

zation chart that shows the department and the relationship of its various parts. Share your chart with the class.

## Cooperative Learning

With three other students, interview a local government official about the government bureaucracy in your community. Ask what he or she considers well-managed programs and why. Ask what methods he or she would recommend to improve the operation of government at the local level. Report your findings to the class.

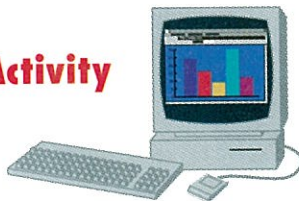
## Focusing on Your Community

Jobs within the government bureaucracy are found at every level of government. Research the different types of government jobs in your community. Find out how many people work for the local government. Find out how people apply for these jobs, what qualifications are necessary, and what the salaries are. Prepare a report to present to the class.

## Technology Activity

### Using the Internet

Search the Internet for information on one of the executive departments, agencies, or commissions of the federal government. You may want to use the name of the organization as the key words to focus your search. Use the information you find on the Internet to write a paragraph explaining current policies and responsibilities of the organization.

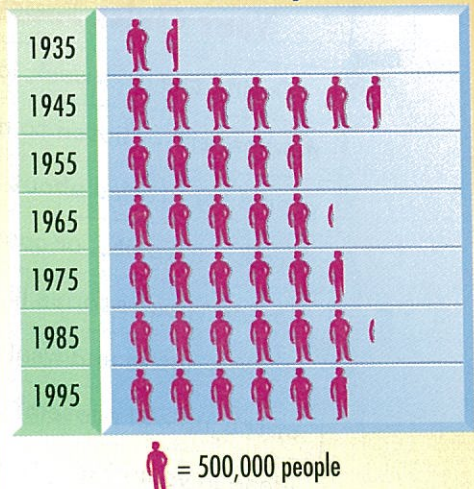


## Analyzing Visuals

The second half of the twentieth century has seen many changes in the federal government. The following pictograph shows the number of federal civilian employees from 1935 to 1995. Study the graph and then answer the questions.

1. How many people were employed by the federal government in 1935? In 1995?
2. Why do you think there were so many federal employees in 1945?
3. Explain the increase in the number of people employed by the federal government between 1935 and 1995.
4. What do you think has happened to the numbers of civilian employees at the state and local levels?

**Civilian Employees of the Federal Government, 1935–1995**



Source: U.S. Bureau of the Census.

# The Judicial Branch

## CIVIC PARTICIPATION

**T**he judicial system of the United States is one of the nation's most important institutions. Its function is to interpret the laws and to preserve and protect the rights the Constitution guarantees. As such, it plays a vital role in the system of checks and balances that protects our democracy. Look in your local library for information on the federal court

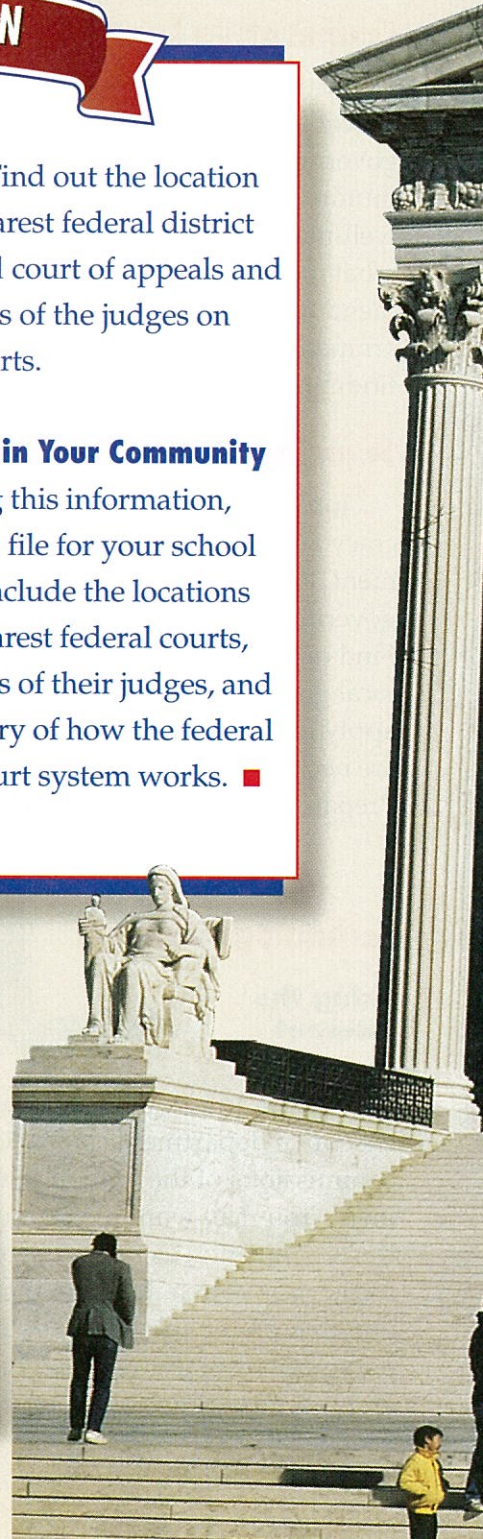
system. Find out the location of the nearest federal district court and court of appeals and the names of the judges on these courts.

