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ASPEN COURSEBOOK SERIES

# Basic Legal Research

**TOOLS AND STRATEGIES**

SEVENTH EDITION

**Amy E. Sloan**

*Professor of Law  
University of Baltimore School of Law*

 Wolters Kluwer

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*For Bebe*





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# Preface

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The seventh edition of *Basic Legal Research: Tools and Strategies* is fully updated and contains the following new material:

- **Updated sample pages and screen shots**—The annotated examples, screen shots, and sample pages have all been updated.
- **Updated coverage of online sources**—The text covers the latest releases of Lexis Advance, Westlaw, and Bloomberg Law, including Bloomberg Law’s natural language searching, BCite citator, and Points of Law function. It also discusses other services such as Fastcase, Casetext, and govinfo.gov (the successor to the Federal Digital System as the official digital repository of federal documents).
- **Updated coverage of citation**—The text has been updated to cover both the ALWD Guide to Legal Citation (6th ed.) and the Bluebook (20th ed.).
- **Coverage that reflects both teaching needs and actual practice**—Several chapters have been reorganized to better align the text’s coverage with the holdings in most law libraries. Many libraries have significantly reduced their print collections, making online sources the predominant focus of instruction. Chapter 4 (Secondary Source Research), Chapter 5 (Case Research), and Chapter 7 (Statutory Research) have been revised so that professors can skip print materials in classes that emphasize online research. For those who teach print research, the text retains thorough print coverage to give students a strong foundation in print research, as well as the information about print material necessary to understand legal citations.

The philosophy and the format of the seventh edition remain the same as those of earlier editions. The genesis of this book was a conversation I had with Todd Petit, a student in my Lawyering Skills class at Catholic University, in the fall of 1994. Todd was working on a research project, and he came to me in frustration and bewilderment over the research process. Over the course of the year, Todd ultimately mastered the skill of legal research. Nevertheless, our conversation that fall caused

me to start thinking about how I could teach research more effectively, a process that ultimately culminated in this book.

I do not believe Todd's experience was unique. Mastering a skill is a form of experiential learning—learning that can be done only by doing. And the “doing” aspect necessarily involves periods of trial and error until a person grasps the skill. It is not surprising that this can be frustrating and even bewildering at times.

Having said that, however, even experiential learning has to be built on a base of information. My goal with this book is to provide two kinds of information necessary for students to learn the process of legal research: basic information about a range of research sources and a framework for approaching research projects.

This text provides instruction for using a variety of legal research sources, including secondary sources, cases and digests, citators, statutes, federal legislative history, and federal administrative regulations. Each of these sources is described in a separate chapter that includes the following components:

- introductory information about the source
- step-by-step instructions for print research
- an explanation of online research tools available for the source
- an explanation of citation rules for the source
- an annotated set of sample pages and screen shots illustrating the research process for the source
- a checklist summarizing both the research process and the key features of the source.

The range of material in each of these chapters is intended to accommodate a variety of teaching and learning styles. These chapters contain textual explanations, charts, and checklists that can be used for in-class discussions and for out-of-class reference as students are conducting research. In addition, the sample pages and screen shots illustrating the research process provide both instructional material and a useful summary synthesizing the information on the source from the rest of the chapter.

This text does more, however, than simply explain the bibliographic features of various research sources. It also provides instruction in research as a process, and it does this in two ways. First, Chapters 1–3 provide an overview of research sources and the research process. These chapters provide a framework for understanding the relationships among different types of legal authority, a method for generating and prioritizing search terms, and an overview of different approaches to searching. Through this material, these chapters set the stage for a process-oriented introduction to research instruction. Second, Chapter 11 provides a framework for creating a research plan. By setting out a process based on a series of questions students can ask to define the contours of any type



of research project, it provides a flexible approach that can be adapted to a variety of assignments. Although Chapter 11 is the last chapter in the text, it can be used whenever students are required to develop a strategy for approaching a research project.

Most legal research is now accomplished online. The coverage of online research within each chapter devoted to an individual research source covers online search techniques specifically suited to that source. General techniques for conducting online research, however, appear in a separate chapter, Chapter 10. This chapter can be used in conjunction with other chapters at any point in the research course.

Moreover, the text provides instruction in a wide range of online research sources. It discusses research using commercial services such as Westlaw, Lexis Advance, and Bloomberg Law. But it also covers a range of other online research options, including subscription services and publicly available websites. As part of this instruction, the text discusses cost considerations so that students can learn to make informed decisions about when to use online sources and how to select the best online source for any research project.

This text seeks to provide students with not only the bibliographic skills to locate the legal authorities necessary to resolve a research issue, but also an understanding of research process that is an integral component of students' training in problem-solving skills. I hope this text will prove to be a useful guide to students as they undertake this intellectual challenge.

Amy E. Sloan  
February 2018



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# Basic Legal Research



# Introduction to Legal Research

- A. Introduction to the legal system
- B. Introduction to the process of legal research
- C. Introduction to research planning
- D. Introduction to legal citation
- E. Overview of this text

**W**hat is legal research and why do you need to learn about it? Researching the law means finding the rules that govern conduct in our society. To be a successful lawyer, you need to know how to research the law. Lawyers are often called upon to solve problems and give advice, and to do that accurately, you must know the rules applicable to the different situations you and your clients will face. Clients may come to you after an event has occurred and ask you to pursue a remedy for a bad outcome, or perhaps defend them against charges that they have acted wrongfully. You may be asked to help a client accomplish a goal like starting a business or buying a piece of property. In these situations and many others, you will need to know your clients' rights and responsibilities, as defined by legal rules. Consequently, being proficient in legal research is essential to your success in legal practice.

As a starting point for learning about how to research the law, it is important to understand some of the different sources of legal rules. This chapter discusses what these sources are and where they originate within our legal system. It also provides an introduction to the process of legal research, an overview of some of the research tools you will learn to use, and an introduction to legal citation. Later chapters explain how to locate legal rules using a variety of resources.

## A. INTRODUCTION TO THE LEGAL SYSTEM

### 1. SOURCES OF LAW

There are four main sources of law, which exist at both state and federal levels:

- constitutions;
- statutes;
- court opinions (also called cases);
- administrative regulations.

A constitution establishes a system of government and defines the boundaries of authority granted to the government. The United States Constitution is the preeminent source of law in our legal system, and all other rules, whether promulgated by a state or the federal government, must comply with its requirements. Each state also has its own constitution. A state's constitution may grant greater rights than those secured by the federal constitution, but because a state constitution is subordinate to the federal constitution, it cannot provide lesser rights than the federal constitution does. All of a state's legal rules must comport with both the state and federal constitutions.

Since grade school, you have been taught that the U.S. Constitution created three branches of government: the legislative branch, which makes the laws; the judicial branch, which interprets the laws; and the executive branch, which enforces the laws. State governments are also divided into these three branches. Although this is elementary civics, this structure truly does define the way government authority is divided in our system of government.

The legislative branch of government creates statutes, which must be approved by the executive branch (the president, for federal statutes; the governor, for state statutes) to go into effect. The executive branch also makes rules. Administrative agencies, such as the federal Food and Drug Administration or a state's department of motor vehicles, are part of the executive branch. They execute the laws passed by the legislature and create their own regulations to carry out the mandates established by statute.

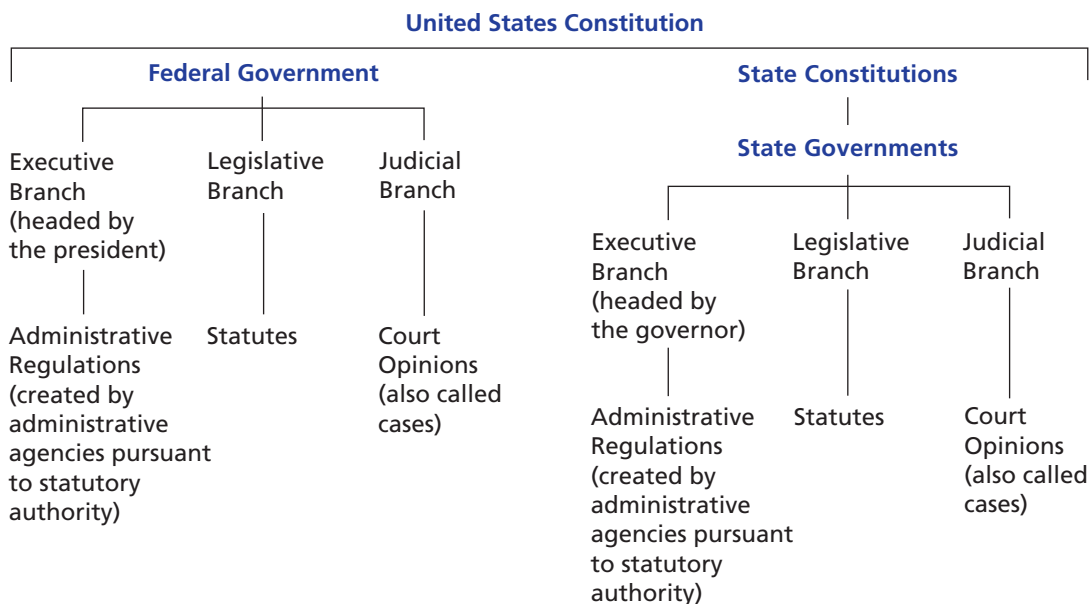
The judicial branch is the source of court opinions. Courts interpret rules created by the legislative and executive branches of government. If a court determines that a rule does not meet constitutional requirements, it can invalidate the rule. Otherwise, however, the court must apply the rule to the case before it. Court opinions can also be an independent source of legal rules. Legal rules made by courts are called "common-law" rules. Although courts are empowered to make these rules, legislatures can adopt legislation that changes or abolishes a common-law rule, as long as the legislation is constitutional.

