

# Chapter 1: The Foundations of Authority

## Chapter Outline:

- ✓ § 1.1 What is Authority?
- ✓ § 1.2 Primary Authority
- ✓ § 1.3 Using Citations to Locate Authority
- ✓ § 1.4 Locating a Case with a Citation
- ✓ § 1.5 How to Read a Case
- ✓ § 1.6 Locating a Statute with a Citation
- ✓ § 1.7 How to Read a Statute

## § 1.1 WHAT IS AUTHORITY?

Authority is anything the court can or must use in reaching its decision. As we will see, there are different kinds of authority: primary, secondary, mandatory, persuasive, and non-authority.

Knowing how to find cases, statutes, and other legal materials is not enough to make you a competent

researcher. The lawyer or paralegal must also anticipate the court's probable response to the material. To make an initial determination about the court's response, the researcher must be able to answer two questions:

- Is the authority law or non-law?  
(*primary or secondary*)
- If it is law, what weight will it carry?  
(*mandatory or persuasive*)

### LEGEND

**Dark Blue Headings** | Major Sections

**Blue Headings** | Examples, Diagrams, & Comments

**Green Headings** | In-Class Exercises & Discussion Points

**Pink Headings** | Out-of-Class Assignments

**Primary/Secondary**

If the authority is law, it is primary. If the authority is not law, it is secondary.

*Primary Authority*

Any form of law is considered primary authority.

*Example: A statute, case, or other form of law.*

*Secondary Authority*

Secondary authority is non-law.

*Example: A comment from a legal encyclopedia.*

**Mandatory/Persuasive**

Determining what weight an authority carries is important. If the material is from a higher authority than the court in which your client's case is being heard, and within the court's jurisdiction, it is mandatory. In other words, the court must follow the material unless it can be established that the law has been superseded or declared unconstitutional. Material from a court of the same or lower level is persuasive and the court can choose whether to follow it or not.

*Mandatory Authority*

The researcher is always looking for mandatory authority. In theory, the court must follow such authority.

*Example: A case you found in the law library that came from a higher court in the appropriate jurisdiction.*

*Persuasive Authority*

Although the researcher hopes to find mandatory authority, he or she usually has to settle for persuasive authority, which the court is not required to follow.

*Example: A case from the same level of court or a case from a different jurisdiction.*

*Stare Decisis and Persuasive Authority*

*Stare decisis* is a doctrine that holds that a court's previous decision should be followed unless there is a compelling reason not to follow it. Although a court is not *required* to follow a previous ruling by a court of the same level, it will do so, unless a compelling reason is given.

**Non-authority**

If *authority* is anything the court can or must use in reaching its decision, then *non-authority* is anything the court would never use in reaching its decision, such as a case that has been overturned.

*Examples: A case that has been reversed by a higher court. A statute that has been superseded. A research book that is used as an index or that could never be quoted.*

In this chapter, we will concentrate on the identification of primary, secondary, and non-authority. We will discuss more advanced applications of authority, including identifying mandatory and persuasive authority, in a later chapter.

**§ 1.2 PRIMARY AUTHORITY**

The following is an introduction to the ten basic kinds of laws, roughly in order of their supremacy, from the highest down.

*constitution*

Constitutions are the highest form of law. A constitution is the fundamental law that establishes the basic rights and obligations of citizens and creates the branches of government. The U.S. Constitution is the highest law in the United States. Individual states, of course, have their own constitutions.

*statutes*

Laws created by the legislative branch of government. The U.S. Congress creates federal statutes which are contained in the *United States Code* (U.S.C.); state legislatures create statutes for their own states. Statutes are *enacted law*. Enacted law supersedes common law.

*opinions*

An opinion is a decision of a court applying law to specific, factual situations. An opinion is often referred to as a *case* or *case law*. For example, the case of *Roe v. Wade* is an opinion of the court that applied what the court deemed was a constitutional right for a woman to have an abortion. Opinions are *common law*.

