Congressional Research Service
Informing the legislative debate since 1914

# Judiciary Appropriations, FY2020

October 16, 2019

**Congressional Research Service**
https://crsreports.congress.gov
R45965

**CRS REPORT**
Prepared for Members and
Committees of Congress

Congressional Research Service
Informing the legislative debate since 1914

SUMMARY

R45965

October 16, 2019

**Barry J. McMillion**
Analyst in American National Government

# Judiciary Appropriations, FY2020

Funds for the judicial branch are included annually in the Financial Services and General Government (FSGG) appropriations bill. The bill provides funding for the U.S. Supreme Court; the U.S. Court of Appeals for the Federal Circuit; the U.S. Court of International Trade; U.S. courts of appeals and district courts; the Administrative Office of the U.S. Courts; the Federal Judicial Center; the U.S. Sentencing Commission; federal defender organizations that provide legal representation to defendants financially unable to retain counsel in federal criminal proceedings; security and protective services for courthouses, judicial officers, and judicial employees; and fees and allowances paid to jurors.

The judiciary's FY2020 budget request of $8.29 billion was submitted to Congress on March 11, 2019. By law, the President includes, without change, the appropriations request submitted by the judiciary in the annual budget submission to Congress.

The FY2020 budget request included $7.62 billion in discretionary funds, representing a 5.1% increase over the FY2019 enacted level of $7.25 billion provided in the Consolidated Appropriations Act, 2019 (P.L. 116-6; February 15, 2019).

The FY2020 budget request also included $669.8 million in mandatory funds to pay the salaries and benefits of certain types of federal judges and to also provide for judicial retirement accounts.

The House Appropriations Committee held a markup (H.R. 3351) on June 11, 2019, and recommended the judiciary receive a total of $7.51 billion in discretionary funds. The House passed H.R. 3351 on June 26, 2019. The Senate Appropriations Committee held a markup (S. 2524) on September 19, 2019, and recommended the judiciary receive a total of $7.42 billion in discretionary funds.

The FSGG appropriations bill was not enacted prior to the beginning of FY2020 on October 1, 2019. At present, the judiciary is funded through November 21, 2019, by the Continuing Appropriations Act, 2020 (P.L. 116-59; September 27, 2019).

In recent years, appropriations for the judiciary have comprised approximately 0.2% of total budget authority.

This report will be updated as events warrant.

# Contents

Introduction ..... 1
FY2020 Consideration: Overview of Actions ..... 1
Submission of FY2020 Budget Request on March 11, 2019 ..... 2
Subcommittee Hearings on the Supreme Court's FY2020 Budget Request ..... 2
House Appropriations Subcommittee on Financial Services and General Government Markup ..... 3
House Appropriations Committee Markup ..... 4
Passage by the House ..... 4
Senate Appropriations Subcommittee on Financial Services and General Government Markup ..... 4
Senate Appropriations Committee Markup ..... 5
Enactment of Continuing Appropriations Resolution ..... 5
FY2020 Judiciary Budget Request ..... 5
Discretionary Appropriations ..... 5
Discretionary Appropriations in Recent Years ..... 8
Use of Non-Appropriated Funds ..... 8
Mandatory Appropriations ..... 8
Administrative Provisions ..... 9
What Is Funded by the Judiciary Budget? ..... 10
U.S. Supreme Court ..... 10
U.S. Courts of Appeals ..... 10
U.S. Court of Appeals for the Federal Circuit ..... 11
U.S. Court of International Trade ..... 11
U.S. District Courts (Including Territorial Courts) ..... 11
U.S. Magistrate Judges ..... 12
U.S. Bankruptcy Courts ..... 13
U.S. Court of Federal Claims ..... 14
Probation and Pretrial Services ..... 14
Defender Services ..... 15
Court Security ..... 16
Fees of Jurors and Commissioners ..... 16
Vaccine Injury Compensation Trust Fund ..... 17
Administrative Office of the U.S. Courts ..... 18
Federal Judicial Center ..... 18
United States Sentencing Commission ..... 18
Selected Courts Not Funded by the Judiciary Budget ..... 19
Ongoing Policy Issues for FY2020 ..... 19
Number of U.S. District and Circuit Court Judgeships ..... 19
Judicial Security ..... 20
Cost Containment by the Judiciary ..... 21

## Tables

Table 1. Status of Judiciary Appropriations, FY2020 ..... 1
Table 2. Judiciary Discretionary Appropriations, FY2019-FY2020 ..... 6

Table 3. Judiciary Mandatory Funding, FY2019-FY2020 ..... 9

## Contacts

Author Information..... 22

# Introduction

This report provides an overview of the judiciary's FY2020 budget request, as well as information about Congress's consideration of the judiciary's request. The first section of this report includes subsections covering each major action involving the judiciary's FY2020 budget request, including

- the initial submission by the President of the judiciary's request on March 11, 2019;
- a hearing held on March 7, 2019, by the House Financial Services and General Government Appropriations Subcommittee on the budget request for the U.S. Supreme Court;
- the House subcommittee markup on June 3, 2019;
- the House Appropriations Committee markup on June 11, 2019;
- passage by the House on June 26, 2019;
- the Senate subcommittee markup on September 17, 2019;
- the Senate Appropriations Committee markup on September 19, 2019; and
- enactment of a continuing resolution on September 27, 2019.

The second section of the report provides information about the specific discretionary appropriations requested by the judiciary for FY2020, as well as information about the mandatory appropriations and administrative provisions included in the appropriations process. The third section provides information about the various courts, judicial entities, and judicial services that are covered by appropriations for the judiciary. The report also identifies some of the courts and judicial services that are not covered by such appropriations (but are covered by other appropriations bills). Finally, the report provides information about ongoing policy issues affecting the judiciary that may be of interest to Congress during FY2020.

# FY2020 Consideration: Overview of Actions

This section provides an overview of the major actions involving congressional consideration of FY2020 judiciary appropriations. The current status of FY2020 judiciary appropriations is summarized in **Table 1**.

**Table 1. Status of Judiciary Appropriations, FY2020**

(as of October 16, 2019)

| Committee Markup | | | | | | | Conference Report Approval | | |
|---|---|---|---|---|---|---|---|---|---|
| House[a] | Senate[b] | House Report | House Passage | Senate Report | Senate Passage | Conference Report | House | Senate | Public Law |
| 6/11/19 (30-21) | 9/19/19 (31-0) | H.Rept. 116-122 | 6/26/19 (224-196) | S.Rept. 116-111 | | | | | |

**Source:** Congressional Research Service examination of data from http://congress.gov/.

**Note:** This table shows the status, as of October 16, 2019, of judiciary appropriations for FY2020.

a. The House subcommittee held its markup on June 3, 2019.

b. The Senate subcommittee held its markup on September 17, 2019.

## Submission of FY2020 Budget Request on March 11, 2019

The President's proposed FY2020 budget request was submitted on March 11, 2019. It contains a request for $8.29 billion in new budget authority for judicial branch activities, including $7.62 billion in discretionary funds and $669.8 million in mandatory funding for judges' salaries and judicial retirement accounts.[1] By law, the judicial branch appropriations request is submitted to the President and included in the budget submission without change.[2]

Appropriations for the judiciary comprise approximately 0.2% of total budget authority.[3]

## Subcommittee Hearings on the Supreme Court's FY2020 Budget Request

The Financial Services and General Government Appropriations Subcommittee held hearings on the FY2020 budget request of $106.8 million for the U.S. Supreme Court. This request is included in the judiciary's overall FY2020 budget request of $8.29 billion and represents approximately 1.3% of that total.

Associate Justices Samuel A. Alito and Elena Kagan testified before the subcommittee regarding the Supreme Court's budgetary request. It was the first public hearing since 2015 regarding the Supreme Court's budget.[4]

According to Representative Mike Quigley (IL), chairman of the subcommittee, it is his "intent to hold a hearing with the Supreme Court at least once a year to discuss the resources needed for the highest court"[5] and to hear the Justices' "thoughts regarding America's court system."[6] He also expressed his view that "hearings such as this one is a great way for the public to get more exposure to our third branch."[7]

One issue raised during the subcommittee's hearings was the use of cameras or video recordings in Supreme Court proceedings. In his opening remarks, Chairman Quigley stated that "one

[1] Office of Management and Budget, *President's Budget FY2020, Appendix*, "Detailed Budget Estimates by Agency," Judicial Branch, at https://www.whitehouse.gov/omb/appendix. The difference between discretionary and mandatory appropriations is discussed further in the text.