Figure 1.1 shows the relationships among the branches of government and the types of legal rules they create.

An example may be useful to illustrate the relationships among the rules created by the three branches of the federal government. As you know, the U.S. Constitution, through the First Amendment, guarantees the right to free expression. Congress could pass legislation requiring television stations to provide educational programming for children. The Federal Communications Commission (FCC) is the administrative agency within the executive branch that would have responsibility for carrying out Congress's will. If the statute were not specific about what constitutes educational programming or how much educational programming must be provided, the FCC would have to create administrative regulations to execute the law. The regulations would provide the information not detailed in the statute, such as the definition of educational programming. A television station could challenge the statute and regulations by arguing to a court that prescribing the content of material the station must broadcast violates the First Amendment. The court would then have to interpret the statute and regulations to decide whether they comport with the Constitution.

Another example illustrates the relationship between courts and legislatures in the area of common-law rules. The rules of negligence have largely been created by the courts. Therefore, liability for negligence is usually determined by common-law rules. A state's highest court could decide that a plaintiff who sues a defendant for negligence cannot recover any damages if the plaintiff herself was negligent and contributed to her

**FIGURE 1.1 BRANCHES OF GOVERNMENT AND LEGAL RULES**



own injuries. This decision would create a common-law rule governing future cases of negligence within that state. The state legislature could step in and pass a statute that changes the rule. For example, the legislature could enact a statute providing that juries are to determine the percentage of negligence attributable to each party and to apportion damages accordingly, instead of completely denying recovery to the plaintiff. Courts in that state would then be obligated to apply the rule from the statute, not the former common-law rule.

Although these examples are simplified, they demonstrate the basic roles of each of the branches of government in enunciating the legal rules governing the conduct of society. They also demonstrate that researching a legal issue may require you to research several different types of legal authority. The answer to a research question may not be found exclusively in statutes or court opinions or administrative regulations. Often, these sources must be researched together to determine all the rules applicable to a research issue.

## 2. TYPES AND WEIGHT OF AUTHORITY

### a. Types of authority

One term used to describe the rules that govern conduct in society is “authority.” “Authority,” however, is a broad term that can describe both legal rules that must be followed and other types of information that are not legal rules. To understand the weight, or authoritative value, an authority carries, you must learn to differentiate “primary” authority from “secondary” authority and “binding” authority from “nonbinding” authority.

Primary authority is a term used to describe a source of a rule of law. All of the sources of rules discussed so far in this chapter are primary authorities. Constitutional provisions, statutes, cases, and administrative regulations contain legal rules, and as a consequence, are primary authorities. Because “the law” consists of legal rules, primary authority is sometimes described as “the law.”

Secondary authority, by contrast, refers to commentary on the law or analysis of the law, but not “the law” itself. An opinion from the U.S. Supreme Court is a primary authority, but an article written by a private party explaining and analyzing the opinion is a secondary authority. Secondary authorities are often quite useful in legal research because their analysis can help you understand complex legal issues and refer you to primary authorities. Nevertheless, a secondary authority is not “the law” and therefore is distinguished from a primary authority.

Binding and nonbinding authority are terms courts use to categorize the different sources of law they use in making their decisions. Binding authority, which can also be called mandatory authority, refers to an authority that the court is obligated to follow. A binding authority

contains one or more rules that you must apply to determine the correct answer to your research question. Nonbinding authority, which can also be called persuasive authority, refers to an authority that the court may follow if it is persuaded to do so, but is not required to follow. A nonbinding authority, therefore, will not dictate the answer to your research question, although it may help you figure out the answer. Whether an authority is binding or nonbinding depends on several factors, as discussed in the next section.

### b. Weight of authority

The degree to which an authority controls the answer to a legal question is called the weight of the authority. Not all authorities have the same weight. The weight of an authority depends on its status as primary or secondary, as well as its status as binding or nonbinding.

An authority's status as a primary or secondary authority is fixed. An authority is either part of "the law," or it is not. Anything that does not fit into one of the categories of primary authority is secondary authority. Distinguishing primary authority from secondary authority is the first step in determining how much weight a particular authority has in the resolution of your research question. Then you can determine whether the authority is binding or nonbinding.

#### (1) *Secondary authority: always nonbinding*

Once you identify an authority as secondary, you can be certain that it will not control the outcome of the question you are researching because all secondary authorities are nonbinding. Nevertheless, some are more persuasive than others. Some are so respected that a court, while not technically bound by them, would need a good reason to depart from or reject their statements of legal rules. Others do not enjoy the same degree of respect, leaving a court free to ignore or reject such authorities if it is not persuaded to follow them. Further discussion of the persuasive value of various secondary authorities appears in Chapter 4. The important thing to remember for now is that secondary authorities are always categorized as persuasive or nonbinding.

#### (2) *Primary authority: sometimes binding, sometimes nonbinding*

Sometimes a primary authority is a binding, or mandatory, authority, and sometimes it is not. You must be able to evaluate the authority to determine whether it is binding on the question you are researching.

One factor affecting whether a primary authority is binding is jurisdiction. A rule contained in a primary authority applies only to conduct occurring within the jurisdiction in which the authority is in force. For example, all laws in the United States must comport with the federal Constitution because it is a primary authority that is binding, or mandatory, in all United States jurisdictions. The New Jersey constitution is

also a primary authority because it contains legal rules establishing the scope of state government authority, but it is binding authority only in New Jersey. The New Jersey constitution's rules do not apply in Illinois or Michigan.

Determining the weight of a case is a little more complex. All cases are primary authorities. Whether a particular case is binding or non-binding is a function not only of jurisdiction, but also level of court. To understand how these factors work together, it is easiest to consider level of court first and jurisdiction second.

(i) *Determining the weight of a case: level of court*

The judicial branches of government in all states and in the federal system have multiple levels of courts. Trial courts are at the bottom of the judicial hierarchy. In the federal system, the United States District Courts are trial-level courts, and each state has at least one federal district court. Intermediate appellate courts hear appeals of trial court cases. Most, but not all, states have intermediate appellate courts. In the federal system, the intermediate appellate courts are called United States Courts of Appeals, and they are divided into 13 separate circuits: 11 numbered circuits (First through Eleventh), the District of Columbia Circuit, and the Federal Circuit. The highest court or court of last resort is often called the supreme court. It hears appeals of cases from the intermediate appellate courts or directly from trial courts in states that do not have intermediate appellate courts. In the federal system, of course, the court of last resort is the U.S. Supreme Court.

Trial court opinions, including those from federal district courts, bind the parties to the cases but do not bind other trial courts considering similar cases, nor do they bind courts above them in the court structure. They are usually nonbinding, or persuasive, authority.

