

Locating the Law

A Handbook for Non-Law Librarians in Michigan

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Introduction

There are legal research guides everywhere – for attorneys, for law students, for laypersons – and in every format and style imaginable, from the venerable tome on the subject, **Fundamentals of Legal Research** by Jacobstein and Mersky that I dutifully poured through in my library school legal bib class, to the very creative infographics found on sites like the **Visual Law Library**. Among these are guides specific to Michigan legal research, and so that leaves one to wonder: what is so different about *Locating the Law*?

Locating the Law was inspired by other state-focused research guides published in, for example, California and Illinois. Long before the **Michigan Legal Help** website was a reality, a group of Michigan law librarians serving the public in government and academic libraries were discussing the possibility of adapting these excellent manuals for Michigan researchers. The key to these resources were that they were written with other librarians in mind, that is, people *already* comfortable with the concepts of translating a reference question or issue into a research query, but perhaps unfamiliar with some of the skills, strategies, and resources needed to work with library patrons whose questions would require looking at specialized legal materials.

At about the same time, changes were afoot in the legal community to better understand and to assist the person who was attempting to find his or her own way through the court system instead of seeking a lawyer to handle the case. The Great Recession of the late 2000's brought even larger numbers of *pro se* or *self-represented litigants* than

usual into the courts, and court personnel and jurists began working overtime to find solutions to assist the understandably confused persons who showed up in clerk's offices to open cases or to defend themselves, filing any number of complaints, motions, and even briefs, tasks that in earlier times had been handled by a personal lawyer. Research has determined that an understanding of court procedures is a more reliable indicator of a favorable outcome than even substantive knowledge of the law, and so efforts became focused on developing resources that would help the lay person to navigate the system, as well as to provide some background or substantive knowledge needed to have the case heard with limited, or even no, assistance from a licensed attorney.

Until court procedures could catch up, however, self-represented litigants began flocking to another tried and true source of information – the public library. Known to most people from the time they were children, people caught up in everything from divorce to child support proceedings to wage or benefit disputes to arguments with a neighbor over a fence line, turned to librarians for help in figuring out what they needed for their cases just as they had always turned to libraries for information for a science project or history report, new recipes, automobile manuals, and tax forms. In turn, public librarians needed to know where they could go to find the information increasingly in demand from their patrons, but seemingly only available in expensive legal publications. Moreover, having heard horror stories about the *unauthorized practice of law*, but fearing censure from administrators, library boards, and the community for not providing an in-demand service, non-law librarians wanted to know how to adapt their reference skills to provide needed information without crossing some forbidden, yet ghostly ethical (and legal) boundary.

As a group of experienced law librarians began to travel around the state to give presentations on working with self-represented litigants and others with legal questions, the contemplated Michigan legal manual began to take form. Funded by the **Library of Michigan**, the **Gates Foundation**, and then later in 2013 with a generous grant from the **State Bar of Michigan Foundation**, these government, public, and academic law librarians sought to help their fellow professionals not trained in the law to understand the difference between giving legal advice and providing legal reference help. A feature of the presentations was the new **Michigan Legal Help** website, a revolutionary, no-cost tool that has proved to be an incredible resource to familiarize the general public with the state court system and common legal topics, as well as to help them more effectively to represent themselves in simple, civil (non-criminal) matters. **Locating the Law** thus hopes to capture the essence of these workshops, adding additional basic information on doing, and assisting others in doing, legal research in a public or other non-law library setting.

We hope you find this first published version of **Locating the Law** of help to you in your daily work, and we welcome comments and feedback from our library colleagues to make it even more effective and more relevant. We would like to thank once more the State Bar of Michigan Foundation, and especially Executive Director Linda Rexer, for recognizing the role public libraries play in assisting the self-represented litigant, and for insisting that librarians be at the table as the **Michigan Legal Help** program was under development. We would also like to thank the Library of Michigan and Library of Michigan Foundation for its administrative support for the Michigan Legal Help program, as well as the Oakland County Law Library and the Library of Michigan for hosting this manual or individual chapters on their websites. We would also like

to thank all the law librarians who contributed their time and collective expertise to this effort by giving presentations throughout Michigan, and by researching and writing the chapters included in this manual. Finally, thank you to all our public and college library colleagues who gave us space, staff time and your sincere interest in, and comments and thoughts about, the subject – this manual is for you and your patrons!

Kimberly Koscielniak
State Law Library,
Library of Michigan
December, 2016

Editor's Note: Individual chapters of this **Locating the Law** originally appeared on the Library of Michigan/State Law Library website. Combining the chapters into a single volume has provided many challenges, especially as our goal is to also bring the handbook into line with accessibility guidelines under the Americans with Disabilities Act. This first unified edition will thus likely have several formatting inconsistencies as we work to make this online publication accessible to all researchers. We therefore welcome your drawing our attention to any technical issues that you find, including broken links. Your input will help us to refine this resource. Please send an email to koscielniakk@michigan.gov with any comments. -Thank you.

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Chapter 1: Legal Reference versus Legal Advice

By Janice Selberg

“We hold that a person engages in the practice of law when he counsels or assists another in matters that require the use of legal discretion and profound legal knowledge.”

Dressel v. Ameribank, 468 Mich. 557 (2003)

In working with the public, librarians encounter community members with a variety of needs. These could be recreational, medical, financial, educational, and legal, to name a few. Sometimes conflicts in reference service arise at the juncture of a legal information need, the library's mission to provide people with the tools to help themselves, and the constraints of the law. This chapter discusses some aspects of legal reference work with the public, and the distinction between legal information and legal advice.

Michigan clearly prohibits the unauthorized practice of law, as stated in **Michigan Compiled Laws (MCL)** section 600.916:

(1) A person shall not practice law or engage in the law business, shall not in any manner whatsoever lead others to believe that he or she is authorized to practice law or to engage in the law business, and shall not in any manner whatsoever represent or designate himself or herself as an attorney and counselor, attorney at law, or lawyer, unless the person is regularly licensed and

authorized to practice law in this state. A person who violates this section is guilty of contempt of the Supreme Court and of the circuit court of the county in which the violation occurred, and upon conviction is punishable as provided by law. This section does not apply to a person who is duly licensed and authorized to practice law in another state while temporarily in this state and engaged in a particular matter.

(2) A domestic violence victim advocate's assistance that is provided in accordance with section 2950c does not violate this section.

What does “engage in the law business” or “practice law” mean? Since MCL 600.916 does not define it, it leaves Michigan courts to do so. For the reference librarian trying to draw bright lines around what is and what isn't acceptable, that doesn't make it easy.

The State Bar of Michigan's pamphlet on [UPL](https://www.michbar.org/professional/pdfs/UPLfacts.pdf), <https://www.michbar.org/professional/pdfs/UPLfacts.pdf>, does list several characteristics of the practice of law that are considered unauthorized when performed by others. Among these are:

1. Holding oneself out as a legal counselor, lawyer, or attorney;
2. The drafting of documents for another person which require legal judgment;
3. Giving advice tailored to the particular legal situation of another;
4. Appearing before courts or acting as legal intermediary for another, even if the non-lawyer holds a power of attorney;
5. Representing the interests of others, or the giving of advice, interpreting and applying law and legal theory to the legal

situation of another, including the consequences of various courses of action.

Note that number 3 and number 5 in the list above are most likely to conflict with the work of reference librarians, but officially there is little to guide us. Since the 1930s, with the rise of the state bars and mandatory bar membership across the country, unauthorized practice committees have tried to define the practice of law. For various reasons, this effort has not served the bar or the public well¹.

Law school trains the law student and future lawyer with specific skills, among them the knowledge of substantive law and legal procedures, analytical and logical reasoning, the ability to draw proper inferences, and the structuring of legal arguments. Library and information school by contrast, trains the student reference librarian in conducting patron reference interviews, knowledge of reference sources, and evaluation of the suitability of the source to the question presented by the patron.

In most fields of study, librarians have little trouble with the methods and delivery of the literature. There is a difference of opinion among law librarians as to the level of concern we should have over legal reference work.² The trend seems to be that the gap between the availability of low- or no-cost legal representation and the serious need for it, discussed in the chapter on pro-se patrons, should lead to some relaxation of libraries' strict rules on assisting patrons with legal information needs. As Paul Healey, in an article on the risk of liability

¹ Madison Mosley, Jr., "The Authorized Practice of Legal Reference Service," 87 *Law Library Journal* 203, 204 (1995).

² Samuel E. Trosow, "Jurisdictional Disputes and the Unauthorized Practice of Law: New Challenges for Law Librarianship", 20 *Legal Reference Services Quarterly* 1, 12-13(2001).

for reference activities³ concludes, if librarians do what their professional training demands, act as experts on finding information rather than the interpretation of it, the risk of liability is very low.

Although non-lawyers who have the aptitude and the reading proficiency to understand and apply the law to their own situations can be successful in representing themselves, more often that is not the case. When the patron comes to the reference desk in frustration, it's at that point that the reference interview becomes the most important instrument to make the interaction successful without stepping into UPL territory. The key is to prevent overdependence by the patron-researcher on the judgment and beliefs of the reference librarian. In no case may the librarian direct a legal course of action in substitution of that of the library user.

I hold a different view than many law reference librarians, in that I try to keep a patron's recital of the facts of their situation brief. I acknowledge that empathy and support is often seen as an important part of the reference interview, but patrons can conflate the ability to tell their entire story with the ability of the librarian to spend extended time in the research process, instead of showing the patron how to use the most rewarding sources. The avoidance of a lengthy interview is one strategy recommended to minimize the possibility of the unauthorized practice of law:⁴

³ Paul D. Healey, "Chicken Little at the Reference Desk: The Myth of Librarian Liability", *87 Law Library Journal* 515, 533 (1995).

⁴ Charles J. Condon, "How to Avoid the Unauthorized Practice of Law at the Reference Desk," *19 Legal Reference Services Quarterly* 165, 170 (2001).

Library User: I want to know about getting someone out of my house. I told my daughter and her boyfriend they could live with me if they stayed off drugs and didn't sass me and helped around the house. We didn't sign a lease or anything. Well, they sleep all day and trash the place. When I say anything, that man threatens me. I told them they had to get out and they haven't. They aren't my tenants; she's my daughter. How can I throw their stuff out when they aren't there?

Public Librarian: "Well, she's your daughter, and you can set the rules in your own home, but you could take a look at the **MichiganLegalHelp** website (pointing to a public computer station).

