

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

Court Security

SUMMARY STATEMENT OF ACCOUNT REQUIREMENTS

Fiscal Year 2022 Assumed Appropriation	\$704,824,000
Fiscal Year 2023 Appropriation Request	\$785,589,000
Requested Increase from Fiscal Year 2022 Assumed Appropriation	\$80,765,000

APPROPRIATION LANGUAGE

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

COURT SECURITY

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses, not otherwise provided for, incident to the provision of protective guard services for United States courthouses and other facilities housing Federal court *or Administrative Office of the U.S. Courts operations*, [and]the procurement, installation, and maintenance of security systems and equipment for United States courthouses and other facilities housing Federal court operations *or Administrative Office of the U.S. Courts*, [including]building ingress-egress control, inspection of mail and packages, directed security patrols, perimeter security, basic security services provided by the Federal Protective Service, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100-702), [\$704,824,000]\$785,589,000, of which not to exceed \$20,000,000 shall remain available until expended, to be expended directly or transferred to the United States Marshals Service, which shall be responsible for administering the Judicial Facility Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General: *Provided, That, notwithstanding any other provision of law, funds may be used for identifying, redacting and reducing personally identifiable information on the internet of judges and other persons who live at the judge's domicile; and managing a Judiciary-wide program to facilitate security and emergency management services among the Judiciary, United States Marshals Service, Federal Protective Service, General Services Administration, other federal agencies, state and local governments and the public.*

(H.R 4502 - Financial Services and General Government Appropriations Act, 2022)

**SUMMARY OF REQUEST
COURT SECURITY
FISCAL YEAR 2023
(Dollar amounts in thousands)**

Fiscal Year 2023 Resource Requirements:

<u>Page</u>		<u>FTE</u>	<u>Amount</u>
	Fiscal Year 2022 Total Obligations.	84	\$739,786
	Less encumbered carryforward from FY 2021 into FY 2022.	-	(11,985)
	Less utilization of Judiciary Information Technology Fund (JITF).	-	(101)
	Less unencumbered carryforward and recoveries from prior years into FY 2022.	-	(15,000)
	Less assumed reprogramming of balances for initial costs of Judiciary Vulnerability Management Program	-	(6,600)
	Less additional balances for full capabilities of the Judiciary Vulnerability Management Program	-	(1,276)
	Fiscal Year 2022 Assumed Appropriation	84	\$704,824
	<u>A. Adjustments to Base:</u>		
	1. Pay and benefits adjustments		
7.16	a. Proposed January 2023 pay adjustment (4.6%)	-	579
7.16	b. Annualization of January 2022 pay adjustment (2.7% for three months)	-	90
7.16	c. Promotions and within-grade increases.	-	115
7.16	d. Health Benefits increases	-	19
7.17	e. FICA adjustment	-	15
7.17	f. One less compensable day.	-	(2,075)
7.17	2. Annualization of court security officer (CSO) positions (28.5 CSOs).	-	1,263
7.17	3. Annualization of USMS positions	4	882
7.17	4. Annualization for Judiciary Vulnerability Management Program	-	2,625
7.18	5. FY 2023 CSO contract and wage rate adjustments (3.0%)	-	14,279
7.18	6. Inflationary increases in charges for contracts, services, supplies, and equipment.	-	369
7.18	7. Changes in Federal Protective Service security charges		
	a. Increase in basic security charges	-	3,162
	b. Increase in building-specific security charges	-	982
7.19	8. Adjustments to base requirements for security systems and equipment	-	2,378
7.21	9. Funding adjustment due to a decrease in non-appropriated sources of funds	-	7,876
	Subtotal, Adjustments to Base to Maintain Current Services	4	32,559
	Total Current Services Appropriation Required	88	737,383

<u>Page</u>	<u>B. Program Increases / Decreases</u>	<u>FTEs</u>	<u>Amount</u>
7.23	10. New courthouse construction projects		
	a. Security infrastructure for new courthouse construction projects.	-	2,700
	b. CSOs for new courthouse construction projects (7 CSOs)	-	476
7.23	11. CSO staffing for <i>McGirt</i> requirements (16 CSOs)	-	1,011
7.24	12. Court unit emergency management program	-	1,088
7.24	13. Courthouse hardening	-	20,000
7.24	14. Equipment modernization and cyclical replacement strategy		
	a. Video management systems	-	10,500
	b. USMS staffing positions for video management systems	2	552
7.25	15. Phased implementation (6th Year) of CSO staffing standards (86 CSOs)	-	5,431
7.25	16. CSO hours restoration (10 hours per CSO position)	-	2,520
7.26	17. USMS staffing positions for Judicial Facility Security Program	6	2,128
7.26	18. Active vehicle barrier preventive maintenance	-	1,800
	Subtotal, Program Increases.	8	48,206
	Total Fiscal Year 2023 Appropriation Required	96	785,589
	Total Appropriation Increase, Fiscal Year 2022 to Fiscal Year 2023	12	80,765
 <u>Financing the Fiscal Year 2023 Request:</u>			
	Total Appropriation Required.	96	785,589
7.26	Anticipated unencumbered carryforward from FY 2022 and prior years into FY 2023	-	15,000
	Estimated Obligations, Fiscal Year 2023	96	800,589

COURTS OF APPEALS, DISTRICT COURTS AND OTHER JUDICIAL SERVICES
COURT SECURITY
Obligations by Activity (\$000)

Activity	FY 2021 Actual	FY 2022 Assumed	FY 2023 Request
Total Obligations	661,278	739,786	800,589
Unobligated Balance, Start of Year:			
Judiciary Information Technology Fund	(56)	(101)	-
Court Security	(24,269)	(34,860)	(15,000)
Deposits and Other Adjustments:			
Judiciary Information Technology Fund	(45)	-	-
PY Recoveries	(1,803)	-	-
Transfers	(24,703)	(15,000)	-
Unobligated Balance, End of Year:			
Judiciary Information Technology Fund	101	-	-
Court Security (expiring annual)	18,648	-	-
Court Security (no-year)	34,860	15,000	15,000
Appropriation	664,011	704,825	785,589

