



Report to the Chairman, Committee on
the Judiciary, U.S. Senate

November 2015

FEDERAL JUDICIARY

Improved Cost Savings Estimates Could Help Better Assess Cost Containment Efforts

GAO Highlights

Highlights of [GAO-16-97](#), a report to the Chairman, Committee on the Judiciary, U.S. Senate

Why GAO Did This Study

In March 2013, the President ordered spending reductions, known as sequestration, across the federal government. As a result, the federal judiciary's resources were reduced by about \$346 million over the remainder of fiscal year 2013. The judiciary has been affected by decreasing federal resources, such as the sequestration, and has been implementing various cost containment initiatives.

GAO was asked to evaluate judiciary cost savings actions and the effects of the 2013 sequestration. This report examines, among other things, (1) judiciary actions to achieve cost savings and efficiencies, and the extent to which the judiciary has estimated cost savings; and (2) judiciary actions to implement the 2013 sequestration and any effects from these actions on judiciary personnel and operations.

GAO analyzed relevant judiciary documents and collected information from and interviewed judiciary officials in all 12 regional circuit courts and the district court, bankruptcy court, and federal defender organization in four judicial districts, selected to obtain a diverse group of districts on the basis of funding level, among other factors.

What GAO Recommends

GAO recommends that the Director of the Administrative Office of the United States Courts (AOUSC) take the following two actions for major cost containment initiatives: (1) develop a reliable method for estimating cost savings achieved, and (2) regularly report estimated cost savings achieved. AOUSC said it will seriously consider GAO's recommendations.

View [GAO-16-97](#). For more information, contact David C. Maurer at (202) 512-9627 or MaurerD@gao.gov.

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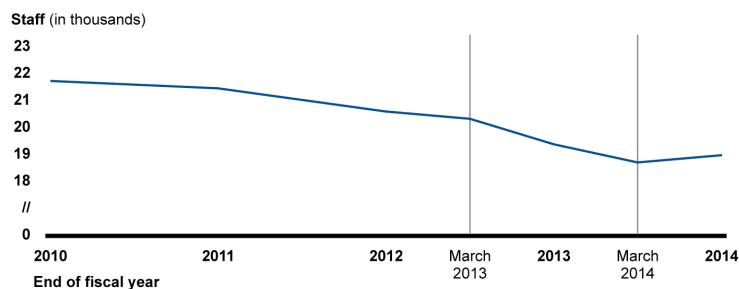
Improved Cost Savings Estimates Could Help Better Assess Cost Containment Efforts

What GAO Found

The federal judiciary has implemented cost containment initiatives for over 10 years, but the judiciary does not fully know how much it has saved because it has not developed a reliable method for estimating cost savings achieved. For example, GAO found that the judiciary's estimate of cost savings primarily attributed to cost containment initiatives since fiscal year 2005—nearly \$1.5 billion, relative to projected costs—does not include all savings realized from cost containment initiatives, includes amounts that did not result from initiatives, does not always include the costs associated with implementing initiatives, and was not always supported by adequate documentation. Examples of cost-saving initiatives are establishing rent budget caps and providing incentives to courts for work efficiency. Judiciary officials confirmed, for example, that \$291 million of the \$538 million in space and facilities estimated savings is the result of lower than anticipated rent inflation. Also, an estimated \$89 million in savings resulting from information technology (IT) initiatives did not include all savings (such as savings from an IT-based solution to manage and administer the jury function) or provide adequate documentation of costs to implement the initiatives. Judiciary officials stated that they discuss cost containment initiatives in the judiciary's congressional budget justifications, among other documents. GAO analyzed the judiciary's congressional budget justifications and found that these documents did not consistently report information on cost savings achieved for major initiatives. Reliable information on and reporting of estimated cost savings achieved for major initiatives could help the judiciary better assess the progress of its initiatives and help inform congressional oversight and decision making.

The judiciary imposed emergency measures in response to the 2013 sequestration and has identified negative effects of the sequestration on the judiciary. Examples of emergency measures were postponing and reducing payments to private attorneys representing individuals who cannot afford counsel in criminal cases. One of the most significant effects of sequestration cited by judiciary officials was continued court staff loss. According to GAO analysis of judiciary data, in the 12 months following sequestration, total onboard court full-time equivalent staff declined by nearly 1,600—or about 8 percent (see fig.). Also, over 3,600 court and defender organization staff were furloughed in fiscal year 2013. Funding for expenses such as drug abuse treatment for offenders was reduced by 20 percent. Further, according to judiciary officials, some courts and defender organizations reduced services, such as closing 1 day per week.

Total Onboard Court Full-Time Equivalent Staff, as of End of Fiscal Years 2010 to 2014



Source: GAO analysis of judiciary data. | GAO-16-97

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Abbreviations

AOUSC	Administrative Office of the United States Courts
BBEDCA	Balanced Budget and Emergency Deficit Control Act of 1985
BCA	Budget Control Act of 2011
CM/ECF	Case Management/Electronic Case Files
CR	continuing resolution
DHS	Department of Homeland Security
DOJ	Department of Justice
FJC	Federal Judicial Center
FPS	Federal Protective Services
GED	General Educational Development
IT	information technology
IWI	Integrated Workplace Initiative
JORF	Judicial Officers Retirement Fund
N/A	not applicable
OMB	Office of Management and Budget
PPA	program, project, or activity
VERA/VSIP	Voluntary Early Retirement Authority and Voluntary Separation Incentive Payment

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November 10, 2015

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate

Dear Mr. Chairman:

The federal judiciary has the critical and constitutional responsibility of ensuring the administration of justice in the United States and handles all federal civil, criminal, and bankruptcy cases and review of administrative agency cases throughout the country. As we reported in June 2013, the judiciary has been affected by decreasing resources, and has been identifying and implementing options for saving money and increasing efficiency.¹ The judiciary's budget increased by less than 1 percent in fiscal years 2011 and 2012, and the judiciary began fiscal year 2013 under a continuing resolution that, among other limitations, held funding near the same levels as in fiscal year 2012.² Then, on March 1, 2013, as required by law, the President ordered spending reductions—known as sequestration—across the federal government.³ Ultimately, the judiciary was required to reduce its nonexempt discretionary appropriations and mandatory spending by \$346 million, or by about 5 percent, over the remainder of fiscal year 2013.⁴

¹GAO, *Federal Judiciary: Efforts to Consolidate and Share Services between District and Bankruptcy Clerks' Offices*, [GAO-13-531](#) (Washington, D.C.: June 13, 2013).

²See Continuing Appropriations Act, Pub. L. No. 112-175, § 101(a)(2), 126 Stat. 1313 (Sept. 28, 2012).

³2 U.S.C. § 901a.

⁴The Office of Management and Budget (OMB) calculated sequestration based on the annualized funding level set by the continuing resolution that was currently in effect. OMB found that nondefense discretionary appropriations should be reduced by 5.0 percent and that nondefense direct spending should be reduced by 5.1 percent. Discretionary appropriations are budgetary resources provided in appropriations acts. By contrast, direct spending, often referred to as mandatory spending, consists of budgetary resources provided by entitlement authority and laws other than appropriations acts.

In October 2013, because of a lapse in fiscal year 2014 appropriations, the federal government partially shut down for 16 days, but the federal judiciary was able to continue operating during this time using filing fee collections and other no-year funds. At the beginning of fiscal year 2014, the judiciary remained under a continuing resolution and operated under sequestration funding levels until January 17, 2014, when Congress enacted fiscal year 2014 appropriations.⁵ The fiscal year 2014 enacted appropriation for the judiciary was about \$7.03 billion, or \$57 million (less than 1 percent increase), over the fiscal year 2012 level of \$6.970 billion.⁶ Fiscal year 2015 enacted appropriations increased judiciary funding to approximately \$7.2 billion (or approximately 3 percent above fiscal year 2014 levels).

Current law requires government-wide limits on discretionary appropriations through fiscal year 2021 and sequestration of direct spending through fiscal year 2025.⁷ The effect of these reductions on the judiciary's operations is unclear at this point. As the judiciary balances its ongoing strategic and operational challenges with constrained resources, the ability to mitigate risk and to determine how to prioritize spending and investments will be paramount.

Over the last 2 years, we have evaluated the planning and implementation of fiscal year 2013 sequestration reductions by federal executive branch agencies and the effects of the sequestration on

⁵On October 17, 2013, and January 15, 2014, Congress passed continuing resolutions (CR) that generally funded the federal government, including the federal judiciary, at fiscal year 2013 sequestration funding levels through January 17, 2014, when Congress enacted fiscal year 2014 appropriations. The CRs provided two judiciary accounts specific amounts above final fiscal year 2013 levels: (1) Courts of Appeals, District Courts, and Other Judicial Services—Salaries and Expenses; and (2) Defender Services. Pub. L. No. 113-46, div. A, §§ 101, 125, 126 (Oct. 17, 2013); Pub. L. No. 113-73, 128 Stat. 3 (Jan. 15, 2014).

⁶These figures include both mandatory spending and discretionary appropriations.

⁷The Budget Control Act of 2011 (BCA) establishes discretionary spending limits through fiscal year 2021. 2 U.S.C. § 901. If Congress and the President enact appropriations that exceed these discretionary spending limits, there will be an after-session sequestration to eliminate the breach. 2 U.S.C. § 901a. The BCA, as amended, also imposes a sequestration process of discretionary appropriations through fiscal year 2021 and of direct spending through fiscal year 2025. 2 U.S.C. § 901a.

selected agencies.⁸ In addition, in June 2013, we found that the judiciary had considered and implemented various cost containment strategies to meet the demand for judicial services with limited increases in resources, while seeking to avoid delays in cases and other negative consequences that could result when funding for court services is diminished.⁹ We found that judiciary cost containment efforts have included limiting growth in space rental costs and instituting a new pay policy for employees, among others. We focused the review on judiciary efforts to consolidate or share administrative services between district and bankruptcy courts. We found that few federal judicial districts had consolidated their court clerks' offices, and courts were sharing services among the clerks' offices, but that the costs and benefits were unclear.¹⁰ We also found that the Administrative Office of the United States Courts (AOUSC), which provides a wide range of services for the federal judiciary, began a cost-savings study on shared administrative services in August 2011.¹¹

⁸For example, in March 2014 we reported how 23 federal agencies, such as the Department of Justice, prepared for and implemented the 2013 sequestration and its effects on the agencies' operations, performance, and services to the public.⁸ We found that sequestration reduced or delayed some public services and disrupted some operations, and that agencies faced planning challenges because they lacked sufficient information and institutional knowledge regarding how to apply sequestration reductions. We recommended that OMB publish criteria to clarify the application of sequestration reductions across certain accounts, and direct agencies to record their decisions and principles used to implement sequestration for potential future use. OMB agreed with our recommendations and has updated its OMB Circular A-11, *The Preparation, Submission, and Execution of the Budget*, to address them. See GAO, *2013 Sequestration: Agencies Reduced Some Services and Investments, While Taking Certain Actions to Mitigate Effects*, [GAO-14-244](#) (Washington, D.C.: Mar. 6, 2014). For another example, see GAO, *2013 Sequestration: Selected Federal Agencies Reduced Some Services and Investments, While Taking Short-Term Actions to Mitigate Effects*, [GAO-14-452](#) (Washington, D.C.: May 28, 2014), among others.

⁹GAO, *Federal Judiciary: Efforts to Consolidate and Share Services between District and Bankruptcy Courts*, [GAO-13-531](#) (Washington, D.C.: June 13, 2013).

¹⁰[GAO-13-531](#). Specifically, we found that 4 of the 91 districts served by bankruptcy courts have consolidated the clerks' offices of the district and bankruptcy courts. Sharing services includes sharing human resources, procurement, or finance staff, among other functions.

¹¹AOUSC completed the study and provided the results to all courts for their consideration in April 2013. According to the study, sharing administrative services saved courts about 3.1 percent in administrative staff work units and allowed courts to put these savings to better use in operational areas where needed.

Additionally, in June 2010, we reported that the federal judiciary and the General Services Administration were in the midst of a multibillion-dollar courthouse construction initiative, which had faced rising construction costs.¹² For the 33 federal courthouses completed since 2000, we examined whether the courthouses contained extra space and any costs related to that space and whether the level of courtroom sharing supported by the judiciary's data could have changed the amount of space needed in these courthouses, among other areas. We recommended that the judiciary establish and use courtroom-sharing policies based on scheduling and use data to more fully reflect the actual scheduling and use of district courtrooms, among other things. While the judiciary has courtroom-sharing policies for federal bankruptcy, magistrate, and senior district judges, the judiciary has chosen not to fully implement our recommendation for district judges to share courtrooms. We continue to believe that the efficiency of courtroom sharing is applicable to active federal district judges.

Given the 2013 sequestration and continued environment of constrained budgetary resources, you asked us to review how the judiciary planned for and implemented the 2013 sequestration, the extent to which the actions the judiciary took to address sequestration budget cuts or other options may be considered and available in the future, and the extent to which the judiciary has monitored the effects of sequestration. This report addresses the following questions.

1. What efforts has the judiciary undertaken in the past 10 fiscal years to achieve cost savings and efficiencies, and to what extent has the judiciary estimated cost savings achieved?
2. To what extent does the judiciary have mechanisms to identify opportunities for cost savings and efficiencies?
3. What actions did the judiciary take to plan for and implement the fiscal year 2013 sequestration, and what effects, if any, has the judiciary

¹²GAO, *Federal Courthouse Construction: Better Planning, Oversight, and Courtroom Sharing Needed to Address Future Costs*, [GAO-10-417](#) (Washington, D.C.: June 21, 2010).

identified from these actions and the fiscal year 2014 lapse in appropriations on judiciary personnel and operations?¹³

To determine the efforts the judiciary has undertaken in the past 10 fiscal years to achieve cost savings and efficiencies, we analyzed judiciary reports and documents (such as *Annual Reports of the AOUSC Director*, among others) from fiscal year 2004 through July 2015 and compiled a list of the initiatives undertaken by the judiciary to contain costs, as well as a description of the initiatives and the dates the initiatives were implemented since approximately fiscal year 2004 (or the initiation of a cost containment strategy by the judiciary). To determine the extent to which the judiciary has estimated the cost savings achieved as a result of its efforts, we analyzed judiciary documents and information such as rent savings projections and data tracked by AOUSC staff in data systems and spreadsheets. We compared the judiciary's cost savings estimates against *Standards for Internal Control in the Federal Government* and cost-estimating guidance to determine the extent to which the estimates comported with these criteria.¹⁴ While the judiciary is not required by law to abide by the *Standards for Internal Control in the Federal Government* and cost-estimating guidance, the management controls described in the standards and the guidance are consistent with the management practices of leading organizations. To assess the reliability of the cost savings and related staffing and salary data, we interviewed judiciary officials who maintain the databases where these financial and staffing and salary data are tracked and reviewed related documentation. We determined the data were sufficiently reliable for the purposes of

¹³The federal government partially shut down for 16 days in October 2013 because of a lapse in fiscal year 2014 appropriations. However, the federal judiciary was able to continue operating during this time using filing fee revenues and no-year funds. In this report, we discuss the effects of the lapse in fiscal year 2014 appropriations and the shutdown of certain federal agencies on the judiciary that have been identified by the judiciary.

¹⁴GAO, *Internal Control: Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999). Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved: effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations. Office of Management and Budget Circular A-94, *Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs* (Washington, D.C.: Oct. 29, 1992). This cost estimation guidance is intended to help agencies ensure that the benefits of a program or activity are greater than the costs incurred to implement the activity.

assessing the extent to which the judiciary has estimated cost savings and determining the reliability of these estimates.

To determine the extent to which the judiciary has mechanisms to identify opportunities for cost savings and efficiencies, we analyzed judiciary documentation on such mechanisms during this same time period (fiscal year 2004 through July 2015), including cost containment strategic policy documents, *Reports on the Proceedings of the Judicial Conference of the United States*, and guidance to courts, among other documents. To identify and provide context on the mechanisms the judiciary uses, such as the judiciary's budget formulation and execution process, we interviewed officials from the Judicial Conference Budget Committee and AOUSC. We compared the information we obtained from the above documentation and interviews against applicable sections of *Standards for Internal Control in the Federal Government*.¹⁵

To determine the actions the judiciary took to plan for and implement the 2013 sequestration, we reviewed laws and the executive order governing the sequestration and analyzed judiciary documentation from fiscal years 2012 to 2014 (such as financial plans and memorandums to federal courts) and budget data (such as data showing the final sequestration reductions by judiciary account). In addition, we used a structured questionnaire to collect and analyze information regarding the actions that officials we interviewed in each of the 12 regional courts of appeals (circuit courts); 4 district courts, including 4 bankruptcy courts and 4 probation and pretrial services offices; and 4 federal defender organizations (described below) took in response to the 2013 sequestration. See appendix I for tables showing the results of this analysis. To determine the effects that the judiciary has identified from its actions to implement the 2013 sequestration and from the fiscal year 2014 lapse in appropriations on judiciary personnel and operations, we reviewed judiciary documentation (such as statements for congressional hearings and annual reports) and analyzed judiciary data, where available (such as full-time equivalent staff data from the staffing database, mentioned above, and the defender services management information system), to corroborate statements made by judiciary officials regarding

¹⁵GAO/AIMD-00-21.3.1.

the effects they identified.¹⁶ To assess the reliability of the staffing data from the defender services management information system, we interviewed judiciary officials who maintain the database where the data are tracked and reviewed related documentation. We determined the staffing data were sufficiently reliable for our purposes of reporting defender organization full-time equivalent levels from fiscal year 2010 through 2014.

For all three objectives, to provide context and confirm our understanding of the documents and data we analyzed, we interviewed Judicial Conference Budget Committee and AOUSC officials. Furthermore, to obtain the perspectives of the federal courts and defender organizations regarding all three objectives, we conducted semistructured interviews with judges and court officials in the 12 regional circuit courts and judges and court and defender organization officials in four selected judicial districts and completed a content analysis of their responses. Specifically, in each of the four districts, we conducted semistructured interviews with officials in the district court, including the bankruptcy court and probation and pretrial services offices, and federal defender organization. We visited 2 of the 12 circuit courts and the four selected districts to meet with officials and observe examples of space-related cost containment activities.¹⁷ We selected the four judicial districts to obtain a diverse group of district courts on the basis of funding level, number of case filings, and judicial circuit/geographic region. While the views and information obtained from these district courts and defender organizations cannot be generalized to all districts and defender organizations, they provided key insights into how districts with different characteristics have dealt with constrained budgetary resources.

We conducted this performance audit from July 2014 to November 2015 in accordance with generally accepted government auditing standards.

¹⁶A full-time equivalent reflects the total number of regular straight-time hours (i.e., not including overtime or holiday hours) worked by employees divided by the number of compensable hours applicable to each fiscal year. Annual leave, sick leave, and compensatory time off and other approved leave categories are considered to be "hours worked" for purposes of defining full-time equivalent employment.

¹⁷These 2 circuit courts and four judicial districts include the U.S. Court of Appeals for the Third Circuit and the Eastern District of Pennsylvania, the U.S. Court of Appeals for the Seventh Circuit and the Northern District of Illinois, the Northern District of Texas, and the Western District of Washington.

Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The federal judiciary consists of the Supreme Court, 12 regional circuit courts of appeals, 94 district courts, 91 bankruptcy courts, as well as courts of special jurisdiction including the Court of Appeals for the Federal Circuit, the Court of International Trade, and the Court of Federal Claims.¹⁸ In each district, defender services programs and probation and pretrial services offices assist the judiciary in the fair administration of justice and protecting the community.¹⁹

Governance of the judiciary is substantially decentralized, and individual courts have discretion to organize operations, develop procedures, and make budgetary decisions within allotted funds to suit local needs.²⁰ The Judicial Conference of the United States, presided over by the Chief Justice of the United States, is the policy-making body for the federal judiciary and sets national policies and takes positions on legislation on all aspects of federal judicial administration. Membership of the Judicial Conference comprises the chief judge of each judicial circuit, the Chief

¹⁸There are 94 federal judicial districts—at least 1 for each state—organized into 12 regional circuits. Each judicial district is served by at least one district court location, and 91 are served by a U.S. bankruptcy court—a separate unit of the district court—in one or more locations.

