

Laurel Currie Oates
Anne Enquist

FOURTH EDITION

RESEARCH

Preparing for Practice



Wolters Kluwer
Law & Business

Aspen Coursebook Series

Just Research

Preparing for Practice

Fourth Edition

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Dedication

We dedicate this book to our students,
who keep us looking toward the future.

Laurel Currie Oates
Anne Enquist

List of Materials in the Electronic Supplement

See http://www.aspenlawschool.com/books/oates_legalwritinghandbook/.

Chapter 4: Researching Issues Governed by State Statutes

- 4.3.1 The Assignment
- 4.3.2 Researching Issues Governed by State Statutes Using Free Sources
- 4.3.3 Researching Issues Governed by State Statutes Using Lexis Advance
- 4.3.4 Researching Issues Governed by State Statutes Using Westlaw Next
- 4.3.5 Researching Issues Governed by State Statutes Using Bloomberg Law
- 4.3.6 Researching Issues Governed by State Statutes Using Lexis.com
- 4.3.7 Researching Issues Governed by State Statutes Using Westlaw Classic

Chapter 5: Researching Issues Governed by Federal Statutes

- 5.3.1 The Assignment
- 5.3.2 Researching Issues Governed by Federal Statutes Using Free Sources
- 5.3.3 Researching Issues Governed by Federal Statutes Using Lexis Advance
- 5.3.4 Researching Issues Governed by Federal Statutes Using Westlaw Next
- 5.3.5 Researching Issues Governed by Federal Statutes Using Bloomberg Law
- 5.3.6 Researching Issues Governed by Federal Statutes Using Lexis.com
- 5.3.7 Researching Issues Governed by Federal Statutes Using Westlaw Classic

Chapter 6: Researching Issues Governed by City and County Ordinances

- 6.4.1 The Assignment
- 6.4.2 Researching Issues Governed by City and County Ordinances Using Free Sources
- 6.4.3 Researching Issues Governed by City and County Ordinances Using Lexis Advance
- 6.4.4 Researching Issues Governed by City and County Ordinances Using Westlaw Next
- 6.4.5 Researching Issues Governed by City and County Ordinances Using Bloomberg Law
- 6.4.6 Researching Issues Governed by City and County Ordinances Using Lexis.com
- 6.4.7 Researching Issues Governed by City and County Ordinances Using Westlaw Classic

Chapter 7: Researching Issues Governed by Common Law

- 7.4.1 The Assignment
- 7.4.2 Researching Issues Governed by Common Law Using Free Sources
- 7.4.3 Researching Issues Governed by Common Law Using Lexis Advance
- 7.4.4 Researching Issues Governed by Common Law Using Westlaw Next
- 7.4.5 Researching Issues Governed by Common Law Using Bloomberg Law
- 7.4.6 Researching Issues Governed by Common Law Using Lexis.com
- 7.4.7 Researching Issues Governed by Common Law Using Westlaw Classic

Chapter 8: Researching Constitutional Issues

- 8.3.1 The Assignment
- 8.3.2 Researching Constitutional Issues Using Free Sources
- 8.3.3 Researching Constitutional Issues Using Lexis Advance
- 8.3.4 Researching Constitutional Issues Using Westlaw Next
- 8.3.5 Researching Constitutional Issues Using Bloomberg Law
- 8.3.6 Researching Constitutional Issues Using Lexis.com
- 8.3.7 Researching Constitutional Issues Using Westlaw Classic

Chapter 9: Researching Issues Governed by Federal, State, or Local Court Rules

- 9.5.1 The Assignment
- 9.5.2 Researching Issues Governed by Court Rules Using Free Sources
- 9.5.3 Researching Issues Governed by Court Rules Using Lexis Advance
- 9.5.4 Researching Issues Governed by Court Rules Using Westlaw Next

- 9.5.5 Researching Issues Governed by Court Rules Using Bloomberg Law
- 9.5.6 Researching Issues Governed by Court Rules Using Lexis.com
- 9.5.7 Researching Issues Governed by Court Rules Using Westlaw Classic

Chapter 10: Citators

- 10.3.1 Cite Checking Using Free Sources
- 10.3.2 Cite Checking Using *Shepard's*
- 10.3.3 Cite Checking Using KeyCite
- 10.3.4 Cite Checking Using BCite

Chapter 11: Doing Federal and State Legislative Histories

- 11.6.1 The Assignment
- 11.6.2 Doing a Legislative History Using Free Sources
- 11.6.3 Doing a Legislative History Using Lexis Advance
- 11.6.4 Doing a Legislative History Using Westlaw Next
- 11.6.5 Doing a Legislative History Using Bloomberg Law
- 11.6.6 Doing a Legislative History Using Lexis.com
- 11.6.7 Doing a Legislative History Using Westlaw Classic

