TO: PRESIDENT EUGENE WEDOFF

NCBJ BOARD OF GOVERNORS

FROM: JUDGES WILLIAM THURMAN and RANDY DOUB, CO-CHAIRS

On March 26, 2014, members of the NCBJ Legislative Committee spent the day in Washington, D. C., making contacts and renewing relationships with members of Congress, members of the Senate, and staff of various members of Congress and various committees.

Those in attendance were Legislative Committee Co-Chairs William Thurman and Randy Doub. Members in attendance were Kevin Carey, Bill Glenn, and Ron Pearson. We were joined by the President of the National Conference of Bankruptcy Clerks, Lee Ann Bennett, from the Middle District of Florida, and past President Ken Hirz, from the Northern District of Ohio. We are most grateful to Lee Ann and Ken for joining us in our efforts. They supplied some critical data on their particular districts along with data on the reductions in funding and staffing nationwide. This cooperative effort was appreciated and we hope to continue coordinating our legislative efforts with the NCBC. Cathy McEwen also arranged several appointments with various
members and staff, but was unable to come to Washington because of her trial schedule.

Our goal was to express our appreciation to Senators, members of Congress, and staff for their efforts in relieving the federal judiciary from the effects of sequestration, emphasize the continued efforts of the federal judiciary to reduce costs, and to express our concern that future sequestration or further cuts would have a draconian effect on the federal judiciary.

Except for a 1% COLA currently provided for in the President's FY 2015 budget, the Committee is unaware of any legislation before Congress at this time that would impact either the income or other benefits of either Article I or Article III judges. That budget is presently being considered by Congress. As discussed below, members of the Committee made multiple visits with members of Congress on March 26 of this year. Some even were able to attend a House Appropriations Subcommittee hearing where Judge Julia Gibbons and Judge Bates testified as advocates for the judiciary. The budget provides for a 3.4 percent increase in funding for the judiciary. Basically, this will keep services level and possibly provide for back filling of staff positions lost but will not allow for increased hiring or other major needed expenses. This legislation’s outcome is uncertain, but several members of Congress have expressed hope that it will
pass. As in past years, if not passed, the government shuts down or a continuing resolution will be needed.

The Continuing Appropriations Act of 2014, passed last fall, had the result of settling issues temporarily for what has been referred to as the "sequester." Under sequestration during 2012 and 2013, funding for the judiciary was significantly reduced by Congress. Most areas of the U.S. Government were forced to cut spending. The judiciary was not exempt. There were reports from most, if not all, districts that the sequester resulted in loss of staff and other funding for the Clerks’ offices. Through either retirements, buyouts or layoffs, staffs were reduced. In consultation with the leadership of the NCBC, the Committee was advised that staffs were reduced anywhere from 10% to even 30%. This is consistent with what the AO has advised us, namely that 3200 staff positions have been lost since 2011. The Committee was further advised that such reduction was beginning to jeopardize the prompt processing of cases. As part of the Appropriations Act, spending was increased for the judiciary, which put a "plug" so to speak in further sequestration. In a meeting with Senator Chris Coons (DE) on March 26, he reminded members of the Committee that this plug is only temporary and will expire in 2015. As funding government obligations is a hot issue before Congress, it is anticipated that the sequester will
be front and center in the debate for FY 2016.

There are several pieces of legislation affecting substantive bankruptcy law that have been introduced in Congress. At this time, the Committee has not been charged with directions to support or oppose those pieces of legislation. The members of the Committee believe this is a good policy to follow at this time, since if a particular piece of legislation becomes law, we could be asked to interpret or rule on it. If we were to have advocated against that legislation, we may be perceived to have a predetermined bias against it that could affect independent analysis. However, should the Board determine that any proposed legislation be opposed or supported, the Committee will direct its efforts accordingly with Congress.

In stating this, the Committee continues to increase and maintain its contacts with members of Congress. The Committee believes that maintaining relationships with Congress is critical in advancing the interests of the judiciary and bankruptcy courts in particular. The Committee has developed contacts with multiple individuals who are either members of Congress or their staffers. Members of Congress generally have a key legislative person and/or general counsel on their staffs. We have cultivated relationships with them.

In the various meetings with members of Congress or their staffs, we
simply thanked the members for either their support of the Appropriations Act or, if they had voted against it, we stated our appreciation for their concerns about spending, but also stated that the judiciary was significantly and negatively impacted by the sequester and asked for their support going forward. We also offered to be a resource for any questions they might have. Many of the members expressed concerns about future funding, and some voiced pessimism about restoring any significant funding for the judiciary. It seemed like all want to help us, but concerns over meeting mandatory funding for Social Security, Medicare, and payment of interest on the national debt left discretionary spending short of the wants and even the needs of government.

We have been invited in September 2014 to co-sponsor an annual Congressional Reception along with the FJA and the MJA. This annual reception began several years ago. We have previously sent a delegation of several bankruptcy judges to the reception. It has been held in the U.S. Capitol in various rooms. Our goal is to reach out to as many members of Congress as possible and invite them to this "meet and greet" reception. The reception in September 2013 was very well attended by Congress and their staffers. The NCBJ Legislative Committee members met with a number of members of Congress or their staffers during the day of the reception and again met them
and others at the reception. In the weeks leading up to the reception, we coordinated the invitation efforts with the MJA and the FJA. We anticipate a similar event this year. The Committee believes in part that because of its efforts in meeting with members of Congress in the fall of 2013, funding for the judiciary was increased. Director Bates has acknowledged that the contacts that federal judges have made with Senators and Representatives have made a positive impact on the efforts to stabilize federal judiciary funding and increase it somewhat.

The Committee recommends that the Board continue to support the Committee in the legislative outreach in which the Committee has engaged. We believe that although the Committee members are not paid lobbyists and do not presently lobby for particular legislation, but rather seek to educate Congress on our needs, the Committee provides a significant benefit for the NCBJ. The Committee believes that its current contacts with members of Congress and their staffs is a valuable mechanism to advocate for our NCBJ members.

Our first meeting was with Senator Kay Hagan of North Carolina. In attendance were Judges Randy Doub, William Thurman, Kevin Carey and Clerk Ken Hirz. We expressed our appreciation to the Senator for her support of the two year budget deal that relieves the federal judiciary from sequestration, and
we expressed our hope that the federal judiciary funding for FY 2015 would meet our needs. Judge Doub also invited Senator Hagan to visit the new bankruptcy courthouse in Greenville, North Carolina. Along with the closing of the Wilson, North Carolina Courthouse and the relocation of the main office for the EDNC, and the relinquishment of 10,000 square feet of space, the EDNC rental budget will save over $2.7 million over the next 20 years, which Senator Hagan was impressed to hear.

At this same time, Judge Pearson was meeting with Congressman Rush Holt of New Jersey, whom Judge Pearson knows personally. Congressman Holt was very receptive to Judge Pearson’s request to be sensitive to further cuts to the Third Branch.

Judge McEwen made an appointment for us to meet with Stephanie Mickle, General Counsel for Senator Bill Nelson of Florida. Those attending were Judges Doub, Thurman, and Carey and Clerk Hirz. Appreciation was expressed for relieving the federal judiciary from the effects of sequestration. Ms. Mickle expressed Senator Nelson’s continued support for proper funding for the federal judiciary. We also offered to answer any questions or provide any information the Senator may need from time to time.

Judge Karen Specie made an appointment for us to meet with
Congressman Ted Yoho, who represents Florida’s 3rd congressional district. Judge Glenn and Clerk Bennett attended the meeting. Appreciation was expressed for the funding provided to the judiciary in the fiscal year 2014 budget. Congressman Yoho expressed interest in bankruptcy filing projections and in mortgage modification efforts.

Judge Glenn and Clerk Bennett met with Anthony Grossi, Counsel for the Republican staff of the House Judiciary Committee. Appreciation was expressed for exempting the federal judiciary from the effects of sequestration, and the cost saving and cost sharing measures instituted by the federal judiciary. Mr. Grossi inquired as to what budget recommendations were being requested by the judiciary. The question allowed Judge Glenn to explain in detail the judiciary appropriations request.

Judge Glenn and Clerk Bennett met with Doug Bobbitt, Senior Policy Advisor for Congressman Tom Latham. Appreciation was again expressed for the treatment of the judiciary in the recent two year budget deal. Emphasis was placed on the cost containment efforts made by the judiciary over the past few years. Mr. Bobbitt offered to try and find out what the thoughts are on funding the judiciary from his contact on the Appropriations Committee.

Judge Thurman and Clerk Hirz met with Gregg Nunziata, General
Counsel for Senator Marco Rubio of Florida. This meeting was arranged by Judge McEwen. Emphasis was placed on the importance of the federal judiciary and the constitutional function the courts serve. The cost savings and cost sharing programs instituted by the federal judiciary were also emphasized. Mr. Nunziata was sensitive to the number of bankruptcy judges, and while no position was taken, his questions demonstrated support for the judiciary.

