



NINTH CIRCUIT

UNITED STATES COURTS

2005 ANNUAL REPORT





The Office of the Circuit Executive would like to acknowledge the following for their contributions to the 2005 Annual Report:

Chief Judge Mary M. Schroeder
Clerk of Court Cathy Catterson
Chief Pretrial Services Officer George Walker
Chief Probation Officer William Corn
Bankruptcy Appellate Panel Clerk Harold Marenus
Circuit Mediator Lisa Evans
Circuit Mediator David E. Lombardi, Jr.
Ninth Circuit Librarian Eric Wade

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THE JUDICIAL COUNCIL OF THE NINTH CIRCUIT



Seated, from left: Senior District Judge Arthur L. Alarcón, Chief Circuit Judge Mary M. Schroeder, Senior District Judge Roger G. Strand. *Middle row:* Bankruptcy Judge Philip Brandt (guest), Senior District Judge Terry J. Hatter Jr., Circuit Judge Marsha S. Berzon, District Judge Charles R. Breyer, Chief Magistrate Judge J. Kelley Arnold. *Back row:* Chief District Judge B. Lynn Winnmill, Chief Bankruptcy Judge Gregg W. Zive, Chief District Judge Stephen M. McNamee.

Not pictured: Circuit Judges Alex Kozinski, Andrew J. Kleinfeld, Kim McLane Wardlaw, and Chief District Judge Donald W. Molloy.



MISSION STATEMENT

United States Courts for the Ninth Circuit



The Mission of the Judicial Council of the Ninth Circuit is to support the effective and expeditious administration of justice and the safeguarding of fairness in the administration of the courts within the circuit. To do so, it will promote the fair and prompt resolution of disputes, ensure the effective discharge of court business, prevent any form or invidious discrimination, and enhance public understanding of, and confidence in the judiciary.

FOREWORD

Chief Judge Mary M. Schroeder



The year 2005 proved noteworthy for the federal courts of the Ninth Circuit, bringing new challenges but also opportunities to celebrate historic milestones and recognize outstanding service to the law. The 2005 Ninth Circuit Annual Report recaps the important trends and events in the courts serving nine western states and two Pacific Island jurisdictions. We hope you find it useful and welcome your comments.

An ongoing challenge for the United States Court of Appeals for the Ninth Circuit is continued caseload growth. The upturn is being driven by immigration appeals, which constituted 41.1 percent of our appellate caseload in 2005. We have implemented new and innovative ways to better manage this burgeoning caseload, while continuing to respect the rights of would-be immigrants and asylum seekers. But we also have reached out to the source, meeting with Department of Justice officials in Washington to request greater resources for immigration judges and the Board of Immigration Appeals so that they can more thoroughly document their decisions. It is the lack of a sufficient legal record that makes appellate review so difficult in many of these cases. I am encouraged by statements made by the attorney general, urging immigration judges to improve their work, and by recent legislative efforts to restore resources to the BIA.

2005 saw record bankruptcy filings triggered late in the year by debtors rushing to file before the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 took effect in October. The increase was notable in the Ninth Circuit, which accounts for 16 percent of all filings nationally, and in the Central District of California, which is the largest and busiest bankruptcy court in the nation. Bankruptcy courts in the Ninth Circuit reported 335,454 filings in 2005, up 32.8 percent from the prior calendar year. Judges and court staffs rose to the challenge, working many extra hours to serve the bar and the thousands of citizens who needed help filing on their own. The long-term effect of the new law on the operation of our courts remains to be seen.

Another challenge was the slow pace of judicial appointments in 2005. Only two district judges were seated over the course of the year. The district courts ended the year with seven vacancies, two of them more than a year old. The court of appeals, meanwhile, went the entire year with four of its 28 judgeships vacant, one of them for more than five years. We believe two of the circuit judgeships will soon be occupied and are hopeful that the President and Senate will move quickly to fill all of the empty positions. I would also note that we welcomed three bankruptcy judges and seven magistrate judges during the year.

2005 saw another ill-conceived bid to split the Ninth Circuit into smaller circuits without regard to the high cost and lack of administrative benefits of such a major reorganization. Bypassing the normal legislative process that would have allowed debate on the merits of the plan, proponents in the House attached the circuit split to an omnibus spending bill critical to the government's continued operation. This must-pass bill was approved by the House and forwarded to the Senate.

The circuit split was subsequently stripped from the bill after senators from both parties made clear they would not allow the Senate be forced to consider such an important change without adequate study and debate.

Division of the Ninth Circuit has been an ongoing issue and we continue to communicate with the legal community, the public and Congress about why this effort is misguided. We also remain open to change. For example, we have changed our circuit rules to increase the number of judges sitting on an en banc court to 15 from 11. While the court has been satisfied with the operation of the 11-judge en banc court, the larger court responds to concerns that a majority of the court's judgeships be used to decide important legal matters. The change went into effect Jan. 1, 2006, and will be evaluated after two years.

We celebrated the opening of new federal courthouses in Fresno and El Centro, California, along with the completion of a major restoration and seismic retrofit of the venerable Pioneer Courthouse in Portland, Oregon, the oldest federal courthouse on the West Coast. Work continued on a new courthouse in Eugene, Oregon, and plans were finalized for another courthouse renovation and retrofit in Seattle. But the circuit's two biggest projects, new courthouses in Los Angeles and San Diego, are undergoing redesign in response to financial pressures. Both projects are critically important to their respective districts.

Our most noteworthy celebration marked the 100th anniversary of the James R. Browning U.S. Courthouse in San Francisco, one of the nation's most beautiful public buildings. The centennial was celebrated publicly with a major event held 100 years to the day after the building opened as a courthouse and post office on August 29, 1905. The list of distinguished guests was led by Congresswoman Nancy Pelosi of San Francisco, who served as keynote speaker, and Senator Max Baucus of Montana, who made a special presentation recognizing a fellow Montanan, Chief Judge Emeritus James R. Browning, for whom the building was named in 2004.

2005 also marked the 100th anniversary of two of our district courts in the Pacific Northwest. The Eastern and Western Districts of Washington were established by Congress in 1905, just six years after Washington became a state. Judges and court staff in both districts found time to commemorate the milestone with impressive books and video documentaries. Congratulations to all of them.

Congratulations also to judges and court staff honored in 2005 with various awards. I want to mention two particularly deserving individuals, both from the Northern District of California: Senior District Judge William W Schwarzer, who received the American Judicature Society's prestigious Edward J. Devitt Distinguished Service to Justice Award; and Senior District Judge Thelton E. Henderson, who received the Lewis F. Powell Jr. Award for Professionalism and Ethics from the American Inns of Court.

And speaking of recognizing exemplary service, it was the Ninth Circuit's great honor to welcome Associate Justice Sandra Day O'Connor to our annual judicial conference, held last July in Spokane. Justice O'Connor, who was making her first public appearance after announcing her retirement, was her usual gracious and accommodating self, a true example for all of us.

A handwritten signature in black ink that reads "Mary M Schweder". The signature is written in a cursive, flowing style.



NINTH CIRCUIT OVERVIEW


The United States Courts for the Ninth Circuit consists of the Ninth Circuit Court of Appeals along with district and bankruptcy courts in the 15 federal judicial districts that comprise the circuit, and associated administrative units that provide various court services. The Ninth Circuit includes the Districts of Alaska, Arizona, Central California, Eastern California, Northern California, Southern California, Hawaii, Idaho, Montana, Nevada, Oregon, Eastern Washington, Western Washington, the U.S. Territory of Guam and the Commonwealth of the Northern Mariana Islands. The establishment of the Ninth Circuit in 1866 began the development of the federal judicial system for the western United States. Today, it is the largest and busiest of federal circuits.

Judges serving on the circuit and district courts are known as Article III judges, a reference to the article in the United States Constitution establishing the federal judiciary. Article III judges are nominated by the President, confirmed by Congress and serve for life. The Ninth Circuit Court of Appeals has been authorized 28 judgeships and ended 2005 with four vacant positions. For most of the year, the district courts were authorized 112 judgeships, seven of which were vacant at year's end.

Federal courts also rely on senior circuit and senior district judges to assist with their workload. These are Article III judges who are eligible for retirement but have chosen to continue working with a reduced caseload. Senior circuit judges sit on appellate panels, serve on circuit and national judicial committees and handle a variety of administrative matters. In the district courts, 57 senior judges heard cases, presided over procedural

matters, served on committees and conducted other business of their courts.

In addition to Article III judges, the Ninth Circuit has a number of Article I judges, who serve as magistrate judges in the district courts or as bankruptcy judges in the bankruptcy courts. Bankruptcy judges are appointed by the court of appeals for a term of 14 years, while magistrate judges are appointed by the individual district courts and hold their positions for eight years. In 2005, bankruptcy courts in the Ninth Circuit were authorized 68 permanent and five temporary judgeships. The district courts were authorized 94 full-time and 11 part-time magistrate judges; several courts also utilized recalled magistrate judges.

Overall, the Ninth Circuit courts experienced increased caseloads in 2005. Unless otherwise noted, statistics in this report cover the 2005 calendar year. 

THE JUDICIAL COUNCIL AND ADMINISTRATION OF THE NINTH CIRCUIT



The Judicial Council of the Ninth Circuit is the governing body of the United States Courts for the Ninth Circuit. The council's statutory mission is to support the effective and expeditious administration of justice and the safeguarding of fairness in the administration of the courts. It has statutory authority to "make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit," [28 U.S.C. 332(d)(1)]. The 13 members are looked upon as a "judicial board of directors." Chaired by the chief judge of the circuit, the council provides policy guidance and leadership to courts of the circuit. It meets quarterly to review issues and resolve problems, conducting additional business by conference call or mail ballot when necessary.

The Judicial Council of the Ninth Circuit also has been delegated responsibilities by the Judicial Conference of the United States, the national governing body for the federal courts. These responsibilities include authorizing senior judge staffing levels and pay. The council accomplishes most of its work through committees.

Day-to-day management of the courts rests with the court of appeals and each of the district and bankruptcy courts. Under the direction of the individual courts' chief judge and clerk of court, the clerks' offices process new cases and appeals, handle docketing functions, respond to procedural questions from the public and bar, and provide adequate judicial staff resources. The clerk of court for the court of appeals also supervises the work of the Circuit Mediation Office and the Office of the Staff Attorneys, which includes the research, motions, case management, and pro se units. The Office of the Appellate Commissioner, also located in the Ninth Circuit Court of Appeals Clerk's Office, reviews Criminal Justice Act vouchers for cases that come before the court of appeals.

Conference of Chief District Judges

The Conference of Chief District Judges advises the Judicial Council of the Ninth Circuit about the administration of justice in each of the circuit's 15 district courts. The chair of the conference is a voting member of the council. The conference, which is comprised of the chief district judge of each district, meets twice a year.

Chief District Judge Marilyn L. Huff of the Southern District of California served as chair of the conference from September 2004 through January 2005. She was succeeded by Chief District Judge David A. Ezra of the District of Hawaii, whose term expired in early December 2005. Chief District Judge Stephen M. McNamee of the District of Arizona succeeded Judge Ezra and will serve as chair of the conference until his term expires in April 2006.

Conference of Chief Bankruptcy Judges

The Conference of Chief Bankruptcy Judges advises the Judicial Council of the Ninth Circuit on the administration of the bankruptcy courts within the circuit. The chair of the conference is a non-voting member of the council. The conference, which consists of chief bankruptcy judges from each district and the presiding judge of the Ninth Circuit Bankruptcy Appellate Panel (BAP), meets twice a year. Chief Bankruptcy Judge Albert E. Radcliffe of the District of Oregon chaired the conference from June 2004 to September 2005, when Chief Bankruptcy Judge Gregg W. Zive became chair. Judge Zive will chair the conference until October 2006.

Magistrate Judges Executive Board

The Magistrate Judges Executive Board provides a channel of communication between the Judicial Council of the Ninth Circuit and the more than 100 full-time, part-time and recalled magistrate judges serving in the

district courts. The 14-member board meets twice a year and meets with all magistrate judges at the annual circuit conference. The chair of the board serves on the council as an observer.

Chief Magistrate Judge J. Kelley Arnold of the Western District of Washington has been serving as chair of the board since September 2004. His term expires in September 2006.

Associated Court Units

Ninth Circuit courts also rely on several important court-related agencies to ensure the fair administration of justice. The district courts maintain oversight of U.S. Probation and Pretrial Services offices, which are responsible for supervision of criminal defendants and background investigations and reports. The circuit's federal public defender and community defenders represent indigent defendants unable to afford private counsel. They have offices in each of the Ninth Circuit districts with the exception of the Northern Mariana Islands, which relies on a Criminal Justice Act panel of attorneys.

Office of the Circuit Executive

The Office of the Circuit Executive provides staff support to the council and implements its administrative decisions and policies. By statute, the circuit executive is the administrative assistant to the chief judge of the circuit and secretary to the Judicial Council. The circuit executive and his staff assist in identifying circuit-wide needs, conducting studies, proactively developing and implementing policies, providing training, public information, and human resources support. Circuit executive staff also coordinates building and automation projects, and advises the council on procedural and ethical matters. The Office of the Circuit Executive provides management and technical assistance to courts within the circuit upon request. It also administers the annual Ninth Circuit Judicial Conference. 🏰



Senior District Judge Terry J. Hatter, Jr. of the Central District of California, Senior District Judge Roger G. Strand of the District of Arizona and District Judge Charles R. Breyer of the Northern District of California at a Judicial Council meeting held in October 2005.

JUDICIAL COUNCIL OF THE NINTH CIRCUIT
Chief Judge Mary M. Schroeder

EXECUTIVE
 COMMITTEE

OFFICE
 OF THE
 CIRCUIT EXECUTIVE

Judicial
 Conference
 Executive
 Committee

Associations of
 Judicial Officers

Liaison
 Committees

Advisory and
 Standing
 Committees

Budget and Finance

Program

Resolutions

Activities

*Lawyer Representatives
 Coordinating Committee*

*Conference of
 Chief District Judges*

*Conference of Chief
 Bankruptcy Judges*

*Magistrate Judges
 Executive Board*

District Clerks

Bankruptcy Clerks

*Chief Probation and
 Pretrial Services*

Advisory Board

*Alternative Dispute
 Resolution*

*Article III Judges
 Education*

Capital Case

*Court-Council Committee
 on Bankruptcy Judge
 Appointments*

*Standing Committee on
 Federal Public Defenders*

Information Technology

Jury Trial Improvement

Pacific Islands

*Public Information and
 Community Outreach*

Space and Security

Wellness III

*Organization
 of
 Ninth Circuit Committees*

JUDICIAL TRANSITIONS



NEW JUDGES IN 2005

District Judges



Judge Brian E. Sandoval was appointed a district judge for the District of Nevada on October 26, 2005. Prior to his appointment, Judge Sandoval served as an attorney general for the state of Nevada from 2003 to 2005. He worked for the Nevada Gaming Commission from 1998 to 2001, and served as a member of the Nevada State Assembly from 1994 to 1998. Judge Sandoval received his B.A. from the University of Nevada in 1986, and his J.D. from Ohio State University, Michael E. Moritz College of Law in 1989. Following law school, he engaged in private practice in Nevada from 1989 to 2002. He maintains chambers in Reno.



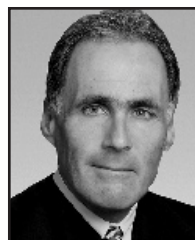
Judge J. Michael Seabright was appointed a district judge for the District of Hawaii on April 28, 2005. Prior to his appointment, Judge Seabright served as a supervisory assistant United States attorney, 2001 to 2005, and as an assistant U.S. attorney, 1990 to 2001, for the District of Hawaii. He was an adjunct professor in 1999, 2000, and 2002, at the University of Hawaii William S. Richardson School of Law. Judge Seabright also served as an assistant U.S. attorney for the District of Columbia, 1987 to 1990. He was an associate and partner at Greely, Walker & Kowen, from 1985 to 1987. Judge Seabright received his B.A. from Tulane University in 1981, and his J.D. from George Washington University Law School in 1984. He maintains chambers in Honolulu.

Bankruptcy Judges



Judge Theodor C. Albert was appointed a bankruptcy judge for the Central District of California on June 1, 2005. Prior to his appointment, Judge Albert was a co-founder of the law firm of Albert, Weiland & Golden, LLP in Costa Mesa, Calif. Before this, he was a partner at the law firm of Buchalter, Nemer, Fields & Younger, LLP in Newport Beach, Calif. Judge Albert

received his B.A. from Stanford University in 1975, and his J.D. from the University of California, Los Angeles, in 1978. He is a member of the Orange County Bankruptcy Forum, the Orange County Bar Association, and the State Bar of California. He maintains chambers in Los Angeles.



Judge Robert S. Bardwil was appointed a bankruptcy judge for the Eastern District of California on July 6, 2005. Prior to his appointment, Judge Bardwil was the sole shareholder of Robert S. Bardwil, PC, from 1994 to 2005. He was a shareholder and partner at Bardwil & Dahl, PC, from 1986 to 1994, and was the managing attorney for the Sacramento Law Office of Max Cline, from 1981 to 1984. Judge Bardwil received his B.S. from the University of California, Los Angeles in 1976, and his J.D. from Southwestern University School of Law in 1979. He maintains chambers in Sacramento.



Judge Frank L. Kurtz was appointed a bankruptcy judge for the Eastern District of Washington on November 1, 2005. Prior to his appointment to the federal bench, Judge Kurtz had served as judge of the Washington State Court of Appeals since 1996 and had also served as its chief judge. He had practiced bankruptcy law with the law firm of Kurtz, Hurley, Lara and Adams in Yakima, Wash. Judge Kurtz received his B.A. from Creighton University in Nebraska in 1968, and his J.D. from Gonzaga University School of Law in 1974. He maintains chambers in Yakima.

Magistrate Judges



Judge Mark E. Aspey was appointed a magistrate judge for the District of Arizona on March 18, 2005. From 1980 until his appointment, Judge Aspey served as an assistant United States attorney for the District of Arizona. During 1974 and 1975, Judge Aspey was in private practice with the law firm of Maupin and Wilson. From 1975 to 1980, he served as an assistant

attorney general for the State of Arizona. Judge Aspey received his B.S. from Northern Arizona University in 1971, and his J.D. from Arizona State University College of Law in 1974. He maintains chambers in Arizona.



Judge Cathy Ann Bencivengo was appointed a magistrate judge for the Southern District of California on December 5, 2005. Prior to her appointment, Judge Bencivengo was in private practice as an associate and partner at DLA Piper Rudnick Gray Cary LLP in San Diego (formerly Gray Cary Ware & Freidenrich), from 1998 to 2005. She was a national co-chair of the firm's Patent Litigation Practice Group. Judge Bencivengo received her B.A. and her M.A. from Rutgers University in 1980 and 1981, respectively, and her J.D. from the University of Michigan Law School in 1988. She maintains chambers in San Diego.



Judge James P. Donohue was appointed a magistrate judge for the Western District of Washington on February 8, 2005. Prior to his appointment, Judge Donohue was a shareholder in the Seattle office of Heller Ehrman White & McAuliffe. He served as chair of the intellectual property section of the Washington State Bar Association and has also been involved with the American Bar Association, drafting model jury instructions for intellectual property cases. Judge Donohue received his A.B. from the University of Illinois in 1973, and his J.D. from the University of California, Los Angeles, in 1976. He maintains chambers in Seattle.

Judge Hector C. Estrada was appointed a magistrate judge for the District of Arizona on April 4, 2005. Prior to his appointment, Judge Estrada was in private practice for 16 years, most recently as a sole practitioner. He served as a public defender in Pima County for 10 years and worked as a prosecutor for the City Attorney's Office in Tucson for three years. Judge Estrada received his B.A. from Northern Arizona University in 1971, and his J.D. from the University of Arizona James E. Rogers College of Law in 1975. He maintains chambers in Tucson.



Judge George W. Foley, Jr., was appointed a magistrate judge for the District of Nevada on August 4, 2005. Prior to his appointment, Judge Foley was a partner with the law firm of Pearson, Patton, Shea, Foley & Kurtz, where his practice was primarily devoted to insurance, bad faith, legal malpractice and general civil practice litigation. He began his career in partnership with his father, George Foley, Sr., in the areas of criminal law, divorce and domestic relations. Judge Foley received his B.A. from the University of Nevada at Las Vegas in 1977, and his J.D. from the University of the Pacific McGeorge School of Law in 1980. He maintains chambers in Las Vegas.



Judge Jennifer C. Guerin was appointed a magistrate judge for the District of Arizona on April 4, 2005. Prior to her appointment, Judge Guerin was an assistant United States attorney in Tucson and has served as its chief of the office and civil chief. She engaged in private practice with the law firm of Molloy, Jones and Donahue. Judge Guerin received her B.A. from the University of Arizona in 1986, and her J.D. from the Georgetown University Law Center in 1990. Following law school, Judge Guerin clerked for Judge William Canby of the U.S. Court of Appeals for the Ninth Circuit. She maintains chambers in Tucson.



