

THE US LEGAL SYSTEM:
A Short Description

Federal Judicial Center

Background

The United States Constitution establishes a federal system of government. The Constitution gives specific powers to the federal (national) government. All power not delegated to the federal government remains with the states. Each of the fifty states has its own state constitution and governmental structure.

Power in both the state and federal governments is separated into three branches – the legislative, the executive, and the judicial. The legislative branch has the power to create laws; and the judicial branch has the power to interpret and apply these laws in individual cases and controversies. Separation of government authority prevents abuse of power. As a control on the powers of the executive and legislative branches, the judicial branch has the power of judicial review. Judicial review provides the power of a court to declare legislative or executive acts invalid, if those acts are contrary to the federal or state constitutions.

As a product of federalism, the United States has dual court system consisting of the federal and state courts. The U.S. Constitution establishes the judicial branch of the federal government and specifies the authority of the federal courts. Federal courts have exclusive jurisdiction only over certain types of cases, such as cases involving federal laws, controversies between states, and cases involving foreign governments. In certain other areas federal courts share jurisdiction with state courts. For example, both federal and state courts may decide cases involving parties who live in different states. State courts have exclusive jurisdiction over the vast majority of cases.

In both federal and state trial courts (courts of first instance) the parties have a right to trial by jury in all criminal and most civil cases. Juries usually consist of a panel of six or twelve citizens who hear the evidence and apply the law stated by the judges to reach a decision based on the facts as they have determined them from the evidence at trial.

Structure of the Federal Court System

The U.S. Constitution establishes the United States Supreme Court and gives Congress the authority to establish the lower federal courts. Congress has established two levels of federal courts below the Supreme Court: The United States District Courts and the United States Circuit Courts of Appeals.

United States District Courts are on the first level and are the trial courts (courts of first instance) of the federal system. There are 94 such district courts throughout the nation. At least one district court is located in each state. In addition to district judges, bankruptcy judges (who hear only bankruptcy cases) and magistrate judges (who assist the trial judge) are located within the district courts.

United States Circuit Courts of Appeals are on the next level. There are 12 of these regional intermediate appellate courts located in different parts of the country. Panels of three judges hear appeals from the district courts. A party to a case may appeal as a matter of right to the circuit court of appeal (except that the government has no right of appeal if it loses in a criminal case, i.e., if the jury gives a verdict or judgment of "not guilty.") These regional circuit courts also hear appeals from decisions of federal administrative agencies. One non-regional circuit court hears appeals in specialized cases such as cases involving patent laws and claims against the federal government.

At the top of the federal court system is the United States Supreme Court, made up of nine justices who sit together to hear cases. At its discretion, the United States

Supreme Court may hear appeals from the federal circuit courts of appeals as well as the highest state courts if the appeal involves the U.S. Constitution or federal law.

Structure of State Court Systems

The structure of state court systems varies from state to state. Each state court system has unique features; however, some generalizations can be made. Most states have courts of limited jurisdiction presided over by a single judge who hears minor civil and criminal cases. States also have general jurisdiction trial courts that are presided over by a single judge. These trial courts are usually called circuit courts or superior courts and hear major civil and criminal cases. Some states have specialized courts that hear only certain kinds of cases such as traffic or family law cases.

All states have a highest court, usually called a state supreme court, that serves as an appellate court. Many states also have an intermediate appellate court called a court of appeals that hears appeals from the trial court. A party in a case generally has one right of appeal (except in the case of the government which has no right of appeal if it loses a criminal case).

Court Administration

The judicial branches of the federal and state governments are separate from the legislative and executive branches. To insure judicial independence, the judicial branch of the federal and state governments controls the administration of the courts. Court administration includes managing court budgets, prescribing rules of trial and appellate procedure, reviewing judicial discipline matters, offering continuing educational programs for judges, and studying court performance.

