

STATEMENT OF JUDGE THOMAS F. HOGAN, DIRECTOR
ADMINISTRATIVE OFFICE OF THE U.S. COURTS
BEFORE THE SUBCOMMITTEE ON
FINANCIAL SERVICES AND GENERAL GOVERNMENT
COMMITTEE ON APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

March 20, 2013

Chairman Crenshaw, Representative Serrano, and members of the Committee, I am pleased to appear before you this morning to present the fiscal year 2014 budget request for the Administrative Office of the United States Courts (AO) and to support the overall request for the entire Judicial Branch. Chairman Crenshaw, I also appreciate having had the opportunity to meet with you prior to today's hearing.

First, I would like to join Judge Gibbons in thanking you and your Committee for the support it has provided the Judiciary during the fiscal year 2013 appropriations process – which is still ongoing. We have enjoyed an open dialogue with the Committee as we address issues of mutual interest and I look forward to continuing this relationship in the future.

Nearly 18 months ago, I was appointed by Chief Justice Roberts as the eighth Director of the Administrative Office of the U.S. Courts, the first judge to serve as Director since the AO's creation 74 years ago. I bring to the position more than 30 years of experience as a trial judge and I believe this perspective is valuable as the AO assists the courts in addressing its fiscal challenges. No doubt these are difficult times and the AO must continue its leadership and support in helping the Judicial Branch maintain our tradition of excellence. I am committed to continuing this practice while focusing on ways the AO and the courts can work more effectively and efficiently in this era of cost containment.

We recognize the very tight fiscal constraints in which you continue to operate and appreciate being able to work closely with the Committee throughout the appropriations process. The federal Judiciary has a constitutionally mandated mission that it must uphold and to do so we must have adequate resources. We have been steadfast in pursuing cost-containment measures to cut spending and are requesting the minimum amount necessary to keep our courts open and operating, and our communities safe from potentially dangerous offenders under supervision.

Extension of Temporary District Judgeships

Chairman Crenshaw, Representative Serrano, for the past several years, this Committee has included a general provision in its annual appropriations bill extending by one year temporary Article III judgeships due to lapse in that fiscal year. We cannot thank the Committee enough for its assistance in this regard. Without this provision, we risk losing judgeships in these courts upon the first vacancy that occurs – through death or retirement – after their lapse

date. There are now nine temporary judgeships set to expire in fiscal year 2013 or soon after. The impacted courts are in the following judicial districts: Alabama-Northern, Arizona, California-Central, Florida-Southern, Hawaii, Kansas, Missouri-Eastern, New Mexico, and Texas-Eastern.

Judge Gibbons discusses in her testimony what happened to the temporary judgeship in the Northern District of Ohio when its authorization was not extended during the Continuing Resolution period in fiscal year 2011. In addition, in fiscal year 2005, a temporary judgeship was lost in the Eastern District of California. To this day, it has not been restored. The Eastern District of California has been severely burdened by the loss of this temporary judgeship as the caseload has risen to 1,132 weighted filings per judgeship, the second highest total in the nation. Several of the districts for which we seek an extension, particularly those in Arizona, New Mexico, Florida-Southern, Texas-Eastern, and California-Central, will find themselves similarly impacted if their temporary judgeship is lost. These are some of the busiest trial courts in the nation, and to lose a judgeship in one of these courts would be a detriment to the citizens in that district.

I urge you to include the language in Section 305, a general provision in H.R. 6020, the fiscal year 2013 FSGG Appropriations Bill, in the final fiscal year 2013 Continuing Resolution. The extension of these temporary judgeships is critical to the operation of the federal Judiciary.

Role of the Administrative Office

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.

Unlike most Executive Branch agencies in Washington, the AO does not operate as a headquarters for the courts. The federal court system is decentralized, although the AO has management oversight responsibilities for the court security program, the probation and pretrial services program, and the defender services program, among others. The AO supports the Judicial Conference of the United States in determining Judiciary policies; developing new methods, systems, and programs for conducting the business of the federal courts efficiently and economically; developing and supporting the application of technology; collecting and analyzing statistics on the business of the federal courts for accurate planning and decisions about resource needs; providing financial management services and personnel and payroll support; and conducting audits and reviews to ensure the continued quality and integrity of federal court administration.

