

**The Judiciary Fair Employment Practices**  
**Annual Report**  
*Fiscal Year 2019*

**October 1, 2018 through September 30, 2019**

Administrative Office of the U.S. Courts  
James C. Duff, Director



# The Judiciary Fair Employment Practices

## Annual Report

*October 1, 2018 through September 30, 2019*

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Administrative Office of the U.S. Courts

James C. Duff, Director

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## INTRODUCTION

The Judiciary Fair Employment Practices Annual Report (the Report) presents information about the Judiciary's workforce demographics, including workforce data on gender identity, race, ethnicity, age, and disability. The Report covers both judges and the bi-weekly workforce.

This year's Report provides the Judiciary's workforce statistics for Fiscal Year (FY) 2018, which closed on September 30, 2018, and highlights accomplishments and challenges in attaining a highly diverse workforce, but also focuses on areas where the federal Judiciary can identify and seize additional opportunities to ensure diversity and fair employment practices.

## SUMMARY FOR FISCAL YEAR 2019

From FY 2016 and FY 2018, the Reports did not include workforce demographics on gender, race, ethnicity, age, and disability. During this time, the Office of Fair Employment Practices (OFEP) was in the process of simplifying and enhancing the way we collect and publish court demographics to improve data integrity and allow for a comparison of the Federal Judiciary's demography with that of the Executive Branch, the Bureau of Labor Statistics, and the United States Census.

The AOUSC studied and tested several systems and approaches to collecting the highly sensitive and conditional demography. After concluding its research, the Agency developed a self-identification survey that allows judges and bi-weekly employees to: (1) provide their individual demographics on race (one or multiple), (2) ethnicity (if, of Hispanic origin), (3) gender (male, female, or non-binary), and (4) disability status in HRMIS. Because the AOUSC neither collected demography in FY 2019 nor reported demography for the previous three FYs, the primary focus of this year's Annual Report is

workforce demographics in FYs 2016, 2017, and 2018; highlighting FY 2018, the most recent and last year data was available.

**Goal 3.2a: Attract, recruit, develop and retain the most qualified people to serve the public in the federal judiciary, emphasizing a commitment to nondiscrimination both in hiring and in grooming the next generation of judiciary executives and senior leaders.**

## RECRUITMENT AND OUTREACH

The Judiciary has long recognized the importance of diversity in its workforce and is committed to enhancing the pool of qualified applicants. This standing principle is best summarized in the Strategic Plan for the Federal Judiciary, and emphasizes the following goal under Strategy 3.2: "Recruit, develop, and retain highly competent staff while defining the judiciary's future workforce requirements."

In furtherance of this goal, the Judiciary continued its work with undergraduate institutions, law schools, bar associations, and other groups to increase student awareness of the breadth and scope of legal and non-legal positions in the Judiciary. Those efforts included participation in job and recruitment fairs such as the Equal Justice Works Career Fair (Arlington, VA), the National Asian Pacific Bar Association Career Fair (Chicago, IL), the HBCU Career Fair at the University of Maryland (College Park, MD), the Diversity Career Fair (Arlington, VA), and the Southeastern Minority Job Fair (Atlanta, GA).

Through outreach efforts, the Judiciary's goal is to highlight the federal courts as a model, competitive employer and to engage potential applicants in one-on-one discussions about the



myriad of employment opportunities in the Judiciary. The Judiciary also continued to build its strategic network of partnerships between various program offices, local courts, working groups of judges and court staff, and external organizations.

## Just the Beginning

Of note, the partnership with Just the Beginning - A Pipeline Organization (JTB) continued to grow by placing exceptional, diverse students in summer internships with federal judges. In its 10th year, the program yielded 32 law students for judicial internships with federal judges. Since its inception, the program yielded the placement of 487 law students for judicial internships. This is the result of the outreach efforts made by numerous judges, law clerks, staff, and volunteers. With support from many of our federal judges, JTB continues to serve the community by advocating for diversity in the legal field through mentorship and education of students from various socioeconomic, racial, ethnic and cultural backgrounds.

## Model Intern Diversity Pilot Program

In addition, the Model Intern Diversity Pilot Program (MIDPP) which began in FY 2018, provided another opportunity for the Judiciary to demonstrate its ongoing commitment to the expansion of diversity programming, recruitment, education, and training. The MIDPP provides a limited number of AO funded paid internships that are designed to: (1) develop and nurture interest in legal and other professional careers in the federal judiciary; (2) develop future judicial workforce leaders by providing on-the-job learning through challenging, collaborative assignments; (3) provide students of various backgrounds with the opportunity to work directly with both judges and court unit executives (CUEs), and be exposed to a wide variety of careers (legal and non-legal) within the federal court system; and (4) develop champions for diversity and inclusion. In FY 2019, the MIDPP expanded from one FY 2018 placement in the Middle District of Alabama to additional placements in the following courts: District of Rhode Island; District of South Dakota; District of Minnesota; and, the Southern District of Mississippi.

## FEDERAL JUDGES PROFILE FOR FISCAL YEAR 2018

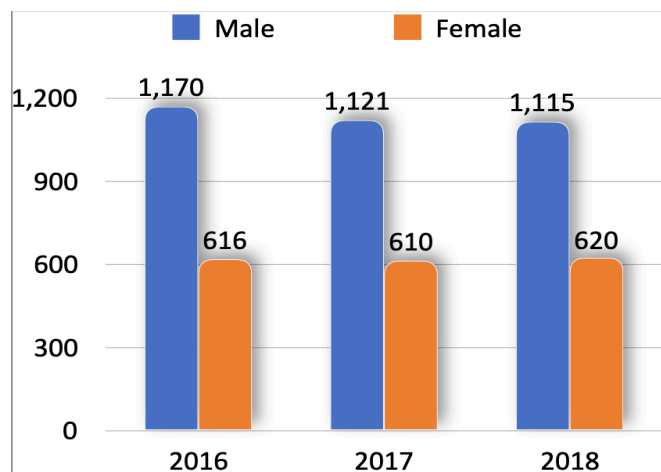
There were 1,735 active judges<sup>1</sup> in the Federal Judiciary as of September 30, 2018. Between FY 2016 and FY 2018, the number of active judges has decreased by 51 judges:

- FY 2016 1,786 active judges
- FY 2017 1,731 active judges
- FY 2018 1,735 active judges

