COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES
Salaries and Expenses

SUMMARY STATEMENT OF ACCOUNT REQUIREMENTS	Mandatory	Discretionary	Total
Fiscal Year 2021 Salaries and Expenses Enacted Appropriation	$463,271,000	$5,393,701,000	$5,856,972,000
Fiscal Year 2021 Vaccine Injury Compensation Trust Fund Enacted Appropriation	$0	$9,900,000	$9,900,000
Total, Fiscal Year 2021 Enacted Appropriation	$463,271,000	$5,403,601,000	$5,866,872,000
Fiscal Year 2022 Salaries and Expenses Appropriation Request	$475,783,000	$5,651,379,000	$6,127,162,000
Fiscal Year 2022 Vaccine Injury Compensation Trust Fund Appropriation Request	$0	$10,165,000	$10,165,000
Total, Fiscal Year 2022 Appropriation Request	$475,783,000	$5,661,544,000	$6,137,327,000
Requested Increase from Fiscal Year 2021 Enacted Appropriation	$12,512,000	$257,943,000	$270,455,000

APPROPRIATION LANGUAGE

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of judges of the United States Court of Federal Claims, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, necessary expenses of the courts, and the purchase, rental, repair, and cleaning of uniforms for Probation and Pretrial Services Office staff, as authorized by law, [$5,393,701,000]*$5,651,379,000* (including the purchase of firearms and ammunition); of which not to exceed $27,817,000 shall remain available until expended for space alteration projects and for furniture and furnishings related to new space alteration and construction projects.

In addition, there are appropriated such sums as may be necessary under current law for the salaries of circuit and district judges (including judges of the territorial courts of the United States), bankruptcy judges, and justices and judges retired from office or from regular active service.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986 (Public Law 99-660), not to exceed [$9,900,000]*$10,165,000* to be appropriated from the Vaccine Injury Compensation Trust Fund.

(P.L. 116-260 - Financial Services and General Government Appropriations Act, 2021)

SUMMARY OF REQUEST
SALARIES AND EXPENSES
FISCAL YEAR 2022
(Dollar amounts in thousands)

Fiscal Year 2022 Resource Requirements:	**Mandatory**		**Discretionary**		**Total**	
	FTEs	**Amount**	**FTEs**	**Amount**	**FTEs**	**Amount**
Fiscal Year 2021 Available Resources (includes Vaccine Injury Fund)……………….…………	**1,851**	**463,271**	**26,157**	**5,937,833**	**28,008**	**6,401,104**
FY 2020 Encumbered Carryforward …………………………………………………………………	**-**	**-**	**-**	**(168,490)**	**-**	**(168,490)**
Fiscal Year 2021 Obligations (includes Vaccine Injury Fund)………………………………………	**1,851**	**463,271**	**26,157**	**5,769,343**	**28,008**	**6,232,614**
Non-appropriated sources of funding…………………………..……...….……....…...………						
Estimated FY 2021 fee collections…………………………………………………………………	-	-	-	(182,761)	-	(182,761)
Carryforward balances from FY 2020 and prior years into FY 2021………………………………	-	-	-	(182,981)	-	(182,981)
Fiscal Year 2021 Enacted Appropriation (includes Vaccine Injury Fund)…………………………	**1,851**	**463,271**	**26,157**	**5,403,601**	**28,008**	**5,866,872**

Page		Mandatory		Discretionary		Total	
		FTEs	Amount	FTEs	Amount	FTEs	Amount
	Fiscal Year 2021 Base Enacted Appropriation (including Vaccine Injury Fund)…………………	**1,851**	**463,271**	**26,157**	**5,403,601**	**28,008**	**5,866,872**
	Adjustments to Base to Maintain Current Services:						
	A. Judges and Associated Staff						
4.35	1. Pay and benefit cost adjustments						
4.35	a. Proposed January 2022 pay adjustment (1.0% for nine months)…………………………………	-	3,382	-	1,119	-	4,501
4.35	b. Annualization of 2021 pay adjustment (1.0% for three months)…………………………………	-	1,125	-	372	-	1,497
4.36	c. Benefits increases……………………………………………………………………………………						
4.36	i. Health benefits…………………………………………………………………………………	-	403	-	322	-	725
4.36	ii. FICA adjustment………………………………………………………………………………	-	490	-	153	-	643
4.36	iii. FERS adjustment……………………………………………………………………………	-	611	-	1,166	-	1,777
4.36	2. Increase in average number of filled Article III judgeships (10 judge FTE/60 staff FTE)……………	10	2,585	60	6,745	70	9,330
4.37	3. Increase in average number of senior judges (3 judge FTE/13 staff FTE)………………………………	3	775	13	1,330	16	2,105
4.38	4. Increase in average number of filled bankruptcy judgeships (13 judge FTE/40 staff FTE) ………	13	3,141	40	4,550	53	7,691
	B. Court Personnel and Programs						
4.40	5. Pay and benefit cost adjustments						
4.40	a. Proposed January 2022 pay adjustment (1.0% for nine months)…………………………………	-	-	-	25,009	-	25,009
4.40	b. Annualization of 2021 pay adjustment (1.0% for three months)…………………………………	-	-	-	8,209	-	8,209
4.40	c. Promotions and within-grade increases………………………………………………………………	-	-	-	25,009	-	25,009
4.40	d. Benefits increases……………………………………………………………………………………						
4.40	i. Health benefits…………………………………………………………………………………	-	-	-	7,395	-	7,395
4.40	ii. FICA adjustment………………………………………………………………………………	-	-	-	711	-	711
4.41	iii. FERS adjustment……………………………………………………………………………	-	-	-	26,797	-	26,797
4.41	6. Funding necessary to maintain FY 2021 service levels due to anticipated increase in non-appropriated funds ………………………………………………………………	-	-	-	(8,919)	-	(8,919)

Page	C. Other Adjustments	Mandatory FTEs	Mandatory Amount	Discretionary FTEs	Discretionary Amount	Total FTEs	Total Amount
4.42	7. Inflationary and miscellaneous adjustments	-	-	-	25,099	-	25,099
4.42	8. Vaccine Injury Compensation Trust Fund adjustment	-	-	-	265	-	265
4.42	9. GSA space rental and related services						
4.42	a. New space to be delivered in FY 2022	-	-	-	7,267	-	7,267
4.43	b. GSA rent inflation	-	-	-	38,178	-	38,178
4.43	c. Space reduction	-	-	-	(2,000)	-	(2,000)
4.43	d. Other space-related adjustments	-	-	-	38,562	-	38,562
4.46	10. Information technology requirements						
4.46	a. Continued implementation of ongoing information technology projects	-	-	-	29,534	-	29,534
4.46	b. Contractor insourcing savings	-	-	-	(500)	-	(500)
4.47	11. Annualization of staff funded in FY 21 related to the McGirt Decision	-	-	17	1,829	17	1,829
	Subtotal, Adjustments to Base to Maintain Current Services	**26**	**12,512**	**130**	**238,202**	**156**	**250,714**
	Total Current Services Appropriation Required	**1,877**	**475,783**	**26,287**	**5,641,803**	**28,164**	**6,117,586**
	Program Increases:						
4.47	12. New FY 2022 full-time magistrate judges and staff (6 full time new judgeships/ 1 part time judgeship, 5 FTE and 18 staff FTE)	-	-	23	2,992	23	2,992
4.48	13. FY 2022 court support staffing due to workload changes	-	-	74	7,175	74	7,175
4.49	14. Temporary Bankruptcy Law Clerk Program	-	-	5	474	5	474
4.49	15. Judiciary Internet Firewall Service	-	-	-	9,100	-	9,100
	Subtotal, Program Increases	**-**	**-**	**102**	**19,741**	**102**	**19,741**
	Total Fiscal Year 2022 Appropriation Request	**1,877**	**475,783**	**26,389**	**5,661,544**	**28,266**	**6,137,327**
	Total Appropriation Increase, Fiscal Year 2021 to Fiscal Year 2022	**26**	**12,512**	**232**	**257,943**	**258**	**270,455**
	Financing the Fiscal Year 2022 Request:						
	Total Appropriation Request, Fiscal Year 2022	**1,877**	**475,783**	**26,389**	**5,661,544**	**28,266**	**6,137,327**
4.50	16. Estimated FY 2022 fee collections	-	-	-	224,661	-	224,661
4.51	17. Anticipated unencumbered carryforward from FY 2021	-	-	-	150,000	-	150,000
	Total Estimated Obligations, Fiscal Year 2022	**1,877**	**475,783**	**26,389**	**6,036,205**	**28,266**	**6,511,988**

COURTS OF APPEALS, DISTRICT COURTS AND OTHER JUDICIAL SERVICES

Salaries and Expenses ($000)

Activity ($000)	FY 2020 Actuals Direct	FY 2020 Actuals Offsetting Coll.	FY 2020 Actuals Total Oblig.	FY 2021 Assumed Obligations Direct	FY 2021 Assumed Obligations Offsetting Coll.	FY 2021 Assumed Obligations Total Oblig.	FY 2022 Request Direct	FY 2022 Request Offsetting Coll.	FY 2022 Request Total Oblig.
Appeals	687,612	29,172	716,784	708,083	65,783	773,866	740,748	46,524	787,271
District	2,731,624	115,888	2,847,512	2,815,252	261,546	3,076,798	2,945,123	184,973	3,130,096
Bankruptcy	798,519	33,877	832,396	810,577	75,305	885,882	847,970	53,258	901,228
Probation/Pretrial	1,476,294	62,631	1,538,925	1,523,061	141,497	1,664,558	1,593,322	100,071	1,693,393
Total Obligations	5,694,050	241,567	5,935,617	5,856,972	544,132	6,401,104	6,127,162	384,826	6,511,988
Encumbered Carryforward	-	-	-	-	(168,490)	(168,490)	-	-	-
Revised Obligations	**5,694,050**	**241,567**	**5,935,617**	**5,856,972**	**375,642**	**6,232,614**	**6,127,162**	**384,826**	**6,511,988**
Fee Availability		(177,769)	(177,769)		(182,761)	(182,761)		(224,661)	(224,661)
Vaccine Injury Trust Fund		(9,070)	(9,070)		(9,900)	(9,900)		(10,165)	(10,165)
Prior Year Recoveries & Other Adjustments		(20,864)	(20,864)						
Unobligated Balance, Start of Year:									
Encumbered Carryforward		(170,017)	(170,017)						
Unencumbered Carryforward		(212,641)	(212,641)		(182,981)	(182,981)		(150,000)	(150,000)
Unobligated Balance, End of Year:									
Encumbered Carryforward		168,490	168,490						
Unencumbered Carryforward		182,981	182,981		150,000	150,000			
Transfer from Fee of Jurors		(2,677)	(2,677)						
Anticipated Financial Plan Savings					(150,000)	(150,000)			
Appropriation	**5,694,050**	**-**	**5,694,050**	**5,856,972**	**-**	**5,856,972**	**6,127,162**	**-**	**6,127,162**
Mandatory			**437,816**			**463,271**			**475,783**
Discretionary (Direct)			**5,250,234**			**5,393,701**			**5,651,379**
CARES Act Supplemental Appropriation			**6,000**			**-**			**-**

Carryforward (Unobligated Balance) Analysis ($000)

	FY 2020 Actuals Encumbered	FY 2020 Actuals Unencumbered	FY 2020 Actuals Total	FY 2021 Assued Obligations Encumbered	FY 2021 Assued Obligations Unencumbered	FY 2021 Assued Obligations Total	FY 2022 Request Encumbered	FY 2022 Request Unencumbered	FY 2022 Request Total
Start of Year:									
Fee Account	(97,194)	(177,769)	(274,963)	(89,042)	(163,791)	(252,833)	-	(150,000)	(150,000)
Judiciary Information Technology Fund	(62,937)	(34,872)	(97,809)	(44,092)	(19,190)	(63,282)	-		-
S&E No-Year Funds	(9,886)	-	(9,886)	(35,356)	-	(35,356)	-		
Subtotal (Unobligated Balance)	*(170,017)*	*(212,641)*	*(382,658)*	*(168,490)*	*(182,981)*	*(351,471)*	-	*(150,000)*	*(150,000)*
End of Year:			-	-	-	-	-	-	-
Fee Account	89,042	163,791	252,833	-	-	-	-	-	-
Judiciary Information Technology Fund	44,092	19,190	63,282	-	-	-	-	-	-
S&E No-Year Funds	35,356	-	35,356	-	-	-	-	-	-
Anticipated Financial Plan Savings[1]	-	-	-	-	150,000	150,000	-	-	-
Subtotal (Unobligated Balance)	*168,490*	*182,981*	*351,471*	-	*150,000*	*150,000*	-	-	-

[1]/Anticipated Financial Plan Savings for FY 2021 into FY 2022 ($150 million) would include unobligated balances from the Fee Account, the Judiciary Information Technology Fund, and S&E No-Year Funds.

