

THE FEDERAL COURT SYSTEM

THE FEDERAL DISTRICT COURTS, courts of appeals, and the Supreme Court are called **constitutional** (or Article III) **courts** because Article III of the Constitution either established them (as is the case with the Supreme Court) or authorizes Congress to establish them. Judges who preside over these courts are nominated by the president (with the advice and consent of the Senate), and they serve lifetime terms, as long as they engage in “good behavior.”

In addition to constitutional courts, **legislative courts** are set up by Congress, under its implied powers, generally for special purposes. The U.S. territorial courts (which hear federal cases in the territories) and the U.S. Court of Veterans Appeals are examples of legislative courts, or what some call Article I courts. The judges who preside over these federal courts are appointed by the president (subject to Senate confirmation) and serve fixed, limited terms.

constitutional courts

Federal courts specifically created by the U.S. Constitution or by Congress pursuant to its authority in Article III.

legislative courts

Courts established by Congress for specialized purposes, such as the Court of Military Appeals.

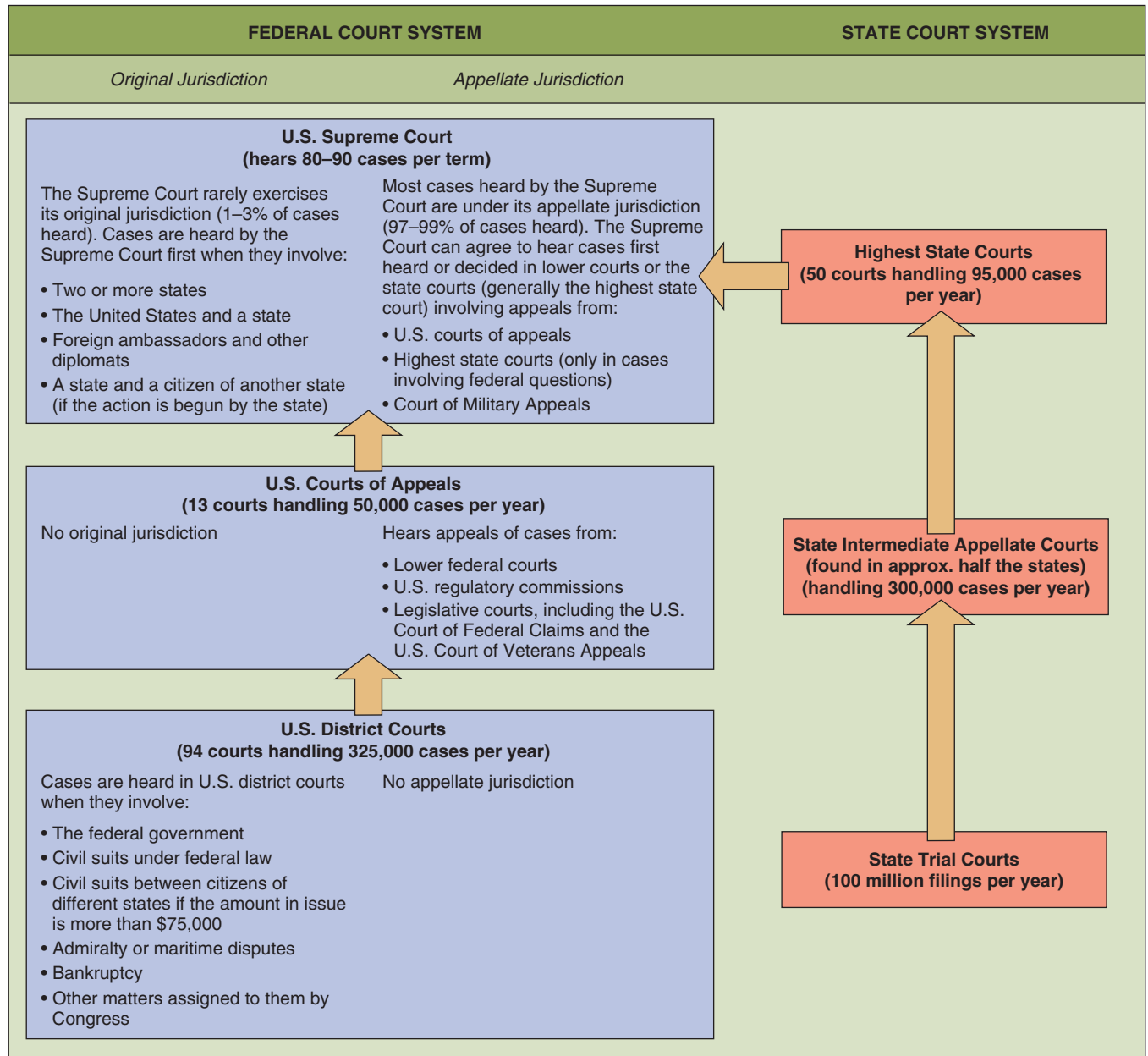


District Courts

As we have seen, Congress created U.S. district courts when it enacted the Judiciary Act of 1789. District courts are federal trial courts of original jurisdiction (see Figure 10.1). There are currently ninety-four federal district courts staffed by a total of 667 active judges, assisted by more than 300 retired judges who still hear cases on a limited basis. No district court cuts across state lines. Every state has at least one federal district court, and the most populous states—California, Texas, and New York—each have four (see Figure 10.2).¹⁷

Federal district courts, where the bulk of the judicial work takes place in the federal system, have original jurisdiction over only specific types of cases, as indicated in Figure 10.1. Although the rules governing district court jurisdiction can be complex,

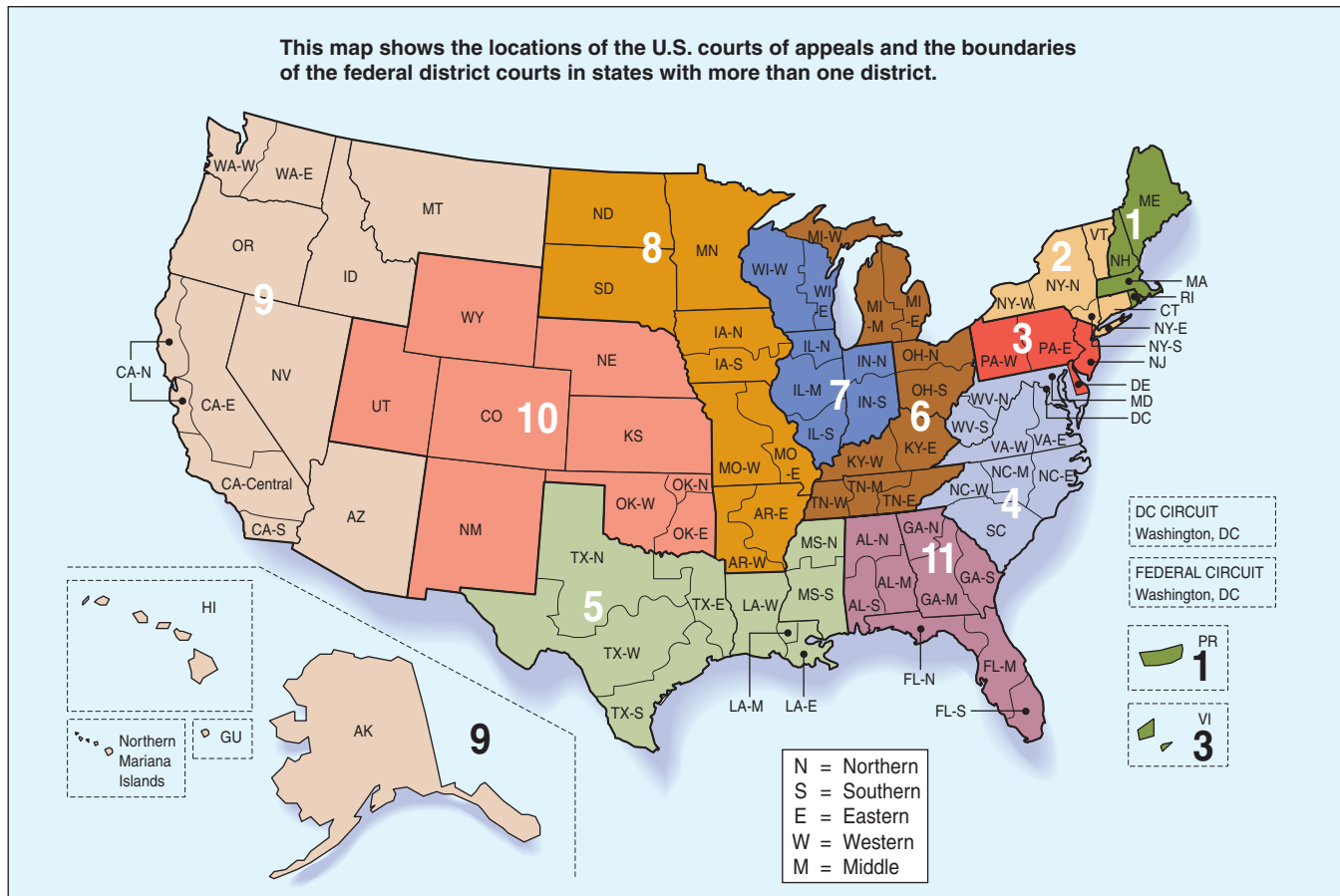
FIGURE 10.1 The Dual Structure of the American Court System. ■



cases heard in federal district courts by a single judge (with or without a jury) generally fall into one of three categories:

