

U.S. Circuit and District Court Nominations: Comparative Statistics of Two-Term Presidencies Since 1945

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This Insight provides comparative statistics related to the nomination and confirmation of U.S. circuit and district court judges during the eighth year of two-term presidencies since 1945 (i.e., the Truman, Eisenhower, Reagan, Clinton, George W. Bush, and Obama presidencies). It also provides cumulative comparative statistics for the entire terms of these same six presidencies. [Previous CRS research](#) has analyzed final Senate action on judicial nominations during the eighth year of the Reagan, Clinton, and George W. Bush presidencies.

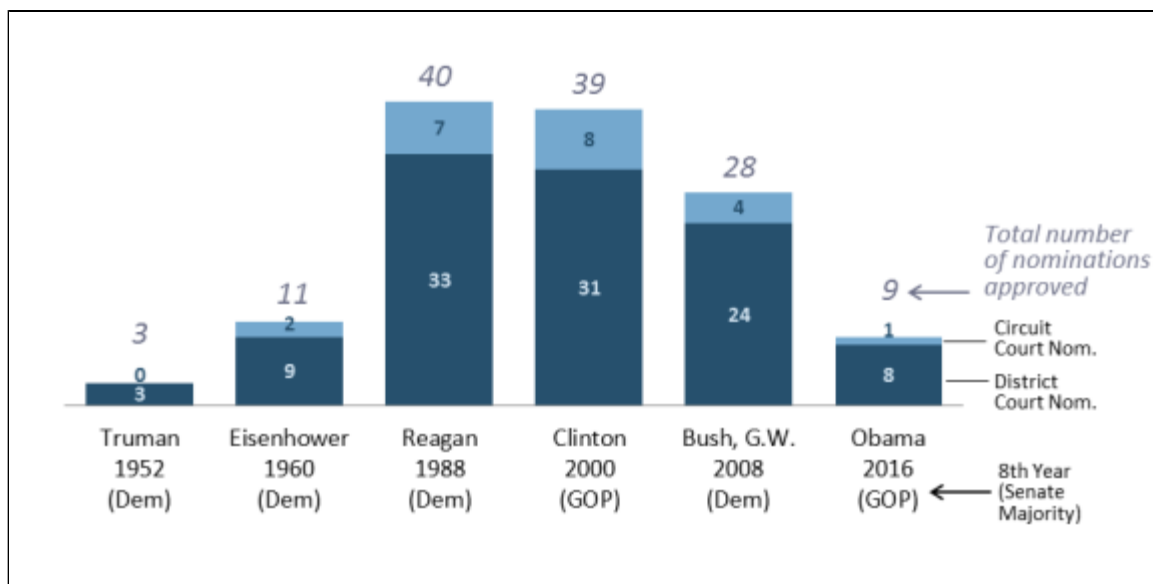
Nominees Confirmed During a President's Eighth Year

As shown by **Figure 1**, President Obama had the second-lowest combined number of circuit and district court nominees confirmed during his eighth year (nine total) among the two-term Presidents since 1945—and the lowest total since 1952.

[As noted previously by CRS](#), the size of the increase in the number of judicial vacancies (particularly district court vacancies) from the beginning to the end of the Obama presidency reflects, in part, the comparatively small number of judicial nominations confirmed by the Senate during the final two years of the Obama presidency.

The numbers reported in **Figure 1** might not be comparable in terms of the opportunities each President had to make nominations during his eighth year in office. For example, there was a combined total of [277 U.S. circuit and district court judgeships in 1952](#) (during the Truman presidency) compared to [852 such judgeships in 2016](#) (during the Obama presidency). Consequently, given that there were 575 fewer judgeships in 1952 than in 2016, there were also likely fewer judicial vacancies (and, thus, fewer opportunities for President Truman to appoint judges in 1952 than existed for President Obama in 2016).

Figure 1. Total Combined Number of U.S. Circuit and District Court Nominations
Approved During a President's Eighth Year in Office



Source: Congressional Research Service.

Nominees Confirmed During a President's Cumulative Eight Years

Figure 2 shows the total combined number and percentage of circuit and district court nominees whose nominations were confirmed by the Senate during each President's two terms in office (i.e., over the course of eight years).

