

STATEMENT OF LEONIDAS RALPH MECHAM, DIRECTOR
ADMINISTRATIVE OFFICE OF THE U.S. COURTS
BEFORE THE SUBCOMMITTEE ON
TRANSPORTATION, TREASURY, HOUSING AND URBAN DEVELOPMENT,
THE JUDICIARY, AND DISTRICT OF COLUMBIA
COMMITTEE ON APPROPRIATIONS OF THE
UNITED STATES HOUSE OF REPRESENTATIVES

April 12, 2005

INTRODUCTION

Chairman Knollenberg, Congressman Olver, and members of the Subcommittee, I am pleased to appear before you this morning to present the fiscal year 2006 budget request for the Administrative Office of the United States Courts (AO) and to support the request for the Judicial Branch.

This is my first appearance before the newly formed Appropriations Subcommittee on Transportation, Treasury, Housing and Urban Development, the Judiciary, and District of Columbia. The federal judiciary, as a whole, is new to your purview and I look forward to working closely with you and the staff of the Subcommittee to answer any questions you might have and to represent as clearly as I can the unique needs of the judiciary.

FUNDING CRISIS IN THE FEDERAL COURTS

As Judge Gibbons has already told you, the judiciary has been in the midst of an acute funding crisis since fiscal year 2004, when its final appropriation was insufficient to support on-board court staff. At a time when they faced a record number of criminal defendants, record appeals, civil, probation and pretrial caseloads, and a near record caseload in the bankruptcy

system, as well as additional requirements mandated by Congress, the courts experienced a six percent reduction in personnel nationwide, losing 1,350 employees in appellate, bankruptcy and district courts and probation and pretrial services offices between October 2003 and October 2004. To date, the judiciary has lost 1,796 of its employees.

While the funding provided by Congress for FY 2005 was sufficient to avoid further loss of staff, many courts have been reluctant to hire staff to fill vacant positions for fear they will have to terminate them in FY 2006. This is truly a case of doing more with less and it has adversely impacted court operations. Lawyers and the public are experiencing long lines as some clerks' offices are closing early. Payments of fees to jurors and victim restitution are being delayed because of staffing reductions. And, some probation offices that have downsized are reporting an increase in new crimes attributed to offenders under their supervision.

Chairman Knollenberg, we fully recognize that overall budget constraints will continue in FY 2006. However, within these limitations, I urge you to make the Judicial Branch one of your highest priorities. Core court functions must be adequately funded so the administration of justice is uninterrupted.

EMERGENCY SUPPLEMENTAL

In light of the constrained budgetary situation under which the judiciary is currently operating, it will be extremely difficult for the courts to absorb within existing resources the anticipated costs associated with the Booker/Fanfan sentencing guidelines decision of the

Supreme Court and the recently enacted Class Action Reform Act. While I realize our supplemental request for \$101.8 million may have been transmitted too late for inclusion in the House-passed version of the Emergency Supplemental, the Senate has provided \$60 million in its bill to address these “court emergencies”. We would deeply appreciate your support of these additional funds in conference on the bill later this month.

The Senate has also included almost \$12 million for the United States Marshals Service to address judicial security. Prior to Senate action on the bill, I wrote the President and leaders in Congress, including yourself, asking for a number of judicial security improvements. I would like to include a copy of that letter for the hearing record. As you are undoubtedly aware, this is an emotional issue for judges and their families who feel especially vulnerable after the recent murders of Judge Leftkowitz’s husband and mother. While we support the efforts of the Senate in focusing funding for a number of judicial security initiatives, we would like to see a greater focus in providing home intrusion security systems for all federal judges. Funding for the USMS is under the jurisdiction of the Commerce, Justice, and Science Appropriations Subcommittee, but as Chairman of the Subcommittee with overall responsibility of the federal judiciary, it would be helpful if you could weigh in on our behalf.

