

**Electronic Filing Times
in Federal Courts**

**Federal Judicial Center
2022**

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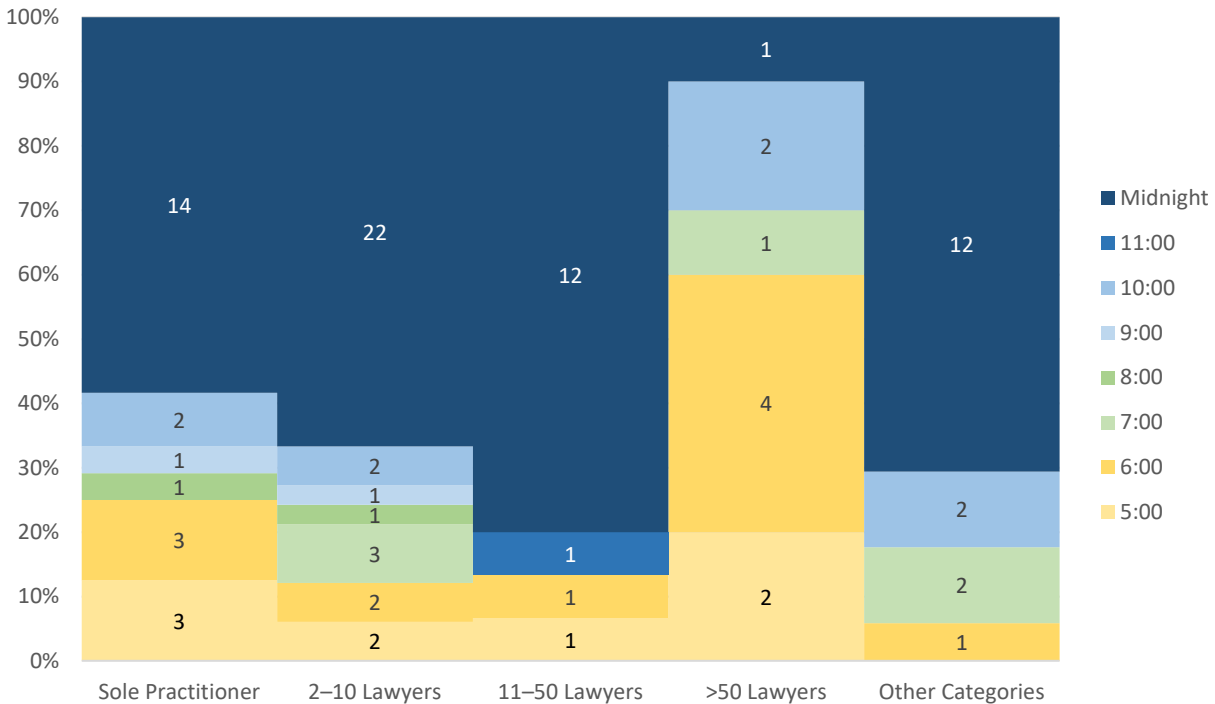
ELECTRONIC FILING TIMES IN FEDERAL COURTS

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This empirical research was completed to inform the Judicial Conference’s standing Committee on Rules of Practice and Procedure as the committee considers whether the due time for a filing in a federal court should be some time before midnight on the due date. We have charted the time of day for all docket entries¹ made in 2018 in all federal courts of appeals, district courts, and bankruptcy courts. We have charted separately and together various types of filer for each court, and we have additionally charted motions and responses for courts both together and separately.

Filing Deadline Preference by Law Practice



We planned to ask a random sample of judges and attorneys about their practices and preferences, but we brought the survey to a close during its pilot phase because of the still-present COVID-19 pandemic. Our pilot data were

1. The expressions “docket entries” and “filings” are used in this report substantially interchangeably.

too limited for nuanced analyses, but as the preceding chart shows, attorneys working for large firms were most likely to have a preference for a filing deadline earlier than midnight.²

Attorneys participating in the pilot survey were identified from a random selection of filings in one court of appeals, three district courts, and three bankruptcy courts, excluding assistant U.S. attorneys, whom we would have needed additional permission to include in the final survey. The response rate was 54%.

Courts

There are thirteen federal courts of appeals and ninety-four district courts. The three territorial districts—Guam, Northern Mariana Islands, and Virgin Islands—have bankruptcy divisions rather than separate bankruptcy courts. A single bankruptcy court serves both districts in Arkansas, but there are separate filing data for the two districts in that bankruptcy court. There is a separate bankruptcy court for each of the other districts, ninety in all.

