



General Government Division

B-281739

March 26, 1999

The Honorable Charles E. Grassley
Chairman, Subcommittee on Administrative
Oversight and the Courts
Committee on the Judiciary
United States Senate

Subject: Federal Judiciary: Information on the Weighted Filings Assigned to Senior District and Magistrate Judges in Fiscal Year 1997 in 21 District Courts

Dear Mr. Chairman:

As you requested, this letter discusses the extent to which the cases assigned to senior district judges and to magistrate judges may have reduced the cases assigned to nonsenior district judges in 21 of the 23 district courts that have judgeship requests pending before Congress.¹ Specifically, you requested that we determine the impact on nonsenior district judge workload of the fiscal year 1997 (1) weighted filings assigned to senior district judges and (2) weighted civil consent cases assigned to magistrate judges in each of the districts that had judgeship requests pending before Congress on March 31, 1998. Weighted filings represent the average expected amount of judicial time that a district court's civil case filings and criminal defendant filings may require.² The Judicial Conference of the United States³ uses weighted filings to assess the need for additional district judgeships in each district court. Civil consent cases—referred to throughout this letter as consent cases—are those civil cases that both parties agree to have a magistrate judge, rather than a district judge, decide.

¹The U. S. federal court system is divided into 94 judicial districts, each of which has a district court. As of March 31, 1998, 23 district courts had judgeship requests pending before Congress. In May 1998, we provided information on the assignments to senior district and magistrate judges in the districts of Florida Middle and Florida Southern. These districts' requests were included in a bill that was passed by the House of Representatives in March 1998, but was not enacted. The remaining 21 district courts are Alabama Middle and Northern; Arizona; California Eastern and Southern; Colorado; Indiana Southern; Kentucky Eastern; Nevada; New Mexico; New York Eastern, Northern, and Western; North Carolina Western; Oregon; South Carolina; Tennessee Eastern; Texas Northern and Southern; Virginia Eastern; and Washington Western.

²With some exceptions, a weight is assigned to each civil case filed in a district court and to each criminal defendant charged with a felony in district court. Generally, felonies are those crimes that carry a term of imprisonment of more than 1 year. There may be more than one defendant per criminal felony case filed. Weights are assigned to all civil cases or felony defendants counted as original filings, removals from state courts, or interdistrict transfers (transfers from one district to another). Weights are not assigned to cases remanded to the district courts from the courts of appeals, reopened cases, or multidistrict litigation transfers—cases transferred to a single district from a number of districts for disposition, such as asbestos or breast implant litigation.

³The Judicial Conference is the federal judiciary's principal policymaking body. It consists of 26 judges plus the Chief Justice of the United States, who presides over the Conference.

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District judges—nonsenior and senior—exercise the full judicial authority vested in the district courts. Nonsenior district judges are measured in two ways—authorized judgeships (the number of judgeships authorized by statute) and active judges (the number of authorized judgeships filled at any specific time). Senior district judges are district judges who have retired from regular, full-time, active service but remain on the bench and perform such judicial duties as they are willing and able to accept. Magistrate judges, appointed for a fixed term of years, exercise the judicial duties permissible by statute and the Constitution that the district courts delegate to them.

The effect of senior district and magistrate judges' weighted filings on the weighted filings that must be decided by the nonsenior district judges in the district depends upon (1) the number of senior district judges in the district and the weighted filings that they, collectively, are willing and able to undertake; (2) the total weighted civil cases in which the parties consent to having the case heard and decided by a magistrate judge; and (3) the number of authorized judgeship vacancies in the district and the duration of those vacancies.

Results in Brief

In fiscal year 1997, the weighted filings assigned to senior district and magistrate judges varied widely among the 21 districts whose case filings we reviewed—ranging from about 3 percent to about 50 percent of the total weighted filings per authorized judgeship in each district. Authorized judgeships are the number of judgeships authorized by statute. Each weighted filing decided by a senior district judge or magistrate judge in a district reduces by one the total weighted filings that must be decided by nonsenior judges in the district. Consequently, nonsenior judges were assigned from about 3 percent to about 50 percent fewer weighted filings than would have been the case had no weighted filings been assigned to senior district or magistrate judges in each district.

