

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

Chairman Serrano, Representative Emerson, and members of the Subcommittee, I am pleased to appear before you this morning to present the fiscal year 2010 budget request for the Administrative Office of the United States Courts (AO) and to support the overall request for the entire Judicial Branch.

First, I would like to join Judge Gibbons in thanking you and your Committee for the support you provided the Judiciary in the fiscal year 2009 appropriations bill. In addition to our funding, we deeply appreciate your willingness to include several statutory provisions that are critical to the operation of the courts.

The 111<sup>th</sup> Congress brings with it many new faces to the Subcommittee, and I look forward to working with you and your staff to meet the needs of the federal Judiciary. We recognize the very tight fiscal constraints in which you will continue to operate and appreciate being able to work closely with the Subcommittee throughout the process as our requirements change. I am available to answer any questions you might have about the needs of the federal Judiciary and the budget request we have put forward to meet those critical needs.

**Role of the Administrative Office**

In July 2006, I was appointed by Chief Justice Roberts to become the 7<sup>th</sup> Director of the Administrative Office of the U.S. Courts in its 70-year history. Created by Congress in 1939 to assist the federal courts in fulfilling their mission to provide equal justice under law, the AO is a unique entity in government. Neither the Executive Branch nor the Legislative Branch has any one comparable organization that provides the broad range of services and functions that the AO does for the Judicial Branch.

Unlike most Executive Branch agencies in Washington, the AO does not operate as a headquarters for the courts. The federal court system is decentralized, although the AO provides administrative, legal, financial, management, program, security, information technology and other support services to all federal courts. It also provides support and staff counsel to the policy-making body of the Judiciary, the Judicial Conference of the United States, and its 25 committees, and it helps implement Judicial Conference policies, as well as applicable federal statutes and regulations. The AO carries out a comprehensive financial audit program to ensure the Judiciary expends its resources properly. It also coordinates Judiciary-wide efforts to improve communications, information technology, program leadership, and administration of the courts, and is leading the effort to contain costs throughout the Judiciary. Our administrators,

auditors, accountants, systems engineers, personnel specialists, analysts, architects, lawyers, statisticians, and other staff provide professional services to meet the needs of judges and staff working in the federal courts nationwide. The AO staff also respond to Congressional inquiries, provide information on pending legislation, prepare Congressionally mandated reports, and respond to Government Accountability Office (GAO) requests for information on behalf of Congress, and review and comment on GAO draft reports.

### **Focus on Improved Support and Service to the Courts**

When I first became Director of the Administrative Office, I launched a review of the organization and its mission to ensure that the structure and services provided by the AO were appropriate and cost-effective, and that they addressed the changing needs of the courts. An ad hoc advisory committee of judges, court executives, and AO senior staff examined our core mission of service to the courts as defined by statute and directives from the Judicial Conference to determine if internal adjustments could be made to improve efficiency and responsiveness.

### **Strategic Direction**

That review resulted in an October 2007 report that provided recommendations for enhanced Administrative Office services to the courts. In addition to measures aimed at improving service delivery and the AO's working relationship with the courts, the Advisory Committee recommended a series of initiatives to increase efficiencies in AO operations. These included a closer alignment of AO functions and resources with the Judiciary's interests and priorities. During fiscal year 2008, improvement initiatives were pursued through the development of an AO strategic plan, coupled with efforts to streamline internal decision making, improve communications within the organization, and enhance inter-office coordination.

In November 2008, I approved the "Strategic Direction for the Administrative Office of the United States Courts: Fiscal Years 2009-2013." It is an agency-wide, multi-year plan that will guide the AO's activities. It embodies my vision of the AO as an organization that (1) aspires to provide the best possible service to the Judiciary and the public, (2) operates with teamwork, integrity, and transparency, and (3) continually seeks to improve its performance and enhance its partnership with the courts.