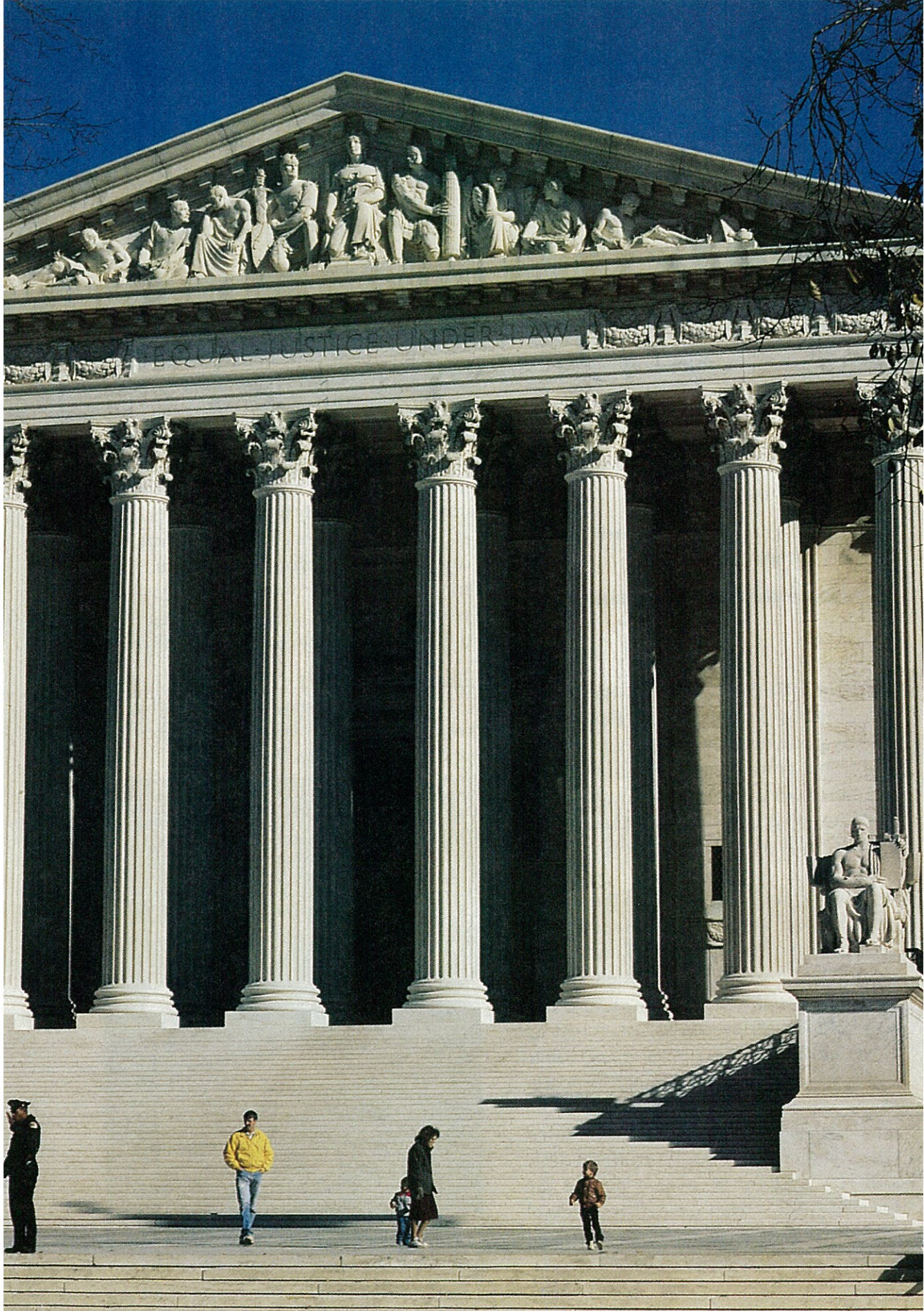
### Working in Your Community

Using this information, prepare a file for your school library. Include the locations of the nearest federal courts, the names of their judges, and a summary of how the federal court system works. ■

### Your Civics Journal

During the next week, look in newspapers or listen to news programs for stories about criminal arrests, lawsuits, or court cases. How do these stories illustrate the strengths and weaknesses of the judicial system? Write your ideas in your civics journal, including specific examples.





EQUAL JUSTICE UNDER LAW



# The Federal Court System

## FOCUS

### TERMS TO KNOW

inferior court, criminal case, civil case, suit, jurisdiction, exclusive jurisdiction, concurrent jurisdiction

### OBJECTIVES

- Explain the difference between **criminal and civil cases**.
- Identify five areas of **federal court jurisdiction**.

**F**rom 1781 to 1789, when the United States was governed by the Articles of Confederation, there was no national court system. Each state had its own laws and its own courts. There was no way to guarantee that people would receive equal justice in all the states.

To deal with this problem the writers of the Constitution provided for a federal judiciary. Article III of the Constitution established a national Supreme Court. It also gave Congress the power to establish other **inferior courts**, or courts of lower authority. This power was given to Congress as a way of checking the power of the judicial branch.

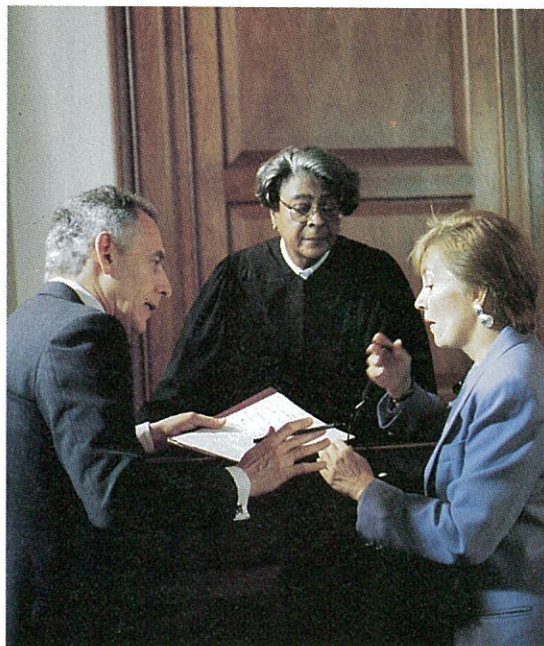
Over the years, Congress has added two types of lower courts to the federal judiciary system. In 1789 it passed the Judiciary Act, which created the federal

district courts. Much later, in 1891, Congress created the appeals courts. The federal court system now has three levels—the district courts at the bottom, the appeals courts in the middle, and the Supreme Court at the top. You will learn what each of these courts does later in this chapter.

## Criminal and Civil Cases

The United States really has two separate court systems—the state courts and the federal courts. The state courts hear the vast majority of legal disputes. Most **criminal cases**—cases in which juries decide whether people have committed crimes—are tried in state courts. The state courts also hear most **civil cases**—cases in which two sides disagree over some issue. In a civil case, one party, or person, involved sues or takes legal action against another party. The complaint

**Civil Cases** Attorneys consult with the judge during a trial. *In which type of court are most criminal cases tried?*



the first person makes to the court is called a **suit**, or lawsuit. A party in a lawsuit can be a person, a company or business, or a level of government. You will learn more about the state court system in Chapter 13.

## Federal Court Jurisdiction

Article III of the Constitution gives the federal courts **jurisdiction**—the authority to hear and decide a case—only in certain specific areas. These are cases that involve one of the following:

1. *The Constitution.* For example, if a person feels that a constitutional right such as freedom of speech has been violated, that person has a right to be heard in a federal court.
2. *Federal laws.* The federal courts try people accused of federal crimes such as tax evasion, kidnapping, and bank robbery. Federal courts also hear civil cases that involve federal laws.
3. *Admiralty and maritime laws.* These concern crimes and accidents that happen on the high seas or are related to the seas. One recent case involved a dispute over rights to the riches recovered from a sunken ship 160 miles off the coast of South Carolina.
4. *Disputes in which the United States government is involved.* The government, for example, could take a company to court for failing to live up to a contract to deliver supplies to a government department. Individuals or companies can also take the government to court. For example, if a United States Army van struck your car or the Department of the Interior

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**Haitian Refugees** A Coast Guard patrol rescues people fleeing Haiti. In which type of court do maritime law cases come to trial?





**Jurisdiction** The Constitution gives the federal courts authority to hear cases in certain specific areas. *What are two of these areas of federal court jurisdiction?*

failed to pay your company for equipment, you could sue the government.

5. *Controversies between states.* In any disagreement between states, the states can ask the federal courts to settle the matter.
6. *Controversies between citizens of different states.* For example, if a person in Maine cheats a person in Iowa, the case can be brought before a federal court. Federal law limits the jurisdiction of federal courts in these cases to suits involving \$50,000 or more.
7. *Disputes involving foreign governments.* In any dispute between a foreign country and the United States government, an American company, or an American citizen, the case will be heard in a federal court.

8. *United States ambassadors, ministers, and consuls serving in foreign countries.* For example, if a diplomat assigned to the United States Embassy in Moscow is accused of breaking an American law, the case may be heard in the federal courts.

In most of these areas, the federal courts have **exclusive jurisdiction**, which means that only the federal courts may hear and decide cases. By giving the federal courts jurisdiction in these instances, the writers of the Constitution left all other matters to the state courts. In some circumstances, however, a case can be heard in either the state or federal courts. In these instances, the state and federal courts are said to share jurisdiction, or to have **concurrent jurisdiction**. For example, crimes that violate both state and federal laws may be tried in either the federal or state courts. Concurrent jurisdiction also occurs when an individual appeals a conviction on constitutional grounds. The conviction can be appealed through the state and federal courts up to the United States Supreme Court.

## ★ SECTION 1 REVIEW ★

### UNDERSTANDING VOCABULARY

*Define* inferior court, criminal case, civil case, suit, jurisdiction, exclusive jurisdiction, concurrent jurisdiction.

### REVIEWING OBJECTIVES

- 1 What is the difference between criminal and civil cases?
- 2 What are five areas in which the federal courts have jurisdiction?



