

Finding and Using Statistics in Legal Research and Writing

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Teachable Moments for Students ... is designed to provide information that can be used for quick and accessible answers to the basic questions that are frequently asked of librarians and those involved in teaching legal research and writing. These questions present a “teachable moment,” a brief window of opportunity when—because he or she has a specific need to know right now—the student or lawyer asking the question may actually remember the answer you provide. The material presented in this column is not meant to be an in-depth review of the topic, but rather a summary of the main points that everyone should know. It is a companion to the Teachable Moments for Teachers column that gives teachers an opportunity to describe a special moment of epiphany that changed their approach to presenting a particular topic to their students. Readers are invited to submit their own “teachable moments for students” to the editor of the column: Barbara Bintliff, University of Colorado Law Library, Campus Box 402, Boulder, CO 80309, phone: (303) 492-1233, fax: (303) 492-2707.

By Billie Jo Kaufman

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Did you make a conscious career choice to avoid mathematics, science, and data by going to law school? I know some of us did, including me. Unfortunately, my career in the law hasn't worked out that way. Almost from the outset, I began to face issues that needed statistics and data to support my arguments and positions. I learned that, beyond just giving cases or citations to amazing research, the judges and senior partners, deans, and faculty members wanted and needed the numbers and the stories the numbers represent to accept the position or argument being presented.

My arguments were better when they included the dreaded numbers. I guess I don't like to admit that when I add statistics, tables, and graphs to my carefully worded and crafted arguments, the numbers actually are quite useful.

It's probably easiest to see this if you ponder this example below:

“Many summer clerks and first-year associates are considered deficient in research skills.”

Compared to:

“Eighty percent of the respondents found summer clerks less than satisfactory in their ability to attack a legal research problem efficiently. First-year associates were found to be less than satisfactory in this area by sixty-five percent of the respondents.”²

It's clear that the second quotation makes a stronger case. The inclusion of two basic statistics to support the proposition gives the reader a better understanding of the scope of the problem. Most legal writing can be strengthened with the judicious use of numerical data. Fortunately, there are many sources that provide statistical data. Even those of us with “number phobia” can include supporting numerical information if we're familiar with some basic statistical resources.

For an introduction to the topic of finding and using statistics, here are a variety of useful sources:

*Statistics for Lawyers*³: This source is especially useful because it is aimed at those who use statistics in legal writing.

¹ With gratitude for the excellent editorial assistance of Barbara Bintliff.

² Joan S. Howland & Nancy Lewis, *The Effectiveness of Law School Legal Research Training Programs*, 40 J. Legal Educ. 381, 383 (1990).

³ Michael O. Finkelstein & Bruce A. Levin, *Statistics for Lawyers*, (2d ed. 2001).

*Using Government Information Sources: Electronic and Print*⁴: This source is useful because it focuses strictly on government resources and it includes both those in print and those available in electronic format.

OWL, the Online Writing Lab at Purdue University, created a workshop handout on "Using Statistics" that defines and illustrates various terms such as average, median, mode, and mean. See <owl.english.purdue.edu/handouts/research/r_stats.html>. You likely remember some of this from a statistics course in your past. Of course, one of the major problems with statistics in writing is depicting them so that the numbers actually say what you mean to say and so that your readers really read what you've said. This site will help.

Another interesting site is Writing With Numbers at <www.americanpressinstitute.org/pages/toolbox/writing_with_numbers>. This site was designed to be helpful to writers who work with statistics, and includes cost-of-living calculators and charts from various countries, which compare them in a variety of categories.

The Center for Public Integrity at <www.publicintegrity.org> is committed to monitoring journalists as a profession to ensure real numbers are being used to support stories and campaign ads. The site includes various research projects of interest such as "Global Integrity" and "Hired Guns." The site includes information on how to make sure that statistics you (or your opposing counsel) are using are reliable and accurate.

Joel Best, a prominent sociologist, focuses on the use of statistics and numbers in public policy in two recent works, *Damned Lies and Statistics: Untangling Numbers from the Media, Politicians, and Activists* (2001) and *More Damned Lies and Statistics: How Numbers Confuse Public Issues* (2004). Professor Best warns the researcher and

writer to use data and research in a responsible and factual manner.

