

# Notes — Week 15

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## Period 3

- Justice Jackson nominated to Supreme Court by Biden
- Nominating Process for Judges
  1. President nominates a judge
  2. Name sent to Senate Judiciary Committee
  3. Senate Judiciary Committee holds hearings with nominee<sup>1</sup>
  4. Senate Judiciary Committee votes “yes” or “no” on nominee
  5. If nominee passes<sup>2</sup> committee vote, his/her name is placed on Senate Floor calendar<sup>3</sup> for final vote
- All courts are named after the Chief Justice
- United States Parallel Judiciary System (Federalism)
  1. Federal
    - (a) First — Federal District Courts (Trial Courts) — Hear cases involving federal laws
    - (b) Second — Federal Court of Appeals — Hears cases involving federal laws and constitutional questions
    - (c) Last — Supreme Court of the United States
  2. State
    - (a) First — State District Courts (Trial Courts) — Hear cases involving state laws
    - (b) Second — State Court of Appeals
    - (c) Last — Supreme Court of a State

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<sup>1</sup>Political interest groups work here to influence

<sup>2</sup>Majority vote needed to get out of committee

<sup>3</sup>51 votes to pass or 50 if filibuster is in action

3. In the United States, we run a Parallel Court system. We have Federal Courts & State Courts that work in parallel (cases can cross from state to federal, but not the other way)
4. There are 11 Court of Appeals circuits
5. Congress makes all of the courts below the Supreme Court

Article III {	US Supreme Court (9 Justices)	← 80-100 cases/year
	US Court of Appeals (11 Appellate + 2 Specialty)	← 8k-10k cases/year
	Federal District Courts, Trial Courts (94 in total)	
Article I {	US Tax, Trade, Claims, Bankrupt Courts	← Specialty Courts

Article I: Tenure is determined by Congress

Article III: Tenure is for Life

- Briefs are legal written arguments
- Congress determines the amount of justices
- Judicial Restraint and Judicial Activism
  - Judicial Restraint — A judicial philosophy whereby judges adhere closely to the constitution, statutes, and precedents in reaching their decisions. Limits the courts abilities to craft “solutions” that should be rendered by the political branches of the federal or state governments
  - Judicial Activism — A judicial philosophy whereby judges interpret existing laws and precedents loosely and interject their own values in court decisions to legislate solutions from the bench and not from the elected branches of government
  - According to many scholars, judicial activism may be conservative or liberal
- Around 44% of cases end in unanimous decision
- 80-120 cases take place per year. Only about 5 are highlighted by media, as these are usually close calls (with 5-4 votes). This makes the court appear much more divided than it really is.
- Original Jurisdiction — The legal authority to first hear a case (Trial Court)
- Appellate Jurisdiction — The legal authority to override a previous case by appeal (Appellate Court)
- The Supreme Court holds both jurisdictions

- There are eight to ten thousand appeals to the Supreme Court every year. Only 80 to 120 are heard. These cases are both criminal and civil.
- Civil cases deal with the seventh amendment
- The “rule of four” means that four of nine justices may choose to take into oral argument some case (four out of nine are required to release a *writ of certiorari*)
- Floor calendars are controlled by the Majority Leader (currently, Chuck Schumer D-NY → rules committee) in the Senate and the Speaker of the House (currently, Nancy Pelosi D-CA → rules committee) in the House
- Judges checked by Congress through impeachment
- Advisory opinions are not allowed by the Supreme Court
- Congress created the courts and their jurisdiction, meaning it can change them (with the exception of the Supreme Court)
- Supreme Court Justices
  - 9 Justices
    - \* Chief Justice
    - \* 8 Associate Justices
  - Congress has the power to change the number
    - \* Number of Justices has varied from 5 to 10
    - \* Nine justices since 1869
    - \* 1937 Roosevelt tried to increase number and Congress turned him down. This is known as the “Court Packing Caper”
- The *writ of certiorari* is the quickest ticket to the Supreme Court
- *Amicus Curiae* (friends of the court) are outsiders who may write statements supporting a certain side in a case
- In *Wolf v. Colorado*, the Fourth Amendment was applied to the states for the first time
  - Because the exclusionary rule was not in the constitution, it still did not apply to states
  - As it evolved, the “Good Faith Exception” was added. This stated that, if a warrant was used in an incorrect way, evidence could still be used if the use of the warrant was determined to be in good faith
- The “Due Process Revolution” was led by the Warren Court
- The Court must wait for an appeal following a trial to reach the Supreme Court

- Only a person in “standing” may be heard by the Supreme Court
- The police developed the third degree — this meant a severe interrogation (psychological + physical)