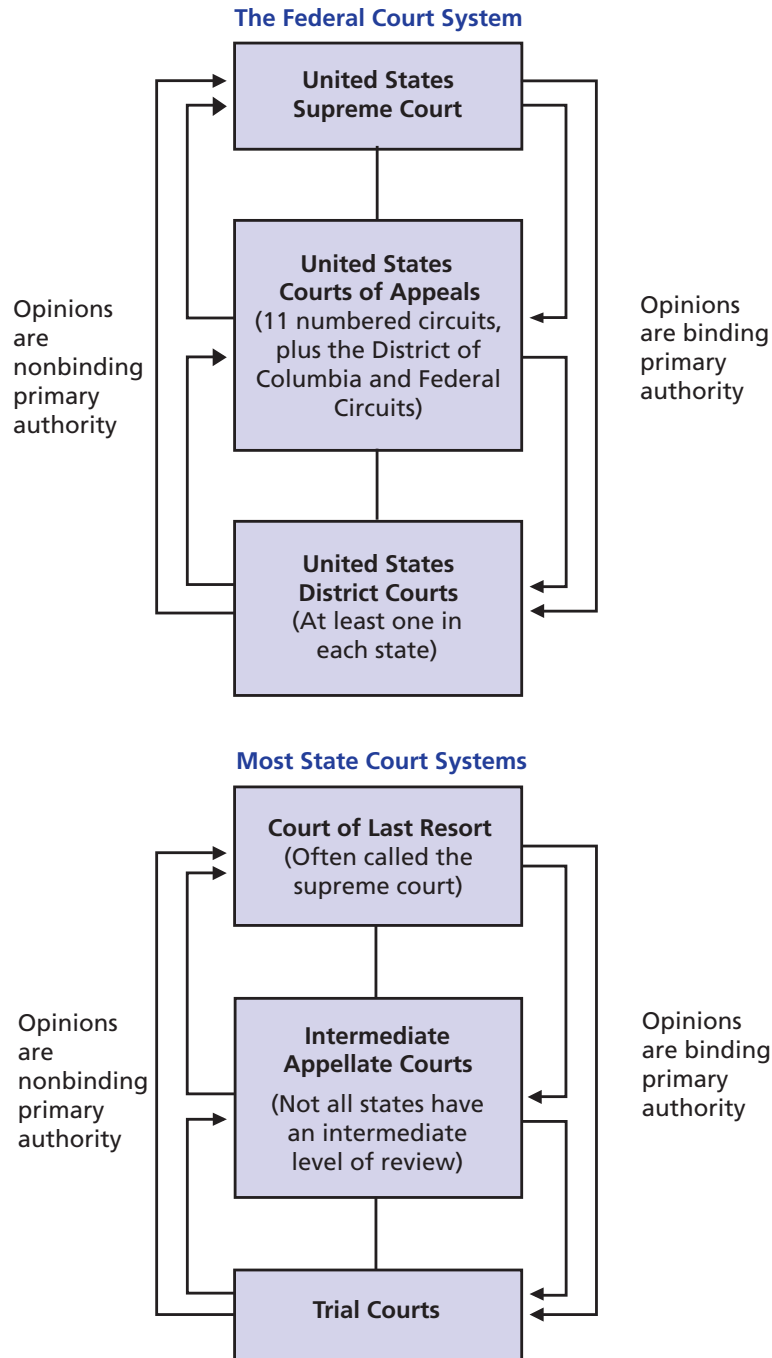
The opinions of intermediate appellate courts bind the courts below them. In other words, intermediate appellate cases are binding authorities for the trial courts subordinate to them in the court structure. The weight of intermediate appellate cases on the intermediate appellate courts themselves varies. In jurisdictions with multiple appellate divisions, the opinions of one division may or may not be binding on other divisions. In addition, in some circumstances, intermediate appellate courts can overrule their own prior opinions. Intermediate appellate cases are nonbinding authorities for the court of last resort.

The court of last resort may, but is not required to, follow the opinions of the courts below it. Its opinions, however, are binding authorities for both intermediate appellate courts and trial courts subordinate to the court of last resort in the court structure. The court of last resort is not bound by its own prior opinions but will be reluctant to change an earlier ruling without a compelling justification.

Figure 1.2 illustrates the structures of federal and state court systems and shows how the level of court affects the weight of cases.



**FIGURE 1.2** STRUCTURE OF THE FEDERAL COURT SYSTEM AND MOST STATE COURT SYSTEMS

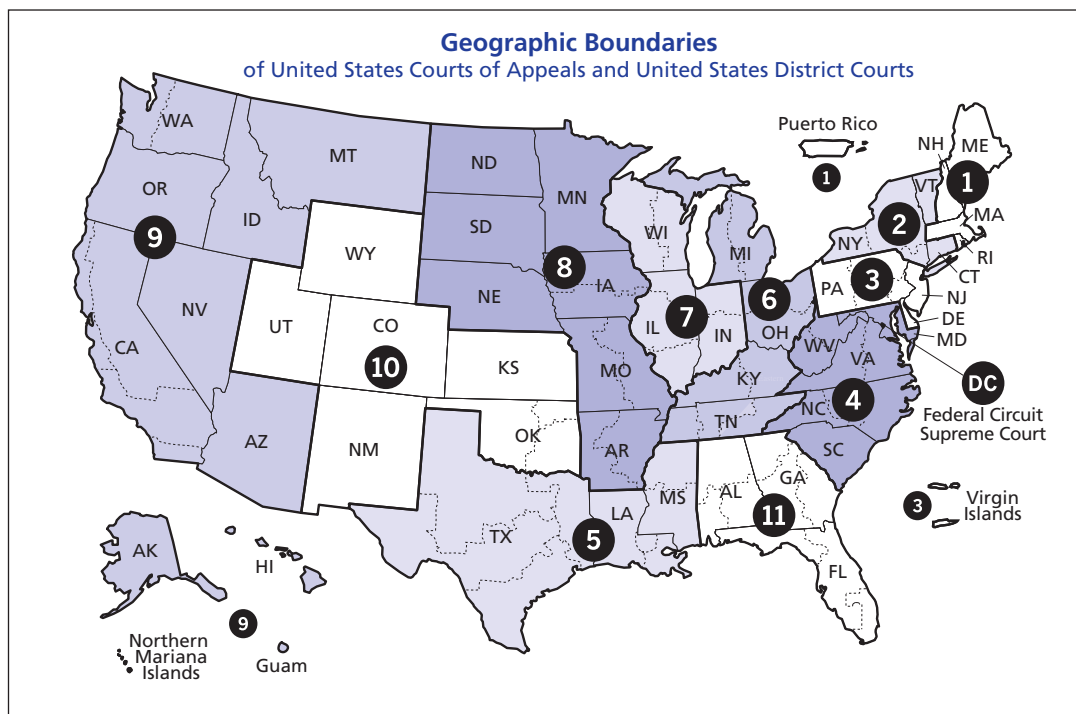


(ii) *Determining the weight of court opinions: jurisdiction*

The second factor affecting the weight of court opinions is jurisdiction. As with other forms of primary authority, rules stated in court opinions are binding authority only within the court's jurisdiction. An opinion from the Texas Supreme Court is binding only on a court applying Texas law. A California court deciding a question of California law would consider the Texas opinion nonbinding authority. If the California court had to decide a new issue not previously addressed by binding California authority (a "question of first impression"), it might choose to follow the Texas Supreme Court's opinion if it found the opinion persuasive.

On questions of federal law, opinions of the U.S. Supreme Court are binding authority for all other courts because it has nationwide jurisdiction. An opinion from a circuit court of appeals is binding only within the circuit that issued the opinion and is nonbinding everywhere else. Thus, a decision of the U.S. Court of Appeals for the Eleventh Circuit would be binding within the Eleventh Circuit, but not within the Seventh Circuit. **Figure 1.3** shows the geographic boundaries of the federal circuit courts of appeals.

**FIGURE 1.3** GEOGRAPHICAL BOUNDARIES OF THE FEDERAL COURTS OF APPEALS



In considering the weight of a court opinion, it is important to remember that the federal government and each state constitute different jurisdictions. On questions of state law, each state's courts get the last word, and on questions of federal law, the federal courts get the last word. For an issue governed by state law, the opinions of the courts within the relevant state are mandatory authority. For an issue governed by federal law, the opinions of the relevant federal courts are binding authority.

Ordinarily, understanding how jurisdiction affects the weight of authority is fairly intuitive. When a Massachusetts trial court resolves a case arising out of conduct that took place in Massachusetts, it will treat the opinions of the Massachusetts Supreme Judicial Court as binding authority. Sometimes, however, a court has to resolve a case governed by the law of another jurisdiction. State courts sometimes decide cases governed by the law of another state or by federal law. Federal courts sometimes decide cases governed by state law. When that happens, the court deciding the case will treat the law of the controlling jurisdiction as binding authority.

For example, assume that the U.S. District Court for the Western District of Texas, a federal trial court, has to decide a case concerning breach of a contract to build a house in El Paso, Texas. Contract law is, for the most part, established by the states. To resolve this case, the federal court will apply the contract law of the state where the dispute arose, in this case, Texas. The Texas Supreme Court's opinions on contract law are binding authority for resolving the case. Now assume that the same court has to decide a case concerning immigration law. Immigration law is established by the federal government. To resolve the case, the court will apply federal law. The opinions of the U.S. Supreme Court and the U.S. Court of Appeals for the Fifth Circuit are binding authority for resolving the case.

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This discussion provides an overview of some common principles governing the weight of authority. These principles are subject to exceptions and nuances not addressed here. Entire fields of study are devoted to resolving questions of jurisdiction, procedure, and conflicts regarding which legal rules apply to various types of disputes. As you begin learning about research, however, these general principles will be sufficient to help you determine the weight of the authority you locate to resolve a research issue.