Typically, you use statistics to obtain a specific fact or number. For example, you may need to know the percentage of bankruptcies filed in Tuscaloosa, Alabama, in 2004 out of all federal cases filed, or the number of times a certain Bank of America branch in Sacramento, California, has been robbed, or the estimated likelihood of contracting cancer among people living within five miles of a nuclear power plant. If that's the case, then a quick search of relevant statistical sources should provide the information needed. Similarly, if you locate tables, graphs, and charts in your research, this information can be easily incorporated into your finished work (with appropriate acknowledgements in all cases).

Sometimes, however, you will find raw research data in your quest for information. While initially daunting to the true number phobic, you shouldn't despair. If the information is in electronic form, chances are that the computer sites allow the researcher to export the data to spreadsheet software or to save the data and download it into software such as Excel or SPSS. Excel and SPSS are software packages that permit the researcher to manipulate data, view data in a number of different ways, and test data against different analytical processes. Many legal academics use these features when studying legal education practices, as they compare and contrast individual classes or create evidence to propose normative grading policies. These software applications also allow the user to depict the data visually through graphs or tables that will ultimately assist the reader in understanding and visually seeing what the data "says." If your law school or law firm does not have an administrative assistant skilled in the use of these types of software applications, there are numerous classes available through continuing education, community schools, and other sources to get you up to speed on their use. It usually takes only an hour or two before you can be manipulating data like the experts.

“Professor Best warns the researcher and writer to use data and research in a responsible and factual manner.”

⁴ Jean L. Sears & Marilyn K. Moody, *Using Government Information Sources: Electronic and Print*, (3d ed. 2001).

“Make sure you use a reputable source for identifying statistics, and use them appropriately and accurately.”

Legal researchers are very good at locating specific information and data. We understand the powerful capabilities of keyword and Boolean search strategies and techniques. The skills that serve us so well with word-based documents can also help us find numerical information. The ability to find and locate data and statistics easily through Web sites and electronic databases provides the researcher and writer with details about almost every topic.

The best news is that usually you don't have to reinvent the wheel and develop statistics yourself. Take advantage of some of the Web sites that have already established a collection of statistical links when you're searching for numerical data. For example:

Oklahoma State University Library's Statistics at <www.library.okstate.edu/govdocs/browsetopics/statisti.html>

University of Michigan Library's Statistical Resources on the Web at <www.lib.umich.edu/govdocs/stats.html>

American University Library's Quick Stats at <www.library.american.edu/subject/statistics.html>

University of Florida's The World Wide Web Virtual Library: Statistics at <www.stat.ufl.edu/vlib/statistics.html>

One great Web site that has pulled together many excellent links is The Virtual Chase at <www.virtualchase.com>. Click Legal Research on the left side of the page and then click Statistics. This site is particularly helpful because it was compiled especially for attorneys.

Many association and organization Web sites include statistics or research data and information as well. It is always a good idea to check out an association Web site that parallels the topic you are researching to see if the data has already been tabulated. A couple of excellent examples of this are the Web site of MADD (Mothers Against Drunk Driving) at <www.madd.org>, which includes state-by-state research on drunk driving, and that of the AARP at <www.aarp.org>, which has a

wealth of data on retirement and age-related information.

Many government Web sites include data on justice or crime statistics, as well as education, environmental, or health-related issues. One Web site of particular interest is <quickfacts.census.gov/qfd>. This site is compiled by the U.S. Census Bureau, and offers quick, reliable access to people, business, and geographical numbers state by state.

For those of you who prefer print resources, you may wish to consult *The World Economy: Historical Statistics*,⁵ a great source for information on a significant number of developed and third world countries over many years. There are companion tables and graphs that can be helpful as you explain a problem or issue where comparisons are useful.

And other print resources? What about almanacs? Encyclopedias? Other reference works in your local library? Statistical information abounds—look around! Many of the print resources are now also complemented by online or Internet sites that are designed to keep the information more current than can be done in print. It is vitally important to make sure you have current, up-to-date information when you use statistics. If your print resource is not updated with print or online supplements, you may wish to verify the information you've found with another source.

The use of statistics can be valuable and meaningful to the position you are researching and writing about, but remember the saying long attributed to Benjamin Disraeli: "There are three kinds of lies—lies, damned lies, and statistics." Make sure you use a reputable source for identifying statistics, and use them appropriately and accurately. Anything less will harm your reputation and may hurt your grade or, worse yet, your client's case.

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⁵ Angus Maddison, *The World Economy: Historical Statistics* (2003).