

STATEMENT OF
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ON BEHALF OF
THE JUDICIAL CONFERENCE
OF THE UNITED STATES



BEFORE THE SUBCOMMITTEE ON COURTS,
INTELLECTUAL PROPERTY, AND THE INTERNET
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON FEDERAL COURTS DURING THE COVID-19
PANDEMIC: BEST PRACTICES, OPPORTUNITIES FOR
INNOVATION, AND LESSONS FOR THE FUTURE

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Chairman Johnson, Ranking Member Roby, and Members of the Subcommittee:

Good morning, I am David Campbell, Senior United States District Judge for the District of Arizona. Thank you for inviting the Judiciary to testify on how the federal courts are responding to the COVID-19 pandemic. I appear today on behalf of the Judicial Conference of the United States, the national policy-making body for the federal courts. I currently serve as Chair of the Judicial Conference Committee on Rules of Practice and Procedure for the Federal Courts, which studies the operation and effect of the federal rules of practice and procedure and oversees the work of the five Advisory Committees on the Federal Rules of Civil, Criminal, Bankruptcy, and Appellate Procedure, and on the Federal Rules of Evidence. I previously served as Chair of the Advisory Committee on Civil Rules from 2011 to 2015, and as a member of the Advisory Committee from 2005 to 2011. I am personally familiar with the practices and procedures used in federal courts and the process by which they are revised and updated. Additional information in this statement has been provided by knowledgeable persons within the Administrative Office of the United States Courts (AO).

Let me begin by thanking the Members of this Subcommittee as well as the full Committee for your longstanding support of the federal judiciary. Your commitment to the federal court system, as demonstrated by the resources and funding Congress has provided, is very much appreciated by the judges, their staff, and support personnel. Today's hearing is another demonstration of that commitment, and we appreciate the opportunity to discuss how the Judiciary is addressing the challenges resulting from the current nationwide emergency.

Like other institutions throughout the United States and the world, the operations of the federal judiciary have been impacted by the COVID-19 pandemic. I am pleased to report, however, that the federal courts continue to operate in all categories of cases despite

unprecedented challenges. Jury trials and grand jury proceedings have been postponed in most districts, but civil, criminal, bankruptcy, and appellate proceedings continue to the greatest extent practicable through video and telephone conferencing technology. Judiciary personnel nationwide are teleworking, and the AO continues to provide support to the courts.

I will now discuss each of the topics in the title of today's hearing, namely, the federal judiciary's efforts to institute best practices in response to the pandemic, opportunities for innovation identified as a result of those efforts, and lessons for the future, with a particular focus on civil proceedings.

I. BEST PRACTICES

The primary goal of the Judiciary, of course, is to fulfill its constitutional mission of providing justice in individual cases and maintaining the rule of law. Through a combination of advanced planning, use of technology, and the dedication of thousands of judicial personnel, the federal judiciary responded rapidly to the pandemic and enabled courts to continue operating while ensuring the health and safety of the public and court personnel. By necessity, this has been and continues to be implemented through local, court-specific approaches, reflecting the disparate nature and evolving impact of the pandemic.

A. *Advanced Planning*

Prior to the current pandemic, the federal judiciary had in place an emergency preparedness program that greatly facilitated the Judiciary's rapid response to this situation. Pandemic planning and direction have been a component of the federal judiciary's emergency management program since 2005 – part of its Continuity of Operations Plans (COOP). Because

of this planning, the federal judiciary was able to begin responding to the pandemic in January of this year.

Courts have been employing COOP plans for many years, but in 2005 a Pandemic Annex was provided to them by the AO. The Annex includes templates and instructional materials developed by the AO to help courts navigate a pandemic. These materials assisted each court unit in making informed decisions about how to continue proceedings during the COVID-19 pandemic.

