



Introduction to American Legal Research

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Today we'll discuss...

- The structure of the legal system in the United States
- Primary American law and where to find it
- Secondary American sources and where to find them
- Major print and online sources



You'll see several recurring themes throughout...

- Mirror image of federal and state legal structure
- Controlling authority ("what the law is") constantly in flux
- Reliance on most current authority

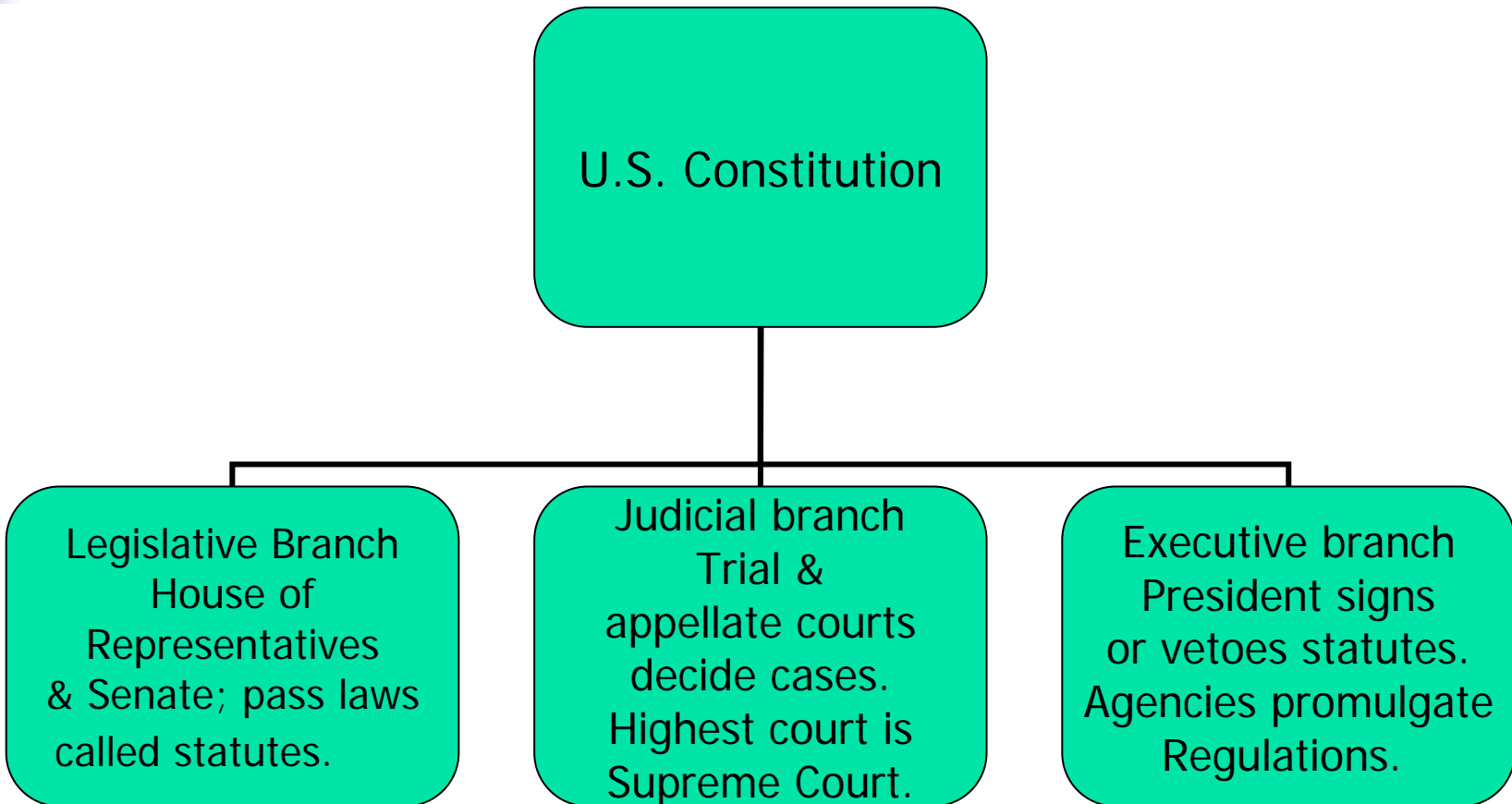


What is the legal system in the U.S.?

