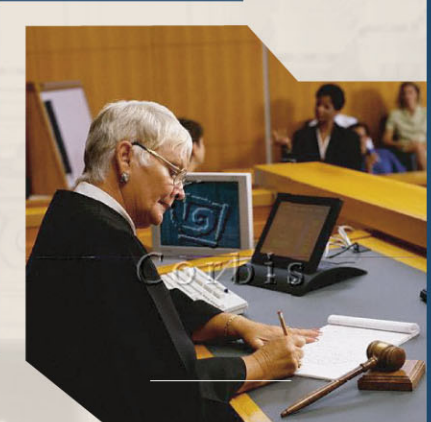


9TH NINTH CIRCUIT UNITED STATES COURTS 2001 ANNUAL REPORT



NINTH CIRCUIT UNITED STATES COURTS

2001 ANNUAL REPORT



THE JUDICIAL COUNCIL OF THE NINTH



Front row: Chief District Judge William B. Shubb, Circuit Judge Alex Kozinski, Chief Circuit Judge Mary M. Schroeder, Circuit Judge Barry G. Silverman Back row: Senior District Judge Jack D. Shanstrom, Senior District Judge Robert J. Bryan, District Judge Judith N. Keep, Chief Bankruptcy Judge Geraldine Mund, Chief District Judge James K. Singleton, Magistrate Judge Elizabeth D. Laporte, Circuit Judge Sidney R. Thomas, Circuit Judge A. Wallace Tashima Missing: Senior Circuit Judge Betty Binns Fletcher

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.



Acknowledgements for their contributions to the 2001 Annual Report:

Chief Judge Mary M. Schroeder

Chief Pretrial Services Officer Tim McTighe

Chief Probation Officer David F. Sanders

Bankruptcy Appellate Panel Clerk Nancy Dickerson

Federal Public Defender Fredric Kay

Staff Attorney Paul Keller

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Foreword

Chief Judge Mary M. Schroeder



The Ninth Circuit marked its 135th anniversary in 2001. There were a record number of filings in the Court of Appeals and continuing heavy caseloads in the 15 federal courts of the Western United States and Pacific Islands. The year also was noteworthy for judicial appointments, advances in court technology, progress on courthouse construction, and new initiatives in the areas of health and well being and workplace diversity.

On a somber note, the entire Ninth Circuit court family joined the nation in mourning the lives lost in the terrorist attacks on New York and Washington, D.C., and subsequent acts of bio-terrorism. The events of September 11, 2001 remain vivid in all of our memories. How we respond to this crisis will be critical not only to our national security, but to our future as a free and democratic society. I expect the federal courts to have an important role in this process.

The Ninth Circuit continues to be the busiest of the 13 federal circuits. During 2001, our Court of Appeals accounted for 17.7 percent of all new

appeals filed nationally. District courts in the Ninth Circuit had 17.4 percent of all new civil and criminal cases. And Ninth Circuit bankruptcy courts received 18.5 percent of all new bankruptcy litigation.

The Court of Appeals saw its new case filings top 10,000 for the first time. Appellate filings have gone up in 21 of the last 22 years, rising nearly 50 percent since 1980. The Ninth Circuit's most populous district, Central California, continues to generate the greatest number of appeals, 23.3 percent in 2001. For the year, private civil appeals accounted for the largest number of cases, 23.4 percent, followed closely by private prisoner appeals at 20.4 percent. Criminal appeals ranked third at 19.5 percent.

The caseload was handled by the Ninth Circuit's active appellate bench of 25 judges (with three vacancies) augmented by 20 senior circuit judges and, sitting by special designation, both district judges from within the circuit and circuit judges from other circuits. All told, 357 appellate panels, including 23 en banc panels, sat a total of 445 panel days during the year. Senior circuit judges made a major contribution in this area, assisting with more than 40 percent of all appeals.

In 2001, the Supreme Court reviewed 44 cases that had been decided by the Ninth Circuit Court of Appeals in 2001 or earlier. These cases constituted less than .5 percent of the Court of Appeals' workload for the year. The Supreme Court issued written opinions in 19 cases, affirming five and reversing 14. The Supreme Court's

reversal rate for the 2000-01 term (when most of Ninth Circuit cases were reviewed) was 63 percent for all circuits and 71 percent for the Ninth Circuit.

In the district courts of the Ninth Circuit, total criminal and civil case filings remained relatively stable in 2001. While down .5 percent from the prior year, the 59,531 cases filed this past year represent an increase of 19 percent since 1996. Among criminal filings, immigration offenses accounted for fully one-third of the cases filed in 2001. Drug offenses ranked second at 26.4 percent, followed by fraud at 11 percent. The districts of Arizona and Southern California, which include the U.S.-Mexico border, reported the greatest number of drug and immigration offenses.

For bankruptcy courts in the Ninth Circuit, 2001 marked a return to double-digit increases in case filings. For the year, bankruptcy filings rose 13.5 percent to 276,516 cases. The increase was part of a nationwide trend and reversed a downturn in circuit filings the year before. Non-business Chapter 7 and non-business Chapter 13 filings account for 96.6 percent of the filings. However, our bankruptcy courts dealt with several high-profile business bankruptcies during the year, including California's largest public utility and an international construction company whose case was heard in Nevada.

Once again, senior judges made a major contribution to the work of the district courts. In addition to assisting with 423 trials over the course of the

year, senior district judges dealt with motions and other proceedings, took on administrative assignments, chaired or actively participated on a wide variety of judicial committees, and accepted designations as visiting judges.

Over the years, judicial vacancies and the absence of new judgeships has caused the circuit to rely on visiting judges to assist overloaded district courts. These visiting jurists include active district judges who can be spared by other districts within the circuit and who are bound by the same circuit law. Their assistance is greatly appreciated. Our district courts also depend on magistrate judges, whose contributions continue to grow, particularly in the area of Social Security appeals. The number of civil cases terminated by magistrate judges through consents increased by 12.5 percent last year.

On the judgeship front, 2001 brought some good news to the Ninth Circuit. Over the course of the year, the President made two nominations to the Court of Appeals and eight nominations to district courts within the circuit. By year's end, Congress had confirmed four district judges, including two in the District of Montana, which had had only one active judge, and one each in the districts of Arizona and Nevada. (The remaining four judicial nominees, two in Arizona and one each in Alaska and Nevada, were approved in early 2002).

However, there was no relief for the Southern District of California, where caseloads had justified eight new district court judgeships (five

permanent, three temporary), and six judgeships remained vacant at year's end in the Central District of California. (Legislation authorizing new judgeships for the Southern District of California was under consideration in Congress and the two nominations were made to the Central District in early 2002.) Vacancies also remained in the Northern and Eastern Districts of California, the District of Hawaii and the Western District of Washington.

Also in 2001, the Court of Appeals appointed two new bankruptcy judges and reappointed 16 sitting bankruptcy judges, more than one-quarter of the circuit's bankruptcy bench. This was a major accomplishment for the court, which uses a comprehensive merit selection process to select bankruptcy judges, who serve 14-year renewable terms.

Ninth Circuit courts remain at the forefront of technological advances, including electronic case filing, which allows court documents to be filed over the Internet. By the end of the year, four bankruptcy courts and two district courts in the Ninth Circuit were offering electronic filing. Five more of our courts will go online in 2002. Many of our courts also began using an updated electronic case management system that will save time and reduce storage space needs.

The year 2001 saw the opening of a new courthouse in Phoenix along with the start of construction for a new courthouse in Seattle. Also during the year, construction funding was approved for a new courthouse

in Fresno, a design was selected for a new courthouse in Los Angeles, and a building site was chosen for a new courthouse in Eugene.

In addition to overseeing these important projects, the Ninth Circuit's Space and Security Committee, at the direction of the circuit's Judicial Council, also took charge of coordinating our response to the threat of terrorist attacks on our employees and facilities. By year's end, the committee was making plans to conduct a security inventory of every courthouse and judicial court unit facility in the Ninth Circuit.

The Ninth Circuit continues to lead the way in promoting judicial well being, and in encouraging diversity in the workplace and the courtroom. Our Judicial Wellness Committee, which last year made a counselor available by telephone to judges, their families and staff, has published two pamphlets and is working on a conference in 2002. Our Fairness Committee has reached out to court managers to provide diversity training and education, and encouraged judges to give greater consideration to minorities in their selection of clerks.

As you can see, the judges and courts of the Ninth Circuit had much to report in the year 2001. I hope you will take time to browse this Annual Report for more information about these and other subjects.

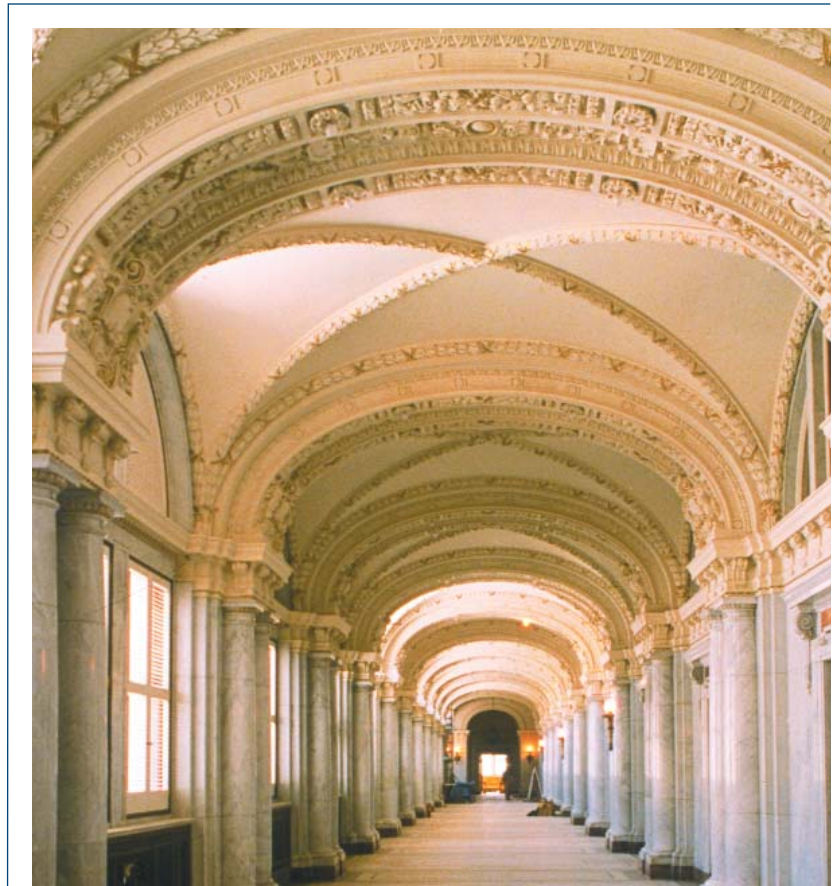


An Overview of the Ninth Circuit

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.

The Ninth Circuit includes the Districts of Alaska, Arizona, Central California, Eastern California, Northern California, Southern California, Hawaii, Idaho, Montana, Nevada, Oregon, Eastern Washington, Western Washington, the U.S. Territory of Guam and the Commonwealth of the Northern Mariana Islands. Established in 1891, 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, confirmed by Congress and serve for life. The Ninth Circuit Court of Appeals has been authorized 28 judgeships, three of which were vacant for all of the year 2001. Senior judges, Article III judges who have retired but retain part of their workload, play a large role in the Ninth Circuit Court of Appeals, as witnessed in the court having 20 senior circuit judges in 2000. At the end of the year, the district courts had 91 active district judges, with 15 vacant judgeships. There were 55 senior district judges. Two district judges took senior status in 2000. Senior district



judges play a vital role in helping the courts keep up with their caseloads, especially at a time when many districts are suffering from judicial vacancies.

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 2001, there were 65 bankruptcy judges, including eight retired bankruptcy judges who rendered assistance,

81 full-time magistrate judges, 18 part-time magistrate judges, and five retired magistrate judges.

Overall, the Ninth Circuit courts experienced increased caseloads during the 2001 calendar year. Statistics in this report cover calendar year 2001, from January 1 to December 31, unless otherwise noted. Fiscal year 2001 statistics are from October 1, 2000 through September 30, 2001.

The Ninth Circuit Judicial Council

The Judicial Council of the Ninth Circuit is the governing body of the United States Courts for the Ninth Circuit. The Judicial Council 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 14 members are looked upon as a “judicial board of directors” that provides guidance and leadership. The Judicial Council meets quarterly to review and determine policy and administrative issues facing the courts, occasionally arranging additional meetings to address specific concerns.

The Judicial Council initiates needed policies and programs, coordinates council initiatives, reviews complaints of judicial misconduct, and approves budgets for capital habeas corpus cases. 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 (OCE) 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, and is responsible for non-adjudicative functions of the Court of Appeals. In the Ninth Circuit, the Judicial Council has delegated responsibility for non-adjudicative functions of the Court of Appeals to the clerk of court. In support of the chief judge and the



The Judicial Council meets during the Ninth Circuit Judicial Conference. Left to right: Chief District Judge William Shubb, Eastern District of California; Circuit Judge William Fletcher (sitting in for Circuit Judge Silverman), Senior Circuit Judge Betty Fletcher, District Judge Michael Hogan (Oregon).

Judicial Council, the circuit executive and his staff assist in identifying circuit 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 OCE provides management and technical assistance to the Court of Appeals, district and bankruptcy courts, supports meetings of the conferences of chief district and chief bankruptcy judges and executive board of magistrate judges, and organizes and facilitates the annual Ninth Circuit Judicial Conference.

Responsibility for the management of the circuit’s 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 provide direct administrative support to their respective courts by processing new cases and appeals, handling docketing functions, responding to procedural questions from the public and bar, and facilitating adequate judicial staff resources. The clerk of court for the Court of

Appeals oversees daily operations for the appellate court and 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.

Although placed administratively with the Court of Appeals, the Ninth Circuit Library provides services to all of the courts under the direction of a circuit-wide committee representative of all users. 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. Other judicial court units of the Ninth Circuit include the Probation and Pretrial Services offices, which provide supervision and direct services to defendants in the federal courts, and the Federal Public Defenders offices, which provide representation to indigent defendants who are unable to afford private counsel.

Ninth Circuit Representatives to the United States Judicial Conference

Committee on the Administrative Office

District Judge Lourdes G. Baird,
Central District of California, Chair

Committee on the Administration of the Bankruptcy System

Chief District Judge David A. Ezra,
District of Hawaii

Bankruptcy Judge Dennis Montali,
Northern District of California

Committee on the Budget

District Judge Robert C. Broomfield,
District of Arizona

Committee on Codes of Conduct

Circuit Judge M. Margaret McKeown

Bankruptcy Judge Peter W. Bowie,
Southern District of California

Committee on Court Administration and Case Management

District Judge Terry J. Hatter, Jr.,
Central District of California

Committee on Criminal Law

District Judge Wm. Fremming Nielsen,
Eastern District of Washington

Committee on Defender Services

District Judge Judith N. Keep,
Southern District of California

Committee on Federal-State Jurisdiction

Circuit Judge Thomas G. Nelson

Committee on Financial Disclosure

District Judge Helen W. Gillmor,
District of Hawaii

District Judge John W. Sedwick,
District of Alaska

Committee on Information Technology

District Judge Roger G. Strand,
District of Arizona

Committee on International Judicial Relations

Circuit Judge J. Clifford Wallace

District Judge Ronald S.W. Lew,
Central District of California

Committee on the Judicial Branch

District Judge Frank C. Damrell, Jr.,
Eastern District of California

District Judge Claudia A. Wilken,
Northern District of California

Committee on Judicial Resources

Chief District Judge Marilyn L. Huff,
Southern District of California

Committee on the Administration of the Magistrate Judges System

District Judge Irma E. Gonzalez,
Southern District of California

Magistrate Judge Larry M. Boyle,
District of Idaho

Committee to Review Circuit Council Conduct and Disability Orders

Senior District Judge Carolyn R. Dimmick,
Western District of Washington

Committee on Rules of Practice and Procedure

Circuit Judge A. Wallace Tashima

Committee on Security and Facilities

Chief District Judge Stephen M. McNamee,
District of Arizona

Bankruptcy Judge George B. Nielsen, Jr.,
District of Arizona

Advisory Committee on Bankruptcy Rules

District Judge Thomas S. Zilly,
Western District of Washington

Bankruptcy Judge Christopher M. Klein,
Eastern District of California

Advisory Committee on Civil Rules

District Judge David F. Levi,
Eastern District of California, Chair

Advisory Committee on Criminal Rules

District Judge John M. Roll,
District of Arizona

Advisory Committee on Evidence Rules

Federal Public Defender Thomas W. Hillier II,
Western District of Washington

More than a dozen advisory and standing committees report to the Judicial Council of the Ninth Circuit on matters related to the administration of justice. The committees are comprised of judges, clerks, lawyers and court unit executives from throughout the circuit. Some committees help ensure compliance with national judicial policies. Some are responsible for appointments of bankruptcy judges or federal defenders. Others oversee infrastructure and technology. All make a contribution to the efficient operation of the Ninth Circuit. The following pages highlight the work of several committees.



The Conference of Chief Bankruptcy Judges holds its biannual meeting. Left to right: Chief District Judge John Unpingco, Guam; Bankruptcy Judge John Ryan, Central District of California; Chief Bankruptcy Judge John Hargrove, Southern District of California.

Fairness Committee Promotes Cultural Diversity

The Ninth Circuit's Standing Committee on Gender, Race, Religious and Ethnic Fairness is responsible for promoting fairness and diversity in all areas of the federal court system. Established in 1994 by the Judicial Council of the Ninth Circuit, the committee originally studied gender fairness. Its role expanded following the completion of a 1997 task force study on race, religious and ethnic fairness, which recommended continuing dialogue on these issues.

In 2001, the committee, chaired by Central District of California Chief District Judge Consuelo Marshall, continued its work to encourage communications on fairness issues and to monitor the Employee Dispute Resolution (EDR) program. The Judicial Council of the Ninth Circuit adopted the EDR plan in 1997 for courts within the Ninth Circuit. The plan provisions supplemented the non-discrimination features of the Equal Employment Opportunity (EEO) plans by including additional protections found in certain employment laws passed by Congress. The EDR plan also replaced the complaint procedures of the existing EEO plans.