We examined the local rules and electronic filing administrative procedures for each court, and we summarize the relevant provisions in Appendix I for the courts of appeals,³ Appendix II for the district courts,⁴ and Appendix III for the bankruptcy courts.⁵

Because the COVID-19 pandemic disrupted filing practices, we did not do the comprehensive survey of clerks of court that we had planned.

Office Hours

Our research on the courts' office hours was conducted before the COVID-19 pandemic. Many courts made temporary adjustments to their counter hours because of the pandemic. We did not look for permanent changes, which we think have been modest in scope and uncertain in longevity.

Clerks' offices open as early as 8:00 for paper filing, and they stay open as late as 5:00. All clerks' offices are open during the hours from 9:00 to noon in the morning and from 1:30 to 3:00 in the afternoon.

Two courts of appeals, eighteen district courts, and eleven bankruptcy courts are open as many as nine hours. Nineteen district courts and twenty-two bankruptcy courts are open for as few as six to seven hours. The rest are open for about eight hours.

2. Numbers in the chart refer to how many attorneys of each practice organization type preferred each filing deadline. For example, fourteen sole practitioners, twenty-two attorneys working in firms with two to ten lawyers, twelve attorneys working in firms with eleven to fifty lawyers, one attorney working in a firm with more than fifty lawyers, and twelve attorneys working in other organizations preferred a midnight deadline.

Other organizations included federal, state, and local governments; corporations; and nonprofit organizations.

3. www.fjc.gov/sites/default/files/materials/39/FilingTimesCourtsOfAppeals.pdf.

4. www.fjc.gov/sites/default/files/materials/39/FilingTimesDistrictCourts.pdf.

5. www.fjc.gov/sites/default/files/materials/27/FilingTimesBankruptcyCourts.pdf.

For the following summaries of filing hours, if a court has different hours in different offices, the summaries are based on prevailing hours in main offices.

Morning Opening

Ten courts of appeals, seventy-two district courts, and sixty-nine bankruptcy courts are open at 8:30. Two courts of appeals, thirty-one district courts, and thirty-three bankruptcy courts open at 8:00.

Lunch Closing

Clerks' offices in six district courts and one bankruptcy court are closed from noon to 1:00, clerks' offices in two district courts are closed from 12:30 to 1:30, and the clerk's office in one bankruptcy court is closed from 1:00 to 1:30.

Afternoon Closing

Clerks' offices for the district courts and the bankruptcy courts in the District of Guam and the Eastern District of Kentucky and for the bankruptcy court in the Northern District of Oklahoma close at 3:00. Eighteen other district courts and thirty-five other bankruptcy courts close at 4:00. Three courts of appeals, thirty-five district courts, and thirty-three bankruptcy courts close at 4:30. Ten courts of appeals, thirty-eight district courts, and twenty-two bankruptcy courts remain open until 5:00.

Websites

Many courts clearly post their operating hours on their public websites. However, for four courts of appeals, fifteen district courts, and two bankruptcy courts, it took two researchers to find counter hours online. For an additional three district courts and three bankruptcy courts, we had to call to learn the hours.

Drop Boxes

Our research on physical drop boxes was not comprehensive, but we feel confident of summary findings derived from several dozen conversations with clerks of court and members of their staffs for another project.

Many courts stopped using drop boxes with the advent of electronic twenty-four-hour filing. Some courts began to use them again because of COVID-19 pandemic counter closures. Some of these courts stopped using them when counter availability resumed normal hours.

A few courts have drop boxes available at all hours and from outside the court's building. More typically, the drop box is within the federal building where the court sits, and it is available during building hours: from some time before the clerk's counter opens until some time after the clerk's counter closes, not at all times.

Drop boxes often have time stamps attached. They are checked by court staff regularly.

Deadlines Before Midnight

Three district courts have afternoon filing deadlines on the days that filings are due: 5:00 in the Eastern District of Arkansas and 6:00 in the Districts of Delaware and Massachusetts. The District of Massachusetts's bankruptcy court has a 4:30 deadline. Replies in the Southern District of New York's bankruptcy court generally are due at 4:00 p.m. three days before the hearing. The District of Delaware's bankruptcy court explicitly declines to follow the district court's afternoon deadline.

The reason for the afternoon deadline in Delaware is unusual. The federal courts there extend filing privileges only to local attorneys, who frequently work with out-of-state attorneys—many in western time zones—because of the nature of federal litigation in Delaware. The afternoon filing deadline protects local attorneys from evening waits for documents submitted by other attorneys for the local attorneys to file in the district court. Because bankruptcy practice is different, bankruptcy attorneys did not request a due time earlier than midnight.

