [18 U.S.C. § 3006A(a)]

Approval of Speedy Trial Act Plans and any amendments. [18 U.S.C. § 3165(c)-(d)]

Approval of accommodations, including courtrooms and chambers, for all judges, clerks, librarians, staff attorneys, probation officers, pretrial services officers, federal public defenders, and any other court entity not stated specifically by statute. [28 U.S.C. § 462 and by delegation from the Director of the AO]

Approval of space which exceeds the *U.S. Courts Design Guide* and approval of funds from the circuit's allocation for renovation and alteration of existing space, and construction of new facilities for projects over \$100,000 but below prospectus level. [28 U.S.C. § 332(e)(5); *U.S. Courts Design Guide*, Chapter 1, para. 4; JCUS Reports, October 1972; JCUS Reports, March 1981; JCUS Reports, September 1983; JCUS Reports, March 1999; JCUS Reports, September 2005; and by delegation from the Director of the AO]

Approval of the establishment or closure of places of holding court. [28 U.S.C. § 633(b); 28 U.S.C. § 152(b)(1), and 28 U.S.C. § 462]

Designating places of abode of district judges. [28 U.S.C. § 134(c)]

Approval of organization of federal public defenders within the districts. [18 U.S.C. § 3006A]

Pretermittting any regular session of a district court. [28 U.S.C. § 140(a)]

Establishing orders for the division of business of a district court if its judges are unable to agree. [28 U.S.C. § 137]

Approval of requests for separate pretrial services offices. [18 U.S.C. § 3152(b)]

Designating the official duty stations of bankruptcy judges and places of holding bankruptcy court. [28 U.S.C. § 152(b)(1)]

Recommending bankruptcy judge nominees to the Court of Appeals. [28 U.S.C. § 152]

Removing bankruptcy judges from office. [28 U.S.C. § 152(e)]

Ordering the recall of retired bankruptcy judges. [28 U.S.C. § 155(b), and 28 U.S.C. § 375(a)]

Approval of the temporary continuation in office of a bankruptcy judge whose term has expired. [28 U.S.C. § 152(a)(1)]

Establishing a bankruptcy appellate panel service within the circuit, or electing to not do so under specified circumstances. [28 U.S.C. § 158(b)(1)]

Approval of the temporary continuation in office of a magistrate judge whose term has expired. [28 U.S.C. § 631(f)]

Ordering the recall of retired magistrate judges. [28 U.S.C. § 636(h)]

Approval of the reassignment of magistrate judges to duty stations within the district. [JCUS Reports, September 1984]

Recommending the number, location, and salaries of magistrate judges. [28 U.S.C. § 633(b)(c); JCUS Reports, September 1984]

Approving the transfer of bankruptcy judges and magistrate judges temporarily between courts. [28 U.S.C. § 155(a), and 28 U.S.C. § 636]

Establishing cost ceilings for contract court reporting services and for additional court reporters. [28 U.S.C. § 753(g)]

Certifying language interpreters as needed by various districts. [28 U.S.C. § 1827(b)(1)]

Approval of district court Court Reporter Management Plans and any amendments. [28 U.S.C. § 753(g); JCUS Reports, March 1982]

Certifying court reporters for senior judges. [JCUS Reports, March 1996]

Approval of Equal Employment Opportunity/Employee Dispute Resolution Plans for the circuit and district courts and any amendments. [JCUS Reports, September 1979; JCUS Reports, March 1980; and JCUS Reports, March 1997]

Overseeing jury venire utilization. [JCUS Reports, March 1974]

Receiving and reviewing the Civil Justice Expense and Delay Reduction Plans of the district courts. [28 U.S.C. § 472(d)(2); 28 U.S.C. § 332(d)(1)]

Reviewing and approving requests for relocation reimbursement of judges and court staff within the circuit. [JCUS Executive Committee, July 15, 1994]