GSA RENTAL EXEMPTION FOR THE JUDICIAL BRANCH

One of the most significant impacts your Subcommittee can have on the judiciary and its future fiscal stability is through your fiduciary oversight of the General Services Administration (GSA) and the Federal Buildings Fund.

Eighty-four percent of the judiciary's total Salaries and Expenses budget goes to support court personnel and the facilities in which they work. Rental payments account for 22 percent. The judiciary's rent payments to GSA have soared from \$133 million in 1986 to \$912 million in FY 2004, almost a 600 percent increase. During that same period, the amount of space provided to the judiciary has grown only 200 percent, from 12.6 million square feet to 36.8 million square feet. Including current facilities and new court buildings already under construction, the judiciary will have to pay about \$1.2 billion in rent to GSA by FY 2009.

The judiciary pays more rent to GSA than any other federal agency except the Department of Justice. But as a percentage of total appropriations, the judiciary pays seven times more for rent than does Justice. As you can see from the chart that I have included in my testimony, the growing proportion of the Third Branch's overall budget spent on rent is skyrocketing, to 22% currently. Yet, GSA rent only accounts for under 1 percent of large Executive Branch agency budgets.

The Department of Defense does not pay rent to GSA for the Pentagon or its military bases. The Treasury Department does not pay rent on the main Treasury building or on its mints. Likewise, the Federal Reserve Board and many quasi-federal agencies do not pay rent to GSA. There is no rent paid to GSA on federal prisons, embassies, NIH facilities, VA hospitals, EPA labs, or national parks and national forest facilities. And, the Legislative Branch does not pay rent to GSA on the Capitol Building or any of the House or Senate office buildings. As a result

of different financing arrangements for the construction and operation of facilities, these organizations likely pay far less than they would if they were under the control of GSA.

In contrast, the federal judiciary must pay rent **forever** on all federal court buildings – even those fully amortized and paid for – often two to six times over. Thus, I believe, both for equity and parity, the judiciary should be exempted from **all** rental payments that exceed GSA’s actual operating costs and space build-out at the judiciary’s request in older buildings, a total of \$483 million per year. At a minimum, GSA should exempt from such shell rent all court buildings over 25 years old that are fully amortized. That would amount to an annual rental savings of \$222 million to the judicial branch.

While the judiciary has taken steps of its own to control its rent bill by undertaking a comprehensive review of its courthouse construction program, including a moratorium on new construction projects, it is the rent we are paying for existing facilities and those already under construction, that is exacerbating our budget woes. Under federal law, the judiciary must pay rent to GSA as a first charge against its budget. As non-defense and non-homeland security discretionary funding is constrained and reduced, we are deeply concerned that the Committee will not be able to fully support the resource needs of the judiciary – at which point the judiciary will be required to pay its rent bill in full at the expense of staffing in the federal courts. This is what happened in FY 2004. Our final appropriation was insufficient to support current services. The rent bill was paid in full to GSA while the judiciary had to cut operating expenses and six percent of its on-board staff, which has now risen to 8 percent. The Office of Management and

Budget reports that no other federal entity was forced to take such cuts. I cannot believe that Congress envisioned such a huge rent burden would be placed on the Judicial Branch when the Federal Buildings Fund was created in the early 1970's.

Mr. Chairman, we in the judiciary, and especially in the AO, have a long history of maintaining an excellent working relationship with the members and staff of the Appropriations Committees. I look forward to establishing a high level of trust between our two branches, and especially to working with you and the Committee to overcome this rent crisis.

I would now like to discuss with you the funding problems facing the Administrative Office. Like the courts, our workload is growing while, at the same time, our staffing levels have declined.

ROLE OF THE ADMINISTRATIVE OFFICE

Created by an Act of Congress in 1939, the Administrative Office of the United States Courts (AO) is devoted to helping the courts fulfill the judiciary's mission – administering justice to the citizens of this country. 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 Administrative Office does for the Judicial Branch. The AO provides administrative, legal, financial, management, program, security, and information technology services to the federal courts. It provides support and staff counsel to the Judicial Conference of the United States and to its 24 committees, and it implements Judicial Conference policies as well as applicable federal statutes and regulations.