Docket Entries

We examined 47,420,684 docket entries made in 2018, the calendar year preceding our beginning the research. Most docket entries were made between 8:00 a.m. and 5:00 p.m. About one in fifty was made before that in the courts of appeals and the district courts, but 17% were made before 8:00 in the bankruptcy courts. There was a lot of nighttime robotic filing of notices in the bankruptcy courts.

About one in ten of the docket entries in the courts of appeals and the district courts was made after 5:00 p.m., about one in twenty after 6:00 p.m. In the bankruptcy courts, 16% of the docket entries were made after 5:00 p.m., and 12% were made after 6:00 p.m.

The data for the district courts and the bankruptcy courts distinguished filings by attorneys and filings by others, such as the court. The data for the courts of appeals do not reliably identify filer type, but they do identify which filings are briefs, and those are predominantly what attorneys file in the courts of appeals. About four out of five attorney filings in all three types of courts were made between 8:00 a.m. and 5:00 p.m. About one in fifty was made before 8:00, about one in six was made after 5:00, and about one in ten was made after 6:00.

In the district courts and the bankruptcy courts, filings are classified by type and subtype. Looking at the type and subtype data for each court, we identified combinations for each court that identified motions and responses approximately as well as we would have had we examined each of the several million docket entries individually.

Most motions and responses were filed between 8:00 a.m. and 5:00 p.m., but nearly a third of the responses filed in district courts were filed after 5:00 p.m. (31%). Somewhat more than one in five was filed after 6:00 p.m. (21%).

We examined random samples of individual motions and responses filed in a random sample of district courts.⁶ A document is usually filed on the day that it is due. A document filed at night is typically due on that day, but sometimes it is due on the following day.

Docket Entries in All Courts⁷

<i>Court Type</i>	<i>Docket Entries</i>	<i>Before 8:00</i>	<i>Between</i>		
			<i>8:00 and 5:00</i>	<i>After 5:00</i>	<i>After 6:00</i>
Appeals	1,321,506	2.5%	89%	8.9%	4.9%
District	15,267,093	2.0%	87%	11%	5.4%
Bankruptcy	30,832,085	17%	67%	16%	12%
ALL COURTS	47,420,684	12%	74%	14%	9.8%

Attorney Filings in All Courts

<i>Court Type</i>	<i>Filings</i>	<i>Before 8:00</i>	<i>Between</i>		
			<i>8:00 and 5:00</i>	<i>After 5:00</i>	<i>After 6:00</i>
Appeals (Briefs)	135,561	1.7%	83%	15%	10%
District	5,106,353	1.6%	79%	19%	11%
Bankruptcy	10,853,500	2.4%	82%	15%	8.3%
ALL COURTS	16,095,414	2.2%	81%	16%	9.3%

Motions Filed in District and Bankruptcy Courts

<i>Court Type</i>	<i>Motions</i>	<i>Before 8:00</i>	<i>Between</i>		
			<i>8:00 and 5:00</i>	<i>After 5:00</i>	<i>After 6:00</i>
District	1,350,949	1.4%	78%	20%	12%
Bankruptcy	1,444,190	2.3%	83%	14%	7.6%
ALL	2,795,139	1.9%	81%	17%	9.7%

Responses Filed in District and Bankruptcy Courts

<i>Court Type</i>	<i>Responses</i>	<i>Before 8:00</i>	<i>Between</i>		
			<i>8:00 and 5:00</i>	<i>After 5:00</i>	<i>After 6:00</i>
District	553,285	1.9%	67%	31%	21%
Bankruptcy	285,539	2.3%	81%	17%	9.8%
ALL	838,824	2.0%	71%	26%	17%

6. See Appendix IV. An Analysis of When Responses Were Filed in a Sample of Cases in a Sample of Courts:

www.fjc.gov/sites/default/files/materials/22/SpecificCasesMotionsAndResponses.pdf.

7. Note that in tables of this sort, the data in the “After 6:00” column are a subset of the data in the “After 5:00” column.

Appendices

This report has four appendices. The first three chart times for docket entries in each court. The fourth appendix examines filing times for random samples of motions and responses in thirteen district courts.

