

2.3: The Dual Court System and Judicial Federalism

Introduction

There are fifty-six separate legal systems in the United States: the fifty states, the federal government, the District of Columbia, the military, and three territorial systems. Within each legal system is a complex interplay among executive, legislative, and judicial branches of government. This division of authority between a federal government and state governments is known as **federalism**, which is discussed in more detail in [Chapter 5](#).

Before the writing of the U.S. Constitution and the establishment of the permanent national judiciary under Article III, the states had courts. Each of the thirteen colonies also had its own courts, based on the British common law model. The judiciary today continues as a dual court system, one system for federal courts and one system for state courts. Generally, both systems have a 3-tier hierarchy of courts,^[1] consisting of **trial courts**, **intermediate appellate courts**, and finally, **courts of last resort** (commonly referred to as supreme courts), at the top.

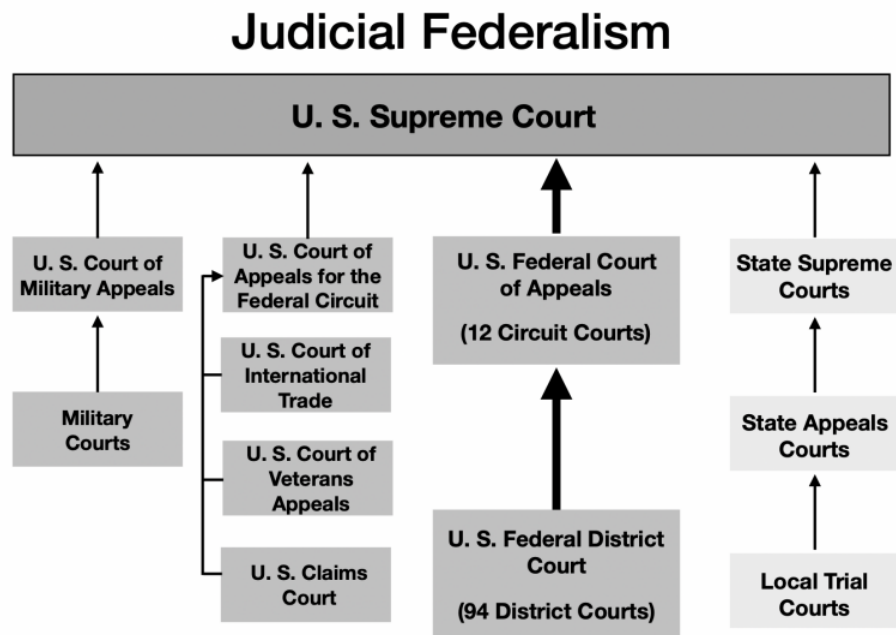


Figure 2.3.1 Basic structure of the American dual court system. Some states have modified versions of this structure. (Source)

To complicate matters, the state and federal court systems sometimes intersect and overlap with one another, *and* no two states organize their court system exactly alike. Although many states generally parallel the federal system's basic 3-tiered structure, state court systems are created by the states, so each state system can be structured differently from one state to another, including the number of courts and their basic hierarchy and jurisdiction. ([Section 2.4](#) provides some examples.)

Compare and Contrast

Wisconsin generally parallels the federal system's structure. See this [side-by-side comparison](#). By contrast, see the [New York court system structure](#).

Regardless of differences among the states, we can summarize the overall three-tiered structure of the dual court model and consider the relationship that the national and state sides share in relation to the U.S. Supreme Court, as illustrated in [Figure 2.3.1](#).

Let's flesh out *three important* things about [Figure 2.3.1](#). First, note that the three boxes on the right represent the state court system where most cases in the U.S. occur—e.g., people on trial for murder, rape, robbery, burglary, embezzlement, fraud, civil lawsuits, and so on. Although cases can go straight through the state court system and on to the US Supreme Court, that is not a common path. The diagram may be a little deceptive in this sense: The lightly shaded boxes on the right represent a large amount of work overall, but fewer Supreme Court cases originate from the states than the federal system.

Second, note the diagram's two boxes in the middle with thick arrows. Most Supreme Court cases come up through the federal district courts and then through one of the 12 regional federal circuit courts of appeals (i.e., 13 circuits in all). See [Figure 2.4.2](#), which is a map that illustrates these regions. Eleven of the 12 regions are numbered, and the remaining region is dedicated to the District of Columbia. The Federal Circuit of Appeals—identified in [Figure 2.4.2](#) as "FED"—is a specialized court of appeals that handles certain monetary claims against the U.S., international trade disputes, matters involving military veterans being denied military veteran benefits. Cases involving the military have their own path and are not part of the circuit court system. In all, the main route to the Supreme Court is depicted with the thick arrows in [Figure 2.3.1](#).

