



**INTERNET LEGAL  
RESEARCH SERIES:  
BASIC POWER  
SEARCHING**



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**Welcome** to the “Internet Legal Research Series: Basic Power Searching” program. The Washington Law School Foundation would like to thank the Gallagher Law Library librarians for their dedication to the Continuing Legal Education Program at the University of Washington School of Law. We appreciate the time taken out of their busy schedules in presenting this program in a practical, hands-on and interactive format.

**Presenters:**           **Professor Penny A. Hazelton**  
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This program has been approved for **3.25** continuing legal education credits by the Washington State Board of Continuing Legal Education.



# INTERNET LEGAL RESEARCH: BASIC POWER SEARCHING

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## INTERNET LEGAL RESEARCH: BASIC POWER SEARCHING

### Faculty

**Professor Penny A. Hazelton** is the director of the Gallagher Law Library at the University of Washington School of Law. She has been teaching legal research for over 20 years to law students, faculty, and others. She co-authored the Washington Legal Researcher's Deskbook, 2d and is the principal author of Computer Assisted Legal Research: The Basics. Professor Hazelton earned her BA from Linfield College, her JD from Lewis and Clark's Northwestern School of Law, and her MLS from the University of Washington. She has worked in both the print and electronic legal research worlds and finds that the power of integrating these two systems can result in a much better quality research product.

**Linda Kawaguchi** received her undergraduate and law degrees from the University of Idaho and a MLS (Law Librarianship) from the University of Washington. She clerked for Justice Chas. McDevitt at the Idaho Supreme Court and has worked as a reference librarian at both the University of Michigan and the University of Washington. Ms. Kawaguchi enjoys teaching both paper and online legal research skills to members of the law school community.

**Nancy McMurrer** has a B.A. degree from Furman University, a J.D. degree from the University of Virginia, and a MLS (Law Librarianship) from the University of Washington. She has practiced law with a government agency, worked as a reference librarian in a Seattle law firm and, since 1994, has been a reference librarian at the University of Washington Gallagher Law Library. Ms. McMurrer teaches legal research in the first-year basic legal skills course as well as in upper level law school courses; she has also conducted Internet training classes for students, faculty, and staff. She is one of the authors of the Washington Legal Researcher's Deskbook, 2d (1996). Experience has taught her that integrating the Internet with the more traditional legal research tools leads to more efficient and effective results.

**Cheryl Rae Nyberg** is a veteran law librarian with twenty years of experience in legal research and government information. A reference librarian at the University of Washington's Gallagher Law Library, she assists law students, faculty, attorneys, and members of the public in locating and using online and print legal materials. She edits the Law Library's website, explores the Internet daily, and has testified as an expert witness on Internet searching at a federal trial. Her MLIS was earned at the University of Illinois.

# **The Research Process**

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# **THE RESEARCH PROCESS**

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3. Penny A. Hazelton, Peggy Roebuck Jarrett, Nancy McMurrer, and Mary Whisner, Develop the Habit: Note-Taking in Legal Research
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**Chapter 2**  
**THE PROCESS OF LEGAL RESEARCH**  
**Penny A. Hazelton**

**I. Introduction**

Do you have a strategy or framework for research projects? Or do you jump into sources without thinking about or analyzing the rationale for using a particular tool? Technology has created and enhanced many more tools for legal research than we could have imagined even ten years ago. Selecting the most efficient and high quality research source for your problem is no longer a matter of using the only resource published!

For example, in Washington state there are at least ten sources that contain the current statutes of Washington: the officially published *Revised Code of Washington* (in print and CD ROM format), *West's Revised Code of Washington Annotated*, the *Annotated Revised Code of Washington* (Michie), CD Law, West's Washington CD ROM Library, Michie's Washington CD ROM Library, Legal Access in Washington Bulletin Board System (L.A.W. BBS), WESTLAW, and LEXIS-NEXIS. How many of these products do you know about?

Designing a research process or framework is one of the most important skills a legal researcher can develop. Given the importance of doing efficient, high quality research, a researcher must learn to fit legal research problems into a strategic framework. Only then will the researcher have the structure necessary to work efficiently and effectively through the mass of legal information available today.

Consider these staggering numbers: Over 3 million cases have been published in the United States and over 100,000 judicial opinions are issued each year; nearly 20,000 laws are passed every year amending and adding to the hundreds of thousands of legislative acts that are already in force; no one has even tried to estimate the number of administrative regulations proposed and finalized every year nor the quasi-judicial work handled by federal administrative agencies on an annual basis; add to these the secondary literature — thousands of pages published in monographs and other books, as well as the publication of over 1,000 legal journals and periodicals. These numbers alone suggest the need for every legal researcher to have a plan.

In Section III of this Chapter, an article on integrating computer and manual research has been reproduced. In that article a table shows the research strategy or process authors of eight different legal research textbooks recommend. Only two of these strategies, however, give the researcher any help in suggesting the type of legal authority to consult at various points during the research process — Rombauer and Price, Bitner & Bysiewicz (PB&B).

Legal research courses taught at the University of Washington have adopted and modified the Rombauer framework in order to encourage students to learn a structured approach to the research process. This is not the only possible framework, but more and more it is essential that every legal researcher have such a framework in mind and understand how to apply it to a variety of legal research problems.

## **II. Strategies for Effective Legal Research**

### **A. Rombauer Framework**

To explain how a good framework can help produce a better legal research product, the Rombauer method will be used to illustrate a way of thinking about a research plan. Undoubtedly you already perform many of these steps, but may not do so consciously. Conscious thinking about choices and avenues to explore in research will improve the efficiency and overall quality of your work product. Try the Rombauer method for your next research problem and see if a planned approach can give you confidence and a better result!

Professor Rombauer's method is more fully explained in her book, *Legal Problem Solving*, 5th ed. (West 1991). In this classic text, Professor Rombauer weaves the primary tasks of analysis, research, and writing into an integrated whole. Legal analysis, legal research, and legal writing are all skills identified and analyzed by the *MacCrate Report* (cited in the Introduction to this book). Isolation of the research component permits concentration on this one skill. But do not forget that research is part of a larger, coherent set of problem-solving skills.

The five steps in the Rombauer approach are described below.

#### **Rombauer Strategy**

1. Preliminary Analysis
2. Search for Statutes
3. Mandatory Precedent
4. Persuasive Precedent
5. Refine, Double-Check, Update

### **1. Preliminary Analysis**

Preliminary analysis is undoubtedly the most important step in solving any legal research problem. You do not need a law library at your fingertips to conduct this portion of your work. Writing down all of this information can help you focus and plan your work. Your preliminary assessment of a problem should include at least the following analysis: [1] Identify relevant and material facts; [2] Select appropriate words and phrases to use as search terms; [3] Identify preliminary issues

and formulate search query; [4] Identify the jurisdiction(s) involved; and [5] Identify what you know about the area of law.