The AO has already begun to integrate the Strategic Direction into our major initiatives process – aligning each of the current fiscal year's major initiatives with our strategic goals. As we continue to use this kind of framework for making business decisions, the planning process will become even more forward-looking so that the plan becomes a roadmap to the future. Undoubtedly, it will be a key tool in helping the AO to support the Judiciary through the economic downturn and constrained budgets we could face over the next few years.

### **Revised Advisory Structure**

Another outcome of my initial review was a restructuring of the way in which the AO receives input from the courts in the development of Judiciary policies and procedures. The AO relies upon advice and recommendations on court matters from a formal advisory process consisting of court representatives. A focus group of court and AO personnel was created to review how the AO receives input from the courts. Based on the group's recommendations, I made modifications to the advisory structure, designed to promote a greater AO and court partnership. The revised advisory structure will also facilitate seeking advice from the courts at early and significant stages of policy development, which should result in the development of policies and procedures more responsive to court needs.

### **Leadership Exchange Program**

In January, we announced the implementation of a court/AO exchange program to promote mutual understanding of the operations of the Administrative Office and the courts through the temporary exchange of staff. The Leadership Program will bring senior and mid-level court staff, including federal defender organization staff, to the AO for assignments to do substantive work on national initiatives and high-priority projects. An Information Technology (IT) exchange already has been initiated with the selection of three individuals from the courts who are working on a replacement for the current web site that enables court managers and IT professionals to post and download locally-developed applications, an information systems architecture documentation project for the Judiciary, and an assessment of IT staff skills.

### **AO Collaboration with the Courts**

The AO collaborates with the courts in many different ways to improve the operation of the federal Judiciary. A central focus of the AO continues to be the successful day-to-day financial management and stewardship of court resources.

### **Financial Training**

During the past year, twenty court unit executives and budget managers worked with AO staff to complete a major milestone: the delivery of the National Court Budget Management Training Program to court units across the country. Over a three-year period, more than 1,000 court employees completed this mission-critical training, developed to ensure that training to manage local court budgets kept pace with increased authorities delegated to the court. The program emphasized practical, hands-on budget management business processes, as well as legal authorities, procurement regulations, and maximizing available resources.

### **Internal Oversight, Audit, and Review**

The Administrative Office also plays a vital role in the Judiciary's system of oversight and conducts financial audits, program audits, reviews, assessments, and evaluations to promote effective and economical practices in AO and court operations.

Financial audits cover all court units, Judiciary funds, and financial systems. Regular cyclical court audits are conducted on a four-year cycle for most courts, and on a 30-month cycle for larger courts. Courts are also audited after a change in clerk. Other audits cover the Judiciary's appropriations, major financial systems, retirement programs, registry funds, bankruptcy trustees and debtors, defender grants, and various court and Judiciary operations.

Management reviews are a cooperative effort between the AO and the courts to provide an objective evaluation of court operations. The AO coordinates on-site court management assistance and program reviews at the request of chief judges and court managers. In FY 2008, AO staff conducted 54 on-site court reviews, 151 court and other financial audits, and 232 debtor audits as required by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

I am pleased to report that the AO has recently begun implementing an automated internal control program to enhance courts accountability. The program provides custom developed financial data mining reports that will enhance the internal control capabilities of court unit executives, assisting them in identifying potential issues before they become a problem, such as meeting existing procurement regulations, financial management requirements, or travel regulations. The program will also assist court unit executives in protecting court funds and precluding improper disbursements by monitoring separation of duties and reporting violations so corrective action can be taken immediately. Once fully implemented, which we expect to occur over the next two years, the program will become an essential management tool for each individual court unit, enabling them to identify potential problem areas easily and make corrections in a timely manner.

### **Reducing Rent Costs and Improving Planning**

The Judiciary's Circuit-Level Rent Budget (CRB) program is another example of a successful collaboration between court staff, AO staff, and judges. The program implements change in practice that combines fiscal discipline in the management of rent with decentralized decision making.

