

Preface

You will soon discover that legal research is truly a “hands-on” subject. Although there are numerous books to be found that discuss methods and techniques, there is no substitute for actually performing the task of legal research. A simple analogy can be drawn to driving a car: You may find several manuals that discuss driving and provide tips on better driving, but simply reading about operating a car is not a substitute for actually driving a car yourself. Similarly, you will learn the most about legal research, about which shortcuts are invaluable, and about which techniques are non-productive, only by doing legal research. To that end, library assignments are placed at the conclusion of each chapter so you can see and use the books discussed in each chapter. You should never have to use a book or set of books that have not been discussed in the chapter you have finished reading or any preceding chapter. Take the time to explore the books by reviewing the foreword, table of contents, and index found in each volume. Familiarize yourself with all of the features of the books or electronic resources you use, and you will simplify your traditional legal research and enhance your electronic research skills when you begin using sources such as Lexis and Westlaw.

Performing legal research can be both frustrating and gratifying. It can be frustrating because there is often no one perfect answer and because there are no established guidelines on how much research to do and when to stop. On the other hand, legal research is gratifying because you will be engaged in a task that requires you to *do* something and one in which you will be rewarded by finding the right case, statute, or other authority.

You should view legal research as an exciting treasure hunt—a search for the best authorities to answer a question or legal issue. In this sense, the task of using and exploring the law library, electronic sources, or the Internet for answers to legal issues or questions should be a welcome relief from the assignments of other classes, which may be passive in nature and involve copious amounts of reading.

I would encourage you to research with other students if you are comfortable doing so. Often you will learn a great deal by comparing notes with others who may be able to share successful strategies for effectively using various books or electronic resources or finding the answers to research problems. Naturally, sharing ideas and tips for research

techniques should not be viewed as an excuse not to do the work yourself or a license to use answers discussed by others. In other words, you should research with other students (if you find it useful to do so), but you should never write together. Not only is this practice dishonest, but it will prevent you from effectively learning the skill of legal research. Ultimately, an employer is not interested in how many “points” you obtained on a class exercise or what grade you obtained, but in whether you can be depended upon to research an issue competently. As adult learners and professionals, you should concentrate on learning the skill of legal research rather than focusing on the number of right answers you can obtain.

Although this text shows case names and book titles in italics, underlining or underscoring is also acceptable according to *The Bluebook: A Uniform System of Citation* (Columbia L. Rev. Ass’n et al. eds., 21st ed. 2020), which is the standard reference tool for citation form. There is variation among practitioners, so check with your firm or office to determine if there is a preference. Unless otherwise noted, all citations given in *Bluebook* form are displayed in the format used by practitioners, not in the LARGE AND SMALL CAP format used in academic writing. Most citation examples are fictitious.

In 2000, the Association of Legal Writing Directors introduced a new citation manual, now in its seventh edition: Carolyn V. Williams, ALWD, *ALWD Guide to Legal Citation* (7th ed. 2021). This manual, referred to as *ALWD* (pronounced “all wood”), provided a user-friendly alternative to *The Bluebook*. After the first edition of *ALWD* was published in 2000, each edition steadily crept closer to *Bluebook* citation format, and with the publication of the fifth edition in 2014, it was (and remains) identical to *The Bluebook* in all critical respects. Thus, the focus of this text is on *The Bluebook* because it is the citation manual used in nearly all law firms and the one you will be expected to have “on the job.”

When you begin reading this book, most of you will be unfamiliar with cases, statutes, constitutions, or the numerous other legal authorities. As you progress in class and through the chapters and assignments in this text, you will readily be able to measure your progress. When you complete this text and your legal research class, you will have gained thorough mastery of legal research and writing techniques as well as familiarity with the numerous sets of law books and electronic resources that you will be required to use in your profession.

This tenth edition of the text provides several new features, including the following:

- Significant focus on newer technologies available to legal researchers such as Lexis+ Brief Analysis, Westlaw Edge’s Quick Check, and more. These tools analyze language in your document to point you to relevant authorities and disclose authorities you might have missed.
- Coverage of the use of analytics tools now used by legal professionals, such as Lexis+ Context, which identifies language a specific judge has relied on in issuing opinions so writers can

craft a winning argument using language the judge has already endorsed.

- An entirely new section in Chapter 11 on the use of artificial intelligence (AI) in legal research, explaining the differences between extractive AI and generative AI, describing how AI can be used to enhance your research and check your opponent's research, cautioning of the dangers and pitfalls of relying on unvetted nonlegal AI sources such as ChatGPT, and discussing pending proposals for regulation of AI.
- Discussion of whether the duty of technology competence required of legal professionals extends to a “duty to Google.”
- Complete treatment of the use of the singular *they* as well as an expanded section on techniques to achieve gender-inclusive language.
- A new section in Chapter 15 on using tech tools such as ProWriting-Aid, BriefCatch, WordRake, NoRedInk, and Cooley GO to improve writing.
- A new section on texting and confidentiality issues.
- A completely revamped and expanded discussion in Chapter 17 on e-memos.
- New ethics alerts, such as complying with the duty of candor owed when submitting briefs to a court and that presenting another's brief to a court as one's own is sanctionable as plagiarism.
- New and updated figures, including new screenshots for Lexis+ and Westlaw Edge, new sample pages from the *Code of Federal Regulations* and the *Federal Register*, new screenshots for Justia and CourtListener, as well as numerous other new and sample pages.
- All new end-of-chapter research questions and Internet questions and a new Appendix C featuring a recent federal court trial brief and its table of authorities.
- Optional questions in the Instructor's Manual introducing students to the use of ChatGPT for both general and legal-related questions and which disclose ChatGPT's limitations in finding cases, summarizing the law, and “hallucinating” by making up fictional materials.

Additionally, references to helpful websites and blog sites have been updated, and numerous new sample documents are included. Chapter 13 (which provides an overview of the legal research process) includes a full range of open-ended research questions, requiring readers to use and apply all skills learned in previous chapters to obtain answers to these research questions.

The vast number of legal authorities available both in a conventional law library and through digital law libraries means that effective legal researchers are flexible. Sometimes the materials you need are not on the shelves, and you will need to switch direction. Sometimes new methods of locating materials emerge. In any event, you will find legal research an interesting hunt for the authorities you need, whether in conventional

print sources, on Lexis or Westlaw (the computer-assisted legal research systems), or on the Internet.

The coexistence of both Lexis and Lexis+ may cause some confusion. For simplicity, the discussion in this text focuses on the newer, more advanced platform Lexis+. A comparison of Lexis and Lexis+ can be found at www.lexisnexis.com/community/insights/legal/b/thought-leadership/posts/lexis-vs-lexis-plus-the-comparison.

Although every effort has been made to refer to useful websites, those sites can change both their content and addresses without notice. References to websites are not endorsements of those sites.

Textbook Resources

Instructor resources to accompany the text, including a comprehensive Instructor's Manual, Test Bank, and PowerPoint slides, are available on the Companion Website for this book.

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