

The Importance of Legal Research

By Shawn G. Nevers

I doubt Steven Spielberg thought anyone watching *Lincoln* would think about legal research, but that's what happened to me. In one pivotal scene, Lincoln and his Cabinet gather to discuss the proposed amendment abolishing slavery. Various Cabinet members are opposed to supporting an amendment they see as unlikely to pass by the needed super-majority.

Lincoln, on the other hand, supports the amendment. He feels strongly that slavery must be abolished, but, he worries that the Emancipation Proclamation is vulnerable. The Proclamation was a war measure, he explains, but, without a war, questions about the legality of the Proclamation and its effects will no doubt be raised. A constitutional amendment is the legal cure needed to settle the uncertainty and end slavery for good.

As I listened to Lincoln explain his reasoning, I couldn't help but think about legal research. Lincoln had found, understood, and applied the law. This process allowed him to correctly assess the legal weaknesses of the Emancipation Proclamation. It also helped him realize that a constitutional amendment was the best solution available. In that way, legal research played a critical role in Lincoln's decision to pursue the 13th Amendment despite heavy opposition.

While Lincoln's legal research didn't include Westlaw or Lexis, its underlying principles of finding, understanding, and applying the law remain the same today. Today's lawyers continue to use legal research on a daily basis to prepare them to advise clients, negotiate with opposing counsel, or persuade a judge or jury.

You'll experience the importance of legal research when a client seeks your help to modify a child custody order, to sue for misappropriation of trade secrets, or to defend them in an insider trading case. Legal research will help you find, understand, and apply the law. Performing good legal research in this way will provide you with the foundation you need to proceed confidently and achieve the best result for your client.

Despite the importance of legal research in legal practice, I'm often surprised at how many first-year law students (and sometimes others) seem disinterested in the topic. Maybe I shouldn't be surprised – legal research doesn't hold the appeal of some topics, like constitutional or criminal law. Legal research also requires more hands-on work,

which rarely evokes endearment from law students. Many students even have the mistaken notion that legal research is easy.

But, whatever the reason for the initial lack of interest in legal research, something changes when law students head out to legal jobs during the summer. That's because they're asked to research—again and again and again. In fact, the majority of law students I talk to spend the majority of their summer researching.

So, while law students may or may not grow to love legal research, they do come to understand that it's a critical skill they must acquire. In fact, upon returning from the summer, many of my former students remark that our legal research and writing class was by far the most helpful of their first year. I always wish they would have realized this earlier—and they do too—but better late than never.

The sooner you gain an appreciation for the importance of legal research the better. Here are a few tips that might help:

Take a broader view of research. Some students and even attorneys have a narrow view of research. To them, research is Lexis or Westlaw. Good legal research, however, is much more than a research system; it's a process. Good legal research is intertwined with analysis, understanding, and application. While finding the law is important, "one has not truly found the law until he understands it," as one prominent law librarian has noted. A research system can't do that for you.

A lawyer's understanding and analysis of a case often begins in the research stage when she identifies the relevant facts and determines the legal issues that must be researched. This analysis continues and is refined as she decides where, how, and what to search. As she finds seemingly relevant legal materials, she must understand them and how they apply to the facts of her case. This research provides a crucial analytical foundation that will inform her decisions for the remainder of the case. When viewed in this light, research can be seen not merely as a fleeting Westlaw search, but as a critical, enduring component of representing a client.

Take research seriously. If you're serious about getting yourself ready to practice competently, you need to be committed to developing your research skills. The first step is easy—don't blow off your research classes. The more you put into these classes, the more you'll get out of them.

Taking research seriously also means working on your research skills and knowledge outside a structured class. I know that sounds crazy, but hear me out. The truth is that there's never enough time in a legal research class to cover everything—the intricacies of specialized areas, the latest databases, etc. It's likely that your law library provides

optional training sessions to help you learn these things. You won't be able to attend them all, but go as often as you can. Westlaw, Lexis, and others also provide training, as well as a number of online tutorials that can be helpful.

Your law library, as promoter of all things legal research, also likely has a blog, a Twitter account, a Facebook page or [enter new tool here] that keeps students up to date on new databases or legal research tips. Keep track of these sources, or some from another library, and you'll be surprised how much additional legal research knowledge you gain that will help you in school or at work.

Take advanced legal research. Most law schools offer some sort of advanced or specialized legal research course as an elective. Take it! Take it even if you don't love legal research. Especially take it if you're not good at legal research. You will soon be doing research on someone else's dime. Why not get ready for it?

Most, if not all, advanced legal research classes are taught by law librarians. They are expert researchers who know about the latest legal resources and can teach you a lot about the legal research process. You'll also get the chance to do a lot of research, which is critical to becoming a good researcher. If you don't practice researching now, you'll be doing it at your job, which is where you'd be better off impressing than learning.

Abraham Lincoln's quip about a book he read could easily be applied to legal research—"People who like this sort of thing will find this the sort of thing they like." The truth is, however, that whether you like it or not, legal research is a critical part of lawyering. Don't underestimate its importance.

TOOLS OF LEGAL RESEARCH

By Legal Information Institute (LII)

The purpose of legal research is to find "authority" that will aid in finding a solution to a legal problem. Primary authorities are the rules of law that are binding upon the courts, government, and individuals. Examples are statutes, regulations, court orders, and court decisions. They are generated by [legislatures](#), courts, and administrative agencies. Secondary authorities are commentaries on the law that do not have binding effect but aid in explaining what the law is or should be. The resources available to find legal authority are vast and complicated leading many law schools to require students to take a class in legal research.

Finding tools enable a researcher to find and interpret legal authority. Initially, many researchers turn to tools that provide summaries of a particular area of the law. Some examples are legal encyclopedias, treatises, and the [American Law Reports \(ALR\)](#). Law reviews and legal periodical articles provide interpretation of the law as well as detailed articles on particular legal topics. These interpretations may be found through indexes such as the [Index to Legal Periodicals](#). Restatements provide detailed summaries of what the law generally is or what the restatement writers believe the law should be. The citations to other authorities and annotations provided in legal encyclopedias, treatises, American Law Reports, law reviews, and legal periodicals are an important element of their value in the research process.

There are also a number of specialized finding tools that enable one to search for relevant materials in primary authorities. The index volumes for statutes and regulations compilations provide a quick guide to relevant rules and regulations. There are also privately published version of statutes that are annotated. Case reporters contain the decisions in cases that have been deemed important enough to publish. Case digests enable a researcher to look up a particular area of the law and find a list of case decisions that are "reported" in relevant case reporters. If one has the common name of a law (e.g., [The Lanham Act](#)), a popular name table can provide a quick reference to where the law can be found in the statute compilation. There are also conversion tables that allow one to link a statute to the bill from which it developed and the commentary surrounding it's approval. [Shepard's Citations](#) provides references to when cases and law review articles were cited by another source.

Computer databanks have provided the legal profession with quick and efficient tools to do research. [LEXIS](#) and [WESTLAW](#), two prominent legal search engines, provide databases that have case reporters, statutes, legal periodicals, law reviews and various secondary authorities. State and specialty law collections pulling together diverse types of authority are now appearing on CD-ROM and the internet.