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Judicial Nomination Statistics: U.S. District and Circuit Courts, 1945-1976

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Summary

Statistics regarding procedural actions taken, from nomination through confirmation, on U.S. district and circuit court nominations have been compiled by CRS for the period January 3, 1945 through October 1, 1976. The statistics are complete for the 79th through the 94th Congresses (1945-1976). Among other things, the statistics for the 1945-1976 period show:

- ! During the Administrations of Presidents Truman, Eisenhower, Kennedy, Johnson, Nixon, and Ford, the Senate confirmation percentage for district and circuit court nominations combined never went below 75%.
- ! The President with the highest confirmation percentage for district and circuit court nominations combined was Richard M. Nixon with 97.9%, and the President with the lowest confirmation percentage was Harry S Truman with 75.1% agreement.
- ! The great majority of each President's nominations were either confirmed or returned. An average of two nominations per President were withdrawn. Four nominations were disapproved by a Senate vote during that period.
- ! The confirmation percentage for district and circuit court nominations combined was greater than 81% for every Congress from the 79th through the 94th, except the 80th, 81st, and 82nd Congresses.
- ! The only time the average number of days elapsing between nomination date and confirmation exceeded 63 days was in the 86th Congress.
- ! During the 1945-1976 period, no Congress averaged over 100 days between nomination dates and hearing, committee vote, or Senate vote.
- ! The Senate returned substantially more nominations during the 81st and 87th Congresses than during any other Congress in the 1945-1976 period.
- ! The vast majority of judicial nominations submitted during the 1945-1976 period received committee hearings and votes, as well as full Senate votes. During the 81st Congress, however, there was a reduction in the share of nominations receiving committee and Senate action.
- ! Four of the six nominations that failed to receive a vote to report favorably from the Judiciary Committee were reported adversely to the Senate floor, where all four were rejected by a voice vote.

This report will not be updated. However, the statistical tables in this report can be compared with corresponding tables in CRS Report RL31635, *Judicial Nomination Statistics: U.S. District and Circuit Courts, 1977-2003*, by Denis Steven Rutkus and Mitchel A. Sollenberger.

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Judicial Nomination Statistics: U.S. District and Circuit Courts, 1945-1976

Introduction¹

Congress has devoted much attention to the lower federal court confirmation process in recent years. Various CRS reports are now available that explore this process.² In particular, CRS Report RL31635, *Judicial Nomination Statistics: U.S. District and Circuit Courts, 1977-2003*, by Denis Steven Rutkus and Mitchel A. Sollenberger, provides statistical tables for recent years. This report provides similar statistics concerning actions taken on U.S. district and circuit court nominations from January 3, 1945, to October 1, 1976.

Procedural Steps for Judicial Appointments

The process for making lifetime appointments to judgeships in the U.S. district courts and U.S. courts of appeals involves the same formal steps as in the appointment of Supreme Court justices.³ The process begins when the President selects someone to fill a judicial vacancy, submitting a nomination in writing to the Senate. Usually, on the same day it is received by the Senate, the nomination is referred by the Senate Executive Clerk to the Committee on the Judiciary, the Senate committee having jurisdiction over district and appellate, as well as most other federal court, nominations. In the next step in the appointment process, the Judiciary Committee holds a hearing on the nomination. Then, the committee votes on whether to report the nomination to the full Senate. The final step occurs when the Senate votes to confirm or disapprove the nomination. Confirmation requires a

¹ This report was built on the research and writing done for earlier statistical reports by Denis Steven Rutkus and Mitchel A. Sollenberger.

² See CRS Report RL31948, *Evolution of the Senate's Role in the Nomination and Confirmation Process: A Brief History*, by Betsy Palmer; CRS Report RS21506, *Implications for the Senate of President Bush's Proposal on Judicial Nominations*, by Betsy Palmer; CRS Report RL31112, *Recess Appointments of Federal Judges*, by Louis Fisher; CRS Report RL32013, *The History of the Blue Slip in the Senate Committee on the Judiciary, 1917-Present*, by Mitchel A. Sollenberger; CRS RL31868, *U.S. Circuit and District Court Nominations by President George W. Bush During the 107th Congress*, by Denis Steven Rutkus and Mitchel A. Sollenberger; and CRS Report RS20986, *Senate Confirmation Process: An Overview*, by Lorraine H. Tong.

³ See CRS Report RL31989, *Supreme Court Appointment Process: Roles of the President, Judiciary Committee, and Senate*, by Denis Steven Rutkus; and CRS Report RS20986, *Senate Confirmation Process: An Overview*, by Lorraine H. Tong.

simple majority vote. If the Senate votes in the negative on whether to confirm, a resolution of disapproval is forwarded to the President.⁴

As with nominations in general, judicial nominations sometimes fail to advance through each procedural step in the appointment process. After referral to committee, a nomination might fail to receive a hearing, or, after receiving a hearing, it might fail to receive a committee vote on whether it should be reported. Even if reported by committee, it might fail to receive a vote by the Senate on whether to confirm. If it fails to receive a Senate vote, the nomination ultimately will either be withdrawn by the President or returned to the President by the Secretary of the Senate upon a Senate adjournment or recess of more than 30 days.⁵

Methodology in Preparing Statistical Tables

In the following pages, eight tables provide statistics concerning procedural actions that were taken on U.S. district court and U.S. court of appeals nominations during the period January 3, 1945, through October 1, 1976. The time period begins with the convening of the 79th Congress and carries through the second session of the 94th Congress. The period coincides with the terms in office of Presidents Harry S. Truman (79th-82nd Congresses), Dwight D. Eisenhower (83rd-86th Congresses), John F. Kennedy (87th-88th Congresses), Lyndon B. Johnson (88th-90th Congresses), Richard M. Nixon (91st-93rd Congresses), and Gerald R. Ford (93rd-94th Congresses). Depending on the table, statistics are broken down by year, presidency, or Congress.

