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Briefing Report to Congressional Requesters

April 2000

D.C. COURTS

Implementation of Personnel Policies Requires Further Attention From the Courts' Leadership

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The Honorable Ernest J. Istook, Jr.
Chairman, Subcommittee on the
District of Columbia
Committee on Appropriations
House of Representatives

The Honorable Tom Davis
Chairman, Subcommittee on the
District of Columbia
Committee on Government Reform
House of Representatives

The Honorable James P. Moran
Ranking Minority Member
Subcommittee on the District of Columbia
Committee on Appropriations
House of Representatives

This briefing report responds to your request that we examine the personnel management policies and practices of the District of Columbia Courts. Those practices have been criticized by some employees of the D.C. Courts, who individually have alleged to you and to us that the Courts' personnel management practices are unfair and at odds with the Courts' policies on personnel management.

This report details the information provided in our February 1, 2000, briefing. It is our second report to you on personnel management at the D.C. Courts. Our first report discussed how the D.C. Courts determine the adequacy of nonjudicial staff levels.[1] For this second report, which also concerns nonjudicial employees, as agreed with your offices, our objectives were to determine whether (1) the Courts' applicable policies for six basic personnel activities or functions were consistent with commonly accepted personnel management principles and (2) the Courts generally adhered to their policies when implementing the six personnel activities or functions. These activities or functions were as follows:

[1]Nonjudicial employees are individuals other than judges and their secretaries, law clerks, and administrative assistants. Also excluded from the definition of nonjudicial employees are the positions of special counsel to the chief judges and hearing commissioners (judicially appointed). D.C. Courts: Staffing Level Determination Could Be More Rigorous (GAO/GGD-99-162, Aug. 27, 1999).

performance evaluation, competitive and noncompetitive promotions, corrective actions, training, classification, and equal employment opportunity (EEO) policies. In gathering information on the EEO function in the Courts, we also compared certain court practices with practices called for or recommended by certain federal guidelines. Although the Courts are not required to follow these federal practices, we viewed them as prudent practices to follow.

Specifically, we reviewed (1) the provision of feedback to employees about their job performance; (2) the awarding of competitive and noncompetitive promotions; (3) the application of official disciplinary measures by supervisors or managers in response to unacceptable employee behavior or performance, which the D.C. Courts refer to as corrective actions; (4) employee training; (5) the classification of positions; and (6) EEO policies. These activities and functions are widely regarded as among the basic attributes of an effective public sector human resources system. In addition, as agreed with your offices, we asked employees and managers about the D.C. Courts' process for reporting fraud, waste, abuse, and mismanagement.

To do this review, we compared court policies with commonly accepted personnel management principles, interviewed program managers and court executives, obtained various documents and data, reviewed over 700 personnel files, and sent a questionnaire to a representative sample of 460 court employees. All results from our sample data are accurate to plus or minus 6 percentage points or less with 95-percent confidence. The Courts' Joint Committee on Judicial Administration gave us written comments on a draft of this briefing report, which are discussed near the end of this report and appear in appendix III.

Results

The D.C. Courts' policies for the six personnel activities or functions were generally consistent with commonly accepted personnel management principles. However, the D.C. Courts did not always adhere to many of those policies. As the following text shows, where we found nonadherence to a policy, it was not usually an anomaly limited to a single action or a single year. Managers and supervisors were clearly not required in practice to regularly follow all of the personnel policies and practices we reviewed, even though those policies were presented as the way the D.C. Courts' personnel management system should and would operate. Apart from adhering to policies, certain court practices could be improved as evidenced by the Courts' own work, the results from our questionnaire, and our comparison of the Courts' practices to certain federal guidelines.

These practices involve training; EEO; and the reporting of potential fraud, waste, abuse, and mismanagement.

Our specific findings follow and are presented in the Briefing Section in more detail.

Performance evaluations (feedback). Regular performance evaluations and feedback are common key components of personnel systems and are intended to help employees improve their job performance and thereby to also improve organizational performance. Two objectives of the D.C. Courts' policy on performance management are to provide employees with regular performance feedback (at least every 6 months) and a written evaluation annually on each employee's anniversary date with the Courts.[2] In practice, according to a Personnel Division official, supervisors are given 30 days from anniversary dates to provide written evaluations. In connection with providing feedback at least every 6 months, about 34 percent of the court employees who answered our questionnaire said their supervisors had talked with them about their work performance about once in the past year. Another 18 percent indicated that their supervisors had not talked with them during the past year about their job performance. We recognize that sometimes a supervisor can give performance feedback that the employee does not perceive as feedback and, if this occurred at the Courts, it could explain some of the responses we received. However, our questionnaire results indicate that about half of the Courts' employees do not perceive that they have received timely performance feedback in conformance with the Courts' policy.

In calendar years 1996 and 1997, according to the Courts, relatively few Superior Court and Court System nonjudicial employees—about 6 percent in 1996 and 13 percent in 1997—received written performance evaluations. The Courts adopted a program to increase the rate of compliance after we initiated our review and reported that about 84 percent of Superior Court and Court System nonjudicial employees received written evaluations for calendar year 1998. This percent was without regard to employees' anniversary dates. We determined that a much smaller percentage of employees—about 13 percent—received their 1998 evaluations on or within 30 days (before or after) of their anniversary dates. This smaller percentage means the Courts were still not consistently following their policy of giving employees written evaluations on their anniversary dates.

[2]The Courts' define anniversary date as the date of an employee's last appointment, promotion, or demotion. The Courts centrally keep track of each employee's latest anniversary date, and court divisions are notified quarterly of those dates for their staffs.

For calendar year 1999, the Courts told us that 76 percent of those Superior Court and Court System nonjudicial employees who were eligible to receive a written evaluation through November had received them as of December 15. However, when the employees received the evaluations was not always related to their anniversary dates. Using a representative sample of personnel files, we determined that about 29 percent of the employees who were eligible to receive a written evaluation had received it on or within 30 days (before or after) of their anniversary dates. Thus, the Courts have much further to go to comply with their policy to give written evaluations on anniversary dates. To improve compliance with the written evaluation policy, the Courts have implemented a procedure for checking each division's compliance and said they would formally evaluate supervisors' compliance with the policy beginning in fiscal year 2000.

Promotions (competitive and noncompetitive). Promotions at the Courts come about through competitive means (also called merit selection) or through noncompetitive means (by earning the next pay grade in a career ladder, for example). Federal regulations require federal agencies to keep records on a temporary basis sufficient to allow reconstruction of each competitive promotion action. The D.C. Courts are not subject to this regulation and did not have formal procedures detailing what documents they believed should be collected and retained to support the competitive promotion process. That is, the Courts did not specify the documents they believe are necessary to reconstruct a promotion process, if challenged, to show it was fair.

However, the Courts do collect and retain documents as a matter of practice in connection with competitive promotions, using the federal government's Uniform Guidelines on Employee Selection Procedures as a guide in deciding what to collect and retain. However, the Uniform Guidelines are designed to ensure only that employers, both public sector and private sector, do not discriminate on the basis of characteristics such as race, color, and religion. And while the Uniform Guidelines do require employers to maintain documentation on what the adverse impact of their selection process might be, they do not identify what documentation would be necessary to ensure the fairness of a selection process under a merit system.

We worked with court personnelists to construct a checklist of documents they said were collected as a matter of practice and used the checklist to review the files on 88 competitive promotions made in 1997 and 1998 that we randomly selected from 121 competitive promotions. About 76 percent of the files contained all of the checklist documents. One or more

documents were missing from the remaining 24 percent. The document missing most often was a "referral panel certificate," which would be important in reconstructing a promotion process as it would show where—by points—panel members ranked promotion candidates. It was missing in an estimated 14 percent of the files. Therefore, in addition to not identifying in procedures what documents should be kept, the Courts had not always collected and kept the documents that in practice they intended to keep.

On the basis of our review of the supporting files and information from the Personnel Division, we found that the Courts' procedures for noncompetitive promotions were not followed in 12 of the 79 noncompetitive promotions in 1997 and 1998.[3] With one exception, which was a career-ladder promotion, the noncompliance involved promotions that came about through reorganizations. Seventeen noncompetitive promotions in 1997 and 1998 resulted from reorganizations, and files for 11 of them did not indicate that the Personnel Division had conducted the required position review. The purpose of a position review is to ensure that a position's pay grade is justified by the duties of the position.

According to the Courts' Executive Officer, there are two types of reorganization categories, and each has a different time requirement for doing position reviews. When new or revised positions result from reorganization, they are to be reviewed and classified by the Personnel Division at the time of promotion. However, when a new or revised position results from a reorganization that is triggered by legislation, grants, new programs, new projects, or operational emergencies, then the position is to be reviewed within 1 year of the trigger's inception. The responsible personnel official said one position review was not done because of a Personnel Division oversight. This review was to have been done at the time of promotion. The Personnel Division was, the official said, unaware of the need to conduct the other 10 position reviews. The official attributed this situation to a lack of coordination between the Personnel Division and the Courts' Executive Office. The Executive Officer had used his authority to initiate the reorganizations and these associated promotions. All 10 reviews were to have been done within 1 year.

[3]The Personnel Division is now the Human Resources Division. However, because it was the Personnel Division during much of our work and to avoid confusion with using both names, we have used Personnel Division in this report.

The Executive Officer also used his authority to change the career ladder for a position—from grade 14 to grade 15—to promote the position's incumbent. The incumbent was then promoted after the change. The Courts' practice, according to the Executive Officer, is for career ladder promotions to be accompanied by supervisory verification of the employee's satisfactory job performance at the lower grade. We found no evidence of supervisory verification in the files to support this career ladder promotion to grade 15.

The Courts do not appear to have followed another of their policies in connection with four of the reorganization promotions for which no position review was conducted. As set out by a court document on position classification, the Executive Officer is to designate managerial positions at grade 14 and above upon consultation with the director of personnel. We found no evidence in the files that this consultation occurred for the four positions, all of which were managerial positions at grade 14 or above.

Corrective actions. Court supervisors and managers can impose a corrective action against an employee when the employee's improper behavior or poor performance warrants an official action. The corrective action policy requires that all corrective actions be in writing and that the employee be notified of key elements regarding the action. Nonjudicial employees can appeal corrective actions, and the Courts have established a formal process for this purpose.

The case files for 150 employees from 6 court divisions who received corrective actions between July 1997 and June 1999 typically contained correspondence to the employees noting the nature of the problem, the proposed corrective action, and the right to appeal the action. However, employees were not routinely notified—as required by court policy—of their right to review the materials that were the basis for the corrective action. Of 150 corrective actions we reviewed, corrective action correspondence lacked the required notification in 112 cases. In addition, according to the results of our employee survey, a sizeable percentage of employees (about 40 percent) said they had not received information on the range of disciplinary actions that could be taken for inappropriate employee behavior. Also, a sizeable percentage of employees (about 41 percent) responded that they were unsure whether the Courts would fairly or unfairly handle an appeal of a corrective action. Employees appealed corrective actions in 13 cases over 4 1/2 years. The appeals appeared to follow the process provided for in the Courts' personnel policies.