In October 2001, to promote an understanding and appreciation of the pluralism of the regions encompassed by the Ninth Circuit, the Fairness Committee held the first-ever Diversity Conference in San Diego. Attending were 120 court unit managers and human resources staff from 14 of the circuit's 15 judicial districts. Chief Circuit Judge Mary M. Schroeder, Circuit Judge Margaret McKeown, and Chief District Judge



At the first Diversity Conference, Assistant Circuit Executive Holly Velando introduces panelists, from left, Chief Judge Mary M. Schroeder, Bankruptcy Court Clerk Mark Hatcher, Deputy General Counsel Robert Loesche and mediator Chuck Loughran.

Stephen McNamee of the District of Arizona, addressed court staff concerning the importance of a diverse workforce and how the courts can continue to promote cross-cultural understanding in the workplace. Attendees heard mostly positive news from panelists speaking at the conference. For example, the racial and ethnic distribution of court employees is generally consistent with the resident labor force, except for Native Americans. And, the Administrative Office of the United States Courts Fair Employment Practices (FEPS) Annual report for fiscal year 2000 showed the judiciary doing well overall in employing females and minorities.

At the Circuit's annual Judicial Conference, held in July of 2001, the Fairness Committee took the opportunity to distribute information concerning efforts by numerous organizations nationwide to address diversity in legal clerkships. Judges in the Ninth Circuit also are able to participate in programs sponsored by the American Bar Association and the

National Bar Association, which offer minority and disadvantaged law students opportunities to gain experience as judicial externs. Students participating in the programs enhance their potential to become successful law clerks.

Finally, the Fairness Committee reviews reports on Fair Employment Practices Systems (FEPS). FEPS reports are submitted regularly by each district in the circuit and analyze the gender, racial, and ethnic makeup of court personnel and help the courts to ensure that they are achieving a diverse workforce in all occupational categories.

Pacific Islands Committee Aids Territories, Republics

The Ninth Circuit Pacific Islands Committee is responsible for monitoring developments and making suggestions to both the Ninth Circuit Judicial Council and the Judicial Conference of the United States for improvement in the administration of justice in the U.S. territories of Guam and American Samoa, the Commonwealth of the Northern Mariana Islands, the republics of Palau and the Marshall Islands, and the Federated States of Micronesia.

The Territory of Guam

By law, the Ninth Circuit Court of Appeals has jurisdiction to review by writ of certiorari all final decisions of the highest court of Guam. Title 48, United States Code Section 1424-2 requires the Circuit to submit periodic reports to Congress concerning whether the Guam Supreme Court “has developed sufficient institutional traditions to justify direct review by the Supreme Court of the United States.”

As part of this requirement, in 2001, the Pacific Islands Committee conducted a comprehensive visit and evaluation of the Guam Supreme Court. The committee concluded that the high court of Guam had developed sufficient institutional traditions to justify direct review of final decisions by the United States Supreme Court and that the quality of opinions was comparable to opinions of the supreme courts of the states in the Ninth Circuit, which can be appealed directly to the United States Supreme Court.

In subsequent reports to Congress, the Pacific Islands Committee recom-

mended that all final decisions of the highest court of Guam be allowed to proceed directly to the United States Supreme Court for writ of certiorari instead of having to proceed through a review by the Ninth Circuit Court of Appeals first, as has been required to date. As of early 2002, the reports were under review by the Senate Committee on Energy and Natural Resources and the House Committee on Resources.

Training for Judges of Pacific Island Courts

In 2001, the Pacific Islands Committee undertook an educational needs assessment of the courts of the Pacific Islands. The assessment, conducted by the National Judicial College, included a five-year plan for training judges and judicial employees of the Pacific Islands. The committee successfully obtained authorization for \$100,000 from the United States Department of the Interior for an initial phase of training for judges.

Educational sessions for judges who worked as attorneys prior to taking the bench will be held at the National Judicial College in Reno in July 2002. The judges were to study topics such as the rule of law, judicial independence, judicial ethics, handling pre-trial and trial matters, managing court personnel, trial management techniques, and opinion writing.

More extensive training was planned for judges who had not previously worked as attorneys. These sessions will be held in Micronesia and include an overview of the rule of law and judicial independence, the

judicial decision making process, and a study of the elements of contracts, torts, and evidence.

The Supreme Court of Palau

By request of the Chief Justice of the Supreme Court of Palau, the Pacific Islands Committee visited the Republic of Palau in October of 2001 and conducted an evaluation of the court’s operations. The committee’s report was scheduled to be released in 2002.

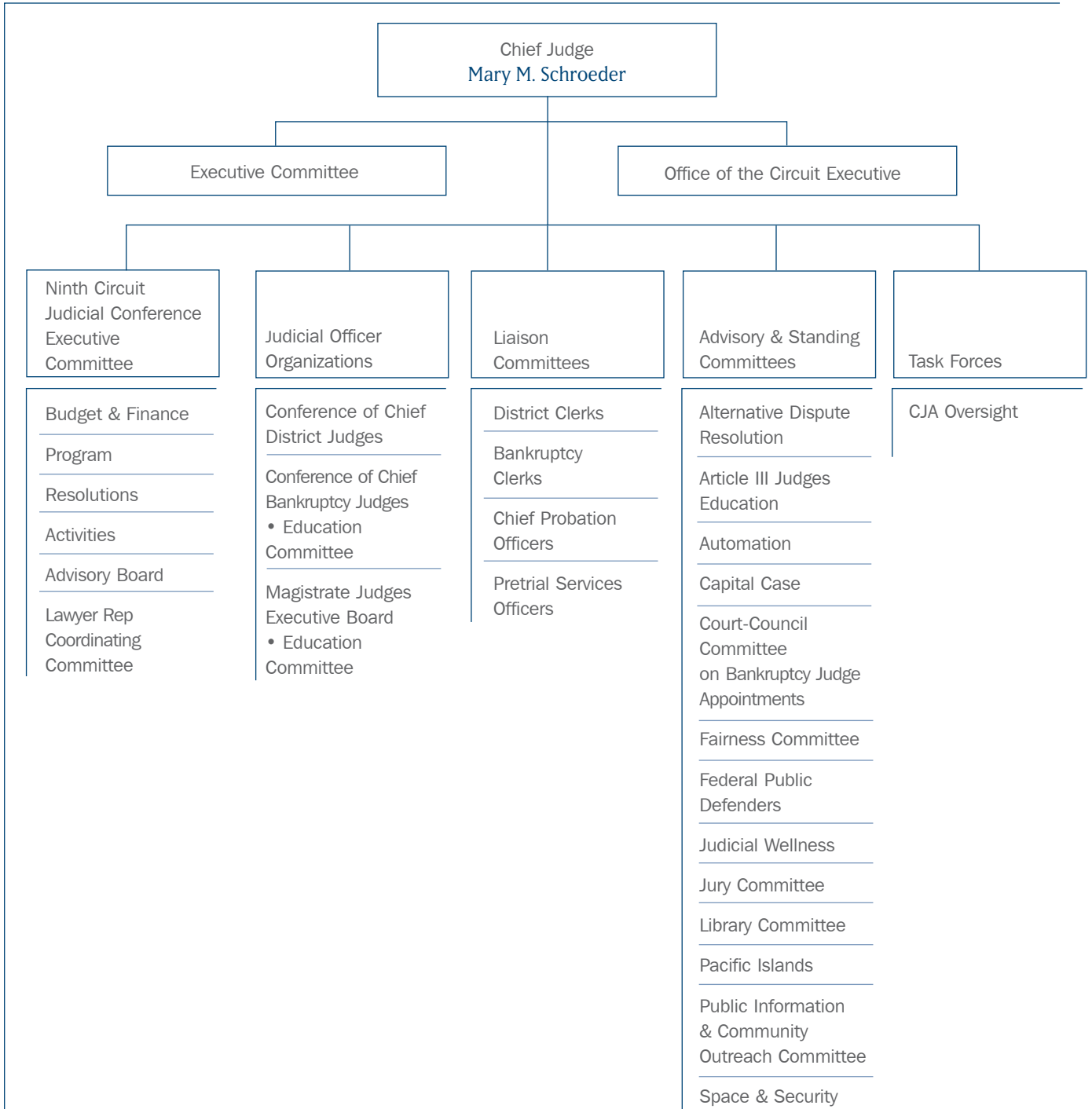
Library Support for Pacific Islands Courthouses

Recognizing the continuing need for additional legal reference materials in the courts of the Pacific Islands, the Committee worked with the Ninth Circuit Library Committee and the Attorney Admission Fund for shipments of excess library books to the islands. The committee also recommended the purchase of additional books and subscriptions for the court library of the District of the Northern Mariana Islands.

District Courts of Guam and the Northern Mariana Islands

In response to a growing caseload in the District of Guam, the Pacific Islands Committee recommended a full-time magistrate judge position be established. The Judicial Council of the Ninth Circuit voted to support the recommendation and it was subsequently approved by the Judicial Conference of the United States.

Judicial Council Organizational Chart



Advisory Groups of the Judicial Council

For the past 20 years, in governing the federal courts of the western United States, the Judicial Council of the Ninth Circuit has relied 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 back to the judges 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 (LRCC) to one meeting and the District Clerks to the other.

In 2001, Chief District Judge Michael Hogan of the District of Oregon chaired the conference. His one-year term ended as chair in October 2001. Chief District Judge James Singleton of the District of Alaska became the new chair and will serve through October 2002. The chairperson automatically assumes a seat on the Ninth Circuit Judicial Council.

As a matter of policy, the Judicial Council consults with the Conference of Chief District Judges before taking a position on any major issues concerning the district courts of the Circuit. The chief district judges communicate Judicial Council policy decisions back to the judges of their courts.

In 2001, the Conference of Chief District Judges addressed such issues

as the role of magistrate judges in case management; the administration of Probation and Pretrial Services; and median time intervals for processing cases. It also reviewed alternative dispute resolution programs, the implementation of electronic case filing, and technology upgrades in the Circuit's courtrooms.

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). The Conference also provides informational and educational resources to bankruptcy judges and serves as a forum for the exchange of ideas in relation to the bankruptcy courts. Chief Bankruptcy Judge Donald MacDonald of Alaska chaired the committee until October 2001, when Chief Bankruptcy Judge Geraldine Mund of the Central District of California assumed the position.

The conference also meets twice a year, once in conjunction with the Circuit's bankruptcy clerks and the clerk of the Bankruptcy Appellate Panel. At its 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 2001, the Conference of Chief Bankruptcy Judges addressed electronic case filing implementation, staffing levels in the bankruptcy courts, management of pro se cases, the law clerk staffing formula for the Bankruptcy Appellate Panel, and bankruptcy judge reappointment procedures. They also



Chief District Judge John Coughenour, Western District of Washington, and Bruce Rifkin, clerk, Western District of Washington, at a Chief District Judges meeting.

reviewed Chapter 11 and Chapter 13 case management practices and procedures, the proposed Bankruptcy Reform Act under consideration by Congress, and steps for enhancing communications between attorneys and bankruptcy judges.

Magistrate Judges Executive Board

The Magistrate Judges Executive Board provides a channel of communication between the Judicial Council and the Circuit's many 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 2001, the Magistrate Judges Executive Board addressed such issues as the magistrate judge reappointment process; the effective use of magistrate judges for district court case management; and the impact on magistrate judges' caseloads as a result of an upsurge in Social Security filings.

The chairperson of the Executive Board serves as an observer member of the Judicial Council. Judge Elizabeth Laporte of the Northern District of California began a two-year term as chairperson of the Executive Board in October 2000.

Advisory and Standing Committees of the Ninth Circuit Judicial Council

Committee on Alternative Dispute Resolution Programs

Senior Circuit Judge Dorothy W. Nelson, Chair

Circuit Judge Raymond C. Fisher

District Judge Michael R. Hogan,
District of Oregon

Bankruptcy Judge Louise DeCarl Adler,
Southern District of California

Bankruptcy Judge Barry Russell,
Central District of California

Magistrate Judge Wayne D. Brazil,
Northern District of California

Magistrate Judge Valerie Cooke,
District of Nevada

Chief Circuit Mediator David Lombardi

ADR Coordinator Le Parker Kelleher,
District of Idaho

Philip E. Cutler, Esq.

Bruce E Meyerson, Esq.

Circuit Executive Gregory B. Walters

Assistant Circuit Executive Robin Donoghue, Esq.

Article III Judges Education Committee

District Judge Roslyn Silver,
District of Arizona, Chair

Chief Circuit Judge Mary M. Schroeder

Senior Circuit Judge Betty Binns Fletcher

Circuit Judge Richard A. Paez

Chief District Judge B. Lynn Winmill,
District of Idaho

District Judge Franklin D. Burgess,
Western District of Washington

District Judge Roger L. Hunt,
District of Nevada

District Judge Napoleon A. Jones,
Southern District of California

District Judge Robert H. Whaley,
Eastern District of Washington

Director Fern M. Smith
Federal Judicial Center

Director Judicial Education Division,
John S. Cooke, Federal Judicial Center

Education Coordinator Richard L. Dargan,
Federal Judicial Center

Circuit Executive Gregory B. Walters

Assistant Circuit Executive Renée S. Lorda

Automation Committee

District Judge James Ware,
Northern District of California, Chair

Circuit Judge Sidney R. Thomas

Chief District Judge James K. Singleton,
District of Alaska

District Judge Nora Manella,
Central District of California

District Judge Roger G. Strand,
District of Arizona

Bankruptcy Judge Dennis Montali,
Northern District of California

Bankruptcy Judge Karen A. Overstreet,
Western District of Washington

Magistrate Judge Leo S. Papas,
Southern District of California

District Court Clerk James R. Larsen,
Eastern District of Washington

Bankruptcy Court Clerk Terence H. Dunn,
District of Oregon

Chief Probation Officer David F. Sanders,
District of Nevada

Daniel J. McAuliffe, Esq.

Circuit Executive Gregory B. Walters

Assistant Circuit Executive Tom Rainey

Advisory and Standing Committees of the Ninth Circuit Judicial Council

Capital Case Committee

Chief District Judge Stephen M. McNamee,
District of Arizona, Chair

Senior Circuit Judge Edward Leavy

District Judge Audrey B. Collins,
Central District of California

District Judge Philip M. Pro,
District of Nevada

Magistrate Judge John L. Weinberg,
Western District of Washington

District Court Clerk Sherri Carter,
Central District of California

Federal Public Defender Maria Stratton, Esq.,
Central District of California

Death Penalty Clerk Margaret Epler, Esq.,
Court of Appeals

Circuit Executive Gregory B. Walters

Assistant Circuit Executive Robin Donoghue, Esq.

Criminal Justice Act (CJA) Oversight Committee

Chief District Judge Stephen M. McNamee,
District of Arizona, Co-Chair

District Judge Barry Ted Moskowitz,
Southern District of California, Co-Chair

CJA Supervising Attorney Joan T. Anyon,
Northern District of California

Peter Eckerstrom, Esq.

Cathy Fujino, Administrative Office of the U.S. Courts

Federal Public Defender Maria Stratton, Esq.,
Central District of California

Death Penalty Clerk Carla Ortega,
Central District of California

Circuit Executive Gregory B. Walters

Assistant Circuit Executive Robert Rucker

Court-Council Committee on Bankruptcy Judge Appointments

Circuit Judge Alex Kozinski, Chair

Circuit Judge Michael Daly Hawkins

Circuit Judge Richard A. Paez

Chief District Judge David A. Ezra,
District of Hawaii

Chief Bankruptcy Judge Patricia Williams,
Eastern District of Washington

Circuit Executive Gregory B. Walters

Assistant Circuit Executive, Holly Velando

Fairness Committee

Chief District Judge Consuelo B. Marshall,
Central District of California, Chair

Circuit Judge M. Margaret McKeown

District Judge Raner C. Collins,
District of Arizona

District Judge Barbara J. Rothstein,
Western District of Washington

Bankruptcy Judge Ellen Carroll,
Central District of California

Magistrate Judge Sandra M. Snyder,
Eastern District of California

Bankruptcy Court Clerk Mark L. Hatcher,
Western District of Washington

Chief Pretrial Services Officer Carol M. Miyashiro,
District of Hawaii

Linda D. Walton, Esq.

Circuit Executive Gregory B. Walters

Assistant Circuit Executive Holly Velando

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District of Idaho

Magistrate Judge J. Kelly Arnold,
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District of Alaska

Bankruptcy Court Clerk, Mark Van Allsburg,
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Space and Security Committee

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Chief District Judge Stephen M. McNamee,
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District Judge Jeremy Fogel,
Northern District of California

District Judge Margaret M. Morrow,
Central District of California

District Judge Edward F. Shea,
Eastern District of Washington

Bankruptcy Judge Charles G. Case II,
District of Arizona

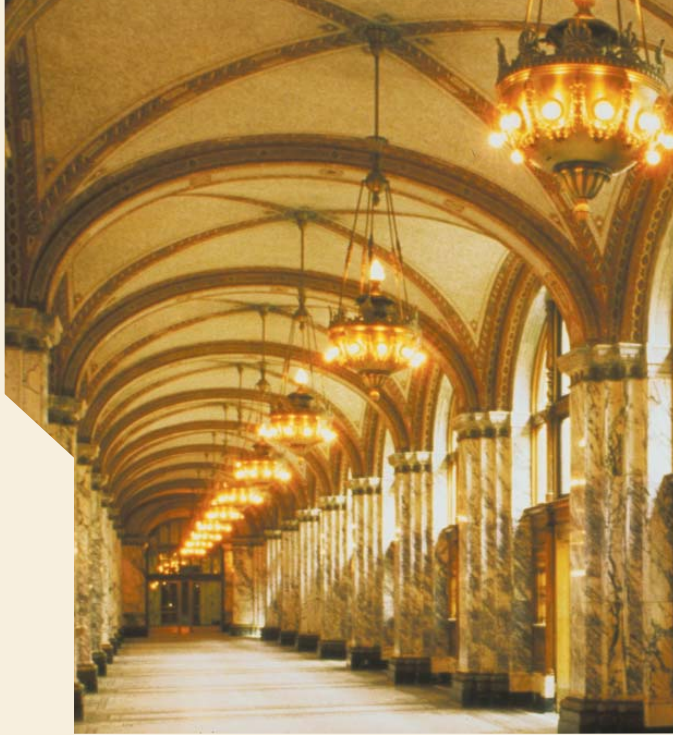
Bankruptcy Judge George B. Nielsen, Jr.,
District of Arizona

District Court Clerk Cameron S. Burke,
District of Idaho

District Court Clerk Lance Wilson,
District of Nevada

Circuit Executive Gregory B. Walters

Assistant Circuit Executive Judy Maretta



2

New Ninth Circuit Judges

Deceased Judges

Space and Security Committee Responds to
Increased Security Threats

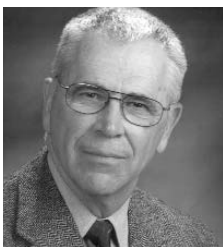
Ninth Circuit Courthouse Construction Projects

New Judges of the Ninth Circuit 2001

District Judges



Judge Richard F. Cebull, of the District of Montana, was appointed a district judge on August 31, 2001. Prior to his appointment, he served as a United States magistrate judge from 1998 to 2001. Before taking the bench, Judge Cebull engaged in private practice as a partner at Brown, Gerbase, Cebull, Fulton, Harman & Ross in Billings, Montana, 1972 to 1998. From 1969 to 1972, he was a partner at Longan, Holmstrom & Cebull, also in Billings. Judge Cebull received his bachelor of arts from Montana State University in 1966 and a juris doctorate from the University of Montana Law School in 1969. He maintains his chambers in Billings.



