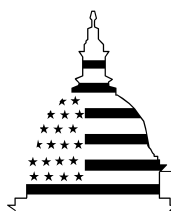


June 2004

FEDERAL JUDICIARY

Assessing and Formally Documenting Financial Disclosure Procedures Could Help Ensure Balance between Judges' Safety and Timely Public Access



G A O

Accountability ★ Integrity ★ Reliability



Highlights of GAO-04-696NI, a report to congressional requesters

Why GAO Did This Study

The Ethics in Government Act requires judges and other federal officials to file financial disclosure reports as a check on conflicts of interest. However, given potential security risks to federal judges, Congress authorized redactions of information that could endanger them. This redaction authority is set to expire at the end of 2005. To assist in deliberations about whether to extend the authority, this report discusses (1) the number of redaction requests filed and the proportion granted, (2) the basis for the decisions regarding redactions requested during 1999 through 2002, (3) the judiciary's procedures for safeguarding information without unduly compromising public access, and (4) the release of reports for selected legislative and executive branch officials.

What GAO Recommends

To ensure the judiciary is implementing its redaction authority in a manner that provides the intended safety measures and makes reports available as expeditiously as possible, GAO recommends that it assess and formally document its report processing procedures. GAO also recommends that the U.S. Marshals Service develop and implement procedures to ensure compliance with the Ethics in Government Act.

We shared a draft of this report with judicial and USMS officials and they generally concurred with our findings and recommendations.

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Assessing and Formally Documenting Financial Disclosure Procedures Could Help Ensure Balance between Judges' Safety and Timely Public Access

What GAO Found

During calendar years 1999 through 2002, the most recent years for which complete data were available when we began our review, federal judges submitted 661 requests for redaction of information in their financial disclosure reports. Less than 10 percent of the more than 2,000 federal judges who annually filed reports during these 4 years requested any type of redaction. During these 4 years, the judiciary granted in whole or in part, 592 (or about 90 percent) of the 661 redaction requests processed.

Responding to the need for public disclosure and to address concerns about judges' security, the judiciary has developed guiding principles for the implementation of its redaction authority—to grant redactions that would reveal the unsecured locations of judges and members of their families or where there is a clear nexus between the redactions requested and specific security threats. Our review of the redaction requests processed during 1999 through 2002 confirms that the judiciary has generally applied these principles consistently.

The judiciary's procedures for processing redactions to and public requests for financial disclosure reports have not been formally documented and have not been assessed with respect to their ability to provide reasonable assurance that the judiciary can safeguard sensitive information and provide timely responses to public requests for copies of reports. For example, deadlines for judges to request redactions and for the United States Marshals Service (USMS) to respond to requests for security consultations are unclear and not formally documented. Assessment and documentation of the procedures could provide greater assurance that the judiciary consistently applies practices designed to safeguard information. For example, the Chief of the Staff of the Judicial Conference's Committee on Financial Disclosure told us that he sometimes contacts judges who do not request redactions but whose USMS consultations show that they face specific security threats. However this practice has not been documented as a routine part of the process. Assessing and documenting procedures could also aid the committee in identifying opportunities to reduce the time required to respond to requesters. In 2002, members of the public who requested copies of reports waited a median of 73 days before the committee mailed the reports, and requesters we spoke with expressed frustration at the amount of time it took to receive reports. The judiciary could alleviate requesters' frustration with the time required to implement the redaction provision by providing the requesters information about what the redaction process involves and the time required to obtain copies of judges' reports. Finally, our review also revealed that USMS has not responded to all requests for security consultations as provided for by the Ethics in Government Act.

The legislative and executive branches do not have redaction authority, but must make financial disclosure reports filed with their offices available to the public. Officials from these branches said they can satisfy most requests for reports within a few days. These officials did not express concern about the public availability of financial disclosure reports, because they are unable to link threats their filers may face to the specific information required in reports.

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Abbreviations

AOUSC Administrative Office of the United States Courts
USMS United States Marshals Service

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

June 30, 2004

The Honorable Susan M. Collins
Chairman
The Honorable Joseph I. Lieberman
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

The Honorable Patrick Leahy
Ranking Minority Member
Committee on the Judiciary
United States Senate

The Honorable Charles Grassley
United States Senate

Under the Ethics in Government Act, federal judges and other high-level judicial branch officials, like similar officials in the legislative and executive branches of government, must file annual financial disclosure reports that can be made available to the public. These reports serve the public interest by disclosing financial information, such as stock or real estate holdings, gifts, and travel paid by private parties, thus providing a check on conflicts of interest.

Recognizing the nature of the judicial function and the potential security risks it entails, in 1998, Congress authorized federal judges to redact information from their financial disclosure reports before they are released to the public if a finding is made by the Judicial Conference, in consultation with the United States Marshals Service (USMS), that revealing personal and sensitive information could endanger that individual.¹ The Judicial Conference of the United States,² the federal judiciary's principal policy-making body, is responsible for implementing the judiciary's redaction authority in a manner that provides the intended safety measures without

¹ 5 U.S.C. app. 105(b)(3).

² The Chief Justice of the United States presides over the conference, whose membership includes the Chief Judges of each of the 12 regional courts of appeals, the Chief Judge of the Court of Appeals for the Federal Circuit, the Chief Judge of the Court of International Trade, and a district judge from each of the 12 regional circuits who are chosen for 3-year terms by the circuit and district judges of their circuit.

compromising timely public access. The conference exercises this responsibility through its Committee on Financial Disclosure, whose Subcommittee on Public Access and Security acts on behalf of the committee in processing all judges' requests for redactions.

The redaction provision of the 1998 legislation was set to expire at the end of 2001, but Congress extended the redaction authority through the end of 2005 to give members of Congress an opportunity to review the federal judiciary's implementation of its redaction authority more fully to determine whether it should be made permanent. At your request, we have reviewed redaction policies and practices involving judges within the federal judiciary, as well as select officials within the legislative and executive branches. This report provides information about and analyses of (1) the number of judges who filed financial disclosure reports during calendar years 1999 through 2002 (reports that covered financial data for calendar years 1998 through 2001), the proportion of those judges who requested redactions during this period, and the results of those requests; (2) the basis for the judiciary's decisions regarding redactions requested during 1999 through 2002; (3) the judiciary's procedures for safeguarding information that could endanger judges without unduly compromising public access; and (4) the process for releasing financial disclosure reports for selected legislative and executive branch officials.

To address our reporting objectives, we reviewed data provided by the Committee on Financial Disclosure, including case files for redaction requests received and processed during 1999 through 2002 and requests for copies of judges' reports processed during 2001 and 2002. We verified the number of judges requesting redactions, the rationales for redaction requests, the results of those requests, and selected dates showing when processing steps occurred, and we found these data to be sufficiently reliable for our purposes. We also met with the Chair and the Chief of the Staff of the Judicial Conference's Committee on Financial Disclosure and the Chair of the Subcommittee on Public Access and Security and reviewed the Judicial Conference's regulations implementing the Ethics in Government Act.³ We spoke with the USMS's Judicial Security Division and analyzed redaction case files to clarify USMS's role in the redaction process

³ *Regulations of the Judicial Conference of the United States on Access to Financial Disclosure Reports Filed by Judges and Judiciary Employees Under the Ethics in Government Act of 1978, as Amended, October 1, 2000.* The Judicial Conference first issued regulations in December 1999. However, references in this report are to the current version of the regulations, dated October 1, 2000.

and its responsiveness to requested security consultations. To determine the types of information for which judges requested redactions and the basis for the decisions regarding those requests, we reviewed and analyzed documentation on all judges' requests for redactions received and processed during 1999 through 2002. To assess the ability of the Judicial Conference to implement its redaction authority to safeguard information that could endanger judges without compromising public access, we obtained and analyzed documentation on the Judicial Conference's implementing regulations, gathered information on redaction and report request procedures, and assessed these procedures in light of internal control requirements as detailed in the Comptroller General's *Standards for Internal Control in the Federal Government*. To gain an understanding of the process the legislative branch employs to release financial disclosure reports to the public, we met with officials from the Office of the Secretary and Office of Public Records for the Senate and the Office of the Clerk, Legislative Resource Center, and Committee on Standards of Official Conduct for the House of Representatives. For the executive branch, we met with officials from the Executive Office for U.S. Attorneys, because U.S. Attorneys also work within the court system and may face threats similar to those federal judges face. We also met with officials from the Office of Government Ethics, representing executive branch presidential appointees confirmed by the Senate.

We conducted our review between August 2003 and May 2004 in accordance with generally accepted government auditing standards. Appendix I describes our objectives, scope, and methodology in greater detail.

Results in Brief

More than 2,000 judges annually filed financial disclosure reports over the 4-year period, 1999 through 2002, the most recent years for which complete data were available when we began our review. About 10 percent or less of those judges who filed each year requested redactions of their reports. The Judicial Conference's Committee on Financial Disclosure, acting through its Subcommittee on Public Access and Security, granted in whole or in part 592 (or about 90 percent) of the 661 redaction requests submitted and processed during these 4 years.

The judiciary believes that information in financial disclosure reports could pose a threat if released to members of the public hostile to the judges. To respond to the need for public disclosure and to safeguard information that could endanger judges, the Committee on Financial Disclosure has

developed guiding principles for the implementation of its redaction authority. The committee's intention is to grant redactions to prevent the disclosure of (1) unsecured locations of judges and members of their families and (2) information that bears a clear nexus with specific security threats. Our review of the redaction requests received and processed during 1999 through 2002 confirms that the Subcommittee on Public Access and Security, acting on behalf of the Judicial Conference, has generally applied these principles consistently to the redactions of (1) entire financial disclosure reports, (2) spouses' places of employment, (3) the value of income and assets (4) asset names, (5) reimbursements, and (6) gifts. The subcommittee generally granted redactions of spouses' places of employment regardless of whether current, specific security threats existed. Further, requests for redactions of entire reports, the value of income and assets, and asset names generally were granted when USMS confirmed that judges faced specific security threats. Finally, as with the location of spouses' employers, the subcommittee generally granted requests for redactions of gifts and reimbursements when there was concern that the information could reveal the location of the judges or members of their families at unsecured locations.

