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A Body Without a Soul: Why Print Still Matters in Legal Research

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ABSTRACT

This article argues that print still has a place in legal research pedagogy and that some materials should still be collected in print in addition to online should the budget allow for it due to five primary reasons: (1) stability of legal information; (2) context; (3) information literacy; (4) algorithm bias; and (5) the discovery of information. Since many law library budgets are shrinking, there are creative ways for online legal publishers to make online material more print-like should libraries be unable to purchase both print and online material.

KEYWORDS

legal research; print; books; online; teaching; reference; legal reference; librarianship

Introduction

A written code of laws is one of the first hallmarks of civilization. One of the world's oldest written codes is the Code of Hammurabi,¹ from Babylon dating to c. 1754 BCE. The 282 laws, written in cuneiform, are carved into a stone stele. The Twelve Tables² are a set of laws from the Roman Republic inscribed on bronze tablets in 450 BCE. These two examples from the ancient world represent permanence and consistency. People should not be expected to obey laws when they don't know what those laws say. Even illiterate citizens can have the laws read to them, and everyone can feel secure knowing that the words carved on stone or metal will not change. In the modern world, print legal materials have served this same function. In contrast, legal codes residing in the online environment are more ephemeral, and modern law librarians' role as gatekeepers of knowledge must now include not only the preservation and authentication of information in electronic format, but the instruction on

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¹Joshua J. Mark, *Code of Hammurabi*, WORLD HISTORY ENCYCLOPEDIA (24 June 2021), www.ancient.eu/article/68/hammurabis-code-babylonian-law-set-in-stone/.

²Mark Cartwright, *Twelve Tables*, WORLD HISTORY ENCYCLOPEDIA (11 April 2016), www.ancient.eu/Twelve_Tables/.

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usage for context that was not necessary when the research was conducted in print.

In their article “Say Goodbye to the Books,”³ the authors contend that legal research instructors do students a disservice by teaching any print sources during legal research instruction. In this article, we argue that a hybrid model, combining print sources with online research techniques, is the most effective way to teach law students how to perform legal research in the twenty-first century. While many students are not introduced to print resources in a legal research and writing course, it is imperative that they learn to work with this format, because “legal publishers originally developed their methods of organization before the advent of electronics”⁴ and the online systems are built using the print framework.

Even in the age of burgeoning online legal research providers, print research is sometimes superior to online research. We are advocating a combined approach to legal research that includes both print and online research. We acknowledge that, while some researchers may only have access to the online version of a resource, print research cannot always be duplicated online and therefore print research is sometimes superior to online legal research, particularly when it comes to indexes and efficiency. In addition, as professors of legal research, we are obligated to teach our students the context that sometimes only books in print provide. A case citation with numbers and letters means nothing to someone new to legal research. The first number in that citation is to the volume of a book; do the cases that come before and after that case have any relevance to the one the researcher is consulting? Likely not. It is simply the order in which the cases were published. The same is not true for statutes. It behooves the researcher to “telescope out” when researching statutes to look for related statutes, definitions, and exceptions.⁵ The statutory sections surrounding the one the researcher is consulting are likely related to the research being done. Explaining this without books is like talking to someone about driving when they’ve never seen a car.

In addition to efficiency, teaching print materials to students of legal research provides a mental framework for research before the student is overwhelmed by a legal database. Compare the process of opening a print digest to locating notes of decisions online; as renowned law librarian Bob Berring states, the digest system “not only enabled lawyers to research

³“It is clear that a print-based, source-based approach to teaching [legal research] is not the most effective way to reach today’s students.” Ellie Margolis & Kristen E. Murray, *Say Goodbye to the Books*, 38 U. DAYTON L. REV. 117, 126 (2012).

⁴Beau Steenken & Tina Brooks, *SOURCES OF AMERICAN LAW: AN INTRODUCTION TO LEGAL RESEARCH* 3 (6th ed. 2022).

⁵See more detailed discussion *infra* Section V Tables of Contents: Context (telescoping out online).

cases by subject, it also allowed and encouraged lawyers to fit every legal issue into a conceptual framework.”⁶ Other law librarians have recognized the importance of a framework; in this case, a digest: “The digest’s organization follows the same pattern as our legal reasoning process, and has almost come to be the physical manifestation of ‘thinking like a lawyer.’”⁷ What’s included in the legal research framework? As Richard Danner points out, “Legal research requires complex finding tools, as well as the means to evaluate the currentness and continued validity of the sources.”⁸ Comparing the process of using a print digest to locating relevant cases online, a novice researcher doesn’t have the ease of a finding tool and up-to-date digest all in one. However, once a researcher has been instructed on how to use a digest in print, these skills can be transferred to other similarly organized print resources: use the index and table of contents for discovery; consult pocket parts for updates.⁹

Now that online legal research is the most ubiquitous, the law librarian gatekeeper is tasked with teaching finding tools, discovery, and currentness, but often without the framework the print volumes provide. We believe students would benefit from a legal research assignment that starts with the print even while acknowledging that students will likely not encounter print materials in legal practice.¹⁰ As mentioned above, the materials students read in a legal database were originally created in print and the framework a print version provides is important, even if a library retains only a superseded version.

A librarian at the Library of Congress noted in a tweet, “at this point nearly all print material has now for a long time been ‘born digital’ [*sic*] it’s the print copies of the newspapers, journals, and books that are the surrogates.” His tweet included a picture of a print newspaper article that

⁶Robert C. Berring, *Full-Text Databases and Legal Research: Backing into the Future*, 1 HIGH TECH. L. J. 27, 32 (1986).

⁷Barbara Bintliff, *From Creativity to Computerese: Thinking Like a Lawyer in the Computer Age*, 88 L. LIBR. J. 338, 343 (1996).

⁸Richard A. Danner, *Contemporary and Future Directions in American Legal Research: Responding to the Threat of the Available*, 31 INT’L J. L. INFO. 179, 185 (2003).

⁹Elizabeth Outler echoed this same argument in her article, *Mapping the Achieved Values of Legal Reference Books onto the Digital Future*: “Why does it matter whether humans remain involved in the production of these kinds of research tools? Answering this question returns us to the premise that there are values, or ways of thinking and understanding, that are so rooted in print culture that they must be translated. Machines may never be able to do that translation because they are completely free of the influence of the frameworks that the relationship with print has developed in the human brain.” 34 LEGAL REF. SERVS. Q. 177, 186 (2015).

¹⁰We acknowledge that collection-development decisions include cancelling print materials if the title is duplicated online. However, librarians should consider keeping a superseded edition on the shelf or at least available in storage for teaching purposes.

said, “Click here to read the full document entered into Idaho’s 4th District Court.”¹¹ The original PDF of an opinion is “born digital” because it’s a word-processed file, created on a computer. In order for a student to understand why the citation is assigned the way it is, looking at the print version is necessary to understand the way the citation refers to a volume and a page number. Legal research is certainly not the only task that suffers from an exuberant interest in upgrading the status quo with technology, only to be re-evaluated due to inefficiency or dissatisfaction. When was the last time you were satisfied with the automated phone tree when you needed to speak to a human customer service representative? Haven’t we all yelled into the phone “Yes!” or “Customer Service!” only to be redirected to “press 1 now.” Or what about self-checkout machines at the grocery store? Inevitably something goes wrong and a grocery store check-out attendant is brought over to do the job they had originally been hired to do.¹²

In this article, we discuss five reasons why print, just like human-based customer service, still matters in legal research: the stability of legal information; context matters; information literacy; algorithm bias; and discovery.

I. Stability of legal information: Print v. online

From print to “online only”: An access-to-justice issue

Late in 2019, Mary Whisner¹³ posted on an American Association of Law Libraries (AALL) listserv letting law librarian colleagues around the country know that the *ABA/BNA Lawyer’s Manual on Professional Conduct* would no longer be published in print but would only be available through Bloomberg Law. This did not pose a problem for those libraries that provided Bloomberg Law to their primary patrons (such as students and law faculty and staff) but locking this resource behind a login page meant that members of the bar and the public would no longer have access due to licensing restrictions of the Bloomberg Law product.

The primary reason that walk-in patrons such as local attorneys and *pro se* litigants would no longer have access is that the title was only going to be available online, and that public access would be granted if

¹¹Trevor Owens (@tjowens), TWITTER (Jan. 24, 2020, 6:36 AM) <https://twitter.com/tjowens/status/1220671777178836992>.

¹²Brian Merchant, “Why Self-Checkout Is and Has Always Been the Worst,” GIZMODO (7 March 2019), <https://gizmodo.com/why-self-checkout-is-and-has-always-been-the-worst-1833106695>. The author noted, “No one wins. Not even, sometimes, the company or organization seeking the savings, which can suffer reputational damage.”

¹³Public Services Librarian at the University of Washington School of Law (retired 2022).

libraries subscribed separately to Bloomberg Law Patron Access for over \$10,000. This would be in addition to what the library was already paying for Bloomberg Law for its primary patrons. Whisner argued,

Ethics is different from other subjects. It is not a boutique specialty. It is core to professional practice. Every lawyer, including the neighborhood solo practitioner on a shoestring budget, needs to be aware of ethical obligations. Nonlawyers also use the source when they wonder about lawyers' conduct. The *ABA/BNA Lawyer's Manual* has long been the go-to source for ABA and state ethics opinions and easy access to commentary. ... I am very concerned about this loss of access to a central resource for practitioners and the public.¹⁴

Another librarian pointed out that this title was listed as a core resource for government law libraries and identified the *Tax Management Portfolios* as another title that Bloomberg Law had moved to Bloomberg Law Patron Access after ceasing print production.¹⁵ The issue was forwarded to AALL's Committee on Relations with Information Vendors (CRIV) and law librarians were notified in January 2020 that Bloomberg Law would be offering IP-authenticated access to the *ABA/BNA Lawyer's Manual*, segmented from Bloomberg Law Patron Access, so libraries could subscribe to that title only.¹⁶

At the time of this writing, Bloomberg Law had quoted a price for access to the *ABA/BNA Lawyer's Manual on Professional Conduct* that was impossible for most libraries to justify. Private academic law libraries exist to serve their own faculty, staff, and students. When faced with an economic decision that would be a detriment to those primary patrons, the private academic law library must choose those patrons' best interests. In the case of the *ABA/BNA Lawyer's Manual on Professional Conduct*, the

¹⁴Posting of Mary Whisner, Librarian Emeritus, University of Washington Gallagher Library, to My Communities' AALL Members Open Forum (3 December 2019) (on file with author).

¹⁵Posting of Sara Galligan, Director, Ramsey County Law Library (MN), to My Communities' AALL Members Open Forum (4 December 2019) (on file with author). See also "The Tax Management Portfolio archive collection is available in high-quality, searchable PDF files on Bloomberg Law," <https://pro.bloomberglaw.com/law-librarian-newsletter-february-2022>.

