

STATEMENT OF  
HONORABLE JULIA S. GIBBONS, CHAIR  
COMMITTEE ON THE BUDGET OF THE  
JUDICIAL CONFERENCE OF THE UNITED STATES  
BEFORE THE SUBCOMMITTEE ON  
TRANSPORTATION, TREASURY, HOUSING AND URBAN DEVELOPMENT,  
THE JUDICIARY, DISTRICT OF COLUMBIA AND INDEPENDENT AGENCIES  
OF THE  
COMMITTEE ON APPROPRIATIONS OF THE  
UNITED STATES HOUSE OF REPRESENTATIVES

April 12, 2005

**INTRODUCTION**

Chairman Knollenberg, Representative Olver and members of the Subcommittee. I am Judge Julia Gibbons of the Sixth Circuit Court of Appeals. Our court sits in Cincinnati, Ohio, and my resident chambers are in Memphis, Tennessee. It is my honor to represent the Judicial Conference of the United States for the first time before this subcommittee. As the Chair of the Judicial Conference Committee on the Budget, I come before you to testify not only on the judiciary's appropriation requirements, but also to apprise you of the current state of the federal courts. As you are aware, prior to the reorganization of the House Appropriations Committee, responsibility for the judiciary's budget resided with the former Commerce, Justice, State, and Judiciary Subcommittee. It was before that subcommittee, chaired by Congressman Frank Wolf, that my predecessors testified. We enjoyed a strong and positive relationship with that subcommittee and hope to continue that relationship with this subcommittee. We look forward to working cooperatively with you, Mr. Chairman, and the subcommittee members and staff.

## **Judiciary/Congress Relationship**

### *Congress's Power of the Purse*

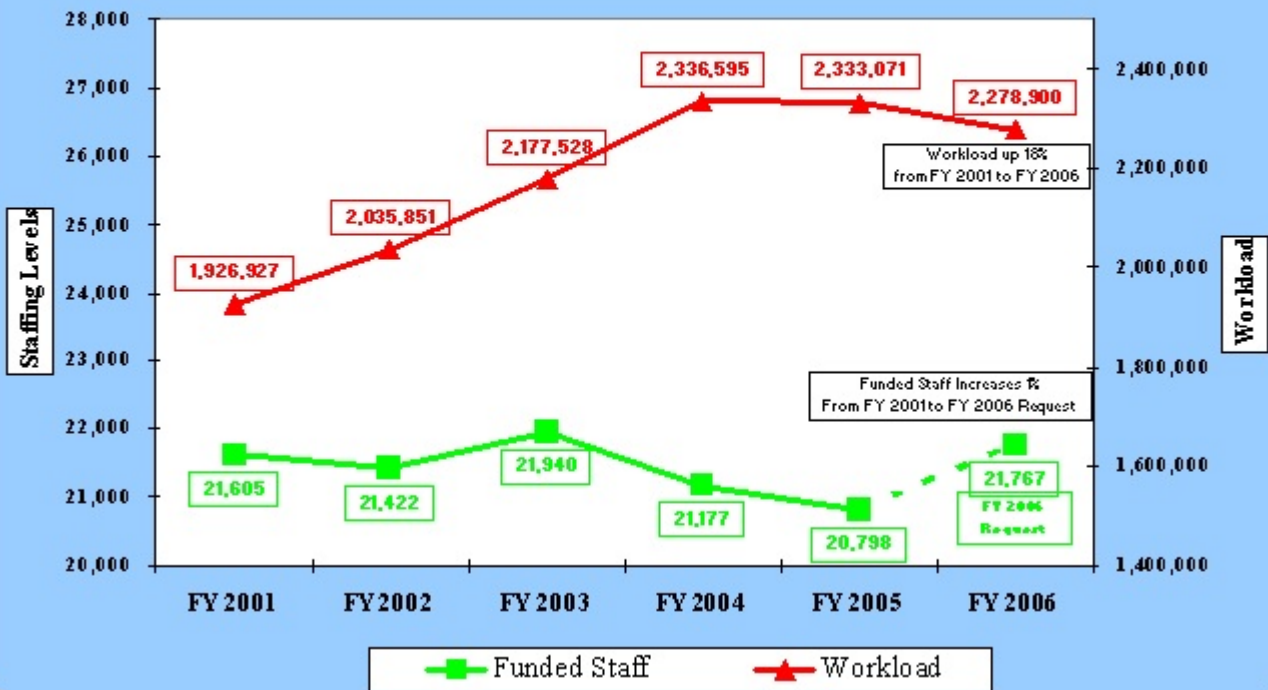
The federal judiciary is the Third Branch of our federal government and, in accord with the vision of the framers of our Constitution, is a separate branch of government, independent in its decision making. Yet, Congress controls funding for the courts and has the right and, indeed, the responsibility to scrutinize the judiciary's budget request. Through the appropriations process Congress controls the judiciary's budget and therefore its ability to serve the public. The funding you give us ultimately determines our staffing levels, equipment, space, extent of automation, jury fees, criminal defense funds, security and other items necessary for court operation. It is our task to justify to you the resources we believe are necessary and to use the funds you provide in a cost-effective and efficient manner. Over the years we have done our part, and generally Congress has done its part as well. To paraphrase the late Circuit Judge Richard A. Arnold, who for many years testified on behalf of the judiciary's budget needs: "You are not able to give us everything we ask for, but that's not to be expected in the real world." While we recognize the enduring realism of Judge Arnold's words, today I must share with you our current reality, which includes recent inadequate funding that has negatively affected the federal courts and the public we serve.