Statistical Considerations. The reader should be aware that certain tables may use different statistical calculations. Table titles and footnotes should be closely monitored in order to guide the reader through the data and calculations used for each table. In particular, the footnotes will be invaluable when comparing similar data from different tables because of the uniqueness of some of the calculations. For example, **Table 2** and **Table 3** appear to calculate the same data; however, they do it in different ways. **Table 2** calculates the total number of nominations submitted and confirmed by President, whereas **Table 3** calculates the number of nominations confirmed, withdrawn, returned, and rejected by groups of Congresses.

One result of ordering data by President or by Congress is the appearance of the same information in different places. In **Table 2**, if a President nominates an individual at the end of his term and during the first few days of a new Congress, that information will go into the nominated column. In **Table 3**, however, the same information will likely go into a different column because the data are arranged by groups of Congresses and not by President. This anomaly results because a

⁴ For further reading regarding the Senate's role in the consideration of judicial nominations, see CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki.

⁵ Rule XXXI, paragraph 6, *Standing Rules of the Senate*, provides, in part, that "if the Senate shall adjourn or take a recess for more than thirty days, all nominations pending and not finally acted upon at the time of taking such adjournment or recess shall be returned by the Secretary to the President and shall not again be considered unless they shall again be made to the Senate by the President."

President's term in office ends the January after the presidential election has occurred. Since the Congress convenes in January, the outgoing President has time to submit judicial nominations. These submitted nominations are therefore totaled into the succeeding President's first Congress. An example would be President Truman. During his presidency, he submitted 156 district court nominations; however, the Congresses that sat during his presidency (79th-82nd) considered only 154. Two were submitted to the 83rd Congress just prior to the Eisenhower inauguration.

Data Collected by CRS. The following tables, except **Table 1**,⁶ were generated from a CRS database of nomination dates and actions created by the author. The data for the CRS database were collected from the various volumes of the *Journal of the Executive Proceedings of the Senate* and final editions of the *Legislative and Executive Calendar* of the Senate Judiciary Committee (which are published at the close of each Congress, and include a calendar of actions taken on every judicial nomination referred to the committee during that Congress).

Data collection focused on the dates and procedural actions taken on nominations to judgeships in the U.S. district courts (including the territorial district courts) and the U.S. courts of appeals. The U.S. court of appeals system, often called the circuit court system, is currently composed of 12 geographic circuits and an additional nationwide circuit having specialized subject matter jurisdiction. (Note: from 1945 to 1976 there were only 11 geographic circuits and no specialized nationwide circuit.) In the following pages and tables, nominations to court of appeals judgeships are referred to as "circuit court nominations," and the courts are referred to as "circuit courts."

The primary purpose in compiling these statistics was to provide a companion report to CRS Report RL31635, *Judicial Nomination Statistics: U.S. District and Circuit Courts, 1977-2003*, by Denis Steven Rutkus and Mitchel A. Sollenberger. Although this report focuses on an earlier time period (1945-1976), it also takes a comparative look — from presidency to presidency and from Congress to Congress — at the number of district and circuit court nominations submitted to the Senate, the number and percentage receiving committee and Senate action, and the average time taken to hold hearings, conduct committee votes, and conduct Senate votes on the nominations.

The primary focal points for data collection were the dates and actions taken on nominations, not individuals nominated. In instances where an individual was nominated more than once to a particular judgeship, each nomination was counted and entered into the calculations for nomination totals, confirmation percentages, and other statistics. Tables presenting the average number of days taken to act on nominations (from nomination date to committee hearing, committee vote, or confirmation vote) do not measure the overall time that a particular individual was

⁶ **Table 1** was built on the research and data collection of CRS intern Oluwabusayo Folarin and the website of the Federal Judicial Center, Washington, DC.

in nominee status over the course of two or more nominations; rather, they measure separately the times (in days) that elapsed for each of the nominations involved.

Resubmitted Nominations. It should be recognized that data solely concerned with nominations, as opposed to individuals nominated, can arguably result in misleading calculations if individuals are nominated to the same judgeship more than once, either during the same Congress or during successive Congresses. A substantial number of “resubmitted” nominations, it may be argued, may create an exaggerated statistical sense of how many individuals were nominated, and how many nominees, or what percentage of nominees, failed to gain confirmation. Conversely, resubmitted nominations may serve to skew downward calculations of the average time taken on nominations in the appointment process: Resubmissions of nominations within a Congress will cause, for time averaging purposes, the overall time in which each individual in question was in nominee status to be divided by two or more time segments, rather than by just one. Likewise, time averages are lowered by taking separate measurements of a nomination made in one Congress and the resubmitted nomination in the next Congress, rather than by measuring the overall time that the nominee in question was in nominee status. During the time period of this study (1945-1976), however, resubmissions of judicial nominations were rare.

