United States General Accounting Office

GAO

Report to the Ranking Minority Member Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Governmental Affairs, U.S. Senate

June 1996

# THE FEDERAL JUDICIARY

# Reviews of Court Operations Should Adhere to Oversight Standards

G A O 75 years 1921 - 1996

GAO/GGD-96-114

GAO

**United States**
**General Accounting Office**
**Washington, D.C. 20548**

**General Government Division**

B-259806

June 17, 1996

The Honorable Carl Levin
Ranking Minority Member
Subcommittee on Oversight of
Government Management and the
District of Columbia
Committee on Governmental Affairs
United States Senate

Dear Senator Levin:

As it seeks to reduce federal expenditures and balance the budget, Congress expects all federal departments and agencies to reduce operational costs wherever possible. This need to keep costs down has focused attention on the judiciary's processes to ensure it is operating as efficiently and effectively as possible.

This report responds to your request that we review the internal oversight of administrative operations within the federal judiciary, including those of local courts. On the basis of discussions with the Subcommittee, our objective was to examine how the Administrative Office of the U.S. Courts (AOUSC) assessed the efficiency of local court operations and promoted the use of efficient administrative practices within the judiciary.

## Background

The federal judiciary consists of the Supreme Court, 12 geographic circuit courts of appeals, 94 district courts, 91 bankruptcy courts, the Court of International Trade, the Court of Appeals for the Federal Circuit, and the Court of Federal Claims.[1] The federal judiciary's fiscal year 1996 budget is about $3.3 billion, and on September 30, 1995, it employed about 28,000 persons. For fiscal year 1997, the federal judiciary has requested congressional approval of a budget of about $3.6 billion, including a staff of about 31,000.

Governance of the federal judiciary is substantially decentralized.[2] The Judicial Conference of the United States, a body of 27 judges over which the Chief Justice of the United States presides, is the federal judiciary's principal policymaking body. The Conference's statutory responsibilities include considering administrative problems of the courts and making

[1]The U.S. Sentencing Commission is an independent entity within the judicial branch.

[2]Our report Federal Judiciary: Observations on Selected Issues (GGD-95-236BR, Sept. 18, 1995) includes a more detailed description of the federal judiciary's governance structure.

recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business. The Conference conducts its work principally through about 25 committees. In September 1993, the Judicial Conference established within its Budget Committee an Economy Subcommittee and charged it with reviewing judiciary operations to achieve greater fiscal responsibility, accountability, and efficiency.

Created by Congress in 1939, AOUSC provides a wide range of administrative, legal, and program support services to the federal courts, including budgeting, space and facilities, automation, statistical analysis and reports, financial audit, and program and management evaluation. The AOUSC Director serves as the administrative officer for the courts under the supervision and direction of the Judicial Conference. AOUSC's staff supports the work of the Conference and its committees, including the Economy Subcommittee. AOUSC provides analyses and recommendations on resource allocations to the Executive Committee of the Judicial Conference, which has final authority for resource allocations.

Authorized by the same statute that created AOUSC, each of the 12 geographic judicial circuits has a judicial council with the authority to issue all necessary and appropriate orders for the effective and expeditious administration of justice within their circuits. Within each circuit, the Circuit Executive, whose duties vary by circuit,[3] may have responsibility for conducting studies of the business and administration of the courts within the circuit. Neither Congress nor the Judicial Conference has formally charged chief judges with overall responsibility for the administration of their courts. Nevertheless, according to AOUSC, the chief judges of the appellate, district, and bankruptcy courts are generally expected to exercise whatever administrative authority is necessary for the effective and efficient operation of their individual courts.

AOUSC program reviews, including on-site reviews of local court operations, are only one means by which the federal judiciary may assess its highly decentralized operations. The Judicial Conference of the United States, the circuit judicial councils, the chief judge of each court, and court unit executives, such as Chief Probation Officers or clerks of court, may all request AOUSC studies and support or initiate their own reviews and assessments. Such studies may be undertaken by AOUSC staff alone, in conjunction with staff from local courts, or by outside experts and

[3]Within each circuit, the Circuit Judicial Council defines the Circuit Executive's duties and responsibilities.

consultants, such as the National Academy of Public Administration. Our work focused on AOUSC's reviews and assessments, principally on-site reviews of local court operations.

The organization of this oversight function within AOUSC has varied since responsibility for court audits and disbursement of judicial funds was transferred from the Department of Justice to AOUSC in 1975. After this transfer, AOUSC created an audit unit to perform routine, cyclical financial audits and management reviews of the courts. Before 1985, this unit reviewed the finances and programs of the courts. Several AOUSC auditors, management analysts, and attorneys conducted the reviews, visiting a district for about 2 to 3 weeks interviewing court personnel and reviewing records. Following an exit conference, the review team prepared a report that usually included recommendations. In 1985, AOUSC placed the financial and program review functions on different review cycles. Soon after the current AOUSC Director's appointment in July 1985, Chief Justice Warren E. Burger established a committee of four judges to study AOUSC and provide advice on improving the agency. According to the AOUSC Director, judges and court officials whom the committee surveyed said AOUSC was too bureaucratic and controlling in its relationship with the courts. At about the same time, judges were telling the AOUSC Director that AOUSC's management review process should be more sensitive to matters that are "exclusively the concern of the courts."