Third, cases handled in state courts can sometimes raise questions that need to be adjudicated in federal courts. If a state defendant has exhausted their state options, they may seek a **writ of habeas corpus** from a federal court. (*Habeas corpus* is Latin for “you have the body,” and refers to the court ordering state or federal authorities to bring a detained person to the court and show cause for the detention or incarceration.) The person is hoping the court will release them because of some violation of their federal rights. For example, the defendant may argue that their Fourth Amendment protections against unreasonable search and seizure were violated, or perhaps their Fifth and Fourteenth Amendment due process protections were violated.

? Learning Exercise

This site provides an interesting challenge: Look at the [different cases presented](#) and decide whether each would be heard in the state or federal courts. You can check your results at the end.

Although the Supreme Court tends to draw the most public attention, it typically hears fewer than one hundred cases yearly, which amounts to less than *one percent* of all appeals made to it.^[2] Typically, the Supreme Court only hears cases when (a) other federal courts around the nation disagree about how to interpret or apply a constitutional principle^[3] or when the question involves a state court's interpretation or application of federal law (as we will see in the discussion below of [Miranda v. Arizona](#)^[4]). The Supreme Court can also hear legal disputes between states.

Ultimately, state courts really are the core of the US judicial system. The several hundred thousand cases handled every year in federal courts pale in comparison to the several million handled by their state counterparts.

Jurisdiction

In simple terms, jurisdiction refers to the legal authority of a court to adjudicate a case, which means that the court with jurisdiction has the power to issue decisions, judgments, and orders that are legally binding on others regarding certain legal issues and disputes. There are classes of jurisdiction, but we will focus on two: subject matter jurisdiction and personal jurisdiction. We will start with subject matter jurisdiction and address [personal jurisdiction](#) in the [next chapter](#).

Subject Matter Jurisdiction

State and federal courts hear different types of cases, involving different laws, different law enforcement agencies, and different judicial systems. The rules of subject matter jurisdiction dictate whether a case is heard in federal or state court.

Table 2.3.1 *Jurisdictions of the Courts: State vs. Federal*

| State Courts | Federal Courts |
|---|--|
| Hear most day-to-day cases, covering 90 percent of all cases (i.e., both state and federal cases, combined) | Hear cases that involve a “federal question,” involving the Constitution, federal laws or treaties, or a “federal party” in which the U.S. government is a party to the case |
| Hear both civil and criminal matters | Hear both civil and criminal matters |

| State Courts | Federal Courts |
|---|--|
| Help the states retain their own sovereignty in judicial matters over their state laws, distinct from the national government | Hear cases with a damage claim that exceeds the sum or value of \$75,000 and is between (1) citizens of different states (i.e., "diversity of citizenship"); (2) citizens of a state and citizens of a foreign state; (3) citizens of different states and in other parties are citizens of a foreign state; and (4) a foreign state (as a plaintiff) and citizens of a state.* ... |

The vast majority of civil lawsuits are filed in state courts, including lawsuits involving state laws such as property, contracts, probate law, and torts. State laws also involve most criminal cases, and domestic issues such as divorce and child custody. A tort is a civil wrong other than a breach of contract and include a variety of situations in which people and businesses suffer legal injury. Some states are friendlier toward torts than others, and the resulting patchwork of tort laws means that companies that do business across the nation need to know the different standards they are held to based on the state their customers live in. Given the wide array of subject areas regulated by state law, most businesses deal with state courts.

Federal Subject Matter Jurisdiction: Federal Question and Diversity of Citizenship

Federal court subject matter jurisdiction is generally limited to **federal questions**. In other words, federal courts hear cases involving the U.S. Constitution or a federal law. Cases involving the interpretation of treaties to which the United States is a party are also subject to federal court jurisdiction. Finally, lawsuits between states can be filed directly in the U.S. Supreme Court.