COURTS OF APPEALS, DISTRICT COURTS AND OTHER JUDICIAL SERVICES
Salaries and Expenses
Obligations by Budget Object Class ($000)

	FY 2020 Actuals			FY 2021 Assumed Obligations			FY 2022 Request		
Description ($000)	Direct	Offsetting Coll.	Total Oblig.	Direct	Offsetting Coll.	Total Oblig.	Direct	Offsetting Coll.	Total Oblig.
1100 Personnel compensation	2,731,180	115,869	2,847,049	2,719,707	252,670	2,972,377	2,882,359	181,031	3,063,390
1200 Personnel benefits	965,861	40,976	1,006,837	986,510	91,650	1,078,160	1,045,677	65,675	1,111,352
1300 Benefits for former personnel	8,348	354	8,702	9,070	843	9,913	9,743	612	10,355
2100 Travel	27,994	1,188	29,182	36,833	3,422	40,255	39,717	2,494	42,211
2200 Transportation of Things	4,227	179	4,406	4,347	404	4,751	4,576	287	4,863
2310 Rental payments to GSA	1,005,531	42,659	1,048,190	989,066	91,888	1,080,954	1,109,908	69,710	1,179,618
2320 Rental payments to others	44,608	1,892	46,500	41,352	3,842	45,194	44,693	2,807	47,500
2330 Communications, utilities & misc	93,717	3,976	97,693	104,078	9,669	113,747	112,592	7,071	119,663
2400 Printing and reproduction	7,364	312	7,676	7,546	701	8,247	7,972	501	8,473
2500 Other services	264,048	11,202	275,250	302,561	28,109	330,670	229,904	14,439	244,343
2600 Supplies and materials	11,185	475	11,660	19,165	1,780	20,945	20,178	1,267	21,445
3100 Equipment	47,882	2,031	49,913	170,817	15,870	186,687	148,976	9,357	158,333
9100 Financial transfers	482,106	20,453	502,559	465,919	43,285	509,204	470,869	29,574	500,443
Total Obligations	5,694,050	241,567	5,935,617	5,856,972	544,132	6,401,104	6,127,162	384,826	6,511,988
Encumbered Carryforward	-	-	-	-	(168,490)	(168,490)	-	-	-
Revised Obligations	**5,694,050**	**241,567**	**5,935,617**	**5,856,972**	**375,642**	**6,232,614**	**6,127,162**	**384,826**	**6,511,988**

COURTS OF APPEALS, DISTRICT COURTS AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

Summary of Mandatory Obligations

	FY 2021 Enacted		FY 2022	
	No. of Authorized Judgeships	Compensation ($000)	No. of Authorized Judgeships	Compensation ($000)
Circuit Judgeships	167	43,869	167	44,478
District Judgeships	677	154,615	677	159,181
Senior/Retired Judgeships		180,235		182,834
Bankruptcy Judgeships	345	84,553	345	89,290
Total	**1,189**	**463,271**	**1,189**	**475,783**

COURTS OF APPEALS, DISTRICT COURTS AND OTHER JUDICIAL SERVICES

Summary of Personnel Compensation and Benefits by Activity

	FY 2020		FY 2021		FY 2022					
	Actual		Financial Plan		Adj. to Base		Workload Adj.		Total Request	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Program		**($000)**		**($000)**		**($000)**		**($000)**		**($000)**
Appeals										
Judges										
Article III Judges										
Active	166	42,143	167	43,869	-	609	-	-	167	44,478
Senior	119	29,693	116	29,980	2	635	-	-	118	30,615
Retired	27	6,369	29	7,741	-	105	-	-	29	7,846
Court Staff										
Article III Judges' Staff	1,180	129,369	1,190	133,135	10	2,212	-	-	1,199	135,347
Circuit Executives	309	46,992	332	54,950	-	1,440	-	-	332	56,390
Clerks Offices	589	68,226	563	72,321	-	1,895	-	-	563	74,216
Staff and Preargument Attorneys	557	85,260	562	90,302	-	2,366	5	644	567	93,312
Librarians	215	27,344	219	29,406	-	770	-	-	219	30,176
Bankruptcy Appellate Panels	13	1,871	14	2,012	-	53	1	58	15	2,123
Total Appeals	3,175	437,267	3,191	463,715	12	10,085	6	702	3,209	474,502
District										
Judges										
Article III Judges										
Active	599	144,117	627	154,615	10	4,567	-	-	636	159,181
Senior	476	109,896	469	113,041	1	1,718	-	-	470	114,759
Retired	112	23,921	123	29,473	-	141	-	-	123	29,614
Magistrate Judges	555	142,824	568	148,847	-	3,004	6	1,194	574	153,045
Court of Federal Claims Judges	17	2,899	21	4,488	-	88			21	4,576
Court Staff										
Article III Judges' Staff	2,937	351,395	3,038	371,924	50	10,579	-	-	3,088	382,503
Magistrate Judges' Staff	1,094	149,066	1,119	159,563	-	4,375	18	1,137	1,137	165,075
Federal Claims Judges' Staff	49	6,031	67	8,238	-	575	-	-	67	8,813
Clerks Offices	5,770	674,370	5,763	706,908	13	15,861	42	3,499	5,818	726,268
Pro Se and death penalty	452	80,538	485	87,029	-	6,164	-	-	485	93,193
Court Reporters	682	92,824	700	99,208	13	3,884	2	225	715	103,317
Court Interpreters	96	17,361	86	16,909	-	443	1	69	87	17,421
Total District	12,840	1,795,242	13,066	1,900,243	87	51,399	68	6,124	13,220	1,957,766
Bankruptcy										
Judges										
Bankruptcy Judges	317	81,677	321	84,553	13	4,737	-	-	334	89,290
Court Staff										
Bankruptcy Judges' Staff	663	88,625	670	91,998	40	7,947	5	475	714	100,420
Clerks	2,910	351,751	2,850	351,502	-	9,209	(8)	(678)	2,842	360,033
Bankruptcy Administrators	44	6,377	46	6,426	-	168	-	-	46	6,594
Total Bankruptcy	3,934	528,430	3,887	534,480	53	22,061	(4)	(203)	3,936	556,338
Probation/Pretrial Services	7,932	1,092,948	7,865	1,151,578	4	30,765	32	3,358	7,901	1,185,701
Total Judges	2,389	583,538	2,439	616,606	26	15,604	6	1,194	2,471	633,403
Total Chambers	6,374	805,025	6,569	851,888	100	31,852	22	1,612	6,691	885,351
Total Court Staff	19,117	2,465,324	19,000	2,581,523	30	66,854	74	7,175	19,104	2,655,552
GRAND TOTAL	**27,881**	**3,853,886**	**28,008**	**4,050,016**	**156**	**114,310**	**102**	**9,981**	**28,266**	**4,174,307**

COURTS OF APPEALS, DISTRICT COURTS AND OTHER JUDICIAL SERVICES
Salaries and Expenses
Relation of Obligations to Outlays ($000)

	FY 2020 Actual		FY 2021 Assumed Obligations		FY 2022 Request
Total Obligations	5,935,617		6,401,104		6,511,988
Obligated balance, start of year	382,658		141,644		119,969
Adjustments to prior-year activity	(43,910)		(169,816)		-
Change in uncollected payments	(238,590)		-		-
Obligated balance, end of year	(141,644)		(119,969)		(117,742)
Total Outlays	**5,894,131**		**6,252,963**		**6,514,215**
Less Offsets	(238,590)		(130,830)		(173,000)
Net Outlays	**5,655,541**		**6,122,133**		**6,341,215**

GENERAL OVERVIEW

The judiciary performs a core government function that is a pillar of the United States of America's democratic system of government. The scope and volume of the judiciary's work is dictated by the functions assigned to it by the Constitution and by statute. The judiciary must adjudicate all criminal, bankruptcy, civil, and appellate cases that are filed with the courts and must protect the community by supervising defendants awaiting trial and persons under supervision on post-conviction release.

The rulings of the federal courts protect the rights and liberties guaranteed by the Constitution. Through fair and impartial judgments, the federal courts interpret and apply the law to resolve disputes. The district courts, courts of appeals, bankruptcy courts, and federal probation and pretrial services offices all work to ensure a fair and independent judicial process.

The fiscal year (FY) 2022 appropriations request for the courts' Salaries and Expenses account totals $6,137.3 million to support the operation of the courts. The request includes $475.8 million in mandatory appropriations and $5,661.5 million in discretionary appropriations. Specifically, this request funds appropriations for the salaries, benefits, and other operating expenses of judges and supporting personnel for the United States courts of appeals, district courts, bankruptcy courts, Court of Federal Claims, and probation and pretrial services offices. The request also funds the judiciary's national information technology (IT) initiatives and other operations supporting the business functions of the courts. The FY 2022 request for the Salaries and Expenses account supports the operations of the courts at a current services level, as well as program changes for six new full-time magistrate judges and one part time judge and associated support staff, changes in court support staff due to caseload and workload estimates, a small staff increase for the temporary bankruptcy law clerk program, and renewal of the judiciary firewall service enterprise license.

This account makes up approximately 69 percent of the judiciary's total appropriations request and supports approximately 28,300 employees, including judges, chambers staff, and court support staff positions in clerk of court and probation and pretrial services offices located throughout the United States in 637 federally-owned and leased court buildings and facilities (excluding Court of Appeals for the Federal Circuit, Court of Federal Claims, Court of International Trade, and Federal Defender Organizations).

The four components of this account are (1) District Courts; (2) Appellate Courts; (3) Bankruptcy Courts; and (4) Probation and Pretrial Services Program. Each is discussed separately below.

District Courts

The district courts are responsible for administering justice in civil and criminal cases under federal jurisdiction in 94 judicial districts throughout the United States and its territories. The public benefits from effective and efficient district courts by having criminal defendants processed through the criminal justice system and by having civil disputes resolved quickly and fairly.

The number of criminal defendants, the mix of civil cases, amount of juror activity, and the number of authorized judges require the courts to make staffing adjustments indicated by the district court staffing formulas, which are based primarily on civil and criminal cases and the number of judges supported. Projected caseload and workload through June 30, 2021, is used to determine district court support staffing requirements in FY 2022.

Criminal Case Filings

Criminal case filings are, in part, influenced by the number of U.S. Attorneys and the emphasis placed on prosecution of offenses such as illegal immigration, drug crimes, and violations of firearms laws. Criminal filings were on pace to be higher than the previous year through March 2020. However, new criminal filings saw a significant decline in April and May 2020 due to the COVID-19 pandemic that resulted in an overall decrease for the entire year. As shown in Table 4.1 on page 4.18, for the 12-month period ending June 30, 2020, criminal cases filed decreased by 11.2 percent from the previous year. Defendants charged decreased 12.6 percent for the same 12-month period. The national trend in criminal case activity is expected to increase in 2021 as more court activity becomes feasible due to either successful adaptations of court operations to pandemic-driven conditions or the eventual restoration of normal operations following mass vaccination. Criminal cases filed are projected to increase by 3.9 percent, and criminal defendants charged are projected to increase by 3.1 percent. Of particular note, district courts in Oklahoma have experienced significant increases in federal prosecutions stemming the Supreme Court's *McGirt v Oklahoma* decision and expect caseload to continue to increase. Additional information on the *McGirt v Oklahoma* decision can be found on page 4.22.

Regardless of a district court's location, several factors highlight the importance of the courts receiving adequate staffing resources, including: the time-sensitive nature of criminal cases, due to statutory deadlines in the Speedy Trial Act, multiple hearings for defendants (i.e., initial appearances, arraignments, and pleas in the early stages alone), and the need for interpreter services.

Civil Case Filings

Civil case filings are driven by prisoner petitions, social security cases, U.S. plaintiff recovery cases, large-volume multi-district litigation cases, and diversity of citizenship cases[1]. As shown in Table 4.1 on page 4.18, for the 12-month period ending June 30, 2020, civil case filings increased 43.5 percent from the previous year, due almost exclusively to a significant increase in tort actions filed in product liability and personal injury cases as part of the multidistrict litigation (MDL) Case No. 2885 (In Re: 3M Combat Arms Earplug Products Liability Litigation) in the Northern District of Florida. MDL cases are civil actions that involve one or more common questions of fact and are consolidated for pretrial proceedings to avoid duplication of discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel and the judiciary. The fluctuation caused by this MDL matter is reflected in the caseload, and new civil filings for product liability cases are expected to decrease by 15.9 percent in 2021. Civil case filings in 2022 are expected to return to levels similar to 2019.