Under the written policies of the Judicial Conference of the United States, a district court may generally be considered for additional district judgeships if its weighted filings are at least 430 per authorized judgeship. Deducting the weighted filings assigned to senior district and magistrate judges brought the fiscal year 1997 weighted filings per authorized judgeship below this general 430 threshold in either 3 or 6 of the 21 district courts, depending upon the case weight value assigned to certain categories of cases that have 2 possible case weights.⁴

Age is one factor that may affect the case filings that senior district judges are willing and able to accept. As of September 30, 1997, the number of senior district judges who were age 76 or older in each of the 20 districts that had senior judges ranged from 0 to 3.⁵ Senior district judges who were age 76 or older represented from 0 percent (5 districts) to 100

⁴One of the 21 district courts provided us with the data necessary to determine which of the 2 civil case weights should be assigned. Therefore, for the remaining 20 district courts, we calculated 2 totals for the weighted filings assigned to senior district judges and magistrate judges. One total used the lower possible weight for all cases with two potential weights, and the second total used the higher possible weight for all such cases.

⁵Tennessee Eastern did not have any senior judges as of September 30, 1997.

percent (3 districts) of the senior district judges in each district that had senior judges. The number of senior district judges in a district may also change at any time. For example, between September 30, 1997, and March 31, 1998, two districts each gained one senior district judge, and in one district a senior judge died.

Background

Generally, there are 3 categories of judges—district judges, senior district judges, and magistrate judges—among the 94 district courts to address their nonbankruptcy caseload.⁶ District judges—nonsenior and senior—exercise the full authority vested in the district courts, and, with the exception of the three territorial courts, are appointed for life.⁷ Magistrate judges, appointed by the district court for fixed terms, perform the judicial duties delegated to them by the district court. Magistrate judges may be appointed to full- or part-time positions.⁸

Although their duties vary by district, magistrate judges generally assist with a variety of civil and criminal cases that are ultimately decided by district judges. Magistrate judges also decide, without the assistance of district judges, certain categories of cases, such as criminal misdemeanors⁹ and civil consent cases. Consent cases are the primary category of case filings decided by magistrate judges that are included in the weighted filings used to assess the need for additional district court judgeships.¹⁰ Some types of civil cases can have two different case weights, generally depending upon whether the case originated in state or federal court. Only 1 of the 21 districts provided the data necessary to determine whether the higher or lower case weight should be assigned for such cases. Therefore, our results for the other 20 districts are reported with two estimates—low and high—of the impact of senior district and magistrate judges' weighted filings on the weighted filings of nonsenior judges. The low range uses the lower case weight for all cases with two possible weights; the high range uses the higher case weight for all such cases.

In March 1997, the Judicial Conference of the United States sent a request to Congress for 36 additional judgeships (24 permanent and 12 temporary)¹¹ in 23 district courts. This request

⁶By statute, the district courts retain original jurisdiction over bankruptcy cases. However, with few exceptions, the district courts have adopted a policy of referring all bankruptcy matters to the bankruptcy courts within their respective districts. The Judicial Conference uses a separate process to assess the need for bankruptcy judgeships. This process is discussed in Federal Judiciary: Bankruptcy Judgeship Requests, 1993-1997 (GAO/T-GGD-97-183, Sept. 22, 1997).

⁷District judges in the U.S. territories of Guam, the Northern Mariana Islands, and the Virgin Islands do not hold life tenure. District judges in these district courts are appointed for 10-year terms.

⁸Full-time magistrate judges are appointed for 8-year terms, serve district courts full time, and may not practice law. Part-time magistrate judges are appointed for 4-year terms, serve part time, and may, within certain limitations, practice law.

⁹Generally, criminal misdemeanors are criminal offenses for which a term of imprisonment is 1 year or less.

¹⁰The district court case weights exclude criminal misdemeanors but include criminal felonies.

