

STATEMENT OF
THE HONORABLE TIMOTHY TYMKOVICH
JUDGE, UNITED STATES COURT OF APPEALS FOR THE
TENTH CIRCUIT
on behalf of
THE JUDICIAL CONFERENCE OF THE UNITED STATES



BEFORE THE COMMITTEE ON THE JUDICIARY
THE SUBCOMMITTEE ON COURTS, INTELLECTUAL
PROPERTY, ARTIFICIAL INTELLIGENCE, AND THE
INTERNET
UNITED STATES HOUSE OF REPRESENTATIVES
“JUSTICE DELAYED: THE CRISIS OF UNDERMANNED
FEDERAL COURTS”

FEBRUARY 25, 2025

Administrative Office of the U.S. Courts, Office of Legislative Affairs
Thurgood Marshall Federal Judiciary Building, Washington, DC 20544
202-502-1700

This page intentionally left blank.

Chairman Issa, Ranking Member Johnson, and members of the Committee:

Good morning, I am Tim Tymkovich, Judge on the Tenth Circuit Court of Appeals, appearing by designation of the Secretary of the Judicial Conference of the United States and on its behalf. I appreciate your invitation to appear today to discuss the growing shortage of Article III judgeships and its harmful effect on the American public. The judgeship needs of the federal Judiciary is an area of particular expertise for me as a former chair of the Judicial Conference's Committee on Judicial Resources, which has primary responsibility for the Judicial Conference's rigorous, independent process for evaluating judgeship needs.

My testimony today has three main purposes: (1) to help Congress understand the implications of the Judiciary lacking a sufficient number of judges; (2) to explain the process by which the Judicial Conference determines those needs, and (3) to identify the judgeship needs of the district and appellate courts. I will also discuss the bipartisan progress made on this issue last year and the misconceptions expressed in statements from the previous administration.

Implications of Judgeship Shortfalls

The shortage of judges is having a profound effect on the American public as caseloads continue to grow and judges across the nation are faced with increasingly complex litigation. The shortage is causing significant delays for litigants seeking to resolve cases in court, especially civil cases such as copyright, trademark, patent, and contract disputes, which may take years to get to trial. Over the past 20 years, the number of civil cases pending more than three years rose 346 percent (by 63,337 cases) from 18,280 on March 31, 2004, to 81,617 on March 31, 2024. In some of our country's busiest district courts, the time between filing and disposition for a civil trial is four or five years, compared to 20 years ago, when the time was less than 22 months.

Delays increase expenses for civil litigants and may increase the length of time criminal defendants are held pending trial.¹ The result may be defendants spending more time behind bars before a jury can decide their cases, and a greater burden on victims and their families waiting for criminal cases to resolve, especially those involving violent crime.

Substantial delays chip away at the public's respect for the Judiciary and erode public confidence in the judicial process and the timely administration of justice. The problem is so severe that potential litigants may be avoiding federal court altogether, not having the resources or time to wait for their case to be heard or resolved. One cannot imagine the situation will improve on its own, without additional judges.

The problem cannot be addressed just by adding magistrate judges, or hoping senior and visiting judges will lessen the workload and reduce the need for more judgeships. Magistrate judges, senior judges, and visiting judges make valuable contributions to the work of district courts and can sometimes help alleviate workload problems. However, magistrate judges' jurisdiction is limited, and senior judges have complete discretion to determine the number and types of cases that they are willing to assist with. Furthermore, the Judicial Conference process for determining the workload needs of the courts already takes into account the substantial contributions that magistrate judges, senior judges, and visiting judges are making.

Bipartisan cooperation to address the public's need for additional judgeships

I next recap the bipartisan efforts to address judgeships in the last Congress, and address some misconceptions that were articulated by the administration when it unexpectedly objected

¹ District courts must prioritize their limited resources to resolve criminal cases as required under the Sixth Amendment and the Speedy Trial Act. However, with escalating discovery demands and insufficient judgeships, even criminal cases are taking more time to resolve than they did just five years ago. Over five years from March 31, 2019, to March 31, 2024, the median time from filing to disposition in a criminal felony case increased from just under 7 months to over 11 months, a more than 60 percent increase.

to the judgeship legislation at the very end of the legislative process.