Obligations by Budget Object Class (\$000)

Description	FY 2021 Actual	FY 2022 Assumed	FY 2023 Request
11.1 Full-Time Permanent	7,780	10,442	13,425
11.5 Other Personnel Compensation	298	-	-
12.1 Civilian Personnel benefits	2,956	2,932	3,988
21.0 Travel and Transportation of Persons	1,452	639	652
22.0 Transportation of Things	44	48	48
23.1 Rental Payments to GSA	6,528	7,842	7,912
23.2 Rental Payments to Other	3	-	-
23.3 Communications Utilities, and Miscellaneous Charges	1,359	1,633	1,648
25.1 Advisory and Assistance Services	497	-	-
25.2 Other Services from Non-Federal Sources	5,144	6,747	8,010
25.3 Other Goods and Services from Federal Sources	93,380	86,943	93,773
25.4 Operation and Maintenance of Facilities	427,222	469,896	491,262
25.4 Operation and Maintenance of Equipment	22,715	31,630	31,574
26.0 Supplies and materials	2,227	409	413
31.0 Equipment	15,865	19,145	27,110
32.0 Land and Structures	73,616	101,333	120,774
42.0 Insurance Claims and Indemnities	191	46	-
Direct Obligations	661,278	739,685	800,589
Other Obligations (JITF)	-	101	-
Grand Total Obligations	661,278	739,786	800,589

**COURTS OF APPEALS, DISTRICT COURTS AND OTHER JUDICIAL SERVICES
COURT SECURITY**

Relation of Direct Obligations to Outlays (\$000)

	FY 2021 Actual	FY 2022 Assumed	FY 2023 Request
Direct Obligations	661,278	739,685	800,589
Obligated balance, start of year	263,189	243,162	303,518
Adjustments for prior year activity	(17,054)	-	-
Obligated balance, end of year	(243,162)	(303,518)	(393,665)
Total Outlays	664,251	679,329	710,442
Less Offsets	(987)	(996)	(1,006)
Net Outlays	663,264	678,332	709,436

Personnel Summary

	FY 2021 Actual	FY 2022 Assumed	FY 2023 Request
Total compensable workyears (FTE):			
United States Marshals Service	65	84	96
Total, Court Security	65	84	96

GENERAL STATEMENT AND INFORMATION

The Court Security appropriation funds the necessary expenses, not otherwise provided for, incident to the provision of protective guard services, and the procurement, installation, and maintenance of security systems and equipment for United States courthouses and other facilities housing federal court operations. This includes building access control, inspection of mail and packages, directed security patrols, perimeter security, and other similar activities as authorized by 28 U.S.C. § 604(a)(22).

Federal courthouses are often the most visible symbols of the U.S. Government presence in communities outside of Washington, D.C., and, as such, may be considered inviting targets for terrorist attacks. In addition, the judicial process compels the attendance of alleged and convicted criminals to its facilities daily, which invites additional risks. At the same time, witnesses, jurors, family members of the alleged or convicted criminals, members of the Bar of the Court, the press, court employees, and the public must be able to enter and use the buildings. Maintaining the proper balance between ensuring an open court system and having secure court facilities is a complex task given the increasing number of threats against the federal judiciary.

The fiscal year (FY) 2023 Court Security appropriation request of \$785,589,000 will provide an appropriate level of security at existing court facilities and provide security coverage at new and renovated facilities. It will also allow the judiciary to sustain and make progress on several existing major strategic security initiatives, each of which is in a different stage of development, including: courthouse hardening; improved physical access control systems (PACS) at courthouses nationwide; security infrastructure and additional court security officers (CSOs) for new courthouses; implementation of an equipment modernization and cyclical replacement strategy for video management systems (VMS); and completing implementation of the revised CSO staffing standards.

SECURING THE COURTS

Court security is provided jointly by the Department of Justice's (DOJ) United States Marshals Service (USMS) and the Department of Homeland Security's (DHS) Federal Protective Service (FPS). By statute, the USMS has primary responsibility for the security of the federal judiciary, including the safe conduct of court proceedings, as well as the security of federal judges and court personnel at court facilities and off-site. The security that FPS provides may include, to varying degrees, entry screening, perimeter patrols, garage access control, and mail and package screening. Each is discussed below.

UNITED STATES MARSHALS SERVICE PROTECTION

The USMS is responsible for the security of the judiciary (28 U.S.C. §§ 564, 566), including securing prisoners; conducting protective investigations on threats against judges and other judiciary personnel; providing protective details when necessary; and providing security for witnesses and high threat trials. This mission is funded by DOJ/USMS operating funds.

The USMS is also responsible for the day-to-day management of the Judicial Facility Security Program (JFSP), which is solely funded by the judiciary's Court Security appropriation. The JFSP is a collaborative effort between the judiciary and the DOJ to ensure the integrity of the judicial process by providing secure facilities in which to conduct judicial business. To support the JFSP, funding from the Court Security appropriation is transferred to the USMS, which is responsible for administering the JFSP consistent with standards and guidelines agreed to by the Administrative Office of the U.S. Courts (AO) Director and the Attorney General.

The goals of the JFSP are ensuring:

1. an adequate court security officer (CSO) presence at new, renovated, and existing court facilities;
2. that effective security screening and/or access control systems are in place for judiciary facilities housing judges, probation and pretrial services offices, and other federal court operations; and
3. timely installation and maintenance of required security systems and equipment at new, renovated, and existing courthouses.

CSOs and security systems and equipment are key aspects of providing physical security to the courts. Together, they are an integral part of the USMS's security plan to prevent and deter violence that can undermine the effectiveness, viability, and integrity of the judicial process and erode public confidence in the judicial system.

FEDERAL PROTECTIVE SERVICE SECURITY

FPS is the primary federal agency responsible for patrolling and protecting the perimeter of GSA-controlled facilities and enforcing federal laws and regulations in those facilities. There are two types of facility-related security charges imposed by FPS on government facilities, including those occupied by the judiciary: (1) the "basic" security charge, to provide FPS with general funding to operate; and (2) the "building-specific" security charge, to reimburse FPS for FPS-provided, site-specific contract guards and security systems and equipment.