**Figure 1.4** illustrates the relationships among the different types of authority.

FIGURE 1.4 TYPES OF AUTHORITY

TYPE OF AUTHORITY	BINDING (MANDATORY)	NONBINDING (PERSUASIVE)
<b>PRIMARY</b> (legal rules)	Constitutional provisions, statutes, and regulations in force within a jurisdiction are binding authority for courts within the same jurisdiction.  Decisions from higher courts within a jurisdiction are binding authority for lower courts within the same jurisdiction.	Decisions from courts within one jurisdiction are nonbinding authority for courts in other jurisdictions.  Decisions from lower courts within a jurisdiction are nonbinding authority for higher courts within the same jurisdiction.
<b>SECONDARY</b> (anything that is not primary authority; usually commentary on the law)	Secondary authority is <i>not</i> binding authority.	Secondary authority is nonbinding authority.

## B. INTRODUCTION TO THE PROCESS OF LEGAL RESEARCH

Imagine that you are standing in the parking lot at Disney World. You have a key in your hand, but you have no idea which car it starts. The key is not much use to you unless you have some way of figuring out which car it starts. The more information you can gather about the car, the easier the car will be to find. Knowing the make, model, or color would narrow the options. Knowing the license plate number would allow you to identify the individual vehicle.

Understanding the mechanics of using various legal research tools is like having that key in your hand. You have to know the features of the research tools available to you to conduct research, just as you must have the key to start the car. But that is not enough to make you an effective researcher. Effective legal research combines mastery of the mechanics of research with legal problem-solving skills. The research process is part of the reasoning process. It is not a rote task you complete before you begin to evaluate an issue. Rather, it is an analytical task in which you narrow the field of all legal information available to the subset of information necessary to assess an issue. As you locate and evaluate information, you

will learn about the issue you are researching, and that knowledge will help you determine both whether you have located useful information and what else you should be looking for to complete your understanding of the issue.

To understand the process of research, you must first understand how legal information is organized. Most, if not all, of the authorities you will learn to research are available from a variety of sources. They may be published in print, online, or in both formats. Online research services that provide access to legal publications include commercial databases that charge a fee for access and websites freely available to anyone. Of course, you can obtain legal information from a general search engine like Google or a general source of information like Wikipedia, but lawyers often conduct legal research with more specialized tools.

Most legal information is organized by type of authority and jurisdiction. In print, this means individual types of authority from individual jurisdictions are published in separate sets of books. Court opinions from Maryland will be in one set of books (called “reporters”), and those from Massachusetts will be in another set of reporters. The same holds true for print collections of statutes and other types of legal authority.

Online research tools are organized similarly. Some are like print sets of books in that they provide access to one type of authority from one jurisdiction. The website for the Arizona Supreme Court, for example, contains only Arizona Supreme Court opinions. Others provide access to multiple types of authority from many different jurisdictions. Although these services aggregate a wide range of legal authority, they generally subdivide their contents much like print sources into individual databases organized by jurisdiction and type of authority. There are many commercial and government sources that provide online access to legal authority.

Westlaw and Lexis Advance are the best known online legal research services. Bloomberg Law is another online provider. All three are commercial databases that allow you to access all of the types of legal authority discussed in this chapter. They charge subscribers for use of their services, although your law school undoubtedly subsidizes the cost of student research while you are in school. Other commercial and free research services you may encounter in law school include Fastcase, Casemaker, Findlaw, and Cornell Law School’s Legal Information Institute, among others. They provide access to many of the same types of authorities you can find in Lexis Advance and Westlaw. You will also learn about federal, state, and local government websites you can use for legal research.

The organization of legal information by jurisdiction and type of authority affects the way individual legal authorities are identified. All

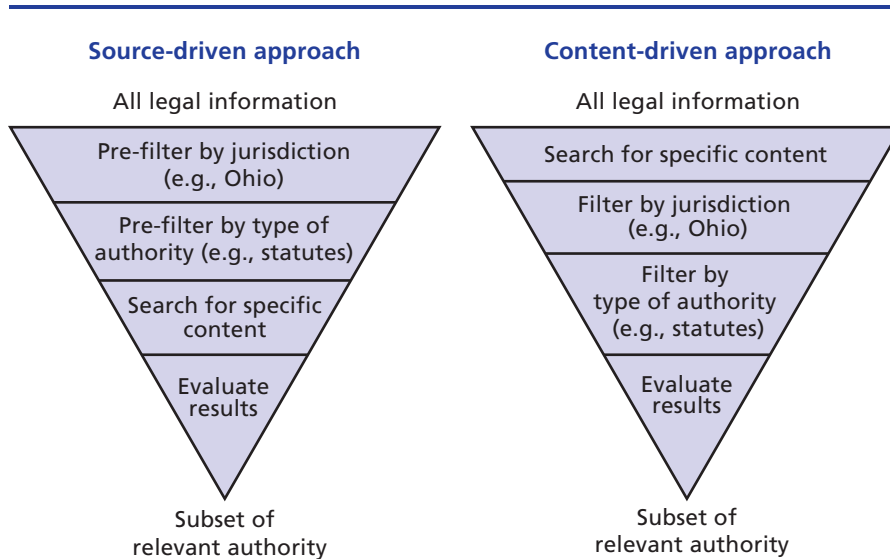
legal authorities have citations assigned to them. The citation is the identifying information you can use to retrieve a document from a book or database. Thus, if you have the citation to an authority, you can locate it using that identifying information. To return to the key analogy, this is like knowing the state and license plate number of the car you are trying to locate in the parking lot.

Citations were originally formulated so that researchers could find authorities in print. Although most authorities are now available online, they are still primarily identified by their print citations. In print research, the citation generally includes the name of the book in which the source is published, the volume of the book containing the specific item, and the page or section number where the item begins. For example, each court opinion is identified by a citation containing the volume number of the reporter in which it is published, the name of the reporter, and the starting page of the opinion. If you had the citation for a case, you could go to the library or get online and locate it easily. Statutes, secondary sources, and other forms of authority also have citations you can use to retrieve specific documents.

Of course, with most research projects, you will not know the citations to the authorities you need to find. You will have been assigned the project to find out which legal authorities, if any, pertain to the subject of your research issue. Moreover, although occasionally you will need to locate only one specific item, such as a specific case, more often you will need to collect a range of authorities that pertain to the issue, such as a statute and cases that have interpreted the statute. Therefore, you will need to narrow the field of all legal information to that subset of information necessary to analyze your research issue.

You will generally narrow the field of information using two types of criteria: general document characteristics and specific content. General document characteristics include the jurisdiction and type of authority (e.g., cases, statutes, secondary sources). By narrowing the field of information to documents with particular characteristics, you can identify binding authority relevant to your research issue. Focusing on documents that contain specific content is another way to narrow the field to information relevant to your research question. Although you will usually use both types of criteria in conducting research, the order in which you use them affects your research process.

With some research tools, you must determine jurisdiction and type of authority before you begin to look for content related to your research issue because the information available is organized into separate books or databases according to jurisdiction and type of authority. In other words, you filter the available information by source first and then identify relevant content within each source. When you filter first by source, you use a source-driven approach to research.

**FIGURE 1.5 SOURCE-DRIVEN AND CONTENT-DRIVEN APPROACHES TO RESEARCH**

With some online services, including Westlaw, Lexis Advance, and Bloomberg Law, you can, but do not have to, filter by jurisdiction or type of authority before you execute a search. You have the option of searching for content related to your research issue first and then filtering the results by jurisdiction, type of authority, or both. When you filter first by content, you use a content-driven approach to research.

With either approach, once you locate information, you must evaluate the results of your research to determine whether the information you have found is useful. The source-driven and content-driven approaches are illustrated in Figure 1.5.

One question you may have is whether it is better to use a source- or content-driven approach. The answer depends on the nature of your research project and your level of expertise about the subject matter. With a source-driven approach, you have to think carefully about a research issue to figure out which type(s) of authority are most likely to contain relevant information. Although selecting a type of authority can be challenging, choosing specific types of authority to research can make it easier to analyze the results because they are confined to the particular type of authority you selected. In addition, a savvy researcher may know exactly what type of authority governs—such as a state statute—and may not want to bother filtering through other types of authority included in the results. Conversely, if you are not sure which type(s) of authority to use, you may miss some relevant material altogether if it is in a source you did not consider using.

Because the content-driven approach allows you to search without first selecting a source, it shifts much of the analytical work involved in research to filtering the search results. This can be an advantage because the search results can include sources you might not have considered using. On the other hand, this approach frequently retrieves a large amount of information that has to be sifted carefully. Retrieving hundreds or thousands of documents can feel overwhelming if you do not understand your research issue well enough to filter the results effectively. Chapter 3 explains source-driven and content-driven searching in greater detail to help you learn how to determine which approach is better for your research project.