Judge Paul J. Papak was appointed a magistrate judge for the District of Oregon on September 19, 2005. Prior to his appointment, Judge Papak served as an assistant federal public defender for the District of Oregon from 2000 to 2005, and as a federal public defender for the District of Iowa from 1996 to 2000. He was a senior litigator for the District of Iowa's Federal Public Defender's Office from 1994 to 1996. Judge Papak was a clinical law professor at the University of Iowa College of Law from 1981 to 1996, and also served as an assistant dean, from 1984 to 1989. He was a litigation associate at Moffatt, Thomas, Barrett & Blanton in Boise from 1975 to 1981. Judge Papak received his B.A. from Princeton University in 1971, and his J.D. from the University of Wisconsin Law School in 1975. Judge Papak maintains chambers in Portland.

NEW SENIOR JUDGES

District Judges



Judge Franklin D. Burgess of the Western District of Washington assumed senior status on March 9, 2005. Judge Burgess was appointed a district judge for the Western District of Washington on March 28, 1994. Prior to his appointment, Judge Burgess was a United States magistrate judge for the Western District of Washington, from 1981 to 1993. He was the regional counsel for the Department of Housing and Urban Development in Seattle, from 1980 to 1981. Judge Burgess served as a judge pro tem, Municipal Court and Pierce County District Court, Washington, from 1971 to 1980. He engaged in private practice in Tacoma, from 1969 to 1980. He also served as an assistant city attorney, City of Tacoma, from 1967 to 1969. Judge Burgess received his B.A. from Gonzaga University in 1961, and his J.D. from Gonzaga University School of Law in 1966. Judge Burgess maintains chambers in Tacoma.



Judge Terry J. Hatter, Jr., of the Northern District of California assumed senior status on April 22, 2005. Judge Hatter was appointed a district judge for the Northern District of California on December 20, 1979. He served as chief judge from 1998 to 2001. Prior to his appointment to the federal bench, Judge Hatter served as a California Superior Court judge, Los Angeles County, from 1977 to 1980. Judge Hatter was a special assistant to the mayor and director of urban development in Los Angeles from 1975 to 1977, and was special assistant to the mayor and director of criminal justice planning, Los Angeles, from 1974 to 1975. He was a professor at Loyola University School of Law, Los Angeles, from 1973 to 1975, and was an associate professor at the University of Southern California Law Center from 1970 to 1974. Judge Hatter received his B.A. from Wesleyan University in Middletown, Conn., in 1954, and his J.D. from the University of Chicago Law School in 1960. Judge Hatter maintains chambers in Los Angeles.



Judge Consuelo B. Marshall of the Central District of California assumed senior status on October 24, 2005. Judge Marshall was appointed a district judge for the Central District of California on September 30, 1980. She served as chief judge from 2001 to 2005. Prior to her appointment to the federal bench, Judge Marshall served as a California Superior Court judge, Los Angeles County, from 1977 to 1980; as a Municipal Court judge in Inglewood, Calif., from 1976 to 1977; and as a commissioner for the Los Angeles Superior Court, from 1971 to 1976. Judge Marshall received her B.A. from Howard University in 1958, and her LL.B. from Howard University Law School in 1961. She maintains chambers in Los Angeles.



Judge Howard D. McKibben of the District of Nevada assumed senior status on April 1, 2005. Judge McKibben was appointed a district judge for the District of Nevada on October 4, 1984. He served as chief judge from 1997 to 2002. Prior to his appointment, Judge McKibben was a judge for the Ninth Judicial District Court of the State of Nevada, from 1977 to 1984. He served as a deputy district attorney, from 1969 to 1971, then district attorney, from 1971 to 1977, Douglas County, Nevada. He engaged in private practice in Minden, Nevada, from 1967 to 1971. Judge McKibben received his B.S. from Bradley University in 1962, his M.P.A. from the University of Pittsburgh in 1964, and his J.D. from the University of Michigan Law School in 1967. He maintains chambers in Reno.



Judge James K. Singleton of the District of Alaska assumed senior status on January 27, 2005. Judge Singleton was appointed a district judge for the District of Alaska on May 14, 1990. He served as chief judge from 1995 to 2002. Prior to his appointment, Judge

Singleton was a judge for the Alaska Court of Appeals, from 1980 to 1990. He served as an Alaska Superior Court judge, from 1970 to 1980. Judge Singleton engaged in private practice in Anchorage in 1963 and from 1965 to 1970. He received his A.B. from the University of California, Berkeley in 1961 and his LL.B. from the University of California, Berkeley, Boalt Hall School of Law, in 1964. He maintains chambers in Anchorage.



Judge Dickran M. Tevrizian of the Central District of California assumed senior status on August 5, 2005. Judge Tevrizian was appointed a district judge for the Central District of California on December 17, 1985. Prior to his appointment, Judge Tevrizian engaged

in private practice in Pasadena from 1985 to 1986, and Los Angeles from 1985 to 1986, and from 1982 to 1985. He served as a California Superior Court judge, Los Angeles County, from 1978 to 1982, and as a Municipal Court judge in Los Angeles, from 1972 to 1978. Judge Tevrizian received his B.S. from the University of Southern California in 1962, and his J.D. from the University of Southern California Law School in 1965. He maintains chambers in Los Angeles.



Judge Robert J. Timlin of the Central District of California assumed senior status on February 1, 2005. Judge Timlin was appointed a district judge for the Central District of California on September 15, 1994. Prior to his appointment to the federal bench, Judge

Timlin served as an associate justice, Fourth District Court of Appeals, Division 2, State of California, from 1990 to 1994; as a California Superior Court judge, Riverside County, from 1980 to 1990; and as a Municipal Court judge, Corona Judicial District, from 1976 to 1980. Judge Timlin engaged in private practice from 1971 to 1976. He served as a United States magistrate judge for the U.S. District Court for the Central District of California from 1971 to 1975. Judge Timlin received his A.B. from Georgetown University in 1954, his J.D. from Georgetown University Law Center in 1959, and his LL.M. from Georgetown University Law Center in 1964. He maintains chambers in Riverside.

IN MEMORIAM



Senior District Judge William J. Rea (1920-2005) of the United States District Court for the Central District of California was appointed a district judge on June 15, 1984, took senior status on March 31, 1998. Prior to his appointment to the federal bench, Judge Rea served as a

California Superior Court judge, Los Angeles County, from 1968 to 1984. He engaged in private practice in Santa Ana from 1964 to 1968, and in Los Angeles from 1950 to 1964. Judge Rea received his B.A. from Loyola University in 1942, and his LL.B. from the University of Colorado School of Law in 1949. He passed away on August 3, 2005. Judge Rea is survived by his wife Catherine and son William.



Senior District Judge Milton L. Schwartz (1920-2005) of the United States District Court for the Eastern District of California was appointed a district judge on November 27, 1979, and took senior status on January 20, 1990. Prior to his appointment, Judge

Schwartz engaged in private practice in Sacramento from 1951 to 1979. He served as a deputy district attorney, Sacramento County, from 1949 to 1951. Judge Schwartz received his A.B. from the University of California, Berkeley in 1941, and his J.D. from the University of California, Berkeley, Boalt Hall School of Law in 1948. Following law school, Judge Schwartz clerked for Judge Rolfe L. Thompson of the California Court of Appeal from 1948 to 1949. Judge Schwartz served in the United States Army from 1942 to 1945. He passed away on October 3, 2005. Judge Schwartz is survived by his wife Barbara, sons Dirk and Damon, and daughters Tracy and Brooke.



Magistrate Judge Joseph L. Ward (1923-2005) of the District of Nevada was appointed a magistrate judge in October 1972. He retired in 1980. Prior to his appointment, Judge Ward was an assistant general counsel for the Senate Select Committee for Small Business

from 1969 to 1972. He served as United States attorney for the District of Nevada from 1966 to 1969. Judge Ward was an assistant general counsel for the Senate Committee on Small Business in the U.S. Senate, and in 1972 became Nevada's first U.S. chief magistrate judge. Judge Ward attended George Washington School of Law. He passed away on June 11, 2005. Judge Ward is survived by his daughters Evelyn and Alice, and sons Joseph, William, John and Robert.

CENTENNIAL CELEBRATIONS



CIRCUIT CELEBRATES CENTENNIAL OF SAN FRANCISCO COURTHOUSE

The Ninth Circuit in 2005 marked the 100th anniversary of the James R. Browning United States Courthouse in San Francisco, one of the nation's most beautiful public buildings and the survivor of two devastating earthquakes. The centennial was twice celebrated by the U.S. Court of Appeals for the Ninth Circuit, most notably with a major public event held 100 years to the day the building opened as a courthouse and post office on August 29, 1905. The court also marked the milestone in January with a reception for judges and others attending the Federal Judicial Center's Mid-Winter Workshop in San Francisco.

Now on the National Register of Historic Places and eligible for national historical landmark status, the granite-clad, four-story courthouse is considered a prime example of *Beaux Arts* classical architecture popular for government buildings at the turn of the century. The interior is finished in marble and features intricately handcrafted mosaics and plasterwork by master craftsmen and artisans. Designed by James Knox Taylor, the supervising architect of the Department of the Treasury, it was originally intended to house a post office, courthouse and other federal agencies. It was built over seven years at a cost of \$2.5 million, the equivalent of about \$50 million today.

The building survived the 1906 San Francisco earthquake and fire, but was seriously damaged during the 1989 Loma Prieta earthquake. After extensive repairs, including seismic retrofitting to withstand future temblors, the building reopened in 1997 for use by the court of appeals. It was renamed in November 2004 in honor of Chief Judge Emeritus James R. Browning, one of the nation's longest serving federal judges and an architect of the modern federal court system in the West.

Congresswoman Nancy Pelosi of San Francisco and Senator



Senior Circuit Judge James R. Browning is greeted by (from left) Chief Judge Mary M. Schroeder, U.S. Representative Nancy Pelosi of San Francisco, and Senior Circuit Judge Dorothy W. Nelson at the rededication of the 100-year-old courthouse that bears his name.

Max Baucus of Montana led the list of distinguished guests for the August event. Rep. Pelosi was the keynote speaker, while Sen. Baucus made a special presentation recognizing the courthouse's namesake and a fellow Montanan, Judge Browning. A letter of congratulations from Sen. Barbara Boxer of California also was read during the ceremonies.

The House Minority Leader, Rep. Pelosi was instrumental



Left: Circuit Judge Marsha Berzon addresses the crowd during the Centennial celebration. Below: Actor Keith McGough portrayed President Teddy Roosevelt, who originally dedicated the building in 1905.



in obtaining federal funding to rebuild the courthouse following the devastation by the 1989 Loma Prieta earthquake. She also authored the bill signed into law last year naming the courthouse for the long-serving and widely respected Judge Browning.

“Though the 1989 earthquake shook our city, the magnificent Browning courthouse bent, but did not break,” said Rep. Pelosi. “Together, we worked to strengthen the foundation, to restore its beauty and make it one of the first historic and technologically smart buildings in the country. Today this courthouse and its resplendent architecture are great sources of civic pride.”

The special presentation recognized the enduring legacy of Judge Browning, 86, renowned as a jurist who has helped define the law and as an extraordinary administrator whose reforms and innovations launched the federal courts into the information age.

“When I think of Judge Browning, I think of his continually upbeat, positive, can-do approach,” said Sen. Baucus, who helped pass legislation in the Senate renaming the building after Browning. “I think of his razor-sharp legal skills. And I think of his sense of humor and that smile.”

Nominated by President John F. Kennedy, Judge Browning came onto the bench in 1961 and served as an active judge through 2000, the longest active tenure of any judge in Ninth Circuit history. He was chief judge from 1976 to 1988, the second-longest tenure of any chief judge in circuit history.

Ninth Circuit Chief Judge Mary M. Schroeder, fellow Circuit Judges Marsha S. Berzon, Carlos T. Bea and Dorothy W. Nelson, and General Services Administrator Stephen A. Perry also participated in the August program, along with a number of special guests.

“This building is one of the wonders of the West and more than deserving of this special recognition. We are deeply honored to occupy it,” Judge Schroeder said in welcoming several hundred guests.

The festivities had a turn-of-the-century feel thanks to rousing John Phillip Sousa marches performed by the Golden Gate Park Band, which has been entertaining audiences in San Francisco since 1882, and costumed speakers portraying important historical figures. President Theodore Roosevelt, who held office when the courthouse first opened in 1905, was portrayed by professional actor Keith McGough, while the role of Judge William W. Morrow, who helped raise funds for

construction and presided over the dedication of the building, was undertaken by Ninth Circuit Judge Sidney R. Thomas of Billings, Mont.

Providing further historical context were remarks by Professor William Deverell, director of the Institute on California and the West at the University of Southern California; and Chief District Judge Vaughn R. Walker of the Northern District of California. The district was located in the courthouse until 1964. The program concluded with historical re-enactments of early cases heard by the circuit and district courts.

Costumed docents led visitors on tours of the building's magnificent courtrooms, judicial chambers and halls. Special exhibits sponsored by the Ninth Judicial Circuit Historical Society detailed the long careers and varied contributions of Judge Browning and the late Judge Richard H. Chambers, another former chief judge who obtained many of the courthouse's current furnishings.

The U.S. Postal Service, whose workers saved the courthouse from fire after the great San Francisco earthquake of 1906, also had a display and provided guests with commemorative envelopes bearing the historic cancellation date. The post office moved from the building following the 1989 earthquake.

The Federal Judicial Center reception in January was highlighted by the participation of U.S. Supreme Court Justice Sandra Day O'Connor, who presented a program on music and the law, and also helped dedicate chambers originally intended for the use of a Supreme Court justice while "riding the circuit." She presided over a ceremony unveiling a plaque donated by the Ninth Judicial Circuit Historical Society designating Room 329 as the "Historic Supreme Court Circuit Justice Chambers." The chambers were included in the courthouse design, but were never used for their intended purpose before the practice of riding circuit officially ended in 1911. 🍂



Senior District Judge William Shubb of Sacramento describes the exhibit he put together on the San Francisco Seals and other baseball teams that were active in the early 1900s.



Senator Max Baucus (far right) joined fellow Montanans Circuit Judge Sidney Thomas and Senior Circuit Judge James R. Browning at the Centennial festivities in August.



In honor of the Centennial, docents, guests, and court employees wore costumes similar to the dress of the early 20th century, when the U.S. post office and courthouse opened at Seventh and Mission streets in San Francisco.



District Judge Charles Breyer (far right) gives testimony in a re-enactment of the U.S. v. Ah Sou case as part of the courthouse Centennial program at the Federal Judicial Center's Mid-Winter Workshop held in January 2005.

100 YEARS OF NINTH CIRCUIT HISTORY IN SAN FRANCISCO COURTHOUSE

Over the last 100 years, the history of the nation has been reflected in matters of law decided by the U.S. Court of Appeals for the Ninth Circuit. The following summaries, which list some of the important Ninth Circuit cases that have helped shape the American West, are derived from exhibits prepared for the centennial celebration and now on display at the James R. Browning U.S. Courthouse.

1905-1915

The Chinese Exclusion Act of 1882 was the first law to limit immigration in the country's history. An important case heard by the Ninth Circuit in 1905 was *United States v. Ah Sou*, involving a Chinese slave illegally brought to this country by her master, who continued to enslave her. She escaped and entered into what may have been a sham marriage in an attempt to avoid being deported to China. In granting a stay of deportation, the district court referred to the Thirteenth Amendment's prohibition on slavery and concluded that Ah Sou's deportation under the exclusion act would return her to a life of slavery. The Ninth Circuit reversed on the ground that the district court's exception would nullify the Exclusion Act, but expressed regret that Ah Sou had to be deported.

1915-1925

World War I cast a long shadow on this decade. The Ninth Circuit adjudicated cases arising from legal and societal developments, including the extent of the government's control over land near military bases. *Pappens v. United States*, heard in 1918, involved the Selective Service Act, which not only created a military draft, but also empowered the Secretary of War to prohibit "houses of ill fame, brothels, or bawdy houses" within 5 miles of any military camp, station, or fort. The owners of one such house challenged the constitutionality of the legislation, pointing out that nearly all of downtown San Francisco fell within 5 miles of the Presidio or Fort Mason. The Ninth Circuit rejected the challenge, reasoning that Congress' power to raise and support armies and to regulate land and naval forces validated the anti-prostitution regulations.

1925-1935

In a decade marked by the Great Depression and the New Deal, labor unions grew in power and employers and workers clashed, often violently. *In re Mooney*, heard by the Ninth Circuit in 1934, involved a labor leader convicted of a bombing that killed 10 people during a patriotic march in San Francisco in 1916. His death sentence was commuted

to life imprisonment after President Woodrow Wilson intervened. For 20 years, Mooney maintained his innocence from his prison cell, as he became a worldwide symbol for union activism. Although mounting evidence suggested that his conviction was based on perjured testimony, his writ of habeas corpus was denied by just one Ninth Circuit judge, as the rules then provided. Mooney's evidence of perjury was determined to be insufficient, and he remained in prison until being pardoned in 1939.

1935-1945

World War II brought fresh challenges to the courts. Thousands of American citizens of Japanese descent were interned, while men drafted into military service complained that their children attended segregated schools. While the Ninth Circuit deferred to the executive branch's claim of military necessity in the internment of Japanese Americans, its decisions in other cases signaled a changing attitude toward the civil rights of minorities. *Westminster School Dist. of Orange County v. Mendez*, heard in 1947, was a class-action lawsuit on behalf of Mexican-American children in the Los Angeles area who were being segregated into separate and inferior schools. The schools districts argued that school assignments were based solely on English proficiency. The district court was the first federal court to invalidate racial segregation in public schools on the ground that separate schools were not equal, and its ruling was upheld by the Ninth Circuit.

1945-1955

The large-scale emigration to wartime factories and ports changed the West. Thousands of young men and women who left their homes for destinations around the world returned with new attitudes and ideas. As sexual matters became more openly discussed and portrayed in movies and literature, the courts became involved in controversies over censorship. In *Besig v. United States*, heard in 1954, involved author Henry Miller's books, "Tropic of Cancer" and "Tropic of Capricorn," which were seized by U.S. Customs in 1949 as obscene. Ernest

J. Besig, founder of the American Civil Liberties Union of Northern California, claimed the books and asserted their literary merits, supported by eminent authors and literary critics of the time. Unconvinced, the district court ordered the books destroyed, but noted that less than 13 percent of the pages of “Tropic of Capricorn” were obscene. The Ninth Circuit affirmed, calling Miller’s books “debased and morally bankrupt.”

1955-1965

Growing grassroots activism spurred people to voice opinions on a wide array of causes, from farm labor to civil rights to the death penalty. In *Brubaker v. Dickson*, decided in 1962, the Ninth Circuit issued a decision that presaged the right to effective assistance of counsel. The case involved a service-station attendant Charles Earl Brubaker convicted and sentenced to death for murdering a woman and her son. On appeal, Brubaker challenged the quality of representation by his court-appointed counsel, alleging the attorney had consulted with him for only an hour and failed to investigate any defenses. The Ninth Circuit held that Brubaker had shown that his trial was fundamentally unfair due to his counsel’s errors and omissions. It was one of the first federal cases to establish the doctrine of ineffective assistance of counsel, which has since been cited by many state supreme courts and federal circuit courts.

1965-1975

The Vietnam conflict cause deep divisions within American society. Anti-war rallies, public draft-card burnings, and protests disrupted college campuses, public events, and urban centers alike. In *United States v. Coffey*, decided in 1970, the Ninth Circuit took a broad view in upholding one man’s conscientious objector status. Walter Daniel Coffey applied for conscientious objector status, he wrote that war was “destructive and valueless” and that his life demonstrated the “consistency and depth” of his opposition to violence. After his application was denied by the draft board, Coffey was indicted, and later convicted, for refusing induction into the armed forces. The Ninth Circuit reversed the conviction and rejected the narrow view of conscientious objector status that required a showing of religious belief. The court concluded that Coffey’s statements established his conscientious objection.

1975-1985

As innovative technologies transformed the West Coast economy, the Ninth Circuit faced important issues of economic policy. *Continental TV Inc. v. GTE Sylvania Inc.*, decided in 1976 by an en banc court, case involved franchise agreements between television manufacturers and retailers, which limited the geographic region in which a retailer could

operate, and restricted the manufacturer to a set number of retail outlets. A San Francisco retailer sued manufacturer GTE Sylvania claiming the restrictions violated the Sherman Antitrust Act. The jury ruled for the retailer but the Ninth Circuit reversed the decision, holding that the court would examine the franchise agreement for its reasonableness under the Sherman Act. The panel found Sylvania’s gain in market share after years of struggle was a pro-competitive effect of the agreement. The Supreme Court later agreed, changing the world of antitrust law.

