

U.S. Submission for 2013 UNCAC Working Group on Prevention (Part I)

I - Information requested from States parties in relation to integrity in the judiciary, judicial administration and prosecution services (art. 11)

1. Has your country adopted and implemented article 11 of the UN Convention against Corruption?

States parties are encouraged to provide information on their implementation of policies and measures taken to strengthen integrity and to prevent opportunities for corruption among members of the judiciary.

Where appropriate, States parties may also wish to provide information regarding measures taken to strengthen integrity and prevent opportunities for corruption among their prosecution service.

Yes.

2. Please cite, summarize and, if possible, provide copies of the applicable policy(ies) or measure(s):

In particular, the Secretariat would be grateful for information regarding:

- o the constitutional and legal framework applicable in States parties aimed at ensuring the independence and integrity of the judiciary and, where appropriate, the prosecution service;*
- o codes of conduct and disciplinary mechanisms applicable to members of the judiciary and prosecution service, including whether these were developed with reference to international standards such as the Bangalore Principles on Judicial Conduct or the Standards of Professional Responsibilities and Statement of the Essential Duties and Rights of Prosecutors.*
- o measures taken to ensure transparency and accountability in the selection, recruitment, , training, performance management and removal of members of the judiciary and the prosecution service;*
- o measures taken to improve the transparency and efficiency of procedures governing case assignment and distribution;*
- o policies and/or practices aimed at increasing transparency in the court process, for example by allowing public and media access to court proceedings, facilitating access to court judgements and raising public awareness through information sharing and outreach programmes.*

Constitutional & Legal Framework aimed at Ensuring Independence & Integrity

Judiciary

The U.S. Constitution created a federal system of government in which power is shared between the federal government and the state governments. Due to federalism, both the federal government and each of the state governments have their own court system. This response is specific to the federal judiciary and does not address the state court systems.

The three branches of the federal government — legislative, executive, and judicial — operate within a constitutional system known as "checks and balances." This means that although each branch is formally separate from the other two, the Constitution often requires cooperation among the branches. Federal laws, for example, are passed by Congress and signed by the President. The judicial branch, in turn, has the authority to decide the constitutionality of federal laws and resolve other disputes over them, but judges depend upon the executive branch to enforce court decisions.

The Constitution gives Congress the power to create federal courts other than the Supreme Court and to determine their jurisdiction (Article I, Section 8). It is Congress, not the judiciary, that controls the type of cases that may be addressed in the federal courts (Article I). Congress has three other basic responsibilities that determine how the courts will operate. First, it decides how many judges there should be and where they will work. Second, through the confirmation process, Congress determines which of the President's judicial nominees ultimately become federal judges (Article II, Section 2). Third, Congress approves the federal courts' budget and appropriates money for the judiciary to operate (Article I).

Under the Constitution, the President appoints federal judges with the "advice and consent" of the Senate (Article II, Section 2). The President usually consults senators or other elected officials concerning candidates for vacancies on the federal courts. The Office of Legal Policy at the U.S. Department of Justice (DOJ) also advises and assists the President and the Attorney General in the selection and confirmation of federal judges. It oversees the DOJ's process for vetting, interviewing, evaluating, and seeking confirmation of the nation's judiciary, in close consultation with the White House Counsel.

As part of the vetting and confirmation process, individuals who are being considered for nomination and nominees are required to provide to the President and the Senate confirming committee significant information about themselves and their professional careers. The Federal Bureau of Investigation (FBI) also does a background check on each nominee. Nominees for federal judgeships are also required to file a financial disclosure report which is publicly available.

Once appointed, Supreme Court justices, as well as federal lower court judges, serve for life, unless they resign, retire, or are removed by Congress through the process of impeachment and conviction.

Judges must follow the ethical standards set out in the *Code of Conduct for United States Judges*, which contains guidelines to make sure a judge does not preside over a case in which he or she has any reason to favor one side over the other. For example, a judge

must withdraw or recuse himself or herself from any case in which a close relative is a party, or in which he or she has any financial interest, however remote. Judges are required to file a financial disclosure form annually, so that all their stock holdings, board memberships, and other financial interests are on public record. They must be careful not to do anything that might cause people to think they would favor one side in a case over another. For this reason, they cannot give speeches urging voters to pick one candidate over another for public office or ask people to contribute money to civic organizations. Judges without life tenure are also subject to the *Code of Conduct for United States Judges*.

Congress has created a procedure for submitting a complaint that a federal judge has committed misconduct or become disabled. The process is governed by the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351-364, and Rules for Judicial-Conduct and Judicial-Disability Proceedings, 248 F.R.D. 674 (2008). The Rules and a complaint form are available at federal court websites and clerk's offices.

<http://www.uscourts.gov/RulesAndPolicies/ConductAndDisability/JudicialConductDisability.aspx>

Prosecutors

Within the federal system, the U.S. Department of Justice (DOJ or Department) in the executive branch brings all prosecutions. DOJ is organized into several divisions located in Washington DC and ninety-four U.S. Attorney's Offices located through the United States. The Attorney General, the Deputy Attorney General and each of the Assistant Attorneys General in charge of DOJ's divisions, as well as each of the 93 U.S. Attorneys are appointed by the President with the advice and consent of the Senate. DOJ is staffed by career prosecutors. Although a particular Administration may set priorities for law enforcement, charging decisions in individual cases are made independently by DOJ. Federal prosecutors are entrusted with discretion to decide when and if to bring a criminal prosecution. Resources which guide federal prosecutors' discretion are the Principles of Federal Prosecution (PFP) and the Principles of Federal Prosecution of Corporations (PFPC). Pursuant to these principles, a "determination to prosecute represents a policy judgment that the fundamental interests of society require the application of the criminal laws to a particular set of circumstances." See title 9 of the United States Attorneys' Manual,

http://www.justice.gov/usao/eousa/foia_reading_room/usam/index.html.

All federal civil servants, including U.S. Attorneys, take an oath of office by which they swear to support and defend the Constitution of the United States of America. Through the oath, employees swear to faithfully discharge the duties of office. See

http://www.opm.gov/constitution_initiative/oath.asp.

