



JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

HONORABLE ROBERT J. CONRAD, JR.
Secretary

March 7, 2024

Honorable Peter Welch
United States Senate
Washington, DC 20510

Honorable Ron Wyden
United States Senate
Washington, DC 20510

Honorable Alex Padilla
United States Senate
Washington, DC 20510

Honorable Richard J. Durbin
United States Senate
Washington, DC 20510

Honorable Richard Blumenthal
United States Senate
Washington, DC 20510

Honorable Elizabeth Warren
United States Senate
Washington, DC 20510

Honorable Christopher A. Coons
United States Senate
Washington, DC 20510

Honorable Sheldon Whitehouse
United States Senate
Washington, DC 20510

Honorable Laphonza Butler
United States Senate
Washington, DC 20510

Honorable Mazie K. Hirono
United States Senate
Washington, DC 20510

Honorable Tammy Duckworth
United States Senate
Washington, DC 20510

Honorable Amy Klobuchar
United States Senate
Washington, DC 20510

Honorable Jon Ossoff
United States Senate
Washington, DC 20510

Honorable Michael F. Bennet
United States Senate
Washington, DC 20510

Honorable Cory A. Booker
United States Senate
Washington, DC 20510

Honorable Tim Kaine
United States Senate
Washington, DC 20510

Honorable Brian Schatz
United States Senate
Washington, DC 20510

Dear Senators:

We write in response to your [February 29, 2024, letter](#) expressing your concerns for the fiscal years (FYs) 2024 and 2025 funding levels for the Defender Services program. We share your concerns that budget shortfalls will have a profound impact on the Sixth Amendment's guarantee of right to counsel. Accordingly, in letters dated July 28, 2023, after the House and Senate Financial Services and General Government (FSGG) bills (H.R. 4664 and S. 2309) were reported, and November 8, 2023, transmitting the Judiciary FY 2024 conference appeal, the Judiciary has expressed these and other serious concerns regarding Judiciary funding to the House and Senate Appropriations Committees and the FSGG Subcommittees. Those letters are enclosed for your reference. As the Judiciary's FY 2024 appropriations bill has not been finalized, we again urge Congress to fund the Defender Services program at the Judiciary's conference appeal level of \$1,505,781,000, per our November 8 letter.

If Congress funds this request as the Judiciary proposes, there will be no budget crisis in the Defender Services program in FY 2024. Our FY 2024 conference appeal level is sufficient to:

- make all projected Criminal Justice Act panel attorneys payments for the entire fiscal year;
- fund on-board staff in the federal defender organizations (FDO);
- support 98 percent of FDO staffing requirements in FY 2024 to meet caseload increases; and
- support essential federal defender cybersecurity and IT modernization requirements and other key program increases.

Conversely, funding Defender Services at the House level of \$1.411 billion (Senate level is \$1.383 billion), which is \$94.7 million below the Judiciary's appeal level, would mean the following FY 2024 requirements would not be funded:

- \$40.4 million in FDO staffing (assumes 92.5 percent of the new staffing formula is funded versus the 98 percent that was requested);
- \$40.3 million in panel attorney payments would have to be deferred to FY 2025;
- \$11.5 million in IT and cybersecurity needs; and
- \$2.5 million in training and other program enhancements.

The FY 2025 Defender Services budget request was transmitted to Congress on February 29, 2024, seeking \$1.690 billion, an increase of \$278.9 million (19.8 percent) over the FY 2024 House Appropriations Committee mark. This request includes funding necessary to restore (in FY 2025) the FY 2024 unfunded requirements identified above as well as funding to maintain current services and support FDO staffing requirements and all projected FY 2025 panel attorney representations (including deferred FY 2024 panel attorney requirements). The request also includes program increases to fund additional FDO staff; critical IT resources; and support for physical infrastructure, training, and other operational needs. We assure you that full funding of the FY 2025 request will provide the necessary resources to support the requirements of this program.

Your letter raises questions regarding the treatment and use of carryforward funding from the Defender Services account into the next fiscal year for that account. It is a Judiciary practice to notify the Appropriations Committees of unobligated balances that may be available to reduce

the need for new appropriations as a matter of transparency. We provide the notification of these balances via periodic budget re-estimates to the Appropriations Committees, which have for many years demonstrated a specific and continuing interest in the subject of end-of-year unobligated balances. Judiciary budget re-estimates also capture other technical adjustments, such as changes in inflation factors and updated projections for fee collections and case filings. The goal of these budget re-estimates is to provide Congress with the most accurate picture of the Judiciary's appropriations needs.

