

AP Government Exam Study Guide

Unit One: Democracy and the Constitution

Fundamental Principles of Democracy

- Direct Democracy – citizens meet and vote directly on government decisions
- Representative Democracy (Republic) – citizens choose officials who make decisions on government policy
- Magna Carta (1215) – the first ever attempt to limit the power of the British King, guaranteed all people certain rights
- Enlightenment Philosophers – **Locke and Rousseau**
 - Social Contract Theory – principle that people enter into a social contract with the government and allow to be ruled
 - Consent of the Governed – principle that there are no supreme rulers, all rulers depend on the approval of the people, when governments fail to protect rights the people have the right to change the government
 - Natural Rights – principle that all people are born with certain rights: life, liberty, and property (Jefferson changes property into pursuit of happiness)
- Declaration of Independence – Thomas Jefferson’s document built on principles of “life, liberty, and the pursuit of happiness” consent of the governed, and social contract theory. It also justified American revolution against England
- Common Good – Belief in doing what’s best for the nation overall
- Popular Sovereignty – Belief that the ultimate authority rests with the people
- Majority Rule – Belief that government is run based on the will of the majority

The First Government – Articles of Confederation

- Weak association of states (states very independent)
- No central executive power
- No federal power to tax citizens directly
- Federal government could raise an army, (but not pay for it), print money, declare war, and run the post office
- 9 out of 13 states were required to vote to pass a law
- With no strong central government supervision, states could get away with taxing and printing money, and making foreign treaties,

- **Shays' Rebellion** – Farmer rebellion in Massachusetts 1786-1787 protesting mortgage foreclosures and terrible economy. Rebellion represented how weak the central government was, and terrified many Americans

Constitutional Debate

- Constitutional Convention meets in Philadelphia, 1787 to write new constitution
- All delegates supported **Representative Democracy (Republic)** – democracy where people elect representatives who pass laws
- Supported three branches – executive, legislative, and judicial
- Serious debate between Federalists vs. Anti-Federalists, North vs. South, Big States vs. Small States over new government
- North-South Compromises – **3/5 Compromise** counted slaves as 3/5 of a person to give the south more representatives
- **Connecticut Compromise** – (Bicameralism) – Established two equal bodies (House of Representatives and Senate) one based on population, one giving all states equal representation. This was a compromise between big states (**Virginia Plan**) and small states (**New Jersey Plan**) over the format of the Congress
- **Federalists (Hamilton, Madison)** supported the Constitution because it gave power to a strong central government. **Anti-federalists** opposed the Constitution. because they thought the national government would become tyrannical and take power away from the states
- **Federalist Papers** – articles written by Madison, Hamilton, and Jay arguing for the Constitution
 - o Federalist Paper #10 – written by Madison, discusses importance of factions, factions are inevitable, but factions are best handled by a large republic.
 - o Federalist Paper #51 – written by Madison, discusses importance of checks and balances and the separation of powers in the constitution

Weaknesses in the Articles of Confederation	How the Constitution Fixed these Problems
Congress could not tax, it relied on contributions from states	National government had power to tax directly
Congress couldn't regulate interstate trade	Interstate Commerce Clause gives Congress interstate regulatory power
No chief executive to enforce the law	Article II creates president who enforces the law
No national judiciary to handle state fights	Article III creates Supreme Court
Each state was given only one vote	Bicameral legislature represents states both by population, and equality

The Constitution of the United States of America

- Article I –Legislative Branch
- Article II –Executive Branch
- Article III –Judicial Branch
- Article IV – Interstate relations
- Article V – Amendment process
- **Separation of Powers** – Each of the three branches has its own power and independence
 1. Legislative Branch – Passes laws
 2. Executive Branch – Executes laws
 3. Judicial Branch – Interprets laws (this power comes from Supreme Court Case **Marbury vs. Madison** – set dogma of **judicial review**, where the Supreme Court may rule an act of the President or Congress unconstitutional)
- Checks and Balances – Each branch has some power over the others, but retains independence:

Legislative	Executive	Judicial
<ul style="list-style-type: none"> • Approves budget • Passes laws • Can override veto • Can impeach president, judges • Approves appointments and treaties • Confirms judges and cabinet appointments 	<ul style="list-style-type: none"> • Can propose laws • Can veto laws • Can call special sessions of congress • Can appeal to public • Appoints officials and judges • Can pardon convicted felons 	<ul style="list-style-type: none"> • Interprets laws • Can declare executive acts and legislative laws unconstitutional

