

# **Federal Law**

## **How It's Made, Where to Find it, How to Understand it & How to Cite it**

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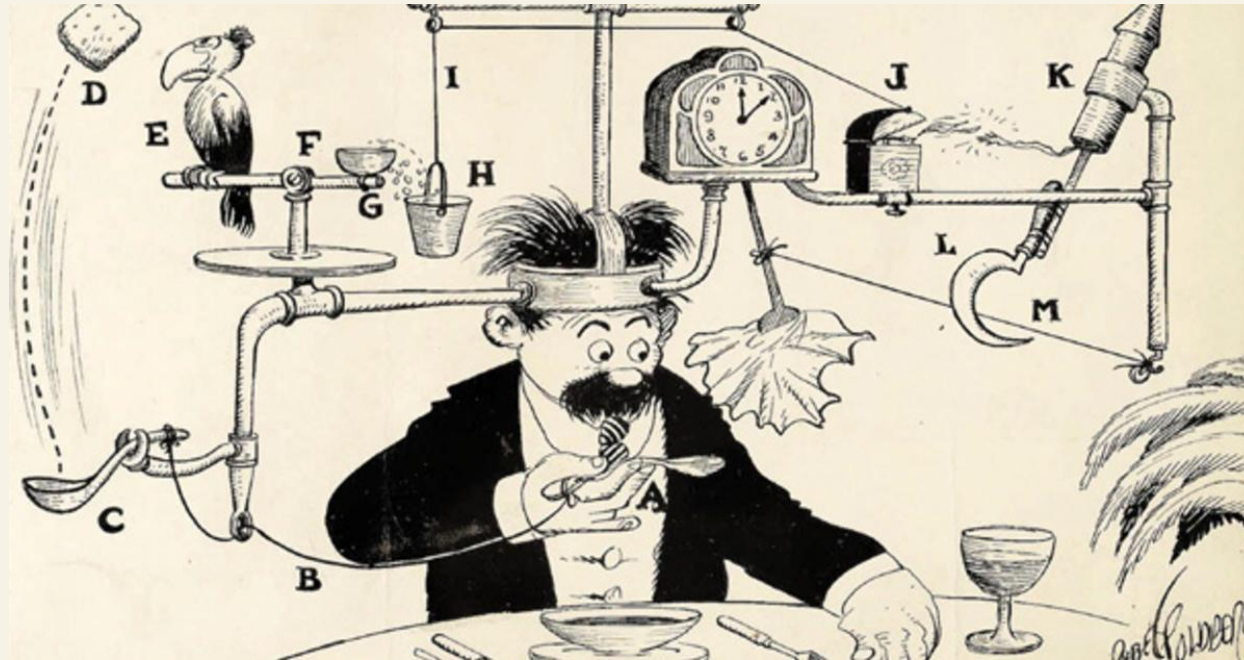
**by Linda D. Kilb**

# What You Will Learn About

- How the **structure** of the U.S. government impacts function
- How each branch creates **legal authority**
- **No paywall** places to find legal authority
- How to **decode citations** to legal authority
  - What common **words & phrases** mean
  - What common **numbers** mean
- We will **click on some links in the slides** to illustrate
  - More links in the notes

# United States of America

## The Ultimate Rube Goldberg Machine ...



Rube Goldberg's Self-Operating Napkin  
—Collier's Magazine (Sept. 26, 1931)

# Structure of the U.S. Government

## A Constitutional Republic of Three Branches \*

- **Legislative Branch** (Article I)
    - Congress **designs** the laws
  - **Executive Branch** (Article II of the U.S. Constitution)
    - President & federal agencies **implement** the laws
  - **Judicial Branch** (Article III of the U.S. Constitution)
    - Courts **interpret** the laws
- \* **“A republic, if you can keep it” –Ben Franklin (1706-1790)**  
Answering the question “What have we got?”  
on the last day of the Constitutional Convention  
(Sept. 18, 1787)

## “Legal Authority” or “The Law”

- Together, the three branches create **The Law** of the United States
- **Legal authority** means different things for different branches of government
  - Each branch can create **legal authority**
  - Each branch is supposed to **stay in its lane**
  - Most constitutional legal controversies involve **debates** about whether one branch was encroaching on the others

"Ambition must be made to counteract ambition"

- James Madison (1751-1836)

- Federalist 51 (1788)

"I'm not interested in inventing gadgets for the sake of inventing gadgets. I'm interested in creating solutions."