Perimeter Security Pilot Program

The judiciary's FY 2008 appropriations bill authorized the USMS to establish a perimeter security pilot program to consolidate the responsibility for perimeter security guarding and security systems and equipment under the district U.S. Marshal, who is supported by the judiciary-funded and USMS-administered JFSP. The pilot was implemented at seven courthouses in FY 2009. An eighth courthouse was added in FY 2015.

The pilot was designed to address several issues, including the bifurcated systems of two security providers - the FPS and the USMS - providing physical security at many federal courthouses, problems with FPS security equipment not functioning for extended time periods, and a lack of national standards for determining how many FPS guards are needed to provide adequate security at federal facilities, including courthouses. At the pilot locations, the USMS is responsible for all interior and perimeter security.

The response to the pilot from judges, court unit executives, and district USMS office staff has been uniformly positive. The benefits of the program include improved quality of security services, improved security coverage, unified command and control over courthouse physical security, improved communication, and improved stewardship and monitoring of security equipment.

Each year since the pilot began, the judiciary's annual appropriations bills have authorized the pilot project to continue. The judiciary's FY 2023 appropriation request includes language to continue the pilot (see *General Provisions*, page 12.1). The judiciary will continue to explore additional sites and evaluate the cost-effectiveness of expanding the pilot to more locations.

FY 2022 APPROPRIATIONS

In the absence of an enacted full year FY 2022 appropriations, the judiciary built the FY 2023 discretionary budget request for Court Security on an assumed FY 2022 appropriation of \$704,824,000, which is the FY 2022 fall re-estimate level. This amount, combined with \$22,876,000 in unobligated carryforward from FY 2021 and prior years, fully funds all FY 2022 requirements.¹

¹The \$727,700,000 FY 2022 obligation level assumes \$15.0 million for courthouse hardening, \$7.9 million for the Judiciary Vulnerability Management Program, and \$6.7 million for the realignment of court emergency management and Thurgood Marshall Federal Judiciary Building (TMFJB) security from the Courts' Salaries and Expenses account as requested by the judiciary. In the FY 2022 fall re-estimate and FY 2023 congressional budget request, the judiciary is requesting the court security appropriation language be amended to temporarily authorize the judiciary to remove judges' personally identifiable information (PII) from the internet pursuant to the Vulnerability Management Program and to realign costs for emergency management and TMFJB security from the Courts' Salaries and Expenses account to the Court Security account.

For bill language, the judiciary used the relevant language from H.R. 4502, which includes the House-passed version of the Financial Services and General Government appropriations bill, 2022, as the closest approximation of the eventual enacted FY 2022 appropriations language, updated with the assumed level as described above.

After full year FY 2022 appropriations are enacted, the judiciary will re-estimate its FY 2023 budget request and transmit to the Appropriations Committees any changes to FY 2023 appropriations requirements and bill language.

SIGNIFICANT ISSUES FOR FY 2023

Courthouse Hardening

In response to the civil unrest during the summer of 2020 and the January 6, 2021, attack on the U.S. Capitol, the judiciary sought from Congress supplemental appropriations to fund enhanced security measures to protect judges and the judicial process, including funding to harden court facilities against individuals and groups attempting to breach court facilities and disrupt the judicial process. Unfortunately, this funding was not included in the security supplemental bill that was enacted, nor has the funding been included in any of the infrastructure bills enacted or drafted to date. Accordingly, the judiciary had no choice but to begin migrating these supplemental requirements into its annual appropriations request, beginning with \$15 million in the judiciary's FY 2022 conference appeal and \$35 million in the FY 2023 request for courthouse hardening.

The judiciary is working with the USMS, FPS, and GSA to analyze the security measures needed to harden courthouses. Depending on the configuration of an individual courthouse, the following building features are initial measures to stop individuals and groups from breaching court facilities and disrupting the judicial process:

- Windows – replace with (or add, as appropriate) break-resistant glass or glass coverings for pedestrian accessible windows (windows that can be accessed without ladders or climbing).
- Exterior doors – harden exterior doors with break-resistant glass or glass film, roll down gates, and other capabilities, as needed.
- Automatic exterior door locks – install automatic door locks that can be engaged by the security officers at their guard stations and from the control room.
- Barriers and fencing – install barriers and temporary fencing, where needed, to protect the perimeter of the facility.

These initial measures are a first step toward hardening facilities and can be implemented relatively quickly when compared with more significant measures to redesign and renovate entrances, perimeter spaces, and interior public spaces, which will take more funding and longer to complete. While every effort will be made to harden as many facilities as possible with available resources, priority will be based on the following factors:

- The amount of judicial activity in the courthouse, as determined by the number of judges resident in the building and the caseload of the district/circuit,
- Information regarding incidents which have damaged courthouses during recent periods of civil unrest and proximity of the courthouse to locations that are the site of protests, including incidents of violent civil unrest or violent response to peaceful protest,
- Information from federal law enforcement agencies that the courthouses are in communities or locations where civil unrest has been or could be directed against federal courthouses,
- The design and construction of the facility and the extent to which hardening is already incorporated into the facility as part of its construction, and
- The ability to make cost-effective improvements to harden the facility perimeter, including barriers to these efforts such as the historic fabric of the facility and historic preservation requirements.

The initial facilities that will be hardened include both primary courthouses and multi-tenant federal facilities, as well as single buildings and multi-facility campus locations.

The judiciary requested \$15 million for courthouse hardening in FY 2022. AO staff estimate that the cost to harden facilities will range from approximately \$300,000 to \$3 million per facility, depending on the courthouse. The FY 2023 request assumes that \$15 million is in the FY 2023 base and then adds \$20 million, for a total of \$35 million in FY 2023. AO staff are working with GSA, FPS, and USMS to determine the initial facilities to be hardened with these funds. It is expected that this amount will support implementing countermeasures at approximately 100-125 additional courthouse facilities. Additional funding will be needed in future fiscal years to harden more judiciary facilities. Refer to page 7.24 for more details.