*treaties*

A treaty represents an agreement between two or more governments. The President signs treaties, with the consent of the Senate. For example, the *Strategic Arms Limitation Treaty* (SALT) was negotiated by the United States and the Soviet Union, but had to be confirmed by the U.S. Senate before it became law.

*executive order*

A law created by the highest entity of the executive branch, such as the President or governor. An example of an executive order is the pardon of someone convicted of a crime.

*administrative rules*

These are rules and regulations created by state and federal administrative agencies. For instance, the *Federal Aviation Administration* (FAA) creates rules governing air traffic throughout the country.

*administrative decisions*

Administrative decisions are created by administrative agencies applying administrative rules to factual situations. For example, the FAA can fine a person for making a joke about a bomb in an airport. After a hearing, the agency would issue a report detailing its decision.

*rules of court*

These are the rules that govern the procedures of the state and federal trial process. Court rules are created by the legislature, the highest court in the state, or both. For instance, the *Federal Rules of Civil Procedure* are the court rules for civil federal trials.

*charters*

The local equivalent of a constitution, a charter is the basic and fundamental law of local governments; they establish the structure of the local government in that jurisdiction.

*ordinances*

Ordinances are the local equivalent of statutes. Ordinances are rules that members of the community are expected to follow. If a person fails to cut his lawn, he or she is most likely violating an ordinance.

The researcher's first goal is to locate primary authority. The researcher may utilize secondary or non-authority to get there, but law is almost always the focus of research.

### **Exercise § 1.2 | Primary Authority**

Which of the following are examples of primary authority?

- a case*
- a statute*
- an ordinance*
- an index*
- a dictionary*
- the SALT Treaty*
- an encyclopedia*
- a presidential pardon*
- an administrative rule*
- a city charter*
- Roe v. Wade*
- U.S. Constitution*
- Kansas Constitution*
- a court opinion*
- an executive order*

### **§ 1.3 USING CITATIONS TO LOCATE AUTHORITY**

A researcher or author of a legal document must be able to locate and refer to an authority in order to be able to use it. This is done through citations. A citation is a legal address. In the following pages, students will be asked to locate various citations in a law library. In later chapters, students will learn the form of a legal memorandum and the system of basic legal analysis. Authority, research, and writing are ultimately linked.

### Authority

It is essential that a researcher understand the contents and basic functions of the books found in a law library or within online legal research services. For instance, secondary authority (non-law) is used mainly to locate and explain primary authority (law.)



### Research

Research is the skill used to locate relevant authority, both primary and secondary. An encyclopedia is an excellent example of secondary authority. The purpose of a legal encyclopedia is to provide basic explanations of most areas of law. Like most forms of secondary authority, encyclopedias provide citations that lead the researcher to the actual law (primary authority), such as cases and statutes.



### Writing

The purpose of most legal research is to support arguments in legal documents, such as briefs or motions. As we will see later, briefs are documents that attempt to persuade the court to rule in favor of one side or the other. The court doesn't care what an attorney thinks or what a paralegal thinks. The court only really pays attention to one thing: the law.

## § 1.4 LOCATING A CASE WITH A CITATION

Case law means court opinions. Court opinions are considered common law, meaning they arise from a factual dispute in which the outcome has been determined by a judge. How does a paralegal locate case law? That depends on the information the paralegal has to begin research.

### If the paralegal is provided with a citation . . .

A citation is a legal address. Almost any legal writing can be cited, including cases. Following is a typical citation:

*Canino v. New York News*, 475 A.2d 528 (N.J. 1984)

*Title*

***Canino v. New York News*** is the name of the case. The title is always either italicized or underlined.

*Volume*

**475** is the volume number.

*Publication*

**A.2d** stands for Atlantic Reporter, second series. Reporters (and reports) are collections of opinions. In this case, we have a regional reporter, collecting opinions from appellate-level courts within the Atlantic Region.