With respect to the reporting of unobligated balances in the Defender Services account, the large change in total balances in recent years is attributable to the pandemic's impact on operations. In the Judiciary, the volatility of case activity during the pandemic resulted in higher-than-normal year-end unobligated balances. The Judiciary chose to identify the entire \$110.8 million of FY 2022 Defender Services unobligated balances to reduce FY 2023 new appropriations needs, again, in the interest of transparency and providing Congress with the most accurate picture of requirements. We took the same approach in identifying balances for other Judiciary accounts. The Judiciary's subsequent FY 2024 budget request for Defender Services sought \$1.533 billion, a 10.9 percent increase above FY 2023 appropriations that specifically and clearly identified the need to replace the use of prior-year carryforward balances with new FY 2024 appropriations. A budget re-estimate reduced that request to \$1.506 billion (8.9 percent above FY 2023) as a result of FY 2023 year-end unobligated balances of \$84.1 million.

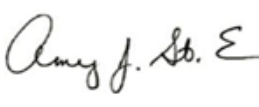
On behalf of the entire Judicial Branch, we thank you for the opportunity to share this information and are grateful for the past funding support provided to the Judiciary to ensure the Sixth Amendment right to counsel and ask for that same support for FY 2024 and beyond. We hope this letter demonstrates our ongoing commitment to the Defender Services program and the vital role that program plays in the fair administration of justice. We would be happy to provide additional information if it would be helpful.

Sincerely,



Robert J. Conrad, Jr.
Secretary
Judicial Conference

Sincerely,



Amy J. St. Eve
Chair
Judicial Conference
Budget Committee

Sincerely,



Cathy Seibel
Chair
Judicial Conference
Defender Services Committee

Enclosures

cc: Honorable Patty Murray
Honorable Chris Van Hollen



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WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
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Presiding

HONORABLE ROSLYNN R. MAUSKOPF
Secretary

July 28, 2023

The Honorable Patty Murray
Chair
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Chris Van Hollen
Chair
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Susan Collins
Vice Chair
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Bill Hagerty
Ranking Member
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Chairwoman Murray, Chairman Van Hollen, Vice Chairwoman Collins, and Senator Hagerty:

We write to convey our deep concern regarding Judicial Branch funding levels contained in the House and Senate versions of the fiscal year (FY) 2024 Financial Services and General Government (FSGG) appropriations bill, H.R. 4664 and S. 2309 respectively, that were reported out of the Appropriations Committees on July 13, 2023. We recognize the highly constrained budget environment in which the Appropriations Committees are writing FY 2024 appropriations bills and appreciate the efforts by the leaders of both FSGG subcommittees to provide the Judicial Branch with modest overall increases in both bills despite FSGG 302(b) allocations being well below the FY 2023 level. However, we are compelled to advise Congress of the detrimental impacts of the House and Senate funding levels on the administration of justice and the functioning of the federal courts if those funding levels were enacted into law. These impacts include:

- staff downsizing in clerks of court and probation and pretrial services offices, and federal defender offices (FDOs);
- an inability to provide court-appointed counsel to all eligible defendants under the Criminal Justice Act (CJA);
- cutbacks to core court services;

Honorable Patty Murray
Honorable Susan Collins
Honorable Chris Van Hollen
Honorable Bill Hagerty
Page 2

- risks to public safety due to higher caseloads for probation and pretrial services officers;
- cutbacks in planned critical cybersecurity and information technology modernization investments; and
- deferring essential courthouse security improvements.

We look forward to working closely with the Appropriations Committees prior to conference on a final FY 2024 FSGG bill to ensure the Judicial Branch is sufficiently resourced to carry out its constitutional and statutory responsibilities.

The Judicial Branch's FY 2024 budget request seeks \$9.14 billion, an 8.0 percent increase above the FY 2023 enacted level. More than 80 percent of our requested increase is necessary simply to maintain current operations, including addressing space rental and other inflationary adjustments, as well as funding a 5.2 percent pay adjustment for 2024, the highest proposed federal civilian pay adjustment since 1980. In addition, we have proposed new investments in priority areas, including judicial security protections needed to address an environment of increasing threats to judges, staff, and court facilities, and information technology upgrades necessary to further address cybersecurity vulnerabilities and modernize the branch's IT infrastructure. The House level of \$8.68 billion in H.R. 4664 is \$454 million below the Judicial Branch's FY 2024 request, and the Senate level of \$8.57 billion in S. 2309 is \$117 million below the House bill, and \$571 million below the request level. The impacts of the House and Senate levels for our three largest accounts are described below.

Defender Services

The Defender Services program provides court-appointed representation under the CJA to defendants unable to afford counsel. The House bill funds Defender Services at \$1.41 billion and the Senate bill funds the program at a FY 2023 hard freeze of \$1.38 billion. These levels are \$122 million and \$150 million, respectively, below the FY 2024 request of \$1.53 billion, and, due to a decrease in offsetting prior year balances, would actually fund the Defender Services program below the FY 2023 financial plan obligation level.

