

AP GOV

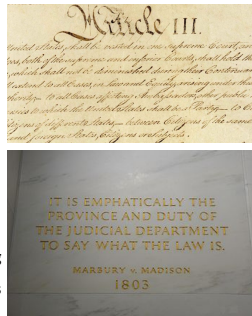
THE FEDERAL COURTS

REVIEWED!

Government in America (Pearson) Chapter 15
American Government: (Wilson) Chapter 16
Institutions & Policies

THE NATURE OF THE JUDICIAL SYSTEM

- Supreme Court has the power of **judicial review**: check the power of other branches of government and/or state governments
- "The foundation for powers of the judicial branch and how its independence checks the power of other institutions and state governments are set forth in:"
 - **Article III of the Constitution**: "The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."
 - **Federalist No. 78**: Written by Hamilton in 1788 to discuss power of a independent judiciary
 - **Marbury v. Madison** (1803): "established the principle of judicial review empowering the Supreme Court to nullify an act of the legislative or executive branch that violates the Constitution"



THE NATURE OF THE JUDICIAL SYSTEM

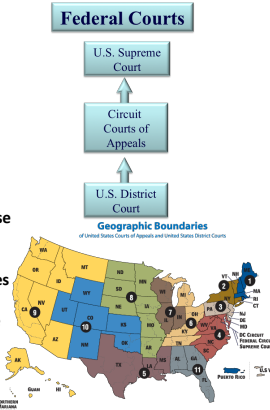
- Two basic types of cases:
 - 1) **Criminal**: government charges somebody with violating the law
 - 2) **Civil**: dispute between two private parties (individual, organization, group, company, etc.)
- Participants in the Judicial System
 - **Plaintiff** is the one making the accusation
 - the court determines plaintiff has **standing to sue**
 - **Defendant** is the one being sued or accused
 - **amicus curiae** ("friend of the court") **briefs** can be filed by people or groups who are not a party in a case
 - **Goal**: hope to influence the decision, express POV on a issue

THE STRUCTURE OF THE FEDERAL JUDICIAL SYSTEM

- **Article III** in the Constitution
 - Only established the Supreme Court
 - Left to Congress to create other federal courts

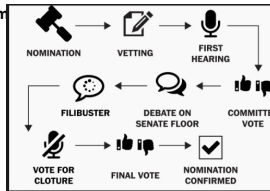
Federal Court System:

1. **District Courts:**
 - typically the court of original jurisdiction
 - **Court of original jurisdiction** is the 1st court that hears a case
 - Determine the facts of the case
2. **Court of Appeals/Circuit Courts**
 - Not all appeals will be heard
 - **Appellate courts** preside over cases on appeal from the lower court
 - Do not review the facts of the case—only review any legal issues (**appellate jurisdiction**)
3. **Supreme Court**
 - Last stop



THE POLITICS OF JUDICIAL SELECTION

- **Federal judicial appointments** are nominated by the President and subject to Senate confirmation
 - Allows President to have a impact well past their term in office
 - Era of **divided government** has made the process of judicial selection very contentious
- The **Senate Judiciary Committee** holds a tremendous amount of power in the Supreme Court confirmation process
 - Conducts hearings
 - Confirmation vote
- Background of justices have historically not been representative of the American population
- Main factor in selecting judicial nominees has been likeminded **ideology**



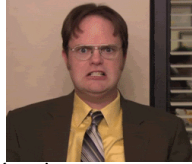
THE SUPREME COURT

- Highest court in the land
- Composition of the court
 - Currently 9 justices on the SC
- Cases before the court
 - Controls which cases it will hear
 - Rule of Four
 - briefs, amicus curiae briefs, oral arguments
- Usually there are two sides to a Supreme Court decision (majority or minority **opinion**)
 - Each side has a justice write an opinion that provides a explanation of the ruling/decision
 - **Majority opinion**: has most support and its decision takes effect
 - **Minority or Dissenting opinion**: legal argument of the losing side
 - **Concurring opinion**: justice may agree with the outcome but may have a different legal reasoning than the majority



REQUIRED SUPREME COURT CASES

- *McCulloch v. Maryland* (1819)
- *United States v. Lopez* (1995)
- *Engel v. Vitale* (1962)
- *Wisconsin v. Yoder* (1972)
- *Tinker v. Des Moines Independent Community School District* (1969)
- *New York Times Co. v. United States* (1971)
- *Schenck v. United States* (1919)
- *Gideon v. Wainwright* (1963)
- *Roe v. Wade* (1973)
- *McDonald v. Chicago* (2010)
- *Brown v. Board of Education* (1954)
- *Citizens United v. Federal Election Commission* (2010)
- *Baker v. Carr* (1961)
- *Shaw v. Reno* (1993)
- *Marbury v. Madison* (1803)



THE SUPREME COURT

- "Precedents and *stare decisis* play an important role in judicial decision making."
- Majority opinion establishes a **precedent**
 - Decisions made by higher courts establish the legal standard for similar cases moving forward
 - lower courts must follow the legal ruling... BUT....
- The Supreme Court can overturn a precedent from a prior Supreme Court decision
 - Remember *Brown v. Board of Education* (1954) overturned *Plessy v. Ferguson* (1896)
- Precedent should not be casually overturned
 - Concept of ***stare decisis*** ("the decision stands")
 - Principle of respecting precedent
- **Ideological shifts** in the makeup of the Supreme Court have led to the Court's establishing new or rejecting existing precedent



A SHORT HISTORY: THE COURTS & PUBLIC POLICY

- John Marshall court:
 - *Marbury v. Madison* (1803): Supreme Court has the power to interpret the Constitution (**judicial review**)
- New Deal: Many New Deal programs were ruled unconstitutional by the conservative court
 - **FDR's court-packing plan** called for an increase in the number of justices on the Supreme Court
 - Rejected by Congress
- **Warren Court** (1953-1969):
 - Dramatic increase in individual rights/civil liberties
- **Burger Court**
 - Moved the court in a more conservative direction
- Supreme Court since 1980
 - Tilts conservative



THE BASIS OF DECISIONS

- Justices often disagree on how to interpret the Constitution
 - “due process,” “equal protection,” “unreasonable search and seizure,” & “bear arms”
- Originalism:** belief the court should interpret the Constitution as it was originally written
- Living Constitution:** belief the words in the Constitution must be understood within the context of the times and they have a dynamic meaning

IMPLEMENTING DECISIONS

- The Judicial branch does NOT implement or enforce their decisions
 - Sometimes the decisions are not enforced (example: Most of the South refused to integrate after Brown v. Board of Education)
- Decisions that are controversial or unpopular have led to questions about the **Court’s legitimacy and power**

UNDERSTANDING THE COURTS

- Are the courts too powerful?
 - **Judicial restraint:** defer to democratically elected legislatures
 - **Judicial activism:** courts should play a large role in protecting the rights of the minority
- Restrictions on the Supreme Court:**
 - Congressional legislation to change impact of SC decisions
 - Constitutional amendments
 - Judicial appointments and confirmations
 - President and/or states ignoring SC decisions
 - Legislation impacting court jurisdiction