Selecting Federal Judges. The tables below provide judicial nomination and confirmation data that cover a time period (1945-1976) that is also examined in a 1997 book by Sheldon Goldman, a professor of political science at the University of Massachusetts at Amherst. In his book *Picking Federal Judges*,⁷ Goldman describes and analyzes the selection process, looking at presidential decision making from Franklin D. Roosevelt to Ronald Reagan (1933-1989). A principle purpose of Goldman’s book is to understand the character of a President’s confirmed judicial nominees, and how those nominees were received and processed by the Senate. Hence, this report and *Picking Federal Judges* are similar in covering most of the same Presidents (Truman to Ford) and also in showing, in varying ways, the outcome of each President’s successful judicial selections.

Unlike this report, however, *Picking Federal Judges* presents specific descriptive information (i.e., race, sex, education, occupation, political party, and religion) concerning the overall makeup and character of the judicial nominees confirmed during each presidency (FDR to Reagan). For its part, this report provides more detailed information concerning the actual steps the Presidents’ judicial selections (Truman to Ford) went through in the Senate. The nominations and steps are measured in a variety of ways. For instance, this report counts hearings and committee votes, as well as Senate votes and other final actions, on every district and circuit court nomination a President submits, and determines time-lapse averages not only between nomination and Senate confirmation, but also between nomination and hearing, and nomination and committee vote.

⁷ Sheldon Goldman, *Picking Federal Judges* (New Haven, CT: Yale University Press, 1997).

Overview of the Statistical Tables

Table 1 identifies the annual number of full-time district and circuit court judgeships authorized by law and the number and percentage of these judgeships that were vacant at a specified time each year. Also, the notes to **Table 1** indicate when legislation was enacted, or when other developments occurred that changed the number of judgeships authorized by law.

Tables 2 and **3** provide a presidency-by-presidency breakdown of judicial nomination and confirmation statistics for the 1945-1976 period. **Table 2** presents the number of district and circuit court nominations submitted by each President and the number and percentage of these nominations confirmed by the Senate. The table reveals that, over the course of six successive presidencies, the confirmation percentage for district and circuit court nominations combined never went below 75%. **Table 2** also shows that Presidents Johnson and Nixon were the only two Presidents to have a confirmation percentage of 90% or better for both district and circuit court nominations during their presidencies.

Table 3 breaks down each President's district and circuit court nomination totals by the type of final action taken on them, with every nomination categorized according to one of four possible types of final action: (1) confirmation by the Senate; (2) withdrawal by the President; (3) Senate return of the nomination to the President upon a Senate adjournment or recess of more than 30 days; or (4) Senate rejection by a vote disapproving a nomination. The table shows that the great majority of nominations during the 1945-1976 period were either confirmed or returned, that there was an average of two withdrawals per presidency, and that the Senate voted its disapproval of a nomination four times per presidency.

Table 4 presents, by Congress, the number of district and circuit court nominations received by the Senate, and the number and percent of those nominations confirmed. **Table 4** indicates that during six Congresses (the 81st, 83rd, 87th, 89th, 91st, and 92nd), significantly more nominations were received by the Senate than during other Congresses studied. In five of these six Congresses, a statute creating new judgeships had been enacted. (The precise number of judgeships created by each statute is given in source notes to **Table 1**.) **Table 4** also shows for the 1945-1976 period that only the 80th Congress had a confirmation percentage below 70% for either district or circuit nominations combined.

Table 5 breaks down, for each Congress, the total number of district and circuit court nominations by the final action taken on them. Final action, as in **Table 3**, covers one of four mutually exclusive outcomes: confirmation by the Senate; withdrawal by the President; Senate return of the nomination to the President upon a Senate adjournment or recess of more than 30 days; and Senate rejection by a vote disapproving a nomination. The table shows that during Congresses coinciding with the presidencies of Harry S Truman and John F. Kennedy (81st and 87th Congresses, respectively), the Senate returned substantially more judicial nominations (27 during the 81st Congress and 19 during the 87th Congress) than during any other Congress in the 1945-1976 period.

Tables 6 and 7 provide statistics for committee action, as well as for Senate or other final action, in the judicial appointment process. **Table 6** shows, for each Congress, how many district court and circuit court nominations were referred to the Senate Judiciary Committee, received a committee hearing, were voted on by the committee, and were voted on by the Senate.

Table 7 presents for each Congress the average number of days between the President's submission of judicial nominations to the Senate and the dates on which the nominations received a hearing, a committee vote, or confirmation vote. The table shows, among other things, that the 84th, 85th, and 86th Congresses were the only Congresses in the time period of this study during which an average of 58 days or more elapsed between nomination dates and confirmation votes on district and circuit court nominations combined.

Table 8 presents Senate Judiciary Committee votes on lower court nominations other than those approving motions to report favorably. Specifically, this table lists every vote by the committee during the 1945-1976 period on motions made to report a circuit or district court nomination adversely or without recommendation, as well as motions to report favorably that were defeated. Arranged chronologically by the date each nomination was received in the Senate, the table lists, for each nomination, the motion and vote of the Judiciary Committee and the final outcome in the Senate. **Table 8** shows that of the six nominations not receiving a favorable committee vote, the Judiciary Committee reported four of the nominations to the Senate adversely, had a tie vote to report favorably on one nomination, and voted to table the other.

