

# Judicial Diversity Matters for Equal Justice

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**Our federal court system has failed to live up to its promise of equal justice under the law.** The judiciary — which was built to protect White wealth and power — has been stacked against us. Though progress has been made to put judges on our courts who look like us and care about us, our judiciary remains broken. For far too long, our judges have disproportionately been White men and have possessed very narrow legal experiences as corporate attorneys or government prosecutors. Judges decide cases that impact our freedom to vote, health care access, reproductive freedom, immigrant rights, LGBTQ equality, disability rights, and other crucial civil and human rights, and it is vital that our judges come from more varied backgrounds both personally and professionally.

We need more perspectives on our courts. The [progress during the Biden administration](#) on nominations and appointments to the federal bench has been historic in both number and diversity. This progress must continue. The White House and Senate leadership must make it an immediate and ongoing priority to fill all federal judgeship vacancies with individuals who have a demonstrated commitment to civil and human rights, possess diverse professional experiences including public interest work for social and economic justice, are fair-minded, possess a progressive vision of the law and Constitution, and are reflective and representative of the vast and rich diversity of our country. This diversity includes race, sex, gender identity, sexual orientation, disability status, ethnicity, national origin, socio-economic status, and experiential and professional background.

## **Diversity Improves Judicial Decisionmaking by Making Sure More Viewpoints Are Heard.**

- Racially diverse judges include the perspectives of communities who were traditionally excluded from seats of power in the judiciary's formal and informal decisionmaking.<sup>1</sup>
- Judges from different demographic and legal backgrounds infuse more viewpoints into judges' conversations, preventing a single set of values from dominating judges' decisions.<sup>2</sup>
- Diverse judges often better understand the needs and respect the interests of communities who have been marginalized by the judicial system and help communities trust that courts' decisions are not biased in favor of a select few.<sup>3</sup>

<sup>1</sup> Ifill, Sherrilyn A. "[Racial Diversity on the Bench: Beyond Role Models and Public Confidence.](#)" 57 Wash. & Lee L. Rev. 405 (2000).

<sup>2</sup> Sen, Maya. "[Diversity, Qualifications, and Ideology: How Female and Minority Judges Have Changed, or Not Changed, Over Time.](#)" 2017 Wis. L. Rev. 367 (2017); Root, Danielle, et al. "Building a More Inclusive Federal Judiciary." Center for American Progress. October 3, 2019.

<sup>3</sup> Hoster, Paige E. "[Understanding the Value of Judicial Diversity through the Native American Lens.](#)" 36 Am. Indian L. 457 (2012).

## The Federal Judiciary Does Not Reflect Our Nation's Diversity.<sup>4</sup>

### Overview: U.S. Appellate Courts

#### U.S. Supreme Court

- Out of **115** justices who have served on the U.S. Supreme Court, only **four** have been people of color.<sup>5</sup>
- Out of **115** justices who have served on the U.S. Supreme Court, only **six** have been women.<sup>6</sup>

#### U.S. Circuit Courts of Appeals

- **Three** of our 13 federal circuit courts have only one judge of color actively serving: the First, Eighth, and Tenth Circuits.
- **One** of our 13 federal circuit courts has no Black active judges: the First Circuit.
- **Five** of our 13 federal circuit courts have no Latino/a active judges: the Fifth, Sixth, Seventh, Eighth, and Tenth Circuits.
- **Five** of our 13 federal circuit courts have no Asian American/Pacific Islander (AAPI) active judges: the First, Fourth, Eighth, Tenth, and Eleventh Circuits.
- **13** of our 13 federal circuit courts have no Native American active judges. In our nation's history, **zero** Native American judges have ever been confirmed to our federal appellate courts.
- **Three** of our 13 federal circuit courts have no women of color active judges: the First, Eighth, and Tenth Circuits.
- **10** of our 13 federal circuit courts have no LGBTQ active judges: the First, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Tenth, Eleventh, and D.C. Circuits.

**“Every judge brings to the bench a range of professional and life experiences which will influence his judicial decision-making.”**

- Sherrilyn A. Ifill<sup>7</sup>

### Demographic Diversity

#### Black Women

- Before the Biden administration, only **eight** Black women had ever served on our federal circuit courts. **13** more Black women have been confirmed to our federal circuit courts during the Biden administration.<sup>8</sup>

#### Latino/a Judges

- Before the Biden administration, only **22** Latino/a judges had ever served on our federal circuit courts. **Five** more Latino/a judges have been confirmed to our federal circuit courts during the Biden administration.<sup>9</sup>

<sup>4</sup> This report includes data about Article III federal judges only. All judicial data comes from Federal Judicial Center (FJC)'s "[Biographical Directory of Article III Federal Judges, 1789-present](#)" unless otherwise noted.