B. *Federal Judiciary COVID-19 Task Force*

In January 2020, the federal judiciary began preparations for the COVID-19 pandemic through AO communications with the courts. On February 18, 2020, the AO established the Federal Judiciary COVID-19 Task Force (Task Force). The Task Force consists of chief district judges and court unit executives; a Federal Defender; staff from AO program offices; and representatives from the General Services Administration, the U.S. Marshals Service, the Executive Office for U.S. Attorneys, and the Federal Protective Service. The Task Force monitors and assesses the impact of the virus on court operations nationally and provides advice on emerging issues presented by the pandemic. It serves as a point of contact for, and coordinates communication with, courts, court units, Federal Defenders, and AO offices. It can request, obtain, and disseminate information and guidance relating to the coronavirus and its impact on the Judiciary in an expeditious manner. The Task Force meets weekly and its leadership meets daily. A representative of the Task Force also serves on the American Bar Association's COVID-19 Task Force to ensure coordination with the legal community.¹

¹ In addition to the Task Force, the Judicial Conference's Committee on Federal-State Jurisdiction serves as the conduit for communication on matters of mutual concern between the federal judiciary and state courts and their

As more fully described below, the Task Force coordinates an extensive COVID-19 resource website on the Judiciary's intranet. The website includes current information on the spread of the COVID-19 virus, links to key health information, answers to frequently asked questions (FAQs), a collection of court-implemented best practices, additional guidance, templates, and resources. In addition, the Task Force has coordinated meetings with the Bureau of Prisons, U.S. Marshals Service, and judiciary officials.

C. Guidance and Related Informational Materials

To date, the AO has assisted in drafting, staffing, and issuing of more than 429 guidance and policy FAQs on issues such as bankruptcy administration, budgets, conferences, court interpreting, court reporting, facilities and security, finance and internal control, financial disclosure, health, human resources and benefits, information technology, jury duty, naturalization ceremonies, probation and pretrial services, procurement, telework, and travel. Sixty-five memos on a variety of topics have been issued to courts since the pandemic began. Districts and circuits use these resources to assess and meet their localized needs and operations.

Many of these resources have been made publicly available on the Judiciary's [uscourts.gov](https://www.uscourts.gov) website. For example, guidance on the following topics have been made available to the public:

- Court operations during the pandemic;²

support organizations such as the National Center for State Courts, the Conference of Chief Justices, and the State Justice Institute. The Committee has four state chief justices as members (currently, the chief justices of Ohio, Minnesota, Indiana and Florida), and the president of the National Center for State Courts attends the meetings of the Committee as an invited guest. Federal judges from this Committee attend the Conference of Chief Justices meetings, and Committee staff coordinate with National Center staff on issues of mutual concern.

² <https://www.uscourts.gov/news/2020/04/08/courts-deliver-justice-virtually-amid-coronavirus-outbreak>

- Teleconferencing during the pandemic;³
- Court orders and updates on court operations;⁴
- Media access to federal courts;⁵
- Suspension of jury trials during the pandemic;⁶
- Restarting jury trials;⁷ and
- Reopening guidelines.⁸

D. *Support Services Provided by the AO*

Throughout the COVID-19 pandemic, the AO has provided support to courts on continuity of operations, including guidance on technology, human resources, and budget issues. It provides updates from the Centers for Disease Control and Prevention, and coordinated with the Federal Emergency Management Agency to obtain over one million cloth reusable masks which were shipped to court units across the country for use by court employees and visitors to courthouses and judiciary offices.

On April 24, 2020, the AO published the “Federal Judiciary COVID-19 Recovery Guidelines.” The Guidelines include three gating criteria for courts to consider before proceeding to a phased re-opening (four phases of reconstitution are contemplated): 1) the

³ <https://www.uscourts.gov/news/2020/03/31/judiciary-authorizes-videoaudio-access-during-covid-19-pandemic>

⁴ <https://www.uscourts.gov/about-federal-courts/court-website-links/court-orders-and-updates-during-covid19-pandemic>

⁵ <https://www.uscourts.gov/news/2020/04/03/judiciary-provides-public-media-access-electronic-court-proceedings>