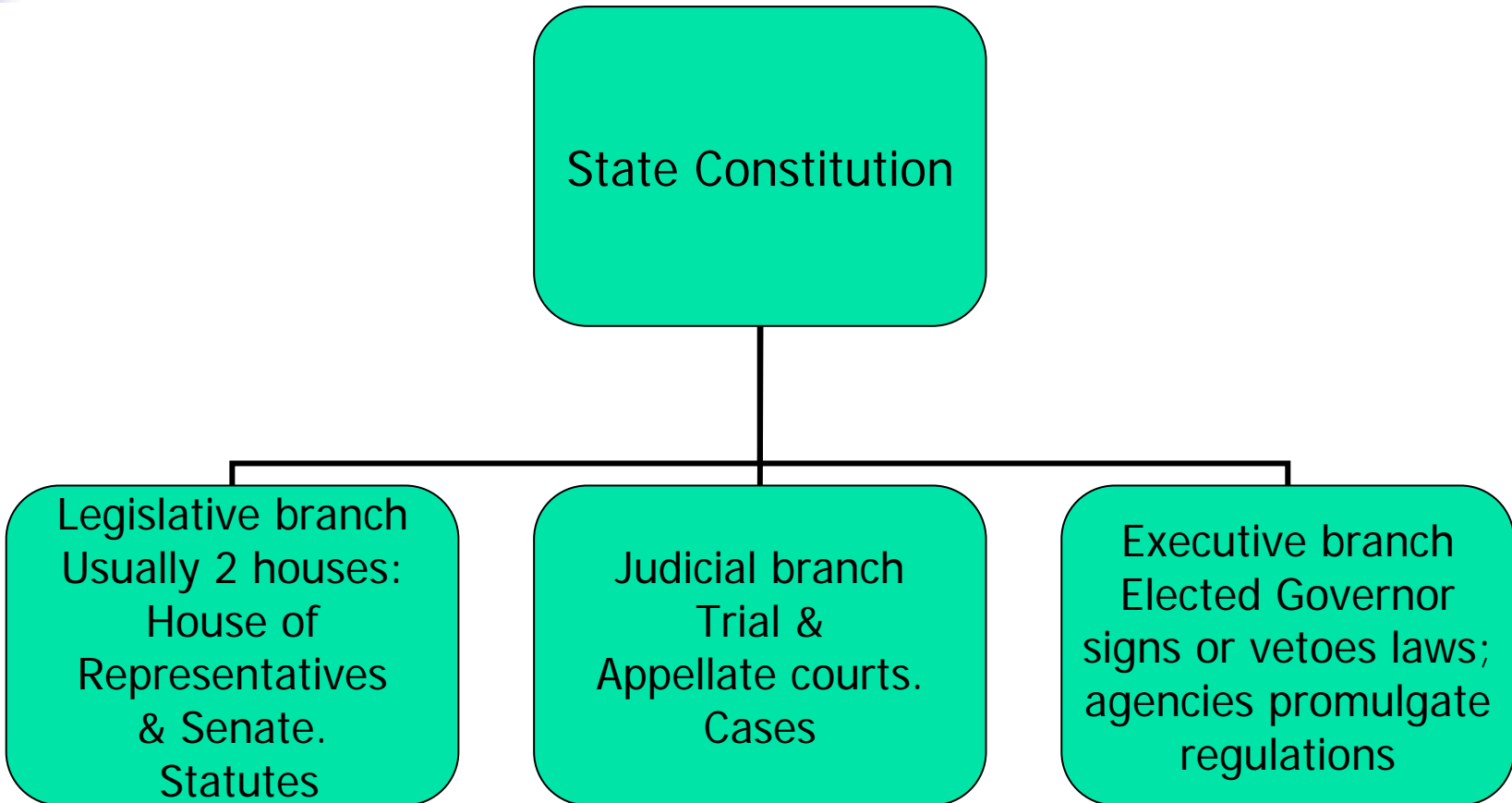
- Common law jurisdiction
- Federal system of government
 - 1 national system, created by the Constitution
 - 50 different state systems
- Government has 3 branches:
 - Legislative
 - Executive
 - Judiciary



Federal Government



Most state governments have a similar structure



What is a common law system?

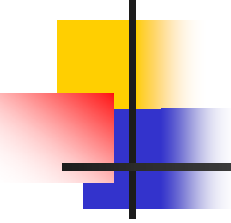


- Body of law that originated in medieval England
- Common law system relies on...
 - Court opinions and the principle of *stare decisis* ("Rule of adherence to judicial precedents." *Black's Law Dictionary*, 8th ed.)
 - Statutes (also called laws, legislation, codes, acts of Congress)
 - Regulations (issued by state or federal agencies)
 - Interplay between statutes, regulations and court opinions.