¹⁶https://www.aallnet.org/wp-content/uploads/2019/04/The-CRIV-Sheet-Vol.-41-No.-3-042919_FINAL-WEB.pdf Which BNA Law Reports, if any, will continue to be produced in print?

- BL Answer: There will be no BNA Law Reports produced in print, beginning in 2019.
- BL Answer: Only the Supreme Court Today and ABA/BNA Lawyers' Manual on professional Conduct will have PDF versions available moving forward. An archive of existing PDFs will be maintained for all BNA Law Reports.

The CRIV Sheet / Volume 41, No. 3 / May 2019 at 14-15

<https://crivblog.com/2020/02/21/as-a-result-of-issues-raised-by-criv-law-schools-and-courts-may-now-purchase-an-ip-authenticated-electronic-version-of-just-the-aba-bloomberg-law-lawyers-manual-on-professional-conduct/>.

"As a result of issues raised by CRIV, law schools and courts may now purchase an IP-authenticated electronic version of just the ABA/Bloomberg Law Lawyers' Manual on Professional Conduct at a price significantly less than a full Bloomberg Law Patron Access terminal. Librarians should contact their Bloomberg Law Relationship Partner for more information."

primary patrons have access through their law school–provided Bloomberg Law accounts. Anything the law library is able to negotiate for public access that includes the law school alumni is great but it's a bonus more publishers are making difficult to provide due to prohibitive costs associated with access.

Librarians should not be grateful to Bloomberg Law or feel relief over this decision to provide access through a Bloomberg Law login. Besides the fact that it took CRIV's advocacy and law librarian outcry to Bloomberg over their concerns to facilitate this change, there are three major downsides to online-only access to this title. First, no index is available for the opinions online but, instead, the research is left to keyword searching. As will be described in further detail later in this article, keyword searching is fraught with problems, especially the lack of completeness in the search. Second, Bloomberg Law's decision to hide this resource behind a login screen, just as it has already done with the *Tax Management Portfolios*, is an indication that this trend will likely continue and law librarians will have to decide which titles are worth fighting for so their walk-in patrons have continued access.¹⁷ Third, pricing is not transparent.

While law libraries knew how much print titles would cost in order to make purchasing decisions, Bloomberg Law will decide on a pricing model that fits its bottom line, likely making access much more expensive than the single print copy the library could already afford. Each library will be quoted a different price for its access to Bloomberg Law, or if they consider patron access or IP–authenticated access to the *ABA/BNA Lawyer's Manual on Professional Conduct*, the pricing will be shrouded behind a contract prohibiting disclosure of costs. Ethics titles are too important to be held hostage in the cloud.

The look on my patron's face when I told her that her visit in December 2018 would be the last time she could access the *Tax Management Portfolios* at our library still haunts me. As a solo practitioner, she could not afford a Bloomberg Law subscription and had relied on the state bar's access to state-specific secondary sources and Fastcase. To supplement her tax research, she would come to our library. We can no longer offer these subscriptions to our non-primary patrons, even if they are alumni. When we advertise our continued service to alumni after graduation, caveats about access abound.

¹⁷In the February 2022 Law Library Newsletter, Bloomberg Law announced the return of the superseded *Tax Management Portfolios* but they continue to be only available behind the Bloomberg Law login screen, <https://pro.bloomberglaw.com/law-librarian-newsletter-february-2022>.

"The *Tax Management Portfolio* archive collection is available in high-quality, searchable PDF files on Bloomberg Law."

While not everyone can afford a computer or tablet, many people do have smartphones. All of the issues discussed in this article are only made worse when they happen on a smaller screen. And having a device solves only half the problem. A great deal of legal information now lives exclusively on expensive subscription databases. Librarians are prohibited from providing access to these databases to people who are not directly affiliated with their institution. The great thing about the books in a print collection is that anyone who visits the library in person can consult them. Law libraries can no longer afford to subscribe to information in multiple formats or, when the print publication is discontinued, pay to extend their license to unaffiliated patrons. It's beyond frustrating to know that the information a patron needs exists but resides in a database the library cannot provide access to. Many university library systems subscribe to Nexis Uni or Westlaw Campus Research, but the system interfaces have fewer features and less content than their law school counterparts. In their defence, these interfaces are designed for the non-specialist.

Superseded and updated materials

We acknowledge that while print information is authentic and stable, it quickly becomes outdated. Over the years, legal publishers have come up with many creative ways to update print volumes. These include pocket parts, looseleaf and spiral binders, and supplemental volumes.¹⁸ Online materials can be updated easily, but often the publisher declines to update previously issued information by reindexing the entire database after changes are made. Sometimes it is difficult to tell whether or not this has been done. In addition, if the material is updated online, publishers often discard the superseded versions, making it impossible to do research on what the law said on a particular date in the past. This poses a particular problem to law-review citation checkers; when an article author cites a print publication, they relied on at their home institution (such as an *American Law Report* or *Corpus Juris Secundum*) but the law student at the law review's library does not have access to the superseded print material.

Litigators often need the wording of a law on a particular day in the past, sometimes many years in the past. The University of Georgia's Alexander Campbell King Law Library has an extensive collection of superseded volumes and pocket parts of the *Official Code of Georgia Annotated*, which

¹⁸American Association of Law Libraries, *Comments of AALL to the Federal Trade Commission Regarding the Prenotification Negative Option Rule Review Matter No. P064202*, 2 (8 Oct. 2009), www.ftc.gov/sites/default/files/documents/public_comments/16-cfr-part-425-rule-concerning-use-prenotification-negative-option-plans-543809-00102/543809-00102.pdf.

reference librarians regularly consult to answer these questions. It takes some concentrated effort and logic to work back to the correct volume and identify the correct information. Lexis has an “archived code” collection that goes back to 1991. Westlaw has a collection of historical statutes, but the Georgia code only goes back to 2002. The numbering system of *Official Code of Georgia Annotated* was completely revised in 1981. The translation tables that convert the old numbers to the new numbers are available on the Internet Archive¹⁹ but the search function is next to impossible to use and the tables are much easier to use in print. It is easier to turn the pages of a print volume rather than scroll through over 100 pages of images.

We suggest to legal publishers that they make superseded print material online available, including secondary sources, and indicate that it is superseded using the already existing KeyCite and Shepard’s model.

II. Context matters

No one needs an owner’s manual to operate a book,²⁰ and print versions of both primary and secondary legal publications come with all kinds of helpful features, such as a table of contents and an index,²¹ already built in. The problem for legal researchers is that these features are often missing when these same publications migrate to the online environment.²² This leads to an increasingly problematic situation; a 2012 law graduate noted that she is “[p]art of a generation of law graduates and students that hardly ever open a book to conduct legal research”²³

¹⁹41 GEORGIA CODE, Table One, Comparative Sections, <https://archive.org/details/govlawgacode411998/page/n11/mode/2up>.

²⁰NRK, *Medieval Helpdesk with English Subtitles*, YOUTUBE (26 Feb. 2007), www.youtube.com/watch?v=pQHX-SjgQ&t=3s.

²¹It’s a concerning trend that many print publishers now require authors to compile their own indices, but it’s an opportunity for law libraries to expand their services to faculty.

She said that indexing was a thing that only the most amateurish author undertook to do for his own book. I asked her what she thought of Philip Castle’s job. “Flattering to the author, insulting to the reader,” she said. “In a hyphenated word,” she observed, with the shrewd amiability of an expert, “*self-indulgent*.” I’m always embarrassed when I see an index an author has made of his own work.” Kurt Vonnegut, *CAT’S CRADLE*, (1963), ch. 55, <https://catscradle.neocities.org/chapter-55.html>.

²² “[O]ne of the challenges we face is how to live in a digital information universe and somehow translate the maps and way finders that were developed in print so that they continue to work. This is quite a challenge for a number of reasons, but they tend to boil down to the same thing—i.e., that the salient features of Web-based information operate counter to that goal.”

Elizabeth Outler, *Mapping the Achieved Values of Legal Reference Books onto the Digital Future*, 34 LEGAL REF. SERVS. Q. 177 (2015).

²³Alynn Matthews, *Better in Print? Guiding Students to Books in the Digital Age*, RIPS LAW LIBRARIAN BLOG (Feb. 17, 2020), <https://ripslawlibrarian.wordpress.com/2020/02/17/better-in-print-guiding-students-to-books-in-the-digital-age/>.

and, while students may recognize that this could be a problem, they are usually without remedies to fix it because they have little influence on whether print or online material is purchased or relied on for teaching.

In legal research, context is everything. In print research, the context is unavoidable as the researcher must walk around the library to locate the book on a shelf and turn the pages to the relevant information. This is a similar idea to Adele's argument to Spotify that her album should be played in the track order it was intended instead of shuffle: "We don't create albums with so much care and thought into our track listing for no reason."²⁴ When a researcher walks into the library, the placement of the books on the shelf down to the placement of the statutes within the code books and the color of the yearly *Code of Federal Regulations* (CFR) provides context and meaning before the student has even begun her research.

By looking at books in print, merely by turning the pages of the volume, a researcher has already been exposed to the larger context by the time they turn to the page on which the information is located. Even novice researchers can recognize whether they are looking at a treatise or a statutory code volume. So, what do we lose when legal materials migrate to a digital online format? This vital step in the research process is missing when legal research is performed on a computer. When confronted with the results of a keyword search, the researcher is directed to a specific section of a text with no context. A novice legal researcher may be unable to recognize even what kind of source they have retrieved—primary, secondary, treatise, case, statute, or regulation. They are too inexperienced to tell the difference. The words sound relevant, but that section may be completely inapplicable to the researcher's issue based on the larger context. It's like using a GPS map with no zoom-out feature. The screen shows a detailed map of the immediate area, but if you can't zoom out, you don't know where you are.

In print research, a researcher can gather a stack of volumes, open each one to the relevant page, and spread them out across a table. In online research, it is possible to open each link on a separate tab or window, but this proliferation of windows containing materials that all look the same quickly becomes unworkable.²⁵

²⁴Jennifer Meierhans, *Adele Gets Spotify to Take Shuffle Button Off All Album Pages*, BBC News (21 Nov. 2021), <https://www.bbc.com/news/entertainment-arts-59365019>.

²⁵See more detailed discussion *infra* Section II Electronic Statutory and Regulatory Legal Research—Where Everything Looks the Same.

