

STATEMENT OF JAMES C. DUFF, DIRECTOR  
ADMINISTRATIVE OFFICE OF THE U.S. COURTS  
BEFORE THE SUBCOMMITTEE ON  
FINANCIAL SERVICES AND GENERAL GOVERNMENT  
COMMITTEE ON APPROPRIATIONS  
HOUSE OF REPRESENTATIVES  
APRIL 6, 2011

**Introduction**

Chairwoman Emerson, Representative Serrano, and members of the Committee, I am pleased to appear before you to present the Fiscal Year (FY) 2012 budget request for the Administrative Office of the United States Courts (AO) and to support the overall request for the Judicial Branch.

First, I join Judge Gibbons in thanking you and your Committee for the support you have provided the Judiciary during this time of fiscal austerity.

The budget request before you was developed last fall based on assumptions at that time. Once we receive a final fiscal year 2011 appropriation, we will update our fiscal year 2012 request and provide that to the Committee. Also, to the extent we are able to identify unanticipated fee collections, additional carryover, and reduced requirements in the courts, we will advise the Committee and adjust our request accordingly. The Judiciary seeks only to obtain the funding necessary to meet its obligations and responsibilities to ensure the effective administration of justice.

**Honorable John M. Roll**

The Judiciary is still reeling from the violent death of one of our most dedicated public servants, Chief Judge John M. Roll, an exemplary and beloved judge, who was killed on January 8, 2011, in Tucson, Arizona, where one of your colleagues was seriously wounded. I hope Representative Giffords' recovery continues to progress well and that she will be back among you soon.

When we reflect on all of the Judiciary's accomplishments and challenges in 2010, I find it remarkable how Chief Judge Roll was involved in so many important administrative issues facing the Judiciary along the border – from workload and vacancies to courthouse construction needs and cost-containment efforts to Congressional outreach. It is all the more remarkable because of the caseload he and his colleagues carried in one of the busiest trial courts in the United States. For Chief Judge Roll, there were no days off. Among his accomplishments this past year, and with the approval of this Committee, he secured the construction of a much needed new courthouse in Yuma, Arizona – which Congress recently named in his honor – the ***John M. Roll United States Courthouse***. He will be greatly missed. Chairwoman Emerson and Representative Serrano, you have both been steadfast in your support of our efforts on the border and I would welcome any opportunity to accompany you on a trip to the Southwest border districts to see firsthand the overwhelming workload impacting these courts.

## Facilities Planning and Capital Security

Last year a large part of my testimony concerned the Judiciary's efforts to strengthen the process for developing its long-range facilities plans – in essence, the process by which a project is placed on the *Five-Year Courthouse Project Plan*. This plan is a prioritized list of the Judiciary's most urgent courthouse construction needs. Following adoption of a cost-containment strategy by the Judicial Conference in 2004, a national moratorium on new courthouse construction was imposed in fiscal years 2005 and 2006.

During the moratorium, the Judiciary reevaluated its space planning policies and practices, and enhanced its budgetary controls. The Judicial Conference adopted changes to the *U.S. Courts Design Guide* that reduced the size of chambers space for judges and offices for court staff. The Conference also approved a courtroom sharing policy for senior judges and magistrate judges, and is currently developing policy for bankruptcy judges. In addition, the long-range facilities planning methodology was replaced with a new asset management planning (AMP) process. Application of the AMP process to the 33 proposed facilities that were subject to the moratorium enabled us to determine that about half of those courthouses could be adequately improved through a renovation or alteration project, instead of the more costly solution of new construction.

The AMP process significantly improved long-range planning with: (1) comprehensive physical and functional assessments of each courthouse throughout the country; (2) standardized planning assumptions; (3) strategies to address current and future space needs; (4) business rules that mandate first consideration of less costly real estate solutions; and (5) a method for establishing the order of precedence for which locations obtain major projects. The AMP process focuses on cost, and places a greater emphasis on the ability of an existing facility to accommodate additional space, rather than security or building condition, when determining whether to recommend a new courthouse or a renovation of that facility.

Chairwoman Emerson and Representative Serrano, the AMP process allows us to assess our space needs more accurately. We know that the Judiciary operates within some very old buildings. Many do not meet today's security standards, but oftentimes additional space is not needed. So a new building may not be required. We touched on this at last year's hearing. It is likely that fewer resources will be available for new construction and yet there are serious security and operational deficiencies in existing courthouses that need to be addressed. With that in mind, the Judicial Conference has endorsed the concept of a *Capital Security Program*.

