参、美國聯邦法院之設立、法官之任命與優遇等相關制度[58]

一、美國聯邦法院之設立及審判權

(一)美國聯邦法院之設立

依美國聯邦憲法第 3 條第 1 項規定，美國聯邦之司法權(the Judicial Power)，由 1 個最高法院(one supreme Court)及國會隨時制定法律設置之下級法院行使。[59]

(二)美國聯邦法院之審判權

依美國聯邦憲法第 3 條第 2 項規定，美國聯邦之司法權及於下列案(事)件：(一)所有依據美國憲法、美國聯邦法律及其有權締結之條約所發生之法律及衡平案件；(二)影響大使、公使或領事之案件；(三)所有海商法及海事事件；(四)美國聯邦為當事人一方之爭議事件；(五)兩個或多個州之間爭議之事件；(六)一個州與他州公民之間之爭議事件；(七)不同州公民間之爭議事件；(八)同一州公民間，就在他州放領之土地主張權利之爭議事件；(九)一個州或該州的公民與外國、外國公民間之爭議事件。[60]。但美國聯邦憲法第 3 條第 2 項規定，美國聯邦之司法權及於(一)一個州與他州公民之間之爭議事件及(二)一個州或該州的公

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[58] 本次參訪之美國司法機關為美國聯邦第一巡迴上訴法院(The United States Court of Appeals for the First Circuit)，因此本報告有關美國聯邦法院法官之任命、退休及優遇等相關制度之介紹，以聯邦上訴法院為主。

[59] U.S. Const. Art. III, Sec. 1 states that: 'The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish….'

[60] U.S. Const. Art. III. Sec. 2. Clause 1. states that: 'The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a Party;—to Controversies between two or more States; between a State and Citizens of another State; between Citizens of different States,—between Citizens of the same State claiming Land under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.'

民與外國、外國公民間之爭議事件兩部分，因美國聯邦憲法增修條文第 11 條之規定，而停止適用。[61]

由美國聯邦憲法第 3 條第 1 項及第 2 項規定可知，美國聯邦法院之審判權，不僅包括民事訴訟事件及刑事訴訟案件之審判，亦及於行政訴訟事件之審判。

(三)美國聯邦上訴法院之設立

依美國聯邦法律第 28 編第 41 條規定，美國聯邦計有 13 個上訴法院，其中 11 個以序數第一至第十一巡迴上訴法院稱之，另一個稱之為哥倫比亞特區巡迴上訴法院(The United States Court of Appeals for the District of Columbia Circuit)，均以特定區域為管轄範圍，另一個聯邦上訴法院稱之為聯邦巡迴上訴法院(The United States Court of Appeals for the Federal Circuit)，其轄區包括全美國。美國聯邦第一巡迴上訴法院之訴訟轄區包括緬因州(Maine)、麻薩諸塞州(Massachusetts)、新罕布夏州(New Hampshire)、波多黎各(Puerto Rico)及羅德島州(Rhode Island)。[62]

二、美國聯邦法院法官之任命與員額及院長之產生

(一)美國聯邦法院法官任命之資格條件及程序

依美國聯邦憲法第 2 條第 2 項規定，美國聯邦最高法院、上訴法院及地方法院法官，均係由美國總統提名(nominate)，經參議院(The Senate)同意(consent)後，由總統任命(appoint)。[63]

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[61]U.S. Const. Amend. XI states that: 'The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.'

[62] 28 USC §41.

[63] U.S. Const. Art. II, Sec. 2 states that: 'The President …shall have Power, …by and with the Advice and Consent of the Senate, shall appoint…Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the

美國聯邦最高法院、上訴法院及地方法院法官之被提名人，經常係由參議員(senator)推薦，有時由與總統同政黨之眾議院議員(member of the House)推薦。參議院司法委員會(The Senate Judiciary Committee)通常會為每位被提名人舉行聽證會(confirmation hearings)。美國聯邦司法機關(The federal Judiciary)、美國聯邦司法會議(The Judicial Conference of the United States)及美國聯邦法院行政辦公室(The Administrative Office of the U.S. Courts)，均未參與美國聯邦最高法院、上訴法院及地方法院法官之提名及確認程序。雖然美國憲法就美國聯邦最高法院、上訴法院及地方法院法官未規定具體之條件。但國會議員推薦人選時及司法部(the Department of Justice)審查被提名之資格時，已經發展出自己非正式之標準。[64]

(二)美國聯邦上訴法院法官住所地之限制

依美國聯邦法律第 28 編第 44 條第 3 項規定，除華盛頓特區聯邦巡迴上訴法院外，其他美國聯邦巡迴上訴法院之法官，於被任命時及任職期間，須為被任命之聯邦巡迴上訴法院訴訟轄區內之居民，且該聯邦巡迴上訴法院訴訟轄區內之每一州，均應至少有一位居民為現任職之法官。但聯邦巡迴上訴法院(The United States Court of Appeals for the Federal Circuit)，於經任命後，則應住於距華盛頓特區 50 英哩之內。[65]

Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments….'

[64] https://www.uscourts.gov/faqs-federal-judges#faq-who-appoints-federal-judges last visited: November 17, 2019.

[65] 28 USC 44 (c) stipulates that: 'Except in the District of Columbia, each circuit judge shall be a resident of the circuit for which appointed at the time of his appointment and thereafter while in active service. While in active service, each circuit judge of the Federal judicial circuit appointed after the effective date of the Federal Courts Improvement Act of 1982, and the chief judge of the Federal judicial circuit, whenever appointed, shall reside within fifty miles of the District of Columbia. In each circuit (other than the Federal judicial circuit) there shall be at least one circuit

(三)美國聯邦上訴法院及地方法院法官員額之決定

美國聯邦上訴法院及地方法院法官之員額，係由國會以制定法律之方式設置。美國聯邦司法會議(The Judicial Conference of the United States)經由其司法資源委員會(Judicial Resources Committee)，每兩年調查一次每一法院法官員額之需求。每個每位法官之案件負荷量，為決定是否需要增加法官員額首先考慮之關鍵因素，其他考慮之因素可能包括地理位置、優遇法官(senior judge)之人數及案件之複雜程度。之後由美國聯邦司法會議向國會提出其有關每個法院法官員額之建議。[66]