[2] Pursuant to 31 U.S.C. §1105, "Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch to be included in each budget ... shall be submitted to the President ... and included in the budget by the President without change." Furthermore, Division C of the FY2012 Consolidated Appropriations Act (P.L. 112-74) added language to 31 U.S.C. §1107 relating to budget amendments, stating: "The President shall transmit promptly to Congress without change, proposed deficiency and supplemental appropriations submitted to the President by the legislative branch and the judicial branch."

[3] Calculations by CRS with data from Office of Management and Budget, *Historical Tables*, Table 5.2—Budget Authority By Agency: 1976–2024, at https://www.whitehouse.gov/omb/historical-tables.

[4] According to one news source, "the 'longstanding tradition' of having justices appear in public to discuss funding for the high court was broken in 2016 when Justices Anthony M. Kennedy and Stephen G. Breyer met with committee members behind closed doors. Private meetings also occurred last year and the year before." Kimberly Strawbridge Robinson, *Bloomberg Law*, "Congress Reviving Public Hearing on Supreme Court Budget," March 1, 2019.

[5] Congressman Mike Quigley, "Chairman Quigley Statement at Hearing on Supreme Court's FY2020 Budget Request," March 7, 2019, at https://appropriations.house.gov/news/statements/chairman-quigley-statement-at-hearing-on-supreme-courts-fy-2020-budget-request.

[6] Ibid.

[7] Ibid.

government institution remains closed to the public eye—the U.S. Supreme Court"[8] and "due to antiquated practices and policies, we have no video record"[9] of the Court's most important decisions. He further stated that "it is not unreasonable for the American people to have an opportunity to hear firsthand the arguments and opinions that will shape their society for years to come."[10]

Justice Alito, in response, stated that while the Court wants as much access for the public as possible, it does not "want access at the expense of damaging the decision-making process."[11] Similarly, Justice Kagan stated that cameras might adversely affect the way the Court functioned.[12] She emphasized that the kind of questioning a Justice uses in the courtroom might be taken out of context in a video broadcast. For example, video of Court proceedings shown by a news program might cause viewers to perceive that a Justice has a particular view or opinion on an issue when, instead, the Justice is playing devil's advocate and posing challenging questions to one or both sides in a case.[13]

Other issues discussed or mentioned at the subcommittee hearing include cost-cutting measures the Court has undertaken by revising existing contracts and cutting back on discretionary spending in order to meet the cost-of-living adjustment for federal employees; the priority the Court has placed on enhancing its physical and cybersecurity with previous funds appropriated by Congress; the implementation of a new electronic case filing system; and a revamp of the Court's website to make it more user-friendly and highlight important information (e.g., the current term calendar).[14] Justice Alito also noted in his testimony that the Court was not requesting any new programmatic increases in funds.[15]

## House Appropriations Subcommittee on Financial Services and General Government Markup

On June 3, 2019, the House subcommittee held a markup of the FY2020 Financial Services and General Government (FSGG) bill. The subcommittee, by voice vote, recommended a total of $7.51 billion in discretionary funds for the judiciary.[16]

[8] Ibid.

[9] Ibid.

[10] Ibid.

[11] Testimony of Justice Samuel A. Alito, "House Appropriations Subcommittee on Financial Services and General Government Holds Hearing on Supreme Court Budget," *CQ Transcriptions,* March 7, 2019.

[12] Testimony of Elena Kagan, "House Appropriations Subcommittee on Financial Services and General Government Holds Hearing on Supreme Court Budget," *CQ Transcriptions,* March 7, 2019.

[13] Ibid.

[14] Hearings on FY2020 Supreme Court Budget Request, "House Appropriations Subcommittee on Financial Services and General Government Holds Hearing on Supreme Court Budget," *CQ Transcriptions,* March 7, 2019.

[15] Testimony of Justice Samuel A. Alito, "House Appropriations Subcommittee on Financial Services and General Government Holds Hearing on Supreme Court Budget," *CQ Transcriptions,* March 7, 2019.

[16] Note that this amount does not include mandatory funds for salaries and benefits of certain types of judgeships. See **Table 3** and accompanying text for additional information.

## House Appropriations Committee Markup

On June 11, 2019, the House Appropriations Committee held a markup of the FY2020 FSGG bill. The committee recommended $7.51 billion in discretionary funds for the judiciary.[17]

The $7.51 billion in discretionary funding recommended for the judiciary represents approximately 31% of the total $24.55 billion in discretionary funding included in the entire FSGG appropriations bill (which also funds such entities as the Department of the Treasury, the Executive Office of the President, the Consumer Product Safety Commission, the Federal Trade Commission, the Securities and Exchange Commission, and the Small Business Administration).

The FY2020 FSGG bill was ordered reported by a roll call vote of 30-21 (H.R. 3351, H.Rept. 116-122). No amendments were offered during the committee markup that were related to the judiciary.

The House report that accompanied the committee's markup addressed the issue of video access to Supreme Court proceedings, which had been discussed at the subcommittee's hearings on the Supreme Court's FY2020 budget request.[18] The committee stated that "providing the American people with the opportunity to access Supreme Court arguments in real time via video and/or live audio would greatly expand the Court's accessibility to average Americans and provide historical and educational value."[19] Consequently, the committee encouraged the Court "to take steps to permit video and live audio coverage in all open sessions of the court unless the Court decides that allowing such coverage in any case would violate the due process of one or more of the parties before the Court."[20]

## Passage by the House

The FSGG appropriations bill was passed by a roll call vote of 224-196 in the House on June 26, 2019. No amendments were offered during House consideration that were related to the judiciary.

## Senate Appropriations Subcommittee on Financial Services and General Government Markup

On September 17, 2019, the Senate subcommittee held a markup of the FY2020 Financial Services and General Government (FSGG) bill and approved it by voice vote. The subcommittee recommended a total of $7.42 billion in discretionary funds for the judiciary.[21]

[17] Note that this amount does not include mandatory funds for salaries and benefits of certain types of judgeships. See **Table 3** and accompanying text for additional information.

[18] See discussion in the text above. For a discussion, generally, of the use of video in federal courthouses, see CRS Report R44514, *Video Broadcasting from the Federal Courts: Issues for Congress*, by Sarah J. Eckman.

[19] House Appropriations Committee, H.Rept. 116-122, p. 39.

[20] Ibid.

[21] Note that this amount does not include mandatory funds for salaries and benefits of certain types of judgeships. See **Table 3** and accompanying text for additional information.

## Senate Appropriations Committee Markup

On September 19, 2019, the Senate Appropriations Committee held a markup of the FY2020 FSGG bill. The committee recommended $7.42 billion in discretionary funds for the judiciary.[22]

The $7.42 billion in discretionary funding recommended for the judiciary represents approximately 31% of the total discretionary funding included in the entire FSGG appropriations bill (which also funds such entities as the Department of the Treasury, the Executive Office of the President, the Consumer Product Safety Commission, the Federal Trade Commission, the Securities and Exchange Commission, and the Small Business Administration).

The FY2020 FSGG bill was ordered reported by a roll call vote of 31-0 (S. 2524, S.Rept. 116-111). No amendments were offered during the committee markup that were related to the judiciary.

The Senate report that accompanied the committee's markup emphasized that it "is imperative that the Federal judiciary devote its resources primarily to the retention of staff."[23] Additionally, the report stated that "it is also important that the judiciary contain controllable costs such as travel, construction, and other expenses."[24] The Senate report did not address the issue of video access to Supreme Court proceedings, which had been discussed at the House subcommittee's hearing on the Supreme Court's FY2020 budget request.

## Enactment of Continuing Appropriations Resolution

Final enactment of the judiciary's budget did not occur prior to the beginning of FY2020. At present, the judiciary is funded through November 21, 2019, by the Continuing Appropriations Act, 2020.[25] The act passed the House on September 19, 2019, and the Senate on September 26, 2019.

# FY2020 Judiciary Budget Request

## Discretionary Appropriations

The judiciary's FY2020 discretionary budget request totals $7.62 billion and represents a 5.1% increase from the $7.25 billion in discretionary appropriations enacted by Congress for FY2019.

