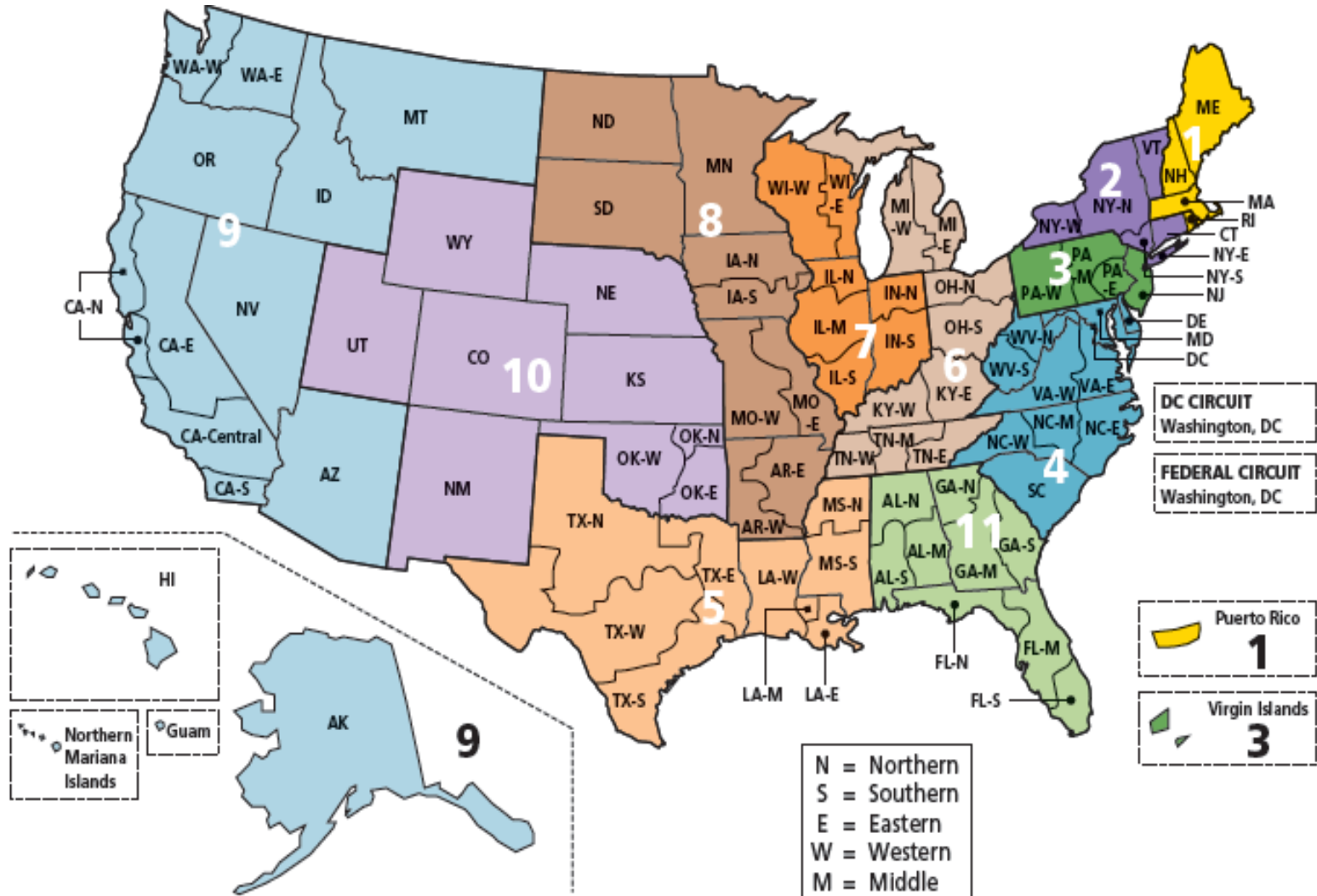


# AP GOVERNMENT

# ARTICLE III

- Weakest Branch in Constitution originally
- Hamilton's Federalist Essay #78
- Judiciary Act of 1789 established the court system we know today
- Three Tier System
- At least One District Court in every state