In 1988, the AOUSC Director discontinued the Office of Audit and Review, created an Office of Audit to conduct court financial reviews; delegated program review responsibilities to the program units; and established an evaluation unit, now known as the Office of Program Assessment (OPA), to oversee and coordinate program review efforts and to carry out special reviews and investigations. AOUSC's Office of Audit is to conduct routine, cyclical financial reviews and oversee the work of contract financial auditors. Virtually all AOUSC offices[4] have conducted reviews, special studies, evaluations, and surveys, which varied considerably by functional area. These reviews, often undertaken at the request of individual courts, have covered such issues as costs, budgets, spending, workload, outputs, and program implementation results. Some reviews have resulted in recommendations for improvements in such areas as processes and practices and the use of resources or technology.

[4]Appendix I describes the basic responsibilities of each major AOUSC office.

## Results in Brief

Although the federal judiciary is not specifically required by statute to follow generally accepted government auditing standards as issued by the Comptroller General, AOUSC has required that the standards be followed for its financial audits. However, until recently, AOUSC's oversight of the judiciary's administrative operations lacked structure and clear standards for conducting nonfinancial reviews.

While AOUSC officials agreed that the generally accepted government auditing standards were generally appropriate for nonfinancial reviews, it was not until November 1995 that AOUSC prescribed uniform written standards for nonfinancial reviews. As a result, reviewers adopted a wide range of program review approaches,and we found that the 376 reviews we requested for fiscal years 1992 through 1994 were not, for the most part, performed in accordance with generally accepted government auditing standards. For example, we found that (1) except for the Office of Audit and one division, program reviews did not usually result in written reports; (2) the results of the reviews were not generally distributed to all parties who were affected by them; and (3) in those areas where reports were prepared and recommendations were made, follow-up on recommendations was inconsistent.

Partly in response to the preliminary results of our review, AOUSC has taken several steps to strengthen the quality of its program reviews. First, AOUSC created a network of 35 program review officers to serve as focal points and advisors for review and assessment activities within their offices in AOUSC. Second, OPA issued a study guide and initiated a series of visits to courts to better identify courts and program units within them—such as clerks of court offices—needing oversight and thus better ensure adequate coverage. Third, OPA issued standards for conducting program reviews that closely tracked—with two exceptions—the generally accepted government auditing standards and issued a study guide for conducting and documenting reviews. If fully implemented, these changes should address many of the oversight weaknesses noted in this report. However, unlike the generally accepted government auditing standards, the OPA standards do not require that (1) program assessors be independent of the unit they are assessing nor that (2) formal assessment reports be prepared for all program reviews.

Several related efforts are under way to help ensure that practices that are proven to result in operational efficiencies in one court can be shared with other local courts. AOUSC, using information provided by local courts and Judicial Conference Committees, such as the Economy Subcommittee, has

identified what it considers to be efficient administrative practices within individual courts and created a database of such practices. The Economy Subcommittee is also charged with reviewing the budget requests of individual components of the federal judiciary, such as Defender Services or automation programs, for potential savings. It may use these reviews to encourage the adoption of efficient practices. Under the direction of the Judicial Conference's Resources Committee, in 1994, AOUSC, working with a group of court program unit executives, created the Methods Analysis Program, whose purpose is to achieve savings and efficiencies by systematically reviewing workload flows, processes, and methods to identify better, more efficient practices. The judiciary's budget decentralization program includes financial incentives for the local courts to apply the better practices identified in these studies. It is too early to determine the impact of many of these efforts on operational costs.

## Scope and Methodology

In responding to your request, our objective was to review AOUSC's program assessment and efficiency promotion efforts regarding federal court operations. These operations include such court functions as the clerks of court offices, probation and pretrial services, judicial chambers management support, and statistical reporting. Generally, our review focused on AOUSC oversight activities conducted during fiscal years 1992 through 1994.

Our approach was threefold. First, we met with top-level AOUSC officials and were briefed on AOUSC's oversight and management assistance activities. We also met with managers from AOUSC program divisions that conducted program reviews and provided assistance to local courts to discuss oversight and management assistance functions and activities. Senior AOUSC management officials attended most of our meetings with managers from AOUSC's program divisions. We reviewed manuals and other documentation on the operations and responsibilities of AOUSC's management and program offices and divisions and AOUSC's assessment and efficiency promotion activities.

Second, using data maintained by the OPA, we identified 376 on-site reviews (excluding financial audits, judgeship surveys, and other

nonprogrammatic reviews) conducted by selected program divisions[5] during fiscal years 1992 through 1994 and requested reports on all of them. However, 244 of the reviews listed either did not result in written reports, were erroneous entries, had reports that AOUSC could not locate, were duplicate entries in OPA's data, were never completed, or had reports that were still in draft form when we requested them. In the end, we reviewed 93 of the 132 written reports available to determine how the process followed in these reviews compared to generally accepted government auditing standards.[6]

We used a data collection instrument to systematically collect information from the program review reports, including the office that conducted the review, the person or persons who initiated the review and why, issues addressed, problems noted, efficient and effective practices identified, recommendations made, information available on the implementation of any recommendations, and standards and guidelines used for identifying problems and/or efficient and effective practices.

Finally, we interviewed judges and court officials from a selection of appellate, district, and bankruptcy courts plus probation offices in a judgmentally selected cross-section of courts of different sizes in three regions of the country—the Northeast, Midwest, and South. We determined court unit size on the basis of fiscal year 1993 workload. For appellate, district, and bankruptcy courts, we used cases filed (rounded to the nearest hundred) as our measure of workload. For probation offices we used the total number of persons under supervision in each probation office (rounded to the nearest hundred). We also interviewed the chairs of four Judicial Conference committees: the Committee on the AOUSC (current and former chairs), the Committee on Court Administration and Case Management, the Committee on Judicial Resources, and the Budget Committee's Economy Subcommittee (one of the co-chairs).