**Table 2** lists, for each account included in the judiciary's discretionary budget, (1) the amount enacted by Congress for FY2019, (2) the judiciary's FY2020 request, (3) the FY2020 amount that passed the House, and (4) the FY2020 amount that was reported by the Senate Appropriations Committee.

[22] Note that this amount does not include mandatory funds for salaries and benefits of certain types of judgeships. See **Table 3** and accompanying text for additional information.

[23] Senate Appropriations Committee, S.Rept. 116-111, p. 39.

[24] Ibid.

[25] P.L. 116-59 (September 27, 2019).

**Table 2. Judiciary Discretionary Appropriations, FY2019-FY2020**

(in millions of dollars)

| | FY2019 Enacted | FY2020 Requested | FY2020 House Passed | FY2020 Senate Committee Reported | FY2020 Enacted |
|---|---|---|---|---|---|
| **Supreme Court (total)** | **$100.7** | **$104.1** | **$103.3** | **$104.1** | TBD |
| *Salaries and Expenses* | *$84.7* | *$87.7* | *$87.7* | *$87.7* | *TBD* |
| *Building and Grounds* | *$16.0* | *$16.4* | *$15.6* | *$16.4* | *TBD* |
| **U.S. Court of Appeals for the Federal Circuit** | **$32.0** | **$33.0** | **$33.0** | **$32.7** | TBD |
| **U.S. Court of International Trade** | **$18.9** | **$19.9** | **$19.4** | **$19.2** | TBD |
| **Courts of Appeals, District Courts, and Other Judicial Services (total)** | **$6,960.1** | **$7,320.7** | **$7,210.7** | **$7,118.2** | TBD |
| *Salaries and Expenses* | *$5,144.4* | *$5,384.0* | *$5,274.0* | *$5,182.7* | *TBD* |
| *Defender Services* | *$1,150.4* | *$1,234.6* | *$1,234.6* | *$1,234.6* | *TBD* |
| *Court Security* | *$607.1* | *$641.3* | *$641.1* | *$641.1* | *TBD* |
| *Fees of Jurors and Commissioners* | *$49.7* | *$51.9* | *$51.9* | *$50.7* | *TBD* |
| *Vaccine Injury Trust Fund* | *$8.5* | *$9.0* | *$9.1* | *$9.1* | *TBD* |
| **Administrative Office of the U.S. Courts** | **$92.4** | **$96.9** | **$94.3** | **$94.3** | TBD |
| **Federal Judicial Center** | **$29.8** | **$30.7** | **$30.7** | **$30.4** | TBD |
| **U.S. Sentencing Commission** | **$19.0** | **$19.3** | **$19.7** | **$19.7** | TBD |
| **Total (Judiciary)** | **$7,252.9** | **$7,624.6** | **$7,511.3** | **$7,418.5** | TBD |

**Sources:** CRS examination of data from P.L. 116-6 (Consolidated Appropriations Act, 2019); *The Judiciary Fiscal Year 2020 Congressional Budget Summary*; H.R. 3351; H.Rept. 116-122; S. 2524; and S.Rept. 116-111.

**Notes:** All figures are rounded, and column sums may not equal the total due to rounding. *TBD* indicates that the value, as of October 1, 2019, is *to be determined*.

Of the judiciary's FY2020 total discretionary request for $7.62 billion, the greatest percentage is for the *Salaries and Expenses* account (see **Table 2**)—representing 70.6% of the request. The second-greatest percentage is for the *Defender Services* account, representing 16.2% of the total discretionary request. The third-greatest percentage is for the *Court Security* account, representing 8.4% of the request.[26] The remaining 4.8% of the FY2020 discretionary request is for the other accounts listed in the table.[27]

[26] Altogether, the *Courts of Appeals, District Courts, and Other Judicial Services* item represents 96.0% of the judiciary's discretionary budget request for FY2020.

[27] These accounts are listed here in descending order from the greatest percentage to smallest percentage of the judiciary's FY2020 discretionary budget request: *Administrative Office of U.S. Courts* (1.3%); *Supreme Court*—

Of the accounts listed in **Table 2**, the largest percentage increase between the amount enacted in FY2019 and the amount requested by the judiciary for FY2020 is for the *Defender Services* account—a 7.3% increase from the FY2019 amount enacted to the FY2020 request. The second-greatest increase is for the *Vaccine Injury Trust Fund* account, a 6.3% increase. The third-greatest increase is for the *Court Security* account, a 5.6% increase.[28]

The House-passed amount for each account included in the judiciary's FY2020 budget was, in each case, at least 95% of the judiciary's FY2020 request for that account. For example, for the *Supreme Court—Building and Grounds* account, the House provided $15.6 million—representing 95.1% of the judiciary's FY2020 request of $16.4 million. Altogether, for four accounts, the House passed less than the amount requested by the judiciary in its FY2020 budget submission.[29] For six accounts, the House passed the same amount as was requested by the judiciary.[30] And for two accounts, the House passed more than the amount requested by the judiciary in its FY2020 budget submission.[31]

The Senate Appropriations Committee reported amount for each account included in the judiciary's FY2020 budget request was, in each case, at least 95% of the judiciary's FY2020 request for that account. Altogether, for seven accounts, the committee reported less than the amount requested by the judiciary.[32] For three accounts, the committee reported the same amount as was requested by the judiciary.[33] And for two accounts, the committee reported more than the amount requested by the judiciary in its FY2020 budget submission.[34]

The federal courts, judicial entities, and judicial programs funded by the various accounts listed in **Table 2** are discussed below in greater detail in the "What Is Funded by the Judiciary Budget?" section of the report.

---

*Salaries and Expenses* (1.1%); *Fees of Jurors and Commissioners* (0.7%); *U.S. Court of Appeals for the Federal Circuit* (0.4%); *Federal Judicial Center* (0.4%); *U.S. Court of International Trade* (0.3%); *U.S. Sentencing Commission* (0.3%); *Supreme Court—Building and Grounds* (0.2%); and the *Vaccine Injury Trust Fund* (0.1%).

[28] Of all the accounts listed in **Table 2**, the percentage increase between the amount enacted in FY2019 and the amount requested for FY2020 ranged from a low of 1.6% (for the *U.S. Sentencing Commission* account) to a high of 7.3% for the *Defender Services* account.

[29] These four accounts (and the percentage of the judiciary's FY2020 request that was passed by the House) are *Supreme Court—Building and Grounds* (95.1%); *U.S. Court of International Trade* (97.1%); *Administrative Office of U.S. Courts* (97.2%); and *Courts of Appeals, District Courts, and Other Judicial Services—Salaries and Expenses* (98.0%).

[30] These six accounts are *Supreme Court—Salaries and Expenses*; *U.S. Court of Appeals for the Federal Circuit*; *Defender Services*; *Court Security*; *Fees of Jurors and Commissioners*; and the *Federal Judicial Center*.

[31] These two accounts (and the percentage of the judiciary's FY2020 request that was passed by the House) are the *Vaccine Injury Trust Fund* (100.6%) and *U.S. Sentencing Commission* (102.2%).

[32] These seven accounts (and the percentage of the judiciary's FY2020 request that was reported by the committee) are *U.S. Court of Appeals for the Federal Circuit* (99.1%); *U.S. Court of International Trade* (96.3%); *Courts of Appeals, District Courts, and Other Judicial Services—Salaries and Expenses* (96.3%); *Court Security* (99.9%); *Fees of Jurors and Commissioners* (97.9%); *Administrative Office of U.S. Courts* (97.2%); and the *Federal Judicial Center* (99.0%).

[33] These three accounts are *Supreme Court—Salaries and Expenses*; *Supreme Court—Building and Grounds*; and *Defender Services*.

[34] These two accounts (and the percentage of the judiciary's FY2020 request that was reported by the committee) are the *Vaccine Injury Trust Fund* (100.6%) and *U.S. Sentencing Commission* (102.1%).

### Discretionary Appropriations in Recent Years

#### *FY2019*

FY2019 judiciary funding was provided in Division D, Title III, of the Consolidated Appropriations Act, 2019 (P.L. 116-6), which was enacted on February 15, 2019. The act provided $7.25 billion in discretionary funds for the judiciary.

#### *FY2018*

FY2018 judiciary funding was provided in Division E, Title III, of the Consolidated Appropriations Act, 2018 (P.L. 115-141), which was enacted on March 23, 2018. The act provided $7.11 billion in discretionary funds for the judiciary.

