

WHAT IS A MAGISTRATE JUDGE

Judges of the United States District Courts

The United States District Courts are the trial courts of the federal judicial system, hearing a wide range of civil and criminal matters falling within their jurisdiction. The District Court system features two types of federal judges that preside over both criminal and civil matters: United States District Judges and United States Magistrate Judges.¹ The District Courts also include Bankruptcy Judges, who preside over a bankruptcy court from which appeals can be taken to a District Judge.

While District Judges can hear any matter falling within the District Court's broad jurisdiction, the duties of a Magistrate Judge vary from district to district. Magistrate Judges may be authorized to preside in almost every type of federal trial proceeding except for felony cases.

Appointment of United States Magistrate Judges

Distinct from United States District Judges, who are frequently called "Article III" judges because they are appointed under Article III of the U.S. Constitution, United States Magistrate Judges are appointed by the district courts via congressional action under Article I of the U.S. Constitution.² Magistrate Judges are selected based on merit. Under regulations issued by the Judicial Conference, a district court fills a Magistrate Judge vacancy from a list of candidates proposed by a merit selection panel of residents of the

¹ When the United States Congress enacted the Judicial Improvements Act of 1990, one of its stated goals was to address the "problems of cost and delay in civil litigation in any United States district court [.]". Judicial Improvements Act of 1990, Pub. L. No. 101-650, 104 Stat 5089. Among other things, the act created the United States Magistrate Judge. *See id.* § 321, codified as 28 U.S.C.A. § 631. The district courts had long been home to the federal magistrate, an office that had its roots in the eighteenth century. *See* Federal Magistrates Act, Pub. L. No. 90-578, 82 Stat. 1107 (1968); Peter G. McCabe, *A Guide to the Federal Magistrate Judges System: A White Paper Prepared at the Request of the Federal Bar Association* 3-13 (Oct. 2016 update) available at <https://www.fedbar.org/wp-content/uploads/2019/10/FBA-White-Paper-2016-pdf-2.pdf>. By the time Congress passed the Judicial Improvements Act of 1990, federal magistrates had become "indispensable" to the functioning of the United States District Courts. *Peretz v. United States*, 501 U.S. 923, 928 (1991) (quoting *Gov't of the Virgin Islands v. Williams*, 892 F.2d 305, 308 (3d Cir. 1989)). With the name change came a recognition of the true role federal magistrates had grown into—that of judge.

² *See* 28 U.S.C.A. § 631(a) (authorizing appointment by district court).

district, after public notice.³ Full-time Magistrate Judges have renewable 8-year terms of appointment, while part-time Magistrate Judges have renewable 4-year terms.⁴

Although candidates for a Magistrate Judgeship must have at least five years' experience,⁵ “[a]t the time of appointment, the average age of new full-time Magistrate Judges has consistently been 49 to 50 years old, and they have had an average of 21 to 22 years of legal experience.”⁶ As of 2019, there were 549 full-time and 29 part-time Magistrate Judge positions.⁷ It has become common for presidents to find candidates for Article III judgeship among the ranks of Magistrate Judges.⁸

Role of United States Magistrate Judges

The role of the Magistrate Judge is flexible by design. Formally defined by statute at 28 U.S.C. § 636, the powers and duties of a Magistrate Judge are set forth broadly enough to allow each District Court to determine where their efforts are most needed. “The authority that a magistrate judge exercises is the jurisdiction of the district court itself, delegated to the magistrate judge by the district judges for the court under governing statutory authority and local rules of court.”⁹ District Judges have promoted the expansion of the role of the Magistrate Judge by diversifying Magistrate Judge duties and increasingly assigning matters of importance. In the criminal context, it is common for a Magistrate Judge to:

- conduct initial appearances and arraignments for defendants accused of felony offenses,
- appoint counsel for criminal defendants,
- determine whether criminal defendants will be detained or released on a bond,
- assess whether a case merits dismissal,
- take guilty pleas in felony cases,
- issue search and arrest warrants, and

³ 28 U.S.C.A. § 631(b)(5); *see also* JUDICIAL SERVICES OFFICE, ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS, Pamphlet, THE SELECTION, APPOINTMENT, AND REAPPOINTMENT OF UNITED STATES MAGISTRATE JUDGES (Oct. 2016) *available at* https://www.med.uscourts.gov/opt/sites/default/files/Selection_and_Appointment_of_Magistrate_Judges_Oct-2016.pdf.

⁴ 28 U.S.C.A. § 631(e).

⁵ 28 U.S.C.A. § 631(b).

⁶McCabe, *supra* note 1 at 16.

⁷ United States Courts, STATUS OF MAGISTRATE JUDGE POSITIONS AND APPOINTMENTS — JUDICIAL BUSINESS 2019, <https://www.uscourts.gov/statistics-reports/status-magistrate-judge-positions-and-appointments-judicial-business-2019> (last visited June 22, 2021).

