

# Ninth Circuit

UNITED STATES COURTS

2002 ANNUAL REPORT



**The Office of Circuit Executive would like to acknowledge the following for their contributions to the 2002 Annual Report:**

Chief Judge Mary M. Schroeder  
Clerk of Court Cathy Catterson  
Chief Pretrial Services Officer Tim McTighe  
Chief Probation Officer Sue Sorum  
Bankruptcy Appellate Panel Clerk Nancy Dickerson

*Inside front cover: Cover image is from the ceremonial courtroom of the Ninth Circuit Court of Appeals in San Francisco.*

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## THE JUDICIAL COUNCIL OF THE NINTH CIRCUIT



Front row: Chief District Judge William B. Shubb, Circuit Judge Alex Kozinski, Chief Circuit Judge Mary M. Schroeder, Circuit Judge A. Wallace Tashima, Circuit Judge Sidney R. Thomas. Back row: Senior District Judge Robert J. Bryan, Chief Bankruptcy Judge Edward D. Jellen, Chief District Judge Marilyn Hall Patel, Circuit Judge William A. Fletcher, Senior Circuit Judge Betty Binns Fletcher, Magistrate Judge Virginia A. Mathis, Senior District Judge Jack D. Shanstrom, Chief District Judge David A. Ezra

### 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 of invidious discrimination, and enhance public understanding of, and confidence in, the judiciary.





## FOREWORD

Chief Judge Mary M. Schroeder

Each year, the federal courts of the Ninth Circuit can be counted upon to decide any number of high-profile cases. While 2002 was no exception, it ultimately may be remembered not for several big cases, but for thousands of smaller ones involving would-be immigrants to the United States. The Ninth Circuit Court of Appeals typically deals with several hundred immigration appeals every year. But in 2002, the court was swamped with such appeals, resulting in an unprecedented increase in case filings and coloring virtually all of the court's annual statistics.

For the calendar year, the Court of Appeals received 12,388 appeals, an increase of more than 23 percent from 2001, which, itself, was a record year for case filings. The vast majority of the additional appeals involved Immigration and Naturalization Service (INS) matters. INS-related filings numbered 3,672 in 2002, an increase of 302 percent from the prior year. The sudden influx skewed national totals. While the Ninth Circuit accounted for nearly 21 percent of the national appellate filings for 2002, it had almost 57 percent of INS cases and 51 percent of the administrative agency appeals filed last year.

Behind this dramatic change was a Department of Justice directive to the Board of Immigration Appeals (BIA) of the INS to clear a backlog of pending appeals. Through expedited reviews, the BIA began terminating cases at a rapid rate, most frequently by denial of residency. Almost as quickly as the BIA closed these cases, they were appealed to the Ninth Circuit. On average, the Court of Appeals received 70 petitions for review of BIA decisions each week in 2002.

Nearly all of the petitions for review included motions to stay deportation. Under existing Ninth Circuit case law, a temporary stay is automatically granted and a schedule set for timely agency response. However, in an indication that these cases may be with us for some time, the court has received numerous agency motions for extension of time to respond to orders, file briefs, and prepare the records. To provide flexibility to deal with so many cases, the court has adopted a general order that establishes a streamlined notification system and provides for oral extensions of the time limits set forth in the existing rules. Further amendments to the order may be made as warranted.

All told, the court met for a total of 441 panel days in 2002. The court granted *en banc* review in 17 cases, hearing oral arguments in 16 and issuing written opinions in 14.

The court's burgeoning caseload was handled by an active appellate bench of 24 judges (with four vacancies), augmented by 21 senior circuit judges and, sitting by designation, both district judges from within the circuit and circuit judges from other circuits. Senior circuit judges continued to make a major contribution to court operations, sitting on more than one-fifth of the circuit panels, serving on circuit committees and task forces, and representing the circuit on national judicial committees.

The infusion of INS cases caused administrative appeals to increase by 256 percent from the prior year. Administrative appeals ranked first among sources of appeals with more than 31 percent of the total. Private prisoner petitions ranked second with almost 19 percent, followed by private civil appeals with over 17 percent. The Central District of California, the busiest judicial district in the nation, continued to generate the largest number of appeals for the court, 2,272 cases or 18.3 percent of the total filings.

The Court of Appeals once again was faced with a growing number of pro se cases, in which at least one party is self-represented. In 2002, pro se cases numbered 5,070, amounting to 41 percent of all filings. The largest categories of pro se cases were private prisoner petitions (1,900 cases) and administrative appeals (1,200 cases), the latter again reflecting the large increase in INS cases.

In 2002, the Supreme Court reviewed 23 cases decided by the Ninth Circuit Court of Appeals in 2002 or earlier. The Supreme Court issued written

opinions in 20 of these cases, affirming five and reversing or vacating 15. The Supreme Court's reversal rate for the 2001-02 term (when most of the Ninth Circuit cases were reviewed) was 76 percent for all circuits and 78 percent for the Ninth Circuit.

### **District and Bankruptcy Courts**

Continuing population growth and increasing law enforcement activity in two states bordering Mexico have made the federal courts of the Ninth Circuit the busiest in the nation. In 2002, district courts in the circuit accounted for 18 percent of the total federal court caseload. Total case filings in the district courts were 57,241, up 2 percent from the prior year.

Due in part to a new crackdown on illegal firearms and a change in reporting procedures, criminal filings in the district courts rose 9 percent in 2002, slightly higher than the national increase of 8 percent. The top two categories of criminal offenses were violations of immigration and drug laws, which accounted for 35 and 23 percent, respectively, of the total criminal cases. The District of Arizona and the Southern District of California, which include segments of the United States-Mexico border, reported the greatest numbers of immigration and drug offenses.

Senior district judges made a major contribution to the work of the district courts. Senior judges presided over trials, motions and law calendars, and other proceedings; accepted designations as visiting judges in other districts; carried out administrative assignments; and served on a wide variety of judicial committees. District courts also relied heavily on the work of just over 100 magistrate judges, who terminated more than 17,000 civil cases and oversaw disposition of some 18,000 cases involving misdemeanor and petty offenses.

Bankruptcy courts in the Ninth Circuit experienced a 2.2 percent rise in filings in 2002 to 282,594 cases. The increase was less than half of what was reported nationally in 2002, which set a record for the most bankruptcy filings in history. The largest number of filings came under Chapter 7 of the Bankruptcy Code, totaling 229,465 (business and non-business) and comprising 81.2 of all bankruptcy cases in the circuit. A total of 51,075 Chapter 13 cases (business and non-business) were filed in the Ninth Circuit, amounting to 18.1 percent of the total cases filed.

The Ninth Circuit ended the year with four vacant judgeships among its district courts. In addition, seven new judgeships created by the 21st Century Department of Justice Appropriations Authorization Act, which became law in December, are authorized to go into effect in July 2003. Five of the new judgeships are permanent positions for the Southern District of California, whose judges currently carry the heaviest caseload in the country. Two are temporary judgeships, one each for the District of Arizona and the Central District of California, both of which also are impacted by large caseloads. Looking

## Continuing population growth and increasing law enforcement activity in the states bordering Mexico have made the federal courts of the Ninth Circuit the busiest in the nation.

### **New Judges and Judgeships**

Among all federal judicial circuits, the Ninth Circuit ranked second in the number of judicial vacancies filled in 2002. For the year, the United States Senate confirmed 10 nominees for district court judgeships in the Ninth Circuit and one nominee for the Ninth Circuit Court of Appeals. The new circuit judge was Richard R. Clifton of Honolulu, who was confirmed in July and began hearing cases in August. Judge Clifton is only the second judge from Hawaii to serve on the Court of Appeals since Hawaii became a state in 1959. He follows in the footsteps of Senior Circuit Judge Herbert Y. C. Choy, the first judge from Hawaii to serve on the Court of Appeals, who took senior status in 1984.

ahead to 2003, Congress is expected to consider a new judgeship bill that would provide Ninth Circuit Court of Appeals with five permanent and two temporary judgeships. In addition, nine of the circuit's 15 district courts would receive a combined 21 new judgeships.

In the bankruptcy courts, two new judges were appointed in 2002, one each in the districts of Central California and Hawaii, and 15 judges were reappointed. In addition, nine recalled judges assisted in seven of our bankruptcy courts. There have been no new bankruptcy judgeships since 1992, despite the 59 percent increase in the caseload of bankruptcy judges since then. The Judicial Conference of the United States has recommended that 36 new bankruptcy judgeships be created, including two new permanent judgeships in Nevada.

### **New Courthouses**


Constructions continued apace on new courthouses in Seattle and Fresno. Both of these projects are reported on time and within budget. Design work is progressing for new courthouses in San Diego and Eugene, Ore. And we continue to seek innovative ways to provide funding for the circuit's current top priority, a new courthouse in downtown Los Angeles.

### **Judicial Initiative**

In 2001, my first as chief judge, I announced initiatives involving community outreach and judicial wellness. I am pleased to report major advances in both areas in 2002. Our Public Information and Community Outreach Committee has begun holding media workshops in which judges and journalists interact and share viewpoints. This dialogue is critical to ensuring that the public understands and has confidence in the judicial system. Our Judicial Wellness Committee sponsored a retirement planning conference for judges eligible to take senior status, will begin publishing a quarterly wellness newsletter in 2003, and continues to promote use of a confidential telephone referral service for judges, their families and chambers staff.

I also am happy to say that our 2002 Ninth Circuit Judicial Conference in San Diego set a new standard for thoughtful, informative programs that help judges prepare for new challenges in the law. Organized around the theme *The New America: Borders and Beyond*, the conference looked ahead to the conduct of law in the post-September 11th world. Leaders in the fields of law, government and science were present to share their views on national security and civil rights; citizenship; commerce and culture in a bi-national metropolitan area; and the legal complexities of cutting edge science. Congratulations go out to everyone involved in planning for the event.

Judges and courts of the Ninth Circuit had much to report in 2002. I hope you will take time to browse this Annual Report for more information on these and other topics.

A handwritten signature in black ink that reads "May M Schroeder". The signature is written in a cursive style with a large initial "M".



## Ninth Circuit Overview



The United States Courts for the Ninth Circuit consist of the Ninth Circuit Court of Appeals, district and bankruptcy courts in the 15 federal judicial districts that comprise the circuit, and associated administrative units that provide various court services.

**T**he 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. Established in 1866, the Ninth Circuit began the development of the federal judicial system for the western United States. Today, it is the largest and busiest of the nation's 13 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, con-

firmed by Congress and serve for life. The Ninth Circuit Court of Appeals has been authorized 28 judgeships and ended the year with four vacancies. District courts ended the year with 101 authorized judgeships, five of which were vacant at year's end.

Federal courts also rely on senior circuit and senior district judges. These are Article III judges who are eligible for retirement but have chosen to continue working with a reduced caseload. In 2002, 21 senior circuit judges sat on appellate panels, served on circuit and national judicial committees, and handled a variety of administrative matters.

In the district courts, 49 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 district courts and hold their positions for eight years. During 2002, there were 66 bankruptcy judges, including 10 retired bankruptcy judges who rendered assistance; and 86 full-time magistrate judges, 14 part-time magistrate judges and eight retired magistrate judges.

Overall, the Ninth Circuit courts experienced increased caseloads in 2002. Unless otherwise noted, statistics in this report cover the calendar year, beginning January 1 and ending December 31. Where necessary, fiscal year statistics, covering the period October 1, 2001, to September 30, 2002, are used. 

## 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 Judicial Council's mission is to support the effective and expeditious administration of justice and the safeguarding of fairness in the administration of the courts.

To do so, 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)]. Its 13 members are looked upon as a “judicial board of directors” that provides policy guidance and leadership. The Judicial Council meets quarterly to review issues and resolve problems facing the courts, occasionally arranging additional meetings to address immediate concerns.

The Council performs the responsibilities delegated by the Judicial Conference of the United States, such as administering policies and procedures for senior judge staffing and pay. Similar to its national counterpart, the Judicial Conference of the United States, the Judicial Council for the Ninth Circuit operates through the work of its committees. The Office of the Circuit Executive provides staff support to the Judicial Council and supports its administrative responsibilities.

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, coordinating building and automation projects, and advising the council on procedural and ethical matters. The Office of the Circuit Executive provides management and technical assistance to all the courts within the circuit, supports Judicial Council committees, and administers the annual Ninth Circuit Judicial Conference.

Day-to-day management of the courts' caseload 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.

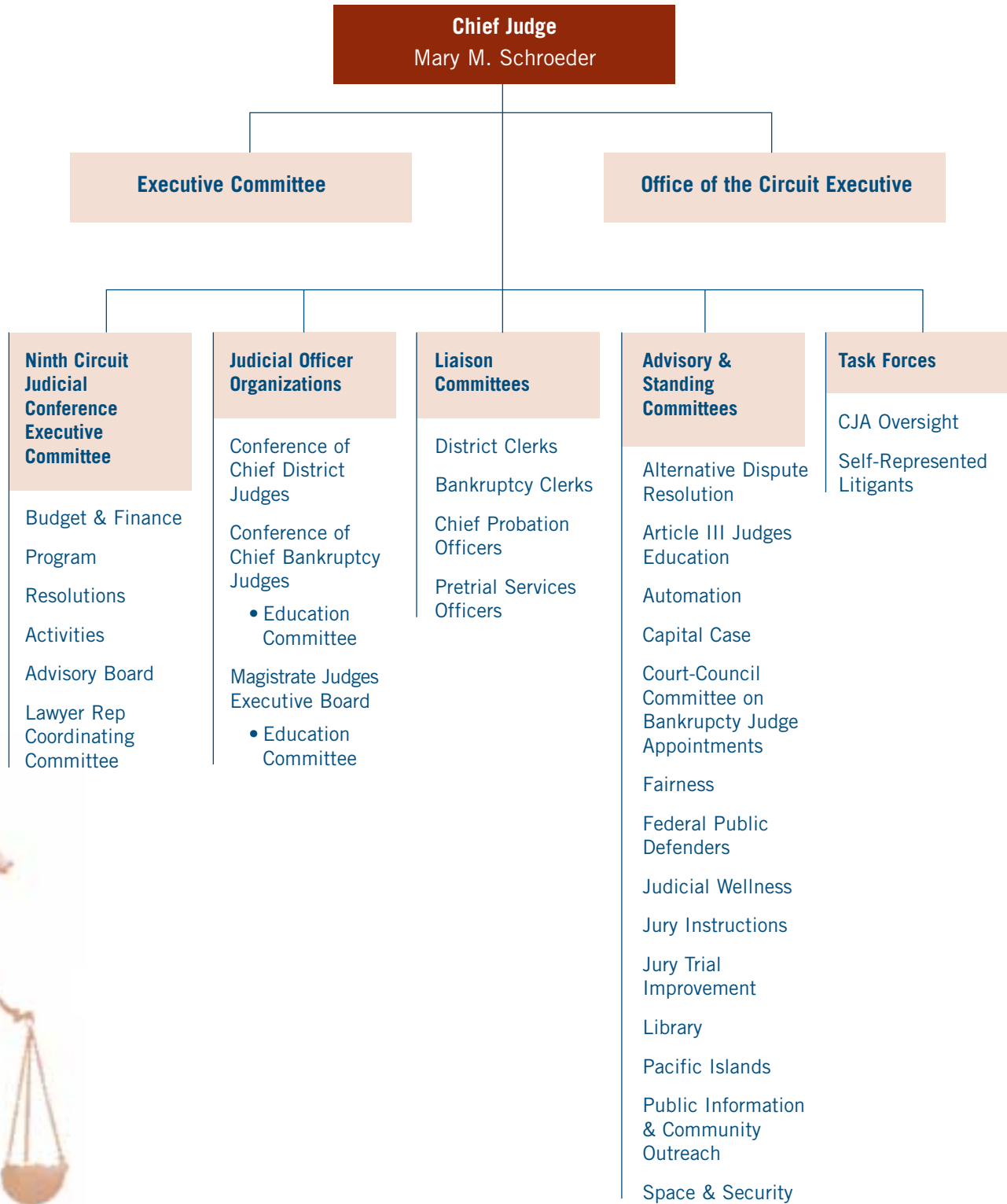
The Ninth Circuit courts also rely on several important court-related agencies to ensure the fair administration of justice. Under the oversight of the district courts, Probation and Pretrial Services offices are responsible for supervision

of criminal defendants and background investigations and reports. The circuit's Federal Public Defenders offices represent indigent defendants unable to afford private counsel. A public defender office is located in each Ninth Circuit district, with the exception of the Northern Mariana Islands, which relies on a Criminal Justice Act panel of attorneys.

The Ninth Circuit Library provides services to all of the courts under the direction of a circuit-wide committee. The main library is maintained in San Francisco with at least one branch library in each judicial district. These libraries carry out numerous research projects and respond to information inquiries by judges, chambers, and court staff. 🗡️



## The Judicial Council of the Ninth Circuit



## Judicial Policy Advisory Groups

In governing the federal courts of the western United States, the Judicial Council of the Ninth Circuit relies on three associations of judicial officers: the Conference of Chief District Judges, the Conference of Chief Bankruptcy Judges and the Magistrate Judges Executive Board.

These associations provide vital input to the Judicial Council on policy matters and serve as a conduit of information to the judges of the circuit. As a matter of policy, the Judicial Council consults with these judicial officer groups before taking a position on any major issues concerning the courts of the circuit.

### Conference of Chief District Judges

The Conference of Chief District Judges provides input to the Judicial Council regarding the administration of justice in each of the circuit's 15 district courts. The Conference, which is comprised of the chief district judge of each district, meets twice a year. The Conference traditionally invites the circuit's Lawyer Representatives Coordinating Committee to one meeting and the district clerks to the other.

In 2002, the Conference of Chief District Judges addressed such issues as jury reform, court security, the administrative organization of probation and pretrial offices, library funding, electronic case filing, and community outreach initiatives.

For 2002, Chief District Judge James K. Singleton of the District of Alaska chaired the conference. His term ended in September, when Chief District Judge William Shubb of the Eastern District of California became the new chair. Judge Shubb will serve through May 2003, when his term as chief judge concludes.



The Conference of Chief District Judges meets in Anchorage in August 2002. Left to right, front row: Chief District Judges Van Sickle (WAE), McKibben (Nevada), Patel (CAN), Chief Circuit Judge Schroeder, Chief District Judges Huff (CAS), and Shubb (CAE). Back row: District Judge Pro (Nevada), Chief District Judges McNamee (AZ), Haggerty (ORE), Singleton (AK), District Judge Shanstrom (Montana), and Chief District Judge Coughenour (WAW).

### Conference of Chief Bankruptcy Judges

The Conference of Chief Bankruptcy Judges advises the Judicial Council on the administration of the bankruptcy courts within the circuit. It consists of the chief bankruptcy judges of each district and the presiding judge of the Bankruptcy Appellate Panel (BAP). At their meetings, the judges receive updates from the chief judge of the circuit, from a representative of the Conference of Chief District Judges, and from a representative of the Bankruptcy Division of the Administrative Office of the U.S. Courts.

In 2002, the Conference addressed staffing levels in the bankruptcy courts, the bankruptcy judgeship formula, security concerns, attorney discipline procedures, and bankruptcy judge reappointment procedures, including proposals for mid-term evaluations.

The Conference meets twice yearly, once in conjunction with the circuit's bankruptcy clerks and the clerk of the Bankruptcy Appellate Panel and once in conjunction with the Lawyer Representatives Coordinating Committee. Chief Bankruptcy Judge Geraldine Mund of the Central District of California chaired the Conference until September 2002,

when Chief Bankruptcy Judge Edward Jellen of the Northern District of California became the new chair.

### Magistrate Judges Executive Board

The Magistrate Judges Executive Board provides a channel of communication between the Judicial Council and the circuit's 86 full-time and 14 part-time magistrate judges. As part of its duties, the board conducts an annual orientation for new magistrate judges and sponsors courses on effective use of the circuit's Intranet web sites and e-mail system.

In 2002, the Magistrate Judges Executive Board looked at several issues affecting Ninth Circuit magistrate judges, including effective case management, alternative dispute resolution guidelines, and pay grades of pro se law clerks. The board also met with judges of the Court of Appeals to gain feedback on the work of the magistrate judges.

Judge Elizabeth Laporte of the Northern District of California served as chairperson of the Board in 2002. Her term ended in September, when Judge Virginia Mathis of the District of Arizona became the new chair. The chairperson serves a two-year term and acts as an observer member of the Judicial Council. 🗡️

# COMMITTEES OF THE NINTH CIRCUIT COURTS



Committees play an important role in the administration of Ninth Circuit courts. Three of these committees are highlighted here.

Jury Instructions Committee. Left to right: Magistrate Judge John Jelderks, District Judge Howard Matz, District Judge George King and District Judge Jeffery Miller.



## Ninth Circuit Makes Strides in Managing Capital Habeas Cases

Seven of the nine states in the Ninth Circuit have death penalty laws, resulting in literally hundreds of capital habeas corpus petitions to the federal district courts and the Ninth Circuit Court of Appeals.

These cases, which challenge imposition of the death penalty based on alleged violations of constitutional rights, are lengthy, complex and costly. Recognizing that capital habeas corpus cases require substantial judicial resources, court staff, and tax payer dollars, the Ninth Circuit has implemented measures to contain costs through ongoing case management and budget practices. The Judicial Council of the Ninth Circuit has delegated responsibility for overseeing this effort to the circuit's Criminal Justice Act (CJA) Capital Habeas Oversight Committee.