¹¹A temporary judgeship is a position that is statutorily created, generally for a minimum of 5 or 10 years. A temporary judgeship expires when the first judicial vacancy occurs after this minimum number of years has elapsed. The next vacancy to occur after this time cannot be filled. It is important to note that it is the position, not the judge appointed to the position, that is temporary. Judges appointed to temporary district court judgeships hold lifetime tenure.

included five permanent and one temporary judgeships for the districts of Florida Southern and Florida Middle. These two district courts' requests were included in a bill that was passed by the House of Representatives in March 1998 but not enacted. In May 1998, we provided summary information on the case assignments of senior district and magistrate judges in those two districts.¹² For the 21 districts included in this letter, the Judicial Conference had pending before Congress a request for 20 permanent and 10 temporary judgeships as of March 31, 1998.

The Judicial Conference's policy is to base its assessment of the need for additional district judgeships in each district court on the weighted filings per authorized district judgeship. Under the Judicial Conference's written policy, a general standard of 430 or more weighted filings per authorized district judgeship is considered an indication of the need for 1 or more additional judgeships. In assessing the need for additional district judgeships, it is the Judicial Conference's policy to review trends in district workload to determine if a district has a sustained workload of 430 or more weighted filings per judgeship.

The Judicial Conference may recommend an additional permanent district judgeship if an additional judgeship would leave current weighted filings above or near 430 per authorized judgeship, and there are no other factors suggesting that a temporary judgeship or no judgeship is the appropriate recommendation. For example, if a district currently had eight authorized judgeships and had requested an additional judgeship, its current weighted filings per judgeship would be recalculated using nine judgeships. If its weighted filings per judgeship remained above or near 430 with 9 judgeships, it would generally meet the weighted filings standard for an additional judgeship.

The Judicial Conference's policy is generally to recommend an additional temporary district judgeship when an additional judgeship would reduce the weighted filings per authorized judgeship to between 350 and 430. The Conference has also established a policy for considering temporary judgeships in small courts—a term the Conference's written policy does not define. If the addition of a judgeship in a small court would lower the weighted filings per authorized judgeship to near or below 300, the Conference's policy is generally to recommend an additional temporary judgeship only if the current weighted filings are in excess of 500 per authorized district judgeship.

The computation of weighted filings the Judicial Conference has used to assess the need for district court judgeships has included cases for which case weights are assigned that were filed in a district during a 12-month period,¹³ whether or not any of these cases were assigned to senior or magistrate judges for disposition. However, the Judicial Conference's policies allow for judgmental considerations of such factors as the district's management practices and the use of senior district and magistrate judges.

¹²The data collected and reported for these 2 districts were less detailed than the data reported in this letter for the remaining 21 districts.

¹³In its assessment of district court weighted caseloads, the Judicial Conference may examine data for several different 12-month reporting periods, such as calendar years and fiscal years.

In our analysis, we used four different measures of the number of judges available to a district court to address its caseload—authorized district judgeships, active district judges, senior district judges, and magistrate judges. The Judicial Conference used authorized district judgeships to assess judgeship needs for its district court judgeship request submitted to Congress in 1997. The total number of active district judges, senior district judges, and magistrate judges represents the maximum number of judges actually available to address a district court's nonbankruptcy caseload at any specific time.

Objective, Scope, and Methodology

Our objective was to determine the impact on nonsenior district judges' workload of (1) the weighted filings assigned to senior district judges and (2) the weighted civil consent cases decided by magistrate judges in 21 of the 23 districts that have judgeship requests pending before Congress. As requested, we provided data on the estimated workload of senior judges and magistrate judges in the remaining two districts in May 1998.

To meet our objective, we obtained data on (1) each district's weighted filings for the fiscal year ending September 30, 1997; (2) the number of senior district judges in each district as of September 30, 1997, and March 31, 1998; (3) the number of part-time and full-time magistrate judges in each district as of September 30, 1997; (4) the number of active district judges in each district as of September 30, 1997, and March 31, 1998; (5) the number of civil cases filed by nature-of-suit code that were assigned to senior district judges in fiscal year 1997; (6) the number of criminal felony defendants commenced by criminal offense code¹⁴ that were assigned to senior district judges in fiscal year 1997; and (7) the number of civil consent cases by nature-of-suit code assigned to magistrate judges that were filed in fiscal year 1997. Because the age of senior district judges is one factor that may affect the number of case filings they are willing and able to undertake, we also obtained the birth dates of the senior district judges in each district.