- I. The Courts of Appeals (44 pages)
www.fjc.gov/sites/default/files/materials/39/FilingTimesCourtsOfAppeals.pdf
- II. The District Courts (1,032 pages)
www.fjc.gov/sites/default/files/materials/39/FilingTimesDistrictCourts.pdf
- III. The Bankruptcy Courts (1,435 pages)
www.fjc.gov/sites/default/files/materials/27/FilingTimesBankruptcyCourts.pdf
- IV. An Analysis of When Responses Were Filed in a Sample of Cases in a Sample of Courts (54 pages)
www.fjc.gov/sites/default/files/materials/22/SpecificCasesMotionsAndResponses.pdf

Reading Charts

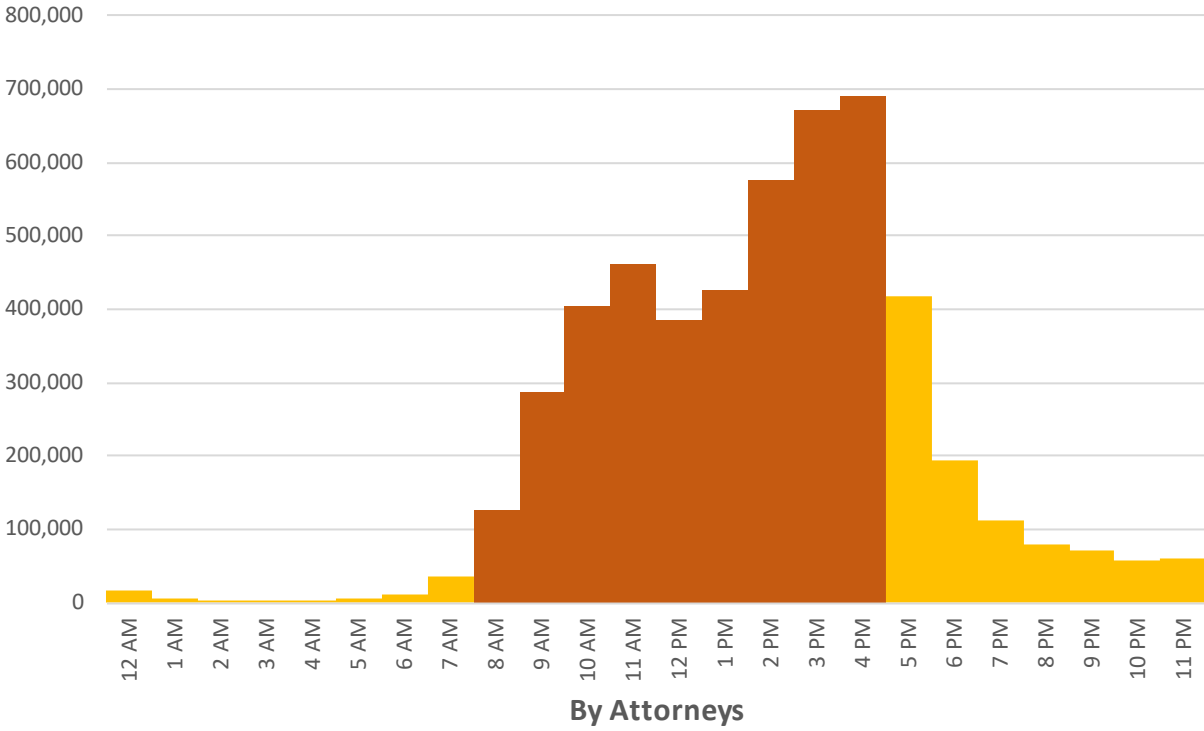
Many appendix charts show number of docket entries by hour time block for all filers or for a specific group of filers, such as the first chart on the next page. Color shading identifies the customary office hours of 8:00 a.m. to 5:00 p.m. Paired with these charts are charts showing the data in seven time blocks expressed as average docket entries made per hour over the course of the year, holidays and weekends included. The time blocks include customary office hours, the hour before midnight, the hour after midnight, the time block between the hour after midnight and the beginning of customary office hours, the hour immediately after customary office hours (5:00 to 6:00 p.m.), the evening hours (6:00 to 8:00 p.m.), and the nighttime hours between evening and the hour before midnight (8:00 to 11:00 p.m.).

We prepared charts similar to the first chart on the next page for briefs in the courts of appeals and motions and responses in the district and bankruptcy courts.