The CJA Capital Habeas Oversight Committee includes several district judges, a Federal Public Defender, a private CJA panel attorney, a CJA supervising attorney, a death penalty staff attorney, a financial administrator and Office of the Circuit Executive staff, all of whom possess extensive experience with capital habeas matters. The committee conducts quarterly reviews of all budgeted capital habeas corpus cases, making recommendations aimed at producing better case management and reducing costs where feasible and appropriate. This case-by-case review also has helped formulate a CJA Capital Habeas Corpus Costs Policy that has been adopted by the Judicial Council of the Ninth Circuit. The policy is an evolving set of guidelines designed to assist those involved in capital habeas corpus cases, including judges, attorneys, and court staff.

In 2002, the circuit was developing two tools to assist those people working on capital habeas corpus cases. The Office of the Circuit Executive, in conjunction with the Oversight Committee, drafted a *Budgeting and Case Management in Capital Habeas Corpus Cases* guide. The guide is designed as an introduction to the subject for judges and staff unfamiliar with managing capital habeas corpus cases. Based on the litigation practices in the California districts, the guide describes each of the five phases of a relatively complete plan for managing and budgeting a federal capital habeas corpus case. It offers general guidance as well as specific recommendations on everything from assembling the record to final briefing. The manual will be finalized and distributed in 2003 and should be a valuable asset to both judges and attorneys.

Another project begun in 2002 is an automated case management/budgeting program that will assist the presiding judge, court staff, and attorneys who are providing representation to capital habeas petitioners. In response to both a Judicial Conference of the United States mandate and federal legislation directed solely at the Ninth Circuit, the Judicial Council has mandated that all capital habeas corpus cases in the Ninth Circuit be budgeted. This means that all private CJA panel attorneys representing federal capital habeas corpus petitioners in the Ninth Circuit must provide estimates of the number of hours and amount of expenses needed to adequately represent their clients.

Managing and budgeting federal capital habeas corpus cases can prove to be challenging. Even attorneys experienced in capital habeas litigation may find it difficult to predict specific amounts of time for particular tasks because of the highly unique nature of the individual cases. The automated case management/budgeting software will ease the difficulty of this task by providing standardized categories of commonly performed activities in each of the different phases of the case.

One of the most promising features of the automated budgeting program is its ability to collect data that can be utilized in the development of benchmarks for the different tasks. Utilizing these standards, the Oversight Committee will be able to provide data to the Judicial Council on a range of time considered reasonable for each category in each phase of a "normal" federal capital habeas corpus case. These benchmarks will assist the attorneys in developing a more realistic case budget and will help the presiding judge review the budget for reasonableness.

In addition to making it easier for attorneys to budget cases, the program will integrate a timekeeping spreadsheet with the task of completing CJA vouchers. Both procedures are required in order for attorneys to receive compensation. Automating this process will result in the elimination of duplicative input, saving attorneys and court staff considerable time while reducing input and mathematical errors.

## The Judicial Council of the Ninth Circuit has delegated responsibility for overseeing this effort to the circuit’s Criminal Justice Act (CJA) Capital Habeas Oversight Committee.

The automated program will allow both the attorneys and court staff to continually monitor the progress of a case and expenditures throughout each phase as well as the case as a whole. It will also allow the circuit to easily gather valuable statistical data. The information accumulated from the resulting analysis of the data will be used to refine the capital habeas corpus budgeting procedure thereby enhancing the effectiveness of the entire case management and budgeting process.


The automated program is based on Microsoft Excel spreadsheet software. It was designed, developed and tested by Clyde Anderson, financial manager for the U.S. District Court for the

District of Idaho. Mr. Anderson’s colleague, Gary Stallones, is credited with inspiring the design and assisting in developing the program’s statistical functions. Suzi Butler, the district’s training specialist and capital case coordinator, played a crucial role in coordinating with attorneys as well as court staff. Ms. Butler helped test the program and developed training. The project could not have been developed without the support of District Court Clerk Cameron Burke, who allowed his staff to take time from their regular duties to assist the circuit in this valuable endeavor.

To implement use of the new program throughout the circuit, the Office of the Circuit Executive will provide

training for the CJA panel attorneys who work on these cases and for the court personnel who work with the judges and attorneys. The training program will begin in early 2003 in California’s four judicial districts and will continue until all of the districts in the circuit with death penalty cases have received training.

As an additional resource in the area of capital habeas corpus cases, the Office of the Circuit Executive completed the 2002 edition of the *Ninth Circuit Capital Punishment Handbook*. This reference tool is available on the Internet at <http://www.ce9.uscourts.gov/>.

Under the leadership of Chief Judge Schroeder and the Judicial Council, the circuit is continuing its diligence in regard to capital habeas corpus cases, not only to manage costs, but also to make all aspects of capital habeas corpus matters as efficient and straightforward as possible for all parties involved. 

**Table 1.0**

### Death Penalty Cases As of Dec. 31, 2002

State	Inmates on Death Row	Pending in State Supreme Court	Pending in Federal District Court	Pending in U.S. Court of Appeals, 9th Cir.	Executions Since 1976
Arizona	124	38	59	9	22
California	613	406	164*	27	10
Idaho	22	31	16	3	1
Montana	6	3	2	1	2
Nevada	87	18	33	1	9
Oregon	30	12	0	0	2
Washington	12	8	3	1	4
<b>Total</b>	<b>894</b>	<b>516</b>	<b>277</b>	<b>42</b>	<b>50</b>

\* Northern District, California 37  
 Southern District, California 2  
 Eastern District, California 42  
 Central District, California 83

## Public Information and Community Outreach Committee

The Ninth Circuit has helped lead the way in developing projects and programs that improve public understanding of and confidence in the nation's judicial system.

In federal courts throughout the West, judges and court staff are involved in educating the public about the courts and the important role they play in a democratic society. Helping coordinate these numerous and varied efforts is the circuit's Public Information and Community Outreach (PICO) Committee.

Established in 2000 by the Judicial Council of the Ninth Circuit, the PICO Committee is the outgrowth of a recommendation from the circuit's lawyer representatives, who urged that courts do more to reach out to the public. Committee appointments were made by then-Chief Judge Procter Hug, Jr., who selected a mix of circuit, district and bankruptcy judges, along with

attorneys, clerks and media relations professionals. (Judge Hug was, himself, later appointed to the committee after stepping down as chief judge.) District Judge Alicemarie H. Stotler of the Central District of California was tapped to chair the new group, which began meeting in early 2001.

The mission statement subsequently adopted by the committee set two goals: facilitating better relations between the courts and news media, and promoting existing community outreach programs that help educate the public about the courts. Working through the Office of the Circuit Executive, the committee is developing a media relations handbook to assist court staff that interact with the news media, and a resource guide to community outreach programs sponsored by state and federal courts within the Ninth Circuit. The resource guide will provide information about how to

organize programs and events and offer other assistance to judges and court staff.

### Media Relations

The emphasis on media relations stems from the recognition that many citizens are unfamiliar with the federal courts. They rely on the media for information about the courts, and base their opinions of the courts on what they have read in the newspaper or seen on television. Since the media serves to inform the general public about the work of the courts, it makes sense for courts to assist the media, where feasible and appropriate, to ensure accurate and fair reporting.

Toward this end, the PICO Committee has begun a series of media workshops in which judges and court staff can interact and share views with reporters and editors. The first of these was held in November in Seattle for judges and



Arizona Chief District Judge Stephen McNamee welcomes students to *Open Doors to Federal Courts* at the Phoenix courthouse. The program teaches high school students about the importance of jury service.

court staff from Washington's two district and bankruptcy courts. Journalists from virtually all of Seattle's major media outlets attended. The ensuing discussion covered a wide range of topics, including the media's growing reliance on electronic access to court records and its frustration with a policy that permits online access to documents in civil cases but not criminal cases. For their part, some judges were frank in expressing why they practice media avoidance and their frustration at seeing their rulings misunderstood and inaccurately reported.

Building on the success of the Seattle program, the PICO Committee is planning media workshops in 2003 for the Ninth Circuit's Conference of Chief Bankruptcy Judges and Conference of Chief District Judges. Invitations will be extended to journalists from nationally known media outlets along with reporters from local


publications. The committee also is planning to stage workshops in most of the circuit's judicial districts, providing opportunities for judges to meet and interact with local journalists. Committee members would help facilitate discussion by sharing their knowledge of media practices in other districts, and by providing speakers, resource materials and exhibits.

### Community Outreach

On the community outreach side, the committee has acted as a clearinghouse for information and ideas. With assistance from the Office of the Circuit Executive, the committee promotes and publicizes educational outreach programs sponsored by district and bankruptcy courts in the circuit. These programs include Law Day and Open Doors to the Federal Courts, both of which focus on high school students, and the Citizens Law Academy, which educates community leaders about the law. Some Law Day programs, such as the one held in Los Angeles by the Central District of California, are very large, involving hundreds of students who visit courthouses to participate in mock proceedings that explain judicial processes. Open Doors to the Federal Courts, a national program organized by the Administrative Office of the United States Courts, also brings students into the courthouses to explore important legal concepts. While relatively new, the Open Doors program is growing rapidly and involved numerous courts in the Ninth Circuit last year. The Citizens Law Academy is co-sponsored

by the District of Idaho and has reached several hundred citizens in the Boise area over the last three years.

Other notable community outreach programs include the Montana Project, sponsored by the District of Montana, which works with schools and the local media to generate greater awareness among young people about mandatory sentencing for federal drug offenders, and Children at Risk, a program developed in San Diego that teaches middle school children about the judicial process using a videotape-based teaching curriculum. The Montana Project involved judges, court clerks, the U.S. attorney, Community Defender Office and federal probation and pretrial officers. The program was expected to culminate with a series of newspaper articles in early 2003. The Office of the Circuit Executive has acquired distribution rights for Children at Risk and is promoting its use among federal courts throughout the Ninth Circuit.

The PICO Committee promotes community outreach efforts through a quarterly news memo sent to judges, clerks and other court unit staffs, and through an Internet web site – [www.ce9.uscourts.gov/pico](http://www.ce9.uscourts.gov/pico) — that provides a wide range of information and materials about community outreach efforts. The committee also is pursuing partnerships with other groups and organizations, such as the Ninth Judicial Circuit Historical Society, which also has developed educational programs. 





## Judicial Wellness Committee Focuses on Judges' Health and Well Being



Wellness  
Committee Chair  
Circuit Judge  
Susan P. Graber

The Ninth Circuit is the first federal circuit to devote resources to promoting the physical and mental well being of judges. The Ninth Circuit's Judicial Wellness Committee undertakes projects and programs that address health issues affecting judges. It has established a confidential telephone referral service for judges, their families and chambers staff; sponsored a retirement planning conference for judges eligible to take senior status; and has begun publication of a quarterly wellness newsletter.

The committee has its origins in the Judicial Disability Task Force, which was established in 1999 by then-Chief Judge Procter Hug, Jr. to look into the circuit's disability procedures and practices. In its final report issued in May 2000, the task force recommended a number of education initiatives and the creation of a 24-hour telephone counseling service. The task force also recommended preventive health training programs for judges and their spouses, and disseminating information on such topics as disability retirement.

To carry out these recommendations, Judge Hug appointed the Judicial Disability Committee in October 2000. The committee shifted its focus to the broader concept of wellness, which includes not only attention to existing disabilities but prevention of

future ones. In keeping with this shift in emphasis, the committee was renamed the Judicial Wellness Committee in December 2001. Circuit Judge Susan P. Graber chairs the committee, whose members include Senior Circuit Judge Arthur L. Alarcón, Chief District Judge Philip M. Pro, District Judge Christina A. Snyder, Senior District Judge James M. Fitzgerald, Chief Bankruptcy Judge Jim D. Pappas, Magistrate Judge J. Kelley Arnold, Circuit Executive Gregory B. Walters, and Assistant Circuit Executive Robin Donoghue.

### *Private Assistance Line Service*

To provide 24-hour telephone counseling, the committee established the Private Assistance Line Service, or PALS. The committee contracted with Richard Carlton, an independent mental health professional, to provide counseling. PALS is now available 24 hours a day, seven days a week to assist federal judges, their families, and staff with questions relating to a judge's well being. By resolution of the Judicial Council, all communications and records of communications with PALS and professional service providers are confidential.


### *Other Educational Efforts*

Disability retirement for Article III judges is governed by the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, 28 U.S.C. § 372. Article III judges who become unable to effectively discharge the duties of judicial office by reason of a permanent mental or physical condition may be eligible for retirement from active judicial duty. The Judicial Wellness Committee has published

and disseminated a brochure outlining the steps for taking voluntary disability retirement and providing phone numbers for national health and disability organizations.

In October 2002, the committee held a pre-retirement orientation conference for Article III judges who were within three years of eligibility to take senior status. The three-day session for judges and their spouses included benefits and a financial planning component, and featured a panel of senior judges sharing their experiences. In connection with the program, the committee published a handbook on Ninth Circuit Senior Status Policies and distributed it to program attendees, all senior judges, and chief district judges. The committee is exploring hosting a similar program for bankruptcy and magistrate judges who may be nearing retirement.

For the July 2002 Ninth Circuit Judicial Conference, the Judicial Wellness Committee worked with the Conference Executive Committee to include wellness experts, who discussed healthy diets and exercise activities. One of the panel topics presented at the conference was "The Rewards of Time: How To Age But Not Grow Old."

Going forward, the committee launched a quarterly Wellness Newsletter for judges and clerks. The committee continues to work with the Conference Executive Committee to include wellness programs and activities at the annual circuit conference. 



# *TRANSITIONS*

New Judges

Deceased Judges

## New Judges in 2002

### Circuit Judge



**Judge Richard R. Clifton** was appointed to the Court of Appeals on July 18, 2002. Prior to his appointment, he engaged in private practice as a partner at Cades, Schutte, Fleming & Wright, Honolulu, 1982 to 2002, and as an associate from 1977 to 1982. Judge Clifton received his A.B. from Princeton

University in 1972 and his juris doctorate from Yale Law School in 1975. He served as a law clerk to Circuit Judge Herbert Y. C. Choy, 1975 to 1976, and was an adjunct professor at the University of Hawaii Richardson School of Law, 1978 to 1980, and 1983 to 1989. He maintains his chambers in Honolulu.

### District Judges



**Judge Percy Anderson**, of the Central District of California, was appointed a district judge on April 25, 2002. Prior to his appointment, he engaged in private practice at Sonnenschien, Nath & Rosenthal in Chicago, 1985 to 2002. Judge Anderson served as an assistant United States attorney for the Central

District of California from 1979 to 1985. He worked as a consultant for Legal Services Corporation in Los Angeles, 1978 to 1979. Judge Anderson received his A.B. from the University of California at Los Angeles in 1970 and his juris doctorate from the University of California at Los Angeles School of Law in 1975. He maintains his chambers in Los Angeles.



**Judge Ralph R. Beistline**, of the District of Alaska, was appointed a district judge on March 12, 2002. Prior to his appointment to the federal bench, Judge Beistline served as a Superior Court judge for the State of Alaska, 1992 to 2002. He engaged in private practice at Hughes, Thorsness, Gantz, Powell &

Brudin in Fairbanks, Alaska, 1975 to 1992, becoming a partner in 1979. Judge Beistline received his B.A. from the University of Alaska in 1972 and his juris doctorate from the University of Puget Sound School of Law in 1974. Following law school, he clerked for Superior Court of Alaska Judges Warren Wm. Taylor, Gerald Van Hoomisen and Everett Hepp, 1974 to 1975. He maintains his chambers in Anchorage.



**Judge David C. Bury**, of the District of Arizona, was appointed a district judge on March 15, 2002. Prior to his appointment, he engaged in private practice from 1971 to 2002. Previously, he worked as an associate at Robertson & Fickett, P.C., 1967 to 1971. He was inducted into the American College of Trial Lawyers in

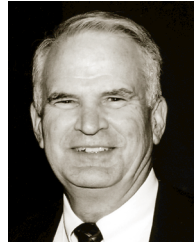
1985. Judge Bury received his B.S. from Oklahoma State University in 1964 and his juris doctorate from the University of Arizona College of Law in 1967. He maintains his chambers in Tucson.



**Judge Morrison C. England, Jr.**, of the Eastern District of California, was appointed a district judge on August 1, 2002. Prior to his appointment to the federal bench, Judge England served as a Superior Court judge for the State of California, 1996 to 2002. He engaged in private practice as a partner in the firm of Quattrin, Johnson, Campora & England, 1988 to 1996 and as a partner at Quattrin, Clemons & England, 1983 to 1988, in Sacramento. Judge England received his B.A. from the University of the Pacific in 1977 and his juris doctorate from the University of the Pacific, McGeorge School of Law in 1983. He maintains his chambers in Sacramento.



**Judge Cindy K. Jorgenson**, of the District of Arizona, was appointed a district judge on February 26, 2002. Prior to her appointment to the federal bench, Judge Jorgenson served as a Superior Court judge for the State of Arizona, 1996 to 2002. She served as an assistant United States attorney for the District of Arizona, 1986 to 1996 and as a deputy county attorney of the Pima County Attorney's Office, 1977 to 1986. Judge Jorgenson received her B.S. from the University of Arizona in 1974 and her juris doctorate from the University of Arizona College of Law in 1977. She maintains her chambers in Tucson.



**Judge Robert G. Klausner**, of the Central District of California, was appointed a district judge on November 14, 2002. Prior to his appointment to the federal bench, Judge Klausner served as a Superior Court judge for the State of California, 1985 to 2002. Judge Klausner served as a judge at the Pasadena Municipal Court, 1980 to 1985, and also as a court commissioner, 1974 to 1980. He was the Los Angeles county deputy district attorney, 1969 to 1974. Judge Klausner received his B.A. in 1963 and his B.S. in 1964 from the University of Notre Dame and his juris doctorate from Loyola Law School in 1967. Judge Klausner maintains his chambers in Los Angeles.



**Judge Ronald B. Leighton**, of the Western District of Washington, was appointed a district judge on November 14, 2002. Prior to his appointment, he engaged in private practice as a partner at Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim, 1976 to 2002. Judge Leighton received his B.A. from Whitworth College in 1973 and his juris doctorate from the University of California, Hastings College of Law in 1976. Judge Leighton maintains his chambers in Tacoma.



**Judge James C. Mahan**, of the District of Nevada, was appointed a district judge on January 25, 2002. Prior to his appointment, Judge Mahan served as a district judge for the Eighth Judicial District Court for the State of Nevada, 1999 to 2002. Previously, he engaged in private practice as a senior partner at Mahan & Ellis, Las Vegas, 1982 to 1999, as an attorney at John Petter Lee, Ltd., 1975 to 1982, and as an associate at Lee & Beasey, Ltd., 1973 to 1975. Judge Mahan received his B.A. from the University of Charleston in 1965 and his juris doctorate from the Vanderbilt University Law School, Nashville, in 1973. Judge Mahan maintains his chambers in Las Vegas.

*New Judges in 2002 continued*

**Judge Frederick J. Martone**, of the District of Arizona, began active service as a U.S. district judge on January 30, 2002. Prior to his appointment to the federal bench, Judge Martone served as a justice of the Arizona State Supreme Court from 1992 to 2001, and as a judge for the Superior Court of Arizona in Maricopa County, from 1985 to 1992. He engaged in private practice at the law firm of Jennings, Strouss and Salmon in Phoenix, from 1973 to 1985. Judge Martone graduated from Holy Cross College in Worcester, Mass., in 1965, and served as an officer in the United States Air Force from 1965 to 1969. He graduated from Notre Dame Law School in 1972 and received an LL.M. from Harvard Law School in 1975. Following law school, Judge Martone clerked for Justice Edward F. Hennessey of the Supreme Judicial Court of Massachusetts in Boston. He maintains his chambers in Phoenix.



**Judge John F. Walter**, of the Central District of California, was appointed a district judge on April 25, 2002. Prior to taking the bench, Judge Walter engaged in private practice as a partner at Walter, Finestone & Richter, Los Angeles, 1976 to 2002. Previously, he served as an associate at the law firm of Kindel & Anderson, Los Angeles, 1969 to 1970, as an assistant United States Attorney for the Central District of California, 1970 to 1972, and again as an associate at Kindel & Anderson, 1972 to 1976. Judge Walter received his B.A. from Loyola University in 1966 and his juris doctorate from Loyola University School of Law in 1969. He maintains his chambers in Los Angeles.



**Judge Jeffrey S. White**, of the Northern District of California, was appointed a district judge on November 14, 2002. Prior to his appointment, Judge White engaged in private practice as a partner at Orrick, Herrington & Sutcliffe, 1980 to 2002, and previously as an associate, 1970 to 1980. Judge White worked as a trial attorney for the United States Department of Justice, Criminal Division, 1977 to 1978, and as an assistant United States attorney for the District of Maryland, 1971 to 1977. Judge White received his B.A. from Queens College of City University of New York in 1967 and his juris doctorate from State University of New York in 1970. He maintains his chambers in San Francisco.