The AO is the focal point for judiciary communication, information, program leadership, and administrative reform. Our administrators, accountants, systems engineers, analysts, architects, lawyers, statisticians, and other staff provide professional services to meet the needs of judges and staff working in the federal courts nationwide. And, we're here to meet the needs of the Congress by responding to questions, working on studies of judiciary operations and programs, and preparing reports.

EXPANDING SERVICE TO THE COURTS

While the AO's core support responsibilities have remained constant, events over the past several years have required the AO to provide greater support to the courts in the areas of security, emergency preparedness, financial planning, and cost containment, to name a few. Demonstrating perseverance and teamwork, and with fewer staff resources, the AO has focused its energies on helping courts steer through these difficult and challenging times.

Judicial Conference Cost Containment

In March 2004, alarmed by the fiscal crisis facing the judiciary, the Chief Justice charged the Executive Committee of the Judicial Conference with conducting a comprehensive review of the policies and practices, operating procedures and customs that have the greatest impact on the judiciary's costs, and with developing an integrated strategy for controlling these costs.

The Executive Committee enlisted the assistance of chief judges, court staff, advisory groups, Conference committees, and the AO staff to scrutinize all spending categories, with the focus on

whether expenditures – even though needed or desirable – are affordable in the current budget climate. Hundreds of ideas were generated and reviewed. “Quick hitting” action items were identified for immediate implementation, as well as long-term cost-containment ideas for 2005 and beyond.

The initial phase of this massive effort was completed in just five months. Thousands of staff hours were dedicated to this initiative – virtually all AO units played a part. And, in September 2004, the Judicial Conference approved a long-term cost-containment strategy that includes six major components: (1) space and facilities cost control, to which I referred earlier; (2) work process efficiency; (3) compensation review; (4) effective use of technology; (5) defender services, court security, law enforcement, and other program cost-management initiatives; and (6) fee adjustments. Implementing this strategy is and will be a major focus for the AO in the coming years, as our staff provide substantial support to Judicial Conference committees and the courts in developing and implementing cost-containment initiatives.

AO Cost Containment

The AO also initiated a review of its own budget and of the programs it manages for the courts, such as information technology and operational and administrative training. Broad spending restrictions were implemented. Because 93 percent of the AO budget is required to cover compensation and benefits costs, specific attention was focused on containing personnel costs. During 2004, virtually no AO positions that became vacant were filled, increasing the AO vacancy rate from 5 percent to nearly 10 percent by the end of the fiscal year. AO staffing declined to its

lowest point since 1991, even though our workload increased significantly. Additional personnel cost-cutting steps included reducing or delaying normal salary increases, acquiring temporary help through local sources at little or no cost and, when critical positions are filled, hiring at entry or lower-grade levels. Travel, training, contracts, services, supplies, and equipment were restricted to absolutely essential requirements for critical court support functions. Although we believe program reviews and technical assistance are extremely useful for improving judicial administration, we have had to cut back our efforts in these areas due to resource constraints.

Emergency Preparedness

_____ Another critical focus of the AO has been its continued commitment in the area of emergency preparedness. Nearly all courts now have developed continuity of operations plans (COOPs) to continue delivery of critical court services in the event of natural disasters or terrorist attacks and civic emergencies. To further this process, in March 2004, the AO published on the judiciary's intranet a *Guide for Developing and Conducting COOP Exercises*. Court emergency preparedness coordinators also were offered a train-the-trainer program to guide them in developing simulated exercises. And, in May 2004, the AO and two courts participated in an emergency preparedness and response exercise with 45 executive branch agencies. During the exercise, the AO team relocated to an alternate site and tested AO emergency plans and communications.