⁶ <https://www.uscourts.gov/news/2020/03/26/courts-suspend-jury-trials-response-coronavirus>

⁷ <https://www.uscourts.gov/news/2020/06/10/judiciary-issues-report-restarting-jury-trials>

⁸ <https://www.uscourts.gov/news/2020/04/27/courts-begin-consider-guidelines-reopening>

number of COVID-19 confirmed or suspected cases in the court facility within a 14-day period; 2) a sustained downward trend of cumulative daily COVID-19 cases over a 14-day period in the community; and 3) the rescission of local orders restricting movement or requiring shelter in-place. The AO has created national dashboards for each of these criteria, displayed at the county level, to enable courts to make these determinations on a real-time basis.

To keep the public informed about court operations throughout the United States, on March 12, 2020 the AO established an internet hub on its public website, uscourts.gov. This hub provides near-daily updates on the operational status of individual courts, including closures, restrictions on accessibility, and the availability of court proceedings through remote access. Courts have provided similar information on their individual websites.

II. OPPORTUNITIES FOR INNOVATION

Much like Congress – through its adoption of H. Res. 965 to permit Members and witnesses to participate remotely in hearings – the federal judiciary has used technology to ensure continuity of operations while protecting the health and safety of the public and judiciary personnel. Telephone and video technology has been used in civil cases to continue court proceedings and facilitate public and media access. But there are challenges, including concerns about the security of media platforms, an inability to conduct jury trials, and some scheduling delays.

A. *Technology*

Recognizing that the pandemic would require courts to close courthouses or restrict access, the Judicial Conference acted on March 29, 2020, to temporarily authorize the use of

video and teleconferencing technologies under certain circumstances.⁹ Courts are now using a variety of platforms to provide audio and video access to civil proceedings. Judicial staff and AO support personnel have worked quickly resolve technical and logistical issues as they arise, including, for example, expanding network capacity to handle bandwidth strains when multiple judges are holding hearings simultaneously, obtaining licenses for certain platforms, and ensuring that courts have necessary equipment.

The AO has taken steps to strengthen the federal judiciary's information technology (IT) infrastructure to accommodate telework across the Judiciary. The AO is monitoring connectivity closely and steadily seeing approximately 20,000 simultaneous connections through its virtual private network (VPN) services. Although some problems have been reported, the systems are performing well given the unprecedented number of remote workers.

The AO has also increased capacity. This includes the doubling of internet bandwidth and significant increases in telephone audio bridges and videoconferencing licenses, including more than 2,000 additional audio conference numbers. The increases provided a level of assurance that court proceedings were accessible to those with an interest in attending.

The courts are conscious of their obligation to ensure public and media access to civil proceedings. That access normally is afforded by open courtrooms – a form of access currently limited or eliminated by local measures required to protect the health and safety of litigants, attorneys, witnesses, members of the public, the press, and court employees. Fortunately,

⁹ Judicial Conference policy generally prohibits the broadcasting of proceedings in federal trial courts (JCUS-SEP 94, pp. 46-47; Guide to Judiciary Policy, Vol. 10, Ch. 4). The Executive Committee of the Judicial Conference, however, approved a temporary exception to the policy to allow a judge to authorize the use of teleconference technology to provide the public and the media audio access to court proceedings while public access to federal courthouses generally, or with respect to a particular district, is restricted due to health and safety concerns during the Coronavirus Disease (COVID-19) pandemic. This authorization will expire upon a finding by the Judicial Conference that the emergency conditions due to the emergency declared by the President with respect to COVID-19 are no longer materially affecting the functioning of the federal courts generally or a particular district.

teleconference technology has allowed the public and the media to listen to civil proceedings they are unable to attend in person.

B. *Challenges.*

The federal judiciary has encountered various challenges in its effort to continue to operate during the COVID-19 pandemic. I will highlight three: the security of media platforms, the conduct of jury trials, and potential caseload backlogs.

The AO has been closely monitoring the security and privacy of media platforms utilized by the Judiciary. As you know, the surge in videoconferencing has made it a target for hackers. The AO provides recommendations and support to courts using videoconferencing to conduct Judiciary business, enabling them to secure their hearings.

