

1994

Computer-Assisted Legal Research

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Hazelton

Washington Legal Researcher's Deskbook 1994

By
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Washington Legal Researcher's Deskbook
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INTRODUCTION

The Washington Legal Researcher's Deskbook has been written to assist lawyers, librarians, legal assistants, legal secretaries, and members of the public in the complex task of solving legal research problems. This book focuses on the law of the state of Washington and the legal materials that are available to the Washington practitioner. Written primarily as a reference or finding aids book, the reader will not find answers to legal questions but rather will find a rich array of information which can help in the process of researching the law.

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

If it were not enough to want to give good advice, the Washington Rules of Professional Conduct (WRPC) 1.1 require that a practitioner "shall provide competent representation to a client." This rule requires familiarity with the relevant law through previous knowledge or by conducting adequate research. No Washington State Bar Association Ethics Opinions interpret this rule or any other as regards the standards for performing competent legal research.

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

In a recent report, Legal Education and Professional Development - An Educational Continuum, ten lawyering skills were identified as considered necessary for the practice of law. Legal research was the third skill listed in this so-called MacCrate Report, a study commissioned by the ABA Section of Legal Education and Admissions to the Bar. The Task Force on Law Schools and the Profession: Narrowing the Gap was chaired by Robert MacCrate, and the July 1992 report identified three specific skills required "[i]n order to identify legal issues and to research them thoroughly and efficiently. . .". The MacCrate Report concludes that a lawyer should have:

3.1 Knowledge of the Nature of Legal Rules and Institutions;

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

MacCrate Report at p. 138.

The legal researcher of the 1990's cannot rest on the knowledge of legal research tools acquired while in law school or even as recently as 2 years ago. The computerization of legal information has completely changed the world of legal research and the practice of law. Some recent commentators have even suggested that computerized research is required in order for practitioners to avoid malpractice. See David M. Sandhaus, "Computers Are Required for the Practitioner to Avoid Malpractice", 47 Washington State Bar News 51-2 (no. 11, Nov. 1993); Robert C. Berring, "Technology and the Standard of Care for Legal Research", 3 Legal Malpractice Report 21-2 (no. 4, 1992); John P. Freeman, "How Computerized Databases Are Redefining Due Diligence", 3 South Carolina Lawyer 28-31 (no. 1, July/Aug. 1991).

The purpose of this Deskbook is to provide a broad spectrum of information which should be helpful to the researcher who must research Washington State law. In the first chapter, Professor Hazelton outlines a strategy which will help a legal researcher design a research process or framework. Practical tips for efficient use of legal tools are discussed. A reprint of an article which discusses the relative merits of computer and manual legal research tools has been included to help researchers sort through the maze of legal information products.

The next chapter was written by Mary Whisner and is an excellent review of the most basic and important legal research tools used for researching Washington law. Ms. Whisner reviews secondary sources, statutes, city and county codes, reporters, case finding tools, Attorney General Opinions, and citator services. She includes information about electronic versions of these information tools as well as the more common printed texts. Every legal researcher should have a good familiarity with what is covered in this chapter. This may be one of the only chapters which should be read completely by any researcher who must wade through Washington legal information.

Washington administrative agency regulations is the subject of the next chapter. In a concise and clear style, Mary Whisner describes the compilation and publication of agencies' rules and regulations in the Washington Administrative Code and the Washington State Register. The reader will learn

about the electronic versions of these publications as well and, with examples, understand the process of updating the Code with the Register.

Washington State agencies also promulgate a variety of administrative decisions or actions. These are ably discussed in the next chapter by Molly McCluer. Pay particular attention to the description of the Administrative Procedure Act and its requirements. Ms. McCluer even provides a chart of the most well known of the agencies' actions in order to speed your research.

Never done a Washington legislative history? Follow the clear step by step directions written by Peggy Roebuck Jarrett in the next chapter on legislative history and bill tracking. Clearly our author has had some experience with this awesome task! With sample pages, Ms. Jarrett shows the novice exactly how to follow the legislature's process and includes important tips for accomplishing this research chore efficiently and competently.

Legal research in Washington can rarely be done without referring to one or more of the many excellent handbooks and deskbooks available on Washington law. Martin Cerjan provides excellent descriptions of the most popular works and then has compiled a selective listing of other titles with which you should be familiar. Mr. Cerjan has arranged this bibliography by subject so you can easily locate relevant works.

Peggy Roebuck Jarrett, Mary Whisner and Professor Hazelton have written the chapter on computer-assisted legal research (CALR). Highlighting primarily the electronic tools and information available to the Washington legal researcher, this chapter includes excellent sections on different methods of access to CALR (WESTLAW, LEXIS and other electronic systems), the costs of accessing and using the various databases and CD-ROM products, billing practices, and tips on how to get the most out of your electronic legal research system. Comparative tables of the most important Washington legal materials and their availability on WESTLAW and LEXIS are also included. If you have little or no exposure to electronic legal information systems, this chapter is a must.

Ms. Jarrett has compiled a collection of information about the legal resources in Washington. Included here are tips on how to manage your library, lists of filing and other library service organizations, document delivery services, a list of legal publishers addresses and telephone numbers, publisher information for Washington legal periodicals, a list of Washington CLE providers, law libraries in the Puget Sound area, libraries in Washington with legal collections, and a list of libraries which have various city and county codes. This chapter will be a great help to those who are trying to keep their library current and properly managed, who may be making decisions about purchases for office libraries, or are trying to locate legal materials available in the local area.

Finally, Ms. Whisner has included an excellent glossary of legal research terms. This section is a good refresher! If you have never seen some of the words in this list, it is probably time for you to read more of this book.

I am very pleased with the high quality of the material you will find within this Deskbook. Many thanks to the authors for their tireless work. Janet Abbott worked many hours to put our draft material into final form--thank you!

As publication Number 6 in the Marian Gould Gallagher Law Library Research Study Series, we are indebted to the Washington Law School Foundation for its support of this project. Receipts will benefit the Marian Gould Gallagher Law Library at the University of Washington School of Law.

Penny A. Hazelton
Seattle, Washington
March 1994

Washington Legal Researcher's Deskbook
AUTHOR BIOGRAPHIES

MARTIN CERJAN. Mr. Cerjan received a BA in English and Geography from the University of Michigan at Ann Arbor in 1975, a JD from the University of North Carolina at Chapel Hill in 1988, and an MLS from the University of North Carolina at Chapel Hill in 1990. Mr. Cerjan has worked on the staffs of the Louis Round Wilson Library and the Law Library of the University of North Carolina at Chapel Hill and the Library for the Environmental Protection Agency in Research Triangle Park, North Carolina. A member of the Reference staff at the University of Washington Gallagher Law Library from 1990-94, Mr. Cerjan assisted law faculty, students, attorneys and members of the public in locating and using legal materials and teaches legal research skills to law students.

PENNY A. HAZELTON. Professor Hazelton has been the Director of the Marian Gould Gallagher Law Library at the University of Washington School of Law since 1985. Teaching legal research to law students, law librarianship students (lawyers training to be law librarians), library students, attorneys, legal secretaries, and paralegals has occupied a good part of Professor Hazelton's time in her 18-year career. She earned her JD from Northwestern School of Law of Lewis & Clark College and received a Masters in Law Librarianship from the University of Washington in 1976. Professor Hazelton is a member of the Washington State Bar Association, serves on the Bench & Bar Computer Council (B2C2), and has served as a member and Chair of its Editorial Advisory Board Committee. Professor Hazelton spent five years at the University of Maine and four at the U.S. Supreme Court Library as head of the Research Services Department.

PEGGY ROEBUCK JARRETT. Peggy Roebuck Jarrett received a BA in Economics from the University of California, Davis in 1981 and an MSLS from The Catholic University of America in 1984. Ms. Jarrett spent seven years working in private law firm libraries, in Washington, D.C. and Seattle, before joining the reference staff of the Gallagher Law Library in August of 1990. She is serving as President of the Law Librarians of Puget Sound and is an active member of the American Association of Law Libraries.

MOLLY McCLUER. Ms. McCluer received her law degree from the University of Virginia in 1981 and, after practicing law for a year in Princeton, NJ, received her MLS from Simmons College in 1984. She has taught sessions on legal research at Suffolk University Law School, at Loyola Law School in Los Angeles, and, since joining the staff as Assistant Librarian for Public Services in 1991, at the University of Washington. She has assisted with a wide variety of

research problems in these schools, at Boston's Social Law Library and at the Alameda County Law Library in Oakland. In 1992, she participated in organizing and teaching Basic Legal Research at the Washington State Reformatory in Monroe, and in 1994 taught in seminars for the Professional Land Surveyors of Oregon and Washington.