This requirement is expanded in the Standards of Ethical Conduct for Employees of the Executive Branch in its very first principle: "Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain." <http://www.ecfr.gov/cgi-bin/text->

[idx?c=ecfr&SID=06f812f26e7ed9f364bb87944757b912&rgn=div5&view=text&node=5:3.0.10.10.9&idno=5](http://www.ecfr.gov/SID=06f812f26e7ed9f364bb87944757b912&rgn=div5&view=text&node=5:3.0.10.10.9&idno=5)

In addition to the requirements of the oath of office and the standards of conduct, U.S. Attorneys and supervisory attorneys file publicly available financial disclosure reports. The line assistant U.S. attorneys and special assistant U.S. attorneys file alternative confidential disclosures on a case-by-case basis. The financial disclosure system is established under 5 U.S.C. app section 101 et seq and implemented in 5 C.F.R. Part 2640. <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title5/html/USCODE-2009-title5-app-ethicsing-titleI.htm> and <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=06f812f26e7ed9f364bb87944757b912&rgn=div5&view=text&node=5:3.0.10.10.8&idno=5>

DOJ ethics officials review each of the public and confidential financial disclosure reports, primarily for purposes of identifying potential or actual conflicts of interest. A conflict of interest is determined by applying the restrictions contained in certain statutes and standards in the context of the official duties and responsibilities of the individual. When information on a report indicates a potential conflict of interest with those duties and responsibilities, the ethics official works with the individual to determine appropriate steps he or she must take in order to avoid engaging in an official or private activity that will change the potential for a conflict into an actual conflict. Such steps may include: recusal from certain official actions, change of official assignments or duties, divestiture of an asset, resignation from an outside position, termination of an outside activity, or written waivers.

The purpose of financial disclosure reports in the executive branch is primarily to proactively identify and prevent conflicts of interest as opposed to detect illicit enrichment. These reports are not net worth statements. However, when information on a financial disclosure report indicates that an actual conflict of interest may have occurred, that matter is referred to appropriate authorities for further investigation and possible prosecution and/or administrative sanction. Making a false statement on a financial disclosure report is a crime.

When U.S. Attorneys, or their offices, become aware of an issue that could require a recusal in a criminal or civil matter or case as a result of a personal interest or professional relationship with parties involved in the matter, they must contact General Counsel's Office Executive Office for U.S. Attorneys. The requirement of recusal does not arise in every instance, but only where a conflict of interest exists or there is an appearance of a conflict of interest or loss of impartiality. If recusal is appropriate, the General Counsel's Office will coordinate the recusal action, obtain necessary approvals for the recusal, and assist the office in arranging for a transfer of responsibility to another office, including any designations of attorneys as a Special Attorney or Special Assistant to the Attorney General pursuant to 28 U.S.C. Sec. 515.

The Office of Professional Responsibility (OPR), reporting directly to the Attorney General, is responsible for investigating allegations of misconduct involving Department

attorneys that relate to the exercise of their authority to investigate, litigate or provide legal advice, as well as allegations of misconduct by law enforcement personnel when they are related to allegations of attorney misconduct within the jurisdiction of OPR.

Misconduct allegations that OPR historically investigates include Brady, Giglio, Federal Rule of Criminal Procedure 16, and civil discovery violations; improper conduct before a grand jury; improper coercion, intimidation, or questioning of witnesses; improper introduction of evidence; lack of candor or misrepresentations to the court and/or opposing counsel; improper opening statements and closing arguments; failure to represent competently and diligently the interests of the government; failure to comply with court orders, including scheduling orders; unauthorized disclosure of confidential or secret government information; failure to keep supervisors apprised of significant developments in a case; and the exercise of prosecutorial discretion based on improper purposes.

The Counsel for Professional Responsibility leads the OPR. Under the Counsel's direction, OPR reviews allegations of attorney misconduct involving violation of any standard imposed by law, applicable rules of professional conduct, or Departmental policy. When warranted, OPR conducts full investigations of such allegations, and reports its findings and conclusions to the Attorney General and other appropriate Departmental officials. OPR also serves as the Department's contact with state bar disciplinary organizations.

The Office of the Inspector General (OIG) investigates allegations of misconduct by Department attorneys that do not fall within the jurisdiction of OPR and is required to notify OPR of the existence and results of any OIG investigation that reflects upon the professional ethics, competence or integrity of a Department attorney.

Codes of Conduct & Disciplinary Mechanisms

Judiciary

The federal court system governs the non-criminal conduct of its members at the national level through the Judicial Conference of the United States. The Judicial Conference is a body of 27 federal judges, composed of the following: the Chief Justice of the United States, who serves as the presiding officer; the chief judges of the 13 courts of appeals; the chief judge of the Court of International Trade; and 12 district judges from the regional circuits who are chosen by the judges of their circuits to serve terms of three years. <http://www.uscourts.gov/FederalCourts/JudicialConference.aspx>

The Judicial Conference has adopted two primary codes of conduct: the Code of Conduct for United States Judges and the Code of Conduct for Judicial Employees. The Code of Conduct for United States Judges covers, among other topics, the following: judicial integrity and independence; the avoidance of impropriety and the appearance of impropriety; impartiality; adjudicative and administrative responsibilities; disqualification; extrajudicial activities and compensation related to extrajudicial

activities; conflicts of interest; gifts; and refraining from political activity. The Code of Conduct for Judicial Employees covers, among other topics, the following: judicial integrity and independence; the avoidance of impropriety and the appearance of impropriety; performance of duties; conduct toward the public; use of confidential and other types of information; conflicts of interest; personal prejudice; outside activities; gifts; practice of law; and inappropriate political activity. The Judicial Conference Committee on Codes of Conduct renders advisory opinions concerning the application and interpretation of the Codes of Conduct for United States Judges and for Judicial Employees. In addition, the Judicial Conference has issued rules related to gifts (and outside earned income, honoraria, and employment).

<http://www.uscourts.gov/RulesAndPolicies/CodesOfConduct.aspx>

Justices and judges receive a lifetime appointment without diminution of pay and can only be removed by Congress after impeachment by the House and trial in the Senate. In addition to the impeachment process, actions the court system may take against a judge include private or public reprimand or censure, request for voluntary retirement, suspension of case assignments, and certification of disability of a judge to hold office. If appropriate, the Judicial Conference may transmit to the House a determination that consideration of impeachment may be warranted. Employees of the judicial branch are subject to disciplinary action, including removal.

