

7.3: Structure of the Courts - The Dual Court and Federal Court System

Separate Federal and State Court Systems

Each state has two complete, parallel court systems: the federal system, and the state's own system. Thus, there are at least 51 legal systems: the fifty created under state laws and the federal system created under federal law. Additionally, there are court systems in the U.S. Territories, and the military has a separate court system as well.

The state/federal court structure is sometimes referred to as the **dual court system**. State crimes, created by state legislatures, are prosecuted in state courts which are concerned primarily with the applying state law. Federal crimes, created by Congress, are prosecuted in the federal courts which are concerned primarily with applying federal law. As discussed below, it is possible for a case to move from the state system to the federal system when a defendant challenges the conviction on direct appeal through a **writ of certiorari**, or when the defendant challenges the conditions of confinement through a **writ of habeas corpus**.

Dual Court System Structure

Highest Appellate Court	U.S. Supreme Court (Justices) (Note: Court also has original/trial court jurisdiction in rare cases) (Note: Court will also review petitions for writ of certiorari from State Supreme Court cases).	State Supreme Court (Justices)
Intermediate Appellate Court	U.S. Circuit Court of Appeals (Judges)	State Appellate Court (e.g., Oregon Court of Appeals) (Judges)
Trial Court of General Jurisdiction	U.S. District Court (Judges) (Note: this court will review petitions for writs of habeas corpus from federal and state court prisoners)	Circuit Court, Commonwealth Court, District Court, Superior Court (Judges)
Trial Court of Limited Jurisdiction	U.S. Magistrate Courts (Magistrate Judges)	District Court, Justice of the Peace, Municipal Courts (Judges, Magistrates, Justices of the Peace)

The Federal Court System

Article III of the U.S. Constitution established a Supreme Court of the United States and granted Congress discretion as to whether to adopt a lower court system. It states 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." Fearing that the state courts might be hostile to congressional legislation, Congress immediately created a lower federal court system in 1789. ^[1] The lower federal court system has been expanded over the years, such as when Congress created the separate appellate courts in 1891.

View the authorized federal judgeships at <http://www.uscourts.gov/sites/default/files/allauth.pdf>

Trace the history of the federal courts at www.fjc.gov/history/timeline/8276

Trace the history of the subject matter jurisdiction of the federal courts here www.fjc.gov/history/timeline/8271

View cases that shaped the roles of the federal courts at www.fjc.gov/history/timeline/8271

Trace the administration of the federal courts at www.fjc.gov/history/timeline/8286

United States Supreme Court

The United States Supreme Court (Court), located in Washington, D.C., is the highest appellate court in the federal judicial system. Nine justices sitting *en banc*, as one panel, together with their clerks and administrative staff, make up the Supreme Court. [View the biographies of the current U.S. Supreme Court Justices here: www.supremecourt.gov/about/biographies.aspx]. The Court's

decisions have the broadest impact because they govern both the state and federal judicial system. Additionally, this Court influences federal criminal law because it supervises the activities of the lower federal courts. The nine justices have the final word in determining what the U.S. Constitution permits and prohibits, and it is most influential when interpreting the U.S. Constitution. Associate Justice of the Supreme Court, Robert H. Jackson stated in *Brown v. Allen*, 344 U.S. 433, 450 (1953), “We are not final because we are infallible, but we are infallible only because we are final.” Although it is commonly thought that the U.S. Supreme Court has the final say, this is not one hundred percent accurate. After the Court has read written appellate briefs and listened to oral arguments, it will “decide” the case. However, it frequently refers or sends, the case back to the state’s supreme court for them to determine what their own state constitution holds. Similarly, as long as the Court has interpreted a statute and not the constitution, Congress can always enact a new statute which modifies or nullifies the Court’s holding.

