

The Judicial Branch

Judicial Review, Limited Government and Checks and Balances

The Creation of National Judiciary

- Under the Articles of Confederation there was no National Court System (1781-1789)
- The Laws of the U.S.A were interpreted and applied as each state saw fit.
- Laws in one state were ignored in another state

The Creation of National Judiciary

Alexander Hamilton: *Federalist Papers No. 22*

“the want of a judiciary power ... crowns the defects of the Confederation.”

“Laws are a dead letter without the courts to expound and define their true meaning and operation.”

The Creation of National Judiciary

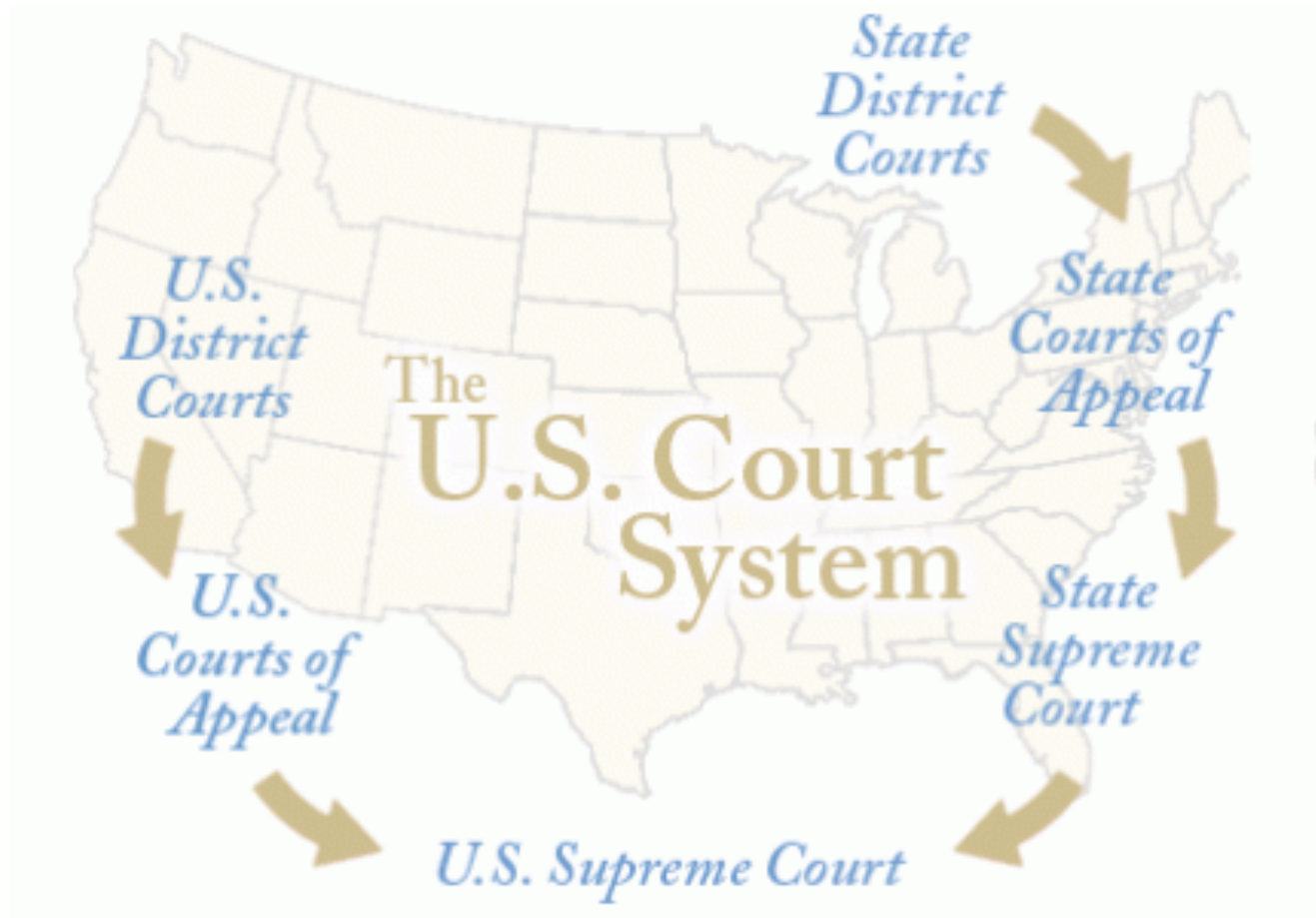
“The Judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish”

