

How to Research a Legal Problem: A Guide for Non-Lawyers

This guide is intended to help a person with a legal problem find legal rules that can resolve or prevent conflict. It is most useful to work through the steps and sources in the order given.

For a Web version of this guide, see www.aallnet.org/sis/lisp.

GETTING STARTED

State the question clearly that you need to answer.

Determine the jurisdiction, meaning the particular subject and locality. You must first determine which court or government agency can resolve the conflict before beginning legal research.

Understand citations and abbreviations. Most law books are cited in the order of volume number, book and page. For example, 410 U.S. 113 would signify volume 410 of United States Reports, page 113. Statutes are cited by statute title and section number, such as 42 U.S.C. § 1983 for title 42 United States Code, section 1983. Most of the abbreviations you will encounter are explained in the text of this pamphlet.

WHERE TO GO

Public libraries will have at least some of the codes, texts and self-help materials mentioned here, as well as facilities for Internet access.

Most county, court or law school libraries are open to the public and contain all the resources discussed here. Internet access for the public will vary across libraries of this type.

Depository libraries of federal materials are located at most law libraries, larger public libraries and universities, and are required to be available to the public. Increasingly, the federal government has made many of its depository and other publications available on the Web through its GPO Access program at www.access.gpo.gov. These and other law libraries will have various guides to help locate government information on the Web.

The Internet is not a comprehensive source for legal material. Some good starting points for legal information on the Web: The Legal Information Institute, www.law.cornell.edu; FindLaw, www.findlaw.com; LexisOne, www.lexisone.com; Washburn University School of Law, www.washlaw.edu; The American Bar

Association, www.abalawinfo.com; and HierosGamos, www.hg.org.

WHAT TO LOOK AT

Self-help books or kits containing instructions and forms are available in many bookstores and public libraries and even from some court clerks and legal aid offices to help non-lawyers with routine matters. The books or kits may cover divorce, bankruptcy, traffic tickets, wills, contracts and leases, landlord-tenant agreements, small business matters, and many other legal subjects. Usually written by lawyers, such books may save the patron hours of research. Some self-help information is available on Web sites such as Nolo Press at www.nolo.com.

Practice aids and form books are intended for lawyers but can be useful for anyone. Some examples of practice aids are Shepard's Causes of Action, American Jurisprudence Trials, and American Jurisprudence Proof of Facts, which give guidance in what evidence a court must be given and how to proceed. Form books aid in drafting legal documents or documents that need to be filed in court. State form books are available for most states. General form books include American Jurisprudence Legal Forms, American Jurisprudence Pleading and Practice Forms, West's Legal Forms, and West's Federal Forms. While some forms are available free on the Web, such as those compiled by Kansas University's Law Library at www.law.ku.edu/research/prac_forms.html, many sites will ultimately charge a fee. It is recommended that you try your local court and nearest law library first.

Legal encyclopedias are a good starting point to get an overview of a topic. There are two general legal encyclopedias: Corpus Juris Secundum (C.J.S.) and American Jurisprudence 2d (Am. Jur. 2d). Many states also have encyclopedias of state laws. Begin with the index and look for different synonyms of your term. The text will contain many footnotes leading to further sources.

Texts and treatises can also yield useful general information. They contain the law on a specific subject, sometimes a specific jurisdiction, and often include forms. The briefest are those in West Publishing Co.'s Nutshell Series. West's Hornbooks or comparable publications provide more depth. Multivolume encyclopedic treatises present comprehensive information for many subjects. **Articles** printed in journals or law reviews published commercially or by law schools or bar associations may also be useful. Look for your subject in printed or computer indexes such as Index to Legal

Periodicals or Legal Resource Index (Legal Trac). Some articles may be found online for free at sites such as Jurist's Law Review page at www.jurist.law.pitt.edu/lawrev.htm and the University Law Review Project at www.lawreview.org. The dates of full-text coverage and level of searchability will vary.

Codes contain legal rules known as statutes, regulations or ordinances, which are mandatory, meaning that courts must follow them. Codes are accessed through an index that refers you to a numbered section. They are updated by supplements or pocket parts or are in loose-leaf form.

