General Introductory Questions

In a phrase that’s become a standard of popular culture, we know that “with great power comes great responsibility.” Supreme Court justices are given the ultimate power to decide matters of the Constitution and the law in our system of government. Why is it important they be held to the highest levels of responsibility for ethical behavior?

How important to the functioning of our system of government is the belief that “justice is blind” and that people walking through the doors of the Supreme Court of the United States will receive in practice the promise carved into that building in stone, “Equal Justice Under Law”?

How does a suspicion of favoritism harm the interests of not just parties coming before the justices in a particular case but of the public at large?

Code of Conduct

The Code of Conduct for United States Judges is a set of ethical guidelines that all federal judges, except the nine justices of the Supreme Court, are required to follow. The Code includes the requirement that “A judge should avoid impropriety and the appearance of impropriety in all activities” and forbids judges from fundraising or engaging in political activity.

A Representative asked Justices Kennedy and Breyer at a House Appropriations Committee meeting in April 2011: “Do you believe that the Code of Judicial Conduct should apply to Supreme Court justices or are there good reasons for not doing so?” Justice Kennedy said that because the Code was written by district and appellate court judges, it would be “structurally unprecedented for district and circuit judges to make rules that Supreme Court judges have to follow.”

- Would it obviate any potential structural difficulty if the Court itself made the decision to adopt these rules as binding? Is the fact that “other people wrote the rules” a good reason for the Court to choose not to adopt them?

Justice Breyer responded further by saying, “I think all the judges do what I do, which is we do follow the rules. They do apply.” However, he said that Congress should not pass legislation requiring the Court to follow the Code, suggesting it was unnecessary because the justices make personal decisions to abide by the ethical standards in the Code of Conduct.

- If they already follow the Code, is there any good reason for the justices not to formally adopt it as a binding standard for the Supreme Court? If they do not adopt it on their own, should Congress pass legislation requiring them to abide by the Code, just as Congress in the past has enacted legislation requiring the Supreme Court justices to abide by recusal standards and financial disclosure regulations? Should the justices of the highest court in the land be allowed to operate under a lower official standard than all other Article III judges?

Canons 4 and 5 of the Code of Conduct distinguish between extrajudicial activities that judges are encouraged to be a part of and activities that judges must refrain from doing. Canon 4 states “A judge may engage in extrajudicial activities that are consistent with the obligations of judicial office,” such as speaking, writing, and lecturing on the law. Drawing a sharp line between permitted and forbidden activities, Canon 5 states “A judge must refrain from all political activity.”

- What is the problem with justices attending and participating in partisan or political conferences or events—for instance, a political action retreat sponsored by the Koch brothers? How is it different from justices speaking at an event or debate sponsored by a Bar Association, the American Constitutional Society or the Federalist Society? Don’t we want the justices to be a part of our civic discourse?
Do you think the Court pays attention to public opinion? How important is sunlight and transparency to curbing the sort of ethically questionable behavior we've seen recently from the justices? What do you think it would take for the Court to decide to voluntarily agree to abide by the Code of Conduct?

Ethics in Government Act/Financial Disclosure Forms

The Ethics in Government Act (EIGA or the “Ethics Act”) was passed in 1978 as a response to the Watergate scandal. It requires most federal officials—including Supreme Court justices—to fill out annual forms disclosing outside income, investments, sources of spousal income, and reimbursements and gifts. The form makes the requirements clear—it even spells out that checking “none” means that there was “[n]o reportable ... income.”

Anyone who “knowingly and willfully” fails to disclose or falsifies information required to be reported can be held subject to civil penalties and criminal prosecution. As shown in the film, Justice Thomas for over a decade marked “none” on his financial disclosure forms for spousal income, despite the fact that his wife earned over $1.6 million from the Heritage Foundation and other entities during this time. He has since amended the forms and explained that he “misunderstood” the reporting requirement. He also appears to have failed to report several reimbursements and gifts from conservative financier Harlan Crow.

Justice Thomas has served in the federal government for decades, and while he claims to have misunderstood the reporting requirements on his forms from 1997-2009, his forms from 1987-1996 correctly report his wife’s income.

• How might Justice Thomas’s apparent attempt to cover up the source of his wife’s income undermine public confidence in the Court? Does his dismissal of his failure to disclose his wife’s income on a decade’s worth of disclosure forms as a mere mistake demonstrate a contempt for the law?