**Table 1. U.S. District and Circuit Court Judgeships:
Number Authorized, Number of Courts, by Year, 1945-1976**

Year	District Courts ^a		Circuit Courts		District and Circuit Combined	
	Authorized Judgeships	Number of Courts	Authorized Judgeships	Number of Courts	Authorized Judgeships	Number of Courts
1945	194	89	59	11	253	100
1946 ^b	197	89	59	11	256	100
1947 ^c	196	89	59	11	255	100
1948	196	89	59	11	255	100
1949 ^d	217	89	65	11	282	100
1950 ^e	221	90	65	11	286	101
1951	221	90	65	11	286	101
1952	221	90	65	11	286	101
1953	221	90	65	11	286	101
1954 ^f	244	90	68	11	312	101
1955	244	90	68	11	312	101
1956	244	90	68	11	312	101
1957 ^g	245	90	68	11	313	101
1958 ^h	246	91	68	11	314	102
1959 ⁱ	247	92	68	11	315	103
1960	247	92	68	11	315	103
1961 ^j	311	92	78	11	389	103
1962 ^k	311	93	78	11	389	104
1963	311	93	78	11	389	104
1964	311	93	78	11	389	104
1965 ^l	311	92	78	11	389	103
1966 ^m	341	94	88	11	429	105
1967	341	94	88	11	429	105
1968 ⁿ	341	94	97	11	438	105
1969	341	94	97	11	438	105
1970 ^o	401	94	97	11	498	105
1971 ^p	398	95	97	11	495	106
1972	398	95	97	11	495	106
1973	398	95	97	11	495	106
1974	398	95	97	11	495	106
1975	398	95	97	11	495	106
1976	398	95	97	11	495	106

Sources: Authorized judgeships for each year were obtained from the “History of the Federal Judiciary” website of the Federal Judicial Center, Washington, DC, at [<http://www.fjc.gov>], visited June 25, 2003. Table note citations to statutes creating new judgeships, as well as computation of the number of courts, are based on research by CRS intern Oluwabusayo Folarin.

- a. U.S. district courts include the territorial courts.
- b. P.L. 79-415 (June 15, 1946), 60 Stat. 260, and P.L. 79-530 (July 24, 1946), 60 Stat. 654, created two permanent and one temporary district court judgeships.
- c. P.L. 79-530, creating the temporary district judgeship, expired at the close of the 79th Congress.
- d. P.L. 81-27 (March 29, 1949), 63 Stat. 16, and P.L. 81-205 (Aug. 3, 1949), 63 Stat. 493, created 21 district court and six circuit court judgeships.
- e. P.L. 81-632 (Aug. 1, 1950), 64 Stat. 389, and P.L. 81-691 (Aug. 14, 1950), 63 Stat. 443, created three district court judgeships and an additional district court for the state of Oregon.

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- f. P. L. 83-294 (Feb. 10, 1954), 68 Stat. 8, created 23 district court and three circuit court judgeships.
- g. P.L. 85-310 (1957), created one district court judgeship.
- h. P.L. 85-508 (July 7, 1958), 72 Stat. 348, created a district court judgeship in the new district court created at the time of Alaska statehood.
- i. P.L. 86-3 (March 18, 1959), created an additional district court judgeship in the new district court created at the time of Hawaii statehood.
- j. P.L. 87-36 (May 19, 1961), 75 Stat. 80, created 64 district court and 10 circuit court judgeships.
- k. P.L. 87-562 (1962), created an additional district court for Florida by adding the Middle District.
- l. P.L. 89-242 (1965), combined the Eastern and Western Districts of South Carolina into the South Carolina District.
- m. P.L. 89-372 (March 18, 1966), 80 Stat. 75, created 30 district court and 10 circuit court judgeships. In addition, P.L. 89-372 created two additional district courts for California by adding the Eastern and Central Districts.
- n. P.L. 90-347 (June 18, 1968), 82 Stat. 184, created nine additional circuit court judgeships.
- o. P.L. 91-272 (June 2, 1970), 84 Stat. 294, created 59 additional district court judgeships.
- p. Three temporary judgeships created by P.L. 91-272 was never converted to a permanent position. P.L. 92-208 (1971) created an additional district court for Louisiana by adding the Middle District.

Table 2. U.S. District and Circuit Court Nominations from Presidents Truman to Ford (1945-1976): Number Submitted, Number Confirmed, and Percent Confirmed

President (Congress, years)		District Court Nominations ^a	Circuit Court Nominations	District and Circuit Combined
Harry S Truman (79 th — 82 nd , 1945-1952)	N	156 ^b	33	189
	C	115	27	142
	%	73.7%	81.8%	75.1%
Dwight D. Eisenhower (83 rd — 86 th , 1953-1960)	N	162 ^c	51	213
	C	137 ^d	46	183
	%	84.6%	90.2%	85.9%
John F. Kennedy (87 th — 88 th , 1961-1963)	N	126	26	152
	C	108	21	129
	%	85.7%	80.8%	84.9%
Lyndon B. Johnson (88 th — 90 th , 1963-1968)	N	134	43 ^f	177
	C	122	40	162
	%	91.0%	93.0%	91.5%
Richard M. Nixon (91 st — 93 rd , 1969-1974)	N	186	49	235
	C	184	46	230
	%	98.9%	93.9%	97.9%
Gerald R. Ford (93 rd — 94 th , 1974-1976)	N	59	15	74
	C	50	11	61
	%	84.7%	73.3%	82.4%

Note: The five district court judges selected by President Roosevelt before his death at beginning of the 79th Congress are not used in the calculation of the number of nominated or confirmed judges during Harry S Truman's presidency.

