A Guide to Legal Research and Citation Example

Legal research and citations Meaning of Research The term â€˜researchâ€™ has received a number of varied meanings and explanations. In its ordinary sense, the term refers to a search for knowledge. The Advanced Learnerâ€™s Dictionary of Current English spells out the meaning of â€˜researchâ€™ as â€˜a careful investigation or inquiry specifically through search for new facts in any branch of knowledgeâ€™. According to the **Websterâ€™s International Dictionary,** â€˜researchâ€™ is â€˜a careful, critical inquiry or explanation in seeking facts or principles; diligent investigation in order to ascertain somethingâ€™. While Webster Dictionary explains the term â€˜researchâ€™ to mean â€˜a systematic investigation towards increasing the sum of knowledgeâ€™. D Slesinger and M Stephenson perceived the term â€˜researchâ€™ as â€˜the manipulation of things, concepts or symbols for the purpose of generalizing to extend, correct or verify knowledge, whether that knowledge aids in construction of The 1911 Cambridge edition of the Encyclopedia **Britannica** defines research as: The act of searching into a matter closely and carefully, inquiry directed to the discovery of truth and in particular, the trained scientific investigation of the principles and facts of any subject, based on original and first hand study of authorities or experiment. Investigations of every kind which has been based on original sources of knowledge may be styled research and it may be said that without â€˜researchâ€™ no authoritative works have been written, no scientific discoveries or inventions made, no theories of any value propounded â€“ **Legal research** is

"the process of identifying and retrieving information necessary to support legal decision-making. In its broadest sense, legal research includes each step of a course of action that begins with an analysis of the facts of a problem and concludes with the application and communication of the results of the investigation. The processes of legal research vary according to the country and the legal system involved. However, legal research generally involves tasks such as: 1) finding primary sources of law, or primary authority, in a given jurisdiction (cases, statutes, regulations, etc.); 2) searching secondary authority (for example, law reviews, legal dictionaries, legal treatises, and legal encyclopedias such as American Jurisprudence and Corpus Juris Secundum), for background information about a legal topic; and 3) searching non-legal sources for investigative or supporting information. Legal research is performed by anyone with a need for legal information, including lawyers, law librarians, and paralegals. Sources of legal information range from printed books, to free legal research websites and information portals to fee database vendors such as Wolters Kluwer, Chancery Law Chronicles,[2] LexisNexis, Westlaw, and Bloomberg Law. Law libraries around the world provide research services to help their patrons find the legal information they need in law schools, law firms and other research environments. Many law libraries and institutions provide free access to legal information on the web, either individually or via collective action, such as with the Free Access to Law Movement. In practice, there are three categories of legal research tasks assigned to paralegals. While each of these categories have different purposes, the legal research must be performed in the same manner for each of them. The three categories of assignment are legal research performed to obtain background in an unfamiliar area of the law; legal research in preparation for an upcoming meeting, hearing, or deposition; and legal research in preparation for writing a opinion letter for the client or a memorandum of law to the court. **Background Legal Research** Background legal research is the most general of the legal research assignments. It is research to determine what the law is in a particular field. The research is broad in scope and designed to determine the general legal principles that apply in that area of the law. In this sense, it is much like the law studied in paralegal education classes â€” very broad and not tied to any specific aspect of the client's legal problem. Background legal research is performed out of academic interest. It is a necessary step in determining what advice to give the client if the field of law is unfamiliar to the lawyer. The lawyer must first understand the broad issues of the field before deciding on more specific legal research tasks. This may include gaining an understanding of the policies and goals underlying a particular area of the law. Just

