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Fundamentals of Legal Research in Washington

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Introduction

The Washington Legal Researcher’s Deskbook 3d has been written to assist lawyers, students, librarians, legal assistants, legal secretaries, and members of the public in the complex task of researching legal problems. This book focuses on the law of Washington State and the legal materials that are available to the Washington practitioner. The reader will not find answers to legal questions but rather will find a rich array of information that can help in the process of researching the law.

The importance of legal research certainly cannot be overstated. Lawyers want to give good advice to their clients. If the client’s problem is new to the practitioner, chances are good that a review of the legal issues and authority will be necessary. This may plunge the researcher into unfamiliar areas of law.

If it were not enough to want to give good advice, Rule 1.1 of the Washington Rules of Professional Conduct (RPC) requires that a practitioner “shall provide competent representation to a client.” This rule requires familiarity with the relevant law through previous knowledge or through conducting adequate research. No Washington State Bar Association ethics opinions interpret this rule regarding the standards for performing competent legal research.

A 1975 California Supreme Court case, Smith v. Lewis, 10 Cal.3d 349, 530 P.2d 589 (1975), articulates a standard of care for legal research. The standard requires (1) sufficient research (2) using standard research techniques (3) to obtain readily available authority. The Court found that the defendant lawyer failed to meet this standard of care. Cases in other jurisdictions have reached a similar result. The Washington Court of Appeals has apparently applied this standard in Halvorsen v. Ferguson, 46 Wash. App. 708, 718, 735 P.2d 675, 681 (1986).

A study commissioned by the ABA Section of Legal Education and Admissions to the Bar listed legal research among ten skills necessary for the practice of law. The Task Force identified three specific skills needed for thorough and efficient research:

3.1 Knowledge of the Nature of Legal Rules and Institutions;
3.2 Knowledge of and Ability to Use the Most Fundamental Tools of Legal Research;
3.3 Understanding of the Process of Devising and Implementing a Coherent and Effective Research Design.


The legal researcher of the twenty-first century cannot rest on the knowledge of legal research tools acquired while in law school or even as recently as two years ago. The computerization of legal information has completely changed the world of legal research and the practice of law. Some recent commentators have even suggested that computerized research is required in order for practitioners to avoid malpractice. See David M. Sandhaus, “Computers Are Required for the Practitioner to Avoid Malpractice,” Wash. St. B. News, Nov. 1993, at 51; Robert C. Berring, “Technology and the Standard of Care for Legal Research,” Legal Malpractice Rep., 1992, at 21. You will find electronic resources noted and discussed throughout the entire Deskbook.

The purpose of this Deskbook is to provide a broad spectrum of information that would be helpful to the person who must research Washington State law. In the first chapter, Ann Hemmens describes how to use a law library. From using law li-
braries in person to using law libraries without leaving the comfort of your home or office, the tips provided in this chapter will be useful to all legal researchers.

In the second chapter, I review the formats of legal information and outline a strategy to help the legal researcher design a research process or framework. Practical tips for efficient use of legal tools are discussed. If you must research an area of law you know nothing about, the article reprinted in Appendix II will be extremely useful. If taking good notes is your downfall, be sure to read the note-taking article found in Chapter 2, Appendix III. This piece is full of practical hints that can help any researcher create a fine research product.

Chapter 3, written by Mary Whisner, is an excellent review of the most basic and important legal research tools used for researching Washington law. Ms. Whisner reviews secondary sources, statutes, administrative regulations, case law, case-finding tools, attorney general opinions, citator services, and basic citation formats. She includes information about electronic versions of these information tools as well as the printed texts. Every legal researcher should be familiar with the contents of this chapter.

Using one or more of the many excellent handbooks and deskbooks available on Washington law can help the legal researcher quickly and efficiently define the problem and locate the primary sources to answer the question. In Chapter 4, Nancy McMurrer provides annotated descriptions both of broad, multi-topic sources and other, more specific titles listed by subject. This chapter is crucial for the researcher who is not intimately familiar with the wealth of secondary literature available in Washington.

Washington State agencies promulgate a variety of administrative decisions or actions. These are ably discussed in Chapter 5 by Cheryl Rae Nyberg. Pay particular attention to the description of the Administrative Procedure Act and its requirements. Ms. Nyberg discusses each state agency that issues administrative determinations and even provides a summary chart of the various sources of agency quasi-judicial actions in order to speed your research.

Never compiled a Washington legislative history? Follow the clear step-by-step directions written by Peggy Roebuck Jarrett in Chapter 6 on legislative history and bill tracking. Clearly our author has had some experience with this awesome task!

Ms. Jarrett shows the novice exactly how to follow the Legislature's process and includes important tips for accomplishing this research chore efficiently and competently. Researching state initiatives can also be problematic; see the tips included by the author.

A completely new chapter on local government law has been researched and written by Mary Ann Hyatt. After an excellent background of the authority and role played by local governments, Ms. Hyatt analyzes the primary and secondary materials for cities, counties, and special districts.

Historical and archival sources of legal information are new in this edition of the Deskbook. In Chapter 8, Cheryl Nyberg and Ann Hemmens have tracked down nearly everything you might need from official documents in the territorial and early statehood periods in Washington.

Chapter 9 is also new to the Deskbook. With 36 Indian tribes in Washington State, 6 percent of the state's land held by Indians or Indian tribes, and a growth in tribal self-government, every Washington practitioner should know the basics of Indian law. The chapter reviews federal Indian policy and includes a minimal list of federal, state, and tribal resources that can be used in legal research projects.

"Nonlegal Resources" is the title of Chapter 10 written by Peggy Roebuck Jarrett. In a clear and direct style, the author covers sources that will help you find information about people and organizations, locate factual information, and improve your writing skills.

In the final chapter Jonathan Franklin compiles information about legal resources in Washington.
Included here are tips on how to manage your library, hire a librarian, and select materials and research tools for your library. Directories of filing and library service organizations, document delivery services, legal publishers, and Washington legal periodicals complete the informative material found in this section. This chapter will be a great help to those trying to keep their law libraries current and properly managed, to those making decisions about purchases for office libraries, and to those trying to locate legal materials available in the local area.

The Deskbook's appendix presents acronyms and abbreviation used throughout this book and that frequently appear in Washington legal materials.

I am very pleased with the high quality of the material you will find within this Deskbook. Many thanks to the authors for their tireless work. Special thanks to the general editor, Cheryl Nyberg, who edited all the chapters, created the book's index, and provided the consistency and standard of excellence so necessary for a work like this. Theresa Knier worked many hours to put our draft material into a final form with a professional touch—thank you! Thanks also to Reba Turnquist who helped update information about publishers, prices, and the like; to the Gallagher Law Library staff for being supportive and helpful; to the law librarianship student interns who helped cover the Reference Office when we needed extra time to write; to various colleagues around the state who responded cheerfully to our requests for information; and, finally, to our library patrons for asking us questions and helping us learn what legal researchers in Washington need to know.

Readers and Washington legal researchers are invited to send comments and suggestions via email to deskbook@u.washington.edu.

Penny A. Hazelton
Seattle, Washington
January 2002
Notes on Using This Book

This section explains citations and references used throughout this book.

Books, Articles, and Legal Citations

The Deskbook contains many references to other publications. The authors have used several formats to distinguish categories of material.

Titles of books, periodicals, looseleaf services, CD-ROM products, and similar items generally appear in italics. Authors, editors, and compilers are often named and the publisher and year of publication are given. For periodicals and other publications that are issued or updated on a regular basis, the initial year of publication is followed by an open hyphen (e.g., *Washington State Environmental Reporter* (Book Publishing Co., 1974-)).

References to articles include the author(s), the title of the article in quotation marks, and the abbreviated title of the periodical in italics. These abbreviations are spelled out in the Appendix: Acronyms and Abbreviations. If the issues of a volume are paginated consecutively, the volume number appears before the title of the publication and the first page number follows the title, with the year of publication in parentheses (e.g., William R. Andersen, “The 1988 Washington Administrative Procedure Act: An Introduction,” 64 Wash. L. Rev. 781 (1989)). If the issues of a volume are not paginated consecutively, the citation identifies the issue and then the beginning page number (e.g., Nancy Carol Carter, “American Indian Tribal Governments, Law, and Courts,” Legal Ref. Serv. Q., No. 2, 2000, at 7). For articles that are available for free on the Internet, their citations include the Uniform Resource Locators (URLs) (e.g., Eron Berg, “Unpublished Decisions: Routine Cases or Shadow Precedents?,” Wash. St. B. News, Dec. 2000, at 28, available at http://www.wsba.org/barnews/2000/12/berg.htm).

Citations to some legal sources (such as statutes and cases) follow rules set out in *The Bluebook: A Uniform System of Citation*, 17th ed. (Harvard Law Review Association, 2000), with exceptions recommended by the Washington Office of the Reporter of Decisions Style Sheet. *The Bluebook* and the *Style Sheet* are described in Chapter 3, Fundamentals of Legal Research in Washington, Section X, Citation Format.

Internet Websites

In less than a decade, the Internet has become a major legal research tool. Thousands of academic, commercial, governmental, organizational, and personal websites contain the text of legal materials and/or guides, indexes, and commentaries on the law. Government agencies at all levels have quickly made the Internet a primary means for communicating with the public.

Throughout this book, URLs identify websites that contain Washington State legal materials. In many cases, "deep links" to pages buried several layers beneath an agency's main homepage have been used to direct readers to the specific location of legal documents and databases. These URLs and the descriptions of website contents were accurate in fall 2001.

Website addresses and contents change frequently, however. If a website address fails and the source is part of the Washington State government, use the "State Agency Index" on Access Washington, http://access.wa.gov/, to locate the agency's new URL. Then look for navigation links, a site index, or a search feature to locate specific material. If the source of the website is not part of the Washington State government, pare back the URL to the first slash after the domain name (ending with .com, .edu, or .org). This shortened URL should
take you to the website homepage. For example, the URL for the Gallagher Law Library's collection of legal research guides is http://lib.law.washington.edu/ref/guides.html. If you eliminate "/ref/guides.html", you will go to http://lib.law.washington.edu/, the Law Library's homepage.

The University of Washington Gallagher Law Library maintains an Internet Legal Resources page, http://lib.law.washington.edu/research/research.html, that links to free websites providing Washington State primary law sources, including the constitution, bills, statutes, court opinions, court rules, regulations, administrative agency decisions, and municipal codes. Comparable links for U.S. government sources are also provided. Internet Legal Resources is updated regularly.

**LexisNexis and Westlaw**

Many chapters describe files and databases found on the two major commercial legal research services, LexisNexis and Westlaw. In some cases, specific libraries and file names are mentioned. For example, Chapter 5, Administrative Decisions and Materials, includes a list of LexisNexis libraries and files containing administrative agency decisions.

The reference to "WASH;WAGMHB" includes the LexisNexis library name for Washington (WASH) and a specific file within that library for the decisions of the Growth Management Hearings Boards decisions (WAGMHB). The comparable database on Westlaw is called WA-GMHB.

When no library, file name, or database identifier is given, the researcher may explore several options for finding relevant material. Both services maintain extensive directories of their contents and these directories are available in print and online. The Westlaw Database Directory is published annually; the 2001 edition is 842 pages. The LexisNexis Directory of Online Services is also published annually; the 2001 edition is 736 pages. The "Searchable Directory of Online Sources" is at http://web.nexis.com/sources/. The directories are organized by jurisdiction (Washington), type of legal material (Legislation), and subject or practice area (Environmental Law). They also include indexes by title (Washington Administrative Code). Users may also contact the customer service representatives to ask about the availability of particular sources and get advice on constructing effective searches. LexisNexis customers may dial (800) 543-6862. The Westlaw Reference Attorneys may be reached at (800) 733-2889.

Because of their expense and complexity, these services are most often used by members of the legal community. Few public law libraries can afford to make these services available. Faculty and students at some colleges and universities may have access to a version of LexisNexis called Lexis-Nexis Academic Universe or a version of Westlaw called Westlaw Campus. These services offer an abbreviated list of certain legal sources, including full-text federal and state cases, statutes, and law reviews. Other users may take advantage of the vendors' credit card options. LexisNexis by Credit Card, http://web.lexis.com/xchange/ccsubsc_CC_prods.asp, is available on a "pay as you go" basis. A user may search legal materials (including federal and state cases, constitutions, statutes, court rules, and law reviews). Westlaw's WestDoc program, http://www.westdoc.com, allows users with citations to obtain documents by credit card.

**Email the Authors**

The authors are interested in readers' comments and suggestions. Please contact us by electronic mail at deskbook@u.washington.edu.
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Mary Whisner. Mary Whisner received a BA in Philosophy from the University of Washington in 1977, a JD from Harvard Law School in 1982, and an MLIS from Louisiana State University in 1987. Ms. Whisner clerked for Judge Stephanie K. Seymour of the U.S. Court of Appeals, Tenth Circuit, and practiced law for two years in Washington, D.C. Since 1988, she has been on the reference staff of the Gallagher Law Library at the University of Washington. Mary Whisner is a member of the American Association of Law Libraries, the Law Librarians of Puget Sound, and the Washington State Bar Association.
Fundamentals of Legal Research in Washington

Mary Whisner

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I. Introduction

This chapter explains the basics of Washington legal research. Its organization follows a common research strategy: first, secondary materials for an overview and leads to other materials; second, statutes, court rules, and administrative regulations; and third, cases. The final sections discuss citator services and citation formats.

Legal researchers have many more tools available to them now than they did a generation ago. For example, fifteen years ago, there were only two versions of Washington's statutory code: the Revised Code of Washington (RCW), published by the state, and the Revised Code of Washington Annotated (RCWA), published by West Publishing. Both of these titles were in a format familiar to researchers for centuries: bound books, with indexes. Pocket parts—the supplements tucked inside the back covers of the RCWA—were the only distinctive technology. Then in the late 1980s, two electronic versions became available: the RCW on LexisNexis and the RCWA on Westlaw. Now there are three print sources—the RCW, the RCWA, and a new annotated code, the Annotated Revised Code of Washington (ARCW)—and at least six electronic versions in addition to those on LexisNexis and Westlaw!

This chapter discusses both print and electronic sources for Washington legal research. It is possible to research using only printed sources or only electronic sources. Many researchers prefer to use a combination—for instance, using an electronic index to find a law review article then reading the article in the printed journal, or using the Washington Digest to find some cases on point and then using a CD-ROM caselaw database to search for other cases. Researchers base their decisions on many factors: how well each format is suited to their type of research, how much they know about how to use it, how much it costs, and, of course, whether they have access to it. (For further discussion, see Chapter 2, The Process of Legal Research.)

Having so many different research tools makes legal research easier in many ways. But it can also make learning research seem more daunting. Rest assured that you do not have to master all the tools at once—and you can read this chapter accordingly. If you are using a public library whose legal collection consists of the RCW in print and a few paper-
back self-help guides, then you might skip over the section on the RCWA and the ARCW—or you might choose to visit your local county law library to use those sources. Likewise, if your law firm does not subscribe to LexisNexis or Westlaw or any CD-ROM products, you might skip over the sections that discuss those sources—or you might read them to help you decide whether to subscribe to an electronic service.

