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Fundamentals of Legal Research in Washington

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Washington Legal Researcher's Deskbook, 2d

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INTRODUCTION

The Washington Legal Researcher’s Deskbook has been written to assist lawyers, 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 the state of Washington 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. Most 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, the Washington Rules of Professional Conduct (RPC) 1.1 require 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 that 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. Washington has apparently adopted 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 recently 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 1990s 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*, 47 Washington State Bar News 51-52 (no. 11, Nov. 1993); Robert C. Berring, *Technology and the Standard of Care for Legal Research*, 3 Legal Malpractice Report 21-22 (no. 4, 1992).

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, I describe how to use a law library. From using law libraries 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 outline a strategy to help a legal researcher design a research process or framework. Practical tips for efficient use of legal tools are discussed. A reprint of an article that discusses the relative merits of computer and manual legal research tools has been included to help researchers sort through the maze of legal information products. If taking good notes is your downfall, be sure to read the note-taking article found near the end of this chapter. This piece is full of practical hints that can help any researcher create a fine research product.

Chapter three was written by Mary Whisner and is an excellent review of the most basic and important legal research tools used for researching Washington law. Ms. Whisner reviews secondary sources, statutes, city and county codes, administrative regulations, case law, case-finding tools, Attorney General Opinions, citator services, and basic citation information. 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. This is one of the chapters that should be read completely by any researcher who must use Washington legal information resources.

Washington State agencies promulgate a variety of administrative decisions or actions. These are ably discussed in the next chapter by Cheryl 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 done a Washington legislative history? Follow the clear step-by-step directions written by Peggy Roebuck Jarrett in Chapter five 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.

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 6, Nancy McMurrer provides annotated descriptions both of broad, multi-topic sources and other, more specific titles listed by subject. Organized into sections on encyclopedic sources; deskbooks and treatises; continuing legal education materials; litigation aids (benchbooks, pattern forms, jury verdicts and judicial biographies); ethics opinions; directories; and current awareness services, this chapter is crucial for the researcher who is not intimately familiar with the wealth of secondary literature available in Washington.

This edition of the Deskbook contains a new chapter on nonlegal research written by Mary Whisner and Peggy Roebuck Jarrett. In a clear and direct style, the authors cover sources that will help you find information about people and organizations, find factual information, and improve your writing skills.

Peggy Roebuck Jarrett, Nancy McMurrer, and Mary Whisner have written the chapter on computer-assisted legal research (CALR). Although the Deskbook is replete with references to and discussions of electronic research tools, this section discusses CALR generally. Highlighting the electronic tools and information available to the Washington legal researcher, this chapter includes excellent sections on different types of access to computer-assisted legal research: online services, CD ROM products, bulletin board systems and the Internet. Comparative tables of the most important Washington legal materials and their availability on WESTLAW and LEXIS-NEXIS are also included. If you have little or no exposure to electronic legal information systems, this chapter is a must.

In the final chapter Ms. Jarrett compiles a collection of 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. Lists of filing and library service organizations, document delivery services, legal publishers with addresses and telephone numbers, publisher information for Washington legal periodicals, Washington CLE providers, and libraries that have various city and county codes complete the informative material to be found in this section of the Deskbook. This chapter will be a great help to those trying to keep their 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.

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. Janet Abbott worked many hours to put our draft material into final form — 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.

Penny A. Hazelton
Seattle, Washington
July 1996
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## Washington Legal Researcher's Deskbook, 2d - Chapter 3
### FUNDAMENTALS OF LEGAL RESEARCH IN WASHINGTON

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Chapter 3
FUNDAMENTALS OF LEGAL RESEARCH IN WASHINGTON
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I. Introduction and General Legal Research Texts

This chapter explains the basics of Washington legal research. It is organized according to a common approach to research problems — that is, secondary materials first, then statutes, court rules and administrative regulations, then cases. The final sections discuss citator services and citation formats.

Legal researchers have many more tools available to them than they did a generation ago. For example, ten 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 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 LEXIS-NEXIS and the RCWA on WESTLAW. Now, less than a decade later, 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 LEXIS-NEXIS 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 case law 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, Section III, Integrating Manual and Computerized Legal Research Tools; and Chapter 8, Computer-Assisted 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 paperback 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 LEXIS-NEXIS 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 in this chapter. In addition, they also discuss other topics, such as federal materials (including statutes and legislative history) and looseleaf services:

Robert C. Berring, *Finding the Law* (10th ed. 1995) (West Publishing). Previous editions of this book were abridgements of *How to Find the Law*. This one is a completely new text.


Morris L. Cohen & Kent C. Olson, *Legal Research in a Nutshell* (6th ed. 1996) (West Publishing). 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 does not go into as great detail.


Marjorie Dick Rombauer, *Legal Problem Solving: Analysis, Research and Writing* (5th ed. 1991) (West Publishing). This text integrates material on legal research with material on analysis and writing. It
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includes chapter on computer-assisted legal research by Penny A. Hazelton.

Leah Chanin, ed., Specialized Legal Research (1987-date) (Little Brown). 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.

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

II. 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 for further research, learn the legal terms of art that apply, find out whether there are typically statutes in this area, or get the citations of 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 (ALR), formbooks, and Restatements, see the legal research texts listed in Section I of this chapter.

A. Practice Materials

Chapter 6, Washington Practice Materials, later in this book, 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. 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.

Standard wisdom is that legal encyclopedias are now seldom cited as authority. However, a recent check of the Washington cases file on LEXIS-NEXIS showed that Am. Jur. 2d and C.J.S. have been cited thousands of times by the Washington Supreme Court and Court of Appeals, including in 1991 and 1992.1 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, D. West Digest System, later in this chapter.)

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 are often used by attorneys as well since they are more scholarly and thorough than study aids. These works can not only introduce a subject and provide leads to other sources through footnotes, but may also be recognized as persuasive authority themselves. For example, the various editions of Prosser on Torts have been cited hundreds of times by the Washington Supreme Court and Court of Ap-

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1 LEXIS searches conducted September 19, 1992, in WASH library; CASES file:
   opinion(am.jur.2d or am jur 2d): 1,018 cases
   opinion(c.j.s.): 1,284 cases

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Washington Legal Periodicals

Law Reviews
- Gonzaga Law Review
- Seattle University Law Review (formerly University of Puget Sound Law Review)
- Washington Law Review
- Pacific Rim Law & Policy Journal (University of Washington)

Legal Newspapers
- Washington Journal (weekly)
- Washington Law (monthly) (ceased publication)

Bar Publications
- Washington State Bar News
- Washington State Bar Association section newsletters (e.g., Health Law News, from the Health Law Section)
- De Novo (WSBA Young Lawyers Division)
- Bar Bulletin (King County Bar Association) (formerly Seattle-King County Bar Association)
- Trial News (Washington State Trial Lawyers Association)
- The Defense Press (Washington Defense Trial Lawyers)

Newsletters
- AEES Bulletin (Attorney’s Eagle Eye Service)
- Tegland’s Litigation Today
- Washington Family Law Reporter
- Washington Insurance Law Letter

Many areas of the law are also covered by multi-volume treatises — for example, Weinstein’s Federal Evidence, Wright & Miller on Federal 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.)

  - prosser w/5 torts: 389 cases
  - tribe w/2 american constitutional law: 26 cases
C. 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 are often valuable for their sharp focus. Prosser and Keeton on the Law of Torts covers the whole subject of torts in less than thirteen hundred 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 fairly 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, 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 a number of journals, such as Business Lawyer, that are 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 and litigation that may be hard to obtain elsewhere. They generally are not indexed and serve chiefly as current awareness tools.

Several indexes provide access to legal periodical articles. The Index to Legal Periodicals (ILP), begun in 1908, is the oldest, and 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 (ILP database) and LEXIS-NEXIS (LAWREV library; ILP file).\(^3\) ILP is also available on compact disk (CD ROM) and online via WILSONDISC and WILSONLINE. Locally, the law library at Seattle University subscribes to these two Wilson computer services. Searching the CD ROM or online versions is much more flexible than using the print version.

The *Current Law Index* (CLI), begun in 1980, indexes standard law reviews; it also includes several hundred other legal periodicals, such as bar journals. Access is by author or subject; it also includes tables for case names, statutes, and book reviews. It tends to have 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 (LRI database) and LEXIS-NEXIS (LAWREV library; LGLIND file) and in a microfilm version with a special reader. A CD ROM version is known as LegalTrac (or the LegalTrac database of InfoTrac). The University of Washington has loaded the LRI database on its library catalog system, so that library patrons can search it in the same way that they search library catalogs and other indexes.\(^4\) Again, using an electronic version is more flexible than using the print or microfilm versions.