We obtained the weighted filings per authorized district judgeship for each district from the Administrative Office of the U.S. Courts (AOUSC) publication, Judicial Business of the United States Courts, 1997. To obtain the remaining data, we contacted the chief judge in each of the 21 district courts. We requested data on consent cases filed in fiscal year 1997 because the weighted filings are based on cases filed in the fiscal year, whether or not the case is disposed (closed) in that fiscal year. AOUSC's statistical data on consent cases are based on the year in which the case was disposed, not filed.

We compared the nature-of-suit and criminal offense codes each district provided to the nature-of-suit and criminal offense codes used to assign case weights. We checked with

¹⁴Nature-of-suit codes are assigned to categories of civil cases filed, and each code carries a specific case weight. Criminal offense codes are assigned to categories of felony criminal defendants "commenced" in federal court, and each offense carries a specific weight. These nature-of-suit and criminal offense weights represent the relative amount of judicial time—compared to other civil or criminal categories—that the civil case or criminal defendant may require. Total per judge weighted filings represent the average expected amount of a district judge's time the district's total weighted filings may require for disposition, assuming that the total weighted filings are divided equally among all district judges in the district.

districts to clarify codes that did not have a match in the list of nature-of-suit codes used to assign case weights or that were not in the 1995 AOUSC criminal offense citation manual. We discussed any discrepancies with the district courts, and checked our case weight assignment codes with the Federal Judicial Center, which conducted the study on which the case weights were based. Although we discussed discrepancies in the codes with the district courts, we did not verify the district courts' data.

In determining the impact of the weighted filings assigned to senior district and magistrate judges, we followed the Judicial Conference's method of determining weighted filings per authorized district judgeship. We weighted senior district judges' filings and magistrate judges' consent case filings using the same case weights used to compute weighted filings per authorized judgeship. Twelve nature-of-suit codes had two possible case weights, generally depending upon whether the case originated in state or federal court. Twenty of the 21 districts did not provide the additional information needed to determine the origin of the affected cases; therefore, we could not determine the appropriate case weight. Consequently, for these 20 districts, we weighted the affected cases using both weights. This resulted in two case weight totals—one high and one low—for these cases. We then calculated the total low and total high weighted filings per authorized district judgeship and active district judge, after deducting the weighted case filings assigned to senior district and magistrate judges. We used the birth dates of the senior district judges to calculate their ages as of September 30, 1997, and to determine the distribution of the ages of the senior judges in each of the 21 districts.

We requested comments on a draft of this letter from the Director of the AOUSC. AOUSC's oral comments are discussed near the end of this letter. We conducted our work from April 1998 to December 1998 in accordance with generally accepted government auditing standards.

Judgeships and Active Judges in 21 District Courts as of September 30, 1997

Table 1 shows the number of (1) authorized district judgeships, active district judges, senior district judges, and full-time and part-time magistrate judges as of September 30, 1997, and (2) district judgeship requests pending before Congress as of March 31, 1998, in the 21 district courts. Eleven of the 21 districts had all of their authorized district judgeships filled as of September 30, 1997. The 10 districts with vacant authorized district judgeships had either 1 or 2 vacancies. The number of senior district judges ranged from zero (Tennessee Eastern) to seven (California Southern). The number of magistrate judges in each district court ranged from 3 in North Carolina Western to 13 in Texas Southern. The number of senior district judges equaled or exceeded the number of active judges in 5 of the 21 districts. The number of senior district and magistrate judges exceeded the number of active district judges in 18 of the 21 district courts.

The Judicial Conference has pending before Congress requests for a total of 30 additional district judgeships for these 21 district courts, including 10 temporary judgeships.

