

JUDICIARY

- The third branch – described in Article 3
- Creates an independent Supreme Court
- Gives Congress the power to create all “inferior courts” and establish their jurisdiction
- Power of the judiciary often overstated
- Most cases are applications of law (and fact as most cases begin and end at District Court level)
- Power enhanced through “Judicial Review” which Supreme Court established in the case *Marbury v. Madison*

Organization

- Hierarchy
- District Courts: traditional trial duties, factual guilt or innocence
- Circuit Courts: intermediate appellate level (decides cases on point of law)
- Supreme Court: “court of last resort” for appeals (point of law)
- Most cases end in District court

- Supreme Court has limited docket (sets its own docket)

JUDICIARY: KEY TERMS

- Jurisdiction: The ability to hear cases
- Case or controversy: involves an issue of law
- Criminal Code: Laws regulating relations between individuals and society. Violations are prosecuted by government
- Civil Code: Laws regulating relations between individuals. Dispute is heard by government.
- Standing: Must be connected to the case or controversy to have case heard
- Point of fact: element of the case that involves some measure of verification
- Point of law: element of a case involving interpretation of law
- Writ of Certs: order of Supreme Court that it will hear a case from lower court
- Stare decisis: let the decision stand

- Precedent: prior court ruling applicable to a current case

LIMITS ON JUDICIAL ACTIVISM

- PRECEDENT
- MULTIPLE LAYERS OF REVIEW
- MUST HAVE CASE TO REACT TO
- CAN BE WRITTEN OUT BY LEGISLATION
- ORDERS ARE NOT SELF-EXECUTING

JUDICIAL SELECTION

- Lifetime tenure

- President nominates, Senate confirms
- Most lasting presidential legacy
- Most (90%) nominees from President's party
- Must consider social/group characteristics
- Senatorial courtesy: allows a senator to "veto" a nominee from his/her state