Court Operations Support Center (COSC)

In 2002, Congress authorized the establishment of a Court Operations Support Center (COSC) outside Washington, D.C. Recognizing that support to the federal courts must continue in

the event of a civic emergency or natural disaster, during the past two years, the AO has devoted extensive staff resources to establishing the off-site center. An occupancy lease agreement for a site in Reston, Virginia was executed by GSA and the lessor in April 2004. Renovation of the building and relocation of systems and staff are being completed in two phases. The first phase, completed in February of this year, was the build-out of the data center, which will house critical redundant systems. The second phase, which includes the build-out of office space, conference and training rooms, as well as a telework center, will be completed by the end of April. I expect the COSC to be fully occupied and operational later this summer.

Certain critical systems software, hardware, and support staff will be relocated from the Thurgood Marshall Federal Judiciary Building (TMFJB), which may be particularly vulnerable to emergency closures due to its location on Capitol Hill. So that the federal courts can continue operations, the COSC will ensure that key administrative, technical, and communications support continues uninterrupted in the event the TMFJB is rendered inaccessible. The COSC will assume the role of a backup facility and relocation site for the AO's Emergency Response Team. And, consistent with Congressional direction, the facility also will provide telework opportunities for employees.

PROGRAM OVERSIGHT

Ensuring the appropriate use of resources is a key oversight responsibility of the AO. We recognize that it is imperative that we do everything in our power to ensure that the monies appropriated to the judiciary are utilized prudently; assets and resources are protected from loss,

waste, or abuse; operations are efficient and effective; financial reports are accurate and reliable; and business practices comply with applicable laws and regulations.

Stewardship

During 2004, the AO continued to promote initiatives to support the stewardship and management oversight responsibilities of chief judges and court unit executives. The chief judge and judge-nominee orientation programs and judges' publications are being updated and expanded to include judges' stewardship responsibilities as managers of their chambers and courts. Following completion of five stewardship training sessions for all court unit executives and federal defenders in early 2004, the AO has focused on adapting this essential training program to a web-based format for new court unit executives, chief deputies, and other court managers.

Procurement Policy

The federal courts carry out delegated procurement activities. After delaying procurement training for budgetary reasons, the AO determined that it was critical to proceed with training programs for court staff with procurement responsibilities. During 2004, the AO trained 477 judiciary employees in basic procurement rules as part of the procurement training required under the Judiciary's Contracting Officers Certification Program. Additional training modules will be developed and made available through desktop access.

INCREASING PRODUCTIVITY AND COST EFFICIENCIES
IN THE COURTS THROUGH
INFORMATION TECHNOLOGY SYSTEMS

_____ Another key AO responsibility is to develop, implement, and support new information technology systems that will enhance the management and processing of information and the performance of court business functions. To a large extent it is because of the judiciary's investment in information technology that the federal courts have been able to handle more work without commensurate increases in personnel.

Since 1985, the courts' automation program has grown from just two mainframe computers operated centrally by the AO to about 1,600 servers running powerful, sophisticated national applications on a distributed basis in the courts and over a judiciary-wide data-communications network. The Information Technology Fund, which finances the courts' national automation program, provides the capacity to plan and manage multi-year projects.

As part of the Judicial Conference's cost-containment strategy, the AO initiated an effort to identify and implement more cost-effective information technology service delivery models. Currently, court units typically have separate servers for each national system application. We believe cost savings can be achieved through reducing the number of servers, with potential reduction in equipment, license, and space requirements, even though one-time investments will be required for software modification, hardware acquisition, and network changes. The AO is working

with the courts to identify the benefits and costs of moving to a new service delivery model and to develop a transition plan schedule. In the interim, normal cyclical replacement of court-based servers supporting national applications has been discontinued.