Table 1: Number of Authorized District Judgeships, Active and Senior District Judges, and Magistrate Judges as of September 30, 1997, and Judgeships Pending Before Congress on March 31, 1998, for 21 District Courts

District	Authorized judgeships	Active judges	Senior judges	Number of Magistrate judges		Judgeship requests pending
				Full-time	Part-time	
Alabama, M	3	3	2	4	0	1P
Alabama, N ^a	7	5	6	4	0	1P
Arizona	8	8	5	7	1	2P
California, E ^b	7	5	5	7	4	1P, 1T
California, S	8	7	7	7	1	2P
Colorado	7	7	1	5	1	1P, 1T
Indiana, S	5	4	1	4	2	1T
Kentucky, E ^c	4.5	4.5	1	4	0	1T
Nevada	4	4	1	5	0	2P
New Mexico	5	5	3	6	2	1P, 1T
New York, E	15	15	5	12	0	3P
New York, N ^b	5	4	2	4	1	1T
New York, W	4	3	3	4	0	1T
North Carolina, W	3	3	1	3	0	2P
Oregon	6	4	5	5	2	1P
South Carolina	9	9	4	5	1	1T
Tennessee, E	5	5	0	4	0	1T
Texas, N	12	10	3	7	3	1P
Texas, S	18	16	1	13	0	1P
Virginia, E ^b	10	9	6	8	1	1P
Washington, W	7	7	2	4	2	1T

Legend 1: E = eastern; M = middle; N = northern; S = southern; W = western

Legend 2: P = new permanent judgeship; T = new temporary judgeship

^aAlabama Northern originally requested, and the Judicial Conference recommended, the conversion of an existing temporary judgeship to a permanent position. However, in May 1996, the temporary judgeship position lapsed with the retirement of a judge. The pending request for one permanent judgeship is to restore the lost judgeship and make it permanent.

^bIn October 1997, Congress extended temporary judgeships in 11 districts (P.L. 105-53, enacted Oct. 6, 1997), including 3 of the districts shown in this table—California Eastern, New York Northern, and Virginia Eastern. The numbers in this table reflect the effect of this statute on the judgeships pending before Congress as of March 31, 1998.

^cIncludes a judgeship shared with another district.

Source: GAO analysis of AOUSC and district data.

Impact of Senior District and Magistrate Judges on Authorized District Judgeship and Active District Judges

The case filings assigned to senior district and magistrate judges reduced the caseload of nonsenior judges—whether measured as authorized judgeships or active judges—in all 21 district courts. As table 2 shows, the fiscal year 1997 weighted filings per authorized district judgeship in the 21 districts, assuming that all filings were assigned to nonsenior judges, ranged from about 453 in New York Northern to about 814 in California Southern. The low estimated value of the weighted filings assigned to senior district and magistrate judges resulted in a reduction that ranged from about 17 weighted filings per authorized judgeship in Texas Southern to about 199 in New York Western. Using this low estimate of the reduced caseload for nonsenior judges, the weighted filings per authorized district judgeship fell below the general standard of 430 in 3 districts—Kentucky Eastern (383), New York Western (297), and Oregon (409).

Table 2: Weighted Filings Per Authorized Judgeships, Including and Excluding the Lower Estimated Value of the Weighted Filings Assigned to Senior District and Magistrate Judges in Fiscal Year 1997

District	Number of authorized judgeships	Weighted filings per authorized district judgeship ^a		Difference ^b	
		Including weighted filings assigned to senior district and magistrate judges	Excluding weighted filings assigned to senior district and magistrate judges	Number	Percent
Alabama, M ^c	3	755	628	127	17
Alabama, N	7	594	434	160	27
Arizona ^c	8	734	646	88	12
California, E	7	601	475	126	21
California, S	8	814	646	168	21
Colorado ^c	7	577	556	21	4
Indiana, S	5	594	520	74	13
Kentucky, E ^c	4.5	480	383	97	20
Nevada ^c	4	696	640	56	8
New Mexico ^c	5	643	494	149	23
New York, E ^c	15	614	493	121	20
New York, N	5	453	434	19	4
New York, W	4	496	297	199	40
North Carolina, W ^c	3	760	635	125	16
Oregon	6	521	409	112	21
South Carolina ^c	9	545	463	82	15
Tennessee, E ^c	5	548	519	29	5
Texas, N	12	524	471	53	10
Texas, S	18	527	510	17	3
Virginia, E	10	578	443	135	23
Washington, W ^c	7	508	489	19	4

Legend: E = eastern; M = middle; N = northern; S = southern; W = western

^aAssumes all authorized judgeships are filled. Results shown were rounded to nearest whole number.