## C. INTRODUCTION TO RESEARCH PLANNING

The chapters that follow explain how to use a range of research tools to locate various types of legal authority. As noted above, however, knowing the mechanics of the research tools available to you is only part of learning to be an effective researcher. To research effectively, you must incorporate your technical knowledge into a research plan so that you can find the information you need to analyze your research issue. To do this, you will want to proceed in an organized manner to make sure your research is accurate and complete. Chapter 11, *Developing a Research Plan*, explores research planning in depth. This introduction to the planning process will help provide context as you learn the features of various research tools.

When you have a research task to complete, you will ordinarily proceed as follows:

- Define the scope of your research project and the issue(s) you need to research.
- Generate a list of search terms specific to your research issue(s).
- Plan your research path for each issue.
- Execute your research plan to search for relevant information.
- Assess the information you find and update your research to ensure that all the information is current.
- Revise your search terms and research plan as necessary and repeat the search process to complete your understanding of your research issue(s).

It is always a good idea to define the scope of your project before searching for information. Think about what you are being asked to do. Are you being asked to spend three weeks locating all information from every jurisdiction on a particular subject, or do you have a day to find



out how courts in one state have ruled on an issue? Will you write an extensive analysis of your research, or will you summarize the results orally to the person who made the assignment? Evaluating the type of work product you are expected to produce, the amount of time you have, and the scope of the project will help you determine the best way to proceed.

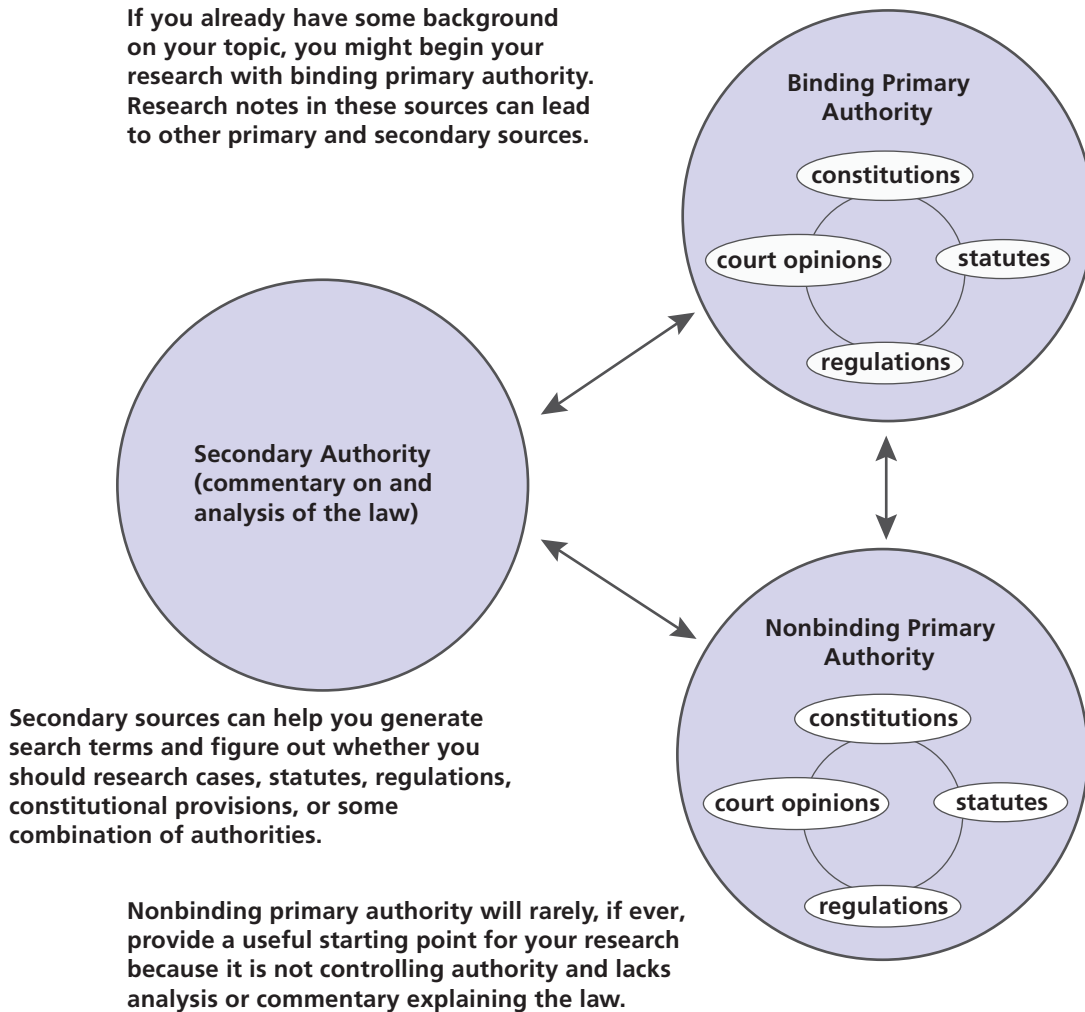
You should also think carefully about the issue(s) you are being asked to research. Sometimes you will be asked to research a specific issue. Sometimes you will be presented with a research scenario and asked to determine the issue(s) it presents. It sounds almost silly to say this, but knowing what you are looking for will make it easier to find what you need.

Once you have defined your research task, you will need to generate search terms to use to search for information. Chapter 2 discusses different ways to do this. In general, however, you will need to construct a list of words or concepts to use to search for relevant content.

You will then want to plan your research path. The more you know about your research issue going in, the easier it will be to plan your research process. The less you know, the more flexible you will need to be in your approach. One of the goals of this text is to help you learn to plan your research path and assess the appropriate starting, middle, and ending points for your research.

Your ultimate goal in most research projects will be to locate binding primary authority, if it exists, on your research issue. Thus, regardless of whether you use a source- or content-driven approach, at some point you must consider type of authority and jurisdiction because these two factors determine whether the information you have located is binding primary authority. If binding primary authority is not available or does not directly answer your research question, nonbinding authority (either primary or secondary) may help you analyze the issue. Therefore, in planning your research path, it may be helpful for you to think about three categories of authority: binding primary authority, nonbinding primary authority, and secondary authority.

Because your goal will usually be to locate binding primary authority, you might think that that should be the starting point for all your research. In fact, if you know a lot about the issue you are researching, you might begin with binding primary authority, but that is not always the case. Secondary authorities that cite, analyze, and explain the law can provide a very efficient way to obtain background information and references to primary authority. Although secondary authorities are not controlling in your analysis, they are invaluable research tools and can be a good starting point for your project. Nonbinding primary authority will rarely provide a good starting place because it provides neither the controlling rules nor analysis explaining the law. **Figure 1.6** shows the relationships among these three categories of authority.

**FIGURE 1.6** WHERE TO BEGIN YOUR RESEARCH PROJECT

Many research sources contain notes that refer to other sources, so once you locate one relevant source, you may be able to use the research notes to find additional useful information. Thus, there may be more than one appropriate starting point for your research. This text explains the features of a wide range of research sources so you can learn to make this assessment for different types of research projects.

Once you have planned your research path, you will execute your plan to search for information. As you locate information, you will need to evaluate its relevance to your research issue. One important aspect of assessing the information you find is making sure it is up to date. The law can change at any time. New cases are decided; older cases may be over-

ruled; statutes can be enacted, amended, or repealed. Therefore, keeping your research current is essential. One way to update your research is with a specialized research tool called a citator, which is explained in Chapter 6. In addition, most sources of legal information will indicate how recently they have been updated to help you assess whether the information is current.

Most print research sources consist of hardcover books that can be difficult to update when the law changes. Some print resources are published in chronological order. For those resources, new books are published periodically as new material is compiled. Many, however, are organized by subject. For those resources, publishers cannot print new books every time the law changes. This would be prohibitively expensive, and because the law can change at any time, the new books would likely be out of date as soon as they were printed. To keep the books current, therefore, many print sources are updated with softcover pamphlets containing new information that becomes available after the hardcover book is published. These supplementary pamphlets are often called “pocket parts” because many of them fit into a “pocket” in the inside back cover of the hardcover book. The hardcover book and the pocket part will each indicate the period of time it covers. You will see pocket parts mentioned throughout this text in reference to print research tools.

Online sources also usually contain publication or revision date information that you can use to assess how current it is. Online sources can be updated easily in the sense that new information can be added and older information revised at any time and as frequently as necessary. Westlaw, Lexis Advance, and Bloomberg Law update at least some of their content on a daily basis. Providers other than major commercial vendors may not update their content as frequently. In addition, updates for some content may only become available when the print version of the source is updated, which means the online version may only be as current as the latest print version. No matter how you locate information, you must pay careful attention to the date of any information you find.

Because research is not a linear process, you may find that you have to revise your search terms or your research plan to complete your work. If you do not find any information, or find too much information, you may need to backtrack or rethink your approach. Even if you find relevant information from the start, what you learn when you assess that information may take you in new directions. The process of searching, reading, and assessing will continue until you have narrowed the field of all legal information to the subset of information necessary to evaluate your research issue. This text explains a variety of search strategies you can use to tailor your research process to the specific issue you are researching.