Judge Glenn and Clerk Bennett met with Kyle Glenn, Legislative Director for Congressman Dennis A. Ross. Judge McEwen also set up this appointment. After expressing appreciation for the recent two year budget deal, Judge Glenn and Clerk Bennett emphasized the efforts being made by the judiciary to cut costs. Clerk Bennett shared that over 1000 employees working in the bankruptcy courts lost their jobs over the last two years. This represents the greatest two year loss of staff in the history of our courts. She also shared that she had lost 38 employees in the Middle District of Florida over the last three years.

Retired Judge Tom Small made an appointment with Nathan Hallford, who serves as counsel for Senator Charles Grassley on the Senate Judiciary Committee. Mr. Hallford stated he had practiced bankruptcy law while in private practice, and clerked for Judge Tom Bennett of the Northern District of
Judges Doub, Carey, and Clerk Hirz were in attendance. We expressed our desire that the federal judiciary be funded at a level where our constitutional responsibilities could be achieved. Mr. Hallford expressed his belief that Senator Grassley had great respect for the federal judiciary. Mr. Hallford showed great interest in keeping the federal judiciary funded at necessary levels. Judge Doub expressed to Mr. Hallford that if the Republicans regained a majority in the Senate, a great responsibility for supporting the federal judiciary in these trying budget times would lie with the Republicans. We also stated that the judiciary staffing levels were at 1997 personnel levels and that funding was at 2008 levels.

Judges Doub, Thurman and Clerk Hirz met with North Carolina Congressman George Holding, who serves on the House Judiciary Committee. His legislative counsel, Jonathan Nabavi, also joined us. Congressman Holding, a former U. S. Attorney, expressed support for separate appropriations bills for funding. He did express frustration at the congressional habit of passing continuing resolutions rather than writing a budget and passing appropriations bills. He was most impressed with the cost saving measures instituted by the federal judiciary. Congressman Holding also expressed concerns about the problems the federal judiciary encountered with the General Services
Judge Glenn, Judge Thurman, and Clerk Bennett met with Congresswoman Kathy Castor of Florida. Judge McEwen set up this appointment. Congresswoman Castor was very complimentary of the cost saving and cost sharing efforts instituted by the federal judiciary, and overall was very supportive of funding the federal judiciary. She also expressed her belief that we cannot continue to cut domestic discretionary appropriations, but must look at the larger mandatory appropriation items, such as Medicare.

Judge Thurman and Clerk Hirz also met with Congressman Jim Moran of Virginia. The Congressman expressed his support for the federal judiciary. The delegation expressed our appreciation for relief from sequestration for the federal judiciary and shared the various cost sharing and cost cutting measures instituted by the federal judiciary. Clerk Hirz emphasized that the reduction in the clerk’s staff in the Northern District of Ohio had been 36% over the last few years.

Judge Kevin Carey led our delegation in a meeting with Senator Chris Coons and his legislative counsel, Ted Schroeder. Senator Coons chairs the subcommittee of the Senate Judiciary Committee with jurisdiction of bankruptcy related matters. Those in attendance were Judges Carey, Doub,
Thurman, Pearson, and Clerk Hirz. Senator Coons expressed continued support for the federal judiciary and indicated he had been able to establish some common ground with some Republican members of the Senate to support the federal judiciary. Senator Coons was appreciative of the efforts of the judiciary to cut costs, and he understood that further cuts would have a very detrimental effect on the federal judiciary. Mr. Schroeder indicated that any bankruptcy related budget provisions should be provided to him within the next week. This information was later shared with AO staff. Mr. Schroeder also inquired about the issue of District Court-Bankruptcy Court consolidation. All present indicated that the threat of consolidation was less of a threat than 18 months ago. We expressed that the bankruptcy courts have made major steps in reducing costs and sharing services with other bankruptcy courts and district courts, which has resulted in substantial savings.

Judge Ron Pearson led a delegation to meet with Senator Joe Manchin of West Virginia. We also met with staff members Jennifer Brody and Lance West, Jr. Judge Pearson expressed the important impact and public perception of the bankruptcy courts in that most of the citizens who come in contact with the federal courts do so in a bankruptcy court. Judge Pearson has a very close personal relationship with Senator Manchin, and Senator Manchin expressed
his support for the federal judiciary and continuing funding at a reasonable level. Judges Doub and Carey were also in attendance. Senator Manchin invited Judges Pearson and Carey, as Judge Doub had left for his appointment with Congressman Gowdy, into the President’s Room behind the Senate Chamber, where they had their discussion. Judge Pearson again emphasized the impact that the bankruptcy courts have on many citizens. We believe Senator Manchin will be very supportive and helpful for issues affecting the federal judiciary in the years to come. As a result of this meeting, Judge Pearson believes that Senator Manchin has a better understanding of the extent to which the judiciary has placed priority on reducing expenditures. Judge Pearson also concluded that we (judges) have a good opportunity for obtaining the Senator’s support down the road when the judiciary needs to reach for help to avoid a draconian sequestration application or other assault on the judiciary’s budget.

We were scheduled to meet with Congressman Trey Gowdy of South Carolina, but because of committee commitments, we met with Anna Raymond Bartlett, Congressman Gowdy’s legislative director. Those in attendance were Judge Doub, Clerk Bennett, Clerk Hirz, Judge Thurman, and Judge Glenn. We expressed our desire that Congressman Gowdy become an advocate for the federal judiciary, with his service on the House Judiciary Committee. Ms.
Bartlett indicated that the Congressman was interested in seeing each federal department, including the federal judiciary, funded in a separate appropriations bill. She expressed some confidence that such separate appropriations would occur. She stated that Congressman Gowdy was looking for flexibility in order to provide more funding to the judiciary. Ms. Bartlett also indicated that the efforts the judiciary had made to reduce costs were commendable and would bring credibility to the judiciary.

Judge Thurman and Clerk Hirz met with Gavin Parke, Counsel to Senate Majority Leader Harry Reid. This appointment had been set up by Judge Gregg Zive. Judge Thurman shared the appreciation of the federal judiciary for exempting the federal judiciary from the effects of sequestration and requested support for a budget that would continue to fund the federal judiciary at necessary levels. Mr. Parke indicated Senator Reid was very supportive of the continued funding of the federal judiciary and appreciated the cost sharing and cost cutting measures carried out by the federal judiciary. Mr. Parke responded to comments about the 15% reduction in judiciary staffing since July 2011 by asking about whether there were case backlogs in the bankruptcy courts. He requested information on a comparison between pre-BAPCPA and 10 years later. What are the caseload figures and how do closings compare were some of
his questions. He also wondered how quickly cases moved through the system
before and after BAPCPA. These questions were conveyed to the Director, and
subsequent emails from the Court Services Office demonstrated follow-up on
these issues for Director Bates.

Judge Pearson, Judge Doub, and Clerk Bennett met with Congresswoman
Shelley Moore Capito. Judge Pearson has a very good relationship with
Congresswoman Capito. She is running for the senate seat being vacated by
Senator Rockefeller of West Virginia. She has been a friend of Judge Pearson
for some time. She expressed her understanding of the important impact the
bankruptcy courts have on the public, and she hoped that further sequestration
could be avoided. She was also impressed with the cost cutting policies that have
been adopted by the federal judiciary. We were joined by her legislative director
Adam Tomlinson.

At 2:00pm, Judges Bill Glenn, Randy Doub, Ron Pearson, and Kevin
Carey and Clerk Bennett attended the hearing of the House Subcommittee on
Appropriations for the federal judiciary. AO Director Judge John Bates, and
Judge Julia Gibbons testified at the hearing, requesting a 3.4 percent increase
in funding for FY 2015, with a total budget of $6.7 billion. They also shared the
many cost cutting measures that federal courts are implementing across the
country. AO Staff Jim Baugher and George Schafer were also in attendance. The members of the subcommittee were given the opportunity to question Judge Bates and Judge Gibbons. All members expressed support for the request of Judge Bates and Judge Gibbons, especially Chairman Ander Crenshaw. A copy of the written statements of Judge Gibbons and Judge Bates is attached to this report.

Judges Thurman and Carey and Clerk Hirz met with Josh Hsu, who serves as counsel to Senator Patrick Leahy, Chair of the Senate Judiciary Committee. Mr. Hsu was very enthusiastic in his support of the federal judiciary and expressed the Chair’s frustration at not being able to do more for the federal judiciary. Mr. Hsu asked about judgeship vacancies and suggested an approach to narrow the focus by seeking a bill that would prioritize the most critical vacancies. He indicated a Senator from Idaho is looking to add judgeships. He also indicated that what was helpful to get the judiciary’s agenda out is to send stories. Any newspaper stories that tell the judiciary’s plight would be most helpful, and he would be interested in receiving such stories as he was concerned about and willing to support the judiciary.

All participants met with Judge Bates later in the afternoon. We expressed our appreciation for his efforts on improving the options of funding
for the bankruptcy courts for FY 2014, which Judge Bates said was an easy decision. We also expressed our appreciation for his actions to institute the raise in pay for bankruptcy judges in light of the *Beer* litigation judgment.