### **Staff Cutbacks and Workload Increases**

#### *Fiscal Year 2004 and Fiscal Year 2005*

Before turning to our FY 2006 budget request, a description of the current situation facing the courts is critical. The chart displayed below tells the story better than words.

## Court Support Staffing Vs. Workload FY 2001 - FY 2006 (request)



The chart shows that the workload of the courts has *increased* by 18 percent from FY 2001 to FY 2005, while funded staffing levels over that same 2001 to 2005 period *decreased* by 1 per cent. Despite the gap between workload and staffing, in FY 2004, because of budget constraints, we lost over 6 percent of our workforce, a loss from which we have not yet begun to recover. Specifically, between October 2003 and October 2004, we lost 1,350 probation office, clerks' office, and other court support employees. We are unaware of any other federal entity that sustained such a reduction in staffing. To achieve the required reduction, courts fired some employees, offered early retirements and buyouts, and held positions vacant when an employee retired or quit. Some courts also furloughed employees.

This loss of court staff has affected court operations and degraded services, as I will detail later in my testimony.

How did this predicament occur? Heading into conference on the fiscal year 2004 appropriations bill, it appeared that the judiciary would be spared draconian cuts. With the 5.7 percent increase originally agreed to by the conferees, the judiciary was poised to maintain fiscal year 2003 staffing levels, although not to acquire staff adequate for our ever-burgeoning caseloads. This outlook changed with the across-the-board one percent reduction that was included as part of the omnibus appropriations package.

A one percent reduction may not matter a great deal to most federal agencies and departments. But unlike executive branch departments or agencies, the judiciary does not have projects or programs that can be eliminated or cut to absorb budget shortfalls. Our appropriation funds only case-related functions, which are determined by workload we do not control, and a small portion of our security requirements. Sixty percent of the judiciary's budget pays for staff salaries and benefits. Another 20 percent goes to GSA as rent for the space we occupy, and the final 20 percent is for all other operating requirements of the judiciary including court security, defense panel attorney payments and juror payments. Although we tried to cut other costs wherever possible, the ultimate result of the one percent across-the-board reduction was the loss of 1,350 valued employees.

In 2005, the judiciary worked hard to make Congress aware of the problem created by the 2004 budget cuts in the hope that our fiscal year 2005 appropriation would restore much of what was lost. While the 4.3 percent fiscal year 2005 increase for our main Salaries and Expenses account was not everything we had sought, we recognize the constraints under which Congress was operating. The 2005 appropriation level allowed courts to halt the loss of staff. It also allowed a small number of the positions lost by the courts in fiscal year 2004 to be restored but did not permit hiring of staff to address the workload increases.

