



# Building an Equal Justice Judiciary

**America's federal court system has always offered us the promise: equal justice under the law.** But far too often, courts fail to live up to this ideal. This system of justice was constructed to protect white supremacy and the wealthy and powerful. For there to be equal justice, our courts and the judges who make decisions every day must protect the rights of individuals and communities that have borne the burdens of systemic discrimination and inequity. This includes the rights of Black and Brown people, women, LGBTQ+ individuals, immigrants, people of all faiths or none, people living with disabilities, and more. After four years of President Trump stacking the courts with far-right extremists beholden to corporate powers and hostile to civil rights — most of whom serve for life — the state of our judiciary is dire.

A new administration provides new opportunities to make our courts work for all of us.

## We Need Fair Courts — And It's Up to Us to Fix Them.

The decisions that judges make every day impact everything we care about — from access to health care to who can vote to environmental protections to disability rights. We've seen the kind of harm courts and judges can perpetuate: decisions like *Shelby County v. Holder*, which invalidated an essential part of the Voting Rights Act and opened the door for a deluge of voting restrictions that disenfranchise Black and Brown people;<sup>1</sup> *Janus v. AFSCME*, which undermined decades of labor law to block public-sector employees from banding together to challenge federal labor law violations;<sup>2</sup> and *Citizens United v. Federal Election Commission*, which dramatically expanded the influence and control of wealthy donors and special interest groups over our elections, making it nearly impossible for our democracy to represent everyday people over corporations.<sup>3</sup>

Courts and judges have also advanced civil and human rights in landmark civil rights cases like *Brown v. Board of Education*, which declared legalized apartheid in American schools unequal and unconstitutional;<sup>4</sup> *Roe v. Wade*, which recognized that our right to privacy includes abortion rights;<sup>5</sup> and *Obergefell v. Hodges*, which recognized marriage equality as the law of the land and granted same-sex couples the right to full and equal recognition of their relationships.<sup>6</sup>

These decisions are made by individuals. Great civil rights champions who served on the Supreme Court like Justices Thurgood Marshall, Ruth Bader Ginsburg, and Sonia Sotomayor have made a difference. And this is true for judges on our courts at all levels. When the judges we select to serve on the federal bench for a lifetime are committed to civil rights and representative of our nation, we are making our courts more fair for more people.

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1. [“The Effects of Shelby County v. Holder.”](#) Brennan Center for Justice. August 6, 2018.  
2. Matthews, Dylan. [“The Supreme Court decision gutting public sector unions, explained.”](#) Vox. June 27, 2018.  
3. Lau, Tim. [“Citizens United Explained.”](#) Brennan Center for Justice. December 12, 2019.  
4. [“Landmark: Brown V. Board Of Education.”](#) NAACP Legal Defense and Educational Fund, Inc. Accessed February 2021.  
5. Nguyen, Thao. [“How Roe v. Wade Gave Us the Right to Safe and Legal Abortion.”](#) National Women's Law Center. January 22, 2016.  
6. [“The Journey to Marriage Equality in the United States.”](#) Human Rights Campaign. Accessed February 2021.

## Fair Courts Task Force Priorities

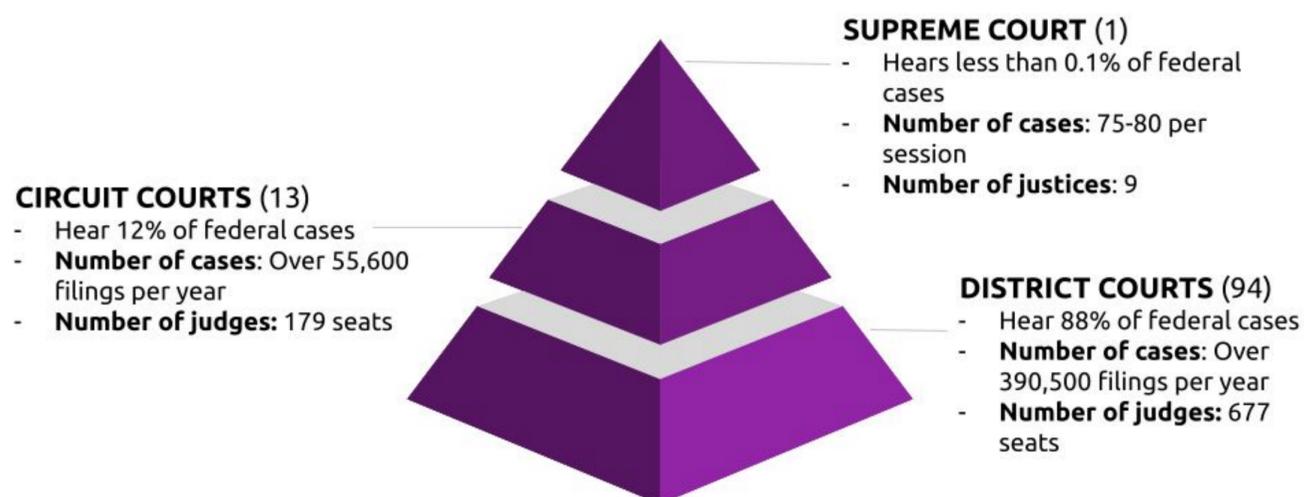
Given the vital importance of our courts, The Leadership Conference on Civil and Human Rights and its Fair Courts Task Force created priorities for the White House and Congress.<sup>7</sup> It is imperative that the 117th Congress and the Biden administration prioritize the selection, nomination, and confirmation of federal judges who are committed to the protection of civil and human rights. This is a president's most enduring legacy, as most federal judges serve lifetime appointments and continue to shape the law for decades. The president and Senate must prioritize the selection, nomination, and confirmation of justices and judges who are diverse in ways including – but not limited to – race, sex, gender identity, sexual orientation, disability status, ethnicity, national origin, socio-economic status, and experiential and professional background. Members of the House must use their voices and influence to educate and advocate for fair courts and to implore their Senate colleagues to prioritize the federal judiciary and the nomination of judges who are committed to civil and human rights, and who are representative and reflective of our nation's diversity.