According to the Comptroller General's *Standards for Internal Control in the Federal Government*, organizations should document their procedures to facilitate assurance that they are achieving their objectives. Our review of the Judicial Conference's procedures for responding to requests for and redaction of judicial financial disclosure reports shows that deadlines for judges to request new or additional redactions are not clear and are not formally documented. Furthermore, the Ethics in Government Act requires consultation with USMS for all redaction requests. However, the committee has not clearly documented deadlines for USMS to respond to requests for security consultations. Additionally, the committee has not documented certain practices for safeguarding information as a routine part of the process. For example, although the Chief of the Staff stated that the staff sometimes contact judges who had not requested redactions but whose USMS consultations showed they may be facing specific security threats, this practice has not been formally documented. Beyond establishing and enforcing clear deadlines, assessing and formally documenting its administrative procedures may help the committee recognize opportunities to revise the procedures to reduce processing time. For example, the committee could change the way it informs requesters of the cost of reports in order to provide them with the information sooner. In 2002, members of the public who requested copies of reports waited a median 73 days before the committee mailed the reports. In interviews we conducted,

requesters expressed frustration at the amount of time it took to receive reports. The committee could better manage requester expectations by providing more information at the beginning of the process, as well as by providing the requesters information about what the redaction process involves and the time required to complete requests for copies of judges' reports. Finally, our review of judicial redaction requests processed during 1999 through 2002 shows that USMS did not respond to about 10 percent of the requests for consultations, as provided for by the Ethics in Government Act.

The legislative and executive branches do not have redaction authority and must make financial disclosure reports filed with their offices available for public inspection after 30 days. Officials from the Senate Office of Public Records, the House Committee on Standards of Official Conduct, the Office of Government Ethics, and the Executive Office for U.S. Attorneys have developed processes for releasing reports to public requesters. For example, the legislative branch offices we visited make reports available within their offices using computer terminals. Officials from these branches said they can generally satisfy most requests for reports within a few days of when the requests are received. They did not express concern about the public availability of financial disclosure information posing a safety risk, stating that they are not aware of any situation in which an individual's security has been put in jeopardy by information required on a financial disclosure report being released to the public.

So that the Judicial Conference can provide reasonable assurance that it is implementing its redaction authority in a manner that provides the safety measures intended without unduly compromising timely public access, we are recommending that the Judicial Conference assess and formally document its procedures for processing redaction requests and releasing requested reports, with the aim of managing requesters' expectations and releasing reports as expeditiously as possible. We are also recommending that USMS develop and implement procedures to ensure that it complies with the Ethics in Government Act by responding to all of the Judicial Conference's security consultation requests.

We provided a draft of this report to the Director of the Administrative Office of the U.S. Courts and the Director of USMS for comment. The Chair of the Judicial Conference's Committee on Financial Disclosure generally agreed with the findings and recommendations in the report but noted that it is difficult to mandate specific response times for the various steps in the redaction process. The Director of USMS also concurred with the findings

and noted that USMS has taken steps to implement our recommendation that USMS respond to all requests for security consultations within 14 days.

Background

The Ethics in Government Act of 1978⁴ requires judicial, legislative, and executive branch officials to file financial disclosure reports in the spring of each year. These reports include financial information for the previous calendar year. For example, reports filed in the spring of 2004 would include financial information for the period January 1 through December 31, 2003. The financial disclosure reports provide information on, among other things, noninvestment income, gifts, liabilities, investments and trusts, and positions held outside of the federal government. The act provides that such financial disclosure reports will be made available to the public upon request within 30-days after filing.⁵ Supervising ethics officials within the three branches of government are required to review reports filed with them to determine whether filers are in compliance with applicable laws and regulations and, if not, what steps filers must take to be in compliance, such as divestiture or a change of duties.⁶ Federal judges must file financial disclosure reports when they are nominated for a federal judgeship, on an annual basis thereafter, and at retirement, with the Judicial Conference, which is the judiciary's supervising ethics office.⁷ The Judicial Conference had delegated its authorities under the Ethics in Government Act to the Committee of Financial Disclosure.⁸

⁴5 U.S.C. app. 101-111.

⁵Id. 105.

⁶Id. 106.

⁷The financial disclosure requirement for federal judges applies to the Chief Justice of the United States and associate justices of the Supreme Court, federal court of appeals judges, federal district court judges, and judges from the Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, Court of Federal Claims, Court of Veterans Appeals, Court of Appeals for the Armed Forces, and any court created by Congress whose judges are entitled to hold office during good behavior. Id. 101(f)(11), 109(10). For purposes of the Ethics in Government Act, the Judicial Conference is responsible for reviewing judicial financial disclosure reports for each of these courts, see id. 103(h)(1)(B), regardless of whether the court was established under Article I or Article III of the U.S. Constitution. Likewise, the statute makes the Judicial Conference, in consultation with the USMS, responsible for redaction requests from filers from any of these courts. Id. 105(b)(3).

⁸See id. 111.

Because of the federal judiciary's concerns that release of certain information contained in some judges' financial disclosure reports could expose those judges to security risks, Congress enacted Section 7 of the Identity Theft and Assumption Deterrence Act of 1998.⁹ This section of the act amends the Ethics in Government Act and authorizes the Judicial Conference to grant redactions of statutorily required information from federal judges' financial disclosure reports if a finding is made by the Judicial Conference, in consultation with USMS, that revealing personal and sensitive information could endanger that individual.¹⁰ In granting this redaction authority, Congress charged the Judicial Conference, in consultation with the Department of Justice, with the responsibility of issuing regulations "setting forth the circumstances under which redaction is appropriate. . . and the procedures for redaction."¹¹ The legislation further provides that a report can be redacted only for as long as the danger to the judge exists, a provision the Judicial Conference implements by requiring judges to renew requests for redactions after 1 year.¹² In authorizing redactions of federal judges' financial disclosure reports, the 1998 act also exempts the Judicial Conference from the requirement that financial disclosure reports be made available for public inspection within 30 days of their filing, as is the case for legislative and executive branch reports.¹³ Rather, the redaction provision states that the judiciary is not required to provide for the immediate and unconditional availability of judges' financial disclosure reports.

The Judicial Conference, through its Committee on Financial Disclosure, has developed a multistep process for reviewing federal judges' requests for redactions and public requests for copies of judges' financial disclosure reports, as shown in figure 1. While the committee encourages judges to request redactions when they file their reports, most redaction requests we reviewed were made after judges were notified that copies of their reports had been requested.

⁹ P.L. 105-318, Section 7 (Oct. 30, 1998), codified at 5 U.S.C. app. 105(b)(3).

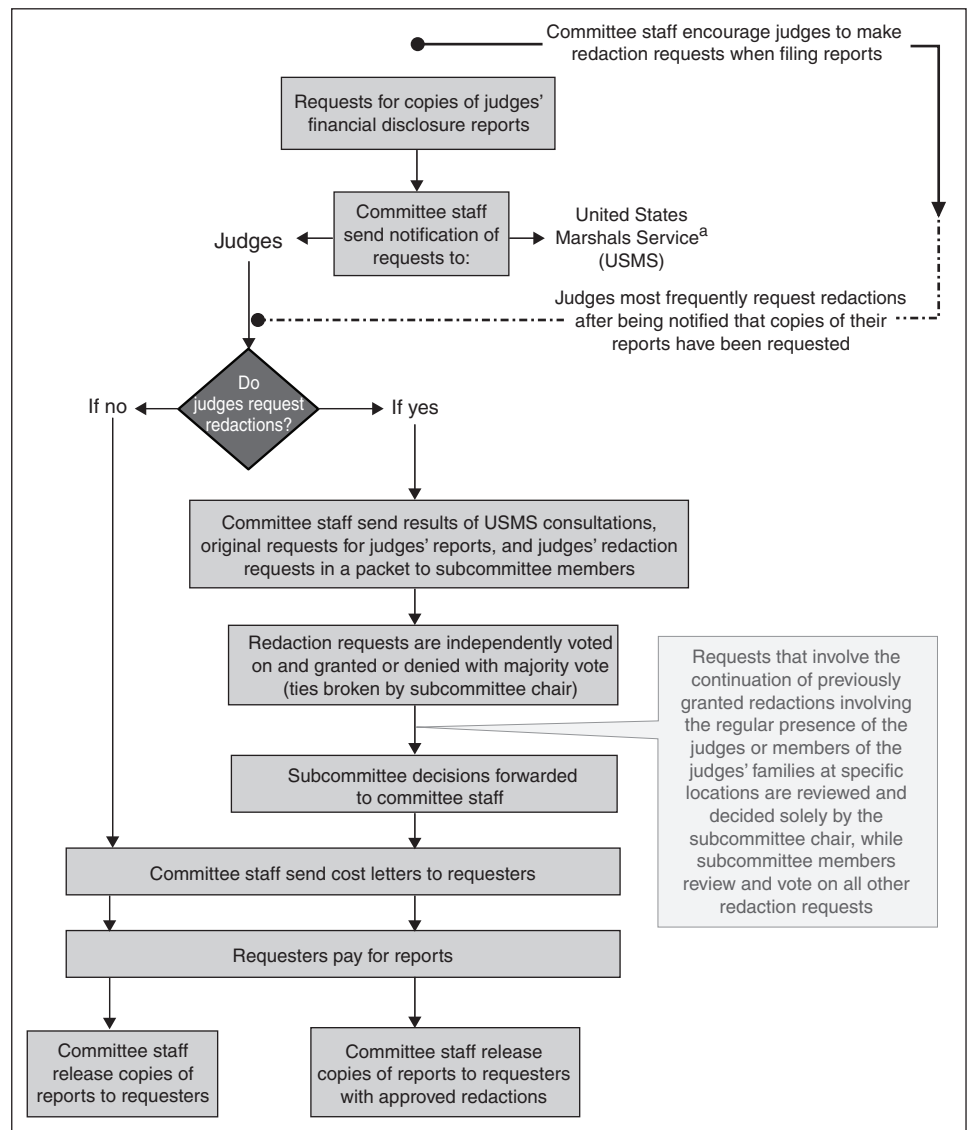
¹⁰ Id.

¹¹ Id.

¹² If granted, redactions are made to the report requested to be redacted, as well as to prior years' reports that are still on file with the committee.

¹³ 5 U.S.C. app. 105(b)(1), (3).

Figure 1: Flowchart of the Judicial Conference's Financial Disclosure Report Redaction Request and Review Process



Source: GAO analysis based on data from the Committee on Financial Disclosure.

^a For most requests for copies of judges' financial disclosure reports, Committee staff contact the USMS's Judicial Security Division for security consultations concurrent with notifying the respective judges. For large requests—such as for copies of the reports for all judges in more than one federal judicial district—the committee staff wait to contact USMS until they know which judges have requested redactions and seek consultations only for those judges.

To request copies of judges' financial disclosure reports, requesters must submit an original, signed form listing the judges whose reports they are seeking and any individuals on whose behalf the requests are being made.¹⁴ (See appendix II for a blank copy of the Form AO 10A used to request copies of judges' financial disclosure reports.)

Regarding public access, the Judicial Conference's implementing regulations generally provide that "staff will not release or allow the viewing of any report until notice has been given to the filer." As a result, once committee staff receive a request for a copy of one or more judges' reports, they notify the respective judges by mail that copies of their reports have been requested and advise the judges to consider whether they would like to request new or additional redactions of information from their reports. Committee staff do not release any reports to requesters until the judges involved have had time to consider whether to request redactions. The committee asks the judges to respond in writing within 14 days, but according to the Chief of the Staff of the Committee on Financial Disclosure, this can be extended if judges so request.

