

A Legal Research Methodology
Fall 2007

I. Preliminary Analysis

A. Identify the issues of your problem, that is, what are the questions that you need to answer.

B. Identify jurisdictions(s): federal, state, etc.

C. Identify relevant facts and think up key terms and phrases.

D. What do you know about the problem? If your knowledge is limited, consult secondary materials such as legal encyclopedias, law reviews, texts and treatises, or A.L.R.'s. This step may help answer the questions posed in A, B, and C above.

NOTE: Remember that secondary sources are not the law: You need to find primary authority.

II. Search Statutory Material for a Relevant Law

A. You will find one of three things:

1. No relevant statute: which means that either you missed it or there was nothing there.
2. A relevant statute that is clearly applicable.
3. A statute that is ambiguous.

B. Update any statute(s) found, whether a clear one or an ambiguous one. This involves updating both the statute(s) and the annotations (case law) that has interpreted the statute(s). Remember that a case may change how a statute is interpreted.

C. Updating statutes involves:

1. Checking all pocket parts or supplements
2. Checking session laws. These are contained in paperback form and have various names like *Legislative Service* or *Session Law Service*. Also remember to look for table of code sections (such as Statutes Amended, Repealed and Added) found in these publications. These will tell you if your particular statute has had changes made to it, and if so, where you can find these changes.

D. Verify that the statute(s) you are using are still good law. This means using Shepard's[®] in print or on-line or Keycite[®] on-line.

III. Search for Mandatory Case Authority

Even if you have found a statute clearly on point, you need to search for mandatory case authority. This helps you in determining how your statute has been applied or whether the statute you found is even applicable.

NOTE: If you do not have a statute, start with the appropriate state digest, a law review article or other secondary authority and find a case on point. After you have found a case(s), make sure to:

A. Update Case Law (in print)

1. Check the digest for your jurisdiction under the appropriate topic(s) and key number(s), making sure to check the pocket part.
2. Check any supplemental pamphlets for the digest set you are using, looking for the topic(s) and key number(s) relevant to the point of law you are using. Finally, check the “mini” digest in each individual reporter and advance sheet for the jurisdiction of your case from the point in time that either the pocket part or supplemental pamphlet stopped.

B. Check the authority of the case(s). That is, make sure that the case(s) is still good law. Verify the case(s), by using either Shepard’s[®] in print or on-line or Keycite[®] on-line. If you are using print sources, make sure to check ALL available volumes that contain your case citation, both hard and softbound. You can determine what you should be checking by looking on the cover of the most recent softbound material.

NOTE: If you do not find any controlling mandatory authority in your jurisdiction, go to Step IV.

IV. Search for Persuasive Case Authority

This is the most difficult step because you do not know where the answer will be found. You need to search all jurisdictions if time allows, usually for case law or policy arguments. All case finding tools must be considered: digest, A.L.R.’s, law reviews, Shepard’s[®], Keycite[®], etc.

V. Refine Analysis and Double Check Results

- Did you identify the correct issues and jurisdiction your preliminary analysis? If not, reformulate them and begin the research process again.
- For any case or statute you wish to rely on, locate it by at least two independent methods. This helps verify that what you found was the correct authority.
- Be sure you have updated your work at every step.

VI. As your last step verify once again that all the primary material you are relying on is still good law. Make sure to use a verification tool, (Shepard’s[®] in print or on-line or Keycite[®] on-line).

Remember that legal research is generally time consuming and sometimes very difficult. However, it is your professional responsibility to thoroughly research every legal problem that you have undertaken to solve. Finally, understand that there may not be an answer to every problem; sometimes no answer may be the only answer that you will find.