

Veterans Clinic Legal Research Training

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Research Plan

1. Obtain background information about the issue
2. **Plan a search strategy**
3. **Execute your search effectively**
4. Assess the information you find to be sure it is accurate and complete; update to ensure it is current
5. Revise your research plan as necessary and repeat steps as needed

Why have a research plan?

- Efficient
- Thorough
- Accurate
- Confident

General search strategy

1. Review secondary authority
 - a. Get up to speed on the issue
 - b. Start collecting citations to primary authority
2. Review primary authority
 - a. Locate relevant statutory sections & regulations & review annotations
 - b. Examine cases cited in secondary authorities and statutory annotations
 - c. If using Lexis or Westlaw, expand your caselaw research by using headnotes
 - 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

Hypothetical

Your client has an Other than Honorable discharge from the Navy after having been caught using drugs. She wants to petition the Naval Discharge Review Board for a discharge upgrade. She says that her military career was otherwise exemplary, and that the drug use happened because she was suffering from PTSD after being sexually assaulted on deployment. A friend has told her not to bother petitioning for an upgrade, because there is a presumption that the government made the right decision in discharge cases. Her friend also told her there's a federal regulation about this presumption. The client asks you to find out if that's true.

Secondary authority

- Statements about the law that explain, interpret, locate, or update primary authority
- Written by practitioners or law professors
- Examples for Veterans Clinic
 - Veterans Benefits Manual (Lexis)
 - ABA Discharge Upgrade Manual (available in print at the Clinics and at the LRC)
 - Law review articles by veterans advocates
- It's fine to get background material from internet searches—but you *must* assess the reliability of your sources and use only credible and current sources
 - E.g., Veterans Affairs website. *Current* DoD instructions.



Why start in secondary sources?

- Provides context—the big picture
- Gets you up to speed quickly in an unfamiliar area of law
- Helps you locate relevant and authoritative primary authorities, including cases, statutes, and regulations

Hypothetical

Your client has an Other than Honorable discharge from the Navy after being caught using drugs. She wants to petition the Naval Discharge Review Board (NDRB) for a discharge upgrade. She says that her military career was otherwise exemplary, and that the drug use happened because she was suffering from PTSD after being sexually assaulted on deployment. A friend has told her not to bother petitioning for an upgrade, because there is a presumption that the government made the right decision in discharge cases. Her friend also told her there's a federal regulation about this presumption. She asks you to find out if that's true.

Finding primary authority

- Primary authority = caselaw, statutes & codes, regulations
- Begin with the citations provided in the secondary authorities

Finding additional statutes/regs

- Browse nearby code sections and view table of contents for related code sections
- Browsing also ensures you are in the right code section – sometimes different parts of the U.S. Code or C.F.R. look similar.
- Leverage online citators (Shepard's and KeyCite) to find cross-references to related code sections
- Use the index to search for keywords
- Search the U.S. Code and CFR (last option!)

Using statutes to find cases

- Notes of Decisions contain 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
- Use citators (Shepard's and KeyCite) to find additional cases that have referenced your code sections

Where to find Veterans cases

- Boards of Review Electronic Reading Rooms
(BCMR and DRB)
- Upgrade.vet
- Military and Veterans Law practice areas on Lexis
and Westlaw (Federal courts, BVA and CAVC cases)



Boards of Review Reading Rooms

This is the Department of Defense Electronic Reading Room for the Military Departments' Boards for the Corrections of Military/Naval Records (BCMR) and the Discharge Review Boards (DRB). The reading room contains the decisional documents for each of the Boards from October 1998 to the present for public research. The personal identifiable information (PII) and non-public information have been redacted (removed) from these documents. Decision documents are added by the end of each quarter of the year (31 March, 30 June, 30 September, and 31 December), adding decisions finalized in the preceding quarter. This website is not designed for applicants to obtain the decision on their application or obtain the status of their application. Decisions on applications to these boards are sent directly to the applicants as soon as the board issues the decision. If you wish to request a specific decisional document or have questions on the status of a current application, please contact the appropriate military department board directly using the links shown below.

Army:

BCMR/DRB - email: usarmy.pentagon.hqda-arba.mbx.webmaster@mail.mil

Navy/Marine Corps:

BCNR - https://www.secnav.navy.mil/mra/bcncr/Pages/Contact_Us.aspx

NDRB - <https://www.secnav.navy.mil/mra/CORB/Pages/NDRB/default.aspx>

Air Force:

BCMR - email: saf.mrbc.workflow@us.af.mil

PDBR - email: usaf.pentagon.saf-mr.mbx.PDBRPA@mail.mil

DRB - email: usaf.pentagon.saf-mr.mbx.drb-workflow@mail.mil

Coast Guard:

BCMR - email: cgbcmr@hq.dhs.gov

DRB - email: drb@uscg.mil

[Air Force Boards](#)

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[Navy Boards](#)

[Coast Guard](#)

[Boards Statistics](#)

[Congressional Reports](#)

<https://boards.law.af.mil/>

Applications:

DD Form 149 (Application for Correction of Military Record Under Provisions of Title 10, U.S. Code, Section 1552) -

<https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0149.pdf>

Updating

- Anything you cite must be up to date
- Secondary authority: check for publishing or “last updated” dates
- Statutes & cases: use citators (Shepard’s and KeyCite) to ensure they are still good law

Assessing your results & revising your research plan

- Repeated results using various methods can give you the confidence that you have found all relevant material
- If you have *not* found a satisfying answer:
 - 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 your approach
 - Consult a librarian

LRC Reference Desk

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