Exclusive Federal Subject Matter Jurisdiction

1. *Suits between states*. Cases in which two or more states are a party.
2. *Cases involving ambassadors and other high-ranking public figures*. Cases arising between foreign ambassadors and other high-ranking public officials.
3. *Federal crimes*. Crimes defined by or mentioned in the US Constitution or those defined or punished by federal statute. Such crimes include treason against the United States, piracy, counterfeiting, crimes against the law of nations, and crimes relating to the federal government's authority to regulate interstate commerce. However, most crimes are state matters.
4. *Bankruptcy*. The statutory procedure, usually triggered by insolvency, by which a person is relieved of most debts and undergoes a judicially supervised reorganization or liquidation for the benefit of the person's creditors.
5. *Patent, copyright, and trademark cases*
 1. *Patent*. The exclusive right to make, use, or sell an invention for a specified period (usually seventeen years), granted by the federal government to the inventor if the device or process is novel, useful, and nonobvious.
 2. *Copyright*. The body of law relating to a property right in an original work of authorship (such as a literary, musical, artistic, photographic, or film work) fixed in any tangible medium of expression, giving the holder the exclusive right to reproduce, adapt, distribute, perform, and display the work.

3. *Trademark*. A word, phrase, logo, or other graphic symbol used by a manufacturer or seller to distinguish its product or products from those of others.
6. *Admiralty*. The system of laws that has grown out of the practice of admiralty courts: courts that exercise jurisdiction over all maritime contracts, torts, injuries, and offenses.
7. *Antitrust*. Federal laws designed to protect trade and commerce from restraining monopolies, price fixing, and price discrimination.
8. *Securities and banking regulation*. The body of law protecting the public by regulating the registration, offering, and trading of securities and the regulation of banking practices.
9. *Other cases specified by federal statute*. Any other cases specified by a federal statute where Congress declares that federal courts will have exclusive jurisdiction.

Sometimes a federal court may hear a case involving state law. These cases are called **diversity jurisdiction** cases, and they arise if (1) none of the plaintiffs in a civil case reside in the same state as any of the defendants and (2) the amount claimed by the plaintiffs *exceeds* seventy-five thousand dollars. For example, a citizen of New Jersey may sue a citizen of New York over a contract dispute in federal court. But if both were citizens of New York, the plaintiff would be limited to the state court of New York. Diversity jurisdiction cases allow one party who feels it may not receive a fair trial where its opponent has a “home court advantage” to seek a neutral forum to try the case. (Other diversity jurisdiction circumstances are referenced in [Table 2.3.1.](#))

Concurrent Jurisdiction

When a plaintiff takes a case to state court, it will be because state courts typically hear that kind of case (i.e., there is subject matter jurisdiction). If the plaintiff’s main cause of action comes from a certain state’s constitution, statutes, or court decisions, the state courts have subject matter jurisdiction over the case. If the plaintiff’s main cause of action is based on federal law (e.g., Title VII of the Civil Rights Act of 1964), the federal courts have subject matter jurisdiction over the case. But federal courts will also have subject matter jurisdiction over certain cases that have only a state-based cause of action, such as diversity jurisdiction cases. And state courts can have subject matter jurisdiction over certain cases that have only a federal-based cause of action. The Supreme Court has now made clear that state courts have **concurrent jurisdiction** of any federal cause of action unless Congress has given exclusive jurisdiction to federal courts.

In short, a case with a federal question can be often be heard in either state or federal court, and a case that meets the diversity jurisdiction requirements can be heard in state courts or in federal courts.

Whether a case will be heard in a state court or moved to a federal court will depend on the parties. If a plaintiff files a case in state trial court where concurrent jurisdiction applies, a defendant may (or may not) ask that the case be removed to federal district court.



Summary of Rules: Subject Matter Jurisdiction

Miranda v. Arizona: An Illustration of Subject Matter Jurisdiction Overlap

While we may certainly distinguish between the two sides of a jurisdiction, looking on a case-by-case basis will sometimes complicate the seemingly clear-cut division between the state and federal sides. It is always possible that issues of federal law may start in the state courts before they make their way over to the federal side. And any case that starts out at the state and/or local level on state matters can make it into the federal system on appeal—but only on points that involve a federal law or question, and usually, only after all avenues of appeal in the state courts have been exhausted.

For example, consider the case *Miranda v. Arizona*.^[5] Ernesto Miranda, arrested for kidnapping and rape (state subject matter legal violations), was convicted in an Arizona state trial court and sentenced to prison after a key piece of evidence—his own signed confession while being interrogated—was presented at trial. Miranda lost his appeal to the Arizona Supreme Court on the ground that he failed to expressly request an attorney to be present during his interrogation, despite not being informed of his constitutional rights to remain silent and to an attorney during interrogation. Because these rights are issues of federal constitutional law, Miranda appealed to the US Supreme Court to exclude the confession on the grounds that its admission was a violation of his constitutional rights. By a slim 5–4 margin, the Court ruled in Miranda's favor, holding that the confession had to be excluded from evidence because the police obtained the confession without informing him of his Fifth Amendment right against self-incrimination and his Sixth Amendment right to an attorney. In the opinion of the Court, because of the coercive nature of police interrogation, no confession can be admissible unless a suspect is made aware of his rights and then in turn waives those rights. For this reason, Miranda's original conviction was overturned.

