

Sources of Law

Name: _____

Where do our laws come from?

Laws keep our society running as smoothly as possible. When you think of the law, you probably think of rules that say what people can and can't do. We all know that you cannot steal from others without getting into trouble. That's one example of a law, but most laws set rules for how things work. There are laws about how people buy and sell property, how we elect government officials, and how activities in daily life should *work*. Where do all these laws come from? There are three main sources of law in the United States: constitutions, statutes, and regulations.



A collection of law books.

U.S. Constitution

Alabama State
Constitution

Alaska State
Constitution

Arizona State
Constitution

Arkansas State
Constitution

(Keep going for all
50 states!)

Constitutions

The United States Constitution is often called "the supreme law of the land." That means no law in the country can violate the rules, laws, and rights set forth in the Constitution. Some parts of the Constitution give specific laws that apply everywhere in the United States. For example, if someone commits a crime in one state and then flees to another state, the Constitution allows the criminal to be *extradited*, or sent back, to the state where the crime was committed.

Other parts of the Constitution either authorize (allow) types of laws that may be passed or forbid (ban) certain types of laws. For example, the Constitution allows Congress to pass laws about how business is conducted across state lines. The Constitution forbids Congress from passing laws that limit peoples' freedom of religion. The bottom line is that no law can be made in the U.S. unless the Constitution allows it to be made.

Each state also has its own constitution that works the same way as the U.S. Constitution, but only applies to that state. Many laws in your state come from your state's constitution and do not apply outside your state. Even so, laws in state constitutions must not violate the U.S. Constitution.

Statutes

The Constitution gives Congress permission to pass laws about a limited number of topics. When Congress passes a law, that law is called a **statute**. Statutes passed by Congress apply to the entire United States. All of the thousands of statutes passed by Congress are collected together and organized by subject. The collection is called the **United States Code**.

For example, the Constitution says Congress has the power to "establish post offices" and pass any laws "necessary and proper" for carrying out that power. This means that Congress can establish post offices and pass all the laws needed for running a postal service. In the part of the *U.S. Code* that deals with post offices, you would find a statute that establishes the United States Postal Service. You would also find many other statutes having to do with running the U.S. Postal Service. There are statutes about what can and can't be sent through the mail, how the Postal Service must manage its money, working for the Postal Service, and many more.



A post office in New York

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Statutes, continued.

State constitutions also authorize state legislatures to pass state laws. The state laws are also called statutes, and they only apply inside the state. Often, state statutes allow local governments to pass their own laws. Local laws are usually called **ordinances**, and they only apply within local boundaries, such as within a city or county.



A local ordinance



Regulations

Congress has the power to pass laws, but not to carry them out. The executive branch has the power to execute, or carry out, laws—but not to pass them! This means the two branches must work together. The executive branch is full of agencies that carry out laws. There are departments of Agriculture, Transportation, Treasury, Veterans Affairs, and many more... including the Postal Service! Congress does not have time to pass laws about every little detail of how all these agencies should run. Instead, Congress gives each agency the power to create its own rules. The rules that an agency within the executive branch makes are called **regulations**.

A regulation has power similar to a law. Some regulations say what people can and can't do. For example, there are Postal Service regulations that prohibit spitting, blocking the door, or asking for money at a post office. Other regulations describe how things work. For example, the Postal Service has a regulation allowing customers to pay for postage over the Internet.

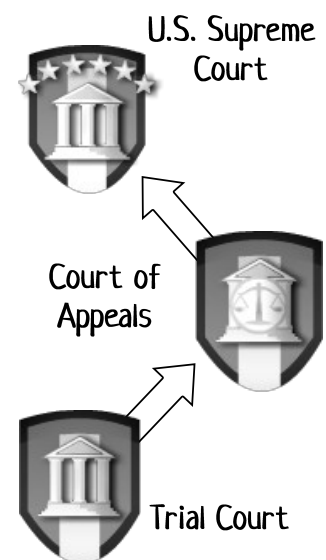
States also have agencies, and state agencies also issue regulations.

Judicial Precedent & Interpretation

Statutes and regulations aren't always clear. Very often, people will argue about the meaning of a law and how a particular law should work. When people argue about how a statute or regulation should work, it often leads to a lawsuit. In the **lawsuit**, one side complains that it has suffered because the other side has not followed the law properly. The lawsuit will go through the court system. The court's job is to interpret the law and decide how it should be applied to a specific case.

The lawsuit will begin in the trial court and might be appealed all the way to the Supreme Court. Once the Supreme Court has decided how the law should be interpreted, that interpretation must be followed in the future. This is called a **precedent**. A precedent is a decision that people can point to and say, "Here is how you handled this situation before." In this way, the court's interpretation acts as a law. Only the court can change a precedent. It does this by interpreting the law differently, which creates a new precedent.