I would like to thank you and your many other colleagues in Congress for your bipartisan support of the “Federal Judiciary Stabilization Act” last Congress, which passed the House 390-0. That law converted the existing ten temporary district judgeships in the Northern District of Alabama, the District of Arizona, the Central District of California, the Southern District of Florida, the District of Kansas, the Eastern District of Missouri, the District of New Mexico, the Western District of North Carolina, the Eastern District of Texas, and the District of Hawaii to permanent district judgeships, ensuring that those district courts, many of which were already struggling to keep up with their caseloads with their current number of judges, did not lose much-needed judicial resources.

We were disappointed that the “Judicial Understaffing Delays Getting Emergencies Solved Act of 2024” (JUDGES Act) was not signed into law but appreciate that Congress is trying to legislate this very important issue for the Third Branch.

Since your work last Congress, the shortage of judges in the federal courts is not fundamentally changed, nor is the resulting hardship faced by the American public. Indeed, since the last comprehensive judgeship bill was passed 35 years ago, civil caseloads in the district courts have grown by more than 30 percent, while the number of sitting judges has increased only four percent. In many parts of the country, the consequence falls upon the American public as citizens are forced to wait longer and longer to get their day in federal court.

This urgent problem can be solved by the few additional new judgeships per year, over the next 10 years, as proposed by the JUDGES Act. It would be only a small net increase in the regular rate of judicial turnover but would have a significant positive impact on the lives of American citizens who rely on the efficient administration of justice.

Statement of Administration Policy on the JUDGES Act

I would like to provide clarifications and information in response to the Statement of Administration Policy (SAP) issued on December 10, 2024, by the Office of Management and Budget on the JUDGES Act. The SAP stated “[w]hile judicial staffing is important to the rule of law, S. 4199 is unnecessary to the efficient and effective administration of justice.” Additional district court judgeships are, in fact, necessary to the efficient and effective administration of justice and for improving access to justice. District court filings have grown by 30 percent since 1990, with only a four percent increase in the number of authorized judgeships. This has contributed to significant delays in the resolution of cases and serious access to justice concerns. The SAP further stated that “[t]he bill would create new judgeships in states where Senators have sought to hold open existing judicial vacancies.” States with existing judicial vacancies, however, still need additional district court judgeships. Access to justice, based on caseload and judicial economy, is the primary motivating force behind the Judicial Conference’s recommendation for these new judgeships. The request and recommendation of the Conference are not based on existing or anticipated vacancies. So even if all the open existing judicial vacancies were filled, the Conference would still request the additional new judgeships. In other words, vacancies make a bad situation worse, rather than making an adequate situation bad.

The SAP additionally stated that “neither the House nor the Senate fully explored how the work of senior status judges and magistrate judges affects the need for new judgeships.” As explained above, the Conference review process incorporates the work of senior and magistrate judges into its recommendations. Senior and magistrate judges have been crucial to helping the district courts manage their growing caseloads for the past 30 years but have limitations—as I mentioned earlier, senior judges have discretion to determine the number of types of cases that they are willing to assist with, and magistrate judge jurisdiction is limited by statute—and do not

diminish the need for additional district court judges. Finally, the SAP stated that the bill was “[h]astily adding judges.” The legislation was not hastily drawn up, but was the product of years of study, analysis, and congressional review, including consideration of the work of senior, visiting, and magistrate judges.

The Judicial Conference Recommendation for Additional Judgeships

Every other year, the Judicial Conference conducts a survey of the judgeship needs of the federal courts of appeals and district courts. The latest survey presented to the Judicial Conference was in March 2023.² Consistent with the findings of that survey and the deliberations of the Committee on Judicial Resources of the Judicial Conference,³ the Judicial Conference recommended that Congress establish two new judgeships in one court of appeals and 66 new judgeships in 25 district courts. Table 1, below, as well as Appendix 1, which I am submitting with my written statement, contains the specific recommendation for each court.

The Judicial Conference will consider updated Article III judgeship recommendations in March 2025, which it will transmit to Congress shortly thereafter. The change in recommendation from biennial survey to survey is typically small, with the recommendation for most courts staying relatively consistent.