Recusal

A federal statute—28 U.S.C. § 455—governs recusal standards for all federal judges, including Supreme Court justices. The statute requires that judges are required to recuse themselves from any case in which their impartiality “may be reasonably be questioned,” making the standard for recusal an appearance of bias, not actual bias. This standard underscores Congress’s understanding that in order for the courts to function, people must be able to trust that the judicial system is fair and impartial. Judges make their own decisions about whether to recuse themselves; when the failure to recuse is made by a lower court judge, that decision may be appealed to a higher court for review. For justices of the Supreme Court, however, there is no higher court of appeals; therefore the decision of each individual justice on whether to recuse or not currently ends with that justice, and there is no requirement for the decision to be explained.

What are the problems in simply allowing each justice to be the judge of him or herself in deciding when to recuse?

In Caperton v. Massey, the Supreme Court paid tribute to the fundamental principle that “no man can be a judge in his own case.” There, the Court ruled that West Virginia state court judge Brent Benjamin should have recused himself from a case because he had received significant campaign contributions from one of the parties. It did not matter that the judge believed he was not biased and could be impartial. In fact, the Court held that the risk that Justice Benjamin might be biased was so high that it denied the litigants their Due Process rights. In other words, in some situations, the Constitution will require recusal to ensure litigants are afforded a judge that appears unbiased. Does the Court’s current practice regarding recusal risk violating American’s constitutional rights?

Some say that it does not matter if, for instance, Justice Thomas may have a conflict of interest resulting from his wife’s working for organizations actively working to block or overturn the health care law when such cases come before the Court because it is already virtually certain how he will rule on such cases based on his jurisprudential outlook.

• Should the fact that a justice has a standard outlook on the law excuse him or her from abiding by ethical standards set in place to uphold public confidence in the workings of the Court? Should some justices get special exemptions from following the recusal statute because their outlooks are known to be rigidly predetermined?
Applying the Code of Conduct to the Supreme Court

- **Supreme Court Justices are the ONLY federal judges not subject to the Code.**
  Right now, all federal judges except Supreme Court Justices are subject to the ethical rules set forth in the Code of Conduct. There is no reason the Code should not be applied to the Court. Congressman Chris Murphy has introduced H.R. 862, the Supreme Court Transparency and Disclosure Act, to do just that.

- **The Code’s guidelines protect the public’s confidence in an independent judiciary.**
  The Code sets forth simple rules that all judges should be able to follow: no political activity, no fundraising. It also requires judges to avoid doing things that would create the appearance of impropriety. However, some justices have engaged in activities that would violate the rules, if they applied to the Court. Justices Scalia and Thomas have attended political strategy sessions organized by the Koch Brothers. Justices Thomas and Alito have inappropriately lent their names to fundraising activities. These rules exist to assure the public that judges issue rulings impartially and free from politics or special interests. Protecting public confidence in the Supreme Court is particularly important, as its rulings have the broadest impact and are frequently divisive.

- **The Court could voluntarily apply the Code to itself – it need not wait for Congress to act.**
  While there has been legislation introduced in Congress to apply the Code of Conduct to the Court, most people agree that it would be best for the Court to simply choose to adopt the Code of Conduct on its own. The Court has done this sort of thing in the past (It chose to be restricted by the same rules lower court judges must follow for outside income and honoraria) – it could do so here too. Some justices have said that they already look to the Code for guidance; therefore, they should have no objection to being formally bound by the Code.

- **Pressure for Supreme Court ethics reform is growing.**
  Increasingly, there have been calls for reform. These calls began with a letter from 140 legal ethicists calling on the Court to adopt the Code. To date, over 100 members of Congress have spoken out on Supreme Court ethics reform, and Representative Murphy’s bill that would apply the Code of Conduct to the Supreme Court has 27 cosponsors. Columnists across the country have called on the Supreme Court to adopt the Code and curb political activity. This issue is not going to disappear until something is done. If the Court does not act, Congress needs to step in.

Justice Thomas and Financial Disclosure Rules

- **For ten years, Justice Thomas failed to report his wife’s income, in violation of the law.**
  The Ethics in Government Act requires Supreme Court justices (like most other federal employees) to make certain financial disclosures, including the source of income earned by his or her spouse. As early as 1987, while Justice Thomas served as chair at the EEOC, he complied with the law and disclosed Virginia Thomas’ income. But from 1997-2009, he checked “None” for non-investment spousal income, even though Virginia Thomas earned at least $1.6 million during this timeframe. When this was made public, Thomas corrected his forms and said he “misunderstood” the reporting requirement. He has not explained how it is that this misunderstanding did not develop until at least a decade of correctly filling out the form.

