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# Judiciary Appropriations, FY2022

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

## Judiciary Appropriations, FY2022

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; the 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 FY2022 budget request was submitted to Congress on May 28, 2021. By law, the President includes, without change, the appropriations request submitted by the judiciary in the annual budget submission to Congress.

The FY2022 budget request included \$8.12 billion in discretionary funds, representing a 5.2% increase over the FY2021 enacted level of \$7.72 billion in discretionary funds provided in the Consolidated Appropriations Act, 2021 (P.L. 116-260).

The FY2022 budget request also included \$756.5 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. 4345) on June 29, 2021, and recommended the judiciary receive a total of \$8.15 billion in discretionary funds. On July 29, 2021, the House passed the FSGG appropriations bill as part of a FY2022 consolidated appropriations bill (H.R. 4502).

The FSGG appropriations bill was not enacted prior to the beginning of FY2022 on October 1, 2021. Subsequently, the judiciary was funded through a series of continuing appropriations resolutions (through December 3, 2021, by P.L. 117-43; through February 18, 2022, by P.L. 117-70; through March 11, 2022, by P.L. 117-86; and through March 15, 2022, by P.L. 117-95).

On October 18, 2021, the Senate Appropriations Committee majority issued a press release that included, for the FSGG appropriations bill and eight other appropriations bills, links to draft bill text, explanatory statements and bill summaries. This draft FSGG bill would have provided \$8.07 billion in discretionary funds for the federal judiciary (an increase of approximately \$354 million over the enacted level for FY2021 and approximately \$78 million less than what the House recommended for FY2022).

The final FY2022 amount enacted by Congress for the federal judiciary was \$7.99 billion in discretionary funds and was included as part of Division E in the Consolidated Appropriations Act, 2022 (P.L. 117-103, March 15, 2022).

In recent years, appropriations for the judiciary have comprised 0.1% to 0.2% of the federal government's total budget authority.

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## Introduction

This report provides an overview of the federal judiciary's FY2022 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 FY2022 budget request, including

- the initial submission by the President of the judiciary's request on May 28, 2021;
- a hearing held on February 24, 2021, by the House Financial Services and General Government Appropriations Subcommittee on the FY2022 judiciary budget request;<sup>1</sup>
- the House subcommittee markup on June 24, 2021;
- the House Appropriations Committee markup on June 29, 2021;
- passage of an FSGG appropriations bill by the House on July 29, 2021, as part of a FY2022 consolidated appropriations bill;
- the enactment of several continuing resolutions during the period from September 30, 2021, to March 11, 2021;
- the Senate Appropriations Committee majority's release, on October 18, 2021, of a draft FSGG appropriations bill for FY2022; and
- enactment of FY2022 appropriations for the judiciary in the Consolidated Appropriations Act, 2022 (P.L. 117-103, March 15, 2022).

The second section of the report provides information about the specific discretionary appropriations requested by the judiciary for FY2022, 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 which are covered by other appropriations bills).

Finally, the report provides information about relevant policy issues affecting the judiciary during FY2022.

## FY2022 Consideration: Overview of Actions

This section provides an overview of the major actions involving congressional consideration of FY2022 judiciary appropriations. The final status of FY2022 judiciary appropriations is summarized in **Table 1**.

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<sup>1</sup> While the President, by law, submits the federal judiciary's appropriations request without change in his annual budget submission to Congress, the judiciary can release its budget request prior to the President's formal submission. The judiciary released its FY2022 discretionary budget request and Congressional Budget Summary in February 2021. The House Financial Services and General Government Appropriations Subcommittee held a hearing on the judiciary's request that same month, prior to the formal submission of the judiciary's request by the President on May 28, 2021.

**Table I. Overview of Congressional Consideration of Federal Judiciary’s Budget Request, FY2022**

Committee Markup		Resolution of House-Senate Differences							
House <sup>a</sup>	Senate	House Report	House Passage	Senate Report	Senate Passage	Conference Report	House	Senate	Public Law
6/29/2021 (33-24)	See table note b	H.Rept. 117-79	7/29/21 (219-208)	See table note b			3/9/22 (361-69)	3/10/22 (68-31)	3/15/22 P.L. 117-103

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

**Note:** This table provides an overview of congressional consideration of the federal judiciary’s budget request for FY2022.

- The House subcommittee held its markup of the bill, which was reported by voice vote, on June 24, 2021.
- On October 18, 2021, the Senate Appropriations Committee majority released draft bill text, explanatory statements, and bill summaries for nine regular FY2022 appropriations bills, including the FSGG bill.

## Submission of FY2022 Budget Request

The President’s proposed FY2022 budget request was submitted on May 28, 2021. It included \$8.1 billion in discretionary funds for judicial branch activities and \$756.5 million in mandatory funding for judges’ salaries and judicial retirement accounts.<sup>2</sup> By law, the judicial branch appropriations request is submitted to the President and included in the budget submission without change.<sup>3</sup>

In recent years, appropriations for the judiciary have comprised 0.1% to 0.2% of the federal government’s total budget authority.<sup>4</sup>

## House Subcommittee Hearing on FY2022 Budget Request

The House Financial Services and General Government Appropriations Subcommittee held a hearing on the FY2022 budget request on February 24, 2021.<sup>5</sup> Judge John W. Lungstrum, a senior U.S. district court judge for the District of Kansas and chairman of the Judicial Conference’s

<sup>2</sup> Office of Management and Budget, *Budget of the U.S. Government, Fiscal Year 2022, Appendix*, “Detailed Budget Estimates by Agency,” Judicial Branch, at <https://www.govinfo.gov/content/pkg/BUDGET-2022-APP/pdf/BUDGET-2022-APP.pdf>. The distinction between discretionary and mandatory appropriations is discussed further in the text.

<sup>3</sup> 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.”

<sup>4</sup> Calculations by CRS with data from Office of Management and Budget, *Historical Tables*, Table 5.2—Budget Authority By Agency: 1976–2026, at <https://www.govinfo.gov/app/collection/budget/2022/BUDGET-2022-TAB>.

<sup>5</sup> While the President, by law, submits the federal judiciary’s appropriations request without change in his annual budget submission to Congress, the judiciary can release its budget request prior to the President’s formal submission. The judiciary released its FY2022 discretionary budget request and Congressional Budget Summary in February 2021. The House Financial Services and General Government Appropriations Subcommittee held a hearing on the judiciary’s request that same month, prior to the formal submission of the judiciary’s request by the President on May 28, 2021.

Committee on the Budget, and Judge Roslynn R. Mauskopf, director of the Administrative Office of the U.S. Courts, both testified before the subcommittee regarding the judiciary’s request.<sup>6</sup>

In his opening statement, Representative Mike Quigley (IL), chairman of the subcommittee, encouraged the Judicial Conference to explore permanently expanding its livestreaming practices for certain court proceedings (which had been implemented by the judiciary to continue operations during the COVID-19 pandemic).<sup>7</sup> Chairman Quigley also expressed his interest in learning more about federal defender organizations given a recent Supreme Court decision that referred a “substantial number” of state cases to federal prosecutors.<sup>8</sup> Additionally, Chairman Quigley expressed interest in learning “more about the progress made on workplace misconduct procedures at the Judiciary and on standing up a robust new office of Judiciary Integrity.”<sup>9</sup>

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

On June 24, 2021, the House subcommittee held a markup of the FY2022 Financial Services and General Government (FSGG) bill. The subcommittee, by voice vote, recommended a total of \$8.15 billion in discretionary funds for the judiciary.<sup>10</sup>

## House Appropriations Committee Markup

On June 29, 2021, the House Appropriations Committee held a markup of the FY2022 FSGG bill.<sup>11</sup> The committee recommended \$8.15 billion in discretionary funds for the judiciary.<sup>12</sup>

The \$8.15 billion in discretionary funding recommended for the judiciary represents 28.0% of the total \$29.10 billion in discretionary funding included in the FSGG appropriations bill reported by

<sup>6</sup> 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. For more information, see Administrative Office of the U.S. Courts, “Governance & the Judicial Conference,” at <https://www.uscourts.gov/about-federal-courts/governance-judicial-conference>.

The Administrative Office of the 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.” For more information, see Administrative Office of the U.S. Courts, “Judicial Administration,” at <https://www.uscourts.gov/about-federal-courts/judicial-administration>.

<sup>7</sup> Opening statement of Rep. Mike Quigley, in U.S. Congress, House Committee on Appropriations, Subcommittee on Financial Services and General Government, *Hearing on the Judiciary’s FY 2022 Budget*, February 24, 2021, at <https://docs.house.gov/meetings/AP/AP23/20210224/111220/HHRG-117-AP23-MState-Q000023-20210224.pdf>.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.* This is not a full list of judiciary-related issues included in Rep. Quigley’s opening statement. For additional issues, see his full statement cited at the source above.

<sup>10</sup> House Appropriations Committee, “Chairman Quigley Statement at Subcommittee Markup of Fiscal Year 2022 Financial Services and General Government Funding Bill,” press release, June 24, 2021, at <https://appropriations.house.gov/news/statements/chairman-quigley-statement-at-subcommittee-markup-of-fy-2022-financial-services-and>. Note that the amount reported in the text does not include mandatory funds for salaries and benefits of certain types of judgeships. See **Table 3** and accompanying text for additional information.