Writs of Certiorari and the Rule of Four

The Court has a discretionary review over most cases brought from the state supreme courts and federal appeals courts in a process called a **petition for the writ of certiorari**. Four justices must agree to accept and review a case, and this only happens in roughly 10% of the cases filed. (This is known as the **rule of four**.) Once accepted, the Court schedules and hears oral arguments on the case, then delivers written opinions. Over the past ten years, approximately 8,000 petitions for writ of certiorari are filed annually. It is difficult to guess which cases the court will accept for review. However, a common reason the court accepts to review a case is that the federal circuits courts have reached conflicting results on important issues presented in the case.

Take a virtual tour of the U.S. Supreme Court building: <https://www.oyez.org/tour>

The United States Supreme Court Building

“The United States Supreme Court occupies a majestic building in Washington, D.C., with spacious office suites and impressive corridors and library facilities. With enhancements and attributes similar to those of appellate courts, the elegance and dignity of the facilities comport with the significant role of the Court as the final arbiter in the nation’s judicial system. There is a sparse crowd at most state and intermediate federal appellate courts; at the Supreme Court, by contrast, parties interested in the decisions that will result from arguments, a coterie of media persons, and many spectators fill the courtroom to hear arguments in cases that often significantly affect the economic, social, and political life of the nation. Photography is not allowed, and the arguments and dialogue between counsel and the justices are observed silently and respectfully by those who attend.” ^[2]

Take a tour of the U.S. Supreme Court with CNN: <https://www.youtube.com/watch?v=Unyswl36q8w>

Original (Trial Court) Jurisdiction of the Supreme Court: A Rarity

When the Court acts as a trial court it is said to have **original jurisdiction**, and it does so in a few important situations, such as when one state sues another state. The U.S. Constitution, Art. III, §2, sets forth the jurisdiction of the Court. It states,

“The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;-to all Cases affecting Ambassadors, other public Ministers and Consuls;-to all Cases of admiralty and maritime Jurisdiction;-to Controversies to which the United States shall be a Party;-to Controversies between two or more States;-between a State and Citizens of another State;-between Citizens of different States;-between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations, as the Congress shall make.”

Original jurisdiction cases are rare for several reasons. First, the Constitution prohibits Congress from increasing the types of cases over which the Supreme Court has original jurisdiction. Second, parties in an original jurisdiction suit must get permission by petitioning the court to file a complaint in the Supreme Court. In fact, there is no right to have a case heard by the Supreme Court, even though it may be the only venue in which the case may be brought. The Supreme Court may deny petitions for it to exercise original jurisdiction because it finds that the dispute between the states is too trivial, or conversely,

too broad, and complex. The Court does not need to explain why it refuses to take up an original jurisdiction case. Original jurisdiction cases are also rare because, except in suits or controversies between two states, the Court has increasingly permitted the lower federal courts to share its original jurisdiction.

United States Courts of Appeal

Ninety-four judicial districts comprise the 13 intermediate appellate courts in the federal system known as the U.S. Courts of Appeals, sometimes referred to as the federal circuit courts. These courts hear challenges to lower court decisions from the U.S. District Courts located within the circuit, as well as appeals from decisions of federal administrative agencies, such as the social security courts or bankruptcy courts. There are twelve circuits based on geographic locations and one federal circuit which has nationwide jurisdiction to hear appeals in specialized cases, such as those involving patent laws, and cases decided by the [U.S. Court of International Trade](#) and the [U.S. Court of Federal Claims](#). The smallest circuit is the First Circuit with six judgeships, and the largest court is the Ninth Circuit, with 29 judgeships. Appeals court panels consist of three judges. The court will occasionally convene *en banc* and only after a party who has lost in front of the three-judge panel requests review. Because the Circuit Courts are appellate courts which review trial court records, they do not conduct trials and, thus, they do not use a jury.