\(^3\) Law school users should note that ILP is not available on most law school LEXIS-NEXIS and WESTLAW contracts.

\(^4\) Here is a sample index entry from the *Legal Resource Index* as it is displayed in the University of Washington’s system:

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</tr>
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<td>Title:</td>
<td>Operational overview of the Washington Limited Liability Company Act.</td>
</tr>
<tr>
<td>Pub. Date:</td>
<td>950101</td>
</tr>
<tr>
<td>Subject:</td>
<td>Limited-liability-companies -- Laws, -regulations,-etc.</td>
</tr>
<tr>
<td>Jurisdiction:</td>
<td>Washington (State).</td>
</tr>
<tr>
<td>ISSN:</td>
<td>0046-6115</td>
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<td>9508</td>
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Anyone may access the catalogs of the UW Libraries and the Gallagher Law Library via telnet. However, commercially licensed databases, such as LRI, are only available to people who are present in the library or have UW computer accounts.
The Subject Index to Washington Law Reviews, 1970-1994, compiled by Kelly Kunsch and published by the Gallagher Law Library at the University of Washington, indexes 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) (this law review is succeeded by Seattle University Law Review, beginning with volume 18, number 1 (fall 1994); and

Since it only indexes Washington law reviews, which often include articles on Washington law and are widely available even in small law libraries, this index can be a valuable resource.

The Current Index to Legal Periodicals (CILP) is a current awareness tool published by the Gallagher Law Library at the University of Washington. Each week, it indexes and reproduces the tables of contents of law reviews (and some other journals) that have been 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. Checking CILP is also a way to update a search in 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).

CARL UnCover is a service, offered over the Internet, that indexes over 16,000 periodicals. About half are in medicine, science, and technology; a third in the social sciences; and the rest in the humanities. Hundreds of legal periodicals are covered, including Gonzaga Law Review, Seattle University Law Review, Washington Law Review, and Washington State Bar News. Coverage began in late 1988. (Of course, the index can be used for much more than just finding Washington legal
periodical articles; legal researchers often have need of articles from other fields.) Searching the index is free; the company makes its 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). The Uniform Resource Locator (URL) for this service on the World Wide Web is:

http://www.carl.org/uncover

and the telnet address is:

telnet database.carl.org

Newdex indexes the Washington State Bar News, the King County Bar Association Bar Bulletin, and Washington Journal (a weekly legal newspaper). These periodicals often include 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. Newdex began in May 1993; it is published monthly with quarterly and annual cumulations.

WESTLAW and LEXIS-NEXIS 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 some of the limitations of the systems:

- Each system has only a selection of journals. Hundreds of journals are indexed in the sources above that are not available full-text.
- The systems only started including legal periodicals recently; generally coverage begins in the mid-1980s or later.
- WESTLAW includes more journals than LEXIS-NEXIS but has chosen to include only selected articles from some journals. For instance, WESTLAW has the Gonzaga Law Review online (GONZLR database), but between 1982 and 1993 (volume 18-28) it only included selected articles; it began full coverage with volume 29 in 1993. LEXIS-NEXIS did not include this journal at all until 1994 (LAWREV library or WASH library; GONLR file). Each system 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 can be either good or bad, depending on your research needs. On the other hand, searching an index, like LRI, means that you are only searching certain fields: author, title, date, and subject headings that indexers have added. Such a search is usually more focussed. 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 5, Legislative History and Bill Tracking, later in this book.

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 Laws of Washington. The session laws appear first in a paperbound "pamphlet" edition, then are republished in a hardbound edition (usually one or two volumes) at the end of the year. (West Publishing 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. 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:


(The above examples are based on the Style Sheet prepared by the Office of Reporter of Decisions (1995) and its predecessor, the Washington Reports Style Manual (4th ed. 1982). Compare the citation to the first act under the rules of The Bluebook: A Uniform System of Citation: Act of May 21, 1991, ch. 367, 1991 Wash. Laws 2206, 2247 (child support). For further information about citation format, see Section X, Citation Format, later in this chapter.)
Washington Statutes

Session laws (chronological arrangement):
- Laws of Washington (official) (print)
- West's Washington Legislative Service (print)
- LEXIS-NEXIS (online)
- WESTLAW (online)

Codes (subject arrangement):
- Revised Code of Washington (official) (print). Also available electronically:
  - Washington Legislature's Web site (Internet)
  - Officer of Code Reviser's CD ROM
  - CD Law (CD ROM)
  - Municipal Research & Services Center Web site (Internet)
  - L.A.W. BBS (bulletin board system)

- West's Revised Code of Washington Annotated (print). Also available electronically:
  - WESTLAW (online)
  - West CD-ROM Libraries (CD ROM)

- Annotated Revised Code of Washington (print). Also available electronically:
  - LEXIS-NEXIS (online)
  - Michie's Washington Law on Disc (CD ROM)

Each chapter begins with an official title, stating the subject of the act and the sections of the Revised Code of Washington (RCW) sections 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.A.055; 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.

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 statutes. 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 statutes.
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.

**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 *Michie's Annotated Revised Code of Washington* (ARCW) and several electronic versions are also available and are described in Section C, 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, including *McLaughlin's Code* (1896), *Ballinger's Code* (1897), and *Pierce's Code* (1902). *Ballinger's Code* evolved into *Remington and Ballinger's Annotated Codes and Statutes of Washington*, then *Remington Compiled Statutes*, and then *Remington's Revised Statutes*. 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

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 paper-
bound volumes. For the last decade, a new edition was published in each odd-num-
years. The pattern was broken with the 1989 edition, which was supplemented in
1990 and again in 1991 (a cumulative supplement covered 1990-91). Biennial publi-
cation resumed with the 1992 edition, which was supplemented in 1993. The current
edition (at this writing) is 1994, with a 1995 supplement.

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:

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 5,
Legislative History/Bill Tracking. Note that the numbering of the "chapters" and
"sections" in the RCW have 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
second 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 AGRICUL-
TURE AND MARKETING has a subheading for Pesticides, which in turn has one and a half columns of index entries for various provisions of the statute. That same broad heading, AGRICULTURE AND MARKETING, also has a subheading for Washington Pesticide Control Act, with a couple of index entries. Elsewhere in the index, the broad heading PESTICIDE APPLICATION is followed by a parenthetical instruction to “See also AGRICULTURE AND MARKETING, subtitle Pesticide).” The broad heading PESTICIDES also has an entry leading to the Pesticide Control Act. 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 may often be 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).

Volume 0 also includes several useful tables, listed in the box at right. If you read an old case that cites a provision in Remington’s Revised Statutes, and you want to find the current provision, consult the first table. What if your citation is to an RCW section, but it just is not there? Try the table that lists RCW sections that have been repealed or renumbered.

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Updating is always an essential step in legal research. You should always be aware of the scope of the tools you are using. The cover of each volume of the RCW indicates how current the set is. For instance, the 1994 edition states that it contains "all laws of a general and permanent nature enacted through March 14, 1994." The 1995 supplement includes laws enacted through May 25, 1995, and also updates most of the other features of the RCW, including the tables and the index.

Remember that the Washington legislature meets every year. If you are using the RCW during the period between its cut-off date (or the supplement's cut-off date) and the time the legislature 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 check to see 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.

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, and vice versa.

The index, three paperbound volumes reissued annually, is similar to the RCW index. However, it sometimes 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 somewhat longer than the popular names table in the RCW.

In addition to 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 that section. But then the RCWA also provides historical notes, sometimes quoting from earlier versions of the statute. Then the RCWA lists cross references to other provisions, often more than found in the RCW.

Perhaps most valuable of all, the RCWA provides leads to other primary and secondary sources after most sections. Under "Law Review Commentaries" are listed law review pieces 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 also sometimes 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. Anyone using WESTLAW should be trained 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 LEXIS-NEXIS and other computerized sources such as CD Law will recognize that some of the WESTLAW tips can be applied to the other 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. Thus, if you find a statute that was enacted in, say, 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.