<sup>11</sup> House Appropriations Committee, “Appropriations Committee Approves Fiscal Year 2022 Financial Services and General Government Funding Bill,” press release, June 29, 2021, at <https://appropriations.house.gov/news/press-releases/appropriations-subcommittee-approves-fiscal-year-2022-financial-services-and-0>.

<sup>12</sup> 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.

the committee (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 FY2022 FSGG bill was ordered reported by a roll call vote of 33-24 (H.R. 4345, H.Rept. 117-79). No amendments related to the judiciary were offered during the committee markup.

The report that accompanied the House committee’s markup addressed several issues of interest to the committee.<sup>13</sup> Specifically, the committee’s report, in part

- commended the Supreme Court for its “continued success with real-time audio oral arguments”,<sup>14</sup>
- encouraged the Supreme Court “to permit video coverage of all open sessions of the Court unless allowing such coverage in any case would violate the due process of one or more of the parties in the case before the Court”;<sup>15</sup>
- urged the Supreme Court to “adopt a Code of Conduct applicable for the Justices” and expressed its expectation “to be briefed on proposals for the adoption of a Code of Conduct within 60 days” of the appropriations act being enacted;<sup>16</sup>
- expressed its hope that “the momentum created from using technology to continue operations during the COVID-19 pandemic will continue, allowing greater public access to the courts”;<sup>17</sup> and
- expressed its concern with the “safety of all Judicial employees” and with “the number of recent attacks and threats made to Judicial staff.” The committee requested to be kept informed of the security resources needed to protect the employees of the federal judiciary.<sup>18</sup>

## Passage by the House

The FSGG appropriations bill, included as part of a FY2022 consolidated appropriations bill (H.R. 4502), was passed by a roll call vote of 219-208 in the House on July 29, 2021. No amendments were offered during House consideration that were related to the judiciary.

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<sup>13</sup> The joint explanatory statement that accompanied final enactment of the FSGG appropriations bill as part of the Consolidated Appropriations Act, 2022, does not include any language that contradicts the language used by H.Rept. 117-79 for the five issues described by the bullet points in the text.

<sup>14</sup> U.S. Congress, House Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2022*, report to accompany H.R. 4345, 117<sup>th</sup> Cong., 1<sup>st</sup> sess., July 1, 2021, H.Rept. 117-79, p.49.

<sup>15</sup> H.Rept. 117-79, p. 50.

<sup>16</sup> H.Rept. 117-79, p. 50.

<sup>17</sup> H.Rept. 117-79, p. 49.

<sup>18</sup> H.Rept. 117-79, p. 49.

## Senate Appropriations Committee Majority Release of Draft Bill Text, Explanatory Statement, and Bill Summary for FY2022 FSGG Appropriations Bill

On October 18, 2021, the Senate Appropriations Committee majority issued a press release that provided hypertext links to draft legislative text, explanatory statements, and highlights for nine FY2022 appropriations bills, including the FSGG bill.<sup>19</sup>

The Senate Appropriations Committee majority draft recommended a total of \$8.07 billion in discretionary funds for the judiciary.<sup>20</sup> The draft stated the position that the amount recommended by the committee supports “the Federal judiciary’s role of providing equal justice under the law and include[s] sufficient funds to support this critical mission.”<sup>21</sup>

## Enactment of Four Continuing Appropriations Resolutions

Final enactment of the judiciary’s budget did not occur prior to the beginning of FY2022 on October 1, 2021. Consequently, the judiciary was funded through December 3, 2021, by the Extending Government Funding and Delivering Emergency Assistance Act (P.L. 117-43, September 30, 2021). The act passed both the House and Senate on September 30, 2021. It was also signed by the President on the same date.

Congress enacted three additional continuing resolutions prior to the final enactment of FY2022 regular appropriations for the federal judiciary:

- Further Extending Government Funding Act (P.L. 117-70, December 3, 2021)—funded through February 18, 2022;
- Further Additional Continuing Resolution (P.L. 117-86, February 18, 2022)—funded through March 11, 2022; and
- Extension of Continuing Appropriations Act (P.L. 117-95, March 11, 2022)—funded through March 15, 2022.

## Final Enactment of FY2022 Regular Appropriations for the Judiciary

Enactment of the judiciary’s budget for FY2022 was included in the Consolidated Appropriations Act, 2022.<sup>22</sup> The total amount in discretionary funds appropriated for the judiciary was \$7.99 billion, while the amount in mandatory funds provided for the judiciary was \$761.3 million. The act passed the House on March 9, 2022, and passed the Senate on March 10, 2022. It was signed by the President on March 15, 2022.

<sup>19</sup> Senate Appropriations Committee, “Chairman Leahy Releases Remaining Nine Senate Appropriations Bills,” press release, October 18, 2021, at <https://www.appropriations.senate.gov/news/majority/chairman-leahy-releases-remaining-nine-senate-appropriations-bills>.

<sup>20</sup> 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.

<sup>21</sup> Senate Appropriations Committee, *Explanatory Statement for Financial Services and General Government Appropriations Bill, 2022*, October 18, 2021, [https://www.appropriations.senate.gov/imo/media/doc/FSGGRPT\\_FINAL2.PDF](https://www.appropriations.senate.gov/imo/media/doc/FSGGRPT_FINAL2.PDF).

<sup>22</sup> P.L. 117-103 (March 15, 2022).

## Joint Explanatory Statement

The joint explanatory statement that accompanied Division E of the Consolidated Appropriations Act of 2022 directs the judiciary to submit reports on various issues to the Committees on Appropriations of the House and Senate, including

- a report “on how to expand the number of judgeships in districts with the highest caseload per judge and highest number of recommended judgeships”;<sup>23</sup>
- a report “on the number of formal workplace misconduct complaints received, investigations conducted, types of misconduct alleged or found, and actions taken to address identified misconduct in each judicial circuit, separately reporting those complaints relating to claims of sexual harassment and other sexual misconduct”;<sup>24</sup> and
- a report “identifying jurisdictions that have a high number of civil jury trials and analyze whether the litigation practices, local court rules, or other factors in those jurisdictions may contribute to a higher incidence of civil jury trials.”<sup>25</sup>

## FY2022 Judiciary Budget Request

### Discretionary Appropriations

The judiciary’s FY2022 discretionary budget request totaled \$8.12 billion and represented a 5.2% increase from the \$7.72 billion in discretionary appropriations enacted by Congress for FY2021.

**Table 2** lists, for each account included in the judiciary’s discretionary budget, (1) the amount enacted by Congress for FY2021, (2) the judiciary’s FY2022 request, (3) the FY2022 amount that passed the House, (4) the FY2022 amount included in the Senate Appropriations Committee majority draft bill, and (5) the FY2022 enacted amount.

**Table 2. Judiciary Discretionary Appropriations, FY2021-FY2022**

(in millions of dollars)

	<b>FY2021 Enacted</b>	<b>FY2022 Requested</b>	<b>FY2022 House Passed</b>	<b>FY2022 Senate Committee Majority Draft Bill</b>	<b>FY2022 Enacted</b>
<b>Supreme Court (total)</b>	<b>\$105.3</b>	<b>\$107.8</b>	<b>\$108.6</b>	<b>\$108.6</b>	<b>\$112.7</b>
<i>Salaries and Expenses</i>	\$94.7	\$97.5	\$98.3	\$98.3	\$98.3
<i>Building and Grounds</i>	\$10.6	\$10.3	\$10.3	\$10.3	\$14.4
<b>U.S. Court of Appeals for the Federal Circuit</b>	<b>\$33.5</b>	<b>\$34.3</b>	<b>\$34.5</b>	<b>\$34.5</b>	<b>\$34.3</b>
<b>U.S. Court of International Trade</b>	<b>\$20.0</b>	<b>\$20.7</b>	<b>\$20.8</b>	<b>\$20.8</b>	<b>\$20.6</b>

<sup>23</sup> Joint Explanatory Statement, *Division E—Financial Services and General Government Appropriations Act 2022*, p. 24, available at <https://docs.house.gov/billsthisweek/20220307/BILLS-117RCP35-JES-DIVISION-E.pdf>.

<sup>24</sup> *Ibid.*, p. 25 (the explanatory statement also requires the report to include comparable statistics for the Administrative Office of U.S. Courts, the Federal Judicial Center, and the Sentencing Commission).