If the shortfall were applied solely to FDO staff, those FDOs would have to downsize by 368 full-time equivalents (FTE) (9 percent) at the House level and 493 FTE (12 percent) at the Senate level below July 2023 on-board strength of 4,181 FTE.¹ Alternatively, if the shortfall were applied to payments to private practice "panel" attorneys appointed by courts to take CJA cases, payments would need to be suspended beginning July 11, 2024, under the House bill and beginning June 18, 2024, under the Senate bill, through September 30, 2024. The deferred payments would have to be made in FY 2025, thereby increasing funding requirements in that year. Some combination of FDO staffing reductions and panel attorney payment deferrals could

¹The number of people lost in federal defender offices would be greater than the FTE figures cited given that it would take several months into FY 2024 to fully implement staffing reductions.

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Honorable Chris Van Hollen
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Page 3

also be implemented. Staffing cuts would limit FDOs' ability to accept appointments, and the prospect of months-long payment delays could deter CJA panel attorneys from accepting appointments or discourage them from remaining on the CJA panel altogether. Over 90 percent of federal defendants receive court-appointed representation so these budget balancing cuts would negatively impact the progress of significant numbers of criminal cases in the federal courts and a defendant's constitutional right to counsel and a speedy trial. Given the uncertainty regarding FY 2024 funding, on July 13, 2023, the Administrative Office of the U.S. Courts implemented an immediate hiring freeze for FDOs nationwide, subject to limited exceptions.

To provide some context and perspective, the funding shortfalls at the House and Senate levels would have consequences comparable to the sequestration cuts in FY 2013 and early FY 2014. During that period, FDOs lost around 500 positions, approximately one-third of them attorneys; FDOs experienced approximately 165,000 furlough hours (equal to more than 20,000 furlough days); and CJA panel attorney rates were cut temporarily (for six months) by \$15 per hour and panel attorneys experienced several weeks of suspended payments. As a result, in many judicial districts, attorneys were not available to provide representational services as needed by the courts, resulting in case delays. It took the Defender Services program several years to recover from sequestration. In fact, FDO staffing levels did not return to pre-sequestration strength until 2016. We ask for your assistance to ensure that funding shortfalls do not again constrain our ability to provide court-appointed counsel to eligible defendants.

Courts' Salaries and Expenses

The courts' Salaries and Expenses account funds the operations of the regional courts of appeals, district courts, and bankruptcy courts, and probation and pretrial services offices nationwide, including nearly 27,500 judges and court staff. The House bill funds courts' Salaries and Expenses at \$6.06 billion and the Senate bill provides \$6.02 billion, \$320 million and \$361 million, respectively, below the FY 2024 request level of \$6.38 billion. Absent other budget balancing reductions, clerks of court and probation and pretrial services offices would have to downsize on a national basis by as many as 582 FTE (3 percent) at the House level and 840 FTE (5 percent) at the Senate level below July 2023 on-board strength of 18,322 FTE.² Staffing losses in clerks of court offices will impact core court services like case intake and docketing, jury management, the processing of restitution payments to victims of crimes, and timely noticing to creditors in bankruptcy cases, as well as require reductions in services to the public, such as hours at filing intake counters and assistance to pro se filers (filers not represented by counsel). Staffing losses in probation and pretrial services offices bring risks to public safety as remaining officers are forced to supervise higher numbers of defendants and offenders, including high-risk offenders, resulting in overworked officers, a greater risk of recidivism, and a detrimental impact on defendants and offenders who need rigorous monitoring and supportive services to reintegrate successfully and safely into their communities.

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Page 4

The House and Senate levels would also impact our ability to address growing cybersecurity threats facing the Judicial Branch. The combination of a cyberthreat environment that is ever increasing in both threat volume and sophistication and aging IT systems leaves the Judicial Branch highly vulnerable to cyberattacks. Congress provided critical funding in FYs 2022 and 2023 to enable us to embark on a multi-year effort to bolster our cyber-defenses and modernize critical IT systems. However, we require a sustained level of investment to keep these projects on track to ensure the security and integrity of our IT systems. At the House and Senate levels we would have to scale back planned FY 2024 spending on cybersecurity and IT modernization by as much as 25 percent which would slow the momentum we have achieved to date.

Court Security

The Court Security program provides for the security of federal courthouses and court facilities, including security systems and equipment, contract court security officers, Federal Protective Service security coverage, and a vulnerability management program to identify and address threats to judges, court personnel, and court facilities. The House bill funds Court Security at \$782.7 million and the Senate bill funds the program at a FY 2023 hard freeze of \$750.2 million. The House level closely approximates the budget request of \$783.5 million.

