

Introduction to The Research Plan

Legal Research Center Video Series



Julianne Odin



Materials adapted from Amy E. Sloan, *Basic Legal Research: Tools and Strategies* (7th ed. 2018).

Why have a research plan?

- Efficient
- Thorough
- Accurate
- Confident

Outline of the basic steps

1. Obtain preliminary information about the issue
2. Plan the steps in your research
3. Execute your research plan effectively
4. Assess the information you find and update to ensure it is current
5. Revise your research plan as necessary and repeat steps as needed

1. Preliminary info

- How much time do you have for this assignment?
- What final work product should you produce?
- Are there any limits on the research materials you can use?
- Which jurisdiction's law applies?
- Should you research nonbinding authority?

In practice, ask these questions too

- Any recommendations for sources that are particularly good for researching this area of law?
- What background on the law or terms of art should you know as you begin?
- Are there any internal resources (written materials or expert colleagues) you should consult?

2. Planning the steps

- a. An initial issue statement
- b. A list of possible search terms
- c. An outline of your search strategy

a. Initial issue statement

- Defines the scope of your research
- Informal is okay
- Varying levels of specificity depending on how much you already know (or don't know!)
 - Can the plaintiff recover from the defendant for destroying her garden?
 - Can the plaintiff recover from the defendant *in negligence* for destroying her garden?
- Don't skip this step!

b. Potential search terms

- Classic journalism questions:
 - Who, what, when, where, why, and how
- PPPR
 - Parties' legal status or relationship to each other
 - Places & things
 - Potential claims and defenses
 - Relief sought

Hypothetical

Your client, Paula, recently ended a long-term relationship with her partner, Deena. Paula and Deena never participated in a formal marriage ceremony, but they had always planned to get married “someday.” They lived together for 5 years and called each other “my wife.” They agreed to provide support for each other, and Deena repeatedly said, “What’s mine is yours.” Paula wants to know if she is entitled to part of the value of the assets acquired by Deena during the relationship, or to any support payments.

Hypo search terms

- Parties: wife, spouse, unmarried couple, cohabitants
- Places & Things: property, assets, ownership, support, non-marital relationship
- Potential claims & defense: common-law marriage, breach of contract, detrimental reliance, promises, misrepresentation
- Relief: damages, division or disposition of assets, support

Expanding search terms

- Breadth: synonyms and related terms
 - Spouse, wife, husband, partner
- Depth: express concepts more abstractly or more concretely; more generally or more specifically
 - Family member > Cohabitant > Intimate partner

c. Outline search strategy

- Identify the type and sequence of research tasks by figuring out what you know, what you do not yet know, and how best to fill in the blanks
 - Take stock of what you already know
 - Determine whether to pick a specific source to search (source-driven) or to search across an entire type of content (content-driven)
 - Think about both the print and electronic research tools available to you

c. Outline search strategy

- For most research questions:
 1. Secondary authority
 2. Primary authority

c. Secondary authority

- Statements about the law that explain, interpret, develop, locate, or update primary authority
- Written by practitioners or law professors
- Examples: encyclopedias, treatises, journal or law review articles, A.L.R. Annotations, restatements of the law, & looseleaf services
- Secondary sources are NOT the law itself and are NOT binding; NOT appropriate to cite most of the time

c. Secondary authority

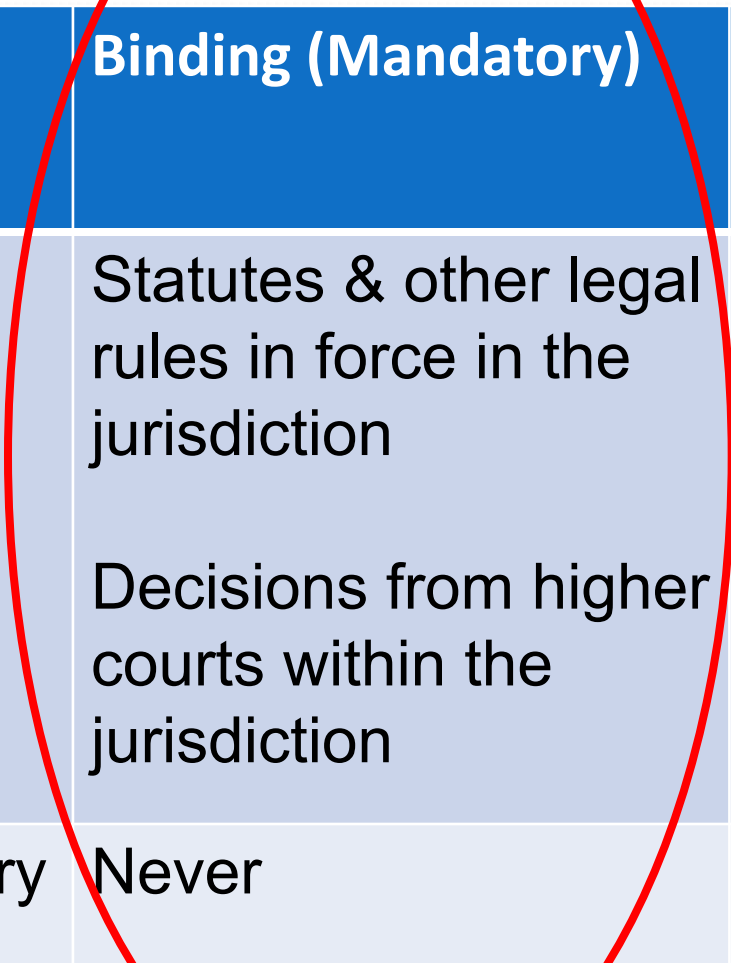
- Provide context—the big picture
- Get up to speed quickly in an unfamiliar area of law
- Help you locate relevant and authoritative primary authorities, including cases and statutes
- Bottom line:
 - Prevents reinventing the wheel
 - Huge time-saver
 - Helps ensure you don't miss most important issues and authorities