Judge Sam E. Haddon, of the District of Montana, was appointed a district judge on August 31, 2001. Prior to his appointment to the bench, Judge Haddon engaged in private practice as a partner at Boone, Karlberg & Haddon, in Missoula, 1969 to 2001; and as an associate at Anderson, Symmes, Forbes, Peete & Brown, in Billings, 1966 to 1969. Judge Haddon received his bachelor of arts from Rice University in 1959 and his juris doctorate from the University of Montana Law School in 1965. Following law school, he clerked for United States District Judge William Jameson, 1965 to 1966. He maintains his chambers in Great Falls.



Judge Larry R. Hicks, of the District of Nevada, was appointed a district judge on November 29, 2001. Prior to his appointment to the bench, Judge Hicks was a partner at McDonald, Carano, Wilson, McCune, Bergin, Frankovich & Hicks, 1979 to 2001. Judge Hicks received his bachelor of science from the University of Nevada in 1965 and his juris doctorate from the University of Colorado Law School in 1968. Following law school, he served as a deputy district attorney for the Washoe County District Attorney's Office, Criminal Division, 1968 to 1971; as chief deputy district attorney, 1971 to 1974; and as district attorney, 1975 to 1979. He maintains his chambers in Las Vegas.

Bankruptcy Judges



Judge Sheri Bluebond, of the Central District of California, was appointed a bankruptcy judge on February 1, 2001. Prior to her appointment to the bench, Judge Bluebond engaged in private practice as a partner at Irell & Manella in Los Angeles, 1995 to 2001, and as a partner at Murphy, Weir & Butler, 1991 to 1995. She also was an associate at Gendel, Raskoff, Shapiro & Quittner, 1985 to 1991. Judge Bluebond received her bachelor of arts from the University of California at Los Angeles in 1982 and her juris doctorate from the University of California at Los Angeles School of Law in 1985. She maintains her chambers in Los Angeles.



Judge W. Richard Lee, of the Eastern District of California, was appointed a bankruptcy judge on January 17, 2001. Prior to his appointment to the bench, Judge Lee engaged in private practice as a shareholder at Kimble MacMichael & Upton in Fresno. Judge Lee received his bachelor of arts from the University of Southern California in 1973 and his juris doctorate from San Joaquin College of Law at Fresno in 1985. He maintains his chambers in Fresno.

Magistrate Judges



Judge Edward M. Chen, of the Northern District of California, was appointed a magistrate judge on April 23, 2001. Prior to his appointment, he served on the legal staff of the American Civil Liberties Union, 1985 to 2001. Judge Chen received his bachelor of arts from the University of California at Berkeley in 1975 and his juris doctorate from the University of California Boalt Hall School of Law in 1979. Following law school, he clerked for United States District Judge Charles Renfrew, of the Northern District of California, 1979 to 1980; and for United States Court of Appeals Chief Judge James Browning, 1981 to 1982. He engaged in private practice as a litigation associate at Coblenz, Cahen, McCabe & Breyer in San Francisco, 1982 to 1985. Judge Chen maintains his chambers in San Francisco.



Judge David K. Duncan, of the District of Arizona, was appointed a magistrate judge on June 14, 2001. Prior to his appointment, Judge Duncan served as an assistant United States attorney for the District of Arizona, 1997 to 2001, and as a certified arbitrator for the District of Arizona, 1998 to 2001. Judge Duncan received his bachelor of arts from the University of Arizona in 1984 and his juris doctorate from the University of Arizona College of Law in 1987. Following law school, he clerked for United States Senior District Judge William D. Browning of the District of Arizona, 1987 to 1989. Judge Duncan engaged in private practice as an associate at Meyer, Hendricks, Victor, Osborn & Maledon in Phoenix, 1989 to 1994; and as a partner from 1994 to 1995. He was a founding partner of Osborn Maledon, 1995 to 1997. Judge Duncan maintains his chambers in Phoenix.



Judge Marc L. Goldman, of the Central District of California, was appointed a magistrate judge on July 3, 2001. Prior to his appointment, Judge Goldman served as a United States magistrate judge for the Eastern District of Michigan, 1983 to 2001. Judge Goldman received his bachelor of arts from the University of Michigan in 1969 and his juris doctorate from Wayne State University School of Law in 1973. Following law school, he served as a deputy public defender with the Michigan State Appellate Defender Office and the Washtenaw County Public Defender Office in Ann Arbor, Michigan, 1973 to 1976. Judge Goldman was an assistant professor of clinical law at Wayne State University and the University of Michigan law schools, 1976 to 1980. He then served as an assistant United States attorney for the Eastern District of Michigan, 1980 to 1983. Judge Goldman also served as an adjunct professor of law at Wayne State University, 1987 to 2001. Judge Goldman maintains his chambers in Santa Ana.



Judge Victor B. Kenton, of the Central District of California, was appointed a magistrate judge on July 2, 2001. Prior to his appointment, Judge Kenton served as a federal public defender in Los Angeles, 1996 to 2001. He received his bachelor of arts from the University of Connecticut in 1969 and his juris doctorate from the University of California at Los Angeles School of Law in 1974. Following law school, Judge Kenton worked at the law firm of Arthur J. Crowley, P.C., 1974 to 1978; as a federal public defender, Los Angeles, 1978 to 1982; and in private practice at Victor B. Kenton law office, 1982 to 1996. He maintains his chambers in Los Angeles.

New Judges of the Ninth Circuit 2001 (continued)



Judge Jennifer T. Lum, of the Central District of California, was appointed a magistrate judge on July 2, 2001. Prior to her appointment, Judge Lum was an associate at Sheppard, Mullin, Richter & Hampton. She received her bachelor of arts from the University of Southern California in 1982 and her juris doctorate from Cornell Law School in 1985. Judge Lum clerked for United States District Judge Dickran Tevrizian of the Central District of California. She maintains her chambers in Los Angeles.



Judge Jacqueline J. Marshall, of the District of Arizona, was appointed a magistrate judge on July 11, 2001. Prior to her appointment, Judge Marshall clerked for United States District Judge Alfredo C. Marquez of the District of Arizona, 1997 to 2001. Previously, she engaged in private practice at Ralls, Fox & Jones in Tucson, 1990 to 1997; and as an attorney at the Office of the Federal Public Defender, 1986 to 1990. Judge Marshall received her bachelor of science from Arizona State University in 1982 and her juris doctorate from the University of Arizona College of Law in 1986. She maintains her chambers in Tucson.



Judge Fernando Olguin, of the Central District of California, was appointed a magistrate judge on July 23, 2001. Prior to taking the bench, Judge Olguin served as a partner in the Pasadena-based law firm of Traber, Voorhees & Olguin, 1995 to 2001. Previously, he held the position of national director of the Education Program for the Mexican-American Legal Defense and Educational Fund, 1994 to 1995. Judge Olguin received his undergraduate degree from Harvard University in 1985 and a juris doctorate and a masters of arts degree from the University of California at Berkeley in 1989. Following law school, Judge Olguin clerked for Senior District Judge Carl A. Muecke, of the District of Arizona, 1989 to 1991. He served as a trial attorney for the United States Department of Justice's Civil Rights Division from 1991 to 1994. Judge Olguin maintains his chambers in Los Angeles.



Judge Charles R. Pyle, of the District of Arizona, was appointed a magistrate judge on June 28, 2001. Prior to his appointment to the bench, Judge Pyle supervised the Tucson office of the Liability Management Section of the Arizona Attorney General's Office, 1989 to 2001. Previously, he served in the Civil Division of the Pima County Attorney's Office, 1987 to 1989; and as a staff attorney with Southern Arizona Legal Aid, 1977 to 1987. Judge Pyle received his bachelor of arts degree from Stanford University in 1970 and his juris doctorate from the University of Arizona College of Law in 1973. Judge Pyle maintains his chambers in Tucson.

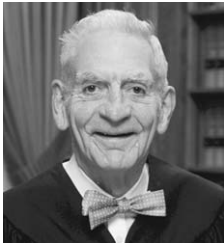


Judge Richard G. Seeborg, of the Northern District of California, was appointed a magistrate judge on February 9, 2001. Prior to his appointment to the bench, he served as an assistant United States attorney in San Jose from 1991 to 1998. Judge Seeborg engaged in private practice with Morrison & Foerster in 1982, becoming a partner in 1987. He clerked for United States District Judge John H. Pratt from the District of Columbia from 1981 to 1982. Judge Seeborg received his bachelor of arts from Yale College in 1978 and his juris doctorate from Columbia University School of Law in 1981. He maintains his chambers in San Jose.

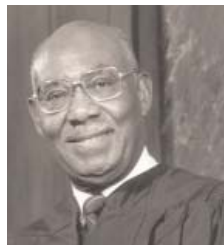


Judge Patrick J. Walsh, of the Central District of California, was appointed a magistrate judge on July 18, 2001. Prior to his appointment, Judge Walsh served as an assistant attorney in the Los Angeles United States Attorney's Office, Criminal Division, 1996 to 2001; and, previously, in the Civil Division, 1992 to 1996. He served as a trial attorney for the United States Department of Justice from 1989 to 1992. Judge Walsh received his bachelor of arts degree from Northern Illinois University in 1981 and his joint juris doctorate/master of business administration degree from John Marshall Law School in Chicago in 1985. Following law school, he clerked for District Judge Alfred Laureta and later for Chief District Judge Alex Munson, both from the District of Northern Mariana Islands, 1985 to 1989. Judge Walsh maintains his chambers in Los Angeles.

Deceased Judges



Judge James M. Burns was appointed to the District of Oregon as a district judge on May 25, 1972. Prior to his appointment to the federal bench, Judge Burns served as a judge in Multnomah County, Oregon, 1966 to 1972. Previously, he engaged in private practice at Benson, Whitely, McLennan and Burns, 1960 to 1966; and at Black, Kendall and Tremaine, 1956 to 1960. Judge Burns received his bachelor of arts degree from the University of Portland in 1947 and his juris doctorate from Loyola University Law School in 1950. He passed away on December 21, 2001. Judge Burns is survived by his wife, Helen, and four daughters.



Judge James R. Dooley was appointed to the Central District of California as a bankruptcy judge on November 1, 1976. Prior to his appointment to the bench, Judge Dooley served as assistant United States Attorney, Los Angeles, 1953 to 1976; and as first assistant chief, Civil Division, 1962 to 1976. Judge Dooley received his bachelor of science degree from Benedict College, South Carolina, in 1941 and his juris doctorate from John Marshall Law School, Chicago, in 1950. Judge Dooley passed away on April 27, 2001. He is survived by his wife, La Curtis Ruth Walls, and three children.



Judge Thomas E. Fenton was appointed to the District of Alaska as a part-time magistrate judge on March 7, 1991. Judge Fenton also engaged in private practice, specializing in criminal and bankruptcy law. He received his bachelor of arts degree from Trinity College in 1956 and his LL.B. from New York University Law School in 1961. Judge Fenton passed away on August 14, 2001. He is survived by his wife, Nancy Fenton, and five children.

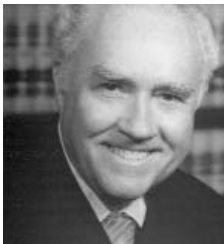
Deceased Judges (continued)



Judge Earl B. Gilliam was appointed to the Southern District of California as a district judge on August 20, 1980. Prior to his appointment to the federal bench, Judge Gilliam served as a Superior Court judge for the State of California, 1975 to 1980; and as a Municipal Court judge for San Diego County, 1963 to 1975. Judge Gilliam received his bachelor of arts degree from San Diego State University in 1953 and his juris doctorate from the University of California, Hastings College of Law in 1957. Following law school, he engaged in private practice from 1961 to 1963 before being appointed a deputy district attorney for San Diego County, 1957 to 1961. Judge Gilliam passed away on January 28, 2001. He is survived by his wife, Rebecca, and son. He had two other children from a previous marriage.



Judge Lawrence Ollason was appointed to the District of Arizona as a bankruptcy judge on July 27, 1983. Prior to his appointment to the bench, Judge Ollason served as Deputy Pima County Attorney for School Affairs, 1964 to 1983. Judge Ollason received his bachelor of arts degree from the University of Arizona in 1951 and his LL.B. from the University of Arizona College of Law in 1954. Following law school, he served as an assistant United States attorney general, 1954 to 1955. Judge Ollason passed away on June 23, 2001. He is survived by his wife, Marcha, and three sons.



Judge Albert Lee Stephens, Jr., was appointed to the Central District of California as a district judge on September 8, 1961. Judge Stephens served as chief judge of the district court from 1970 until 1979, when he took senior status. Prior to his appointment, Judge Stephens served as a judge on the Los Angeles Superior Court, 1959 to 1961. Judge Stephens received his A.B. from the University of Southern California in 1936 and his LL.B. from the University of Southern California Law School in 1938. Judge Stephens passed away on September 6, 2001. He is survived by his wife, Barbara, and two daughters.



Judge Raymond T. Terlizzi was appointed to the District of Arizona as a magistrate judge on March 1, 1971. He retired in March 2000 after nearly 35 years of service. Judge Terlizzi's career on the bench began in 1966 as a United States commissioner – a judicial office predating the magistrate judge position. Prior to his appointment to the bench, he began his law career in private practice. Judge Terlizzi received his bachelor of science degree from the University of Notre Dame in 1956 and his LL.B. from the University of California at Berkeley in 1964. He passed away on February 10, 2001, and is survived by his wife, Judith, and son, Gregory.



Judge Eckhart Thompson was appointed to the Eastern District of California as a bankruptcy judge on February 15, 1972. Prior to his appointment to the bench, Judge Thompson engaged in private practice as a partner at Lerrigo, Thuesen & Thompson in Fresno, 1943 to 1972; and at Thompson & Thompson, 1943 to 1954. Judge Thompson served as deputy district attorney for Fresno County from 1939 to 1943. He received his bachelor of arts degree from Fresno State College in 1935 and his juris doctorate from Stanford University Law School in 1938. Judge Thompson passed away on May 22, 2001. He is survived by a wife and two children.

Space and Security Committee Responds to Potential Security Threats



Senior Circuit Judge Melvin Brunetti, chair of the Space and Security Committee

The Ninth Circuit's Space and Security Committee, which is responsible for courthouse construction and renovation projects, saw its scope of work expand significantly following the terrorist attacks of Sept. 11, 2001, on New York and Washington, D.C., and the subsequent incidents of anthrax contamination at federal government buildings.

A Closer Look at Courthouse Security

Faced with multiple threats, including biological attack such as occurred when anthrax spores were mailed to government offices, the Judicial Council of the Ninth Circuit directed the Space and Security Committee to coordinate development of plans to protect against bio-terrorism and increase physical security at courthouses. To carry out its mission, the committee reached out to the Court of Appeals and individual districts, many of which had established security committees even prior to the Sept. 11 attacks. District committees were urged to re-examine their security policies and practices with the

aim of tightening both mailroom and overall facility security. Districts that did not have security committees were urged to establish them immediately.

District courts responded in various ways to the potential threat of anthrax contamination through the mail. Some set up "clean rooms," which are physically isolated from the rest of the courthouse, such as a portable mail facility set up outside of the building. Other courts relied on less stringent measures. All took special precautions for the handling of mail, including distributing gloves and masks to mailroom employees. In addition, supplemental funds were approved by the Space and Security Committee to meet immediate needs for improved mail security facilities.

By year's end, the Space and Security Committee was making plans to work with the United States Marshals Service to conduct a security inventory of every judicial court unit building in the circuit. Plans called for the marshals to take a close look at prisoner movement, judge security, surveillance equipment, vehicular access to and near each courthouse, access control devices, security cameras, and perimeter security measures.

On the national level, the United States Congress approved funding for additional security staff and equipment for all government buildings. In the judicial branch, the money was slated to upgrade security x-ray equipment, hire more court security officers and to reassign senior-level deputy marshals, who will eventually assume management control of all court security personnel in each district.

Funding Sought for Courthouses

The Space and Security Committee continued to oversee plans for courthouse construction and renovation. Congress appropriated construction funds only twice between 1997 to 2001, which has caused a serious backlog of projects in the circuit. Current projects include:

- Central District of California — A 1-million-square-foot courthouse in Los Angeles, which claims the nation's busiest federal district court. Design work and site acquisition are proceeding, although construction funding has not yet been appropriated.
- Eastern District of California — Construction funding for a new courthouse in Fresno was approved by Congress for fiscal year 2002.
- District of Oregon — Site selection has been completed and design work is under way for a new district court house in Eugene. Construction funding is being sought in the fiscal year 2003 budget.
- Districts of Northern and Southern California — Funding for new courthouses in San Jose and San Diego was proposed for the fiscal year 2003 budget.

In addition to new courthouse construction, the committee also worked on projects involving courthouse modernization, parking and historic renovations.

