

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

May 17, 2017

INTRODUCTION

Chairman Graves, Ranking Member Quigley, and members of the Subcommittee, I am pleased to appear before you today in my dual role as Director of the Administrative Office of the United States Courts (AO) and as Secretary of the Judicial Conference of the United States. As Director of the AO, I am here to discuss the work of my organization and present its fiscal year 2018 budget request. As Secretary of the Judicial Conference, which is the policy making and governance body for the Judiciary, I offer my support for the overall request for the entire Judicial Branch and ask for the Subcommittee's assistance on a handful of Conference priorities that extend beyond the Judiciary's budget, including the extension of temporary judgeships and the sufficient funding of judicial priorities within the General Services Administration's budget.

Before turning to those subjects, I would first like to join Judge Gibbons in thanking the Subcommittee for all of the support you provide the Judiciary. We are cognizant of the government-wide fiscal environment and of the constraints imposed on the Subcommittee by your annual funding allocation, and the knowledge of these limitations makes us all the more grateful that the Subcommittee has continued to place a high priority on meeting the funding requirements of our branch. Every day we endeavor to validate the wisdom of your support through both the quality of our work and our commitment to efficient and cautious use of the resources you have provided. You can be assured that we will continue to pursue that commitment going forward and, consistent with our historical practice, we will refine our estimate of our budget needs throughout the year with the goal of seeking from you only the minimum amount necessary to fulfill our mission.

ADMINISTRATIVE OFFICE OF THE U.S. COURTS

The federal court system is decentralized in many ways, and it has no traditional headquarters. Operational and administrative decision making rests largely in the field, with court units and federal defender offices often making autonomous decisions according to local priorities and needs, consistent with overarching policies established by the Judicial Conference. The AO provides general support to those offices, makes decisions on nationally oriented programs, and provides "best practices" guidance to promote efficiencies at the local level. The

AO also supports the Judicial Conference by staffing its 25 committees and facilitating Conference decision making on judicial administration, law, and policy, including issues such as the development and approval of the Judiciary's budget request and oversight of the branch's cost containment efforts. In addition, the AO provides direct support to court units and federal defender offices, such as financial management services and personnel and payroll support; performs other functions that cannot be conducted efficiently or effectively at the local level, such as legislative affairs and accounting coordination with the Department of Treasury; conducts audits and reviews to ensure the integrity of court operations; and develops and supports the implementation of new technologies and business processes for the use of court units and federal defenders.

I take our responsibility as a service providing organization very seriously and am immensely proud of the myriad ways in which the AO contributes to the nation's justice system through our advancement of efficiencies and effectiveness in the field.

Enhancing the Work of the Judiciary

One of the key roles of the AO, as described above, is to develop or promote new ways of doing business that allow the Judiciary to accomplish its work better or more efficiently. Sometimes this means that a new technology solution or business process is created by the AO and offered to the court and defender communities. Other times, the AO takes note of innovative ideas generated locally in a single judicial district or circuit and helps to scale those ideas so that they can be offered nationally as an efficiency measure or as a solution to common problems facing all districts and circuits.

One such locally developed initiative that the AO has helped to turn into a national solution is the eVoucher system. eVoucher was created in the District of Nevada when the judges and staff there were looking for an automated method of processing voucher payments for the private panel attorneys who are appointed to represent indigent defendants. After demonstrating the system's broader utility, the developers in Nevada began working with the AO to transition eVoucher to a national system, and today eVoucher is live in every district and appellate court. It allows courts to run automated workflows for processing panel attorney payments, and it includes useful management functions such as automatic error checks. Future updates of eVoucher will enable better reporting on and analysis of national voucher trends, which will help to improve our forecasts of budgetary needs for panel attorney payments.

As an example of a more centrally-driven project, the AO is nearing completion of the deployment of a new, single integrated financial management and procurement system, called JIFMS, which will serve the entire Judiciary. JIFMS is based on a commercial off-the-shelf system, which was modified for our particular needs, and was first deployed as a pilot project within the AO in 2013. Since that time, and after a process of software modification, policy development, data migration, and training, the AO has transitioned all of the circuit court units

and most of the district courts, bankruptcy courts, probation and pretrial offices, and federal public defender offices to the new system. The completion of this transition will give the Judiciary a system that is more secure, better integrated with our other administrative systems, and capable of providing near-real time management data. It also will improve our national financial reporting and modernize our disbursing activities. JIFMS implementation is projected to be completed in early fiscal year 2018, on schedule and on budget.

