2019 Year-End Report on the Federal Judiciary

In the fall of 1787, Alexander Hamilton enlisted James Madison and John Jay to join him in producing what became America's greatest civics lesson—the Federalist Papers. The three authors collectively wrote 85 brilliant essays for publication in New York newspapers over the next year, successfully advocating for ratification of the United States Constitution. Originally addressed "To the People of the State of New York," generations worldwide have hailed their works as an enduring exposition on the core principles of our constitutional democracy.

Hamilton, Madison, and Jay wrote under the shared pseudonym "Publius," but historians have since deciphered authorship of the individual essays. John Jay appears to have shouldered the lightest load of the trio, producing only five of the articles. Perhaps if Jay had been more productive, America might have rewarded him with a Broadway musical. But his low output did not arise from lack of industry. Historians have deduced that Jay's productivity was in fact hindered by a calamity that arose in the midst of the Federalist project—the Doctors' Riot.

In the winter of 1788, New York newspapers reported accounts that medical students were robbing graves so they could practice surgery on cadavers. In April, the chatter gelled into a rumor that students at New York Hospital were dissecting a schoolboy's recently deceased mother. An angry mob stormed the hospital, and the mayor gave some of the medical staff refuge in the city jail. When the mob marched on the jail, John Jay, who lived nearby, grabbed his sword and

joined Governor Clinton to quell the riot. In the ensuing commotion, a rioter struck Jay in the head with a rock, knocking him unconscious and leaving him, according to one account, with "two large holes in his forehead." Hamilton and Madison pressed the Federalist project forward while Jay recovered from his injuries.

It is sadly ironic that John Jay's efforts to educate his fellow citizens about the Framers' plan of government fell victim to a rock thrown by a rioter motivated by a rumor. Happily, Hamilton, Madison, and Jay ultimately succeeded in convincing the public of the virtues of the principles embodied in the Constitution. Those principles leave no place for mob violence. But in the ensuing years, we have come to take democracy for granted, and civic education has fallen by the wayside. In our age, when social media can instantly spread rumor and false information on a grand scale, the public's need to understand our government, and the protections it provides, is ever more vital. The judiciary has an important role to play in civic education, and I am pleased to report that the judges and staff of our federal courts are taking up the challenge.

By virtue of their judicial responsibilities, judges are necessarily engaged in civic education. As Federalist No. 78 observes, the courts "have neither FORCE nor WILL, but merely judgment." When judges render their judgments through written opinions that explain their reasoning, they advance public understanding of the law. Chief Justice Earl Warren illustrated the power of a judicial decision as a teaching tool in *Brown v. Board of Education*, the great school desegregation case.[1] His unanimous opinion on the most pressing issue of the era was a mere 11 pages—short enough that newspapers could publish all or almost all of it and every citizen could understand the Court's rationale. Today, federal courts post their opinions online, giving the public instant access to the reasoning behind the judgments that affect their lives.

But the judiciary does a good deal more. The Administrative Office of the U.S. Courts, which plays a central role in supporting federal courts nationwide, has developed a wide range of quality educational products, including online programs focused on the younger members of our communities.[2] The Administrative Office has produced classroom-ready curriculum materials on teen-relevant topics, along with teacher training courses. The Office organizes live events as well. For example, the "Open Doors to Federal Courts" initiative invites students to participate in realistic mock legal proceedings in working courtrooms with a local host judge presiding and volunteer attorneys coaching.[3] The Federal Judicial Center, which provides education and training for judges and court personnel, has also developed online educational resources for the general public, including a rich collection of materials related to the history of the federal judiciary.[4]

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[1] 347 U.S. 483 (1954).

[2] *See* https://www.uscourts.gov/about-federal-courts/educational-resources.

[3] *See* https://www.uscourts.gov/about-federal-courts/educational-resources/annual-observances/open-doors-federal-courts.

[4] *See* https://www.fjc.gov/history.

