



U.S. District Court Vacancies at the End of a President's Fourth Calendar Year in Office

July 6, 2020

This Insight provides, from the Reagan presidency to the Obama presidency, comparative historical data related to [U.S. district court vacancies and nominations](#) that existed at the end of a President's fourth calendar year in office. Specifically, the data provided reflect district court vacancies that existed on January 1 after a President's fourth calendar year in office (as well as any nominations for these same vacancies that were returned by the Senate at or near the end of a President's fourth year in office).

The specific dates for which vacancies are reported include January 1, 1985 (for the end of [President Reagan's](#) fourth calendar year in office); January 1, 1993 ([George H. W. Bush presidency](#)); January 1, 1997 ([Clinton presidency](#)); January 1, 2005 ([George W. Bush presidency](#)); and January 1, 2013 ([Obama presidency](#)).

The data discussed in the text below do not include vacancies that were created as the result of new district court judgeships authorized by Congress (and that, after being created, were never filled by a nominee prior to January 1 after a President's fourth year in office). First, this type of vacancy was [relatively rare in recent decades](#) and not common during the three most recent presidencies included in the analysis—for example, there were two such vacancies on January 1 following the fourth calendar years of the Clinton presidency and one on January 1 following each of President George W. Bush's and Obama's fourth year in office. Additionally, legislation creating new judgeships has, on at least one occasion, specified that some vacancies as a result of new judgeships could not be filled until after the beginning of a new presidential term (see, for example, §202(c) of P.L. 98-353 that applied to new judgeships created in July of 1984 during the first term of the Reagan presidency).

While vacancies that existed as a result of newly authorized judgeships are not included in the statistics discussed in the text below, both **Figures 1** and **2** list the number of such vacancies that existed on January 1 after a President's fourth calendar year in office.

Additionally, the [number of district court judgeships](#) authorized by Congress during this period ranged from 571 to 673—consequently, the numbers reported below do not reflect the *percentage* of vacant judgeships.

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Number of Vacancies on January 1 After Fourth Calendar Year in Office

As shown by **Figure 1**, multiple U.S. district court vacancies existed at the end of each President’s fourth calendar year in office. The number of vacancies, excluding newly authorized judgeships, ranged from a low of 19 during the Reagan presidency to a high of 65 during the Clinton presidency.

The two presidencies for which the number of vacancies were lowest at the end of a fourth calendar year (Reagan and George W. Bush) followed a period during which there was unified party control; that is, the President and [Senate majority](#) were of the same party. Conversely, the two presidencies with the most vacancies (Clinton and George H. W. Bush) followed a period during which there was divided control; that is, the President and Senate majority were of different parties. The number of vacancies after the fourth calendar year of the Obama presidency was closer to the number of vacancies following periods of divided party control than other periods of unified control.

Figure 1. Number of U.S. District Court Vacancies at End of Fourth Calendar Year of Presidency

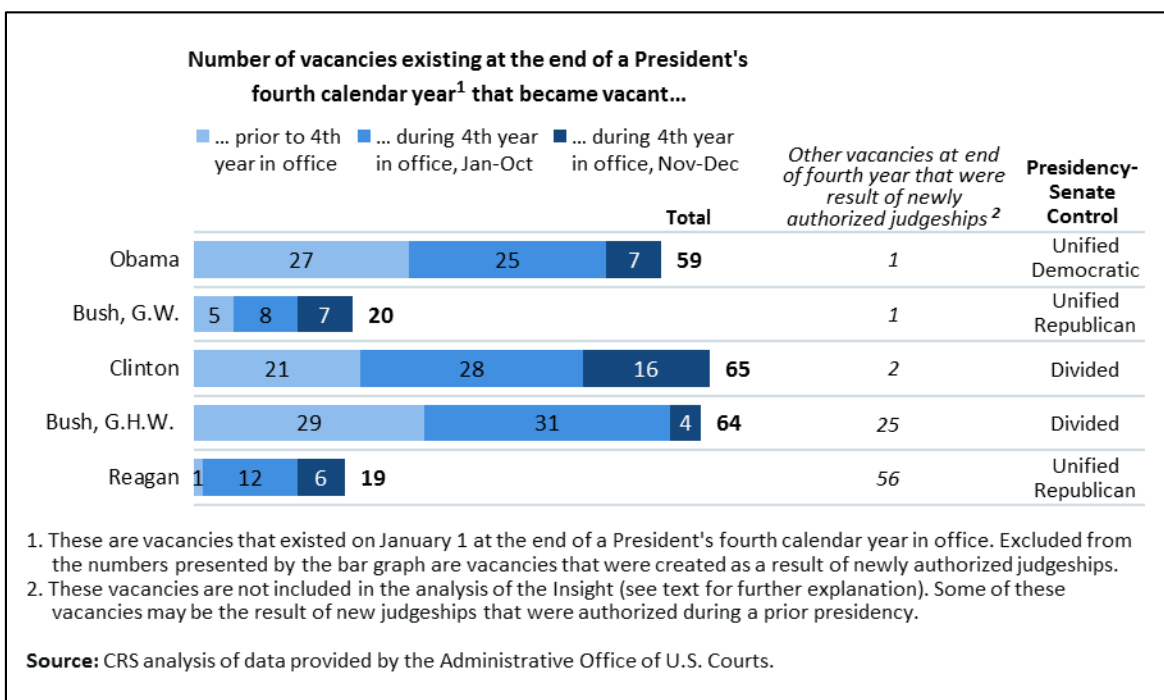


Figure 1 also shows *when* the district court vacancies that existed on January 1 after a President’s fourth year in office became vacant—i.e., prior to his fourth calendar year in office; during his fourth calendar year in office (from January through October); or during his fourth calendar year in office (in November or December). The figure shows that, for four of the five presidencies, most of the vacancies that existed on January 1 after a President’s fourth calendar year in office first arose at some point during his fourth year from January through October.