In the federal judiciary, the Judicial Conference of the United States, made up of 27 members (the Chief Justice of the United States and 26 judges from each

geographic region of the United States) has overall administrative responsibility for the courts and has primary authority to make policy regarding the operation of the judicial branch of the government. The Judicial Conference is assisted by a large number of committees made up of judges who study different parts of the federal court system and make recommendations. An important responsibility of the Judicial Conference is to recommend changes in the rules of procedure used by all federal courts.

Congress has created three administrative agencies within the judicial branch. The Administrative Office of the United States Courts manages the day-to-day operations of the courts, including such matters as personnel, payroll, equipment, and supplies. The Federal Judicial Center conducts educational and training programs for judges and court personnel and does research in the fields of court operations and administration. The United States Sentencing Commission develops advisory guidelines for federal judges in imposing criminal sentences.

In most state court systems, the state supreme court has overall administrative authority over the court system. It is assisted by an administrative office. The chief justice of the state supreme court usually appoints the director of the state court administrative office.

Judges

Justices of the United States Supreme Court and other federal judges are appointed for life by the President of the United States. Persons nominated to be federal judges must be approved by a majority vote of the United States Senate. Presidents almost always nominate persons to be judges who are members of their own political party. Persons appointed are usually distinguished lawyers, law professors, lower federal court or state court judges. Once these judges are appointed their salaries cannot be reduced. Federal judges may only be removed from office through an impeachment process in which charges are made by the House of Representatives

and a trial is conducted by the Senate. In the entire history of the United States, only a few judges have been impeached. These protections allow federal judges to exercise independent judgment without political or outside interference or influence in deciding cases.

The methods of selecting state judges vary from state to state and are often different within a state, depending upon the type of court. The most common selection systems are by commission nomination and by popular election. In the commission nomination system, judges are appointed by the governor (the state's chief executive) who must choose from a list of candidates selected by an independent commission made up of lawyers, legislators, lay citizens, and sometimes judges. In many states judges are selection by popular election. These elections may be partisan or non-partisan. Candidates for judicial appointment or election must meet certain qualifications, such as being a practicing lawyer for a certain number of years. With very few exceptions, state judges serve specified, renewable terms. All states have procedures governing judicial conduct, discipline and removal.

In both the federal and state systems, judicial candidates are almost always lawyers with many years of experience. There is no specific course of training for judges. Some states require judges to attend continuing education programs to learn about developments in the law. Both the federal and state court systems offer beginning and continuing education programs for judges.

Prosecutors

Prosecutors in the federal system are part of the United States Department of Justice in the executive branch. The Attorney General of the United States, who heads the Department of Justice, is appointed by the President. The chief prosecutors in the federal court districts are called United States Attorneys and are also appointed by the

President. Within the Department of Justice is the Federal Bureau of Investigation which investigates crimes against the United States.

Each state also has an attorney general in the state executive branch who is usually elected by the citizens of that state. There are also prosecutors in different regions of the state, called state's attorneys or district attorneys. These prosecutors are also usually elected.

Lawyers

The U.S. legal system uses the adversarial process. Lawyers are essential to this process. Lawyers are responsible for presenting their clients' evidence and legal arguments to the court. Based on the lawyers' presentations, a trial judge or jury determines the facts and applies the law to reach a decision before judgment is entered.

Individuals are free to represent themselves in American courts, but lawyers are often necessary to present cases effectively. An individual who cannot afford to hire a lawyer may attempt to obtain one through a local legal aid society. Persons accused of crimes who cannot afford a lawyer are represented by a court-appointed attorney or by federal or state public defender offices.

American lawyers are licensed by the individual states in which they practice law. There is no national authority that licenses lawyers. Most states require applicants to hold a law degree (Juris Doctor) from an accredited law school. An American law degree is a post-graduate degree awarded at the end of a three-year course of study. (Normally individuals complete four years of college/university before attending law school). Also, most states require that applicants for a license to practice law pass a written bar examination and meet certain standards of character. Some states allow lawyers to become bar members based on membership in another state's bar. All states provide for out-of-state lawyers to practice in the state in a particular case under

certain conditions. Lawyers can engage in any kind of practice. Although there is no formal distinction among types of legal practice, there is much informal specialization.