² The Judicial Conference will consider a new recommendation at its meeting in March. The Conference will provide the new recommendation, which may differ slightly from the 2023 recommendation overall and in some individual district courts, as soon as it has been approved.

³ The Committee on Judicial Resources of the Judicial Conference of the United States has jurisdiction to consider all issues of human resource administration in the Judiciary, including the need for Article III judges and support staff in the federal courts of appeals and district courts.

TABLE 1. ADDITIONAL JUDGESHIPS RECOMMENDED BY THE JUDICIAL CONFERENCE

2023

CIRCUIT/DISTRICT	AUTHORIZED JUDGESHIPS	JUDICIAL CONFERENCE RECOMMENDATION
U.S. COURTS OF APPEALS		2
NINTH	29	2
U.S. DISTRICT COURTS		66
ARIZONA	13	2
CALIFORNIA, CENTRAL	28	9
CALIFORNIA, EASTERN	6	4
CALIFORNIA, NORTHERN	14	6
CALIFORNIA, SOUTHERN	13	2
COLORADO	7	2
DELAWARE	4	2
FLORIDA, MIDDLE	15	5
FLORIDA, NORTHERN	4	1
FLORIDA, SOUTHERN	18	3
GEORGIA, NORTHERN	11	2
IDAHO	2	1
INDIANA, SOUTHERN	5	1
IOWA, NORTHERN	2	1
NEBRASKA	3	1
NEW JERSEY	17	3
NEW YORK, EASTERN	15	2
NEW YORK, SOUTHERN	28	2
NEW YORK, WESTERN	4	1
OKLAHOMA, EASTERN	1.5	2
OKLAHOMA, NORTHERN	3.5	1
TEXAS, EASTERN	8	2
TEXAS, NORTHERN	12	1
TEXAS, SOUTHERN	19	4
TEXAS, WESTERN	13	6

Caseload Information

The decades-long gap in significant judgeship authorizations we are currently experiencing is unusual in American history. Judgeship bills addressing an increasing caseload were enacted in 1966, 1970, 1978, and again in 1984. The last comprehensive judgeship bill for the U.S. courts of appeals and district courts was enacted in 1990. Smaller, targeted bills were enacted between 1999 and 2003 when Congress created a total of 34 additional judgeships in the

district courts (9 in fiscal year 2000, 10 in fiscal year 2001, and 15 in fiscal year 2003). It has now been more than 20 years since any judgeships were added.

The enactment of Public Law 101-650 in 1990 established 11 additional judgeships for the courts of appeals and 74 additional judgeships for the district courts. Between that time and the end of fiscal year 2022, adjusted filings in the court of appeals where the Judicial Conference is recommending additional judgeships were 588 per panel, far exceeding the Conference standard of 500 per panel. In the district courts, filings had grown by 30 percent (civil cases up 30 percent and criminal felony defendants were higher by 27 percent) since the last comprehensive judgeship legislation was enacted in 1990. Were it not for the assistance provided by senior, visiting, and magistrate judges, the courts of appeals and district courts would not have been able to keep pace with this increase in filings. For a more detailed description of the most significant changes in the caseload since 1991, see Appendix 2.

Although the national figures provide a general indication of system-wide needs, the Judicial Conference judgeship recommendations are based on relevant caseload information for each specific court. The judgeship needs of a particular court, however, require a more focused analysis of court-specific data. Indeed, in districts where the Conference has recommended additional judgeships, the need is much more dramatic compared to the national figures.

For the 25 district courts where the Judicial Conference has recommended additional judgeships, weighted filings averaged 649 per judgeship and nine courts have weighted filings above 500 per judgeship, five courts above 600, and three courts above 800. These are well beyond our standard of 430 for considering new judgeships.

For the circuit court where the Judicial Conference is recommending additional judgeships, adjusted filings were 588 per panel compared to the national average of 499 per panel.