Electronic statutory and regulatory legal research—where everything looks the same

We cannot have a conversation about print and electronic regulatory legal research without first discussing the color scheme of the *Code of Federal Regulations*' spines. As researchers who have used the print CFR in their research can tell you, the brightly covered spines are not just for looks. The color of the spines is an easy way to visualize whether that particular title has been updated for the year. Each title is updated annually: "titles 1-16 are revised as of January 1; titles 17-27 are revised as of April 1; titles 28-41 are revised as of July 1; and titles 42-50 are revised as of October 1."²⁶ Colors have been used to distinguish this updating process since 1970,²⁷ and the Federal Register Blog notes that colors may be reused, but not generally within ten years of each other.²⁸

A complaint many practicing attorneys have about law school graduates is that they cannot tell the difference between a statute and a regulation.²⁹ Researchers who have worked with print volumes know that the volumes of the *United States Code* (USC) are printed in hard-bound burgundy volumes, and volumes of the *Code of Federal Regulations* are printed in paperbacks with colored covers. A student who has only ever researched online might easily miss this important distinction. Such confusion is understandable because online these materials are almost indistinguishable. If a researcher does not notice that the letters CFR appear at the top of the screen, they might easily think that they are looking at a section of the USC (see [Figures 1 and 2](#)). By showing our students the print incarnations of these materials, we can give them a visual model that they can carry with them into the online world. Novice researchers will be less likely to confuse statutes and regulations online after experiencing them in print.

CFR spine colors have not made their way to any online research platforms where this source has been digitized, including Govinfo.gov, HeinOnline, or eCFR.gov.³⁰ The only cue on HeinOnline that a title

²⁶*Code of Federal Regulations (Annual Edition)*, GOVINFO.GOV, <https://www.govinfo.gov/app/collection/CFR> (last visited 28 Feb. 2022).

²⁷*CFR Color Selection for 2015*, OFFICE OF THE FEDERAL REGISTER BLOG, <https://www.federalregister.gov/readers-aids/office-of-the-federal-register-blog/2014/09/cfr-color-selection-for-2015> (last visited Feb. 23, 2022).

²⁸*Id.*

²⁹LEXISNEXIS, WHITE PAPER: HIRING PARTNERS REVEAL NEW ATTORNEY READINESS FOR REAL WORLD PRACTICE (2015), http://www.lexisnexis.com/documents/pdf/20150325064926_large.pdf.

³⁰"The eCFR is not an official legal edition of the CFR. *Understanding the eCFR* explains its status and the editorial process." *Using the eCFR Point-in-Time System*, CODE OF FEDERAL REGULATIONS, <https://www.ecfr.gov/readers-aids/using-ecfr/getting-started> (last visited 28 Feb. 2022).

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16 USCS § 1338

Copy Citation

Current through Public Law 117-80, approved December 27, 2021.

► **Heading**

§ 1338. Criminal provisions

(a) Violations; penalties; trial. Any person who—

- (1) willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the Secretary, or
- (2) converts a wild free-roaming horse or burro to private use, without authority from the Secretary, or
- (3) maliciously causes the death or harassment of any wild free-roaming horse or burro, or
- (4) except as provided in section 3(e) [16 USCS § 1333(e)], processes or permits to be processed into commercial products the remains of a wild free-roaming horse or burro, or
- (5) sells, directly or indirectly, a wild free-roaming horse or burro maintained on private or leased land pursuant to section 4 of this Act [16 USCS § 1334], or the remains thereof, or
- (6) willfully violates a regulation issued pursuant to this Act [16 USCS §§ 1331 et seq.],

shall be subject to a fine of not more than \$2,000, or imprisonment for not more than one year, or both. Any person so charged with such violation by the Secretary may be tried and sentenced by any United States commissioner or magistrate [magistrate judge] designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401, title 18, United States Code.

(b) Arrest; appearance for examination or trial; warrants: issuance and execution. Any employee designated by the Secretary of the Interior or the Secretary of Agriculture shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this Act [16 USCS §§ 1331 et seq.] or any regulation made pursuant thereto, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, and shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this Act [16 USCS §§ 1331 et seq.] or regulations made pursuant thereto. Any judge of a court established under the laws of the United States, or any United States magistrate may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

Figure 1. United States Code Service on Lexis.

has not yet been updated for the current year is by using the drop-down menu on the main CFR page and noting what titles are available to view. At the beginning of 2020, all titles for 2019 were available on HeinOnline and Govinfo.gov; however, the only place that had complete updates from the January 1, 2020 release was eCFR.gov. Lexis noted that title 3 had yet to be updated and Westlaw indicated all titles were “current” but had no information on when the last download of information was made from the Government Publishing Office.

We also suggest that online platforms use color coding to help distinguish what researchers are viewing online. If researchers are trained that CFR colors are updated each year, those colors can be replicated online, and regulations can be color-coded. Westlaw and Lexis both successfully use color symbols for their KeyCite and Shepard’s products; they can certainly implement more colors to distinguish types of legal publications. For example, Westlaw has begun using color to visually distinguish dissenting opinions from the lead opinion by putting a red border around dissenting opinions (see Figure 3).

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43 CFR 9264.7

Copy Citation

This document is current through the Feb. 17, 2022 issue of the Federal Register, with the exception of the amendments appearing at 87 FR 8740.

► **Heading**

§ 9264.7 Wild free-roaming horse and burro protection, management, and control.

(a) Prohibited acts. In accordance with section 8 of the Wild Free-Roaming Horse and Burro Act (16 U.S.C. 1338), any person who:

- (1) Willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the authorized officer, or
- (2) Converts a wild free-roaming horse or burro to private use, without authority from the authorized officer, or
- (3) Maliciously causes the death or harassment of any wild free-roaming horse or burro, or
- (4) Processes, or permits to be processed, into commercial products the remains of a wild free-roaming horse or burro, or
- (5) Sells, directly or indirectly, a wild free-roaming horse or burro, or the remains thereof, which have not lost their status as a wild free-roaming horse of burro, or
- (6) Uses a wild free-roaming horse or burro for commercial exploitation, or
- (7) Causes or is responsible for the inhumane treatment of a wild free-roaming horse or burro, or
- (8) Uses a wild free-roaming horse or burro for bucking stock, or
- (9) Fails, upon written notice, to produce for inspection by an authorized officer those animals assigned to him for private maintenance under a cooperative agreement, or
- (10) Fails to notify the authorized officer of the death of a wild free-roaming horse or burro within 7 days of death pursuant to § 4740.4-2(f) of this title, or
- (11) Removes or attempts to remove, alters or destroys any official mark identifying a wild horse or burro, or its remains, or
- (12) Being the assignee of a wild free-roaming horse or burro, or having charge or custody of the animal, abandons the animal without making arrangements for necessary food, water and shelter, or
- (13) Being the assignee of a wild free-roaming horse or burro, or having charge or custody of the animal, fails to diligently pursue in an attempt to capture the escaped animal, or
- (14) Accepts for slaughter or destruction a horse or burro bearing an official Bureau of Land Management identification mark, and which is not accompanied by a certificate that title to the animal has been transferred, or
- (15) After acceptance of an animal for slaughter or destruction, fails to retain for one year the certificate of title to a horse or burro bearing an official Bureau of Land Management identification mark, or
- (16) Willfully violates any provisions of the regulations under § 9264.7 of this title shall be subject to a fine of not more than \$ 2,000 or imprisonment for not more than 1 year, or both. Any person so charged with such violation by the authorized officer may be tried and sentenced by a U.S. Commissioner or magistrate, designated for that purpose by the court by which he/she was appointed, in the same manner and subject to the same conditions as provided in section 3401, title 18, U.S.C.

Figure 2. Code of Federal Regulations on Lexis.

III. Information literacy

“Digital Native” students are not as computer literate as we think they are

Digital Natives³¹ have used computers and mobile phones throughout their entire lives. They are very comfortable working in the online environment, having googled and used Wikipedia from an early age. But familiarity is not the same thing as expertise.³² The label Digital Native does not mean

³¹Alexei Dingli & Dylan Seychell, *Who Are the Digital Natives*, in *THE NEW DIGITAL NATIVES: CUTTING THE CHORD* 9-22 (2015).

³²“The term ‘Digital Native,’ in particular, became part of the educational conversation to the point that some educators, observing that their students didn’t know everything about technology, wondered—and still wonder—check the Internet—whether the “Digital Native” is a ‘myth’ (emphasis added). Marc Prensky, *Digital Natives, Digital Immigrants*, in *FROM DIGITAL NATIVES TO DIGITAL WISDOM: HOPEFUL ESSAYS FOR 21ST CENTURY LEARNING* (2012).

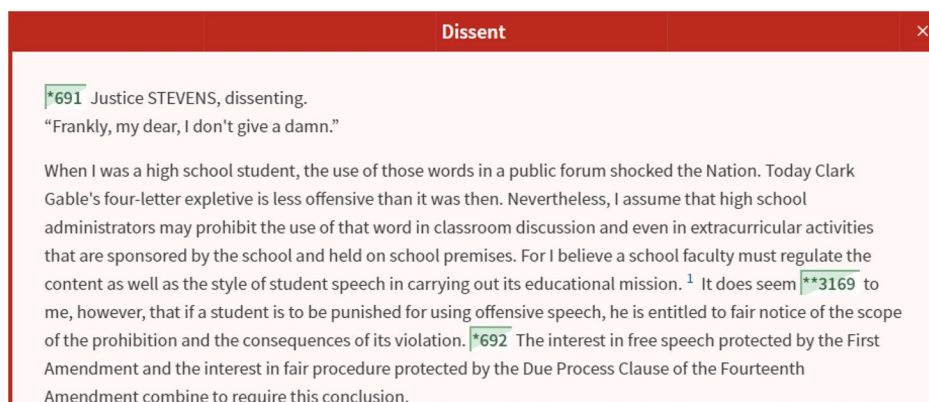


Figure 3. Justice Stephens's Dissent in *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 691–92 (1986). Used with the permission of Thomson Reuters.

Technology Expert. Knowledge and use of the “Find on Page” command is becoming more widespread, but a surprising number of people still don't know about it.³³

Students today mostly use word processing as an “electronic typewriter.”³⁴ They can produce a document by typing it on a keyboard, but rarely take advantage of the many built-in, automated functions that word processing software provides. Some students do not know that these features exist; others are aware of such things but have never had the opportunity to learn how to use them. Tables of Contents and Tables of Authority can be generated automatically, but only if the writer sets them up during the drafting process. An added feature of using headings is Navigation Pane (formerly called Document Map) in Microsoft Word. This tool displays an online outline of the document, allowing one-click access to the different sections of the document. It can also serve as an outline showing the structure of the work, but only if the writer has correctly used styles and headings within the document.

Typing “words” in the Google search box is not the same thing as having the skill to find highly relevant materials, and, once found, being able to evaluate their veracity, authenticity, and relevance. In the same way, many students search Google but may not know about the Google

³³Alexis C. Madrigal, *Crazy: 90 Percent of People Don't Know How to Use CTRL + F*, THE ATLANTIC (Aug. 18, 2011), <https://www.theatlantic.com/technology/archive/2011/08/crazy-90-percent-of-people-dont-know-how-to-use-ctrl-f/243840/>.