Legend: N = number submitted by the President to the Senate; C = number confirmed; % = percent confirmed.

- a. Includes nominations to the territorial district courts in the U.S. Virgin Islands, Guam, and the Northern Mariana Islands.
- b. Includes two district court nominations submitted by President Truman on Jan. 9, 1953, at the start of the 83rd Congress, and withdrawn by President Eisenhower on July 24 and Aug. 3, 1953.
- c. Includes three district court nominations submitted by President Eisenhower on Jan. 10, 1961, at the start of the 87th Congress. The Senate returned one nomination on Sept. 27, 1961, and confirmed the other two on Aug. 9 and Sept. 21, 1961.
- d. Includes two district court nominations submitted by President Eisenhower on Jan. 10, 1961, at the start of the 87th Congress, and confirmed by the Senate on Aug. 9 and Sept. 21, 1961.
- e. Includes four district court nominations submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969.
- f. Includes one circuit court nomination submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969.

Table 3. Total Number of U.S. District and Circuit Court Nominations, 79th Congress - 94th Congress (1945-1976), Broken Down by Final Action^a

Congresses (President)	District Court Nominations ^b					Circuit Court Nominations				
	Con- firmed	With- drawn	Returned	Rejected ^c & Returned	Total	Con- firmed	With- drawn	Returned	Rejected ^c & Returned	Total
79 th - 82 nd (Truman)	115	0	35 ^d	4 ^e	154^f	27	1	5	0	33
83 rd - 86 th (Eisenhower)	135	5 ^g	22 ^h	0	162	46	0	5	0	51
87 th - 88 th (Kennedy)	108	0	18	0	126	21	0	5	0	26
88 th - 90 th (Johnson)	122	0	8	0	130ⁱ	40	0	2	0	42^j
91 st - 93 rd (Nixon)	184	4 ^k	2	0	190^l	46	2 ^m	2	0	50ⁿ
93 rd - 94 th (Ford)	50	1 ^o	8	0	59	11	0	4	0	15
Totals 79th - 94th	714	10	93	4	823	191	3	23	0	217

Note: This table does not include President Roosevelt's five district court judgeship selections before his death in the 79th Congress.

- a. Final action covers one of four mutually exclusive outcomes: (1) confirmation by the Senate; (2) withdrawal of a nomination by the President; (3) Senate return of the nomination to President (upon a Senate adjournment or recess of more than 30 days); and (4) Senate rejection by a vote disapproving a nomination.
- b. Includes nominations to the territorial district courts in the U.S. Virgin Islands, Guam, and the Northern Mariana Islands.
- c. Counts only rejections voted by the full Senate.
- d. The four nominations that were rejected by the Senate are included in the Rejected & Returned column.
- e. All four nominations rejected by the Senate had been reported unfavorably by the Senate Judiciary Committee.
- f. Does not include two district court nominations submitted by President Truman on Jan. 9, 1953, at the start of the 83rd Congress, and withdrawn by President Eisenhower on July 24 and Aug. 3, 1953. Thus, in this instance, there is a difference of two in the total number of district court judges nominated in Table 2 and the number in the total column in this table.
- g. Includes two district court nominations submitted by President Truman on Jan. 9, 1953, at the start of the 83rd Congress, and withdrawn by President Eisenhower on July 24 and Aug. 3, 1953.

- h. Includes one district court nomination submitted by President Eisenhower on Jan. 10, 1961, at the start of the 87th Congress, and returned by the Senate on Sept. 27, 1961.
- i. Does not include the four district court nominations submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969. Therefore, there is a difference of four in the total number of district court judges nominated in Table 2 and the number in the total column in this table.
- j. Does not include the one circuit court nomination submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969.
- k. Includes four district court nominations submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969.
- l. The inclusion of the four district court nominations submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969, has increased the total number by four. Therefore, there is a difference of four in the total number of district court judges nominated in Table 2 and the number in the total column in this table.
- m. Includes one circuit court nomination submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969.
- n. The inclusion of the one circuit court nomination submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969, has increased the total number by one. Therefore, there is a difference of one in the total number of district court judges nominated in Table 2 and the number in the total column in this table.
- o. Includes one nomination tabled by the Senate Judiciary Committee on May 5, 1976, and withdrawn by President Ford on June 7, 1976.

Table 4. U.S. District and Circuit Court Nominations for Each Congress: Number Received, Number Confirmed, and Percent Confirmed, 79th Congress - 94th Congress (1945-1976)

Congress	Years	President	District Court ^a			Circuit Court			District and Circuit Combined		
			Nominations Received	Nominations Confirmed		Nominations Received	Nominations Confirmed		Nominations Received	Nominations Confirmed	
				No.	%		No.	%		No.	%
79 th	1945-46	Harry S Truman	25	25	100.0%	8	7	87.5%	33	32	97.0%
80 th	1947-48		25	16	64.0%	3	3	100.0%	28	19	67.9%
81 st	1949-50		78	54	69.2%	20	15	75.0%	98	69	70.4%
82 nd	1951-52		26	20	76.9%	2	2	100.0%	28	22	78.6%
83 rd	1953-54	Dwight D. Eisenhower	52 ^b	44	84.6%	13	12	92.3%	65 ^b	56	86.2%
84 th	1955-56		36	31	86.1%	13	11	84.6%	49	42	85.7%
85 th	1957-58		31	26	83.9%	12	11	91.7%	43	37	86.0%
86 th	1959-60		42	34	81.0%	13	12	92.3%	55	46	83.6%
87 th	1961-62	John F. Kennedy	109 ^c	95 ^d	87.2%	22	17	77.3%	131 ^c	112 ^d	85.5%
88 th	1963-64	John F. Kennedy/ Lyndon B. Johnson	31	26	83.9%	7	7	100.0%	38	33	86.8%
89 th	1965-66	Lyndon B. Johnson	68	64	94.1%	26	25	96.2%	94	89	94.7%
90 th	1967-68		51	47	92.2%	13	12	92.3%	64	59	92.2%
91 st	1969-70	Richard M. Nixon	75 ^e	70	93.3%	23 ^f	20	87.0%	98 ^{e, f}	90	91.8%
92 nd	1971-72		80	80	100.0%	18	18	100.0%	98	98	100.0%