- **The disclosure requirements allow the public to learn of potential conflicts of interest.**
The basic financial information judges must provide in their financial disclosure forms is important because it allows parties to know whether the judge in their case may have a conflict of interest. For instance, the Heritage Foundation (where Virginia Thomas worked) frequently appears before the Court, and Thomas' apparent attempt to cover it up undermines public confidence in the Court.

- **The Judicial Conference must enforce the Ethics in Government Act.**
The Ethics in Government Act clearly sets out the civil and criminal penalties for not disclosing required information, or making false disclosures. Under the Act, the Judicial Conference must refer the matter to the Department of Justice if there is "reasonable cause" to think that Thomas' omission was "willful." Given the fact that Justice Thomas correctly filled out his forms up until 1997 while serving as Chair of the EEOC, a Court of Appeals Judge, and for five years on the Supreme Court, it is reasonable to believe his omission was willful. The Alliance for Justice, Common Cause, and several members of Congress have written the Judicial Conference and asked them to do as the law requires by referring the matter to the Department of Justice.

**Talking Points for Supreme Court Recusal**

- **The Court's recusal process must be changed**
  No person should be the judge in his or her own case. Yet this is exactly what Supreme Court justices get to do when deciding whether or not to recuse from a case. When a lower court judge denies a litigant's motion to recuse, the decision can always be appealed. But Supreme Court justices get the final word. H.R. 862, the Supreme Court Transparency and Disclosure Act, would require the Court to implement a process for further review of a justice's recusal decision. It would also require the Justices to issue written opinions when granting or denying a recusal motion -- as it stands now, they are not even required to explain their recusal decisions.

- **The recusal statute already applies to the Court -- we just need to implement a system to ensure that the process by which it is implemented is conflict-free.**
Unlike the Code of Conduct, the recusal statute, 28 U.S.C. § 455, already applies to Supreme Court justices. The statute requires a judge to step aside from a case if a reasonable person might question the judge's impartiality. In other words, recusal is required when the judge could appear biased. The judge accused of being biased is the absolute worst person to decide whether a reasonable person might think there is an appearance of bias.

- **Current recusal controversies show the need for reform**
When Justice Scalia refused to step aside from the case involving Dick Cheney after taking a duck hunting trip together while the case was pending, public confidence in the Court suffered. Allegations have been made that Justice Thomas or Justice Kagan should recuse from the challenge to health care reform. These are simply the latest in a long history of controversial calls for recusal and highlight the need to reform the Court's recusal process. Legislation has been introduced that would require the Court to ensure review of individual recusal decisions.
2011 Year-End Report on the Federal Judiciary

In 1920, American baseball fans were jolted by allegations that Chicago White Sox players had participated in a scheme to fix the outcome of the 1919 World Series. The team owners responded to the infamous “Black Sox Scandal” by selecting a federal district judge, Kenesaw Mountain Landis, to serve as Commissioner of Baseball and restore confidence in the sport. The public welcomed the selection of a prominent federal judge to purge corruption from baseball. But Judge Landis’s appointment led to another controversy: Could a federal judge remain on the bench while serving as Baseball Commissioner? That controversy brought to the fore a still broader question: Where do federal judges look for guidance in resolving ethics issues?

Since 1789, every federal judge has taken the same solemn oath to “administer justice without respect to persons,” to “do equal right to the poor and to the rich,” and “to faithfully and impartially discharge and perform” the duties of judicial office. But for the first 130 years of the Nation’s
existence, federal judges had no formal source for guidance on the broad array of ethical issues that might arise in the course of judicial service. Judge Landis resolved his situation by resigning his judicial commission in 1922 to focus all his efforts on the national past-time. The controversy, however, prompted organized efforts to develop more guidance for judges. That same year, the American Bar Association asked the Nation’s new Chief Justice, former President William Howard Taft, to chair a Commission on Judicial Ethics.

Within two years, Chief Justice Taft’s commission produced the ABA’s 1924 Canons of Judicial Ethics. The 1924 Canons were advisory. As Chief Justice Taft explained, their 34 general principles served as “a guide and reminder” that federal and state judges could consult in discharging their duties. Since that time, the Judicial Conference of the United States—the policy-making body for the lower federal courts—has adopted and regularly updated its own Code of Judicial Conduct to provide guidance to federal judges. The 1924 Canons provided the foundation for that ongoing undertaking.

