

STATEMENT OF
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ADMINISTRATIVE OFFICE OF THE U.S. COURTS
BEFORE THE
SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT
COMMITTEE ON APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

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INTRODUCTION

Chairman Quigley, Ranking Member Graves, and members of the Subcommittee, I am pleased to appear before you today in my dual roles as Director of the Administrative Office of the United States Courts (AO) and as Secretary to the Judicial Conference of the United States. As Director of the AO, I am here to discuss the work of my organization and present its FY 2021 budget request. As Secretary to the Judicial Conference, which is the policy making and governance body for the Judiciary, I offer my support for the overall request for the entire Judicial Branch and ask for the Subcommittee's assistance on several Conference priorities that extend beyond the Judiciary's budget, including simply extending the authorizations for temporary district judgeships for one year, and the sufficient funding of judicial priorities within the General Services Administration's budget.

I join Judge Lungstrum in thanking the Subcommittee for its generous and consistent support of the Judiciary. This support was clearly reflected in the recently enacted FY 2020 Financial Services and General Government appropriations bill. We are cognizant of the constraints you face and the many competing demands for the resources under your control, and

we remain extremely grateful that the Subcommittee has continued to make the Judiciary a funding priority despite these challenges.

In my testimony today, I will discuss the important work of the AO in support of the branch, highlight several initiatives underway, and detail my FY 2021 funding priorities for the organization.

ADMINISTRATIVE OFFICE OF THE U.S. COURTS

The AO provides a long list of direct services and support to the federal Judiciary, including judges, appellate, district, and bankruptcy courts, probation and pretrial services offices, and federal defender communities. AO staff support national programs and provide critical services to the courts in a number of areas including jury administration, court interpreting and reporting, legal research, and records administration. Administrative support areas include human resources, budget, procurement, space management, security, information technology, and auditing. We also staff the Judicial Conference of the United States and its 25 committees, develop and implement Judicial Conference policies and applicable federal statutes and regulations, and have central responsibility for communication and coordination within the Judiciary and with Congress, the Executive Branch, and the public. Created in 1939, the AO has proudly served the courts for more than 80 years and I am fortunate to lead this organization of 1,200 dedicated professionals.

My goal is for the AO to be the best service organization and the best place to work in the federal government with an engaged, highly qualified, and diverse workforce. We work toward this goal through continuously improving the services we provide the courts, the federal defender community, and the public, by fostering a work environment within our own organization that attracts and retains the best talent. In that vein, we have in recent years contracted with the

Office of Personnel Management (OPM) to administer to AO staff the same Employee Viewpoint Survey used by the Executive Branch to obtain feedback on job satisfaction and other workplace factors. OPM administered the survey to AO staff in 2015, 2017, and 2019. I have been very pleased with our results, which indicate continuous improvement every year. And I would note that our survey results consistently surpass Executive Branch response averages for the five broad workplace measures surveyed. Past survey results have brought positive changes to the AO, informing recruitment and retention strategies, increasing training opportunities, and improving internal communications, all of which I believe further improves our service to the courts.

Emergency Management Support

In addition to providing day-to-day support to courts and federal defender offices nationwide, the AO plays an important emergency management role in times of crisis. Local first responders provide direct emergency services for natural or other disasters, but the AO provides critical emergency management support through its Judiciary Emergency Response Team (JERT). The JERT serves as a central coordinating body for communications and assistance during natural disasters and other emergencies, providing affected courts with the latest updates from our federal partners, sharing best practices, and directing resources for administrative needs like remote IT services, temporary court relocation, and emergency equipment required to continue operations. In recent years, the JERT has responded to all of the natural disasters that have impacted Judiciary operations, including devastating hurricanes in Florida, North Carolina, Texas, Puerto Rico, and the U.S. Virgin Islands, and typhoons impacting the federal courts in Guam and the Northern Mariana Islands. The wildfires in

California and related planned power outages to mitigate wildfire spreading required the JERT to monitor potential threats to federal court operations.

We have enhanced our emergency management capabilities by providing satellite communications equipment to federal courts located outside the continental United States to support continued operational communication after a natural or other disaster. We are also implementing a geospatial emergency management system that uses data from private and government entities to provide real-time information on natural disaster threats and events that will improve the Judiciary's emergency preparedness and response capabilities. Although continuity of Judiciary operations is a key component of our improved emergency management efforts, the safety of Judiciary employees remains our primary concern.

