

**THE FEDERAL COURT SYSTEM  
IN THE UNITED STATES**

**An Introduction for Judges and Judicial  
Administrators in Other Countries**



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# THE FEDERAL COURT SYSTEM IN THE UNITED STATES

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**Article III Judges Division**

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This publication was developed by the Administrative Office of the United States Courts to provide an introduction to the federal judicial system, its organization and administration, its relationship to the legislative and executive branches of the federal government, and its relationship to the state court systems. The Administrative Office is the judicial branch's central support agency responsible for providing a broad range of management, legal, technical, communications, and other support services for the administration of the federal courts.

THE UNITED STATES  
CONSTITUTION AND THE  
FEDERAL GOVERNMENT

The United States Constitution, adopted in 1789 and amended only rarely since then, is the supreme law of the United States. It established a republic under which the individual states retain considerable sovereignty and authority. Each state, for example, has its own elected executive (governor), legislature, and court system. The federal, or national, government is one of strong, but limited, powers. It may exercise only the powers specified in the Constitution itself. All other powers are reserved by the Constitution to the states and the people. This system of divided powers between the national and state governments is known as "federalism."

The Bill of Rights is set forth as the first ten amendments to the Constitution. It guarantees fundamental rights to the people and protects them against improper acts by the government. The rights protected include such matters as free speech, freedom of assembly, freedom to seek redress of grievances, freedom from unreasonable searches and seizures, due process of law, protection against compelled self-incrimination, protection against seizure of property without just compensation, a speedy and public trial in criminal cases, trial by jury in both criminal and civil cases, and assistance of counsel in criminal prosecutions.

The Constitution established three separate branches of government—Legislative (Article I), Executive (Article II), and Judicial (Article III). The three branches of the federal government operate within a constitutional system known as "checks and balances." Each branch is formally separate from the other two, and each has certain constitutional authority to check the actions of the others.

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**Two central features**

of the government established under the United States Constitution are

- Federalism, and
- Checks and balances among the three separate branches of the government.

## THE LEGISLATIVE BRANCH

Congress, the national legislature of the United States, is composed of two houses or chambers—the Senate and the House of Representatives. Each state has two Senators who are elected for six-year terms. One-third of the Senate is elected every two years. Members of the House of Representatives are elected from local districts within states. Each state receives a number of Representatives in proportion to its population. The entire House is elected every two years.

To become law, proposed legislation must be passed by both houses and approved by the President. If the President does not sign, or vetoes, a bill, it may still be enacted, but only by a two-thirds vote of each house of Congress.

The Constitution did not establish a parliamentary or cabinet system of government, as in the United Kingdom and many other democracies around the world. Under the United States Constitution, the President is both the head of state and the head of the government. The President appoints a cabinet—consisting of the heads of major executive departments and agencies—but neither the President nor any member of the cabinet sits in the Congress. The President's political party, moreover, does not need to hold a majority of the seats in the Congress to stay in office. In fact, it is not unusual for one or both houses of the Congress to be controlled by the opposition party.

Each house of the Congress has committees of its members, organized by subject matter, that draft laws, exercise general oversight over government agencies and programs, enact appropriation bills to fund government operations, and monitor the operation of federal programs. The federal courts, for example, maintain regular communications with the Judiciary Committees and the Appropriations Committees of the Senate and the House of Representatives.

## THE EXECUTIVE BRANCH

The President is elected every four years, and under the Constitution may serve no more than two terms in office. Once elected, the President selects a cabinet, each member of which must be confirmed by a majority vote in the Senate. Each cabinet member is the head of a department in the executive branch. The cabinet includes, for example, the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, and the Attorney General.

The President, his cabinet, and other members of the President's administration are responsible for operating the executive branch of the federal government and for executing and enforcing the laws. The Attorney General, who is head of the Department of Justice, is responsible for all criminal prosecutions, for representing the government's legal interests in civil cases, and for administration of the Bureau of Prisons, the Federal Bureau of Investigation, the Marshals Service, the Immigration and Naturalization Service, and certain other law enforcement organizations. At the local level, the chief prosecutor in each of the 94 federal judicial districts is the United States attorney, who is appointed by the President and reports to the Attorney General.

The Department of Justice plays no role in administration or budgeting for the federal courts. The judiciary communicates separately and directly to the Congress on legislative and appropriations matters.

## THE JUDICIAL BRANCH

The federal judiciary is a totally separate, self-governing branch of the government. The federal courts often are called the guardians of the Constitution because their rulings

protect the rights and liberties guaranteed by the Constitution. Through fair and impartial judgments, they determine facts and interpret the law to resolve legal disputes.