Library User: "That's right...they're out today. Now's my chance to toss them to the curb." She leaves the library without looking at any sources.

The comments made by the librarian were general and meant to comfort the patron, who certainly has a dilemma on her hands. The librarian was handling matters in a reasonable way, by directing the patron to sources to shed some light on the topic and give direction to the next steps. The consequences of simply throwing her daughter's belongings into the street will probably not be pleasant for any involved. As a practical matter, the librarian has no responsibility for any of that, but the example is just a reminder that we should make a special effort in dealing with legal matters, to keep remarks general, non-judgmental, and neutral. A better approach is to encourage the user to read as much as possible on the subject and obtain a legal opinion if the course of

action still seems unclear. To quote Yvette Brown, in an article on UPL and librarians,⁵ "A person is likely to give more weight to information given during a personal conference when his or her particular and individual set of circumstances is discussed than information contained in a generic book that does not contain the patron's individual fact pattern".

In her excellent article, Brown's suggestions to avoid the unauthorized practice of law with library users are useful and concrete. Among them are:⁶

1. The posting of signs at the service desks to inform users of the law-related services that the library does and does not provide. For instance, signs could state that librarians provide instruction in using print resources and access to particular online sources (such as the **MeL Legal Gateway**, <http://www.mel.org/legal>), but not the analysis of patron's legal situations, or the interpretation of statutes. An example of such a statement is at the end of this chapter.
2. Libraries can provide lists of local and regional low-or-no cost legal providers and bar referral services (In Michigan, such a list by county is attached to searches in **Michigan Legal Help**, <http://www.michiganlegalhelp.org>). In addition, posting any fliers or information on occasional free or low cost legal seminars or workshops offered in the community (such as those on estate planning, divorce, or medical marijuana) is a way to help deliver

⁵ Yvette Brown, "From the Reference Desk to the Jail House: Unauthorized Practice of Law and Librarians," 13 *Legal Reference Services Quarterly* 31, 40 (1994).

⁶ *Id.*, at 41.

legal information. If possible, libraries could offer meeting space for these workshops.

3. Provide access to brief handouts on basic legal research skills and law research topics.⁷ Law school libraries often produce such research guides and link them to their website. Examples of these research guides are found on the WMU Cooley Law School website, with dozens of topics such as “Introduction to law” and “How to find a case”. **The Cooley Research Guides** are intended for law students, but may be of use to public patrons, see <http://www.cooley.edu/library/research/guides.html>.
4. Purchase some law-for-the-layperson titles, if budget permits. **NOLO Press** publishes some titles for the public (<http://www.nolo.com/>) that are not specific to Michigan, but can educate and provide background on a legal topic. My personal favorite is **Neighbor Law**, on common problems such as border trees and noise.

In addition, I have two suggestions to enhance the public library’s legal service to the public without risk of UPL:

1. Develop a working relationship with the local district and circuit courts. Let the chief judge know what patrons ask about most, and aim to become a partner with the local courts (if they are interested) in assisting the public without crossing the line into UPL, by making court personnel aware of any specific law-related resources of the local library, and what kinds of information patrons lack to use the courts more effectively. Never reveal to the court (or to anyone) any personal details about patrons.

⁷ Id., at 42.

Michigan Legal Help, <http://www.michiganlegalhelp.org/> has made a tremendous difference since its introduction, in areas such as divorce, landlord-tenant law, and debtor-creditor law, by providing authoritative and free information and interactive, Michigan-specific, forms.

2. In medium to small communities, the local bar association may want to partner with the library in holding “Ask the Lawyer” days. This may increase public awareness of the library, as well as the legal services of the participating attorneys.

For those librarians who prefer a more tangible list of “dos and don’ts” for guidance to the avoidance of UPL, there is a first-rate table by Joan Allen-Hart in Chapter 4 of the [Southern California Association of Law Libraries publication, *Locating the Law: A Handbook for Non-Law Librarians*](#)⁸. The table contains six examples of what is solidly considered legal reference and six of what is probably legal advice. In addition, legal reference does not include the recommendation of a particular attorney or law firm, as librarians must remain neutral in the reference transaction. Giving the phone number of a lawyer referral service, such as the one offered by the [State Bar of Michigan](#) (800) 968-0738, or otherwise directing the patron to legal assistance resources on

⁸ Joan Allen-Hart, “Legal Reference vs. Legal Advice” *Locating the Law*, Chapter 4, 5th ed. Southern California Association of Law Libraries (Revised 2011).

the State Bar's [website](#) (see the *For Public* link) is helpful and may point library users to services of which they may be unaware.

The suggestion offered by several writers that there be a disclaimer or statement at the service desks about the extent to which librarians can help with real-life legal issues, is a good one. The statement does not have to be lengthy or complicated. Here is one example:

Smith Library's Policy on Legal Reference

So that Library staff can avoid the unauthorized practice of law (MCL 600.916) and to help as many patrons as possible with reference requests, Library staff will not interpret the meaning of legal language or advise library patrons of the law. Librarians may be able to recommend legal materials in the Library or online which may assist you, and may instruct on the use of these materials, but are not able to decide if they will be useful to your situation, or to suggest a legal course of action. Patrons are expected to read the materials and decide whether to apply the information there to their own legal situation. If there is a question about how to proceed, we recommend that you consult a licensed Michigan attorney for advice. The Smith Library has a list of legal aid and lawyer referral services for your use. In many instances, *Michigan Legal Help*, (<http://www.michiganlegalhelp.org> available online at this Library) has interactive forms to assist you.

Thank you for your understanding

As long as public librarians do not insert themselves into a library user's legal situation by offering advice, directions as to next steps, or interpreting the meaning of statutes or other legal language, the unauthorized practice of law will almost certainly be a non-issue. As Michigan continues to look for solutions to the problem of the legally underserved citizen, non-law librarians can look forward to more tools to help their patrons.

For Further Reading and Information

Yvette Brown, "From the Reference Desk to the Jail House: Unauthorized Practice of Law and Librarians" 13 *Legal Reference Services Quarterly* 31-45 (1994).

Charles J. Condon, "How to Avoid the Unauthorized Practice of Law at the Reference Desk" 19 *Legal Reference Services Quarterly* 165-179 (2001).

Derek A. Denckla, "Nonlawyers and the Unauthorized Practice of Law: An Overview of the Legal and Ethical Parameters" 67 *Fordham Law Review* 2581-2599 (1999).

John M. Greacen, "'No Legal Advice from Court Personnel' What Does that Mean?" 34 *Judges Journal* 10-15 (Winter 1995).

Paul D. Healey, "Pro Se Users, Reference Liability, and the Unauthorized Practice of Law: Twenty-Five Selected Readings" 94 *Law Library Journal* (1) 133-139 (2002).

Robin K. Mills, "Reference Service vs. Legal Advice: Is it Possible to Draw the Line?" 72 *Law Library Journal* 179-193 (1979).

Madison Mosley, Jr., "The Authorized Practice of Legal Reference Service" 87 *Law Library Journal* 203-09 (1995).

Peter C. Schanck, "Unauthorized Practice of Law and the Legal Reference Librarian" 72 *Law Library Journal* 57-64 (1979).

Samuel E. Trosow, "Jurisdictional Disputes and the Unauthorized Practice of Law: New Challenges for Law Librarianship" 20 *Legal Reference Services Quarterly* (4) 1-18 (2001).

Chapter 2: How to Read Legal Citations

By Heather Simmons

The legal system of the United States is based on the three branches of government set out in the US Constitution: Legislative, Executive, and Judicial. The legislative branch makes the laws, the president sees that the laws are carried out, and the courts interpret what the laws mean. The Michigan legal system is based on the US legal system.

All three government branches and their subdivisions create materials such as codes, statutes, and court decisions that become law. Legal researchers speak of these materials generally as *primary authority*. Primary authorities are given unique citations such that they may be found individually, in print compilations or, more frequently, through online resources and websites. Learning to read a legal citation is a little like learning to speak a foreign language, but once you get used to it, legal citations are really quite elegant.

There are numerous guides that help legal professionals to format authority so that researchers may retrieve the material cited. These same guides provide a key for researchers who may be unfamiliar with a resource. Probably the best-known citation tool for legal professionals is **The Bluebook: A Uniform System of Citation**, which may be found in law libraries. Michigan has its own format for citations called the [Michigan Appellate Opinion Manual](#) which has replaced **The Michigan Uniform System of Citation**. These rules are used for both documents submitted to and issued by courts in Michigan.

An overview of the most common legal citations follows below. Also, for quick reference the State Law Library, a division of the Library of Michigan, has prepared a chart called [Common Legal Citations and](#)

[Where to Find Them](#) that may be used to identify frequently cited Michigan and federal legal materials. The websites listed either provide free access to the materials or point to libraries where the source may be found in print.

Statutes & Codes

Federal	Michigan
US Statutes at Large	Public & Local Acts of Michigan
PL 111-148, 124 Stat. 119	1998 PA 386

Statutes, or Acts, are the text of the bills that are enacted into law in *chronological* order.

The problem with **Michigan Public Acts** is that the numbers start over with number 1 every year, so the act number *by itself* isn't enough to locate the act.

Here's an example:

1998 PA 386

Popular Name: *The Statutory Will Act*

Actual Name: *AN ACT to codify, revise, consolidate, and classify aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating*

to trusts, and relating to the affairs of certain individuals under legal incapacity; to provide for the powers and procedures of the court that has jurisdiction over these matters; to provide for the validity and effect of certain transfers, contracts, and deposits that relate to death; to provide procedures to facilitate enforcement of certain trusts; and to repeal acts and parts of acts.

The **Public Acts** are collected and reprinted, arranged by *topic* in a *code*. Codes are also useful because they contain the acts as amended over time.

Federal	Michigan
United States Code	Michigan Compiled Laws
11 USC § 354	MCL § 700.2519

Here's an example of a code citation:

MCL § 700.2519

MCL stands for **Michigan Compiled Laws**. The **§** symbol is pronounced "section." In the days of typewriters, it was made by overlapping the letter "s" on itself.

Note: People who are good at math can have a hard time locating code sections. The "." In the middle of the number is not a decimal point, but rather a period. The numbers following the "." are whole numbers that start with 1 and go up from there.

Annotated codes are commercial publications containing additional information and case notes. There are two in Michigan: **Michigan Compiled Laws Annotated (MCLA)** and **Michigan Compiled Laws Service (MCLS)**. In addition to the text of the statutes, these publications add the cases (appellate opinions) that cite and interpret the code. In case of discrepancies or typos, the text in the official government publication, MCL, will control, even if it's clearly the one that contains the mistake.

