

## **ON THE FRONT LINES: THE POSITION OF UNITED STATES MAGISTRATE JUDGE**

**By: Timothy J. Corrigan, Chief United States District Judge**

The Orlando Division of the United States District Court for the Middle District of Florida has an opening for the position of United States Magistrate Judge. As a former occupant of that position, I have noticed that many attorneys, even those who regularly practice in federal court, do not fully understand the role of the magistrate judge in the federal court system. This article briefly discusses that role. I also take this opportunity to explain the selection process in the hope of encouraging all qualified persons to apply for the vacancy.

### **The Duties of United States Magistrate Judges in this District**

In 1990, Congress changed the title of this office from “United States magistrate” to “United States magistrate judge” to emphasize that the position is a judgeship. The term of office is eight years, but the judge can be reappointed upon satisfactory performance. By law, magistrate judges are given substantial authority to handle a wide range of both criminal and civil matters which come before the federal court. However, it is up to each district to determine the proper utilization of magistrate judges. Because of the heavy caseload in the Middle District of Florida, this district historically has given broad authority to magistrate judges. On the criminal side, magistrate judges conduct all initial appearances, arraignments, detention hearings, discovery hearings, competency proceedings, probable cause hearings, preliminary revocation hearings, and re-entry proceedings. Magistrate judges also often conduct evidentiary hearings on motions to suppress and other potentially dispositive criminal motions, rendering a report and recommendation concerning their disposition. Magistrate judges issue search and arrest warrants, take most of the felony guilty pleas, conduct misdemeanor trials, and sentence misdemeanor defendants.

On the civil docket, magistrate judges consider and rule upon a broad variety of civil non-dispositive motions, which include discovery motions, motions regarding amendments to pleadings, motions to withdraw, motions to strike and practically anything else that a lawyer can dream up. Magistrate judges also, on referral, issue reports and recommendations on dispositive motions, such as motions to dismiss, motions for summary judgment and motions for attorney's fees. By custom, magistrate judges handle most aspects of admiralty cases and all social security cases. Magistrate judges can exercise full jurisdiction over federal civil cases with the consent of the parties, meaning engaging in case management, ruling upon dispositive motions, and conducting jury and non-jury trials. In consent cases, magistrate judges essentially stand in the shoes of a district judge and any appeal of their decisions lies directly with the Eleventh Circuit Court of Appeals. Magistrate judges also conduct settlement conferences in appropriate cases.

Most criminal proceedings are conducted in open court; therefore, a magistrate judge spends a significant amount of time in court on criminal matters. However, the magistrate judge also is free to set civil motions for hearing as he or she sees fit. Overall, counting both chambers and court time, the magistrate judge's time is fairly evenly split between criminal and civil cases.

Magistrate judges have independence in organizing their chambers, establishing their calendar, and in their decision making. Each judge employs two staff persons in chambers (either a judicial assistant and a law clerk or two law clerks at the judge's discretion). In addition, the clerk's office assigns a permanent courtroom deputy to the magistrate judge who is effectively also part of chambers staff. Each magistrate judge has his or her own courtroom adjacent to chambers.

In my almost six years as a magistrate judge, I found the work to be challenging, interesting, and a great opportunity to render a valuable public service. Although my background was in civil practice, I enjoyed the opportunity to learn criminal law (vice-versa would apply as well). Because of the tremendous variety of issues and cases, the work is never boring. The position combines the ability to do scholarly opinion writing with the need to be practical and to act quickly and decisively when

required. There is also a good sense of collegiality and cooperation among all of the judges in the Orlando Division.

The Middle District's magistrate judges actively participate in court governance by serving on the court's committees. Notably, the Middle District recently reinstated a Magistrate Judge Committee, which directly reports to the Executive Committee, and five magistrate judges serve either as the chair or vice chair on other court committees.

### **Selection Process**

The method of selection of magistrate judges is governed by 28 U.S.C. § 631, *et seq.*, and Chapter 1 of the Regulations of the Judicial Conference establishing standards and procedures for the appointment of United States magistrate judges. Among other requirements, magistrate judges must be at least five-year members in good standing of a bar of the highest court of a state and not related by blood or marriage to a judge of the appointing court. The Court appoints a merit selection panel (similar to a judicial nominating commission) to receive applications.

Although the applicable Judicial Conference regulations do not specify exactly how the merit selection panel is to proceed, traditionally the panel, relying upon the lengthy written application submitted by each applicant, will select certain applicants for a personal interview with the panel. The panel will then recommend to the Court five applicants whom the panel deems to be best qualified. Those finalists will then be interviewed by all of the district judges in the District, sitting *en banc*, and the district judges will make the final selection of the nominee. The nominee will be required to undergo an FBI background check and an IRS tax check. The FBI background check is comprehensive, entailing both written questions and a personal interview with the nominee and others who know the nominee both personally and professionally. The information sought in the FBI background check is similar to the information all attorneys provided to the Florida Bar as part of their background check before becoming Florida lawyers. Contrary to what some may suppose, disclosure to the FBI of some relatively minor incident in the past will not necessarily be

disqualifying. It is ultimately up to the judges of the Court (and not the FBI) to determine whether the person is qualified to be named as a magistrate judge.

A publication by the Administrative Office of the United States Courts, entitled “The Selection, Appointment, and Reappointment of United States Magistrate Judges,” [available here](#), lists certain criteria such as personal characteristics, legal skills and professional background that may be considered in evaluating applicants. Scholarship, type of law practice and knowledge of the federal court system are also considered. The pamphlet reminds panel members that “during their deliberations, the members should bear in mind the judicial nature of the office of United States Magistrate Judge” and “bear in mind that the essential roles of a magistrate judge are to dispense justice and to assist the judges of the district courts in disposing of the court’s caseload effectively and efficiently.” Diversity is also explicitly considered in the selection process.

Magistrate judges are on the “front lines” of federal practice and play an extremely important role. I encourage all interested and qualified persons to seriously consider applying for this position.