The work of the AO has evolved over the years to meet the changing needs of the Judicial Branch. Service to the courts, however, has been and remains our basic mission. But, there is no question that the roles and responsibilities of the men and women at the AO are vast and varied. Please let me share with you a few examples of the work performed at the AO. The

AO provides administrative support to the 25 Judicial Conference committees, 2,340 judicial officers, and nearly 30,000 court employees. We perform this mission with 850 employees located in the District of Columbia as well as another 200 staff located in Judiciary service centers in Phoenix, Arizona; Charleston, South Carolina; San Antonio, Texas; and Reston, Virginia.

Information Technology Improvements

The Judiciary's budget is essentially people and rent costs. Approximately 66 percent of the courts' Salaries and Expenses appropriation is used to support employee salaries and benefits – the staff who carry out the work of the courts. Another 20 percent is used to pay rent on 831 facilities and leased space that house the courts and their staff. This leaves little flexibility when looking for areas to reduce spending. Often, funding to support the development and implementation of information technology systems and applications is where the reductions have to be made. Unfortunately, this is an area where it costs money up front in order to save money in the future. In an era of budget constraints, it is a challenge to come up with seed money for IT projects when funding for employee salaries is being cut. We are forced to rise to that challenge, because it is clear that our investment in information technology has greatly improved the work of the federal Judiciary – made the courts more efficient, increased accountability, and significantly improved productivity. Implementing innovative technology applications to help the Judiciary meet the changing needs of judges, staff and the public is a priority of the Judicial Conference. Let me highlight a few specific areas where this has clearly been the case.

Telecommunications Upgrade

Several years ago, with the support of this Committee, the AO embarked on an effort to upgrade the Judiciary's telecommunications system, moving to a next-generation telecommunications service that would enhance communications performance and reliability, and deliver converged voice, data, and video services over the Judiciary's Data Communications Network.

Deployment of the National Internet Protocol Telephone service (National IPT) began in May 2011. The initial goal was to deploy 30,000 devices over five years. However, in light of significant court demand and recognizing the significant pay-off down the road, the AO re-prioritized existing resources to accelerate deployment of the IPT program in order to realize the benefits sooner. By the end of March 2013, the AO will have deployed 22,500 devices – more than two-thirds of the way done. Deployment will continue through the end of April, at which time the program will pause for the remainder of the fiscal year. During this pause, the team will take advantage of newer technology and consolidate core infrastructure into one location, saving a substantial amount of money.

Initial cost models suggested that if 75 to 90 percent of the courts were to take advantage of a national IPT service offering, the initial capital investment – while significant – could be recovered in the first several years, and cost avoidances would accrue thereafter. An initial

snapshot proves this assumption: a sample of 31 locations in 8 districts that have installed 3,200 telephones no longer have to pay a total of \$1.3 million in local charges, as these costs are now a part of the national system. Costs incurred by local courts will continue to decrease as their telephone requirements are met by the new system.

Case Management/Electronic Case Files

Perhaps one of the Judiciary's greatest collaborative efforts to improve court operations was the development of the Case Management/Electronic Case Files System (CM/ECF) in 1995. The Judiciary's CM/ECF system allows attorneys to file cases electronically and provides online access to case information. It also provides courts enhanced and updated docket management and allows courts to maintain case documents in electronic form. With the addition last year of the U.S. Court of Appeals for the Federal Circuit, all federal courts now accept electronic filings via the Judiciary's CM/ECF system. By the end of fiscal year 2012, over 41 million cases were on the Judiciary's CM/ECF system, and more than 700,000 attorneys and others had filed documents – pleadings, motions, petitions – over the Internet.