The courts do not make the laws. That is the responsibility of the Congress. Nor do the courts have the power to enforce the laws. That is the role of the President and the many executive branch departments and agencies. But the judicial branch has the authority to interpret and decide the constitutionality of federal laws and to resolve other disputes over federal laws.

The framers of the Constitution considered an independent federal judiciary essential to ensure fairness and equal justice to all citizens of the United States. The Constitution they drafted promotes judicial independence in two principal ways. First, federal judges appointed under Article III of the Constitution can serve for life, and they can be removed from office only through impeachment and conviction by Congress of "Treason, Bribery, or other high Crimes and Misdemeanors." Second, the Constitution provides that the compensation of Article III federal judges "shall not be diminished during their Continuance in Office," which means that neither the President nor Congress can reduce the salaries of most federal judges. These two protections help an independent judiciary to decide cases free from popular passion and political influence.

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#### **U.S. Constitution, Article III**

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. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance In Office.

THE ROLE OF THE  
FEDERAL COURTS IN  
AMERICAN GOVERNMENT

THE FEDERAL COURTS AND  
CONGRESS

Congress has three basic responsibilities under the Constitution that determine how the federal courts will operate.

First, it authorizes the creation of all federal courts below the Supreme Court, defines the jurisdiction of the courts, and decides how many judges there should be for each court.

Second, through the confirmation process, the Senate determines which of the President's judicial nominees ultimately become federal judges.

Third, Congress approves the federal courts' budget and appropriates money for the judiciary to operate. The judiciary's budget is a very small part—about two-tenths of one percent—of the entire federal budget.

THE FEDERAL COURTS AND  
THE EXECUTIVE BRANCH

Under the Constitution, the President nominates Article III constitutional judges to a lifetime appointment, subject to approval by majority vote of the Senate. The President usually consults senators or other elected officials concerning potential candidates for vacancies on the federal courts.

The President's power to appoint new federal judges is not the judiciary's only interaction with the executive branch. The Department of Justice, which is responsible for prosecuting federal crimes and for representing the government in civil cases, is the most frequent litigator in the federal court system. Several other executive branch agencies are involved with court operations. The United States Marshals

Service, for example, provides security for federal courthouses and judges, and the General Services Administration builds and maintains federal courthouses.

Within the executive branch there are military courts and a number of other specialized subject-matter tribunals and administrative agencies that adjudicate disputes in the first instance involving specific federal laws and benefits programs, such as the tax laws, patent and copyright laws, labor laws, social security statutes and regulations, approval of radio and TV licenses, and the like. Although these executive branch bodies are not part of the judiciary established under Article III of the Constitution, appeals of their final decisions typically may be taken to the Article III courts.

#### THE FEDERAL COURTS AND THE PUBLIC

With certain very limited exceptions, each step of the federal judicial process is open to the public. Federal courthouses are designed to inspire in the public a respect for the tradition and purpose of the American judicial process, and many courthouses are historic buildings.

A citizen who wishes to observe a court in session may go to a federal courthouse, check the court calendar, which is posted on a bulletin board or television monitor, and watch any proceeding. Anyone may review the file and papers in a case by going to the clerk of court's office and asking to review or copy the appropriate case file. Increasingly, court schedules, dockets, judgments, opinions, and pleadings are being made available to the public in electronic format through the Internet. Unlike most of the state courts, however, the federal courts do not permit television or radio coverage of trial court proceedings.

The right of public access to court proceedings is partly derived from the Constitution and partly from court and common-law tradition. By conducting their judicial work in public view, judges enhance public confidence in the courts, and they allow citizens to learn firsthand how our judicial system works.

In a few, limited situations the public may not have full access to court records and court proceedings. In a high-profile trial, for example, there may not be enough space in the courtroom to accommodate everyone who would like to observe. Access to the courtroom also may be restricted for security or privacy reasons, such as the protection of a juvenile or a confidential informant. Finally, certain documents may be placed under seal by the judge, meaning that they are not available to the public. Examples of sealed information include certain types of confidential business records, certain law enforcement reports, juvenile records, and cases involving national security issues.

## THE STRUCTURE OF THE FEDERAL COURTS

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### The United States Federal Courts

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#### Supreme Court

United States Supreme Court

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#### Appellate courts

United States Courts of Appeals  
(12 Regional Courts of Appeals  
and the Court of Appeals for  
the Federal Circuit)

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#### Trial courts

United States District Courts  
(94 judicial districts and the United  
States Bankruptcy Courts)

Court of International Trade

Court of Federal Claims

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#### Other federal tribunals that are not within the judicial branch

Military Courts (trial and appellate)

United States Court of Veterans  
Appeals

United States Tax Court

Administrative agency offices and  
boards

With certain notable exceptions, the federal courts have jurisdiction to hear a broad variety of cases. The same federal judges handle both civil and criminal cases, public law and private law disputes, cases involving individuals and cases involving corporations and government entities, appeals from administrative agency decisions, and law and equity matters. There are no separate constitutional courts, because all federal courts and judges may decide issues regarding the constitutionality of federal laws and other governmental actions that arise in the cases they hear.

