

- The Judicial Branch
 - Framers & judicial branch
 - Administration of justice = important
 - Knew of the dangers of courts
 - Idea of Federal Judiciary = terrifying
 - Philadelphia Conference = compromised
 - Federal Judiciary & Constitution
 - Article III, Sec 1 = creates only SCOTUS
 - Congress = creates lower courts & determine # of judges/justices
 - Constitution & laws set out jurisdiction of federal courts
 - “Federal” questions
 - “Diversity of citizenship”
 - All else = state courts
 - SCOTUS has limited jurisdiction
 - Original Jurisdiction
 - Appellate Jurisdiction
 - 1st Congress devises Federal Court System
 - The Judiciary Act (1789)
 - Creates District Courts
 - Also “Appellate” Courts
 - Set number of SCOTUS justices
 - During Federalist Era, SCOTUS had little business

- 1st case not till 1791 – *Barnes v. West*
- 1st great case triggers crisis
 - Chisholm v. Georgia (1793)
 - SCOTUS by 4-1 rendered “default judgment”
 - State authority abrogated to Federal judiciary
 - Result = national Constitutional crisis
 - Remedy = 11th Amend (1795)
- Marshall court (1801-1835)
 - Chief Justice John Marshall
 - Marbury v Madison (1803)
 - Judicial review = courts say what a law means
 - Fletcher v Peck (1810)
 - SCOTUS reviews state laws that conflict w/ Const
 - Martin v. Hunter's Lessee (1816)
 - SCOTUS, not state’s high court, decides meaning of Const
 - Result: power of national gov’t = enhanced + creates role of Fed Courts
- Result: judiciary = most active branch
- Process of judiciary based on English Common Law
 - Body of judge-made law developed in England
 - Judges followed decisions of similar disputes
 - Known as doctrine of *stare decisis*
- Guiding principle behind US system = “Equal Justice Under Law”

- Sources of American Law
 - Constitutions (Fed & state)
 - Common law
 - Case law (*stare decisis*)
 - Statutory law (from legislative)
- Courts handle two types of cases
 - Criminal & Civil
- Who can Sue/Be Sued?
- Criteria to sue:
 - PL must have Standing
 - Issue must be Justiciable
 - Issue must be Ripe
 - Issue must NOT be Moot
 - Case filed in proper Venue
- Federal Jurisdiction subdivided 3-tier system
 - US district court & specialized courts
 - Various US courts of appeals
 - NOTE: NO ABSOLUTE RIGHT OF APPEAL
 - » To get an appeal, must show “error”
 - » Error by judge or jury
 - » Error with procedural or substantive law
 - SCOTUS

- How get to SCOTUS
 - » 1) Original jurisdiction
 - » 2) Appellate jurisdiction
 - » NOTE: NO Right to appeal
 - » Factors that influence SCOTUS
- Begins with petition for *writ of certiorari*
 - » If granted = SCOTUS review
 - » NOTE: Rule of Four
- “Hears” claim of error – re: “oral arguments”
- Justices discuss @ conference
- “Opinion *per curiam*” drafted
 - » “Affirms”, “reverses”, or “remands”
 - » Concurring/dissenting opinions
- Selection of justices & judges
 - Appointments = most important POTUS duty
 - Process depends on “politics”
 - Ex. Robert Bork - “Borked”
 - Ex. Merrit Garland
 - Ex. Brett Kavanaugh
 - Typical process:
 - Begins w/ Office of Legal Policy (OLP)
 - Cut to 2-3 names; POTUS decides

- Nomination formally sent to Senate
 - » 1st = Judiciary Committee hearing
 - » THEN, to full Senate
- If confirmed, sworn in
- Qualifications
 - NONE in Const; Senate decides
 - Tenure varies
 - Most = “good behavior”
 - Violation = impeachment
 - Some “special” courts = terms