What are the relevant facts of your research problem? If you are unfamiliar with the law in this area, will you be able to identify facts which are material? Do you know all of the important facts or will you need some investigation to determine some of them? Arm yourself with the facts, as many as you can, before attempting your research. Good factual development can go a long way toward a high quality research project, completed with maximum efficiency.

**Preliminary Analysis**

- Relevant Facts
- Words and Phrases
- Issue(s)
- Jurisdiction(s)
- What Do You Know?

The material facts of your problem will help develop the words and phrases you will need to actually perform your research. Whether you use traditional printed research materials or computer-assisted legal research systems, your development of a broad list of words and phrases is crucial here. Some researchers use the TAPP rule — things, actions, persons, places — while others like the TARP rule — things, actions, relationships, places. Use whatever method you like, but create a list of words and phrases that might be used in documents discussing the legal issues you need to resolve. This list should contain specific and general terms, as well as synonyms.

Next, in analyzing the material facts and words and phrases, try to state the issue or issues you must resolve. Expressing the issue in written form can be helpful, even at this early stage. Often the issue changes as research progresses and must be reformulated. But having the issue expressed in writing early on can help keep the researcher on track and remind her of the question she is really trying to resolve.

After identifying the issue(s), query formulation is the next step. The legal researcher needs to identify those words or phrases that, combined, are likely to yield the most helpful information. In other words, formulate a search query. This process will usually involve selecting search words most likely to yield results.

Whether the researcher is using electronic or print tools, this ability to combine the right words and phrases into an appropriate search query is crucial. Does the researcher use the most general or most specific words that can be identified? For example, is the best term tort or false imprisonment; contract or specific performance? How do you decide whether to use fact words (like banana peel, swimming pool, or widget) or legal concepts (like tort, attractive nuisance, or offer and acceptance)?

The choices made by the legal researcher at this juncture are crucial. If the search query terms selected are too general, the risk of being overwhelmed by too

## **Washington Legal Researcher's Deskbook, 2d**

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much irrelevant information is very great. If the search terms selected are too specific, the researcher may find nothing relevant at all and miss good analogies that might be used. The skill needed to formulate the search query for any research problem should not be underrated. Careful thought should go into this process, particularly if full-text electronic tools will be consulted.

Also during preliminary analysis, the researcher must identify the jurisdiction(s) involved. Is the issue resolved under federal or state law? Which state? Limiting the jurisdiction of your research will help focus your effort on research tools that have specific application to your problem. If choice of law is the real issue to be resolved, obviously, your selection of jurisdiction will be tentative. Or if the area of law is unfamiliar to you, you may need to perform some research to determine this question with certainty.

Throughout this preliminary process, you should be assessing your actual knowledge of the area of law you must research. Any steps you take from here will reflect your personal knowledge and experience, or lack thereof. What do you know about this area of law? Are you a specialist, so you know a lot about the specific area of law? Or, is this particular problem completely unknown to you?

Clues that you need to develop more expertise in this area before launching your research ship (moving to step 2 of the Rombauer method) will include the inability to develop a comprehensive list of words and phrases; total ignorance about whether the problem invokes federal, state, or local law; or an inability to state the issue. Don't ignore these warning signs!

At this point, if your knowledge of the law is virtually non-existent, research in some secondary materials may be worthwhile to obtain the background and terminology needed to perform effective research. For detail on sources to consult, see Chapter 3, Fundamentals of Legal Research in Washington, Section II. Now you can actually start your research.

Use of texts, treatises, hornbooks, nutshells, legal encyclopedias, ALR, or legal periodicals can help put your problem in context with related law. The legal jargon needed for effective research can also be identified through consultation of secondary materials. Often, a search for general information and background can help the researcher formulate a good statement of the question to be researched, can clarify jurisdictional issues, and can inform the researcher of the possible scope of the project.

Search in secondary sources is not done at this stage so much to locate the exact answer to the legal problem, but rather to reveal background and related information that should help when research in primary authorities begins. Of course, finding references to cases, statutes, or regulations in your jurisdiction should not be

ignored at this stage. Use these citations as finding aids once you move to the next stage of your research.

If you answer the "What do you know?" question with the response, "A lot," you are probably familiar with the legal terminology and the likely sources of the law that answer the question as well as the exact issue(s). Then your use of secondary literature to get background and context may not be necessary. Remember, however, that sometimes we think we know more than we really do.

Secondary literature can be consulted at any stage in your research. Research in secondary materials can, among other things, provide the analysis of a specifically relevant case, explain the history of a legislative enactment, synthesize a body of case law that you find hard to understand, or criticize a current interpretation of the law. A good legal researcher will use the research product of others as often as possible!

To reiterate, preliminary analysis should be done thoughtfully and with an eye to formulating a research plan or strategy. Identification of relevant facts, creation of a list of relevant words and phrases, clear statement of the issue(s) and formulation of a search query, identification of relevant jurisdiction(s), and an assessment of your knowledge of the area of law all must be accomplished in order to set the stage for continuing the research process.

## 2. Search for Statutes

After you have answered the questions posed in your analysis of the problem and done some background research, you are ready to begin a search in primary materials. Because of the emphasis in law school on judicial opinions as an important source of law and because of the difficulty some perceive in the use of statutory sources, many researchers automatically look for case authority first.

However, a search for statutes should really be done first. Why? The relationship between the legislative process and the judicial branch provides the answer. It will not matter much what the common law rule is if a statute has been enacted that changes the rule! Thus, legislation will take precedence over judicial rules and should be searched before looking for case law. In addition, more and more of our daily activities are being governed by legislation. We at least need to eliminate these statutory sources as not containing an answer to the research problem we seek.

Three possibilities can occur when statutes have been searched. First, the researcher may find a relevant statute that squarely and clearly answers the problem. Second, a relevant statute may be located, but the statute is ambiguous when applied to the problem being researched. Third, the researcher may find nothing that helps resolve the legal problem under scrutiny.

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Even if a relevant, clear, and unambiguous statute is found, a good researcher may wish to go to step three in the process to be certain that case law is consistent with her interpretation of the statute. However, finding an ambiguous statute or no statute at all definitely requires a search for mandatory case precedent (step 3).

Before looking for case law, however, the legal researcher must verify that the statute found is the most current version by checking pocket parts and supplemental pamphlets as well as the most recent legislative or session law service. These current pamphlets will contain laws recently enacted by the legislature but not yet incorporated into the statutes themselves. Even if no statute was found, checking the session law service is also necessary in case a very recent law on the subject has been passed by the legislature. For details on updating statutes, see Chapter 3, *Fundamentals of Legal Research in Washington*.

Is the area of law you are researching changing through statutory enactment? Or have the rules changed primarily because of new court decisions? Is this an area of law that has not changed in many years? Are there changes in social or economic structures or in technology that will lead to changes in the law? A careful researcher is likely to have determined the answers to these questions during her preliminary analysis. And, depending on the answers, she will decide how carefully the statutes should be searched looking for a relevant statute.