Some observers have recently questioned whether the Judicial Conference’s Code of Conduct for United States Judges should apply to the Supreme Court. I would like to use my annual report this year to address
that issue, as well as some other related issues that have recently drawn
public attention. The space constraints of the annual report prevent me from
setting out a detailed dissertation on judicial ethics. And my judicial
responsibilities preclude me from commenting on any ongoing debates about
particular issues or the constitutionality of any enacted legislation or pending
proposals. But I can provide some clarification on how the Justices address
ethical issues and dispel some common misconceptions.

A. The Code of Conduct for United States Judges

What is now known as the Judicial Conference of the United States
was created by Congress in 1922 to provide national guidance to the lower
federal courts. The Chief Justice chairs the Judicial Conference, which
includes the chief judge of each of the 13 federal judicial circuits and a
district judge from each circuit. The Judicial Conference conducts much of
its work through 25 committees, including the Committee on Codes of
Conduct. As noted, that committee has promulgated and periodically revises
the Code of Conduct for United States Judges. It also provides advice, on a
formal and informal basis, to judges and judicial employees on the meaning
and application of the Code’s provisions.

The Code of Conduct, by its express terms, applies only to lower
federal court judges. That reflects a fundamental difference between the
Supreme Court and the other federal courts. Article III of the Constitution creates only one court, the Supreme Court of the United States, but it empowers Congress to establish additional lower federal courts that the Framers knew the country would need. Congress instituted the Judicial Conference for the benefit of the courts it had created. Because the Judicial Conference is an instrument for the management of the lower federal courts, its committees have no mandate to prescribe rules or standards for any other body.

Some observers have suggested that, because the Judicial Conference’s Code of Conduct applies only to the lower federal courts, the Supreme Court is exempt from the ethical principles that lower courts observe. That observation rests on misconceptions about both the Supreme Court and the Code.

All Members of the Court do in fact consult the Code of Conduct in assessing their ethical obligations. In this way, the Code plays the same role for the Justices as it does for other federal judges since, as the commentary accompanying Canon 1 of the Code explains, the Code “is designed to provide guidance to judges.” It serves the same purpose as the 1924 Canons that Chief Justice Taft helped to develop, and Justices today use the Code for precisely that purpose. Each does so for the same compelling practical
reason: Every Justice seeks to follow high ethical standards, and the Judicial Conference’s Code of Conduct provides a current and uniform source of guidance designed with specific reference to the needs and obligations of the federal judiciary.

The Code of Conduct is not, of course, the only source of guidance for Justices or lower court judges. Because it is phrased in general terms, it cannot answer all questions. And because the Code was developed for the benefit of the lower federal courts, it does not adequately answer some of the ethical considerations unique to the Supreme Court. The Justices, like other federal judges, may consult a wide variety of other authorities to resolve specific ethical issues. They may turn to judicial opinions, treatises, scholarly articles, and disciplinary decisions. They may also seek advice from the Court’s Legal Office, from the Judicial Conference’s Committee on Codes of Conduct, and from their colleagues. For that reason, the Court has had no reason to adopt the Code of Conduct as its definitive source of ethical guidance. But as a practical matter, the Code remains the starting point and a key source of guidance for the Justices as well as their lower court colleagues.
B. Financial Disclosure and Gift Regulations

In addition to establishing the Judicial Conference, Congress has enacted legislation addressing a number of specific ethical matters. In particular, Congress has directed Justices and judges to comply with both financial reporting requirements and limitations on the receipt of gifts and outside earned income. The Court has never addressed whether Congress may impose those requirements on the Supreme Court. The Justices nevertheless comply with those provisions.

The Justices file the same financial disclosure reports as other federal judges. Those reports disclose, among other things, the Justices’ non-governmental income, investments, liabilities, gifts, and reimbursements from third parties. For purposes of sound administration, the Justices, like lower court judges, file those reports through the Judicial Conference’s Committee on Financial Disclosure. That committee provides guidance on the sometimes complex reporting requirements.

The Justices also observe the same limitations on gifts and outside income as apply to other federal judges. To provide additional guidance for lower court judges, the Judicial Conference has promulgated regulations governing both of those subjects. In 1991, the Members of the Court adopted an internal resolution in which they agreed to follow the Judicial
Conference regulations as a matter of internal practice. As a result, the Justices follow the very same practices on those subjects as their lower court colleagues.