Judiciary Vulnerability Management Program

As a result of the July 2020 fatal attack at the home of a federal judge in New Jersey and increasing threats against federal judges, the judiciary and the USMS reviewed existing vulnerabilities impacting the security of judges and identified the need to reduce judges'

online footprints and the ready availability of judges' personal identifiable information (PII). In February 2021, the judiciary requested \$10 million in the emergency security supplemental for a new Judiciary Vulnerability Management Program, which would address PII issues and other security matters. However, the security supplemental appropriations bill enacted in July 2021 provided no funding for the judiciary.

Since the Judiciary Vulnerability Management Program is a critical need, the judiciary submitted a reprogramming notification to the Appropriations Committees on November 4, 2021, that proposed to begin the program in FY 2022 by reprogramming funds from Court Security prior-year unobligated balances. The House and Senate Appropriations Committees approved the reprogramming in late 2021.

The Judiciary Vulnerability Management Program serves as a resource to judges on ways to enhance their personal security and the security of court personnel and facilities. The program is intended to create (1) situational awareness across security specialties, (2) active and coordinated preventative measures, (3) consistent information sharing, and (4) advanced analytic capabilities. When fully implemented, the program will include the following activities:

- Redacting eligible PII from government databases, data aggregators, and the internet²;
- Educating judges and other judiciary personnel on the need to minimize online information about themselves and their family members;
- Training and national standards for appointed emergency management coordinators and others tasked with emergency management and related duties within local courts and circuits; and
- Hiring additional AO staff located within the circuits they serve to be responsible for facilitating security services among the judiciary, the USMS, the Federal Protective Services, the General Services Administration, and other appropriate federal and local law enforcement agencies.

The full-year costs of a fully implemented vulnerability management program are \$10.5 million for 19 positions and 33 contractors. Using prior-year unobligated balances for FY 2022, \$7.9 million (for 9 months) is included in the assumed FY 2022 funding level.

² Currently, the judiciary does not have the statutory authority to redact PII. As a result, the judiciary is seeking amendments to the Court Security appropriation language, beginning in FY 2022, to temporarily allow the judiciary to remove judges' PII from the internet while permanent statutory authority is being pursued via the authorization process.

For FY 2023, the judiciary requests recurring annual funding for the program. Refer to page 7.17 for the \$2.6 million adjustment-to-base annualization and refer to page 7.21 for the \$7.9 million financing funding adjustment.

Implementation of CSO Staffing Standard

In FY 2015, the USMS recommended that an additional 346 CSO positions would be required to fully implement the CSO staffing standards. The additional positions help staff critical CSO posts designed to ensure the safety and security of the judiciary, in particular the exterior/forward watch posts. Given the budgetary constraints and administrative challenges in hiring and maintaining CSO levels, the USMS recommended a gradual approach of phasing in the additional positions over five years. In FY 2020, the USMS conducted a security assessment and identified Hato Rey, Puerto Rico, as needing the creation of a “special needs post.” The post requires an additional 2.5 CSO positions. Per the CSO staffing standards, facilities can receive additional positions when supported by an assessment. Hato Rey was identified as requiring special needs because of the large number of criminal proceedings, large number of visitors, and lack of separate circulation routes. With the addition of these 2.5 positions, the staffing standards now call for a total of 348.5 new positions.

Thus far, 262.5 new CSO positions have been added to implement the standards (69 positions in FY 2016, 69 positions in FY 2017, 35 positions in FY 2019, 69 positions in FY 2020, and 20.5 positions in FY 2022). The judiciary did not request additional CSO positions in FY 2018 and in FY 2021. In FY 2023, the judiciary requests the remaining 86 positions, for a total of 348.5 positions, to complete implementation of the staffing standards. Refer to page 7.25 for more details.

Physical Access Control Systems (PACS) and Video Management Systems (VMS)

PACS and VMS are two critical components of the court security program. PACS are designed to ensure that unauthorized and potentially dangerous people do not gain entry to court facilities, and only judges, authorized federal employees, and contractors can access secure interior court space. Access is managed with cards, issued to authorized persons, that are read by automated card readers at exterior and/or interior doors, and for judges at secure elevators. VMS are the camera systems that allow the USMS to monitor doors, hallways, courtrooms, and other court space. With a VMS system failure, the USMS control room operators lose viewing capability of all closed-circuit television (CCTV) coverage within a facility, crippling the USMS’s capability to visually assess potential threats. The loss of camera views and control capability makes a facility particularly vulnerable.

PACS

Many of the current PACS are fragile and failing, or in danger of failing, due to aging equipment and outdated software no longer supported by the vendor. The judiciary worked with the USMS to develop a risk-based strategy that focuses resources on the highest priority PACS requirements, addressing facilities with the greatest need in a timeframe that avoids system failures. The risk-based approach attempts to contain costs by focusing on equipment replacements at court facilities with the highest risk for a PACS failure. In addition, the strategy also incorporates a refreshment cycle for PACS to ensure the program is sustainable in the future. The judiciary gradually increased PACS funding by approximately \$5 million each year with the goal of reaching \$42 million in annual funding in FY 2022 and then adjusting for inflation moving forward. This funding level funds PACS upgrades and begins to refresh PACS on a 10-year cycle starting in FY 2024. The judiciary should have enough resources to upgrade PACS in all 500 facilities by FY 2030. Future budget requests will be revised for inflation as well as changes in technology, equipment, networking protocols, etc.