<sup>25</sup> *Ibid.*

	FY2021 Enacted	FY2022 Requested	FY2022 House Passed	FY2022 Senate Committee Majority Draft Bill	FY2022 Enacted
<b>Courts of Appeals, District Courts, and Other Judicial Services (total)</b>	<b>\$7,416.3</b>	<b>\$7,807.0</b>	<b>\$7,831.8</b>	<b>\$7,758.8</b>	<b>\$7,670.6</b>
<i>Salaries and Expenses</i>	\$5,393.7	\$5,651.4	\$5,724.4	\$5,651.4	\$5,580.1
<i>Defender Services</i>	\$1,316.2	\$1,409.6	\$1,368.2	\$1,368.2	\$1,343.2
<i>Court Security</i>	\$664.0	\$682.1	\$682.3	\$682.3	\$704.8
<i>Fees of Jurors and Commissioners</i>	\$32.5	\$53.7	\$47.0	\$47.0	\$32.6
<i>Vaccine Injury Comp. Trust Fund</i>	\$9.9	\$10.2	\$9.9	\$9.9	\$9.9
<b>Administrative Office of the U.S. Courts</b>	<b>\$95.7</b>	<b>\$100.3</b>	<b>\$103.6</b>	<b>\$100.0</b>	<b>\$98.5</b>
<b>Federal Judicial Center</b>	<b>\$29.0</b>	<b>\$31.9</b>	<b>\$32.2</b>	<b>\$30.4</b>	<b>\$29.9</b>
<b>U.S. Sentencing Commission</b>	<b>\$20.0</b>	<b>\$20.6</b>	<b>\$20.8</b>	<b>\$20.8</b>	<b>\$20.6</b>
<b>TOTAL (Judiciary)</b>	<b>\$7,719.8</b>	<b>\$8,122.6</b>	<b>\$8,152.3</b>	<b>\$8,073.9</b>	<b>\$7,987.2</b>

**Sources:** Congressional Research Service examination of data from (1) *FY2022 Judicial Branch Budget Justification*; (2) FY2022 Consolidated Appropriations Act (LHSED, AG, E&W, FSGG, Int., MCVA, THUD), H.R. 4502 (July 29, 2021); (3) draft of FSGG appropriations bill text provided by Senate Appropriations Committee at [https://www.appropriations.senate.gov/imo/media/doc/FSGGFY2022\\_Final2.PDF](https://www.appropriations.senate.gov/imo/media/doc/FSGGFY2022_Final2.PDF); and (4) FY2022 Consolidated Appropriations Act, H.R. 2471 (P.L. 117-103, March 15, 2022).

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

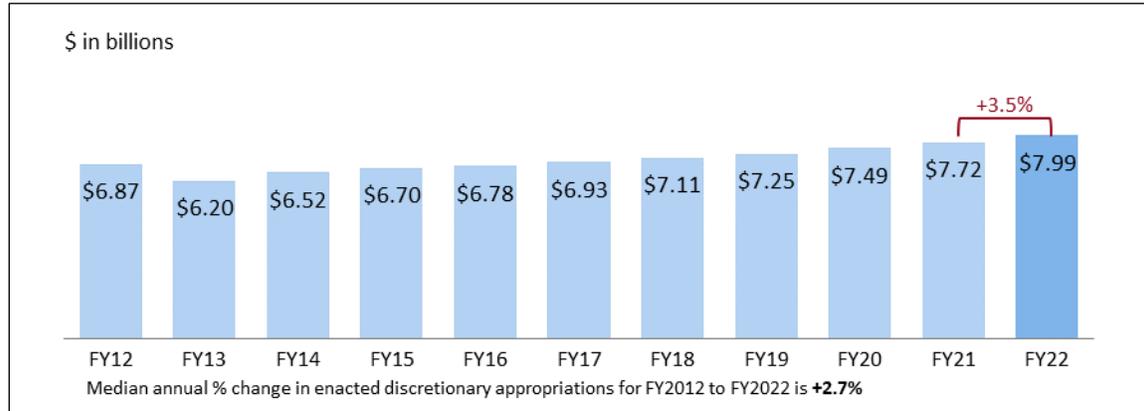
## Percentage of Judiciary's FY2022 Request Enacted by Congress

Overall, Congress enacted \$7.99 billion, or 98.3%, of the judiciary's FY2022 discretionary budget request of \$8.12 billion.<sup>26</sup> As shown by **Figure 1**, the enacted amount for FY2022 represents a 3.5% increase over the regular appropriations amount enacted by Congress for FY2021. As shown by the figure, the 3.5% increase was also greater than the median annual percentage change (an increase of 2.7%) in enacted discretionary appropriations from FY2012 to FY2022.<sup>27</sup>

<sup>26</sup> This was a slight decrease from the percentage of the judiciary's budget request that Congress enacted for FY2021, when Congress enacted \$7.72 billion, or 98.8%, of the judiciary's FY2021 budget request of \$7.82 billion.

<sup>27</sup> The amounts included in Figure 1 do not include supplemental appropriations provided to the judiciary by Congress. For example, the amount reported for FY2020 does not include supplemental appropriations provided to assist the judiciary in responding to Coronavirus Disease 2019 (COVID-19). On March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") to address the nationwide impact of COVID-19. The act, in part, provided \$7.5 million in funding for the federal judiciary to respond to the pandemic. Specifically, the CARES Act made appropriations to the federal judiciary "to prevent, prepare for, and respond to coronavirus, domestically or internationally." By law, Congress designated such appropriations to be for an emergency requirement. Three judiciary accounts received funds under the act: the *Supreme Court of the United States—Salaries and Expenses* account (\$500,000); the *Courts of Appeals, District Courts, And Other Judicial Services—Salaries and Expenses* account (\$6 million); and the *Defender Services* account (\$1 million).

**Figure I. Discretionary Judiciary Appropriations Enacted by Congress**  
(FY2012 to FY2022)



**Source:** Congressional Research Service compilation of data provided by the Administrative Office of the U.S. Courts.

**Note:** The amounts reported in the figure do not include any supplemental appropriations for the judiciary that may have been enacted during a fiscal year.

The enacted FY2022 amount for 10 of the 12 accounts was, in each case, at least 95% of the judiciary’s FY2022 request for that account.<sup>28</sup> For example, for the *U.S. Court of Appeals for the Federal Circuit* account, Congress provided \$34.3 million—representing 100% of the judiciary’s FY2022 request of \$34.3 million.

Altogether, for seven accounts, Congress appropriated less than the amount requested by the judiciary in its FY2022 budget submission.<sup>29</sup> For two accounts, Congress passed the same amount as was requested by the judiciary.<sup>30</sup> And for three accounts, Congress appropriated more than the amount requested by the judiciary in its FY2022 budget submission.<sup>31</sup>

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 section of the report titled “Courts, Programs, and Other Items Funded by the Judiciary Budget.”

### Three Largest Discretionary Accounts for FY2022

Of the judiciary’s FY2022 request for \$8.12 billion in discretionary funds (see the second column in **Table 2**), the greatest percentage was for the *Salaries and Expenses—Courts of Appeals, District Courts, and Other Judicial Services* account—representing 69.6% of the request. The second-greatest percentage was for the *Defender Services* account, representing 17.4% of the total discretionary request. The third greatest percentage was for the *Court Security* account,

<sup>28</sup> The two accounts for which Congress appropriated less than 95% of the judiciary’s FY2022 request were the *Federal Judicial Center* (93.7% of request enacted) and *Fees of Jurors and Commissioners* (60.7%) accounts.

<sup>29</sup> These seven accounts (and the percentage of the judiciary’s FY2022 request that was passed by Congress) are *U.S. Court of International Trade* (99.5%); *Courts of Appeals, District Courts, and Other Judicial Services—Salaries and Expenses* (98.7%); *Administrative Office of the U.S. Courts* (98.2%); *Vaccine Injury Trust Fund* (97.1%); *Defender Services* (95.3%); *Federal Judicial Center* (93.7%); and *Fees of Jurors and Commissioners* (60.7%).

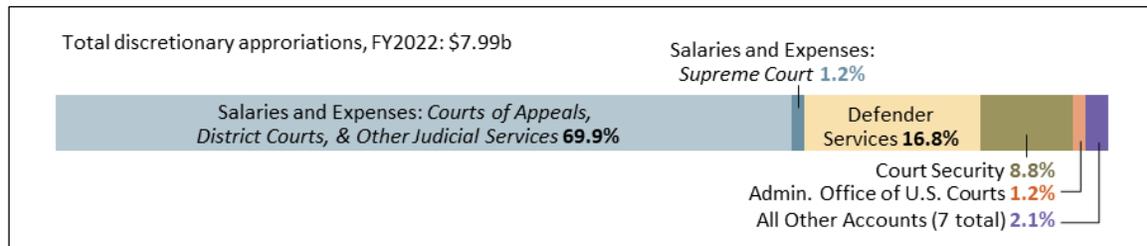
<sup>30</sup> These two accounts are the *U.S. Court of Appeals for the Federal Circuit* and the *U.S. Sentencing Commission*.