### TRIAL COURTS

The United States district courts are the principal trial courts in the federal court system. The district courts have jurisdiction to hear nearly all categories of federal cases. There are 94 federal judicial districts, including one or more in each state, the District of Columbia, Puerto Rico, and the overseas territories.

Each federal judicial district includes a United States bankruptcy court operating as a unit of the district court. The bankruptcy court has nationwide jurisdiction over almost all matters involving insolvency cases, except criminal issues. Once a case is filed in a bankruptcy court, related matters pending in other federal and state courts can be removed to the bankruptcy court. The bankruptcy courts are administratively managed by the bankruptcy judges.

Two special trial courts within the federal judicial branch have nationwide jurisdiction over certain types of cases. The Court of International Trade addresses cases involving international trade and customs issues. The United States Court of Federal Claims has jurisdiction over disputes involving federal contracts, the taking of

private property by the federal government, and a variety of other monetary claims against the United States.

Trial court proceedings are conducted by a single judge, sitting alone or with a jury of citizens as finders of fact. The Constitution provides for a right to trial by a jury in many categories of cases, including: (1) all serious criminal prosecutions; (2) those civil cases in which the right to a jury trial applied under English law at the time of American independence; and (3) cases in which the United States Congress has expressly provided for the right to trial by jury.

#### APPELLATE COURTS

The 94 judicial districts are organized into 12 regional circuits, each of which has a United States court of appeals. A court of appeals hears appeals from the district courts located within its circuit, as well as appeals from certain federal administrative agencies. In addition, the Court of Appeals for the Federal Circuit has nationwide jurisdiction to hear appeals in specialized cases, such as those involving patent laws and cases decided by the Court of International Trade and the Court of Federal Claims.

There is a right of appeal in every federal case in which a district court enters a final judgment. The courts of appeals typically sit in panels of three judges. They are not courts of cassation, and they may review a case only if one or more parties files a timely appeal from the decision of a lower court or administrative agency. When an appeal is filed, a court of appeals reviews the decision and record of proceedings in the lower court or administrative agency. The court of appeals does not hear additional evidence, and generally must accept the factual findings of the trial judge. If additional fact-finding is necessary, the court of

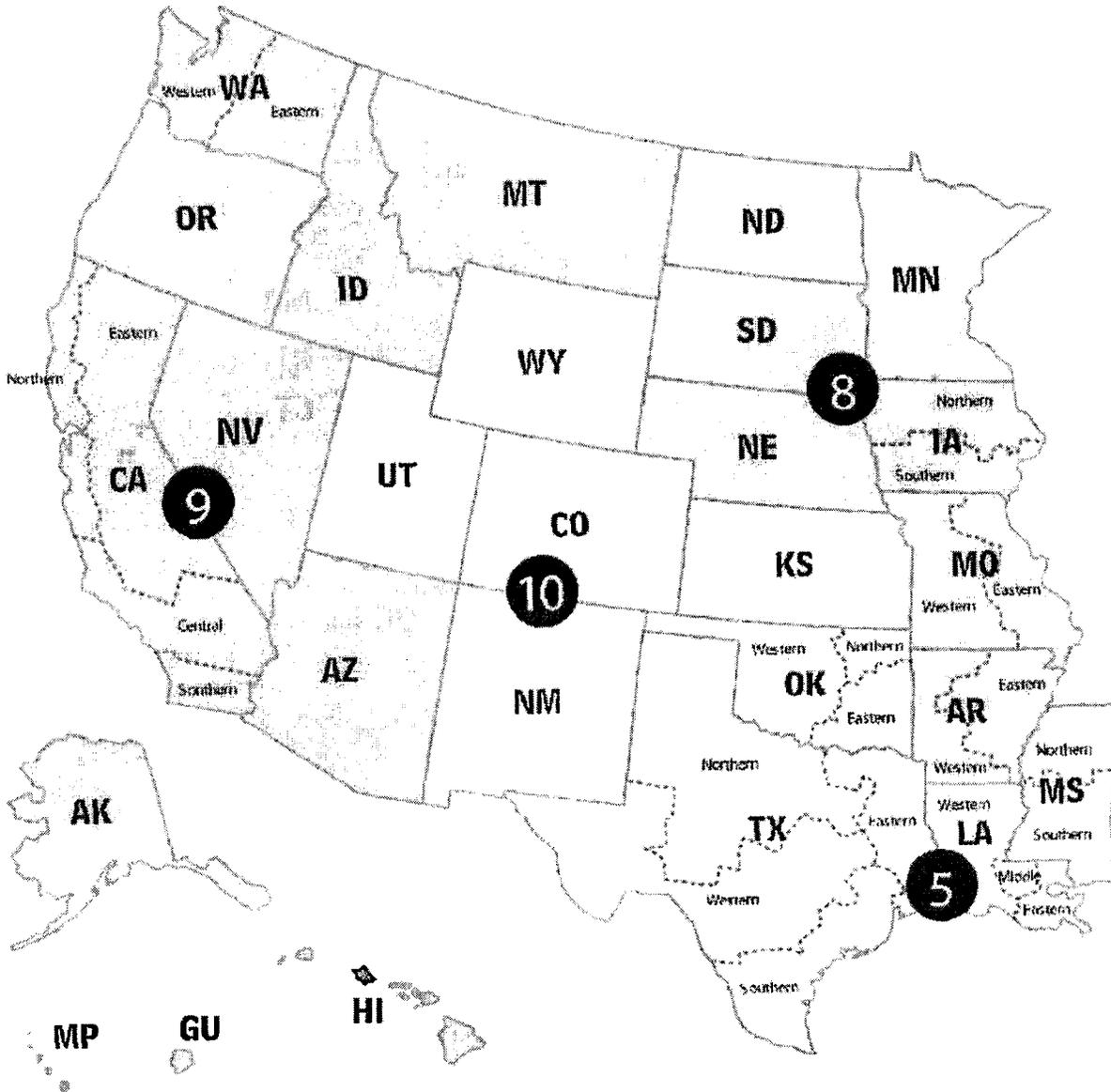
appeals may remand the case to the trial court or administrative agency. Remand is unnecessary in most cases, however, and the court of appeals either affirms or reverses the lower court or agency decision in a written order or written opinion.

