The foundation and structure of the US legal system is set forth in its Constitution. The **U.S. Constitution** establishes our federal government and defines the **scope of authority** for each of its **three branches**: executive, legislative, and judicial. Each branch has lawmaking powers and produces a unique type of law. The three-branch government structure also exists at the state-level.

The legislature enacts **statutes**. Statutes are first published chronologically in the US Statutes at Large. Later, they are re-arranged by subject matter and published in the United States Code (usually referred to by its abbreviation, “USC”).

The executive branch’s administrative agencies promulgate **regulations** and occasionally perform quasi-judicial activities which produce **administrative opinions**. Regulations are published daily in the Federal Register and, in a process similar to that for statutes, are subsequently codified in the Code of Federal Regulations, also known as the CFR.

The judicial branch, of course, creates **case law**. Judicial opinions apply the “law” -- which can be derived from the constitution, prior cases, statutes, regulations, or any combination of these -- to a particular situation. Case opinions are published in reporters by jurisdiction and sometimes by topic. U.S. legal education relies upon the “casebook method” to teach law students legal principles and to develop their capacity for legal analysis. As a result, you will read selected opinions from casebooks in most of your doctrinal courses.

The American legal system is based upon a “common law” tradition. Common law systems rely on judicial precedent and custom to develop their legal principles. These precedents are captured in the form of published case opinions. A fundamental tenant of common law legal systems is the doctrine of “stare decisis,” which in Latin means “to stand by things decided”. As a practical matter, it means that judges should follow the guidance and rationale provided by previous court decisions. By doing so, our legal system promotes consistency and fairness of outcomes for litigants.
IMAGE: Slide #7
AUDIO: Our court structures are hierarchical. At the bottom are trial level courts. In the federal system, these are the U.S. District Courts. In the states it varies by jurisdiction, but these are typically the courts with “original jurisdiction”. Either party can appeal an outcome at the trial level to a higher court. Courts that hear the first level of appeal are sometimes referred to as intermediate appellate courts. In federal cases, these are the U.S. Circuit Courts. If a party to a case is still dissatisfied after the intermediate appellate court’s decision, they can ask that their case be heard in the “court of last resort” – the highest level of the system. For federal cases (or cases involving constitutional issues or federal law) the highest-level court is the Supreme Court of the United States. The Supreme Court can decline to hear a case and often does. There are more than 8,000 writs of certiorari filed each year, on average, but the Court only agrees to hear and opine on roughly 80 each session.

IMAGE: Slide #8
AUDIO: State court systems mirror the structure of the federal courts. Each has trial level courts, including specialized courts like small claims or family. Trial court decisions can then be appealed up to an intermediate appellate court and, if still in dispute, to the Supreme or Superior court of that state.

IMAGE: Slide #9
AUDIO: It is critical to understand the differences between the law -- primary sources -- and commentary or analysis of the law -- secondary sources. This is because these materials have different weights of authority. Statutes, cases or regulations that are binding on the court in your jurisdiction are MANDATORY AUTHORITY and must be followed. Primary law which has similar facts, but is from another jurisdiction, is PERSUASIVE AUTHORITY and can be used to persuade a court in your jurisdiction to adopt the other court’s outcome or rationale. Because secondary sources are not the law, they are never binding on a court. While secondary sources are cited less often than primary law from outside jurisdictions, they remain essential tools with some persuasive value. Additional background on secondary sources is available in the Overview of Secondary Sources tutorial.

IMAGE: Slide #10
AUDIO: Thanks for listening to this video on the United States’ legal system and sources of law. For more information, try out this CALI exercise covering the information discussed in this tutorial.