[5]Because of related work on other assignments, we excluded reports from some AOUSC offices and divisions. These included the Office of Audit's financial audits and reports and program reviews by the Office of Finance and Budget, the Court Security Office, the Space and Facilities Division, the Defender Services Division, and the Office of Automation and Technology. We also excluded Post Automation Reviews by the court administration divisions; and Post Implementation Reviews by the Federal Corrections and Supervision Division (formerly called the Probation and Pretrial Services Division). In addition, we excluded surveys by the Bankruptcy Judges Division and the Magistrate Judges Division, whose primary purpose was to examine the need for additional judges. We did, however, examine examples of the judgeship surveys and financial audits.

[6]We examined all reports received for fiscal years 1992 through 1994, with the exception of some 1992 reports by the Federal Corrections and Supervision Division. This Division accounted for 90 of the 132 written reports we received. We reviewed all of this division's reports for fiscal years 1993 and 1994 but did not review all 45 fiscal year 1992 reports. We did, however, review six randomly selected 1992 reports to determine that they were similar in content and format to this division's 1993 and 1994 reports.

We did our work primarily in Washington, D.C., between October 1994 and March 1996 in accordance with generally accepted government auditing standards. One or more senior AOUSC officials monitored our discussions with Judicial Conference Committee chairs and most of our meetings with the assistant directors of AOUSC's program offices; however, we believe we were able to independently obtain needed information from the chairs and assistant directors. We obtained written comments from AOUSC on a draft of this report. Its comments are evaluated in this letter and are reprinted in full in appendix II.

## AOUSC Has Recently Revised and Restructured Its Program Review Process

The need to keep costs down in an era of budgetary constraints has focused attention on the judiciary's processes to ensure that it is operating as efficiently and effectively as possible. Program and financial reviews are one means of providing judges and managers information on the efficiency and effectiveness of court operations. To ensure that the information from these reviews is reliable, it is important that those conducting the reviews follow generally accepted government auditing standards. From 1988 until 1995, AOUSC's program review process was decentralized and unstructured and did not always follow these standards. In November 1995, OPA issued written standards for conducting program assessments that, with two exceptions relating to reviewer independence and preparation of reports, track the generally accepted government auditing standards.

### Generally Accepted Government Auditing Standards

Certain laws, regulations, and contracts require auditors who audit federal organizations, programs, activities, and functions to follow the generally accepted government auditing standards promulgated by the Comptroller General. The federal judiciary is not specifically required by statute to follow these auditing standards. AOUSC's Office of Audit, which conducts financial audits, has chosen to follow the standards and also requires its contract auditors to do so. However, prior to November 1995, AOUSC had not prescribed uniform standards for its nonfinancial review activities.

The generally accepted government auditing standards are broad statements of auditors' responsibilities. They relate to both financial and performance audits and include

- general standards, which relate to the qualifications of the staff, the audit organization's and the individual auditor's independence, the exercise of

due professional care in conducting the audit and in preparing related reports, and the presence of quality controls;

- fieldwork standards, which relate to the planning and supervision of the actual work, examination of compliance with laws and regulations, an understanding of management controls in place, and the quality of the evidence gathered during the audit; and
- reporting standards, which relate to the requirement for written reports and recommendations, the timeliness and contents of reports, the way in which reports are presented, and the distribution of reports.

## Until 1995, AOUSC's Decentralized Oversight Activities Lacked Structure

Although the judiciary is not specifically required by statute to follow the generally accepted government auditing standards, AOUSC has followed these standards for its financial audits. AOUSC officials told us they believed the standards were generally appropriate for nonfinancial reviews as well.

AOUSC's financial audit responsibilities are assigned by statute and follow the generally accepted government auditing standards. Until November 1995, however, AOUSC did not require its program offices and divisions to follow standards similar to the generally accepted government auditing standards in conducting program reviews. Each office and division had wide latitude to determine how it would review local court operations, the standards it would use during a review, and whether it would produce a written report. Program units adopted a variety of review approaches, ranging from conducting regular program reviews to having no identifiable review functions. The basic approach for most divisions and offices was one of consultation, with most reviews done at the request of the local court.

The generally accepted government auditing standards require that a written report be prepared to communicate the results of the review to all who could act on the report's recommendations. According to OPA data, 376 program reviews were conducted during fiscal years 1992 through 1994. However, according to OPA officials, only 132 of these resulted in written reports. Of these 132 written reports, 90 (68 percent) were prepared by the Federal Corrections and Supervision Division. One unit, the Contract and Services Division, did not produce reports as a matter of policy. According to OPA data, this division undertook 104 reviews during the 3-year period we reviewed, and it neither required nor produced written reports on the results of its reviews. A 1993 OPA assessment of the Division's review process noted that its lack of written review results deprived current and successor division management and staff of valuable

information about court practices that could help them identify trends, evaluate the success of program changes, and propose new initiatives. In contrast, the Federal Corrections and Supervision Division scheduled routine reviews of probation and pretrial offices, compared their performance to written policies and standards, and produced written reports of the reviews about 90 percent of the time.

