

The Year in Review



“Without the funding increases needed to address [the courts’] growing workload, I believe the judicial system, and those who depend on it to resolve disputes, will begin to suffer.”

—Judge John Heyburn II, chairman, Judicial Conference Budget Committee



Funding the Federal Judiciary

Underlying the focus on cost-containment options was the Judiciary's commitment to its core missions, values, and responsibilities to the public to render justice fairly and expeditiously.

Comprehensive Cost-Containment Strategy for 2005 and Beyond

In March 2004, Chief Justice William H. Rehnquist charged the Executive Committee, chaired by Chief Judge Carolyn Dineen King (5th Circuit), with conducting a comprehensive review of the policies and practices, operating procedures, and customs that have the greatest impact on the Judiciary's costs, and with developing an integrated strategy for controlling these costs.

Unprecedented funding challenges face the Judiciary in FY 2004 and over the next several years due to overall budget constraints. For the past two years, the Judiciary has received funding that was inadequate to meet its needs, and estimates of probable future funding when compared to estimated needs show a growing gap approaching \$848 million by FY 2009.

It was clear that fiscal year 2004 budget shortfalls could worsen in FY 2005. During FY 2004, AO staff coordinated the review of 271 supplemental requests from courts seeking additional financial resources in the amount of \$22 million. Due to budget limitations, only \$5.5 million in supplemental funding was distributed. Supplemental funds were provided for courts to downsize their staffs via buyouts and involuntary separations; for salary funding for courts where salary allotments fell below 96 percent of payroll requirements; and for critical non-salary operational requirements.

Planning for FY 2005 and beyond, the Executive Committee enlisted the assistance of chief judges, court staff, advisory groups, Conference committees, and the AO staff led by Associate Director Pete Lee, to scrutinize all spending categories, with the focus on whether expenditures—even though needed or

desired—are affordable in the current budget climate. The Executive Committee and other Judicial Conference committees generated and reviewed hundreds of ideas. Individual teleconferences included the 10 committee chairs with funding responsibilities. Judge King asked the committee chairs to identify “quick hitting” action items that could be implemented immediately to reduce costs in 2004 and 2005, as well as long-term cost-containment ideas for 2005 and beyond. Committees proposed initiatives for the Executive Committee to consider incorporating in its overall cost-containment strategy. Underlying the focus on cost-containment options was the Judiciary’s commitment to its core missions, values, and responsibilities to the public to render justice fairly and expeditiously.

This massive effort was completed in five months with the Executive Committee’s strong leadership, with active involvement of Conference committees, and with extraordinary staff support from the Administrative Office. Thousands of staff hours were dedicated to this effort; virtually all AO units played a part.

At its September 2004 session, the Judicial Conference approved the long-term cost-containment strategy for the Judiciary presented by the Executive Committee. The strategy incorporates suggestions from all 10 Conference program committees, and includes these major components:

- impose tighter restraints on future space and facilities costs;
- trim future staffing needs through re-engineering work processes and reorganizing functions to increase efficiency, and by employing different staffing techniques;
- explore fair and reasonable opportunities to limit future compensation costs;
- invest wisely in technologies to enhance productivity and service, while controlling operating costs by revamping the service-delivery model for national information-technology systems;
- study and implement cost-effective modifications to defender services, court security, law enforcement and other programs; and

- ensure that fees are examined regularly and adjusted as necessary to reflect economic changes.

Administrative Office staff will continue to support Judicial Conference committees in developing and implementing these and other long-term cost-containment initiatives, which will be a major focus over the coming years and will assist the Executive Committee in its monitoring and coordination role.

AO Cost-Containment Initiatives

The AO began a review of programs it manages for the courts, such as information technology, training, etc., to parallel the strategic review of the Judiciary budget initiated by the Executive Committee in March 2004. Anticipating future budget reductions and the possibility of a hard freeze on appropriations for FY 2005, broad spending restrictions were implemented. These measures made it possible to maximize balances that could be carried forward from FY 2004 to FY 2005 and to operate within the constraints of the continuing resolution. Under the restrictions, AO offices proceeded only with essential activities required to support the Judicial Conference and its committees and ensure continuity of court operations.

Because 93 percent of the AO budget is required to cover compensation and benefits costs, specific attention was focused on containing personnel costs. Since 1995, total AO staffing declined slightly, while the court staffing grew 18 percent. Funding increases have not been sufficient for many years to keep all AO positions filled, and the AO has continuously maintained a substantial number of vacancies. During 2004, nearly all AO positions that became vacant were not filled, increasing the vacancy rate from 66 to over 100, or from 5 percent to nearly 10 percent of authorized positions by the end of the year.

