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**JUDICIAL CONFERENCE OF THE UNITED STATES**

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May 11, 2004

Honorable Lawrence L. Piersol  
Chief Judge  
United States District Court  
202 United States Courthouse  
400 South Phillips Avenue  
Sioux Falls, SD 57104-6851

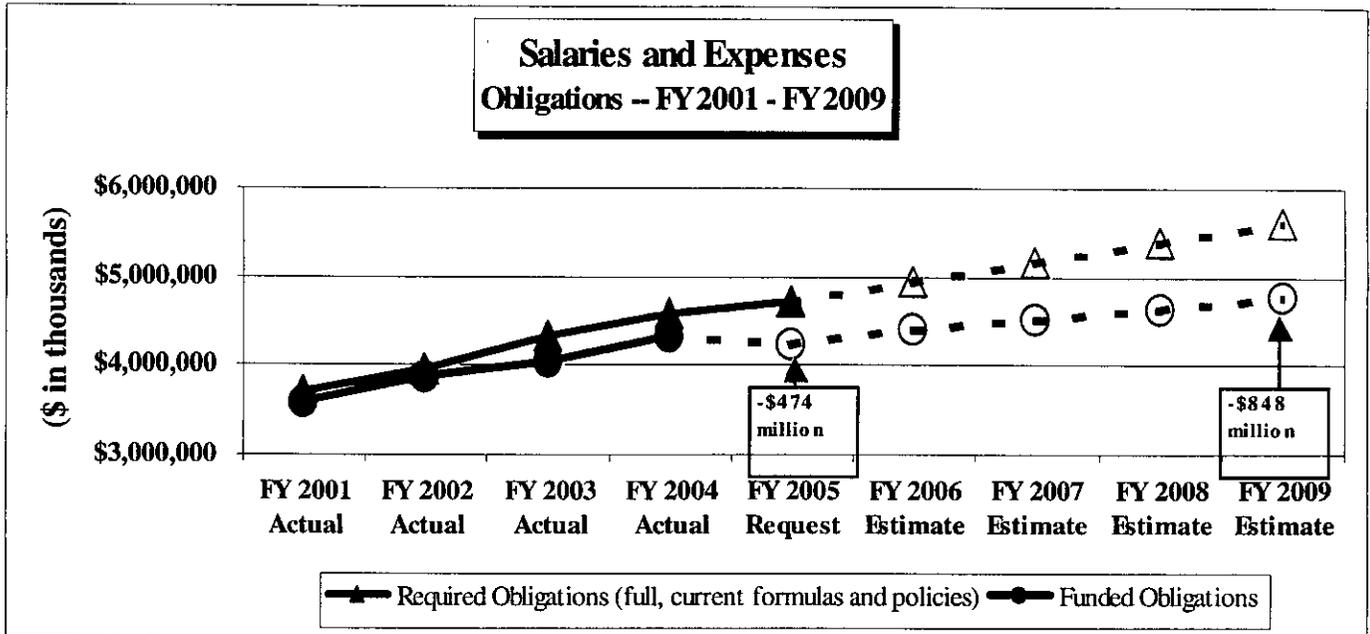
Dear Judge Piersol:

On March 31, 2004, we advised all judges that the Chief Justice had assigned an expanded role to the Executive Committee in developing an integrated strategy for controlling costs in the judiciary in fiscal year 2005 and beyond. This letter provides you with information about how the Executive Committee plans to fulfill this mission. We believe that it is important for the Federal Judges Association (FJA) to be aware of this undertaking. We are hopeful that the FJA can assist us as well.

