Introduction to Legal Research in Maryland

Judge Danielle M. Mosley
Common Law is the system of law developed in England and transferred to most of the English-speaking world. “Judge-Made Law”-The law is developed through the courts. Today our legal system encompasses legislative action. Legislative bodies create the law.
• Common law was the primary source of law, except in Louisiana. There was no important body of United States statutory law until the late nineteenth century.

• Statutory law changed many common law principles to reflect societal changes.

• Statues have replaced common law as the primary source of law.
Civil law is based on a civil code, a systematic and comprehensive written set of rules of law. Judges look to the civil code to settle disputes, rather than rely on precedent. (Precedent is cases handed down from the higher court to a lower court with the same legal facts and same legal principles.)
Our Tripartite System

• Legislative Branch-
  • Congress
  • House of Representatives
• Judicial Branch- The Courts:
• Executive Branch- The President

Federal Judiciary System

• United States Supreme Court- Appellate Court
• Federal Court of Appeals- Intermediary Appellate Court
• United States District Court: Trial Court contains specialty courts, Bankruptcy, Tax, Admiralty, etc.
Maryland

- Legislative Branch-Senate & House of Delegates
- Judicial-Maryland Judiciary
  - Court of Appeals- Highest Appellate Court
  - Court of Special Appeals-Intermediary Appellate Court
  - Circuit Court: Trial Court- General Jurisdiction, 8 Judicial Circuits, one circuit court each of the 23 counties- Family law, Felony Criminal, Juvenile matters
Maryland’s Court’s cont.

- **District Court**: Trial court- Limited Jurisdiction. Misdemeanor criminal cases, Peace orders and Protective orders, small claim civil, concurrent jurisdiction with Circuit Court.

- **Orphan’s Court**: Maryland’s Probate Court
Jurisdiction
• The power of a court to make a legally binding decision in an area over a location, person, and subject matters.

Trial Court
• Determines the facts and apply the applicable law to the facts.
• Determines motions, admissibility of evidence
• Judges credibility of witness testimony

Appellate Court
• Reviews trial court decisions
Constitution

The United States Constitution is perhaps the most important legal document for our country because it sets out the basic principles and most general laws of a country, state, or organizations.

The United States constitution is the basic law of the country in which most other laws are based and to which all other laws must yield to.
The provision in Article VI of the United States Constitution that the Constitution, Federal laws, and treaties take precedence over conflicting state constitutions or state statutes.
Precedent

A case handed down by a higher court to a lower court with same similar facts, same legal principal.
The rule that when a court has decided a case by applying a legal principle to a set of facts, the court should stick to the principle and apply it to all later cases with clearly similar facts, unless there is a strong reason not to, and that inferior courts must apply the principle in similar cases.

“If president exists; it must be followed”
Sources of Law

**Primary Authority** - The Law

1. Statutory law (Exacted Law)
2. Case Law (Judicial Opinions)
3. Administrative rules & regulators

**Secondary Authority** - Sources that are designed to explain and analysis legal principles, help legal turns and general concepts
Primary Authority

1. Statutes
2. Case law
3. Administrative law
Maryland Statutory Law

- Laws of Maryland (*Official code book*) published after session: organized in chronological order
- Annotated Code of Maryland
- West Annotated Code of Maryland
  
  Generally organized as follows:
  
  - General Index: alphabetical order: popular name, subject
  - Updated annually
  - Check the pocket part
Maryland Case law:

- Maryland Reports: Court of Appeals (*Official Reporter*)
- Maryland Appellate Reports: Reported cases from the Court of Special Appeals (*Official Reporter*)
- Atlantic Reporter: publishes both appellate courts (*Unofficial Reporter*)
Administrative Law:

- Code of Maryland Regulations (COMAR):
  - Loose-leaf binder
  - General Index: organized by topic
  - Updated pages
**SECONDARY Authority**: USED TO EXPLAIN LEGAL CONCEPTS.
USED TO FIND PRIMARY SOURCES.

- Legal Encyclopedias
- ALR (American Law Reports)
- Attorney General Opinions
- Restatements of the Law
  - Treatises
- Legal Dictionaries
- Legal Periodicals
SECONDARY SOURCES: USED TO EXPLAIN LEGAL CONCEPTS. USED TO FIND PRIMARY SOURCES.

Citators and Digests are not considered primary or secondary authority. They are locators authority.

**Citators:** Determine whether primary authority is valid & locates primary authority

**Digest:** Case locator
LEGAL ENCYCLOPEDIAS

- Gives GENERAL background information.
- Organized like other types of encyclopedias:
  - Multi-volume
  - Broad Topics arranged alphabetically
  - Topics divided into sections
    - Table of Contents prior to each topic
  - Detailed index volumes at end of set
  - Table of Contents at beginning of set
  - Each volume contains its own index

Most Common Legal Encyclopedias:

MARYLAND: West’s MD Law Encyclopedia
Corpus Juris Secundum
American Jurisprudence
LEGAL ENCYCLOPEDIAS

• Emphasizes Case Law
• **Heavily** Footnoted-Relevant Citations are located in Footnotes
• Updated annually through pocket parts (paperbound volume if pocket parts become too large)
• Brief summary of a legal principle
• Cites primary authority (cases & statutes) that interpret the legal principle
ALR (AMERICAN LAW REPORTS)

- ARL contains useful commentary (annotations) on SELECTED legal issues and cases.
- Cases selected for ARL because contains important, novel, or interesting legal issue
- Discusses cases from jurisdictions across the country
- Use ARL for annotations. Cases are printed at end of volume.
- About 20 cases/volume
- Published by West
- Organized in order annotations are written
- Includes index volumes
- Updates are in pocket parts
RESTATEMENTS OF THE LAW

- Published by American Law Institute
- Secondary Source, but considered highly persuasive
- Only covers some specific areas, some examples:
  - Agency
  - Conflict of Laws
  - Contracts
  - Judgements
  - Law Governing Lawyers
  - Law of Foreign Relations
  - Property Restitution
  - Torts
  - Trusts
  - Law of Foreign Relations
RESTATEMENTS OF THE LAW

- Developed to address the uncertainties of the American legal system
- Discusses existing law – principles of law possibly viewed as forward-thinking statements
- Provides sound interpretation of specific terms and legal principals.
TREATISES

• A MULTI-VOLUME BOOK that covers only ONE SINGLE area of law.
• Explains in GREAT detail
• Written by one or more legal experts
• Includes citations to relevant authority in footnotes
• May be hardbound (updated with pocket parts), loose-leaf, or paper-bound pamphlets
• Includes Table of Contents, Index, and Table of Cases
Acknowledgements

  - My LGS 143 Class
That’s ALL Folks!