

The Year 2001



Achievements & Challenges

Throughout 2001, Administrative Office employees worked as a team to achieve significant results and meet challenges. Staff rolled out major systems and made great progress in others. They provided continuing guidance and support necessary for courts to continue to discharge their duties, supported the Judicial Conference of the United States and its committees, helped obtain necessary resources from Congress, and continuously looked for ways to improve the quality of services, manage Judiciary programs better, and economize.

Through all the uncertainty that resulted from September 11, and the days and months that followed, including concerns with contaminated mail, agency staff continued meeting their day-to-day responsibilities and providing guidance for the courts, focusing on emergency planning, finding other ways to send information to reduce mail, offering anthrax testing contract services, and working with the U.S. Marshals Service.

This report describes the results of Administrative Office efforts.

Congressional Relations

Administrative Office staff support the Judicial Conference and its committees in a variety of ways. These include conveying the policies of the Judicial Conference to members of Congress and their staffs where relevant to proposed legislation; identifying and monitoring legislation that could affect the organization and operation of the federal courts, including judgeships, workload, jurisdiction, appropriations, and courthouse facilities; drafting testimony for delivery at congressional hearings by representatives of the Judicial Conference; and responding to congressional inquiries on matters of legislation and constituent concerns. Once the Bush Administration was in place, Director Mecham, members of the Executive Committee, and key Judicial Conference committee chairs met with executive branch representatives and congressional leaders to educate them on Judiciary issues and concerns.

The first session of the 107th Congress considered a wide range of issues of importance to the Judiciary. Some Judicial Conference committee chairs, as well as other judges, testified at congressional hearings during 2001 in support of legislative proposals put forth by the Judicial Conference and in response to legislative proposals that could affect the Judiciary.

“One of the Administrative Office’s key priorities is to secure adequate funding from Congress so that the federal courts can carry out their critical work and maintain the quality of justice. Director Mecham, Judge John Heyburn II, and Judge Jane Roth deserve credit for their efforts in this area.”

Chief Justice William H. Rehnquist



The Judiciary received an 8.4 percent increase over fiscal year 2001 funding in its fiscal year 2002 appropriations. In March, Federal Judicial Center Director Judge Fern Smith; Judicial Conference Budget Committee member Chief Judge Lawrence L. Piersol (D. S.D); Chief Judge John G. Heyburn II (W.D. Ky.), the chair of the Conference Budget Committee; and AO Director Leonidas Ralph Mecham presented the Judiciary's budget request at a House hearing.

Summary of Fiscal Year 2002 Budget

(total appropriations in thousands of dollars)

Appropriation Account	FY 2001 Appropriations	FY 2002 Total Appropriations
Courts of Appeals, District Courts, and Other Judicial Services		
Salaries and Expenses ¹	3,364,109	3,607,288
Defender Services	434,043	500,671
Fees of Jurors	59,436	48,131
Court Security ¹	218,836	278,198
Subtotal	4,076,424	4,434,288
Other Accounts ¹	198,057	273,267
TOTAL APPROPRIATIONS	4,274,481	4,707,555

¹ Includes Emergency Supplemental Funds

facilities. These formulas provide an objective, efficient, and equitable means of funding 395 court units throughout the country.

The Judiciary's fiscal year 2001 appropriations bill also authorized 10 new judgeships, provided a 2.7 percent pay increase for judges, and a 3.6 percent increase for court staff. In addition, Congress provided funds for four new courthouses and 11 courthouse repair and alteration projects. It also forward-funded four additional projects for 2002.

Fiscal Year 2001 Budget

The Judiciary operated under a series of continuing resolutions until December 21, 2000, when its appropriations were finally enacted. Funding for the Judiciary, provided within the Commerce, Justice, State and Judiciary appropriations bill, totaled \$4.25 billion, a 14 percent increase over fiscal year 2000 allotments. This level also allowed full implementation of the new staffing formulas and funding for 1,559 additional staff to handle increased workloads.

In a continuing effort to ensure optimum distribution of resources to court units, several of the funding formulas were updated, and two new formulas were implemented for fiscal year 2001. One new formula funded capital goods such as copiers, equipment and furniture, and the other funded cyclical maintenance of office space and

Fiscal Year 2002 Budget

From October 1 until November 28, 2001, the Judiciary operated under a series of continuing resolutions until the Judiciary's fiscal year 2002 appropriations bill was enacted into law.

The Judiciary fared well in the final appropriations bill. The bill included the language necessary for judges to receive a 3.4 percent pay increase in January 2002, and provided the Judiciary with appropriations of \$4.61 billion, a \$357 million, or 8.4 percent, increase over fiscal year 2001 appropriations. When combined with fees, carryover, and other sources of funds, the enacted appropriations level will provide the court's salaries and expenses account with over a 7 percent increase, compared to fiscal year 2001 funding.