(四)美國聯邦上訴法院法官之員額

依美國聯邦法律第 28 編第 44 條第 1 項規定，美國 13 個聯邦上訴法院法官之員額，哥倫比亞特區巡迴上訴法院(The United States Court of Appeals for the District of Columbia Circuit) 為 11 人，聯邦巡迴上訴法院(The United States Court of Appeals for the Federal Circuit) 為 12 人，其餘以序數稱之之第一至第十一巡迴上訴法院分別為 6 人、13 人、14 人、15 人、17 人、16 人、11 人、11 人、29 人、12 人、12 人。[67]但美國聯邦司法會議(The Judicial Conference of the United States)經由其司法資源委員會(Judicial Resources Committee)，每兩年調查一次每一法院法官員額之需求。考量每個法院每位法官之案件負荷量、地理位置、優遇法官(senior judge)之人數及案件之複雜程度後，向國會提出其有關每個法院法官員額之建議，如上揭參之二(三)所述。

依美國聯邦憲法第 3 條第 1 項規定，美國聯邦最高法院及下級審法院法官為終身職，只要行為良好可以永遠任職(shall hold their Offices during good

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judge in regular active service appointed from the residents of each state 1 in that circuit.'

[66] https://www.uscourts.gov/faqs-federal-judges#faq-who-appoints-federal-judges last visited: November 17, 2019.

[67] 28 USC §44(a).

Behaviour)，[68]不須因年齡因素而退休。美國聯邦法律第 28 編第 44 條第 2 項亦規定，美國聯邦上訴法院法官為終身職，只要行為良好可以永遠任職(shall hold their Offices during good Behaviour)，[69]不須因年齡因素而退休。但美國聯邦法律第 28 編第 371 條第 1 項及第 2 項規定，美國聯邦最高法院、上訴法院及地方法院法官，於達一定年齡並符合連續或非連續服務年資之要求時，得選擇退休(retire from the office)或優遇(retain the office but retire from regular active service)。[70]所謂達一定年齡並符合連續或非連續服務年資之要求，依美國聯邦法律第 28 編第 371 條第 3 項規定，係指滿 65 歲服務滿 15 年、滿 66 歲服務滿 14 年、滿 67 歲服務滿 13 年、滿 68 歲服務滿 12 年、滿 69 歲服務滿 11 年、滿 70 歲服務滿 10 年，[71]即年齡與任職法官年資合計達 80 之所謂「80 法則」(Rule of 80)。[72]

美國聯邦最高法院、上訴法院及地方法院法官，退休或優遇時，美國總統應提名並經參議院同意後，任命繼任之法官。[73]因此美國聯邦第一巡迴上訴法院除 Jeffrey R. Howard 法官兼院長、 Juan R. Torruella、 Sandra L. Lynch、O. Rogeriee Thompson、William J. Kayatta, Jr.及 David J. Barron 等 6 位非優遇法官外，另有 Bruce M. Selya 、Michael Boudin、Norman H. Stahl、Kermit V. Lipez

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[68] U.S. Const. Art. III. Sec. 1. states that: '…Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour,….'

[69] 28 USC §44(b) states that: 'Circuit judges shall hold office during good behavior.'

[70] 28 USC §371. Retirement on salary; retirement in senior status states that: '(a) Any justice or judge of the United States appointed to hold office during good behavior may retire from the office after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) and shall….
(b)(1) Any justice or judge of the United States appointed to hold office during good behavior may retain the office but retire from regular active service after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) of this section and shall….'

[71] 28 USC §371(c).

[72] https://www.uscourts.gov/faqs-federal-judges#faq-What-is-a-senior-judge? Last visited: November 25, 2019.

[73] 28 USC §371(d) states that: 'The President shall appoint, by and with the advice and consent of the Senate, a successor to a justice or judge who retires under this section.'

及等 4 位優遇法官。其中 Juan R. Torruella、 Sandra L. Lynch 兩位非優遇法官年齡分別為 86 歲及 73 歲，Bruce M. Selya 、Norman H. Stahl 及 Kermit V. Lipez 等 3 位優遇法官，年齡分別為 85 歲、88 歲及 78 歲，均仍繼續辦理案件，僅優遇法官辦理較少案件而已。

(五)美國聯邦巡迴上訴法院院長(chief judge)之產生

依美國聯邦法律第 28 編第 45 條第 1 項規定，美國聯邦巡迴上訴法院院長由非優遇法官(in regular service)中最資深，並符合下列條件者擔任：（一）64 歲以下；（二）擔任巡迴上訴法院法官 1 年以上；（三）之前未曾擔任院長。其任期為 7 年，並於任期屆滿後繼續擔任院長職務，至另一位法官符合上開擔任院長之資格為止。

如無法官符合上開條件，則由年齡在 65 歲以上且已擔任該法院法官 1 年以上之最年輕非優遇法官代理院長職務。如亦無非優遇法官年齡在 65 歲以上且已擔任該法院法官 1 年以上者，則由最資深且之前未曾擔任院長之非優遇法官代理院長職務。其任期至有（一）64 歲以下；（二）擔任巡迴上訴法院法官 1 年以上；（三）之前未曾擔任院長之非優遇法官得以擔任院長時為止。

除非無符合上開資格者得以擔任院長或代理院長職務，年滿 70 歲者不得擔任巡迴上訴法院院長或代理院長職務。[74]

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[74] 28 USC §45(a) states that: '(a)(1) The chief judge of the circuit shall be the circuit judge in regular active service who is senior in commission of those judges who-
(A) are sixty-four years of age or under;
(B) have served for one year or more as a circuit judge; and
(C) have not served previously as chief judge.
(2)(A) In any case in which no circuit judge meets the qualifications of paragraph (1), the youngest circuit judge in regular active service who is sixty-five years of age or over and who has served as circuit judge for one year or more shall act as the chief judge.
(B) In any case under subparagraph (A) in which there is no circuit judge in regular active service who has served as a circuit judge for one year or more, the circuit judge in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.
(3)(A) Except as provided in subparagraph (C), the chief judge of the circuit appointed under paragraph (1) shall serve for a term of seven years and shall serve

依美國聯邦法律第 28 編第 45 條第 3 項規定，如聯邦巡迴上訴法院院長欲辭去院長職務而仍擔任非優遇法官職務時，應獲得聯邦最高法院院長認可，之後即由其他符合上開規定之聯邦巡迴上訴法院法官擔任或代理院長。[75]