# The Lower Federal Courts

## FOCUS

### TERMS TO KNOW

district court, original jurisdiction, magistrate, marshal, subpoena, court of appeals, appellate jurisdiction, circuit, remand, court-martial

### OBJECTIVES

- Describe the responsibilities of judges in **district courts**.
- Explain the functions of **United States courts of appeals**.
- Identify and describe the functions of three **special federal courts**.

**A**t the top of the federal court system is the Supreme Court. Then come the lower courts—the district courts and appeals courts.

## District Courts

United States district courts make up the lowest level of the federal court system. **District courts** are the federal courts where trials are held and lawsuits are begun. Before a federal case can be filed and heard in an appeals court or the Supreme Court, it must be heard in a district court. For this reason, district courts are said to have **original jurisdiction**, or the authority to hear cases for the first

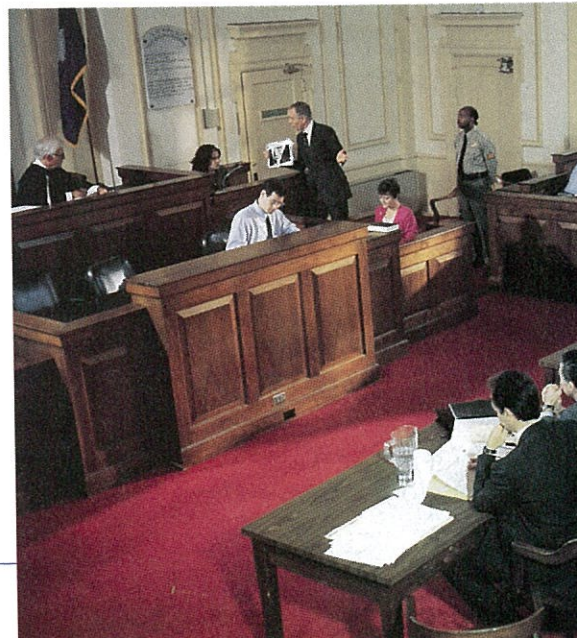
time. In addition, district courts are the only federal courts in which jury trials are held.

The district courts are so named because each has jurisdiction or authority over a specific geographical area or district. Each state has at least one district court, and more populous states may have as many as three or four. There is also a district court in the District of Columbia and in some of the territories of the United States.

About 90 percent of the work of the federal courts takes place in district courts. They handle about 300,000 criminal and civil cases each year. Criminal cases can include mail fraud, income tax evasion, bank robbery, and treason. Civil cases include disputes involving labor relations, public lands, copyright and patent laws, and civil rights.

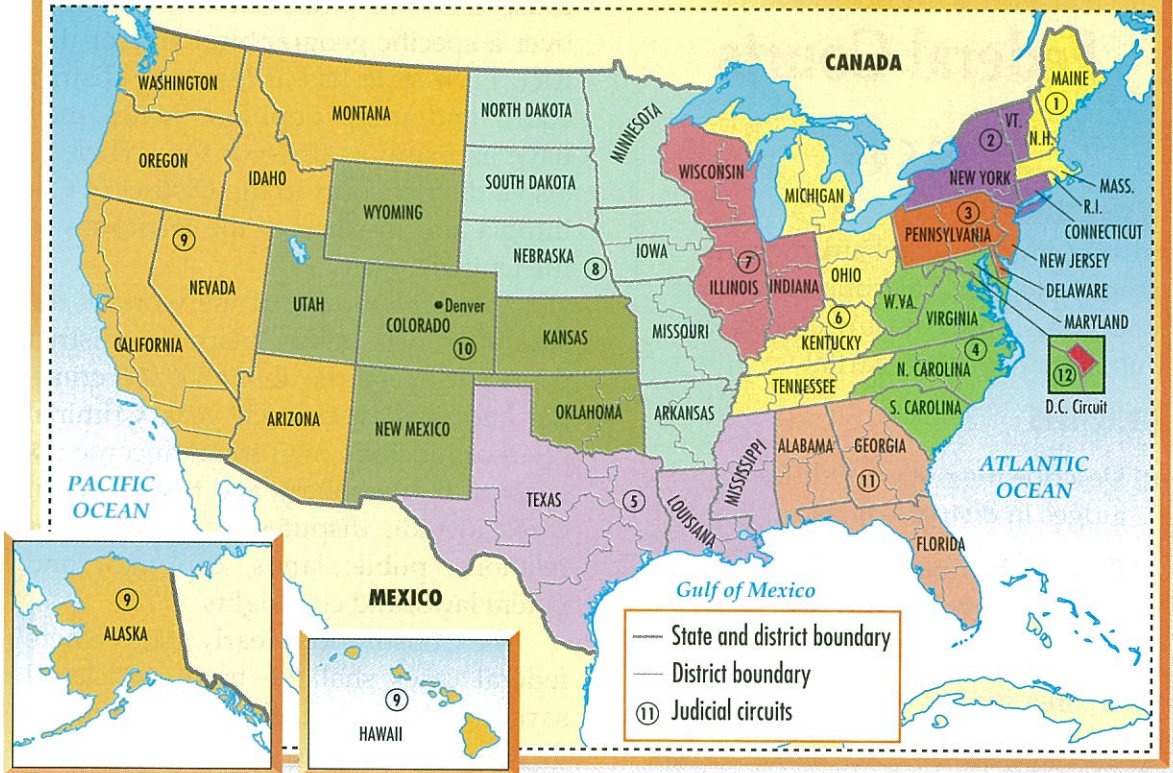
The Constitution clearly states where federal cases shall be tried. Article III says that “such Trial shall be held in the State where the said Crimes shall have been committed.” This provision helps

**Jury Trials** District courts are the only federal courts that hold jury trials. *What kinds of criminal cases are tried in district courts?*





**Federal Judicial Circuits and Districts** Each state is assigned to one of the 12 judicial circuits. Which circuit covers the largest geographical area?



ensure that people accused of federal crimes can get a fair trial. The accused will be tried by people familiar with the area where the crime was committed. In addition, witnesses for the defense will be available to testify without having to travel great distances.

### District Court Judges

Each district court has at least two judges. Some courts in more populous districts have many more judges because of a higher volume of work. It is the responsibility of each district court judge to decide on the procedures to be followed in court and to explain the law involved in a case to the jury. Judges also decide

on the punishment or fine when the jury finds the defendant guilty. The President of the United States appoints and the Senate approves district court judges. District court judges currently receive a salary of \$133,600 per year.

The Constitution provides that federal judges be appointed “during good behavior.” In effect, they are appointed for life unless guilty of some serious crime. The Constitution also provides that the government cannot reduce the salaries of federal judges during their term in office. The writers of the Constitution included these two provisions to help ensure an independent judiciary. Because federal judges cannot be removed from office without cause or punished with a reduc-



tion in salary, they can remain free from political influence and cannot be forced to make rulings favorable to anyone in power. They are free to decide each case strictly in terms of the legal issues, no matter how unpopular their decisions may be politically.

### Other District Court Officials

In addition to judges, district courts have several other officials. Each district court has a **magistrate**, who issues court orders and hears the preliminary evidence in a case to determine whether the case should be brought to trial. By doing this, the magistrate helps protect criminal suspects from being unfairly charged and tried. Magistrates may also hear minor cases.

Every district court also has a United States attorney. The United States attorney is the government's lawyer. It is his or her job to prove that a suspect has committed a crime. It is also the attorney's job to represent the government in civil cases in which the government is involved. Usually, a United States attorney runs a large office with dozens of assistant United States attorneys who perform most of the trial work.

### Serving Subpoenas

Another district court official is the United States marshal. The **marshal** arrests suspects, delivers defendants to court, and serves people with subpoenas. A **subpoena** is a court order requiring someone to appear in court. The President, with Senate approval, appoints United States attorneys and marshals.