The transition to a Next Generation (NextGen) of the CM/ECF system is underway. The goals are to improve efficiency and integration between the appellate, district, and bankruptcy systems; achieve greater consistency, especially for external users; collect more case-related statistics; and share data with other Judiciary systems. The requirements gathering phase for NextGen ended in March 2012, as groups of judges, chambers staff, clerks, court staff, and AO staff identified and prioritized more than 400 functional requirements. Those requirements elicited more than 6,000 comments from the courts. The project also received input from the bar, academia, government agencies, and others. AO developers are now proceeding under a plan for design, coding, testing, and implementation of NextGen. The initial schedule calls for the NextGen release to begin implementation in March 2014.

Probation and Pretrial Services

The Judiciary also uses information technology to reduce costs and improve the effectiveness and efficiency of probation and pretrial services officers in the field. Since 2001, with the development of the PACTS-ecm (Probation and Pretrial Services Automated Case Tracking System electronic case management) system, the AO's Office of Probation and Pretrial Services (OPPS) has been instrumental in providing information technology to officers that make them more effective and efficient. The implementation of this system covered a span of several years. Prior to PACTS-ecm, all case records were kept in a paper file and created by hand or typewriter. Over the last decade, OPPS has introduced a number of new technologies used to obtain, analyze, and disseminate information about federal defendants and offenders. Following is a chronology of key milestones:

- 2002 - A national online directory was developed that provides our offices with accurate contact information of all federal probation and pretrial services officers, facilitating the ability for officers to communicate with one another regarding inter-district cases.

- 2003 - Mobile devices were introduced allowing officers to carry their caseloads electronically.
- 2004 - Treatment and drug test results were captured and electronically stored from provider systems directly into PACTS-ecm.
- 2005 - The ATLAS (Access To Law Enforcement Systems) application was introduced providing officers with desktop access to criminal history and supervised release records.
- 2006 - The DSS (Decision Support System) data warehouse was introduced providing improved decision making on a national, district and individual officer level through a robust reporting capability. For example, DSS information allows offices to more efficiently allocate resources based on measures of offender risk level.
- 2007 - An electronic document management system was introduced that was integrated within PACTS-ecm.
- 2008 - PACTS Mobile for the Blackberry devices was introduced allowing records to be remotely updated and synchronized with PACTS-ecm.
- 2009 - The "red flag" feature of the Offender Release Report was developed to help prevent an offender from "falling through the cracks" by flagging inmates released from BOP custody and whose sentence includes a term of supervision. The Electronic Reporting System was also introduced providing defendants and offenders with the ability to electronically provide monthly supervision reports, thereby freeing officers from the administrative task of filing such paper-based reports.
- 2010 - The OPERA (Offender Payment Enhanced Report Access) system was introduced providing probation officers with direct financial access to offender payment history and debt information allowing officers to better ensure compliance of court-imposed fines and restitution.
- 2011 - The National Online Directory was upgraded to include an exchange of directories with the Bureau of Prisons and a national interpreter database. The DSS system was also enhanced to include a Geographic Information System (GIS) that provides court management staff with the ability to visualize home locations of defendants and offenders. This technology provides greater effectiveness in assigning cases to officers and responding to events such as Hurricane Sandy. The application provides officers with the ability to easily join caseloads and create driving routes when planning home visits so they can be more efficient and safer when supervising offenders in the community.
- 2012 - iPACTS was introduced which allowed officers to securely carry their caseloads on iPad and iPhone devices without the requirement of an Internet connection, making them

more mobile than ever and further allowing courts to redefine office space needs.

- 2013 - PACTS Generation 3 is being introduced that introduces a single national database that will allow better communication between offices and facilitate more efficient future software enhancements.

The development and implementation of these technologies have revolutionized the work of probation and pretrial services officers. Less time is spent in offices and more time is spent in the community supervising offenders. Officers have everything they need at their fingertips. I am convinced that the deployment of these technologies is a primary reason officers have been able to keep pace with the increased number of offenders under supervision and the increased risk level associated with those offenders. The investments made in these technologies truly pay for themselves.