Congress charged the Judicial Conference, in consultation with the Department of Justice, with the responsibility for issuing regulations setting forth the circumstances under which redactions are appropriate.¹⁵ While the statute itself does not expressly address the circumstances that would warrant redactions, the Judicial Conference's implementing regulations provide that a judge could be "indirectly" endangered by information that would compromise the security of a family member, such as a family member's residence or place of employment. Likewise, the regulations also allow redactions based on financial threats, including identity theft. The regulations state, "Information that could facilitate the financial harassment of a filer, including identity theft, may be deemed information that could endanger a filer." Consequently, redactions of information from judges' financial disclosure reports have been granted based on the potential for financial as well as physical harm.

¹⁴The Chief of the Staff of the Committee on Financial Disclosure told us that he will start the multistep process when he receives a copy of this form, but that the original form must be received by committee staff, along with the required payments, before the requested reports will be released.

¹⁵5 U.S.C. app. 105(b)(3).

For most requests for copies of judges' financial disclosure reports, committee staff contact the USMS's Judicial Security Division for security consultations concurrent with its notification of the respective judges. For large requests—such as for copies of the reports for all judges in more than one federal judicial district—the committee staff wait to contact USMS until they know which judges have requested redactions and seek security consultations only for those judges. Committee staff request responses to USMS consultation requests within 14 days, but allow up to 30 days before proceeding with the consideration of the redaction requests.

USMS has changed the content of its security consultations to committee staff over time. When the security consultation process began, USMS's Judicial Security Division, in coordination with its district offices, provided committee staff with a recommendation as to whether the security conditions warranted the requested redactions. USMS security consultations are now limited to providing factual information on the relevant judges' current security conditions without making judgments as to whether the redactions are warranted.

As currently implemented, when a security consultation is sought by committee staff regarding a redaction request, USMS gathers information on the current security conditions facing those judges and provides “yes” or “no” answers to the following three questions:

1. Is the judicial official currently under a protective detail?¹⁶
2. Is there an active, current protective investigation¹⁷ concerning the judicial official?
3. Is the judicial official currently presiding over a high-security proceeding?¹⁸

¹⁶During a protective detail, USMS may provide a number of services, including extra protection in the court facility or at the judge's residence, and transportation or escort, when the personal security of a judge is threatened as a result of performing his or her official duties.

¹⁷A protective investigation is undertaken by USMS in response to any inappropriate communication or suspicious situation involving a judge.

¹⁸A high-security proceeding is one determined to present a high risk of disruption or violence in and around the courtroom and requires that additional security measures be taken to protect the judge.

Results of the USMS security consultations are included along with the judges' redaction requests and the judges' financial disclosure reports in a packet of information that committee staff periodically assemble and mail to subcommittee members for their review and decisions. Requests that involve the continuation of a previously granted redaction of information that may disclose the regular presence of the judge or a member of the judge's family at an unsecured location (e.g., spouse's place of employment) are reviewed and decided solely by the subcommittee chair. Subcommittee members independently review and vote on all other redaction requests. The subcommittee judges vote separately to grant or deny each item that the judges have requested to be redacted. Redaction requests are granted or denied with a simple majority of votes. The subcommittee chair reviews and approves all decisions made by the subcommittee members and votes only to break a tie.

Once the subcommittee members (or chair) make their redaction decisions, the results are generally faxed back to committee staff, who inform those who have requested copies of judges' reports of the required costs and perform final processing tasks, such as updating the redaction database and copying reports. When committee staff receive the decisions, they also notify the relevant judges by mail of the results of their redaction requests and provide the judges involved with a copy of the reports reflecting the approved redactions. The redacted reports are then sent to the individuals who requested the reports once they pay the proper costs.

Comparatively Few Judges Have Requested Redactions, and Most Redaction Requests Have Been Approved

During calendar years 1999 through 2002, about 10 percent or less of the more than 2,000 judges filing financial disclosure reports each year requested redactions of information from their financial disclosure reports. During these 4 years, the subcommittee granted, in whole or in part, 592 (or about 90 percent) of the 661 redaction requests processed. The proportion of requests granted has generally increased over time. Judicial officials attribute this increase to judges becoming better informed about the redaction process and understanding that the subcommittee expects redaction requests to demonstrate a nexus between the information sought to be redacted and current, specific security threats.

About 10 Percent or Less of the Judges Requested Redactions during 1999 through 2002

Data obtained from the committee show that about 10 percent or less of the more than 2,000 federal judges who filed financial disclosure reports each year during 1999 through 2002 requested redactions of information from their reports. According to the Chair of the Committee on Financial Disclosure, individual security sensitivities influence judges’ requests for redactions. Some judges view public scrutiny of their actions and finances as part of their role as a federal judge. Other judges are more sensitive to perceived threats and the risk that release of information from their financial disclosure reports may pose and are more likely to request redactions of certain information. Although we were able to obtain data from the committee on the number of judges who sought redactions during 1999 through 2002, no data were available on the number of federal judges who faced comparable security threats during this same time period but did not request redactions of their financial disclosure reports. Table 1 shows the number of federal judges filing financial disclosure reports compared with the number of judges that requested redactions of those reports during 1999 through 2002.

Table 1: Data on the Number of Federal Judges Filing Financial Disclosure Reports Compared with the Number That Requested Redactions, 1999 through 2002

Filing category	Year in which reports were filed			
	1999	2000	2001	2002
Total judges filing	2,022	2,066	2,083	2,065
Judges requesting redactions	198	139	185	139
Percentage of total filings	9.8	6.7	8.9	6.7

Source: Information provided by the Committee on Financial Disclosure and GAO analysis of redaction request case files.

Note: According to Chief of the Staff of the Committee on Financial Disclosure, the number of federal judges filing a report includes Supreme Court justices, circuit and district judges, bankruptcy judges, magistrate judges, and judges from other miscellaneous federal courts. Also, the total number of judges is based on the number of judges who filed an annual report, an initial report, or a final report. The total does not include judges who also filed a nomination report, judges who did not serve more than 60 days in the preceding year, or judges who died before completing the filing process.

Percentage of Judges’ Redaction Requests Granted Generally Increased during 1999 through 2002

Our analysis of federal judges’ requests for redactions of their financial disclosure reports received and processed during 1999 through 2002 shows that 592, or 90 percent of the 661 requests, were granted in whole or in part. While the number of requests varied from year to year, the percentage of redaction requests that were granted generally increased, as shown in table 2.

Table 2: Results of Requests for Redactions of Federal Judges’ Financial Disclosure Reports for Years 1999 through 2002

Decision	Year in which reports were filed									Totals
	1999		2000		2001		2002		Percent	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent		
Granted	119	60.1	119	85.6	175	94.6	128	92.1	541	81.8
Partially granted	37	18.7	9	6.5	1	0.5	4	2.9	51	7.7
Denied	42	21.2	11	7.9	9	4.9	7	5.0	69	10.4
Totals	198	100.0	139	100.0	185	100.0	139	100.0	661	99.9 ^a

Source: GAO analysis of redaction request case files.

^a Percentages do not total 100 because of rounding.

According to the Chair of the Committee on Financial Disclosure, the federal judiciary has made a concerted effort to educate federal judges on how to complete financial disclosure reports and the criteria the committee members apply to redaction decisions. For example, according to the committee chair, the committee has made it known that redaction requests should be very specific about the content to be redacted and the reason(s) for the request so there is a clear nexus between the perceived threats and the redaction requests. The chair added that because the judges have become better informed regarding how the redaction process works and the criteria that the subcommittee members apply in making their redaction decisions, the number of denials has dropped in recent years.

Concerns about Judges’ Security Drive Redaction Decisions

The Committee on Financial Disclosure maintains that certain information in judges’ financial disclosure reports, if made available to individuals hostile to those judges, could make judges or their family members susceptible to physical or financial harm. According to the Judicial Conference’s implementing regulations, a judge’s financial disclosure report may be redacted to prevent public disclosure of personal or sensitive information that could directly endanger the judge or indirectly endanger the judge by endangering a family member. According to committee documentation, some judges’ listings in the “Non-Investment Income” section of the financial disclosure report could reveal the name and location of a spouse’s place of employment or the location where a judge teaches on a part-time basis. Similarly, according to the committee, listings in the “Investments and Trusts” section of a financial disclosure report could allow someone to obtain personal information about the judge from stockholder lists or facilitate the filing of false claims or liens.

Given these concerns, the committee has interpreted its redaction authority to conform to the need for public disclosure while responding to the concern that certain information poses a threat if possessed by a member of the public hostile to the judge. Thus, the committee's guiding principle is to approve redactions of information (1) that would reveal the unsecured locations of judges and their families or (2) where there is a clear nexus between the redactions requested and specific security threats. The committee believes that redactions of information that would disclose the unsecured locations of judges or their family members provide a significant measure of security to judges while not substantially interfering with dissemination of information to the public.

Our review of the case files for all redactions received and processed during 1999 through 2002 demonstrates that the Subcommittee on Public Access and Security, acting on behalf of the Judicial Conference, has generally applied its redaction authority in a manner consistent with these guiding principles. While the subcommittee generally granted redactions of information that could reveal the unsecured location of judges or their family members, the subcommittee generally did not grant redactions of entire reports or of financial information unless there were specific security threats identified by USMS or the subcommittee believed there was a sufficient nexus between the information sought to be redacted and the judges' current security threats. Specifically, we analyzed the 661 redaction requests received and processed during 1999 through 2002, organizing them into 6 categories of redaction requests that constitute a significant portion of the total requests made during 1999 through 2002. These categories included (1) redactions of entire reports,¹⁹ (2) spouses' place of employment, (3) the value of income and assets, (4) asset names,²⁰ (5) gifts, and (6) reimbursements.²¹

Our analysis of the requests for redactions of entire reports received and processed during 1999 through 2002 show that 28 judges submitted a total of 63 requests for the redaction of their entire financial disclosure reports.

¹⁹We considered a report to be redacted in its entirety if all the information other than entries listed as "None" in sections I through VII was redacted. (See a blank copy of a financial disclosure report in app. II.) According to committee staff, reports we classified as fully redacted would still contain some information that might be of use to a member of the public requesting them. For example, entries listed as "None" would signal the absence of any financial interests in the given section of the report. In addition, an individual could still glean basic information about a judge, including his or her name and chambers location, from the redacted report.

²⁰These included names of companies in which the judges had invested, identifiers of real property judges owned, and other miscellaneous assets.