^bResults shown were rounded to nearest whole number.

^cDistricts with no authorized judgeship vacancies as of September 30, 1997.

Source: GAO analysis of AOUSC and district data.

Table 3 shows the results per authorized judgeship after deducting the higher estimated value of the weighted filings assigned to senior district and magistrate judges. The reduction in weighted filings per authorized judgeship ranged from about 21 weighted filings in Washington Western to about 246 in New York Western. This reduction resulted in weighted filings falling below the general standard of 430 per authorized judgeship in 6 districts—Alabama Northern (389), Kentucky Eastern (382), New York Northern (429), New York Western (250), Oregon (375), and Virginia Eastern (423). Multidistrict litigation transfers are not counted as weighted filings, and this may have affected the results for Alabama Northern, the district to which all breast implant filings have been transferred for disposition.

Table 3: Weighted Filings Per Authorized Judgeships, Including and Excluding the Higher Estimated Value of the Weighted Filings Assigned to Senior District and Magistrate Judges in Fiscal Year 1997

District	Number of authorized judgeships	Weighted filings per authorized district judgeship ^a		Difference ^b	
		Including weighted filings assigned to senior district and magistrate judges	Excluding weighted filings assigned to senior district and magistrate judges	Number	Percent
Alabama, M ^c	3	755	571	184	24
Alabama, N	7	594	389	205	34
Arizona ^c	8	734	623	111	15
California, E	7	601	452	149	25
California, S	8	814	635	179	22
Colorado ^c	7	577	554	23	4
Indiana, S	5	594	492	102	17
Kentucky, E ^c	4.5	480	382	98	20
Nevada ^c	4	696	624	72	10
New Mexico ^c	5	643	494	149	23
New York, E ^c	15	614	469	145	24
New York, N	5	453	429	24	5
New York, W	4	496	250	246	50
North Carolina, W ^c	3	760	572	188	25
Oregon	6	521	375	146	28
South Carolina ^c	9	545	449	96	18
Tennessee, E ^c	5	548	514	34	6
Texas, N	12	524	458	66	13
Texas, S	18	527	504	23	4
Virginia, E	10	578	423	155	27
Washington, W ^c	7	508	487	21	4

Legend: E = eastern; M = middle; N = northern; S = southern; W = western

^aAssumes all authorized judgeships are filled. Results shown were rounded to nearest whole number.

^bResults shown were rounded to nearest whole number.

^cDistricts with no authorized judgeship vacancies as of September 30, 1997.

Source: GAO analysis of AOUSC and district data.

Because 10 of the 21 district courts did not have all of their authorized judgeships filled as of September 30, 1997, they were not operating with a full complement of authorized judgeships. To determine the impact of vacancies on the weighted filings per active district judge, we determined the weighted filings using the number of active district judges in each of the 10 district courts. As shown in table 4, the weighted filings per active district judge in the districts with vacancies ranged from about 566 in New York Northern to about 930 in California Southern—noticeably higher than the weighted filings per authorized district judgeship (see table 2 or 3). Using our low estimate, the weighted filings handled by senior district and magistrate judges reduced the weighted filings per active judge by about 19 in Texas Southern to about 265 in New York Western (see table 4). Based on our high estimate, the reduction in weighted filings per active judge ranged from about 26 in Texas Southern to about 329 in New York Western (see table 5).