Congress	Years	President	District Court ^a			Circuit Court			District and Circuit Combined		
			Nominations Received	Nominations Confirmed		Nominations Received	Nominations Confirmed		Nominations Received	Nominations Confirmed	
				No.	%		No.	%		No.	%
93 rd	1973-74	Richard M. Nixon/ Gerald R. Ford	47	46	97.9%	13	10	76.9%	60	56	93.3%
94 th	1975-76	Gerald R. Ford	47	38	80.9%	11	9	81.8%	58	47	81.0%
Totals 79th - 94th			823	716	—	217	191	—	1040	907	—

Note: This table does not include President Roosevelt's five district court judgeship selections before his death in the 79th Congress.

- a. Includes nominations to the territorial district courts in the U.S. Virgin Islands, Guam, and the Northern Mariana Islands.
- b. Includes two district court nominations submitted by President Truman on Jan. 9, 1953, at the start of the 83rd Congress, and withdrawn by President Eisenhower on July 24 and Aug. 3, 1953.
- c. Includes three district court nominations submitted by President Eisenhower on Jan. 10, 1961, at the start of the 87th Congress. The Senate returned one nomination on Sept. 27, 1961, and confirmed the other two on Aug. 9 and Sept. 21, 1961.
- d. Includes two district court nominations submitted by President Eisenhower on Jan. 10, 1961, at the start of the 87th Congress, and confirmed by the Senate on Aug. 9 and Sept. 21, 1961.
- e. Includes four district court nominations submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969.
- f. Includes one circuit court nomination submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969.

Table 5. Number of U.S. District and Circuit Court Nominations, Congress by Congress, 79th Congress - 94th Congress (1945-1976), Broken Down by Final Action^a

Congress	President	District Court Nominations ^b					Circuit Court Nominations				
		Con- firmed	With- drawn	Returned	Rejected ^c & Returned	Total	Con- firmed	With- drawn	Returned	Rejected ^c & Returned	Total
79 th (1945-46)	Harry S Truman	25	0	0	0	25	7	1	0	0	8
80 th (1947-48)		16	0	9	0	25	3	0	0	0	3
81 st (1949-50)		54	0	22	2	78	15	0	5	0	20
82 nd (1951-52)		20	0	4	2	26	2	0	0	0	2
83 rd (1953-54)	Dwight D. Eisenhower	44	2 ^d	6	0	52	12	0	1	0	13
84 th (1955-56)		31	0	5	0	36	11	0	2	0	13
85 th (1957-58)		26	1	4	0	31	11	0	1	0	12
86 th (1959-60)		34	2	6	0	42	12	0	1	0	13
87 th (1961-62)	John F. Kennedy	95 ^e	0	14 ^f	0	109	17	0	5	0	22
88 th (1963-64)	John F. Kennedy/ Lyndon B. Johnson	26	0	5	0	31	7	0	0	0	7
89 th (1965-66)	Lyndon B. Johnson	64	0	4	0	68	25	0	1	0	26
90 th (1967-68)		47	0	4	0	51	12	0	1	0	13

Congress	President	District Court Nominations ^b					Circuit Court Nominations				
		Con- firmed	With- drawn	Returned	Rejected ^c & Returned	Total	Con- firmed	With- drawn	Returned	Rejected ^c & Returned	Total
91 st (1969-70)	Richard M. Nixon	70	4 ^g	1	0	75	20	2 ^h	1	0	23
92 nd (1971-72)		80	0	0	0	80	18	0	0	0	18
93 rd (1973-74)	Richard M. Nixon/ Gerald R. Ford	46	0	1	0	47	10	0	3	0	13
94 th (1975-76)	Gerald R. Ford	38	1	8	0	47	9	0	2	0	11
Totals 79th - 94th		716	10	93	4	823	191	3	23	0	217

Note: This table does not include President Roosevelt's five district court judgeship selections before his death in the 79th Congress.

- a. Final action covers one of four mutually exclusive outcomes: (1) confirmation by the Senate; (2) withdrawal of a nomination by the President; (3) Senate return of the nomination to the President (upon a Senate adjournment or recess of more than 30 days); and (4) Senate rejection by a vote disapproving a nomination.
- b. Includes nominations to the territorial district courts in the U.S. Virgin Islands, Guam, and the Northern Mariana Islands.
- c. Counts only rejections voted by the full Senate. Two nominations that, over the 1945-1976 period, were defeated in committee (by Senate Judiciary Committee votes against reporting the nominations to the Senate) are counted in either the "Withdrawn" or the "Returned" columns, as indicated in the table notes.
- d. Includes two district court nominations submitted by President Truman on Jan. 9, 1953, at the start of the 83rd Congress, and withdrawn by President Eisenhower on July 24 and Aug. 3, 1953.
- e. Includes two district court nominations submitted by President Eisenhower on Jan. 10, 1961, at the start of the 87th Congress, and confirmed by the Senate on Aug. 9 and Sept. 21, 1961.
- f. Includes one district court nomination submitted by President Eisenhower on Jan. 10, 1961, at the start of the 87th Congress, and returned by the Senate on Sept. 27, 1961.
- g. Includes four district court nominations submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969.
- h. Includes one circuit court nomination submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969.