Yet the Supreme Court considered only the violation of Miranda's constitutional rights, but not whether he was guilty of the crimes with which he was charged. So there were still crimes committed for which Miranda had to face charges. He was therefore retried in state court in 1967, the second time without the confession as evidence, but was still found guilty based on witness testimony and other evidence.

Miranda's story is a good example of the tandem operation of the state and federal court systems. Whether he was guilty of the crimes was a matter for the state courts, whereas the constitutional questions raised by his trial were a matter for the federal courts.^[6]

The Implications of a Dual Court System

From an individual's perspective, the dual court system has both benefits and drawbacks. On the plus side, each person has more than just one court system ready to protect his or her rights. The dual court system provides alternate forums in which to appeal for assistance, as Ernesto Miranda's case illustrates. The U.S. Supreme Court found for Miranda an extension of his Fifth Amendment protections—a constitutional right to remain silent when faced with police questioning. It was a right he could not get solely from the state courts in Arizona, but one those courts had to honor nonetheless.

The fact that a minority voice like Miranda's can be heard in court, and that his or her grievance can be resolved in his or her favor if warranted, says much about the role of the judiciary in a democratic republic. In Miranda's case, a resolution came from the federal courts, but it can also come from the state side. In fact, the many differences among the state courts themselves may enhance an individual's potential to be heard.

But the existence of the dual court system and variations across the states and nation also mean that there are different courts in which a person could face charges for a crime or for a violation of another person's rights. Except for the fact that the U.S. Constitution binds judges and justices in all the courts, it is state law that governs the authority of state courts, so judicial rulings about what is legal or illegal may differ from state to state. These differences are particularly pronounced when the laws across the states and the nation are not the same, as we see with marijuana laws today.

Marijuana Laws By State

See this [interactive map](#), which identifies the legal status of marijuana and marijuana byproducts in each state.

There are so many differences in marijuana laws from state to state, and between states and the national government, that a uniform application of these laws in courts across the nation is impracticable. What is legal in one state may be illegal in another, and state laws do not cross state borders—but people do. So, someone might legally be in possession in one state and illegally in possession at the moment they cross state lines. What's more, a person residing in any of the states is still subject to federal law, regardless of the state law.

Under federal law, marijuana is still classified as a Schedule I drug,^[7] and federal authorities often find themselves pitted against states that have legalized it. Such differences can lead, somewhat ironically, to arrests and federal criminal charges for people who have marijuana in states where it is legal, or to federal raids on growers and dispensaries that would otherwise be operating legally under their state's law.

Further, just as the laws vary across the states, so do judicial rulings and interpretations. Any given judge may interpret the same state or federal law differently than another. Accordingly, the creation and application of law is not necessarily uniform across the country. Also, we are somewhat bound by geography and do not always have the luxury of picking and choosing the **venue** for a particular case. Thus, ultimately, our varied set of judicial operations affects (a) the kinds of cases that a given court will hear, (b) the location where a case is heard, and (c) potential disparities in the way cases are treated once they get there.

Notes

1. Bureau of International Information Programs, United States Department of State (2004). *Outline of the U.S. legal system*; United States Courts. (n.d.). [Court role and structure](#).
2. Offices of the United States Attorneys. (n.d.). [Introduction to the federal court system](#). U.S. Department of Justice.
3. Offices of the United States Attorneys. (n.d.). [Introduction to the federal court system](#). U.S. Department of Justice.
4. [384 U.S. 436](#) (1966).
5. [384 U.S. 436](#) (1966).
6. Although Miranda won his case before the US Supreme Court, which established a significant precedent that criminal suspects must be read their so-called "*Miranda* warnings" before police questioning while in custody, the victory did not do much for Miranda himself. After serving prison time, he was stabbed to death in a bar fight in 1976 while out on parole, and due to a lack of evidence, no one was ever convicted for his death.
7. The federal government treats Schedule I drugs as having the "high[est] potential for abuse ... to create severe psychological and/or physical dependence." United States Drug Enforcement Administration. (n.d.). [Drug scheduling](#).

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