

# **APPENDIX 1 - COURT SUPPORT STAFFING**

This appendix discusses court support staffing for probation and pretrial services offices, courts of appeals, and district and bankruptcy courts. It also includes workload used to help determine staffing requirements in the courts, and a program statement explaining the purpose of these programs. As reflected in the statistics provided below, the COVID-19 pandemic has had a significant impact on judiciary workload in several different areas.

### Probation and Pretrial Services

Table A-1.1 Probation and Pretrial Services Workload Indicators<sup>1</sup>

	2020 Actual (% Change from Previous Yr.) <sup>2</sup>	2021 Actual (% Change from Previous Yr.) <sup>2</sup>	2022 Projected (% Change from Previous Yr.) <sup>3</sup>
Convicted Persons Under Supervision in the Community	179,280 -1.0%	176,347 -1.6%	176,700 0.2%
Charged Defendants Supervised in the Community	46,646 0.2%	52,915 13.4%	54,800 3.6%
Investigative Reports Completed for Bail Determinations	83,839 -15.0%	71,647 -14.5%	78,500 9.6%
Investigative Reports Completed for Sentencing Determinations	68,974 3.5%	47,628 -30.9%	61,000 28.1%

1/For 2020 through 2022, the number of convicted persons and charged defendants supervised in the community reflects persons initially received for supervision, under supervision for the entire period, or under supervision at the start of the period and closed. Persons with cases that fall in more than one of these three categories are counted only once.

2/Actual data for 2020 and 2021 is based on the 12-month period ending June 30.

3/Estimates for 2022 are based on projections for the 12-month period ending June 30.

### Probation and Pretrial Service Officers

**Probation officers** are federal law enforcement officers that protect the community. They work with persons under supervision “post-conviction,” after they are tried and found guilty of a federal crime and after they are released from prison. Using techniques grounded in social science research, otherwise known as evidence-based practices or research-to-results, probation officers work with persons under supervision to assist them in becoming contributing members of the community and leading crime-free lives. Officers assess each person under supervision’s risk of recidivism; identify dynamic risk factors that, when addressed, affect the individual’s likelihood to engage in future criminal activity; and apply supervision interventions tailored to reduce risk. These interventions include helping persons under supervision to either reestablish, or secure for the first time, appropriate housing, employment, and legitimate community relationships. Officers also provide cognitive skills counseling and leverage programs offered by other federal agencies and local social service organizations. Probation officers make sure that persons under supervision comply with release conditions set by the court and address any issues that affect their ability to comply.

The officers monitor persons under supervision through phone calls and personal contacts and direct them to services that help persons under supervision, including substance abuse or mental health treatment, medical care, training, and employment assistance. Without probation officers, the court would not be able to manage the risk that persons under supervision pose to individuals or the community by verifying their locations and

employment, monitoring their associates, restricting their travel, and taking actions to make sure they obey the law.

**Pretrial services officers** work with defendants after they are charged with federal crimes and while they are awaiting trial. They help ensure that defendants released to the community commit no crimes while awaiting trial and return to court as required.

Both probation and pretrial services officers investigate defendants and persons under supervision for the court by gathering and verifying information about them. Their investigations involve interviews with defendants and persons under supervision to find out about their backgrounds, including family, education, employment, finances, physical and mental health, and alcohol or drug abuse. Officers perform criminal history record checks and interview other people who can provide helpful information, such as family members, employers, and law enforcement officials. They also review records, such as court, school, military, financial, and employment records.

This information is used to produce a pretrial services report and presentence report. The pretrial services report recommends whether to release or detain the defendant before trial and addresses whether the defendant is likely to stay out of trouble and return to court as required. The presentence report recommends sentencing options under the federal sentencing guidelines, addresses the offense's impact on the victim, and determines the person under supervision's ability to pay fines and restitution. It also recommends release conditions for the court to impose to

help structure the person under supervision's movement and behavior in the community. Release conditions are tailored to the individual. For example, the court may require that the person under supervision get drug testing and treatment, find and keep a job, or be placed on location monitoring.