Judiciary Integrated Financial Management System

Another important investment in IT has been in the technical architecture development to support the Judiciary Integrated Financial Management System (JIFMS). When fully deployed, JIFMS will replace the current AO and court financial accounting system, integrating most of the Judiciary's budget, procurement, and accounting functions. The near-term goal is to streamline financial operations, eliminate costly interfaces, improve data security and controls, and take advantage of today's best technologies and practices, such as using electronic funds transfers rather than paper checks for payments. JIFMS is scheduled for initial testing and deployment to the AO, the Court of International Trade, Court of Federal Claims, and the Court of Appeals for the Federal Circuit as beta sites in June. It will then be deployed to other court units and federal defender offices over the next several years.

Information Technology Security

Government websites are periodically the target of hackers seeking to deface the website or improperly access government information. The federal Judiciary has not been immune to such incidents. Court and AO systems managers, however, successfully counter a wide range of hackers, computer viruses, and other threats on a regular basis. The AO's Office of Information Technology (OIT) works closely with the courts to establish national IT security policies and deploy multiple layers of protective technologies.

IT security, like physical security, is not a single event but rather an ongoing process demanding constant attention. The AO's ongoing vigilance in information technology security is an essential support service to the courts.

Potential Impact of New Immigration Legislation

As focus turns in Congress to comprehensive immigration legislation, I hope the

Congress will be mindful of the impact it will have on the Judiciary. We are following the debate closely and making every effort to keep abreast of proposals so that we may provide relevant comments and a timely impact statement. The Judiciary represents a key component of the administrative, as well as the enforcement, processes and must have the resources to carry out any new responsibilities mandated by the legislation.

Courthouse Construction and the Capital Security Program

Attached to my testimony is the Judiciary's *Five-Year Courthouse Project Plan for Fiscal Years 2014-2018 (Five-Year Plan)*. This latest *Five-Year Plan* sets forth the Judiciary's priorities for courthouse construction funding in each of those years. The *Five-Year Plan* consists of 13 projects. No new funding has been provided for courthouse construction projects since fiscal year 2010. The fiscal year 2014 plan includes four projects totaling \$306.4 million. Scheduled for final construction funding in fiscal year 2014 are three projects, totaling \$294.4 million – Mobile, Alabama; Nashville, Tennessee; and Savannah, Georgia. In addition, the Norfolk, Virginia project requires \$12.0 million in fiscal year 2014 for additional site and design. It is our understanding, however, that the President's Fiscal Year 2014 Budget Request for the General Services Administration (GSA) will include no funding for the construction of courthouse projects on the *Five-Year Plan*. This would mark the fourth year in a row that the Administration has failed to request funding for courthouse construction projects.

As you may be aware, the Judiciary does not request its own funding for the construction of courthouses. Because GSA builds our facilities, these monies come under the jurisdiction of the Executive Branch and are included in GSA's budget. While the fiscal year 2014 request will include no funding for the construction of courthouse projects, we understand that funding will be requested under the Repair and Alterations account to undertake an alternative space plan for the Mobile, Alabama courthouse. Instead of providing the remaining amount necessary to construct a new courthouse in Mobile, Alabama, the GSA will request \$36 million for the renovation of the existing building and the construction of an annex to house the court. The Judiciary understands that a feasibility study is currently underway to determine if this is a viable alternative to construction of a new courthouse. The Judiciary hopes the Committee will continue to support the space and security needs of the district and bankruptcy courts in Mobile, Alabama.

The Judiciary continues to support \$20 million in funding for the Judiciary Capital Security Program (CSP) within the GSA's Repair and Alteration account. Renovation projects that enhance security are selected for participation in the CSP through an objective and collaborative review process that includes stakeholders from local courts and their judicial circuit councils, the U.S. Marshals Service, the GSA, the Judicial Conference's Space and Facilities Committee in consultation with the Judicial Security Committee, and the AO. This process includes assessing the building conditions and utilization, viability of long-term use, and structural capacity to identify cost-effective solutions that can be implemented in a timely manner. Projects are identified to correct and improve security deficiencies at existing federal courthouses in locations that are unlikely to be considered for the construction of a new

courthouse building.