³⁴“For too many people it doesn't go much beyond treating a computer like a typewriter,” says Flaherty, . . . ‘They type into emails and in Word and in Excel boxes, but that's about it. These tools can do so much more.’ Terry Carter, *To Cut Costs, Cut Associates’ Billable Hours through Technology, Says Casey Flaherty*, LEGAL REBELS (Sept. 17, 2013), http://www.abajournal.com/legalrebels/article/2013_legal_rebel_profile_d_casey_flaherty.

Advanced Search page,³⁵ nor are they aware of the sophisticated search features available to them. If students have never visited the advanced search page, and are not familiar with field searching on Google, then legal research instructors will have a harder time teaching them how to perform field searching in online legal research.

Many students believe they are good researchers,³⁶ which gives them a false sense of security. Because they know how to use computers, they may believe that online legal research is just another kind of computer system. Legal-research instructors need to find ways to ensure that our students understand that online legal research is neither simple, nor easy,³⁷ and that it takes practice to learn to do well.

IV. Algorithm bias

Susan Nevelow Mart has written extensively on algorithm bias and notes that the engineers creating the legal research platform “made choices about how the algorithm would work that have implications for the search results returned to the researcher.”³⁸ In the print world, there is of course an editorial team that also makes choices about print material before it’s available to researchers but we would argue that there are fewer biases that go into the decisions that determine how and why a researcher ends up on the page or citation.

An editorial team that puts together the print version of a reporter has a few primary jobs: to compile the opinions in citation order, ensure there are no copy-editing errors, and provide finding aids. Let’s use the *Oregon Supreme Court Reporter* as an example. The 1963 reporter has the following finding aids: the table of cases reported, listed in alphabetical order with corresponding page numbers; and the statutes of Oregon, the session laws, the Oregon Compiled Laws Annotated, and the Oregon Constitution sections cited in the opinions, all with the corresponding page numbers.

³⁵Google Advanced Search, https://www.google.com/advanced_search (last visited 28 Feb. 2022).

³⁶“In brief, they concluded that: ‘While the majority of students think that their research skills are good or excellent, many of them are unable to conduct advanced information searches, judge the trustworthiness of health-related websites and articles, and differentiate between various information sources.’ These same kinds of conclusions may be drawn from the present study, as well.” Alexandra List & Patricia A. Alexander, *Corroborating Students’ Self-Reports of Source Evaluation*, 37 BEHAV. & INFO. TECH. 198 (2018).

³⁷Eric C. Fleetham, *Treat It Like Book Research: A New Approach to Teaching 1Ls Lexis and Westlaw*, 30 THE SECOND DRAFT 30 (Spr. 2017).

³⁸Susan Nevelow Mart, *The Algorithm as a Human Artifact: Implications for Legal [Re]search*, 109L. LIBR. J. 388 (2017).

Additionally, it also has an index. Researchers looking for a case without a known citation would need to use the index in this reporter to locate a case.

If a researcher was looking for a specific 1963 case online and did not know the citation, they would need to use keyword or Boolean searching to locate the case. The first hurdle in finding the case is understanding with which reporter to start the research. As we have experienced many times, students are not likely to drill down when beginning their research and, in this case, would likely enter natural language terms in the search box on the home screen, then search all jurisdictions, ending up with more than 10,000 results. This is inefficient but also relies on the algorithm to return to the correct, and unbiased, results. The index-creation process itself is not without problems, but the online searching process without a known citation subjects the user to the programmer's bias.

V. Discovery

Lack of subject access to "born digital" opinions (Illinois)

Printing official state case reporters is an expensive process and some states are discontinuing print publication of their official state reporters. Aside from issues of authenticity³⁹ and pin-cite citation, the subject access to many of these materials is being lost. Take Illinois for example. The Illinois Supreme Court ceased publishing *Illinois Reports* on July 1, 2011.⁴⁰ While the opinions issued since this date are available on the court's website, there is no meaningful subject indexing. The only access points are: Case Name, Citation #, Filing Date, Court, Decision Type, Status, and Notes (see Figure 4). While in the print world a researcher needs to consult a commercial case digest to do this comprehensively, each individual print case volume contain either an index, a digest, or both,⁴¹ not to mention complete lists of the judge's full names and other useful information.

The Illinois Supreme Court does make some effort to provide some topical access to the content of their opinions. The opinions page⁴² features

³⁹See UNIFORM LAW COMMISSION, ELECTRONIC LEGAL MATERIAL ACT, <https://www.uniformlaws.org/committees/community-home?CommunityKey=02061119-7070-4806-8841-d36afc18ff21> (last visited 16 Nov. 2022).

⁴⁰STYLE MANUAL FOR THE SUPREME AND APPELLATE COURTS OF ILLINOIS 46 (5th ed. 2017), https://courts.illinois.gov/StyleManual/SupCrt_StyleManual.pdf.

⁴¹See *infra* Section IV Algorithm Bias.

⁴²*Opinions and Rule 23 Orders*, ILLINOIS COURTS, <https://www.illinoiscourts.gov/top-level-opinions/> (last visited 7 July 2022).

<https://www.illinoiscourts.gov/top-level-opinions/>

Illinois Supreme Court opinions and Illinois Appellate Court opinions and Rule 23 orders are available on this page.

Caution on Court Opinions

Search Keyword ... Submit

Filing Date: Last 6 Months | Court: Search All | Decision Type: Search All | Status: Search All

Case Name (PDF) *	Citation # *	Filing Date *	Court *	Decision Type *	Status *	Notes *
Enbridge Pipelines (Illinois), LLC v. Murfin	2022 IL App (5th) 160007-B	07/07/2022	Fifth District Appellate Court	Opinion	Slip	
People v. Sovia	2022 IL App (2d) 210505-U	07/06/2022	Second District Appellate Court	Rule 23	Slip	
People v. Duff	2022 IL App (2d) 210192-U	07/06/2022	Second District Appellate Court	Rule 23	Slip	

Figure 4. Illinois online-only opinions, <https://www.illinoiscourts.gov/top-level-opinions/>.

a “Search Keyword” box, which allows simple keyword searching, with no operators. A researcher can retrieve a list of documents, but must open each one and perform <ctrl><f> to see the word in context. This is far from proper subject indexing, but better than nothing.

Images, lack of

None of the three major legal research database providers support image searching, nor do these database providers always provide copies of images that appear in opinions and articles. This poses a problem for many researchers because they may only have available a single research database; do not have access to another database that would provide the image (such as HeinOnline thanks to its PDF format); or have access to the opinion or article in print. In law practice, the majority of law firms, regardless of size, have done away with print copies of law review titles, justifying the decision by relying on access provided by an online counterpart. But as Jennifer Behrens noted in her 2019 article, “‘Unknown Symbols’: Online Legal Research in the Age of Emoji,” “The search engines for legal research services do not currently support searching by image, emoji, or emoticon. Complicating matters further, even the basic display for emoji, emoticons, or even other visual materials in online research services could be fairly described as fragmented at best.”⁴³

While legal-research database providers have improved their access to images through table reproduction on the html page, searching is still difficult. It is unclear if any of the legal-research database providers are

⁴³Jennifer L. Behrens, ‘Unknown Symbols’: Online Legal Research in the Age of Emoji, 38 LEGAL REF. SERVS. Q. 155-169 (2019).

only providing image reproduction if images were included in recent articles and/or opinions, or if they are going back through older articles and opinions to make them available. For example, the 1994 article, “Freedom of Information Act Response Deadlines: Bridging the Gap between Legislative Intent and Economic Reality” includes an image on page 335. In Westlaw, the image is not available and a message in its place reads, “TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE.” The image is available on Lexis but the spacing is off. Whereas this 1994 article image is not available on Westlaw, another “older” article, this one from 1990, displays the image on Westlaw.⁴⁴ It is not available at all on Lexis. The authors asked Westlaw for an explanation as to how these decisions were made. Westlaw responded, “It really depends on what the publishers give us and what permissions we have with the articles in question. There is not a way to search for images in the various publications.” When asked about going through articles without image reproduction to replace with images, the authors were informed, “...we do not have plans for this...”⁴⁵

Another example of this problem is regulatory material. For example, 9 CFR 317.309(d)(12), Nutrition Label Content, says, “The following sample label illustrates the provisions of paragraph (d) of this section: ...” On Lexis, there is a link to “Display Image.” If you click on the link, a JPG image is downloaded. This is merely a partial solution because browsers are prone to blocking these types of downloads and the image itself is not searchable within the platform. On eCFR.gov and, in this case, Westlaw, the image is embedded in the main text and on eCFR.gov it is available for download. The image itself is not searchable.

To summarize, there is no consistency among the legal database providers as to what images will be provided, what the coverage is, and whether they will be updated if new technology or initiative prompts the companies to consistently make images available. In print, we are still assured of the availability of images on the printed page and that the spacing in the table or emoji will render correctly.

Print searching negatives

It is undeniable that there are times when online searching works better than print research. A print index will tell you what pages the term appears

⁴⁴Michael M. Burns, *Lessons From the Third World: Spirituality as the Source of Commitment to Affirmative Action*, 14 VT. L. REV. 401, 411 (1990).

⁴⁵Chat transcript (on file with author).

on, but the words won't be highlighted when you turn to those pages. You can't search the work for a term that is not included in the index, as <Ctrl> <f> (assuming researchers know what it is and how to use it) allows you to do.

For many years, the print *Martindale-Hubbell Law Directory* was the standard for locating information about attorneys and law firms. But these volumes had a singular drawback. If the researcher did not know the city where the attorney's office was located, the set was impossible to use. The modern equivalent, martindale.com, is searchable with many more access points than an office location.

Online searching negatives

Many people believe that providing legal materials online serves the same function as providing them in print⁴⁶; that, so long as the words are digitized in full text, the documents are universally accessible. While full-text search may seem like the answer to everything, it has significant limitations. Just because all the words are digitized doesn't mean that a researcher will be able to find the relevant documents in a collection. For example, there is a bankruptcy term that can be expressed in two ways: set-off and off-set. If a researcher searches only one of these terms, they will miss every document that uses the other. It is often necessary to use print finding tools, or their online equivalent, to retrieve specific materials.

When performing online legal research, keyword searching retrieves not only a long list of materials, but a long list of *different* kinds of materials. This avalanche of information presents additional challenges for a new researcher confronted with the variety of sources listed on the screen.