As a consequence, AO staffing declined to a point below the 1991 level. Each directorate developed workforce restructuring plans to be prepared to operate, if required, at 10 percent below current levels in FY 2005. To assist in the restructuring effort, approval was sought from and granted by the Office of Personnel Management for early-out retirement for

AO employees. Other personnel cost-cutting steps taken included reducing the salary progression factor incorporated in the budget, acquiring temporary help through local sources at little or no cost, and when positions are filled, hiring at entry or lower pay levels.

Travel was restricted to mandatory requirements in support of Judicial Conference committees, continuing court operations, and implementing approved information technology projects. The use of teleconferencing and videoconferencing was emphasized. Training was deferred unless required to continue essential functions. Orders for contracts, services, supplies, and equipment were restricted to those absolutely essential to the continuation of AO and court support functions. IT project funding was cut. The AO's computer equipment replacement cycle, already a year longer than the courts' cycle, was extended even further for lack of funds. Many other initiatives are underway to contain and reduce future costs, such as reducing office-automation equipment replacement costs by categorizing personal computer users based on the level of use; transitioning appropriate publications from hard copy to electronic format and distribution; and reviewing, eliminating, and consolidating library materials and online services.

FY 2004 Supplemental Appropriations

The Judiciary submitted a FY 2004 supplemental request to Congress totaling \$55.7 million. The request included \$39.2 million for the Courts Salaries and Expenses account to prevent reductions in court staffing, and to pay for critical information technology and infrastructure expenses; and \$16.4 million for the Defender Services account to cover the projected shortfall in panel attorney payments. Over the course of the year, the anticipated shortfall in Defender Services grew to \$26 million.

No additional funds were appropriated for the Salaries and Expenses account shortfall, and the courts lost over 1,350 jobs due to hiring freezes, involuntary separations, buyouts, and early retirements. However, panel attorney payments were spared from suspension in August, when a supplemental of \$26 million for Defender Services was included in P. L. No. 108-287, the Department of Defense Appropriations Act, 2005.



FY 2005 Appropriations

The House of Representatives passed the fiscal year 2005 Commerce, Justice, State and the Judiciary (CJSJ) appropriation bill, H.R. 4754, on July 8, 2004. The House bill provided the Judiciary with an overall 8.4 percent increase, and a lesser total increase for the courts' Salaries and Expenses account of 5.6 percent. Under this funding level, current services could continue but without allowances for workload growth. The House bill would have funded almost all other Judiciary accounts at or very near a current-services level.

On September 15, 2004, the full Senate Appropriations Committee cleared its version of the fiscal year 2005 CJSJ appropriations bill (S. 2809). The bill provided a 4.8 percent increase for the Judiciary overall. The increase to the courts' Salaries and Expenses account was the equivalent of only 3 percent, after adjusting for the transfer of Federal Protective

The Judicial Conference Executive Committee met in Washington, D.C. in July to review the proposed preliminary fiscal year 2005 financial plan for the federal courts. The plan incorporated many cost-containment ideas recommended by Judicial Conference committees.



Administrative Office Director Leonidas Ralph Mecham and Judicial Conference Budget Committee Chairman Chief Judge John Heyburn II urged the House Appropriations Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies to support the Judiciary's FY 2005 budget request.

Services security charges to the Court Security Account. Under the bill, courts stood to lose an additional 570 employees from end-of-2004 staffing levels—which represented a loss of nearly 1,350 employees from end-of-2003 staffing levels. Nearly all Judiciary accounts were funded significantly below current

services in the Senate bill, which never came before the full Senate for a vote. Congress recessed in late October with nine appropriations bills pending, including the Judiciary's.

Fiscal year 2005 began under a series of continuing resolutions (CRs). To avoid interruption to court operations under the CRs, the Executive Committee of the Judicial Conference approved an interim financial plan. When temporary allotments reflecting a 4 percent increase were issued on October 1, 2004, all courts were advised to refrain from hiring and from purchasing non-essential goods and services, pending a final financial plan.

The fiscal year 2005 CJSJ appropriation was ultimately included in an omnibus bill (H.R. 4818) with eight other spending bills passed by the House and Senate on November 20, 2004, during their lame duck session. After a delay for necessary amendments unrelated to the Judiciary, the President received and signed the bill, P. L. 108-447, on December 8, 2004.

The overall bill was fiscally lean, providing a freeze, or zero growth, in discretionary spending government-wide. The Judiciary fortunately fared better, with a final funding level of \$5.426 billion, a 6.1 percent increase overall. However, the final Salaries and Expenses appropriation for the courts was \$4.125 billion, a lesser 4.3 percent increase over FY 2004, and slightly above the amount assumed in the interim financial plan approved by the Executive Committee. This amount will prevent further loss of staff and the courts may be able to fill some vacant positions.

