CHAPTER 8

RESEARCH SOURCES FOR PRIMARY AUTHORITY

Chapter Outline

Chapter 8 Introduction

FILTERS

Filters in online research serve two purposes.

1. **Databases in which to search.** Filters are databases that can be comprised of material from specific court jurisdictions, state or federal jurisdictions, or even specific publications. Choosing a database is important because it tells the research system where to look. The researcher can set a filter for his or her state, for all states, for a specific federal circuit, for the U.S. Supreme Court, or for multiple states or circuits. One may also set filters to research within specific books, such as *Am. Jur. 2d, A.L.R., Restatements, West's Legal Forms*, or other publications. After the filter has been selected, the system will only look in those selected databases for results to the search query.

2. **Focus search results.** After a search query has been conducted within a database the researcher can further narrow the results by looking only for results that include additional terms or from specific courts.

   Once the results page is displayed, there may be too many cases to realistically sort through. There may be hundreds, or even thousands, of "hits."

   To limit the amount of results and make the results more relevant in both *Westlaw* and *Lexis*, use the "Search within results" box in the left column and hit enter. (In *Westlaw* you will need to click on "Apply Filters."

IN THIS CHAPTER . . .

WHERE TO BEGIN AND WHEN TO STOP

USING FILTERS IN ONLINE RESEARCH

CASES. STATUTES. VALIDATION.

The Path of Legal Research

Where to Begin and How to Finish
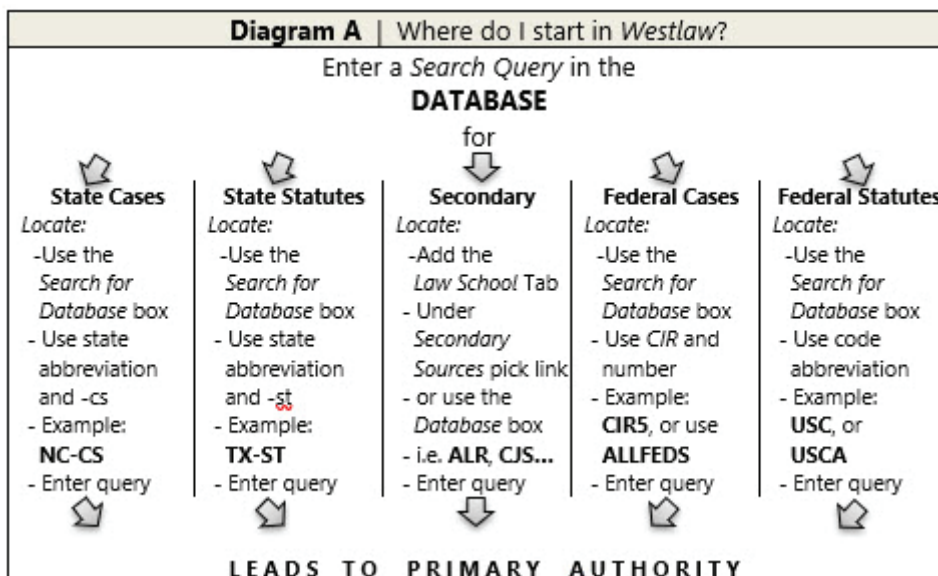
CRITICAL SKILL-SET