MARY WHISNER. Mary Whisner received a BA in Philosophy from the University of Washington in 1977, a JD from Harvard Law School in 1982, and an MLIS from Louisiana State University in 1987. Ms. Whisner clerked for Judge Stephanie K. Seymour of the U.S. Court of Appeals, Tenth Circuit, and practiced law for two years in Washington, D.C. at the National Labor Relations Board and the Lawyers' Committee for Civil Rights Under Law. She has been on the reference staff of the Gallagher Law Library at the University of Washington since 1988. Mary Whisner is a member of the Washington State Bar Association, the American Association of Law Libraries, and Law Librarians of Puget Sound.

I. Introduction - Computer-Assisted Legal Research

Computer-Assisted Legal Research (CALR) has changed the way in which legal research is performed. The following section offers information on what types of electronic tools and information are available to the Washington legal researcher. Access to CALR, costs of searching, and billing practices are covered.

**II. SELECTED WASHINGTON LEGAL RESOURCES
AVAILABLE ON WESTLAW AND LEXIS**

A Comparison as of May 1, 1993
Copyright 1993 Penny A. Hazelton
Updated by Russell L. Sweet

Washington Materials	Lexis	Westlaw
Washington Supreme Court Reports	1898- present	1898- present
Washington Court of Appeals Reports	1969- present	1969- present
Revised Code of Washington (Includes Wash. Constitution)	1991	1992 (Unannotated Version of RCWA)
Washington Session Laws (also, West's Legislative Service)	1989-1992	1988- present
Revised Code of Washington Annotated	No	1989-1992
Revised Code of Washington Annotated Index	No	1992
Tracking of Pending Bills	January 1993- present	January 1993-present
Tracking of Pending Regulations	1990- present	Pending and Recently Adopted Regulations
Washington Court Rules	No	August 1, 1992
Washington Court Orders	No	April 15, 1993
Washington Pattern Jury Instructions- Civil	No	1990
Washington Pattern Jury Instructions- Criminal	No	1986
Washington State Attorney General Opinions	Selected Opinions : 1973- 1976 Comprehensive Coverage: 1977- present	1977- present
Washington Board of Tax Appeals- Proposed and Final Decisions	April 1980- present	June 1979- present
Washington Utilities and Transportation Commission Decisions	July 1974- present	Selective 1919- present (through <u>Public Utilities Reports</u>)

Washington Materials	Lexis	Westlaw
Washington Board of Industrial Insurance Appeals Decisions (Worker's Comp)	No	October 1985- present
Washington Department of Licensing Business-Securities Division	1974- present	No
Washington Pollution Control Hearing Board, Shorelines Hearing Board, and Forestry Practices Appeals Board	No	1985- present
Washington Department of Insurance Bulletins	No	September 11, 1950-present
Washington Bankruptcy Filings	No	February 1983-present (Chapter 13 filings: only previous seven years)
Washington Civil & Small Claims Judgments	No	Varies by county, but no more than seven years old
Washington Tax Lien Filings	No	Varies by county, but no more than seven years old
Shepard's Pacific Reporter Citations	1 P, P2d- present	1 P, P2d-present
Shepard's Washington Citations (case citator only)	1 Wn, 1 Wn2d, 1 WnApp- present	1 Wn, 1 Wn2d, 1 WnApp- present
Gonzaga Law Review	No	Selective since 1983 (v. 18)
University of Puget Sound Law Review	No	Selective since 1983 (v. 7)
Washington Law Review	1982 (v.58)- present	1980 (v. 56)- present
West's Legal Directory	No	Current
Martindale-Hubbell	1992 (Volumes 1-15 and international volumes)	No

III. Equipment and Start-Up Costs

Whatever electronic database you choose, you will need some basic equipment: a terminal with a screen and a keyboard, a printer, a modem, and a telephone line; the modem and phone line are not necessary for a CD-ROM product unless it has online access to more current information. If you select a CD-ROM product, you will need one or more CD-ROM players. Consult your vendor for ideas about equipment.

Both LEXIS and WESTLAW offer "dedicated" equipment, either for sale or lease. Dedicated terminals are generally more "user friendly" than other equipment, because signing on is easy and they have special keys that tell you just what to do (e.g., to move to the next page of a document on one system, you just touch the key labeled "Next Page"). However, dedicated terminals are usually more expensive and less flexible than other types of equipment. As you might expect, you cannot use a special LEXIS terminal for WESTLAW and vice versa, nor can you use either terminal to access other CALR systems. The new LEXIS 2000 workstations and the WALT PCs can be used for word processing; both may be used with WINDOWS software.

LEXIS, WESTLAW, CD Law and L.A.W. BBS are compatible with almost all personal computers and word processing systems. You can use one PC for word processing, CALR systems, electronic bulletin boards, spreadsheets, and billing programs. You may download cases or other documents from legal research systems and then use them in a brief using your word processing software. In exchange for this great gain in flexibility, you give up a little user-friendliness -- instead of a dedicated key labeled "Next Page", you would have a template over your PC's function keys that tells you that F1 or F3 is for "Next Page."

Training is offered to new subscribers by most electronic legal information vendors. WESTLAW and LEXIS even have ongoing training sessions to introduce you to new features and databases.

IV. Costs of Searching LEXIS and WESTLAW

This chapter discusses the pricing systems of the two leading national computer-assisted legal research systems, LEXIS and WESTLAW. Prices and policies are, of course, subject to change. For detailed information about the systems, talk to the company's sales representatives, read the documentation provided, and attend training sessions.

A. LEXIS

LEXIS pricing is complex, at least partly in response to consumer requests for more flexibility. This chapter summarizes the current policies. As with any product, you should be aware that the policies may change or that new options may be added. Note that articles about LEXIS pricing that are more than a year old are likely to be out of date, because LEXIS made some significant changes in late 1991.

For many years, LEXIS had only "transactional" pricing. That is, users were charged for the time they spent on-line plus a transaction charge for each level-one search. This system was more economical for some types of searching than for others. In 1990, LEXIS gave subscribers an alternative: an "hourly" system that charged by time on-line, without regard to how many searches were performed. Subscribers had to choose one system or the other, based on their typical searching practices.

In late 1991, LEXIS expanded subscribers' choices. There are now three different ways of pricing: the original transaction-based system (time plus number of searches), the time-only system, and a new "zero-connect" price structure that charges only for the search with no charge for the time on-line. A firm that subscribes to LEXIS now may choose to use only one system, or to have I.D.s for two or three of the systems, allowing users to choose the I.D. (and the pricing system) that is most appropriate for a particular project. LEXIS plans to make choosing one system or the other for each research project easier. In summer 1993, it will introduce a sign-on procedure that will give users a menu of pricing systems. Thus a firm or attorney will have only one I.D., but when signing on will choose which pricing system to use for that research session.

No matter which system or systems a firm chooses, there is a basic subscription fee of \$125 per month. Group membership plans (see below) reduce the monthly subscription. LEXIS offers discounts (up to 22%) for heavy use.

1. Pricing Systems

The three systems are summarized below.¹ For more information, consult a LEXIS account representative.

a. Transactional System

Under the standard transactional system, a user is charged for connect time, network time (telecommunications), and searches. (There are also separate charges for special services, such as LEXSEE and Shepard's. See below.) The time-based charges are: \$30/hour for connect time; \$13/hour for network time (MEADNET or other long distance data network). (Subscribers who use WATS instead of MEADNET are charged \$21/hour.) These on-line charges add up to \$43/hour, or about \$.72/minute. The search charge varies, from \$6 to \$38/search. In general, a search in a very large file will be much more expensive than a search in a small file. Examples are:

GENFED library; COURTS file (all the federal cases on LEXIS)	\$41/search
GENFED library; US file (U.S. Supreme Court cases)	\$19/search
STATES library; WASH file (Washington Supreme Court and Court of Appeals cases)	\$20/search
FEDCOM library; COMDLY file (<u>Communications Daily</u>)	\$6/search
NEXIS library; OMNI file (all stories in all NEXIS publications)	\$38/search
NEXIS library; SEATTM file (<u>Seattle Times</u> , 1/90-)	\$6/search

There is no additional charge for modifying a search. Thus, if you start with a broad search that retrieves, say, 95 cases, you can modify it to include only cases from the last two years and you will not be charged for another search.

b. Zero-Connect System

The zero-connect system is aimed at users who want to run one search and stay on-line for a comparatively long time, browsing through the results