**The Judiciary's Funding Crisis**

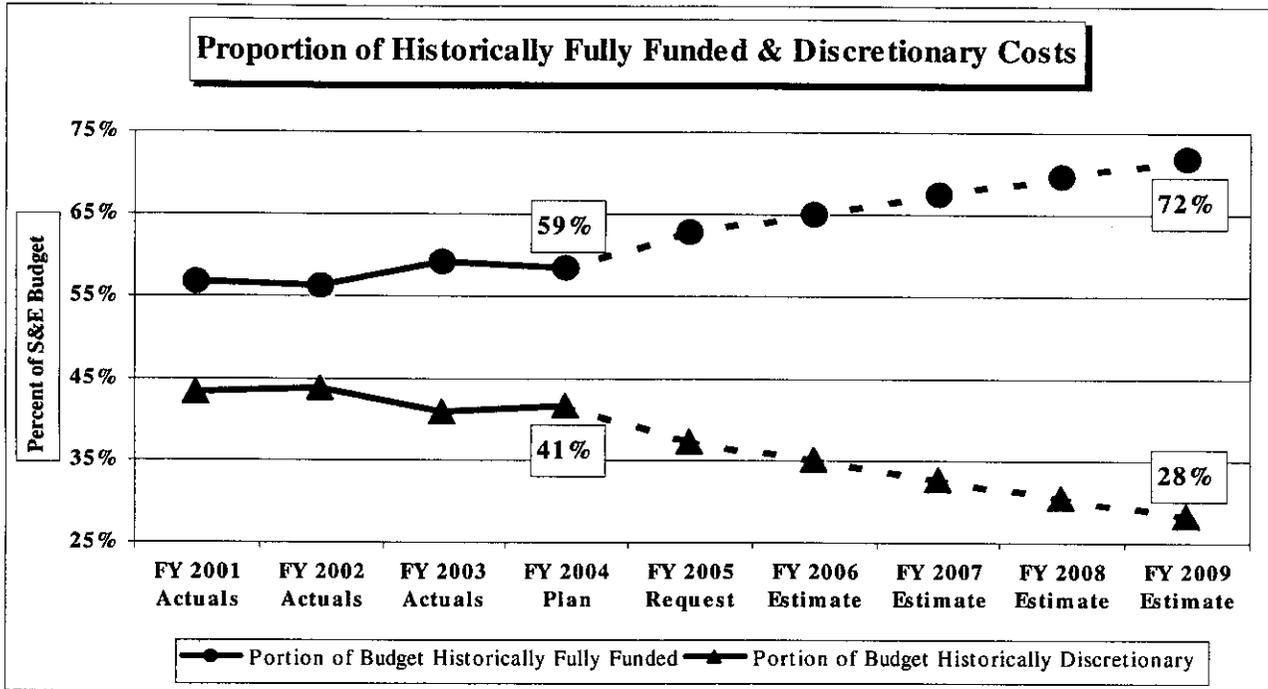
The judiciary is facing an unprecedented budget crisis. Fiscal year 2005 budget resolutions passed separately by the House and Senate earlier this spring call for a hard freeze (at fiscal year 2004 levels) in non-defense, non-homeland security appropriations. Such action would have a devastating impact on the courts, the defender services program, and court security. Under this scenario, the courts' Salaries and Expenses account would be underfunded by \$474 million (10 percent below requirements). Payments to Criminal Justice Act panel attorneys would have to be deferred for the last four months of the fiscal year. Security systems and equipment funding would likely be reduced by 60 percent from requirements, and 50 percent below this year's levels. Director Ralph Mecham, Judge John G. Heyburn, II, Chair of the Budget Committee, and others in the judiciary are making a "full-court press" to obtain the maximum level of resources for fiscal year 2005. However, prudence dictates that we take specific steps to prepare ourselves for the possibility of a hard freeze.

This crisis is not limited to fiscal year 2005. The budget outlook for the next several years is not projected to improve. Moreover, application of existing policies, practices, and customs could result in shortfalls that are extraordinary. As displayed below, if the judiciary were to receive a hard freeze in the Salaries and Expenses account in fiscal year 2005, and three percent annual increases from fiscal year 2006 through fiscal year 2009, requirements for that account (at full formula) would be underfunded by \$848 million (-15 percent) by fiscal year 2009.

