

Case Law

While the legislative branch can make laws, the judicial branch often makes decisions that have the force of law. When a court decides a constitutional issue, this sets a legal “precedent” that other judges and juries have to respect as official law until a new precedent is made. *Marbury v. Madison* established a legal precedent that the Supreme Court has the power of Judicial Review, or determining whether or not a law or action is constitutional.

Case law is also referred to as “common law.” When there is a dispute between laws, courts have to refer to past cases that were similar and must provide the same reasoning and decision that was provided in the first case. However, the laws can also be altered and evolved based on the circumstances of the case. In this way, judges also have the authority to create new laws through their interpretations.

Example: In *T.L.O. v. New Jersey*, case law established the precedent that students in public schools could have their property searched if there was a “reasonable suspicion” of a law or policy being broken.