As explained in the Salaries and Expenses chapter, Department of Justice prosecution activity as well as the enactment and implementation of the First Step Act (FSA) have had a significant impact on the workload of the probation and pretrial services program. Leading up to the pandemic, workload throughout the probation and pretrial services system was increasing due to the government's prosecutorial practices and the early release of inmates as a result of the FSA. Workload declined during the peak of the pandemic; however, workload has been climbing since March 2021 and is expected to return to near pre-pandemic levels in late 2022 and 2023.

Table A-1.2 Persons Under Supervision by Type of Supervision <sup>1</sup>

	Year	Probation	Supervised Release	Parole	BOP Custody	Total
ACTUAL <sup>2</sup>	2011	22,604	104,671	1,870	174	129,319
	2012	22,419	108,528	1,664	174	132,785
	2013	21,114	109,516	1,473	259	132,362
	2014	19,903	111,076	1,373	245	132,597
	2015	19,191	112,750	1,245	242	133,428
	2016	18,275	118,318	1,140	149	137,882
	2017	17,139	117,662	1,003	143	135,947
	2018	15,740	114,278	920	98	131,036
	2019	15,179	111,943	893	105	128,120
	2020	14,063	111,710	837	265	126,875
	2021	12,415	110,700	736	398	124,249
ESTIMATED <sup>3</sup>	2022	12,500	112,900	800	500	126,700

<sup>1</sup>Includes only those cases that are open for supervision as of June 30 of the corresponding year.

<sup>2</sup>Actual data for 2011 through 2021 as of June 30 of the corresponding year.

<sup>3</sup>Estimates for 2022 are based on projections for June 30, 2022.

Table A-1.3 The Changing Supervision Population - Persons Under Supervision on Probation vs. Persons Under Supervision Released from Prison<sup>1</sup>

ACTUAL <sup>3</sup>	Year	Offenders on Probation		Offenders Released from Prison <sup>2</sup>		Total
		2011	22,604	17%	106,715	83%
	2012	22,419	17%	110,366	83%	132,785
	2013	21,114	16%	111,248	84%	132,362
	2014	19,903	15%	112,694	85%	132,597
	2015	19,191	14%	114,237	86%	133,428
	2016	18,275	13%	119,607	87%	137,882
	2017	17,139	13%	118,808	87%	135,947
	2018	15,740	12%	115,296	88%	131,036
	2019	15,179	12%	112,941	88%	128,120
	2020	14,063	11%	112,812	89%	126,875
	2021	12,415	10%	111,834	90%	124,249
ESTIMATED <sup>4</sup>	2022	12,500	10%	114,200	90%	126,700

<sup>1</sup>Includes only those cases that are open for supervision as of June 30 of the corresponding year.

<sup>2</sup>Includes terms of supervised release, parole, mandatory release, and military parole.

<sup>3</sup>Actual data for 2011 through 2021 is based on the 12-month period ending June 30.

<sup>4</sup>Estimates for 2022 are based on projections for the 12-month period ending June 30, 2022.

## District Courts

Table A-1.4 Major District Court Workload Indicators<sup>1</sup>

Filings	2020 Actual	2021 Actual	2022 Estimate
Criminal Case Filings	64,853 -11.2%	59,500 -8.3%	58,800 -1.2%
Criminal Defendants Filed	79,122 -12.6%	75,407 -4.7%	74,700 -0.9%
Civil Case Filings <sup>2</sup>	421,082 43.5%	374,250 -11.1%	352,700 -5.8%

<sup>1</sup>Data for each year is for the 12-month period ending June 30.

<sup>2</sup> The historically large numbers of civil filings in the 12-month periods ending June 30, 2020 and June 30, 2021 are mainly due to the multidistrict litigation Case 2885 (In Re: 3M Combat Arms Earplug Products Liability Litigation) in the Northern District of Florida.

### District Clerks

The clerks' offices are the public business offices for the district courts and provide specific centralized management in case-related and logistical areas. Employees in clerks' offices perform essential functions necessary for the operation of the courts, such as:

- attorney admissions to practice in the district;
- case intake, docketing of pleadings and motions;

- service of process, events scheduling, receipting and accounting for fees and fines collected;
- case tracking, provision of court reporting, and court interpreting services;
- alternative dispute resolution programs;
- statistical reporting;
- training attorneys on the case management system (CM/ECF), and
- jury management.