- Rube Goldberg (1883-1970)

# What's in a Name?

- Each **branch** of government has different forms of legal citations.
- “Citations” include
  - **Words & phrases**
  - **Numbers**
- How to **decode** legal citations



# What's on the Internet? (No Paywalls!)



- **Wikipedia** – [https://en.wikipedia.org/wiki/Main\\_Page](https://en.wikipedia.org/wiki/Main_Page)
  - Trust but verify!
  - A place to start - don't end there!
  - Keyword search Wikipedia using nicknames or titles
  - Wikipedia often has formal legal citations
  - Use Wikipedia legal citations to conduct other searches
- **Avalon Project – Documents in Law, History & Diplomacy**
  - <https://avalon.law.yale.edu/default.asp>

# What's on the Internet?

(Slide 2)



## **National Archives - <https://www.archives.gov/>**

- Searchable by keyword
- Searchable by legal citation
- Searchable by time period

<https://www.archives.gov/milestone-documents/list>

- Searchable by presidential libraries

<https://www.archives.gov/presidential-libraries>

## **Library of Congress - <https://www.loc.gov/search/>**

- Most useful if you want background or context information



# What's on the Internet?

(Slide 3)



- **Legislative & Executive Documents – The American Presidency Project**
  - Chronology of U.S. history with primary documents
  - Arranged by President (1789 to the present)
  - Includes links to treaties, statutes, executive orders & other materials
  - Not fully indexed until a few years after a president leaves office
  - <https://www.presidency.ucsb.edu/presidents>
- **Judicial Documents – Google Scholar**
  - Case Law
  - Articles
  - <https://scholar.google.com>

# Legislative Branch



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# Key Information About Congress

- There is a **new** Congress every two years
  - The first year of each Congress is the **first session**
  - The second year of each Congress is the **second session**
- Each Congress is **numbered chronologically**
  - The **1st Congress** sat from 1789-1791
  - The **119th Congress** is sitting from 2025-2027
- **Wikipedia** (trust but verify!)

Wikipedia includes a chronological list of every U.S. Congress since 1789

[https://en.wikipedia.org/wiki/List\\_of\\_United\\_States\\_Congresses](https://en.wikipedia.org/wiki/List_of_United_States_Congresses)

# Key Information About Statutes (Process)

- **Congress's main way of creating legal authority is via statutes**
  - A **bill** is a proposed statute
  - A **statute** is a successful bill
- **Proactive bills & statutes**
  - Congress initiates the legislative process



# Key Information About Statutes (Process – Slide 2)

- **Legislative overrides**
  - Congress responds to a presidential veto
  - Congress responds to a judicial decision
  - Primarily relevant to statutory authority
- **Recission requests**
  - President asks Congress to **cancel** a prior appropriation

# Two Ways for A Bill To Succeed

- **First path** to success
  - Both House & Senate pass a bill by simple majority
  - The president signs the bill
- **Second path** to success
  - Both House & Senate pass a bill by simple majority
  - The president vetoes the bill
  - Congress overrides the veto with a two-thirds vote

# Key Information About Statutes

## (Words & Phrases)

- **Legislative citation** (time & category information)
  - Categories: “Pub. L. or “Pvt. L.”
  - Tells you **when** the statute happened
- **Statutes at large** (time information)
  - “Stat.” citation
  - Tells you **when** the statute happened

# Key Information About Statutes

## (Words & Phrases – Part 2)

- “**Pub. L**” - **Public Laws**
  - Apply **generally** to the entire body politic
- “**Pvt. Law**” – **Private Laws**
  - Apply to **specified individuals**
    - Ceremonial
    - Provide for damages
    - Adjust immigration status



# Key Information About Statutes

## (Words & Phrases – Part 3)

- **Volume of Public Laws**

- 118th Cong. (2023-2024) – 274 passed
- 101st Cong. (1989-1990) – 650 passed

- **Volume of Private Laws**

- 118th Cong. (2023-2024) – Zero passed
- 101st Cong. (1989-1990) – 16 passed

# Key Information About Statutes

## (Words & Phrases – Part 4)

- **United States Code** (subject matter information)
  - “U.S.C.” citation
  - Tells you **what** the statute is about
  - Means that the statute has been “**codified**”

# Key Information About Statutes (Numbers)

- A **bill number** is very important, until the bill is successful
  - H.R. – introduced into the U.S. House of Representatives
  - S. – introduced into the U.S. Senate
- Once a bill is successful, **statutory numbers** are more important
  - **Pub. L. or Pvt. L.** citations have two numbers
    - Which Congress passed the statute
    - When it was passed relative to other statutes of that same Congress
  - **Stat.** citations have two numbers
    - Volume number
    - Page number