CSP projects approved for funding in fiscal year 2012 are currently underway in Brunswick, Georgia; Benton, Illinois; Lexington, Kentucky; and San Juan, Puerto Rico. The Judicial Conference's Space and Facilities Committee, in consultation with the Judicial Security Committee, has endorsed five additional locations to undergo capital security studies for potential funding in fiscal year 2013. The studies will address security deficiencies at courthouses in Raleigh, North Carolina; St. Thomas, U.S. Virgin Islands; Texarkana, Texas; Columbus, Georgia; and Monroe, Louisiana.

Once a final full-year Continuing Resolution is enacted, we understand that the GSA's fiscal year 2013 financial plan will include \$20 million in continued funding for the Judiciary Capital Security Program.

Impact of Sequestration on the AO

Like the rest of the federal government, sequestration reduces funding for the Administrative Office of the U.S. Courts by 5.0 percent below the fiscal year 2013 CR level. For the AO, this means a cut of \$4,171,000 with only 7 months remaining in the fiscal year. The AO will meet this shortfall by applying a \$2.1 million reduction to non-salary accounts. This includes a 25 percent reduction in travel; a 50 percent reduction in training; and a 25 percent reduction in office and automation supplies. We also hope to achieve a savings of \$945,000 through various contract actions. For example, background investigations will be reduced as a result of decreased hiring projections.

The AO will also be forced to reduce funding for salaries and benefits by \$2.4 million, resulting in an additional 15 positions that cannot be filled. This reduction would leave AO staffing at 33 FTE below the 2010 staffing level. Fortunately, because the AO has been operating at reduced staffing levels for the last year, we expect to be able to achieve these savings through a hiring freeze and/or employee buyouts/early outs.

Nevertheless, the impact on the AO's support to the courts will be considerable. Earlier in my testimony I described some of the ways in which the AO supports the operation of the courts. While we will do our best to continue to support the courts, there will be fewer resources to do so. The development and implementation of key information technology programs will slow down. These include the enhancement of critical financial management applications, processing payroll and personnel actions, reviewing court financial operations, supporting probation and pretrial services, and final deployment of the National IPT service.

AO Cost Containment

The AO continues to seek ways to work within a tight budget, reducing costs while maintaining a high level of support to the federal courts. In 2011, an internal AO Cost-

Containment Task Force recommended measures to control costs and help prepare the agency for future budget constraints. Recommendations that could be quickly implemented and have an immediate financial impact were put in place first. These included reductions in travel, printing, publications, subscriptions, and mobile device costs, which continue in 2013.

Ninety-three percent of the AO's funding goes to support employee pay and benefits so, by necessity, many of the longer-term cost containment initiatives are in these areas. Early retirement opportunities were made available in fiscal year 2012 and will be offered throughout fiscal year 2013. Policies were also established to permit the use of buyouts as a workforce restructuring tool and 31 buyouts were accepted. During fiscal year 2012, buyouts and earlyouts resulted in close to \$2 million in savings. Hiring was restricted to entry level or the lower end of the pay band, with limited exceptions. In fiscal year 2012, adherence to this policy reduced costs by \$685,000. Savings were also achieved in the non-salary area. Expenditures on AO-funded travel and conferences were reduced by \$285,000. Increased use of videoconferencing is strongly encouraged in lieu of travel.

In addition to continuing these initiatives in fiscal year 2013, we are reviewing the AO's organizational structure and workforce alignment to identify changes that should be made to eliminate duplicative work, maximize effectiveness, and contain costs. A working group was created to review all contractor positions to determine the cost-effectiveness and feasibility of converting certain positions to temporary or permanent government positions. One hundred of the highest cost contractor positions were identified for conversion to lower-cost government positions, for the most part to temporary positions. This initiative is currently underway. To date, we have converted nine contractor positions to government employees with a fiscal year 2013 savings of \$540,000. These savings are being centrally managed by me and will be used for the highest priority needs of the courts. If fully implemented, this initiative could generate over \$6 million in savings to ongoing projects.