1. They involve the federal government as a party.
2. They present a federal question based on a claim under the U.S. Constitution, a treaty with another nation, or a federal statute. This is called federal question jurisdiction and it can involve criminal or civil law.
3. They involve civil suits in which citizens are from different states, and the amount of money at issue is more than \$75,000.¹⁸

FIGURE 10.2 The Federal Court System. ■



Each federal judicial district has a U.S. attorney, who is nominated by the president and confirmed by the Senate. The U.S. attorney in each district is that district's chief law enforcement officer. The size of the staff and the number of assistant U.S. attorneys who work in each district depend on the amount of litigation in each district. U.S. attorneys, like district attorneys within the states, have a considerable amount of discretion as to whether they pursue criminal or civil investigations or file charges against individuals or corporations. These highly visible positions often serve as springboards for elective office. Former New York City Mayor Rudy Giuliani earlier was the U.S. attorney for the Southern District of New York.

The Courts of Appeals

The losing party in a case heard and decided in a federal district court can appeal the decision to the appropriate court of appeals. The United States courts of appeals (known as the circuit courts of appeals prior to 1948) are the intermediate appellate courts in the federal system and were established in 1789 to hear appeals from federal district courts. There are currently eleven numbered courts of appeals (see Figure 10.2). A twelfth, the D.C. Court of Appeals, handles most appeals involving federal regulatory commissions and agencies, including, for example, the National Labor Relations Board and the Securities and Exchange Commission. The thirteenth federal appeals court is the U.S. Court of Appeals for the Federal

Circuit, which deals with patents and contract and financial claims against the federal government.

In 2005, the U.S. courts of appeals were staffed by 167 active judges—assisted by more than eighty retired judges who still hear cases on a limited basis—who were appointed by the president, subject to Senate confirmation. The number of judges within each circuit varies—depending on the workload and the complexity of the cases—and ranges from six to nearly thirty. Each circuit is supervised by a chief judge, the most senior judge in terms of service below the age of sixty-five, who can serve no more than seven years. In deciding cases, judges are divided into rotating three-judge panels, made up of the active judges within the circuit, visiting judges (primarily district judges from the same circuit), and retired judges. In rare cases, all the judges in a circuit may choose to sit together (*en banc*) to decide a case by majority vote.

As shown in Figure 10.1, the courts of appeals have no original jurisdiction. Rather, Congress has granted these courts appellate jurisdiction over two general categories of cases: appeals from criminal and civil cases from the district courts, and appeals from administrative agencies. Criminal and civil case appeals constitute about 90 percent of the workload of the courts of appeals, with appeals from administrative agencies about 10 percent. Because so many agencies are located in Washington, D.C., the D.C. Circuit Court of Appeals hears an inordinate number of such cases. The D.C. Circuit Court of Appeals, then, is considered the second most important court in the nation because its decisions govern the regulatory agencies. Supreme Court Justices Antonin Scalia, Clarence Thomas, and Ruth Bader Ginsburg sat on that court before their nomination to the Supreme Court.

Once a decision is made by a federal court of appeals, a litigant no longer has an automatic right to an appeal. The losing party may submit a petition to the U.S. Supreme Court to hear the case, but the Court grants few of these requests. The courts of appeals, then, are the courts of last resort for almost all federal litigation. Keep in mind, however, that most cases, if they actually go to trial, go no further than the district court level.

In general, courts of appeals try to correct errors of law and procedure that have occurred in lower courts or administrative agencies. Courts of appeals hear no new testimony; instead, lawyers submit written arguments, in what is called a **brief** (also submitted in trial courts), and then appear to present and argue the case orally to the court.

