
CHAPTER 7

LEGAL ANALYSIS

As a member of a legal team, you'll have to apply your research to many different kinds of legal documents. The most basic of these documents—the internal document that will give you a jumping off point to create the rest—is the legal analysis.

When an attorney decides to take a case, he or she will likely ask you to prepare a legal analysis of the case. The legal analysis is a short written document exploring the issue, facts, and proposed outcome of the case. Once this document has been created, you'll be able to refer to it when you prepare legal documents that will be submitted to the judge, such as a legal research memo, a trial court legal memo, or an appellate brief. (You'll learn more about how to create these documents in Chapters 10, 11, and 12 in Lesson 29 in Volume XII, *Legal Research and Writing – Part II*. Volume XII will provide you with many examples of how to use legal analysis when creating several different documents.)

Learning Objectives

When you finish chapter 7, you'll be able to:

- Explain the IRAC formula for legal analysis.
- Study the facts of a case to pinpoint the issue of the case.
- Identify the rule of law that supports the facts of a case.
- Distinguish between three types of rule of law.
- Record the elements of a legal analysis in a written document.
- Understand how to deal with conflicting law sources.
- Explain legal synthesis.
- Explain how to argue for a change in law.

THE IRAC FORMULA

Compiling a legal analysis might seem like a difficult task. Figuring out the best way to evaluate and present the facts and proposed outcome of a case can be daunting. The IRAC formula, however, can help you break this large undertaking into smaller, easy-to-follow steps.

The **IRAC formula** is one of the most common methods of legal analysis. Whether or not they realize it, all lawyers have been trained to think about a case using the IRAC method. IRAC stands for *Issue, Rule, Analysis, and Conclusion*.

I = Issue

The **issue** is a reason that the case is going to trial. In this first step, you'll consider the facts of the case and the situations that surround the facts and have therefore created the issue. What is the main reason that the case is going to court? Your goal in considering the issue is eventually to discover the rule of law, the next step in the IRAC method. Look for key words in your documents and research materials that will help you discover the appropriate rule of law. Then, summarize the issue in one sentence that explains what you'll discuss in court.

Cases often include more than one issue. In this case, you'll follow the IRAC method for each issue. The last paragraph of your analysis should be a compilation of the conclusions of each issue.

R = Rule

When you apply a **rule of law** to a case, you're explaining which law presides over the issue of the case. When analyzing a rule, consider all parts of the rule, including its authority and exceptions. Does your case contain elements that prove the rule applies to the case? Is your rule from a common law or statute? What is the history of the rule?

The following describe the three main types of rules of law:

1. **common law** – law that is developed over time and is based on judicial precedent rather than on legislative actions (meaning it is not written in statutes).
2. **statutory law** – law that is created by legislative statutes.
3. **Constitutional law** – law that is set forth by the federal Constitution and by state constitutions.

No matter what type of law you're dealing with, a main goal of legal analysis is to extract the rule from the law. First, you must identify the rule within the law. To double check your understanding of the law, try breaking down the rule into your own words. If you can't restate the law, you might not have a full understanding of what the law is stating, and therefore, of how the law might apply to your case.

Each type of law has certain elements that must be proven. Your next step is to pick out these elements to discover whether or not you've identified the correct law for the circumstances of your case. You might want to record the elements of the law in a rough checklist and then ask yourself whether or not the circumstances of your case meet each of the criteria. If they don't, you might have to keep looking for a different law to support your case.

Legal researchers often use an "IF-THEN" research model when analyzing the elements that must be proven. Basically, IF the situation can be interpreted so that it meets the language of the criteria, (i.e., IF the act was committed with "malice"), THEN the circumstances meet one or more of the criteria that must be proven (i.e., THEN the act was "criminal in nature").

If, after careful consideration, you're satisfied that the rule applies, consider why this particular rule exists. Is there any chance that this particular situation could be interpreted as an exception to

the rule? If so, try to find a part of this rule or another to lend your stance solid support.

In your legal analysis, make sure that you record the rule as it appears in the statute, and include a citation of the statute. If the statute is very long and comprehensive—if it covers a much larger scope than is applicable to the specific issue of your case—you can use ellipses to show places where you’ve left out unnecessary text. Be careful, though, not to change the meaning of the statute. A judge who ultimately senses that your legal team has attempted to manipulate the law to falsely favor your client will most likely discredit your argument and may rule in favor of the opposing party.

A = Analysis

In your **analysis** of the case, you’ll apply the rule of law to the facts and describe your analysis in a way that a judge will likely agree. Basically, you’ll take your own thought process and trial-and-error tests you applied to the rule in the “Rule” step and you’ll spell them out for others in a way that proves the rule.

Pay close attention to the language of the rule, as well as to the language you use to describe the rule. Legal analysis can be tricky because each case has different facts. It’s rare that all facts of a case will match, allowing you to form a perfect analogy from one case to another. Therefore, you might have to look further for different examples to back up different parts of a rule in order to illustrate why it applies to your case.

You might be surprised to discover that you should also discuss the weaknesses of your case. Not only will this help you maintain credibility with the judge when other legal documents are eventually submitted to the court, but it will also help you prepare your attorney for anything the opposing counsel might bring up in the courtroom.