In the information age of "drinking from the fire hose" research, mental models are more important than ever. Books on a shelf in a library make a great mental model.⁴⁷ In law school, while students have access to a print collection, it is vital to expose them to these volumes, so that they can build a mental model to carry with them into the digital world. While many academic law libraries have cancelled the *National Reporter System* in print, most of them retain the volumes currently on the shelf, along with the corresponding digest volumes. In order to

⁴⁶"Given that the electronic version of the IRB may be searched electronically, that there appears to be little or no use for the index carried over from the paper copies of the IRB" *Announcement 2014-27, in 2014-2 INTERNAL REVENUE WEEKLY BULLETIN CUMULATION 120*, <https://heinonline.org/HOL/P?h=hein.usfed/irwbc0012&i=126>.

⁴⁷Fleetham, *supra* note 37.

understand how West Key Numbers work in legal research, it is helpful to look at a print digest—a jurisdiction's collection of headnotes in Key Number order.

Acknowledging that many law school students will have limited access to print resources in practice after graduation, an understanding of how books work is still an important foundational skill. Understanding the print precursors of digitized materials makes everyone a more accomplished online researcher.

Tables of contents: context (telescoping out online)

Searching online codes, whether statutory or regulatory, presents a particular problem for the legal researcher. While full-text searching will take the researcher directly to what looks like a highly relevant section of the statute, it may not be the best section. Worse, it may not be relevant at all, based on the broader context. It is critical that we teach our students the importance of opening the table of contents to see where the section the computer has sent them to appears in the larger code. A section that sounds highly relevant may apply only to a small segment of the population, for example, people who work in a specific department of the federal government.⁴⁸

Another problem is not finding the section at all. To research the consequences of illegally importing honeybees, it seems logical to run “honeybee w/15 penalty” as a full-text search, but it will retrieve zero results. Even “honeybee AND penalty” doesn’t work. There is a separate penalty section where the terms do not appear within fifteen words of each other. In fact, the term *honeybee* does not appear anywhere in the penalty section.⁴⁹ Statutes regularly contain penalty clauses that state “a person who violates any section of this act... .” thus frustrating researchers who expect to find the term in the same section as the consequence.

Even when the computer directs the researcher to the correct section, it’s still important to look for important related sections, such as definitions and penalties. For example, a search for “rollover” in CFR will retrieve a number of Federal Motor Vehicle Safety Standards relating to vehicle

⁴⁸³ U.S.C. § 411(a)(2) sounds like a general prohibition against age discrimination, but Title 3 applies only to people who work for the president.

⁴⁹ “Any person who violates any provision of section 281 of this title or any regulation issued under it is guilty of an offense against the United States and shall, upon conviction, be fined not more than \$1,000, or imprisoned for not more than one year, or both.” 7 U.S.C.A. § 282 (West).

rollovers. But if the researcher fails to consult the definitions section, they might mistakenly assume that this safety standard applies to all-terrain vehicles.⁵⁰

The value of an index

Indices are the main entry point for a print treatise or set of statutes, but this tool can be hard to find online, assuming that the publisher has provided one. The purpose of an index is twofold. First, an index takes researchers from the word they know to the term used in the work. This is accomplished with cross-references. For example, *Autonomous Vehicles*, the term people likely know to search for, is cross-referenced to *Highly Automated Vehicles*, the term the agency uses.⁵¹ Second, having discovered the correct term, the index tells the researcher where in the work the term appears. An index is a kind of value-added <Ctrl> <f>. But the “find” feature offers no help to an online researcher who does not know the exact term they are looking for.

Concepts are one reason why an index is critical in research. In database searching, a concept is an idea that defies description based on a list of keywords linked by Boolean and proximity connectors. There is simply no way to predict and account for all the different elements that make up the topic and the many ways it can appear in a document. A concept can be described in countless ways including many terms and phrases not thought of initially, but instantly recognized when seen in context.

Take legislative history, for example. A researcher could type “legislative history” in the search box and retrieve some relevant results, but the vast majority of information will not appear. Consider an appellate opinion containing the following words, “During floor debate, Senator Kennedy said ...” An experienced legal researcher would instantly recognize this statement as describing a form of legislative history, even though that phrase does not appear anywhere in the document. In an attempt to run a comprehensive search, the researcher could type the name of every legislator ever to serve, and still not find everything. Human indexers can account for every occurrence of such a concept in a work, no matter how it is described, because they know it when they see it.

⁵⁰“Multipurpose passenger vehicle means a motor vehicle with motive power, *except a low-speed vehicle or trailer, designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation*” (emphasis added). 49 C.F.R. § 571.3 (2020). See also 49 U.S.C. § 30102, which reads: “[M]otor vehicle means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.”

⁵¹See more detailed discussion *supra* p. 36.

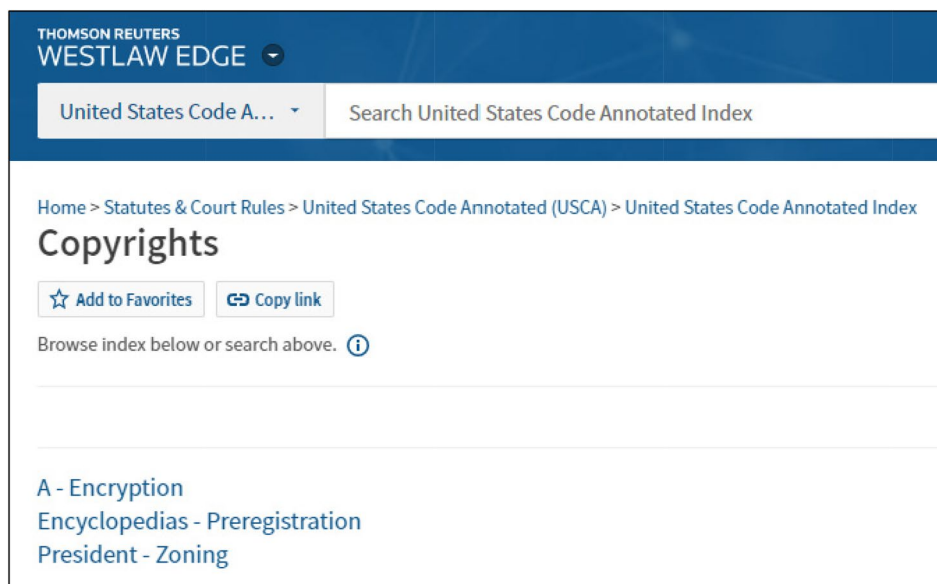


Figure 5. Guide Words in USCA Index on Westlaw. Used with the permission of Thomson Reuters.

A researcher who has never used an index in a set of print volumes faces a challenge to use one online. A legal-research teacher knew that her students struggled with the index assignment she had set them.⁵² The students successfully located the online index, but became discouraged and fell back on keyword searching, the method they understood. It took her some time to diagnose the problem. When confronted with a list of guide words, the students did not recognize them as guide words. Guide words are a concept that a researcher who has not used a print index has never encountered. Since the concept they were searching for did not appear in the list, they didn't know how to move forward and gave up. The assignment was to look for copyright law relating to music licensing. The students could retrieve the copyright section of the index, but where then confronted with this screen: [Figure 5](#).

A researcher looking for music licensing, which would be listed under the letter M, would need to know to click on “Exclusive—Presumptions.” This selection will display a list of additional choices. Students who have never used a print index do not recognize that these are guide words describing ranges—the starting point for the index. Instead, they see this list of words and assume instead that they are looking at hyphenated copyright terms of art that they simply have not encountered yet. Students,

⁵²Conversation between Heather Simmons and Savanna Nolan, Instruction & Faculty Services Librarian, University of Georgia School of Law (Fall 2021).

when confronted with this screen, think, “My topic isn’t listed, I don’t know what to do.” At this point they give up, and switch to keyword searching, a much less efficient technique.

If our students have never encountered this mechanism before, how can we expect them to figure it out?

Index—language used by judges and legislators

While there is much impetus for the “Plain English” Law movement, the language of the law is slow to change and still largely hidebound. Words first used centuries ago have found their way into modern legal jargon and are proving difficult to dislodge. Many Latin phrases, like *mens rea* and *res ipsa loquitur*, are still used to describe specific legal concepts. For example, the West Key Number Topic for statute of limitations is labelled with an older index concept *Limitation of Actions*. And even familiar words can have completely different meanings when they become terms of art in the law. “Infant,” for example, may not have anything to do with babies. A student not familiar with these words cannot use them in an online search query. Without an index to act as a road map from the term the researcher knows to the term the source uses, there is no systematic way to find relevant information. A beginner researcher can look up “noise pollution” in the index to a state statutory code and learn that the legal concept is called “nuisance.” A lucky researcher might stumble upon the correct term by accident, but legal research should not depend on serendipity.

VI. Additional Examples of the Superiority of Print Research

EXAMPLE: ALR—Historical research

According to the former scope note on Westlaw,⁵³ Thomson Reuters claimed to provide the complete set of *American Law Reports* on Westlaw. But in the online incarnation of the first series of *American Law Reports*, the superseded annotations have been removed (see [Figure 6](#)). The revised scope note, changed while this article was being drafted, now states this explicitly (see [Figure 10](#)). We believe that my email exchange is the cause

⁵³The American Law Reports scope note on the Westlaw database used to read:

Summary

Coverage:

Updates ALR to ALR7th, ALR Fed, ALR Fed 2d, and ALR Fed 3d: Weekly

Content Highlights:

This set provides a comprehensive analysis of issues of federal and state law.

ALR (First series) Volumes 1-175: Copyright (c) 1919-1947 by The Lawyers Co-operative Publishing Company; Edward Thompson Company; Bancroft-Whitney Company. Scope Note, American Law Reports, Westlaw (2022).

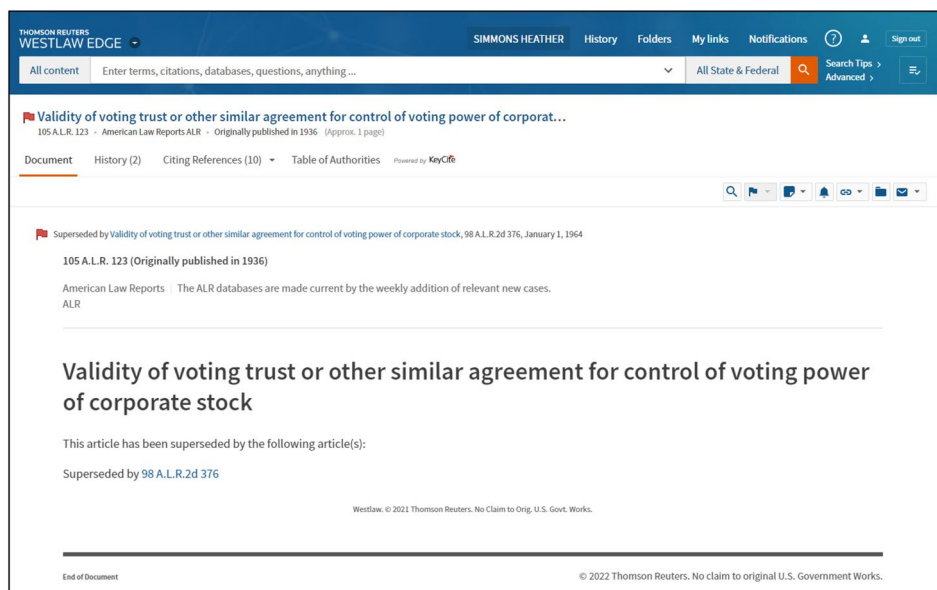


Figure 6. Superseded articles have been removed from American Law Reports, First Series on Westlaw. Used with the permission of Thomson Reuters.

of this revision. The publisher claims that this is not a bug but a feature—the superseded annotations have been replaced by later, more up-to-date information.⁵⁴ But a scholar performing historical legal research who wants to know what the law was at a particular time in the past will no longer have access to these important materials. Many law libraries have discarded their print volumes, mistakenly assuming that all of the text in all of the volumes has been duplicated online.