The use of videoconferencing has been particularly challenging in court hearings with detained defendants and in facilitating attorney/client communications, both with federal detainees in local jails and defendants in the Bureau of Prisons (BOP). Local jails and BOP facilities have not always had videoconference software or software compatible with courts or defender offices. Delays in attorney/client communication because of a lack of videoconference capacity is something we continue to address – additional funding would help to alleviate some of these issues and assure that our Sixth Amendment obligations are upheld.

The COVID-19 pandemic has significantly impacted jury trials and caseload backlogs. As noted above, jury trials – which require numerous potential jurors to assemble at a courthouse for jury selection and require selected jurors to attend trials for multiple days – present serious health risks to jurors and to all other trial participants during a time of publicly-transmitted infections. As a result, jury trials have been largely stopped during the pandemic. Restrictions

on court access and the limitations of technology have also forced judges and court staff to prioritize other matters such as essential proceedings in criminal cases. We appreciate that Congress has expressed specific concern for public defenders and panel attorneys during the pandemic – the defense team does face greater COVID-19 risks than some other stakeholders.

Reconvening jury trials is a judicial priority. Individual courts are developing protocols tailored to meet the conditions in their district’s courthouses that will minimize health and safety risks for all participants in the jury selection process and the conduct of juries. Courts recognize that jurors must be given reasonable assurance of their safety before participating in the jury process. Jurors must be comfortable during a trial and be able to focus on the evidence, arguments, and court instructions, and not the risk of a COVID-19 infection. Defenders and panel attorneys need adequate time and space to communicate with their incarcerated clients in a constitutionally effective way without fear of contracting the virus. There is no one-size-fits-all approach. Each court is assessing information from local health authorities, the AO, and the Centers for Disease Control and Prevention in developing its plan to resume jury trials.

The AO is providing guidance on this issue. On June 14, 2020, a Jury Subgroup of the AO’s COVID-19 Task Force issued a report titled “Conducting Jury Trials and Convening Grand Juries During the Pandemic.” The report identifies issues and provides detailed recommendations for courts to consider as they reconvene grand and petit juries.¹⁰ Both the main COVID-19 Task Force and the Jury Subgroup continue to monitor developments concerning the pandemic’s impact on the courts’ ability to conduct jury trials.

Despite these disruptions to normal court operations, judges in every court type—district, bankruptcy, and appellate—continue to hold hearings, issue decisions, and resolve cases on their

¹⁰ https://www.uscourts.gov/sites/default/files/combined_jury_trial_post_covid_doc_6.10.20.pdf

dockets. They continue to review filings and to conduct hearings with parties and counsel using teleconference or videoconference technology.

It is difficult at this stage to predict when courts will be able to resume normal operations and, thus, the extent of any backlog that will result from the pandemic. Our hope is that the Judiciary's ability to continue operations during this period will minimize delays to case progress and mitigate any backlog as much as possible.

C. *Bankruptcy Issues.*

The COVID-19 pandemic has in some respects had a chilling effect on the commencement of new cases, particularly consumer bankruptcy case filings. While business bankruptcy filings in May 2020 increased by 48 percent compared to the same period last year, consumer filings were significantly lower.

Whether, as predicted by many experts, there will be a massive surge in bankruptcy filings depends on the pandemic's impact on the unemployment rate and the timeliness of the nation's economic recovery. Americans have lost more than twice as many jobs (16,800,000) from March to mid-April than during the entirety of the Great Recession, and it took 24 months for the latter losses to peak. Moreover, the unemployment numbers do not reflect the likely higher number of individuals who have had their work hours reduced, with corresponding reductions in income.

The impact of the pandemic on small businesses is likely to be severe, notwithstanding the federal stimulus and relief programs. Many small businesses lack the kind of banking relationships that ease the application process, and many will be reluctant to assume more debt, even if the debt may be forgivable.