Employee training. The Courts, as a matter of policy, encourage the training and development of employees, and appeared to have an active training program. Employees receive training from the divisions in which they work and the Courts' Center for Education, Training, and Development. In general, the operating divisions are to provide the types of training employees need to do their jobs on an everyday basis while the Center offers formal courses to maintain and enhance their knowledge, skills, and abilities. As a general matter, the Courts have not established, and we are unaware of any requirement for them to establish, overall requirements as to the amounts of training or the training curriculums nonjudicial court employees should receive or follow.

However, the Center had formulated a concept for further defining the training needs and curriculum of positions that were to be identified. Under the concept, according to the Center's director, the knowledge, skills, and abilities of staff would be determined. With that information, the Courts would then determine what training should be offered to enable employees to reach performance expectations, as set out in job descriptions. According to the director, funds to develop a staff-assessment instrument were included in the Center's budget request for fiscal year 2001. A different instrument, the director said, would be necessary for different job series. However, beyond this initial request, no plan or timetable had been developed as of September 1999 for implementing the concept. According to the director, the Center will propose a plan and timetable in consultation with the newly appointed director of personnel, since this effort is anticipated to be a joint project with the Personnel Division. The new personnel director was appointed in the fall of 1999.

Classification. The Courts are required by their policy to conduct a classification survey periodically and to conduct the survey either by surveying all or a representative number of positions. Classification is used to establish grades and rates of pay based on the difficulty, responsibility, and qualifications needs of positions and is done to help ensure equal pay for equal work. The Courts have not conducted systematic surveys periodically. The last systematic review was in 1983. Since then, the Courts have substituted the results of reviews done for other purposes, such as for reorganizations, to meet the policy requirement. However, the positions selected for review were not statistically representative and officials were not able to tell us how many employees' position descriptions were affected by these reviews. In October 1999, after we met to discuss the issue, court officials informed us that the Courts would implement a systematic classification survey of all nonjudicial positions on

a 5-year cycle. At least one-fifth of the positions are to be reviewed every year starting in January 2000.

EEO policies and practices. The Courts have formal procedures for processing EEO discrimination complaints, and the contracted-for attorney who administers the EEO complaint process has drafted a brochure to inform employees about the Courts' EEO policies and aspects of the complaint process. Additional communications may also be helpful to employees. Posters are displayed informing employees about EEO protections provided by federal statutes and which federal agencies to contact if they believe they have been discriminated against under any of the described protections. However, posters about the Courts' EEO program and complaint process are not displayed.[4] Such a poster would help remind employees of the Courts' EEO policies and complaint process, although it would probably repeat to some extent information in the draft brochure. In addition to telling employees who enter the Courts' EEO complaint process of their rights and responsibilities, the Courts could also give them a written list, which is not a court practice.

The Courts did not have a procedural manual that identified what documents to retain in EEO complaint files. This type of detail, that is useful to supporting the Courts' EEO program, is not included in the Courts' policy manual, which is the only collection of the Courts' EEO policies and procedures. Although the Courts are not required to display posters, provide rights and responsibilities in writing, or create a procedures manual, federal EEO regulations require all three of these practices for federal agencies. The Courts are not subject to these regulations.

The Courts collect EEO data for several purposes. They prepare an annual report for the Equal Employment Opportunity Commission (EEOC) on the number of new hires, promotions, and terminations by race, national origin, and gender. Separately from the EEOC-related collection, the Courts collect data on the race, national origin, and gender of applicants for competitive appointments and promotions and those who are appointed and promoted. According to Personnel Division officials, they keep these data on a job-announcement basis and analyze them to ensure that each appointment or promotion process was fair to all EEO groups. Finally, the Courts compare by EEO group the composition of their workforce to the composition of the labor force in the Washington, D.C.,

[4]We did not determine the extent to which the federal posters are displayed in the several buildings that house the D.C. Courts.

metropolitan area. This comparison (called a workforce utilization analysis) is done for purposes of developing recruiting plans.

The Courts have not, however, done various other analyses that are recommended, but not required, by Justice Department guidelines that the Courts otherwise follow.[5] For example, the Courts have not done analyses of applicants for employment or promotion compared with those selected for employment or promotion, employees who receive a corrective action, and voluntary and involuntary terminations. These analyses are recommended to ensure that equal opportunity principles are followed in all employment phases. According to Personnel Division officials, certain of these analyses have not been done, in part, due to limitations in the computer software they use. The Courts' Personnel Division plans to start producing an annual package of such supplementary EEO analyses, starting with 1999 data. It plans to produce the package using computer-generated data and manual methods.

Through our survey of court employees, we obtained a representative sample of their perceptions on the Courts' EEO complaint process and efforts to eliminate workplace discrimination. About 56 percent of the employees who answered our question about filing a formal EEO discrimination complaint said they would be very or generally willing to file a complaint if they believed they had been discriminated against, while 18 percent held the opposite view. Another 26 percent were undecided. Employees were undecided or unwilling most often out of concern for the fairness of the process. Almost as often as they were concerned with fairness, unwilling employees also were fearful of reprisal for filing a complaint. We do not know the exact reasons why these employees were undecided and unwilling to file complaints. However, we were told during our review that the Courts contracted with an attorney in 1997 to administer the EEO complaint process in part because of a breakdown in employees' confidence in using the complaint process. Employees also had varied opinions as to whether the Courts supported the elimination of workplace discrimination. About 52 percent of the employees believed that the Courts definitely or probably supported the elimination of discrimination, 18 percent held the opposite view, and 29 percent were unsure.

Employee reporting of fraud, waste, abuse, and mismanagement. The D.C. Courts have not adequately informed employees about the Courts' process for reporting fraud, waste, abuse, and mismanagement. About 4 out of 5

[5] 28 C.F.R. 42.301, et. seq.

employees who responded to our survey said they had not received information on (1) where to report waste, fraud, abuse, or mismanagement; (2) the process for reporting; or (3) the protections provided to employees who make reports. The Courts reported that an internal Quality Service Council has been available since 1994 to receive employees' allegations of fraud, waste, abuse, and mismanagement, although none had been received. The council was established to explore the possibility of implementing total quality management principles into the court system. After we brought the issue of the Courts' need to adequately inform employees to the Courts' attention, the Executive Officer told us that a statement was being drafted as of mid-October 1999 to clarify for employees the process for reporting of alleged fraud, waste, abuse, and mismanagement. Also, in late October 1999, the Executive Officer appointed court officials to a new subcommittee of the Personnel Advisory Committee to explore alternatives and draft a proposed policy on the reporting of fraud, waste, and abuse in the court system. The Personnel Advisory Committee makes recommendations for new policies to the Joint Committee on Judicial Administration.

In a recent discussion draft on "human capital" in the federal government, we noted that federal agencies depend on three enablers—people, process, and technology—to attain the highest level of performance and accountability.[6] An agency's most important asset—its people or human capital—defines its character and its capacity to perform, the discussion draft said. The same is true for the D.C. Courts. While the Courts have written personnel policies as a framework for managing and working with employees, the Courts' leadership has not always made certain that those policies included all appropriate provisions (e.g., documents to retain for competitive promotions) or that they were carried out. For that reason, we are recommending the Courts' leadership hold appropriate managers and supervisors accountable for more effective implementation of the Courts' personnel policies. We also are recommending enhancements to the Courts' training, EEO, and reporting of fraud, waste, abuse, and mismanagement efforts.

Background

The District of Columbia Courts comprise the D.C. Superior Court, the D.C. Court of Appeals, and the D.C. Court System. Judges of the Courts are appointed by the President and are subject to confirmation by the Senate.

[6] Human Capital: A Self-Assessment Checklist for Agency Leaders (GAO/GGD-99-179, Sept. 1999). This product was issued as a discussion draft to obtain further advice and feedback.

The D.C. Superior Court has general jurisdiction over virtually all local legal matters. In addition to judicial members, the D.C. Superior Court has divisions that process and dispose of cases, provide alternative dispute resolution services, and handle the juvenile probation function. The D.C. Court of Appeals is the highest court in the District of Columbia, and appeals from it are taken to the U.S. Supreme Court. The D.C. Court System does not process cases but provides administrative services to the Superior Court and Court of Appeals, including personnel management and education and training.

A Joint Committee on Judicial Administration—made up of five judges—is the policymaking body for the D.C. Courts. The Chief Judges of the D.C. Superior Court and D.C. Court of Appeals serve on this committee, with the Chief Judge of the Court of Appeals serving as committee chair. In addition, another Court of Appeals judge elected by the Court of Appeals judges, and two Superior Court judges elected by their colleagues, serve on the Joint Committee.

An executive officer appointed by the Joint Committee is responsible for the administration of the Courts, including the personnel management function. The executive officer has authority to prescribe rules and regulations to administer the personnel policies approved by the Joint Committee. In addition, subject to regulations, the executive officer can appoint and remove, with limited exception, D.C. Court personnel (including the Clerks of the Superior Court and Court of Appeals) except for the judges' law clerks and secretaries and the D.C. Register of Wills.

The executive officer also chairs the Personnel Advisory Committee, which advises the Joint Committee on personnel policies. To accomplish this mission, the Advisory Committee is to make recommendations for new policies or to revise existing policies based on regular review of the Courts' personnel policies and all proposed changes to those policies. The Advisory Committee's responsibility does not normally extend to overseeing adherence to approved policies, according to court officials. Nine individuals are to serve on the Advisory Committee. Six members, including the executive officer and the personnel director, are to serve on a permanent basis, and three members, who each represent a segment of the Courts' workforce, are to serve on a rotating basis.

The Courts' personnel policies are contained in the District of Columbia Courts Comprehensive Personnel Policies. The policies, which were approved by the Joint Committee on Judicial Administration, apply to nonjudicial employees, who numbered nearly 1,000 as of June 1999. These

employees were individuals other than judges and their secretaries, law clerks, and administrative assistants. Also excluded from the definition of nonjudicial employees were the positions of special counsel to the chief judges and hearing commissioners (judicially appointed).

Conclusions

For the six personnel activities and functions we reviewed, the D.C. Courts had established policies that were generally consistent with commonly accepted personnel management principles. However, the Courts did not always adhere to and communicate those policies.

- While employees are to receive written performance evaluations on their yearly anniversary dates with the Courts, relatively few received a written evaluation at all in 1996 and 1997, and relatively few received written evaluations near their anniversary dates in 1998. Although the Courts have acted to improve compliance, the compliance rate for 1999 indicates that the Courts still have a distance to go to timely comply with their stated policy of providing employees with written evaluations on their yearly anniversary dates.
- While the Courts collect and retain documents in connection with competitive promotions, the policy manual does not identify what documents should be collected and retained for the purpose of helping to prove the process was fair.
- While a position review is to be conducted when a promotion results from reorganization, we found that such reviews often did not occur due to a lack of coordination between the Courts' Executive Office and the Personnel Division.
- While employees were to be informed of their right to review materials that formed the basis for corrective action, they were not routinely informed of that right.
- While court policy calls for systematic classification surveys on a periodic basis, such surveys have not been conducted for a considerable time. However, the Courts have announced plans to conduct systematic surveys yearly.