**Bankruptcy Judges**

**Judge Peter H. Carroll**, of the Central District of California, was appointed a bankruptcy judge on August 1, 2002. Prior to his appointment, Judge Carroll served as an assistant United States trustee for the Eastern District of California, 1994 to 2002. Judge Carroll was a senior attorney of the United States Department of Justice, Office of the United States Trustee in San Francisco, 1993 to 1994. Previously, he engaged in private practice as a shareholder at Brite & Drought in San Antonio, Texas, 1989 to 1993; as a partner, 1984 to 1988; and as an associate, 1978 to 1983. Judge Carroll received his B.A. from the University of California at Berkeley in 1974 and his J.D. from St. Mary's University School of Law in 1978. He maintains his chambers in Riverside.





**Judge Robert J. Faris**, of the District of Hawaii, was appointed a bankruptcy judge on February 14, 2002 and was elevated to chief bankruptcy judge on February 22. Prior to his appointment, Judge Faris engaged in private practice as shareholder, director, and vice president at Gelber, Gelber, Ingersoll, Klevansky &

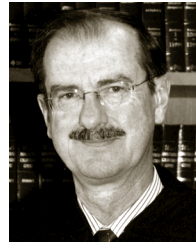
Faris in Honolulu, 1983 to 2002. Judge Faris received his B.A. from Reed College in Portland in 1980 and his juris doctorate from the University of California Boalt Hall School of Law in 1983. He maintains his chambers in Honolulu.

### Magistrate Judges



**Judge Paul L. Abrams**, of the Central District of California, was appointed a magistrate judge on January 9, 2002. Prior to his appointment, he served as a deputy federal public defender in Los Angeles, 1987 to 1993, and as a supervising deputy from 1993 to 2001. Judge Abrams was the director of the San

Fernando Valley office of Bet Tzedek Legal Services, 1985 to 1987, and a litigation associate at Jeffer, Mangels, Butler and Marmaro in Los Angeles, 1983 to 1985. Judge Abrams received his B.A. from the University of California at Berkeley in 1979 and his juris doctorate from the University of California Boalt Hall School of Law in 1983. He maintains his chambers in Los Angeles.



**Judge Howard R. Lloyd**, of the Northern District of California, was appointed a magistrate judge on June 4, 2002. Prior to his appointment, Judge Lloyd worked as an independent alternative dispute resolution provider, specializing in employment, trade secret, and commercial claims, 1999 to 2002. Judge Lloyd

served as a settlement judge pro tem for the California state court and engaged in private practice at Hoge, Fenton, Jones and Appel, San Jose, 1969 to 1999. Judge Lloyd received his B.A. from the College of William and Mary in 1963 and his juris doctorate from the University of Michigan in 1968. He maintains his chambers in San Jose.



**Judge Carolyn S. Ostby**, of the District of Montana, was appointed a magistrate judge on February 25, 2002. Prior to taking the bench, Judge Ostby engaged in private practice at Crowley Law Firm, Billings, 1981 to 2001. Judge Ostby received her B.A. from Macalester College, St. Paul, Minnesota, 1972, and

her juris doctorate from the University of Montana School of Law in 1977. She maintains her chambers in Great Falls.



**Judge Suzanne H. Segal**, of the Central District of California was appointed a magistrate judge on July 31, 2002. Prior to taking the bench, Judge Segal served as an assistant United States attorney in Los Angeles, 1990 to 2002. Previously, she served as chief of Civil Appeals for the United States Attorney's Office, 1999

to 2002, and engaged in private practice as an associate at Dewey, Ballantine, Los Angeles, 1987 to 1990. Judge Segal received her B.A. from Claremont McKenna College, Claremont, Calif., in 1982 and her juris doctorate from Cornell Law School in 1987. She maintains her chambers in Los Angeles. 🗡️



## In Memoriam



**Judge William L. Dwyer** (1929-2002) was appointed a district judge to the Western District of Washington on November 5, 1987. Prior to his appointment, Judge Dwyer engaged in private practice at Culp & Dwyer, now Culp, Dwyer, Guterson & Grader, 1957 to 1987. Judge Dwyer received his B.S. from

the University of Washington in 1951 and his LL.B. from New York University School of Law in 1953. He passed away on February 12. Judge Dwyer is survived by his wife, Vasiliki, their three children and five grandchildren.



**Judge William A. Ingram** (1924-2002) was appointed a district judge to the Northern District of California on July 23, 1976. Prior to his appointment to the federal bench, Judge Ingram served as a Superior Court judge, Santa Clara, California, 1971 to 1976. Previously, he was a Municipal Court judge for the

Mountain View Judicial District, California, 1969 to 1971. He engaged in private practice at Rankin, O'Neal, Luckhard & Center in San Jose, 1955 to 1969 and at Littler, Coakley, Lauritzen & Ferdon in San Francisco, 1951 to 1955. Judge Ingram received his B.A. from Stanford University in 1947 and his LL.B. from the University of Louisville School of Law in 1950. He passed away on May 26. Judge Ingram is survived by his wife, Barbara, and three children.



**Judge Robert C. Mooreman** (1927-2002) was appointed a bankruptcy judge to the District of Arizona on June 28, 1981. Following passage of the Amended Bankruptcy Code, he was reappointed in 1986 to a 14-year term. From 1984 to 1994, he served as chief bankruptcy judge. He began his career as law

clerk to Arizona Supreme Court Justice M.T. Phelps, then served as an assistant attorney general for the State of Arizona. Prior to his judicial appointment, he was in private practice in Phoenix. Judge Mooreman received his A.A. from Phoenix College in 1952 and his J.D. from the University of Arizona College of Law in 1956. He passed away on July 8. Judge Mooreman is survived by his wife, Bonnie, and a daughter.



**Judge Monte Reece** (1945-2002) was appointed a part-time magistrate judge to the Eastern District of California on August 19, 1983. Judge Reece engaged in private practice in South Lake Tahoe, 1974 to 1984, and was an instructor at Lake Tahoe Community College, 1983 to 1985. Judge Reece attended

Louisiana State University and received his LL.B. from the Western State University College of Law in 1974. He passed away on July 31. Judge Reece is survived by his wife, Melanie, and five children.



**Judge Laughlin E. Waters, Sr.** (1914-2002) was appointed a district judge to the Central District of California on May 11, 1976. Prior to his appointment, Judge Waters engaged in private practice in Los Angeles, 1961 to 1976. Previously, he served as a United States attorney for the Southern District of

California, 1953 to 1961. He was a member of the California State Legislature, 1947 to 1953, and served as deputy attorney general for the State of California, 1946 to 1947. Judge Waters received his A.B. from the University of California at Los Angeles in 1939 and his juris doctorate from the University of Southern California School of Law in 1947. He passed away on June 3. Judge Waters is survived by his wife, Voula, and five children.



**Judge Eugene A. Wright** (1913-2002) was appointed to the United States Court of Appeals for the Ninth Circuit on September 12, 1969. Prior to his appointment, he served as vice president and senior trust officer at Pacific National Bank in Seattle, 1966 to 1969. Previously, he served as a Superior Court judge, King

County, Washington, 1954 to 1966, and as a Municipal Court judge pro tem, Seattle, 1948 to 1952. He engaged in private practice in Seattle, 1946 to 1954, and 1937 to 1941. Judge Wright received his A.B. from the University of Washington in 1935 and his juris doctorate from the University of Washington School of Law in 1937. He passed away on September 3. Judge Wright is survived by his wife, Esther, and two children. 🪄

# *SPACE AND SECURITY*

Ninth Circuit Committee Tackles  
Space and Security Issues

Courthouse Construction  
Projects in 2002

U.S. District Court Seattle



## *Ninth Circuit Committee Tackles Space and Security Issues*

Keeping up with space needs in the Ninth Circuit, which claims some of the busiest courts in the nation, can be a daunting task. Judges and court staff serving on the Ninth Circuit Space and Security Committee are responsible for coordinating courthouse construction projects and addressing security needs in most court facilities. The committee carries out these tasks in cooperation with the Administrative Office of the United States Courts, the General Services Administration and the U.S. Marshals Service.



Chief District Judge Marilyn Patel speaks at a memorial held September 11 in San Francisco in honor of those who died at the World Trade Center. Federal Courts in Anchorage, Honolulu, and Spokane also held 9/11 memorials.

### **Space and Security Committee of the Ninth Circuit**

Senior Circuit Judge Melvin Brunetti, chair  
 Chief District Judge Stephen McNamee (Arizona)  
 District Judge Jeremy Fogel (N. District, Calif.)  
 District Judge Margaret Morrow (C. District, Calif.)  
 District Judge Edward Shea (E. District, Wash.)  
 District Judge Dickran Tevrizian (C. District, Calif.)  
 Bankruptcy Judge Charles Case (Arizona)  
 Bankruptcy Judge George Nielsen (Arizona)  
 District Court Clerk Cameron Burke (Idaho)  
 District Court Clerk Lance Wilson (Nevada)

Over the years, rising caseloads have required new judges and courtrooms, resulting in cramped, inefficient courthouses that cannot accommodate any further expansion of judicial operations. The trend has continued into the new century. In 2002, seven new judgeships were authorized for the circuit, five of them for the Southern District of California. In 2003, Congress will consider a new judgeship bill that could provide seven new judgeships for the Court of Appeals and 21 new judgeships in the circuit's district courts.

Older courthouses also pose serious security concerns as judges, jurors, prisoners and witnesses frequently mix in open corridors. And they lack the infrastructure for advanced technology, such as complex computer networks and sophisticated electronic evidence presentation systems for courtrooms.

### **Courthouse Construction**

In 2002, the Ninth Circuit had courthouses under construction in Seattle, serving the Western District of Washington, and Fresno, serving the Eastern District of California. The Seattle courthouse is the larger of the two projects, involving a 23-story, 614,867-square-foot structure. The Fresno courthouse will be 11 stories tall and provide 430,000 square feet of space.



The Space and Security Committee – Front row: District Judge Edward Shea (WAE), Chairman Senior Circuit Judge Melvin Brunetti, Circuit Executive Gregory Walters, District Judge Margaret Morrow (CAC). Back row: Assistant Circuit Executive Susan Kim, Bankruptcy Judge George Nielsen (AZ), Bankruptcy Judge Charles Case (AZ), District Judge Jeremy Fogel (CAN), District Court Clerk Cameron Burke (Idaho), District Judge Dickran Tevzian (CAC), Ross Eisenman, Administrative Office, Chief District Judge Stephen McNamee (AZ). Missing: District Court Clerk Lance Wilson (Nevada).

Also during the year, design work proceeded for new courthouses in San Diego, serving the Southern District of California; Los Angeles, serving the Central District of California, and Eugene, Ore., serving a portion of the District of Oregon. Design work was under way for a new courthouse in leased space in El Centro, serving the most eastern sections of the Southern District of California, and planning is under way for a new courthouse and federal building in San Jose, serving the Silicon Valley area of the Northern District of California.

In addition, renovations and additions took place on other court facilities throughout the circuit. Congress approved funding for fiscal year 2002 for repairs and alterations to three courthouses in the Ninth Circuit: \$26.9 million for the Foley Federal

Building in Las Vegas, \$16.6 million for the Pioneer Courthouse in Portland, and \$13.1 million for the Edward J. Schwartz Federal Building and Courthouse in San Diego.

### **The Challenge Posed by September 11th**

A new challenge for the Ninth Circuit's Space and Security Committee emerged following the terrorist attacks of September 11, 2001. Security issues at federal courts immediately became a top concern. Congress responded with \$129 million in emergency supplemental funding in Fiscal Year 2002. The funding is being used to increase the number of Court Security Officers (CSOs) assigned to district courts by 10 percent, and to hire 106 new senior-level deputy U.S. marshals to provide security to judges, coordinate district court security planning, and oversee CSOs.

The Ninth Circuit Space and Facilities Committee has been working with every district in the circuit to establish building security committees and designated emergency contacts for every courthouse and other facilities occupied primarily by court units. The designated contact person, who often will be the chief district judge, will be responsible for coordinating response and evacuation guidelines for judges and court staff in the event of an emergency. Recognizing that each circuit bears a unique responsibility to coordinate plans within its own region, the Administrative Office of the U.S. Courts also made plans to create emergency preparedness coordinator positions in selected circuit executive offices.

Meanwhile, staff and judges at individual courts in the Ninth Circuit joined their colleagues in federal courts across the country in developing Occupant Emergency Programs (OEPs) and Continuity of Operations Plans (COOPs). OEPs were designed to establish procedures during emergencies that would safeguard lives and property, while COOPs ensured that essential functions and activities resume as quickly and safely as possible.

### **Mailroom Security**

The bio-terrorism incidents that followed the September 11th attacks, involving anthrax-contaminated letters sent through the U.S. Postal Service, posed another major security problem for the judiciary. Traces of the deadly disease were found in the mail facility at the United States Supreme Court in Washington, D.C., causing the court to relocate its operations for a period of time. In January, the



## Construction Progresses on Seattle Courthouse

By the mid-1980s, the judges and jurors in the federal courthouse in Seattle were in desperate need of a new building. Space in the 50-year-old courthouse had become so cramped that the district's bankruptcy court was forced to move into leased space in another building. The Western District of Washington's dream of a new courthouse came closer to fruition in 2002, as construction progressed on a new 23-story federal courthouse.


The building, which is being built on a 2.7-acre site in downtown Seattle, was designed by the architectural firm of NBBJ. The courthouse design utilizes glass and concrete pillars to create a sense of openness and take advantage of natural light. The exterior courtyard for the plaza was designed to encourage public use and will include a landscaped plaza and reflecting pool.

Scheduled for completion in 2004, the 614,857-square-foot building will house 627 employees of the courts, including judges and court staff, in addition to various court-related agencies. A 120-space secure, parking garage is being constructed underneath the building. The courthouse will initially contain 18 courtrooms – 12 district courtrooms, one special proceedings courtroom, and five bankruptcy courtrooms, but has been designed to allow expansion to a total of 25 courtrooms as part of the 30-year expansion plan.

In addition to the courtrooms and associated offices, the building will contain a main detention cell block for prisoners awaiting trial, courtroom holding cells, and secure passageways for moving prisoners to and from the building.

## Space and Security...continued

Administrative Office contracted with an architectural firm to study seven existing federal courthouse mail facilities and their practices and to use the results to develop procedures, standards and infrastructure for safe mail handling. In July, the U.S. Judicial Conference approved recommendations regarding mail handling procedures and construction of centralized mailrooms in courthouses.

Looking to the future, the Ninth Circuit Space and Security Committee recognizes that security at federal courthouses has taken on a whole new meaning in the aftermath of September 11th events. The committee will continue to work with the Administrative Office, the U.S. Marshals service and district courts throughout the circuit to ensure that the courthouses are safe for the judges, attorneys and staff as well as for citizens who conduct business there. 

## *Courthouses Under Construction*

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### **Fresno**

Federal Building and Courthouse  
Square footage: 430,000  
Estimated completion date: 2005  
Architects: Moore, Ruble, & Yudell



## *Courthouses Under Construction* continued

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### **Seattle**

U.S. District Court  
Square footage: 614,867  
Estimated completion  
date: 2004  
Architects: NBBJ

## *Courthouses in the Planning Stage*

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### **San Jose**

U.S. District Courthouse and Federal Building  
Square footage: 404,361  
Estimated completion date: 2010

## Courthouses in Design Stage

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### El Centro (lease)

Magistrate Courthouse  
 Square footage: 42,000  
 Estimated completion date: 2004



### Eugene

U.S. District Court and Federal Building  
 Square footage: 272,274  
 Estimated completion date: 2005  
 Architects: Morphosis

### San Diego

U.S. District Courthouse and Federal Building  
 Square footage: 583,746  
 Estimated completion date: 2009  
 Richard Meier and Partners



### Los Angeles

U.S. District Courthouse  
 Square footage: 1,279,650  
 Estimated completion date: 2009  
 Architects: Perkins & Will



## *Courthouses Completed in 2002*

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### **Helena, Montana (lease)**

Square footage: 60,000

Completed: August 2002

# *THE NINTH CIRCUIT IN 2002*

The Ninth Circuit Court of Appeals

Courts Adjust to Pro Se Caseload

The 2002 Judicial Conference

Reaching Out to Other Nations

Alternative Dispute Resolution Programs

Pretrial Services

U.S. Probation Offices

Federal Public Defender Offices

Courtroom One, U.S. Court of Appeals, San Francisco



## The Ninth Circuit Court of Appeals

Long the busiest of the nation's 13 federal circuit courts, the Ninth Circuit Court of Appeals, saw an unprecedented increase in case filings in 2002. For the year, 12,388 cases were filed, up 23.2 percent from 2001, which was, itself, a record-setting year. The upsurge resulted from a flood of new filings involving the Immigration and Naturalization Service (INS). The Board of Immigration Appeals of the INS was directed to clear a large backlog of immigration cases, and the agency's use of expedited reviews generated a wave of new appeals. From 913 cases in 2001, INS filings in the Ninth Circuit jumped to 3,672 in 2002, an increase of 302 percent. INS filings also accounted for a dramatic increase in administrative agency appeals, which rose to 3,899 in 2002, an increase of 256 percent from the prior year.

The INS factor also skewed national totals. While the Ninth Circuit had 20.9 percent of the national appellate filings for 2002, it had 56.8 percent of INS cases and 50.6 percent of the administrative agency appeals filed last year.

Among the 15 judicial districts in the circuit, the Central District of California generated the largest number of appeals with 2,272 cases, or 18.3 percent of the total. Centered in Los Angeles, the Central District of California serves a population of 18 million people and has the busiest district court in the nation.

In 2002, the Court of Appeals heard oral arguments in about 2,500 cases, while another 2,000 cases were decided without argument. Cases terminated in 2002 totaled 10,346, up 1.2 percent. As of December 31, 2002, there were 11,140 pending cases before the court, a 22.4 percent increase, and amounting to 26.1 percent of the national appellate total. This daunting caseload was handled by the Ninth Circuit's active appellate bench of 24 judges, augmented by 21 senior circuit judges and, sitting by special designation, both district judges from within the circuit and circuit judges from other circuits.



Ninth Circuit Court of Appeals Judges – First row: J. Clifford Wallace, James R. Browning, Mary M. Schroeder, Alfred T. Goodwin, Procter Hug, Jr. Second row: Stephen Reinhardt, William C. Canby, Jr., Jerome Farris, Betty Binns Fletcher, Harry Pregerson, Dorothy W. Nelson, Robert Boochever, Robert R. Beezer. Third row: A. Wallace Tashima, Thomas G. Nelson, Diarmuid F. O'Scannlain, Alex Kozinski, Cynthia Holcomb Hall, David R. Thompson, Pamela Ann Rymer, Andrew J. Kleinfeld, Sidney R. Thomas. Fourth row: Richard C. Tallman, Richard A. Paez, William A. Fletcher, M. Margaret McKeown, Barry G. Silverman, Susan P. Graber, Kim McLane Wardlaw, Raymond C. Fisher, Marsha S. Berzon, Johnnie B. Rawlinson. Missing: Herbert Y.C. Choy, Joseph T. Sneed, Otto R. Skopil, Arthur L. Alarcon, Warren J. Ferguson, Melvin Brunetti, John T. Noonan, Jr., Edward Leavy, Stephen Trott, Ferdinand F. Fernandez, Michael Daly Hawkins, Ronald M. Gould.

## *Additional Screening Panels Help Court Contend with Growing Caseload*

### Panel Sitings

In addition to its regular sittings in San Francisco, Pasadena and Seattle, during the year, the court heard cases in Portland, Honolulu, Alaska (Anchorage and Fairbanks), Boise, Guam and the Northern Mariana Islands, Phoenix, and Tucson. All told, the court met for a total of 441 panel days in 2002. The table below breaks out the court's calendar as follows:

#### 2002 Panels

**San Francisco** (every month): 160 panels

**Pasadena** (every month): 170 panels

**Seattle** (every month): 65 panels

**Portland** (March, May, July, September): 18 panels

**Honolulu** (May and November): 10 panels

**Alaska** (August): 5 panels

**Boise** (November): 5 panels

**Guam/Northern Mariana Islands** (February): 2 panels

**Phoenix** (March): 5 special panels [en bancs]

**Tucson** (October): 1 special panel

In 2002, the Court of Appeals began scheduling additional screening panels to address the growing number of pro se and prisoner cases. As in prior years, cases assigned to the screening panels are typically those that would not be set for oral argument and can be more expeditiously decided. Members of the court's Staff Attorneys Office research the appeals and make monthly presentations to three-judge panels who sit as screening panels and consider those cases. The system requires all three judges on the screening panel to agree that the case is suitable for submission without argument. If one judge believes oral argument is needed, the case will be taken off screening and placed on the next available argument calendar.

In 2002, the Ninth Circuit's judges agreed to sit on additional screening panels, so that each quarter had four screening panels rather than the usual three panels per quarter. These panels decided more than 2,000 submitted cases, along with approximately 1,300 requests for certificates of appealability and 4,200 substantive motions. The work completed by the monthly screening panels allows the more difficult cases to proceed to the oral argument calendar. For the year, another 2,000 cases were disposed after oral argument.

Due to the efficiencies gained through the screening program, the Court of Appeals was able to pare down a backlog of cases awaiting oral argument. The time has been reduced, on average, between two to three months around the circuit. The court continues to work on other methods to improve the timely disposition of cases.

The Court of Appeals also relies on a well-developed mediation program to help reduce its caseload. The mediation office disposes of about 800 complex civil cases each year.



