



The Judicial System

Viewing Guide



ORIGINS:

- **established by Article III of the Constitution**
- Federalist's view: Supreme Court isn't dangerous
- Anti-Federalist's view: Supreme Court is dangerous
- they have the power to interpret laws
- they are appointed for life
- **Judiciary Act of 1789 established 3-tier (level) structure of the federal court system**
- **Supreme Court claimed judicial review in 1803**
Judicial review is the power to decide the constitutionality of government actions
- the U.S. has a dual level judicial system: 3 courts on both federal AND state levels

SUPREME COURT

Nine members: 1 Chief Justice and 8 associate justices

CIRCUIT COURTS (Appellate/Appeals Courts)

FACTS: 13 circuit courts
no trial, a hearing with a panel of 3 judges

FEDERAL DISTRICT COURTS

FACTS: over 94 federal district courts
determine facts that decide case trial, with a judge and jury of peers

CASES: claim is based on the Constitution
government is plaintiff or defendant or parties involved are from different states

ANATOMY OF A CASE

1. **getting on the docket**
 - submit a brief (the legal arguments)
 - submit precedents (previous judges' decisions)
 - 4 out of 9 justices must agree to accept case
 - case is granted a writ of certiorari
2. **oral arguments**
 - half hour for each side to make case
 - justices ask many pointed questions
3. **conference**
 - justices discuss case in order of seniority
4. **voting**
5. **writing of the opinion**

NOMINATION PROCESS

- president nominates federal judges
- president can accept recommendation of a senator (senatorial courtesy)
- criteria
 1. competence and ethical standards
 2. ideological and policy preferences
 3. reward factor
 4. in favor of increased executive power
 5. diversity

CONFIRMATION PROCESS

- investigations by committees, FBI, interest groups
- interest groups lobby for or against justice nominations
- Senate Judiciary Committee hearings
- Senate vote

THE SUPREME COURT JUSTICES' JOBS

- **decide which cases deserve a court hearing**
- **listen to oral arguments**
- **interpret laws behind the cases**

OPINIONS, OPINIONS, OPINIONS

majority opinion: a majority agree on a decision and its reasoning

concurring opinion: a member agrees with majority decision, but not its reasoning

dissenting opinion: minority doesn't agree with majority decision or reasoning

LEGAL FACTORS OF INFLUENCE

1. **judicial philosophies**
 - judicial activism: use power to advance policies
 - judicial restraint: don't use power to advance policies
2. **precedents**

EXTRA-LEGAL FACTORS OF INFLUENCE

1. behavioral characteristics: social backgrounds
2. ideology: conservative or liberal tendencies
3. attitudinal model: preference for public policy

VIEWING QUESTIONS

1. Does the Constitution describe the exact structure of the judicial system?
2. **Which courts must a case go through before it reaches the Supreme Court?**
3. Up to how many cases can the Supreme Court hear in one sitting?