Chapter One – Intro to Legal Research

- Sources of Law
  
  o Constitutions
    ▪ Prominent source of law which all other rules must comply with
    ▪ Created the three branches of gov.
  
  o Statutes
    ▪ Created by legislative branch
    ▪ Approved by executive branch (rules and regulations)
  
  o Court opinions (cases)
    ▪ Judicial branch - interpret rules created by the other two branches
    ▪ Create Legal rules – Common Law
  
  o Administrative regulations
    ▪ Created by administrative agencies pursuant to statutory authority

- Types of Authority
  
  o Primary – law produced by a law-making authority
    ▪ Constitutional provisions
    ▪ Statutes
    ▪ Court Opinions
    ▪ Administrative Regulations
    ▪ Can be mandatory or persuasive
      ▪ Within the jurisdiction which it was created, primary authority such as a court opinion or statute is mandatory
      ▪ But primary authority that is mandatory in the jurisdiction which it was created would only be considered persuasive authority in another jurisdiction
  
  o Secondary Authority – commentary/analysis/summaries of the law
    ▪ Article analyzing a court’s opinion
    ▪ Always persuasive authority (not mandatory)
  
  o Mandatory – authority court is obligated to follow
    ▪ Lower court must follow higher court decisions
  
  o Persuasive Authority – authority that the court may follow if persuaded to do so
    ▪ Higher court doesn’t have to follow a lower court decision or one from another state

- Where to Begin your Research Project
  
  o Primary Mandatory Authority
    ▪ Good if you already have some background on your topic
  
  o Secondary Authority
    ▪ Can help generate search terms and figure out what authorities you should research
  
  o Primary Persuasive Authority
    ▪ Not a good starting point

Chapter Two – Generating Search Terms

- Kunz
  
  o Who, what, when, where, why, legal theory, relief sought

- CALI
- Sloan - Generating Search Terms Based on Categories of Information
  o The parties involved in the problem, described according to their relationship to each other
    • Those in direct conflict with each other
    • Other individuals and entities involved
  o The places and things involved in the problem
    • Geographic
    • Type of location
    • Tangible things
    • Intangibles things
      • Someone’s reputation
  o The potential claim and defenses that could be raised
    • Breach of contract, defamation, bribery
    • Consent, assumption of the risk, self-defense
  o The relief sought by the complaining party
    • Damages, injunction, specific performance, attorney’s fees, restitution

- Expanding the Initial Search
  • Increase breadth
  • Motel – hotel – inn
  • Increase depth
  • Parrot – bird – animal

Chapter Three – Secondary Source Research

- What are Secondary Sources and Why Use Them?
  o summarize or collect authorities from a variety of jurisdictions and can help find mandatory or persuasive authority on a subject
  o They are most useful in the following situations:
    • When you are researching an area of law with which you are unfamiliar
      • Give background to generate search terms
      • Leads to primary authorities
    • When you are looking for primary persuasive authority but do not know how to narrow the jurisdictions that are likely to have useful information
    • When you are researching an undeveloped area of the law
      • Commentators may have analyzed how the courts should rule
    • When an initial search of primary sources yields either no authority or too much authority
  o When don’t you use them?
    • To cite or rely on in briefs of memos
    • To use as the most current info

- Legal Encyclopedias
  • Provide a general overview of the law on a variety of topics
  • Don’t provide analysis or suggest solutions to conflicts in the law.
  • Simply report on the general state of the law
  • Rarely, if ever, cite directly to a legal encyclopedia
  • Find with subject index or table of contents
  • Find online under secondary sources databases and under AM JUR or table of contents for CJS and Am Jur
  • Update with pocket part
  • Examples:
    • American Jurisprudence (Am.Jur.)
      • topics in alphabetical order
There are also 17 State Encyclopedias which is good when researching a question of state law.
- **Mimic Am Jur 2nd and CJS**
- **Limited in scope**
- **Generally include references to other works from the same publisher**
- **Vary greatly in quality (NY is one of the better)**

**Treatises**
- Provide in-depth treatment of a single subject such as torts or constitutional law
- Broad range of materials from nutshells to multi-volume scholarly text
- Provide both an overview of the topic and some analysis or commentary
- Often contain citations to many primary and secondary authority
- Hard to locate the appropriate treatise, but consider
  - Coverage, organization, currency, accuracy, reputation of book/author/publisher
- Find online by word searching the databases for an individual publication or a specific subject area...directory of full-text treaties
  - Indexmaster
  - Access points: table of contents and subject index
  - Can update with pocket parts
  - Most prominent: LaFave on Criminal Law