#### *FY2017*

FY2017 judiciary funding was provided in Division E, Title III, of the Consolidated Appropriations Act, 2017 (P.L. 115-31), which was enacted on May 5, 2017. The act provided $6.93 billion in discretionary funds for the judiciary.

### Use of Non-Appropriated Funds

The judiciary also uses non-appropriated funds to help offset its funding requirements. The majority of these non-appropriated funds are from the collection of fees, primarily court filing fees[35] and fees associated with obtaining case and docket information online from various federal courts.[36] These monies are used to offset expenses that would otherwise be covered by the discretionary *Salaries and Expenses* subaccount for the courts of appeals, district courts, and other judicial services. The numbers presented in this report reflect the net resources for the judiciary, and do not include these offsetting non-appropriated funds.

## Mandatory Appropriations

Mandatory appropriations are used to meet the constitutional and statutory obligations associated with the salaries and expenses of certain types of judgeships (and, consequently, are not considered *discretionary* appropriations for the judiciary).

Such appropriations fall into two categories: (1) funds used to pay the salaries of Article III judges (Supreme Court Justices, U.S. courts of appeals judges, etc.) and certain other types of federal judges (e.g., bankruptcy judges); and (2) funds used for several judicial retirement

[35] Each type of federal court, and other federal judicial services, publishes a list of fees that are charged for services provided by the specific court. For a list of these fees, see Administrative Office of U.S. Courts, *Fees*, at https://www.uscourts.gov/services-forms/fees.

[36] The Public Access to Court Electronic Records, or PACER, is a service that allows users, for a fee, to obtain case and docket information online from federal appellate, district, and bankruptcy courts, and the PACER Case Locator. According to the federal judiciary, PACER is provided "in keeping with its commitment to providing public access to court information via a centralized service." See https://www.pacer.gov. Congressional authorization for the judiciary to collect fees was granted in the Judiciary Appropriations Act of 1991, P.L. 101-515 (November 5, 1990). Specifically, the act states that "the Judicial Conference shall prescribe reasonable fees … for collection by the courts under those sections for access to information available through automatic data processing equipment…. The Director, under the direction of the Judicial Conference of the United States, shall prescribe a schedule of reasonable fees for electronic access to information which the Director is required to maintain and make available to the public." Title IV, §404(a); 104 Stat. 2132-2133.

accounts—specifically, the Judicial Officers' Retirement Fund (28 U.S.C. §377(o)); the Judicial Survivors' Annuities Fund (28 U.S.C. §376(c)); and the U.S. Court of Federal Claims Judges' Retirement Fund (28 U.S.C. §178(1)).

**Table 3. Judiciary Mandatory Funding, FY2019-FY2020**

(in millions of dollars)

| Account | FY2019 Enacted | FY2020 Requested |
|---|---|---|
| Supreme Court | $2.7 | $2.7 |
| Court of Appeals for the Federal Circuit | $3.0 | $3.0 |
| Court of International Trade | $2.1 | $2.1 |
| Courts of Appeals, District Courts, and Other Judicial Services | $415.1 | $421.8 |
| Judicial Retirement Funds | $211.7 | $240.1 |
| **Total (Judiciary)** | **$634.6** | **$669.8** |

**Source:** CRS examination of data from P.L. 116-6 (Consolidated Appropriations Act, 2019); *The Judiciary Fiscal Year 2020 Congressional Budget Summary*; H.R. 3351; and H.Rept. 116-122.

**Note:** All figures are rounded, and column sums may not equal the total due to rounding.

The FY2020 mandatory appropriations request is for $669.8 million. Of the FY2020 request, $429.6 million, or 64.1%, is for salaries and expenses associated with judgeships that the judiciary is constitutionally (or statutorily) required to pay. The remaining $240.1 million (or 35.9% of the FY2020 mandatory appropriations request) was to provide for judicial retirement funds.

There was a similar breakdown in the use of mandatory funds for FY2019. Of the $634.6 million in mandatory appropriations enacted for FY2019, $422.9 million (or 66.6%) was to fund the salaries and expenses associated with Article III judges and certain other types of federal judges. The remaining $211.7 million (or 33.4% of FY2019 mandatory appropriations) was to provide for judicial retirement funds.

## Administrative Provisions

The FY2020 request also contains administrative provisions related to (1) the authorization of salaries and expenses for the judiciary's use of experts and consultant services; (2) allowing the transfer between judiciary accounts of up to 5% of any appropriation, with some accounts prohibited from increasing by more than 10% as a result of any such transfer of appropriations; (3) a limitation of $11,000 for official reception and representation expenses incurred by the Judicial Conference of the United States; (4) language enabling the judiciary to contract, under certain circumstances, for repairs costing less than $100,000; (5) the continuation of a court security pilot program; and (6) a one-year extension of eight temporary judgeships.

The bill passed by the House includes each of these six provisions. The bill, however, specifies that no judiciary account, "except in certain circumstances,"[37] may increase by more than 10% as

[37] H.Rept. 116-122 (June 11, 2019), p. 43.

a result of the transfer of appropriations between judiciary accounts.[38] Additionally, the bill authorizes the extension of nine, rather than eight, temporary U.S. district court judgeships.

The Senate committee reported bill includes each of these six provisions. The bill, however, limits (similar to the House bill) "to 10 percent the amount that may be transferred into any one appropriation."[39] Additionally, the bill authorizes the extension of 10 temporary U.S. district court judgeships.

# What Is Funded by the Judiciary Budget?

## U.S. Supreme Court

The U.S. Supreme Court is the final arbiter in the federal court system. Congress has authorized nine judgeships for the Court. Among the nine Justices on the Court, one is also appointed as Chief Justice of the United States. Justices are appointed by the President with the advice and consent of the Senate.

## U.S. Courts of Appeals

U.S. courts of appeals, or circuit courts, take appeals from U.S. district court decisions and are also empowered to review the decisions of many administrative agencies. When hearing a challenge to a district court decision from a court located within its geographic circuit, the task of a court of appeals is to determine whether or not the law was applied correctly by the district court.[40] Cases presented to U.S. circuit courts are generally considered by judges sitting in three-member panels (circuit courts do not use juries).

The nation is divided into 12 geographic circuits, each with a U.S. court of appeals. There is also one nationwide circuit, the U.S. Court of Appeals for the Federal Circuit (discussed in the text below).

Altogether, 167 judgeships for these 12 regional circuit courts are currently authorized by law. The First Circuit (comprising Maine, Massachusetts, New Hampshire, Rhode Island, and Puerto Rico) has the fewest number of authorized judgeships, 6, while the Ninth Circuit (comprising Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington) has the most, 29.[41]

U.S. circuit court judges are appointed by the President with the advice and consent of the Senate. Such appointments are considered to be effective for life (under Article III of the U.S. Constitution),[42] meaning judges remain in office until they die, assume senior status, resign, retire, or are removed by Congress through the process of impeachment.

---

[38] The administrative provision included in the judiciary's FY2020 budget request exempted two accounts (*Defender Services* and *Fees of Jurors and Commissioners*) from the prohibition that an account could not be increased by more than 10% by the transfer of appropriations among accounts. See Administrative Office of U.S. Courts, *The Judiciary Fiscal Year 2020 Congressional Budget Summary*, p. 59, at https://www.uscourts.gov/sites/default/files/fy_2020_congressional_budget_summary_0.pdf.

[39] S.Rept. 116-111 (September 19, 2019), p. 51.

[40] Administrative Office of U.S. Courts, "Court Role and Structure," at https://www.uscourts.gov/about-federal-courts/court-role-and-structure.

[41] The Ninth Circuit also includes two U.S. territories, Guam and the Northern Mariana Islands.

[42] Throughout the text of the report, the term "effective for life" reflects the constitutional prerogative of a judge

## U.S. Court of Appeals for the Federal Circuit

This court has nationwide jurisdiction over certain types of cases, including international trade, government contracts, patents, trademarks, certain money claims against the United States government, federal personnel, veterans' benefits, and public safety officers' benefits claims. The court also reviews certain administrative agency decisions.