## Judges By Gender

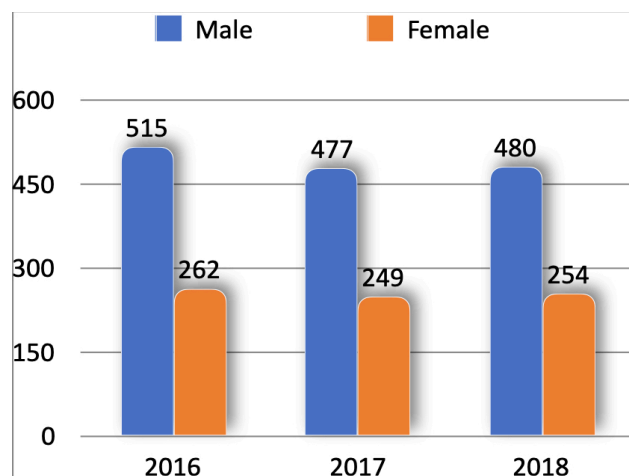
Despite a decrease in female active judges in FY17, the representation of women on the federal bench continues to increase. In FY18, females represented 35.7% (620 of 1,735) of active judges in the Judiciary. Conversely, males comprised 64.3% (1,115 of 1,735) of active judges in the Judiciary. Of the 620 active female judges on the bench in FY 2018, 254 (41%) were Article III judges and 366 (59%) were non-Article III judges, continuing a trend of increased representation in both groups.

**Figure 1: Active Federal Judges by Gender, FY 2016-2018**

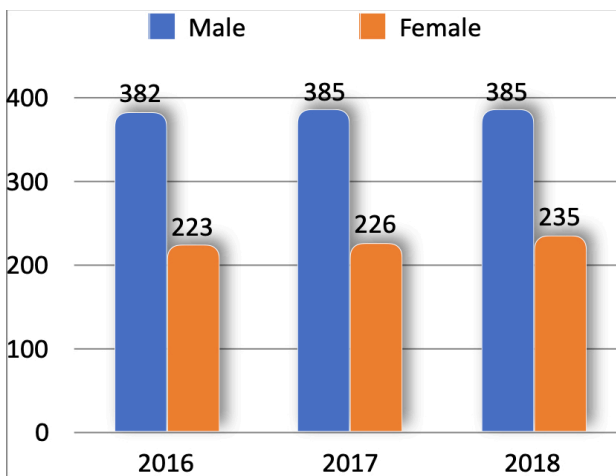




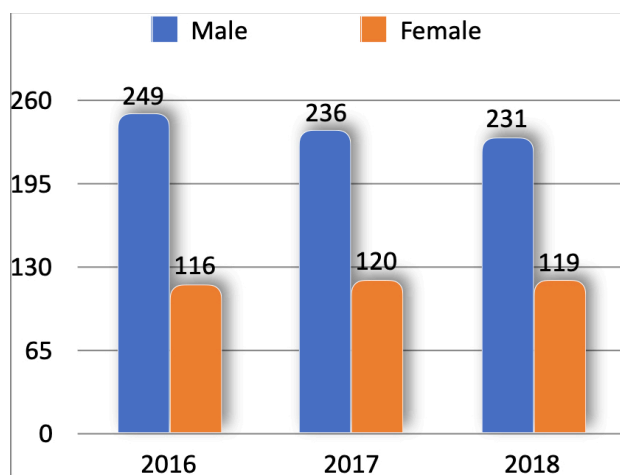
**Figure 2: Active Article III Judges by Gender, FY 2016-2018**



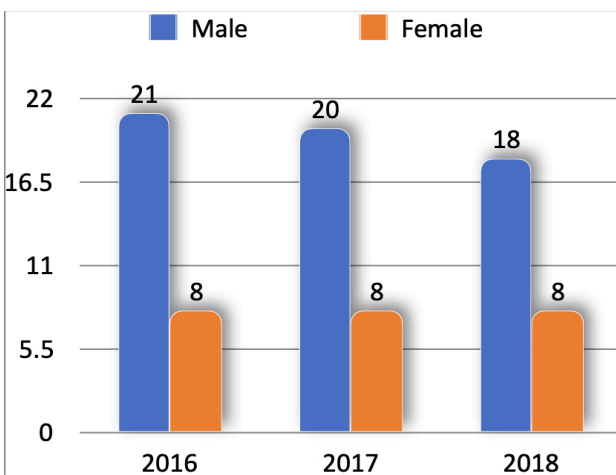
**Figure 4: Full-time Magistrate Judges by Gender, FY 2016-2018**



**Figure 3: Bankruptcy Judges by Gender, FY 2016-2018**



**Figure 5: Part-time Magistrate Judges by Gender, FY 2016-2018**



Among all active judges<sup>1</sup>, the percentage of female judges from FY 2016 - FY 2018 has shown an average gain of .65% annually.

In 2016, within the population of active Article III judges, females were represented at 33.7% (262 of 777) and have increased in their presence to 34.6% (254 of 734) in FY 2018. For non-Article III female judges, the progression has been comparable, moving from approximately 35.1% (354 of 1,009) in FY 2016 to 36.6% (366 of 1,001) in FY 2018.

1. The active judge count includes both Article III and non-Article III judges in regular full-time active service, as well as recalled judges who are in full-time active service during the period in which they are recalled. The active judge count does not include judges who have retired from regular active service and have taken senior status. The non-Article III judge count in FYs 2016 - 2018 included active US Court of Federal Claims Judges. In 2016, there were 3 males, and 7 females; in 2017, 3 males and 7 females; and in 2018, there was one male and 4 females.



## Judges by Race & Ethnicity

In FY 2018, minorities represented 16.3% (282 of 1,735) of all active federal judges. Article III judges were 24.8% (182 of 734) minority; 10.0% (100 of 1,001) of non-Article III Judges were minority. Comparing judge cohorts by gender and minority status reveals patterns in the composition of the federal bench (see Appendix 3). Among Caucasian female judges, 37.4% (155 of 414) were Article III judges, and 62.6% (259 of 414) were non-Article III judges.