The Defender Services account received a 2005 budget of \$667.3 million, an 11.6 percent increase over 2004. The final bill also provides for a \$160 increase in the hourly rate paid for capital case representation, and allows for an increase in the statutory case maximums.

The Fees of Jurors account is nearly fully funded at \$60.7 million. However, the Court Security account did not fare as well and is funded below FY 2004 levels. Although the final funding level of \$327.5 million represents an increase of \$57.2 million, once the cost of transfer of Federal Protective Service charges from the Salaries and Expenses account is accounted for, the account is approximately \$4.2 million, or 1.5 percent below last year's Court Security level.

With a funding level of \$67.3 million, the Administrative Office is funded at 3.0 percent over fiscal year 2004, as usual, well below the courts' increase. While this funding level will allow the AO to maintain on-board staffing levels, unlike the courts, the AO will be unable to fill any of the vacancies it experienced in FY 2004.

The Executive Committee met in mid-December and approved a final fiscal year 2005 financial plan based on the funding provided in the omnibus appropriations act.

Long-Range Planning Activities

The Administrative Office supported long-range planning meetings of Judicial Conference committee chairs in March and September 2004. The meetings were led by the Executive Committee's planning coordinator, Chief Judge Michael Boudin (1st Circuit). Committee chairs focused on broad trends and issues affecting the work, resources, and operation of the courts. The overarching planning issue for the past two years has been to address budget challenges by considering long-term changes that may reduce the need for future resource growth.

The planning discussions contributed to the development of a comprehensive cost-containment strategy for the future.

Judiciary Voluntary Separation Incentive and Early Retirement Programs

The Judiciary's technological advances are reshaping its workforce, at the same time shortfalls in Congressional funding require downsizing and restructuring of many court offices.

In fiscal year 2004, the Judiciary conducted two voluntary buyout and early-retirement program periods, with the second extending into FY 2005. These programs have proven to be valuable management tools, as they afford employees the opportunity to voluntarily separate. As of September 19, 2004, 243 buyouts and 90 early retirements were processed.

In September 2004, the Judicial Conference extended the buyout program through fiscal year 2005. Under the provisions of P. L. 107-296, the Director of the Administrative Office has the authority to approve buyout plans for court units. In August 2004, the Office of Personnel Management (OPM) approved the Judiciary's request to offer early retirement to non-chambers employees of courts and federal public defender organizations throughout fiscal year 2005. Having this expanded authority from OPM permits more efficient and timely approval of courts' requests.

Continued use of the voluntary separation and retirement programs will help court offices that must restructure, delay, and realign positions and personnel in order to fulfill their mission. ■

Budget Cuts Leave Six Percent of Federal Court Jobs Vacant

As the federal Judiciary awaited its fiscal year 2005 appropriation from Congress, courts already caught in a money crunch slashed 1,350 jobs in the preceding months.

The Judiciary is believed to be the only federal entity that was forced to downsize to this degree, a cut that represents six percent of the employees who worked for clerks of court or probation and pretrial services offices.

The cuts hit both large and small court staffs throughout the country. The Western District of Tennessee lost the highest percentage of its employees from October 5, 2003 to October 17, 2004—30 out of 192, for a 15.6 percent cut. A close second is Alaska, which lost 11 of its 72 employees—a 15.3 percent cut. The Central District of California, based in Los Angeles, lost the largest number—80 of its 957 employees.

"These cuts come at a time when homeland security, criminal, and bankruptcy filings are spiraling upward, and when the fiscal year 2005 budget remains in question," said Leonidas Ralph Mecham, Director of the Administrative Office of the U.S. Courts.

The Judiciary's budget is less than two-tenths of one percent of the entire federal budget. ■



Congressional Relations

Communicating and working with Congress remains one of the AO's highest priorities as it supports the Judicial Conference and its committees.

During its second session, the 108th Congress considered several bills of interest to the Judiciary. Judicial Conference representatives testified at hearings in support of legislative proposals of the Judicial Conference and in response to other issues that could affect the Judiciary.

Courthouse Construction

Faced with a limited availability of funds from Congress and continued shortages in the Judiciary's operating budget, the Judicial Conference took two actions this year to slow down and reduce costs of the courthouse construction program. At its March meeting, the Conference determined that its FY 2005 funding request for courthouse construction would include only the four space-emergency courthouse projects—Los Angeles, CA; El Paso, TX; San Diego, CA; and Las Cruces, NM—rather than all 19 projects originally scheduled on the five-year plan. At its September meeting, the Conference voted to place a two-year moratorium on all courthouse construction projects except those already under design or construction, and on all courthouse repair and alteration projects except system upgrades.