*Page*

**528** is the page number.

*Court*

**N.J.** stands for the Supreme Court of New Jersey, the court that authored the opinion.

*Year*

**1984** is the year the opinion was written.

All one needs to find a case is:

- the publication
- the volume number
- the page number

In the above example, find the publication (*Atlantic Reporter, 2d series*), turn to the volume (*475*), and finally locate the page where the case begins (*528*).

But what if the paralegal does not have a citation yet? Just a legal question?

**If the paralegal has only a research issue . . .**

There are many publications that help the researcher locate cases, statutes and other forms of authority.

Examples include legal encyclopedias, digests, annotations, and form books.

**Assignments § 1.4 | Cites to be Located for Case Law Research**

For the following Assignments, the following cites are to be used:

- ❑ *Martinez v. State*, 961 P.2d 752 (Nev. 1998)
- ❑ *Ward v. State*, 1 S.W.3d 1 (Ark. 1999)
- ❑ *U.S. v. Barrow*, 118 F.3d 482 (6th Cir. 1997)
- ❑ *Arizona v. Roberson*, 486 U.S. 675 (1988)

**Assignment § 1.4(a) | Westlaw Next Online Case Law Research**

1. Login to Westlaw Next at [www.westlawnext.com](http://www.westlawnext.com)
2. In the *Search Query Text Box* at the top of the page, type the citation (even just the volume number, publication, and page number will be sufficient, such as: 961 P.2d 752) Click *Search*.



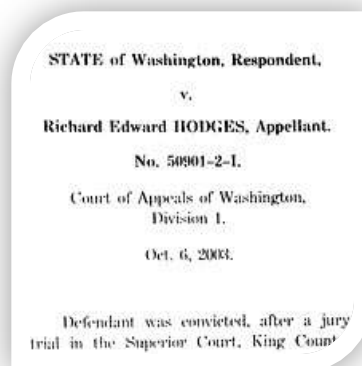
**Assignment § 1.4(b) | Lexis Online Case Law Research**

1. Login to *Lexis Advance* at [www.advance.lexis.com](http://www.advance.lexis.com)
2. In the Search Query Bar at the top of the page, type all or part of the desired citation, such as: 961 P.2d 752 (no title or year is required).
3. Click *Search*.



**Assignment § 1.4(c) | Law Library Case Law Research**

When visiting the law library, locate the above cases. You do not have to copy the case. Instead, write down the first five words of the case that appear after the case caption.





## § 1.5 HOW TO READ A CASE

*Official reports* are published by the government (state or federal) and generally include only the official opinions (also called cases) of the court. *Unofficial reporters* are published by private publishers, such as *West Publishing*. They contain the same opinion, word-for-word, as well as tools to assist the researcher. These tools includes:

### **syllabus**

This is a short synopsis of the case. It provides the researcher with a snapshot of the legal matter and the result of the case.

### **headnotes**

A headnote is a summary of a specific portion of the case. Each headnote is numbered (1, 2, 3, etc.) and each headnote number refers to a point within the opinion. (Unfortunately, if there is only a single headnote for a case, it is left unnumbered. For research purposes, it should still be considered Headnote No. 1.) A researcher who is interested only in Headnote No. 5, for example, could simply look for a bracketed number [5] within the opinion. Before a researcher relies on any case in a written document such as a motion, however, he or she should read the entire opinion, not just the headnotes.

### **key numbers**

Reporters are generally published by *WestGroup* (now owned by *Thomson Reuters Publishing*) and use *West's Key Number System*. This mechanism for broadening the scope of research will be covered later in this manual. The *Key Number* references are provided at the beginning of each headnote, represented by a key symbol, a topic, and a number.

### **line of demarcation**

This line, at the end of the last headnote, indicates that all that follows is the official, word-for-word opinion of the court. Everything above is provided by the publisher, and may not be quoted. Everything below is the court opinion and may be quoted. (Unfortunately, if the last headnote ends at the bottom of a page, the publisher does not provide a line of demarcation at the top of the next page or column. One simply has to be able to determine that the top of the next column is the beginning of the opinion.)