**U.S.C.** citations have two numbers

- Volume number
- Page number

# Americans with Disabilities Act (ADA) of 1990

Pub. L. 101-336, 104 Stat. 327, 42 U.S.C § 12101 et seq. (Jul. 26, 1990)

- **Pub. L. 101-336**
  - 101th Congress
  - 336th piece of legislation
- **Jul. 26, 1990**
  - date signed into law by President H.W. Bush
- **104 Stat. 327**
  - 104th volume of Statutes at Large
  - Beginning at page 327
- **42 U.S.C. §§ 12101 et seq.**
  - “Codified” in Title 42 (public health, social welfare & civil rights)
  - Beginning at section 12101
  - “Et sequential” – “and the following” (has more than one section)
- **Bill numbers** during the passage process
  - H.R. 2273 (1989-1990)
  - S. 933 (1989-1990)

# What's on the Internet? (No Paywalls for Legislation!)



- **American Presidency Project**
  - <https://www.presidency.ucsb.edu/presidents>
  - Click on the relevant U.S. President
  - Click on “Event Timeline”
  - Scroll to the relevant date
- **Portal to PDFs of U.S. Legislation**
  - Searchable by Legal Citations for U.S. Public Laws & Statutes at Large
  - <https://uslaw.link/citation/us-law>

# Legislation Search Example

- **Search Wikipedia for “Americans with Disabilities Act”**
  - [https://en.wikipedia.org/wiki/Americans\\_with\\_Disabilities\\_Act\\_of\\_1990](https://en.wikipedia.org/wiki/Americans_with_Disabilities_Act_of_1990)
  - Date signed (July 26, 1990)
  - Relevant president (George H. W. Bush)
  - Pub. Law & Stat. citations (Pub. L. 101-336, 104 Stat. 327)
- **Search American Presidency Project**
  - <https://www.presidency.ucsb.edu/people/president/george-bush>
  - <https://www.presidency.ucsb.edu/documents/george-bush-event-timeline>
  - <https://www.presidency.ucsb.edu/documents/statement-signing-the-americans-with-disabilities-act-1990>
- **Use Portal to PDFs of U.S. Legislation**
  - <https://uslaw.link/citation/us-law/public/101/336>
  - <https://uslaw.link/citation/stat/104/327>
  - <https://www.govinfo.gov/content/pkg/STATUTE-104/pdf/STATUTE-104-Pg327.pdf#page=1>

# Executive Branch



# Key Information About the Executive Branch

- **Executive branch's main ways of creating legal authority**
  - **U.S. president**
    - Signs or vetoes legislation
    - Recission requests
    - Signing statements or remarks
    - Various presidential documents
  - **Federal agencies**
    - Regulations
    - Guidance
    - Dear Colleague Letters





# Key Information

## President & Federal Agencies

### (Types of Documents)

- **Presidential Signing or Veto Statement**
- **Presidential Proclamation**
  - No force of law
  - Involves private individuals
  - Often ceremonial
- **Presidential Executive Action or Memorandum**
  - May not have force of law
  - Fewer requirements than EOs
- **Presidential Executive Order (EO)**
  - Has force of law
  - Can't be overturned if within the president's legal authority
- **Agency Regulations**
  - Issued by federal agencies
  - Implement statutes

# Signing & Veto Statements (Process)

- **Signing Statements**

- <https://guides.loc.gov/legislative-history/presidential-communications/signing-statements>
- Part of legislative history
- No force of law

- **Veto Statements**

- [https://en.wikipedia.org/wiki/List\\_of\\_United\\_States\\_presidential\\_vetoes](https://en.wikipedia.org/wiki/List_of_United_States_presidential_vetoes)
- Part of legislative history
- Has force of law unless Congress overrides or legislative session expires
- Congress can override with two-thirds vote

# Examples of Signing Statements

- **Americans with Disabilities Act Signing Statement**
  - Pub. L. 101-336, 104 Stat. 347 (Jul. 26, 1990) (H.W. Bush)
  - <https://www.presidency.ucsb.edu/documents/statement-signing-the-americans-with-disabilities-act-1990>
- **Remarks on Signing the Patient Protection and Affordable Care Act**
  - Pub. L. 11-148, 124 Stat. 119 (Mar. 23, 2010) (Obama)
  - <https://www.govinfo.gov/content/pkg/DCPD-201000196/pdf/DCPD-201000196.pdf>

# Examples of Veto Statements

- **Nixon Vetoes Rehabilitation Act of 1972**

- Due to “fiscal irresponsibility,” and
- Creates “organizational rigidities” in vocational rehabilitation program
- Pocket veto (time runs out on legislative session) (not enacted)

- **Nixon Vetoes Rehabilitation Act of 1972**

- “Fiscally irresponsible” and “badly constructed”
- Veto sustained (not enacted)

- **Nixon Signs Rehabilitation Act of 1973**

- Three’s a charm!