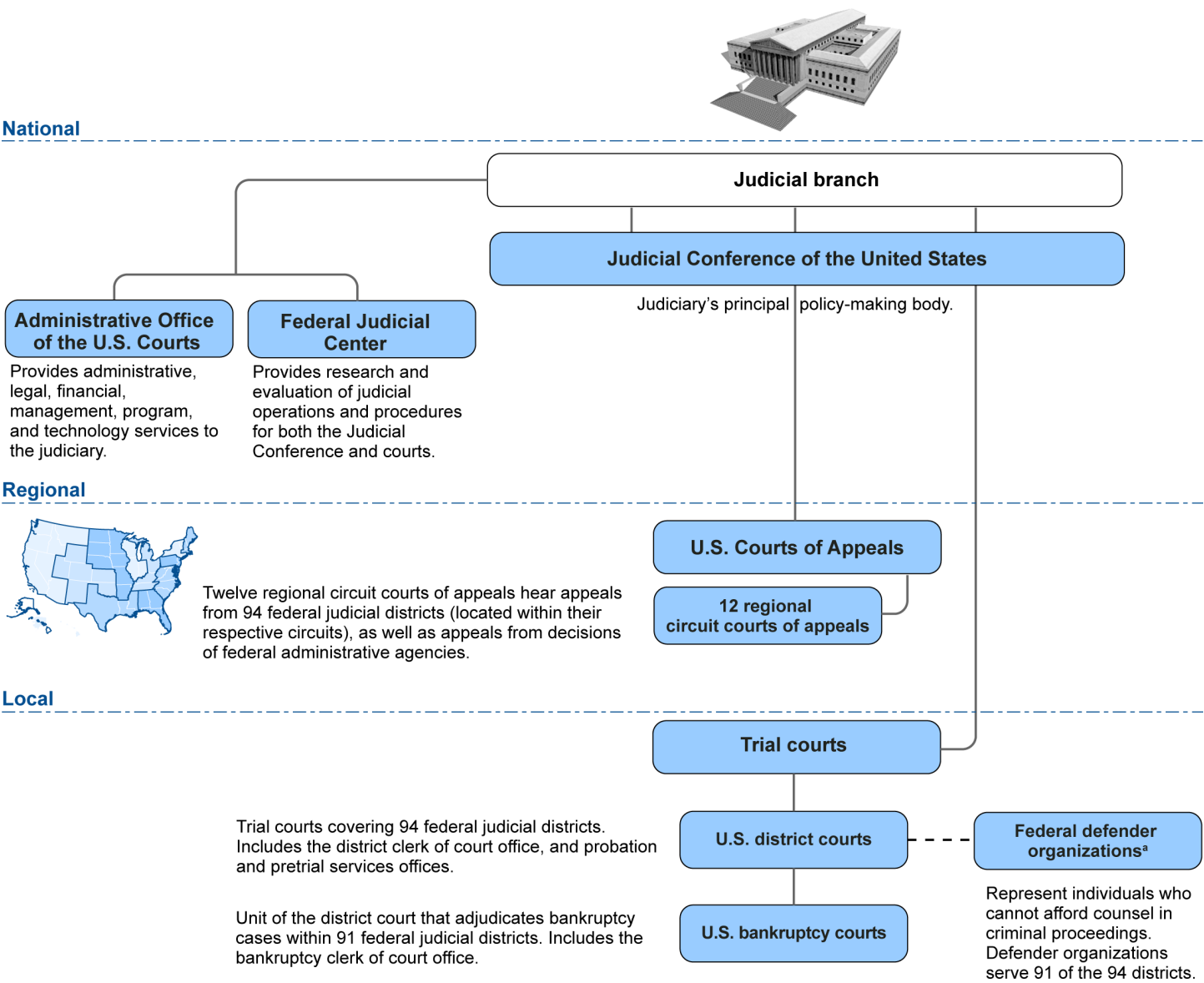
¹⁹The mission of the Defender Services program is to ensure that the right to counsel guaranteed by the Sixth Amendment, the Criminal Justice Act (18 U.S.C. § 3006A), and other congressional mandates is enforced on behalf of those who cannot afford to retain counsel and other necessary defense services. Accordingly, the Defender Services program provides legal representation and other services to persons financially unable to obtain them in criminal and related matters in federal court. As of February 2015, there are 81 federal defender organizations, including 63 federal public defender organizations staffed by federal employees, and 18 community defender organizations (nonprofit defense counsel organizations funded through judiciary-administered grants), authorized in 91 of the 94 judicial districts. In addition, as required by the Criminal Justice Act, a panel (or list) of private attorneys provides defense services in each judicial district when needed. Probation and Pretrial Services offices are responsible for investigating and supervising persons charged with or convicted of federal crimes.

²⁰Our report GAO, *Federal Judiciary: Observations on Selected Issues*, GGD-95-236BR, (Washington, D.C.: Sept. 18, 1995), includes a more detailed description of the federal judiciary's governance structure.

Judge of the Court of International Trade, and a district judge from each regional judicial circuit. The Judicial Conference operates through a network of committees created to address and advise on a wide variety of subjects such as information technology, personnel, probation and pretrial services, space and facilities, security, judicial salaries and benefits, budget, defender services, court administration, and rules of practice and procedure. AOUSC provides a range of administrative and other support services to the Judicial Conference, the courts, and federal defender organizations. In addition to AOUSC supporting the judiciary, the Federal Judicial Center (FJC) is responsible for conducting research on federal judicial operations and procedures and conducting and promoting training for federal judges, court employees, and others.²¹ See figure 1 for an overview of the judicial entities discussed in this report.

²¹See 28 U.S.C. §§ 620-629. Also within the judicial branch, the U.S. Sentencing Commission is an independent entity that promulgates sentencing guidelines; collects sentencing data; conducts sentencing research; and provides training to courts, prosecutors, and the bar. See 28 U.S.C. §§ 991.

Figure 1: Overview of the Judicial Entities Discussed in the Report



Source: GAO analysis of judiciary information; Art Explosion (clip art); Map Resources (map). | GAO-16-97

Note: This figure represents only the entities within the federal judiciary that are discussed in this report.

^aFederal defender organizations are separate organizations that principally practice before U.S. district courts.

Key Agencies and Offices Involved in the Federal Court System

The federal judiciary works with executive branch agencies to administer justice in federal court cases. For example, within the Department of Justice (DOJ), United States Attorneys serve as the nation's principal litigators in the prosecution of criminal cases brought by the federal government and the prosecution and defense of civil cases in which the United States is a party, among other duties.²² Also, the United States Marshals Service, a component of DOJ, has primary physical security responsibility for federal courthouses.²³ Among other things, the Marshals Service's responsibilities include managing court security officers and security systems and equipment, including X-ray machines, surveillance cameras, duress alarms, and judicial chambers' entry control devices.

In addition, as the federal government's landlord, the General Services Administration (GSA) is responsible for, among other things, designing, building, and maintaining its portfolio of approximately 9,000 federally owned or leased buildings and courthouses. According to AOUSC, as of June 30, 2015, the judiciary rented 437 courthouse buildings through GSA and rented space (including courthouse buildings and space such as probation services offices and chambers not located in courthouses) in a total of 740 GSA buildings. In fiscal year 2014, the judiciary's rent payments to GSA totaled over \$1 billion.

²²One United States Attorney is assigned to each of the 94 judicial districts, with the exception of Guam and the Northern Mariana Islands, where a single United States Attorney serves in both districts.

²³The primary mission of the Marshals Service is to ensure the functioning of the federal judicial process by, for example, protecting judges, attorneys, jurors, and witnesses; transporting and producing prisoners for court proceedings; and apprehending fugitives. Additionally, the Federal Protective Services (FPS), a subcomponent of the National Protection and Programs Directorate within the Department of Homeland Security (DHS), is the primary agency responsible for protecting federal facilities. To fund its operations, FPS charges fees for its security services to federal agencies and the judiciary in General Services Administration-controlled facilities. These services include FPS law enforcement officer response to building-related emergencies, 24-hour alarm monitoring/dispatch services, and FPS-provided contract guards and perimeter security equipment, among other things.

Budget of the Federal Judiciary

The operations of the federal judiciary are funded by a combination of annual appropriations and mandatory spending, including offsetting collections.²⁴ For fiscal year 2014, the judiciary's enacted appropriations totaled about \$7.03 billion, with offsetting collections of about \$234 million, resulting in approximately \$7.3 billion in new budgetary resources.²⁵ The judiciary uses accounts to obligate, account for, and manage its enacted appropriations each fiscal year and budget object classifications as a framework for categorizing obligations.²⁶ The judiciary obligated about \$7.1 billion in fiscal year 2014.

The judiciary's operations are primarily funded through 12 appropriation accounts, including the Salaries and Expenses account for the Courts of Appeals, District Courts, and Other Judicial Services; the Defender Services account; and the Court Security account, among others.²⁷ As shown in figure 2, almost 94 percent of the fiscal year 2014 obligations of \$7.1 billion made by the judiciary were from the Salaries and Expenses, Defender Services, and Court Security accounts. The Salaries and Expenses account includes the costs associated with the salaries, benefits, and other operating expenses of the judges and supporting personnel for the U.S. courts of appeals, district courts, and probation and

²⁴Offsetting collections result from businesslike transactions with the public or transactions between appropriated activities. Offsetting collections are recorded as offsets to spending and authorized by law to be credited to expenditure accounts. Examples of offsetting collections for the judiciary are registry administration fees (or fees charged for the administration of funds deposited in the registry of the court, such as interpleader funds, cash bonds, and other monies to be held in trust) and some civil case filing fees.

²⁵For fiscal year 2015, the judiciary's enacted appropriation totaled about \$7.2 billion, and, according to the judiciary's fiscal year 2015 financial plans, offsetting collections are estimated to total about \$204 million, resulting in a total of about \$7.4 billion in new budgetary resources. Because fiscal year 2015 obligational data were not available at the time this report was issued, we describe the judiciary's fiscal year 2014 appropriations and spending in this report.

²⁶An obligation is a definite commitment that creates a legal liability of an agency for the payment of goods or services received. An agency incurs an obligation, for example, when it places an order, signs a contract, awards a grant, purchases services, or takes other actions that require the government to make payments to the public or from one government account to another.

²⁷The Courts of Appeals, District Courts, and Other Judicial Services Salaries and Expenses account is the judiciary's largest Salaries and Expenses account. For the purposes of this report, we refer to this account as the Salaries and Expenses account for the remainder of the report.

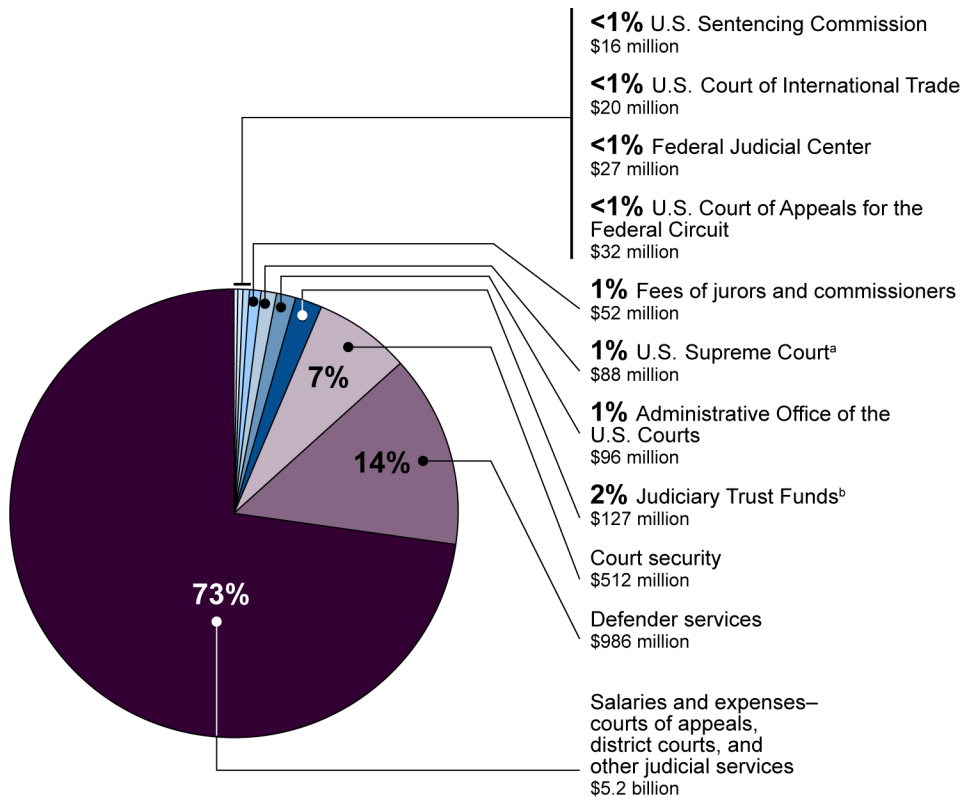
pretrial services offices.²⁸ The Defender Services account supports the appointment of counsel and other services necessary to represent defendants financially unable to retain counsel in federal criminal proceedings and to provide for the continuing education and training for those who represent these defendants.²⁹ The Court Security account funds the necessary expenses incident to the provision of protective guard services and the procurement, installation, and maintenance of security systems and equipment that protect U.S. courthouses and other facilities housing federal court operations, not otherwise provided for by other accounts.³⁰

²⁸Other operating expenses include contractual services and supplies (such as rent paid to GSA, printing and reproduction, and supplies and material).

²⁹As previously noted, the right to effective assistance of counsel for persons of limited financial means is a constitutionally mandated component of the criminal justice system. Representation is provided to indigent defendants under the Criminal Justice Act and related statutes.

³⁰This includes building access control, inspection of mail and packages, directed security patrols, perimeter security, basic security services provided by the DHS Federal Protective Service, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Pub. L. No. 100-702).

Figure 2: Judiciary Obligations by Account, Fiscal Year 2014



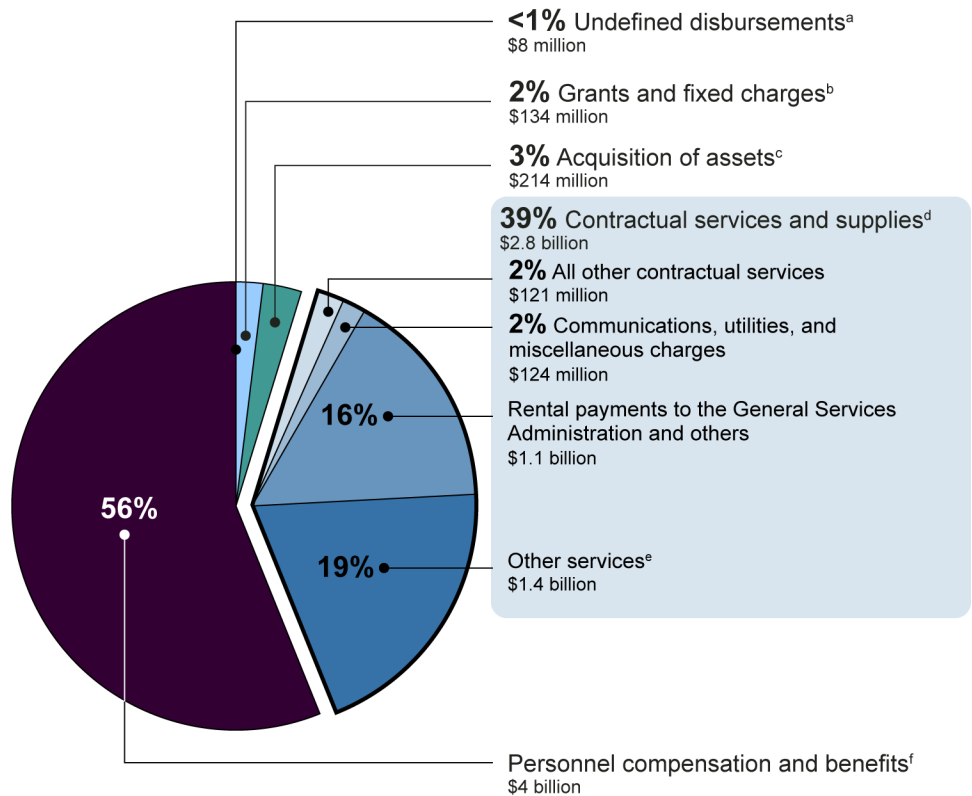
Source: GAO analysis of judiciary data. | GAO-16-97

^aThis includes obligations for the two Supreme Court appropriation accounts: Salaries and Expenses and Care of the Building and Grounds.

^bThe Judiciary Trust Funds finance annuity payments to retired judges including, bankruptcy, magistrate, and U.S. Court of Federal Claims judges, as well as the spouses and dependent children of deceased judges and eligible judicial officers who elect to participate.

In addition, the judiciary uses budget object classifications, which are categories used in budget preparation to classify obligations by the items or services purchased by the federal government (e.g., personnel compensation, contractual services). As shown in figure 3, about 56 percent of the \$7.1 billion in obligations made by the judiciary in fiscal year 2014 were from the personnel and compensation object classification. In addition, the judiciary made about 35 percent of its fiscal year 2014 obligations from two contractual services subobject classifications—rental payments to GSA and others and other services. A brief description of each budget object classification follows the figure.

Figure 3: Judiciary Obligations by Budget Object Classification, Fiscal Year 2014



Source: GAO analysis of judiciary data. | GAO-16-97

^aAccording to Administrative Office of the U.S. Courts (AOUSC) officials, undefined disbursements is the object classification the judiciary uses to record the amount transferred each year from the Salaries and Expense account to the Judiciary Information Technology Fund. By statute, the judiciary is allowed to deposit funds from the Salary and Expenses account and other accounts into this technology fund to pay for information technology projects. See 28 U.S.C. § 612.

^bAccording to AOUSC officials, the judiciary uses the grants and fixed charges object classifications to record obligations made to fund community defender organization grants. Community defender organizations are non-profit defense counsel organizations incorporated under state laws and funded through grants provided by AOUSC.

^cAccording to AOUSC officials, the acquisition of assets object classification funds the purchase of computer equipment, copiers, and furniture, among other things.

^dThe judiciary uses the contractual services and supplies object classification to record rent payments to GSA and others and obligations paid for communications and utilities, printing and reproduction, and supplies, among others (see fig. note e, below).

^eAccording to judiciary officials, the other services subobject classification includes payments to Criminal Justice Act panel attorneys; expert witness fees; payments to the U.S. Marshals Service for court security officers and security systems and equipment and payments to the Department of Homeland Security (DHS) Federal Protective Services for courthouse security functions; costs of court-ordered services (such as drug testing, mental health services, and substance abuse treatment) and court-ordered pretrial alternatives to detention (e.g., costs related to home confinement (such as Global Positioning System [GPS] and other electronic monitoring equipment); tenant alterations and

improvements; and costs of contract court reporters, interpreting services, and computer-assisted legal research.

¹Obligations made in the personnel compensation and benefits object classification are for the salary and benefits paid to current and former judiciary staff.

Budget Decentralization

Once appropriations are enacted, the judiciary develops annual financial (or spending) plans to balance requirements with available funds and allots funds to the courts and federal defender organizations for salaries, operations, and information technology, among other things. Under the judiciary's budget decentralization policies, the courts and federal defender organizations can spend their allotted funds as needed—whether for staff, technology, or other needs.³¹ According to judiciary documents, if available funding for a fiscal year does not meet court needs, court managers have local authority to decide how to staff and support their offices within the allotted funds. For example, court managers may decide to take personnel actions (such as not filling vacancies, freezing promotions, instituting furloughs, and offering early retirement incentives and buyouts, among other actions); seek to identify and adopt efficiencies in work processes (such as sharing administrative staff); or shift funds among allotments for salary, operations, and information technology, among other actions.

2013 Sequestration and the Judiciary

The absence of legislation to reduce the federal budget deficit by at least \$1.2 trillion triggered the sequestration process in section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and the President ordered the sequestration of budgetary

³¹According to AOUSC officials, in the early 1990s, the Judicial Conference delegated the authority to obligate funds from the Director of AOUSC to chief circuit, district, and bankruptcy judges. Chief judges formally delegate this authority to their court unit executives. The Judicial Conference requires each court unit to prepare a Court Unit Budget Operating Plan that details how each court organizes itself to manage these funds. According to officials, courts are encouraged to develop local spending plans to account for recurring needs, as well as contingency plans. Once full-year funds are allotted to the courts, court units are required to submit monthly status of funds reports to AOUSC. These reports include obligations incurred to date as well as projected obligations for the remainder of the fiscal year. According to officials, each court is also subject to regular, periodic financial audits conducted by an independent auditing firm. Under decentralization, court units within a judicial district can, with the agreement of both court units, move local funds from one unit to another to address local needs and priorities. Officials stated that funds are also permitted to be moved across judicial district or circuit boundaries if the funds are to support shared services between two or more court units.

resources on March 1, 2013.³² Following this order, OMB calculated sequestration based on the annualized funding level set by the continuing resolution that was currently in effect—or 5 percent for nondefense, nonexempt discretionary appropriations and 5.1 percent for nondefense, nonexempt direct, or mandatory, spending.³³ Because these cuts were to be achieved during the 7 remaining months of the fiscal year, OMB estimated that the effective percentage reduction to fiscal year 2013 spending over that time period was approximately 9 percent for nondefense programs.

The judiciary's discretionary appropriations include Salaries and Expenses for the Courts of Appeals, District Courts, and Other Judicial Services (excluding judges' salaries); Defender Services; Fees for Jurors

³²In August 2011, Congress and the President enacted the Budget Control Act (BCA), amending the Balanced Budget and Emergency Deficit Control Act (BBEDCA). Pub. L. No. 112-25, 125 Stat. 240 (Aug. 2, 2011). The BCA established the Joint Select Committee on Deficit Reduction (Joint Committee), which was tasked with proposing legislation to reduce the deficit by at least an additional \$1.2 trillion through fiscal year 2021. The Joint Committee had to report its proposal by December 2, 2011, and Congress and the President had to enact legislation by January 15, 2012. The Joint Committee failed to report a proposal, and Congress and the President did not enact legislation by those dates. This failure triggered the sequestration process in section 251A of BBEDCA. Under section 251A, OMB had to calculate, and the President had to order, a sequestration of discretionary appropriations and direct spending to achieve a certain amount of deficit reduction for fiscal year 2013.