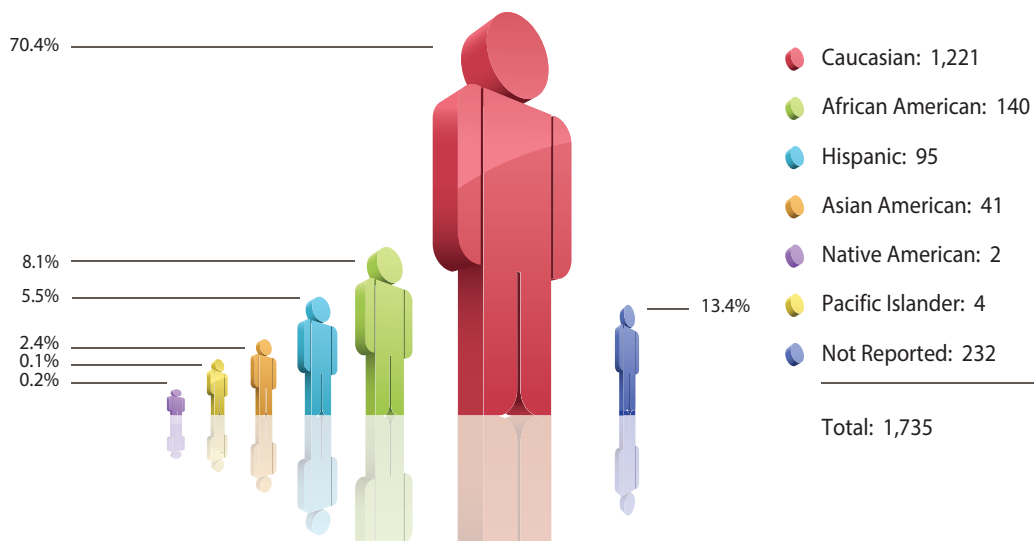
In comparison, minority female judges are 58.7% (74 of 126) of the total number of female Article III judges, and 41.3% (52 of 126) of female non-Article III judges. Caucasian male judges make up 38.0% (307 of 807) of Article III judges, and 62.0% (500 of 807) of non-Article III judges. In contrast, for minority male judges, 68.5% (109 of 159) were Article III judges, and 31.5% (50 of 159) were non-Article III judges.

**Table 1: Active Article III and Non-Article III Judges by Gender and Race/Ethnicity, FY 2016-2018**

	2016		2017		2018	
	Count	Percent	Count	Percent	Count	Percent
<b>All Active Federal Judges</b>	<b>1,786</b>	<b>100.0%</b>	<b>1,731</b>	<b>100.0%</b>	<b>1,735</b>	<b>100.0%</b>
Male	1,170	65.6%	1,121	64.8%	1,115	64.3%
Female	616	34.4%	610	35.2%	620	35.7%
Caucasian	1,357	76.0%	1,277	73.8%	1,221	70.4%
Minority	304	17.0%	296	17.1%	282	16.3%
Ethnicity Not Reported	125	7.0%	158	9.1%	232	13.4%
<b>Active Article III Judges</b>	<b>777</b>	<b>100.0%</b>	<b>726</b>	<b>100.0%</b>	<b>734</b>	<b>100.0%</b>
Male	515	66.3%	477	65.7%	480	65.4%
Female	262	33.7%	249	34.3%	254	34.6%
Caucasian	541	69.6%	493	67.9%	467	63.6%
Minority	196	24.8%	189	26.0%	182	24.8%
Ethnicity Not Reported	40	5.1%	44	6.1%	85	11.6%
<b>Active Non-Article III Judges</b>	<b>1,009</b>	<b>100.0%</b>	<b>1,005</b>	<b>100.0%</b>	<b>1,001</b>	<b>100.0%</b>
Male	655	64.9%	644	64.1%	635	63.4%
Female	354	35.1%	361	35.9%	366	36.6%
Caucasian	816	80.9%	784	78.0%	754	75.3%
Minority	108	10.7%	107	10.6%	100	10.0%
Ethnicity Not Reported	85	8.4%	114	11.3%	147	14.7%



**Figure 6: Active Federal Judges by Ethnicity, FY 2018**



## JUDGES BY TYPE

### ARTICLE III JUDGES

Consistent with prior years' data, FY 2018 data finds that Article III judges remain significantly more diverse than non-Article III judges. Even though Article III judges, appointed by the President of the United States with the advice and consent of the United States Senate, are not affected by Judiciary hiring practices, analysis of the gender and ethnicity distribution of Article III judges is important and instructive to the fulfillment of the Judiciary's goals for diversity on the bench (*see* Appendix 3). In FY 2018 there were 734 active Article III judges of whom 467 (63.6%) were Caucasian, 89 (12.1%) were African American, 69 (9.4%) were Hispanic; 20 (2.7%) were Asian American; 1 (0.1%) was Native American; and 3 were (0.4%) was a Pacific Islander. 85 (11.6%) Article III judges did not report ethnicity, a significant increase from FY15 when thirty-nine (6.9%) did not report ethnicity.

### BANKRUPTCY JUDGES

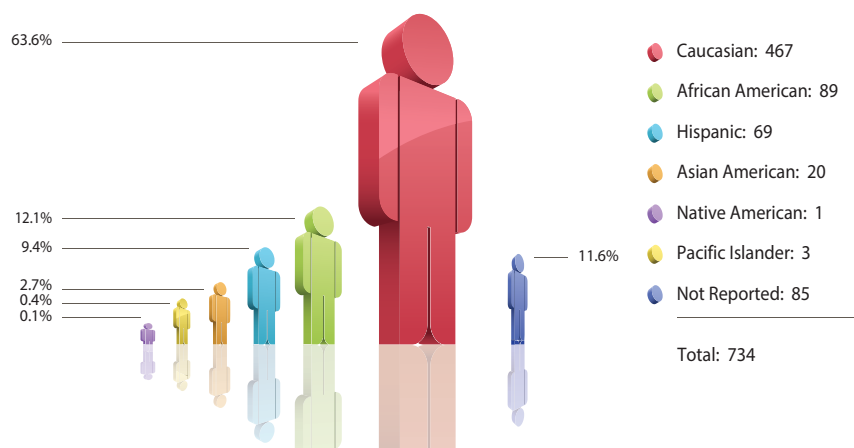
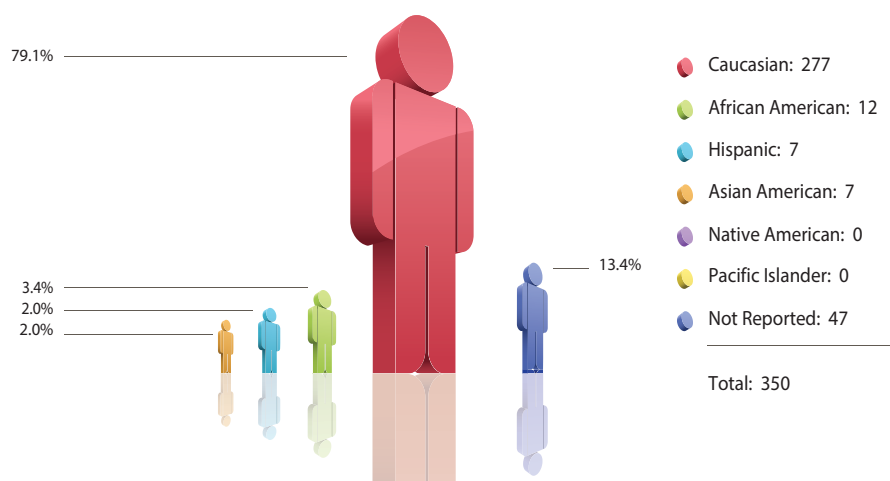
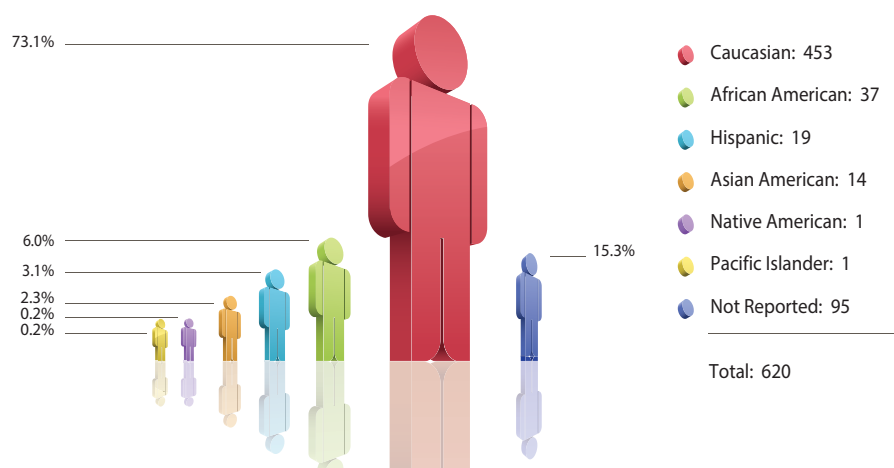
In contrast, bankruptcy judges continued to reflect the least diversity with respect to race and ethnic composition. In FY 2018, there were 350 active bankruptcy judges, of whom 277 (79.1%) were Caucasian, 12 (3.4%) were African American, 7 (2.0%) were Hispanic and 7 (2.0%) were Asian American. There were no Native American or Pacific Islander bankruptcy judges in FY 2018.