²¹For purposes of this report, we divided the redaction requests into six categories to aid in our analyses. While these six categories contain the majority of redactions requested, not all types of information fall into one of these six categories. As a result, a limited number of redaction requests are not presented in this report. For example, requests for redaction involving information on positions held outside judges' federal employment or the location where assets were held were not included in our analyses. Further, with the exception of those judges requesting redactions of entire reports, judges may have requested redactions involving more than one category as part of the same request. For example, a judge may have requested the redaction of two categories—e.g., asset names and place of spouse's employer—as part of the same request. For purposes of our analysis, we counted this as two redaction requests—one for each category. As a result, the number of redaction requests by category is greater than the number of actual redaction requests.

These 63 requests accounted for 9.5 percent of the 661 redaction requests processed during this time period. Over the 4-year period, 55 of the 63 total requests were granted. Our review showed, in general, that the subcommittee granted redactions when USMS confirmed that the judges faced specific security threats. For example, 1 judge requested and received a redaction of her entire financial disclosure report each of the 4 years covered by our review because she and her husband had received death threats and were the subject of protective investigations. As shown in table 3, requests for redactions of entire reports remained fairly constant during 1999 through 2002.

Table 3: Data on Results of Requests for Redactions of Federal Judges’ Entire Financial Disclosure Reports Made during 1999 through 2002

Filing year	Total number of requests for redactions of entire reports	Number of requests for redactions of entire reports that were granted
1999	17	14
2000	15	13
2001	17	15
2002	14	13
Totals	63	55

Source: GAO analysis of redaction request case files.

A total of 109 judges submitted 278 requests for the redaction of information revealing their spouses’ places of employment. These 278 requests that involved the redaction of spouses’ places of employment represented 42.1 percent of the 661 redaction requests processed and 47 percent of the 592 requests granted in whole or in part during this time period. Spouse’s employer was the item that judges most often requested be redacted from their financial disclosure reports during 1999 through 2002 and all requests were granted. This practice was consistent with the Judicial Conference’s concern that information revealing the regular presence of a judge or a member of the judge’s family at an unsecured location could pose a general security threat to that judge.

Ninety-four judges requested the redaction of the value of income and assets from 171 separate reports. These 171 requests represented 25.9 percent of the 661 requests processed during 1999 through 2002. The 83 redaction requests granted were generally approved when USMS confirmed that the judges faced specific security threats. One example concerned a judge who was granted the redaction of the value of his

income and assets because criminal defendants had filed false liens and false claims against him. Another example in this category pertained to a judge who was granted redaction of the value of income and assets because he had been involved in a particular fraud case and believed that reporting the value of income and assets made him an easier target for extortion. While the number of requests for redaction of the value of income and assets has generally decreased over time, the percentage of requests that were granted generally increased, as shown in table 4.

Table 4: Data on the Number of Requests for Redactions of the Value of Income and Assets from Judges' Financial Disclosure Reports Made during 1999 through 2002

Filing year	Number of redaction requests	Number of requests granted	Percentage of requests granted	Number of requests denied	Percentage of requests denied
1999	87	25	28.7	62	71.3
2000	29	17	58.6	12	41.4
2001	31	24	77.4	7	22.6
2002	24	17	70.8	7	29.2
Totals	171	83	48.5	88	51.5

Source: GAO analysis of redaction request case files.

Twenty-eight judges requested the redaction of asset names in 56 of their financial disclosure reports. These 56 requests represented 8.5 percent of the 661 requests processed during 1999 through 2002. The 44 redaction requests granted were generally approved when USMS confirmed that the judges faced specific security threats. One example concerned a judge who was granted the redaction of the names of various assets, including the names of certain family partnerships. In particular, the judge stated that because public records on these companies contain business addresses and telephone numbers, release of this information might jeopardize his family's security. Another example involved a judge who was granted the redaction of the name of a property he co-owns with his brother because his brother's family resides there and the judge and his family visit the property occasionally. As shown in table 5, the number of requests for redaction of asset names during 1999 through 2002 has been limited, with most requests granted.

Table 5: Data on the Number of Requests for Redactions of Asset Names from Judges' Financial Disclosure Reports Made during 1999 through 2002

Filing year	Number of redaction requests	Number of requests granted	Number of requests denied
1999	20	11	9
2000	11	10	1
2001	12	12	0
2002	13	11	2
Totals	56	44	12

Source: GAO analysis of redaction request case files.

Seven judges requested the redaction of gifts in 17 of their financial disclosure reports. These 17 requests that involved the redaction of gifts represented 2.6 percent of the 661 requests processed during 1999 through 2002. The information redacted was primarily limited to names of individuals and organizations providing the gifts and not the values involved. The 14 redaction requests granted were generally approved when there was a concern that this information could reveal the regular presence of the judges or members of the judges' families at unsecured locations. One example of a redaction involving gifts that we reviewed concerned a judge who was granted the redaction of the name of a university from which his son had received a scholarship so as not to reveal the unsecured location of where his son attended college. The number of requests for redaction of gifts has remained consistently low over time, as shown in table 6.

Table 6: Data on the Number of Requests for Redactions of Gifts from Judges' Financial Disclosure Reports Made during 1999 through 2002

Filing year	Number of redaction requests	Number of requests granted	Number of requests denied
1999	5	3	2
2000	3	3	0
2001	4	4	0
2002	5	4	1
Totals	17	14	3

Source: GAO analysis of redaction request case files.

Four judges requested the redaction of reimbursements in 7 of their financial disclosure reports. These 7 requests represented 1.1 percent of the 661 requests processed during 1999 through 2002. The information

redacted was primarily limited to names of individuals and organizations providing the reimbursements and not the values involved. The 5 redaction requests granted were generally approved when there was a concern that this information could reveal the regular presence of the judges or members of the judges' families at unsecured locations. One example of a redaction involving reimbursements pertained to a judge who was granted the redaction of the name of the law school where he teaches under the reimbursements section since that would reveal his presence at an unsecured location. All requests for redactions of reimbursements were granted during 2000 through 2002, as shown in table 7.

Table 7: Data on the Number of Requests for Redactions of Reimbursements from Judges' Financial Disclosure Reports Made during 1999 through 2002

Filing year	Number of redaction requests	Number of requests granted	Number of requests denied
1999	3	1	2
2000	1	1	0
2001	2	2	0
2002	1	1	0
Totals	7	5	2

Source: GAO analysis of redaction request case files.

Formal Documentation of Procedures Could Enhance Ability to Safeguard Judges' Reports and Improve Public Access

Our review of the judicial redaction request process shows that deadlines for judges to request new or additional redactions and for USMS to respond to requests for security consultations are not clear and are not formally documented. Additionally, certain practices for safeguarding information, such as contacting judges who had not requested redactions but whose USMS consultations showed they may be facing specific security threats, have not been documented as a routine part of the process. Our review also revealed that USMS did not respond to all requests for security consultations, as provided for by statute. Moreover, assessing and documenting procedures for responding to public requests for copies of judges' financial disclosure reports would give the Committee on Financial Disclosure an opportunity to identify opportunities to reduce processing time. Finally, though additional processing time is necessary for the implementation of the redaction provision, the committee might alleviate requester frustration with the process and better manage requester expectations by providing more information about the need for redaction authority and the processing time it entails.

Documenting Procedures and Enforcing Deadlines Could Ensure Consistent Handling of Requests and Decrease Response Times

While the Judicial Conference staff follow the general process to respond to public requests for copies of judges' financial disclosure reports described earlier, standard procedures are not formally documented. According to the Comptroller General's *Standards for Internal Control in the Federal Government*, for organizations to be able to provide reasonable assurance that they are achieving their objectives, they must document procedures in management directives, administrative policies, or operating manuals. While the statutory redaction provision of the Ethics in Government Act is predicated on the belief that federal judges should be accorded special protection, given the nature of their functions, the fundamental purpose of the act is to provide public access to financial disclosure reports. Therefore, it is incumbent upon the Judicial Conference to take into account the ability of its procedures not only to safeguard information that may endanger judges, but also to provide the public with access to judges' financial disclosure reports in an expeditious manner. Our examination of the Committee on Financial Disclosure's processing of redaction requests showed that stated deadlines for judges and USMS to respond to the committee are unclear and not always enforced, which could delay the availability of judges' financial disclosure reports to public requesters. Furthermore, because the redaction procedures are not formally documented, committee staff might not be able to ensure that redaction requests are processed in a manner that guarantees consistent application of safeguards.

When staff from the Committee on Financial Disclosure receive a public request for a copy of a judge's financial disclosure report, they notify the affected judge and provide an opportunity for the judge to request any new or additional redactions. In most cases, the staff also contact USMS for a consultation at the same time. The committee expects judges and USMS to respond to its inquiries within 14 days. However, our review of committee and USMS documentation show that it is unclear whether the official deadline for USMS consultation responses is 14 or 30 days—both of these times appear in separate documents prepared by each organization. Because of the lack of clear documentation of the deadline, staff can wait 30 days for results of the USMS consultation before responding to the request, even when the judge has not responded by the 14-day deadline and ultimately may not request any redaction.

In addition to delays that may result from USMS consultations exceeding 14 days, delays can occur when judges do not request redactions by the 14-day deadline. For example, the Chief of the Staff of the Committee on Financial Disclosure stated that committee staff would accept and process

a judge's request for a redaction if it came after the 14-day response period if the report has not been released to the requester, in order to ensure that the committee responds to valid security concerns. The committee, therefore, grants deadline extensions on an informal basis with no written, transparent criteria to guide the committee staff in determining whether a particular justification for extension outweighs the goal of providing expeditious public access to judges' financial disclosure reports. Nor has the committee established minimum and maximum extension times, which would allow it to better track and anticipate the effect of extensions on its process. Careful consideration and documentation of standard administrative procedures, along with the establishment of realistic, formal deadlines, could help the committee ensure that it maintains appropriate safeguards against releasing information that could endanger a judge or judge's family while providing public access to judges' financial disclosure reports as expeditiously as possible.

Formal documentation of procedures could help committee staff ensure that they consistently apply practices designed to safeguard judges' information. For example, the Chief of Staff explained that if committee staff determine, as a result of the required USMS security consultation, that a judge faces a security threat, he and his staff would attempt to follow up with that judge if the judge has not responded within the 14-day response period. While this practice may offer additional safeguards against the release of information that could pose a threat to a judge, there is no evidence that the practice has been evaluated or formally documented.

Evaluation and Documentation of Procedures Might Reveal Opportunities to Reduce Response Times

Although the federal judiciary has a responsibility to ensure that the release of information from judges' financial disclosure reports could not endanger them, evaluation and documentation of its process for responding to public requests for copies of judges' reports might reveal opportunities to reduce response times. During 2001 and 2002, the most recent years for which processing time data were available, committee staff completed 137 requests for judicial financial disclosure reports—61 in 2001 and 76 in 2002. We found that during 2001 and 2002, the mean time it took committee staff to complete the processing of these 137 requests—from receipt of the requests until release of the requested reports—was 86 days in 2001 and 90 days in 2002. The median time was 61 days in 2001 and 73 days in 2002.