In addition to these officials, each district court also has many clerks, deputy clerks, secretaries, and other workers who keep track of court cases, file legal

papers, help the public, and perform other jobs that help the court operate efficiently.

## DID YOU KNOW?

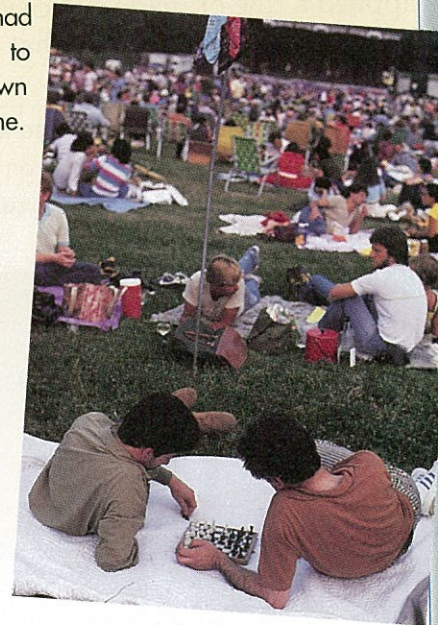
### Facing the Music

**A**lthough the Supreme Court tries to choose cases that raise important legal or constitutional questions, sometimes the circumstances of a case may take the Court into unusual areas.

In the case of *Ward v. Rock Against Racism*, which the Court heard in 1989, the issue was whether a New York City law violated the freedom of expression of rock and roll bands.

The law required musicians performing at a city-owned bandshell in Central Park to use a city-supplied sound system and a sound technician so that it could regulate the volume of the music. *Rock Against Racism*, a group of rock bands, argued that this interfered with artistic expression.

The Court upheld the New York law. It ruled that the city could place certain restrictions on the "time, place and manner" of expression without violating the First Amendment. The city had the right to turn down the volume.



Central Park concert

# United States Courts of Appeals

Above the district courts in the federal court system are the United States **courts of appeals**. These courts are also called federal appeals courts, circuit courts of appeals, or appellate courts.

## Jurisdiction

Federal courts of appeals have only **appellate jurisdiction**. They hear only cases that have come to them on appeal from the lower district courts or from federal regulatory agencies. For example, the lawyer for the losing side in a civil case may decide to appeal a district court's verdict. The lawyer may feel that the district court judge followed the wrong procedure or did not apply the law correctly. Some new evidence may have turned up that could change the verdict.

Rulings by a federal regulatory agency may also be appealed if the people or groups involved feel the agency applied a rule or made a decision unfairly. Suppose, for example, that the Food

and Drug Administration (FDA) refuses to approve the use of a new drug. The company that manufactures the drug can ask the appeals court to review the FDA's decision.

Congress established the present appeals-court system in 1891 to ease the burden of the Supreme Court, which was receiving more appeals each year than it could handle. Today each of the 12 United States courts of appeals has jurisdiction over a **circuit**, or a particular geographical area. Each court receives cases from the district courts within its own circuit. If a person appeals a case that originated in the federal district court in Denver, Colorado, for example, the case would go to the United States Court of Appeals for the Tenth Circuit. (See the map on page 286.)

## Appeals Court Judges

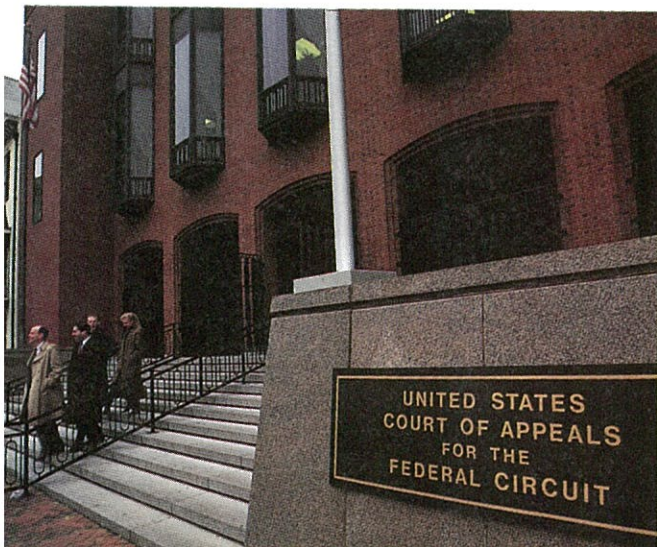
Each appeals court has from 6 to 27 judges. Like other federal judges, they are appointed for life. Their salaries are currently \$141,700 a year. Appeals court judges do not preside over trials. There are no juries in appeals courts. Instead, a panel of at least three judges hears arguments from the attorneys for each side and reviews lower court trial records.

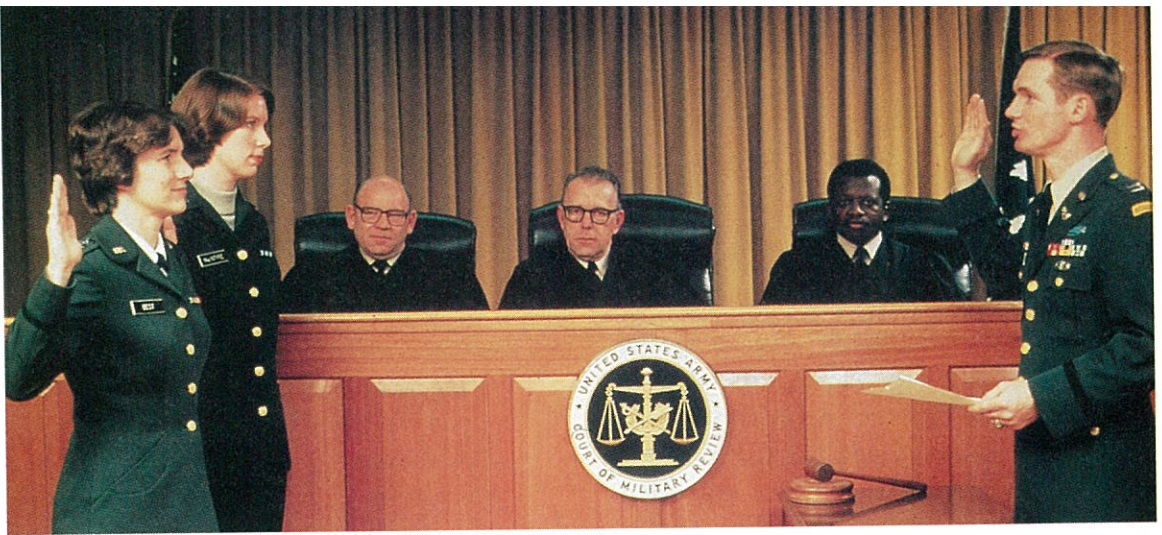
The judges do not decide on the guilt or innocence of a defendant. They rule only on whether the defendant's rights have been protected and on whether he or she received a fair trial. The panel may make one of three rulings: to uphold the lower court's verdict, to overturn the lower court's decision, or to **remand** (return) the case to the lower court for a new trial. The decision of the appeals court is usually final. In some cases, however, the decision may be appealed to the United States Supreme Court, which can decide whether or not to hear the case.

---

**Appeals** People who disagree with the verdict received in a district court can appeal it in one of the federal appeals, or circuit, courts.

*How many circuits are there?*





**Special Courts** Members of the military who are convicted in a court-martial may appeal the decision to the Court of Military Appeals. *What other special courts were created by Congress?*

## Special Federal Courts

In addition to the district and appeals courts, Congress has also created several special courts. These include:

- *United States Tax Court.* This court hears appeals dealing with federal tax laws. Taxpayers who have a dispute with the Internal Revenue Service may take their case to this court.
- *United States Court of Federal Claims.* This court hears cases of citizens who sue the government for money claims. If the court feels that the claim has merit, it will uphold the suit and award a sum of money. Congress must then appropriate the money to pay the claim.
- *United States Court of Military Appeals.* This is the appeals court for the armed forces. When people in the service are accused of breaking a federal or military law, they are tried at a **court-martial**, a trial before a panel of military officers. Military personnel who have been court-martialed may appeal their verdicts to the United States Court of Military Appeals.