C = Conclusion

The **conclusion** of your legal analysis will describe your expected outcome based on the facts and the rule of law. It will most likely be the shortest part of your analysis, as all of your reasoning and support for this reasoning has already been explained. Keep in mind, however, that you must come to a clear decision. Novice legal researchers often fall into the easy trap of analyzing all sides of an issue without taking a stance. Make sure that you take a position on the issue, that this position is mentioned in your conclusion, and that your position is supported by at least one rule of law.

COMPLEX LEGAL ANALYSIS

Because the circumstances of each case are unique, your legal analysis will usually require you to examine many legal sources and apply them to the client’s case. In a **complex legal analysis**, you will consult multiple cases, statutes, and regulations to resolve a legal question. The first step is to determine primary authority. As you know, constitutions, statutes, and court opinions are consid-

ered primary authority because they establish the law on certain issues. Since you will undoubtedly encounter more than one primary authority that deals with your specific legal question, you must determine which is mandatory or binding. Check the jurisdiction that applies to your case. The decisions of higher courts within your jurisdiction are generally considered mandatory authorities, meaning that the lower courts will follow the decisions of the higher courts. Of course, you may encounter a case for which there is no primary authority within your jurisdiction. In this situation, you will consult persuasive authorities, decisions made by courts outside of your jurisdiction. One state court is not required to follow the decisions made by other state courts, so it is important to consider the degree of persuasiveness an authority will have on the client's case. For this reason, you will want to choose cases with similar circumstances. Persuasive authorities are especially valuable when two states have similar statutes or doctrines. Secondary authorities, commentary from attorneys or other experts, may also guide your analysis, but it is important to remember that secondary authorities are never binding.

Conflicting Law Sources

After consulting these authorities, you might find that one court's decision conflicts with another court's ruling. Determining jurisdiction is often a confusing process. Each circuit and appellate court makes decisions that are independent of the decisions made by other circuit or appellate courts concerning the same issue. When a case's jurisdiction is in doubt, you can check to see if the Supreme Court has ruled on the issue. Any decision made by the highest court in the land will overrule the decisions of lower courts.

State courts may also rule on issues of either state or federal law, further complicating your task. Federal courts are not obligated to follow state court decisions concerning federal laws. In turn, state courts will look to federal courts decisions for guidance in deciding issues of federal law, but they are not bound to follow these decisions. If the case involves a part of the U.S. Constitution, the Supreme Court will have final authority. In other cases, federal courts will sometimes decide whether the state or federal government has authority over a particular legal issue. If you have further questions about which court has jurisdiction, you should consult with the supervising attorney to determine which court has authority over your case.

Synthesizing Legal Sources

Even after you determine jurisdiction, you will probably find several legal authorities that have bearing on your case. It is your task to **synthesize**, or bring together, these various legal authorities in a cohesive analysis. Synthesizing involves finding a common theme or thread that relates to the various legal issues of your case and presenting your findings in a unified manner. This prevents your analysis from becoming a long list of cases you've discovered during your legal research. Synthesizing sources allows you to compare and contrast legal decisions and statutes. This process also makes

legal documents easier to read. Synthesis forces you to see how cases are interrelated and discusses how one ruling often builds on another. Without synthesis, your analysis is merely a list of cases and facts that forces your reader to draw conclusions about how the rule of law applies to your case. In order to be an effective paralegal, you must learn how to synthesize legal sources to provide a clear and well-thought-out analysis.

The first step in synthesizing is to outline the issues you plan to tackle in your analysis. It is important to remember that legal research is always organized around the legal problem and not the legal sources of authority. Once you have established the issues, you will relate your research to the legal issues you will raise in your analysis. Try grouping your legal sources into categories of legal precedent to make comparing and contrasting the details of each case easier later on. For each separate legal issue, decide on a common theme or thread that ties these sources to your case. Next, you will organize your sources by hierarchy of authority. Higher court authorities should come first, followed by lower court rulings. Remember that new case rulings will be more relevant than older court decisions on the same issue. Finally, you will organize a statement of the law by examining the similarities and differences between the various cases and showing the reader how these rulings apply to the case at hand. It is important that you cite any legal statement using the proper *Bluebook* citation. While synthesis is an important organizational tool, it also serves another important function. Synthesis will help your reader understand why courts offer dissimilar rulings in cases with similar facts. It helps your reader identify the exceptions in related cases that cause one court to hand down a ruling that conflicts with the decision of another court.

Arguing for a Change in Present Law

Synthesizing will also help you determine if you should argue for a change in present law. The important part of constructing an argument for a change in law is to show a logical reason how the current law is flawed. Imagine finding a crack in the foundation of a house. Sometimes, a crack is cosmetic and can be easily fixed. In other cases, the crack reveals a serious issue with the entire foundation. Arguing for a change in law is very similar. You must determine the severity of the “crack” in the rule of law and decide whether it calls for a total revision of the law.

Look for recent rulings that erode the doctrine of a specific law. If a recent ruling has created an exception to the rule of law, this may be an opportunity to explain why the law should be changed. Secondary authorities are also filled with articles arguing for various changes, but these are merely the opinions of attorneys and experts. Though you might find a secondary source that perfectly explains why a law should be changed, you want to use this information as a jumping off point rather than the basis for your entire analysis. Remember that you still need to show how the rule of law applies, or does not apply, to the client’s case to make an effective argument for change.

Another great resource in arguing for a change in law is the **dissenting opinions** of judges or justices. Judges render dissenting opinions when they disagree with the ruling of the majority. Dissenting opinions are considered persuasive authorities because they do not create case law. Remember to