**Legal Periodicals**
- i.e. law review or journal articles
- every accredited law school publishes at least one law review
- thorough, thoughtful treatments of legal issues by law professors, practitioners, judges, and students
- articles are focused fairly narrowly on a specific issue, but include background or introductory sections that provide a general overview of the topic
- contain citations to may primary and secondary authorities
- address undeveloped areas in the law and propose solutions for resolving problems in the law
- Need to use an indexing service that collects references to a wide range of legal periodicals
  - Both contain a table of cases, table of statutes, and can find articles by subject
  - **Index to legal periodicals and Books (ILP)**
    - Goes back to 1908 (print version)
    - No full text online
  - **Current Law Index (CLI) and LegalTrac**
    - Only goes back to 1980
    - LegalTrac is online CLI
    - Can find full articles on here ...10%
    - It’s noncumulative
- don’t need to worry about updating
- Online, go to database for secondary sources and then journals and law reviews
- Bar journals
  - Shorter, less scholarly, less footnoted articles
  - Intended for practicing attorneys
  - Every state has one
- Law School Reviews
  - General and specialized
  - Student-edited
  - Available in large academic libraries, Westlaw, lexis and, the Web
  - 3 sections
    - lead articles by scholars/practitioner
    - note and comments written by students
    - book reviews
- Selection Criteria
  - Type of publication, type of article, coverage, accuracy, persuasiveness, reputation of author, reputation of periodical
  - Uniform Laws and Model Acts
    - Proposed statutes that can be adopted by legislatures
    - EX: UCC and Model Penal Code
    - Set out proposed rules, followed by commentary, research notes, and summaries of cases interpreting the rules
    - Exist in areas governed by statutory law
    - Are secondary sources unless adopted by legislatures
    - Best ways to locate: Uniform Laws Annotated (ULA)
      - Use the softcover Directory of Uniform Acts and Codes: Tables and Index to search by subject, the name of law or adopting jurisdiction
      - Update the ULA with pocket parts
  - Other periodicals
    - Legal newspapers
      - Decisions from local courts
      - Legal notices and legal classifieds
    - Newsletters
      - Track new developments in specialized areas
      - Narrowly focused, $$
- Electronic Research of Secondary Sources
  - LexisNexis and Westlaw
    - Go back until early 1980s
    - Only a limited number of treatises
  - Internet Sources
    - Most secondary sources aren’t available
    - More law reviews, journals, and other legal periodicals

Chapter Four – Case Research
- Court Opinions
  - Precedent…previously decided cases…court should follow precedent on the same topic
  - The Structure of the Court System
    - Fifty State System
    - D.C. Court System
- Federal System
  - United States District Courts (trial)
  - United States Courts of Appeals (intermediate)
  - United States Supreme Court (court of last resort)

- Case Reporters (page 77)
  - Court opinions or cases are published here
  - Cases are in chronological order; not by subject
  - Usually by jurisdiction
  - Official reporter – published under gov. authority
  - Unofficial reporter- commercial publisher
  - Parallel citations – when a case appears in more than one reporter

- Federal
  - United States Reports*, Supreme Court Reporter, United States Supreme Court Reports
  - Federal Reporter, Federal Appendix (Court of Appeals)
  - Federal Supplement, Federal Rules Decisions (District Courts)

- Regional Reporters…state appellate case law only
  - 7 regions, state cases

- State Reporters
- Subject (bankruptcy)

- The Anatomy of a Court Opinion
  - Heading (parties, parallel citation, case name, court that rendered the decision, date of the decision)
  - Synopsis (written by case editors)
  - Paragraphs summarizing the key pts of the decision…called headnotes…written by case editors
  - Names of attorneys who represented the parties and judges who decided the case
  - Opinion of court

- Finding Cases...Access Points
  - Secondary sources
  - West Digests
  - West KeySearch
  - Lexis Core Concepts and Core Terms
  - Full text Keyword search on Lexis and Westlaw

- Locating Cases Using a Digest
  - What is a Digest?
    - Organizes cases by subject
    - Law is arranged into different subject categories and within each category the digest provides summaries of cases that discuss the law on that subject.