- *United States Court of International Trade.* This court hears disputes arising from tariff and trade laws. For example, if the government prevents an importer from bringing certain goods into the country, the importer may take the case to the court of trade.

## ★ SECTION 2 REVIEW ★

### UNDERSTANDING VOCABULARY

*Define* district court, original jurisdiction, magistrate, marshal, subpoena, court of appeals, appellate jurisdiction, circuit, remand, court-martial.

### REVIEWING OBJECTIVES

- 1 What are the responsibilities of judges in district courts?
- 2 What are the functions of United States courts of appeals?
- 3 What are three special federal courts, and what are their functions?

# Great American Documents

## Democracy in America

Alexis de Tocqueville was a French judge who came to America in 1831 to study prison reform and American democracy. He spent two years traveling around the country interviewing political leaders and ordinary citizens about how the American political system worked. At that time American democracy was still unfamiliar to most of the world.

### Think About It

As you read the following excerpt, think about the importance of the federal court system in our society.

judges. Without them the Constitution would be a dead letter: the executive branch appeals to them for assistance against the encroachments [extension] of the legislative power; the legislature demands their protection against the assaults [attempts to gain power] of the executive; they defend the Union from disobedience of the states, the states from the exaggerated claims of the Union, the public against private interests, and the conservative spirit of stability against the fickleness [changing nature] of the democracy. Their power is enormous, but it is the power of public opinion. They are all powerful as long as the people respect the law.

### Tocqueville's Work

Tocqueville returned to France and published a book called *Democracy in America*. It was an instant success.

What Tocqueville tried to do was analyze American society and its political system. He was very interested in learning how Americans were able to keep control of their government and prevent it from being taken over by dictators or kings.

### Tocqueville's View of the Supreme Court

In the following excerpt from *Democracy in America*, Tocqueville discusses the role the Supreme Court plays in protecting democracy.

The peace, the prosperity, and the very existence of the Union are vested in [entrusted to] the hands of the . . . Federal

### The Impact of Tocqueville's Work

*Democracy in America* had a great impact abroad. This blueprint of how to create a democratic government was widely read and debated in European countries as they struggled to establish democracies.

## INTERPRETING SOURCES

- 1 Why do you think Tocqueville was so interested in how American democracy worked?
- 2 What did he mean when he said that without the Supreme Court, the Constitution would be a "dead letter"?
- 3 Why was *Democracy in America* so important in Europe?



# The United States Supreme Court

## FOCUS

### TERMS TO KNOW

judicial review, unconstitutional

### OBJECTIVES

- Explain how the case of *Marbury v. Madison* affected **the power of the Supreme Court**.
- Explain how a President may try to influence the Court through the appointment of **Supreme Court justices**.

**T**he United States Supreme Court is the highest court in the land. It is the final court to which anyone can appeal a legal decision. According to the Constitution, the Supreme Court has original jurisdiction in only two instances. It can preside over trials in cases that involve diplomats from foreign countries and in cases in which a state is involved. For example, if one state sues another state, the Supreme Court can try the suit. In fact, the Court very rarely hears these two kinds of cases. They are usually tried in the federal district courts.

In all other instances, the Supreme Court has appellate jurisdiction. Its main responsibility is to hear appeals in cases originating in lower courts. Although about 6,000 or more cases are appealed to

the Supreme Court each year, the Court selects fewer than 150 for a full hearing and review. In general, the Court hears appeals only in cases that pose significant legal or constitutional questions or are of great public interest and concern. The Supreme Court decides not to hear many cases and remands others to the lower courts with a short opinion stating its reasons for ordering a retrial. Whether the Court hears a case or not, its decision cannot be appealed.

## The Power of the Supreme Court

The Supreme Court enjoys a great deal of power and prestige. The legislative and executive branches must follow the Supreme Court's rulings. The fact that the Court is removed from politics

**Justice Ruth Bader Ginsburg** The main responsibility of Supreme Court justices is to hear appeals in cases originating in lower courts. *How do the justices select the cases they hear?*



and from the influences of special-interest groups makes it more likely that the parties involved in a case will get a fair hearing.

## Judicial Review

One of the most important powers of the Supreme Court is the power of judicial review. **Judicial review** means that the Court can review any federal or state law to see if it is in agreement with the Constitution. If the Court decides that a law or action is **unconstitutional**—in conflict with the Constitution—it has the power to nullify, or cancel, that law or action. The power of judicial review thus makes the Supreme Court the final authority on the Constitution and laws of the United States.

## Marbury v. Madison

The power of judicial review is not mentioned in the Constitution. This power was established officially in 1803

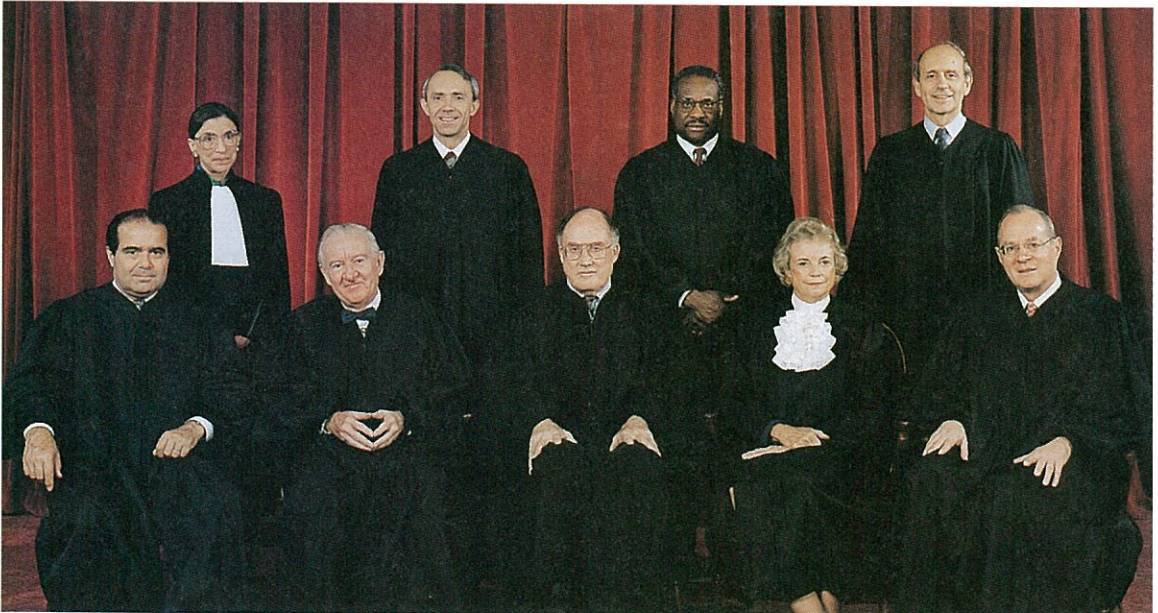
in the case of *Marbury v. Madison*. On his last night in office, President John Adams signed an order making William Marbury a justice of the peace (a kind of judge) for the District of Columbia. When Thomas Jefferson took office as President the next day, he told Secretary of State James Madison not to carry out Adams's order.

William Marbury took his case directly to the Supreme Court, which he claimed had jurisdiction as a result of a provision in the Judiciary Act of 1789. John Marshall, the chief justice, wrote an opinion turning down Marbury's claim. He noted that the Constitution did not give the Court jurisdiction to decide Marbury's case. In his opinion, Marshall set out three basic principles of judicial review.