## Summary of the Ninth Circuit Court of Appeals *continued*

### En Banc Hearings

The Court of Appeals relies on limited en banc panels to ensure the consistency of law within the Ninth Circuit. En banc hearings consist of a panel of 11 judges who rehear a case previously ruled upon by a three-judge panel. An en banc panel consists of the chief judge and 10 circuit judges chosen at random. Ordinarily, matters will be reheard en banc only to maintain the uniformity of the court's laws or for matters of exceptional importance.

In 2002, 1,039 petitions for rehearing en banc were filed. Of that total, the court voted to grant rehearing en banc in 17 cases. En banc panels heard oral arguments in 16 cases and issued 14 written opinions (totals include some cases in which rehearing en banc was granted in 2001). These en banc opinions covered a wide range of issues including civil rights, constitutional law, criminal law, capital habeas corpus, immigration law, and labor law.

### U.S. Supreme Court Review


In calendar year 2002, the Supreme Court reviewed 23 cases decided by the Ninth Circuit Court of Appeals in 2002 or earlier. These cases, which constitute less than 1 percent of the Ninth Circuit Court of Appeals workload in a typical year, covered a wide variety of issues including the Americans with Disabilities Act, civil rights, the Employee Retirement Income Security Act of 1974 (ERISA), habeas corpus, criminal law, labor and employment, and property takings.



Senior Circuit Judge James R. Browning witnesses the drawing for an upcoming en banc panel.

The Court of Appeals relies on limited en banc panels to ensure the consistency of law within the Ninth Circuit. En banc hearings consist of a panel of 11 judges who rehear a case previously ruled upon by a three-judge panel.

The Supreme Court issued written opinions in 20 Ninth Circuit cases: five were affirmed, 15 were reversed or vacated. Two cases resulted in summary dispositions in which the Supreme Court vacated and remanded for further consideration in light of its own recent decisions. In one case, the Supreme Court dismissed certiorari without deciding the case.

For the Supreme Court's 2001-02 term (including cases decided in 2001), there were a total of 21 cases from the Ninth Circuit. Eighteen cases resulted in written opinions. Of those, four were affirmed and 14 reversed or vacated, resulting in a reversal rate of 78 percent. In all, the Supreme Court issued written opinions in 79 cases from the 13 federal circuits and state courts for the 2001-02 term. Of those, 19 were affirmed and 60 reversed, resulting in a reversal rate of 76 percent. 

## Ninth Circuit Courts Adjust to Impact of Large Pro Se Caseload

Pro se cases are cases in which at least one of the parties is not represented by the legal counsel. The number of pro se cases filed with the Ninth Circuit Court of Appeals rose dramatically in the 1990s and the trend has continued thus far in the new century.

In calendar year 2002, 5,070 pro se cases were filed, amounting to 41 percent of all filings with the court. Similar upsurges in pro se cases also occurred in the district and bankruptcy courts of the Ninth Circuit.

### Task Force on Self-Represented Litigants

Pro se litigation poses a significant drain on federal court resources. A self-represented litigant is usually unfamiliar with law and procedure, requiring greater amounts of time and assistance from court staff. To respond to the problem, the Judicial Council of the Ninth Circuit has created a Task Force on Self-Represented Litigants, consisting of district and magistrate judges, clerks, attorneys and other legal professionals. The new group will study the impact on court resources and operations of all actions filed or defended by self-represented litigants. It also has been asked to make recommendations on ways to improve the administration of these cases and the possible provision of legal assistance to self-represented litigants. Beginning in 2003 the task force will:

1. Study and evaluate existing case management practices and assistance to litigants in pro se cases;
2. Explore alternative case management practices and methods of assisting pro se litigants;
3. Publicize such alternative methods and solicit feedback with respect to them;
4. Aid in the development and monitoring of such programs; and
5. Make recommendations to the Judicial Council, the courts of the Ninth Circuit and the bar with respect to management of pro se cases and assistance to self-represented litigants.

### Categories of Pro Se Filings

The largest category of pro se cases filed in the Court of Appeals was private prisoner petitions (1,900), followed by administrative agency appeals (1,200). Over 90 percent of administrative agency appeals involved immigration matters. The court experienced a large increase in immigration cases in 2002 after the Board of Immigration Appeals (BIA) of the Immigration and Naturalization Service was directed to reduce a large case backlog. More than half of the BIA cases are appealed to the Ninth Circuit, and many of those new filing are by pro se petitioners.

There has also been a marked increase in the number of pro se filings in original proceedings since the passage of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). The law requires that habeas corpus petitioners first obtain permission from the Court of Appeals before filing second or successive habeas petitions in the district court. In 1996,

Table 2.1

### Pro Se Appeals, Commenced and Terminated by Circuit

Circuits	Total Cases Commenced	Pro Se at Filing	%	Total Cases Terminated	Pro Se at Termination	%
All Circuits	59,238	26,864	45%	56,254	26,297	47%
District of Columbia	1,107	357	32%	1,288	395	31%
First Circuit	1,741	370	21%	1,613	401	25%
Second Circuit	5,356	2,042	38%	4,176	1,856	44%
Third Circuit	3,702	1,690	46%	3,751	1,836	49%
Fourth Circuit	4,722	2,581	55%	4,957	2,743	55%
Fifth Circuit	8,821	4,341	49%	8,672	4,309	50%
Sixth Circuit	4,600	2,171	47%	4,586	2,299	50%
Seventh Circuit	3,466	1,656	48%	3,333	1,684	51%
Eighth Circuit	3,228	1,475	46%	3,055	1,495	49%
Ninth Circuit	12,388	5,070	41%	10,346	3,899	38%
Tenth Circuit	2,676	1,200	45%	2,562	1,200	47%
Eleventh Circuit	7,431	3,911	53%	7,915	4,180	53%

## *Ninth Circuit Courts Adjust to Impact of Large Pro Se Caseload* continued

prior to the passage of the AEDPA, there were 66 original habeas-related proceedings filed in the Court of Appeals. In 2002, the number of such filings had grown to 534. The increase in pro se prisoner cases has required additional pro se law clerk position to be established. From 1996 to 2002, the number of pro se law clerks nearly doubled, climbing to 62.5 positions from 37.5.

### **Pro Se Unit of the Office of Staff Attorneys**

Since 1992, the Ninth Circuit Court of Appeals has benefited by having a Pro Se Unit within the Office of the Staff Attorneys. This unit, which consists of one supervising attorney, three clerk paralegals and a case coordinator, is responsible for the initial review and early management or disposition of pro se appeals. Early intervention typically leads to dismissal prior to briefing of approximately 500 appeals. The unit also provides general assistance in unusual or difficult pro se cases. The more complex or novel pro se appeals are referred to the pro se case coordinator, who sometimes acts as pro bono counsel. When appropriate, the coordinator also assists the pro se litigant in finding pro bono legal representation. In that event, the coordinator locates counsel by working with private attorneys in each district.



Approximately 120 clerks attended the Pro Se Law Clerk Conference held in Portland.

Pro bono attorneys are entitled to seek reimbursement for certain specified costs of the appeal and are guaranteed oral arguments.

### **Other Initiatives on Pro Se Cases**

Staff from the Court of Appeals staff working with the Office of the Circuit Executive published a revised edition of the *Pro Se Handbook for District Courts* in 2002. The handbook addresses issues that arise in the processing of pro se civil and habeas corpus actions in district or circuit court. It was distributed to circuit and district court staff to help them more efficiently process pro se cases.

The Office of the Circuit Executive also sponsored a Pro Se Law Clerk Conference in 2002. Held in Portland, the conference focused on the exchange of ideas and information among clerks and others attendees who regularly deal with prisoner pro se cases. One of the panels focused on developments in prisoner civil rights and habeas corpus law, including the issue of exhaustion of administrative remedies. Another topic of panel discussion was new strategies for management and disposition of prisoner cases, including the role of pro se law clerks, chambers law clerks, magistrate judges, and district judges. 🔑

## Judicial Conference Addresses Important Issues of the 21st Century

Judges of the United States Courts for the Ninth Circuit meet annually at the Ninth Circuit Judicial Conference. This yearly gathering is organized pursuant to Title 28 of the U.S. Code, which authorizes the chief judge to summon the judges of the circuit “for the purpose of considering the business of the courts and advising means of improving the administration of justice within the circuit.” In the Ninth Circuit, invitations also are extended to lawyer representatives, United States attorneys, federal public defenders, clerks of court and probation and pretrial officers.

For many years now, the judicial conference also has helped judges prepare for new challenges in the law. In 2002, the conference looked ahead to the conduct of law in the post-September 11th world, to issues of citizenship and immigration, and to the legal complexities of cutting edge science. Organized around the theme *The New America: Borders and Beyond*, the conference was held in San Diego and hosted by the Southern District of California, one of the circuit’s two border courts.

Ninth Circuit Chief Judge Mary M. Schroeder presided over the opening session and a quarterly meeting of the Judicial Council of the Ninth Circuit, the governing body of the circuit. Other judicial business conducted during the conference included various meetings of circuit, district, bankruptcy and magistrate judges. The conference opened with a presentation of awards to winners of a high school essay/oratory contest entitled, “What My American Citizenship Means to Me.” It was followed by a naturalization ceremony in which 27 immigrants from all corners



Ms. Rose Ochi, Esq., vice president of the Los Angeles Police Commission, and Circuit Judge Wallace Tashima participate in a panel discussion on national security and civil liberties.

of the globe were sworn in as U.S. citizens. Conference Chair District Judge Michael R. Hogan of Oregon presided over the ceremony, which was preceded by a keynote address by Assistant Attorney General Viet Dinh on *The New Meaning of Citizenship*.

### National Security and Civil Liberties

A program entitled *National Security and Civil Liberties: Protecting and Preserving Our Freedoms in Times of Crisis* focused on legal aspects of the nation’s response to the threat of terrorism following the September 11th attacks. Professor Mary Dudziak, of the University of Southern California Law School, opened the program with a perspective about the lessons learned from history concerning the balance between national security interests and civil liberties in times of war. Circuit Judge A. Wallace Tashima and Rose Ochi, Esq., vice president of the Los Angeles Police Commission, participated in a discussion moderated by Program Chair Circuit Judge Raymond

C. Fisher. Judge Tashima and Ms. Ochi talked about their experiences as Japanese Americans during World War II and how they and their families were forced from their homes and confined in internment camps. Judge Tashima and Ms. Ochi shared their recollections of that period and, together with Ms. Dudziak, talked of the lessons that should be learned from that era.

The program continued with a panel presentation moderated by Kathleen Sullivan, dean of Stanford Law School, dealing with a hypothetical situation arising out of the aftermath of September 11th. The high-powered panel included Warren Christopher, former Secretary of State; Nadine Strossen, president of the American Civil Liberties Union; Assistant Attorney General Viet Dinh, Professor Dudziak, and William Webster, former director of the Central Intelligence Agency and the Federal Bureau of Investigation, and former federal circuit judge.



## Judicial Conference Addresses Important Issues of the 21st Century *continued*



Solicitor General Theodore Olson, left, and U.S. Supreme Court Justice John Paul Stevens.

In 2002, the conference looked ahead to the conduct of law in the post-September 11th world, to issues of citizenship and immigration, and to the legal complexities of cutting edge science.

### Immigration

Immigration, a subject especially relevant to the courts of the Ninth Circuit, was explored in depth on the third day of the conference. The General Session opened with a documentary film highlighting the history of legal issues arising out of illegal immigration into the United States from Mexico. It was followed by a panel discussing various aspects of a bi-national metropolitan region, such as San Diego/Tijuana, the world's largest. Opportunities for social and economic integration of this region were highlighted by panelists Rodolfo Figueroa, Mexico's consul general in San Diego, attorney Víctor Miramontes of American City Vista; Alan Bersin, superintendent of the San Diego Unified School District and former U.S. Attorney for the Southern

District of California; and attorney John McNeece of Luce Forward Hamilton & Scripps.

### Stem Cells and Cloning

The final program of the conference featured a scientific program very much in keeping with the 21st century theme. The General Session opened with a panel discussion on *Stem Cells and Cloning: Issues Coming to Our Courtrooms*. Panelists discussed ethical, legal and social issues arising from cloning and the emerging field of stem cell research. The panel was moderated by Senior District Judge Robert Jones of Oregon and included top researchers Dr. David Gollaher, Ph.D., of the California Health Care Institute; Henry Greely, professor of Law and Genetics at Stanford University

Law School; and Dr. Haydeh Payami, Ph.D., professor of Genetics and Neurology at the University of Oregon Health Sciences.

### Conversation with the Justice

The last formal event of the conference has traditionally involved a conversation with a justice of the United States Supreme Court. Justice John Paul Stevens was in attendance in 2002 and, along with Solicitor General Theodore Olson, participated in the *Conversation with the Justice and the Solicitor General*. They were interviewed by a panel that included District Judge Susan Illston of the Northern District of California, and attorneys Paul Friedman, who chaired the conference program committee, and Robert Torres, who chaired the circuit's Lawyer Representatives Coordinating Committee. The discussion covered important issues addressed by the federal courts in 2002.

### Special Awards

Several special awards were presented at the 2002 Judicial Conference, including:

- An American Inns of Court Award, given to Senior District Judge William Enright of the Southern District of California;
- The Director of the Administrative Office's Award for Outstanding Leadership, given to Sherri Carter, district executive and clerk of court for the Central District of California;
- The Director's Award for Excellence in Court Operations, given to Adria Santa Anna and Jennifer Sunshine, senior probation



Opening Ceremony: The Presentation of the Colors by the United States Marine Corps Band.

officers for the District of Arizona, and to Stacy Verkay, automation and technology manager for the District of Arizona bankruptcy court; and

- The Robert F. Peckham Award for Excellence in Alternative Dispute Resolution, given to Mimi Arfin, program director, and Howard Herman, program counsel, of the alternative dispute resolution program of the Northern District of California.

### Conference Resolutions

Each year, judges and lawyers attending the conference vote on resolutions put forth by the Resolutions Committee of the Conference Executive Committee. Resolutions receiving majority approval from the judges and lawyers in attendance included:

- *Continuation and enhancement of ADR and ADR education programs.* This calls upon the Standing Committee on ADR to develop educational materials, including samples of court documents and forms, and to report on the experience of district court ADR programs that provide for early intervention.
- *Appointment of a task force on videoconferencing.* This recommends that a task force be created to study current video conferencing practices in the circuit, and recommend procedures for

using videoconferencing during all phases of the litigation process.

- *Confidential attorney assistance and intervention programs.* This encourages establishing a confidential process to identify attorneys at risk from substance abuse and mental illness, and supports local bar association efforts to rehabilitate those attorneys so they may practice law in a safe and competent manner.

- *CJA panel attorney compensation.* This supports funding of Criminal Justice Act panel attorneys at the rate of \$150 per hour with annual cost-of-living adjustments, as recommended by the Judicial Conference of the United States.

Soon after the 2002 Judicial Conference ended, the Conference Executive Committee began planning the 2003 conference, to be held in Kaua'i, Hawai'i. Topics for the general sessions include corporate and professional ethics and responsibility, the oceans, health issues, and a special enactment commemorating the 200th anniversary of the *Marbury v. Madison* decision.



## *Ninth Circuit Reaches Out to Many Nations*

As the nations of the world interact with ever greater frequency on cultural, economic and political matters, federal judges are finding themselves in great demand as experts on the rule of law in a democratic society. In 2002, judges from the Ninth Circuit welcomed foreign legal dignitaries to their courts and traveled abroad to educate their counterparts in other countries about the judicial system of the United States. This interaction serves two important goals:

- Helping judicial and legal officers in other countries understand aspects of U.S. legal institutions that they may wish to adapt to circumstances in their country;
- Helping the United States learn from reform efforts under way in other countries.



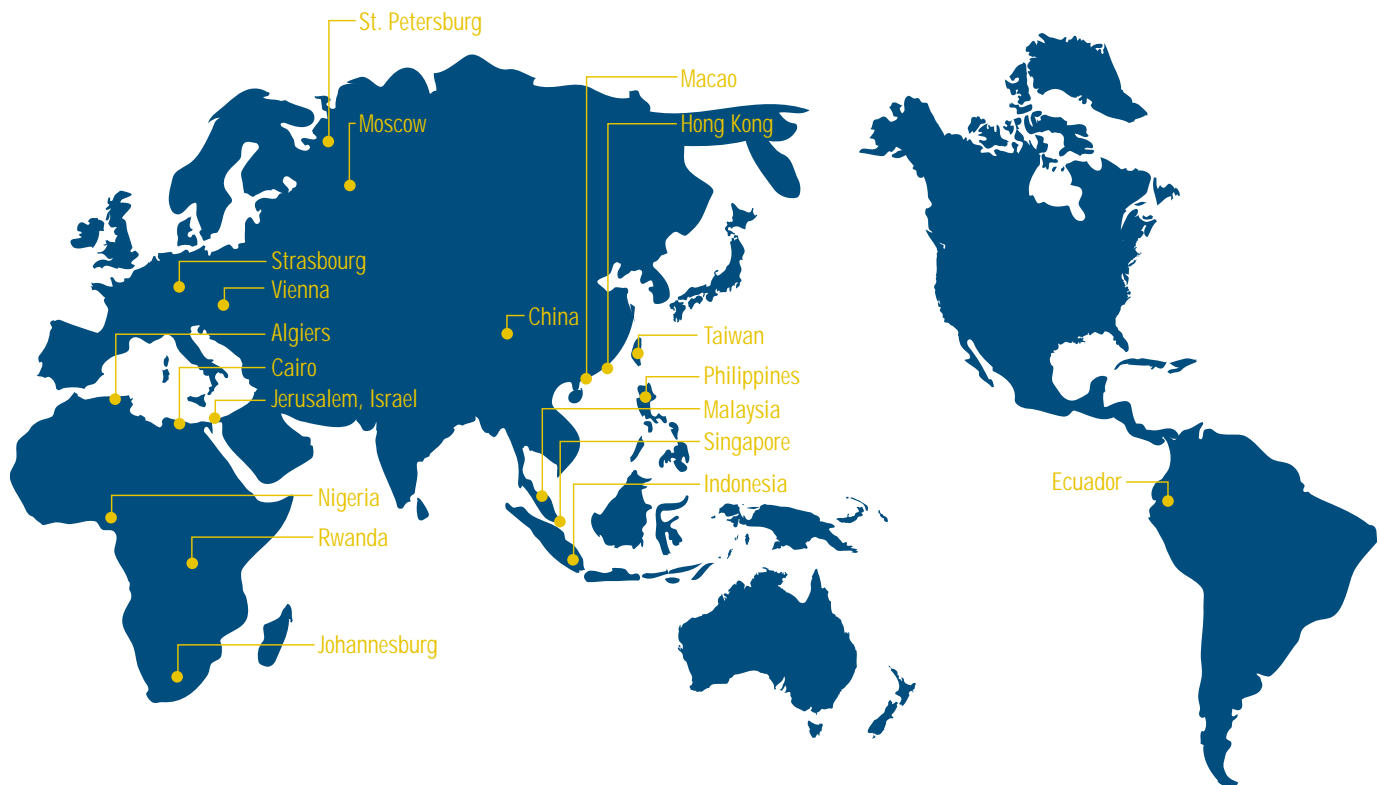
Judges from several High Courts of Pakistan visited the Ninth Circuit in October. Circuit Executive Gregory Walters, center, hosted the judges, who were participating in a study tour on judicial administration.

### **Circuit Hosts Judges from Around the Globe**

Jurists from many parts of the world have visited the Ninth Circuit to learn about the rule of law in U.S. courts. Federal courts in the Northern District of California and the Western District of Washington have hosted South Korean judges as part of a program sponsored by the South Korea Supreme Court. The young Korean judges spend a year in the United States as visiting scholars at local universities. Visits to the federal courts help them to learn about the U.S. justice system first hand.

Several Ninth Circuit courts also participated in the Open World Program in 2002. Authorized by Congress in 1999, the Open World Program brings emerging judicial leaders from Russia to the United States to forge better relations between the two nations.

Russian judges and their interpreters observed court hearings, toured federal and state courthouses and participated in discussions with judges and attorneys.