Judges from coast to coast have made their courthouses available as forums for civic education. The United States Court of Appeals for the Second Circuit recently opened its Justice for All Learning Center in the Thurgood Marshall U.S. Courthouse in New York City.[5] The Eighth Circuit has helped pioneer the Judicial Learning Center at the Thomas F. Eagleton U.S. Courthouse in St. Louis.[6] The Ninth Circuit has dedicated space in the Robert T. Matsui U.S. Courthouse in Sacramento for the Anthony M. Kennedy Library and Learning Center,[7] a fitting tribute to an individual deeply committed to teaching about the values embodied in the Constitution. These learning centers revive the historic role of courthouses as vital and vibrant centers of a civically engaged community.

Judges and court personnel are coordinating their efforts to develop best practices. In October, the Chief Judge of the Second Circuit and the Director of the Administrative Office of the U.S. Courts convened a conference, attracting federal judges and court staff from Maine to Guam, to discuss innovative programs and resources that federal courts can use to help raise the Nation's civics knowledge. Representatives, including judges, from every circuit in the country attended. Federal judges regularly participate in naturalization ceremonies across the country, becoming the first to greet many new citizens as "our fellow Americans." And they also engage their communities as volunteers. Individual judges at all levels of the federal court system, including bankruptcy judges and magistrate judges, are personally involved in national, regional, and local education programs. As just one example, the current Chief Judge of the District of Columbia Circuit has, over the past two decades, quietly volunteered as a tutor at a local elementary school, inspiring his court colleagues to join in the effort. I am confident that many other federal judges, without fanfare or acclaim, are playing similar selfless roles throughout the country.

The federal courts cannot, of course, take on the challenge of civic education alone. They depend on generous partners to extend the outreach work. My retired colleague Justice Sandra Day O'Connor helped to found iCivics, a non-profit that engages students in meaningful civic learning through free teacher resources, including video gaming.[8] (As they say, to reach people you have to meet them where they are.) Justice Sonia Sotomayor has picked up the torch in that effort. The National Center for State Courts has developed innovative learning materials—including a graphic novel series about how the courts work.[9] My counterparts in state, territorial, and tribal judiciaries across the country have their own robust public education initiatives. The National Constitution Center is leveraging its marvelous museum in Philadelphia with videos,

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[5] *See* https://justiceforall.ca2.uscourts.gov/learning_center_home.html.

[6] *See* https://judiciallearningcenter.org.

[7] *See* https://www.sacjlc.com/learning-center.

[8] *See* https://www.icivics.org/games.

[9] *See* https://www.ncsc.org/education-and-careers/civics-education.aspx.

online learning, and specialized training—including a "Drafting Table," which illustrates how provisions of the Constitution evolved.[10] Closer to home, the Supreme Court Historical Society co-sponsors an annual Summer Institute for Secondary School Teachers to assist them in teaching about the Supreme Court.[11] And we at the Supreme Court partner with student and teacher programs sponsored by the other branches of the federal government—including the Senate Youth Program[12] and the James Madison Memorial Fellowship Foundation[13]—in addition to offering our own undergraduate internship program.[14]

Two hundred years ago, Chief Justice John Marshall referenced the Federalist Papers in his landmark decision of *McCulloch v. Maryland*, stating, "No tribute can be paid to them which exceeds their merit."[15] The Federalist Papers provide a foundation for understanding our Nation's charter, but—as Marshall himself realized—those 85 essays are only a starting point.[16] Civic education, like all education, is a continuing enterprise and conversation. Each generation has an obligation to pass on to the next, not only a fully functioning government responsive to the needs of the people, but the tools to understand and improve it.

I ask my judicial colleagues to continue their efforts to promote public confidence in the judiciary, both through their rulings and through civic outreach. We should celebrate our strong and independent judiciary, a key source of national unity and stability. But we should also remember that justice is not inevitable. We should reflect on our duty to judge without fear or favor, deciding each matter with humility, integrity, and dispatch. As the New Year begins, and we turn to the tasks before us, we should each resolve to do our best to maintain the public's trust that we are faithfully discharging our solemn obligation to equal justice under law.

Once again, I am privileged and honored to be in a position to thank the judges, court staff, and judicial personnel throughout the Nation for their continued excellence and dedication.