¹ Prices are based on the Law Firm Price Schedule from August 1, 1991, the Law Firm Hourly Price Schedule from October 1, 1992, and the Law Firm Zero Connect Price Schedule from August 1, 1991, along with summary sheets dated October 1, 1992. They were confirmed with a LEXIS account representative in April 1993.

and reading documents. As the name suggests, there are no on-line charges -- i.e., the connect time and network time are free. The charge per search is the same as in the transaction system, but a \$7 surcharge is added for each search. (If your arithmetic is quick, you've already figured out that this system becomes cost-effective compared with the transactional system after about 10 minutes on-line: saving 72 cents a minute for 10 minutes pays for the \$7 surcharge.)

c. Hourly System

Under the hourly system, a user is charged for connect time, network time, and time in a database. No matter which library and file a user is in, he or she is charged \$32/hour for connect time and \$13/hour for network time — or \$.75/minute. (Again, the charge for WATS rather than another network is \$21/hour). Database charges vary -- generally, a search in a very large file will be more expensive than a search in a smaller file. Examples are:

GENFED library; COURTS file (all the federal cases on LEXIS)	\$315/hour (\$5.25/minute)
GENFED library; US file (U.S. Supreme Court cases)	\$185/hour (\$3.08/minute)
STATES library; WASH file (Washington Supreme Court and Court of Appeals cases)	\$185/hour (\$3.08/minute)
FEDCOM library; COMDLY file (<u>Communications Daily</u>)	\$97/hour (\$1.62/minute)
NEXIS library; OMNI file (all stories in the NEXIS library)	\$328/hour (\$5.47/minute)
NEXIS library; SEATTM file (<u>Seattle Times</u> , 1/90-)	\$97/hour (\$1.62/minute)

(Remember that the connect and network charges, \$.75/minute, must be added to the above charges.)

2. Sample searches

Below are examples of how hypothetical searches would be charged on LEXIS, with each of the three pricing systems.

EXAMPLE: STATES library - WASH file

seatbelt or seat-belt w/15 negligenc!
- 10 cases

Once you retrieve the results (say, 10 cases), you might choose to print out the citations, turn off the computer and go read the cases in the books. Let's say this takes 4 minutes. Instead, you might choose to browse through the cases on-line, printing out passages that strike you as significant. Let's say this takes 15 minutes. Here are the charges for each of the three pricing systems:

Option A (print cites only)

Transactional System

on-line charges (4 min. x \$.72/min.)	\$ 2.88
search in WASH file	<u>\$20.00</u>
TOTAL	\$22.88

Zero-Connect System

search in WASH file	\$20.00
search surcharge	<u>\$ 7.00</u>
TOTAL	\$27.00

Hourly System

on-line charges (4 min. x \$.75/min.)	\$ 3.00
database charges (4 min. x \$3.08/min.)	<u>\$12.32</u>
TOTAL	\$15.32

Option B (browse through cases, print passages)

Transactional System

on-line charges (15 min. x \$.72/min.)	\$10.80
search in WASH file	<u>\$20.00</u>
TOTAL	\$30.80

Zero-Connect System

search in WASH file	\$20.00
search surcharge	<u>\$ 7.00</u>
TOTAL	\$27.00

Hourly System

on-line charges (15 min. x \$.75/min.)	\$11.25
database charges (15 min. x \$3.08/min.)	<u>\$46.20</u>
TOTAL	\$57.45

LEXIS's zero-connect system and, to a lesser extent, the transactional system encourage longer searches and browsing on-line, since the search charge is the main portion of the cost. On the other hand, these systems disfavor quick searches where you sign on, get a citation, and sign off -- e.g., a search to find the citation of a case when you know the parties' names.

EXAMPLE: STATES library, WASH file

name(allingham and seattle) - 1 case

Running the search and printing the citation takes about 30 seconds. Here's how the search would be charged in each of the three systems:

<u>Transactional System</u>	
on-line charges (.5 min x \$.72/min.)	\$.36
search in WASH file	<u>\$20.00</u>
TOTAL	\$20.36

<u>Zero-Connect System</u>	
search in WASH file	\$20.00
search surcharge	<u>\$ 7.00</u>
TOTAL	\$27.00

<u>Hourly System</u>	
on-line charges (.5 min x \$.75/min.)	\$.38
database charges (.5 min. x \$3.08/min.)	<u>\$ 1.54</u>
TOTAL	\$ 1.92

The same three pricing systems apply to searches in NEXIS and most other nonlegal databases. As a practical matter, you might find that you do more browsing and printing on-line with NEXIS than with LEXIS, because you don't have easy access to backfiles of newspapers and magazines the way you have sets of case reporters in your library.

EXAMPLE: NEXIS library, SEATTM file

(death pre/2 dignity) or initiative 119 - 136 stories

modify:
and living will - 26 stories

Let's say you spend 20 minutes reading newspaper stories on-line, printing out some screens as you browse. The charges would be:

<u>Transactional System</u>	
on-line charges (20 min. x \$.72/min.)	\$14.40
search in SEATTM file	<u>\$ 6.00</u>
TOTAL	\$20.40

<u>Zero-Connect System</u>	
search in SEATTM file	\$ 6.00
search surcharge	<u>\$ 7.00</u>
TOTAL	\$13.00

<u>Hourly System</u>	
on-line charges (20 min. x \$.75/min.)	\$15.00
database charges (20 min. x \$1.62/min.)	<u>\$32.40</u>
TOTAL	\$47.40

3. Special Services

LEXSEE, LEXSTAT, Shepard's and Auto-Cite are priced differently from searches in files. The charges are:

Transactional System

LEXSEE, LEXSTAT: \$4 per document retrieved. Shepard's, Auto-Cite: \$2.75 per citation checked. If you "jump" from a Shepard's display to one of the citing cases, you are charged \$4, as if you had used LEXSEE to retrieve that case. You are also charge on-line charges -- i.e., \$.72/minute -- for the time you spend looking at the cases or citator displays.

Zero-Connect System

Charges for the special services are the same as in the transactional system, BUT you are not charged for time on-line. Therefore, if you are just going to be cite-checking, or retrieving documents whose citations you know, this system is more cost-effective than the transactional system.

Hourly System

In the hourly system, LEXIS charges \$185 an hour (or \$3.08/minute) for LEXSEE, LEXSTAT, Auto-Cite, and Shepard's. If you add the on-line charge of \$.75/minute, the cost of these services is \$3.83/minute.

(LEXIS used to add "access charges" for displaying ALR annotations in some KWIC format and FULL format, but these charges have been removed.)

4. Printing

LEXIS provides two options for printing and downloading documents:

- 1) You may print or download individual screens, one at a time, for the cost of the connect time.
- 2) You may print or download after you sign off -- either entire documents or search results. The charge is \$.02 per line for LEXIS files and \$.025 per line for NEXIS

files. (A few selected services are \$.07 per line.) The printing and downloading charges are the same in all three pricing systems. Note that downloading only captures the text of the retrieved documents, not the search logic. Printing or downloading off-line saves you staff time, but you should be aware that short documents are less expensive printed or downloaded screen by screen.

5. Summary table

The following table summarizes the three LEXIS pricing systems. The bottom row in the table suggests when each system is most cost-effective.

	Transactional System	Zero-Connect System	Hourly System
Connect Charge	\$30/hour \$.50/minute	N/A	\$32/hour \$.53/minute
Telecommunications Charge	\$13/hour \$.22/minute (\$21/hour for WATS)	N/A	\$13/hour \$.22/minute (\$21/hour for WATS)
Search charge for each search in a file	\$16-\$90 per search for most files	\$16-\$90 per search for most files PLUS \$7/search surcharge	N/A
Hourly charge	N/A	N/A	Depends on which file is searched. Most files are \$90, \$185, \$225, or \$315 per hour -- i.e., \$1.50, \$3.08, \$3.75, or \$5.25 per minute
Citator services (Auto-Cite, Shepard's)	\$2.75 per citation		\$185/hour \$3.08/minute
LEXSEE, LEXSTAT	\$4 per citation		\$185/hour \$3.08/minute
Off-Line Print Charge	\$.02/line for almost all LEXIS files \$.025/line for almost all NEXIS files \$.07/line for a few special services		
Best for what type of searching?	Run one search, scan the results in KWIC format (10 minutes or less)	Run one search, read search results on-line (more than 10 minutes); run a broad search and modify or focus (no additional search charge); retrieve documents using LEXSEE or LEXSTAT.	Run many searches; run a quick search, produce list of citations, and sign off; Auto-Cite or Shepardize (if you can check each citation in 50 seconds or less).