In cases of unusual importance, a court of appeals may sit “en banc”—that is, with all the appellate judges in the circuit present—to review the decisions of a three-judge panel. The full court may affirm or reverse the panel decision.

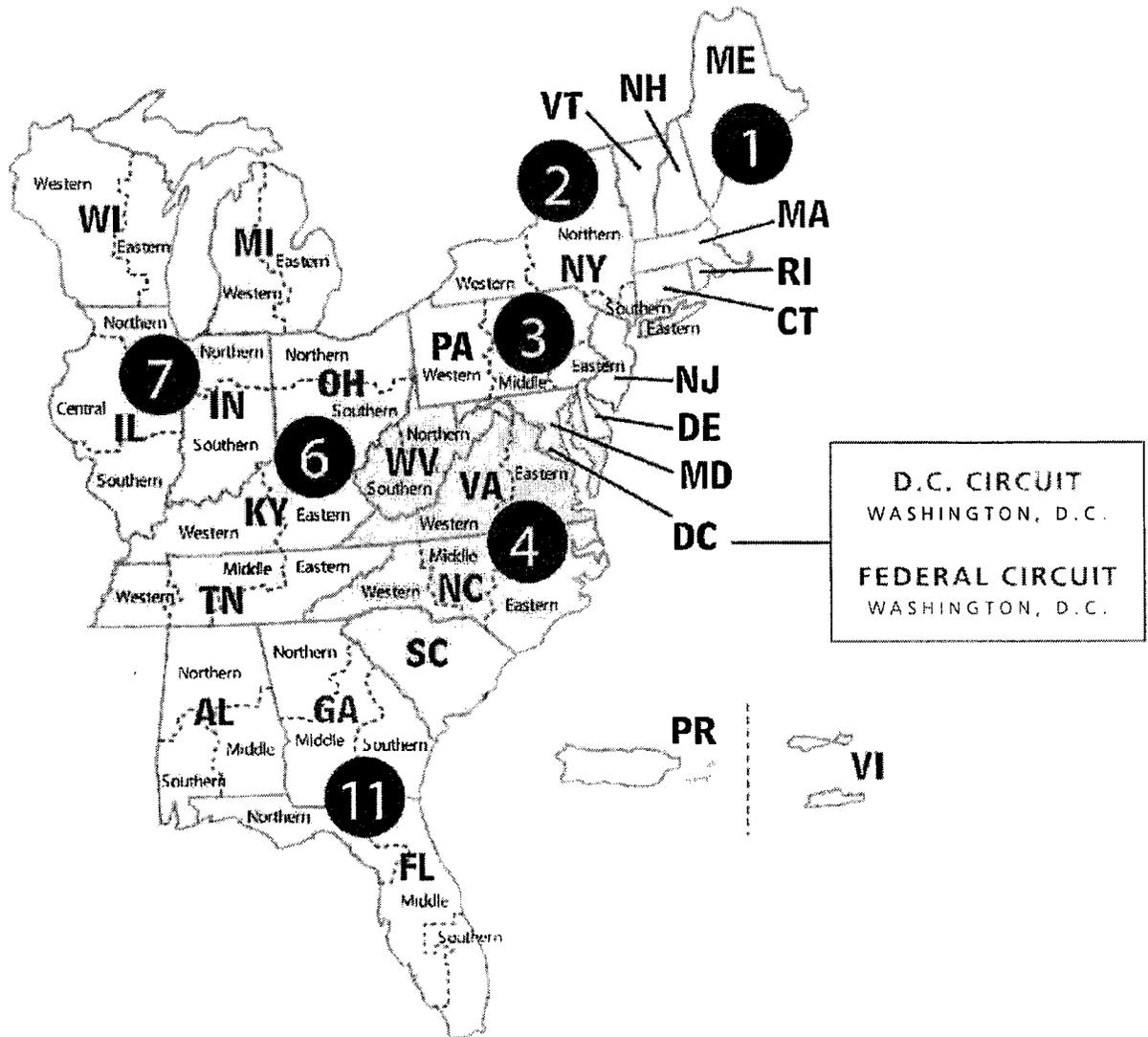
#### THE UNITED STATES SUPREME COURT

The United States Supreme Court is the highest court in the federal judiciary. It consists of the Chief Justice of the United States and eight associate justices. The court always sits en banc, with all nine justices hearing and deciding all cases together. The jurisdiction of the Supreme Court is almost completely discretionary, and, to be exercised, requires the agreement of at least four justices to hear a case. (In a small number of special cases, such as boundary disputes between the states, the Supreme Court acts either as the court of first instance or exercises mandatory appellate review). As a general rule, the Court only agrees to decide cases where there is a split of opinion among the courts of appeals or where there is an important constitutional question or issue of federal law that needs to be clarified.

# GEOGRAPHIC BOUNDARIES OF THE UNITED STATES COURTS OF APPEALS



AND THE UNITED STATES DISTRICT COURTS



## THE JURISDICTION OF THE FEDERAL COURTS

federal laws, or controversies between states or between the United States and foreign governments. A case also may be filed in federal court—even if no question arising under federal law is involved— if the litigants are citizens of different states or the dispute arises between citizens of the United States citizens and those of another country.

In the initial stages of any lawsuit, the plaintiff must assert the legal basis for the court's jurisdiction over the case, and the court must make an independent determination that it has jurisdiction to address the case. If a case is filed initially in a federal court, but the court determines that it lacks jurisdiction to adjudicate, the case must be dismissed. Under certain circumstances, a case that was improperly filed in federal court may be "remanded" to a state court that has jurisdiction to hear the case. Conversely, a case that was filed in a state court may, if certain conditions are met, be "removed" to a federal court.

