



NEWS RELEASE

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As Workload and Resources Head in Opposite Directions, Crisis Looms for Federal Courts

Funding for federal court operations is at a near crisis point, and if it doesn't improve, "we run the risk of creating a second class system of justice," court representatives told a congressional committee today.

"The courts' workload and the resources provided to handle that workload are headed in opposite directions," Chief Judge John G. Heyburn II, chair of the Judicial Conference Budget Committee, told the House Appropriations Subcommittee on Commerce Justice, State the Judiciary and Related Agencies.

The Judicial Conference of the United States is the policy-making body of the federal Judiciary, and its Budget Committee assembles and presents to Congress the budget for the Third Branch of government. Testifying with Judge Heyburn was Administrative Office of the U.S. Courts Director Leonidas Ralph Mecham, who is also secretary to the Judicial Conference.

Judge Heyburn described a system in which, due to budgetary constraints, court managers are downsizing their offices even as their workloads are increasing. Court support staff levels are not only lower now than in 2003, they are below the level funded in fiscal year 2001.

"[T]he courts are operating at levels below what you provided in 2003," Director Mecham told the subcommittee. "The constrained funding provided by Congress to the courts in fiscal year 2004 is having a significant negative impact on court staffing."

If the Judiciary's fiscal year 2005 enacted appropriation is limited to the President's intended overall 0.5 percent rate of growth, the Judiciary will be forced to slash court operating expenses in half, and to fire or lay off an estimated 3,800 employees, almost 20 percent of probation officers and clerks' office personnel. Even if a 4.7 percent increase were received—the same level of growth provided in FY 2004—courts would still operate at staffing levels below those funded in fiscal year 2001.

"It would take years for the courts to recover from the impact of either level of funding," said Judge Heyburn. "Unless the Congress makes The Third Branch as high a priority as Defense and Homeland Security we run the risk of creating a second class system of justice."

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The federal Judiciary is requesting just over \$5.7 billion for Fiscal Year 2005. The request reflects the implementation of significant cost containment initiatives that reduced the request for the salaries and expenses account by almost \$150 million.

Approximately 71 percent of the requested increase—\$421 million—is required just to maintain current services. This would fund such uncontrollable expenses as judges' compensation and GSA rent, allow the courts to return to fiscal year 2003 end-of-year on-board levels, fund required adjustments to pay and benefits, maintain the Judiciary's core information technology infrastructure, and provide representation for indigent defendants. The remaining increase —\$168 million—is required for programmatic and workload-related needs, primarily resulting from the increases in criminal and bankruptcy filings and the number of offenders released from prison in need of supervision and drug and mental health treatment.

The Judiciary's requested rate increase in Criminal Justice Act attorney rates for FY 2004 provides an inflationary increase for non-capital cases and proposes that only rates in capital cases would increase to \$159 per hour.

Courts' Caseload Largely Uncontrollable

Judge Heyburn told the subcommittee that from 2002 to 2004, criminal cases are projected to increase 10 percent, activated pretrial services cases by 17 percent, bankruptcy filings by 11 percent, and CJA representations by 19 percent.

"The workload of the Judiciary is largely uncontrollable," he said, "whether it is processing criminal, civil, or bankruptcy cases; providing jury services, supervision and treatment of defendants and released felons; or representing those financially unable to obtain private counsel." Judge Heyburn also noted a change in prosecutorial policies of U.S. Attorneys, who are shifting more cases to federal courts, taking more cases to trial rather than allowing them to be plead out, and litigating more motions.

"The Judiciary is at the mercy of Congress as it enacts new laws that increase the amount and complexity of the Judiciary's workload, and that increase or redirect resources in the investigative and prosecutorial activities that feed the judicial system," Judge Heyburn said.

Courts Fire Staff, Furlough Others

Fiscal year 2004 funding levels that are less than fiscal year 2002 levels in real dollars already have forced courts to take drastic actions just to keep courthouse doors open, albeit sometimes at reduced hours of operation.

"Courts are freezing the filling of most vacant positions and are planning for the involuntary separation and buyout of hundreds of employees, and the furlough of thousands of court employees," said Judge Heyburn.

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To date, a total of 165 firings or layoffs have occurred or are planned and 2,563 employees have been or will be furloughed for a total of 16,184 days by the end of the year, absent any funding relief in fiscal year 2004.

“These reduced staffing levels come at a time of continued historic growth in workload—Congressionally-mandated workload directly related to the policy priorities of Congress and the funding of our nation’s criminal justice system,” said Director Mecham. “We are still trying to ascertain the full impact that these reduced staffing levels will have on court operations, but right now I can report that our Probation Officers are being compelled to scale back on the supervision of what are believed to be less dangerous released felons.”

According to Judge Heyburn, probation and pretrial services officers are identifying the cases that pose the least relative risk to the community for consideration for early termination of supervision. Other changes may include eliminating electronic monitoring and reducing the term of supervised release from three to two years.

“In these difficult times the highly-trained cadre of probation and pretrial services officers is having to make these hard choices,” said Judge Heyburn, “always keeping in mind the best way to ensure safe communities with insufficient resources.”

Supplemental Sought

For fiscal year 2004, the federal Judiciary seeks a supplemental appropriation of \$55 million, \$39 million to avoid adverse personnel actions in the courts, and \$16 million to avert a three-week suspension of payments to court appointed panel attorneys.

“Unfortunately,” Judge Heyburn said of the supplemental request made last December, “the timing is such now that adverse personnel actions are unavoidable, unless the supplemental appropriation is enacted by mid-March.”

Judge John Heyburn’s complete testimony can be found on the federal Judiciary’s website at www.uscourts.gov under Newsroom/News Releases.

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