Best wishes to all in the New Year.

John G. Roberts, Jr.
Chief Justice of the United States
December 31, 2019

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[10] *See* https://draftingtable.constitutioncenter.org.

[11] *See* https://supremecourthistory.org/lc_home.html.

[12] *See* https://ussenateyouth.org.

[13] *See* https://www.jamesmadison.gov.

[14] *See* https://internships.supremecourt.gov.

[15] 17 U.S. (4 Wheat.) 316, 433 (1819).

[16] *Id.* at 433-435 ("[I]n applying their opinions to the cases which may arise in the progress of our government, a right to judge of their correctness must be maintained.").

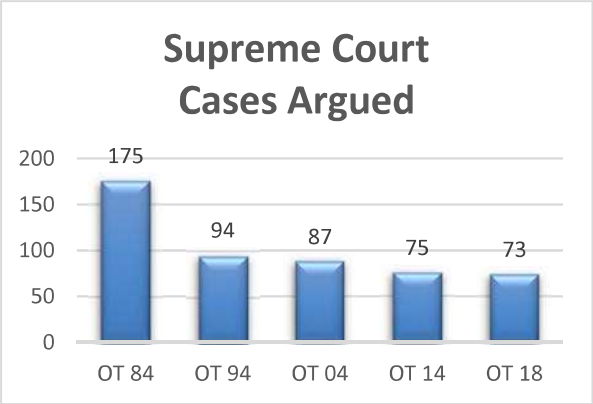
Appendix

Workload of the Courts

In the 12-month period ending September 30, 2019, the number of cases filed in the Supreme Court increased compared to the 2017 Term, while the number of cases filed in the regional appellate courts decreased slightly compared to a year earlier. The number of cases filed in the district courts and bankruptcy courts increased, as did the number of cases activated in the pretrial services system. The number of persons under post-conviction supervision decreased slightly.

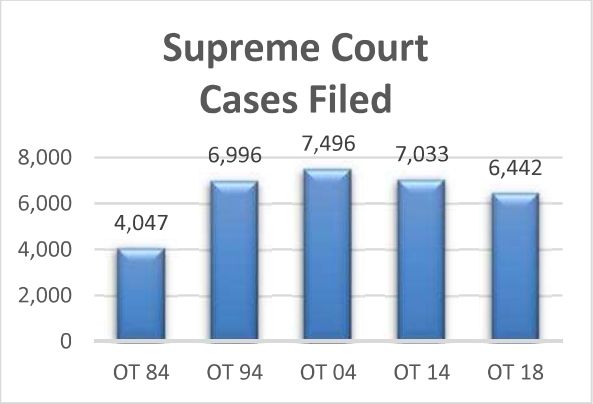
The Supreme Court of the United States

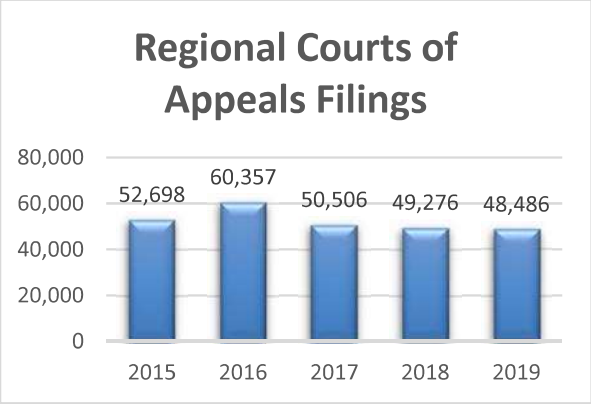
The total number of cases filed in the Supreme Court increased from 6,315 filings in the 2017 Term to 6,442 filings in the 2018 Term. The number of cases filed in the Court's *in forma pauperis* docket increased five percent from 4,595 filings in the 2017 Term to 4,847 filings in the 2018 Term. The number of cases filed in the Court's paid docket decreased seven percent from 1,720 filings in the 2017 Term to 1,595 filings in the 2018 Term. During the 2018 Term, 73 cases were argued and 69 were disposed of in 66 signed opinions, compared to 69 cases argued and 63 disposed of in 59 signed opinions in the 2017 Term. The Court also issued two *per curiam* decisions during the 2018 Term.