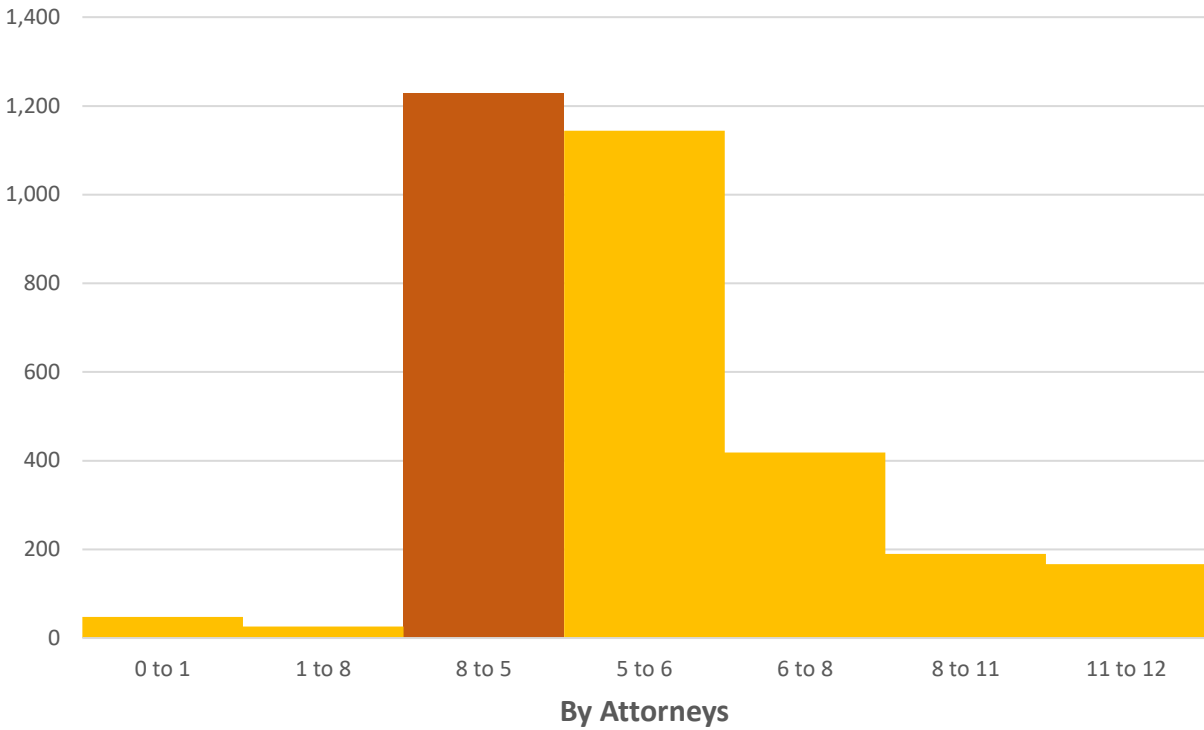
For some charts, we used color to show case type, and in those charts we did not use color to highlight customary office hours. Representative examples follow the charts on the next page. Note that for these statistical purposes, prosecutions against each defendant in a multidefendant case are regarded as separate cases.

Following those examples are four example charts showing how we illustrated nighttime filings by attorneys. We charted the number of docket entries made by attorneys each month, using color to show the docket entries made after 8:00 p.m. Following each chart showing number of filings is a chart showing percentage of filings that were made after 8:00 p.m. Usually the chart range is from 0% to 16%, but for some courts we expanded the range to 40% and used red value labels as a signal that the chart range was atypical. We made similar charts for days of the week, usually using 40% as the top of the range for percentage of filings made on a day of the week, but sometimes using 50% as the top of the range.