1985-1995

This period saw the rise of the Internet and consumer technology such as personal computers, video games and camcorders, the fall of communist governments, and the passage of new legislation such as the Americans with Disabilities Act. The Ninth Circuit also faced issues arising from the long, often tempestuous relationship between the U.S. and the various Native American tribes. One important case contributing to the body of Native American law was *United States v. Washington*, decided in 1985 by an en banc court, upheld an important 1974 decision by Judge George Boldt of the Western District of Washington. Judge Boldt held that the tribes’ right to a “fair and equitable share” of fishing rights was 50 percent of all the harvestable fish destined for the tribes’ traditional fishing places. In 1978, the Ninth Circuit affirmed the decision, finding the tribes were entitled to participate equitably in the supply of fish produced by the state’s fish hatchery, rejecting the argument that hatchery fish were produced by state efforts and could be restricted by the state.

1995-2005

Cutting edge intellectual property cases challenged the Ninth Circuit to strike a balance between consumer access to emerging technologies and protection of the interests of the businesses, inventors, and artists who create them. The best known of these cases, *A&M Records, Inc. v. Napster, Inc.*, heard in 2000, involved computer software that allowed users to share digital music files over the Internet. Napster was sued by record companies and some recording artists for copyright violation and loss of sales. After the district court granted a preliminary injunction to stop use of the software, Napster appealed to the Ninth Circuit. The world followed the oral arguments, which were televised live and covered by more than 250 news and other organizations. In 2001, the Ninth Circuit affirmed the district court, finding that the software was a direct copyright infringement and that Napster could be secondarily liable for its users’ copyright. The case returned to district court, and Napster later filed for bankruptcy protection. 🌿

WASHINGTON DISTRICTS CELEBRATE 100 YEARS

The United States District Courts for the Eastern and Western Districts of Washington, which were established by Congress in 1905, also celebrated their 100-year anniversaries in 2005.

Washington became a state in 1889 and was designated a judicial district one year later. The district was authorized one judgeship and its first judge was Cornelius H. Hanford. With the growth of the West, population in the state rapidly increased as did court business. By the early 1900s, it was reported, Judge Hanford was handling as many cases as his two counterparts in California. Congress then created the Western District of Washington and the Eastern District of Washington.


The centennial was specially commemorated by both districts. The Western District of Washington published a book, "The United States District Court for the Western District of Washington -- Our First 100 Years." The Eastern District of Washington, meanwhile, produced a video history entitled "Centennial Celebration: The Eastern District of Washington." The print and electronic volumes celebrated the state's legal history, noting important judges and court cases over the past century.

The Eastern District's video history, which includes interviews with the outgoing and incoming chief district judges, Fred Van Sickle and Robert H. Whaley, Senior District Judge Justin L. Quackenbush, and others, gives insight into how changes in society and historical events have affected the courts. Clerk of Court James Larsen and Nancy Strobeck of Eastern Washington's Historical Society also describe the evolution of the judicial pay scale, which came about when it was discovered that the salary for court clerks, linked to the number of cases filed, could potentially exceed that of federal judges. Magistrate Judge Cynthia Imbrogno addresses modern concerns of ensuring that the public has access to court information.

Western Washington's publication outlines that district's history and succession of judges, starting with Judge

Edward Lander, the first federal judge, and for the Western Territory. Judge Hanford, who succeeded Judge Lander after statehood, went on to become the Western District's first federal judge, and the state was divided into two jurisdictions. The origin of magistrate judges and the U.S. Bankruptcy Court, as well as the U.S. Probation Office, U.S. Pretrial Services Office, and Office of the Federal Public Defender are also discussed.

In addition to photographs and illustrations, newspaper clippings describing an inmate attack on a U.S. marshal, the work of court clerks in 1954, and Judge Jeremiah Neterer's move into his new chambers are also incorporated into the publication. The book also goes into detail about the district's three federal courthouses. It discusses how the Tacoma Union Station came to become a U.S. courthouse in 1993; the rededication of the Seattle courthouse at Fifth Avenue and Madison streets as the William Kenzo Nakamura U.S. Courthouse; and the construction of the new U.S. courthouse on Stewart Street in downtown Seattle. Different types of artwork, from the grand rotunda in the Union Station courthouse to the metal sculptures in the new downtown location, are also discussed.

Western Washington's book was distributed to judges and court employees, as well as to the U.S. Attorney's Office, U.S. Marshals Service, Federal Judicial Center, public libraries, local law firms and bar associations. Originally compiled in 2004 for the centennial and the opening of the new U.S. courthouse in Seattle, the book was printed a second time in late 2005. 

NINTH CIRCUIT HIGHLIGHTS



CIRCUIT CONFERENCE FOCUSES ON POSSIBILITIES IN AN UNCERTAIN WORLD



The 2005 Ninth Circuit Judicial Conference, held July 18-21 at the Spokane Convention Center in Spokane, Wash., focused on “Perils and Possibilities: The Courts in an Uncertain World.” The program included panel presentations on the independence of the judiciary, national security, media coverage of the courts, and the impact of alternative dispute resolution and other factors on trials.

The annual event is held pursuant to Section 333 of Title 28 of the United States Code for “the purpose of considering the business of the courts and advising means of improving the administration of justice within such circuit.” Most of the judges who preside and lawyers who practice in the federal courts of the western United States participate.

Ninth Circuit Chief Judge Mary M. Schroeder officially opened the conference with a state of the circuit speech that addressed congressional relations, court funding and concerns for the security of judges on and off the bench.

“The overreaching issue facing the federal judiciary as a whole is its strained relationship with Congress,” she said, adding that it is being felt in the funding provided the courts and the lack of new judgeships. “Indeed, if there is one message that should go forth from this meeting to all of our elected representatives, it is the crying need for all of our constitutional branches of our government to recognize that they are, at the same time, both independent of and interdependent on the other branches.”

Panelists in the session “Independent Judiciary – Third Branch or Third Rail?” further discussed those topics. They included District Judge W. Royal Furgeson Jr. of the Western District of Texas; Chief District Judge John G. Heyburn II of the Western District of Kentucky; former



In her state of the circuit speech, Chief Circuit Judge Mary M. Schroeder noted, “We in the Ninth Circuit have worked very hard this year to try to do what we can to improve our relations with Congress.”

U.S. Senator Slade Gorton of Washington; and former U.S. Rep. George R. Nethercutt Jr. of Spokane. Judge Richard R. Clifton introduced the speakers, while Circuit Judge Robert A. Katzmann of the U.S. Court of Appeals for the Second Circuit moderated the discussion.

In “The Future of National Security,” a panel of experts assessed the nature and magnitude of threats to national security expected for the future, and how changes in the security field may affect individual privacy and civil rights. Panelists were John Hamre, president and chief executive officer of the Center for Strategic and International Studies; Anthony Lewis, author and former columnist for *The New*



Congressional Medal of Honor recipient and retired U.S. Army 2nd Lt. Vernon Baker (at podium) leads the the Pledge of Allegiance at the opening ceremony of the Judicial Conference. On stage with him are (from left) San Francisco Superior Court Judge John J. Conway, Chief Judge Deanell Reece Tacha of the U.S. Court of Appeals for the Tenth Circuit, conference co-chairs Chief District Judge David F. Levi and attorney Alan Schulman, and Senior Circuit Judge Dorothy W. Nelson.

York Times; and Suzanne Spaulding, managing director of The Harbour Group. Chief District Judge Donald W. Molloy of the District of Montana introduced the group. Elizabeth Rindskopf Parker, dean of the University of the Pacific McGeorge School of Law, was panel moderator.

In the session “The Vanishing Trial: Crisis or Opportunity,” keynote speaker Cathy Costantino, counsel for the Federal Deposit Insurance Corp., and guest speaker Robert D. McCallum Jr., associate attorney general of the U.S. Department of Justice, discussed the declining number of trials nationally due to arbitration and settlements, among other factors. The effect of fewer trials on democracy, the power of judges, and litigation experience of attorneys were also addressed.

The session “From Judicial Action to Journalist Reaction: How the Media Views the Federal Courts,” examined how the media shapes public perception of the judiciary, as well as how judges and attorneys interact with media representatives. In addition, panelists discussed the boundaries of constitutional, ethical and practical restraints. Speakers included David Boardman, managing editor of *The Seattle Times*; John Carlson, a local radio talk show host; David Savage, Supreme Court correspondent for *The Los Angeles Times*; and Mark N. Trahan, editorial page editor of *The Seattle Post-Intelligencer*. They were introduced by Chief District Judge Robert S. Lasnik of the Western District of Washington. Donald Burnett, dean of the University of Idaho College of Law moderated the session. 🍂

A CONVERSATION WITH JUSTICE SANDRA DAY O'CONNOR



The presence of Associate Justice Sandra Day O'Connor at this year's judicial conference was particularly noteworthy, coming just weeks after she had announced her retirement from the United States Supreme Court. The high court's designated Ninth Circuit justice for a number of years, Justice O'Connor has been a frequent guest of the conference and her participation in the "Conversation with the Justice" segment is one of the highlights of the event.

In her state of the circuit speech opening the conference, Ninth Circuit Chief Judge Mary M. Schroeder made a point of thanking Justice O'Connor, a fellow Arizonan whom she has known and worked with for more than 30 years. Justice O'Connor "has probably done more than any other to make our Ninth Circuit conferences so successful," Judge Schroeder remarked. "She has graciously attended our conferences, answered our questions, and been a role model for our daughters for a long time."

During the "Conversation" segment, Justice O'Connor spoke candidly about her legal career from its humble beginnings to her retirement as the first woman to serve on the high court. "It's been such a privilege to work on the court," she said, "to be one of the nine voices." She added, "Sometimes the dissents get pretty vigorous. I don't always like to see that, but on the other hand, I occasionally resort to a little vigor of my own." Justice O'Connor credited President Ronald Reagan for his historic decision to appoint a female Supreme Court justice in 1981. When President Reagan's accomplishments were recounted upon his death in 2004, Justice O'Connor said she felt the appointment was not given adequate attention. "I didn't make that decision," she said. "I never expected to be that person, and was pretty scared to take that on, because it's a very hard job."


Justice O'Connor was warmly received by the audience and was given a standing ovation when she concluded her remarks by reciting an anonymous poem cautioning against



The "Conversation With the Justice" panel with Justice Sandra Day O'Connor included (from left) attorney Alan Schulman, Circuit Judge Johnnie B. Rawlinson of Las Vegas, and attorney Harvey Saferstein.

feeling overly self-important. The poem read, in part:

Take a bucket, fill it with water.
Put your hand in it, up to the wrist.
Pull it out and the hole that's remaining is a measure
of how you'll be missed.
You may splash all you please when you enter.
You can stir up the water galore.
But stop and you'll find in a minute that it looks quite
the same as before.
The moral in this quaint example is do just the best
that you can.
Be proud of yourself but remember:
There is no indispensable woman!

Also participating in the "Conversation with the Justice" panel were Circuit Judge Johnnie B. Rawlinson of Las Vegas and attorneys Harvey Saferstein of Los Angeles and Alan Schulman of San Diego, who also served as co-chair of the conference. 



JUDGES, ATTORNEYS, LAW SCHOOL HONORED FOR LEGAL CONTRIBUTIONS

It was a notable year for awards in the Ninth Circuit with a number of judges, lawyers and court staff receiving recognition for professional excellence and outstanding contributions to the law and the courts.

Edward J. Devitt Distinguished Service to Justice Award

In October, Senior District Judge William W Schwarzer of the Northern District of California received the American Judicature Society's prestigious Edward J. Devitt Distinguished Service to Justice Award. The award, named for the late Chief District Judge Edward J. Devitt of the District of Minnesota, is given to Article III judges who have made significant contributions to the administration of justice, the advancement to the rule of law, and the improvement of society as a whole. Supreme Court Associate Justice Anthony M. Kennedy presented the award to Judge Schwarzer in a ceremony held at the U.S. district court in San Francisco.

Judge Schwarzer served as director of the Federal Judicial Center (FJC) in Washington, D.C., from 1990 to 1995. While at the FJC, he established the Office of Interjudicial Affairs for providing assistance and education to foreign judiciaries. Prior to his appointment to the federal bench in 1976, he was senior counsel of the President's Commission on Central Intelligence Agency Activities within the United States, which came to be known as the Rockefeller Commission.

His numerous appointments and professional memberships include serving on the Ninth Circuit Jury Instructions Committee and the Northern District of California Rules Committee. He is also a judicial fellow of the American College of Trial Lawyers, and a member of both the Council on Foreign Relations and the advisory board of the American Bar Association's Central and East European Law Initiative.

Lewis F. Powell Jr. Award for Professionalism and Ethics

Senior District Judge Thelton E. Henderson of the Northern District of California was the recipient of the Lewis F. Powell Jr. Award for Professionalism and Ethics by the



Supreme Court Associate Justice Anthony M. Kennedy presented the American Judicature Society's Edward J. Devitt Distinguished Service to Justice Award to Senior District Judge William W Schwarzer in October.

American Inns of Court. The Powell award, named after the late Supreme Court Associate Justice Lewis F. Powell Jr., is given to those who demonstrate exemplary service in the areas of legal excellence, professionalism, civility, and ethics. Judge Henderson was presented with the award at the Inns' annual Celebration of Excellence in Washington, D.C.

Judge Henderson has been a champion of civil rights since he began his legal career in 1962 prosecuting voting rights cases in the South. He was the first black lawyer of the U.S. Department of Justice's Civil Rights Division, and later in his career represented minority residents of low-income communities. He was an assistant dean at Stanford Law

School and taught at Golden Gate University School of Law.

Director's Award for Outstanding Leadership

Clerk of Court W. Samuel (Sam) Hamrick, Jr. of the Southern District of California received the Director's Award for Outstanding Leadership from the Administrative Office of the U.S. Courts. The award acknowledges significant accomplishments of court employees and is given in the areas of outstanding leadership, excellence in court operations, and extraordinary response in emergencies.

Mr. Hamrick was recognized for improving services and support to the courts while consolidating functions and saving money, especially in the area of court facilities. He was also instrumental in the development and planning of the Continuity of Operations Plan for the Southern District, the introduction of a redundant data storage area network for two courthouse locations, and in the start-up of a recruitment program directed at local universities.

A number of awards were presented during the annual Ninth Circuit Judicial Conference, held July 18-21, 2005, in Spokane, Wash.

American Inns of Court Award

Senior District Judge Rudi M. Brewster of San Diego received the 2005 American Inns of Court Ninth Circuit Professionalism Award, which recognizes a judge or senior practicing lawyer whose life and practice display sterling character and unquestioned integrity, coupled with ongoing dedication to the highest standards of the legal profession and the rule of law.

Judge Brewster has served as director and vice president of the San Diego County Bar Association. He is a chancellor and past president of the Louis M. Welsh Inn of Court, and has also been a member of the J. Clifford Wallace Inn of Court. He was jointly nominated for the award by the two inns.

Judge Brewster is a judicial fellow of the American College of Trial Lawyers and an associate of the American Board of Trial Advocates. He has been inducted into the State Bar of California's Litigation Section Trial Lawyer Hall of Fame and was a member of the International Association of Insurance Counsel. He has also held leadership positions in numerous community organizations.

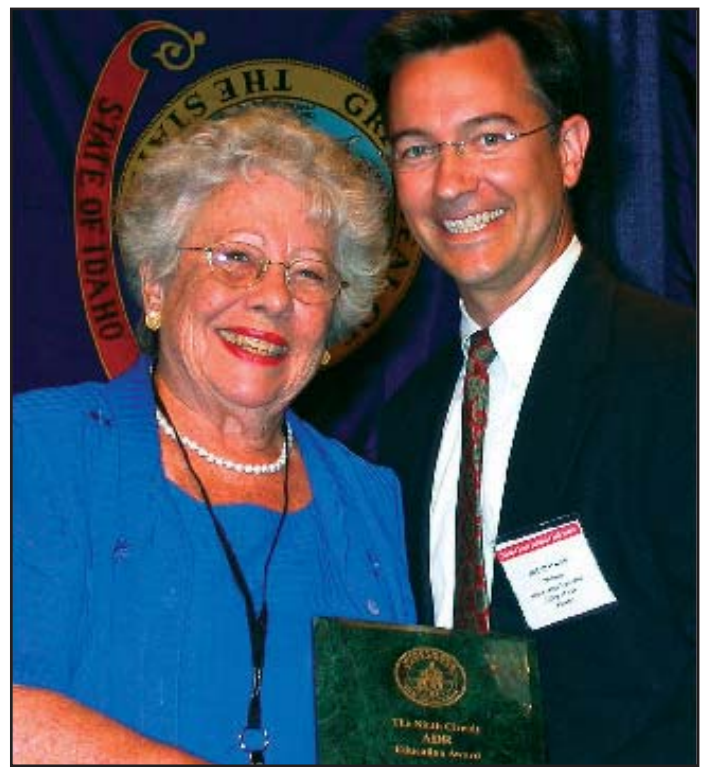
The American Inns of Court, a national organization with 340 inns and 75,000 active and alumni members,

is dedicated to excellence, civility, professionalism, and ethics in the practice of law. An American Inn of Court is an amalgam of judges, lawyers, and in some cases, law professors and law students. The inns are intended to improve the skills, professionalism and ethics of the bench and bar.

Alternative Dispute Resolution Education Award

2005 was the first year for the Ninth Circuit's Alternative Dispute Resolution (ADR) Education Award. At the request of the Standing Committee on ADR, the ADR Education Award was established by the Judicial Council of the Ninth Circuit to recognize law schools that have significantly advanced ADR scholarship and research.

The College of Law at Arizona State University was selected as the first recipient of the award for its development of innovative curriculum, research and service in the area of ADR. The law school began offering ADR education in 1993 as part of its Civil Justice Clinic. Since then, ADR education has expanded to include research and service initiatives and is now part of the school's Lodestar Dispute Resolution Program. The Standing Committee on ADR was particularly impressed that the law school's ADR



Arizona State University College of Law professor Art Hinshaw accepted the Alternative Dispute Resolution Education Award on behalf of the university's Lodestar Dispute Resolution Program from Senior Circuit Judge Dorothy W. Nelson.



Senior Circuit Judge Rudi M. Brewster (second from left) was honored with the American Inns of Court Professionalism Award at the Ninth Circuit Judicial Conference. Supreme Court Justice Sandra Day O'Connor joined him and San Francisco Superior Court Judge John J. Conway and Chief Judge Deanell Reece Tacha of the U.S. Court of Appeals for the Tenth Circuit, who presented the award to Judge Brewster, following the awards ceremony.

program reaches a broad spectrum of students, and that ADR scholarship and research is a priority among faculty members. Senior Circuit Judge Dorothy W. Nelson, chair of the Ninth Circuit's Standing Committee on ADR, presented the award to Arizona State University Law Professor Art Hinshaw, who accepted it on behalf of the school.

John P. Frank Award

San Francisco attorney Jerome "Jerry" I. Braun was selected the 2005 recipient of the Ninth Circuit's John P. Frank Award, recognizing an outstanding lawyer practicing in the federal courts of the western United States.

Mr. Braun, a founding partner in the law firm of Farella Braun & Martel LLP, was recognized for a distinguished career spanning more than 50 years, and for his significant contributions to legal, community and educational organizations. He maintains diverse trial and appellate practices and currently concentrates on federal practice. He has served as an arbitrator, mediator and as a special master for the federal court.

He is a former member and chair of the Ninth Circuit Senior Advisory Board, and is a member and past president of the Ninth Judicial Circuit Historical Society. He is a past president of the California Academy of Appellate Lawyers and a former trustee of the San Francisco Bar Foundation. He chaired a special bar association committee that studied the question of whether the Ninth Circuit should be split and was vocal in his opposition to any division of the court.



Attorney Jerome "Jerry" Braun was selected for the John P. Frank Award, recognizing an outstanding lawyer practicing in the federal courts and the western United States.

The John P. Frank Award recognizes a lawyer who has demonstrated outstanding character and integrity; dedication to the rule of law; proficiency as a trial and appellate lawyer; success in promoting collegiality among members of the bench and bar; and a lifetime of service to the federal courts of the Ninth Circuit. 🍂

CIRCUIT LIBRARY OFFERS EXTENSIVE RESEARCH ASSISTANCE

The Ninth Circuit Library System assists judges, attorneys, court staff and the public through a network of 24 law libraries in federal courthouses throughout the West. With extensive resources and experienced staff, the libraries provide quality research and information services to the courts.

The library system was established in San Francisco in 1883, when Frank D. Monckton, the clerk of court, assumed the additional duties of court librarian. The small law library was one of the few to survive the 1906 earthquake and fire and soon became the central law library for the city's legal community. In response to lobbying by judges, Congress appropriated \$15,000 for the library in 1908.

Over the next 75 years, additional libraries were established by several district courts. But by the late 1970s, inequities in the delivery of professional library and research services were apparent. In 1984, the Ninth Circuit adopted plans for a circuit-wide library system to improve service and approved the establishment of 10 additional branch libraries.