The Federal Courts of Appeals

In the regional courts of appeals, filings fell two percent to 48,486. Appeals involving pro se litigants, which amounted to 49 percent of

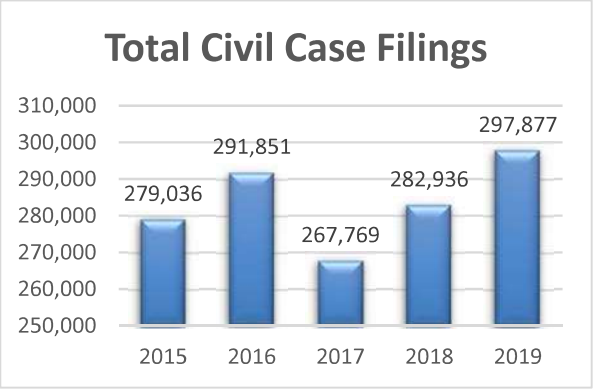




filings, declined four percent. Total civil appeals decreased three percent. Reductions of three percent also occurred in appeals of administrative agency decisions and in bankruptcy appeals. Original proceedings dropped one percent. Criminal appeals rose two percent.

The Federal District Courts

Civil case filings in the U.S. district courts increased five percent to 297,877. Cases in-

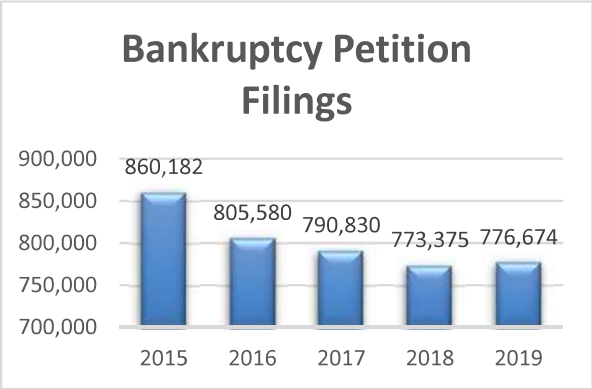


volving diversity of citizenship (i.e., disputes between citizens of different states) grew 18 percent as personal injury cases climbed 28 percent. Federal question cases (i.e., actions under the Constitution, laws, or treaties of the United States in which the United States is not a party) remained relatively stable, falling less than one percent. Cases with the United States as defendant also decreased less than one percent. Cases with the United States as plaintiff declined 14 percent, mainly because courts received fewer actions related to defaulted student loans.

Criminal defendant filings (including those for defendants transferred from other districts) rose six percent to 92,678. Defendants charged with immigration offenses went up 13 percent, largely in response to an 81 percent increase in defendants accused of improper entry by an alien. The southwestern border districts received 81 percent of national immigration crime defendant filings. Drug crime defendants, who accounted for 28 percent of total filings, grew five percent, although defendants accused of crimes associated with marijuana decreased 28 percent. Defendants prosecuted for firearms and explosives offenses climbed eight percent, continuing an upward trend that began in 2014. Increases also were reported for filings involving general offenses, regulatory offenses, justice system offenses, and violent offenses. The number of filings related to traffic offenses and sex offenses decreased.

The Bankruptcy Courts

Bankruptcy court filings grew by 3,299 cases (up less than one percent) to 776,674 as 44 of the 90 bankruptcy courts received more petitions. Consumer (i.e., nonbusiness) petitions went up less than one percent, and business petitions rose four percent. Petitions filed under chapter 7 and under chapter 11 grew one percent. Petitions filed under chapter 13 fell one percent.



Pretrial Services, Federal Probation, and Supervised Release System

Cases activated in the pretrial services system, including pretrial diversion cases, rose nine percent to 108,606.

A total of 128,904 persons were under post-conviction supervision on September 30, 2019, a reduction of less than one percent from the total a year earlier. Persons on that date serving terms of supervised release after leaving correctional institutions changed little, increasing by 9 persons to 113,198.