Decisions of any court of appeals are binding on only the district courts within the geographic confines of the circuit, but decisions of the U.S. Supreme Court are binding throughout the nation and establish national **precedents**. This reliance on past decisions or precedents to formulate decisions in new cases is called *stare decisis* (a Latin phrase meaning “let the decision stand”). The principle of *stare decisis* allows for continuity and predictability in our judicial system. Although *stare decisis* can be helpful in predicting decisions, at times judges carve out new ground and ignore, decline to follow, or even overrule precedents in order to reach a different conclusion in a case involving similar circumstances. In one sense, that is why there is so much litigation in America today. Parties to a suit know that one cannot always predict the outcome of a case; if such prediction were possible, there would be little reason to go to court.

brief

A document containing the legal written arguments in a case filed with a court by a party prior to a hearing or trial.

precedents

Prior judicial decisions that serve as a rule for settling subsequent cases of a similar nature.

stare decisis

In court rulings, a reliance on past decisions or precedents to formulate decisions in new cases.

The Supreme Court

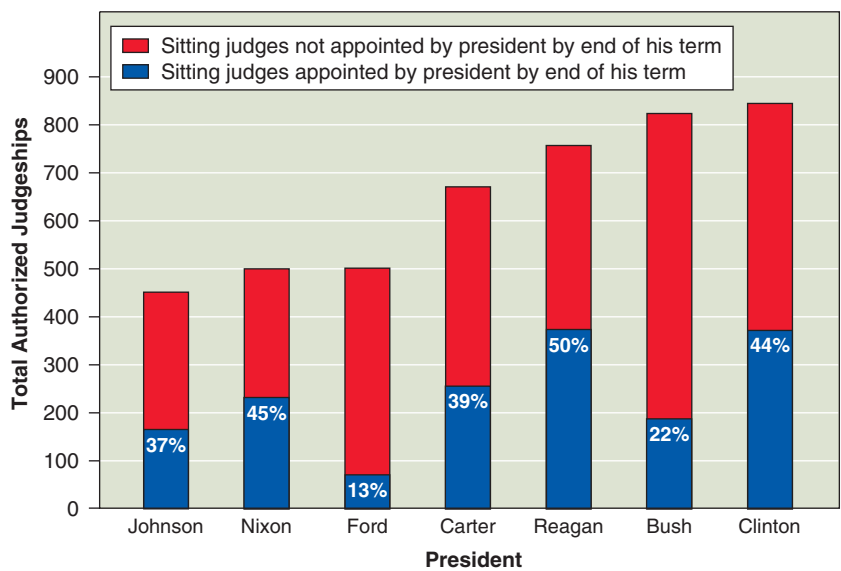
The U.S. Supreme Court, as we saw in the opening vignette, is often at the center of the storm of highly controversial issues that have yet to be resolved successfully in the political process. As the court of last resort at the top of the judicial pyramid, it reviews

cases from the U.S. courts of appeals and state supreme courts (as well as other courts of last resort) and acts as the final interpreter of the U.S. Constitution. It not only decides major cases with tremendous policy significance each year, but it also ensures uniformity in the interpretation of national laws and the Constitution, resolves conflicts among the states, and maintains the supremacy of national law in the federal system (see Figure 10.3).

Since 1869, the U.S. Supreme Court has consisted of eight associate justices and one chief justice, who is nominated by the president specifically for that position. There is no special significance about the number nine, and the Constitution is silent about the size of the Court. Between 1789 and 1869, Congress periodically altered the size of the Court. The lowest number of justices on the Court was six; the most, ten. Through 2004, only 108 justices had served on the Court, and there had been fifteen chief justices (see Appendix IV).

FIGURE 10.3 How a President Affects the Federal Judiciary

This figure depicts the number of judges appointed by each president and how quickly a president can make an impact on the make-up of the Court. ■



PRESIDENT	Appointed to Supreme Court	Appointed to Courts of Appeals ^a	Appointed to District Courts ^b	Total Appointed	Total Number of Judgeships ^c	Percentage of Judgeships Filled by President
Johnson (1963–1969)	2	40	122	164	449	37
Nixon (1969–1974)	4	45	179	228	504	45
Ford (1974–1977)	1	12	52	65	504	13
Carter (1977–1981)	0	56	202	258	657	39
Reagan (1981–1989)	3	78	290	368	740	50
Bush (1989–1993)	2	37	148	185	825	22
Clinton (1993–2001)	2	66	305	373	841	44

^a Does not include the appeals court for the federal circuit
^b Includes district courts in the territories
^c Total judgeships authorized in president's last year in office

Compared with the president or Congress, the Supreme Court operates with few support staff. Along with the three or four clerks each justice employs, there are about 400 staff members at the Supreme Court.