Yet another factor is consumer debt, which is at its highest absolute level in 75 years and at its historically highest level relative to personal income. Because interest rates have been and continue to be historically low, however, household debt service as a percentage of disposable income – one of the leading bankruptcy indicators – is at its historical low. While interest rates are not anticipated to rise in the foreseeable future, the impact of the pandemic on household income virtually guarantees that household debt service will consume a much larger share of consumers’ budgets, ultimately leading to an increase in bankruptcy filings.

All of this suggests that bankruptcy filings may increase very significantly across the country.¹¹ Significant increases in bankruptcy filings will place an even greater strain on staffing resources across the Judiciary and may require a request for supplemental funding to address backlogs and delays.

Earlier this year, the Chairman of the House Judiciary Committee along with other Members of Congress asked the Judicial Conference to issue rules or guidance directing bankruptcy courts to adopt modified practices and procedures for electronic signatures, to permit remote appearances for section 341 meetings and other hearings, and to waive all fees associated with remote appearances.¹²

As AO Director James Duff explained in his response, this request was referred to the appropriate Judicial Conference committees for further consideration and action, as appropriate. In addition, Director Duff reported that many bankruptcy courts have entered general orders and revised procedures on a variety of topics, including courthouse closures and clerk’s office

¹¹ Historically, there has always been a lag between economic difficulties and surges in bankruptcy filings. Typically, it takes average consumers about six to 18 months to file for bankruptcy after recognizing that they are in trouble.

¹² A detailed explanation of the Conference’s rulemaking efforts in response to the COVID-19 pandemic appears in section III of this statement.

operations, section 341 meetings of creditors, deadlines and time periods in pending cases, electronic signature requirements, access to telephonic and video technology for conducting hearings, and the implementation of changes to bankruptcy statutes in recent legislation, including the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116-136 (2020) and the Small Business Reorganization Act of 2019, Pub. L. No. 116-54 (2019). These orders are compiled centrally and updated regularly on uscourts.gov.

As Director Duff noted, nearly every bankruptcy court in the country has entered orders or provided guidance suspending or modifying “wet signature” requirements to allow for contactless signing and submission of documents during the crisis. Each court continues to evaluate its individual circumstances, and those of the states and communities in which they serve, and will continue to issue revised guidance to ensure that the bankruptcy system operates safely and efficiently.

Although the Judicial Conference is responsible for prescribing fees in bankruptcy cases pursuant to 28 U.S.C. § 1930(b), in addition to the filing fees to commence a bankruptcy case established by section 1930(a), the Conference has not imposed any fees on parties who wish to appear in bankruptcy proceedings by telephone or video conference. Many bankruptcy courts do, however, use third parties such as Court Solutions, CourtCall, or similar vendors to provide critical network and conferencing technologies for remote hearings. These vendors set their own fees, and have procedures for waiving fees so indigent litigants can participate in remote hearings free of charge. Courts are working to ensure that no one is denied the right to be heard when appearing remotely during the pandemic, and the AO has encouraged courts to offer technologies that are accessible to all.

D. *Federal Judiciary Supplemental Funding Request and Legislative Proposals*

In recognition of the unprecedented demands imposed on the federal judiciary by the COVID-19 pandemic, the Judicial Conference submitted a supplemental funding request and package of legislative proposals to Congress on April 28, 2020. Among the most serious challenges faced by the federal judiciary is the need for funds to respond to the COVID-19 pandemic. The supplemental funding request seeks \$36.6 million in appropriations.

The federal judiciary very much appreciates the \$7.5 million in supplemental appropriations Congress provided in the CARES Act to address immediate information technology needs and increased testing and treatment costs in our probation and pretrial services program. After our request for that funding, we worked with courts and federal defender organizations nationwide to identify supplemental appropriations needs associated with COVID-19 pandemic prevention, preparedness, and response. The \$36.6 million will address urgent needs such as enhanced cleaning of court facilities, health screening at courthouse entrances, information technology hardware and infrastructure associated with expanded telework and videoconferencing, costs associated with probation and pretrial supervision of offenders released from prison early under the First Step Act and defendants on pretrial release, and security-related costs.