In addition to this book, which focuses on Washington legal materials, you might want to have at least one other book on legal research in your office collection. The following texts cover in greater depth some of the topics covered in this chapter. In addition, they also discuss other topics, such as federal materials (including statutes and legislative history) and looseleaf services:


- Morris L. Cohen, Robert C. Berring & Kent C. Olson, How to Find the Law, 9th ed. (West Publishing, 1989). Part of West's Hornbook Series, this is a comprehensive legal research text. Although its coverage of electronic research is dated, its coverage of print tools is very good. It includes chapters on international law, English and Commonwealth materials, and foreign and comparative law.

- Morris L. Cohen & Kent C. Olson, Legal Research in a Nutshell, 7th ed. (West Group, 2000). This short paperback covers the same topics as the works above, only more briefly. Many lawyers and law students may find it more readable, because it is less detailed.


- Kent Olson, Legal Information: How to Find It, How to Use It (Oryx Press, 1999). An excellent introduction, with an approach that is both practical and attentive to detail (without becoming bogged down). Includes discussion of print sources, commercial online sources, and Internet sites. Includes helpful annotated reading lists—e.g., for readers who want to learn more about the legal system or to find good collections of legal quotations.

- Stephen Elias & Susan Levinkind, Legal Research: How to Find and Understand the Law, 8th ed. (Nolo, 2000). Aimed at laypeople, this text is clear and easy to read.

- Penny Hazelton, ed., Specialized Legal Research (Aspen, 1987- ). A valuable resource for learning how to do research in specialized areas, such as labor, tax, and intellectual property law, this looseleaf treatise is updated from time to time. (The latest update was September 1999.)

Finally, if you subscribe to an online service such as Westlaw or LexisNexis, you should have appropriate manuals and documentation so you can use the systems efficiently and cost-effectively.

11. Secondary Sources

During your research process, it is often useful to consult secondary sources. For example, you might begin your research with a hornbook or encyclopedia to get an overview of the subject. Secondary sources at this stage can help you frame the issues, learn the legal terms of art, find out whether there are typically statutes in this area, or get citations to leading cases. At a later stage, when you are refining your research and analysis, you might consult secondary sources again, this time to gain perspective and to consider different critiques and analyses of the issues.
This section covers many types of secondary sources, including encyclopedias, texts and treatises, and periodicals. For discussion of other types of secondary sources, such as American Law Reports (A.L.R.), formbooks, and Restatements, see the legal research texts listed in Section I, above.

A. Practice Materials

Chapter 4, Washington Practice Materials, covers a number of secondary sources aimed at Washington lawyers. These materials—for example, the Washington State Bar Association’s deskbooks, the Washington Lawyers Practice Manual, and continuing legal education materials—are very often good starting points for research in Washington law topics.

B. Legal Dictionaries

A legal dictionary is a basic tool. Like most dictionaries, legal dictionaries provide definitions and indicate pronunciations of words—the difference, of course, is their focus on legal terms. In addition, legal dictionaries sometimes provide citations. For example, the current edition of Black's Law Dictionary, 7th ed., edited by Bryan A. Garner (West Group, 1999) cites the United States Code (USC) in its definition of the “Sherman Antitrust Act.” Black’s is the leading American law dictionary in print; it is also available on Westlaw. The following dictionaries are free on the Internet:


C. Encyclopedias, Texts, and Treatises

Especially if there is no Washington source, the national encyclopedias American Jurisprudence, Second (Am. Jur. 2d) and Corpus Juris Secundum (C.J.S.) can help you get started. Both encyclopedias have hundreds of topics arranged in alphabetical order. Access is through a general index at the end of each set; each set also has topic indexes at the end of each volume. The encyclopedias are strongest in traditional common law areas, such as contracts and torts, and are least helpful in heavily legislated areas, such as environmental law and employment law. Always be aware of the age of the encyclopedia volume you are using. Even though it is updated with a pocket part, a base volume that is twenty or thirty years old should be used with caution.

Conventional wisdom is that legal encyclopedias are now seldom cited as authority. However, a recent check of the Washington cases file on LexisNexis showed that Am. Jur. 2d and C.J.S. have been cited hundreds of times by the Washington
Supreme Court and Court of Appeals just since 1990. Certainly a legal encyclopedia never resolves a legal issue; but it may be helpful to support a proposition such as "The majority of states follow the rule that _______."

Even if the cases cited in an encyclopedia are from other states, you can look them up and then use their key numbers to find Washington cases in the Washington Digest. (See Section VII, Case Finding Tools, B. West Digest System, below.)

The literature of the law includes a wide variety of texts and treatises. Study aids, or student texts, such as Nutshells, Sum & Substance, and Gilbert's, are aimed at law students preparing for classes. These typically are not in-depth treatments of a subject and should not be cited as authority, but they can provide a quick introduction to an unfamiliar area. Hornbooks and one-volume treatises are also aimed at law students, but they are often used by attorneys as well since they are more scholarly and thorough than study aids. These works introduce a subject and provide leads to other sources through footnotes and may also be recognized as persuasive authority themselves. For example, the various editions of Prosser on Torts have been cited hundreds of times by Washington courts.

Many areas of the law are also covered by multi-volume treatises—for example, Weinstein's Federal Evidence, Wright & Miller on Federal Practice and Procedure, Collier on Bankruptcy. Such treatises are often thorough, exhaustive, and well-respected. (Bear in mind that Washington's Civil Rules and Evidence Rules are modeled on the federal rules, so treatises on federal procedural law are often applicable to Washington issues.)

D. Legal Periodicals

Many developing legal issues are discussed in legal periodicals long before they make it into texts and treatises—and of course, it is generally even longer before they are covered in the legal encyclopedias. In addition to their timeliness, legal periodical articles offer the advantage of a much sharper focus than hornbooks and other texts. For instance, The Law of Torts, by Dan B. Dobbs, covers the whole subject of torts in 1604 pages; a law review article might devote forty or fifty pages just to the development of one cause of action in one jurisdiction.

Just as there are many types of texts and treatises, there are a variety of legal periodicals. Law reviews, usually published by law schools, are the most scholarly. Their articles, comments, and notes generally focus on narrow topics or recent cases and analyze them at length. The scores of footnotes can be as useful as (or even more useful than) the analysis, since they will lead you to other primary and secondary authority. Some law journals, such as the Banking Law Journal, are similar in format and content to law reviews, but are published by commercial publishers rather than law schools. Some periodicals, such as the American Journal of Law and Medicine, are published by professional societies. Legal newspapers are published daily (e.g., Los Angeles Daily Journal), weekly (e.g., National Law Journal), or monthly (e.g., American Lawyer). Articles often profile attorneys, law firms, or judges; report on recent cases or pending litigation; and discuss practice issues, such as law office automation.

Bar journals (e.g., Washington State Bar News) are magazines for the members of bar associations. They include news of the association and members and carry articles on law practice and substantive legal topics. The American Bar Association's sections publish many journals, such as Business Lawyer, that may be as scholarly as law reviews. Legal newsletters—such as Intellectual Property Fraud Reporter, Asbestos Litigation Reporter, or Daily Tax Report—focus on narrow topics. They often provide very current information about pending legislation.
Examples of Washington Legal Periodicals

Law Reviews
- Gonzaga Law Review (3 issues a year)
- Seattle University Law Review (quarterly) (formerly University of Puget Sound Law Review)
- Washington Law Review (quarterly)
- Pacific Rim Law & Policy Journal (University of Washington) (3 issues a year)

Legal Newspapers
- Washington Journal (weekly) (ceased publication in print, Nov. 2001)
- Washington Law & Politics (bimonthly)

Bar Publications
- Washington State Bar Association section newsletters (e.g., Health Law News, from the Health Law Section)
- De Novo (WSBA Young Lawyers Division) (bimonthly)
- Bar Bulletin (King County Bar Association) (monthly)
- Trial News (Washington State Trial Lawyers Association) (11 issues a year)

Newsletters
- AEES Bulletin (Attorney's Eagle Eye Service) (weekly)
- Tegland's Litigation Today (monthly)
- Washington Family Law Reporter (quarterly)

and litigation that may be hard to obtain elsewhere. They generally are not indexed and serve chiefly as current awareness tools.

Representatives of each type of legal periodical are published in Washington State. (See box above.)

Several indexes provide access to legal periodical articles. The Index to Legal Periodicals (ILP) (H.W. Wilson Co., 1908- ) for many years was the standard index. Access is by subject or author. It also includes a table of cases (for access to law review casenotes), a table of statutes, and a list of book reviews (arranged by the name of the reviewed book's author). Until the 1980s, ILP mostly indexed only standard law reviews; its coverage has been expanded to include more specialized journals and bar journals. In 1994 it added some coverage of books and changed its name to Index to Legal Periodicals & Books. The indexing from 1981 to date is available on Westlaw and LexisNexis. (Law school users should note that many academic subscriptions to Westlaw and LexisNexis exclude ILP) ILP is also available on CD-ROM and in online versions. Locally, the Seattle University Law Library subscribes to two electronic versions. Searching electronically is much more flexible than using the print version.

If you need to search for even older articles, you may come across the Index to Legal Periodical Literature, compiled by Jones and Chipman. Confusingly, this set is sometimes also called the Index to Legal Periodicals. Volume I (1888) covers 1770-1886, which does not even get us to Washington's statehood. Volume VI (1939) ends with 1937.

The Current Law Index (CLI) (Gale Group, 1980- ) indexes standard law reviews and other legal periodicals, such as bar journals. Access is by author or subject; it also includes tables for case names, statutes, and book reviews. CLI tends to use more subject headings than ILP, which makes it easier to focus in on a topic. The company that publishes Current Law Index also produces a related index in three different formats with two different names. The Legal Resource Index (LRI) includes everything that CLI does, plus several legal newspapers. LRI is available on Westlaw and LexisNexis; an Internet version of the database is called LegalTrac. The Internet version includes the full text of articles from selected publications, as well as all the indexing in the other versions. A CD-ROM version is known as LegalTrac (or the LegalTrac database of
InfoTrac). Again, using an electronic version is more flexible than using the comparable print version.

The Subject Index to Washington Law Reviews, 1970-1994, compiled by Kelly Kunsch and published by the University of Washington Gallagher Law Library, indexed just the law reviews published in Washington State. It covers:

- Gonzaga Law Review, from volume 5, number 2 (1970) through volume 29, number 2 (1993/94);
- University of Puget Sound Law Review, from volume 1, number 1 (1977) through volume 17, number 3 (spring 1994); and

Even though this index is no longer updated, it is still useful.

The Current Index to Legal Periodicals (CILP) is a current awareness tool published by the University of Washington Gallagher Law Library. Each week, it indexes and reproduces the tables of contents of law reviews (and some other journals) received by the Library. To facilitate quick publication, only a limited number of subject headings are used (for example, “Torts” rather than “Wrongful Death,” “Defamation,” and so on). Some attorneys skim CILP regularly to see what is being published. Scanning CILP is also a way to update a search in LegalTrac (or LRI) or ILP, since these indexes run several weeks behind. Subscribers may receive CILP in paper or via the Internet; the latest eight weeks of CILP are also available on Westlaw (CILP database). An electronic service, SmartCILP, allows users to select just the subject headings they want to follow each week.

Legal Periodical Indexes

- Index to Legal Periodicals (1908-; online 1981-)
- Current Law Index
- LegalTrac
- Legal Resource Index (1980-)
- Subject Index to Washington Law Reviews, 1970-1994
- Current Index to Legal Periodicals (current awareness tool)
- Ingenta (1988-)
- Newdex (May 1993-October 1996)

Ingenta (http://www.ingenta.com) is a web-based service that indexes over 25,000 periodicals in fields as diverse as architecture, hang-gliding, theology, and zoology. It covers hundreds of legal periodicals, including Gonzaga Law Review, Seattle University Law Review, and Washington Law Review. Coverage began in late 1988. Searching the index is free; the company makes money by offering a document delivery service—that is, sending photocopies of articles to customers for a fee (which generally includes a royalty to the copyright holder).

Newdex (Raven Research and Library Services, 1993-96) indexed the Washington State Bar News, the King County Bar Association Bar Bulletin, and Washington Journal (a weekly legal newspaper). For the time period covered, Newdex provides useful access to these periodicals’ discussions of new legislation and recent cases; profiles of local attorneys, law firms, and judges; and information about issues of interest to the legal profession..

Westlaw and LexisNexis both include the full text of many periodicals. Full-text searching can complement using indexes (either print or online). In order to search effectively and to understand the results, one must be aware of their limitations:

- Each system has only a selection of journals. Hundreds of journals are indexed in the sources described above that are not available online in full text.
- The systems only started including legal periodicals recently; generally coverage begins in the mid-1980s or later.
- Westlaw includes more journals than LexisNexis but includes only selected articles from some journals. For instance, Westlaw has the
Gonzaga Law Review online, but between 1982 and 1993 (volumes 18-28) it only included selected articles; it began full coverage with volume 29 in 1993. LexisNexis did not include this journal at all until 1995 (volume 31). Each service has some journals the other does not.

Searching the full text of periodical articles means that you can pick up occurrences of search terms in isolated paragraphs or footnotes. The whole article might be about another topic, but if one passage uses the search terms, you will retrieve it. Obviously, this outcome can be either good or bad, depending on your research needs. On the other hand, searching an index, like LRI (LegalTrac), means that you are only searching certain fields: author, title, date, and subject headings that indexers have added. Such a search is usually more focused. If the indexers say that an article is about limited liability companies in Washington, then the article probably has a substantial discussion of that new legal entity.

III. Statutes
Each year the Washington Legislature considers thousands of bills and enacts hundreds of them into law. In addition, some measures become law through the initiative process. Issues range from day care to corporations, sexual predators to land use planning. Because the body of legislation is so large (and continues to grow) and because the range of topics is so broad, a good rule is to check for an applicable statute for almost every legal research problem, even if you think it is an area exclusively governed by common law. The few minutes spent checking are worthwhile if you can avoid the risk of not knowing about a statute that may apply to your case. This section covers sources of enacted laws. For a discussion of how to follow pending legislation and how to research the legislative history of Washington laws, see Chapter 6, Legislative History, Initiatives, and Bill Tracking.

Washington Statutes
Session laws (chronological arrangement)
- Laws of Washington (Session Laws of the State of Washington) (print), 1889-
- West's Washington Legislative Service (print) (current session)
- LexisNexis (online), 1989-
- Westlaw (online), 1988-

Codes (subject arrangement)
- Revised Code of Washington (official) (print). Also available electronically:
  - Washington Legislature's website (Internet)
  - Office of Code Revisor's CD-ROM
  - CD Law (CD-ROM and Internet)
  - Municipal Research & Services Center website (Internet)
- West's Revised Code of Washington Annotated (print). Also available electronically:
  - Westlaw (online)
- Annotated Revised Code of Washington (print). Also available electronically:
  - LexisNexis (online)
  - Law on Disc Washington (CD-ROM)

Washington statutes are now available in many different formats. This section will discuss print versions first, then electronic versions.

A. Session Laws
The laws from each legislative session ("session laws") are published in chronological order in the Laws of Washington. (This is the title on the spine. However, the formal title on the title page is Session Laws of the State of Washington. It may be listed both ways in library catalogs.) The session laws appear first in a paperbound "pamphlet" edition, and then are republished in a hardbound edition (usually one
or two volumes) at the end of the year. (West Group also publishes a pamphlet version of the session laws in West's Washington Legislative Service.) Each law is assigned a chapter number, beginning with Chapter 1, the first law enacted during a two-year Legislature. Note that when there is a special session, the numbers start over again. So, for example, Chapter 1 of 1991 related to exemption of home and work addresses from public disclosure requirements, and Chapter 1 of the First Special Session of 1991 related to salaries of public officials. Each law is divided into sections.