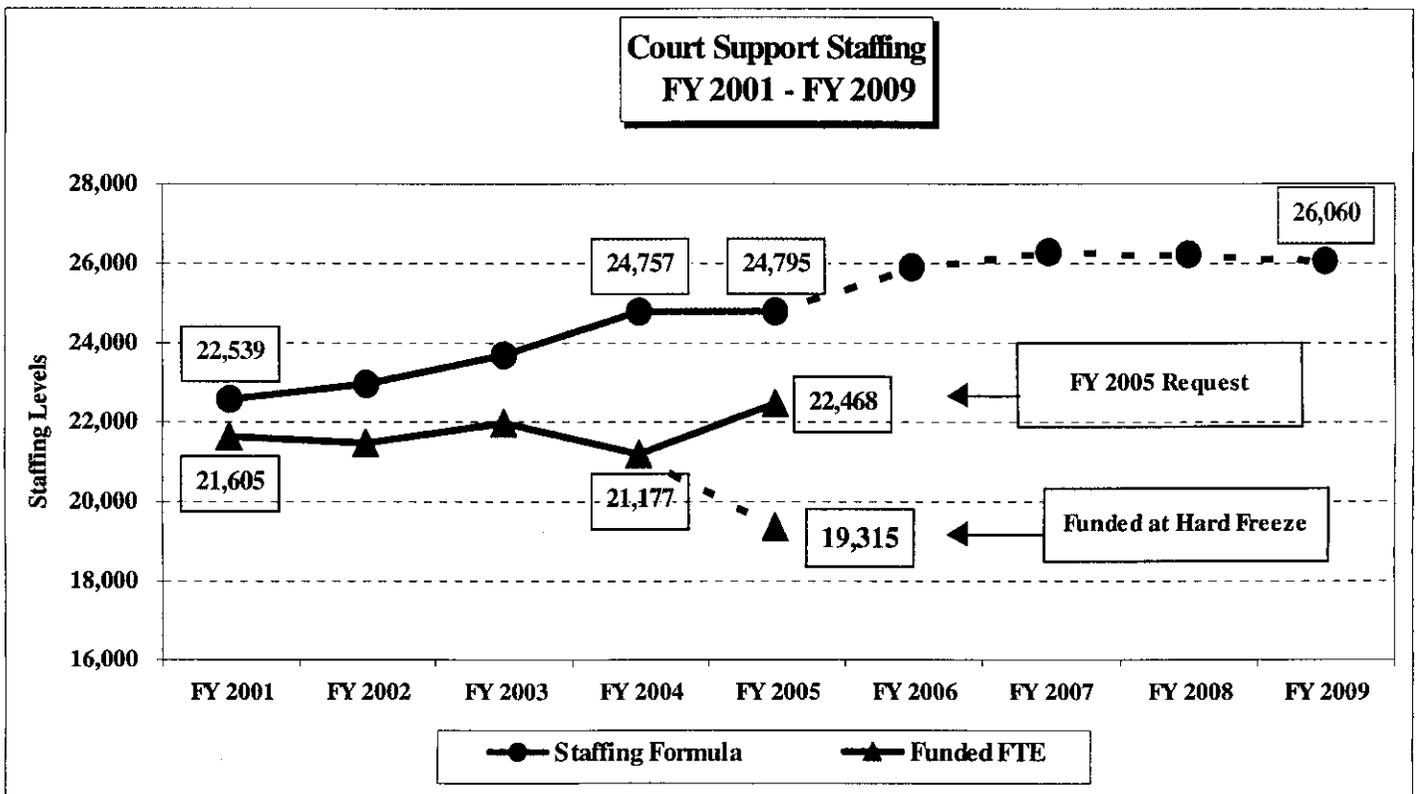


The requirements depicted in the graph referenced above are based on the application of current budgeting policies and formulas, and projections of workload through fiscal year 2009. For your benefit, we are attaching graphs of these workload projections (see Attachment).