Enclosure 1 provides additional details of this request: Courts' Salaries and Expenses account (\$25.0 million), Defender Services (\$9.4 million), and Court Security (\$2.2 million). We note that overall requirements for the courts' Salaries and Expenses total \$52.5 million, however we have identified \$27.5 million in available balances as a partial offset, resulting in a net supplemental appropriations request of \$25.0 million for this account.

The Judicial Conference has also identified 17 legislative proposals to address immediate COVID-19 impacts and post-pandemic operations. The Conference has requested that these provisions be included in the next supplemental appropriations bill or similar COVID-19 response legislation.

Enclosure 2 provides a detailed list of these proposals and an explanation of why they are urgently needed to assist the federal judiciary's ongoing efforts to respond to the COVID-19 national emergency. All of these proposals have been approved by the Judicial Conference and draft legislative text is provided for each. The underlying objective behind every proposal is to ensure that the federal judiciary continues to meet its constitutional mandate while protecting the health and safety of court personnel, litigants, and the public. Of particular relevance to this Subcommittee are proposals to ensure adequate judicial resources by converting temporary judgeships to permanent status and requesting a prudent number of new judgeships to meet anticipated caseload increases.

The AO also wishes to highlight a proposal that addresses a growing leave-management issue, as exacerbated by the COVID-19 national emergency, and which corrects a fundamental disparity between the treatment of certain senior court unit executives and their counterparts in the executive and legislative branches. As you can understand, many judicial branch senior executives have been required to undertake extraordinary and extended efforts, without taking any annual leave, to ensure the federal judiciary continues to function during the COVID-19 pandemic. It is highly unlikely that these employees will be able to take time off now or in the next several months. We have submitted a proposal, which is contained in the bipartisan H.R. 5735 – the “Judicial Branch Senior Executive Leave Efficiency and Modernization Act of 2020” – that would extend the authority to carryover up to 720 hours of annual leave to a defined class

of senior court executives. Currently, these court executives may carryover only 240 hours of annual leave, unlike most comparable senior level executives in the executive and legislative branches who are allowed up to 720 hours of carryover. The proposal was introduced on January 30, 2020 by Representative Jamie Raskin and Subcommittee Ranking Member Martha Roby, for which we are very grateful.

The Judicial Branch's 30,000 dedicated professionals – like public and private sector workers everywhere – continue to perform their duties admirably during this period of great uncertainty. As Congress looks to address the COVID-19 related needs of federal agencies, state and local governments, businesses, and individuals, we ask that you consider the supplemental funding and legislative items included in this request to ensure the Judicial Branch has the resources needed to respond and recover from this pandemic.

III. LESSONS FOR THE FUTURE

With respect to lessons for the future, I will focus on the Judicial Conference's rulemaking efforts in response to the COVID-19 pandemic and future national emergencies. When the COVID-19 pandemic was declared a national emergency and the normal operations of government and business were disrupted throughout the country, the impact on the federal courts was significant. Our justice system has long been based on in-person proceedings where interested parties not only observe but participate in the hearings and decisions that affect their lives. This is particularly critical in criminal cases, where the Constitution guarantees the defendant's right to be present in the courtroom at all important steps of his or her case, to confront witnesses who testify against the defendant, to be represented by counsel with whom the defendant can communicate confidentially, and to have the charges against him or her

decided by a jury of their peers who have been selected with the defendant's participation. Suddenly, this time-honored system of in-person proceedings presented serious health risks to all participants and had to be discontinued while the nation sought to control the spread of the virus. The courts were required, on short notice, to create a nationally available and secure infrastructure that would allow them to continue operations remotely through the virtual participation of parties, their lawyers, witnesses, the public, and the press. This required not only technical innovations and adjustments, but also changes to our rules and procedures. These changes had to address immediately needs without damaging our carefully crafted system of justice.