Session laws are commonly cited by year, special session (if applicable), and chapter number. If you are referring to a particular section, give the page on which it starts. For example:


These examples are based on the Style Sheet prepared by the Office of Reporter of Decisions. For further information about citation format, see Section X, Citation Format, below. Each chapter begins with an official title, stating the subject of the act and the sections of the Revised Code of Washington (RCW) it affects. This can be fairly short, e.g.:

AN ACT Relating to the disclosure of information from public records by state and local agencies; amending RCW 42.17.310; and declaring an emergency.

Laws of 1991, ch. 1. Or it can be quite lengthy, e.g.:

AN ACT Relating to child support; amending RCW 26.09.010, 26.09.015, . . . and 74.05; reenacting and amending RCW 26.09.260; adding new sections to chapter 26.12 RCW; adding new sections to chapter 26.19 RCW; . . . repealing RCW 26.12.090, . . . ; prescribing penalties; and providing an effective date.

Laws of 1991, ch. 367. Obviously a great deal of useful information can be included in the title alone.

The text of the session law provides further information by using typeface conventions. When an existing RCW section is amended, the new text is printed, with additions indicated by underlining and deletions indicated by enclosing the deleted word or phrase in double parentheses with a line struck through it. If the Governor vetoed a section, the section that the Legislature passed is printed in boldface italic (again with additions and deletions marked), followed by a note. For example, the Governor vetoed several sections of Chapter 367 in 1991. Each one has the note "Sec. ____ was vetoed, see message at end of chapter," and the Governor's explanation of his partial veto is reprinted there.

The effective date of laws is governed by the Washington Constitution (Art. 2, §41, and Art. 2, §1). Most laws become effective ninety days after the adjournment of the legislative session, those which carry an emergency clause take effect upon approval by the governor, and those which prescribe an effective date take effect on that date. The RCWA includes tables listing the dates legislative sessions adjourned and the dates, ninety days thereafter, when laws became effective. See Section C.1, West's Revised Code of Washington Annotated, below.

A subject index provides access to each year's laws. The session laws also include several helpful tables:

- A table from bill numbers to chapter numbers. If you know a bill number, you can quickly see whether it was enacted and, if so, what its chapter number is.
A table of RCW sections affected by that year's session laws. For example, the 1991 table indicates that RCW 2.10.080 was amended by chapter 13, section 114, of the First Special Session; that RCW 2.10 had a new section added by chapter 159, section 1; and that RCW 2.12.070 was repealed by chapter 35, section 3.

A table of uncodified session law sections affected by that year's session laws.

The drawback to the subject index in the Laws of Washington is that it only applies to the laws of one legislative session. To find all the laws on a given subject, you would have to look year by year from 1889 to present. Of course, that approach is too cumbersome, and researchers rely instead on the codified version of the statutes, the Revised Code of Washington. The session laws are necessary when researching a statute's legislative history. They are also useful if one wants to see an entire act as it was passed, rather than checking the scattered RCW titles and sections where it was codified.

Session laws are available electronically from the following sources:

- LexisNexis (WASH;ALS file), 1989-
- Westlaw (WA-LEGIS database for current, WA-LEGIS-OLD database for historical), 1988-
- CD Law, 2001-
- Loislaw, 1999-
- Washington State Code Reviser's Office, http://sle.leg.wa.gov/SLByLegCycle.htm, 1999-. (The menu indicates coverage begins in 1997, but the 1997-1998 link is just to a Chapter to Bill table.) This version is not full-text searchable.

B. Codes—The Revised Code of Washington and Its Predecessors

The Revised Code of Washington (RCW) is a compilation, arranged by subject, of all laws of a general and permanent nature that are currently in force as of the cut-off date of each edition. The RCW, which began in 1951, has been published in substantially the same format since 1974. Two unofficial versions, West's Revised Code of Washington Annotated (RCWA) and the Annotated Revised Code of Washington (ARCW) (LEXIS Publishing), and several electronic versions are also available and are described in Section C, Annotated Codes, below.

Although the RCW is the current code and is the source that you will most often use, from time to time you may come across a citation to one of its predecessors. The first session laws of the Washington territorial Legislature are known as the Code of 1854 (even though they were not arranged by subject and thus were not a true "code"). In 1881, the territorial Legislature published the Code of 1881, containing laws then in effect, arranged by subject. After statehood in 1889, William Lair Hill published a compilation, approved by the Legislature (Hill's Code, 1891). Over the next several decades, a number of other codes appeared (see box). The last supplement to Pierce's Code was in 1945; Remington's Revised Statutes was last supplemented in 1949. Some of these codes, such as Remington's Revised Statutes, are readily available in Washington law libraries. Others are rare. For a thorough history of Washington codes, see Kelly Kunsch, "Statutory Compilations of
### Coverage of RCW Editions Since 1974

<table>
<thead>
<tr>
<th>Edition of RCW</th>
<th>Laws of a general and permanent nature, enacted as of (legislative session and date of adjournment)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1974</td>
<td>1974 Extraordinary Session, April 24, 1974</td>
</tr>
<tr>
<td>1976</td>
<td>1975-76 Second Extraordinary Session, March 26, 1976</td>
</tr>
<tr>
<td>1978 Supp.</td>
<td>not available</td>
</tr>
<tr>
<td>1979</td>
<td>1979 First Extraordinary Session, June 2, 1979</td>
</tr>
<tr>
<td>1985</td>
<td>1985 First Extraordinary Session, June 11, 1985</td>
</tr>
<tr>
<td>1994</td>
<td>1994 Special Session, March 14, 1994</td>
</tr>
<tr>
<td>1999 Supp.</td>
<td>1999 First Special Session, May 19, 1999</td>
</tr>
<tr>
<td>2000</td>
<td>2000 Second Special Session, April 27, 2000</td>
</tr>
</tbody>
</table>


The Revised Code of Washington was published in looseleaf format from 1951 through 1973. Since 1974, it has been published in the familiar large format paperbound volumes. Since 1992, a new edition has come out in each even-numbered year, with supplements in the odd-numbered years.

A researcher who wants to see a snapshot of the law at any given time can check the appropriate edition of the RCW.

Finding the law as it was at a given time before 1974 is more challenging, since the RCW was in looseleaf format from 1951 to 1973. Some libraries, including the University of Washington Gallagher Law Library, saved and bound the pages that were withdrawn from the looseleaf set.

The RCW is arranged by subject. The broadest divisions are titles, then chapters, and finally sections. For example, Title 15 is Agriculture and Marketing. Within Title 15, Chapter 15.44 concerns the State Dairy Products Commission, and Chapter 15.58 is the Washington Pesticide Control Act. Within Chapter 15.58, Section 15.58.010 provides that the "short title" of the chapter is the Washington Pesticide Control Act; Section 15.58.020 contains a declaration of public interest; Section 15.58.030 consists of definitions;
Section 15.58.040
delineates the authority of the director of the Department of Agriculture under the Act; and so on.

Bracketed statutory history notes following each section refer to the session laws that originally enacted and later amended the provision. For instance, the note following section 15.58.010 cites “1971 ex.s. c 190 ’ 1”—i.e., Laws of 1971, First Extraordinary Session, chapter 190, section 1. The definition section has been amended several times, so the note following section 15.58.030 cites:
2000 c 96 §1; 1992 c 170 §1; 1991 c 264 §1; 1989 c 380 §1; 1982 c 182 §26; 1979 c 146 §1; 1971 ex.s. c 190 §3.

You could trace the changes by looking in the cited volumes of Laws of Washington. For information about researching Washington legislative history, see Chapter 6, Legislative History, Initiatives, and Bill Tracking. Note that the numbering of the “chapters” and “sections” in the RCW has no relation to numbering of the “chapters” and “sections” in the Laws of Washington.

All the RCW titles are in volumes 1-7. Volume 8 consists of a subject index, with a brief popular names table at the front. “Pesticide control act” is listed on the third page of the Popular Names Table, with a citation to ch. 15.58. The index provides several other access points. For instance, the broad heading AGRICULTURE has a subheading for Pesticide control act, citing Chapter 15.58. Elsewhere in the index, the broad heading PESTICIDES has about three columns of entries, leading to specific sections within Chapter 15.58, as well as to sections in other parts of the RCW. Note that not all of the index entries give you the same information. When using the RCW index—or any other index—it is generally a good idea to try looking under several possible headings and to follow up on cross-references.

Volume 0 of the RCW is often overlooked. (Who would expect anything of a volume numbered zero?) But it contains a number of useful features. First, it has the text of the United States Constitution, the Organic Act and the Enabling Act (the federal statutes that established Washington), and the Washington Constitution (with an index). For information on Washington constitutions and constitutional conventions, see Chapter 8, Historical and Archival Sources, Section III.
convenes, you do not have to look any further. But if the Legislature has been in session since the ending date of the RCW, you need to determine whether any new laws have been passed. To do this, consult the pamphlet edition of *Laws of Washington* or West's *Washington Legislative Service*. If you have a relevant RCW section, check the table of RCW sections affected. If you do not have an RCW section to work with, check the subject index. (You can also check the Legislature's website. See Section D, Electronic Versions of Washington Statutes, below.)

**C. Annotated Codes**

1. **West's Revised Code of Washington Annotated**

   West's Revised Code of Washington Annotated (RCWA), published since 1961, prints the text of the RCW. It follows the same numbering scheme, so that if you know an RCW section, you can look it up in the RCWA.

   The index, two paperbound volumes reissued annually, is similar to the RCW index. However, it often has more entries or better cross-references. If you do not find what you need in the RCW index, it is worth trying the RCWA index and vice versa. The RCWA index includes a section headed “Words and Phrases” that helps you locate RCW sections that define various terms. The final volume of the RCWA index also includes a popular names table, which is slightly longer than the popular names table in the RCW.

   In addition to the text of the code itself (including the Washington Constitution), the RCWA provides a number of editorial enhancements. Like the RCW, the RCWA indicates at the end of each section the session laws that enacted and amended that section. But then the RCWA also provides historical notes, sometimes quoting from earlier versions of the statute. The RCWA also lists cross-references to other provisions, often more than those found in the RCW.

   Perhaps most valuable of all, the RCWA provides references to other primary and secondary sources. Under “Law Review Commentaries” are listed law review articles that discuss the RCW section. “Library References” provides entry to other West publications via topics and key numbers in the West Digest system, C.J.S. topics and sections, and *Washington Practice* volumes. “Notes of Decisions” gives one-sentence summaries of points of law in cases and attorney general opinions. When there are more than a few summaries, they are arranged by subtopic, with an index at the beginning.

   Newer volumes of the RCWA often have a heading for “Westlaw Electronic Research.” The volume covering Titles 1-3, for instance, which was republished in 1988, has headings after many sections, referring to the “Westlaw Electronic Research Guide” at the front of the volume. This research guide gives a few basic tips for using Westlaw. Researchers using Westlaw should get training and should use more complete documentation, but these references within the RCWA serve the purpose of reminding researchers of another set of tools. (Users of LexisNexis and other computerized sources such as CD Law will recognize that some of the Westlaw tips can be applied to those systems, as well.)

   Although the RCWA does not include all court rules, it does publish the Superior Court Criminal Rules and the Criminal Rules for Courts of Limited Jurisdiction in an Appendix of Rules following Title 10, Criminal Procedure. For more information, see Section F, Court Rules, below.

   As discussed above, most laws become effective ninety days after the session in which they are passed. Near the front of most RCWA volumes and all RCWA pocket parts is a discussion of the relevant constitutional provisions, followed by a very handy table listing legislative sessions, adjournment dates, and effective dates, from 1951. For example, if you find a statute that was enacted in the First Extraordinary Session of 1987, you can quickly find that the session adjourned May 22 and the laws
passed then became effective August 20. (This is a hot tip!)

The RCWA includes a volume of Parallel Reference Tables (1966), supplemented by a bound cumulative supplement (1988), which in turn is supplemented by a pocket part (2001). The tables in these volumes are similar to those in Volume 0 of the RCW, but they are more extensive. The RCW provides cross-references from Remington's Revised Statutes to the RCW; the RCWA does that, and also provides cross-references from earlier codes (see box).

RCWA volumes are supplemented by annual pocket parts. (When the supplementation for a volume is too large for a pocket part, West issues a separate pamphlet.) Volumes are reissued from time to time, depending on how much has been added or changed. A complete set of the RCWA has some volumes that are only a year or two old and some that were published more than ten years ago. As with any legal material, you should be aware how current it is. The preface to each volume indicates its coverage. For example, the volumes containing Title 46, published in 2001, have laws "current through the close of the 2000 Second Special Session of the Fifty-Sixth Legislature." The volumes containing Title 4 have laws through 1987 only. Like the base volumes, pocket parts and supplementary pamphlets indicate how current the laws are. The 2001 pocket parts, which were issued in November 2000, include laws enacted through the 2000 Second Special Session.

To provide more information about current legislation, West publishes West's Washington Legislative Service, a pamphlet version of the session laws. These pamphlets often appear a week or two earlier than the official pamphlet edition of the Laws of Washington. Like the official session laws, West's version provides a subject index and tables of RCW sections affected. It also has a table of session laws affected by new laws. The corresponding table in Laws of Washington only lists session laws that are not codified; West's version is much longer because it lists all earlier session laws affected.

2. Annotated Revised Code of Washington

In 1994, Michie Publishing introduced the Annotated Revised Code of Washington (ARCW) (now published by LEXIS Publishing). (A current set now has some volumes with "Michie" and some with "LEXIS Publishing" on the spine.)

This paperbound set is more compact than the hardbound West's Revised Code of Washington Annotated, but it offers similar features: the text of the statutes, plus annotations with history notes and references to secondary sources. As in the RCWA,
annotations include references to judicial decisions, attorney general opinions, and articles from Washington State law reviews. In addition, the ARCW includes citations to American Law Reports (A.L.R.) annotations.

Some Washington researchers may remember the orange paperbound set, Annotations to the Revised Code of Washington, formerly published by Book Publishing Company. Michie purchased the rights to use Book Publishing's annotations in the ARCW. Annotations to the Revised Code of Washington is no longer published or updated.

The first volume of the ARCW includes the United States Constitution, the Organic Act, the Enabling Act, the Washington State Constitution, and Titles 1 through 4 of the RCW. The following volumes include titles 5 through 91. A Tables volume provides cross-reference like those in the RCW. (See box.)

The base volumes of a current set date from different years. For example, the volume covering Titles 27 to 29 is from the original 1994 set, while the volume covering Titles 18 to 22 was published in 2001. Older volumes are updated with free-standing paperbound supplements (currently 2000). Three times a year a Washington Advance Code Service pamphlet is published to show changes to RCW sections and new annotations. These pamphlets cumulate, so only the latest is needed.