In addition to following those policies in the personnel areas just mentioned, we also saw opportunities for the Courts to enhance efforts in the training and EEO areas as well as better informing employees about reporting fraud, waste, abuse, and mismanagement. The Courts' training center has proposed a concept for better targeting the training employees could receive. Various enhancements in the EEO area appear available and appropriate, such as doing the kinds of analyses that applicable Justice Department guidelines recommend. In addition, the percentages of court employees who expressed uncertainty or negative views about the Courts'

complaint process and efforts to eliminate discrimination, which totaled approximately 45 percent for each question, indicates to us that many employees may lack a sense of confidence in the Courts' EEO efforts. The Courts and employees addressing these perceptions together might increase the number of employees with such confidence, which should benefit both the Courts and employees. Finally, the responses to our questionnaire very clearly indicate that the Courts have not adequately informed employees of the procedures and protections for reporting fraud, waste, abuse, and mismanagement.

In our view, the overriding and long-term solution for the problems we identified is for the leadership of the D.C. Courts to consistently emphasize the importance of complying with human resources policies and principles, to ensure that policies are supported as necessary by appropriate procedures, and to hold managers accountable for compliance. We recognize that the Courts have acted or indicated they would act to address a number of the issues we raised, and we commend the Courts' initiative. Nevertheless, the problems we identified in this report, such as providing employees with annual performance appraisals and surveying positions on a systematic and periodic basis, may well persist if the level of emphasis placed by leadership on the importance of personnel matters is unchanged. We believe increased attention and emphasis is warranted because, as in any organization, human capital is the Courts' greatest asset, defining the Courts' character and capacity to perform.

Recommendations to the Joint Committee on Judicial Administration

We recommend that the Joint Committee on Judicial Administration, working through the Courts' Executive Officer, ensure that personnel policies are more effectively documented, communicated, and implemented. Specifically, the Joint Committee should direct the Executive Officer to

- Hold appropriate managers and supervisors accountable for implementing the Courts' policies, such as providing employees with periodic feedback on their performance, including annual written evaluations; undertaking and documenting required position reviews; and doing periodic classification surveys that are generalizable. One way in which to hold appropriate managers and supervisors accountable is by evaluating their performance on how well they implement policies, which the Courts plan to do starting in fiscal year 2000 in connection with the policy of providing employees annual written evaluations.
- Ensure that employees are informed of their right to review the basis for corrective actions that may be taken against them.

- Develop formal written policies and procedures that identify what documents to collect and retain for the Courts' competitive promotion process.
- Explore as proposed whether training curriculums and requirements can be appropriately established for court positions.
- Enhance EEO communications with employees by displaying posters about the Courts' EEO program and complaint procedures and informing employees who enter the complaint process of their rights and responsibilities in writing. Develop a manual to better document procedures necessary for supporting the EEO program and complaint process. And make more analytical use of data collected for EEO purposes, such as by performing analyses of applicant and hiring data together.
- Work with employees to identify and implement ways to strengthen employees' confidence in the Courts' EEO efforts and internal processes for addressing complaints and appeals.
- Ensure that the actions being taken (e.g., drafting of policy) result in employees being adequately informed regarding the reporting of waste, fraud, abuse, and mismanagement.

Comments of the Joint Committee on Judicial Administration

On March 13, 2000, the Acting Executive Officer of the D.C. Courts, on behalf of the Courts' Joint Committee on Judicial Administration, provided the Courts' written comments on a draft of this report (see app. III). The Courts said that we had identified areas where their policies could be enhanced and court personnel responsible for implementing them could improve adherence to policies. The Courts also said that our findings have assisted them in identifying where improvements can be made to enhance performance. In addition, the Courts summarized actions they have taken and plan to take to implement the recommendations we make in this report.

Scope and Methodology

To determine whether the Courts' policies for the six personnel areas were consistent with commonly accepted personnel management principles, we reviewed the policies and compared them with personnel management principles we identified in an earlier report on a federal personnel system.[7] The principles we used were those we judged to be relevant to the six personnel areas.

To determine whether the Courts' were adhering to the applicable policies, we interviewed program managers and executives of the D.C. Courts and

[7]Federal Personnel: Architect of the Capitol's Personnel System Needs Improvement (GAO/GGD-94-121BR, Apr. 9, 1994).

obtained documents and data, such as schedules of training courses, relating to specific functions. In some instances, because the policies were not specific enough, we asked the Executive Officer or officials of the Personnel Division to document for us what the Courts' practices were, and we used those statements of practice to determine the Courts' compliance. These instances involved competitive promotions (list of documents the Courts collect and retain) and noncompetitive promotions (when position reviews are to be performed). In gathering information on the Courts' EEO function, we also compared certain court practices with practices that EEOC (in 29 C.F.R. Part 1614) and the Department of Justice (in 28 C.F.R. 42.301 et. seq.) requires or recommends. These EEOC regulations are for federal agencies, and the Courts are not subject to them. These particular Justice Department regulations are for state or local units of government that receive federal financial assistance for the reduction and control of crime and delinquency.

We also analyzed

- random samples of Superior Court and Court System nonjudicial employees' personnel files—394 for 1998 and 220 for 1999—to determine whether and when written performance evaluations were given to employees in 1998 and 1999. For 1999, the employees were those with anniversary dates through November 30, 1999, and the information we reviewed was through December 15. The files were of employees who had been employed for at least 1 year by the end of 1998. Some files examined for 1999 were also examined for 1998.
- files on a random sample of 88 competitive promotions made in 1997 and 1998.
- files on all 79 noncompetitive promotions in 1997 and 1998.
- files on the 150 employees from 6 selected divisions receiving corrective actions between July 1997 and June 1999. For those employees who received more than one corrective action during the 2-year period, our analysis focused on the most recent corrective action received. We reviewed four of the eight key elements that the Courts' corrective action policy said should be addressed in corrective action correspondence.

The results of our analyses of the sampled files for 1998 performance evaluations and for competitive promotions are generalizable to the populations of such files during the covered time periods with a sampling error of plus or minus 5 percent (or less) with 95 percent confidence. The results of our analysis of the files for 1999 performance evaluations are generalizable to the populations of such files in 1999 (through November)

for staff employed at least 1 year by the end of 1998 with a sampling error of plus or minus 6 percent (or less) with 95 percent confidence.

We relied on the Personnel Division to provide us with complete and accurate information on such matters as the number and roster of employees, the anniversary dates as to when employees should receive written performance evaluations, the number and names of employees who were promoted, and the number and names of employees who received corrective actions. We did not as a matter of practice verify these data. Although we did not investigate individual allegations that came to our attention during our work, we designed our data gathering and analytical efforts taking into account the allegations we received.

We also sent a questionnaire in February 1999 to a representative random sample of the D.C. Courts nonjudicial employees to obtain their views about their work environment. A questionnaire is a common means of collecting information from large groups of individuals and is a technique that contractors have used at the Courts. Of the 460 employees who were sent a questionnaire, about 73 percent returned a completed questionnaire. A copy of the questionnaire, annotated with the responses to each question, is in appendix II. We used an October 1998 roster of nonjudicial employees to identify those to whom we sent a questionnaire, and the results of our questionnaire are generalizable to that universe of employees. The October 1998 roster was the most current roster available at the time we sent our questionnaire.

We did our work between December 1998 and January 2000 in accordance with generally accepted government auditing standards.

We are providing copies of this briefing report to Representatives C.W. Bill Young, Chairman, and David Obey, Ranking Minority Member, Committee on Appropriations; Delegate Eleanor Homes Norton, Ranking Minority Member, Subcommittee on the District of Columbia, Committee on Government Reform; Senators Kay Bailey Hutchison, Chairwoman, and Richard Durbin, Ranking Minority Member, Subcommittee on the District of Columbia, Committee on Appropriations; Senator George Voinovich, Chairman, Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, Committee on Governmental Affairs; and Representative Julian Dixon. We are also providing copies to the District of Columbia Courts, the National Center for State Courts, and the Administrative Office of the U.S. Courts. We will make copies available to others on request.

The major contributors to this briefing report are listed in appendix IV. If you have any questions about this report, please call me on (202) 512-8676.

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Abbreviations

CFR	Code of Federal Regulations
EEO	equal employment opportunity
EEOC	Equal Employment Opportunity Commission
MSPB	Merit Systems Protection Board
OPF	Official Personnel Folder

Objectives, Scope, and Methodology

GAO

Objectives

- To determine whether
  - the D.C. Courts' applicable policies for six basic personnel activities or functions were consistent with commonly accepted personnel management principles and
  - the Courts generally adhered to their personnel policies or practices when implementing the six personnel activities or functions.

1

GAO

Scope and Methodology

- The review focused on the D.C. Courts' applicable policies or practices for six personnel activities or functions and process for employee reporting of fraud, waste, abuse, and mismanagement.

- To do this review we
  - compared D.C. Courts' personnel policies with commonly accepted personnel management principles,
  - interviewed program managers and court executives,
  - obtained various documents and data,
  - reviewed over 700 personnel files, and
  - sent a questionnaire to a representative sample of 460 court employees.

2

Implementation of Personnel Policies or Practices

GAO

D.C. Courts' Personnel Policies for Six Basic Personnel Activities or Functions Are Generally Consistent With Commonly Accepted Personnel Management Principles

D.C. Courts' policies regarding	Generally consistent with commonly accepted personnel principles?
Performance evaluation	Yes
Promotions: competitive and noncompetitive	Yes
Corrective actions	Yes
Training	Yes
Classification	Yes
EEO	Yes

3

D.C. Courts' Personnel Policies for Six Basic Personnel Activities or Functions Are Generally Consistent With Commonly Accepted Personnel Management Principles

A comparison of the Courts' personnel policies for six basic personnel activities or functions (i.e., performance evaluation, competitive and noncompetitive promotions, corrective actions, training, classification, and EEO) with commonly accepted personnel management principles shared by public and private sector organizations shows that they are consistent with the principles. For example, one objective of the Courts' performance management policy is "to provide employees with regular performance feedback year round and a written evaluation on an annual basis." This objective is consistent with the general principle that organizations should assess employee performance and provide periodic feedback.

GAO

D.C. Courts Adherence to Personnel Policies or Practices Varied

- D.C. Courts' compliance with applicable policies or practices for the six personnel functions or activities we reviewed (i.e., performance evaluation, competitive and noncompetitive promotions, corrective actions, training, classification, and EEO) varied.