As shown in table 8, of the 137 requests for judges' financial disclosure reports that committee staff completed in 2001 and 2002, the majority of the total processing time—a mean of 48 of the 86 days in 2001 and 55 of the 90 days in 2002—was for the time between when the committee staff received the requests for judges' reports and when the staff sent the requesters cost letters that detailed how much money requesters would need to pay to receive the requested reports.²² Committee staff also seek USMS security consultations and process any redaction requests through the subcommittee during this time. Another significant portion of the processing time—a mean of 28 days in 2001 and 31 days in 2002—was taken up between the time the cost letters were sent and the time the costs for the requested copies were paid. The last portion of the process—mailing the reports after the funds have been received and performing other final processing tasks—took a mean of 7 days in 2001 and 5 days in 2002. According to the *Comptroller General's Standards for Internal Control in the Federal Government*, organizations need to be able to compare actual performance with planned or expected results. Without established target time periods for responding to public requests for copies of judges' reports and processing judges' redaction requests, the committee has no basis for assessing its ability to provide reports in an expeditious manner. Our discussions with committee staff indicate that the Judicial Conference has established no target time period in which to provide copies of judges' reports to those who request them.

²²When we excluded requests for more than 100 financial disclosure reports, the mean and median response times did not change appreciably. Specifically, over the 2-year period, 2001 and 2002, there were 8 such requests, and excluding these requests decreased the total mean and median response times to 79 and 59 days, respectively for 2001, and 88 and 70 days, respectively for 2002.

Table 8: Data on the Timeliness of the Committee’s Processing of Requests for Judges’ Financial Disclosure Reports for Calendar Years 2001 and 2002

Year	Number of completed requests	Step 1		Step 2		Step 3		Total days from request to release of reports	
		Days between when request was received and cost letter sent		Days between when cost letter sent and costs paid		Days between when costs paid and reports sent			
		Mean	Median	Mean	Median	Mean	Median	Mean	Median
2001 ^a	61	48	38	28	14	7	3	86	61
2002 ^b	76	55	43	31	19	5	3	90	73

Source: GAO analysis of the committee’s Automated Report Tracking System database.

Note: Because committee staff were not able to complete all requests with 1 cost letter—either because not all reports were immediately available or because the requesters amended their requests—some requests were processed using more than 1 cost letter. Specifically, there were 6 requests in 2001 and 10 requests in 2002 that involved committee staff sending more than 1 cost letter to the requesters. In these cases, the processing steps—to include cost letters being sent, costs being paid, and requested reports being released—occurred more than once, depending on the number of cost letters needed. For each request involving more than 1 cost letter, the number of days for Step 1 was determined by calculating the duration between the date when the subsequent cost letter was sent and the date when the previous report was sent. Further, we computed the total days for completing each step in the process by adding together the number of days elapsed for that step for each respective cost letter.

^aBecause dates were unavailable for certain steps in the process for some requests, the total mean days between when the request was received to completion of the request for 2001 exceeds the summed means for steps 1, 2, and 3.

^bThe total mean days between when the request was received to completion of the request for 2002 does not equal the summed means for steps 1, 2, and 3 because of rounding.

In addition the consideration of realistic and enforced deadlines for judges and USMS discussed earlier, the committee might be able to decrease response times by assessing and revising its administrative procedures. For example, data provided by the committee show that it takes about 7 weeks from the time requests are received to when the committee issues cost letters to those requesting copies of judges’ financial disclosure reports. However, committee staff told us that the number of pages for each financial disclosure report is entered into their database at the time the report is initially filed, and the redaction of information from reports does not alter the number of pages. As a result, the committee already has the information in its database to calculate the costs for reproducing each report and provide that information to requesters shortly after receiving the requests. In this way, requesters would be given the opportunity to pay the required costs sooner, reducing the time they wait to receive the reports. Alternatively, the committee could set a fixed price for reports and include

this information on the request form (Form AO 10A) so that requesters could know the costs in advance and send in the appropriate funds when they make their request based on the number of report copies they are requesting. This approach would eliminate the need for cost letters altogether.

Managing Expectations Could Reduce Requester Frustration

While changes to the existing redaction procedures described earlier could make the process more efficient, implementation of the judiciary's statutory redaction authority requires a certain amount of processing time between when a member of the public makes a request for copies of judges' reports and when the committee can release the requested reports. Based on our review of the forms sent to requesters, as well as discussions with judgmentally selected officials—from a law firm, a document service, a special interest group, and a publishing company—who had requested copies of judges' financial disclosure reports in recent years, it appears that the committee does not provide information regarding what steps must occur before requesters receive the reports or how long the process will take. While these requesting officials had varied interests, they each expressed frustration at how long it took to receive cost letters and, ultimately, the requested reports. In fact, some requesters never completed the process. Specifically, during 2001 and 2002, committee staff completed 137 (or 78 percent) of 176 requests for copies of judges' reports. The remaining 39 requests (or 22 percent) never resulted in the release of any reports. For example, one requester we spoke to stated that he did not follow through with his request when his need for the information passed before he could obtain copies of the requested reports.

Although allowing for redactions lengthens the time required to release requested reports, communicating to members of the public (1) the reason for the redaction provision, (2) that allowing for redactions requires processing time, and (3) the approximate amount of wait time to expect could help to alleviate frustration with the wait. Additionally, it would allow requesters to evaluate the usefulness of the information in light of the expected wait. This communication could be accomplished by including the information on the Form AO 10A.

USMS Has Not Responded to All Requests for Security Consultations

The Ethics in Government Act requires the Judicial Conference to consult with USMS in determining whether to approve a redaction.²³ According to the Chief of the Staff of the Committee on Financial Disclosure, when a redaction request is received, the committee seeks a response to its security consultation request within 14 days but allows up to 30 days for USMS to respond. The Chief further stated that if 30 days have passed without a response from USMS, the committee deems a consultation to have occurred and will make a decision based on information provided by the judge, past subcommittee actions taken on behalf of the judge, and what actions were taken for other judges in similar situations. Our review of the case files for redaction requests received and processed during 1999 through 2002 show that USMS did not respond to 46 out of 487 requests for a security consultation by the committee.²⁴ This appears to be inconsistent with USMS's obligation to provide a security consultation under the Ethics in Government Act.

When we spoke to USMS officials about their security consultation process, they told us that security consultation requests are referred to relevant district offices for responses and that while the Judicial Security Division reminds the district offices of the information requests when they are slow to respond, ultimately the Judicial Security Division may not receive a response. The USMS officials further stated that they do not have dedicated staff to continually monitor the requests or ensure the districts respond to all security consultation requests.

²³5 U.S.C. app. 105(b)(3).

²⁴We reviewed a total of 661 redaction requests, of which 174 were requests for which the committee did not seek USMS security consultations. These requests involved continuations of redactions already granted for information that would reveal the unsecured location of where judges or members of their families would be on a regular basis. Consequently, there were 487 redaction requests for which the committee sought USMS security consultations.

Legislative and Executive Branch Agencies Make Reports Available to the Public in Person and by Mail

The legislative and executive branch offices we contacted have developed processes for providing copies of financial disclosure reports of officials who file reports with their offices to the public in person and by mail. Like the judiciary, certain officials in the legislative and executive branches are required to file financial disclosure reports that can be made available to the public, but these branches, unlike the judiciary, are not granted redaction authority. The act, however, requires that their reports be made available for public inspection within 30 days of their filing.²⁵

Members of the public requesting copies of financial disclosure reports of officials who file their reports in the legislative branch can request reports via mail or in person using computer terminals at the Office of the Clerk of the House's Legislative Resource Center and the Senate Office of Public Records. Officials from the Senate Office of Public Records and House Legislative Resource Center told us the majority of the requests for financial disclosure reports they receive are satisfied by individuals viewing the reports on the computer terminals within these offices. To review a report using the computer terminals, individuals must fill out an electronic form that contains the requester's name, address, and other personal information. The Senate Office of Public Records requires requesters to sign a book near the terminals, and the House Legislative Resource Center requires requesters to initial a field on the computer in order to confirm that they understand the restrictions placed upon them regarding the use of these reports for only lawful purposes.²⁶ Requesters must pay 20 cents per page at the Senate Office of Public Records and 10 cents per page at the House Legislative Resource Center for printing out reports. Individuals requesting House members' reports via mail must send a signed request letter to the Legislative Resource Center along with funds to pay for requested reports. Similarly, to request senators' reports by mail, individuals must mail a signed request form to the Senate Office of Public Records along with the associated costs. Once these steps have been completed, officials from both offices mail reports to the requesters. Officials from the House Legislative Resource Center and Senate Office of Public Records told us that they receive a very limited number of requests by mail, but once the initial 30 days provided by the act has passed, staff are generally able to provide requested reports within a few days. The Senate

²⁵Id. 105 (b)(1).

²⁶See id. 105(c).

Office of Public Records reported that it received 314 requests to review or receive copies of financial disclosure reports in 2001 and 359 in 2002. The House Legislative Resource Center reported it received 449 requests to review or receive copies of financial disclosure reports in 2001 and 725 in 2002.

In addition to providing copies of financial disclosure reports to members of the public who request them, the House and the Senate both make financial disclosure reports for Members of Congress available to the secretaries of the 50 states. Individuals seeking to review House members' reports may also refer to a public House document that includes financial disclosure reports filed with the Clerk during the period beginning on January 1 and ending on June 15 of each year.²⁷ Further, reports for members of Congress are also posted on independent Web sites and can be downloaded free of charge.

To request reports of executive branch presidential appointees confirmed by the Senate and other high-level executive branch officials, individuals must mail, fax, or fill out in person a request form (OGE Form 201) providing personal information, such as their name and address, as well as the reports being requested. Similar to the legislative branch, the Office of Government Ethics and the Executive Office for U.S. Attorneys require that these forms be signed to indicate that the individual requesting them understands the restrictions placed on the use of these reports. Neither the Office of Government Ethics nor the Executive Office for U.S. Attorneys routinely charges to provide a limited number of financial disclosure reports to members of the public, though the Office of Government Ethics charges 3 cents a page for requests involving more than 333 pages. Individuals can pick up requested reports in person at the Office of Government Ethics and the Executive Office for U.S. Attorneys or have reports mailed to them. Officials from the Executive Office for U.S. Attorneys will also fax financial disclosure reports to requesters. Both the Executive Office for U.S. Attorneys and the Office of Government Ethics explained that once the initial 30 days provided by the act has passed, they are able to satisfy most public requests for reports within a few days of when the request is received. The Office of Government Ethics reported to

²⁷ The Clerk of the House is required to compile this document by August 1 of each year, pursuant to Clause 1 of Rule XXVI of the Rules of the House. This House document is available to the public nationally at U.S. Government Depository Libraries, through the Superintendent of Documents at the Government Printing Office, and at the House Legislative Resource Center.

us that it received 548 requests in 2001 and 301 in 2002. The Executive Office for U.S. Attorneys reported that it received only 2 requests for copies of financial disclosure reports in 2002 and 2 in 2001.