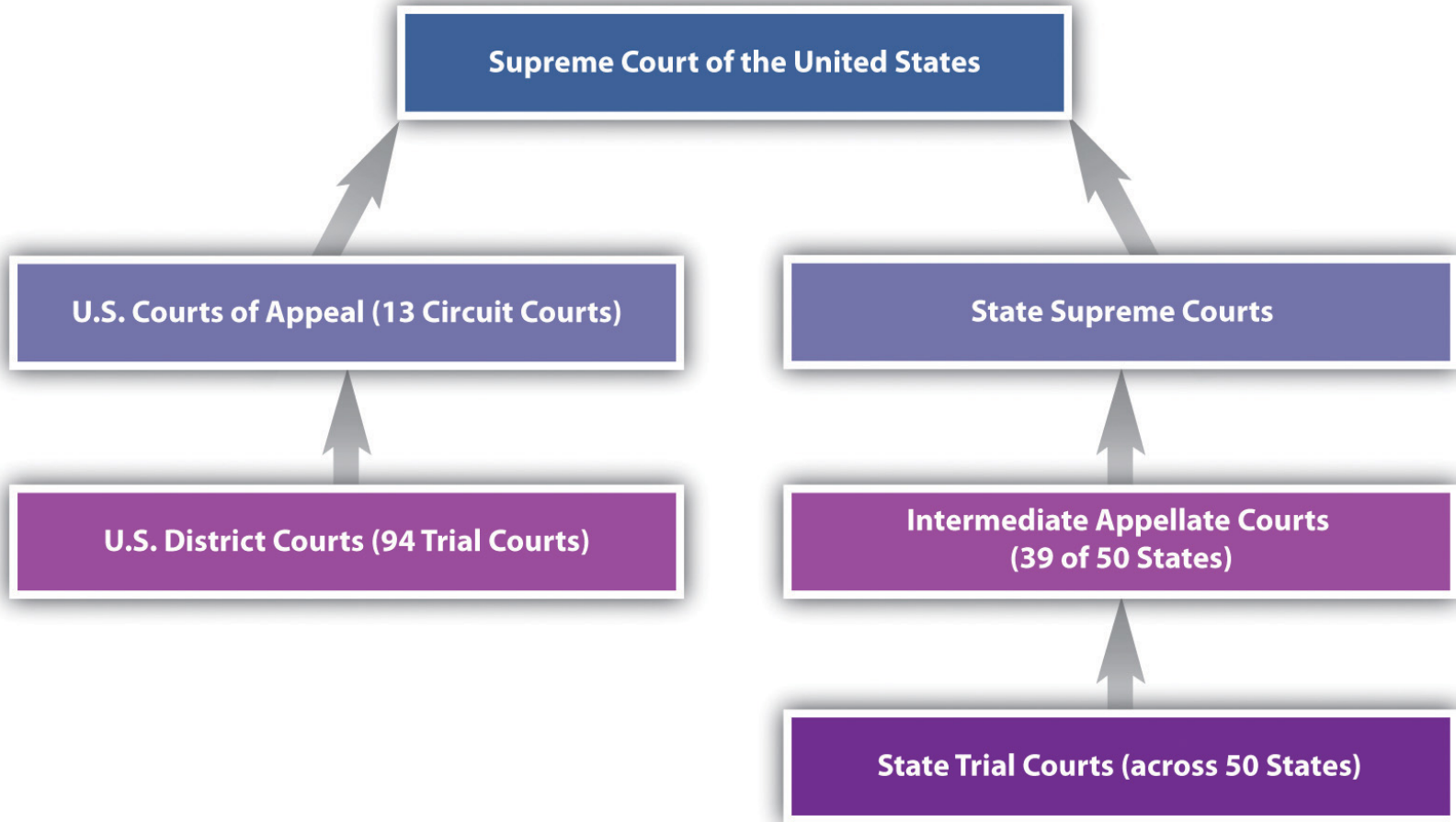
- Article III, Section I

A Dual Court System

There are two separate court systems in the U.S.:

- the national judiciary spans the country (100+ courts)
- each of the 50 states has its own system of courts.
 - most cases are heard in state courts





Supreme Court of the United States

U.S. Courts of Appeal (13 Circuit Courts)

U.S. District Courts (94 Trial Courts)

State Supreme Courts

**Intermediate Appellate Courts
(39 of 50 States)**

State Trial Courts (across 50 States)

The state court system

State Supreme Court

hears appeals from
lower courts

Superior Court

hears serious cases
most trials held here

Special Courts - juvenile, divorce, family, housing

specific cases heard

County, municipal, traffic, magistrate, etc.

minor cases,
arraignments

Two Kinds of Federal Courts

The Constitution Creates the Supreme Court only

“the judicial power of the United States shall be vested in...such inferior courts as the Congress may from time to time ordain and establish”

- Article III, Section I

Over the years Congress has created two distinct types of federal courts:

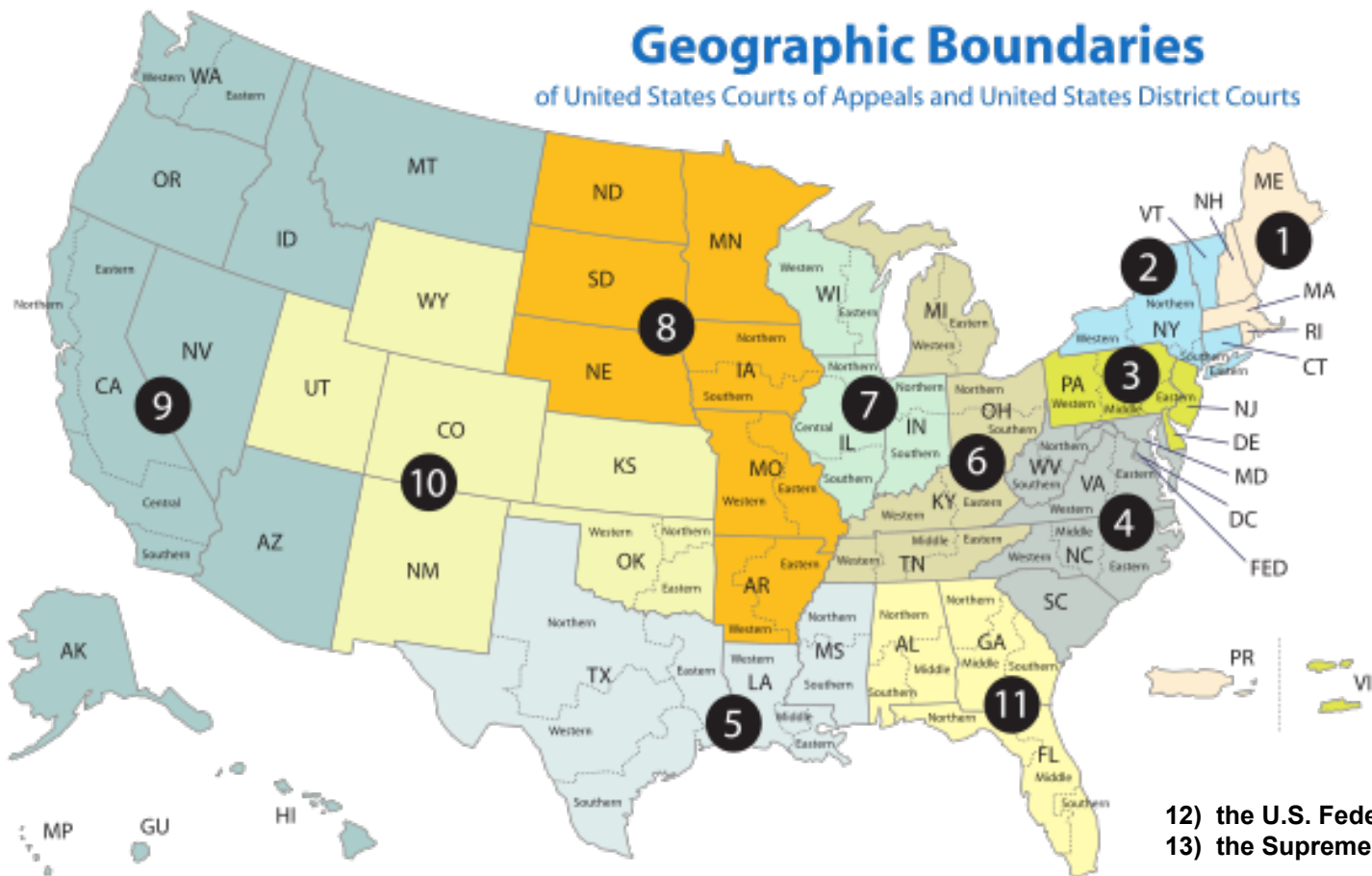
- 1) the constitutional courts
- 2) the special courts