Prosecutors

All employees of the executive branch, including prosecutors, are subject to the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct), which are found in Part 2635 of Title 5 of the Code of Federal Regulations (5 C.F.R. Part 2635). The Standards of Conduct cover the following subjects: gifts from outside sources; gifts between employees; conflicting financial interests; impartiality in performing official duties; seeking other employment; misuse of position (i.e. use of public office for private gain, use of nonpublic information, use of Government property, use of official time); and outside activities.

In addition, the DOJ has issued, with the concurrence of the U.S. Office of Government Ethics, supplemental standards of conduct that, among other things, prohibit Department employees from engaging in the practice of law (except in narrow circumstances) or other litigation, investigations, grants or other matters in which the Department is a party. The supplemental regulations also require Department employees to obtain written approval before engaging in outside employment, not otherwise prohibited, that involves the practice of law, or a subject matter, policy, or program that is in the employee's component's area of responsibility (5 CFR Sections 3801.101-106).

The standards of conduct in the executive branch have administrative penalties which can include reprimand, suspension, demotion, transfer and firing. Administrative sanctions are imposed by the agency which employs the individual who has been found to have violated the administrative code of conduct following standard personnel procedures for imposing discipline.

Measures to Ensure Transparency & Accountability in Selection, Recruitment, Training, Performance Management, and Removal

Judiciary

Supreme Court justices, court of appeals judges, and district court judges are nominated by the President and confirmed by the United States Senate, as stated in the Constitution. The Constitution sets forth no specific requirements for judges. However, members of Congress, who typically recommend potential nominees, and the DOJ, which reviews nominees' qualifications, have developed their own informal criteria. The Senate Judiciary Committee typically conducts confirmation hearings for each nominee. Article III of the Constitution states that these judicial officers are appointed for a life term. The federal Judiciary, the Judicial Conference of the United States, and the Administrative Office of the U.S. Courts play no role in the nomination and confirmation process.

As part of the vetting and confirmation process, individuals who are being considered for nomination and nominees are required to provide to the President and the Senate confirming committee significant information about themselves and their professional careers. The FBI also does a background check on each nominee. Nominees for federal judgeships are also required to file a financial disclosure report which is publicly available.

Bankruptcy judges are judicial officers of the U.S. district court and are appointed by the majority of judges of the U.S. court of appeals to exercise jurisdiction over bankruptcy matters. The number of bankruptcy judges is determined by Congress. The Judicial Conference of the United States is required to submit recommendations from time to time regarding the number of bankruptcy judges needed. Bankruptcy judges are appointed for 14-year terms.

Magistrate judges are judicial officers of the district court and are appointed by majority vote of the active district judges of the court to exercise jurisdiction over matters assigned by statute as well as those delegated by the district judges. The number of magistrate judge positions is determined by the Judicial Conference of the United States, based on recommendations of the respective district courts, the judicial councils of the circuits, and the Director of the Administrative Office of the U.S. Courts. A full-time magistrate judge serves a term of eight years. Duties assigned to magistrate judges by district court judges may vary considerably from court to court.

<http://www.uscourts.gov/Common/FAQS.aspx>

The Federal Judicial Center, created by Congress in 1967 “to further the development and adoption of improved judicial administration in the courts of the United States,” is the primary entity that educates and trains judges and employees of the federal courts. The Center produces its educational programs and resources in coordination with its Board and advisory committees. It also works closely with subject-matter experts from the courts, with scholars, and with staff from other government agencies to provide

instruction on substantive legal topics, case and court management, and leadership development. The Center designs and produces educational programs and products using in-person seminars and workshops as well as distance-education methods, including web conferences, e-learning programs, audio conferences, videos, and other online resources.

Complementing the role of the Federal Judicial Center, the Judicial Conference Committee on Codes of Conduct develops and delivers continuing ethics education and publishes ethics education materials for all judges and judicial employees.

Prosecutors

In general, there are two basic categories of career public officials in the federal executive branch, both of which are hired under merit system principles: (1) competitive service employees (referred to in the hiring and ranking systems as General Service (GS) employees), who are hired through a competitive examination process and must meet government-wide suitability and qualification standards; and (2) excepted service employees, who may be hired non-competitively but must still be found fit and qualified for their positions, either under government-wide standards or agency-specific standards.

All career prosecutors are hired through the excepted service. The regulations governing the excepted service are found in 5 C.F.R. Part 213. <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=e9a12e19ed4300a755c698ecc34499ce&rgn=div5&view=text&node=5:1.0.1.2.22&idno=5#5:1.0.1.2.22.1>

Personal favoritism, nepotism, and political influence are not permitted in the selection process. Any occurrence of non-merit favoritism is viewed as a “prohibited personnel practice.” The head of each agency is responsible for the prevention of prohibited personnel practices; for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management; and for ensuring (in consultation with the Office of Special Counsel, an independent agency established by the Civil Service Reform Act) that agency employees are informed of the rights and remedies available to them under law (5 U.S.C. Section 2301).

With respect to training, the National Advocacy Center, which is operated by the DOJ’s Executive Office for United States Attorneys, trains federal, state, and local prosecutors and litigators in advocacy skills and management of legal operations; more than 10,000 legal personnel are trained annually. <http://www.justice.gov/usao/eousa/ole/>

In addition, those prosecutors who file public and confidential financial disclosure reports are required to have annual ethics training so that they are reminded of the standards that apply to them in carrying out their government duties. This is in addition to the required initial ethics orientation provided to every new employee in the executive branch. The DOJ, like all executive branch agencies, is also required to have an ethics official or officials who are available to answer questions that any prosecutor or other employee within the agency might have with regard to potential conflicts of interest or the

application of any of the provisions of the standards of conduct, civil ethics statutes, or criminal conflict of interest statutes.