All these functions are essential elements in processing criminal cases and resolving civil cases. Public and private sector entities rely on effective case processing by the clerks' offices.

The proper functioning of the district court clerks' offices enhances the efficiency of the offices of the U.S. Attorney, U.S. Marshals Service, Federal Public Defender, and Probation and Pretrial Services. Other participants, including litigants, attorneys, witnesses, court reporters, court interpreters, expert witnesses, the media, and jurors are also impacted by the effective operations of the clerks' offices. To enable these court participants to work together effectively, the clerks' office manages courtroom space, information technology services, audio and video systems, financial management, budget decentralization, personnel administration, and other administrative functions, as well as the support required in the courtroom for the proper functioning of proceedings. The judicial system as a whole benefits from the professional management services provided by the clerks' offices.

As explained in the Salaries and Expenses chapter, criminal case filings are, in part, influenced by the number of U.S. Attorneys and the emphasis placed on prosecution of offenses such as illegal immigration, drug crimes, and violations of firearms laws. Criminal filings were on pace to be higher than the previous year through March 2020. However, new criminal filings saw a significant decline in April and May 2020 due to the COVID-19 pandemic that resulted in an overall decrease for the entire year. Despite these national trends, significant spikes in caseload are possible in particular districts due to more localized factors. For example, on July 9, 2020, the Supreme Court held in *McGirt v. Oklahoma*, 591 U.S. \_\_\_ (2020), that land in northeastern Oklahoma reserved for the Creek Nation pursuant to the 1832 Treaty with the Creeks remains “Indian country” for purposes of the Major Crimes Act (MCA) because Congress has never expressly disestablished the reservation. District courts in Oklahoma are experiencing significant increases in federal prosecutions stemming from the Supreme Court’s *McGirt v. Oklahoma* decision. As of September 2021, post-*McGirt* annual criminal felony filings have increased by 158 percent in the Northern District of Oklahoma and by 243 percent in the Eastern District of Oklahoma.

Civil case filings are driven by prisoner petitions, social security cases, U.S. plaintiff recovery cases, large-volume multi-district litigation cases, and diversity of citizenship

cases<sup>1</sup>. Also, civil case filings decreased significantly from the previous year, due almost exclusively to a significant decrease in tort actions filed in product liability and personal injury cases as part of the multidistrict litigation (MDL) Case No. 2885 (In Re: 3M Combat Arms Earplug Products Liability Litigation) in the Northern District of Florida.

### Court Interpreters

The district courts use both staff and contract court interpreters. Staff court interpreters serve in district courts with a substantial daily need for interpreting services. This is particularly true in courts along the border with Mexico and courts located in large metropolitan areas, where locating, scheduling, and contracting with court interpreters is not practical due to their frequent need for interpreting services.

Spanish is the most frequently needed language for interpreting events in the courts, comprising 95 percent of all reported interpreting events in FY 2021. In FY 2021, there were 157,772 court events that required the services of an interpreter, with 149,903 of those in Spanish.

### Pro Se Law Clerks

The objective of the pro se law clerk program is to receive, prepare, and process civil complaints filed against the government by prisoners and other individuals without attorney representation. Pro se law clerks review complaints for

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<sup>1</sup> A district court has subject matter jurisdiction based on diversity of citizenship when the amount in controversy exceeds \$75,000, exclusive of interest and costs, and is between parties not from the same state or country.

procedural adequacy to permit judges to proceed with the disposition of the cases. This conserves judicial resources — without pro se law clerks, district judges and magistrate judges would have to perform this work. The number of pro se law clerks is determined by a formula driven by prisoner petition filings. For the 12-month period ending June 30, 2021, there were 49,658 petitions filed. This represents a 12.6 percent decrease from the 56,823 filings in statistical year 2020.

#### *Death Penalty Law Clerks*

Death penalty law clerks serve both as substantive legal resources to judges in death penalty habeas corpus matters, and as case management monitors, since capital cases are generally lengthy and involve numerous issues. The staffing formula for these positions provides credit for death penalty cases pending in federal court that are not stayed. Courts must have three pending death penalty cases to be eligible for a half-time position, and nine cases for a full-time position. For the 12-month period ending June 30, 2021, there were 492 pending, unstayed death penalty cases in the district courts.