## D. INTRODUCTION TO LEGAL CITATION

When you present the results of your research in written form, you will need to include citations to the legal authorities you have found. Rules for formatting legal citations appear in *The Bluebook: A Uniform System of Citation* (20th ed. 2015) and the *ALWD Guide to Legal Citation* (6th ed. 2017). Citation formats are the same using either source. Any minor differences are typically addressed in online updates to maintain consistency between both manuals. You should use whichever citation manual your professor directs you to use.

This section provides a brief overview of the organization of both citation manuals and will make the most sense if you have your citation manual in front of you as you read. Later chapters contain instructions for citing individual sources of legal authority.

### 1. THE BLUEBOOK

The *Bluebook* is available in print and online. Both versions contain the same citation rules. The online version offers search options unavailable in the print version. Additionally, it allows you to bookmark commonly used rules and add your own annotations to the rules, tasks you would otherwise need to do manually with a print *Bluebook*. The online version also requires an annual subscription fee, whereas a print *Bluebook* requires only a single purchase. Most of the discussion in this section applies equally to the print and online versions of the *Bluebook*, but a few variations are noted.

The first part of the *Bluebook* that you should review is the Introduction. This section explains how the *Bluebook* is organized. As you will see when you review the Introduction, the *Bluebook* contains two sets of instructions for citing authority: “basic” citation rules used in legal practice and more complex rules used for citations in scholarly publications such as law journals, a type of secondary source discussed in more detail in Chapter 4. The “basic” citation rules apply to the types of documents most students write in their first year of law school, such as briefs, memoranda, and other documents used in legal practice. The remainder of the citation rules apply primarily to law journals, although some aspects of these rules also apply to practice documents. You are unlikely to write documents in law journal format at the beginning of your legal studies; therefore, you will want to focus your attention on the format for citations in briefs, memoranda, and other similar legal documents.

Learning to cite authority using the *Bluebook* requires you to become familiar with five items:

- the Bluepages and corresponding Bluepages Tables;
- the citation rules in the Rules section of the *Bluebook*;

- the Tables;
- the finding tools for locating individual citation rules (i.e., Table of Contents and Index; Quick Reference guides in print; Quick Style Guide and search features online);
- *Bluebook* updates.

#### ■ THE BLUEPAGES AND CORRESPONDING BLUEPAGES TABLES

The Bluepages section contains the rules for citing legal authority in briefs, memoranda, and legal documents other than law journals. This section contains general information applicable to any type of citation, such as the placement of citations in legal documents. It also contains specific instructions for citing cases, statutes, secondary sources, and other forms of authority, as well as examples of many types of citations. The Bluepages Table BT1 contains the abbreviations for words commonly found in the titles of court documents. In addition, some courts require special citation formats for authorities cited in documents filed with those courts. Table BT2 refers you to sources for local citation rules. In print, the Bluepages appear at the beginning of the *Bluebook*. Online, use the **Bluepages** link to review the outline of the Bluepages rules.

#### ■ THE TEXT OF THE CITATION RULES

Most of the *Bluebook* is devoted to explaining the rules for citing different types of authority. In print, the Rules section appears in the white pages in the middle of the *Bluebook*. Online, use the **Rules** link. These rules can be divided into five categories:

1. Rules 1 through 9 are general rules applicable to a citation to any type of authority. For example, Rule 5 discusses the proper format for quotations.
2. Rules 10 through 17 contain rules for citing various primary and secondary authorities published in print. For example, Rule 10 explains how to cite a court opinion, and Rule 12 explains how to cite a statute.
3. Rule 18 contains rules for citing authorities published online.
4. Rule 19 contains rules for citing authorities published in services for researching law related to specific subject areas.
5. Rules 20 and 21 contain rules for citing foreign and international materials.

Some of the material contained in the Rules section also appears in the Bluepages. If the information you need for the authority you are citing is contained in the Bluepages, you may not need to consult the individual rules in the Rules section. If you face a citation question not addressed in the Bluepages, however, you should consult the individual rules for more detailed guidance. Most of the rules for citing specific types of legal authority begin with a description of the elements necessary for a full citation. The remainder of the rule will explain each component in greater detail.

Most rules are accompanied by example citations showing the format for citing various authorities. These examples are not always in the same typeface required for a citation used in a memorandum or other practice document. The examples in the Rules section are in the typefaces required for law journals, which are not always used in other types of legal documents. Therefore, although the examples in the Rules section will be somewhat useful to you in understanding how to cite legal authority, you cannot rely on them exclusively. The instructions in Bluepages B2 explain the differences between typeface conventions for citations in law journals and other documents.

#### ■ THE TABLES

In print, the Tables appear in the white pages with blue edges at the back of the *Bluebook*. Use the [Tables](#) link online. The citation rules in the Bluepages and Rules sections of the *Bluebook* explain the general requirements for different types of citations. Often they require that certain words be abbreviated. The Tables contain abbreviations necessary for proper citations. For example, Table T1 lists each jurisdiction in the United States, and under each jurisdiction, it shows the proper abbreviations for citations to that jurisdiction's cases and statutes. Whenever you have a citation that includes an abbreviation, you will need to check the appropriate Table to find the precise abbreviation required for a proper citation. You should note, however, that the type styles of some of the abbreviations in the Tables are in law journal format and may need to be modified according to Bluepages B2 for the work you will produce in your first year of law school.

#### ■ THE FINDING TOOLS FOR LOCATING INDIVIDUAL RULES

As noted above, the Bluepages should be your starting point for determining how to construct a citation in *Bluebook* format. If you cannot find what you need in the Bluepages, you can find individual citation rules in the Rules section using the Table of Contents or the Index. In print, the Index references in black type refer to the pages with relevant rules. Those in blue type refer to examples of citations. The online Index refers only to rule and table numbers, not page numbers.

In the print version, you can also refer to the Quick Reference examples of different types of citations on the inside front and back covers. The examples on the inside front cover are in the format for law review and journal footnotes and will be of little or no use to you in your first year of law school. The examples on the inside back cover are in the proper format for the types of documents you are likely to draft in your first year.

The online version does not contain the Quick Reference examples. It has a Quick Style Guide with limited citation examples formatted for law review and journal footnotes. Although these examples may be of

limited use to you in your first year, they are different from those in the print Quick Reference and are available to view without a subscription. Additionally, the search box at the top of the screen allows you to do a basic search of *Bluebook* content. You can, as noted above, bookmark frequently used rules and add annotations to the rules. With an Advanced Search, you can tailor a search more specifically to target rules, examples, and tables, as well as your bookmarked rules and annotations.

#### ■ BLUEBOOK UPDATES

You will find updates to the *Bluebook* on the *Bluebook* website. Updates (as well as the online Table of Contents, Index, and Quick Style Guide) are available without a subscription, so you will want to look for updates whether you use the *Bluebook* in print or online. The URL for the *Bluebook*'s online resources appears in Appendix A at the end of this text.

All of the pieces of the *Bluebook* work together to help you determine the proper citation format for a legal authority:

1. Use the Bluepages to find citation instructions governing the authority you want to cite.
2. If the Bluepages do not contain all the information you need for the citation, use the Index, Table of Contents, Quick Reference guides (in print) or search functions (online) to find the relevant rule in the Rules section.
3. Use the Tables to find abbreviations and other information necessary for a complete citation.
4. If necessary, convert the typefaces in the examples and Tables into the proper format for briefs and memoranda according to Bluepages B2.

As you read the remaining chapters in this text, you will find more specific information about citing individual legal authorities. In general, however, you will be able to use the *Bluebook* to figure out how to cite almost any type of authority by following these four steps.

## 2. THE ALWD GUIDE

The *ALWD Guide* is a print publication. Although it is available as a Kindle e-book, it is not published online through a dedicated website the way the *Bluebook* is. The first part of the *ALWD Guide* that you should review is Part 1, Introductory Material. This section explains what citations are and how to use them, how to use the *ALWD Guide*, how local citation rules can affect citation format, and how your word processing settings may affect citations. It explains the *ALWD Guide*'s organization,

so it would be redundant to repeat all of that information here. Nevertheless, a few comments on the *ALWD Guide* may be useful as you begin learning about it.

The *ALWD Guide* is organized differently than the *Bluebook* in that the *ALWD Guide* incorporates information on citations for practice documents and scholarly publications together within each citation rule. The *Bluebook*, by contrast, largely separates rules for practice documents into the Bluepages, as explained above. When you are using the *ALWD Guide*, you do not need to refer to a separate set of rules for different types of documents.

As you will see when you review Part 1, learning to cite authority using the *ALWD Guide* requires you to become familiar with five items:

- the finding tools for locating individual citation rules (Table of Contents and Index);
- the text of the citation rules;
- the Appendices;
- the “Fast Formats” and “Snapshots”;
- the *ALWD Guide* website.