The CRB program is an important cost-containment initiative, approved by the Judicial Conference in September 2007, that established rent budget caps for individual circuit Judicial councils. The program has already helped the Judiciary contain rent growth in fiscal year 2008 to 1.6 percent above fiscal year 2007 expenditures, comfortably within the annual 4.9 percent cap established by the Judicial Conference in 2006. With all circuit judicial councils now working within the CRB framework, the effort has clearly increased awareness in the circuits

and the courts of the relationship between space needs and rent costs, and the large impact rent payments to the General Services Administration have on the Judiciary's overall budget.

### **J-Rent – Monitoring Space Costs**

During the past year, we continued to work closely with the Northern District of New York on a national approach to improve the reliability of courthouse rent calculations from the General Services Administration. *J-Rent*, a software module developed by the AO's Office of Facilities and Security, in collaboration with the U.S. District Court for the Northern District of New York, provides court unit executives with a simple, searchable database of past and current rent-bill information. As rent cost-containment efforts have progressed over the past several years, it became apparent that the courts needed to have a way to verify and track their rent expenditures. *J-Rent* is an invaluable tool for rent verification and will greatly assist court executives as they make decisions regarding their space utilization.

### **Emergency Response**

The Administrative Office and the courts also have developed an outstanding record of coordinated responses to emergency events. Lessons learned in recent years better prepared the AO to help courts plan for and cope with the impact of the 2008 hurricanes and Midwest flooding. For instance, because of remarkable efforts in the Northern District of Iowa, Cedar Rapids Division, after the most devastating flood in 500 years, the federal court relocated and reopened for business in only eight working days.

With continued heavy rain in the forecast and the National Weather Service predicting a record-setting crest of the Cedar River, on Wednesday, June 11, 2008, the Clerk of Court implemented their Continuity of Operations Plan (COOP) and instructed court staff to stay home. The U.S. Bankruptcy Court located just a few blocks away, also implemented its COOP. The district court's website and its Case Management/Electronic Case Filing System (CM/ECF) were transferred to a national server, and the court's own CM/ECF server was sent to the Sioux City courthouse (350 miles northwest) for safety. Websites for both the district and the bankruptcy courts announced the temporary closure of their respective courts while reassuring attorneys that throughout the COOP period of closure, the court's electronic CM/ECF would remain available for electronic filing and research.

All court facilities in Cedar Rapids suffered significant water damage. Yet, several days after the river had receded, court staff entered the courthouse and were able to remove usable equipment from the second and third floors. The General Services Administration (GSA) initially estimated the courthouse might be closed for at least six months. But by June 16, 2008, just two working days after implementing their COOP, the district court announced that they were back in business at a new location. Temporary space was located for the district and bankruptcy courts about five miles away. Folding tables and chairs were set up until leased furniture could be delivered. Temporary courtrooms were outfitted in conference space. Staff from the AO were on-site to assist with relocation arrangements. The Judiciary Emergency

Response Team, comprised of 22 program offices at the AO, assisted the court with emergency procurement authority, took the first steps to supply secure Data Communication Network lines to the new location, and worked with the U.S. Marshals Service to provide security to the new facilities. On June 17, 2008, Cedar Rapids court employees were asked to report for work at the new facility.

The Probation and Pretrial Services Office also took emergency steps to ensure the continuity of operations and the community's safety. Before evacuating the downtown courthouse, probation and pretrial officers were asked to review which residences for released offenders would be affected by the flooding. Officers had access to the Probation/Pretrial Services Automated Case Tracking System and phone contact was made with every offender.

Courts from around the country also pitched in. The district court in New Orleans sent an email with 20 administrative orders developed after Katrina to deal with things like the Speedy Trials and motions for continuance. Sample orders are also located on the Judiciary's Emergency Preparedness intranet website. The court had offers from volunteers around the country to help remotely with electronic docketing. The Southern District of Iowa sent IT staff to assist, and an architect who is assisting the District of Minnesota with their renovation project came to help plan renovations to the temporary facilities.