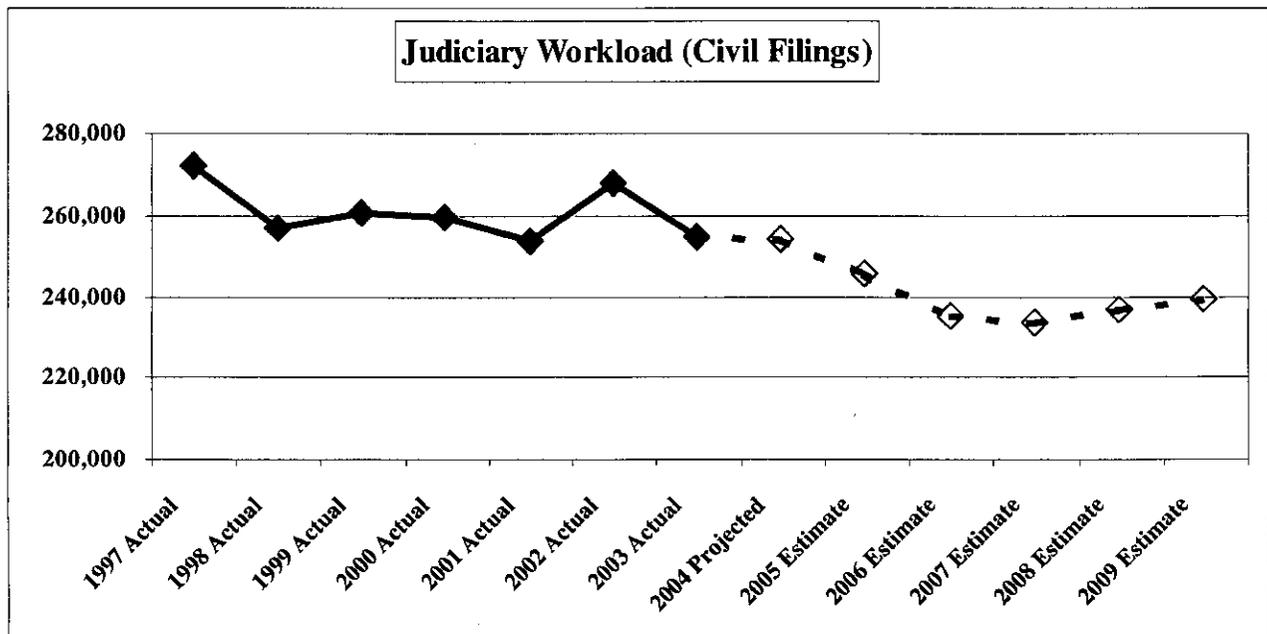
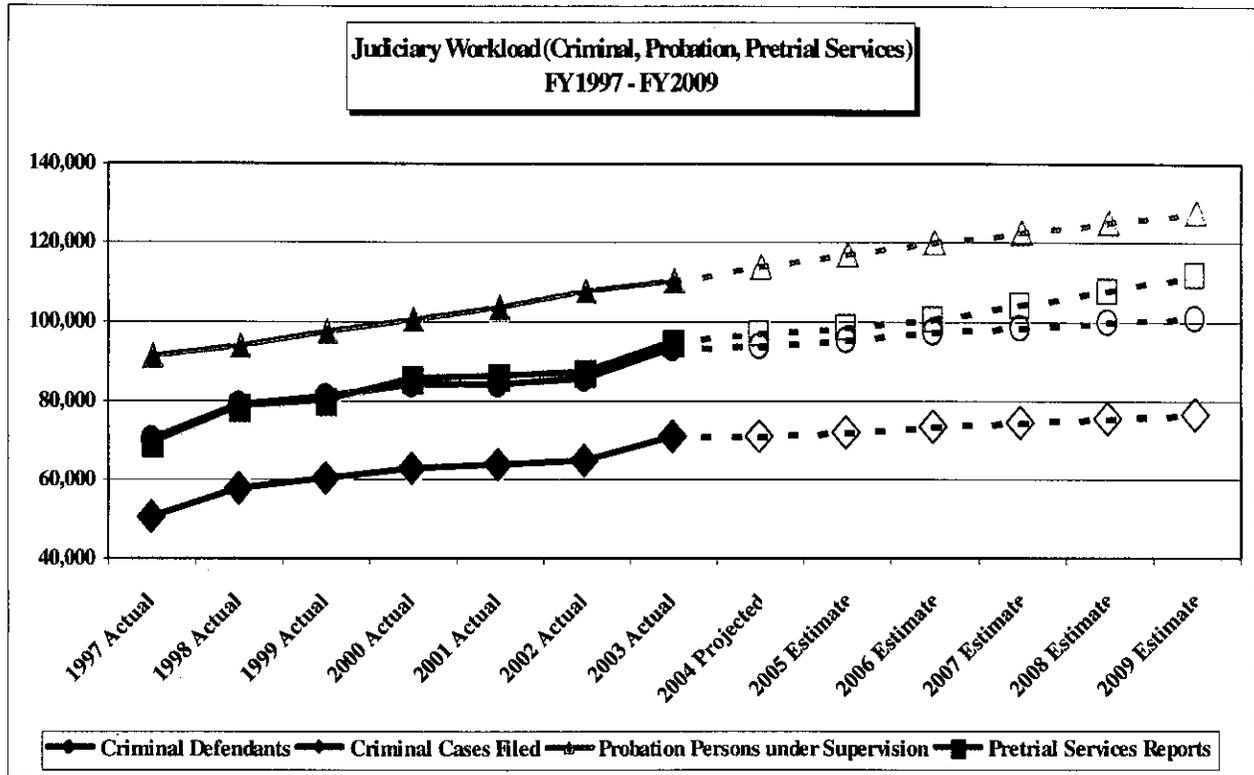
The custom of funding fully a significant portion of the annual Salaries and Expenses financial plan in past years contributes to the crisis facing the judiciary. Historically, we have fully funded items such as judges' pay and benefits, chambers staff pay and benefits, space rental, and law enforcement costs, even though pay and benefits for Article III and bankruptcy judges are the only truly "mandatory" requirements under statute. In fiscal year 2004, the fully funded items amount to 59 percent of the overall financial plan. The remaining 41 percent is mostly for court support staffing requirements and operating expenses. These latter categories historically have been treated as discretionary and subject to reductions to balance requirements with the funding provided by Congress. Based on projected continued growth in the historically fully funded categories, and on a funding assumption of a hard freeze in fiscal year 2005 and three percent annual increases from fiscal year 2006 through fiscal year 2009, the portion of the budget that historically has been funded fully would grow to 72 percent, with the discretionary portion accounting for only 28 percent of the budget.