Many of the AO's initiatives are intended expressly to further the Judiciary's cost containment goals. For example, the AO's Facilities and Security Office (FSO) just completed a renovation of its space in the Thurgood Marshall Federal Judiciary Building to model a relatively new space planning concept called the Integrated Workplace Initiative (IWI). IWI combines design elements, like open floor plans, modular furniture, and dedicated collaboration spaces, with business process changes, such as an increased reliance on telework and a conversion to paperless work environments. By implementing IWI, FSO reduced its space footprint by 25%, freeing up enough space that we are able to close a leased facility in Reston, Virginia, and consolidate its employees into the Thurgood Marshall Building for an annual rent savings of \$3 million. Having a functioning IWI workspace at the AO also allows visiting judges and court staff to see the practical benefits of IWI for themselves and, we believe, will encourage the further use of IWI concepts as courts continue to apply for space reduction funding in fiscal years 2017 and 2018 to meet their goals under our space reduction and "no net new" initiatives.

Enhancing the Work of the AO

Beyond the AO's efforts to improve and support the operations of the Judiciary as a whole, we are also working to improve our own operations. Since I last testified before this Subcommittee, the AO took a major step toward objectively assessing its performance by seeking the views of its employees and engaging the Office of Personnel Management to administer at the AO the same Employee Viewpoint Survey that has been used in the Executive Branch for a number of years. The results of the survey provided us with comprehensive data on where our employees think we are succeeding and where we could do better and permitted us to benchmark our data against those of the rest of the government.

I am pleased to note that the AO's results either matched or outperformed the Executive Branch average in nearly all categories for the most comparable year. While the positive results were gratifying, we also identified a number of areas in which the AO can improve. I created employee engagement teams to focus on four areas for improvement and assist managers in responding to the survey's feedback. I look forward to continuing to support this effort as we strive to ensure that the AO remains a rewarding, challenging and productive place to work.

AO Fiscal Year 2018 Budget Request

To facilitate the work of the AO in fiscal year 2018, our appropriation request totals \$90.3 million. That is an increase of \$2.8 million, or 3.2 percent, over fiscal year 2017. As part

of our commitment to efficiency and to maximizing the resources that can be invested directly into the courts and federal defender offices, the AO's budget request represents a current services level only. The additional resources requested are necessary to maintain current staffing by providing for the pay and benefit adjustments expected in fiscal year 2018, but there are no new staff or new spending initiatives included.

Thurgood Marshall Federal Judiciary Building

Judge Gibbons has addressed the costs associated with repairs to the façade of the Thurgood Marshall Federal Judiciary Building in her testimony, and these costs are not borne by the budget of the AO itself. As the largest tenant of the Thurgood Marshall Building, however, the AO is particularly impacted by its problems, and I would like to take this opportunity to emphasize the criticality of these repairs. Testing has revealed that faulty techniques used during the facility's construction in the early 1990s have left the building façade unstable. As a result, portions of the stone may not be firmly attached to the building shell and could fall, thus posing a significant safety risk to AO employees and other tenants, as well as members of the public who happen to be on any of the sidewalks that immediately abut the building. To mitigate this risk temporarily, we are working with the Architect of the Capitol (AOC), who has responsibility for the building, to install protective measures and restrict access to areas considered dangerous. This has already necessitated closing some public sidewalks and relocating our daycare center's playground.

The AOC estimates that the total cost of repairing the façade and ensuring that it meets necessary safety standards is approximately \$36 million. Ideally, the contractor who performed the initial faulty work would bear this cost, but, unfortunately, that company went bankrupt before the AOC sought legal recourse. Our only option now is to seek appropriated funds to repair the façade. We have divided the project into phases, with the first phase focused on the front plaza and subsequent phases addressing additional sides of the building. This phased approach allows us to spread the costs across several fiscal years, resulting in a fiscal year 2018 request of \$10 million.

I recognize that this situation is not optimal, and I find our lack of recourse against the contractor frustrating. The safety of our employees, however, as well as the many other people who are in or around the building, is paramount, and I would greatly appreciate your support for these funds.