4

Employees Performance Evaluations and Feedback

GAO

D.C. Courts Have Not Given All Nonjudicial Employees Required Timely Annual Performance Evaluations

- Timely annual written evaluations not given to nonjudicial employees as required by Courts' policy.
- The Courts' determined that 6 percent of employees in 1996, 13.4 percent in 1997, 83.5 percent in 1998, and 76 percent in 1999 (as of December 15) received performance evaluations. Not all were timely, however.
- We determined that 13 percent of employees in 1998 and 29 percent in 1999 received timely evaluations.

5

The Courts did not give all of their nonjudicial employees annual written performance evaluations in calendar years 1996, 1997, 1998, and 1999 (through December 15) as required by their performance management policy. The policy requires that career employees be evaluated annually on the anniversary date (i.e., date of last appointment, promotion, or demotion). The objective of the Courts' performance management policy is "to provide a fair, consistent and job-related performance management system that shall provide employees with regular performance feedback year round and a written evaluation on an annual basis."

After we began our review in December 1998, the Courts, according to a court official, inventoried the Official Personnel Folders (OPF) of all Superior Court and Court System nonjudicial employees to determine if they received written performance evaluations. The Courts reported the results of this review in a June 24, 1999, response to congressional inquiries about the Courts' compliance with their policy on personnel evaluations. The Courts said that written evaluations were in 6 percent of the OPFs for 1996, 13.4 percent of the OPFs for 1997, and 83.5 percent of the OPFs for 1998. However, we independently determined that a much smaller percentage of nonjudicial employees actually received their 1998 performance evaluations within the time frame established by the Courts' policy and practice. Using a representative sample of OPFs, we determined that about 13 percent of performance evaluations due in 1998 were done on or within 30 days (before or after) of the employee's anniversary date.[1]

The Courts told us that 76 percent of Superior Court and Court System nonjudicial employees with anniversary dates through November 30, 1999, had received performance evaluations as of December 15. We independently determined, based on a representative sample, that about 29 percent of the Courts' nonjudicial employees actually received their 1999 performance evaluations timely as of December 15.[2] The discrepancy between our findings for 1998 and 1999 and the Courts' can be explained by our different approaches to determining the compliance rate. While we counted, as being in compliance, only evaluations that were signed by supervisors on or within 30 days (before or after) of an employee's anniversary date, the Courts counted all evaluations that were done as of December 15, 1999, regardless of the employee's anniversary date.

To improve compliance with the written evaluation policy, the Courts have implemented a procedure for checking each court division's compliance and said they would formally evaluate supervisors' compliance with the policy beginning in fiscal year 2000.

[1]This percentage is accurate to plus or minus 5 percentage points with 95-percent confidence.

[2]This percentage is accurate to plus or minus 6 percentage points with 95-percent confidence.

GAO Many Nonjudicial Employees of the D.C. Courts Do Not Believe They Received Periodic Informal Feedback as Required

- When asked "Within the past year, how often has your supervisor talked to you, either formally or informally, about your job performance?" employees responded as follows:
  - 9.4% About once a week
  - 19.3% About once a month
  - 19.2% 3 to 4 times in the past year
  - 34.3% About once in the past year
  - 11.9% Not at all in the past year
  - 6.0% Never

6

Many Nonjudicial Employees of the D.C. Courts Do Not Believe They Received Periodic Informal Feedback as Required

The Courts' performance management policy requires that supervisors review with the employee, his or her performance, optimally, on a quarterly basis but at a minimum of every 6 months throughout the evaluation period.

An analysis of the responses to our questionnaire indicates that supervisors do not appear to have regularly followed the periodic feedback policy. In answering our question about informal feedback, about 34 percent of the respondents said their supervisors talked to them about their performance about once in the past year, about 12 percent said not at all in the past year, and 6 percent said never.

We recognize that sometimes a supervisor can give performance feedback that the employee does not perceive as feedback and, if this occurred at the Courts, it could explain some of the responses we received. However, our questionnaire results indicate that about half of the Courts' employees do not perceive that they have received timely performance feedback in conformance with the Courts' policy.

All Required Procedures Not Documented

GAO

D.C. Courts Lack Procedures for Collection and Retention of Competitive Selection Documentation

- The Courts lack procedures on collection and retention of documentation to ensure the fairness of the competitive promotion process.
- The Courts' personnelists helped us develop a list of the documentation that is maintained generally to demonstrate merit selection.
- Most of the competitive promotions we reviewed were fully documented.
- Inadequate documentation would make it impossible to determine if all promotion decisions were fair.

7

The D.C. Courts do not have formal written procedures detailing the documentation they believe are necessary to support the fairness of the competitive promotion process. To do our review of the completeness of documentation maintained in personnel files to support competitive promotions, we had to develop a checklist with the help of court personnelists of documentation that was generally maintained. According to the personnelists, the Courts use the Uniform Guidelines on Employee Selection Procedures (29 C.F.R. 1607, et. seq.) guidance on what

documents, forms, and other information to maintain in order to support the fairness of competitive promotion decisions. However, the guidelines are designed to ensure only that employers, both public sector and private sector, do not discriminate on the basis of such characteristics as race, color, or religion. And while the guidelines do require employers to maintain documentation on what the adverse impact of their selection process might be, they do not identify what documentation would be necessary to ensure the fairness of a selection process under a merit system. Federal regulations require federal agencies to keep records on a temporary basis sufficient to allow reconstruction of each promotion action, including documentation on how candidates were rated and ranked. The D.C. Courts are not subject to this regulation.

Through our review of the documentation for 88 of 121 competitive promotions made in 1997 and 1998, we found that 76 percent of them were thoroughly documented in accordance with the checklist. One or more documents were missing for the remaining 24 percent. The document missing most often was a "referral panel certificate," which would be important in reconstructing a promotion process, as it would show where–by points–panel members ranked promotion candidates. It was missing in an estimated 14 percent of the files. Without the documentation necessary to reconstruct the decisions made during the competitive process, it is not possible to determine if all promotions were fair and followed the Courts' policies. And without formal policies and procedures describing what documentation to retain, it is difficult to know what documents the Courts believe are necessary for ensuring and supporting a fair competitive process. Nearly one in three of the Courts' employees answering our survey questions about the promotion process doubted its fairness. About 33 percent said that they have been treated unfairly in terms of decisions about promotion and career advancement. About 31 percent said the Courts regularly fail to use ability, knowledge, and skill as a basis to promote people, and 34 percent said the Courts regularly fail to make promotions based on fair and open competition. In comparison, there was no statistically significant difference between the percentage of court employees who answered the latter two questions on the promotion process negatively and federal employees who answered similar questions in a 1996 governmentwide study.[1]

[1]The U.S. Merit Systems Protection Board (MSPB) asked the three questions in a 1996 survey of a representative sample of federal employees. We compared the responses we received from employees of the D.C. Courts to responses MSPB received.

GAO

D.C. Courts Frequently Did Not Follow Their Practices for Noncompetitive Promotions

- Of 17 noncompetitive promotions for 1997 and 1998 that resulted from reorganizations, 11 lacked the required position reviews. Ten of the 11 positions were not reviewed because of a lack of coordination between the Personnel Division and the Courts' Executive Office.
- One of 40 career ladder promotions for 1997 and 1998, lacked the documentation required. It was designated by the Courts' Executive Officer.

8

We reviewed the personnel files for all 79 of the noncompetitive promotions that occurred in 1997 and 1998. These promotions included temporary and career ladder[2] promotions and those that resulted from reclassifications, reassignments, and reorganizations. Not all of the required documentation was included in the personnel files for the

[2]A career ladder is a series of developmental positions of increasing difficulty in the same line of work, through which an employee may progress to a journeyman level on the basis of his or her personal development and performance in that series.

majority of reorganization promotions or for one noncompetitive promotion that resulted when the Courts' Executive Officer used his authority to create a career ladder position to promote the position's incumbent.

Seventeen noncompetitive promotions in 1997 and 1998 resulted from reorganizations, and the files for 11 did not indicate that the Personnel Division had conducted the required position review. Position reviews are done to ensure that a position's pay grade is justified by its duties. There are different requirements for when position reviews are to be done at the Courts. According to the Executive Officer, reviews are to be done at the time of the promotion, when new or revised positions result from reorganization. This rule applies unless legislation, grants, new programs, new projects, or operational emergencies triggered the reorganization, in which case reviews are done within 1 year of the trigger's inception. According to a personnel official, a position review was not conducted in 1 of the 11 cases because of an oversight. This review was to have been done at the time of promotion. The Personnel Division was unaware of the need to conduct position reviews for the other 10 promotions, according to the Personnel official, due to the lack of coordination between it and the Courts' Executive Office. The Executive Officer had used his authority to initiate the reorganizations and these associated promotions. All 10 reviews were to have been done within 1 year, but were never done.

For the noncompetitive career ladder promotion in question, the Executive Officer used his authority to create a career ladder from grade 14 to grade 15 for a particular position. The grade 14 incumbent was later promoted to grade 15 through this career ladder. According to the Executive Officer, the Courts' practice is for career ladder promotions to be accompanied by supervisory verification of the employee's satisfactory job performance at the lower grade. We found no evidence of supervisory verification in the files to support the career ladder promotion to grade 15.

In addition to this promotion to grade 15, four promotions resulting from reorganizations were to grade 14 positions. These four promotions were among the 10 promotions for which no position reviews had been conducted. The Courts do not appear to have followed another of their practices that applied to these four promotions. As set out in a court document on position classification, the Executive Officer is to designate managerial positions that will be graded at grade 14 and above upon consultation with the director of personnel. We found no evidence in the files that this consultation occurred for the four positions, all of which were managerial positions.

GAO

D.C. Courts Usually Adhered to Their Corrective Action Policy

- Required corrective action documentation was usually contained in personnel files we reviewed, but employees were not routinely notified of all key elements regarding the corrective action.
- The Courts appeared to follow the corrective action appeals process set out in policy.

9

The D.C. Courts' corrective action policy requires that all corrective actions be in writing and maintained in an employee relations file in the Courts' Personnel Division. To determine whether the Courts were ensuring adequate retention of corrective action documentation, we judgmentally selected six court divisions and asked them to provide us with a list of corrective actions that the divisions' supervisors had initiated during the 2-year period from July 1, 1997, to June 30, 1999. The six divisions employed almost 50 percent of the Courts' workforce. We found

that for all six divisions during the 2-year period, the employee relations files contained the required documentation in all but four corrective action cases.

The Courts' corrective action policy also requires that supervisors notify employees of key elements regarding the corrective action. To determine whether the Courts' supervisors included key elements in the corrective action notifications to employees, for 4 key elements, we reviewed the case files for the 150 employees from the 6 divisions that the Courts had reported received actions during the 2-year period that ended June 30, 1999. Our review of the files showed that these 150 employees were typically notified of 3 key elements: (1) the nature of the misconduct or performance problem, (2) the proposed disciplinary action, and (3) the employee's right to appeal the corrective action. However, for 112 of the 150 employees, the corrective action correspondence did not include the required notification to the employee of his or her right to review any materials that were the basis for the corrective action.