The amount provided major increases for Defender Services, which will allow for implementation

of a \$90 hourly rate for panel attorneys for both in-court and out-of-court time on May 1, 2002. Previously, panel attorneys were paid \$75 an hour for in-court work and \$55 an hour for out-of-court work in most judicial districts.

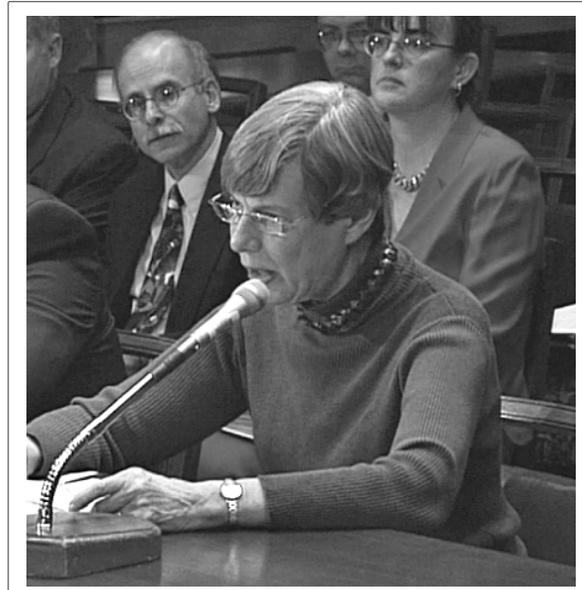
Although, at \$220.7 million, the Court Security account received \$8 million less than it requested for fiscal year 2002, additional emergency supplemental funding has been provided by Congress for security needs in fiscal year 2002.

On September 28, upon the request of Director Mecham, the Office of Management and Budget provided the Judiciary with an emergency allocation of \$19.7 million for increased court security officer hours necessary to meet the level of security in place at federal court facilities since the September 11 attacks. The Judiciary subsequently received another \$95 million as part of the Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States. This includes

- \$30 million for security upgrades to the Supreme Court building.
- \$5 million for an emergency communications back-up system.
- \$4 million for 106 new supervisory-level deputy marshals.
- \$53.5 million for the Judiciary's highest priority security needs, including more funding for court security officers, testing and mail screening associated with recent anthrax incidents, and state-of-the-art x-ray machines.

Courthouse Construction

As a result of Director Mecham's early transmittal of the Judiciary's fiscal year 2002 courthouse construction requirements directly to the President and congressional leaders; meetings with White House representatives that included the Director and several judges; and letters to the President from members of Congress and committee leaders, the President again this year included in his annual budget a request to fund courthouse construction projects. The President's budget request was \$216.8 million for eight of the 20 projects the Judicial Conference requested for funding in fiscal year 2002 and additional funding for four projects funded in previous years. The President's budget request also included another \$130.3 million for 14 courthouse repair and alteration projects.



In May 2001, Judge Jane Roth (3rd Cir.), chair of the Judicial Conference Committee on Security and Facilities, told Congress that due to delays in funding new courthouse projects, a serious construction backlog now exists in the federal Judiciary. By November, Congress had passed the Treasury and General Government Appropriations Act of 2002, providing funding for 15 new courthouses, plus additional funding for six courthouse projects originally funded in previous appropriations bills, and \$146.9 million for repairs and alterations.

Judges with courthouse projects, Director Mecham, and Administrative Office staff worked with members of Congress to gain their support for the projects.

These efforts resulted in substantial success. The authorizing committees approved every courthouse project except one requested by the Judiciary in fiscal year 2002 or funded in previous years but requiring authorization. The final appropriations bill approved by Congress included funding for 21 of the 25 authorized projects at a total of \$280.2 million. All 14 courthouse repair and alteration projects in the President's budget, plus two more previously funded projects that needed additional money, also were authorized and funded, with a total of \$146.9 million in appropriations for that program.

Judicial Operations

On May 9, 2001, the Judicial Conference transmitted to Congress a proposed Federal Courts



Chief Judge Deanell Tacha (10th Cir.), chair of the Judicial Conference Committee on the Judicial Branch, testified before the House Judiciary Subcommittee on Courts, the Internet and Intellectual Property in July on H.R. 2522, the Federal Courts Improvement Bill. The bill contains 22 provisions that would improve current Judiciary practices in the areas of court operations, personnel matters, and administration.

Improvement Act of 2001. The bill includes 22 provisions that address administrative, financial, personnel, and benefits needs of the Judiciary.

Judges' Pay

Due to the efforts of the Judicial Conference Committee on the Judicial Branch, the three judges' associations, members of Congress, Director Meham, and Administrative Office staff, judges received a 3.4 percent Employment Cost Index adjustment along with members of Congress and Executive Schedule employees, effective January 1, 2002. Judges have received cost-of-living increases in four of the past five years.