because background legal research is broad in scope does not mean that you should not have a thorough grasp of the client's legal problem. Knowing why the background legal research is necessary helps narrow your research. An assignment to research the insurance requirements for registered vehicles traveling on public streets is more easily performed if you know that the client is charged with operating a moped without insurance. **Event-driven Legal Research** This type of legal research is performed because it is likely an issue will come up at a court hearing or client meeting. You will perform this type of legal research any time there is a discrete issue requiring a specific answer. A common example is an evidentiary question â€" you might be asked to conduct legal research to determine if a witness can testify about a conversation with your client. Event-driven legal research is designed to determine the answer to a very narrow and specific question. Event-driven legal research requires detailed knowledge about the specific legal problem. The results of this kind of legal research are always determined by the facts of the client's problem. If your legal research discovers alternative solutions, these will also depend on the facts. It is imperative that the results of this type of legal research be placed in a specific factual context. This kind of legal research is narrowly focused and looks for results. Your research should not address issues of policy or effects of other laws unless those questions are appropriate for the client. **Alert** Staying focused on the client's problem is essential when conducting legal research. The scope of the law is very broad â€" there is always another court opinion or another statute that might affect the results of your research. If you follow every trail, you will delay your conclusion and run up a big bill for the client. Be thorough, but do not overdo it. **Legal Research in Preparation for Writing** Lawyers often use the results of legal research to present written advice to clients or to prepare written arguments to a court on behalf of a client. The writing usually has a specific purpose. The opinion letter will discuss the effect of a contract provision so that the client can decide whether to agree to the provision; the written argument will support the client's position concerning enforcement of a settlement. Since only lawyers can write letters to clients giving legal advice and only lawyers can file written arguments with the court, this kind of research is not a final product but is used to formulate a final product. The results may be supplemented or supported by other legal research as necessary.This kind of legal research is somewhat broader than event-driven legal research. Although the result is important in this kind of legal research, it is often necessary to understand why the result was reached. Questions of policy and relationship to other laws are valuable context for the results of this type of legal research. **Methods of research DOCTRINAL**

LEGAL RESEARCH Doctrinal legal research, as conceived in the legal research domain, is research â€˜aboutâ€™ what the prevailing state of legal doctrine, legal rule, or legal principle is. A legal scholar undertaking doctrinal legal research, therefore, takes one or more legal propositions, principles, rules or doctrines as a starting point and focus of his study. He â€˜locatesâ€™ such a principle, rule or doctrine in statutory instrument(s), judicial opinions thereon, discussions thereof in legal treatises, commentaries, textbooks, encyclopedias, legal periodicals, and debates, if any, that took place at the formative stage of such a rule, doctrine or proposition. Thereafter, he â€˜readsâ€™ them in a holistic manner and makes an â€˜analysisâ€™ of the material as well as of the rules, doctrines and formulates his â€˜conclusionsâ€™ and writes up his study. For example, a legal researcher interested in criminal law might start with proposition dealing with right against selfchilot.wordpress.com72 incrimination. Research then takes place in the law library, where he will â€˜locateâ€™ the proposition (along with its different contours) and its discussions in treatises and textbooks on criminal law, criminal procedure, and constitutional law, encyclopedia and leading legal periodicals. He will also try to locate all relevant judicial pronouncements of the higher judicial institutions delved into the right against selfincrimination. He will then â€˜readâ€™ these materials and â€˜analyzeâ€™ them by applying his power of reasoning and will, premised on analytical perspective and the material used, draw some conclusions about the proposition. He then will write up his study. He may, in his study advance a set of formulations, supportive or otherwise, with convincing â€˜reasoningâ€™ about the proposition-the right against self-incrimination. He, in his research report, may offer an alternative comprehensive paradigm of the doctrine. With a view to drawing parallels between the doctrine or rule under inquiry, he may also find a comparable doctrine or rule from other jurisdictions. He may, depending upon â€˜objectivesâ€™ of his research, also propose a new formulation of the rule or doctrine, a model statute or a statutory provision. He may also highlight the purpose and policy of law that exist and may propose what it ought to be. Doctrinal legal research, thus, involves: (i) systematic analysis of statutory provisions and of legal principles involved therein, or derived therefrom, and (ii) logical and rational ordering of the legal propositions and principles. The researcher gives emphasis on substantive law rules, doctrines, concepts and judicial pronouncements. He organizes his study around legal propositions and judicial pronouncements on the legal propositions of the appellate courts, and other conventional legal materials, such as parliamentary debates, revealing the legislative intent, policy and history of the rule or doctrine. Classic works of legal scholars on the law