The primary mission of court librarians is to provide research services to the judges and their staff. Research librarians increase the efficiency of the time law clerks spend on case-related research by providing guidance and recommendations, by offering training opportunities, and by performing direct research on more complex topics. Last year Ninth Circuit librarians answered more than 8,500 in-depth research questions and responded to more than 16,000 additional requests for assistance and information. Librarians also conduct



The staff of the Ninth Circuit library in San Francisco includes (seated from left) Rose Williams, Lisa Larribeau, Librarian Eric Wade, Debbie Sham and Benh Loc; (middle row) Edward Hosey, Nancy Tsang, Patty Villalta, Sally Bingham and Trish McCurdy; (back row) Konrad Steiner, Deborah Celle, James Goodlett, Filiberto Govea and Jim Moldovan.

research to assist court executives and judges in the administration of local courts and on matters involving committees of the Judicial Council of the Ninth Circuit and Judicial Conference of the United States.

Library resources also are made available to the bar and public. In recognition of individual local circumstances, the level of access to those outside the court is determined by local judges. Nearly all libraries are open to the bar, and most are open to the public as well.

While the basic nature of legal research has not changed much over the years – primarily investigations into the



Seattle library staff include Librarian Tim Sheehy, Jan Olson, Barbara Morrison and Sarah Griffith. They work on the top floor of the new U.S. Courthouse in downtown Seattle.

published body of relevant case law – the method of research has changed dramatically. From perusing stacks of printed reporters and digests in libraries, law clerks' research time has shifted to the relative ease of commercial online systems. This has created challenges and presented opportunities for librarians. Since researchers who keep to their offices are less frequently in physical proximity to a professional librarian, circuit librarians are increasingly making their assistance and the resources of the libraries available through electronic means.

The library staff maintains a web-based catalog of print and electronic publications and a continually updated website which organizes access to court, government, and other information. The library also offers several current awareness services delivered by direct e-mail. Other services include updates to Congressional and U.S. Supreme Court activities, and a monthly collection of useful website links.

The abundance of information available via the Internet and through commercial databases has been of enormous benefit to researchers in the courts. The sheer volume and the sometimes less than transparent origins of information, however, have also created problems in locating that which is reliable and authoritative. One of the criticisms of the court libraries prior to the 1980s was a lack of professional librarians in the courts. The Ninth Circuit library staff now includes more than three dozen professionally educated (M.L.S. or equivalent) research librarians, several of whom also hold law degrees.

One of the ways Ninth Circuit librarians have recently been sharing their information expertise is through the development of research guides or pathfinders. These provide the novice researcher with an overview of the subject and guidance in locating primary resources, legislative history, case law, and important secondary treatises both online and in traditional print formats. These are made available on the library's website within the judiciary. To date, guides have been created for immigration law, patent law, trademark law, copyright law, Section 1983 litigation, employment discrimination, international law, and common law in foreign jurisdictions.

While the library has embraced online legal research, it continues to maintain traditional printed law books. Its collections total more than 500,000 volumes. The library also acquires books and subscriptions for judges' chambers and other offices, maintaining a multi-million-dollar budget for legal research materials. Staff in the library headquarters in San Francisco is responsible for procurement, ordering books and subscriptions that are shipped to approximately 600 individual court users each year.

Ninth Circuit librarians also are recognized for their knowledge, experience, and contributions beyond the library walls. Librarians have recently served as officers or on committees of local and national professional library organizations, a large city library advisory board, an advisory committee on the publication of state administrative regulations, and national court advisory groups. They also teach legal research and participate in court educational programs.

The libraries are not mere warehouses of musty books, but rather active centers of service to the courts. Ninth Circuit librarians are skilled researchers who utilize all manner of information technology and media to provide the most timely and efficient information to assist in the administration of justice in the courts. 🌿

CIRCUIT MEDIATORS HELP REDUCE APPELLATE WORKLOAD



In 2005, circuit mediators resolved nearly 1,000 cases. Since the 1980s, the United States Court of Appeals for the Ninth Circuit has provided a mediation and settlement program. The program is staffed by Chief Circuit Mediator David E. Lombardi, Jr., and nine circuit mediators who all work exclusively for the court. The mediators are all licensed attorneys experienced and highly skilled in appellate mediation, negotiation and Ninth Circuit practice and procedure. Collectively, the mediators have an average of 23 years of combined private law and mediation practice.

The types of disputes the mediators handle run the gamut of civil filings in district courts, from basic contract and tort actions to complex constitutional, public policy, environmental and antitrust cases.

Almost all counseled civil cases are eligible for the Circuit Mediation Program. Selection can occur either by pre-briefing selection, litigant request or panel referral. Panel referrals and litigant requests are directed to the chief circuit mediator, who assigns the case for handling to the appropriate mediator. Panel referrals usually take the form of an order deferring or vacating submission, typically after oral argument. Litigant requests, either written or oral, usually occur before briefing. In all referral and request cases, every effort is made to include a case in the program so long as the parties appear genuinely interested in settlement. About 95 percent of the cases are selected into the program pre-briefing; panel referrals and litigant requests make up the rest.

Pre-briefing selection of cases for mediation typically takes place through a two-step evaluative screening process. In the first step, the circuit mediator reviews the case opening materials, which include a copy of the order from which the appeal is taken, and considers whether the appeal would be a good candidate for the Circuit Mediation Program. The second step involves a telephonic assessment conference that the mediator conducts with counsel. The assessment conference includes a discussion of the cases litigation history and possible settlement processes and structures. Selection is based upon a number of factors, including the parties' interest in participating, the procedural posture of the case, related actions and the mediators' prior



The Mediation Office is led by Chief Circuit Mediator David E. Lombardi, Jr., pictured here with Circuit Mediator Lisa Evans.

experience with the parties or with the attorneys. If the case is selected for inclusion into the program, the mediator works with counsel to tailor a mediation process that would best suit the case.

The circuit mediators strive to facilitate negotiation and settlement in order to reduce the court's workload, particularly in complex cases; and to help the parties find solutions to their disputes that meet their underlying needs by preserving resources, achieving finality and, often, crafting resolutions which would be unavailable through continued litigation.



The Office of the Circuit Mediator includes, seated from left, Lisa Evans, Chief Circuit Mediator David E. Lombardi, Jr., Ann Julius, and standing from left, Lew Ross, Claudia Bernard, Stephen Liacouras, Margaret Corrigan and Peter Sherwood. Not present, Roxane Ashe and Chris Goelz.

Circuit mediators are authorized to address procedural and case management issues. For example, in many cases, the parties choose to delay the briefing schedule to allow settlement discussions to take place. Generally, such delays have no effect on when the case ultimately is decided. The mediator may issue procedural orders to coordinate the settlement process with other proceedings or to accommodate private mediators or settlement processes outside of the court.

If the mediation is successful, counsel will work together to memorialize the settlement in a legally binding form, and upon the filing of a motion or stipulation to dismiss, the circuit mediator or clerk of the court will dismiss the appeal pursuant to FRAP 42(b). If the settlement efforts are unsuccessful, the circuit mediator will promptly issue a new briefing schedule and any other procedural orders necessary to ensure smooth processing of the appeal.

In addition to civil cases, the Ninth Circuit Mediation Program has begun working on immigration cases. With

escalating numbers of petitions for review—from 872 in 2000, to 6,583 in 2005—the Mediation Unit launched a pilot program to help the court identify groups of immigration cases that might be good candidates for settlement. The circuit mediators have been working with government attorneys, the immigration bar and court personnel to identify appropriate cases for settlement discussions.

In 2005, the mediators reviewed 2,666 appeals, of which 1,047 were selected for mediation. Of those, 993 settled, resulting in removal from the court’s docket. These figures include civil appeals as well as immigration petitions and other administrative filings.

The Ninth Circuit Mediation Program is a flexible and effective alternative to what can be a lengthy, costly and risky appellate process. It offers litigants control, certainty, closure and finality, while preserving judicial resources for those cases that cannot be settled. 🍂

PRO SE COMMITTEE SUBMITS FINAL REPORT



Through its Task Force on Self-Represented Litigants, the Ninth Circuit has taken a leadership role in helping federal courts deal with phenomenal growth in *pro se* filings, which are cases in which at least one party is acting without benefit of legal counsel.

The task force officially concluded its work in the fall of 2005, submitting a final report to the Judicial Council of the Ninth Circuit. The findings were presented to the council by Senior District Judge James K. Singleton of Alaska, who chaired the task force. Senior District Judge Thelton E. Henderson of the Northern District of California, a task force member and court staff, also participated. Chief Judge Mary M. Schroeder thanked the task force for its efforts and announced plans for a new implementation committee to carry on the work.

Pro se cases constituted roughly one-third of all civil filings in the Ninth Circuit. These cases typically require more assistance from court staff as self-represented litigants are less familiar with the law and legal procedure. While intent on keeping the courts accessible to all litigants, the potential impact on staff resources is of particular concern as the federal judiciary struggles to cope with funding shortfalls.


The report noted, "The challenge has been to develop recommendations that are sufficiently focused to be meaningful but sufficiently general to allow for the specific needs and court cultures of each of the 15 districts within the circuit. One size does not fit all."

Established in late 2002, the task force represented a cross section of judges, lawyers, academics and court staff from throughout the circuit. Task force members were organized into subcommittees that focused on different areas of



Those serving on the task force were : **(front, standing from left to right)** Magistrate Judge Arthur Nakazato of the Central District of California, Magistrate Judge Edward Chen of the Northern District of California, attorney Judith Lonquist of Seattle, Senior District Judge Thelton Henderson of the Northern District of California, task force chairman Senior District Judge James Singleton of the District of Alaska, Ninth Circuit Court of Appeals Senior Staff Attorney Susan Gelmis, attorney Amitai Schwartz of Emeryville, CA, attorney Paula Greenspan of Los Angeles, Senior District Judge William Shubb of the Eastern District of California, Assistant Circuit Executive of Legal Affairs Robin Donoghue and Pro Se Law Clerk Melissa Hartigan of the District of Montana; **(rear, from left to right)** Pro Se Law Clerk Will Stansfield of the Southern District of California, attorney Ann Taylor Schwing of Sacramento, attorney Jon Streeter of San Francisco, task force vice-chairman District Judge Raner Collins of the District of Arizona, Bankruptcy Judge Vincent Zurzolo of the Central District of California, and professor Rick Marcus of San Francisco.

concern and issued recommendations in each. Subject areas included: case management, appointment of counsel; coordination with prisons and prosecutors; *pro se* education; *habeas corpus* education and data collection.

Subcommittees looked into staffing and other case management proposals. *Pro se* law clerks working in a number of courts were surveyed to gauge where most of their time was spent. Use of *pro bono* counsel to represent self-represented litigants in the district courts was investigated and "best practices" recommendations set forth. 



PACIFIC ISLANDS COMMITTEE PROVIDES JUDICIAL EDUCATION

Through its Committee on the Pacific Islands, the Ninth Circuit provides continuing education for judges and professional court staff, and contributes to the overall improvement of the administration of justice in the courts of Pacific island states.

The Pacific Islands Committee has been instrumental in securing more than \$2 million in grants from Congress to provide judicial education for the U.S. Territories of Guam and American Samoa, the Commonwealth of the Northern Mariana Islands, the republics of Palau and the Marshall Islands, and the Federated States of Micronesia. The grants are given under the auspices of the Department of the Interior and administered by the committee. Senior Circuit Judge J. Clifford Wallace of the U.S. Court of Appeals for the Ninth Circuit chairs the committee.

In 2005, the committee helped organize five conferences in the Pacific region. More than 100 chief justices, judges, attorneys and court administrators participated in the conferences, which helped initiate a dialogue on some of the critical judicial needs identified by the National Judicial College through an assessment performed in 2000.


A three-day conference held in June in Koror, Palau, brought together 40 judges and court staff for training in case flow management, budgeting, and leadership skills for chief justices and presiding judges. Guest speakers included National Judicial College President William Dressel, who discussed judicial ethics and the revised canons under consideration by the American Bar Association, and Ninth Circuit Judge J. Clifford Wallace, the keynote speaker, who addressed “Establishing the Rule of Law in Emerging Countries.”

In February, the third and final segment of the first Pacific Islands Legal Institute for non-law trained judges was held in the Marshall Islands. Twelve judges from Pohnpei, Kosrae, Chuuk, Palau, American Samoa, and the Marshall Islands participated in the training, which was provided by the National Judicial College. Judges who successfully completed the institute, which was the equivalent of first year law school, participated in a graduation ceremony

during the June program in Palau. Associate Judge Sagapolutele Malaolea of the High Court of American Samoa spoke on behalf of his fellow students, when he offered, “Don’t think of us as graduates. Think of us as educated.”

In mid-August, an Evidence and Trial Practice Workshop organized in cooperation with the National Judicial College was held in Majuro, Marshall Islands. Participants included judges, prosecutors, public defenders and legal services attorneys of varied educational backgrounds and differing legal traditions of the Marshall Islands. The workshop helped train judges to distinguish and rule upon hearsay statements, real and demonstrative evidence and how to refresh witnesses’ recollections.

Also in August, a Customary Law Program was held in Pago Pago for island judges to address issues of integrating custom and tradition into the rule of law. This program was the first continuing legal education opportunity for a majority of the participants. Leading the program were Robert Yazzie, former chief justice of the Navajo Nation and Judge James Zion. Experiences of the Navajos, the Maoris of New Zealand and of other tribes in Canada, America and South Africa were shared.

Wrapping up the year was the first Pacific Court Administrator’s Training Program held in October in Guam for 44 court clerks and administrators. Participants in this “train-the-trainer” program are asked to return and hold follow-up training with their court staffs. Faculty for the training included three experts from the National Center for State Courts; a local attorney, and two technology specialists. The topics covered included ethics for court managers, leadership skills, caseload management, training tips, workplace conflict and technology. 

PROBATION OFFICERS CHALLENGED BY ALASKA'S LANDSCAPE



Whether working in inner city neighborhoods or rural towns, federal probation officers often face obstacles in monitoring offenders. For probation officers in Alaska, the challenges come from the rugged terrain and severe climate of the nation's last frontier.



It is not uncommon for federal probation officers in Alaska to travel on seaplanes, all-terrain vehicles, and other modes of transportation in order to conduct home visits on offenders.

Most of Alaska, which has a land mass one-fifth the size of the continental United States, is wilderness marked by volcanic peaks, broad valleys, irregular coastlines and archipelagos. Travel is difficult. Only a few high-volume highways are paved; the rest of the roads are gravel. Ferries and rail services supplement this rudimentary road system in the more populated southern areas of the state. Still, about 30 percent of Alaska residents remain unreachable by car, train or ferry. For probation officers based in Anchorage and Fairbanks, the solution is to travel by air.

Visiting an offender at his or her home is no small undertaking in Alaska. The trip can exceed 12 hours and involve travel via varied combinations of commercial airliner, single-engine plane, boat, all-terrain vehicle and snowmobile. To get to small, remote communities, officers may hop a ride with state troopers from the Alaska Department of Public Safety, whose transportation fleet


includes a seaplane. Or they may charter private planes sometimes manned by rookie pilots.

Bad weather further complicates travel. Low air pressure and circulation patterns along the Gulf of Alaska breed storms that bring strong winds and heavy rain to the region. Inclement weather can postpone flights for hours, even days. Officers can also be re-routed almost 2,500 air miles south to Seattle until conditions clear for safe travel.

The climate also impacts drivable visits. Some roads are closed for the entire seasons due to snow, rain, wind, rock slides or avalanches. When roads are accessible, probation officers may drive for hours in heavy snow, below-freezing temperatures and minimal daylight hours. Roads are often desolate, lacking rest stops and other facilities. Cell-phone reception is often unreliable or nonexistent. Locating residences can also be a problem, especially if the road signs have been damaged or removed.

The transportation concerns officers face are about as varied as the types of cases they supervise. Offenders include individuals facing drug, postal or wildlife violations and corporations accused of polluting international and local waters.

Officers conduct approximately 20 visits a month on average in monitoring offenders. Most can be located within 50 miles of the U.S. Probation and Pretrial Services offices in Anchorage and Fairbanks. The rest are scattered throughout the remote areas.

Isolated Alaskan towns and islands complicate the job of a U.S. probation officer in another way. Because there are no mental health or substance abuse rehabilitation facilities in the rural areas, officers must administer drug tests and ensure offenders receive appropriate treatment. Sometimes, that entails untraditional methods like phone counseling. 

SPACE AND SECURITY



JUDICIAL SECURITY GAINS NATIONAL ATTENTION

Protecting federal judges, their families and court employees took on sudden urgency in 2005 following violent incidents around the country. The efforts were prompted by the murders of the mother and husband of United States District Judge Joan Lefkow of the Northern District of Illinois in February 2005 in Chicago. Their killer, a disgruntled litigant, later took his own life. Adding further urgency was the June episode in Seattle in which a father, angry over child-support payments, brought an inert hand grenade into the lobby of the new U.S. district courthouse. After a 90-minute standoff, he was shot dead by Seattle police officers.

The Lefkow tragedy was “a wake-up call,” said Senior Circuit Judge Melvin Brunetti of Reno, who chairs the Ninth Circuit Committee on Space and Facilities, which has been discussing security matters for several years. In Washington, D.C., the Judicial Conference of the United States, governing body for the nation’s federal courts, declared a crisis in judicial security. The conference moved to reorganize its Committee on Security and Facilities into separate committees. One focused on security and the other on facilities. This had been the arrangement until 1993, when the committees were merged to emphasize the need for safety measures in court buildings.


The reinstated Committee on Judicial Security held its first meeting in September under a new chair, Circuit Judge David B. Sentelle of the U.S. Court of Appeals for the District of Columbia. Members include Chief District Judge Stephen M. McNamee of the District of Arizona, who served previously on the combined committee.

Congress, meanwhile, authorized funding to protect judges and their families with home intrusion alarm systems. The supplemental appropriation went into the budget for the U.S. Marshals Service, which will use a portion to strengthen its court security force. The judiciary was working with the Department of Justice on how to spend the remainder. As part of the process, federal judges across the country were asked in June to complete a survey indicating their interest in having the home alarm systems. The survey results were being used in the negotiations. Overall administration of the program, including concerns with installation and ongoing monitoring of home alarm

systems, was one of the many issues being addressed.

Also in Congress, the House of Representatives in November passed a bill, by a vote of 375-45, increasing penalties for threats and attacks on those involved with the operation of the courts, including judges, court employees, prosecutors, witnesses and jurors. H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005, also would protect family members of court employees and public safety officers. The bill also would prohibit false liens on property of federal judges, attorneys, and public safety officers; restrict the availability of personal information about judicial officers on the Internet; and provide \$20 million to create and expand witness protection programs. The bill was still pending in Congress at the end of 2005.

In hindsight, some judges said the key to judicial protection lies in communication between individual judges, local security and building committees, and public safety officers. Judge McNamee said judges should never take their security for granted and should always be aware of their surroundings and any special circumstances. Ninth Circuit space and security chair Judge Brunetti added that judges should ascertain their own security and report any problems so they can be properly assessed.

To Chief Judge Robert S. Lasnik of the Western District of Washington, the incident in Seattle highlighted the importance of practicing emergency procedures during an ordinary work day. Practicing safety plans will reveal kinks in procedures before court employees are forced to deal with a natural disaster or incident, he said. 



TWO NEW COURTHOUSES OPENED, HISTORIC PIONEER COURTHOUSE RESTORED



The new U.S. courthouse in Fresno was dedicated in October in a ceremony that included remarks from Supreme Court Justice Anthony M. Kennedy, and Chief District Judge David F. Levi and Senior District Judge Robert E. Coyle of the Eastern District of California.



In 2005, two new federal courthouses in California were opened, and a major restoration and seismic retrofit of the venerable Pioneer Courthouse in Portland, Ore., the oldest federal courthouse on the West Coast, was completed.

Fresno

The new United States Courthouse in Fresno, at 475,000 square feet, was the largest of the three projects. The nine-story structure was built over more than three years at a cost of nearly \$140 million. It has 14 courtrooms and 17 judicial chambers, in addition to offices for staff of the district and bankruptcy court clerks of the Eastern District of California.

A dedication ceremony held in October included remarks by Associate Justice Anthony M. Kennedy of the U.S. Supreme Court, a Sacramento native and former judge of the U.S. Court of Appeals for the Ninth Circuit. Also speaking were Chief District Judge David F. Levi of the eastern district and Senior District Judge Robert E. Coyle, who is widely viewed as the driving force behind the courthouse and will have chambers in the new building. The courthouse was expected to be fully operational by January 2006.

The exterior of the structure features a concrete panel design intended to suggest the region's rugged landscape. A portico supported by concrete and bronze columns leads to the building's lobby, which is enclosed by a framework of metal grids and glass windows. Slats of Douglas fir comprise the lobby's latticework ceiling, while a variety of stone and granite line the floor and walls, reflecting natural, ambient light.