After the March 2004 Conference decision, the Director submitted to Congress the Judiciary's FY 2005 request for the four space-emergency courthouse construction projects that totaled \$735 million. When the President's FY 2005 budget was developed without adequate funding for these projects, the Judiciary responded.

The combined efforts of Judge Jane R. Roth (3rd Circuit), chair of the Conference Committee on Security and Facilities, other judges, Director Mecham, and Administrative Office staff who worked throughout the year with the appropriate congressional delegations and committees to obtain courthouse funding, were successful. The final omnibus appropriations bill for FY 2005 included funding for all four of the space emergency courthouse construction projects at a total funding level of \$442 million, and the 10 repair and alteration projects totaling \$216 million.

Following the Conference decision in September to place a moratorium on courthouse construction and repair and alteration projects, Administrative Office staff briefed the appropriate congressional committees about the reasons for and the impact of the moratorium. Congress has expressed concern about further delays in the completion of courthouse construction projects. However, congressional committees also understand that unless the construction program is slowed down and space is reduced, and unless the Judiciary's operating budget is sufficiently increased, the Judiciary will not be able to meet its rental obligations on the new facilities without substantial staff reductions nationwide. The Committee on Security and Facilities and Administrative Office staff are reviewing all pending courthouse construction and repair and alteration projects, the *U.S. Courts Design Guide*, and space-planning assumptions and projections to determine where reductions might be made.

Judicial Operations

In the First Session of the 108th Congress, the Director, on behalf of the Judicial Conference, transmitted to Congress a proposed Federal Courts Improvement Act. The legislation included several provisions that address administrative, financial, personnel, and benefits needs of the Judiciary, including an authorization for the Judiciary to provide its employees with a supplemental benefits package that would be competitive with those already offered throughout the private sector and by state and local governments. The Judicial Resources Committee has proposed deferring any new benefits in 2005 and 2006, should such legislation be passed. Another provision would create a new federal crime punishing any person who files a false lien against the property of a federal judge.

This legislation was introduced in both the House and Senate and received some bipartisan support but was not passed in either house. While the full omnibus bill was not passed, a few of its provisions (including several new places of holding court) were enacted as part of S. 2873, P. L. No. 108-455.



Judicial Pay

Federal judges received a 2.5 percent Employment Cost Index adjustment, along with members of Congress and Executive Schedule employees, effective January 1, 2005. Judges have received cost-of-living increases in seven of the past eight years, keeping pace with inflation over this period. But these increases have still not made up for previously denied pay adjustments in the 1990s. The overall compensation of federal judges continues to lag seriously behind the growth of salaries and benefits received by comparable legal positions in private firms and academia.

Judicial Resources

In the First Session of the 108th Congress, the Senate approved a bill that would create 12 new permanent district court judgeships, and two new tem-

Courthouse construction: "Recognizing the budgetary constraints facing the Congress and the Judiciary in FY 2005 and beyond, the Judicial Conference voted to seek full funding for only the four projects it had designated as judicial space emergencies in September 2003," said Judge Jane Roth (3rd Circuit), testifying before Congress in July 2004.
(July 2003 photo.)

To help reduce the future rate of growth in rental costs, the Judicial Conference in September approved a courthouse construction moratorium for 24 months on the planning, authorizing, and budgeting for new projects.

three new circuits and to create new judgeships for the reconfigured circuits. Several judges from the Ninth Circuit testified at the hearing, including Chief Judge Mary Schroeder and Senior Judge J. Clifford Wallace, who argued against the proposal. They noted the costs and administrative hassles that would result, cited recent statistics, and described the implementation of new internal procedures to generate significant improvements in the workload and operations of

porary judgeships, and convert temporary judgeships in nine states into permanent judgeships. The House later amended that bill to largely reflect the entire Judicial Conference judgeship request submitted by AO Director Mecham to Congress in March 2003—nine permanent and two temporary judgeships to the courts of appeals, 29 permanent and 17 temporary judgeships to the district courts, and conversion of five existing temporary judgeships to permanent positions. It would also confer Article III status on the judgeships authorized for the Northern Mariana Islands and the U.S. Virgin Islands. However, a provision added to the bill in the House to split the Ninth Circuit Court of Appeals into three separate circuits ran into stiff opposition in the Senate. The Congressional session ended without action on this legislation. House majority leaders said there would be no new judgeships unless the Ninth Circuit is split into at least three circuits.