Example: Books in print

In the course of writing an article,⁵⁵ a law professor was researching the copyright reversion rights of deceased authors. Armed with a list of midlist

⁵⁴Official response from the ALR Team:

ALR removes the text of superseded articles because they are entirely replaced by subsequent articles found at the “superseded by” links (including any relevant case law discussed in the original, superseded articles). Where, however, an article only partially supersedes certain sections of an older article, the text of that older article (minus the superseded sections) will still be available online as that text is still considered good content.

Email from S. Moore, Westlaw Representative (28 February 2022) (on file with author).

A search of the Citation Field for volume 105 **CI (105 ALR)** retrieves a number of annotations that appear on the results list, but when the document is opened, the only text is a notation that “This article has been superseded by the following article(s):” and subsequently the superseded annotation has been removed.

⁵⁵Paul J. Heald, *Copyright Reversion to Authors (and the Rosetta Effect): An Empirical Study of Reappearing Books*, 66 J. COPYRIGHT Soc’y U.S.A. 59 (2018), <https://heinonline.org/HOL/P?h=hein.journals/jocoso66&i=67>.

author death dates compiled by the law library, he wanted to find out when their books went out of print. Bowker's *Books in Print* is "the leading bibliographic database for publishers, retailers, and libraries around the world. From the enriched metadata that is supplied by publishers, *Books in Print* provides a valuable resource for retailers in the process of making smart purchasing decisions."⁵⁶ But the online database cannot provide information on whether any individual title was in or out of print in any given year. The "enriched metadata" does not supply this information—only the print volumes can answer this question. The law librarian had to register him for research credentials, as the professor had to travel to the Library of Congress in Washington, DC, to consult the world's only complete set of *Books in Print* in print.⁵⁷

Example: Digests in print

There are several reasons why teaching from print digest volumes has value in the world of digital legal research. First, there are many lawyers still practicing who learned to do legal research in print digest volumes. It's important that we teach our current students how to talk to these older attorneys.⁵⁸ Today's students need to understand the meaning of the word *digest* in the context of case research.

Second, although the digests that index the National Reporter System are a product of West Publishing and Thomson Reuters, using a print digest is a great way to teach the concept of subject indexing in case research, whether West Key Number System, Lexis Topics, or Bloomberg Law's Points of Law.

Third, headnotes and key numbers and the role they play in legal research are a complex concept that law students are unlikely to have encountered before. Print digests can teach students what a headnote is, how it is used within an individual case, how it is used in topical and jurisdiction research, as well as why lawyers should not cite headnotes.⁵⁹

⁵⁶BOWKER, *Books In Print*, <https://www.bowker.com/en/products-services/books-in-print> (last visited 16 Nov. 2022).

⁵⁷There is another set at the publisher's headquarters, but Bowker refused the professor permission to consult them. Email to the author from Professor Heald (20 Feb. 2022) (on file with author).

⁵⁸Miles S. Winder II. & Aastha Madaan, *How Baby Boomers and Millennial Lawyers Can Get Along*, GPSOLO, July/August 2017, at 36 (2017), <https://heinonline.org/HOL/P?h=hein:journals/gpsolo34&i=290>.

⁵⁹Lexis marketing materials now say that Lexis headnotes can be cited without reading the full opinion because they contain the words of the judge. There are many reasons why this is entirely misguided, but that's a whole other article. "The attorney-editors do not apply editorial opinion when creating headnotes. They use the language of the court so users can cite LexisNexis content with confidence." LexisNexis Informational Professional Update, October 29, 2018, <https://www.lexisnexis.com/community/infopro/b/Inpu/posts/advantages-of-timely-validated-state-case-law-with-summaries-and-headnotes-for-your-jurisdictional-work>.

Headnotes and their uses are one of the most complex concepts in case research. It is unlikely that students will have encountered headnotes as undergraduates. Headnotes play a key role in citators, another highly complex concept. A headnote serves many functions and has many uses:

1. Used as a summary of a point of law within a legal opinion
2. Used as an indication of the complexity of the case based on the number of headnotes assigned to it
3. Used to navigate the reader to that point of law's location within the opinion
4. Used in citators as filter
5. Used to find other cases on the same topic
6. Used to find similar cases in other jurisdictions
7. Used to see the larger outline of the legal issue and how it fits in a broader context

These last three functions can be achieved using a digest. What is a digest? It is a collection of headnotes, arranged in topical order, within a particular jurisdiction. Once a student understands the role that a headnote plays within the case where it appears, seeing a digest page can be illuminating.

A set of digests that is no longer being updated can still play this role.⁶⁰ Seeing the visual representation of headnotes from different cases collected together on a page, organized by key number can help our students make the connection between the case they have, and other relevant cases. Looking at the digest outline at the beginning of the topic shows where a particular point of law fits within a larger area of the law.⁶¹

Another important concept in using a digest is classification, that is, organizing information by putting like things together. When general library research is done online, students miss the serendipity of browsing the shelves. As more titles become available in digitized full text, our students may never have used a call number found online to locate a print book on the shelf. Call numbers are an analogy for the Key Number System, but only if a student has encountered them before.

⁶⁰It's sad that so many academic law libraries discarded all of their print Shepard's volumes. It would help understand what a citator is, to see the visual representation of all the cases within a volume. This relationship of the numbers on the page cannot be duplicated in the online environment.

⁶¹"Whose is the dead hand that reaches out through the Key Number System, to retard the progress of the law?" Daniel Dabney, *The Universe of Thinking Thoughts: Literary Warrant and West's Key Number System*, 99 L. LIBR. J. 229, 239 (2007). The Key Number System may not be perfect, but it's what we've got to work with, and however flawed, it illustrates the concept of topical classification well.

While many of these learning objectives can be achieved using the equivalent online sources, we maintain that seeing the visual image of the layout of the page does it better.

Example: Jury instructions

A law student clerking at a firm called the reference desk to ask for a jury instruction. Their problem was that they had the current jury instruction, but they needed to know what it said in 2018. The library's print page for that instruction was dated 2008. The print loose-leaf edition ceased publication in 2016. These materials have been converted to an online format that contains only the version of the jury instructions currently in effect.⁶²

Example: The Parallel Table of Authorities

The *Parallel Table of Authorities and Rules* (colloquially referred to as the *Parallel Table of Authorities*) is arguably one of the most helpful tools in regulatory research.⁶³ As researchers who have used this finding aid know, locating relevant statutes and regulations so easily and quickly is an invaluable resource. Do you have a statute on point for your research? The easiest way to tell if there is a relevant regulation or multiple regulations that you need to consult is to use the *Parallel Table of Authorities*. This incredibly useful tool, however, is not available through Bloomberg, Lexis, or Westlaw.⁶⁴ Westlaw, for example, provides a helpful index to the CFR that is perhaps more useful than the CFR Index created by the federal government. The downside is that West's CFR Index online does not replicate the *Parallel Table of Authorities*. Students and researchers who are used to doing all of their statutory and regulatory research online will miss that this valuable tool exists. While Lexis provides an index, it's not linked from the main CFR landing page on Lexis and you can only locate it by viewing all sources or searching for it by name. Ironically, Lexis does

⁶²A phone message asking how to obtain instructions issued after 2016 left at the relevant state court entity responsible for these jury instructions has gone unanswered.

⁶³"It is not unlikely that the researcher began by identifying a federal statute on point. If there is one, one approach for finding associated regulations would be to look in the *Parallel Table of Authorities and Rules* in the CFR Index." Armstrong et al., *WHERE THE LAW IS: AN INTRODUCTION TO ADVANCED LEGAL RESEARCH*, 158 (5th ed. 2018).

⁶⁴Due to the ever-changing nature of online legal research, including the names of online databases, we will be using Bloomberg, Lexis, and Westlaw to identify the "big 3" in online research but acknowledge that as of this writing, the online databases were known as Bloomberg Law, Lexis Advance, and Westlaw Edge.

print the *Parallel Table of Authorities* in their print *United State Code Service*, but it is not replicated online.⁶⁵

Online legal research providers would likely argue that the annotations to statutory code sections provide the necessary references to the CFR, or that the researcher can use the online table of contents or keyword searching to locate the relevant CFR citations. This is fraught with problems. First, keyword searching is a problem in regulatory research because the researcher must know what words the authors of the rule used when writing the regulation. For example, the researcher may search for the word vehicle where the author chose to use automobile in the rule. Or, take for example, self-driving cars. The average person may use “autonomous vehicle,” “self-driving vehicle,” or maybe “driverless car,” but the National Highway Traffic Safety Administration calls it a “highly automated vehicle.” Without an index, the researcher would likely never find the entry for this regulation. While online legal research providers will often provide suggested synonyms for researchers to use in their search, this does not always prevent researchers from missing relevant rules.

Second, keyword searching is a problem because if a researcher locates a relevant rule, the tendency is to make note of only that rule and move on. Regulatory research is contextual, and this type of searching does not encourage researchers to locate related rules, definition sections, or exceptions. As Armstrong et al. noted, “It is more common than most researchers think that two or more sections must be read together to completely understand the full meaning of the rule.”⁶⁶

The *Parallel Table of Authorities* is available online at Cornell’s Legal Information Institute website and is organized into four categories: United States Code, Statutes at Large, Public Laws, and Presidential Documents.⁶⁷ This information is taken directly from GovInfo (previously known as the Government Printing Office), which provides both PDF and text (html) access to the information.⁶⁸ The PDF is an exact

⁶⁵It is possible to search the CFR for enabling legislation citation using the pre/3 (Lexis) or +3 (Westlaw) connector, for example Adv: CR(21+3 321) on Westlaw will retrieve regulations promulgated under the definitions section of the Food, Drug, and Cosmetic Act. But this technique is too advanced for a novice legal researcher to follow easily.