依美國聯邦法律第 28 編第 45 條第 4 項規定，如聯邦巡迴上訴法院院長暫時無法執行職務，則應由該聯邦巡迴上訴非優遇且能執行職務符合代理資格次順位之法官執行院長職務。[76]

依美國聯邦法律第 28 編第 45 條第 2 項規定，聯邦巡迴上訴法院院長參與之合議審判，由院長擔任審判長。無院長參與之合議審判，由年資較深之非優遇法官擔任審判長，年資相同者，由年紀較長之非優遇法官擔任審判長。但由聯邦最高法院法官兼行聯邦巡迴上訴法院法官職務時，由其擔任審判長。[77]

(六)聯邦最高法院院院長及法官得兼行聯邦巡迴上訴法院法官之職務

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after expiration of such term until another judge is eligible under paragraph (1) to serve as chief judge of the circuit.
(B) Except as provided in subparagraph (C), a circuit judge acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge has been appointed who meets the qualifications under paragraph (1).
(C) No circuit judge may serve or act as chief judge of the circuit after attaining the age of seventy years unless no other circuit judge is qualified to serve as chief judge of the circuit under paragraph (1) or is qualified to act as chief judge under paragraph (2).'

[75] 28 USC §45(c) states that: 'If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as circuit judge, he may so certify to the Chief Justice of the United States, and thereafter the chief judge of the circuit shall be such other circuit judge who is qualified to serve or act as chief judge under subsection (a).'

[76] 28 USC §45(d) states that: 'If a chief judge is temporarily unable to perform his duties as such, they shall be performed by the circuit judge in active service, present in the circuit and able and qualified to act, who is next in precedence.'

[77] 28 USC §45(b) states that: 'The chief judge shall have precedence and preside at any session of the court which he attends. Other circuit judges of the court in regular active service shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age. The circuit justice, however, shall have precedence over all the circuit judges and shall preside at any session which he attends.'

依美國聯邦法律第 28 編第 42 條規定，聯邦最高法院得指派該院院長及法官兼行聯邦巡迴上訴法院法官之職務，聯邦最高法院休會期間，由聯邦最高法院院長指派。一位聯邦最高法院法官得指派至一個以上之巡迴上訴法院兼行聯邦巡迴上訴法院法官之職務，亦得指派多位聯邦最高法院法官至一個以上之巡迴上訴法院兼行聯邦巡迴上訴法院法官之職務。[78]因此，聯邦最高法院法官有可能參與聯邦巡迴上訴法院個案之審判，並擔任審判長。至於聯邦最高法院法官為何得指派至聯邦巡迴上訴法院執行上訴法院法官之職務，經指派至聯邦巡迴上訴法院執行聯邦巡迴上訴法院法官職務而參與聯邦巡迴上訴法院個案之審判，如該個案上訴至聯邦最高法院時，該參與聯邦巡迴上訴法院個案審判之聯邦最高法院法官應否迴避，均容爾後有機會再深入研究。

三、美國聯邦法院法官之退休與優遇及其給與

(一)美國聯邦法院法官之退休及其退休給與

依美國聯邦憲法第 3 條第 1 項規定，美國聯邦最高法院及下級審法院法官為終身職，只要行為良好可以永遠任職(shall hold their Offices during good Behaviour)，不須因年齡因素而退休。美國聯邦法律第 28 編第 44 條第 2 項亦規定，美國聯邦上訴法院法官為終身職，只要行為良好可以永遠任職(shall hold their Offices during good Behaviour)，已如參之二(四)所述。但依美國聯邦法律第 28 編第 371 條第 1 項規定，美國聯邦最高法院、巡迴上訴法院及地方法院法官，行為良好，於達一定年齡並符合連續或非連續服務年資之要求時，仍得選擇退休(retire from the office)，在其餘生，每年領取與退休時與薪水相同之退休

[78] 28 USC §42. Allotment of Supreme Court justices to circuits states that: 'The Chief Justice of the United States and the associate justices of the Supreme Court shall from time to time be allotted as circuit justices among the circuits by order of the Supreme Court. The Chief Justice may make such allotments in vacation.
A justice may be assigned to more than one circuit, and two or more justices may be assigned to the same circuit.'

金。[79]而所謂達一定年齡並符合連續或非連續服務年資之要求，依美國聯邦法律第 28 編第 371 條第 3 項規定，係指滿 65 歲服務滿 15 年、滿 66 歲服務滿 14 年、滿 67 歲服務滿 13 年、滿 68 歲服務滿 12 年、滿 69 歲服務滿 11 年、滿 70 歲服務滿 10 年，即年齡與任職法官年資合計達 80 之所謂「80 法則」(Rule of 80)，如參之二(四)所述。例如：美國聯邦上訴法院法官 2018 年 1 月 1 日起及 2019 年 1 月 1 日起年薪分別為 22 萬 600 美元及 22 萬 3,700 美元。[80]則某美國聯邦上訴法院法官甲於 2018 年間退休，其退休後至死亡時，每年得領取 22 萬 600 美元退休金。某美國聯邦上訴法院法官乙於 2019 年間退休，其退休後至死亡時，每年得領取 22 萬 3,700 美元退休金。

(二)美國聯法院法官之優遇及其給與

依美國聯邦憲法第 3 條第 1 項規定，美國聯邦最高法院及下級審法院法官為終身職，只要行為良好可以永遠任職(shall hold their Offices during good Behaviour)，不須因年齡因素而退休。美國聯邦法律第 28 編第 44 條第 2 項亦規定，美國聯邦上訴法院法官為終身職，只要行為良好可以永遠任職(shall hold their Offices during good Behaviour)，已如上揭參之二(四)所述。但依美國聯邦法律第 28 編第 371 條第 2 項規定，美國聯邦最高法院、巡迴上訴法院及地方法院法官，行為良好，於達一定年齡並符合連續或非連續服務年資之要求時，即年齡與任職法官年資合計 80 之所謂「80 法則」(Rule of 80)，[81]仍得選擇優遇(retire from regular active service)，在其餘生，只要符合同條第 5 項規定之工作

[79] 28 USC §371(a) states that: 'Any justice or judge of the United States appointed to hold office during good behavior may retire from the office after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) and shall, during the remainder of his lifetime, receive an annuity equal to the salary he was receiving at the time he retired.'