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 (1992). 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 Parallel Reference Tables

Codes and session laws for which RCWA sections are listed:

- Code of 1881
- Hill's Code (1891)
- Ballinger's Code (1897)
- Remington and Ballinger's Code (1910)
- Remington's 1915 Code
- Remington's Compiled Statutes (1922)
- Remington's Revised Statutes (1932)
- Pierce's Perpetual Code (1943)
- Session laws omitted from Remington's Revised Statutes and included in RCW (1950)
- Session laws (1951- )
RCWA volumes are supplemented by annual pocket parts. (When the supplementation for a volume is too great for a pocket part, a separate pamphlet is issued.) 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 in the 1960s and 1970s. As with any set, you should be aware of the dates. The preface to each volume indicates its currency. For example the volume containing titles 1-3, published in 1988, has laws "current through the close of the 1987 Third Extraordinary Session of the Fiftieth Legislature." The volume containing titles 12-14 has laws through 1961 only. Like the base volumes, pocket parts and supplementary pamphlets indicate how current the laws are. The 1996 pocket parts, for instance, which were issued in January 1996, included laws enacted through the 1995 Third 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. West's Legislative Service also includes a table of bills and resolutions approved, listing their chapter numbers.

Each pocket part of the RCWA also indicates how recent the cases in the Notes of Decisions are. For example, the 1996 pocket parts contain cases published as of October 7, 1995, reported in 127 Wn. 2d (part), 79 Wn. App. (part), 901 P.2d 413, etc. In July of each year, an "Interim Annotation Service" pamphlet is published which updates the annotations (but does not update the statutes). It also indicates the most recent cases covered.

To update an RCWA pocket part and the interim annotation pamphlet (if any), you can go to the Table of Statutes Construed in the reporters, starting with the latest volume listed. For some purposes, you might simply check Pacific 2d; on other occasions, you might want to check for federal cases as well as state cases and you would then need to check the tables in Federal 3d, Federal Supplement, etc. (This sort of updating could also be done online, by using an RCW section as a search term.)
In 1994, Michie Publishing introduced the *Annotated Revised Code of Washington* (ARCW). This paperbound set is more compact than the hardbound West's *Revised Code of Washington Annotated* (RCWA), but 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* (ALR) annotations.

**ARCW Tables Volume**

- Codification Tables
  - Remington's Revised Statutes to RCW
  - pre-1950 session laws not included in Rem. Rev. Stats. to RCW
  - 1950- session laws to RCW
- Initiatives and referendums to session laws
- Disposition of former RCW sections

Volume 1 of the ARCW includes the United States Constitution, the Organic Act, the Enabling Act, the Washington State Constitution, and titles 1 through 3 of the RCW. Volumes 2 through 18 include titles 4 through 91. A Tables volume provides cross-reference like those in the RCW. See box for a list of the tables included.

The base volumes, published in 1994, are updated with an annual supplement. (In 1995 the supplement consisted of three volumes, covering Constitutions through title 29, titles 30 through 48, and titles 49 through 91 plus tables.) Three times a year a *Washington Advance Code Service* pamphlet is published to show changes to RCW sections and new annotations. These pamphlets cumulate: the February pamphlet is replaced by the May pamphlet, which is replaced by the August pamphlet.

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:

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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);
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 should be 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.

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.

3. Checklist for Updating Statutes in Print

<table>
<thead>
<tr>
<th>Updating the RCW, RCWA, and ARCW in Print</th>
</tr>
</thead>
<tbody>
<tr>
<td>To update the RCW:</td>
</tr>
<tr>
<td>√ check the RCW base volume;</td>
</tr>
<tr>
<td>√ check the RCW supplement, if any;</td>
</tr>
<tr>
<td>√ if the legislature has met since the last laws included in the RCW (with supplement), check Laws of Washington.</td>
</tr>
<tr>
<td>To update the RCWA:</td>
</tr>
<tr>
<td>√ check the bound volume;</td>
</tr>
<tr>
<td>√ check the pocket part or supplementary pamphlet for that volume;</td>
</tr>
<tr>
<td>√ if the legislature has met since the last laws included in the RCWA (with pocket parts), check West's Washington Legislative Service;</td>
</tr>
<tr>
<td>√ for more recent cases, check the Interim Annotation Service (if any), and Pacific Reporter advance sheets.</td>
</tr>
<tr>
<td>To update the ARCW:</td>
</tr>
<tr>
<td>√ check the ARCW base volume;</td>
</tr>
<tr>
<td>√ check the ARCW supplement;</td>
</tr>
<tr>
<td>√ check Advance Code Service pamphlet (if any);</td>
</tr>
<tr>
<td>√ 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.</td>
</tr>
</tbody>
</table>
D. Electronic Versions of Washington Statutes

Electronic versions of Washington statutes are available from several sources. Some are online (that is, the researcher's computer is connected to a distant computer that has the database). Other versions are on CD ROM (that is, the database is on a disk loaded at the researcher's own computer, or networked in the researcher's office). The various versions all 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, since you have the advantage of the indexer's organization and cross references.

The two leading commercial online services, LEXIS-NEXIS and WESTLAW, both have versions of the annotated Washington codes. In the WASH library on LEXIS-NEXIS, 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 1988-1994).

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-ST-ANN89, WA-ST-ANN90, etc., for 1989-94. On LEXIS-NEXIS, choose the CODES library, then choose WAARCH (for Washington Archive), then choose the 1991, 1992, 1993, or 1994 RCW. (Note that the 1991 and 1992 editions on LEXIS-NEXIS are the RCW, not the ARCW, since the ARCW only began publication in 1994, with coverage of laws that were in effect as of 1993.)

CD ROM versions of the RCW are available from CD Law (a company based in Bellevue), West Publishing, and Michie. These versions correspond to the three print versions: CD Law has the RCW; West CD-ROM Libraries has the RCWA, and Michie'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 whose features allow for highlighting text and inserting notes, as well as full-text searching. The Washington Digital Law Library Foundation (a non-profit group headed by attorney Edward V. Hiskes) offers a low-cost CD ROM with the RCW. 

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Online versions of the RCW are also available from three nonprofit sources. The Washington State Legislature includes the RCW on its Internet site. 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://leginfo.leg.wa.gov/www/rcw.htm

A searchable version of the RCW is at

http://leginfo.leg.wa.gov/cgi-bin/rcwsearch.pl

Another searchable version of the RCW (using Folio software) is on the Municipal Research & Services Center's Internet site at


L.A.W. BBS, a bulletin board system sponsored by the Washington State Bar Association, also has a searchable version of the RCW updated annually (in May 1996, it was current as of July 1995).

Full-text searching of statutes requires some skill. Researchers who are accustomed to searching cases online find that statutes are harder to search because of the way they are drafted. It is very common for sections within a chapter to refer to one another without repeating all the information. For example, a section of the RCW might use the words "secretary," "department," and "program" without specifying which secretary, department, and program because they had been defined to have a particular meaning in an earlier section. So if you searched for the agency’s or the program’s name, you might miss the relevant section.

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, access to the Legislature’s version is free (to people with Internet access) and access to L.A.W. BBS is free or very low-priced.

It is tempting to think that something that is on a computer is absolutely current. However, the electronic versions of the codes are typically no more current than the print versions (with their supplements). You still must update them by checking recent session laws. Recent session laws are available on both LEXIS-NEXIS (WASH library; ALS file) and WESTLAW (WA-LEGIS database). LEXIS-NEXIS and WESTLAW both offer shortcuts. In LEXIS-NEXIS, an RCW section
that has been affected by a law from the current session of the legislature has a note in the STATUS segment, near the top of the document

```
STATUS: CONSULT SLIP LAWS CITED BELOW FOR RECENT CHANGES TO THIS DOCUMENT
< = 1 > LEXSEE 1995 Wa. SB 6168 -- See section 1.
```

Typing "= 1" retrieves the new law. On WESTLAW, an RCW section that has been affected by a session law has this message near the top:

```
This document has been amended. Use ▶ UPDATE to retrieve the amending document(s). See ▶ SCOPE for more information.
```

Tabbing to ▶ UPDATE retrieves the amending 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 will provide 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 there are no Washington cases construing 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. 1985) 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 — as well as some that apply to only 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 local 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.

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The Commission on Supreme Court Reports annually publishes an official version of all the statewide court rules, *Washington Rules of Court* (formerly *Official Rules of Court*). The various sets of rules are listed on the back cover, for quick reference. West also annually publishes a one-volume paperback set, *Washington Court Rules: State*. In addition to the rules that apply throughout the state, the West volume has the local rules for King, Snohomish, Pierce, and Spokane Counties. A companion volume has the court rules for federal courts in Washington.