Appellate Courts

The 94 judicial districts are organized into 12 regional circuits, each of which has a United States court of appeals. The appellate court is responsible for hearing appeals from the district courts and the bankruptcy appellate panel (if one exists) located within its circuit, as well as appeals from certain federal administrative agencies and, in limited situations, direct appeals from bankruptcy courts. The appellate courts also have original jurisdiction in some categories of cases, such as petitions for Writ of Mandamus, second or successive habeas corpus petitions, and petitions for Writ of Prohibition. A party has the right to appeal every federal case in which a district court enters a final judgment. When an appeal is filed, a court of appeals reviews the decision and record of proceedings in the lower court or administrative agency. The court of appeals affirms, reverses, or remands the case back to the original court. The court of appeals will issue a written order or opinion in each case. Appeals from the courts of appeals may be taken to the United States Supreme Court, which, unlike the courts of appeals, generally has discretion over the number and types of cases it hears. Projected caseload and workload through June 30, 2021, is used to determine appellate court support staffing requirements in FY 2022.

---

[1] A district court has subject matter jurisdiction based on diversity of citizenship when the amount in controversy exceeds $75,000, exclusive of interest and costs, and is between parties not from the same state or country.

Appellate Case Filings

As shown in Table 4.1 on page 4.18, for the 12-month period ending June 30, 2020, the number of appeals filed increased 2.6 percent from the previous year. The judiciary currently projects that appellate case filings will increase by 1.7 percent in 2021, mainly due to projected increases in criminal appeals and other appeals, which would include bankruptcy appeals and administrative agency appeals. Administration initiatives, legislative initiatives, and court decisions can have significant effects on some annual totals.

Bankruptcy Courts

Bankruptcy courts exercise jurisdiction over bankruptcy cases and proceedings, pursuant to statute and by reference from the district courts. The Bankruptcy Code is set forth at Title 11 of the U.S. Code, and it provides different chapters under which a debtor may file bankruptcy. A key purpose of the Bankruptcy Code is to provide an orderly and equitable process for debtors to resolve their debts with creditors. Through the bankruptcy courts, the legal system protects business and individual debtors, as well as their creditors, as intended by law. Projected caseload and workload through June 30, 2021, is used to determine bankruptcy court support staffing requirements in FY 2022.

Bankruptcy Case Filings

Bankruptcy filings have decreased in each of the past several years, but the rate of decrease appeared to be leveling out prior to April 2020. Due to the COVID-19 pandemic, bankruptcy filings saw a pronounced decrease in April, May, and June 2020 compared to the same three-month period in 2019. This decrease led to an overall decrease for 2020. As shown in Table 4.1 on page 4.18, filings for the 12-month period ending June 30 decreased by 11.8 percent in 2020. Based on filing trends prior to the pandemic and analysis of the current economic conditions, the judiciary currently projects an increase of 3.8 percent between 2020 and 2021, for a projected total of 708,400 bankruptcy case filings for the 12-month period ending June 30, 2021.

The judiciary is concerned that the pandemic may result in a significant and rapid increase in bankruptcy filings as the economy continues to be severely impacted. Because filing levels drive staffing needs in bankruptcy courts, such increases will result in additional workload impacts on bankruptcy courts. A sudden spike in filings may result in courts facing challenges in processing these filings. The judiciary will continue to monitor this issue and, if necessary, reflect updated projected workload changes in a FY 2022 budget re-estimate.

Chapter 7 Bankruptcy Cases

Chapter 7 of the Bankruptcy Code allows for liquidation of a debtor's nonexempt assets to pay back creditors as much as possible. Individuals and business entities (with certain exceptions) may file bankruptcy under Chapter 7. Bankruptcy courts are expected to handle 465,500 new chapter 7 cases during the 12-month period ending June 2021, approximately 24,900 (5.7 percent) more cases than in the previous year.

Chapter 11 Bankruptcy Cases

Chapter 11 of the Bankruptcy Code offers businesses the opportunity to reorganize or liquidate in an orderly manner. Individuals also may file bankruptcy under Chapter 11, when they are ineligible to file under Chapter 13 due to its debt limitations. In Chapter 11 cases, bankruptcy courts are directly involved in reviewing and approving complicated business reorganization plans and asset sales focusing on the goal of achieving a benefit for all interested parties. Bankruptcy courts are expected to handle 9,900 new Chapter 11 cases during the 12-month period ending June 2021, which is an increase of approximately 2,500 (34.6 percent) more cases than the previous year.

Chapter 13 Bankruptcy Cases

Chapter 13 of the Bankruptcy Code assists individual debtors who have regular income to adjust their debts within a repayment plan. Under such a plan, debtors can save their homes from foreclosure by allowing them to catch up past-due payments. Bankruptcy courts are expected to handle 232,300 new Chapter 13 cases during the 12-month period ending June 2021, a decrease of approximately 0.6 percent from 2020.

Probation and Pretrial Services Program

The federal probation and pretrial services program assists the federal courts by protecting the public and promoting the fair administration of justice. Probation and pretrial services officers provide the courts with in-depth and objective pretrial services and presentence reports. Pretrial services officers investigate defendants and recommend to the judge whether there are conditions that would reasonably assure the defendant's appearance in court and protect the community while the defendant's case is pending disposition, as set forth under 18 U.S.C. § 3142. Probation officers investigate persons convicted of federal crimes and recommend to the judge a sentence that addresses the factors set out in 18 U.S.C. § 3553. Courts rely on those reports to make release and sentencing decisions, and the reports also notify the litigants of all relevant release and sentencing issues. The presentence reports are also used by the U.S. Attorneys' Offices to locate assets to be seized for any fines, restitution, or assessments ordered; the Federal Bureau of Prisons (BOP) relies on the presentence reports to guide its handling of offenders sentenced to incarceration; and the U.S. Sentencing Commission uses the reports to analyze federal sentencing practices.

Probation and pretrial services officers also support public safety by supervising defendants and persons under supervision living in the community. Many persons under post-conviction supervision lack adequate life skills to transition back into the community smoothly. Officers help persons under supervision to either re-establish, or secure for the first time, appropriate housing, employment, and legitimate community relationships. They provide life skills counseling and leverage programs offered by other federal agencies and local social service organizations. Successful supervision requires persons under supervision to overcome not only the original factors that contributed to their criminal behavior, but institutionalization, alienation from family and friends, and other consequences of a lengthy prison term. Throughout the country, officers secure resources for persons under supervision, cultivate employment prospects, and develop collaborative relationships with a wide variety of organizations. All these efforts assist in the transition of persons under supervision back into the community.

Where the court deems it appropriate, a client's location and activities can be monitored electronically through the global positioning system and other technologies. Similarly, the court may authorize drug testing, restrict travel, or prohibit association with certain individuals. In higher risk cases, courts can order the persons under supervision to undergo polygraph examinations and authorize warrantless searches and seizures by probation officers.

Probation and Pretrial Services Workload

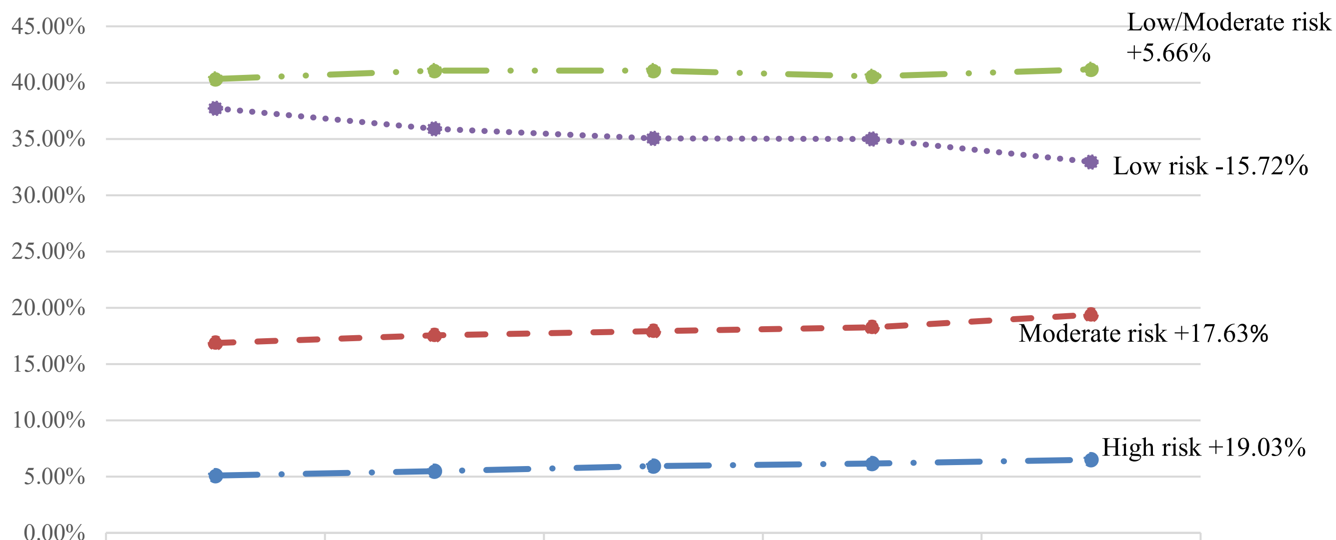
Probation and pretrial services workload is dictated by prosecutions brought by U.S. Attorneys' Offices and the number of inmates released by the BOP for supervision. In the past, prosecutorial policies at the Justice Department resulted in fewer total criminal filings and, therefore, reduced workload in some probation and pretrial services categories. For instance, pretrial services cases activated and pretrial services persons under supervision all decreased from 2014 to 2017. However, this trend changed in 2018 and 2019. Workload is expected to temporarily decrease in 2020 and 2021 primarily due to the COVID-19 pandemic.

Projected caseload and workload is used to determine probation and pretrial services staffing requirements in FY 2022. For the 12-month period ending June 30, 2021, the judiciary projects a 6.4 percent decrease in pretrial cases activated, a 6.3 percent decrease in pretrial supervision, and a decrease of 4.0 percent in presentence reports. The number of persons under supervision is expected to increase by 0.8 percent. For a more detailed explanation of probation and pretrial services workload, see page 4.18.

Projected caseload does not track the risk levels of the supervision cases. The probation and pretrial services program stratifies the risk of recidivism posed by people under supervision. Higher risk clients require substantially more supervision than lower risk clients. Accordingly, the projected change in the number of cases, by itself, does not fully represent the expected increase in workload requirements. The probation and pretrial services staffing formula accounts for this dynamic by weighing cases by risk level.

As shown in the chart on the following page, the time period spanning the 3rd quarter 2015 through 3rd quarter 2019 (the last year for which there is complete data) witnessed a 19 percent increase in clients classified as high risk and an 18 percent increase in clients classified as moderate risk. Conversely, the percentage of offenders with the lowest risk classification declined by 16 percent and the percentage of offenders with low/moderate risk declined by 6 percent. This trend is expected to continue going forward, with a greater percentage of cases received for supervision involving persons posing higher risks, which contributes to increased work and other associated requirements.

Trends in Case Risk (Post-Conviction Risk Assessment) from 2015-2019 3rd Quarter



	7/1/2014-6/30/2015	7/1/2015-6/30/2016	7/1/2016-6/30/2017	7/1/2017-6/30/2018	7/1/2018-6/30/2019
High	5.09%	5.48%	5.94%	6.17%	6.49%
Moderate	16.87%	17.56%	17.93%	18.27%	19.38%
Low/Moderate	40.32%	41.06%	41.07%	40.57%	41.17%
Low	37.72%	35.90%	35.06%	35.00%	32.95%

Table 4.1, Comparison of Judiciary Workload Factors

WORKLOAD FACTOR *	Actual 2014	Actual 2015	Actual 2016	Actual 2017	Actual 2018	Actual 2019	Actual 2020	Projected 2021
Criminal Filings	64,027	60,866	61,021	58,121	67,257	73,012	64,853	67,400
Year-to-Year Change:	-8.1%	-4.9%	0.3%	-4.8%	15.7%	8.6%	-11.2%	3.9%
Criminal Defendants Filed	84,017	79,154	79,968	75,235	84,828	90,541	79,122	81,600
Year-to-Year Change:	-8.5%	-5.8%	1.0%	-5.9%	12.8%	6.7%	-12.6%	3.1%
Civil Filings **	298,713	280,037	290,430	271,721	281,202	293,520	421,082	354,000
Year-to-Year Change:	5.5%	-6.3%	3.7%	-6.4%	3.5%	4.4%	43.5%	-15.9%
Appellate Filings	55,260	53,032	60,099	52,028	49,220	47,783	49,044	49,900
Year-to-Year Change:	-2.0%	-4.0%	13.3%	-13.4%	-5.4%	-2.9%	2.6%	1.7%
Bankruptcy Filings	1,000,083	879,736	819,159	796,037	775,578	773,361	682,363	708,400
Year-to-Year Change:	-12.1%	-12.0%	-6.9%	-2.8%	-2.6%	-0.3%	-11.8%	3.8%
Pretrial Services: Cases Activated	98,122	90,588	88,140	82,265	90,951	98,627	83,839	78,500
Year-to-Year Change:	-4.2%	-7.7%	-2.7%	-6.7%	10.6%	8.4%	-15.0%	-6.4%
Pretrial Services: Persons Under Supervision	50,261	46,968	45,623	43,998	43,997	46,539	46,646	43,700
Year-to-Year Change:	-5.2%	-6.6%	-2.9%	-3.6%	0.0%	5.8%	0.2%	-6.3%
Probation: Presentence Reports	69,453	62,346	59,562	60,669	60,498	66,622	68,974	66,200
Year-to-Year Change:	-2.0%	-10.2%	-4.5%	1.9%	-0.3%	10.1%	3.5%	-4.0%
Probation: Persons Under Supervision	132,597	133,428	137,882	135,947	131,036	128,649	127,680	128,700
Year-to-Year Change:	0.2%	0.6%	3.3%	-1.4%	-3.6%	-1.8%	-0.8%	0.8%

* Both actual and projected workload factors are for 12-month periods ending June 30 each year.