6. Group Membership

LEXIS offers group membership plans through KCBA and the ABA. (See "Access Information for CALR systems.") Currently, subscribers through the KCBA plan pay \$25/month (instead of the regular \$125/month subscription). They are charged under the transactional system. A \$3.00 surcharge is added to each search in a file; a \$1.00 surcharge is added to the cost of Auto-Cite and Shepard's citation checks. Group membership is advantageous for firms that perform fewer than about 33 searches a month.

7. New "MVP" Plan

The "Most Valuable Products" Plan is aimed at firms whose practice is largely limited to their own state's law. It was introduced in just ten states in late 1991, but it is now available in all fifty states. For a flat monthly rate, subscribers can search their own state's files without any time or search charges. For an additional monthly charge, they can also search cases from their federal circuit. A Washington firm with up to three attorneys, for example, can conduct unlimited searching in the WASH library on LEXIS for \$135 per month. The firm can gain unlimited searching in the file of 9th Circuit cases (Court of Appeals and District Courts) for \$30/attorney/month. A firm can choose pay for off-line printing at \$.02/line or can get unlimited printing for \$15/attorney/month. The following table summarizes the charges:

LEXIS MVP PLAN		
Service	1-3 Attorneys	Each Additional Attorney
WASH library, unlimited searching	\$135/month	\$45/month
GENFED library; 9TH file, unlimited searching	\$ 30/month	\$10/month
Printing (standard pricing)	\$.02/line	
Printing, unlimited	\$ 45/month	\$15/month
Citator Services (Auto-Cite, Shepard's)	\$3.75/citation	
LEXSEE, LEXSTAT	\$5/citation	

B. WESTLAW

WESTLAW, with one exception, bills according to the length of time you spend on-line. Depending on which use contract you select you will pay a set price per minute. The exception to time billing is a few of the Dialog databases which have time billing plus transaction charges. Also, in several very large "allfile" databases -- AllFeds, AllStates, AllTax, TP-All (all texts and periodicals), Stat-All (all statutes), and FBKR-ALL (all federal bankruptcy materials) -- WESTLAW bills you at the current rate per minute but the actual time you were using the database is multiplied by 1.90. Charges are thus, in effect, 1.90 times the regular rates when using these "allfile" databases.

WESTLAW has private, government, educational institution, and public terminal agreements. Law firms and corporations are the same for purposes of the private (commercial) plans. WESTLAW often runs specials or deals offering reduced rates for on-line time and equipment. The following information is for standard plans. The local representatives should be contacted to verify the information and to discover the possibilities of special offers.

1. Pricing Systems

a. **Plan 1** (the 3 hour minimum use contract) costs \$195.00 per hour for database charges plus \$48.00 an hour for communications -- or \$3.25 per minute plus \$ 0.80 per minute, for a total of \$4.05 per minute. (Database time is time spent in a database -- this does not include the database directory or the scope screens. Communication time is measured from the moment you sign on to the moment you sign off.) When using the "allfile" databases the database charge cost goes up 90%, since you are billed for 1.90 times the actual time you use. EZ Access searching is \$85.00 per hour or \$1.42 per minute. You are also charged a \$125.00 per month subscription fee. WESTLAW offers a quantity discount with this plan for use over 3 hours per month.

b. **Plan 1C** (the 20 minute minimum use contract) costs \$240.00 an hour, or \$4 per minute, plus a communication charge, which depends on the speed of your modem. For a 1200 baud modem, the communication charge is \$30.60 an hour, or \$0.51 per minute. Database plus communication is \$270.60 per hour, or \$4.51 per minute. For a modem that is 2400 baud or above, the communication charge is \$52.20 an hour or \$ 0.87 per minute, for a total database plus communication of \$292.20 per hour or \$4.87 per minute. When you use the "allfile" databases you are billed for 1.65 times the time you actually use. EZ Access searching is \$1.25 per minute. There is no monthly subscription fee for this plan.

c. **Plan 10** is the same cost as Plan 1C without the 20 minute minimum use agreement. Instead, you pay \$30.00 per month subscription fee.

Both plans 1 and 1C allow you to carry over extra use month to month up to a year.

For purposes of comparison, consider the following WESTLAW search, similar to the hypothetical LEXIS search, above.

**EXAMPLE: WA-CS database
seat-belt /s negligenc! - 8 cases**

Option A (print cites only)

(Plan 1) 4 min. x \$4.05 per minute \$16.20

(Plan 1C) 4 min. x \$4.51 per minute \$18.04

Option B (browse and print full text of cases on point)

(Plan 1) 15 min. x \$4.05 per minute \$60.75

(Plan 1C) 15 min. x \$4.51 per minute \$67.65

WESTLAW's pricing scheme encourages quick searches where you sign on, run the search, print the citations, and sign off. A search for a case when you know the parties' names can be quite economical:

**EXAMPLE: WA-CS database
title(allingham & seattle) - 2 cases**

(One of the cases is a brief order modifying the main case.) Running the search and printing the citation takes about 30 seconds, so the cost would be:

(Plan 1) .5 min. x \$4.05 per minute \$2.03

(Plan 1C) .5 min. x \$4.51 per minute \$2.26

West key numbers can be quickly searched on WESTLAW. If, for example, you want to find out what the elements of fraud are in Florida, it is easier to search WESTLAW than go through the General Digest:

**EXAMPLE: FL-CS
184K3 - 26 cases**

Look at the first two or three cases, and then print out the citations:

(Plan 1) 5 min. x \$4.05 per minute	\$20.25
(Plan 1C) 5 min. x \$4.51 per minute	\$22.55

WESTLAW also has an automatic display command for cases and statutes. This command, called FIND, can be executed at any time you are on-line; the only cost is the per minute charge based on your individual contract.

The citator services on WESTLAW, Shepard's, Shepard's Preview, and Insta-cite, are available at the per minute charge you contract for.

Printing on WESTLAW is also available in two different options.

- 1) Print individual screens on your printer or download individual screens to a disk, for the per minute charge.
- 2) Print or download to disk entire documents or search results after you sign-off \$.02 per line. As with LEXIS you are only capturing the text, not the searching capability.

2. Pro Bono

West Services offers access to WESTLAW in its local office at no cost, for pro bono projects. Contact WESTLAW at 628-6435 for further information.

3. Training

WESTLAW training costs vary with each price plan. For Plan 1, training is \$70.00 per trainee, with a minimum of \$280.00. The maximum charge per subscriber is \$2,100.00. For Plans 1C and 10, training at the training center is available at no charge. Training at the subscriber's office is \$70.00 per trainee with a \$280.00 session minimum. Under all plans, each trainee receives one free hour of WESTLAW following the initial training session.

4. Summary Table

The following table summarizes the three WESTLAW pricing plans:

	Plan 1	Plan 1C	Plan 10
Subscription Fee	\$ 125.00/mo.	none	\$ 30.00/mo.
Minimum Use	3 hours	20 minutes	none
Database Charge	\$ 195.00/hr. 3.25/min.	\$ 240.00/hr. or \$ 4.00/min.	
Communication Charge	\$ 48.00/hr. 0.80/min.	1200 baud = \$ 30.60/hr. or 0.51/min. 2400 baud = \$ 52.20/hr. or 0.87/min.	
Total Database Plus Communication Charge	\$ 243.00/hr. 4.05/min.	1200 baud = \$270.60/hr. or 4.51/min. 2400 baud = \$292.20/hr. or 4.87/min.	
Allfiles*	Database Time Multiplied by 1.9	Database Time Multiplied by 1.65	
EZ Access	\$ 85.00/hr. 1.42/min.	\$ 75.00/hr. or \$ 1.25/min.	
Quantity Discount	Yes, for use over 3 hours	None	
Off-line Printing or Downloading	\$ 0.02/line	\$ 0.02/line	
Training	\$ 70.00/per trainee \$280 minimum \$2100 maximum	No charge at training center; \$ 70.00 per trainee at subscriber's office	

*Allfiles are very large files, including AllFeds, AllStates, AllTax, TP-All, Stat-All, FBKR-All.

(Note: Some of the Dialog databases have time billing plus transaction charges. Please check your documentation, call 1-800-WESTLAW, or call your vendor representative for specific Dialog price information.)