- Digest Research Process
  - 1. locating the correct digest for the type of research your are doing (page 83)
    - Federal Practice Digest, Supreme Court Digest, State Digest, Regional Digest, Combined digest
    - use a case on point…headnote
    - descriptive word index…identify key legal and factual terms (volume(s) at the end of set)
    - go directly to relevant topics…at the beginning of each topic, West provides an overview section that lists the topics included …analysis or topic review…identify
areas of law involved, review list of West topics and choose appropriate subtopics therein
- One good case method…locate case in table of cases, determine matching topic key number

- Other digest tools
  - Table of cases
  - Defendant-plaintiff table
  - Words and phrases

- organized by jurisdiction
  - federal
  - state (state and federal courts in that state)
  - regional (states within that region, but no federal cases)
  - combined (all)
- organized by date…digests are not cumulative

- Combined digests
  - Comprehensive…all west case reporters, federal, and state
  - Century
  - Dicennial
  - General…one year increments

- 2. locating relevant topics and key number within the digest
  - 1. use headnotes in a case on point
  - 2. use the descriptive word index to the digest
    - just look up the subject you want
    - its updated with pocket parts
  - 3. going directly to topics relevant to your research
- 3. reading the case summaries under the topics and key numbers
  - organized from the highest to lowest court
  - always read the case in full before relying on it to answer a question
- 4. updating your research to maker sure you find summaries of the most recent cases
  - 1. check the pocket part for the subject volume covering your topic in the digest
    - generally updated once a year
  - 2. checking a separate set of interim pamphlets at the end of the digest
    - updated btwn pocket parts
  - 3. updating beyond the digest set for cases published after the supplements were printed
    - closing table…found in last pamphlet
    - advance sheets

- Additional Features of Digests
  - Table of Cases
    - Lists cases alphabetically by the name of both the PP and DD
    - You will find the following info
      - Full name of the case
      - Court that decided the case
      - Complete citation to the case…including a parallel citation
      - List of topics and key numbers appearing in the headnotes to the case
        - updated the same way as the subject volumes
  - Words and Phrases
    - Provides citations to cases that have defined legal terms or phrases
- Selecting Cases
  o Similarity…factual and legal parallelism
  o Clarity…the clearer and more convincing
  o Recency

- Electronic Case Research
  o Westlaw and LexisNexis Formats
    ▪ Include name of the case and editorial summary of the decision and opinion of court and editorial summary
  o Word Searching in Westlaw and LexisNexis
    ▪ Select a database within cases in which to search
  o Electronic Subject Searching in Westlaw and LexisNexis
    ▪ Allows you to search by subject using the digest topics and key numbers (only in West)
    ▪ Ex: Custom Digest or Keysearch (Westlaw) or Search Advisor Core Concepts (LexisNexis)
  o Researching Cases on the Internet
    ▪ Review the website of the court OR
    ▪ General legal research sites

Chapter Five – Research with Shepard’s Citations and other Citators

- The Purpose of a Citator
  o Index to sources (primary and secondary) that cite to a known source
  o Catalog cases and secondary sources, analyzing what they say about the authorities they cite
  o Some also track the status of statues
  o Help you determine whether an authority is good law, meaning it hasn’t changed or been invalidated since it was published
  o Locate similar and supporting authority to bolster an argument
  o Attack the underpinnings of a case (table of authorities)

- When to use a citatory in case research
  o Early in your research, after you have identified what appear to be a few key cases, to make sure you don’t build your analysis on authority that is no longer valid
  o Help direct you to other relevant authorities

- Treatment of a Case
  o Direct history
    ▪ Same parties, facts, litigation
    ▪ Your case can be reversed as it moves through the legal system
    ▪ Check subsequent and prior history
  o Indirect History
    ▪ Different parties, different facts, different litigation
    ▪ Your case can be overturned by an unrelated case
    ▪ Courts can react negatively or positively to your case…it may strengthen or weaken the precedential value of your case
    ▪ Check negative cases
      • Are they in your jurisdiction
      • What point of law was at issue
      • Are they distinguishable from your case

- Checking Citations Electronically
  o Using Shephard’s in LexisNexis
    ▪ By jurisdiction…highest first
Includes cases, statutes, and administrative materials
Available in print
Notation at the beginning of a case in LexisNexis will indicate if Shephard’s has an entry for it, and if so, what type of treatment the case has received

- Red stop sign…warning…case has been reversed, overruled, or otherwise given very negative treatment
- Yellow triangle…caution…case has received some negative treatment, such as being limited or criticized but has not been reversed or overruled
- Blue circle surrounding the letter A…analysis available…case has received treatment that is neither positive nor negative
- Blue circle surrounding the letter l…citation info available…case has been cited, but no history or treatment codes have been assigned to the citing sources
- Green diamond surrounding a plus sign…case has received positive treatment, such as being affirmed or followed.

