

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.



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.



Continued on the next page...

Sources of Law

Name: _____

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.



Local Ordinance



Department of Veterans Affairs



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.

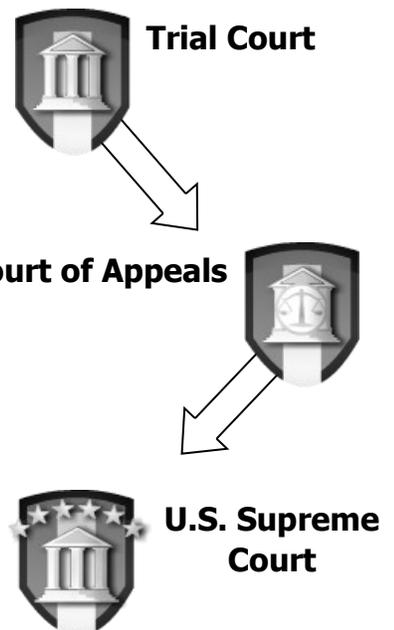
States also have agencies, and state agencies also issue regulations.

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.



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.



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.

Crimes are usually divided into three categories:

- 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 a 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.

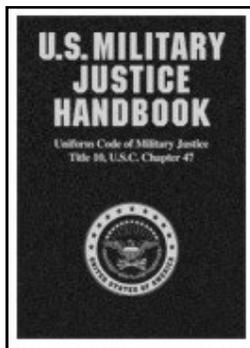
Taking Sides

- **Defendant**- some one who is charged with a crime (criminal) or complaint (civil)
- **Plaintiff**- someone who files a lawsuit against someone else in a civil court



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.



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.



Words you should know:

- **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

Sources of Law

Name: _____

One Accident, Two Trials. Follow the diagram through to the questions below.



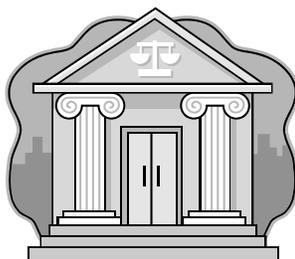
Tracy was driving under the influence when she hit Steve's car at an intersection after running a stop sign. Steve was hurt in the accident. Tracy failed the breathalyzer test at the scene of the crash.

Criminal Law

The police arrest Tracy for driving drunk. The state decides to prosecute. It charges her with violating the state's drunk driving law.

In the criminal trial, the jury finds Tracy guilty of violating the drunk driving law.

As a result of the jury's verdict, the judge issues a sentence. The judge follows the sentencing guidelines found in state law. The judge revokes Tracy's drivers license for two years and sentences her to 30 days in prison.



In both cases, Tracy has to defend her actions in court.

Did you know?

Someone can be found innocent in a criminal case but found at fault in a civil case and ordered to pay for damages.

Civil Law

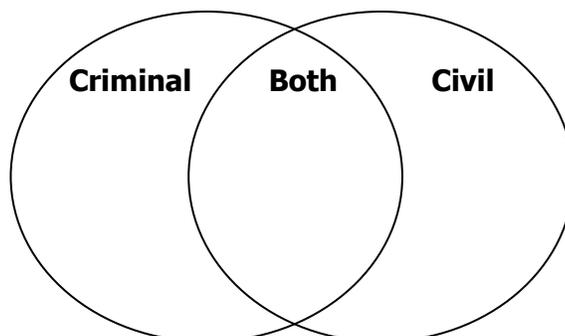
Steve files a lawsuit against Tracy, claiming that she drove carelessly. He asks for the money he spent on car repairs and medical bills, in addition to the time lost from work.

In the civil trial, the jury finds that Tracy drove carelessly. The jury awards Steve enough money to cover his medical bills and car repairs.

After the jury returns its verdict, the judge orders Tracy to pay Steve the amount that the jury decided he should receive for his bills and repairs.

Compare & Contrast. Based on what you have learned, complete the Venn diagram by using the statements below.