By the end of the 108th Congress, 103 nominees were confirmed—18 court of appeals judges and 85 district court judges. At the close of the 108th Congress, there were a total of 33 judicial vacancies—14 in the U.S. courts of appeals and 19 in the U.S. district courts. The vacancy rate for district courts has fallen to 2.8 percent but the rate for appellate courts has risen to 7.8 percent. Nine circuit nominees were blocked on the Senate floor by minority senators.

Ninth Circuit Split

The Administrative Oversight and the Courts Subcommittee of the Senate Judiciary Committee held a hearing on the several proposals to split the Ninth Circuit Court of Appeals into either two or

the court. Judges Diarmuid O'Scannlain and Richard Tallman presented numerous sets of statistics concerning the geographic and workload burdens associated with the current composition of the circuit and argued that the plans for the Nakamura courthouse in Seattle could be modified to house a circuit headquarters at minimal cost increases over expected expenditures.

Late in the session, the House approved an amendment to the pending judgeship bill to create a three-way circuit split. The Senate failed, however, to take up the bill before adjournment.

Victims' Rights and DNA

On October 30, 2004, the President signed into law the Justice for All Act of 2004. The law includes provisions pertaining to victims' rights and DNA testing. The victims' rights provisions require the Department of Justice to notify victims of federal crimes of the various rights afforded them, including the right to be reasonably protected from the accused; the right to notice of any public court or parole proceeding involving the crime, or of any release or escape of the accused; the right not to be excluded from any such public court proceeding; the right to be reasonably heard at any public proceeding in district court involving release, plea, or sentencing, or at any parole proceeding; the right to confer with the attorney for the government; the right to full and timely restitution as provided by law; the right to proceedings free from unreasonable delay; and, the right to be treated with fairness and respect for dignity and privacy.

The law further provides that if there is an allegation that any of these rights has been denied by the

district court, the victim or government may petition the court of appeals for a writ of mandamus. The Administrative Office must submit annual reports to Congress stating, for each federal court, the number of times that relief is denied upon assertion of a victim's right, the reason for such denial, as well as the number of times a mandamus action is brought, and the result reached.

The DNA provisions address the large backlog of DNA evidence that awaits analysis, authorize funding to promote use of DNA evidence, and establish rules for post-conviction DNA testing of federal prison inmates and for the preservation of biological evidence in federal criminal cases.

E-Government Act

On August 2, 2004, the President signed into law amendments to the E-Government Act of 2002 to implement Judicial Conference policies on privacy and public access to electronic case files. In requiring Supreme Court rules to protect privacy and security concerns related to electronic filings and public availability of electronic documents, the new law allows for a rule that would protect personal data identifiers, including social security account numbers, from public disclosure.

Dental and Vision Benefits

On December 23, 2004, the President signed P. L. 108-496 authorizing the Office of Personnel Management to establish supplemental group dental and vision benefits coverage programs by 2006 for all federal employees—including judges—their dependents, and retirees. Coverage would be available regardless of whether an individual was enrolled in the federal health benefits program. The program would be voluntary and enrollees would pay the entire cost of the premiums.

Other Legislation

The Judiciary also was interested in several bills that could have affected its operations but were not enacted. Judges, Director Mechem, and Administrative Office staff worked to raise congressional aware-

ness of relevant Judicial Conference positions as the legislation, summarized as follows, was considered.

Bankruptcy Reform Legislation

Early in the 2004 session, the House took up a bill passed by the Senate in 2003 to extend Chapter 12 of the bankruptcy code (family farmers), but substituted the language of bankruptcy reform legislation that had previously passed the House.

The reform legislation included several provisions of concern to the Judiciary, including a bankruptcy judgeship provision superseded by the Judicial Conference recommendation of September 2002, and creating a duty on the part of the bankruptcy clerks to maintain and control access to federal tax returns filed by debtors. It also specified a duty on the part of the bankruptcy clerks and the Administrative Office to collect and report financial data of debtors, revision of filing fees and re-allocation of derived revenues to the Executive Office for United States Trustees, and direct appeal of bankruptcy cases. The Senate took no action on the House-passed bill before adjournment.

Drug Crimes

The House Judiciary Crime Subcommittee approved drug crime legislation with various provisions opposed by the Judicial Conference. These included mandatory minimum sentences, direct amendment of the sentencing guidelines, and narrowing of the "safety valve" provision enacted in 1994 to ameliorate some of the harshest results of mandatory minimum sentences with respect to first-time non-violent drug offenders.

Social Security Account Numbers

The House Ways and Means Committee reported out legislation to prevent misuse of Social Security account numbers. The bill would prohibit the public disclosure of redacted Social Security account numbers by a "judicial agency" effective six years after the promulgation of implementing regulations by the Attorney General, unless those regulations provide for an exemption. It would subject access and control of Social Security account numbers by Judi-

The Judicial Conference reiterated its support for a national solution to help resolve asbestos personal injury claims.

ciary employees to regulation by the Commissioner of Social Security.