The new courthouse in downtown Fresno occupies 3.9 acres, with 1.5 acres constituting a public garden between the street and the building's entrance. The structure also includes expansion space to accommodate additional courtrooms and judges' chambers.



The new U.S. courthouse stands nine-stories tall at Tulare and O streets in downtown Fresno.



The U.S. courthouse in El Centro houses magistrate judges for the Southern District of California.

El Centro

The small border town of El Centro, Calif., also saw the opening of a new courthouse in leased space of just under 47,000 square feet. The U.S. courthouse has one magistrate judge's chambers and courtroom for the Southern District of California. It also includes offices for the clerk of court, probation, pretrial services, and U.S. Marshals Service. A formal dedication of the building was held in early January 2005. Occupancy began in November 2004.

Pioneer Courthouse

In December, the Pioneer Courthouse was rededicated after undergoing a nearly \$24 million seismic retrofit and historic restoration. The 130-year-old building is the Portland home of the U.S. Court of Appeals for the Ninth Circuit.

The project revived the building's Italianate architecture to its luster of 1875, when it opened to house the federal district court, U.S. Post Office, and other government offices. In addition to the rehabilitation, significant seismic upgrades were made to limit damage from earthquakes. The renovation also involved the creation of a first-floor visitors center and the installation of state-of-the-art



The renovated Pioneer Courthouse is home to the Ninth Circuit U.S. Court of Appeals in Portland.

technology, including the latest in videoconferencing.

A ceremony celebrating the reopening of the landmark structure was held following the project's completion in late November. Ninth Circuit Chief Judge Mary M. Schroeder and Circuit Judge Diarmuid F. O'Scannlain, one of four resident judges with chambers in the courthouse, spoke on behalf of the court at the event. In her remarks, Judge Schroeder described how the federal courts have championed historic preservation of public buildings throughout the west, citing as examples the circuit's own headquarters, the James R. Browning U.S. Courthouse in San Francisco, and the Jacob Weinberger U.S. Courthouse in San Diego.

She also noted that the late Judge Richard H. Chambers, chief judge of the Ninth Circuit from 1959 to 1976, played a major role in preservation efforts, including the acquisition of furniture now used in the Pioneer Courthouse.

The building nearly fell to the wrecking ball in the 1930s and again in the late 1960s when it was targeted for demolition to make way for a parking lot. Historic preservationists were successful in preserving the building

thanks in large part to an agreement under which the Ninth Circuit Court of Appeals became a major tenant, beginning in 1970. In 1977, the building was designated a National Historic Landmark.

The nearly two-year rehabilitation of the Pioneer Courthouse is expected to add a century or more to the life of the building.

Work in Progress

Similar restoration and modernization plans were underway in late 2005 for the William Kenzo Nakamura U.S. Courthouse in downtown Seattle. The courthouse will be used by the Ninth Circuit Court of Appeals when the work is finished. Originally completed in 1940, the structure was the first building in the West to serve exclusively as a federal courthouse.

The \$53 million renovation project includes seismic upgrades, security improvements, historic preservation, and enhanced access for the disabled. The project was in the design phase at the end of 2005, with construction expected to begin in the second half of 2006. Completion is scheduled for 2008.



Left: Courtroom One of the renovated Pioneer Courthouse. Below: Circuit Judge Diarmuid O'Scannlain addresses the crowd at the building's rededication in December.



Eugene

In Eugene, Ore., construction of the new Wayne Lyman Morse U.S. Courthouse remained on schedule and within the \$89 million budget appropriated by Congress. The five-story, 276,000-square-foot structure will be used by the district and bankruptcy courts for the District of Oregon. It will include courtrooms and chambers for two district, two magistrate, and two bankruptcy judges, plus offices for the clerk's office, probation, pretrial services, U.S. Marshals Service, and the U.S. attorney.

Work on the building's exterior framing and internal infrastructure was ongoing at the end of 2005. Completion of the project is scheduled for the fall of 2006.

Los Angeles

The design of a new Los Angeles courthouse for the Central District of California continued in 2005. The largest district court in the circuit, the central district's downtown operations are currently housed in the existing courthouse on Spring Street and the nearby Edward R. Roybal Federal Building and Courthouse. The cost to design and construct a courthouse large enough to accommodate all operations exceeded the \$364 million Congress appropriated for the project. The design is being revised to reduce the size of the new courthouse, which would be supplemented by additional court space in the Roybal building. Award of a design-build contract for the new courthouse is expected in fall 2006.

San Diego

Cost considerations also factored into planning for a new courthouse in San Diego for the Southern District of California. By the end of 2005, the original design of a 620,000-square-foot building was on hold, and an alternate plan for a smaller structure was anticipated. The \$274 million project provides courtrooms and chambers for district judges, one circuit judge, the U.S. Pretrial Services Office, and other office space.

Award of a contract for demolition of the Hotel San Diego, the site of the new courthouse, was made in October. Construction on the project is expected in September 2006, with completion and occupancy in 2010.

Other Projects

Additional Ninth Circuit construction efforts were affected by a two-year moratorium implemented by the Judicial Conference of the United States, governing body for the federal courts, as a cost-containment measure for space and facilities. A moratorium on non-prospectus projects began in March 2004, while another on prospectus projects began in September 2004. Circuit projects subject to the moratorium include new courthouses in San Jose, Calif., and Yuma, Ariz., as well as expansion plans within existing courthouses in the districts of Arizona, Nevada, Eastern Washington, Idaho, and Hawaii. 🐾

COURTHOUSES UNDER CONSTRUCTION



EUGENE

Wayne Lyman Morse U.S. Courthouse

Gross Square Footage : 272,274

Project Completion Date : 2006

Architects : Morphosis

COURTHOUSES IN DESIGN PHASE

LOS ANGELES
U.S. Courthouse
Gross Square Footage : 1,016,300
Project Completion Date : 2011
Architects : Perkins & Will Architecture



SAN DIEGO
U.S. Courthouse
Gross Square Footage : 619,644
Project Completion Date : 2010
Architects : Richard Meier & Partners

THE WORK OF THE COURTS



COURT OF APPEALS SEES FILINGS CONTINUE TO RISE



The number of new appeals filed with the U.S. Court of Appeals for the Ninth Circuit increased for the fifth consecutive year in 2005. The court reported 16,101 new filings, up 8.2 percent from 2004. The Ninth Circuit had 23 percent of appellate filings nationally for the year, the most of any circuit. Filings also were on the rise in the Third Circuit, up 21.5 percent; Sixth Circuit, up 15.9 percent; and Seventh Circuit up 15.5 percent.

The upturn in Ninth Circuit case filings was led by immigration appeals, which swelled to 6,625 cases in 2005, an increase of 626 percent since 2001. Immigration cases now constitute 41.1 percent of the Ninth Circuit appellate caseload. The court has implemented a number of measures to more efficiently handle the immigration caseload to minimize impacts on other legal matters.

The Ninth Circuit and Second Circuit have seen phenomenal growth in immigration appeals since 2002, when the Department of Justice ordered the then-Immigration and Naturalization Service (INS) to clear a backlog of cases involving foreign nationals denied residency in the U.S. by a federal immigration judge. Would-be immigrants can appeal such decisions, first to the INS Board of Immigration Appeals (BIA), then to a federal circuit court.

To clear its backlog, the BIA instituted an expedited review system in which appeals were heard by one judge rather than three. Decisions were often rendered with minimal explanation, virtually assuring subsequent appeal to the circuit court. The result was thousands more immigration appeals each year to federal circuit courts. The INS is now part of the Department of Homeland Security.

Categories of Appeals

Administrative agency appeals, which include immigration cases, have risen proportionately. Agency appeals numbered 6,870 in 2005, up 10.6 percent from 2004. Administrative agency appeals have risen 528 percent since 2001, when 1,094 cases were filed. That category made up 42.7 percent of the Ninth Circuit caseload in 2005 compared to 41.8 percent in 2004.

TABLE 1 - APPELLATE CASELOAD PROFILE
2004-2005

| | 2004 | 2005 | Change 2004-2005 |
|-----------------------|---------------|---------------|---------------------|
| Filings | 14,876 | 16,101 | 8.2% |
| Terminations | 12,462 | 13,363 | 7.2% |
| *Pending Cases | 14,044 | 16,782 | 19.5% |

*Total pending cases for calendar year 2004 revised.

The Ninth Circuit reported 2,553 criminal filings in 2005, up 36.3 percent from 1,873 filings in 2004. It was the largest year-to-year increase of any appellate category in 2005. Criminal appeals were the second largest category of appeals in the Ninth Circuit with 15.9 percent of the total caseload. Among criminal appeals, the most numerous involved drug offenses with 758 filings, immigration offenses with 699 filings, property offenses with 351 filings, and fraud with 292 filings.

Private prisoner petitions and miscellaneous other private civil appeals, the next largest categories of appeals, both showed declines in 2005. Private prisoner petitions decreased 8.2 percent to 2,192, while other private civil appeals were down 6.4 percent to 2,149. Bankruptcy appeals was the only other category to show a decline, down 15.5 percent to 180 filings.

Original proceedings amounted to 5.4 percent of the circuit total with 870 filings, an increase of 19.8 percent.

Pro se appeals, in which at least one party is not represented by legal counsel, continue to increase in the Ninth Circuit. *Pro se* filings in 2005 reached 6,158, up 1.9 percent from 2004. The most numerous *pro se* filings were administrative appeals with 2,184 filings, also related

TABLE 2 – APPELLATE FILINGS, TERMINATIONS AND PENDING CASES
by Appeal Type 2005

| Type of Appeal | Filings | % of Circuit Total | Terminations | Pending as of 12/31/05 |
|---|---------------|--------------------|---------------|------------------------|
| Civil | | | | |
| U.S. Prisoner Petitions | 605 | 3.8% | 592 | 375 |
| Private Prisoner Petitions | 2,192 | 13.6% | 2,008 | 1,644 |
| Other U.S. Civil | 682 | 4.2% | 661 | 746 |
| Other Private Civil | 2,149 | 13.3% | 2,106 | 2,588 |
| Criminal | | | | |
| | 2,553 | 15.9% | 1,987 | 2,556 |
| Other | | | | |
| Bankruptcy | 180 | 1.1% | 205 | 236 |
| Administrative Appeals | 6,870 | 42.7% | 4,965 | 8,419 |
| *Original Proceedings | 870 | 5.4% | 839 | 218 |
| Circuit Total | 16,101 | | 13,363 | 16,782 |
| National Appellate Total | 70,003 | | 63,024 | 59,569 |
| Ninth Circuit as % of National Total | 23.0% | | 21.2% | 28.2% |

This table includes appeals reopened, remanded, and reinstated (after being terminated due to procedural defaults) as well as original appeals. This table does not include data for the U.S. Court of Appeals for the Federal Circuit.

*Beginning October 1, 1998, data are reported for types of original proceedings previously not presented in this table.

TABLE 3 – MEDIAN TIME INTERVALS
Calendar Years 2004 and 2005

| By Stage of Appeal | Number of Months | | | |
|--|------------------|------|----------|------|
| | Ninth Circuit | | National | |
| | 2004 | 2005 | 2004 | 2005 |
| From Notice of Appeal to Filing Last Brief | 6.3 | 6.0 | 5.5 | 5.6 |
| From Filing Last Brief to Hearing or Submission | 5.7 | 6.0 | 3.9 | 4.3 |
| From Hearing to Final Disposition | 1.4 | 1.3 | 2.2 | 2.2 |
| From Submission to Final Disposition | 0.3 | 0.2 | 0.5 | 0.5 |
| From Filing of Notice of Appeal to Final Disposition | 14.3 | 16.6 | 10.7 | 12.1 |
| From Filing in Lower Court to Final Disposition in Appellate Court | 31.1 | 33.0 | 25.9 | 27.2 |

the increase in INS cases. Also noteworthy were private prisoner petitions with 1,790 filings, criminal appeals with 141 filings, and other private civil cases with 554 filings.

Median Time Intervals

Caseload growth also was reflected in slightly longer median time intervals, which measure how long it takes

for a case to proceed through the trial and appellate courts. In 2005, the median time from filing of a case in the lower court to final disposition by the Ninth Circuit Court of Appeals was 33 months, up from 31.1 months in 2004. The appellate portion of the process was 16.6 months, up from 14.3 in the prior year.

Median times for the Ninth Circuit were longer than the national median times. From filing of a case in the lower court to final disposition by a circuit court, the median was 27.2 months nationally, an increase from the 25.9 months reported for 2004. The appellate portion of the process was 12.1 months nationally, up from 10.7 months in 2004.

The Ninth Circuit Court of Appeals had longer median times for briefing and preparing the case for hearing or submission. However, its median times of 1.3 months from hearing to final disposition and 0.2 months from submission to final disposition were significantly shorter than the national medians. This is the period when the cases are under direct management of the judges.

Appeals from District Courts

The Central District of California, the largest and busiest district court in the nation, continued to generate the most appeals,

accounting for 14.4 percent of total Ninth Circuit filings. The district produced 2,314 filings, up slightly from 2,302 filings in 2004. The court serves some 18 million people living in seven Southern California counties.

Four districts generated fewer appeals in 2005. The number of appeals from the District of Idaho declined

TABLE 4 - SOURCE OF APPEALS AND ORIGINAL PROCEEDINGS 2005

| District | Appeals | % of Total |
|--------------------------------|---------------|------------|
| Alaska | 143 | 0.9% |
| Arizona | 807 | 5.0% |
| Central California | 2,314 | 14.4% |
| Eastern California | 777 | 4.8% |
| Northern California | 918 | 5.7% |
| Southern California | 644 | 4.0% |
| Hawaii | 214 | 1.3% |
| Idaho | 120 | 0.7% |
| Montana | 279 | 1.7% |
| Nevada | 564 | 3.5% |
| Oregon | 540 | 3.4% |
| Eastern Washington | 238 | 1.5% |
| Western Washington | 577 | 3.6% |
| Guam | 33 | 0.2% |
| Northern Mariana Islands | 13 | 0.1% |
| Bankruptcy | 180 | 1.1% |
| United States Tax Court | 64 | 0.4% |
| National Labor Relations Board | 43 | 0.3% |
| Administrative Agencies | 6,763 | 42.0% |
| *Original Proceedings | 870 | 5.4% |
| Circuit Total | 16,101 | |


*Beginning October 1, 1998, data are reported for types of original proceedings previously not presented in this table.

21.6 percent to 120 filings. Appellate filings from Nevada fell 9.3 percent to 564.

The Eastern District of Washington also declined 3.3 percent to 238 filings, followed by the District of Arizona, down 1.1 percent to 807, and the Eastern District of California, down 0.5 percent to 777 filings.

Terminations, Pending Cases

The Ninth Circuit Court of Appeals terminated 13,363 cases in 2005, up 7.2 percent from 12,462 in 2004. Of the total, 6,140 cases, or 45.9 percent, were terminated on the merits. Oral arguments were heard in 1,833 cases, while 4,307 cases were decided on the briefs.

The court ended the year with 16,782 pending cases, up 19.7 percent from the 14,016 pending cases in 2004, another result of the influx of immigration cases. 

FEWER CIVIL, CRIMINAL FILINGS IN DISTRICT COURTS



Criminal and civil case filings in the district courts of the Ninth Circuit in 2005 totaled 54,683, down 7 percent from 2004. The 15 judicial districts of the circuit accounted for 17.4 percent of the total federal court caseload of 314,656 criminal and civil filings. Overall, national filings declined by 9.5 percent.

Criminal filings in district courts numbered 13,808 in 2005, down 11.2 percent from the prior year. Criminal filings constituted 25.3 percent of the total district filings in the circuit. Immigration offenses, which totaled 4,665 filings, accounted for 33.8 percent of the criminal caseload. Drug offenses, which totaled 3,365, accounted for 24.4 percent of the caseload.

The decline in criminal filings is attributed to decreases in immigration offenses, down 24.3 percent from 6,160 in 2004;

violent crime, including homicides, robberies and assaults, down 8.4 percent to 555 from 606; firearms and explosives offenses, down 11.9 percent to 1,120 from 1,271; general offenses, down 17 percent to 259 from 312; and justice system offenses, down 14 percent to 215 from 250. These figures exclude transfer cases. They also reflect changes in the categorization of offenses by the Administrative Office for the U.S. Courts.

Nationwide, criminal filings (excluding transfers) were 68,488,

TABLE 5 - UNITED STATES DISTRICT COURTS
Total Criminal and Civil Cases Filed, Terminated, and Pending During the 12-Month Period Ending December 31, 2005

| | 2004 | 2005 | Change 2004-2005 |
|--|---------------|---------------|---------------------|
| Civil Filings | 43,256 | 40,875 | -5.5% |
| Criminal Filings | 15,546 | 13,808 | -11.2% |
| Total Filings | 58,802 | 54,683 | -7.0% |
| Civil Terminations | 42,192 | 41,796 | -0.9% |
| Criminal Terminations | 14,601 | 13,647 | -6.5% |
| Total Terminations | 56,793 | 55,443 | -2.4% |
| *Pending Civil Cases | 42,634 | 41,713 | -2.2% |
| *Pending Criminal Cases | 12,930 | 13,091 | 1.2% |
| *Total Pending Cases | 55,564 | 54,804 | -1.4% |
| Civil Case Termination Index (in months) | 12.13 | 11.98 | -1.2% |
| *Criminal Case Termination Index (in months) | 10.63 | 11.51 | 8.3% |
| *Overall Case Termination Index | 11.74 | 11.86 | 1.0% |
| Median Months (from filing to disposition) Civil Cases | 8.4 | 8.4 | 0.0% |
| Median Months (from filing to disposition) Criminal Defendants | 5.5 | 7.0 | 27.3% |
| Median Months National Total (from filing to disposition) Civil Cases | 8.4 | 9.6 | 14.3% |
| Median Months National Total (from filing to disposition) Criminal Defendants | 6.3 | 7.0 | 11.1% |

Note: Median time intervals computed only for 10 or more cases and only for 10 or more defendants. Median time intervals from filing to disposition of civil cases terminated, by district and method of disposition, excludes land condemnation, prisoner petitions, deportation reviews, recovery of overpayments and enforcement of judgments. Median time intervals from filing to disposition of criminal defendants disposed of, by district, excludes transfers.

*2004 Revised

down 2.5 percent decrease from 70,279 in 2004. In total, the Ninth Circuit's criminal caseload amounted to 20.2 percent of the nation's criminal filings. The circuit's immigration caseload was 6.8 percent of national criminal filings, while cases related to drug laws were 4.9 percent of the nation's total criminal filings.

The District of Arizona reported the highest number of new criminal cases commenced in 2005 with 3,948, down 11.7 percent from the 4,470 filings in the prior year. The Southern District of California followed with 2,402, down 27.8 percent from 3,328. These two districts, which include significant stretches of the U.S.-Mexico border, traditionally lead the circuit in immigration and drug offenses. The Central District of California was third-highest with 1,321 new criminal cases, followed closely by the Western District of Washington with 1,198.

In Arizona, immigration made up 52.5 percent of the criminal cases commenced in 2005, while drug offenses accounted for 25.6 percent and firearms 6.2 percent. The largest categories in the Southern District of California's caseload were immigration at

52.2 percent, drug violations at 37.8 percent, and fraud cases at 5.9 percent. In the Central District of California, the largest categories of criminal filings were immigration at 27 percent, fraud at 26.1 percent and drug offenses at 13.6 percent.

Six of 15 districts in the circuit saw growth in criminal case filings, led by the Eastern District of California, whose criminal filings jumped by 24.4 percent overall, due to a 60 percent jump in fraud cases and 21.8 percent increase in immigration cases. All other districts reported declines. The Southern District of California and Arizona, showed the greatest declines in the number of cases filed. Southern California's caseload fell by 926 cases, or 27.8 percent, while Arizona was down 522 cases, or 11.7 percent.