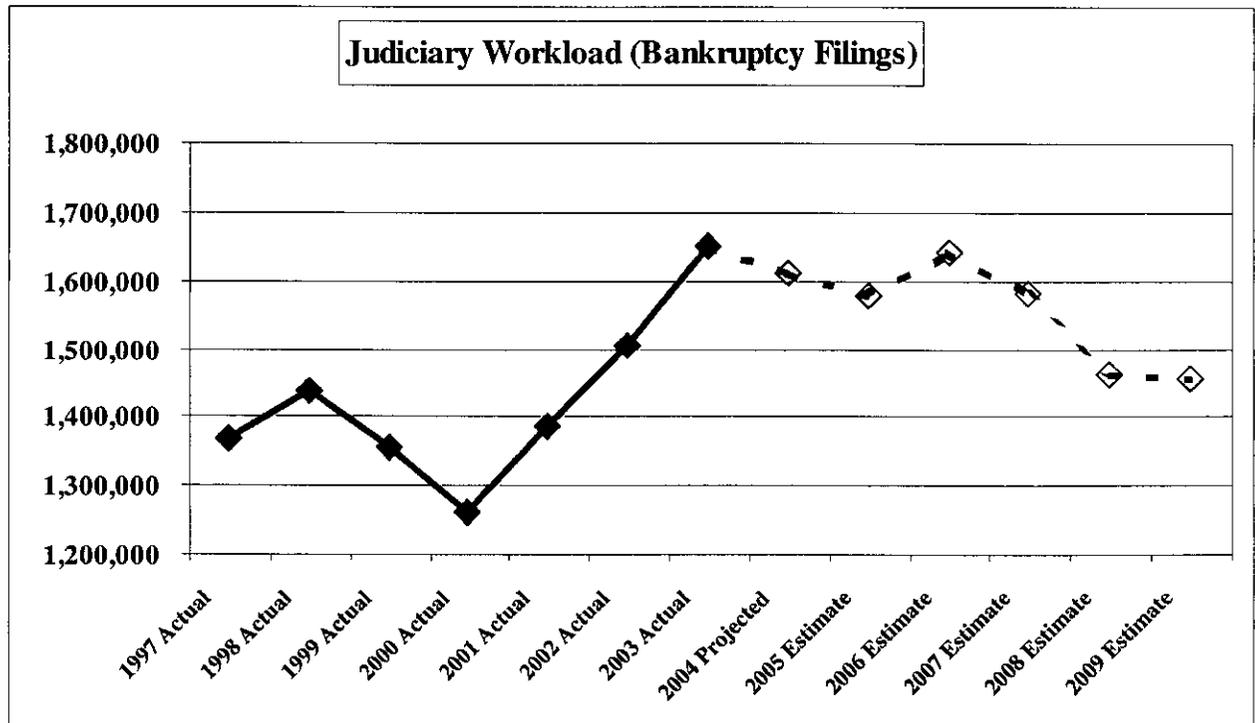
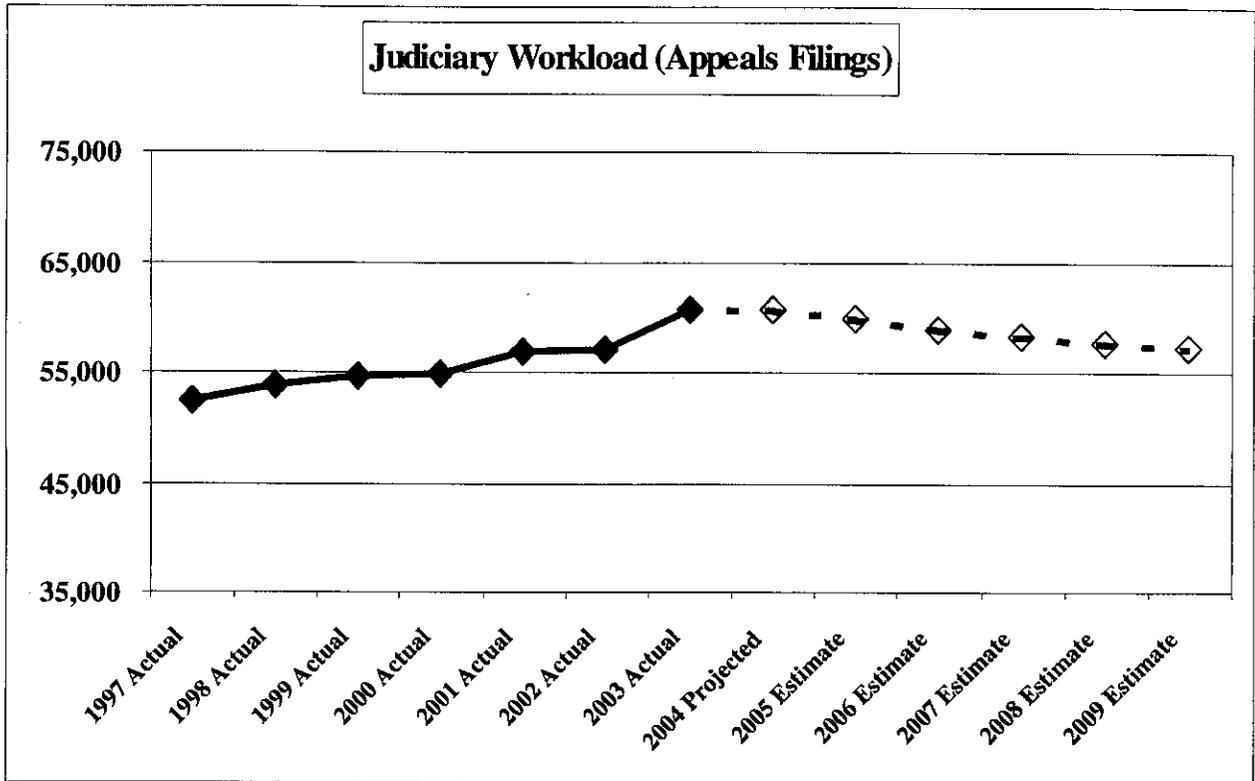


Since fiscal year 2002, funding for court support staffing levels has lagged behind the levels authorized by the judiciary's staffing formulas. As displayed on the graph below, funded staffing levels in fiscal year 2004 are two percent below fiscal year 2001 funded levels. If Congress provides a hard freeze for fiscal year 2005, funded court support staffing levels would be roughly 2,200 full-time equivalents (FTEs) below current services levels. If terminations were delayed until later in fiscal year 2005, the impact could be significantly worse (the equivalent of 4,400 positions).



### HISTORICAL AND PROJECTED WORKLOAD TRENDS





### Judiciary Workload (CJA Representations)