During this stage of your research, the constitutionality of your statute should be checked. If researching Washington law, use the *Revised Code of Washington Annotated* or the *Annotated Revised Code of Washington* to check for cases that declared your statute unconstitutional. Or shepardize your statute using *Shepard's Washington Citations* to locate any case that has declared your statute unconstitutional.

You should also look for relevant administrative regulations that may affect your issue during this statutory phase of your work. Either your knowledge of the area of law or your preliminary research in secondary sources should alert you to state administrative agency rules and regulations that may apply. Research to locate agency rule-making in Washington requires the use of the *Washington Administrative Code* and the *Washington State Register*. See Chapter 3, *Fundamentals of Legal Research in Washington*, for a discussion of these sources.

You may wish to review your preliminary analysis at this point. Have you stated the proper question? Are some facts more important than you originally thought? Have you added other more precise words and phrases to your original list? Constant re-evaluation of your analysis is important to keep your research focused and efficient.

By the time you finish this step of your research process, you should have identified the relevant statute or administrative regulations. You will be confident that your statute is current since you have updated through the most recent legislative

public laws available. And you will know whether your statute has been held unconstitutional. You are ready to move on!

If you find no statute, there are at least two possibilities: there is no statute to find on this subject or there is a relevant statute but you have not found it. In legal research we are plagued by the problem of not finding relevant authority. Part of this is psychological: that is, we are worried about not finding something that exists and needs to be found in order to answer the question. But the other part is very real. Sometimes the source we use does not include anything helpful or relevant on the subject we research because there is nothing to find. Only experience and good preliminary analysis will help distinguish one from the other. Be prepared for this possibility.

### 3. Search for Mandatory Case Precedent

This step can be skipped completely only if you have located a relevant statute and it clearly and unambiguously answers your question. Even then, some researchers will skim cases that interpret the statute in an annotated code just to be sure their reading of the statute is correct when applied to their problem.

However, the search for mandatory case authority must follow next if you have found an ambiguous statute or no statute at all. Searching for cases that must be followed (in the court in which your action will be heard) is the kind of legal research most lawyers know best. Mandatory cases that apply to your problem will have similar or analogous facts, will have occurred in your jurisdiction, and will interpret either your statute or state common law rules.

Many resources are available for this search, but one of the best, if you have found a statute, is the annotated code: in Washington, *West's Revised Code of Washington Annotated* or the *Michie's Annotated Revised Code of Washington*. The annotations contain short digests of cases related to the statute they follow. Usually gathered by topic or subject, these annotations are an excellent way to locate cases to answer the question you are researching. In addition, of course, you may find history notes, cross references, and citations to legal encyclopedias, legal periodical articles, West key numbers, practice texts, and other useful secondary materials.

It is very important to be sure that all relevant cases are found. The annotated code volumes usually have pocket parts or supplementary pamphlets that include more recent cases. However, these supplements will still be three to six months out of date. The thorough researcher will also check the paper advance sheets of the *Pacific Reporter, 2d* or *Washington Reports, 2d* and *Washington Appellate Reports*, or use a current electronic case database to find the most recent cases. A subject search using the digest in the West reporter and the subject index in the official reports should yield any cases interpreting the statute you have identified. Or, if you use the *Pacific Reporter, 2d*, the Statutes Table in each volume and advance sheet will lead you to cases in Washington that cite your statute. Cases interpreting your statute

may also be found easily by shepardizing the statutory section you have identified in *Shepard's Washington Citations*.

If you were unable to locate a relevant statute in step 2 of your research, neither the annotated code nor Shepard's will help you much. Instead, *West's Washington Digest, 2d* may be a good source to locate relevant case law. Other sources include secondary materials, such as periodicals, texts, deskbooks, ALR, and legal encyclopedias. In this circumstance (you did not find a statute), use a wide variety of resources to verify that no statute is relevant.

All cases to be relied upon should be checked to be certain they are still good law. The most current and reliable of these citator services are Insta-Cite on WESTLAW and Auto-Cite on LEXIS-NEXIS. These databases are several months more current than any unit of Shepard's citators (even the citators online). These services give only limited information, including a full citation with parallel cites, as well as the complete history and negative treatment of the case you are checking. But often you do not want every case that cites your case anyway (what you get when shepardizing); you only want to be sure that the case stands for the proposition for which you are citing it.

A researcher can also shepardize the cases of importance, but must realize that she trades the currency found only in Insta-Cite and Auto-Cite for comprehensive citation information in the not-so-current Shepard's.

If you identify mandatory precedent, you may be able to skip step 4, looking for persuasive authority. Obviously, looking only for mandatory precedent is a much more limited search than looking for any relevant case in any jurisdiction. That is why the search for mandatory case law should always be done before looking through over three million cases for any on point case!

However, if you are unable to locate court decisions that must be followed in your jurisdiction, you will need to proceed to the fourth step in the Rombauer research process. Searching for persuasive precedent can be a very time-consuming process, and you should plan accordingly.

#### **4. Search for Persuasive Case**

If you are successful in locating one or more authorities during step 2 or 3 of this research process, you may not need to look for persuasive authority. However, if no cases can be found in your jurisdiction, persuasive case authority may be the only way to support a particular position. Even if you find what you consider to be good mandatory authority, some researchers will look at contrary authority within and even outside their jurisdiction.

## Chapter 2, The Process of Legal Research

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When looking for persuasive precedent, try to limit your search to particular jurisdictions likely to have more cases in the subject area you are researching. For example, if you have a corporation issue that has not been resolved in your jurisdiction, you might first look at the case law in Delaware since so many companies are incorporated there. Or an oil and gas question might be easier to research in states with large oil and gas fields and where more litigation in oil and gas law has occurred.

Another way to help limit your persuasive case law research to particular jurisdictions is if the relevant statute you find in step 2 is modeled after a uniform law. If there are no mandatory cases interpreting your statute, *Uniform Laws Annotated* will cite to other states that have enacted similar or identical language and cite cases decided in those jurisdictions. Sometimes the annotated code itself will cite to other states from which the legislative language was modeled.

If you are unable to limit your research to another jurisdiction or two, secondary materials can really save time. Finding a law review article, ALR annotation, or book on the topic of your inquiry will permit you to gain an overview of the subject as well as give you a survey of the law in a variety of jurisdictions. This tactic may lead you to a line of cases the court may find persuasive.

Work of this sort is hard to keep on target. It can be difficult to stay focused. In this stage of the research process, make use of your preliminary analysis, reformulate the issue if necessary, and review your list of words and phrases for the most useful terms. Keep reminding yourself how you got to this stage and exactly what it is you are looking for. The search for persuasive precedent can be even more frustrating than your previous work because of the huge body of law you need to search through.

If you find persuasive authority, be sure you check the authority of any cases on which you wish to rely. Nothing is more embarrassing than to discover in court that the best authority you could find to support your view was reversed on appeal! At a minimum, use the Insta-Cite or Auto-Cite services. Also be certain that you have reviewed the most recent cases available. This requires that you use reporter advance sheets or very current computerized databases to confirm your findings.

