

Appearances by Sitting U.S. Supreme Court Justices at Congressional Committee and Subcommittee Hearings (1960-2022)

May 2, 2023

This Insight provides historical information and analysis related to appearances by sitting U.S. Supreme Court Justices at congressional committee and subcommittee hearings during the period 1960 through 2022 (confirmation hearings are excluded from the analysis). Congressional hearings are used, generally, by committees and subcommittees “to obtain information and opinions on proposed legislation, conduct an investigation, or evaluate/oversee the activities of a government department.” Hearings “may also be purely exploratory in nature, providing testimony and data about topics of current interest.”

It has not been uncommon, at least since 1960, for sitting Supreme Court Justices to appear at congressional committee and subcommittee hearings. Justices made such appearances at least once every year from 1960 through 2011. Supreme Court Justices last appeared at a subcommittee hearing in the [House in 2019](#), when Justices [Samuel Alito](#) and [Elena Kagan](#) testified about the Supreme Court’s budget request for FY2020. Sitting Justices last appeared at a [Senate hearing in 2011](#), when Justices [Stephen Breyer](#) and [Antonin Scalia](#) testified before the Senate Judiciary Committee regarding their views about the constitutional role of federal judges.

The data presented below were compiled from information collected by CRS using [ProQuest Congressional](#).

How many appearances did Supreme Court Justices make at committee or subcommittee hearings from 1960 through 2022?

CRS identified 93 committee or subcommittee hearings held from 1960 through 2022 that included an appearance by at least one sitting Supreme Court Justice. Of the 93 hearings, 64 (69%) were held by a House committee or subcommittee and 29 (31%) were held by a Senate committee or subcommittee. CRS identified no instance of a sitting Justice appearing before a joint committee.

Collectively, the 93 committee and subcommittee hearings during this period featured a total of 175 appearances by sitting Supreme Court Justices (most hearings included appearances by at least two Justices). By chamber, this included 120 appearances in the House and 55 appearances in the Senate.