** The actual FY 20 civil filings include filings related to the multidistrict litigation (MDL) Case 2885 (In RE: 3M Combat Arms Earplug Products Liability Litigation) in the Northern District of Florida.

FISCAL YEAR 2021 APPROPRIATIONS

The judiciary built the FY 2022 budget request for the Salaries and Expenses discretionary appropriation on the FY 2021 enacted level of $5,403.6 million. This amount maintains current services in FY 2021 and allows for funding for two additional magistrate full-time judge positions, chambers staff associated with 52 projected Article III judge confirmations in FY 2021, changes in court staff positions as a result of workload changes, costs associated with new courthouse construction, as well as critical cybersecurity tools. The FY 2022 mandatory appropriation request is built on the FY 2021 financial plan level of $463.3 million.

For bill language, the judiciary used the language from P.L. 116-260, Financial Services and General Government Appropriations Act, 2021.

SIGNIFICANT ISSUES

Impact of COVID-19 on the Judiciary

As with nearly every institution in the world, the ongoing COVID-19 pandemic has profoundly impacted the judiciary and the judicial process. Responding to the pandemic has been a challenging and costly endeavor for the judiciary. It has affected an array of areas from criminal trials and bankruptcy filings to facilities and information technology requirements.

Despite significant disruptions to normal court operations, judges in every court type—district, bankruptcy, and appellate—continue to review filings, hold hearings, issue decisions, and resolve cases on their dockets. Due to the challenges of safely allowing jurors to enter courthouses, jury trials and grand jury proceedings have been postponed in many districts. To the greatest extent possible, judiciary personnel nationwide are teleworking.

The federal judiciary has maximized the use of technology to ensure continuity of operations while protecting the health and safety of the public, individuals appearing before the courts, and judiciary personnel. The "Coronavirus Aid, Relief, and Economic Security Act" (CARES Act), P.L. 116-136, authorized the use of video and telephone conferencing for various criminal events under certain circumstances (including the consent of the defendant after consultation with counsel) contingent upon a finding by the Judicial Conference that emergency conditions exist that materially affect federal courts. The Judicial Conference made such a finding on March 29, 2020. Judges also have held hearings by video or telephone in civil cases, with counsel and parties participating remotely.

Similarly, Judicial Conference policy has generally prohibited broadcasting proceedings in federal trial courts. Due to the ongoing pandemic, the judiciary (through the Executive Committee of the Judicial Conference) approved a temporary exception to this policy. A judge may authorize the use of telephone conference technology to provide the public and the media audio access to court proceedings while public access to federal courthouses is restricted due to the pandemic.

Courts are now using a variety of platforms to provide audio and video access to civil proceedings. Increasing the use of technology has strained the judiciary's information technology systems. The judiciary has invested in expanding network capacity to handle bandwidth strains when multiple judges are holding hearings simultaneously, obtaining licenses for certain platforms, and ensuring that courts have necessary equipment for the large number of judiciary employees who are teleworking. The judiciary monitors connectivity closely and regularly experiences approximately 22,000 simultaneous connections through its virtual private network services. Judiciary staff have worked quickly to resolve technical and logistical issues as they arise, as well as to ensure information technology and videoconferencing systems remain secure amidst increasing cyber threats.

To address the array of COVID-19 issues facing the judiciary, on February 18, 2020, the Administrative Office (AO) Director formed a COVID-19 Task Force to advise on and address emerging issues throughout the pandemic. Judicial Branch members include a chief circuit judge, three chief district judges, three court unit executives, as well as representatives from AO offices and the U.S. Supreme Court. Partner organization members include the General Services Administration (GSA), U.S. Marshals Service (USMS), Federal Protective Service, Executive Office for U.S. Attorneys, Architect of the Capitol, Department of Justice's Litigation Security Group, and Bureau of Prisons. The Task Force's purpose is to facilitate coordination among the court units, federal public defender offices, the AO, and other federal agencies in clarifying policy, developing and implementing practices to address specific COVID-19 related issues, and ensuring consistency across the various courts, offices, and agencies. The Task Force meets regularly, addressing broad policy, funding, and operational issues related to the judiciary's pandemic response. A number of small working groups also meet regularly on topics such as jury issues, prisoner movement, and GSA facility policies and procedures.

An issue of particular note the Task Force has addressed is the pandemic's significant impact on jury trials. Jury trials require numerous potential jurors to assemble at a courthouse for jury selection and require selected jurors to attend trials for multiple days, so they present serious health risks to jurors and to all other trial participants. As a result, jury trials have been largely stopped during the pandemic. Restrictions on court access and the limitations of technology have also forced judges and court staff to prioritize other matters such as essential proceedings in criminal cases.

Safely reconvening jury trials remains a judiciary priority. Individual courts are developing protocols tailored to meet the conditions in their district's courthouses that will minimize health and safety risks for all participants. Courts recognize that jurors must be given reasonable assurance of their safety before participating in the jury process. Jurors must be comfortable during a trial and be able to focus on the evidence, arguments, and court instructions, and not the risk of a COVID-19 infection. Courts are assessing information from local health authorities, the AO, and the Centers for Disease Control and Prevention in developing their plans to resume jury trials. In June, a Jury Subgroup of the AO's COVID-19 Task Force issued a report titled "Conducting Jury Trials and Convening Grand Juries During the Pandemic," which details issues and provides detailed recommendations for courts to consider as they reconvene grand and petit juries.

The ongoing pandemic has also affected the immediate workload of the judiciary's Probation and Pretrial Services system. The CARES Act authorized the Bureau of Prisons Director to expand eligibility for release to home confinement during the COVID-19 pandemic. There has been a steady increase in the number of inmates placed on home confinement. This increases resource requirements as the probation and pretrial services system supervises a portion of these inmates. In addition, probation and pretrial services offices have instituted a series of adjustments to policies, procedures, and practices to protect the safety of officers and the people they investigate and supervise by reducing in-person contact.

Responding to COVID-19 has been costly. In FY 2020, the judiciary obligated approximately $28.3 million for COVID-19 related costs—$25.3 million for Salaries and Expenses; $2.4 million for Defender Services; and $0.6 million for other judiciary accounts. Additional resources have been required for IT capacity, IT equipment related to telework and videoconferencing, personal protective equipment, enhanced cleaning of facilities, health screenings at facilities, increased location monitoring costs, and treatment and drug testing costs for probation and pretrial services. As costs have increased due to COVID-19, the pandemic's impact on case filings has also reduced fee revenue and, thus, total available resources. In FY 2020, fee collections were approximately $26 million below the projected amounts in the FY 2020 financial plan. For FY 2020, many courts were at the early stages of reopening to the public. As more courts open, additional resources will surely be needed.

The judiciary appreciates the $7.5 million in supplemental appropriations Congress provided in the CARES Act to address immediate information technology needs and increased testing and treatment costs in the judiciary's probation and pretrial services program. In April 2020, the judiciary submitted a supplemental funding request seeking an additional $36.6 million in appropriations. To date, these additional funds have not been appropriated. Therefore, to address COVID needs, the judiciary reduced spending on other priorities to make the necessary funds available, however, that spending flexibility has been largely exhausted and the judiciary will require additional supplemental funding in order to safely reopen courts and transition to normal operations.

Looking to the future, once the pandemic is over, the judiciary will likely face a backlog of cases. As noted above, courts have curtailed jury trials during the pandemic. These matters will need to be expeditiously resolved once it is safe to do so. The exact number of cases as well as the length of time it will take to resolve the backlog will only be known once courts return to normal operating procedures. In addition to the backlog of existing cases, bankruptcy filings will almost certainly rise in future years as discussed further below.

Economic Anxiety Leading to Future Bankruptcy Filings

The CARES Act provided financial relief for many Americans affected by the pandemic. It included a moratorium on evictions and foreclosures for certain types of property, suspension of payments for federally funded student loans, and expanded unemployment benefits, among other types of economic relief. The COVID relief legislation included within the Consolidated Appropriations Act, 2021 (P.L. 116-260) extended some of these measures into 2021. With increased unemployment income and fewer financial obligations, many Americans have been able to stay afloat financially. However, when these measures expire, bankruptcy courts are expected to see filings increase as those with the inability to make the required payments seek bankruptcy protection from eviction, foreclosure, or collection activity. Growth in filings related to the pandemic likely will not become evident for several months or longer, as changes in bankruptcy trends historically have lagged changes in the economy (typically by 9 to 24 months). It is also difficult to project how many bankruptcies will increase due to business closures, increased unemployment, and reduced economic activity, but the judiciary will continue to closely monitor bankruptcy filing data and make any necessary adjustments to its workload projections and funding requirements.

Supreme Court Decision in McGirt v. Oklahoma

On July 9, 2020, the Supreme Court held in *McGirt v. Oklahoma*, 591 U.S. __ (2020) that land in northeastern Oklahoma reserved for the Creek Nation pursuant to the 1832 Treaty With the Creeks remains "Indian country" for purposes of the Major Crimes Act (MCA) because Congress has never expressly disestablished the reservation. As a result of the decision, the federal government, rather than the state, must prosecute major crimes involving Indians – including violent crimes such as murder, rape, sexual assault, and robbery. The *McGirt* decision applies directly to the Creek Nation, but it is anticipated that the reasoning ultimately will be applied to lands reserved to the other Indian nations that compose the "Five Civilized Tribes," including the Cherokee, Chickasaw, Choctaw, and Seminole nations.

The MCA requires the government to prosecute violent and serious crimes[2] committed by tribal members on tribal lands in federal court. As such, most violent crimes and sex offenses that occur on Indian Country fall within the jurisdiction of the federal courts. In judicial districts with substantial Native American populations, a disproportionately high percentage of federal persons under supervision are tribal members. Naturally, then, when those who are convicted for such crimes are released and returned to Indian Country for supervision, that supervision is also the responsibility of the federal judiciary.

The *McGirt* decision impacts the criminal case load in Oklahoma federal courts in two ways: an increased number of new federal prosecutions (crimes previously prosecuted in state court) and the re-prosecution of overturned state convictions in federal court. The actual number of new criminal cases will depend on the prosecutorial decisions of the United States Attorney's Offices in the districts. While it is difficult to predict with any certainty what the ultimate criminal case increase will be, in the months since the *McGirt* decision was issued, the Eastern and Northern Districts of Oklahoma each have experienced a more than 400 percent increase in monthly criminal case filings. This trend is consistent with the projections offered by U.S. Attorneys in Oklahoma during the immediate aftermath of the decision, who had estimated caseload increases of 300-500 percent for Creek Nation prosecutions only. Should *McGirt* apply to all Five Civilized Tribes, the U.S. Attorneys estimated a 1,300-1,500 percent increase in caseload resulting from the shift of major crime prosecutions from state to federal court.

In addition to the district court caseload, the *McGirt* decision also increases the workload of the federal probation and pretrial services system. In FY 2021, pretrial services case activations and presentence reports are anticipated to increase approximately 400 percent, from 60 to 300 cases per month in the three districts in Oklahoma. Those levels will continue through FY 2022. In the FY 2022 request, the judiciary has requested 17 positions for probation and pretrial services offices to address the substantial workload increase associated with the *McGirt* decision.

---

[2] Under the MCA, now codified at 18 U.S.C. § 1153, major crimes include murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, a felony assault under section 113, assault against a person who has not attained the age of 16 years, felony child abuse or neglect, arson, burglary, robbery, and a felony under section 661 of title 18 (i.e., larceny). *See* 18 U.S.C. § 1153.

A significant increase in the number of individuals supervised by a probation officer is not expected in FY 2021 or FY 2022 but would likely materialize in future fiscal years, when sentenced defendants from Indian Country in Oklahoma complete their prison sentences and return home. The Eastern District of Oklahoma, the smallest judicial district in Oklahoma, is projected to experience the biggest impact from *McGirt*. Specifically, if the ruling in *McGirt* is extended to other tribes, Oklahoma Eastern could experience a probation and pretrial services workload increase in some areas of more than 1,000 percent in FY 2021. Those levels would continue through FY 2022. These projections are higher because Oklahoma Eastern anticipates cases from all five major tribes in the region, while the Western District of Oklahoma anticipates cases arising from three tribes, and the Northern District of Oklahoma anticipates cases from two tribes.