Some differences between common and civil law systems

- “Codes” are subject compilations of laws
- No presumption that all statutes or “codes” cover all legal problems
 - Major areas of common law not governed by statute
- Uses principle of *stare decisis* (also called “binding precedent”)
- Judges interpret the law, don’t simply apply it
- Reliance on precedent
 - Looks to most recent “authority”



What are “primary legal materials”?

- The laws themselves
- May be constitutions, statutes, regulations, court opinions
- May be state or federal
- Mandatory authority within the jurisdiction
- Persuasive authority outside the jurisdiction



Constitutions: Federal

- U.S. Constitution
 - Provides for “separation of powers” by forming three branches of federal government
 - Available online at <http://www.findlaw.com/casecode/constitution/>



Constitutions: State

- States also have constitutions
 - In the Law Library at “State Coll” in the “annotated code” of each state
 - Online at <http://www.law.cornell.edu/states/listing.html>



Statutes: Federal

- Federal statutes: Laws passed by both houses of the U.S. Congress and signed by the President
 - The President may also “veto” a law
 - Congress may override the President’s veto
 - The U.S. Supreme Court may later declare a law unconstitutional
 - This is “separation of powers”!



Statutes: Federal

- Federal statutes are published chronologically in the *Statutes at Large* as “Public Laws”
 - In the Law Library at “Fed Coll Stat”
 - Public laws online from 1987/1988 to current at <http://thomas.loc.gov/bss/d109/d109laws.html>
- Federal statutes are also published in the *United States Code*, arranged by subject
 - In the Law Library at “Stat US”
 - Online at <http://www.gpoaccess.gov/uscode/index.html>



Statutes: State

- State statutes: Passed by both houses of the state legislature and signed by the governor
 - The governor may veto the law
 - The legislature may override the veto
 - The state Supreme Courts *or the U.S. Supreme Court* may later declare the law unconstitutional



Statutes: State

- State statutes are published chronologically as “Session Laws”
- State statutes are also published in subject compilations called “codes”
 - In the Law Library at “State Coll”
 - Online at <http://www.law.cornell.edu/states/listing.html>



Regulations: Federal

- Administrative agencies have been given authority by Congress to...
 - Issue regulations to administer the day-to-day implementation of complex legislation
 - Adjudicate disputes in the first instance
- Some agencies are...
 - Department of Energy
 - Department of Agriculture
 - Department of Defense
 - And others...



Regulations: Federal

- To become law, regulations are proposed and made public in the *Federal Register*
- Then go through a period of public comment
- And are published as a final rule in the *Federal Register*
- Regulations may later be found illegal by federal courts, or may be voided by statute



Regulations: Federal

- Federal regulations are published chronologically in the *Federal Register*
 - Online at <http://www.gpoaccess.gov/fr/index.html>
- Federal regulations are also published by subject in the *Code of Federal Regulations*
 - In the Law Library at "Fed Coll"
 - Online at <http://www.gpoaccess.gov/cfr/index.html>



Regulations: State

- State agencies also issue regulations
- State regulations are published in administrative “codes” and registers
 - In the Law Library at “State Coll”
 - Online individually
 - <http://www.law.cornell.edu/states/listing.html>
(Select individual state & browse for Administrative Code)



To sum up...

- So far we've seen...
 - Primary legislative materials
 - Constitutions
 - Statutes
 - Regulations
- Now we'll look at...
 - Primary judicial materials
 - Court opinions



Court System: Federal

- District Courts
 - Trial court level
 - Usually do not publish opinions
- Circuit Courts of Appeal
 - 12 circuits, including D.C.
 - Map: <http://www.law.emory.edu/FEDCTS/>
 - Appellate jurisdiction
 - Usually publish opinions
- Supreme Court of the United States
 - Appellate jurisdiction over Circuit Courts and state courts
 - Almost always publish opinions



Court System: State

- State circuit or district courts
 - Trial court level
 - Rarely publish opinions
- State Court of Appeal
 - Appellate jurisdiction
 - Usually publish opinions
- State Supreme Court
 - Appellate jurisdiction
 - Almost always publish opinions
 - Decisions can be appealed to U.S. Supreme Court
- New York is oddball!