³³BBEDCA requires that sequestration is applied equally to all programs, projects, and activities (PPA). The judiciary defined its PPAs at the account level. The percentage reductions were applied against the judiciary's annualized rate for operations on March 1, 2013. Then, on March 26, 2013, Congress and the President enacted the Consolidated and Further Continuing Appropriations Act, 2013, which provided full-year appropriations to federal agencies and the judiciary. This law had the effect of reducing the sequestered amount for fiscal year 2013 from \$85.3 billion to \$80.5 billion, because BBEDCA provides for a reduction to the amount of sequestration for accounts funded by discretionary appropriations when the full-year appropriation is less than the annualized CR amount minus the sequestration amount. Under this provision, the sequestered amount for those accounts was reduced by the amount of savings achieved by the full-year appropriation. The appropriations act also required an across-the-board cancellation of budget authority—known as a rescission—to eliminate any amount by which the new budget authority provided in the act exceeded the fiscal year 2013 discretionary spending limits. Accordingly, OMB calculated a rescission of 0.032 percent for all security programs, projects, and activities and 0.2 percent for all nonsecurity programs, projects, and activities. See figure 7, below, for a timeline of judiciary, OMB, and legislative actions taken to plan for and implement the fiscal year 2013 sequestration and lapse in fiscal year 2014 appropriations. App. II shows the final fiscal year 2013 percentage changes by judiciary account.

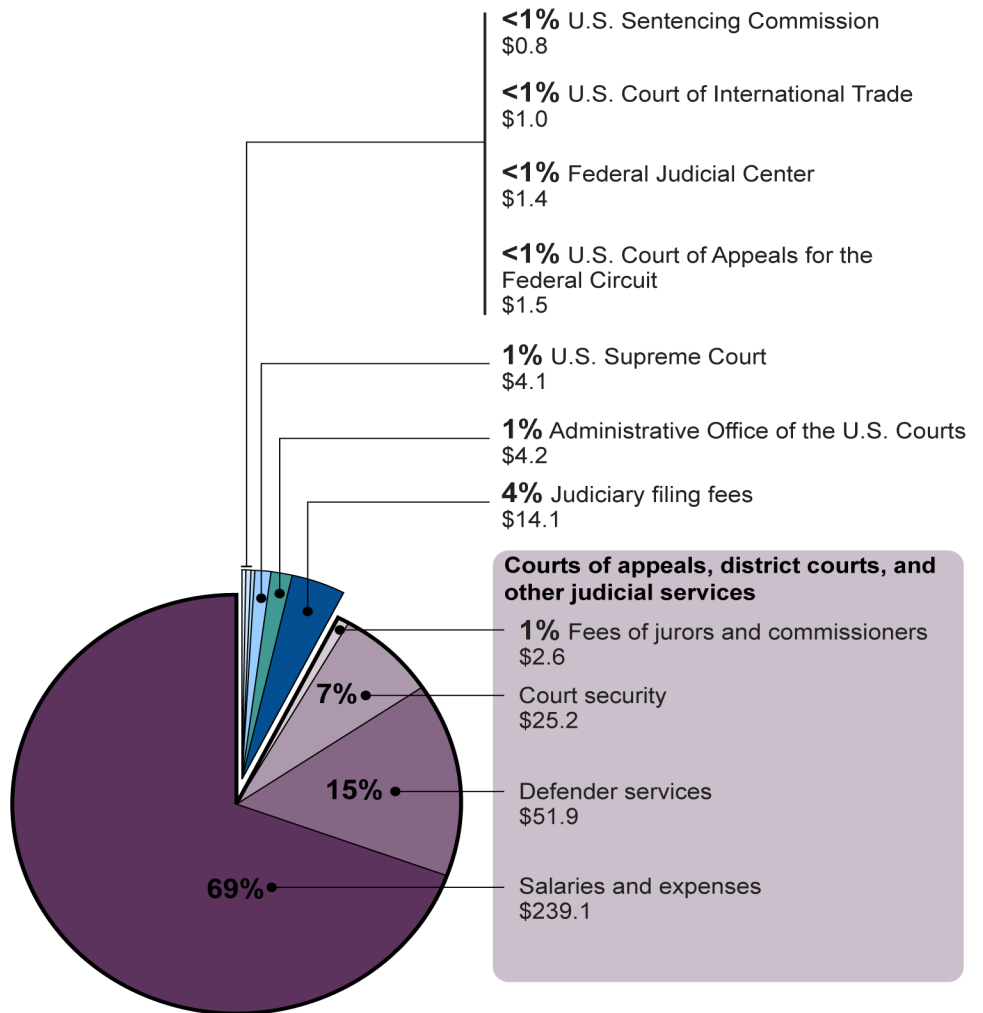
and Commissioners; and Court Security, among others.³⁴ Judiciary nonexempt mandatory spending includes judiciary filing fees and registry administration funds.³⁵ Exempt from sequestration are mandatory spending for Article III judges' salaries and benefits and judicial retirement funds, and certain other expenses.³⁶ As shown in figure 4, sequestration reduced fiscal year 2013 funding for the Salaries and Expenses account by \$239 million, Defender Services by almost \$52 million, Court Security by \$25 million, and Fees of Jurors and Commissioners by approximately \$3 million, among other reductions.

³⁴Other nonexempt discretionary appropriations include the salaries and expenses of the Federal Judicial Center and the U.S. Sentencing Commission; certain salaries and expenses of the U.S. Supreme Court, U.S. Court of International Trade, and U.S. Court of Appeals for the Federal Circuit; and the care of the building and grounds of the U.S. Supreme Court. Discretionary appropriations for AOUSC salaries and expenses are partially exempt.

³⁵Judiciary filing fee funds are partially exempt. Filing fees include, for example, fees charged by courts for the filing of a civil case, as well as for other court services. The judiciary also has authority to collect funds as a charge for services rendered in administering accounts (such as interpleader funds, cash bonds, and other monies to be held in trust) held in a court's registry.

³⁶Article III judges are those appointed under Article III of the U.S. Constitution, including the justices and judges of the U.S. Supreme Court, the federal courts of appeals and district courts, and the U.S. Court of International Trade. The mandatory funds in the salaries and expenses accounts of the following entities are exempt from sequestration: U.S. Supreme Court; U.S. Court of International Trade; and U.S. Court of Appeals for the Federal Circuit. The mandatory funds in the Courts of Appeals, District Courts, and Other Judicial Services are partially exempt from sequestration. Fully exempt from sequestration are the Judiciary Trust Funds and the Judiciary Information Technology Fund. See app. II for the specific sequestration reduction percentages and changes by account from fiscal year 2012 to fiscal year 2013.

Figure 4: Federal Judiciary Sequestration Reductions by Account, Fiscal Year 2013
(Dollars in millions)



Source: GAO analysis of judiciary data. | GAO-16-97

Fiscal Year 2014 Lapse in Appropriations and the Judiciary

In October 2013, the federal government partially shut down for 16 days because of a lapse in appropriations for fiscal year 2014. At the start of the fiscal year, agencies without available funds were required to cease all operations (with a few exceptions, such as the protection of human life and property) and commence an orderly shutdown. The judiciary was able to continue operating during the fiscal year 2014 lapse in appropriations using available funds from fee collections and no-year appropriations.

The Judiciary Has Implemented Various Cost Containment Initiatives, but Cost Savings Estimates Do Not Include All Savings Realized from or Costs Associated with Those Initiatives

To help preserve its ability to fulfill its responsibility to render justice in a fair and timely manner and serve the public, the judiciary implemented a cost containment strategy in fiscal year 2005 and has implemented a range of cost containment initiatives for over 10 years. However, we found that the judiciary does not fully know how much it has saved as a result of these efforts because it has not developed a reliable method for estimating cost savings achieved by major cost containment initiative. For example, AOUSC officials stated that the judiciary has realized cost savings of nearly \$1.5 billion relative to projected costs and attributed these savings primarily to the cost containment policies implemented, as well as other factors, since the adoption of its cost containment strategy.³⁷ However, our analysis of available documentation and discussions with judiciary officials show that the reliability of the savings estimate is limited because the estimate does not include all savings realized, includes savings not attributable to cost containment initiatives, does not always include the costs associated with implementing initiatives, and was not always supported by adequate documentation.

The Judiciary Developed a Cost Containment Strategy in 2004 and Has Implemented Various Cost Containment Initiatives

The judiciary has implemented numerous cost containment initiatives since developing a cost containment strategy in September 2004. Also, some cost containment initiatives were under way before the strategy was developed.³⁸ In 2012, the judiciary reported that in fiscal years 2004 and 2005, it faced a budgetary challenge of unprecedented magnitude caused by lower than anticipated appropriations from Congress (in part because of across-the-board rescissions at the end of the appropriations process), a sudden and unexpected decline in filing fee collections, and significant levels of growth in certain portions of the judiciary's budget (especially rent to GSA). According to the report, these factors combined to result in the loss of 1,350 onboard court staff, or approximately 6 percent of the workforce, in fiscal year 2004.³⁹ In anticipation of future constrained

³⁷For the purposes of this review, we define cost savings to include cost avoidance. Cost savings is a reduction in actual expenditures below the projected level of costs to achieve a specific objective. Cost avoidance is an action taken in the immediate time frame that will decrease costs in the future. See Office of Management and Budget Circular A-131, *Value Engineering* (Washington, D.C.: May 21, 1993).

³⁸For example, according to judiciary officials, in 1993, the judiciary began updating its work measurement formula to improve efficiency and continues to routinely update the formula as requirements change.

³⁹Judicial Conference Budget Committee, *Cost Containment Update: A Report from the Budget Committee* (Washington, D.C.: July 2012).

budgets and to help mitigate potential further staff loss, in 2004 the Judicial Conference approved a *Cost Containment Strategy for the Federal Judiciary: 2005 and Beyond* that analyzed the judiciary’s major cost drivers and identified cost containment initiatives in six categories to slow the growth of costs.⁴⁰ Appendix III contains examples of several cost containment initiatives the judiciary has implemented by category.

According to AOUSC officials, the judiciary’s recent cost containment initiatives have focused on curtailing costs in the three major spending categories of space and facilities, judiciary personnel costs, and information technology. Table 1 shows examples of initiatives under way for these three categories and the year the judiciary began implementing the initiative.

Table 1: Examples of Cost Containment Initiatives in the Space and Facilities, Judiciary Personnel Costs, and Information Technology Categories

Category	Initiative	Year started
Space and facilities	Restrain future space and facilities costs. Initiatives include:	
	• Policy to reduce total space by 3 percent by the end of fiscal year 2018. ^a	2013
	• “No Net New” policy that requires circuits to offset any increases in square footage by an equivalent reduction in identified square footage within the same fiscal year. ^b	2013
	Integrated Workplace Initiative—provides methodologies for reconfiguring and reducing space including work space sharing and mobile working situations (e.g., probation officers working remotely).	2014
	General Services Administration (GSA) Service Validation Initiative—intends to improve the delivery of the services that the judiciary receives from GSA and is to work in tandem with the judiciary’s other space reduction initiatives.	2013
Judiciary personnel costs	Updated staffing formulas (based on work measurement studies) for court unit staff to include performance standards and incentives for efficiency, among others. Work measurement is intended to allow the judiciary to determine required staffing levels, provide justification for budget requests, and allocate staff resources.	2004
	Reduced the salary progression or “step” increases from 2 percent to .75 percent.	2007

⁴⁰The six cost containment categories included space and facilities cost control; workforce efficiency; compensation review; effective use of technology; defender services, court security, law enforcement expenses, and other program changes; and fee adjustments. In 2007, the judiciary updated the strategy and organized the initiatives into eight categories: space and facilities cost control, judiciary personnel costs, effective use of technology, law enforcement–related expenses, law book expenditures, defender services, court security, and fee adjustments.

Category	Initiative	Year started
Effective use of technology	Case Management/Electronic Case Files (CM/ECF) system—is to automate the paper-intensive case filing process creating efficiencies that allow the courts to operate at decreased staffing levels. A Next Generation of CM/ECF is currently being deployed and is to help contain the cost of case processing into the future.	1997
	National video teleconferencing service—eliminates the need for local connections and equipment, provides judiciary-wide compatibility, and reduces travel costs.	2013
	National virtual server consolidation—transitions courts from local servers in 94 locations to national virtual servers in 2 locations.	2014
	National Internet protocol telephone service—reduces courts’ costs to purchase and maintain local telephone systems.	2012
	Telephone Interpreting Program—provides remote language interpretation for court proceedings where certified or otherwise qualified interpreters are not available.	1994 ^c

Source: Judiciary congressional budget justifications, fiscal years 2010 through 2015 | GAO-16-97

^aThe target has been prorated among the circuits based on the square footage occupied by each, taking into consideration the amount of square footage allotted to the circuit under the current version of the *U.S. Courts Design Guide* and is subject to the following exclusions: new courthouse construction, renovation, or alterations approved by Congress, and is contingent upon the judiciary having access to funding to analyze, design, and implement space reductions.

^bExclusions from the policy include new courthouse construction, renovation, or alterations projects approved by Congress.

^cThe program was expanded in 2002 to serve all district courts.

As shown in appendix III, the judiciary also has undertaken cost containment initiatives in the other five categories of law enforcement–related expenses, law book expenditures, defender services, court security, and fee adjustments.⁴¹ For example, the judiciary’s fiscal year 2016 congressional budget justification states that the judiciary has reduced costs by encouraging office consolidation in individual districts in order to save money and create efficiencies. Specifically, the judiciary encouraged individual court units within each district (i.e., district court, bankruptcy court, and probation and pretrial services) to work together to adopt shared administrative services plans. In fiscal year 2013, all 94 districts prepared plans that showed that many districts had either already begun to share administrative services or had committed to doing so.

Furthermore, court and defender organization officials we interviewed identified efforts to achieve cost savings and efficiencies over the past 10

⁴¹Law enforcement–related expenses are to provide for substance abuse treatment and testing, pretrial services alternatives to detention, mental health treatment, electronic monitoring, and travel related to the supervision of defendants on pretrial release and offenders under postconviction supervision.

fiscal years. For example, court officials we interviewed in 9 of 12 circuit courts said that they have generally not hired new staff for positions vacated as a result of retirements and attrition. For example, one circuit court judge noted that when an employee resigns or retires from the court staff, managers will restructure the staff so that duties are reassigned to other staff. The judge estimated that in this court, staff levels have declined 11 percent from 2011 through 2014, resulting in a cumulative reduction in payroll expense of more than \$4 million from fiscal years 2011 through 2014.⁴² Similarly, officials we interviewed in 3 of 4 district courts and 1 of 4 defender organizations said that they have generally not hired new staff when positions were vacated. According to the chair of the Budget Committee of the Judicial Conference, increases to the judiciary's appropriations since the 2013 sequestration have allowed some courts to hire employees to fill some vacant positions in recent years.

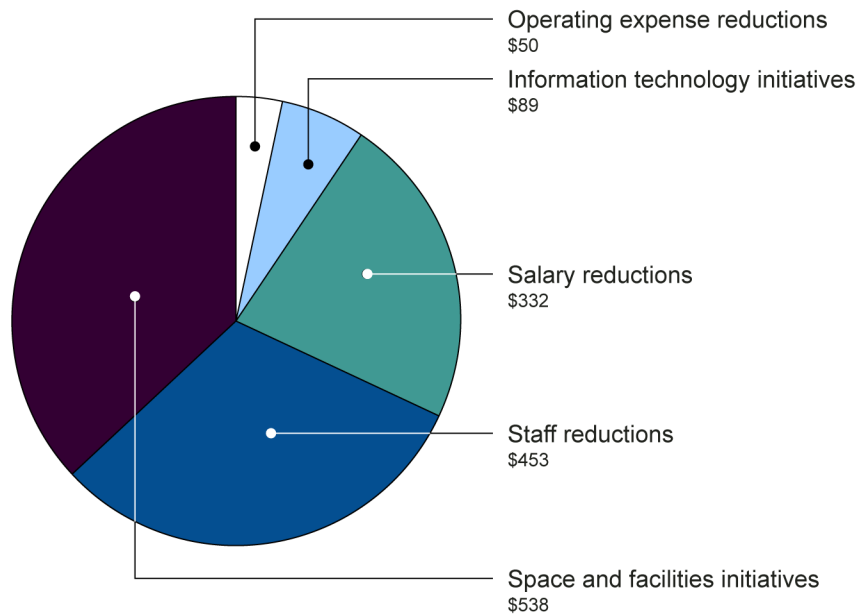
The Judiciary's Cost Savings Estimates Have Limited Reliability That Affect Its Ability to Measure the Effectiveness of Efforts

According to AOUSC officials, since the adoption of its cost containment strategy in September 2004, the judiciary has realized a cost savings of nearly \$1.5 billion relative to projected costs. AOUSC officials attributed these savings primarily to the cost containment policies implemented, as well as other factors. Estimating cost savings is consistent with our conclusions from prior work on duplication, fragmentation, and overlap, that identifying and achieving cost savings should be a goal of all agencies.⁴³ However, according to our analysis of available documentation and discussions with judiciary officials, the \$1.5 billion cost savings estimate has limited reliability because the estimate does not include all savings realized, includes savings not attributable to cost containment initiatives, does not always include the costs associated with implementing initiatives, and was not always supported by adequate documentation. Figure 5 shows the nearly \$1.5 billion cost savings estimate by major cost containment category, and details of our analysis of the estimate by category follow.

⁴²According to GAO analysis of judiciary data, full-time equivalent staff levels in the Circuit Executive's office of this circuit court decreased by 11.7 percent between fiscal years 2010 and 2014.

⁴³GAO, *Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits*, [GAO-15-404SP](#) (Washington, D.C.; Apr. 14, 2015).

Figure 5: Judiciary's Estimated Costs Saved by Major Cost Containment Category, Fiscal Years 2005 through 2015 (Dollars in millions)



Source: GAO analysis of judiciary data. | GAO-16-97

- **Space and facilities cost savings estimate**—The savings estimate for space and facilities initiatives has limited reliability for four reasons. First, AOUSC officials stated that the \$538 million in space and facilities savings is the difference between a rent cost projection for fiscal year 2015 alone and the actual rent paid in fiscal year 2015 alone, which we confirmed. We found that the estimate does not include estimated rent cost savings for fiscal years 2006 through 2014. Second, the judiciary used a 3.1 percent annual rent inflation factor to help project its rent costs for fiscal years 2006 through 2015. However, the actual annual rent inflation ranged from 0.6 percent to 3.1 percent over this time frame, resulting in lower actual rent paid.⁴⁴

⁴⁴The judiciary's space and facilities \$538 million savings estimate is the difference between a long-range rent cost projection developed in fiscal year 2005 and the actual rent paid in fiscal year 2015. According to AOUSC officials, they used a 3.1 percent annual rent inflation factor in the fiscal year 2005 projection because GSA does not provide annual rent inflation factors for future years. So, AOUSC officials used 3.1 percent, or the average percentage rent increase identified by GSA in the five budget years prior to fiscal year 2005, in the estimate.

As a result, according to AOUSC officials, \$291 million of the \$538 million savings estimate is the result of lower than anticipated rent inflation rather than savings from the judiciary's cost containment efforts. Third, AOUSC officials stated that \$247 million of the \$538 million in estimated cost savings is the result of multiple initiatives undertaken by the judiciary to limit the growth in rent costs, but officials could not provide documentation to support this cost savings figure. Fourth, the space and facilities savings estimate did not always include the costs incurred by the judiciary to implement the cost containment initiatives, such as the upfront costs (e.g., for planning and design and construction or renovation) incurred for space reduction and Integrated Workplace Initiative projects.

- **Salary and staff reduction cost savings estimates**—According to our analysis of information provided by AOUSC, we determined that the methodology and data used to calculate the \$785 million estimated savings resulting from salary and staff reductions are reliable. Specifically, AOUSC officials said that the salary reductions compare the cost of onboard payroll at a particular point in time with the previous year's salary base to determine the savings in this category. With regard to the staffing reductions, AOUSC officials stated that they used the reduction in full-time equivalent staff and multiplied this reduction by the national average salary and benefits rate of judiciary staff to determine the savings resulting from staffing reductions. We assessed the reliability of the judiciary's staffing and salary data and determined the data to be sufficiently reliable for the purpose of developing estimates of cost savings achieved from salary and staff reductions.
- **Information technology cost savings estimate**—The \$89 million estimated savings resulting from information technology (IT) initiatives has limitations because AOUSC officials did not include all potential cost savings achieved or all costs to implement the initiatives. First, the judiciary provided documents that show approximately an additional \$126.3 million in savings. Specifically, the judiciary did not include in its estimate the cost savings resulting from implementing technology-based solutions to manage and administer the jury function—i.e., select jurors, send pre-jury-selection paperwork to jurors, pay jurors for their service—(\$79 million); notify creditors, debtors, and other entities of bankruptcy proceedings (\$43.9 million); and provide remote language interpretation for court proceedings (\$3.4 million). Second, the IT savings estimate did not always include the costs incurred by the judiciary to implement the initiatives, so the amount of net cost savings resulting from these initiatives is unclear.

For example, AOUSC officials were able to provide the costs incurred to implement the electronic jury management and bankruptcy notification systems, but did not provide information on the costs incurred to implement the other IT initiatives included in these estimates above, such as the costs incurred to consolidate and reduce the number of servers for several of its IT systems and the costs of contract telephone interpreters.