Ninth Circuit Courthouse Construction Projects

Courthouses in the Planning Stage

El Centro, California (leased space)

Anticipated completion date: 2003

Square footage: not available

San Diego

Anticipated completion date: 2007

Square footage: 527,610

San Jose

Anticipated completion date: 2008

Square footage: 441,110

Courthouses under Construction

Helena, Montana (leased space)

Anticipated completion date: 2002

Seattle

Anticipated completion date: 2004

Square footage: 369,000

Courthouses in Design Stage

Eugene

Anticipated completion date: 2006

Square footage: 264,000

Fresno

Anticipated completion date: 2006

Square footage: 430,000

Los Angeles

Anticipated completion date: 2007

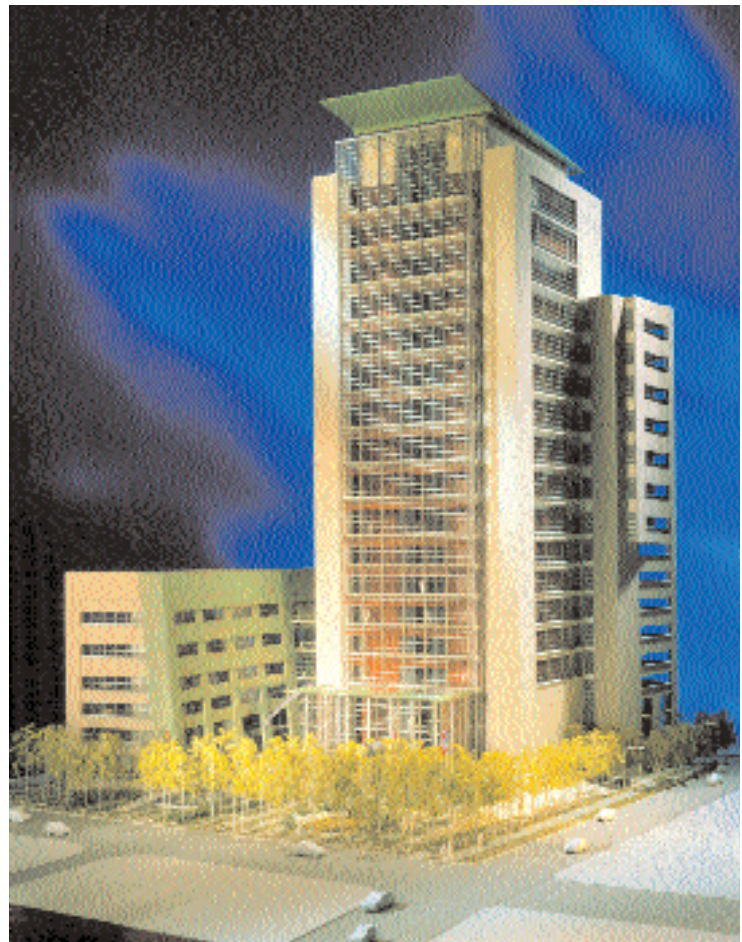
Square footage: 1,016,300

Completed

Phoenix

Completed: April 2001

Square footage: 571,078



Seattle



Eugene Exterior



Eugene Interior

Ninth Circuit Courthouse Construction Projects (continued)



Los Angeles

Anticipated completion date: 2007
Square footage: 1,016,300



Fresno

Anticipated completion date: 2006
Square footage: 430,000



- Summary of 2001 in the Ninth Circuit Court of Appeals
- Senior Judges Provide Valuable Assistance to the Courts
- Significant Ninth Circuit Court of Appeals Cases in 2001
- Significant Ninth Circuit District Court Cases in 2001
- Capital Habeas Corpus Cases in the Ninth Circuit
- Courts Move Toward Paperless Case Filing System
- Technology and Intellectual Property Law Cases
- Pre-trial Services Have Nation's Largest Caseload
- Probation Officers See Caseloads Continue to Rise
- Federal Public Defender Offices
- Bankruptcy Filings Up

3 YEAR IN REVIEW

Summary of 2001 in the Ninth Circuit Court of Appeals

The Ninth Circuit Court of Appeals continued to be the busiest of nation's 13 federal circuit courts with filings topping the 10,000 mark for the first time. All told, 10,054 cases were appealed in 2001, up 5.4 percent from the prior year. Since 1990, filings have grown by nearly 50 percent. In 2001, the Ninth Circuit caseload amounted to 17.7 percent of the national appellate total.

From among the 15 districts in the circuit, Central California generated the largest number of appeals with 2,342 cases, or 23.3 percent of the total. Appeals of administrative agency actions numbered 1,094, or nearly 11 percent of the total. Another 878 cases, or 8.7 percent of the total, were original proceedings.

In 2001, the Court of Appeals heard oral arguments in about 2,500 cases, while another 2,000 cases were decided without argument. Cases terminated in 2001 totaled 10,227, up 8.4 percent. As of December 31, 2001, there were 9,491 pending cases before the court, amounting to 23 percent of the national appellate total.

This daunting caseload was handled by the Ninth Circuit's active appellate bench of 25 judges, augmented by 20 senior circuit judges and, sitting by special designation, both district judges from within the circuit and circuit judges from other circuits.

Panel Sitings

In addition to its regular sittings in San Francisco, Pasadena and Seattle, during the year the court heard cases in Portland, Honolulu, Anchorage,

Phoenix, and Montana. All told, the court met for a total of 445 panel days in 2001. The table below breaks out the court's calendar as follows:

San Francisco (every month): 165 panels
Pasadena (every month): 80 panels
Seattle (every month): 70 panels
Portland (March, May, July, September, and November): 25 panels
Honolulu (May and November): 10 panels
Alaska (June): 5 panels
Phoenix (March): 1 special panel
Montana (June): 1 special panel

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, for matters of exceptional importance, or in the case of a death sentence.

In 2001 there were a total of 23 cases argued en banc by the Court of Appeals and 22 written opinions were filed. These en banc opinions covered a wide range of issues including civil rights, constitutional law, criminal law, environmental law, capital habeas corpus, immigration law, and tribal rights.

U.S. Supreme Court Review

In 2001, the Supreme Court reviewed 44 cases decided by the Ninth Circuit Court of Appeals in 2001 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 arbitration, the Americans with Disabilities Act, civil rights, criminal law, due process, federal immunity, immigration, labor, property rights, punitive damages, and tribal rights.

The Supreme Court issued written opinions in 19 Ninth Circuit cases: four were affirmed, one was vacated and remanded, and 14 were reversed. Another 24 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.

Of the 44 Ninth Circuit cases, 40 were decided during the Supreme Court's 2000-01 term. Seventeen cases involved written opinions and 12 of those were reversed, resulting in a reversal rate of 71 percent. In all, the Supreme Court issued written opinions in 82 cases from the federal circuits and state courts for the 2000-01 term. Of those, 30 were affirmed and 52 reversed, resulting in a reversal rate of 63 percent.

Senior Judges Provide Valuable Assistance

Senior judges assisted greatly with the workload of the federal courts of the Ninth Circuit in 2001. With three vacancies at the circuit level and 16 unfilled district judgeships, the courts relied on senior judges to keep pace with an upturn in cases at both the appellate and district court levels.

Circuit and district court judges are eligible to take senior status after meeting certain age requirements and years of judicial service. Most senior judges work part time, although some continue to carry a full workload.

In 2001, only two judges took senior status: District Judge H. Russel Holland of the District of Alaska and District Judge Jack Shanstrom of the District of Montana. That number was in sharp contrast with 2000, when 10 district judges and one circuit judge took senior status.

Senior Judge Caseloads

Senior judges terminated 5,522 civil cases, up 10.4 percent from 2000, and 2,831 criminal cases, down 5.6 percent from the prior year.

In the Court of Appeals, senior judges assisted with 1,643 case hearings, 1,534 appeals that were submitted on the briefs, and 1,085 other appeals. In the district courts, senior judges assisted with 423 trials.



Senior Circuit Judge James R. Browning, back row, right, is honored by his fellow judges, former law clerks, and members of the legal community at a special ceremony held at the Court of Appeals.

During the year, 20 senior circuit judges and 55 senior district judges heard cases in the Court of Appeals and the various district courts.

Senior judges made substantial contributions in other areas, handling district court motions, taking on various administrative duties, chairing or actively participating as members on various judicial committees, and accepting designations as visiting judges to other circuits or districts that need their assistance.

Tribute Program

To show the Circuit's appreciation for the hard work of its senior circuit judges, each year, the chief judge sponsors a group luncheon in their honor. In 2001, the luncheon was held during the circuit conference in Big Sky, Montana, and featured a panel presentation by the senior judges' spouses.

Significant Ninth Circuit Court of Appeals Cases in 2001

The Ninth Circuit Court of Appeals decided more than 4,500 cases in 2001, issuing significant opinions in virtually every area of the law. Included here are some of the noteworthy cases heard by the court, involving habeas corpus, Miranda issues, immigration and labor.

Habeas Corpus

In *Mayfield v. Woodford* (opinion by Circuit Judge Richard C. Tallman), a habeas corpus appeal by a California prisoner who was sentenced to death, an en banc panel held that the petitioner was denied his Sixth Amendment right to effective assistance of counsel. The court found that the petitioner's case was prejudiced by the failure of his attorney to present mitigating evidence during the sentencing phase of trial. The court remanded to the district court to grant the habeas writ and order the state court to conduct a new sentencing proceeding.

Immigration Law

In *Zadvydas v. Davis, et al.* the U.S. Supreme Court affirmed the holding of the Ninth Circuit Court of Appeals in *Ma v. Reno* (opinion by Circuit Judge Stephen Reinhardt), that the Immigration and Naturalization Service (INS) may not indefinitely detain an alien, pending removal. The alien in this case had been held in indefinite INS custody because his native country, Cambodia, did not have a repatriation agreement with the United States and would not permit his return. The Supreme Court held that after a

final removal order issues, there is a presumptively reasonable period of six months during which the INS may continue to detain an alien it is seeking to remove. After that, detention is lawful only if there is a significant likelihood of removal in the reasonably foreseeable future.

The Supreme Court vacated the Court of Appeals grant of the alien's habeas corpus petition, challenging his detention on the ground that the court may not have given due weight to the likelihood of successful future negotiations for a repatriation agreement with Cambodia. On remand from the Supreme Court, the Court of Appeals in *Ma v. Ashcroft* (opinion by Circuit Judge Stephen Reinhardt), clarified that the court's conclusion that there was no likelihood of the alien's removal in the reasonably foreseeable future was based not only on the lack of a repatriation agreement, but also on the lack of a sufficient showing that future negotiations were likely to lead to an agreement in the reasonably foreseeable future.

In *Ram v. INS* (opinion by Circuit Judge Ronald M. Gould), the court affirmed final deportation orders for aliens who sought suspension of deportation and challenged the application to their cases of the "stop-time" rule, a new, more difficult continuous physical presence requirement imposed by the Illegal Immigration Reform and Immigrant Responsibility Act. The court held that the stop-time rule applied to aliens in deportation proceedings after the Act took effect on April 1, 1997.

Labor Law

In *Cramer v. Consolidated Freightways, Inc.* (opinion by Circuit Judge Raymond C. Fisher), an en banc panel held that former employees' state law claims for invasion of privacy and intentional infliction of emotional distress were independent of the terms of their collective bargaining agreement and thus were not preempted by the Labor Management Relations Act. The case involved eavesdropping and video surveillance devices used in trucking terminals. The court also held that when an employer's surreptitious surveillance constitutes a per se violation of established state privacy laws, the employees may bring an action for invasion of privacy, regardless of the terms of their collective bargaining agreement.

Miranda Issues

In *United States v. Orso* (opinion by Circuit Judge Diarmuid O'Scannlain), an en banc panel held that the U.S. Supreme Court case of *Oregon v. Elstad* requires suppression of a Mirandized confession only if the confession was tainted by unwarned statements that were involuntary. The court held that *Oregon v. Elstad* does not require suppression of the warned confession if noncoercive, improper police tactics elicited the unwarned statements. The court subsequently rejected a sua sponte call for full court en banc review.



The judges of the Ninth Circuit Court of Appeals.

In *United States v. Velarde-Gomez* (opinion by Circuit Judge Kim McLane Wardlaw), an en banc opinion in a criminal appeal, the court held that the district court erred in allowing comment on the defendants post-arrest, pre-Miranda silence and that the error was not harmless beyond a reasonable doubt. The court also held that (1) evidence of a lack of physical or emotional reaction was tantamount to evidence of silence and (2) the defendants subsequent waiver of Miranda rights did not render admissible comment on his pre-waiver silence.

Punitive Damages

In *In Re Exxon Valdez* (opinion by Circuit Judge Andrew J. Kleinfeld), the court held that punitive damages could be awarded to a class of plaintiffs whose economic interests were affected by the Exxon Valdez oil spill, but remanded for consideration of the amount of the jury's \$5 billion punitive damages award.

Traffic Stops

In *United States v. Chavez-Valenzuela* (opinion by Circuit Judge Raymond C. Fisher), the court reversed the denial of a suppression motion and vacated a conviction of possession of methamphetamine with intent to distribute. The court held that even extreme nervousness during a traffic stop, in the absence of other particularized, objective factors, does not support a reasonable suspicion of criminal activity, and does not justify a law enforcement officer's continued detention of a suspect after he has satisfied the purpose of the stop.

Significant Ninth Circuit District Court Cases in 2001

In 2001, nearly 60,000 civil and criminal cases were filed in the 15 district courts that make up the Ninth Circuit. District courts have jurisdiction to hear nearly all categories of federal cases. Among the more noteworthy trials heard by the courts in 2001 were cases involving criminal conspiracy, environmental restoration and federal habeas corpus.

United States v. Fernandez, (Central District of California)

The longest criminal trial in the history of the Central District of California, this case involved the prosecution of alleged members of the Mexican Mafia for murder, attempted murder, conspiracy to murder, extortion, robbery, and various drug trafficking and firearms crimes. A number of the crimes charged involved a triple homicide that occurred in 1998. The case was severed into three separate trials, each of which was presided over by Judge David O. Carter.

The first trial was of 11 defendants (June–October 2000). The jury convicted 10 of the 11 defendants of the Racketeer Influenced and Corrupt Organizations Act (RICO) charges they faced and hung on certain counts facing the 11th defendant, who later pleaded guilty to RICO conspiracy charges. Several of the defendants, including two long-time Mexican Mafia members, ultimately received life sentences.

The second trial involved a single defendant purported to be a long-time Mexican Mafia member, who was charged with orchestrating the triple homicide as well as a number of other acts of violence. The jury convicted on 24 of the 25 charges brought, including all of the charges related to the triple homicide. At the death penalty phase of the trial that followed, the jury hung 8–4 in favor of death. This trial lasted from October 2000 to April 2001. Sentencing is pending; the defendant faces three mandatory life sentences.

The final trial involved five defendants who the government alleged were involved in the murders as well as other violent activities that were committed on behalf of the Mexican Mafia. The trial began on April 30, 2001 and the jury reached its verdict in November 2001. Three of the five defendants were convicted of the RICO conspiracy and drug trafficking conspiracy but were acquitted on the charges relating to the triple homicide. Sentencing is pending; each defendant faces as much as 20 years in prison. The other two defendants were acquitted.

Wilderness Society v. Rey (District of Montana)

Heard in the District of Montana, this case grew out of the wild fires that burned significant areas of Montana's Bitterroot National Forest in the summer of 2000. The U.S. Forest Service subsequently developed a salvage project for the burned areas and released a draft Environmental Impact Statement (EIS) for the project in May 2001. In October 2001, the Forest Service released a final EIS on the Bitterroot Burned Area Recovery project. The final EIS featured a preferred alternative, known as Alternative F, that was not an alternative in the draft EIS. The Undersecretary of Agriculture signed the Bitterroot Record of Decision on December 2001, maintaining that his approval constituted the final administrative determination for the project.

In two separate actions, the Wilderness Society filed for a restraining order and preliminary injunction to stop the Forest Service from proceedings with the project. Plaintiffs argued that the Appeals Reform Act specifically required that the decision of the Forest Service be subject to administrative appeal. Ruling that the decision was not subject to the Act's administrative appeal requirements, the court granted the request for a restraining order and the preliminary injunction and remanded the matter back to the Forest Service.



Chief Judge Mary M. Schroeder addresses a meeting of district judges at the annual Ninth Circuit judicial conference.

The Forest Service asked for an emergency stay of the preliminary injunction. Chief Judge Donald W. Molloy of the District of Montana then ordered all parties to a settlement conference before Chief District Judge Michael Hogan of the District of Oregon. After two days of round-the-clock negotiations, the parties agreed to a compromise that allowed about one-third of the estimated board feet of timber to be removed from the forest without subjecting the sales to the appeals process.

Amaya-Ruiz v. Stewart (District of Arizona)

Heard in the District of Arizona by Judge William D. Browning, this case involved an Arizona prisoner who petitioned for habeas corpus relief after being convicted of first-degree murder and sentenced to death. As a matter of first impression, the court held that a prisoner who is found to have recovered mental competency for execution, after first being declared incompetent, is entitled to the same procedural protections guaranteed when the state seeks to determine restoration of competency. The court also found that Arizona failed to provide the prisoner with adequate procedures to litigate the issue of restored competency. The court directed that the prisoner's execution be stayed pending a federal evidentiary hearing on his mental fitness for execution.

Pirtle v. Lambert (Eastern District of Washington)

Heard in the Eastern District of Washington by Judge Justin L. Quackenbush, this case also involved a prisoner convicted of first-degree murder and sentenced to death. The court conditionally granted a writ of habeas corpus, holding that there were constitutional errors made in the penalty phase of the trial due to the admission of statements made by the defendant prior to receiving his Miranda rights. Judge Quackenbush found that the errors were not harmless since the statements could have had a profound effect on the jury considering the penalty options. The court ordered that the state set aside the sentence of death unless within 90 days the state granted the prisoner a new hearing on the sentencing issue without use of his non-Mirandized statement, or if the state did not elect to retry him, that the sentence of death be vacated and he be resentenced according to Washington law and the U.S. Constitution.

Capital Habeas Corpus Cases in the Ninth Circuit

Federal courts of the Ninth Circuit are dealing with a growing number of capital habeas corpus petitions arising out of state death penalty cases. These petitions usually involve complex constitutional issues, extraordinarily lengthy trial records, and time-consuming court proceedings that span years, often decades. The Judicial Council of the Ninth Circuit, the governing body of the circuit, recognizes the need to carefully manage these cases and regularly reviews the case management and budgeting process.

Capital habeas corpus petitions provide a means for a prisoner to raise federal constitutional issues that may not have been properly resolved during the prisoner's original trial and/or sentencing, or in subsequent state appellate proceedings. State court convictions and sentencings can be overturned by federal district courts or further appealed to the Ninth Circuit Court of Appeals and the U.S. Supreme Court.