Although spending on a number of information technology projects was curtailed or deferred during 2004, the AO continued to deploy critical systems. If you will permit me, I would like to highlight just a few:

Case Management/Electronic Case Files

The Case Management/Electronic Case Files (CM/ECF) systems have dramatically improved electronic public access, and have gained the federal courts recognition as leaders in electronic filing for the legal community. As of January 1, 2005, 197 courts have begun the implementation process and 141 of those courts have completed the conversion from their old, paper-based systems to CM/ECF. These systems are now providing many bankruptcy and district courts – and will soon extend to the appellate courts – a new case management system and the ability to receive and manage case files electronically. The ability to receive and file case related documents over the Internet is proving to be very popular with the bar. By the end of 2004, nearly 150,000 attorneys had filed electronically. Already, CM/ECF systems are handling over 3.5 million docket entries per month. In those courts that have actively implemented the electronic filing capability, more than 1 million of the monthly docket entries are being submitted electronically by attorneys. National implementation in all courts is currently scheduled to be completed in 2006.

Probation and Pretrial Services Automated System

By the end of 2004, the AO had completed the delivery of the Probation and Pretrial Services Automated Case Tracking System – Electronic Case Management (PACTS-ECM) to all 94 districts. PACTS-ECM gives probation and pretrial services officers and their managers the information they need, and at the same time, provides data to the AO without burdening officers with duplicate entry. Enhancements in 2004 included a module to help officers plan the supervision of their clients. The AO also completed a project to provide officers with an interface between PACTS-ECM and personal data assistants (PDAs), expanding the use of PDAs to all districts. Officers use PDAs to access critical case information while they are in the field and to update records, which eliminates the need to maintain a cumbersome field book and duplicate information. PACTS-ECM data gives officers quick access to vital information such as phone numbers for emergency contacts and treatment providers.

Financial Accounting System for Tomorrow

The judiciary-wide accounting system, the Financial Accounting System for Tomorrow (FAS4T), is now operational in 12 circuits and all 94 districts. For the first time, courts are operating a single integrated core financial system. More than an accounting system, it has become the financial core for other national systems that require financial data, such as the Integrated Library System and the Jury Management System. Plans are underway to interface with other national systems that require financial data, such as CM/ECF and PACTS-ECM.

Human Resources Management Information System (HRMIS)

The recent conversion from the old legacy personnel system to the new PeopleSoft-based Human Resources Management Information System (HRMIS) for the AO, Federal Judicial Center, U.S. Sentencing Commission, judges and all court employees provides the judiciary with a state-of-the art automated personnel processing system that handles both personnel and payroll actions. With the entire judiciary population on the new HRMIS system, the foundation has been laid for adding additional functional capability beyond personnel and payroll processing and reporting that may eventually eliminate paper transactions and provide on-line employee self-service transactions.

ADMINISTRATIVE OFFICE BUDGET REQUEST

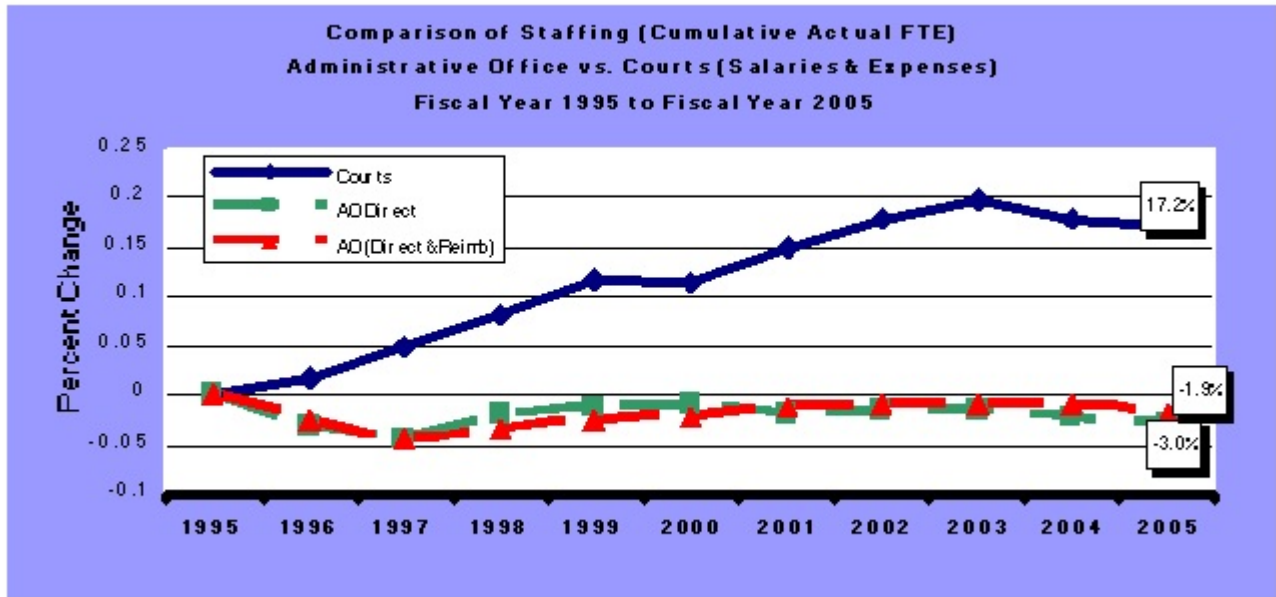
The FY 2006 budget request for the Administrative Office of the U.S. Courts is \$72,198,000, representing an increase of \$4,912,000, or 7.3 percent, to cover the costs of necessary adjustments to base. No program or staff increases have been requested.