Table A-1.5 Civil and Criminal Filings

	Year	Civil Filings	Percent Increase/Decrease	Criminal Filings	Percent Increase/Decrease
ACTUAL <sup>1</sup>	2011	289,630	1.5%	78,764	0.7%
	2012	286,232	-1.2%	73,455	-6.7%
	2013	283,087	-1.1%	69,642	-5.2%
	2014	298,713	5.5%	64,027	-8.1%
	2015	280,037	-6.3%	60,866	-4.9%
	2016	290,430	3.7%	61,021	0.3%
	2017	271,721	-6.4%	58,121	-4.8%
	2018	281,202	3.5%	67,257	15.7%
	2019	293,520	4.4%	73,012	8.6%
	2020	421,082	43.5%	64,853	-11.2%
	2021	374,250	-11.1%	59,500	-8.3%
ESTIMATED <sup>2</sup>	2022	352,700	-5.8%	58,800	-1.2%

Table A-1.6 Components of Civil Caseload

	Year	Social Security	Diversity	Prisoner Filings	All Other	Total
ACTUAL <sup>1</sup>	2011	15,697	101,508	53,692	118,733	289,630
	2012	17,043	94,568	53,606	121,015	286,232
	2013	19,121	89,359	55,369	119,238	283,087
	2014	19,530	102,568	62,402	114,213	298,713
	2015	19,102	86,865	52,844	121,226	280,037
	2016	18,407	83,170	70,863	117,990	290,430
	2017	18,953	75,449	61,031	116,288	271,721
	2018	19,115	89,018	53,626	119,443	281,202
	2019	17,903	100,629	54,445	120,273	293,250
	2020	18,259	234,084	56,823	111,916	421,082
	2021	23,615	190,578	49,658	110,399	374,250
ESTIMATED <sup>2</sup>	2022	16,000	181,800	47,500	107,400	352,700

<sup>1</sup>Actual data for 2011 through 2021 is based on the 12-month periods ending June 30.

<sup>2</sup>Estimates for 2022 are based on projections for the 12-month period ending June 30, 2022.

## Courts of Appeals and Circuit Units

Table A-1.7 Appellate Court Workload<sup>1</sup>

	2020 Actual	2021 Actual	2022 Estimate
Appeals Filings	49,044	45,790	45,000
	2.6%	-6.6%	-1.7%

<sup>1</sup>For the 12-month periods ending June 30.

### Circuit Executives

The principal responsibility of the circuit executive’s office is to act as the secretariat for the circuit’s judicial council and its committees, and in some circuits, for the court of appeals and its committees. In this capacity, the circuit executives’ offices participate in policy oversight and assist in many areas of circuit-wide importance. These include planning for the effective and efficient use of space and facilities, information technology, financial management and budget decentralization, and planning and organizing the circuit’s judicial conference. The circuit executives’ offices also provide vital administrative and logistical support to the courts of appeals, including information technology, procurement, budget management, and personnel administration.

### Appellate Clerks

The clerks’ offices are the public business offices for the appellate courts and provide specific centralized management in case-related and logistical areas. Employees in clerks’ offices

perform essential functions necessary for the operation of the courts, such as:

- recording and maintaining all case filings, including public records and information needs;
- providing guidance to lawyers, litigants, and the public;
- distributing case materials to judges for decision-making; and
- providing vital logistical support.

The case-related workload of the clerks’ offices can fluctuate with changes in case filings.

Case decisions in appellate courts are made either by panels of three judges or, in some instances, by an en banc court, where all the judges on the court review the case. Appellate judges reside in locations throughout the geographic area of a circuit. Appellate clerks’ offices are situated at the headquarters of the circuit, providing a central public business office for the judges, lawyers, litigants, and the public. Clerks’ offices receive case materials for filing, maintain the central files, and arrange for judges to convene in panels as necessary for case decisions. Inquiries about cases, procedures, and related matters are directed to the clerks’ offices. Materials are assembled, as appropriate, and dispatched to judges. Lawyers are advised of the schedule for decision-making. Decisions are made after oral argument hearings or submissions on briefs that are scheduled by the clerks’ offices. Decisions are filed in the clerks’ offices, which are then responsible for distribution of

the decisions to the parties and the public, including posting on court websites.