We all expressed our beliefs that the bankruptcy courts are for most people their only contact with a federal court, and it is therefore necessary to continue to provide the funds to make sure we can continue to meet our obligations. The AO has been very supportive of our outreach initiatives to Congress. Its Legislative Committee supplied us with talking points to consider with Congress, which were very helpful.

We also met with Michelle Reed, head of the Judicial Services Division, Richard Jaffe, Vanessa Lantin, Mary Louise Mitterhoff, Shaun Stuart, Bill Rule, and other AO staff members regarding our meetings. We expressed that we believed we had received positive receptions in all meetings. We also indicated that the hearing before the House Appropriations Subcommittee went well.

Our final meeting of the day was in the office of Congressman Ander Crenshaw of Florida. Judge Bill Glenn led our delegation in this meeting. Judge Glenn has an outstanding and long relationship with Congressman Crenshaw. Representative Crenshaw expressed his support for a 3.4 percent increase in the federal judiciary budget for FY 2015 and had been impressed with the testimony
of Judge Bates and Judge Gibbons. Congressman Crenshaw expressed frustration at the inability of Congress to pass separate appropriations bills and hoped that could be done this year in lieu of another continuing resolution. Representative Crenshaw indicated that federal revenues for last year were roughly $2.2 trillion and expenditures just for entitlement programs were $2.3 trillion. He understood our country could not balance the entire federal budget just by dealing with discretionary spending, of which the federal judiciary is a part. He appreciated the many cost saving and cost sharing efforts instituted by the federal judiciary. We were joined by his legislative director, Jennifer Debes, and members of the subcommittee staff.

In conclusion, the Committee believes our efforts on March 26, 2014 were successful and contributed in a positive manner to the relationship between the federal judiciary and the legislative branch.
STATEMENT OF
HONORABLE JULIA S. GIBBONS, CHAIR
COMMITTEE ON THE BUDGET OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
BEFORE THE SUBCOMMITTEE ON
FINANCIAL SERVICES AND GENERAL GOVERNMENT
OF THE
COMMITTEE ON APPROPRIATIONS OF THE
UNITED STATES HOUSE OF REPRESENTATIVES

March 26, 2014

INTRODUCTION

Chairman Crenshaw, Representative Serrano, and members of the Committee, I am Judge Julia Gibbons of the Sixth Circuit Court of Appeals. Our court sits in Cincinnati, Ohio, and my resident chambers are in Memphis, Tennessee. As the Chair of the Judicial Conference Committee on the Budget, I will testify on the Judiciary’s appropriations requirements for fiscal year 2015. In addition, I will look back at the sequestration cuts of fiscal year 2013 and summarize the impacts of those cuts on the federal courts, discuss fiscal year 2014 appropriations for the Judiciary, provide an update on our cost-containment program, including a detailed discussion of efforts underway to reduce the Judiciary’s space footprint, and highlight our concerns regarding a new space rent appraisal process being considered by the Administration. This is my tenth appearance before an appropriations subcommittee on behalf of the federal Judiciary and my eighth appearance before the Financial Services and General Government panel. Appearing with me today is Judge John D. Bates, the new Director of the Administrative Office of the United States Courts.

STATEMENTS FOR THE RECORD

In addition to my statement and Judge Bates’, I ask that the entire statements of the Federal Judicial Center, the U.S. Sentencing Commission, the U.S. Court of Appeals for the Federal Circuit, and the U.S. Court of International Trade be included in the hearing record.

ROLE OF THE JUDICIAL BRANCH

Chairman Crenshaw and Representative Serrano, each year in my appearance before this Committee I ask that as you consider funding levels for the upcoming fiscal year that you take into account the nature and importance of the work of the federal courts, and I do so again this year because it is a point that bears repeating. The Judiciary performs Constitutionally-mandated core government functions that are a pillar of our democratic system of government. The scope and volume of our work is attributable to carrying out functions assigned to us by the Constitution and by statute. We must adjudicate all cases that are filed with the courts, we must protect the community by supervising defendants awaiting trial and offenders on post-conviction release, we must provide qualified defense counsel for defendants who cannot afford representation, we must pay jurors for costs associated with performing their civic duty, and we
must ensure the safety and security of judges, court staff, litigants, and the public in federal court facilities. This is a broad mission and one that all of us in the Judiciary take very seriously.

As I will describe in my testimony, sequestration had a devastating impact on federal court operations in fiscal year 2013, and the funding Congress provided in fiscal year 2014 will stabilize our financial position. I am very concerned, however, about the longer-term funding prospects for the Judiciary in what will be a constrained federal budget environment for the foreseeable future. As you know, the Bipartisan Budget Act of 2013 – the budget agreement that modifies the Budget Control Act to set government-wide discretionary spending caps for fiscal year 2014 and fiscal year 2015 – provides essentially no growth from fiscal year 2014 to 2015, increasing only $2 billion with the increase split equally between defense and non-defense spending. Beyond fiscal year 2015, in the absence of additional deficit reduction, the spending caps will rise by an inflationary rate of about 2.4 percent annually through fiscal year 2021. Flat funding in fiscal year 2015 and nominal increases in the out-years will present a new round of difficult funding decisions for Congress. We ask the Committee to take into account the nature and importance of our work and to make the Judicial Branch a funding priority again in fiscal year 2015 as well as in future years.

IMPACT OF SEQUESTRATION

Chairman Crenshaw and Representative Serrano, a year ago I appeared before this Committee as sequestration cuts government-wide were going into effect. At that time, I conveyed to the Committee in strong terms the dire circumstances the federal Judiciary would find itself in under sequestration. A year later, I can report that our fears were in fact realized. Sequestration cuts resulted in delays in case processing and reduced public services at courthouses nationwide. We experienced large staffing losses in clerks of court, probation and pretrial services offices, and federal defender organizations, and widespread furloughs were implemented. The cuts in probation and pretrial services offices could have adversely impacted public safety. We reduced funding for court security systems and equipment, and court security officers were required to work fewer hours, thus creating security vulnerabilities throughout the federal court system.

Perhaps the most significant impact was in our Defender Services program, which provides court-appointed counsel for defendants accused of a federal crime who cannot afford legal representation. Federal defender organizations (FDOs) downsized by 400 staff (11 percent) during fiscal year 2013 and implemented 165,000 furlough hours, and two weeks of voucher payments to private panel attorneys had to be deferred into fiscal year 2014. In addition, a $15 per hour temporary rate cut to panel attorney hourly rates was implemented on an emergency basis on September 1, 2013.

In the District of Arizona, staffing losses caused the federal defender to withdraw from Operation Streamline immigration cases – which generate approximately 70 immigration defendants per day – and from representing indigent defendants in veterans’ courts. The federal defender office in New York City asked the federal district court to postpone the trial of Sulaiman Abu Ghaith (Osama bin Laden’s son-in-law) because of staff cutbacks. Federal courts in the District of Columbia, the District of New Mexico, the Western District of Texas, and the
Western District of New York stopped scheduling criminal matters on alternating Fridays because of FDO staffing shortages in those districts. These were all unprecedented actions and are representative of the impact of sequestration cuts on FDOs nationwide.

Although fiscal year 2013 is certainly not a year that will be remembered fondly by those of us in the Judiciary, the tough times were met with hard work and resourcefulness by the 33,000 judges, probation and pretrial services officers, clerks of court staff, federal defenders, law clerks, and other personnel who comprise the Judicial Branch. The nation is fortunate to have such a dedicated group of individuals working in the federal courts.

FISCAL YEAR 2014 FUNDING FOR THE JUDICIARY

Turning to fiscal year 2014 funding, I would like to thank the Committee for the funding the Judiciary received in the Consolidated Appropriations Act of 2014, the 12-bill omnibus spending measure that funds the federal government for fiscal year 2014. The omnibus bill provided the Judiciary with a 5.1 percent increase in discretionary appropriations above the fiscal year 2013 sequestration level, essentially restoring Judiciary appropriations to a pre-sequestration funding level. Sequestration resulted in deep cuts to court staffing levels and operating budgets, as I just discussed. The funding provided in the omnibus will allow us to reverse most of the emergency measures that were put in place because of sequestration. It will allow us to backfill some vacancies in clerks of court, probation and pretrial services offices, and federal defender organizations, and will provide sufficient funding to meet operational expenses for fiscal year 2014. I will describe how we intend to utilize fiscal year 2014 funding for the Judiciary’s four major accounts.

The Salaries and Expenses account is funded at the Judicial Conference’s appeal level. Fiscal year 2014 funding will provide for an overall 6 percent increase in decentralized court operating budgets above the fiscal year 2013 level for clerks of court and probation and pretrial services offices nationwide. Flat budgets for several years, followed by sequestration, reduced court staffing levels in clerks of court and probation and pretrial services offices by over 3,200 staff (15 percent) since July 2011, including 1,200 (6 percent) lost in fiscal year 2013 alone. In fact, current staffing levels in those offices are at 1997 levels. The fiscal year 2014 funding level will enable courts to backfill some, but not all, of those vacancies. In our probation and pretrial services program, funding for drug and mental health testing and treatment services for defendants awaiting trial and offenders released from prison, and related electronic and GPS location monitoring services for those individuals, are fully restored for fiscal year 2014. We were very concerned about the impact of these cuts on public safety and made restoring them a top priority.