Increasing Workload for Probation and Pretrial Services Offices

Successful case investigations and supervision outcomes depend on sufficient resources that can be used for personnel, treatment and monitoring services, and training and program implementation. The growth in cases supervised per officer is detrimental to the officer's ability to support behavioral change and properly monitor the behaviors of those under supervision. Many factors influence caseload size, including risk levels, geography, and the need to manage special populations (e.g., location monitoring caseloads, sex offenders). Leading up to the pandemic, workload throughout the probation and pretrial services system was increasing due to the government's prosecutorial practices and the early release of inmates as a result of the First Step Act (FSA).[3] Unless there are sufficient resources to keep pace with workload, officers will be assigned larger caseloads and will be unable to provide adequate supervision.[4]

First Step Act of 2018 (FSA)

In December 2018, President Trump signed the FSA, P.L. 115-391, into law. This sentencing and corrections reform legislation—

- retroactively applies the reduced penalties under the Fair Sentencing Act of 2010;

---

[3] From July 1, 2019, through March 30, 2020, workload in the probation and pretrial services system has increased dramatically. In the months since, workload has declined due to the pandemic; however, this workload is expected to return as the pandemic subsides.

[4] The strategy in most districts will be to focus supervision resources on higher risk or special populations and provide less supervision for moderate and lower risk individuals. This will likely have an impact on rearrest rates. For example, some districts will need to treat people on supervision who are assessed as low/moderate risk - low violence the same as the low-risk/low-violence population; however, the probability that the low/moderate-risk/ low-violence population will commit a new crime is 23 percent, while the probability that the low-risk/low-violence population will commit a new crime is only 9 percent.

- expands “good time” credits;
- modifies compassionate release provisions; and
- creates a new method for inmates to earn early release from prison.

The FSA increases workload for the federal probation system by requiring officers to:

- supervise Federal Bureau of Prisons (BOP) inmates on home confinement or in residential reentry centers earlier than previously planned; or
- supervise persons on supervised release in the community earlier than previously planned.

Beginning in March 2020, in response to the growing pandemic, there were calls from Congress and others to expand the use of compassionate release and home confinement to increase the number of inmates released from imprisonment. On March 26, 2020, Attorney General Barr directed the BOP to use existing statutory authorities to prioritize the use of home confinement, where appropriate, to decrease risks to inmates’ health. When it was enacted in March 2020, the CARES Act broadened the authority of the BOP to place inmates in prerelease home confinement for longer periods of time.[5]

There has been a steady increase in the number of inmates placed on home confinement due to the FSA and the CARES Act, and the probation and pretrial services system supervises a portion of these inmates under the Federal Location Monitoring (FLM) program. Location monitoring cases are labor intensive. Officers who supervise these cases are on call 24 hours a day, 7 days a week. In

---

[5] Specifically, the Act removes the time limitations on the use of home confinement in 18 U.S.C. § 3624(c)(2) (i.e., the lesser of 6 months or 10 percent of the sentence) – contingent upon a declaration by the Attorney General that the COVID-19 pandemic is materially affecting the functioning of the BOP – and it allows the BOP Director to place an inmate in home confinement for a period “as the Director determines appropriate.” In an April 3, 2020, memorandum to the BOP Director, the Attorney General issued the requisite declaration, which triggered the ability of the BOP to increase the use of prerelease home confinement without regard to the time limitation in 18 U.S.C. § 3624(c)(2). This memorandum also directed the BOP to “move with dispatch in using home confinement, where appropriate, to move vulnerable inmates” out from institutions where COVID-19 is materially affecting operations. Finally, the Attorney General recognized the limited resources of the BOP and the probation and pretrial services system to monitor a large number of inmates in the community and authorized the transfer of inmates to home confinement – even if electronic monitoring is not available – if the BOP determines that such a transfer is consistent with the obligation to protect public safety.

FY 2019, probation officers supervised 532 FLM cases. During FY 2020, the number increased to 908. For FY 2021, probation officers are projected to supervise approximately 1,200 FLM cases. That level is expected to continue through FY 2022.

Since the enactment of the FSA, 3,502 motions for sentence reduction due to retroactive application of the Fair Sentencing Act have been granted. Most of these inmates serve a period of supervised release following their release from prison. According to a recent U.S. Sentencing Commission (USSC) report, many inmates who were granted sentence reductions during the first year of the FSA pose a higher risk of recidivism.[6] More than half (57.4 percent) were originally sentenced as career offenders, and 43.5 percent had a weapon sentencing factor applied.

With the passage of the FSA, inmates can now directly petition the court to be compassionately released from BOP custody. Since this provision was enacted, 1,992 motions for compassionate release have been granted. Many of these inmates have serious medical conditions. The BOP is mandated by statute to inform inmates of the availability of compassionate release. As inmate awareness has grown, so have the number of motions for release. This workload is likely to increase throughout FY 2021 and FY 2022.

Judicial Confirmations

The number of filled Article III judgeships has a direct impact on the requirements for the Salaries and Expenses account. This account funds all Article III judges and associated costs, except for justices of the U.S. Supreme Court and judges of the U.S. Court of Appeals for the Federal Circuit and the Court of International Trade (as those courts have stand-alone appropriations). While the salaries and benefits of judges are paid from the Salaries and Expenses account's mandatory requirements, the number of active Article III judges impacts this account's discretionary appropriations requirements for chambers staff, court support staff, and associated operating and maintenance costs that are necessarily increased when a new or replacement Article III judge is confirmed. Operating and maintenance costs include space, travel, training, courtroom digital audio recording equipment, telephone systems, staff furniture and furnishings, and law books.

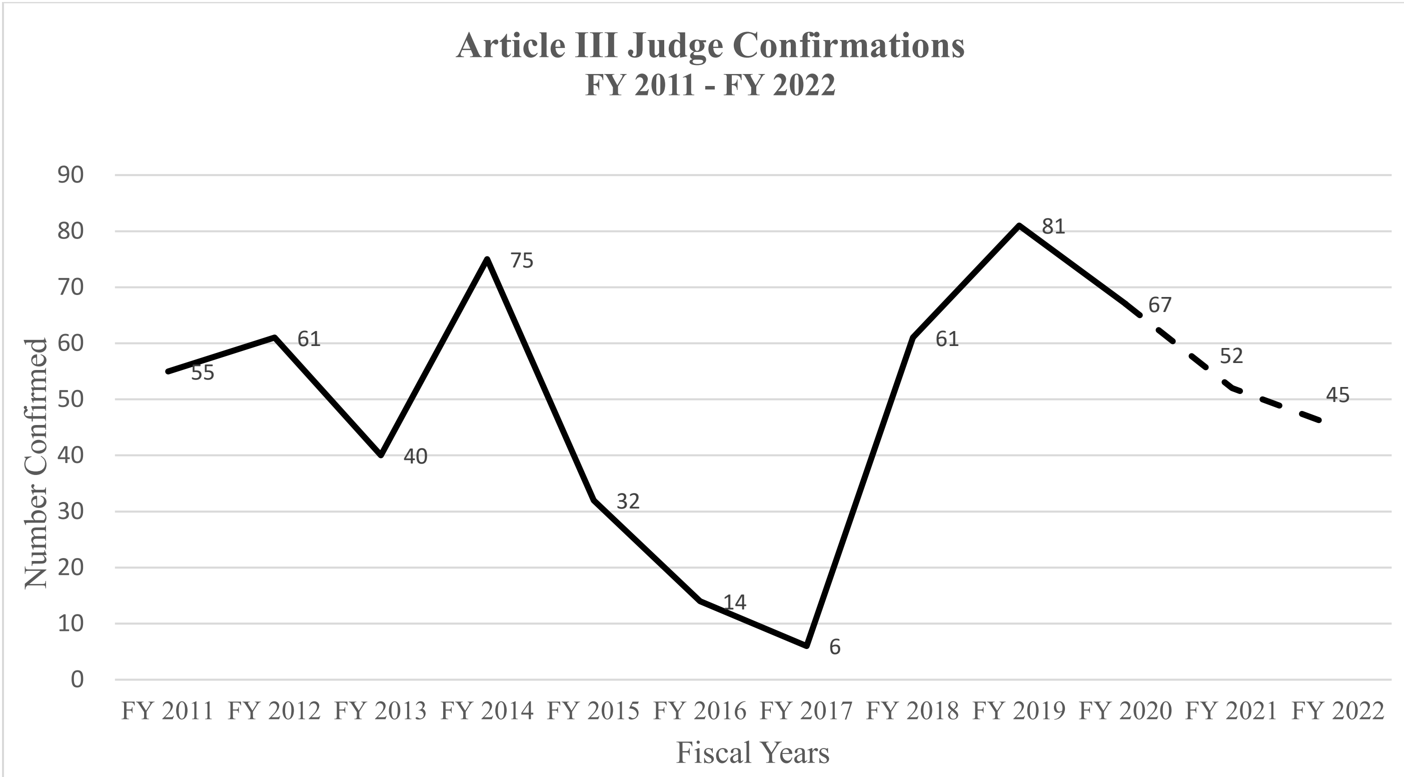
Currently, there are 844 authorized Article III judgeships. However, not all judgeships are filled at any given time. In its annual budget requests, the judiciary makes an assumption regarding the number of expected confirmations each year to help determine the number of anticipated filled Article III judgeships. Typically, the judiciary has estimated for budgeting purposes between 40 and 45

---

[6] U.S. Sentencing Commission, *The First Step Act of 2018: One Year of Implementation* (August 2020).

Article III confirmations each year. Due to changes in Senate procedural rules, actual confirmations in recent years have been significantly above that level with 61 confirmations in FY 2018, 81 in FY 2019, and 67 in FY 2020. (See the chart below.)

Table 4.3, Article III Judge Confirmations



When the number of judge confirmations is higher than the judiciary estimated in its budget request, funding must still be provided for all confirmed judges' chambers staff, court support staff, and other operating and maintenance costs. Therefore, fewer resources are available for other areas funded by this account, notably, current court support staffing. The FY 2021 financial plan includes a projection of 52 Article III judge confirmations. The judiciary's FY 2022 request includes the funding needed to sustain confirmation-related costs from FY 2021 and to accommodate an assumption of 45 additional Article III judge confirmations (confirmations are projected to decline in FY 2022 as the number of remaining vacancies also declines). The judiciary will update this assumption as part of its FY 2022 budget re-estimate process.

Consolidated Financial Statement Initiative

The judiciary is committed to robust financial management practices including strong oversight, internal controls, and independent auditing. The judiciary has undergone regular audits and investigations of its appropriated and other funds and has an infrastructure of controls designed to prevent fraud, waste, and abuse. Individuals supporting these functions – including external independent auditors – make reports directly to [name committee: Judicial Conference Committee on Audits and Administrative Office Accountability?], which is comprised of federal judges from throughout the country.

The judiciary began a new, multi-year financial management initiative – the Judiciary Data Integrity, Reporting, and Controls Program (JDIRC) – in FY 2020. This initiative builds upon the judiciary's foundation of strong financial management practices and robust internal controls. Ultimately, this program will result in the judiciary submitting a consolidated, audited financial statement to the Treasury Department that is compliant with Federal Accounting Standards Advisory Board (FASAB) generally accepted accounting principles (GAAP) or other comprehensive basis of accounting. Existing judiciary financial processes, internal control evaluations and financial systems were not designed to support assertion to and the production of GAAP compliant, consolidated, auditable financial statements on an annual basis. With the resources provided in FY 2021, the JDIRC program is moving forward with a comprehensive analysis of financial transactions and business processes across the judiciary. To support internal control assurances, the analysis is also documenting the controls over business processes and financial data.

The Treasury Department and the Government Accountability Office (GAO), which audits the government-wide financial statements, have asked that the judiciary submit annual, audited financial statements to ensure compliance with government-wide reporting requirements. Although the judiciary (like the legislative branch) is not subject to Office of Management and Budget financial reporting requirements and FASAB standards to produce these statements, providing these consolidated statements will aid the Treasury Department's priority to receive an unqualified audit opinion on the government-wide statements. The goal of this initiative is to allow the judiciary to submit financial statements in the same manner the executive and legislative branches currently do and to further strengthen the judiciary's transparency and accountability with all stakeholders – including Congress, the executive branch, persons interacting with the judiciary, and the American public. For this initiative, the judiciary developed a five-year approach to prepare consolidated financial statements and strengthen internal controls.

The judiciary began this project in FY 2020. The FY 2022 request maintains the same funding level and staffing requirements supported in the FY 2021 financial plan, including $7.3 million for 22 Salaries and Expenses reimbursable positions (22 FTE) funded through Salaries and Expenses appropriations, and $2.0 million in contractor support. The 22 positions are needed to support the ongoing effort.