Civil Filings

Civil case filings in district courts of the Ninth Circuit numbered 40,875, down 5.5 percent from 2004. It was the fifth consecutive year in which civil filings declined. Of all civil filings, private civil cases accounted for 77.6 percent, while cases in which the United States acted as plaintiff or defendant was 22.4 percent. Prisoner

TABLE 6 - UNITED STATES DISTRICT COURTS WEIGHTED AND UNWEIGHTED FILINGS
Per Authorized Judgeship During the 12-Month Period Ending December 31, 2005

| District | Authorized Judgeships | Unweighted Filings Per Judgeship | | | Weighted Filings Per Judgeship | | | | |
|-----------------------|-----------------------|----------------------------------|--------------|--------------|--------------------------------|--------------|---------------------|---------------------|------------------|
| | | Civil | Criminal | Total | Civil | Criminal | 2005 Weighted Total | 2004 Weighted Total | Change 2004-2005 |
| Alaska | 3 | 116 | 65 | 194 | 133 | 56 | 191 | 205 | -6.8% |
| Arizona | 13 | 387 | 390 | 897 | 345 | 294 | 656 | 618 | 6.1% |
| Central California | 28 | 405 | 73 | 507 | 480 | 62 | 546 | 629 | -13.2% |
| Eastern California | 6 | 667 | 215 | 937 | 661 | 180 | 848 | 763 | 11.1% |
| Northern California | 14 | 373 | 69 | 471 | 467 | 56 | 528 | 575 | -8.2% |
| Southern California | 13 | 183 | 213 | 500 | 218 | 136 | 369 | 468 | -21.2% |
| Hawaii | 4 | 202 | 136 | 380 | 261 | 103 | 371 | 366 | 1.4% |
| Idaho | 2 | 266 | 155 | 449 | 298 | 141 | 443 | 554 | -20.0% |
| Montana | 3 | 205 | 217 | 478 | 215 | 194 | 417 | 422 | -1.2% |
| Nevada | 7 | 318 | 110 | 460 | 380 | 101 | 485 | 542 | -10.5% |
| Oregon | 6 | 413 | 141 | 606 | 451 | 121 | 579 | 590 | -1.9% |
| Eastern Washington | 4 | 164 | 129 | 340 | 164 | 116 | 287 | 316 | -9.2% |
| Western Washington | 7 | 405 | 213 | 652 | 474 | 133 | 611 | 607 | 0.7% |
| Circuit Total | 110 | 4,104 | 2,126 | 6,871 | 4,547 | 1,693 | 6,331 | 6,655 | -4.9% |
| Circuit Mean | *** | 316 | 164 | 529 | 350 | 130 | 487 | 512 | -4.9% |
| Circuit Median | *** | 318 | 141 | 478 | 345 | 121 | 485 | 554 | -12.5% |
| National Mean | *** | 337 | 135 | 502 | 365 | 111 | 480 | 523 | -8.2% |

Note: Case weights are based on the 2003-2004 district court case weighting study conducted by the Federal Judicial Center. This table excludes civil cases arising by reopening, remand, or transfer to the district by the order of the Judicial Panel on Multidistrict Litigation. This table includes defendants in all felony and Class A misdemeanor cases, but includes only those petty offense defendants whose cases have been assigned to district judges. Remands and reopens for criminal defendants are excluded. This table excludes data for the territorial courts. Data are reported for supervised release and probation hearings (both evidentiary and non-evidentiary) previously not presented in this table. Data are obtained from the monthly reports of trials and other court activities conducted by resident and visiting judges. Due to rounding, subtotals for weighted and unweighted civil, criminal, and revocation filings may not equal totals for weighted and unweighted filings.

petitions made up 34.3 percent of private civil cases and 28 percent of U.S. civil cases.

The largest category of civil filings in which the government was a party involved Social Security, 31.4 percent of the total, followed by prisoner petitions. The largest categories of private civil cases were prisoner petitions, followed by civil rights at 16 percent and contract disputes at 11.8 percent. The largest number of civil cases was opened in the Central District of California, with 8,884. The Northern District of California had the second-largest private civil caseload with 4,808 filings, followed by the District of Arizona with 4,124 cases.

Four districts reported increases in civil case filings in 2005. The District of Arizona saw the largest increase, up 32 percent to 5,112 filings. The remaining 11 districts reported declines, with the Central District of California having the largest numerical decrease, down 15.1 percent to 11,940 total civil filings.

Case Terminations and Processing Times

District courts reported civil case terminations down 0.9 percent. Criminal case terminations were down 6.5 percent. The number of civil cases pending in the district courts declined 2.2 percent. The pending criminal caseload in district courts rose 1.2 percent from the prior year.

The Case Termination Index, which computes how long it would take to clear the pending caseload if the current termination rate remained constant, was 11.86 months in 2005, up slightly from 11.74 months in 2004.

Median times from filing to disposition also held steady. For civil cases, the median time remained the same as the prior year at 8.4 months. This compares favorably to the nationwide average of 9.6 months. For criminal cases, the median time from filing to disposition of criminal defendants was 7 months in 2005, equal to the national average. 🍂

TABLE 7- UNITED STATES DISTRICT COURTS

Types of Criminal Cases Commenced During the 12-Month Period Ending December 31, 2005 (Transfer Cases Excluded)

| | AK | AZ | Cent. Calif. | East. Calif. | No. Calif. | So. Calif. | HI | ID | MT | NV | OR | East. Wash. | West. Wash. | Guam | NMI | Total |
|-----------------------------|------------|--------------|--------------|--------------|------------|--------------|------------|------------|------------|------------|------------|-------------|--------------|------------|-----------|---------------|
| Violent Offenses | | | | | | | | | | | | | | | | |
| Homicide | 0 | 28 | 3 | 1 | 0 | 2 | 1 | 2 | 6 | 1 | 5 | 2 | 2 | 0 | 0 | 53 |
| Robbery | 3 | 13 | 45 | 8 | 17 | 8 | 8 | 0 | 5 | 29 | 45 | 3 | 16 | 0 | 0 | 200 |
| Assault | 1 | 117 | 21 | 8 | 5 | 8 | 9 | 12 | 25 | 9 | 9 | 3 | 11 | 1 | 0 | 239 |
| Other | 0 | 27 | 2 | 6 | 2 | 0 | 3 | 3 | 1 | 5 | 5 | 3 | 5 | 1 | 0 | 63 |
| Property Offenses | | | | | | | | | | | | | | | | |
| Burglary, Larceny, Theft | 9 | 68 | 52 | 53 | 23 | 2 | 16 | 5 | 24 | 9 | 46 | 14 | 148 | 12 | 0 | 481 |
| Embezzlement | 2 | 12 | 12 | 3 | 5 | 7 | 2 | 4 | 7 | 10 | 8 | 5 | 7 | 2 | 1 | 87 |
| Fraud | 23 | 144 | 345 | 192 | 152 | 143 | 40 | 20 | 47 | 89 | 65 | 32 | 77 | 14 | 10 | 1,393 |
| Forgery, Counterfeiting | 1 | 4 | 48 | 19 | 10 | 2 | 2 | 3 | 8 | 7 | 10 | 15 | 8 | 0 | 0 | 137 |
| Other | 1 | 2 | 2 | 0 | 1 | 2 | 2 | 2 | 4 | 1 | 2 | 2 | 15 | 0 | 0 | 36 |
| Drug Offenses | | | | | | | | | | | | | | | | |
| Marijuana | 3 | 653 | 2 | 27 | 5 | 672 | 7 | 2 | 10 | 1 | 20 | 14 | 59 | 1 | 1 | 1,477 |
| All Other Drugs | 35 | 357 | 177 | 163 | 97 | 235 | 136 | 42 | 94 | 114 | 104 | 95 | 189 | 37 | 13 | 1,888 |
| Firearms, Explosives | 27 | 245 | 99 | 101 | 93 | 10 | 51 | 44 | 77 | 109 | 100 | 83 | 72 | 9 | 0 | 1,120 |
| Sex Offenses | | | | | | | | | | | | | | | | |
| Justice System Offenses | 4 | 34 | 22 | 20 | 19 | 21 | 1 | 5 | 8 | 36 | 18 | 8 | 18 | 1 | 0 | 215 |
| Immigration Offenses | | | | | | | | | | | | | | | | |
| Improper Alien Reentry | 2 | 1,653 | 150 | 203 | 77 | 326 | 4 | 63 | 35 | 86 | 24 | 150 | 12 | 1 | 0 | 2,786 |
| Other | 1 | 418 | 207 | 4 | 47 | 928 | 3 | 2 | 7 | 10 | 152 | 8 | 71 | 20 | 1 | 1,879 |
| General Offenses | | | | | | | | | | | | | | | | |
| Regulatory Offenses | 17 | 79 | 41 | 43 | 54 | 14 | 4 | 8 | 15 | 9 | 20 | 5 | 19 | 7 | 0 | 335 |
| Traffic Offenses | 15 | 5 | 5 | 32 | 23 | 0 | 133 | 2 | 45 | 0 | 0 | 0 | 363 | 5 | 0 | 628 |
| All Offenses Total | 158 | 3,948 | 1,321 | 968 | 676 | 2,402 | 436 | 237 | 499 | 566 | 666 | 465 | 1,198 | 116 | 27 | 13,683 |

Note: This table reflects new offense categories by the Administrative Office of the U.S. Courts; it includes all felony and only those petty offense cases that have been assigned to district judges.

A RECORD YEAR FOR BANKRUPTCY COURTS EVERYWHERE



Bankruptcy filings across the nation reached record numbers in 2005. The upturn was particularly notable in the Ninth Circuit, which accounts for 16 percent of all filings nationally, and in the Central District of California, the largest and busiest bankruptcy court in the nation.

Bankruptcy filings nationwide totaled 2,078,415, up 30.1 percent from the 1,597,462 filings in 2004. The steep climb in filings was due to debtors rushing to file before the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 went into effect in October.

Bankruptcy courts in the Ninth Circuit reported 335,454 filings in 2005, up 32.8 percent increase from the prior calendar year. Circuit filings broke the previous annual record of 323,382 set in 1998.

Bankruptcy Filings by Chapter

The largest number of filings came under Chapter 7 of the Bankruptcy Code. These filings totaled 298,310 (business and non-business) and comprised 89 percent of all bankruptcy cases in the Ninth Circuit. Chapter 7 allows debtors to keep certain exempt property while the remaining property is sold to pay creditors. In most Chapter 7 cases, most property is exempt. Businesses filing under Chapter 7 are liquidated and terminated.

For the year, 36,038 Chapter 13 cases (business and non-business) were filed in the Ninth Circuit, amounting to 10.7 percent of the total bankruptcies. Under Chapter 13, creditors may be repaid in installments, in full or in part, over three to five years and debts may not exceed the statutory amount. Chapter 13 is available for individuals operating businesses as sole proprietorships but not for partnerships or corporations.

The two smallest categories of bankruptcy cases each amounted to under 1 percent of the total cases filed. Chapter 11 cases (business and non-business) totaled

1,041 cases, and Chapter 12 cases totaled 57 cases. Chapter 11 provides for a business to continue operations while formulating a plan to repay its creditors. Chapter 12 only applies to business filings and provides family farmers a chance to reorganize their debts and keep their farms.

Non-Business Filings Predominate

Non-business bankruptcy filings totaled 327,969, comprising 97.8 percent of all bankruptcy filings in the Ninth Circuit in 2005. Of these, Chapter 7 filings were most numerous with 292,802, up 41.1 percent from the prior year. Non-business Chapter 7 cases accounted for 87.3 percent of all filings.

TABLE 8 - BUSINESS, NON-BUSINESS BANKRUPTCY CASES FILED
By Chapter During the 12-Month Period Ending December 31, 2005

| | 2004 | 2005 | Change 2004-2005 |
|--------------------------------|----------------|----------------|---------------------|
| Filings | | | |
| Business Chapter 7 | 4,258 | 5,508 | 29.4% |
| Business Chapter 11 | 1,034 | 889 | -14.0% |
| Business Chapter 12 | 14 | 57 | 307.1% |
| Business Chapter 13 | 1,079 | 1,023 | -5.2% |
| Non-Business Chapter 7 | 207,553 | 292,802 | 41.1% |
| Non-Business Chapter 11 | 178 | 152 | -14.6% |
| Non-Business Chapter 13 | 38,566 | 35,015 | -9.2% |
| *Total | 252,668 | 335,454 | 32.8% |
| Terminations | | | |
| | 279,154 | 243,164 | -12.9% |
| **Pending Cases | | | |
| | 193,507 | 285,797 | 47.7% |

Note: Chapter 15 was added and section 304 was terminated by changes in the bankruptcy laws effective Oct. 17, 2005. (1) Section 101 of the U.S. Bankruptcy Code defines consumer (non-business) debt as that incurred by an individual primarily for a personal, family, or household purpose. If the debtor is a corporation or a partnership, or if debt related to operation of a business predominates, the nature of the debt is business.

**These figures include the following cases not reflected elsewhere: Calendar Year 2004: Arizona (Section 304 = 1); C. Calif. (Chapter 9 = 1 and Section 304 = 1); E. Calif. (Section 304 = 1); N. Calif. (Section 304 = 1); Hawaii (Section 304 = 1) Calendar Year 2005: Arizona (Section 304 = 1); C. Calif. (Chapter 9 = 1, and Section 304 = 3); N. Calif. (Chapter 9 = 1); Hawaii (Section 304 = 1); W. Wash. (Chapter 15 = 1)*

***Total pending cases for 2004 revised.*

Chapter 13 filings were the second largest category of non-business filings, totaling 35,015 filings, down 9.2 percent decline in 2005. Non-business Chapter 13 filings were 10.4 percent of the total filings for the year.

Business Filings

Business bankruptcy filings accounted for 2.2 percent of the Ninth Circuit's total bankruptcy filings in 2005. Business filings totaled 7,485, up 17.2 percent from 2004. Business filings under Chapter 7 were most numerous, totaling 5,508, up 29.4 percent from 2004.

Chapter 13 business filings totaled 1,023, down 5.2 percent from 2004. Business bankruptcies under Chapter 11 in 2005 fell 14 percent to 889.

Districts with Largest Number of Filings

The Central District of California continued to lead the country in bankruptcy filings. For 2005, the central district recorded 84,304 filings, equal to 4.1 percent of the national total. The district's caseload was up 39 percent from 2004, with business and non-business Chapter 7 cases making up the majority of filings.

Also reporting big increases were the District of Arizona with 40,214 filings, up 28.1 percent; the Eastern District of California with 37,402 filings, up 29 percent; and the Western District of Washington with 35,353 filings, up 22.1 percent.

Terminations and Pending Cases

Bankruptcy terminations numbered 243,164 in 2005, down 12.9 percent from 279,154 cases closed in 2004. The large influx of filings late in the year increased the total of pending cases to 285,797 in 2005, up 47.7 percent from 193,636 cases pending at the end of 2004. The Central District of California had largest increase in pending cases, up 107.8 percent.

Appointments, Transitions

In 2005, the Court of Appeals reappointed Bankruptcy Judge Philip H. Brandt of Seattle to a second 14-year term on U.S. Bankruptcy Court for the Western District of Washington, effective in October. Washington State Court of Appeals Judge Frank L. Kurtz was appointed to the U.S. Bankruptcy Court for the Eastern District of Washington. Costa Mesa attorney Theodor C. Albert was appointed to the U.S. Bankruptcy Court for the Central District of California, and Sacramento attorney Robert S. Bardwil was appointed to the U.S. Bankruptcy Court for the Eastern District of California.



The Central District of California, which has its headquarters in Los Angeles, received nearly 17,000 bankruptcy filings in the days just prior to a new bankruptcy law taking effect. Court staff from all departments, including law clerks, purchasing agents and personnel clerks assisted debtors with their bankruptcy filings.

New chief bankruptcy judges were named in four districts. The District of Arizona saw the elevation of Chief Bankruptcy Judge Redfield T. Baum in June 2005. A 15-year veteran of the bankruptcy bench, he succeeded Judge Sarah Sharer Curley. His term will end in 2009.

The District of Oregon saw the elevation of Chief Bankruptcy Judge Elizabeth L. Perris in October 2005. Judge Perris, who has served for 21 years, succeeded Judge Albert E. Radcliffe. Her term will end in 2008.

The Western District of Washington saw the elevation of Chief Bankruptcy Judge Karen A. Overstreet, also in June. A bankruptcy judge since 1994, she succeeded Judge Brandt, who stepped down to become chief judge of the Ninth Circuit Bankruptcy Appellate Panel. Her term extends to 2012.

The Eastern District of Washington saw the elevation of Chief Bankruptcy Judge Patricia C. Williams in October. Appointed in 1997, she succeeded Judge John A. Rossmeissl. Her term extends to 2008.

Recalled bankruptcy judges continue to serve the Ninth Circuit. In 2005, 10 recalled bankruptcy judges in seven districts assisted the 67 active bankruptcy judges. 🍂



WORKLOAD HOLDS STEADY FOR BANKRUPTCY APPELLATE PANEL

All district courts within the Ninth Circuit have issued general orders providing for the automatic referral of bankruptcy appeals to the Ninth Circuit Bankruptcy Appellate Panel (BAP) for disposition. However, if any party files a timely election to have the appeal heard by a district court, the appeal is transferred according to the consent rule. Seven bankruptcy judges are authorized by the Ninth Circuit Judicial Council to serve on the BAP. During the past three years, one position has intentionally been held vacant due to reduced work load based on new filings.

For the calendar year, 764 new appeals were filed. BAP handled 55 percent of all bankruptcy appeals, while 45 percent were heard in district courts. The BAP has historically handled between 50 and 60 percent of appeals.

Bankruptcy appeal filings for the past five years have declined significantly, from a five-year high in 2002 of 904 appeals filed to an all-time low in 2005 of 764 appeals filed. The trend of declining filings likely will reverse itself at least somewhat in 2006, as litigants begin to file appeals challenging the 2005 bankruptcy law amendments.

Dispositions

The BAP disposed of 497 appeals for the year. Of those, 152 appeals were merits terminations. Oral argument was held in 143 appeals, and nine appeals were submitted on briefs. Of the 152 decisions, 31 were published opinions. The reversal rate was 21.1 percent.*

The median time for an appeal decided on the merits was 10.3 months. The remaining 244 appeals were terminated on procedural grounds, such as for lack of prosecution, lack of jurisdiction, consolidation, or based on voluntary dismissal. The BAP ended the period with 280 appeals pending (up 9.4 percent from the prior year).

* No percentage of cases reversed or denied has been computed for original proceedings because of their difference from appeals, nor have they been included in the percentage of total reversed.

TABLE 9 – NEW BANKRUPTCY APPEALS
For the 12-Month Period Ending December 31, 2005

| District | Bankruptcy Appellate Panel | *District Court | Total |
|---------------------|----------------------------|-----------------|------------|
| Alaska | 0 | 1 | 1 |
| Arizona | 51 | 32 | 83 |
| Central California | 149 | 125 | 274 |
| Eastern California | 49 | 21 | 70 |
| Northern California | 39 | 29 | 68 |
| Southern California | 34 | 20 | 54 |
| Hawaii | 3 | 19 | 22 |
| Idaho | 5 | 8 | 13 |
| Montana | 3 | 8 | 11 |
| Nevada | 31 | 22 | 53 |
| Oregon | 9 | 11 | 20 |
| Eastern Washington | 7 | 8 | 15 |
| Western Washington | 40 | 40 | 80 |
| Total | 420 | 344 | 764 |

*The numbers for bankruptcy appeals to the district courts are taken directly from a statistical caseload table prepared by the Administrative Office of the United States Courts ("AOUSC Table B-23"). The numbers for bankruptcy appeals to the BAP are calculated based on data from AOUSC Table B-23, and on data from the BAP's ICMS docketing system.

Appeals to the Ninth Circuit

Appeals from a decision of either the BAP or district court may be filed with the court of appeals for second-level appellate review. For the 12-month period, 180 appeals were filed. Of these, 75 were appeals from decisions by the BAP and 105 were from decisions by the district courts. Thus, of the 396 appeals which were disposed of by the BAP, 80 percent were fully resolved with only about 19 percent seeking second-level review.



The Ninth Circuit Bankruptcy Appellate Panel consists of, seated from left, Bankruptcy Judge Christopher M. Klein of the Eastern District of California, Bankruptcy Judge Philip H. Brandt of the Western District of Washington, Bankruptcy Judge James M. Marlar of the District of Arizona; and, standing from left, Bankruptcy Judge Erithe A. Smith of the Central District of California, Bankruptcy Judge Dennis Montali of the Northern District of California, and Bankruptcy Judge Jim D. Pappas of the District of Idaho. Judge Brandt serves as the chief bankruptcy judge of the BAP.

BAP Judges

The Judicial Council of the Ninth Circuit, which has statutory authority for appointments to the BAP, appointed one new member and extended the term of an existing member.

In August, the council extended the appointment of Bankruptcy Judge Christopher M. Klein of Sacramento. Originally appointed to BAP in 1998 to a seven-year term, Judge Klein's appointment was extended by three years and will end in 2008. Judge Klein has served on the U.S. Bankruptcy Court for the Eastern District of California since 1988 and was reappointed to a second 14-year term in 2002. Judge Klein is a member of the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States and is its liaison member to the Advisory Committee on the Federal Rules of Evidence.

Bankruptcy Judge Jim D. Pappas of Boise, Idaho, was appointed to the BAP in September. One of two judges on the U.S. Bankruptcy Court for the District of Idaho, Judge Pappas came onto the bankruptcy bench in 1990 and was reappointed in 2004 to a second 14-year term.

Judge Pappas served as the district's chief bankruptcy judge from 1993 to 2004. He previously served on the BAP as a pro tem judge; chaired the Ninth Circuit Conference of Chief Bankruptcy Judges; and served on a number of circuit and national committees. Bankruptcy Judge Philip H. Brandt of the Western District of Washington was elevated to chief bankruptcy judge, succeeding Bankruptcy Judge Elizabeth L. Perris of Oregon. 🍂

MAGISTRATE JUDGES EXECUTIVE BOARD EXPANDS



In 2005, the Judicial Council of the Ninth Circuit approved the expansion of the Magistrate Judges Executive Board from 10 members to 14 members. The board meets biannually to consider issues affecting the 109 full-time, part-time and recalled magistrate judges in the circuit.