# Key Information About Presidential Activities (Process)

- **Executive Orders (EOs)**

- <https://www.federalregister.gov/presidential-documents/executive-orders/>
- In writing
- Within legal authority given to executive branch
- Signed
- “Published” in the Federal Register (Fed. Reg.)

- **Executive Actions or Memoranda**

- <https://www.whitehouse.gov/presidential-actions/>
- Don't need to cite legal authority
- Don't need to be published
- Don't require OMB “Budgetary Impact Statement”
- Generally used when executive branch wants to avoid EO requirements

# Examples of Executive Orders

- **Creating the U.S. Peace Corps**
  - Legal authority: Mutual Security Act of 1954
  - Exec. Order No. 10924 (Mar. 1, 1961) (Kennedy)
  - Published at 26 Fed. Reg. 1789 (Mar. 2, 1961)
- **Banning the Hoarding of Gold**
  - Legal Authority: Emergency Banking Act of 1933
  - Exec. Order No. 6102 (Apr. 5, 1933) (F. Roosevelt)
  - Predated the Federal Register Act of 1935 (effective 1936)

# Examples of Executive Orders

## (Continued)

- **Review of Designations Under the Antiquities Act**
  - Legal authority: Antiquities Act of 1906
  - Exec. Order No. 13792 (Apr. 26, 2017) (Trump 45)
- **Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis**
  - Legal authority: Antiquities Act of 1906
  - Exec. Order No. 13990 (Jan. 20, 2021) (Biden)
  - Rescinding Exec. Order No. 13792 (Trump)
- **Unleashing American Energy**
  - Legal authority: Various, but no cite to Antiquities Act of 1906
  - Exec. Order No. 14154 (Jan. 20, 2025) (Trump 47)

# Contrast in Executive Actions (Federalizing the National Guard)

- **Desegregating Little Rock High School**
  - Legal authority:
    - Implements Brown v. Board of Education
    - Statutory authority to remove an obstruction of justice: 10 U.S.C. §§ 332-334
  - Limited to Arkansas
  - Exec. Order No. 10730 (Sept. 24, 1957) (Eisenhower)
  - Published at 22 Fed. Reg. 7628 (Sept. 25, 1957)
- **Addressing “Violence and Disorder” in Response to Immigration Enforcement**
  - Legal authority: Power during “rebellion” or “invasion” 10 U.S.C. §12406
  - No geographic limit
  - Presidential Memorandum (June 7, 2025) (Trump 47)
  - Publication not required



# Key Information About Federal Agency Activities (Process)

- **Pursuant to Statutory Authority**
  - A **delegation** of authority from Congress & President via statute
  - Focus on **implementing** a statute
  - **Fills in details** addressed or left unclear in statute
- **Specific Process**
  - Activities must be “published”
  - Advanced Notice of Proposed Rulemaking (ANPRM)
    - Agency asking for input about whether a regulation is needed
  - Notice of Proposed Rulemaking (NPRM)
  - Public comment period
  - Notice of Final Rule
  - Direct Final Rule

# Judicial Branch



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# Key Information About Court Cases

## (Process)

- **Courts' main way of creating authority is via case law**
  - **Judicial decisions** issued in **litigation (lawsuits)**
  - **Published** (citable precedent)
  - **Unpublished** (not citable in other future cases)
- There are **three main levels** of federal court cases
  - **District Court** cases
  - **Circuit Court** cases
  - **U.S. Supreme Court** cases



### Stages of Litigation

- Cases start in district courts
- Most cases settle without creating case law
- Many district court decisions never go to circuit courts
- Even fewer cases go to the Supreme Court

# What's Your Style?

- A litigation case name is called a “style”
- Elements of style
  - Party name v. party name
  - Court name
  - Case number
- Party names can **change** if a party drops out
- **General Rule:** First party named is the party that filed the lawsuit
- **Exception:** U.S. Supreme Court
  - The first name is whoever asks for high court review
  - You can only ask for review if you lost in the circuit court
  - The first name is the party who lost below