**opinion**

The opinion is the decision of the court and is printed below the line of demarcation. Although not captioned as such, the opinion provided first after the line of demarcation is the *majority opinion*. *Dissenting* or *concurring* opinions are titled as such and provided after the majority. The researcher is almost always most interested in the majority opinion, since it has the force of law.

Nearly every opinion has three elements:

*1. History*

The court generally begins with a quick overview of how the case evolved. This is important to know, but a researcher generally does not quote history.

*2. Reasoning*

This is the logic the court used to reach its result and is what will convince a judge to follow a researcher's legal argument, so it is likely that the researcher will quote from this section of the opinion in a memorandum or other legal document.

*3. Disposition*

The result of the court's decision. The most common dispositions are for the court to affirm, reverse, modify or remand. If the disposition of the case reverses, it does not mean the current case is reversed. It means the earlier, lower court case has been reversed by this later opinion.

Example § 1.5(a) | Case from a Reporter in the Law Library

<p><b>Caption</b> The caption includes the parties, the court, and the year the opinion was written.</p>	<p style="text-align: center;"><b>GALLOWAY v. STATE</b> <span style="float: right;">Miss. 1</span>  <small>Cite as 974 No.2d 1 (Miss. 1990)</small></p> <p style="text-align: center;"><b>Kenneth Lavon GALLOWAY</b>          v.  <b>STATE of Mississippi.</b>          No. 89-KA-0918.          Supreme Court of Mississippi.          Dec. 19, 1990.</p> <p>Defendant was convicted in the Circuit Court, Hinds County, William F. Coleman, J., of capital murder, and he appealed. The Supreme Court, Roy Noble Lee, C.J., held that statutory 270-day speedy trial period commenced to run when defendant, who had originally been arraigned on indictment for murder less than capital, was reindicted for capital murder.          Affirmed.</p> <p><b>I. Criminal Law</b> ⇔577.14          Statutory 270-day speedy trial period commenced to run when defendant, who had originally been arraigned on indictment for murder less than capital, was reindicted for capital murder. Code 1972, § 99-17-1.</p> <p><b>2. Criminal Law</b> ⇔577.9          Constitutional right of defendant to speedy trial attaches at time such person becomes accused. U.S.C.A. Const.Amend. 6.</p> <p>Merrida P. Coxwell, Jr., Stanfield Carmody &amp; Coxwell, Jackson, for appellant.          Mike C. Moore, Atty. Gen., Wayne M. Snuggs, Asst. Atty. Gen., Charlene R. Pierce, Sp. Asst. Atty. Gen., Jackson, for appellee.</p> <p>Before ROY NOBLE LEE, C.J., and PRATHER and SULLIVAN, JJ.</p> <p>ROY NOBLE LEE, Chief Justice, for the Court:</p> <p>Kenneth Lavon Galloway was found guilty of capital murder of Jacqueline Nash and was sentenced to life imprisonment in the custody of the Mississippi Department of Corrections. He has appealed to this</p> <p style="text-align: right;">Court and assigns the following issues for decision:</p> <p style="text-align: center;">I.</p> <p style="text-align: center;">WHETHER GALLOWAY'S CAPITAL MURDER TRIAL WAS BROUGHT WITHIN THE 270 DAY PERIOD PRESCRIBED BY MISS.CODE ANN. § 99-17-1 (Supp.1989).</p> <p style="text-align: center;">II.</p> <p style="text-align: center;">WHETHER THE LOWER COURT ERRED IN REFUSING TO AWARD APPELLANT'S COUNSEL ADDITIONAL COMPENSATION COMMENSURATE WITH THE WORK INVOLVED IN THE CASE IN VIOLATION OF THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION.</p> <p style="text-align: center;">FACTS</p> <p>Kenneth Galloway and Jacqueline Nash had been dating and cohabiting prior to the homicide. During this time Galloway had access to her apartment. Nash severed her relationship with Galloway and he was no longer permitted access to her apartment. On the day of the homicide Nash left her apartment, locked the door, and went to her mother's house to do laundry. Around 7:30 that evening, Nash returned home in the company of her brother, her infant son, and a friend. Prior to her return home, Galloway had gone to Nash's apartment, concealed his car, let himself into the apartment and lay in wait for Nash's return, hiding himself in the bedroom closet.</p> <p>Upon Nash's arrival home she unlocked the door and allowed her guests in. Nash's brother promptly left after helping her carry in the laundry. Nash put her son to bed and her friend began to watch television. Nash entered the bedroom and Galloway sprang from the closet wielding a knife. Galloway began stabbing Nash who was screaming. Her friend heard Nash's screams, viewed part of the attack, and fled in fear for her life.</p>
<p><b>Syllabus (or Synopsis)</b> A summary of the case and the result in this court.</p>	
<p><b>Key Numbers</b> The topic &amp; number are part of the <i>Key Number</i> research system.</p>	
<p><b>Headnotes</b> Summaries of portions of the opinion. The number of the headnote corresponds with a bracketed number within the opinion, providing the researcher with a shortcut to the relevant part of the opinion.</p>	
<p><b>Line of Demarcation</b> Anything above this line is provided by the publisher and should not be quoted. Below the line is the official opinion of the court, which may be cited.</p>	
<p><b>Opinion</b> Word-for-word decision of the court. This is the law.</p>	