Agencies & Regulations

Federal	Michigan
Government Manual	Michigan Manual
Federal Register	Michigan Register
70 FR 61908	2001 MR 1
Code of Federal Regulations	Michigan Administrative Code
49 CFR 571.208	MI Admin C R 14.202

The executive and the legislature delegate some of their power to the departments and agencies of the government. This is accomplished by enabling legislation. The departments and agencies carry out their work by promulgating regulations. Regulations have the same legal effect as statutes.

The **Michigan Manual** sets out all the departments and agencies, and gives additional information about what each one does and how it is organized.

The **Michigan Register** is a comprehensive source of regulatory information that complements and supplements the **Michigan Administrative Code**. It is published twice a month by the Office of Regulatory Reinvention. It contains proposed administrative rules, notices of public hearings on proposed administrative rules, and final administrative rules filed with the Secretary of State as submitted by Michigan departments and agencies. It is critical to keep track of which part of the publication you are looking at so as not to confuse final and proposed rules. Typically, proposed rules are marked up [~~old language~~ **new language**] to show what would be rescinded and what would be new. The **Michigan Register** is cited by year and issue number.

Example: **2001 MR 1**

The **Michigan Administrative Code** is a topical compilation of the final regulations. Note that each division begins with a citation to the **Michigan Compiled Laws** where the enabling legislation can be found. It is easy to recognize a citation to the **Michigan Administrative Code** as it always begins with a capital letter "R" for Regulation. Here is an example from the Department of Attorney General - Consumer Protection and Charitable Trusts Division - Pricing and Advertising of Consumer Items.

Example: **MI Admin C R 14.202 Sale or reduced price advertisements; disclosures**

Attorney General Opinions

Per the **Michigan Attorney General's** [website](#): "The Attorney General Opinions are presented on-line for informational use only and do not replace the official versions."

<http://www.michigan.gov/ag/0,4534,7-164-20988---,00.html>

Example: **OAG, 1985-1986, No 6406, Op. Atty. Gen. 6406**

The official versions are printed in the **Biennial Reports of the Attorney General**. They are available online back to 2001:

http://www.michigan.gov/ag/0,4534,7-164-46849_17343_25038---,00.html

Cases & Appellate Opinions

Except for a few very famous cases, you won't be able to find trial transcripts. The stenographer's notes are transcribed into readable English only if the case goes on to an appellate court. Only a very small percentage of trials are appealed. Those trial transcripts become part of the pleadings filed with the appellate court, but they are typically not published in a form where researchers can find them. The "cases" that are in the books in a law library are, for the most part, appellate opinions written by judges.

In the US legal system, as in most former British colonies, the words of the judges who write appellate opinions become part of the Common Law. In Civil Law countries, like France and Germany, only the statutes are considered law. So, in the US, you often need to find information from all three branches—the laws enacted by the legislature, the administrative regulations that carry them out, and the appellate

opinions that interpret how those laws and regulations are applied in specific situations.

	Federal	Michigan
Supreme Court	US Reports (U.S., S.Ct.)	Michigan Reports (Mich.)
Court of Appeals	Federal Reporter (F., F.2d, F.3d)	Michigan Appeals Reports (Mich. App.)

The citation model is: *Party v. Party*, volume - reporter - page (year).

Example: ***Meyer v. Mitnick*, 244 Mich App 697, 625 NW2d 136 (2001)**

Normal people abbreviate *versus* as *vs.* but lawyers use just a *v.* As a case works its way through the appellate system, the names of the parties will switch back and forth. You can't tell who was the original plaintiff or defendant by the name of the case; you must read the opinion to find out who is who.

Mich App Stands for **Michigan Appeals Reports**, it is the official publication issued by the State of Michigan.

The second set of numbers is a *parallel cite*—the same opinion published in a different set of books. **North Western Reporter** is a commercial publication. It contains cases from both the Michigan Supreme Court and the Court of Appeals. In the case of discrepancies or typos, the official reporter *Mich* or *Mich App* will control, even if it is clearly the one

that is in error. Commercial reporters add their own headnotes, which summarize the legal issues discussed in the opinion. These headnotes are not law, and should not be relied upon. Each headnote is assigned a *Key Number*. Key numbers are like the Dewey Decimal system for American Law. You can use key numbers in a set of books called a Digest, to find similar cases.

Large sets of court reporters are often divided into *series* to prevent the volume numbers from becoming too long. Each new series starts over again with volume 1. The **North Western Reporter** is currently in its second series. Normal people abbreviate second as 2nd, but lawyers leave out the n, so it's 2d instead.

Secondary Sources – Treatises and Encyclopedias

All the sources described up to this point have been primary sources containing the law. But there are a variety of secondary sources which can provide an easier starting point for the novice legal researcher.

Treatises

Treatise is the lawyer word for what normal people call books. A scholarly work on a legal topic, treatises are often referred to by their authors: **Scott on Trusts**, **McCormick on Evidence**. The author discusses a wide variety of subtopics with citations to primary sources. Like **Grey's Anatomy**, often the original author is deceased, and the work is being carried on by someone else.

Encyclopedias

The legal encyclopedia for Michigan is called **Michigan Law & Practice**. This set is divided into sections in alphabetical order from Abandonment to Zoning. It summarizes and explains the law, giving primary sources in the footnotes.

Example: **18 M.L.P. 2d GIFTS § 8**

Section 8 of the topic on Gifts is Qualified or Conditional Gifts. This section includes a discussion of whether there is a legal obligation to return the engagement ring if the wedding is called off.

Journals & Law Reviews

Legal periodicals are also a good starting place for researchers. Again, the citations to primary sources are typically listed in footnotes. Every law school publishes at least one law journal, or law review as they are often called. Journals published by the more prestigious schools tend to be national or international in scope, where smaller schools often have a local focus. **Wayne State Law Review** publishes an **Annual Survey of Michigan Law** that is very useful to attorneys, but it assumes prior knowledge of the topics covered.

Online Citations

Court Websites

Every appellate court in Michigan now has a website where they publish their current opinions. The dates of back files will vary, typically 10 to 15 years. But going forward, most court opinions should be available online.

Here is the link for finding opinions from the Michigan Supreme Court and the Michigan Court of Appeals:

http://courts.mi.gov/opinions_orders/opinions_orders/Pages/default.asp

[X](#)

The URLs are long and complex; usually containing a variation of the docket number assigned by the court at the time the case was first filed.

Here is *Meyer v. Mitnick*, the case about the engagement ring:

[http://publicdocs.courts.mi.gov:81/OPINIONS/FINAL/COA/20010220_C213950\(37\)_34O.213950.COA.PDF](http://publicdocs.courts.mi.gov:81/OPINIONS/FINAL/COA/20010220_C213950(37)_34O.213950.COA.PDF)

This form of the case is called a slip opinion; it is issued as a separate document with consecutive page numbers starting at 1. This version does not contain the citation to the official court reporter, which must be obtained elsewhere.

Docket Numbers

A docket number is the tracking number assigned to each matter filed with a court. The docket number will appear on all the pieces of paper relating to that matter issued by or submitted to the court. This includes complaints, answers, briefs, and the final opinion. Docket numbers often start with the year when the matter was first filed, followed by a sequential reference number, and then letters indicating the court or type of matter. As the case moves through the judicial system, it receives a new docket number at each level. *Meyer v. Mitnick* started in the Oakland County Circuit Court with docket number **LC No. 96-534671-CK**. When it advanced to the Michigan Court of Appeals, the case got a new docket number: **No. 213950**.

PACER

[Public Access to Court Electronic Records \(PACER\)](#) is an electronic service where users can obtain case and docket information from federal appellate, district and bankruptcy courts, and the **PACER Case Locator** via the Internet. PACER is provided by the federal court system as part of its commitment to provide access to court information via a centralized service.

PACER is a cost-recovery fee-based service which costs 10 cents per page, capped at \$3 per document. Registration is required before the system will allow you to run a search.

Lexis & Westlaw

Lexis and **Westlaw** are commercial databases that contain full-text court opinions. They have each developed their own format for citing the materials they publish, creating another set of parallel citations. So now we have four different citations: the official print reporter, the unofficial print reporter, Lexis, and Westlaw.

Here is the case we started with including ALL its parallel citations:

Meyer v. Mitnick, 244 Mich App 697, 625 N.W.2d 136, 2001 Mich. App. LEXIS 36 (Mich. Ct. App. 2001)

Why is there no Westlaw cite?

Westlaw typically removes the WL cite as soon as the reported case becomes available in one of their print publications--here it would be N.W.2d. While the WL number will no longer display, you can still locate the case online using that number if you are searching the Westlaw database. Here is an example of a recent opinion with a WL cite:

Kim v. JPMorgan Chase Bank, 493 Mich. 98, ___ N.W.2d ___, 2012 WL 6858059 (Mich., 2012)

Court Rules

MCR = Michigan Court Rules

MRE = Michigan Rules of Evidence

Commonly Used Latin Legal Abbreviations

Et seq. Et sequens “and following”

Et al. Et alia “and others”

Id. Idem “the same”

Infra “below”

Supra “above”

v. versus “against”

Glossary

Annotation: additional information added to a source to help the reader.

Code: a collection of legislation arranged by topic with amendments.

Docket Number: a number assigned by a court to track all the documents filed on a single matter.

Enabling Legislation: a statute which delegates some of its legislative authority to a government agency.

Key Number: a topic and number classification assigned to a case by ThomsonReuters (West) to provide subject access.

Parallel Citation: the same case published in a different reporter.

Promulgate: to carry out the formal process of rulemaking by a government agency.

Slip Opinion: a court opinion published as a separate, standalone document.

For Further Reading and Information

Common Legal Citations and Where to Find Them

http://www.michigan.gov/documents/mde/ATJ_Common_Legal_Citations_and_Where_to_Find_Them_335880_7.pdf

Michigan Appellate Opinion Manual

<http://courts.mi.gov/Courts/MichiganSupremeCourt/Documents/MiAppOpManual.pdf>.