Local rules are available from the individual courts. There are also two looseleaf sets that 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 state-wide rules, and also has selected local rules – for King, Pierce, Snohomish, and Spokane Counties – and rules for federal courts in Washington.
- Lawyers Cooperative publishes a two-volume paperbound set, *Washington Court Rules Annotated* (this replaces an earlier looseleaf set published by Bancroft-Whitney). In addition to case annotations and references to law review articles and ALR annotations, this set has commentaries to the Civil Rules written by two Washington attorneys, Susan E. Foster and Michael Himes. Two other useful features of this set are a table listing forms that accompany the various rules and an index for all the sets of rules together (some other compilations only provide separate indexes).
- 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 6, Washington Practice Materials.

Changes in Washington court rules are published each July in *Washington 2d* advance sheets (red pamphlet). Some amendments are published during the year in the regular advance sheets. Practitioners can also keep up with changes and proposed changes in the legal newspaper *Washington Journal*.

Like statutes, Washington court rules are available in several electronic formats. On LEXIS-NEXIS, the WARULE file (in the WASH library) is an online version of the ARCW's *Washington Rules of Court Annotated*. On WESTLAW, the WARULES 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. Court rules are also available on West's Washington CD ROM products. CD Law has both statewide and local court rules for Washington.\(^9\) L.A.W. BBS also has some court rules.\(^{10}\)

### 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 are also passing 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).

Many city and county codes are published by Book Publishing Company; others are published by Code Publishing Company. A section in Appendix I, near the end of this book, provides a list of city and county codes in Washington and which law libraries own them. Many city and county codes are on CD

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\(^9\) As of May 1996, CD Law's Washington court rules were those effective January 2, 1995, with notations of cases reported through April 15, 1996. Local rules for each Washington county are also available; as of May 1996, the rules for most counties were current as of April 1, 1995, and those for King and Pierce County were current through March 1, 1996.

\(^{10}\) L.A.W. BBS has the following searchable court rules:
- Washington Court Rules
- King County Local Court Rules
- Pierce County Local Court Rules
- Snohomish County Local Court Rules
- Spokane County Local Court Rules
- Kitsap County Local Court Rules
- Skagit County Local Court Rules

As of May 11, 1996, no dates of coverage were indicated. The compilers cautioned that the rules are "unofficial" and that some rules may have been amended since they were posted. In addition to these rules of uncertain date, L.A.W. BBS has a downloadable file with the text of the King County Local Rules effective March 1, 1996.
Law. Several city and county codes are available on L.A.W. BBS. The Spokane Municipal Code is on a CD ROM from West.

The Municipal Research & Services Center (MRSC) (a non-profit organization which serves Washington municipalities) has searchable versions of several city codes on its Internet site. The MRSC staff creates an index summarizing selected ordinances from Washington municipalities. A searchable version of this index, covering 1990-1996, is available on the MRSC's Internet site, at

http://www.mrsc.org:81/folio.pgi/ordsum.nfo?

Local bodies often adopt by reference uniform codes proposed by the International Conference of Building Officials — for example, the Uniform Building Code, or the Uniform Fire Code. These codes are another source to consult; they are often available in public libraries and law libraries.

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

11 As of May 1996, CD Law contained city codes for Bellevue, Everett, Seattle, Spokane, and Tacoma and county codes for King, Kittitas, Pierce, Skagit, Snohomish, Whatcom, and Yakima Counties. Most codes were current within one year; the oldest, the Snohomish County Code, was current through July 1, 1994.

12 On May 10, 1996, L.A.W. BBS contained codes for King and Pierce Counties and for the cities of Bainbridge Island, Bellevue (land use), Chelan, Des Moines, Redmond, Sea Tac, and Tacoma. Note that these are unofficial versions and are not kept up-to-date. Most were current through early 1993. One of the L.A.W. BBS volunteers stated that a long-term goal is to have county codes for all 39 Washington counties. Telephone conversation with Alex Pearlman, May 13, 1996.

13 In June 1996, the site included codes for Bainbridge Island, City of Chelan, Des Moines, East Wenatchee, Gig Harbor, Marysville, and Newport. The revision dates listed were very recent (6/10/96 for all but one, which was 4/19/96). The URL for the codes is:

http://www.mrsc.org/codes.htm

These codes are all published by Code Publishing Company; the MRSC staff hopes to add some municipal codes published by Book Publishing Company as well. Email message from Fred Ward, June 13, 1996. The Jefferson County Code will be added in summer 1996.
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 (in the *Revised Code of Washington*), most Washington regulations are also published in a chronological version (*Washington State Register*) and a code (*Washington Administrative Code*)."^{14}

A.  *Washington State Register*

The *Washington State Register*, which began publication in 1978, is required to include a number of items specified in RCW 34.08.010 (1995 Supp.):

- The text of any proposed new or amendatory rule, with the citation of existing rules to be repealed.
- 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.

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^{14} Not all rules are 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) (1994). 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 (1994).
- 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.)  
- A list of corporations dissolved during the preceding month.

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

(a) PREPROPOSAL (includes a statement of inquiry to solicit public comments on a general area of proposed rule making)

(b) PROPOSED (includes the full text of formal proposals, continuances, supplemental notices, and withdrawals)

(b) PERMANENT (includes the full text of permanently adopted rules)

(c) EMERGENCY (includes the full text of emergency rules and rescissions)

(d) MISCELLANEOUS

(e) 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.

(f) 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 of the month. 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.)

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; rather it usually included just a list of rules that had been filed.

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15 These interest rates are also published in the *Washington State Bar News*. The Bar News has published tables compiling the rates. The rates for March 1982 - October 1987 were published in the October 1987 issue (p. 39). The rates for January 1985 - June 1995 were published in the June 1995 issue (p. 72).
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.\(^{16}\)

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
474 Treasurer, Washington State
478 University of Washington
479 Transportation Improvement Board
480 Utilities and Transportation Commission

Each title is divided into chapters by subject matter. Chapters are divided into sections.

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 rule was originally published, the date the rule was filed, and the date it became effective. If a rule has been amended several times, you can trace its changes using the Register citations.\(^{17}\)

\(^{16}\) For many years, the date was the last day of the year on the cover. Thus, the 1992 WAC included rules filed through December 31, 1990. The 1993 supplement included those through December 31, 1993. The pattern has changed: the 1995 WAC includes rules adopted as of January 1, 1995. One lesson: always check the coverage statement of any resource!

\(^{17}\) 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) (1995 Supp.). The statute goes on to specify the materials to be included in the rule-making file.
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 1995 edition is only 57 pages long to cover 12 volumes; compare the 1994 RCW, whose index of 952 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. Electronic Versions of Administrative Regulations

In the last several years, the WAC has become available in several electronic formats. This is an exciting development because the WAC index is so cursory and hard to use. Now 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.

The following chart gives information about several electronic versions of the WAC.
### Chapter 3, Fundamentals of Legal Research

<table>
<thead>
<tr>
<th>Source</th>
<th>Currentness</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEXIS-NEXIS: WASH library; WAADMN file</td>
<td>As of 5/11/96, GUIDE description indicated that file included all rules promulgated through 12/31/95, and that file is updated quarterly.</td>
</tr>
<tr>
<td>WESTLAW: WA-ADC database</td>
<td>As of 5/11/96, SCOPE description indicated database includes all WAC titles current through 12/31/95.</td>
</tr>
<tr>
<td>CD Law</td>
<td>As of 5/11/96, regulations through 1/1/96; case notations through 4/15/96.</td>
</tr>
<tr>
<td>Municipal Research &amp; Services Center Internet site</td>
<td>As of 6/12/96, regulations through 7/19/96.</td>
</tr>
<tr>
<td>L.A.W. BBS</td>
<td>As of 5/11/96, current through 2/16/95; volunteer indicated the 2/1/96 data would be loaded by the end of May.</td>
</tr>
</tbody>
</table>

CD Law includes the *Washington State Register*; as of May 1996, it had issues 96-01 to 96-07 (that is, through March 20, 1996).

LEXIS-NEXIS and WESTLAW both provide a regulation tracking service produced by State Net, part of Information for Public Affairs, Inc. This service contains summaries and status information for pending and recently adopted regulations. It is in the WASH library; WARGTR file on LEXIS-NEXIS, and the WA-REGTRK database on WESTLAW. (State Net tracks regulations and legislation in all fifty states.)
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 4. For information on jury verdicts, see Chapter 6.

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.) *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, 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.