During the period of our review, AOUSC had no requirement that program units follow up on the implementation of any recommendations made to local courts. We found that follow-up on recommendations was inconsistent. Although the Federal Corrections and Supervision Division generally tracked the implementation of recommendations, most other divisions did not. AOUSC cannot compel a local court to comply with its recommendations. One court resisted upgrading its telephone system for 10 years because it preferred to acquire its system from a specific vendor in a sole-source procurement. AOUSC would not approve a noncompetitive procurement but neither did it require the court to upgrade its costly system, with the court remaining on an expensive lease. The court has only recently replaced its telephone system through a competitive procurement. AOUSC estimated that the new system would save about $133,000 per year. If the new system's future annual savings had been achieved during the 10 years of the disagreement, the local court and, thus, the judiciary, could have avoided about $1 million in costs.[7] AOUSC officials said such an impasse is unlikely to recur in today's budget environment.

## Recent AOUSC Initiatives to Improve Program Review Process

Recognizing that its decentralized review process had resulted in reviews of uneven coverage and quality, AOUSC, through OPA, issued standards in November 1995 for conducting program assessments that, with two exceptions, track the generally accepted government auditing standards. The new standards require some type of written record of the results of any review and require follow-up of any reported significant findings and recommendations. OPA also issued a study guide to help AOUSC program unit staff select court units for review and conduct the reviews, and OPA plans to provide training on the new standards to AOUSC personnel in 1996. Finally, AOUSC has directed each program division to develop and share with OPA an internal assessment plan and to provide OPA with a copy of all assessment reports. However, the new OPA standards do not appear to adequately cover two issues in the generally accepted government auditing

[7]This total is based on a draft estimate that the new phone system would save about $133,000 annually (in current dollars, unadjusted for inflation).

standards issued by the Comptroller General: independence of the reviewer and preparation of formal reports.

Concerning organizational independence, the generally accepted standards state that program reviewers should be organizationally located outside the staff or line management function of the unit being reviewed. OPA's standards call for review team members to be organizationally independent only "to the extent feasible." In commenting on the standard, OPA adds that in cases where a review team is not organizationally independent, consideration should be given by management to having a peer review team evaluate the report prior to its issuance.

Concerning preparation of formal reports, the generally accepted standard is that reviewers are to prepare written reports communicating the results of each review. The standard points out that written reports (1) communicate the results of reviews to officials at all levels of government, (2) make the results less susceptible to misunderstanding, (3) make the results available for public inspection, and (4) facilitate follow-up to determine whether appropriate corrective actions have been taken. OPA's standards, however, allow for formal and informal reports, such as trip reports or memoranda to the files. The OPA standards state that management should require formal reports only when the reviewed organization requests one, significant findings are discovered during the review, or follow-up is required on any of the significant findings and recommendations. Copies of each completed report are to be sent to OPA, which is to summarize them for the Administrative Office Committee of the Judicial Conference and as appropriate for senior management of AOUSC.

AOUSC has begun to coordinate its review activities. OPA has established a network of 35 program review officers within AOUSC, which is to meet every 1 to 3 months to discuss assessment issues. These officers are also to serve as focal points for reviews within their respective AOUSC program areas. During fiscal year 1996, AOUSC's automated travel software is to be modified to permit OPA to monitor on-site visits by AOUSC program units, including information on the purpose of the trips and the locations to be visited.

OPA has also initiated a series of "triage" visits to local courts in which a team visits for 2 to 3 days to discuss local operations and AOUSC's relationship to the local court. The goal is to provide broad coverage of court operations and to ensure that program and administrative division

reviews are complemented by broader based surveys and reviews. Selection criteria include (1) locations having comparatively low recent review activity by the key program areas; (2) statistical indicators, such as the presence of unusually high- or low-cost operations, unusual workload patterns or case mix, or case dispositions substantially different from national averages; (3) change of chief judge; (4) change of court clerk; (5) geographical factors; and (6) special request and others. Prior to these visits, OPA is to develop a profile of the court by collecting a variety of workload and budgetary data on the local court, plus copies of prior reviews by AOUSC units. From these triage reports, OPA plans to develop a catalogue of common issues. As of May 1, 1996, OPA had completed triage reviews of six district courts and had two reviews under way.

These actions, if consistently implemented, should help address many of the weaknesses in the previous program review process. However, AOUSC standards fall short of the generally accepted auditing standards in that they do not require (1) program assessors to be independent of the unit they are assessing or (2) that assessment reports be distributed to all officials who can act on the findings and recommendations.

## Efforts to Promote Efficient Practices

As an effort to reduce spending, in fiscal year 1996 the federal judiciary requested funding for only 86 percent of the staff it estimated would be needed to handle the expected workload.[8] AOUSC officials estimated that the judiciary's appropriation for salaries and expenses request of about $2.6 billion would have been $139 million higher if the judiciary had requested funds to staff expected workload at 100 percent of staff needed, as determined by staffing formulas. To assist the various courts and administrative units in operating within this constrained budget, the judiciary has established two complementary focal points for identifying, disseminating, and incorporating more efficient ways of doing business.

First, in 1993 the Judicial Conference established an Economy Subcommittee within its Budget Committee to (1) review the judiciary's budget submission, (2) initiate and pursue studies about ways to economize while continuing to provide a consistently high quality of justice, and (3) be an "honest broker" of ideas relative to economy and efficiency. Second, at about the same time, the Conference's Judicial Resources Committee and Economy Subcommittee directed AOUSC to undertake a comprehensive review of its work measurement methodology

[8]This is based on requesting staff at 86 percent of the levels determined to be needed using the judiciary's staffing formulas.

for court staffing to determine how greater efficiencies might be incorporated into the methodology.