Chief Judge Mary M. Schroeder initially requested the expansion of the board so that the individual views of the 14 judicial districts with magistrate judges would be represented. The new members on the board represent the districts of Alaska, the Southern District of California, Guam, Hawaii, Idaho and Eastern Washington.


2005 also marked the first time a majority of the district courts in the Ninth Circuit relied on a chief or presiding magistrate judge to handle administrative matters. Nine judicial districts had a magistrate judge who was designated as chief, presiding or "liaison" and given additional responsibilities.

An informal survey by Chief Magistrate Judge J. Kelley Arnold, chair of the Magistrate Judges Executive Board, indicated that chief magistrate judges performed a variety of duties, including scheduling and presiding over magistrate judges meetings, setting up duty rosters, scheduling criminal and civil calendars, and administrative supervision of pro se law clerks. They also managed the distribution of caseloads and acted as a point person for court-related agencies with which

magistrate judges frequently interact, such as U.S. Pretrial Services and Probation and the U.S. Marshals Service. Judge Arnold reported results of his survey to the Judicial Council.

The Magistrate Judges Executive Board also began a survey on customs and procedures on the use of restraints for prisoners in their initial appearances and other proceedings before magistrate judges. The study was initiated following the Ninth Circuit opinion in *United States v. Howard* in November, regarding the shackling of prisoners in the Central District of California. Survey results were to be presented to the Conference of Chief District Judges in early 2006.

The board was given a standing invitation to have a representative observe meetings of the Conference of Chief District Judges.

Seven new magistrate judges were appointed in 2005, three in the District of Arizona and one each in the Southern District of California, the Western District of Washington, the districts of Nevada and Oregon. 



Chief District Judge David Ezra of the District of Hawaii, second from right, was a guest speaker at the Magistrate Judges Executive Board meeting last October in Tacoma. Pictured with him are, from left, Magistrate Judges Leslie Kobayashi, also of Hawaii, Robert N. Block of the Central District of California and Lawrence J. O'Neill of the Eastern District of California.

TABLE 10 – MATTERS DISPOSED OF BY NINTH CIRCUIT MAGISTRATE JUDGES
 During the 12-Month Period Ending September 30, 2005

| Activity | 2004 | 2005 | Percent Change 2004-2005 |
|---|----------------|----------------|-----------------------------|
| Total Matters | 183,838 | 178,540 | -2.9% |
| Preliminary Proceedings | 83,762 | 81,410 | -2.8% |
| Search Warrants | 7,900 | 8,123 | 2.8% |
| Arrest Warrants/Summonses | 5,588 | 6,071 | 8.6% |
| Initial Appearances | 24,831 | 23,797 | -4.2% |
| Preliminary Examinations | 5,173 | 5,057 | -2.2% |
| Arraignments | 16,719 | 14,840 | -11.2% |
| Detention Hearings | 13,862 | 13,607 | -1.8% |
| Bail Reviews/Nebbia Hearings | 3,402 | 3,447 | 1.3% |
| Other ⁵ | 6,287 | 6,468 | 2.9% |
| Trial Jurisdiction Cases | 18,709 | 20,377 | 8.9% |
| Class A Misdemeanors | 1,945 | 1,746 | -10.2% |
| Petty Offenses | 16,764 | 18,631 | 11.1% |
| Civil Consent | 3,269 | 3,205 | -2.0% |
| Without Trial | 3,171 | 3,142 | -0.9% |
| Jury Trial | 62 | 45 | -27.4% |
| Nonjury Trial | 36 | 18 | -50.0% |
| Additional Duties | | | |
| Criminal | 27,547 | 26,415 | -4.1% |
| Motions 636(b)(1)(A) ¹ | 11,792 | 11,457 | -2.8% |
| Motions 636(b)(1)(B) | 737 | 996 | 35.1% |
| Evidentiary Proceedings | 240 | 196 | -18.3% |
| Pretrial Conferences ² | 1,547 | 1,741 | 12.5% |
| Probation Revocation and Supervised Release Hearings | 1,357 | 1,338 | -1.4% |
| Guilty Pleas | 5,892 | 6,002 | 1.9% |
| Other ³ | 5,982 | 4,685 | -21.7% |
| Civil | 32,488 | 29,515 | -9.2% |
| Settlement Conferences | 4,004 | 4,149 | 3.6% |
| Other Pretrial Conferences ² | 3,865 | 3,625 | -6.2% |
| Motions 636(b)(1)(A) ¹ | 17,859 | 15,191 | -14.9% |
| Motions 636(b)(1)(B) | 1,309 | 1,222 | -6.6% |
| Evidentiary Proceedings | 32 | 152 | 375.0% |
| Social Security | 851 | 825 | -3.1% |
| Special Masterships | 39 | 71 | 82.1% |
| Other ⁴ | 4,529 | 4,280 | -5.5% |
| Prisoner Petitions | 5,477 | 4,798 | -12.4% |
| State Habeas | 2,751 | 2,252 | -18.1% |
| Federal Habeas | 508 | 465 | -8.5% |
| Civil Rights | 2,175 | 2,006 | -7.8% |
| Evidentiary Proceedings | 43 | 75 | 74.4% |
| Miscellaneous Matters⁶ | 12,586 | 12,820 | 1.9% |

1 Before 2000, category included contested motions only. Beginning in 2000, uncontested motions were added.

2 Before 2000, category did not include status conferences. Beginning in 2000, status conferences were added.

3 Category includes writs, mental competency hearings, and motion hearings.

4 Category includes fee applications, summary jury trials, and motion hearings.

5 Category includes material witness hearings and attorney appointment hearings.

6 Before 2000, this category included seizure/inspection warrants and orders of entry; judgment debtor exams; extradition hearings, contempt proceedings; Criminal Justice Act fee applications; naturalization proceedings; grand jury returns; civil and criminal IRS enforcement proceedings; calendar calls; and voir dire. Beginning in 2000, civil and criminal other jury matters and international prisoner transfer proceedings were added.

FEDERAL PUBLIC DEFENDER CASELOADS INCREASE IN 2005



Federal public defenders and community defenders in the Ninth Circuit opened 23,157 new cases in fiscal year 2005. They accounted for 23.7 percent of all new defender cases in the nation. Defender caseloads in the Ninth Circuit decreased 5.6 percent in fiscal year 2005. Seven of 14 districts with federal defenders reported fewer cases with Southern California and Hawaii having the largest percentage drops. Circuit caseloads have varied over the last five years with increases reported in 2001, 2002 and 2004, and decreases in 2003 and 2005.

Congress created the Office of the Federal Public Defender to fulfill the constitutional requirement that indigents charged with federal crimes be provided with no-cost, professional legal representation. Congress funds public defender and community defender offices through the Defender Services Division of the Administrative Office of the United States Courts.

Community defender organizations are non-profit legal service organizations staffed by non-government employees, while public defender offices are federal agencies staffed by employees of the judiciary. Both types of organizations are staffed with experienced federal criminal law practitioners who provide a consistently high level of representation.

In addition to criminal defense and appeals, public defenders are assigned to court-directed prisoner and witness representations, bail/pre-sentencing, and probation and parole revocation hearings.

Pending and Closed Cases

The pending caseload of Ninth Circuit public and community defenders rose 2.1 percent in fiscal year 2005 to 8,460 cases. Federal defenders closed 22,979 cases, a 5.1 percent decline from the prior fiscal year.

Districts with Largest Caseloads

Since 2000, the District of Arizona and three of the four judicial districts in California have consistently carried the largest federal defender caseloads in the Ninth Circuit. The trend continued in fiscal year 2005. Public defenders in Arizona carried the biggest caseload with 5,570 new cases, a decline of 1.7 percent. The Southern

District of California followed with 4,031 new cases, down 24.1 percent from the previous year. The district's caseload had been steadily decreasing since 2000, when 6,135 new cases were opened.

The Central District of California, which includes Los Angeles and serves some 18 million people, ranked third in the circuit with 3,293 new defender cases, a decline of 7.7 percent. The downturn was the first in the district since FY2000, when 2,657 new cases were reported. The Eastern District of California, which had the fourth-largest caseload in FY2005, saw an increase of 12.7 percent to 1,991 new cases.

Elsewhere in the circuit, caseload increases were reported by the District of Montana with 8.1 percent, the District of Oregon with 7.4 percent. The Western District of Washington was up 1.8 percent to 1,798.

Appointments

By statute, judges of the circuit court of appeals select and appoint federal public defenders. The court makes its initial appointment after a nationwide recruitment and the use of a local screening committee. A federal public defender may be reappointed if the court concludes that he or she is performing in a highly satisfactory manner based upon a broad survey and performance evaluation process.

In 2005, the United States Court of Appeals for the Ninth Circuit reappointed three federal public defenders:

Maria E. Stratton was reappointed in June to a third consecutive four-year term as federal public defender

TABLE 11 – FEDERAL DEFENDER ORGANIZATIONS

Cases Opened, Closed and Pending, During the 12-Month Period Ending September 30, 2005

| | 2001 | 2002 | 2003 | 2004 | 2005 | Change 2004-2005 |
|----------------|---------------|---------------|---------------|---------------|---------------|---------------------|
| Opened | 24,015 | 24,780 | 23,539 | 24,543 | 23,157 | -5.6% |
| Closed | 24,334 | 24,634 | 23,247 | 24,215 | 22,979 | -5.1% |
| Pending | 7,563 | 7,669 | 7,944 | 8,287 | 8,460 | 2.1% |

TABLE 12 – FEDERAL DEFENDER ORGANIZATIONS

Summary of Representations by District During the 12-Month Period Ended September 30, 2005

| District | Opened Sept. 30, 2004 | Opened Sept. 30, 2005 | Change 2004-2005 | Closed Sept. 30, 2005 | Pending Sept. 30, 2005 |
|---|--------------------------|--------------------------|---------------------|--------------------------|---------------------------|
| Alaska | 327 | 298 | -8.9% | 320 | 107 |
| Arizona | 5,664 | 5,570 | -1.7% | 5,591 | 1,143 |
| Central California | 3,566 | 3,293 | -7.7% | 3,457 | 1,507 |
| Eastern California | 1,766 | 1,991 | 12.7% | 1,892 | 775 |
| Northern California | 945 | 866 | -8.4% | 972 | 437 |
| *Southern California | 5,313 | 4,031 | -24.1% | 3,892 | 1,046 |
| Guam | 129 | 191 | 48.1% | 193 | 45 |
| Hawaii | 676 | 568 | -16.0% | 664 | 461 |
| *Idaho | 303 | 322 | 6.3% | 268 | 183 |
| *Montana | 641 | 693 | 8.1% | 675 | 272 |
| Nevada | 1,261 | 1,214 | -3.7% | 1,097 | 811 |
| Oregon | 1,471 | 1,580 | 7.4% | 1,509 | 856 |
| *Eastern Washington | 714 | 742 | 3.9% | 757 | 282 |
| Western Washington | 1,767 | 1,798 | 1.8% | 1,692 | 535 |
| Circuit Total | 24,543 | 23,157 | -5.7% | 22,979 | 8,460 |
| National Total | 101,015 | 97,777 | -3.2% | 95,055 | 36,922 |
| Circuit Total as % of National Total | 24.3% | 23.7% | -0.6% | 24.2% | 22.9% |

**Community Defender Organizations: In addition to handling criminal defenses and appeals, public defenders are assigned to court-directed prisoner and witness representations, bail/pre-sentencing, and probation and parole revocation hearings. Eastern Wash. and Idaho are combined into one organization. The Northern Mariana Islands are not served by a defender organization.*

for the Central District of California, the busiest in the Ninth Circuit. She has served in that a capacity since 1993. Prior to that, she had been the managing partner of a Los Angeles law firm and a deputy federal public defender in the central district. In December, Ms. Stratton was appointed to a judgeship on the Los Angeles County Superior Court.

Franny A. Forsman was reappointed to her fourth consecutive four-year term as federal public defender for the District of Nevada. She had served as head attorney for the special litigation unit of a Las Vegas law firm prior to her initial appointment in 1989. She had

also worked as a deputy supervising staff attorney for the Nevada Supreme Court, and had practiced privately in Indiana. Ms. Forsman's new term will be effective in March 2006.

Thomas Hillier II was reappointed to his seventh four-year term as federal public defender for the Western District of Washington. He has served in that capacity since 1982 and worked previously as an assistant federal public defender in the district. He also served as an assistant public defender for the Spokane County Public Defender's Office in Washington. His new term also will be effective in March 2006. 🍂

PROBATION CASELOAD DOWN SLIGHTLY IN 2005



United States Probation Offices in the Ninth Circuit are responsible for preparing presentence investigation reports on convicted offenders, and for supervising offenders placed on probation, supervised release, parole, and conditional release.

As presentence investigators, probation officers conduct an independent investigation of the offense conduct, identify applicable guidelines and policy statements, calculate the defendant's offense level and criminal history category, report the resulting sentencing range, and identify factors relevant to the appropriate sentence.

In the area of supervision, probation officers establish supervision plans and make use of a myriad programs to facilitate an offender's success under supervision. The diversity of the Ninth Circuit calls upon probation officers to perform their duties in a variety of settings, from courthouses in large metropolitan areas to one-person offices in rural areas.

Offenders Under Supervision

At the close of fiscal year 2005, the national number of persons under post-conviction supervision remained relatively stable from the previous year at 112,931, compared to 112,883 in 2004, an increase of only 0.04 percent. There were 19,244 persons under supervision in the Ninth Circuit, a 1.2 percent decrease from the 19,472 in 2004. The circuit accounted for 17 percent of the national total of 112,931 persons under supervision.

The Central District of California had the highest number of offenders under supervision with 5,501 compared to 5,535 in the previous fiscal year, a decrease of 0.6 percent. The District of Arizona was second highest with 3,026 offenders under supervision, an increase of 1 percent compared to the 2,993 in 2004. The Southern District of California ranked third highest with 1,759 compared to 1,924 in the prior year, a decrease of 8.6 percent.

Drug offenses continue to account for the majority of cases under supervision in the circuit, as well as nationally. At the end of the fiscal year, 7,452 persons were under supervision in the Ninth Circuit for drug law violations, amounting to 38.7 percent of the circuit total. The next largest category was fraud, with a total of 3,466 cases under supervision, or 18 percent of the circuit total, followed by miscellaneous

TABLE 13 – NINTH CIRCUIT FEDERAL PROBATION SYSTEM
Persons Under Post-Conviction Supervision as of September 30, 2005

| Persons Under Supervision | 2004 | 2005 | Change 2004-2005 |
|---------------------------|---------------|---------------|---------------------|
| From Courts | 5,163 | 4,752 | -8.0% |
| From Institutions | 14,309 | 14,492 | 1.3% |
| Total | 19,472 | 19,244 | -1.2% |

other cases at 1,266, or 6.6 percent; weapons and firearms at 1,169, or 6.1 percent; and larceny at 1,152, or 6 percent.

Revocation Rates

National revocation rates decreased to 22.6 percent, compared to 29.1 percent last fiscal year. Of that, 13.4 percent were for technical violations, 1 percent for misdemeanor re-arrests, and 7.5 percent for felony re-arrests. The Ninth Circuit rate decreased to 23.1 percent, compared to 24.6 percent during FY 2004.

Early Terminations

Since 2002, the Criminal Law Committee has encouraged offices to identify offenders who qualify for early termination. The committee issued criteria for assessing early termination eligibility, and from 2002 to 2005 the number of offenders terminated early has more than doubled to more than 7,500. In June 2005, the committee approved further changes to Monograph 109 to create a presumption in favor of recommending early termination when appropriate conditions are met.

In general, when the conditions of supervision have been met and the offender does not pose a foreseeable risk to public safety or any individual third party, the probation officer may request the sentencing judge to consider early termination.

During 2005, the Northern District of California early terminated 151 cases (15 percent), followed by the Western District of Washington with 103 cases (14 percent). The districts of Hawaii and Oregon each terminated 13 percent,

TABLE 14 - NINTH CIRCUIT - PERSONS UNDER POST-CONVICTION SUPERVISION BY DISTRICT for 12-Month Period Ending September 30, 2005

| District | Referred by United States Courts | | Referred by Institutions | | 2004 Total Cases | 2005 Total Cases | Change 2004-2005 |
|----------------|----------------------------------|----------------------------|--------------------------|-------|------------------|------------------|------------------|
| | District Judge Probation | Magistrate Judge Probation | Supervised Release | Other | | | |
| Alaska | 95 | 15 | 188 | 4 | 284 | 302 | 6.3% |
| Arizona | 725 | 212 | 2,047 | 42 | 2,993 | 3,026 | 1.1% |
| C. Calif. | 1,176 | 126 | 3,952 | 247 | 5,535 | 5,501 | -0.6% |
| E. Calif. | 285 | 79 | 1,008 | 57 | 1,507 | 1,429 | -5.2% |
| N. Calif. | 347 | 92 | 880 | 54 | 1,482 | 1,373 | -7.4% |
| S. Calif. | 154 | 10 | 1,562 | 33 | 1,924 | 1,759 | -8.6% |
| Hawaii | 129 | 20 | 611 | 6 | 751 | 766 | 2.0% |
| Idaho | 109 | 9 | 253 | 11 | 373 | 382 | 2.4% |
| Montana | 166 | 13 | 428 | 6 | 593 | 613 | 3.4% |
| Nevada | 222 | 30 | 719 | 59 | 1,010 | 1,030 | 2.0% |
| Oregon | 251 | 4 | 821 | 50 | 1,055 | 1,126 | 6.7% |
| E. Wash | 77 | 5 | 372 | 6 | 466 | 460 | -1.3% |
| W. Wash. | 225 | 109 | 921 | 33 | 1,286 | 1,288 | 0.2% |
| Guam | 51 | 0 | 89 | 3 | 161 | 143 | -11.2% |
| N. Mariana Is. | 16 | 0 | 29 | 1 | 52 | 46 | -11.5% |

with 44 and 99 cases, respectively. The circuit average was 9.1 percent.

Transitions

Richard Crawford is the new chief U.S. Probation Officer in the District of Hawaii. He previously served as the chief in the District of North Dakota. In the Northern District of California, Jay Craddock was promoted to chief, replacing Sue H. Sorum who retired. Assistant Deputy Chief Joe E. Glaspie was promoted to Deputy Chief. Reginold Michael, formerly deputy chief in the District of Nevada, was selected in September 2005 as the chief for the Southern District of Florida.

Initiatives and Events

In June, Chief U.S. Probation Officer Joshua Wyne hosted a two-day conference for chiefs and deputy chiefs in Anchorage. Chief District Judge John W. Sedwick opened the conference. His remarks were followed by briefings from Dr. Gregory Walters, Ninth Circuit Executive; David Leathery, Federal Judicial Center; Pam Montgomery, U.S. Sentencing Commission; Matt Elvin, Federal Bureau of Prisons; James Baugher, Office of Finance and Budget; and Dan Cunningham, Office of Legislative Affairs.

Probation offices across the circuit moved to revise violation petitions in response to the Ninth Circuit's 2004 decision *United States v. Vargas-Amaya*, requiring that warrants issued for alleged violations be supported by a sworn oath

or affirmation as required by the Fourth Amendment. In January, the Office of Probation and Pretrial Services began providing new officers with three weeks of safety training at the Federal Law Enforcement Training Center (FLETC) in Charleston, South Carolina. Beginning in 2006, the program will be expanded to five weeks, adding instruction on core responsibilities of investigation and supervision.

The District of Arizona and the Southern District of California were among probation districts participating in a pilot project by the Bureau of Prisons (BOP) and Office of the Federal of Federal Detention Trustee (OFDT) to electronically transmit sentencing documents used by the BOP in the inmate designation process. Known as e-Designate, the programs goal is to shorten the time between imposition of sentence and transfer of an inmate from a contracted facility to a BOP institution, resulting in substantial time and cost savings to all agencies.

Supervising U.S. Probation Officer Jeffrey S. Thomason of the Western District of Washington (Tacoma) received the 2005 Richard F. Doyle Award, presented annually by the Federal Probation and Pretrial Officers Association (FPPOA) to commemorate the ideals of Richard F. Doyle, an outstanding officer and the first president of the FPPOA. It is given for significant achievements and contributions to probation and pretrial services or the broader field of corrections.



CASE ACTIVATIONS DECLINE FOR PRETRIAL SERVICES OFFICES



United States Pretrial Services Offices within the Ninth Circuit serve two vital roles for the courts: the provision of bail reports that contain important information for making detention and release decisions, and the monitoring of defendants released to pretrial services supervision. In addition, pretrial services provides for the determination of eligibility and supervision of diversion programs in each district.