Constitutional Courts

- Federal Courts that Congress has formed under the Constitution (Article III) to exercise the broad “judicial power of the United States”.
- They Include:
 - the 94 District Courts
 - the 12 U.S. Courts of Appeals
 - the U.S. Court of Appeals for the Federal Circuit
 - the U.S. Court of International Trade.

Geographic Boundaries

of United States Courts of Appeals and United States District Courts



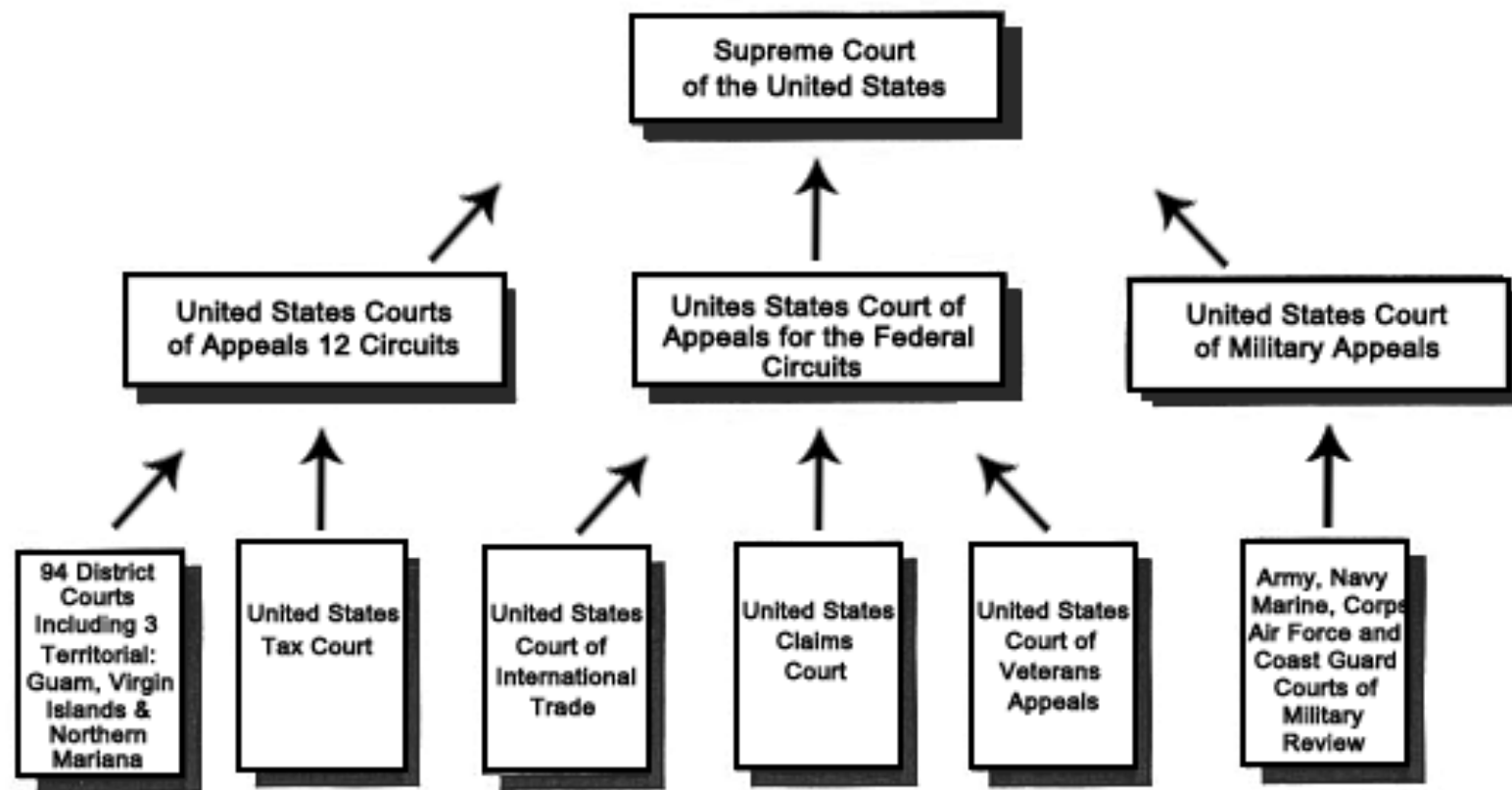
12) the U.S. Federal Circuit Court
13) the Supreme Court

Special Courts (a.k.a. Legislative Courts)

Created by Congress to “constitute Tribunals inferior to the Supreme Court”. These courts hear a much narrower range of cases than those that come before the constitutional courts.