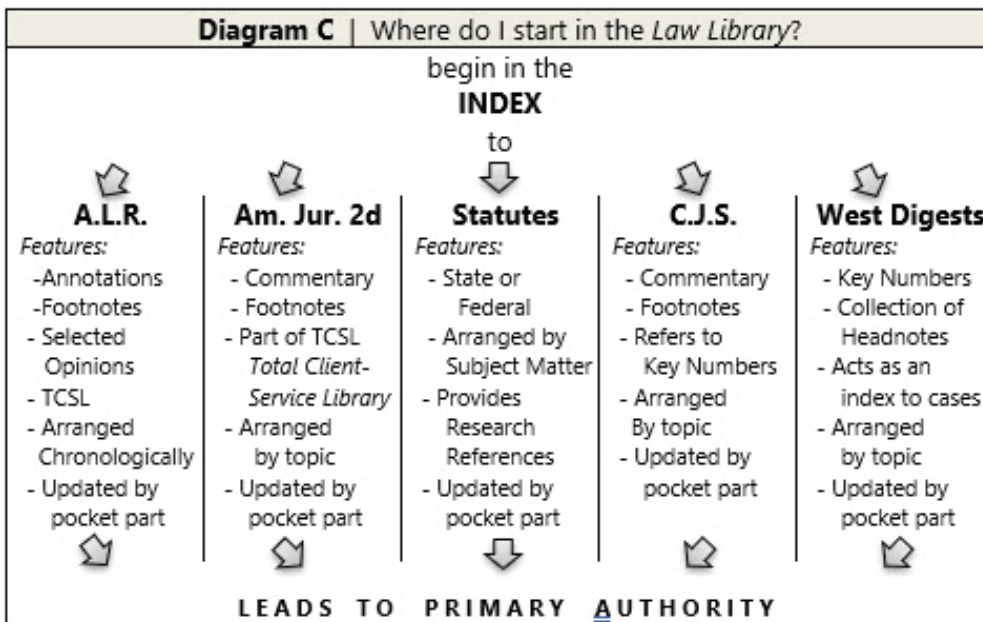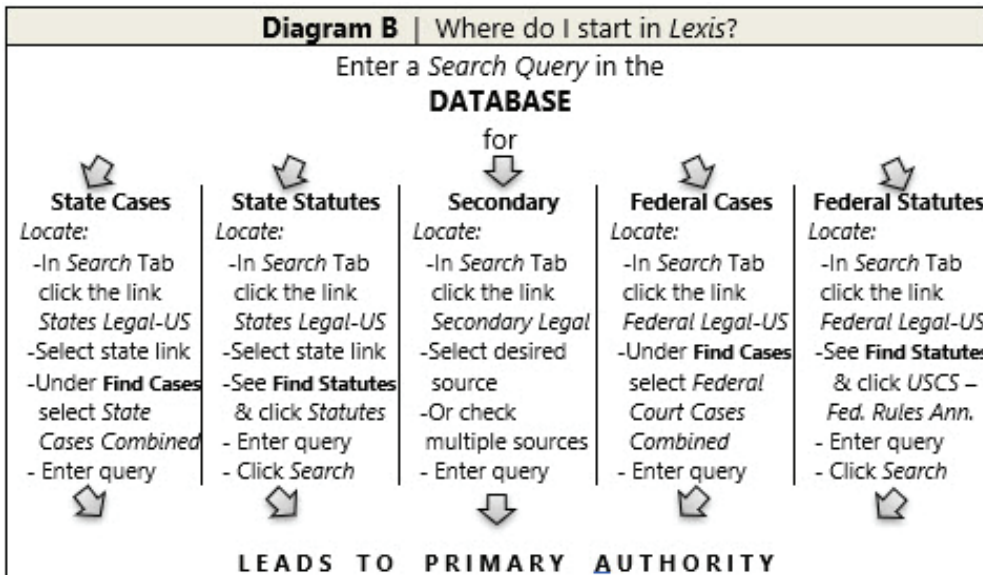The most common questions propounded by those new to legal research are:

- *Where do I start?*
- *How do I expand my research?*
- *How do I know I am finished?*

The *Research Flowcharts* on the following pages are designed to help students visualize the path of a research project. There are multiple points at which to begin a research project. There is no single answer. In fact, part of it will be personal preference. Expanding and finishing any research project depends in great part on what is found in your initial search, but as discussed in the following pages, there are considerations that can make the process less murky.

WHERE DO I START?

There are several options when beginning research, but the traditional sources provide a solid foundation. After using those sources, the paralegal can then expand his or her research as needed. Following are flowcharts for beginning *Westlaw*, *Lexis*, and law library research.

Diagram A | Where do I start in *Westlaw*?

Enter a *Search Query* in the
DATABASE
for

State Cases	State Statutes	Secondary	Federal Cases	Federal Statutes
Locate:	Locate:	Locate:	Locate:	Locate:
-Use the Search for Database box	-Use the Search for Database box	-Add the Law School Tab	-Use the Search for Database box	-Use the Search for Database box
- Use state abbreviation and -cs	- Use state abbreviation and -st	- Under Secondary Sources pick link	- Use CIR and number	- Use code abbreviation
- Example: **NC-CS**	- Example: **TX-ST**	- or use the Database box	- Example: **CIR5**, or use **ALLFEDS**	- Example: **USC**, or **USCA**
- Enter query	- Enter query	- i.e. **ALR, CJS...**	- Enter query	- Enter query
		- Enter query		

LEADS TO PRIMARY AUTHORITY

Diagram B | Where do I start in *Lexis*?

Enter a *Search Query* in the
DATABASE
for

State Cases	State Statutes	Secondary	Federal Cases	Federal Statutes
Locate:	*Locate:*	*Locate:*	*Locate:*	*Locate:*
-In *Search* Tab click the link *States Legal-US*	-In *Search* Tab click the link *States Legal-US*	-In *Search* Tab click the link *Secondary Legal*	-In *Search* Tab click the link *Federal Legal-US*	-In *Search* Tab click the link *Federal Legal-US*
-Select state link	-Select state link	-Select desired source	-Under **Find Cases** select *Federal*	-See **Find Statutes** & click *USCS –*
-Under **Find Cases** select *State Cases Combined*	-See **Find Statutes** & click *Statutes*	-Or check multiple sources	*Court Cases Combined*	*Fed. Rules Ann.*
- Enter query	- Enter query	- Enter query	- Enter query	- Enter query
	- Click *Search*			- Click *Search*