Court opinions are primary materials too!

- Principle of “stare decisis” is significant in American law
 - Key difference between common and civil law systems
- “Stare decisis is the doctrine of precedent, under which it is necessary for a court to follow earlier judicial decisions when the same point arises again in litigation.” Black’s Law Dictionary, 8th ed.
- Mandatory within the jurisdiction, persuasive outside of the jurisdiction



Locating court opinions

- Federal and state court opinions published chronologically in “reporters”
- No subject compilations!
- “Digests”: Subject index to court opinions
- Westlaw
<http://lawschool.westlaw.com/DesktopDefault.aspx>
and Lexis <https://www.lexis.com/research> are better for case finding than print digests
- “Annotated codes”: Summaries of court opinions construing statutes follow each statutory section



Court Opinions: Federal

- U.S. Supreme Court opinions published in *United States Reports, Supreme Court Reporter, Supreme Court Reports (Lawyers Ed.)*
 - In Law Library at “Fed Coll Repts”
 - Online at <http://www.supremecourtus.gov/>
- Circuit Court opinions published in *Federal Reporter and District court opinions, specialty court opinions published in Federal Supplement*
 - Both in Law Library at “Fed Coll Repts”
 - Both online <http://www.law.emory.edu/caselaw/>



Court Opinions: State

- Published in state reporters
 - In Law Library at “State Coll”
 - Online at <http://www.law.cornell.edu/states/listing.html>



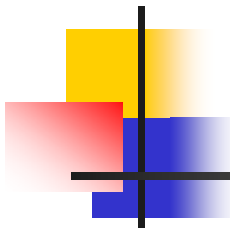
Court opinions must always be “updated” ...

- Must determine whether the case is still “good law”
 - Case has not been overturned by another case or abrogated by a statute
- Use *Shepard’s* or *KeyCite*
 - Online versions on Reference computers
 - Also available within Lexis (Shepard’s) and Westlaw (Keycite)




To review...

- Common law jurisdiction
- Mirror-image structure of federal and state legal systems
- Primary materials: the law itself
 - Legislative materials
 - Judicial materials
- Now let's talk about the process of American legal research...



How do I start researching a point of American law?

- Use “secondary sources”
 - Explain, describe, discuss the law
 - Not the law itself; cannot generally be cited to a court
- Researchers use secondary sources to...
 - Start research when unfamiliar with an area of law
 - Obtain a detailed understanding of an area of law
 - Find citations to major primary sources in an area of law, as a starting point in research



What are “secondary sources”?

- Books (also called “treatises”)
 - Use online library catalogs or Law Library Book Lists
<http://www.law.umich.edu/library/refres/bibliographies/2dysrcs/secondarysourcesindex.htm>
- Legal encyclopedias
 - In Law Library at “Ref Coll”
- “Restatements of the Law”
 - In Law Library at “Ref Coll”
- Articles in law reviews and journals
 - To locate, use periodicals indexes or search full text in Lexis or Westlaw



Online Library Catalogs

- Lexcalibur, the Law Library catalog
 - Online at <http://lexcalibur.lib.law.umich.edu/>
- MIRLYN, the University Libraries catalog
 - Online at http://mirlyn.lib.umich.edu/F/?func=file&file_name=find-b
- Kresge Business School Library catalog
 - Online at <http://lib.bus.umich.edu/search.html>



Major Legal Periodical Indexes and Databases

- Index to Legal Periodicals and Books (print and online)
- Index to Foreign Legal Periodicals (print and online)
- Current Law Index (print)/LegalTrac (online)
- Hein Online (online only)
- Print in Law Library at “Ref Coll”
- Online links at <http://www.law.umich.edu/library/eres/ereslist/ereslistindex.htm>



General Internet Sources for American Legal Research

- FindLaw: <http://www.findlaw.com/>
- GPOAccess:
<http://www.gpoaccess.gov/index.html>
- Cornell Legal Information Institute:
<http://www.law.cornell.edu/>
- For more information and sites, see “Legal Research on the Web” guide:
<http://www.law.umich.edu/library/refres/researchguides.htm>



To review...

- The “process of American legal research”:
- To start researching American law, use secondary sources
- Secondary sources lead you to primary sources
- Research in primary sources leads you to additional primary sources



If you have questions about any aspect of legal research...

- Come to the Law Library Reference Desk!
- Open 7 days a week, 9 a.m. till midnight