Chapter 3: Legal Research Techniques

By Charlotte Walden

Introduction

In many ways, legal research is like any other subject specific research. It comes with its own language that your patrons can learn by using familiar techniques such as consulting dictionaries, thesauri, and encyclopedias; reading the material; following citations; or using a resource's table of contents or indices. You should thus treat a library patron seeking legal information as you would any other library patron seeking subject specific information. For instance, a patron with a legal question may come to you unable to articulate her information need. As with general reference, you would conduct an interview to help the patron better articulate that need. Then, as a librarian assisting with legal research, your goal is to lead patrons to information that will help them to conduct their research on their own. Bear in mind that legal research often leads to more questions than it does answers – if you can help the patron to move even a bit further along, you have done well.

This chapter is designed to give the lay librarian an overview of legal research. To do this most effectively, many basic research resources used in law libraries will be discussed. Quite often the resources discussed may only be available through paid electronic services and costly print subscriptions that would be difficult for most libraries without a dedicated legal collection to maintain. They are mentioned explained here to provide a basic understanding of key resources in legal research as well as to help you make better referrals to libraries that provide access to them. Wherever possible, free online resources

will be discussed and suggestions for purchases for general collections will be mentioned.

The process of helping your patron to do legal research, as modified from the outline provided by Cohen, Berring & Olson in **How to Find the Law**, will look something like this:

1. Help the patron to analyze the facts of his or her situation and frame the question by conducting a reference interview.
2. Assist the patron in getting an overview of the subject area through secondary sources.
3. Point out resources that will help the patron to start an in-depth search for primary source materials.
4. Suggest that patron read and evaluate the primary authorities found. The patron will want to ensure that the documents he holds in his are the laws in his jurisdiction, and that the laws are still good. It is important to remember that a case can be overturned, or a statute can be deemed unconstitutional by the judiciary or repealed by the legislature. Checking for currency is extremely important in legal research!
5. Help the patron to update or expand the research as the patron becomes familiar with new terms.

As a librarian, you know that research is an iterative process; this is not different in legal research. This chapter will expand on each step in the following sections below. The first step is the legal reference interview. If you do not already have books on how to conduct legal research in your collection, you may want to consider purchasing some. Some examples of titles that discuss legal research in general include:

- **The Process of Legal Research: Authorities and Options**, 8th Edition by Christina L. Kunz, Deborah A. Schmedemann, Matthew P. Downs and Ann Bateson (2012)
- **The Fundamentals of Legal Research** by Roy M. Mersky, and Donald J. Dunn (8th ed. 2002).
- **Legal Research in a Nutshell**, by Kent Olson 11th ed (May 23, 2013)
- **Legal Research, Analysis, and Writing** by William H. Putman and Jennifer Albright (Jan 1, 2013)
- **Legal Research: How to Find and Understand the Law** (Nolo)
- **Michigan Legal Research** (Carolina Academic Press Legal Research Series) by Pamela Lysaght and Cristina D. Lockwood (Aug 31, 2011 is a good title for state-specific research. Having these books available at your library will give you or your patron a more in-depth look at legal research and may help to clarify questions that arise along the way.

Additionally, law schools often have *Lib Guides* freely available on the Internet with information about legal research and specific legal topics. In Michigan, there are five law schools: Western Michigan University Cooley Law School, Michigan State University College of Law, University of Michigan Law School, Detroit Mercy Law School, and Wayne State Law School.

The Legal Reference Interview

A reference librarian connects patrons to resources that will help them to answer their questions. This end goal is the same for legal reference questions. All litigation centers on answering a legal question. While you cannot determine what legal issues are involved in a patron's situation, using what you know about the reference interview, you can discover key concepts that will help you to suggest legal resources to patrons. As

with any reference request, by conducting a successful reference interview, you can help your patrons communicate their information needs.

To help a patron find resources that will help her discover her issue(s), you need to learn more about the facts of that patron's situation. Just remember, it is ultimately the patron's responsibility to determine the legal issue(s) involved in his or her situation, and to decide on how he or she will handle it. It is always best to state during the reference interview that you cannot give legal advice.

Before discovering the facts of a situation, first determine what is already known. You may find that the patron is only looking for a specific law, document or form. For instance, does the patron have part or all a case name (the parties involved in the litigation), a docket number (the tracking number assigned to each matter filed with a court), and the popular name of the law (the Endangered Species Act, the Computer Crimes Act or the Freedom of Information Act) or a citation? This information can help you readily find the law for which a patron is looking. For instance, if your patron has the party names of a Michigan Supreme court case, you could search for the names on the Michigan Courts website. If your patron knows the popular name of a statute, you could direct him to a popular name table that will provide a citation that will lead to the statutory text – you could even Google the name – just always verify such results against the official or other authoritative text.

If a patron is not looking for a specific law, or wants to discover more laws that control her situation, ask questions to prompt answers to the *who*, *what*, *where*, *when*, and *why* of the patron's situation.

- **Who** are the parties?

This helps the patron to determine the relationships that may have a special significance to his question(s) or scenario. For instance, is the patron talking about an employee-employer relationship? A customer-employee relationship? An employer-employee? A parent-child? A husband-wife? A landlord-tenant? A government official-citizen?

- **What** happened?

The law may prohibit a certain action or may compel a certain action. Facts that give rise to a legal remedy or outcome create a *cause of action*. By asking what happened, you can help a patron begin to discover his cause(s) of action. For instance, is the patron asking about a dog bite, a breached contract, an assault, or a violation of probation, etc.? In other words, notice the verbs the patron is using. What else is involved – notice the nouns the patron is using – is she talking about a divorce, a will, a book?

- **Where** were the parties?

This can be used to help determine *jurisdictional* issues, that is, in which court to bring a suit and what laws to research. Did the incident occur in Michigan or another state? Are the party members located in two different states? Just knowing where the parties were at the time of the incident may not necessarily be enough to determine jurisdiction or what laws to research, but it helps. It is, however, ultimately up to the patron to determine what law controls.

- **When** did this happen?

This can be helpful in determining what version of a law applies. For instance, since laws are constantly changing, different statutory language may have been in effect at the time of the incident that may

be controlling, as opposed to the statutory language that is currently in effect at the time the patron comes to you.

- **Why** does the patron want to bring a suit?

This is helpful in determining the law on the legal remedies the patron is seeking. With this question, you can help the patron determine whether they want money, known as *damages*, or whether the patron wants someone to do something or to stop doing something, known as an *injunction*.

By putting this information together, your patron can begin to determine the relevant facts that can to identify legal resources effective in helping him to learn more about the law in his situation. For instance, if the patron's situation involves a breached contract and that patron knows nothing about contract law, you may suggest a treatise on contracts or an article in a legal encyclopedia.

Avoid, however, the legal reference trap of the permitting the patron to go away with the impression that this is the ONLY avenue of research or inquiry to be taken. While a patron may come to you with a seemingly simple legal question or story, keep in mind that what seems like a straightforward question or factual scenario may be quite complex. This is because the patron's question or scenario may implicate numerous laws. Indeed, as a patron learns more about her issue, the patron's question may change and she may come to you looking for different resources. Conversely, the patron may conclude that she needs a lawyer. Also, keep in mind that what seems like an irrelevant fact to you may turn out to be important as a patron conducts her research. Again, your goal is to help a patron discover her information need and/or to help find resources, not give legal advice. Remind the patron that it usually takes a legal professional to fully examine a legal issue from all

angles, and she should not rely solely on the information discovered in the initial stages of research.

Secondary Legal Resources

After interviewing your patron, the next step is to find relevant legal resources, but where do you start? Be they print or online resources, secondary sources are usually the best. Secondary resources discuss *primary resources*. In law, primary resources include constitutions (the overarching law), statutes (laws passed by legislatures), treaties (laws made among foreign states), regulations (laws promulgated by agencies), and case law (law developed by the judiciary). Secondary sources, by contrast, provide analysis, commentary, overview, or a restatement of the law. They can be used to introduce your patron to a new area of law, to look up key terms, to help find primary sources of the law, and to provide a readable analysis of how courts may have interpreted this law or how the law affects certain situations. Primary source materials may also serve as a quasi-secondary resource, too, as they will often lead your patron to more primary source materials via the citations used in the text. The following discusses both print and online secondary sources.

Dictionaries and Thesauri

As mentioned previously, some secondary sources, such as dictionaries, thesauri, and encyclopedias, will be quite familiar to you. In addition to their typical use, dictionaries and thesauri are a great place to start to generate search terms for legal research after your reference interview. The most reputable print legal dictionary is **Black's Law Dictionary**, a very comprehensive dictionary that provides references to cases, to the **Corpus Juris Secundum** (to be discussed later), and to major legal treatises; Latin phrases, historic terms, and abbreviations are also included. As with any dictionary, you can use it to look up terms with

which you are unfamiliar or to make sure you understand the legal meaning of a word: a similar term in everyday usage may have an entirely different legal meaning. Another resource, known as **Words and Phrases**, is *much* costlier than **Black's**, but includes entries on how terms have been defined by courts and statutes, and includes citations to primary authority. You can commonly find **Words and Phrases** at law school libraries.

Note that many well-known research titles are multivolume sets that are updated by paper pamphlets, known as *pocket parts*, instead of entirely new editions. For this reason, they are expensive for libraries to purchase and maintain.

The **Cornell Legal Information Institute (LII)** offers a free online legal dictionary and encyclopedia called **Wex**, but it is not as comprehensive as **Black's** or **American Jurisprudence** (to be discussed later). Other online dictionaries include: Nolo's **Free Dictionary of Law Terms and Legal Definitions**; **Harvard Law School Library: One-L Dictionary**; **Jurist Legal Dictionaries**; and **Law.com Dictionary**. Again, keep in mind that free resources may not be as comprehensive as print dictionaries, making print legal dictionaries a good resource to purchase, especially as they are not as expensive as other legal materials.

With **Burton's Legal Thesaurus**, as with any thesaurus, you can get synonyms, antonyms, and associated concepts, which, in conjunction with dictionaries, helps you to discover alternate terms to research. This, like **Black's**, is an inexpensive resource and may be worth adding to your collection. You and your patron may, of course, brainstorm associative terms, broader terms, narrower terms, synonyms, and antonyms, but the thesaurus may save you and your patron time.

Legal Encyclopedias

Legal encyclopedias, such as **American Jurisprudence** (Am Jur for short) and **Corpus Juris Secundum** (CJS for short), provide broad overviews of many legal topics and will often lead your patron to primary resources. They are particularly helpful to patrons who are unfamiliar in an area of law. Since **Am Jur** and **CJS** are general overviews of specific areas of law, they may not be the best place for finding jurisdiction-specific (i.e., Michigan) materials.