<sup>31</sup> These three accounts (and the percentage of the judiciary’s FY2022 request that was enacted by Congress) are the *Supreme Court-Building and Grounds* (139.8%); *Court Security* (103.3%); and *Supreme Court—Salaries and Expenses* (100.8%).

representing 8.4% of the request.<sup>32</sup> The remaining 4.7% of the FY2022 discretionary request was for the other accounts listed in the table.<sup>33</sup>

**Figure 2** shows, for the total appropriation amount *enacted* by Congress for FY2022, the percentage breakdown of the total by the enacted amounts for the 12 judiciary accounts listed in **Table 1**. Of the \$7.99 billion that was enacted by Congress for the judiciary’s FY2022 budget, the greatest percentage was for the *Salaries and Expenses—Courts of Appeals, District Courts, and Other Judicial Services* account (see the final column in **Table 2**)—representing 69.9% of the enacted amount. The second-greatest percentage was for the *Defender Services* account, representing 16.8% of the total enacted amount. The third-greatest percentage was for the *Court Security* account, representing 8.8% of the enacted amount.<sup>34</sup> The amounts appropriated for the *Salaries and Expenses—Supreme Court* and *Administrative Office of the U.S. Courts* accounts each represent 1.2% of the total enacted amount for the judiciary’s FY2022 discretionary appropriations. The remaining 2.1% of the FY2022 enacted amount was for the other seven accounts listed in the table.<sup>35</sup>

**Figure 2. Enacted Discretionary Appropriations, Percentage by Account (FY2022)**



**Source:** Congressional Research Service compilation of data provided by the Administrative Office of the U.S. Courts.

## Three Largest Percentage Increases from FY2021 Enacted Amounts

### Comparison to Requested Amounts for FY2022

Of the accounts listed in **Table 2**, the largest percentage increase between the amount enacted in FY2021 and the amount requested by the judiciary for FY2022 was for the *Fees of Jurors and Commissioners* account—a 65.2% increase. The next greatest percentage increase was for the

<sup>32</sup> Altogether, these three accounts represented 95.4% of the judiciary’s discretionary budget request for FY2022.

<sup>33</sup> The remaining nine accounts are listed here in descending order from the greatest percentage to smallest percentage of the judiciary’s FY2022 discretionary budget request: *Administrative Office of the U.S. Courts* (1.2%); *Supreme Court—Salaries and Expenses* (1.2%); *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* (0.1%); and the *Vaccine Injury Trust Fund* (0.1%).

<sup>34</sup> Altogether, these three accounts represent 95.5% of the judiciary’s enacted FY2022 budget.

<sup>35</sup> The remaining seven accounts are listed here in descending order from the greatest percentage to smallest percentage of the judiciary’s enacted FY2022 discretionary budget request: *U.S. Court of Appeals for the Federal Circuit* (0.4%); *Fees of Jurors and Commissioners* (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%).

Federal Judicial Center account, a 10.0% increase, followed by the increase for the *Defender Services* account, a 7.1% increase.<sup>36</sup>

## Comparison to Enacted Amounts for FY2022

Of the same accounts listed in the table, the largest percentage increase between the amount enacted in FY2021 and the amount *enacted* by Congress for FY2022 was for the *Supreme Court Building and Grounds* account, an increase of 35.8%. The second-greatest percentage increase was for the *Court Security* account—a 6.1% increase from the FY2021 enacted mount. The third greatest increase was for the *Supreme Court Salaries and Expenses* account, a 3.8% increase.<sup>37</sup>

None of the three accounts for which there was the greatest percentage increase between the FY2021 enacted amount and the amount *requested* by the judiciary for FY2022 were the same as the three accounts for which there was the greatest percentage increase between the FY2021 enacted amount and the amount *enacted* by Congress for the judiciary in FY2022.

## Use of Nonappropriated Funds

The judiciary also uses nonappropriated funds to help offset its funding requirements. The majority of these nonappropriated funds are from the collection of fees, primarily court filing fees and fees associated with obtaining case and docket information online from various federal courts.<sup>38</sup> 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 nonappropriated funds.

<sup>36</sup> Of all the accounts listed in **Table 2**, the percentage change between the amount enacted in FY2021 and the amount requested for FY2022 ranged from a decrease of -2.8% (for the *Supreme Court—Building and Grounds* account) to an increase of 65.2% for the *Fees of Jurors and Commissioners* account.

<sup>37</sup> Of all the accounts listed in **Table 2**, the percentage change between the amount enacted in FY2021 and the amount enacted in FY2022 ranged from no change in the amount appropriated (for the *Vaccine Injury Trust Fund* account) to a high of 35.8% for the *Supreme Court Building and Grounds* account.

<sup>38</sup> 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 the U.S. Courts, *Fees*, at <https://www.uscourts.gov/services-forms/fees>.

The Public Access to Court Electronic Records, or PACER, is a fee-generating service that allows users to obtain case and docket information online from federal appellate, district, and bankruptcy courts, and the PACER Case Locator. Many users are charged a fee to obtain such information (although there are some circumstances for which there is no fee charged for accessing court records—see, e.g., PACER, “Options to Access Records if you Cannot Afford PACER Fees,” at <https://pacer.uscourts.gov/my-account-billing/billing/options-access-records-if-you-cannot-afford-pacer-fees>). 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.

## 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 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** shows, by account, the enacted mandatory appropriations for FY2021 and the estimated mandatory appropriations for FY2022.

**Table 3. Judiciary Mandatory Funding, FY2021-FY2022**  
(in millions of dollars)

Account	FY2021 Enacted	FY2022 Estimated
Supreme Court	\$2.7	\$2.8
Court of Appeals for the Federal Circuit	\$3.1	\$3.2
Court of International Trade	\$1.8	\$2.2
Courts of Appeals, District Courts, and Other Judicial Services	\$445.0	\$480.5
Judicial Retirement Funds	\$262.3	\$272.6
<b>Total (Judiciary)</b>	<b>\$714.9</b>	<b>\$761.3</b>

**Source:** Congressional Research Service examination of data from *The Judiciary Fiscal Year 2023 Congressional Budget Summary*.

**Note:** The column for FY2022 reflects assumed financial plan levels. All figures are rounded, and column sums may not equal the total due to rounding.

The mandatory appropriations estimated for FY2022 totaled \$761.3 million. Of the FY2022 mandatory amount, \$488.7 million, or 64.2%, is for salaries and expenses associated with judgeships that the judiciary is constitutionally (or statutorily) required to pay. The remaining \$272.6 million (or 35.8% of FY2022 assumed mandatory appropriations) is to provide for judicial retirement funds.

There was a similar breakdown in the use of mandatory funds for FY2021. Of the \$714.9 million in mandatory appropriations provided for FY2021, \$452.6 million (or 63.3%) was to fund the salaries and expenses associated with Article III judges and certain other types of federal judges. The remaining \$262.3 million (or 36.7% of FY2021 mandatory appropriations) was to provide for judicial retirement funds.

## Administrative Provisions

The judiciary’s FY2022 request also contained several administrative provisions.<sup>39</sup> The requested provisions, in part, (1) allowed for the transfer, under certain conditions, of appropriations (up to 5%) between accounts, while also prohibiting some accounts from being increased by more than 10% by such transfers; (2) allowed for funds from the salaries and expenses appropriation for the *Courts of Appeals, District Courts, and Other Judicial Services* account to be available for “official reception and representation expenses of the Judicial Conference of the United States” (while also limiting the use of such funds to a maximum of \$11,000); and (3) provided for the extension of certain temporary U.S. district court judgeships.<sup>40</sup>

The final enacted FY2022 appropriations for the judiciary included versions of each of the six administrative provisions included in the judiciary’s FY2022 request.

## Courts, Programs, and Other Items 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 decision from a district 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.<sup>41</sup> 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 circuit court, the U.S. Court of Appeals for the Federal Circuit, with nationwide jurisdiction (this court is discussed in the text below).

Altogether, 167 judgeships for the 12 regional circuit courts are currently authorized by law. The First Circuit (comprised of Maine, Massachusetts, New Hampshire, Rhode Island, and Puerto Rico) has the fewest number of authorized judgeships, 6, while the Ninth Circuit (comprised of

<sup>39</sup> “Administrative provisions” or “general provisions” provides restrictions, conditions, or requirements that may apply to an entire act, a specific department, agency, or account. Such provisions may be of a policy or operational character and are typically listed at the end of an act.

<sup>40</sup> For a full list of the administrative provisions included in the judiciary’s FY2022 request, see Administrative Office of the U.S. Courts, *The Judiciary Fiscal Year 2022 Congressional Budget Summary*, pp. 59-60.

<sup>41</sup> Administrative Office of the U.S. Courts, “Court Role and Structure,” at <https://www.uscourts.gov/about-federal-courts/court-role-and-structure>.

Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington) has the most, 29.<sup>42</sup>

U.S. circuit court judges are appointed by the President with the advice and consent of the Senate. Such appointments are generally considered to be effective for life (under Article III of the U.S. Constitution),<sup>43</sup> 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 Appeals for the Federal Circuit

The U.S. Court of Appeals for the Federal Circuit 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. Consequently, the court takes appeals from all federal district courts, the U.S. Court of Federal Claims, the U.S. Court of International Trade, and the U.S. Court of Appeals for Veterans Claims.<sup>44</sup>

The court also reviews certain administrative agency decisions, including decisions by the U.S. Trademark Trial and Appeal Board, the U.S. Patent Trial and Appeal Board, the Boards of Contract Appeals, the U.S. Merit Systems Protection Board, the Office of Congressional Workplace Rights, the Government Accountability Office Personnel Appeals Board, and the U.S. International Trade Commission.<sup>45</sup>

Of the 1,434 cases filed with the Federal Circuit for the 12-month period from January 1, 2021, to December 31, 2021, the five most common sources of appeals to the court were the Patent and Trademark Office (492 filings, or 34% of all appeals); U.S. district courts (295 filings, 21% of appeals); U.S. Court of Federal Claims (169 filings, 12% of appeals); Merit Systems Protection Board (143 filings, 10% of appeals); and the U.S. Court of Appeals for Veterans Claims (126 filings, 9% of appeals).<sup>46</sup> Altogether, for the 2021 calendar year, 85% of the appeals to the Federal Circuit were from these five sources.