Congressional Oversight of Government Telecommunications Program

AO staff testified before the House Committee on Government Reform regarding the collaboration of the Judiciary with the General Services Administration to provide the federal courts with a comprehensive set of integrated, cost-effective and highly reliable voice and data services.

Class Action Fairness Act

Class action legislation passed the House in the first session and was considered by the Senate late in the second session, but the 108th Congress ended without class action reform. The bill would generally have provided for original federal jurisdiction over class actions involving minimal diversity between adverse parties where the amount in controversy exceeds \$5 million in aggregated damages. The legislation would also have provided special rules for the removal of class actions from state to federal court.

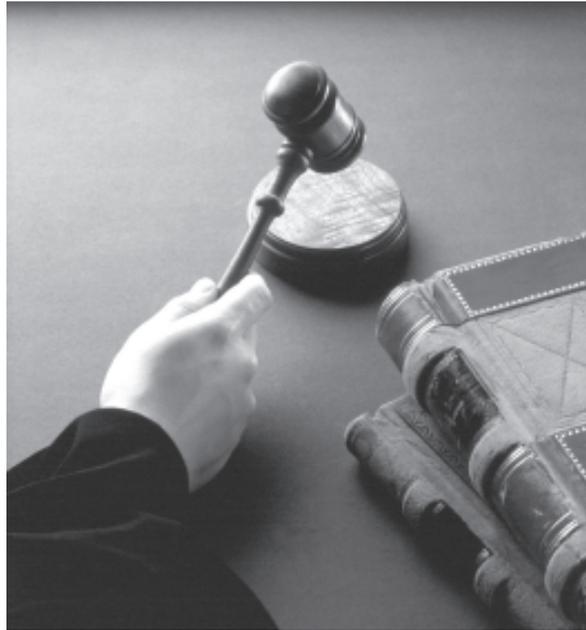
The Judicial Conference adopted a position in March 2003 recognizing that the use of minimal diversity of citizenship may be appropriate to the maintenance of significant multi-state class action litigation in the federal courts. The Conference continued to oppose class action legislation with jurisdictional provisions that are similar to those in the bills introduced in the 106th and 107th Congresses.

The Fairness in Asbestos Injury Resolution Act of 2004

During the first session, the Senate Judiciary Committee favorably reported asbestos legislation by a slim margin. Revised asbestos legislation introduced and debated in the Senate during the 108th Congress was not passed. The legislation would have established a non-adversarial administrative processing system for the resolution of asbestos personal injury

claims to have been administered by the Department of Labor. The legislation would generally have applied to pending asbestos cases in federal and state courts.

During consideration of asbestos legislation in the 108th Congress, the Judicial Conference reiterated its support for a national solution, which it first urged Congress to support in 1991. It also commented on provisions in the asbestos legislation affecting the administration of the federal courts. ■



Judges and Judgeships

Overall compensation of federal judges continues to lag seriously behind the growth of salaries and benefits received by those in comparable legal positions in private firms and academia.

Article III Judgeships

At the request of the Subcommittee on Judicial Statistics, AO staff worked with the Federal Judicial Center to develop new case weights for the district courts, based on input from judges nationwide, which the Committee on Judicial Resources approved in 2004. The Subcommittee also reviewed the materials and standards to be used in the 2005 Biennial Judgeship Survey of Judgeship Needs and developed preliminary recommendations for additional judgeships in the courts of appeals and district courts. In addition, the Subcommittee responded to cost-containment proposals from the Executive Committee, addressed improved statistical data collection and reporting within the Judiciary, and discussed the Conference policy regarding release of judge-specific data.

Bankruptcy Judgeships

There are currently 324 authorized bankruptcy judgeships. The Judicial Conference has a statutory duty to report to Congress every two years on the need for additional judgeships. To assist the Conference in fulfilling this duty, the Committee on the Administration of the Bankruptcy System conducts a national “additional needs” survey of all judicial districts. Administrative Office staff prepare statistics for review by the districts and circuit councils, conduct on-site surveys of requesting districts, and produce detailed reports and recommendations. During the 2004 survey, additional judgeships were requested by 31 districts. The Bankruptcy Committee will make its recommendations to the Judicial Conference at the March 2005 session.

AO staff supported the rules committees' work during 2004, and also advised them on some 39 separate pieces of legislation introduced in, or passed by, Congress that could affect the federal rules of practice, procedure, and evidence.

assignments. Both guidelines were approved by the Chief Justice in July 2004. The Chief Justice approved both guidelines in July 2004.