Southwest Border Court Support

The AO is also providing increased support to the five southwest border district courts which have been impacted by the increase in immigration filings resulting from the administration's enforcement policies. In FY 2019, these five districts accounted for 40 percent of all felony defendants nationwide and 54 percent of all Criminal Justice Act court-appointed representations in our Defender Services program. We have provided additional resources to these districts to the extent current budget constraints allow. The Administrative Office has convened several conferences with participants from southwest border courts, including judges, federal defenders, chief probation and pretrial services officers, and district court clerks to address the logistical and case management challenges of processing such cases. The Judiciary also established a cross-agency Task Force on Southwest Border Issues to discuss issues such as locating family members separated from individuals in district court proceedings, returning identification documents and other critical property before deportation, language interpreting

issues, and improving communication across agencies so resource needs can be better anticipated.

Workplace Conduct

The issue of workplace conduct has been a top priority for the branch for the last two years. In January 2018, the Chief Justice directed me to lead a working group of judges and other senior court executives to assess the adequacy of the branch's safeguards to protect its employees from inappropriate workplace conduct. The working group made more than 30 recommendations to improve the Judiciary's workplace policies and achieve the Chief Justice's goal to "ensure an exemplary workplace for every judge and every court employee." In March 2019, the Judicial Conference approved a package of workplace conduct-related provisions, including revising the codes of conduct for judges and court employees to address sexual and other discriminatory harassment, abusive conduct, and retaliation, as well as the obligation of judges and employees to report misconduct. In September 2019, the Judicial Conference made similar revisions to the Model Employment Dispute Resolution Plan, and simplified and expanded the options available to employees to address harassment of any kind. In addition, the Federal Judicial Center has provided nationwide training on preventing harassment and improving workplace civility, diversity, and inclusion. Many courts have also established workplace conduct committees and created directors of workplace relations.

In January 2019, I created the AO Office of Judicial Integrity to serve as an independent resource for Judiciary employees nationwide to seek confidential counseling, guidance, and intervention regarding sexual and other harassment, abusive conduct, discrimination, or other workplace misconduct. The AO's FY 2021 budget request seeks \$364,000 for two additional staff for that office. I hope you will support this funding increase.

I am pleased with the work we have accomplished to date; however, we recognize that addressing workplace misconduct is an ongoing effort and we remain committed to refining our procedures to achieve a safe and respectful work environment for all Judiciary employees.

Improving Financial Reporting, Contract Management, and Internal Controls

Just as the AO continually emphasizes to the courts and federal defender organizations the importance of sound financial management practices to ensure prudent spending of taxpayers' dollars and maximize transparency, we at the AO also look within our own operation to see how we can better manage resources, increase transparency, and improve our financial processes. Accordingly, I ask the Subcommittee for its support for several priority initiatives in the Judiciary's FY 2021 budget request to strengthen our financial reporting, procurement and contract management practices, and internal controls. I will briefly describe each of these initiatives.

Financial Reporting. In FY 2020 we are beginning a multi-year financial management initiative – the Judiciary Data Integrity, Reporting, and Controls Program (JDIRC) – to build upon the Judiciary's foundation of strong financial management practices and internal controls to produce consolidated, audited financial statements that use the same accounting practices and reporting standards as the executive and legislative branches. The Judiciary already undergoes regular audits of appropriated and other funds and has an infrastructure of controls designed to protect Judiciary assets from loss, waste, fraud, and abuse. Our financial processes/systems and internal controls, however, were not designed to support consolidated financial reporting like the other two branches. At the request of the U.S. Department of the Treasury and Government Accountability Office (GAO), we are modifying our accounting and financial reporting processes to enable GAO to provide unqualified audit opinions for government-wide financial

statements. We estimate JDIRC will take five years to implement fully, assuming availability of funds. We anticipate spending \$7.3 million for the JDIRC initiative in both FY 2020 and FY 2021 to hire 22 new AO staff and contractor support. This initiative will be managed by the AO and funded from the courts' Salaries and Expenses account on a reimbursable basis.

Procurement and Contract Management. We continue to improve the AO's procurement and contract management practices through procurement reforms. Planned improvements focus on increasing staffing levels in the AO's procurement office to strengthen contract oversight, increase training and certification for AO staff serving as contracting officer representatives, and improve procurement planning to identify the most cost-effective and best value contractual approach for each procurement. The AO's FY 2021 request seeks \$1.1 million for 13 new positions for this initiative.

Internal Controls. The AO's FY 2021 request also includes \$97,000 for a support position to the new compliance and risk officer to be hired in FY 2020 who will focus exclusively on audit findings and corrective action plans. We also seek \$111,000 for a position to enhance the AO's internal controls program.