Seven of the nine states that comprise the Ninth Circuit have crimes punishable by death (Alaska and Hawaii, along with the U.S. Territory of Guam and the Commonwealth of the Northern Mariana Islands do not). The seven death penalty states produced most of the 260 capital cases that were pending in the district courts of the Ninth Circuit, and the 34 cases pending in the Court of Appeals as of Dec. 31, 2001. In addition, at year's end, 552 death penalty cases were pending in the supreme courts of the death-penalty states. Virtually all of those cases eventually will proceed to the federal courts. These cases are just the tip of the iceberg. Hundreds more death sen-



The Capital Case Committee manages costs of capital habeas corpus cases in the Ninth Circuit. Left to right: District Judge Philip Pro, Nevada; Clerk of Court Sherri Carter, Central District of California; Ms. Robin Donoghue, Office of Circuit Executive; Chief District Judge Stephen McNamee, Arizona; Mr. Bob Rucker, Office of Circuit Executive; Senior Circuit Judge Edward Leavy; and Federal Public Defender Maria Stratton.

tence cases are awaiting appointment of counsel and have yet to reach state supreme courts.

Case Management and Budgeting

To reduce the time and expense of capital habeas cases, the Judicial Council instituted a comprehensive case management and budgeting process. Judges and lawyers meet regularly to plan and authorize capital phases and costs. They make use of a model case management and budgeting format designed by the Judicial Council's Criminal Justice Act (CJA) Capital Habeas Corpus Oversight Committee. In the Northern and Central Districts of California, both of which have significant numbers of death penalty cases, CJA supervising attorneys review and make recommendations on vouchers submitted by lawyers representing capital habeas petitioners. Judges throughout the circuit also rely on 19 death penalty law clerks, who specialize in this area of

the law. The Judicial Council actively reviews and approves these case budgets for every capital habeas corpus case in which a private CJA attorney has been appointed.

These efforts to manage costs have paid off. While the number of capital habeas cases under way in the Ninth Circuit has increased over time, the annual cost of cases has decreased. In fiscal year 2001, the total cost of Ninth Circuit capital habeas corpus cases was \$8.5 million compared to \$12.9 million in fiscal year 1996, a reduction of more than 34 percent in five years.

Ineffective Assistance of Counsel

Ineffective assistance of counsel or asserted errors in the manner in which a trial was conducted, such as errors in jury instructions, are frequently the basis for capital habeas corpus petitions and figured into several noteworthy appeals heard by the Ninth Circuit Court of Appeals.

In *Hoffman v. Arave* (opinion by Circuit Judge Harry Pregerson), the court held that Idaho's 42-day statute of limitations for filing a post-conviction petition in a capital case violated the Sixth Amendment because it denied the petitioner any meaningful review of his ineffective assistance of counsel claims and therefore was inadequate to bar federal review. The court remanded the case to the district court for an evidentiary hearing on the petitioner's ineffective assistance of counsel claims.

Sitting en banc, the court held in *Mayfield v. Woodford* (opinion by Circuit Judge Richard C. Tallman)

that the petitioner was denied his Sixth Amendment right to effective assistance of counsel because he was prejudiced by his attorney's failure to present mitigating evidence during the sentencing phase of trial. The court remanded the case to the district court with instructions to grant the habeas writ and order the state court to conduct a new sentencing proceeding.

And in *Garceau v. Woodford* (opinion by Circuit Judge A. Wallace Tashima) the court found that a jury instruction regarding other crimes committed by the petitioner rendered his trial so fundamentally unfair as to

constitute a violation of the Due Process Clause. The instruction allowed the jury to consider evidence of illegal drug manufacturing and of another murder committed several months after the petitioner murdered the victims in the present case as evidence of the petitioner's character or conduct on a specific occasion. The court remanded the case to the district court with directions to issue the writ, unless the State of California granted the petitioner a new trial within a reasonable period of time.

Table 1 | Ninth Circuit Death Penalty Cases
December 2001

State	Pending in State Supreme Court	Pending in Federal District Court	Pending in U.S. Court of Appeals, 9th Circuit
Arizona	30	57	8
California	479	*160	21
Idaho	4	5	2
Montana	1	2	1
Nevada	20	33	1
Oregon	12	0	0
Washington	6	3	1
Total	552	260	34
*Northern District, California	34		
Southern District, California	2		
Eastern District, California	41		
Central District, California	83		

Courts Move Toward Paperless Case Filing System

Implementation of electronic case filing, which allows court documents to be filed over the Internet, picked up speed in the Ninth Circuit in 2001. By the end of the year, four bankruptcy courts and two district courts were offering electronic filing with five more Ninth Circuit courts scheduled to come online in 2002.

Designed for ease of use, the system allows filers to use conventional word processing software to prepare documents, which they then convert into Portable Document Format (PDF) files using other off-the-shelf software. To file documents online, users log onto a court Web site with a court-issued password. After providing basic case information, such as the names of the parties and the document being filed, the user submits the document to the court. The system automatically generates a notice verifying receipt of the filing, notifies other parties in the case that the document has been filed, and adds the document to the court docket.

Electronic case filing is a national initiative for the federal judiciary. As of December 2001, eight district courts and 28 bankruptcy courts across the country were using the new e-filing software. Nearly 15,000 attorneys and others signed up to use the system, filing more than 6 million documents related to more than 1.5 million federal cases. Another six district and 43 bankruptcy courts were in the process of implementing the system in 2001. Appellate courts, meanwhile, are expected to begin using the system in 2003.

Each court has discretion to determine whether electronic filing will be mandatory. In the Northern District

of California, which launched electronic filing in April 2001, the court selected several judges for a pilot program. Parties with cases before these judges are required to file all civil case documents electronically. Exceptions were made for bankruptcy appeals, Social Security appeals, cases removed from another jurisdiction to federal court, and pro se filings.

With the advent of electronic case filing came new concerns regarding personal privacy. Seeking to address these concerns, the Judicial Conference of the United States, the principal policy-making body of the federal courts, adopted the following policies at its September 2001 meeting:

- Documents in civil cases should be made available electronically to the same extent that they are available at courthouses, except for Social Security cases, which were excluded from electronic access. The policy also allows for modification or redaction of certain “personal data identifiers,” including Social Security numbers, dates of birth, financial account numbers, and names of minor children.
- The Judicial Conference concluded that public remote electronic access to documents in criminal cases should not be made available, with the understanding that the policy will be re-examined in two years.
- It was concluded that documents in bankruptcy case files should be made available electronically to the same extent that they are available at the courthouse, with a similar change for personal identifiers as in civil cases.

In conjunction with electronic case filing, many courts also began using

an updated electronic case management system. The system will allow courts to eventually move away from the use of paper documents whenever possible. By moving to a paperless system, courts will reduce their need for file storage space. In addition, court staff no longer will have to gather and transport paper case files to and from the courthouse and file storage rooms. Instead, electronic dockets and case papers can be loaded on a laptop computer and be accessed by a judge in the courtroom using the Internet or through the judiciary’s data communications network.

Videoconferencing in the Courtroom

Besides decreasing the court’s reliance on paper, technology is helping reduce travel time and costs for judges and litigants. Videoconferencing is now fully integrated into the daily operations of more than 200 federal courts and is especially useful when attorneys or parties in a case are spread out over two or more distant cities. In the bankruptcy court for the District of Idaho, for example, videoconferencing technology may be used to conduct detention hearings, or to hear motions arguments or witness testimony. In the District of Montana United States Bankruptcy Court, videoconferencing is used for all types of proceedings, from uncontested matters to full-blown trials. Montana also is using multi-point conferencing for cases that involve parties in three or more cities. In the District of Idaho United States Bankruptcy Court, videoconferencing is used regularly between the cities of Boise and Pocatello and Boise and Coeur d’Alene. Idaho uses videoconferencing for most matters, excluding evidence presentation and adversary trials.

Technology and Intellectual Property Law Cases

By virtue of geography, the United States District Court for the Northern District of California has become a focal point of technology and intellectual property law in the Ninth Circuit. The district's boundaries, which extend from Monterey to the Oregon border, encompass the Silicon Valley, one of the world's best-known high-tech centers. The court regularly hears cases involving new technology, trade secrets, copyrights, patents, and the like.

When Technology and the Law Collide

Best known among the major technology and intellectual property cases decided within the Ninth Circuit in 2001 was *A & M Records, Inc. v Napster, Inc.*, in which a new application of Internet file sharing technology collided headlong with copyright protection. The plaintiff's record companies and music publishers alleged that Napster was a contributory and vicarious copyright infringer. A small startup company located in Redwood City, Calif., just south of San Francisco, Napster had developed and freely distributed computer software that facilitated the transmission of encoded music files among Internet users by a process called "peer-to-peer" file sharing. Napster software allowed users to make their own music files available to other users, and to locate and transfer exact copies of music files stored on other users' computers.

In July 2000, the District Court for the Northern District of California granted the plaintiffs' motion for a preliminary injunction and enjoined Napster "from engaging in, or facilitating others in copying, downloading, uploading, transmitting, or distributing plaintiffs' copyrighted musical compositions and sound recordings, protected by either

federal or state law, without express permission of the rights owner." Napster appealed and oral arguments were heard by the Court of Appeals in October 2000.

An opinion in the case was issued on February 12, 2001. An appellate panel affirmed in part, reversed in part, and remanded the case to the district court. The court held that the district court correctly recognized that a preliminary injunction against Napster's participation in copyright infringement was required. However, the court directed that the injunction be modified so that contributory liability could potentially be imposed only to the extent that Napster: (1) received reasonable knowledge of specific infringing files with copyrighted musical compositions and sound recordings; (2) knew or should know that such files were available on the Napster system; and (3) failed to act to prevent distribution of the works.



Senior District Judge Roger Strand in a courtroom of the new Sandra Day O'Connor U.S. Courthouse in Phoenix. The courtroom is equipped with the latest technology for evidence presentation, legal research and transcript preparation.

The court held that the preliminary injunction was overbroad because it placed on Napster the entire burden of ensuring that no "copying, downloading, uploading, transmitting, or distributing" of the plaintiffs' works occurred on the system. Instead, the Court of Appeals placed the burden on the plaintiffs to provide notice to Napster of copyrighted works and files containing such works available on the Napster system before Napster had the duty to disable access to the offending content. Napster, however, bore the burden of policing the system within the limits of the system.

(In March 2002, the Court of Appeals affirmed the district court's modified preliminary injunction, which forced Napster to disable its file transferring service until certain conditions were met.)

The Internet and the First Amendment

In *Yahoo!, Inc. v. La Ligue Contre Le Racisme et L'Antisemitisme*, also heard in the Northern District of California, the court granted summary judgment to the Internet services giant Yahoo!, Inc. The company had brought a declaratory judgment action against French parties in a dispute over the auctioning of Nazi memorabilia on a Yahoo! Web site. The French parties had obtained a French court order requiring Yahoo! to block French citizens' access to the auction Web site, which was found to violate a provision of the French Criminal Code that prohibited exhibition of Nazi propaganda and artifacts for sale. The district court held that while the French court's order was entitled to great deference, it was clearly inconsistent with the First Amendment and would not be recognized in the United States. The district court found that the French court's mandate that Yahoo! "take all necessary measures to dissuade and render impossible any access via Yahoo.com to the Nazi artifact auction service and to any other site or service that may be construed as constituting an apology for Nazism or a contesting of Nazi crimes" was far too general and imprecise to survive the strict scrutiny required by the First Amendment.

Trademark Infringement

Also on the Internet front was *Interstellar Starship Services v. Epix, Inc.*, which was heard in the United States District Court for the District of Oregon. The court held that the plaintiff's use of the domain name of "epix.com" for his Web site



did not infringe the defendant's "EPIX" trademark, subject to the provision that the plaintiff drop references to his technical services and digital image processing, and that he post a disclaimer of affiliation. The plaintiff used the domain name on a Web site that showcased his electronic pictures. He had sought declaratory judgment of non-infringement against the owner of the trademark "EPIX," which was used in connection with printed circuit boards and computer programs.

Publicity Rights

In *Hoffman v. Capital Cities/ABC, Inc.* the Court of Appeals reversed a judgment in favor of actor Dustin Hoffman in a suit alleging that a magazine violated his right of publicity by appropriating his name and likeness and his rights under the federal Lanham Act. The magazine published

photographs of many celebrities wearing spring fashions. They used a famous photograph of Hoffman from the movie "Tootsie" but altered it by replacing Hoffman's body with that of a male model wearing a different evening gown. The magazine did not receive permission to use the photograph from either Hoffman or the movie studio that held the copyright to the original photograph. The Court of Appeals held that (1) the photograph was noncommercial speech; (2) to recover, a public figure such as the actor could recover damages for non-commercial speech from a media organization only by proving "actual malice"; and (3) Hoffman did not show by clear and convincing evidence that the magazine acted with actual malice in publishing the altered photograph.

Pre-trial Services Officers Have Nation's Largest Caseloads

Pre-trial services officers (PSO) in the Ninth Circuit reported the highest caseload of any circuit in the nation in 2001. For the year, Ninth Circuit PSOs opened 21,514 cases, accounting for 25 percent of the total case activations nationwide.

PSOs provide the courts with two important services: investigation and supervision of defendant's pending trial. Officers are looked upon to balance the defendant's right to pre-trial release with the court's concern that the accused appear as required and not pose a danger to the public. They investigate a defendant charged with a federal crime, recommend to the court whether to release or detain the defendant, and supervise those defendants who are released to the community pending trial.

The Ninth Circuit districts reporting the highest number of pre-trial case activations in 2001 were the Southern District of California with 5,913 activations, the District of Arizona with 5,844 activations, and the Central District of California with 2,625.

While leading the nation in the number of cases, the percentage of Ninth Circuit case activations actually slipped by .3 percent from the prior year. Year-to-year declines also were reported in number of pre-trial reports prepared, 19,557, down 7.5 percent, and defendants interviewed, 7,671, down 12 percent.

Districts Lower Detention Rates

Responding to an increased use of detention prior to trial and a resulting increase in court expenditures for this purpose, the Office of Probation and Pre-trial Services, a division of the Administrative Office of the U.S.

Courts, undertook a special project to address the problem in 2000.

The Probation and Pre-trial Services agency formed a representative committee of chief pre-trial services officers from across the nation to develop a design for creating a detention reduction plan. The percentage of defendants who were "detained and never released" during pre-trial had increased 10 percent between June 1995 and June 1999 in federal courts across the nation. In addition, costs for pre-trial detention rose from \$189 million in June 1995 to \$445 million in June 2001. As a result, the new Probation and Pre-trial Services committee focused on helping districts to devise strategies to increase the use of alternatives to detention.

Since formation of the committee, many districts in the Ninth Circuit already have begun to show reduced detention rates. The districts of Alaska, Arizona, Central California, Southern California, Montana, Western Washington and the Eastern Washington all showed reduced detention rates for the period from December 1999 to September 2001. In addition, seven of the 14 districts reported detention rates below the national average of 45.2 percent, excluding immigration cases. (The

District of the Northern Mariana Islands was not included in the Administrative Office totals.)

Supervision

In 2001, 5,787 Ninth Circuit defendants were released under PSO supervision with special conditions. Of these, 2,060, or 35 percent, were given substance abuse testing as a condition of their release, while 1,128, or 19.3 percent, were released with both testing and treatment provisions. During fiscal year 2001, \$1.5 million was spent on substance abuse treatment, excluding costs associated with substance abuse testing. The average treatment cost per offender totaled \$1,442.

The third largest category of special release was for electronic monitoring, with 458, or 7.8 percent of defendants, released with a provision for electronic monitoring. Many of these defendants also were placed under house arrest. A defendant in the house arrest program must remain in his or her residence between specific hours. To ensure that this requirement is honored, some defendants must wear ankle bracelets that are electronically monitored by a monitoring center. If a defendant violates the confinement condition, the center is notified automatically, and its staff in turn notifies

Table 2

Pre-trial Services Cases Activated in Ninth Circuit Courts, 2000-2001

Caseload Measure	Calendar Year		Change 2000-2001
	2000	2001	
Reports	21,163	19,557	-7.6%
Interviews	8,704	7,671	-11.9%
Cases Activated	21,574	21,514	-0.3%

Pre-trial Services Officers Had Nation's Largest Caseload (continued)

the supervising officers.

Of the defendants released on special conditions, 396, or 7.0 percent, were released with mental health treatment provisions. Recently, the Office of Pre-trial Services in Washington, D.C., has placed increased attention on mental health needs of defendants through officer training programs and assistance designed to help districts identify mental health issues. For mental health treatment, the circuit expenditures, excluding substance abuse testing costs, were \$134,472 for fiscal year 2001, with an average cost per defendant of \$697.

For all types of release conditions that are set by the courts, PSOs monitor compliance, provide necessary support services, and inform the courts and U.S. attorneys of all apparent violations. If the violation behavior is deemed serious, the defendant's bond may be revoked, resulting in detention.

During 2001, there were a total of 2,155 violations reported in the Ninth Circuit. Of those, 1,332 occurred pre-adjudication, 716 at the pre-sentence stage and 107 pending appeal or self-surrender. In 1,103 violations there was no change in bail conditions, while 217 violations resulted in modifications to bail conditions. In

only 835 violations, or 38.7 percent, was bail revoked and the defendant detained. This is indicative of Pre-trial Services' commitment to assist defendants in modifying their behavior and avoiding detainment if they represent no danger to the community.

The pre-trial services workload of judges grew by 4 percent in fiscal year 2001, when they held 48,379 pre-trial hearings. Detention hearings rose .7 percent, bail review hearings declined 17 percent, and violation hearings increased 15 percent.

Table 3

Pretrial Services Interviews and Types of Bail, 2001

District	Defendant Contact		Written Reports			Total Cases Activated 2000	Total Cases Activated 2001	Change 2000-2001
	Interviewed	Not Interviewed	Refused Interview	Prebail	Postbail & Other			
Alaska	170	81	17	259	1	278	268	-3.6%
Arizona	1,420	4,384	40	5,623	129	5,717	5,844	2.2%
C. Calif.	2,156	324	145	2,488	35	2,903	2,625	-9.6%
E. Calif.	293	119	500	894	10	1,014	912	-10.1%
N. Calif.	470	643	5	726	383	1,280	1,118	-12.7%
S. Calif.	799	36	5,078	5,072	825	5,552	5,913	6.5%
Hawaii	302	67	16	380	5	484	385	-20.5%
Idaho	287	10	0	286	5	193	297	53.9%
Montana	336	75	5	398	9	386	416	7.8%
Nevada	465	42	338	812	28	867	845	-2.5%
Oregon	302	21	550	847	4	964	873	-9.4%
E. Wash	171	157	64	237	109	430	392	-8.8%
W. Wash.	341	975	100	1,404	8	1,285	1,416	10.2%
Guam	122	42	8	111	20	174	172	-1.1%
N. Mariana Is.	37	1	0	20	7	47	38	-19.1%
Circuit Total	7,671	6,977	6,866	19,557	1,578	21,574	21,514	-0.3%
National Total	62,493	13,566	10,418	76,778	6,348	85,872	86,477	0.7%
Circuit % of National	12.3%	51.4%	65.9%	25.5%	24.9%	25.1%	24.9%	-1.0%

Probation Officers See Caseloads Continue to Rise

United States probation officers play an important role in the federal criminal justice system. They are responsible for investigating and supervising offenders whom the courts have conditionally released to the community on probation, parole or supervised release. Probation officers serve as the court's fact-finders, controlling the risk that offenders pose to public safety. They also provide correctional treatment, improving the odds that an offender will choose a law-abiding lifestyle rather than further criminal behavior.

