

**STATEMENT OF
JAMES C. DUFF, DIRECTOR
ADMINISTRATIVE OFFICE OF THE U.S. COURTS
BEFORE THE SUBCOMMITTEE ON
FINANCIAL SERVICES AND GENERAL GOVERNMENT
OF THE
COMMITTEE ON APPROPRIATIONS
OF THE
UNITED STATES SENATE**

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INTRODUCTION

Chairman Boozman, Senator Coons, and members of the Committee, I am pleased to appear before you to present the fiscal year 2016 budget request for the Administrative Office of the United States Courts (AO), and to support the overall request for the entire Judicial Branch.

I join Judge Gibbons in thanking the Committee for the continued support it has provided the Judiciary. We fully recognize the funding constraints the Committee has had in recent years in writing the annual Financial Services and General Government Appropriation bill. We know that difficult choices had to be made and greatly appreciate the priority that was placed on the funding requirements of the Judiciary. We have a practice of refining our request throughout the year with the goal of seeking the minimum amount necessary to meet the needs of the courts. You can be assured that we will continue to provide the Committee with re-estimates of our fiscal year 2016 request throughout the year.

RETURN TO THE AO

On January 5, 2015, I returned to the Administrative Office to serve a second appointment as Director. I am grateful to Chief Justice Roberts for the privilege of working with our federal Judiciary again. From my first job in Chief Justice Burger's office 40 years ago, through later years as Counselor to Chief Justice Rehnquist, and then five years as Director of the Administrative Office, from 2006 to 2011, my respect and admiration for the federal Judiciary has only grown. I look forward to working on the challenges that face the Judiciary – from its operations to its administration, and I especially look forward to working closely with this Committee.

TEMPORARY DISTRICT JUDGESHIPS

Once again, the Judicial Conference is indebted to this Committee for authorizing extensions of expiring temporary Article III judgeships in the annual appropriations bill. Without your action, the authorization of all ten existing temporary Article III judgeships would have expired and we would have risked losing judgeships in these courts upon the first vacancy – through death, retirement, or elevation to a higher court – occurring after their lapse date

In fiscal year 2016, we face the same fate. Without further action the temporary judgeships will expire beginning in April, 2016. If the House and Senate Judiciary Committees are unable to preserve these expiring judgeships, I urge this Committee to include the necessary one-year extensions for the following judicial districts: Alabama-Northern, Arizona, California-Central, Florida-Southern, Kansas, Missouri-Eastern, New Mexico, North Carolina-Western, and Texas-Eastern. The workload in these districts is too great to risk losing judgeships that in all likelihood will take years to create and fill again.

NEW JUDGESHIPS IN HIGH CASELOAD DISTRICTS

It has been thirteen years since Congress passed a bill authorizing additional district judgeships. The last comprehensive Article III bill was passed in 1990, two and a half decades ago. The Judicial Conference appreciates the Committee's inclusion of language in the fiscal year 2014 and fiscal year 2015 appropriations bills authorizing new judgeships in seven districts struggling with extraordinarily high and sustained workloads (Arizona, California-Eastern, Delaware, Minnesota, New Mexico, Texas-Southern, and Texas-Western), as well as the conversion of three temporary judgeships to permanent (in Arizona, California-Central, and New Mexico). While this provision was dropped in conference, additional judgeships are still sorely needed. The Judicial Conference will soon be forwarding to Congress recently approved judgeship recommendations for 2015. We will be working with the Senate and House Judiciary Committees to hopefully enact a comprehensive judgeship bill this year and will keep the Committee apprised of our efforts.

CAPITAL SECURITY PROGRAM

I also would like to thank the Committee for its 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. CSP was 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.

Five projects are currently underway using fiscal year 2012 and fiscal year 2013 funding – in Brunswick, GA; Benton, IL; Lexington, KY; San Juan, PR; and St. Thomas, VI. Fiscal year 2015 funding will support projects in Columbus, GA; Monroe, LA; and Texarkana, TX/AR. For fiscal year 2016, the President's budget request for GSA includes \$20 million for the Judiciary's Capital Security Program which will support projects at courthouses in Raleigh, NC and Alexandria, LA. We hope you will continue to support this successful program that improves the security provided to occupants and visitors at federal courthouses.