Since additional bankruptcy judgeships were last authorized in 1992, the combination of inadequate numbers of authorized judgeships and a record-breaking national bankruptcy caseload has caused a judicial crisis in many bank-

The Senate approved 28 bankruptcy judgeships—the first since 1992. The House insisted on linking judgeships to bankruptcy reform legislation, which failed in the Senate Judiciary Committee.

Magistrate Judge Positions

In fiscal year 2004, there were 487 full-time and 50 part-time magistrate judge positions, and three combination clerk-magistrate judge positions. For fiscal year 2005, another eight new full-time positions were authorized by the Judicial Conference, two of which represent conversions of existing part-time positions to full-time status. The increase is due to district courts' caseload growth and their expanded use of magistrate judges.

Inter- and Intra-Circuit Assignments

The Conference Committee on Intercircuit Assignments reported that between January 1 and June 30, 2004, the Chief Justice approved a total of 56 inter-circuit assignments for 44 Article III judges. To help evaluate the costs and benefits of the program, the Committee recommended that the Administrative Office collect additional data on inter-circuit assignments. The Committee also requested the Committee on Judicial Resources to consider collecting data on *intra-circuit assignments* to ensure that data are collected on all visiting judge assignments. After determining that there should be more flexibility given to courts for requesting inter-circuit assignments, the Committee recommended to the Chief Justice a change to the guideline related to the lender-borrower rule. The Committee also proposed to the Chief Justice a new guideline related to long-term

ruptcy courts. Over the past year, 10 bankruptcy courts awaiting authorization of additional bankruptcy judgeships utilized intra-circuit and inter-circuit assignments to address their overwhelming caseloads. Intra-circuit assignments also help single-judge districts when a conflict of interest arises for the resident judge.

For the 12-month period ended June 30, 2004, bankruptcy judges reported 8,954 hours voluntarily assisting other districts. Bankruptcy judges reported expending 3,677 hours on intra-circuit trial-and-case-related work. Inter-circuit assignments accounted for 2,577 hours of extra-district service during the same time period. Administrative Office staff monitored and reported extra-district assignments, and assisted in identifying bankruptcy judges available and willing to serve on inter-circuit assignments. Nine retired bankruptcy judges were voluntarily recalled to participate in extra-district assignments. An average of 35 bankruptcy judges were recalled to service in FY 2004.

Federal Rules of Practice and Procedure

The Judicial Conference Committee on Rules of Practice and Procedure and its five advisory rules committees propose amendments to the rules that govern all federal court proceedings and affect the entire legal system.

AO staff supported the rules committees' work during 2004 and also advised them on some 39 separate pieces of legislation introduced in, or passed by, the Congress during FY 2004 that could affect federal rules of practice, procedure, and evidence. Staff now use an electronic document management system to

file, review, edit, search, index, and track rulemaking documents.

Public comment now is accepted on proposed amendments to the federal rules of practice and procedure via the Judiciary's improved and expanded Federal Rulemaking Internet web site, at <http://www.uscourts.gov/rules/>. Users can review Rules Committee minutes and research the legislative history of rules amendments considered during the past decade.

Status of Proposed Rules Amendments

On April 26, 2004, the Supreme Court approved amendments to the Federal Rules of Bankruptcy and Criminal Procedure. The amendments to the Criminal Rules include comprehensive style and substantive amendments to several rules, which took effect on December 1, 2004.

The Judicial Conference approved additional amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure at its September 2004 session for submission to the Supreme Court. The proposed amendments to the Appellate Rules included a new rule establishing comprehensive procedures governing cross-appeals. Proposed amendments to Criminal Rules 29 (judgment of acquittal), 33 (new trial), 34 (arresting judgment), and 45 (computing and extending time) permit a court to extend the time for filing post-trial motions under these rules in certain conditions. Proposed new Criminal Rule 59 (magistrate judges) deals with the handling of dispositive and non-dispositive matters by a magistrate judge.

Judges' Orientation and Benefits Programs

Last year, staff conducted orientations for Article III and Article I judgeship nominees on topics such as judicial governance, court personnel and procurement management, chambers staffing, judicial ethics, benefits, and personal security. Chief judge orienta-



tions address information targeted to their management and oversight responsibilities. A program of personalized follow-up sessions for relatively new chief judges who have identified specific needs for information has been temporarily discontinued due to budget constraints. In addition, in response to magistrate judges' requests, the Administrative Office offered a presentation on the history and progress of the magistrate judges system.