The federal and state courts are required to extend "full faith and credit" to each other's respective judgments. Under the Supremacy Clause of the Constitution, however, a federal law preempts any state law that is in conflict with it.

## RELATIONSHIP BETWEEN THE STATE COURTS AND THE FEDERAL COURTS

Although federal courts are located in every state, they are not the only forum available to litigants. In fact, the great majority of legal disputes in American courts are addressed in the separate state court systems established in each of the 50 states. Most state court systems, like the federal judiciary, have trial courts of general jurisdiction, intermediate appellate courts, and a state supreme court. They may also have specialized lower-level courts, county courts, municipal courts, small claims courts, or justices of the peace to handle minor matters.

The state courts have jurisdiction over a wider variety of disputes than the federal courts. State courts, for example, have jurisdiction over virtually all divorce and child custody matters, probate and inheritance issues, real estate questions, and juvenile matters, and they handle most criminal cases, contract disputes, traffic violations, and personal injury cases.

In general, federal courts may decide cases that involve the United States government or its officials, the United States Constitution or

## TYPES OF CASES THAT MAY BE FILED IN THE FEDERAL AND STATE COURTS

The table to the right gives some examples of the cases that may be addressed exclusively in the state courts or in the federal courts, as well as some examples of concurrent jurisdiction (cases that may be heard in either state or federal court).