The Reporter of Decisions adds some editorial features to each case to aid researchers. Following the parties’ names are a series of 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 pp. 227-28, where the majority opinion discusses the "private communication" issue. A case might have just two or three

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18 In 1995, the State of Washington contracted out publication of the official reports to Lawyers Cooperative Publishing. The headnotes are now drafted by CD Law, under contract to Lawyers Coop. Interestingly, the person at CD Law who drafts the headnotes is Ray A. Krontz, the attorney who was the Reporter of Decisions from 1989 to 1994. Even though *Washington Reports, 2d* and *Washington Appellate Reports* are now published and distributed by a private publisher, they remain the official reports.
headnotes or it might have twenty or more, depending on how many issues are discussed in the case. The *Wanrow* case, for example, has eleven. (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.B., 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 procedural 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 concurrences (if any) and dissents (if any). A running head gives both the official (88 Wn.2d 221) and unofficial (559 P.2d 548) citations to the case.

The volumes of *Washington 2d* have 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 p. 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.

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 Washington 2d in a special red pamphlet each July. Other changes in Rules of Court are published as they are adopted. For example, on September 10, 1992, the Supreme Court adopted changes to the Rules of Professional Conduct (RPC), the Evidence Rules (ER), the Rules on Appeal (RAP), and the Civil Rules (CR). These changes were published in the September 18, 1992, advance sheet. 119 Wn.2d 1254-58. (For more on researching court rules, see Section III.F, Court Rules, above.)

B. Unofficial Reports

West Publishing Company’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 the Atlantic Reporter and the South Eastern Reporter print cases from several states. 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 (Cal. Rptr.) and New York Supplement (N.Y.S.)). The cases from the intermediate appellate courts in these states appear only in California Reporter or New York Supplement. West also publishes reporters that print 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 the Pacific Reporter (P.) (currently in its second series, P.2d). 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 the 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 Pacific 2d is retained. So one never cites to Washington Reporter per se; instead, just cite to P.2d (even though you saw the case in Washington Reporter).

The text of opinions, including concurrences and dissents, is the same in Pacific 2d as it is in Washington 2d or Washington Appellate Reports. However, the
editorial features are different. At the start of the case is the official citation; a running head supplies the P.2d citation. (Recent volumes also include star paging. Typographical symbols resembling upside down T's (←) mark the places in opinion 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 P.2d 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 report. The West editor summarized that issue as the third headnote in the P.2d 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). After the headnotes, the parties' attorneys are listed.

Pacific 2d and Washington Reporter have a number of lists and finding aids, similar to those found in Washington 2d and Washington Appellate Reports. At the beginning of each volume are:

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19 Sometimes the official and unofficial reporters vary in the list of attorneys. 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, Pacific 2d indicated that some of Wanrow's attorneys were affiliated with the Center for Constitutional Rights, which Washington 2d omitted. Only Washington 2d also 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.
• 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 table of statutes construed by cases in that volume (e.g., volume 559 includes an entry for RCWA 9.73.020(1), citing *Wanrow*); and
• 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

. . .

[key logo] 208. ___ 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 P.2d 548.

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

*Pacific 2d* and *Washington Reporter* advance sheets appear in pamphlet form weekly. They contain the same finding lists and editorial features as the bound volumes.

C. Legal Newspaper

*Washington Journal*, a weekly newspaper, has a pull-out section entitled *Washington Appellate Report* (WJ WAR), which summarizes all civil cases and selected criminal cases from the Washington Supreme Court and the Washington Court of Appeals, as well as the Ninth Circuit and the U.S. District Courts in Washington. It summarizes all U.S. Supreme Court cases and Ninth Circuit Bankruptcy Appellate Panel cases. For a fee, readers can have the full text of cases faxed to them.
D. Electronic Versions of Case Law

Washington cases are available in several electronic formats. LEXIS-NEXIS has text and headnotes that appear in the official reports, Washington Reports and Washington 2d (1898-date) and Washington Appellate Reports (1969-date). (The WASH library includes separate files for Supreme Court and Court of Appeals cases — WASH file and APP file, respectively; it also has a file that includes cases from both courts – WACTS file.) WESTLAW has the Pacific Reporter version of Washington cases from 1880 (before statehood), including the West synopses and headnotes (WA-CS database). Both systems are very current, often having Washington cases available within two or three days of decision.

Several CD ROM products have Washington cases. CD Law has the official reports. West CD-ROM Libraries include a product with the Pacific Reporter version of Washington cases, including West key numbers. Michie’s Washington Law on Disc has coverage similar to that on LEXIS-NEXIS. The Washington Digital Law Library Foundation CD ROM has Washington 2d and Washington Appellate Reports.

Washington cases are also available on the Internet and on bulletin board systems. Beginning March 1, 1996, the Washington State Courts began loading recently filed Supreme and Appellate Court Opinions on its Web page, keeping opinions online for 90 days. The URL for this service is:

http://www.wa.gov/courts/opinpage/home.htm

CD Law makes the current four months of Supreme Court and Court of Appeals cases available on its Web page:

http://www.cdlaw.com/cases.html

Timeline Publishing’s Lawyer Legal Research OnLine (LLR OnLine) service, which is available either via modem or via the Internet, includes Washington cases from 1939 to date:

http://www.LLR.COM
(206) 462-9289

Users may try this system for two weeks free.

E. Unpublished Opinions

Although all Washington Supreme Court cases are published, many Court of Appeals cases are not published in the official reports. The decision whether to publish is made by the panel that decides a case, based on whether the case has precedential value. Parties may not cite unpublished opinions as authority in appellate briefs. RAP 10.4(h).

Court of Appeals cases that are decided without published opinions are listed in the back pages of Washington Appellate Reports. They are not published in Pacific

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20 The RCW provides:

In the determination of causes all decisions of the court shall be given in writing and the grounds of the decisions shall be stated. All decisions of the court having precedential value shall be published as opinions of the court. Each panel shall determine whether a decision of the court has sufficient precedential value to be published as an opinion of the court. Decisions determined not to have precedential value shall not be published.

RCW 2.06.040 (1994). The Rules of Appellate Procedure again state that publication is to be based on precedential value, and further provide for motions to have cases published:

(d) Publication of opinions — Court of Appeals. A majority of the panel issuing an opinion will determine if it will be printed in the Washington Appellate Reports pursuant to RCW 2.06.040 or be filed for public record only.

(e) Motion to publish. A motion requesting the Court of Appeals to publish an opinion that had been ordered filed for public record should be filed within 20 days after the opinion has been filed. If the motion is made by a person not a party, the motion must include a statement of (1) applicant's interest and the person or group applicant represents and (2) applicant's reasons for believing that publication is necessary.

RAP 12.3.

In at least one instance, a case was published in the Washington Appellate Reports advance sheets but later withdrawn from publication. In re Marriage of Pletz, 123 Wn.2d 1026, 873 P.2d 489 (1994) (granting review and ordering depublication of 71 Wn. App. 699, 861 P.2d 1080 (1993)). The depublished opinion remains on both WESTLAW and LEXIS-NEXIS, with a note about the subsequent order.
Chapter 3, Fundamentals of Legal Research

2d. However, they are available in some electronic formats. They are included on the Washington State Courts Web page (see above). WESTLAW began adding these unpublished opinions to its WA-CS database in the spring of 1996. They are also included in Timeline Publishing's Lawyer Legal Research OnLine (LLR OnLine).

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.

A. Secondary Sources and Annotated Codes

First, researchers should remember the sources discussed above. A secondary source is often the best way to get started in the 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 give you some 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 process.

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 may apply; if so, read the cases themselves.

B. Cumulative Subject Index

The Reporter of Decisions publishes 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 1995 Cumulative Subject Index covers cases reported in 93 Wn.2d 1 through 125 Wn. 2d 825 and in 25 Wn. App. 1 through 76 Wn. App. 8822 — that is, cases filed between December 21, 1979 and February 13, 1995.

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.

C. 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. This volume (with its paperbound supplement) covers Washington cases decided since 1854. Case names and inverted case names (second party listed first) are in one alphabetical list.

D. West Digest System

West Publishing, along with 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 broken down 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

I. ACTS OR OMISSIONS CONSTITUTING 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 something like this: State and federal courts send to West cases that they want published. West editors review the cases for points of law that are addressed. The editors write headnotes summarizing each point of law and assign them to the place in the West outline where they most closely fit. The headnotes are published at the start of each case in West reporters and the summaries...
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 all cases reported in any component of the West system.