- **Federalism** – Separation between powers of the Federal, State, and Local governments
- **Confederacy** – System of government in which the central government is very weak, and most of the true power lies in individual states
- **Unitary System** – System of government in which the central government is extremely powerful, and individual states have few powers
- **Dual Federalism**, aka “Layer Cake” Federalism (1789-1932) – Belief that the state and national governments are supreme within their own sphere of influence
- **Cooperative Federalism**, aka “Marble Cake” Federalism – sharing powers between state and federal governments
- **Fiscal Federalism** – government’s patterns of spending, taxing, and providing grants to influence state and local governments
 - o **Grants-in-aid** – money given from the federal government to the states
 - o **Categorical grants** – federal grants for specific purposes (building an airport)
 - o **Block grants** – broad grants from the federal government that give local/state governments a lot of freedom to spend money as they please without many strings attached. The Welfare Reform Act of 1996 began transferring more authority back to the states through block grants
 - o **Revenue sharing** – federal sharing of a fixed percentage of its revenue with the states
 - o **Mandates** – terms set by the federal government that states must meet if they accept federal grants
- **Devolution** – process of returning power to the states, this began during New Federalism under presidents Nixon, Reagan, and Bush

- **Federal Powers** – Express, Implied, and Inherent powers :
 1. **Express powers** – powers listed (enumerated) in the constitution for the Federal government: go to war, raise an army, regulate interstate and foreign commerce, establish post offices
 2. **Implied powers** – Based on necessary and proper clause (elastic clause) – gives congress flexibility to make laws necessary and proper for carrying out express powers, upheld in McCulloch v. Maryland
 3. **Inherent powers** – powers dealing with foreign policy not in constitution, but given to federal government

Federal Powers (Expressed, Implied, Inherent)	Federal and State Powers (Concurrent)	State Powers (Reserved)
<ul style="list-style-type: none"> • Regulate interstate commerce • Coin/print money • Provide army • Declare war • Establish federal courts • Set foreign policy • Make all laws “necessary and proper” 	<ul style="list-style-type: none"> • Levy taxes • Spend for general welfare • Enact and enforce laws 	<ul style="list-style-type: none"> • Regulate intrastate commerce • Establish local governments • Establish public schools • Administer elections • Establish licensing requirements

- **Denied Powers** – Powers explicitly denied to government:
 - o suspending **writ of habeas corpus** (being imprisoned without formal accusation)
 - o passing **bills of attainder**: laws that declare a person to be guilty
 - o **ex post facto laws**: “after the fact,” laws that make an act illegal after it was performed
- **Concurrent Powers** (shared by Federal and State governments) – power to tax and spend, establish courts, make laws
- **Reserved to States (10th amendment)** – any power not denied nor given to federal government is reserved for state governments (create local governments)
- **Supremacy Clause** – Federal law is superior to state law. This came out of the court case McCulloch vs. Maryland, in which there was debate as to whether or

not the Bank of the United States had to pay Maryland state taxes. The Supreme Court ruled that because the Bank of the US was NATIONAL it did not have to follow Maryland STATE law. This ruling overturned the idea of nullification by which states could override federal law

- **Interstate Commerce Clause** – Gives Federal Government authority to regulate all of interstate commerce. This clause gives the federal government authority to regulate businesses that go between state lines, and justifies many federal laws (Civil Rights Act)
- **Take Care Clause** – president must enforce ALL laws passed by congress
- **Full Faith and Credit** – states must honor laws and court rulings of other states
- **Privileges and Immunities** – requires states to extend same privileges and immunities to all citizens (even of other states)
- **Bill of Rights** – First 10 amendments to the Constitution that guarantees individual and states' rights. This was a concession the federalists made to the anti-federalists to ensure constitution would be ratified
 - **Amendment 1** – freedom of speech, assembly, petition, religion, press
 - **Amendment 2** – right to bear arms
 - **Amendment 4** – no unreasonable searches and seizures
 - **Amendment 5** – right to a trial, no double jeopardy, individuals are not required to testify against themselves
 - **Amendment 6** – right to a speedy, public, and impartial trial with lawyer
 - **Amendment 8** – no excessive bails or fines, no cruel and unusual policies
 - **Amendment 10** – powers not given to the federal government or denied of the states are reserved to the states (states rights)
- **How to Amend the Constitution**
 1. 2/3 of congress propose amendment → 3/4 of states ratify it
 2. State convention called by 2/3 of states propose amendments → 3/4 of states ratify (this method has only been used once, 21st amendment)

Unit Three -- Political Culture, Beliefs, and Behaviors

- Alexis de Tocqueville – Frenchmen who visited America in the 1800's and described the young democracy he saw

- **Political Culture** – a coherent way of thinking about how politics and the government ought to be carried out
 - Americans tend to support free enterprise with some limits
 - Americans tend to be committed to individual responsibility and economic individualism
 - Americans believe strongly in equality of opportunity, NOT result
 - Americans tend to be particularly patriotic and aware of their rights
 - Religion tends to play a very influential role in determining an individual's political views
- **Political Socialization** – manner in which people develop their political views (family, friends, media, current government, education)
- **Ideologies**
 1. **Liberal** – large federal government involvement needed to provide for the people (welfare, new deal, great society)
 2. **Socialist** – belief in an extremely powerful state to protect people
 3. **Conservative** – belief that limited government is necessary to grow strong economy, very pro-business anti-regulation
 4. **Libertarianism** – belief in very small government and extreme focus on individual and business rights, no regulation of industry

People may be liberals/conservatives either economically or socially.