Table 6. Number of U.S. District and Circuit Court Nominations Referred to Senate Judiciary Committee, Receiving Committee Hearings, Committee Vote, and Senate Vote, by Congress, 79th Congress - 94th Congress (1945-1976)

Congress	President	District Court Nominations ^a				Circuit Court Nominations			
		Referred to Committee	Received Hearing ^b	Voted on by Committee ^b	Voted on by Senate	Referred to Committee	Received Hearing ^b	Voted on by Committee ^b	Voted on by Senate
79 th (1945-46)	Harry S Truman	25 ^c	20	28 ^d	25	8	8	7	7
80 th (1947-48)		25	21	16	16	3	3	3	3
81 st (1949-50)		78	52	56	56	20	12	15	15
82 nd (1951-52)		26	19	22	22	2	2	2	2
83 rd (1953-54)	Dwight D. Eisenhower	52 ^e	39	44	44	13	10	12	12
84 th (1955-56)		36	28	31	31	13	11	11	11
85 th (1957-58)		31	24	26	26	11	7	10	10
86 th (1959-60)		42	33	34	34	13	12	12	12
87 th (1961-62)	John F. Kennedy	109 ^f	94	95	95 ^g	22	17	17	17
88 th (1963-64)	John F. Kennedy/ Lyndon B. Johnson	31	25	26	26	7	7	7	7
89 th (1965-66)	Lyndon B. Johnson	68	63	64	65	26	23	24	25
90 th (1967-68)		51	48	47	47	13	13	13	12

Congress	President	District Court Nominations ^a				Circuit Court Nominations			
		Referred to Committee	Received Hearing ^b	Voted on by Committee ^b	Voted on by Senate	Referred to Committee	Received Hearing ^b	Voted on by Committee ^b	Voted on by Senate
91 st (1969-70)	Richard M. Nixon	75 ^h	68	70	70	23 ⁱ	19	20	20
92 nd (1971-72)		80	76	80	80	18	17	18	18
93 rd (1973-1974)	Richard M. Nixon/ Gerald R. Ford	47	46	46	46	13	11	10	10
94 th (1975-1976)	Gerald R. Ford	47	40	38	38	11	11	10	9

Note: In some of the Congresses above, one or more nominees received a hearing on their nominations in one Congress, only to be re-nominated in the next Congress and have a committee vote and Senate vote on their resubmitted nomination. Usually, in these cases, the Judiciary Committee did not hold a hearing on the resubmitted nomination if a hearing had already been held on the nominee in the preceding Congress. This carryover of actions on particular nominees (with a hearing held in one Congress, and votes by the Judiciary Committee and/or the Senate in the next Congress) explains why, in some of the Congresses, the number of nominations receiving a hearing is smaller than the number of nominations voted on by committee and by the Senate.

- a. Includes nominations to the territorial district courts in the U.S. Virgin Islands, Guam, and the Northern Mariana Islands.
- b. A nomination receiving more than one hearing is counted just once in its particular “received hearing” column. Similarly, a nomination receiving more than one committee vote, either on the same day or on different days, is counted just once in its “voted on by committee” column.
- c. Does not include the five district court nominations submitted by President Roosevelt on Jan. 3 and 22, and March 12 and 30, 1945, before his death on April 12, 1945.
- d. Does not include the one President Roosevelt nomination defeated in the Senate Judiciary Committee.
- e. Includes two district court nominations submitted by President Truman on Jan. 9, 1953, at the start of the 83rd Congress, and withdrawn by President Eisenhower on July 24 and Aug. 3, 1953.
- f. Includes three district court nominations submitted by President Eisenhower on Jan. 10, 1961, at the start of the 87th Congress. The Senate returned one nomination on Sept. 27, 1961 and confirmed the other two on Aug. 9 and Sept. 21, 1961.
- g. Includes two district court nominations submitted by President Eisenhower on Jan. 10, 1961, at the start of the 87th Congress, and confirmed by the Senate on Aug. 9, and Sept. 21, 1961.
- h. Includes four district court nominations submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969.
- i. Includes one circuit court nomination submitted by President Johnson on Jan. 10, 1969, at the start of the 91st Congress, and withdrawn by President Nixon on Jan. 23, 1969.