The best way to use a digest is usually 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 that case up in the North Eastern Reporter and see what topics and key numbers it was assigned. Then you can look up those topics and key numbers in the Washington Digest and 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 outlines to see where your key number fits it 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 the 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:

**TERMITES**
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)**

For some issues, the Descriptive Word Index works quite well. For others, researchers may find using it quite frustrating.

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 notes 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 for some key numbers (e.g., Statutes, key numbers 3, 6-8½). 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 to see whether there are cases from other jurisdictions that could 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 by 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, when a later case questions or overrules a case, 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 (volume 40) and the Defendant-Plaintiff Table (volume 41) list cases by name and inverted name, respectively. 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.)
As the law develops, the editors of the digests 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. 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! 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 help you 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).

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 an interim pamphlet. The pocket parts and the interim pamphlet indicate how recent their coverage is; 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 more recent volumes and advance sheets of Pacific 2d or Washington Reporter (see V.B., Unofficial Reports, above).

E. West Searchers

The West Publishing Company offers a service called West Searchers to help researchers locate citations for cases. If you know parties' names or a case's docket number, West Searchers will give you a citation. Your only expense is the cost of a long distance phone call. The number is (612) 687-7740.

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, or CALR, is a powerful way of finding cases. By searching the Washington case databases — in any of the electronic versions listed 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 powerful, 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 are 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 think about searching for "limitations period" as well. Most electronic services allow for searching for combinations of words (connection with AND, OR, and other connectors).

In most electronic versions of case law, you may take advantage of editorial enhancements. For example, since LEXIS-NEXIS 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; that search would pick up State v. Wanrow, but it would also retrieve the dozens of cases that cite Wanrow.
H. Checklist of Case Finding Tools

<table>
<thead>
<tr>
<th>Case Finding Tools</th>
</tr>
</thead>
<tbody>
<tr>
<td>To find cases on a particular subject, use:</td>
</tr>
<tr>
<td>• secondary sources</td>
</tr>
<tr>
<td>• annotated codes</td>
</tr>
<tr>
<td>• Washington Digest</td>
</tr>
<tr>
<td>• CALR</td>
</tr>
</tbody>
</table>

To find a case when you know its name, use:

<table>
<thead>
<tr>
<th>Case Finding Tools</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Shepard’s Washington Case Name Citator</td>
</tr>
<tr>
<td>• Washington Digest</td>
</tr>
<tr>
<td>Table of Cases</td>
</tr>
<tr>
<td>Defendant-Plaintiff Table</td>
</tr>
<tr>
<td>• West Searchers</td>
</tr>
<tr>
<td>• CALR (case name field)</td>
</tr>
</tbody>
</table>

I. Briefs

When researching an issue or preparing a case, it is sometimes helpful to consult the work produced by 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 desk book 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 more 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 tried and has not persuaded the judges.

Some law libraries have copies of briefs from the Washington Supreme Court and Court of Appeals. The most complete set is at the State Law Library in Olympia. The following table provides a summary of the briefs’ availability. Contact the
library for information about the briefs in a specific case or to learn about photocopy services or circulation policies. (Chapter 9 lists addresses and phone numbers for these and other law libraries.)

<table>
<thead>
<tr>
<th>Briefs</th>
<th>Library and Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Washington Supreme Court, paper</td>
<td>Washington State Law Library. 1889-date. (Briefs from first series of Washington Reports are in storage.)</td>
</tr>
<tr>
<td>King County Law Library. 1889-date.</td>
<td>Pierce County Law Library, Clark County Law Library, and Whatcom County Law Library also receive copies. Contact library for holdings information.</td>
</tr>
<tr>
<td>Seattle University Law Library. v.100-109Wn.2d.</td>
<td>State Archives. Briefs are sent to Archives within about six months of decision. There is a charge for searching and copying.</td>
</tr>
<tr>
<td>Washington Supreme Court, microfiche</td>
<td>Gonzaga University School of Law Library. v.1-53 Wn.2d.</td>
</tr>
<tr>
<td>Seattle University Law Library. v.85-89 Wn.2d.</td>
<td>Washington State Law Library. 110 Wn.2d-date*. (Briefs for volume 85-89 and 99-109 were never published in microfiche.)</td>
</tr>
<tr>
<td>Seattle University Law Library. v.100-109Wn.2d.</td>
<td>Washington State Law Library. 110 Wn.2d-date*.</td>
</tr>
<tr>
<td>Seattle University Law Library. v.36-51 Wn. App.</td>
<td>State Archives. Briefs are sent to Archives within about six months of decision. There is a charge for searching and copying.</td>
</tr>
<tr>
<td>Washington Court of Appeals, microfiche</td>
<td>Gonzaga University School of Law Library. v.1-16 Wn. App.</td>
</tr>
<tr>
<td>Seattle University Law Library. 1-18 Wn. App.</td>
<td>Washington State Law Library. 52 Wn. App. to current*. (Briefs for volumes 37-51 were never published in microfiche.)</td>
</tr>
</tbody>
</table>
VIII. Attorney General Opinions

The Attorney General, as legal advisor 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. See RCW 43.10.030 (1994). Opinions are drafted by attorneys on the Attorney General’s staff and go through a thorough review process before being approved by the Attorney General herself. The drafting process is generally confidential; however, a new practice is to summarize selected questions for comment “[w]hen 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. They are regarded by Washington courts as entitled to great weight, although they are not binding and may be disregarded when the court finds them unpersuasive.\(^\text{21}\) 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.\(^\text{22}\) Bound indexes cover 1889-1955, 1955-65, 1965-75, and 1975-84. Attorney general opinions are also available electronically on:


\(^{22}\) During the 1970s and 1980s, the Attorney General sometimes issued "letter opinions" (AGLO’s). 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 — CD Law, L.A.W. BBS, WESTLAW, and LEXIS-NEXIS — include AGLO’s.
In addition to using the indexes and electronic sources, researchers may find references to attorney general opinions in the RCWA and the ARCW.

IX. Citator Services

What's the P.2d cite for your Wn. App. case? Has your case been appealed? 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 them are questions that must be answered before you rely on a case.

A. Shepard's

* Shepard's Citations are well-established research tools, recognized by courts as essential to basic legal work. By shepardizing a case, you can find:
  * parallel citations — e.g., the P.2d citations 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 and some secondary sources (usually treatises published by Shepard's) 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 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. In particular, if you shepardize the official and unofficial citations of a Washington case, you get some different information. There are three different ways to shepardize any one 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 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 VI.A. and VI.B., above.) Only by shepardizing the official citation can you find law review references. These differences in coverage are summarized in the following table:
### Information Available by Shepardizing a Washington Citation

<table>
<thead>
<tr>
<th>Type of Information</th>
<th>Shepard's Washington Citations: Washington section (official citations)</th>
<th>Shepard's Washington Citations: Pacific section</th>
<th>Shepard's Pacific Reporter Citations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parallel citation</td>
<td>(to Pacific)</td>
<td>(to Wn. or Wn. App.)</td>
<td>(to Wn. or Wn. App.)</td>
</tr>
<tr>
<td>Direct history</td>
<td>(official citations)</td>
<td>(Pacific citations)</td>
<td>(Pacific citations)</td>
</tr>
<tr>
<td>Citing cases from Washington</td>
<td>(official citations, official headnotes)</td>
<td>(Pacific citations, Pacific headnotes)</td>
<td>(Pacific citations, Pacific headnotes)</td>
</tr>
<tr>
<td>Citing cases from U.S. Supreme Court and federal courts</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Citing cases from other states</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Law review articles</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>A.L.R. annotations</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
</tbody>
</table>

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

- Washington Organic Act
- Washington Enabling Act
- Washington Constitution
- Miscellaneous superseded code provisions not included in the 1989 RCW (i.e., the latest RCW edition before the bound Shepard's volume was published)
- *Revised Code of Washington, 1951-1989*
- *Revised Code of Washington Annotated*
Shepard's Washington Citations (Statute Edition Part 2) also has a table of Washington acts by popular name.

As valuable as Shepard's Citators are, these tools still 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 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 to appear in Shepard's, depending on jurisdiction and case reporting patterns.  

