



African American Judges in the Federal Judiciary

A Series of Fact Sheets on the Lack of Diversity on the Bench

By Danielle Root

October 17, 2019

Federal judges wield immense power. Each day, they make decisions that affect people's livelihoods, well-being, and fundamental rights. However, a recent report from the Center for American Progress demonstrates that this power is largely held by individuals who do not reflect the diversity of American society.¹

Overall, 80 percent of all sitting federal judges in the nation are white, compared with a U.S. population that is only 60 percent white. In addition, 73 percent of all sitting judges are male, while men make up slightly less than half of the population. Strikingly, there are only two sitting American Indian judges and no Muslim judges on the federal courts.²

African American judges are also underrepresented on the bench. The report uncovered several startling findings:³

- **Federal judiciary:** African Americans comprise just 9.9 percent of sitting judges and roughly 13 percent of active judges on the federal bench.⁴ To put this in perspective, Blacks or African Americans make up approximately 12.5 percent of the U.S. population.
- **African American women:** There are only 46 African American women sitting on the federal courts, comprising just 3.4 percent of all sitting federal judges.⁵ Among active federal judges, only 4.9 percent are African American women.
- **Federal courts of appeals:** There are only 22 African American judges sitting on U.S. courts of appeals, comprising just 7.6 percent of all sitting U.S. circuit judges. Among active federal judges, this number decreases to 18, amounting to approximately 10 percent of all active judges serving on U.S. courts of appeals.⁶
- **Federal district courts:** There are only 113 sitting African American judges serving on federal district courts, comprising just 10.8 percent of all sitting district court judges. Among active district court judges, this number decreases to 80, amounting to approximately 13.8 percent of all active U.S. district court judges.⁷



See also: [“Building a More Inclusive Federal Judiciary”](#) by Danielle Root, Jake Faleschini, and Grace Oyenubi

- **U.S. Supreme Court:** There is only 1 African American currently serving on the U.S. Supreme Court, Justice Clarence Thomas. The first African American Supreme Court justice, Justice Thurgood Marshall, was not appointed until 1967. Justices Thomas and Marshall are the only two African Americans to have sat on the Supreme Court since the nation's founding.
- **7th U.S. Circuit Court of Appeals:** There are no African American judges on the 7th Circuit—which includes Illinois, Indiana, and Wisconsin—despite the fact that Blacks or African Americans make up more than 11 percent of the jurisdiction's population.
- **Presidential appointees:** As of August 2019, President Donald Trump had only appointed five African American judges—though he did appoint a sixth in September. To date, African Americans comprise just 4 percent of Trump's judicial appointees. In comparison, 17.9 percent of former President Barack Obama's appointees were African American. Trump has not appointed a single African American judge to a U.S. court of appeals.⁸

FIGURE 1

African Americans are underrepresented on federal courts compared with their share of the U.S. population

Proportion of sitting federal judges who are African American compared with proportion of U.S. population that is African American



Note: The data reflect judges on Article III courts, designated in the U.S. Constitution, as of August 2019.

Sources: U.S. Federal Judicial Center, "Biographical Directory of Article III Federal Judges, 1789-present: Advanced Search Criteria," available at <https://www.fjc.gov/history/judges/search/advanced-search> (last accessed August 2019); U.S. Census Bureau, "Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States: April 1, 2010 to July 1, 2018," available at, <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk#> (last accessed August 2019).

FIGURE 2

President Trump has failed to prioritize appointing African American judges

Proportion of President Trump's federal judge appointees who are African American compared with President Obama's



Note: The data reflect Trump's judicial appointees to Article III courts, designated in the U.S. Constitution, as of August 2019. Trump appointed an additional African American judge in September 2019. Therefore, as of the publication of this fact sheet, Trump has appointed six African American federal judges, which amounts to just 4 percent of all his judicial appointments to date.

Source: U.S. Federal Judicial Center, "Biographical Directory of Article III Federal Judges, 1789-present: Advanced Search Criteria," available at <https://www.fjc.gov/history/judges/search/advanced-search> (last accessed August 2019).

Diversity adds immense value to the judiciary. For parties to a case and the public at large, the court's legitimacy is strengthened when many of the decision-makers look like or share similar characteristics to them. However, while previous presidential administrations have made concerted efforts to diversify the bench, President Trump has nominated and appointed the least racially and ethnically diverse group of federal judges since the 1980s.

CAP's report on this lack of judicial diversity argues for a variety of reforms that would not only reverse this trend but also transform today's whitewashed judiciary into one that reflects the viewpoints and experiences of the populace it serves.

Danielle Root is the associate director of Voting Rights and Access to Justice at the Center for American Progress.

Endnotes

- 1 Danielle Root, Jake Faleschini, and Grace Oyenubi, "Building a More Inclusive Federal Judiciary" (Washington: Center for American Progress, 2019), available at <https://www.americanprogress.org/issues/courts/reports/2019/10/03/475359/building-inclusive-federal-judiciary/>.
- 2 Ibid.
- 3 Most data outlined in this fact sheet reflect findings from CAP's recent report on judicial diversity, although some data points have been updated to reflect changes to the federal judiciary since August 2019. See Ibid.
- 4 Diversity in the federal judiciary can be measured by looking at "sitting" or "active" judges. The dataset for sitting judges includes those serving in senior status, which is a form of semi-retirement. Datasets for active judges, on the other hand, do not include senior status judges and only reflect judges who serve on the courts full time. Because judges in senior status can still hear cases, the authors have included them in this analysis. According to the federal courts' official website, senior status judges "typically handle about 15 percent of the federal courts' workload annually." See Root, Faleschini, and Oyenubi, "Building a More Inclusive Federal Judiciary"; U.S. Courts, "FAQs: Federal Judges, 5. What is a senior judge?," available at <https://www.uscourts.gov/faqs-federal-judges#faq-What-is-a-senior-judge?> (last accessed September 2019).
- 5 Federal Judicial Center, "Biographical Directory of Article III Federal Judges, 1789-Present," available at <https://www.fjc.gov/history/judges/search/advanced-search> (last accessed October 2019).
- 6 Ibid.
- 7 Ibid.
- 8 Federal Judicial Center, "Biographical Directory of Article III Federal Judges."