- Demographics – characteristics of population on income, education, race, gender
- Demographics trends – changes in the way people of a certain socio-economic background vote (politicians follow these very closely)
 - Who votes? Whites vote more than blacks. Rich vote more than poor. Women vote more than men. Old vote more than young. Educated vote more than uneducated.
 - Women, blacks, Hispanics, young people, blue collar workers vote liberal. Men, wealthy whites, religious people, rural people vote conservative
- **The Census** – Every 10 years a count of the total population, different ethnic groups, religions, and how people vote
- **Redistricting** – after every census the congressional districts are redrawn based on population
- **Reapportionment** – state legislatures reapportion (resize) state congressional districts after every census

- **Gerrymandering** – The practice of redistricting in order to benefit a specific party by drawing districts based on the demo of their residents (*Baker v. Carr* and *Shaw v. Reno*) were court cases in which the supreme court ruled that gerrymandering was unconstitutional)
- **Voting Behavior** – Since 1960 voting turnout has greatly decreased because of the very difficult process of voter registration. People vote because of the party of the candidate, on basis of candidate, and on basis of issues
- **Party Identification** – when people identify with a political party based on issues
- **Political Efficacy** – belief that you can participate in politics, or that government will respond (my vote counts)
- Civic Duty – belief that one has an obligation to participate in civic and political affairs

Types of Elections

- **General elections** – held every four years in which president is elected
- **Primary elections** – a political party’s elections to determine nominee for general election
 1. **Open primaries** – people from either party can vote (must choose to vote for either democrats or republicans)
 2. **Closed primaries** – people can only vote if they are a registered member of the party
- **Caucuses** – candidate nomination process in which party members meet to discuss and decide on candidate
- Many people think primary season is too long, and we should have one national primary, or a much shorter season

Changes to System of Checks and Balances

- **Referendum** – people vote on whether or not to accept a law passed by state legislature, or a proposed amendment to the state constitution
 - **Initiative** – people vote on laws and constitutional amendments within state (direct democracy)
 - **Recall** – voters remove elected officials
- Unit Three: Political Parties, Interest Groups, and Mass Media

Unit Four -- Political Parties, Interest Groups and Mass Media

- Linkage Organizations – organizations that link the people with government

Political Parties

- Congressional elections use winner-take-all systems in which the winner of a plurality wins (**single-member district**)
- Because of the winner-take-all system, we have a **two party system**
- **Third parties** – represent specific ideological positions, sometimes can serve as “spoilers” but rarely make much of an impact
- Parties help organize the government, organize election process, fundraise, hold national convention and form party platform, educate voters, and get out the vote
- Before primary system, party leaders actually chose the candidates
- Parties are expected to be “loyal opposition” when other party is in power
- Typically we have **Divided Government** – one party controls white house, other controls congress
- Parties have a national leadership, but local chapters have a lot of power
- **Realignment** – major change in the core members/beliefs of a political party either one major party is replaced by another, or the two major parties completely change viewpoints
- **Dealignment** – when people abandon parties and become independents
- Party activists promote certain policies, candidates, and ideologies

Elections

- Presidents are elected by the **electoral college**
- The US public does not vote directly for the president, instead they vote in statewide elections for electors. These electors then vote directly for the president and vice president
- States have electoral votes equal to number of senators + number of representatives
- If candidate wins the plurality of popular vote in state he gets all the electoral votes (two exceptions – Maine, Nebraska)
- Majority of total electoral votes is needed to become president, if no candidate has a majority, the house votes
- It is possible to win popular vote but lose electoral vote (Gore)
- Many people suggest using a popular vote to decide president, or using the proportional system used by Maine and Nebraska

- In senate elections, total state votes for 2 senators
- In house elections, each district has a single representative, and the candidate with a plurality wins → 2 party system (its harder for 3rd parties to get represented)
- Throughout American history there have been many changes to who can vote:
 - Elimination of race requirement (**15th amendment**)
 - Direct election of senators (**17th amendment**)
 - Women allowed to vote (**19th amendment**)
 - Elimination of laws that discriminated against blacks from various civil rights acts like the voting rights act (grandfather clause, literacy tests, white primaries)
 - Allowing DC residents to vote (23rd amendment) ◦ Elimination of poll tax (24th amendment)
 - Lowering voting age to 18 (26th amendment)

Influencing Elections

- **Interest Group** – a collection of people who share a common interest or attitude, and seek to influence government. These groups use fundraising and lobbying to influence the political process. Interest groups can be unions, government groups, businesses, think-tanks, or ideological groups
- **Political Action Committees (PACs)** – form financial branch of interest groups (donate to candidates)
- **Iron triangle** – close relationship between interest groups, congress, and agencies
- **Revolving door** – government officials often retire and move on to work as lobbyists for interest groups
- **Lobbying** – activities aimed at influencing public officials (legislators) and trying to promote or defeat certain legislation. Lobbying often comes in the form of supplying data to government officials to convince them to vote a certain way
- Interest groups often appeal to **public opinion** by issuing television and radio ads, or sending out newsletters