If no persuasive authority of any kind can be found, a re-evaluation of the research problem and the process used will be necessary. Have you focused too narrowly? Have you failed to find proper analogies? Did you state the issue to be researched and then fail to actually focus on that question? Did you forget to check the pocket parts or most current cases? Caught in this situation, a complete review of your preliminary analysis is necessary. Try to determine whether your difficulty is one of process and use of legal materials or whether you simply have done a poor job in stating the question.

You may decide to go back and research again. If so, try different resources this time. No one source is absolutely comprehensive and complete. Some research tools work better for some problems than for others.

A decision about whether to continue researching at this point must be informed by an understanding of the cost to the client and chance of finding relevant authority.

Regardless of what you find, the last step in the research process is very important. No project should be deemed finished until this step has been accomplished.

### **5. Refine, Double-Check, and Update**

You may come to this last step by skipping steps 3 and 4 or only after having worked through all four stages of your research. You may actually incorporate this step into each of the others, so you are constantly refining your analysis of the question and the authority you have located. Regardless of the point in the process at which you focus on the steps noted here, be sure you actually do them!

At this last stage the researcher wants to be sure that no relevant authority has been missed. Check your research process to be sure you did not overlook an important source or forget to check the most recent supplementation. This latter problem can be overcome by having a good research plan and a thorough understanding of how the research tools can be used to provide comprehensive coverage.

One of the best ways to feel confident in the research you do and the authority you have found is to verify your result through a second, independent search of the literature. Obviously, this will take more time and likely result in additional cost to your client. However, this need not be a painstakingly comprehensive search. There are any number of ways to be certain the authority located is what you should have found: check the law digest volume of the *Martindale-Hubbell Law Directory* for the jurisdiction in question; read one current law review article; search the index to a different published (or electronic) code; or phone a colleague who regularly practices in the area. Confidence in your research ability will come with experience and a careful plan.

Did you actually find an answer to the question? Or did the real question change as you investigated and researched the law? Do you have the information you need to locate and correctly cite all relevant authority?

If your work has been done over a period of more than a week, then all updating done in earlier stages needs to be brought completely up-to-date. Similarly, if you take a long period of time to write the memorandum or brief, updating your work right before it is filed or submitted is essential. Remember, courts, legislative

bodies, and administrative agencies are constantly changing the rules and applying the law. Don't get caught flat-footed!

Take the time to reflect on the research project you have been given and what you have done to try to answer the question. Many legal researchers do a lot more work than they have to do because they worry about not finding everything. Better to spend some of this energy thinking about an efficient plan, one that covers the resources necessary but will not take endless amounts of time. Use of various legal tools should not be random. Think about exactly what you are looking for at each turn and select the best tool for the job.

For example, one of the most egregious mistakes made by many legal researchers is the compulsive shepardizing of every case and statute in sight. Shepard's citators are marvelous research tools. You can find something as simple as the parallel citation to a case or something as complex as all the cases from another jurisdiction that cite your case for the proposition stated in headnote 3 of your case. Depending on the citator you use, you can use Shepard's as a research tool — a way to locate law review articles, ALR annotations, or texts on a particular case or subject. Rarely, however, does anyone want to do all of these things when shepardizing! Most of the time the researcher simply wants to know whether the case on which they want to rely is still good law or good authority. Shepard's should rarely be used for this limited purpose since Insta-Cite on WESTLAW and Auto-Cite on LEXIS-NEXIS are so much more current than Shepard's.

## **B. Conclusion**

Legal research may be viewed as the process of elimination; elimination of bodies of law that are not applicable and elimination of authority that does not apply in the specific situation at hand. The good legal researcher, then, finds relevant authority by eliminating the extraneous and inapplicable, not just by looking for the relevant. The legal researcher classifies groups of materials or sources and authorities that are not likely to help solve the problem and eliminates them from consideration. Good legal research is the product of a thinking process that understands the nature and power of research tools, the weight of authority, and the specific question being researched.

Working with a research plan can save time, promote efficiency, and result in a higher quality research product. No single research framework will work for everyone, especially with the many changes we see in the availability and format of legal information. But some type of research design should be developed by every legal researcher. Your strategic framework must be flexible so it applies to all types of research questions. A research strategy that dictates the exact set of books to look at first in every situation will fail. Every problem is different and what you know about that problem will be different. It follows that the tools you choose for each problem should vary. The researcher who automatically uses, for example, *West's*

*Washington Digest, 2d*, for every legal research question is bound to be stymied when faced with a question that cannot be answered by using this favorite tool.

**III. Integrating Manual and Computerized Legal Research Tools**

The following article is reprinted here because it discusses the relative advantages and disadvantages of traditional print legal research tools when compared with the newer computerized legal research tools. Few lawyers today can perform effective legal research without using computerized databases, whether in online databases such as WESTLAW and LEXIS-NEXIS or in CD ROM products such as CD Law. An appreciation of the power and capability of this newer technology is necessary. For an overview of the fundamentals of computerized legal research, you may wish to read the *Computer Assisted Legal Research: The Basics* (West 1993).

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**IV. Managing Your Legal Research**

**A. General Suggestions**

In today's more complicated research environment, keeping your research under control is no easy matter. A research strategy or plan will help. But you will need more than just a plan. Your research should be done consciously. That is, you need to think about what you are doing at each step and then identify an appropriate research tool to accomplish your objective. This does not mean that you research to a formula. Your process must be flexible and enable you to take advantage of available shortcuts and relevant avenues of inquiry that you may not have considered.

Never assume the absence of relevant legislation. While it is true that much of our conduct is not yet regulated by written or statutory law, legislative bodies have codified and changed whole bodies of law that were once part of our common law tradition. It is especially important to remember this. The emphasis on statutory research early in the process as described in the Rombauer method is for a good reason.

If your research problem has several issues, a most common situation, you should plan to research each question separately. Trying to research several issues at once in the name of efficiency is likely to prolong the time it takes to complete the project. Experience shows this phenomenon to be true because keeping track of exactly what has been researched is confusing and because many researchers lose their focus and get side-tracked when they are looking for more than one thing at a time.

As you use each research tool for the first time, be sure you have checked the most recent supplementation. A lot of fruitless research can be avoided if there is a change in your statute or the status or authority of an important case. You may need to update that work again at a later time in the process, but at least you are working with the most current information available at the time.

**Managing Your Research**

- Plan
- Research consciously
- Never assume the absence of relevant legislation
- Research separate questions separately
- Check the latest supplements
- Stop using a source if it does not yield helpful information

Don't be afraid to stop using a research tool if it is not yielding some results. Spending several hours with any one research tool should suggest some problems. Perhaps your question has not been well-framed. Perhaps you know too little about the legal jargon in this area of law to successfully use the research tool you have selected. It may be that the research tool you are using contains nothing about the subject of your search. Rethink your analysis; do some additional prelimi-

nary research. Don't give up too quickly, however. The problem may be in your process and use of the tool and not a difficulty in your statement of the issue or preliminary analysis.