Our survey of court employees showed that the majority (about 65 percent) of those who answered the specific question said they had received information indicating that employees can be disciplined for committing various offenses or misconduct. However, a sizeable percentage (35 percent) said they had not received this information. In addition, about 40 percent responded that they had not received information from the Courts that there is a range of disciplinary measures that could be imposed for various offenses or misconduct.

Our survey also showed that some employees expressed a lack of confidence in the Courts' ability to deal appropriately with inadequate performance. About 34 percent of court employees said that the Courts do not regularly take appropriate steps to correct inadequate performance. About 38 percent of court employees said that the Courts do not regularly separate employees who cannot or will not improve their performance to meet required standards. In comparison, significantly more federal employees responding to MSPB's 1996 survey answered these questions negatively (i.e., 44 percent and 51 percent, respectively).

In addition, our survey found that about 41 percent of employees were unsure whether corrective action appeals would be handled fairly or unfairly. We reviewed the filed documentation for all 13 corrective action appeals that were heard from January 1995 through June 1999, and we found that the appeals appeared to follow the process provided for in the Courts' personnel policies.

D.C. Courts Policy Compliance

GAO D.C. Courts Comply With Training Policy

- The Courts appear to have an active training program.
- The Courts' training center has formulated a concept for further defining training needs.

10

D.C. Courts Comply With Training Policy

Court employees receive training usually from the divisions that employ them and the Courts' Center for Education, Training, and Development. In general, employees—with approval of supervisors—elect to attend courses offered by the Center. In addition, all employees or groups of employees, including managers, have been required to attend specific courses or training. Also, for the positions of social worker and certified addiction counselor, which have a continuing educational requirement for recertification, the Center provides courses to assist employees in meeting those requirements. Operating divisions may provide formal training sessions in addition to those that the Center provides at their requests.

In general terms, the operating divisions are to provide the training, including informal training, that employees need to do their jobs on an everyday basis, while the Center offers formal courses to maintain and enhance their knowledge, skills, and abilities. The Courts appear to us to have an active training program to encourage the training and development of employees, as called for by their training policy.

As a general matter, the Courts have not established, and we are unaware of any requirement for them to establish, overall requirements on the amounts of training or the training curriculums nonjudicial court employees should receive or follow. However, the Center had formulated a concept for further defining the training needs and curriculum of positions that were to be identified. Under the concept, according to the Center's director, the knowledge, skills, and abilities of staff would be determined. With that information, the Courts would then determine what training should be offered to enable employees to reach performance expectations, as set out in job descriptions. According to the director, funds to develop a staff-assessment instrument were included in the Center's budget request for fiscal year 2001. A different instrument, the director said, would be necessary for different job series. However, beyond this initial request, no plan or timetable had been developed as of September 1999 for implementing the concept. According to the director, the Center will propose a plan and timetable in consultation with the newly appointed director of personnel, since this effort is anticipated to be a joint project with the Personnel Division. The new personnel director was appointed in the fall of 1999.

GAO

D.C. Courts Did Not Comply With Policy Requiring Periodic Classification Surveys

- Last systematic study of classification system done in 1983.
- Nonsystematic review of court positions from 1989 through 1999 does not support the policy requirement to either survey all positions or a representative sample to ensure that employees receive equal pay for substantially equal work.
- Courts plan to adopt systematic approach for doing required classification surveys beginning in January 2000.

11

The objective of the Courts' position classification policy is to attain equal pay for substantially equal work based upon complexity of assignment, assigned duties, responsibilities, and the qualification requirements of positions. The policy calls for periodic classification surveys (i.e., a review of existing positions to determine if changes should be made in position descriptions). The policy specifies that these surveys shall be accomplished either by surveying all positions or by surveying a representative number of positions. We determined that the Courts had not

conducted a systematic review of their positions, as prescribed in their policy, since 1983.

In October 1983, a classification study was done to determine whether the D.C. Superior Court had an adequate process for setting pay and grades for court clerk positions. The study recommended that the Court adopt federal standards, which could be applied to Court positions and modify existing federal Office of Personnel Management standards to apply to the court clerk position series.

The Courts believe they have reviewed representative samples of court positions on an ongoing basis from 1989 through 1999. These reviews, officials said, were conducted because of reorganizations, new positions, position reviews, new programs, grievances, job analyses, desk audits,[1] and reclassification requests. The Courts reported reviewing 144 of 205 grade 13 and lower positions between 1989 and 1999. However, the positions reviewed were not selected to be statistically representative, and officials were not able to tell us how many employees' position descriptions were affected by these reviews.

In October 1999, the Courts notified us that they would begin a new approach to doing classification surveys starting in January 2000. According to Personnel Division officials, the Personnel Division will implement a systematic review of at least one-fifth of the Courts' positions each year. All nonjudicial positions are to be reviewed over a 5-year period, after which the cycle is to begin again. The review is to consist of managerial distribution of classification questionnaires, review of position descriptions, and desk audits (where necessary).

About 80 percent of the Courts' employees who answered our survey questions on classification said they had seen a current written description of their job duties, and most of them thought those descriptions were rather accurate. About 34 percent considered these descriptions to be very accurate and 44 percent said the descriptions were more accurate than inaccurate. About 15 percent said the descriptions were more inaccurate than accurate, and another 6 percent considered the descriptions to be very inaccurate.

[1]A desk audit is a conversation or interview with the person in the job, with the supervisor of the position, or sometimes with both, usually at the work location. The purpose of an audit is to gain as much information as possible about the position. This information, combined with an analysis of other available material about the job and the organization, can help to verify details and resolve questions.

GAO

D.C. Courts Have Acted to Further EEO Policies, but Additional Means of Enhancement Are Available

- The Courts added an EEO element to performance evaluation plans.
- Formal process in place to investigate complaints of discrimination.
- The Courts plan to amend the EEO policy and distribute an EEO brochure.
- Additional communications with employees and written procedures about the complaint process could be helpful.

12

In response to a House Appropriations Subcommittee on the District of Columbia question, the Courts, in November 1999, added an EEO job element to the performance plans of managers and supervisors. It requires them to support and enforce the Courts' EEO policies.

The Courts have had a formal process in place to address discrimination complaints. Its administration was privatized in 1997 with the hiring (on a part-time basis) of a contract attorney who specializes in EEO matters. The contractor's duties include determining whether there is reasonable

cause to believe that discrimination occurred. In addition, the Courts opened a separate mediation office in 1998 to mediate disputes—-including EEO issues—between employees.[2] Experienced mediators from outside the Courts are to mediate disputes. In early January 2000, the Courts' Standing Committee on Fairness and Access, an advisory committee of principally judges, sent several recommendations for enhancing the mediation function to the Joint Committee on Judicial Administration. The recommendations are intended, in part, to permit the mediation of corrective actions and appeals from corrective actions and to establish a more formal and integrated conflict resolution referral network. The network is to better identify when referrals, including EEO referrals, should be made to the mediation office.

In response to our inquiry, the Courts have drafted language to amend their complaint processing policy to reflect that EEO counseling is available (before or in conjunction with filing a formal complaint) and that employees may file complaints with EEOC. Although not specifically mentioned in the current policy, employees to some extent had been made aware of both. The contract attorney has drafted a brochure to highlight, for employees, the Courts' EEO policies and certain elements of the complaint process. The draft language and brochure were working through the Courts' approval process as of mid-November 1999. Additional formal communications may also be helpful to employees. Although posters are displayed informing court employees about federal EEO protections, posters about the Courts' EEO policies are not displayed. Such a poster would help remind employees of the Courts' EEO program and complaint process, although it would probably repeat to some extent information in the policy manual, which employees are to possess, and in the draft brochure. Complainants are not provided with a written list of their rights and responsibilities, although the contract attorney said he conveys them verbally. In addition, the Courts did not have a procedures manual, for example, to identify what documents to include in complaint files, although the contract attorney had begun to outline such a guidebook. This level of guidance is not in the Courts' comprehensive personnel manual. While the Courts are not required to do any of the three, each is a practice federal agencies are to follow. Federal regulations require all three in federal EEO programs. The Courts are not subject to these regulations.

[2]Regulations that took effect in November 1999 require federal agencies to establish or make available an alternative dispute resolution program. Such programs, according to the regulations, must be available for both the precomplaint and the formal complaint EEO process. Mediation is one alternative dispute resolution technique.

GAO More Extensive Data Analyses Could Be Useful to Leadership of the D.C. Courts in Monitoring Compliance With EEO Policies

- Additional analyses of EEO data could be useful.

13

The Courts collect EEO data for several purposes. They prepare an annual report for EEOC on the number of new hires, promotions, and terminations by race, national origin, and gender. According to court officials, the data are sent at least annually to the Courts' Executive Officer and through the District of Columbia Government to EEOC.

Separately from the EEOC-related data collection, the Courts collect data on the race, national origin, and gender of applicants for competitive appointments and promotions and those who are appointed and promoted. In making competitive appointments and promotions, the Courts follow the federal government's Uniform Guidelines on Employee Selection Procedures, which are designed to prevent unlawful discrimination in the selection of employees. They also employ specialists to make certain that selection criteria have a "business necessity" (that is, a clear connection to performance on the job) and make analyses on a job-announcement-by-job-announcement basis.

For purposes of recruitment in general and affirmative employment recruiting, the Courts compare by EEO group the composition of their workforce to the composition of the labor force in the Washington, D.C. metropolitan area. Appendix I contains a comparison of the workforces as of December 1998. According to court officials, these analyses go to the Executive Officer and to the Courts' Standing Committee on Fairness and Access, which is charged in part, with enhancing fairness in the Courts' human resources policies, practices, and procedures.

The Courts have not, however, done various other analyses that are recommended, but not required, by Justice Department guidelines that the Courts otherwise follow.[3] For example, the Courts have not done analyses of applicants for employment or promotion compared with those selected for employment or promotion, employees who receive a corrective action, and voluntary and involuntary terminations. These analyses are recommended to ensure that equal opportunity principles are followed in all employment phases. According to Personnel Division officials, certain of these analyses have not been done, in part, due to limitations in the computer software they use. The Personnel Division, according to an official of the division, plans to start producing an annual package of such supplementary EEO analyses, starting with 1999 data. It plans to produce the package using computer-generated data and manual methods. The official said the package would also include a workforce utilization analysis, and would be sent to the Executive Officer and the Standing Committee.

[3] 28 CFR 42.301, et. seq.

Employees Perceptions of D.C. Courts' Efforts

GAO

Employees' Perceptions of D.C. Courts' EEO Efforts Mixed

- A majority of employees expressed positive views, while others expressed uncertainty or negative views on the Courts' complaint process and efforts to eliminate discrimination.

14

Employees' Perceptions of D.C. Courts' EEO Efforts Mixed

About 56 percent of the employees who answered our question about filing a formal EEO discrimination complaint said they would be very or generally willing to file a complaint if they believed they had been discriminated against, while 18 percent held the opposite view. Another 26 percent were undecided. Employees were undecided or unwilling most often out of concern for the fairness of the process. Almost as often as they were concerned with fairness, unwilling employees also were fearful of reprisal for filing a complaint. We do not know the exact reasons why these undecided and unwilling employees felt as they did. However, we were told during our review that the Courts privatized the complaint process in 1997 in part because of a breakdown in employee confidence in using the complaint process.