At the present time, the judiciary is in a most difficult and paradoxical situation. Courts desperately need to add staff in order to keep our growing caseload flowing smoothly through the courts, but court managers are deeply concerned that they may again need to cut staff in fiscal year 2006. In the middle of this funding crisis, we face new responsibilities and increased workload associated with bankruptcy reform legislation, the recently enacted Class Action Fairness Act, DOJ policies on immigration review, and the *Booker/Fanfan* decisions. In addition, our rent bill is growing dramatically. Compounding the problem is the likelihood the courts will not know their funding levels until November or December – well into fiscal year 2006, if history is any indicator. As the Chief Justice stated in his 2004 Year-end Report, “The recurring delays in enacting annual appropriations bills have severely disrupted [the Judiciary’s] operations.”

Given the uncertainty over how much our budget will be in fiscal year 2006 and when we will receive it, there is a real possibility that the court community will not use the funding that was provided in fiscal year 2005 to hire necessary staff. It is vital that you understand that the courts require additional staff in order to perform their statutory duties, but they are reluctant to hire those staff this year for fear they will have to fire them almost immediately in fiscal year 2006. The courts are not well-served by offering short-term, insecure employment, nor is this the type of employment that is needed to do the courts' job. What the court community needs now is a clear message that, at the very least, funds will be available in FY 2006 to maintain fiscal year 2005 staffing levels and ultimately to address workload increases.

Although our minimum need is to maintain staffing levels and ultimately to staff for workload increases, the truth is that we need additional staff now. Even with the heroic efforts of the remaining court staff, some degradation in service is already occurring. Many courts have reduced the hours that the public can file papers, seek information, and ask questions in the clerk's office. At least one court has reported that attorneys and the public must now wait in line up to 90 minutes to file a document. Payments to citizens who have served as jurors have been delayed. Some courts have had to decrease their emphasis on fine collection and restitution payments to victims of violent crimes. As another example, probation offices have found it necessary to set supervision priorities according to risk level. Because of the budgetary shortfall, supervision of lower-risk offenders is being suspended or reduced in order to maintain the level of supervision for more serious cases. We have one

report from a probation office that new crimes attributed to offenders under supervision in its district have increased by almost six percent.

Another consequence of funding uncertainty is an inability to recruit employees of the same quality as those traditionally attracted to service in the federal judiciary. Probation offices, for example, which were always able to draw from the ranks of state law enforcement agencies, have reported a dramatic reduction in the number of applicants for vacant officer positions. Without the job security usually associated with a federal position, law enforcement officers are unwilling to risk their state pension to apply for a previously more desirable job.

Putting it simply, the courts cannot handle their growing caseload (up 18 percent between fiscal year 2001 and fiscal year 2005) with staffing levels that are one percent *below fiscal year 2001* without a degradation of services. Thus, on behalf of the judiciary, I urgently request that Congress provide the courts with our required resources.

#### *Cost-Containment Initiatives*

While the judiciary has for years undertaken various measures to reduce costs, we redoubled our efforts in response to the budgetary constraints occasioned by our fiscal years 2004 and 2005 appropriations. The judiciary embarked on a major cost-cutting effort designed to reduce court requirements without harming the delivery of justice. The Judicial

Conference Executive Committee spearheaded this effort, which ultimately involved all courts. The Administrative Office has assumed responsibility for day-to-day coordination of these efforts, and Director Mecham will describe these efforts in more detail in his testimony. To summarize, however, we have sought advice and guidance from throughout the judiciary on the most effective ways to implement more efficient practices and to make necessary cuts.

This effort produced ideas that could be used in the short-term, such as simplifying the pretrial services report in misdemeanor cases, as well as permanent changes to the way the judiciary's budget is formulated. For example, as some new systems are implemented, automation allows for productivity improvements. To account for these productivity improvements between the periodic updates of our staffing formulas, the judiciary will assume a two percent productivity improvement in court staffing every year. In the fiscal year 2006 budget, this change reduced the judiciary's budget request by nearly \$18 million. The Judicial Conference is committed to cost containment and has made the cost-containment program a permanent part of the judiciary's budget process. Efforts remain underway to consider ways to temporarily or permanently reduce costs in areas such as space rental, as well as to maximize the receipt of non-appropriated funds by ensuring that fees are regularly and appropriately adjusted to reflect economic changes.