COURTHOUSE CONSTRUCTION

Funding of the Judiciary's Capital Security Program should not, however, be a substitute for new courthouse construction when it is otherwise needed. That is, while the CSP may address a court's immediate security deficiencies, it does nothing to address other courts that not only have severe security deficiencies, but also have a serious lack of space, and deteriorated building

infrastructure. In these latter circumstances, the only feasible and economically viable resolution is to build a new courthouse or annex to meet the operational needs of the court.

We very much appreciate the Administration's support of new courthouse construction funding in its fiscal year 2016 budget request for the GSA. The President's Budget requests \$181.5 million for a new courthouse in Nashville, Tennessee, which is the Judicial Conference's top space priority. This is only the second time in six years that the President's budget has included funding for a project on the Judicial Conference's *Five Year Courthouse Construction Project Plan (Five-Year Plan)*. Because GSA builds our facilities, these monies come under the jurisdiction of the Executive Branch. In some years this has worked fine, when the President's budget represented the space priorities of the Judicial Conference as outlined in its *Five-Year Plan*. But too often this has not been the case. Without stable and consistent funding of courthouse construction by the GSA, the ability of the Judiciary to carry out its constitutional mission of administering justice is significantly impaired.

Over the last ten years, the Judiciary has taken strategic steps to improve its courthouse facilities planning process, with a focus on cost containment and development of an objective, consistently applied methodology. 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 *Five-Year Plan* will result in lower cost buildings due to the adoption of courtroom sharing policies as well as the removal of projected judgeships from courtrooms and chambers construction plans.

The Nashville courthouse project has been on the *Five-Year Plan* for nearly 20 years and a total of \$25.1 million already has been spent to acquire the site and design the building. The construction of the Nashville courthouse is requested to resolve severe security, space, and operational deficiencies in the existing facility. The Estes Kefauver Federal Building in downtown Nashville was built more than 60 years ago, has an insufficient number of courtrooms for district judges, and due to space shortages all magistrate judges must use hearing rooms instead of courtrooms. This exacerbates issues related to security and safety. Further, the building houses seventeen different federal entities and there are no separate circulation patterns for judges, the public, and prisoners. We respectfully urge you to support the funding of the new Nashville courthouse in your Fiscal Year 2016 Appropriations Bill.

LEGISLATIVE INITIATIVES TO INCREASE COST CONTAINMENT

Cost containment continues to be a primary focus of the Judiciary, as Judge Gibbons describes in her testimony. AO staff, through their support of the Judicial Conference and its committees, is heavily involved in these cost-containment efforts. While there are many policies and practices that the Judiciary has been able to implement to achieve savings, some require changes to existing law. Absent a general "*Courts Improvement Bill*" or similar legislative vehicle, last year we sought the assistance of this Committee to include several legislative provisions in the annual appropriations bill that would result in savings to the Judiciary's Probation and Pretrial Services program without any loss in the quality of services. We appreciate that the fiscal year 2015 conference agreement included one of our requested provisions that removed from law an unnecessary reporting requirement; however, there are still

several reforms endorsed by the Judicial Conference that, if enacted, would produce additional cost savings.

For example, the Judicial Conference has endorsed the sharing of probation officers among federal judicial districts. Section 3602 of title 18, United States Code, requires a probation officer to work “within the jurisdiction and under the direction of the court making the appointment.” Amending this statute to allow an officer to serve in another district with the consent of the appointing court, would facilitate the sharing across district lines of officer positions requiring special knowledge, such as sex-offender specialists, cyber-crime specialists, and search team members. Such a sharing arrangement will conserve resources by allowing the districts to avoid the higher salary costs associated with these specialized officers, which can be as much as \$15,000 more than a typical probation officer. For instance, a probation officer in the Eastern District of New York who has been trained in supervising sex offenders with computer monitoring conditions might also be able to handle those types of cases in the Southern District of New York or in the District of New Jersey, thereby relieving those districts from the obligation of hiring and training their own specialists.

In addition, this change could lower travel costs by allowing officers who work in one district to supervise offenders who reside in a neighboring district, which has its probation office farther from where offenders live. This option may be especially useful in supervising offenders from Indian reservations, which may straddle multiple judicial districts. For example, the Districts of Arizona and New Mexico both include the Navajo Indian reservation. Currently, officers from both districts must supervise cases on the reservation, which means duplicating efforts to learn the territory, develop relationships with tribal officials, and foster resources for offenders. If, however, officers in one of the districts were authorized to work across district boundaries, officers from one district could assume responsibility for supervising all of the offenders on the reservation, regardless of which district the offender resides. Alternatively, such arrangements could result in officers being assigned to cases not based on the district of supervision, but based on proximity to the closest probation office. For instance, officers from the Flagstaff probation office in the District of Arizona must travel 223 miles to visit offenders from the Round Rock region of the reservation. If probation officers from the Farmington probation office in the District of New Mexico were authorized to work across district boundaries, however, they would only need to travel 118 miles to visit the same offenders. I hope you will consider the inclusion of this provision in your Fiscal Year 2016 Appropriations Bill.