Employees also had varied opinions on whether the Courts supported the elimination of workplace discrimination. About 52 percent of the employees believed that the Courts definitely or probably supported the elimination of discrimination, 18 percent held the opposite view, and 29 percent were unsure.

GAO

Most Employees Not Informed of the D.C. Courts' Process for Reporting Fraud, Waste, Abuse, and Mismanagement

- More than half of employees said they would be willing to report fraud, waste, abuse, and mismanagement.
- About four out of five employees said the Courts have not provided necessary information about the process.
- Courts said they plan to draft a more formal clarifying statement providing for the reporting of allegations of fraud, waste, abuse, and mismanagement.

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Most Employees Not Informed of the D.C. Courts' Process for Reporting Fraud, Waste, Abuse, and Mismanagement

According to the Courts, their Quality Service Council, which was established in 1994 to explore the possibility of implementing total quality management principles into the court system, is available along with employees' supervisors and managers to receive allegations of fraud, waste, abuse, and mismanagement from court employees. However, as of mid-October 1999, according to the Courts' Executive Officer, the Council has not received any such allegations. And a more formal clarifying statement providing for reporting these types of allegations is in the process of being drafted by the Personnel Advisory Committee for review and approval by the Joint Committee on Judicial Administration. The Courts' Executive Officer also appointed court officials to a new subcommittee of the Personnel Advisory Committee, in late October, to explore alternatives and draft a proposed policy on the reporting of waste, fraud, and abuse in the court system.

According to 54 percent of the Courts' employees, who answered our survey questions about fraud, waste, abuse, and mismanagement, they would be willing to report such incidents. But, about 80 percent also said they had not received information on where to report, the process for reporting, or the protections provided to employees who make reports.

Equal Employment Workforce Statistics District of Columbia Courts, December 1998

	Male Total	Black	Asian	Hispanic	White	Other
Managerial						
Courts	53	35	0	0	18	0
Courts %	58%	38%	0%	0%	20%	0%
Metro	5,3321	7,545	1,755	1,692	42,118	211
Metro %	52%	7%	2%	2%	41%	0%
Professional						
Courts	111	61	8	4	38	0
Courts %	46%	25%	3%	2%	16%	0%
Metro	122,210	15,439	6,271	3,149	97,019	332
Metro %	53%	7%	3%	1%	42%	0%
Technical						
Courts	32	23	0	1	8	0
Courts %	41%	29%	0%	1%	10%	0%
Metro	18,295	5,111	1,263	777	11,041	103
Metro %	60%	17%	4%	3%	36%	0%
Paraprofessional						
Courts	15	13	0	1	1	0
Courts %	26%	22%	0%	2%	2%	0%
Metro	20,903	3,075	718	666	16,404	40
Metro %	35%	5%	1%	1%	27%	0%
Clerical						
Courts	166	146	3	5	12	0
Courts %	31%	27%	1%	1%	2%	0%
Metro	38,052	14,706	2,004	1,703	19,496	143
Metro %	17%	7%	1%	1%	9%	0%

Female Total	Black	Asian	Hispanic	White	Other	Total M/F
38	24	0	1	13	0	**91**
42%	26%	0%	1%	14%	0%	
49,317	12,743	1,153	1,383	33,817	221	**102,638**
48%	12%	1%	1%	33%	0%	
130	97	2	6	25	0	**241**
54%	40%	1%	2%	10%	0%	
106,797	24,548	5,449	3,131	73,368	301	**229,007**
47%	11%	2%	1%	32%	0%	
46	34	1	0	11	0	**78**
59%	44%	1%	0%	14%	0%	
12,293	4,956	603	478	6,223	33	**30,588**
40%	16%	2%	2%	20%	0%	
43	36	1	1	5	0	**58**
74%	62%	2%	2%	9%	0%	
39,648	8,265	1,398	1,404	28,414	167	**60,551**
65%	14%	2%	2%	47%	0%	
377	353	5	4	15	0	**543**
69%	65%	1%	1%	3%	0%	
183,714	64,336	6,400	7,214	105,054	710	**221,766**
83%	29%	3%	3%	47%	0%	

Note 1: Some corrections to the data were made in 1999, which this table reflects.

Note 2: "Metro" refers to the Washington, D.C. Metropolitan Statistical Area, which consists of the District of Columbia and areas of Maryland and Virginia. The metro labor force data, according to the Personnel Division, are of those occupations within each major category (managerial, professional, etc.) that the Personnel Division believes approximates the positions in the D.C. Courts. The metro data were taken from a publication of the Metropolitan Washington Council of Governments, according to the Personnel Division. The publication compiles EEO data from the 1990 Census.

Note 3: Percents are rounded to the nearest whole percent.

Source: Personnel Division, D.C. Courts.

Survey of D.C. Courts' Employees

Final Results Weighted Results N= 1008

GAO U. S. General Accounting Office

Survey of D.C. Courts' Employees - Attitudes and Views About Their Work Environment

Introduction

The U.S. General Accounting Office (GAO), an independent agency of Congress, is reviewing the D.C. Courts' personnel practices at the request of the Chairmen of the House Committee on Appropriations, Subcommittee on the District of Columbia, and the House Committee on Government Reform, Subcommittee on the District of Columbia. As a part of this review, we are surveying a random sample of D.C. Courts' employees to get their views on the Courts' personnel practices. Your frank and honest answers will help GAO inform the subcommittees on how the Courts' employees view their work environment.

Survey results will be confidential. Your name will be kept confidential and will not be released outside GAO, unless compelled by law or required to do so by Congress. Survey results will generally be reported in summary form. If individual answers are discussed in our report, we will not include any information that could be used to identify individual respondents. The number on the questionnaire is included only to aid us in our follow-up efforts. To further protect your privacy, before releasing our report we will remove this number so your questionnaire can no longer be matched with your name.

This questionnaire should take about 20 to 30 minutes to complete. Most of the questions can be answered by checking boxes or filling in blanks. Space has been provided at the end of the questionnaire for any comments you may want to make.

Please complete and return the questionnaire in the enclosed preaddressed envelope within 10 workdays so that we can avoid costly follow-up efforts. In the event the enclosed envelope is misplaced, the return address is:

U.S. General Accounting Office
441 G Street, NW
Room 2908
Washington, D.C. 20548

Attention: Mr. Dom Nieves

If you have any questions, please call Mr. Nieves at (202) 512-5884.

Thank you very much for your time.

I. Classification

1. Since you have been in your current position with the D.C. Courts, have you seen a written description of your job duties? *(Check one.)*

n=993

80.4% Yes ➔ ***Continue with question 2.***
19.6% No ➔ ***Skip to question 3.***

2. How accurate or inaccurate is this written job description in describing what you actually do on your job? *(Check one.)*

n=750

34.1% Very accurate
44.1% Somewhat more accurate than inaccurate
14.8% Somewhat more inaccurate than accurate
5.7% Very inaccurate

1.3% Do not know

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II. Employee Relations/Development **Final Results**

3. How often does your work unit (i.e., the group of people you most closely work with) have staff meetings to discuss various topics of interest concerning your job, your work unit, or the Court in general? *(Check one.)*

n=944

11.4% Weekly
13.4% About twice a month
22.6% About once a month
38.0% Other - Please specify: _____
14.6% Never

4. Within the past year, has your supervisor given to you a written appraisal or rating that evaluated your job performance? *(Check one.)*

n=939

71.5% Yes
28.5% No

5. Within the past year, how often has your supervisor talked to you, either formally or informally, about your job performance? *(Check one.)*

n=943

9.4% About once a week
19.3% About once a month
19.2% 3-4 times in the past year
34.3% About once in the past year
11.9% Not at all in the past year

6.0% Never

6. Would you agree or disagree with the following statements as they apply to your current position with the D.C. Courts? *(Check one box in each row.)*

	Strongly agree (1)	Agree (2)	Neither agree nor disagree (3)	Disagree (4)	Strongly disagree (5)	Not sure/ No basis to judge (6)
a. I have received the training I needed to keep pace with the requirements of my job as these have changed. n=976	17.1%	33.4%	19.1%	17.6%	9.6%	3.3%
b. I need more training to perform my job effectively. n=898	14.8%	30.8%	22.5%	19.3%	9.3%	3.3%

7. Do the D.C. Courts provide information about job openings (e.g., vacancy announcements) in the following areas? *(Check one box in each row.)*

	Yes (1)	No (2)
a. Job openings D.C. Courts-wide (i.e., Superior **and** Appeals Court) n=911	82.8%	17.2%
b. Job openings in my Court (i.e., Superior **or** Appeals Court) n=908	90.3%	9.7%
c. Job openings in my division n=900	88.3%	11.7%
d. Job openings in my work unit n=890	82.9%	17.1%

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8. Based on your experience, about what percent of the time does your work unit accomplish each of the following? *(Check one box in each row.)*

	Always (without exception) (1)	Between 90 and 99% of the time (exceptions are rare) (2)	Between 70 and 89% of the time (most of the time but exceptions are not uncommon) (3)	Less than 70 % of the time (exceptions occur regularly) (4)	Don't know/ Can't judge (5)
a. Selects well-qualified persons when hiring from outside the D.C. Courts. n=981	7.5%	15.5%	30.3%	14.4%	32.3%
b. Selects persons on the basis of their relative ability, knowledge, and skills when hiring from outside the D.C. Courts. n=981	9.7%	16.8%	24.0%	9.8%	39.8%
c. Makes selections based on fair and open competition when hiring from outside the D.C. Courts. n=965	9.3%	17.4%	16.8%	13.3%	43.2%
d. Promotes people on the basis of their relative ability, knowledge, and skills. n=972	6.4%	14.3%	23.8%	31.3%	24.2%
e. Makes selections based on fair and open competition for promotions. n=959	7.1%	14.0%	19.6%	34.0%	25.2%

III. Adverse Actions

9. Have you received information from the D.C. Courts indicating that employees can be disciplined for committing various offenses or misconduct? *(Check one.)*

n=993

64.7% Yes, I have received such information
35.3% No, I have not received such information

10. Have you received information from the D.C. Courts that there is a range of disciplinary measures that could be imposed for various offenses or misconduct? *(Check one.)*

n=944

59.5% Yes, I have received such information
40.5% No, I have not received such information

11. Have you received information from the D.C. Courts describing the procedures to follow in order to appeal disciplinary measures that may be imposed for various offenses or misconduct? *(Check one.)*

n=941

55.2% Yes, I have received such information
44.8% No, I have not received such information

12. If an employee was disciplined for an offense and decided to appeal it, do you believe that the appeal would be handled fairly or unfairly by the D.C. Courts? *(Check one.)*

n=994

13.3% Very fairly
22.0% Somewhat more fairly than unfairly
41.4% Unsure
12.2% Somewhat more unfairly than fairly
11.1% Very unfairly

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13. Based on your experience, about what percent of the time do the D.C. Courts accomplish each of the following? *(Check one box in each row.)*

	Always (without exception) (1)	Between 90 and 99% of the time (exceptions are rare) (2)	Between 70 and 89% of the time (most of the time but exceptions are not uncommon) (3)	Less than 70 % of the time (exceptions occur regularly) (4)	Don't know/ Can't judge (5)
a. Takes appropriate steps to correct inadequate performance. n=986	3.0%	13.1%	26.2%	34.2%	23.5%
b. Separates (i.e., terminates) employees who cannot or will not improve their performance to meet required standards. n=982	2.6%	7.3%	20.3%	38.5%	31.2%

IV. Pay

14. Overall, how satisfied or dissatisfied are you with your current pay? *(Check one.)*

n=1000

3.7% Very satisfied
16.7% Generally satisfied
16.3% As satisfied as dissatisfied
28.7% Generally dissatisfied
34.7% Very dissatisfied

15. In your opinion, how does your pay compare to that of employees outside of the D.C. Courts who are doing jobs similar to yours? *(Check one.)*

n=1004

55.8% I am paid much less.
29.3% I am paid somewhat less.
2.1% I am paid about the same.
2.4% I am paid somewhat more.
0.6% I am paid much more.