<sup>5</sup> Justices Thurgood Marshall (confirmed in 1967), Clarence Thomas (1991), Sonia Sotomayor (2009), and Ketanji Brown Jackson (confirmed in 2022).

<sup>6</sup> Justices Sandra Day O'Connor (confirmed in 1981), Ruth Bader Ginsburg (1993), Sonia Sotomayor (2009), Elena Kagan (2010), Amy Coney Barrett (2020), and Ketanji Brown Jackson (2022).

<sup>7</sup> Ifill, Sherrilyn A. "[Racial Diversity on the Bench: Beyond Role Models and Public Confidence](#)," 57 Wash. & Lee L. Rev. 405 (2000).

<sup>8</sup> Judges Ketanji Brown Jackson (D.C. Cir.), Candace Jackson-Akiwumi (7th Cir.), Tiffany Cunningham (Fed. Cir.), Eunice Lee (2nd Cir.), Holly Thomas (9th Cir.), Stephanie Davis (6th Cir.), J. Michelle Childs (D.C. Cir.), Arianna Freeman (3rd Cir.), Doris Pryor (7th Cir.), Tamika Montgomery-Reeves (3rd Cir.), Dana Douglas (5th Cir.), DeAndrea Benjamin (4th Cir.), and Nancy Abudu (11th Cir.)

<sup>9</sup> Judges Gustavo Gelpí (1st Cir.), Myrna Pérez (2nd Cir.), Gabriel Sanchez (9th Cir.), Salvador Mendoza (9th Cir.), and Brad Garcia (D.C. Cir.).

### Asian American and Pacific Islander (AAPI) Women

- Before the Biden administration, only **two AAPI women** had ever served on our federal circuit courts. **Five** more AAPI women have been confirmed to appellate courts during the Biden administration.<sup>10</sup>

### Native American Judges

- Before the Biden administration, only **four Native Americans** had ever served as federal judges. **Three** more Native American judges have been confirmed during the Biden administration.<sup>11</sup>

### LGBTQ Judges

- Before the Biden administration, only **two LGBTQ people** had ever served on our federal circuit courts. **Two** more LGBTQ people have been confirmed to our federal circuit courts during the Biden administration.<sup>12</sup>
- There has never been an openly bisexual, transgender, or nonbinary federal judge confirmed by the Senate.

### Judges with Known Disabilities

- People with disabilities comprise at least 20 percent of the U.S. population, but very few federal judges have known disabilities.<sup>13</sup> **One judge with a known disability** has been confirmed during the Biden administration.<sup>14</sup>

### **Professional Diversity**

- In addition to lacking demographic diversity, the federal judiciary is disproportionately dominated by former corporate attorneys and prosecutors, with very few criminal defense attorneys, public defenders, and civil rights lawyers.
- During the Biden administration, **58 civil rights lawyers and public defenders** have been confirmed as lifetime federal judges.

### **Judicial diversity is more than just a benefit — it's a necessity.**

To ensure equal justice and protect and advance civil rights, we need fair-minded, empathetic judges who come from all walks of life and who represent and reflect the rich diversity of our nation. The Leadership Conference and our coalition have long understood the importance of this work, and we continue to urge the Senate and the Biden administration to make diversity a continued priority and support additional diverse nominees, including more Latino and Latina nominees, Native American nominees, LGBTQ nominees, and nominees with disabilities. It's also why we urge senators and the White House to select nominees who have significant experience in civil rights law, such as economic justice, reproductive rights, LGBTQ equality, disability rights, and voting rights. We need a judiciary that reflects us and respects us — a judiciary that lives up to its promise of equal justice under law.

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<sup>10.</sup> Judges Lucy Koh (9th Cir.), Jennifer Sung (9th Cir.), Roopali Desai (9th Cir.), Florence Pan (D.C. Cir.), and Cindy Chung (3rd Cir.).

<sup>11.</sup> Judges Lydia Kay Griggsby (D. Md.), Lauren King (W.D. Wash.), and Sunshine Sykes (C.D. Cal.).

<sup>12.</sup> Judges Beth Robinson (2nd Cir.) and Alison Nathan (2nd Cir.).

<sup>13.</sup> Consortium for Citizens with Disabilities. [Letter to senators regarding judicial nominees with disabilities](#). December 3, 2021.

<sup>14.</sup> Judge Jamal Whitehead (W.D. Wash.).