Primary authority

- Caselaw, statutes & codes, regulations, treaties, etc.
- Created by legislative bodies, courts, agencies
- It's the law!

Primary Authority

- Binding/mandatory vs. nonbinding/persuasive
 - Jurisdiction
 - Weight of authority (level of court)



Type of Authority	Binding (Mandatory)	Nonbinding (Persuasive)
Primary	Statutes & other legal rules in force in the jurisdiction Decisions from higher courts within the jurisdiction	Decisions from all courts in other jurisdictions Decisions from lower courts within the jurisdiction
Secondary	Never	Always

Finding secondary authority

- Use the library catalog to locate print or electronic title
(see video *Introduction to the Legal Research Center*)
- Log into Westlaw, Lexis+, or CEB Onlaw
 - Browse to a specific source or specific set of sources
 - Search and then use filters to narrow results to secondary sources
- See these videos for more specifics:
 - *Encyclopedias and ALR*
 - *Treatises and Practice Guides*
 - *Journals*

Finding primary authority

- Begin with the citations and research tools provided in the secondary authorities
- Additional ways for locating relevant statutes and cases
- View videos:
 - Statutes (print) & Statutes (online)
 - Cases (print) & Cases (online)
 - Key Numbers and Headnotes (online)
 - Citators (online)

Finding additional statutes

- Browse nearby code sections and view table of contents for related code sections
- Leverage online citators (Shepard's and KeyCite) to find cross-references to related code sections
- Use the statutory index to search for keywords
- Search online statutory codes for keywords

Using statutes to find cases

- Annotated version of statutes contains references to cases that have interpreted or applied that statutory section
 - This is a huge time-saver anytime you're looking for cases related to a particular statute!
- Leverage online citators (Shepard's and KeyCite) to find additional cases that have referenced your code sections

Finding additional cases

- Use Key Numbers and Headnotes to locate more cases on the same issue
- Leverage online citators (Shepard's and KeyCite) to locate cases that have referred a case you've found
- Perform keyword searches in case law databases

Updating

- Authority must be up to date and remain valid
- Online
 - secondary authority: check for publishing or “last updated” dates
 - statutes & cases: use citators (Shepard’s and KeyCite)
- In print
 - secondary authority & statutes: pocket parts and supplements
 - cases: must be updated online

Outline of search strategy

1. Review secondary authority
 - a. Get up to speed on the issue
 - b. Start collecting citations to primary authority
 - c. Update: check publication date or consult pocket part
2. Review primary authority
 - a. Locate relevant statutory sections & review annotations
 - b. Examine cases cited in secondary authorities and statutory annotations
 - c. Use Key Numbers & Headnotes to locate similar cases
 - d. Perform keyword searches as necessary
 - e. Use citators (Shepard's and KeyCite) for 2 purposes:
 - i. Locate cases that have cited to a case you've already found
 - ii. Make sure all your primary authority is still good law



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Execute your plan

- Effective note-taking
- Not just what you found, but how and where you found it
- Be sure to include:
 - Citation information
 - What led you to that information and where you located it
 - Summary of how it's relevant
 - Whether and how you've updated the document

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Assessing your results & revising your research plan

- If you've struggled:
 - Make sure you understand the problem; go back to your supervisor for clarification
 - Rethink your search terms and the scope of your research
 - Return to secondary sources if you were too quick to jump into primary sources
 - Change up your approach
 - Consult a librarian or other colleague if appropriate

LRC Reference Desk

- **lrcrefer@sandiego.edu**
- **619.260.4612**
- **Chat: <https://www.sandiego.edu/law/library/>**

- **Other videos in this series:**
<https://www.sandiego.edu/law/library/research-trainings/lwr-trainings.php>