Forty-Seven (13.4%) bankruptcy judges did not report ethnicity. This marks a measurable increase in disengagement when compared to FY15 when only twenty-four (7.4%) of bankruptcy judges did not report ethnicity.

The AO and the Judiciary have recognized the general lack of diversity on the bankruptcy bench as well as the unique, historical factors that have contributed to these demographics. Accordingly, there have been growing collaborative efforts by the AO and the courts to report, analyze and understand the demographic data and to take meaningful actions to increase the opportunities for qualified females and minorities to be considered for judgeships in the country's bankruptcy courts. With this commitment and foresight, it is anticipated that the bankruptcy bench will evolve to reflect the diversity of the nation it serves.





**Figure 7: Active Article III Judges by Ethnicity, FY 2018****Figure 8: Active Bankruptcy Judges by Ethnicity, FY 2018****Figure 9: Active Full Time Magistrate Judges by Ethnicity, FY 2018**

## MAGISTRATE JUDGES

As with bankruptcy judges, some measure of progress is needed to further diversify the ranks of magistrate judges.

As shown in the breakdown in Appendix 3, in FY 2018 there were 620 full-time magistrate judges of whom 453 (73.1%) were Caucasian, 37 (6.0%) African American, 19 (3.1%) Hispanic, 14 (2.3%) Asian American, 1 (0.2%) Native American, and 1 (0.2%) Pacific Islander. Ninety-Five (15.3%) full-time magistrate judges did not report ethnicity, more than double the number of non-reports in FY15 (twenty-seven or 5.2%).

There were 26 part-time magistrate judges of whom 21 (80.8%) were Caucasian. Five (19.2%) part-time magistrate judges did not report ethnicity. In addition, there were 91 recalled magistrate judges of whom 85 (93.4%) were Caucasian, 2 (2.2%) were African American, 2 (2.2%) were Hispanic and 1 (1.1%) was Asian American. One (1.1%) recalled magistrate judge did not report their ethnicity.



## THE JUDICIARY BI-WEEKLY WORKFORCE

The Judiciary's bi-weekly workforce decreased from 28,890 employees in FY 2016, to 28,735 in FY 2018, a workforce decline of 155 employees.

FY 2016	28,890 employees
FY 2017	28,654 employees
FY 2018	28,735 employees

The employment statistics for the Judiciary workforce covered in this Report include permanent (full-time and part-time) employees and long-term temporary employees (those who had been employed by the Judiciary for more than one year and one day as of September 30, 2018). The exception to this guideline is that all law clerks employed during the fiscal year, including those serving only in one-year clerkships, are counted as

part of the total bi-weekly workforce. Overall, court personnel workforce counts include employees from the courts of appeals, district courts, bankruptcy courts, territorial courts, pretrial services offices, probation offices, federal public defender offices, and special courts (which include the United States Court of Federal Claims, the United States Court of International Trade, and the Judicial Panel on Multidistrict Litigation).

For the purposes of this Report, personnel have been grouped into occupational categories. Similar to federal agencies, the Judiciary bases its definitions of occupational categories on those adopted by the Office of Personnel Management (OPM): professional, administrative, technical, and clerical. For this *Report*, OPM's occupational categories are tailored to the Judiciary occupational categories, *Executive, Legal Professional, General Professional, Legal Secretary, Technical, and Office Clerical*.





A group of four business professionals (three men and one woman) in business attire are sitting around a table, engaged in a meeting. A laptop and documents are on the table.

## MINORITY REPRESENTATION

In FY 2018, minorities represented 31.2% (8,960) of the total workforce (28,735); Caucasians represented 65.1% (18,715 of 28,735). This representation was a slight increase from the FY 2016 data, when minorities comprised 30.7% (8,879 of 28,890) of the total workforce.

