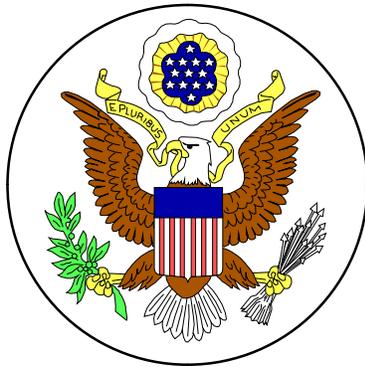


JUDICIAL CONFERENCE OF THE UNITED STATES

STATEMENT OF

**JUDGE JANE R. ROTH
U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT
CHAIR, JUDICIAL CONFERENCE COMMITTEE
ON SECURITY AND FACILITIES**



BEFORE

**THE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT**

**COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES**

ON

**THE JUDICIARY'S ABILITY TO PAY FOR CURRENT
AND FUTURE SPACE NEEDS**

June 21, 2005

Mr. Chairman and Members of the Subcommittee:

My name is Jane Roth. I serve as a judge on the Third Circuit Court of Appeals and as chairman of the Judicial Conference's Committee on Security and Facilities. I appreciate the opportunity to appear before the Subcommittee today to discuss the issue of the judiciary's ability to pay for current and future space needs. Director Mecham will discuss the financial hardships facing the judiciary and the adverse impact of rent on court operations. Today I would like to focus on the multiple cost-containment initiatives being pursued by the Committee on Security and Facilities in order to control the building program and reduce the amount of rent the judiciary pays to GSA both now and in the future.

Background

One of the major components of a cost-containment strategy approved by the Judicial Conference of the United States in September 2004 as an attempt to gain greater control over the judiciary's budget was to control space and facilities costs for the judiciary. The courts recognized the significant impact rent was having on the judiciary's overall budget. Several initiatives, which I will describe in detail, have been pursued by the Committee on Security and Facilities since that time including: (1) a two-year moratorium on the courthouse construction program, including a request that GSA cease the preparation of all new feasibility studies except those involving building systems; (2) a review of the standards in the *U.S. Courts Design Guide (Design Guide)*; (3) a re-evaluation of the long-range planning process; and (4) a request to chief judges and circuit judicial councils to cancel pending space requests and to recommend the closure of visiting facilities without a full-time resident judge wherever possible.

Moratorium on the Courthouse Construction Program

In September 2004, the Judicial Conference approved a two-year moratorium on the planning, authorizing, and budgeting for courthouse construction projects and new prospectus-level repair and alteration projects (except for those projects dedicated solely to building system upgrades) to enable a re-evaluation of the long-range planning process. This re-evaluation includes an assessment of the underlying assumptions used to project space needs and how courts can satisfy those needs with minimal costs in a short- and long-term constrained budgetary environment. The Judicial Conference applied the moratorium to 35 courthouse projects on the judiciary's Five-Year Plan for Courthouse Construction that had not received any funding and to seven projects with congressional appropriations and authorizations that were not yet in design. Eight projects on the Five-Year Plan were not subject to the moratorium because they were in the midst of design. They were permitted to proceed with design, but only after the courts involved entered into discussions with their circuit judicial councils and Administrative Office of the U.S. Courts staff about ways to reduce the scope of the projects. Each project engaged in such discussions and reduced the scope of the projects. These reductions were communicated to GSA and the plans for these buildings have been adjusted accordingly in an attempt to save the judiciary additional rent obligations in the future.

The only projects not subject to the moratorium are the four emergency projects: Los Angeles, CA; El Paso, TX; San Diego, CA; and Las Cruces, NM, three of which were authorized by the committee and funded through the appropriations process last year. The judiciary recognizes its responsibility to act prudently when asking Congress to authorize and appropriate

for new courthouses, and for that reason, the only project for which the judiciary is seeking construction funding in FY 2006 is San Diego, CA.

In March 2005, the Judicial Conference also voted to extend for one year a moratorium it had approved in March 2004 on non-prospectus space requests.¹ Again, this was a difficult step for the Judicial Conference to take. This moratorium was, however, necessary to save the judiciary money in future rent obligations and is yet another example of the Third Branch's attempt to internally manage and budget for its future and current space needs.