9.7% Don't know/No basis to judge

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V. Equal Employment Opportunity/Affirmative Action

The D.C. Courts' EEO coordinator assists the Courts to ensure that employees receive equal employment opportunities within the D.C. Courts system. Among other things, the EEO coordinator is responsible for meeting with Court staff on an as needed basis to provide EEO counseling and guidance, process discrimination complaints in compliance with the D.C. Courts' EEO policy, analyze complaints, and make determinations regarding the feasibility of conducting investigations of formal complaints.

This section asks about the extent to which the D.C. Courts have taken certain actions to inform you about their EEO policy, your rights under that policy, and the D.C. Courts' EEO program and operations. It also asks about your willingness to participate in the complaint process if you believed you had been discriminated against.

16. Before reading the description at the beginning of this section, how familiar or unfamiliar were you with the responsibilities of the D.C. Courts' EEO coordinator? *(Check one.)*

n=947

12.4% Very familiar
41.3% Generally familiar
21.3% Generally unfamiliar
25.0% Very unfamiliar

17. If you believe that you had been discriminated against in an area such as race, sex, age, handicap, etc., how willing or unwilling would you be to use the D.C. Courts' Employee Mediation Program to resolve the discrimination complaint. *(Check one.)*

n=992

21.0% Very willing
24.9% Generally willing
30.4% Undecided
10.7% Generally unwilling
13.1% Very unwilling

18. If you believed that you had been discriminated against, how willing or unwilling would you be to file a formal EEO discrimination complaint against the D.C. Courts. *(Check one.)*

n=944

25.6% Very willing
30.0% Generally willing
Skip to question 20.

26.4% Undecided
13.0% Generally unwilling
5.1% Very unwilling
Continue with question 19.

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19. Which of the following describes your reason(s) for being undecided or unwilling to file a formal discrimination complaint? *(Check all that apply.)*

n's reported

118 I would be concerned my complaint would not be investigated in a competent manner.
116 I would be concerned my complaint would not be thoroughly investigated by the EEO coordinator.
207 I would be concerned my complaint would not be handled in a fair manner.
106 I would be concerned my complaint would not be handled in a timely manner.
105 I would be concerned too much of my time would be consumed in the complaint process.
57 I would be concerned my co-workers would turn against me.
155 I would fear reprisal.
61 I would not be willing to file a complaint for non-work related personal reasons.
71 Other - Please specify: _____

20. Do you believe that your employer, the D.C. Courts, supports eliminating discrimination in the workplace? *(Check one.)*

n=940

19.2% Definitely yes
33.0% Probably yes
29.3% Unsure
12.7% Probably no
5.8% Definitely no

VI. Staffing

21. Would you agree or disagree with the following statements as they apply to your work unit and the D.C. Courts? *(Check one box in each row.)*

	Strongly agree (1)	Agree (2)	Neither agree nor disagree (3)	Disagree (4)	Strongly disagree (5)	Not sure/ No basis to judge (6)
a. My work unit has a sufficient number of employees to do its job. n=995	10.7%	29.4%	10.0%	26.9%	21.7%	1.3%
b. I feel my work unit is overstaffed and that it can do the same job with fewer people if the work processes could be changed. n=990	3.3%	4.8%	8.3%	34.7%	46.7%	2.2%
c. I feel my work unit is understaffed and needs more people to do the job. n=979	26.6%	26.9%	11.6%	26.7%	6.7%	1.5%
d. The D.C. Courts have a sufficient number of employees to do its job. n=980	3.6%	20.7%	19.5%	18.3%	12.3%	25.5%
e. I feel the D.C. Courts are overstaffed and that they can do the same job with fewer people if the work processes could be changed. n=980	3.5%	6.9%	13.6%	30.7%	20.6%	24.7%
f. I feel the D.C. Courts are understaffed and need more people to do the job. n=974	13.9%	21.9%	17.1%	16.7%	3.6%	26.8%

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VII. Encouragement of Reporting of Waste, Fraud, Abuse, and Mismanagement

This section asks for your views on reporting illegal or wasteful activities, whether you would report such activities if you became aware of them, and the extent to which the D.C. Courts have taken certain actions to create a climate that encourages reporting of waste, fraud, abuse, or mismanagement.

22. If you became aware of activities involving waste, fraud, abuse, or mismanagement in any of the D.C. Courts' programs or operations, how willing or unwilling would you be to report it to a D.C. Courts' official? *(Check one.)*
n=988

23.5% Very willing
30.6% Generally willing
Skip to question 24.

27.8% Undecided
12.1% Generally unwilling
6.0% Very unwilling
Continue with question 23.

23. Please indicate the reason(s) for your unwillingness to report the instance(s) of waste, fraud, abuse, or mismanagement? *(Check all that apply.)*
n's reported

161 I am not sure to whom I would report such activities.
46 I would feel it would not be my responsibility to report such activities.
28 I would be concerned the solution to the problem would not be under the D.C. Courts' control.
185 I would be concerned the D.C. Courts would not take action to correct the problem.
152 I would be concerned the D.C. Courts would not punish the wrongdoer(s).
232 I would be concerned I would not remain anonymous.
234 I would be concerned the D.C. Courts would not assure me that the legal protections against unlawful retaliation for reporting such activities would be enforced.
159 It would depend on the seriousness of the activity.
12 I would be concerned the D.C. Courts would not provide me with a non-monetary award for reporting such activities.
13 I would be concerned the D.C. Courts would not provide me with a monetary award for reporting such activities.
41 I would not be willing to report such activities for non-work related personal reasons
53 Other - Please specify: _____

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24. Have the D.C. Courts provided you with information about the following aspects of reporting waste, fraud, abuse, or mismanagement, and, if yes, how adequate or inadequate is the information that was provided? *(Check yes or no for each row. If yes, continue.)*

Have the D.C. Courts provided you with information about the following aspects of reporting waste, fraud, abuse, or mismanagement?		**If yes**, how adequate or inadequate is the information that was provided?				
		More than adequate (1)	Generally adequate (2)	As adequate as inadequate (3)	Generally inadequate (4)	Very inadequate (5)
a. Where to report these instances. n=966 Yes/No & n=210 "Adequate"	21.7% Yes → 78.3% No	16.9%	47.6%	23.3%	7.5%	4.6%
b. The process for reporting these instances. n=954 Yes/No & n=187 "Adequate"	19.6% Yes → 80.4% No	19.0%	39.1%	28.8%	7.9%	5.2%
c. The protections provided to employees who report these instances. n=948 Yes/No & n=172 "Adequate"	18.2% Yes → 81.8% No	12.0%	41.1%	29.1%	12.1%	5.6%

VIII. Other

25. In general, how fairly or unfairly do you believe you have been treated in terms of decisions in each of the following areas? By fair, we mean decisions were based on merit and were free of bias and favoritism. *(Check one box in each row.)*

	Very fairly (1)	Generally fairly (2)	As fairly as unfairly (3)	Generally unfairly (4)	Very unfairly (5)	Not applicable/ No basis to judge (6)
a. Job or project assignments n=970	21.1%	40.3%	17.6%	8.7%	7.5%	4.8%
b. Training n=974	19.3%	38.1%	13.8%	12.5%	9.7%	6.6%
c. Formal performance appraisals/ratings n=969	22.7%	37.1%	13.0%	5.8%	7.8%	13.7%
d. Monetary awards and bonuses n=953	3.2%	6.6%	7.0%	6.8%	18.5%	57.9%
e. Promotion and career advancement n=961	12.1%	20.5%	15.9%	14.1%	19.3%	18.1%
f. Non-monetary awards and recognition n=954	9.6%	16.0%	16.8%	9.2%	17.1%	31.3%
g. Other - Please specify: _____ n=52	4.7%	13.9%	0.0%	0.0%	53.7%	27.8%

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IX. Demographic Questions

26. How many years have you been a D.C. Courts' employee? *(Check one.)*

n=1003

4.7% Less than 1 year
18.6% 1 to less than 5 years
21.3% 5 to less than 10 years
22.1% 10 to less than 15 years
8.4% 15 to less than 20 years
7.6% 20 to less than 25 years
12.5% 25 to less than 30 years
4.8% 30 years or more

27. How many years have you been in your current position at the D.C. Courts? *(Check one.)*

n=952

15.5% Less than 1 year
19.7% 1 to less than 3 years
35.8% 3 to less than 10 years
29.0% 10 years or more

28. Please indicate your current grade. *(Check one.)*

n=948

0.0% Grade 3
3.5% Grade 4
1.7% Grade 5
12.6% Grade 6
12.3% Grade 7
12.0% Grade 8
16.0% Grade 9
4.4% Grade 10
7.0% Grade 11
16.9% Grade 12
5.2% Grade 13
5.3% Grade 14
2.7% Grade 15
0.3% Grade 16
0.2% Grade 17

29. Are you currently a supervisor or a non-supervisor? *(Check one.)*

n=1004

19.3% Supervisor
80.7% Non-supervisor

30. Please indicate your sex. *(Check one.)*

n=953

36.2% Male
63.8% Female

31. Are you of Hispanic origin? *(Check one.)*

n=942

2.5% Yes
97.5% No

32. Please indicate your race. *(Check one.)*

n=907

77.3% African-American (Black)
18.7% Caucasian (White)
2.6% Asian-Pacific Islander
1.5% Native American

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33. If you have any comments relating to any of the items discussed in this questionnaire, please write them here. *(If necessary, you may attach additional sheets.)*

No comment . . . . n=623 (61.8%)

Comment . . . . . n= 385 (38.2%)

Thank you very much for your assistance.
Please return your survey in the enclosed preaddressed envelope.