The Defender Services program is funded at the Judicial Conference’s appeal level for fiscal year 2014. All payments to private panel attorneys providing defense representation to eligible clients can be paid in fiscal year 2014. This includes two weeks of fiscal year 2013 payments that had to be deferred into fiscal year 2014 because of sequestration cuts. Federal defender organizations will be able to backfill a significant number of the 400 staff lost in fiscal year 2013 as a result of sequestration. We intend to utilize the no-year funding authority in this account to add back staff over a two-year period. The Judiciary was also able to fully restore,
effective March 1, 2014, the $15 per hour temporary rate reduction to panel attorney hourly rates that was implemented on September 1, 2013, as well as provide a 1 percent cost-of-living adjustment to panel attorney rates consistent with the adjustment provided to all federal workers for 2014. Panel attorney rates as of March 1, 2014, are $126 per hour for non-capital work and $180 per hour for capital work.

The Court Security and Fees of Jurors accounts are also funded at the appeal level. Sequestration resulted in a 30 percent cut in funding for court security systems and equipment, and court security officers were required to work reduced hours. Those funds have been restored for fiscal year 2014. Fiscal year 2013 funding to pay petit and grand jurors was exhausted in August 2013 and the Judiciary had to request an expedited funding transfer to ensure that jurors could be paid for performing their civic duty and that criminal and civil jury trials could continue as scheduled. This funding is restored for fiscal year 2014.

**COST CONTAINMENT**

The Judiciary is 10 years into an intensive cost-containment effort. Over this period many cost-cutting initiatives have been implemented that have helped limit growth in the Judiciary’s budget. We believe that cost containment has achieved all that could be done relatively easily, and we are now embarking on a new round of cost-containment initiatives. This new round will be more difficult as it will challenge long established Judiciary customs and practices. Some initiatives are likely to be controversial within the Judiciary, may be complex and involve many stakeholders, and could be difficult to implement quickly. However, we are committed to doing everything we can to conserve resources and be good stewards of the taxpayers’ money. Our cost-containment efforts are essential to positioning the Judiciary for the fiscal realities of today and the future.

We continue to look for ways to streamline Judiciary operations. Specifically, we continue to expand the use of shared administrative services among the courts of appeals, district courts, bankruptcy courts, probation and pretrial services offices, and federal defender organizations. In fiscal year 2014, nearly 30 percent of all courts have formal sharing arrangements of some kind. The decision to migrate to a shared services model is up to each circuit/district although we have reduced staffing requirements slightly in anticipation of further sharing. We believe shared services will reduce duplication caused by multiple human resources, procurement, financial management, and information technology staffs in a single judicial district or circuit. Shared services should allow courts to partially absorb budget cuts by reducing administrative staffing and overhead costs, and streamlining administrative processes, enabling them to minimize cuts to staff performing core operations.

We will continue our efforts to reduce cost growth in the Judiciary’s budget, but no amount of cost containment will offset budget cuts or even flat funding in fiscal year 2015. We look to Congress to provide the resources we need to do our work.
REDUCING THE JUDICIARY’S SPACE FOOTPRINT

Chairman Crenshaw, this Committee has expressed concern in recent years regarding the Judiciary’s space footprint so I will next update the Committee on our efforts in this area.

One of the Judiciary’s most significant cost-containment successes to date has been limiting the growth in space rent costs. As a result of cost-containment initiatives put in place in recent years, our fiscal year 2015 budget request for rent payments to the General Services Administration (GSA) reflects a cost avoidance of approximately $400 million below estimates made prior to implementation of our cost-containment initiatives. We have revised our long-range space planning process to better prioritize space needs with an eye towards cost. With strong controls in place to limit the growth in space rent costs, we are now focusing on reducing the Judiciary’s overall space footprint.

Space reduction and the resulting savings in rent paid to GSA remain the Judiciary’s top cost-containment priority. The Judiciary continues to pursue a multi-faceted strategy to achieve footprint reductions. At its September 2013 session, the Judicial Conference approved three new initiatives:

- **3 Percent Space Reduction Target.** The Judicial Conference set a 3 percent space reduction target by the end of fiscal year 2018. This target will be prorated nationwide based on the square footage occupied by each federal judicial circuit, subject to exclusions for new courthouse construction, renovation, or alterations projects approved by Congress. The baseline for this policy is space holdings within each circuit as of the beginning of fiscal year 2013.

- **“No Net New” Policy.** Under this policy, any increase in square footage within a circuit would need to be offset by an equivalent reduction in square footage within the same fiscal year. Similar exclusions to the 3 percent reduction target described above apply.

- **Space and Rent Management Plans.** Each circuit judicial council is required to formulate a space and rent management plan by May 2014, articulating how the new space reduction policy will be implemented.

The Judiciary’s space reduction efforts will be accomplished partly through the Integrated Workplace Initiative (IWI), which seeks to create a smaller and more efficient workplace that reflects changing work practices, such as mobile work or telework for some court employees. For example, probation offices generally require less space now because of the nature of the work that most probation officers currently perform (i.e., they use mobile devices while working in the field). As a result, some probation offices could reduce the amount of commercial space that they lease, or they could move out of commercial space and into courthouses, while occupying less space in the courthouses than previously needed. This is just one example.
The Judiciary’s ability to reduce space will require up front investments to reconfigure space and relocate staff. Accordingly, the Judiciary’s fiscal year 2014 financial plan includes $30 million for space reduction efforts and $25 million is planned for fiscal year 2015. I will describe briefly five space reduction efforts currently underway in fiscal year 2014:

- **Chicago, Illinois.** The probation office is planning to relocate from commercial leased space (which will be released back to GSA) to a federal building and reduce its space needs by more than 50 percent through the adoption of mobile work styles, desk sharing, and an open space configuration, resulting in annual rent savings of at least $1.4 million. Project costs are estimated to be $3.4 million.

- **Miami, Florida.** The bankruptcy court is planning to relocate from space in a federal building (which will be released back to GSA) to a courthouse resulting in $1.1 million in annual rent savings. Project costs are estimated to be $230,000.

- **Philadelphia, Pennsylvania.** Three resident circuit chambers for the U.S. Court of Appeals for the Third Circuit are being reconfigured to accommodate 12 non-resident circuit judges (and staff) in lieu of expansion into the adjacent federal building or a new courthouse. This solution results in significant cost avoidance to the Judiciary. Project costs are estimated to be $1.5 million.

- **Fayetteville, Arkansas.** The district and bankruptcy clerks of court offices are being reconfigured to co-locate those offices in order to provide space for a district judge’s chambers. Project costs and estimated savings are not yet available.

- **Albuquerque, New Mexico.** The bankruptcy court is planning to relocate from a federal building into circuit court library space. Project costs and estimated savings are not yet available.

The Judiciary also continues to look at closing non-resident judicial facilities where practicable. Since 1996, the Judiciary, as a cost-containment effort, has identified court facilities without a full-time resident judge that could potentially be closed. Non-resident judicial facilities are considered for closure by the Judicial Conference based on specific criteria and upon the recommendation of the appropriate circuit judicial council. The most recent space reductions that were approved by the Conference at its September 2012 session will eventually result in the release of 56,000 square feet of space in six non-resident facilities with projected annual rent savings of approximately $1.0 million. The Judicial Conference will consider new closures at its September 2014 session.

I will close on this topic by assuring the Committee that we take seriously your concerns regarding the Judiciary’s space inventory, but I must also emphasize that GSA’s cooperation is essential to our ability to reduce space. As the Judiciary’s landlord, we will need GSA to work closely with us on space reduction, including taking back excess space from us in a timely manner.
NEW RENT APPRAISAL PROCESS WOULD ADD MILLIONS TO RENT BILL

I would like to mention briefly our concern regarding a new space rent appraisal methodology that the Administration is considering as the basis for determining agency rent charges. We have communicated our concerns to both GSA and the Office of Management and Budget (OMB), which is currently reviewing the policy.

The new methodology introduces a subjective element into the rental rate that could increase Judiciary space rental costs significantly. Previously, GSA appraisers used a straightforward mathematical calculation to compute the rental rate in order to meet market averages. The new methodology shifts a greater portion of a building’s common area costs from GSA to the building’s tenants. We find this new methodology unfair. The new pricing would force the Judiciary to pay more for common areas and wide hallways necessary to accommodate the public consistent with the First and Sixth Amendment guarantees to publicly accessible judicial proceedings. Further, the Judiciary is essentially a permanent tenant of courthouses and relocating to less expensive space is generally not an option. If the Judiciary is charged rent based on the new methodology, preliminary estimates indicate our rent bill would go up by tens of millions of dollars annually.