VMS

Similar to the PACS issue, most existing VMS have exceeded their useful life expectancies, are at risk of failure, and are no longer supported by the manufacturers. Further, most judiciary VMS are analog systems, and these systems need to be upgraded to digital IP (internet protocol) based systems. Using the PACS funding strategy as a model, the judiciary seeks to replicate a multi-year funding approach with VMS. For FY 2020, the Court Security account included \$6.3 million to begin replacing VMS head-end units (the head-end units are known as video matrix switchers). In FY 2021, the USMS expanded the program to replace the entire VMS unit (including cameras, cabling, and control room components) rather than replacing only the head-end unit, as it was more cost effective to replace all components at the same time. The judiciary included \$10.0 million and \$15.3 million for VMS replacement in its requests for FY 2021 and FY 2022, respectively. The judiciary requests an additional \$10.5 million increase for a total of \$25.8 million in annual funding for FY 2023. The judiciary will be able to replace all VMS over a 10-year period and cyclically replace them going forward at this funding level. Refer to pages 7.24-7.25 for more details.

Joint PACS/VMS Projects

PACS and VMS share the same enterprise network infrastructure, and the USMS estimates that there is cost avoidance associated with installing VMS concurrently with new PACS. The USMS awarded eight joint PACS/VMS projects in FY 2020 and 12 joint PACS/VMS projects in FY 2021. The USMS is evaluating these projects to determine the potential cost avoided by doing the PACS and VMS replacements as a single project as opposed to separate projects.

New Courthouse Infrastructure Costs

Several courthouse construction projects are underway throughout the country. Funding for the construction of courthouses is appropriated directly to GSA. However, the judiciary is responsible for funding items that will take the courthouses from shell condition to finished and usable spaces, including furniture, technology, and security.

Security related costs for new courthouses depend on when occupancy will occur. Based on current schedules, systems and equipment requirements for new courthouses in FY 2023 are expected to be \$2.7 million above the FY 2022 level for a total of \$4.8 million. Funds will be used for the courthouse project in in Fort Lauderdale, Florida (\$4.2 million) and Toledo, Ohio (\$0.6 million). In addition, the FY 2023 budget request includes \$0.5 million for seven additional CSO positions needed to staff the new Charlotte, North Carolina, and Savannah, Georgia courthouses. Refer to page 7.23 for more details.

Court Security Program Summary

	FY 2022 Assumed			FY 2023 Request		
	\$000	CSO Positions	FTE	\$000	CSO Positions	FTE
Court Security Officers	471,885	4,631.5		494,429	4,740.5	
Federal Protective Service Charges	80,132			84,276		
Systems and Equipment	141,658			167,260		
Program Administration	46,010		84	54,624		96
JITF	101			-		
Total Obligations	739,786			800,589		
JITF	(101)			-		
Direct Obligations	739,685			800,589		
<i>Prior Year Carryforward</i>						
Systems and Equipment Slippage (Encumbered)	(11,951)			-		
Program Administration Slippage (Encumbered)	(34)			-		
Systems and Equipment Savings (Unencumbered)	(17,798)			(15,000)		
Program Administration Savings (Unencumbered)	(5,078)			-		
Available Appropriation	704,824			785,589		

JUSTIFICATION OF CHANGES

The judiciary requests \$785.6 million for Court Security in FY 2023, an 11.5 percent increase over the FY 2022 assumed appropriation of \$704.8 million. The FY 2023 request reflects the necessary adjustments to base to maintain current services, as well as several program increases related to the CSO program, security systems and equipment needs, and additional USMS staffing requirements. The majority of the funding in this request is transferred to the USMS, which is responsible for administering the Judicial Facility Security Program (JFSP).

The following sections provide information and justification for each of the adjustments to base and program increases.

A. ADJUSTMENTS TO BASE TO MAINTAIN CURRENT SERVICES

1. Pay and benefits adjustments

a. Proposed January 2023 pay adjustment

Requested Increase: \$579,000

The judiciary is assuming federal pay rates will increase by 4.6 percent in January 2023. The requested increase provides for the cost of nine months of the anticipated pay raise in FY 2023, from January 2023 to September 2023. (If the pay adjustment included in the President's FY 2023 budget request is different

than 4.6 percent, the judiciary will revise this line item in its FY 2023 budget re-estimate.)

b. Annualization of January 2022 pay adjustment

Requested Increase: \$90,000

The requested increase provides for the annualized costs of a 2022 pay adjustment for Employment Cost Index (ECI) and locality pay. As a result of the pay adjustment, federal pay rates increased by an average of 2.7 percent, effective as of January 2022. The requested increase provides for the cost of three months (from October 2022 to December 2022) of the 2022 pay increase in FY 2023.

c. Promotions and within-grade increases

Requested Increase: \$115,000

The requested increase provides for promotions and within-grade increases for personnel. The AO salary plan, as well as the USMS salary plan, both provide for periodic within-grade increases for staff who receive at least a satisfactory performance rating.

d. Health Benefits increases

Requested Increase: \$19,000

Based on information from the Office of Personnel Management, agency health benefit premium contributions are projected to increase by an average of 2.4 percent both in

January 2022 and January 2023. The requested increase annualizes the 2022 premium increase and includes a nine-month provision for the increase anticipated for FY 2023.

e. FICA adjustment

Requested Increase: \$15,000

Based on information from the Social Security Administration, employer contributions to the Old Age, Survivor, and Disability Insurance (OASDI) portion of the FICA tax will increase in 2022. The salary cap for OASDI increased from \$142,800 to \$147,000 in January 2022. The requested amount is needed to pay the agency's contribution in FY 2023.

f. One less compensable day

Requested Decrease: (\$2,075,000)

There is one less compensable day in FY 2023 than in FY 2022. The requested decrease adjusts for personnel compensation and benefits associated with one fewer compensable day.

2. Annualization of CSO positions

Requested Increase: \$1,263,000

In FY 2022, funding was provided to support 28.5 new CSO positions needed to staff new courthouse construction projects. This request includes the increase required to fund the full-year cost of these 28.5 CSO positions in FY 2023.

3. Annualization of USMS positions

Requested Increase: \$882,000

FTE: 4

In FY 2022, funding was provided for four new USMS positions to support the equipment modernization and cyclical replacement strategy and three new positions in the CSO Applications and Qualification branch. In addition, two new positions were included for the CSO radio communications program. Please note that no additional funding is required for these two positions because the FY 2020 financial plan included two contractors to support the CSO radio communications program, and it was determined that permanent employees rather than contractors are needed due to the sensitive nature of the work. This request includes the increase required to fund the full-year cost of these positions in FY 2022.