Survey Process

In developing these recommendations for consideration by Congress, the Judicial Conference (through its committee structure) uses a formal process to review and evaluate Article III judgeship needs. The Committee on Judicial Resources and its Subcommittee on Judicial Statistics conduct these reviews, but the Judicial Conference makes the final recommendations on judgeship needs. Each judgeship recommendation undergoes careful consideration and review at six levels within the Judiciary, beginning with the judges of the particular court making a request. Next, the Subcommittee on Judicial Statistics conducts a preliminary review of the request and either affirms the court's request or offers its own modified recommendation, based on the court's workload and other contributing factors. The Subcommittee's recommendation and the court's initial request then are forwarded to the judicial council of the circuit in which the court is located for its review.

After the circuit judicial council's review, the Subcommittee on Judicial Statistics conducts a final review of the request and/or recommendation, taking into account any recent caseload changes and feedback from the court and circuit judicial council. The full Committee on Judicial Resources then makes a final recommendation to the Judicial Conference. In the 2023 survey, the courts requested 89 additional permanent judgeships. Our review procedure reduced the number of recommended additional judgeships to 68. By conducting these thorough surveys biennially, the Conference ensures our requests are up-to-date and reliable.

Judicial Conference Caseload Standards

The recommendations developed through this review process described above (and in more detail in Appendix 3) are based in large part on standards related to the caseload of the courts, but these standards do not by themselves fully describe each court's needs. The standards are merely the starting point in the process, not the end point. The caseload standards are expressed as filings per authorized Article III judgeship, which assumes that all judicial vacancies are filled. Thus, even though they don't contribute to our judgeship analysis, vacancies can create a very significant additional strain districts where they occur, magnifying the burdens created by insufficient judgeships. For example, in September 2022, there were nine vacancies in the courts of appeals and 68 vacancies in district courts, including 28 in districts for which the Judicial Conference requested additional judgeships.

Caseload statistics must be considered and weighed with other court-specific information to arrive at a sound measurement of each court's judgeship needs. Circumstances that are unique, transitory, or ambiguous are carefully considered so as not to result in an overstatement or understatement of actual burdens. The Conference process therefore takes into account additional factors, including the following:

- the number of senior judges available to a specific court, their ages, and levels of activity;
- available magistrate judge assistance;
- geographical factors, such as the size of the district or circuit and the number of places of holding court;
- unusual caseload complexity;
- temporary or prolonged caseload increases or decreases;
- the use of visiting judges;
- the use of inter-circuit and intra-circuit assignments; and

- any other factors noted by individual courts (or identified by the Subcommittee on Judicial Statistics) as having an impact on the need for additional judicial resources. (for example, the presence of high-profile financial fraud and bribery prosecutions, the number of multiple defendant cases, and the need to use court interpreters in a high percentage of criminal proceedings).

Courts requesting additional judgeships are asked about their efforts to make use of all available resources. The Judicial Conference also looks at the effort each court has undertaken to manage the workload before requesting additional judgeships, including, for example, the use of alternative dispute resolution techniques.

District Court Analysis

For the district courts, the Judicial Conference, after accounting for the additional judgeship(s) requested by the court, initially calculates the number of weighted filings per judgeship to gauge the impact of the additional judgeships on the district. Weighted filings are used as a means of accounting for the varying complexity of different types of civil and criminal filings and differences in the time required for judges to resolve various types of civil and criminal actions. Rather than counting each case as the same, weights are applied based on the nature of cases. The total for “weighted filings per judgeship” is the sum of all weights assigned to civil cases and criminal defendants (and related proceedings like supervised release hearings), divided by the number of authorized judgeships. Please note that the weighted filings and caseload data mentioned in my testimony are from September 2022, consistent with what the Judicial Conference included with the March 2023 recommendations when they were sent to Congress.

The Judicial Conference uses a benchmark standard of 430 weighted filings per judgeship, as a minimum remaining workload that would result after additional requested judgeship(s) when considering requests for additional district court judgeships for courts with five or more authorized judgeships, and a standard of 500 weighted filings per judgeship for

courts with fewer than five authorized judgeships. For example, a court with seven authorized judgeships that is requesting an eighth would typically need its weighted filings to be above 430 when dividing its total weighted filings by eight. Applying these standards, the Judicial Conference recommended 66 new district judgeships in 25 districts. Even with these additional judgeships, weighted filings would still be 450 per judgeship or higher in 12 district courts. Weighted filings would exceed 500 per judgeship in nine district courts.