For example, as of this writing (late May 1996), the latest pamphlet for Shepard's Washington Citations has a cover date of May 1996. It was received in the Gallagher Law Library May 14, 1996. A check showed the following dates:

<table>
<thead>
<tr>
<th>Shepard's Time Lags</th>
<th>Date of case(s) on ending page</th>
<th>Time lag</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shepard's Washington Citations example</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Latest reporter volume and page of citations included in May 1996 pamphlet (list p. iv)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>128 Wn.2d 594</td>
<td>February 15, 1996</td>
<td>3 months</td>
</tr>
<tr>
<td>80 Wn. App. 544</td>
<td>February 12, 1996</td>
<td>3 months</td>
</tr>
<tr>
<td>116 S. Ct. 46</td>
<td>October 2, 1995</td>
<td>7 months</td>
</tr>
<tr>
<td>77 F.3d 342</td>
<td>February 29, 1996</td>
<td>2 months</td>
</tr>
<tr>
<td>913 F. Supp. 598</td>
<td>January 11, 1996</td>
<td>4 months</td>
</tr>
</tbody>
</table>

23 For example, as of this writing (late May 1996), the latest pamphlet for Shepard's Washington Citations has a cover date of May 1996. It was received in the Gallagher Law Library May 14, 1996. A check showed the following dates:
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 docket number; a table lists cases by docket number and shows the case names and, when available, citations in Washington 2d, Washington Appellate Reports, and Pacific 2d. This gives researchers information about cases more quickly than before; it also adds coverage of unpublished opinions. The May 1996 pamphlet, for instance, shows that State v. Wanrow, 88 Wn.2d 221 (1977) was cited in a Washington Court of Appeals slip opinion, docket number 35509-1-I. The Slip Opinion Reference Table later in the pamphlet shows that the case was Washington v. Davis (1995), apparently an unpublished case. (The May 1996 pamphlet also shows that Wanrow has recently been cited in two other Washington Court of Appeals cases and the Harvard Law Review.)

Other limitations of Shepard's come from the nature of Shepard's itself. Shepard's editors compile the lists of citing cases mechanically — they will only list a case as a citing case if it actually cites the source you are shepardizing. Suppose a court states: "To the extent any earlier decisions are inconsistent with our decision today, they are hereby overruled." If you shepardize one of those "earlier decisions," you will not find this case. Likewise, Shepard's will not tell you that the legislature has enacted a statute that abrogates the rule in your case. So you still need to research your subject thoroughly, even if you have found one relevant case and shepardized it. 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. LEXIS-NEXIS and WESTLAW both have several services; there are also citator services on CD ROM. Electronic citator services include Shepard's (available on LEXIS-NEXIS and WESTLAW and on CD ROM products from Shepard's/McGraw Hill), Shepard's PreView (WESTLAW), Shepard's Overnight (LEXIS-NEXIS), Auto-Cite (LEXIS-NEXIS), Insta-Cite (WESTLAW), LexCite (LEXIS-NEXIS), and QuickCite (WESTLAW). 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

Many Shepard's Citators are available on LEXIS-NEXIS and WESTLAW. The online systems have several advantages over the print version:

- The display is easier to read. Reporters and law reviews are given 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, each system shows retrieval numbers next to the citing cases; you can pull up the text of a citing case with the push of a button.
• Each system allows you to 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 use an online system, you do not have to worry about whether you have found all the appropriate volumes and supplements.

Despite these advantages, the online versions of Shepard's share some of the disadvantages of the print version. To be thorough, you must still remember to shepherd both the official and the unofficial citations. Even though they are online, these versions are no more current than the print version. And, of course, they still cannot tell you about cases that are overruled by implication or superseded by statute.

Shepard's/McGraw Hill also produces CD ROM versions of Shepard's citators for many jurisdictions, including Washington. Shepard's is reportedly developing an online service of its own, as well.

2. Shepard's PreView and Shepard's Overnight

WESTLAW and Shepard's/McGraw Hill (the producers of Shepard's Citators) have addressed the timeliness issue with a service called Shepard's PreView. This tool presents recent citations in a format like Shepard's, only there are no treatment codes or superscript headnotes because the Shepard's editors have not yet seen these cases. Shepard's PreView is as current as the latest advance sheets in West reporters; it often lists cases that are not included in Shepard's.

Similarly, LEXIS-NEXIS and Shepard's/McGraw Hill have introduced Shepard's Overnight on LEXIS-NEXIS. It is set up as a case law file — for Washington, use the WASH library, WAOVER file. Treatment codes (e.g., "d-distinguished") indicate how the citing case uses the cited case. The file is updated daily (although there is still a few days lag time between a case being decided and when it is covered in Shepard's Overnight).

3. Auto-Cite and Insta-Cite

Auto-Cite (on LEXIS-NEXIS) and Insta-Cite (on WESTLAW) are easy-to-use systems for verifying cases. After you type in a case's citation, each system tells you

• the case name;
• the case's direct history — i.e., proceedings in that same case; and
significant negative treatment of that case by other cases — e.g., cases overruuling, limiting, or questioning that case. (Auto-Cite provides negative treatment for all cases; Insta-Cite provides negative treatment only for treatment occurring in 1972 or later. For example, if you Insta-Cite a 1968 case that was overruled in 1970, the negative treatment will not appear.)

In addition, each system supplies citation to secondary sources. Auto-Cite, which was developed by Lawyers Cooperative, provides citations to A.L.R. annotations. Insta-Cite provides citations to C.J.S.

Auto-Cite and Insta-Cite are both very current, generally picking up subsequent history and negative treatment within a few days. For that reason alone, they should be used to verify citations, whether or not you also use Shepard’s (in print or online). However, since they only list negative treatment, they cannot substitute for Shepard’s as a case finding tool. The following table compares the information available in:

- Shepard’s — print, LEXIS-NEXIS, WESTLAW, and CD ROM
- Shepard’s Overnight (LEXIS-NEXIS)
- Shepard’s PreView (WESTLAW)
- Auto-Cite (LEXIS-NEXIS)
- Insta-Cite (WESTLAW).

| Information Available in Shepard’s, Shepard’s Overnight, Shepard’s PreView, Auto-Cite, and Insta-Cite |
|--------------------------------------------------|-------------------------------------------------|---------------------------------|----------------|----------------|
| | Shepard’s | Shepard’s Overnight | Shepard’s PreView | Auto-Cite | Insta-Cite |
| Currentness | 2-9 month time lag | within a few days of the case being received; only covers last several months | as current as West advance sheets; only covers last several months | current within a few days | current within a few days |
| Case name | ✓ (abbrev.) | ✓ (abbrev.) | ✓ (abbrev.) | ✓ | ✓ |
| Parallel citations | ✓ | ✓ | ✓ | ✓ | ✓ |
| Information Available in Shepard's, Shepard's Overnight, Shepard's PreView, Auto-Cite, and Insta-Cite |
|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|
| Shepard's                                       | Shepard's Overnight                             | Shepard's PreView                               | Auto-Cite                                       | Insta-Cite                                      |
| Direct history                                  | ✓                                               | ✓                                               | ✓                                               | ✓                                               |
| Negative treatment history                      | ✓                                               | ✓                                               | ✓                                               | ✓ (only 1972-)                                  |
| All citing cases, regardless of treatment       | ✓                                               | ✓                                               | ✓                                               |                                                 |
| Law review articles                             | ✓ (only with official citation)                 |                                                 |                                                 |                                                 |
| A.L.R. annotations                              | ✓ (volume and page only)                        |                                                 | ✓ (includes titles)                             |                                                 |
| C.J.S.                                         |                                                 |                                                 |                                                 | ✓                                               |

4. Full-text Searching, LexCite and QuickCite

CALR systems such as LEXIS-NEXIS and WESTLAW 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 P.2d 548. The search

\[
\text{wanrow w/10 (88 pre/4 221) or (559 pre/4 548) and date(> 1991)}
\]
would retrieve every case in the database that cited *Wanrow* (with either the Wn.2d or the P.2d citation) and was decided after 1991. This "citator" is as current as the latest cases in the database — i.e., more current than Shepard’s or even Shepard’s Pre-View.2

You can use this technique, called “using the system as a citator,” to find citations to materials that ordinarily cannot be shepardized. For example, you can find references to Washington Administrative Code provisions (only a couple years’ worth of citations are included in Shepard’s) or unpublished cases or Shoreline Master Plans — in short, anything that a court might cite.

