

# **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>

	2021 Actual (% Change from Previous Yr.) <sup>2</sup>	2022 Actual (% Change from Previous Yr.) <sup>2</sup>	2023 Projected (% Change from Previous Yr.) <sup>3</sup>
Convicted Offenders Supervised in the Community	176,347 -1.6%	175,822 -0.3%	175,700 -0.1%
Charged Defendants Supervised in the Community	52,915 13.4%	55,471 4.8%	54,100 -2.5%
Investigative Reports Completed for Bail Determinations	71,647 -14.5%	67,701 -5.5%	78,100 15.4%
Investigative Reports Completed for Sentencing Determinations	47,628 -31.0%	62,829 31.9%	65,300 3.9%

<sup>1</sup>For 2021 through 2023, 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.

<sup>2</sup>Actual data for 2021 and 2022 is based on the 12-month period ending June 30.

<sup>3</sup>Estimates for 2023 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 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>	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
	2022	12,443	110,811	652	261	124,167
	ESTIMATED <sup>3</sup>	2023	12,300	111,600	600	300

<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 2012 through 2022 as of June 30 of the corresponding year.

<sup>3</sup>Estimates for 2023 are based on projections for June 30, 2023.

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
	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	
2022	12,443	10%	111,724	90%	124,167	
ESTIMATED <sup>4</sup>	2023	12,300	10%	112,500	90%	124,800

<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 2012 through 2022 is based on the 12-month period ending June 30.

<sup>4</sup>Estimates for 2023 are based on projections for the 12-month period ending June 30, 2023.

## District Courts

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

Filings	2021 Actual	2022 Actual	2023 Estimate
Criminal Case Filings	59,500 -8.3%	55,220 -7.2%	57,500 4.1%
Criminal Defendants Filed	75,407 -4.7%	69,466 -7.9%	70,100 0.9%
Civil Case Filings <sup>2</sup>	374,250 -11.1%	293,762 -21.5%	278,300 -5.3%

<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, 2021 and June 30, 2022 are mainly due to the multi-district 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, 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 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. Comparing year-to-year criminal filings during the 12-months ending June 30<sup>th</sup>, aggregate criminal filings declined from 2019 thru 2022 with a small projected increase in 2023. 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 2022, post-*McGirt* annual criminal felony filings have increased by 66 percent in the Northern District of Oklahoma and by almost 54 percent in the Eastern District of Oklahoma compared to September 2020.

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, in large part to the continued decrease in tort actions filed in product liability and personal injury cases as part of the multi-district 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 about 96 percent of all reported interpreting events in FY 2022. In FY 2022, there were 138,783 court events that required the services of an interpreter, with 132,571 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 procedural adequacy to permit judges to proceed with the

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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.

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, 2022, there were 45,778 such petitions filed. This represents a 7.8 percent decrease from the 49,658 filings in statistical year 2021.

#### *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, 2022, there were 479 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>	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%
	2022	293,762	-21.5%	55,220	-7.2%
ESTIMATED <sup>2</sup>	2023	278,300	-5.3%	57,500	4.1%

Table A-1.6 Components of Civil Caseload

	Year	Social Security	Diversity	Prisoner Filings	All Other	Total
ACTUAL <sup>1</sup>	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
	2022	13,347	126,669	45,778	107,968	293,762
ESTIMATED <sup>2</sup>	2023	13,900	103,600	50,200	110,600	278,300

<sup>1</sup>Actual data for 2012 through 2022 is based on the 12-month periods ending June 30.

<sup>2</sup>Estimates for 2023 are based on projections for the 12-month period ending June 30, 2023.

## Courts of Appeals and Circuit Units

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

	2021 Actual	2022 Actual	2023 Estimate
Appeals Filings	45,790	42,094	43,200
	-6.6%	-8.1%	2.6%

<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, 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. 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 45.9 percent of national appellate filings in FY 2022. Staffing resources are provided through a formula derived from work measurement studies. The current formula is driven primarily by case filings and is refreshed periodically.

### *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 can 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 83 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 increase in 2023 mainly due to projected small decreases in criminal appeals offset by significant increases in 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>

	2021 Actual	2022 Actual	2023 Estimate
Bankruptcy Filings	462,309	380,634	447,600
	-32.2%	-17.7%	17.6%

<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,

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

The judicial system, and community, 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.

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 2022. The judiciary remains concerned that the expiration of emergency economic support and the continuing impact of recent inflation may result in a significant and rapid increase in bankruptcy filings in the future. 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>	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
	2022	239,750	4,715	136,169	380,634
ESTIMATED <sup>2</sup>	2023	265,300	5,800	176,500	447,600

<sup>1</sup>Actual data for 2012 through 2022 is based on the 12-month periods ending June 30.

<sup>2</sup>Estimates for 2023 are based on projections for the 12-month period ending June 30, 2023.