## EXAMPLES OF JURISDICTION IN THE FEDERAL AND STATE COURTS

State Courts	Federal Courts	State or Federal Courts
crimes under state legislation	crimes under statutes enacted by Congress	crimes punishable under both federal or state law
state constitutional issues and cases involving state laws or regulations	most cases involving federal laws or regulations (for example: tax, Social Security, broadcasting, civil rights)	federal constitutional issues
family law issues	matters involving interstate and international commerce, including airline and railroad regulation	certain civil rights claims
real property issues	cases involving securities and commodities regulation, including takeovers of publicly held corporations	"class action" cases
landlord and tenant disputes	admiralty cases	environmental regulation
most private contract disputes (except those resolved under bankruptcy law)	international trade law matters	certain disputes involving federal law
most issues involving the regulation of trades and professions	patent, copyright, and other intellectual property issues	
most professional malpractice issues	cases involving rights under treaties, foreign states, and foreign nationals	
most issues involving the internal governance of business associations, such as partnerships and corporations	state law disputes when "diversity of citizenship" exists	
most personal injury lawsuits	bankruptcy matters	
most workers' injury claims	disputes between states	
probate and inheritance matters	habeas corpus actions	
most traffic violations and registration of motor vehicles	traffic violations and other misdemeanors occurring on certain federal property	

UNITED STATES  
FEDERAL JUDGES

APPOINTMENT OF JUDGES  
ARTICLE III JUDGES

Justices of the Supreme Court, judges of the courts of appeals and the district courts, and judges of the Court of International Trade, are appointed under Article III of the Constitution. They are nominated and appointed by the President of the United States and must be confirmed by a majority vote of the Senate. Article III judges are appointed for life, and they can only be removed by the Congress through the impeachment process specified in the Constitution. The judiciary plays no role in the nomination or confirmation process.

The primary criterion for appointment to a federal judgeship is a person's total career and academic achievements. No examinations are administered to judicial candidates. Rather, a person seeking a judgeship is required to complete a lengthy set of forms that set forth in detail his or her personal qualifications and career accomplishments, including such matters as academic background, job experiences, public writings, intellectual pursuits, legal cases handled, and outside activities. Candidates also are subject to extensive interviews, background investigations, and follow-up questioning.

Politics is an important factor in the appointment of Article III judges. Candidates are normally selected by the President from a list of candidates provided by the Senators or other office holders from the President's own party within the state in which the appointment is to be made. In addition, the President's nominee must appear in person at a hearing before the Judiciary Committee of the Senate, and the Senate must vote to confirm each judge. Article III judges are usually nominated by the President from among the ranks of prominent practicing lawyers, lower federal court judges, state court judges, or law

professors who reside within the district or circuit where the court sits.

Each federal judge is appointed to fill a specific, authorized judgeship in a specific district or circuit. Judges have no authority to hear cases in other courts unless they are formally designated to do so. Because of heavy caseloads in certain districts, judges from other courts are often asked to hear cases in these districts.

#### OTHER FEDERAL JUDGES

Bankruptcy judges and magistrate judges are judicial officers of the district courts, but they are not Article III judges. They are not appointed under a political process, and the President and Senate play no role in their selection. Rather, they are appointed by the courts of appeals and the district courts, respectively, with the assistance of merit selection panels composed of local lawyers and other citizens.

Bankruptcy judges are appointed by the judges of the courts of appeals for 14-year terms. Magistrate judges are appointed by the judges of the district court for eight-year terms. Before reappointing a bankruptcy judge or a magistrate judge to an additional term, the appointing court must publish a public notice seeking comments on the incumbent's performance and convene a merit panel to recommend to the court whether the incumbent should be reappointed.

Judges of the Court of Federal Claims are appointed for terms of 15 years by the President, subject to confirmation by a majority of the Senate.

#### STATE JUDGES

State judges handle most cases in the United States, but they are not part of the federal court system. Rather, they serve in the state court systems established by state governments.

Like federal judges, state judges are required to support the federal Constitution and may invalidate state laws that they find inconsistent with the Constitution. State judges are selected in several ways, according to state constitutions and statutes. Most are either elected by the public in general elections or are appointed by the governor of the state for an original term and may be retained for additional terms by popular vote in a general election.

#### FEDERAL JUDICIAL ETHICS

By statute, federal judges may not hear cases in which they have either personal knowledge of the disputed facts, a personal bias concerning a party to the case, any earlier involvement in the case as a lawyer, or a financial interest in any party or subject matter of the case. Federal judges also are subject to the Code of Conduct for United States Judges, a set of ethical principles and guidelines adopted by the Judicial Conference of the United States. The Code of Conduct—and the opinions interpreting it—provide guidance for judges on issues of judicial integrity and independence, judicial diligence and impartiality, permissible extra-judicial activities, and the avoidance of impropriety or even its appearance.

Judges may receive guidance on ethical issues through the Judicial Conference's Codes of Conduct Committee. That committee of judges is authorized both to draft the codes of conduct and to render written advisory opinions to judges and court employees. It also publishes selected advisory opinions based on the facts presented in a specific request. The published opinions do not identify the particular judge or judges requesting the advisory opinion, and they are made available within the judiciary in both paper and electronic form.

guidelines.