⁶⁶ARMSTRONG, *supra* note 63.

⁶⁷PTOA: *Parallel Table of Authorities and Rules*, LEGAL INFORMATION INSTITUTE, <https://www.law.cornell.edu/ptoa/index.html> (last visited Feb. 28, 2022).

⁶⁸*Parallel Table of Authorities and Rules and for the Code of Federal Regulations and the United States Code*, GOVINFO.GOV (9 Sept. 2022), <https://www.govinfo.gov/help/cfr#parallel-table>; *Parallel Table of Authorities and Rules*, GOVINFO.GOV, <https://www.govinfo.gov/collection/cfr-index?path=/GPO/CFR%20Index%20and%20Finding%20Aids> (within the CFR Index and Finding Aids for 2017 to Present).

replica of how the *Parallel Table of Authorities* appears in print and is updated yearly.

When researching statutes and regulations together, it is best to consult multiple sources for completeness, but starting with the Parallel Table of Authorities is the best place for efficiency and getting to a starting point in regulatory research. Then, use the statutory annotations to identify any other regulatory references and, if you wish, use keywords. But researchers should keep in mind that keyword searching is the least effective and least complete.

Example: Statutory notes

Statutory notes hold the same weight as the main text of the *United States Code*, yet they can be difficult to find, especially in an online platform.⁶⁹ Westlaw hides the statutory notes in a tab called “History” under the heading “Editor’s and Revisor’s Notes.” However, even if you know the statutory notes are there, the display makes it difficult to distinguish what is law and what is not, whereas the layout of the code in print makes it more obvious what is code—the law—and what is not.

For example, 5 U.S.C. § 552 note contains the text of the Protected National Security Documents Act of 2009 (amending the “Freedom of Information Act”) but nothing from the main statutory text indicates that this separate section needs to be consulted, even though both have equal weight as law. In fact, the Office of the Law Revision Counsel notes in its FAQ that “both Code sections and statutory notes are based on provisions of Federal statutes. ... Placement of a provision as a statutory note under a section of either a positive law title or a non-positive law title has no effect on the validity or legal force of the provision; that is, a provision set out as a statutory note has the same validity and legal force as a provision classified as a section of the Code.”⁷⁰

As mentioned above, on Westlaw you would not know the statutory notes were available unless you knew where to look for them. In this example, you must click from the “Document” tab to the “History” tab, then select “Editor’s and Revisor’s Notes,” then scroll down past revision notes, references in text, codifications, amendments, effective and applicability provisions, and change of name, short title, and regulations before landing on “Statutory Notes” (see [Figure 7.](#)) Not only

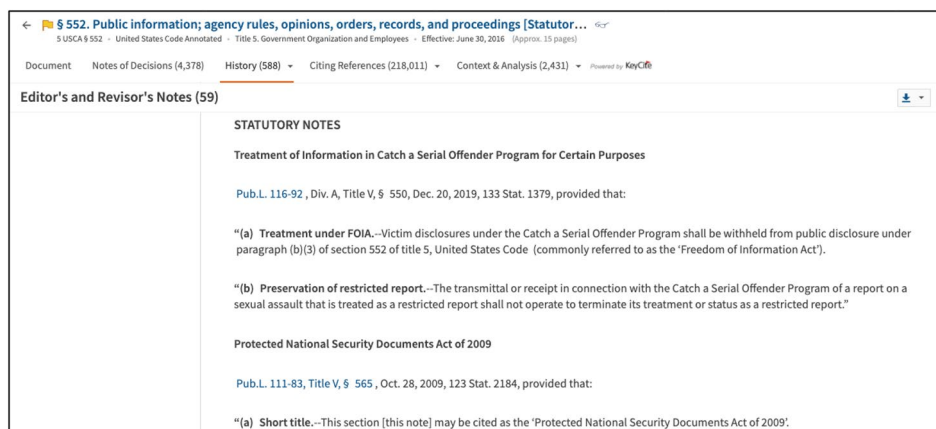
⁶⁹For an excellent in-depth discussion on statutory notes, see Shawn G. Nevers & Julie Graves Krishnaswami, *The Shadow Code: Statutory Notes in the United States Code*, 112 L. LIBR. J. 213 (2020).


⁷⁰Office of the Law Revision Counsel, *Frequently Asked Questions and Glossary*, UNITED STATES CODE, <https://uscode.house.gov/faq.xhtml> (last visited Feb. 28, 2022).

is this confusing for the researcher, but it is also an ineffective use of a researcher's time. Similarly, Bloomberg Law buries the text of the statutory notes, and the researcher must scroll to the bottom of the main statutory text under the "Historical and Revision Notes" and keep scrolling. Again, though, unless you know what you are looking for, it is hard to know where to stop scrolling and when you are looking at the statutory note text.

Lexis is also confusing because you still need to know that you are looking for text that appears outside the main body of statutory text. At the top of the page, there is a menu that enables the researcher to navigate directly to the Notes; if you were to just scroll through the document, you would first have to navigate past the main statutory text as well as the history and annotations before arriving at the statutory notes. Just like Westlaw, however, there is nothing in the main statutory text that indicates there is additional law buried further down on the page. Unless you had the statutory note citation, you would not be aware it was there if the only thing you consulted was the main statutory text. The Law Revision Counsel makes it most obvious that there is additional text to consult but it is still not obvious enough. If you navigate to 5 U.S.C. § 552, you are given options at the top of the page to jump to 10 different spots on the page, including to the "Short Title." However, the statutory notes field is not hyperlinked itself and you must be aware of where the text itself will appear on the page.


Again, we are struck by how much more efficient it is to locate statutory notes in print than online. While the statutory notes are still not obviously displayed on the page, the flow of the print code is such that this text is much easier to find on the printed page.



← **§ 552. Public information; agency rules, opinions, orders, records, and proceedings [Statutor...** 

5 USCA § 552 - United States Code Annotated - Title 5. Government Organization and Employees - Effective: June 30, 2016 (Approx. 15 pages)

Document Notes of Decisions (4,378) **History (588)** Citing References (218,011) Context & Analysis (2,431) Powered by **KeyCite**

Editor's and Revisor's Notes (59) 

STATUTORY NOTES

Treatment of Information in Catch a Serial Offender Program for Certain Purposes

[Pub.L. 116-92](#), Div. A, Title V, § 550, Dec. 20, 2019, 133 Stat. 1379, provided that:

“(a) **Treatment under FOIA.**—Victim disclosures under the Catch a Serial Offender Program shall be withheld from public disclosure under paragraph (b)(3) of section 552 of title 5, United States Code (commonly referred to as the ‘Freedom of Information Act’).

“(b) **Preservation of restricted report.**—The transmittal or receipt in connection with the Catch a Serial Offender Program of a report on a sexual assault that is treated as a restricted report shall not operate to terminate its treatment or status as a restricted report.”

Protected National Security Documents Act of 2009

[Pub.L. 111-83](#), Title V, § 565, Oct. 28, 2009, 123 Stat. 2184, provided that:

“(a) **Short title.**—This section [this note] may be cited as the ‘Protected National Security Documents Act of 2009’.

Figure 7. Statutory Notes on Westlaw. Used with the permission of Thomson Reuters.

Example: Words and Phrases

An often neglected, but highly valuable, legal research tool is *Words & Phrases*. The American version is based on *Words & Phrases Judicially Defined*. While Westlaw does have a W&P field in the advanced search box within the Cases content, most students, having never encountered the print source, do not know what it is, and do not use it.

How W&P works online:

W&P is listed as a field on the advanced search screen for cases. Westlaw describes it this way: “The WP field search pulls documents where Headnote editors create words and phrases references whenever they write a headnote which [*sic*] includes the authoring court’s definition of terms in a legal context.”⁷¹

A WP field search for the word “use” in all federal and state cases retrieved 5,453 cases with the term appearing in a headnote.

Westlaw also features a separate Words & Phrases content page.⁷² Type slowly in the Westlaw search box, and the title will appear in the list below the box. But it still doesn’t have an index. To look up the word “use,” the researcher must search for the term, and then stroll through all the variations, because it is impossible to search for the word “use” appearing by itself.

A search for “needs” in the Words and Phrases content page retrieved 7,751 cases.

These results include all the variations of how the term use can appear in a sentence, including “actual use,” “adverse use,” and “public use.” These more specific terms can be NOTed out. This would be done by typing “use” % “public use” in the “Search within results” box. But it would be tedious, if not impossible, to NOT out all the variations to find occurrences of just the word *use* by itself.

In the print volumes, each variation is listed separately. A print researcher can easily locate cases defining the term use by itself (see [Figures 8 and 9](#)).

Many academic law libraries have cancelled, and often also withdrew, this set, but it will always be one of our favorites.

⁷¹Email to author from West Reference Attorney (May 4, 2017) (on file with author).

⁷²“The WORDS and PHRASES content page works by looking through documents that feature the word or phrase. *Although not the same as using the “Words and Phrases” multi-volume print publication*, searching the WORDS and PHRASES content page more closely matches the experience of practitioners who are used to consulting the print version than the WP field restrictor. One difference between the publication and the content page is that the print publication only includes definitions from published opinions, whereas the content page contains definitions from both published and unpublished opinions” (emphasis added). Email to author from Lorretta S., West Reference Attorney (26 Feb. 2022) (on file with author).

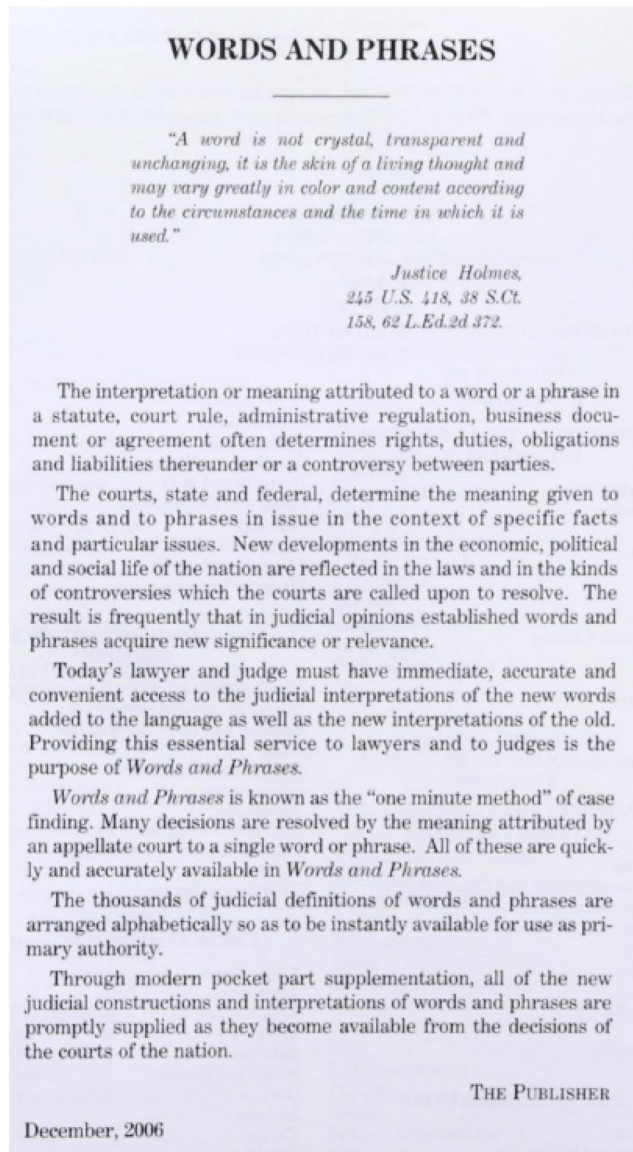


Figure 8. Words and Phrases Preface. Used with the permission of Thomson Reuters.