### **B. Note-Taking**

Taking good notes while doing legal research is the one of the most important favors you can do for yourself. How often have you had to repeat research or try to understand the notes scribbled on the back of your grocery list? Doing this well will increase your efficiency and make it possible to see where you got off track.

Keep a research journal or record of your work. Included in these notes should be a statement of the issue you are trying to answer, the results of any preliminary research you conducted in secondary sources, the other research tools you consulted, information you could use now or later in the process (such as key numbers, citations to cases, periodicals, texts, and the like), searches run in electronic databases, and descriptions of updating tasks.

Of particular importance is the need to check the dates of coverage of the various sets of books or electronic legal materials used. Later updating can only be handled efficiently if your notes are clear about what you have already checked. Confidence in the quality of your research product will be the result of this heightened awareness and careful record-keeping.

Opinion and statutory analysis and evaluation of the sources consulted are important parts of the research journal. Decisions not to use a particular case or statute should be noted so if that authority surfaces again later, precious time is not wasted reading and analyzing the material a second time. Exact quotations should be carefully recorded with all the information needed to give them full and complete citations.

Keeping track of research is a more complicated job than it used to be. Throughout the course of any research project the researcher is likely to have personal copies of cases and statutes, lists of law review articles or books to look at, and printouts from electronic databases, as well as notes taken from the research process itself. Managing all of this paper can be quite a challenge! But remember that a little time taken to organize this flood of paper may increase the speed with which you can accomplish your goal. With such easy access to personal copies of legal information, sometimes we may forget the need to read and analyze what we find! Copying a case does not automatically make it relevant. Don't forget that reading and synthesizing the information is an essential part of the research process.

The following article is reprinted here because it gives more detailed advice about how to take good notes. Pay particular attention to the section entitled, 10 Tips for Better Note-Taking in Legal Research.

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## DEVELOP THE HABIT: NOTE-TAKING IN LEGAL RESEARCH

BY PENNY A. HAZELTON, PEGGY ROEBUCK JARRETT, NANCY MCMURRER, AND MARY WHISNER

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### Introduction

At some point—perhaps it was for that seventh-grade report on the Pony Express—we were probably all taught to take notes on 3x5 index cards. Each card was supposed to record the source (with full citation) followed by the fact or the quotation we were noting. The teacher was sure to spot-check the cards, so most of us earnest junior high students were careful to make “proper” notes. But are we still as careful, now that we research and teach research as adults?

We librarians take notes ourselves when we do research, whether it be our own research, or projects for faculty, attorneys, or judges. We also have had the opportunity to observe many other researchers—students, professors, partners, and pro se patrons—many of whom come to the reference desk when they are stuck. We do not see many 3x5 cards. Instead, we see a wide assortment of legal pads, three-ring binders, scrap paper, Post-it notes, laptops, and (too often) nothing at all.

This lack of organized 3x5 cards interests and concerns us; we believe good note-taking is a habit every attorney should have. In this article we will identify types of notetakers and some personal factors researchers should consider, and then we will present our top 10 tips for effective note-taking. Our “top 10” are addressed to the researchers themselves, so we encourage teachers of legal research to make photocopies and pass them out in class (with attribution, please)!

### Why Take Notes?

To begin, why take notes? Why be concerned about the paucity of index cards? After all, it makes sense that few use them now; there have been a lot of technological changes since junior high! Rather than taking any sort of notes on cases, articles, or book chapters, many researchers today make a copy—either by photocopying from a book or printing a document from an electronic source.

Making a copy of the information has several advantages over taking notes: speed, reliability, and completeness. However, it also has disadvantages. When one photocopies an entire case or law review article, she may not read it, but instead may just tuck it in a briefcase or backpack to read at some later time—which might never arrive. If the researcher does read it, but does not take notes, the material might not be understood as well, or how the pieces fit together might not be perceived. Note-taking allows one’s mind to process the information in a different way. If the researcher goes back to the case or article several weeks later, it might be difficult to remember what was important about it, and perhaps the whole thing will have to be skimmed again to figure out why it was copied in the first place. Finally, the bulk alone of photocopies and printouts may impede the research project. A 6-inch stack of paper with no order will quickly overwhelm all but the most determined researcher.

Many researchers nowadays combine a tendency to print out or photocopy with a freewheeling use of highlighters. Using colored markers to identify important or relevant text can be an effective note-taking tool. However, some seem unable to avoid the propensity to highlight every line on a page, because, on first reading, everything seems like it might be important. Often one must read the entire case or article before the truly relevant portions can be successfully highlighted.

It does take time and self-discipline to be a systematic note-taker, and sometimes researchers decide that note-taking, that is, *good* note-taking, is just not that important. Why do we disagree? We see several good reasons for taking careful and thorough notes:

- Notes record the researcher’s sources in order to use them, find them again, and cite them.
- Notes record the research path so the researcher knows what has been checked.
- Notes helps the researcher to think about what is being done and keeps the focus on the correct issue.

- Notes aid the researcher in communicating (with colleagues, supervisors, and the host of others the researcher may want to ask for help).
- Notes allow the researcher to demonstrate her thoroughness, especially when there are less than complete answers to the questions posed.
- Notes help the researcher or a reader to understand, replicate, and update results.
- Notes serve as a reinforcement to everything the researcher learns during a particular research project and provides a "tips and tricks" resource for future projects.
- **Dudley Do Right (our hero):** Sets up a system for note-taking so that when he is ready to prepare the final product he has everything he needs. *Drawbacks:* Gets more "plum" assignments than others (who may get envious enough to tie him to the train tracks).

### Personal Styles and the Note-Taker's Art

If taking notes is so important, why do texts on legal analysis, research and writing not provide a template for perfect note-taking? That would be nice, would it not? We kicked around the idea of a checklist that could be handed out to associates, paralegals, law students et al., listing sources to check and what information needs to be noted. But reflection convinced us that legal research projects are too varied and what needs to be written down depends on too many factors for one checklist to be appropriate for all projects.

Perhaps even more importantly, note-taking needs to be adjusted to suit individual work environments and styles. Consider the following questions.

*How good is the researcher's memory?* Some people can turn their backs on a set and not remember whether they were using the *Pacific Digest* or *Am. Jur. 2d*, let alone whether they looked under "vicarious liability" as well as "respondeat superior." Other people can keep a tremendous amount of complex information in their heads while they are working through a problem. If one is the first sort of researcher, each source used had better be recorded as well as every search term tried. To paraphrase Santayana, those who do not remember research are doomed to repeat it.

*How much time is available?* If it is 9:10 and the partner wants the associate to find cases mentioning a particular statutory provision by 9:30, there is only one course of action to follow: do a quick search (in an annotated code or online), pull the cases, and give them to the partner. There is no time to write down every term checked in the code's index (although the associate might want to call attention to the fact that the pocket part was checked). *After* handing over the results, of course, the associate should consider

<sup>1</sup> Recall the Academy Award-winning performance of Dustin Hoffman in the 1988 film *Rain Man*.

<sup>2</sup> Inspired by Fred MacMurray's performance in the 1961 film *The Absent-Minded Professor*.