### Staff Attorneys

Staff attorneys are central legal staff who assist the court in the disposition of appeals. Cases handled may include direct criminal appeals involving sentencing guidelines issues; all *pro se* appeals, including collateral attacks on criminal convictions by state and federal prisoners, and civil rights suits under 42 U.S.C. § 1983; employment discrimination cases; immigration cases; social security appeals; emergency matters; original proceedings; counseled motions; and death penalty cases. The workload is substantial and has grown over the past 25 years. Staff attorney offices currently assist their courts by handling an estimated 45 – 60 percent of the case related work. The work has increased in complexity, largely due to major legislative changes affecting prisoner and habeas law. Staff attorneys may also assist with attorney discipline matters, supporting CJA matters, and producing orientation programs for judges and law clerks. Staff attorney legal review of *pro se* and counseled cases materially assists the judges and contributes to timely dispositions.

*Pro se* cases represented 48.1 percent of national appellate filings in FY 2021. Staffing resources are provided through a formula derived from work measurement studies. The current formula is driven primarily by case filings and is refreshed annually.

### Circuit Mediators

Circuit mediators facilitate the disposition of cases on appeal through negotiated settlements, without appellate judicial involvement. Circuit mediators are skilled, seasoned lawyers who perform sensitive, confidential settlement work. The attorneys often are able to streamline or dispose of issues in cases not easily settled. Distinct from staff attorneys, circuit mediators promote the voluntary settlement or withdrawal of appeals without court action. The program conserves judicial resources and improves appellate case management.

### Librarians

The national court library program is a network of 12 circuit headquarters libraries and 85 smaller satellite libraries, typically located in district courthouses. Although the library program falls administratively under the courts of appeals, court librarians serve and support the information and research needs of all federal courts and judges: appellate, district, magistrate, and bankruptcy. In addition to federal judges, library services are provided to tens of thousands of judiciary researchers, including law clerks and chambers staff, staff attorneys, mediators, clerks of court, probation and pretrial services personnel, and public defenders. Many court libraries also serve the public, including *pro se* litigants and bar association members.

Librarians deliver comprehensive research, reference, and instruction services, and procure and facilitate access to the most reliable, authoritative, accurate, and up-to-date research

resources. Library staff members also manage the acquisition and development of chambers' legal resource collections.

To support the information needs of on-site personnel as well as remote users within their broad and geographically dispersed areas, court libraries implement digital communication technologies, deliver web-based training services, and provide comprehensive online access to research collections. Librarians design website and internet resources, develop online research guides, create current event awareness services that push content directly to their users, and support the design and publication of court materials. Subject specialization and deep legal and jurisdictional expertise are required of court librarians, as well as the ability to support multidisciplinary research in economics, science, medicine, social sciences, engineering, technology, and other business- and industry-specific fields.

#### *Bankruptcy Appellate Panel Clerks*

The Bankruptcy Reform Act of 1994 requires that each circuit establish a Bankruptcy Appellate Panel (BAP) unless the judicial council of the circuit finds that either there are insufficient judicial resources in the circuit, or the establishment of a BAP would result in undue delay or increased cost to parties in bankruptcy cases. There are currently five BAPs nationally. A BAP is composed of bankruptcy judges within a circuit who are appointed by the circuit's judicial council to decide, with the consent of all parties, appeals from bankruptcy court decisions. Even where a BAP exists, bankruptcy appeals may be heard by the district court, if a party so chooses.

A BAP requires a minimum of four bankruptcy judges, each from a different district, because the legislation prohibits a bankruptcy judge from hearing an appeal that originated in the district for which he or she was appointed. The BAP clerks' offices have support functions and responsibilities similar to the appellate clerks' offices.

As explained in the Salaries and Expenses chapter, the judiciary currently projects that appellate case filings will decrease in 2022, mainly due to projected decreases in criminal appeals and other appeals, which would include bankruptcy appeals and administrative agency appeals. Administration initiatives, legislative initiatives, and court decisions can have significant effects on some annual totals.