The offices we contacted within the legislative and executive branches have different procedures for notifying filers when members of the public have requested copies of their reports. Neither the House Legislative Resource Center nor the Senate Office of Public Records notifies filers that copies of their reports have been requested, but filers can use the offices' computer terminals to determine who has requested copies of their reports. The Office of Government Ethics does not routinely notify filers when their reports are requested, but will do so on occasion if asked by the filer. In comparison, the Executive Office for U.S. Attorneys notifies filers when copies of their reports are requested, but does so concurrently with the release of the reports to the requesters.

Officials from the House Committee on Standards of Official Conduct, the Senate Office of Public Records, the Office of Government Ethics, and the Executive Office for U.S. Attorneys stated that while their filers may face threats, they are not aware of any situation in which an individual's security has been put in jeopardy by information required on a financial disclosure report being released to the public.

Conclusions

The Ethics in Government Act serves the public interest by providing access to selected financial information from financial disclosure reports filed by high-level government officials and discloses information that could represent conflicts of interest for these officials. A subsequent amendment to the act recognizes the unique security threats faced by federal judges and grants the judiciary authority to redact personal and sensitive information from their financial disclosure reports if a finding is made by the Judicial Conference, in consultation with USMS, that release of the information could endanger the judges. This amendment does not release the judiciary from the responsibility of making financial information public, rather it provides that immediate and unconditional availability of information from judges' financial disclosure reports is not required, since giving the judiciary time to review redaction requests and verify that safety concerns merit withholding the information from the public requires additional time. Thus, the Judicial Conference has a responsibility to balance the goals of safeguarding judges' information and providing timely public access.

While the Judicial Conference's current procedures for processing redaction requests and responding to public requests for copies of judges' reports appear to be reasonably related to the goal of safeguarding information that could endanger federal judges, the process is not formally documented and has not been assessed with respect to its ability to effectively safeguard sensitive information without unduly compromising timely public access. Assessing and formally documenting standard procedures would allow the Judicial Conference to provide assurance that it can consistently carry out the processes designed to achieve its objectives. Although there are no independent criteria to use as a standard for timeliness, the Judicial Conference needs to establish target times for expeditiously responding to public requests and improving its ability to monitor its process. Additionally, as recommended by the Comptroller General's *Standards for Internal Controls in the Federal Government*, objectives can be better monitored through the development of specific, measurable goals, in this case target times for responding to public requests for copies of judges' reports.

Further, the Ethics in Government Act requires the Judicial Conference to consult USMS in determining whether to approve a redaction. GAO's review indicates that USMS has not always responded to the Judicial Conference's consultation requests as provided for by the statute.

Recommendations

So that the Judicial Conference can provide reasonable assurance that it is implementing its redaction authority in a manner that provides the safety measures intended without unduly compromising timely public access, GAO is making the following two recommendations:

- determine, fully document, and follow formal procedures for processing public requests for reports and redaction requests, including establishing target times for each step in the process; then
- assess the current practices and procedures for processing redaction requests and public requests for disclosure reports with the goal of managing requester expectations and providing requested reports as expeditiously as possible.

GAO also recommends that USMS develop and implement procedures to ensure that it complies with the requirements of the Ethics in Government Act by responding to all consultation requests from the Judicial Conference.

Agency Comments

On May 25, 2004, we provided a draft of this report to the Director of the Administrative Office of the U.S. Courts (AOUSC) and the Director of USMS for comment. In a letter dated June 8, 2004, we received comments from the Chair of the Judicial Conference's Committee on Financial Disclosure. In a letter dated June 10, 2004, we received comments from the Director of USMS. The comments are reprinted in appendixes III and IV, respectively.

The Chair of the Judicial Conference's Committee on Financial Disclosure generally agreed with the findings and recommendations in the report. However, regarding GAO's recommendation that the Judicial Conference establish target times for each step in the redaction process, she noted that a number of variables make it difficult to mandate specific times for completing the various steps in the process. We recognize that it may not be possible to mandate specific times because certain factors are outside the judiciary's control, but we believe that the committee could establish target times for the steps in the process to use as indicators for evaluating the redaction process and assisting the committee in reducing response times.

The Director of USMS concurred with our findings and provided further information on USMS's evolving role in the redaction process. In addition, he noted that USMS has taken steps to implement our recommendation that USMS respond to all requests for security consultations within 14 days.

In addition to the above comments, we discussed sections of the draft report that related to the legislative and executive branches' financial disclosure programs with officials from the Office of the Secretary and Office of Public Records for the Senate; the Office of the Clerk, Legislative Resource Center, and Committee on Standards of Official Conduct for the House of Representatives; the Executive Office for U.S. Attorneys; and the Office of Government Ethics. These parties provided technical comments that have been incorporated into the report, where appropriate.

As agreed with your staffs, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the Director of AOUSC, the Director of USMS, and interested congressional committees. We will also provide copies of this report to the Office of the Secretary and Office of Public Records for the Senate; the Office of the

Clerk, Legislative Resource Center, and Committee on Standards of Official Conduct for the House of Representatives; the Office of Government Ethics; and the Executive Office for U.S. Attorneys. The report will be available to other interested parties at no charge upon written request to GAO.

Please contact me at (202) 512-8757 or Bill Crocker at (202) 512-4533 if you or your staff have any questions regarding this report. Other key contributors to this report were Christopher Conrad, Christine Davis, Paige Gilbreath, Kay Muse, and Kathryn Young.

A handwritten signature in black ink, reading "William O. Jenkins, Jr." with a stylized flourish underneath.

William O. Jenkins, Jr.
Director, Homeland Security and Justice Issues

Objectives, Scope, and Methodology

This report provides information about and analyses of (1) the number of judges who filed financial disclosure reports during calendar years 1999 through 2002 (reports that covered financial data for calendar years 1998 through 2001), the proportion of those judges who requested redactions during this period, and the results of those requests; (2) the basis for the judiciary's decisions regarding redactions requested during 1999 through 2002; (3) the judiciary's procedures for safeguarding information that could endanger judges without unduly compromising public access; and (4) the process for releasing financial disclosure reports for selected legislative and executive branch officials.

To gather information on the number of judges who filed financial disclosure reports during calendar years 1999 through 2002 (reports that covered financial data for calendar years 1998 through 2001), the proportion of those judges who requested redactions during this period, and the results of those requests, we reviewed the committee's case files for all redaction requests received and processed during 1999 through 2002. We also consulted with the Chair of the Judicial Conference's Committee on Financial Disclosure, the Chair of the Subcommittee on Public Access and Security, and the Chief of the Staff of the Committee on Financial Disclosure to clarify what factors influenced redaction requests and decision trends.

To gather information on the types of information for which judges requested redactions and the basis for deciding those requests, we reviewed and analyzed documentation on all judges' requests for redactions processed during 1999 through 2002. Six categories of redaction requests constituted a significant portion of total requests made during 1999 through 2002. These categories were (1) entire financial disclosure reports, (2) the name or location of a spouse's employer, (3) value of income and assets, (4) asset names, (5) reimbursements, or (6) gifts. We analyzed whether information that judges requested be redacted could reveal the unsecured location of judges or their family members, as well as how the subcommittee's response to those redaction requests aligned with USMS's response regarding security threats faced by the judges. To test the reliability of committee data, for each redaction request processed during 1999 through 2002, we verified the information the judges sought to be redacted, the rationale for the requests, the results of the USMS security consultations, and the decisions of the subcommittee. When analyzing the type of redaction requested, we considered redactions of entire reports separately from other redaction requests. While we reviewed all redactions requested and processed during 1999 through 2002, we did not attempt to

determine whether the judges reported all the information required on the financial disclosure reports they filed. Further, we did not attempt to determine whether there were judges who faced security threats but did not request redactions during this same time period. Finally, to gather information on security concerns within the federal judiciary, we met with officials at AOUSC's Court Security Office, as well as with the Chair and the Chief of the Staff of the Judicial Conference's Committee on Financial Disclosure and the Chair of the Subcommittee on Public Access and Security. In addition, we discussed this issue with officials from the USMS Judicial Security Division.

To gather information on the ability of the Judicial Conference to implement its redaction authority to safeguard personal and sensitive information that could endanger judges without compromising public access, we met with staff within the federal judiciary and at USMS. At USMS, we met with staff from the Office of General Counsel and the Judicial Security Division and discussed USMS's role in the redaction process and responsiveness to consultation requests. At the federal judiciary, we met with the Chair and the Chief of the Staff of the Judicial Conference's Committee on Financial Disclosure, as well as the Chair of the Subcommittee on Public Access and Security and discussed the subcommittee's procedures for releasing reports to the public and safeguarding financial disclosure information. We also reviewed and analyzed the Judicial Conference's implementing regulations concerning its redaction authority and assessed its procedures for processing requests for redactions and for copies of judges' financial disclosure reports in light of internal control requirements as detailed in the Comptroller General's *Standards for Internal Control in the Federal Government*. We analyzed the committee's Automated Report Tracking System database covering requests for judges' reports received during 2001 and 2002—the most recent years for which complete data were available when we began our review. Specifically, we used these data to determine the mean and median length of time required to provide reports to members of the public requesting them, and how this time was allocated across different steps in the process. In addition, to ensure the accuracy of the committee's data, we reviewed selected case files for requests for judges' reports processed during 2001 and 2002, and we found these data to be sufficiently reliable for our purposes. We analyzed the redaction and request processes in coordination with the data and spoke with a judgmental sample of people who had requested copies of judges' financial disclosure reports from the committee staff during 2001 or 2002, regarding their experiences.

To gain an understanding of the process used within the legislative and executive branches to release financial disclosure reports to requesters, we met with officials representing both branches of government. Specifically, for the legislative branch, we met with officials from the Office of the Secretary and Office of Public Records for the Senate; and the Office of the Clerk, Legislative Resource Center, and Committee on Standards of Official Conduct for the House of Representatives. For the executive branch, we met with officials from the Office of Government Ethics and the Executive Office for U.S. Attorneys. We selected the Executive Office for U.S. Attorneys because U.S. Attorneys work within the court system and may face threats similar to those of the federal judges. At these agencies, we discussed their processes for making these reports available to members of the public, as well as specific security concerns they believed had been posed by the release of information in financial disclosure reports.