V. LEXIS and WESTLAW Cost-Control Tips

1. Prepare Before Going On-Line
2. Use the 800 Numbers
3. Know Your Prices
4. Use Print Sources in Conjunction with CALR
5. Retrieve Documents in One Step
6. Scan Documents Quickly
7. Use Jump and Link
8. Proofread Your Query
9. Use Smaller or Subject Specific Files/Databases
10. Use the Fastest Modem You Can Afford
11. Use Fields and Segments
12. Use Key Numbers
13. Stack Commands
14. Modify on LEXIS
15. Keep Track of Your Searches
16. Save Your Last Search
17. Automatically Run Searches
18. Update Your Research
19. Reduce Printing
20. Change Client Information On-Line
21. If You Are In Trouble, Sign Off
22. Use Less Expensive Electronic Sources When Available
23. Use Documentation, Help Screens, and Other Search Aids
24. Use Vendor Representatives
25. Keep Up With New Developments
26. Ask a Librarian

1. Prepare Before Going On-Line

Plan your research strategy *before* going on-line! Pick your WESTLAW database or LEXIS library and file, think about alternative words and phrases, choose connectors, and be prepared with date restrictions or other limiters, *before* going on-line.

2. Use the 800 Numbers

LEXIS (800/543-6862) and WESTLAW (800/937-8529) Customer Service staffs offer more than technical help with equipment -- they can help you formulate search strategies, including choosing databases, search terms, and connectors. WESTLAW offers a direct line (800/733-2889) to its staff of Reference Attorneys. When you are not sure about a search, use the 800 numbers *before* you go on-line. Customer Service staffs will actually run test searches to ensure you get the desired results.

3. Know Your Prices

Which WESTLAW pricing plan do you have? Which LEXIS pricing plan do you have? Do you have more than one option for pricing? With some pricing plans, on-line time is very expensive, and a good strategy is to print a list of citations and go to the library to read the material in hard copy. With other pricing plans, on-line time is relatively inexpensive and money is saved by browsing on-line rather than making a trip to the library. [See "Costs of Searching"]

4. Use Print Sources in Conjunction with CALR

Use print secondary sources to find background information, leading cases, and terms of art. Read a nutshell, hornbook, law review article, or ALR annotation, before going on-line. Go on-line to do a quick and dirty search in a law review index, print the citations, and look up the articles in the library. [See "Integrating Manual and Computer Research"]

5. Retrieve Documents in One Step

If you have a citation to a document, use the LEXIS `lexsee` or `lexstat` commands, or the WESTLAW `find` command. With these commands you avoid choosing a database and running a search.

6. Scan Documents Quickly

The LEXIS `focus` command and the WESTLAW `locate` command allow you to scan retrieved documents for specific words or phrases. This is especially useful if your search included a fairly common word, but you really just need to see portions of text containing a more specific word or phrase.

7. Use Jump and Link

Use Westlaw's **Jump** and Lexis' **Link** feature to move quickly from one document to another. Both **Jump** and **Link** allow you to quickly and easily access the full-text of cited documents. Cases, code sections, and other types of documents are marked with a symbol that you use to retrieve them, without having to type the citation or worry about the proper format. You save time by saving key strokes.

8. Proofread Your Query

If you proofread your query, you can avoid re-typing your search and avoid wasting valuable computer processing time. It is particularly important if your LEXIS pricing plan is transactional -- you are charged

for *each* search or request you type. Proofreading your search before you hit the enter key can save billing headaches.

9. Use Smaller or Subject Specific Files/Databases

If your pricing plan is directly linked to the amount of time you spend on-line and you need to browse some results to make sure your search is effective, use a small database, browse the results, refine the search, and then quickly run it in the largest database you need. Quickly print the cite list, and sign off.

Rather than use a large jurisdictional database such as WESTLAW **allstates** or LEXIS **states;omni**, search a more specific jurisdiction. Use smaller, subject specific databases or files (but be careful: some subject databases and files, such as those covering tax materials, can be quite expensive).

Remember that the larger the database or file, and the more common the search terms, the longer it takes the computer to process your request. Smaller files and more specific requests mean less processing time.

10. Use the Fastest Modem You Can Afford

Connect time can be significantly lowered by using a fast modem. Even if your pricing plan adds a surcharge for a fast modem, your bills will be lower in the long run.

11. Use Fields and Segments

Make your searches more efficient by limiting search terms to appropriate fields or segments. Use date restrictions. The more specific you are, the less computer processing time needed. Also, consider printing field or segment restricted text only to reduce the number of lines printed.

12. Use Key Numbers

On WESTLAW, use key numbers or key numbers combined with keywords to pinpoint cases. Use the expanded Key Number Service and the **key** command to identify key numbers, which you can use to narrow or expand your search.

13. Stack Commands

LEXIS dot commands can be stacked, separated by semi-colons. Stacking commands allows you to bypass menu screens. For example to find citations to law review articles by Abner Mikva, starting with the client

identification screen, type **your identification;lawrev;lgind;au(mikva)**. To run the search in the full-text law review file type **.cf;allrev; ;**. The semicolon functions as the transmit or enter key. The dot commands, such as change file (**.cf**); change library (**.cl**); next page (**.np**); and new search (**.ns**) are listed on the back of your LEXIS password card.

On WESTLAW, separate search and print commands with a semi-colon. To run the same Mikva search, type **db;lri;au(mikva)**. To run the same query in the full-text law review database type **sdb tp-all**. If you want to edit the query first, type **qdb tp-all**. To print a document on the attached printer, and then sign off, type **pr;d;atp;off;y**.

14. **Modify on LEXIS**

Modifying on LEXIS allows you to create new levels of research without incurring new search charges. If your pricing plan is transactional, use modify (**m**) to narrow an overly broad search, or broaden an overly restrictive search.

15. **Keep Track of Your Searches**

Get into the habit of printing out your request screen. These screens are a useful record of your strategy, especially if you need to modify your search or take a different approach later on. LEXIS has a command, **.keep**, that allows you to maintain a complete list of all searches done during a session. After running a search, type **.keep** before moving on to a new library, file, or search. To view kept searches, type **.log**.

16. **Save Your Last Search**

Get into the habit of saving your last search, so you do not have to retype it if you need to go back to it later in the day, or if you have printing problems. WESTLAW automatically saves your last search for several weeks; log on, choose a database, type **q**, and your last search will appear on the screen. On WESTLAW, you can also use your **options** command to request that your searches always be saved and thereby skip the step when you sign off; **options** also allows you to automatically set the printer destination, so you do not have to choose each time.

17. **Automatically Run Searches**

If you need to regularly run the same search over a long period of time, use LEXIS **Eclipse** or WESTLAW **PDQ**. Both these services automatically run queries on a daily, weekly, or monthly basis and print out the results. **Eclipse** and **PDQ** allow you to avoid the cost of logging on and re-entering your search.

18. Update Your Research

Use Auto-Cite or Insta-Cite to verify cases. Use Shepard's on-line to avoid checking hardbound volumes, supplements and advance sheets separately. If appropriate, limit your results to display only references that overrule, reverse, limit, criticize, or modify your case. Limit your results to cases within a particular jurisdiction. Use the WESTLAW's WestCheck or LEXIS' CheckCite programs to cite-check entire documents quickly and easily.

19. Reduce Printing

Printing charges can add up quickly, so avoid unnecessary and overlong print requests. Instead of printing all documents in full, try the following: print lists of citations; print field or segment restricted text; print term or keyword restricted text; print selected screens; print the first page of documents; and depending on your pricing plan, take notes!

20. Change Client Information On-line

You do not need to sign off and sign on again to change client information. If you do a search for one client, and you need to do a search for another, just type the word **client**. Both LEXIS and WESTLAW allow you to type in new client identification, which will be reflected on your bill.

21. If You Are In Trouble, Sign Off

If your searches are not working, sign off. Call the 800 number, consult a colleague, rethink search strategy and possible sources.

22. Use Less Expensive Electronic Sources When Available

For Washington State research, consider using L.A.W. BBS or CD Law. Use LEXIS or WESTLAW to update material. Use LEXIS or WESTLAW to search material not available on L.A.W. BBS or CD Law.

23. Use Documentation, Help Screens, and Other Search Aids

WESTLAW has printed guides to general and subject searching, and a list of databases. On-line, WESTLAW offers the **Iden** database, which contains documents describing all available databases and services, including the Dialog databases. For each database, you can search the originating source of the information, the names of any equivalent print sources, and the coverage and currentness of the material. If you know the name of a print source, you can use **iden** to quickly find out what

database to search. Once you identify the database you need to use, check the **scope** screens for field names and search tips.

Like WESTLAW, LEXIS has printed guides and database lists. The most comprehensive guide is the new *LEXIS/NEXIS Product Guide*, a multi-volume set which includes an index to publications and sources, detailed descriptions of libraries and files, tips for searching, explanations of how documents are arranged and displayed, transactional pricing information, and descriptions of common sources. One of the most useful features is sample documents from each file with the segment names clearly marked. Many LEXIS libraries also have on-line, searchable guides.

24. Use Vendor Representatives

Use the local vendor representatives. They can help you with specific problems and keep you informed of new features.