Review of the *U.S. Courts Design Guide*

The Committee on Security and Facilities is reviewing the space standards within the *Design Guide* with an emphasis on: (1) controlling costs; (2) examining existing space standards to determine if they are still appropriate; (3) meeting the functional space needs of the courts; and (4) space-sharing arrangements. The Committee met last week and considered several initial amendments to the *Design Guide* that will be forwarded to the Judicial Conference for consideration at its September 2005 session. If approved, these changes would save the judiciary rent on new buildings that would be designed according to these new design standards. These proposals represent the first phase of proposed amendments to the *Design Guide*. In the months to come, the Committee will be examining technical aspects, such as lighting and acoustics, atrium sizes, and other areas that will save the judiciary additional money in rent. These proposed changes reflect the Committee's exercise of its responsibility to manage the courts'

¹ A non-prospectus space request is one that costs less than \$2.36 million in FY 2005.

design standards to ensure affordability while still meeting the functional needs of the judiciary within the current severely constrained budgetary environment.

One of the issues on which the Committees of the Conference will also focus is the issue of courtroom sharing. While some judges are supportive of the reconsideration of this issue, others firmly believe that each judge must have his or her own courtroom available at all times for proceedings. In reality terms, the actual cost of a courtroom is a small portion of the total construction budget for a courthouse. It has been the judiciary's position that the courtroom is an essential tool used by the judge to accomplish his or her work, which is the timely disposition of cases pending before the court. The minimal savings that might be realized from deleting one courtroom from a courthouse is not worth the resulting loss of efficiency in the judicial process, particularly when the construction of that courtroom might ultimately extend the useful life of a new facility. I cannot predict what the Committees will recommend and the Judicial Conference will approve on the issue of courtroom sharing. I can tell you, however, that the judiciary is seriously considering the budgetary implications of the policy.

Long-Range Planning Process

In September 2004, the Committee on Security and Facilities began a re-evaluation of the long-range planning process including a re-examination of assumptions regarding staff and judgeship growth as well as the space standards used for estimating square footage needs. All of the policies and processes related to facilities planning and space acquisition for the courts are being reviewed in order to identify possible process improvements that could tighten controls and

save money. Current policies that affect future space needs and costs are also being reassessed to determine whether any policy changes would be beneficial and appropriate.

The Committee plans to review the current criteria for scoring new courthouse projects and develop new criteria, if needed. The current scoring process, which uses four Judicial Conference approved criteria (year out of space, security concerns, judges impacted, and operational concerns) will be reviewed to consider personnel, workload, operational hot spots, and extended occupancy.

Release of Unneeded Space and Cancellation of Pending Space Requests

In October 2004, in order to immediately contain space rental costs, I wrote all chief judges requesting that they cancel pending space requests wherever possible. Recognizing the dire financial straights faced by the courts, chief judges did in fact cancel or defer \$6,000,000 in space requests. Taking this action is a short-term fix to the longer-term problem of planning adequately for new judges and staff office space. I do not believe that we will be able to sustain indefinitely what has amounted to a virtual freeze on any space acquisition.

In addition, the Committee initiated its biennial review of nationwide space assignments consistent with the requirements of a 1997 Judicial Conference policy that sets forth specific criteria to examine the need for non-resident visiting judge facilities and release of space in probation and pretrial services offices. In March 2005, the Judicial Conference approved the release of space and closure of the non-resident court facility in Dubuque, Iowa, and the release of space in Houma, Louisiana. At its meeting last week, the Committee discussed updating the factors used to determine whether to close a non-resident (visiting) facility.

Conclusion

As you can see from the litany of cost-containment initiatives currently being studied by the Committee on Security and Facilities, controlling the judiciary's current and future space costs is an issue that my Committee takes very seriously. There is no question that the Judicial Conference recognizes the significant impact the building program is having on the judiciary's budget and the need to control rental costs both now and in the future. While the initiatives I have described are a good start, rental relief from GSA, which will be described more fully by Director Mecham, is critical to the continued functioning of the courts both now and in the future.

Thank you for the opportunity to testify before the Subcommittee today, and I would be happy to answer any questions you may have at this time.