Judicial Branch Financial Disclosure Forms

Blank Request for Examination of Report Filed by a Judicial Officer or Judicial Employee (Form AO 10A)

AO 10A (Rev 10/98)

REQUEST FOR EXAMINATION OF REPORT FILED BY
A JUDICIAL OFFICER OR JUDICIAL EMPLOYEE

In accordance with section 105 of the Ethics in Government Act of 1978, as amended, I request that there be made available to me for examination the report(s) of the following named Judicial Officers or Judicial Employees:

NAMES OF REPORTS WHOSE DISCLOSURE REPORTS ARE REQUESTED	NAME	POSITION	Copy Requested	
			Yes	No

ORGANIZATIONS OR PERSONS ON WHOSE BEHALF THIS REQUEST IS MADE	ORGANIZATION(S) OR PERSON(S)	ADDRESS

PROHIBITIONS

I understand that the statute makes it unlawful to obtain or use this or these reports for: any unlawful purpose; any commercial purpose other than by news and communication media for dissemination to the general public; determining or establishing of the credit rating of any individual; or use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose (5 U.S.C. App. 4 § 105(c))

I understand that whoever, in any manner within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both (18 U.S.C. § 1001).

I am aware of the prohibitions on the obtaining and use of this information, as are stated above, and that this request for examination is a matter of public record.

PERSON MAKING REQUEST	NAME	ADDRESS
	OCCUPATION	
	I certify under penalty of perjury that the foregoing is true and correct. (28 U.S.C. § 1746)	
	SIGNATURE	EXECUTED ON (DATE)

Appendix II
Judicial Branch Financial Disclosure Forms

Blank Judicial Branch Financial Disclosure Report (Form AO-10)

AO-10 Rev. 1/2002		FINANCIAL DISCLOSURE REPORT FOR CALENDAR YEAR 2002		Report Required by the Ethics in Government Act of 1978 (5 U.S.C. App., §§101-111)																												
1. Person Reporting (Last name, first, middle initial)		2. Court or Organization		3. Date of Report																												
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)		5. Report Type (check appropriate type) ___ Nomination, Date _____ ___ Initial ___ Annual ___ Final		6. Reporting Period																												
7. Chambers or Office Address		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____																														
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.																																
I. POSITIONS. (Reporting individual only; see pp. 9-13 of Instructions.)																																
<table><thead><tr><th></th><th>POSITION</th><th>NAME OF ORGANIZATION/ENTITY</th></tr></thead><tbody><tr><td><input type="checkbox"/></td><td colspan="2">NONE (No reportable positions.)</td></tr><tr><td>1</td><td>_____</td><td>_____</td></tr><tr><td>2</td><td>_____</td><td>_____</td></tr><tr><td>3</td><td>_____</td><td>_____</td></tr></tbody></table>						POSITION	NAME OF ORGANIZATION/ENTITY	<input type="checkbox"/>	NONE (No reportable positions.)		1	_____	_____	2	_____	_____	3	_____	_____													
	POSITION	NAME OF ORGANIZATION/ENTITY																														
<input type="checkbox"/>	NONE (No reportable positions.)																															
1	_____	_____																														
2	_____	_____																														
3	_____	_____																														
II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of Instructions.)																																
<table><thead><tr><th></th><th>DATE</th><th>PARTIES AND TERMS</th></tr></thead><tbody><tr><td><input type="checkbox"/></td><td colspan="2">NONE (No reportable agreements.)</td></tr><tr><td>1</td><td>_____</td><td>_____</td></tr><tr><td>2</td><td>_____</td><td>_____</td></tr><tr><td>3</td><td>_____</td><td>_____</td></tr></tbody></table>						DATE	PARTIES AND TERMS	<input type="checkbox"/>	NONE (No reportable agreements.)		1	_____	_____	2	_____	_____	3	_____	_____													
	DATE	PARTIES AND TERMS																														
<input type="checkbox"/>	NONE (No reportable agreements.)																															
1	_____	_____																														
2	_____	_____																														
3	_____	_____																														
III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp. 17-24 of Instructions.)																																
<table><thead><tr><th></th><th>DATE</th><th>SOURCE AND TYPE</th><th>GROSS INCOME</th></tr></thead><tbody><tr><td><input type="checkbox"/></td><td colspan="3">NONE (No reportable non-investment income.)</td></tr><tr><td>1</td><td>_____</td><td>_____</td><td>\$ _____</td></tr><tr><td>2</td><td>_____</td><td>_____</td><td>\$ _____</td></tr><tr><td>3</td><td>_____</td><td>_____</td><td>\$ _____</td></tr><tr><td>4</td><td>_____</td><td>_____</td><td>\$ _____</td></tr><tr><td>5</td><td>_____</td><td>_____</td><td>\$ _____</td></tr></tbody></table>						DATE	SOURCE AND TYPE	GROSS INCOME	<input type="checkbox"/>	NONE (No reportable non-investment income.)			1	_____	_____	\$ _____	2	_____	_____	\$ _____	3	_____	_____	\$ _____	4	_____	_____	\$ _____	5	_____	_____	\$ _____
	DATE	SOURCE AND TYPE	GROSS INCOME																													
<input type="checkbox"/>	NONE (No reportable non-investment income.)																															
1	_____	_____	\$ _____																													
2	_____	_____	\$ _____																													
3	_____	_____	\$ _____																													
4	_____	_____	\$ _____																													
5	_____	_____	\$ _____																													

Appendix II
Judicial Branch Financial Disclosure Forms

Blank Judicial Branch Financial Disclosure Report (Form AO-10)

FINANCIAL DISCLOSURE REPORT		Name of Person Reporting	Date of Report
IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment. <i>(Includes those to spouse and dependent children. See pp. 25-27 of Instructions.)</i>			
	<u>SOURCE</u>	<u>DESCRIPTION</u>	
<input type="checkbox"/>	NONE (No such reportable reimbursements.)		
1			
2			
3			
4			
5			
6			
7			
V. GIFTS. <i>(Includes those to spouse and dependent children. See pp. 28-31 of Instructions.)</i>			
	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
<input type="checkbox"/>	NONE (No such reportable gifts.)		
1			\$
2			\$
3			\$
4			\$
VI. LIABILITIES. <i>(Includes those of spouse and dependent children. See pp. 32-33 of Instructions.)</i>			
	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE</u> <u>CODE*</u>
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1			
2			
3			
4			
5			
*Value Codes: J-\$15,000 or less K-\$15,001-\$50,000 L-\$50,001-\$100,000 M-\$100,001-\$250,000 N-\$250,001-\$500,000 O-\$500,001-\$1,000,000 P1-\$1,000,001-\$5,000,000 P2-\$5,000,001-\$25,000,000 P3-\$25,000,001-\$50,000,000 P4-\$50,000,001 or more			

Appendix II
Judicial Branch Financial Disclosure Forms

Blank Judicial Branch Financial Disclosure Report (Form AO-10)

FINANCIAL DISCLOSURE REPORT					Name of Person Reporting		Date of Report	
<p>VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions <i>(Includes those of spouse and dependent children. See pp. 34-57 of Instructions.)</i></p>								
A. Description of Assets (including trust assets) <i>Place "X" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period			
	(1)	(2)	(1)	(2)	(1)	If not exempt from disclosure		
	Amt. Code1 (A-H)	Type (e.g., div., rent or int.)	Value Code2 (J-P)	Value Method Code3 (Q-W)	Type (e.g., buy, sell, merger, redemption)	(2) Date: Month-Day	(3) Value Code2 (J-P)	(4) Gain Code1 (A-H)
<input type="checkbox"/> NONE (No reportable income, assets,								
1								
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1 Income/Gain Codes: A=\$1,000 or less (See Col. B1, D4)	B=\$1,001-\$2,500 G=\$100,001-\$1,000,000	C=\$2,501-\$5,000 H=\$5,001-\$15,000 I=\$15,001-\$50,000	D=\$50,001-\$100,000 E=\$100,001-\$250,000 F=\$250,001-\$500,000 G=\$500,001-\$1,000,000
2 Value Codes: (See Col. C1, D3)	T=\$15,000 or less N=\$250,001-\$500,000 P3=\$25,000,001-\$50,000,000	K=\$15,001-\$50,000 O=\$500,001-\$1,000,000	L=\$50,001-\$100,000 P1=\$1,000,001-\$5,000,000 P4=More than \$50,000,000
3 Value Method Codes: (See Col. C2)	Q=Appraisal U=Book value	R=Cost (real estate only) V=Other	S=Assessment W=Estimated T=Cash/Market

Appendix II
Judicial Branch Financial Disclosure Forms

Blank Judicial Branch Financial Disclosure Report (Form AO-10)

FINANCIAL DISCLOSURE REPORT						Name of Person Reporting		Date of Report																						
VII. Page 2 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 34-57 of Instructions.)																														
A. Description of Assets (including trust assets) <i>Place "X" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period																									
	(1)	(2)	(1)	(2)	(1)	If not exempt from disclosure																								
	Amt. Code1 (A-H)	Type (e.g., div., rent or int.)	Value Code2 (J-P)	Value Method Code (Q-W)	Type (e.g., buy, sell, merger, redemption)	(2) Date: Month/ Day	(3) Value Code2 (J-P)	(4) Gain Code1 (A-H)	(5) Identity of buyer/seller (if private transaction)																					
<input type="checkbox"/> NONE (No reportable income, assets, or transactions)																														
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Appendix II
Judicial Branch Financial Disclosure Forms

Blank Judicial Branch Financial Disclosure Report (Form AO-10)

FINANCIAL DISCLOSURE REPORT					Name of Person Reporting		Date of Report																						
VII. Page 4 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 34-57 of Instructions.)																													
A. Description of Assets (including trust assets) <i>Place "X" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period																								
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	Amt. Code1 (A-H)	Type (e.g., div., rent or int.)	Value Code2 (J-P)	Value Method Code (Q-W)	Type (e.g., buy, sell, merger, redemption)	(2) Date: Month Day	(3) Value Code2 (J-P)	(4) Gain Code1 (A-H)	(5) Identity of buyer/seller (if private transaction)																				
<input type="checkbox"/> NONE (No reportable income, assets, or transactions)																													
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Blank Judicial Branch Financial Disclosure Report (Form AO-10)

GAO-04-696NI Judicial Financial Disclosure Redactions

Comments from the Administrative Office of the U.S. Courts

JUDICIAL CONFERENCE OF THE UNITED STATES

COMMITTEE ON FINANCIAL DISCLOSURE

Judge Mary M. Lisi, Chair

Judge Stanley F. Birch, Jr.
Judge Bobby R. Baldock
Judge John W. Darrah
Judge Rebecca F. Doherty
Judge Helen Gillmor
Judge Joseph M. Hood
Judge Yvette Kane

Judge Tim Leonard
Judge Norman K. Moon
Judge Graham C. Mullen
Judge Robert D. Sack
Judge John W. Sedwick
Judge Orrin D. Smith
Judge Donald J. Stohr

One Columbus Circle, N.E.
Washington, D.C. 20544
Telephone: (202) 502-1850
Facsimile: (202) 502-1899

June 8, 2004

Mr. William O. Jenkins, Jr.
Director, Homeland Security and Justice
United States General Accounting Office
Washington, DC 20548

Dear Mr. Jenkins:

In response to your letter of May 25, 2004, to the Director of the Administrative Office of the U.S. Courts, I write to offer comments on the General Accounting Office (GAO) draft report on the federal judiciary's administration of section 105(b)(3) of the Ethics in Government Act of 1978, as amended (5 U.S.C. app. § 105(b)(3)).