Appellate Court Analysis

In the courts of appeals, the Judicial Conference uses a standard of 500 adjusted filings per panel, remaining after any new requested judgeships, as its starting point. Adjusted filings are calculated by removing reopened appeals and counting original pro se appeals as one-third of a case. In the Ninth Circuit Court of Appeals, for which the Conference is recommending two additional judgeships, the caseload levels substantially exceed the standard. Even with the two additional judgeships recommended by the Judicial Conference, the caseload in the Ninth Circuit Court of Appeals would far exceed 500 adjusted filings per panel.

Conclusion

Over the last three decades, the Judicial Conference has refined the process for evaluating and recommending judgeship needs in response to both Judiciary and congressional concerns. The Judicial Conference does not recommend, need, or want indefinite growth in the number of judges. It recognizes that growth in the Judiciary should be limited to the number of new judgeships that are necessary to exercise federal court jurisdiction. The Judicial Conference attempts to balance the need to control growth with the need to seek resources that are

appropriate to the Judiciary's caseload. Therefore, we have requested far fewer judgeships than the caseload increases, and other factors, would suggest are now required.

As always, the Judicial Conference of the United States is grateful for your consideration of its Article III judgeship recommendations. Thank you for the opportunity to provide testimony on the need for new federal judges and for your continued support of the federal Judiciary. I am happy to respond to your questions.

ADDITIONAL JUDGESHIPS RECOMMENDED BY THE JUDICIAL CONFERENCE
2023

CIRCUIT/DISTRICT	AUTHORIZED JUDGESHIPS	JUDICIAL CONFERENCE RECOMMENDATION	ADJUSTED FILINGS PER PANEL/WEIGHTED FILINGS PER AUTHORIZED JUDGESHIP
U.S. COURTS OF APPEALS		2	ADJUSTED FILINGS
NINTH	29	2	588
U.S. DISTRICT COURTS		66	WEIGHTED FILINGS
FLORIDA NORTHERN	4	1	5,902*
TEXAS WESTERN	13	6	848
DELAWARE	4	2	834
CALIFORNIA EASTERN	6	4	675
TEXAS EASTERN	8	2	657
INDIANA SOUTHERN	5	1	639
CALIFORNIA NORTHERN	14	6	606
TEXAS SOUTHERN	19	4	606
FLORIDA SOUTHERN	18	3	589
FLORIDA MIDDLE	15	5	581
COLORADO	7	2	580
NEW YORK SOUTHERN	28	2	571
TEXAS NORTHERN	12	1	565
GEORGIA NORTHERN	11	2	565
CALIFORNIA CENTRAL	28	9	560
NEW YORK EASTERN	15	2	548
NEW JERSEY	17	3	520
ARIZONA	13	2	493
CALIFORNIA SOUTHERN	13	2	485
IDAHO	2	1	462
NEBRASKA	3	1	461
OKLAHOMA EASTERN	1.5	2	445
NEW YORK WESTERN	4	1	440
IOWA NORTHERN	2	1	425
OKLAHOMA NORTHERN	3.5	1	396

*This figure includes over 31,400 cases related to a multidistrict litigation action in which the Northern District of Florida serves as the transferee court.

CASELOAD CHANGES SINCE LAST JUDGESHIP BILL

A total of 34 additional district court judgeships has been created since 1991, but six temporary judgeships have lapsed. These changes have resulted in a four percent increase in the overall number of authorized district court judgeships, while filings have grown by 30 percent since 1991. Court of appeals judgeships have not increased since the last comprehensive judgeship bill. The following provides a summary of the most significant changes.

