

**Training Program on Legal  
Research Methodology for  
Judicial Officers-II  
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Consulting Lawyers, Inc**



# National Judicial Academy

## Course Contents

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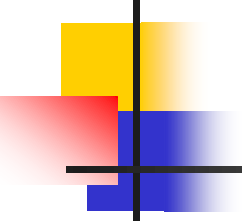
- Introduction
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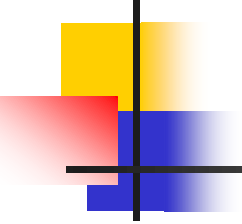


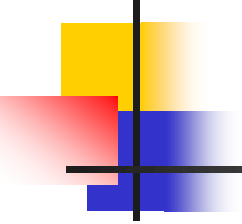
# Introduction

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- Legal Research as social research
- Social research examines a society's attitudes, assumptions, beliefs, trends, stratifications and rules
- The scope of social research can be small or large, ranging from the self or a single individual to spanning an entire race or country. Popular topics of social research include poverty, racism, class issues, sexuality, voting behavior, gender constructs, policing and criminal behavior.

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- New ideas are, invariably, the outcome of meticulous work.
  - Two broad categories
  - Quantitative designs approach social phenomena through quantifiable evidence, and often rely on statistical analysis of many cases to create valid and reliable general claims

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- Qualitative designs emphasize understanding of social phenomena through direct observation, communication with participants, or analysis of texts, and may stress contextual and subjective accuracy over generality.
  - Methodology – sampling, empirical observations, research against a theory, principles, etc
  - Cases of untouchability, laws prohibiting dowry and child marriage as examples

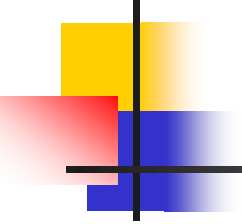
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- Legal research is the process of *identifying and retrieving information* necessary to support legal decision-making.
  - In its broadest sense, legal research includes each step of a course of action that begins with an analysis of the facts of a problem and concludes with the application and communication of the results of the investigation.



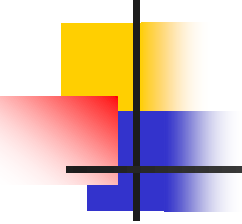
# Marbury v. Madison (1803)- A case for research

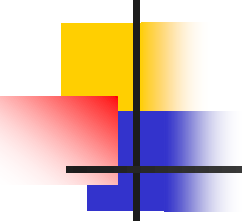
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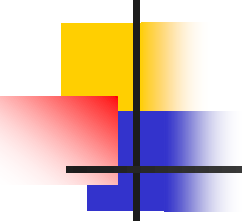
- *Marbury v. Madison*, (1803), was the result of a political struggle between the Federalist party, represented by President John Adams, and the Democratic-Republican party, represented by Adams' successor, Thomas Jefferson.
- What action did William Marbury take to get Jefferson and Madison to deliver his commission
- Why was the decision in *Marbury v. Madison* constitutionally important?
- Did Marbury's case ever go to the lower federal courts ?

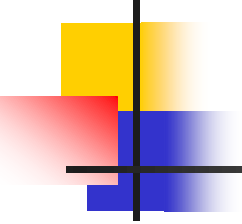
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- What were the three legal questions in Marbury v. Madison
  - Who was William Marbury
  - Who won Marbury v. Madison
  - What is Marbury v. Madison and why is it a landmark case in the history of the US Supreme Court
  - What happened to William Marbury after the US Supreme Court decision was handed down in Marbury v. Madison

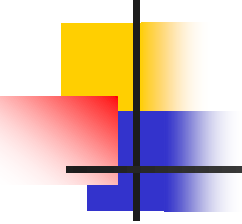


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- When the Supreme Court heard *Marbury v. Madison* was it under original jurisdiction or appellate jurisdiction
  - How did Chief Justice John Marshall support his opinion in the case of *Marbury v. Madison*
  - What principle did John Marshall affirm in the US Supreme Court case *Marbury v. Madison*
  - Who or what were John Adams's Midnight Judges
  - Who were the lawyers in *Marbury v. Madison*

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- If the Supreme Court decided that Marbury was entitled to his commission how could it be sure that the Executive branch would deliver it
  - What law did the US Supreme Court declare unconstitutional in Marbury v. Madison
  - What year was the Marbury v. Madison case
  - What was the timeline for the Marbury v. Madison case
  - What was the Supreme Court's decision in Marbury v. Madison

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- What was Marbury v. Madison the first example of
  - What constitutional issue did Marbury v. Madison validate
  - How could a writ of mandamus force Madison to comply with the order in the case of Marbury v. Madison
  - What was the dissenting opinion in Marbury v. Madison
  - Who was the President during Marbury v. Madison
  - Who told James Madison not to deliver commissions to the Midnight Judges
  - In what court did Marbury v. Madison start

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- How did Chief Justice Marshall deal with the problem created by James Madison's inaction in Marbury v. Madison
  - Were there any witnesses involved in Marbury v. Madison
  - What evidence was presented to the Court in Marbury v. Madison
  - What was the long-term significance of the decision of Marbury v. Madison for the US government
  - Was Marbury v. Madison more about politics or law
  - What date did Marbury v. Madison start
  - What was the significance of political parties in Marbury v. Madison

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- In what state was the Marbury v. Madison dispute
  - What two political parties were involved in the case of Marbury v. Madison
  - How long did the Marbury v. Madison case last
  - Could Congress give the US Supreme Court the power to issue an order granting Marbury his commission
  - Where in the Constitution does it say the US Supreme Court can declare laws passed by Congress unconstitutional
  - Why is Marbury v Madison important to us today



# Legal research generally involves tasks such as:

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- Review of literature
- finding primary sources of law or primary authority in a given jurisdiction – cases, statutes, regulations, etc
- Searching secondary authority (for example, law reviews, legal dictionaries and legal treatises, and legal encyclopedias such as American Jurisprudence and *Corpus Juris Secundum*, for background information about a legal topic; and
- searching non-legal sources for investigative or supporting information.



# Observations on the Reading of Case Law

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- Slower reading?
- Comparing different reports of a case
- Reading Case law in its historical context



# Analysis of Statutory Law

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- The historical approach
- Discovering political background
- The Comparative Approach (case law as well as statutory)

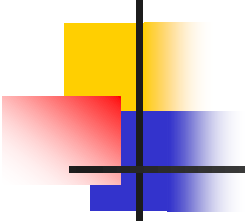




# Always important for your research are:

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- Clarity of purpose
- Formulating the problem
- Study design
- Exploratory or formulative studies
- Descriptive studies
- Diagnostic studies
- Experimental studies
- Design of sample
- Types of sampling
- Source of data collection
- Classification and Tabulation of data
- Report writing



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- Thank You !