AO Fiscal Year 2021 Budget Request

To facilitate the work of the AO in FY 2021, our appropriation request totals \$99.8 million. That is an increase of \$5.6 million, or 5.9 percent, over the FY 2020 enacted appropriation. Of this amount, \$3.9 million – 70 percent of the requested increase – is for standard pay and non-pay inflationary adjustments, including a 1.0 percent pay adjustment for federal employees as proposed in the President's 2021 Budget, and \$1.7 million is for the new initiatives funded through the AO appropriation described above.

Reducing Contracting Costs

As we ask you to consider the Judiciary's FY 2021 request, I assure the Subcommittee that we are committed to containing cost growth wherever possible. Judge Lungstrum's testimony provides background and details on the Judiciary's longstanding cost containment program. One area in which we are successfully containing costs at the AO is in contractor support. For many job functions, we have determined that it is less expensive to hire government employees than to procure services from outside firms, particularly in the area of IT personnel. In our latest analysis we have identified 114 contractor positions for conversion to AO staff, which will achieve estimated net savings of \$5.2 million annually. This will bring cumulative contractor conversions since FY 2012 to 175, amounting to \$8.2 million in estimated net savings once all positions have been converted. These conversions have the added benefit of improving our ratio of federal employees to contractors and thereby provide appropriate supervision and oversight to all contracted operations.

TEMPORARY DISTRICT JUDGESHIPS

Having the correct number and distribution of judicial officers is critical to the effective administration of justice. The Judicial Conference regularly reviews the number and location of circuit, district, and bankruptcy judges to assess whether existing judgeships are sufficient and deployed in the appropriate judicial districts. To the extent that these assessments determine that additional judgeships are needed, those recommendations are communicated by the Judicial Conference to the House and Senate Judiciary Committees for congressional action. In March 2019, the Judicial Conference transmitted to the Judiciary Committees a request for five new circuit judgeships, 65 new district judgeships, and the conversion of eight temporary district judgeships and 10 temporary bankruptcy judgeships to permanent status.

Unfortunately, bills to act on our judgeship requests have been infrequent. In fact, there has not been a comprehensive judgeship bill enacted in 30 years. In the absence of such authorizing legislation, we have found it necessary to ask this Subcommittee to use the annual appropriations process to preserve certain existing temporary district judgeships by extending their expiration dates in one-year increments. We are grateful for your past support for these extension requests, which in recent years have preserved as many as 10 temporary district judgeships.

Continuing uncertainty about the ability of the House and Senate Judiciary Committees to address our district judgeship needs in the upcoming year causes us to include in our FY 2021 request the legislative language needed to extend for one year eight temporary district judgeships that meet the Judicial Conference's standard for conversion to permanent status. These temporary judgeships are in the following districts: Arizona, California-Central, Florida-Southern, Kansas, Missouri-Eastern, New Mexico, North Carolina-Western, and Texas-Eastern. We continue to ask for your support of these requested extensions, without which the administration of justice in the affected districts would be disrupted and delayed.

JUDICIARY CONSTRUCTION PRIORITIES

Like most other federal entities, the Judiciary is a tenant of the General Services Administration (GSA). We rely on GSA to rent us sufficient space for our operations; to maintain and improve that space as needed; and to construct new space for our use when required. We have worked diligently to forge a strong working relationship with our partners at GSA, and the Judicial Conference has a vested interest in ensuring that GSA receives the resources and other support it needs to execute our space priorities adequately. For the purposes of this Subcommittee, those priorities are embodied in three significant programs funded within

GSA's Federal Buildings Fund: the Judiciary Capital Security Program (CSP), new courthouse construction, and basic and major repairs and alterations.

Capital Security Program

The CSP is a special emphasis program within the GSA Federal Buildings Fund designed to address serious security deficiencies in existing courthouse buildings where physical renovations are viable alternatives to new construction. By undertaking projects such as constructing secure corridors and elevators, enclosing prisoner drop-off areas, and reconfiguring security screening areas, the CSP creates measurable improvements in facility security at a reasonable cost. For example, the federal building and courthouse in Benton, Illinois, had a Facility Benefit Assessment security score of only 46.1 out of 100 prior to receiving CSP-funded upgrades. After completing CSP work, that facility's security score was re-measured at 80.2, a 74 percent improvement, which was achieved with an investment of only \$4.7 million.