The Judiciary has identified security deficiencies that exist in at least 10 courthouses nationwide. The cost to address these deficiencies per project ranges between \$4 million and \$17 million. Under our new AMP process, new buildings are not justified at these locations, yet a relatively small investment would allow us to make the security upgrades necessary to ensure the safety of judges, court staff and the public. The Judiciary would appreciate the Committee's support in establishing a new Special Emphasis Program, the *Capital Security Program*, within the General Services Administration's (GSA) Federal Buildings Fund which would set aside funds dedicated for this specific purpose, to address security deficiencies in existing courthouse buildings where physical, interior alterations are viable. The courts would work closely with GSA

and the U.S. Marshals Service evaluating these projects. This would be a small investment to make these buildings safe and secure again.

### **FY 2012 Courthouse Construction Request**

With regard to courthouse construction, on September 14, 2010, the Judicial Conference of the United States approved a new *Five-Year Courthouse Project Plan for FYs 2012-2016*. The Plan sets the Judiciary's priorities for courthouse construction funding in each of those years. A copy of that plan is attached for your consideration in the coming fiscal year. The Judicial Conference is seeking \$558.4 million in FY 2012 to address only the most pressing space requirements of the Judiciary. Those projects are located in Los Angeles, California; Mobile, Alabama; Nashville, Tennessee; Savannah, Georgia; and San Jose, California.

As you know, funding for courthouse construction and major renovation and alteration projects is included in the GSA Federal Buildings Fund budget and not in the Judiciary's budget. In some years this has worked fine when the GSA budget request included funding for courthouse projects as recommended in the Judicial Conference-approved *Five-Year Courthouse Project Plan for FYs 2012-2016*. Unfortunately, that is not the case this year, nor was it the case last year either. The FY 2012 budget request for the GSA includes \$840 million for Executive Branch new construction projects, but it does not include any funding for new courthouse construction. The absence of funding for any new courthouse construction in the President's FY 2012 budget request is problematic for the Judiciary, particularly if it translates into a lower allocation for your Committee. A lower allocation means that you will have greater difficulty securing the funding to support our request for the five construction projects proposed this year, all of which are critically needed to address major operational deficiencies at those locations.

As noted above, the Judiciary has taken strategic steps to improve its courthouse facilities planning with a focus on cost containment. This effort has been significant and has resulted in only the most important project recommendations going forward, and at a reduced cost. I urge you and your colleagues to consider the recommendations of the Judicial Conference with regard to courthouse project needs and include funding in your FY 2012 bill to the best of your ability.

### **Role of the AO**

Created by Congress in 1939 to assist the federal courts in fulfilling their mission to provide equal justice under law, the AO is a unique entity in government. Neither the Executive Branch nor the Legislative Branch has any comparable organization that provides the broad range of services and functions that the AO does for the Judicial Branch, Congress, and the public.

The AO does not operate as a headquarters for the courts. Although the federal court system is decentralized, the AO provides administrative, legal, management, program, security, information technology, and other support services to all federal courts. It also provides support and staff counsel to the policy-making body of the Judiciary, the Judicial Conference of the United States, and its 25 committees, and helps implement Judicial Conference policies, as well as applicable federal statutes and regulations.

The AO is the focal point for communication and coordination within the Judiciary and with Congress, the Executive Branch, and the public on behalf of the Judiciary. Our lawyers, public administrators, financial managers, human resource specialists, systems engineers, analysts, architects, statisticians, security experts, and other staff provide professional services to administer Judiciary programs and meet the needs of judges and staff working in the federal courts nationwide. These services include, among many other things, for example:

- Performing core central payroll, personnel, procurement and accounting functions;
- Developing and executing the Judiciary's budget and guiding local court budget execution;
- Collecting and analyzing statistics on court workload;
- Auditing court financial operations;
- Monitoring and reviewing program performance and use of resources;
- Developing and implementing cost containment initiatives;
- Developing and supporting automated systems and technologies throughout the courts, and managing public access systems;
- Coordinating construction and management of court facilities with the GSA;
- Monitoring U.S. Marshals Service implementation of the judicial facility security program;
- Defining court resource needs through caseload forecasts and work measurement analyses;
- Providing program leadership and support for federal courts, judges, circuit executives, clerks of court, probation and pretrial services officers, federal defenders, and other managers; and
- Developing and conducting education and training programs on court administration, court operations, and information technology.

### **AO Task Force To Contain Costs**

Although the AO has engaged in cost containment for several years, in January, I formed an agency-wide, cross-cutting task force with representatives from every directorate, to respond to the near-term budget forecast and fiscal challenges. I asked this team to approach this as an opportunity not only to curtail costs but also to continue to improve our service to the courts. Over the next several months, the group will develop recommendations for short-term cost-containment measures to get us through 2011, but the ultimate focus will be longer range actions affecting 2012 and beyond. This includes a thorough review of organizational, policy and process alternatives that will result in cost savings as well as improved efficiencies and effectiveness. For example, like the courts, we are examining whether certain administrative functions can be merged or streamlined.