In FY2018, the court's jurisdiction consisted of "administrative law cases (20%), intellectual property cases (67%), and cases involving money damages against the United States government (13%)."[43]

There are 12 judgeships authorized for the U.S. Court of Appeals for the Federal Circuit. Judges serving on the Federal Circuit are appointed by the President with the advice and consent of the Senate. Such appointments are considered to be effective for life (under Article III of the U.S. Constitution), meaning judges remain in office until they die, assume senior status, resign, retire, or are removed by Congress through the process of impeachment.

## U.S. Court of International Trade

This court has nationwide jurisdiction over civil actions related to the customs and international trade laws of the United States. Most of the cases heard by the court "involve antidumping and countervailing duties, the classification and valuation of imported merchandise, actions to recover unpaid customs duties and civil penalties, and various actions arising generally under the tariff laws."[44] In 2018, the court reported a total of 242 case filings.[45]

There are nine judgeships authorized for the U.S. Court of International Trade. Judges serving on the Court of International Trade are appointed by the President with the advice and consent of the Senate. Such appointments are considered to be effective for life (under Article III of the U.S. Constitution), meaning judges remain in office until they die, assume senior status, resign, retire, or are removed by Congress through the process of impeachment.

## U.S. District Courts (Including Territorial Courts)

District courts are the federal trial courts of general jurisdiction. These trial courts determine facts and apply legal principles to resolve disputes.[46] Trials are conducted by a district court judge or, in some cases, a magistrate judge.

Each state has at least one district court (there is also one district court in each of the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands). States with more than one district court are

---

appointed to an Article III court to remain in office "during good Behavior."

[43] United States Court of Appeals for the Federal Circuit, *Court Jurisdiction*, at http://www.cafc.uscourts.gov/the-court/court-jurisdiction. "The administrative law cases consist of international trade disputes, personnel claims, and veterans' claims. Nearly all of the intellectual property cases involve patents originating from the U.S. Patent and Trademark Office and all U.S. District Courts. Suits for money damages against the United States government include government contract cases, tax refund appeals, unlawful takings, and civilian and military pay cases." Ibid.

[44] U.S. Administrative Office of U.S. Courts, *U.S. Court of International Trade—Judicial Business 2018*, at https://www.uscourts.gov/statistics-reports/us-court-international-trade-judicial-business-2018.

[45] Ibid.

[46] Administrative Office of U.S. Courts, "Court Role and Structure," at https://www.uscourts.gov/about-federal-courts/court-role-and-structure.

divided into judicial districts, with each district having one district court. For example, California is divided into four judicial districts—each with its own district court. Altogether there are 94 district courts.[47]

At present, there are 677 district court judgeships authorized by law.[48] Congress has authorized between 1 and 28 judgeships for each district court, with district courts serving more populous areas generally having more authorized judgeships. Among judicial districts with Article III judgeships, the Eastern District of Oklahoma (Muskogee) has the fewest number (with 1 authorized judgeship), while the district courts located in the Southern District of New York (Manhattan) and the Central District of California (Los Angeles) have the greatest number (each with 28 authorized judgeships).

U.S. district court judges are appointed by the President with the advice and consent of the Senate. Such appointments are considered to be effective for life (under Article III of the U.S. Constitution), meaning judges remain in office until they die, assume senior status, resign, retire, or are removed by Congress through the process of impeachment.

Territorial district court judges, serving the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands,[49] are also appointed by the President with the advice and consent of the Senate (under Article IV of the U.S. Constitution). These appointments, however, are not effective for life but are for a fixed 10-year term in office.

## U.S. Magistrate Judges

Certain types of trials and proceedings held by district courts can also be conducted by magistrate judges.[50] A district court judge may refer certain matters to a magistrate judge (e.g., a magistrate judge may be assigned to hold a pretrial conference or an evidentiary hearing). A magistrate judge may also conduct any type of civil trial as long as the parties consent (i.e., there is *consent jurisdiction*), and they may also preside over all misdemeanor criminal trials as long as a defendant has waived his right to a trial before a district judge.[51] Magistrate judges cannot preside over felony criminal cases (but can handle pretrial matters and preliminary proceedings in such cases).[52]

[47] These include three district courts located in several U.S. territories. Specifically, there is one district court each in Guam, the Northern Mariana Islands, and the U.S. Virgin Islands. These courts were established by Congress under its authority to govern the territories granted by Article IV of the Constitution. Judges confirmed to these courts serve 10-year terms (unlike Article III U.S. district court judges, who are appointed for life unless they voluntarily leave office or are removed from office by Congress). As with Article III courts, territorial courts hear cases arising out of federal law, their decisions may be appealed to a U.S. circuit court of appeals, and their judicial nominations are referred to the Senate Judiciary Committee.

[48] This total includes 4 permanent territorial district court judgeships and 10 temporary U.S. district court judgeships. See the U.S. Courts website at http://www.uscourts.gov/JudgesAndJudgeships/AuthorizedJudgeships.aspx.

[49] Judges appointed to U.S. district courts for the District of Columbia and the Commonwealth of Puerto Rico are appointed as Article III judges (and not as territorial district court judges).

[50] The office of magistrate judge was created by the Federal Magistrates Act of 1968, in part, to provide relief to district court judges in handling their caseloads. Federal Judicial Center, "Magistrate Judges," at https://www.fjc.gov/history/judges/magistrate-judgeships.

[51] Ibid.

[52] Ibid.

As of September 2018, the Judicial Conference[53] has authorized 547 full-time magistrate judge positions, 29 part-time positions, and 3 combination clerk/magistrate judge positions.[54] Magistrate judges are non-Article III judges appointed by district court judges. Full-time magistrate judges serve a term of eight years and may be reappointed.

In 2018, magistrate judges disposed of a total of 1,219,163 matters—this included 348,421 civil matters that had been referred to them by district court judges; 17,112 civil cases in which they were the presiding judges for all proceedings by consent of the parties; 213,964 felony pretrial matters (e.g., disposing of certain types of motions); and 426,865 felony preliminary proceedings (e.g., search warrant applications).[55] Other matters disposed of by magistrate judges included Class A misdemeanor cases, petty offense cases, and cases brought by prisoners (involving, for example, habeas corpus petitions and civil rights claims).

The number of magistrate judge positions is determined by the Judicial Conference of the United States.[56] A magistrate judge is appointed by majority vote of the active district court judges serving on the court to which the magistrate judge would serve. A full-time magistrate judge serves a term of eight years and may be reappointed.[57]

## U.S. Bankruptcy Courts

Federal courts have exclusive jurisdiction over bankruptcy matters (i.e., a bankruptcy case cannot be filed in state court). Bankruptcy courts are units of the federal district courts and exercise jurisdiction over bankruptcy matters as granted by statute and referred to them by their respective district courts.[58]

In 2018, debtors filed a total of 773,375 bankruptcy petitions—a 2% decline from 2017.[59] Of all petitions filed in 2018, nonbusiness (mostly consumer) petitions accounted for approximately 97%, and business petitions accounted for 3%.[60]

As of September 2018, there were a total of 350 bankruptcy judgeships authorized by Congress (i.e., the number of bankruptcy judges is determined by Congress).[61] Bankruptcy judges are non-

[53] The Judicial Conference of the United States is the principal policymaking body for the federal courts system. The Chief Justice of the Supreme Court is the presiding officer of the conference, which comprises the chief judges of the 13 courts of appeals, a district judge from each of the 12 geographic circuits, and the chief judge of the Court of International Trade.

[54] Under 28 U.S.C. §631(c), with the approval of the Judicial Conference, a clerk or deputy clerk of a court may be appointed as a part-time magistrate judge. Administrative Office of U.S. Courts, "Status of Magistrate Judge Positions and Appointments—Judicial Business 2018," at https://www.uscourts.gov/statistics-reports/status-magistrate-judge-positions-and-appointments-judicial-business-2018.

[55] Administrative Office of U.S. Courts, "U.S. Magistrate Judges—Judicial Business 2018," at https://www.uscourts.gov/statistics-reports/us-magistrate-judges-judicial-business-2018.

[56] Through September 2018, the Judicial Conference had authorized 547 full-time magistrate judgeships, 29 part-time judgeships, and 3 combination clerk/magistrate judge positions. Administrative Office of U.S. Courts, "Status of Magistrate Judge Positions and Appointments—Judicial Business 2018," at https://www.uscourts.gov/statistics-reports/status-magistrate-judge-positions-and-appointments-judicial-business-2018.