### ● Ninth Circuit Judges Participating in International Programs in 2002\*

#### Abuja, Nigeria

District Judge James Ware (N.D. Calif.)  
 District Judge Ronald Whyte (N.D. Calif.)  
 Conference on Intellectual Property Law  
 January 21-26, 2002

#### China

District Judge Ron Lew (C.D. Calif.)  
 Supreme Court Justice  
 Sandra Day O'Connor  
 Rule of Law Program  
 September 2002

#### China, Hong Kong, Macao & Taiwan

Senior Circuit Judge J. Clifford Wallace  
 U.S. Supreme Court Justice Antonin Scalia  
 Asia Foundation Program  
 September 1-17, 2002

#### Ecuador

Bankruptcy Judge Samuel Bufford  
 Consultation on Bankruptcy Law  
 May 6-9, 2002

#### Ecuador

District Judge Irma Gonzalez (S.D. Calif.)  
 Alternative Dispute Resolution Program  
 September 8-14, 2002

#### Indonesia

District Judge Helen Gillmore (Hawaii)  
 Ethics in Government Conference  
 May 31-June 7, 2002

#### Jerusalem, Israel

Senior Circuit Judge J. Clifford Wallace  
 Hon. Fern Smith, director, FJC  
 International Forum for Training  
 of the Judiciary  
 March 17-21, 2002

#### Johannesburg, South Africa

Senior Circuit Judge J. Clifford Wallace  
 Symposium on Environmental Law &  
 Sustainable Development  
 August 18-25, 2002

#### Moscow & St. Petersburg

District Judge Lloyd George (Nevada)  
 Meeting with Judicial Department &  
 Academy of Justice Representatives  
 April 5-19, 2002

#### Philippines

District Judge Ron Lew (C.D. Calif.)  
 Program on Criminal Court Management  
 August 9-10, 2002

#### Rwanda

District Judge James Ware (N.D. Calif.)  
 Conference on Judicial Reform  
 March 7-17, 2002

#### Strasbourg, France

District Judge Lloyd George (Nevada)  
 International Conference for  
 Representatives of Courts of Appeals  
 May 22-24, 2002

#### Vienna, Cairo, Israel, Singapore, Malaysia, & Algiers

Senior Circuit Judge J. Clifford Wallace  
 Rule of Law Program  
 March 7-April 19, 2002

\* The above list includes only travel coordinated by the U.S. Committee on International Judicial Relations. Individual judges and courts may have participated in other programs on their own.



## *Ninth Circuit Reaches Out to Many Nations* continued

In August, the District of Idaho, one of many courts to become involved in the program, hosted judges from Moscow and four other regions of Russia. The weeklong visit culminated in a public forum, where Russian and American judges participated in a discussion on their respective legal systems and answered questions from the audience. While visiting, the Russian judges also learned about civil and criminal case management, the role of juries, alternative dispute resolution, and the U.S. bankruptcy courts.



Senior Circuit Judge J. Clifford Wallace, left, welcomes judges from Bangladesh and gives a presentation on the Court of Appeals case management process.

Angeles, met with the United States Trustee for the Central District of California, and attended a program sponsored by the Commercial Law and Bankruptcy Section of the Los

**In 2002, judges from the Ninth Circuit welcomed foreign legal dignitaries to their courts and traveled abroad to educate their counterparts in other countries about the judicial system of the United States.**

Another country that took an interest in America's legal system in 2002 was Thailand. In February, four judges and three court officials from the Southeast Asian nation spent a week in the Los Angeles area, learning about the U.S. Bankruptcy Court for the Central District of California. The visitors received an orientation to bankruptcy law and court proceedings from Chief Bankruptcy Judge Barry Russell and Bankruptcy Judge Samuel Bufford. The judges from Thailand and their staff observed bankruptcy proceedings, heard a lecture by Law Professor Ken Klee of the University of California at Los

Angeles County Bar Association. Judge Russell, who is in charge of the district's bankruptcy mediation system (the largest in the country), also briefed the delegation from Thailand on mediation.

In September, the Court of Appeals welcomed a delegation of judges and legal staff from the Supreme Court of Bangladesh. The judges from Bangladesh met with Senior Circuit Judge Clifford Wallace, Chief Circuit Mediator David Lombardi and Clerk of Court Cathy Catterson to learn about case management and mediation.

### **Reaching Out to Other Countries**

In addition to hosting foreign visitors, the Ninth Circuit also sent its own judges abroad to explain the rule of law to jurists around the globe. Most of these trips were made at the request of and underwritten by the host country, public and private organizations that sponsor international exchange programs, or government agencies, such as the U.S. Agency for International Development.

The Judicial Conference of the United States has established a Committee on International Judicial Relations to coordinate the federal judiciary's international outreach. The Ninth Circuit has two representatives on the committee, Circuit Judge Clifford Wallace and District Judge Ronald Lew of the Central District of California. In September, Judge Wallace accompanied Associate Justice Antonin Scalia of the United States Supreme Court on a trip to Taiwan, China, Hong Kong and Macao. The Asia Foundation, a nonprofit cultural exchange organization based in San Francisco, sponsored their trip.

During the same month, Judge Lew accompanied Associate Supreme Court Justice Sandra Day O'Connor to China, where she had been asked to meet with judicial representatives. While there, they discussed rule of law issues with many of China's judicial leaders.

Judge Wallace, who has served on the International Judicial Relations Committee since 1996, believes there are many benefits to exchanging information about the rule of law with other countries.



District Judge Ronald Lew, right, with President Jiang Zemin of the People's Republic of China at the Yingtai in Zhongnanhai, the site of the Chinese central government.

“In my travels, I have learned that we have done a very good job in the United States,” said Judge Wallace. “But we also need to have humility and recognize that other countries have done a good job too and that there are many things we can learn from them.”

Judges who are interested in assisting with international programs can register in an online database maintained by the International Judicial Relations Committee. The database provides background information about judges, such as expertise in particular legal and administrative issues. The committee uses the information to select the most appropriate candidates for projects it helps to advance.

As jurists versed in intellectual property law, District Judges James Ware and Ronald Whyte of the Northern District of California were invited to speak at a conference in Nigeria in January. Their trip was sponsored by the U.S. Department of Commerce.

District Judge Helen Gillmore of the District of Hawaii was asked to speak at an *Ethics in Government* conference in Indonesia in May. Her trip was sponsored by the U.S. Department of Justice. And in September, District Judge Irma Gonzalez of the Southern District of California traveled to Ecuador to participate in an educational program on alternative dispute resolution. The U.S. Department of State sponsored her trip.

In the 21st century, the judiciary expects to see an ever increasing demand from developing countries for information on the American judicial system. Ninth Circuit judges will continue to use their vast expertise to help these countries toward the goal of establishment and expansion of the rule of law and the administration of justice throughout the world. 🗡️

## 2002 Marks Debut of ADR Award for Excellence

Alternative Dispute Resolution (ADR), now an integral part of federal court services in the Ninth Circuit, gained further recognition in 2002 with the creation of a new award for innovation and achievement in the ADR field.

The Robert F. Peckham Award for Excellence in Alternative Dispute Resolution was established by the Judicial Council of the Ninth Circuit, acting on a recommendation by the circuit's Standing Committee on ADR. Named for the late Judge Robert F. Peckham of the Northern District of California, the award recognizes "employees who have significantly advanced the delivery of effective court-based ADR programs within the circuit."

The federal Alternative Dispute Resolution Act of 1998 (28 U.S.C. § 651 et seq.) requires that all federal district courts establish ADR programs for civil actions, and offer at least one type of alternative dispute resolution, such as mediation, arbitration or early neutral evaluation. It also requires each court to designate one person to be responsible for administering the court's ADR program.

The Peckham award had its debut presentation in July at the Ninth Circuit Judicial Conference in San Diego. The inaugural winners were ADR Program Director Mimi Arfin and Program Counsel Howard Herman of the Northern District of California, which, thanks to Judge Peckham's advocacy, has one of the oldest and most successful ADR programs in the nation. The pair shared in a \$5,000 prize and each received a crystal memento and plaque.

Ms. Arfin joined the Northern District program in 1991 as deputy director and was promoted to director in 1997, when Mr. Herman was brought on board as program counsel. Ms. Arfin is credited with adding mediation to a growing range of ADR processes, which also include Early Neutral Evaluation, arbitration and settlement conferences. She also helped conceive and implement the court's Multi-Option Program, which offers litigants an array of choices rather than a set ADR process. Ms. Arfin and Mr. Herman now share responsibility for the Multi-Option Program, which serves 2,500 cases annually. User surveys have shown high levels of satisfaction among attorneys and parties that have used the program.


In addition to its work in establishing the Peckham award and selecting the first recipients, the Standing Committee on ADR pursued several other projects in 2002. Last April in Seattle, the committee co-sponsored with the American Bar Association Section a program on Dispute Resolution. This "mini-conference" on court-based ADR programs was attended by approximately 140 judges, lawyers, mediators and court employees from around the country. Senior Circuit Judge Dorothy Nelson, who chairs the committee, presided over the event. The keynote speaker was Magistrate Judge Wayne Brazil, who



Senior Circuit Judge Dorothy Nelson, right, presents the Robert F. Peckham award to Howard Herman, left, and Mimi Arfin.

also serves on the committee. Judge Brazil and another committee member, Phil Cutler, also were panelists at different breakout sessions that addressed such topics as ethics and program structure.

Also at the 2002 circuit conference, a resolution was passed recognizing the committee's efforts in the ADR area and requesting assistance in the form of educational materials about the value and implementation of ADR programs. The committee has begun compiling the requested information and hopes to deliver a compendium of ADR resources in booklet form in 2003. Plans also are being discussed to make these resources available online through the Office of the Circuit Executive.

Finally, in October, the committee heard extensive presentations on three flourishing state court ADR programs in Florida, Minnesota and California. The committee also developed offers of startup assistance to specific district courts in the Ninth Circuit. 

## Ninth Circuit Pretrial Services Carries Highest Caseload in Nation

Pretrial services officers working in the 15 judicial districts that comprise the Ninth Circuit carried the heaviest caseload nationally with 23,780 case activations in 2002, accounting for 26 percent of all activations nationwide. Case activations in the circuit were up 10.5 percent over 2001.

Not surprisingly, the border districts of Arizona (7,260) and Southern California (5,358) led the circuit in the greatest number of case activations, with the Central District of California (2,883), and the Western District of Washington (1,692) following. All pretrial services offices in the circuit realized an increase in workload except for the District of Alaska, the District of Guam, and the Southern District of California, which

Table 2.2

### Pretrial Services Cases Activated in Ninth Circuit Courts, 2001-2002

Caseload Measure	Calendar Year		Change 2001-2002
	2001	2002	
Reports	21,135	23,358	10.5%
Interviews	7,671	8,381	9.3%
Cases Activated	21,514	23,780	10.5%

despite its large number of case activations, showed a decline from the prior year.

Pretrial services officers play a significant role in court operations. Officers carry out in-depth bail investigation reports and are responsible for supervising defendants who are released prior to court appearances. Their goal is to reduce the number of unnecessary

detentions, while at the same time reasonably ensuring the safety of the community and future court appearances of defendants. Unnecessary detentions are expensive and unfair to those defendants who do not pose a risk to the community and who are unlikely to fail to appear. In the Ninth Circuit, Pretrial Services officers have achieved these goals, while maintaining low levels of non-appearance and re-arrests.

Table 2.3

### Pretrial Services Interviews and Types of Bail, 2002

District	Defendant Contact			Written Reports		Total Cases Activated		Change 2001-2002
	Interviewed	Not Interviewed	Refused Interview	Prebail	Postbail & Other	2001	2002	
Alaska	139	58	27	214	0	268	224	-16.4%
Arizona	1,687	5,522	51	6,977	185	5,844	7,260	24.2%
C. Calif.	2,435	189	259	2,795	25	2,625	2,883	9.8%
E. Calif.	327	107	701	1,115	18	912	1,135	24.5%
N. Calif.	441	790	2	737	419	1,118	1,233	10.3%
S. Calif.	557	34	4,767	4,243	1,112	5,913	5,358	-9.4%
Hawaii	370	138	5	508	1	385	513	33.2%
Idaho	367	6	1	367	3	297	374	25.9%
Montana	289	150	8	418	16	416	447	7.5%
Nevada	596	65	391	1,028	23	845	1,052	24.5%
Oregon	388	48	499	897	6	873	935	7.1%
E. Wash.	240	205	95	249	225	392	540	37.8%
W. Wash.	452	1,073	167	1,680	3	1,416	1,692	19.5%
Guam	58	27	4	63	1	172	89	-48.3%
N. Mariana Is.	35	10	0	29	1	38	45	18.4%
<b>Circuit Total</b>	<b>8,381</b>	<b>8,422</b>	<b>6,977</b>	<b>21,320</b>	<b>2,038</b>	<b>21,514</b>	<b>23,780</b>	<b>10.5%</b>
National Total	64,539	15,482	11,392	80,046	7,844	86,477	91,413	5.7%
Circuit % of National	13.0%	54.4%	61.2%	26.6%	26.0%	24.9%	26.0%	*



## *Ninth Circuit Pretrial Services Carries Highest Caseload in Nation* *continued*

Their success is due in part to utilizing a variety of resources, including substance abuse and mental health counseling, residential treatment programs, and electronic and global satellite monitoring services, whereby a defendant's movements may be tracked.

### **Pretrial Bail Investigations and Supervised Defendants**

In 2002, pretrial services in the Ninth Circuit completed 21,320 reports before there was a bail hearing, and 2,038 post-bail and other reports, a significant increase over the total of 19,557 prebail reports and 1,578 postbail and other reports submitted in 2001. Detention was recommended in 61.5 percent of all cases, down from 64.2 percent in 2001.

During 2002, a total of 6,345 defendants were released from custody in the Ninth Circuit to pretrial services supervision, a 5.3 percent increase from those released in 2001. (See Table 2.4 for details by district and type of supervision.)

### **Nonappearance and Re-arrest Rates**

A national initiative to help reduce the use of detention prior to trial began in 2000 by the Office of Probation and pretrial services, a division of the Administrative Office of the U.S. Courts. Many districts have achieved lower detention rates as a result of this project. At the same time, pretrial service offices are looking at ways to reduce the rates of defendants failing to appear in court or who are re-arrested after being released. In the Ninth Circuit, only 2.6 percent of defendants released on bail were re-arrested, and 1.9 percent failed to appear in court. The national rate was 3.4 percent for re-arrests and 1.9 percent for failures to appear.

### **Supervision and Treatment of Pretrial Defendants**

During calendar year 2002, 6,102 Ninth Circuit defendants were released under the supervision of pretrial services provided they comply with certain conditions. Of these, 2,008, or 32.9 percent were required to submit to substance abuse testing, and 1,292, or 18.5 percent, had conditions for testing and substance abuse treatment. For fiscal year 2002, \$2.3 million was spent on substance abuse treatment, an increase over the \$1.5 million spent during the prior fiscal year. The amount spent per defendant, \$1,441, was almost identical to that spent per defendant during the prior fiscal year.

Under the electronic monitoring program, defendants wear a bracelet. If a violation is detected by the monitoring center, pretrial services' supervision officers are notified and initiate action. For the year, 572 defendants, 9.4 percent of the total, were monitored electronically, an increase of almost 20 percent over the prior year. A number of defendants released subject to electronic monitoring also are placed under house arrest. Defendants in this category are restricted to their residences during specified hours. There were 396 defendants in the Ninth Circuit placed under house arrest. Defendants subject to electronic monitoring and house arrest are considered to be at more risk of nonappearance and potential danger to the community.

Mental health treatment was required as a condition of release for 404 defendants, a slight increase over the prior year. For mental health treatment in the Ninth Circuit, excluding substance abuse testing costs, expenditures were \$182,609 for fiscal year 2002. The

average cost per defendant was \$730, about 8.4 percent less than the national average of \$797 per defendant.

### **Violations**

Violations of bond conditions do not necessarily result in revocation of bond and detention of defendants. Instead, the court and pretrial services offices attempt to maintain defendants in the community whenever possible while responding to risks presented by defendant behavior. In response to bond violations, the court will often order further restrictions to assist in reducing risk of nonappearance and danger to the community. For example, if a defendant is released to the community then later found to have used illegal drugs, the defendant's release may be modified to require residential treatment or electronic monitoring.

In 2002, there were a total of 2,421 violations of bond conditions reported for the Ninth Circuit, an increase of 12.3 percent from 2001. Of these, 1,447 occurred before adjudication, 853 pre-sentence, and 121 postadjudication, while pending self-surrender to custody.

Those defendants found to be in violation totaled 1,288, a 14.8 percent increase over 2001. Of these, 198 had committed new offenses (7.6 percent increase), while the remainder were involved in technical violations (16.2 percent increase).

The court chose not to modify bond conditions and defendants were allowed to remain in the community in 1,157 of these violations, while 235 violations resulted in modification of bond conditions. Bail was revoked and defendants were detained as a result of 1,029 or 42.5 percent of all violations.


Table 2.4

## Pretrial Services Persons Released from Supervision as of December 31, 2002

District	Total Released to Supervision	Regular Supervision	*Courtesy Supervision	Pretrial Diversion	Change 2001-2002
Alaska	101	95	2	4	-27.30%
Arizona	1,070	869	183	18	4.90%
C. Calif.	1,672	1,106	551	15	-0.95%
E. Calif.	272	169	101	2	-0.73%
N. Calif.	494	375	99	20	12.30%
S. Calif.	611	510	93	8	-14.20%
Hawaii	257	221	9	27	43.60%
Idaho	128	99	17	12	25.50%
Montana	203	184	15	4	14.80%
Nevada	361	252	94	15	17.20%
Oregon	351	287	41	23	21.50%
E. Wash.	209	162	35	12	68.50%
W. Wash.	525	376	69	80	25.30%
Guam	62	60	0	2	-15.10%
N. Mariana Is.	29	28	0	1	11.50%
<b>Circuit Total</b>	<b>6,345</b>	<b>4,793</b>	<b>1,309</b>	<b>243</b>	<b>5.30%</b>

\* Courtesy supervision is supervision of a defendant who has been charged criminally in another district. Regular supervision would involve a defendant who both resides and is charged in the same district.

### Pretrial Hearings

The pretrial services workload of judges in the circuit grew by 12.9 percent in 2002. Judges held 54,293 pretrial hearings in 2002. Detention hearings rose by 17.2 percent, bail review hearings increased by 1.3 percent, and violation hearings increased by 14 percent. Review at conviction hearings rose 16.8 percent, and review at sentencing hearings grew 12 percent. Declining were review on appeal hearings, down by 16.7 percent, and judicial order hearings, down by 10.7 percent. 

## Courts Rely on Probation Officers in Sentencing, Monitoring Offenders

Federal probation officers play a crucial role in the administration of justice, providing judges with the information they need to make informed sentencing decisions.

Officers enforce the courts' orders by supervising offenders and monitoring their activities in the community, and by ensuring that offenders are held accountable for their actions and responsible for their obligations. Officers work with offenders to change behavior that contributed to their criminality and intervene to correct behavior if necessary. Supervision often entails arranging for court-ordered



Left to right: Chief Pretrial Services Officer Tim McTighe (WAW), Chief Probation Officer David Sanders (Nevada), and Chief Probation Officer Craig Fenwick (Idaho).

Table 2.5

### Ninth Circuit Federal Probation System: Persons Under Supervision, 2002

Persons Under Supervision	Calendar Year		Change 2001-2002
	2001	2002	
From Courts	5,761	5,658	-1.8%
From Institutions	13,250	14,282	7.8%
<b>Total</b>	<b>19,011</b>	<b>19,940</b>	<b>4.9%</b>

services such as substance abuse testing and treatment, mental health treatment, and employment assistance to help offenders to function as responsible members of society. Officers also help ensure public safety by monitoring the activity of offenders in the community and managing any risk they may pose to individuals or the public in general.

In 2002, Ninth Circuit probation officers continued to see their case-loads rise. The number of persons under supervision in the circuit reached 19,940, up 4.9 percent from the prior year and 22.8 percent from 1997. The national total for persons

under supervision as of December 31, 2002, was 110,076, a 4.1 percent increase over 2001. The number of persons under supervision in the Ninth Circuit constituted 18.1 percent of the national total.

The Central District of California continued to report the highest number of persons under supervision in the Ninth Circuit with 5,651, an 8 percent increase over the prior year. The District of Arizona was second in persons under supervision with 3,086, an increase of 16.6 percent over the 2001 total, and the largest percentage increase in the Ninth Circuit.

### Categories of Offenses

As has been the case throughout the 1990s and continuing in this century, drug law violations accounted for the majority of the cases under supervision by Ninth Circuit probation officers. In 2002, 39.2 percent, or 7,826 cases, involved persons under supervision for violation of drug laws. The next largest category of offenses was fraud with 3,783 persons under supervision, followed by robbery with 1,184 persons under supervision.

The Central District of California, which has the largest and busiest district court in the nation, had 2,247 offenders under supervision for drug offenses, 1,443 offenders for fraud offenses, and 430 offenders for robbery, which also was the largest total in the nation.

Noteworthy numbers of drug offenders under supervision also were reported in the District of Arizona, which had 1,184 persons, and the Southern District of California, with 1,124 persons.

Table 2.6

## Ninth Circuit Probation System: Persons Under Supervision by District as of December 31, 2002

District	Referred by United States Courts		Referred by Institutions		Total Cases		Change 2001-2002
	District Judge Probation	Magistrate Judge Probation	Supervised Release	Other	2001	2002	
Alaska	74	30	165	4	259	273	5.4%
Arizona	903	229	1,890	64	2,647	3,086	16.6%
C. Calif.	1,212	123	4,148	168	5,233	5,651	8.0%
E. Calif.	267	236	1,046	61	1,546	1,610	4.1%
N. Calif.	399	245	993	78	1,724	1,715	-0.5%
S. Calif.	244	37	1,665	39	1,975	1,985	0.5%
Hawaii	137	48	440	9	575	634	10.3%
Idaho	102	27	209	6	321	344	7.2%
Montana	196	29	354	9	565	588	4.1%
Nevada	252	41	693	31	1,059	1,017	-4.0%
Oregon	257	39	692	52	1,044	1,040	-0.4%
E. Wash.	79	9	315	4	407	407	0.0%
W. Wash.	192	192	963	48	1,419	1,395	-1.7%
Guam	45	0	100	1	174	146	-16.1%
N. Mariana Is.	14	0	35	0	63	49	-22.2%
<b>Circuit Total</b>	<b>4,373</b>	<b>1,285</b>	<b>13,708</b>	<b>574</b>	<b>19,011</b>	<b>19,940</b>	<b>4.9%</b>

In the fraud category, the Western District of Washington reported 351 persons under supervision, followed by the Northern District of California with 346. For robbery, the Northern District of California had 125 persons under supervision, followed by the District of Oregon, which had 121.