- U.S. Court of Appeals for the Armed Forces
- U.S. Court of Appeals for Veterans Claims
- U.S. Court of Federal Claims
- U.S. Tax Court
- Territorial Courts
- Courts of the District of Columbia

The United States Court System



Federal Court Jurisdiction

Jurisdiction is the authority of a court to hear and try a case. It is based on two criteria:

1) the subject matter

- the interpretation and application of a provision in the Constitution or in any federal statute or treaty
- a question of admiralty law (matters that arise at sea)

Federal Court Jurisdiction

2) the parties involved

- the U.S. or one of its officers or agencies
- an ambassador, consul or other official representative of a foreign government
- one of the 50 states suing either another State, a resident of another states or a Foreign government
- a citizen of one State suing a citizen of another State
- a U.S. citizen suing a foreign government or one of its subjects

Types of Jurisdiction

Exclusive Jurisdiction: cases that can only be heard in a federal court

Concurrent Jurisdiction: cases that may be tried in either a Federal or a State Court

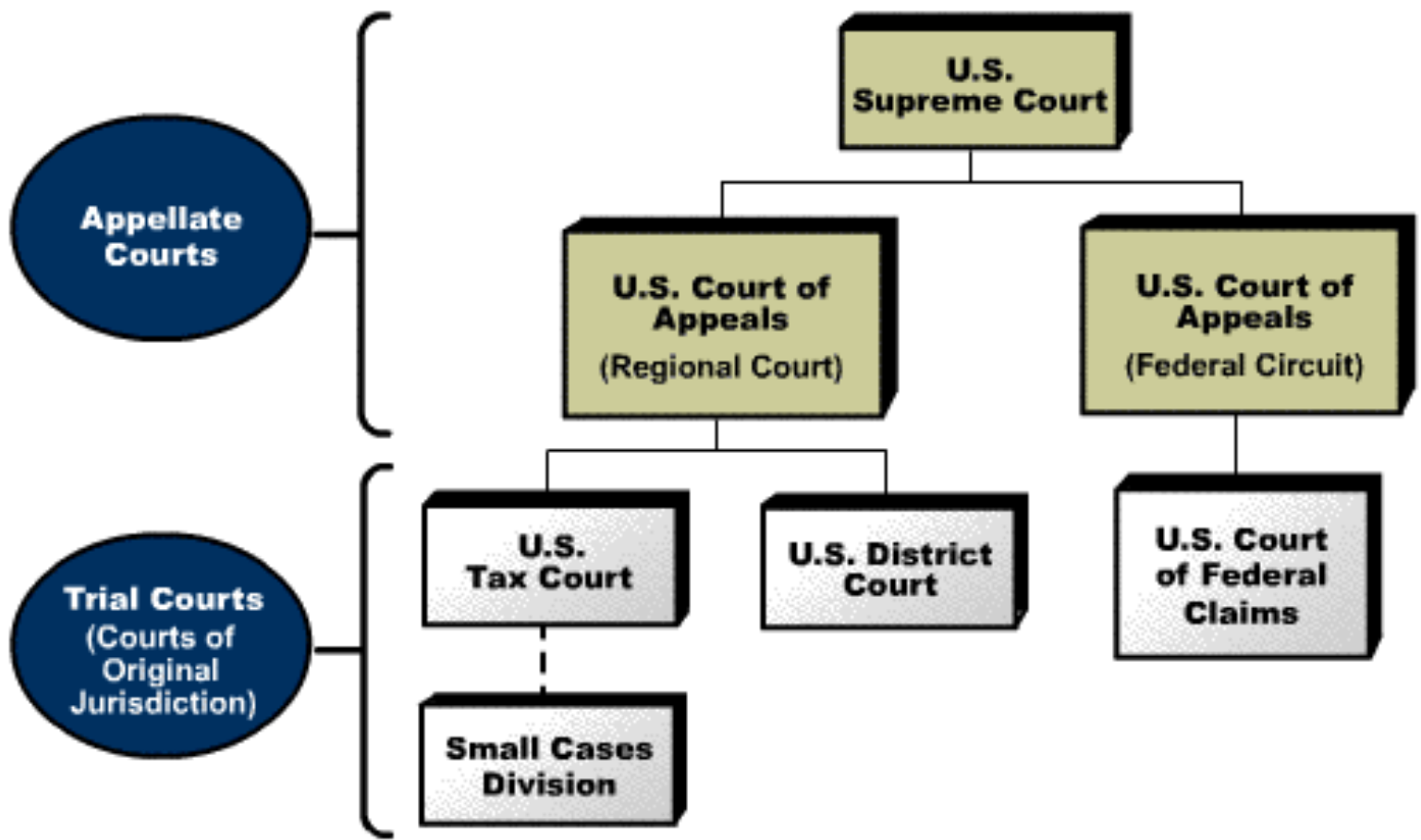
Original Jurisdiction: a court which first hears a court case

Appellate jurisdiction: a court that hears a case on appeal from a lower court

Types of Jurisdiction

In the Federal Court System:

- district courts only have ***original jurisdiction***
- courts of appeals have only ***appellate jurisdiction***



Appointment of Judges

- the President appoints all federal judges to the 94 district courts.
- appointees must be approved by the Senate
- the senate plays a large role in recommending federal judges

Appointment of Judges

Judicial Restraint

(Conservative)

Judges should always try to decide cases on the basis of

- 1) the original intent of those who wrote the Constitution or enacted the statute
- 2) precedent -- that is, in line with previous decisions in similar cases.

vs.

Judicial Activism

(Liberal)

Judges should act more boldly. The law should be interpreted and applied in light of ongoing changes in conditions and values.

ESPECIALLY when cases involve Civil Rights and social welfare issues.

Terms of Judges

“Judges, both of the Supreme Court and the inferior Courts, shall hold their Offices during good behavior”.