[57] 28 U.S.C. § 631(d).

[58] Federal Judicial Center, "U.S. Bankruptcy Courts," at https://www.fjc.gov/history/courts/u.s.-bankruptcy-courts.

[59] Administrative Office of U.S. Courts, "U.S. Bankruptcy Courts—Judicial Business 2018," at https://www.uscourts.gov/statistics-reports/us-bankruptcy-courts-judicial-business-2018.

[60] Ibid.

[61] Administrative Office of U.S. Courts, "Status of Bankruptcy Judgeships—Judicial Business 2018," at https://www.uscourts.gov/statistics-reports/status-bankruptcy-judgeships-judicial-business-2018.

Article III judges appointed by the court of appeals for the circuit where the bankruptcy court is located. Judges are appointed for a term of 14 years and may be reappointed.

## U.S. Court of Federal Claims

This court had nationwide jurisdiction over various types of monetary claims against the federal government, including "those involving tax refunds, federal taking of private property for public use, pay and dismissal of federal civilian employees, pay and dismissal of military personnel, land claims brought by Native Americans and/or their tribe(s), contract disputes, bid protests, patents and copyright, congressional reference, and the National Vaccine Injury Compensation Act."[62]

Each January, pursuant to 28 U.S.C. §791(c), the clerk of the Court of Federal Claims submits to Congress a statement of all the judgments rendered by the court. The statement "notes the names of the claimants, the amounts, the dates of entry and nature of the claims, and the disposition for all judgments rendered the previous fiscal year."[63]

In 2018, filings increased in the court by 16% to 2,224. The increase was due, in part, to a 223% increase in cases involving taken property and a 30% increase in contract/injunction cases.[64]

The court consists of 16 non-Article III judges who are appointed for a term of 15 years by the President with the advice and consent of the Senate.

## Probation and Pretrial Services

Federal probation and pretrial services officers investigate and supervise defendants and offenders within the federal criminal justice system. A pretrial services officer "supervises defendants awaiting trial who are released"[65] and provides reports "upon which the court can determine the conditions of release or detention while criminal cases are pending adjudication."[66]

A probation officer "provides the court with reliable information concerning the offender, the victim, and the offense committed, as well as an impartial application of the sentencing guidelines."[67] Officers also "supervise offenders sentenced to probation, as well as offenders coming out of federal prison who are required to serve a term of supervised release."[68]

In 2018, pretrial services officers prepared 95,442 pretrial services reports for judges—an increase of 12% from 2017.[69] Of these reports, 97% were prebail reports.[70] Additionally, officers provided pretrial services supervision for approximately 23,600 defendants—an increase of 2%

[62] Administrative Office of U.S. Courts, "U.S. Courts of Federal Claims—Judicial Business 2018," at https://www.uscourts.gov/statistics-reports/us-court-federal-claims-judicial-business-2018.

[63] Ibid.

[64] Ibid.

[65] Administrative Office of U.S. Courts, *The Judiciary Fiscal Year 2020 Congressional Budget Summary*, "Overview of the Judiciary," p. 3.

[66] Ibid.

[67] Ibid.

[68] Ibid.

[69] Administrative Office of U.S. Courts, "Pretrial Services—Judicial Business 2018," at https://www.uscourts.gov/statistics-reports/pretrial-services-judicial-business-2018.

[70] Ibid.

from 2017.[71] Such supervision included providing various support services (e.g., substance abuse treatment and location monitoring) and informing the courts and U.S. attorneys of any apparent violations of release conditions.[72]

In 2018, a total of 129,706 individuals were under postconviction supervision by probation officers—a decrease of 4% from 2017.[73] Of those under postconviction supervision, 47% had been convicted of drug offenses; 18% had been convicted of property offenses; and 14% had been convicted of firearms offenses.[74] Federal probation officers also prepared 67,039 presentence investigative reports—an increase of 5% from 2017.[75]

## Defender Services

The Sixth Amendment of the U.S. Constitution guarantees the right to representation by counsel in serious criminal proceedings. The federal judiciary has, historically, exercised "responsibility for appointing counsel in federal criminal proceedings for those unable to bear the cost of representation."[76]

This account in the judiciary budget funds the operations of federal defender organizations responsible for providing representation to defendants financially unable to retain counsel in federal criminal proceedings. At present, there are 81 authorized federal defender organizations that employ more than 3,700 lawyers, investigators, paralegals, and support personnel.[77]

This account also provides funds to reimburse the services of private appointed counsel (i.e., *panel attorneys*) in federal criminal proceedings. The rates paid to panel attorneys cover both attorney compensation and office overhead.[78] There are case maximum amounts that limit the compensation paid to a panel attorney based on the type of case to which he or she is appointed.[79] Consequently, the costs associated with this account are driven, in part, by the number and type of prosecutions brought by U.S. Attorneys offices.

---

[71] Ibid.

[72] Ibid.

[73] Administrative Office of U.S. Courts, "Post-Conviction Supervision—Judicial Business 2018," at https://www.uscourts.gov/statistics-reports/post-conviction-supervision-judicial-business-2018.

[74] Ibid.

[75] Ibid.

[76] Administrative Office of U.S. Courts, *Defender Services*, at https://www.uscourts.gov/services-forms/defender-services.

[77] Ibid. There are two types of federal defender organizations. The first type, federal public defender organizations, are federal entities and their staffs are federal employees. The *chief federal public defender* is appointed to a four-year term by the court of appeals of the circuit where the federal public defender organization is located. The second type, community defender organizations, are nonprofit defense counsel organizations incorporated under state laws. These nonprofit organizations operate under the supervision of a board of directors and can, when included in a judicial district's plan to provide legal representation to indigent defendants, receive initial and sustaining grants from the federal judiciary to fund their operations. Ibid.

[78] At present, panel attorneys are paid an hourly rate of $148 on noncapital cases, and, in capital cases, a maximum hourly rate of $190. Ibid.

[79] For example, $11,500 is the maximum attorney compensation for felony cases; $3,300 is the maximum for misdemeanors; and $8,200 is the maximum for appeals. These maximums may be exceeded if higher amounts are approved by the district judge (or circuit judge if the case is at the appellate level) and the chief judge of the circuit also approves. Ibid.

## Court Security

This account provides for protective guard services and security systems and equipment for United States courthouses and other facilities housing federal court operations.

The majority of funding for court security is transferred to the U.S. Marshals Service (USMS), which is responsible for ensuring "the safe and secure conduct of judicial proceedings" and for providing "protection for federal judges, other court officials, witnesses, jurors, the visiting public and prisoners."[80]

At present, the Marshals protect 711 judicial facilities and approximately 2,200 federal judges.[81] The Marshals also have protective responsibility for approximately 26,000 federal prosecutors and court officials.[82] In FY2018, the Marshals assessed or handled 4,542 threats and inappropriate communications against protected persons.[83]

As part of its mission to protect the federal judicial process, the U.S. Marshals Service administers the Judicial Facility Security Program (funded by the *Court Security* account). The program "oversees the daily operation and management of security services performed by approximately 5,300 court security officers"[84] and "installs and maintains security systems for the protection of federal courthouses and other judicial facilities."[85]

## Fees of Jurors and Commissioners

This account in the judiciary's budget funds the fees and allowances provided to petit and grand jurors and compensation for jury and land commissioners.[86] Petit jurors serve on a trial jury, while grand jurors serve on a grand jury.[87] Petit jurors are paid $50 per day[88] but can, after serving 10 days on a jury, receive up to $60 per day.[89] Grand jurors are also paid $50 per day but can, after serving 45 days on a grand jury, receive up to $60 per day.[90]

---

[80] U.S. Marshals Service, *Fact Sheet – Judicial Security 2019*, at https://www.usmarshals.gov/judicial.

[81] Ibid.

[82] Ibid.

[83] Ibid.

[84] Ibid.

[85] Ibid.

[86] Land commissioners are appointed in certain types of cases to "determine the issue of just compensation arising from the deprivation of private property for public use," including cases where a district court has ordered that "compensation for condemned property be determined by a commission of three persons appointed by the court." Land commissioners are paid based on the daily equivalent of the highest rate payable under 5 U.S.C. §5332. U.S. Administrative Office of U.S. Courts, *Courts Of Appeals, District Courts, And Other Judicial Services—Fees of Jurors and Commissioners—Summary Statement Of Account Requirements*, p. 6.9, at https://www.uscourts.gov/file/25694/download.