A new index is published each year. One helpful feature is that the publisher includes a "Foreword to the Index" with tips for more effective use. One of the tips suggests beginning research with what the publisher terms "starting point" headings, including:

- **BOARDS AND COMMISSIONS** (entries for each state board or commission);
- **CRIMINAL LAW AND PROCEDURE** (entries for criminal offenses);
- **DEFINED TERMS** (entries for terms that are defined in the RCW);
- **FINES** (entries for offenses carrying a fine); and
- **PRISON TERMS** (entries for each offense that carries a prison term).

Washington Rules of Court Annotated (two volumes) is part of the ARCW set. The fact that the court rules are indexed along with the statutes is very useful for researchers. Thus, someone researching traffic laws, for instance, will find under the index heading TRAFFIC LAWS, subheading Infractions, references to both RCW provisions and the Infraction Rules for Courts of Limited Jurisdiction. (See Section F, Court Rules, below.)

Some researchers like to use both the RCWA and the ARCW to get the benefit of two sets of editors. It could be that only one publisher has included an annotation for the case or law review article that is just what you need.

### D. Electronic Versions of Washington Statutes

Electronic versions of Washington statutes are available from several sources. The various versions offer the advantages of full-text searching. You can look for occurrences of a word or combination of words anywhere in the code, rather than being restricted to the terms that appear in the index.

Sometimes, however, using an index may be more efficient than full-text searching, since you have the advantage of the indexer's organization and cross-references. For example, if you search for "automobile" in a full-text database, but the drafters of the
If the statute used the term "motor vehicle," you will not find what you need. On the other hand, if you look in a print index under "automobile," it is likely the indexer will have given you a cross-reference to "motor vehicles."

Full-text searching of statutes requires skill. Researchers who are accustomed to searching cases online find that statutes are harder to search because of the way they are written. It is very common for sections within a chapter to refer to one another without repeating information. For example, a section of the RCW might use the words "secretary," "department," and "program" without specifying which secretary, department, and program because these terms were defined in an earlier section. Significantly, this means that you will miss the relevant section if you search for the agency's or the program's name.

Searches that include annotations generally retrieve much more than searches of the text of the statutes alone. For instance, the phrase "common law marriage" does not appear in the RCW, but there are many annotations in both the RCWA and the ARCW discussing that topic.

The commercial products have more features and offer more ways to search than the noncommercial versions. On the other hand, the noncommercial versions are free.

The two leading commercial online services, LexisNexis and Westlaw, both have versions of the annotated Washington codes. In the WASH library on LexisNexis, subscribers may search the ARCW alone (CODE file); the ARCW table of contents (WATOC file); the Washington Constitution (WACNST file); the session laws (WAALS file); or a combination of the ARCW, Constitution, and session law files (WACODE file). On Westlaw, researchers may search the RCWA (with annotations) (WA-ST-ANN database) or just the RCW (WA-ST database). Westlaw also has a database for the RCWA index (WA-ST-IDX). West's Washington Legislative Service is online (WA-LEGIS for the current year; WA-LEGIS88, WA-LEGIS89, etc., for 1988-2000).

Both systems also have databases with older editions of the codes for researchers who want to find out what the law was in a given year. On Westlaw, the database identifiers are WA-STANN89, WA-STANN90, etc., for 1989-2000. LexisNexis has archived versions of the RCW, annually from 1991. (Note that the 1991 and 1992 editions on LexisNexis are the RCW, not the ARCW, since the ARCW only began publication in

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**Checklist for Updating Statutes in Print**

To update the RCW:
- Check the RCW base volume.
- Check the RCW supplement, if any.
- If the Legislature has met since the last laws included in the RCW (with supplement), check Laws of Washington.

To update the RCWA:
- Check the bound volume.
- Check the pocket part or supplementary pamphlet for that volume.
- If the Legislature has met since the last laws included in the RCWA (with pocket parts), check West's Washington Legislative Service.
- For more recent cases, check the Interim Annotation Service (if any).

To update the ARCW:
- Check the ARCW base volume.
- Check the ARCW supplement (if any).
- Check Advance Code Service pamphlet (if any).
- If the Legislature has met since the last laws included in the ARCW supplement, check either Laws of Washington or West's Washington Legislative Service.
1994, with coverage of laws that were in effect as of 1993.)

Other online versions of the RCW include those from CD Law (despite the name, CD Law produces a web product as well as a CD-ROM product) and Loislaw. (VersusLaw does not have its own version of the RCW but rather provides a link to the Legislature’s website.)

CD-ROM versions of the RCW are available from CD Law, West Group, and LEXIS Publishing. These versions correspond to the three print versions: CD Law has the RCW, West CD-ROM Libraries has the RCWA, and LEXIS Publishing’s Washington Law on Disc has the ARCW. The Office of the Code Reviser also produces a CD-ROM version of the RCW and WAC. This version uses Folio, a software program that enables researchers to highlight text and insert notes, as well as to search the full text.

Online versions of the RCW are also available from three nonprofit sources. The Washington State Legislature includes the RCW on its website, http://www.leg.wa.gov/wsladm/rcw.cfm. If you know the Title and Chapter you want to read or download, the fastest method is to choose the Title from the menu at http://www.leg.wa.gov/wsladm/rcw.cfm. A searchable version of the RCW is at http://search.leg.wa.gov/pub/textsearch/default.asp. Another searchable version of the RCW is on the Municipal Research & Services Center’s website, http://www.mrsc.org/rcw.htm.

It is tempting to think that a database on a computer is absolutely current. However, the electronic versions of the codes are often no more current than the print versions (with their supplements). You still must update them by checking recent session laws.

The Legislature’s website includes an “RCW Sections Affected Table,” http://www.leg.wa.gov/wsladm/billinfo/rcw_affected_tables.cfm, in which you can determine whether a given section has been repealed or amended during the current session. (Archives of the table go back to 1997.)

LexisNexis, Westlaw, and Loislaw all offer updating shortcuts. Each RCW section that has been affected by a law from the current session of the Legislature has a note with a link to the amending session law.

E. Uniform Laws and Model Acts

Washington has adopted many uniform and model laws proposed by the National Conference of Commissioners on Uniform State Laws—for example, the Uniform Child Custody Jurisdiction Act, RCW 26.27; the Uniform Commercial Code, RCW 62A; and the Uniform Fraudulent Transfer Act, RCW 19.40. When researching these laws, it is often useful to look up the uniform law in Uniform Laws Annotated (West), which provides annotations of cases from other states that have adopted the same laws (together with notes summarizing how each state has varied from the uniform law, if at all). Uniform Laws Annotated is on Westlaw (ULA database). Particularly if Washington courts have not construed a particular provision, the cases construing the same provision in another state may be very persuasive.

Washington has also adopted (with a few changes) the Revised Model Business Corporation Act, proposed by the American Law Institute, RCW 23B. The Model Business Corporation Act Annotated, a four-volume looseleaf published by Prentice-Hall Law & Business (3d ed. 1997 supplement) is a useful source to consult.

F. Court Rules

The Washington Supreme Court adopts rules to govern procedure in the courts of the state. These rules include some that are of general applicability—e.g., the Admission to Practice Rules (APR), which apply to all lawyers in the state. Some sets of rules apply only to certain types of proceedings or proceedings in certain courts—e.g., the Rules of Appellate Procedure (RAP) or the Superior Court Criminal Rules (CrR). In addition, many lower courts also adopt local rules—e.g., the Local Rules
of the Superior Court for King County, which supplement the statewide Civil Rules and Criminal Rules.

The statewide court rules are available on the Washington Courts' website, http://www.courts.wa.gov/rules/. This site also includes local rules (often through links to the local courts' websites). Note that the site has a strong disclaimer, denying "any representations or warranties as to the accuracy or completeness of this Internet site containing the Washington rules of court or any local court rules."


Local rules are also available from the individual courts. Two looseleaf sets gather the local rules from around the state:


Several sources annotate Washington State court rules:
- The ARCW includes Washington Rules of Court Annotated, a two-volume paperbound set. This set includes the statewide rules. It also has selected local rules—for King, Pierce, Snohomish, and Spokane counties—and rules for federal courts in Washington.
- West Group publishes a two-volume paperbound set, Washington Court Rules Annotated. In addition to case annotations and references to law review articles and A.L.R. annotations, this set has commentaries on the Civil Rules written by two Washington attorneys, Susan E. Foster and Marie G. Aglion.
- Annotated versions of the Superior Court Criminal Rules (CrR) and Criminal Rules for Courts of Limited Jurisdiction (CrRLJ) are published in an Appendix of Rules following Title 10 (Criminal Procedure) in the RCWA.
- Several volumes of Washington Practice also provide detailed commentary on court rules. See Chapter 4, Washington Practice Materials.

Changes in Washington court rules are published in Washington 2d advance sheets. Until 1995, court rule changes were published in a special red-covered advance sheet each July. Now amendments may also appear at other times of the year, and there is no special red-covered issue. A note on the cover of an advance sheet indicates that it includes amendments to the court rules. The changes later appear in the bound volumes of Washington 2d, beginning on page 1101 of each volume. (Knowing this, you can trace rule changes back to 1971, when the practice began, in volume 79.)

The advance sheets also include proposed rules, inviting comments. The Washington Courts' website has a section for "Proposed Rules Published for Comment," http://www.courts.wa.gov/rules/proposed/home.cfm. The proposals are apparently only retained on the site during the comment period.

Like statutes, Washington court rules are available in several electronic formats. On LexisNexis, the WASH;WARULE file is an online version of the ARCW's Washington Rules of Court Annotated. It is updated annually. As of September 2001, the
court rules includes changes as of December 21, 2000, and the annotations were current through January 2, 2001. The WASH;WALRSC file is an online version of Local Rules of the Superior Court of Washington State. It is updated annually in January.

On Westlaw, the WA-RULES database contains court rules from Washington Court Rules: State and Washington Court Rules: Federal, as well as the annotated court rules from the appendix to Title 10 of the RCWA. Westlaw’s WA-ORDERS database contains orders amending or adding rules. If you find a court rule in WA-RULES that has been amended, a message indicates: “This document has been amended. Use UPDATE,” and the UPDATE link takes you to the amendment. Going in the other direction, if you find an order in WA-ORDERS, a link takes you to the rule it amends.

Court rules are also available on West’s Washington CD-ROM products. CD Law has both statewide and local court rules for Washington. Loislaw has statewide court rules. It also includes rules for the federal district and bankruptcy courts in Washington.

IV. City and County Codes
The Washington Legislature is not the only body enacting laws on a wide range of subjects: the various city and county councils also pass ordinances. Depending on your jurisdiction and the subject you are researching, it is often wise to check for local legislation as well as for state (and federal) statutes. For instance, in the area of employment discrimination, both Seattle and King County have Fair Employment Practices Ordinances (Seattle Municipal Code ch. 14.04; King County Code ch. 12.18) that cover some employers and types of discrimination not covered by the Washington Law Against Discrimination (RCW 49.60). See Chapter 7, Local Government Law.

V. Administrative Regulations
In many ways, regulations issued by administrative agencies resemble statutes. They are drafted to apply to a range of parties and situations. They often include the same types of language, definitions, cross-references, and so on. And they are published in a similar pattern. Just as Washington statutes are published in a chronological version (Laws of Washington) and then codified (Revised Code of Washington), most Washington regulations are also published in a chronological version (Washington State Register) and a code (Washington Administrative Code).

Some rules are not published in the WAC and the Register. The Code Reviser may omit rules that would be unduly cumbersome, expensive, or otherwise inexpedient to publish, if such rules are made available in printed or processed form on application to the adopting agency, and if the register or compilation contains a notice stating the general subject matter of the rules so omitted and stating how copies thereof may be obtained.

RCW §34.05.210 (4) (2000). Agencies may also “incorporate by reference and without publishing the incorporated matter in full” codes, standards, rules, and regulations adopted by federal agencies, state agencies and political subdivisions, and generally recognized associations, if incorporation of the full text would be “unduly cumbersome, expensive, or otherwise inexpedient.” RCW §34.05.365 (2000).

A. Washington State Register
The Washington State Register (Washington State Statute Law Commission, Office of the Code Reviser, 1978– ) is required to include a number of items specified in RCW §34.08.020 (2000):

- The text of any proposed new or amendatory rule, with the citation of existing rules to be repealed.
- The small business economic impact statement for the new or amendatory rule, if required.
- The text of any new or amendatory rule adopted on a permanent or emergency basis, with the citation of the existing rule repealed.
Executive orders and emergency declarations of the governor.

Public meeting notices of state agencies.

Court rules that have been adopted but not yet published in an official permanent codification.

Summaries of attorney general opinions.

Juvenile disposition standards and security guidelines.

Proposed and adopted rules of the Commission on Judicial Conduct.

The maximum allowable rates of interest and retail installment contract service charges filed by the state treasurer. (These are published on the inside front cover.) (The Washington State Bar News also publishes these interest rates each month. A table compiling the rates for March 1982 - October 1987 was published in the October 1987 issue (p. 39). The rates from 1987 to date are at http://www.wsba.org/barnews/usurvrate.html.)

A list of corporations dissolved during the preceding month.

Each issue of the Washington State Register is divided into eight sections:

- PREPROPOSAL (includes a statement of inquiry to solicit public comments on a general area of proposed rule making).
- PROPOSED (includes the full text of formal proposals, continuances, supplemental notices, and withdrawals).
- EXPEDITED RULE MAKING (includes the full text of the proposed rule).
- PERMANENT (includes the full text of permanently adopted rules).
- EMERGENCY (includes the full text of emergency rules and rescissions).
- MISCELLANEOUS
- TABLE (a cumulative table of WAC sections affected during the current year). The second issue in January has a table that includes all the changes from the previous calendar year.
- INDEX (a cumulative index for the current year). Most entries are by agency name.

The Register is published twice a month, on the first and third Wednesdays. Each document in the Register is assigned a unique number. The first two digits indicate the year, the next indicate the issue, and the last numbers indicate the order in which the document was filed in the Code Reviser's office. So WSR 96-05-001 is the first document filed for the fifth issue of 1996. (The numbering system can be confusing, since the documents are in numerical order within each of the above categories, not within each issue as a whole. WSR 96-05-001, for instance, happens to be a permanent rule, so it is in the Permanent section, following WSR 96-05-091, the last rule in the Proposed section.)

For electronic availability of the Register, see Section D, Electronic Versions of Administrative Regulations, below.

The predecessor to the Register was the Washington Administrative Code Bulletin, whose issues covered May 1, 1970 through December 31, 1977. The Bulletin did not include the text of new regulations. Instead, it usually included just a list of rules that had been filed.

**B. Washington Administrative Code**

The Washington Administrative Code (WAC) began publication in 1959 in looseleaf format. Since 1977 it has been published in large paperbound volumes, like the RCW. It is a compilation of rules in effect as of a certain date.

The WAC is arranged by agency, roughly in alphabetical order. For example, titles 468-480 contain the regulations of the following agencies:

- 468 Transportation, Department of
- 470 Transportation of Dangerous Cargoes, Advisory Committee on
Each title is divided into chapters by subject matter. Chapters are divided into sections.

Access to the WAC is through a subject index in the last volume. Most of the entries are by agency name, so it often helps to think about what agencies would be likely to issue rules on the subject you are researching. The index is not very detailed. For instance, the index in the 2001 edition is only 58 pages long to cover 12 volumes. Compare the 2000 RCW, whose index of 867 pages covers only 8 volumes. Because of the lack of detail in the WAC's index, researchers often go to the title that covers the appropriate agency and skim the chapter headings until they find a relevant chapter.