### **Outside Influence on the Judiciary's Caseload**

Another critical consideration in determining the judiciary's need for appropriations is the fact that the judiciary does not control its own workload. We cannot determine what cases we will hear but rather are bound to adjudicate every case brought before us. New



policy decisions by the Department of Justice (DOJ), legislation enacted by Congress, or changes in the economy can quickly and greatly influence the judiciary's caseload. And this year a decision on the sentencing guidelines by the Supreme Court - which, as an aside, is the one judiciary entity that I do not represent here today - has increased the workload for the rest of the judiciary significantly.

### *Department of Justice Policy*

As an example of how DOJ policy influences workload, the federal courts of appeals continue to receive an influx of immigration appeals resulting from the implementation of new review and streamlining guidelines by the Department of Justice's Board of Immigration Appeals (BIA) and a generally growing rate of appeals of these cases. Nationwide, immigration filings have risen from 1,642 cases in 2001 to 11,366 cases in 2004 (an increase of 592%).

On its own, this increase in appellate filings would have posed a major, but perhaps manageable challenge. However, coming at a time when funding for staffing resources has lagged, this workload increase has negatively impacted the operations of the courts of appeals. One particular problem arises from the fact that many of the attorneys handling immigration appeals are inexperienced in immigration law and federal appellate practice. Substantial staff time is required to answer their questions, and courts have also hosted training sessions for immigration lawyers and sought out qualified attorneys willing to accept immigration cases.

In addition, in some situations, the volume of cases prevents use of the typical screening procedure and/or mediation conference; thus more cases are going directly to panels of judges. Courts have found it necessary to create additional calendar sittings for panels of judges to hear motions, screen cases and decide the immigration appeals. In order to schedule the additional panels, visiting judges from district courts and other circuits are being asked to participate, resulting in higher travel costs.

The increase in immigration cases has contributed to an increase in pending cases in the courts of appeals, from 39,973 in 2001 to 52,394 in 2004, an increase of 31 percent.

#### *New Legislation*

New laws passed by Congress also impact court workload. Most recently, the Class Action Fairness Act of 2005 (P.L. 109-2) was enacted into law on February 18, 2005. This act will require most class action lawsuits to be heard in a federal district court rather than a state court. This legislation is expected to result in hundreds of additional class action cases being brought in federal court each year. Class action litigation generally requires a greater expenditure of court resources than other civil cases. The requirements for determining whether to certify a class are extensive. In addition, class action cases, more often than not, involve relatively complex claims (including product liability, mass tort, securities, patent and antitrust), involve multiple parties, require much discovery and many

motions hearings, and as a result, require far more docketing and noticing activity. Finally, the Class Action Fairness Act precludes centralization in one court of mass actions (multiple-plaintiff actions in which class certification is not sought) and thus deprives the courts of a previously-existing vehicle for efficient resolution of such cases. This will result in duplication of work in various districts.

### *Impact of Supreme Court Decision*

On occasion a Supreme Court decision has a major impact on the judiciary's workload. The decisions earlier this year in *United States v. Booker* and *United States v. Fanfan (Booker/Fanfan)* fall within this category. These decisions ruled that the United States Sentencing Guidelines are advisory and that certain sentence enhancements pursuant to the Guidelines, imposed by judicial factfinding, were unconstitutional. Virtually all sentenced defendants potentially affected by these decisions, whose cases are still pending in the district court or on direct appeal, will seek resentencing. The Supreme Court has already remanded 600 cases to the courts of appeals, and many remands from the appellate courts to the district courts are occurring daily. Before remanding, an appellate court must first consider or reconsider the merits of the appeal. When cases reach the district court on remand, new sentencing hearings must be held, requiring staff to process new filings and appeals, revise presentence reports, amend Judgment and Commitment Orders, and attend court. Sentencing hearings for defendants sentenced initially under *Booker/Fanfan* are more complicated than under a mandatory guideline regime, as judges consider both advisory

guideline sentences and other alternatives, and there is an accompanying requirement of additional staff time. And, as the law with regard to the proper application of *Booker/Fanfan* develops, a substantial increase in appeals is expected. Prisoners whose sentences are final will also seek to attack their sentences collaterally, usually proceeding *pro se*. Even if the *Booker/Fanfan* rulings are not retroactive, these new filings (estimated to be as high as 12,000) will require clerk's offices to open new files and process filings and will require staff attorney review of the cases.