[87] A trial jury decides "whether the defendant committed the crime as charged in a criminal case, or whether the defendant injured the plaintiff in a civil case." A grand jury "is presented with evidence from the U.S. attorney, the prosecutor in federal criminal cases. The grand jury determines whether there is 'probable cause' to believe the individual has committed a crime and should be put on trial. If the grand jury determines there is enough evidence, an indictment will be issued against the defendant." Administrative Office of U.S. Courts, *Types of Juries*, at https://www.uscourts.gov/services-forms/jury-service/types-juries.

[88] In FY2018, Congress approved the judiciary's request to increase the daily petit juror attendance fee from $40 to $50, as well as increase the daily grand juror attendance fee from $40 to $50.

[89] Administrative Office of U.S. Courts, *Juror Pay*, at https://www.uscourts.gov/services-forms/jury-service/juror-pay.

[90] Ibid.

Petit and grand jurors are also reimbursed for reasonable transportation expenses and parking fees.[91] Jurors can receive a subsistence allowance that covers their meals and lodging if they are sequestered during their service.[92]

A jury commissioner is appointed in some cases to work with the clerk of court to manage the random selection of petit and grand jurors.[93] The compensation paid to a jury commissioner is $50 per day (plus the reimbursement of reasonable expenses related to his or her service).[94]

According to the U.S. Administrative Office of U.S. Courts, "costs associated with this account can be unpredictable and are driven by the number of jury trials, the length of those trials, and statutory rates for reimbursement paid to jurors."[95]

## Vaccine Injury Compensation Trust Fund

The National Childhood Vaccine Injury Act of 1986[96] created a program to provide compensation to people found to be injured by certain vaccines.[97] The program "is designed to encourage vaccination by providing a streamlined system for compensation in rare instances where an injury results from vaccination"[98] and provides "an alternative to traditional products liability and medical malpractice litigation for persons injured by their receipt or one or more of the standard childhood vaccines."[99]

The program, according to the Department of Justice, "has succeeded in providing a less adversarial, less expensive, and less time-consuming system of recovery than the traditional tort system that governs medical malpractice, personal injury, and product liability cases."[100]

The Vaccine Injury Compensation Trust Fund provides funding for the compensation program, covering claims related to vaccine-related injuries or deaths for covered vaccines administered on or after October 1, 1988. An individual who believes he or she has been injured by a covered vaccine can seek compensation from the fund by filing a claim against the Secretary of the Department of Health and Human Services in the U.S. Court of Federal Claims.[101] Since the program began in 1988, over 6,000 individuals have received more than $3.9 billion (combined) for such claims.[102]

---

[91] Ibid.

[92] Ibid.

[93] 28 U.S.C. §1863.

[94] 28 U.S.C. §1863 (b)(1).

[95] Administrative Office of U.S. Courts, *The Judiciary Fiscal Year 2020 Congressional Budget Summary*, p. 43, at https://www.uscourts.gov/sites/default/files/fy_2020_congressional_budget_summary_0.pdf.

[96] 42 U.S.C. §§300aa-1 to 300aa-34.

[97] The program "was established after lawsuits against vaccine manufacturers and healthcare providers threatened to cause vaccine shortages and reduce vaccination rates." U.S. Department of Health and Human Services, Health Resources and Service Administration, *About the National Vaccine Injury Compensation Program*, at https://www.hrsa.gov/vaccine-compensation/about/index.html.

[98] U.S. Department of Justice, *Vaccine Injury Compensation Program*, at https://www.justice.gov/civil/vicp.

[99] Ibid.

[100] Ibid.

[101] Ibid.

[102] Ibid. This also includes compensation for claims that were settled. The Health Resources and Services Administration notes that "even in cases in which" a vaccine is not found to have caused an injury, a petitioner "may receive compensation through a settlement." U.S. Department of Health and Human Services, Health Resources and

The Department of the Treasury manages the fund's investments and produces a monthly *Vaccine Injury Compensation Report*.[103]

## Administrative Office of the U.S. Courts

The Administrative Office of U.S. Courts (AO) "is the agency within the judicial branch that provides a broad range of legislative, legal, financial, technology, management, administrative, and program support services to federal courts."[104] A main responsibility of AO is to provide staff support and counsel for the Judicial Conference, the national policymaking body for the federal courts, and the Conference's committees.

With input from the Judicial Conference, AO also develops the annual judiciary budget for submission by the President and approval by Congress.

## Federal Judicial Center

As the federal judiciary's research and education entity, the Federal Judicial Center (FJC) "develops orientation and continuing education programs for judges and other court personnel. It also studies judiciary operations and recommends to the Judicial Conference how to improve the management and administration of the federal courts."[105]

The operations of the FJC are "overseen by a board of directors whose members are the Chief Justice, the director of the Administrative Office, and seven judges chosen by the Judicial Conference."[106]

## United States Sentencing Commission

The United States Sentencing Commission is an independent agency that is located within the federal judiciary. It was created by Congress in 1984 "to reduce sentencing disparities and promote transparency and proportionality in sentencing."[107] As such, the commission establishes and amends sentencing guidelines for the federal criminal justice system, as well as "monitors sentencing recommendations by probation officers and operates an information center on sentencing practices."[108]

---

Service Administration, *About the National Vaccine Injury Compensation Program*, at https://www.hrsa.gov/vaccine-compensation/about/index.html.

[103] These reports are available at https://www.treasurydirect.gov/govt/reports/tfmp/vaccomp/vaccomp.htm.

[104] Administrative Office of U.S. Courts, *Judicial Administration*, at https://www.uscourts.gov/about-federal-courts/judicial-administration.

[105] Ibid.

[106] Ibid.

[107] United States Sentencing Commission, *About the Commission*, at https://www.ussc.gov.

[108] Administrative Office of U.S. Courts, *Judicial Administration*, at https://www.uscourts.gov/about-federal-courts/judicial-administration. For FY2018, 87.8% of federal offenders received a sentence of imprisonment (and no other type of sentence); 6.4% received probation (and no other type of sentence); 3.0% received a sentence of imprisonment and alternatives; 2.0% received probation and alternatives; and 0.8% received a fine (and no other type of sentence). United States Sentencing Commission, *U.S. Sentencing Commission's 2018 Sourcebook of Federal Sentencing Statistics*, 2018 Sentencing Information, Sentence Type for Federal Offenders, Figure 6, at https://www.ussc.gov/research/sourcebook-2018.

The commission consists of seven voting members appointed by the President and confirmed by the Senate, with members serving staggered six-year terms.[109] No more than four members of the commission can be members of the same political party, and at least three members must be federal judges.[110] In order for a sentencing guideline to be amended, the amendment must receive the affirmative votes of four members of the commission.[111]

The commission has a staff of approximately 100 employees.[112] The commission is also advised by "four standing advisory groups representing the views of practitioners, probation officers, victims, and tribal lands."[113] The purpose, in part, of the advisory group representing the views of tribal lands is to provide the commission "its views on federal sentencing issues related to American Indian defendants and victims and to offenses committed in Indian Country."[114]

# Selected Courts Not Funded by the Judiciary Budget

Three specialized courts within the federal court system are *not* funded under the judiciary budget: the U.S. Court of Appeals for the Armed Forces (funded in the Department of Defense appropriations bill), the U.S. Court of Appeals for Veterans Claims (funded in the Military Construction, Veterans Affairs, and Related Agencies appropriations bill), and the U.S. Tax Court (funded under Independent Agencies, Title V of the FSGG bill). Additionally, federal courthouse construction is funded within the General Services Administration account under Independent Agencies, Title V of the FSGG bill.

# Ongoing Policy Issues for FY2020

## Number of U.S. District and Circuit Court Judgeships

Congress determines through legislative action both the size and structure of the federal judiciary. Consequently, the creation of any new permanent or temporary U.S. circuit and district court judgeships must be authorized by Congress.

The Judicial Conference of the United States, the policymaking body of the federal courts, makes biennial recommendations to Congress that identify any circuit and district courts that, according to the Conference, require new permanent judgeships to appropriately administer civil and criminal justice in the federal court system. In evaluating whether a court might need additional judgeships, the Judicial Conference examines whether certain caseload levels have been met, as well as court-specific information that might uniquely affect a particular court.