#### ■ THE TABLE OF CONTENTS AND INDEX

To locate individual citation rules, you can use the Table of Contents at the beginning of the *ALWD Guide* or the Index at the end. Unless otherwise indicated, the references in the Index are to rule numbers, not page numbers or specific examples.

#### ■ THE TEXT OF THE CITATION RULES

Most of the *ALWD Guide* is devoted to explaining the rules for citing different types of authority. The rules are divided into the following Parts:

1. Part 2 (Rules 1 through 11) contains general rules applicable to a citation to any type of authority. For example, Rule 3 discusses spelling and capitalization.
2. Part 3 (Rules 12 through 29) contains rules for citing various primary and secondary authorities. For example, Rule 12 explains how to cite a court opinion, and Rule 14 explains how to cite a statute.
3. Part 4 (Rules 30 through 33) contains rules for citing online sources.
4. Part 5 (Rules 34 through 37) contains rules for incorporating citations into documents.
5. Part 6 (Rules 38 through 40) contains rules regarding quotations.

In each citation rule in Parts 3 and 4, you will find a description of the elements necessary for a full citation to an authority, followed by an annotated example showing how all of the elements fit together to



create a complete citation. You should read this part of the rule first. The remainder of the rule will explain each component in greater detail.

Within the text of each rule in the *ALWD Guide*, you will find cross-references to other citation rules and to Appendices containing additional information that you may need for a complete citation. An explanation of the Appendices appears below.

You will also find “Sidebars” in some rules. The “Sidebars” are literally asides on citation. They provide information about sources of legal authority, help you avoid common citation errors, and offer citation tips.

#### ■ THE APPENDICES

The *ALWD Guide* contains seven Appendices that follow the Parts containing the citation rules. The citation rules in Parts 3 and 4 explain the general requirements for citations to different types of authority. Most of these rules require that certain words be abbreviated. Appendices 1, 3, 4, and 5 contain abbreviations necessary for proper citations. For example, Appendix 1 lists Primary Sources by Jurisdiction. It lists each jurisdiction in the United States, and under each jurisdiction, it shows the proper abbreviations for citations to that jurisdiction’s cases, statutes, and other primary authorities. Whenever you have a citation that includes an abbreviation, you will need to check the appropriate Appendix to find the precise abbreviation required for a proper citation.

Appendix 2 contains references to local court citation rules. As noted above, some courts require special citation formats for authorities cited in documents filed with those courts. The *ALWD Guide* provides information on these local rules in Appendix 2.

Appendix 6 contains information on citations to federal taxation materials, and Appendix 7 contains information on selected federal administrative publications.

#### ■ THE “FAST FORMATS” AND “SNAPSHOTS”

Before the text of each rule for citing an individual type of authority in Parts 3 and 4, you will find a section called “Fast Formats.” The “Fast Formats” provide citation examples for each rule, in addition to the examples interwoven with the text of the rule. A “Fast Formats Locator” appears on the inside front cover of the *ALWD Guide*. You can use this alphabetical list to find “Fast Formats” pages without going to the Table of Contents or Index.

“Snapshots” also accompany the citation rules for some of the most commonly cited types of legal authority. “Snapshots” are annotated sample pages from sources of law that show you where to find the components of a full citation within the document.

#### ■ THE ALWD GUIDE WEBSITE

Updates to the *ALWD Guide* are posted online (and updates to the Kindle e-book are made automatically). The URL for the *ALWD Guide* website is listed in Appendix A at the end of this text.

All of the pieces of the *ALWD Guide* work together to help you determine the proper citation format for a legal authority:

1. Use the Table of Contents or Index to find the rule governing the authority you want to cite.
2. Read the rule, beginning with the components of a full citation at the beginning of the rule.
3. Use the Appendices to find additional information necessary for a correct citation.
4. Use the “Fast Formats” and “Snapshots” preceding the rule for additional examples and information.
5. If necessary, check the website for any updates.

As you read the remaining chapters in this text, you will find more specific information about citing individual legal authorities. In general, however, you will be able to use the *ALWD Guide* to figure out how to cite almost any type of authority by following these five steps.

## E. OVERVIEW OF THIS TEXT

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Because different research projects have different starting and ending points, it is not necessary for you to follow all of the chapters in this text in order. The sequence of assignments in your legal research class will determine the order in which you need to cover the material.

Although you may not cover the chapters in order, a brief overview of the organization of this text may provide useful context for the material that follows. As noted earlier, Chapter 2 discusses how to generate search terms, one of the first steps in any research project, and Chapter 3 describes source- and content-driven search strategies. Chapters 4 through 9 explain how to research different types of authority. Chapter 10 discusses online search techniques, and Chapter 11 covers how to create a research plan.

Chapters 4 through 9 are each organized in a similar way. They all begin with an overview of the type of authority discussed. Then you will find an explanation of the process of researching the authority. After the discussion of the research process, you will find information on citation format. The next item in each of these chapters is a section of sample pages. The sample pages contain step-by-step illustrations of the research process described earlier in the chapter. As you read through the text, you may find it helpful to review both the excerpts within the chapter and the sample pages section to get a sense of the research process for each type of authority. These chapters conclude with research checklists

that summarize the research process and may be helpful as you conduct research.

Chapter 10 discusses general techniques for online research. The process of using print research sources varies according to the type of authority you are researching. With online research, however, there are certain common search techniques that can be used to research many types of authority. As a consequence, the discussion of online research in Chapters 4 through 9 focuses on search techniques specific to individual sources, and Chapter 10 focuses on more general online search techniques and strategies. As you learn about online research, you may also want to review Appendix A at the end of the text, which lists a number of research websites.

The final chapter, Chapter 11, discusses research strategy and explains how to create a research plan. You do not need to read all of the preceding chapters before reading Chapter 11, although you may find Chapter 11 easier to follow after you have some background on a few research sources. Learning about research involves more than simply learning how to locate individual types of authority. You must also be able to plan a research strategy that will lead to accurate research results, and you must be able to execute your research strategy efficiently and economically. Chapter 11 sets out a process that will help you achieve these goals in any research project, whether in your legal research class or in legal practice.



# Generating Search Terms

- A. Generating search terms based on categories of information
- B. Expanding the initial search
- C. Prioritizing search terms

**A**s Chapter 1 explains, generating search terms is part of the research planning process. Developing a list of words or concepts that are likely to lead you to useful information is a preliminary step necessary for almost any type of research, whether source-driven or content-driven. This chapter explains techniques you can use to generate search terms for virtually any research project.

## A. GENERATING SEARCH TERMS BASED ON CATEGORIES OF INFORMATION

When presented with a set of facts, you could generate a list of search terms by constructing a random list of words that seem relevant to the issue. But a more structured approach—working from a set of categories—will help ensure that you are covering all of your bases in conducting your research.

There are a number of ways that you could categorize the information in your research issue to create a list of search terms. Some people prefer to use the six questions journalists ask when covering a story: who, what, when, where, why, and how. Another way to generate search terms is to categorize the information presented by the facts as follows.

### ■ THE PARTIES INVOLVED IN THE PROBLEM, DESCRIBED ACCORDING TO THEIR RELATIONSHIPS TO EACH OTHER

Here, you might be concerned not only with parties who are in direct conflict with each other, but also any other individuals, entities, or groups

involved. These might include fact witnesses who can testify as to what happened, expert witnesses if appropriate to the situation, other potential plaintiffs (in civil cases), or other potential defendants (in criminal or civil cases).

In describing the parties, proper names will not ordinarily be useful search terms, although if one party is a public entity or corporation, you might be able to locate other cases in which the entity or corporation was a party. Instead, you will usually want to describe the parties in terms of their legal status or relationships to each other, such as landlords and tenants, parents and children, employers and employees, or doctors and patients.

#### ■ THE PLACES AND THINGS INVOLVED IN THE PROBLEM

In thinking about place, both geographical locale and type of location can be important. For example, the conduct at issue might have taken place in Pennsylvania, which would help you determine which jurisdiction's law applies. It might also have taken place at a school or in an office, which could be important for determining which legal rules apply to the situation.

"Things" can involve tangible objects or intangible concepts. In a problem involving a car accident, tangible things could include automobiles or stop signs. In other types of situations, intangible "things," such as a vacation or someone's reputation, could be useful search terms.

#### ■ THE POTENTIAL CLAIMS AND DEFENSES THAT COULD BE RAISED

As you become more familiar with the law, you may be able to identify claims or defenses that a research problem potentially raises. The facts could indicate to you that the problem potentially involves particular claims (such as breach of contract, defamation, or bribery) or particular defenses (such as consent, assumption of the risk, or self-defense).