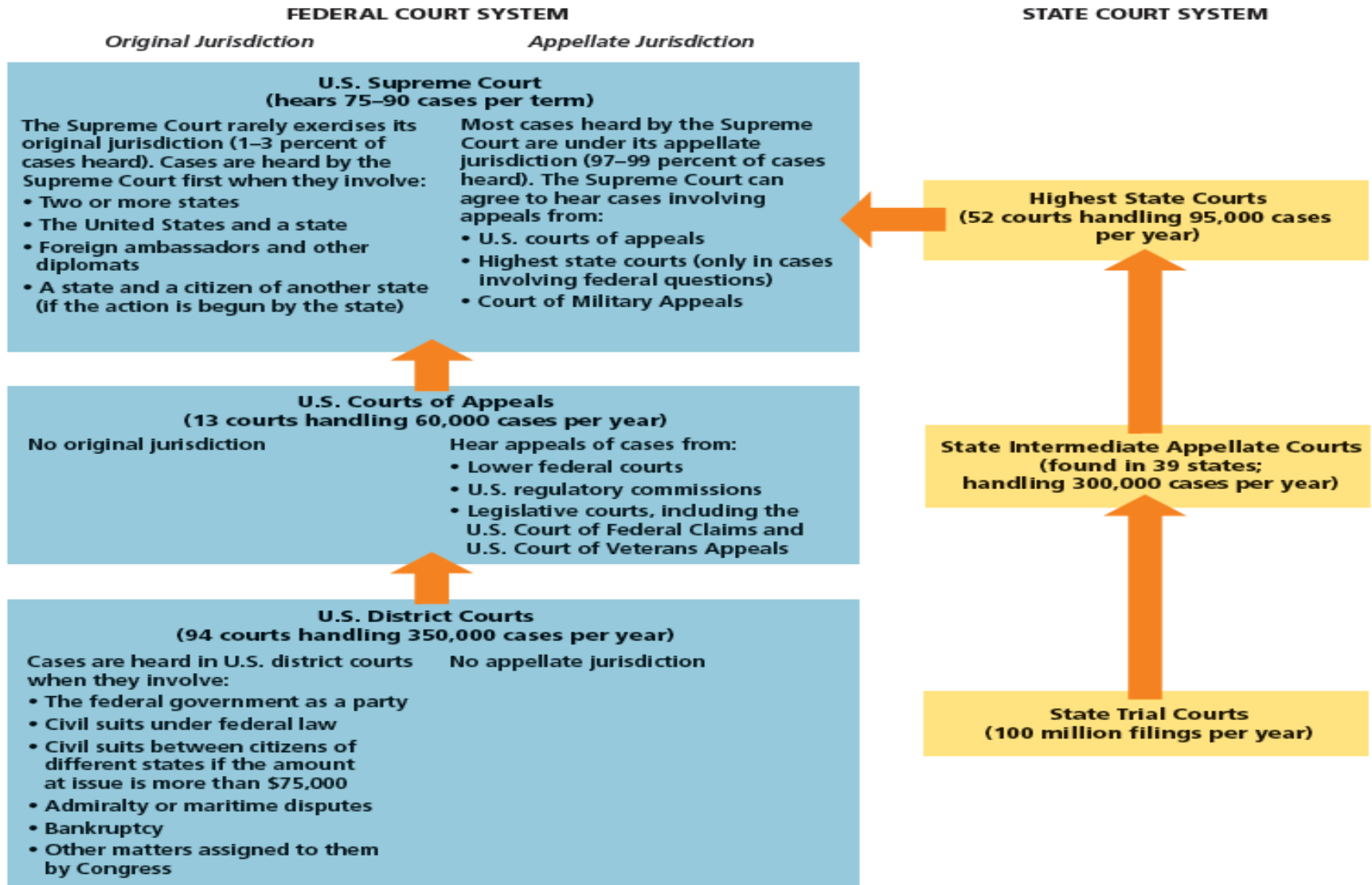
# Boundaries of federal district courts and courts of appeals



# JURISDICTION

- Three Tier System
- Original Jurisdiction (94 District Courts)
- Appellate Jurisdiction (13 Circuit Courts)
- (Patent Court and DC Circuit)
- State Court Systems
- October to June (36 Weeks)

# How the American judicial system is structured



# Why take the case?

## JURISDICTION

1. Two or more Circuit Courts Disagree (Citizens United)
2. Federal Government is petitioning (Obamacare)
3. Case presents MAJOR Civil Rights Issue (Brown v. Bd. Of Education)
4. Case involves MAJOR Social or Political issue that divides the nation (Obamacare)

# KEY JUSTICES

- John Jay was the first
  - Chisholm v. Georgia lawsuit (his decision leads to the 11<sup>th</sup> amendment prohibiting suits against states in Federal Court)
  - Felt job so weak he leaves to be Gov. of NY