The Cedar Rapids courthouse itself remains closed. The court will continue to function in its temporary location until the new Cedar Rapids Courthouse construction project is completed. The Judiciary, and the district court, sincerely appreciates your funding this Judicial space emergency in the 2008 Disaster Supplemental.

Mr. Chairman, in spite of this emergency situation in June 2008, the Northern District of Iowa – with half of the district working over three months of the 2008 statistical year in its current warehouse situation – was number one in the nation in trials completed, number one in median times from filing to disposition in criminal cases, and fifth in civil cases. The district is also assisting the AO with national COOP training and resource development. I think this speaks to the dedication and commitment of court staff – that even courts that have been negatively impacted do what it takes to perform at the highest level.

### **AO Collaboration with the Executive Branch**

Not only does the AO work in close collaboration with court staff throughout the country, but this partnership often includes Executive Branch agencies. Earlier, Judge Gibbons highlighted our efforts to ensure that the federal government had a coordinated response to the changes in crack cocaine sentencing policy. The AO and the courts also work closely with Executive Branch agencies to address resource issues of mutual concern.

### **Pre-Trial Remote Detention**

The high volume of federal prosecutions has placed an increasing strain on the infrastructure of the criminal justice system. In some Judicial districts, its impact is evident in the housing and transportation of pretrial detainees where lack of bed space requires detainees to be housed at great distances from where they were arrested. Many districts have expressed concern that lawyers, probation officers, and family members are required to travel excessive distances to meet with or visit with detainees. Not only does this strain agency budgets, but it could disrupt the integrity of the Judicial process.

In an effort to address these issues, a group of judges from multiple Judicial Conference Committees, and representatives from the AO, the Office of the Federal Detention Trustee, Federal Public Defenders, U.S. Marshals Service, Pretrial and Probation Services, Federal Bureau of Prisons, and the Executive Office of U.S. Attorneys have formed an ad hoc study group on detention and have been meeting since July.

The group has surveyed all Judicial districts, analyzed and ranked each Judicial division (as opposed to overall district) based on a set of factors identified by the group to determine the severity of the pre-trial detention problem in that location. A website is now under development to allow districts to see the results of the survey. The website also will include suggested long and short-term remedies for jurisdictions that have been developed by this group of Executive and Judicial Branch representatives. This is an example of the impact of inter-branch coordination and the significant progress that can be made in addressing issues of mutual concern. I am hopeful the recommendations of the group will provide relief to districts that are struggling with the problem of pre-trial remote detention, as well as set the stage for additional collaboration in the future.

The AO and individual courts have also been working closely with Executive Branch agencies to develop better business practices. Let me highlight a few.

### **Department of Justice's Victim Notification System (VNS)**

In September 2008, the Judicial Conference approved a Memorandum of Understanding with the Department of Justice (DOJ) to develop an interface between the federal Judiciary's Case Management/Electronic Case Files (CM/ECF) system and DOJ's Victim Notification System. Each night, court event information – notices of hearings, sentences, etc. – can be extracted from the CM/ECF system and electronically passed to the VNS. More than thirty district courts are transmitting data to the VNS. That number is expected to double by the end of April 2009.

As you know, over the past decade, Congress has enacted several pieces of legislation addressing the needs of crime victims, including most recently the Crime Victims' Rights Act of 2004. The Department of Justice must notify victims of significant stages and procedural developments in the criminal justice process. DOJ must also keep victims aware of the status of

an investigation of a crime, including subsequent prosecution, trial, incarceration, and location and custody status of the offender. The VNS was designed to do that by automated letter, email, or a toll-free telephone call center.