Funding at the lower Senate level would come at a time that the Judicial Branch is working to enhance courthouse security in response to growing threats. According to the U.S. Marshals Service, the number of threats and inappropriate communications targeting judges and other personnel essential to court proceedings rose from 926 in 2015, to 3,706 in 2022, a 300 percent increase. We continue to implement the security provisions of the Daniel Aderl Judicial Security and Privacy Act, named in honor of federal judge Esther Salas's son who was murdered at their New Jersey home in July 2020 by an assailant posing as a deliveryman. The Act was signed into law in December 2022 and enhances security by reducing judges' personally-identifiable information available on the Internet. The Senate level would require deferral of some security systems and equipment improvements requested by the U.S. Marshals Service, such as upgrades to courthouse access systems, security screening and x-ray equipment, and replacement of outdated courthouse video security systems, which would represent a setback in our efforts to strengthen courthouse security in the face of growing threats.

Other Judicial Branch Organizations

Other Judicial Branch organizations – the U.S. Court of Appeals for the Federal Circuit, the U.S. Court of International Trade, the Administrative Office of the U.S. Courts, the Federal Judicial Center, and the U.S. Sentencing Commission – are funded in the House bill at a FY 2024 current services level less the cost of the proposed 5.2 percent federal pay adjustment. The Senate bill provides a FY 2023 hard freeze level. The vast majority of the budgets for these organizations are personnel costs so a funding shortfall has a direct and immediate impact on

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Page 5

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Closing

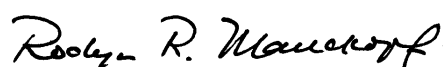
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Sincerely,



Amy J. St. Eve
Chair, Committee on the Budget

Sincerely,



Roslynn R. Mauskopf
Secretary



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HONORABLE ROSLYNN R. MAUSKOPF
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July 28, 2023

The Honorable Kay Granger
Chair
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

The Honorable Steve Womack
Chair
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

The Honorable Rosa DeLauro
Ranking Member
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

The Honorable Steny H. Hoyer
Ranking Member
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

Dear Chairwoman Granger, Chairman Womack, Ranking Member DeLauro, and Ranking Member Hoyer:

We write to convey our deep concern regarding Judicial Branch funding levels contained in the House and Senate versions of the fiscal year (FY) 2024 Financial Services and General Government (FSGG) appropriations bill, H.R. 4664 and S. 2309 respectively, that were reported out of the Appropriations Committees on July 13, 2023. We recognize the highly constrained budget environment in which the Appropriations Committees are writing FY 2024 appropriations bills and appreciate the efforts by the leaders of both FSGG subcommittees to provide the Judicial Branch with modest overall increases in both bills despite FSGG 302(b) allocations being well below the FY 2023 level. However, we are compelled to advise Congress of the detrimental impacts of the House and Senate funding levels on the administration of justice and the functioning of the federal courts if those funding levels were enacted into law. These impacts include:

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Page 2

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Page 3

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Sincerely,



Amy J. St. Eve
Chair, Committee on the Budget

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November 8, 2023

The Honorable Patty Murray
Chair
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Chris Van Hollen
Chair
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Susan Collins
Vice Chair
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Bill Hagerty
Ranking Member
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Chairwoman Murray, Chairman Van Hollen, Vice Chairwoman Collins, and
Senator Hagerty:

As you prepare to consider final fiscal year (FY) 2024 funding for agencies under the jurisdiction of the Subcommittee on Financial Services and General Government (FSGG), we write to inform you of the views of the Judicial Conference of the United States regarding the FY 2024 funding needs of the Judiciary. The Judiciary's funding appeal is based on H.R. 4664 as passed by the House Appropriations Committee and on S. 2309 as passed by the Senate Appropriations Committee.

FISCAL YEAR 2024 FUNDING APPEAL

We are cognizant of the extremely constrained funding environment for FY 2024 and the many competing demands the FSGG subcommittees must balance while working to allocate finite resources within those significant constraints. We also recognize the priority treatment that the Judiciary was given in both the House and Senate FSGG bills, where the Judiciary received modest increases above FY 2023 while most other agencies and entities were reduced. The Judicial Conference is grateful for this support and hopeful that it can be sustained and strengthened in a final FY 2024 FSGG bill.

Honorable Patty Murray
Honorable Susan Collins
Honorable Chris Van Hollen
Honorable Bill Hagerty
Page 2

We understand that any request for increased funds puts significant pressure on the subcommittees when total available resources are being held constant or reduced. At the same time, it is the duty of the Conference to advocate vigorously for the funds required to administer justice effectively and efficiently, consistent with our constitutional and statutory responsibilities, and the Judiciary's FY 2024 funding appeal of \$8.95 billion in discretionary appropriations represents the minimum resource level needed to accomplish that goal.