Measures to Improve Transparency & Efficiency of Procedures Governing Case Assignment and Distribution

Judiciary

Judge assignment methods vary. The basic considerations in making assignments are to assure equitable distribution of caseloads and avoid judge shopping. By statute, the chief judge of each district court has the responsibility to enforce the court's rules and orders on case assignments. Each court has a written plan or system for assigning cases. The majority of courts use some variation of a random drawing. One simple method is to rotate the names of available judges. At times judges having special expertise can be assigned cases by type, such as complex criminal cases, asbestos-related cases, or prisoner cases. The benefit of this system is that it takes advantage of the expertise developed by judges in certain areas. Sometimes cases may be assigned based on geographical considerations. For example, in a large geographical area it may be best to assign a case to a judge located at the site where the case was filed. Courts also have a system to check if there is any conflict that would make it improper for a judge to preside over a particular case.

Most cases are handled in an expeditious manner. The Speedy Trial Act of 1974 (18 U.S.C. 3161) establishes standard time requirements for the timely prosecution and disposition of criminal cases in district courts. There is no similar law governing civil trial scheduling, and as a result, the scheduling of criminal cases is assigned a higher priority.

In 1990, Congress enacted legislation that directs each district court to devise and adopt a civil expense and delay reduction plan. One goal established under the legislation is for each civil case to be scheduled for trial within 18 months of filing the complaint.

The 2012 Annual Report of the Director of the Administrative Office of the US Courts presents statistics on the work of the Federal Judiciary for the fiscal year ending September 30, 2012, comparing 2012 data to data for prior years and, when possible, explaining increases or decreases in caseloads. Separate sections of the report address the appellate, district, and bankruptcy courts; the probation and pretrial services system; and other components of the Federal Judiciary. Caseload totals for the major programs of the Federal Judiciary appear in the table of judicial caseload indicators.

<http://www.uscourts.gov/Statistics/JudicialBusiness/2012.aspx>

Prosecutors

Although the distribution of caseload varies between districts, each U.S. Attorney's Office deals with every category of cases and handles a mixture of simple and complex

litigation. Each U.S. Attorney exercises wide discretion in the use of his/her resources to further the priorities of the local jurisdictions and needs of their communities.

<http://www.justice.gov/usao/about/mission.html>

Each U.S. Attorney is afforded significant discretion to manage his or her office according to locally perceived priorities and needs, within the umbrella of overarching Department of Justice priorities.

http://www.justice.gov/usao/reading_room/data/CaseStats.htm

National caseload statistical data is available on DOJ's website.

http://www.justice.gov/usao/reading_room/data/CaseStats.htm

Policies/Practices aimed at Increasing Transparency in the Court Process

Judiciary

With certain very limited exceptions, each step of the federal judicial process is open to the public. An individual citizen who wishes to observe a court in session may go to the federal courthouse, check the court calendar, and watch a proceeding. Anyone may review the pleadings and other papers in a case by going to the clerk of court's office and asking for the appropriate case file. Unlike most of the state courts, however, the federal courts generally do not permit television or radio coverage of trial court proceedings.

Court dockets and some case files are available on the Internet through the Public Access to Court Electronic Records system (known as PACER), at www.pacer.gov. This system allows users to locate cases using the Case Locator and to obtain case and docket information from federal appellate, district and bankruptcy courts. In addition, nearly every federal court maintains a web site with information about court rules and procedures.

The right of public access to court proceedings is partly derived from the Constitution and partly from court tradition. By conducting their judicial work in public view, judges enhance public confidence in the courts and allow citizens to learn first-hand how the U.S. judicial system works.

In a few situations the public may not have full access to court records and court proceedings. In a high-profile trial, for example, there may not be enough space in the courtroom to accommodate everyone who would like to observe. Access to the courtroom also may be restricted for security or privacy reasons, such as the protection of a juvenile or a confidential informant. Finally, certain documents may be placed under seal by the judge, meaning that they are not available to the public. Examples of sealed information include confidential business records, certain law enforcement reports, and juvenile records.

The Administrative Office of the U.S. Courts also maintains a website that provides detailed information for various audiences, including teachers and students, media, jurors,

researchers, and legal professionals. The site includes information on how the federal courts are structured and how they operate, judges and judgeships, rules and policies governing the judicial branch, statistics, court records, and educational resources.

<http://www.uscourts.gov/>

Prosecutors

Through its website, the Executive Office for United States Attorneys provides a wealth of information about the structure, mission, policies, and procedures of the Office, as well as annual statistical reports regarding the disposition of cases handled by U.S. Attorneys. On the homepage, visitors get an update on most recent convictions and have the opportunity to learn more about individual U.S. Attorneys through the “U.S. Attorney Weekly Spotlight” feature. Users also have quick links to featured resources such the most recent Annual Statistical Report, USA Bulletin, and other information documents such as the DOJ’s strategic plan and U.S. Attorney’s Manual.

<http://www.justice.gov/usao/>

Also, the homepage of the Executive Office for United States Attorneys has a link to the U.S. Attorneys “For Kids” web page, which includes information designed for youth on how a federal prosecutor does his/her job and a brief description of the structure and functioning of a courtroom.

<http://www.justice.gov/usao/eousa/kidspage/>

3. Please provide examples of the successful implementation of domestic measures adopted to comply with article 11 of the Convention:

The Secretariat would particularly welcome practical examples and case studies of successes in implementing domestic measures in the field of judicial integrity. Such examples may include:

- o cases in which the breach of a judicial or prosecutorial code of conduct has led to the application of disciplinary measures.*
- o examples of the effective use of mechanisms to facilitate the reporting of acts of corruption in the judiciary and the prosecution service and statistics regarding the number of complaints received through such mechanisms.*
- o the successful implementation of reforms related to case assignment and case management procedures resulting in a reduction in waiting times for the hearing and completion of cases.*
- o the successful implementation of educational and training programmes for members of the judiciary and prosecution service, including both initial formation and continuing education.*

Application of Disciplinary Measures

Judiciary

The procedures for filing and responding to complaints against judges are prescribed by statute, 28 U.S.C. 351-364. An individual who believes that a federal judge committed

misconduct or has a disability may file a complaint with the proper court office. If the complaint is against a U.S. District Judge, a U.S. Bankruptcy Judge, or a U.S. Magistrate Judge, the complaint must be filed at the clerk's office of the United States Court of Appeals for the region ("circuit") in which the judge serves. If the complaint is against a judge of the U.S. Court of Appeals for the Federal Circuit, the complaint must be filed at the circuit executive's office for that court. If the complaint is against any other U.S. Circuit Judge, or against a judge of a national court (the Court of International Trade or the Court of Federal Claims), the complaint must be filed at the clerk's office of the court on which that judge serves. The proper court office is the only place authorized to receive complaints.