25. Keep Up With New Developments

Take advantage of the training options available to you. Locally, both LEXIS and WESTLAW send out monthly calendars of classes. The classes include introductory training, refreshers, advanced techniques, and topical searching. It is extremely important to keep on-line skills up to date. LEXIS and WESTLAW also offer the occasional "special" -- during a limited time period they will waive database charges for a particular (usually new) database. These "specials" are announced on the welcome screen when you log on.

Keeping up with CALR is also possible through reading. LEXIS and WESTLAW have subscriber newsletters, and bar journals and legal newspapers often publish CALR related articles. The field of CALR is constantly changing and growing, so the effective and efficient searcher needs to be informed about new pricing structures, database content, and software enhancements.

26. Ask a Librarian

Talk to your librarian, if you have one. Most librarians are expert on-line searchers and knowledgeable about prices and billing policies. Find out what your librarian can do for you.

VI. Billing and Billing Practices

Billing from WESTLAW and LEXIS is very specific and transaction oriented. Each time a search is performed on a CALR system, the computer requests client identification. Once entered, the CALR system will then report, on a monthly or weekly (your option, but weekly costs more) bill, all on-line time associated with that client. You will have a local account representative assigned to your firm by the CALR vendor, and he/she will be happy to help in the "translation" of your monthly statements. The monthly bill will include:

- Basic subscription fee, if applicable
- Cost of leasing dedicated equipment, if applicable
- Cost of the following by client and as a total:
 - Actual connect time (on-line time)
 - Telecommunications connect time
 - Number of searches conducted
 - Total lines printed or downloaded off-line

WESTLAW and LEXIS also have electronic billing systems (Quickview on WESTLAW and Payback on LEXIS). These electronic bills can be downloaded locally and can be manipulated in a variety of ways to make the process of client billing more regularized. The individual account representatives can explain their system to you. For an excellent article on this subject, see Chick, Cindy, "LEXIS and WESTLAW On-line Billing Systems: Payback and Quickview", 8 Legal Information Alert 1-3 (no. 2, Feb. 1989).

The detail of the billing you will receive permits a wide variety of options to consider for recouping your costs. Possible options are:

- (1) Do not separately bill your client for CALR work. Include all CALR costs in your hourly fee as part of overhead (much as your library book subscriptions are treated).
- (2) Bill your client separately for CALR costs
 - (a) Bill only the real (on-line and search) costs of searches performed for that client
 - (b) Bill all costs, including fixed costs
 - (c) Bill all clients at a fixed rate
 - (d) Bill subjectively by estimating how long the research would have taken manually and bill accordingly.

Clearly, most CALR work is billed directly to the client by one of the methods described above in (2). That is, CALR is not considered overhead. However, in some courts and jurisdictions, when a contingent fee contract is involved, CALR may not be separately charged to the client as an expense unless the contract so provides. Ill. Ethics Op. 85-9 (1/1786); followed by Louisiana State Bar Association v. Edwins, 540 So.2d 294 (La. 1989); Pa Ethics Op. 87-23 (10/20/87).

In situations where no contingent fee contract is involved, some courts have handled CALR expenditures as costs (Wehr v. The Burroughs Corporation, 619 F.2d 276 (3rd Cir. 1980)), while others have determined that CALR cannot be separately taxed as costs (Lefwich v. Harris-Stowe State College, 702 F.2d 686 (8th Cir. 1983)). No rule for the state of Washington has been located. The difference in approach often has to do with the type of case filed and the interpretation which has been given attorney's fees and costs under the statute or rule in that particular situation.

When billing clients directly and separately for CALR work, billing the real costs of searches needs no further elaboration. Billing all costs, including the fixed costs, can be handled by taking the total amount billed and dividing it by the total minutes of system use. Then the client is charged the average cost per minute by the number of minutes used for that client. For example:

- Your October bill is \$550
- Total use amounted to 3 hours 22 minutes
- \$550 divided by 202 minutes is \$2.72 per minute
- Client ABC had 10 minutes of CALR in October
- \$27.20 should be billed to Client ABC

Billing a client at a fixed rate can save administrative time in analyzing the bill on a regular basis. But keep in mind, this rate must be reasonable and should represent, as closely as possible, actual cost (i.e., not overhead). See Ill. Ethics Op. 85-9 (1/17/86). Fixed rate billing can be calculated a variety of ways:

- Bill out each search at a fixed rate; for "N" searches at \$20/each
- Set fixed prices for Auto-Cite, Insta-Cite, Shepard's, FIND, LEXSEE; for example: "N" cites at \$2.25 each
- Use the same formula as billing only the real (on-line and search) costs of searches performed, but add a sign-on charge for each time the system is used for the client

- Bill each session at a fixed percentage, which would include connect time, telecommunications costs, searches, cite-checking and automatic displays

How much you charge your client for CALR depends on your firm billing policies. Questions to ask yourself include: Do you want to make a profit on CALR or do you want to recover the costs? Do you want to recover both fixed and variable costs? Is charging back for CALR consistent with your overall billing philosophy? Do you want your current clients to cover the costs of searching for client development, pro bono, or continuing legal education? Do you have internal budgets for client development, pro bono, and continuing legal education that could include a CALR portion? Do you have a policy of writing off inefficient research, and if so, would that policy apply to CALR?

The mark up for CALR is controversial, and varies greatly from firm to firm, according to geographic region, size, and type of practice. Surveys of billing practices for CALR are rare: the *American Lawyer*, in 1988, listed four firms and their mark-ups, ranging from 10% to 150%. ("On-Line Time: Who Pays (and How Much?)", *American Lawyer*, December, 1988, at S12). Other articles tend to be vague or general. For example, a 1989 article states "Some [firms] charge anywhere from 1.5 to four times the actual cost of the research," (Griffith, Cary, "Billing for LEXIS Research Made Easier With Payback," *Information Today*, May, 1989 at 13).

Once you decide on a billing structure, it should be carefully explained to all those involved. Attorneys, legal assistants, and any other searchers should fully understand the implications so they can maximize their search efficiency. Clients should be informed, and billing attorneys should be prepared to justify charges.

The firm billing policy should be reviewed periodically to insure that it is meeting its goals. You may also want to review the policy to reflect changing trends in client billing for CALR. The legal newspapers, bar journals, and legal management periodicals publish articles and surveys on billing practices.

When the actual bills begin to arrive, review them very carefully. Searchers should be using the appropriate client identification when logging in, but some firms require a log sheet be filled out in addition. A log sheet enables the searcher to explain the client identification if need be. The bills should also be reviewed to insure no one is abusing the system, or obviously searching inefficiently.

Since the time between the actual research and receipt of the bill can be 30-45 days, both LEXIS and WESTLAW offer subscribers the option of

viewing research time and costs on a more current basis. **PAYBACK** is WESTLAW's service; it is available on-line within a week of the research session. **QuickView** is the comparable LEXIS service. The benefit of **PAYBACK** and **QuickView** is their currentness; the drawback is that monthly volume usage discounts cannot be figured in until the regular monthly bill arrives.

BILLING FOR CD-ROM

CD-ROM products are still relatively new to the law office. They are similar to on-line services in that they allow you to search the full-text of cases, statutes, and regulations, using keywords and boolean operators. They are dissimilar, however, in a fundamental way: the cost of using a CD-ROM product has nothing to do with the *time* spent using it. Generally, on-line costs depend on the amount of research done: the time spent on-line or the number and type of searches. CD-ROM costs are fixed, and the research time and amount are totally up to the discretion of the purchaser. CD-ROM products are like looseleaf services: you pay for a subscription and then you can let it gather dust, or use it all day long.

The ability to use a CD-ROM product without the fear of running up a large bill can be very appealing. On the other hand, the lack of an easy way to bill the client and cover the cost is a barrier for some practitioners unwilling to invest in the technology. If you do decide to purchase a CD-ROM product, possible options are:

- (1) Do not separately bill your client for work done on a CD-ROM. Include the cost of the subscription in your fee as part of overhead, just like the cost of a looseleaf subscription.
- (2) Bill your client separately for CD-ROM usage:
 - (a) Estimate the amount of time you will use the service
 - (b) Divide estimated use by the CD-ROM subscription cost and arrive at an hourly rate that will at least recoup the cost of the subscription
 - (c) Keep track of time spent using the CD-ROM through some sort of log sheet kept next to the workstation.

VII. Access Information for CALR Systems

Some attorneys may be interested in CALR but may not want to invest in equipment and subscriptions at this time. This section describes a few possibilities for gaining access to the systems without an individual subscription.