## Economy Subcommittee

The Economy Subcommittee is a successor to the District Court Efficiencies Task Force. In 1992, at the request of the Judicial Resources Committee, AOUSC established the task force when it identified wide variations in the work processes and use of staff in district court clerks' offices. In April 1993, the task force, composed of judges and court unit executives, developed a list of potentially efficient practices that were circulated to all district court chief judges for consideration and possible adoption. This list addressed such areas as jury and personnel management, and space and facilities.

In coordination with the Judicial Conference's various program committees, the Economy Subcommittee has sponsored studies to identify better practices.[9] AOUSC created a support office for the Subcommittee, which has compiled a database of better practices, such as cost containment ideas, including those identified by the District Court Efficiencies Task Force. However, the database can be accessed only by the support office staff. Thus, to use the database to identify ideas about how to operate more efficiently, local courts must make a specific request.[10] The Economy Subcommittee is also to serve as a critical reviewer of the budget requests of the program areas represented by each Judicial Conference committee, such as Defender Services or Automation and Technology. Although the Subcommittee can use these reviews as an opportunity to encourage the adoption of more efficient practice, it cannot require their adoption.

## Work Measurement

The Judicial Resources Committee, in conjunction with the Economy Subcommittee, directed AOUSC to undertake a comprehensive program to ensure that greater efficiencies are incorporated in the staffing formulas, which are based on a work measurement methodology. In response, in 1994, a group of court unit executives, working with AOUSC, undertook a

[9]According to AOUSC, in part through the Subcommittee's efforts, the judiciary has undertaken initiatives that are estimated to result in savings and cost avoidances, such as reduced appropriations requests, of about $750 million from fiscal years 1995 through 1997. We did not validate these estimates.

[10]According to AOUSC, the current architecture of the judiciary's central, automated data systems does not permit local courts to access data easily. AOUSC also noted that the Economy Subcomittee support office is preparing a report based on information from the database and MAP that will be widely distributed within the judiciary.

study that resulted in the creation of the methods analysis program (MAP).[11] Managed by the Analytical Services Office (ASO), the program analyzes workload flows, processes, and methods in order to identify better, more efficient practices.

For each organization reviewed (such as the clerk of court or probation office), ASO is to develop an overall analysis of the functions performed (such as case intake in the clerk of court office) and a detailed documentation and analysis of the work processes used to accomplish that function. The goal is to identify tasks that can be eliminated, transferred,[12] or done more efficiently. The program includes incentives for local court units to adopt the better practices identified by the analysis. After a better practice has been identified and approved, courts will be encouraged, but not required, to adopt it. After several years, the staffing formula used to allocate staff to local courts is to be revised to reflect the effect of the better practices. To encourage immediate adoption of any practices that reduce costs, local courts may keep a portion of any savings they achieve through adoption of the practices. ASO began applying the program with probation offices and plans to review all the major functions of appellate, district, and bankruptcy courts. It recently completed a study of the case opening function in district and bankruptcy clerks' offices.

According to AOUSC officials, there are a variety of other ways in which information on better practices may be shared within the judiciary. For example, judges and other court personnel may share information on better practices in national and regional meetings, such as the meetings of AOUSC advisory groups, which include personnel from local courts. Internal publications, such as the Federal Court Management Report, training programs, and electronic bulletin boards, may also be used to highlight suggestions and findings.

## Conclusions

AOUSC's role in the oversight of court operations is part of the broader structure of court management and governance. Through its support of the Judicial Conference and its committees, and the provision of guidance and advice to court units throughout the nation, AOUSC can provide a national,

[11]In a brochure describing the program, AOUSC described the judiciary's work measurement methodology as follows: "[The] work measurement methodology used in the Judiciary documented all work being performed (both compensated and uncompensated), as well as work which should be performed, but is not. This methodology has been non-judgmental concerning court unit work practices, and, in effect, institutionalized norms of operation and court specific practices."

[12]AOUSC offered as an example of a transferred task having bankruptcy trustees, rather than the bankruptcy clerk of court, provide noticing to debtors in liquidation proceedings.

comparative perspective on court operations. Through its recommended budget allocations, AOUSC can also help to encourage the adoption of efficient practices throughout the federal judiciary.[13]

Until recently, AOUSC's program review approach lacked structure, written guidance, and a central, accurate, and current repository of reviews and reports. The changes being implemented by AOUSC—establishment of a network of program review officers, publication of a study guide, identification of courts and program units to be visited, and revised standards for conducting program reviews—should, if properly implemented, address many of the oversight weaknesses noted above.

However, the standards do not completely track the generally accepted government auditing standards issued by the Comptroller General. OPA's standards allow AOUSC program and court staff to review programs they are responsible for administering. This is inconsistent with the generally accepted standard. OPA's standards permit reviews to be performed by less-than-independent teams subject to a peer review. However, this approach may not be sufficient to overcome a potential perception of reviewer bias by knowledgeable third parties.

OPA standards also allow "managers" to decide whether formal reports are to be issued after program reviews are conducted. This, too, is inconsistent with the generally accepted standard. OPA standards do not ensure that all review team findings will be documented and made available to judiciary officials who can act on them.

AOUSC's previous efforts at internal oversight lacked structure; the recent changes proposed by OPA represent not only a significant improvement but also a significant change in the way oversight has been conducted within AOUSC. Therefore, it would be prudent to monitor how the review officials and program units are implementing the revised system and operating under the new standards.

The judiciary's efforts to identify efficient practices and encourage their adoption by local court units seem appropriate. Many of these efforts are relatively recent and evidence is not yet available for measuring the extent of success. A key measure in this regard will be the number of local courts and program units that adopt "better practices" and either reduce or avoid increasing their budgets.