- **Operating expense cost savings estimates**—The \$50 million estimated savings from operating expense reductions has limitations similar to those noted above for the IT cost savings estimate. Specifically, AOUSC officials provided documents that show an additional \$42.7 million in savings resulting from law book reductions. AOUSC officials told us that \$50 million in operating expense cost savings includes \$25 million in savings resulting from lower than expected court operating expenses, \$3 million in savings associated with lower than expected records management expenses, and \$22 million in savings associated with lower than expected law book expenses.⁴⁵ However, AOUSC officials provided documents that indicate that the law book reductions resulted in savings of \$64.7 million (not adjusted for inflation), or \$42.7 million more than the \$22 million estimated by AOUSC officials. In addition, the operating expense savings estimate did not include the costs incurred by the judiciary to implement the initiatives, such as the costs of transitioning to contracts for electronic legal research resources, so the net cost savings the judiciary has achieved as a result of these efforts is unclear at this time.

Estimating reliable cost savings is consistent with standards in *Standards for Internal Control in the Federal Government*.⁴⁶ For example, *Standards for Internal Control in the Federal Government* states that program managers need complete and accurate operational and financial data to determine whether they are meeting their agencies' strategic and annual performance plans and meeting their goals for accountability and for effective and efficient use of resources. In addition, internal control

⁴⁵According to AOUSC officials, the judiciary has periodically reduced funding allotments to the courts for recurring operating expenses such as law books, records management, postage, and travel based on more recent obligation patterns, revised procurement practices, efficiencies in technology, and other cost containment actions.

⁴⁶[GAO/AIMD-00-21.3.1](#).

standards state that transactions and significant events should be clearly documented and the documentation should be readily available for examination. Further, cost-estimating guidance states that agencies should determine whether an activity's benefits (savings) also take into account the costs incurred to implement the activity.⁴⁷ In addition, best practices suggest that federal agencies should routinely identify cost savings and efficiencies, as we have previously concluded.⁴⁸ The judiciary is not required by law to abide by *Standards for Internal Control in the Federal Government* or cost-estimating guidance, but these tenets are consistent with the management practices of leading organizations.

As described above, on the basis of information provided by AOUSC officials, we determined that the methodology AOUSC officials used to estimate savings from staffing and salary reductions—or approximately \$785 million of the nearly \$1.5 billion total cost savings estimate—was reliable. However, as AOUSC officials acknowledged, the methodology for estimating the remaining approximately \$677 million of the savings estimate has limitations. For example, the officials acknowledged that \$291 million of the \$538 million in space- and facilities-related savings resulted from lower than anticipated rent inflation and was not the result of judiciary actions. Also, AOUSC officials agreed that the amount of estimated rent savings for fiscal years 2005 to 2015 should include the amount saved for each fiscal year over the last 10 years and not only the savings for fiscal year 2015.

In addition, AOUSC officials said that excluding the additional savings found in the information technology and operating expense categories was an oversight, and AOUSC is in the process of reconsidering how to portray its long-term savings estimates. According to the officials, these particular additional savings amounts will be included in the future. Furthermore, AOUSC officials acknowledged that they did not include the costs incurred to implement several of these initiatives, so the cost savings estimates do not always reflect net cost savings. According to AOUSC officials, the costs incurred to implement an initiative were not included in the nearly \$1.5 billion savings estimate because the estimated savings are the result of national policies and initiatives that frequently

⁴⁷Office of Management and Budget, Circular A-94, *Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs* (Washington, D.C.: Oct. 29, 1992).

⁴⁸[GAO-15-404SP](#).

have an element of local spending or operating expense, and AOUSC officials have not attempted to gather and calculate the implementation costs and link them to the specific savings estimates.

Regarding the lack of documentation for \$247 million in estimated space- and facilities-related savings, AOUSC officials stated that the numerous cost containment initiatives and policies implemented in this category since fiscal year 2005 have resulted in reduced space requirements and rent costs over time as the initiatives and policies have been implemented. However, they stated that the cost savings resulting from each initiative and policy cannot be measured directly. They stated that these initiatives and policies include the following, among others:⁴⁹

- Establishing the circuit rent budget process and rent budget caps intended to ensure consideration of all alternatives to increases in space requirements and cap rent growth, among other things.⁵⁰
- Closing nonresident court facilities in multiple locations nationally.⁵¹
- Establishing the Rent Validation Initiative, which involved detailed reviews of GSA rent billings to ensure that they are based on agreed-

⁴⁹In addition, AOUSC officials cited the following examples of space- and rent-related cost containment initiatives: (1) establishing and revising the judiciary's *U.S. Courts Design Guide*, which established space standards for all court facilities nationally; (2) establishing courtroom sharing policies for all new courthouse or courtroom construction projects; and (3) the "No Net New" policy, which requires circuits to identify offsetting space reductions for any space requests that would result in a growth in square footage, except for court construction projects specifically authorized by Congress.

⁵⁰In the circuit rent budget process, each circuit judicial council is given a circuit rent budget and must manage rent costs within that budget. In September 2007, the Judicial Conference adopted the circuit rent budget allotment methodology, which divides the judiciary's rent bill into three components: rent for space currently occupied (component A), new construction and chambers project costs (component B), and space alteration project costs (such as for an additional elevator for security purposes) (component C). Component B projects must be approved by the Judicial Conference Space and Facilities Committee. According to an AOUSC official, AOUSC annually sets aside \$20 million to fund component C projects that courts request on an as-needed basis. Additionally, the judiciary implemented rent budget caps as a mechanism intended to cap growth in rent at an average annual growth rate of 4.9 percent for fiscal years 2009 through 2016.

⁵¹A nonresident court facility is a facility that contains a courtroom but does not have a full-time resident federal judge. According to the judiciary, it considered court space usage, location, condition, and operating costs when deciding whether a facility should be closed.

upon rental rates for the space that the judiciary occupies, among other things.

- Establishing a goal of reducing the amount of total square footage leased from GSA by 3 percent by fiscal year 2018 (from the baseline footprint of fiscal year 2013). AOUSC officials stated that as projects mature and leased space is returned to GSA and others, they expect the judiciary to meet this goal. According to AOUSC officials, as of October 2014, approximately 242,403 square feet has been eliminated from the judiciary's rent bill, resulting in a savings of almost \$6 million annually. According to AOUSC officials, this reduction in the rent bill reflects actual space released back to GSA; however, it is not a net reduction to the rent bill because there have been some space increases to the judiciary's inventory from new construction and alteration projects completed and occupied during the course of each year.

AOUSC officials stated that it would be challenging, if not impossible, to precisely measure all cost savings attributable to each individual cost containment initiative for three reasons. First, AOUSC officials stated that AOUSC does not maintain a single, historical list of initiatives, although initiatives and some cost savings estimates are documented in a collection of documents such as the *Cost Containment Strategy for the Federal Judiciary* and congressional budget justifications. Second, AOUSC officials said that retroactively reporting on cost containment savings would be resource-intensive and would not add meaningful business value to its planning process. Third, AOUSC officials stated that under the judiciary's decentralized funding structure, court units may receive reduced funding allotments because of a cost containment initiative or action, but courts have local flexibility to determine how to staff and support their offices within the allotted funds. AOUSC officials stated that under the decentralized model, courts are able to develop creative, local solutions that meet the demands of the court, but doing so makes it more challenging to determine the actual savings that are attributable to any individual initiative.

Furthermore, according to AOUSC officials, the judiciary considers a cost containment initiative to be successful if the initiative slowed the projected cost growth or reduced a resource requirement and noted that the anticipated cost savings from individual cost containment initiatives is incorporated in its annual budget request estimates. Additionally, AOUSC officials stated that the collective effect of the cost containment initiatives undertaken by the judiciary may be seen in the judiciary's annual budget

request at the appropriation account level (e.g., Salaries and Expenses, Defender Services, Court Security). Overall, AOUSC officials said that the judiciary's budget request increases have historically ranged from 7 to 9 percent, but in recent years its budget request increases have ranged from 3 to 5 percent.

We reviewed the judiciary's annual congressional budget justifications for fiscal years 2010 through 2016 and confirmed that congressional budget justifications did not consistently report information on cost containment initiatives or the estimated cost savings realized from the initiatives. For example, the congressional budget justifications included descriptive information about several cost containment initiatives implemented by the judiciary in recent years, but the estimated cost savings realized—cumulatively or from year to year—as a result of the initiatives were not always included. As a result, we could not use the congressional budget justifications to determine the cost savings the judiciary has realized from its cost containment initiatives.

With regard to the decrease in the growth rate of the judiciary's budget requests, many factors other than cost containment could influence a reduction in an agency's or the judiciary's budget request from year to year, which make it difficult to demonstrate that a slower rate of growth in the judiciary's budget requests is the result of its cost containment initiatives. For example, the rate of inflation and other economic fluctuations, changes in the federal budgetary outlook, changes in workload, and changes in the political environment could affect the judiciary's need or request for less money in a given fiscal year.

We acknowledge that calculating cost savings estimates for every cost containment initiative could be resource-intensive and that calculating actual cost savings may be challenging. For example, retroactively reporting on cost savings for each individual cost containment initiative could be resource-intensive. Also, cost factors may change and data may be initially incomplete because savings may take several years to be fully realized. However, particularly in a time of constrained resources, developing a reliable method for estimating accurate and complete cost savings for major cost containment initiatives going forward and regularly reporting estimated cost savings by major cost containment initiative could help the judiciary better assess the effectiveness of its cost containment strategy and help inform decision making related to ongoing and new cost containment initiatives.

Additionally, developing a reliable method for estimating cost savings by initiative and regularly reporting estimated cost savings could help improve the reliability of cost savings information the judiciary provides to Congress. For example, developing a reliable method for estimating accurate and complete cost savings for major cost containment initiatives could help address the limitations, noted earlier, of the cost savings estimates that constitute the cumulative cost savings estimate that the judiciary reports to Congress (such as the estimated cumulative cost savings from cost containment efforts implemented since fiscal year 2005). In addition, in the fiscal year 2015 appropriations act, Congress appropriated \$10 million to remain available until September 30, 2016, to the judiciary for Integrated Workplace Initiative (IWI) costs (such as space construction projects and the purchase of furniture). Congress stipulated that these funds would not be available for obligation until the AOUSC Director submits a report to the House and Senate Committees on Appropriations showing that the estimated cost savings resulting from the IWI will exceed the estimated costs of the initiative.⁵² In March 2015, judiciary officials transmitted reports to the House and Senate Committees on Appropriations regarding the status of space reduction and IWI projects but reported it was too early to be able to provide specific details regarding rent cost savings from these projects until after the concept design phases for the projects are completed.⁵³ Developing a reliable method for estimating cost savings achieved for major cost containment initiatives—which takes into account the costs to implement and all cost savings achieved—could help inform judiciary efforts to report space reduction- and IWI-related cost savings information to Congress. Furthermore, regularly reporting such cost savings for major cost containment initiatives could provide Congress with more accurate and complete information for oversight and decision making.

⁵²Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, 128 Stat. 2130, 2348-49 (Dec. 16, 2014). In addition, the explanatory statement accompanying the act directed the Judicial Conference of the United States to provide the House Committee on Appropriations with an update on its space management plan, including detailing its efforts to reduce judiciary space by fiscal year 2018. 160 Cong. Rec. H9733 (daily ed. Dec. 11, 2014); H.R. Rep. No. 113-508, at 34 (2014).

⁵³In the March 2015 report, the judiciary also describes the return-on-investment principles it uses for identifying and approving projects for funding and some cost information for space reduction projects thus far, among other things. For example, the judiciary reported that it has made available slightly more than \$30 million to the courts for space reduction projects as of March 2015.

Several cost-efficient options for developing a method to accurately estimate and regularly report cost savings for major cost containment initiatives exist. For example, one approach might be to estimate cost savings using a risk-based methodology to determine and track cost savings for those cost containment initiatives related to the judiciary's highest-cost areas or those from which the judiciary anticipates the largest savings (or by major spending or major cost containment category). Another approach could be developing a method for estimating cost savings as part of existing processes and data collection and analysis activities, such as the judiciary's budget formulation and execution process. Regularly reporting estimated cost savings achieved for major cost containment initiatives through an existing mechanism, such as congressional budget justifications or other document, could be another option, and reporting could be done on a periodic, but not necessarily annual, basis. In addition, adding features to the judiciary's new financial management system to help facilitate the collection and analysis of cost and cost savings information from courts and defender organizations related to space and facilities initiatives and other initiatives is another option, if cost effective. Additionally, AOUSC is using a process to estimate the costs and estimated cost savings to meet congressional reporting requirements. Tailoring such a process to estimate cost savings for other major cost containment initiatives could be another option.

The Judiciary Uses Various Mechanisms to Identify Opportunities for Cost Savings and Efficiencies

The judiciary uses various mechanisms to identify opportunities for cost savings and increasing efficiencies, including: (1) strategic policy documents, (2) the annual budget formulation and execution process, (3) Judicial Conference and conference committee meetings, and (4) information sharing across federal courts.

- **Strategic policy documents**—In the past 10 fiscal years, the judiciary has developed various strategic policy documents that assist the judiciary with its efforts to contain costs—including identifying opportunities for cost savings and efficiencies, among other things, as described in table 2.

Table 2: Judiciary Strategic Policy Documents from Fiscal Years 2004-2014

Strategic policy documents	Key cost containment elements	Year updated
<i>Cost Containment Strategy for the Federal Judiciary: 2005 and Beyond</i> (approved in September 2004)	<ul style="list-style-type: none"> Identified long-range budget forecasts (including underlying budget assumptions) Identified six cost containment categories. For each category, identified: <ul style="list-style-type: none"> key cost drivers (e.g. policies, rent) or key court fee revenue drivers projected growth in costs (e.g., related to space, staffing, or technological requirements) or projected growth in court fee revenues cost containment initiatives completed, ongoing, or planned projected cost savings estimates (or cost avoidances), if initiatives were implemented, for some categories. For example, the judiciary anticipated it would save \$194 million in the workforce efficiency category in 2009 if recommended initiatives were implemented. 	Issued update report on the <i>2005 Cost Containment Strategy</i> in 2007 (see below)
<i>Cost Containment Strategy for the Federal Judiciary: 2007 Update Report</i> (issued in July 2007)	<ul style="list-style-type: none"> Updated long-range budget forecasts (including underlying budget assumptions) Identified eight cost containment categories. For each category: <ul style="list-style-type: none"> identified changes in key cost drivers since 2004 (e.g., policies, changes in workload) and changes in key court revenue fees since 2004 identified changes in the projected growth in costs (e.g., related to space, staffing, or technological requirements) or changes in projected court fee revenues since 2004 described the status of implementing completed, ongoing, or planned cost containment initiatives (including identifying new cost containment initiatives for some categories) updated projected cost savings estimates (or cost avoidances) and identified cost savings achieved as a result of implementing actions (including initiatives) for some categories. For example, according to the 2007 update, the examination of appraisals and rental rates had resulted in credit and cost avoidance savings for the judiciary totaling \$52.5 million, as of July 2007. 	Judiciary officials told us the judiciary will continue to pursue cost containment efforts, but there are no plans to update the <i>2005 Cost Containment Strategy</i> in the future, as they did in 2007.
<i>Strategic Plan for the Federal Judiciary</i> (issued in September 2015)	<ul style="list-style-type: none"> Identified four goals to support one strategy to allocate and manage resources more efficiently and effectively. For example, one goal is to make more effective use of judges to relieve overburdened and congested courts. 	To be reviewed every 5 fiscal years

Strategic policy documents	Key cost containment elements	Year updated
<i>Cost Containment Update: A Report from the Budget Committee</i> (issued in July 2012)	<ul style="list-style-type: none"> • Provided an overview of long range budget forecasts (including some underlying budget assumptions) • Provided a summary of some new cost containment initiatives (in general, not described for each major cost containment category) 	Judiciary officials told us the judiciary will continue to pursue cost containment efforts, but, as of August 2015, there are no plans to issue another <i>Cost Containment Update: A Report from the Budget Committee</i> .
<i>The Long Range Plan for Information Technology (IT) in the Federal Judiciary</i> (issued in 1990)	<ul style="list-style-type: none"> • The <i>Fiscal Year 2015 Update on The Long Range IT Plan</i>, the most recent update, identified five strategic IT priorities over the next 3 to 5 years, and anticipated resource requirements for fiscal years 2015-2019. One strategic priority is to maintain a robust technical infrastructure by completing an upgrade to converge multiple services (e.g., voice, data, and video) over a single, secure network, among other things. 	To be updated annually: Pursuant to section 612 of Title 28, United States Code, AOUSC is responsible for preparing and annually revising (or updating) <i>The Long Range Plan for Information Technology in the Federal Judiciary</i> . To date, the judiciary has issued update reports each fiscal year since fiscal year 1990.

Source: GAO analysis of judiciary documentation. | GAO-16-97

As shown in table 2, the judiciary developed the *Cost Containment Strategy for the Federal Judiciary: 2007 Update Report* (2007 update) to provide a progress update on the *Cost Containment Strategy for the Federal Judiciary: 2005 and Beyond* (2005 cost containment strategy), including analyzing and documenting changes that occurred in the judiciary's long-range budget forecasts and the status of implementing cost containment initiatives in each cost containment category, among other things. The judiciary has established timeframes for regularly updating its *Strategic Plan for the Federal Judiciary* and the *Long Range Information Technology Plan*, but has not updated its cost containment strategy since 2007. In July 2012, the judiciary issued a six-page *Cost Containment Update: A Report from the Budget Committee*, which provided an overview of the judiciary's long-range budget forecasts and summarized some new cost containment initiatives (table 2). AOUSC officials told us that the judiciary does not plan to issue another update report on the 2005 cost containment strategy in the future primarily because the judiciary's culture has changed in the past 10 years, and the judiciary relies on other mechanisms, described below, to identify opportunities for cost savings and efficiencies.

- **Annual budget formulation and execution process**—According to Judicial Conference and AOUSC officials, the judiciary's annual process of preparing its budget and allocating funding, or its budget formulation and execution process, is the primary mechanism it uses to identify opportunities for judiciary-wide cost savings and efficiencies. For example, AOUSC officials told us that the judiciary's initiative to reduce all judiciary-occupied space by 3 percent by the end of fiscal year 2018 was identified through the budget formulation

and execution process.⁵⁴ The Judicial Conference, operating through a network of program committees, oversees the development and execution of the judiciary's budget, as shown in figure 6.⁵⁵ Accordingly, the Judicial Conference Budget Committee is responsible for proposing appropriate funding levels, based, in part, on annual long-range budget forecasts (i.e., how budget requirements and potential funding levels may change during the next 5 to 10 years), and input from program committees.⁵⁶ The Economy Subcommittee of the Budget Committee also plays a key role in working with program committee chairs to identify, recommend, and promote budget-balancing strategies or cost containment initiatives. During the budget execution process, the Judicial Conference Executive Committee is to approve annual financial (spending) plans for 4 of the 12 judiciary appropriations accounts.⁵⁷ According to judiciary officials, the annual financial plans reflect the policies of the Judicial Conference, including approved cost containment initiatives,

⁵⁴The initiative is subject to the following exclusions: new courthouse construction, renovation, or alterations approved by Congress.

⁵⁵The Judicial Conference has nine program committees with financial responsibilities: Administration of Bankruptcy System, Court Administration and Case Management, Criminal Law, Defender Services, Information Technology, Judicial Resources, Judicial Security, Magistrate Judges System, and Space and Facilities. AOUSC officials told us that they also gather input from the courts through advisory councils and peer advisory groups composed of judges and court officials. Specifically, the judiciary has four subject-matter advisory councils—Budget and Finance, Human Resources, Information Technology, and Space and Security—that provide advice to the Judicial Conference committees and AOUSC on the development and implementation of policy recommendations, such as input on budget and financial matters. Peer advisory groups offer input on matters affecting particular positions or offices represented.

⁵⁶AOUSC officials told us that they prepare annual long-range budget forecasts for 4 of the 12 appropriation accounts for each fiscal year—specifically, the Salaries and Expenses, Defender Services, Court Security, and Fees of Jurors and Commissioners accounts. According to AOUSC officials, annual long-range forecasts identify the judiciary's future financial requirements (based on current estimates of caseload and workload and changes in GSA building rental costs, among other variables) and how future financial requirements relate to potential congressional funding levels. According to AOUSC officials, annual long-range budget forecasts are considered to be part of internal and deliberative Judicial Conference committee materials and, as such, predecisional.