4. Annualization for Judiciary Vulnerability Management Program

Requested Increase: \$2,625,000

The full-year cost to support this program is \$10,501,000 for 19 positions and 33 contractors. In FY 2022, \$7,876,000 in prior-year carryforward was reprogrammed to fund the vulnerability management program for nine months. The requested increase provides for the annualized costs for the program.

In FY 2023, the judiciary requests a total of \$10.5 million to maintain the program, which includes the \$2.6 million for the annualization along with the \$7.9 million funding adjustment (refer to page 7.21)

5. FY 2023 CSO contract and wage rate adjustments

Requested Increase: \$14,279,000

A total of \$14.3 million is requested for anticipated increases in the hourly rates and overtime pay for CSO contract services in FY 2023. The request is an average increase of 3.0 percent on a national basis over FY 2022 projected levels.

The minimum hourly wage rates paid by the vendors who are retained by the USMS to provide CSO services are determined by the Department of Labor and vary around the country based on an annual assessment of the prevailing wage rates paid for occupations like the CSO category of service in a specific locality. CSO wages are also adjusted through collective bargaining agreements negotiated between CSO contractors and unions. In accordance with the McNamara-O'Hara Service Contract Act, the contract CSOs must be paid the hourly rates determined by the Department of Labor unless a collective bargaining agreement is in place.

6. Inflationary increases in charges for contracts, services, supplies, and equipment

Requested Increase: \$369,000

Consistent with guidance from the Office of Management and Budget, this requested increase is required to fund inflationary increases of 2.0 percent for operating expenses such as travel, communications, printing, contractual services, supplies and materials, and furniture and equipment (exclusive of the CSO contracts).

7. Changes in Federal Protective Service security charges

Requested Increase: \$4,144,000

The FY 2023 security cost estimate of \$84.3 million for FPS security services consists of basic security (\$27.5 million) and building-specific security costs (\$56.8 million). This cost represents an increase of \$4.1 million from the FY 2022 estimate of \$80.1 million. Additional information regarding the changes in FPS security charges is summarized below:

a. Increase in basic security charges: \$3,162,000

The FY 2023 request for basic security charges is \$27.5 million, which is \$3.2 million above the FY 2022 estimated level.

b. Increase in building-specific security charges: \$982,000

The total FY 2023 request for building-specific security charges is \$56.8 million, which is \$1.0 million above the FY 2022 estimated level. The requested increase supports new countermeasure projects.

Building-specific charges are based on FPS-provided countermeasures for a specific building and are charged to all federal tenants in the building in direct proportion to each customer agency's percentage of federal occupancy. Each building is supposed to have a facility security committee (FSC). The FSC consults with and seeks recommendations from FPS on new or revised countermeasures. A tenant agency cannot avoid a building-specific charge if a majority of FSC members endorse a countermeasure. FPS is responsible for maintaining records of these operating expenditures on a building-by-building basis. These expenses are based on FPS projections and may be adjusted as a result of the judiciary's regular review of FPS charges.

Building-specific expenses include:

- Facility contract guards, both fixed post and roving, assigned to a specific building; and
- Purchase, installation, and maintenance of perimeter security devices such as cameras, alarms, motion detectors, and other physical security features.

(Note: In courthouse facilities, the FPS contract guards and security device expenses listed above are usually limited to the perimeter of the building because security for interior judicial space is provided by the USMS.)

8. Adjustments to base requirements for security systems and equipment

Requested Increase: \$2,378,000

	(\$000)
FY 2022 Available Funding	\$129,707
Adjustments to base - net increases	2,378
FY 2023 Current Services	\$132,085

The requested amount reflects a net increase of \$2.4 million for the security systems and equipment program. Table 7.1 on page 7.22 and the following justification of increases provide further information regarding the judiciary's security systems and equipment funding requirements.

Increased Funding for Security Systems and Equipment

- Physical Access Control Systems (PACS)/Video Management Systems (VMS)

Requested Increase: \$842,000

PACS are designed to ensure that unauthorized and potentially dangerous people do not gain entry to court facilities, and only judges, authorized federal employees, and contractors can access secure interior court space. Access is managed with cards, issued to authorized persons, that are read by automated card readers at exterior and/or interior doors, and for judges at secure elevators.

VMS are the camera systems that allow the USMS to monitor doors, hallways, courtrooms, and other court space.

The increases of \$840,000 for PACS and \$2,000 for VMS are due primarily to inflationary cost adjustments.

- Other Additional and Replacement Equipment

Requested Increase: \$537,000

This program provides for general enhancements or upgrades to closed-circuit television (CCTV) surveillance systems, alarm systems, and command and control centers in newly occupied space in existing court facilities and replaces outdated equipment in currently occupied space. The increase is due primarily to inflationary cost adjustments.

- Nationwide Maintenance Contract for Existing Security Systems and Equipment

Requested Increase: \$472,000

The national contract for security systems installation provides for the maintenance of the inventory of security systems located in all facilities nationwide, such as the repair of CCTV systems, access control systems, alarm systems, and other command and control center components. The contract also provides for off-site monitoring of alarms for buildings without a 24-hour CSO presence and for repairs and preventive maintenance for the

nationwide inventory of x-ray machines. The increase is due primarily to inflationary cost adjustments.

- Nationwide Vehicle Barrier Maintenance Contract

Requested Increase: \$51,000

The vehicle barrier maintenance contract provides a nationwide preventative maintenance and repair program for vehicle barriers installed by the USMS. The contract requirements include 24/7 technical support, training, emergency response capability, preventive maintenance, and repairs. The maintenance contract increases the reliability of vehicle barriers and reduces the frequency of breakdowns. The increase for the Nationwide Vehicle Barrier Maintenance Contract is due primarily to the projected costs for the repairs of vehicle barriers and the deployment of additional mobile barriers for FY 2023.