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 also 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

The U.S. Court of International Trade 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

<sup>42</sup> The Ninth Circuit also includes two U.S. territories, Guam and the Northern Mariana Islands.

<sup>43</sup> Throughout the text of the report, the term “effective for life” reflects the constitutional prerogative of a judge appointed to an Article III court to remain in office “during good Behavior.”

<sup>44</sup> United States Court of Appeals for the Federal Circuit, “Court Jurisdiction,” at <https://cafc.uscourts.gov/home/the-court/about-the-court/court-jurisdiction>. Despite its nationwide jurisdiction, the court does not hear appeals from other U.S. courts of appeals (the appeals from those courts are directed to the U.S. Supreme Court).

<sup>45</sup> Ibid.

<sup>46</sup> Administrative Office of the U.S. Courts, “Caseload Statistics Data Tables,” *Table B-8—U.S. Court of Appeals for the Federal Circuit Federal Judicial Caseload Statistics*, at <https://www.uscourts.gov/statistics-reports/caseload-statistics-data-tables>.

“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.”<sup>47</sup>

For the 12-month period ending September 30, 2021, the court reported a total of 781 case filings.<sup>48</sup>

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 also 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.<sup>49</sup> Trials are conducted by a district court judge or, in some cases, a magistrate judge.

Each state has at least one U.S. 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 U.S. district court are divided into judicial districts, with each district having one district court. For example, California is divided into four judicial districts—each with its own U.S. district court. Altogether there are 94 district courts.<sup>50</sup>

At present, there are 677 district court judgeships authorized by law.<sup>51</sup> Congress has authorized between 1 and 28 judgeships for each U.S. 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).<sup>52</sup>

<sup>47</sup> Administrative Office of the U.S. Courts, “U.S. Court of International Trade—Judicial Business 2021,” at <https://www.uscourts.gov/statistics-reports/us-court-international-trade-judicial-business-2021>.

<sup>48</sup> Administrative Office of the U.S. Courts, “Statistics & Reports, Data Tables,” Table G-1, U.S. Court of International Trade Judicial Business (September 30, 2021), at <https://www.uscourts.gov/statistics/table/g-1/judicial-business/2021/09/30>.

<sup>49</sup> Administrative Office of the U.S. Courts, “Court Role and Structure,” at <https://www.uscourts.gov/about-federal-courts/court-role-and-structure>.

<sup>50</sup> 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.

<sup>51</sup> This total includes 4 permanent territorial district court judgeships and 10 temporary U.S. district court judgeships. See Administrative Office of the U.S. Courts, “Judges and Judgeships,” at <http://www.uscourts.gov/JudgesAndJudgeships/AuthorizedJudgeships.aspx>.

<sup>52</sup> The 28 judgeships authorized for the Central District of California includes 27 permanent judgeships and 1 temporary judgeship.

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, are also appointed by the President with the advice and consent of the Senate (under Article IV of the U.S. Constitution).<sup>53</sup> 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.<sup>54</sup> 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.<sup>55</sup> Magistrate judges cannot preside over felony criminal cases (but can handle pretrial matters and preliminary proceedings in such cases).<sup>56</sup>

The number of magistrate judge positions is determined by the Judicial Conference of the United States. For the 12-month period ending September 30, 2021, the Judicial Conference authorized 561 full-time magistrate judge positions, 25 part-time positions, and 2 combination clerk/magistrate judge positions.<sup>57</sup> Magistrate judges are non-Article III judges and are appointed by majority vote of the active district court judges serving on the court on which the magistrate would serve. Full-time magistrate judges serve a term of eight years and may be reappointed.<sup>58</sup> During FY2021, there were 76 appointments of full-time magistrate judges, including 40 new appointments and 36 reappointments.<sup>59</sup>

<sup>53</sup> 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).

<sup>54</sup> 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>.

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*

<sup>57</sup> Administrative Office of the U.S. Courts, “Judicial Officers in the U.S. Courts of Appeals, District Courts, and Bankruptcy Courts,” Table 1.1—U.S. Federal Courts Judicial Facts and Figures (September 30, 2021), at <https://www.uscourts.gov/statistics/table/11/judicial-facts-and-figures/2021/09/30>. 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.

<sup>58</sup> 28 U.S.C. §631(d).

<sup>59</sup> Administrative Office of the U.S. Courts, “Status of Magistrate Judge Positions and Appointments—Judicial Business 2021,” at <https://www.uscourts.gov/statistics-reports/status-magistrate-judge-positions-and-appointments-judicial-business-2021>. According to the Administrative Office of the U.S. Courts, “the average age of new appointees to full-time magistrate judge positions was 50 years. New full-time appointees had been members of the bar for an average of 23 years at the time of appointment.” Of the new full-time magistrate judges in FY2021, the most common types of position or employment at the time of appointment included assistant United States attorneys (15 appointees), attorneys in private practice (14), law clerks (2), and assistant federal public defenders (2).

For the 12-month period ending September 30, 2021, magistrate judges disposed of a total of 1,228,277 matters (an increase of 3% from the 12-month period ending September 30, 2020)<sup>60</sup>—this included 356,568 civil matters that had been referred to them by district court judges; 16,974 civil cases in which they were the presiding judges for all proceedings by consent of the parties; 243,516 felony pretrial matters (e.g., disposing of certain types of motions); and 490,212 felony preliminary proceedings (e.g., search warrant applications). Other types of 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).

## 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.<sup>61</sup>

For the 12-month period ending September 30, 2021, debtors filed a total of 434,540 bankruptcy petitions—a 29.1% decrease for the same period ending September 30, 2020.<sup>62</sup> Of all petitions filed during FY2021, nonbusiness (mostly consumer) petitions accounted for approximately 96% and business petitions accounted for 4%.<sup>63</sup>

Congress, by legislative action, determines the number of bankruptcy judgeships. As of September 30, 2021, there were a total of 345 bankruptcy judgeships authorized by Congress.<sup>64</sup>

Bankruptcy judges are non-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

The U.S. Court of Federal Claims has nationwide jurisdiction over various “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.”<sup>65</sup>

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

<sup>60</sup> Administrative Office of the U.S. Courts, “U.S. Magistrate Judges—Judicial Business 2021,” at <https://www.uscourts.gov/statistics-reports/us-magistrate-judges-judicial-business-2021>.

<sup>61</sup> Federal Judicial Center, “U.S. Bankruptcy Courts,” at <https://www.fjc.gov/history/courts/u.s.-bankruptcy-courts>.

<sup>62</sup> Administrative Office of the U.S. Courts, “U.S. Bankruptcy Courts—Judicial Business 2021,” at <https://www.uscourts.gov/statistics-reports/us-bankruptcy-courts-judicial-business-2021>.

<sup>63</sup> *Ibid.*

<sup>64</sup> Administrative Office of the U.S. Courts, “Judicial Officers in the U.S. Courts of Appeals, District Courts, and Bankruptcy Courts,” Table 1.1—U.S. Federal Courts Judicial Facts and Figures (September 30, 2021), at <https://www.uscourts.gov/statistics/table/11/judicial-facts-and-figures/2021/09/30>.

<sup>65</sup> Administrative Office of the U.S. Courts, “U.S. Courts of Federal Claims—Judicial Business 2021,” at <https://www.uscourts.gov/statistics-reports/us-court-federal-claims-judicial-business-2021>.

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.”<sup>66</sup>

For the 12-month period ending September 30, 2021, the court reported a total of 2,753 case filings (an increase of 47% from the 12-month period ending September 30, 2020).<sup>67</sup>

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 (i.e., with Senate confirmation). A judge may be reappointed by a President to serve an additional 15-year term if his or her nomination is confirmed by the Senate.<sup>68</sup>

## Pretrial Services and Probation

Federal pretrial services and probation officers investigate and supervise defendants and offenders within the federal criminal justice system. Pretrial services officers “prepare reports for judges to use in determining whether to order the release or detention of defendants.”<sup>69</sup> Pretrial service officers also supervise those defendants released by judges pending adjudication of their criminal cases.<sup>70</sup>

Probation officers provide courts “with reliable information concerning the offender, the victim, and the offense committed, as well as an impartial application of the sentencing guidelines.”<sup>71</sup> Probation 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.”<sup>72</sup>

For the 12-month period ending September 30, 2021, pretrial services officers prepared 73,054 pretrial services reports for judges—a decrease of 5% from 2020.<sup>73</sup> Of these reports, 97% were prebail reports.<sup>74</sup> Additionally, officers provided pretrial services supervision for approximately 30,025 defendants.<sup>75</sup> 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.<sup>76</sup>

On September 30, 2021, a total of 122,458 individuals were under postconviction supervision by probation officers—a decrease of 4% from the same date in 2020.<sup>77</sup> Of those under

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> 28 U.S.C. §178.