Example § 1.5(b) | Case from Online Legal Research Site

574 So. 2d 1, \*; 1990 Miss. LEXIS 895, \*\*

KENNETH LAVON GALLOWAY v. STATE OF MISSISSIPPI

No. 89-KA-0918

Supreme Court of Mississippi

574 So. 2d 1; 1990 Miss. LEXIS 895

December 19, 1990, Decided

**PRIOR HISTORY:** [**\*\*1**] Reported as Table Case at 1990 Miss. LEXIS 881.

**DISPOSITION:** CONVICTION OF CAPITAL MURDER AND SENTENCE TO SERVE A TERM OF LIFE IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS AFFIRMED.

**CASE SUMMARY**

**OVERVIEW:** Defendant was arraigned on an indictment for murder less than capital in January 1987. In March 1987 he filed a motion for continuance, and a new trial date was set for May 1987. Just prior to the trial date, defendant failed to appear in court, and a bench warrant was issued for him. In October 1987 defendant was apprehended and taken back into custody. In December 1987 defendant filed a motion for continuance, and a trial date was set for March 1988. In the sentencing phase of that trial, the jury was unable to agree upon the sentence. In May 1988 defendant was arraigned on a capital murder charge, after having been re-indicted for capital murder in the prior month. The court, applying a balancing test set out in a certain judicial opinion, found that defendant's trial on the capital charge was well within the 270 day rule from the time of arraignment. The court thus rejected defendant's contention that he was denied a speedy trial.

**OUTCOME:** The court affirmed defendant's conviction and sentence.

**LEXISNEXIS® HEADNOTES** Hide

Constitutional Law > Bill of Rights > Fundamental Rights > Criminal Process > Speedy Trial

Criminal Law & Procedure > Pretrial Motions & Procedures > Speedy Trial > Constitutional Right

**HN1** The constitutional right of a defendant to a speedy trial attaches at the time such person becomes accused. A balancing test is applied to determine whether or not a defendant's constitutional right to a speedy trial has been violated. Factors to consider are: (1) the length of the delay; (2) the reason for the delay; (3) whether the defendant asserted his right to a speedy trial; and (4) whether the defendant has been prejudiced by the delay in determining whether or not the defendant's right to a speedy trial has been violated under the test. [More Like This Headnote](#) | [Shapardize: Restrict By Headnote](#)