C. Recusal

Congress has directed that federal judicial officers must disqualify themselves from hearing cases in specified circumstances. As in the case of financial reporting and gift requirements, the limits of Congress's power to require recusal have never been tested. The Justices follow the same general principles respecting recusal as other federal judges, but the application of those principles can differ due to the unique circumstances of the Supreme Court.

The governing statute, which is set out in Title 28, Section 455, of the United States Code, states, as a general principle, that a judge shall recuse in any case in which the judge's impartiality might reasonably be questioned. That objective standard focuses the recusal inquiry on the perspective of a reasonable person who is knowledgeable about the legal process and familiar with the relevant facts. Section 455 also identifies a number of more specific circumstances when a judge must recuse.

All of the federal courts follow essentially the same process in resolving recusal questions. In the lower courts, individual judges decide for
themselves whether recusal is warranted, sometimes in response to a formal written motion from a party, and sometimes at the judge’s own initiative. In applying the Section 455 standard, the judge may consult precedent, consider treatises and scholarly publications, and seek advice from other sources, including judicial colleagues and the Judicial Conference’s Committee on Codes of Conduct. A trial judge’s decision not to recuse is reviewable by a court of appeals, and a court of appeals judge’s decision not to recuse is reviewable by the Supreme Court. A court normally does not sit in judgment of one of its own members’ recusal decision in the course of deciding a case.

The process within the Supreme Court is similar. Like lower court judges, the individual Justices decide for themselves whether recusal is warranted under Section 455. They may consider recusal in response to a request from a party in a pending case, or on their own initiative. They may also examine precedent and scholarly publications, seek advice from the Court’s Legal Office, consult colleagues, and even seek counsel from the Committee on Codes of Conduct. There is only one major difference in the recusal process: There is no higher court to review a Justice’s decision not to recuse in a particular case. This is a consequence of the Constitution’s
command that there be only “one supreme Court.” The Justices serve on the Nation’s court of last resort.

As in the case of the lower courts, the Supreme Court does not sit in judgment of one of its own Members’ decision whether to recuse in the course of deciding a case. Indeed, if the Supreme Court reviewed those decisions, it would create an undesirable situation in which the Court could affect the outcome of a case by selecting who among its Members may participate.

Although a Justice’s process for considering recusal is similar to that of the lower court judges, the Justice must consider an important factor that is not present in the lower courts. Lower court judges can freely substitute for one another. If an appeals court or district court judge withdraws from a case, there is another federal judge who can serve in that recused judge’s place. But the Supreme Court consists of nine Members who always sit together, and if a Justice withdraws from a case, the Court must sit without its full membership. A Justice accordingly cannot withdraw from a case as a matter of convenience or simply to avoid controversy. Rather, each Justice has an obligation to the Court to be sure of the need to recuse before deciding to withdraw from a case.
As with other ethical questions, Justices and lower federal court judges contemplating recusal can take good counsel from the principles set forth in Canon 14 of the original 1924 Canons of Judicial Ethics. That Canon addresses judicial independence. It provides that a judge “should not be swayed by partisan demands, public clamor or considerations of personal popularity or notoriety, nor be apprehensive of unjust criticism.” Such concerns have no role to play in deciding a question of recusal.

I have complete confidence in the capability of my colleagues to determine when recusal is warranted. They are jurists of exceptional integrity and experience whose character and fitness have been examined through a rigorous appointment and confirmation process. I know that they each give careful consideration to any recusal questions that arise in the course of their judicial duties. We are all deeply committed to the common interest in preserving the Court’s vital role as an impartial tribunal governed by the rule of law.

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When the Chicago White Sox took the field in 1919, they surely had no idea that their play would trigger a chain of events that would lead to the development of a code of conduct for federal judges. The public’s confidence in the integrity of the federal courts led to the appointment of a
federal judge to address the Black Sox Scandal. And when the federal
judiciary encountered an ethical issue of its own, it took the lead in
articulating ethical standards to bolster that confidence. Since that time, the
judiciary has continued to revisit and revise those standards to maintain the
public’s trust in the integrity of its members.