- Miscellaneous Systems and Equipment

Requested Increase: \$476,000

An increase of \$476,000 is requested for various miscellaneous systems and equipment requirements in FY 2023. This includes an increase of \$197,000 for perimeter security improvements, \$135,000 for GSA installation and maintenance, \$92,000 for cyclical replacement of x-ray screening equipment and walk-thru metal detectors, \$34,000 for CSO radios, accessories, repairs and over-the-

air re-key, and \$18,000 for equipment for probation, pretrial services, and defender services.

9. Funding adjustments due to a decrease in non-appropriated sources of funds

Requested Increase: \$7,876,000

In FY 2022, \$22.9 million in balances from FY 2021 and prior years is available to finance FY 2022 requirements. In FY 2023, the judiciary expects \$15 million in non-appropriated funds to be available, a decrease of \$7.9 million from FY 2022. Because the judiciary anticipates having \$7.9 million less in carryforward funding available in FY 2023, it requests \$7.9 million more to maintain current services.

A total of \$10.5 million, the \$7.9 million funding adjustment combined with the \$2.6 million in annualization, for the Judiciary Vulnerability Management Program (refer to page 7.17) is requested in FY 2023 to maintain the program going forward.

Table 7.1
Court Security Appropriation
Security Systems & Equipment Funding Summary

Category	FY 2022 Assumed	FY 2023 Adjustments to Base	FY 2023 Program Increases / Decreases	FY 2023 Request ¹	Change FY 2022 to FY 2023
	\$000	\$000	\$000	\$000	\$000
Courthouse Hardening - Infrastructure Improvements	15,000	-	20,000	35,000	20,000
VMS	15,298	2	10,500	25,800	10,502
New Courthouse Construction Projects	2,050	-	2,700	4,750	2,700
Nationwide Vehicle Barrier Maintenance Contract	2,528	51	1,800	4,379	1,851
PACS	42,000	840	-	42,840	840
Other Additional and Replacement Equipment (Excludes VMS)	11,698	537	-	12,235	537
Nationwide Maintenance Contract for Existing Security Systems and Equipment	16,868	472	-	17,340	472
Miscellaneous Systems and Equipment					
<i>CSO Radios, Accessories, Repairs and Over-the-Air-Re-key</i>	2,207	34	175	2,416	209
<i>Perimeter Security Improvements</i>	9,841	197	-	10,038	197
<i>GSA Installation/Alterations</i>	6,745	135	-	6,880	135
<i>Cyclical Replacement of X-Ray Screening Equipment and Walk-Thru Metal Detectors</i>	4,580	92	-	4,672	92
<i>Equipment for Probation, Pretrial Services, and Defender Services</i>	892	18	-	910	18
Total Miscellaneous Systems and Equipment	24,265	476	175	24,916	651
Total Security Systems and Equipment	129,707	2,378	35,175	167,260	37,553

PROGRAM INCREASES

10. New courthouse construction projects

Requested Increase: \$3,176,000

For the new construction projects funded by Congress in FY 2016 and FY 2018, the judiciary requests an increase of \$3.2 million above the FY 2022 level for a total of \$5.3 million. For additional information on new courthouse construction projects, refer to page 7.14.

a. Security infrastructure for new courthouse construction projects

Requested Increase: \$2,700,000

In FY 2022, \$2.1 million is included for security systems requirements for new courthouse construction projects, and \$4.8 million is required in FY 2023 for the courthouse projects in Fort Lauderdale, Florida (\$4.2 million) and Toledo, Ohio (\$0.6 million). Thus, an increase of \$2.7 million is associated with one-time security requirements in FY 2023.

b. CSOs for new courthouse construction projects (7 CSOs)

Requested Increase: \$476,000

In addition to the systems and equipment requirements, funding is needed for CSOs in these new facilities projected to open in FY 2023 and early FY 2024. The FY 2023 budget

request includes \$0.5 million for 7 new CSO positions to staff the new courthouses in Charlotte, North Carolina (2 CSOs) and Savannah, Georgia (5 CSOs). The USMS will also transfer CSO positions from any related facilities in which the judiciary has vacated its space, but new positions are necessary when the size of a court facility increases.

11. CSO staffing for *McGirt* requirements (16 CSOs)

Requested Increase: \$1,011,000

In FY 2023, the judiciary requests an increase of \$1.0 million for 16 CSO positions related to increased requirements as a result of the Supreme Court's decision in *McGirt v. Oklahoma*.

In July 2020, the *McGirt decision* resulted in a shift in jurisdiction from state court to federal and tribal courts for the prosecution of criminal offenses involving the Creek Nation, primarily in eastern Oklahoma. Now that the Oklahoma Court of Criminal Appeals has extended *McGirt* to apply to land granted to Oklahoma's four other "Civilized Tribes," much of Oklahoma is "Indian country" for purposes of federal criminal jurisdiction. The *McGirt* decision will increase judicial space requirements and will require the use of visiting judges to help with the increased caseload in the Northern District and Eastern District of Oklahoma, which will increase CSO staffing requirements to secure the facilities. The USMS estimates that 16 additional CSO positions will be required to provide staffing at the court facilities within the Districts of Northern and Eastern Oklahoma.

12. Court unit emergency management program

Requested Increase: \$1,088,000

In order to implement the Judiciary Vulnerability Management Program, the judiciary sought amendments to the annual Court Security appropriation language beginning in FY 2022 to (1) allow the judiciary to remove judges' personal identifiable information (PII) from the internet and (2) allow for the realignment of all relevant security costs including emergency management into the Court Security account. Refer to pages 7.10-7.12 for more details. The FY 2022 assumed level includes \$6.7 million for the realignment of court emergency management and TMFJB security from the courts' Salaries and Expenses account.