### Violation Rates

Violation rates nationwide rose to 29.5 percent of the total persons “removed from supervision,” up 4.5 percent from the prior year. Most of these, 19.9 percent, were for technical violations, 1.4 percent for minor crimes, and 9 percent for major crimes. These cases include those persons who were continued or reinstated on supervision, as opposed to being “revoked” and sent back to prison. The Ninth Circuit was lower than the national average, with 23

percent of the persons removed from supervision being removed for violations, down 2 percent from the prior year. Ninth Circuit districts with the lowest violation rates were Guam (9 percent), the Northern Mariana Islands (11 percent), Idaho (13 percent), and Alaska (16 percent).

The actual revocation rate calculated in terms of cases closed (revoked due to violations with the offender being sent back to prison) was 22.4 percent nationwide, with the Ninth Circuit at 27.9 percent, an increase of 2.7 percent over the prior year. Other circuits’ rates ranged from 12 percent in the Third Circuit to 24.6 percent in the Fifth Circuit. It appears the higher Ninth Circuit rate was the result of the huge numbers of immigration and alien cases in the border districts.

### Field and Court Services

There is currently a staff of 8,137 in the Probation and Pretrial system nationwide. A major part of the work of probation officers involves preparing presentence reports. As part of this process, the probation officer conducts an investigation, gathering and verifying information about the offender and the nature of the offense. The presentence report aids the court in determining what sentence to impose. In 2002, 13,016 presentence reports were prepared in the Ninth Circuit, an increase over the 2001 total of 12,266. The districts showing the largest increases in the number of presentence reports prepared were Arizona, Idaho, and Nevada.

Within the Ninth Circuit, the numbers of drug and mental health cases continue to grow. Psychotropic medication



## Courts Rely on Probation Officers in Sentencing, Monitoring Offenders *continued*

and residential services are expensive but necessary components. The trend of increasing numbers of sex offenders, including Internet child pornography and predators, has continued. Probation officers are receiving more training in identifying and supervising these types of cases, and specialized treatment services are being utilized.

After consultation with the Administrative Office of the U.S. Courts Chief Probation and Pretrial Services Advisory Group, the Criminal Law Committee of the Judicial Conference of the United States has approved revised criteria to assist in identifying offenders who may qualify for early termination from supervision. The criteria allow the probation officer to consider requesting early termination if the conditions of supervision have been met, the offender

has successfully reintegrated into the community, and there is no foreseeable risk to public safety in general or to any individual third-party. The decision on whether to terminate early continues to rest with the judge.

### Remote Technologies

Various “remote” technologies, so named because they allow the probation officer to expand supervision and surveillance beyond the immediate presence of the offender, are in use or being considered for use. Electronic monitoring continues to be a mainstay of the monitoring program. The drive-by monitor is a hand-held device used to remotely detect the presence of a transmitter worn by a client. An officer can drive by wherever an offender is supposed to be (place of employment, for example) or not

supposed to be (bar, drug house) and see if the person is inside.

It is possible for officers to detect alcohol use remotely. An offender blows into a mask from which a fuel cell device detects alcohol in the breath. The results are transmitted by telephone to a vendor’s base and passed along to the probation officer. The system uses a voice verification system coupled with sensors in the mask that detect whether the mask has been moved after the verification of identity.

Global positioning satellite tracking is currently the only device with the potential to provide real-time continuous offender tracking. In the future, this may prove to be an effective tool for more serious offenders and violators.

**Table 2.7**

### Ninth Circuit Probation System Presentence Reports

	2001	2002	Presentence Reports Changes 2001-2002
Alaska	198	162	-36
Arizona	3,231	4,088	857
N. Calif.	853	685	-168
E. Calif.	1,052	1,001	-51
C. Calif.	1,670	1,649	21
S. Calif.	2,538	2,140	-398
Hawaii	326	377	51
Idaho	132	242	110
Montana	344	386	42
Nevada	511	690	179
Oregon	465	472	7
E. Wash.	302	378	76
W. Wash.	543	607	64
Guam	101	139	38
<b>Total</b>	<b>12,266</b>	<b>13,016</b>	<b>750</b>

A major part of the work of probation officers involves preparing presentence reports. Prior to preparing the report, the officer conducts a presentence investigation, gathering and verifying information about the offender and the offense. The presentence report provides information that enables the court to impose a fair sentence that satisfies the punishment, deterrence, and corrective goals of sentencing.



District of Arizona Probation Officers Jennifer Sunshine, left, and Adria Santa Anna, right, received the Director's Award for Outstanding Leadership. Middle: Arizona Chief Probation Officer Magdeline Jensen.

### Safety and Defense Programs

The Office of Probation and Parole Services (OPPS) of the Administrative Office of the U.S. Courts, in conjunction with the Officer Safety Working Group (a part of OPPS), has been developing a comprehensive officer safety program. Districts will designate Officer Safety Instructors who will provide instruction on the appropriate level of force or restraint. The "Use of Force Continuum," approved in 2002 by the Judicial Conference of the United States, is a set of defensive options consisting of five progressive levels governing an officer's response to threatening situations. It is based on a reasonable assessment of the level of risk they confront and is also based on the


premises that (1) officers should avoid or remove themselves from threatening situations whenever possible, and (2) officers should use the least amount of force necessary to protect themselves or allow for a safe retreat.

Districts in the Ninth Circuit have joined other federal and local law enforcement agencies in developing a Joint Terrorism Task Force. The agencies include the Federal Bureau of Investigation, and the offices of U.S. attorneys, county sheriffs, district attorneys, police and highway patrol. The goal is to establish and maintain a consistent group of law enforcement individuals who will meet regularly in the districts to discuss matters and concerns regarding domestic terrorism.

### Awards

At the Ninth Circuit Judicial Conference in July 2002, Probation Officers Adria Santa Anna and Jennifer Sunshine, both from the District of Arizona, received the Director's Award for Outstanding Leadership from the Administrative Office of the U.S. Courts. Ms. Santa Anna and Ms. Sunshine, who are assigned to an area of southern Arizona that encompasses the Tohono O'odham and Pascua Yaqui Nations, were recognized for helping to organize the Tribal/Federal Effective Sex Offender Task Force. Also known as ESOM, the task force was formed to protect Indian children from sexual abuse by notifying Indian communities of the release of convicted sex offenders.

### Legislation

H.R. 2215, the 21st Century Department of Justice Reauthorization Act, was enacted in 2002 and mandates the revocation of probation and supervised release after more than three positive drug tests in one year. Other provisions include the extension of the life of the Parole Commission for another three years and the creation of federal and state reentry demonstration projects. 

## Border Courts Lead Way in New Defender Cases

Federal public defenders and community defenders in the Ninth Circuit saw their aggregate caseload increase by 3.2 percent in fiscal year 2002 with district courts in the border states of California and Arizona leading the way in new cases.

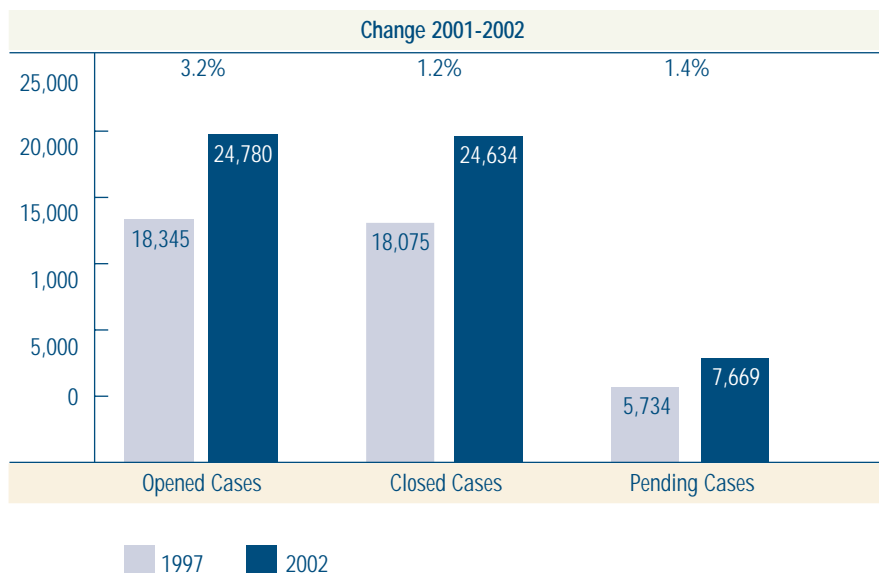
Public defenders in Arizona carried the largest caseload, with 5,878 new cases, while the Southern District of California followed closely behind with 5,756 new cases.

The circuit total of 24,780 new cases was a 35 percent increase over FY 1997, when public defenders opened 18,345 new cases. The Ninth Circuit accounted for 31.2 percent of all new defender cases in the nation in 2002.

Federal public defenders serve a vital role in preserving the rule of law in the American justice system. Congress created the Office of the Federal Public Defender to fulfill the constitutional requirement that indigents charged with federal crimes be provided with professional legal representation at no cost. Congress funds public defender and community defender offices through the Defender Services Division of the Administrative Office of the United States Courts.

Subsection (g) of the Criminal Justice Act provides an option for establishment of either a federal public defender organization or a community defender organization in a district in which at least 200 persons annually require the appointment of counsel. Community defender organizations are non-profit legal service organizations staffed by

### Federal Public Defenders Cases Opened, Closed, and Pending, Fiscal Year Ending 9/30/02



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 the Ninth Circuit, there are 10 federal public defender offices and three community defender organizations, one of which serves two districts. The Ninth Circuit has more defender organizations than any other circuit.

### Pending and Closed Cases

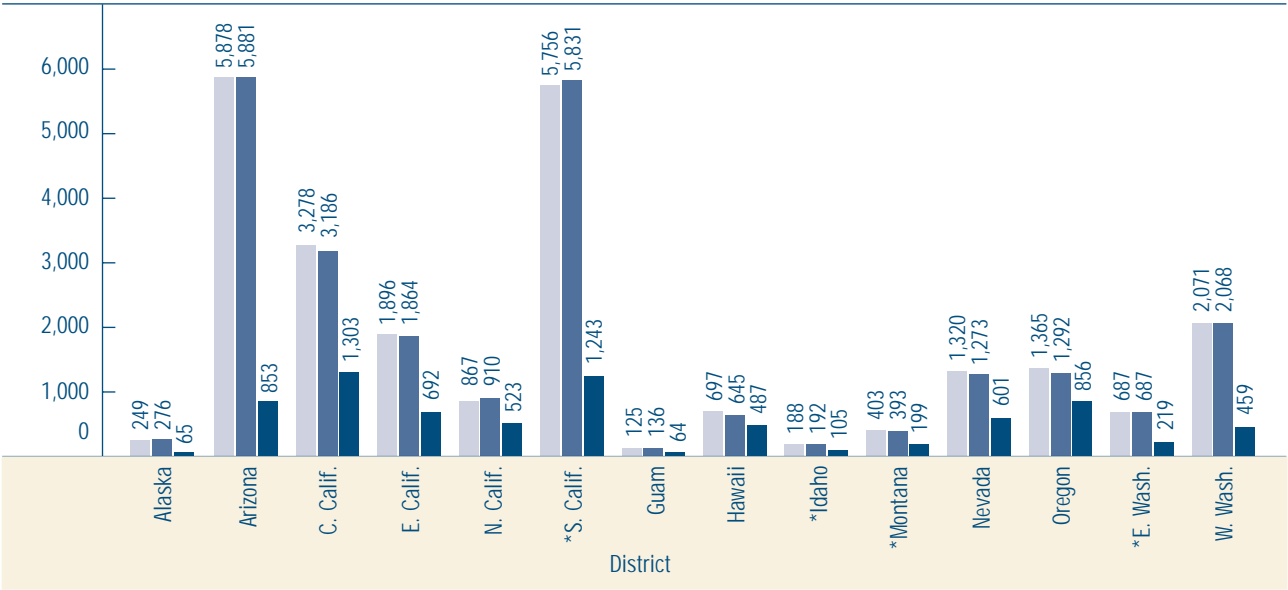
The pending caseload of Ninth Circuit public and community defenders rose 1.4 percent in FY 2002 to 7,669 cases. At the same time, federal defenders managed to close more cases than the year before – increasing the number of closed cases by 1.2 percent to 24,634.

### Arizona, California Lead in Caseloads

In the Ninth Circuit, the District of Arizona reported 5,878 new cases represented by public defenders in FY 2002. This was a 6.6 percent increase over FY 2001 and the largest increase in the circuit. The majority of criminal cases in Arizona were immigration related, comprising 58 percent of the total. Drug-related cases made up the second largest category, with 21 percent.

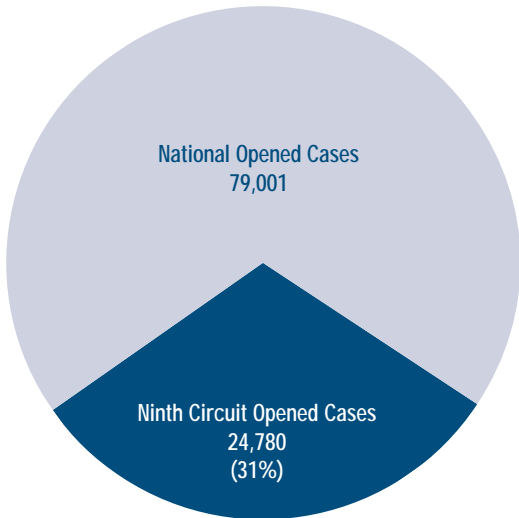
The Southern District of California ranked second in the circuit for new cases opened by public defenders. The community defender organization that provides service to the San Diego-based district court reported 5,756 new cases, down slightly from the year before. Immigration cases made up nearly half (47 percent) of criminal filings in the Southern

**Federal Defender Organizations: Summary of Representations, by District, During the 12-Month Period Ending September 30, 2002**



Legend:  Opened  Closed  Pending

\* Community Defender Organizations (East Washington and Idaho are combined into one organization.) Northern Mariana Islands is not served by a defender organization.  
 (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.)

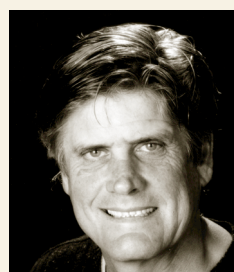




## The Committee on Federal Public Defenders



Frances Forsman



Thomas Hillier

By statute, the judges of the Court of Appeals select and appoint federal public defenders. The Ninth Circuit Committee on Federal Public Defenders is comprised of a circuit judge from each administrative division of the circuit. Each member serves a three-year term. In 2002, members of the committee

were Circuit Judges Barry Silverman, chairperson, Stephen Reinhardt and Thomas Nelson, and District Judge Judith Keep, who sat as a non-voting member.

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.

The committee reappointed two public defenders in 2002: Ms. Frances Forsman for the District of Nevada, and Mr. Thomas Hillier for the Western District of Washington. Each was confirmed to an additional four-year term.

## Border Courts Lead...continued

District of California, with drug-related cases (37 percent) trailing closely behind.

The Central District of California ranked third in the circuit with 3,278 new defender cases. The district, which includes Los Angeles, Orange, Riverside, San Bernardino and San Luis Obispo counties, serves some 18 million people. Criminal cases in the district were split more evenly among a wide range of categories. Fraud made up the largest group, with 28 percent of new filings; followed closely by immigration, with 25 percent. Fraud cases were primarily related to immigration law violations in connection with false citizenship or identification documents. The number of fraud cases tends to reflect the priorities of federal law enforcement agencies rather than an indication of the prevalence of specific types of fraud. The growth in fraud and immigration filings occurred during a time of dramatic increases in the number of border patrol agents and in filings of immigration law violations in the district courts. 🔨



## *STATISTICAL OVERVIEW*



## Appellate Filings Reach Historic High

Filings in the Ninth Circuit Court of Appeals reached a historic high of 12,388 in 2002. The Ninth Circuit Court of Appeals recorded a 23.2 percent increase in filings, the largest percentage increase of the 12 regional courts of appeals. Since 1998, filings in the Ninth Circuit Court of Appeals have grown by 36.4 percent. This increase in filings significantly exceeded the national average of a 4.5 percent increase for all courts of appeals. Filings in the Ninth Circuit Court of Appeals constituted 20.9 percent of the national total. By way of comparison with other circuits, the Fifth Circuit Court of Appeals had the second highest number of filings with 8,821, a small increase of 1.9 percent over the prior year.

The second highest percentage increase in filings was 20.1 percent in the Second Circuit Court of Appeals, which had a total of 5,356 filings.

### Types of Appeals

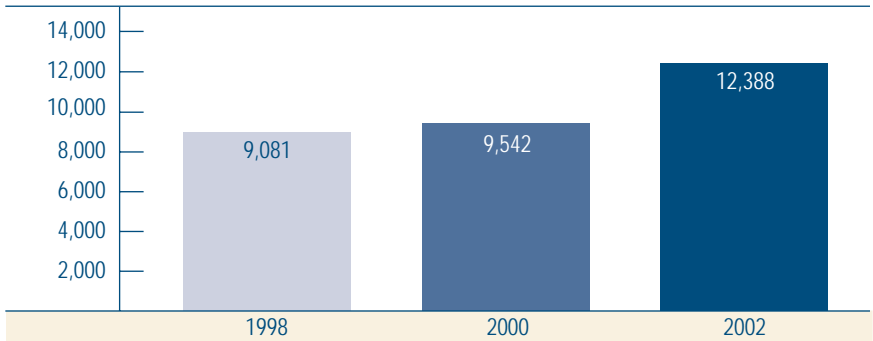
The surge in filings is the result of a huge increase in filings of Immigration and Naturalization Service (INS) cases. The Board of Immigration Appeals of the INS was directed to clear a large backlog of cases, and the agency's use of expedited reviews generated a wave of new appeals. From 913 cases in 2001, INS filings in the Court of Appeals jumped to 3,672 in 2002, an increase of 302 percent. Including INS cases, the total of all administrative appeals in the Court of Appeals was 3,899, an increase of 256 percent from the prior year. Administrative appeals comprised 31.5 percent of total filings in the Court of Appeals in 2002; in 2001 this category represented only 10.9 percent of all filings. The next

Table 3.1

Appellate Caseload Profile, 2001-2002

Caseload Measure	Calendar Year		Change 2001-2002
	2001	2002	
Filings	10,054	12,388	23.2%
Terminations	10,227	10,346	1.2%
Pending Cases	9,491	11,140	17.4%

Court of Appeals Filings



largest category of appeals was private prisoner petitions (up 14.4 percent), amounting to 18.7 percent of appeals. Other than administrative appeals and private prisoner petitions, all other types of filings in the Court of Appeals declined in 2002.

Private civil appeals (down 8.1 percent), was the third largest category of appeals, amounting to 17.5 of the total, while criminal appeals (down 8 percent) comprised 14.5 percent of the total. Of the criminal appeals, the largest category of offenses involved drug laws (33.5 percent), followed by immigration laws (23.9 percent).

Original proceedings, which amounted to 5.2 percent of filings in the Court of Appeals, dropped by 26.9 percent, reversing an upward trend over the prior five-year period. The increase in original proceedings began in 1997

following the enactment of the Anti-terrorism and Effective Death Penalty Act of 1996, which required habeas corpus petitioners to first seek permission in the Court of Appeals before filing a second or successive petition in the district court.

There were 5,070 pro se cases filed in the Ninth Circuit Court of Appeals in 2002, amounting to 41 percent of all filings. The largest categories of pro se cases were private prisoner petitions (1,900) and administrative appeals (1,200), the latter again reflecting the large increase in INS case.

### U.S. District Courts as Sources of Appeals

The Central District of California continued to generate the largest number of appeals of any district in the nation with 2,272 cases, or 18.3 percent of the total filings in the Ninth Circuit

Table 3.2

Source of Appeals and Original Proceedings, 2002

District	Appeals	% of Total
Alaska	103	0.8%
Arizona	818	6.6%
Central California	2,272	18.3%
Eastern California	891	7.2%
Northern California	765	6.2%
Southern California	581	4.7%
Hawaii	186	1.5%
Idaho	135	1.1%
Montana	241	1.9%
Nevada	490	4.0%
Oregon	495	4.0%
Eastern Washington	175	1.4%
Western Washington	455	3.7%
Guam	28	0.2%
Northern Mariana Islands	15	0.1%
Bankruptcy	197	1.6%
United States Tax Court	66	0.5%
National Labor Relations Board	14	0.1%
Administrative Agencies	3,819	30.8%
Original Proceedings	642	5.2%
<b>Circuit Total</b>	<b>12,388</b>	

Court of Appeals. The Eastern District of California generated the second largest number of appeals in the circuit, accounting for 7.2 percent of all appeals. Both of these districts showed declines in the number of cases appealed in 2002 as compared to 2001; appeals from the Central District of California fell by 3 percent, and from the Eastern District of California, by 10.5 percent. However, over the last five years, the number of appeals from the Central District of California increased by 9.5 percent, while appeals from the Eastern District of California increased by 23.2 percent.