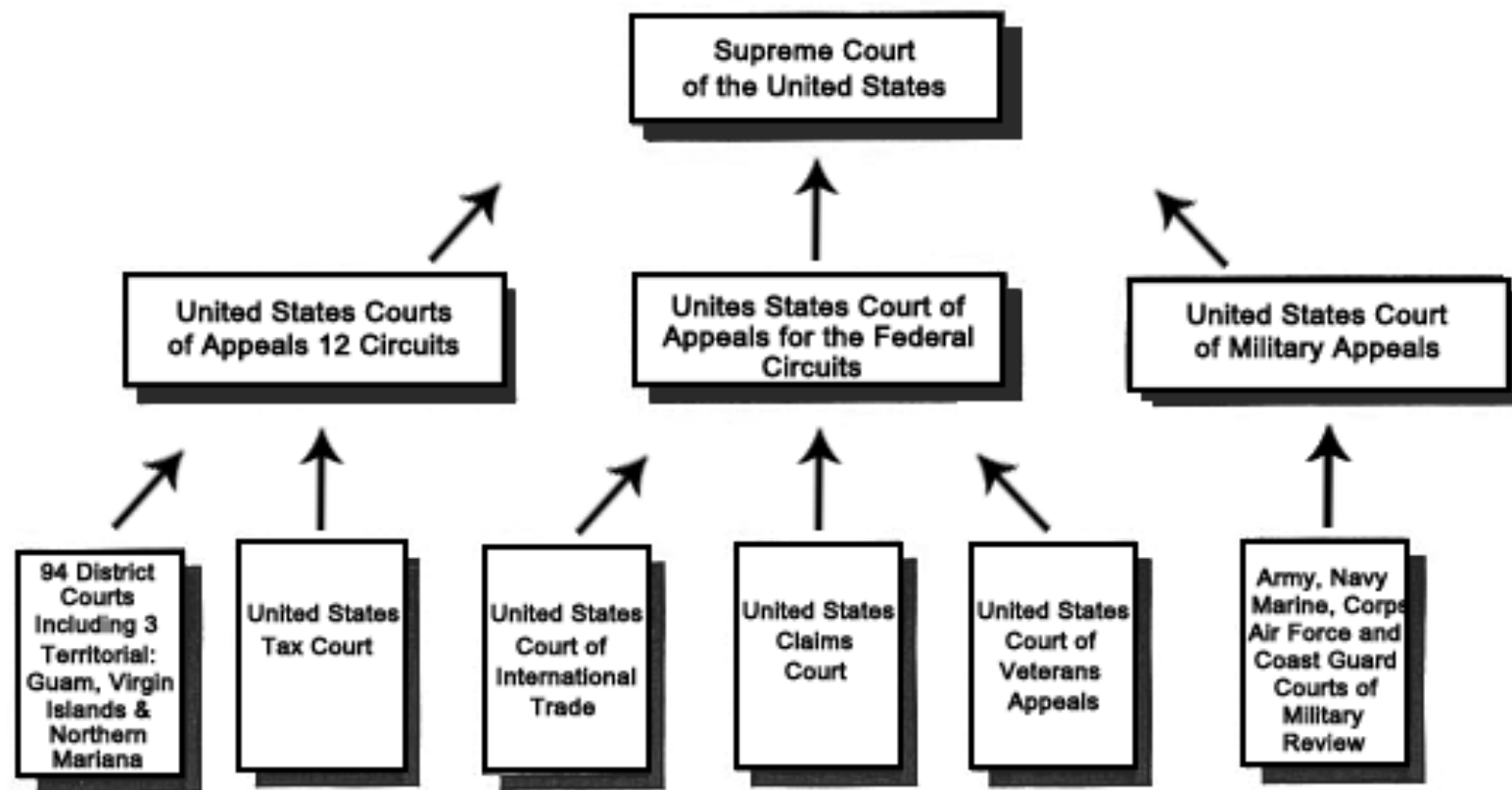
- This means that the judges of the constitutional courts are appointed for life -- until they resign, retire, or die in office.
- Judges who sit in the special courts are not appointed for life. They serve 15 year terms.

(with the exception of Washington D.C. Judges)

The Inferior Courts

District Courts and Court of Appeals

The United States Court System





District Courts

- the 94 United States district courts are the federal trial courts.
- 677 judges handle over 300,000 cases per year. (80% of total workload)
- the 50 states are divided into 89 federal judicial districts. 5 additional districts for Washington D.C., Puerto Rico, the Virgin Islands, Guam and the Northern Mariana Islands. (94 total).
- And at least 2 judges are assigned to each district

