

WHAT IS A RESEARCH STRATEGY?

A research strategy is the method by which you will conduct your legal research. While there is no “correct” way to conduct legal research, as every legal question is unique, there are nonetheless several points of evaluation which should be done for most situations. A researcher should typically perform the following four steps when tackling a research situation:

1. **Analyze the facts and identify the legal issues at hand.**
2. **Generate search terms based upon the legal issues involved.**
3. **Find primary authority, and secondary authority (if necessary).**
4. **Update the research conducted.**

Analyze Facts and Identify Legal Issues:

Perhaps the most difficult step in conducting legal research is to analyze the facts at hand and recognize which are legally important, and which are not. Often a beginning researcher fails to realize that not all facts have legal importance to a situation. Because legal research is dependent upon the specific facts at hand, one method for evaluating facts is to think in terms of: the potential parties; things involved; claims (or defenses) raised; and relief sought.

In terms of identifying issues, it is best to research each issue individually. If it is difficult to spot legal issues, secondary resources may be useful in identifying them. Titles such as *American Jurisprudence Proof of Facts* (KF8933) or *American Jurisprudence Trials* (KF8915) can be helpful in identifying legal issues for many common fact patterns.

Generating Search Terms:

A legal researcher should evaluate his or her fact pattern for legally pertinent information through the use of effective search terms. These search terms are critical in legal research because the vast majority of legal information is indexed in some fashion. Whether through a table of contents in the index of a print volume, or through keyword or Boolean searching in online

resources, the words used to conduct a search will greatly affect the relevancy of the results uncovered. A researcher will often discover that starting with general terms first and then narrowing the focus as research progresses works the best.

Finding Primary Authority:

Primary legal authority is the actual text of the law, whether in the form of an opinion, statute, or regulation. Typically, this is the most valuable source of legal information sought. While secondary sources such as *Standard Pennsylvania Practice 2d* (KFP530.S85) may be beneficial background research for many legal research projects, a legal argument is usually supported by citation to primary authority. The search for primary authority will vary depending upon whether a fact pattern is governed by case law or statutory law, but essentially involves using the indexes of case digests or statutory compilations.

Secondary Authority:

If unfamiliar with a particular area of law, it may be helpful to consult a Secondary Source such as a treatise, legal encyclopedia, or loose leaf service written on a particular area of law to get an idea of what law governs (i.e. federal or state; common law or statutory law). Secondary sources are good research tools by which to begin research, for not only can they provide a quick overview of an area of law, but can lead a researcher to on-point primary authority.

Updating Research:

Once a researcher has completed research, typically by finding primary authority to support the situation at hand, he or she must be sure that this authority is still good law. Updating research is completed by consulting a citator, either in print or online. *Shepard's* is the print citator available in the library. *Shepard's* can also be found at: www.LexisNexis.com with a similar service called *Keycite* available at: www.Westlaw.com (online cite-checking is for a fee.) Not only will updating research through a citator service verify that the legal authority is still good law, but it can also lead to undiscovered sources that have cited to the authority already found.

PRIMARY LEGAL RESOURCES

Since primary legal materials are “the” law as it was written in a court opinion, or passed by a legislature, or promulgated by a controlling agency, finding on-point and beneficial primary authority is the ultimate goal of most legal research. Frequently used primary materials include:

Digests: Judicial opinions are printed in reporters in sequential order. To find case law on point, a researcher can either use an online resource such as LexisNexis or Westlaw, or use a Digest. A digest indexes published opinions by Topic and Keyword, provides summaries of these opinions, and then tells a researcher where to locate an opinion in the library.

Federal and State opinions can be found at:
www.findlaw.com or www.lexisone.com

Annotated Codes: Codes, or statutes, are the laws passed by a legislature in a topical arrangement. An annotated code in addition to providing the text of the law, has: reference to cases that have dealt with or analyzed a particular law; reference to legislative history; and secondary sources discussing a statutory section.

Federal and State statutes can be found at:
www.law.cornell.edu/statutes.html

Regulations: Federal and state agencies make regulations which have the effect of law until struck down by a judicial opinion or made unnecessary by a change in the law. For more information, consult the *Pennsylvania Administrative Law* Research Guide at:

www.law.widener.edu/Law-Library/new/research/docs/paadmin.pdf

Pennsylvania Regulations are available at:
www.pacode.com

Federal Regulations are available at: www.gpoaccess.gov

SECONDARY LEGAL RESOURCES

Frequently used secondary sources that analyze, explain and comment on the law include:

American Law Reports (ALR's): “Annotations” on narrow areas of law largely focusing on case law in different jurisdictions. There are separate series for state law and federal law.

Legal Encyclopedias: Arranged similar to a traditional encyclopedia, but dealing with legal subjects and theories. *American Jurisprudence 2nd* and *Corpus Juris Secundum* (U.S. materials) are two widely used comprehensive legal encyclopedias. These encyclopedias cover all topics of American law. Many states have their

own state-specific legal encyclopedia, such as: *Pennsylvania Law Encyclopedia* (KFP65.P4)

Restatement of the Law: Restatements of the Law explain the common-law rules for a wide range of legal areas. The main volumes provide the summary of law by topic. The appendix volumes provide case summaries for each legal topic covered in the main volume.

Restatements are located in the Reserve section of the library, and also in the Stacks.

Legal Treatises: Legal treatises can range from short, one-volume publications giving the basics of a particular area of law, to multi-volume works going into detailed coverage of every nuance of a particular legal subject. Consult the Research Guide *Searching the Online Catalog* at: www.law.widener.edu/Law-Library/new/research/docs/onlinecatalog.pdf for help in finding treatise titles in the library. Many current Hornbook treatises are located in the Reserve section of the library.

Law review and legal journal articles: Finding journal articles will typically be done online. For law students with passwords, both LexisNexis and Westlaw have databases that index law reviews and legal periodicals. The HeinOnline database has retrospective coverage of most Law Reviews. A researcher may also use either LegalTrac, Index to Legal Periodicals and Books, or Current Index to Legal Periodicals available through computer terminals in the library. These databases can be accessed at: www.law.widener.edu/Law-Library/new/research/legal_databases.shtml

LEGAL RESEARCH STRATEGY TREATISES:

These sources were used in creating this guide and might help explain the legal research process in detail:

Cohen, Berring & Olson, **How to Find The Law** (9th ed. 1989) KF240.H36

Cohen & Olson, **Legal Research in a Nutshell** (8th ed. 2003). H Reserve, KF240.C54 2003.

Dunn & Mersky, **Fundamentals of Legal Research** (8th ed. 2002) H Reserve, KF240.J31 2002.

Sloan, **Basic Legal Research: Tools and Strategies** (3rd ed. 2006).

Still have questions?

Delaware Reference: 302-477-2114

Harrisburg Reference: 717-541-3933

Email: use “Ask a Librarian” at: www.law.widener.edu/Law-Library