In most instances, the judge who considers a complaint will be the chief judge of the court in which it is pending. That judge may conduct a limited inquiry, interviewing witnesses and examining other available information. The consideration of a complaint is confidential, although, in extraordinary circumstances, the chief judge may publicly disclose the complaint's existence. Orders regarding a complaint will become public, but only after the complaint has received final action with no further right of review.

After considering a complaint, the chief judge may, by order, terminate it (by "dismissing" or "concluding" it) if there is reason to do so. Otherwise, the chief judge must appoint a special committee of judges to investigate the complaint. The chief judge must dismiss a complaint if it does not identify evidence tending to show misconduct or disability, or if it is conclusively refuted by objective evidence from transcripts, witnesses, or other sources. The chief judge must also dismiss a complaint if the facts it describes do not amount to misconduct or disability as defined by law.

If the chief judge has ordered that a complaint be dismissed or concluded, the complainant may petition the circuit judicial council (or national court, if applicable) for review. The complainant has 35 days to exercise this option.

http://www.uscourts.gov/Viewer.aspx?doc=/uscourts/RulesAndPolicies/conduct/jud_conduct_and_disability_procedure.pdf

Opinions of the Committee on Judicial Conduct and Disability are available at <http://www.uscourts.gov/RulesAndPolicies/ConductAndDisability/JudicialConductDisability.aspx>

Further, Canon 3 of the Code of Conduct for Judicial Employees includes the following language: "A judicial employee should report to the appropriate supervising authority any attempt to induce the judicial employee to violate these canons."

As reported in the 2012 Annual Report of the Director of the Administrative Office, in September 2012, the Judicial Conference adopted a recommendation from its Committee on Judicial Resources to amend the 2010 Model Employment Dispute Resolution Plan, extending whistleblower protection to Judiciary employees. The Judiciary has channels that employees may use to report a violation of law or suspected fraud, waste, abuse, or mismanagement of funds by an employee or an entity doing business with the courts.

Amending the Model Plan added an administrative remedy specifically addressing allegations that an employee faced an adverse personnel action as a result of whistleblowing.

As reported in the 2012 Annual Report of the Director of the Administrative Office, in April 2012, the Judicial Conference Committee on Audits and Administrative Office Accountability, asked courts and defender organizations for information about their format and processes for notifying Judiciary staff about available channels for reporting allegations of fraud, waste, and abuse. In response, more than 50 courts offered to share their procedures with interested court units.

Prosecutors

As noted above, allegations of misconduct involving Department attorneys that relate to the exercise of their authority to investigate, litigate, or provide legal advice, are the purview of the DOJ's OPR.

OPR receives allegations from a variety of sources, including judicial opinions and referrals, private individuals and attorneys, and other federal agencies. Some of the most important sources are internal Department referrals. All Department employees are obligated to report to their supervisors any evidence or non-frivolous allegation of misconduct, or they may bring the information directly to the attention of OPR. Supervisors, in turn, are obligated to report to OPR any matters in which the alleged misconduct is serious. Supervisors and employees are encouraged to contact OPR for assistance in determining whether the matter should be referred to OPR. Department employees are required to report to OPR all misconduct findings made by judges.

OPR provides the Attorney General with an annual report of its activities. These reports include statistical information on OPR's activities, significant policy changes and developments, and summaries of cases completed during the fiscal year.

<http://www.justice.gov/opr/reports.htm>

OIG investigates allegations of misconduct by Department attorneys that do not fall within the jurisdiction of OPR and is required to notify OPR of the existence and results of any OIG investigation that reflects upon the professional ethics, competence or integrity of a Department attorney. The OIG publishes a semiannual report to Congress on its activities. <http://www.justice.gov/oig/semiannual/>

Case Assignment and Case Management Reforms

As reported in the 2012 Annual Report of the Director of the Administrative Office of the United States Courts, a program of intercircuit and intracircuit assignment of Article III judges has provided short-term assistance to courts struggling with overwhelming caseloads. For the 12-month period ending September 2012, visiting judges participated in 3,794 appeals closed after oral hearing or submission on briefs. In the district courts, visiting judges closed 1,755 civil cases and cases involving 2,069 criminal defendants. During the same time period, the Judicial

Conference Committee on Intercircuit Assignments recommended, and the Chief Justice approved, 215 intercircuit assignments.

<http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/AdministrativeOffice/DirectorAnnualReport/annual-report-2012.aspx>

The Case Management/Electronic Case Files (CM/ECF) system is the Federal Judiciary's comprehensive case management system for all bankruptcy, district and appellate courts. CM/ECF allows courts to accept filings and provide access to filed documents over the Internet. CM/ECF keeps out-of-pocket expenses low, gives concurrent access to case files by multiple parties, and offers expanded search and reporting capabilities. The system also offers the ability to: immediately update dockets and make them available to users, file pleadings electronically with the court, and download documents and print them directly from the court system.

<http://www.pacer.gov/cmecf/>

The transition to a Next Generation of CM/ECF is well underway. The requirements gathering phase of the project concluded in March 2012, as groups of judges, chambers staff, clerks, and court staff identified and prioritized hundreds of requirements. The project also received input from the bar, academia, government agencies, and others through interviews, focus groups, and surveys of approximately 10,000 judiciary stakeholders. The project is in the design and development phase. The initial schedule calls for the first Next Generation release to be available to the courts in 2014, followed by full transition over several years. The first release will include central sign-on functionality, which will allow users of CM/ECF and PACER to maintain one account across all courts and to sign in one time to access multiple courts.