- The Constitution is the supreme law of the land.
- When there is a conflict between the Constitution and any other law, the Constitution must be followed.

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**Supreme Court** The Supreme Court is the highest court of appeals in the United States. Which justice wrote the opinion that established the power of judicial review?





**Landmark Decisions of the Supreme Court** These decisions help determine the rights of citizens. *What early decision did Brown v. Board of Education overturn?*

***Marbury v. Madison (1803)***

Established the Supreme Court's power of judicial review

***Dred Scott v. Sandford (1857)***

Ruled that Congress could not prohibit slavery in United States territories and that enslaved African Americans and their descendants were not United States citizens

***Plessy v. Ferguson (1896)***

Established the "separate but equal" doctrine that permitted segregation

***Muller v. Oregon (1908)***

Ruled that states could protect women workers if the states had a reasonable justification

***Schenck v. United States (1919)***

Held that free speech could be limited if there was a "clear and present danger" that illegal action might result from the speech

***Brown v. Board of Education (1954)***

Established that the "separate but equal" doctrine was unconstitutional

***Gideon v. Wainwright (1963)***

Declared that a person accused of a major crime had the right to legal counsel during a trial

***Reynolds v. Sims (1964)***

Held that unequal representation violated the Fourteenth Amendment and established the principle of "one person, one vote"

***Miranda v. Arizona (1966)***

Ruled that police officers must inform suspects of their rights at the time of arrest

***New York Times v. United States (1971)***

Held that prior restraint or censorship was unconstitutional unless the government could prove serious and immediate harm to the nation

***Roe v. Wade (1973)***

Legalized a woman's right to an abortion under certain circumstances

***United States v. Nixon (1974)***

Established that Presidents could claim executive privilege in cases where military and national security issues were involved but could not use it to conceal evidence of a crime

***Webster v. Reproductive Health Services (1989)***

Ruled against the use of public funds and buildings for counseling about and performing abortions

- The judicial branch has a duty to uphold the Constitution. It must be able to determine when a law conflicts with the Constitution and to nullify, or cancel, unconstitutional laws.

The power of judicial review serves as an important check on the legislative and executive branches of government. It prevents them from straying too far from the Constitution when they make and carry out new laws.



**Controversial Decisions** Local police and United States marshals stood guard as protesters demonstrated outside an abortion clinic. What Supreme Court decision do the protesters probably oppose?

## Checking the Court's Power

Judicial review gives the Court a position of great influence, but it does not make the Court all powerful. Congress can get around a Supreme Court ruling by changing a law in such a way that it no longer conflicts with the Constitution. Congress can also adopt an amendment to the Constitution, which then changes the Constitution.

In addition, the Supreme Court must rely on the executive branch to carry out its decisions. The executive branch almost always enforces Supreme Court rulings, but in the case of *Worcester v. Georgia*, it did not. When Chief Justice John Marshall ordered the state of Georgia to stop violating federal land treaties with the Cherokee nation in 1832, President Andrew Jackson refused to enforce

the order. The President is reported to have said: "John Marshall has made his decision; now let him enforce it."

## Controversy and the Court

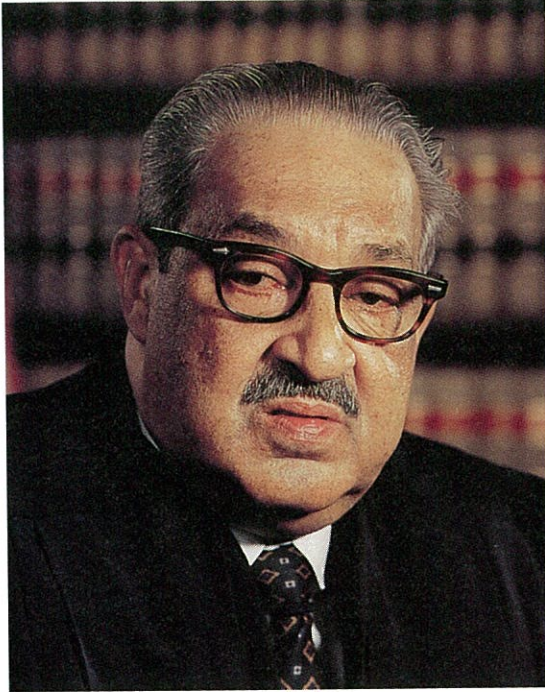
Despite its power and prestige, the Supreme Court sometimes becomes involved in controversy. Some of its decisions anger certain groups of people. These people might pressure Congress to pass a new law or constitutional amendment that will get around the Court's ruling. One of the Court's most controversial decisions was in the 1857 case of *Dred Scott v. Sandford*, in which the Court ruled that the Constitution did not prohibit slavery in the territories (in this instance, the Minnesota Territory, where Scott had been taken). The Court's decision went on to say that African Americans were not citizens and therefore could not sue in the federal courts. That ruling was overturned in 1868 by the Fourteenth Amendment, which stated that all "persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States."

Controversial decisions of recent years have included *Brown v. Board of Education* (1954), which outlawed school segregation, and *Roe v. Wade* (1973), which legalized abortion.

## Supreme Court Justices

The Supreme Court is made up of eight associate justices and one chief justice. Until recently, all the justices who had served on the Supreme Court were men. In 1981, however, President Ronald Reagan appointed Sandra Day O'Connor to the Court, and President Bill Clinton appointed Ruth Bader Ginsburg to the





**Thurgood Marshall** Justice Marshall served on the Supreme Court from 1967 to 1991. *Why was Justice Marshall's appointment significant?*

Court in 1993. Thurgood Marshall, who was appointed in 1967, was the first African American justice to serve on the Court. After Marshall retired in 1991, Clarence Thomas—also an African American—was appointed to the Court. Supreme Court justices serve for life. Associate justices currently receive a salary of \$164,100 and the chief justice receives \$171,500.

Although the Constitution does not set any qualifications for serving on the Supreme Court, all justices have been lawyers and most have been judges or law professors. Some have also been public officials. William Howard Taft was the only person to become chief justice after serving as President of the United States.

The Constitution gives the President the power to appoint Supreme Court jus-

tices, with the consent of the Senate. The Senate usually approves the President's choices. Occasionally, however, the Senate will turn down a President's nominee because of doubts about the qualifications or legal philosophy of that person. This happened in 1987, for example, when the Senate rejected Robert Bork because of his legal philosophy. The appointment of Clarence Thomas in 1991 was almost derailed when a former employee, Anita Hill, accused him of misconduct. After hearings were held, however, his appointment was confirmed.

Presidents usually try to appoint justices who share their political beliefs or view of the law. Once appointed to the Court, however, a justice is under no obligation to follow the President's line of thinking. Nevertheless, if a President has the opportunity to name several justices to the Court, it is likely that many of the President's views will be reflected in the Court's decisions. In this way, a President may affect the way cases are decided far into the future.