Pending Nominations Returned for Vacancies That Existed at End of Fourth Calendar Year of Presidency

Figure 2 shows the number of vacancies that existed on January 1 after a President’s fourth calendar year in office that had nominations pending at some point prior to that date. So, for example, during the Reagan presidency there were 19 vacancies at the end of his fourth calendar year in office—excluding

vacancies for newly authorized judgeships. Of the 19 vacancies, 3 had prior pending nominations that were each returned by the Senate to the President on October 18, 1984 (note that the date on which nominations were returned varied by presidency).

Figure 2. Pending Nominations for Vacancies at End of Fourth Calendar Year of Presidency That Were Returned to a President

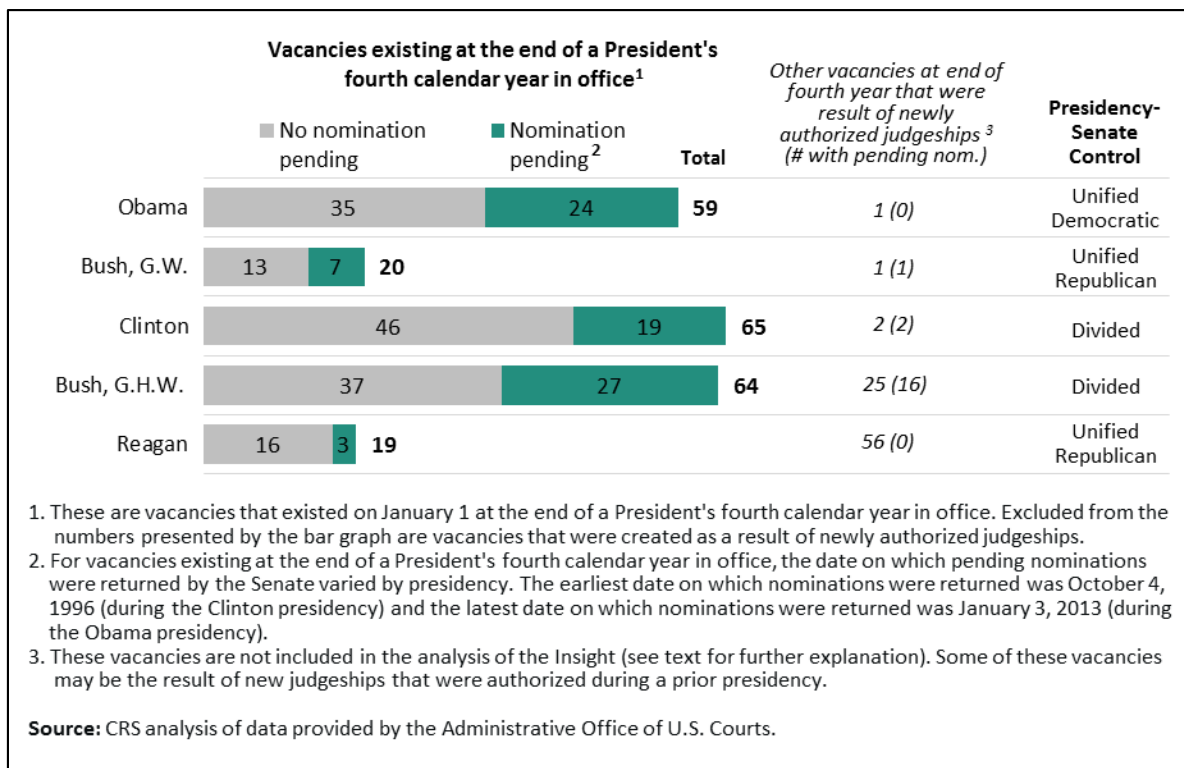


Figure 2 also shows that at the end of each President’s fourth calendar year in office there were multiple district court nominations returned by the Senate. The number of nominations returned to a President ranged from a low of 3 (Reagan) to a high of 27 (George H. W. Bush).

As with the number of vacancies at the end of a President’s fourth year in office, the smallest number of pending nominations were returned to Presidents following periods of unified party control (Reagan and George W. Bush). More pending nominations typically were returned following periods of divided control (Clinton and George H. W. Bush), with the exception of Obama’s presidency, which had the second-highest number of nominations returned (after following a period of unified party control).

While not included in **Figure 2**, when the returned nominations had been first submitted to the Senate also varied by presidency. For four of the five presidencies (with the exception of the George W. Bush presidency), most of the nominations that were returned had been first submitted to the Senate during a President’s fourth calendar year in office.

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