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# Computerized Legal Research - The Tenth Circuit's Experimentation with LEXIS

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# COMPUTERIZED LEGAL RESEARCH—THE TENTH CIRCUIT'S EXPERIMENTATION WITH LEXIS

## INTRODUCTION

Today's attorney must assimilate a rapidly mushrooming volume of legal material. It has been estimated that 30,000 judicial decisions and 15,000 statutes are added to the law each year.[1] Administrative regulations and rulings are also increasing in number. The Harvard Law Library, which already contains over 1 million volumes, must add 4½ miles of shelf space to accommodate each year's acquisitions.[2]

The overwhelming quantity of legal writings has forced conscientious attorneys to search for more efficient methods of gleaning relevant materials from the many sources available. The Federal Judicial Center, the research and development arm of the federal court system, has taken an active part in the search by budgeting approximately $190,000 to determine if the computer can provide the needed efficiency. The Tenth Circuit Court of Appeals, along with the Sixth Circuit and the District of Columbia Circuit, has been selected to assay LEXIS, a computerized legal research system developed by Mead Data Central.[3]

For a 1-year period which began in September of 1975, an objective study will compare LEXIS to conventional research methods. During the study, participating federal judges will assign the same legal issue to two law clerks or staff attorneys. One researcher will use only traditional methods; the other will use LEXIS, and may also use customary sources as a supplement. Both will submit a memorandum on the issue, and the judge will rate the memos without knowing which method of research was used. The judges' ratings and a record of the time required for each method will be forwarded to the Federal Judicial Center, where, after factoring out variances caused by individual research ability differences, statisticians will evaluate the speed, accuracy,

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[1] Cohen, *Research Habits of Lawyers*, 9 JURIMETRICS J. 183, 185 (1969).

[2] Tapper, *Research and Legal Information by Computer*, 48 CHI. B. REC. 226, 228 (1967).

[3] Numerous other systems of computerized legal research have been developed or are in the process of being developed. *See, e.g.*, Bigelow, *The Use of Computers in the Law*, 24 HASTINGS L.J. 707 (1973); Comment, *Computer-Assisted Legal Research*, 52 ORE. L. REV. 665 (1972). The District of Columbia Circuit is simultaneously testing a system developed by West Publishing Company which contains West headnotes.

and thoroughness of computerized legal research. If the results are positive, it is likely that LEXIS will be installed throughout the federal court system.

## THE FEATURES OF LEXIS

LEXIS provides a full-text approach to computer research. The system contains, for example, all Supreme Court cases decided since 1938. This means that every word of every opinion since that time is in computer storage and available for reference.

The researcher interacts with the central computer via a remote terminal connected by telephone lines. He types messages on the terminal's keyboard and it replies on a video screen. The computer is asked to search for certain words, numbers, phrases, or combinations thereof. Through the use of connectors—the simplest of which include "and," "or," and "but not"—the researcher can expand or restrict his request. To illustrate, the LEXIS user may ask the computer to retrieve all Tenth Circuit cases in which the word "negligence" appears. Within seconds, the number of cases using the word will be provided. Since there will undoubtededly be an excessive number of such cases, the request may be modified by adding "and automobile or vehicle." The computer would then provide the number of cases which contain both the word "negligence" and either "automobile" or "vehicle." To further modify the request, the researcher may ask for only those cases which also contain the word "comparative" within the space of five words from "negligence."

When the attorney has arrived at a number of cases which he considers manageable, several options are available. He may simply jot down the citations for later use in a conventional library. He may read entire cases on the console screen, or scan only the portions which contain the words used in the search request. He may even tell the console's high speed printer to provide a copy of certain cases. The same process is used when dealing with statutes or administrative regulations.

Although the above illustration has been simplified, it demonstrates that full-text research is quite different from traditional methods. Instead of depending upon a compiled index, the researcher actually constructs his own index, relying upon the facts of the case and upon his knowledge of the words likely to be found in cases, statutes, or rulings dealing with the subject of his research. He may search by fact patterns, areas of law, or key

words. Success varies with the skill of the researcher; a comprehensive knowledge of the field being researched greatly improves the quality of information obtained, as does experience in using the LEXIS console.

A.  *Current Data Base Available*

The LEXIS federal library currently contains the United States Code, Supreme Court decisions beginning in 1938, federal courts of appeal decisions beginning in 1959, and district court decisions since 1970. The system also contains an extensive federal tax library as well as a securities law library and a trade regulation library.

Statutes and court decisions from the states of Ohio, New York, Missouri, Texas, and Illinois have been entered to varying degrees. Eventually, the laws of every state will be included. States will be added as customer demand increases and as Mead Data Central is able to enter into agreements with state bar associations.

B.  *Cost of LEXIS*

The approximate cost of LEXIS is $70 for each hour of console use. In addition there is a surcharge of $195 for each hour of central computer time. Fees are computed to the nearest second. Although the speed of computer research prevents such charges from being excessive, the monthly minimum obligation of $2,500 may be prohibitive for many small firms and sole practitioners. It is likely, however, that fees will be lowered as the number of customers increases. It may also be possible for bar associations to work out time-sharing arrangements. Currently, substantially lower rates are offered to government users and to law school libraries.[4]

CONCLUSION

LEXIS users, which include several large law and accounting firms, indicate that it is a valuable research tool when used in conjunction with, rather than as a replacement for, traditional methods. Occasionally results have been dramatic. Tenth Circuit users have found cases directly on point after a fruitless conven-

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[4] Pricing information, as well as much of the information concerning LEXIS used in this article was obtained from brochures published by Mead Data Central, 200 Park Ave., New York, New York 10017.

tional search. The greatest value of the system, however, may be its potential for diverse and creative uses. For instance, cases decided by a particular judge or argued by a particular attorney can be retrieved. The search may be limited to a certain time period. It is possible to locate all cases citing a previous case, a function now performed by Shepard's Citators. Additional unique capabilities will certainly be found as the system continues to be used.

It is clear that the legal profession is in need of new, more efficient research techniques. The information obtained by the three circuit courts of appeal will provide valuable insight into the potential of LEXIS, and of computerized legal research in general.

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