We understand that rent bills using the new methodology, if approved for implementation by OMB, would not take effect prior to fiscal year 2017; however, we want to bring our concerns to the attention of the Committee at this time. I just described for the Committee efforts underway to reduce the Judiciary’s space footprint. If the new policy is implemented, we would find ourselves in the paradoxical position of reducing our space footprint at the same time our rent bill is increasing dramatically. We will continue our discussions with GSA and OMB officials on this issue and will keep the Committee apprised of the progress of those talks.

FISCAL YEAR 2015 BUDGET REQUEST

For fiscal year 2015, the Judiciary is seeking $6.7 billion in discretionary appropriations, a 3.4 percent ($219.5 million) overall increase above the fiscal year 2014 enacted appropriations level. We believe the requested funding level represents the minimum amount required to meet our Constitutional and statutory responsibilities.

The Judiciary’s fiscal year 2015 request is a current services budget that simply seeks to maintain the fiscal year 2014 level of operations in the courts. The request includes $216.2 million for adjustments to base for standard pay and non-pay changes, including a 1 percent cost-of-living adjustment for Judiciary personnel consistent with the President’s recommendation for Executive Branch personnel, and a total of $3.3 million for two small program increases in the Supreme Court Building and Grounds account. I will summarize the 2015 requests for our four major accounts.

The Judiciary’s largest account, courts' Salaries and Expenses, funds the bulk of federal court operations nationwide including the regional courts of appeals, district courts, bankruptcy courts, and probation and pretrial services offices. For this account, we are requesting a 3.6 percent increase in fiscal year 2015 to $4.8 billion in discretionary appropriations. I note that we
are not requesting any new staff in clerks of court or probation and pretrial services offices above
the level funded in fiscal year 2014. In addition, we are requesting an increase of $26.7 million
for additional chambers staff associated with newly confirmed judges and judges taking senior
status. Adjustments in our space program net to zero after combining upward adjustments with
reductions in base rent costs and savings from our space footprint reduction initiative. After “re-
basing” fiscal year 2014 funding for space reduction, we are requesting an additional $10 million
to provide $25 million for space reduction projects to configure Judiciary space where possible
to reduce space needs. The request also includes $2.8 million to restore Second Chance Act
funding for probation officers to assist offenders released from prison with emergency and
transitional services and assistance. The Salaries and Expenses request includes no program
increases.

The Defender Services program, which provides court-appointed criminal defense
representation under the Criminal Justice Act to financially eligible defendants, requires a 0.8
percent increase to $1.05 billion in fiscal year 2015 to handle an estimated 212,442 weighted
representations. No additional staff are requested above the level funded in fiscal year 2014, but
federal defender organizations will have the ability to continue backfilling vacancies. The fiscal
year 2015 request provides for inflationary pay and benefits adjustments for federal defender
organizations, general inflation, and payments to panel attorneys, including a 1 percent cost-of-
living adjustment to hourly rates, raising the capital rate from $180 to $181, and the non-capital
rate from $126 to $127. The small percentage increase requested for this account (0.8 percent) is
attributable to (1) low caseload growth projected for fiscal year 2015 (about 1 percent), and
(2) high staff vacancy rates in federal defender organizations (as a result of sequestration) and
lower than anticipated panel attorney payments this fiscal year that are expected to generate
higher than normal carryforward balances that will reduce fiscal year 2015 appropriations needs.
The request includes no program increases.

Our Court Security account funds protective guard services and security systems and
equipment at federal courthouses and requires a 6.7 percent increase to $531 million for fiscal
year 2015. The $33 million increase is primarily comprised of two items. Approximately half
($15 million) of the requested increase is associated with a projected decline in no-year
carryforward balances available in fiscal year 2014 but not fiscal year 2015. A 3 percent
collective bargaining wage rate adjustment for contract court security officers accounts for $13
million of the increase. The remaining increase is for 10 additional court security officers,
higher Federal Protective Service costs, and other standard adjustments. The request includes no
program increases.

The Fees of Jurors and Commissioners account funds statutory fees and allowances for
grand and petit jurors, and land commissioners. This includes the daily compensation paid to
jurors as well as related costs for meals and incidental expenses. This account requires $55.8
million in fiscal year 2015, a 3.6 percent increase above fiscal year 2014. The bulk of the
increase – $1.3 million of $1.9 million – is associated with a projected decline in no-year
carryforward balances available in fiscal year 2014 but not fiscal year 2015. The remaining
increase is for standard inflation and an increase in projected petit juror requirements. The
request includes no program increases.
A summary of fiscal year 2015 adjustments to base and program increases and appropriations requirements for each Judiciary account is included at Appendix A.

CONCLUSION

Chairman Crenshaw and Representative Serrano, I hope that my testimony today provides you with some insight into the funding needs of the federal courts. You both have been tremendous supporters of the Judiciary and I am hopeful that support will continue. As you make decisions on fiscal year 2015 funding for the agencies under the Committee’s jurisdiction, we ask that you take into account the Judiciary’s unique Constitutional role in our system of government. In return, we commit to you that we will continue to be good fiscal stewards, cutting costs where possible, spending each dollar wisely, and making smart investments to achieve long-term savings.

Thank you for your continued support of the federal Judiciary. I would be happy to answer any questions the Committee may have.
Appendix A

The Federal Judiciary’s Fiscal Year 2015 Budget Request

- The Judiciary’s fiscal year 2015 budget request of $6.7 billion in discretionary appropriations reflects a 3.4 percent increase above fiscal year 2014 to support the Constitutional and statutory mission of the federal courts. This budget will help the Judiciary continue to recover from several years of essentially flat funding followed by sequestration cuts in fiscal year 2013. The request is a current services budget that primarily reflects adjustments to base for standard pay and non-pay inflationary increases.

- In fiscal year 2014, Congress provided the Judiciary with $6.5 billion in discretionary appropriations – a 5.1 percent increase – stabilizing the Judiciary’s financial position following a year in which sequestration reduced overall Judiciary funding by nearly $350 million. Fiscal year 2014 funding approximates 2013 appropriations prior to sequestration and enables the Judiciary to restore most sequestration cuts, including the following:
  - cuts to mental health and drug testing and treatment services for offenders released from prison and defendants awaiting trial, and related GPS location monitoring of those individuals;
  - reductions in information technology and essential network infrastructure;
  - cuts to the court security and fees of jurors programs; and
  - the $15 per hour panel attorney temporary rate cut (restored effective March 1, 2014).

- In addition, clerks of court, probation and pretrial services offices, and federal defender organizations have funding to begin backfilling some vacancies in fiscal year 2014, and $30 million is available for the Judiciary’s top cost containment initiative: reducing the Judiciary’s space footprint by a targeted 3 percent by the end of fiscal year 2018.

- The Judiciary’s fiscal year 2015 request is a current services budget that simply seeks to maintain the full year fiscal year 2014 level of operations in the courts. No new staff are requested but clerks of court, probation and pretrial offices, and federal defender organizations will have the ability to continue backfilling some vacancies. The request funds projected workload requirements in defender services, provides for a sufficient level of security at federal court facilities nationwide, and ensures funds are available for juror costs associated with criminal and civil jury trials.

Details of the Fiscal Year 2015 Budget Request

- The Judiciary’s fiscal year 2015 appropriations request totals $7.3 billion. The request includes $6.7 billion in discretionary appropriations, an increase of $219.5 million (3.4 percent) above the fiscal year 2014 enacted level. The request also includes $565.6 million in mandatory appropriations, an increase of $42.9 million above fiscal year 2014.
**Discretionary Appropriations**

- A total of $216.2 million (98 percent) of the $219.5 million increase requested will provide for pay adjustments, inflation, and other adjustments to base necessary to maintain current services. Of this amount:
  - An increase of $97.1 million will provide for inflationary pay and benefit rate increases for magistrate and claims judges and support personnel, including annualization of fiscal year 2014 pay adjustments, expected January 2015 pay adjustments (e.g. 1.0% ECI adjustment for federal workers), changes in benefits costs, a cost-of-living adjustment for panel attorneys, and a wage rate adjustment for court security officers;
  - An increase of $62.6 million is necessary to replace non-appropriated sources of funds used to support base requirements in fiscal year 2014 with direct appropriations;
  - An increase of $26.7 million is associated with additional chambers staff for newly confirmed judges and judges taking senior status;
  - An increase of $22.8 million will provide for increases in contract rates and other standard inflationary increases;
  - An increase of $10.0 million is requested for the Integrated Workplace Initiative to pay upfront costs incurred by local courts to reconfigure existing space into a smaller space footprint;
  - An increase of $5.0 million is for security-related adjustments;
  - An increase of $2.9 million is to restore the sequestration cut for Second Chance Act funding for probation officers to assist offenders released from prison with emergency and transitional services and assistance; and
  - A net decrease of $10.9 million is associated with fiscal year 2014 non-recurring requirements and other minor adjustments.

- The remaining $3.3 million (2 percent) of the requested increase is for program enhancements for building exterior façade restoration and security systems maintenance at the Supreme Court.