The Media

- The Media is referred to as **the 4th estate (branch) of government** because of its huge impact
- Media is a business, driven by profit, so media is often bias

- **Media Bias** – the media has a tendency to spin the news towards a certain political ideology
- Selective perception – people hear what they want to hear
- Selective exposure – people avoid listening to media with other viewpoints
- Horserace Journalism – Journalists cover elections like a horserace, focusing almost exclusively on the candidate who is doing well at that particular moment

Campaign Finance Reform

(As of the Citizens United vs. FEC case none of the following information is accurate, but this is the information you are responsible to know for the AP exam)

- Originally individuals could donate infinite sums of money to candidates (bribing them)
- Candidates could spend infinite amounts of hard money
- Federal Election Campaign Act
 1. Set limits on individual contributions to candidates
 2. Limited how much money is spent by candidates (later ruled unconstitutional in Buckley v. Valeo)
 3. Individuals must disclose contributions
 4. Set up option to use public financing of presidential funds
- Interest groups and individuals got around FECA by donating to parties (soft money)
- **McCain-Feingold Act**
 1. Limited soft money
 2. Still allowed PACs and interest groups to spend infinite amounts of money on issue advocacy
- **Political Action Committees (PACs)** – Financial branch of an interest group (the part of the business that donates money)
- **527 Groups** – Tax exempt organization created to influence the nomination/election of a candidate
- Currently, groups are free to spend infinite amounts of money on issue advocacy, as long as they do not say the name of a specific candidate

Proposed Campaign Financing Reforms

- Public Financing
- Limit expenditures
- Free TV ads
- Shorten Campaign Season

Unit Four: Institutions: Presidency and Congress

Congress

- Congress has two bodies, the House and the Senate, in order for a bill to pass it must be passed by both houses
- After a congressmen proposes a bill, the Speaker (in the house) or the Majority leader (Senate) gives that bill to a committee, which gives it to a subcommittee
- Congress holds hearings to oversee the executive
- Incumbents have great chances of winning reelection
- Has power to create executive agencies (for example the clean air and water act established the EPA)
- Authorizes and appropriates money for the executive
- Approves the budget

How Congressman Vote

- Sometimes politicians “trade” votes, a process known as **logrolling**
- Politicians like to add on extra, unrelated programs to bills that will benefit their constituents, these additions are known as **pork barrel spending**

The House of Representatives

- The house is regarded as the “lower house”
- States are given representatives based on population
- Impeaches members of executive, judicial
- **Representatives serve two-year terms**
- Each rep. represents a certain congressional district
- The House has a **Rules Committee** – determines whether bills have closed rule (no amendments, time limit on debate) or open rule (open to relevant, germane amendments, no time limit)
- The Leader of the House is the **Speaker of the House** who assigns people to a committee that assigns people to committees, directs floor debate, and gives bills to appropriate committee

Senate

- Senate is considered the “upper house” – older and wiser
- Each state has two senators (equal representation)
- Tries impeached members of executive, judicial
- **Senators serve six-year terms**

- The senate has the responsibility of confirming presidential appointments and nominees, ratifying treaties, and confirming the budget
- There is no rules committee, debate is always unlimited
- Because debate is unlimited, the minority party can **filibuster** – kill a bill by continuing to talk
- To end debate and a filibuster, cloture (a vote by 3/5 of the senate) is required
- Senate can also add riders (irrelevant amendments) to bills

Committees

- Most work is done in committees (especially in house)
- **Most bills DIE in committee**

Committee Type	Description	House Examples	Senate Examples
Standing Committee	Permanent panel with full legislative functions and oversight responsibilities. The members become experts	Appropriations – sets specific expenditure for the federal government Rules – determines under what rules bill comes to floor	Armed Services – oversees military and Defense Foreign Relations – provides foreign policy leadership
Subcommittee	Formed to tackle specific tasks within standing committee	Livestock, Dairy, and Poultry (subcommittee of agriculture)	Health Care Subcommittee (subcommittee of finance committee)
Select or Special Committee	Temporary groups with limited purposes (investigation)	House Watergate Committee	Select committee on Ethics
Joint Committee	Includes members of both houses to perform housekeeping tasks of studies	Joint Economic Committee	Joint Economic Committee
Conference Committee	Special type of joint committee that reconciles senate and house versions of a bill	Conference committees formed as needed	Conference committees formed as needed