The Judicial Conference's most recent recommendation, released in March 2019, calls for the creation of five permanent judgeships for the U.S. Court of Appeals for the Ninth Circuit (composed of California, eight other western states, and two U.S. territories). The Conference

[109] United States Sentencing Commission, *About—Organization*, at https://www.ussc.gov/about/who-we-are/organization.

[110] Ibid. Additionally, the Attorney General, or the Attorney General's designee, and the Chair of the U.S. Parole Commission are each *ex officio*, nonvoting members of the commission.

[111] Ibid.

[112] Ibid.

[113] United States Sentencing Commission, *About*, at https://www.ussc.gov/about-page.

[114] United States Sentencing Commission, *Advisory Groups—Tribal Issues Advisory Group*, at https://www.ussc.gov/about/who-we-are/advisory-groups.

also recommends creating 65 permanent U.S. district court judgeships, as well as converting 8 temporary district court judgeships to permanent status.[115]

According to the Judicial Conference, since the enactment of the most recent omnibus judgeship bill in 1990 (P.L. 101-650), the number of U.S. circuit court judgeships has remained at 179 while appellate court case filings increased by 15% through the end of FY2018. During this same time period, Congress enacted legislation that increased the number of permanent and temporary district judgeships by 4% (from 645 to 673) while district court case filings increased by 39%.[116] In terms of specific types of cases, civil cases increased by 34% during the same period, and cases involving criminal felony defendants increased by 60%.[117]

The House Appropriations Committee, in its report that accompanied the committee's recent passage of the FSGG funding bill, noted that the Judicial Conference recently recommended the creation of a "significant number of new Article III judgeships" for the nation's circuit and district courts.[118] The committee also expressed its concern that, "absent executive and congressional action to fill existing judicial vacancies and the passage of comprehensive bipartisan legislation to create new judgeships, the ability of the federal courts to administer justice in a swift, fair, and effective manner could be compromised."[119]

## Judicial Security

There is ongoing congressional interest in the safe conduct of court proceedings and the security of federal judges. Congress has, in the past, appropriated funds specifically to enhance the personal security of judges. For example, an FY2005 supplemental appropriations act included a provision providing funds for home intrusion detection systems for federal judges.[120] Additionally, the Court Security Improvement Act of 2007 included various measures to enhance security for judges and court personnel, as well as courtroom safety for the public.[121] The act, for example, amended 18 U.S.C. §930(e)(1) to prohibit the possession of dangerous weapons (other than firearms, which were already prohibited) in federal court facilities.

The judiciary works closely with the U.S. Marshals Service (USMS) to ensure that adequate protective policies, procedures, and practices are in place for the federal courts. As discussed in the text above, the Marshals are largely responsible for protecting federal courthouses, judges, and other judicial employees. In FY2018, after the USMS assessed the level of danger in explicit threats and inappropriate communications directed at judges and other court officers, there were

[115] For additional information about the Judicial Conference's recent recommendation, see CRS Report R45899, *Recent Recommendations by the Judicial Conference for New U.S. Circuit and District Court Judgeships: Overview and Analysis*, by Barry J. McMillion.

[116] Judicial Conference of the United States, letter to the Honorable Lindsey Graham, Chairman, Senate Committee on the Judiciary, May 14, 2019, Appendix 2, p. 1.

[117] Ibid.

[118] House Appropriations Committee, H.Rept. 116-122, p. 41.

[119] Ibid.

[120] P.L. 109-13 (May 11, 2005). In FY2018, the Judicial Security Division (JSD) of the U.S. Marshals Service maintained more than 1,600 residential security systems in judges' personal residences. U.S. Marshal Service, "Judicial Security," at https://www.usmarshals.gov/judicial.

[121] P.L. 110-177 (January 7, 2008).

531 predicated protective investigations opened "based on the presence of or potential for criminal activity."[122]

The House Appropriations Committee, in the report accompanying its markup of the FY2020 judiciary budget, states that the committee considers it a priority to improve the physical security of federal judicial facilities and "to ensure the integrity of the judicial process."[123]

## Cost Containment by the Judiciary

The judiciary continues the cost containment initiatives that it began in 2004. Specific areas of focus for containing costs include office space rental, personnel expenses, information technology, and operating costs.[124]

Of particular focus by the judiciary is an effort to cut costs associated with office space and rental payments. The Administrative Office of U.S. Courts (AO) announced in December 2018 that the federal judiciary "has succeeded dramatically in its five-year quest to reduce building space and rent costs, exceeding its original reduction goals by nearly 30 percent."[125] Additionally, AO noted that "rent has been cut more than $36 million a year,"[126] with additional savings anticipated in the future.

In its FY2020 budget summary, the Administrative Office of U.S. Courts (AO) emphasized that, as of September 30, 2018, approximately 1.1. million usable square feet had been removed from the judiciary's rent bill.[127]

Examples of the judiciary's space reduction campaign include the following:

- The bankruptcy court for the District of New Hampshire "was relocated from leased space in Manchester into the District Court in Concord, NH. Savings: 20,000 square feet."[128]
- In New York, the bankruptcy court in Buffalo "relocated into the district courthouse. In Manhattan, the Bankruptcy Court reduced space by digitizing paper records. Combined savings: 39,000 square feet."[129]
- The bankruptcy court in San Francisco "saved over 25,000 square feet and $1.5 million in annual rent by moving into the Phillip Burton Federal Building and U.S. Courthouse."[130]
- Courthouse "library reductions in Camden, NJ; Wilmington, DE; Harrisburg, PA; Philadelphia; and U.S. Virgin Islands saved over 18,000 square feet."

[122] U.S. Marshals Service, "Judicial Security," at https://www.usmarshals.gov/judicial.

[123] House Appropriations Committee, H.Rept. 116-122, p. 38.

[124] Administrative Office of U.S. Courts, *The Judiciary Fiscal Year 2020 Congressional Budget Summary*, pp. iii-iv.

[125] Administrative Office of U.S. Courts, "Judiciary Succeeds in Campaign to Cut Space and Rents," at https://www.uscourts.gov/news/2018/12/11/judiciary-succeeds-campaign-cut-space-and-rents.

[126] Ibid.

[127] Administrative Office of U.S. Courts, *The Judiciary Fiscal Year 2020 Congressional Budget Summary*, pp. iii-iv.

[128] Administrative Office of U.S. Courts, "Judiciary Succeeds in Campaign to Cut Space and Rents," at https://www.uscourts.gov/news/2018/12/11/judiciary-succeeds-campaign-cut-space-and-rents.

[129] Ibid.

[130] Ibid.

- The Sixth Circuit's library headquarters in Cincinnati "relocated to space formerly used for Clerk's Office file storage. Total savings: 15,000 square feet."[131]
- Courthouses for which there was no permanently assigned judge (i.e., *non-resident courthouses*) "were closed in Bryson City, NC; Wilkesboro, NC; Beaufort, SC; and Parkersburg, WV. Total savings: over 35,000 square feet."[132]
- "In Miami, 33,000 square feet and $900,000 in annual rent were saved by relocating the Bankruptcy Court into the C. Clyde Atkins U.S. Courthouse. Two magistrate judges were relocated, and a circuit library and jury assembly area were vacated."[133]

The Administrative Office of U.S. Courts also noted that, in addition to space reduction, the judiciary has "undertaken significant efforts to develop alternative organizational models that may result in cost savings, including expanding shared administrative services within and among" district courts.[134]

The House Appropriations Committee noted in its report that it recognizes the judiciary's "cost containment efforts over the past 12 years and is pleased with the [its] savings and cost avoidance."[135] The committee notes, specifically, that the reduction of usable square feet from the judiciary's rent bill "equates to an annual cost avoidance of nearly $36,000,000 and $105,000,000 over the past five years."[136]

## Author Information

Barry J. McMillion
Analyst in American National Government

## Acknowledgments

Raymond Williams, former Research Assistant for the Congress and Judiciary Section, assisted with data presented in this report.

[131] Ibid.

[132] Ibid.

[133] Ibid.

[134] Administrative Office of U.S. Courts, *The Judiciary Fiscal Year 2020 Congressional Budget Summary*, pp. iii-iv.

[135] House Appropriations Committee, H.Rept. 116-122, p. 38.

[136] Ibid.

## Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.