Table 4: Weighted Filings Per Active Judge in the 10 Districts With Judgeship Vacancies, Including and Excluding the Low Estimated Value of the Weighted Filings Assigned to Senior District and Magistrate Judges in Fiscal Year 1997

District	Number of active judges	Weighted filings per active district judge ^a		Difference ^a	
		Including weighted filings assigned to senior district and magistrate judges	Excluding weighted filings assigned to senior district and magistrate judges	Number	Percent
Alabama, N	5	832	607	224	27
California, E	5	841	666	176	21
California, S	7	930	738	192	21
Indiana, S	4	743	650	93	13
New York, N	4	566	543	23	4
New York, W	3	661	396	265	40
Oregon	4	782	614	168	21
Texas, N	10	629	565	64	10
Texas, S	16	593	574	19	3
Virginia, E	9	642	492	150	23

Legend: E = eastern; N = northern; S = southern; W = western

^aResults shown are rounded to nearest whole number.

Source: GAO analysis of AOUSC and district data.

Table 5: Weighted Filings Per Active Judge in the 10 Districts With Judgeship Vacancies, Including and Excluding the Higher Estimated Value of the Weighted Filings Assigned to Senior District and Magistrate Judges in Fiscal Year 1997

District	Number of active judges	Weighted filings per active district judge ^a		Difference ^a	
		Including weighted filings assigned to senior district and magistrate judges	Excluding weighted filings assigned to senior district and magistrate judges	Number	Percent
Alabama, N	5	832	545	287	34
California, E	5	841	632	209	25
California, S	7	930	725	205	22
Indiana, S	4	743	615	128	17
New York, N	4	566	536	30	5
New York, W	3	661	333	329	50
Oregon	4	782	563	218	28
Texas, N	10	629	549	79	13
Texas, S	16	593	567	26	4
Virginia, E	9	642	470	172	27

Legend: E = eastern; N = northern; S = southern; W = western

^aResults shown are rounded to nearest whole number.

Source: GAO analysis of AOUSC and district data.

Level of Senior District Judge Assistance Can Change at Any Time

For the 20 districts that had senior district judges, those judges helped to reduce the caseload of nonsenior district judges—whether measured as authorized district judgeships or active district judges in fiscal year 1997. However, the assistance that senior district judges provide at any specific time is a function of both the number of senior district judges in the district

and the case assignments that they are willing and able to accept. The number of senior district judges in a district and the case assignments that they are collectively willing and able to accept can vary from year to year or within a fiscal year for several reasons. Eligible active district judges may decide to take senior status, adding to the number of senior district judges in the district. Senior district judges may, at their discretion, increase or reduce their workload at any time or retire from the federal bench entirely. Judges who retire from the federal bench entirely are not eligible to perform federal judicial duties. Age is one factor that may either affect the number of case filings a senior judge is willing and able to accept,¹⁵ or that may affect a senior judge's decision to retire from the bench entirely. Between September 30, 1997, and March 31, 1998, 2 of the 20 districts that had senior judges—Nevada and Washington Western—each gained 1 senior district judge; a senior judge died in California Eastern.

Generally, judges must be at least 65 years of age to take senior status. As of September 30, 1997, senior district judges in 20 of the 21 districts ranged in age from 60¹⁶ to 90. One district—Tennessee Eastern—did not have any senior district judges. The average age of senior judges was about 75. The range of ages of senior district judges in each district as of September 30, 1997, is shown in table 6. At least 50 percent of the senior district judges in 11 of the 20 districts that had senior judges were age 76 or older. Five districts did not have any senior judges age 76 or older. The actual workload that any individual senior district judge accepts would depend upon factors other than age alone, such as the judge's overall health. Four of the 20 district courts reported that each had a senior judge who did not take any cases due to illness.

¹⁵ A 1994 AOUSC study, for example, found that the median workload of senior district court judges generally declined as the judges' years of senior status increased. Actual workload would vary among the individual judges, of course.

¹⁶ One district judge in Colorado, who retired because of disability and subsequently returned to duty on senior status, was age 60.