Michigan-specific encyclopedias, such as **Michigan Civil Jurisprudence**, **Michigan Criminal Law and Procedure**, **Michigan Law and Practice Encyclopedia**, **Michigan Lawyers' Manual** and **Michigan Pleading and Practice**, will lead you to Michigan primary law. **Michigan Civil Jurisprudence** and **Michigan Law and Practice** are two highly recommended secondary sources—some law librarians call them their “magic hats”—if they are within the library’s budget.

Treatises

A treatise contains an in-depth analysis of one specific area of law, such as criminal, administrative, education, employment, or family law, etc. Like encyclopedias, they are a good place to start if your patron is unfamiliar with a certain area of law and can help her to understand all the different legal issues that may be raised in conjunction with a particular situation. Examples of treatises written for non-lawyers include books published by **Nolo Press**. Nolo Press is a very reputable publisher that is committed to keeping its materials up-to-date, which is desirable because the law is constantly changing. Nolo Press books can be purchased in either hard copy or e-book format. Furthermore, while not as comprehensive as **Am Jur** or **CJS**, Nolo also has a free online

legal encyclopedia that provides an overview of certain legal topics. Finally, many public libraries own copies of Nolo publications, and so borrowing through **MeLCat** may be an option for your patrons.

Another treatise type that gives a more of a technical explanation of the law than the Nolo publications are treatises designed for law students. These resources are written for people who know nothing about an area of law, but plan to become practitioners. They may be worthwhile to have in your collection for patrons who want a deeper understanding of an area of law than what Nolo Press provides. Examples of these treatises include *Nutshells* (**The Law and Policy of Sentencing and Corrections in a Nutshell**, **Energy Law in a Nutshell**, **Regulation Industries in a Nutshell**, etc.), *hornbooks*, Aspen's **Emanuel Law Outlines**, and Aspen's **Examples and Explanations**.

These treatises, like **Am Jur** and **CJS**, will give you an overview and citations to federal law, but may not provide Michigan primary law citations. Many law libraries subscribe to titles published by **ICLE** (Institute for Continuing Legal Education—pronounced “ick-el”). ICLE resources focus on specific areas of Michigan law. For a comprehensive list of treatise titles specific to Michigan, see the University of Michigan Law School's Lib Guide titled **Major Books about Michigan Law**. Knowing these titles may help you with referring a patron to a law library that carries these titles.

Another resource to use to find secondary legal sources is **Google Books**. While you may find some legal resources that are outdated on this site, do not discount them because they are old. If your patron reads through them, he or she may find something to research that will lead him or her to current law. Again, when doing legal research, *always* check for currency.

Periodicals

Legal periodicals are generally law review articles that are published by law schools across the United States; however, other periodicals, such as trade magazines, state bar journals, legal newspapers and commercial journals, also exist. Periodicals are useful if your patron is researching news making, unsettled or obscure areas of law, or if your patron is looking for persuasive authority. Law reviews are sometimes cited in court opinions, even though they are considered a secondary authority, to discuss a new law and how it might be applied and interpreted. Furthermore, some law review articles provide a great overview of the evolution of a law and, if the article is written specifically on your patron's topic and is in your patron's jurisdiction, it may prove an excellent resource for finding primary law.

As with all academic journals, law reviews are available through a subscription. However, with many law schools participating in open access, or with organizations that have been granted permission reproducing articles on their websites, you may be able to access law review articles without a subscription. For instance, the Social Science Research Network (SSRN)'s **Legal Scholarship Network** provides access to law review articles for free. Furthermore, the **American Bar Association's Legal Technology Research Center** has a search engine that searches the full-text of over 400 free online law reviews and law journals. Additionally, if you are researching federal law, you may want to search the **Congressional Research Service** website. The **State Bar of Michigan** also provides free access to some of its **Michigan Bar Journal** articles. The **Michigan Electronic Library (MeL)** [Legal Gateway](#) also makes the database **LegalTrac** freely available throughout Michigan. For the SSRN, the American Bar

Association's LTRC, or the Congressional Research Service no log in or registration is required to use these services.

An advanced Google search, combining an *.edu* law school domain name with your keywords, may also pull up relevant results. Not every law review article will be available for free, however. Many law libraries purchase a subscription to **HeinOnline**, which is a comprehensive database of law review articles and journals; you may therefore want to refer clients to a law library that has a subscription to this database if they are unable to find a law review freely available on the Internet. Law libraries may also have copies of print law review articles.

American Law Reports

Whereas encyclopedias or treatises provide an overview, **American Law Reports** (known as **ALRs**) provide an in-depth description of a narrow legal issue. ALR articles, referred to as *annotations*, are written by legal scholars who discuss legal trends and issues by surveying cases that represent emerging, changing, or unsettled areas of the law. They contain an article outline, an index, a table of cases, and the text of the annotation. These articles also explore how courts in different jurisdictions have ruled on an issue. For instance, suppose your patron has a specific legal question such as: whether a dog off a leash, but under the voice control of its owner, constitutes "running at large" under a municipal ordinance? An ALR article will give you examples of cases from the different jurisdictions that have ruled in favor of this action constituting a dog at large and cases that have not ruled in favor of this action constituting a dog at large. ALRs are a great resource when looking at specific, focused legal questions. Law libraries have print collections of ALRs, but now mostly rely on subscription-based databases, namely **WestlawNext** and **LexisNexis Advance**, for this

resource. For access to ALRs, you will want to refer your patron to a law library that offers public access to these databases.

Restatements of Law

Restatements of the Law are highly regarded and can be influential on the judicial process. **Restatements** are written by the **American Law Institute (ALI)**, which is composed of notable professors, judges and lawyers. They are what the name implies: they restate the common law. The Restatements divide the law into several key legal issues and then give the rule of law preferred by a majority of states regarding that issue. These are therefore best used when a rule of law is unclear in a given area. To access these resources, you will want to refer your patron to a law library.

Free Specialty Law Websites

The Internet contains some websites that are dedicated to specific areas of law. If you are somewhat selective, you can find some amazing free resources online. These websites can come from academic institutions, non-profit institutions, and even law firms and lawyers who blog about the law. Does your patron want to learn more about civil rights law? He or she could check out the American Civil Liberties Union website, or the Human Rights Campaign, or Southern Poverty Law Center. What about copyright law? Check out Professor William Fischer's **CopyrightX** course from the Berkman Center for Internet and Society at Harvard University. Professor Fischer provides an interactive map of federal copyright law that includes references to major decisions. Duke University's Center for the Study of the Public Domain provides a free casebook (essentially, a basic tool of law students), on intellectual property (copyright, trademarks, patents). What about animal law? Check out Professor David Favre's **Animal Legal and Historical**

Center at Michigan State University College of Law, which includes law review articles, introductions and overviews of animal law, and primary legal documents that are searchable by topic, legal material type, and jurisdiction. Vermont Law School even provides a bibliography of free websites that deal with different areas of environmental law. There is even a Pinterest-like law library, called the **Visual Law Library**, which may lead you to free legal resources. As a librarian, you are accustomed to evaluating websites, so keep in mind the guides and standards you follow in judging those resources; in addition, a good legal resource will generally provide you with citations to the primary authorities (i.e., court opinions, administrative rules and statutes) on which their discussion is based. The information and citations should also be checked for currency, as the law may have changed since the last time these websites were updated.

Google and Wikipedia

These resources can be useful as a starting point in legal research. You can do a Google search with your search terms and review your results. Wikipedia also provides overviews of statutory and case law and may provide information regarding the changes in the law. Even experienced lawyers and legal researchers may begin their search with Google just to get a feel for a new topic or new legal insights into a familiar one. The most important thing to bear in mind when using Google or Wikipedia, however, is that legal research should never end with these sources; rather, patrons should proceed as far as they possibly can towards primary authority, or sharing what they have learned with an attorney who can advise them on the applicability of the information to their own situation.

One final word of advice when assisting a patron with researching legal information: you should also encourage your patrons to think outside

the law and research other disciplines that are related to their topic. It is also important to remind the patron that just because a database returned no results or it returned too many irrelevant results does not mean there is no law on the subject; the patron may need to revamp his search terms, do some further reading or consult with someone with expertise in the area. This is a great opportunity to teach information literacy skills that patrons can take with them when researching other disciplines.

The Legal System of the United States and its Implications on Legal Research

Before jumping into the resources to find primary source materials, it is imperative that anyone who conducts legal research understand the legal system in the United States. First, the United States is a common law legal system. This means that law is created through judicial opinions, also known as case law. Bodies of law developed in this manner include torts like negligence, intentional infliction of emotional distress, private and public nuisances—to name a few. However, statutes may also restrict or expand on these judge-made doctrines.

In addition to case law, United States law is also enacted by a legislature, i.e., Congress. These laws are called statutes. In common law countries, judicial opinions interpret statutes and constitutions, and these interpretations become law. For instance, the case *Feist Publications, Inc. v. Rural Telephone Service Co.*, 499 U.S. 340 (1991) interprets the phrase “original works of authorship” used in 17 U.S.C. § 102 (i.e. the Copyright statute).

Of key importance to common law countries is the notion of precedent, or *stare decisis*. Precedent refers to judicial preference for the decisions held in prior opinions. In other words, courts prefer not to disturb a

settled point. Thus, *stare decisis* has an impact on the legal researcher. In upholding *stare decisis*, researchers will want to look through other cases with similar legal issues and similar facts and compare it to their own situation. Case law research will be discussed in depth later in this chapter.

In addition to being a *common law* system, the US legal system is also a *federalist* system. *Federalism*, as defined by the Cornell Legal Information Institute dictionary, **Wex**, is a system of government in which the same territory is controlled by two levels of government. Generally, an overarching national government governs issues that affects the entire country, and smaller subdivisions govern issues of local concern. Both the national government and the smaller political subdivisions have the power to make laws and both have a certain level of autonomy from each other. The United States has a federal system of governance consisting of the national or federal government, and the government of the individual states.

The federalist structure also has an implication on legal research. Mainly, your patron should not assume that only one jurisdiction controls the issue he or she is investigating. Jurisdiction typically refers to the law that controls within a geographic location, which means it could be Michigan, another state, federal, or local law. For instance, the US Constitution has a provision against Cruel and Unusual punishment; the Michigan Constitution has a provision against Cruel or Unusual punishment. If a patron is researching whether a certain practice used in Michigan prisons constitutes cruel and/or unusual punishment, it would be wise to look at the law surrounding both provisions. Furthermore, since law is also created at the local level via a state's police powers, a city or county ordinance may also be controlling. Under

a federalist system, then, you should encourage your patron to research federal, state, and local law surrounding his or her issue.