Ninth Circuit probation officers saw their workloads continue to rise in 2001. The number of persons under supervision in the circuit reached 19,011, an increase of 6 percent over the prior year and nearly 20 percent since 1996. The Ninth Circuit probation caseload was the highest of any circuit in 2001, while its year-to-year increase was nearly double the national average increase.

The Central District of California continued to report the highest number of persons under supervision in the Circuit, with 5,233 cases, followed by Arizona with 2,647 cases. The Central District's caseload rose 7.9 percent in 2001, while Arizona's caseload rose by 7.4 percent.

Revocation Rates

Ninth Circuit probation offices as a whole reported the lowest revocation rate in the nation in 2001. Only 25 percent of persons under supervision during the year were returned to prison for violation of their terms of release. This translates to a 75 percent success rate, in which probationers successfully completed their terms of

Table 4

Ninth Circuit Probation Persons Under Supervision 2001

Persons Under Supervision	Calendar Year 2000	Calendar Year 2001	Change 2000-2001
From Courts	5,595	5,761	3.0%
From Institutions	12,336	13,250	7.4%
Total	17,931	19,011	6.0%

release. This compares to the national average of 20 percent revocation and an 80 percent success rate. Districts in the Ninth Circuit reporting the lowest revocation rates were the Eastern District of California and the Central District of California, with 18 percent revocation rates, and the Northern District of California, with a 16 percent revocation rate.

Categories of Offenses

In 2001, drug law violations accounted for the majority of the cases under supervision by probation officers in the circuit. Thirty-nine percent, or 7,396 cases, involved persons under supervision for violation of drug laws. The Central District of California reported the largest number of persons under supervision for drug violations with 2,080 cases, followed by the Southern District of California with 1,124, and Arizona with 1,043.

The second largest type of violation was for fraud with 3,741 persons under supervision in this category. The Central District of California surpassed other districts in this category by a wide margin, reporting 1,363 persons under supervision for fraud in 2001. The Western District of Washington reported 359 cases and Nevada 355.

Robbery was the third largest offense category for probation offices in the Ninth Circuit in 2001, with 1,162 of these cases reported. The Central District of California reported 406 persons under supervision for robbery—the highest number of any district in the nation. Oregon had 142 persons under supervision for robbery in 2001, and the Northern District of California, 111.

An Emerging Trend

A significant trend in probation offenses in 2001 was the growing number of persons under supervision for sex crimes in the Ninth Circuit. Much of this increase was due to a continuing increase in arrests of persons running child pornography Internet sites. The Ninth Circuit reported 359 sex offenders under the supervision of its probation officers in 2001, a significant increase of 102.8 percent over the total reported for 1996, when only 177 sex offenders were under supervision (see Table 6). The District of Arizona probation offices experienced the highest number of sex offenders under its supervision, with 122; followed by the Districts of Montana and the Western District of Washington, each with 39 offenders.

Monitoring Offenders

Probation officers use a variety of methods to monitor persons under their supervision, including overt and covert surveillance, drug testing, polygraphs, and sweat patches. In 1997, the Food and Drug Administration approved the use of sweat patches to monitor drug use by persons on supervised release. Recently, however, the use of sweat patches has been challenged in federal courts, and probation officers and judges are closely watching these types of cases.

Administrative Office Undertakes Probation Study

Nationally, the federal probation and pretrial services system has absorbed major functional, organizational and technological changes in the past decade. In response, the Administrative Office of the U.S. Courts contracted with the consulting firm of Price-waterhouseCoopers in 2001 to conduct a study to examine how the roles of the Probation and Pretrial Services personnel have changed and how current policies and practices serve the system in an era of fewer resources and increased decentralization. The number of persons under supervision by these offices is expected to grow by 24 percent between 1999 and 2005. Probation and Pretrial Services offices also have been affected by the decentralization of management, revamping of the sentencing system, and new responsibilities mandated by legislation. Stage One of the three-stage study was completed in 2001 and will be reported on in 2002.

Increased Caseloads Affects Judges

Judges also are seeing the ramifications of the increased number of persons under probation and supervised release supervision in the Ninth Circuit. The Sentencing Reform Act of 1984, which went into effect in 1987, transferred responsibility of the oversight of supervised release violations from a parole board to the

courtroom. Under the new law, if a released prisoner violates the terms of release, both a preliminary hearing and a final revocation hearing must be held before a federal judge. This has significantly increased judges' workloads; nevertheless, it has not been factored into workload formulas for determining the number of judge-ships in each district.

Table 5

Ninth Circuit Probation Presentence Reports, Calendar Years 2000 - 2001

Presentence Reports			
	2000	2001	Change 2000-2001
AK	200	198	-2
AZ	3,383	3,231	-152
CAN	986	853	-133
CAE	1,121	1,052	-69
CAC	1,600	1,670	70
CAS	2,559	2,538	-21
HI	305	326	21
ID	173	132	-41
MT	372	344	-28
NV	600	511	-89
OR	555	465	-90
WAE	326	302	-24
WAW	635	543	-92
GU	166	101	-65
Total	12,981	12,266	-715

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. The officer considers applicable statutes and federal sentencing guidelines, applies them to the facts of the case, and comes up with a recommended sentence and justification for it.

DNA Collection, Testing Begins

Probation offices geared up in 2001 for DNA testing of certain offenders on probation, parole, or supervised release. Offices in the Ninth Circuit received DNA collection kits in late 2001 and were due to begin collecting blood samples in early 2002.

Nationally, about 6,000 of the more than 100,000 offenders in the federal probation system had committed crimes that require DNA collection. Qualifying offenses under the DNA Analysis Backlog Elimination

Act of 2000 include manslaughter, enslavement, kidnapping, robbery, burglary, incest, and arson. The requirement is aimed at expanding the Combined DNA Index System, an FBI-maintained national database of DNA profiles of convicted offenders, unsolved crimes, and missing persons.

The law's impact will be felt primarily by the Bureau of Prisons, which is required to test certain inmates. But probation offices became involved because some offenders

covered by the 2000 law already had left prison and were being supervised in the community while on parole or supervised release.

An offender's failure to cooperate is punishable by a sentence of one year in prison and fines up to \$100,000. Districts have secured the services of phlebotomists to collect the blood samples and send them to the FBI, which conducts the analyses and puts the data into the national database.

Table 6

Ninth Circuit Probation Persons Under Supervision by District 2000 - 2001

District	Referred By United States Courts				Referred by Institutions		Change 2000-2001
	District Judge Probation	Magistrate Judge Probation	Supervised Release	Other	2000 Total Cases	2001 Total Cases	
Alaska	76	39	141	3	262	259	-1.1%
Arizona	854	221	1,497	75	2,465	2,647	7.4%
C. Calif.	1,170	141	3,736	186	4,852	5,233	7.9%
E. Calif.	241	273	950	82	1,512	1,546	2.2%
N. Calif.	411	287	934	92	1,699	1,724	1.5%
S. Calif.	276	61	1,592	46	1,865	1,975	5.9%
Hawaii	117	49	398	11	497	575	15.7%
Idaho	80	36	195	10	282	321	13.8%
Montana	226	20	307	12	518	565	9.1%
Nevada	246	56	729	28	1,049	1,059	1.0%
Oregon	261	31	687	65	968	1,044	7.9%
E. Wash.	77	9	316	5	385	407	5.7%
W. Wash.	225	218	923	53	1,318	1,419	7.7%
Guam	39	0	133	2	215	174	-19.1%
N. Mariana Is.	21	0	42	0	44	63	43.2%
Circuit Total	4,320	1,441	12,580	670	17,931	19,011	6.0%

Federal Public Defender Offices

Indigent defendants accused of committing federal crimes can turn to one of the 12 Federal Public Defender offices and three Community Defender Organizations operating in the Ninth Circuit. These defender services strive to provide representation for those who cannot afford private attorneys. Federal Public Defender offices are funded through the Defender Services Division of the Administrative Office of the United States Courts.

By statute, judges of the Ninth Circuit Court of Appeals select and appoint the federal public defenders for a renewable term of four years. The Committee on Federal Public Defenders is responsible for nominating defenders for appointment or reappointment. In 2001, the committee consisted of Circuit Judges Barry Silverman and Harry Pregerson, District Judge Judith Keep, and Circuit Judge A. Wallace Tashima as chairperson. They recommended Mr. Robert Hartsock for appointment to the newly-recreated position of federal public defender for the District of Guam, and Ms. Maria Stratton for reappointment as federal public defender for the Central District of California. Both recommendations were adopted by the Court of Appeals.

Defender Caseloads

Public defenders in the Ninth Circuit opened 24,015 cases in fiscal year 2001, an increase of 1.7 percent over the 23,612 cases opened in 2000. This was a smaller rate of increase from the year before, when new cases rose by 8.4 percent over 1999.

Table 7

Cases Opened, Closed, and Pending, Fiscal Years 2000 - 2001

Cases	Calendar Year		Change 2000-2001
	2000	2001	
Opened	23,612	24,015	1.7%
Closed	23,035	24,334	5.6%
Pending	7,883	7,563	-4.1%

The Ninth Circuit accounted for roughly one-third of all of the Federal Public Defender cases in the nation in 2001. Ninth Circuit public defenders opened 33.2 percent of all new cases, closed 34.4 percent of all old cases, and had 26.8 percent of the pending cases at year's end. With public defender or community defender offices in each of its districts—excluding the Northern Mariana Islands—the Ninth Circuit has more such offices than any circuit in the nation.

Despite their increasing workload, Ninth Circuit public defenders closed more cases and had fewer pending cases than the prior year. In fiscal year 2001, 24,334 cases were closed, a 5.6-percent increase over 2000. At year's end, they reported 7,563 pending cases, down 4.1 percent from the 7,883 cases reported in 2000. It was the first reduction in pending cases in eight years. Even with the dip, pending cases remain 77 percent higher than what was reported just eight years ago.

District Breakdowns

Among districts in the Ninth Circuit, the Community Defender Organization for the Southern District of California opened the most cases in fiscal year 2001. The district reported 5,971 new cases, the second largest total of new cases of any public defender office in the nation. The District of Arizona, whose public defenders opened 5,514 new cases, ranked third highest in the nation.

The districts having the most new cases are located along the U.S.-Mexico border and were affected by the continuing rise in immigration offenses, particularly illegal re-entry violations. In the Southern District of California, 23 percent of the cases opened in fiscal year 2001 were immigration cases, while 10 percent of new cases in Arizona were immigration related.

Drug offenses also were involved in a significant number of new cases opened by public defenders in the circuit. In the Southern District of California, drug offenses, particularly drug smuggling over the U.S.-Mexico border, made up 19 percent of new

cases in fiscal year 2001. The remainder of new cases in the Southern District of California involved charges of fraud, weapons, death penalty cases, and so-called “miscellaneous” offenses related to parole revocations, pretrial diversions and mental illnesses and other matters.

For the District of Arizona, 71 percent of new cases were “criminal other,” which includes homicide, robberies, burglaries, forgery, sex offenses, and several other miscellaneous offenses.

Capital Habeas

Several public defender and community defender offices in the circuit also represent defendants seeking federal capital habeas review of state death penalty cases. Districts with federal public defenders taking these types of cases are located in the Central District of California, the Eastern District of California, Arizona, Nevada, and the Western District of Washington. Capital habeas community defender organizations are located in Montana and Idaho/Eastern District of Washington. The districts with the highest number of pending capital habeas cases in fiscal year 2001 were the District of Arizona, with 24 pending cases, the District of Nevada, with 23, and the Eastern District of California, with 18. Although these numbers are small relative to the total number of pending cases, capital habeas cases require a tremendous amount of time and resources for federal public defender agencies.

U.S. Supreme Court Rules on Indefinite Detainment

Federal public defenders in the Western District of Washington and the Eastern District of California won

Table 8 Cases Opened, Closed, and Pending by District, Fiscal Year 2001

District	Opened	Closed	Pending 9/30/01
Alaska	284	298	92
Arizona	5,514	5,409	857
C. Calif.	2,659	2,759	1,220
E. Calif.	2,209	2,316	660
N. Calif.	939	994	566
*S. Calif.	5,971	6,236	1,333
Guam	154	175	76
Hawaii	708	650	435
*Idaho	186	160	110
*Montana	380	402	189
Nevada	1,146	1,125	564
Oregon	1,267	1,260	784
*E. Wash.	645	610	221
W. Wash.	1,953	1,940	456
Circuit Total	24,015	24,334	7,563
National Total	72,420	70,703	28,219
Circuit Total as % of National Total	33.2%	34.4%	26.8%

*Community Defender Organization

**Other representations include court-directed prisoner, bail/presentment, witness, probation revocation, and parole revocation representations.

a victory in 2001 when the United States Supreme Court affirmed the Ninth Circuit’s ruling that indefinite detainment of illegal aliens is unconstitutional. Defenders in these districts spearheaded efforts to seek the release of detainees being held by the Immigration and Naturalization Service at various locations around the circuit. Because their home countries would not accept their reentry, these offenders were being held indefinitely in federal prisons. In 2001, the Supreme Court affirmed the Ninth Circuit’s earlier decision that indefinite detainment of these offenders was unconstitutional.

Bankruptcy Filings Up

Ninth Circuit bankruptcy courts experienced a 13.5 percent rise in filings in 2001 to 276,516 cases. The increase was part of a nationwide trend and reversed a downturn in circuit filings the year before. The largest number of bankruptcy filings in the past eight years occurred in 1998, when there were 323,382 filings in the Circuit.

Contributing to the increase in 2001 was a slowdown in the national economy and continuing high levels of consumer debt. Debtors also were thought to have been influenced by the prospect of congressional passage of a bankruptcy reform bill that would have placed stricter limits on the discharge of consumer debt. (The bill remains pending in Congress.)

Non-Business Filings

The majority of bankruptcies in the Ninth Circuit in 2001 continued to be non-business Chapter 7 cases, which accounted for 79.4 percent of all filings. Chapter 7 filings totaled 219,657 in 2001, a 17 percent increase over the prior year. Chapter 7 allows individuals to keep certain exempt property while the remaining property is sold to pay creditors.

The second largest category of filings was non-business Chapter 13 cases, with 47,564 filings, or 17.2 percent of the total. Under Chapter 13 bankruptcy, creditors may be repaid in installments, in full or in part, over a three-to-five-year period. Non-business Chapter 13 filings increased by only 0.8 percent in 2001.

Table 9 Total Bankruptcy Cases Filed, Terminated, and Pending, 2000 - 2001

Caseload Measure	Calendar Year		Change 2000-2001
	2000	2001	
Filings			
Business Chapter 7	5,059	5,451	7.7%
Business Chapter 11	1,540	1,811	17.6%
Business Chapter 12	78	86	10.3%
Business Chapter 13	1,808	1,742	-3.7%
Non-Business Chapter 7	187,797	219,657	17.0%
Non-Business Chapter 11	159	192	20.8%
Non-Business Chapter 13	47,189	47,564	0.8%
Total	243,635	276,516	13.5%
Terminations	258,306	263,528	2.0%
Pending Cases	199,410	212,398	6.5%

Non-business Chapter 11 bankruptcies, which represent only a tiny portion of the total bankruptcies in the Circuit, increased to 192 cases in 2001 from 159 cases in 2000. Chapter 11 allows an individual to use future earnings to pay off creditors.

Business Filings

Bankruptcy filings by businesses accounted for 3.3 percent of all bankruptcies in the Ninth Circuit in 2001. The majority of these business bankruptcies were filed under Chapter 7, with 5,451 total cases, a 7.7 percent increase from the year before.

Business bankruptcies filed under Chapter 11 increased by 17.6 percent, rising to 1,811 filings in 2001 from 1,540 the prior year. Chapter 11 provides for a business to continue operations while formulating a plan to repay its creditors.

District by District

The Central District of California, which claims the nation's largest bankruptcy court, continued to lead the country in bankruptcy filings. For 2001, the Central District recorded 88,195 filings, which surpassed the total for four other entire circuits and accounted for 6 percent of the national total. This was a 9.2 percent increase in filings over the year before. Chapter 7 cases, both personal and business, made up the majority of filings in the Central District.

The Eastern District of California had the next largest number of filings with 32,259, an increase of 8.4 percent over 2000. The Western District of Washington followed with 26,986, which was an 18.6 percent increase in filings from the previous year.

Table 10

Bankruptcy Judge Reappointments

Judge	District	Reappointment Date
Louise DeCarl Adler	S.D. CA	Reappointed 1/1/01
Alan Jaroslovsky	N.D. CA	Reappointed 1/6/01
James N. Barr	C.D. CA	Reappointed 1/12/01
Edward D. Jellen	N.D. CA	Reappointed 1/26/01
John A. Rossmeissl	E.D. WA	Reappointed 12/28/01

Terminations and Pending Cases

The Circuit experienced a slight increase by 2 percent in the number of bankruptcy case terminations in 2001, from 258,306 in 2000 to 263,528 in 2001. The largest number of bankruptcy terminations in the past eight years occurred in 1998, when there were 321,208 terminations in the Circuit. The number of pending cases rose by 6.5 percent, from 199,410 to 212,398.

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 2001, 11 bankruptcy judges were recalled to assist the 77 active bankruptcy judges with recusals and emergency matters and to assist with the coverage of divisional offices.

National Bankruptcy Statistics

Nationally, total bankruptcies rose 19 percent, marked by substantial increases in both business and non-business filings. Non-business filings accounted for 97.3 percent of all filings. Ninth Circuit bankruptcy filings accounted for 18.5 percent of the national total.