A. Shared WESTLAW Terminals

The King County Bar Association-Young Lawyers Division has operated a public access WESTLAW terminal, staffed by attorneys, for the last several years. You may request a search from this service (called the Electronic Law Library Service) by telephone or in person.

Location: 6th Floor King County Courthouse (in Library).

Phone: 296-0947.

Hours: 9:00 am - 5:00 pm, Mon.- Fri.

Costs: \$12.00/minute per database excluding "AllFiles"; \$18.00/minute for "AllFiles". \$2.00/minute telecommunication charge. \$50/hour consultation fee (1st tenth of an hour free). Minimum search is \$12.00.
\$.03 per line for off-line printing.
\$1.00/page for FAX transmittal

The Tacoma Pierce County Bar Association offers a similar service in the Pierce County Law Library (206-591-7494). Attorneys set up accounts with the Bar Association and may either do their own searching or have a staff person do it (for a fee).

The Spokane County Law Library (509-456-3680) also has a WESTLAW terminal. A librarian will do the search. WESTLAW time is billed at \$6.00 per minute; printouts are \$3.00 per page.

The Des Moines branch of the King County Public Library (21620 - 11th South, Des Moines) recently teamed up with the Des Moines City Attorney to subscribe to WESTLAW. Local attorneys may arrange with WESTLAW (628-6435) to set up their own accounts and use the library's equipment. The library (824-6066) does very limited searching for the public.

The Eastside Law and Tax Library (451-3961), a private subscription law library, offers WESTLAW access to its members. Attorneys may either do their own searching or have it done by the librarian (for a fee).

Legal Information Access Systems (LIAS), a project of Northwestern School of Law in Portland, does research, including on-line research, for attorneys. Call 1-503-245-7878.

B. Group Memberships

The KCBA Young Lawyers Division also offers a LEXIS group membership plan. This plan allows attorneys to access LEXIS in their offices and avoid the \$125.00 per month subscription charge. For further information, call 296-0947 or 624-9365 (KCBA). The ABA also offers group membership plans for both LEXIS and WESTLAW through ABANET. For current prices call 1-800-322-4638.

C. Phone Numbers

Here is a list of the CALR local representatives and their main office customer service numbers.

VENDORS:

LEXIS/NEXIS, Mead Data Central	local	206-621-1761
	main	800-543-6862
WESTLAW, West Services	local	206-628-6435
	main	800-937-8529

OTHER ACCESS TO WESTLAW AND LEXIS:

KCBA-YLD Electronic Law Library Service (at King County Law Library) WESTLAW searches; LEXIS group membership	206-296-0947
Spokane County Law Library WESTLAW Searches	509-456-3680
Tacoma Pierce County Bar Association (at Pierce County Law Library)	206-591-7494

WESTLAW access

ABANET 800-322-4638
WESTLAW and LEXIS group membership

**Des Moines Public Library -- contact West Services to set up
an account**

Eastside Law and Tax Library 206-451-3961
WESTLAW access

Attorney Services (Portland) 503-245-7878
On-line and manual research FAX 503-246-8542

VERALEX 2 (affiliate of the Lawyers 800-448-3400 x414
**Co-operative Publishing Co., Bancroft-
Whitney Co., and the Research Institute
of America) provides access to LEXIS;
different pricing**

WASHINGTON LAW:

CD Law 206-623-1688

WSBA Legal Access in Washington (LAW BBS) 206-448-0441

COURT INFORMATION:

**Superior Court Management Information
System (SCOMIS)** 206-753-3365

Ninth Circuit ACES 415-556-8011

**PACER - Public Access to Court Electronic
Records (US Bankruptcy Court, WD Wash)** 206-553-7265

CD-ROM PRODUCTS:

Matthew Bender Search Master local 206-241-0214
main 800-892-9204

West CD-ROM Libraries local 206-628-6435
main 800-888-9907

VIII. More Than LEXIS and WESTLAW

For many years, computer-assisted legal research was nearly synonymous with the two leading national systems, WESTLAW and LEXIS. But technological developments and applications of existing technology are resulting in new products and services for legal researchers. Other chapters in this book have discussed some features available on LEXIS and WESTLAW, and have also included information about two local services, L.A.W. BBS and CD Law. This chapter discusses some of the other new products and services.

A. CD-ROM

Compact disks, manufactured and read using lasers, are able to store amazing amounts of data. Audio compact disks, which you might play on a compact disk player in your home, take advantage of this storage capacity by storing complex audio information that the player (with the amplifier and speakers) can convert to sounds. Compact disks are increasingly being used to store other sorts of information, notably words, in a form that can be searched by computer. One CD-ROM disk (the "ROM" stands for "Read Only Memory") can hold up to the equivalent of 300,000 typewritten pages, so that it's possible to have a whole encyclopedia on one small disk.

Depending on the particular product, CD-ROM searching may be similar to on-line searching. It may be full-text, using connectors such as AND, OR, and NOT. Many systems combine some on-line search techniques with some techniques from traditional, manual research. For instance, you can bring a "book" to your "desktop" and browse through the table of contents. If you want to come back to a passage later, you can put a "bookmark" at that "page."

Despite some similarities with on-line systems, the price structure for CD-ROM products is very different. Typically, you would need to buy or lease hardware (personal computer, printer, CD player) and the CD and accompanying software. You might have a licensing agreement for its use or an annual subscription that would include, say, quarterly updates. Once you have made those investments, you could use it as much or as little as you wanted, with no further charges. If you did one search a month, this would be no bargain, but if you used the system frequently, your savings could be considerable. The cost of a CD-ROM product is more like the cost of a looseleaf service than like WESTLAW or LEXIS — you pay for an annual subscription, not for each research session.

Note that CD-ROM systems cannot be as current as on-line systems. Many databases on LEXIS and WESTLAW are updated daily. Again, a CD-

ROM product is more like a looseleaf service: it's as current as the latest supplement. Some CD-ROM products allow updating via on-line systems.

CD-ROM systems may be especially useful for law firms that have specialized practices. A firm that specializes in bankruptcy might invest in Collier's Bankruptcy Library, for instance.

EXAMPLES OF CD-ROM PRODUCTS

CCH ACCESS CD-ROM: The Standard Federal Tax Reporter and other federal and state tax publications from CCH are available on CD-ROM. For more information, contact Commerce Clearing House, 800-248-3248 (national office); 206-448-1224 (Seattle sales office).

CD Law: CD Law, based in Seattle, has produced two disks containing Washington law. The "Decisions" disk contains the full text of Washington Court of Appeals and Supreme Court decisions, 1939-1993. The "Statutes" disk contains the RCW, the WAC, the Seattle Municipal Code, and the local rules of most counties. For further information, see separate chapter in these materials, or contact CD Law, Inc., 1920 Smith Tower, Seattle, WA 98104, 206-623-1688.

Matthew Bender Search Master: Each disk gives you access to up to 200 volumes of Matthew Bender publications. For instance Search Master Collier's Bankruptcy Library includes Collier on Bankruptcy (15 vols.), Collier Bankruptcy Practice Guide (8 vols.), Collier Bankruptcy Cases (22 vols.), and nine other titles. Matthew Bender also has libraries in the areas of tax, California practice, federal practice, and has announced plans for one on intellectual property. For further information, contact Matthew Bender & Co., 800-892-9204.

Shepard's: CD-ROM Citations are available on CD-ROM for several states. A Washington disk is planned, but is not yet available (as of May 3, 1993). For more information, contact Shepard's/McGraw-Hill, 800-541-3334 X7831 (Mark Donner); 206-821-9406 (Jim Romer).

West CD-ROM Libraries: West has produced CD "libraries" of several disks each in different practice areas, including bankruptcy, Delaware corporation law, federal civil practice, federal tax, government contracts, and securities. Wright and Miller's Federal Practice and Procedure treatise is included in the federal civil practice library, for instance. West also has a CD with all of the BNA Tax Management Portfolios. The West CD-ROM system can be used alone, or you can use it in conjunction with WESTLAW — for example, starting your research on the CD-ROM system, then signing on to WESTLAW to find newer cases or to use Insta-Cite or Shepard's. For further information, contact West Publishing: Reed Wiecks (Seattle sales rep; 206-781-1595), Bill

Matthews (sales rep for Western Washington outside Seattle; 206-451-8484, Bellevue; 800-201-1100, toll-free, or the national office (800-255-2549).

In May 1993, West introduced a CD product with Washington case law, including West editorial features, such as key numbers. The RCWA, WAC, and Attorney General Opinions are scheduled to be added later, probably in late 1993. Washington court rules and pattern jury instructions will be available on floppy disk for use with word processing software. West is also releasing a CD containing United States Code Annotated. For more information, contact the West sales representatives listed above.