New Courthouse Infrastructure

In FY 2016, Congress provided $948 million in funding to the General Services Administration (GSA) for the construction of new courthouses, as prioritized by the judiciary's September 2015 Courthouse Project Priorities (CPP) list. These resources fully funded the top eight courthouse projects on that CPP plan, including: Nashville, Tennessee; Toledo, Ohio; Charlotte, North Carolina; Des Moines, Iowa; Greenville, South Carolina; Anniston, Alabama; Savannah, Georgia; and San Antonio, Texas. Partial funding was also provided for Harrisburg, Pennsylvania, the ninth project on that CPP list. In addition, $53 million was appropriated for new construction and acquisition of facilities that are joint U.S. courthouses and federal buildings in Greenville, Mississippi, and Rutland, Vermont.

The Rutland, Vermont project is complete, while completion of four projects is anticipated in FY 2021: Charlotte, NC (annex); Nashville, TN; Greenville, SC, and Savannah, GA (annex). Completion of the projects in Harrisburg, PA; San Antonio, TX; and Anniston, AL, is expected to follow in FY 2022.

Although the construction of new courthouses and annexes is funded by GSA, the judiciary is responsible for a variety of associated infrastructure that is needed to ensure that new facilities will be fully functional at the time that major construction is completed. For those courthouse projects that were funded in FY 2016, the FY 2022 request includes $14.8 million to fund furniture and other space-related infrastructure costs required during the design and construction of the new courthouses. Remaining funding requirements for the full functionality and operations of the new courthouses will be included in future requests.

In FY 2018, Congress provided the remaining funding necessary to complete the Harrisburg, Pennsylvania project ($137.2 million), as well as funding for two additional projects: Huntsville, Alabama ($110.0 million) and Fort Lauderdale, Florida ($190.1 million). Both the Huntsville and Fort Lauderdale projects received congressional authorization on February 5, 2019 and are underway. The judiciary's FY 2022 Salaries and Expenses account request includes infrastructure costs of $2.5 million associated with the courthouse projects in Huntsville and Fort Lauderdale. In FY 2021, Congress provided partial funding of $136 million for the Hartford, CT, courthouse and partial funding of $95 million for the Chattanooga, TN, courthouse. Full funding of these projects will necessitate additional judiciary funding for associated infrastructure costs.

COST CONTAINMENT

Judiciary's Space Reduction Program

Space reduction has been one of the judiciary's major cost-containment initiatives. The Judicial Conference established a national space reduction target of three percent in September 2013, which was equivalent to a total reduction of 870,305 usable square feet (USF)[7]. At the time of the deadline for this goal (September 2018) approximately 1.2 million USF of space had been removed from the judiciary's rent bill. Therefore, the judiciary exceeded its national space reduction goal by approximately 37 percent. In fact, all circuits exceeded their space reduction goals. Through the substantial investments the judiciary made in this initiative, it has realized approximately $36 million in annual rent avoidance. Since 2013, the judiciary has achieved an estimated $151 million in cumulative rent avoidance via space reduction.

Following the success of the three percent reduction goal, the judiciary has turned its focus to another Judicial Conference-approved cost-containment initiative, the No Net New policy. This policy requires that any increase in square footage within a circuit must be offset by an equivalent reduction in square footage identified within the same fiscal year.[8] As courts expand their workforces, Article III judges take senior status, and new judges are appointed, demand will increase for space, particularly chambers space required for new judges. As a result, circuits need to improve the utilization of their space to ensure that they do not expand their space footprints. For this reason, this FY 2022 budget request includes $10.3 million to undertake projects needed to reconfigure space more efficiently and offset space increases to maintain compliance with the No Net New policy. The six No Net New projects that were approved in

---

[7] This target was prorated among the circuits based on the square footage occupied by each, taking into consideration the amount of square footage allotted to the circuit under the current version of the *U.S. Courts Design Guide*. The target excluded: new courthouse construction, renovation, or alterations projects approved by Congress, and is contingent upon the judiciary having access to funding to analyze, design, and implement space reductions. The baseline for this policy was the square footage of total space holdings within each circuit as of the beginning of FY 2013 (JCUS-SEP 13, p. 32).
[8] The No Net New policy is subject to the following exclusions: new courthouse construction, renovation, or alterations projects approved by Congress. The baseline for this policy is the square footage of total space holdings within each circuit as of the beginning of FY 2013 (JCUS-SEP 13, p. 32; JCUS-SEP 14, p. 29).

FY 2020 are expected to reduce the judiciary's space footprint by 27,000 square feet, equating to $7 million in additional annual rent cost avoidance once the projects are completed.

Beyond this three percent reduction goal and the No Net New policy, the judiciary has implemented other space-related cost-containment initiatives including the Service Validation Initiative, which is a cooperative effort of the AO, the courts, and GSA to maximize the value derived from the judiciary's space rental payments.

Bankruptcy Noticing Center and Electronic Bankruptcy Noticing

Bankruptcy noticing is required both by the United States Bankruptcy Code (11 U.S.C. § 101 et seq.) and the Federal Rules of Bankruptcy Procedure. The Bankruptcy Noticing Center (BNC) facilitates these requirements by centrally transmitting bankruptcy notices for all bankruptcy courts to case participants through a private contractor. Since its creation in 1993, the BNC has allowed the judiciary to reduce bankruptcy clerk's office staff dedicated to producing and mailing notices manually, to secure U.S. Postal Service bulk discount rates, and to implement more extensive cost-saving and avoidance measures than could have been achieved if noticing were managed locally. One such measure is "multi-stuffing" where the contractor places all notices from all courts for a single recipient into a single mail piece.

Another initiative that saves a significant amount of resources is Electronic Bankruptcy Noticing (EBN). Pursuant to Fed. R. Bankr. P. 2002(g)(4) and 9036, the BNC obtains consent from creditors and other parties to accept notices electronically, thereby avoiding the expense of producing and mailing paper notices and ensuring faster delivery. EBN contributed to approximately $8.7 million in cost avoidance in FY 2020 alone. The judiciary will continue efforts to expand EBN usage, which includes formal outreach efforts targeting high-volume paper notice recipients and soliciting feedback on what could be improved with the EBN system to make it a more attractive option than paper noticing. Although this initiative has been deferred due to the COVID-19 pandemic, it is anticipated that once the COVID-19 pandemic subsides, high-volume notice recipients – many of whom are government entities and large financial institutions – will be better able to engage in and will be more receptive to the initiative. EBN's rate of adoption has continued to grow. Today, nearly 48% of all bankruptcy notices in the United States are sent electronically.

Work Measurement

The judiciary has employed work measurement since 1970 to determine its staffing requirements, and to provide a reliable tool to allocate staffing resources equitably across court types and individual court units. Though the methodology has changed over the years, work measurement's primary purpose remains to bring an empirically-based and practical approach to staffing allocations.

The staffing formulas estimate the number of staff required to perform the work of judiciary units, which include appellate court and circuit offices, district clerks' offices, bankruptcy clerks' offices, probation and pretrial services offices, and federal defender organizations (FDOs). The formulas define both administrative and operational staffing requirements of each judiciary unit.

Although the judiciary has used work measurement for several decades, the shifting fiscal environment has further amplified the importance of work measurement as an effective management tool available to the judiciary. The judiciary updates the staffing formulas, generally at five-year intervals, to incorporate efficiencies derived from information technology initiatives, best practices, and other process improvements as well as to evaluate new work requirements in a consistent manner across the court units. The work measurement process uses a combination of statistical modeling and other measurement techniques to define court units' staffing needs for all required work.

In FY 2020, the judiciary completed a work measurement study on probation and pretrial services. This updated staffing formula was utilized for building FY 2021 financial plan allocations and the FY 2022 budget request. Due to the significant impact that the pandemic had on court operations in 2020, some planned work measurement studies were postponed. However, a new study to examine IT security and financial transactions across all court programs began in January 2021 with scheduled completion in June 2022.

Shared Administrative Services and Alternative Organizational Models

Building on earlier efforts to encourage efficiencies through shared administrative services, the Judicial Conference established an initiative to develop and evaluate a host of organizational models that courts may adopt to further efficiencies. These models include:

1) "vertical" consolidation of district and bankruptcy clerks' offices within a judicial district;
2) "horizontal" consolidation of bankruptcy clerks' offices across judicial districts; and

3) shared administrative services arrangements, which may comprise a range of approaches (including inter-district sharing arrangements, intra-district sharing arrangements, and establishing regional or national service centers for specific administrative functions.)

The judiciary has also developed practical information for the courts considering consolidation and/or shared administrative services. This information describes the various sharing arrangements courts have developed to deliver administrative services, identifies issues to consider when developing sharing arrangements, assesses the effect of sharing arrangements, and provides resource materials. At the local level, courts throughout the country have implemented a significant number of voluntary shared administrative services arrangements. These practices have helped to control costs without sacrificing efficiency or quality of service to judges and the public. The judiciary is promoting consolidation efforts by providing guidance materials and reports on court organizational models on its internal JNet page to judges and court unit executives considering consolidation or flexible service arrangements.

Regarding horizontal consolidation, in 2016, the Judicial Conference approved a horizontal consolidation pilot project. The horizontal consolidation pilot is based on three-year voluntary sharing arrangements between two bankruptcy courts regarding all services of the bankruptcy clerks' offices. Four districts have participated in the pilot. The Federal Judicial Center will prepare a final report evaluating the pilot within one year after its conclusion.

FISCAL YEAR 2022 REQUEST

The FY 2022 discretionary appropriation request for the Salaries and Expenses account totals $5,661.5 million, including $10.2 million for requirements funded from the Vaccine Injury Compensation Trust Fund. The judiciary also requests $475.8 million for requirements funded from mandatory appropriations. The FY 2022 discretionary request is a 4.8 percent increase over the FY 2021 enacted discretionary appropriation level of $5,403.6 million.

In addition to appropriated funds, the Salaries and Expenses account utilizes other funding sources to offset its appropriation requirements, including current year fee collections, carryover of fee balances from the prior year, and no-year appropriation balances (excluding encumbered carryforward). The judiciary projects that these sources of non-appropriated funds will total $374.7 million in FY 2022, $8.9 million more than the $365.7 million expected to be utilized in FY 2021.

Total Requested Discretionary Appropriation Increases: $257,943,000

Total Mandatory Appropriation Increases: $12,512,000

JUSTIFICATION OF CHANGES

The changes in the FY 2022 budget request are divided into two sections: adjustments to base and program increases.

Adjustments to base totaling $250.7 million (92.7 percent of the requested change) are for:

- an increase to mandatory appropriations for personnel costs for judges and costs associated with an increase in filled Article III judgeships, bankruptcy judgeships, and Article III judges who have taken or are expected to take senior status (+$12.5 million);
- an increase in personnel costs for Court of Federal Claims judges, magistrate judges, chambers staff, and other court support staff (+$96.2 million);
- an increase in chambers staff to support filled Article III and bankruptcy judgeships and Article III judges who have taken or are expected to take senior status, and related costs (+$12.6 million);
- financing adjustments to replace non-appropriated sources of funds with appropriated funds (-8.9 million);
- inflationary and miscellaneous adjustments (+$25.1 million);
- an increase for personnel and related costs for the Vaccine Injury Compensation Trust Fund (+$0.3 million);

- A net increase for General Services Administration (GSA) rent and related costs (+$82.0 million);
- a net increase for information technology requirements (+$29.0 million); and
- an increase for annualization of personnel funded in FY 2021 related to the costs for the decision in *McGirt v. Oklahoma* (+1.8 million).

Program changes totaling $19.7 million (7.3 percent of the requested change) are for:

- six new full-time magistrate judges and one part time magistrate judge, and associated staff ($3.0 million);
- an increase in court support staffing due to caseload and workload changes ($7.2 million);
- an increase for temporary law clerk program workload changes ($0.5 million); and
- an increase for the judiciary firewall service enterprise license renewal ($9.1 million).

ADJUSTMENTS TO BASE TO MAINTAIN CURRENT SERVICES

The following provides information and justification for each of the adjustments to base for the Salaries and Expenses account. This section is divided into three subsections: judges, court personnel and programs, and other adjustments.