To update a WAC section, first check the supplement, if any. (The WAC is usually published every other year, with a supplement in the in-between year.) Then check the cumulative table of WAC sections affected in the latest edition of the Washington State Register. If the last calendar year is not included in the WAC or the WAC supplement, also check the table of WAC sections affected in the second issue of January of the current year; this table includes changes during the last calendar year.

### C. Researching the History of Regulations

Each WAC section has a bracketed entry at the end indicating its statutory authority—that is, the RCW section that authorized the agency to issue this rule. In this bracketed entry, you will also find references to the rule's history, including a citation to the Register where the final rule was originally published, the date the rule was filed, and the date it became effective. If a rule has been amended, it will have a citation for each amendment (as well as for the original rule). The Register citations will lead you back to the proposal, which might lead you back to a

<table>
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<th>Coverage of WAC Editions Since 1977</th>
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<tr>
<td><strong>Edition</strong></td>
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of the public comments during the rule making process. The richness of the material in the Register varies, depending on how complex and controversial the rule was. (If the rule was adopted before 1978, there will be no Register citation, but there will be a note indicating the date the final rule was filed. The Washington Administrative Code Bulletin (1970-77), did not include the language of regulations or comments about them.)

Beyond checking the entries in the Register, researchers can go to the agency that issued a rule. The Administrative Procedure Act provides:

Each agency shall maintain an official rule-making file for each rule that it (a) proposes by publication in the state register, or (b) adopts.

The file and materials incorporated by reference shall be available for public inspection.

RCW §34.05.370(1) (2000). The statute goes on to specify the materials to be included in the rule-making file.

An example of researching the history of a regulation follows.

Example: WAC 480-120-071
This is a regulation of the Utilities and Transportation Commission about telephone companies' extension of service to customers who are outside current coverage areas. The regulation takes up 2 1/2 pages in the 2000 WAC.

Step one: Read the bracketed information at the end of the WAC section:
[Statutory Authority: RCW 80.01.040, 80.04.160, 80.36.080, 80.36.300. 00-24-097 (Order R-474, Docket No. UT-991737), §480-120-071, filed 12/5/00, effective 1/15/01; Order R-25, §480-120-071, filed 5/5/71. Formerly WAC 480-120-170.]

The Register citation is 00-24-097.
(The order R-25, filed 5/5/71, is noted in the Washington Administrative Code Bulletin, number 26 (May 1, 1971-May 14, 1971). The only text is: "Amending and repealing rules within Chapter 480-120 WAC relating to telephone companies." By leafing backwards from this date, one can find the form for "Notice of Intention to Adopt, Amend or Repeal Rules," filed April 12, 1971. Bulletin No. 24, April 1, 1971-April 14, 1971. Again, no explanation or discussion is provided. Using the Washington Administrative Code Bulletin seldom produces useful information about a regulation's history.)

Step two: Look up the Register citation. WSR 00-24-097 is in Permanent Rules section of the Dec. 24, 2000, issue of the Register. Here are 4 1/2 pages, detailing the purpose of the rule and the stages in its adoption. The agency lists the parties that provided written comments (which will be in the file) and summarizes the oral comments made at the rule's adoption hearing.

Step three: Work backwards. The permanent rule (WSR 00-24-097) cites:

- The Preproposal Statement of Inquiry (WSR 99-23-110). This document gives notice of the subject of possible rule making, states reasons why rules may be needed, and explains the process the agency will use.
- The notice of proposed rule making (WSR 00-10-086). This entry presents a draft of the rule, a summary, and the reasons for it. It includes a survey asking local exchange companies for information to assess the rule's impact on small businesses.
The supplemental notice of proposed rule making (WSR 00-17-068). Unfortunately, this citation in the permanent rule contains a typographical error: WSR 00-17-068 is the announcement of a staff change at the Marine Employees’ Commission. Checking the index of that issue of the Register leads to the correct citation: WSR 00-17-168. This document presents a new draft of the rule. It also provides a summary, reasons supporting it, and so on.

Step four: Contact the agency. Ask to see the file associated with WUTC Docket No. UT-991737.

D. Electronic Versions of Administrative Regulations

The Register is available in electronic formats:

- On the Office of the Code Reviser’s website, http://slc.leg.wa.gov/wsr/register.htm. At this site, you can access current or historic (from 1997 on) issues of the Register by WAC section affected or Index.

- On the Washington Legislature’s website, http://search.leg.wa.gov/basic/textsearch/default.asp. You may search by word, choosing any year from 1998 to present (or multiple years).

- On LexisNexis (WASH; WARGST file), from January 1996 (issue 96-01).


- CD Law, from 2001-

- Loislaw, from 2001-

LexisNexis and Westlaw both provide a regulation tracking service produced by State Net, part of Information for Public Affairs, Inc. (State Net tracks regulations and legislation in all fifty states.) This service contains summaries and status information for pending and recently adopted regulations. Records cite the affected section of the WAC, but not the Register. Although both systems derive their data from the same source, the coverage is different. The WASH;WARGTR file on LexisNexis only has the current two years; the scope screen for WA-REGTRK database on Westlaw says that it only has “current” data, but it goes back many years. It is in the WASH library; WARGTR file on LexisNexis, and the WA-REGTRK database on Westlaw.

The WAC is available in many electronic formats. This is particularly helpful because the WAC’s index is so cursory and hard to use. Researchers can use full-text searching to find rules that use particular words or combinations of words—e.g., rules where “motorcycle” appears within ten words of “helmet.” This flexibility is invaluable. Electronic sources include:

- Washington Legislature’s website (searchable).

- Office of Code Reviser’s website (arranged by title).

- Office of the Code Reviser CD-ROM (See http://slc.leg.wa.gov/Default.htm#publications for ordering information.)


Researching the History of a Regulation

- Start with the WAC section.

- Note references to the Washington State Register (rules adopted since 1978), look them up, and work backwards.

- If the rule was adopted before 1978, you will not be able to find as much information.

- For more information, contact the agency.


• VersusLaw does not have its own version of the WAC. Instead, it links to the version from the Code Reviser's Office.

VI. Case Law
This section discusses Washington appellate court decisions, which are published in official and unofficial print sources and several electronic sources. For information on administrative agency decisions, see Chapter 5, Administrative Decisions and Materials. For information on jury verdicts, see Chapter 4, Washington Practice Materials.

A. Official Reports
Since statehood in 1889, the Washington Supreme Court's opinions have been published in Washington Reports (v.1-200; 1889-1939) and Washington Reports, 2d Series (v.1, 1939- ). (Three volumes of Washington Territorial Reports cover the period 1854-1888. For more on researching the territorial period, see Chapter 8, Historical and Archival Sources.) Washington Appellate Reports began in 1969, when the Washington Court of Appeals was established. All Supreme Court opinions are published; many Court of Appeals opinions are not—see Section E, Unpublished Opinions, below.

These reporters contain the official version of Washington cases. That is, if there is some variation between this version and, say, the text in Pacific Reporter, 2d Series—the official version controls. (In 1995, the State of Washington contracted out publication of the official reports to Lawyers Cooperative Publishing. The reports are now published by LEXIS Publishing. Even though Washington Reports, 2d and Washington Appellate Reports are now published and distributed by a private publisher, they remain the official reports.)

The Reporter of Decisions adds some editorial features to each case to aid researchers. Following the parties' names are headnotes summarizing the points of law discussed in the opinion. For instance, the first headnote in State v. Wanrow, 88 Wn.2d 221 (1977) is:

[1] Privacy—Evidence—Recording Private Conversations—Emergency Telephone Call. An emergency telephone call to a police station is a "private communication" as that term is used in RCW 9.73.030, which prohibits the recording of such communications without the consent of all parties.

The headnote is not a part of the opinion itself. It is not written by a justice and is not "the law." However, it is a useful summary. One can use the headnotes as a sort of "table of contents" to the opinion. For instance, by skimming the opinion for a "1" in brackets, one can find the place, at pages 227-28, where the majority opinion discusses the "private communication" issue. A case might have just two or three headnotes or it might have twenty or more, depending on how many issues are discussed. The Wanrow case, for example, has eleven headnotes. (A list of the subjects used in Washington Reports and Washington Appellate Reports is printed in the back of the Cumulative Subject Index. See Section VII.C, below.)

A statement of concurring and dissenting opinions, if any, follows the headnotes. The Wanrow case has a note cautioning that only four justices concur in all the statements, then a list of which justices concurred and dissented. The Reporter of Decisions also provides a procedure summary for each case, describing the nature of the action and what happened at the Superior Court, Court of Appeals, and Supreme Court levels. The parties' attorneys are listed. Finally, the justices' opinions are printed—majority (or plurality) first, then concur-
rences (if any) and dissents (if any). A running header gives both the official (88 Wn.2d 221) and unofficial (559 P2d 548) citations to the case.

The volumes of Washington 2d contain several lists and finding aids. (The features are very similar in Washington Appellate Reports.) At the front of each volume are:

- lists of Supreme Court justices and officers, justices pro tempore, Court of Appeals judges, and Superior Court judges;
- a table of cases reported in that volume; and
- a list of attorneys admitted to practice during the months covered by that volume.

Following the opinions are:

- orders disposing of petitions for review (generally beginning on page 1001);
- amendments to the Rules of Court (generally beginning p. 1100); and
- a subject index.

The subject index is based on the headnotes. For instance, the subject index to 88 Wn. 2d includes this entry:

**Privacy**

Evidence—Recording Private Conversations—Emergency Telephone Call . . . . 221

— that is, the exact wording of the first part of the first headnote in Wanrow.

Advance sheets for Washington 2d and Washington Appellate Reports are published in pamphlet form, punched to fit in special binders. (Washington 2d pamphlets are yellow; Washington Appellate pamphlets are green.) Many practicing attorneys regularly skim new advance sheets to stay abreast of new cases and changes in the Rules of Court. This remains true, even in law offices that use electronic resources for many types of research.

The cases bear the same headnotes and the same pagination they will have in the bound volume. The table of cases begins on the front cover of each issue and the subject index appears at the beginning, rather than at the end of the issue.

Changes to the Rules of Court are published in the Washington 2d advance sheets and appear in the bound volumes, beginning at page 1100. (For more on researching court rules, see Section III.F, above.)

**B. Unofficial Reports**

West Group’s National Reporter System, begun in the 1880s, prints cases from the courts of last resort and intermediate appellate courts of all fifty states and the District of Columbia. Regional reporters, such as West’s Atlantic Reporter and West’s South Eastern Reporter, print cases from several states. (Since 1988, each West reporter title begins with “West’s.” For ease of reference, the following discussion sometimes omits “West’s.”) Two states—California and New York—have their own reporters in the National Reporter System. Cases from the highest courts in these states appear in both their regional reporters (Pacific Reporter and North Eastern Reporter) and in the state’s own reporter (California Reporter and New York Supplement). The cases from the intermediate appellate courts in these states appear only in California Reporter or New York Supplement. West also publishes reporters that contain cases from the federal courts: Supreme Court Reporter, Federal Reporter, Federal Supplement, Federal Rules Decisions, and Bankruptcy Reporter.

Washington Supreme Court and Court of Appeals cases are included in West’s Pacific Reporter (B), currently in its third series (P3d). The Pacific Reporter also includes cases from fourteen other states: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Oregon, Utah, and Wyoming.

As a convenience to Washington researchers, West also publishes West’s Washington Reporter, which includes just the Washington cases from the Pacific Reporter. Leaving out the cases from the other states obviously saves a great deal of space. For instance, one volume of the Washington Reporter prints all the Washington cases from volumes 557,
558, and 559 of *Pacific 2d*. The original pagination from the *Pacific Reporter* is retained. One never cites to *Washington Reporter* per se; instead, just cite to *P2d* or *P3d* (even though you saw the case in *Washington Reporter*).

The text of opinions, including concurrences and dissents, is the same in the *Pacific Reporter* as it is in *Washington 2d* or *Washington Appellate Reports*. However, the editorial features are different. The official citation is at the start of the case; a running header supplies the *P2d* citation. For the last fifteen years (since 1986, 721 *P2d*), the *Pacific Reporter* also includes star paging. Typographical symbols resembling upside down T’s (Z) mark the places where new pages of the official reports start, so that a researcher can provide parallel citations even for jump cites, just by using the West version.

Each case begins with a one-paragraph synopsis, prepared by West editors, summarizing the procedural history of the case and its holding(s), including a list of concurring and dissenting justices, if any. Next are headnotes prepared by West editors and tied into the West Digest System with topics and key numbers. (See Section VII, Case Finding Tools, below.) The first headnote in the *Wanrow* case as it appears in 559 *P2d* 548 is:

1. Statutes [key logo] 208

Words in a statute take their meaning from the context in which they are used.

Note that this headnote summarizes a different point of law than the one that the Reporter of Decisions chose to summarize in the first headnote of the official reporter. The West editor summarized that issue as the third headnote in the *P2d* version:

3. Telecommunications [key logo] 491

Under statute prohibiting subdivisions of state from recording private communications between individuals without consent of all parties to the conversation, telephone call made by defendant to police department immediately after shooting was a “private communication.” RCWA 9.73.030(1).

The *Wanrow* case has twenty-three headnotes in the West version (as compared with eleven in the official report).

The parties' attorneys are listed after the headnotes. (Sometimes the official and unofficial reporters list the attorneys differently. In the *Wanrow* case, for example, *Washington 2d* included Carol Schapira and Smith, Kaplan, Withey, Schapira & Ford among *Wanrow*’s attorneys, but *Pacific 2d* omitted them. On the other hand, only *Pacific 2d* indicated that some of *Wanrow*’s attorneys were affiliated with the Center for Constitutional Rights. Only *Washington 2d* listed two attorneys who wrote an amicus brief on behalf of the American Civil Liberties Union, the National Lawyers Guild, and the Seattle-King County Public Defender.)

*Pacific 3d* and *Washington Reporter* include several lists and finding aids, similar to those found in *Washington 2d* and *Washington Appellate Reports*. At the beginning of each volume are:

- A list of judges—in *Pacific 2d*, it is a list of the judges for the courts covered by the set; in *Washington Reporter*, it is all Washington judges (including superior court judges, whose opinions are not published).
- A table of cases reported in that volume (*Pacific 2d* includes two tables—one alphabetical list of all cases and one list divided by state).
- A list of words and phrases defined in cases in that volume (e.g., volume 559 includes an entry for “PRIVATE COMMUNICATION,” citing *Wanrow*).

At the end of each volume is a Key Number Digest, reproducing the topics, key numbers, and headnotes from the cases in that volume. The Key Number Digest in volume 559 includes the entry:

**STATUTES**

**VI. CONSTRUCTION AND OPERATION.**

(A) GENERAL RULES OF CONSTRUCTION
Context and related clauses.

Wash. 1977. Words in a statute take their meaning from the context in which they are used.—State v. Wanrow, 559 P2d 548.

—that is, the first headnote in Wanrow, put into its place in West's outline of topics and key numbers.

Pacific 3d and Washington Reporter advance sheets appear in pamphlet form weekly. They contain most of the same finding lists and editorial features as the bound volumes. They lack the list of judges, but they add a couple of "current awareness" features: "In This Issue" (quick summaries of the cases in the advance sheet); "Judicial Highlights" (summaries of cases from around the country); and new court rules.