[80] https://www.fjc.gov/history/judges/judicial-salaries-us-court-appeals-judges last visited: November 20, 2019.

[81] https://www.uscourts.gov/faqs-federal-judges#faq-What-is-a-senior-judge? last visited: November 22, 2019.

量，即得繼續領取其原職務之薪水。[82]而所謂達一定年齡並符合連續或非連續服務年資之要求，依美國聯邦法律第 28 編第 371 條第 3 項規定，係指滿 65 歲服務滿 15 年、滿 66 歲服務滿 14 年、滿 67 歲服務滿 13 年、滿 68 歲服務滿 12 年、滿 69 歲服務滿 11 年、滿 70 歲服務滿 10 年，亦已如上揭參之二(四)所述。

依美國聯邦法律第 28 編第 371 條第 5 項規定，優遇法官得繼續領取其原職務薪水之工作量，須每個日曆年，聯邦最高法院法官由聯邦最高法院院長確認，聯邦巡迴上訴法院法官及地方法院法官，由該法官所在聯邦巡迴上訴法院之院長確認，符合下列情形之一者：

1、法官在上一日曆年(the preceding calendar year)執行與法庭工作相關職務之案件負荷量(a caseload involving courtroom participation)等於或大於一般非優遇法官 3 個月執行與法庭工作相關職務之案件負荷量。對於聯邦最高法院法官或聯邦巡迴上訴法院法官兼行下級審法院法官之職務者，其上下級審之案件負荷量應分別計算後，再累計其整體之案件負荷量，以決定是否符合等於或大於一般非優遇法官 3 個月執行與法庭工作相關職務之案件負荷量之規定。

2、美國聯邦最高法院、巡迴上訴法院及地方法院優遇法官，在上一日曆年，執行經指派非與法庭工作相關之重要司法職務，包括試行和解(settlement efforts)、程序裁定(motion decisions)、撰寫未經言詞辯論案件之意見(opinions in cases that have not been orally argued)及法院之行政事務(administrative duties for the court)。任何執行該等職務之證明，應包括詳細敘述工作性質及數量之說明，並確認所完成之工作量等於或大於非優遇法官 3 個月執行該類工作之工作量。

[82] 28 USC §371(b)(1) states that: 'Any justice or judge of the United States appointed to hold office during good behavior may retain the office but retire from regular active service after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) of this section and shall, during the remainder of his or her lifetime, continue to receive the salary of the office if he or she meets the requirements of subsection (e).'

3、美國聯邦最高法院、巡迴上訴法院及地方法院優遇法官，在上一日曆年，執行上揭兩種與法庭工作相關職務之案件負荷量及經指派非與法庭工作相關之重要司法職務，合計至少等於 3 個月之工作量。

4、美國聯邦最高法院、巡迴上訴法院及地方法院優遇法官，在上一日曆年，執行與法院運作直接相關之重要行政職務(substantial administrative duties directly related to the operation of the courts)，或為聯邦或州政府機關(構)執行重要之職務(substantial duties for a Federal or State governmental entity)。執行該項工作之證明應特別說明該法官完成之工作量等於司法部門人員全職工作之工作量。如該法官於任何 1 年，從事該項工作少於 1 整年之期間，該項工作一半之工作量，可與上揭 1 至 3 所列執行與法庭工作相關職務之案件負荷量及經指派非與法庭工作相關之重要司法職務合併計算，以決定優遇法官之工作量是否符合規定。

5、美國聯邦最高法院、巡迴上訴法院及地方法院優遇法官，在上一日曆年，因失能致暫時或永久無法執行上揭 1 至 4 所列，與法庭工作相關之職務、經指派非與法庭工作相關之重要司法職務及與法院運作直接相關之重要行政職務或為聯邦或州政府機關(構)執行重要之職務。確認法官失能之證明，聯邦最高法院法官須向聯邦最高法院院長提出，聯邦巡迴上訴法院法官及地方法院法官，須向該法官所在聯邦巡迴上訴法院之院長提出。經確認永久失能之法官，視為在其後之每個日曆年，均已符合得繼續領取其原職務薪水工作量之要件。[83]

[83] 28 USC §371(e)(1) states that: 'In order to continue receiving the salary of the office under subsection (b), a justice must be certified in each calendar year by the Chief Justice, and a judge must be certified by the chief judge of the circuit in which the judge sits, as having met the requirements set forth in at least one of the following subparagraphs:
(A) The justice or judge must have carried in the preceding calendar year a caseload involving courtroom participation which is equal to or greater than the amount of work involving courtroom participation which an average judge in active service would perform in three months. In the instance of a justice or judge who has sat on both district courts and courts of appeals, the caseload of appellate work and trial work shall be determined separately and the results of those determinations added together for purposes of this paragraph.

上開第 1 至第 4 種情形，其工作量之判斷應依照美國聯邦司法會議(The Judicial Conference of the United States)訂定之規則。美國聯邦司法會議訂定該評量工作量決定因素之規則時，應考量美國聯邦司法會議所訂定為優遇法官配置辦公空間及法官助理等人員之現行標準。[84]

美國聯邦最高法院、巡迴上訴法院及地方法院優遇法官，在任一日曆年，除因失能致暫時或永久無法執行職務外，如未能取得符合上揭 1 至 4 所列，與法庭工作相關職務、經指派非與法庭工作相關之重要司法職務及與法院運作直

(B) The justice or judge performed in the preceding calendar year substantial judicial duties not involving courtroom participation under subparagraph (A), including settlement efforts, motion decisions, writing opinions in cases that have not been orally argued, and administrative duties for the court to which the justice or judge is assigned. Any certification under this subparagraph shall include a statement describing in detail the nature and amount of work and certifying that the work done is equal to or greater than the work described in this subparagraph which an average judge in active service would perform in three months.
(C) The justice or judge has, in the preceding calendar year, performed work described in subparagraphs (A) and (B) in an amount which, when calculated in accordance with such subparagraphs, in the aggregate equals at least 3 months work.
(D) The justice or judge has, in the preceding calendar year, performed substantial administrative duties directly related to the operation of the courts, or has performed substantial duties for a Federal or State governmental entity. A certification under this subparagraph shall specify that the work done is equal to the full-time work of an employee of the judicial branch. In any year in which a justice or judge performs work described under this subparagraph for less than the full year, one-half of such work may be aggregated with work described under subparagraph (A), (B), or (C) of this paragraph for the purpose of the justice or judge satisfying the requirements of such subparagraph.
(E) The justice or judge was unable in the preceding calendar year to perform judicial or administrative work to the extent required by any of subparagraphs (A) through (D) because of a temporary or permanent disability. A certification under this subparagraph shall be made to a justice who certifies in writing his or her disability to the Chief Justice, and to a judge who certifies in writing his or her disability to the chief judge of the circuit in which the judge sits. A justice or judge who is certified under this subparagraph as having a permanent disability shall be deemed to have met the requirements of this subsection for each calendar year thereafter.'