- (A) The defendant may have to pay money
- (B) The defendant may get jail time or loss of privileges
- (C) Deals with a crime that has committed
- (D) The case involves a problem between two individuals
- (E) The case involves the government against a person
- (F) Trials can be heard and decided by a jury
- (G) The remedy is decided according to state guidelines
- (H) The remedy is decided according to what is asked for



Sources of Law

Name: _____



Vocabulary. Match the term with the correct definition from the lesson.

- | | |
|---------------------------|--|
| ___ 1. delinquent | A) An interpretation of a law that is used in later trials |
| ___ 2. precedent | B) Set of laws specifically for the U.S. military |
| ___ 3. United States Code | C) A disagreement brought to the courts for a resolution |
| ___ 4. lawsuit | D) A young person found guilty of a crime |
| ___ 5. UCMJ | E) Collection of laws passes by the United States Congress |

What If? Select the correct type of law based on the scenario.

___ 6. When a soldier failed to return to base after going on leave, he was charged and brought to trial for being AWOL (Absent Without Official Leave).

- a. Military Law
- b. Juvenile Law
- c. Civil Law
- d. Criminal Law

___ 9. Julie was pulled over by the police at 2:00am and was charged with breaking the curfew law in her town. She was fined and released back to her parents.

- a. Military Law
- b. Juvenile Law
- c. Civil Law
- d. Criminal Law

___ 7. A man was caught on tape robbing a gas station. He was arrested, brought to trial, and found guilty of burglary. He was sentenced to 10 years in prison and a fine.

- a. Military Law
- b. Juvenile Law
- c. Civil Law
- d. Criminal Law

___ 10. A married couple decides to get a divorce. They disagree over who gets what. A judge hears both sides and makes a decision about how their property should be divided.

- a. Military Law
- b. Juvenile Law
- c. Civil Law
- d. Criminal Law

___ 8. The Smith family has decided to adopt their foster child, Anna. They work with their state adoption agency to complete all of the necessary paperwork.

- a. Military Law
- b. Juvenile Law
- c. Civil Law
- d. Criminal Law

___ 11. Karen ordered an iPod off the internet and paid with her credit card, but she never received the order. The seller is refusing to refund her money, so she takes the matter to court.

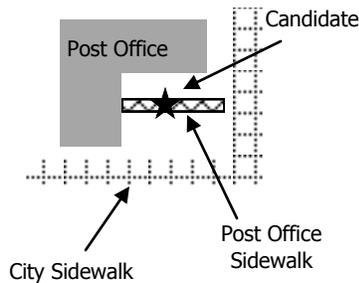
- a. Military Law
- b. Juvenile Law
- c. Civil Law
- d. Criminal Law

The Candidate at the Post Office: A Case Study

In 2006, a Massachusetts man collected signatures and campaigned for political office on the sidewalk right outside the post office. The sidewalk was located on post office property. He was told that this activity was against Postal Service regulations, but he refused to stop and was arrested.



The man fought the charges, saying that the regulation limited his right to free speech. The Post Office argued that the sidewalk was property of the Postal Service—not public property like other sidewalks. He had been asked to move to the public city sidewalk along the street, but had refused.



The case reached the First Circuit U.S. Court of Appeals. The court sided with the Post Office, saying that the regulation did not violate the First Amendment. The Post Office’s sidewalk was unique from the city sidewalk, where the candidate could have gathered signatures without any problem. The court’s decision was based on a number of earlier decisions about freedom of speech and also serves as a precedent for future cases.

Making Connections. Match the statement to the correct source of law.

- | | |
|--|--------------------------|
| ___ 1. Gives Congress power to establish post offices | A) precedent |
| ___ 2. Laws about the Postal Service made by Congress | B) The U.S. Constitution |
| ___ 3. Laws created by the Postal Service so it can run smoothly | C) ordinance |
| ___ 4. Decisions made by courts about any of the laws regarding the Postal Service | D) regulations |
| ___ 5. Laws about what you can and cannot do on the city sidewalks | E) statutes |

It Affects Me!

Which source of laws most affects people on an everyday basis?

- The U.S. Constitution
- Statutes passed by Congress
- Regulations passed by federal agencies
- Legal precedent
- Local Ordinances

Why did you select this source of law? Give at least two reasons based on what you have learned in this lesson.