Our appeal level will address a host of both new and ongoing requirements for the branch. We continue to need significant new investments to address an increasingly complex security threat environment, including threats to both the physical security of judges, staff, and facilities and the virtual security of our information technology (IT) networks and systems, and to mitigate the effects of aging and/or obsolete IT infrastructure. These new investments must come on top of those required simply to sustain our ongoing operations, including the compensation of more than 30,000 staff and the operation of more than 700 court-related facilities. The continuing impacts of inflation, together with a historically high federal civilian pay adjustment proposal for 2024, make those current service requirements substantially higher than in recent fiscal years. A failure to adequately fund these basic costs will erode the branch's ability to address its constitutional and statutory workload and support a strong judicial system that protects the rights and liberties of its citizens.

As noted above, the Judiciary received modest increases in both the House and Senate FY 2024 FSGG bills, but those bills still significantly underfunded the branch's total request. Over the summer, we calculated that those funding levels would require substantial staff reductions in clerks of court offices, probation and pretrial services offices, and federal defender organizations, along with cutbacks to core court services, courthouse security improvements and essential investments in cybersecurity and IT modernization. Since that time, we have updated our estimates of available non-appropriated financing and made technical adjustments to other assumptions and requirements. As a result, the FY 2024 funding appeal we present today is \$184 million below the full request level that was pending before the subcommittees at the time that the House and Senate bills were produced. The vast majority of this savings can be traced to higher than anticipated unobligated balances as many courts and federal defender offices scaled back on critically needed hiring and other investments in FY 2023 because of the significant uncertainty about their ability to sustain those investments in FY 2024. Those unspent balances carried forward from FY 2023 into FY 2024 and are now available to help offset FY 2024 requirements.

While our appeal does represent a reduction in requirements relative to our original FY 2024 request, we note that the appeal level is still above the House and Senate bills by a total of \$270 million and \$387 million, respectively. Without substantial action to address those remaining funding gaps, court units and federal defender organizations will still face substantial detrimental impacts, including the potential loss of on-board staff, the inability to hire new staff as needed to address critical new workload, the suspension of payments to private attorneys providing court-appointed counsel, and the deferral of essential security improvements. These

Honorable Patty Murray
Honorable Susan Collins
Honorable Chris Van Hollen
Honorable Bill Hagerty
Page 3

shortfalls have significant real-world effects. Without sufficient staffing, the Judiciary will be unable to provide the full complement of expected public services, properly ensure court-appointed counsel for all eligible defendants, or properly supervise the thousands of additional incarcerated individuals who are eligible to be released in FY 2024 due to recent changes to the sentencing guidelines. At the same time, the branch will be unable to make the investments needed to properly secure courthouse facilities, personnel, and IT assets despite an environment of increasing threats. Averting these outcomes is the driving purpose behind the Conference's funding appeal.

Enclosure 1 details the appeal levels for each Judiciary appropriations account within Title III of the House and Senate bills. Enclosure 2 provides additional information about the appeal level for the four accounts under the Courts of Appeals, District Courts, and Other Judicial Services bill heading and updates the branch's assessment of the impact of the House and Senate funding levels for those four accounts.

FEDERAL CIVILIAN PAY ADJUSTMENT

We note that, consistent with our initial budget request, our appeal levels have been calculated on the assumption of a 5.2 percent civilian pay adjustment in FY 2024. This is also consistent with the President's pay proposal and the policy reflected in the House and Senate bills. Because personnel costs represent the Judiciary's single largest category of expense, adjustments in pay rates have an outsized effect on our budget. A 5.2 percent adjustment in FY 2024 will cost more than \$192 million to implement across the branch, and, if such an adjustment is approved, the Judiciary will have to allocate those funds to that purpose no matter what total level of funding is available to the branch. For that reason, the Judicial Conference requests that Congress ensure that any pay adjustment approved through the FY 2024 appropriations process is appropriately resourced to prevent an erosion of the funding needed for the Judiciary's other critical spending priorities.

JUDGESHIPS

The Judiciary's budget request included legislative language to provide one-year extensions to nine temporary district judgeships whose authorizations expire beginning in April 2024. Both the House and Senate bills include the requested extensions. The Judicial Conference appreciates that the House and Senate bills address the Judiciary's judgeship needs, and we request that Congress include these one-year extensions, without which we could lose the services provided by these critical judgeships, in a final FY 2024 FSGG bill. The House and Senate bills also include an extension for a tenth temporary district judgeship, and the Judicial Conference has no objection to that extension.