U.S. COURTS OF APPEALS

- The total number of appeals filed in 2022 was three percent (nearly 1,200 cases) below the number of appeals filed in 1991.
- While total criminal appeals have declined three percent since 1991, due to substantial decreases in drug and fraud cases, firearms appeals have more than doubled from 717 in 1991 to 1,574 in 2022, and the number of immigration appeals has increased from 145 to 611.
- Civil appeals have fallen 21 percent since 1991, as prisoner petitions have declined 14 percent and other types of civil appeals have decreased 25 percent. Despite the overall decline in prisoner petitions, appeals involving motions to vacate sentence have risen 23 percent since 1991.
- Despite fluctuations, the number of appeals involving administrative agency decisions has nearly doubled, growing from 2,859 in 1991 to 5,282 in 2022. The increases resulted primarily from appeals of decisions by the Board of Immigration Appeals, with the largest increase occurring in the Ninth Circuit.
- Original proceedings rose from 609 in 1991 to 3,564 in 2022, partially as a result of the Antiterrorism and Effective Death Penalty Act which requires prisoners to seek permission from courts of appeals for certain petitions. Although enacted in April 1996, data for these and certain pro se mandamus proceedings were not reported until October 1998.

U.S. DISTRICT COURTS

- Total filings have grown by over 77,000 cases, a 30 percent increase since 1991.
- The civil caseload has fluctuated but increased 30 percent overall.
 - " The largest growth in civil filings occurred in cases related to personal injury product liability which rose from 10,952 filings in 1991 to 60,062 in 2022. Many of these filings are part of multidistrict litigation actions comprising large numbers of pharmaceutical cases.

- " Intellectual property rights cases increased from 5,186 in 1991 to 12,106 in 2022, as copyright and patent cases each more than doubled.
- " Civil rights filings increased steadily after the Civil Rights Act of 1990 was enacted and reached a peak in 1997. Since that time the number of civil rights cases has fluctuated but remains nearly twice the number of filings in 1991. Since 2014, consistent growth in civil rights filings has resulted primarily from increases in cases related to the Americans with Disabilities Act.
- " Prisoner petitions, while fluctuating, have increased 10 percent, due primarily to significantly higher numbers of habeas corpus petitions and cases involving prisoner civil rights or prison conditions.
- " The number of social security cases filed has increased 58 percent since 1991.
- " Fair Debt Collection Practices Act (FDCPA) cases were first categorized separately in 2008. FDCPA filings have more than doubled from 4,239 in 2008 to 9,423 cases in 2022.
- The number of criminal felony defendants has increased 27 percent since 1991.
 - " The largest increase, by far, has been in immigration offenses which rose from 2,448 in 1991 to 19,108 in 2019.
 - " Defendants charged with firearms offenses more than doubled between 1991 and 2022, an increase of over 6,600 defendants.
 - " The number of drug-related filings fluctuated between 1991 and 2022, and at 18,836 are 15 percent below the number filed in 1991.
 - " The number of defendants charged with fraud-related offenses declined 30 percent between 1991 and 2022.
 - " Defendants charged with drug, immigration, firearms, and fraud offenses comprised 85 percent of all felony defendants in 2022.

JUDGESHIP RECOMMENDATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

JUDICIAL CONFERENCE PROCESS

In developing judgeship recommendations for consideration by Congress, the Judicial Conference, through its committee structure, uses a formal survey process to review and evaluate Article III judgeship needs, regularly and systematically. The nationwide surveys of judgeship needs are based on established criteria related to the workload of judicial officers in the courts of appeals and district courts. These reviews are conducted biennially by the Committee on Judicial Resources (Committee), with final recommendations on judgeship needs approved by the Judicial Conference.

The recommendations are based on justifications submitted by each court, the recommendations of the judicial councils of the circuits, and an evaluation of the requests by the Committee using the most recent caseload data. During each judgeship survey, the Judicial Conference reconsiders prior, but still pending, recommendations based on more recent caseload data and makes adjustments for any court where the workload no longer supports the need for additional judgeships. The Judicial Conference has also implemented a process for evaluating situations where it may be appropriate to recommend that certain positions in district courts be eliminated or left vacant when the workload does not support a continuing need for the judicial officer resource.

In general, the survey process is very similar for both the courts of appeals and the district courts. First, the courts submit a detailed justification to the Committee's Subcommittee on Judicial Statistics (Subcommittee). The Subcommittee reviews and evaluates the request and prepares a preliminary recommendation which is given to the courts and the appropriate circuit judicial councils for their recommendations. More recent caseload data are used to evaluate responses from the judicial council and the court, if a response is submitted, as well as to prepare recommendations for approval by the Committee. The Committee's recommendations are then provided to the Judicial Conference for final approval.