Since its inception in FY 2012, the CSP has supported projects in Arkansas, Georgia, Illinois, Kentucky, Louisiana, Puerto Rico, Texas, and the U.S. Virgin Islands. Projects are selected through a collaborative process involving the Judiciary, the United States Marshals Service, and GSA, and then implemented with GSA funding. Unfortunately, this program did not receive funding in FYs 2019 and 2020. For FY 2021, we are re-submitting our request for \$31.4 million for CSP projects in Detroit, Michigan, and Augusta, Georgia, and ask that the Subcommittee provide the necessary funding to GSA to ensure that these priorities can be addressed in full.

New Courthouse Construction

The new courthouse construction program is designed to resolve space deficiencies that are much broader than the security issues addressed by the CSP. When a court facility faces not

only security problems but also a critical lack of sufficient courtroom or chambers space, deteriorated building infrastructure, and chronic maintenance issues, the most feasible solution is to build a new courthouse or an annex to an existing courthouse to meet the operational needs of the court. The construction of those new facilities or annexes is funded by GSA.

GSA and the Judiciary continue to execute the \$1.4 billion in new courthouse construction funding appropriated in FY 2016 and FY 2018 for 12 new courthouse projects. We are grateful to the Subcommittee for this funding and we remain committed to ensuring that all of our ongoing courthouse construction projects are carried out in a timely and cost-effective manner and look forward to their completion.

For our current construction priorities, in September 2019, the Judicial Conference updated the Judiciary's *Courthouse Project Priorities (CPP)* plan which identifies our new courthouse construction needs. Part I of the CPP reflects the Conference's top two courthouse priorities for FY 2021 (unchanged from the FY 2020 CPP): Hartford, Connecticut, and Chattanooga, Tennessee. Part II of the CPP currently identifies five outyear courthouse priorities: Bowling Green, Kentucky; Greensboro/Winston-Salem, North Carolina; San Juan, Puerto Rico; McAllen, Texas; and Norfolk, Virginia. (Part II reflects the addition of the Bowling Green, Kentucky project to the current plan.) We are appreciative of the Subcommittee's support of our construction priorities. Functional, efficient, and safe court facilities are necessary to the effective administration of justice.

Repairs and Alterations

In addition to our capital security program and new courthouse construction priorities discussed above, I also strongly support funding for GSA's Basic and Major Repairs and Alterations program to ensure safe, secure, and functional space for Judiciary employees. The

Judiciary pays \$1.1 billion in rent annually to GSA to occupy nearly 800 courthouses and other court facilities nationwide. Eighty-five percent of the Judiciary's tenancy is in federally-owned facilities that GSA is responsible to maintain. Many are historic buildings which require a higher level of maintenance and upkeep, while other facilities are more modern but aging buildings that have experienced years of deferred maintenance. In some cases, this deferred maintenance has impacted the health and safety of Judiciary employees and the public. We have examples of unaddressed water intrusion issues so severe that mold growth caused health problems for some employees, resulting in the Judiciary having to move out of the building into temporary space so the mold could be remediated. We also have courthouses with broken elevators, broken HVAC systems and, in one case, a courthouse with windows in such disrepair that building occupants have been advised to stay away from the windows due to safety concerns – some windows have even been barricaded off. This is an unacceptable work environment and is impacting the ability of the courts to fulfill their mission.

I am encouraged that GSA's FY 2021 budget request seeks \$1.4 billion for government-wide Basic and Major Repairs and Alterations, including \$188 million for five major repairs and alterations projects for courthouses or federal buildings housing court operations: (1) Charles Evans Whittaker U.S. Courthouse, Kansas City, Missouri; (2) Potter Stewart U.S. Courthouse, Cincinnati, Ohio; (3) Carl B. Stokes U.S. Courthouse, Cleveland, Ohio; (4) Tacoma Union Station U.S. Courthouse, Tacoma, Washington; and (5) Minton-Capehart Federal Building, Indianapolis, Indiana.

I emphasize that full funding of the Judiciary's FY 2021 budget request is our top priority, but I also ask the Subcommittee to ensure sufficient funding is provided to GSA to

address our priority capital security projects, new courthouse construction needs, and for repairs and alterations projects to ensure court facilities are properly maintained.

CONCLUSION

Chairman Quigley, Ranking Member Graves, and members of the Subcommittee, thank you for your ongoing support of both the AO and the Judicial Branch as a whole. I realize that the non-defense discretionary spending cap for FY 2021 will likely require difficult decisions as you allocate funding to the many different agencies within the Subcommittee's jurisdiction. As you make these difficult choices, I ask that you keep in mind the unique constitutional role of the Judiciary and the importance of its effective functioning to our democracy. By providing the resources needed by the AO and the rest of the branch, you are ensuring that the Judiciary can continue to perform its vital role as intended and required.

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