Table 6: Ages of Senior District Judges in 21 District Courts, September 30, 1997

District	Age 65-70	Age 71-75	Age 76-80	Age 81 or more ^a	Total number of judges	Percent age 76 or older ^b
Alabama, M	0	0	2	0	2	100
Alabama, N	3	2	0	1	6	17
Arizona	1	2	2	0	5	40
California, E	2	0	2	1	5	60
California, S	2	2	1	2	7	43
Colorado ^c	1	0	0	0	1	0
Indiana, S	0	0	0	1	1	100
Kentucky, E	0	1	0	0	1	0
Nevada	0	1	0	0	1	0
New Mexico	1	1	0	1	3	33
New York, E	0	2	2	1	5	60
New York, N	0	2	0	0	2	0
New York, W	1	0	2	0	3	67
North Carolina, W	0	1	0	0	1	0
Oregon	2	2	1	0	5	20
South Carolina	1	0	2	1	4	75
Tennessee, E	0	0	0	0	0	0
Texas, N	0	1	2	0	3	67
Texas, S	0	0	1	0	1	100
Virginia, E	2	1	3	0	6	50
Washington, W	0	1	1	0	2	50

Legend: E = eastern; M = middle; N = northern; S = southern; W = western

^aThe oldest judge was 90 years of age.

^bRounded to nearest whole number.

^cOne judge, who retired because of disability and subsequently returned to duty on senior status, was age 60.

Source: GAO analysis of district court data.

Agency Comments

On February 16, 1999, we provided a draft of this letter to the AOUSC for comment. On February 17, 1999, AOUSC notified us that the fiscal year 1997 weighted filings per authorized judgeship for the district courts had been revised since we had obtained the data. AOUSC provided us the revised data, which generally showed lower weighted filings per authorized judgeship in each district in our analysis. We subsequently revised our analysis as needed and provided the revised analyses to AOUSC for review. On March 5, 1999, the Chief of the Analytical Services Office provided oral comments on the draft that consisted of technical changes, which we have made as appropriate.

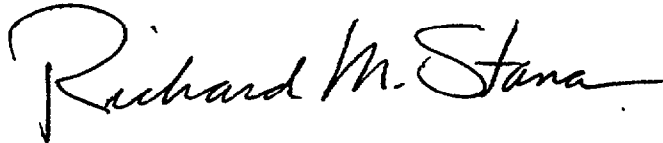
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We are sending copies of this letter to Senator Robert G. Torricelli, Ranking Minority Member of your subcommittee; Senator Orrin G. Hatch, Chairman, and Senator Patrick J. Leahy, Ranking Minority Member, Senate Committee on the Judiciary; Representative Henry J. Hyde, Chairman, and Representative John Conyers, Jr., Ranking Minority Member, House Committee on the Judiciary; and Representative Howard Coble, Chairman, and Representative Howard L. Berman, Ranking Minority Member of the Subcommittee on Courts

and Intellectual Property, House Committee on the Judiciary. We are also sending copies of this report to Mr. Leonidus Ralph Mecham, Director, Administrative Office of the U.S. Courts; The Honorable Julia Smith Gibbons, Chair, the Judicial Conference Committee on Judicial Resources; and The Honorable W. Harold Albritton, The Honorable Sam C. Pointer, Jr., The Honorable Robert C. Broomfield, The Honorable William B. Shubb, The Honorable Marilyn L. Huff, The Honorable Richard P. Matsch, The Honorable Sara Evans Barker, The Honorable Henry R. Wilhoit, Jr., The Honorable Howard D. McKibben, The Honorable John E. Conway, The Honorable Charles P. Sifton, The Honorable Thomas J. McAvoy, The Honorable David G. Larimer, The Honorable Graham C. Mullen, The Honorable Michael R. Hogan, The Honorable C. Weston Houck, The Honorable R. Allan Edgar, The Honorable Jerry L. Buchmeyer, The Honorable George P. Kazen, The Honorable Claude M. Hilton, and The Honorable John C. Coughenour, Chief Judges of their respective districts. Copies will also be made available to others upon request.

Major contributors to this letter include William Jenkins and Katrina Moss, General Government Division; Jeanne Barger, Dallas Field Office; and Geoffrey Hamilton, Office of the General Counsel. If you have any questions about this letter, please contact me on 512-8777.

Sincerely yours,

A handwritten signature in black ink that reads "Richard M. Stana". The signature is written in a cursive, flowing style with a long horizontal line extending from the end of the name.

Richard M. Stana
Associate Director
Administration of Justice Issues

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