LRC Week 7 Training

Introduction to Legal Research

Part 1
What we will cover

• Differences between primary and secondary sources

• Types of secondary sources:
  • Legal encyclopedias (AmJur, CJS, Cal Jur, and Witkin Summary of California Law)
  • Treatises and practice guides (Witkin Treatises, Matthew Bender Practice Guides, CEB Practice Guides, Rutter Practice Guides)
  • American Law Reports
  • Legal periodicals

• Searching for secondary sources: using natural language & filtering by source type.

• In-class research problem: Medical marijuana
  • Secondary source & statutory research
Primary sources (primary authority)

- Examples: Caselaw and statutes & codes
- Created by the courts and the legislature
- It’s the law!

- Binding/mandatory vs. nonbinding/persuasive
  - Jurisdiction
  - Weight of authority (level of court)
Secondary sources (secondary authority)

- Secondary sources are background resources.

- Examples: encyclopedias, treatises and practice guides, A.L.R. annotations, journal or law review articles, and restatements of the law.

- Secondary sources are NOT binding, but they can be a good way to start research as they contain valuable citations to primary sources.

**Secondary sources are huge time-savers!**
Legal encyclopedias

- Report on the general state of the law in different subject areas.


- In addition, California has two state encyclopedias: *California Jurisprudence* (Cal. Jur.) and *Witkin’s Summary of California Law*. 
Treatises and practice guides

• Essentially, single-subject legal books.

• Treatise examples: Corbin on Contracts, Products Liability in a Nutshell, Witkin California Criminal Law.

• Practice guide examples: California Landlord-Tenant Practice, California Civil Practice.

• Popular practice guide publishers include Matthew Bender (Lexis), CEB (OnLaw), and Rutter (Westlaw)
American Law Reports (ALR)

- Contains articles called “Annotations.”

- Annotations collect summaries of cases from a variety of jurisdictions to provide an overview of the law on a topic.

- They are more detailed than encyclopedias.
Legal periodicals

• Law journals or law reviews

• Contain detailed articles on very specific topics, e.g. *Last Resorts and Fundamental Rights: The Substantive Due Process Implications of Prohibitions on Medical Marijuana*, 118 HARV. L. REV. 1985 (2005)

• Generally, not a good place to start your legal research if you are just getting familiar with a topic.
Searching for secondary sources

In Westlaw and Lexis you have two options for accessing secondary sources:

**Option 1:** Type in the name of the item (e.g. California Jurisprudence, American Law Reports, etc.), select one of the options in the drop-down menu, and search within that source.

**Option 2:** Search by **natural language** and **filter** by clicking on secondary sources, jurisdiction, and/or type.
Fact pattern:

Calvin is a resident of San Diego and suffers from chronic back pain. He has a valid medical marijuana card and often smokes in the morning to alleviate the pain. His employer routinely administers drug tests. Calvin is worried that he could be fired for failing a marijuana drug test even though he has a medical marijuana card.

- What is California’s law regarding medical marijuana?
- Should Calvin be worried about failing a drug test even though he has a medical marijuana card?