### Note-Taking Types

Recently we have begun seeing law students and lawyers taking notes on laptop computers. That surely will change some people's habits. Perhaps their note-taking will be faster and more accurate (if they are fast typists). Perhaps they will be able to use outline features to organize their notes better, and cut-and-paste features to capture quotations and key passages. Of course, if note-takers forget to record a citation, that laptop will not do it for them—technology cannot solve all our problems.

Whatever technology is used, we suspect the basic styles of note-taking have not changed. Most researchers will undoubtedly identify with one of the types below.

- **Perry Mason:** Does not do research, does not take notes. If he reads cases, he remembers them for the rest of his career. He always wins. *Drawbacks:* This technique works only in fiction.
- **Rain Man:** Writes everything in his notebook, very accurately. Memorizes it anyway. (Does not understand it.<sup>1</sup>) *Drawbacks:* This method is very time-consuming.
- **Absent-Minded Professor:** Takes concise notes on whatever paper is at hand but does not record sources since he is sure that he will remember them. Intends to check the citations he cannot remember and to assemble and organize notes when he has a bit more time.<sup>2</sup> *Drawbacks:* There is never "a bit more time" and miscellaneous pieces of paper tend not to gather but to migrate.
- **Peppermint Patty:** Gets notebook stuck in hair. *Drawbacks:* Information retrieval is limited.

taking a few minutes to write down what was done and what was found. Several weeks later the partner may ask a follow-up question.

*How long will the project take?* The longer the researcher thinks a project will be around, the more important it is to take good notes. If the task is to work on a law review article or a seminar paper or an appellate brief, it is likely the researcher will be looking at the same issues for a long time—or will be coming back to them after thinking about something else for a few weeks. The better the notes are—listing what was checked, what headings were used, the dates of the supplementation, and so on—the more efficient the researcher will be.

*How many people are working on the project?* If more than one person is working on a project, the researcher cannot rely on memory as much as if everything was in the researcher's own hands. Somebody else might need to know whether the researcher checked the case citations on a list; the researcher, on the other hand, might need to know whether a coworker checked CIS for committee reports or relied on USCCAN.

*Who will read the notes?* If only the researcher will be using the notes, then whatever shorthand works can be used. "LRI = 0" might be an adequate reminder that *Legal Resource Index* was checked but nothing useful was found. But if the researcher is reporting the results to someone who does not do as much or the same kind of research as the researcher does, it might help to explain what the database is and something about the searches that were tried (e.g., "I searched *Legal Resource Index*, an index of legal periodical articles, 1980 to present, using the phrase 'wildlife refuge'; the only articles I found predated the cases you asked about."). This would help the requester understand what the researcher meant when reporting that nothing relevant was found—as well as give the requester an opportunity to adjust the scope of the request.

*How many projects is the researcher juggling?* The busier the researcher is, the more tempting it is to skip steps. But it is a dangerous temptation. Pity the researcher who is left muttering, "I know I looked around in the UN Gopher, but was it for that death penalty question or the law of the sea question? Did I look for an ALR annotation on the premises liability question? Or was it the wrongful termination case?"

*How novel is the subject?* If the researcher is trying to find information in an unfamiliar area,

much better notes need to be taken. Both the terminology and the sources may be unfamiliar and details will be much harder to remember. Terms of art, variant spellings, and specialized resources should all be particularly well documented. Even in a familiar area, if the researcher is using an unfamiliar source (or a source that may be unfamiliar to the requester), its scope and coverage should be noted.

*What sorts of similar research will the researcher be doing in the future?* Any time future research in the same area is envisioned, taking careful and thorough notes in the present is a wise course. There is no better gift researchers can give themselves than having all the conundrums solved when the need to revisit the same area of research occurs. Notes will show the researcher the best sources to try first, perhaps provide leads that took days to develop in the former project, and suggest effective terms for searching. If the researcher cannot imagine ever doing research on a particular topic again, good note-taking is still a boon. One never really knows when an odd, messy problem might crop up again (and the researcher will be looked to as the "expert"). As Louis Pasteur said, "Chance favors only the mind that is prepared."

## Conclusion

Research, no matter how interesting and rewarding, is hard work. Taking notes, good notes, may not come naturally to you and may at first seem like a lot of bother. But good notes help you remember, organize, process, synthesize, and communicate information—which, in the long run, is the point of research. And the first time you find yourself up against a deadline writing up your results, and you realize that everything you need to complete the project is in your notes, you will appreciate having made an effort to form good note-taking habits.<sup>3</sup>

<sup>3</sup> Taking technology, work environments, and personal styles into consideration, we have compiled a list of "top 10 tips" for better note-taking. These are designed for distribution to LR&W students and anyone else who might wish to sharpen their note-taking skills. (All we ask is proper attribution.) We cannot guarantee the tips will lead to perfect note-taking (and from there to prestigious clerkships, lucrative partnerships, or academic tenure), but we hope all researchers will find a few ideas for improving their research habits.

## Top 10 Tips for Better Note-Taking in Legal Research

BY PENNY A. HAZELTON, PEGGY ROEBUCK JARRETT, NANCY MCMURRER,  
AND MARY WHISNER

### 1. DO A REFERENCE INTERVIEW

If you are doing research for another person, be sure you summarize what you think the person has asked you to do, determine when the project is due, ask if there is a financial limit on the project, and find out what kind of product you must produce (e.g., a client letter, a memo, a bibliography, a list). In many cases it may be appropriate to solicit strategies, sources, or search terms. The more information you can gather the better. Reference interviews, which are the process of finding out this information, are not just for librarians!

### 2. PREPARE TO CITE

Keep track of what you will need in order to cite whatever you find. It is not necessary to have all the semicolons and commas in place, but you do need to know enough about citation format to know, for example, whether you need the author's first name, or a book's copyright date or edition. You will be wise to take a minute to check a citation manual if you are citing a source you do not use often. Get in this habit and ALWAYS write down citation information—regardless of whether you are excited about what you have found or you think it will not be used. You do NOT want to be staring at a deadline and then realize you have a number of gaps to fill in!

### 3. NOTE SEARCH TERMS

Before you turn on your computer or start pulling books off the shelves, note the key terms and phrases that characterize your research problem. Think about which ones to try in the various paper sources and which might be useful in various computer databases. This is a particularly important step for anyone who is doing research for another person. As you go through your research, write down new terms you find. Of course, it can be tedious to write down every single term you try in every index. You might have a list of terms, and quickly check them off. Or write down the terms that work. Or the ones that fail. Highlight the ones that seem to work the best, but do not limit your research to them since what works in one source may not work in another.

### 4. NOTE YOUR CONTACTS

To whom have you talked? Record names, titles, organizations, and phone numbers. Were they helpful? Will they be sending you something? When? Will you want to use that contact again (should you add them to your Rolodex)?