TEMPORARY JUDGESHIPS

Having the correct number and location of judicial officers is critical to the effective administration of justice. The Judicial Conference regularly reviews the number and location of both Article III judges (i.e., judges of the district and circuit courts) and bankruptcy judges to assess whether existing judicial resources are sufficient and deployed in the appropriate geographic areas. To the extent that these assessments determine that additional judgeships are

needed, those recommendations are communicated by the Conference to the House and Senate Judiciary Committees for congressional action.

In a number of instances, the Congress has chosen to create new temporary, rather than permanent, judgeships. These judgeships expire after a specified period of time, and a judgeship is lost in the affected court upon the first vacancy—through death, retirement, or elevation to a higher court—occurring after the expiration date. Temporary judgeships serve a useful function by allowing the Judiciary to increase judicial resources in districts with short-term workload needs, but a number of districts with persistent, long-term requirements are currently operating with temporary judgeships. The Conference advocates for the conversion to permanent of all temporary judgeships in districts where the workload is sufficiently heavy as to indicate the need for a permanent investment.

Over the years, this Subcommittee has acted repeatedly to preserve existing temporary district judgeships through annual one-year extensions of their expiration dates while we await a longer term solution from the authorizing committees. We are appreciative that you included these extensions in the recently enacted fiscal year 2017 omnibus bill. As always, the Conference is indebted to the Subcommittee for its willingness to take this step, which ensures that the administration of justice in the affected districts can continue without the disruptive delays and other burdens that would be occasioned by the loss of a critically needed judgeship. Due to uncertainty about the ability of the House and Senate Judiciary Committees to take action to extend or convert these judgeships in fiscal year 2018, our fiscal year 2018 request includes the legislative language needed to once again extend for one year the temporary district judgeships in Alabama Northern, Arizona, California Central, Florida Southern, Kansas, Missouri Eastern, New Mexico, North Carolina Western, and Texas Eastern. I will soon transmit to Congress, on behalf of the Judicial Conference, the Judiciary's latest Article III judgeship recommendations. We will advise the Subcommittee if these recommendations impact our request for one year extensions for any of the aforementioned temporary judgeships.

A more recent challenge has been the preservation of existing temporary bankruptcy judgeships. Several dozen of these judgeships were created in the 109th Congress, and their authorizations were extended in fiscal year 2012 for five years, through May 25, 2017. In the absence of authorizing legislation to extend or convert them by their expiration date, this Subcommittee agreed to include for the first time one-year extensions for a subset of seven of these temporary bankruptcy judgeships in the fiscal year 2017 Financial Services and General Government appropriations bill. These seven judgeships—one each in Michigan Eastern, Puerto Rico, and Virginia Eastern, and two each in Delaware and Florida Southern—remain critically needed, and the expiration and loss of any of these seven would have drastic impacts on the ability of these districts to process their bankruptcy caseload in a reasonable manner. For that reason, without intervening action by the Judiciary Committees to convert or extend these judgeships, I also urge the Subcommittee to once again extend these seven temporary bankruptcy

judgeships for an additional year through the fiscal year 2018 Financial Services and General Government appropriations bill.

JUDICIARY CONSTRUCTION PRIORITIES

Like most other federal entities, the Judiciary is a client of the General Services Administration (GSA), which manages the rental of existing space to Judiciary tenants, the renovation or alteration of that space when needed, and the construction of new courthouses and federal buildings, as required. It is GSA's responsibility to secure the funding needed to undertake major renovations and new construction, but, given the importance of sufficient adequate space to accomplish our constitutional and statutory mission, I would like to discuss briefly the Judiciary's priorities for construction activities administered by GSA.

Capital Security Program

The Judiciary Capital Security Program (CSP) is a special emphasis program within the GSA Federal Buildings Fund. CSP was designed to address serious security deficiencies in existing courthouse buildings where physical renovations, such as constructing secure corridors and elevators, enclosing prisoner drop-off areas, and reconfiguring security screening areas, are viable alternatives to new construction. This program is a valuable, cost-effective solution to achieving greater security at existing courthouses nationwide. In fact, a recent GAO study favorably characterized both the program's ability to achieve its goals and improvements made in its management and coordination.