A final characteristic of the US legal system that has an implication on legal research is the three-branch structure of government, as well as the related concepts of separation of powers and checks and balances. The federal government, the Michigan government, and many local governments are divided into three branches: the legislature, the executive, and the judicial.

The three separate powers of these branches are as follows: the legislature enacts, amends, and repeals statutes; agencies in the executive branch make regulations (also known as *administrative law*) to implement and administer enacted public policy; and the judiciary interprets the constitution, regulations, and statutes, as well as developing the common law. As a researcher, you want to keep in mind the powers of each branch, as each branch creates law. When your patron is reading a statute, the patron will want to see if the statute mentions something about delegating power to some entity of the executive branch, like a secretary of a department or an agency. If so, the patron will want to find those regulations to see if they impact his or her situation. Does any case law exist interpreting certain phrases in a statute? Again, your patron will want to look for cases to get a sense of what the law is.

With the basic concepts of the US legal system in mind, the following sections will discuss the resources and techniques needed to make an in-depth search into primary law. It will also discuss how a patron can update his or her law by checking for currency, jurisdiction, and precedent. Primary law will be discussed in the following order: constitutions, statutory law, regulations, case law, and local ordinances.

Primary Law

Constitutions

Constitutions create the framework for governments; they both empower and limit them. In US legal research, they are important for two reasons:

- A statute or a regulation may be declared unconstitutional by the judiciary.
- Your patron may be challenging an action taken by a government official on constitutional grounds.

The US and Michigan constitutions are easy to locate. You can find Michigan's on the state legislature page and you can find the US's on Cornell's Legal Information Institute website or the Government Printing Office's website. However, since these free resources will not provide your patron with the cases that interpret their respective constitutions, your patron will likely want to access an annotated code.

Searching Annotated Codes and Secondary Sources for Cases

Annotated codes provide references to primary and secondary legal resources. The **United States Code Annotated (USCA)**, published by West, and the **United States Code Service (USCS)** by LexisNexis are two of the most reputable print sources that annotate federal constitutional and statutory law. The **Michigan Compiled Laws Annotated (MCLA)**, published by West, and the **Michigan Compiled Laws Service (MCLS)** by LexisNexis annotate Michigan constitutional and statutory law.

Law libraries often subscribe to **WestlawNext** or **LexisNexis Advance**, which offer these annotations electronically and are updated

automatically. **WestlawNext**, for instance, claims to place new case law in its database within 30 minutes after the case has been decided. These databases, as well as the print annotated codes, are likely too expensive for most public libraries, but it is worth noting their existence in case you need to make referrals because they are some of the most comprehensive legal resources available.

Whether published by the government (i.e., the USC for federal or the MCL for Michigan) or commercial publishers (i.e., West's USCA or MCLA or LexisNexis' USCS or MLCS), the text of the constitution or the statute for a particular jurisdiction will be the same. However, since annotations are chosen by the commercial publication's editors, the annotations in West publications and LexisNexis publications are likely to differ. Thus, when consulting annotated codes for cases, it may be in a researcher's best interest to consult both LexisNexis and West publications.

If the patron is reading from a print annotated code, the information that follows the sections contains references for cases. For instance, West publications contain **Notes of Decisions**, which provide citations to and summarize cases that have interpreted that particular sections of a statute or a constitution. The Notes of Decisions also appear on the **WestlawNext** databases. The Notes of Decisions are organized into topics and subtopics so the patron can choose that which is deemed most relevant to her.

Since the cases in the annotations are chosen by the publisher's editors, there are likely more cases that cite that statute than what appear in the annotations. There are resources, known as *citators* that allow you to find these other cases. For instance, in **WestlawNext**, a patron can search **KeyCite's Citing References** to discover all the cases that have cited that section of a statute or a constitution. The **LexisNexis**

Advance database has a similar feature through its **Shepard's** service. In addition to finding cases that cite a specific section of a statute or a constitution, both features are also good at finding cases that cite the case in your patron's hand as well. Note that it is generally, but not always, safe to assume that cases that have cited the patron's case are on similar issues and thereby relevant to the patron's situation. To determine if the cited cases are related to the patron's issue, the patron must read the case. Researching case law will be discussed later in this chapter.

Yet, even without these resources, a patron with a constitutional citation, may still find cases that interpret that provision of the constitution by searching for that citation on various free websites. For instance, you can type a US or Michigan Constitution citation in the search boxes of the US Supreme Court of the United States' website, the US Court of Appeals 6th Circuit's website, the Cornell's Legal Information Institute website, the FindLaw.com website, Google Scholar, or even just a plain Google search. Surprisingly, Wikipedia may also be useful for finding law on constitutional provisions. Your patron could also try searching either a Federal or Michigan constitutional citation on the Michigan courts website or on the West's Michigan Official Reports. You can also use Google Scholar for Michigan courts, as well.

When your patron finds a case using this method, tell her to read it! It may only lead her to other cases, it will also determine whether the case is relevant to the factual scenario. Secondary resources are generally recommended first, but this technique may help to give your patron results if your library does not carry any annotated resources and/or the patron is unwilling or unable to use a law library.

Another great free resource to recommend to a patron researching federal constitutional law is a treatise prepared by the Congressional Research Service and the Library of Congress called **The Constitution of the United States of America: Analysis and Interpretation**. This provides references to relevant case law about the US Constitution. It is available for free on Cornell's Legal Information Institute.

A book that gives an overview of the history and the impact of the court's interpretation of the US Constitution on the US people called **A People's History of the Supreme Court** by Peter Irons. It reviews the major cases that have shaped US Constitutional law. If you do not have it in your library, it is an inexpensive resource to add to your collection. There are also US Constitution specific encyclopedias that may be worth purchasing, such as the **Encyclopedia of the United States Constitution** (2009) by David Schultz or the **Encyclopedia of the American Constitution** (2000), edited by Leonard W. Levy, Kenneth L. Karst, and Adam Winkler.

Statutes

As mentioned previously, statutes are enacted by the state legislature or the US Congress and are later placed into the government's code of laws, which is organized by subject. The code of law for the federal government is known as the **United States Code (USC)**; the code of law for Michigan's government is known as the **Michigan Compiled Laws (MCL)**. Codes are published in bound volumes that are available in law libraries and in some academic and public libraries in the state of Michigan, but they also are easily accessible online through government and academic websites.

Different websites contain different search and access features. You may wish to visit multiple sites and play around with their search features to

make recommendations to your patrons. If your patron does not like the search options of any website, the patron can also search Google with key terms and the phrase "MCL" or "Michigan Compiled Laws" if he or she is searching for Michigan law. The patron can also conduct a Google search with the search words and the phrase "USC" or "United States Code" if he or she is searching for federal law. Searching a citation in Google is likely to pull up the relevant statutory text as well, which can then be checked against a government website or other authoritative source for accuracy and currency.

To access the MCL online, your patron can use the **Michigan legislature's Basic Search page**. The site also contains an **Advanced Search** feature. You can find federal statutes on the **Cornell, House of Representatives' Office of the Law Revision Council** or **Government Printing Office** websites.

These free internet resources, like the free constitutional law resources, are not annotated; so, you may want to inform your patron to search a statute's citation on a website that contains case law, as was discussed in the "Constitutions" section of this chapter. The print and electronic annotated codes mentioned in the "Constitutions" section can also be consulted.

Popular Name Search

Sometimes a patron may come to you with a popular name of a statute, such the US PATRIOT ACT or FOIA. If you know the popular name of a federal act, but do not have a citation, you can search for it on the **Cornell Legal Information Institute's Table of Popular Names** or the **US House of Representatives' Office of Law the Revision Council**. You can search popular names of Michigan statutes on the **Michigan Legislature's Michigan Compiled Laws Basic Search**

page. In print, the **MCLA** also has a popular name table. The **Shepard's Acts and Cases by Popular Name: Federal and State**, another print resource, allows researchers to locate federal and state legislation by popular name, but it is usually only found in law libraries. Of course, a Google search may also prove fruitful in locating the actual text or a citation.

Searching the Code's Index and Table of Contents

Session laws are statutes as passed in chronological order for a given legislative session or year, are subsequently organized by subject into a statutory *code* that contains an index and a table of contents. Indices will help your patron to identify the relevant subject chapters that cover a broad legal topic. Your patron can then go to the table of contents to find the precise sections relevant to his research. For an electronic example of a code's table of contents, visit the **Michigan Legislature's webpage** (look for the **Chapter Index** link). Even if the patron has a statutory citation in hand, looking at the table of contents may help the patron to discover other relevant sections of the statute as well. Since particular statutory sections are part of a larger collection of laws, they rarely stand alone, which means it is good practice for the patron to search through the index and the table of contents, even if the patron is only looking initially for a particular section.

Indexes and table of contents are also included in print commercial publications. The detailed index in these volumes not only helps the patron to find relevant sections throughout the code, but may include words in more common usage instead of those used only in the code itself. Once a patron has a section number in hand, the patron can find the relevant volume of the USC/A/S or the MCL/A/S in the stacks. In print US Code sets, the title name, number and sections are on the

spines of the federal codified sets. For Michigan Compiled Laws, the chapter and section numbers are on the spine.

Resources to Help Patrons with Reading Statutes

Besides understanding how statutes are organized, you may also want to provide your patron with resources on how to read a statute. It is not like reading a novel; it is not linear, and deserves the utmost scrutiny. When reading a statute, your patron will likely be both skipping ahead and referring to other sections in the statute or even to other statutes. Some recommended resources include Georgetown University's A Guide to Reading, Interpreting and Applying Statutes or The American Society for Healthcare Risk Management's How to use & understand statutes, regulations, guidelines, interpretations & model guidance. The Texas Legislative Council also provides a publication on how to read statutes and bills.

Is the Statute Still "Good Law"?

Before relying on a statute, your patron will also want to make sure it is still good law. In other words, part of being a good legal researcher is determining whether a statute has been changed due to an amendment, repeal, or an unconstitutional declaration by the courts. This is easy to determine with electronic annotated sources such as **WestlawNext** or **LexisNexis Advance** because these databases literally flag laws that have negative treatment. For instance, in **WestlawNext**, if a law has been repealed, there will be a red flag with a hyperlinked bill citation; if a statute has been declared unconstitutional, there will also be a red flag with a hyperlinked case citation. The **LexisNexis Advance** database offers a similar feature. Lower cost alternatives to the **WestlawNext** and **LexisNexis Advance** databases, like **LoisLaw** or **Fastcase**, also provide a similar feature.