<http://www.uscourts.gov/FederalCourts/CMECF/AboutCMECF.aspx>

Educational and Training Programs

The Federal Judicial Center is the primary entity that educates and trains judges and employees of the federal courts. In 2012, the Center delivered 63 programs for 3,585 federal judges and 364 programs for 14,539 legal and court staff. "Programs" includes both in-person and distance-education programs. Center staff also assisted in the development and delivery of 19 programs produced by other organizations and attended by 2,564 court staff. The Federal Judicial Center annual reports contain detailed statistical information listed by program type.

http://www.fjc.gov/public/home.nsf/autoframe?openform&url_r=pages/601

Further, as reported in the 2012 Annual Report of the Director of the Administrative Office, in fiscal year 2012, 14 new chief judge orientation programs were held for 20 district chief judges and ten orientation programs were held for 52 judicial nominees. These programs provide the judges with an overview and resources for their administrative and non-case related duties. Training on judicial ethics, including financial disclosure reporting requirements, is provided at training programs for newly appointed district and magistrate judges.

<http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/AdministrativeOffice/DirectorAnnualReport/annual-report-2012.aspx>

4. Have you ever assessed the effectiveness of the measures adopted to implement article 11? Please outline (or, if available, attach) the results of such an assessment including methods, tools and resources utilized.

States parties may wish, in particular, to provide information regarding efforts taken to:

- o evaluate the overall integrity and effectiveness of the court system. In describing such efforts States may wish to include what methodology and indicators were used, which institutions were responsible for implementation and what follow-up action was taken following evaluation.*
- o seek the views of court users as regards the integrity and effectiveness of the judiciary, prosecution service and court system more broadly. Such measures may include public or court user surveys, focus groups, the use of “score cards”, the analysis of complaints received and other similar measures.*
- o assess the impact of specific measures taken in furtherance of Article 11 such as the those mentioned in paragraph 2 above.*

The Judicial Conduct and Disability Act 1980 Act authorizes any person to file a complaint alleging that a federal judge has engaged in conduct "prejudicial to the effective and expeditious administration of the business of the courts." The late Chief Justice William H. Rehnquist, in 2004, created a committee, led by Supreme Court Justice Stephen Breyer, to review implementation of the Act.

[http://www.fjc.gov/public/pdf.nsf/lookup/breyer06.pdf/\\$file/breyer06.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/breyer06.pdf/$file/breyer06.pdf)

The Strategic Plan for the Federal Judiciary was approved by the Judicial Conference of the United States on September 14, 2010. Key aspects of the plan include pursuing improvements in the delivery of justice on a nationwide basis, reducing delay and unnecessary costs to litigants, and ensuring that court rules, processes and procedures meet the needs of lawyers and litigants. The Plan states that “the views of participants — including parties, lawyers and jurors — should be solicited as a first step in implementing these strategies.” For every goal in the Strategic Plan, a mechanism to measure or assess the judiciary’s progress will be developed. In addition, a review of the Strategic Plan will take place every five years.

5. Which challenges and issues are you facing in (fully) implementing article 11 of the Convention?

Examples of the types of challenges States parties may face in implementing article 11 of the Convention include:

- o challenges in balancing efforts to increase the integrity and accountability of the judiciary, for example through the development of new evaluation procedures, with the protection of the independence of the judiciary.*
- o implementation challenges, such as the ability to enforce or otherwise encourage adherence to existing codes of conduct applicable to members of the judiciary or prosecution service.*
- o communication challenges, such as the ability to disseminate, publicise and promote new policies and practices to members of the judiciary, prosecution service or to the public more broadly.*

The U.S. does not have any specific challenges to report at this time.

6. Do you consider that any technical assistance is required in order to allow you to fully implement this provision? If so, what specific forms of technical assistance would you require? States parties are encouraged to also provide a description of any such assistance already being provided and by whom.

No.

U.S. Submission for 2013 UNCAC Working Group on Prevention (Part II)

II - Information requested from States parties in relation to public education, in particular the engagement of children and young people and the role of mass media and the Internet (art.13)

1. Has your country adopted and implemented article 13 of the UN Convention against Corruption?

States parties are encouraged in particular to provide information on public education programmes, including school and university curricula, and other public information activities aimed at engaging young people in efforts to combat corruption.

States parties are also encouraged to provide information on measures aimed at engaging with and supporting and engaging mass media institutions such as television, newspapers and radio in educating the public regarding the impact and risks of corruption.

Yes.

Public Education Programs

Education is primarily a state and local responsibility in the United States. States and communities, as well as public and private organizations—rather than the federal government—establish schools and colleges, develop curricula, and determine requirements for enrollment and graduation. See <https://www2.ed.gov/about/overview/fed/role.html>.

Nevertheless, the U.S. government promotes awareness of courses and symposia that address corruption, and U.S. government anti-corruption policymakers and law enforcement practitioners often serve as guest lecturers, especially in courses and events held in Washington, D.C.

Examples of educational courses and symposia that address corruption include:

- Georgetown University Law Center:
 - “International Efforts to Combat Corruption Seminar,”
http://apps.law.georgetown.edu/curriculum/tab_courses.cfm?Status=Course&Detail=1676, and
 - “International White Collar Crime,”
http://apps.law.georgetown.edu/curriculum/tab_courses.cfm?Status=Course&Detail=67
- American University Washington College of Law:
 - “US and International Anti-Corruption Law Summer Program,”
<http://www.wcl.american.edu/anti-corruption/>
 - Symposium on “Bribes Without Borders: The Challenges of Fighting Corruption in the Global Context,”

<http://www.wcl.american.edu/secler/founders/2013/documents/BribesWithoutBorders.pdf> (presented by the American University International Law Review)

- George Washington University Law School:
 - “The International Fight against Corruption: What’s Working, What’s Not Working, and What Will Work?” (sponsored by the George Washington University Law School and the Anti-Corruption Committee and North American Forum of the International Bar Association; in cooperation with the Anti-Corruption Committee of the American Bar Association),
<http://www.law.gwu.edu/News/2012-2013Events/Pages/TheInternationalFightAgainstCorruptionWhat'sWorking,What.aspx>
- Suffolk University, Sawyer Business School Center for Global Business Ethics and Law:
 - “Corruption in the Global Marketplace: Why Global Bribery is Not a Market Entry Strategy,”
<https://www2.suffolk.edu/51595.html>

In addition, all American law schools are required by the American Bar Association (ABA)—a voluntary association of lawyers and law students that sets academic standards for law schools and formulates model ethical codes for the legal profession—to ensure that all students take a course on professional responsibility as part of their legal education. Professional responsibility courses usually cover basic legal ethics and judicial misconduct.