A. JUDGES AND ASSOCIATED STAFF

1. Pay and benefit cost adjustments

a. Proposed 2022 pay adjustment

Requested Discretionary Increase: $1,119,000

Mandatory Increase: $3,382,000

The judiciary is assuming federal pay rates will increase by 1.0 percent in January 2022. The requested increase provides for the cost of nine months of the anticipated pay adjustment in FY 2022, from January 2022 to September 2022. (If the pay adjustment included in the President's FY 2022 budget request is different from this 1.0 percent guidance, the judiciary will revise this line item in its FY 2022 budget re-estimate.)

b. Annualization of 2021 pay adjustment

Requested Discretionary Increase: $372,000

Mandatory Increase: $1,125,000

The requested increase provides for the annualized costs of the 2021 pay adjustment associated with the Employment Cost Index (ECI). Based on the enacted appropriation, federal pay rates for judges increased by 1.0 percent, effective as of January 2021. The requested increase provides for the cost of three months (from October 2021 to December 2021) of the enacted 2021 pay increase in FY 2022.

c. Benefits Increases

i. Health Benefits

Requested Discretionary Increase: $322,000

Mandatory Increase: $403,000

Based on information from the Office of Personnel Management, agency health benefit premium contributions are projected to increase by an average of 3.0 percent both in January 2021 and January 2022. The requested increase annualizes the 2021 premium increase and includes a nine-month provision for an estimated 3.0 percent increase anticipated for FY 2022.

ii. FICA adjustment

Requested Discretionary Increase: $153,000

Mandatory Increase: $490,000

Based on information from the Social Security Administration, employer contributions to the Old Age, Survivor, and Disability Insurance (OASDI) portion of the FICA tax will increase in 2021. The salary cap for OASDI increased from $137,700 to $142,800 in January 2021. The requested amount is needed to pay the agency's contribution in FY 2022.

iii. FERS adjustment

Requested Discretionary Increase: $1,166,000

Mandatory Increase: $611,000

Consistent with guidance from the Office of Management and Budget, funds are requested for an increase in the agency contribution rate to Federal Employees Retirement System (FERS) plans for FY 2022. For most employees, the agency contribution rate will increase from 17.3 percent to 18.4 percent. Any FERS increase is in accordance with revised estimates of the cost of providing benefits by the Board of Actuaries of the Civil Service Retirement and Disability System.

2. Increase in average number of filled Article III judgeships

Requested Discretionary Increase: $6,745,000 FTE: 60

Mandatory Increase: $2,585,000 FTE: 10

In FY 2021, the judiciary anticipates that an average of 794 out of the 844 authorized Article III appellate and district judgeships will be filled. Based on historical confirmation patterns, the judiciary projects 45 Article III judges will be confirmed during FY 2022, offset by 30 active judges who take senior status or retire. As a result of the anticipated timing of these confirmations and departures from active Article III status, the FY 2022 request includes funding for 804 Article III appellate and district court judgeships, a net increase of 10 FTE above FY 2021.

This request also includes funding for chambers support staff (30 law clerks, 11 courtroom deputies, 8 secretaries, and 11 court reporters) associated with the increase in 10 judges' FTE.

This line item includes $2.6 million for the salaries and benefits of judges, $5.5 million for the salaries and benefits of supporting staff, and $1.2 million for supporting costs such as law books, furniture, travel, supplies, and equipment.

Table 4.4, Active Article III Judgeship Vacancies and FTEs*

Fiscal Year	Authorized Article III Judgeships	Average Vacancies	Avg. Number of Active Judges
2016	844	73	771
2017	844	113	731
2018	844	140	704
2019	844	125	719
2020	844	77	767
Estimates			
2021	844	50	794
2022	844	40	804

* The number of authorized Article III judgeships excludes the U.S. Supreme Court, U.S. Court of Appeals for the Federal Circuit, the U.S. Court of International Trade but includes territorial courts.

3. Increase in average number of senior judges

Requested Discretionary Increase: $1,330,000   FTE: 13

Mandatory Increase: $775,000   FTE: 3

Funding is requested in FY 2022 for a net increase of three senior judge FTE and the associated chambers staff. The request includes $0.8 million for the salaries and benefits of judges, $1.2 million for the salaries and benefits of supporting staff (7 law clerks, 4 secretaries, 1 courtroom deputies, and 1 court reporters) and approximately $0.1 million for supporting costs such as law books, furniture, travel, supplies, and equipment. Table 4.5 provides the historical levels of senior judges.

Table 4.5, Article III Senior Judgeship FTEs

Fiscal Year	Avg. Number of Senior Judges (FTE)
2016	566
2017	569
2018	563
2019	594
2020	587
Estimates	
2021	588
2022	591

Under federal law, an Article III judge has three options when leaving active service. 28 U.S.C. § 371(a) allows the judge to retire from office and receive an annuity for life equal to the salary in effect at the date of retirement. 28 U.S.C. § 372(a) allows the judge to retire on disability grounds, and provides that the judge receives the salary of the office for life after serving 10 years. 28 U.S.C. § 371(b) allows the judge to take senior status and to retain the office, but retire from regular active service. Senior status allows the judge to continue rendering substantial judicial service for a number of years, notwithstanding his or her retirement.

As of October 1, 2020, there were 172 U.S. Court of Appeals and U.S. District Court judges eligible to take senior status or retire. In FY 2021, the judiciary projects an additional 28 judges will become eligible and an additional 47 judges will become eligible in FY 2022. For FY 2022, the judiciary estimates that 27 active Article III judges will either take senior status or retire and 16 senior or retired judges will leave the judiciary's payroll. As a result of the projected timing of these actions, the FY 2022 budget request reflects a net increase of three senior judge FTE.

4. Increase in average number of filled bankruptcy judgeships

Requested Discretionary Increase: $4,550,000 FTE: 40

Mandatory Increase: $3,141,000 FTE: 13

The judiciary projects a total of 321 FTE (including recalled bankruptcy judges) for the 345 authorized bankruptcy judgeships will be funded in FY 2021. Based on historical patterns, it is anticipated that 13 additional judgeships will be filled during FY 2022, increasing the average number of filled bankruptcy judgeships to 333 FTE (including recalled bankruptcy judges) in FY 2022. This request also funds 23 law clerks, 11 courtroom deputies, 3 secretaries, and 2 electronic court recorders associated with the increase of 13 bankruptcy judge FTE.

Table 4.5 Summary of Judicial Officers

	Article III & Bankruptcy Judges (Mandatory Costs)						Claims & Magistrate Judges					
	FY 2021			FY 2022			FY 2021			FY 2022		
	Positions	FTE	($000)	Positions	FTE	($000)	Positions	FTE	($000)	Positions	FTE	($000)
Appellate Judgeships	167	167	43,869	167	166	44,478						
District Judgeships[1]	677	627	154,615	677	638	159,181						
Senior/Retired		737	180,235		740	182,834						
Bankruptcy Judgeships[2]	345	321	84,553	345	333	89,290						
U.S. Court of Federal Claims[3]							16	20	4,488	16	23	5,187
Magistrate Judgeships - Full-time							549	540	144,860	555	545	148,728
Magistrate Judgeships - Part-time[4]							32	28	3,987	30	22	4,711
Total	1,189	1,851	463,271	1,189	1,877	475,783	597	588	153,334	601	590	158,627

1 Includes territorial judges

2 FTE include recalled bankruptcy judges

3 FTE include recalled court of federal claims judges.

4 FTE include recalled magistrate judges.

Table 4.6 U.S. Court of Federal Claims Judges

Fiscal Year	Authorized Court of Fed. Claims Judgeships	Average Vacancies	Avg. No. Active Judges
2016	16	6	10
2017	16	7	9
2018	16	11	5
2019	16	9	7
2020	16	7	9
Estimates			
2021	16	2	14
2022	16	0	16

Table 4.7 Bankruptcy Judges (excludes recalled)

Fiscal Year	Authorized Bankruptcy Judgeships	Avg. Vacancies	Avg. No Active Judges
2016	349	20	329
2017	349	19	330
2018	350	23	327
2019	347	27	320
2020	347	36	311
Estimates			
2021	345	31	314
2022	345	19	326

Table 4.8 Magistrate Judges (Full-Time)

Fiscal Year	Authorized Magistrate Judgeships	FTE
2016	534	518
2017	536	532
2018	537	535
2019	541	535
2020	547	534
Estimates		
2021	549	540
2022	555	545

B. COURT PERSONNEL AND PROGRAMS

5. Pay and benefit cost adjustments

a. Proposed 2022 pay adjustment

Requested Increase: $25,009,000

The judiciary is assuming federal pay rates will increase by 1.0 percent in January 2022. The requested increase provides for the cost of nine months of the anticipated pay raise in FY 2022, from January 2022 to September 2022. (If the pay adjustment included in the President's FY 2022 budget request is different from this 1.0 percent guidance, the judiciary will revise this line item in its FY 2022 budget re-estimate.)

b. Annualization of January 2021 pay adjustment

Requested Increase: $8,209,000

The requested increase provides for the annualized costs of the enacted 2021 pay adjustment for ECI. As a result of an enacted ECI, federal pay rates increased by an average of 1.0 percent, effective as of January 2021. The requested increase provides for the cost of three months (from October 2021 to December 2021) of the 2021 pay increase in FY 2022.

c. Promotions and within-grade increases

Requested Increase: $25,009,000

The requested increase provides for promotions and within-grade increases for personnel. The salary plan for judicial support personnel provides for periodic within-grade increases for staff who receive at least a satisfactory performance rating.

d. Benefits Increases

i. Health Benefits

Requested Increase: $7,395,000

Based on information from the Office of Personnel Management, agency health benefit premium contributions are projected to increase by an average of 3.0 percent both in January 2021 and January 2022. The requested increase annualizes the 2021 premium increase and includes a nine-month provision for an estimated 3.0 percent increase anticipated for FY 2022.

ii. FICA adjustment

Requested Increase: $711,000

Based on information from the Social Security Administration, employer contributions to the Old Age, Survivor, and Disability Insurance (OASDI) portion of the FICA tax will increase in 2021. The salary cap for OASDI increased from $137,700 to $142,800 in January 2021. The requested amount is needed to pay the agency contribution in FY 2022.

iii. FERS adjustment

Requested Increase: $26,797,000

Consistent with guidance from the Office of Management and Budget, funds are requested for an increase in the agency contribution rate to Federal Employees Retirement System (FERS) plans for FY 2022. For most employees, the agency contribution rate will increase from 17.3 percent to 18.4 percent. Any FERS increase is in accordance with revised estimates of the cost of providing benefits by the Board of Actuaries of the Civil Service Retirement and Disability System.

6. Funding necessary to maintain FY 2021 service levels due to anticipated increase in non-appropriated funds

Requested Decrease: ($8,919,000)

In addition to appropriations from Congress, the judiciary relies on other funding sources to finance its requirements. These non-appropriated funds include current year fee collections, carryforward of fee balances from the prior year, no-year appropriation balances, and Judiciary Information Technology Fund balances. The use of these funds allows the judiciary to reduce its appropriations request on a dollar-for-dollar basis. This Salaries and Expenses account FY 2022 discretionary appropriation request of $5.6 billion reflects a projected availability of $374.7 million in these non-appropriated funds. Without these funds, the judiciary's request in discretionary appropriations would have totaled approximately $6.0 billion.

While the use of these funds benefits the judiciary (and reduces the need for appropriated funds), the amounts available fluctuate year-to-year due to changes in filing fee collections, changes in unobligated balances from prior years, etc. If total non-appropriated funds in the budget year exceed the total non-appropriated funds in the prior year, the budget year's appropriations request can be reduced further. However, if total non-appropriated funds in the budget year are lower than the total non-appropriated funds in the prior year, appropriations are needed to replace those lost non-appropriated funds to maintain a current services level of obligations.

The FY 2021 obligation level assumes new fee collections and prior-year unencumbered carryforward from FY 2020 totaling $365.7 million. The FY 2022 request estimates that fee collections and prior-year carryforward will total $374.7 million, a net increase of $8.9 million from the $365.7 million available in FY 2021. This is displayed in Table 4.10 below. The judiciary request includes a small decrease in appropriated funds for FY 2022 due to the higher amount of anticipated non-appropriated funds. The judiciary's estimates for non-appropriated funds typically fluctuate during the fiscal year. AO staff will update the appropriations subcommittee staff on changes in non-appropriated funding levels.

Table 4.10 Non-Appropriated Sources of Funding

Dollars in Thousands	FY 2021 Plan	FY 2022 Request	Difference
Fee Collections	182,761	224,661	41,900
Other Carryforward	182,981	150,000	(32,981)
Total, Non-Appropriated Sources of Funding, Excluding Encumbered	**365,742**	**374,661**	8,919

C. OTHER ADJUSTMENTS

7. Inflationary and miscellaneous adjustments

Requested Increase: $25,099,000

Consistent with guidance from the Office of Management and Budget, the requested increase is required to fund inflationary adjustments of 2.0 percent for operating expenses such as travel, communications, printing, contractual services, supplies and materials, and furniture and equipment.

8. Vaccine Injury Compensation Trust Fund adjustment

Requested Increase: $265,000

The National Childhood Vaccine Injury Act of 1986 (42 U.S.C. § 300aa) created a special fund to pay judgments awarded under the Act. This legislation also created the Office of Special Masters within the U.S. Court of Federal Claims to hear vaccine injury cases, and further stipulated that up to eight special masters may be appointed for this purpose. The special masters' expenditures are reimbursed to the judiciary for Vaccine Injury Act cases from a special fund set up under the Act.

For FY 2022, the judiciary requests $10.2 million from the Vaccine Injury Compensation Trust Fund, an increase of $265,000 above the amount assumed to be received from the Trust Fund in FY 2021. The increase is due to pay and non-pay inflationary adjustments.