### Community, and Occupational Category, FY 2018

BI-WEEKLY WORKFORCE			% in Court Type	CAUC	% in Court Type	AFR- AM	% in Court Type	HISP	% in Court Type	ASIAN	% in Court Type	NAT- AM	% in Court Type	T	% in Court Type	NO RPT*	% in Court Type
	GENDER	TOTAL															
Executive	Male	407	53.9%	334	44.2%	33	4.4%	24	3.2%	10	1.3%	2	0.3%	0	0.0%	4	0.5%
	Female	348	46.1%	275	36.4%	42	5.6%	15	2.0%	7	0.9%	3	0.4%	2	0.3%	4	0.5%
	Subtotal	755	100%	609	80.7%	75	9.9%	39	5.2%	17	2.3%	5	0.7%	2	0.3%	8	1.1%
Legal Professional	Male	3,063	42.4%	2,303	31.8%	133	1.8%	176	2.4%	138	1.9%	12	0.2%	2	0.03%	299	4.1%
	Female	4,169	57.6%	3,163	43.7%	205	2.8%	208	2.9%	249	3.4%	10	0.1%	4	0.06%	330	4.6%
	Subtotal	7,232	100%	5,466	75.6%	338	4.7%	384	5.3%	387	5.4%	22	0.3%	6	0.1%	629	8.7%
General Professional	Male	5,109	44.2%	3,285	28.4%	593	5.1%	848	7.3%	241	2.1%	18	0.2%	23	0.2%	101	0.9%
	Female	6,460	55.8%	4,064	35.1%	931	8.0%	1,081	9.3%	207	1.8%	49	0.4%	27	0.2%	101	0.9%
	Subtotal	11,569	100%	7,349	63.5%	1,524	13.2%	1,929	16.7%	448	3.9%	67	0.6%	50	0.4%	202	1.7%
Legal Secretary	Male	36	2.7%	19	1.4%	6	0.5%	9	0.7%	2	0.2%	0	0.0%	0	0.0%	0	0.0%
	Female	1,279	97.3%	833	63.3%	127	9.7%	228	17.3%	35	2.7%	5	0.4%	6	0.5%	45	3.4%
	Subtotal	1,315	100%	852	64.8%	133	10.1%	237	18.0%	37	2.8%	5	0.4%	6	0.5%	45	3.4%
Office Clerical	Male	252	14.0%	112	6.2%	57	3.2%	52	2.9%	14	0.8%	0	0.0%	2	0.1%	15	0.8%
	Female	1,542	86%	733	40.9%	290	16.2%	412	23.0%	40	2.2%	8	0.4%	8	0.4%	51	2.8%
	Subtotal	1,794	100%	845	47.1%	347	19.3%	464	25.9%	54	3.0%	8	0.4%	10	0.6%	66	3.7%
Technical	Male	1,341	22.1%	747	12.3%	208	3.4%	241	4.0%	94	1.5%	4	0.1%	4	0.1%	43	0.7%
	Female	4,729	77.9%	2,847	46.9%	911	15.0%	685	11.3%	184	3.0%	15	0.2%	20	0.3%	67	1.1%
	Subtotal	6,070	100%	3,594	59.2%	1,119	18.4%	926	15.3%	278	4.6%	19	0.3%	24	0.4%	110	1.8%
TOTAL	Male	10,208	35.5%	6,800	23.7%	1,030	3.6%	1,350	4.7%	499	1.7%	36	0.1%	31	0.1%	462	1.6%
	Female	18,527	64.5%	11,915	41.5%	2,506	8.7%	2,629	9.1%	722	2.5%	90	0.3%	67	0.2%	598	2.1%
	TOTAL	28,735	100%	18,715	65.1%	3,536	12.3%	3,979	13.8%	1,221	4.2%	126	0.4%	98	0.3%	1,060	3.7%
*Race/Ethnicity was not reported.																	

\*Race/Ethnicity was not reported.



**Table 3: Bi-weekly Workforce by Age and Occupational Category, FY 2018**

BI-WEEKLY WORKFORCE	GENDER	TOTAL	Under 21	%	21 to 30	%	31 to 40	%	41 to 50	%	51 to 60	%	61 to 70	%	71 to 80	%	Over 80	% in Court Type
Executive	Male	407	0	53.9%	0	0.0%	12	1.6%	121	16.0%	198	26.2%	68	9.0%	7	0.9%	1	0.1%
	Female	348	0	46.1%	0	0.0%	12	1.6%	86	11.4%	196	26.0%	50	6.6%	4	0.5%	0	0.0%
	Subtotal	755	0	100.0%	0	0.0%	24	3.2%	207	27.4%	394	52.2%	118	15.6%	11	1.5%	1	0.1%
Legal Professional	Male	3,063	0	42.4%	1,205	16.7%	828	11.4%	425	5.9%	403	5.6%	192	2.7%	10	0.14%	0	0.0%
	Female	4,169	0	57.6%	1,255	17.4%	1,128	15.6%	937	13.0%	636	8.8%	202	2.8%	11	0.15%	0	0.0%
	Subtotal	7,232	0	100.0%	2,460	34.0%	1,956	27.0%	1,362	18.8%	1,039	14.4%	394	5.4%	21	0.3%	0	0.0%
General Professional	Male	5,109	0	44.2%	363	3.1%	1,393	12.0%	1,871	16.2%	1,213	10.5%	240	2.1%	27	0.2%	2	0.0%
	Female	6,460	0	55.8%	419	3.6%	1,606	13.9%	2,172	18.8%	1,823	15.8%	415	3.6%	25	0.2%	0	0.0%
	Subtotal	11,569	0	100.0%	782	6.8%	2,999	25.9%	4,043	34.9%	3,036	26.2%	655	5.7%	52	0.4%	2	0.0%
Legal Secretary	Male	36	0	2.7%	5	0.4%	6	0.5%	11	0.8%	4	0.3%	7	0.5%	3	0.2%	0	0.0%
	Female	1,279	0	97.3%	35	2.7%	121	9.2%	266	20.2%	521	39.6%	303	23.0%	32	2.4%	1	0.1%
	Subtotal	1,315	0	100.0%	40	3.0%	127	9.7%	277	21.1%	525	39.9%	310	23.6%	35	2.7%	1	0.1%
Office Clerical	Male	252	2	14.0%	71	4.0%	65	3.6%	42	2.3%	43	2.4%	23	1.3%	6	0.3%	0	0.0%
	Female	1,542	5	86.0%	190	10.6%	270	15.1%	388	21.6%	527	29.4%	154	8.6%	7	0.4%	1	0.1%
	Subtotal	1,794	7	100.0%	261	14.5%	335	18.7%	430	24.0%	570	31.8%	177	9.9%	13	0.7%	1	0.1%
Technical	Male	1,341	2	22.1%	205	3.4%	347	5.7%	374	6.2%	336	5.5%	72	1.2%	5	0.1%	0	0.0%
	Female	4,729	0	77.9%	355	5.8%	899	14.8%	1,314	21.6%	1,697	28.0%	444	7.3%	19	0.3%	1	0.0%
	Subtotal	6,070	2	100.0%	560	9.2%	1,246	20.5%	1,688	27.8%	2,033	33.5%	516	8.5%	24	0.4%	1	0.0%
TOTAL	Male	10,208	4	35.5%	1,849	6.4%	2,651	9.2%	2,844	9.9%	2,197	7.6%	602	2.1%	58	0.2%	3	0.0%
	Female	18,527	5	64.5%	2,254	7.8%	4,036	14.0%	5,163	18.0%	5,400	18.8%	1,568	5.5%	98	0.3%	3	0.0%
	TOTAL	28,735	9	100.0%	4,103	14.3%	6,687	23.3%	8,007	27.9%	7,597	26.4%	2,170	7.6%	156	0.5%	6	0.0%
*Race/Ethnicity was not reported.																		