The president and Senate must also pass legislation that modernizes and reforms our courts, including legislation on ethics reforms, such as extension of the Code of Conduct for United States Judges to apply to Supreme Court justices, and further transparency measures and court structure reforms such as expanding the number of authorized judgeships for circuit and district courts. In addition, the president and Congress should consider other structural reforms to the Supreme Court.

## About the Federal Judiciary

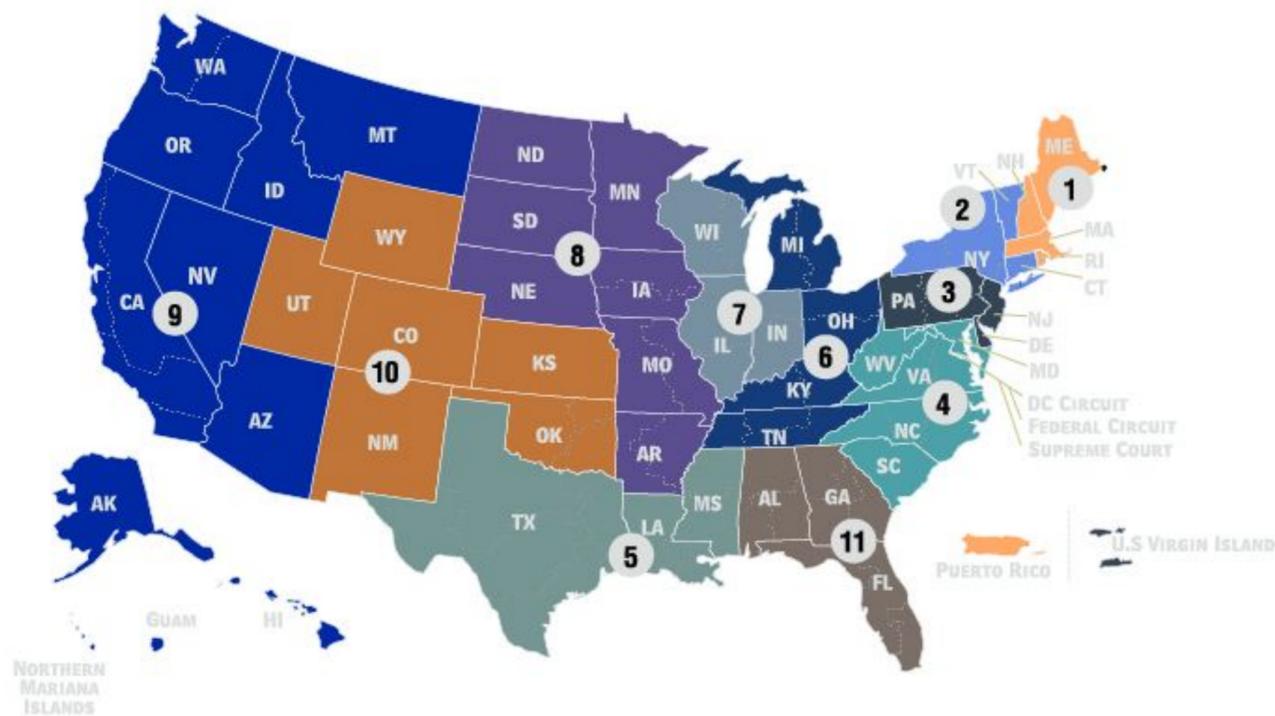
The U.S. Constitution created one Supreme Court and gave Congress the authority to create lower federal courts (including circuit courts and district courts).<sup>8</sup> The Constitution gives the president the power to nominate federal judges with the advice and consent of the Senate.<sup>9</sup>

The Supreme Court is the highest and most well-known court, but the vast majority of federal cases are heard at the district court level. Because the Supreme Court hears so few cases, circuit courts (which hear appeals from district courts) are often the final word on interpretations of federal law.



7. To view all of the priorities of the Fair Courts Task Force and other task forces of The Leadership Conference coalition, please see <https://civilrights.org/the-presidential-and-congressional-transition/>.  
8. U.S. Const. art. III, § 1.  
9. U.S. Const. art. II, § 2, cl. 2.

The 13 circuit courts are divided by region, with several states joining together to form most of the circuit courts. Each state also has at least one district court. The map below displays the geographic locations of the eleven regional circuit courts, as well as the D.C. circuit and the federal circuit courts. The dotted lines within states reflect the geographic locations of the district courts.



It is critical that each of these courts is composed of judges who come from all walks of life and understand how courts have perpetuated oppression.

## Resources

Please see below for more reading on the need for fair courts and how they intersect with civil and human rights. Contact Samantha Cyrulnik-Dercher at [cyrulnikdercher@civilrights.org](mailto:cyrulnikdercher@civilrights.org) for more information on courts issues.

- Brief on President Trump's impact on courts: [Damage to the Federal Judiciary During the Trump Administration](#)
- Blog post on the need for diverse judges: [We Need More Black Women on Our Federal Appellate Courts](#)
- Blog post on how courts perpetuate white supremacy: [To Dismantle White Supremacy, We Need to Fix Our Judiciary](#)