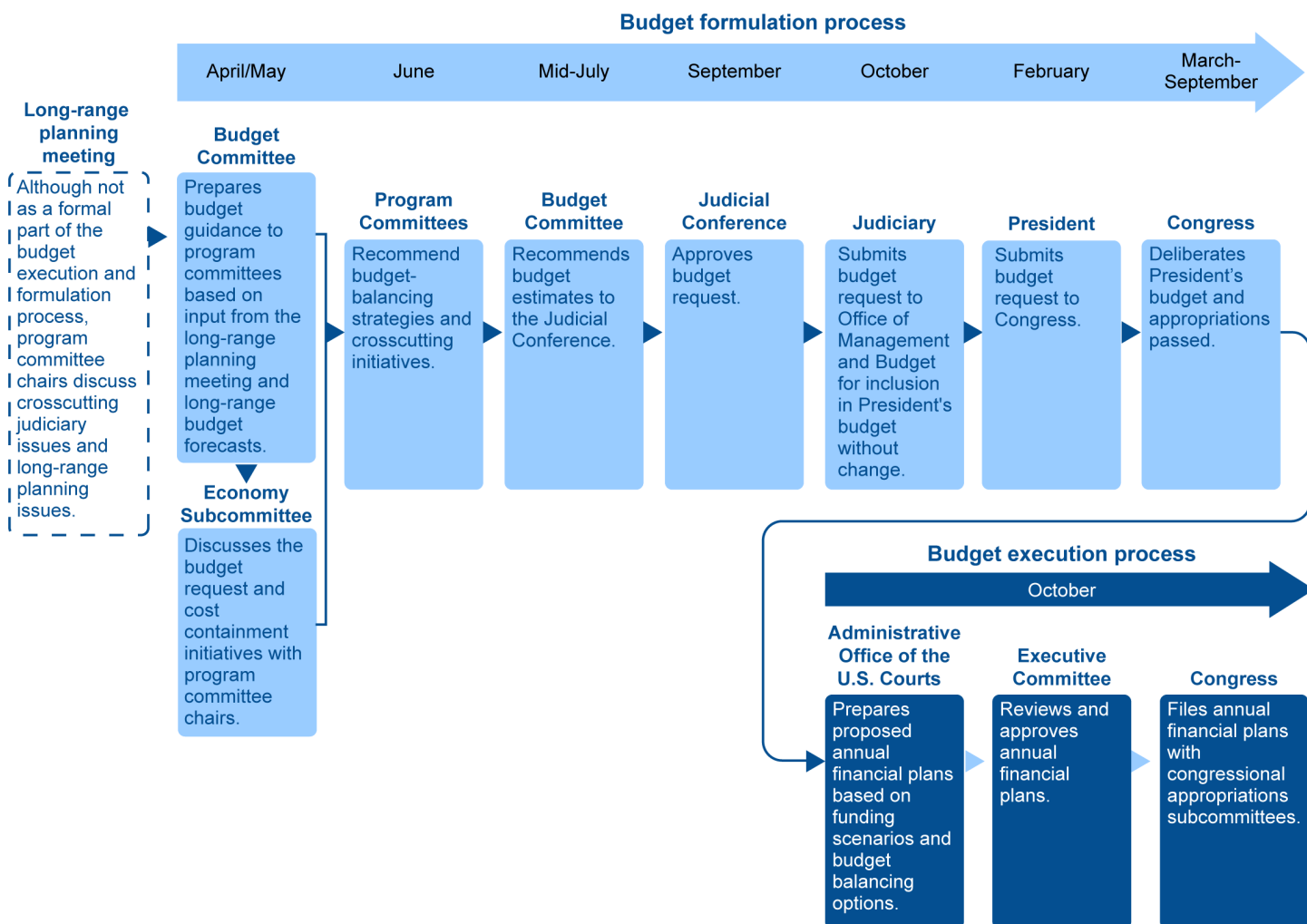
⁵⁷The Judicial Conference Executive Committee approves how the judiciary plans to spend anticipated (and final) enacted appropriations and use final unobligated balances to fund identified resource requirements for each appropriation account.

among other things.⁵⁸ Our analysis of the judiciary's financial plans from fiscal years 2010 through 2015 showed that these plans contained some information about the cost containment initiatives that the judiciary approved. For example, under the Defender Services account, the fiscal year 2015 plan states that funding was provided for the conversion of two part-time case-budgeting attorney positions into full-time positions, among other cost containment initiatives.⁵⁹ The budget formulation process begins 18 months before the fiscal year. Figure 6 depicts general time frames and activities that may overlap throughout the process.

⁵⁸For example, the annual financial plan includes annual allotments to the courts and defender organizations for salaries, information technology expenses, and operating expenses based on work measurement and other formulas. As noted earlier in table 1, the judiciary uses work measurement studies to identify opportunities for additional cost savings and efficiencies.

⁵⁹Case-budgeting attorneys help manage the costs of Criminal Justice Act panel attorneys for capital cases and non-capital megacases (or representations that are expected to exceed 300 attorney hours or \$30,000 in total costs for appointed counsel and service providers for an individual defendant).

Figure 6: Overview of the Judiciary's Annual Budget Formulation and Execution Process



Source: GAO analysis of judiciary information. | GAO-16-97

- Judicial Conference and committee meetings**—According to the Judicial Conference Budget Committee and Economy Subcommittee chairs and AOUSC officials, the Judicial Conference semiannual sessions in March and September provide all Judicial Conference program committee chairs with the opportunity to discuss the status of new and ongoing cost containment efforts, among other national judiciary policy matters. Judiciary officials told us that these discussions were documented in the *Reports on the Proceedings of the Judicial Conference of*

the United States issued after each semiannual session, and we verified this statement through our analysis of these documents for fiscal years 2007 through 2014. Various Judicial Conference committee chairs also meet during these semiannual Judicial Conference sessions and throughout the year to support the judiciary's annual budget formulation and execution process, as described earlier. For example, the Chair of the Economy Subcommittee of the Budget Committee told us he regularly meets with program committees to educate them on ways to contain costs, which include in-depth discussions of (1) each program's budget, (2) the status of new and ongoing cost containment initiatives (including the extent to which the cost containment initiative has reduced costs), and (3) steps the program committee has taken to address long-range budget forecasts.⁶⁰

Also, the Judicial Conference usually holds a long-range planning meeting 1 day prior to one or both semiannual Judicial Conference sessions.⁶¹ As shown in figure 6, the long-range planning meeting is not a formal part of the budget formulation and execution process, but, according to the Budget Committee Chair, provides an opportunity for program committee chairs to discuss judiciary-wide trends and long-range planning issues that are crosscutting within the judiciary (i.e., issues that may affect more than one program committee, such as increasing space and facilities costs). The Chair of the Budget Committee told us these meetings are typically focused on strategic planning and some, but not all, over the past 3 to 4 fiscal years involved discussions of budgetary matters and the potential implications of budget reductions.

⁶⁰According to the Judicial Conference Budget Committee and Economy Subcommittee chairs and AOUSC officials, Conference committee agendas and materials are considered predecisional and not available for disclosure.

⁶¹Participants in long-range planning meetings include the chairs of Judicial Conference committees, members of the Executive Committee of the Judicial Conference, the Director of AOUSC, and the Director of the Federal Judicial Center. Since 2010, the judiciary has held at least one long-range planning meeting each fiscal year, except in fiscal year 2013, according to AOUSC officials.

In addition, the Judicial Conference Executive Committee and Budget Committee held a cost containment summit with program committee chairs in September 2011.⁶² The purpose of the summit was to respond to anticipated budgetary shortfalls in fiscal year 2013 and beyond by identifying potential cost containment initiatives that would help mitigate funding cuts to the courts and avoid further loss of staff. For example, the Judicial Conference approved lowering the budget cap for Defender Services and Court Security during the March 2012 Judicial Conference semiannual session. The Budget Committee documented this and other cost containment initiatives identified at the summit in the *Cost Containment Update: A Report from the Budget Committee*, described in table 2, and subsequent *Reports on the Proceedings of the Judicial Conference of the United States*.

- **Information sharing across federal courts**—As noted earlier, according to AOUSC officials, the decentralized governance and budgetary structure of the judiciary allows courts and defender organizations to identify opportunities for cost savings and efficiencies to meet local needs. The judiciary has taken steps to facilitate the identification and sharing of ideas for cost savings and efficiencies among federal courts and defender organizations using various information-sharing mechanisms. For example, officials we interviewed in 8 of 12 circuits, all 4 district courts, and 3 of 4 defender organizations stated that they coordinate with the Judicial Conference committees and AOUSC (such as through AOUSC advisory councils, peer advisory groups, or ad hoc working groups) to identify opportunities for cost savings and efficiencies.⁶³ For example, an official in one circuit court told us that court officials leverage the semiannual Judicial Conference sessions to meet with their counterparts in other circuit courts to share cost saving and efficiency ideas. Also, officials representing 10 of 12 circuits, all 4 district courts, 2 of 4 bankruptcy courts, and 3 of 4 defender organizations we met with stated that they have

⁶²Participants in the cost containment summit included members of the Judicial Conference Executive Committee, Budget Committee, and program committee chairs with financial spending authority. In addition, then-chair of the Judicial Branch Committee, the judiciary's planning coordinator, chairs of nonspending committees, and the director of AOUSC also attended.

⁶³Ad hoc working groups offer customer and user advice to AOUSC as it develops new programs, products, systems, applications, or methods.

regular meetings with colleagues to share ideas about cost-saving and efficiency opportunities. For example, the probation services office and pretrial services office in one district court developed a Budget Consortium to formulate cost savings ideas, such as combining bulk supply purchases to reduce costs.

Furthermore, through our interviews with court officials, we learned that some of the opportunities for cost savings and efficiencies identified by local courts have led to national implementation. For example, one official in a district court clerk's office told us that the court codeveloped a software system that automates criminal debt and restitution processes, which it has been using since 2008 to streamline the process of collections and accounting—thereby increasing processing efficiency and saving costs.⁶⁴ In addition, the district court developed guidance for local courts to implement the software system, and according to the district official, other courts began to use the system in June 2013.⁶⁵ The officials stated that, as of August 2014, 80 district courts were using one component of the software to import Bureau of Prisons and U.S. Department of Treasury offset payments, and beginning in early 2015, approximately 30 courts received access to all software components (with the actual extent of use of the components varying from court to court).

⁶⁴The software system, called Rest Assured, was developed collaboratively among a team of court officials in the district court clerk's office and probation office and the U.S. Attorney's Office in this district. Rest Assured provides tools that assist courts with a variety of criminal debt management processes from conviction through criminal debt liability in the court's financial system (generally a period lasting several months). These tools include import of victim losses; import of defendant information; verification of victim losses; and updating victim information, among other things.

⁶⁵According to the official representing the district court clerk's office, the software system was endorsed by the district court clerk's advisory group in October 2012 for national implementation. The Judicial Conference Committee on Information Technology approved an initial investment in the system for national implementation in September 2013.

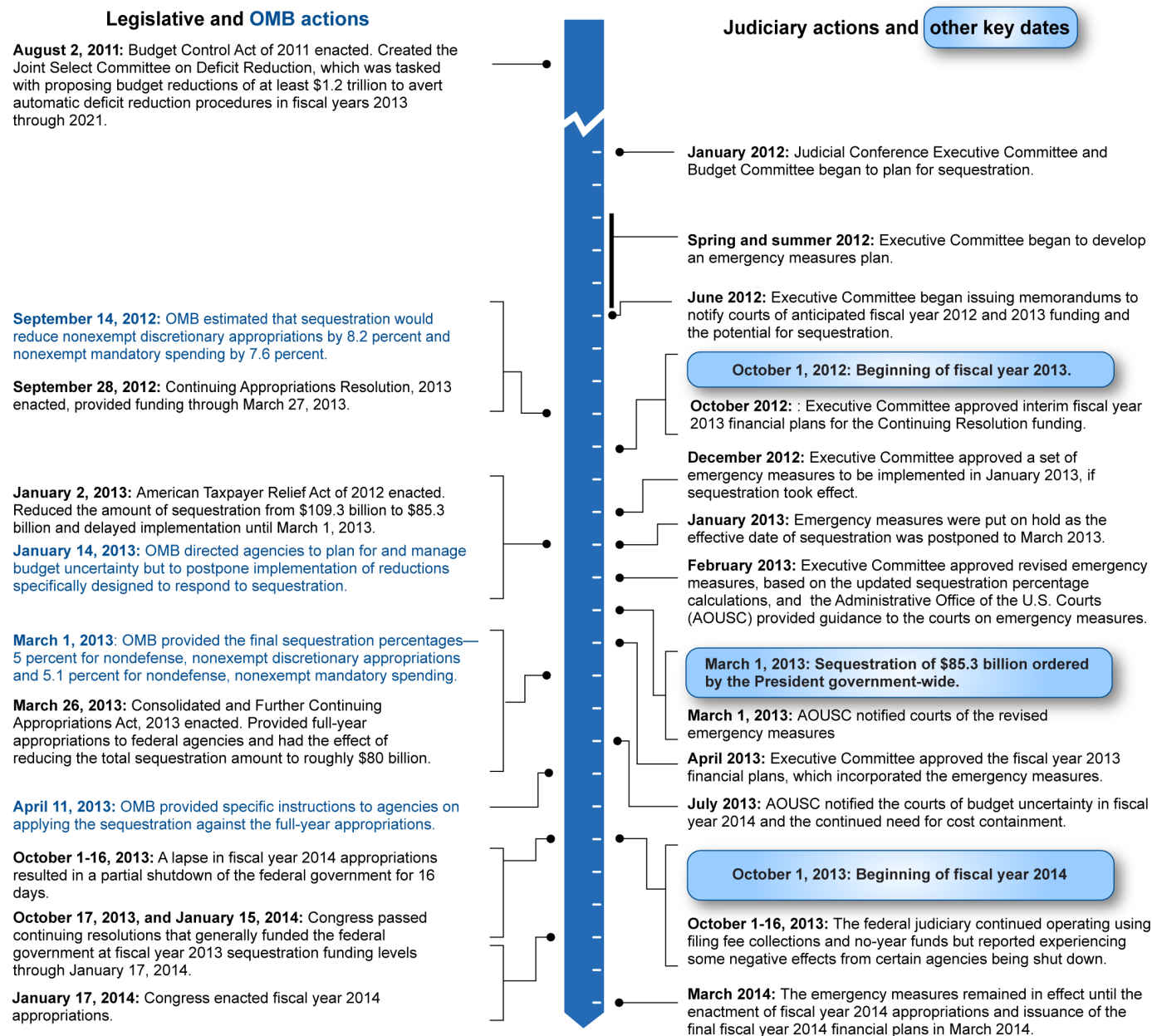
The Judiciary Imposed Emergency Measures and Has Identified Negative Effects of the 2013 Sequestration and 2014 Lapse in Appropriations on Judiciary Personnel and Operations

The Judiciary Began Preparing for Sequestration in 2012 and Imposed Emergency Measures

According to AOUSC and court officials we interviewed, the judiciary's cost containment initiatives helped to prepare the judiciary for potential budget reductions, but the judiciary still needed to impose a set of emergency measures to achieve the \$346 million in budget cuts caused by the 2013 sequestration and faced some planning challenges. According to the judiciary budget officer, the Judicial Conference Executive Committee began to plan for sequestration in January 2012, and the judiciary implemented a final set of emergency measures in March 2013, when sequestration ultimately took effect. The judiciary budget officer and some court and defender organization officials we interviewed stated that planning for the reductions resulting from sequestration was challenging because the estimated percentage reductions changed several times.⁶⁶ Figure 7 provides a detailed timeline of judiciary, OMB, and legislative actions taken to prepare for the fiscal year 2013 sequestration and the lapse in fiscal year 2014 appropriations.

⁶⁶Similarly, in March 2014 and May 2014, we found that most executive branch agencies we studied began sequestration preparation and planning in 2012, but uncertainty over if and when sequestration would occur, and how to implement it, delayed resource allocation decisions and presented other challenges for planning and implementation. See [GAO-14-244](#) and [GAO-14-452](#).

Figure 7: Timeline of Judiciary, OMB, and Legislative Actions Taken to Plan for and Implement the Fiscal Year 2013 Sequestration and Lapse in Fiscal Year 2014 Appropriations



Sources: GAO analysis of legislation, Office of Management and Budget (OMB) guidance, and judiciary documents. | GAO-16-97

As previously noted, the 2013 sequestration reduced fiscal year 2013 funding for the judiciary's Salaries and Expenses account by \$239 million; Defender Services account by almost \$52 million; Court Security account by \$25 million; and Fees for Jurors and Commissioners account by approximately \$3 million, among other reductions. To achieve these reductions, the judiciary identified approximately 33 emergency measures that generally reduced or postponed funding for the remainder of fiscal year 2013 in each of these accounts and reprogrammed available funds (such as prior-year unobligated balances) to areas of the fiscal year 2013 financial plan to mitigate shortfalls.⁶⁷ According to Judicial Conference officials, the judiciary designed the emergency measures to address the four main appropriations accounts and to help ensure consistency and equity among members of the judiciary. They stated that many of the measures were temporary, one-time reductions that could not be repeated if future funding levels continued to decline. Table 3 shows examples of the emergency measures the judiciary implemented to achieve the reductions required by the fiscal year 2013 sequestration.

Table 3: Examples of Emergency Measures the Judiciary Implemented to Achieve the Reductions Required by the Fiscal Year 2013 Sequestration

Appropriation account	Examples of emergency measures
Courts of Appeals, District Courts, and Other Judicial Services Salaries and Expenses	Reduced funding of <ul style="list-style-type: none">• Court salary allotments to 14 percent below judiciary estimated requirements for most court units and 12 percent below for bankruptcy court clerks' offices^a• Court nonsalary (i.e., operations and information technology) allotments to an overall 20 percent below judiciary estimated requirements for most court units and 34 percent below for bankruptcy court clerks' offices• Law enforcement allotments^b by 20 percent below judiciary estimated requirements, and permitted these funds (along with Second Chance Act funds) to be reprogrammed

⁶⁷For fiscal year 2013, the judiciary was authorized to transfer up to 5 percent from one appropriation account to another, provided it did not increase the account's appropriation by more than 10 percent (except for the Defender Services and Fees of Jurors and Commissioners accounts) and subject to certain approval requirements. For fiscal year 2013, the judiciary could reprogram funds in an appropriation account; however, funds could not be reprogrammed for certain purposes, such as to create a new program, or to augment or reduce an existing program, project, or activity in excess of \$500,000 or 10 percent, whichever was less, unless the judiciary notifies the Committees on Appropriations 15 days in advance.

	<ul style="list-style-type: none"> • Probation and Pretrial Services Training Academy by approximately 23 percent • Cyclical financial audit program by approximately 25 percent <p>Postponed funding of</p> <ul style="list-style-type: none"> • Centrally held share of the costs of circuit judicial conferences and the remainder of national planned discretionary training
Defender Services	<p>Reduced funding of</p> <ul style="list-style-type: none"> • Federal defender organization salary allotments by approximately 4 percent below the interim fiscal year 2013 financial plan • Payments for Criminal Justice Act panel attorneys by \$15 per hour from September 1, 2013 through March 2014 (which were never reimbursed) • Nonsalary federal defender organization allotments by 25 percent below the interim financial plan • Training by 50 percent below the interim financial plan <p>Postponed funding of</p> <ul style="list-style-type: none"> • Payments for Criminal Justice Act panel attorney services for the last 10 business days of fiscal year 2013 into fiscal year 2014
Court Security	<p>Reduced funding of</p> <ul style="list-style-type: none"> • Court security officer work hours by 25 hours per officer (from 1,958 hours per court security officer per year to 1,933 hours) • Security systems and equipment by approximately 30 percent below the interim financial plan

Source: GAO analysis of judiciary documentation. | GAO-16-97

^aAccording to an Administrative Office of the U.S. Courts (AOUSC) official, the salary allotment requirements for bankruptcy court clerks' offices were reduced by a smaller amount, while nonsalary allotment requirements were reduced by a greater amount (34 percent for bankruptcy court clerks' offices compared with 10.2 percent for all other court units) to achieve the same overall percentage reduction to total funding.

^bLaw enforcement–related allotments provide for substance abuse treatment and testing, pretrial services alternatives to detention, mental health treatment, electronic monitoring, and travel related to the supervision of defendants on pretrial release and offenders under postconviction supervision. The Second Chance Act of 2007, Pub. L. No. 110-199, which was enacted to break a cycle of criminal recidivism and assist offenders reentering the community from incarceration, expanded AOUSC's authority to provide reentry services, such as treatment, equipment, and emergency housing, among other things.

As shown in figure 7, the judiciary kept the emergency measures in place until the enactment of fiscal year 2014 appropriations, which returned funding to presequestration levels, or approximately fiscal year 2010

levels, because the judiciary received relatively flat funding in fiscal years 2011 and 2012.⁶⁸

Implementation and Effects of Sequestration Varied across Courts and Defender Organizations

Under the judiciary's decentralized governance structure, individual courts and defender organizations made local decisions about how to manage staff and operations within the reduced allotments imposed by the emergency measures and about any additional spending cuts or actions that may be needed. For example, to absorb reduced salary allotments, courts and defender organizations determined whether they needed to downsize, implement furloughs, a combination of both, or neither, or take other personnel actions, such as freezing promotions, offering buyout and early retirement offers, or implementing layoffs (i.e., involuntary separations), among other actions. AOUSC officials stated that some courts cut hours of operation, closed 1 day per week, or chose not to hear criminal cases every other Friday. See appendix I for examples of the personnel and related actions that the 12 circuit courts, 4 district court clerks' offices, 4 bankruptcy courts, 4 probation and pretrial offices, and 4 defender organizations we interviewed reported taking in response to the 2013 sequestration.

The emergency measures also reduced nonsalary (i.e., operations and IT) allotments to most court units by 20 percent and to bankruptcy court clerks' offices by 34 percent. To absorb these reductions, circuit court and district court officials we interviewed told us they reduced staff training and travel, entered into bulk purchase agreements to acquire supplies, and postponed building renovations and maintenance, among other actions. In addition, officials we interviewed in 9 of 12 circuit courts, all 4 district courts, all 4 bankruptcy courts, and all 4 defender organizations stated that they rescope or delayed cyclical IT replacements (e.g., laptops, printers) and maintenance (e.g., payments for extended warranties) or reduced IT investments in response to the 2013

⁶⁸On March 18, 2014, the Executive Committee approved the final financial plan for fiscal year 2014, which removed all emergency measures with two exceptions: (1) law book allotment funding remained at the fiscal year 2013 level of \$25.9 million, and (2) Second Chance Act allotments to probation and pretrial services offices continued to be postponed in order to prioritize funding in these offices for officer salaries and law enforcement allotments (e.g., court-ordered services for drug testing, substance abuse treatment, mental health services). According to AOUSC officials, probation and pretrial services offices could continue to use their decentralized funds for Second Chance Act purposes if they chose to do so.

sequestration. See appendix I for examples of the nonpersonnel actions each court and defender organization we interviewed reported taking.