Minority representation as a percentage of the Judiciary has increased slightly from 2016 to 2018, as shown below:

- FY 2016 30.7% (8,879 out of 28,890)
- FY 2017 30.8% (8,916 out of 28,654)
- FY 2018 31.2% (8960 out of 28,735)

Statistically, African Americans and Hispanics make up 12.3% and 13.8% of the workforce, respectively. Asian Americans represent 4.2% of employees, while Native Americans represent 0.4% and Pacific Islanders represent 0.3%. (see Table 2).

## AGE & DISABILITY COMPOSITION

Judiciary workforce age and disability data are presented as an instrument for succession planning and potential reasonable accommodation requests. (While reasonable accommodation requests are expected across age groups, demarcation of workforce age categories

are useful in reasonable accommodation planning.) Age data on the Judiciary are detailed in Table 3. The highest representation among age groups remained in the 41-to-50 age group. Disability data on bi-weekly employees within the Judiciary is detailed in Appendix 4. This data reflects no change in the total number of employees self-identifying as having a disability between FY 2016 and FY 2018 and a disability rate of 1% in a workforce of 28,735 employees. This is a far cry from the federal hiring goal for executive agencies to achieve a 12% representation rate for individuals with disabilities, and a 2% representation rate for individuals with targeted/severe disabilities. This may suggest that employees are somewhat reluctant to disclose disability information about themselves.



## RECOMMENDATIONS GOING FORWARD

A commitment to diversity requires attracting talented law clerks, court staff, and judges with the breadth of backgrounds and experiences critical to fostering a vibrant legal community. Similarly, commitment to inclusion means sustaining a culture in which each individual's culture and talents are acknowledged and accorded the full respect of the Judiciary, and each individual's equal standing as a member of the Judiciary community is assured.

To continue progress, each court and court unit should commit to policies, structures, and practices that lead to the inclusion of members of underrepresented groups. This means not just opening doors to talented people who have historically been underrepresented in clerkships, certain occupational categories and the bench. It means ensuring that diverse talent thrive, that they are equipped with the resources and tools needed for success, and that they have full confidence that they are valued and respected members of the Judiciary. It also means promoting a Judiciary culture that is inclusive by examining and changing any past practices that impede progress and create more inclusive practices that further progress. Finally, there must be active participation and an sense of responsibility through the establishment of achievable goals and ongoing monitoring of successes and barriers by courts and court units.

### OBSTACLES TO ACHIEVING A MORE DIVERSE AND INCLUSIVE JUDICIARY

Currently, the AOUSC collects the demography of on-board employees (including judges) and interviewees and appointments for court staff vacancies (excluding judges). Annually, each court submits their demography information to the Administrative Office and in turn OFEP produces an annual report to the Judicial Conference capturing the demography of Judiciary. Over the course of the past 20 years,

the Judiciary, through OFEP's annual reporting and various internal and external reports on diversity and diversity and inclusion (D&I) best practices, has gathered studies and reports that outline effective steps and practices for increasing diversity or captured the rate by which progress has been made to increase diversity across the Judiciary.

These resources have highlighted the importance of expanding current recruiting efforts to include: diverse individuals; communities and recruitment resources; establishing well defined recruitment, interviewing, hiring standards and practices to minimize the impact of bias; implementing the use of diverse panels in making personnel decisions; and establishing internship, fellowship and mentoring programs to support the recruitment, development and retention of underrepresented groups.

However, without commitment and a collective sense of responsibility by individual courts and court units, the impact of existing resources and best practices and those provided by OFEP are limited in reaching the Judiciary's commitment to diversity and inclusion.

### Ensuring Court and Court Unit Responsibility

Shifting a court or court unit's culture from one of "culture fit" to "diversity and inclusion" requires more than well-intentioned national policies and programs. A sense of responsibility in proper execution of those policies and/or practices and maintenance of the desired D&I culture is key. Focusing D&I data reporting and analysis to the national level and limiting D&I strategic planning to committee levels, may inadvertently deemphasize the need for courts and court units to take an active role in D&I. For example, the diversity and progress of one court or court unit may cast a shadow on the more homogeneous workforce of another. Further, individual judges might not feel involved and heard and therefore remove themselves from D&I efforts.

For this reason, OFEP recommends placing more



focus on individual court or circuit level D&I efforts and accomplishments. The creation of D&I plans at the court or circuit level allow for the consideration of the existing culture within a court, their unique obstacles to D&I, availability of resources, and a more accurate measures of progress. Most importantly, it gives judges and CUEs a more direct role in the development, execution, and monitoring of D&I efforts, thus allowing there to be buy-in.

Another way that accountability can be woven into a court's culture of D&I is through the creation and reporting of meaningful metrics. Metrics should help each court: 1) establish achievable and individual D&I goals; 2) maintain course for achieving those goals; 3) identify D&I barrier that may be unique to a court; 4) set targets/goals for employee engagement, outreach, and development; and 5) measure the impact of D&I initiatives. Local planning and execution also fosters workforce trust, reinforces a courts commitment to D&I, and moves the conversation and planning surrounding D&I from one based on national data to one grounded in objective data specific to each court.

While the AOSUC or Judicial Conference committees provide a forum for courts to exchange ideas, celebrate progress, identify areas of collaboration, promote initiatives, and create national level policy or best practices, the effectiveness of any D&I initiative will rest with the leadership and workforce of each court and court unit who determine the level commitment.

### **The Role of Judges, CUEs and Managers**

Committees, conferences, forums, working groups, while playing an essential role in examining and developing Judiciary-wide goals and strategies, are not involved in the daily execution of personnel policies, practices and decisions. Therefore, for D&I initiatives to be effective everyone must be engaged. Judges, CUEs, and managers play an important role in executing best practices, model plans, and D&I strategies. The experiences that people have at work are shaped more by their immediate supervisor than those who set policy for execution by supervisors.

Additionally, how and whether D&I practices are implemented depend wholly on each judge, CUE, and manager. How consistently, fairly, and reliably D&I practices are applied and whether they are accepted into the culture of a court is decided at the local and office level. Despite what employees read as the model way forward or strategic goals of the branch, the biggest barriers to D&I progress emerge at this level.

Individual judges wield the power of influence over the culture and practices of their court as unit executives do over their court unit. Employees learn about their court or court unit's policies and practices upon initial orientation or through direct engagement with judges, unit executives, or managers. However, what they experience, which is impacted or shaped by leadership within each court, defines the culture of their work environment. It is important that more focus be placed on measuring what judges, CUEs and managers are or are not doing to promote D&I and provided them with the tools and resources needed to address their specific D&I obstacles.

### **Strategies for Achieving a more Inclusive Judiciary**

Often the terms "diversity" and "inclusion" are used interchangeably. While the terms are complementary and the concepts depend on each other, they have very different meanings. Diversity focuses on the range of differences and unique personal, physical, and social characteristics every employee and applicant bring to the table and how those differences are spread out across the workforce. Inclusion speaks to how welcomed those differences are. Inclusion addresses the procedures a court implements to integrate everyone in the workplace, allowing everyone to actively engage and feel valued once they are at the table. Inclusion requires a person to treat everyone as equal and as if they belong. Inclusion is therefore much harder to achieve than diversity which just allows people to be present and counted.