⁸ “As of September 1, 2016, 169 full-time Magistrate Judges and 7 part-time Magistrate Judges had each received presidential appointments to serve as Article III judges.” McCabe, *supra* note 1 at 15.

⁹ JUDICIAL SERVICES OFFICE, INVENTORY OF UNITED STATES MAGISTRATE JUDGE DUTIES (2013 ed.), *available at* <https://www.uscourts.gov/judges-judgeships/about-federal-judges>.

- assess petitions for *habeas corpus*,

In the civil context, it is common for a Magistrate Judge to:

- make final determinations on a wide variety of preliminary and non-dispositive motions,
- make determinations of fact,
- make recommendations to the district judge on dispositive motions such a summary judgment,
- conduct mediations,
- resolve discovery and other pretrial disputes, and
- recommend whether a Social Security claimant should receive a disability award.

When all parties to a civil case consent, Magistrate Judges hear the entire dispute, rule on all motions, preside at trial, and enter judgment.¹⁰

The ultimate limit on the Magistrate Judge’s role is the United States Constitution. Because Congress defines the role of Magistrate Judges, who do not enjoy lifetime tenure as Article III judges do, the courts have taken care to craft a role for Magistrate Judges that does not offend constitutional principles, including the separation of powers doctrine.¹¹ The role of the Magistrate Judge is therefore consistently and carefully examined within the constitutional framework.¹²

Impact of the United States Magistrate Judges

Since the office was created in 1990, United States Magistrate Judges have brought over 150,000 civil lawsuits to resolution with the consent of the parties, including presiding over thousands of jury and bench trials.¹³ In 2020 alone, Magistrate Judges

¹⁰ 28 U.S.C.A. § 636(c); Fed. R. Civ. P. 73(a).

¹¹ See, e.g., *Wellness Int’l Network, et. al. v. Sharif*, 575 U.S. 665, 687-705 (2015) (Roberts, C.J. dissenting)(the “great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others”)(quoting *The Federalist* No. 51, at 321–322 (J. Madison)); *United States v. Hollingsworth*, 783 F.3d 556, 563 (5th Cir. 2015) (“[b]ecause the federal magistracy’s members are appointed by federal judges instead of the President or the President’s appointees, we can have greater confidence in federal magistrate judges’ ability to fairly exercise federal judicial power and to avoid diminution of the separation of powers”).

¹² *Id*; see also, e.g., *Commodity Futures Trading Comm’n v. Schor*, 478 U.S. 833 (1986) (litigant consent to have claims disposed of by a non-Article III tribunal did not violate Article III); *Gomez v. United States*, 490 U.S. 858 (1989) (a Magistrate Judge could not conduct *voir dire* in a felony case as an additional duty under 28 U.S.C. § 636(b)(3) without defendant’s consent); and *Peretz v. United States*, 501 U.S. 923 (1991) (a Magistrate Judge could be referred a felony *voir dire* proceeding as an additional duty with the parties’ consent).

¹³ United States Courts, JUDICIAL FACTS AND FIGURES, *U.S. District Courts—Civil Consent Cases Terminated by U.S. Magistrate Judges Under 28 U.S.C. Section 636(c)* (2020), <https://www.uscourts.gov/statistics/table/412/judicial-facts-and-figures/2020/09/30>.

handled over 224,000 pretrial criminal matters (including non-dispositive motions, guilty plea proceedings, and pretrial conferences),¹⁴ and over 330,000 pretrial civil matters (including motion hearings, mediations, and other pretrial conferences).¹⁵ Discussing the contributions of Magistrate Judges and Bankruptcy Judges, the U.S. Supreme Court has recognized that, “it is no exaggeration to say that without the distinguished service of these judicial colleagues, the work of the federal court system would grind nearly to a halt.”¹⁶

Visit this link for additional information on the Selection of Magistrate Judges

¹⁴ United States Courts, JUDICIAL BUSINESS, *U.S. District Courts—Criminal Pretrial Matters Handled by U.S. Magistrate Judges Under 28 U.S.C. § 636(b) During the 12-Month Period Ending September, 2020 as of November 18, 2020*, <https://www.uscourts.gov/statistics/table/m-4/judicial-business/2020/09/30>

¹⁵ United States Courts, JUDICIAL BUSINESS, *U.S. District Courts—Civil Pretrial Matters Handled by U.S. Magistrate Judges Under 28 U.S.C. § 636(b) During the 12-Month Period Ending September, 2020 as of November 18, 2020*, <https://www.uscourts.gov/statistics/table/m-4a/judicial-business/2020/09/30>.

¹⁶ *Wellness Int'l Network, Ltd. v. Sharif*, 575 U.S. 665, 668 (2015).