Print annotated codes may also be consulted for amendments, repeals, or enactments. The bound volumes of the annotated federal and Michigan codes are updated annually by pocket parts and supplementary pamphlets. Researchers are therefore advised not only to check the sections in the bound volumes, but also the corresponding pocket parts and supplementary packets. Since commercial print annotated codes are updated annually, they also likely to be more current than government published codes. Thus, when looking at print code, patrons should consult commercially published codes over government published codes.

To check a federal statute's currency, a patron may also wish to visit The House of Representatives, Office of the Law Revision Council website because it notes when a federal law has recently been amended and incorporates the recent amendments into the laws. A patron can also track bills, as will be discussed in the Legislative History section of this chapter, to ascertain whether any changes have occurred to the patron's statute of interest and when those changes go/went into effect.

Besides the legislature amending, repealing and enacting statutes, or the courts declaring them unconstitutional, the legislature may also renumber/reorganize sections in a statute—much to the chagrin of the researcher. Oftentimes, the statute will alert you that it has been renumbered; other times it will not. In the case of the former, tell your patron to look below the statutory text, as there may be a codification section that informs you of the former sections of a statute.

Furthermore, when using the old citation in the **WestlawNext** search box, the database may provide a disposition table showing where the sections repealed by an act are covered by new sections.

Legislative History and Statutory Research

When researching statutes, a patron may also need to research a statute's legislative history. A patron may need to determine, for example, whether a bill has been passed that repeals, amends or enacts legislation that affects a statute of interest. Second, a patron may also want to research a statute's legislative history because the statute's text is unclear and no prior case law exists that interprets the statutory text. Legislative history can be used to help clarify statutory text—and yes, there is a whole area of case law dedicated to statutory interpretation!

Before becoming a statute, a law starts off as a bill sponsored by a legislature. This bill will go through the legislature, a process that is similar at both the federal and state level. If the bill passes both houses, it will go to the president, if federal, or governor, if Michigan. The President/Governor may then veto or adopt a law; Congress/legislature may override the President/Governor's veto. Throughout the process of a bill becoming a law, legislative histories are made.

When statutes are first published, they are assigned public law numbers, if federal, or public act numbers, if Michigan, and are published chronologically. They are then reorganized by subject into code (**USC** for federal and the **MCL** for Michigan). The public act and public law numbers are required for legislative history research.

Researching the Legislative History of a Michigan Statute

If you inform your patron to look below the statutory text of a Michigan statute, for example MCL 15.231, the patron will likely see something like this:

History: 1976, Act 442, Eff. Apr. 13, 1977; -- Am. 1994, Act 131, Imd. Eff. May 19, 1994; -- Am. 1996, Act 553, Eff. Mar. 31, 1997; -- Am.

1997, Act 6, Imd. Eff. May 16, 1997 **Popular Name:** Act 442 **Popular Name:** FOIA

(Reproduced with permission of the copyright holder, the Michigan Legislative Council.)

The above example comes from the **Michigan Legislature** website. Reading left to right, you can determine the year the statute was enacted, the chronological Public Act number assigned and the effective date of the statute. These facts are necessary for tracking legislative histories. With the information provided, a public act citation for this example would include the enactment year followed by *PA*, and then the chronological session law number: 1976 PA 442.

Multiple public act numbers indicate that the section has been amended. This information is important if the patron's situation occurred on a date when different statutory language was in effect. If your patron is looking for the statutory language in effect at a *particular time*, he can look at the credits or history to find a citation to the public act in effect at that time. The old language can be found through the **WestlawNext** databases, **LexisNexis Advance** databases, the **Public Acts and Local Acts of Michigan** (public acts from 1997 to present are available online for free), and the **Michigan Legislative Service** (likely available in a law libraries).

If the history or credit information is not available at the end of a statute, there are other resources that can help you locate the public act citation. The **Public and Local Acts** provide **Michigan Compiled Laws Tables** that provide both the MCL and the corresponding public act numbers. You can access some of these tables at the **Michigan Legislature** page. The **MCLA** or **MCLS** will also contain this information. Again, these latter publications are available in law

libraries. Law libraries also may likely have access to a subscription database called **HeinOnline**, which includes PDF images of session laws for all fifty states.

Once you have located a public act citation, you will want to find the corresponding House or Senate bill. If you are looking at a public act published after 1997, you can visit the **Michigan Legislature** page mentioned earlier. In these **Public Act Tables**, you will find the *senate bill* (abbreviated *SB*) or *house bill* (abbreviated *HB*) numbers that correspond to a Public Act citation. For years 1997 or after, you can also consult the last volume of the year in the **Senate** or **House Journals** on the **Michigan Legislative** website. The Public Act with the corresponding bill numbers will be in the back of these journals in the **Table of Acts and Bill Numbers**. Another quick way to find a bill number is to use the **Public Act (Signed Bills)** link on the left side of the website. [Editor's note: As of the end of 2016, bill information from 1995 and 1996 have also been included because of a collaboration between the Library of Michigan and the Legislative Service Bureau.]

If you are trying to locate bills from 1996 [now 1994] or prior, you can consult the **Public and Local Acts, Michigan Legislative Service Letters**, and the print **Michigan House** or **Senate Journals**, **WestlawNext**, or **LexisNexis Advance** at a law library. A website being developed by the Library of Michigan called **Governing Michigan** also provides access to **Final Status Tables**, which includes bill/public act number tables and a summary of actions taken on a bill.

Alternatively, if your patron knows the year in which the bill was passed, he or she can look up his or her topic in the **Senate** or **House Journals** (in the last volume for the appropriate year) in the **Bill and Joint Resolution Index**, or in the **General Index**. This will also provide the

bill number. Once your patron has a senate or a bill number, he or she can research official legislative history in legislative journals, *committee records*, and public acts.

Researching Michigan Bills to Determine If a Statute is Good Law

As mentioned previously, the text of statutes is not static, and is often regularly amended or even repealed all or in part. While some techniques to ascertain whether a law is good were mentioned in the Statutes section, your patron can also research bills to ascertain if any changes to the law have or will occur (red) and if so, when those changes went/go into effect. Your patron could conduct a Google search to see if any news articles mention a bill number that might amend or repeal a statute. The patron could then track the bill number on the **Michigan Legislature** webpage. The Michigan Legislature page also allows your patron to search for bills by subject, by year, or by bill number, and it will give you information on the status of the bill, including whether it has been enrolled and signed by the governor into law and most importantly, when it becomes effective and changes Michigan law. In terms of effective date, however, keep in mind that determining when a law goes into effect is very much a legal judgment, even though a date may appear in writing in the website in front of you – if someone's rights or money will be affected by a date, caution him to have an attorney examine the relevant sections of the act.

Researching bills, even bills outside of Michigan, may be of interest to some patrons who are not looking for legislative intent or to see if a bill has altered or will alter the text of a statute. For instance, you may have an advocacy group looking for a bill, or a statute, in another state to get their state's legislature to pass similar language. You can access another state's bill from that state's legislature's webpage.

For more information on researching Michigan Legislative History, see

- **Michigan Legislature’s Sources of Legislative History**
- **Detroit Mercy’s Researching Legislative History Resource**
- **Researching Online Sources of Michigan Legislative History**
from the **Michigan Bar Journal**

Federal Statutes

If your patron needs to research federal legislative history, direct her to once again to the information below the statutory text of a federal statute. She will likely see something like this:

(Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2604; Pub. L. 99–554, title II, §215, Oct. 27, 1986, 100 Stat. 3100.)

(From the **Government Printing Office** website using 11 USC 701)

History notes in federal statutes will give you three types of information: Reading the above information left to right, the researcher will see the Public Law number (e.g., Pub. L. 110-170), the date the statute was enacted, and the Statutes at Large citation (e.g., 114 Stat. 2752). The next public law number tells you that this law, or section of the law, was amended in 1986. This part of the note provides the Public Law and Statutes at Large citation to find information about the amendments.

After the President signs a bill into law, it is delivered to the Office of the Federal Register (OFR), where editors assign it a Public Law number. You can find Public Law numbers at the **National Archive** website. The **Statutes at Large** is a publication of all the laws enacted during a single session of Congress –*session laws*- before they are codified and organized into the **United States Code**.

If a new law has not been codified yet; or if the patron's situation happened under a law preceding the current law; or if you want to find the Senate Bill (e.g. S.84) or House Resolution (e.g. H.R 231) number to track a statute's legislative history; or if you want to track the changes in the law over the years, then you will want to check session laws. You can access session laws by obtaining the Statutes at Large citation and looking through these resources:

- **US Statutes at Large** online
- **US Statutes at Large** in print at a law library
- **US Code Congressional and Administrative News (USCCAN)** at a law library
- **HeinOnline** at a law library
- **WestlawNext** or **LexisNexis Advance** at a law library

If your patron is looking for a bill number, an Internet search may help your patron find the bill number, too. For instance, if your patron knows the subject of the statute or bill in question and knows the year it was in Congress, she may be able to locate a news article that reveals the bill's number.

With the public law number and the name of the act, you sometimes locate a compiled legislative history for bills that have passed into law. A compiled history pulls together relevant legislative documents – like copies of different versions of bills, committee materials and records and transcripts of the legislative process – into a tidy package that relieves the researcher of the arduous task of tracking a law through Congress and pulling together sometimes hundreds of pages of materials. The **US Code Congressional and Administrative News (USCCAN)** and the

CIS Index, available in larger law libraries, are examples of compiled legislative histories. **HeinOnline**, available at law libraries, is likely to have select compiled legislative histories as well. Compiled histories are only available for bills that have become law.

If your patron wishes to compile his or her own federal legislative history for a statutory provision, she will need the public law number (if there is one); the bill number; the topic or subject of the statute or bill; and the approximate date of introduction or passage of the statute or bill. Most of this information can be found below the statutory text. The documents used to compile legislative histories include the text of bills, committee reports, *hearings*, *debates*, and other Congressional documents.

Tracking how a bill has changed while going through the legislature may provide evidence of legislative intent. Your patron can find the history of the language of a bill from 1994 to present on **FDSys** or on **Congress.gov**. For bills prior to 1994, contact a library that has access to **ProQuest Congressional**. You may also want to check the **CIS Index** or **Congressional Index**, both of which should be available in law libraries, for help locating bills. Further, you may also want to use these resources to track a status of a current bill that may affect the law in which your patron is interested or to update his statute.