Originally 6 Sup. Ct. Justices, the number would fluctuate, but in 1869 it is set at 9 and has remained so since then but can be changed

# The Marshall Court: *Marbury v. Madison* (1803) and Judicial Review

- *Federalist No. 78*
- ***Marbury v. Madison***
  - Necessary and proper clause
  - National supremacy
- *McCulloch v. Maryland*
  - National supremacy
  - Broad interpretation of the commerce clause



Photo courtesy: The House of Representatives



- John Marshall (1801-1835) has the greatest impact: (Federalist long after all others gone)
  - Marbury v. Madison (1803)
  - McCulloch v. Maryland (1819)
  - Gibbons v. Ogden (1824)

- Other Justices of some fame:
  - Justice Taney (Dred Scott)
  - Justice Holmes (1<sup>st</sup> amendment)
  - Justice O'Connor (1<sup>st</sup> woman)
  - Justice Marshall (1<sup>st</sup> African-American)
  - Justice Rehnquist (limits exec. privilege)
  - Justice Warren (rights of accused and Brown)
  - Justice Sotomayor (1<sup>st</sup> Hispanic)
  - Justice Roberts (present Chief Justice)

# Can Americans name the justices of the Supreme Court?

<b>Supreme Court Justice</b>	<b>Percentage Who Could Name</b>
Clarence Thomas	19
John G. Roberts Jr.	16
Sonia Sotomayor	15
Ruth Bader Ginsburg	13
Antonin Scalia	10
Samuel A. Alito Jr.	8
John Paul Stevens	8
Anthony Kennedy	6
Stephen Breyer	3

Source: Findlaw.com Poll, June 2, 2010.

# The justices of the Supreme Court in 2010

Justice	Year of Birth	Year Appointed	Political Party	Law School	Appointing President	Religion	Prior Judicial Experience	Prior Government Experience
John G. Roberts Jr.	1955	2005	R	Harvard	G. W. Bush	Roman Catholic	U.S. Court of Appeals	Dept. of Justice, associate White House counsel
Antonin Scalia	1936	1986	R	Harvard	Reagan	Roman Catholic	U.S. Court of Appeals	Assistant attorney general, Office of Legal Counsel
Anthony Kennedy	1936	1988	R	Harvard	Reagan	Roman Catholic	U.S. Court of Appeals	None
Clarence Thomas	1948	1991	R	Yale	Bush	Roman Catholic	U.S. Court of Appeals	Chair, Equal Employment Opportunity Commission
Ruth Bader Ginsburg	1933	1993	D	Columbia/ Harvard	Clinton	Jewish	U.S. Court of Appeals	None
Stephen Breyer	1938	1994	D	Harvard	Clinton	Jewish	U.S. Court of Appeals	Chief counsel, Senate Judiciary Committee
Samuel A. Alito Jr.	1950	2006	R	Yale	G. W. Bush	Roman Catholic	U.S. Court of Appeals	Dept. of Justice, U.S. attorney
Sonia Sotomayor	1954	2009	D	Yale	Obama	Roman Catholic	U.S. Court of Appeals	Assistant attorney general, City of New York
Elena Kagan	1960	2010	D	Harvard	Obama	Jewish	None	U.S. solicitor general, associate White House counsel

# Key Terms

- Precedent
- Stare Decisis
- Senatorial Courtesy
- Writ of Certiorari
  - ALSO known as “the rule of 4”
- Amicus Curiae
- Solicitor General

# Key Terms

- **First Monday in October-** A Term of the Supreme Court begins, by statute, on the first Monday in October. Usually Court sessions continue until late June or early July. The Term is divided between "sittings," when the Justices hear cases and deliver opinions, and intervening "recesses," when they consider the business before the Court and write opinions. Sittings and recesses alternate at approximately two-week intervals.
- With rare exceptions, each side is allowed 30 minutes argument and up to 24 cases may be argued at one sitting. Since the majority of cases involve the review of a decision of some other court, there is no jury and no witnesses are heard. For each case, the Court has before it a record of prior proceedings and printed briefs containing the arguments of each side.

# Key Terms Continued

- Standing
- Justiciability
- Briefs
- Per Curium Decision
- In forma pauperis
- “Litmus test”

# Key Terms Continued

- Majority Opinion
- Concurring Opinion
- Dissenting Opinion
- Doctrine of Judicial Restraint
- Doctrine of Judicial Activism
- Doctrine of Judicial Implementation



In criminal trials \_\_\_\_\_ is/are the plaintiff(s), while in civil trials \_\_\_\_\_ is/are the plaintiff.