B. Bulletin Board Systems

Legal Access in Washington Bulletin Board System (L.A.W. BBS), developed and staffed by volunteers and currently subsidized by the Washington State Bar Association, offers a variety of services and searchable databases. Attorneys may download files, send and receive e-mail, and subscribe to electronic discussion groups or "conferences." Searchable files include the RCW, the WAC, Washington court rules, and Washington attorney general opinions. For further information, see separate chapter in these materials. There are some other bulletin board with legal information in the country; item 2 of the L.A.W. BBS File Directory has a partial list.

C. On-Line Access to Court Information

The U.S. Supreme Court and several circuit courts are making their opinions available on-line. Generally you cannot search the full-text of cases, but can simply retrieve and download the text of cases — e.g., by name or docket number. Other information, such as oral argument calendars, may be available as well.

The Supreme Court's experimental project, dubbed Project Hermes, sends out opinions as they are issued to twelve organizations including Mead Data Central and West (for LEXIS and WESTLAW), publishers such as BNA and CCH, and Case Western Reserve University, in conjunction with the National Public Telecomputing Network and the Inter-University Communication Council. Case Western in turn makes the opinions available via Cleveland Free-Net, BITNET, and Internet. To use the Cleveland Free-Net, have your modem dial 216-368-3888; from the Free-Net directory, type **go supreme**. Locally, L.A.W. BBS downloads the cases, so you do not have to call Cleveland. The Supreme Court slip opinions are item 20 in the L.A.W. BBS File Directory. The cases can be downloaded but they cannot be searched full-text without appropriate search software on your pc.

Ninth Circuit opinions are available through ACES, Appeals Court Electronic Service, an electronic bulletin board. ACES includes the full text of slip opinions and orders published within the past 30 days, oral argument calendars, Ninth Circuit appellate rules and procedures, lists of dispositions, and press releases and general notices. For a brochure that explains ACES and has instructions for connecting, downloading files, etc., call the Ninth Circuit's Public Information number, 415-556-8011.

The Washington Administrator for the Courts (OAC) provides access to its statewide computer system with information about Superior Court dockets. The system is called JIS-Link (for "Judicial Information System") or SCOMIS (for "Superior Court Management Information System"). It includes docket information for 37 of Washington's 39 counties -- 93% of the superior court caseload in the state. Attorneys and the public may search SCOMIS at courthouses, but they may also subscribe and search from their own computers. Currently, the costs are \$100 for installation, then \$25 per hour. There is a toll-free number for in-state users. For more information, contact JIS-Link Coordinator, (206) 753-3365.

According to a March 25, 1993, message on L.A.W. BBS, the Bench-Bar Computer Council (B2C2) has requested a survey of interest in having a link between JIS (SCOMIS) and L.A.W. BBS. Users would still have to pay, but they would not have to subscribe separately. This is still only under discussion. The same message notes that ACCORDS and DISCUS (docket information for the Courts of Appeals and District Courts) will probably be added to JIS.

WHAT'S NEXT?

Predictions are always risky, but it seems certain that computer-assisted legal research will continue to grow and change. WESTLAW and LEXIS will add new databases and services. Other companies will introduce more CD-ROM products. Non-profit organizations, such as L.A.W. BBS, will also continue to make information available to the public and the bar. We cannot tell you now all the options that will be available to you in the years ahead, but we are certain that more databases and search options will become available. Watch the bar journals and legal newspapers for new developments.

D. L.A.W. BBS

L.A.W. BBS (Legal Access in Washington Bulletin Board System) is operated by a group of volunteers with funds provided by the Washington State Bar Association to provide low-cost legal research to its users. L.A.W.

BBS has teleconferencing capabilities, file transfer utilities, a form of E-Mail, and a doorway program which permits full-text search and retrieval of legal databases.

L.A.W. BBS is available 24 hours a day with six telephone lines (nodes) available for access. Users are allowed a limited amount of on-line time per day, though subscribers are entitled to up to 3 hours usage per day. Basic public access is free, though subscriptions (\$10/mo.) for regular users are encouraged.

Databases (current as of date): Be sure you check the currency of the database you are searching! It may be necessary to update your research using other sources.

- Revised Code of Washington (9/1992)
- Washington Administrative Code (3/1992)
- Washington Reports 2d (1977-1991)
- Washington Appellate Decisions (1977-1991)
- Washington Court Rules (various)
- Attorney General Opinions (1949-1993)
- Washington Administrative Decisions (various)
- Department of Revenue Tax Decisions, Excise Tax Bulletins, and Revenue Policy Memoranda
- City & County Codes & Ordinances (various)
 - Bainbridge Island Mun. Code; Bellevue Land Use Code; Chelan Mun. Code; Des Moines Mun. Code; Pierce County Code; Redmond City Code
- Federal Rules of Civil Procedure (12/1991; in test)
- WSBA Ethics Opinions (12/1991)
- Washington Corporations (Sec'y of State filings)
- Washington Lawyers' Database (Directory of WA attorneys)
- Washington Contractors' License Database

Conferences: Conferences are available for specific interest groups, committees or organizations. It is possible to scan, send and receive files and/or messages specific to selected conferences. To join a conference, from the menu type "J #".

Access: N.B.: First use requires you to register on the system! Your password will be required for future use.

Use any standard communication software set to 8 bit, no parity, 1 stop bit, [Full Duplex]. (Shareware communications software is available from L.A.W. BBS for \$10!) The six telephone numbers currently available, with

their maximum baud speed are:

(206) 727-8312 -- 14400

(206) 728-2885 -- 9600

(206) 728-2887 -- 14400

(206) 728-2884 -- 14400

(206) 728-2886 -- 9600

(206) 927-1030 -- 9600 [Tacoma]

Basic Information: For searching the legal databases, from the main menu, type "DOOR", then "4", then "menu choice #", for the database you want to search. After choosing a database, you get a menu from which you can choose: [K]eyword search; at the prompt, enter search terms, and the system will respond by telling you how many sections it found. You may then [V]iew full-text (using options at bottom of the screen); [L]ist citations (use # to choose from list); [S]tart a new search; or [Q]uit (returns you to the main menu).

Full-text, boolean searching (AND, OR, NOT), proximity connectors (PRE) and truncation are available. Instructions for on-line searching and downloading are menu options. These instructions also are available for downloading. On-line help screens may be printed out for convenience. Be sure to make use of the HELP screens when necessary!

E. CD Law

CD Law, the State of Washington is, as the name implies, a CD-ROM version of select Washington legal information produced by CD Law, Inc. [1920 Smith Tower, Seattle, WA 98104]. CD Law is contained on two disks: Washington Decisions and Washington Statutes (including the WAC, the State Constitution, state and local rules of court, and the Seattle Municipal Code [see below]). It is a DOS-based program that runs on IBM or IBM-compatible personal computers. CD Law may be run in a Windows environment as well as with DOS character commands.

There are four options under the CD Law Price Plan: month-to-month rental; lease/purchase; contract sale; and purchase. Options are flexible in an attempt to make CD Law economical for everyone, including the small firm or solo practitioner. The disks may be purchased separately or together. Discounts are available with additional copies of either disk, and network licenses also are available. Two hours of training are provided with a subscription.

Databases: Subscriptions include quarterly updates to the Washington Decisions disk and biannual updates to the Statutes disk (fall and spring). Subscribers may update the material on disk through "CD Law OnLine", a

phone-in bulletin board system, at no extra charge, though this does require a modem and telecommunications software. Be sure you are aware of how current the information is!

DECISIONS DISK:

Decisions: 1-119 W.2d [1939-1/8/1993] & 1-67 Wash. App. [1969-1/1/1993]

STATUTES DISK:

Washington Administrative Code: 1992 WAC as of 2/5/1992, WSR 92-04

Revised Code of Washington: 1992 RCW

Washington State Constitution

Local Rules of Court: Most Washington counties as of 9/1/1992

Seattle Municipal Code: Through ordinance 116099 passed 3/9/1992 and changes to the Charter as of 9/1/1992

Basic Information: If both CD Law disks are available for simultaneous searching, multiple databases may be selected for combined searching. Hypertext linking also is possible with both disks operating, allowing a user to easily view the full-text of references cited within text.

Full-text, boolean searching (AND, OR, NOT), proximity connectors (ADJ, W/n) and truncation are available. A user also may construct a search using a "Forms Search" which provides a template for completion. Searching tables of contents is another option. Users may find assistance with an "Expand" feature, which is a statistical thesaurus that locates related concepts in the database through statistical analysis. There are various methods to view, print and download search results; check documentation for instructions.

[Rev. April, 1993]