**Mandatory Appropriations**

- A $42.9 million increase is requested for Judiciary mandatory appropriations, as follows:
  - An increase of $14.2 million is for pay adjustments for mandatory judges’ salaries for the Supreme Court, Federal Circuit, International Trade, and courts’ Salaries and Expenses, including annualization of fiscal year 2014 pay adjustments, expected January 2015 pay adjustments (e.g. 1.0% ECI adjustment for federal workers), and changes in benefits costs;
• An increase of $12.0 million is for salary costs associated with 70 projected judge confirmations and 36 judges taking senior status in fiscal year 2015; and

• An increase of $16.7 million is required for the Judiciary retirement trust funds accounts based on requirements calculated by an independent actuary.
## Judiciary Appropriations

### ($000)

### Discretionary Appropriations:

<table>
<thead>
<tr>
<th>Appropriation Account</th>
<th>FY 2014 Enacted</th>
<th>FY 2015 Request</th>
<th>$ Change FY 2015 vs. FY 2014</th>
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<td>U.S. Supreme Court</td>
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<tr>
<td>Salaries &amp; Expenses</td>
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<td>U.S. Court of International Trade</td>
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<td>$17,807</td>
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<td>Courts of Appeals, District Courts, and Other Judicial Services</td>
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<td>$6,472,759</td>
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<td>Salaries &amp; Expenses - Direct</td>
<td>$4,658,830</td>
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<td>$96</td>
<td>1.8%</td>
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<td>Subtotal</td>
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<td>Total Discretionary Appropriations</td>
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### Mandatory Appropriations:

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<tr>
<th>Appropriation</th>
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<th>Change</th>
<th>Percentage</th>
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<td>Salaries of Judges</td>
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<td><strong>Total Mandatory Appropriations</strong></td>
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<td><strong>$565,606</strong></td>
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### Total Judiciary Appropriations

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<th>Appropriation</th>
<th>FY 2014</th>
<th>FY 2015</th>
<th>Change</th>
<th>Percentage</th>
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<tr>
<td><strong>Total Judiciary Appropriations</strong></td>
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<td><strong>$7,301,243</strong></td>
<td><strong>$262,367</strong></td>
<td><strong>3.7%</strong></td>
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1. Mandatory salaries include the salaries of justices of the Supreme Court, judges of the Court of Appeals for the Federal Circuit and Court of International Trade, and Article III and bankruptcy judges funded in the Courts’ Salaries and Expenses account. (Magistrate judges and Court of Federal Claims judges are funded in the Courts’ Salaries and Expenses account through discretionary appropriations.)
STATEMENT OF JUDGE JOHN D. BATES, DIRECTOR
ADMINISTRATIVE OFFICE OF THE U.S. COURTS
BEFORE THE
SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT
COMMITTEE ON APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

March 26, 2014

INTRODUCTION

Chairman Crenshaw, Representative Serrano, and members of the Committee, I am pleased to appear before you to present the fiscal year 2015 budget request for the Administrative Office of the United States Courts (AO), and to support the overall request for the entire Judicial Branch.

Before I begin, I would like to join Judge Gibbons in thanking you and the Committee for the support you have provided the Judiciary during these difficult economic times. We fully recognize the funding constraints under which you have had to write your bills and deeply appreciate the resources you have provided the Judiciary. In particular, your support of two funding anomalies for the Judiciary in the October 2013 short-term Continuing Resolution, and the full year funding provided in the fiscal year 2014 omnibus appropriations bill, has enabled us to address critical funding shortfalls in the Defender Services program and in the courts nationwide.

AO LEADERSHIP TRANSITION

Last summer, on July 1st, the Chief Justice appointed me Director of the Administrative Office of the U.S. Courts. I have been a federal judge since 2001, serving on the U.S. District Court for the District of Columbia. In 2006, I was appointed to the U.S. Foreign Intelligence Surveillance Court, serving as the presiding judge from May 2009 until February of last year when I completed my term on that court. I continue to carry a reduced caseload on the D.C. District Court, but my primary focus is the management of the AO.

I arrived at the AO in the midst of sequestration, immediately having to address the myriad of issues that accompanied the significant funding shortfalls impacting the AO as well as court operations nationwide. Not only were we managing the impact of sequestration in fiscal year 2013, but we needed to address the possible impact of additional reductions in fiscal year 2014. Working closely with the Executive Committee of the Judicial Conference, as well as our Budget Committee, emergency measures were adopted in an attempt to minimize further erosion of court operations, and in particular, the Defender Services program.
TEMPORARY JUDGESHIP EXTENSIONS

The Judicial Conference is indebted to this Committee for authorizing extensions of expiring temporary Article III judgeships in the annual appropriations bill. This year, without your action, the authorization for nine existing temporary Article III judgeships would have expired. We cannot thank the Committee enough for its assistance in this regard. Without this provision, we risked losing judgeships in these courts upon the first vacancy – through death or retirement – occurring after their lapse date.

In fiscal year 2015, all existing temporary Article III judgeships will expire. The impacted courts are in the following judicial districts: Alabama-Northern, Arizona, California-Central, Florida-Southern, Hawaii, Kansas, Missouri-Eastern, New Mexico, Texas-Eastern, and North Carolina-Western. If the House and Senate Judiciary Committees are unable to preserve the expiring judgeships, I urge this Committee to include the necessary one-year extensions in its fiscal year 2015 appropriations bill. The workload in these districts is too great to risk losing judgeships that in all likelihood will take years to create and fill again.

CAPITAL SECURITY PROGRAM

I also would like to thank the Committee for its past support of the Judiciary’s Capital Security Program (CSP), funded as a special emphasis program within the General Services Administration’s (GSA) Federal Buildings Fund in fiscal years 2012 and 2013. Designed to address serious security deficiencies in existing courthouse buildings where physical renovations are viable alternatives to new construction, this program has been a valuable, cost-effective solution to achieving greater security at existing courthouses nationwide. Unfortunately, the Capital Security Program was not funded in fiscal year 2014.

The Capital Security Program was an outgrowth of the Judiciary’s long-range facilities planning process, known as the Asset Management Planning (AMP) process – one of our first cost-containment initiatives begun in 2008. Under the AMP, greater emphasis is now placed on space availability for judicial functions rather than security when determining the need for new courthouses. As a result, the CSP provided a vehicle for districts to address serious security deficiencies in a timely and significantly less costly manner when constructing a new courthouse was unlikely.

Renovation projects that enhance security are selected for the program through an objective and collaborative review process that includes stakeholders from the local courts and their circuit judicial councils, GSA, the United States Marshals Service (USMS), the Judicial Conference’s Space and Facilities Committee in consultation with the Judicial Security Committee, and the AO. The process includes assessing the building conditions and utilization, viability of long-term use, and structural capacity in order to identify cost-effective solutions that can be implemented in a timely manner.
Five projects are currently underway using FY 2012 and FY 2013 funding: Brunswick, GA; Benton, IL; Lexington, KY; San Juan, PR; and St. Thomas, VI. Additional projects were selected to participate in the program in FY 2014 and beyond. CSP studies, paid for by the Judiciary, have already been completed for these projects. These studies include a comprehensive review of existing courthouse conditions, security deficiencies, design solutions, and the associated project cost estimates. Local GSA and USMS offices have been active participants in this program and these reviews. At this point in time, there are four projects at courthouses with serious security deficiencies that have been studied and approved for funding in fiscal year 2014: Columbus, GA; Monroe, LA; Texarkana, TX/AR; and Raleigh, NC.

On February 5, 2014, I wrote to GSA Administrator Daniel M. Tangherlini, urging that funding for the Judiciary’s Capital Security Program be included in GSA’s fiscal year 2014 spend plan even though it is not identified for funding under the GSA Special Emphasis Programs in the fiscal year 2014 Consolidated Appropriations Act. As cost-efficiencies go, the Judiciary’s CSP program is a huge success, correcting critical security deficiencies in most cases for $5 to $10 million. In addition, the program obviates the need to build new courthouse facilities that far exceed the cost of a CSP project.

The GSA did not include funding for capital security projects in its FY 2014 spend plan, but we were pleased to see that the President’s budget includes $20 million for this program in fiscal year 2015. I urge the Committee to support the GSA request, and include $20 million for the Judiciary’s Capital Security Program in the FY 2015 Financial Services and General Government Appropriations Bill.

COURTHOUSE CONSTRUCTION

Funding for the Judiciary’s Capital Security Program should not, however, be a substitute for new courthouse construction. While CSP may address a court’s immediate security deficiencies, it does nothing to address those courts that combine both severe security deficiencies and an extreme lack of space. In these circumstances, the only resolution is to build a new courthouse or annex to meet the operational needs of the court.

As you may be aware, the Judiciary does not request funding for the construction of new courthouses. Because GSA builds our facilities, these monies come under the jurisdiction of the Executive Branch and are included in GSA’s budget. In some years this has worked fine, when the President has requested funding for courthouse projects as recommended in the Judicial Conference-approved Five-Year Courthouse Project Plan. Unfortunately, that is not the case this year, and it has not been the case in four of the last five years. The President’s fiscal year 2015 budget request for GSA includes $745.5 million for Executive Branch new construction projects, but no funding for any new courthouse construction projects on the Judiciary’s Five-Year Courthouse Project Plan.