[84] 28 USC §371(e)(2) states that: 'Determinations of work performed under subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be made pursuant to rules promulgated by the Judicial Conference of the United States. In promulgating such criteria, the Judicial Conference shall take into account existing standards promulgated by the Conference for allocation of space and staff for senior judges.'

接相關之重要行政職務或為聯邦或州政府機關(構)執行重要職務工作量要求之證明，得以次一年工作量補足前一年不足工作量之方式，取得證明該年符合工作量之證明。但以次一年工作量補足前一年不足工作量取得證明之方式，以相同之工作補足，不得超過 1 年。[85]

如美國聯邦最高法院、巡迴上訴法院及地方法院法官，在一日曆年當中優遇，則該法官在該日曆年內未優遇前完成之工作量，亦應併入決定該日曆年其完成之工作量是否符合優遇應有工作量內計算。[86]

如美國聯邦最高法院、巡迴上訴法院及地方法院優遇法官，不符合上揭 1 至 4 所列，與法庭工作相關職務、經指派非與法庭工作相關之重要司法職務及與法院運作直接相關之重要行政職務或為聯邦或州政府機關(構)執行重要職務工作量之要求，則其應繼續領取未優遇前最後領取之同樣薪水。如其於優遇期間內曾提出其工作量符合上揭 1 至 4 所列，與法庭工作相關職務、經指派非與法庭工作相關之重要司法職務及與法院運作直接相關之重要行政職務或為聯邦或州政府機關(構)執行重要職務工作量要求之證明，而其後不符上揭工作量之要求，則其應繼續領取最後一次提出證明時領取之同樣薪水。該等法官之薪水，並應依聯邦法律第 28 編第 461 條調整。[87]

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[85] 28 USC §371(e)(3) states that: 'If in any year a justice or judge who retires under subsection (b) does not receive a certification under this subsection (except as provided in paragraph (1)(E)), he or she may thereafter receive a certification for that year by satisfying the requirements of subparagraph (A), (B), (C), or (D) of paragraph (1) of this subsection in a subsequent year and attributing a sufficient part of the work performed in such subsequent year to the earlier year so that the work so attributed, when added to the work performed during such earlier year, satisfies the requirements for certification for that year. However, a justice or judge may not receive credit for the same work for purposes of certification for more than 1 year.'

[86] 28 USC §371(e)(4) states that: 'In the case of any justice or judge who retires under subsection (b) during a calendar year, there shall be included in the determination under this subsection of work performed during that calendar year all work performed by that justice or judge (as described in subparagraphs (A), (B), (C), and (D) of paragraph (1)) during that calendar year before such retirement.'

[87] 28 USC §371(b)(2) states that: 'In a case in which a justice or judge who retires under paragraph (1) does not meet the requirements of subsection (e), the justice or judge shall continue to receive the salary that he or she was receiving when he or she was last in active service or, if a certification under subsection (e) was made for

四、美國聯邦法院法官之懲處[88]

美國聯邦巡迴上訴法院法官、地方法院法官、破產法院法官(judges of United States bankruptcy courts)、簡易庭法官(magistrate judges)及聯邦索賠法院(Court of Federal Claims)法官、國際貿易法院(Court of International Trade)法官，均受依美國聯邦司法行為與不能執行職務法(The Judicial Conduct and Disability Act)[89]授權訂定之司法行為與不能執行職務程序規則(The Rule of Judicial-Conduct and Judicial-Disability Proceedings)之規範。[90]該規則規範決定上開法官是否有損害法院有效及迅速執行職務或因心理或生理障礙致無法執行職務情形之程序。[91]對於上開法官有損害法院有效及迅速執行職務或因心理或生理失能致無法執行職務情形之陳訴，先由其所屬聯邦巡迴上訴法院院長審查，所屬聯邦巡迴上訴法院院長並得行使有限之調查權。如所屬聯邦巡迴上訴法院院長未駁回陳訴，其應指派特別委員會(special committee)調查該陳訴。特別委員會調查陳訴後，向該聯邦巡迴上訴法院司法會議(The judicial council of the circuit)提出報告，再由聯邦巡迴上訴法院司法會議決定是否採取必要之命改正或懲處措施。該等司法機關內部之懲處程序，除確保法官對其所為負責(held accountable for their actions)外，並確保法院獨立性之完整。

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such justice or judge, when such a certification was last in effect. The salary of such justice or judge shall be adjusted under section 461 of this title.'

[88] 此段係參考如附錄 5 美國聯邦第一巡迴上訴法院之書面說明 6、7。

[89] 28 USC §§251-364.

[90] Rules for Judicial-Conduct and Judicial-Disability Proceedings, Article I(b) states that: 'Covered Judge. A covered judge is defined under the Act and is limited to judges of United States courts of appeals, judges of United States district courts, judges of United States bankruptcy courts, United States magistrate judges, and judges of the courts specified in 28 U.S.C. § 363.'

[91] Rules for Judicial-Conduct and Judicial-Disability Proceedings, Article I(a) states that: 'Scope. These Rules govern proceedings under the Judicial Conduct and Disability Act (Act), 28 U.S.C. §§ 351–364, to determine whether a covered judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts or is unable to discharge the duties of office because of mental or physical disability.'