The primary mission of pretrial services is to assist the courts in reducing the rate of unnecessary detentions, while at the same time reasonably ensuring the safety of the community and the appearance of defendants at future court dates. Offices in the Ninth Circuit continued to effectively achieve these goals in 2005 by working diligently to maintain very low levels of nonappearance and re-arrests of released defendants. This was accomplished by professionally trained and experienced officers utilizing contracted substance abuse, mental health and residential treatment programs, and the enhanced use of both conventional and state-of-the-art technology.

Pretrial services in the Ninth Circuit ranked first nationally in case activations for 2005. Case activations totaled 22,732 for the calendar year, a reduction of 4.2 percent from the prior years. That amounted to 23.3 percent of the 97,490 activations nationwide. Five districts had increases in workload, most notably Guam, which increased 36.8 percent to 145 activations. The District of Idaho increased 20.3 percent to 368, while activations in the Eastern District of California rose 16.4 percent to 1,219.

However, substantial workload decreases in other districts were large enough to reduce the overall pretrial workload from the prior calendar year. Those with the most substantial reductions in workload were the District of Alaska with a decrease of 19.5 percent to 214; the Central District of California, with a drop of 16.7 percent to 2,800; the Northern Mariana Islands, with a decline of 16 percent to 42; and the Southern District of California, with a decline of 10.8 percent.

TABLE 15 - PRETRIAL SERVICES
Cases Activated in Ninth Circuit Courts

| | 2004 | 2005 | Change 2004-2005 |
|------------------------|---------------|---------------|---------------------|
| *Reports | 23,183 | 22,466 | -3.1% |
| Interviews | 10,419 | 11,071 | 6.3% |
| Cases Activated | 23,720 | 22,732 | -4.2% |

**Includes prebail reports with recommendation and without recommendation, and includes cases from column previously reported as "other reports."*

Pretrial Bail Interviews, Supervised Defendants

The number of interviews conducted by officers of pretrial defendants in the circuit again increased substantially in 2005. Interviews rose to 11,071, up 5.9 percent from 10,419 in 2004, while the number of pretrial reports submitted, 640, decreased by 12.6 percent from 732 in 2004. Pretrial services officers made recommendations to the court in 97.2 percent of cases with interviews, compared to the national average of 94.1 percent. Pretrial services recommended detention in 65.5 percent of all cases in 2005, an increase of less than one percent from 2004. In comparison, Offices of the United States Attorney in the circuit recommended detention in 67.1 percent of the cases, a slight increase from 65.1 percent in 2004.

During 2005, a total of 6,391 defendants were released from custody in the Ninth Circuit to pretrial services supervision, an increase of 12 percent from 2004. Of these, 4,996 were released on standard pretrial services supervision, up 5 percent from 2004; 1,212 were supervised on a courtesy basis from another district or circuit, an increase of 87 percent; and 183 were on pretrial diversion caseloads, an increase of 11 percent.

TABLE 16 - PRETRIAL WORKLOAD CHART
2005

| District | Defendant Contact | | Written Reports | | Total Cases Activated 2004 | Total Cases Activated 2005 | Change 2004-2005 |
|------------------------------|-------------------|------------------|-----------------|--------------------|----------------------------|----------------------------|------------------|
| | Interviewed | *Not Interviewed | **Prebail | Postbail and Other | | | |
| Alaska | 86 | 128 | 203 | 0 | 266 | 214 | -19.5% |
| Arizona | 3,948 | 4,612 | 8,507 | 17 | 8,512 | 8,560 | 0.6% |
| Central California | 2,025 | 775 | 2,784 | 5 | 3,363 | 2,800 | -16.7% |
| Eastern California | 547 | 672 | 1,183 | 34 | 1,047 | 1,219 | 16.4% |
| Northern California | 480 | 525 | 626 | 360 | 1,089 | 1,005 | -7.7% |
| Southern California | 1322 | 2353 | 3,604 | 61 | 4,120 | 3,675 | -10.8% |
| Hawaii | 290 | 120 | 407 | 3 | 459 | 410 | -10.7% |
| Idaho | 366 | 2 | 365 | 0 | 306 | 368 | 20.3% |
| Montana | 259 | 284 | 526 | 2 | 520 | 543 | 4.4% |
| Nevada | 586 | 396 | 970 | 12 | 993 | 982 | -1.1% |
| Oregon | 357 | 470 | 806 | 2 | 846 | 827 | -2.2% |
| Eastern Washington | 177 | 293 | 233 | 138 | 486 | 470 | -3.3% |
| Western Washington | 495 | 977 | 1,454 | 4 | 1,557 | 1,472 | -5.5% |
| Guam | 110 | 35 | 128 | 2 | 106 | 145 | 36.8% |
| Northern Mariana Islands | 23 | 19 | 30 | 0 | 50 | 42 | -16.0% |
| Circuit Total | 11,071 | 11,661 | 21,826 | 640 | 23,720 | 22,732 | -4.2% |
| National Total | 69,626 | 27,864 | 90,127 | 4,685 | 97,897 | 97,490 | -0.4% |
| Circuit % of National | 15.9% | 41.8% | 24.2% | 13.7% | 24.2% | 23.3% | -0.9% |

*Includes cases in which interview was refused, includes defendants not available for interview, and transfer-received cases in which defendants were interviewed in other cases.

**Includes prebail reports with recommendation and without recommendation, and includes cases from column previously reported as "other reports."

Nonappearance and Re-arrest Rates Remain Low

The national initiative that began in 2000 to help reduce detention continues to have a positive impact in many districts. While pretrial service offices continuously look for ways to reduce unnecessary detentions, the rate of bail revocations due to nonappearance and/or re-arrest of supervised defendants continued to be significantly low. In 2005, the rate of nonappearance in the circuit continued to remain at or about 2 percent, typically at or below the national average. In 2005, the 15 district courts of the Ninth Circuit revoked the bail of only 132 defendants who absconded from supervision.

Violations

Of the 2,214 total violations reported in fiscal year 2005, the court chose not to modify bond conditions in 1,286 of violations, a 13.5 percent increase. Those defendants were continued under pretrial supervision in the community. Another 88 violations resulted in modification of bond conditions, a 40.1 percent decline, and those defendants also were continued under

community supervision. Bail was revoked and the defendants were detained in 840 of the 2,214 violations reported, or 37.9 percent of all violations, a 2.1 percent decrease.

Supervised defendants found to be in violation totaled 1,156 in fiscal year 2005, nearly equal to the number in the prior fiscal year. Of those, 170 had committed new offenses, a 7.1 percent decrease, while the remaining defendants were cited for technical violations.

Technology Use in 2005


Pretrial services in the Ninth Circuit continues to lead the nation in the development and use of cutting-edge technology. Throughout the year, the office employed innovative uses of technology such as laptops and tablet PCs, and mobile and wireless access to the Internet and the judiciary's internal networks in order to retrieve court and defendant records. Pretrial services also utilized global-positioning satellite tracking and monitoring of defendants, in addition to conventional methods. 

TABLE 17 - DISTRICT OF ALASKA

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|-------|--|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 544 | 520 | -4.4% | 173 |
| Terminations | 583 | 554 | -5.0% | 185 |
| *Pending | 508 | 474 | -6.7% | 158 |
| Bankruptcy Court | | | | |
| Filings | 1,508 | 2,297 | 52.3% | 1,149 |
| Terminations | 1,529 | 1,518 | -0.7% | 759 |
| *Pending | 1,364 | 2,143 | 57.1% | 1,072 |
| Authorized Judgeships | | Authorized places of holding court: Anchorage, Fairbanks, Juneau, Ketchikan, Nome | | |
| District | 3 | | | |
| Bankruptcy | 2 | | | |
| Magistrate | 6 | | | |
| Full-time | 2 | | | |
| Part-time | 4 | | | |

*Total pending cases revised for 2004.

TABLE 18 - DISTRICT OF ARIZONA

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|--------|---|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 8,356 | 9,071 | 8.6% | 698 |
| Terminations | 7,637 | 7,841 | 2.7% | 603 |
| *Pending | 6,724 | 7,954 | 18.3% | 612 |
| Bankruptcy Court | | | | |
| Filings | 31,387 | 40,214 | 28.1% | 5,745 |
| Terminations | 34,857 | 31,840 | -8.7% | 4,549 |
| *Pending | 29,794 | 38,168 | 28.1% | 5,453 |
| Authorized Judgeships | | Authorized places of holding court: Flagstaff, Phoenix, Prescott, Tucson, Yuma | | |
| **District | 13 | | | |
| Bankruptcy | 7 | | | |
| Magistrate | 13 | | | |
| Full-time | 12 | | | |
| Part-time | 1 | | | |

*Total pending cases revised for 2004.

**Includes one authorized temporary judgeship.

TABLE 19 - CENTRAL DISTRICT OF CALIFORNIA

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|--------|--|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 15,834 | 13,282 | -16.1% | 474 |
| Terminations | 15,211 | 14,717 | -3.2% | 526 |
| *Pending | 14,397 | 12,962 | -10.0% | 463 |
| Bankruptcy Court | | | | |
| Filings | 60,633 | 84,304 | 39.0% | 3,513 |
| Terminations | 69,020 | 51,043 | -26.0% | 2,127 |
| *Pending | 30,846 | 64,107 | 107.8% | 2,671 |
| Authorized Judgeships | | Authorized places of holding court: Los Angeles, Riverside, Santa Ana | | |
| **District | 28 | | | |
| ***Bankruptcy | 24 | | | |
| Magistrate | 24 | | | |
| Full-time | 23 | | | |
| Part-time | 1 | | | |

*Total pending cases revised for 2004.

**Includes one authorized temporary judgeship.

***Includes three authorized temporary judgeships.

TABLE 20 - EASTERN DISTRICT OF CALIFORNIA

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|--------|---|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 5,265 | 5,181 | -1.6% | 864 |
| Terminations | 5,038 | 4,836 | -4.0% | 806 |
| *Pending | 6,564 | 6,909 | 5.3% | 1,152 |
| Bankruptcy Court | | | | |
| Filings | 28,985 | 37,402 | 29.0% | 5,343 |
| Terminations | 31,114 | 21,619 | -30.5% | 3,088 |
| *Pending | 19,485 | 35,268 | 81.0% | 5,038 |
| Authorized Judgeships | | Authorized places of holding court: Bakersfield, Fresno, Redding, Sacramento, South Lake Tahoe, Yosemite | | |
| District | 6 | | | |
| **Bankruptcy | 7 | | | |
| Magistrate | 10 | | | |
| Full-time | 10 | | | |
| Part-time | 0 | | | |

*Total pending cases revised for 2004.

**Includes one authorized temporary judgeship.

TABLE 21 - NORTHERN DISTRICT OF CALIFORNIA

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|--------|--|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 6,453 | 6,281 | -2.7% | 449 |
| Terminations | 6,372 | 6,740 | 5.8% | 481 |
| *Pending | 7,455 | 6,996 | -6.2% | 500 |
| Bankruptcy Court | | | | |
| Filings | 21,819 | 29,383 | 34.7% | 3,265 |
| Terminations | 24,206 | 24,627 | 1.7% | 2,736 |
| *Pending | 21,921 | 26,677 | 21.7% | 2,964 |
| Authorized Judgeships | | Authorized places of holding court: Eureka, Oakland, Salinas, San Francisco, San Jose, Santa Rosa | | |
| District | 14 | | | |
| Bankruptcy | 9 | | | |
| Magistrate | 11 | | | |
| Full-time | 10 | | | |
| Part-time | 1 | | | |

*Total pending cases revised for 2004.

TABLE 22 - SOUTHERN DISTRICT OF CALIFORNIA

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|--------|---|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 6,120 | 5,000 | -18.3% | 385 |
| Terminations | 6,175 | 5,150 | -16.6% | 396 |
| *Pending | 3,512 | 3,362 | -4.3% | 259 |
| Bankruptcy Court | | | | |
| Filings | 11,259 | 15,679 | 39.3% | 3,920 |
| Terminations | 12,512 | 12,303 | -1.7% | 3,076 |
| *Pending | 7,333 | 10,709 | 46.0% | 2,677 |
| Authorized Judgeships | | Authorized places of holding court: El Centro, San Diego | | |
| District | 13 | | | |
| Bankruptcy | 4 | | | |
| Magistrate | 10 | | | |
| Full-time | 10 | | | |
| Part-time | 0 | | | |

*Total pending cases revised for 2004.

TABLE 23 - DISTRICT OF GUAM

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|------|--|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 152 | 159 | 4.6% | 159 |
| Terminations | 149 | 200 | 34.2% | 200 |
| *Pending | 172 | 131 | -23.8% | 131 |
| Bankruptcy Court | | | | |
| Filings | 346 | 385 | 11.3% | 385 |
| Terminations | 399 | 271 | -32.1% | 271 |
| *Pending | 213 | 327 | 53.5% | 327 |
| Authorized Judgeships | | Authorized places of holding court: Hagatna | | |
| District | 1 | | | |
| Bankruptcy | 0 | | | |
| Magistrate | 1 | | | |
| Full-time | 1 | | | |
| Part-time | 0 | | | |

*Total pending cases revised for 2004.

Note: Visiting district and visiting bankruptcy judges handled all bankruptcy cases.

TABLE 24 - DISTRICT OF HAWAII

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|-------|---|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 1,210 | 1,258 | 4.0% | 315 |
| Terminations | 1,166 | 1,360 | 16.6% | 340 |
| *Pending | 1,423 | 1,321 | -7.2% | 330 |
| Bankruptcy Court | | | | |
| Filings | 3,112 | 4,489 | 44.2% | 4,489 |
| Terminations | 3,290 | 3,495 | 6.2% | 3,495 |
| *Pending | 2,292 | 3,286 | 43.4% | 3,286 |
| Authorized Judgeships | | Authorized places of holding court: Honolulu | | |
| **District | 4 | | | |
| Bankruptcy | 1 | | | |
| Magistrate | 4 | | | |
| Full-time | 3 | | | |
| Part-time | 1 | | | |

*Total pending cases revised for 2004.

**Includes one authorized temporary judgeship.

TABLE 25 - DISTRICT OF IDAHO

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|-------|---|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 902 | 799 | -11.4% | 400 |
| Terminations | 877 | 837 | -4.6% | 419 |
| *Pending | 920 | 882 | -4.1% | 441 |
| Bankruptcy Court | | | | |
| Filings | 9,488 | 11,967 | 26.1% | 5,984 |
| Terminations | 9,060 | 9,202 | 1.6% | 4,601 |
| *Pending | 7,935 | 10,700 | 34.8% | 5,350 |
| Authorized Judgeships | | Authorized places of holding court: Boise, Cour d'Alene, Moscow, Pocatello | | |
| District | 2 | | | |
| Bankruptcy | 2 | | | |
| Magistrate | 2 | | | |
| Full-time | 2 | | | |
| Part-time | 0 | | | |

*Total pending cases revised for 2004.

TABLE 26 - DISTRICT OF MONTANA

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|-------|---|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 1,175 | 1,131 | -3.7% | 377 |
| Terminations | 1,120 | 1,078 | -3.8% | 359 |
| *Pending | 1,203 | 1,256 | 4.4% | 419 |
| Bankruptcy Court | | | | |
| Filings | 4,332 | 5,899 | 36.2% | 5,899 |
| Terminations | 4,258 | 4,011 | -5.8% | 4,011 |
| *Pending | 3,275 | 5,163 | 57.6% | 5,163 |
| Authorized Judgeships | | Authorized places of holding court: Boise, Cour d'Alene, Moscow, Pocatello | | |
| District | 3 | | | |
| Bankruptcy | 1 | | | |
| Magistrate | 4 | | | |
| Full-time | 3 | | | |
| Part-time | 1 | | | |

*Total pending cases revised for 2004.

TABLE 27 - DISTRICT OF NEVADA

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|--------|--|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 3,242 | 2,895 | -10.7% | 414 |
| Terminations | 3,081 | 2,870 | -6.8% | 410 |
| *Pending | 3,221 | 3,246 | 0.8% | 464 |
| Bankruptcy Court | | | | |
| Filings | 16,912 | 23,786 | 40.6% | 5,947 |
| Terminations | 25,030 | 19,971 | -20.2% | 4,993 |
| *Pending | 23,305 | 27,120 | 16.4% | 6,780 |
| Authorized Judgeships | | Authorized places of holding court: Carson City, Elko, Ely, Las Vegas, Lovelock, Reno | | |
| District | 7 | | | |
| **Bankruptcy | 4 | | | |
| Magistrate | 6 | | | |
| Full-time | 6 | | | |
| Part-time | 0 | | | |

*Total pending cases revised for 2004.

**Includes one authorized temporary judgeship.

TABLE 28 - DISTRICT OF NORTHERN MARIANA ISLANDS

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|------|---|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 74 | 76 | 2.7% | 76 |
| Terminations | 82 | 70 | -14.6% | 70 |
| *Pending | 83 | 89 | 7.2% | 89 |
| Bankruptcy Court | | | | |
| Filings | 23 | 32 | 39.1% | 32 |
| Terminations | 27 | 12 | -55.6% | 12 |
| *Pending | 29 | 49 | 69.0% | 49 |
| Authorized Judgeships | | Authorized places of holding court: Saipan | | |
| District | 1 | | | |
| Bankruptcy | 0 | | | |
| Magistrate | 0 | | | |
| Full-time | 0 | | | |
| Part-time | 0 | | | |

*Total pending cases revised for 2004.

Note: The Northern Mariana Islands district judge also handles all bankruptcy cases.

TABLE 29 - DISTRICT OF OREGON

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|--------|--|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 3,225 | 3,255 | 0.9% | 543 |
| Terminations | 3,040 | 3,230 | 6.3% | 538 |
| *Pending | 3,177 | 3,202 | 0.8% | 534 |
| Bankruptcy Court | | | | |
| Filings | 24,455 | 32,687 | 33.7% | 6,537 |
| Terminations | 25,615 | 23,993 | -6.3% | 4,799 |
| *Pending | 16,878 | 25,572 | 51.5% | 5,114 |
| Authorized Judgeships | | Authorized places of holding court: Coquille, Eugene, Klamath Falls, Medford, Pendleton, Portland | | |
| District | 6 | | | |
| Bankruptcy | 5 | | | |
| Magistrate | 7 | | | |
| Full-time | 6 | | | |
| Part-time | 1 | | | |

*Total pending cases revised for 2004.

TABLE 30 - EASTERN DISTRICT OF WASHINGTON

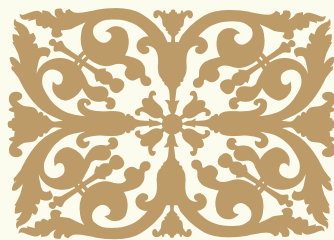
| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|-------|---|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 1,423 | 1,223 | -14.1% | 306 |
| Terminations | 1,451 | 1,355 | -6.6% | 339 |
| *Pending | 1,138 | 1,006 | -11.6% | 252 |
| Bankruptcy Court | | | | |
| Filings | 9,453 | 11,577 | 22.5% | 5,789 |
| Terminations | 9,583 | 10,195 | 6.4% | 5,098 |
| *Pending | 8,402 | 9,784 | 16.4% | 4,892 |
| Authorized Judgeships | | Authorized places of holding court: Richland, Spokane, Walla Walla, Yakima | | |
| District | 4 | | | |
| Bankruptcy | 2 | | | |
| Magistrate | 2 | | | |
| Full-time | 2 | | | |
| Part-time | 0 | | | |

*Total pending cases revised for 2004.

TABLE 31 - WESTERN DISTRICT OF WASHINGTON

| | 2004 | 2005 | Change 2004-2005 | Per Judgeship Unweighted 2005 |
|------------------------------|---------------|--|---------------------|-------------------------------------|
| District Court | | | | |
| Filings | 4,827 | 4,552 | -5.7% | 650 |
| Terminations | 4,811 | 4,605 | -4.3% | 658 |
| *Pending | 5,067 | 5,014 | -1.0% | 716 |
| Bankruptcy Court | | | | |
| Filings | 28,956 | 35,353 | 22.1% | 7,071 |
| Terminations | 28,654 | 29,064 | 1.4% | 5,813 |
| *Pending | 20,435 | 26,724 | 30.8% | 5,345 |
| Authorized Judgeships | | Authorized places of holding court: Bellingham, Seattle, Tacoma | | |
| District | 7 | | | |
| Bankruptcy | 5 | | | |
| Magistrate | 7 | | | |
| Full-time | 5 | | | |
| Part-time | 2 | | | |

**Total pending cases revised for 2004.*



Above: Tracing of a wood carving from the Redwood Room of the James R. Browning United States Courthouse. Originally designed as a library, the room contains intricate carvings of animals, fruit and other figures on redwood from the Northern California Coast. Portions of the tracing are used on the front cover and throughout this publication.



Pictured above and on the front cover, respectively, are views of the James R. Browning U.S. Courthouse as it stands today and shortly after the building's completion in 1905. With its marble mosaics and gold ornamentation, the building is considered one of the nation's most beautiful buildings.



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