Honorable Patty Murray
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Page 4

COURTHOUSE CONSTRUCTION AND CAPITAL SECURITY

The Judicial Conference appreciates the \$28 million included in the House bill for a courthouse annex in San Juan, Puerto Rico, and the \$21 million included in the Senate bill for a new courthouse in Chattanooga, Tennessee. The project in San Juan has been designated a judicial space emergency, which makes it the de facto top construction priority of the branch, and the urgency of need in San Juan has only increased since that designation as more information has been learned about the serious seismic deficiencies in the district's existing judicial facilities (information which subsequently caused the court to vacate its space in the Federico Degetau Federal Building). A new courthouse in Chattanooga is the second priority on the Federal Judiciary Courthouse Project Priorities (CPP) list (behind a new courthouse in Hartford, Connecticut) and will help to alleviate significant space, security, and building condition issues that affect the ability of the Judiciary to safely and effectively conduct operations in the Eastern District of Tennessee.

While both bills provide additional funds for high priority construction projects, neither bill fully funds its included project. As a result, additional appropriations will be required in future fiscal years in order to complete work in either San Juan or Chattanooga. As the manager of these projects, GSA has the best and most recent information about the total remaining funding needed to construct these facilities, and the Judiciary has communicated to GSA the importance of providing updated cost figures to Congress. For its part, the Judicial Conference requests that a final FY 2024 FSGG bill include courthouse funding within the GSA construction and acquisition budget in accordance with Judicial Conference priorities as expressed by its emergency designation and by the CPP.

Beyond courthouse construction funding, the Judiciary also maintains an interest in the Capital Security Program (CSP), which is traditionally funded as a Special Emphasis Program within GSA's Federal Buildings Fund. The CSP allows GSA, the U.S. Marshals Service, and the Judiciary to address security deficiencies in facilities that will not qualify for a new courthouse based on security concerns alone. The Judiciary requested \$29 million for the CSP for FY 2024. The House bill includes \$30 million, which would fully fund the request, while the Senate bill includes \$4 million. Due to cost escalation issues among existing CSP projects, the exact allocation of new CSP funds may differ from the original requested amounts. GSA can advise the FSGG subcommittees on how any FY 2024 CSP funding included in a final bill will be applied to specific projects.

OTHER BILL LANGUAGE ISSUES

In its FY 2024 request, the Judiciary proposed a new legislative provision to allow the branch to make payments for appointed legal representation under the Criminal Justice Act directly to the law firm of an appointed attorney (a "panel attorney") when needed, which will increase efficiency in panel attorney administration, reduce tax reporting burdens on panel attorneys, and facilitate the Judiciary's transition to electronic funds transfer for panel attorney

Honorable Patty Murray
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Honorable Chris Van Hollen
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Page 5

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CONCLUSION

On behalf of the entire Judicial Branch, we appreciate your attention to the priorities of the Judiciary as you proceed through the difficult task of determining FY 2024 full-year funding for the FSGG bill. Please do not hesitate to contact us if you need additional information.

Sincerely,



Amy J. St. Eve
Chair, Committee on the Budget

Sincerely,



Roslynn R. Mauskopf
Secretary

Enclosures



JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

HONORABLE ROSLYNN R. MAUSKOPF
Secretary

November 8, 2023

The Honorable Kay Granger
Chair
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

The Honorable Steve Womack
Chair
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

The Honorable Rosa DeLauro
Ranking Member
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

The Honorable Steny H. Hoyer
Ranking Member
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

Dear Chairwoman Granger, Chairman Womack, Ranking Member DeLauro, and
Ranking Member Hoyer:

As you prepare to consider final fiscal year (FY) 2024 funding for agencies under the jurisdiction of the Subcommittee on Financial Services and General Government (FSGG), we write to inform you of the views of the Judicial Conference of the United States regarding the FY 2024 funding needs of the Judiciary. The Judiciary's funding appeal is based on H.R. 4664 as passed by the House Appropriations Committee and on S. 2309 as passed by the Senate Appropriations Committee.

FISCAL YEAR 2024 FUNDING APPEAL

We are cognizant of the extremely constrained funding environment for FY 2024 and the many competing demands the FSGG subcommittees must balance while working to allocate finite resources within those significant constraints. We also recognize the priority treatment that the Judiciary was given in both the House and Senate FSGG bills, where the Judiciary received modest increases above FY 2023 while most other agencies and entities were reduced. The Judicial Conference is grateful for this support and hopeful that it can be sustained and strengthened in a final FY 2024 FSGG bill.

Honorable Kay Granger
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Page 2

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Page 3

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Page 4

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Honorable Kay Granger
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Page 5

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CONCLUSION

On behalf of the entire Judicial Branch, we appreciate your attention to the priorities of the Judiciary as you proceed through the difficult task of determining FY 2024 full-year funding for the FSGG bill. Please do not hesitate to contact us if you need additional information.