Eight of the 15 districts in the circuit experienced a decline in 2002 in the number of appeals from their courts. For example in the Eastern District of Washington, appeals dropped by 16.7

percent. Similarly, the number of appeals dropped by 16.1 in the Western District of Washington and 10.6 percent in the Northern District of California.

Districts with increases in the number of appeals from their courts included the District of Guam (up 115 percent), the District of Montana (up 37 percent), and the District of Arizona (up 4.3 percent).

**Terminations and Pending Cases**

Case terminations in the Ninth Circuit (including cases consolidated) rose 1.2 percent to 10,346. Terminations on procedural grounds or on the merits increased 1.6 percent, to 9,870 cases, accounting for 18.4 percent of the national total. Pending cases rose 17.4 percent to 11,140.

**Median Time Intervals**

The Ninth Circuit remained higher than the national median for the time from filing in lower court to a final disposition of a case in appellate court, reporting a 30.7-month median, compared to the national median of 26 months. The Ninth Circuit fared well when compared to the national median time interval from hearing appellate cases to their final disposition—a 1.5-month median time compared with the higher national median of 2.1 months. This is the period when the cases are under direct management of the judges.





*Appellate Filings Reach Historic High* continued

**Table 3.3**

**Median Time Intervals 2001-2002**

By Stage of Appeal	Number of Months				
	Ninth Circuit		National		
	2001	2002	2001	2002	
From Notice of Appeal to Filing Last Brief	5.8	5.9	5.3	5.3	
From Filing Last Brief to Hearing or Submission	6.4	5.9	3.8	3.6	
From Hearing to Final Disposition	1.5	1.5	2.2	2.1	
From Submission to Final Disposition	0.3	0.3	0.5	0.5	
From Filing of Notice of Appeal to Final Disposition	16.1	14.7	10.9	10.6	
From Filing in Lower Court to Final Disposition in Appellate Court	31	30.7	25.8	26	

**Table 3.4**

**Median Time Intervals in Months for Cases Terminated After Hearing or Submission, By Circuit, 2002**

Circuit	From Filing of Notice of Appeal to Filing Last Brief		From Filing of Last Brief to Hearing or Submission		From Hearing to Final Disposition		From Submission to Final Disposition		From Filing of Appeal to Final Disposition		Lower Court to Final Disposition in Appellate Court	
	Cases	Months	Cases	Months	Cases	Months	Cases	Months	Cases	Months	Cases	Months
D.C.	181	9.0	305	2.8	250	1.9	259	0.6	332	9.8	332	26.1
1st	465	5.5	479	2.0	348	2.6	196	2.0	506	10.6	506	29.5
2nd	1,275	5.4	1,298	3.6	1,099	0.7	834	0.2	1,611	11.0	1,611	31.9
3rd	1,323	5.6	1,379	3.0	478	2.6	1,471	2.0	1,654	11.9	1,654	28.7
4th	1,099	4.6	1,151	2.5	472	2.3	2,128	0.5	2,228	6.9	2,228	19.6
5th	2,465	5.6	2,541	3.3	1,020	1.7	2,999	0.4	3,463	9.7	3,463	21.1
6th	1,650	6.0	1,711	7.9	922	2.4	1,406	1.3	1,967	16.5	1,967	31.3
7th	952	4.9	997	2.4	731	2.5	709	0.3	1,225	9.7	1,225	24.9
8th	1,010	3.6	1,052	3.3	625	2.7	1,188	0.3	1,474	7.8	1,474	21.8
9th	3,391	5.9	3,836	5.9	2,046	1.5	3,273	0.3	4,124	14.7	4,124	30.7
10th	1,068	5.1	1,112	3.7	422	3.5	984	1.3	1,227	11.5	1,227	25.9
11th	2,635	4.3	2,692	2.3	743	2.0	2,753	1.1	3,104	8.5	3,104	23.7
Total Cases	17,514	5.3	18,553	3.6	9,156	2.1	18,200	0.5	22,915	10.6	22,915	26.0

**Table 3.5**

**Filings, Terminations, and Pending Cases by Appeal Type, 2002**

Type of Appeal	Filings	% of Circuit Total	*Terminations	Pending as of 12/31/02
Civil				
U.S. Prisoner Petitions	714	5.8%	697	576
Private Prisoner Petitions	2,320	18.7%	1,875	1,955
Other U.S. Civil	650	5.2%	674	641
Other Private Civil	2,165	17.5%	2,279	2,274
Criminal	1,801	14.5%	1,950	1,939
Other Bankruptcy	197	1.6%	241	199
Administrative Appeals	3,899	31.5%	1,507	3,403
Original Proceedings	642	5.2%	647	153
<b>Circuit Total</b>	<b>12,388</b>		<b>9,870</b>	<b>11,140</b>
<b>National Appellate Total</b>	<b>59,238</b>		<b>53,773</b>	<b>42,604</b>
<b>Ninth Circuit as % of National Total</b>	<b>20.9%</b>		<b>18.4%</b>	<b>26.1%</b>

\*Excludes terminations of cases disposed of by consolidation.

## District Court Filings On the Upswing

Continuing population growth and increasing law enforcement activity in two states bordering Mexico have made the federal courts of the Ninth Circuit the busiest in the nation. In 2002, district courts in the circuit accounted for 18 percent of the total federal court caseload. Their criminal and civil case filings totaled 57,241, up 2.1 percent from the prior year. The modest upturn followed a 6 percent drop in filings in 2001.

### Criminal Filings

Criminal filings in district courts of the circuit climbed 9 percent to 15,704 in 2002, slightly higher than the national increase of 8 percent. The greatest number of criminal cases in the district courts involved immigration, 35 percent, and drug-related offenses, 23 percent.

In the Ninth Circuit, the overall growth in criminal filings was mainly attributable to increases in cases relating to firearms (up 47 percent), fraud (up 17 percent), immigration (up 15 percent), and drugs (up 5 percent). The growth in firearms cases – 1,036 filings in 2002 compared to 706 filings in 2001– stemmed from a new program, Project Safe Neighborhood, which was initiated by President Bush in May 2001. Congress appropriated \$9 million for Project Safe Neighborhood in 2002, enabling the Department of Justice to hire 94 additional assistant U.S. attorneys, who were assigned to coordinate with state and local law enforcement officials in identifying and prosecuting violations of federal firearms laws.

A total of 10 percent of the increase in criminal filings in U.S. courts was due to an administrative change for

counting sealed cases (in which the identity of a defendant is reported only when the case is unsealed). Starting in July 2002, sealed cases were counted when filed, instead of when unsealed.

Aligned with the increase in filings, the total number of defendants in criminal cases rose 9 percent in 2002 to 19,478. Proceedings were concluded against 17,973 defendants, an increase of 7 percent over the year before. Of these, 15,723 were convicted (a conviction rate of 87 percent), and 13,242 were imprisoned.

The District of Arizona reported the highest number of criminal cases commenced (3,962), followed by the Southern District of California (3,501), and the Central District of California (1,511).

Table 3.6

### District Court Filings: Total Criminal and Civil Cases Filed, Terminated, and Pending 2001-2002

Caseload Measure	Calendar Year		Change 2001-2002
	2001	2002	
Civil Filings	41,649	41,537	-0.3%
Criminal Filings	14,408	15,704	9.0%
Total Filings	56,057	57,241	2.1%
Civil Terminations	43,394	42,935	-1.1%
Criminal Terminations	13,648	14,653	7.4%
Total Terminations	57,042	57,588	1.0%
Pending Civil Cases	42,085	40,687	-3.3%
Pending Criminal Cases	10,445	11,496	10.1%
Total Pending Cases	52,530	52,183	-0.7%
Civil Case Termination Index (in months)	11.64	11.37	-2.3%
Criminal Case Termination Index (in months)	9.18	9.41	2.5%
Overall Case Termination Index	11.05	10.87	-1.6%
Median Months (filing to disposition) Civil	8.2	8.0	-2.4%
Median Months (filing to disposition) Criminal	5.4	5.4	0.0%

## District Court Filings *continued*

Immigration and drug law violations predominated the criminal dockets in Arizona and the Southern District of California. In Arizona, immigration made up 43 percent of criminal cases commenced, while drug law violations accounted for 20 percent. In the Central District of California, fraud (26 percent) and firearms cases (8 percent) led the way.

Four of the 15 districts in the circuit – Alaska, the Northern District of California, the Southern District of California, and Guam – reported a drop in criminal case filings, with Alaska experiencing nearly a 30 percent decline. All other districts reported an increase, with the Eastern District of Washington and the Western District of Washington reporting the greatest increases, 58 percent and 27 percent, respectively.

### Civil Filings

In 2002, civil case filings in Ninth Circuit district courts continued the downward trend that began in 2001. Civil filings fell by 0.3 percent to 41,537.

Of all civil filings, private civil cases accounted for 76 percent, while cases in which the United States acted as plaintiff or defendant comprised 23 percent. Prisoner petitions made up 27 percent of private civil cases and 5 percent of U.S. civil cases.

Social security filings made up the largest category of United States civil filings, with 30 percent of the total. The largest categories of private civil cases were civil rights (20 percent), followed by contract disputes (14 percent).

The Central District of California reported the largest number of civil cases (12,864) followed by the Northern District of California (6,313), and the Eastern District of California (4,427).

Of private civil cases filed, the largest number was opened in the Central District of California, with 9,474. Many of the private civil filings in this district were for habeas corpus (1,767), contracts (1,706), and civil rights (1,525). The districts with the next highest number of private civil cases were the Northern District of California (5,234) and the Eastern District of California (3,423).

Over half of Ninth Circuit districts reported a drop in civil case filings in 2002, with the Central District of California reporting the largest decrease in absolute numbers (down 887 cases to 12,864 filings). Guam reported the largest percentage decrease in filings (down 50 percent from 76 civil filings to 38 in 2002). Seven districts reported increases, with the Western District of Washington experiencing the largest increase (18 percent).

Nationally, civil filings remained on nearly the same level as the year before, with only a 1 percent increase.

### Case Terminations

District courts in the circuit reported a slight reduction in the number of civil cases filed in 2002. This was offset somewhat by a decline in civil case terminations during the year. The net result was a 3.3 percent reduction in the number of civil cases pending in the district courts.

The pending criminal caseload in district courts rose 10.1 percent from the prior year. This increase paralleled the 9 percent rise in filings. District courts kept up with the larger caseload by increasing criminal case terminations by 7.4 percent.

### Case Processing Times

The district courts in the Ninth Circuit were even more expeditious in processing cases in 2002. The Case Termination Index, which computes how long it would take to clear the pending caseload if the current termination rate remained constant, showed marked improvement over the prior year. The index for all cases – civil and criminal – was reduced to 10.9 months in 2002 from 11.1 months in 2001, an improvement of 2 percent.

The circuit also fared well for median times from filing to disposition. For civil cases, median times dropped .2 percent to 8.0 months from 8.2 months. This compares favorably to the nationwide average of 8.6 months.


For criminal cases, the median time from filing to disposition of criminal defendants remained at 5.4 months in 2002 – lower than the national average of 6.2 months. 

Table 3.7

**Ninth Circuit District Court - Types of Criminal Cases Commenced, 2002 (excludes Transfer Cases)**

General Offenses	Alaska	Arizona	C. Calif.	E. Calif.	N. Calif.	S. Calif.	Hawaii	Idaho	Montana	Nevada	Oregon	E. Wash.	W. Wash.	Guam	N. Mariana Is.	Total
Homicide	0	102	6	1	1	1	2	10	6	7	1	1	2	0	0	140
Robbery	2	15	73	8	22	23	12	6	1	30	37	8	23	0	0	260
Assault	6	51	6	12	15	21	10	30	17	5	5	2	26	2	0	208
Burglary	0	2	0	0	0	1	2	0	10	0	1	0	1	0	0	17
Larceny	14	176	92	46	33	13	41	13	11	20	42	13	183	4	1	702
Embezzlement	6	6	34	15	27	8	13	6	7	22	13	4	24	4	0	189
Fraud	28	233	435	151	108	404	30	17	38	161	56	43	121	14	10	1,849
Weapons & Firearms	22	180	138	52	85	15	50	50	44	191	124	71	42	4	4	1,072
Forgery and Counterfeiting	2	10	105	5	23	6	4	1	3	16	14	19	19	7	0	234
Drug Laws	42	997	143	130	126	1,724	119	41	76	66	157	225	225	92	9	4,172
Traffic	5	18	2	8	37	0	184	0	98	1	0	0	0	0	0	353
Escape	0	26	19	6	11	13	1	0	2	9	15	4	4	0	1	111
Other	7	99	69	49	42	24	23	4	75	42	22	13	13	1	0	483
<b>General Offenses Total</b>	<b>134</b>	<b>1,915</b>	<b>1,122</b>	<b>483</b>	<b>530</b>	<b>2,253</b>	<b>491</b>	<b>178</b>	<b>388</b>	<b>570</b>	<b>487</b>	<b>403</b>	<b>683</b>	<b>128</b>	<b>25</b>	<b>9,790</b>
<b>Special Offenses</b>																
Immigration Laws	7	2,118	314	425	144	1,762	8	56	26	176	212	164	27	14	2	5,455
Agricultural Acts	7	11	2	12	2	1	2	5	18	2	0	5	1	0	0	68
Postal Laws	0	0	10	3	6	0	0	0	1	5	0	0	6	0	0	31
Other	14	68	63	28	48	43	15	13	23	15	15	5	37	4	2	393
<b>Special Offenses Total</b>	<b>28</b>	<b>2,197</b>	<b>389</b>	<b>468</b>	<b>200</b>	<b>1,806</b>	<b>25</b>	<b>74</b>	<b>68</b>	<b>198</b>	<b>227</b>	<b>174</b>	<b>71</b>	<b>18</b>	<b>4</b>	<b>5,947</b>
<b>All Offenses Total</b>	<b>162</b>	<b>4,112</b>	<b>1,511</b>	<b>951</b>	<b>730</b>	<b>4,059</b>	<b>516</b>	<b>252</b>	<b>456</b>	<b>768</b>	<b>714</b>	<b>577</b>	<b>754</b>	<b>146</b>	<b>29</b>	<b>15,737</b>



*District Court Filings* continued

**Table 3.8**

**Ninth Circuit Court of Appeals and District Court Senior Judge Activity, 2001-2002**

Senior Judge Activity	Calendar Year		Change 2001-2002
	2001	2002	
Court of Appeals			
Case Hearings	1,643	1,815	10.5%
Submitted on Briefs	1,534	2,066	34.7%
Other Appeals	1,085	754	-30.5%
District Court Trials	423	391	-7.6%

**Table 3.9**

**Weighted and Unweighted Filings Per Authorized Judgeship, Criminal Felony Defendants Only, 2002**

District	Unweighted Filings Per Judgeship				Weighted Filings Per Judgeship				Change 2001-2002
	Authorized Judgeships	Civil	Criminal	Total	Civil	Criminal	2001 Weighted Total	2002 Weighted Total	
Alaska	3	124	63	187	117	102	238	219	-8.0%
Arizona	12	271	368	639	240	452	608	692	13.8%
C. Calif.	27	453	80	533	400	116	484	516	6.6%
E. Calif.	7	607	168	775	479	213	614	692	12.7%
N. Calif.	14	438	60	498	408	93	521	501	-3.8%
S. Calif.	8	317	488	805	332	598	1,068	930	-12.9%
Hawaii	4	208	114	322	232	194	403	426	5.7%
Idaho	2	295	176	471	275	275	504	550	9.1%
Montana	3	217	145	362	200	236	458	436	-4.8%
Nevada	7	342	127	469	332	170	431	502	16.5%
Oregon	6	375	143	518	352	194	543	546	0.6%
E. Wash.	4	174	144	318	141	199	257	340	32.3%
W. Wash.	7	475	98	573	519	155	534	674	26.2%
<b>Circuit Total</b>	<b>104</b>	<b>4,296</b>	<b>2,174</b>	<b>6,470</b>	<b>4,027</b>	<b>2,997</b>	<b>6,663</b>	<b>7,024</b>	<b>5.4%</b>
<b>Circuit Mean</b>	<b>***</b>	<b>330</b>	<b>167</b>	<b>498</b>	<b>310</b>	<b>231</b>	<b>513</b>	<b>540</b>	<b>5.4%</b>
<b>Circuit Median</b>	<b>***</b>	<b>317</b>	<b>143</b>	<b>498</b>	<b>332</b>	<b>194</b>	<b>504</b>	<b>516</b>	<b>2.4%</b>

**Note:** Case weights are based on the 1987-1993 district court time 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. Transfers and reopens of felony defendants are included. This table excludes data for the territorial courts. Beginning October 1, 2001, data are reported for supervised release revocation hearings previously not presented in this table.

## Bankruptcy Filings Rise

**B**ankruptcy courts in the Ninth Circuit experienced a 2.2 percent rise in filings in 2002 to 282,594 cases. The increase was less than half of what was reported nationally in 2002, which set a record for the most bankruptcy filings in history. For the year, national bankruptcy filings were 1,577,651, up 5.7 percent from 2001. The Ninth Circuit record for most bankruptcy occurred in 1998 when filings totaled 323,382.

Contributing to the increase in 2002 was the general slowdown in the national economy and high levels of consumer debt. Although bankruptcy reform legislation did not pass in the 107th Congress, debtors may have been influenced to file in 2002 by the possibility of changes in the law that would be less favorable to them. It is anticipated that a new bankruptcy reform bill will be introduced and considered in the 108th Congress.

Nationwide, no new bankruptcy judgeships have been created since 1992, despite the 59 percent increase



Chief Bankruptcy Judge Geraldine Mund (CAC), chair of the Conference of Chief Bankruptcy Judges, presents a plaque to incoming chair Chief Bankruptcy Judge Edward Jellen (CAN).

in the caseload of bankruptcy judges since then. The Judicial Conference of the United States has recommended to leadership in the 108th Congress

that 36 new bankruptcy judgeships be created in 22 judicial districts, including two new permanent judgeships in Nevada.

**Table 3.10**

### Business and Non-Business Bankruptcy Cases Commenced, By Chapter of the Bankruptcy Code, During the Twelve Month Period Ended December 31, 2002

Caseload Measure	Calendar Year		Change 2001-2002
	2001	2002	
<b>Filings</b>			
Business Chapter 7	5,451	5,511	1.1%
Business Chapter 11	1,811	1,683	-7.1%
Business Chapter 12	86	91	5.8%
Business Chapter 13	1,742	1,940	11.4%
Non-Business Chapter 7	219,657	223,954	2.0%
Non-Business Chapter 11	192	259	34.9%
Non-Business Chapter 13	47,564	49,135	3.3%
Total	276,516	282,594	2.2%
Terminations	263,528	269,091	2.1%
Pending Cases	211,898	225,401	6.4%

### Bankruptcy Cases by Chapter of the Bankruptcy Code

The largest number of filings was under Chapter 7 of the Bankruptcy Code, totaling 229,465 (business and non-business) and comprising 81.2 of all bankruptcy cases in the Ninth Circuit. Chapter 7 allows individuals to keep certain exempt property while the remaining property is sold to pay creditors. In most Chapter 7 cases, most property is exempt. In Chapter 7 bankruptcies, the business is liquidated and terminated.

## Bankruptcy Filings Rise *continued*

Table 3.11

### Bankruptcy Judge Reappointments

Judge	District	Reappointment Date
Alan M. Ahart	C.D. CA	Reappointed 4/4/02
Peter W. Bowie	S.D. CA	Reappointed 3/2/02
Mitchel R. Goldberg	C.D. CA	Reappointed 6/1/02
Arthur M. Greenwald	C.D. CA	Reappointed 3/9/02
James R. Grube	N.D. CA	Reappointed 8/12/02
Christopher M. Klein	E.D. CA	Reappointed 2/9/02
Kathleen T. Lax	C.D. CA	Reappointed 4/4/02
Marilyn Morgan	N.D. CA	Reappointed 6/16/02
Randall J. Newsome	N.D. CA	Reappointed 6/1/02
Elizabeth L. Perris	ORE	Reappointed 4/1/02
Albert E. Radcliffe	ORE	Reappointed 2/17/02
Robin L. Riblet	C.D. CA	Reappointed 3/30/02
Linda B. Riegler	NEV	Reappointed 1/11/02
Leslie J. Tchaikovsky	N.D. CA	Reappointed 4/14/02
Vincent P. Zurzolo	C.D. CA	Reappointed 4/18/02

A total of 51,075 Chapter 13 cases (business and non-business) were filed in the Ninth Circuit, amounting to 18.1 percent of the total cases filed. Under Chapter 13 bankruptcy, creditors may be repaid in installments, in full or in part, over three to five years and debts may not exceed the statutory amount (\$1,077,000 in 2002). 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 1,942 cases and Chapter 12 cases totaled only 91 cases. Chapter 11 provides for a business to continue operations while formulating a plan to repay its creditors. Although used less commonly in non-business filings, it also allows an

individual to use future earnings to pay off creditors. Chapter 12 only applies to business filings and provides family farmers facing bankruptcy a chance to reorganize their debts and keep their farms.