New Judgeships

In Congress, both the House and Senate considered bills providing additional bankruptcy judgeships for the Ninth Circuit. On January 31, 2001, Rep. George Gekas introduced the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001, which would authorize 23 new temporary bankruptcy judgeships, some of which were slated for California and Nevada. On January 30, 2001, Sen. Charles Grassley introduced S. 220, the Bankruptcy Reform Act of 2001. As passed by the Senate on March 15, 2001, the bill would create 27 new temporary bankruptcy judgeships.

The House and Senate bills were pending action by a congressional conference committee at the close of the first session. The conference committee held a meeting November 14 to begin reconciling the two bills.

In testimony before the Senate Judiciary Committee, a representative of the United States Judicial Conference expressed concern that Congress has authorized no new bankruptcy judgeships since 1992, while bankruptcy filings had increased by 500,000 since then. The Judicial Conference made recommendations to Congress for additional bankruptcy judgeships in 1993, 1995, 1997 and 1999.

Appointments

During the year, two bankruptcy judges were appointed and five bankruptcy judges reappointed in the Ninth Circuit. The court of appeals appointed Judge Sheri Bluebond to the Central District of California on February 1, 2001, filling a vacancy created by the resignation of Judge Lisa Hill Fenning. The Court of Appeals also appointed Judge W. Richard Lee to the Eastern District of California on January 17, filling a vacancy created by the retirement of Bankruptcy Judge Brett Dorian.

Bankruptcy Filings Increase Once Again (continued)

Table 11

Top Bankruptcy Cases in 2001 (in assets) by District

District	Case Name	Assets
Alaska	Gateway Forest Products, Inc.	\$62.0 million
	Wave Wholesale Co., LLC	\$12.0 million
	*City Mortgage	
Arizona	MicroAge Group	\$620.0 million
	Phoenix Memorial Hospital Health Services Network	\$115.7 million
	Southwest Supermarkets	\$37.3 million
C. Calif.	House 2 Home	\$297.4 million
	OAN Services, Inc.	\$94.4 million
	Henry Mayo Newhall Memorial Hospital	\$80.0 million
E. Calif.	UpRight, Inc.	\$112.5 million
	Michael Hat	\$94.5 million
	Coast Grain Company	\$91.0 million
N. Calif.	Pacific Gas and Electric Co.	\$32.0 billion
	At Home Corp., et al.	\$667.4 million
	Crown Vantage, Inc./Crown Paper, Inc.	\$560.1 million
S. Calif.	Anacomp, Inc.	\$211.7 million
	Tri-National Development Corp.	\$86.2 million
	World - X, Inc.	\$75.6 million
Guam	Oceanview Garden Development, Inc.	\$4.8 million
	George & Matilda Kallingal, P.C.	\$4.5 million
	D.S. Corporation, Inc.	\$4.1 million
Hawaii	The Final Straw, Inc.	\$17.5 million
	TSH Development	\$12.0 million
	Peter Savio	\$7.0 million
Idaho	C&R Plumbing and Heating, Inc	\$4.3 million
	R Homes Corporation	\$3.2 million
	Farewell Bend, Inc	\$2.9 million
Montana	Jore Corporation	\$112.7 million
	JS Marketing and Communications, Inc.	\$2.9 million
	Internet Connect Services, Inc.	\$2.7 million
Nevada	Washington Group International	\$3.5 billion
	Aladdin	\$758.0 million
	National Airlines	\$50 million-\$100 million
N. Mariana Is.	Micronesia Health Corporation	\$100,000 to \$500,000
	Rainwater - Saipan, Inc.	\$100,000 to \$500,000
	Wendy's Saipan, Inc.	\$100,000 to \$500,000
Oregon	WCI Cable Inc.	\$196.8 million
	Alaska North Star Communications LLC	\$80.0 million
	Alaska Fiber Star LLC	\$25.3 million
E. Wash.	Americare Inc.	\$8.0 million
	J A M Davis Inc.	\$4.0 million
	Northwest C & G Acquisitions Inc.	\$3.0 million
W. Wash.	edge2net Inc.	\$53.0 million
	StairMaster Sports/Medical Products Inc.	\$51.0 million
	Etera Corporation	\$40.0 million

* No schedule or statements have been filed to this date.



Appellate Caseload Continues to Rise

District Court Filings

Bankruptcy Appeals Decline

Magistrate Judges

Court Interpreters

Juror Utilization

District by District Caseloads

4

STATISTICAL OVERVIEW

Appellate Caseload Continues to Rise

Filings in the Ninth Circuit Court of Appeals rose 5.4 percent in 2001, reaching the highest level in seven years. The increase in filings was slightly higher than the national average increase of 5 percent reported for the 11 other regional courts of appeals.

Case terminations in the Circuit rose 8.4 percent to 10,227 in 2001. Since 1997, filings have grown 16.2 percent, while terminations increased 18.1 percent. Pending appellate cases dropped 2.1 percent to 9,491.

The overall growth in appeals consisted of increases in original proceedings (up 41.8 percent), private prisoner petitions (up 9 percent), and criminal filings (up 8.1 percent). At the same time, bankruptcy appeals, which accounted for 2.4 percent of all appeals filed, dropped 14.8 percent.

The percentage of cases that are original proceedings in the Court of Appeals has increased every year since 1997, when original proceedings made up only 2.0 percent of all cases. In 2001, 8.7 percent of Court of Appeals cases were original proceedings. Original proceedings continued to increase after 1998, when motions requesting authority to file second or successive habeas corpus prisoner petitions and pro se mandamus petitions for which filing fees were not paid were first added to the general docket for the courts of appeal.

Private prisoner petitions increased 9 percent in 2001 as a result of United States Supreme Court ruling the year before. In *Apprendi v. New Jersey*, the Supreme Court held that any finding of fact providing grounds for an enhanced sentence greater than the

Table 12

Appellate Caseload Profile, 2000 - 2001

Caseload Measure	Calendar Year		Change 2000-2001
	2000	2001	
Filings	9,542	10,054	5.4%
Terminations	9,437	10,227	8.4%
Pending Cases	9,694	9,491	-2.1%

statutory maximum must be made by a jury and proven beyond a reasonable doubt. Rumors of a one-year deadline for filing petitions pursuant to *Apprendi* led to the increase in motions by prisoners seeking to file second or successive habeas corpus petitions so that they could reduce their sentence.

Private civil appeals made up the largest category of appeals in the Circuit in 2001, accounting for 23.4 percent of all appeals, while private prisoner petitions made up 20.2 percent. For criminal appeals, the majority of cases (30.0 percent) were related to drug laws, and the second largest category (27.6 percent) involving immigration laws.

Over the past few years, the Court of Appeals has taken steps to address the increase in filings. These include increasing the number of oral argument panels through the use of additional visiting judges from the Circuit's district courts and from outside the Ninth Circuit. The Court of Appeals also has continued its aggressive screening of cases at the time of filing to weed out cases with jurisdictional defects and to direct cases to the mediation program for possible settlement.

U.S. District Courts as Sources of Appeals

The Central District of California, the busiest district in the nation, continued to generate the largest number of appeals. In 2001, 23.3 percent of all appeals originated in the Central District. The Eastern District of California generated the second largest number, accounting for 9.1 percent of all appeals. Over the last five years, the number of appeals from the Central District of California has increased 25.6 percent, while appeals from the Eastern District of California increased 30.2 percent. In 2001, the Eastern District of California reported the largest increase in appeals, up 16.5 percent to 919 cases. While appeals were up in most districts in 2001, there were exceptions. In the Southern District of California, the number of appeals dropped by 12.7 percent. The number of appeals dropped 3.8 percent in the Northern District of California and 62.1 percent in the District of Guam.

Administrative agency appeals were the second largest source of appeals in the Circuit, totaling 1,094 filings or 10.9 percent of all appeals in 2001. This represented a decrease of 0.5 percent over the year before and 13.0 percent from 1997. The majority of

administrative agency appeals were Immigration and Naturalization Services cases, which accounted for 83.5 percent of all agency appeals.

Another large block of Ninth Circuit appellate filings — 42.4 percent — were pro se cases, with 4,258 such filings in 2001. Of these, 38 percent were private prisoner petitions, followed by original proceedings at 16.9 percent. Many of the pro se original proceedings filed were by prisoners moving for authority to file second or successive habeas corpus prisoner petitions.

Median Time Intervals

The Ninth Circuit remained higher than the national median for the time from filing in lower court to a case's final disposition in appellate court, reporting a 31-month median compared with the national median of 25.8 months. The Ninth Circuit fared well, however, for the median time interval from hearing appellate cases to their final disposition—a 1.5 month median time compared with the national median of 2.2 months. This is the duration during which the cases are under the direct management of the judges.

Table 13

Source of Appeals and Original Proceedings, 2001

District	Appeals	% of Total
Alaska	128	1.3%
Arizona	784	7.8%
C. Calif.	2,342	23.3%
E. Calif.	919	9.1%
N. Calif.	856	8.5%
S. Calif.	566	5.6%
Hawaii	182	1.8%
Idaho	121	1.2%
Montana	176	1.8%
Nevada	505	5.0%
Oregon	477	4.7%
E. Wash.	210	2.1%
W. Wash.	542	5.4%
Guam	13	0.1%
Northern Mariana Islands	20	0.2%
Bankruptcy	241	2.4%
United States Tax Court	50	0.5%
National Labor Relations Board	32	0.3%
Administrative Agencies	1,094	10.9%
Original Proceedings	878	8.7%
Circuit Total	10,054	

Appellate Caseload Continues to Rise (continued)

Table 14 Filings, Terminations, and Pending Cases by Appeal Type, 2001

Type of Appeal	Filings	% of Circuit Total	Terminations	Pending as of 12/31/01
Civil				
U.S. Prisoner Petitions	810	8.1%	896	618
Private Prisoner Petitions	2,028	20.2%	1,849	1,579
Other U.S. Civil	689	6.9%	708	724
Other Private Civil	2,356	23.4%	2,222	2,707
Criminal	1,958	19.5%	1,739	2,289
Other				
Bankruptcy	241	2.4%	269	275
Administrative Appeals	1,094	10.9%	1,183	1,088
Original Proceedings	878	8.7%	853	211
Circuit Total	10,054		9,719	9,491
National Appellate Total	56,687		55,034	39,973
Ninth Circuit as % of National Total	17.7%		17.7%	23.7%

Table 15 Median Time Intervals in Cases Terminated After Hearing or Submission, By Circuit, 2001

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		From Filing in Lower Court to Final Disposition in Appellate Court	
	Cases	Months	Cases	Months	Cases	Months	Cases	Months	Cases	Months	Cases	Months
D.C.	185	8.3	312	2.8	244	2.3	353	0.5	386	8.0	386	25.6
1st	549	5.9	577	2.0	350	2.1	578	1.4	808	10.5	808	26.1
2nd	1,247	5.0	1,279	3.2	1,047	0.8	1,007	0.1	1,728	9.6	1,728	29.7
3rd	1,104	6.4	1,159	2.3	451	2.8	1,292	1.9	1,416	11.9	1,416	28.6
4th	1,111	4.5	1,185	2.8	520	2.3	2,291	0.5	2,089	7.3	2,089	19.5
5th	2,616	5.9	2,678	3.1	1,019	1.9	3,213	0.4	3,603	9.5	3,603	20.3
6th	1,834	6.0	1,888	6.8	882	2.5	1,819	1.3	2,182	15.1	2,182	28.9
7th	978	4.7	1,028	2.6	755	2.7	835	0.3	1,319	9.8	1,319	25.1
8th	1,326	3.7	1,375	4.8	748	3.0	1,471	0.3	1,769	10.1	1,769	24.3
9th	2,885	5.8	3,344	6.4	1,899	1.5	3,114	0.3	3,605	16.1	3,605	31.0
10th	1,080	5.0	1,121	3.5	447	4.0	988	1.1	1,205	11.2	1,205	25.5
11th	2,964	4.6	3,008	3.7	982	2.3	3,017	1.0	3,376	10.3	3,376	27.4

Table 16**Median Time Intervals 2000-2001**

By Stage of Appeal	Number of Months			
	Ninth Circuit		National	
	2000	2001	2000	2001
From Notice of Appeal to Filing Last Brief	5.7	5.8	5.4	5.3
From Filing Last Brief to Hearing or Submission	6.6	6.4	4.1	3.8
From Hearing to Final Disposition	1.6	1.5	2.1	2.2
From Submission to Final Disposition	0.3	0.3	0.6	0.5
From Filing of Notice of Appeal to Final Disposition	15.7	16.1	11.5	10.9
From Filing in Lower Court to Final Disposition in Appellate Court	30.2	31	26.9	25.8

District Court Filings

Total filings of criminal and civil cases in the Ninth Circuit's 15 district courts remained stable in 2001. The total number of new filings was down 0.5 percent to 59,531. Nevertheless, filings were up nearly 20 percent from five years ago.

Case terminations rose 12 percent to 60,226 in 2001 (not including the 17,577 misdemeanor and petty offense cases terminated by magistrate judges in fiscal year 2001). Despite the large increase in terminations, the pending caseload grew by 5.9 percent to 58,082.

Ten of the 15 district courts in the Circuit reported decreases in total filings in 2001. Districts reporting the most significant decreases were the Eastern District of California, with a drop of 17.3 percent, the Central District of California, down 13.5 percent; and the Eastern District of Washington, down 12.9 percent.

Interestingly, of the five districts reporting increases in filings, the island districts of Guam (up 44.7 percent) and the Northern Mariana Islands (up 11.8 percent) reported the largest growth. The District of Guam numerical increases in 2001 did not reflect the actual caseload in 2001. The district numbers reflect criminal cases which were unsealed by the United States Attorney's office and which had not been reported in statistical totals for prior years.



At the District of Nevada's annual district conference: District judges Kent Dawson, Roger Hunt, David Hagen, Phillip Pro, and Nevada Chief District Judge Howard McKibben.

Criminal Filings

Although criminal filings in the Circuit's district courts fell 4.6 percent in 2001, criminal terminations also dropped 2.7 percent. Consequently, the pending criminal caseload grew by 10.7 percent.

The largest number of criminal filings in the Circuit continued to be for immigration and drug law violations, with the border districts of Arizona and the Southern District of California leading in both of these areas. While immigration case numbers were down 5.1 percent in Arizona and 16.9 percent in Southern California from the year before, they were still high compared with other districts in the nation. In 2001, 1,720 new immigration cases were filed in Arizona and 1,543 cases in Southern California.

For cases involving drug law violations, the Southern District of California led the Circuit, with 1,724 new cases, and had the second largest number of drug law related filings of any district in the nation, outpaced only by the Western District of Texas. Drug law related cases rose by 13 percent in the Southern District of California in 2001. The District of Arizona reported the second largest number of cases related to drug laws, with 768 such cases. Filings of drug cases grew in several districts as a result of an ongoing highway drug interdiction program supported by the Drug Enforcement Agency and carried out by state and local agencies in "high intensity drug trafficking areas" designated by the Office of National Drug Control Policy. Drug filings also increased because of prosecutions under the Comprehensive Methamphetamine Control Act of 1996, which was enacted in response to the emergence of widespread use of this drug.

Weapons and firearms related cases grew by 8.0 percent in the Ninth Circuit in 2001 to 706 cases— a 57 percent increase over 1998. Filings of firearms cases began growing that year as United States attorneys in cities with the highest violent crime rates began implementing special programs to prosecute felons carrying firearms under federal laws, which often carry more severe penalties than state laws.

Civil Filings

Civil filings in the Ninth Circuit district courts declined 6.8 percent to 41,649 in 2001. The majority of civil filings in the Circuit (73.7 percent) are private civil cases, while the remaining cases are those in which the United States acts as plaintiff or defendant. Total private cases remained stable, dropping by only 28 cases. Of the private cases, civil rights cases made up the majority (18.9 percent or 5,807 cases), followed by habeas corpus prisoner petitions (4,565). Civil rights cases dropped 4.2 percent from the year before, while habeas corpus petitions dropped 13.7 percent.

Cases in which the United States acted as plaintiff or defendant fell by 21.7 percent in 2001 to 10,942 cases. The majority of these cases were contract disputes (29.4 percent), followed by Social Security filings (21.3 percent), and prisoner petitions' motions to vacate sentence (9.5 percent). The Central District of California reported the largest number of total civil filings, with 13,751 new cases, followed by the Northern District of California, with 6,813 filings, and the Eastern District of California, with 3,915 cases.

Table 17

Total Criminal and Civil Cases Filed, Terminated, and Pending, 2000-2001

Caseload Measure	Calendar Year		Change 2000-2001
	2000	2001	
Civil Filings	44,711	41,649	-6.8%
Criminal Filings	15,100	14,408	-4.6%
Total Filings	59,811	59,531	-0.5%
Civil Terminations	39,733	43,394	9.2%
Criminal Terminations	14,024	13,648	-2.7%
Total Terminations	53,757	60,226	12.0%
Pending Civil Cases	44,169	42,424	-4.0%
Pending Criminal Cases	10,663	11,805	10.7%
Total Pending Cases	54,832	58,082	5.9%
Civil Case Termination Index (in months)	13.3	11.7	-12.0%
Criminal Case Termination Index (in months)	9.1	10.4	14.3%
Overall Case Termination Index	12.2	11.6	-4.9%
Median Months (filing to disposition) Civil	8.8	8.2	-6.8%
Median Months (filing to disposition) Criminal	5.2	5.4	3.8%

With civil filings declining in the Circuit's district courts, case terminations rose by 9.2 percent in 2001. As a result, the pending civil caseload dropped 4 percent. The median time from filing to disposition for civil cases dropped 6.8 percent to 8.2 months in 2001, with the Circuit processing these cases faster than the national median time of 8.6 months.