The AO has also been instrumental in guiding the Judiciary's overall cost containment efforts. We are committed to containing costs and limiting the growth in Judiciary programs.

Administrative Office Fiscal Year 2014 Budget Request

The fiscal year 2014 budget request for the Administrative Office of the U.S. Courts totals \$85,354,000. This represents an increase of \$1,938,000 or 2.3 percent over the fiscal year 2013 amount provided the AO in the current Continuing Resolution (CR) (Pub. L. 112-175), which we used to build our fiscal year 2014 request. Once Congress completes action on the final fiscal year 2013 appropriation level, we will update our fiscal year 2014 request accordingly and apprise the Committee of changes to the request. Using current assumptions, the AO continues to operate under a no-growth, current services budget – and its actual staffing level has dropped from 887 FTE in fiscal year 2010 to 848 FTE at the end of fiscal year 2012.

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 appropriations requirements

as approved by the Judicial Conference and the Congress. The AO also centrally manages funds 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 requested net increase of \$1.9 million for fiscal year 2014 is exclusively to cover base adjustments to maintain current services. This includes an adjustment to base of \$1.6 million to cover the estimated loss in non-appropriated sources of funding that will not be available in fiscal year 2014. The AO requests direct appropriated funds to replace these non-appropriated funds in order to maintain the same level of service as provided in fiscal year 2013. We will, of course, keep you apprised of our actual fee collections and carryover estimates throughout the year. If carryover and fee collections change, our need for direct appropriations would also change. We only seek the funding necessary to support current staff in order that they may carry out the AO's statutory responsibilities and serve the courts.

Conclusion

The 113th Congress brings with it several new members to the Committee, and I look forward to working with you and your staff to meet the needs of the federal Judiciary. In the interest of time, I have shared with you only a few examples of the wide array of services and support the Administrative Office provides the federal Judiciary, but I hope you will understand more about the function and responsibilities of the AO during the coming months. In addition to our service to the courts, the AO works closely with the Congress to provide accurate and responsive information about the federal Judiciary.

I fully recognize that fiscal year 2014 will be another difficult year for you and your colleagues as you struggle to meet the funding needs of the agencies and programs under your purview. I sincerely hope that Congress and the Administration will agree on legislation that will provide long-term stability to our nation's budget.

Thank you again for the opportunity to appear before you today. I would be pleased to answer your questions.

Five-Year Courthouse Project Plan for FYs 2014-2018
As Approved by the Judicial Conference of the United States

September 11, 2012
 (estimated dollars in millions)

FY 2014			Cost	Score
1	Mobile, AL*	Add'l. C	\$54.9	59.8
2	Nashville, TN	Add'l. S&D / C	\$144.0	67.3
3	Savannah, GA	Add'l. C	\$95.5	61.3
4	Norfolk, VA	Add'l S&D	\$12.0	57.4
			\$306.4	

FY 2015			Cost	Score
1	San Antonio, TX	Add'l. S&D / C	\$117.4	61.3
2	Charlotte, NC	C	\$165.7	58.5
3	Greenville, SC	C	\$78.8	58.1
4	Harrisburg, PA	C	\$118.6	56.8
			\$480.5	

FY 2016			Cost	Score
1	Norfolk, VA	C	\$104.7	57.4
2	Anniston, AL	Add'l. D / C	\$41.0	57.1
3	Toledo, OH	C	\$109.3	54.4
			\$255.0	

FY 2017			Cost	Score
1	Chattanooga, TN	S&D	\$21.5	37.3
2	Des Moines, IA	S&D	\$43.0	35.3
			\$64.5	

FY 2018			Cost	Score
			\$0.0	

S = Site; D = Design; C = Construction; Addl. = Additional
All cost estimates subject to final verification with GSA.

* Congress provided \$50.0 out of \$104.9 million needed for Mobile, AL in December 2009