<sup>69</sup> Administrative Office of the U.S. Courts, “Pretrial Services—Judicial Business 2021,” at <https://www.uscourts.gov/statistics-reports/pretrial-services-judicial-business-2021>.

<sup>70</sup> Administrative Office of the U.S. Courts, *The Judiciary Fiscal Year 2022 Congressional Budget Summary*, “Overview of the Judiciary,” p. 3, at [https://www.uscourts.gov/sites/default/files/fy\\_2022\\_congressional\\_budget\\_summary\\_fy\\_2022.pdf](https://www.uscourts.gov/sites/default/files/fy_2022_congressional_budget_summary_fy_2022.pdf).

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Administrative Office of the U.S. Courts, “Pretrial Services—Judicial Business 2021,” at <https://www.uscourts.gov/statistics-reports/pretrial-services-judicial-business-2021>.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid.

<sup>76</sup> Ibid.

<sup>77</sup> Administrative Office of the U.S. Courts, “Post-Conviction Supervision—Judicial Business 2021,” at <https://www.uscourts.gov/statistics-reports/post-conviction-supervision-judicial-business-2021>.

postconviction supervision, 43% had been convicted of drug offenses; 15% had been convicted of property offenses; and 17% had been convicted of firearms offenses.<sup>78</sup>

Federal probation officers also prepared 54,689 full presentence investigative reports—of which 98% were presentence guideline reports prepared in felony or Class A misdemeanor cases (and for which guidelines have been promulgated by the U.S. Sentencing Commission).<sup>79</sup>

## 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.”<sup>80</sup>

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.<sup>81</sup>

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.<sup>82</sup> 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.<sup>83</sup> Consequently, the costs associated with this account are driven, in part, by the number and type of prosecutions brought by U.S. Attorneys’ offices.

For the 12-month period ending September 30, 2021, there were a total of 145,726 representations by counsel affiliated with federal defender organizations or who served as panel

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<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

<sup>80</sup> Administrative Office of the U.S. Courts, “Defender Services,” at <https://www.uscourts.gov/services-forms/defender-services>.

<sup>81</sup> 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. At present, there are 64 federal public defender organizations and 17 community defender organizations. Administrative Office of the U.S. Courts, “Criminal Justice Act—Judicial Business 2021,” at <https://www.uscourts.gov/statistics-reports/criminal-justice-act-judicial-business-2021>.

<sup>82</sup> Panel attorneys are paid an hourly rate of \$148 for noncapital cases, and, for capital cases, a maximum hourly rate of \$190. Administrative Office of the U.S. Courts, *Defender Services*, at <https://www.uscourts.gov/services-forms/defender-services>.

<sup>83</sup> 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.

attorneys under the Criminal Justice Act (CJA).<sup>84</sup> The number of private attorneys who were paid during this period through the CJA as panel attorneys was 7,337.<sup>85</sup>

## 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 Judicial Security Division (JSD) of the U.S. Marshals Service (USMS), which is responsible for ensuring “the safe and secure conduct of judicial proceedings” and for “protecting federal judges, jurors, and other members of the federal judiciary.”<sup>86</sup>

At present, the Marshals protect 94 federal district courts, 888 judicial facilities, and approximately 2,700 federal judges.<sup>87</sup> The Marshals also have protective responsibility for approximately 30,300 federal prosecutors and court officials.<sup>88</sup> In FY2021, the Marshals assessed or handled 4,511 threats and inappropriate communications against protected persons in the judiciary.<sup>89</sup>

The JSD is comprised of several program offices, including the Office of Court Security (which “ensures the protection of the federal judicial process through screening and protection of all federal court facilities”), the Office of Protective Intelligence (which provides direct support to field investigators and others “to ensure all threats to protected persons and events are thoroughly investigated, assessed, and mitigated in a timely fashion”), and the Office of Security Systems (which is “responsible for designing, installing, and maintaining efficient, cost-effective physical security systems for the protection of the federal judiciary, judicial employees, courthouse visitors, and judicial facilities”).<sup>90</sup>

## 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.<sup>91</sup> Petit jurors serve on a trial jury, while

<sup>84</sup> Administrative Office of the U.S. Courts, “Criminal Justice Act—Judicial Business 2021,” at <https://www.uscourts.gov/statistics-reports/criminal-justice-act-judicial-business-2021>.

<sup>85</sup> Ibid.

<sup>86</sup> U.S. Marshals Service, *Fact Sheet—Judicial Security 2022*, at [https://www.usmarshals.gov/duties/factsheets/judicial\\_sec.pdf](https://www.usmarshals.gov/duties/factsheets/judicial_sec.pdf).

<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

<sup>89</sup> Ibid.

<sup>90</sup> U.S. Marshals Service, “Judicial Security,” at <https://www.usmarshals.gov/judicial>.

<sup>91</sup> 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.” U.S. Congress, House Committee on Appropriations, hearings before the Subcommittee on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, February 23, 1988. Land commissioners are paid based on the daily equivalent of the highest rate payable under 5 U.S.C. §5332. Administrative Office of the U.S. Courts, *The Judiciary Fiscal Year 2022 Congressional Budget Summary*, “Courts Of Appeals, District Courts, And Other Judicial Services—Fees of Jurors and Commissioners,” p. 44, at [https://www.uscourts.gov/sites/default/files/fy\\_2022\\_congressional\\_budget\\_summary\\_fy\\_2022.pdf](https://www.uscourts.gov/sites/default/files/fy_2022_congressional_budget_summary_fy_2022.pdf).

grand jurors serve on a grand jury.<sup>92</sup> Petit jurors are paid \$50 per day but can, after serving 10 days on a jury, receive up to \$60 per day.<sup>93</sup> Grand jurors are also paid \$50 per day but can, after serving 45 days on a grand jury, receive up to \$60 per day.<sup>94</sup>

Petit and grand jurors are also reimbursed for reasonable transportation expenses and parking fees.<sup>95</sup> Jurors can receive a subsistence allowance that covers their meals and lodging, if they are sequestered during their service.<sup>96</sup>

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.<sup>97</sup> The compensation paid to a jury commissioner is \$50 per day (plus the reimbursement of reasonable expenses related to his or her service).<sup>98</sup>

According to the Administrative Office of the 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.”<sup>99</sup>

## Vaccine Injury Compensation Trust Fund

The National Childhood Vaccine Injury Act of 1986 created the National Vaccine Injury Compensation Program (VICP), to provide compensation to people found to be injured by certain vaccines.<sup>100</sup> The VICP “was established after lawsuits against vaccine manufacturers and healthcare providers threatened to cause vaccine shortages and reduce vaccination rates.”<sup>101</sup> Additionally, the program “is designed to encourage vaccination by providing a streamlined system for compensation in rare instances where an injury results from vaccination”<sup>102</sup> 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.”<sup>103</sup>

<sup>92</sup> 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 the U.S. Courts, “Types of Juries,” at <https://www.uscourts.gov/services-forms/jury-service/types-juries>.

<sup>93</sup> Administrative Office of the U.S. Courts, “Juror Pay,” at <https://www.uscourts.gov/services-forms/jury-service/juror-pay>.

<sup>94</sup> Ibid.

<sup>95</sup> Ibid.

<sup>96</sup> Ibid.

<sup>97</sup> 28 U.S.C. §1863.

<sup>98</sup> 28 U.S.C. §1863(b)(1).

<sup>99</sup> Administrative Office of the U.S. Courts, *The Judiciary Fiscal Year 2022 Congressional Budget Summary*, p. 43, at [https://www.uscourts.gov/sites/default/files/fy\\_2022\\_congressional\\_budget\\_summary\\_fy\\_2022.pdf](https://www.uscourts.gov/sites/default/files/fy_2022_congressional_budget_summary_fy_2022.pdf).

<sup>100</sup> 42 U.S.C. §§300aa-1 to 300aa-34.

<sup>101</sup> 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>.

<sup>102</sup> U.S. Department of Justice, “Vaccine Injury Compensation Program,” at <https://www.justice.gov/civil/vicp>.

<sup>103</sup> Ibid.