# Slip Opinions

- Issued **when case is decided**
- **Formal citation** not yet available
- May indicate “published” or “unpublished”
- **Historic rules** for “unpublished” decisions
  - Only binding in that one lawsuit
  - Not citable in other cases
  - **New rule** for decisions on or after January 1, 2007
    - Fed. R. App. P. 32.1 – Citing Judicial Dispositions
- **Cal. Rules of Court**
  - Rule 8.1105 – Publication of appellate opinions
  - Rule 8.1120 – Requesting publication of unpublished opinions



# Key Information About Court Cases

## (Party Pleadings)

- **There are five main types of federal cases**
  - Appellate cases (specified by numbers)
  - Bankruptcy cases (BK)
  - Criminal cases (CR)
  - Civil cases (CV)
  - Multidistrict litigation (MDL)
- **Important numbers**
  - Year case was filed
  - Case number
- **Initials** for Judges & Magistrates

# Decoding Party Pleadings

## (Example)

- **Blake v. City of Grants Pass**
  - 1:18-cv-01823-CL (D. Or.)
  - CL is assigned code for federal Magistrate Judge Mark D. Clarke
- **Johnson v. City of Grants Pass**
  - Nos. 20-35752 & 20-35881 (9th Cir.)
- **Grants Pass v. Johnson**
  - 23-175 (U.S.)

# Key Information About Court Cases

## (Judicial Decisions)

- **Federal court case law** is collected in chronological **reporter series**
- **District Court** decisions (D.)
  - Collected in **Federal Supplement** series (F. Supp.)
- **Circuit Courts** (Cir. )
  - Collected in **Federal Reporter** series (F.)
- **Supreme Court** decisions collected in **parallel series**
  - Official **United States Reports** series (U.S.)
  - Unofficial **Supreme Court Reports** series (S. Ct.)
  - Unofficial Lawyers Edition (L. Ed.)



# What's on the Internet?

- **Judicial Documents – Google Scholar**

<https://scholar.google.com>

- Case Law
- Articles

- **Just Security – Specific to Second Trump Administration**

<https://www.justsecurity.org/107087/tracker-litigation-legal-challenges-trump-administration/>

- **Websites for Party Counsel Organizations**
- **Websites for Media**
- **Basic Browser Searches**

# What's on the Internet?

## (Continued)

- **Resources for Circuit Decisions That Go to the Supreme Court**
  - SCOTUSblog links to circuit court slip opinion below
  - Style may be reversed, depending on who lost
- **Resources for U.S. Supreme Court Decisions**
  - **Supreme Court Official Website**  
<https://www.supremecourt.gov/docket/docket.aspx>
    - Easy to find “Questions Presented”
  - **SCOTUSblog**  
<https://www.scotusblog.com/>

# Decoding Lower Court Decisions (Example)

- **District Court – Blake v. City of Grants Pass** (via Google search)
  - No Federal Reporter Citation
  - **Paywall:** 2020 U.S. Dist. Lexis 129494 (D. Or. July 22, 2020)
  - **Paywall:** 2020 WL 4209227 (D. Or. July 22, 2020)
  - **Free:** <https://clearinghouse.net/case/43966/>
  - **Free:** <https://clearinghouse.net/doc/136123/>
- **Circuit Court – Johnson v. City of Grants Pass**
  - [https://scholar.google.com/scholar\\_case?case=390983368744510393&q](https://scholar.google.com/scholar_case?case=390983368744510393&q)
  - 50 F. 4th 787 (9th Cir. Sept. 28, 2022)

# Decoding Supreme Court Decisions (Example)

- **City of Grants Pass v. Johnson – Slip Opinion**

[https://www.supremecourt.gov/opinions/23pdf/23-175\\_19m2.pdf](https://www.supremecourt.gov/opinions/23pdf/23-175_19m2.pdf)

- Available via Supreme Court website  
<https://www.supremecourt.gov/docket/docket.aspx>
- Available via SCOTUSblog: <https://www.scotusblog.com/>

- **City of Grants Pass v. Johnson – Formal Legal Citation**

<https://scholar.google.com/>

- 603 U.S. \_\_\_, 144 S. Ct. 2202, 219 L. Ed. 2d 941 (June 28, 2024)
- U.S. reporter citations no longer use page numbers

# Thank you!