L E A D S   T O   P R I M A R Y   A U T H O R I T Y

Diagram C | Where do I start in the *Law Library*?

begin in the
INDEX
to

A.L.R.	Am. Jur. 2d	Statutes	C.J.S.	West Digests
Features:	*Features:*	*Features:*	*Features:*	*Features:*
-Annotations	- Commentary	- State or Federal	- Commentary	- Key Numbers
-Footnotes	- Footnotes	- Arranged by Subject Matter	- Footnotes	- Collection of Headnotes
- Selected Opinions	- Part of TCSL Total Client-Service Library	- Provides Research References	- Refers to Key Numbers	- Acts as an index to cases
- TCSL	- Arranged by topic	- Updated by pocket part	- Arranged By topic	- Arranged by topic
- Arranged Chronologically	- Updated by pocket part		- Updated by pocket part	- Updated by pocket part
- Updated by pocket part				

L E A D S   T O   P R I M A R Y   A U T H O R I T Y

HOW DO I EXPAND MY RESEARCH? (LOCATE ADDITIONAL AUTHORITY)

There are two common points where the paralegal may need to expand his or her research.

- My initial results were not satisfactory
- I need authority within my jurisdiction

There are ways to expand your research to either provide better results or to locate authority within your jurisdiction. The methods differ, of course, on whether you are researching online or in the law library.

Expanding my research in Westlaw

If the cases provided in the *Results Page* do not appear to be relevant, you will need to either revise your search query or select a broader filter – which is essentially a database - (such as ALLSTATES or ALLFEDS).

If you have located cases that appear relevant, but those cases are not from your state, try using the *Key Number* links in the headnotes. Locate a headnote that is relevant to your research, click on the *Key Number* link [such as 410k52(3)], choose your state, or a federal circuit, and click *Search*. In addition, refer to the cases, statutes, and other authority within the cases you have found (an oft overlooked source of additional authority).

Expanding my research in Lexis

If the cases provided in the *Results Page* do not appear to be relevant, you will need to either revise your search query or select a broader database.

If you have located cases that appear relevant, but those cases are not from your state, try using the *All Headnote* links. To the left of **LEXISNEXIS®️ HEADNOTES**, click on the arrow (if the headnotes are not showing). Locate a headnote that is relevant to your research, select the *All Headnotes* icon, (Example:), choose your state, or a federal circuit, and click *Go*.

You may also *Shepardize* the opinion to find additional cases. In addition, refer to the opinions, statutes, and other authority within the cases you have found.

Expanding my research in the Law Library

If you have not located relevant authority, you may need to try different resources. Consider using *Am. Jur. Proof of Facts*, *Am. Jur. Trials*, *Causes of Action*, or one of the many legal treatises provided in your law library. Also, you may need to broaden your search terms that you are using in the index.

If you have found a case but not in your jurisdiction, locate a relevant *Key Topic and Number* and go to a *West Digest* covering your jurisdiction (such as your state or regional digest). You may also *Shepardize* the opinion to find additional cases.

In addition, refer to the cases, statutes, and other authority within the cases you have found.

How do I know when I am finished?

Whether researching online or in the law library, identifying the finish line in a research project is not always easy. However, there are two points that tend to determine whether the paralegal has finished the research project.

1. *Going in circles.* If the researcher begins to see references to the same authorities he or she has already found, that indicates that researcher has most likely found the most relevant research trail.

2. *Time limitations.* Your attorney will most likely set a time limit on your project. Research is typically not allowed to be unlimited. Thus, if your allotted time is up, your project, for practical and financial purposes, is finished.

§ 8.2

Using Filters Online
Further Focus Your Search Results

Filters, which are databases or groups of connected databases, are the online legal research equivalent of hardbound books. This *must* be understood by the researcher. Thus, any possibility of expanding narrowing your choice of filters is equivalent to expanding or limiting your choice of legal publications within which to research. In both *Westlaw* and *Lexis*, the easiest way to expand or limit your research results, and to make your online research more efficient, is to select different or additional filters.

ADDING AND REMOVING FILTERS IN *WESTLAW*

This is a simple process. Click on the Jurisdiction *drop-down menu* to the right of the *Search Query Text Box* and check any databases that you want to add as Filters. Click Save.

You are also able to add filters after you have conducted a search and are viewing the *Results Page*. This has the effect of focusing the search results. In the "*Filters*" column at the left of the screen, select any filters that seem promising. Your results will be filtered to show only those documents that are found in the selected databases.

The *Filters* column also allows you to focus your query by letting you look for terms only within the results of your initial search. For example, if your results included hundreds of cases, you could use the "Search within results" box to type any terms, such as "malpractice." This instructs the system to search for any of the results that also include the term "malpractice," removing any cases without the new term. In other words, it narrows the results. A nice trick.