We often focus on diversity and the representation of various groups within the Judiciary and expend



resources and time on recruitment initiatives to bolster diversity and report on the outcomes of those efforts. However, we need to ensure the diversity achieved is meaningful and that is where inclusion provides an environment where employees can bring their best self, opinions, unique perspectives, be heard and valued. Inclusion is what supports good talent, fosters innovation, encourages employee engagement, yet only exist in the presence of diversity. For these reasons, judges, CUEs and managers must also engage in inclusive behaviors to make any progress on diversity truly count.

### Modeling the Way

Judges, CUEs and managers set the standard for what is expected from the workforce. To be successful in an increasingly diversity, judges, CUEs, and managers must be able to manage and leverage the differences that exist within its workforce and the communities it serves to develop an inclusive environment. They must be aware and prepared to address diversity, inclusion, and equity issues as they arise.

This can be achieved by holding regular dedicated D&I learning opportunities, having judges and CUEs sponsor diversity and inclusion initiatives and employee networks, having them attend and encourage their staff to attend, diversity and inclusion training/network events to increase understanding, acceptance and inclusive behaviors and practices.

### Providing a Forum

Through the analysis of employee survey data and input from employee focus groups, court and court units will have the ability to identify challenges in the area of workforce inclusion. As with workforce data, employee input helps court and court units across the Judiciary identify areas of workforce inclusion concerns with more accuracy. Surveys and focus groups help court and court units to strategically design action plans to address disparities and barriers to D&I by affording the workforce a venue to articulate actual and perceived workplace concerns and achievements. They also serve as a measure of employee job satisfaction, leadership effectiveness, access to opportunities for

development and advancement, and overall health of the work environment.

Absent the collection and analysis of this data, steps taken to address disparities lack key consideration of the diverse perspectives across a court or court unit's structure, do not address the role each employee plays in creating a diverse and inclusive environment, and inhibit the court and court unit workforce from feeling engaged and heard in the shaping of workforce culture. Another important benefit surveys and employee forums offer is the ability to highlight success. Through a survey, one court or court unit may find that another scores higher on key D&I indicators and can then learn from those courts or court units in addressing areas they can improve.

### Encouraging Cross Training & Collaboration

Some of the most effective tools are not strictly diversity initiatives. These include encouraging the use of management practices such as having people with different roles or functions work together on projects as equals) and cross-training (i.e., rotating employees through different specialties to increase contact with diverse groups). These practices can result in substantial rewards within occupational categories that still have large components with predominantly majority group composition. By creating opportunities for people of diverse backgrounds to work side-by-side toward common goals, court leadership aid in the breakdown of stereotypes and provide opportunities for inclusion.

### Increase Exposure Opportunities

Increase exposure opportunities by providing active mentorship opportunities, where there is professional investment by judges and CUEs in the mentee, and shadowing programs that connect employees from traditionally underrepresented groups with other members of the workforce. Active participation and promotion of formal and informal active mentoring programs and shadowing initiatives nurture diverse employees through the career advancement pipeline in preparation to eventually become senior leaders.





## CONCLUSION

The U.S. Census Bureau projects that by 2060, the U.S. population will be considerably older and more racially and ethnically diverse. In fact, by 2043, the U.S. will no longer be characterized by a single demographic majority. Instead foreign-born individuals and people of color will constitute the majority of the U.S. population. With the anticipated shift in demographics, the Judiciary faces a diverse array of complicated legal, ethical and societal challenges and would benefit from the performance and cultural advantages that a diverse workforce offers and the trust and confidence it fosters in the communities served.

The information gleaned from reporting on local and national initiatives, along with the substantive review of workforce and personnel data, show progress on a number of fronts for the Judiciary in FY 2018:

- The partnership between the Judicial Resources Committee (JRC) and Just the Beginning - A Pipeline Organization has expanded its reach in its sixth year, encompassing a broader, diverse group of participating judges and courts in several cities as it aims to boost the number of minority candidates for judicial internships and clerkships.
- Female representation on the federal bench continues to rise, with the greatest increases being made by Article III judges and full-time magistrate judges. Consistent with prior year's data, minority representation continues to be significantly higher among Article III Judges than non-Article III judges.
- FY 2018 demonstrated modest increases in minority and female representation among Magistrate Judges and Bankruptcy Judges, and this trend is also shown over a three-year span.
- The overall rate of representation of women and minorities within the Judiciary's bi-weekly workforce continues to grow.



While we should celebrate our success, it is equally important to note the data shows disparities and challenges for many groups persist and the need for additional attention and substantive actions to address the following:

- FY 2016 through FY 2018 showed consistent and dramatic increase in the number of judicial employees, to include judges, declining to report their demography. This has a tremendous impact on the ability to assess the effectiveness of current and future D&I initiatives and our ability to accurately compare the Judicial workforce against that of the rest of the federal government, the legal population within the United States, and the communities we serve.
- The overall rate of representation of minorities within the judiciary's legal professional, executive, and general professional occupational categories as compared to office clerical and technical occupational categories.
- The extremely low and stagnant number of bi-weekly employees who self-identify as having a disability between FY 2016 and FY 2018.

OFEP is excited to partner with the Judicial Conference of the United States, Court Human Resources, and courts and court units in the planning and execution of meaningful and sustainable D&I initiatives, events, discussions and training to address these and other D&I metrics.

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## Appendix 1: Definition of Judicial Occupational Categories

Occupational Category	Associated Job Titles
<b>Executive</b>	Circuit Executive, Deputy Circuit Executive Type II, Circuit Clerk of Court, Circuit Chief Deputy Type II, Circuit Librarian, Senior Staff Attorney, Chief Preargument/Conference Attorney, District Court Executive, Clerk of Court, Chief Deputy Clerk II, Bankruptcy Clerk of Court, Bankruptcy Chief Deputy Clerk Type II, Bankruptcy Administrator, Chief Probation Officer, Chief Probation/Pretrial Services Officer, Deputy Chief Probation Officer Type II, Chief Pretrial Services Officer, Deputy Chief Pretrial Services Officer Type II, Federal Public Defender.
<b>Legal Professional</b>	Law Clerk, Pro Se Law Clerk, Staff Attorney, Assistant Federal Public Defender, Research Writing Specialist.
<b>General Professional</b>	Administrative Manager/Officer, Administrative Analyst, Human Resource/Personnel Manager/Specialist, Financial Administrator, Budget Analyst/Specialist, System Manager/Specialist, Probation/Pretrial Services Officer, Paralegal, Sentencing Guidelines Specialist, Court Reporter, Deputy in Charge, Drug and Alcohol Treatment Specialist, Investigator.
<b>Legal Secretary</b>	Legal Secretary, Judicial Assistant, Secretary to the Federal Public Defender.
<b>Technical</b>	Human Resources Technician, Budget Technician, Financial Assistant, Case Administrator, Automation Support Specialist/Technician, Courtroom Deputy, Civil/Criminal Docket Clerk, Library Technician, Administrative Assistant, Data Quality Analyst, Electronic Court Recorder Operator, Executive Assistant, Case Manager.
<b>Office Clerical</b>	Receptionist, Generalist Clerk, Clerical Assistant, File Clerk, Records and Reproduction Clerk, Probation Clerk, Pretrial Services Clerk, Court Crier, Intake Clerk.