Judiciary Took Actions to Mitigate the Effects of Sequestration on Personnel but Reported Some Actions Resulted in Delays and Increased Costs

The judiciary implemented actions to help mitigate the impact of sequestration on court and defender organization staff, but officials reported that reprogramming or reducing funding in other areas interrupted cost containment efforts and led to increased costs and inefficiencies. For example, the Judicial Conference Executive Committee reduced nonsalary funding—such as funding for training, IT, supplies, and equipment—and used funding flexibilities (such as prior-year unobligated balances and fee collections) to help centrally fund the resource requirements identified in the judiciary’s fiscal year 2013 financial plan.⁶⁹ However, AOUSC officials and court and defender organization officials we interviewed in 3 of 12 circuit courts, 2 of 4 district courts, 3 of 4 bankruptcy courts, and 1 of 4 defender organizations stated that diverting funds from IT investments and travel and training as a result of sequestration interrupted cost containment and efficiency efforts, and led to increased costs and risks in some cases. For example, according to AOUSC officials, upgrades to several national IT systems designed to achieve cost savings or improve internal controls—such as to judiciary financial management, human resources, and probation and pretrial case management systems; a national videoconferencing system; and a new national Internet Protocol telephone system—were suspended in fiscal year 2013 because of sequestration. According to the officials, restarting upgrades after they have been suspended for some time is costly, and many upgrade projects have still not been completed.⁷⁰ For example, AOUSC officials stated that the delayed rollout of an upgraded financial management system to all courts introduces the risk of technical

⁶⁹For example, to help limit the number of federal defender furlough days, the Executive Committee allocated available nonsalary funds, such as unobligated balances, within the Defender Services account.

⁷⁰Also, officials we interviewed in one bankruptcy court and one probation and pretrial office stated that postponing IT replacements and investments poses risks to operational efficiency and access to the courts if courts need to close or delay cases because of technical difficulties.

obsolescence of the legacy financial accounting system, which has the potential to introduce new costs to keep the legacy system operational.⁷¹

In addition, court and defender organization officials stated that they participate in information-sharing and training conferences and meetings—such as circuit judicial conferences and annual or biannual court clerks conferences—to stay proficient in their subject matters and to discuss court administration, including sharing ideas for saving money and increasing efficiency. However, because of reduced funds for travel and training, officials representing 6 of 12 circuit courts stated that they canceled or postponed circuit judicial conferences in 2013 and 2014.⁷² Also, officials in 6 of 12 circuit courts, 3 of 4 district courts, 2 of 4 bankruptcy courts, and 2 of 4 defender organizations stated that they canceled, reduced, or did not attend training conferences or meetings (e.g., for judges, staff attorneys, defenders, court clerks, and IT staff).⁷³ Moreover, AOUSC officials estimated that approximately 2,585 federal defender and Criminal Justice Act panel attorneys and paralegals, investigators, and staff did not receive subject matter training (such as substantive legal, forensics, and case management training) as a result of

⁷¹According to AOUSC officials, the new financial management system is designed to streamline financial operations; improve data security and controls; integrate most of the judiciary's financial, budget, procurement, and accounting functions; and enable the judiciary to implement financial management best practices, among other things. The officials stated that the deployment of the upgraded financial management system to circuit courts began in fiscal year 2015, and the judiciary will not begin to deploy the system to the rest of the judiciary until fiscal year 2016.

⁷²The chief judge of each circuit may convene a meeting of the circuit judicial conference (all active circuit, district, and bankruptcy judges of the circuit) to consider the business of the courts and advise on means for improving the administration of justice within the circuit at least once every 2 years. Also, each circuit court of appeals must, by its rules, provide for the representation and active participation at such conferences by members of the bar of the circuit. 28 U.S.C. § 333.

⁷³For example, a defender organization official stated that the length of the district's annual 2-day Criminal Justice Act seminar was shortened to 1 day to save money on transportation, food, lodging, and speaker costs. According to the official, because there are not many high-quality seminars on federal criminal law in the district, many lawyers who attended the seminar commented that they were disappointed with the shortened program.

canceled training events because of sequestration and threat of continued sequestration in fiscal year 2013 and early 2014.⁷⁴

Judiciary Reported That the 2013 Sequestration and 2014 Lapse in Appropriations Negatively Affected Personnel, Operations, and Services to the Public

Judiciary officials reported that the 2013 sequestration and fiscal year 2014 lapse in appropriations negatively affected court and defender organization personnel and services to the public, among other effects.

- **Reduced court staff and implemented furloughs**—AOUSC officials stated that one of the most significant effects of the 2013 sequestration was the continuing loss of court staff through attrition, including buyouts and voluntary early retirements, among other actions. According to GAO analysis of judiciary data, in the 12 months following sequestration, total onboard full-time equivalent staff in federal courts nationwide declined by nearly 1,600 full-time equivalent staff—or by approximately 8 percent.⁷⁵ According to GAO analysis of judiciary data, from fiscal years 2011 to 2014 (including the 2 years of relatively flat funding preceding sequestration), the total number of onboard full-time equivalent staff in federal courts nationwide declined by more than 11 percent—specifically, the total number of onboard full-time equivalent staff declined by 11 percent in circuit courts, 8 percent in district court clerks' offices, 24 percent in bankruptcy courts, and 7 percent in probation and pretrial services offices nationwide. Furthermore, the judiciary reported that, nationally, by the end of March 2014, there were 3,300—or 15 percent—fewer onboard court staff than in July 2011. GAO analysis of judiciary data supports this statement.⁷⁶ See figure 8 for the total number of onboard court full-time equivalent staff in circuit courts, district court clerks' offices, probation and pretrial services offices, and bankruptcy courts from fiscal years 2010 to 2014.

⁷⁴According to an AOUSC official, as a result, in the near term, new federal defender and CJA panel attorneys are unable to gain experience, and the attorneys are also unable to network and share information in the long term.

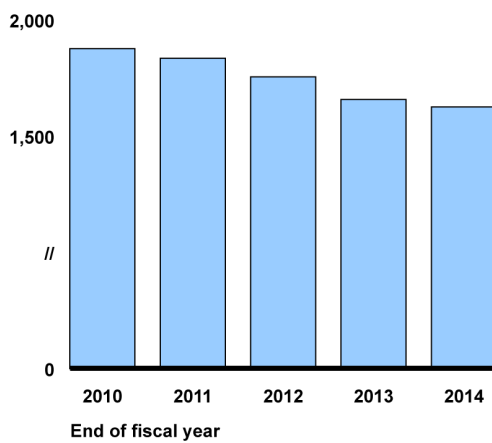
⁷⁵This includes total onboard full-time equivalent staff in all regional circuit court units and district court units. Circuit court units include the circuit executive's office, clerk's office, library, and staff attorneys. District court units include the district court clerk's office, bankruptcy court clerk's office, probation services office, and pretrial services office (or probation and pretrial services office, if the offices are consolidated).

⁷⁶Specifically, according to GAO analysis of judiciary data, nationally, by the end of March 2014, there were approximately 3,300—or 15 percent—fewer onboard court full-time equivalent staff than in July 2011.

Figure 8: Total Onboard Full-Time Equivalent Staff in Circuit Courts, District Court Clerks' Offices, Probation and Pretrial Services Offices, and Bankruptcy Courts, as of the End of Fiscal Years 2010 to 2014

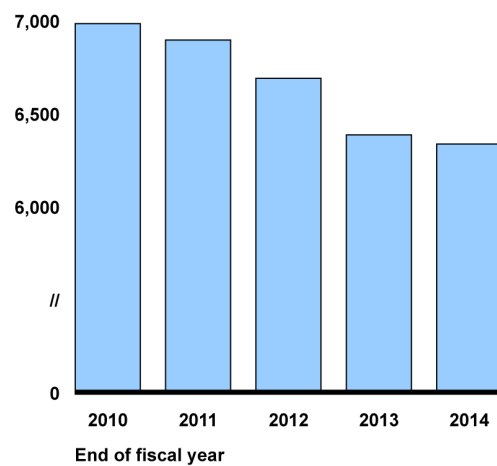
Circuit Courts full-time equivalent staff

Staff
2,500



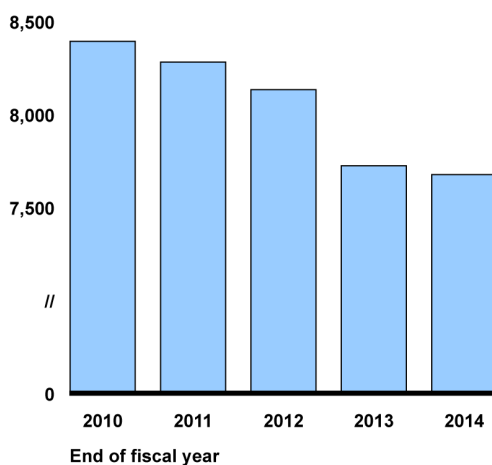
District Court Clerks' Offices full-time equivalent staff

Staff
7,500



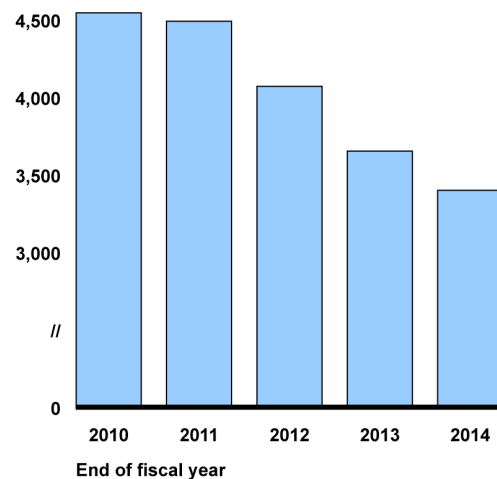
Probation and Pretrial Services full-time equivalent staff

Staff
9,000



Bankruptcy Courts full-time equivalent staff

Staff
5,000



Source: GAO analysis of judiciary data. | GAO-16-97

Note: These full-time equivalent staff levels by fiscal year are snapshot data captured as of the end of each fiscal year and therefore do not necessarily reflect the highest and lowest full-time equivalent staff levels during each fiscal year.

To help manage within the reduced salary allotments, some courts and federal defender organizations offered buyouts, early retirement offers, or a combination of both to employees. AOUSC provided supplemental funding to courts and defender organizations that requested funding and met certain criteria to help pay for these actions. Table 3 shows the total number of buyouts, early retirement offers, and combined buyout and early retirement offers approved by AOUSC and federal public defender organizations to offer locally to staff in fiscal years 2013 and 2014, according to GAO analysis of judiciary data.

Table 4: Total Number of Buyouts, Early Retirement Offers, and Combined Buyout and Early Retirement Offers Approved for Court and Federal Public Defender Organization Staff in Fiscal Years 2013 and 2014

Fiscal year	Buyout only	Early retirement offer only	Combined buyout and early retirement offer	Total buyouts, early retirement offers, and combined offers
2013	607	101	476	1,184
2014	298	34	336	668
Total	905	135	812	1,852

Source: GAO analysis of judiciary data. | GAO-16-97

Furthermore, 5 of 12 circuit courts, all 4 bankruptcy courts, and 3 of 4 defender organizations reported implementing a reduction in force in response to the 2013 sequestration—some of which involved the involuntary separation of employees. Specifically, officials in 3 of 12 circuit courts and 1 federal defender organization stated they implemented a reduction in force that did not result in any involuntary separations.⁷⁷ Officials in 2 of 12 circuit courts, all 4 bankruptcy courts, and 2 of 4 defender organizations stated that they implemented a reduction in force in response to the 2013 sequestration that included at least one involuntary separation.

⁷⁷The officials in these 3 circuit courts and 1 defender organization reported that they either eliminated, or did not fill, one or more vacant positions and reassigned the duties of the positions to other employees, actions that resulted in a reduction in the total number of onboard staff in the court or organization. For example, an official in this federal defender organization reported that three experienced attorneys voluntarily retired to help minimize the effects of impending furloughs on other staff, and two younger attorneys voluntarily resigned to take other jobs because they could not afford the loss of income that would be caused by furloughs. These positions were left vacant for approximately 1 year, resulting in a reduction in force until the positions were refilled with new hires in fiscal year 2014.

In addition, in fiscal year 2013, federal courts and federal defender organizations furloughed a combined total of more than 3,600 staff (table 5), resulting in reduced wages. Specifically, according to GAO analysis of judiciary data, circuit courts, district courts (including probation and pretrial services offices), and bankruptcy courts furloughed approximately 1,400 staff for 1 to 15 days in fiscal year 2013. Also, according to GAO analysis of judiciary data, over half of the country's federal public defender organizations furloughed a total of about 2,000 staff for 1 to 16 days in fiscal year 2013. Additionally, according to GAO analysis of community defender organization data, community defender organizations furloughed 219 staff from 3 to 14 days.⁷⁸ None of the circuit courts, district courts, and bankruptcy courts we interviewed implemented furloughs; however, two of the four defender organizations we interviewed implemented furloughs, which resulted in lost wages for furloughed federal defender organization staff.

Table 5: Summary of Furloughed Circuit Court, District Court, Bankruptcy Court, and Federal Defender Organization Employees and Average Furlough Days per Employee in Fiscal Year 2013

Court or defender organization type	Total number of courts or defender organizations that implemented furloughs	Total number of employees furloughed	Average number of furlough days per employee
Circuit courts	2	2	7
District courts (total)	13	1,117	5
<i>Probation and pretrial services offices^a</i>	8	682	7
Bankruptcy courts	14	291	4
Federal defender organizations ^b	60	2,226	9
Total	89	3,636	7

Source: GAO analysis of judiciary and community defender organization data. | GAO-16-97

^aProbation and pretrial services offices figures are included in the total figures for the district courts.

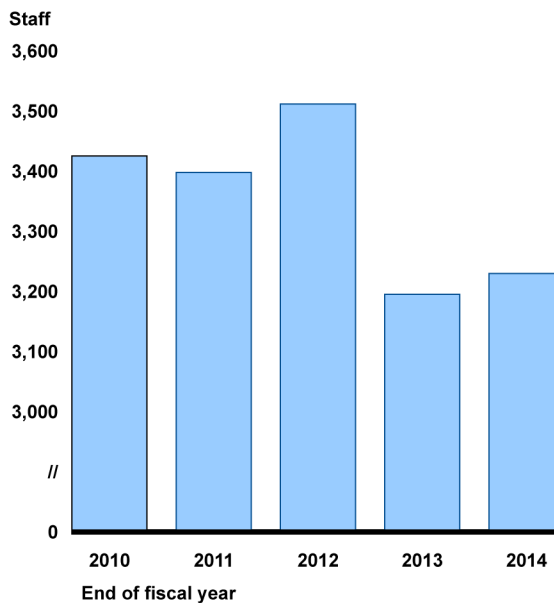
^bThis includes federal public defender organizations and community defender organizations. Also, according to AOUSC officials, some community defender organizations could not furlough employees and instead put the employees on leave without pay. The figures for these employees and hours without pay are included in the federal defender organizations figures.

⁷⁸As noted earlier, community defender organizations are nonprofit defense counsel organizations incorporated under state laws and funded through grants provided by AOUSC. According to AOUSC officials, each community defender organization must research, retain, and administer its own systems for critical functions, including but not limited to payroll, procurement, retirement and health benefits, and professional and employment liability. AOUSC officials stated that community defender organizations report their staffing data to AOUSC.

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- **Defender services—reduced staff, implemented furloughs, and postponed and reduced payments**—According to AOUSC officials, the Defender Services account primarily pays for defense attorneys and staff salaries, rent, case-related expenses (such as expert witnesses and interpreters), and Criminal Justice Act panel attorney payments. As a result, they stated, there is less flexibility for absorbing budget reductions other than reducing or furloughing staff, or reducing or postponing panel attorney pay. According to GAO analysis of judiciary data and community defender organization data, federal public defender and community defender organizations downsized by a net total of approximately 316 total onboard full-time equivalent staff—250 federal public defender and 66 community defender full-time equivalent staff—from the end of fiscal year 2012 to the end of fiscal year 2014.⁷⁹ See figure 9 for the total number of onboard full-time equivalent staff in federal defender organizations as of the end of fiscal years 2010 to 2014.

⁷⁹This analysis is based on full-time equivalent staff data as of the end of fiscal year 2012 and end of fiscal year 2013 and therefore does not necessarily reflect the highest and lowest full-time equivalent staff levels during fiscal year 2013. Specifically, according to GAO analysis of judiciary data, federal public defender organizations lost a total of approximately 372 full-time equivalent staff in some pay periods in fiscal year 2013, and gained a total of 121 full-time equivalent staff during other pay periods, resulting in a net loss of 250 full-time equivalent staff. In addition, according to GAO analysis of community defender organization data, in fiscal year 2013, community defender organizations lost approximately 80 full-time equivalent positions in some months and gained about 13 full-time equivalent staff in other months, resulting in a net loss of approximately 66 full-time equivalent staff.

Figure 9: Total Onboard Federal Defender Organization Full-Time Equivalent Staff, as of the End of Fiscal Years 2010 to 2014



Source: GAO analysis of judiciary data. | GAO-16-97

Note: This includes federal public defender organizations and community defender organizations.

Furthermore, according to AOUSC officials, payments to panel attorneys were postponed for the last 10 business days of fiscal year 2013 into fiscal year 2014. In addition, because of the lapse in appropriations at the beginning of fiscal year 2014, the officials stated that payments to panel attorneys were further delayed. Moreover, to maintain projected onboard defender office staffing nationally as of the beginning of fiscal year 2014, the Executive Committee imposed a temporary emergency hourly rate reduction for panel attorneys of \$15 an hour from September 1, 2013, to September 30, 2014.⁸⁰ According to an AOUSC official, this was the first time the judiciary had to reduce the hourly panel attorney rate in 50 years, instead of postponing payments as had been done in the past to address shortfalls, an

⁸⁰ According to AOUSC officials, the reduced hourly rates remained in effect until March 2014 as the final fiscal year 2014 appropriation provided funding to allow the rate to be restored earlier than initially projected.

action that significantly reduced panel attorney morale in the short and long terms.⁸¹

- **Probation and pretrial services—reduced staff, mental health and drug testing and treatment services, and law enforcement training**—According to GAO analysis of judiciary data, total onboard probation and pretrial services full-time equivalent staff in district courts nationwide declined by about 400 full-time equivalent staff in fiscal year 2013. Also, the judiciary reduced funding for law enforcement-related expenses—including substance abuse testing and treatment, mental health treatment, and electronic monitoring of federal defendants and offenders on supervised release, among other expenses—by 20 percent compared with funding in the interim fiscal year 2013 plan. According to AOUSC officials, reduced funding for probation and pretrial officer staff throughout the courts equates to less deterrence, detection, and response to possible criminal activity by federal defendants and offenders in the community. In addition, probation and pretrial officials we interviewed in all 4 district courts stated that staff reductions and reduced funding for treatment limited efforts to reduce recidivism, and some noted increased potential risks to public safety.⁸²

Furthermore, according to judiciary training records and AOUSC officials, the judiciary suspended 4 of 10 planned new officer training courses in 2012 and 2 of 9 new officer courses at the Federal Law Enforcement Training Center in Charleston, South Carolina, in 2013

⁸¹The AOUSC official stated that the Defender Services program is conducting a survey in 2015 to analyze the effects of reductions in hourly rates and training. She stated she anticipates the study will show that the judiciary is losing Criminal Justice Act panel attorneys. According to the official, the judiciary has begun to hire federal defenders under a 2-year hiring plan submitted to Congress. The plan allowed the judiciary to use fiscal year 2014 funds for fiscal year 2015 hiring.

⁸²For example, the chief probation officer we interviewed in one district stated that the reduction in substance abuse and mental health treatment funding required the office to reduce polygraph testing and screening for some types of sex offenders, provide mental health treatment to only the chronic mentally ill, and cancel all funds for in-patient treatment of drug-related offenders. In another district, the chief probation officer told us that because of sequestration she canceled all funding for Second Chance Act programs in March 2013 for about 1-1/2 years, which reduced her office's ability to help offenders reestablish a life after prison by helping them to secure emergency housing, General Educational Development (GED) testing, and job skills training, among other things.

as a result of the sequestration.⁸³ According to AOUSC officials, the suspended courses have led to a 13-month backlog of required law enforcement training for new probation officers, which means that some new probation and pretrial services officers had been supervising defendants and offenders on supervised release without basic law enforcement training, putting their lives and public safety at risk.⁸⁴

- **Reduced services to the public**—Officials we interviewed representing 6 of 12 circuit courts, 1 district court, and 2 of 4 defender organizations reported that they reduced court services to the public, such as reducing the number of hours open to the public, as a result of sequestration.⁸⁵ Furthermore, AOUSC officials reported that courts across the country reduced their court hours or services as a result of sequestration (such as not holding hearings or trials of criminal cases on Fridays because federal defenders and U.S. Attorney's Office staff were furloughed), but AOUSC does not maintain nationwide data on the total number of court closures or number of reduced hours.
- **Reduced court security**—According to the judiciary's fiscal year 2013 financial plan, to implement the \$25 million reduction to court security resulting from sequestration, the judiciary reduced funding for security systems and equipment by approximately 25 percent, or about \$13 million; reduced court security officer hours by 25 hours per officer per year (\$4.3 million); and reduced funding for DHS Federal

⁸³In addition, judiciary training records show that a number of other classes for new and current officers were also suspended in 2013—such as firearms certification and recertification and behaviorally based techniques to help officers reduce recidivism.