Using Keycite in Westlaw

- Negative and then positive and within it goes from most to least treatment
- Entry begins with a full citation to the case and its complete direct history, followed by indirect history….review this entry to see if the case is still good law
- Not available in print…started in 1997
- If the original case has received negative indirect history, you may notice that some of the negative citations are followed by on or more stars

  - Stars indicate how much discussion you will find in the citing case
    - Four – examined…more than a page
    - Three – discussed…more than a paragraph
    - Two – cited…less than a paragraph
    - One – mentioned…just a string of citation

- KC Citing Ref = contains citations to the case
- KeyCite is linked with cases in Westlaw with flag notations

  - Red = case is no longer good law for at least one of the points it contains
    - Statute has been amended or repealed
  - Yellow = case has some negative history, but hasn’t been overruled or reversed
    - Statute has pending legislation which may affect it
  - Blue H = case has some history that is not known to be negative
  - Green C = case has citing references, but no direct or negative indirect history

Chapter Six – Statutory Research

- Statutes
  - Enacted by U.S. Congress
  - Enacted by State legislature

- Why are statutes important?
  - Affect common law
    - Codify common law
    - May amend existing common law
    - May overturn common law
  - May create a new area of law

- Publication of Statutory Law
  - All the statutes are organized and published as codes (which include the state/nat’l constitution)
  - Federal law is enacted and published in three steps:
    - As a separate document/booklet referred to as slip law
- Title and Subject Matter Organization of Codes
  o Federal code is organized into Titles, for which there are 50
  o Titles are subdivided into chapter and then into session
  o States sometimes organized their codes by subject name instead of Title number

- Official vs. unofficial codes and annotated vs. unannotated codes
  o Official – when the gov. arranges for the publication of its laws or when a commercial publisher with gov. authority
     ▪ Can be annotated or unannotated
     ▪ United States Code (unannotated)
  o Unofficial – commercial publisher publishing the laws for a jurisdiction without gov. authorization
     ▪ Most are annotated
     ▪ United States Code Annotated, and United States Code Services (annotated)
  o Annotated – contains the text of the law, as well as different types of research references (summaries of cases or citations to secondary sources discussing a statute)
  o Unannotated – only the text of the law

  o 1. Access Points
     ▪ General index
     ▪ If you know the topic and subject
     ▪ Published annually
     ▪ Popular Name Table
     ▪ Statutes often have a title or name
     ▪ Conversion Table
     ▪ Cross reference from Statues at Large Cite
     ▪ All you have is public law number or statues at large = session law
  o 2. Locate the relevant code section and/or subsection and place it in context
     ▪ Read the statute
     ▪ Browse/read statutes around it
     ▪ Browse the Table of Contents
  o 3. Look at the materials in the accompanying annotations
     ▪ Historical Notes
- Additional Statutory Research Tools
  - Popular Name and Conversion Tables
    - If you know what statute you need
    - USCCAN
      - Arranged by
        - Congress
        - Session
    - For each session:
      - Laws
      - Legislative history
  - United States Codes
    - Historical Notes
    - Cross References
    - Index
    - Tables
  - USC (Federal Statute)
    - Not the best place to start your research, but you need to cite to it, since it is the official code
    - Subject arrangement of enacted laws
    - Unannotated
    - index and main volume are published every 6 years
    - in the intervening years it is updated with hardcover cumulative supplements every year
    - not the most updated
  - U.S.C.A…westlaw
    - Arranged in 50 subject titles
    - Titles are divided into chapter and then sections
    - Same arrangement as in USC
    - Law
    - Editorial Enhancements
      - Historical notes
      - Cross references
      - Library references
      - West electronic research
      - Notes of decisions
  - USCS
    - Stronger in admin law
    - Less annotations
- State Codes
  - Most don’t have conversion tables