President

- Requirements for office
 1. Natural born citizen
 2. At least 35 years old
 3. Resident of America for at least 14 years
- Powers as Commander in Chief (civilian power over military)
 1. Head of Army and Navy
 2. Head of National Guard
- Powers as Chief Executive of Government
 1. "Faithfully execute" the laws
 2. require opinions of heads of agencies
 3. grant pardons except in cases of impeachment
 4. nominate judges to federal courts and nominate cabinet (confirmed by senate)
 5. call for special session of congress
- Powers in Foreign Affairs
 1. appoint ambassadors
 2. make treaties (to be confirmed by senate)
 3. send troops anywhere in the world if Congress authorizes it or during national emergency (War Powers Act) The president has 48 hours to justify in writing to congress why troops were sent, and 60 days before he must withdraw troops (unless congress extends time)
- Legislative Powers
 1. Give State of the Union address to Congress to push his agenda
 2. recommend and suggest bills for congress
 3. call special sessions of congress
 4. veto bill (can be overturned by 2/3 of congress)
 5. pocket veto – not signing a bill within 10 days and having Congress adjourn
- Cabinet – president picks (senate confirms) the heads of the 15 most important agencies, these agencies help execute the law
 1. Department of Defense, Department of State, Department of Treasury...
 2. **Office of Management and Budget** – writes budget (must be confirmed by the senate)
- **Council of economic advisers** – part of executive office, help advise the president on economic issues

- Informal Powers of the President
 1. **Executive orders** – orders written by president or agency that have the weight of law. There are several ways to undo executive orders: president can rescind it, next president can rescind it, the supreme court can rule it unconstitutional
 2. **Executive privilege** – right of president to keep certain documents private if pertaining to national security (in USA vs. Nixon the supreme court ruled that executive privilege is NOT unlimited)
 3. **Agenda Setting** – president sets out the legislation he wants passed (he uses his bully pulpit)
 4. **Impoundment** – ability to refuse to spend money appropriated by congress (this was ruled unconstitutional)

Unit Five: The Bureaucracy

- Bureaucracy – administrative system that divides work into specific departments carried out by non-elected officials
- The bureaucracy remains politically neutral through the **Hatch Act**, which bars bureaucrats from running for public office, making political speeches, or soliciting campaign funds from subordinates
- The bureaucracy has grown tremendously over the past 100 years, taking on more and more responsibilities
- Currently it employs 4 million people, 2.8 are civil servants, the rest are military
- Many other people are indirectly employed by the federal government
- The biggest department is the Department of Defense
- Over time, the bureaucracy has increased its **discretionary authority** – its power to choose course of action and make policies not explicitly spelled out by laws
- Many federal officials belong to the competitive civil service – government offices to which people are appointed on the basis of merit (by taking an exam); this ended the “spoils system” where government jobs were given in exchange for political support; managed by the **Office of Personnel Management (OPM)**
- It is very difficult to fire a bureaucrat
- At the higher levels there are more whites than African Americans, and there are more men than women
- Often many departments are responsible for similar tasks, there are many procedures bureaucrats must go through to do anything

- **Red Tape** – complex rules and procedures that must be followed to get stuff done
- Many people are critical of the large amounts of waste (pork) in the bureaucracy
- **Iron Triangle**: informal alliances that work together to formulate and implement policy in their area of interest; they are made up of:
 - 1) particular industry and its lobbyists
 - 2) the congressional committee dealing with that industry
 - 3) the agency that is actually affected
- Alliance (or issue) network: coalitions of interest groups, members of Congress, and bureaucrats form a close working relationship (more complicated than a simple iron triangle)
- **Deregulation**: removing government restrictions and regulations; deregulation has occurred recently in the telecommunications and transportation industries
- The bureaucracy has 3 main roles:
 1. **Implementation** – carry out laws, executive orders (homeland security enforces airport security laws)
 2. **Administration** – routine administrative work (social security administration sends out social security checks, postal service delivers mail)
 3. **Regulation** – issue rules and regulations that impact the public (EPA sets out standards for clean air and water)

The Structure of the Bureaucracy

Component	Characteristics	Examples
Cabinet Departments	Comprised of the 15 main departments. Headed up by secretaries, secretaries are appointed by president, confirmed by senate. Each has its own budget	Department of Defense Department of Treasury Department of State
Independent Executive Agencies	Perform services on behalf of government. These are established by Congress outside of the Executive Branch	Social Security Administration Central Intelligence Agency Environmental Protection Agency
Independent Regulatory Commissions	Regulate economic activities, operate independently. Once	Federal Reserve Board Federal Communications Commission (FCC)

	<p>appointed, leaders cannot be removed without cause. Leaders serve fixed terms</p> <p>Quasi-Legislative Agencies: independent agencies responsible for filling in jurisdiction gaps and writing rules</p> <p>Quasi-Judicial Agencies: responsible for rule enforcement and punishing violators</p>	<p>Federal Trade Commission (FTC) Interstate Commerce Commission (phased out)</p> <p>Securities and Exchange Commission (SEC)</p>
Government Corporations	Businesses established by government, serve a public need, intended to be profitable	US Postal Service Amtrak Corporation for Public Broadcasting (PBS)

Oversight

Presidential Oversight	Congressional Oversight	Judicial Oversight
<p>The president controls the agencies' budget access. President appoints heads to departments and can issue executive orders</p>	<p>Congress can create/abolish agencies. Senate confirms all presidential appointees to the bureaucracy. Congress must authorize agencies to spend money. Congress must also appropriate (fund) all government agencies and programs Congress may hold committee hearings to hold agencies responsible, congress may also launch investigations of the bureaucracy. Congress can punish agencies by cutting their funding.</p>	<p>Federal Courts can use their power of judicial review to determine whether an act taken by a department was unconstitutional</p>