At the outset, I would like to emphasize that the analyses and recommendations in the draft report are, in my view, most helpful. By amending the Act in 1998 to provide the judiciary with authority to redact judicial branch financial disclosure reports before their release to the public, Congress recognized that judges today face security risks greater than those seen 20 years earlier when the Ethics in Government Act first became law. The regulations adopted by the Judicial Conference to implement the redaction authority required the Committee on Financial Disclosure to develop procedures for properly balancing judges' security concerns with the public's right to view the information contained in financial disclosure reports. The Committee sees this as an ongoing process, and it has made a concerted effort to ensure that the authority conferred by section 105(b)(3) is exercised in a consistent and prudent manner. Your report confirms this fact, recognizing that the majority of redactions approved between 1999 and 2002 related to information revealing the regular presence of filers or their family members at unsecured locations.

Citing the Comptroller General's *Standards for Internal Control in the Federal Government*, the draft report also recommends that the Committee assess and further document step-by-step procedures to carry out the redaction and release of reports. In reviewing the *Standards*, it seems clear that, in most significant ways, the procedures currently employed by the Committee already embrace the basic management activities and internal controls necessary to process release and redaction requests in a timely fashion. For instance, the *Standards* recommend that managers maintain record-keeping systems to monitor work processes. The

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Committee staff's automated system used to track each request for release of financial disclosure reports and associated requests for redaction of those reports is designed not only to follow the progress of each request, but also to include data sufficient to produce a variety of management reports that can be used to analyze operational performance and trends. Staff reviews this information weekly to check the status of all open requests for release of reports, all requests to the United States Marshals Service for consultation on redaction requests, and the ongoing work of the Committee's Subcommittee on Public Access and Security. A copy of the weekly report is also reviewed by the Deputy Chief and Chief of the Article III Judges Division and the Chair of the Committee. The flow chart on page 8 of the draft report accurately reflects the overall process for handling release and redaction requests. That process is further documented in the tracking system described above, and in the files maintained by the Committee. These methods enable the Committee to compare actual performance to planned or anticipated results, as recommended in the *Standards*, and to make adjustments as needed to improve performance.

In addition, at each semi-annual meeting, the Committee discusses how release and redaction requests are being handled, with a view toward maintaining the necessary balance between judges' security and public access to information. The Committee also extensively reviews the staff draft of the AO Director's annual report to Congress under section 105(b)(3)(C) to ensure that it presents a complete and accurate picture of how the redaction authority is being exercised.

Since January 2003 (beyond the time covered by your report), the Committee has continued to make additional adjustments to its procedures aimed at reducing the time required to process individual requests for copies of reports. The times for processing the 56 requests received in 2003 show a mean of 62 days and a median of 45 days. In 2004, for the 15 requests completed to date, these figures were reduced to a mean of 35 days and a median of 34 days. Based on recommendations made by GAO, the Committee has now set a response time of 10 (rather than 14) days for judges to respond to notifications of requests for release of their reports, and it is now providing those notifications by fax or e-mail except with respect to "omnibus" requests (e.g., those seeking copies of all judges' reports for a given year or years). It has also established expedited review procedures to reduce the time needed to respond to release and redaction requests. Other suggested process enhancements, including measures recommended by GAO, will be considered by the full Committee at its next meeting.

The Committee further believes that its continuing efforts to educate filers about the release and redaction process have contributed to reducing the number of overly broad requests for redaction, as well as requests for which no nexus is established between filers' security concerns and the information to be redacted. Indeed, most recurring redaction requests now relate to information that would reveal where a judge or judge's family member can regularly be found.

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Having said these things, it is important to point out that, from the Committee's perspective, a number of variables make it difficult to mandate specific times for completing the various discrete steps in the process. By itself, the sheer volume of material involved in release and redaction requests – in 2002, copies of 9,761 reports totaling more than 58,500 pages were released to the public – makes the process less than fully predictable. Processing times measured between the receipt of a request for release and its completion are affected by when a request is filed, whether any redaction requests are made, and how many other requests are pending. As an example, the Committee annually receives, during April and early May, a number of requests for copies of reports for the preceding calendar year that have not yet been received (May 15 is the ordinary deadline), including some reports for which an extension of the filing deadline has been granted. For such requests, the elapsed "processing time" is historically longer than for requests received, for instance, in October when all the reports for the previous year generally have been received and processed. Likewise, an omnibus request for all judges' reports during a six-year period takes significantly longer to process than a single request for one report for one year.

At the same time, the Committee is mindful of the fact that further refinements in the procedures are desirable, and it is committed to devising management indicators through which realistic internal processing goals can be set that will take into account the variable timing and scope of requests. We have directed the staff to prepare and submit for Committee review additional written operating procedures and milestones that the Committee can use in evaluating the effectiveness of its efforts to implement the release and redaction requirements in light of the balancing of interests mandated by Congress.

Thank you for the opportunity to review the draft report, and to comment on the issues raised during your review. If you need additional information, or wish to discuss further any aspect of the report or these comments, please let me know.

Sincerely,



Mary M. Lisi

Comments from the United States Marshals Service



U.S. Department of Justice

United States Marshals Service

Office of the Director

Washington, DC 20530-1000

June 10, 2004

William O. Jenkins, Jr.
Director, Homeland Security and Justice Issues
United States General Accounting Office
Washington, DC 20548

Dear Mr. Jenkins:

Thank you for the opportunity to comment on the GAO draft report entitled: *Assessing and Formally Documenting Financial Disclosure Procedures Could Help Ensure Balance Between Judges' Safety and Timely Public Access (GAO-04-696)*. Our comments and proposed corrective actions are detailed in the attachment.

We ask that you consider all information and documentation provided to your auditors throughout this audit as Law Enforcement Sensitive (LES). Specifically, please safeguard LES information contained in your work papers and audit files from release to the general public. In addition, we request that: (a) the final report be distributed only to the reviewed parties (AOUSC, USMS); and (b) this report not be made available to the general public via the Internet.

Should you have any questions or comments regarding our response, please contact Isabel Howell, Audit Liaison, at 202-307-9744.

Sincerely,

A handwritten signature in black ink, appearing to read "Benigno G. Reyna".

Benigno G. Reyna
Director

Attachment

ATTACHMENT

**United States Marshals Service Response to GAO Draft Report No. GAO-04-696:
Assessing and Formally Documenting Financial Disclosure Procedures
Could Help Ensure Balance Between Judges' Safety and Timely Public Access**

Page 10, para. 2: *"USMS has changed the content of its security consultations to committee staff over time. When the security consultation process began, USMS's Judicial Security Division, in coordination with its district offices, provided committee staff with a recommendation as to whether the security conditions warranted the requested redactions. USMS security consultations are now limited to providing factual information on the relevant judges' current security conditions without making judgments as to whether the redactions are warranted."*

Comment: The financial disclosure security consultation process has changed considerably since its early stages. For example, in 2000, the USMS actually performed redactions from the financial disclosure reports of judges who requested such redactions. Subsequently, a legal determination was made by the Office of Legal Counsel (DOJ) and the Office of General Counsel (USMS) that the USMS should no longer execute redactions, as this authority resides with the Judicial Conference, which has further delegated this authority to the Committee on Financial Disclosure. These legal determinations resulted in the USMS concluding that a security consultation request from AOUSC would be construed as the seeking of answers to three security questions. These security-related questions were determined by the same legal authorities to be the only permissible information the USMS could use in conducting its security consultation. The USMS has always been mindful and respectful of the premise that the intent of the Ethics in Government Act, even as amended in 1999, is the right of the public to the financial disclosure reports of government officials.

Page 20, para. 2: *"However, our review of committee and USMS documentation shows that it is unclear whether the official deadline for USMS consultation responses is 14 or 30 days--both of these times appear in separate documents prepared by each organization."*

Comment: The deadline for a USMS security consultation response to AOUSC is 14 days. The 30-day deadline is understood to be a default action date by which AOUSC (barring receipt of a response from USMS) will utilize other existing information to make its security consultation determination. While the time period from the end of the 14th day to the end of the 30th day may allow the USMS to provide a security consultation response which AOUSC may use as if it had been received within the 14-day deadline, the USMS acknowledges that the 14-day deadline is the operative one. However, the USMS also believes that in the interests of the safety and security of the federal judiciary, it may be necessary to take the additional time to provide a thorough security consultation.

Page 24, Para. 3
is now
Page 25, Para. 2

Page 24, Para. 3: *"The USMS officials further stated that they do not have a dedicated staff to continually monitor the requests or ensure the districts respond to all security consultation requests."*

Comment: While the USMS has taken definitive steps toward improving the timeliness and effectiveness of the judicial security consultation process (see below), a dedicated FTE, such as a program analyst, may further enhance the process. However, the USMS must reduce its administrative staff by 85 positions, in accordance with the Fiscal Year 2004 Appropriation, by September 30, 2004. Accordingly, it is not currently feasible to dedicate a position to perform this work. Once this reduction has been completed, the USMS will give consideration to dedicating a position to monitor these request as well as to performing responsibilities related to judicial conference security requests.

Page 29, para. 1: *"GAO also recommends that USMS develop and implement procedures to ensure that it complies with the requirements of the Ethics in Government Act by responding to all consultation requests from the Judicial Conference."*

Corrective Actions Implemented: On May 24, 2004, USMS JSD implemented several new procedures intended to ensure that the USMS responds to all security consultation requests within the prescribed time period. The timely processing of these security consultation requests is a high priority of the USMS. The new procedures are outlined below.

Specifically:

- 1) The JSD will fax the initial security consultation request form to the concerned USMS districts within one (1) business day of receipt of the security consultation request from AOUSC.
- 2) The final consultation response back to AOUSC will be sent within one (1) business day of receipt.
- 3) In order to comply with the 14-day response time required by AOUSC, JSD has modified the action memorandum that is sent to district offices after receipt of the AOUSC security consultation request. The time in which the district offices must respond to the JSD memorandum has been reduced from 14 to 7 calendar days.
- 4) The USMS has drafted and implemented a proposed agency policy on the processing of financial disclosure security consultation requests. The policy is currently under review and will be issued formally once the review process is complete.

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