Several American business schools also have ethics course requirements. For example, *inter alia*, Harvard Business School, the Stern School of Business, the University of Virginia’s Business School, and the University of California-Berkeley’s Business School require students to take business ethics courses.

Measures to Engage with and Support Mass Media Institutions

With respect to media, the federal government supports channels for engaging youth and raising awareness about the role of government and the importance of good governance. For instance, the Public Broadcasting Service (PBS) receives a portion of its revenue from federal government appropriations, though it is primarily funded through private membership donations and grants.

“PBS Teachers,” a national web destination for high-quality pre-K to Grade 12 educational resources, provides classroom materials suitable for a wide range of subjects and grade levels, including thousands of lesson plans, teaching activities, on-demand video assets, and interactive games and simulations. These resources are correlated to state and national educational standards and are tied to PBS’ on-air and online programming. Topics include, among many others, civil and human rights, community and citizenship, U.S. government, and U.S. history.
<http://www.pbs.org/teachers/about/>

U.S. government officials also engage with and support mass media institutions by writing press releases and speaking with journalists interested in writing pieces about efforts to prevent and combat corruption and related topics. For example, the following were released to inform the

public about the 4th Conference of States Parties to the UN Convention against Corruption in 2011; the 15th International Anti-Corruption Conference in Brasilia in 2012; and International Anti-Corruption Day, respectively.

<http://www.state.gov/r/pa/prs/ps/2011/10/175964.htm>

<http://www.state.gov/r/pa/prs/ps/2012/11/200242.htm>

<http://www.state.gov/secretary/rm/2012/12/201706.htm>

2. Please cite, summarize and, if possible, provide copies of the applicable measure(s) or policy(ies):

In particular, the Secretariat would be grateful for information regarding:

o Educational courses or modules that have been introduced in universities with relevance to the issue of corruption. Such courses or modules may specifically address the issue of corruption or focus on related issues such as public administration, public procurement, ethics, criminal law, international cooperation and corporate governance.

o Educational courses or modules that have been introduced in primary and secondary schools with relevance to the issue of corruption. Such courses or modules may address corruption directly or may cover broader issues such as ethics, civic rights and duties, fiscal education and government.

o Policies and practices that seek to use the Internet as a tool for public education and as a means to raise awareness of corruption.

See links above.

3. Please provide examples of the successful implementation of domestic measures adopted to comply with article 13 of the Convention.

States Parties may wish to include case studies or specific examples of the following:

o Public awareness programmes that have led to a broad engagement of children, young people and other parts of society in the fight against corruption.

o The use of the Internet as a successful platform for educating the public and raising awareness of corruption.

o Specific examples in which social media has been used to facilitate educational and awareness-raising anti-corruption programmes targeted at young people.

The Internet & Public Awareness Programs for Young People

All three branches of the U.S. government use the Internet as a tool to engage young people to raise awareness of how the federal government works; the importance of good governance; and other issues relevant to the fight against corruption.

Judicial Branch

The Administrative Office of the U.S. Courts provides information and resources aimed at teachers and students. Resources include short instructional films, conversation guides that

stimulate debate about constitutional and civic issues, and resources to perform court simulations. For the court simulations, the site provides a written scenario, witness stand script, affidavits, and jury stand instructions.

<http://www.uscourts.gov/Audience/TeachersAndStudents.aspx>

“Open Doors to Federal Courts” is a national initiative that local federal judges conduct in their courtrooms. The annual event, which is presided over by the host judge, involves students in realistic legal dilemmas. Volunteer attorneys coach the students during the program. The topic is a new, teen-relevant issue every year.

<http://www.uscourts.gov/Audience/TeachersAndStudents.aspx>

Legislative Branch

The “Kids in the House” website is a public service provided by the Office of the Clerk of the U.S. House of Representatives, whose mission is to provide educational and entertaining information about the legislative branch of the U.S. government to students of all ages. Topics covered include the role of the U.S. House of Representatives, the legislative process, and House history.

<http://kids.clerk.house.gov/>

Executive Branch

“Kids.gov” is the official kids' portal for the U.S. government. It links children, parents and teachers to U.S. government information and services on the web from government agencies, schools, and educational organizations, all geared to the learning level and interest of kids. Kids.gov is organized into three audiences: Grades K-5, Grades 6-8, and educators. Each audience tab is divided into educational subjects like arts, math, and history. One of the subjects is "government" and includes information about the Constitution, citizen rights, and how laws are made. It includes games, videos, and links to government sites (federal, state, military) or other resources (commercial, non-profit, educational). The site also provides tools for teachers including lesson plans, activities, and worksheets. Kids.gov delivers information and services in ways that are convenient for the user, for instance through videos on the Kids.gov YouTube and TeacherTube channels and through weekly newsletters.

<http://kids.usa.gov/grown-ups/index.shtml>

Another resource for children is the United States Attorneys “For Kids” web page, which includes information on how prosecutors do their job and a brief description of the structure and functioning of a courtroom.

<http://www.justice.gov/usao/eousa/kidspage/>

In addition, “PBS Teachers” is PBS' national web destination for high-quality pre-K to Grade 12 educational resources. It provides classroom materials suitable for a wide range of subjects and grade levels, including thousands of lesson plans, teaching activities, on-demand video assets, and interactive games and simulations. These resources are correlated to state and national educational standards and are tied to PBS' on-air and online programming. Topics include,

among many others, civil and human rights, community and citizenship, U.S. government, and U.S. history.