Approval of standards for the establishment of post-conviction reentry courts in the Fifth Circuit. [JCUS Reports, March 2010]

Acting on the semi-annual reports of the Director of the Administrative Office of the United States Courts, as necessary. [28 U.S.C. § 332(c)]

In addition to the matters relating to the foregoing, the circuit executive has been assigned the following duties:

Temporary Personnel - Process requests for temporary law clerk and secretarial positions, extensions, and overlaps, other than those necessitated by illness. Administer, as directed by the Council, the circuit's allocation for temporary personnel. [JCUS Reports, March 1985]

Staffing for Senior Judges - Gather data necessary for the Council's certification of facilities and staffing levels for senior circuit and district judges. [JCUS Reports, September 1982]

Employee Assistance Program - Coordinate the circuit's Employee Assistance Program via liaison with the U.S. Public Health Service and independent contractors. [Delegation from the AO]

Judgeship Surveys - Analyze and prepare comments on the biennial survey of circuit, district, and bankruptcy judgeships. [Request of Judicial Resources Committee]

Requests for Comments - Respond to requests for comments on guidelines developed by the Administrative Office in various areas of court administration. [Requests of Court Administration and Case Management Committee]

Case Management - Offer suggestions to alleviate case backlogs in the district and bankruptcy courts. [JCUS Reports, March 1974]

Survey and Reports - Prepare surveys and reports as requested by the Chief Judge or member of the Council and distribute those reports to the appropriate parties. [Delegation from the Court of Appeals]

Federal Public Defenders - Administer and provide staff support to the merit selection committee provided in the Court of Appeals' procedure for appointment and reappointment of Federal Public Defenders; administer the circuit's policy on salaries for Federal Public Defenders, and review annual reports submitted to the AO, including requests for additional attorneys. [18 U.S.C. § 3006A(g)(2)(A), and by delegation from the Court of Appeals]

Outstanding CJA Vouchers - Report, track, and monitor on a quarterly basis all CJA vouchers under review by the judges of the Fifth Circuit for more than 90 days. [JCUS Reports, March 1993, and by delegation from the Chief Judge]

Judge Designations - Prepare and distribute annual designations within the Fifth Circuit. [28 U.S.C. §§ 291(b), 292(b), 294(c), 295, and delegation from the Chief Judge]

Special Projects - Complete other projects as assigned by the Chief Judge or member of the Council.

- (7) **Collecting, compiling, and analyzing statistical data with a view to the preparation and presentation of reports based on such data as may be directed by the chief**

**judge, the circuit council, and the
Administrative Office of the United States
Courts. [§ 332(e)(7)]**

Criminal Justice Reform Act and Matters Under Advisement Reports - Compile and distribute the semi-annual CJRA statistical reports by district and magistrate judges; prepare the semi-annual report of cases under submission over 90 days in the Court of Appeals; prepare the semi-annual report of matters under advisement over 60 days by bankruptcy judges. [28 U.S.C. § 476; JCUS Reports, March 1985]

Other Statistical Reports - Prepare specialized statistical reports from data furnished by the Administrative Office or individual courts. [JCUS Reports, March 1974]

New Legislation - Assist with the implementation of significant new legislation affecting the courts. [Delegation from the Court of Appeals, and the Chief Judge]

- (8) Representing the circuit as its liaison to the courts of the various States in which the circuit is located, the marshals office, State and local bar associations, civic groups, news media, and other private and public groups having a reasonable interest in the administration of the circuit.**
[§ 332(e)(8)]

Congressional Inquiries - Respond to inquiries from the Legislative Branch regarding the Fifth Circuit, including requests from individual legislators and the General Accountability Office. [Delegation from the Chief Judge or AO]

Court of Appeals Visits - Coordinate and make arrangements for visits by Congressional committees, committees of the Judicial Conference, and other committees, as well as visiting dignitaries from other states and foreign countries. [Delegation from the Court of Appeals]

