

# *Tackling Legal Research in the Real World*

## Strategies and Tips

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Learning good research skills is one of the best ways you can prepare yourself for any type of legal career. You can't know all of the law on a particular topic at any given point in time...but you *can* know how to *find* it! If you develop excellent research habits now, they will stand you in good stead for the rest of your legal life...(even better than getting an A+ on your contracts exam...no kidding!)

There are five essential steps in the legal research process, which are laid out and discussed below. Although the discussion of "steps" may make legal research appear to be a linear process, in reality it is a spiral progression, with continual loops back to earlier steps as new information is uncovered. With practice (and you'll get plenty of it, in your job!) you will soon learn to navigate the process in an orderly, time-efficient, cost-efficient, and effective manner. And they're gonna love you for it!

### **Step 1: Preparation for Research**

- *Take time to think about your topic before starting research.* Even a few minutes spent planning and strategizing before you dive in will save you time and frustration in the long run.
- *Consult research guides to plan your research strategy, if necessary.* Don't forget about these, as they can provide a useful list of sources on particular topics. Look for them in print and especially online, through sites such as Findlaw <<http://www.findlaw.com>>, LLRX <<http://www.llrx.com>>, and websites of various academic law libraries. The *Internet Hot List of Legal Guides & Pathfinders* <<http://www3.uakron.edu/law/richert/index1.html>> provides a list of links to legal research guides and pathfinders covering a wide variety of basic and specialized topics.
- *Set preliminary boundaries for your topic.* Remind yourself which issues you will *not* be looking at, to avoid chasing red herrings in the process of research.
- *Note some important keywords and phrases.* Although you will be revising these as you proceed with research, making an initial list will save you time.
- *Promise yourself to keep a research log.* Somewhere, *anywhere!*, note down enough information for each source consulted to be able to cite it completely. This will save you the heartbreak of having to redo your research in order to find a source.

## **Step 2: Consult Secondary Sources**

- *Secondary sources* contain commentary on the law; they do not constitute the law itself. Secondary sources include legal encyclopedias, periodicals, treatises, ALRs, restatements, and other sources. Anything that describes, explains and/or analyzes the law is a secondary source.
- *Secondary sources introduce you to the law.* This is particularly important if you are researching an area of law that is unfamiliar to you. It will also help you focus your research, as you discover which issues are most significant.
- *Why reinvent the wheel?* Secondary sources synthesize the law for you and place it in an analytical framework, which would be difficult and time-consuming to do on your own. The name of the research game in legal practice is efficiency and accuracy; use any source you can to achieve this!
- *Secondary sources are finding tools for primary sources.* Since they discuss the law, secondary sources cannot help but cite it for you. Use these citations to locate relevant primary authority.
- "[I]t is easier to locate a pertinent portion of a treatise...than it is to locate a pertinent case, if you are starting from scratch." Kunz, et al. *The Process of Legal Research* (4<sup>th</sup> ed. 1996), at 11. Take this to heart. Engrave it in your memory. In practical terms, it means that you DO NOT jump on Lexis or Westlaw at the beginning of a research project and immediately start doing searches to find cases. Such an approach is inefficient, frustrating, and confusing, not to mention expensive, which your clients will not appreciate. Don't do it; start with secondary sources instead.

## **Step 3: Consult Primary Sources**

- *Primary sources* are the law itself, including statutes, court opinions, administrative decisions, treaties, etc.
- *Start by researching statutes, because they also lead to cases.* If a statute is relevant to your research, find it using an annotated source if possible. This will lead you to relevant cases. In addition, you can use the statute's citation as a keyword when you start doing your case research.
- *When researching case law, follow the citations.* Each case will include cites; look these up for further support. Then shepardize your case (do it online...this is the easiest, quickest and most current method) to find other cases that cite it.
- *How do you know when you're done?* You'll know it's time to call it quits when you start seeing citations to the same cases, statutes and other sources, over and over again, until there are no new leads to follow up.

### **Step 4: Consult Specialized Sources**

- *Specialized sources* are non-legal and other sources that may be appropriate to consult for your research issue. These could be medical journals, scientific reports, non-legal books, or any of a myriad of published information, in print or online.
- *People can be specialized sources.* Don't forget that people can be a specialized source, too! Telephone calls or e-mails to knowledgeable people or experts in a particular field can yield valuable information.

### **Step 5: Update Your Research**

- *Updating your research* means making sure that your conclusions regarding your research problem are based on the most current, reliable law.
- *Updating doesn't have to wait until last, BUT NEVER FORGET TO DO IT.* This is a key principle of the practice of law. Malpractice claims have been based on an attorney's reliance on superseded law!
- *Always look at the pocket part!* Don't forget that little paper pamphlet at the back of most statute books and some other sources. If there isn't a pocket part, find out why! Don't assume that there haven't been any updates; it is the exception, not the rule, that a volume is recent enough to include all updates.
- *Online updating services are the easiest, most consistent, most accurate method of updating primary law.* Use LEXIS (Shepard's) or WESTLAW (KeyCite); avoid paper shepardizing if possible (it is confusing, not as current, and simply unnecessary in the modern world of computer-assisted legal research).

### **What to Do If You're Stumped?**

- *If you can't find The Answer, maybe there isn't one.* Sometimes, despite your best efforts to implement the legal research process, issues remain unclear. This happens very often, in fact, simply because the law doesn't lend itself to easy answers. Nobody will expect you to find The Perfect Answer every time; frequently, there isn't one. The most you will be expected to do, in that situation, is articulate intelligent arguments for and/or against possible answers.

- *Never hesitate to ask questions.* If you don't understand the issues you are being asked to research, ask. If you don't understand how to use a source, ask. If there is anything you don't understand, ask. No one will ever fault you for seeking clarification. (They may well fault you for spending time and billing a client for a project that wasn't what they intended in the first place.)
- ***DO NOT FORGET TO ASK A LIBRARIAN!*** Librarianship is a service profession; since we live to serve, allow us to fulfill that mission by asking us questions. If you are working for a firm or other legal employer that retains one or more librarians on staff, helping you is part of those librarians' job...it is part of *your* job to take advantage of their assistance! If your firm or legal employer does not have its own librarians, don't hesitate to call or visit the local county law library's reference desk. Likewise, don't hesitate to call or visit any nearby academic law school library (like us!) for assistance with reference questions. Never feel that you must struggle with legal research on your own...we're here for YOU!!

### **For Further Reading...**

If you are interested in doing some "research" about legal research, here are a few sources to get you started (including call numbers so you can find them in our University of Michigan Law Library collection):

- Mersky, R. and D. Dunn. *Fundamentals of Legal Research* (8<sup>th</sup> ed. 2002) [Ref Coll: Bibliog Mersky].
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- Kunz, C. et al. *The Process of Legal Research* (5<sup>th</sup> ed. 2000) [Bibliog Process].
- Cohen, M. and K. Olson. *Legal Research in a Nutshell* (7<sup>th</sup> ed. 2000) [Main Desk: Bibliog Cohen].
- Berring, R. and E. Edinger. *Finding the Law* (11<sup>th</sup> ed. 1999) [Ref Coll: Bibliog Berring].
- Doyle, F. et al. *Searching the Law* (2<sup>nd</sup> ed. 1999) [Ref Coll: Bibliog Searchin].