### **AO Fiscal Year 2012 Budget Request**

I next turn to the fiscal year 2012 appropriations request for the AO, which is \$88,455,000. This represents an increase of \$2,473,000 or 2.9 percent, over the fiscal year 2011 assumed

appropriation. The requested increase is primarily made up of base adjustments to maintain current operations. Specifically, \$2.1 million of the requested increase is for salaries and benefit increases, as well as increased costs for recurring operational requirements. The budget request does, however, include an increase of \$324,000 to fund three new positions to address high-priority court support functions critical to the operation of the courts. Madam Chairwoman, this is a re-request of the staffing increases we asked for this past year, which was also the first request to fund additional staff from the AO's appropriation in six years.

Two positions are requested to support the multi-year implementation of the Judiciary Integrated Financial Management System (JIFMS). JIFMS is the comprehensive modernization and consolidation of the Judiciary's current nationwide finance and accounting system. The two positions will be specifically used in developing the requirements, testing the software application, and performing the centralized Electronic Funds Transfer (EFT) function at the AO in compliance with the Department of the Treasury Government-wide Accounting (GWA) Initiative. GWA mandates that all government activities use EFT rather than paper checks for paying traveler and commercial vendor payment vouchers.

Once JIFMS is fully implemented, the Judiciary will recognize significant savings and out-year cost avoidance through the use of the centralized EFT process. Currently, all 94 courts issue paper checks to their vendors. This involves 94 separate courts maintaining a stock of treasury checks, safes for the storage of these checks, personnel at each court site to issue and account for checks issued, and upward reporting to the AO for consolidation to the Treasury for reporting purposes. Under the centralized EFT process, the AO will be the centralized office for all Judiciary disbursement payments made via EFT, thus significantly reducing the disbursement function currently performed by all 94 courts. In addition, instead of 94 separate upward reports and reconciliations performed by the courts and then consolidated and reconciled by AO staff for submission to the Treasury, the AO will assume the role of reconciling disbursements. This will in turn strengthen Judiciary internal controls, improve our financial accountability, and reduce workload in the courts.

At present, the AO is not staffed to handle these new EFT responsibilities. The two additional operating accountant positions requested will address this need.

One new position is requested to support an initiative to address judges' Internet security, including Internet threats and the availability of judges' personal information on the Internet. This initiative includes development and implementation of strategies and protocols to mitigate the misuse and abuse of judges' names as domain names on the Internet, where judges' security could be compromised.

In addition to the direct AO appropriation provided by this Committee, the AO receives a portion of Judiciary fee collections and carryover balances to offset appropriation requirements as approved by the Judicial Conference and the Congress. The AO also receives reimbursements from other Judiciary accounts for information technology development and support services that are in direct support of the courts, the court security program, and defender services.

The FY 2012 request for the AO reimbursable program is also a re-request from FY 2011, specifically for 2 additional FTEs and 5 positions. Four new positions are requested to assist in the development of the next generation Case Management/Electronic Case Files (CM/ECF) system. CM/ECF is the core case management tool for judges and staff of clerks' offices. This next generation will incorporate new technologies and enhance functionality in the courts nationwide.

An additional reimbursable position is also requested again to support a new telecommunications program for the Judiciary which will result in increased productivity, cost savings, and cost avoidance. The Judiciary has awarded a new contract that will replace the existing Data Communications Network (DCN) and will provide the Judiciary opportunities to expand the current telecommunications services utilized by the courts. This network will allow the Judiciary to run voice, video, and data services over one network. The telecommunications program offered by the AO will provide the courts with centralized services supporting telephone services which will support telephone systems, video bridging, and data center hosting. The development, deployment and management of these additional services will be the responsibility of the AO staff and the workload associated with this effort will be substantial.

### **Conclusion**

Madam Chairwoman, the AO's appropriation comprises less than two percent of the Judiciary's total budget, yet the work performed by the AO is critical to the effective operation of the U.S. courts. Today, I have shared with you a few examples of the diverse issues we handle and the types of services and support the AO provides. In addition to striving to perform its fundamental responsibilities in the most efficient and effective manner, the AO must look beyond the immediate day-to-day needs of the courts. It is our responsibility to anticipate and plan for changes in workload, workforce demographics, legislative mandates, resource limitations, and other trends and events so that we can serve the courts effectively in the future.

We recognize that fiscal year 2012 will be a very difficult year for you and your colleagues as you struggle to meet the funding needs of the agencies and programs in your bill. I urge you, however, to consider the significant role the AO plays in supporting the courts and the mission of the Judiciary, as well as the effort the AO has undertaken to increase efficiencies and reshape its workforce.

This concludes my remarks and I would be pleased to answer any questions you may have regarding the AO and the Judiciary. Thank you.