C. Legal Newspaper

Washington Journal, a weekly newspaper published by Daily Journal until November 2001, had a pull-out section entitled Washington Appellate Report (WJ WAR), which summarized all civil cases and selected criminal cases from the Washington Supreme Court and the Washington Court of Appeals. This title has now moved to an Internet-only service.

D. Electronic Versions of Caselaw

Washington cases are available in several electronic formats.

- LexisNexis (WASH; WACTS file) has text and headnotes that appear in the official reports. It also includes unpublished opinions. In addition to the official text, LexisNexis also offers its own summary and headnotes. Coverage is from 1854 (1 Wash. Terr.). Cases appear within a day of decision.

- LexisONE, http://www.lexisone.com, offers free access to a slice of LexisNexis, including the official text of the last five years of Washington cases (including unpublished opinions). (Users must register the first time they log on and use a password for subsequent visits.) Users can also choose to go into LexisNexis for added features, but then must pay by credit card. LexisONE offers a fee-based advance sheet service that delivers summaries of cases on selected topics via email.

- Westlaw (WA-CS) also has coverage from 1854. The first version of a case that a user sees is the one from Pacific Reporter, including the West synopses and headnotes. However, Westlaw also gives the user the option of seeing the official version (Washington Reports or Washington Appellate Reports). Westlaw also includes unpublished decisions. Cases appear within a day of decision.

- CD Law (both CD-ROM and Internet) has the official reports, beginning with 1 Wash. Terr. (1854). Cases are available within a day of decision. The basic database for caselaw covers from 1967 to a few months ago. Separate databases cover "NewDecisions" (typically the last three months) and "OldCases" (1854-1972). Although CD Law is a subscription-based service, it makes the current three months of cases available free (in both browsable and searchable databases). CD Law offers a service of sending advance sheets on selected topics via email. This "Headsup Case Law Notification System," http://www.cdlaw .com/headsup.htm, is free.

- West Group produces a CD-ROM with the Pacific Reporter version of Washington cases (1885- ), including West key numbers. It is updated monthly.

- LEXIS Publishing's Law on Disc—Washington has Supreme Court and Court of Appeals cases from 1898. It is updated quarterly.

- The Washington State Courts maintains the last ninety days of Supreme and Appellate court opinions on its website, http://www .courts.wa.gov/opinions.
• Findlaw, http://www.findlaw.com, has published and unpublished Supreme Court and Court of Appeals decisions from 1998, http://guide.lp.findlaw.com/11stategov/wa/waca.html. It does not offer full-text searching; instead, you can search by party name or by docket number.

• VersusLaw has Washington Reports and Washington Appellate Reports from 1935. New cases are available within a day of decision.

• Loislaw has Washington Reports (volume 132, 1924- ) and Washington Appellate Reports (volume 1, 1969- ). New cases are available within a day of decision.

• The Municipal Research & Services Center, in cooperation with the Washington State Bar Association and the Office of the Code Reviser, plans to make available all of Washington 2d (1939- ) in early 2002. This version will be the text as it appears in advance sheets (rather than the final bound volumes).

E. Unpublished Opinions

Although all Washington Supreme Court cases are published, many Court of Appeals cases are not published in the official reports. The panel that hears a case decides whether to publish it, based on whether the case has precedential value. RCW §2.06.040 (2000), RAP 12.3(d).

Court of Appeals cases decided without published opinions are listed in the back pages of Washington Appellate Reports. They are not published in Pacific 2d. However, they are available from some electronic services. They are included on the Washington State Courts website and Findlaw (see above). Westlaw began adding these unpublished opinions to its WA-CS database in the spring of 1996. LexisNexis coverage of unpublished opinions goes back to November 1996. VersusLaw conveniently labels unpublished cases with a "[U]" in the list of cases retrieved by a search.


VII. Case Finding Tools

By this time, there are far too many volumes of Washington cases for even the most diligent attorney to have read and be able to recall them all. Even using the subject indexes in each volume would be very tedious. Fortunately, a number of case finding tools exist.

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<th>Case Finding Tools</th>
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<tr>
<td>To find cases on a particular subject, use:</td>
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<tr>
<td>• Secondary sources</td>
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<tr>
<td>• Annotated codes</td>
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<tr>
<td>• West’s Washington Digest 2d</td>
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<tr>
<td>• Cumulative Subject Index</td>
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<tr>
<td>• CALR</td>
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<tr>
<td>To find a case when you know its name, use:</td>
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<tr>
<td>• Washington Digest Table of Cases</td>
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<tr>
<td>• Shepard’s Washington Case Name Citator</td>
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<tr>
<td>• West Fax</td>
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<tr>
<td>• CALR (case name field)</td>
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A. Secondary Sources and Annotated Codes

First, researchers should remember the sources discussed above. A secondary source is often the best place to start looking for relevant caselaw, because the author of the deskbook, law review article, or other secondary source has presumably read and thought about many cases and can provide perspective. Which cases are the leading
cases? Which ones have been disregarded or disapproved by subsequent cases and are no longer good law? Which cases no longer apply because of an intervening statute? By the time you finish your research, you may not agree with all the conclusions the author reached, but the secondary source will have given you an organized start in your research.

Annotated codes, likewise, are an excellent source of case citations. If you find a statute that is relevant to your problem, be sure to read the annotations to see whether any of the cases apply; if so, read the cases themselves.

B. West Digest System

West Group, in addition to publishing appellate cases from all United States jurisdictions, also publishes a series of digests to provide access to them. The West Digest System arranges points of law in a tremendous outline scheme that encompasses all of American law. This outline consists of over four hundred topics arranged in alphabetical order from Abandoned and Lost Property to Zoning and Land Use Planning. Each topic is in turn divided into subtopics and sub-subtopics. Separate legal issues (and sometimes sub-issues) are assigned “key numbers,” marked by West’s special key-shaped logo. A topic and key number refer to a very specific legal issue—for instance, Negligence key number 45 represents a fairly narrow issue, in West’s outline of the law:

NEGLIGENCE
1. ACTS OR OMISSIONS CONSTITUTEING NEGLIGENCE
   (A) PERSONAL CONDUCT IN GENERAL
   ...
   (B) DANGEROUS SUBSTANCES, MACHINERY, AND OTHER INSTRUMENTALITIES.
   ...
   (C) CONDITION AND USE OF LAND, BUILDINGS, AND OTHER STRUCTURES
   ...

45. Elevators, hoistways, and shafts.

Some topics have few key numbers (e.g., Suicide has only four); some topics, such as Contracts and Criminal Law, have hundreds.

The digests are put together like this: State and federal courts send to West cases that they want published. West editors review the cases for points of law. An editor writes a head-note summarizing each point of law and assigns it to the place in the West outline where it most closely fits. The headnotes are published at the start of each case in West reporters. The summaries of points of law are also published in digests, grouped with other summaries by topic and key number.

West publishes digests that collect the headnotes from cases from one or more jurisdictions—for instance, West’s Supreme Court Digest (U.S. Supreme Court cases only) and West’s Washington Digest 2d (Washington State cases and federal cases arising in Washington). It publishes some digests with case summaries from regional reporters—e.g., West’s Pacific Digest. It also publishes some digests that collect headnotes from cases on certain topics—e.g., West’s Education Law Digest. The largest set of all is the American Digest System, consisting of the Decennial Digests and the General Digest volumes. This set includes summaries of cases reported in all components of the West system.

I. Approaches to Using West Digests

One good way to use a digest is to start with a case you already know is relevant. Where do you get that case? Perhaps from a secondary source, such as an encyclopedia or a hornbook. One of the beautiful features of the West system is that it is the same throughout the country—if a hornbook cites a Massachusetts case, you can look up that case in the North Eastern Reporter and see what topics and key numbers it was assigned. Then you can look up those same topics and key numbers in the Washington Digest to find Washington cases on the same issue.
Suppose you wanted to find other cases on the statutory construction issue summarized in the first headnote of *State v. Wanrow*, 559 P.2d 548. That headnote was assigned the topic Statutes and the key number 208. The topics in *West's Washington Digest* 2d are arranged in alphabetical order; volume 32 includes the topics States, Statutes, Steam, Stipulations, and on through Taxation key number 500. The first pages under Statutes include a scope note, indicating which subjects are covered by the topic and which are covered elsewhere, and two outlines (broad and detailed) showing how West has divided up the topic. Excerpts from the outline for the topic Statutes are shown in the accompanying box. It is a good idea to skim the outline to see where your key number fits in and whether the issues you are researching might also be covered by another key number.

Following the outlines are summaries of points of law, arranged in order by key number. Within each key number, cases are arranged in order: federal first, then state; highest court to lowest within those divisions; and reverse chronological for each court. Under key number 208 are summaries for one U.S. Supreme Court case, one federal court of appeals case, one district court case, twenty-one Washington Supreme Court cases (including *Wanrow*), and fifteen Washington Court of Appeals cases.

The most effective way to use a digest may be to start with the topics and key numbers from a case you know is relevant. But there are other ways. If you do not already know a topic and key number, try using the Descriptive Word Index (volumes 37-39 of the *Washington Digest* 2d). Look up terms or concepts relevant to your problem. For instance, to look for cases on statutory construction, you might try the heading STATUTES, which has the following entry:

**CONTEXT**, construction. Statut 208
— that is, to find squibs about cases on construction of statutes involving the context, one should look up the topic Statutes, key number 208. Some of the index entries are for legal concepts, as above. Others are fact-based.

For example:

**TERMITE**
APARTMENT house purchase, concealment. Fraud 17, 33
RESCISSION, motel purchase, infestation not discoverable by reasonable investigation. Ven & Pur 37(5)
VENDOR and purchaser, fraud. Fraud 58(2)

Another method for using digests is to choose the topic that you think will address your issue. Turn to the outlines at the front of the topic and browse until you hit a key number that seems relevant, then start skimming the cases listed under that key number. Particularly if you are familiar with the digest and how West organizes issues, this method can be fruitful. However, it can sometimes be difficult to anticipate where the West editors have classified your issue.
For instance, you might think of your question as a classic Contracts issue, but the West system might classify it under Sales or Specific Performance instead. When using this method, be sure to read the scope note at the beginning of each topic, to see whether the editors refer you to related topics.

In addition to the case summaries, the digest also includes some "Library references" for some key numbers, citing C.J.S.

No cases at all are listed in the Washington Digest for some key numbers (e.g., Statutes, key number 3). Remember that the topic and key number system covers every United States jurisdiction. The West editors over the years have developed their outline to cover many legal issues, not just issues that have been addressed by Washington courts. It might be that there simply are no Washington cases on a particular point of law. In such situations, it might be worth checking another digest to see whether cases from other jurisdictions might provide persuasive authority. As a reminder, the Washington Digest includes the note "For other cases see the Decennial Digest and Westlaw" next to key numbers that have no Washington cases.

Although the digest can be a powerful tool for locating cases, it also has several limitations. First, researchers are dependent on the indexing scheme adopted and applied by West editors. If the West editors did not read a case the same way you would, you might miss something you would find relevant. Second, the digest includes all the cases from the jurisdiction(s) covered, not just the significant, binding cases. All points of law are digested, whether they are the central holding of a case or just dicta. Furthermore, even when a case has been overruled or questioned, it remains in the digest, and unaware researchers may be misled. These two drawbacks are addressed, in different ways, by computer-assisted legal research and citator services. Good, current, secondary sources can also help you sort out which cases are central and which are peripheral.

As well as searching for cases by subject, you can use the Washington Digest to find cases by name. The Table of Cases (volumes 40-42) lists cases by name and inverted name. The Table of Cases, in addition to providing citations, also lists the topics and key numbers that were assigned to each case's headnotes. The entry for the Wanrow case is:

State v. Wanrow, Wash, 559 P2d 548, 88 Wash2d 221.—Assault 67; Const Law 70.3(4), 224(5); Statut 206, 208, ...

(The Table of Cases also lists the citations for Wanrow at the Court of Appeals level and a later Washington Supreme Court proceeding.)

2. Changes in the Digest System; Updating Digests

As the law develops, the digest editors occasionally add new topics or reorganize old topics. For instance, in 1978 West created a new topic, Chemical Dependents, drawing from the old topic Drunkards (which is no longer used) and part of the topic Drugs and Narcotics. In 2001, West created two new topics, Child Abuse and Child Custody, drawing from three topics: Divorce, Infants, and Parent and Child. Having a system that responds to changes in the law is good—if all the topics and key numbers were exactly as they were in 1897, the system would not be very useful today! But what happens if you are trying to track a topic from an old case that used a topic and key number that are no longer used? There are three ways to find the new topic and key number:

1. Look for a "Key Number Translation Table" near the start of the topic to see where case summaries were reassigned.

2. Look up the case in the Table of Cases; the topics and key numbers listed there will be the new ones, not the ones from when the case was first published.

3. Look up the case on Westlaw or on a West CD-ROM; the topics and key numbers will generally be the new ones (with a few exceptions).
Fundamentals of Legal Research in Washington | Chapter 3

All of the Washington Digest volumes, including the tables and the index volumes, are updated with pocket parts. Midyear, the pocket parts are further supplemented with one interim pamphlet for the whole set. The pocket parts and the interim pamphlet indicate their coverage. Look for a note near the front that lists the reporter volumes of the most recent cases. To update even the pocket parts or the interim pamphlet (if any), you can look in the Key Number Digest section of recent volumes and advance sheets of Pacific 2d or Washington Reporter (see Section VB, Unofficial Reports, above).

C. Cumulative Subject Index

LEXIS Publishing produces a subject index—called, simply, Cumulative Subject Index—based on the headnotes in Washington 2d and Washington Appellate Reports. The index is distributed at no additional charge to subscribers of the Washington 2d advance sheets. This index is, in effect, a cumulation of the subject indexes in the back of each volume of the official reports (although there are a few modifications). The 2001 Cumulative Subject Index covers cases reported in 93 Wn.2d 1 through 142 Wn. 2d 942 and in 25 Wn. App. 1 through 104 Wn. App. 988—that is, cases filed between December 21, 1979 and February 1, 2000.

This index, in one paperbound volume, is smaller and easier to browse than the Washington Digest. It can be a quick way to find recent cases, or to retrieve a case that you remember if you are sure it was decided in the last ten or fifteen years. When there are multiple citations for a single index entry, the editors include only the five most recent citations to Washington 2d and Washington Appellate Reports. The index does not include case names or dates—just the volume and page for each case. At the back of the volume are a list of the subjects used for headnotes and a list of cross-references.

D. Shepard's Washington Case Name Citator

If you know the name of a case, you can look up the citation in Shepard's Washington Case Names Citator (published by Shepard's, a division of LexisNexis). This 1994 volume (with its 2001 paperbound supplement) covers Washington cases decided since 1854. Case names and inverted case names (second party listed first) are in one alphabetical list.

E. West Fax

West Group offers a service called West Fax to help researchers locate citations for cases. If you know parties' names or a case's docket number, West Fax will give you a citation free. The number is (651) 687-7740. For a fee, you can have the case faxed to you.

F. Citator Services

Shepard's Citations and other citator services, discussed in Section IX below, can be used to track the history of a case and confirm a case's continuing validity. They can also be used to find other cases on a subject, since cases that cite a relevant case will often be relevant to your issue as well.