[13]The Judicial Conference's Executive Committee has final authority for the allocation of appropriations and other budgetary resources.

## Recommendations

To help ensure that AOUSC's program assessments meet generally accepted auditing standards, we recommend that the Director of AOUSC direct OPA to

- amend those standards to provide greater assurance against a potential perception of reviewer bias by knowledgeable third parties and greater assurance that all review team findings will be documented and reported to judiciary officials who can act on them, and
- check each AOUSC division's compliance with both its plan for conducting program assessments and the standards and study guide for conducting those assessments.

## Agency Comments and Our Evaluation

AOUSC provided written comments on a draft of this report, which are printed in full in appendix II. AOUSC said that it agrees with the report's recommendations and intends to "adopt them without reservation." AOUSC's written comments also discuss AOUSC activities that were outside the scope of this review. AOUSC provided technical comments separately, which we incorporated as appropriate.

We are sending copies of this report to the Chairman of your Subcommittee, the Chairman and Ranking Minority Members of other relevant House and Senate Committees with oversight and appropriations responsibilities for the federal judiciary, and the Director of the Administrative Office of the U.S. Courts.

This report was prepared under the direction of William O. Jenkins, Jr., Assistant Director. Other major contributors are listed in appendix III. If you have any questions about this report, please call me on (202) 512-8777.

Sincerely yours,

Norman J. Rabkin
Director, Administration of
Justice Issues

# Contents


Letter 1

Appendix I Organization and Functions of the Administrative Office of the U.S. Courts 18
Associate Director and General Counsel 18
AOUSC Management Offices 18
AOUSC Program Offices 19

Appendix II Comments From AOUSC 22

Appendix III Major Contributors to This Report 25


**Abbreviations**

| | |
|---|---|
| AOUSC | Administrative Office of the U.S. Courts |
| OPA | Office of Program Assessment |
| MAP | methods analysis program |
| ASO | Analytical Services Office |
| OGC | Office of General Counsel |
| OA | Office of Audit |
| OFSAS | Office of Facilities, Security and Administrative |
| OMC | Office of Management Coordination |
| OJCES | Office of Judicial Conference Executive Secretariat |
| OCEPA | Office of Congressional, External and Public Affairs |
| OAT | Office of Information and Technology |
| OCP | Office of Court Programs |
| PAR | Post Automation Reviews |
| PACTS | Probation and Pretrial Automated Case Tracking System |
| OFSAS | Office of Facilities, Security and Administrative Services |
| OFB | Office of Finance and Budget |
| OHRS | Office of Human Resources and Statistics' |
| OJP | Office of Judges Programs |

# Organization and Functions of the Administrative Office of the U.S. Courts

AOUSC provides a broad spectrum of management, administrative, and program support to the federal courts. AOUSC's executive staff, which oversees the provision of this support, comprises the Director and two associate directors—an Associate Director who is also General Counsel, and an Associate Director of Management and Operations.

## Associate Director and General Counsel

The Associate Director and General Counsel supervised the Office of General Counsel (OGC) which provides legal counsel and services to the AOUSC Director and staff, the Judicial Conference and its committees, and to judges and other court officials. Among other services, OGC arranges legal representation for judges and court officials sued in their official capacity and represents AOUSC in bid protests and other administrative litigation. OGC also responds to judges, court officials, Congress, executive branch agencies, and the general public regarding legal inquiries relating to court operations.

## AOUSC Management Offices

AOUSC has five management offices—the Office of Audit; Office of Management Coordination; Office of Program Assessment; Office of Judicial Conference Executive Secretariat; and the Office of Congressional, External and Public Affairs.

### Office of Audit

The Office of Audit (OA) is responsible for the conduct of comprehensive financial audits of the courts' financial operations and systems. This office (1) provides guidance and oversight for the routine, cyclical financial audits performed by an outside contractor at each court every 2-1/2 years. The office is also responsible for special audits, such as those conducted for a change in accountable officer,and for audits of the central financial systems that support all of the courts. The Office of Audit periodically summarizes the results of individual audit reports to identify recurring and systemic problems.

### Office of Management Coordination

The Office of Management Coordination (OMC) provides general management and policy analysis support to the AOUSC Director and the Associate Director, Management and Operations, by conducting studies and providing advice on management, planning, organization, and publications. OMC is also responsible for coordinating and monitoring management improvement efforts agencywide in an effort to enhance organizational performance. In addition, OMC provides staff support and

assistance to the Judicial Conference Committee on the Administrative Office. OMC coordinates AOUSC responses to committee recommendations and to suggestions or complaints from judicial officers directed to the committee.

### Office of Program Assessment

The Office of Program Assessment (OPA) is responsible for overseeing and monitoring the review and assessment processes for judiciary programs and operations by providing assistance to AOUSC program offices and divisions conducting reviews of court operations and by establishing and maintaining information reporting systems for these reviews. OPA is also responsible for monitoring AOUSC's management controls program, which has been established to try to maximize the use of resources and to safeguard assets. In addition, OPA coordinates or conducts special reviews, evaluations, or investigations as requested.

### Office of Judicial Conference Executive Secretariat

The Office of Judicial Conference Executive Secretariat (OJCES) provides staff support and assistance in planning and preparing official records of Judicial Conference meetings. OJCES also provides staff support and assistance to the Judicial Conference's Executive Committee. In addition, OJCES is responsible for ensuring that AOUSC units provide effective staff support for Judicial Conference committees.