## ★ SECTION 3 REVIEW ★

### UNDERSTANDING VOCABULARY

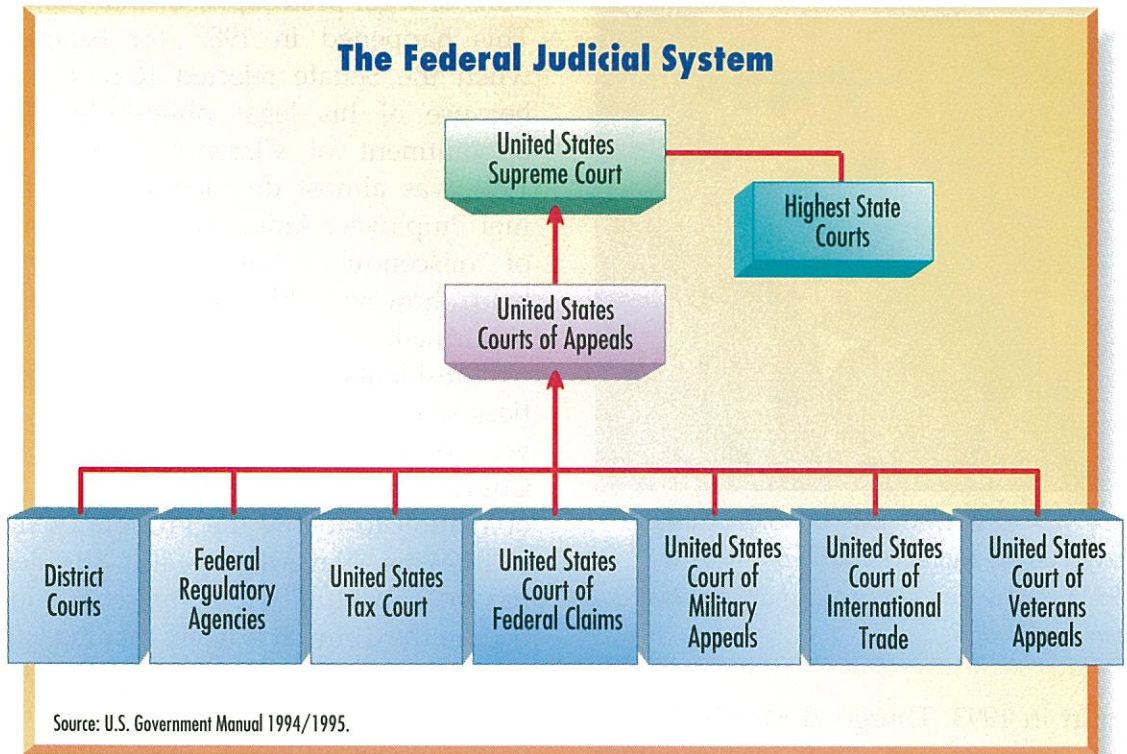
*Define* judicial review, unconstitutional.

### REVIEWING OBJECTIVES

- 1 How did the case of *Marbury v. Madison* affect the power of the Supreme Court?
- 2 How may a President try to influence the Court through the appointment of Supreme Court justices?



## How to Read a Flow Chart



**A** flow chart is a diagram that shows movement in a system or illustrates how a system works. The flow chart on this page shows how the various parts of the federal judicial system are related. The arrows indicate the flow of authority (appeals) from the lowest courts (shown at the bottom of the chart) up to the Supreme Court. You can trace the route of an appeal from any of the lower courts or agencies. The higher courts have the power to review the decisions of the lower courts under their jurisdiction.

Use the information on this flow chart of the judiciary system to answer the following questions.

### CITIZENSHIP IN ACTION

- 1 Which court has the power to review the decisions of the highest state courts?
- 2 To what court can decisions of district courts be appealed?
- 3 What courts review the decisions of federal regulatory agencies?
- 4 The Constitution established the Supreme Court and gave Congress the power to create lower courts. Why do you think the Framers of the Constitution placed the Supreme Court above all other courts?



# The Court at Work

## FOCUS

### TERMS TO KNOW

brief, docket, adversary, writ of certiorari, majority opinion, concurring opinion, dissenting opinion

### OBJECTIVES

- Explain what the Supreme Court does in **deciding which cases to hear**.
- Explain **how cases reach the Court** from lower courts.
- Describe how Supreme Court justices arrive at **Court decisions and opinions**.

**T**he Supreme Court conducts its business each year from October until the following June or July. For the first two weeks of each of these months, the Court is said to be “sitting,” or in session. This is the time when justices hear arguments—usually 30 minutes for each side in a case. The justices also announce what cases they have decided to hear, discuss and vote on current cases, and announce their decisions.

A two-week recess, during which the justices do most of their work, follows each two-week session. When the Court is in recess, justices decide which cases to hear, research the cases that will come before them, and write their opinions on

cases heard during the previous session. They also use this time to read the written arguments, or **briefs**, that the attorneys have prepared.

## Deciding Which Cases to Hear

An important task of Supreme Court justices is to decide whether to hear a case. The justices review a list of possible cases and consider their merits. For a case to be heard, at least four justices must vote for it. After a case has been accepted, it is placed on the Court **docket**, or calendar. It is assigned a number as well as a date when it will be brought before the Court.

The justices of the Supreme Court decide to hear only certain kinds of cases. They usually decide to hear a case if it involves a significant constitutional question. In most instances, such questions center around the Bill of Rights and other amendments and deal with issues such as freedom of speech, equal protection of the laws, and fair trial.

**Court in Session** Justices Ruth Bader Ginsburg and Sandra Day O’Connor are the first women to serve on the Supreme Court. *What do the justices do while the Court is in session?*



## Court Reporter

**C**ourt reporters are stenographers, or shorthand reporters. They are responsible for recording everything that is said in a legal proceeding.

### What Court Reporters Do

Court reporters use special stenotype machines to take notes. After the proceedings, they dictate their notes into a machine for transcription at a later time. Every word said in the trial or hearing must be included in the official transcript.

### Qualifications

To become a court reporter, you must be able to

take at least 160 words of dictation per minute. You need at least a high school diploma and preferably an associate degree or certification from a fully qualified preprofessional training program.

In addition to being quick and accurate, court reporters must be able to concentrate on the task in a busy setting with many distractions. Most jobs involve

repetitive work with little independent decision making. However, by keeping accurate records, court reporters play a vital role in the American judicial system.



**Court reporter operating stenotype machine**



**A**rrange to visit a courtroom in session and note the role the court reporter plays in the proceedings. If possible, interview the reporter about his or her job and report your findings to the class.

The justices always choose cases that involve a real dispute between two **adversaries**, or opposing sides. In other words, the cases must deal with real people and events.

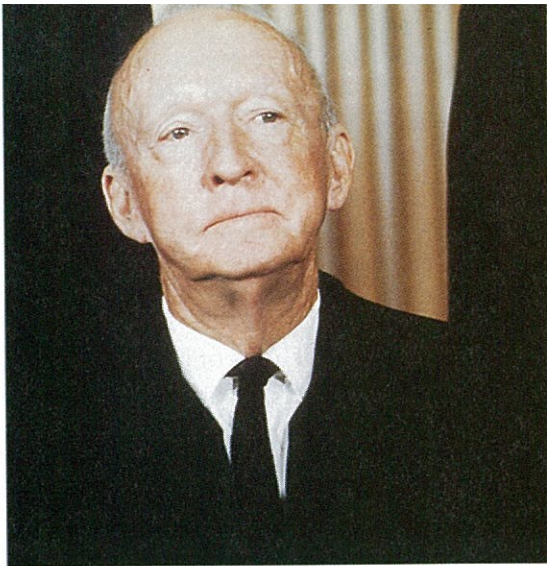
The justices also select cases that involve legal issues rather than political questions. By choosing these kinds of cases, the justices cannot be accused of interfering in matters that the legislative or executive branch should decide.

Finally, the justices tend to select cases that are of importance to the entire

country rather than just to the individuals or groups involved. Such cases will have a broader application to the nation's laws.

## How Cases Reach the Court

You have already learned that nearly all cases come to the Supreme Court on appeal from a lower court. Most of the appeals reach the Court by a request for a **writ of certiorari** (Latin for "to make



**Hugo Black** During his 34 years of service, Supreme Court Justice Black wrote many dissenting opinions. *How do dissenting and concurring opinions differ?*

more certain"). A writ of certiorari directs a lower court to send its records on a case to the Supreme Court for review. This happens if one of the parties involved in a case claims that the lower court made an error in the case. Sometimes a lower court will ask the Supreme Court to make a ruling in a case because it is not sure how to apply the law to the case.