Costs associated with Criminal Justice Act representation will also be significantly affected. Because of the sentencing and resentencing implications of *Booker/Fanfan*, defense counsel now must spend additional hours advising clients on possible sentences, investigating the defendant's history and the circumstances of the offense, and litigating new legal issues. The judiciary estimates that there will be an additional 12,000 Criminal Justice Act representations as a result of the *Booker/Fanfan* decisions.

### **FY 2005 Supplemental Needs**

The courts are unable to absorb the workload for the items mentioned above because staff are already overtaxed as a result of the recent cutbacks. Thus, the Judicial Conference had no alternative but to seek supplemental funding this fiscal year for the expected increased costs associated with both the Class Action legislation and the *Booker/Fanfan* decisions. The judiciary has requested, and the President has transmitted to Congress, a supplemental

request of \$101.8 million to offset the costs of these items. Although the supplemental was not received by the House in time to be included in the House's version of the supplemental, the Senate has included \$60 million for the judiciary. We hope that in conference the House will support the judiciary and agree to include these funds. We have not requested additional funding associated with increased immigration appeals, although these do impose significant increased work on the appellate courts.

In addition, as all of you are aware, recent events have highlighted the vulnerable positions of judges and their families outside the courthouse. We are therefore encouraging the Department of Justice to request additional resources for the United States Marshals Service (USMS) in order to improve the quality of judicial security, in particular as it relates to threat assessment. We believe that the level of resources currently devoted to this task is woefully inadequate. As an interim step, the Judicial Conference has requested that \$12 million in supplemental funding be appropriated to the USMS to provide for the costs of installing necessary security equipment at the homes of all judicial officers. The Senate did include \$11.94 million for the USMS in its version of the supplemental for increased judicial security, although this was for a number of judicial security enhancements and did not fully fund our request for home security systems.

## **FY 2006 Request**

The fiscal year 2006 budget request for the judiciary is, to a large degree, a product of the fiscal situation of the past two years. The judiciary is requesting a 9.7 percent increase over fiscal year 2005 appropriations. While this may appear high in relation to the overall budget request put forth by the Administration, when broken down, I think you will see that the request is more than reasonable. The figures relate directly to the composition of the judiciary budget, in which personnel and space requirements overwhelmingly predominate. Of the \$526 million increase being requested:

- Nearly 27 percent, or \$142 million, of the requested increase is needed just to pay for standard pay and benefit increases. This does not pay for any new staff but rather covers the annual pay adjustment and benefit increases, such as costs for health insurance, associated with staff currently on board. The amount budgeted for the pay adjustment is 2.3 percent for 2006.
- \$30 million is for pay and benefit costs associated with the current level of Article III judges, including the net cost of Article III judges taking senior status.
- \$55 million is needed for space rental increases including inflationary increases and new space delivery. An additional \$22 million is needed to pay for Federal Protective System security charges, which GSA passes on to the courts in rented space. As I had stated earlier, space rental costs consume a full 20 percent of the judiciary's budget. The Chief Justice in his year-end statement referred to the "funding crisis currently affecting the federal judiciary." He stated that one way to "immediately relieve the

judiciary budget crisis facing the courts would be to reassess the rent that the judiciary is required to pay the General Services Administration (GSA) for courthouses around the country.” The judiciary is aware that many executive and legislative branch buildings are exempt from rent. The federal judiciary, however, must continue to pay rent on all federal court buildings, in perpetuity. The judiciary is required to pay rent for buildings that have been fully amortized, in some cases, several times.

- \$48 million is a technical adjustment to cover the projected loss in non-appropriated sources of funding. In addition to appropriations, the judiciary receives revenue from fees and other items that can be used to offset appropriation needs in the next fiscal year. Revenue not needed in the year collected may be carried over. While we expect a \$10 million increase in new fee collections in 2006, we will carry over far less in “old” collections, which will have to be offset by appropriated funds.
- An increase of \$26 million is necessary to pay costs associated with Criminal Justice Act representations. The Sixth Amendment to the Constitution guarantees that all criminal defendants have the right to counsel. The Criminal Justice Act provides that the courts shall appoint counsel for those persons who are financially unable to pay for their defense. The number of representations is expected to increase by nearly 6,000 in fiscal year 2006, as the number of defendants for whom appointed counsel is required increases.