The U.S. Courts of Appeal, like the U.S. Supreme Court, trace their existence to Article III of the U.S. Constitution. These courts are busy, and there have been efforts to both fill vacancies and increase the number of judgeships to help deal with the caseloads. For example, the Federal Judgeship Act of 2013 would have created five permanent and one temporary circuit court judgeships, in an attempt to keep up with increased case filings. However, the bill died in Congress. Fortunately, in recent years, fewer cases have been filed.

Click on this link to see the geographical jurisdiction of the U.S. Courts of Appeals:
http://www.uscourts.gov/sites/default/files/u.s._federal_courts_circuit_map_1.pdf

United States District Courts

The U.S. District Courts, also known as **Article III courts**, are the main trial courts in the federal court system. Congress first created these U.S. District Courts in the Judiciary Act of 1789. Now, ninety-four U.S. District Courts, located in the states and four territories, handle prosecutions for violations of federal statutes. Each state has at least one district, and larger states have up to four districts. Each district court is described by reference to the state or geographical segment of the state in which it is located (for example, the U.S. District Court for the Northern District of California). The district courts have jurisdiction over all prosecutions brought under federal criminal law and all civil suits brought under federal statutes. A criminal trial in the district court is presided over by a judge who is appointed for life by the president with the consent of the Senate. Trials in these courts may be jury trials.

Link to a number of cases filed in U.S. District Courts <http://www.uscourts.gov/federal-judicial-caseload-statistics-2018-tables>

Although the U.S. District Courts are primarily trial courts, district court judges also exercise an appellate-type function in their review of **petitions for writs of habeas corpus** brought by state prisoners. Writs of habeas corpus are claims by state and federal prisoners who allege that the government is illegally confining them in violation of the federal constitution. The party who loses at the U.S. District Court can appeal the case in the court of appeals for the circuit in which the district court is located. These first appeals must be reviewed, and thus are referred to as **appeals of right**.

United States Magistrate Courts

U.S. Magistrate Courts are **courts of limited jurisdiction** in the federal court system, meaning that these legislatively-created courts do not have full judicial power. Congress first created the U.S. Magistrate Courts with the Federal Magistrate Act of 1968. Under the Act, federal magistrate judges assist district court judges by conducting pretrial proceedings, such as setting bail, issuing warrants, and conducting trials of federal misdemeanor crimes. There are more than five hundred Magistrate Judges who disposed of over one million matters.

In the News: www.uscourts.gov/sites/default/files/data_tables/jb_s17_0930.2017.pdf

U.S. Magistrate Courts are “**Article I Courts**” as they owe their existence to an act of Congress, not the Constitution. Unlike Article III judges who hold lifetime appointments, Magistrate Judges, formerly referred to as “Magistrates” before the Judicial Improvement Act which took effect December 1, 1990, are appointed for eight-year terms.

For a comprehensive review of the U.S. Magistrate Courts and U.S. Magistrate Judges see: www.fedbar.org/PDFs/A-Guide-to-the-Federal-Magistrate-Judge-System

Court Assignment

Watch season two of the popular Netflix series, *Making a Murder* which covers the appeals of the murder convictions of Steven Avery and his nephew Brendan Dassey. Pay attention to the discussions among Brendan Dassey's appellate team from Northwestern School of Law concerning the appeals process from the state courts through the federal Seventh Circuit Court of Appeals, which convened *en banc* after a 2-1 panel decision finding Brendan Dassey's confession was inadmissible.

See http://www.abajournal.com/news/article/en_banc_7th_circuit_reinstates_brendan_dasseys_conviction_in_making_a_murder?icn=most_read also,

- Write a 500-word response about what you saw during the appeals process and how it made you feel. Did you agree with it or disagree with it? Is this justice?

Click on this link to see the number of filings: <http://www.uscourts.gov/statistics-reports/federal-judicial-caseload-statistics-2018>

1. (The Judiciary Act of 1789 (Ch. 20, 1 Stat 73) ↩
2. Scheb II, J.M. (2013). *Criminal Law and Procedure* (8th ed., pp. 45). Belmont, CA: Cengage. ↩

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