Sincerely,



Amy J. St. Eve
Chair, Committee on the Budget

Sincerely,



Roslynn R. Mauskopf
Secretary

Enclosures

**FY 2024 Judiciary Appropriations
(Discretionary Appropriations)
(\$000)
Conference Appeal**

Appropriation Account	FY 2023	FY 2024							
	FY 2023 Final Enacted ¹	FY 2024 Budget Request	FY 2024 Budget Re-Estimate	FY 2024 House Mark	FY 2024 Senate Mark	FY 2024 Conference Appeal	Conference Appeal vs.		
							Budget Re-Estimate	House Mark	Senate Mark
U.S. Supreme Court									
Salaries & Expenses	109,551	127,063	140,573	124,201	119,389	140,573	-	16,372	21,184
Care of Building and Grounds	29,246	20,688	20,688	20,420	20,688	20,688	-	268	-
U.S. Court of Appeals for the Federal Circuit	36,735	39,682	39,682	38,991	36,735	39,682	-	691	2,947
U.S. Court of International Trade	21,260	22,404	22,404	22,103	21,260	22,404	-	301	1,144
<i>Courts of Appeals, District Courts & Other Judicial Services (CADCOJS)</i>									
Salaries & Expenses									
<i>Direct</i>	5,905,055	6,370,391	6,217,264	6,050,974	6,010,055	6,217,264	-	166,290	207,209
<i>Vaccine Injury Fund</i>	9,975	10,869	10,869	9,975	9,975	10,869	-	894	894
Total	5,915,030	6,381,260	6,228,133	6,060,949	6,020,030	6,228,133	-	167,184	208,103
Defender Services	1,382,680	1,533,015	1,505,781	1,411,116	1,382,680	1,505,781	-	94,665	123,101
Fees of Jurors & Commissioners	58,239	59,902	50,602	59,902	58,239	50,602	-	(9,300)	(7,637)
Court Security ¹	750,163	783,465	783,225	782,727	750,163	783,225	-	498	33,062
Subtotal, CADCOJS	8,106,112	8,757,642	8,567,741	8,314,694	8,211,112	8,567,741	-	253,047	356,629
Administrative Office	102,673	112,974	105,528	107,295	102,673	105,528	-	(1,767)	2,855
Federal Judicial Center	34,261	35,082	35,082	34,174	34,261	35,082	-	908	821
U.S. Sentencing Commission	21,641	23,150	23,150	22,503	21,641	23,150	-	647	1,509
Total Discretionary, The Judiciary	8,461,479	9,138,685	8,954,848	8,684,381	8,567,759	8,954,848	-	270,467	387,089

¹In addition to the FY 2023 amount reflected in the table, in FY 2023 the Court Security account also received \$112.5M in supplemental appropriations under P.L. 117-180 for courthouse hardening.

Fiscal Year (FY) 2024 Judiciary Appropriations Conference Appeal

Courts of Appeals, District Courts, and Other Judicial Services

Courts' Salaries and Expenses. For our largest account, the courts' Salaries and Expenses (S&E) appropriation, the Judicial Conference appeals for \$6,217,264,000 in direct discretionary appropriations, which is \$166,290,000 above the House bill and \$207,209,000 above the Senate bill. The Judicial Conference also appeals for \$10,869,000 from the Vaccine Injury Compensation Trust Fund, which is \$894,000 above the House and Senate bills, to properly adjudicate the expected caseload of vaccine injury claims.

The S&E appeal level would maintain current services across the courts and allow for the hiring of additional personnel to address workload increases, primarily probation office staff needed to respond to an August 2023 decision of the U.S. Sentencing Commission that will result in the need to process more than 18,700 sentence reduction motions and to supervise the 7,500 associated incarcerated individuals eligible for release into the community in FY 2024 alone. The appeal level also funds standard pay and non-pay inflationary increases, including a 5.2 percent civilian pay adjustment (4.7 percent for judges) and GSA rental inflation, as well as adjustments to account for changes in projected filing fee collections and changes in the projected number of on-board judges based on retirements, senior status, and confirmations. Critically, the appeal also funds necessary information technology (IT) requirements in the courts, including cybersecurity needs and broader IT modernization efforts, and the additional staff needed to execute and oversee these programs. The appeal includes \$156,720,000 of these requirements that originate from the Judiciary's multi-year cybersecurity/IT modernization plan as previously provided to the Committees.