## Bankruptcy Courts

Table A-1.8 Bankruptcy Court Workload<sup>1</sup>

	2020 Actual	2021 Actual	2022 Estimate
Bankruptcy Filings	682,363 -11.8%	462,309 -32.2%	640,300 38.5%

<sup>1</sup>For the 12-month periods ending June 30.

### Bankruptcy Clerks

The clerk’s office is responsible for administrative activities pertaining to processing bankruptcy case filings. Employees in clerks’ offices perform essential functions necessary for the operation of the courts, such as:

- case tracking and scheduling, including the use of the case management system (CM/ECF);
- statistical reporting; and
- receipting and accounting for fees and fines collected.

All these functions are essential elements in processing bankruptcy cases. Public and private sector entities rely on effective bankruptcy case processing by the clerks’ offices. The bankruptcy court clerks’ offices facilitate processing cases, which helps individuals, attorneys, and businesses filing cases nationwide. To enable court participants to work together effectively, the clerks’ offices manage courtroom space, information technology services, audio and video systems,

financial management, budget decentralization, personnel administration, and other administrative functions, as well as the support required in the courtroom for proceedings.

The judicial system, and community as a whole, benefit from the professional management services provided by the bankruptcy clerks’ offices.

### Bankruptcy Administrators

Nearly all bankruptcy cases are administered by an impartial case trustee. In most bankruptcy courts, case trustees are overseen by the United States Trustee Program, which is a component of the Department of Justice. The United States Trustee assigns trustees to cases, maintains and appoints the panel of trustees, monitors the conduct of parties in cases, oversees related administrative functions, and acts to ensure compliance with applicable laws and procedures.

However, two states—Alabama and North Carolina—operate under a different structure. In each of the six bankruptcy districts within those two states, a bankruptcy administrator oversees case administration and performs the bulk of the duties required of United States Trustees. Bankruptcy administrators are employed and overseen by the judiciary but have virtually the same authority as a United States Trustee, with a few exceptions.

As explained in the Salaries and Expenses chapter, bankruptcy filings have decreased each year over the last decade, but the rate of decrease appeared to be leveling out prior to April 2020. Due to the COVID-19 pandemic, bankruptcy filings declined

significantly in April, May, and June 2020 compared to the same three-month period in 2019. This decline led to an overall decrease for 2020. Filings continued to decrease through the 12-month period ending June 2021. The judiciary is concerned that the pandemic may result in a significant and rapid increase in bankruptcy filings as the economy continues to be impacted. Because filing levels drive staffing needs in bankruptcy courts, such increases will result in additional workload impacts on bankruptcy courts. A sudden spike in filings may result in courts facing challenges in processing these filings. An increase in filings is expected based on historical trends that suggest bankruptcies trail adverse economic conditions. Also, the federal moratorium on eviction notices and foreclosures is over. These measures likely helped some consumers and businesses avoid bankruptcy, but without additional measures these same consumers and businesses may have to consider bankruptcy in the near term.

Table A-1.9 Components of Bankruptcy Filings

	Year	Chapter 7	Chapters 9, 11, 12, & 15	Chapter 13	Total
ACTUAL <sup>1</sup>	2011	1,083,671	13,556	432,333	1,529,560
	2012	914,015	11,664	385,949	1,311,628
	2013	778,845	10,139	348,994	1,137,978
	2014	669,976	8,829	321,278	1,000,083
	2015	568,679	7,112	303,945	879,736
	2016	509,769	8,532	300,858	819,159
	2017	489,011	7,628	299,398	796,037
	2018	479,151	7,686	288,741	775,578
	2019	475,069	7,876	290,416	773,361
	2020	436,919	8,345	237,099	682,363
	2021	335,886	7,559	118,864	462,309
ESTIMATED <sup>2</sup>	2022	413,600	8,500	218,200	640,300

<sup>1</sup>Actual data for 2011 through 2021 is based on the 12-month periods ending June 30.

<sup>2</sup>Estimates for 2022 are based on projections for the 12-month period ending June 30, 2022.