- Rules of procedure
  - Each court may have its own procedural rules

- Uniform Law and Model Acts
  - Proposed statutes that can be adopted by legislatures
  - They are secondary sources

- Electronic Statutory Research
  - LexisNexis and Westlaw (USCS)
    - Contain annotated versions of many codes
    - Are usually updated
    - Can find them through word searches
  - Internet Sources
    - Can find federal, state, and D.C. codes through gov. web sites
    - Can often use a search function on these sites
    - Are usually unannoted
    - Make sure to check the date

- What are uniform laws and model acts?
  - Proposed legislation drafted by public/private orgs.
    - American Law Institute
    - NCCUSL

- What do Uniform Laws do?
  - Set out proposed rules (law)
  - Seek to standardize statutory law of the 50 states
  - States are encouraged to adopt uniform acts in total, as written, in order to promote uniformity
  - Followed by commentary, research notes, and summaries of cases interpreting the rules
  - Exist in areas governed by statutory law

- Model Acts
  - Serve as guideline legislation

- Uniform Laws: Secondary Authority
  - Persuasive, not mandatory authority
  - Becomes mandatory if enacted by legislature
    - State Code is the law
    - Where adopted by a state, can be found in the adopting state’s code
    - State may not have enacted the uniform law word for word

- National Conference of Commissioners on Uniform State Laws (NCCUSL)
  - Created in 1892
  - Drafted 200 uniform laws
  - Lawyers, judges, scholars, and gov. officials represent each state
  - Called commissioners and meet annually

- Uniform Laws Annotated
  - Yellow handout

- Directory of Uniform Acts and Codes: Tables-Index
  - Individual Acts have their own index
  - Directory of Uniform Acts
- Table of Jurisdictions Listing Uniform Acts Adopted
- Cross Reference Index to Acts

- Suggested State Legislation
  - Annual volume

State laws – survey sources
- can’t research online for all 50 states at once…only one at a time
- Cheryl Nyberg…Subject Compilation of State Laws
- Law Review Articles
- Richard Leiter…National Survey of State Laws
- Martindale Hubbell

**Chapter Seven: Federal Legislative History Research**

- The Process of Enacting a Law
  - If a statute is vague, see if courts have resolved the ambiguity
    - If not see how similar statutes are interpreted, look at the language of the statute, research the paper trail of documents that legislators create during the legislative process (legislative history)
  - Legislative history
    - Bill is introduced into the House of Senate by a member of Congress
    - Then it’s referred to committee, which may hold a hearing on it and obtain views of experts or those interested
      - If the committee is not in favor of the bill, it’ll take no action and the bill usually expires
      - If the committee is in favor of the bill, it’ll recommend passage to the full chamber of the House or Senate….this is in a committee report
    - Then it goes before the full House or Senate where it’s debated and may be amended
    - The it’s voted on
    - If it passes, it goes to the other chamber, where the same process is repeated
    - If both chambers pass it, it goes to the President
    - The pres can sign it into law, allow it to become law without a signature, or veto it
    - It vetoed, it goes back to Congress, who can override the veto with 2/3s from each chamber
    - Once a bill is passed into law, it’s assigned a public law number and proceeds through the publication process

- Sources of Federal Legislative History (in order of least to most authoritative)
  - Bills introduced into Congress
    - Changes in language and addition of deletion of specific provisions may shed light on the goal the legislature was attempting to accomplish with his bill
    - However, this alone is usually insufficient
  - Hearings Before committees or subcommittees
    - Consists of testimony of experts and interested parties who give their views on the bill
    - There may be transcripts of testimony, documents, reports, studies, etc.
    - As both sides are represented, this should be used carefully
  - Floor debates in the House and Senate
    - Are published in a daily record of Congressional proceedings called the Congressional Record
    - Can be a good source about Congress’s intent in passing a bill, since its’ the legislators themselves
    - It can consist of transcripts of comments taking place on the floor or prepared statements of legislators
    - Statements by the Bill’s sponsor can be especially helpful
  - Committee Reports
- Usually contain the committee’s reasons for recommending a bill, a section-by-section analysis of the bill, and the views of committee members who dissent from the committee’s conclusions
- If there’s a compromise between House and Senate, there’s usually an explanation of the Compromise