G. Computer-Assisted Legal Research

Computer-assisted legal research (CALR) is a powerful way of finding cases. By searching the Washington case databases—in any of the electronic versions listed in Section VI.D, above—you can find opinions using particular terms in specified combinations. You are not necessarily limited by the indexing choices made by West editors or anyone else: you can search the full text of the cases as the judges wrote them. Full-text searching is very pow-
erful, but it is also challenging. You need to think about all the ways that a judge might have expressed the concept you are researching. Be aware of synonyms and variants of terms. For example, if you were looking for cases involving dentists, would you be happy to retrieve cases with the words "orthodontist" or "oral surgeon" or "periodontist" as well? If so, you must include them in your search. Similarly, if you want cases on statutes of limitations, you might want to include "limitations period" in the search. Most electronic services allow for searching for combinations of words (using AND, OR, and other connectors).

In most electronic versions of case law, you may take advantage of editorial enhancements. For example, since LexisNexis includes the official version of cases, you may search the headnotes written by the Reporter of Decisions. And on Westlaw, you may search the synopsis and headnotes written by West editors, including the topics and key numbers. Many systems allow you to restrict your search to certain portions of the case (e.g., parties' names, judge's name, headnotes, etc.). For instance, if you want to find cases where one of the parties is named "Wanrow," you can search the case name field. This is a much more efficient search than if you searched for "Wanrow" to appear anywhere in a case, for that search would pick up not only State v. Wanrow, but also the dozens of cases that cite Wanrow.

H. Briefs

When researching an issue or preparing a case, it is sometimes helpful to consult the work of other attorneys. Some law firms and agencies maintain files of briefs and memoranda prepared by their own staff for this purpose. Briefs in appellate cases are also available publicly. Reading someone else's brief is, in many ways, similar to using any secondary source, such as a deskbook or law review article: you can use it to see how the attorney analyzed the issues and to find citations to cases and other authority. However, unlike an academic law review article, a brief is prepared on behalf of a particular client in a particular dispute, so it is by nature one-sided.

Reading the briefs for a case can sometimes help you understand the case better, since you can see which issues were raised on appeal. Perhaps the Court of Appeals did not reach a question because it was not raised, or because the parties had stipulated to certain facts that are not present in all cases. Reviewing the briefs might give you an idea for an approach to try in your case—or reading the briefs might make it clear that one line of argument has been unpersuasive to the judges.

Several law libraries have copies of briefs from Washington Supreme Court and Court of Appeals cases. The most complete set is at the State Law Library in Olympia. Other law libraries with collections of Washington appellate briefs include:

- Chastek Law Library, Gonzaga University.
- County law libraries: Clark, King, Pierce, Whatcom.
- Washington State Archives.

Contact the library for information about the briefs in a specific case or to learn about photocopy services or circulation policies. Chapter 11, Managing Your Library, lists addresses and phone numbers for these and other law libraries.

VIII. Attorney General Opinions

The Attorney General, as legal adviser to state government, issues written opinions in response to questions from the Governor, members of the Legislature, heads of state agencies, and county prosecuting attorneys. RCW §43.10.030(5)(2000). Attorney General Opinions (AGO's) are drafted by
attorneys on the Attorney General's staff and undergo a thorough review process before being approved by the Attorney General. The drafting process is generally confidential; however, a new practice is to summarize selected questions for comment when it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion.” Wash. St. Reg. 93-15-116 (Aug. 4, 1993).

Attorney general opinions can provide assistance in interpreting ambiguous statutes or analyzing legal issues. Washington courts accord these opinions great weight, although they are not binding and may be disregarded when the court finds them unpersuasive. See, e.g., In re Electric Lightwave, Inc., 123 Wn.2d 530, 541-42, 869 P2d 1045, 1052 (1994); Kasper v. City of Edmonds, 69 Wn.2d 799, 805, 420 P2d 346, 350 (1966). A researcher may find an opinion's reasoning or citation of authorities useful, even though the opinion is not binding.

Washington attorney general opinions are available in print, 1889 to date. Bound indexes cover 1889-1955, 1955-65, 1965-75, 1975-84, 1985-90, and 1975-95. Attorney general opinions are also available electronically on:

- LexisNexis (WASH;AG file), 1977-.  
- Westlaw (WA-AG database), 1977-.  
- Washington Case Law and Revised Code of Washington Unannotated (West, CD-ROM), 1977-.  
- CD Law, 1949-.  
- Washington Legislature's website (searchable), http://search.leg.wa.gov/pub/textsearch/default.asp, 1949-.  
- Loislaw, 1996-.  

In addition to using the indexes and electronic sources, researchers may find references to attorney general opinions in the RCWA and the ARCW.

During the 1970s and 1980s, the Attorney General sometimes issued “letter opinions” (AGLOs). They had the same effect as the other opinions, but they were not as widely distributed. They are digested in the print set, not printed in full. The full text may be obtained from the Attorney General's office, (360) 586-0756. All of the electronic versions that cover the 1970s and 1980s include AGLOs.

IX. Citator Services

What's the P2d cite for your Wn. App. case? Has your case been appealed? If so, was it affirmed or reversed? Have any other cases cited it? What points of law did they discuss? Did the later cases follow your case?

These are questions that can be answered by citator services. Many of these questions must be answered before you rely on a case. This section focuses on case citators, but some citators also enable you to find citing references to other material, including statutes and regulations.

A. Shepard's in Print

Shepard's Citations (the publisher, Shepard's, is now a division of LexisNexis) are well-established research tools, recognized by courts as essential to basic legal work. There are sets of Shepard's to accompany many different reporters, codes, and other sources. For example, Shepard's Washington Citations is used with Washington reporters and statutes. By Shepardizing a case, you can find:

- Parallel citations—e.g., the P2d citation for a Wn. App. case (indicated with parentheses).
- Prior and subsequent history of that case—e.g., the appeal of that case, or a decision on remand (indicated with “s”).
- Other cases that cite that case, arranged by jurisdiction:
  - Treatment codes indicate what the later court had to say about the first case (e.g. "o" for
overruled, "q" for questioned, "e" for explained, "d" for distinguished).

- Superscript numerals indicate the headnotes in the first case whose legal principle is discussed in the later cases.
- Journal articles (from a limited list of journals) and some secondary sources (usually treatises published by Shepard's or its parent company) citing the case.
- A.L.R. annotations citing the case.

You can use Shepard's to confirm that a case is still "good law"—i.e., that it has not been reversed or overruled or even questioned by a later case. You can also use Shepard's as a case-finding tool, since cases that cite a case that you know is relevant to your question are likely to be relevant as well. You can use the superscript numbers to focus on one particular headnote in the case you are Shepardizing to see whether any later cases have cited your case for the proposition discussed in that headnote.

Each volume of Shepard's has a preface with instructions on how to use the set. You will also find tables of treatment codes and abbreviations. Shepard's abbreviations are neither self-explanatory nor the same as any other publisher's abbreviations, so you will need to look in the table of abbreviations. For instance Washington 2d is neither "Wn.2d" nor "Wash. 2d" but "Wsh2d." Gonzaga Law Review is simply "Goz."

Shepard's sets usually consist of one or more bound volumes, supplemented by gold, red, and/or white pamphlets. When you are using a set, you should find a pamphlet that was issued within the last month. Its cover will indicate what a complete set includes. Be sure to check each applicable bound volume and supplement.

Different Shepard's units have different information for the same case. There are three different ways to Shepardize any one Washington case: the Washington Reports section of Shepard's Washington Citations, the Pacific Reporter section of that same set, and Shepard's Pacific Reporter Citations. If you Shepardize the official citation, you find citations to cases citing it in the official reporters (Wn.2d and Wn.App.). If you Shepardize the Pacific Reporter citation, you find

<table>
<thead>
<tr>
<th>Information Available by Shepardizing a Washington Case in Print</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type of Information</strong></td>
</tr>
<tr>
<td>Parallel citation</td>
</tr>
<tr>
<td>(to Pacific)</td>
</tr>
<tr>
<td>Direct history</td>
</tr>
<tr>
<td>(official citations)</td>
</tr>
<tr>
<td>Citing cases from Washington</td>
</tr>
<tr>
<td>(official citations, official headnotes)</td>
</tr>
<tr>
<td>Citing cases from U.S. Supreme Court and federal courts</td>
</tr>
<tr>
<td>Citing cases from other states</td>
</tr>
<tr>
<td>Law review articles</td>
</tr>
<tr>
<td>(22 selected journals)</td>
</tr>
<tr>
<td>A.L.R. annotations</td>
</tr>
</tbody>
</table>
citations to cases citing it in other West reporters. (You need to use Shepard’s Pacific Reporter Citations to find citing cases from other states. The Pacific Reporter section of Shepard’s Washington Citations does not list cases from other states.) The superscript numbers, referring to the points of law from the earlier case that are discussed in the later case, always refer back to the headnotes in the reporter whose citation you are Shepardizing. (Remember, there is no necessary correlation between one reporter’s headnotes and the other’s! See Sections VI.A and VI.B, above.) Only by Shepardizing the official citation can you find law review references. The accompanying table summarizes these differences in coverage.

Shepard’s volumes cover more than cases. It is possible to Shepardize many other types of legal material to find cases and other sources that refer to them. Shepard’s Washington Citations includes sections listing citations to:

- Washington Constitution.
- Miscellaneous superseded code provisions not included in the 1989 RCW (i.e., the latest RCW edition before the bound Shepard’s base volume was published). (This heading for 1989 RCW remains in the subsequent supplements.)
- Revised Code of Washington Annotated.
- Laws of Washington (not included in code when cited).
- Washington Administrative Code, 1986 and 1990. (The later supplements still indicate that citations are to the 1990 WAC.)
- Washington court rules.
- Washington Pattern Jury Instructions.

Shepard’s Washington Citations (Statute Edition Part 2) also has a table of Washington acts by popular name.

As valuable as Shepard’s Citations are, these tools have some limitations. First, there is necessarily a time lag between the time that a case is decided and the time it appears as a citing case in the print Shepard’s. A case could have overruled the case you are relying on and yet the Shepard’s editors might not yet have seen or analyzed it—or maybe they have seen it but it has not yet made it into the monthly supplement. It can take three to nine months for a citing case in a print reporter to appear in Shepard’s, depending on jurisdiction and case reporting patterns. For example, consider this snapshot in time. On October 8, 2001, the latest pamphlet for Shepard’s Washington Citations had a cover date of September 15, 2001. The Gallagher Law Library received it on October 2, 2001. A check showed the following coverage of print reporters:

<table>
<thead>
<tr>
<th>Shepard’s Time Lags</th>
<th>Shepard’s Washington Citations Example</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Latest reporter volume and page of citations included in September 15, 2001 pamphlet</strong></td>
<td><strong>Date of case(s) on ending page</strong></td>
</tr>
<tr>
<td>144 Wn.2d 1007</td>
<td>July 10, 2001</td>
</tr>
<tr>
<td>106 Wn. App. 660</td>
<td>June 14, 2001</td>
</tr>
<tr>
<td>121 S. Ct. 2620</td>
<td>June 29, 2001</td>
</tr>
<tr>
<td>254 F.3d 1081</td>
<td>May 15, 2001</td>
</tr>
<tr>
<td>145 F. Supp. 2d 1378</td>
<td>May 4, 2001</td>
</tr>
</tbody>
</table>

Recently, the producers of Shepard’s have reduced the time lag problem by including citations found in slip opinions. The slip opinions are identified by their LEXIS citations. This gives researchers information about cases more quickly than before; it also adds coverage of unpublished opinions. The September 2001 pamphlet, for instance, shows that State v. Wanrow, 88 Wn.2d 221 (1977) was cited in 2001 Wash App LX 1351 and 2001 Wash LX 472. The Shepard’s pamphlet refers users to a free
For these reasons, thorough research includes checking for statutes and cases on point, even if you have found one case that seems relevant and does not have negative history in Shepard's.

### B. Electronic Citator Services

Many services are available that enable you to check the validity of a case and find related authority online. LexisNexis and Westlaw both have several services; there are also citator services on CD-ROM. It is also possible to use full-text searching to find cases citing a case, statute, or other document. Each of these methods is discussed below.

#### 1. Shepard's on LexisNexis

Many Shepard's citators are available on LexisNexis. The online version has many advantages over the print version:

- The online version is much more current than the print version. (Five years ago, this was not the case, but now the online version is updated daily.)

- The display is easier to read. Reporters and law reviews are cited by their Bluebook abbreviations, rather than the cramped two- and three-letter abbreviations in the print Shepard's.

- Analysis codes are spelled out—"dissenting opinion," rather than "j," for instance.

- When you are viewing the Shepard's display online, LexisNexis links to the citing cases.

- LexisNexis also provides links from cases to their Shepard's displays.
• You can limit the display to only certain citing cases—e.g., those that cite a particular headnote or those that have been assigned a particular treatment code. When you limit to particular headnotes, you can choose the official reporter or Pacific headnotes.

• The online display shows citations to the case by annotated codes available on LexisNexis.

• The online display shows the full title citing A.L.R. annotations and of some law review articles.

• When you use an online system, you do not have to worry about whether you have found all the appropriate volumes and supplements as you do in print.

• You do not have to use two sets of citators (e.g., Shepard's Washington Citations and Shepard's Pacific Citations). Shepardizing the Wn. 2d citation online gives you references to citing cases from other jurisdictions, even though the print equivalent does not.

Despite these advantages, the online versions of Shepard's share some of the disadvantages of the print version. And, of course, they still cannot tell you about cases that are overruled by implication or superseded by statute.

LexisNexis also produces CD-ROM versions of Shepard's citators for many jurisdictions, including Washington.

2. KeyCite

KeyCite was introduced as a service on Westlaw in 1997. It enables researchers to perform the functions discussed above for Shepard's. By entering a citation, you can find:

• parallel citations;

• the direct history of the case;

• negative treatment of the case by other cases (e.g., cases that overrule it);

• other cases that cite the case;

• secondary materials that cite the case, including A.L.R. annotations, law review articles, encyclopedia articles, and practice materials. (All of the citations are drawn from Westlaw, so the citing materials are those found on Westlaw.)

KeyCite offers editorial notes and codes to show how a later case treats the cited case. You can restrict the display in various ways—for example, to citing cases that discuss a particular headnote, to cases from a given jurisdiction, to law review articles, or to materials published after a certain date.

The University of Washington Gallagher Law Library subscribes to KeyCite for members of the public. (The subscription is for KeyCite only, not full Westlaw.)

3. Citators on CD Law

CD Law offers two ways to find citations to a case or other document. First, if you subscribe to LexisNexis, you can follow a link to Shepardize the case. (CD Law is a subsidiary of LexisNexis.) Second, within CD Law you can click on a link labeled CITISEARCH, which takes you to a list of cases that cite the first case. This list does not have editorial treatment (e.g., indicating whether the later case overrules the first case), but it provides links to the cases themselves. The CITISEARCH feature is available for RCW sections as well as for cases.

4. GlobalCite on Loislaw

When you view a case or other document on Loislaw, you can click the “GlobalCite” button in the corner of the screen to retrieve a list of documents that cite that document. Hypertext links then allow you to view the full text of each citing document, highlighting the case from which you began.