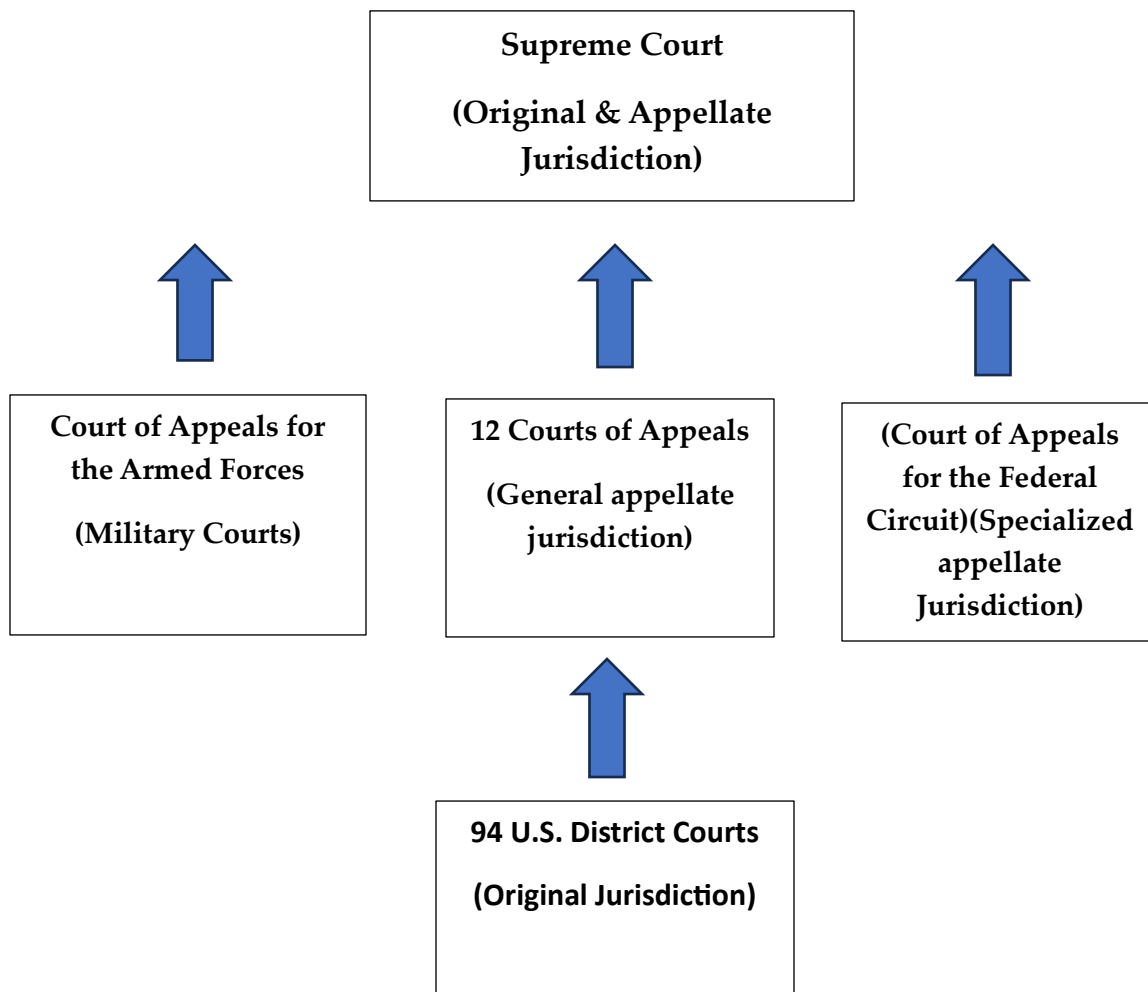
The Judicial Branch and Civil Liberties

- The judicial branch was never expected to grow as powerful as other branches
- 1787-1865 – Court asserts federal supremacy
- 1865-1937 – Court puts restrictions on government
- 1937-2010 – Court deals primarily with individual freedoms
- **Criminal Law** – type of law dealing with crimes and their punishments
 - Protects interests of state (state vs. individual)
 - Between prosecutor (government) and defendant
 - Defendant must be guilty “beyond reasonable doubt” to be convicted
 - Conviction results in removal of “life, liberty, or property”
- **Civil Law** – type of law dealing with the rights and relationships of citizens
 - Protects interests of individual (individual vs. individual)
 - Between plaintiff and defendant
 - A preponderance of evidence (above 50%) is necessary
 - If convicted, there are monetary penalties
- Based on principle of **judicial review** – allows judges to interpret the Constitution and deem something unconstitutional
- **Stare Decisis** – the rule of precedent, whereby a rule or law contained in a judicial decision is viewed as binding on judges whenever the same question is raised “let the decision stand”
- **Strict-constructionist approach** – the view that judges should decide cases strictly on the basis of the language of the laws and the constitution
- **Judicial Restraint** – principle that courts will not overturn previous decisions
- **Activist approach** – the view that judges should discern the general principles underlying the constitution, and apply them to modern circumstances. These justices typically try to overturn precedent