COURT OF APPEALS REVIEWS

At its September 1996 meeting, on the recommendation of the Judicial Resources Committee, which consulted with the chief circuit judges, the Judicial Conference unanimously approved a new judgeship survey process for the courts of appeals. Because of the unique nature of each court of appeals, the Judicial Conference process involves consideration of local circumstances that may have an impact on judgeship needs. In developing recommendations for courts of appeals, the Committee on Judicial Resources takes the following general approach:

- A. Courts are asked to submit requests for additional judgeships provided that at least a majority of the active members of the court have approved submission of the request; no recommendations for additional judgeships are made without a request from a majority of the members of the court.
- B. Each court requesting additional judgeships is asked to provide a complete justification for the request, including the potential impact on its own court and the district courts within the circuit of not getting the additional judgeships. In any instance in which a court's request cannot be supported through the standards noted below, the court is requested to provide supporting justification as to why the standard should not apply to its request.
- C. The Committee considers various factors in evaluating judgeship requests, including a statistical guide based on a standard of 500 filings (with removal of reinstated cases) per panel and with pro se appeals weighted as one third of a case. This caseload level is used only as a guideline and not used to determine the number of additional judgeships to recommend. The Committee **does not** attempt to bring each court in line with this standard.

The process allows for discretion to consider any special circumstances applicable to specific courts and recognizes that court culture and court opinion are important ingredients in any process of evaluation. The opinion of a court as to the appropriate number of judgeships, especially the maximum number, plays a vital role in the evaluation process, and there is recognition of the need for flexibility to organize work in a manner which best suits the culture of the court and satisfies the needs of the region served.

DISTRICT COURT REVIEWS

In an ongoing effort to control growth, in 1993, the Judicial Conference adopted new, more conservative criteria to evaluate requests for additional district judgeships, including an increase in the benchmark caseload standard from 400 to 430 weighted cases per judgeship. Although numerous factors are considered in looking at requests for additional judgeships, the primary factor for evaluating the need for additional district judgeships is the level of weighted filings. Specifically, the Committee uses a case weighting system¹ designed to measure judicial caseload, along with a variety of other factors, to assess judgeship needs. The Judicial Conference and the Committee review all available information on the workload of the courts and supporting material provided by the individual courts and judicial councils of the circuits. The Committee takes the following approach in developing recommendations for additional district judgeships:

- A. In 2004, the Subcommittee amended the starting point for considering requests from current weighted filings above 430 per judgeship to weighted filings in excess of 430 per judgeship *with the additional judgeships requested*. For courts with fewer than five authorized judgeships, the addition of a judgeship would often reduce the caseload per judgeship substantially below the 430 level. Thus, for small courts the 430 per judgeship standard was replaced with a standard of current weighted filings above 500 per judgeship. These caseload levels are used only as a guideline and a factor to determine the number of additional judgeships to recommend. The Committee **does not** attempt to bring each court in line with this standard.
- B. The caseload of the individual courts is reviewed to determine if there are any factors present that create a temporary situation that would not provide justification for additional judgeships. Other factors are also considered that would make a court's situation unique and provide support either for or against a recommendation for additional judgeships.
- C. The Committee reviews the requesting court's use of resources and other strategies for handling judicial workload, including a careful review of each court's use of senior judges, magistrate judges, and alternative dispute resolution, in addition to a review of each court's use of and willingness to use visiting judges. These factors and geographic considerations are used in conjunction with the caseload information to decide if additional judgeships are appropriate, and to arrive at the number of additional judgeships to recommend for each court.

¹ "Weighted filings" is a mathematical adjustment of filings, based on the nature of cases and the expected amount of judge time required for disposition. For example, in the weighted filings system for district courts, each civil antitrust case is counted as 3.72 cases while each homicide defendant is counted as 4.50 weighted cases. The weighting factors were updated by the Federal Judicial Center in June 2015 based on criminal defendants and civil cases closed in calendar year 2012.