### Office of Congressional, External and Public Affairs

The Office of Congressional, External and Public Affairs (OCEPA) is responsible for both the performance and the coordination of activities that involve the relationships of the federal judiciary with Congress, the executive branch, state government entities, the media, bar associations, other legal groups, and the public. OCEPA develops, presents, and promotes legislative initiatives approved by the Judicial Conference; prepares or coordinates responses to all policy or legislative inquiries from Congress; and identifies and monitors congressional activity that might have a major impact upon the federal judiciary.

## AOUSC Program Offices

In addition to the five management offices, AOUSC has six broad program offices—the Office of Automation and Technology; the Office of Court Programs; the Office of Facilities, Security and Administrative Services; the Office of Finance and Budget; the Office of Human Resources and Statistics; and the Office of Judges Programs.

## Office of Information and Technology[1]

The Office of Information and Technology (OAT) includes seven offices and divisions, plus two training and support centers. OAT is responsible for the implementation of automated data processing, office automation, and information systems in the judiciary. OAT's responsibilities include assisting in the formation of the judiciary's automation plans and budgets, developing and implementing court automated systems, providing liaison services to help ensure that the needs of automation users are met, and overseeing and reporting on the use of the Judiciary Automation Fund.

## Office of Court Programs

The Office of Court Programs' (OCP) six offices and divisions[2] are responsible for overseeing and supporting the judiciary's clerks' offices, court reporters, court interpreters, librarians, staff and conference attorneys, federal public defenders, and probation and pretrial services officers. OCP also is charged with facilitating the development of Judicial Conference policies regarding court administration, defender services, and probation and pretrial services; providing guidance to the courts by preparing procedural manuals; and conducting on-site reviews of court operations. The Court Administration divisions conduct Post Automation Reviews (PARS) in individual courts, and the Federal Corrections and Supervision Division conducts reviews of the Probation and Pretrial Automated Case Tracking System (PACTS) in individual probation and pretrial services offices. The Defender Services Division provides administrative support for and analyses of Defender Services workload and costs.

## Office of Facilities, Security and Administrative Services

The responsibilities of the Office of Facilities, Security and Administrative Services' (OFSAS) six offices and divisions include security plans and operations (in coordination with the U.S. Marshals Service), procurement, property management, printing, nonautomation contracting, space and facilities, and relocation and travel functions. OFSAS provides security advice to the courts, develops procurement regulations, and assists courts in meeting their space needs. The office is also responsible for providing administrative support and services to AOUSC, including personnel services and management of the Thurgood Marshall Federal Judiciary Building.

[1]Recently renamed, it was formerly called the Office of Automation and Technology.

[2]In fiscal year 1994, the Director of AOUSC reorganized the Court Administration Division within the Office of Court Programs, creating new program divisions that would each focus on a particular type of federal court. The new divisions were the Appellate Court and Circuit Administration Division, the Bankruptcy Court Administration Division, and the District Court Administration Division. Unchanged were the responsibilities of the Defender Services Division and the Probation and Pretrial Services Division (renamed the Federal Corrections and Supervision Division in 1995).

## Office of Finance and Budget

The Office of Finance and Budget's (OFB) five offices and divisions are responsible for conducting financial and budgetary analyses of judiciary programs, establishing fiscal and accounting policies for the judiciary, and coordinating the development of the judiciary's budget request to Congress. Through its Economy Subcommittee Support Office, OFB is responsible for coordinating efforts to improve efficiency and economy in court administration. In addition, OFB is responsible for developing the work measurement formulas used to staff the offices of court clerks and probation pretrial offices and produces judicial impact statements that analyze the potential and actual effects of legislation on the judiciary.

## Office of Human Resources and Statistics

The Office of Human Resources and Statistics' (OHRS) four offices and divisions are responsible for overseeing and managing the judiciary's human resources and statistics functions, including the administration of personnel, payroll, retirement, and insurance programs. The Analytical Services Office is responsible for studying court work methods in an effort to improve operational efficiency through the judiciary's new Methods Analysis Program. OHRS also develops training policies for AOUSC and court personnel, administers the new Court Personnel Management System, and analyzes and disseminates court workload data through its Statistics Division.

## Office of Judges Programs

The Office of Judges Programs' (OJP) five offices and divisions provide administrative services to circuit, district, magistrate, and bankruptcy judges; conduct court surveys to determine the need for additional magistrate and bankruptcy judges; make recommendations regarding long-range planning for the judiciary; and provide staff support for several Judicial Conference committees, such as the Committee on Rules, Practice, and Procedure. OJP also provides technical assistance in chambers and case management, organizes orientation programs for new judges, and assists the Federal Judicial Center in planning and conducting training seminars.

# Comments From AOUSC

LEONIDAS RALPH MECHAM
Director

CLARENCE A. LEE, JR.
Associate Director

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

WASHINGTON, D.C. 20544

May 10, 1996

Mr. Norman J. Rabkin
Director, Administration of Justice Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Rabkin:

Thank you for the opportunity to comment on your draft report on the Administrative Office's programs for reviewing court operations. I am pleased that the General Accounting Office's extensive evaluation of the Administrative Office's many review and assessment activities has resulted in a positive and constructive report. The Administrative Office will adopt without reservation the report's two recommendations, one to amend the language of our review standards and the other to monitor our own compliance with the standards. These modifications are useful refinements of our court review program.