Prior to this initiative, data on court events was maintained by the Judiciary and had to be sent to the DOJ, where it was manually entered into a database at individual U.S. attorney offices and then transferred to the VNS. The interface with CM/ECF will allow the data to be converted without re-entering thereby helping to eliminate data entry errors. In addition, federal probation officers will have access to the database and the notification capabilities of the VNS, which will save considerable time when they are looking for victim information to prepare victim-impact statements for pre-sentence reports.

These examples of public servants working together to share information and to refine and enhance an operation that can serve multiple purposes is heartening. This is exactly the type of inter-branch collaboration we need to see more often, particularly during times of limited resources.

### **CVB and the U.S. Forest Service**

In FY 2006, language was included in the Judiciary's Appropriations Bill authorizing the collection of a \$25 processing fee for all fines assessed on federal property. The processing fee offsets the operating costs of the Judiciary's Central Violations Bureau (CVB) which is mandated to collect and process these fines. Since implementation of the processing fee, the CVB has teamed with the U.S. Forest Service for a pilot project that has equipped a small group of officers with laptops and printers for use in their vehicles.

Instead of issuing a handwritten violation notice, those officers issue an electronic ticket and, when they reach headquarters, transfer the information to a central Forest Service database. The information is then transmitted to the CVB weekly. This saves time for both the Forest Service and the CVB data-entry staff. The E-ticket not only speeds up the time it takes a ticket to reach the CVB, it provides more accurate results. The fines collected are deposited into the Treasury and transferred into the Crime Victims Fund maintained by the Department of Justice.

### **Courthouse Construction**

I wanted to discuss, again this year, the status of our courthouse construction needs. First, let me express my sincere appreciation for the funding you have made available to the Judiciary in FY 2009. As part of the 2008 Emergency Supplemental, you included \$182 million in disaster funding to replace the Cedar Rapids, Iowa Courthouse. In the FY 2009 Omnibus Appropriations Bill, you provided \$110 million in funding so that the San Diego Courthouse project could begin construction, and \$165 million for significant repair and alteration projects at two existing courthouses. In addition, the American Recovery and Reinvestment Act – or Stimulus bill as it



is often called – provides no less than \$300 million that could be used to construct United States courthouses and federal buildings.

With regard to the \$300 million in the Stimulus, we have been working closely with the General Services Administration on a list of “shovel-ready” courthouse projects and are eager to see the project list that it sends forward to the Committee for approval. With five courthouse projects ready to begin the construction phase – having already completed site and design work – I am hopeful the full \$300 million will be allocated for the construction of courthouse projects on our Five-Year Plan. Unfortunately, the cost of the “shovel-ready” courthouse projects total \$1.239 billion, including the Los Angeles project, which I will discuss further in a moment. Thus, the \$300 million in the Stimulus will not fund all of these projects. We have, therefore, asked the Administration to include funding for the GSA in its revised 2010 Budget Request to support the construction of the “shovel-ready” projects that remain.

In testimony before the House Transportation and Infrastructure Committee, GSA stated that more than one-half of the total expenditures for construction of a courthouse would benefit a local economy in the form of salaries for construction-industry workers. In other words, with an appropriation of \$1.239 billion for the construction of these five courthouse projects, there would be an infusion of more than \$600 million in construction-related salaries, providing an estimated 5,397 jobs in these five local communities over three years. This calculation of jobs does not factor in what economists call the “multiplier effect” of those construction salaries – from purchasing groceries, paying rent and mortgages, making car payments, to generating tax revenue for state and local governments. Further, many of these projects are located in cities where other construction projects have been abandoned as a result of the recent economic downturn.

In addition to providing an economic boost to the states in which they are located, these courthouse projects were requested in these localities to address serious security, public health, and safety deficiencies, as well as critical space shortages. The existing courthouses at most of these locations were constructed at either the turn of the last century or in the 1930s as part of the Works Progress Administration – the economic stimulus effort during the Great Depression. They lack the modern security features so critical in today’s busy courthouses, such as secure sally ports for unloading prisoners at the courthouse; separate circulation patterns that ensure prisoners, the public, and judges only meet in the courtroom; and adequate holding cells.

