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## § 1.2

# Primary Authority

## *The Law*

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Primary authority is law. Below is an introduction to the ten basic kinds of laws.

### CONSTITUTION

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Constitutions are the highest form of law. A constitution is the fundamental law that establishes the basic rights and obligations of citizens and creates the branches of government. The U.S. Constitution is the highest law in the United States. Individual states, of course, have their own constitutions.

### STATUTES

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Laws created by the legislative branch of government. The U.S. Congress creates federal statutes contained in the *United States Code* (U.S.C.). Legislatures create statutes for their own states. Statutes are *enacted law*. Enacted law supersedes common law.

### OPINIONS

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An opinion is a decision of a court applying law to specific, factual situations. An opinion is often referred to as a *case* or *case law*. For example, the case of *Roe v. Wade* is an opinion of the court that applied what the court deemed was a constitutional right for a woman to have an abortion. Opinions are *common law*.

### TREATIES

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A treaty represents an agreement between two or more governments. The President signs treaties, with the consent of the Senate. For example, the *Strategic Arms Limitation Treaty* (SALT) was negotiated by the U.S. and the Soviet Union but had to be confirmed by the U.S. Senate before it became law.

### EXECUTIVE ORDER

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A law created by the highest entity of the executive branch, such as the President or governor. An example of an executive order is the pardon of someone convicted of a crime.

**ADMINISTRATIVE RULES**

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These are rules and regulations created by state and federal administrative agencies. For instance, the *Federal Aviation Administration* (FAA) creates rules governing air traffic throughout the country.

**ADMINISTRATIVE DECISIONS**

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Administrative decisions are created by administrative agencies applying administrative rules to factual situations. For example, the FAA can fine a person for making a joke about a bomb in an airport. After a hearing, the agency would issue a report detailing its decision. Of course, the same act could also be considered a violation of criminal law.

**RULES OF COURT**

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These are the rules that govern the procedures of the state and federal trial process. Court rules are created by the legislature, the highest court in the state, or both. For instance, the *Federal Rules of Civil Procedure* are the court rules for civil federal trials.

**CHARTERS**

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The local equivalent of a constitution, a charter is the basic and fundamental law of local governments; they establish the structure of the local government in that jurisdiction.

**ORDINANCES**

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Ordinances are the local equivalent of statutes. Ordinances are rules that members of the community are expected to follow. If a person fails to cut his lawn, he or she is most likely violating an ordinance.

**The Researcher's Priority**

The researcher's first goal is to locate primary authority. The researcher may utilize secondary or non-authority to get there, but law is almost always the focus of research.

**§ 1.2 EXERCISE | WHICH IS PRIMARY AUTHORITY?**

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| <input type="checkbox"/> a case          | <input type="checkbox"/> a statute             | <input type="checkbox"/> an ordinance           |
| <input type="checkbox"/> an index        | <input type="checkbox"/> a dictionary          | <input type="checkbox"/> an administrative rule |
| <input type="checkbox"/> the SALT Treaty | <input type="checkbox"/> a presidential pardon | <input type="checkbox"/> Kansas Constitution    |
| <input type="checkbox"/> a city charter  | <input type="checkbox"/> <i>Roe v. Wade</i>    |   |
| <input type="checkbox"/> an encyclopedia | <input type="checkbox"/> U.S. Constitution     |   |
| <input type="checkbox"/> a court opinion | <input type="checkbox"/> an executive order    |   |