- Approximately \$25 million of the increase will provide for certain items such as security system replacement, body armor for court security officers, and software licenses and upgrades.

The increases described above total \$348 million, or 66 percent of the requested increase, and represent absolute must-pay items for which little to no flexibility exists. This leaves a much smaller increase of \$178 million that would have to bear the full impact of any reduction to our request. Of this amount:

- \$40 million was used as a placeholder for anticipated costs associated with the Supreme Court *Booker/Fanfan* decisions that I described earlier. Since the time these estimates were developed, a supplemental has been submitted. If the judiciary receives its supplemental request in FY 2005, these funds will no longer be necessary for fiscal year 2006.
- \$95 million is requested for additional staff and associated expenses. Since fiscal year 2001, court workload has increased by more than 18 percent overall. In virtually all categories – appellate, criminal, bankruptcy, probation and pretrial services – caseloads have seen double digit increases since the beginning of this decade, yet over that period funded court support staffing levels have declined. If the judiciary is granted this funding increase, it will only provide the courts with essentially the same number of staff funded in fiscal year 2001. The judiciary uses statistically developed



formulas to determine the number of positions needed to address adequately the workload of the courts. In an effort to hold down the required increase in staffing, the judiciary's cost-containment initiative included a reduction to the formula-driven staffing levels. As a result of these efforts, the judiciary has reduced staffing requirements by more than 2,000 positions, or eight percent. Even after taking these reductions into consideration, the staffing requirements still indicate the need for an additional 2,700 positions over the level funded in fiscal year 2005 for fiscal year 2006. At the funding level requested, the judiciary is asking for less than half of the staffing increase that is called for by the formulas.

- Of the remaining \$43 million, \$18 million would provide for additional court security systems and equipment and \$13 million would fund information technology systems and courtroom system upgrades. The rest of the increase would fund a variety of smaller requirements in other judiciary accounts.

The appendix provided with this statement includes an account-by-account description for accounts under the Courts of Appeals, District Courts and Other Judicial Services.

### **Contributions of the Administrative Office**

The Administrative Office of the United States Courts has served and supported the courts in an exemplary manner in a very difficult fiscal year. The more the courts have to do,

and the fewer resources with which they have to do it, the more challenging is the job of the Administrative Office. With only a fraction (1.5%) of the resources that the courts have, it manages to guide us and support our needs.

The Administrative Office continues to serve as the central support agency for the federal courts, with key responsibility for judicial administration, policy implementation, program management, and oversight. It performs important administrative functions, but also provides a broad range of legal, financial, management, program, and information technology services to the courts. None of these responsibilities has gone away and new ones are continually added, yet the Administrative Office staff has been essentially frozen for ten years. Time spent on these new initiatives and on assisting the courts in operating under fiscal constraints means efforts to support basic infrastructure and systems are being reduced. Ultimately, this will lead to serious deficiencies and breakdowns in core administrative and financial services and systems.

In my role as Chair of the Judicial Conference Committee on the Budget, I have the opportunity to work with many staff throughout the Administrative Office. They are dedicated and hard working and care deeply about their fundamental role in supporting this country's system of justice. I am privileged to have worked with these professional staff people of the highest caliber.

The fiscal year 2006 budget request for the Administrative Office is \$72.2 million, representing an increase of \$4.9 million, or 7.3 percent above the fiscal year 2005 available appropriation. All of the requested increase is necessary to support adjustments to base, mainly standard pay and general inflationary increases, as well as funding to replace a lower level of fee carryover with appropriated funds.

I urge the Subcommittee to fund fully the Administrative Office's budget request. The increase in funding will ensure that the Administrative Office continues to provide program leadership and administrative support to the courts, and lead the efforts for them to operate more efficiently.

### **Contributions of the Federal Judicial Center**

I want to say a few words about the Federal Judicial Center and its request. The Center is the federal judiciary's education and research arm. Judge Barbara J. Rothstein, the Center's director, has been a federal district judge since 1980 and director of the Center since September 2003. She and I hope to ensure that the Center's budget is adequate to allow it to continue to provide very important educational and analytical services for judges and their staffs.

I strongly recommend that the Subcommittee approve full funding for the Federal Judicial Center's request, which is only 6.7% over its 2005 level.