9. GSA space rental and related services

Requested Increase: $82,007,000

The judiciary requests a net increase of $82.0 million in FY 2022 for GSA rent and related services. This net increase is made up of:

(a) new space to be delivered in FY 2022 (+$7.3 million),
(b) inflationary adjustments to the GSA space rental base costs (+$38.2 million),
(c) space reduction savings (-$2.0 million)
(d) other space-related adjustments (+$38.6 million).

a. New space to be delivered in FY 2022

Requested Increase: $7,267,000

In FY 2022, the judiciary anticipates there will be a net increase of 135,926 useable square feet related to projects to be occupied by the courts of appeals, district courts, bankruptcy courts, and probation and pretrial services offices. The requested increase of $7.3 million is based on projected occupancy dates and rental rates provided by GSA. Table 4.11

on page 4.44 identifies major projects that GSA plans to complete in FY 2022.

b. GSA rent inflation

Requested Increase: $38,178,000

This request represents a 4.0 percent inflationary increase (+$38.2 million) in the cost of GSA space rental and maintenance of facilities occupied by the courts in FY 2022. Of this cost, $18.2 million is based on rent estimates prepared by GSA and $20.0 million includes higher costs associated with enhanced cleaning services GSA is providing federal tenants due to the COVID-19 pandemic.

c. Space Reduction

Requested Decrease: ($2,000,000)

A net cost savings of $2.0 million is estimated to be achieved in FY 2022 due to reductions in court-occupied space.

d. Other space-related adjustments

Requested Increase: $38,562,000

A net adjustment of $38,562,000 is required in FY 2022, including a net increase to cyclical maintenance, tenant alterations, and furniture (+$5.9 million), annualization of new space delivered in FY 2021 (+10.5 million), and an increase in tenant improvement projects including chambers and courtrooms for new judges (+$22.2 million) due to the large increase in recent judicial confirmations.

Table 4.11 Space to be delivered in FY 2022 - Prospectus projects, displayed in order of GSA estimated delivery dates

City	State	Net Rentable Square Feet to be Delivered	Estimated Occupancy Date	Fiscal Year 2022 Rent Cost New Space	Fiscal Year 2023 Rent Cost	Total Annual Rent Cost
Anniston	AL	11,177	12/1/2021	$1,142,038	$228,408	$1,370,445
San Antonio	TX	71,617	1/1/2022	$5,259,578	$1,753,193	$7,012,771
Harrisburg	PA	103,132	6/1/2022	$865,752	$1,731,504	$2,597,255
Total		**185,926**		**$7,267,368**	**$3,713,104**	**$10,980,472**

Table 4.12 GSA Space Rental Increase

	Square Feet of Space	Avg. Cost per Square Ft.*	Amount in $000
FY 2021:			
Space occupied at start of year	39,308,587		$1,069,240
Adjustments to FY 2021 base			$1,470
Estimated savings due to reduction in footprint			$0
Estimated new space to be delivered in FY 2021	276,088		$5,698
Total, FY 2021	***39,584,675***	***$27.19***	***$1,076,409***
FY 2022 Adjustments:			
Increase for estimated inflation (4.0%)			$35,094
Estimated savings due to reduction in footprint	(50,000)		($2,000)
Annualization of new space assigned in FY 2021			$10,497
Estimated new space to be delivered in FY 2022	185,926		$7,267
Total, FY 2021 Budget Request	***39,720,601***	***$28.38***	***$1,127,267***
FY 2022 Increase over FY 2021	***135,926***		***$50,858***

*The fiscal year average cost per square foot includes the annualization of rent costs for space added in the succeeding fiscal year.

10. Information Technology Requirements

Requested Net Increase: $29,034,000

a. Continued implementation of ongoing information technology projects

Requested Increase: $29,534,000

A net increase of $29.5 million is requested for the Information Technology (IT) program for current operations and system maintenance to the judiciary's integrated financial management, human resources, rent and property management systems; telecommunications; case management systems; cybersecurity capabilities; and infrastructure support for national IT applications.

The judiciary continues to implement programs and systems to support the IT needs of the courts. The IT program allows the judiciary to operate and maintain its information technology infrastructure, products, projects, and services, which are essential to the judicial process and the operations of the courts.

A more detailed description of the judiciary's IT program can be found in section 11 of this submission, "Judiciary Information Technology Fund."

b. Contractor insourcing savings

Requested Decrease: ($500,000)

Following an FY 2017 re-assessment of functions Administrative Office contractors perform, the AO is implementing a third round of contractor insourcing, a process that began in 2012 as a part of the AO's cost-containment efforts. The goal is to improve project/program management contract operations, as well as reduce costs by hiring federal employees versus more expensive contractor positions. The third round of contractor insourcing is nearly complete. During FY 2021, the Administrative Office of the U.S. Courts intends to begin implementing a fourth round of contractor insourcing, which will eliminate approximately 32 contractor positions in FY 2021 and insource the work with a like number of new federal employees. FY 2022 savings in the S&E account associated with this insourcing are $0.5 million due to lower compensation for federal workers versus contractors. For more information on contractor insourcing, please see the AO chapter, page 8.13 and 8.22.

11. Annualization of staff funded in FY 2021 for McGirt Decision

Requested Increase: $1,829,000 FTE: 17

The judiciary requests an increase of $1.8 million (17 FTE) to address workload associated with the U.S. Supreme Court's July 2020 decision in *McGirt v. Oklahoma*, including staffing for district court clerks' offices and for probation and pretrial services offices in the three Oklahoma judicial districts.

In the FY 2021 financial plan, the judiciary partially funded 31 positions for district court clerks' offices and 17 positions for probation and pretrial services offices to address the substantial workload increase associated with the *McGirt* decision. A more detailed description of the McGirt decision is on page 4.22. This line item annualizes the full-year costs of those positions in FY 2022.

PROGRAM INCREASES

12. New FY 2022 full-time magistrate judges and staff

Requested Increase: $2,992,000 FTE: 23

The judiciary requests an additional $3.0 million for six additional full-time magistrate judge positions and one additional part-time position (5.5 FTE), 21 support staff (17.5 FTE), and associated operating costs. Four of the six new full-time positions have been accelerated because of the critical need for these positions. Thus, full-year funding is assumed for these four magistrate judge positions in FY 2022.

Table 4.11 Cost of Additional Magistrate Judges

	Positions	FTE	Total Request
New Full-Time Magistrate Judges (4 accelerated)	6	5.5	$1,081,000
Supporting Personnel	21	17.5	$1,336,000
Operating Expenses			$500,000
New Part-Time Magistrate Judge	1	0.5	$75,000
Total	**28**	**23.0**	**$2,992,000**

The Judicial Conference authorizes new magistrate judge positions based upon an individualized showing of need by the requesting district courts. The Conference takes into account all relevant factors in its deliberations on magistrate judge position requests, including the number and locations of authorized district judges. In evaluating requests for full-time magistrate judge positions, the Conference generally considers: the comparative need of the district judges for the assistance of magistrate judges and the overall workload of the district court;

the commitment of the court to the effective utilization of magistrate judges; and the availability of sufficient work of the type that the district judges wish to assign to magistrate judges to justify the authorization of additional full-time positions.

Consideration is also given to the geographical areas and population to be served, convenience to the public and bar, the rights of criminal defendants to prompt court proceedings, the number and extent of federally administered lands in the district, transportation and communication facilities, and other pertinent local conditions. As an alternative to authorizing additional full-time magistrate judge positions, the feasibility of using recalled magistrate judges may be explored with individual district courts in response to their requests for additional magistrate judge positions.

Based on the criteria described above, in September 2020, the Judicial Conference authorized six additional full-time magistrate judge positions and one part-time magistrate judge position in the following locations:

Accelerated:

- District of New Jersey at Camden
- Southern District of Texas at Corpus Christi
- Southern District of Indiana at Indianapolis
- District of South Dakota (conversion of the part-time position at Pierre to full-time)

Not Accelerated:

- Western District of Texas at Waco
- District of Utah (conversion of the part-time position at St. George to full-time)
- District of Columbia (part-time position)

13. FY 2022 Court Support Staffing due to workload changes

Requested Increase: $7,175,000 FTE: 74

The judiciary requests a program increase for court support staff (148 new positions or 74 FTE) in appellate, district, and bankruptcy courts, and probation and pretrial services offices in FY 2022 in anticipation of changes in projected caseload and workload. Table 4.14 provides a breakdown of FTE and funding. To calculate the number of staff needed, the judiciary's request uses the current staffing formulas. To determine FY 2022 FTE, projected caseload and workload data through June 30, 2021 is used. Some staffing formulas use caseload data for multiple years so, depending on the formula, a single year increase or decrease in workload will not necessarily result in a corresponding increase or decrease in formula results.

Table 4.14 Fiscal Year 2022 Staffing Changes

Court Support Staffing		
Program	**Fiscal Year 2022 FTE**	**Dollars in Thousands**
Appellate	6	$702
Bankruptcy	(8)	(678)
District	44	3,793
Probation/Pretrial	32	3,358
Total	**74**	**$7,175**

14. Temporary Bankruptcy Law Clerk Program

Requested Increase: $474,000 FTE: 5

The judiciary requests a $0.5 million increase for the temporary bankruptcy law clerk program in FY 2022. This increase will allow certain bankruptcy courts to hire temporary law clerks to assist with the anticipated increase in bankruptcy filings over the next 6 to 18 months as a result of the economic impact of the COVID-19 pandemic and to supplement resources available to districts facing specialized, complex cases (e.g., large chapter 9 or 11 cases or cases requiring a specialized understanding of non-bankruptcy law) or other workload challenges.

15. Judiciary Internet Firewall Service

Requested Increase: $9,100,000

The judiciary requests a program increase of $9.1 million for a 3-year enterprise license renewal of the judiciary firewall service. The software licenses ensure the firewalls contain the most current software features that address ongoing and evolving cyber threats. The Judiciary Firewall Service (JFS) supports the operation of the firewalls deployed at court sites to protect the data communications network from malicious traffic entering the network from a compromise at a local court. Renewing the enterprise license for this service will enable the judiciary to maintain up-to-date antivirus, antispyware, and malware.

FINANCING THE FISCAL YEAR 2022 REQUEST

16. Estimated FY 2022 Fee Collections

Estimated funds available: $224,661,000

Congress has authorized the judiciary to collect fees for civil and bankruptcy filings as well as fees for a variety of case services, including registry account administration and miscellaneous court case administration costs. A portion of the fees collected by the courts are deposited into a special fund maintained by the Treasury Department and may be used to reimburse judiciary accounts for expenses incurred. These fees are available without fiscal year limitation. The judiciary estimates that $224.7 million in revenue from these sources will be available in FY 2022 to finance requirements in the Salaries and Expenses account, an increase of $41.9 million from the $182.8 million estimated to be available in FY 2021. Table 4.15 lists offsetting receipts from collections by type and displays the amounts collected in FY 2020, and estimates for FY 2021 and FY 2022 collections. The judiciary will continue to monitor filings and other collections throughout FY 2021 and will advise appropriations subcommittee staffs of changes to these estimates.

Table 4.15 Offsetting Receipts from Collections

Type of Collection and Source	FY 2020 Actual Collections ($000s)	FY 2021 Estimated Collections ($000)	FY 2022 Estimated Collections ($000)
Fees			
Registry Administration Fees	1,781	1,000	1,000
Bankruptcy Filing and Misc. Fees [1]	117,518	115,460	148,991
Civil Filing and Misc. Fees [2]	60,284	66,334	75,742
Central Violations Bureau Fees	3,932	3,932	4,330
Immigration Adjudication and Naturalization Fees	3,610	5,655	6,422
Subtotal, Fees	**187,125**	**192,380**	**236,485**
Fee allocation to Admin. Office[3]	-9,357	-9,619	-11,824
TOTAL TO SALARIES & EXPENSES	177,769	182,761	224,661

[1] Includes statutory bankruptcy filing fees and bankruptcy court miscellaneous fees.
[2] Includes statutory civil filing fees and appellate court and district court miscellaneous fees.
[3] Based on Judicial Conference policy, up to five percent of total fees collected may be used to support Administrative Office requirements.

17. Anticipated Unencumbered Carryforward from FY 2021

Estimated funds available: $150,000,000

The judiciary estimates that $150.0 million will be available through anticipated savings in FY 2021 to carry forward into FY 2022 and offset the FY 2022 appropriation request for the Salaries and Expenses account. Savings generally become available due to delays in GSA space delivery schedules that reduce space rental and furniture expenses; and unobligated funds returned from the nearly 400 court units throughout the judiciary. This carryforward balance includes the carryforward of fee balances from the prior year, no-year appropriation balances, and Judiciary Information Technology Fund balances.

The judiciary will advise appropriations subcommittee staffs of changes to this estimate.