Mr. Chairman, I respectfully request your consideration of funding new courthouse construction projects in your fiscal year 2010 Appropriations Bill. Earlier this week, the Judicial Conference approved the Judiciary’s Five-Year Courthouse Project Plan for Fiscal Years 2010-2014, which I ask be included in the hearing record.

In addition, the courthouse problem in Los Angeles, California still has not been resolved. The Central District of California is the largest Judicial district in the country and current facilities are seriously inadequate. Because of market conditions and delays, the cost of the Los Angeles project far exceeds GSA’s original estimates. Despite the sizable reductions in

scope made by the court, the cost of this project exceeds available appropriations but will only get more expensive as time passes. The AO, the court, and GSA have been working together to find a solution and were hopeful that the additional funds could be provided through the Reinvestment Act. While this, unfortunately, did not happen, I hope we can continue to work with you to find a solution to this critical space emergency.

### **Administrative Office Fiscal Year 2010 Budget Request**

Last, I will address the fiscal year 2010 appropriations request for the Administrative Office of the U.S. Courts, which is \$83,963,000. This represents an increase of \$4,914,000 or 6 percent, over fiscal year 2009 enacted appropriations. For the third year in a row, the Administrative Office continues to operate under a no-growth current services budget. The only new hires I have approved, since lifting my initial hiring freeze, have been to backfill vacancies that are most critical to our mission. In fact, since becoming Director, staffing levels at the AO have been reduced below what they were fifteen years ago.

The AO's appropriation comprises less than two percent of the Judiciary's total budget, yet the work performed by the AO is critical to the effective operation of the U.S. courts. In addition to the appropriation provided by this Committee, as approved by the Judicial Conference and the Congress, the AO receives funds from other sources such as fee collections and carryover balances to offset appropriation requirements. The AO also receives reimbursements from other Judiciary accounts for information technology development and support services that are in direct support of the courts, the court security program, and defender services.

The requested increase of \$4.9 million is exclusively to cover base adjustments to maintain current services; the AO requests no program increases. More than half of the increase is to fund the proposed fiscal year 2010 pay adjustment and to annualize the fiscal year 2009 pay adjustment. The balance is for inflationary adjustments. In fiscal year 2009, the Judiciary expects to have sufficient fee and carry-over balances available to the AO to offset partially direct appropriations required to maintain current services. If we have overestimated non-appropriated funds available to this account, we may be forced to reduce current on-board staffing. This would adversely affect our ability to carry out the AO's statutory responsibilities and serve the courts. Similarly, if fee collections and carryover surpass our estimates, the amount of appropriations we are requesting could be reduced further. We will, of course, keep you apprised of our actual estimates of non-appropriated funds throughout the year.

### **Conclusion**

Chairman Serrano, Representative Emerson, members of the Subcommittee, I have shared with you only a few examples of the diverse issues we handle and the types of services and support the Administrative Office provides the federal Judiciary. In addition to striving to

perform its fundamental responsibilities in the most efficient and effective manner, the AO must look beyond the immediate day-to-day needs of the courts. It is our responsibility to anticipate and plan for changes in workload, workforce demographics, legislative mandates, resource limitations, and other trends and events so that we can serve the courts effectively in the years to come.

In addition to our service to the courts, the AO works closely with the Congress, in particular, the Appropriations Committee and its staff, to provide accurate and responsive information about the federal Judiciary. I fully recognize that fiscal year 2010 will be a difficult year for you and your colleagues as you struggle to meet the funding needs of the agencies and programs under your purview. I urge you, however, to consider the significant role the AO plays in supporting the courts and the mission of the Judiciary. Our budget request is one that does not seek new resources for additional staff or programs. I hope you will support it.

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