Chapter 12: Doing Federal and State Legislative Histories

- 12.5.1 The Assignment
- 12.5.2 Locating Forms Using Free Sources
- 12.5.3 Locating Forms Using Lexis Advance
- 12.5.4 Locating Forms Using Westlaw Next
- 12.5.5 Locating Forms Using Bloomberg Law
- 12.5.6 Locating Forms Using Lexis.com
- 12.5.7 Locating Forms Using Westlaw Classic

Chapter 13: Researching Judges, Attorneys, People, Companies, and Things

- 13.8.1 The Assignment
- 13.8.2 Researching Judges, Attorneys, and People Using Free Sources
- 13.8.3 Researching Judges, Attorneys, and People Using Lexis Advance
- 13.8.4 Researching Judges, Attorneys, and People Using Westlaw Next
- 13.8.5 Researching Judges, Attorneys, and People Using Bloomberg Law
- 13.8.6 Researching Judges, Attorneys, and People Using Lexis.com
- 13.8.7 Researching Judges, Attorneys, and People Using Westlaw Classic

Preface

About eight years ago, we had one of those “ah ha” moments. In a single instant, we knew, not how to make a better mouse trap, but how to write a better legal research book.

A. A Short History of Legal Research Books

The first generation of legal research books described the sources available to legal researchers. Each chapter focused on a particular source (for example, codes, digests, or reporters), detailing the source and how it was updated. Although these books were a treasure chest of useful information, they did not discuss the process of researching a problem. Thus, after reading these books, a beginning researcher knew what the sources were but not how to use them.

The second generation of legal research books tried to remedy this problem by describing not only the sources but the process of researching a legal issue. Unfortunately, though, most of these books used the same organizational scheme that was used in the first generation of books. Although the books talked, in general terms, about the process of researching a problem, each chapter focused on a particular source. In addition, although this second generation of books talked about electronic sources, the focus was on doing legal research using books. In most of the textbooks, each chapter started with a discussion of the books and ended with a brief description of fee-based services like LexisNexis® and Westlaw.

B. How *Just Research* Differs from Existing Legal Research Books

Just Research begins a new generation of books about legal research: It breaks with tradition in three ways. First, *Just Research* is organized around issues rather than sources; second, *Just Research* emphasizes the use of free and fee-based electronic sources; and third, like most legal sources, *Just Research* is available both as a book and as an e-book.

1. Issues vs. Sources

Because lawyers research issues, we have organized *Just Research* around those issues rather than sources. As a consequence, instead of describing a

particular source, each chapter describes how to research a particular type of issue. For example, Chapter 4 describes the sources and process that is used in researching an issue that is governed by a state statute, Chapter 5 describes the sources and process that is used in researching an issue that is governed by federal statutes and regulations, Chapter 6 describes the sources and process of researching an issue governed by local ordinances, and so on.

2. Electronic Sources vs. Books; Fee-based vs. Free

Until a few years ago, few people viewed computers neutrally. Computers were either high-tech demons that depersonalized and dehumanized modern life, or they were the solution to all problems. The same was true of computer-assisted research. Attorneys saw computer-assisted research either as an overrated, overpriced shortcut that produced poor results or as the most efficient and reliable means of accessing information. Although there are a few people who still oppose computer-assisted research, most attorneys now prefer electronic research to book research, with many attorneys doing their research almost exclusively online.

The more recent legal research controversy concerns fee-based sources vs. free sources. Initially many of us were skeptical about the free sources and worried about relying on them. In some cases the skepticism was justified, but as with so many other things with the Internet, over time people have come to learn what is and is not reliable information. As a result, in many instances, free government and educational websites have become the source of choice. Accordingly, the electronic supplement and e-book show you how to do research using not only fee-based services but also free sources.

3. Book vs. E-book

For the first time, *Just Research* is available as both a book and as an e-book. If you have purchased the book, use the book to find general information about researching different types of legal issues, and then go to the website (the URL and your password are on a card in the front of the book) to see how to use that general information to research specific issues using free sources, Lexis Advance®, WestlawNext™, Bloomberg Law, Lexis.com®, and Westlaw® Classic. If you have purchased the e-book, everything that you need is in the e-book. While we do not expect that everyone will read all of the “how to” sections, we urge you to read several comparing and contrasting the fee-based services and learning what types of information are available for free. While we do not recommend that you do all of your research using free sources, sites like Google™ Scholar can be an excellent starting point and can lower your research costs.

4. A Final Comment

A book that focuses on electronic sources presents a special challenge: Those sources keep changing. It seems that as soon as we capture a screen from free sources, Lexis Advance®, WestlawNext™, Bloomberg Law, Lexis.com®, and Westlaw® Classic, something changes. Thus, although we will update

the screen shots in the e-book on a regular basis, the examples that you see in the electronic supplement or e-book may not match what you see on your own computer screen. We are confident, however, that these changes will not present too much confusion for our readers because, as we have emphasized throughout *Just Research*, the key to becoming an excellent legal researcher is knowledge of the underlying structure, not the surface features.