The VICP, 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.”<sup>104</sup>

The Vaccine Injury Compensation Trust Fund provides funding for VICP, covering claims related to vaccine-related injuries or deaths for covered vaccines administered on or after October 1, 1988.<sup>105</sup> 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.<sup>106</sup>

As of May 1, 2022, a total of 24,969 petitions were filed with VICP since its inception in 1988.<sup>107</sup> Of these petitions, 21,025 had been adjudicated as of May 2022—with 8,922 petitions, or 42%, being compensable (i.e., paid compensation as a result of a settlement between parties or a decision made by the U.S. Court of Federal Claims) and 12,103, 58%, being dismissed.<sup>108</sup> Petitions are typically not adjudicated in the same fiscal year as they are filed and, on average, it takes two to three years to adjudicate a petition after it is filed.<sup>109</sup>

Total compensation paid over the life of VICP, as of this writing, is approximately \$4.7 billion.<sup>110</sup>

## Administrative Office of the U.S. Courts

The Administrative Office of the 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.”<sup>111</sup> A main responsibility of AO is to provide staff support and counsel for the Judicial Conference and the conference’s committees. The Judicial Conference committees also advise AO as it develops the annual judiciary budget request 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.”<sup>112</sup>

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<sup>104</sup> Ibid.

<sup>105</sup> The Department of the Treasury manages the fund’s investments. U.S. Department of Health and Human Services, Health Resources & Services Administration, “About the National Vaccine Injury Compensation Program,” at <https://www.hrsa.gov/vaccine-compensation/about/index.html>.

<sup>106</sup> U.S. Department of Justice, “Vaccine Injury Compensation Program,” at <https://www.justice.gov/civil/vicp>.

<sup>107</sup> U.S. Department of Health and Human Services, Health Resources & Services Administration, *National Vaccine Injury Compensation Program Data Report*, updated May 1, 2022, at <https://www.hrsa.gov/sites/default/files/hrsa/vaccine-compensation/data/vicp-stats-05-01-2022.pdf>.

<sup>108</sup> Ibid.

<sup>109</sup> Ibid.

<sup>110</sup> Ibid.

<sup>111</sup> Administrative Office of the U.S. Courts, “Judicial Administration,” at <https://www.uscourts.gov/about-federal-courts/judicial-administration>.

<sup>112</sup> Ibid.

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.”<sup>113</sup>

## United States Sentencing Commission

The United States Sentencing Commission is a bipartisan, 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.”<sup>114</sup> As such, the commission is responsible for establishing and amending the sentencing guidelines used by the federal judiciary.<sup>115</sup> The commission’s activities, in part, include (1) maintaining a research and development program to serve as a clearinghouse and information center for the collection, preparation, and dissemination of information on federal sentencing practices; (2) publishing data concerning the sentencing process; (3) collecting and disseminating information concerning sentences actually imposed and the relationship of such sentences to the factors set forth in Section 3553(a) of Title 18 of the *U.S. Code*; and (4) collecting and disseminating information regarding the effectiveness of sentences imposed.<sup>116</sup>

The commission consists of seven voting members appointed by the President and confirmed by the Senate, with members serving staggered six-year terms.<sup>117</sup> 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.<sup>118</sup> For a sentencing guideline to be amended, the amendment must receive the affirmative votes of four members of the commission.<sup>119</sup>

The commission has a staff of approximately 100 employees.<sup>120</sup> The commission is also advised by “four standing advisory groups representing the views of practitioners, probation officers, victims, and tribal lands.”<sup>121</sup>

## Federal 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

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<sup>113</sup> Ibid.

<sup>114</sup> United States Sentencing Commission, “About the Commission,” at <https://www.ussc.gov>.

<sup>115</sup> Ibid.

<sup>116</sup> United States Sentencing Commission, “Introduction to the *Sourcebook of Federal Sentencing Statistics*,” at <https://www.ussc.gov/research/sourcebook-2021>. For FY2021, 88.4% of federal offenders received a sentence of imprisonment (and no other type of sentence); 6.2% received probation (and no other type of sentence); 2.9% received a sentence of imprisonment and alternatives; 1.8% received probation and alternatives; and 0.7% received a fine (and no other type of sentence). United States Sentencing Commission, *2021 Annual Report and Sourcebook of Federal Sentencing Statistics*, “Sentencing Information,” Figure 6, p. 61, at [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2021/2021\\_Annual\\_Report\\_and\\_Sourcebook.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2021/2021_Annual_Report_and_Sourcebook.pdf).

<sup>117</sup> United States Sentencing Commission, “Organization,” at <https://www.ussc.gov/about/who-we-are/organization>.

<sup>118</sup> 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.

<sup>119</sup> Ibid.

<sup>120</sup> Ibid.

<sup>121</sup> United States Sentencing Commission, “About,” at <https://www.ussc.gov/about-page>. 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.” See United States Sentencing Commission, “Advisory Groups,” at <https://www.ussc.gov/about/who-we-are/advisory-groups>.

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.

## Select Policy Issues Relevant During FY2022

### 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 effectively 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 2021, calls for the creation of two new 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 also recommends creating 77 new permanent U.S. district court judgeships, as well as converting 9 current temporary district court judgeships to permanent status.<sup>122</sup>

Several pieces of legislation authorizing additional U.S. district court judgeships were introduced in 2021, either during FY2021 or FY2022.<sup>123</sup> On July 30, 2021, Representative Henry ("Hank") Johnson, Jr., introduced the District Court Judgeships Act of 2021.<sup>124</sup> The legislation would authorize the creation of 203 additional permanent district court judgeships across 32 judicial districts and the conversion of 9 temporary judgeships to permanent judgeships.

On July 29, 2021, Senator Todd Young introduced the JUDGES Act. The legislation would authorize the creation of 39 permanent U.S. district court judgeships on or after January 21, 2025, and the creation of an additional 38 permanent U.S. district court judgeships on or after January 21, 2029. The permanent judgeships would be authorized for 13 specified judicial districts. The legislation also converts 9 temporary judgeships to permanent judgeships.<sup>125</sup>

Legislation has also been introduced to increase the number of judgeships for a single judicial district. For example, on December 8, 2021, the Colorado Judgeship Act was introduced in both the House and Senate to increase by three the number of permanent judgeships for the U.S.

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<sup>122</sup> For a list of U.S. district courts that the conference recommends receive new judgeships, see Administrative Office of the U.S. Courts, "Judiciary Seeks New Judgeships, Reaffirms Need for Enhanced Security," press release, March 16, 2021, at <https://www.uscourts.gov/news/2021/03/16/judiciary-seeks-new-judgeships-reaffirms-need-enhanced-security>.

<sup>123</sup> None of these bills have advanced beyond committee referral.

<sup>124</sup> H.R. 4886 (117<sup>th</sup> Congress). At present, a companion bill has not been introduced in the Senate.

<sup>125</sup> S. 2535 (117<sup>th</sup> Congress). On July 30, 2021, companion legislation, H.R. 4885, was introduced in the House by Rep. Darrell Issa.

District Court for the District of Colorado.<sup>126</sup> Legislation was also introduced in the House and Senate to authorize one additional judgeship for the U.S. District Court of Idaho.<sup>127</sup> And the Puerto Rico Federal Judicial Improvement Act, introduced on January 15, 2021, would increase by one the number of permanent judgeships authorized for the U.S. District Court for the District of Puerto Rico.<sup>128</sup>

At present, the sole piece of legislation introduced during the 117<sup>th</sup> Congress to authorize additional U.S. circuit court judgeships is the Ninth Circuit Court of Appeals Judgeship and Reorganization Act of 2021.<sup>129</sup> In addition to dividing the U.S. Court of Appeals for the Ninth Circuit into two new judicial circuits, the bill would also authorize five new permanent judgeships to be distributed between the two circuits.

## Workplace Misconduct

Allegations and incidents of sexual harassment and other workplace misconduct in the federal judiciary have continued to be of congressional interest during FY2022.<sup>130</sup> For example, the Joint Explanatory Statement for the FY2022 enacted appropriations directs the judiciary to submit to Congress a report “on the number of formal workplace misconduct complaints received, investigations conducted, types of misconduct alleged or found, and actions taken to address identified misconduct in each judicial circuit, separately reporting those complaints relating to claims of sexual harassment and other sexual misconduct.”<sup>131</sup>

Additionally, shortly after appropriations were enacted for FY2022, the House Judiciary Committee’s Subcommittee on Courts, Intellectual Property, and the Internet held a hearing on the issue of workplace misconduct in the judiciary.<sup>132</sup> The hearing, *Workplace Protections for Federal Judiciary Employees: Flaws in the Current System and the Need for Statutory Change*, included, in part, statements from several witnesses who encouraged Congress to adopt the

<sup>126</sup> H.R. 6188 (117<sup>th</sup> Congress) and S. 3342 (117<sup>th</sup> Congress).

<sup>127</sup> H.R. 319 (117<sup>th</sup> Congress) and S. 23 (117<sup>th</sup> Congress).

<sup>128</sup> H.R. 329 (117<sup>th</sup> Congress). At present, a companion bill has not been introduced in the Senate.

<sup>129</sup> H.R. 320 (117<sup>th</sup> Congress). At present, a companion bill has not been introduced in the Senate.

