

FEES and EXPENSES of WITNESSES

(Dollars in thousands)

	<u>Perm.</u> <u>Pos.</u>	<u>FTE</u>	<u>Amount</u>
1999 actuals	\$83,767
2000 appropriation.....	95,000
Increases (see p. 33).....	167
2001 base.....	95,167
Program changes (detailed below).....	60,978
Total, 2001 estimate	156,145

<u>Comparison by activity and program</u>	<u>2000 Appropriation</u>			<u>2001 Base</u>			<u>2001 Estimate</u>			<u>Increase/Decrease</u>		
	<u>Perm</u> <u>Pos.</u>	<u>FTE</u>	<u>Amount</u>	<u>Perm</u> <u>Pos.</u>	<u>FTE</u>	<u>Amount</u>	<u>Perm</u> <u>Pos.</u>	<u>FTE</u>	<u>Amount</u>	<u>Perm</u> <u>Pos.</u>	<u>FTE</u>	<u>Amount</u>
1. Fees and Expenses of Witnesses	\$64,515	...	...	\$64,682	...	...	\$120,760	...	...	\$56,078
2. Protection of Witnesses	27,485	...	...	27,485	...	...	27,485	...	...	0
3. Victim Compensation Fund	(1,000)	...	...	(1,000)	...	...	0	...	...	1,000
4. Private Counsel	1,600	...	...	1,600	...	...	4,500	...	...	2,900
5. Superior Court Informants Program	1,400	...	...	1,400	...	...	1,400	...	...	0
6. Alternative Dispute Resolution 1/	1,000	...	...	1,000	...	...	2,000	...	...	1,000
Grand Total	95,000	...	...	95,167	...	...	156,145	...	...	60,978

1/ Fiscal year 2001 is the first year that the FEW appropriation includes an ADR line item. The initial requirements for this activity are funded within existing resources.

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<u>Program Changes</u>	<u>Perm.</u> <u>Pos.</u>	<u>FTE</u>	<u>Amount</u>
Expert Witnesses.....	\$56,078

Additional expert witness funding is sought to continue paying escalating witness fees throughout the witness user community. Of specific note are extraordinary expenses generated by the WINSTAR and tobacco cases in the Civil Division, the mega-CERCLA defensive contribution cases in the Environment Division, and several large cases in the Tax Division. Unlike previous years, the requested enhancement for 2001 does not reflect offsetting reductions from prior years. Rather, the requested enhancement reflects the gross amount of budget authority needed to fully fund annual obligations posted by the expert witness user components. Because of the recent effort to eliminate non-valid prior year obligations from the books (as forced by the Department's clean audit program), projected prior year de-obligations are not expected to be significant.

Victim Compensation Fund.....	1,000
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Additional funding is sought for this activity to make a technical adjustment in the budget presentation. Specifically, the requested enhancement of \$1 million will eliminate the negative balance currently shown, resulting in a "zero" balance for the activity.

Private Counsel.....	2,900
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Additional funding is needed to address the increase in demand for private counsel services, which is a direct result of an increase in the number of people called to provide testimony or to deliver depositions in judicial proceedings, Independent Counsel investigations and congressional inquiries. For example, in Cobell vs. Babbitt, six separate law firms were needed to represent the relevant parties. Similarly, multiple counsel are often needed in matters involving more than one party.

Another reason for the need for additional private counsel funding is the increase in hourly rates paid to outside counsel. The previous rate of \$99 per hour was significantly below prevailing market rates for such services, thereby impeding the Department's ability to reimburse outside counsel. The newly revised rate for senior attorneys is \$125 per hour.

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<u>Program Changes</u>	<u>Perm.</u> <u>Pos.</u>	<u>FTE</u>	<u>Amount</u>
Alternative Dispute Resolution.....	\$1,000
<p>An additional \$1 million is needed to provide sufficient funding to make ADR services available where needed. ADR processes such as mediation and arbitration offer the opportunity to settle pending civil cases in ways that can be more efficient than unassisted negotiations and litigation, and on terms that are more beneficial to all parties.</p>			
Total program changes, Fees and Expenses of Witnesses.....	60,978