Structure of the Federal Courts

- Each state has at least one district court
- 94 district courts in the 50 states, the District of Columbia and the Commonwealth of Puerto Rico.
- District judges are bound by the precedents of higher courts
- Federal judges are appointed by the president, and confirmed by the senate

- If for whatever reason the supreme court is tied, then the precedent set forth by the previous court is maintained WITHIN THAT DISTRICT
- **District Courts** – the lowest federal courts, where federal trials usually go first, use jury
- **Courts of Appeals (circuit courts)** – Federal courts that hear appeals from district courts, no juries, decisions made by panels of appointed judges. To get here someone must claim that their constitutional rights have been violated
- **Supreme Court** – Hears appeals of appeal court rulings (somebody appeals the decision of the circuit court). 4 of 9 justices must agree to hear case (**writ of certiorari**).



Appointing Judges

- The president's staff presents him with possible nominees (typically other judges), FBI does background check, president looks at previous record of the individuals, conducts **litmus test** (determines political views), uses **senatorial courtesy** (uses preferences of senators from the district where the judge will serve) and finally selects nominee
- The Senate Judiciary committee members and staff review candidates, interest groups campaign for/against nominees, senate judiciary committee holds hearing, asking nominee questions, finally votes up/down on whether to send recommendation to the full senate.
- The full senate has open floor debate on nominee, votes on confirmation.
- If confirmed, the judge is given an oath of office by the Chief Justice
- Because judges serve life terms, there is no political pressure on them to rule a certain way, and they are allowed to act independently.

The Supreme Court

- To apply for writ of certiorari costs \$300. A cheaper means is to use **in forma pauperis** – in which poor people have their cases heard in federal court for free
- Sovereign Immunity – rule that citizens cannot sue the government without the government's consent
- Class-action Suit – a case brought by someone to help him or her and all others who are similarly situated
- Brief – a written statement by an attorney that summarizes a case and the laws and rulings that support it
- **Amicus Curiae** – brief submitted by a third party “friend of the court” (typically an interest group)
- **Opinion of the Court** – a signed opinion by the majority that decided the ruling in a case
- **Concurring Opinion** – a signed opinion that agrees with majority for other reasons
- **Dissenting Opinion** – a signed opinion from the justices on the losing side Civil Liberties

Civil Liberties

- **Civil Liberties** - freedoms protected against government restraint, secured by 1st, 14th, and 15th amendments

- **Due Process Clause** – denies government the right to deny people of life, liberty, or property without due process of law (trial)
- **Selective Incorporation** – the process by which individual liberties originally only applied to the federal government are applied to the states (through the due process clause of the 14th amendment)
- **Equal Protection of the Law** – a standard of equal treatment for all Americans
- **Freedom of Expression** – right of people to speak, publish, assemble, and petition
- **Non-protected Speech** – libel, obscenity, fighting words, and commercial speech do not receive first amendment protection
- **Freedom of Religion** – people shall be free to exercise their own religion (free exercise clause) and government cannot establish an official religion (**establishment clause**)
- **Exclusionary Rule** – evidence that is obtained through illegal means cannot be used. This means that police can only conduct searches if they have search warrants and there is probable cause (**4th amendment**)
- No self-incrimination, right to a trial (**5th amendment**)

Notable Cases (highlighted cases especially important)

<i>Marbury v. Madison</i>	Established Judicial Review
<i>McCulloch v. Maryland</i>	Established federal supremacy over states
<i>Gibbons v. Ogden</i>	Commerce Clause gives congress broad regulatory power
<i>Dred Scott v. Sanford</i>	Slaves are property, not citizens
<i>Gitlow v. New York</i>	Limits on speech if it threatens government (anarchy)
<i>Korematsu v. USA</i>	Government can detain citizens in emergencies
<i>Brown v. Board of Ed</i>	Overtaken Plessy, rules segregation is unconstitutional
<i>Mapp v. Ohio</i>	Search warrants needed, otherwise evidence is thrown out
<i>Baker v. Carr</i>	Apportionment of districts must be as fair as possible “one man, one vote”
<i>Engel v. Vitale</i>	No school-led daily prayer allowed in public schools
<i>Gideon v. Wainwright</i>	States must provide attorneys to defendants
<i>Griswold v. Connecticut</i>	Information about birth control is protected under right to privacy
<i>Miranda v. Arizona</i>	Police must inform suspects of their rights (Miranda rights)
<i>Terry v. Ohio</i>	Police can search and seize with probable cause