## Court Decisions and Opinions

While the Court is in session, the justices meet privately on Wednesdays and Fridays to discuss and vote on each case. At these meetings, the chief justice asks each associate justice to give his or her opinion of the case. Opinions are given in order of the justices' time on the Court, with the longest-serving justice first and the newest justice last. Then a vote is taken, starting with the newest justice and ending with the chief justice.

A majority vote of the Court determines the outcome of a case. If all nine

justices are present, the vote must be at least 5 to 4. Sometimes, because of illness or other reasons, all nine justices do not vote. A minimum of six justices is required, however, to hear and decide a case. In the event of a tie vote, the lower court's decision is upheld.

Most Supreme Court decisions are accompanied by an opinion explaining why the justices made that decision. Usually the chief justice asks an associate justice who voted with the majority to write the **majority opinion**. A justice who agrees with the majority decision but has different reasons writes a **concurring opinion**. Justices who oppose the majority decision issue **dissenting opinions**.

Dissenting opinions sometimes become majority opinions in later cases. This happened when Justice Hugo Black argued in a dissenting opinion in 1942 that poor people suspected of crimes are entitled to an attorney. Black's dissenting opinion became the basis for a majority opinion he wrote 21 years later in *Gideon v. Wainwright*. (See page 416.)

## ★ SECTION 4 REVIEW ★

### UNDERSTANDING VOCABULARY

*Define* brief, docket, adversary, writ of certiorari, majority opinion, concurring opinion, dissenting opinion.

### REVIEWING OBJECTIVES

- 1 How does the Supreme Court decide which cases to hear?
- 2 How do cases reach the Court from lower courts?
- 3 How are the Supreme Court's decisions and opinions reached?

## Identifying Key Terms

Choose the vocabulary term that best completes each of the sentences below. Write your answers on a separate sheet of paper.

criminal case    civil case  
concurrent jurisdiction    appellate jurisdiction  
court of appeals    judicial review

1. In instances where either state or federal courts can hear a case, the courts are said to have \_\_\_\_\_.
2. The case against the man accused of robbing the store was a(n) \_\_\_\_\_.
3. Convinced that the presiding judge had applied the law incorrectly, the defense lawyer decided to take the case to the \_\_\_\_\_.
4. Courts that hear only cases sent to them from the lower courts are said to have \_\_\_\_\_.
5. The Supreme Court used its power of \_\_\_\_\_ in deciding that the law was unconstitutional.
6. The case involving a boundary dispute between two neighbors was a(n) \_\_\_\_\_.

## Reviewing the Main Ideas

### SECTION 1

1. Identify three types of cases in which the federal courts have exclusive jurisdiction.
2. In what instances do state and federal courts usually share concurrent jurisdiction?

### SECTION 2

3. What is the function of district courts?

4. Describe the work of judges of the appeals courts.

### SECTION 3

5. What three principles of judicial review were established in *Marbury v. Madison*?
6. What are the two ways that Congress can get around a Supreme Court decision?

### SECTION 4

7. Identify three activities of Supreme Court justices while the Court is sitting, or in session.
8. What happens to a case before the Supreme Court in the event of a tie vote by the justices?

## Critical Thinking

### SECTION 1

1. **Analyzing Information** Why do you think the federal courts were given exclusive jurisdiction over certain types of cases?

### SECTION 2

2. **Developing a Point of View** How important do you think appeals courts are in providing fair and equal treatment under the law? Explain.

### SECTION 3

3. **Evaluating Information** What influence do you think the power of judicial review has on the legislative and executive branches of government? Explain.

### SECTION 4

4. **Making Inferences** Which do you think is probably more important in Supreme Court cases, oral arguments or written briefs? Explain.

## Reinforcing Citizenship Skills

In the library, find out more about the process by which a case moves into and through a district court. Then create a flow chart that shows this movement. You may wish to use a particular kind of case, such as tax evasion or a public land dispute. Share your chart with the class.

## Cooperative Learning

With a group of two other students, play the roles of federal judges. One judge is appointed for life, a second judge is required to run for election every four years, and the third judge is dependent on the renewal of his or her appointment by political leaders every four years. Stage a conversation with the class in which you discuss the advantages and disadvantages of your situations and the possible consequences to providing “equal protection of the laws” to all.

## Technology Activity

### Using a Word Processor

The American judicial process is often slow. Review your civics journal about the judicial system. Then use a word processor to write an essay in support of the present system, despite its problems. Suggest what might happen if the system were changed to provide speedy trials at the expense of due process of law.



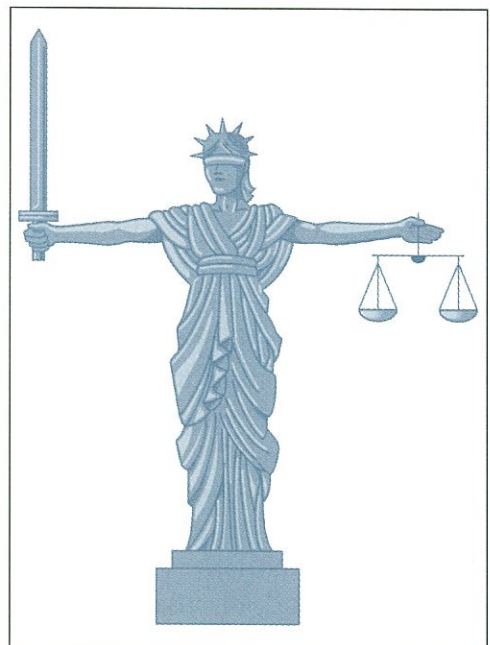
## Focusing on Your Community

Find out where the nearest federal district courts are located. How many cases does your district court handle each year? What types of cases does it handle? Where is the nearest appeals court? Present your findings in a written report.

## Analyzing Visuals

The United States courts are supposed to protect the rights of citizens and to judge everyone equally and fairly. Study the depiction of justice in the picture below. Then answer the questions.

1. What does the blindfold symbolize?
2. What ideal of justice is symbolized by what the figure is holding in her left hand?
3. What does the sword symbolize?



# CLOSEUP

## W A T E R G A T E

In June 1972, during President Richard Nixon's reelection campaign, police arrested five men at the Watergate building in Washington, D.C. The men were charged with breaking into the Democratic party headquarters. The burglary marked the beginning of the so-called Watergate affair.

In the months that followed, evidence was found linking the burglary and other illegal acts to members of the President's staff. The White House denied any connection.

The burglary suspects were tried and found guilty. One burglar testified before a Senate committee that several White House officials were involved. Then presidential counsel John Dean testified that the President himself had been involved.

### Congressional Hearings

During its hearings, the Watergate Committee learned that President Nixon had made tape recordings of conversations in his office. The committee believed it could discover the truth of the President's involvement by listening to these tapes. Nixon, however, claimed "executive privilege" and refused to hand them over.

The affair came to a head in July 1974, when the Supreme Court ruled that Nixon had to turn over the tapes. On one, the President was heard discussing how to cover up White House involvement in the



**President Nixon resigns**

burglary. This tape was a "smoking gun"—concrete evidence of Nixon's role.

### Impeachment or Resignation?

Meanwhile, the House Judiciary Committee recommended impeaching the President. It charged Nixon with obstruction of justice, abuse of power, and contempt of Congress. The next steps would have been a full House vote on the charges and an impeachment trial. The process never went that far. On August 9, 1974, Nixon resigned—the first President ever to do so.

### CLOSEUP REVIEW

- 1 What was the "smoking gun"?
- 2 Why do you think Nixon resigned from office rather than go through an impeachment trial?