- 1.the government, bureaucratic agencies
- 2.the states, the federal government
- 3.private individuals or groups, the government
- 4.the government, private individuals or groups
- 5.private individuals or groups, bureaucratic agencies

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# *Stare decisis* literally means what?

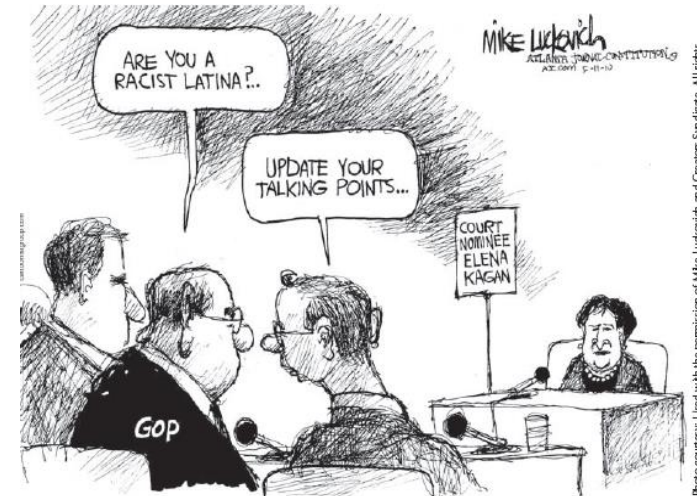
1. The right of the court to decide
2. The wise will decide
3. Staring at decisions
4. The stars make decisions
5. Let the decision stand

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# How Federal Court Judges Are Selected

- Confirmation Process
  - Investigation
    - American Bar Association
  - Lobbying by interest groups
    - Bork
    - Christian organizations
  - Senate committee hearings and vote- “Litmus test”
    - More intensive since 1980s
- Appointments to Supreme Court
  - Importance
  - Unpredictability



# Who opposed Robert Bork's appointment to the Supreme Court?

- 1.The rich
- 2.White males
- 3.Libertarians
- 4.Conservatives
- 5.Liberals

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# How is the S. Ct affected by Public Opinion?

1. Appointment Process is political
2. Rely on Others to enforce decisions (Fed. Paper #78)
3. Congress can pass new law or even Amendment
4. Congress can change jurisdiction of S. Ct.
5. **Congress can change # of Justices (Hard to do)**
6. **Impeachment**
7. **Cases can be ignored – Brown v. Bd**  
(“All deliberate speed” <10% in 10 years)



# How is the S. Ct protected from Public Opinion?

1. Life Terms
2. Appointed, not elected
3. No Pay Cuts
4. Choose own Cases
5. Privacy of the Courts (Ivory Tower)
6. Tradition of isolationism

# Judicial Policy

1. Overrule Laws is Making Policy! (160 laws overturned- (Roe v. Wade) (Brown v. Bd. Of Ed)
2. Set precedents- but not always (260 Overruling cases like Plessey v. Ferguson)
3. Stare Decisis- Let **Holding** stand
4. Court ordered remedies- School busing (Swann v. CMS)
5. Privacy of the Courts (Ivory Tower)
6. Tradition of isolationism

# The Supreme Court Today

- Deciding to Hear a Case
  - Supreme Court hears approximately one percent of cases filed (70-100)
  - Supreme Court issues **writ of certiorari** to hear case
  - Rule of Four
    - At least four Justices must sign on to a writ of *certiorari*
  - Role of clerks
    - Initial filtration process



# Key “Courts”

- Marshall Court (Adams)
- Warren Court (IKE)
- Berger Court (Nixon)
- Rehnquist Court (Reagan)
- Roberts Court (Bush)
- ??? Court (Obama/Clinton)

# Key Cases

- Marbury v. Madison
- McCullough v. Maryland
- Gibbons v. Ogden
- Dred Scott Case
- Plessey v. Ferguson
- Insular Cases (1901)
- Korematsu Case
- Brown v. Bd. of Education
- Roe v. Wade
- Bush v. Gore
- Miranda v. Arizona
- Mapp v. Ohio
- Bakke v. Regents of Calif.
- Texas v. Johnson
- Citizens United
- Bush v. Gore

What does *amicus curiae* literally mean?

1. Friend of the court
2. The people have spoken
3. The court has spoken
4. A friendly decision
5. A little curious

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A strict constructionist believes in a(n)  
\_\_\_\_\_ constitution.