This is particularly troublesome in light of the strategic steps the Judiciary has taken to improve its courthouse facilities planning with a focus on cost containment. This effort has been
significant and has resulted in only the most important project recommendations going forward, and at a reduced cost. The designs of courthouses on the Plan will result in lower cost buildings due to the adoption of courtroom sharing policies and not building out courtrooms and chambers for projected judgeships. The Judiciary is committed to reducing space as illustrated by the three percent space reduction target approved by the Judicial Conference in September 2013.

Attached to my written testimony is the Judiciary’s Interim Five-Year Courthouse Project Plan for Fiscal Years 2015-2019 (Interim Five-Year Plan), that I ask be included in the official hearing record. This Interim Five-Year Plan lists the same courthouse construction priorities as the fiscal years 2014-2018 Plan except that it has been updated to reflect the funding of the Mobile, Alabama project in the Consolidated Appropriations Act of 2014, which we appreciate very much.

In 2008, when the Judicial Conference adopted the updated AMP process for long-range capital planning, it grandfathered the existing projects on the Five-Year Plan that had already received some amount of funding from Congress. However, as funding for new courthouses was held to a minimum and projects on the Five-Year Plan were not completed, in August 2013 the Executive Committee, acting on behalf of the Judicial Conference, endorsed requiring all districts with a project on the Five-Year Plan to undergo an AMP process evaluation if they had not already done so. Congress also supported this decision. Evaluation and scoring of these projects will be completed this summer. A new Five-Year Courthouse Project Plan for Fiscal Years 2016-2020 will be considered by the Judicial Conference at its September 2014 session.

In the meantime, the Judiciary’s Interim Five-Year Plan lists Nashville, Tennessee as the Judiciary’s top courthouse space priority in fiscal year 2015. This project has been on the Plan for 18 years and a total of $26.1 million has already been spent to acquire the site and design the project. While we are pleased the President’s budget includes funding for the Judiciary’s Capital Security Program to address security deficiencies at several existing courthouses, it is imperative that the Judiciary also be able to move its courthouse construction program forward by funding the construction of new courthouses to meet critical space and operational deficiencies in judicial districts throughout the country. We respectfully ask that you include in the FY 2015 Financial Services and General Government Appropriations Bill $181.5 million in funding in the Federal Buildings Fund for the Nashville courthouse construction project.

**IMMIGRATION REFORM LEGISLATION**

I will now turn to an issue that could have significant workload ramifications for the federal courts. There has been a great deal of discussion about the passage of immigration reform legislation during this session of Congress. Although the Judicial Conference does not take a position on the substantive policy issues of immigration reform, we are very concerned about having the resources necessary to handle the additional work that such legislation would place on the courts.
At present, it is not possible to estimate the overall cost to the Judiciary if immigration reform legislation were enacted, even if we knew which bills or provisions were included. That is because the impact of such legislation on the Judiciary would be driven largely by decisions and actions taken by Executive Branch agencies, and the funding provided by Congress to those agencies for immigration enforcement. We can say with certainty that immigration reform would have a significant resource impact on an already overburdened federal court system. Several reform proposals would create new federal crimes or significantly increase the potential penalties for immigration offenses, and other potential changes could affect civil dockets. Without sufficient resources for the Judiciary, these changes could substantially add to costs and delays within the system. New workload demands potentially require new judgeships and related staff; interpreters; probation and pretrial service officers; federal defenders and panel attorneys providing defense representation under the Criminal Justice Act; juror fees; and any additional requirements for court security, space and facilities.

Of particular concern is S. 744, the "Border Security, Economic Opportunity, and Immigration Modernization Act" passed by the Senate last year. If enacted, the legislation would have significant resource implications for the federal courts. Specifically, S. 744 would increase workload for the federal courts (1) by dramatically increasing personnel, resources, and funding for the Department of Homeland Security and the Department of Justice, which would likely increase prosecutions in federal court, (2) through the judicial review provisions, and (3) by adding several new federal crimes and increasing the penalties for the most frequently charged immigration offenses. Although the legislation would provide an initial federal outlay of $6.5 billion to the Executive Branch to implement provisions of the legislation, the bill does not address the related funding needs of the Judiciary at all. Without increased resources, the federal courts could not sustain the increased workload this legislation would require.

I recognize it is unclear how, or even if, Congress will proceed on immigration reform legislation this session but I think it is important to bring our concerns to the attention of the Committee and ask that any immigration reform legislation provide sufficient resources to the federal courts to meet new workload demands.

**ROLE OF THE ADMINISTRATIVE OFFICE**

Created by Congress in 1939 to assist the federal courts in fulfilling their mission to provide equal justice under law, the AO is a unique entity in government. Neither the Executive Branch nor the Legislative Branch has any comparable organization that provides the broad range of services and functions that the AO performs for the Judicial Branch.

Unlike most Executive Branch entities in Washington, the AO does not operate as a headquarters for the courts. The federal court system is decentralized, although the AO does have management oversight responsibilities over the court security program, the probation and pretrial services program, the defender services program, and the national information technology programs.
AO support to the Judicial Conference and its 25 committees is a cornerstone of this structure. The Conference committees, which we staff, are not only dealing with important issues of judicial administration and policy, but they are constantly exploring ways to cut costs and work more efficiently in their program areas. The AO develops and supports the application of new technology for the courts; provides financial management services, and personnel and payroll support; and conducts audits and reviews to ensure the continued quality and integrity of federal court operations. The AO has evolved over the years to meet the changing needs of the Judicial Branch, but service to the courts has been and remains our basic mission. A good example follows:

Preparing for the Government Shutdown – The federal courts remained open during the 16-day government shutdown because the AO was able to provide some funding relief to the courts through the judicious use of our fee and carryforward balances. Court operations, however, were far from normal as spending had to be held to a minimum in order to maximize the limited funding available to us. The AO was heavily involved in providing the courts and the federal defender organizations with guidance on short term ways to limit operations and minimize obligations during this period.

The AO also provided extensive guidance to courts and federal defender organizations about operations in the event fees were exhausted. In two nationwide conference calls, just days before fee balances would have been fully exhausted, more than 850 judges and court staff asked AO staff experts questions about court operations during a partial government shutdown. Court participants from Guam to New York participated in the 90-minute calls. Participants e-mailed questions to a specific mailbox created for the calls enabling AO staff to address the identified topics during the conference call. Guidance was given on many subjects including procurement, furloughs, personnel performing non-essential work, jury management, essential travel for court proceedings, judge and employee pay and benefits, prioritizing caseloads, and court security.

On October 16, 2013, just as the Judiciary began to implement its shutdown plans, a short-term Continuing Resolution was enacted through January 15, 2014, which included funding for the Judiciary to pay two weeks of unpaid Criminal Justice Act panel attorney vouchers, restore court security officer hours, restore cuts in drug testing and drug and mental health treatment, and address juror costs. Again, we are grateful for the support provided to the Judiciary.

AO RESTRUCTURING

As noted above, the mission of the AO is to provide service to the federal Judiciary. In an era of flat or declining resources, however, it became apparent that the AO had to make changes in order to fulfill that mission. In January 2011, an AO cost-containment task force was formed with the goal of developing short- and long-term recommendations to ensure that the AO could meet its core responsibilities with substantially reduced resources. The task force reviewed AO organizational, policy, and process alternatives and developed specific actions to contain costs in fiscal years 2012, 2013, and beyond. Among its 24 recommendations was to
“assess the AO’s structure across all directorates” and determine “how to organize to best support the Third Branch.” Ten days before my arrival at the AO, a significant restructuring and consolidation of the AO was announced, to be implemented by the end of the fiscal year (September 30, 2013). Our new organizational structure is now in place and functioning smoothly.

The goals of the AO restructuring were to reduce operating costs and duplication of effort, simplify the agency’s administrative structure, create opportunities for greater efficiencies, and enhance services to the courts, the Judicial Conference, and the public. The new structure is leaner and more integrated, fostering decentralized decision-making. Prior to the restructuring, the AO had 13 Assistant Directors. Those positions have been abolished and the AO has now been reorganized into three departments, each led by an Associate Director:

- The Department of Program Services provides direct support to all judges in performing their daily administrative tasks and managing chambers, as well as support services to all clerk’s office staff and programs, regardless of court type. The offices within the Department of Program Services are organized along functional lines to eliminate “stove-piping”. All IT development for court and defender programs is now consolidated. A new office focused on data retention, analysis, and reporting was created. Separate offices support the federal defenders, and the probation and pretrial services communities.