Public Relations - Draft and distribute press releases, and serve, when requested, as the court's contact with the news media. [Delegation from the Court of Appeals]

District Judges' Association Newsletter - Electronically distribute the District Judges' Association Newsletter to all circuit and district judges, court support units, and others. [Delegation from the Judicial Council]

Information - Generally act as an information center for the circuit's professional and clerical personnel. [Delegation from the Court of Appeals]

Security - Coordinate security with the Marshals Service and the Circuit Security Inspector to ensure proper security at all judicial conferences, special meetings, and court sessions and gatherings. Serves as a member of the Court Security Committee in New Orleans. [JCUS Reports, March 1982, and by delegation from the Chief Judge]

- (9) **Arranging and attending meetings of the judges of the circuit and of the circuit council, including preparing the agenda and serving as secretary in all such meetings.** [§ 332(e) (9)]

Judicial Conference of the Fifth Circuit - Serve as Secretary of the Judicial Conference with responsibility for planning and execution of all facets. Assist with the substantive and social programs and provide information relevant to the Chief Judge's annual address to the Conference. [28 U.S.C. § 333, and delegation from the Chief Judge]

Judicial Conference of the United States and Associated Meetings - Review all JCUS Committee reports and agendas and furnish comments and recommendations to the Chief Judge. Attend all associated meetings, including meeting of Chief Circuit Judges and Circuit Executives, and meeting of Circuit Executives. [Invitation of Judicial Conference, and delegation from the Chief Judge]

General Meetings, Court's Annual Retreat, Judges' Workshop - Visit and report on potential meeting sites, assist in program planning and agenda. Attend as directed. [Delegation from the Court of Appeals]

AO/FJC Meetings - Assist the Administrative Office and the Federal Judicial Center with meetings, hotel accommodations, and social arrangements for functions held within the circuit. [Request of AO or FJC]

Circuit Court Meetings - Suggest items for discussion; prepare final agenda with enclosures; arrange meeting room and distribute handout materials; attend meetings and function as secretary; prepare minutes; after approval, forward copies of minutes and attachments to all Circuit Judges, Clerk of Court, Senior Staff Attorney, Circuit Librarian, and the Senior Conference Attorney. [Delegation from the Court of Appeals]

Council and Other Meetings - Prepare the agenda for council meetings; attend meetings and function as secretary; prepare the minutes; after approval circulate copies of the minutes to Council members. Organize and attend meetings with the Chief Judge of the Circuit; as directed by the Chief Judge or Council, meet with district judges, bankruptcy judges, or others. [Delegation from the Judicial Council or Chief Judge]

Hotel Liaison and Coordinator - Check availability of hotels for proposed weeks of court in New Orleans and negotiate with hotels for special court rates. [Delegation from the Court of Appeals]

In addition to the cited duties with a statutory basis, the circuit executive also is charged with the following responsibilities:

Committee Service - Serve on circuit executives' advisory committees, AO advisory committees and umbrella groups, and other committees. [By virtue of office or by invitation]

Telecommunications - Procure, install, maintain, service, and support telecommunications equipment and service in circuit judges' resident, non-resident, and visiting chambers. Duties include installing and maintaining phone instruments and systems, coordinating landline and VoIP service and repair, system programming, and user training. Procure, provision, and support mobile electronic devices such as tablets, smartphones, and wireless internet connection instruments for judges' use. Coordinate landline and VoIP service and repair for the New Orleans based offices of the circuit executive, clerk of court, library, staff attorneys, and appellate conference attorney. [Delegation from the Court of Appeals]

Circuit-wide Information Technology Support - Provide, upon request, IT support, assistance, and consulting for all courts, probation offices, and pre trial services offices in the circuit. Coordinate periodic information technology meetings for circuit IT staff. [Delegation from the AO]

FOR THE COUNCIL:


CARL E. STEWART, CHIEF JUDGE

Dated: March 13, 1991

As Amended: July 10, 1995

As Amended: November 12, 2012