- 1.living
- 2.inherently evil
- 3.inherently good
- 4.Christian
- 5.dead



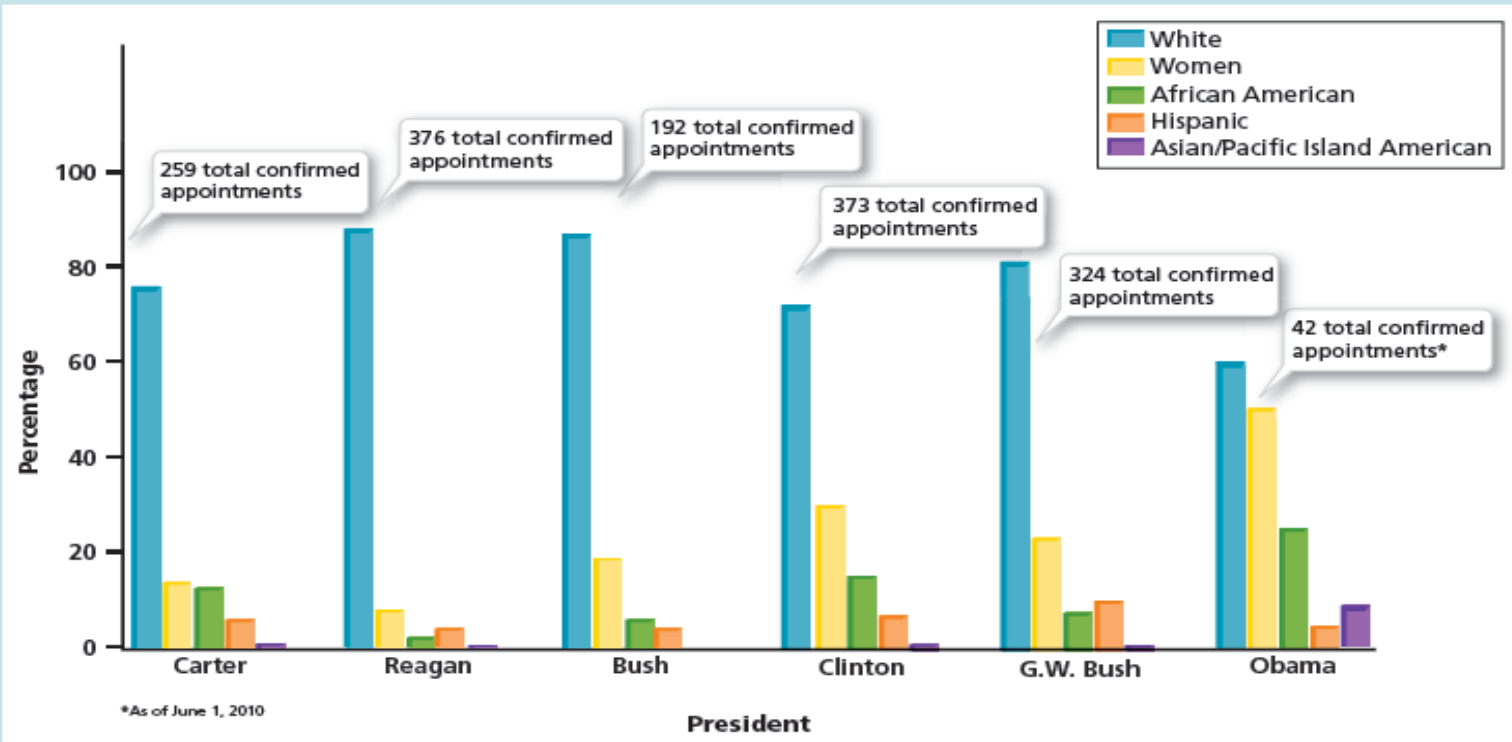
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## ANALYZING VISUALS

### Race, Gender, and Ethnicity of Federal Court Appointees

Examine the graph, which shows some of the characteristics of federal court appointees from President Jimmy Carter to President Barack Obama, and consider the questions.



- Overall, which groups are most underrepresented in federal court appointments?
- What differences, if any, are there between judicial appointments made by Democratic presidents and those made by Republican presidents?
- Should race, gender, and ethnicity matter in judicial appointments? Why or why not?

Source: Federal Judges Biographical database, [www.fjc.gov/public/home.nsf/hisj](http://www.fjc.gov/public/home.nsf/hisj).

[Back](#)

# How many cases does the Supreme Court handle?

Source: Administrative Office of the Courts; Supreme Court Public Information Office.