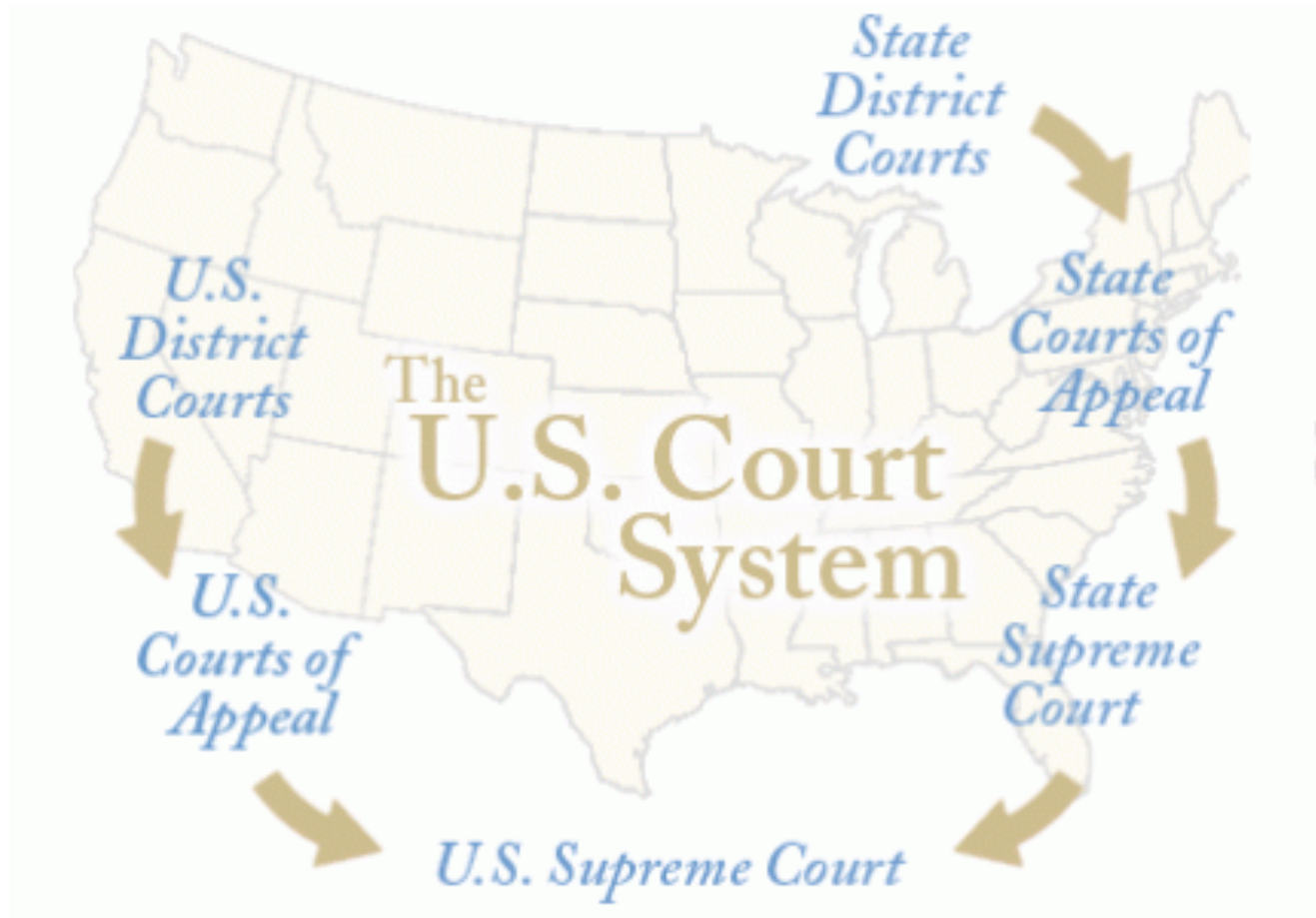
District Court Jurisdiction

- the district courts hear a wide range of both criminal cases and civil cases.
- The district courts are the only federal courts that regularly use grand juries and petit juries
- Most decisions made in the 94 Federal district courts are final.
- Some cases are appealed to the court of appeals to the Court of Appeals and sometime even the Supreme Court.

Court of Appeals

The Court of Appeals was created in 1891. It was established as a “gatekeeper” to relieve the Supreme Court of much of the burden of hearing appeals from the district courts

- There are 12 Courts of Appeals, one for each of the 12 judicial circuits. (Including the Supreme Court there are 13)
- 179 Judges sit on these 12 appellate courts. In addition, one justice of the Supreme Courts is assigned to each of the 12 district as an overseer.