**OPINION**

**[\*1]** Kenneth Lavon Galloway was found guilty of capital murder of Jacqueline Nash and was sentenced to life imprisonment in the custody of the Mississippi Department of Corrections. He has appealed to this Court and assigns the following issues for decision:

Kenneth Galloway and Jacqueline Nash had been dating and cohabiting prior to the homicide. During this time Galloway had access to her apartment. Nash severed her relationship with Galloway and he was no longer permitted [**\*\*2**] access to her apartment. On the day of the homicide Nash left her apartment, locked the door, and went to her mother's house to do laundry. Around 7:30 that evening, Nash returned home in the company of her brother, her infant son, and a friend. Prior to her return home, Galloway had gone to Nash's apartment, concealed his car, let himself into the apartment and lay in wait for Nash's return, hiding himself in the bedroom closet.

Upon Nash's arrival home she unlocked the door and allowed her guests in. Nash's brother promptly left after helping her carry in the laundry. Nash put her son to bed and her friend began to watch television. Nash entered the bedroom and Galloway sprang from the closet wielding a knife. Galloway began stabbing Nash who was screaming. Her friend heard Nash's screams, viewed part of the attack, and fled in fear for her life.

**Caption**  
The title, court, and date. Even though the Lexis cite is given, do not use it in a legal document unless no other cite is available.

**Disposition**  
Brief explanation of how the case was decided by this court.

**Case Summary**  
A syllabus of how the case evolved and the outcome of the case in this court.

**Headnotes**  
These are summaries of portions of the opinion. They are not a part of the law and should never be quoted. Only the opinion should be quoted. To make the page easier to read, the headnotes may be hidden from view.

**Opinion**  
The word-for-word decision of the court. If citing a case, only cite from the actual opinion, not the headnotes or summary. The majority opinion is provided first, since it is the only opinion considered law. If there are dissenting or concurring opinions, they follow, but only the majority opinion is law

## § 1.6 LOCATING A STATUTE WITH A CITATION

A statute, which is a law created by the legislature, acts as a general rule for society. Unlike case law, statutes do not reflect specific factual situations.

There are federal statutes and state statutes. The researcher may locate statutes in a couple of different ways, depending on the information provided.

### **If the paralegal is provided with a citation . . .**

As mentioned previously, almost any legal writing may be cited, including statutes. The following is a typical federal statutory citation:

42 U.S.C. § 1204 (2006)

#### *Title or Chapter*

**42** stands for *Title 42*. In many state statutes, the 42 might stand for Chapter. In either case, the researcher is led to this number first.

#### *Publication*

**U.S.C.** stands for the *United States Code*.

#### *Section Symbol*

**§** stands for "Section." **§§** stands for "Sections." For example: 42 U.S.C. § 1204, or 42 U.S.C. §§ 1204 to 1207. It would also be appropriate to write 42 U.S.C. Sec. 1204.

#### *Year*

**1984** is the year the statute was enacted.

To find the statute, one needs the publication, title (or chapter) and section. Locate the publication (*United States Code*), the title (*42*), then the section number (*1204*).

### **If the paralegal has been given a research issue . . .**

There are many publications that help the researcher locate statutes, cases, and other forms of authority. Examples include legal encyclopedias, digests, annotations, and form books. But if the researcher is specifically looking for statutory authority, start in the index to the statutes being researched.