A sentence may include time in prison, a fine to be paid to the government, community service, and restitution to be paid to crime victims. If the convicted defendant is released, the court's probation officers assist the court in enforcing any conditions that are imposed as part of a criminal sentence. The supervision of offenders also may involve services such as substance abuse testing and treatment programs, job counseling, and alternative detention options.

### JURY SERVICE

Perhaps the most important way individual citizens become involved in the federal judicial process is by serving as jurors. There are two types of juries serving distinct functions in the federal trial courts: trial juries (also known as petit juries), and grand juries.

A civil trial jury typically consists of 6 to 12 persons. In a civil case, the role of the jury is to listen to the evidence presented at a trial, to decide whether the defendant injured the plaintiff or otherwise failed to fulfill a legal duty to the plaintiff, and to determine what the compensation or penalty should be. A criminal trial jury is usually made up of 12 members. Criminal juries decide whether the defendant committed the crime as charged. The sentence usually is set by a judge. Verdicts in both civil and criminal cases must be unanimous, although the parties in a civil case may agree to a non-unanimous verdict. A jury's deliberations are conducted in private, out of sight and hearing of the judge, litigants, witnesses, and others in the courtroom.

A grand jury, which normally consists of 16 to 23 members, has a more specialized function. The United States attorney, the prosecutor in federal criminal cases, presents evidence to the grand jury for them to determine whether there

is "probable cause" to believe that an individual has committed a crime and should be put on trial. If the grand jury decides there is enough evidence, it will issue an indictment against the defendant. Grand jury proceedings are not open for public observation.

Potential jurors are selected from any source that will yield a representative sample of the population at large. Most often jurors are chosen from a jury pool generated by random selection of citizens' names from lists of registered voters, or combined lists of voters and people with drivers licenses, in the judicial district. The potential jurors complete questionnaires to help determine whether they are qualified to serve on a jury. After reviewing the questionnaires, the court randomly selects individuals to be summoned to appear for jury duty. These selection methods help ensure that jurors represent a cross section of the community, without regard to race, gender, national origin, age or political affiliation. Jurors receive modest compensation and expenses from the court for their service.

Being summoned for jury service does not guarantee that an individual actually will serve on a jury. When a jury is needed for a trial, the group of qualified jurors is taken to the courtroom where the trial will take place. The judge and the attorneys then ask the potential jurors questions to determine their suitability to serve on the jury, a process called voir dire. The purpose of voir dire is to exclude from the jury people who may not be able to decide the case fairly. Members of the panel who know any person involved in the case, who have information about the case, or who may have strong prejudices about the people or issues involved in the case, typically will be excused by the judge. The attorneys also may exclude a certain number of jurors without giving a reason.

## JUROR QUALIFICATIONS AND EXEMPTIONS

### Qualifications to be a Juror:

- United States citizen
- at least 18 years of age
- reside in the judicial district for one year
- adequate proficiency in English
- no disqualifying mental or physical condition
- not currently subject to felony charges
- never convicted of a felony (unless civil rights have been legally restored)

### Exemptions from Service:

- active duty members of the armed forces
- members of police and fire departments
- certain public officials
- others based on individual court rules (such as members of voluntary emergency service organizations, and people who recently have served on a jury)

### Excuse from Service:

- may be granted at the court's discretion on the grounds of "undue hardship or extreme inconvenience"

## TERMS OF JURY SERVICE

### Length of Service:

- trial jury service varies by court
- some courts require service for one day or for the duration of one trial; others require service for a fixed term
- grand jury service may be up to 18 months

### Payment:

- \$40 per day; in some instances jurors may also receive meal and travel allowances

### Employment Protections:

- By law, employers must allow employees time off (paid or unpaid) for jury service. The law also forbids any employer from firing, intimidating, or coercing any permanent employee because of his or her federal jury service

**COMMONLY ASKED  
QUESTIONS ABOUT THE  
FEDERAL JUDICIAL PROCESS**

**How is a civil case filed? Is there a charge?**

A civil action is begun by the filing of a complaint. Parties beginning a civil action in a district court are required to pay a filing fee set by statute. A plaintiff who is unable to pay the fee may file a request to proceed in forma pauperis. If the request is granted by the court, the fees are waived. Filing fees and other service fees constitute only a small percentage of the federal judiciary's budget. Most fees charged by the courts are deposited into the general treasury of the United States. Congress, however, has authorized the courts to retain certain fees, such as those charged for providing electronic access to court records.

**How is a criminal case filed?**

Individuals may not file criminal charges in federal courts. A criminal proceeding may only be initiated by the government, usually through the U.S. attorney's office in coordination with a law enforcement agency. A magistrate judge or other judge may order the arrest of an accused person upon the filing of a complaint and accompanying affidavits sworn by the United States attorney or law enforcement agents that set forth sufficient facts to establish "probable cause" that a federal offense has been committed and that the accused has committed it. A felony case, however, may not proceed beyond the initial stages unless a federal grand jury indicts the defendant.

