

Judicial Branch (the courts) Basic Information

“It is emphatically the province and the duty of the judicial department to say what the law is...if two laws conflict with each other, the courts must decide on the operation of each.”

Chief Justice John Marshall, *Marbury v. Madison* (1803), established judicial review

“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”

Article III, Section 1

Structure: (p. 521)

- **Supreme Court:** Judges on the S.C. are called Justices.
- **Inferior Courts:** District Courts, Courts of Appeal, others (District Court map on page 529)
- **Special Courts:** Tax Court, Federal Claims Courts, others

Jurisdiction: The authority of a court to hear (try) a case. Different courts have different jurisdictions. (p. 523) Sometimes courts have concurrent jurisdictions.

Plaintiff-person who files suit;

Defendant-person against whom the complaint is made.

How does a judge decide?

- **Facts** of the case
- Relevant **Precedent:** how have earlier court decisions given insight to the nature of the present case?
- Text of the **Constitution**
- **Judicial Philosophy**
 - **Judicial Restraint (Originalism):** What was the original intent of the Framers of the Constitution or those who enacted a statute (law).
 - **Judicial Activism (“Living Constitution”):** broader view of judicial power; takes changes in conditions and values in the decision of the court.

Appellate courts (including the Supreme Court) are more concerned with matters of how the law is applied rather than the facts of a particular case.

- **Majority Opinion:** What the majority of the court has decided
- **Concurring Opinion:** Agrees with the majority, but writes a separate opinion usually based on different reasoning.
- **Dissenting Opinion:** Describes why the minority disagreed with the majority opinion.

“My belief has always been..that wherever in this land an y individual’s constitutional rights are unjustly denied, it is the obligation of the federal government--at point of bayonet if necessary--to restore that individual’s constitutional rights.

Ronald Reagan

Civil Liberties: Protections against government...freedom of speech, for example

Civil Rigths: Positive acts of government to make constitutional gaurantees a reality for all...for example, laws against discrimination.

Rights are not absolute.

The Bill of Rights only applied to the federal government. However, the **14th Amendment's Due Process Clause** says the states can't deny basic rights. “No State shall..deprive any person of life, liberty, or property, without due process of law...

- **Due process** means that the government must act fairly and in accord with established rules...it can be arbitrary or unreasonable.
 - **Procedural due process:** the how (procedures) of government action
 - **Substantive due process:** the what (policies) of government action

Rights of the Accused Example: ***Miranda v. Arizona (1963)***--p. 600-1

- What was the Supreme Court’s reasoning?
- What would you say about this reasoning?
- Is this an example of judicial restraint or judicial activism? Explain.

Precedent: *Dickerson v. United States* (1999)

<https://billofrightsintstitute.org/educate/educator-resources/lessons-plans/landmark-supreme-court-cases-elessons/dickerson-v-united-states-2000/>