- The Department of Administrative Services provides national administrative support, coordinating all administrative needs for judges and policy support for the Judicial Conference Committees on Judicial Resources, the Budget, Space and Facilities, and Judicial Security. The Office of Human Resources is within this Department and provides payroll, benefits, and other services to all judges as well as to the courts and the federal defender personnel management system. The Facilities and Security Office provides space and facilities guidance, resource management, and court security. In addition, this office also serves as the national liaison to the U.S. Marshals Service and GSA. The newly merged Budget, Accounting, and Procurement Office provides procurement and accounting support and travel management, and is responsible for the formulation and execution of the Judiciary’s annual budget. All IT system development supporting the AO and national administrative systems was combined into a new Administrative Systems Office.

- The Department of Technology Services is where we have centralized information technology operations and services for the courts nationwide. This Department provides strategic planning, coordination, and assessment of the Judiciary’s technology needs as well as policy and support for the Judicial Conference Committee on Information Technology. Issues include IT Security – an increasingly important function as major organizations in both the public and private sector have been subject to cyber-attacks -- Cloud Technology and Hosting, Infrastructure Management, and the Systems Deployment and Support Office, which includes testing and training of Judiciary IT
systems and a national help desk. The deployment of national IT initiatives is also supported by this Department.

The Executive Management Group has been reduced from 15 members to 6, and several offices have been dissolved with work absorbed by other offices. A new Ethics Staff has been established in the Office of General Counsel, consolidating staff support to three Judicial Conference Committees – Financial Disclosure, Codes of Conduct, and Judicial Conduct and Disability. And a new executive-level Office of Fair Employment Practices has been created to consolidate fair personnel practices in the courts and the AO.

The fiscal outlook requires a more efficient, flexible AO with a simpler organizational structure capable of responding quickly and efficiently to the needs of the courts. We believe this restructuring will enable us to “maintain excellence in an era of fiscal austerity.”

AO COST CONTAINMENT

In addition to the roll-out of the AO reorganization, we the past year continuing to work toward full implementation of the recommendations of the AO cost-containment task force. While many of the initiatives have been in effect since 2012, including reductions in travel, printing, publications, subscriptions, and mobile device costs, a few are worth noting here:

**Information Technology** – The AO increased its use of videoconferencing as an alternative to travel by AO and court staff. During the government shutdown, many meetings scheduled to occur in-person were conducted by videoconference to avoid cancelling or delaying the activity. As I previously mentioned, the AO teleconference with nearly 900 court participants brought together to discuss issues related to a possible shutdown, is an example of timely and efficient use of technology.

**National Videoconferencing and Telephone Services** – The AO deployed a new national videoconferencing service that has reduced the Judiciary’s videoconferencing costs by eliminating the need for redundant local connections and equipment. This service has the potential to reduce court travel costs significantly. The AO has also implemented an internet protocol (IP) telephone service that transferred the Judiciary’s voice services to the national network. As of March 2014, nearly 30,000 of an anticipated 38,000 devices had been deployed. Telecommunications costs incurred by local courts using the system have already started to decrease as their telephone requirements are met by this new system. As part of the telecommunications upgrade, a national videoconferencing capability has been tested and is now in production. Based upon financial data from 147 court units using the system, the Judiciary has realized appreciable cost savings through the elimination of redundant local court telecommunications circuits, video infrastructure, and operations and maintenance fees.

**Procurement Savings** – Significant cost savings were also achieved through the AO negotiating and competitively awarding blanket purchase agreements for use by the courts in acquiring services and equipment. Awards were made for desktop and laptop computers and peripheral
equipment; software; local area network services and support; and probation and pretrial services urinalysis testing.

**ADMINISTRATIVE OFFICE FY 2015 BUDGET REQUEST**

The fiscal year 2015 appropriations request for the Administrative Office of the U.S. Courts is $84,399,000. This net increase of $3,199,000, or 3.9 percent, over the fiscal year 2014 enacted level represents a current services budget – there are no additional staff or program increases.

The AO account is financed through direct appropriations, reimbursements from other Judiciary accounts, and the use of non-appropriated funds, including judiciary fee collections and fee carryforward. In fiscal year 2015, the Judiciary expects to have fewer non-appropriated funds available than it did in fiscal year 2014. As a result, the majority of the requested increase – $2,779,000 – is necessary to replace the loss of these non-appropriated funds in order to maintain the same level of service as provided in fiscal year 2014. The other base adjustments are for standard inflationary increases. We will, of course, keep you apprised of updated carryover estimates throughout the year. If carryover and fee collections are higher than currently estimated, our need for direct appropriations will be reduced commensurately.

Over the last few years of constrained budgets, the AO has downsized its workforce by 10 percent through attrition, buyouts and early outs, and by imposing hiring caps and leaving positions vacant. More recently, the AO’s reorganization provides us with the flexibility to better align our existing staff, and the hiring of new employees, so that we may carry out the AO’s statutory responsibilities and serve the courts. For fiscal year 2015, we seek only the funding necessary to support the 2014 end-of-year staffing level at the AO.

**CONCLUSION**

Chairman Crenshaw, Representative Serrano, and members of the Committee, the work performed by the AO is critical to the efficient and effective operation of the U.S. courts. The AO provides administrative support to the 25 Judicial Conference Committees, 2,363 judicial officers, and approximately 28,400 court employees. In addition to our service to the courts, the AO works closely with the Congress, in particular the Appropriations Committee and its staff, to provide accurate and responsive information about the Federal Judiciary.

I fully recognize that fiscal year 2015 will be another difficult year for you and your colleagues as you struggle to meet the funding needs of the agencies and programs under your purview, particularly with fiscal year 2015 discretionary spending essentially capped at the fiscal year 2014 level. I urge you, however, to consider the significant role the AO plays in supporting the courts and the mission of the Judiciary, and to bear in mind the role of the Judicial Branch in our constitutional structure. Our budget request is one that does not seek new resources for additional staff or programs. I hope you will support it.

Thank you again for the opportunity to be here today. I would be pleased to answer your questions.
March 13, 2014

Honorable Ander Crenshaw  
Chairman  
Committee on Appropriations  
Subcommittee on Financial Services and  
General Government  
United States House of Representatives  
Washington, DC 20510

Dear Mr. Chairman:

I write to transmit the Judiciary’s *Interim Five-Year Courthouse Project Plan for Fiscal Years 2015-2019 (Interim Five-Year Plan)* for your consideration in the coming fiscal year. The *Interim Five-Year Plan* sets forth the Judiciary’s priorities for courthouse construction funding through fiscal year (FY) 2018. This *Interim Five-Year Plan* incorporates three technical changes to the *Five-Year Plan* that was approved by the Judicial Conference of the United States on September 11, 2012. The Mobile, Alabama, project was removed from the plan because complete funding was provided for that project in the Consolidated Appropriations Act of 2014; the fiscal years for which funding is requested for the projects on the plan were advanced by one year; and the General Services Administration’s cost estimates were updated.

In forwarding this plan, the Judiciary is mindful of the intense budget pressures under which the federal government is operating. The majority of the proposed projects, however, have previous congressional funding and authorization, and the General Services Administration (GSA), which has responsibility for construction of the courthouses, is at various stages of site acquisition or design development. The current plan is largely geared toward completion of these projects, all of which are consistent with the courtroom sharing policies adopted by the Judiciary, as well as our continued policy of not building out space for requested new judgeships.

In 2008, when the Judicial Conference adopted the Asset Management Planning (AMP) process for long-range capital planning, it grandfathered the existing projects on the *Five-Year Plan* that had already received some amount of funding from Congress. However, as funding for these projects has been held to a minimum for several years, the Executive Committee in August 2013, acting on behalf of the Judicial Conference, decided to require all districts with a project on the *Five-Year Plan*, that had not already done so, to undergo an AMP process evaluation. Evaluation and scoring of these projects will be completed by this summer. A *Five-Year Courthouse Project Plan for Fiscal Years 2016-2020* that incorporates these new AMP evaluations will be considered by the Judicial Conference at its September 2014 session.
We greatly appreciate the attention Congress has given over the years to the Judiciary's need for sufficient, safe, and functional facilities in which to administer justice. If we may be of further assistance to you in this or any other matter, please do not hesitate to contact us through our Office of Legislative Affairs at (202) 502-1700.

Sincerely,

John D. Bates
Secretary

Enclosure

Identical letter sent to: Honorable Harold Rogers
                        Honorable Nita Lowey
                        Honorable Jose Serrano
Interim Five-Year Courthouse Project Plan for FYs 2015-2019*

March 2014
(estimated dollars in millions)

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S = Site; D = Design; C = Construction (includes M&I); Add'l. = Additional
All cost estimates provided by GSA Central Office.
The following estimates were updated in March 2014: Nashville, San Antonio, Greenville, and Harrisburg.
The following estimates are as of March 2013: Savannah, Norfolk, Charlotte, Anniston, Toledo, Chattanooga, and Des Moines.
*This Interim Plan reflects technical changes to the Five-Year Courthouse Project Plan for FYs 2014-2018
as approved by the Judicial Conference of the United States in September 2012 by removing the Mobile project
because funding was provided for that project in the Consolidated Appropriations Act of 2014.
The Plan also updates the fiscal year for which funding is requested for the projects on the plan.