**Appendix 2: Race/Ethnicity Group Definitions**

Race or Ethnicity	Definition
<b>White/Caucasian</b>	A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.
<b>Black/African American</b>	A person having origins in any of the black racial groups of Africa.
<b>Hispanic</b>	A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
<b>Asian American</b>	A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent. This area includes China, Japan, Korea, and Samoa.
<b>Native American / American Indian or Alaskan Native</b>	A person having origins in any of the original peoples of North America and who maintains a cultural identification through tribal affiliation or community recognition.
<b>Hawaiian Native or Pacific Islander</b>	A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. The term "Hawaiian Native" does not include individuals who are native to the state of Hawaii by virtue of being born there.
	<ol style="list-style-type: none"> <li>1) No employee was listed under more than one ethnic group (race/ national origin) designation, even if a particular employee met the description of more than one ethnic group.</li> <li>2) Ethnicity definitions originate from Statistical Policy Directive Number 15, Office of Management and Budget.</li> <li>3) For purposes of this Report, an employee may be included in the ethnic groups (a) with which the individual identifies, (b) in which the individual is regarded in the community as being, or (c) in which the individual appears to belong. Options (b) or (c) may be the basis of reporting an employee's ethnicity only if the employee does not identify an ethnic group to which he or she belongs.</li> </ol>



### Appendix 3: Active Federal Judges by Court Type, Gender, and Ethnicity, FY 2018

COURT TYPE	GENDER	TOTAL	CAUC	% in Judge Type	AFR-AM	% in Judge Type	HISP	% in Judge Type	ASIAN	% in Judge Type	NAT-AM	% in Judge Type	PAC-ISL	% in Judge Type	NO RPT	% in Judge Type
Appellate	Male	107	65	39.2%	13	7.8%	9	5.4%	4	2.4%	0	0.0%	0	0.0%	16	9.6%
	Female	59	42	25.3%	5	3.0%	4	2.4%	1	0.6%	0	0.0%	0	0.0%	7	4.2%
	Subtotal	166	107	64.5%	18	10.8%	13	7.8%	5	3.0%	0	0.0%	0	0.0%	23	13.9%
District	Male	367	242	43.5%	39	7.0%	35	6.3%	7	1.3%	1	0.2%	1	0.2%	42	7.6%
	Female	189	111	20.0%	30	5.4%	21	3.8%	7	1.3%	0	0.0%	0	0.0%	20	3.6%
	Subtotal	556	353	63.5%	69	12.4%	56	10.1%	14	2.5%	1	0.2%	1	0.2%	62	11.2%
Bankruptcy	Male	203	161	50.5%	5	1.6%	5	1.6%	3	0.9%	0	0.0%	0	0.0%	29	9.1%
	Female	116	85	26.6%	7	2.2%	2	0.6%	4	1.3%	0	0.0%	0	0.0%	18	5.6%
	Subtotal	319	246	77.1%	12	3.8%	7	2.2%	7	2.2%	0	0.0%	0	0.0%	47	14.7%
Recalled Bankruptcy	Male	28	28	90.3%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
	Female	3	3	9.7%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
	Subtotal	31	31	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
FT Magistrate	Male	310	218	41.2%	16	3.0%	9	1.7%	7	1.3%	1	0.2%	1	0.2%	58	11.0%
	Female	219	150	28.4%	19	3.6%	8	1.5%	6	1.1%	0	0.0%	0	0.0%	36	6.8%
	Subtotal	529	368	69.6%	35	6.6%	17	3.2%	13	2.5%	1	0.2%	1	0.2%	94	17.8%
PT Magistrate	Male	18	15	57.7%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	3	3.3%
	Female	8	6	23.1%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	2.2%
	Subtotal	26	21	80.8%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	5	5.5%
Recalled Magistrate	Male	75	72	79.1%	1	1.1%	1	1.1%	0	0.0%	0	0.0%	0	0.0%	1	1.1%
	Female	16	13	14.3%	1	1.1%	1	1.1%	1	1.1%	0	0.0%	0	0.0%	0	0.0%
	Subtotal	91	85	93.4%	2	2.2%	2	2.2%	1	1.1%	0	0.0%	0	0.0%	1	1.1%
Territorial & Recalled Territorial	Male	2	1	20.0%	1	20.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
	Female	3	0	0.0%	1	20.0%	0	0.0%	0	0.0%	0	0.0%	2	40.0%	0	0.0%
	Subtotal	5	1	20.0%	2	40.0%	0	0.0%	0	0.0%	0	0.0%	2	40.0%	0	0.0%
Other (Claims & International Trade) *	Male	5	5	41.7%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
	Female	7	4	33.3%	2	16.7%	0	0.0%	1	8.3%	0	0.0%	0	0.0%	0	0.0%
	Subtotal	12	9	75.0%	2	16.7%	0	0.0%	1	8.3%	0	0.0%	0	0.0%	0	0.0%
Total	Male	1115	807	46.5%	75	4.3%	59	3.4%	21	1.2%	2	0.1%	2	0.1%	149	8.6%
	Female	620	414	23.9%	65	3.7%	36	2.1%	20	1.2%	0	0.0%	2	0.1%	83	4.8%
	GRAND TOTAL	1735	1221	70.4%	140	8.1%	95	5.5%	41	2.4%	2	0.1%	4	0.2%	232	13.4%

\* Includes the United States Court of International Trade (an Article III court) and United States of Federal Claims (a non-Article III court).



**Appendix 4: Three-Year Comparison of Employees who Reported Disability by Occupational Category, FY 2016 - 2018**

OCCUPATIONAL CATEGORY	FY 2016	FY 2017	FY 2018
Executive	7	7	8
Legal Professional	73	87	90
General Professional	87	83	80
Legal Secretary	15	13	13
Office Clerical	25	23	22
Technical	85	79	79
TOTAL	292	292	292





Administrative Office of the United States Courts  
Washington, DC 20544