<i>Lemon v. Kurtzman</i>	Some government aid to church schools is allowed as long as its fair to schools of all faiths. (Lemon test) The lemon test is the standard set by the Supreme Court to measure the constitutionality of state laws in regard to freedom of religion
<i>NY Times v. USA (aka Pentagon Papers)</i>	President cannot withhold pentagon papers from the press (no unlimited right to executive privilege)
<i>Roe v. Wade</i>	First trimester abortions are legal
<i>US v. Nixon</i>	Executive privilege is not unlimited
<i>Gregg v. Georgia</i>	Flag burning is ok, freedom of expression (symbolic speech)
<i>Loving v. Virginia</i>	Bi-racial marriage is legal
<i>Schneck v. U.S.</i>	First Amendment protections and the Espionage Act
<i>Inker v. Des Moines</i>	The First Amendment and symbolic speech
<i>McDonald v. Chicago</i>	The Second Amendment as it applies to the states
<i>Wisconsin v. Yoder</i>	Free exercise of religion
<i>Shaw v. Reno</i>	Equal Protection Clause and racial Gerrymandering
<i>U.S. v. Lopez</i>	Congress had exceeded its authority under the commerce clause
<i>Citizens United v. FEC</i>	Corporations have free speech just like individuals

2008, Question One: Congressional reapportionment and redistricting are conducted every ten years. When redistricting is conducted, politicians often engage in gerrymandering.

- (a) Define congressional reapportionment and explain one reason why it is important to states.
- (b) Define congressional redistricting.
- (c) Explain two goals of politicians when they gerrymander during redistricting.
- (d) Describe two limits that the United States Supreme Court has placed on congressional redistricting.

Answers:

- (a) **Reapportionment** – The reallocation of the number of representatives each state has in the House of Representatives. It is important because:
 - Reapportionment increases or decreases the number of seats a state has in the House/Congress (not the Senate)

- More representatives mean that a state has more influence
 - Reapportionment increases or decreases a state's number of electoral votes
- (b) **Redistricting** – the drawing/redrawing of House (not Senate) district lines
- (c) Goals may include:
- To enhance political strength of a party
 - To protect incumbents/weaken challengers
 - To increase minority representation or decrease minority representation
 - To reward political allies
- (d) Limits may include:
- A discussion of Supreme Court cases: Baker v. Carr and Shaw v. Reno.
 - Districts must be equally populated, and may not weaken minorities

2007, Question One: A significant feature of the Electoral College is that most states have a winner-take-all system.

- (a) Describe the winner-take-all feature of the Electoral College
- (b) Explain one way in which the winner-take-all system affects how presidential candidates from the two main political parties run their campaigns
- (c) Explain one way in which the winner-take-all feature of the Electoral College hinders third party candidates
- (d) Explain two reasons why the Electoral College has not been abolished

Answers:

- a) The candidate who gets the most votes (a plurality) wins all the electoral votes from that state
- b) Candidates focus more on swing states, spend more money for ads in swing states, choose running mates who are popular in swing states, and focus on issues that are important in swing states
- c) Third-party candidates may get many individual votes, but unless they win the entire state they will get no electoral votes
- d) It helps to ensure that a candidate will win a majority of the electoral votes, it would require a constitutional amendment to change it, there is no clear consensus for an alternative, it favors the two party system, and small states support the electoral college system because it gives them more representation

2007, Question Three: Conflicts between congress and the president over war powers have their origin in the United States constitution. In 1973 congress passed the War Powers Resolution in an attempt to clarify the balance of powers between the two branches of government

- (a) Describe the primary constitutional conflict between Congress and the President over the decision to go to war
- (b) Describe two provisions of the War Powers Resolution that were designed to limit the president's power over war making
- (c) The War Powers Resolution has received mixed reviews, but Congress has other powers over war making. Other than the constitutional power that you described in (a), identify and explain two other formal powers Congress has over war making

Answers:

- a) The president is the commander and chief, but the congress has the power to declare war
- b) The president must notify congress 48 hours after sending troops and conflicts are limited to 60 days without a congressional declaration of war or a statutory authorization for continued action
- c) Congress has the power to authorize/appropriate any funds needed by the military, congress has the power to ratify treaties, congress can hold investigative hearings, and congress has the power to confirm presidential nominees

2007, Question Four:

- (a) Define federalism
- (b) Select two of the following and explain how each has been used to increase the power of the federal government relative to the states
 - Categorical Grants
 - Federal Mandates
 - Selective Incorporation
- (d) Select two of the following and explain how each has been used to increase the power of the state's relative to the federal government
 - Welfare Reform Act of 1996
 - Block Grants
 - 10th Amendment

Answers:

- a) Federalism – a constitutional division of powers between the federal and state levels
- b) Categorical grants are designed for specific purposes, and are watched over closely by the federal government. Federal mandates instruct states to implement certain policies. Selective incorporation allows federal courts to overturn state and local practices
- c) The Welfare Reform Act returned power and resources to the states to run their own welfare programs. Block grants are given to states with few strings attached, so states have a great deal of freedom in deciding how to use the money. The tenth amendment reserves power to the states and the people. It is used to argue for a return of power to the state governments.