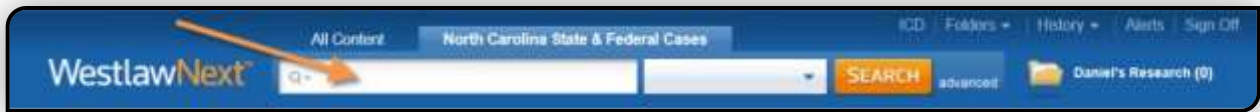
**Assignment § 1.6 | Cites for Law Library Statute Research**

These citations are to be used for the following Assignments:

- ❑ 42 U.S.C. § 1204
- ❑ Iowa Code Annotated § 85.27
- ❑ Nev. Rev. Stat. § 37.010

**Assignment § 1.6(a) | Westlaw Next Online Statute Research**

1. Login to *Westlaw Next*.
2. In the *Search Query Text Box*, type the volume, Title (or Chapter) and section number from the above citations, such as: 42 U.S.C. 1204 (no section symbol is required)
3. Click *Search*



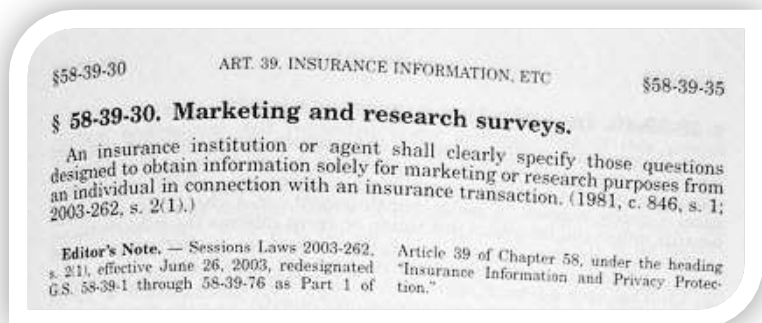
**Assignment § 1.6(b) | Lexis Advance Online Statute Research**

1. Login to *Lexis Advance*
2. Type the citations provided above (at the top of this page)
3. Click *Search*



**Assignment § 1.6(c) | Law Library Statute Research**

Locate the following statutes in the law library. You do not have to copy the statute. Instead, write down the first sentence of each statute.



**§ 1.7 HOW TO READ A STATUTE**

Official statutes are published by the government (state or federal) and generally include only the statutes. Unofficial statutes are published by private publishers, such as *West Publishing*, and contain the statutes, with additional research tools and resources.

For example, the *notes and decisions* below provide references to cases that have actually interpreted and applied the statute in question.

**Example § 1.7(a) | Statute Found in the Law Library**

**The Statute**  
Usually surprisingly short, the statute is the only part that should be quoted.

**Legislative History**  
Indicates previous versions of the law or other historical details. Often refers to session laws where the bill or act was first published.

**Research Tools**  
These are not a part of the law and should not be quoted as part of the statute. They are references to other sources and help to expand your research.

**§ 305. Driver**  
A "driver" is a person who drives or is in actual physical control of a vehicle. The term "driver" does not include the tillerman or other person who, in an auxiliary capacity, assists the driver in the steering or operation of any articulated firefighting apparatus.  
(Stats.1959, c. 3, p. 1531, § 305. Amended by Stats.1971, c. 213, p. 279, § 1, operative May 3, 1972.)

**Historical and Statutory Notes**  
Operative date of 1971 legislation, see § 1.5 (Repealed). **Derivation:** Veh.C.1935, § 69 (Stats.1935, c. 27, p. 98.)

**Cross References**  
Drivers' licenses, see Vehicle Code § 12500 et seq.  
Identification cards, see Vehicle Code § 13000 et seq.  
Limitation on driving hours, see Vehicle Code § 21702.  
Vehicle defined, see Vehicle Code § 670.

**Library References**  
Automobiles ☞ 129.  
WESTLAW Topic No. 48A.  
C.J.S. Motor Vehicles § 151.

**Legal Jurisprudences**  
Cal Jer 3d Crim L § 1657.

**Treatises and Practice Aids**  
Witkin & Epstein, Criminal Law (2d ed) § 918.

**WESTLAW Electronic Research**  
See WESTLAW guide following the Foreword of this volume.

**Notes of Decisions**  
3. **Parked vehicles**  
driver of the sedan and not entitled to recover for injuries sustained in the absence of proof of sedan driver's intoxication or willful misconduct, since the towed automobile was not being "driven" by the occupant thereof but was being impelled forward by the sedan automobile. *Fairman v. Mors* (App. 2 Dist. 1942) 55 Cal. App.2d 216, 130 P.2d 448.