- Getting to the Indexes…pg. 232
  - Online catalog…compiled legislative history …print
  - Thomas…online
  - GPO access…online
  - CIS (congressional universe)…print
  - Congressional record…for floor debates

- If you know the Statutes at Large citation, you can get the Public Law number, the Bill number

- Strategies for Approaching Federal Legislative History Research
  - History of an individual statute
    - Start with statute itself
    - Then use the bill number, public law number, or Statutes at Large citation to locate documents relating to the statute
    - Usually start with committee reports
  - If you’re looking for legislative activity on a specific topic, rather than the history of an individual statute, you need to search by subject

- Researching Federal Legislative History in Print
  - Compiled Legislative Histories
    - Full text
    - Sometimes for major pieces of legislation, an author or publisher collects all of the legislative history documents on the legislation and publishes them in a single place
    - Sometimes published in an individual book OR
    - Look for the statute in a reference book listing compiled legislative histories
      - This will refer you to books, government documents, and periodical articles that either reprint the legislative history for a statute, or, at a minimum, contain citations to and discussion of the legislative history
      - The book is organized by public law number – found following code sections in U.S.C. or an annotated code
  - United States Code Congressional and Administrative News (U.S.C.C.A.N)
    - Good source for quick and dirty info
    - Readily available source of committee reports on bills passed into law
    - For each session of Congress, it publishes a series of volumes containing among other things, the text of laws passed by Congress (organized by Statutes at Large citation) and selected committee reports
    - It can be cross-referenced with U.S.C.A.
  - Congressional Information Service (CIS)
    - Commercial published or legislative history documents, but its materials are more comprehensive than those available through U.S.C.C.A.N.
    - Compiles committee reports and hearings on microfiche
    - Provides citations to floor debates published in the Congressional Record
    - Good resource for finding the complete legislative history of a statute, as well as for searching by subject
    - Finding tools consist of the Index volume and legislative histories volumes for each calendar year
    - Monthly softcover booklets containing the Index and Abstracts are published for the current year. Every four years, the annual indices are combined into a four-year cumulative index
Easiest way to locate the complete legislative history of a bill enacted into law is to use the Legislative Histories volumes, which are organized by public law number

- Directory
- Gives you abstracts

If you know the year the law was passed and the public law number, you can look it up in the appropriate volume of CIS legislatives histories….CIS will list all of the documents in the legislative history, as well as a very brief summary of each document

After the title of each document, a CIS citation will be listed, which indicates the year the document was created and the number assigned to the microfiche

However, CIS doesn’t reproduce the Congressional Record as part of the microfiche set…thus you have to go to the Congressional Record itself

To locate documents by subject, you can use the Index and abstracts volumes

- The index is a regular alphabetical subject index that’ll refer you to the document numbers within the abstracts
- The summaries in the abstract will help you asses the content of the documents and target specific pages with useful info
  - Especially good for hearings because you can determine who testified, what the witness testified about, and where to find the testimony within the document
  - You can use the info found in the abstracts to read the documents in full on microfiche

Congressional Record
- Record of all the activity on the floor of the House and Senate
- A new volume is published for each session of Congress
  - While Congress is in session, the current volume of Congressional Record is published daily as a softcover pamphlet….the daily edition
  - The daily editions are compiled into a hardbound set called the permanent edition at the end of each session of Congress
  - Pagination changes from daily to permanent edition

Ways to find citations to material in the Congressional Record
- For a debate on a specific statute, CIS legislative histories volumes
- USCCAN
  - At the beginning of each report you will find a list of the dates the House and Senate considered bill, which you use in conjunction with the bill number to locate material in the daily edition of Congressional Record
- Index to Congressional Record
  - Find info to a piece of legislation or search by subject
  - It’s divided into two sections
    - A subject index
    - Other contains the history of bills and resolutions
      - Need house and senate bill numbers, not public law number
      - Either will refer you to pages with relevant material