At the state level, a state's court of appeals and supreme court set precedents for how the state's laws should be interpreted.



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Types of Law

Laws can be divided into two main categories: criminal and civil. The sources of law you just read about create both kinds of laws. However, courts treat criminal and civil cases differently.



Judge's-eye view of a typical courtroom



Criminal Law

Criminal laws are laws that make certain actions a crime. These laws come from all three levels of government (federal, state, and local) and can be found in statutes, regulations, and sometimes in state constitutions.

There are two general levels of crimes. **Felonies** are serious crimes that normally have a punishment of more than a year in jail.

Misdemeanors are less serious crimes where the penalty is usually less than a year in jail or even just a fine. A law that makes it a crime to do something usually says whether violating the law will be considered a felony or a misdemeanor. Felonies and misdemeanors are also divided into classes depending on how serious they are.

In a criminal trial, the question is always, "Did this person commit a crime?" The government is always on one side of the case, charging someone with a crime. The person accused of the crime, called the defendant, is always on the other side. The defendant is either found innocent of the crime and is acquitted, or he or she is found guilty and is sentenced with a fine or jail time.

Three Categories of Crimes:

- Crimes against people
- Crimes against property
- Crimes against the government

Can you think of an example for each?

Civil Law

Here's a basic rule of thumb: If it's not criminal, it's civil! Civil laws involve a wide range of subjects such as property, divorce, contracts, wills, personal injury, bankruptcy, employment, agriculture, and taxes. For this reason, there are many more civil laws than criminal laws.

Civil laws usually help settle disagreements between people. People may disagree over things like rights to property, custody of children in divorce, or what a contract says. The two sides in a civil case each get to tell their side of the story. The judge or jury decides what the facts are and what the *remedy*, or solution, should be.

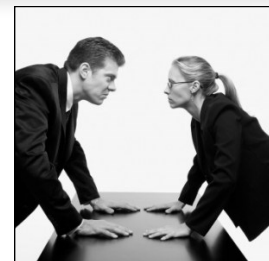
Sometimes, like criminal cases, civil cases involve someone who has injured someone else. Many injuries, such as accidents, are not caused by a crime. The person who caused the accident and the person who was hurt must come to an agreement about how the injured person can be compensated for his or her loss.

Very often, civil law does not involve a problem or disagreement at all. If someone wants to make a will or draw up a contract to sell something, there are civil laws that say how those things should be done.

Taking Sides

Defendant: Someone who is charged with a crime or accused of other wrongdoing

Plaintiff: Someone who files a lawsuit against someone else in a civil court



Sources of Law

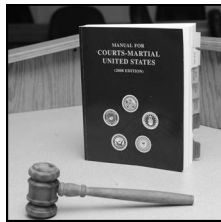
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Special Systems of Law

There are two systems of law that work a little differently from our regular system of law. They are different because they deal with two unique populations—the military and people under the age of 18. The special circumstances of these two groups make it necessary to have systems of law that are designed to handle their unique issues.



A military trial is called a court-martial. The Manual for Courts-Martial explains how military trials must operate and gives details about the laws in the UCMJ. The manual is actually an executive order signed by the president.



Military Law

The U.S. Constitution gives Congress the power “to make Rules for the Government and Regulation of the land and naval Forces.” Congress did this by enacting the **Uniform Code of Military Justice (UCMJ)**, which is a set of criminal laws that apply to people in the military. The UCMJ also lists the procedures for conducting a military trial and explains what punishments are allowed.

The military justice system is entirely separate from the civilian system. It is designed for the special needs of the military, so the UCMJ contains some laws that would not be needed for regular citizens. For example, it includes laws against leaving the military without permission, showing disrespect to a superior officer, and failing to obey an order. All members of the military are subject to the military justice system.

Juvenile Law

Criminal laws apply to everyone. But when a person under age 18 commits a crime, most states have a system of **juvenile justice** that deals with the case. The juvenile justice system is usually more flexible than the adult justice system. It allows a judge to look at many factors in a child’s life when deciding what the consequences for committing a crime should be. The juvenile system is different because, as a society, we believe that young people sometimes make bad choices that they would not make if they were more mature. The juvenile system offers more chances for young people to learn from mistakes without being negatively affected for the rest of their lives.

Outside the juvenile justice system, there are other kinds of laws that affect people under 18. Some of these are laws targeted at young people, like curfew laws or laws about school attendance. Other laws have been passed in order to protect children from abuse. Most states have a whole set of laws that describe what happens when an abused child is removed from his or her home. There are also laws about adoption, foster care, and special health and education programs for children.



Delinquent: a juvenile found guilty of a crime

Status Offender: a juvenile that is found guilty of breaking a law that wouldn’t be a crime if they were an adult (like skipping school)

Child Protective Services: government agency in most states that respond to reports of child abuse or neglect