5. Comparisons and a Caution

For reviews and comparisons of citators, see:


It is important to remember that researchers must still read and analyze the citing cases for themselves. The codes and symbols used by Shepard's and KeyCite are just aids—they may not tell the whole story. For example, if you check a case and see that it has a red light (Shepard's on LexisNexis) or a red flag (KeyCite on Westlaw), you should still read the cases that supposedly overruled the case. It might be that they overruled just one point of law—and not the one that you are checking! See Kent C. Olson, "Waving a Red Flag: Teaching Counterintuitiveness in Citator Use," 9 Perspectives: Teaching Legal Research & Writing 58 (2001), available at http://www.westgroup.com/pdf/perspect/92012.pdf.

### Comparison of Major Citators

<table>
<thead>
<tr>
<th></th>
<th>Shepard's in Print</th>
<th>Shepard's on LexisNexis</th>
<th>KeyCite</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Currentness</strong></td>
<td>2-9 month time lag</td>
<td>updated daily</td>
<td>updated daily</td>
</tr>
<tr>
<td><strong>Case name</strong></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>(abbrev.)</td>
<td>(spelled out)</td>
<td>(spelled out)</td>
</tr>
<tr>
<td><strong>Parallel citations</strong></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>Direct history</strong></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>Negative treatment history</strong></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>All citing cases</strong></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>Attorney General opinions</strong></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>Law review articles</strong></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>(only with official citation; only 22 selected journals; titles of articles not included)</td>
<td>(law reviews on LexisNexis; full citations)</td>
<td>(law reviews on Westlaw; full citations)</td>
</tr>
<tr>
<td><strong>A.L.R. annotations</strong></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>(volume and page only)</td>
<td>(full annotation title)</td>
<td>(full annotation title)</td>
</tr>
<tr>
<td><strong>annotated codes</strong></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>Am.Jur. publications</strong></td>
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<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>Practice materials (e.g., PLI and ALI-ABA materials) and treatises</strong></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

6. **Full-text Searching**

CALR systems make it possible to search almost every word in a document. (Some words such as "is" and "at" are usually not searchable.) Since combinations of numbers and letters are also searchable as "words," it is possible to search for citations and, in effect, use the system to create your own citator. For example, instead of relying on Shepard's editors to catch every case that mentions Wanrow, you can look for occurrences of 88 Wn.2d 221 or 88 Wash. 2d 221 or 559 P2d 548. The search `wanrow w/10 (88 pre/4 221)` or `(559 pre/4`
would retrieve every case in the database that cited 
Wanrow (with either the Wn.2d or the P2d cita-
tion) and was decided after 1991. This "citator" is
as current as the latest cases in the database. This
technique can be used with any full-text database.
(­Be sure to check for variations in the connectors
available on the system you are using.)

You can use this technique, called “using the
system as a citator,” to find citations to materi-
als that ordinarily cannot be Shepardized. For
example, you can find references to Washington
Administrative Code pro-
visions (only a couple
years’ worth of citations
are included in
Shepard’s) or unpub-
lished cases or Shore-
line Master Plans—in
short, anything that a
court might cite.

Using full-text
searching to find cita-
tions to cases and other
authority can be com-
prehensive and very cur-
rent. When you have run your search, you can
view your search terms
in context, so you can see the passage where the
later case discussed your case (or other material).
However, this method can be time-consuming (and
therefore expensive) if you are researching the
treatment of a case that has been cited many times.

X. Citation Format
Once you have completed your research and found
secondary sources, statutes, and cases, you need to
know how to cite them in order to communicate
your findings to others. In fact, it is a good idea to
think about citation format while you are doing your
research, so that you take adequate notes. Few
things are as frustrating as having everything to-
gether to draft a brief (under a tight deadline, of
course) and then realizing that you need parallel
citations for your cases, or a publication date for a
treatise you are citing, or some other detail that, at
this stage, serves only to distract you from the im-
portant tasks of analysis and drafting.

The Office of Re-
porter of Decisions pub-
ishes a short Style Sheet
(reproduced as an appen-
dix to this chapter) that
provides a guide for cita-
tion form and style in the
publications of Wash-
courts.wa.gov/courts/
supreme/reporter/style.cfm
(October 16, 2000). You
might think, “Well, it’s
nice that the courts have a
style manual for them-
selves, but it doesn’t affect
me.” However, the Wash-
ington Rules of Appellate
Procedure specify that the
citations in all appellate
briefs “must be in confor-
mity with the form used in
current volumes of the
Washington reports” (RAP
10.4(g)), so the courts’
sty­le manual indeed is relevant to practicing attorneys.
The Style Sheet’s predecessor was a yellow pamphlet
(1982), popularly known as “the yellow book.” It had
many more examples than the Style Sheet and might
still be worth consulting for that reason. Of course,
one can always look in recent volumes of Washington
2d or Washington Appellate Reports to see how the
courts cite various sources, as well.
The Style Sheet states that the latest edition of The Bluebook: A Uniform System of Citation is the official style manual, with certain exceptions, which it spells out. The Style Sheet provides numerous examples, mostly of Washington materials. These examples are particularly useful, since it always helps to see an example of just the thing you are trying to cite (e.g., Washington session laws, RCW, House and Senate Journals). Examples of common types of material are set out in the comparison table below.

Most lawyers and law students are familiar with The Bluebook: A Uniform System of Citation, 17th ed. (Harvard Law Review Association, 2000). Compiled by the editors of the Columbia Law Review, the Harvard Law Review, the University of Pennsylvania Law Review, and The Yale Law Journal, The Bluebook sets forth citation guidelines for almost every type of legal material commonly cited in American legal writing. It is aimed at law review editors and many examples are tailored to academia, but it also has notes for practitioners. Many legal writers find The Bluebook infuriating because of its arcane rules and persnickety attention to detail. But it does provide guidance for many citation questions. With a little patience and frequent use of the index, you can find a rule for almost anything. The Bluebook also can help you with your research. For instance, looking in the California pages, you could find that California Court of Appeal cases were published in the Pacific Reporter before 1960, but that since then they have been published only in California Appellate Reports and the California Reporter.

The Bluebook is complex enough that many people find it convenient to have a guide to it. Mary Miles Prince, Prince's Biebers Dictionary of Legal Citations, 6th ed. (W.S. Hein, 2001) is very helpful. It reprints the seventeenth edition of The Bluebook and provides examples of how to cite thousands of legal sources. For example, if you want to cite the Code of Federal Regulations or Corbin on Contracts, you can look up the source in an alphabetical list and see a sample citation. Researchers sometimes need to go the other direction. That is, instead of having a source and wanting to find out the correct citation, they may see a citation and want to figure out the source. Mary Miles Prince also has a tool for this situation: Bieber's Dictionary of Legal Abbreviations, 5th ed. (W.S. Hein, 2001).


After years of dominance in the legal citation marketplace, The Bluebook was challenged in the late 1980's by The University of Chicago Manual of Legal Citation (1989), nicknamed "the Maroon Book." Compiled by the editors of the University of Chicago Law Review, The Maroon Book is simpler and shorter than The Bluebook (63 pages, including index, compared with The Bluebook's 343 pages). The editors encourage writers to be consistent within documents, but leave much to the writers' discretion. Some law journals have adopted the Maroon Book, but The Bluebook remained the standard.


The Bluebook, The Maroon Book, and the ALWD Citation Manual are all aimed at a national audience. Therefore, they encourage forms that unambiguously indicate the jurisdiction. Every lawyer in Washington knows what "RCW" stands for, but
readers of *The Yale Law Journal* or the *University of Chicago Law Review* might not, so the national citation manuals suggest a longer abbreviation. The table below compares the citation forms for commonly cited Washington materials. If you are filing a brief in a Washington court, you should certainly comply with RAP 10.4(g). If you are submitting an article for publication in a law review, you should follow whatever citation manual the journal uses (although the editors will go over such details if your article is accepted). Of course, for your own internal memoranda you are free to choose whatever system you prefer. It is wise, however, to record enough information that you could convert your notes or memos to a form suitable for more formal writing without having to go back to the library and look everything up again. (See Chapter 2, The Process of Legal Research.)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Washington Reports, 2d Series</td>
<td>Wn.2d</td>
<td>Wash. 2d</td>
<td>Wash. 2d</td>
</tr>
<tr>
<td>parallel citations for Washington cases?</td>
<td>Yes; pinpoint citations to Wn.2d or Wn. App. required, pinpoint citations to P., P:2d, or P:3d optional</td>
<td>No, for law review articles. Yes, for court documents, since &quot;all citations to cases should be to the reporters preferred by local rules.&quot; Rule P:3</td>
<td>Yes, because required by local rule: &quot;Do not use parallel citations unless required by local rule.&quot; Rule 12.4(c)</td>
</tr>
<tr>
<td>parallel citations for cases from other states?</td>
<td>Yes</td>
<td>Ditto</td>
<td>Ditto</td>
</tr>
<tr>
<td>parallel citations for U.S. Supreme Court cases?</td>
<td>Yes</td>
<td>Ditto</td>
<td>Yes, because required by local rule: &quot;Unless required by local rule..., typically cite only one source.&quot; Rule 12.4(b)(1). &quot;Although not preferred, this citation format is permitted.&quot; Rule 12.4(b)(2).</td>
</tr>
</tbody>
</table>
Appendix: Washington Courts Style Sheet

Style Sheet
This style sheet is effective October 16, 2000 and is subject to revision.

- General Principles
- Abbreviations
- Exceptions To Bluebook
- Additions To Bluebook

General Principles

1. The Seventeenth Edition of The Bluebook: A Uniform System of Citation (Bluebook) is the official style manual for publication of Washington appellate opinions except as noted below.

2. The Practitioners' Notes section of the Bluebook (Section P, pp. 10-19 on light blue paper) applies specifically to court documents. Bluebook I.1, p. 3 and § P, p. 11. Conflicts between Section R of the Bluebook (General Rules of Citation and Style, pp. 20-181) and Section P of the Bluebook are resolved in favor of Section P with the exception that for typefaces, a manuscript opinion may follow the rules of Section P or Section R.

3. The Chicago Manual of Style is the authority for punctuation and style matters not covered by the Bluebook.

4. Webster's Third New International Dictionary of the English Language is the authority for spelling, including spacing and hyphens between nouns (e.g., boyfriend, girl friend, day care, babysitter). Where two or more spellings are listed, use Webster's preferred spelling rather than the variant.

5. For matters not covered by the Bluebook, The Chicago Manual of Style, or Webster's, the Reporter of Decisions Office applies formal, traditional, noncolloquial English.
Abbreviations

The following abbreviations are used for citing to primary Washington legal materials. The list replaces the list of abbreviations for Washington materials found in Bluebook Table T.1, p. 239.

<table>
<thead>
<tr>
<th>TITLE ABBREVIATION</th>
<th>ABBREVIATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Washington Constitution</td>
<td>Const. art. VI, § 1 (amend. 2)</td>
</tr>
<tr>
<td>Revised Code of Washington (Official)</td>
<td>RCW</td>
</tr>
<tr>
<td>Revised Code of Washington Annotated (West)</td>
<td>RCWA</td>
</tr>
<tr>
<td>Annotated Revised Code of Washington (LEXIS)</td>
<td>ARCW</td>
</tr>
<tr>
<td>Session Laws</td>
<td>Laws of [year], ch. x, § y</td>
</tr>
<tr>
<td>[number extraordinary sessions by calendar year; e.g., Laws of 1963, 1st Ex. Sess., ch. 26]</td>
<td></td>
</tr>
<tr>
<td>Washington Reports, 2d Series</td>
<td>Wn.2d</td>
</tr>
<tr>
<td>Washington Reports</td>
<td>Wash.</td>
</tr>
<tr>
<td>Washington Territory Reports</td>
<td>Wash. Terr.</td>
</tr>
<tr>
<td>Washington Administrative Code</td>
<td>WAC</td>
</tr>
<tr>
<td>Washington State Register</td>
<td>St. Reg.</td>
</tr>
</tbody>
</table>

Early Statutes

<table>
<thead>
<tr>
<th>TITLE ABBREVIATION</th>
<th>ABBREVIATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ballinger Code</td>
<td>Ball. Code</td>
</tr>
<tr>
<td>Code of 1881</td>
<td>Code of 1881</td>
</tr>
<tr>
<td>Pierce's Code</td>
<td>Pierce's Code</td>
</tr>
<tr>
<td>Remington's 1915 Code</td>
<td>Rem. 1915 Code</td>
</tr>
</tbody>
</table>

Note: "Const.," "Laws," and the names of codes are printed in the official reports in large and small caps. Ordinary typeface is acceptable in manuscript opinions.

Exceptions to Bluebook

1. Exception to Bluebook P.3, p. 14: For Washington cases, jump page (pinpoint) citations are made to Wn.2d or Wn. App.; jump page citations to P., P.2d, or P.3d are optional. For non-Washington cases, jump page (pinpoint) citations are made to the unofficial
reporter; jump page citations to the official report are optional.

2. Exception to *Bluebook* P.6, pp. 17-18 and rule 8, pp. 51-53: Ignore these sections. Capitalization is governed by *The Chicago Manual of Style*. Specific applications:

   a. Capitalize "Supreme Court" whenever referring to the Washington Supreme Court and "Court of Appeals" whenever referring to the Washington Court of Appeals.

   b. Whether to capitalize party designations, titles of court documents filed in the case, "court," and "legislature" is optional so long as the capitalization is consistent within the opinion.

3. Exception to *Bluebook* P.7, p. 18: Cite court documents without parentheses.

4. Exceptions to *Bluebook* rule 6.2(a), pp. 49-50: In text, spell out numbers zero to nine. Use arabic numerals for higher numbers. Use commas in numbers 1,000 and higher except when citing a page number in a case or court document. Example: 9,876.

5. Exception to *Bluebook* rule 6.2(d), p. 50: In text, always write out "percent" rather than using a percentage sign (%).

6. Exception to *Bluebook* rule 10.3.1, p. 62: Cite official reports and regional reporters for all cases for which official reports are published.

7. Exception to *Bluebook* rule 12.3.2, p. 80: Do not add the year in parentheses after a citation to a presently effective version of a Washington or federal statute or code.


9. Exception to *Bluebook* Table T.1, p. 183: Cite United States Supreme Court cases as follows:

   _ U.S. __, _ S. Ct. __, _ L. Ed. 2d __ (year).

**Additions to Bluebook**

1. Subsequent history of cases for "review denied" and "review granted": For Washington cases, cite to Wn.2d; citing P.2d is optional. For non-Washington cases, cite to the regional reporter;
citing the official report is optional. For subsequent history in the United States Supreme Court, cite only to U.S. if therein; otherwise, cite to S. Ct., L. Ed. 2d, or U.S.L.W. in that order of preference.

2. Capitalization of acts: The names of statutes are not capitalized unless:

   a. there is a statutory provision (frequently named "Short title") that the act shall be known as "__________"; or

   b. the act is included in the Popular Names Table (for Washington, see volume 8 of the RCW published by the Statute Law Committee).

3. Add the following to the list of short citations to cases from the Bluebook p. 4, p. 15: Smith, 123 Wn.2d 51.

4. Cite a case that, because of an amendment, has a single Wn.2d or Wn. App. citation but two Pacific Reporter citations as follows:

   Include the year that the opinion was filed, not the year of the amendment.