Congressional Research Service

<https://crsreports.congress.gov>

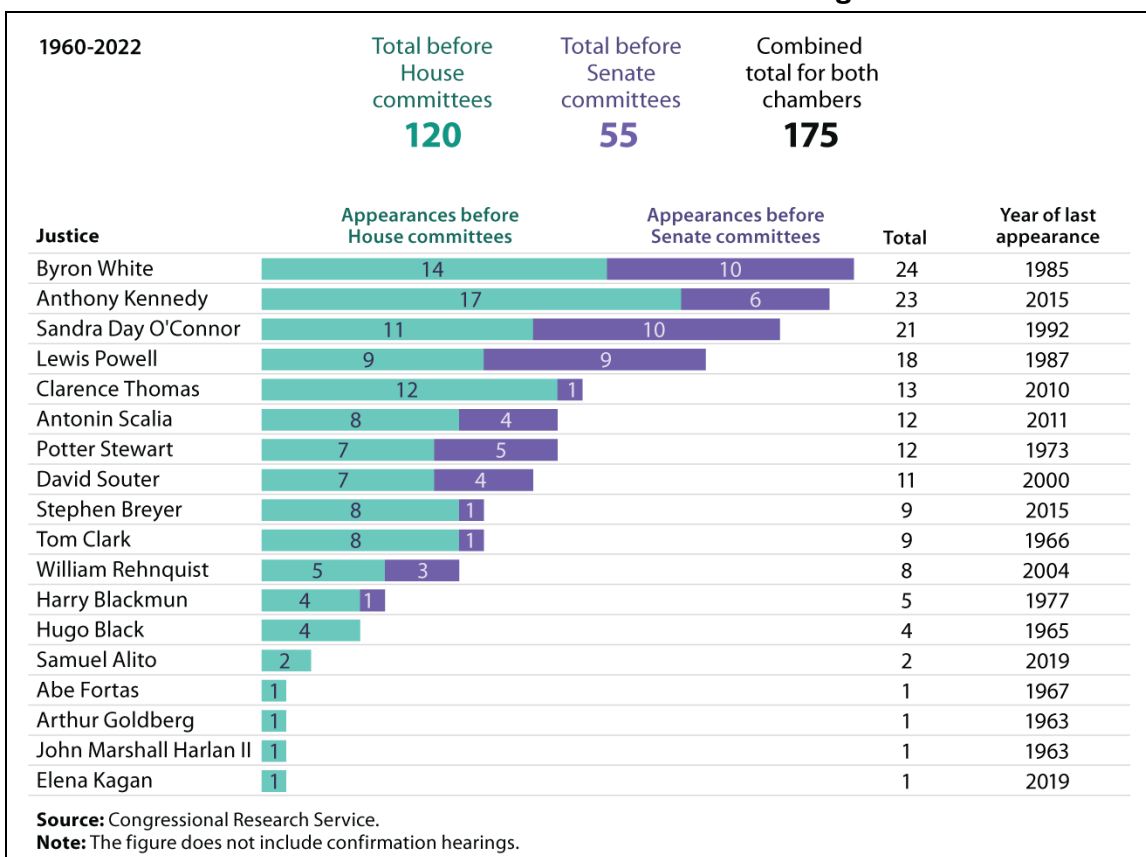
IN12155

Of the 24 Justices who have served on the Court since 1960, excluding those currently serving, 15 (63%) appeared at a congressional committee or subcommittee hearing on at least one occasion.

Of the nine current Justices, three (33%) have appeared at a committee or subcommittee hearing on at least one occasion. Justice [Clarence Thomas](#) has appeared 10 times, last appearing in 2010. Justice Alito has appeared twice, last appearing in 2019 with Justice Kagan (who has appeared once).

Figure 1 shows the total number of appearances made by specific Justices at committee and subcommittee hearings from 1960 through 2022, as well as a breakdown of each Justice's appearances in each chamber. The figure also indicates the last year a Justice appeared before a congressional committee or subcommittee while still serving on the Court.

Figure 1. Number of Appearances by Sitting Supreme Court Justices at Congressional Committee and Subcommittee Hearings



As shown by the figure, Justice [Byron White](#) made the greatest number of total appearances before congressional committees and subcommittees (24), followed by Justices [Anthony Kennedy](#) (23) and [Sandra Day O'Connor](#) (21). Justice Kennedy made the greatest number of appearances in the House, while Justices O'Connor and White made the greatest number of appearances in the Senate. The average number of appearances by Justices who appeared during this period was approximately 10.

In how many years from 1960 through 2022 did Supreme Court Justices appear before congressional committees or subcommittees?

Overall, from 1960 through 2022, a sitting Supreme Court Justice appeared at a House or Senate committee or subcommittee hearing in 55 of the 63 years during this period. Notably, a sitting Justice

appeared every year from 1960 through 2011 (for 52 consecutive years). In contrast, CRS did not identify any such appearances by a sitting Justice in either chamber for 8 of the past 11 years (there were no appearances in 2012, 2014, 2016, 2017, 2018, 2020, 2021, or 2022).

Additionally, there was a notable decline in appearances by sitting Justices at committee or subcommittee hearings in the Senate after 2000. Of the 29 Senate committee or subcommittee hearings for which a sitting Justice appeared, 26 (90%) occurred prior to 2000. The three most recent appearances by sitting Justices at a Senate committee or subcommittee hearing were in 2002, 2007, and 2011.

Prior to 2000, appearances by sitting Justices at committee and subcommittee hearings in the Senate were more common—specifically, such appearances occurred in 1964, 1967 to 1970 (four consecutive years), 1972 to 1974 (three consecutive years), 1978 to 1987 (10 consecutive years), 1989 to 1992 (four consecutive years), 1994, and 1996 to 1998 (three consecutive years).

Before which congressional committees and subcommittees did Supreme Court Justices appear?

Of the 175 appearances by sitting Justices from 1960 through 2022, 161 (92%) were before either the [House](#) or [Senate Appropriations Committee](#) (most commonly, before an appropriations subcommittee).

While most appearances by sitting Justices since 1960 have been in the context of the Court’s annual appropriations request, the questions posed to the Justices during appropriations hearings have not been limited solely to its request. For example, Justices have been asked questions related to why the Supreme Court itself has not adopted the [Code of Judicial Conduct](#), how the judiciary handles workplace misconduct issues, and the confirmation process for federal judges.

Appearances prior to 1960 may have been less tied to the Court’s annual appropriations request. As [noted by Senator Leahy in 2011](#), an appearance by Justice Kennedy before the Senate Judiciary Committee in 2007 reflected “a tradition of Justices testifying before Congress on matters other than their appropriations requests, a tradition which included appearances by [Chief Justice Taft](#) and [Chief Justice Hughes](#) in the 1920s and ‘30s, as well as by [Justice Jackson](#) in 1941.”

Author Information

Barry J. McMillion
Analyst in American National Government

Jennifer E. Manning
Senior Research Librarian

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS’s institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United

States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.