**How does one file for bankruptcy protection?**

**Is there a charge?**

A bankruptcy case is begun by the filing of a petition with a bankruptcy court. There is a range of filing fees for bankruptcy cases, depending on the chapter of the Bankruptcy

Code under which the case is filed. Chapter 7, the most common type filed by individuals, involves an almost complete liquidation of the assets of the debtor, as well as a discharge of most debts. All individuals filing under any chapter of the Bankruptcy Code must have received credit counseling from an approved credit counseling agency either in an individual or group briefing within 180 days before filing for bankruptcy.

**How does one find a lawyer?**

Local bar associations usually offer lawyer referral services, often without charge. The clerk's office in each district court is usually able to help find a referral service. But personnel in the clerk's office and other federal court employees are prohibited from providing legal advice to individual litigants.

Defendants in criminal proceedings have a constitutional right to a lawyer, and they are entitled to have counsel appointed at government expense if they are financially unable to obtain adequate representation by private counsel. The Criminal Justice Act requires a court determination that a person is financially eligible for court appointed counsel.

Although parties normally have the right to be represented by a lawyer of their choice in civil cases, there is no general right to free legal assistance in civil proceedings. Some litigants obtain free or low-cost representation through local bar association referrals, lawyers acting in recognition of their professional responsibility to provide some representation pro bono publico, or through legal services organizations. Litigants in civil cases may also proceed pro se; that is, they may represent themselves without the assistance of a lawyer.

**Are litigants who do not speak English entitled to a court-appointed interpreter?**

A certified interpreter is appointed and paid for by the government for any criminal defendant who needs one, and for any defendant in a civil case in which the government is the plaintiff.

**How are judges assigned to specific cases?**

Judge assignment methods vary, but almost all courts use a blind random drawing under which each judge in a court receives roughly an equal caseload.

**What is a U.S. Magistrate Judge?**

Magistrate judges are judicial officers appointed by the district court to serve for eight-year terms. Their duties fall into four general categories:

- (1) conducting most of the initial proceedings in criminal cases (including search and arrest warrants, detention hearings, probable cause hearings, and appointment of attorneys);
- (2) trial of most criminal misdemeanor cases;
- (3) conducting a wide variety of other proceedings referred to them by district judges (including deciding motions, reviewing petitions filed by prisoners, and conducting pretrial and settlement conferences); and
- (4) trial of civil cases, if the parties consent.

**How does one check on the status of a case?**

The clerk's office responds without charge to most inquiries on the status of a case. A fee may be charged, however, to conduct certain searches and retrieve some types of information, and to make copies of court documents. Most federal

courts have automated systems that allow for the search and retrieval of case-related information at the public counters in the courthouse, and electronically from other locations. In many bankruptcy and appellate courts, telephone information systems enable callers to obtain case information by touch-tone phone. Court dockets and opinions may also be available on the Internet. The federal judiciary's Internet homepage, [www.uscourts.gov](http://www.uscourts.gov), includes links to individual court websites, as well as a directory of court electronic public access services.

How quickly does a court reach a decision in a particular case?

All cases are handled as expeditiously as possible. The Speedy Trial Act of 1974 establishes special

time requirements for the prosecution and disposition of criminal cases in district courts. As a result, courts must give the scheduling of criminal cases a higher priority than civil cases. The Act normally allows 70 days from a defendant's arrest to the beginning of the trial.

There is no similar law governing civil trial scheduling, but on average the courts are able to resolve most civil cases in less than a year. Statistically, the national median time from filing to disposition of civil cases in the federal courts is about eight to nine months. Depending on its complexity, a particular case may require more or less time to address. There are numerous reasons why the progress of a particular case may be delayed, many of which are outside the court's control. Cases may be delayed because settlement negotiations are in progress, or because there are shortages of judges or available courtrooms.

How are staff hired in the federal courts?

The Judicial Conference, with the assistance of the Administrative Office, establishes general qualifications and pay scales for court employees. The federal court system's personnel decisions are decentralized. Each court conducts its own advertising and hiring for job positions. Judges select and hire their own chambers staff. The clerk of court and certain other central court staff are hired by the court as a whole. Other court staff are hired by the clerk of court, who acts under the supervision of the court. Some employment opportunities are listed on the judiciary's Internet homepage, [www.uscourts.gov](http://www.uscourts.gov), but often the clerk's office or Internet website of a particular court is the best source for a complete listing. The federal judiciary is committed to the national policy of ensuring equal employment opportunity to all persons.