In evaluating the Center's request, I ask the subcommittee to consider the importance of its programs to the fair and efficient operation of the judicial branch. Center programs help judges and their staffs to ease the transition to their new jobs and assist them throughout their careers as new needs arise. Center orientation seminars, for example, introduce every judge to his or her responsibility for effective docket management and acquaint them with the major areas with which they will have ongoing substantive involvement. And, in respect to the growing amount of complex litigation involving scientific and technical evidence, Center programs and reference guides help judges sort out relevant facts and applicable law from the panoply of information with which the adversary system bombards them. The Center also provides education for employees in our clerks, probation, and pretrial services offices, almost all of it offered by satellite and on the web, thus avoiding travel costs. This education has been extremely important in helping these offices in times of employee unease and uncertainty.

The FJC also has an important research role. The committees of the Judicial Conference turn to the Center for top-quality policy research and analysis. Its work on class action litigation is only the latest example of its contribution in this regard.

From my perspective as a federal judge, the modest funds appropriated to the Center (less than one-half of one percent of the judiciary's budget) produce a significant

return on investment. I urge you to approve full funding for the Federal Judicial Center in fiscal year 2006.

### **Conclusion**

I hope that my testimony here today has given you a better appreciation for the hurdles the judiciary faces and the many factors that influence judicial workload. The judiciary has, with great care and consideration, placed before you a budget request that is mindful of the fiscal constraints you are facing but that reasonably tries to alleviate some of the hardship under which the judiciary has been operating. We know that the subcommittee's task is difficult. I offer my assistance and that of the staff of the Administrative Office to do whatever we can to provide you with any additional information you may need.

I will be happy to answer any questions.

## SUMMARY

The fiscal year 2006 appropriation request for the *Courts of Appeals, District Courts, and Other Judicial Services* totals \$5,693,780,000, an increase of \$509,791,000, or 9.8 percent, over fiscal year 2005 available appropriations. In addition to appropriated funds, the judiciary utilizes other funding sources to supplement our appropriations including fee collections, carry forward of fee balances from a prior year, and the use of no-year funds. When all sources of funds are considered, the increase in obligations for fiscal year 2006 is only \$398,377,000 or 7.1 percent.

Of the \$509,791,000 increase in appropriations, 77 percent (\$394,738,000) is adjustments to the fiscal year 2005 base associated with standard pay and other inflationary increases as well as other adjustments that will allow the courts to maintain current services in fiscal year 2006. The remaining 23 percent (\$115,053,000) is needed to respond to increased requirements for magistrate judges, federal defender offices, court security systems and equipment, information technology upgrades, increased caseload associated with the U.S. Supreme Court's twin majority opinions in *United States v. Booker* and *United States v. Fanfan* decisions, and to fund additional court staff required to process growing workload.

At the time of the budget submission, the judiciary was not able to prepare a more detailed cost impact associated with the Supreme Court decisions mentioned above. As a preliminary estimate, the fiscal year 2006 request included \$40,000,000 for the potential workload that may materialize from these decisions – \$30,000,000 in the Defender Services account and \$10,000,000 in the Fees of Jurors account. On March 2, 2005, after submission of the judiciary's fiscal year 2006 budget request, the President forwarded to Congress a judiciary supplemental appropriation request totaling \$101,800,000 for the Booker/Fanfan Supreme Court decisions and for the Class Action Fairness Act of 2005 based on its recent enactment into law. If supplemental funding is provided in fiscal year 2005 for these requirements, the judiciary will revise its fiscal year 2006 request accordingly in its budget re-estimate later in the year.

The requests for the principal programs are summarized below.

### **Salaries and Expenses**

The salaries and expenses of circuit, district, and bankruptcy courts and probation and pretrial services offices account for most of our request. A total of \$4,775,266,000 in obligations is required for this account, including funding for the Vaccine Injury program, in fiscal year 2006. Funding totaling \$310,494,000 is expected to be available from other sources including fee collections and carryforward balances to fund Salaries and Expenses requirements. This leaves an appropriation need of \$4,464,772,000, which is \$336,365,000 above the fiscal year 2005 available appropriation.