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Comments From the D.C. Courts' Joint Committee on Judicial Administration

District of Columbia Courts
500 Indiana Avenue, N.W.
Washington, D.C. 20001

March 13, 2000

Mr. Michael Brostek
Associate Director
Federal Management and Workforce Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Brostek:

On behalf of the Joint Committee on Judicial Administration in the District of Columbia, I submit herewith the response of the District of Columbia Courts to the Draft Report of the United States General Accounting Office to Congressional Requesters entitled "D.C. Courts: Implementation Of Personnel Policies Requires Further Attention From the Courts' Leadership."

Please let us know if we can provide any further information.

Sincerely yours,

Anne B. Wicks
Acting Executive Officer

Attachment

RESPONSE OF THE DISTRICT OF COLUMBIA COURTS
TO THE DRAFT REPORT OF THE GENERAL ACCOUNTING OFFICE ON THE
D.C. COURTS' IMPLEMENTATION OF PERSONNEL POLICIES

INTRODUCTION

This submission responds to the draft report of the General Accounting Office (GAO) entitled, "D.C. Courts: Implementation Of Personnel Policies Requires Further Attention From the Courts' Leadership." In this report, the GAO examines the following seven areas of personnel functions or activities within the courts: (1) Performance Evaluations (feedback), (2) Promotions (competitive and noncompetitive), (3) Corrective Actions, (4) Employee Training, (5) Classification, (6) EEO Policies and Practices, and (7) Employee Reporting of Fraud, Waste, Abuse, and Mismanagement. The GAO found the Courts' policies to be generally consistent with personnel management principles. As with most large organizations, the GAO identified areas where the Courts' policies could be enhanced and adherence to policies could be improved by court personnel responsible for implementing them. The GAO's findings have assisted the Courts in identifying areas where improvements can be made to enhance performance. The following section discusses how the Courts have addressed the GAO's recommendations and concerns in these seven areas.

PERSONNEL ACTIVITIES AND FUNCTIONS

1. Performance Evaluations

As the GAO noted, about 84% of employees received written performance evaluations in 1998 when the Courts adopted a program to increase compliance with performance management policies. According to the Courts' Personnel Policies, performance evaluations should be completed on an employee's anniversary date of employment with the Courts. GAO found that although a majority of employees received a written performance evaluation, most of the evaluations were not completed on anniversary dates.

The Courts are working to bring performance evaluation practices into full compliance with established personnel policies and procedures. To ensure that the Courts' performance management policies are implemented appropriately, the Human Resources Division (Personnel) implemented new procedures in the fall of 1999 to monitor each division's compliance with annual performance evaluation requirements. Every month the Human Resources Division sends a checklist to all court divisions with the names of those employees due for performance evaluation and monitors the submission of completed evaluations. In addition, as GAO recommended, the Courts have taken steps to hold managers and supervisors accountable for implementing the Courts' performance evaluation policy by including compliance with the policy as a job requirement, or element of job

performance. The Courts have distributed new Job Elements and Standards to supervisory personnel, which evaluate whether the manager conducted performance evaluations within two weeks of each eligible employee's anniversary date.

In addition, the Courts' Center for Education, Training and Development has planned a training program to teach managers the best methods for conducting annual performance evaluations and providing interim feedback on employee performance.

2. Promotions

The GAO reviewed the files for 88 competitive promotions and 79 noncompetitive promotions at the Courts during 1997 and 1998 and found documentation missing in 24% and 15% of the files, respectively. Consistent with GAO's recommendation, the Courts are implementing formal written policies and procedures to identify the documents that should be collected and retained during the competitive promotion process, including the referral panel certificate, in order to enhance competitive promotion procedures.

Noncompetitive promotions at the Courts result from reorganization of court offices or functions by the Executive Officer or, in some instances, career ladder promotions. To ensure that the Executive Officer's exercise of this authority includes full, documented compliance with the Courts' personnel policy requirements, our Human Resources Division recently implemented the following safeguards for noncompetitive promotion activities:

position review required for reorganization promotions: requests for reorganization shall be forwarded from the Executive Officer to the Director of Human Resources for review and assignment to classification staff; all promotions will be temporary until the classification has been completed;

supervisory verification required (including for high level career ladder promotions): career ladder promotions will not be processed without appropriate documentation from supervisor; personnel actions received without documentation will be returned to the Division Director;

documented consultation required between Human Resources and the Executive Officer for upgrades for grade 14 and above managerial positions.

3. Corrective Actions

The Courts have a decentralized process for administering corrective action. This process allows managers and supervisors to administer corrective actions promptly, when needed. The Courts' Human Resources Division prepared a comprehensive *Corrective Action Guidebook* that provides guidance to managers and supervisors in following procedures to ensure that corrective actions are carried out in accordance with the Personnel

Policies of the D.C. Courts. The *Corrective Action Guidebook* contains written guidelines for addressing issues related to employee attendance, performance and misconduct, and sample corrective action letters that include all procedural requirements, including notice of the employee's rights, for use by supervisors in implementing corrective actions.

To ensure that managers and supervisors inform employees of all their rights, the Human Resources Division is planning a series of training courses for supervisory staff on the issue of employee performance and disciplinary actions. The Courts are also considering a revision to the personnel policies to bring Human Resources expertise into the corrective action process at an earlier stage. Under the draft revision, the Human Resources Division would review each supervisor's proposed corrective action prior to its issuance and ensure that all procedural requirements were met. In addition, the Director of Human Resources has been instructed to take steps to assure that employees are notified routinely of their right to review materials that form the basis for the corrective action.

4. Employee Training

As GAO observed, "the Courts, as a matter of policy, encourage the training and development of employees, and appear[ ] to have an active program." The Courts perform this function through on the job training in the operating divisions as well as more formal training provided through the Center for Education, Training, and Development. In a continuing effort to maximize staff effectiveness, the Courts are examining, as GAO suggested, methods to establish training curriculums for specific court positions.

5. Classification

Although GAO found that the Courts had not conducted a systematic classification review of positions since 1983, it is important to know that since that time the Human Resources Division has conducted over 140 classification reviews affecting approximately 800 positions. The net effect is that the Courts have reviewed jobs, created new and revised position descriptions to reflect changes in employees' duties and responsibilities, and provided managers an opportunity to review employee positions and to reflect changes in organizational structure, programs, or responsibilities.

In an effort to more systematically monitor employee positions, the Human Resources Division has implemented a five-year classification review covering all court positions. During this five-year cycle, the Human Resources Division will conduct a systematic classification review of all positions throughout the Courts, reviewing 20% of the positions annually. This activity is currently underway with a comprehensive review of all Superior Court Family Division positions. The review will include not only existing positions, but also any new positions that may enable the Family Division to enhance its operational effectiveness.

6. EEO Policies and Practices

Consistent with GAO's suggestions, the Courts are in the process of enhancing further the EEO Program. The Courts' EEO Counselor has developed an EEO procedure manual to include rights protected under District of Columbia law, the Courts' procedural guidelines, claim processing forms, recent and relevant case law, as well as the record-keeping and file maintenance guidelines that GAO recommends. The EEO Counselor is also producing posters to be placed throughout the Courts to remind employees of their EEO protections and the complaint process. The administrative staff expects to complete the development of the manual and posters by the spring. The EEO Counselor has already implemented the GAO recommendation to provide EEO complainants with a written list of their rights and responsibilities.

The Courts' current information technology does not support the data collection required for the additional data analyses recommended by GAO. The Courts are requesting FY 2001 funding for an upgraded human resources information system that will permit us to perform these extensive analyses. The Courts are seeking grant funding to permit us to begin the upgrade this fiscal year.

In 1997, the Courts outsourced the EEO Counselor function, in part to enhance employee confidence in the EEO complaint process. Currently, the Courts are requiring that all supervisors take an EEO course designed to help the Courts eliminate bias in the workplace. In addition, the Courts are requiring that all employees take a mandatory course on sexual harassment. The Courts hope that the new posters will also increase the visibility of this function and communicate the Courts' commitment to equal employment opportunity. The Courts will continue to seek means to further strengthen employees' confidence in the process.

In 1995, the Joint Committee established the Standing Committee on Fairness and Access to the District of Columbia Courts (Fairness and Access Committee) to continue on a permanent basis the work of the earlier Task Forces on Racial, Ethnic and Gender Bias and to ensure fairness in the Courts in these areas. This committee has among its functions monitoring closely the hiring and promotion process and practices in the Courts for racial and ethnic fairness and recommending concrete action to address any problem areas. The Fairness and Access Committee established a Subcommittee on Hiring and Promotions which examined the functions of the Equal Employment Opportunity Officer; the Courts' affirmative action planning and recruitment practices; and the racial, ethnic and gender distribution for the Courts' non-judicial employees. The subcommittee has oversight over the Courts' Employee Mediation Office, which opened in 1998 and provides a process for resolving employee grievances, including equal employment opportunity issues. This unique approach was originally funded by a federal grant. The Fairness and Access Committee provides on a continuing basis a mechanism for assuring that any EEO problem areas are identified and addressed.

7. Employee Reporting of Fraud, Waste, Abuse, and Mismanagement

The Courts are committed to eliminating fraud, waste, abuse, and mismanagement. Although several avenues exist for the Courts' employees to report instances of fraud, waste, abuse and mismanagement, we concur with the GAO's recommendation that the reporting process should be formalized and the new procedures provided to the Courts' employees. We hope that a new reporting policy, including formal protections for employees who make reports, will encourage all employees to help us address these issues.

The Courts' Personnel Advisory Committee has established a subcommittee to examine and recommend a reporting mechanism for employees to utilize to identify potential fraud, waste, abuse, and mismanagement which may be appropriate for an organization of our size and structure. The Personnel Advisory Subcommittee is studying and comparing a variety of programs, and has consulted with the Administrative Office of the Courts to examine its program and determine its applicability to the D.C. Courts. While a reporting mechanism is being established, the Courts are proceeding with plans to notify employees, through the Courts' newsletter *The Communicator* and distribution of formal notices, how to report any concerns of fraud, waste, abuse or mismanagement.

Once a new program or reporting procedures are established, the Courts will utilize a variety of methods to ensure that all employees know how to help us identify areas of potential fraud, waste, abuse, and mismanagement. The Courts intend to provide copies of the formalized procedures to all employees, to include fraud, waste, abuse, and mismanagement reporting in new employee orientation, to post the procedures in work spaces, and periodically to highlight them in the employee newsletter.

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GAO Contacts and Staff Acknowledgments

GAO Contacts

Michael Brostek (202) 512-8676

Acknowledgments

In addition to the above named, Richard W. Caradine, Domingo Nieves, Anthony Assia, Kenneth S. Derrick, Gerard S. Burke, Brenda J. Lindsey, Ernestine B. Burt-Sanders, Nelson S. Payne, Michael J. O'Donnell, and Gregory H. Wilmoth made key contributions to this report.

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