#### Non-Business Filings

Non-business bankruptcy filings in the Ninth Circuit totaled 273,352 and comprised 96.7 percent of all bankruptcy cases. Non-business Chapter 7 filings were the largest single category of bankruptcy filings with 223,954 cases filed in 2002, up 2 percent from the prior year. Non-business Chapter 7 cases accounted for 79.2 percent of all filings.

The second largest category of filings in the Ninth Circuit was non-business Chapter 13 cases, with 49,135 filings, or 17.4 percent of the total. Non-business Chapter 13 filings showed a 3.3 percent increase in 2002.

Non-business Chapter 11 bankruptcies, which represent only a small fraction of the total of non-business bankruptcies in the circuit, increased to 259 filings in 2002 from 192 filings in 2001.

#### Business Filings

Bankruptcy filings by businesses totaled 9,242 and accounted for 3.3 percent of all bankruptcy cases in the Ninth Circuit in 2002. The majority of these business bankruptcies were filed under Chapter 7, with 5,511 total cases, a slight increase of 1.1 percent from the year before.

Chapter 13 business filings in 2002, totaling 1,940, showed an 11.4 percent increase over the 2001 total of 1,742. Business bankruptcies filed under Chapter 11 in 2002 fell to 1,683 from 1,811 in 2001, a decrease of 7.1 percent. Completing the business filings were 91 Chapter 12 cases, an increase of five from the total of 86 filed in 2001.

#### Districts with Largest Number of Filings

The Central District of California, the nation's largest bankruptcy court, continued to lead the country in bankruptcy filings. For 2002, the Central District recorded 84,115 filings, which accounted for 5.3 percent of the national total. However, the total filings in the Central District of California decreased 4.6 percent from the 88,195 bankruptcy filings in 2001. Chapter 7 cases, both business and non-business, made up the majority of filings in the Central District.

The Eastern District of California had the next largest number of filings in the Ninth Circuit with 31,497, but this was a decrease of 2.4 from 2001. The District of Arizona had the third most filings with 29,716, a 16.6 increase from 2001. Rounding out the districts with the most filings was the Western District of Washington, which had 29,030 filings, up 7.6 percent from the previous year and a record high for that district.

### Districts with Largest Percentage Increases in Filings

The districts with the largest percentage increases in bankruptcy filings were Guam (up 31.6 percent with 379 compared to 288 in 2001), Arizona (up 16.6 percent with 29,716 compared to 25,489 in 2001), and Nevada (up 9 percent with 19,736 compared to 18,102 in 2001).

### Terminations and Pending Cases

The circuit experienced a slight increase in the number of bankruptcy case terminations in 2002. For the year, 269,091 cases were closed, up 2.1 percent from 263,528 cases closed in 2001. The number of pending cases rose to 225,401, up 6.4 percent from the 211,898 cases at the end of 2001.

### Recalled Judges

To address the shortage of judges, Ninth Circuit bankruptcy courts continue to rely on recalled judges to relieve the active bankruptcy judges. During 2002, nine recalled bankruptcy judges in seven districts assisted the 66 active bankruptcy judges.



Beth Wiggins, of the Federal Judicial Center, discusses the bankruptcy judgeship formula at the Conference of Chief Bankruptcy Judges and Clerks meeting in December. Also pictured are Chief Bankruptcy Judges Geraldine Mund, left, and Edward Jellen.

### Appointments

During the year, the Court of Appeals appointed two bankruptcy judges and reappointed 15 bankruptcy judges (see accompanying table). The newcomers were Bankruptcy Judge Peter H. Carroll, appointed to the Central District of California on August 1, 2002, to fill a vacancy created by the retirement of Bankruptcy Judge Lynne Riddle; and Chief Bankruptcy Judge Robert J. Faris, appointed to the District of Hawaii on February 14, 2002, to fill a vacancy created by the retirement of Chief Bankruptcy Judge Lloyd King.

### New Judgeships

In Congress, legislation authorizing additional bankruptcy judgeships was introduced but ultimately failed to win passage in either the House or Senate. The House Bankruptcy Abuse Prevention and Consumer Protection Act of 2001 (H.R. 333) would have authorized

23 new temporary judgeships, while the Senate Bankruptcy Reform Act of 2001 (S. 220) would have authorized 28 new temporary judgeships and extended four existing temporary judgeships. H.R. 333 eventually made its way to a conference committee, which filed a conference report in July 2002. When a House resolution to take up the conference report failed in November, a revised version of the bill, H.R. 5745, was introduced and passed by the House. H.R. 5745 deleted the bankruptcy judgeship provision and a controversial provision regarding the discharge of debts associated with violation of a law ensuring access to abortion clinics. The Senate declined to take up this bill prior to adjournment. ➤



## Bankruptcy Appeals Increase

### The Bankruptcy Appellate Panel

All district courts within the Ninth Circuit have issued general orders providing for the automatic referral of bankruptcy appeals to the 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. In 2002, BAP handled 58 percent of all bankruptcy appeals, while 42 percent were heard in district courts.



Judges of the Bankruptcy Appellate Panel. Seated: Judge Elizabeth L. Perris, Chief Judge John E. Ryan, Judge Philip H. Brandt. Standing: Judge James M. Marlar, Judge Christopher M. Klein, Judge Dennis Montali.

### New Filings

The number of new bankruptcy appeals filed circuit-wide increased by 6.4 percent over the prior year, from 844 in 2001 to 904 in 2002. This reversed a downward trend that began in 1997, when appeals totaled 1,234.

Of the 2002 bankruptcy appeals filed, 527 were referred to BAP, while 377 proceeded to the district courts (see table). Of the 527 appeals handled by BAP, 213 appeals (40 percent) had a pro se litigant as either an appellant or an appellee.

### Dispositions

The BAP disposed of 495 appeals. Of those, 163 appeals were merits terminations. Oral argument was held in 152 appeals, and 11 appeals were submitted on briefs. Of the 163 decisions, 42 were published opinions. The reversal rate was 21.5 percent. The median time for an appeal decided on the merits was 9.3 months. The remaining 332 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 264 appeals pending.

### Appeals to the Ninth Circuit

During 2002, 197 bankruptcy appeals were filed at the Court of Appeals for second-level appellate review. Of these, 85 were appeals of decisions by the BAP and 112 from decisions of the district courts. Thus, for the 495 appeals which proceeded and were disposed of by the BAP, 83 percent were fully resolved with only about 17 percent seeking second-level review. 🏠

Table 3.12

### New Bankruptcy Appeal Filings 2002

District	Bankruptcy Appellate Panel	District Court	Total
Alaska	5	14	19
Arizona	57	56	113
C. Calif.	224	111	335
E. Calif.	41	21	62
N. Calif.	72	43	115
S. Calif.	50	14	64
Hawaii	3	11	14
Idaho	10	7	17
Montana	3	20	23
Nevada	19	28	47
Oregon	10	13	23
E. Wash.	11	7	18
W. Wash.	22	32	54
<b>Totals</b>	<b>527 (58%)</b>	<b>377 (42%)</b>	<b>904</b>

## Magistrate Judges

Table 3.13

### Ninth Circuit Misdemeanor Defendants Disposed Of and Civil Cases Terminated by U.S. Magistrate Judges, Fiscal Year 2001-2002

District	Civil Cases Terminated Pursuant to Section 636 (c)			Misdemeanor, Petty Offense Defendants Disposed		
	2001	2002	Change 2001-2002	2001	2002	Change 2001-2002
Alaska	1	4	300.0%	126	286	127.0%
Arizona	207	168	-18.8%	6,806	7,675	12.8%
C. Calif.	667	765	14.7%	1,514	1,041	-31.2%
E. Calif.	390	333	-14.6%	2,375	2,144	-9.7%
N. Calif.	458	552	20.5%	1,158	1,164	0.5%
S. Calif.	43	43	0.0%	868	734	-15.4%
Hawaii	39	25	-35.9%	761	585	-23.1%
Idaho	84	203	141.7%	37	53	43.2%
Montana	191	136	-28.8%	363	277	-23.7%
Nevada	32	22	-31.3%	734	760	3.5%
Oregon	195	226	15.9%	632	565	-10.6%
E. Wash.	109	141	29.4%	124	134	8.1%
W. Wash.	83	87	4.8%	2,079	2,958	42.3%
<b>Circuit Total</b>	<b>2,499</b>	<b>2,705</b>	<b>8.2%</b>	<b>17,577</b>	<b>18,376</b>	<b>4.5%</b>



The Magistrate Judges Executive Board meets at the Ninth Circuit Judicial Conference in San Diego. Left to right: Magistrate Judges Lonny Suko (Eastern District of Washington), Virginia Mathis (Arizona), Committee Chair Elizabeth Laporte (Northern District of California), Arthur Nakazato (Central District of California), and Harry Branson (Alaska).

## Court Interpreters / Juror Utilization

Table 3.14

**Court Interpreters: Language by District Usage, Fiscal Year 2002**

Language	Number of Interpreter Uses*															Total
	Alaska	Arizona	CAC	CAE	CAN	CAS	Guam	Hawaii	Idaho	Montana	Nevada	N. Mariana Is.	Oregon	WAE	WAW	
Arabic	0	22	211	42	54	41	0	0	0	0	15	0	5	4	9	403
Armenian	0	0	83	158	1	0	0	0	0	0	4	0	0	0	0	246
Cantonese	0	1	63	8	222	7	0	4	0	0	38	0	4	0	42	389
Farsi	0	2	26	0	8	12	2	0	0	0	2	0	0	0	0	52
Japanese	0	0	30	5	12	2	2	25	0	0	0	2	0	0	0	78
Korean	20	0	137	0	36	10	29	26	0	0	0	2	25	6	118	409
Mandarin	0	23	140	0	186	18	33	62	0	0	6	43	1	0	13	525
Navajo	0	65	0	0	0	0	0	0	0	0	0	0	0	0	0	65
Russian	0	12	199	12	47	32	1	0	0	0	3	0	0	0	16	322
Sign	0	3	9	16	7	8	0	1	0	0	0	0	0	0	2	46
Spanish	57	34,347	5,833	2,868	1,820	17,469	2	180	294	40	1,211	1	1,520	929	491	67,062
Tagalog	1	0	64	1	24	2	5	1	0	0	0	3	4	0	2	107
Vietnamese	0	1	84	42	101	1	0	35	1	0	3	0	6	0	117	391
**All Other	0	6	14	1	2	6	1	0	2	0	0	0	0	0	0	32
Total	78	34,482	6,893	3,153	2,520	17,608	75	334	297	40	1,282	51	1,565	939	810	70,127

\*Interpreter uses are calculated per event. These numbers do not indicate multiple interpreters, when in the same language, nor do they illustrate the translation services for documents, individual orientations, group orientation workshops, or telephone interpreting.

\*\*Languages not used more than 50 times are included in this category.

Table 3.15

**Juror Utilization 2001-2002**

District	Grand Juries Empaneled, 2002	Petit Juries Selected, 2002	Petit Juror Utilization Rate		Change 2001-2002
			% Not Serving, Selected, or Challenged (NSSC)* 2001	2002	
Alaska	2	23	33.60%	41.50%	23.5%
Arizona	11	103	45.30%	39.10%	-13.7%
C. Calif.	39	207	57.30%	52.60%	-8.2%
E. Calif.	14	67	44.90%	42.20%	-6.0%
N. Calif.	15	92	46.30%	46.00%	-0.6%
S. Calif.	11	113	43.50%	46.30%	6.4%
Hawaii	5	17	30.80%	38.00%	23.4%
Idaho	9	27	14.90%	23.50%	57.7%
Montana	3	53	29.20%	36.30%	24.3%
Nevada	4	81	39.50%	35.10%	-11.1%
Oregon	6	54	10.70%	18.50%	72.9%
E. Wash.	3	20	35.60%	25.10%	-29.5%
W. Wash.	6	46	35.60%	31.70%	-11.0%
Guam	1	3	66.00%	33.80%	-48.8%
N. Mariana Is.	3	5	30.50%	37.00%	21.3%
Circuit Total	132	911	***	***	***
Circuit Average	9	61	37.60%	36.45%	-3.1%
National Average	9	75	34.30%	39.60%	15.5%

\*The U.S. Judicial Conference has established a standard of 30 percent NSSC to evaluate a district's jury management.

# District Caseloads

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## District Caseloads

Table 3.16

### District of Alaska

Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	660	537	-18.6%	179
Terminations	828	642	-22.5%	214
Pending	640	535	-16.4%	178
<b>Bankruptcy Court</b>				
Filings	1,473	1,479	0.4%	740
Terminations	1,275	1,386	8.7%	693
Pending	1,501	1,594	6.2%	797
<b>Authorized Judgeships</b>	Authorized places of holding court: Anchorage, Fairbanks, Juneau, Ketchikan, Kodiak, Nome			
District	3			
Senior	3			
Bankruptcy	2			
Magistrate				
Full time	2			
Part-time	4			

Table 3.17

### District of Arizona

Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	6,581	7,339	11.5%	612
Terminations	6,302	6,964	10.5%	580
Pending	5,493	5,868	6.8%	489
<b>Bankruptcy Court</b>				
Filings	25,489	29,716	16.6%	3,302
Terminations	22,577	25,597	13.4%	2,844
Pending	27,258	31,377	15.1%	3,486
<b>Authorized Judgeships</b>	Authorized places of holding court: Flagstaff, Phoenix, Prescott, Tucson, Yuma			
District	12			
Senior	7			
Bankruptcy	9			
Magistrate				
Full time	12			
Part-time	0			

Table 3.18

### Central District of California

Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	15,143	14,410	-4.8%	534
Terminations	17,627	16,139	-8.4%	598
Pending	15,942	14,213	-10.8%	526
<b>Bankruptcy Court</b>				
Filings	88,195	84,115	-4.6%	4,005
Terminations	85,151	85,315	0.2%	4,063
Pending	46,603	45,403	-2.6%	2,162
<b>Authorized Judgeships</b>		Authorized places of holding court: Los Angeles, Riverside, Santa Ana		
District	27			
Senior	10			
Bankruptcy	21			
Magistrate				
Full time	20			
Part-time	2			

Table 3.19

### Eastern District of California

Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	4,800	5,390	12.3%	770
Terminations	5,036	5,052	0.3%	722
Pending	5,659	5,997	6.0%	857
<b>Bankruptcy Court</b>				
Filings	32,259	31,497	-2.4%	3,937
Terminations	32,490	31,315	-3.6%	3,914
Pending	21,278	21,460	0.9%	2,683
<b>Authorized Judgeships</b>		Authorized places of holding court: Fresno, Redding, Sacramento		
District	7			
Senior	3			
Bankruptcy	8			
Magistrate				
Full time	8			
Part-time	3			

## District Caseloads

Table 3.20

Northern District of California				
Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	7,632	7,051	-7.6%	504
Terminations	6,191	7,371	19.1%	527
Pending	8,061	7,741	-4.0%	553
<b>Bankruptcy Court</b>				
Filings	19,838	21,405	7.9%	2,378
Terminations	20,919	22,119	5.7%	2,458
Pending	23,639	22,925	-3.0%	2,547
<b>Authorized Judgeships</b>				
District	14	Authorized places of holding court: Eureka, Monterey, Oakland, San Francisco, San Jose, Santa Rosa		
Senior	4			
Bankruptcy	9			
Magistrate				
Full time	10			
Part-time	1			

Table 3.21

Southern District of California				
Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	6,468	6,360	-1.7%	795
Terminations	6,279	6,457	2.8%	807
Pending	3,494	3,397	-2.8%	425
<b>Bankruptcy Court</b>				
Filings	13,367	12,890	-3.6%	3,223
Terminations	14,053	14,574	3.7%	3,644
Pending	11,829	10,145	-14.2%	2,536
<b>Authorized Judgeships</b>				
District	8	Authorized places of holding court: El Centro, San Diego		
Senior	5			
Bankruptcy	4			
Magistrate				
Full time	10			
Part-time	0			

Table 3.22

**District of Guam**

Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	233	186	-20.2%	186
Terminations	178	179	0.6%	179
Pending	234	241	3.0%	241
<b>Bankruptcy Court</b>				
Filings	288	379	31.6%	379
Terminations	321	367	14.3%	367
Pending	219	231	5.5%	231
<b>Authorized Judgeships</b>	Authorized places of holding court: Hagatna			
District	1			
Senior	0			
Bankruptcy	0			
Magistrate				
Full time	0			
Part-time	0			

The Guam district judge also handles all bankruptcy cases.

Table 3.23

**District of Hawaii**

Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	1,313	1,364	3.9%	341
Terminations	1,353	1,290	-4.7%	323
Pending	1,491	1,565	5.0%	391
<b>Bankruptcy Court</b>				
Filings	5,039	4,485	-11.0%	4,485
Terminations	4,745	4,725	-0.4%	4,725
Pending	2,883	2,643	-8.3%	2,643
<b>Authorized Judgeships</b>	Authorized places of holding court: Honolulu			
District	4			
Senior	2			
Bankruptcy	1			
Magistrate				
Full time	3			
Part-time	2			

## District Caseloads

Table 3.24

District of Idaho				
Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	852	847	-0.6%	424
Terminations	839	846	0.8%	423
Pending	890	891	0.1%	446
<b>Bankruptcy Court</b>				
Filings	8,265	8,913	7.8%	4,457
Terminations	8,512	8,274	-2.8%	4,137
Pending	7,175	7,814	8.9%	3,907
<b>Authorized Judgeships</b>		Authorized places of holding court: Boise, Coer d'Alene, Moscow, Pocatello		
District	2			
Senior	0			
Bankruptcy	2			
Magistrate				
Full time	2			
Part-time	0			

Table 3.25

District of Montana				
Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	1,172	1,146	-2.2%	382
Terminations	1,124	1,160	3.2%	387
Pending	1,167	1,153	-1.2%	384
<b>Bankruptcy Court</b>				
Filings	4,002	4,062	1.5%	4,062
Terminations	3,564	3,828	7.4%	3,828
Pending	3,234	3,468	7.2%	3,463
<b>Authorized Judgeships</b>		Authorized places of holding court: Billings, Butte, Great Falls, Helena, Kalispell, Missoula		
District	3			
Senior	2			
Bankruptcy	1			
Magistrate				
Full time	3			
Part-time	1			



Table 3.26

## District of Nevada

Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	2,857	3,261	14.1%	466
Terminations	2,750	3,074	11.8%	439
Pending	2,984	3,171	6.3%	453
<b>Bankruptcy Court</b>				
Filings	18,102	19,736	9.0%	4,934
Terminations	14,302	9,339	-34.7%	2,335
Pending	23,532	33,929	44.2%	8,482
<b>Authorized Judgeships</b>				
District	7	Authorized places of holding court: Carson City, Elko, Ely, Las Vegas, Lovelock, Reno		
Senior	2			
Bankruptcy	4			
Magistrate				
Full time	5			
Part-time	0			

Table 3.27

## District of Northern Mariana Islands

Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	76	84	10.5%	84
Terminations	79	65	-17.7%	65
Pending	53	72	35.8%	72
<b>Bankruptcy Court</b>				
Filings	26	25	-3.8%	25
Terminations	35	23	-34.3%	23
Pending	28	30	7.1%	30
<b>Authorized Judgeships</b>				
District	1	Authorized places of holding court: Saipan		
Senior	0			
Bankruptcy	0			
Magistrate				
Full time	0			
Part-time	0			

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

## District Caseloads

Table 3.28

District of Oregon				
Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	3,202	3,102	-3.1%	517
Terminations	3,120	2,805	-10.1%	468
Pending	2,868	3,165	10.4%	528
<b>Bankruptcy Court</b>				
Filings	23,038	24,649	7.0%	3,521
Terminations	21,558	23,826	10.5%	3,404
Pending	15,021	15,844	5.5%	2,263
<b>Authorized Judgeships</b>				
District	6	Authorized places of holding court: Coquille, Eugene, Klamath Falls, Medford, Pendleton, Portland		
Senior	5			
Bankruptcy	7			
Magistrate				
Full time	6			
Part-time	1			

Table 3.29

Eastern District of Washington				
Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	1,068	1,339	25.4%	335
Terminations	1,101	1,181	7.3%	295
Pending	809	967	19.5%	242
<b>Bankruptcy Court</b>				
Filings	10,149	10,213	0.6%	3,404
Terminations	8,960	9,638	7.6%	3,213
Pending	7,946	8,521	7.2%	2,840
<b>Authorized Judgeships</b>				
District	4	Authorized places of holding court: Richland, Spokane, Walla Walla, Yakima		
Senior	2			
Bankruptcy	3			
Magistrate				
Full time	2			
Part-time	0			

Table 3.30

## Western District of Washington

Caseload Measure	Calendar Year		Change 2001-2002	Per Judgeship Unweighted 2002
	2001	2002		
<b>District Court</b>				
Filings	4,000	4,825	20.6%	689
Terminations	4,235	4,363	3.0%	623
Pending	2,745	3,207	16.8%	458
<b>Bankruptcy Court</b>				
Filings	26,986	29,030	7.6%	5,806
Terminations	25,066	28,765	14.8%	5,753
Pending	19,752	20,017	1.3%	4,003
<b>Authorized Judgeships</b>		Authorized places of holding court: Bellingham, Seattle, Tacoma		
District	7			
Senior	4			
Bankruptcy	5			
Magistrate				
Full time	4			
Part-time	2			



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