NORTHERN DISTRICT



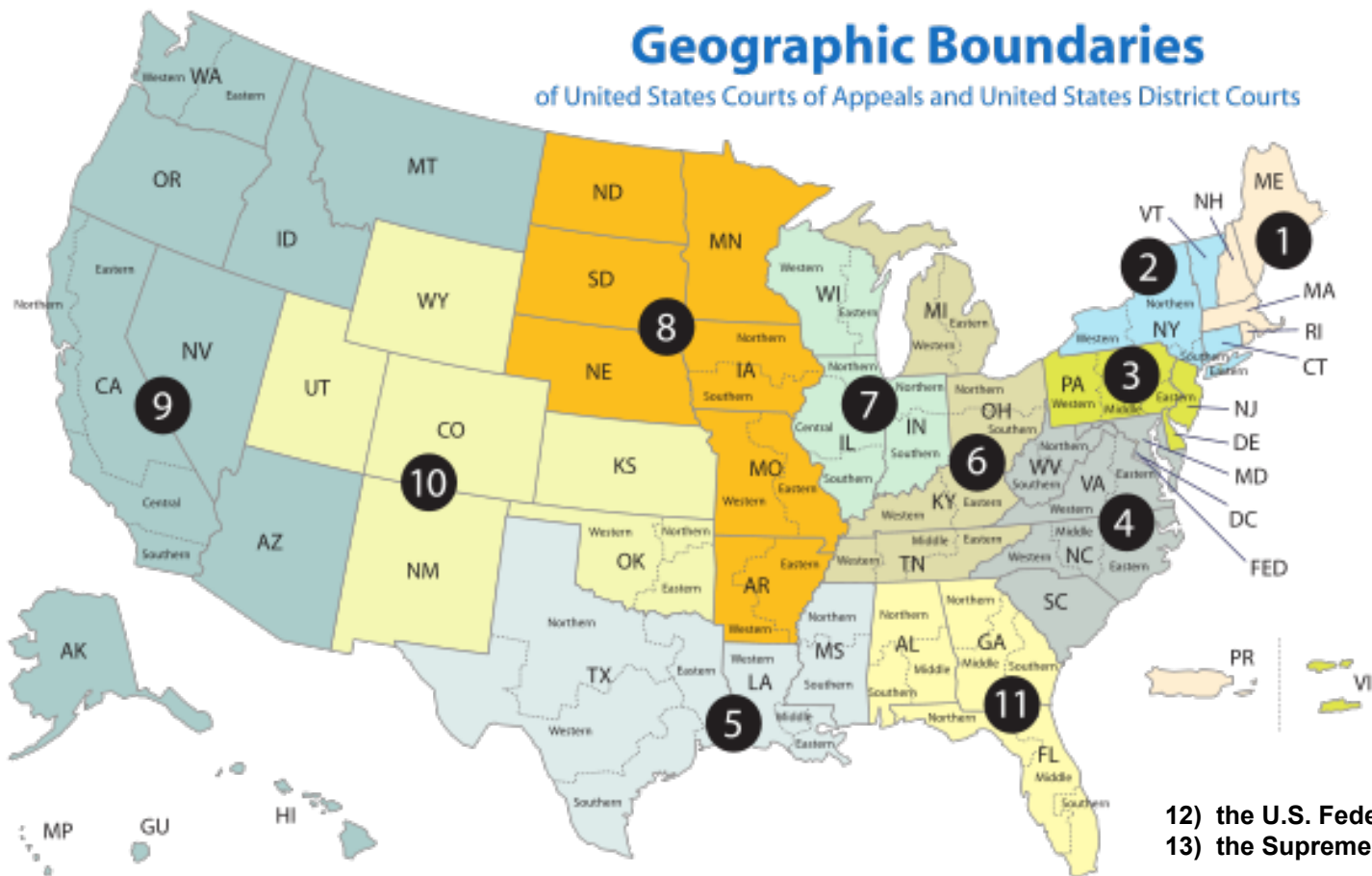
CENTRAL DISTRICT of California

- Western Division
- Eastern Division
- Southern Division

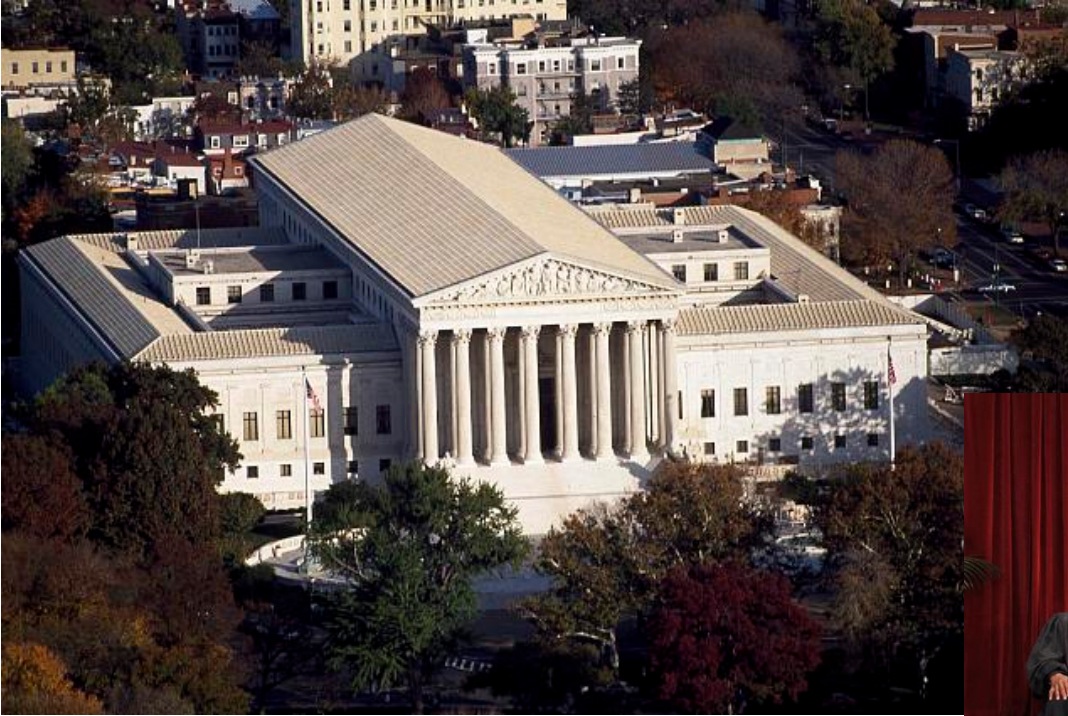


Geographic Boundaries

of United States Courts of Appeals and United States District Courts



12) the U.S. Federal Circuit Court
13) the Supreme Court



The United States Supreme Court



Appellate Court Jurisdiction

- the courts of appeals have only appellate jurisdiction.
- They hear cases on appeal from the lower federal courts: the 94 District Courts, U.S. Tax Court, and territorial courts.
- the courts of appeals now handles more than 55,000 cases a year. Their decisions are final unless the Supreme court decides to hear appeals taken from them.

Other Constitutional Courts

The Court of International Trade: this court deals only with trade related laws and civil cases.

The Court of Appeals for the Federal Circuit: this court is central and speeds up certain kinds of civil cases.

- It hears appeals from the U.S. Court of International Trade, U.S. Court of Federal Claims, the U.S. Court of Appeals for Veterans Claims.
- It also hears appeals in patent, trademark and copyright cases from the 94 district courts.

The Supreme Court

equal justice under law



Judicial Review

- the power to decide the constitutionality of an act of government.
- The Ultimate exercise of that power rests with the Supreme Court
 - the Supreme Court is the final authority on the Meaning of the Constitution

Marbury vs. Madison

1803: Judicial Review is established

1. Thomas Jefferson won the Presidency (Democratic-Republicans)
2. The opposing party (the Federalists) wanted to stack the Judiciary before leaving office
3. President John Adams quickly filled new federal judgeships with loyal Federalists.
4. William Marbury was one of these appointee and the Senate had confirmed the appointment late in the evening
5. The next day Jefferson became President

Marbury vs. Madison

6. Jefferson realized that the commission had not yet been delivered so he ordered James Madison (secretary of State) not to deliver the commissions.

7. Marbury went to the Supreme Court and asked for the court to order the delivery of the new federal justices commissions. He argued that the Judiciary Act of 1789 allowed him to take his case directly to the high court.

8. In a unanimous decision the Supreme Court refused his request and declared this provision of the Judiciary Act unconstitutional. Essentially it violated Article III, Section 2, Clause 2 of the Constitution.

Effects of Marbury vs. Madison

Chief Justice John Marshall claimed that the Supreme Court had the right to declare acts of Congress unconstitutional

- This meant that the court could thereby overturn legislative action, past and present.
- Judicial review is the Judicial Branches key role in the development of the American system of government.

How Cases reach the Supreme Court

- approximately 8000 cases are appealed to the Supreme Court each year. Only a few hundred are accepted
- The Court selects those cases according to “the rule of Four”. At least four of its nine justices must agree that a case be put on the docket.
- Most Cases reach the Supreme Court by writ of certiorari (“to be made more certain”). When denied the lower court ruling stands.

How the Court Operates

- term runs from the first Monday in October to sometime the following June or July
- once the Supreme Court accepts a case it sets a date on which that case will be heard.
- Justices consider arguments in several cases in two week cycles. Then recess for two weeks to consider those cases.

How the Court Works

- prior to hearing oral arguments the Court review **briefs**, or written documents that support one side of a case.
 - **amicus curiae** (friend of the court) are briefs that are file by persons or groups who are not actual parties to the case but have a substantial interest in the case.
- The justices meet in secret on Wednesday and Fridays to consider the cases in which they have heard arguments. The Chief Justice Presides over the meetings.