Most public libraries and all law libraries will contain a copy of the local state code, which holds the laws made by a state's legislature. They may also have city or county ordinance codes and codes of state administrative agency regulations. Most state and some local law can be found on the Web using directories such as the one at Piper Resources' State and Local Government on the Net at www.statelocalgov.net/index.cfm, or by using the URL address www.state.xx.us, where "xx" is the postal abbreviation for your state.

One of the following federal code versions will be used if the jurisdiction is federal: United States Code (U.S.C.), United States Code Annotated (U.S.C.A.), or United States Code Service (U.S.C.S.). The U.S.C. is available on the Web at uscode.house.gov/, although other sites containing the U.S.C., e.g. www.law.cornell.edu/uscode/, may provide easier ways to locate a particular statute. For pending and new federal laws, you'll probably need to check Thomas, the government Web site for legislative information, at thomas.loc.gov. Regulations of federal agencies are contained in the Code of Federal Regulations (C.F.R.) at www.access.gpo.gov/nara/cfr/index.html.

Court rules state the procedures by which a dispute must make its way to court and how the resolution of the dispute is to be conducted. Court rules address such topics as time limitations and formal requirements for pleadings and other court documents or processes. Although procedural law can also be found in statutory and administrative codes, court rules are generally more detailed and can vary from court to court. You may wish to ask a law librarian for help locating court rules.

Reports or reporters contain opinions (sometimes called decisions or cases) written by courts to explain how and why certain legal rules were used to resolve the dispute in a particular lawsuit. These rules constitute the "common law" and are followed

by courts deciding later cases with similar facts and issues so that consistency may be maintained. Decisions of a higher court will be mandatory—that is, those decisions must be followed if coming from a higher court in the same jurisdiction or from the U.S. Supreme Court. If a decision is not mandatory, a court may still find it persuasive and follow it.

With few exceptions, these cases are from courts of appeals rather than trial courts. (The most common exception is decisions from federal district courts reported in the Federal Supplement, abbreviated F. Supp.) Opinions are not written for every case. Further, not every decision is selected by the court for publication. These "unpublished" decisions, such as those found in the Federal Appendix (F. Appx.), can help one to understand the law. However, it is important to consult a court's rules on citation of unpublished opinions before using them to support an argument in a legal proceeding.

Cases decided in the U.S. Supreme Court are reported in the United States Reports (U.S.) and reprinted in the Supreme Court Reporter (S.Ct.) and United States Reports, Lawyers' Edition, first and second series (L.Ed. and L.Ed.2d). Newer U.S. Supreme Court cases are available on the Web at www.supremecourtus.gov (see "Opinions" link). Cases from the intermediate U.S. Courts of Appeals, also called U.S. Circuit Courts, are printed in the Federal Reporter, first, second or third series (F., F.2d and F.3d). The Federal Supplement, first and second series (F.Supp., F. Supp.2d), contain cases from the U.S. District Courts. Newer Circuit Court and District Court cases can be found at vls.law.vill.edu/Locator/fedcourt.html or www.law.cornell.edu/federal/opinions.html, though availability of cases will vary from court to court.

State appellate court opinions are printed in state reports in many states. They are also reprinted in West's regional reporters, which each contain several states, including the Atlantic (A. and A.2d), North Eastern (N.E. and N.E.2d), North Western (N.W. and N.W.2d), Pacific (P., P.2d, and P.3d), South Eastern (S.E. and S.E.2d), South Western (S.W. and S.W.2d), and Southern (So. and So.2d) Reporters. Because California, Illinois, and New York generate a large amount of case law, these states have their own reporters: the California Reporter (Cal. Rptr. and Cal. Rptr.2d), Illinois Decisions (Ill. Dec.), and the New York Supplement (N.Y.S. and N.Y.S.2d). Many states no longer print their own state reports, so their newer decisions are found only in the regional reporters. If a decision is printed in more than one publication, you may find

more than one citation to it. These are called parallel citations. For availability of state court opinions on the Web, go to the individual state government's Web site or one of the general sites listed at the beginning of this guide, such as www.washlaw.edu.

Finding opinions in reports may be done in various ways. Reports are not arranged by subject, and the sets are not indexed. Often you can find a reference from text or footnotes of texts, encyclopedias, or other cases. Annotated codes will list cases that have cited a statute following the text of the statute.

Lawyers and law schools can find cases using subscription computer databases, but these subscription databases are expensive and may not be available to the public.