- Researching Federal Legislative History Electronically
  - Lexis and Westlaw
    - Allow you to search the full text of bills introduced into Congress, selected committee reports and hearings, and floor debates in Congressional Record
  - Internet Sources
    - LexisNexis Congressional
      - Gives electronic access to CIS legislative histories
      - Commercial research service that ‘s more comprehensive than the government sites and in some ways more user-friendly
      - Includes committee reports, hearings, bills and the Congressional record
• Differences btwn the CIS legislate history microfiche set and LexisNexis Congressional
  o The Congressional doesn’t contain complete information on Congressional hearings
  o It only includes the text of prepared statements and transcripts of testimony, but not any attachments or documents submitted to the committee
  o It provides access to the Congressional Record
• You can search the full text of the documents available on-line or you can search through the CIS index
  • Easiest way to locate all of the available documents on a piece of legislation is to search within the Index
    o You’ll first retrieve index entries
    o You click on these to retrieve abstracts (summaries) of the documents available, and can retrieve the full text of a document by clicking on the appropriate link.
    o You can search the CIS index by number using the public law number, Statutes at Large citation, or bill number
  • Full-text searching
    o Requires you to search separate databases for each type of legislative history document (reports, hearings, etc) that you want to retrieve
    o This may be helpful when researching legislative activity by subject
• Thomas
  • Provides text of the bills introduced, House and Senate Roll call votes, public laws, the text of the congressional Record, committee reports, and other info on the legislative process
  • You can search by public law number, report number, or committee name, or even through word searches
  • Maintained by the Library of Congress
  • Doesn’t go back very far, but great for current stuff
• GPO Access
  • Text of bills introduced in congress, selected reports and hearings, and the Congressional Record
  • You can conduct word searches and many allow a date restriction if you want to know the session of Congress you want to research
  • If you know the bill number, you can enter it as your word search to locate documents related to a specific piece of legislation
  • If you know the committee that issued the report you want, you can select the name of the committee to retrieved a list of its documents available on-line
  • Maintained by the government printing office
  • Doesn’t go back very far

Chapter Eight: Federal Administrative Law Research

- Administrative Agencies and Regulations
  o Exist at all levels of government
    ▪ Ex: FDA, EPA, GCC
  o They are created by statute and are part of the executive branch
  o Can pass regulations relating to the scope given it by the legislature
  o A regulation looks like a statute…it’s basically a rule created by a government entity
  o The agencies are required to conform to the procedures set out in the Administrative Procedure Act (APA) in promulgating regulations
    ▪ Steps usually required by the APA
- Notify the public when they plan to promulgate new regulations or change existing ones
- Publish proposed regulations and solicit comments on them before the regulations become finals
- Publish final regulations before they go into effect to notify the public of the new regulations

- Regulations and proposed regulations are published in the Federal Register, and are codified in the Code of Federal Regulations (CFR)...gpo access, or printed
  - The CFR is divided into 50 titles
  - Then subdivided into chapters, which are usually named for the agencies issuing the regulations
  - Then subdivided into parts covering specific regulatory areas
  - Then subdivided into sections
- To find a regulation, you would need to know its Title, Part, and section number
  - 16 CRF §1700.00 = title 16, part 1700, section 1700.1

- **Researching Federal Regulations in Print**
  - CFR is published in a set of softcover books
  - To find regulations relevant to your research issues:
    - Using an annotated code
      - Cross-reference to the CFR in USCS (has more regulatory annotations), USCA OR
      - Go to the CFR itself, using a subject index to refer you to relevant CFR provisions
    - Using an index
      - CFR index and finding aids…it’s within the CFR itself and published annually
      - CIS index to the Code of Federal Regulations
      - It’s a separate subject index to the CRF published by Congressional Information Services (CIS). It’s a hardcover book and published annually
  - Updating
    - It’s updated once a year in four separate installments (done by titles)
    - There’s no pocket part, instead new or amended regulations are published in the Federal Register and are codified within the CFR when the new set is published
    - Use the list of CFR sections affected to find any federal register notices indicating that the regulation has been affected by agency action
    - Update from the date of the list of CFR sections affected (LSA) until the present
      - It’s a monthly publication listing each CFR section affected by agency action
        - Separate volume
        - Use federal register
      - It’s a cumulative publication, so you only need to check the most recent issues
    - Once you locate the most recent LSA, check the time period it covers…it’s on the inside front cover
      - If you find something, it’ll refer you to the pages of the Federal Register containing the info on the agency’s actions
      - The Federal Register is a daily publication, which is consecutively paginated throughout the year…list of parts affected…it’s cumulative
  - Updating Beyond the List of CFR sections affected
    - Update using the Federal Register to update your research from the last day covered by the LSA through the most current issue of the Federal Register
    - To update a certain period, use the table on the inside book cover of the Federal Register called CFR parts affected during (month)
      - You need to know the part to use this
  - **Citate the enabling legislation and the regulation**