Judicial Resources

During the first session of the 107th Congress, 28 nominees for Article III judgeships were confirmed—six court of appeals judges and 22 district court judges. Judicial vacancies remain high. As of January 2002, there were a total of 100—31 in the U.S. courts of appeals, 68 in the U.S. district courts, and one in the Court of International Trade

Article III Judgeships

On February 5, 2001, the Judicial Conference transmitted to Congress a request for the creation of six permanent judgeships and four temporary judgeships in the courts of appeals, 23 permanent judgeships and 21 temporary judgeships in the district courts, conversion of seven existing temporary judgeships to permanent positions, and extension of one existing temporary judgeship. The request also would give Article III status to the Article I judgeships authorized for the Northern Mariana Islands and the Virgin Islands. No action has been taken on this request.

Bankruptcy Judgeships

On January 31, 2001, Representative George Gekas (R-PA) introduced the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001, a bill virtually identical to the bankruptcy reform conference report pocket-vetoed by President Clinton at the close of the 106th Congress. The bill would authorize 23 new temporary bankruptcy judgeships, extend the terms of four existing temporary judgeships, and retroactively extend the term of the lapsed judgeship in the District of South Carolina. The bill was passed by the House March 1, 2001.

On January 30, 2001, Senator Charles Grassley (R-IA) introduced S. 220, the Bankruptcy Reform Act of 2001, which like its House counterpart, is virtually identical to the conference report of the 106th Congress. As passed by the Senate on March 15, 2001, the bill would create 27 new temporary bankruptcy judgeships and extend the terms of four existing temporary judgeships.

The House and Senate bills were pending action in an apparent stalemate by a congressional conference committee at the close of the first session. The conference committee held a meeting November 14 to begin reconciling the two bills.

Magistrate Judgeship Positions

In fiscal year 2001, there were 456 full-time, 62 part-time, and three combination clerk/magistrate

Southwest Border Courts

The five federal districts that border Mexico—Southern District of California, District of Arizona, District of New Mexico, Western District of Texas, and Southern District of Texas—now handle 27 percent of all federal district court criminal filings in the United States. Criminal filings in these districts have surged in recent years. However, judicial resources have fallen behind as law-enforcement and prosecutorial resources have expanded.

The Judicial Conference has recommended the addition of 18 judgeships, nine permanent and nine temporary, in the southwest border courts to meet the challenges posed by increased law-enforcement efforts along the U.S.-Mexican border. The recommended judgeships are included within the total 54 judgeships the Judicial Conference has recommended Congress create to address the needs of federal courts nationwide.

Administrative Office staff developed and produced a videotape on the border crisis to help explain the need for more judgeships in those districts. The video was shown at a House hearing on the Judiciary's 2002 budget.

judge positions. Another 14 new full-time magistrate judge positions were authorized for fiscal year 2002. Three of the 14 new positions were conversions of part-time positions to full-time status. The increase is due to growing caseloads and expanded use of magistrate judges by the district courts.

Other Legislation

The Judiciary also has considerable interest in several introduced bills that could affect its operations and that were not passed during the first session. However, judges, Director Mecham, and Administrative Office staff succeeded in raising awareness in Congress of the Judiciary's position on the issues involved. These bills include

Cameras in the Courtroom. This bill, reported by the Senate Judiciary Committee, would authorize the televising of federal court proceedings at the discretion of the presiding judge. A companion bill has been introduced in the House. The Judicial Conference opposes the use of cameras during district court proceedings.

E-Government Act of 2001. This bill would establish a broad framework of measures that require Internet-based technology to enhance citizen access to government information and services and, in particular, would require all federal courts to maintain web sites.

Juvenile Justice Reform. The Judicial Conference expressed its concern with legislation that would shift traditional state criminal prosecutions into federal courts.

Multidistrict, Multiparty, Multiforum Trial Jurisdiction Act of 2001. This bill would address the Supreme Court's decision in *Lexecon v. Milberg Weiss* to enable a judge with a transferred case to retain it for trial or transfer the case to another district. The proposal is supported by the Judicial Conference and has passed the House.

Offender Reentry and Community Safety Act of 2001. This bill would create federal and state demonstration projects designed to successfully reintegrate former prisoners into society.

Bipartisan Patient Protection Act. This bill passed both the Senate and the House, but in different versions. The bills provide access to state and federal courts for damage claims for injuries resulting from the denial by a health plan of a medical benefit.

Innocence Protection Act of 2001. This bill authorizes a person convicted of a federal crime to apply to the "appropriate federal court" for DNA testing to support a claim that he or she did not commit the crime for which the applicant was convicted, or another offense used by the sentencing court to impose a sentence of death or enhance the penalty under a career criminal statute.

Drug Abuse Education, Prevention and Treatment Act of 2001. Among other provisions, this bill would increase penalties for drug offenses involving minors, revoke probation and supervised release for failure of a drug test, and establish offender reentry projects.