While the S&E appeal level is a reduction of \$153,127,000 from the original request, the substantial shortfall between the appeal and the House and Senate levels still poses significant risks to the courts. Absent other budget balancing reductions, clerks of court and probation and pretrial services offices would have to downsize on a national basis by as many as 132 FTE (1 percent) at the House level and 390 FTE (2 percent) at the Senate level below the FY 2023 end of year on-board strength of 18,271 FTE, which would represent a continued decline in on-board staff in recent years (end of year on-board staffing was 18,761 FTE in FY 2021 and 18,310 FTE in FY 2022).¹ Staffing shortfalls negatively impact both internal court services, like docketing and jury management, and services to the public, such as the operation of filing intake counters. In addition, reductions in probation and pretrial services offices negatively impact public safety as remaining officers are forced to increase their supervision caseloads, resulting in less effective supervision, a greater risk of recidivism, and fewer services to defendants and offenders. Beyond staffing, funding at the House and Senate levels would reduce planned FY 2024 non-

¹ All staffing losses described here and later in this enclosure are dependent on the timing of enacted appropriations. The later an appropriation is enacted and the less time there is in a fiscal year to implement necessary reductions, the more actual positions have to be reduced in order to accumulate the savings associated with the FTE estimates here.

salary spending, including programs addressing cybersecurity and IT modernization, by as much as 15 percent, which would disrupt the sustained level of investment needed to keep these projects on track to ensure the security and integrity of our IT systems.

Defender Services. For the Defender Services appropriation, the Judicial Conference appeals for a funding level of \$1,505,781,000, which is \$94,665,000 and \$123,101,000 above the House and Senate bills, respectively. The appeal reflects the funding level required to ensure that the Sixth Amendment's guarantee of right to counsel is met. Critically, due to a decrease in the amount of prior year balances carried forward into FY 2024, the appeal also makes the necessary investment to offset this financing loss, which is required to avoid large scale staffing losses in the federal defender organizations, a significant suspension of panel attorney payments, or a combination of the two. The appeal would enable federal defender organizations (FDOs) to continue backfilling staff vacancies for positions covered by the FDO staffing formula and for national positions, as well as support the hiring of critical new positions, including increases as called for in the most recent iteration of the staffing formula and some positions not captured by the formula, such as reimbursable positions for program management functions. The appeal also provides the inflationary funds needed to keep panel attorney hourly compensation rates at their statutory maximum levels. Finally, consistent with the S&E request, the appeal includes \$9,927,000 in requirements originated in the branch's multi-year cybersecurity and IT modernization plan.

While the Defender Services appeal level is a reduction of \$27,234,000 from the original request, the substantial shortfall between the appeal and the House and Senate levels still poses significant risks to the program. If no program increases were funded and the remaining shortfall were applied just to panel attorney payments, those payments would have to be suspended for 7 weeks (beginning August 12, 2024) at the House level and 10 weeks (beginning July 23, 2024) at the Senate level. Alternatively, if no program increases were funded and the remaining shortfall were applied solely to staffing, FDOs would have to downsize staff by 99 FTE at the House level and 223 FTE at the Senate level below the FY 2023 end of year on-board strength of 4,175 FTE. Significantly, these on-board staffing losses would come at a time when the federal defender staffing formula calculates that FDOs need significant *new* staff to adequately address caseload and workload requirements. When combining the impact of lost on-board staff with the inability to fill existing vacancies or hire as dictated by the formula, the House and Senate marks would leave FDOs understaffed by 354 FTE and 478 FTE, respectively.

Court Security. For the Court Security appropriation, the Judicial Conference appeals for \$783,225,000, which is \$498,000 and \$33,062,000 above the House and Senate bills, respectively. The safety of judges, jurors, attorneys, defendants, and the public in federal court facilities is a top priority of the Judiciary. The appeal level will provide funding sufficient to meet our ongoing requirements for this account and to continue making strategic investments in new capabilities. The appeal will allow for hiring of new court security officers as required to meet workload demands in the districts impacted by the Supreme Court's decision in *McGirt v. Oklahoma*; the phased replacement of aging or obsolete courthouse security screening equipment; the acquisition and support of new emergency management equipment; and the continued expansion of the Judiciary's Vulnerability Management Program's ability to assist judges with the removal of their personally identifiable information from websites and online

databases as authorized by the recently enacted Daniel Anderl Judicial Security and Privacy Act.

Funding at the House level would sustain the investments called for in the Conference appeal. At the lower Senate level, however, the Judiciary would need to defer some security systems and equipment improvements, including screening equipment and video monitoring systems, despite increases in threats and other inappropriate communications targeting judges and other personnel essential to court proceedings.

Fees of Jurors. For the Fees of Jurors account, the Judicial Conference appeals for \$50,602,000, which is \$9,300,000 below the House bill and \$7,637,000 below the Senate bill. The appeal level provides sufficient funding for projected petit and grand juror expenses in FY 2024. The decrease in requirements from prior estimates is the result of additional prior year balances carried forward into FY 2024 to partially offset new requirements.