<http://www.pbs.org/teachers/about/>

Use of Internet for Educating the Public & Raising Awareness of Corruption

The U.S. government leverages the Internet and social media to educate the public, promote transparency, prevent fraud, and combat corruption. As one of the eight founding members of the Open Government Partnership (OGP)—a multilateral initiative that requires participating governments to work with civil society to prioritize and implement concrete reforms that promote transparency, fight corruption, empower citizens, and harness new technologies to strengthen governance—many of the 26 specific initiatives in the U.S. OGP National Action Plan utilize the Internet to improve public integrity and more effectively manage resources through enhanced transparency and access to information. These initiatives include, *inter alia*, promoting public participation in government through the Internet, modernizing management of government records, improving the Freedom of Information Act Administration, strengthening protection for whistleblowers, increasing transparency of legal entities formed in the United States, implementing the Extractive Industries Transparency Initiative, and increasing transparency of foreign assistance. The U.S. OGP National Action Plan can be found here: http://www.whitehouse.gov/sites/default/files/us_national_action_plan_final_2.pdf. See also <http://www.opengovpartnership.org/>.

Furthermore, the following U.S. government websites make unprecedented amounts of information available and offer easy access to the public, often in searchable and downloadable formats.

- www.sec.gov/spotlight/fcpa.shtml – Maintained by the Securities and Exchange Commission (SEC) and updated regularly, this website provides general information about the Foreign Corrupt Practices Act (FCPA), links to all SEC enforcement actions involving the FCPA, including both federal court actions and administrative proceedings; and other useful information.
- www.justice.gov/criminal/fraud/fcpa – Maintained by the Department of Justice (DOJ), this website provides translations of the FCPA in numerous languages, relevant legislative history, and selected documents from FCPA-related prosecutions and resolutions since 1977, including charging documents, plea agreements, deferred prosecution agreements, non-prosecution agreements, press releases, and other relevant pleadings and court decisions. This website also provides copies of opinions issued in response to requests by companies and individuals under DOJ's FCPA opinion procedure.
- www.stopfraud.gov – Serves as a one-stop site for American consumers to learn how to protect themselves from fraud and to report fraud wherever — and however — it occurs.
- www.recovery.gov – Fosters accountability and transparency in the use of funds made available in the American Recovery and Reinvestment Act of 2009 (Recovery Act)—

which provided \$787 billion in tax benefits, entitlement programs, and funding for Federal contracts, grants, and loans in direct response to the economic crisis—by providing taxpayers with user-friendly tools to track how and where Recovery funds are spent. This website also offers the public an opportunity to report suspected fraud, waste, or abuse related to Recovery funding.

- www.ethics.gov – Brings records and data from across the federal government to one central location, making it easier for citizens to hold public officials accountable. It is part of President Obama's commitment to promoting ethics, transparency, and accountability across government.
- www.usa.gov – A centralized place to find information from U.S. local, state, and federal government agency websites, USA.gov offers a powerful search engine and an index of web-accessible government information and services to help users find what they need.
- www.performance.gov – Provides users a view of the progress underway in cutting waste, streamlining government, and improving performance. Specifically, this website provides information on the following areas: acquisition, financial management, human resources, technology, performance improvement, open government, sustainability, and customer service.
- www.usaspending.gov – Provides the public with information about how their tax dollars are spent on the various types of contracts, grants, loans, and other types of government spending. This website includes the following information for each federal award: the name of the entity receiving the award; the amount of the award; information on the award, including transaction type, funding agency, etc.; and the location and a unique identifier of the entity receiving the award.

The U.S. government also utilizes the Internet to as a platform for making educational materials available to the public. Examples of U.S. government anti-corruption publications available online include:

- *U.S. Efforts to Internationalize Action against Corruption*
<http://www.state.gov/documents/organization/200526.pdf>
- *Partnerships against Corruption*
<http://iipdigital.usembassy.gov/st/english/publication/2012/04/201204133782.html#axzz2DScNDOar>
- *A Resource Guide to the Foreign Corrupt Practices Act (FCPA Guide)*—The *FCPA Guide* contains information about the FCPA's history and key provisions; discusses enforcement efforts by the DOJ and SEC; and provides information about related issues, including the importance of an effective compliance program to detect and prevent FCPA violations. The *FCPA Guide* is an unprecedented resource, providing lawyers, the business community, and ordinary citizens a substantive discussion of the FCPA and its application.
<http://www.sec.gov/spotlight/fcpa/fcpa-resource-guide.pdf>

Social Media

The Department of State is active in the social media arena, with a sizable following among Facebook™, Twitter™, and blog users, and utilizes social media to raise awareness about efforts to prevent and combat corruption, among other issues. The Department of State also plans to expand on a range of opportunities for the public to interact with Department of State officials and offer opinions, questions, and feedback, both in the United States and abroad. For example, the Department of State is launching a series of “Google+ Hangouts” in which the public can interact with senior State officials as they discuss a wide range of foreign policy issues that relate to good governance. See <http://thenextweb.com/insider/2013/04/15/us-state-department-to-host-google-hangouts-at-state-series-that-cover-the-nations-foreign-policy/>.

4. Have you ever assessed the effectiveness of the measures adopted to implement article 13? Please outline (or, if available, attach) the results of such an assessment including methods, tools and resources utilized.

States parties may wish, in particular, to provide information regarding efforts designed to:

- o Identify gaps in national school curricula regarding ethics, integrity, civic rights and duties or fiscal education.*
- o Measure the tangible impact of public campaigns aimed at engaging young people in anti corruption efforts, including those provided on the Internet.*
- o Assess the impact of measures designed to support and use mass media as a medium for educational anti-corruption programmes.*

No.

5. Which challenges and issues are you facing in (fully) implementing article 13 of the Convention?

Examples of the types of challenges States parties may have faced include:

- o challenges in balancing the educational role of media institutions in disseminating and publishing information regarding corruption with the need to protect the rights and reputations of others.*
- o communication challenges in reaching a wide range of stakeholders, and in particular young people, through public information activities. The Secretariat would also welcome examples of how States parties have used the Internet and social media tools to overcome these communication challenges.*
- o implementation challenges in relation to anti-corruption educational measures such as the need to provide support to schools following the introduction of a new academic course, including through the training of academic staff responsible for delivering such courses.*

6. Do you consider that any technical assistance is required in order to allow you to fully implement this provision? If so, what specific forms of technical assistance would you require?

States parties are encouraged to provide a description of any such assistance already being provided and by whom it is being provided.

No.