### 5. TAKE GOOD CALR NOTES, TOO

If the databases you use frequently have a built-in way to keep track of what searches you have done, always remember to exercise that option. Use all the technology at your disposal! Every printout should contain a notation of the search you performed, the database you worked in and the date of your search. If the system cannot automatically add this information, be sure you write it on the printout itself.

### 6. ANNOTATE YOUR PHOTOCOPIES

The moment you read or even scan a photocopy, make a note on the copy, or highlight a piece of text, so you can glance at it quickly to tell where it fits into your research project. And, of course, get in the habit of checking to see that all the elements of a complete citation appear on the copy. If not, take a minute to write down all the pertinent information. Copying only a portion of a case, an article, or a book can really cause identification problems later. It does you little good to know the citation to the case you copied is 654 N.E.2d 35 if you do not also know the date of decision, court, and parties, particularly if you cannot get back to the library or into the online database to look at it again to verify the correct information.

### 7. REMEMBER TIME IS OF THE ESSENCE

Be sensitive to how current each source you use is. If you will be working on the project for a while (or someone else will be looking at your research results next month or next year), you need to note coverage information, for example:

1. shep thru 12/95 pamph.
2. RCWA 1996 pock. pt. (covers '95 reg. legis. sess.)
3. WESTLAW searches 12/29/95

### 8. KEEP THE REQUESTER INFORMED

Should the project take more time than anticipated, do not hesitate to get back to the requester and find out if you should stop or spend more time. Be ready to explain (from your excellent notes) what you have done and what you have left to do. Make a note of the conversation and date it.

### 9. ORGANIZE YOUR NOTES

Once the project is complete, resist the tendency to head for the recycle bin, or, more likely, to toss the notes in a pile on your office floor. Take a few moments to spruce them up. If there was a cover memo, attach it on top of the notes. If there was not, write a quick one to the file, so you can tell at a glance what the project was about. File your research notes by requester or by topic or by whatever system will enable you to find them again.

### 10. CONSIDER DESIGNING YOUR OWN TEMPLATE

If you tend to have a number of projects going on at the same time, you may want to design your own research cover sheet. A cover sheet can be the place for your general, summary notes; using colored paper prevents a request from becoming intermingled with the research on another project. Decide what sorts of information you need for most of your assignments and make yourself a form. Possibilities for the form include:

1. dates (when the research was assigned and when it is due)
2. requester's name, telephone number and e-mail address
3. description of the request
4. how to charge costs (to a client, to a particular account)
5. what form the results should take (e.g., citations list, memo, telephone call)
6. method of delivery and destination (e.g., put on desk, chair, mailbox)

The rest of the page is left blank so you can note contacts you have made, terms for searching, databases or sources already tried, etc. If you now need to contact the requester, all the basic information about the project is at your fingertips without your having to shuffle through papers. ♦

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**C. Help! A Dead End!**

Perhaps reaching a dead end in a project before you located a good answer has never happened to you. But for those of us who have suffered this humiliation, what do you do? First, try to analyze whether the problem lies with your inability to use the research tool. Do you need to back up and read the guide or introduction to the set? Do you need more information about how to conduct a particular search in an electronic database? Have you used the wrong terminology in indexes and databases? Have you checked the pocket parts and other supplemental material?

If you conclude that you are using the research tool properly, then you undoubtedly need to focus on issues such as your analysis of the problem, the possibility that you are being misled by irrelevant facts, or the selection of a better research tool. Is your dead end really a trail you should stop following anyway?

Re-evaluate the process you used to get to this point. Be flexible about choosing another research tool if you determine that more research is necessary. Consider your client's pocketbook and the likely results of spending more time on this problem. Don't assume that the problem is your poor research skills (unless it is!). But look carefully at your analysis. Sometimes going back to the preliminary analysis stage of your research is very helpful at this point.

**D. When to Stop the Search**

The best time to stop researching is when you have found the answer! However, many researchers lack the confidence to know exactly when that time has arrived. And, certainly, finding a relevant statute that seems to answer the question — and then forgetting to check the most recent public laws, thus failing to locate the crucial amendment — would tend to make a researcher feel uncomfortable in future research projects. The trick is to have a strategy in place that does not allow this oversight to occur in the first place.

When working on a research project, others say that you should stop when the research cost exceeds its expected benefits. This point of view is supported in the *MacCrate Report* which suggests that:

An assessment of the feasibility of conducting research of the desired degree of thoroughness [should] tak[e] into account:

- ...
- (B) The extent of the client's resources that can be allocated to the process of legal research; . . .

*MacCrate Report* at 161.

Some researchers will tell you to stop researching when you begin to see the same authorities cited over and over again. They claim that if you are seeing the

same cases and statutes cited again and again, then you are probably safe in concluding your research. This is a good strategy, but, by the time you see authorities cited again and again, you may have spent more time than necessary to answer the question. A good research plan with a double-check component should help guide the researcher to a more identifiable stopping point before more time than necessary is spent.

Other researchers stop only when they have run out of time and into a deadline. Sometimes this is appropriate. However, most of the time the researcher who must stop researching under these circumstances has not worked with a research plan or design. The researcher who finds herself in this situation may be someone who assumes that there is always an answer to be found as long as she looks hard enough. These people research more by feel than by thinking about what they are trying to accomplish and what research tools will be most likely to yield good results.

Some subscribe to the view that you should do some research then start to write and see what is missing. At that point, you go back and fill in the blanks. This may work, but, again, if you have a game plan for your research, nothing should be left out!

Whatever method you use to determine when to stop, keep two things in mind. Never forget to update all the statutes, cases, and other authority you need to rely on. And use common sense. Don't let the flurry and pressure of meeting deadlines cause you to spin your wheels. Keep some perspective on the process. Just like with writing, leave research alone for a short time. The perspective you gain may have a very positive effect on your work.

## **INTRODUCTION TO COMPUTER-ASSISTED LEGAL RESEARCH (CALR)**

Created by Peggy Roebuck Jarrett and Nancy McMurrer and revised for CLE programs

### **CALR does not replace manual research!**

- It requires the same research process that you follow in manual research
- Need to use both together

### **When is online research preferable?**

- unique search terms
- unique fact situation
- question can be narrowly drawn
- emerging area of the law
- paper sources can't easily perform the function you want (e.g. multistate search)
- for information not "published" in paper
- time is a consideration (would a 5 minute online search take 3 hours manually?)
- cite checking and verifying

### **When is manual research preferable?**

- to establish general knowledge of an area of law
- to explore complex concepts and legal theories
- to research procedural questions which often rely on common words
- search terms are too common, ambiguous, or have too many synonyms
- mandatory authority on point cannot be located and analogous situations must be considered
- to research in documents like statutes or regulations, where terminology is very particular
- to research issues for which very old materials are needed
- you find too much (information overload!) or too little
- to locate graphical materials, though more are found online than a few years ago

### **Consider when and how to integrate computer and manual tools!**

- what resources are available to you
- how good an online searcher are you
- do you like to find materials by browsing or by pinpointing a specific source
- do you need to skim or read documents, or do you need to locate a particular word or phrase
- what are the cost considerations

### **Types of Electronic Resources:**

- ◆ Commercial online services [accessible via software or via the Internet] like CD LAW (Web version), LEXIS-NEXIS, LOIS (Law Office Information Systems, Incorporated), VersusLaw, WESTLAW.
- ◆ Commercial CD ROM products like *CD Law (CD Rom version)*, *Shepard's Citations*, King County Bar Association's *Washington Lawyers Practice Manual on CD ROM*, West's *Washington Case Law and RCW Unannotated*.
- ◆ Free Internet sites like those linked from the Gallagher Law Library's Internet Legal Resources Web page <<http://lib.law.washington.edu/research/research.html>>.
- ◆ Supplementary computer disks accompanying books like Weber, *Family and Community Property Law* (forms included on a computer disk), Norris and Shershin, *How to Take a Case Before the NLRB* (4 disks include administrative materials such as regulations and the *NLRB Casehandling Manual*).