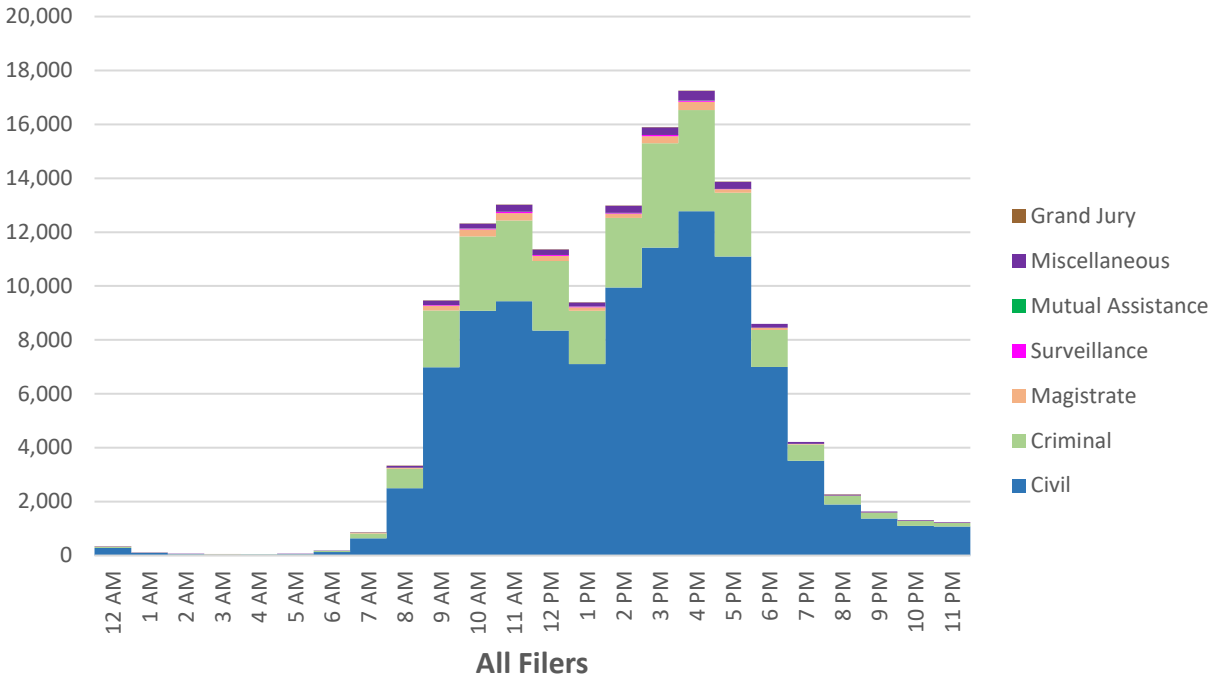
Filings by Hour of Day in the District Courts



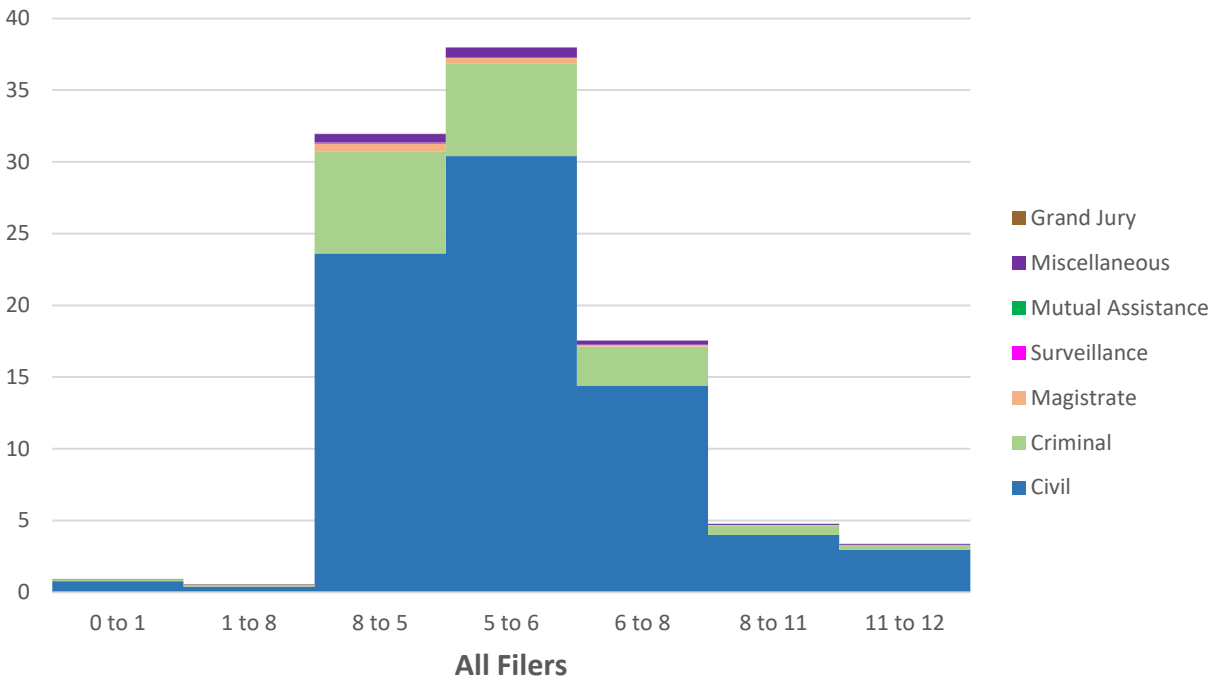
Filings per Hour by Time Period in the District Courts