- **Electronic Research of Federal Regulations**
- CFR is available on Lexis and Westlaw
- The federal register is also available on both
- Administrative regulations can be located either in the general administrative materials databases or in the databases for specific subject areas
  - Once you select a database, you can find regulations by executing a word search
  - You can also browse the table of contents of the CRF
- Since the CFR and Federal Register are government publications, they are available on the internet free of charge
  - GPO
    - Check for updates
    - CFR databases are updated only four times a year, though the Federal Register is updated daily
  - Sites of individual agencies

Chapter Nine: Subject-Matter Service Research (aka Looseleaf Service)

- **Overview**
  - It’s primary material
  - Often published in loose-leaf binders
  - Often focus on complex, highly regulated area of the law, which it might be difficult to compile all the relevant info
  - Older decisions are in a transfer binder
  - May contain all or some of the following info:
    - News or analysis of current events in the field
    - Statutory material, including
      - Federal statutes
      - State statutes
      - Legislative history of pertinent statutes
    - Administrative materials, including
      - Federal regulations and agency decisions
      - State regulations and agency decisions
    - Cases
      - Federal cases
      - State cases
  - Some areas which may be available
    - Bankruptcy
    - Tax
    - Government contracts
    - IP
    - Securities
    - Labor and employment
  - **Advantages**
    - One stop shopping
    - Comprehensive
    - Current
    - Provides info on current developments in the area
  - **Disadvantages**
    - Takes time to master the indexes
    - Each is organized differently

- **Locating Subject-matter services**
  - Check the bluebook T.16 to see some of the more commonly used services
  - A directory
    - Ex: Legal Looseleafs in Print
- **Conduct Subject-Matter Research Using Print, CD-Rom, and Internet Sources**
  - **Print Resources**
    - Services have a section at the beginning entitled overview or how to use this service
      - It’ll explain the scope of the service (what’s included)
      - It’ll explain how to update
  - **CD-Roms**
    - Often operate on two types of search platforms
      - Premise
        - Similar to Westlaw
        - Select a database and execute a wordsearch
      - Folio
        - Organizes the info into databases, which are further subdivided into records
          - You must first select a database and then can execute a query, view the table of contents
  - **Internet Resources**
    - Access on some is limited to subscribers
    - Can be a good starting point
    - Once you locate web sites with useful info, verify the source and of the info and update any legal authorities identified on the web site
  - **LexisNexis and Westlaw**
    - Each have databases devoted to subject areas of the law
      - Westlaw
      - Lexis…directory under “area of law-by topic”
    - Allow you to search cases, statutes, regulations, secondary sources, and other materials in a subject area, instead of by jurisdiction
      - Once in a subject area, you can limit it to a particular jurisdiction
  - **Formbooks**
    - Provide standard forms that can be used and reused by practitioners
    - Find the relevant section by
      - Topic method
      - Descriptive word index
    - It’s only a guide…so make appropriate changes to the form
    - Update
    - Ex: litigation, discovery form books

**Chapter Ten: Electronic Word Searching**

- **Constructing, Executing, and Reviewing an Electronic Word Search**
  - **Boolean (terms and connectors)**
    - Retries info based on the relationship among words in a document
  - **Connectors**
    - And – all the words
    - And not – include one term, but not the other (westlaw), and not (lexis)
    - Or – any of the specified terms
    - /N – terms appearing within a certain number of words of each other (westlaw), term1 +n term 2…term 1 appears a certain number of words before term 2
    - /P – within the same paragraph
    - /S – within the same sentence
• to search for terms as a phrase…westlaw – put it in quotes, lexis – join words in a sequence without a connector
  - **Root Expanders**
    - Liab! – liable, liability
  - **Wild Card**
    - Wilb*r – Wilber or Wilbur
    - Jur** - jury or juror, but not jurisdiction
  - Dr*nk! – drank, drink, drinking, drunken
  - **Constructing a more sophisticated search**
    - You can add field or segment restrictions
      - Ex: limit to cases from a particular jurisdiction, or time period
  - **Natural Language**
    - Limited to terms specified
    - Converts a search to a question

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