Information on benefit choices and retirement options also was presented to judges at various stages in their careers. Particular efforts were dedicated to providing information to judges and their spouses related to the Federal Employees Group Life Insurance (FEGLI) open season. Several programs were presented as part of the Federal Judicial Center's live

The Judges Information Series of publications added a title during 2004 covering travel regulations for judges. Staff work with committees to develop concise reference publications for judges, in response to frequent requests for information.



Judge Fern Smith (California-Northern) greeted a delegation from China, one of many international judicial visitors to the Administrative Office during last year. Judge Smith chairs the Committee on International Judicial Relations.

and video orientation programs for new Article III judges, bankruptcy judges, and magistrate judges, including programs related to retirement planning.

Chief Judges' Budget Training

Throughout FY 2004, the AO staff provided instruction and training to

more than one dozen chief judges participating in the Chief Judge Orientation sessions sponsored by the AO. These briefings highlighted the chief judge's roles and responsibilities with regard to financial management, stewardship issues, and a general overview of the Judiciary's budget process. Additionally, staff reviewed current budget and staffing data with the judges pertaining to their respective court units.

Staff also participated in the Federal Judicial Center's annual seminars for bankruptcy and district court chief judges. At these sessions, chief judges were briefed on the potential budget shortfalls facing

the Judiciary in FY 2005 and beyond. They were also encouraged to contact and educate their local congressional delegations about the Judiciary budget.

Financial Disclosure

The Judicial Conference Committee on Financial Disclosure and the Administrative Office informed new judges on financial disclosure filing requirements and procedures, with live and video orientations sponsored by the Federal Judicial Center. Training programs for judges' secretaries and judicial assistants included information to help them assist judges preparing their financial disclosure reports.

This year, at the direction of the Committee on Financial Disclosure, the Administrative Office began a review of the Judicial Conference regulations governing the release of financial disclosure reports. Established internal operating

procedures were reviewed to identify ways of making the release and redaction process more efficient while minimizing the security risks and workload burdens for the Judiciary's filers. Initial staff efforts have reduced the time to process public requests for copies of judges' financial disclosure reports by about 50 percent.

International Judicial Relations

Maintaining an international dialogue about the rule of law continued to be an important task for the Judicial Conference Committee on International Judicial Relations and the Administrative Office this past year. Requests for information and assistance came from the judiciaries of other countries, international organizations, and U.S. Government agencies involved in judicial reform and rule-of-law activities. In 2004, The AO hosted approximately 200 Russian judges as part of the Open World Program sponsored by the Library of Congress, which also took the judges to state and federal courts around the country. Briefings were also conducted for 65 international

delegations, including over 445 judges, court administrators and other officials from more than four dozen countries. U.S. judges and court administrators participated in many of these briefings via videoconference.

Administrative Office staff also initiated a project to record the experience and insights of U.S. judges and court administrators who have been involved in international judicial reform and rule-of-law activities. Staff interviewed over 25 judges and clerks in person or by telephone.

Briefings on bankruptcy court operations were held at the AO for visiting Russian judges of the Arbitrazh Courts, which handle commercial disputes. Staff also conducted briefings on the bankruptcy court system for a judge and court administrator from Japan, and contributed to a monograph by the International Association of Insolvency Regulators with an article discussing the problem of abuse of the reorganization process.

Federal Law Clerk Information System

The Federal Law Clerk Information System (FLCIS) lists law clerk employment opportunities within the federal courts on the Judiciary's public web site, www.uscourts.gov. In 2004, 60 percent of all judges participated in the program. The database proved to be a useful resource for potential law clerk applicants, supporting more than 4,600 search inquiries per day by year's end. A sudden increase in inquiries in July and August indicated that potential applicants used the system to search for clerkship opportunities earlier than in years past. Efforts are ongoing to provide assistance and advice to judges on the benefits of the system.

Publications for Judges

The Administrative Office is in the final stage of revising the Judges Information Series handbook, *Getting Started as a Federal Judge*. The second edition of this booklet, scheduled for publication in the coming year, includes significant revisions to reflect administrative, legal, legislative, and policy changes

since the original publication of *Getting Started* in 1997. The revised publication includes a new chapter on judges' stewardship responsibilities, substantive updates of pay and benefit information, and significantly updated sections relating to information technology programs for judges, statistics, emergency preparedness, and security.

In addition, work was completed this year on *A Brief Guide to Judges' Travel* and a companion "quick reference" brochure, made available on the Judiciary's intranet. This resource, the ninth title in the Judges Information Series, offers a concise description of the travel regulations and policies applicable to U.S. judges.

Various memoranda have been sent to the courts summarizing significant recent cases that address the authority of magistrate judges. In addition, newly updated bulletins and supporting material on the effective use of magistrate judges have been distributed to courts seeking advice on this topic. ■