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 our 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, not only deal with important issues of judicial administration and policy, but they are constantly exploring ways to cut costs, work more efficiently in their program areas, and oversee auditing functions for the branch. 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.

IMPROVING JUDICIAL ADMINISTRATION

The AO is working in coordination with the courts to implement several national technology solutions that will improve judicial administration. A major initiative is a "next generation" case management/electronic case filing (CM/ECF) system we are deploying nationwide to harness improved technologies to meet the evolving needs of judges, clerks of court offices, the bar, debtors, litigants, and other users. CM/ECF next generation is currently deployed in two circuit courts and implementation nationwide will occur over the next several years. We are also implementing the Judiciary Integrated Financial Management System (JIFMS), which will provide a single system of record for financial and procurement processes throughout the Judiciary, including all federal court units, federal defender offices, and the Administrative Office. JIFMS is currently deployed to the national courts, the AO and several circuit court units, and its full deployment should be completed by December 2017. In addition, a Judiciary Electronic Travel System (JETS) will provide a user-friendly, paperless, web-based travel system that will reduce errors and streamline travel planning and vouchering. JETS will be available to court units and federal defender offices beginning in the Fall of 2015. Finally, eVoucher is a new system for issuing payments electronically to Criminal Justice Act court-appointed counsel, replacing the current paper-based system, and streamlining the submission and review of vouchers and improving efficiency and oversight by providing automatic error checks. Currently, eVoucher is deployed in 75 of 106 court units and full implementation is expected in early calendar year 2016.

AO RESTRUCTURING

When I first became Director of the AO in July 2006, I launched a review of the organization and its mission to ensure that the structure and services provided by the AO were appropriate and cost-effective, and that they addressed the changing needs of the courts.

That review resulted in a 2007 report providing recommendations to enhance AO services to the courts. During FY 2008, improvement initiatives were pursued through the development of the *Strategic Direction of the AO: Fiscal Years 2009-2013* to guide the AO's activities. We then began to integrate the Strategic Plan into our major initiatives process, focusing on short- and long-term objectives to help the AO support the Judiciary through the

economic downturn and future constrained budgets. In January 2011, I formed a cost-containment task force that reviewed AO organizational, policy, and process alternatives, and developed specific actions to contain costs in fiscal years 2012, 2013, and beyond. Finally, in June 2013, then-Director Judge Thomas Hogan announced a major restructuring of the AO to be implemented by the end of fiscal year 2013. The new organizational structure is now fully in place.

I offer this as background to demonstrate that organizational change focused on meeting the needs of the courts requires a thoughtful and strategic approach to achieve continuous improvement in service. The positive results of the restructuring are evident throughout the AO, and the improvements make the AO's service to the courts more effective and efficient.

AO FISCAL YEAR 2016 BUDGET REQUEST

The Administrative Office appropriation request for fiscal year 2016 totals \$87,590,000. This is an increase of \$3.2 million, or 3.8 percent, over the 2015 enacted level and represents a current services budget – there are no additional staff or program increases requested.

Specifically, the requested increase is necessary to support adjustments to base for salaries and benefits, and recurring requirements such as the cost of travel, communications, service agreements, and supplies. The AO account is financed through direct appropriations, reimbursements from other Judiciary accounts, and the use of non-appropriated funds. In fiscal year 2016, the Judiciary expects to have fewer non-appropriated funds available than it did in fiscal year 2015. As a result, in order to maintain current services, the increase also includes \$500,000 to replace the slightly lower estimate of non-appropriated funds available to the AO in 2016.

CONCLUSION

Chairman Boozman, Senator Coons, 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 25 Judicial Conference Committees, 2,352 judicial officers, and more than 28,500 court employees. In addition to our service to the courts, the AO works closely with our colleagues in the Executive Branch and especially 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 2016 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. I urge you, however, to consider the significant role the AO plays in supporting the courts and the mission of the Judiciary. Our budget request for the AO does not seek new resources for additional staff or programs; instead, our request represents the minimum investment needed simply to maintain the organization's current activities and services. We urge you to support this funding.

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