The General Accounting Office, in pursuing the objective "to examine how the Administrative Office of the U.S. Courts assessed the efficiency of local court operations and promoted the use of efficient administrative practices within the judiciary" reports on a few of the many ways in which the Administrative Office promotes operating efficiency in the federal courts. The report describes our initiatives to stimulate and adopt economy measures. As you are aware, this agency has been investing a substantial effort in supporting the Judicial Conference and its committees, including the Budget Committee's Economy Subcommittee, in the judiciary's efforts to economize. It has done so through the identification of potential cost-saving areas; the undertaking of studies and analyses to identify where and how savings can be achieved; and the development of new technologies, programs, and potentially "better" practices that will result in more effective and efficient court operations. As your report notes, we estimate that the judiciary's economy initiatives have already resulted in more than $750 million in savings and cost-avoidances in fiscal years 1995 through 1997, with recurring savings of a quarter of a billion dollars in future years.

Many of the judiciary's major economy initiatives are effected at the national level, such as the determination to provide staffing to court offices at only 84 percent of workload measurement formulas and the deployment of a new personnel system and its associated cost-control system. The Administrative Office can and does provide guidance and assistance, but

A TRADITION OF SERVICE TO THE FEDERAL JUDICIARY

Mr. Norman J. Rabkin
Page 2

the actual implementation of these initiatives occurs in each court. Within the limits of established policies and the resources provided, it is the individual courts which must determine how to use their limited resources most effectively to carry out their missions. The provision of assistance to individual courts by the Administrative Office through the conduct of operational reviews, management or organizational consulting, technology assessments, and similar program reviews is clearly important, both as means of providing objective advice to a court about its operations or use of resources, and also to obtain practical insights and information that contribute to national program evaluation and administration. But it is the individual courts that are ultimately responsible and which deserve most of the credit for making changes and innovations to carry out their work more efficiently.

The report mentions other review activities carried out by the Administrative Office, but, due to its focus on two of these areas, it does not describe in detail these related activities:

- Collection, analysis and reporting of detailed workload and case statistics from each court to monitor the work and productivity of the federal courts
- Development and use of measurement systems and formulas to guide the allocation of resources to the courts, and the monitoring of costs and expenditures
- Systematic processes for stimulating and obtaining a variety of ideas through the involvement of court staff in identifying important issues and developing solutions to problems
- Use of a life-cycle management process to assure technology projects will provide cost-effective returns on investment
- Provision of help desk services, technical support, duty officers, regional administrators, electronic bulletin boards, newsletters, and other means for providing ready advice and information to the courts
- Conduct of post-automation reviews to help courts make efficient and effective use of available technologies
- Development of handbooks, manuals, training programs, publications, self-assessment tools, and other guides for use by the courts that identify efficient practices
- Investigation of allegations of fraud, waste, loss or abuse
- Conduct of many special studies, surveys, and analyses carried out by staff, and the use of independent outside experts to conduct studies directed toward self-evaluation, cost-containment, and management improvement
- Development of guidelines, training programs, and peer review requirements to ensure the quality of the agency's analytic efforts.

All of these activities, in combination with the economy initiatives and individual court reviews that are the focus of GAO's report, are important elements of our review and assessment efforts. The agency's level of effort in all of these areas is high: we counted more than 400 studies, reviews, audits and evaluations conducted over a three year period.

Mr. Norman J. Rabkin
Page 3

As your report indicates, the judiciary operates through a largely decentralized structure. This structure works very effectively for the judicial branch and the American system of justice. The judiciary's decentralized structure is supported by established mechanisms for oversight, review and assessment, and self-improvement that work exceptionally well. Without a doubt, the judiciary's governance and review mechanisms, systems, and approaches are suited to the distinctive nature of the judiciary's organization and mission. It is worth noting, however, that the executive branch's National Performance Review effort to "create a government that works better and costs less" espouses the idea of decentralizing decision-making, along with other practices already employed within the judiciary, as solutions for "re-inventing" the executive branch. We agree that many of our approaches can be successful in other institutions of government and business.

I appreciate the willingness and commitment of the GAO auditors to take the time to discern the complexity and singularity of the judicial branch's structures and our approach and methods for monitoring, reviewing, evaluating, auditing, advising and consulting. I also appreciate the team's helpful suggestions and collaborative approach to improvement. This is a positive and effective way for the General Accounting Office to contribute to better government.

Sincerely,

Leonidas Ralph Mecham
Director

# Major Contributors to This Report

## General Government Division, Washington, D.C.

William O. Jenkins, Jr., Assistant Director
Pamela Vines Williams, Communications Analyst

## New York Field Office

James R. Bradley, Senior Evaluator
Dana L. DiPrima, Evaluator
Rudolf F. Plessing, Senior Evaluator
Lucine M. Willis, Evaluator

## Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are $2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. VISA and MasterCard credit cards are accepted, also. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20884-6015

or visit:

Room 1100
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC

Orders may also be placed by calling (202) 512-6000
or by using fax number (301) 258-4066, or TDD (301) 413-0006.

Each day, GAO issues a list of newly available reports and testimony. To receive facsimile copies of the daily list or any list from the past 30 days, please call (202) 512-6000 using a touchtone phone. A recorded menu will provide information on how to obtain these lists.

For information on how to access GAO reports on the INTERNET, send an e-mail message with "info" in the body to:

info@www.gao.gov

or visit GAO's World Wide Web Home Page at:

http://www.gao.gov

PRINTED ON RECYCLED PAPER

United States
General Accounting Office
Washington, D.C. 20548-0001

Bulk Rate
Postage & Fees Paid
GAO
Permit No. G100

Official Business
Penalty for Private Use $300

Address Correction Requested