美國聯邦最高法院法官並無上開司法行為與不能執行職務程序規則之適用，目前亦無類似之規則規範美國聯邦最高法院法官之行為。

除上開美國聯邦司法行為與不能執行職務法及司法行為與不能執行職務程序規則規範美國聯邦巡迴上訴法院法官、地方法院法官、破產法院法官、簡易庭法官及聯邦索賠法院法官、國際貿易法院法官外，美國聯邦國會(United States Congress)對於聯邦法院法官極端不當之行為，有權提出彈劾(impeachment)。但此種懲處措施屬極端例外之情形，過去 50 年來僅適用過 5 次，有史以來僅適用過 15 次，其中僅 8 次通過彈劾成立，法官因而遭撤職。[92]

雖然美國聯邦國會對於聯邦法院法官之彈劾權，存在對司法獨立之潛在威脅，但實務上因只有極端嚴重之違失行為須發動彈劾程序，且彈劾程序極為複雜，因此阻擋了政府其他部門影響法官獨立審判之能力。

五、美國聯邦法院統一法律見解之方式

(一)「裁判先例具拘束力原則」(*stare decisis*, the doctrine of precedent)

美國聯邦法院有所謂「裁判先例具拘束力原則」(*stare decisis*, the doctrine of precedent)，拉丁文為 *stare decisis*，其原意為受已決定事項之拘束(to stand by things decided)，即法院先前發生過且決定過之爭議問題，縱使於後來案件，認為適用該過去之決定，妥當性有些疑問，法院仍受先前決定之拘束。美國聯邦法院不僅受同法院裁判先例之拘束，亦受上級審法院裁判先例之拘束。例如聯邦麻薩諸塞地方法院(The United States District Court for District of Massachusetts)須遵循聯邦第一巡迴上訴法院之裁判先例，所有聯邦最高法院(The United States Supreme Court)之下級審法院，應遵守聯邦最高法院之裁判先例。[93]

(二)變更裁判先例之要件

[92] https://www.fjc.gov/history/judges/impeachments-federal-judges last visited: November 22, 2019.
[93] https://www.law.cornell.edu/wex/stare_decisis last visited: November 14, 2019.

通常聯邦地方法院由 1 位法官審判案件，聯邦上訴法院由 3 位法官組成合議庭審判案件。[94]但依聯邦巡迴上訴法院(The United States Court of Appeals for the Federal Circuit)之訴訟規則規定，該院合議庭之法官人數，得超過 3 位。[95]如下參之二(三)所述大法庭(*en Banc*)之審判，亦屬聯邦上訴法院(The United States Court of Appeals)合議庭法官之人數，得超過 3 位之例外情形。

雖然並無變更裁判先例之法定程序規範，但聯邦最高法院確認了變更裁判先例之要件，不過這些要件並非十分完整。這些要件包括:可操作性(workability)、足資作為依據(reliance)、已不再適用(abandonment)及妥適性(legitimacy)。所謂「可操作性(workability)」，係指裁判先例已經達到預期之結果；所謂「足資作為依據(reliance)」，係指維持或推翻裁判先例，是否對於適用或不適用該裁判先例之個人或當事人造成不合理之困境；所謂「已不再適用(abandonment)」，係指之後案件之見解致使裁判先例變成沒有必要或不再適用；所謂「公正性(legitimacy)」，係指基於當前之社會狀況及政治上之壓力，推翻裁判先例是否損害法院之公正性。[96]

(三)大法庭(*en banc*)

美國聯邦法律第 28 編第 46 條第 3 項規定，當一聯邦上訴法院過半數之現職非優遇法官(active judge)決議審理或更新審理特定案件，該聯邦法院即組成大法庭 (*en banc*) 審理。所有現職非優遇之法官，現職非優遇法官人數超過 15 位

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[94] 此段係參考如附錄 5 美國聯邦第一巡迴上訴法院之書面說明 2。

[95] 28 USC §46 states that: '(b) In each circuit the court may authorize the hearing and determination of cases and controversies by separate panels, each consisting of three judges, …The United States Court of Appeals for the Federal Circuit shall determine by rule a procedure for the rotation of judges from panel to panel to ensure that all of the judges sit on a representative cross section of the cases heard and, notwithstanding the first sentence of this subsection, may determine by rule the number of judges, not less than three, who constitute a panel.
(c) Cases and controversies shall be heard and determined by a court or panel of not more than three judges (except that the United States Court of Appeals for the Federal Circuit may sit in panels of more than three judges if its rules so provide),….'

[96] https://cgc.law.stanford.edu/commentaries/15-john-walker/ last visited: November 14, 2019.

之巡迴上訴法院，則依其訴訟規則規定之人數，組成大法庭審理。[97]但優遇法官原參與審理之案件，其得選擇並經依聯邦法律第 28 編第 294 條第 3 項規定指定後參加大法庭之審理，[98]或持續參與優遇法官未優遇時原參與合議審理或大法庭審理之案件。[99]

聯邦上訴程序規則第 35 條第 1 項、第 2 項(Federal Rules of Appellate Procedure, Rule 35(a)(b))亦規定，當一聯邦上訴法院過半數之現職非優遇法官(active judge)決議更新審理特定案件，或當事人聲請更新審理而經該聯邦上訴法院過半數之現職非優遇法官決議准予更新審理特定案件時，該聯邦上訴法院即組成大法庭 (*en banc*) 審理。聯邦法院之裁判與該裁判未引用之裁判先例牴觸，或與公眾特別重要之問題有關，為聯邦法院組成大法庭更新審理特定案件之典型狀況。[100]

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[97] Pub. L. 95–486, §6, Oct. 20, 1978, 92 Stat. 1633, provided that: 'Any court of appeals having more than 15 active judges may constitute itself into administrative units complete with such facilities and staff as may be prescribed by the Administrative Office of the United States Courts, and may perform its en banc function by such number of members of its en banc courts as may be prescribed by rule of the court of appeals.' https://uscode.house.gov/view.xhtml?req=(title:28%20section:294%20edition:prelim)%20OR%20(granuleid:USC-prelim-title28-section294)&f=treesort&edition=prelim&num=0&jumpTo=true last visited: November 25, 2019.

[98] 28 USC §294(c) states that: 'Any retired circuit or district judge may be designated and assigned by the chief judge or judicial council of his circuit to perform such judicial duties within the circuit as he is willing and able to undertake….'

[99] 28 USC §46(c) states that: 'A court in banc shall consist of all circuit judges in regular active service, or such number of judges as may be prescribed in accordance with section 6 of Public Law 95–486 (92 Stat. 1633), except that any senior circuit judge of the circuit shall be eligible (1) to participate, at his election and upon designation and assignment pursuant to section 294(c) of this title and the rules of the circuit, as a member of an in banc court reviewing a decision of a panel of which such judge was a member, or (2) to continue to participate in the decision of a case or controversy that was heard or reheard by the court in banc at a time when such judge was in regular active service.'