Using a credit card, you may search Westlaw at www.westlaw.com or LexisNexis™ at www.lexis.com for about \$10 per document or the more limited Quicklaw America at www.quicklawamerica.com for less. Free trials and low-cost subscriptions are available from VersusLaw at www.versuslaw.com and Loislaw at www.loislaw.com.

Some of the Web sites mentioned in "The Internet," on page 4, will lead you to free sites that allow limited keyword searching, but this will vary from court to court and is rare.

Digests are the traditional means of finding cases. West Publishing Co. publishes digests for federal jurisdictions, most states and several of the regions that correspond to the regional reporters. For example, there is a Federal Practice Digest (Fed. Prac. Dig.), a California Digest (Cal. Dig.) and a Pacific Digest (Pac. Dig.). The Decennial Digest (Dec. Dig.) covers all jurisdictions in 10-year increments. The most commonly used digest system is West's American Digest System, which divides the law into about 400 topics. Each topic is subdivided into principles or points of law, which are each assigned a "key" number. Pigeonholed under each key number are brief paragraphs abstracted from cases, which summarize the points of each case, and citations to where each case can be found. It is possible to go directly to the topic in the digest and scan through the key numbers, but it is usually less confusing to start in the Descriptive Word Index to the digest. This index uses common words to lead to the right topic and key number. The digest also contains a Case Table, which can be used to look up a citation if only the name of a case is known.

American Law Reports (A.L.R.) can be a very helpful resource. A.L.R. contains "annotations," which review a legal topic in depth and analyze court cases from all jurisdictions on the subject. It can be used like a text or as a finding aid for cases in all jurisdictions on a topic.

Reports and digests for certain courts or topics are also beneficial. These cover legal areas such as bankruptcy, military justice, education, labor, and tax. Administrative agencies, which often act as tribunals in their areas of jurisdiction, also publish reports of their opinions, often with digests.

Loose-leaf services are useful hybrids that pull together text, statutes, regulations, and opinions of courts and administrative agencies on specific important topics that need constant updating. Examples include Standard Federal Tax Reporter, United States Tax Reporter, Employment Practices Guide, Bankruptcy Law Reports, Consumer Credit Guide, Family Law Reporter, Criminal Law Reporter and many others.

BEFORE YOU STOP

Check supplements. These sometimes appear as "pocket parts" inserted into the back covers of volumes to provide updates and new material.

Check Citators. Shepard's is the most common. These must be used to ascertain whether the validity of a case or statute has been affected in some way, such as being reversed, overruled or ruled unconstitutional (for statutes). They are also used to determine if one case has been cited by another. Instructions for use, illustrations, and abbreviation tables are contained in the preface to each volume. For the most current citator information, you must use an online citator, such as Shepard's on LexisNexis™ at www.lexisnexis.com/shepards or Westlaw's KeyCite at www.keycite.com. Each costs about \$4 per cite. Check with your nearest law library or with the citator company for availability of online citators.

WHEN TO STOP

You'll keep reading the same legal rule. You may notice that once you have thoroughly covered all the sources listed above, the same legal rule, whether set out in statute, regulation or court opinion, will appear in several places. You can usually take this as confirmation that your research has been complete enough to give a reliable answer to your legal question.

MORE INFORMATION

An attorney may still be required to help find and understand legal information. Word of mouth, the Yellow Pages, or state and local bar associations can help you find one. Attorney directories are available online at www.martindale.com and www.directory.findlaw.com.

A law librarian can help. Check with local courts, bar associations or law schools. Call your local public library for a listing of area law libraries.

Manuals that give more detail on how to research. Several are available, including:

How to Find the Law (1989)

Legal Research: How to Find & Understand the Law (2001)

Legal Research in a Nutshell (2000)

Practical Approaches to Legal Research (1988)

This guide was prepared by Lee Warthen and Angus Nesbit for Legal Information Services to the Public (LISP), a Special Interest Section of the American Association of Law Libraries (AALL).

LISP provides support for programs and workshops on legal research for the non-law librarian, consults with public libraries on collection development and maintenance of their legal collections, and surveys and publishes information about collections of legal materials available in public libraries that might assist the public in locating the information it seeks. In addition, LISP encourages and supports AALL chapters in providing pro bono assistance in a variety of contexts. For more information on LISP and its activities, see www.aallnet.org/sis/lisp.

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