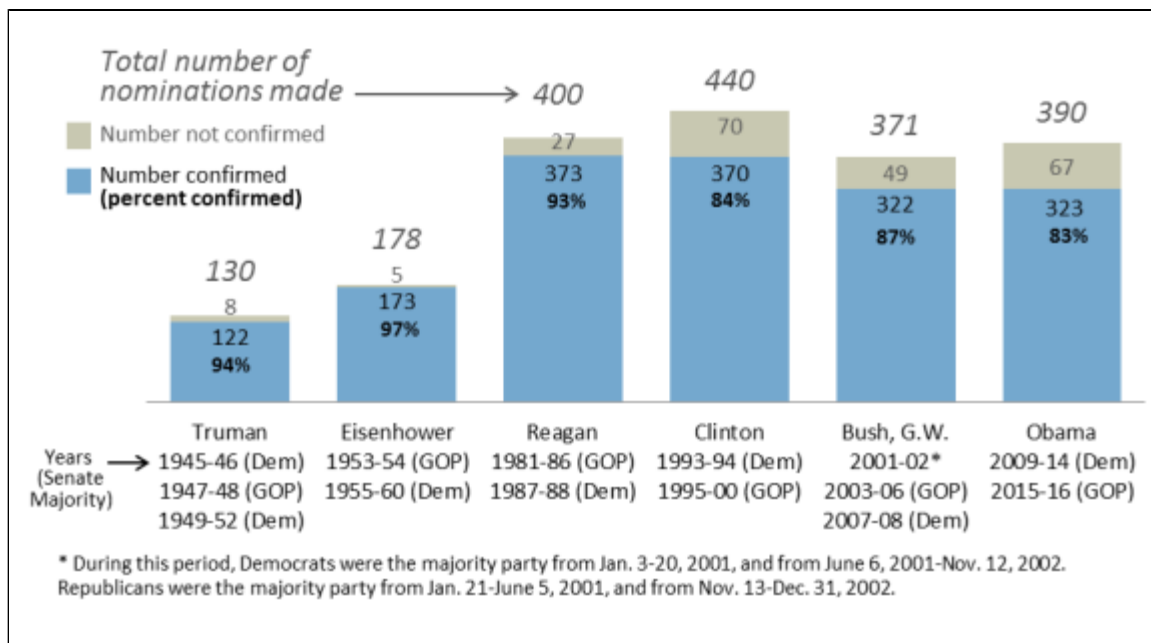
As shown by the figure, President Obama had the third-highest *number* of nominations approved by the Senate but the lowest *percentage* of nominations approved.

As for the number of nominees approved, President Obama had 323 nominees confirmed (compared to 373 and 370 for Presidents Reagan and Clinton, respectively). The 323 nominees confirmed during the Obama presidency reflects an increase of 1 over the number of nominees confirmed during the George W. Bush presidency (322).

Overall, 83% of President Obama's nominees were confirmed—the lowest percentage of nominees approved of the six two-term Presidents, including his two most recent predecessors (who also had less than 90% of their nominees confirmed).

For President Obama to have had the same *percentage* of nominees confirmed as during the George W. Bush presidency (i.e., 87% of his nominees confirmed rather than 83%), an additional 16 nominees would have needed to be confirmed by the Senate. For President Obama to have had the same percentage of nominees confirmed as during the Clinton presidency (i.e., 84% of his nominees confirmed rather than 83%), an additional 5 nominees would have needed to be approved.

Figure 2. Total Combined Number of U.S. Circuit and District Court Nominations Approved During a President's Entire Term in Office



Source: Congressional Research Service.

Determining a President's Success in Having His Nominees Confirmed

A determination of a President's success, relative to other Presidents, in having his nominees confirmed by the Senate might depend, in part, upon whether one considers the *number* or *percentage* of nominations approved by the Senate as the primary criterion in measuring a President's success.

The *number* of a President's nominations approved by the Senate represents the actual number of individuals appointed to the federal bench by a President. Even if a relatively large number of a President's nominees are rejected or not given an up-or-down vote by the Senate, a relatively large number of his nominees might nonetheless still be confirmed (i.e., the two are not mutually exclusive). Consequently, a President might still have a similar impact as his predecessors on the makeup of the federal judiciary by virtue of the total number of his nominees confirmed by the Senate.

In contrast, the *percentage* of a President's nominations approved by the Senate represents the fact that there is variation in the overall number of judicial nominations submitted by different Presidents to the Senate. For example, President Obama submitted 19 more circuit and district court nominations than his immediate predecessor, President George W. Bush (while also having 1 more of his nominees confirmed as President Bush). Variation in the number of nominations submitted by a President reflects, in part, the number of vacancies that exist during that President's time in office.

A measure of success based on the percentage of nominees approved by the Senate reflects, at its core, the argument that—barring unusual circumstances (e.g., such as, perhaps, if a President submits a relatively large number of controversial nominations)—a President who nominates more individuals than his predecessor might also be anticipated to have more of those individuals confirmed by the Senate than were confirmed during his predecessor's term.

The relative merits of whether the *number* and/or *percentage* of nominees approved is the measure of success used to judge a President's success in having his judicial nominees confirmed is ultimately a determination for policymakers based on various institutional and political factors. Such factors include, but are not limited to, the number of judicial vacancies that exist, the priority given to filling judicial vacancies during a particular presidency, the perceived balance by Senators of the ideological composition of the federal judiciary, and whether there is divided or unified party control between the presidency and the majority party in the Senate.