**Additional References**  
Cal Digest of Official Reports 3d Series, Automobiles and Highway Traffic § 2.

**Additional Information:**  
Parked vehicles 3  
Pushed vehicles 1  
Towed vehicles 2  
1. **Pushed vehicles**  
Plaintiff who was standing at right rear of temporarily inoperable car, prepared to try to push car into position where he could start it by pushing it with his truck, was at such time driver of

**Example § 1.7(b)** | Statute Found Online

**C.R.S.A. § 26-6-104**  
 § 26-6-104. Licenses--out-of-state notices and consent--demonstration pilot program

---

C.R.S.A. § 26-6-104

West's Colorado Revised Statutes Annotated [Currentness](#)  
 Title 26. Human Services Code  
     ▣ [Article 6](#). Child Care Centers ([Refs & Annos](#))  
         ▣ [Part 1](#). Child Care Licensing ([Refs & Annos](#))  
             ➔ **§ 26-6-104. Licenses--out-of-state notices and consent--demonstration pilot program**

(1)(a) Except as otherwise provided in this part 1, no person shall operate any agency or facility defined in this part 1 without first being licensed to operate or maintain such agency or facility by the state department and paying the fee prescribed therefor. Except as otherwise provided in subparagraph (II) of paragraph (b) of this subsection (1) and paragraph (c) of this subsection (1), any such license issued by the state department shall be permanent unless otherwise revoked or suspended pursuant to [section 26-6-108](#).

CREDIT(S)

Amended by Laws 1975, S.B.453, § 54, eff. July 16, 1975; Laws 1977, H.B.1427, § 7, eff. May 16, 1977; Laws 1977, S.B.310, § 1, eff. June 1, 1977; Laws 1983, H.B.1006, § 1, eff. May 31, 1983; Laws 1986, S.B.109, § 2, eff. May 28, 1986

RESEARCH REFERENCES

Treatises and Practice Aids

[5A Colorado Practice Series App. J](#), Selected Colorado Statutes.  
 C. R. S. A. § 26-6-104, CO ST § 26-6-104

**Title of Statute**  
 Subject matter that the statute deals with. Not typically included within a citation.

**The Statute**  
 Usually surprisingly short, the statute is the only part that should be quoted.

**Legislative History**  
 Indicates previous versions of the law or other historical details. Often refers to session laws where the bill or act was first published.

**Research Tools**  
 These are not a part of the law and should not be quoted as part of the statute. They are references to other sources and help to expand your research. Note the hyperlinks. Any hyperlinks on the page may be used to go straight to that source.

**Variations**

When researching in the law library or online, the terminology and structure will change from book-to-book and Web site to Web site. Research tools may be called references. History may be called credits. Whatever the various sections are titled, there will be research tools provided, and they are a great help to the researcher, so be flexible.

Also, *Westlaw* and *Lexis* are constantly adding or removing features, and they both tweak the structural arrangement and appearance of their Web sites. If the Web site looks a bit different from the pictures on the pages in these manuals, do not worry. The basic function will remain the same.



## CHAPTER 1 WRAP-UP

### WHAT YOU SHOULD KNOW...

After reading this chapter you should know the following:

- The concept of authority
- The differences between primary, secondary, and non-authority
- The 10 kinds of primary authority
- How to locate a case
- How to read a case
- How to locate a statute
- How to read a statute

### ASSIGNMENTS

For this chapter you will be required to complete the following (unless otherwise instructed):

**Assignment §§ 1.4(a),(b), and (c)** Due Date:    /    /

*Locate the assigned case citations on Westlaw, on Lexis, and in the law library*

**Assignment §§ 1.6(a),(b), and (c)** Due Date:    /    /

*Locate the assigned statutory citations on Westlaw, on Lexis, and in the law library*