Table 7. U.S. District and Circuit Court Nominations: Average Number of Days Elapsing from Nomination Date to Hearing, Committee Action, and Confirmation, 79th Congress - 94th Congress (1945-1976)

Congress (Years)	District Court Nominations ^a			Circuit Court Nominations		
	Hearing ^b	Committee Vote ^b	Confirmation ^b	Hearing ^b	Committee Vote ^b	Confirmation ^b
79 th (1945-46)	11	22	17	17	17	20
80 th (1947-48)	18	41	48	13	32	42
81 st (1949-50)	35	49	51	42	42	44
82 nd (1951-52)	31	32	36	13	14	15
83 rd (1953-54)	16	24	26	15	22	23
84 th (1955-56)	34	41	42	37	54	58
85 th (1957-58)	20	22	26	37	41	42
86 th (1959-60)	59	96	98	59	85	86
87 th (1961-62)	26	32	33	17	28	32
88 th (1963-64)	42	44	46	27	38	40
89 th (1965-66)	16	24	26	16	25	25
90 th (1967-68)	29	39	41	18	33	42
91 st (1969-70)	28	31	32	21	35	40
92 nd (1971-72)	18	23	23	27	28	28
93 rd (1973-1974)	20	26	27	17	18	19
94 th (1975-1976)	30	36	38	22	34	36

Note: This table does not include President Roosevelt's five district court judgeship selections before his death in the 79th Congress.

a. Includes nominations to the territorial district courts in the U.S. Virgin Islands, Guam, and the Northern Mariana Islands.

b. Average number of days, rounded to nearest whole number, elapsing from nomination date to the procedural action in this column (hearing, committee action, or confirmation).

Table 8. Votes by Senate Judiciary Committee on U.S. District and Circuit Court Nominations Other than Those Agreeing to Report Favorably, 79th Congress - 94th Congress (1945-1976)

Congress	Nominee	Court	Motion/Vote				Final Outcome
			Table	Report Favorably	Report Without Recommendation	Report Unfavorably	
79 th	Nathan Ross Margold	U.S. District Court for the District of Columbia	—	6-6, 07/30/45 ^a	—	—	Nomination returned, 08/01/45
81 st	M. Neil Andrews	U.S. District Court, Northern Georgia	—	07/31/50 ^b	—	07/31/50 ^c	Rejected by Senate, voice vote, 08/09/50
81 st	Carroll D. Switzer	U.S. District Court, Southern Iowa	—	07/31/50 ^d	—	07/31/50 ^e	Rejected by Senate, voice vote, 08/09/50
82 nd	Joseph Drucker	U.S. District Court, Northern Illinois	—	09/17/51 ^f	—	10/08/51 ^f	Rejected by Senate, voice vote, 10/09/51
82 nd	Cornelius J. Harrington	U.S. District Court, Northern Illinois	—	09/17/51 ^g	—	10/08/51 ^g	Rejected by Senate, voice vote, 10/09/51
94 th	William B. Poff	U.S. District Court, Western Virginia	9-0, 05/05/76 ^h	—	—	—	Nomination withdrawn, 06/07/76

Note: A vote by the Judiciary Committee on a nomination is treated as other than favorable if: (1) a majority of the committee voted against a motion to report the nomination favorably; (2) a motion to report favorably failed on a tie vote; (3) the vote was on a motion to report the nomination without recommendation; or (4) the vote was on a motion to report the nomination unfavorably (i.e., with a recommendation that the Senate not confirm the nomination).

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- a. *Legislative and Executive Calendar*, Committee on the Judiciary, 79th Cong., 1st sess., p. 86.
- b. Neither the *Legislative and Executive Calendar* on the Judiciary Committee nor the *Congressional Record* reports a vote total for Andrews. See *Legislative and Executive Calendar*, Committee on the Judiciary, 81st Cong., 2nd sess., p. 454.
- c. The *Legislative and Executive Calendar* indicates that Chairman Pat McCarran reported Andrews out of committee adversely. Author assumes that the final committee vote was for a motion to report unfavorably. See *Legislative and Executive Calendar*, Committee on the Judiciary, 81st Cong., 2nd sess., p. 454.
- d. Neither the *Legislative and Executive Calendar* on the Judiciary Committee nor the *Congressional Record* reports a vote total for Switzer. See *Legislative and Executive Calendar*, Committee on the Judiciary, 81st Cong., 2nd sess., p. 454.
- e. The *Legislative and Executive Calendar* indicates that Chairman Pat McCarran reported Andrews out of committee adversely. We assume that the final committee vote was for a motion to report unfavorably. See *Legislative and Executive Calendar*, Committee on the Judiciary, 81st Cong., 2nd sess., p. 454.
- f. The *Legislative and Executive Calendar* indicates that on Sept. 17, 1951, a motion to report favorably was defeated and that a second motion to report unfavorably was also defeated; however, on Oct. 8, 1951, the calendar reports that the committee disapproved Drucker's nomination but then reported him out on the same day. This third vote, although not stated in the calendar, tends to suggest that the committee held a second motion to report unfavorably. See *Legislative and Executive Calendar*, Committee on the Judiciary, 82nd Cong., 1st sess., p. 553.
- g. The *Legislative and Executive Calendar* indicates that on Sept. 17, 1951, a motion to report favorably was defeated and that a second motion to report unfavorably was also defeated; however, on Oct. 8, 1951, the calendar reports that the committee disapproved Harrington's nomination but then reported him out on the same day. This third vote, although not stated in the calendar, tends to suggest that the committee held a second motion to report unfavorably. See *Legislative and Executive Calendar*, Committee on the Judiciary, 82nd Cong., 1st sess., p. 553.
- h. *Legislative and Executive Calendar*, Committee on the Judiciary, 94th Cong., 2nd sess., p. 247. For more information concerning the committee vote, see CQ Inside Congress, "‘Senatorial Courtesy’ Derails Ford Judgeship Nomination," *Congressional Quarterly Weekly Report*, vol. 34, no. 18, May 8, 1976, p. 1124.