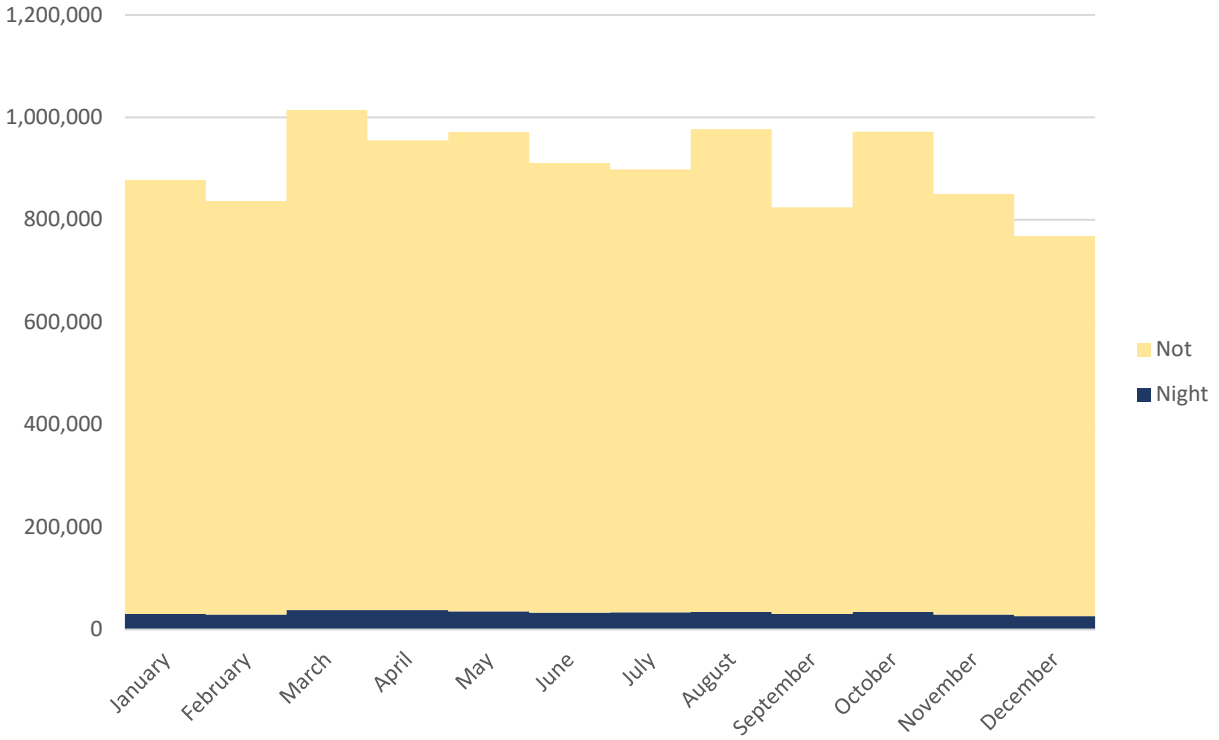
District of Columbia District Court Filings in 2018 by Hour of Day



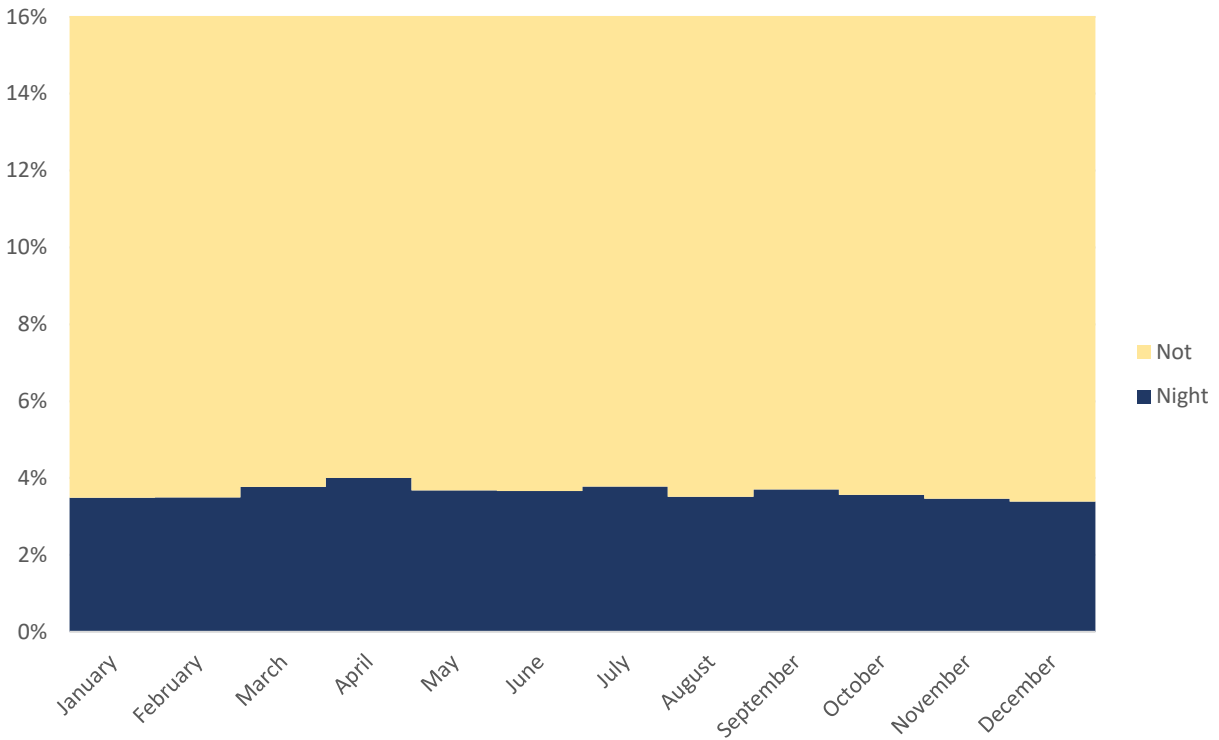
District of Columbia District Court Filings per Hour in 2018 by Time Period