Lawyers use their accumulated knowledge, including both specialized knowledge gained in practice and foundational legal principles that all lawyers learn in law school, to identify legal doctrines that may apply to a client's situation. Even as a beginning law student, you are being introduced to a body of information common to all lawyers that you can use to brainstorm potential legal theories. When that is the case, you can often use claims and defenses effectively as search terms to help you identify applicable rules of law.

If you are dealing with an unfamiliar area of law, however, you might not know of any claims or defenses potentially at issue. In that situation, you can generate search terms by thinking about the conduct and mental states of the parties, as well as the injury suffered by the complaining party. Claims and defenses often flow from these considerations, and as a result, these types of terms can be used to locate useful information. When considering conduct, consider what was not done, as well as what was done. The failure to do an act might also give rise to a claim or defense.

For example, you could be asked to research a situation in which one person published an article falsely asserting that another person was guilty of tax evasion, knowing that the accusation was not true. You might recognize this as a potential claim for the tort of defamation, which occurs when one person publishes false information that is damaging to another person's reputation. Even if you were unfamiliar with this tort, however, you could still generate search terms relevant to the claim by considering the defendant's conduct (publication) or mental state (intentional actions), or the plaintiff's injury (to reputation). These search terms would likely lead you to authority on defamation.

#### ■ THE RELIEF SOUGHT BY THE COMPLAINING PARTY

The relief a party is seeking is another way to categorize information. Damages, injunction, specific performance, restitution, attorneys' fees, and other terms relating to the relief sought can lead you to pertinent information.

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As an example of how you might go about using these categories to generate search terms, assume you have been asked to research the following situation:

Your client recently ended a long-term relationship with her partner. She and her partner never participated in a formal marriage ceremony, but they had always planned to get married "someday." They lived together for five years and referred to each other as husband and wife. Your client and her former partner orally agreed to provide support for each other, and your client's former partner repeatedly made statements like, "What's mine is yours." Your client wants to know if she is entitled to part of the value of the assets her former partner acquired during their relationship or to any support payments.

- **PARTIES:** husband, wife, spouse, unmarried couple, unmarried cohabitants.
- **PLACES AND THINGS:** property, assets, ownership, support, non-marital relationship.
- **POTENTIAL CLAIMS AND DEFENSES:** common-law marriage, breach of contract, detrimental reliance.

These terms might not have occurred to you if were not already familiar with the relevant legal principles. Additional terms could be generated according to conduct ("reliance" on "promises" of support) or mental state (intentional conduct if the client's former partner purposely misled her into believing the parties shared ownership of the assets).

- **RELIEF:** damages, division or disposition of assets, support.

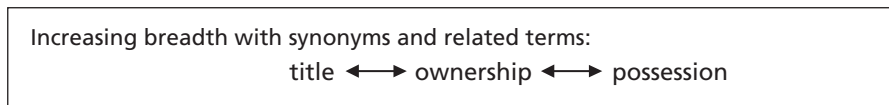
This is not an exhaustive list of search terms for this problem, but it illustrates how you can use these categories of information to develop useful search terms.

## B. EXPANDING THE INITIAL SEARCH

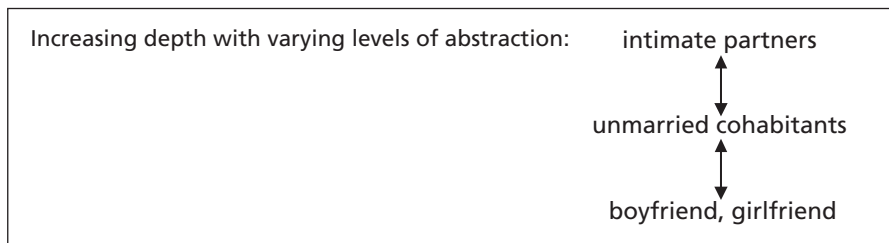
Once you have developed an initial set of search terms for your issue, the next task is to try to expand that list. The terms you originally generated may not appear in an index or a database. Therefore, once you have developed your initial set of search terms, you should try to increase both the breadth and the depth of the list. You can increase the breadth of the list by identifying synonyms and terms related to the initial search terms, and you can increase the depth by expressing the concepts in your search terms both more abstractly and more concretely.

Increasing the breadth of your list with synonyms and related terms is essential to your research strategy. This is especially true for word searches. As **Chapter 3** explains in more detail, some research tools can cross-reference content related to your search terms. A literal word search, however, searches only for the specific terms you identify. Therefore, to make sure you locate all of the pertinent information on your issue, you need to have a number of synonyms for the words and concepts in your search. In the research scenario described above, there are several synonyms and related terms for one of the initial search terms: ownership. As **Figure 2.1** illustrates, you might also search for terms such as title or possession.

**FIGURE 2.1 EXPANDING THE BREADTH OF SEARCH TERMS**



**FIGURE 2.2 INCREASING THE DEPTH OF SEARCH TERMS**





You are also more likely to find useful research material if you increase the depth of your list by varying the level of abstraction. In the research scenario described above, the client and her former partner were unmarried cohabitants. You might find relevant information if you described the relationship more abstractly as “intimate partners” or more concretely as “boyfriend” or “girlfriend.” See Figure 2.2.

## C. PRIORITIZING SEARCH TERMS

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Once you have generated and expanded a list of search terms, you must prioritize them. Recall the key analogy from Chapter 1: If you had the key to a car parked at Disney World, how would you figure out which car it starts? Three relevant criteria would be make, model, and color, and ideally you would narrow the field by all three together. If that were not possible, which criterion would you use first? When you generate an extensive list of search terms for legal research, you will often use some combination of terms together, but you usually will not use all of them simultaneously. You can only look up one term or concept at a time in a print index. You can combine terms together in a word search, but putting too many in one search may limit the search’s effectiveness. Consequently, you must decide where to focus your attention first.

You may find it helpful to think about two goals when you prioritize your search terms: identifying the legal rules that apply to your client’s situation, and determining how the facts of the situation fit with the requirements of the rules. Of course, this is a bit of a chicken-or-egg problem in that the facts of the situation determine which rules apply and the application of the rules depends on the facts of the situation. Nevertheless, one element of your search strategy will be deciding whether to prioritize terms describing legal doctrines or terms describing the specific facts of your client’s situation. This does not mean that you will ignore or discard other terms; it simply means that you must decide which terms to emphasize initially and which to use in fine-tuning the search results.

Prioritizing terms relating to legal doctrines makes sense when you know the theory or theories most likely to apply to your client’s situation. To return to the key analogy, using the make and model to narrow the field of options would make sense. Prioritizing search terms related to the legal doctrine that applies to your research issue can similarly be an effective way to narrow the field of legal information.

As you begin learning about legal research, your professor may specify the legal doctrines you are to research. In the research scenario in Section A, above, regarding the dissolution of a long-term relationship,

your professor might direct you to research whether the parties formed a common-law marriage. You would certainly prioritize “common-law marriage” as a search term based on your professor’s instructions.

In real life, clients bring the facts of their problems to you, not instructions to research particular legal theories, and as you become a more experienced researcher, your professor is less likely to identify the legal doctrines or rules that apply to your research scenario. As you gain experience in the law, you will learn to identify the legal issues a situation presents and will be able to prioritize terms related to those issues in your research.

Sometimes, however, you will not begin your research with a sense of the applicable legal doctrines and will need to prioritize the facts of your client’s situation instead. You can then use the search results to determine the legal doctrines that govern situations involving those types of facts. To return to the key analogy again, prioritizing facts is like trying to find the parked car by searching by color. This will narrow the field, but the remaining choices will reflect substantial diversity of makes and models. Similarly, prioritizing terms relating to the specific facts of the client’s situation can lead to diffuse search results involving many different legal rules. The search results will also be affected by the level of abstraction of your terms. Search terms that are too concrete may yield little information, or little relevant information. More abstract factual terms may better steer you toward authority that describes applicable legal doctrines.

In the example involving dissolution of a client’s long-term relationship, prioritizing factual terms relating to the parties’ relationship could lead to rules about common-law marriage but would also likely lead to information about a variety of other legal doctrines. This is especially true for concrete terms like “boyfriend” or “girlfriend,” which can occur in virtually any legal context. Although prioritizing factual terms may not be a useful approach when you need to locate information about a particular legal doctrine (such as common-law marriage), it can be useful when you need to identify all possible avenues of recovery for a client or do not have a sense of the legal doctrines that may apply to the situation.

Neither the list nor the priority of your search terms should remain static. Reading the information you find early in your research may reveal new search terms you can use to locate better information. The terminology of applicable legal rules that you did not consider at first might appear in the documents you locate in your initial research efforts, and they can then become useful terms for additional research (unless you have been instructed to limit your research to a particular legal doctrine). Facts that did not seem important at first could turn out to be critical to your analysis. As you work through your research path, therefore, you should revise both the content and priority of your search terms.