of torts and administrative law do furnish outstanding examples of doctrinal legal research. **Non doctrinial research** In the recent past, doctrinal legal research has received a severe jolt due to change in the political philosophy of law from the laissez faire to the welfare state envisaging socio-economic transformation through law and legal institutions, the consequential new substantive and functional facets of law, and certain compelling pragmatic considerations arising from this metamorphosis. Prominent reasons and arguments stressing the need for inquiry into social facets of law are: First, the emergence of sociological jurisprudence and its underlying philosophy assigned â€˜lawâ€™ the task of â€˜social engineeringâ€™. Almost every modern civilized State perceives â€˜lawâ€™ as an active instrument of socio-economic justice and thereby a vehicle of social engineering. This new operational facet of law has inevitably led to enactment of enormous statutes with specified socio-economic drives. In fact, we have come to live in an age is of social welfare laws. Secondly, in the light of such a role assigned to law, it is argued, it becomes necessary to look into the â€˜factorsâ€™ or â€˜interestsâ€™ of the Legislature that play significant role in setting the legislative process in motion and in identifying the beneficiaries thereof and the reasons therefor. These â€˜factorsâ€™ and â€˜interestsâ€™ (for putting law in motion for the desired planned socio-economic change), indicate, rather dictate, â€˜frameworkâ€™ of the law as well reveal the choices opted by the Legislature when it faced with alternative â€˜pathsâ€™ towards, or â€˜strategiesâ€™ for, the intended legislative goal. Thirdly, it becomes necessary to carry out frequent attitudinal studies of those whose legal position is sought to be modified by a given law as well as of those who are vested with the power of interpreting and implementing it so that the Legislature, armed with this feedback, can fulfill its job in a more satisfactory manner. Fourthly, a number of facts or factors that lie outside a legal system may be responsible for non-implementation or poor implementation of a given piece of social legislation. A systematic probe into these factors and their influence on the operation of law, therefore, becomes necessary to identify these bottlenecks and to design appropriate strategy to remove them or to minimize their influence on the law so that the law can be made an effective instrument of socio-economic transformation. Fifthly, there is nearly always a certain â€˜gapâ€™ between actual social behavior and the behavior demanded by the legal norm and certain â€˜tensionâ€™ between actual behavior and legally desired behavior. Identification of the â€˜gapâ€™ and â€˜tensionâ€™ as well as factors responsible therefore becomes necessary for strengthening potentials of law as a vehicle for socio-economic justice. CITATIONS **Legal citation**is the practice of crediting and referring to

authoritative documents and sources. The most common sources of authority cited are court decisions (cases), statutes, regulations, government documents, treaties, and scholarly writing. Typically, a properlegalcitationwill inform the reader about a source'sauthority, how strongly it supports the writer'sproposition, its age, and other,relevantinformation. This is an example citation to aUnited States Supreme Courtcourt case: Griswold v. Connecticut, 381 U.S. 479, 480 (1965). This citation gives helpfulinformationabout the cited authority to the reader.

- The names of the parties are Griswold and Connecticut. Generally, the name of the plaintiff (or, on appeal, petitioner) appears first, whereas the name of the defendant (or, on appeal, respondent) appears second. Thus, the case isGriswold v. Connecticut.
- The case is reported in volume 381 of theUnited States Reports(abbreviated "U.S."). The case begins on page 479 of that volume of the reporter. The authoritative supporting material for the writer's proposition is on page 480. The reference to page 480 is referred to as a "pin cite" or "pinpoint".
- The Supreme Court decided the case. Because the U.S. Reports publish only cases that the Supreme Court decides, the court deciding the case may be inferred from the reporter.
- The authority supports the proposition directly because it is not qualified with a signal. If it had offered only indirect or inferential support for the proposition, the author should have preceded the cite with aqualifying signalsuch asseeorcf.
- The authority is from 1965, so either the clear and enduring wisdom of this source has been venerated by the test of time, or this clearly dated relic of another era is obviously ripe for revision, depending upon the needs of the writer.

During a legal proceeding, a '**legal citation analysis**'- i.e. usingcitation analysistechnique for analyzinglegal documents- facilitates the better understanding of the inter-related regulatory compliance documents by the exploration the citations that connect provisions to other provisions within the same document or between different documents. Legal citation analysis uses acitation graphextracted from aregulatorydocument, which could supplementE-discovery- a process that leverages on technological innovations inbig data analytics Some

countries have ade factocitation standard that has been adopted by most of the country's institutions. **Australia** Australian legal citationusually follows theAustralian Guide to Legal Citation(commonly known as AGLC) **Canada** Canadian legal citation usually follows theCanadian Guide to Uniform Legal Citation(commonly called the McGill Guide) **Germany** German legal citation **Netherlands** Dutch legal citation follows theLeidraad voor juridische auteurs[5](commonly known asLeidraad) **United Kingdom** Oxford Standard for Citation Of Legal Authoritiesis the modern authority oncitation of United Kingdom legislation. Guidance for UK government drafters is provided inStatutory Instrument Practice.[6] **USA** U. S. legal citation follows one of:

- Bluebookstandard
- ALWD Citation Manual