[100] Federal Rules of Appellate Procedure, Rule 35(a)(b) states that: '. En Banc Determination
(a) When Hearing or Rehearing En Banc May Be Ordered. A majority of the circuit judges who are in regular active service and who are not disqualified may order that

依聯邦第一巡迴上訴法院規則第 35 條第 1 項第 2 款第 1 目(First Circuit Local Rules, Local Rule 35.0(a)(2)(A))規定，該法院通常由 6 位現職非優遇之法官組成大法庭審理。但優遇法官原參與審理之案件，其得選擇參加大法庭之審理，或持續參與優遇法官未優遇時原參與合議審理或大法庭審理之案件。[101]

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an appeal or other proceeding be heard or reheard by the court of appeals en banc. An en banc hearing or rehearing is not favored and ordinarily will not be ordered unless:
(1) en banc consideration is necessary to secure or maintain uniformity of the court's decisions; or
(2) the proceeding involves a question of exceptional importance.
(b) Petition for Hearing or Rehearing En Banc. A party may petition for a hearing or rehearing en banc.
(1) The petition must begin with a statement that either:
(A) the panel decision conflicts with a decision of the United States Supreme Court or of the court to which the petition is addressed (with citation to the conflicting case or cases) and consideration by the full court is therefore necessary to secure and maintain uniformity of the court's decisions; or
(B) the proceeding involves one or more questions of exceptional importance, each of which must be concisely stated; for example, a petition may assert that a proceeding presents a question of exceptional importance if it involves an issue on which the panel decision conflicts with the authoritative decisions of other United States Courts of Appeals that have addressed the issue.
(2) Except by the court's permission:
(A) a petition for an en banc hearing or rehearing produced using a computer must not exceed 3,900 words; and
(B) a handwritten or typewritten petition for an en banc hearing or rehearing must not exceed 15 pages.
(3) For purposes of the limits in Rule 35(b)(2), if a party files both a petition for panel rehearing and a petition for rehearing en banc, they are considered a single document even if they are filed separately, unless separate filing is required by local rule.' https://www.ca1.uscourts.gov/sites/ca1/files/rulebook.pdf#page=77 last visited: November 15, 2019.

[101] First Circuit Local Rules, Local Rule 35.0(a)(2)(A) states that: 'En Banc Determination
(a) Who May Vote; Composition of En Banc Court.
(2) Composition of En Banc Court.
(A) A court en banc consists solely of the circuit judges of this circuit in regular active service except that any senior circuit judge of this circuit shall be eligible to participate (i) at that judge's election, as a member of an en banc court reviewing a decision of a panel of which that judge was a member, or (ii) to continue to participate in the decision of a case or controversy that was heard or reheard by the court en banc at a time when such judge was in regular active service.'

聯邦第九巡迴上訴法院共有 29 位現職非優遇之法官，為人數最多之巡迴上訴法院，依該法院規則第 35 條之 3(Ninth Circuit Rules, Circuit Rule 35-3)規定，e9 該法院大法庭通常由 11 位現職非優遇之法官組成，除院長(chief judge)為當然成員外，其餘 10 位成員以抽籤之方式產生，院長未能參與時，亦以抽籤之方式產生第 11 位成員。在 3 位法官合議審理或大法庭審理後，認有必要時，得由全體現職非優遇之法官組成大法庭審理。[102]

六、美國聯邦法院之司法警察--美國聯邦司法警察署(The United States Marshals Service)

美國聯邦司法警察署(The United States Marshals Service)設於美國聯邦司法部 (The Department of Justice)之下相當於局(Bureau)之機關。[103]於 1789 年創立，為第 1 個美國聯邦執法機關(federal law enforcement agency)。[104]其主要職掌為依法維護聯邦地方法院(The United States District Courts)、聯邦上訴法院(the United States Courts of Appeals)、聯邦國際貿易法院(The Court of International Trade)及聯邦稅務法院(The United States Tax Court)之安全，並聽從及執行該等法院所有

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https://www.ca1.uscourts.gov/sites/ca1/files/rulebook.pdf#page=77 last visited: November 15, 2019.

[102] Ninth Circuit Rules, Circuit Rule 35-3 Limited En Banc Court states that: 'The en banc court, for each case or group of related cases taken en banc, shall consist of the Chief Judge of this circuit and 10 additional judges to be drawn by lot from the active judges of the Court. In the absence of the Chief Judge, an 11th active judge shall be drawn by lot, and the most senior active judge on the panel shall preside….In appropriate cases, the Court may order a rehearing by the full court following a hearing or rehearing en banc.'
http://cdn.ca9.uscourts.gov/datastore/uploads/rules/rules.htm last visited: November 15, 2019.

[103] 28 USC 561(a) 'United States Marshals Service' provides that: 'There is hereby established a United States Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General. There shall be at the head of the United States Marshals Service (hereafter in this chapter referred to as the "Service") a Director who shall be appointed by the President, by and with the advice and consent of the Senate.'

[104] https://www.usmarshals.gov/duties/factsheets/overview.pdf last visited: October 9, 2019.

之命令。[105]其於各地區設有聯邦司法警察(The United States marshal of each district)，為該地區聯邦地方法院(The United States District Courts)、聯邦上訴法院(The United States Courts of Appeals)與於該地區內開庭之聯邦國際貿易法院(The Court of International Trade)及各該法院決定於其他地方開庭而須到庭執行職務之司法警察。[106]除法律或程序規則另有規定外，美國聯邦司法警察署負責執行所有合法之令狀、程序及美國權責機關所簽發之命令，並得要求其他機關提供必要之協助以遂行其職權。[107]美國聯邦司法警察署所屬之聯邦司法警察、副聯邦司法警察及其他署長指定之人員，可以攜帶武器，並得無拘票而逮捕在其面前觸犯對美國犯罪之犯罪人及其有合理之理由認為已實施或正實施美國法律所規定重罪之犯罪人。[108]美國聯邦司法警察署並提供聯邦司法人員、法院人員、證人及其他受脅迫之人，於受足以妨礙司法程序或其他程序進行之犯罪威脅時之人身保護。該署受司法部長之指揮，得於美國境內及境外調查逃犯有關之事項。該署並得為調查未登記之性犯罪人，依美國聯邦法律第 18 編第 3486 條規定(section 3486 of title 18)簽發行政傳票(administrative subpoenas)。該署受

[105] 28 USC 566(a) 'Powers and duties' provides that: 'It is the primary role and mission of the United States Marshals Service to provide for the security and to obey, execute, and enforce all orders of the United States District Courts, the United States Courts of Appeals, the Court of International Trade, and the United States Tax Court, as provided by law.'