Of the \$336,365,000 increase, 83 percent (\$280,008,000) is needed to fund adjustments to the fiscal year 2005 base including: pay and benefit increases for judges (\$16,613,000); increases in the number of active and senior Article III judges, increases in the Article III judgeship average, and magistrate judges adjustments (\$11,510,000); non-recurring costs associated with new fiscal year 2005 judgeships (-\$2,512,000); pay and benefit increases for court support and probation and pretrial services staff (\$93,559,000); annualization of positions backfilled in fiscal year 2005 (\$29,350,000); unfunded fiscal year 2005 court operations expenses (\$21,713,000); increases necessary to maintain fiscal year 2005 staffing levels as a result of a reduction in non-appropriated funding (\$29,089,000); increases for space rental and associated costs (\$53,207,000); inflationary increases for operating costs (\$9,214,000); and increases to support existing and newly installed automated systems and to continue work on information technology systems currently under development (\$18,265,000).

The remaining 17 percent (\$56,357,000) will fund 5 additional magistrate judges and their staff to help Article III judges handle civil cases and the record number of criminal cases facing the courts (\$1,919,000); 574 court support FTEs to address fiscal year 2006 workload requirements (\$43,343,000); and increases to support new information technology projects and upgrades (\$11,095,000).

### **Defender Services**

An appropriation of \$768,064,000 is required for the Defender Services program to provide representation for eligible criminal defendants in fiscal year 2006. This is an increase of \$100,743,000 above the fiscal year 2005 available appropriation.

Of this increase, 69 percent (\$69,884,000) is needed for adjustments to the fiscal year 2005 base for inflationary and workload increases. Included in these adjustments are standard pay and inflation increases for federal defender organizations (\$14,824,000); a cost-of-living adjustment to the capital and non-capital panel attorney rates (\$1,535,000); annualization of the panel attorney capital rate increase to \$160 per hour (\$10,080,000); annualization and other inflationary increases (\$2,419,000); increase in the projected number of representations (\$26,340,000); funding to maintain base caseload costs (\$15,286,000); and a reduction in non-recurring costs (-\$600,000).

Of this increase, 30 percent (\$30,000,000) is requested as a preliminary estimate for workload that may materialize from the Supreme Court decisions in *United States v. Booker* and *United States v. Fanfan*.

The remaining increase of 1 percent (\$859,000) will fund an increase for three new positions at the Administrative Office (\$259,000); and start-up costs of two new federal defender organizations expected to be opened in fiscal year 2006 (\$600,000).

### **Fees of Jurors and Commissioners**

For the Fees of Jurors program, an appropriation of \$71,318,000 is required, an increase of \$10,608,000 from the fiscal year 2005 available appropriation. Of this increase, 94 percent (\$10,000,000) is requested as a preliminary estimate for workload that may materialize from the Supreme Court decisions. The remaining 6 percent (a net increase of \$608,000) is for a decrease in the projected number of juror days (-\$1,699,000); inflation (\$1,042,000); and an increase in funding to maintain the fiscal year 2005 service level (\$1,265,000).

### **Court Security**

For the Court Security program, an appropriation of \$389,626,000 is required, which is an increase of \$62,075,000 above the fiscal year 2005 available appropriation. Of this increase, 71 percent (\$44,238,000) is for adjustments to base including: an increase for standard pay and benefit increases (\$289,000); a court security officer hourly wage adjustment (\$14,278,000); an increase to annualize the costs for 15 new fiscal year 2005 court security officers (CSOs) (\$492,000); non-pay inflationary increases (\$293,000); an increase for maintenance and other adjustments to security systems and equipment (\$5,337,000); an increase of 25 additional CSOs associated with fiscal year 2006 new and existing space (\$1,396,000); an increase for Federal Protective Service security charges (\$21,880,000); an increase for additional body armor for court security officers (\$582,000); and a reduction of for non-recurring security systems and equipment (-\$309,000).

The remaining increase of 29 percent (\$17,837,000) will fund perimeter security improvements additional and replacement security systems and equipment, CSO radio repeater installations, equipment in probation and pretrial services offices and in federal defender organizations, and for General Services Administration installations and alterations (\$16,785,000); four contractor positions to conduct an analysis of the Judicial Facility Security Program (\$1,000,000); and one additional FTE to provide the U.S. Marshals Service with the resources needed to more effectively and efficiently administer the Judicial Facility Security Program (\$52,000).