<sup>130</sup> See, for example, Ann E. Marimow, “Judges accused of sex discrimination, bullying, internal survey shows,” *Washington Post*, May 16, 2022, at <https://www.washingtonpost.com/politics/2022/05/16/judges-accused-discrimination-bullying/>; Ann E. Marimow, “Court revives sexual harassment lawsuit targeting federal judiciary,” *Washington Post*, April 26, 2022, at <https://www.washingtonpost.com/politics/2022/04/26/federal-judiciary-sexual-harassment-lawsuit/>; and Nate Raymond, “Federal judiciary defends internal sexual harassment review process,” *Reuters*, November 4, 2021, at <https://www.reuters.com/legal/transactional/federal-judiciary-defends-internal-sexual-harassment-review-process-2021-11-04>.

<sup>131</sup> Joint Explanatory Statement, Division E—Financial Services and General Government Appropriations Act 2022, p. 25, at <https://docs.house.gov/billsthisweek/20220307/BILLS-117RCP35-JES-DIVISION-E.pdf>. The explanatory statement also requires the report to include comparable statistics for the Administrative Office of the U.S. Courts, the Federal Judicial Center, and the Sentencing Commission.

<sup>132</sup> U.S. Congress, House Committee on the Judiciary, Subcommittee on Courts, Intellectual Property, and the Internet, *Workplace Protections for Federal Judiciary Employees: Flaws in the Current System and the Need for Statutory Change*, hearings, 117<sup>th</sup> Cong., 2<sup>nd</sup> sess., March 17, 2022, at <https://judiciary.house.gov/calendar/eventsingle.aspx?EventID=4883>.

Judiciary Accountability Act of 2021,<sup>133</sup> legislation that was introduced earlier in the 117<sup>th</sup> Congress (during FY2021).<sup>134</sup>

The Judiciary Accountability Act, in part, extends certain statutory protections and remedies to judicial branch employees (such protections and remedies are already available to private sector employees, as well as to employees of the federal legislative and executive branches). The legislation also establishes several entities within the federal judiciary that would be responsible for addressing workplace misconduct, including an Office of Employee Advocacy that would provide legal assistance, representation, and consultation to judicial employees. For its part, the Judicial Conference, the national policymaking body for the federal courts, “opposes the legislation on grounds that it interferes with [its] internal governance ... creates structures that compete with existing governing authorities within the Judiciary, and imposes intrusive requirements on Judicial Conference procedures.”<sup>135</sup>

## Financial Disclosure

A recent investigation by the *Wall Street Journal* found that 131 federal judges had violated U.S. law and judicial ethics by failing to recuse themselves from 685 cases that involved companies in which they or their families owned stock.<sup>136</sup> As a result of the investigation, legislation was introduced in both the House and Senate on October 25, 2021, to require more stringent disclosure requirements of financial holdings and stock trades by federal judges, including Supreme Court Justices.<sup>137</sup> The legislation passed the Senate by voice vote on February 17, 2022, and a final version passed the House on April 27, 2022.<sup>138</sup> The President signed the legislation on May 13, 2022 (P.L. 117-125).

## Judicial Security

Following a fatal attack in 2020 at the home of a federal judge in New Jersey and the increasing number of threats directed against federal judges,<sup>139</sup> the federal judiciary has urged Congress to adopt several new safety measures intended to improve the security of federal judges.<sup>140</sup> In

<sup>133</sup> Ibid. See, for example, statements by Ms. Caitlyn Clark (former law clerk, U.S. District Court for the Middle District of Georgia), Ms. Ally Coll (president and cofounder, The Purple Campaign), and Ms. Laura C. Minor (former associate director, ret., Administrative Office of the U.S. Courts).

<sup>134</sup> H.R. 4827 (July 29, 2021, 117<sup>th</sup> Congress) and S. 2553 (July 29, 2021, 117<sup>th</sup> Congress).

<sup>135</sup> Administrative Office of the U.S. Courts, *Annual Report 2021*, “The Courts and Congress,” at <https://www.uscourts.gov/statistics-reports/courts-and-congress-annual-report-2021>.

<sup>136</sup> James V. Grimaldi, Coulter Jones, and Joe Palazzolo, “131 Federal Judges Broke the Law by Hearing Cases Where They Had a Financial Interest,” *Wall Street Journal*, September 28, 2021, at <https://www.wsj.com/articles/131-federal-judges-broke-the-law-by-hearing-cases-where-they-had-a-financial-interest-11632834421>.

<sup>137</sup> H.R. 5720 (117<sup>th</sup> Congress) and S. 3059 (117<sup>th</sup> Congress). See Nate Raymond and Moira Warburton, “Congress approves tougher financial disclosure rules for U.S. judges,” *Reuters*, April 27, 2022, at <https://www.reuters.com/world/europe/congress-poised-subject-us-judges-more-financial-disclosure-2022-04-27>.

<sup>138</sup> An initial version of the bill passed the House on December 1, 2021, by a vote of 422-4.

<sup>139</sup> For additional information on the New Jersey attack, see Brian Mann, “Fatal N.J. Shooting By ‘Anti-Feminist’ Raises Questions About Protection of Judges,” *National Public Radio*, July 22, 2020, at <https://www.npr.org/2020/07/22/894121071/fatal-n-j-shooting-by-anti-feminist-raises-questions-about-protection-of-judges>. Regarding increased threats against federal judges generally, one media report noted that “in the last five years, threats of federal judges have jumped 400% to more than 4,000 last year—many of them death threats, sometimes ending in violence.” Bill Whitaker, “Federal Judges Call For Increased Security After Threats Jump 400% And One Judge’s Son Is Killed,” *CBS News*, February 21, 2021, at <https://www.cbsnews.com/news/federal-judge-threats-attack-60-minutes-2021-02-21>.

<sup>140</sup> Administrative Office of the U.S. Courts, “Congress Urged to Adopt Judicial Security Measures,” press release,

response to the attack, the Daniel Aderl Judicial Security and Privacy Act (named after the late son of Judge Esther Salas) was introduced in the Senate on July 14, 2021.<sup>141</sup> At present, the legislation is pending on the Senate Legislative Calendar after being reported out of the Senate Judiciary Committee by a bipartisan vote of 21-0.<sup>142</sup> The legislation would, in part, protect judges' personally identifiable information from resale by data brokers, allow federal judges to redact personal information on federal government internet sites, and prevent the publication of personal information by other businesses and individuals unless there is a legitimate news media or other public interest.<sup>143</sup>

Most recently, the Senate passed, by unanimous consent, the Supreme Court Police Parity Act of 2022.<sup>144</sup> The legislation would extend security currently provided to Supreme Court Justices to their immediate families. The bill was also introduced in the House on May 10, 2022.<sup>145</sup> Alternate legislation, the Supreme Court Families Security Act of 2022, was also introduced in the House on May 10, 2022.<sup>146</sup> This legislation would also extend security to the families of Supreme Court employees, such as clerks. Recently, House leadership indicated the chamber would take up this alternate legislation.<sup>147</sup>

In addition to enacting any specific legislation related to judicial security, Congress appropriates annual funds for the purpose of providing security for the conduct of judicial proceedings and for the protection of federal judges, other judicial branch employees, and jurors. As discussed above, most of these funds are transferred to the U.S. Marshals Service (USMS) for the purpose of ensuring that adequate protective policies, procedures, and practices are in place for federal courthouses, judges, and other federal judicial employees.

Congress has, in the past, also appropriated supplemental 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.<sup>148</sup> 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.<sup>149</sup> 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.

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September 9, 2020, at <https://www.uscourts.gov/news/2020/09/09/congress-urged-adopt-judicial-security-measures>.

<sup>141</sup> S. 2340 (117<sup>th</sup> Congress). A companion bill, H.R. 4436, was introduced in the House on July 16, 2021. The Daniel Aderl Judicial Security and Privacy Act was also introduced during the 116<sup>th</sup> Congress (S. 4711 introduced on September 24, 2020, and H.R. 8591 introduced on October 13, 2020).

<sup>142</sup> The committee vote occurred on December 2, 2021. In addition to the 21 votes in favor of the legislation, there was 1 "present" vote.

<sup>143</sup> Administrative Office of the U.S. Courts, "Judicial Security Bill Advances: Judge Who Lost Son Urges Final Passage," press release, December 2, 2021, at <https://www.uscourts.gov/news/2021/12/02/judicial-security-bill-advances-judge-who-lost-son-urges-final-passage>. See also Megan Mineiro, "Senate Judiciary Committee Markup: Bipartisan approval sets up judicial safety legislation for Senate floor vote," *CQ Committee Coverage*, December 2, 2021, at <https://plus.cq.com/doc/committees-20211202476308?2&searchId=k7v1gBDn>.

<sup>144</sup> S. 4160 (May 9, 2022; 117<sup>th</sup> Congress).

<sup>145</sup> H.R. 7705 (117<sup>th</sup> Congress).

<sup>146</sup> H.R. 7712 (117<sup>th</sup> Congress).

<sup>147</sup> Madison Alder, "House Democrats to Pursue Broader Supreme Court Security Bill," *Bloomberg Law*, May 13, 2022, at <https://news.bloomberglaw.com/us-law-week/house-democrats-to-pursue-broader-supreme-court-security-bill>.

<sup>148</sup> 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>.

<sup>149</sup> P.L. 110-177 (January 7, 2008).

## **Author Information**

Barry J. McMillion  
Analyst in American National Government

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