The AO's appropriation comprises only slightly more than one percent of the judiciary's total budget. In addition to the appropriation provided by this Committee, the AO receives non-appropriated funds from sources such as some fee collections and carryover balances to offset its appropriation requirements. The AO also receives reimbursements from three other judiciary accounts for information technology development and services that are in direct support of the courts, the security program, and federal defender's and appointed counsel.

The AO's request for base adjustments in fiscal year 2006 comprises standard pay and general inflationary increases, as well as funding to offset an anticipated reduced level of non-appropriated funds, such as fee collections.

AO Staff Support for the Courts

As my testimony today has demonstrated, the AO's primary function is to support the federal court system – its judges, its staff, its facilities, and its infrastructure. To do so requires staffing levels commensurate with those in the courts. However, as shown on the following graph, staffing levels at the AO have actually declined since fiscal year 1995, while the number of judges and court staff being supported by the AO have increased more than 17 percent.



More specifically, AO staffing has actually declined by 2 percent while its workload has grown dramatically. As I mentioned earlier, coping with the events of the past several years has significantly impacted the workload of AO program offices. In addition to supporting critical

court functions and the activities of the Judicial Conference of the United States, staff at the AO have been called upon time and again to assist courts in responding to emergency situations, including the effects of the present fiscal crisis. The AO has managed these increasing workloads without additional staff. It has performed its duties with focus and determination, and will continue to do so. Our budget request does not seek additional staff resources this year. However, it is absolutely essential to our ability to fulfill our mission of support to the courts that the AO be funded at its request level – a level sufficient to maintain its level of service to the courts in FY 2005.

CONCLUSION

Chairman Knollenberg, Mr. Olver, Members of the Subcommittee, I hope that I have provided you with some appreciation of the wide array of responsibilities vested in the AO and the seriousness with which we undertake them. For every issue that affects the judiciary, every new piece of legislation that expands federal jurisdiction, every administration initiative that impacts federal law enforcement, every Congressional request for information, there are personnel at the AO who must quickly master the subject area and render expert advice and support to the courts.

And, during these times of fiscal constraint and declining budgets, the courts turn to the AO to help provide them with creative and effective approaches for performing the business of the judiciary. I am proud of our leadership in this area, and of our record of accomplishment and service to the courts. I recognize that we face a difficult appropriations process this year and, with that in mind, I urge you to consider the significant role the AO plays in supporting the courts, particularly

in maintaining core court functions within constrained resources. Our budget request for FY 2006 recognizes that everybody must continue to do more with less and does not seek an increase in funding for additional personnel or new 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.