

Judicial System

Guiding Principles of the Judicial System

- Equal justice under the law
- Due Process of the law
 - procedural
 - substantive
- The Adversary System
- Presumption of Innocence

Types of Law

- Civil law
 - suit to recover damages from offending parties
 - plaintiffs v. defendant
- Criminal law
 - jail for those who threaten civilization with harm
- Constitutional law
 - dealing with issues of constitutionality
- Equity law
 - injunction – stop action
 - writ of mandamus – order an action

Jurisdiction

- the area in which a court can enforce it's power
- Federal
 - Constitutional law
 - federal law
 - treaties w/foreign nations
 - international law
 - state governments are parties to action
 - plaintiffs from different states
- State & Local
 - state & local laws
- Concurrent
 - civil dispute with different states over \$10,000
- Original jurisdiction
 - trial court
- Appellate jurisdiction
 - review of violations of due process

California State Court System

- Superior Courts
 - 58 with 1714 judges statewide (1 per county)
 - judges elected by voters in county for six years
 - original jurisdiction in all criminal and civil cases
- Courts of Appeal
 - 6 Districts, with 105 justices

appellate jurisdiction over superior courts
sit in three judge panels

State Supreme Court

Chief Justice plus six associate justices
Appellate jurisdiction over all other courts
final word in the State of California
generally only hears cases of public importance

Lower Court System

Constitutional federal courts

est. by Congress via Article III

Federal District courts

94 of those courts
at least one in each state and territory
grand jury
indictment
petit jury
trial jury of 12 members

Federal Court of Appeals

12 judicial circuits based on geography
special court of appeals
executive agencies

Court of international trade

tariffs

Legislative federal courts

United States Claims court
claims against the government
United States Tax court
tax disagreements
Court of military appeals
military law
Territorial courts
Courts of the D.O.C.

Selection of federal judges

all are appointed by President and confirmed by Senate
Factors

party affiliation
judicial philosophy
senatorial courtesy
background of federal judges

The Supreme Court

Jurisdiction of Supreme Court

representative of foreign governments
state is a party to the case
appellate jurisdiction (99% of cases)

Justices (8 plus 1 Chief Justice)

appointed to life term

removed for “treason, bribery, or other high crimes”

associate justice - \$164,100.00

chief justice - \$171,500.00

Selecting Justices

same backgrounds as federal judges

American Bar Association (ABA) rates judges

interest groups

sitting judges

Roles of the Supreme Court

judicial review

est. in Marbury v. Madison

Dred Scott example

interpretation of laws

Lau v. Nichols

overruling earlier decisions

Plessy v. Ferguson

Brown v. Board of Education

stare decisis – “let the decision stand”

precedent

Limit on Supreme Court Power

Restrictions on cases

only “real” court cases, not hypothetical

harm must be done

must deal with “substantial federal question”

no “political” questions

should we go to war?

Limited control over agenda

can’t create cases, must be brought to them

Lack of enforcement power

The Supreme Court Process

meets first Monday of October to approximately July 4th

sittings (discussion, oral arguments) & writing opinions

How cases reach the Supreme Court

On appeal

rule of four

writ of certiorari

order to send full records to Court

discuss list

Per Curiam decisions

immediate, informal decision (approx. ½ time)

Written briefs are submitted

amicus curiae briefs – “friend of the court”

Oral arguments – limited to 30 minutes

Court meets in Conference to discuss decision

Opinions – explanation of decision

Unanimous (9-0)

majority (8-1, 7-2, 6-3, 5-4)

concurring (agrees with majority)

dissenting (disagrees with majority)

opinions are used by lower courts to guide decisions

Justices vote on the written opinion

Factors affecting decisions

the law

philosophical beliefs

voting blocks

personal conflicts

the Chief Justice

assigns written opinions

public support

social forces

President

Congress

Important Court Cases

1803 - Marbury v. Madison

established power of Supreme Court to declare acts of Congress unconstitutional

1819 - McCulloch v. Maryland

Ruled that state government may tax property of federal government

1821 - Cohens v. Virginia

Declared that a decision of a state court is subject to review by the Supreme Court

1824 - Gibbons v. Ogden

Ruled that state cannot interfere with the right of Congress to regulate interstate commerce

1857 - Dred Scott v. Sanford

Declared that blacks cannot be citizens and that Congress cannot forbid slavery in U.S. territory

1896 - Plessy v. Ferguson

Held that “separate but equal” facilities for minorities was constitutional

1919 - Schenck v. United States

Established the “clear and present danger” principle as the test of whether government may limit free speech

- 1925 - *Gitlow v. New York*
Extended the protection of the Bill of Rights to the states via the 14th amendment. Reversed *Barron v. Baltimore*(1833).
- 1954 - *Brown v. Board of Education of Topeka*
Reversed *Plessy v. Ferguson*
- 1961 – *Mapp v. Ohio*
Extended 4th amendment limitations to states via selective incorporation
- 1962 – *Engle v. Vitale*
Ruled that public schools could not require prayer during school hours.
- 1963 - *Gideon v. Wainright*
Ruled that state must provide counsel for defendants if they can't afford an attorney
- 1966 - *Miranda v. Arizona*
Ruled that statements made by accused persons who have not been informed of their rights are not admissible in court
- 1969 – *Tinker v. Des Moines*
Established that students have the right to free speech and protest as long as it does not substantially interrupt the educational process
- 1971 – *Lemon v. Kurtzman*
Establishes three part test for violation of the Establishment Clause. 1) Purpose aid must be secular, not religious. 2) it's primary effect must neither advance nor inhibit any particular religion and 3) it must avoid “excessive entanglement” of government and religion
- 1971 – *New York Times v. United States*
Allowed publication of the Pentagon Papers. Court ruled that 1st Amendment sets a “heavy burden” on the government to implement prior restraint.
- 1973 – *Miller v. California*
Established the “local community standard” test for defining material to be obscene
- 1973 - *Roe v. Wade*
Legalized a women's right to abortion under certain circumstances
- 1978 - *Regents of the University of California v. Allan Bakke*
Ruled that race may be used as one factor, but not the only one, in university admissions

- 1995 – United States v. Lopez
Ruled that Congress could not use the Commerce clause of the Constitution to ban students from bringing guns to school. First significant limitation on Commerce power in two centuries.
- 1996 – United States v. Virginia (VMI)
Ruled that the Virginia Military Institute must admit women on an equal basis with men into its institution
- 2010 – Citizen United v. FEC
Ruled that Congress could not limit financial contributions to election campaigns by either time frame or by businesses.