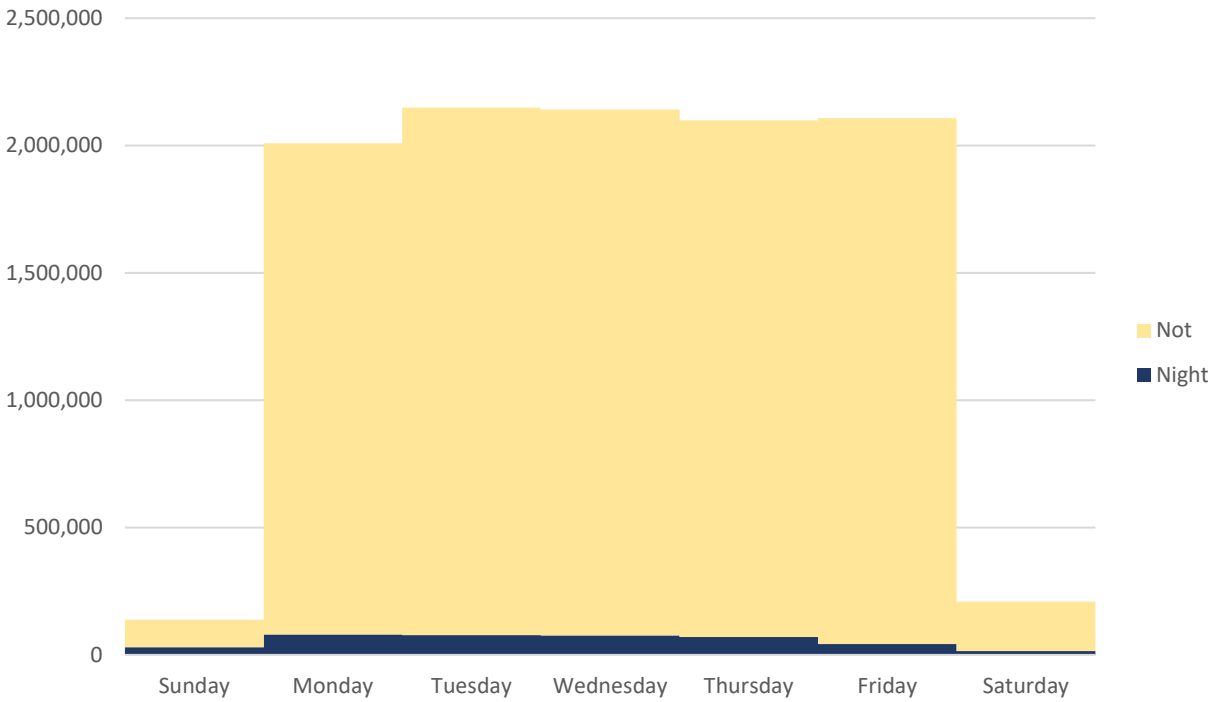
Bankruptcy Court Nighttime Attorney Filings by Month



Bankruptcy Court Nighttime Attorney Filings by Month



Bankruptcy Court Nighttime Attorney Filings by Day of the Week



Bankruptcy Court Nighttime Attorney Filings by Day of the Week

