

Resources for Public Speaking: Differences Between Federal and State Courts

Topic at a Glance

Introduction. As a product of the federalist structure established by the Constitution, the United States has a national judiciary as well as a separate judicial system for each state. While the state and federal judiciaries overlap in the kinds of cases they hear, the laws they apply, and the geographical areas over which they have jurisdiction, there are important differences between the systems. This summary of some of those differences covers questions regarding the relationship between these two types of courts at the founding, structural differences between the court systems, and the allocation to both systems of federal question and criminal jurisdiction.

Federal and State Courts at the Founding. In debates at the Constitutional Convention, Anti-Federalists opposed the creation of lower federal courts, fearing that they would overwhelm the state courts and put justice at too great a physical distance for many people. The Madisonian Compromise left it to Congress to decide whether to create federal trial courts. Congress did so in 1789 but did not give federal courts full federal question jurisdiction until 1875; until then, state courts heard many cases arising under federal law. Primarily as a matter of convenience, Congress directed federal courts to follow the procedures of the states in which they sat until the Federal Rules of Civil Procedure brought about uniformity in 1938.

Structural Differences. While state-court systems evolved differently over time, most but not all states currently have a three-tiered judicial system similar to the federal judiciary, with trial courts, intermediate appellate courts, and a supreme court. State judges, most of whom serve for limited terms, are selected by a variety of methods, including gubernatorial appointment, legislative appointment, and partisan or nonpartisan elections. No state follows the federal model of executive appointment, legislative confirmation, or tenure during good behavior.

Federal Question Jurisdiction. Article III of the Constitution included federal question jurisdiction within the judicial power of the United States. Congress was not obligated to grant federal courts the full range of jurisdiction permitted by the Constitution and did not permanently vest the federal courts with general federal question jurisdiction until 1875. Until then, federal courts could hear federal question cases only when Congress had made a specific grant of jurisdiction, and state courts heard most cases involving federal law when the parties were citizens of the same state. The main aim of the 1875 law was to establish a more uniform system of justice to benefit commerce and to protect large business interests from alleged bias in state courts. The grant to the federal courts of general federal question jurisdiction helped transform them over time into institutions fundamentally devoted to adjudicating cases involving federal law and individual rights.

Criminal Jurisdiction. In the nation's early history, the body of statutory federal criminal law was very small, and the Supreme Court ruled in *United States v. Hudson* and *Goodwin* (1812) that federal courts could not hear cases involving common-law crimes. The criminal jurisdiction of the federal courts expanded during Reconstruction, as Congress vested them with exclusive jurisdiction to enforce statutes protecting the civil and voting rights of freed African Americans. In 1875, Congress made jurisdiction over all federal criminal laws exclusive to federal courts. Prosecutions for Prohibition violations flooded the federal courts in the 1920s, as the Volstead Act gave state courts concurrent jurisdiction over suits for injunctive relief but made criminal prosecutions exclusive to the federal courts. The 1930s saw a major shift as Congress, targeting the large criminal organizations that had emerged during Prohibition, made crimes such as murder, theft, bank robbery, kidnapping, extortion, and possession of illegal firearms—traditionally subjects of state and local law enforcement—federal offenses their commission involved crossing state lines. In the second half of the twentieth century, Congress accelerated the “federalization” of criminal law, establishing federal penalties for more acts that had previously been prosecuted only by the states, frequently by using its power to regulate behavior that affected interstate commerce.