As Alexander Hamilton put it in The Federalist No. 78, federal judges
must “unite the requisite integrity with the requisite knowledge” to carry out
their duties under the Constitution and laws. Throughout our Nation’s
history, instances of judges abandoning their oath “to faithfully and
impartially discharge and perform” the duties of their office have been
exceedingly rare. Judges need and welcome guidance on their ethical
responsibilities, and sources such as the Judicial Conference’s Code of
Conduct provide invaluable assistance. But at the end of the day, no
compilation of ethical rules can guarantee integrity. Judges must exercise
both constant vigilance and good judgment to fulfill the obligations they
have all taken since the beginning of the Republic.

I end this year once again with gratitude to our federal judges and
court staff throughout the country for their selfless commitment to public
service in the face of demanding dockets and tightened budgets. I am also
grateful to Congress, in these times of fiscal constraint, for its careful
consideration of the judiciary's financial needs. Despite the many challenges, the federal courts continue to operate soundly, and the Nation's federal judges continue to discharge their duties with wisdom and care. I remain privileged and honored to be in a position to thank the judges and court staff for their dedication to the ideals that make our Nation great.

Best wishes in the New Year.
Appendix

Workload of the Courts

In 2011, caseloads increased in the U.S. district courts and in the probation and pretrial services offices, but decreased in the U.S. appellate and bankruptcy courts. Total case filings in the district courts grew 2% to 367,692. The number of persons under post-conviction supervision rose 2% to 129,780. Cases opened in the pretrial services system also went up 2%, reaching 113,875. In the U.S. courts of appeals, though, filings dropped 1.5% to 55,126. Filings in the U.S. bankruptcy courts, which had climbed 14% in 2010, declined 8% this year to just below 1.5 million petitions.

The Supreme Court of the United States

The total number of cases filed in the Supreme Court decreased from 8,159 filings in the 2009 Term to 7,857 filings in the 2010 Term, a decrease of 3.7%. The number of cases filed in the Court’s in forma pauperis docket decreased from 6,576 filings in the 2009 Term to 6,299 filings in the 2010 Term, a 4.2% decrease. The number of cases filed in the Court’s paid docket decreased from 1,583 filings in the 2009 Term to 1,558 filings in the 2010 Term, a 1.6% decrease. During the 2010 Term, 86 cases were argued and 83 were disposed of in 75 signed opinions, compared to 82 cases argued and 77 disposed of in 73 signed opinions in the 2009 Term.
The Federal Courts of Appeals

Filings in the regional courts of appeals fell 1.5% to 55,126. Growth occurred in original proceedings and bankruptcy appeals. Appeals arising from the district courts decreased. Although civil appeals remained fairly stable, reductions occurred in many types of criminal appeals. Appeals of administrative agency decisions declined as a result of the continued drop in filings related to the Board of Immigration Appeals.

The Federal District Courts

Civil filings in the U.S. district courts grew 2% to 289,252 cases. Fueling this growth was a 2% increase in 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 in the case), which resulted mainly from cases addressing civil rights, consumer credit, and intellectual property rights.

Cases filed with the United States as a party climbed 9%. Those with the United States as plaintiff increased in response to a surge in defaulted student loan cases. Cases with the United States as defendant rose largely because of growth in Social Security cases.

Although criminal case filings (including transfers) remained stable (up by 12 cases to 78,440), the number of criminal defendants increased 3% to set a new record of 102,931. Growth in filings occurred for defendants
charged with drug crimes, general offenses, firearms and explosives offenses, sex offenses, and property offenses.

Filings for defendants charged with immigration offenses fell for the first time since 2006, decreasing 3%. The southwestern border districts accounted for 74% of the Nation’s total immigration defendant filings, up from 73% in 2010.

The Bankruptcy Courts

Filings of bankruptcy petitions declined 8% to 1,467,221. This was the first reduction since 2007, when filings plunged after the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 took effect. Filings for 2011 were lower in 87 of the 90 bankruptcy courts. Nonbusiness petitions fell 8%, and business petitions dropped 14%.

Bankruptcy petitions decreased 10% under chapter 7, 16% under chapter 11, and 4% under chapter 13.

The Federal Probation and Pretrial Services System

The 129,780 persons under post-conviction supervision on September 30, 2011, represented an increase of 2% over the total from the previous year. The number of persons serving terms of supervised release after their departure from correctional institutions grew 2% to 105,037, and amounted to 81% of all persons under supervision.
Cases opened in the pretrial services system in 2011, including pretrial diversion cases, rose 2% to 113,875.