The CSP was first funded in fiscal year 2012 and has since funded projects in Georgia, Illinois, Kentucky, Puerto Rico, the Virgin Islands, Louisiana, Texas, Arkansas, and North Carolina. Projects are prioritized and selected through a collaborative process involving stakeholders from the Judiciary, the United States Marshals Service, and GSA and then implemented with GSA funding. For fiscal year 2018, we identified \$23.4 million of CSP priorities for continued work in Kentucky and Puerto Rico, which will improve the security provided to occupants and visitors at these federal court facilities. As with all of our fiscal year 2018 budget priorities, we intend to update this number to reflect the impact of final enacted 2017 appropriations, which were not available at the time that our request was submitted, and will advise the Subcommittee of any changes necessitated by fiscal year 2017 funding outcomes.

New Courthouse Construction

While the CSP helps to improve security conditions at courthouses, it is not a solution to all of the space problems faced by the Judiciary. Many court facilities around the country face not only serious security deficiencies but also a critical lack of sufficient courtroom or chambers space, as well as deteriorated building infrastructure and chronic maintenance issues. In these latter circumstances, the only feasible solution is to build a new courthouse or an annex to an existing courthouse to meet the operational needs of the court.

We remain extraordinarily grateful to the Subcommittee for its support of an unprecedented courthouse construction appropriation in fiscal year 2016. After several fiscal years with no funded courthouse projects, the 2016 appropriation is supporting the full costs of two joint courthouses/federal buildings (Greenville, MS, and Rutland, VT) and eight courthouse projects (Nashville, TN; Toledo, OH; Charlotte, NC; Des Moines, IA; Greenville, SC; Anniston, AL; Savannah, GA; and San Antonio, TX), as well as the partial costs of a ninth courthouse (Harrisburg, PA). These courthouses represent the top priorities of the Judiciary as reflected on the fiscal year 2016 Courthouse Project Priorities (CPP) list, and the advancement of these projects will do much to enhance the Judiciary's operations in those communities.

For GSA to receive such a large courthouse construction appropriation all in one fiscal year was both an exciting opportunity and a significant management challenge. The Judiciary, including the affected courts and my staff at the AO, worked tirelessly with GSA to allocate this funding to projects, finalize housing requirements, and agree on design concepts on a schedule that was significantly more aggressive than had ever before been achieved in the courthouse construction program. As a result, all but one project has received authorization from the House Committee on Transportation and Infrastructure and the Senate Committee on the Environment and Public Works, and significant progress is being made on all projects. If all goes according to the current plan, construction will begin on the first project later this year, and the first occupancy will occur as soon as 2020.

In the event that Congress makes additional construction funding available to GSA for more courthouse projects in fiscal year 2018, we ask that such funding be allocated consistent with the priorities expressed on the most recent version of the Judiciary's CPP, which was approved by the Judicial Conference in September 2016. The approved list reflects the removal of the eight courthouse projects fully funded in fiscal year 2016 (joint federal buildings/courthouses are prioritized by GSA and do not appear on the CPP) and the addition of several new projects based on their urgency evaluation scores calculated as part of the Judiciary's Asset Management Planning process. The new CPP's listed fiscal year 2018 construction priorities are: \$140 million for the completion of the Harrisburg, PA, project; \$110 million for site acquisition, design, and construction of a new courthouse in Huntsville, AL; and \$190 million for site acquisition, design, and construction of a new courthouse in Fort Lauderdale, FL.

CONCLUSION

Chairman Graves, Ranking Member Quigley, and members of the Subcommittee, thank you for the opportunity to highlight some of the work of the AO and to advocate for the funding and other support needed to allow the AO and the Judicial Branch, as a whole, to continue achieving their missions.

I understand that fiscal year 2018 is likely to be another year of constrained funding, and it surely will be a challenge for you to work creatively to meet the needs of the many agencies and programs under your jurisdiction. I thank you, however, for recognizing that unlike the agencies, the Judiciary is one of the three branches created in the Constitution and that the effective functioning of the Judicial Branch is a necessary prerequisite to the effective functioning of our democracy. By providing the resources needed by the AO and the rest of the branch, as well as supporting the continued extension of temporary judgeships and the funding of Judiciary priorities at GSA, you are ensuring that the Judiciary continues to perform its vital role as intended and required.

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