VII. Conclusion

A legal research professor assigned her students to research and write a memo in 90 minutes. They were told to spend 15 minutes researching and the rest writing, and they needed to cite to a minimum of one statute and two cases. They were given a basic fact pattern; at the end of the 90 minutes, multiple students had only located one case before the 15 minutes of researching was up, and no statutes, and many had not used an index. The professor set a stopwatch, used the index to find the statute,

court can rely in interpreting parties' contract, if it has such regularity of observance in place, vocation or trade as to justify an expectation that it will be observed with respect to transaction in question.—*Abram & Tracy, Inc. v. Smith*, 623 N.E.2d 704, 88 Ohio App.3d 253.—Cust & U 4.

W.Va. 1901. By the phrase "usage of trade" the law means usage fixed in the commercial law; a usage recognized by it in what is known as "trade."—*State v. Chilton*, 39 S.E. 612, 49 W.Va. 453.

USAGES AND CUSTOMS

N.Y.Sup. 1948. Where national association of security dealers ruled that all contracts for delivery of certain bonds should be canceled, and confirmation slip of plaintiff who had ordered bonds from brokers contained provision that transactions in unlisted securities were subject to the "usages and customs" among dealers in such securities, rules of association were not usages or customs, but were rules of a supervisory body, and plaintiff was not bound by such rules.—*Hyman v. Sachs*, 86 N.Y.S.2d 237, 194 Misc. 69, affirmed 89 N.Y.S.2d 608, 275 A.D. 804, affirmed 89 N.E.2d 20, 300 N.Y. 499.—Cust & U 3.

USAGE TEST

Ind.App. 4 Dist. 1991. Under "usage test" for determining whether item is deadly weapon, court looks to whether weapon had actual ability to inflict serious injury under fact situation and whether defendant had apparent ability to injure victim seriously through use of object during crime. *West's A.I.C.* 35-41-1-8.—*Frey v. State*, 580 N.E.2d 362, transfer denied.—Assault 56.

USE

U.S.Del. 1944. Under the Federal Denture Act penalizing the "use" of instrumentalities of interstate commerce to send from, or to bring into, a state any denture the cast of which was taken by a person not licensed to practice dentistry, in the state into which the denture is sent, but without expressly providing for trial in any district through which the unlawful denture passes, the trial of the sender must be restricted to the district of sending, and the trial of the importer to the district into which the unlawful denture is brought. 18 U.S.C.A. § 1821; U.S.C.A. Const. art. 3, § 2, cl. 3; Amend. 6.—*United States v. Johnson*, 65 S.Ct. 249, 323 U.S. 273, 89 L.Ed. 236.—Crim Law 113.

U.S.Dist.Col. 1995. Conviction under statute which criminalizes "use" of firearm during and in relation to drug trafficking offense requires more than showing of mere possession by person who commits drug offense; evidence must be sufficient to show active employment of firearm by defendant, a use that makes firearm operative factor in relation to predicate offense. 18 U.S.C.A. § 924(c)(1).—*Bailey v. U.S.*, 116 S.Ct. 501, 516 U.S. 137, 133 L.Ed.2d 472, on remand 1996 WL 103727, on remand U.S. v. Robinson, 1996 WL 103735.—Weap 4.

U.S.Dist.Col. 1995. For purposes of statute which criminalizes "use" of firearm during and in relation to drug trafficking offense, liability attaches only to cases of actual use, not intended use. 18 U.S.C.A. § 924(c)(1).—*Bailey v. U.S.*, 116 S.Ct. 501, 516 U.S. 137, 133 L.Ed.2d 472, on remand 1996 WL 103727, on remand U.S. v. Robinson, 1996 WL 103735.—Weap 4.

U.S.Dist.Col. 1995. Active-employment understanding of "use" for purposes of statute which criminalizes "use" of firearm during and in relation to drug trafficking offense includes brandishing, displaying, bartering, striking with, and most obviously, firing or attempting to fire, firearm. 18 U.S.C.A. § 924(c)(1).—*Bailey v. U.S.*, 116 S.Ct. 501, 516 U.S. 137, 133 L.Ed.2d 472, on remand 1996 WL 103727, on remand U.S. v. Robinson, 1996 WL 103735.—Weap 4.

U.S.Dist.Col. 1995. Even offender's reference to firearm in his possession could satisfy statute which criminalizes "use" of firearm during and in relation to drug trafficking offense, and thus reference to firearm calculated to bring about change in circumstances of predicate offense is "use," just as silent but obvious and forceful presence of gun on table can be "use." 18 U.S.C.A. § 924(c)(1).—*Bailey v. U.S.*, 116 S.Ct. 501, 516 U.S. 137, 133 L.Ed.2d 472, on remand 1996 WL 103727, on remand U.S. v. Robinson, 1996 WL 103735.—Weap 4.

U.S.Dist.Col. 1995. Evidence was insufficient to support defendant's conviction for "use" under statute which criminalizes "use" of firearm during and in relation to drug trafficking offense, as there was no evidence that defendant actively employed firearm in any way, where unloaded, holstered firearm that provided basis for conviction was found locked in footlocker in bedroom closet. 18 U.S.C.A. § 924(c)(1).—*Bailey v. U.S.*, 116 S.Ct. 501, 516 U.S. 137, 133 L.Ed.2d 472, on remand 1996 WL 103727, on remand U.S. v. Robinson, 1996 WL 103735.—Weap 17(4).

U.S.Fla. 1993. Exchange of gun for narcotics constitutes "use" of firearm within meaning of statute requiring imposition of specified penalties for use of firearm during and in relation to drug trafficking crime; statute does not require that firearm have been used as weapon. 18 U.S.C.A. § 924(c)(1).—*Smith v. U.S.*, 113 S.Ct. 2050, 508 U.S. 223, 124 L.Ed.2d 138, rehearing denied 114 S.Ct. 13, 509 U.S. 940, 125 L.Ed.2d 765.—Weap 4.

U.S.Idaho 1990. Gift or contribution is "for the use of" qualified organization, under charitable contribution provision of Internal Revenue Code, when it is held in legally enforceable trust for qualified organization or in similar legal arrangement; denial of deductions for donations in trust that prompted Congress to amend charitable contribution provision, accepted meaning of "use" as synonymous with term "trust," and IRS's contemporaneous and longstanding construction of charitable contribution provision provided strong evidence in favor of this interpretation. 26 U.S.C.A.

Figure 9. Words and Phrases entry for "Use." Used with the permission of Thomson Reuters.

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American Law Reports Scope Information

Summary

Coverage:
Updates ALR to ALR7th, ALR Fed, ALR Fed 2d, and ALR Fed 3d: Weekly

Besides regular case updates to all ALR articles, ALR uses supersessions to replace content that require significant update. Articles may be superseded in full or in part. The superseding article(s) contain all relevant case analysis from the original content as well as new case analysis, combined into a comprehensive new treatment of the law. Yellow and red flags on superseded content alert to such supersessions; footnotes in Scope statements of superseding content explain what is being superseded. Users who wish to refer to superseded content can still locate such content in the print ALR series.

Content Highlights:
This set provides comprehensive analysis of issues of federal and state law.

Figure 10. Revised ALR Scope Note on Westlaw. Used with the permission of Thomson Reuters.

and used the annotations to find two relevant cases. Time passed: 4 minutes, 30 seconds.

Demonstrating to our students the value of finding tools like the index is important, but without the context of why such a finding tool is important, the framework is not necessarily apparent to the students about why legal research is more complicated than their prior research opportunities.

As we have discussed, besides context, print legal research is important because of the stability of print, information literacy (or lack thereof), algorithm bias, and the discovery process. The elephant in the room is the cost of these print resources and the lack of ability of library directors to purchase duplicate titles in multiple formats when a print title is available through an already expensive online legal research database. We advocate that when the print volumes cannot be purchased, superseded volumes should be retained for demonstration purposes. Legal-research providers should duplicate more PDF pages and use colors to help distinguish types of legal material. Researchers should continue to be aware of the downsides to machine-driven search and take advantage of the finding tools, particularly the index and table of contents, wherever possible, over beginning their search with keywords.

Notes on contributors

Mari Cheney started working at Boley Law Library in 2012 and began her current role as associate director, research and instruction in 2018. Prior positions at Boley have included digital resources librarian, reference librarian, and head of research services. Previously, Mari served as a reference librarian for the Utah State Law Library in Salt Lake City. Mari manages the research and instruction department, teaches legal research courses, supports faculty research, and provides reference services to all library patrons. She coordinates the legal research curriculum in the first-year lawyering program.

Mari earned her bachelor's degree from Walla Walla University, her Juris Doctor from American University, Washington College of Law, and her master's of library science from the University of Washington. She is an active member of the American Association of Law Librarians and the author of a number of award-winning articles.

Heather J. E. Simmons joined the University of Georgia School of Law Alexander Campbell King Law Library in 2019 and serves as its associate director for instruction and access services. She coordinates and develops curriculum for first-year legal research as well as advanced and specialized research courses. She also oversees all functions of the law library's access and outreach services.

Simmons previously worked at the University of Illinois College of Law Albert E. Jenner, Jr. Memorial Law Library, as law and business reference librarian and teaching professor. She also served as the assistant director of the Arthur Neef Law Library at Wayne State University. Her other professional legal experience includes working at General Motors, where she was a member of the GM legal staff and also worked in its R&D Library.

Simmons earned her bachelor's degree from the University of Michigan, her Juris Doctor from Wayne State University and her master's of arts in library science from the University of Michigan. She is an emeritus member of the State Bar of Michigan and is active in the American Association of Law Libraries.

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