Acknowledgments

Although some people believe that writing is a solitary process, this book disproves that belief. The process of writing this book has allowed us to engage in wonderful conversations with our colleagues and students about how the process of researching legal issues has changed during the last ten years and about the best ways of preparing students for the future.

We would like to begin by thanking our students and alumni. Thank you for sharing with us your experiences as summer associates, legal interns, legal externs, and practicing attorneys. Your insights into how technology is changing legal research have been invaluable.

We would also like to thank the people who helped us with this book. First, we would like to thank Matthew Enquist for giving up his valuable time to create the exquisite drawings that appear in Chapter I. Thank you so much. Second, we would like to thank Professor Mimi Samuel for providing both technical and moral support and Aaron Meyers, our Lexis representative, for his help in updating the sections on LexisNexis® and for teaching us how to use Lexis® Advance. Third, we would like to thank our current research assistants, Ahmad Khalaf and Lorie Hahn. We know that capturing screen shots and updating exercises is not the most glamorous work. Our biggest thanks, however, go to the people at Aspen who helped us with this project. Our deepest thanks go to Dana Wilson for helping us with this project and all of our other projects. We have thoroughly enjoyed working with you. In addition, thanks to Lisa Wehrle, who worked on the manuscript, to Enid Zafran who prepared the index, to Sharon Ray who did the composition, and to Karen Quigley for her cover design.

Last, but certainly not least, we would like to thank our families. Laurel sends her love to her husband, Terry, and her children, Julia and Michael, and the important people in their lives, big Michael and little Michelle. Anne is grateful to her husband Steve for his unfailing love and support, and to her sons and their wives, Matt and Mary and Jeff and Ilana, for their continued love and encouragement.

Just Research

Summary of Contents

<i>Contents</i>	xi
<i>List of Electronic Supplement Sections</i>	xvii
<i>Preface</i>	xxi
<i>Acknowledgments</i>	xxv
Part I. Introduction to Legal Research	1
Chapter 1. Fortresses, Tumors, and Legal Research	3
Chapter 2. The United States Legal System	9
Chapter 3. Introduction to Legal Research	21
Part II. Researching Issues Governed by State Statutes, Federal Statutes, and Local Ordinances	35
Chapter 4. Researching Issues Governed by State Statutes and Regulations	37
Chapter 5. Researching Issues Governed by Federal Statutes and Regulations	51
Chapter 6. Researching Issues Governed by City or County Ordinances	65
Part III. Researching Common Law and Constitutional Issues	71
Chapter 7. Researching Issues Governed by Common Law	73
Chapter 8. Researching Constitutional Issues	85
Part IV. Rules	93
Chapter 9. Researching Issues Governed by Federal, State, or Local Court Rules	95
Part V. Cite Checking	105
Chapter 10. Citators	107

Summary of Contents

Part VI. Legislative Histories	111
Chapter 11. Doing Federal and State Legislative Histories	113
Part VII. Practice Information	121
Chapter 12. Locating Forms	123
Chapter 13. Researching Judges, Law Firms, People, Companies, and Things	127
<i>Glossary of Sources for Legal Research</i>	137
<i>List of Reliable Websites</i>	147
<i>Index</i>	149

Contents

<i>List of Electronic Supplement Sections</i>	xvii
<i>Preface</i>	xxi
<i>Acknowledgments</i>	xxv
Part I. Introduction to Legal Research	1
Chapter 1. Fortresses, Tumors, and Legal Research	3
§ 1.1 Two Puzzles	3
§ 1.2 Two Approaches to Learning How to Do Legal Research	5
§ 1.3 The Structures Underlying Legal Research	6
Chapter 2. The United States Legal System	9
§ 2.1 The Three Branches of Government	10
§ 2.1.1 The Executive Branch	10
§ 2.1.2 The Legislative Branch	10
§ 2.1.3 The Judicial Branch	11
a. The Hierarchical Nature of the Court System	11
b. The Federal Courts	13
c. State Courts	16
d. Other Courts	17
§ 2.2 The Relationship Between the Federal and State Governments	17
§ 2.2.1 A Short History	17
§ 2.2.2 The Relationship Between Laws Enacted by Congress and Those Enacted by the State Legislatures	17
§ 2.2.3 The Relationship Between Federal and State Courts	18
§ 2.2.4 The Relationship Among Federal, State, and Local Prosecutors	19
§ 2.3 A Final Comment	19
Chapter 3. Introduction to Legal Research	21
§ 3.1 The Sources	21
§ 3.1.1 Sources Containing Primary Authority	21
§ 3.1.2 Sources Containing Secondary Authority	22
§ 3.1.3 Finding Tools	23