### **Checklist for Electronic Research** (for details, see the chapter *Effective Searching on Your Own*)

1. Remember, the research process is the same whether you use manual or electronic resources.
2. Plan everything **before** you go online.
3. Choose the best electronic source for your research.
4. Choose a database in a commercial service or choose a directory or search engine for Internet research.
5. Using the search terms gathered during your preliminary analysis, develop a search strategy.
6. Consider what backup strategies to use in case your first search is unproductive.
7. Decide the format and destination of the search results.
8. Update by using the most current electronic resource to which you have access.

# End-User Electronic Information Competencies

by Bobbie Studwell

*Professional Perspectives — Tools and Techniques of the Trade. The Professional Development Committee encourages members to continue to explore topics after presentations at the local, regional, and national levels. We welcome your comments and article suggestions. Please contact Mary A. Hotchkiss at 206/553-4475 or hotchma@u.washington.edu.*

I've always thought of myself as a competent researcher. I'm able to use paper-based legal research tools efficiently, quickly, effectively, and flexibly. Ten years of reference work tend to give anyone a feeling of confidence and competence.

Paper-based legal research tools aren't necessarily our end-users' tools of choice anymore, however. Students ask about electronic legal resources as soon as they enter the law school door, knowing that their legal career is likely to depend on what they know and how well they can use those electronic resources. They are likely to have surfed the Web, used e-mail, and scanned CD-ROM indexes long before they entered law school. But, do

they know much more than this when they leave law school? What can our profession do to help our students, attorneys, judges, and paralegals, not to mention ourselves, gain that same feeling of competence in using electronic resources?

A group of four of your colleagues posed that same question not long ago and drafted a working document to help supply an answer. Jill Porter (PLI), Leigh Semple (LEXIS-NEXIS), Faye Jones (Hastings Law School), and I drafted the discussion document you see below. It reformulates skills and values found in the McCrate Report for electronic research and takes technology-based competencies

from the book titled *Beyond Workplace 2000* and creates from them skill sets students and attorneys should master to be considered competent electronic information users.

You may also be interested in reviewing the "Compilation of Core Information Literacy Competency/Outcomes for Undergraduates" document found in the May 1998 issue of *C & RL News*. It includes some Web sites to peruse as you consider the working document set out in this

## End-User Electronic Information Competencies

### Skill Sets Required Before Entering Law School

**Basic Skills:** Reading, Writing, Mathematics, Listening, Speaking

**Thinking Skills:** Creative Thinking, Decision Making, Problem Solving, Synthesizing, Active Learning, Reasoning

**Personal Qualities:** Responsibility, Self-Esteem, Sociability, Self-Awareness, Ethical Integrity

article. Whether you agree with the list of skills, their arrangement, or their placement within this structure or not, hopefully you agree that it's time for our profession to step up and define basic legal research competencies. The *CR & L News* article shows that we are not alone in forging forward to define basic levels of competency. Isn't it time to set out lists of electronic research competencies, among other research skills, and ask other organizations that police our profession to take note?

I'll be interested in your thoughts on this important issue as discussion groups and listservs are used to explore the topic.

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LBC  
THOMSON  
CARSWELL  
Brooker's  
ATP  
ROUND HALL  
Sweet & Maxwell

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# A Desktop Learning Opportunity

## Information & Research Competency Skill Sets to Be Acquired before Entering the Profession

### *Information Awareness and Foundational Skills*

- Familiarity with the nature of legal rules and institutions
- Familiarity with the fundamental tools of legal research
- Awareness of the diversity of information sources and technologies available
- Awareness of techniques that will reduce costs, including an understanding of how information is gathered, organized, packaged, published in cycles, and stored
- Ability to transfer skills between platforms and systems
- Awareness of the time-consuming nature of information retrieval
- Understanding of the concepts of intellectual property and other doctrines associated with information creation and provision

### *Assessment and Selection Skills*

- Ability to formulate issues for research after determining the range of issues presented, type of answer sought, degree of confidence in answers required for the purpose, and degree of documentation of answers needed for the purpose
- Ability to determine the levels of legal research required
- Ability to use specialized techniques for reading and using research materials efficiently, including techniques related to alternative formats
- Ability to select from a range of search strategies to create a research design

### *Searching and Locating Skills*

- Ability to choose effective search terms, phrases, and images

- Awareness of database structures and content
- Ability to perform truncated, Boolean, field, and delimited searching
- Ability to use controlled vocabulary when appropriate
- Understanding of the differences between full-text and index searches
- Understanding of how to interpret and use citation formats to locate items

### *Evaluation and Interpretation Skills*

- Ability to evaluate a range of search strategies and choose the proper technology to produce the desired results
- Ability to monitor and, when necessary, modify the results of an implemented design or search strategy
- Ability to determine the degree of risk involved in not conducting thorough research
- Awareness of the degree of thoroughness of legal research required based on the end-user's need for the information and the client's resources
- Ability to create a design that evaluates the degree of thoroughness and time required and the feasibility of completing research in light of other time pressures and client resources
- Ability to distinguish relevant from irrelevant information
- Knowing how to determine and weigh factual accuracy, currency, authority, bias, viewpoints, and assumptions against the need for the information
- Ability to identify and/or troubleshoot problems with the technology chosen

### *Manipulation and Organizational Skills*

- Ability to devise and implement a coherent and effective research design
- Knowledge of how to create a research design
- Ability to provide appropriate documentation of results
- Understanding of how to integrate new information into an existing body of knowledge
- Ability to organize information for practical and counseling applications, including creating documents such as World Wide Web pages
- Understanding of how and when to use document delivery to retrieve documents
- Understanding of the process for saving, downloading, e-mailing, or printing search results

### *Citation Skills*

- Knowing the requirements for legal citation forms, including electronic formats
- Ensuring that sources are up-to-date
- Ability to double check the accuracy of research

### *Communication Skills*

- Understanding how to articulate information needs
- Understanding how to communicate the results of research to clients and others
- Ability to present and interpret information visually using graphs, charts, etc.
- Ability to communicate using visual presentation software such as PowerPoint, WhiteBoard, and others