Congress was responsive to these needs, and worked with us in crafting provisions for the CARES Act that made video and audio proceedings available during the pandemic for many pretrial events in criminal cases. Section 15002 of the Act permits federal courts, with the consent of the defendant, to hold initial appearances, preliminary hearings, detention hearings, changes of plea, and even sentencings by video conference, or by telephone conferences if video conference is not reasonably available. This authorization is temporary, and will expire when the pandemic ends. To possibly avoid the need for urgent legislation in future emergencies, the CARES Act directs the Judicial Conference and Supreme Court to consider whether the various sets of rules should be amended to include emergency procedures. That work is already under way through the rules committees of the federal courts.

The Rules Enabling Act establishes the procedures for amending the Federal Rules of Civil, Criminal, Appellate, and Bankruptcy Procedure and the Federal Rules of Evidence. There are six rules committees that implement these procedures, including one advisory committee for

each of the five sets of rules and the Committee on Rules of Practice and Procedure (also known as the Standing Committee) which oversees the work of the advisory committees.

Proposed amendments to a particular set of rules are studied carefully by the advisory committee responsible for those rules, often through a subcommittee and through empirical research when warranted. The proposed amendments are then evaluated in public meetings by the full advisory committee whose membership is comprised of judges, lawyers, law professors, and government representatives. If the amendments seem justified and appropriate, they are published nationally for a six-month public comment period and are addressed in public hearings held by the advisory committee. To become effective, the amendments must be finally approved by the relevant advisory committee, the Standing Committee, the Judicial Conference of the United States, and the Supreme Court. The proposed amendments are then presented to Congress for six months before becoming effective, during which time Congress can act to reject or amend the proposals. This process is designed to be careful and thorough, to obtain input from all interested parties, and to produce balanced and fully-informed decisions.

In response your direction in the CARES Act, the rules committees have started considering possible amendments to the Federal Rules of Civil, Criminal, Appellate, and Bankruptcy Procedure and the Federal Rules of Evidence. The committees began by soliciting public comments during the month of May from lawyers, judges, parties, and the public on challenges encountered during the COVID-19 pandemic in state and federal courts, and on solutions developed to deal with those challenges. The committees specifically sought to learn about problems that could not be addressed through the existing rules or where the rules themselves interfered with practical solutions. The deadline for submitting comments was June 1, 2020. Many comments were received and are posted on the Judiciary's website

<https://www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment/invitation-comment-emergency-rulemaking>).

Comments regarding the civil rules span more than 150 pages. They include suggestions for expediting the service of process to begin a case and the service of papers during the case, the use of remote technology for case management and other hearings, the adjustment of deadlines for completing pretrial tasks, procedures for taking depositions remotely, and procedures for conducting trials, both to the court and before juries, in ways that are safe for all participants, including the use of remote technology.

Each of the five advisory committees has established a subcommittee to review possible emergency procedures. Those subcommittees have started their work. As chair of the Standing Committee, I have asked the advisory committees to develop proposed emergency-procedure amendments for consideration at their fall 2020 meetings. These proposals will also be addressed at the January meeting of the Standing Committee. The schedule then calls for the advisory committees to refine their proposals into publication-ready versions that can be addressed at their spring 2021 meetings and reviewed by the Standing Committee next June. If the advisory and Standing Committees conclude that proposed amendments may be warranted, the proposals will be published for public comment in August 2021. Under the Rules Enabling Act procedures, any amendments produced by this process would take effect in December 2023 if Congress took no contrary action.

This schedule may seem slow to those not familiar with federal court rulemaking, but the Rules Enabling Act is designed to be deliberative, inclusive, and careful, as it should be for procedures that so significantly affect the rights of our citizens. And it is important to keep in mind that these amendments, if they are adopted, will address future emergencies – they are not

being pursued as a means for solving the current challenges presented by the COVID-19 pandemic.

Mr. Chairman, thank you again for the opportunity to discuss how the Judiciary is addressing the COVID-19 pandemic. I am happy to respond to your questions.