⁸⁴To help reduce the backlog in training caused by sequestration, AOUSC officials developed an abbreviated curriculum to be used for new officer training programs in 2015. The Judicial Conference Committee on Criminal Law, which approved the temporary change in the curriculum, expects that the academy will return to its full curriculum in 2016.

⁸⁵For example, one official at a defender organization told us that because of furloughs during sequestration, his office closed every other Friday, and it became difficult for clients to reach their attorneys. Additionally, the official stated that the defender organization had to refer some new cases, such as a major fraud case, to the Criminal Justice Act attorney panel because he did not think his office could adequately support the cases during sequestration.

Protective Service building security services by \$1 million.⁸⁶ According to U.S. Marshals Service officials, security system funding reductions most affected funding for additional and replacement equipment, perimeter security, and access control systems.⁸⁷

- **Reduced employee morale, recruitment, and retention**—Court officials we interviewed in 8 of 12 circuit courts, 2 of 4 district courts, 2 of 4 bankruptcy courts, and all 4 defender organizations reported that reduced staffing levels because of the 2013 sequestration have led to other negative effects, including increased workloads, decreased morale, and retention and recruitment challenges.⁸⁸ For example, officials we interviewed in 6 of 12 circuit courts, 3 of 4 district courts, 2 of 4 bankruptcy courts, and all 4 defender organizations stated that the 2013 sequestration or the lapse in fiscal year 2014 appropriations weakened employee morale, on the basis of their observations and interactions with employees. The Budget Committee Chair told us that increased funding for the judiciary in fiscal years 2014 and 2015 has allowed courts to begin filling vacant positions, but that most courts have been concerned about increasing their staff levels after the experience of the 2013 sequestration and because of fear of future budget reductions.
- **Increased median civil case disposition times, though other factors could contribute**—AOUSC officials reported that the median civil case disposition time for district courts increased about 16

⁸⁶Also, according to the judiciary fiscal year 2013 financial plan, the \$26.2 million in total budget cuts to the Court Security account due to sequestration and the rescission was partially offset by an additional \$7.8 million in prior-year funds returned from the U.S. Marshals Service. In addition, according to GAO analysis of U.S. Marshals Service data, from fiscal years 2012 to 2014, the total number of court security officer hours declined by approximately 76,000 hours, or by about 1 percent. However, according to Marshals Service officials, the court security officer program experienced a higher than anticipated vacancy rate in fiscal year 2013. According to the officials, this vacancy rate translated into a surplus of court security officer hours, which allowed the Marshals Service to minimize the impact of the \$4.3 million budget cut imposed on the court security officer program that year.

⁸⁷According to the Judicial Conference Budget Committee Chair, the judiciary is working to upgrade outdated security systems as additional funds become available.

⁸⁸Additionally, officials representing an additional 3 circuit courts, 2 district courts, and 1 bankruptcy court told us that decreasing resources in the past several years (including the 2013 sequestration) and the lapse in fiscal year 2014 appropriations led to increased workloads and negatively affected morale and recruitment and retention efforts.

percent—from 7.3 months to 8.5 months—from October 1, 2011, to September 30, 2013. GAO analysis of judiciary data supports this statement. Judicial Conference and AOUSC officials stated that the 2013 sequestration probably contributed to these delays, but the judiciary has not conducted analyses to isolate the effects of sequestration on civil case disposition times. According to an AOUSC official, years of relatively flat budgets in fiscal year 2011 and 2012, actions taken to implement sequestration, and federal judgeship vacancies all may have contributed to the civil case disposition time increases, making it difficult to identify which one or more of these factors may be causing an increasing backlog of cases and growing wait times.⁸⁹

Additionally, officials we interviewed in 7 of 12 circuit courts and 3 of 4 district courts stated that case disposition in their courts was delayed as a result of the 2013 sequestration. For example, officials we met with in 1 district court stated that the district court prioritized criminal trials and postponed civil jury trials because, under the Speedy Trial Act of 1979, courts are required to hold criminal trials within specified time frames. However, the district court clerk stated that judicial vacancies also may contribute to the court's ability to hear civil cases in a timely manner.⁹⁰

Furthermore, in October 2013, during the 16-day lapse in appropriations, the judiciary was able to continue operating using filing fee collections and no-year funds. Nonetheless, officials we interviewed in 8 of 12 circuit courts, 3 of 4 district courts, and 1 of 4 bankruptcy courts reported that

⁸⁹In March 2014, we reported that executive branch agencies also faced challenges in isolating the effects of the 2013 sequestration on their operations and performance from other factors. For example, we concluded that because Medicare providers were subject to various payment changes for fiscal year 2013, it would be difficult to isolate the effects of the 2 percent cut in Medicare payments due to sequestration. GAO, *2013 Sequestration: Agencies Reduced Some Services and Investments, While Taking Certain Actions to Mitigate Effects*, [GAO-14-244](#) (Washington, D.C.: Mar. 6, 2014).

⁹⁰In 2012, the Judicial Conference Committee on Court Administration and Case Management, in cooperation with the FJC, began an examination of case processing and disposition in federal courts. The committee asked the FJC to identify courts with little civil case backlog and those with longer-standing case delays in order to interview judges in those courts to better understand long-standing case-processing difficulties caused by judicial vacancies and extremely high workloads, among other factors. The committee asked the FJC to empirically study whether the causes of the delay could be identified so that the judiciary could provide more targeted assistance to those courts. As of July 2015, the FJC was drafting a report on the results of its study for the committee.

the lapse in appropriations still contributed to case-processing delays, or that uncertainty due to the potential lapse led to other negative effects on operations, such as wasted time in planning for a potential lapse.⁹¹ For example, officials we interviewed in 7 of 12 circuit courts, 2 of 4 district courts, and 1 of 4 bankruptcy courts stated they received civil case motions to stay, or suspend, cases from DOJ because U.S. Attorneys or U.S. Trustees were not available and had to postpone other cases because federal defenders were furloughed. For example, one district court clerk stated that her office had to process and docket the DOJ orders to suspend about 200 cases, then her office had to file motions to “unstay,” or remove from suspension, the orders and catch up on the approximately 200 cases when the appropriations lapse ended, an action that she said was very cumbersome and inefficient.

Conclusions

Identifying and implementing actions to save costs and reliably estimating cost savings achieved is critical to helping the judiciary and Congress assess the progress of cost containment initiatives and identify available resources in a constrained budgetary environment. In September 2004, the Judicial Conference approved a *Cost Containment Strategy for the Federal Judiciary: 2005 and Beyond* to help slow the growth of its major cost drivers—including rent and personnel costs—and the judiciary has implemented a wide range of initiatives in these and other major cost containment categories over the past 10 years. According to AOUSC, court, and defender organization officials we interviewed, several of these initiatives helped to mitigate the negative effects of the 2013 sequestration. However, the judiciary does not fully know how much money it has saved as a result of its cost containment initiatives because it has not developed a reliable method of estimating cost savings achieved for major initiatives. For example, the judiciary estimated that it avoided nearly \$1.5 billion from fiscal year 2005 through fiscal year 2015 primarily as a result of its cost containment initiatives. However, we found that this estimate has limited reliability because it did not include all savings realized, included savings not attributable to cost containment initiatives, did not always include the costs associated with implementing

⁹¹In October 2014, we similarly found that the lapse in fiscal year 2014 appropriations affected the three executive branch departments we reviewed (Energy, Health and Human Services, and Transportation) by causing delays and disruptions in operations, among other things. See GAO, *2013 Government Shutdown: Three Departments Reported Varying Degrees of Impacts on Operations, Grants, and Contracts*, [GAO-15-86](#) (Washington, D.C.: Oct. 15, 2014).

initiatives, and was not always well documented to support estimated savings. Developing a reliable method to estimate cost savings achieved for major initiatives and regularly reporting such cost savings could provide the judiciary and Congress with more accurate and complete financial information for assessing the progress of the judiciary's cost containment initiatives, informing judiciary decision making related to its initiatives, and informing congressional oversight and decision making to help ensure that the judiciary continues to render justice in a fair, timely, and efficient manner.

Recommendations

To provide more reliable information for assessing the progress of its cost containment efforts and for informing judiciary and congressional oversight and decision making, we recommend that the Director of AOUSC take the following two actions for major cost containment initiatives (as determined by the judiciary):

- develop a reliable method for estimating cost savings achieved (i.e., that ensures that cost savings are calculated in an accurate and complete manner); and
- regularly report estimated cost savings achieved.

Agency Comments and Our Evaluation

We provided copies of a draft of this report to AOUSC, the Federal Judicial Center, the U.S. Sentencing Commission, GSA, and the Marshals Service for review and comment. These agencies provided technical comments that we incorporated as appropriate. AOUSC provided written comments on a draft of this report, which are printed in full in appendix IV.

In its comment letter, AOUSC stated that the judiciary appreciates and takes seriously the recommendations and findings in the report and will give them careful consideration. Specifically, AOUSC commented that improvements can always be made to administrative and accounting processes to improve further the judiciary's reporting on cost containment activities. According to AOUSC, in a time of constrained resources, however, the expenditure of resources to develop new methodologies for cost savings estimates must align with the judiciary's business needs. AOUSC said that the judiciary will carefully evaluate any additional methods for estimating cost savings to ensure that a strong business case justifies the expenditure of scarce resources for that purpose and that any new reporting is cost effective and of direct use to the judiciary and Congress.

As we stated in the report, developing a reliable method for estimating accurate and complete cost savings for major cost containment initiatives could help the judiciary better assess the effectiveness of its cost containment strategy and help inform decision making related to ongoing and new cost containment initiatives. This is especially important in a time of constrained resources. Additionally, developing a reliable method for estimating accurate and complete cost savings for major cost containment initiatives and regularly reporting such cost savings estimates could help the judiciary provide Congress with more accurate and complete financial information for oversight and decision making. Furthermore, we identified several potential cost-effective approaches that the judiciary might consider for developing a reliable method for estimating and reporting cost savings from major cost containment initiatives.

In addition, AOUSC commented that the draft report's emphasis on retroactive cost estimating may give the appearance of undervaluing the judiciary's long-term budget planning and its 10 years of cost containment activity, which enabled the judicial branch to continue to serve the public during sequestration.

We believe that the draft report acknowledges and values the judiciary's long-term budget planning and its 10 years of cost containment activity. Specifically, the draft report identifies and describes the judiciary's long-range budget planning process and strategic policy documents, such as the *Cost Containment Strategy for the Federal Judiciary: 2005 and Beyond*, among others, as mechanisms the judiciary uses to identify opportunities for cost savings and efficiencies and describes several examples of the cost containment initiatives that the judiciary has undertaken in the past 10 years, including a list of multiple examples of the judiciary's cost containment initiatives in all categories in appendix III. Further, we report that the judiciary's cost containment initiatives helped to prepare the judiciary for potential budget reductions, according to AOUSC and court officials we interviewed. The report also includes examples of cost-saving actions that courts and defender organizations we interviewed took in the years prior to sequestration that helped to mitigate the negative effects of sequestration, according to these entities (for example, see app. I).

We are sending copies to the appropriate congressional committees and the Director of AOUSC, Director of the Federal Judicial Center, Chair of the U.S. Sentencing Commission, the Attorney General, and the Administrator of GSA. In addition, this report is available at no charge on GAO's website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-9627 or MaurerD@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix V.

Sincerely yours,

A handwritten signature in black ink, reading "David C. Maurer". The signature is written in a cursive style with a large, stylized "D" and "M".

David C. Maurer
Director, Homeland Security and Justice Issues

Appendix I: Examples of Actions the 12 Circuit Courts and 4 District Courts and 4 Defender Organizations We Interviewed Reported Taking in Response to the 2013 Sequestration

This appendix contains tables showing examples of the personnel and nonpersonnel actions that the officials we interviewed in 12 circuit courts; 4 district courts, including 4 bankruptcy courts and 4 probation and pretrial offices; and 4 defender organizations reported taking in response to the 2013 sequestration.

Table 6: Examples of Personnel and Related Actions the 12 Circuit Courts Reported Taking in Response to the 2013 Sequestration

Name of circuit court	Curtailed external hiring	Curtailed internal hiring ^a	Offered VERA/VSIP ^b	Reduced employee travel	Reduced employee training	Canceled or limited monetary awards	Furloughed employees	Implemented involuntary separations ^d
D.C.	•	•	•	•	•	•		•
First	•	•	•	•	•	•		
Second	•	•	•	•	•	•		
Third	•	•	•	•	•	•		
Fourth	•	•	•	•	•	N/A ^c		
Fifth	•	•	•	•	•	•		
Sixth	•	•	•	•		N/A		
Seventh	•	•	•	•	•	•		•
Eighth	•	•	•	•	•	•		
Ninth	•	•	•	•	•	•		
Tenth	•	•	•	•	•	•		
Eleventh	•	•	•	•	•	•		
Number of circuit courts that reported at least one unit taking this action in response to the 2013 sequestration	12	12	12	12	11	10	0	2

Source: GAO analysis of judiciary responses to information requests. | GAO-16-97

^aThis includes reassignments, transfers, and promotions.

^bVoluntary Early Retirement Authority and Voluntary Separation Incentive Payments.

^cOfficials with the U.S. Courts of Appeals for the Fourth Circuit and Sixth Circuit responded “not applicable” (N/A) to “canceled or limited monetary awards” in response to sequestration because the Fourth Circuit Court does not offer monetary awards and the Sixth Circuit Court did not offer monetary awards in fiscal year 2013 or in the 3 prior years.

^dFor clarity of presentation in these tables, we present in these tables only involuntary separations. As noted earlier, the U.S. Courts of Appeals for the First, Second, and Fourth Circuits reported they implemented reductions in force that did not include involuntary separations. For example, officials in these three circuit courts and the Third Circuit Court reported that they either eliminated or did not fill one or more positions and reassigned the duties of the positions to other employees, an action that resulted in a reduction in the total number of onboard staff in their court or organization.

Appendix I: Examples of Actions the 12 Circuit Courts and 4 District Courts and 4 Defender Organizations We Interviewed Reported Taking in Response to the 2013 Sequestration

Table 7: Examples of Personnel and Related Actions the District Court Clerks' Offices in the Four District Courts We Visited Reported Taking in Response to the 2013 Sequestration

Name of district court	Curtailed external hiring	Curtailed internal hiring ^a	Offered VERA/VSIP ^b	Reduced employee travel	Reduced employee training	Canceled or limited monetary awards	Furloughed employees	Implemented involuntary separations
Eastern District of Pennsylvania	•			•	•	•		
Northern District of Illinois	•	•	•	•	•	•		
Northern District of Texas ^c								
Western District of Washington	•	•	•	•	•	•		
Number of district court clerk's offices in the four districts we visited that reported taking this action in response to the 2013 sequestration	3	2	2	3	3	3	0	0

Source: GAO analysis of judiciary responses to information requests. | GAO-16-97

^aThis includes reassignments, transfers, and promotions.

^bVoluntary Early Retirement Authority and Voluntary Separation Incentive Payments.

^cAccording to the U.S. District Court for the Northern District of Texas Clerk of Court, the clerk's office implemented several of these strategies in response to prior cuts in funding, such as those in fiscal years 2003 and 2004, and not specifically in response to the 2013 sequestration. In addition, she stated that a significant caseload increase in fiscal year 2013—and a corresponding increase in her office's allotted funding level under the judiciary's work measurement formulas—kept her office from needing to cut additional staff or take any action in response to the 2013 sequestration, in addition to what the office was already doing.

Appendix I: Examples of Actions the 12 Circuit Courts and 4 District Courts and 4 Defender Organizations We Interviewed Reported Taking in Response to the 2013 Sequestration

Table 8: Examples of Personnel and Related Actions the Bankruptcy Courts in the Four District Courts We Visited Reported Taking in Response to the 2013 Sequestration

Name of bankruptcy court	Curtailed external hiring	Curtailed internal hiring ^a	Offered VERA/VSIP ^b	Reduced employee travel	Reduced employee training	Canceled or limited monetary awards	Furloughed employees	Implemented involuntary separations
Eastern District of Pennsylvania	•	•	•	•	•	•		•
Northern District of Illinois	•	•	•	•	•	•		•
Northern District of Texas	•	•	•	•	•	•		•
Western District of Washington	•	•	•	•	•	•		•
Number of bankruptcy courts in the four districts we visited that reported taking this action in response to the 2013 sequestration	4	3	3	4	4	4	0	4

Source: GAO analysis of judiciary responses to information requests. | GAO-16-97

^aThis includes reassignments, transfers, and promotions.

^bVoluntary Early Retirement Authority and Voluntary Separation Incentive Payments.

Table 9: Examples of Personnel and Related Actions the Probation and Pretrial Services Offices in the Four District Courts We Visited Reported Taking in Response to the 2013 Sequestration

Name of probation and pretrial services office	Curtailed external hiring	Curtailed internal hiring ^a	Offered VERA/VSIP ^b	Reduced employee travel	Reduced employee training	Canceled or limited monetary awards	Furloughed employees	Implemented involuntary separations
Eastern District of Pennsylvania	•	•	•	•	•	•		
Northern District of Illinois	•	•	•	•	•	N/A ^c		
Northern District of Texas	•	•	•	•	•	•		
Western District of Washington	•	•	•	•	•	•		
Number of the probation and pretrial services offices in the four districts we visited that reported taking in response to the 2013 sequestration	4	3	4	4	4	3	0	0

Source: GAO analysis of judiciary responses to information requests. | GAO-16-97

Appendix I: Examples of Actions the 12 Circuit Courts and 4 District Courts and 4 Defender Organizations We Interviewed Reported Taking in Response to the 2013 Sequestration

Notes: The Eastern District of Pennsylvania and Northern District of Illinois have separate probation and pretrial services offices. For the purposes of this analysis, an affirmative response for either probation or pretrial services office is counted as an affirmative response. A “not applicable” (N/A) response is counted only if both offices provided an N/A response.

^aThis includes reassignments, transfers, and promotions.

^bVoluntary Early Retirement Authority and Voluntary Separation Incentive Payments.

^cN/A means not applicable.

Table 10: Examples of Personnel and Related Actions the Defender Organizations in the Four Districts We Visited Reported Taking in Response to the 2013 Sequestration

Name of defender organization	Curtailed external hiring	Curtailed internal hiring ^a	Offered VERA/VSIP ^b	Reduced employee travel	Reduced employee training	Canceled or limited monetary awards	Furloughed employees	Implemented involuntary separations ^c
Eastern District of Pennsylvania	•	•	N/A ^d	•	•	•		•
Northern District of Illinois	•	•	N/A	•	•	•		
Northern District of Texas	•	•			•	N/A	•	
Western District of Washington	•	•	•	•	•	N/A	•	•
Number of defender organizations in the four districts we visited that reported taking this action in response to the 2013 sequestration	4	4	1	3	4	2	2	2

Source: GAO analysis of judiciary responses to information requests. | GAO-16-97

Notes: The defender organizations in the Eastern District of Pennsylvania and Northern District of Illinois are community defender organizations, which are nonprofit defense counsel organizations. The defender organizations in the Northern District of Texas and Western District of Washington are federal public defender organizations, which include chief defenders appointed by the circuit court of appeals.

^aThis includes reassignments, transfers, and promotions.

^bVoluntary Early Retirement Authority and Voluntary Separation Incentive Payments.

^cFor clarity of presentation, we present in these tables only involuntary separations. As noted earlier, the Federal Public Defender of the Northern District of Texas reported that his office implemented a reduction in force that did not include involuntary separations. Specifically, three attorneys voluntarily retired and two attorneys voluntarily resigned, and these positions were left vacant in fiscal year 2013, resulting in a reduction in the total number of onboard staff in the organization.

^dN/A means not applicable.

Appendix I: Examples of Actions the 12 Circuit Courts and 4 District Courts and 4 Defender Organizations We Interviewed Reported Taking in Response to the 2013 Sequestration

Table 11: Examples of Nonpersonnel Actions the 12 Circuit Courts Reported Taking in Response to the 2013 Sequestration

Name of circuit court	Rescoped or delayed contracts for				Rescoped, canceled or delayed		Other actions		
	IT ^a	Program management/support services	Facilities/building services	Hardware procurement	Planned maintenance or repairs	Other contracts ^b	Reduced court services ^c	Reconfigure, repurpose or otherwise change the use of physical space	Reduced amount of rented space used
D.C. ^d		N/A ^e	N/A	N/A	N/A	N/A	•	•	•
First	•	•	N/A	•	•	•		•	•
Second	•	•		N/A		N/A			
Third	•	•	•	•	•	•	•	•	•
Fourth	•	•			•		•	•	•
Fifth	•	•		•	•	•		•	
Sixth						•			
Seventh	•	N/A	•	•		•		•	
Eighth	•	•		•	•	•	•	•	•
Ninth	•			•	•				
Tenth							•		•
Eleventh	•			•	•	•	•	•	•
Number of circuit courts that reported at least one unit taking this action in response to the 2013 sequest-ration	9	6	2	7	7	7	6	8	7

Source: GAO analysis of judiciary responses to information requests. | GAO-16-97

^aInformation technology. In addition, this category includes reducing or delaying IT investments.

^bIn addition, this category includes any other contracting-related actions.