Recently, LEXIS-NEXIS and WESTLAW have both introduced features that make using the systems as citators for cases easier. With LexCite and QuickCite, you enter one citation, and the system constructs a search that looks for the parallel citations. In LEXIS-NEXIS, you need to select a library and file (e.g., STATES library, OMNI file). Then you enter a search like:

```
lexcite(88 wash 2d 221) and date(aft 5/1992)
```

The computer would search for cases citing either 88 Wash. 2d 221 or 559 P.2d 548.25

The QuickCite feature on WESTLAW is even easier to use. To check *Wanrow*, simply enter

```
qc 88 wash 2d 221
```

A menu appears indicating that this citation is for *State v. Wanrow* and presenting you with several choices. If you press ENTER (the default), the system checks the ALLSTATES database with the search

24 Although the text discusses only LEXIS-NEXIS and WESTLAW, this technique can be used with any full-text database, including L.A.W. BBS and CD Law. CD Law also has a "hypertext" feature that, at the push of a button, provides a list of cases that cite the cases you are viewing.

25 The CITES library in LEXIS-NEXIS provides prompts for using LexCite and Auto-Cite.
wanrow & "88 wash.2d 221" "559 p.2d 548" & added date(aft 5/1992)

Other choices on the menu include: retrieving all documents citing your case (i.e., the same search without the date restriction); searching another database (e.g., Washington cases only, rather than the ALLSTATES database); or editing the query (e.g., changing the date restriction or requiring some other terms to appear in addition to the citation).

CD Law also has a citator feature: when you view a case, there is a link that will automatically show you a list of cases that cite that case. Another click takes you to the text of the citing case.

Using full-text searching to find citations to cases and other authority can be comprehensive and very current. 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. A good method is to use Shepard's, taking advantage of the editorial treatment provided, and then to use full-text searching to update Shepard's (or Shepard's and Shepard's PreView, if you are on WESTLAW).

X. Citation Format

Once you have done 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 together 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 important tasks of analysis and drafting.

The Office of Reporter of Decisions publishes a two-page Style Sheet (reproduced as an appendix to this chapter) that provides a guide for citation form and style
in the publications of Washington courts.26 You might think, "Well, it's nice that the courts have a style manual for themselves, but it doesn't affect me." But the Washington Rules of Appellate Procedure specify that the citations in all appellate briefs "must be in conformity with the form used in current volumes of the Washington reports" (RAP 10.4(g)), so the courts' style manual becomes relevant to practicing attorneys.

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 (15th ed. 1991). Compiled by the editors of the Columbia Law Review, the Harvard Law Review, the University of Pennsylvania Law Review, the

RPL 10.4(g)

Citations must be in conformity with the form used in current volumes of the Washington Reports. Decisions of the Supreme Court and the Court of Appeals must be cited to the official report thereof and should include the national reporter citation and the year of the decision. The citation of other state court decisions should include both the state and national reporter citations. The citation of a United States Supreme Court decision should include the United States Reports, the United States Supreme Court Reports Lawyer's Edition, and the Supreme Court Reporter. The citation of a decision of any other federal court should include the federal reporter citation and the district of the district court or circuit of the court of appeals deciding the case. Any citation should include the year decided and a reference to and citation of any subsequent decision of the same case.

26 The Style Sheet's predecessor was a yellow pamphlet entitled Washington Reports Style Manual (4th ed. 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.
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*.

If you are familiar with an earlier edition of *The Bluebook*, you might be surprised by a few changes in the 15th edition:

- Books and periodical articles should now be cited by the author's full name. (The previous rules were initial and last name for books, last name only for articles.)
- Law review pieces written by students should now be cited by author's name, in addition to "Note" or "Comment."
- Citations to state cases should only include the West regional reporter, without a parallel citation to the official reporter. However, practitioners submitting briefs to courts in their own states are told to include parallel citations to the state's official reporters.

The changes in this edition are significant enough that you should invest in a copy if you or others in your office use *The Bluebook*.

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 disavow rigidity:

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27 The sixteenth edition of *The Bluebook* is due out in the fall of 1996. Reportedly, this edition responds to the increasing importance of electronic formats in legal research.
These rules provide a basic framework: they suggest the essential elements of any citation and how they most clearly can be presented. However, because it is neither possible nor desirable to write a particular rule for every sort of citation problem that might arise, the rules leave a fair amount of discretion to practitioners, authors, and editors. Users of this manual are encouraged, where no specific rule covers a situation, to cite authority in a clear, sensible manner. . . .

We believe that consistency within a brief, opinion, or law journal is important but that uniformity across all legal materials is not. We hope and expect that writers and editors will adapt the rules to the particular needs of their formats.

*Maroon Book* 7. Many users may find this laissez faire attitude refreshing; others might miss the comprehensiveness of *The Bluebook*.

Both *The Bluebook* and *The Maroon Book* are aimed at journals that publish for 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 both national systems suggest a longer abbreviation. The table below compares the citation forms for commonly cited Washington materials. If you are filing a brief, you should certainly comply with RAP 10.4(g). If you are submitting an article for publication by a law review, you should probably follow *The Bluebook* or *The Maroon Book* (although the editors will go over the details if your article is accepted and are unlikely to reject it solely because you misplaced a semicolon). 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.
### Citation Formats for Washington Materials

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Washington Reports</td>
<td>Wash.</td>
<td>Wash.</td>
<td>Wash</td>
</tr>
<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.2d optional</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>parallel citations for cases from other states?</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>parallel citations for U.S. Supreme Court cases?</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

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XI. Appendix

Office of Reporter of Decisions

STYLE SHEET

This style sheet is effective December 15, 1995 and is subject to revision.

GENERAL PRINCIPLES

1. The latest edition of The Bluebook: A Uniform System of Citation, commonly known as the Bluebook, is the official style manual for publication of opinions except as otherwise noted below.

2. The Practitioner's Notes section of the Bluebook (Section P, pp. 10 to 19 on light blue stock) applies specifically to court documents. Bluebook § 1.1, p. 3. Conflicts between Section R of the Bluebook (General Rules of Citation and Style, pp. 20 to 163) and Section P of the Bluebook are resolved in favor of Section P with the exception that for typefaces, a judge may choose to follow the rules of Section P or Section R.


PUNCTUATION

The latest edition of The Chicago Manual of Style is used for punctuation and style matters not covered by the Bluebook. Webster's Third New International Dictionary of the English Language is used as the authority for spelling; where equal variants are listed, use the variant that is listed first.

ABBREVIATIONS

The following abbreviations are used for citing to primary Washington legal materials in court documents filed within the state. The Style Sheet replaces the list of abbreviations for Washington state materials found in "Table T.1: United States Jurisdictions" of the Bluebook.

<table>
<thead>
<tr>
<th>TITLE</th>
<th>ABBREVIATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annotated Revised Code of Washington (Michie)</td>
<td>ARCW</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>Session Laws</td>
<td>Laws of [year], ch. x</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 Administrative Code</td>
<td>WAC</td>
</tr>
<tr>
<td>Washington Constitution</td>
<td>Const. art. IV, § 2</td>
</tr>
<tr>
<td>Washington Pattern Jury Instructions: Civil</td>
<td>WPI 13.02</td>
</tr>
<tr>
<td>Washington Pattern Jury Instructions: Criminal</td>
<td>WPIC 4.21</td>
</tr>
<tr>
<td>Washington Reports</td>
<td>Wash.</td>
</tr>
<tr>
<td>Washington Reports, 2d ser.</td>
<td>Wn.2d</td>
</tr>
<tr>
<td>Washington Territory Reports</td>
<td>Wash. Terr.</td>
</tr>
<tr>
<td>Washington State Register</td>
<td>St. Reg.</td>
</tr>
</tbody>
</table>

Early Statutes

Pierce's Code                                    | Pierce's Code |

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Exceptions to Bluebook

1. Exception to Bluebook § P.3, pp. 14-15: For Washington cases, jump page (pinpoint) citations are made to Wn.2d or Wn. App.; jump page citations to P.2d are optional. For non-Washington cases, jump page (pinpoint) citations are made to the regional reporter; jump page citations to the official report are optional.

2. Exception to Bluebook § P.3, pp. 14-15: Cite official reports and regional reporters for all cases for which official reports are published.

3. Exception to Bluebook § P.6, pp. 17-18: Ignore this section. 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 is optional so long as the capitalization is consistent within the opinion.
   c. Whether to capitalize the titles of court documents filed in the case is optional so long as the capitalization is consistent within the opinion.

4. Exception to Bluebook § P.7, p. 18: Cite court documents without parentheses.

5. Exception to Bluebook § 6.2(a), p. 48: In text, spell out numbers zero to nine. Use arabic numerals for higher numbers.


7. Exception to Bluebook § 6.2(c), p. 49: In text, write out "percent" rather than using a percentage sign (%).

8. Exception to Bluebook § T.1, p. 165: 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": 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.

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.