District Court Filings (continued)

Table 18

Ninth Circuit District Court – Types of Criminal Cases Commenced, 2001 (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	1	79	4	2	2	1	2	8	15	2	2	1	4	3	0	126
Robbery	2	17	82	13	24	23	11	2	1	37	51	11	22	0	0	296
Assault	4	32	8	7	11	21	6	8	15	5	4	2	33	3	0	159
Burglary	0	4	0	0	0	1	4	0	4	0	0	0	0	0	0	13
Larceny	27	150	112	32	43	13	13	8	12	15	44	4	181	10	0	664
Embezzlement	10	6	22	23	28	8	9	3	9	21	18	9	26	1	3	196
Fraud	28	150	319	174	123	404	37	26	25	68	44	28	108	25	5	1,564
Weapons & Firearms	10	125	138	47	80	15	6	14	33	68	81	42	30	15	2	706
Forgery & Counterfeiting	10	18	94	10	12	6	3	4	6	28	9	13	15	0	6	234
Drug Laws	49	768	159	115	131	1,724	95	30	128	71	125	120	191	59	3	3,768
Traffic	22	5	10	12	59	0	223	4	100	0	0	0	267	0	0	702
Escape	0	27	9	1	12	13	1	0	1	17	12	4	7	0	1	105
Other	6	87	58	46	35	24	18	15	46	33	20	11	111	7	2	519
General Offenses Total	169	1,468	1,015	482	560	2,253	482	122	395	365	410	245	995	123	22	9,052
Special Offenses																
Immigration Laws	11	1,720	265	352	176	1,543	8	39	17	172	275	113	32	19	0	4,742
Agricultural Acts	11	10	0	9	3	1	1	12	11	3	4	1	1	0	0	67
Postal Laws	1	1	13	2	11	1	0	0	1	0	3	1	6	0	0	40
Other	11	61	69	29	60	39	14	9	11	8	17	8	24	13	1	374
Special Offenses Total	34	1,792	347	392	250	1,584	23	60	40	183	299	123	63	32	1	5,223
All Offenses Total	203	3,260	1,362	874	810	3,837	505	182	435	548	709	368	1,058	155	23	14,275

Table 19

Weighted and Unweighted Filings Per Authorized Judgeship, Criminal Defendants Only, 2001

District	Unweighted Filings Per Judgeship				Weighted Filings Per Judgeship				
	Authorized Judgeships	Civil	Criminal	Total	Civil	Criminal	2000 Weighted Total	2001 Weighted Total	Change 2000-2001
Alaska	3	144	72	225	136	100	245	238	-2.9%
Arizona	12	266	313	581	225	383	621	608	-2.1%
C. Calif.	27	487	71	576	378	101	495	484	-2.2%
E. Calif.	7	545	148	699	419	193	685	614	-10.4%
N. Calif.	14	472	66	551	413	105	514	521	1.4%
S. Calif.	8	294	544	1,058	287	725	997	1,068	7.1%
Hawaii	4	212	95	309	233	170	449	403	-10.2%
Idaho	2	321	131	467	295	205	444	504	13.5%
Montana	3	236	152	394	212	245	426	458	7.5%
Nevada	7	317	95	432	301	125	413	431	4.4%
Oregon	6	401	131	556	370	167	544	543	-0.2%
E. Wash.	4	158	91	286	125	122	281	257	-8.5%
W. Wash.	7	403	81	512	400	127	549	534	-2.7%
Circuit Total	104	4,256	1,990	6,646	3,794	2,768	6,663	6,663	0.0%
Circuit Mean	***	327	153	511	292	213	513	513	0.0%
Circuit Median	***	321	95	512	295	167	514	504	-1.9%

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. Each hearing receives a case weight of 0.25.

Table 20

Ninth Circuit Court of Appeals and District Court Senior Judge Activity, 2000-2001

Senior Judge Activity	Calendar Year		Change 2000-2001
	2000	2001	
Court of Appeals			
Case Hearings	1,662	1,643	-1.1%
Submitted on Briefs	2,368	1,534	-35.2%
Other Appeals	1,550	1,085	-30.0%
District Court Trials	473	423	-10.6%

Bankruptcy Appeals Decline

The Bankruptcy Appellate Panel

All district courts within the 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 2001, BAP handled 56 percent of all bankruptcy appeals, while 44 percent were heard in district courts.

New Filings

In 2001, 844 new appeals were filed. Of those, 470 were referred to BAP, while 374 proceeded to the district courts (see table). Of the 470 appeals handled by the BAP, 188 (40 percent) had a pro se litigant as either an appellant or an appellee.

Dispositions

The BAP disposed of 533 appeals. Of those, 170 appeals were merits termi-

nations. Oral argument was held in 153 appeals and 17 appeals were sub-

mitted on briefs. Of the 170 decisions, 35 were published opinions. The median time for an appeal decided on the merits was 9.4 months. The remaining 363 appeals were terminated on procedural grounds, such as for lack of prosecution, lack of jurisdiction or based on voluntary dismissal. The BAP ended the period with 234 appeals pending.

Appeals to the Ninth Circuit

During 2001, 241 bankruptcy appeals were filed at the Court of Appeals for second-level appellate review. Of these, 113 were appeals of decisions by the BAP and 128 from decisions of the district courts. Thus, for the 533 appeals which proceeded and were disposed of by the BAP, 79 percent were fully resolved with only 21 percent seeking second-level review.



Judges of the Bankruptcy Appellate Panel-Year 2001 (left to right). Seated: Judge John E. Ryan, Presiding Judge Barry Russell, Judge Elizabeth L. Perris. Standing: Judge James M. Marlar, Judge Christopher M. Klein, Judge Philip H. Brandt, Judge Dennis Montali.

The number of new bankruptcy appeals filed circuit-wide decreased for the third year in a row, down 16 percent from the previous year.

Table 21

New Bankruptcy Appeal Filings 2001

District	Bankruptcy Appellate Panel	District Court	Total
Alaska	3	7	10
Arizona	59	38	97
C. Calif.	194	127	321
E. Calif.	49	33	82
N. Calif.	66	52	118
S. Calif.	28	22	50
Hawaii	5	9	14
Idaho	6	7	13
Montana	5	10	15
Nevada	29	20	49
Oregon	2	10	12
E. Wash.	5	7	12
W. Wash.	19	32	51
Total	470 (56%)	374 (44%)	844

Magistrate Judges

Table 22

Ninth Circuit Misdemeanor Defendants Disposed Of and Civil Cases Terminated by U.S. Magistrate Judges, Fiscal Years 2000-2001

District	Civil Cases Terminated Pursuant to Section 636 (C)			Misdemeanor, Petty Offense Defendants Disposed		
	2000	2001	Change 2000-2001	2000	2001	Change 2000-2001
Alaska	1	1	0.0%	8	126	1475.0%
Arizona	144	207	43.8%	7,021	6,806	-3.1%
C. Calif.	438	667	52.3%	1,368	1,514	10.7%
E. Calif.	336	390	16.1%	2,209	2,375	7.5%
N. Calif.	544	458	-15.8%	937	1,158	23.6%
S. Calif.	58	43	-25.9%	191	868	354.5%
Hawaii	54	39	-27.8%	621	761	22.5%
Idaho	91	84	-7.7%	353	37	-89.5%
Montana	127	191	50.4%	125	363	190.4%
Nevada	47	32	-31.9%	1,059	734	-30.7%
Oregon	188	195	3.7%	463	632	36.5%
E. Wash.	87	109	25.3%	184	124	-32.6%
W. Wash.	107	83	-22.4%	1,101	2,079	88.8%
Circuit Total	2,222	2,499	12.5%	15,640	17,577	12.4%



The Magistrate Judges Executive Board meets in San Francisco. Left to right: Magistrate Judge Virginia Mathis, District of Arizona; Magistrate Judge Ruben Brooks, Southern District of California; Magistrate Judge and Committee Chair Elizabeth Laporte, Northern District of California; and Magistrate Judge Arthur Nakazato, Central District of California.

Court Interpreters

Table 23

Court Interpreters: Language by District Usage, Fiscal Year 2001

Number of Interpreter Uses*																
Language	Alaska	Arizona	CAC	CAE	CAN	CAS	Guam	Hawaii	Idaho	Montana	Nevada	N. Mariana Is.	Oregon	WAE	WAW	Total
Arabic	0	7	84	78	24	1	0	0	0	0	7	0	0	0	28	229
Armenian	0	0	51	172	3	4	0	0	0	0	5	0	0	0	0	235
Cantonese	0	0	99	38	165	11	0	23	0	0	89	1	0	0	32	458
Farsi	0	26	75	0	24	0	0	0	0	0	3	0	0	0	0	128
Japanese	4	0	29	1	26	0	5	18	0	0	0	0	0	0	0	83
Korean	1	0	108	0	11	11	51	13	0	0	11	1	19	2	58	286
Mandarin	0	3	183	0	65	26	53	39	0	0	11	4	2	0	10	396
Navajo	0	76	0	0	0	0	0	0	0	0	0	0	0	0	0	76
Russian	0	2	95	13	41	46	0	0	0	0	2	0	3	0	62	264
Sign	0	0	64	0	0	9	0	3	0	0	2	0	2	0	2	82
Spanish	3	30,282	4,638	2,574	2,505	19,557	0	136	190	52	1,134	0	1,417	756	700	63,944
Tagalog	0	0	107	2	23	2	36	1	0	0	1	2	0	0	9	183
Vietnamese	0	4	128	55	140	5	0	40	0	0	2	0	16	0	67	457
**All Other	0	47	192	64	79	21	10	24	1	0	23	1	3	12	24	501
Total	8	30,447	5,853	2,997	3,106	19,693	155	297	191	52	1,290	9	1,462	770	992	67,322

*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.

Juror Utilization

Table 24

Juror Utilization 2000 - 2001

District	Grand Juries Empaneled, 2001	Petit Juries Selected, 2001	Petit Juror Utilization Rate		
			% Not Serving, Selected, or Challenged (NSSC)* 2000	2001	Change 2000-2001
Alaska	1	18	45.3%	33.6%	-25.8%
Arizona	14	95	48.1%	45.3%	-5.8%
C. Calif.	42	205	55.6%	57.3%	3.1%
E. Calif.	13	68	36.2%	44.9%	24.0%
N. Calif.	15	66	39.6%	46.3%	16.9%
S. Calif.	12	145	45.2%	43.5%	-3.8%
Hawaii	6	27	40.6%	30.8%	-24.1%
Idaho	9	23	21.2%	14.9%	-29.7%
Montana	2	46	39.6%	29.2%	-26.3%
Nevada	7	62	36.8%	39.5%	7.3%
Oregon	7	62	10.0%	10.7%	7.0%
E. Wash.	6	23	36.8%	35.6%	-3.3%
W. Wash.	6	39	30.2%	35.6%	17.9%
Guam	3	4	35.5%	66.0%	85.9%
N. Mariana Is.	1	5	19.3%	30.5%	58.0%
Circuit Total	144	888	***	***	***
Circuit Average	10	59	36.0%	37.6%	4.4%
National Average	10	76	37.7%	34.3%	-9.0%

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

District By District Caseloads



District of Alaska

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	702	660	-6.0%	220
Terminations	745	828	11.1%	276
Pending	796	628	-21.1%	209
Bankruptcy Court				
Filings	1,419	1,473	3.8%	737
Terminations	1,472	1,275	-13.4%	638
Pending	1,644	1,842	12.0%	921
Authorized Judgeships			Authorized places of holding court: Anchorage, Fairbanks, Juneau, Ketchikan, Kodiak, Nome	
District	3			
Senior	3			
Bankruptcy	2			
Magistrate				
Full time	2			
Part-time	4			

District of Arizona

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	6,614	6,581	-0.5%	548
Terminations	6,041	6,302	4.3%	525
Pending	5,235	5,514	5.3%	460
Bankruptcy Court				
Filings	20,955	25,489	21.6%	2,832
Terminations	20,470	22,577	10.3%	2,509
Pending	24,336	27,248	12.0%	3,028
Authorized Judgeships			Authorized places of holding court: Flagstaff, Phoenix, Prescott, Tucson, Yuma	
District	12			
Senior	6			
Bankruptcy	9			
Magistrate				
Full time	12			
Part-time	0			

District By District Caseloads (continued)

Central District of California

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	17,499	15,143	-13.5%	561
Terminations	14,028	17,627	25.7%	653
Pending	18,552	16,068	-13.4%	595
Bankruptcy Court				
Filings	80,782	88,195	9.2%	4,200
Terminations	88,938	85,151	-4.3%	4,055
Pending	43,546	46,590	7.0%	2,219
Authorized Judgeships			Authorized places of holding court: Los Angeles, Riverside, Santa Ana	
District	27			
Senior	11			
Bankruptcy	21			
Magistrate				
Full time	20			
Part-time	2			

Eastern District of California

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	5,804	4,800	-17.3%	686
Terminations	5,220	5,036	-3.5%	719
Pending	5,949	5,713	-4.0%	816
Bankruptcy Court				
Filings	29,756	32,259	8.4%	4,032
Terminations	32,257	32,490	0.7%	4,061
Pending	21,474	21,243	-1.1%	2,655
Authorized Judgeships			Authorized places of holding court: Fresno, Redding, Sacramento	
District	7			
Senior	5			
Bankruptcy	8			
Magistrate				
Full time	8			
Part-time	3			

Northern District of California

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	7,087	7,632	7.7%	545
Terminations	6,380	6,191	-3.0%	442
Pending	6,715	8,156	21.5%	583
Bankruptcy Court				
Filings	19,562	19,838	1.4%	2,204
Terminations	22,176	20,919	-5.7%	2,324
Pending	24,714	23,633	-4.4%	2,626
Authorized Judgeships			Authorized places of holding court: Eureka, Monterey, Oakland, San Francisco, San Jose, Santa Rosa	
District	14			
Senior	7			
Bankruptcy	9			
Magistrate				
Full time	10			
Part-time	1			

Southern District of California

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	6,825	6,468	-5.2%	809
Terminations	6,654	6,279	-5.6%	785
Pending	3,416	3,605	5.5%	451
Bankruptcy Court				
Filings	12,619	13,367	5.9%	3,342
Terminations	14,731	14,053	-4.6%	3,513
Pending	12,501	11,815	-5.5%	2,954
Authorized Judgeships			Authorized places of holding court: El Centro, San Diego	
District	8			
Senior	5			
Bankruptcy	4			
Magistrate				
Full time	10			
Part-time	0			

District By District Caseloads (continued)

District of Guam

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	161	233	44.7%	233
Terminations	159	178	11.9%	178
Pending	179	234	30.7%	234
Bankruptcy Court				
Filings	155	288	85.8%	288
Terminations	69	321	365.2%	321
Pending	258	225	-12.8%	225
Authorized Judgeships			Authorized places of holding court: Hagatna	
District	1			
Senior	0			
Bankruptcy	0			
Magistrate				
Full time	0			
Part-time	1			

District of Hawaii

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	1,312	1,313	0.1%	328
Terminations	1,394	1,353	-2.9%	338
Pending	1,590	1,550	-2.5%	388
Bankruptcy Court				
Filings	4,549	5,039	10.8%	5,039
Terminations	4,562	4,745	4.0%	4,745
Pending	2,588	2,882	11.4%	2,882
Authorized Judgeships			Authorized places of holding court: Honolulu	
District	4			
Senior	2			
Bankruptcy	1			
Magistrate				
Full time	3			
Part-time	2			

District of Idaho

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	911	852	-6.5%	426
Terminations	806	839	4.1%	420
Pending	880	893	1.5%	447
Bankruptcy Court				
Filings	7,119	8,265	16.1%	4,133
Terminations	7,966	8,512	6.9%	4,256
Pending	7,708	7,464	-3.2%	3,732
Authorized Judgeships			Authorized places of holding court: Boise, Coeur d'Alene, Moscow, Pocatello	
District	2			
Senior	0			
Bankruptcy	2			
Magistrate				
Full time	2			
Part-time	0			

District of Montana

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	1,227	1,172	-4.5%	391
Terminations	1,116	1,124	0.7%	374
Pending	1,138	1,186	4.2%	395
Bankruptcy Court				
Filings	3,336	4,002	20.0%	2,001
Terminations	3,585	3,564	-0.6%	1,782
Pending	2,779	3,217	15.8%	1,609
Authorized Judgeships			Authorized places of holding court: Billings, Butte, Great Falls, Helena, Kalispell, Missoula	
District	3			
Senior	1			
Bankruptcy	2			
Magistrate				
Full time	3			
Part-time	1			

District By District Caseloads (continued)

District of Nevada

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	2,825	2,857	1.1%	408
Terminations	2,865	2,750	-4.0%	393
Pending	2,886	2,993	3.7%	428
Bankruptcy Court				
Filings	14,010	18,102	29.2%	4,526
Terminations	13,185	14,302	8.5%	3,576
Pending	19,724	23,524	19.3%	5,881
Authorized Judgeships			Authorized places of holding court: Carson City, Elko, Ely, Las Vegas, Lovelock, Reno	
District	7			
Senior	2			
Bankruptcy	4			
Magistrate				
Full time	5			
Part-time	0			

District of Northern Mariana Islands

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	68	76	11.8%	76
Terminations	103	79	-23.3%	79
Pending	57	54	-5.3%	54
Bankruptcy Court				
Filings	15	26	73.3%	26
Terminations	8	35	337.5%	35
Pending	48	39	-18.8%	39
Authorized Judgeships			Authorized places of holding court: Saipan	
District	1			
Senior	0			
Bankruptcy	0			
Magistrate				
Full time	0			
Part-time	0			

District of Oregon

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	3,256	3,202	-1.7%	534
Terminations	3,069	3,120	1.7%	520
Pending	2,788	2,870	2.9%	478
Bankruptcy Court				
Filings	18,227	23,038	26.4%	3,291
Terminations	18,374	21,558	17.3%	3,080
Pending	13,532	15,012	10.9%	2,145
Authorized Judgeships			Authorized places of holding court: Coquille, Eugene, Klamath Falls, Medford, Pendleton, Portland	
District	6			
Senior	6			
Bankruptcy	7			
Magistrate				
Full time	6			
Part-time	1			

Eastern District of Washington

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	1,226	1,068	-12.9%	267
Terminations	1,085	1,101	1.5%	275
Pending	2,108	2,075	-1.6%	519
Bankruptcy Court				
Filings	8,376	10,149	21.2%	3,383
Terminations	7,507	8,960	19.4%	2,987
Pending	6,748	7,937	17.6%	2,656
Authorized Judgeships			Authorized places of holding court: Richland, Spokane, Walla Walla, Yakima	
District	4			
Senior	2			
Bankruptcy	3			
Magistrate				
Full time	2			
Part-time	0			

District By District Caseloads (continued)

Western District of Washington

Caseload Measure	Calendar Year		Change 2000-2001	Per Judgeship Unweighted 2001
	2000	2001		
District Court				
Filings	4,294	4,000	-6.8%	571
Terminations	4,092	4,235	3.5%	605
Pending	2,925	2,690	-8.0%	384
Bankruptcy Court				
Filings	22,755	26,986	18.6%	5,397
Terminations	23,006	25,066	9.0%	5,013
Pending	17,810	19,730	10.8%	3,946
Authorized Judgeships			Authorized places of holding court: Bellingham, Seattle, Tacoma	
District	7			
Senior	5			
Bankruptcy	5			
Magistrate				
Full time	4			
Part-time	2			