How the Court Works

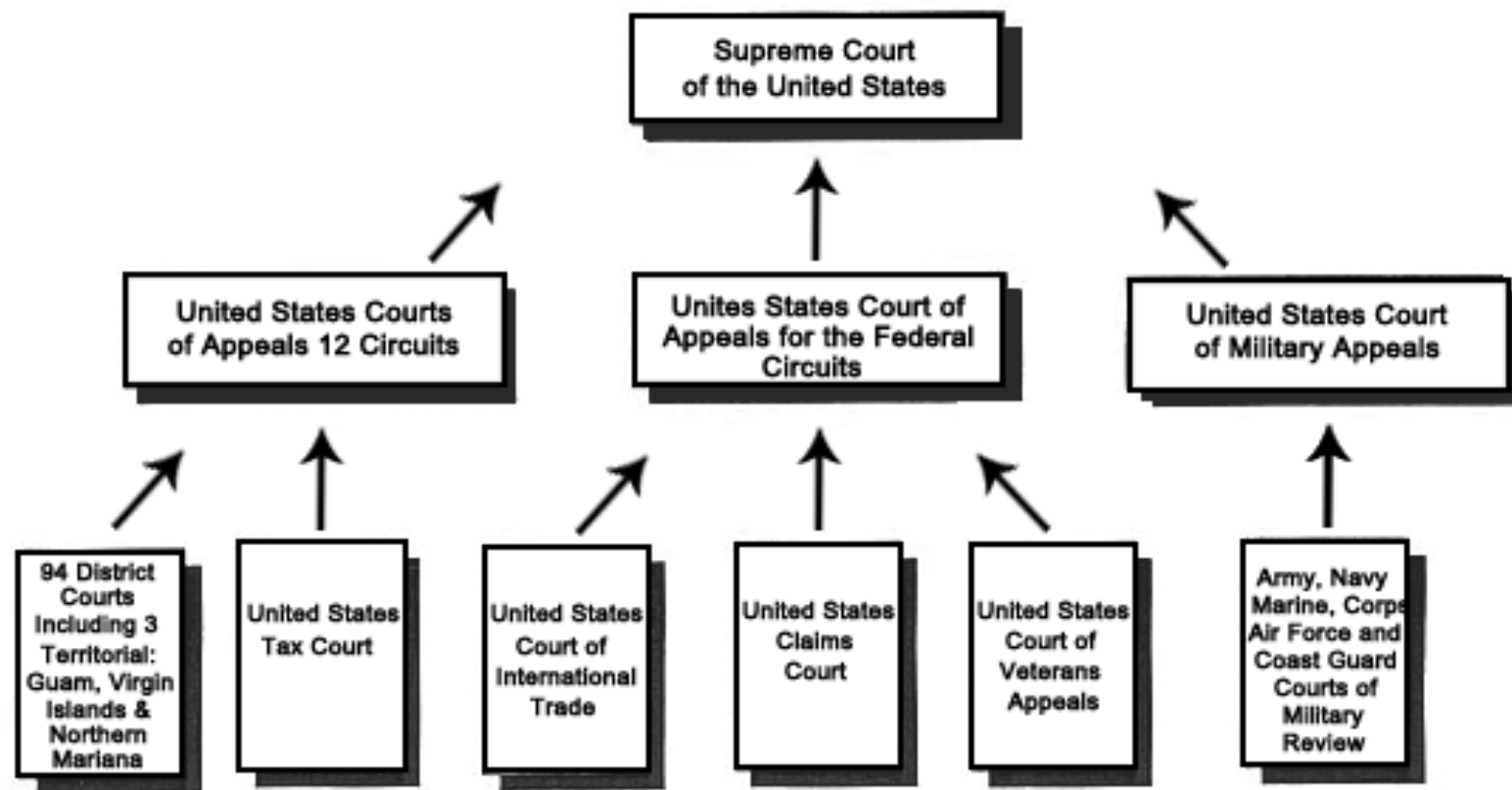
- The Chief Justice speaks first and indicates how he intends to vote.
- Each of the remaining Justices (8) are allowed to summarize their opinion in order of seniority.
- Deliberation ensues and a vote is taken to decide the case.

How the Court Works

- The Courts opinion on a case is often called the ***Majority Opinion***, or the Opinion of the Court.
- The Majority opinion of the Supreme Court stand as ***precedent***, or examples to be followed in similar cases as they arise in lower courts.
- Often other justices will write a ***Concurring Opinion*** to add emphasis to a point that was not made in the previous writing.
- One or more ***Dissenting Opinions*** are often written by those justices who do not agree with the Court's majority decision.

The Special Courts

The United States Court System



The Court of Federal Claims

- The Government may be taken to court only in cases in which Congress declares that the United States is open to suit.
 - this is called “sovereign immunity”
- in 1855 Congress set up the Court of Claims (in 1993 its name was changed to the Court of Federal Claims).
- The Court of Federal Claims is where citizens can sue the

Court of Federal Claims

- 16 judges
- 15 year terms
- hear claims for damages against the Federal Government
- if decision is appealed the case then goes to the Court of Appeals for the Federal Circuit.

Territorial Courts

- Acting under its power to “make all needful Rules and Regulations respecting the Territory...belonging to the United States,” Congress created courts in the nations territories.
- Virgin Islands, Guam, Northern Marianas, etc.

District of Columbia Courts

- essentially is a judicial system for the Nations Capital
- District Court and the Court of Appeals for the District of Columbia hear local cases and exercise “broad judicial power” as a constitutional court.

Court of Appeals for the Armed Forces

- military courts = court-martial
- all members (judges, prosecutors, defense attorneys, court reporters, etc.) are members of the military
- Court of Appeals for the Armed Forces reviews more serious court-martial convictions.
 - it is a civilian tribunal
 - operates separate from the military
- 5 Judges are appointed by the President (15 year terms)

Military Commissions

- DOD has created court like board that are set up to try “enemy combatants”, including suspected terrorists
- Many of the suspected terrorists captured in Iraq and Afghanistan remain in Guantanamo Bay
 - Obama signed the Defense Authorization Bill (2011) which limited the usage of this military prison

Court of Appeals for Veterans Claims

- 1 chief judge and 6 associate judges (appointed by the president)
- this court hears appeals from the decisions of the Board of Veterans Affairs (VA)
- an appeal of this court will then go on to the Court of Appeals for the Federal Circuit

United States Tax Court

- It is not a part of the federal court system.
- 19 judges
 - (appointed by the President for 15 year terms)
- hears civil (not criminal) cases involving disputes over the application of tax laws.
 - mostly over the IRS and other Treasury Dept. agencies