For FY 2023, the judiciary requests an increase of \$1.1 million to fund local security and emergency preparedness initiatives not otherwise covered by USMS or FPS programmatic support. Since FY 2020, the judiciary has permitted court units to request up to \$5,000 to support emergency preparedness related costs. These costs include, but are not limited to, shelter-in-place supplies, active shooter training, two-way radios, building evacuation supplies (i.e., vests, hand-held PA devices, etc.), and first aid kits. Funding requests are reviewed and approved by the AO's Judicial Security Division prior to funds being allotted. Though the judiciary has provided these funds to court units and is authorized to purchase these types of items, dedicated resources for this purpose have not previously been included in the budget request.

13. Courthouse hardening

Requested Increase: \$20,000,000

Congress did not include courthouse hardening funding in the security supplemental bill that was enacted, nor was the funding included in the Infrastructure Investment and Jobs Act or any other draft infrastructure package to date. The judiciary is working with the USMS, FPS, and GSA and taking a risk-based approach to implement security measures needed to harden courthouses. In FY 2022, the judiciary included \$15.0 million in recurring funding for courthouse hardening in the conference appeal. For FY 2023, the judiciary requests an additional \$20.0 million in recurring funding along with the \$15.0 million assumed in the FY 2022 base, for a total of \$35.0 million for courthouse hardening in FY 2023. Refer to pages 7.9-7.10 for more details.

14. Equipment modernization and cyclical replacement strategy

Requested Increase: \$11,052,000

The FY 2023 request includes \$11.1 million towards the implementation of an equipment modernization and cyclical replacement strategy for video management systems (VMS) and staffing. For additional information on the need for VMS replacement, refer to page 7.13.

a. Video Management Systems

Requested Increase: \$10,500,000

For FY 2023, the judiciary requests an additional \$10.5 million for VMS. With the \$15.3 million in base funding available in FY 2022, there will be a total of \$25.8 million in annual funding for VMS in FY 2023. At this funding level, the judiciary will be able to replace all VMS over a 10-year period and cyclically replace them going forward.

b. USMS Staffing Positions for VMS

Requested Increase: \$552,000

FTE: 2

The judiciary requests \$0.6 million for four new physical security specialist (PSS) positions (2 FTE) at the USMS to support the equipment modernization and cyclical replacement strategy. With the existing 20 authorized PSS positions, this request will complete the 12 additional PSS positions requested for FY 2021, FY 2022, and FY 2023 to support the equipment modernization and cyclical replacement strategy.

15. Phased implementation (6th Year) of the CSO staffing standards (86 CSOs)

Requested Increase: \$5,431,000

The revised CSO staffing standards, which were instituted in FY 2015, require 348.5 new positions to be fully implemented. The judiciary has been gradually phasing in the staffing increases since FY 2016.

For FY 2023, the judiciary requests the remaining 86 CSOs to complete the phased implementation at an estimated cost of

\$5.4 million, of which \$5.0 million is for the CSO positions, \$0.3 million is primarily for one-time charges for program administration-related costs for hiring the CSOs, and \$0.1 million is for CSO radios.

With this request, the phased implementation of the new CSO staffing standards will be complete.

	Incremental Number of CSOs Requested	Cumulative Number of CSOs Requested	Total Number of CSOs Required Per Staffing Standards	Percent Complete
FY 2016	69	69	346	20%
FY 2017	69	138	346	40%
FY 2018	0	138	346	40%
FY 2019	35	173	346	50%
FY 2020	69	242	346	70%
FY 2021 Financial Plan	0	242	346	70%
FY 2022 Assumed Obligations	20.5	262.5	348.5	75%
FY 2023 Request	86	348.5	348.5	100%

16. CSO hours restoration (10 hours per CSO position)

Requested Increase: \$2,520,000

The judiciary requests \$2.5 million to restore 10 hours per CSO position in FY 2023. Previously, the judiciary and the USMS decided to temporarily decrease CSO hours and associated funding – 25 hours in FY 2016 and 23 hours in FY 2017 – as a cost-containment measure. At the time, the USMS was experiencing challenges using all the available CSO funding, which resulted in significant funding surpluses. The USMS also

indicated it did not have significant security concerns with this reduction since it was a short-term measure and sufficient budget flexibility remained available to address potential emergent CSO security issues. Since 2017, the USMS has implemented processes and procedures to better manage the CSO contracts and more effectively use CSO resources and ensure adequate security is provided at court facilities. The requested funds will be used to gradually increase CSO hours and provide more guard coverage at courthouses.

17. USMS staffing positions for Judicial Facility Security Program

Requested Increase: \$2,128,000 **FTE: 6**

For FY 2023, the judiciary requests \$2.1 million for 12 additional USMS positions and three contractors. With this request, the total number of judiciary-funded positions at the USMS will be 104. The additional staff would allow the USMS to restructure the Judicial Facility Security Program (JFSP) based on a recent workload analysis. The request consists of 6 positions (3 FTE) for operational and administrative support to district judicial security inspectors, 4 positions (2 FTE) for contract support, 1 position (0.5 FTE) and 3 contractors for ensuring contract compliance, and 1 position (0.5 FTE) for supporting the CSO radio communications program.

18. Active vehicle barrier (AVB) preventive maintenance

Requested Increase: \$1,800,000

AVBs, like drop-arm barriers, wedge barriers, and active bollards, are designed to control entry and stop unauthorized vehicles. For FY 2023, the judiciary requests \$1.8 million to modify the current preventive maintenance contract for AVBs to increase the frequency of maintenance checks from a quarterly/semiannual basis on all crash-rated and non-crash-rated AVBs to a monthly and quarterly basis, respectively, to mitigate breakdowns at the AVB sites.

AVBs need to be in operational condition, performing the first line of defense to protect courthouses from unwanted vehicle intrusion.

FINANCING THE FY 2023 REQUEST

ANTICIPATED CARRYFORWARD BALANCES FROM FY 2022 AND PRIOR YEARS INTO FY 2023

Estimated Funds Available: \$15,000,000

The judiciary projects \$15.0 million will be available through anticipated savings and prior-year recoveries to carry forward from FY 2022 into FY 2023 to offset partially the FY 2023 appropriation request for the Court Security program. The judiciary will advise the appropriations subcommittee staffs of changes to this estimate.