[106] 28 USC 566(b) 'Powers and duties' provides that: 'The United States marshal of each district is the marshal of the district court and of the court of appeals when sitting in that district, and of the Court of International Trade holding sessions in that district, and may, in the discretion of the respective courts, be required to attend any session of court.'

[107] 28 USC 566(c) 'Powers and duties' provides that: 'Except as otherwise provided by law or Rule of Procedure, the United States Marshals Service shall execute all lawful writs, process, and orders issued under the authority of the United States, and shall command all necessary assistance to execute its duties.'

[108] 28 USC 566(d) 'Powers and duties' provides that: 'Each United States marshal, deputy marshal, and any other official of the Service as may be designated by the Director may carry firearms and make arrests without warrant for any offense against the United States committed in his or her presence, or for any felony cognizable under the laws of the United States if he or she has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.'

州、地方或其他聯邦執法機關之請求，得協助各該機關找尋或找回失蹤之兒童。[109]美國聯邦司法警察署署長就有關持續性維護美國聯邦司法部門安全之必要，應徵詢美國聯邦司法會議(the Judicial Conference of the United States)之意見，以確保決定聯邦司法機關安全維護人員配置、安全維護優先順位及安全維護資源分配時，聯邦司法會議之觀點列入考量。司法部門安全，包括司法機關建築物之安全、司法官員(judicial officers)人身安全之維護、對司法官員威脅之評估及維護其他所有司法機關人員(all other judicial personnel)之安全。但美國聯邦司法警察署就有關維護美國聯邦司法部門安全之必要性，有最後之決定權。[110]

美國聯邦司法警察署於每一聯邦地方法院轄區設有一地區聯邦司法警察。於 2019 年，計置有 94 位地區聯邦司法警察(U.S. marshals, one for each federal court district)、3,547 位副聯邦司法警察與刑事調查員(deputy U.S. marshals and

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[109] 28 USC 566(e)(1) 'Powers and duties' provides that: 'The United States Marshals Service is authorized to-
(A) provide for the personal protection of Federal jurists, court officers, witnesses, and other threatened persons in the interests of justice where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding;
(B) investigate such fugitive matters, both within and outside the United States, as directed by the Attorney General;
(C) issue administrative subpoenas in accordance with section 3486 of title 18, solely for the purpose of investigating unregistered sex offenders (as defined in such section 3486); and
(D) assist State, local, and other Federal law enforcement agencies, upon the request of such an agency, in locating and recovering missing children.'

[110] 28 USC 566(i) 'Powers and duties' provides that: 'The Director of the United States Marshals Service shall consult with the Judicial Conference of the United States on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. In this paragraph, the term "judicial security" includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government.'

criminal investigators)及 1,451 位行政人員與執行拘留之人員(administrative employees and detention enforcement officers)，總員額為 5,092 人，分別配置於 94 個地區聯邦司法警察分署、218 辦公室(sub-offices)及 4 個駐外辦公室(foreign field offices)。2019 年之年度預算包括薪資及費用為 13 億 6,000 萬美元，負責 94 個聯邦法院區域、711 個司法設施、大約 2,200 位聯邦法院法官之安全維護。2018 會計年度，處理對受保護對象之威脅或不適當之聯繫計 4,542 件；逮捕 8 萬 6,703 位逃犯，其中包括州與地方之逃犯 5 萬 8,056 人、聯邦之逃犯 2 萬 8,647 人、性犯罪人 1 萬 834 人、組織犯罪成員 5,396 人、殺人嫌疑犯 4,348 人及國際與外國逃犯 1,840 人，平均每工作日逮捕 347 人；執行驅逐或遣送出境 770 人；扣押財產 1 萬 3,927 件、處置扣押之財產 1 萬 3,02 件、發還犯罪被害人或有請求權之人之財產共 15 億 6,000 萬美元、撥交共同執行扣押財產之州或地方執法機關 4 億 500 萬美元；接收之受拘禁者共 23 萬 8,897 人，解送受拘禁者到庭接受審判或其他須到場之情形者計 93 萬 4,074 人次，平均每天拘禁受拘禁者之人數為 5 萬 5,872 人，其中拘禁在州或地方之設施者計 3 萬 6,313 人、在聯邦監獄者計 9,705 人、在簽約之民營拘禁設施者計 9,854 人，因而與約 1,100 個州或地方政府簽約使用其拘禁設施及與 13 個者民營拘禁設施簽約；運送聯邦受刑人移監計 26 萬 6,698 人，其中以空運方式運送者計 10 萬 5,232 人，以汽車或火車運送者計 16 萬 1,466 人。自 1971 年起，對無辜之被害人、證人、與偵查機關合作之被告及其共同生活之家庭成員實施證人保護計畫者約 1 萬 8,900 人。[111]

七、美國聯邦法院之後勤支援機構--美國聯邦總務總署(The United States General Services Administration)

美國聯邦總務總署(The United States General Services Administration)不僅興建、管理包括聯邦法院之聯邦政府機關辦公場所及負責聯邦建築物之維護，[112]

[111] https://www.usmarshals.gov/duties/factsheets/facts.pdf last visited: October 11, 2019.
[112] https://www.gsa.gov/about-us last visited: October 7, 2019.

並集中採購聯邦政府服務民眾所需之物品、服務及設施。[113]該總署係 1949 年 7 月 1 日，由杜魯門總統(President Harry Truman)為簡化聯邦政府組織及提升行政效率所設立，負責提供聯邦政府人員行政支援及工作場所。目前該總署下設之公共建築署(The Public Building Service)、聯邦採購署(The Federal Acquisition Service)及各類機構，負責提供超過 100 萬位聯邦政府人員之工作場所、監督超過 480 個歷史建築之保存及負責為聯邦政府機構採購高品質與低價格之物品及服務。[114]

[113] https://www.gsa.gov/about-us/background-and-history last visited: October 8, 2019.

[114] https://www.gsa.gov/about-us/background-history/a-brief-history-of-gsa last visited: October 8, 2019.