

DRAFT

COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT'S SUBCOMMITTEE ON CASE MANAGEMENT

Minutes: November 19, 1990 meeting.
Hay Adams Hotel, Washington, D.C.

The Judicial Conference Committee on Court Administrator and Case Management's subcommittee on case management met in Washington D.C. on November 19, 1990 to begin the process of implementing title I of the Civil Justice Reform Act (the Biden Bill). The following subcommittee members were present: Judge Robert Parker, Chair (Eastern District of Texas), Judge Susan Black (Middle District of Florida), Judge Lee Sarokin (District of New Jersey), Judge Ann Williams (Northern District of Illinois) and Judge Sam Pointer (Northern District of Alabama). Rich Leonard (Clerk, Eastern District of North Carolina) also participated. Administrative Office staff participation were Peter McCabe (Assistant Director for Program Management), Duane Lee (Chief, Court Administration Division), Glen Palman (Deputy Chief, Court Administration Division), Abel Mattos (Chief, Programs Branch, CAD), Robert Lowney (Policy Analyst, CAD), and Robert Peck (Judicial Fellow). Karen Siegel (Judicial Conference Secretariat) and Thomas Hnatowski (Deputy Chief, Judges Division) were also in attendance.

Judge Parker convened the meeting by outlining the issues that need to be addressed. 1) determination of the disposition of the 14 point plan, 2) the development of criteria for the ten pilot courts, 3) a discussion of possible organizations to complete independent study, 4) development of criteria for the comparison courts and 5) a determination of the necessary information to provide courts on advisory groups.

Abel Mattos provided a overview of the provisions of Act highlighting significant dates and actions necessary by the Conference.

Judge Parker raised the issue of the disposition of the 14 Point Plan and referred to an analysis prepared by staff which indicated that all of the specific provisions for assessing and reducing cost and delay in courts promulgated by the Conference's plan have been incorporated in statute by the Act. The exception is points eight and fourteen of the plan which revise the Judicial Conference committee structure by creating the Committee on Court Administration and Case Management to implement and oversee the plan and establishing a relationship between that Committee and the Conference's Advisory Committee on Rules.

The subcommittee voted to approve a recommendation to the Executive Committee of the Conference to dissolve the fourteen

point plan except for points eight and fourteen in light of the passage of the Biden Bill.

The subcommittee discusses the issue of developing criteria for the selection of the ten pilot courts. The discussion centered on whether the focus should be placed on courts that were less efficient in case management, courts that were currently performing case management efficiently or a mixture or cross section of good and bad courts.. After an extensive debate the subcommittee concluded that the pilot courts should be representative of the court system as a whole.

Other concerns such as a courts receptiveness to being a pilot and when a court was scheduled for automation were also discussed. It was agreed that these factors should not preclude a court from being selected. Judge Parker indicated that the group should not be skewed in any direction in order to ensure a accurate test of the bill's provisions.

The subcommittee voted to include a cross section of good and poor courts in terms of case management and to attempt to create as representative a group as possible in the selection of the pilot courts.

The issue of whether pilot courts could include courts that have been designated as Demonstration courts by Congress. The subcommittee concluded that demonstration courts should be excluded from the pilot group. It was further concluded that volunteers should not be solicited.

The issue of funding was reviewed and Judge Parker indicated that Judge Clark's view was that provision of the bill requiring funding should not be implemented until the funding is secured. However, Judge Parker indicated and the consensus of the subcommittee was that a good faith effort to implement the provisions of the bill not requiring funding should be mad.

The discussion of the selection of pilot courts continued with the subject of comparison courts for the purpose of the independent study mandated by the bill. Judge Black pointed out that the courts to be utilized for comparison should be at least addressed to some extent now to ensure that the pilot courts selected have a comparable court by which to study the results. The subcommittee agreed to consider this factor as they selected pilot courts but declined to name the comparison courts at this time in order to ensure a blind study. It was also agreed that the independent research organization should be consulted in the selection of comparison courts.

The subcommittee review a number of potential pilot courts based upon civil case filings, criminal case filings, weighted case load, case management practices, geographic locations and andy other special considerations. As a result of their

deliberations the subcommittee identified the following courts as potential courts for selection for the pilot program.

New York Southern
Georgia Northern
Pennsylvania Eastern
Texas Southern
California Southern
Delaware
Tennessee Western
Oklahoma Western
Wisconsin Eastern
Utah

Staff was directed to compile the significant statistics that were utilized in the determination for presentation to the full Committee at its January meeting.

The subcommittee discusses the development of a model plan and directed staff to attempt to prepare the first draft of one plan by the June, 1991 meeting of the full Committee.

The selection of a independent organization to conduct the study of the pilot program was address and it was determined that the group should be involved as early as possible. Staff was directed to survey independent organizations with expertise in federal courts to determine the feasibility of the study and costs. If possible, three such organizations should be invited to the January meeting of the full committee. The issue of whether the FJC should be consider for the this role

The issue of advisory groups also discussed. The use of the clerk as a reporter was suggested by Judge Parker as a fundamental role of the clerk as administrator. Judge Williams and Judge Black agreed that the clerk could be used as the reporter if they were given support.. Judge Parker remarked that this would be a means to communicate to courts that this type of role should be within the normal functions of the clerk. The subcommittee agreed to recommend to courts that they consider utilizing clerks as reporter and that outside selection of a reporter may not be funded.

The subcommittee agreed that advisory groups, in principle should be compensated for travel for advisory group meetings. The subcommittee identified options for the compensation of reporters and deferred decision to a later date. It was agreed that existing funds should not be raided to fund advisory groups and new funding should be secured.

Rich Leonard pointed out that the Chief Judge should consult the profile of pending caseload to determine major groups of litigants for the appointment of the advisory group. The subcommittee agreed that advisory groups should be provided with,

a checklist of things to consider, standard statistical packages, a list of goals to accomplish and procedures available to consider. In addition educational materials on case management and federal courts should be provided.

It was agreed that the FJC should be asked to adjust the schedule for the national chief judges meeting to allow for a briefing on the provisions of the bill. Judge Parker will contact the FJC for this purpose.

The subcommittee discusses the type of statistical breakdowns required by the advisory committees and concluded that specific judge statistics would have to be included to allow the group to address specific problems in the court.

Staff was directed to prepare a draft of a preliminary memorandum to courts on the appointment, compensation and staffing of advisory groups for consideration by the subcommittee as soon as possible. A second more detailed package on material for the advisory groups will be prepared for the full committee in January.