^cReported examples of reduced court services include decreasing court or defender organization hours open to the public, withdrawing representation of indigent defendants in complex cases, closing libraries, and delegating bankruptcy noticing and docketing responsibilities from the court to bankruptcy trustees and practitioners, among others.

^dAccording to officials with the U.S. Court of Appeals for the D.C. Circuit, the court did not plan any new projects in the categories included in this table because they anticipated budget constraints and the sequestration. As a result, many of their responses were not applicable.

^eN/A means not applicable.

Appendix I: Examples of Actions the 12 Circuit Courts and 4 District Courts and 4 Defender Organizations We Interviewed Reported Taking in Response to the 2013 Sequestration

Table 12: Examples of Nonpersonnel Actions the District Court Clerks' Offices in the Four District Courts We Visited Reported Taking in Response to the 2013 Sequestration

Name of district court	Rescoped or delayed contracts for				Rescoped, canceled, or delayed		Other actions		
	IT ^a	Program management/support services	Facilities/building services	Hardware procurement	Planned maintenance or repairs	Other contracts ^b	Reduced court services ^c	Reconfigure, repurpose or otherwise change the use of physical space	Reduced amount of rented space used
Eastern District of Pennsylvania	•		•	•	•	•			•
Northern District of Illinois	•	N/A ^d	•		•	•	•	•	•
Northern District of Texas	•		N/A		•	•			N/A
Western District of Washington	•					•		•	
Number of district court clerk's offices that reported taking this action in response to the 2013 sequest-ration	4	0	2	1	3	4	1	2	2

Source: GAO analysis of judiciary responses to information requests. | GAO-16-97

^aInformation technology. In addition, this category includes reducing or delaying IT investments.

^bIn addition, this category includes any other contracting-related actions.

^cReported examples of reduced court services include decreasing court or defender organization hours open to the public, withdrawing representation of indigent defendants in complex cases, closing libraries, and delegating bankruptcy noticing and docketing responsibilities from the court to bankruptcy trustees and practitioners, among others.

^dN/A means not applicable.

Appendix I: Examples of Actions the 12 Circuit Courts and 4 District Courts and 4 Defender Organizations We Interviewed Reported Taking in Response to the 2013 Sequestration

Table 13: Examples of Nonpersonnel Actions the Bankruptcy Courts in the Four District Courts We Visited Reported Taking in Response to the 2013 Sequestration

Name of bankruptcy court	Rescoped or delayed contracts for				Rescoped, canceled, or delayed		Other actions		
	IT ^a	Program management/support services	Facilities/building services	Hardware procurement	Planned maintenance or repairs	Other contracts ^b	Reduced court services ^c	Reconfigure, repurpose or otherwise change the use of physical space	Reduced amount of rented space used
Eastern District of Pennsylvania	•					•			
Northern District of Illinois	•							•	•
Northern District of Texas	•	•	•	•	•	•		•	•
Western District of Washington	•						•		
Number of bankruptcy courts in the four districts we visited that reported taking this action in response to the 2013 sequest-ration	4	1	1	1	1	2	1	2	2

Source: GAO analysis of judiciary responses to information requests. | GAO-16-97

^aInformation technology. In addition, this category includes reducing or delaying IT investments.

^bIn addition, this category includes any other contracting-related actions.

^cReported examples of reduced court services include decreasing court or defender organization hours open to the public, withdrawing representation of indigent defendants in complex cases, closing libraries, and delegating bankruptcy noticing and docketing responsibilities from the court to bankruptcy trustees and practitioners, among others.

Appendix I: Examples of Actions the 12 Circuit Courts and 4 District Courts and 4 Defender Organizations We Interviewed Reported Taking in Response to the 2013 Sequestration

Table 14: Examples of Nonpersonnel Actions the Probation and Pretrial Services Offices in the Four District Courts We Visited Reported Taking in Response to the 2013 Sequestration

Name of probation and pretrial services office	Rescoped or delayed contracts for				Rescoped, canceled, or delayed		Other actions		
	IT ^a	Program management/support services	Facilities/building services	Hardware procurement	Planned maintenance or repairs	Other contracts ^b	Reduced court services ^c	Reconfigure, repurpose or otherwise change the use of physical space	Reduced amount of rented space used
Eastern District of Pennsylvania	•	•		•	•				•
Northern District of Illinois								•	
Northern District of Texas	•	N/A	N/A	N/A	•	N/A		•	•
Western District of Washington	•					•		•	
Number of probation and pretrial services offices in the four districts we visited that reported taking this action in response to the 2013 sequestration	3	1	0	1	2	1	0	3	2

Source: GAO analysis of judiciary responses to information requests. | GAO-16-97

Notes: The Eastern District of Pennsylvania and Northern District of Illinois have separate probation and pretrial services offices. For the purposes of this analysis, an affirmative response for either probation or pretrial services office is counted as an affirmative response. A “not applicable” (N/A) response is counted only if both offices provided an N/A response.

^aInformation technology. In addition, this category includes reducing or delaying IT investments.

^bIn addition, this category includes any other contracting-related actions.

^cReported examples of reduced court services include decreasing court or defender organization hours open to the public, withdrawing representation of indigent defendants in complex cases, closing libraries, and delegating bankruptcy noticing and docketing responsibilities from the court to bankruptcy trustees and practitioners, among others.

Appendix I: Examples of Actions the 12 Circuit Courts and 4 District Courts and 4 Defender Organizations We Interviewed Reported Taking in Response to the 2013 Sequestration

Table 15: Examples of Nonpersonnel Actions the Defender Organizations in the Four Districts We Visited Reported Taking in Response to the 2013 Sequestration

Name of defender organization	Rescoped or delayed contracts for				Rescoped, canceled, or delayed		Other actions		
	IT ^a	Program management/support services	Facilities/building services	Hardware procurement	Planned maintenance or repairs	Other contracts ^b	Reduced court services ^c	Reconfigure, repurpose or otherwise change the use of physical space	Reduced amount of rented space used
Eastern District of Pennsylvania	•	•	•	•	•	•		•	•
Northern District of Illinois	•		•	•	•	•			N/A
Northern District of Texas	•	N/A ^d	N/A	N/A	•	N/A	•		
Western District of Washington	•	•	•	•		•	•	•	
Number of defender organizations in the four districts we visited that reported taking this action in response to the 2013 sequestration	4	2	3	3	3	3	2	2	1

Source: GAO analysis of judiciary responses to information requests. | GAO-16-97

Notes: The defender organizations in the Eastern District of Pennsylvania and Northern District of Illinois are community defender organizations, which are nonprofit defense counsel organizations. The defender organization in the Northern District of Texas and Western District of Washington are federal public defender organizations, which include chief defenders appointed by the circuit court of appeals.

^aInformation technology. In addition, this category includes reducing or delaying IT investments.

^bIn addition, this category includes any other contracting-related actions.

^cReported examples of reduced court services include decreasing court or defender organization hours open to the public, withdrawing representation of indigent defendants in complex cases, closing libraries, and delegating bankruptcy noticing and docketing responsibilities from the court to bankruptcy trustees and practitioners, among others.

^dN/A means not applicable.

Appendix II: Changes in Judiciary Accounts from Fiscal Years 2012 to 2013

(Dollars in millions)

Appropriation account	2012 total	2013 continuing resolution ^a	2013 across-the-board rescission (0.2%) ^b	2013 sequestered amount	2013 final	Percentage of change 2013 final versus 2012 enacted ^c
Supreme Court	83.0	83.0	-0.2	-4.1	78.8	-5.1%
Salaries and Expenses	74.8	74.8	-0.1	-3.7	71.0	-5.1%
Care of Buildings and Grounds	8.2	8.2	0	-0.4	7.7	-5.2%
U.S. Courts of Appeals for the Federal Circuit	32.5	32.5	-0.1	-1.5	31.0	-4.8%
U.S. Court of International Trade	21.5	21.5	0	-1.0	20.4	-4.8%
Courts of Appeals, District Courts, and Other Judicial Services (total)	6,602.9	6,622.2	-12.6	-318.7	6,290.9	-4.7%
Salaries and Expenses	5,020.0	5,030.3	-9.4	-239.1	4,781.8	-4.7%
Defender Services	1,031.0	1,040.0	-2.1	-51.9	986.1	-4.4%
Fees of Jurors and Commissioners	51.9	51.9	-0.1	-2.6	49.2	-5.2%
Court Security	500.0	500.0	-1.0	-25.2	473.9	-5.2%
Administrative Office of the U.S. Courts	82.9	82.9	-0.2	-4.2	78.6	-5.2%
Federal Judicial Center	27.0	27.0	-0.1	-1.4	25.6	-5.2%
U.S. Sentencing Commission	16.5	16.5	0	-0.8	15.6	-5.2%
Judiciary retirement funds (mandatory)	103.8	125.5	N/A	0	125.5	+20.9% ^d
Total judiciary appropriations	6,970.1	7,011.2	-13.1	-331.7	6,666.4	-4.4%
Sequestration of fees ^e				-14.0		
Total Judiciary Sequestration				-345.7		

Source: GAO analysis of judiciary data. | GAO-16-97

Notes: Figures are rounded to the nearest 10th of a million. Thus, totals may not sum exactly because of rounding.

^aConsolidated and Further Continuing Appropriations Act, 2013, Pub. L. No. 113-6, § 1311.

^bPub. L. No. 113-6, § 3004; Office of Management and Budget (OMB), *OMB Final Sequestration Report to the President and Congress for Fiscal Year 2013*, at 9 (Apr. 9, 2013) (calculating a 0.2 percent rescission for nonsecurity discretionary appropriations).

^cAs noted earlier, accounts may be partially or fully exempt from sequestration, resulting in variances in the total percentage reductions by account.

^dAs noted earlier, judiciary retirement funds are exempt from sequestration. According to AOUSC officials, judiciary retirement fund appropriations grew by approximately 21 percent from fiscal year 2012 to fiscal year 2013 as a result of the aggregate cost increases in all three plans. First, the officials stated that the Judicial Officers Retirement Fund (JORF) appropriation request has increased 10 percent per year since fiscal year 2007 as a result of a change in the methodology used by the judiciary's actuary to calculate future benefit costs. The change was prompted by a review of the JORF showing that nearly all eligible judges join the plan at retirement and that the previously used actuarial method did not account for the cost of these judges. This understated future benefit costs and current funding needs, according to AOUSC officials. According to AOUSC officials, the new methodology accounts for the judges expected to ultimately join the JORF, and the judiciary's actuary estimates that the last increase for this purpose will occur in fiscal year 2019. Second, the officials stated that the JORF, the Judicial Survivor's Annuities Fund, and the Court of Federal Claims Judge's

Retirement Fund costs increased as a result of an actuarial experience study that shows increased longevity, the recent litigation regarding judges' pay, and the lower discount rates developed and published by the Office of Personnel Management.

^eThis includes nonexempt mandatory spending in the Judiciary Filing Fees and Registry Administration accounts.

Appendix III: Examples of Judiciary Cost Containment Initiatives in All Categories

Table 16 shows examples of the cost containment initiatives the judiciary has under way, in all categories, as of July 2015, and the year the judiciary began implementing the initiative.

Table 16: Examples of Judiciary Cost Containment Initiatives in All Cost Containment Categories

Category	Initiative	Year started
Space and facilities cost control	Restrain future space and facilities costs. Initiatives include:	
	<ul style="list-style-type: none"> Policy to reduce total space by 3 percent by the end of fiscal year 2018.^a 	2013
	<ul style="list-style-type: none"> “No Net New” policy that requires any increases in square footage within a circuit to be offset by an equivalent reduction in square footage identified within the same fiscal year.^b 	2013
	Integrated Workplace Initiative—provides methodologies for reconfiguring and reducing space including mobile working situations (e.g., probation officers working remotely).	2011
	General Services Administration (GSA) Service Validation Initiative—intends to improve the delivery of the services that the judiciary receives from GSA and is to work in tandem with the judiciary’s other space reduction initiatives.	2013
	Rent Validation Initiative—is to examine GSA rent bills to verify the accuracy of rent charges and ensure GSA charges rent for only that space that the judiciary occupies.	2005
	Asset Management Planning—a methodology to identify costs and benefits of courthouse projects.	2006
	Instituted a moratorium on courthouse construction.	2004
	Limited or capped growth in rent paid to GSA.	
	<ul style="list-style-type: none"> Implemented circuit rent budget process intended to increase circuits’ awareness of rental costs and its effect on the overall budget. 	2008
Judiciary personnel costs	<ul style="list-style-type: none"> Implemented rent budget caps intended to cap growth in rent at an average annual growth rate of 4.9 percent for fiscal years 2009 through 2016. 	2009
	Implemented a courtroom-sharing policy intended to govern space requests and court room availability for senior, magistrate, and bankruptcy judges.	2009
	Updated court unit staffing formulas (based on work measurement studies) to include performance standards and incentives for efficiency, among others. Work measurement is intended to allow the judiciary to determine required staffing levels, provide justification for budget requests, and allocate staff resources.	2004 ^c
	Reduced the salary progression, or “step,” increases from 2 percent to 0.75 percent.	2007
	Limited judges to one full-time equivalent career law clerk per chambers, subject to certain limitations.	2007
	Ensured that the salary classification for each job series was appropriate.	2009
Effective use of technology	Restrained staffing growth.	2010
	Case Management/Electronic Case Files (CM/ECF) system—is to automate the paper-intensive case-filing process, creating efficiencies that allow the courts to operate at decreased staffing levels and containing case-processing costs. A Next Generation of CM/ECF is currently being deployed and is to help contain the cost of case processing into the future.	1997

**Appendix III: Examples of Judiciary Cost
Containment Initiatives in All Categories**

Category	Initiative	Year started
	National video teleconferencing service—eliminates the need for local connections and equipment, provides judiciary-wide compatibility, and reduces travel costs.	2013
	National virtual server consolidation—transitions courts from local servers in 94 locations to national virtual servers in 2 locations.	2005
	National Internet Protocol telephone service—reduces courts' costs to purchase and maintain local telephone systems.	2012
	Telephone Interpreting Program—provides remote language interpretation for court proceedings where certified or otherwise qualified interpreters are not available.	2001
	Jury Management System/eJuror—automates the administrative process to manage and administer the jury function of federal courts including selecting, managing, and tracking jurors as well as printing and mailing juror qualification questionnaires and summonses.	1998
	Electronic Bankruptcy Noticing System—reduces the cost to notify creditors of bankruptcy proceedings by using an electronic system to send these notices eliminating paper and postage costs.	1998
Law enforcement-related expenses ^d	Office consolidation in individual districts of Probation and Pretrial Services.	2005
	Began in-house offender substance abuse testing, reducing the costs of the tests.	1993
	Adopted a new risk assessment tool and risk-based approach to post release supervision of offenders.	2004
	Sought legislation to help reduce Probation and Pretrial Services costs, such as costs associated with mandatory minimum sentences and to allow early termination of supervised release of low-risk offenders.	2012
Law book expenditures	Established guidelines to reduce legal subscriptions and collections.	2010
Defender services	Piloted case-budgeting attorneys to help manage the costs of Criminal Justice Act panel attorneys for capital cases and non-capital megacases. ^e	2007
Court security	District-wide reviews of contract guard services, including the correction of billing errors and the reducing or elimination of contract guard services.	2007
Fee adjustments	Established a set of principles for considering and recommending changes to the miscellaneous fee schedule, including periodic adjustments to account for inflation.	1995
Other	Reorganized the Administrative Office of the United States Courts (AOUSC), an action that is intended to reduce operating costs and duplications, simplify the agency's administrative structure, and enhance service to the courts and Judicial Conference.	2013
	Increased the number of judiciary-wide contracts and bulk purchase agreements to maximize cost savings associated with quantity discounts for commonly used commodities.	2010

Source: GAO analysis of judiciary data. | GAO-16-97

^aThe target has been prorated among the circuits based on the square footage occupied by each, taking into consideration the amount of square footage allotted to the circuit under the current version of the *U.S. Courts Design Guide* and is subject to the following exclusions: new courthouse construction, renovation, or alterations approved by Congress, and is contingent upon the judiciary having access to funding to analyze, design, and implement space reductions.

^bExclusions from the policy include new courthouse construction, renovation, or alterations projects approved by Congress.

^cThe judiciary initially began using staffing formulas in 1993.

**Appendix III: Examples of Judiciary Cost
Containment Initiatives in All Categories**

^dLaw enforcement–related expenses are to provide substance abuse treatment and testing, pretrial services alternatives to detention, mental health treatment, electronic monitoring, and travel related to the supervision of defendants on pretrial release and offenders under postconviction supervision.

^eMegacases are representations that appear likely to become or have become extraordinary in terms of costs (in excess of 300 attorney hours or total costs in excess of \$30,000 for appointed counsel and service providers for an individual defendant).

Appendix IV: Comments from the Administrative Office of the U.S. Courts



ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

JAMES C. DUFF
Director

WASHINGTON, D.C. 20544

October 23, 2015

Mr. David C. Maurer, Director
Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Maurer:

The Federal Judiciary has received and reviewed the draft report related to the study on sequestration entitled: *FEDERAL JUDICIARY: Improved Cost Savings Estimates Could Help Better Assess Cost Containment Efforts* (GAO-16-97). The Judiciary appreciates and takes seriously the recommendations and findings in this report and will give them careful consideration.

The 2013 sequestration and Fiscal Year (FY) 2014 lapse in appropriations directly and negatively affected the Judiciary's ability to meet its constitutional obligations. Defender Services organizations faced a devastating shortfall, forcing them to reduce staffing, defer payments to private panel attorneys, and impose a temporary emergency hourly rate reduction to panel attorney rates resulting in serious impacts to the criminal justice system. Courts reduced staffing and slashed non-salary budgets (training, information technology, supplies and equipment). The Judiciary experienced increases in civil case disposition times. Delays lengthened the time it takes to resolve disputes involving individuals, small businesses, and corporations. Reductions in probation and pretrial officer staffing increased per officer caseloads and threatened the ability to deter, detect, and respond effectively to possible criminal activity by federal defendants and offenders in the community. Cuts to law enforcement funding for monitoring of potentially dangerous defendants and offenders, drug testing, substance abuse, and mental health treatment of federal defendants and offenders, increased the risk to public safety. Cuts to security systems and equipment decreased the security of judges, prosecutors, defense counsel, jurors, and litigants entering courthouses. In order to protect funding for staff and services to the greatest extent possible, development of enhanced and new technologies that would produce future savings and improve services were delayed and implementation schedules were deferred one to two years.

A TRADITION OF SERVICE TO THE FEDERAL JUDICIARY

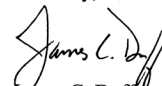
Mr. David C. Maurer
Page 2

The draft report's emphasis on retroactive cost estimating, however, may give the appearance of undervaluing the Judiciary's long-term budget planning and its ten years of cost containment activity, which enabled the Judicial Branch to continue to serve the public during sequestration. A decade before sequestration, the Judiciary established a cost containment program, exploring and implementing numerous initiatives to avoid and reduce costs. The Judiciary has continuously challenged its ways of doing business and identified ways to economize even further. At times, this has been a painful process, requiring changes to long established customs and practices. The Judiciary has demonstrated its strong and continued commitment to conserving resources and being a responsible steward of the taxpayer's money. Ongoing cost containment initiatives are underway to reduce further future requirements, including, for example, a Judicial Conference policy to reduce the Judiciary's nationwide space footprint three percent by the end of FY 2018, and new staffing formulae for court reporters, bankruptcy clerks' offices, and pro se and death penalty law clerks.

The Judiciary regularly informs appropriators and their staff about its efforts to employ best practices to contain spending and its history of fiscal responsibility as part of the annual budget justification. The Judiciary employs methodical accounting, financial, and auditing procedures to track spending accurately. The Judiciary has a long history of reporting its budget requirements realistically and completely to Congress. The Judiciary identifies savings or cost avoidance attributed to its cost containment efforts to Congress through lower appropriations requests. In fact, Judiciary cost containment efforts have been credited during appropriations subcommittee hearings. For this study, GAO interviewed judiciary officials who maintain the financial and staffing databases and determined "the data were sufficiently reliable for the purposes of assessing the extent to which the judiciary has estimated cost savings and determining the reliability of these estimates." GAO, however, does offer suggestions to improve the Judiciary's methodology for estimating cost savings.

The Judiciary will seriously consider the two recommendations contained in the report. Improvements can always be made to administrative and accounting processes to improve further our reporting on cost containment activities. In a time of constrained resources, however, the expenditure of resources to develop new methodologies for cost savings estimates must align with our business needs. The Judiciary will carefully evaluate any such additional methods to ensure that a strong business case justifies the expenditure of scarce resources for that purpose and that any new reporting is cost effective and of direct use to the Judiciary and Congress. The Judiciary remains committed to providing Congress with the most accurate information available to document its fiscal planning and cost containment efforts.

Sincerely,


James C. Duff
Director

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

David C. Maurer, (202) 512-9627 or MaurerD@gao.gov

Staff Acknowledgments

In addition to the contact named above, Glenn Davis (Assistant Director), David Alexander, Chuck Bausell, Jennifer Bryant, Keith Cunningham, Elizabeth Curda, Katherine Davis, George Depaoli, Gustavo Fernandez, Eric Hauswirth, Leslie Gordon, Kristen Kocielek, Thomas McCabe, Linda Miller, Michelle Sager, Janay Sam, Lauren Sherman, Janet Temko-Blinder, and Ellen Wolfe made key contributions to this report.

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