WestlawNext and **LexisNexis Advance** keep track of all the bills that have affected or might affect a statute (look at the color of the flags), and make finding the bill numbers easy.

If the patron is tracing a bill or law to make a legal argument, some sources of legislative history are more influential on courts than others. *Committee reports* and *bills*, for instance, are very influential sources of legislative history. You can access *committee reports*, known as the

“Holy Grail of Legislative History “on the **Congress.gov** or **FDSys** website. If you need a committee report prior to 1995, you can access it at a law library that provides access to **ProQuest Congressional**. Libraries that are federal government depositories are also likely to have access to the earlier Congressional materials.

Committee hearings are influential, as well. The full text of committee hearings, from 1985 to present, can be found on **FDSys**. **ProQuest Congressional** has access to hearings prior to 1985.

After a bill has been reported out of committee, members of Congress will consider the bill and any proposed amendments. These proceedings are known as *debates*. Debates are potentially influential, although not as much as the aforementioned resources. You can access debates from 1994 to present on **Congress.gov** or **FDSys**. For debates prior to 1994, **ProQuest Congressional** is advised.

Committee prints are good for factual background; they contain a wide range of materials, including background studies, reports, bibliographies, bill analyses. Your patron can access them, 1975-present, on **FDSys**. For prior prints prior to 1975, **ProQuest Congressional** is again advised.

Finally, *presidential messages* are also useful in interpreting legislative intent. The President may issue statements or messages when signing or vetoing a bill. Your patron can access these on **FDSys**, 1993-present.

For more in-depth information on researching federal legislative history, check out the following resources:

The University of Michigan Law School, **US Legislative Materials & Histories Lib Guide**

Congressional Research Service, **Legislative History Research: A Guide to Resources for Congressional Staff**

University of Detroit Mercy Law Library, **Researching Federal Legislative History**

Administrative Law/Regulations

Located under the executive branch of government, agencies—like the Environmental Protection Agency, the National Archives and Records Administration, or the Federal Communications Commissions—are typically created by a statute, known as an *enabling statute*, but they may also be created by the president's or governor's *executive order*. Statutes also delegate power to agencies to issue rules and regulations in line with the legislature's intent. For instance, under the federal **Endangered Species Act**, Congress delegates authority to the US Fish and Wildlife Service to create regulations that list species as either threatened or endangered. In other words, agencies are given the power to create law.

Besides creating regulations (known as *rulemaking*), which are like statutes, agencies also conduct quasi-judicial proceedings (known as *adjudication*) by issuing orders. They also have the power to conduct inspections, to produce guidance documents, to provide the public with information, amongst other powers.

However, since agency adjudications are equivalent of trial level findings, they are not considered law. Since they are not considered law, there is not a large market for them, which means publishers do not publish them very often. Agency decisions are therefore difficult to find. While they are not persuasive or precedential, they are predictive on how an agency may rule on a subject. Thus, they can be useful. You may be able to find agency decisions on agency websites. For a list of

federal agencies and their websites, go to the federal government's directory. For a list of Michigan agencies and their websites, see the *State Government Websites* link on the **MeL Government Gateway** or go to the **Michigan Government Directory**. You can also find agency decisions on **WestlawNext** and **LexisNexis Advance**, as well as specialty law databases such as **BNA**.

Regulations (sometimes called *rules*), on the other hand, are law, and if a statute of interest delegates authority to an agency or department, your patron will want to locate that regulation. Regulations are organized like statutes, so referring to the statute section of this chapter may clarify how to read and research regulations. There are, however, three different types of regulations of which to be aware: *interpretative*, *procedural*, and *legislative*. *Interpretative rules* are rules issued by an administrative agency to clarify or explain existing laws or regulations. They are not law. They are meant to guide the agency in its duties of carrying out statutory obligations. Examples of interpretative rules include *agency manuals*, *agency guidelines*, and *agency memoranda*.

Procedural regulations do just that. They regulate how an agency conducts its proceedings. They are law. Legislative regulations are also given the force of law. These regulations will regulate conduct and describe penalties. Legislative and procedural regulations can be found in the **Code of Federal Regulations** for federal regulations and the **Michigan Administrative Code** for Michigan regulations.

Federal Regulations

The **Federal Administrative Procedures Act** (5 U.S.C. 500 et seq.), describes and establishes two types of rulemaking processes: *formal* and *informal*. Formal rulemaking involves a trial-like process that is rarely used today. More often you will see the informal rulemaking

process, popularly known as *notice and comment*. In notice and comment rulemaking, unless it meets an exception, an agency must publish a notice of a rule change or a proposed rule in the **Federal Register (FR)**, as well as the agency's *authority* (i.e. enabling statute) to issue the rule; a description of the proposed rule; notice of location and time of public hearings; the opportunities to submit comments; the final rule; and "a concise general statement of the final rule's basis and purpose." The **Federal Register** also includes presidential documents. For legal research purposes, the **Federal Register** is important because:

- Your patron can use it to make sure the regulation he or she is using is current.
- Your patron can learn the agency's intent behind a regulation.
- Your patron can learn the language of an old regulation in case a patron's conduct occurred at a time when the language of another regulation was in effect.
- The patron may want to participate in the commenting process.

The *Federal Register* may be accessed online at no charge through **FDSys** (back to 1994) or through services such as **HeinOnline**: you may also find select portions of it on agency websites.

Final rules, if not challenged, are eventually adopted and incorporated into the **Code of Federal Regulations (CFR)**. The **CFR** may be found in several places. You can access the *electronic CFR*, or **eCFR**, online for free. Since the **eCFR** search option leaves much to be desired, however, it may be better to conduct a **Google** search with relevant search terms and *cfr* in the search box. For instance, if you were looking for regulations for the Endangered Species Act, you may want to type

Endangered Species and *CFR* in the Google search box. It should pull up the relevant rules. Additionally, you can also browse the subject titles of the **eCFR**. This may also lead you to the relevant section. You can also access the **CFR** on propriety software such as **HeinOnline**, **WestlawNext** and **LexisNexis Advance**; print versions are also available in law libraries. Other ways of ensuring a regulation is current, are to: browse the **List of Sections Affected (LSA)** on the **eCFR**; monitor an agency's website or conduct Google news searches on agency actions; or consult the History tab on subscriptions services such as **WestlawNext** or **LexisNexis Advance**.

The **CFR** has two things located at the beginning of the *Part* sections in a regulation of which your patron should also be aware: an authority section and a source section. For example, 50 CFR 17.40, a US Fish and Wildlife regulation for the Endangered Species Act, includes the following information after the text of the regulation:

Authority: 16 U.S.C. 1361-1407; 1531-1544; and 4201-4245, unless otherwise noted.

Source: 40 FR 44415, Sept. 26, 1975, unless otherwise noted.

(Information taken from **FDSys**). The authority section informs you of the statute that authorizes the regulations. This will help your patron make sure he is looking at the right regulation. The source section gives you the citation for the final regulation as it appears in the Federal Register.

Michigan Regulations

Michigan regulations follow the same basic pattern as federal regulations: copies of all proposed administrative rules, notices of public hearings on proposed administrative rules, and administrative rules filed

with the Secretary of State are all placed in the **Michigan Register**. From 2000 and on, the **Michigan Register** is available on the Department of Licensing and Regulatory Affairs (LARA) website. For available copies of the **Michigan Register** prior to this date, the patron will want to contact a law school library or the State Law Library as well as checking **Governing Michigan**.

The final agency rule will eventually be adopted and incorporated into the **Michigan Administrative Code (MAC)**. The authority for these rules may be found in the **MAC** or preceding a new rule, for example:

(By authority conferred on the supervisor of wells and the director of the department of environmental quality by section 61506 of 1994 PA 451, MCL 324.61506, sections 9 and 251 of 1965 PA 380, MCL 16.109 AND 16.351, and Executive Reorganization Order No. 1991-22, MCL 299.13).

(Example taken from the Michigan Department of Environmental Quality's regulations on oil and gas R 324.102 et. seq.). Many state agencies have links to the regulations for which they are responsible (as well as the statutes they have the authority to administer) on their websites under headings such as *Legal Resources* or *Reference* or even just *Statutes and Rules*. Your patron can also access these state regulations on **WestlawNext** and **LexisNexis Advance** at a law library, too.

The text of the regulations is followed by a *history section* that will alert you to changes to the regulation since its initial promulgation. For more information on using the **MAC**, visit the **LARA** website.

Case Law/Court Opinions

There are three considerations to keep in mind when looking for cases or court opinions: (1) cases are either *mandatory vs. persuasive*

authority; (2) they are either *published vs. unpublished opinions*; or (3) the status of a case – is it *good law?* – should always be determined.

Mandatory Authority and Persuasive Authority

Mandatory authority refers to a case that a court *must* follow because *it binds* the court. Persuasive authority refers to a case the court *may* follow, but *does not bind* the court. Your patron wants to make sure that the case she is relying on is binding in the jurisdiction and before the court in which he is appearing. Your patron may also want to use persuasive authority to get the courts to adopt a new rule in its jurisdiction.

Michigan courts are arranged hierarchically, with the Supreme Court at the top, and the Court of Appeals in the middle, and the trial courts on the bottom. The federal courts are organized the same way. The hierarchical organization of both the federal and Michigan courts is important to legal research because, depending on the level of the court that issued the opinion, the opinion may not be law. Michigan trial level court decisions are not binding on Michigan courts in the same way that Michigan Court of Appeals and Michigan Supreme Court decisions are. Likewise, federal district level courts are not binding on federal appellate courts or the US Supreme Court. In addition, the decisions of courts in a different jurisdiction – Ohio state courts for example, or federal courts in other circuits (Michigan is in the 6th Federal Circuit) – provide varying degrees of persuasive authority, but Michigan courts are not required to follow the rulings of these courts. Rulings of the US Supreme Court are binding, however, on all lower courts, state and federal.

The discussion of mandatory and persuasive authority is of course a bit more complex than the hierarchical arrangements of the courts. For a more detailed discussion on using Michigan persuasive/mandatory

authority, see a 2014 document published by the **Michigan Judicial Institute**, called the **Appeals & Opinions Benchbook**. For more information on using persuasive and mandatory authority in both federal and state courts, see Barbara Bintliff's Louisiana State University Law article. The Santa Clara University School of Law also provides a chart depicting when a case is persuasive and when a case is considered mandatory.

Remember, it is ultimately the responsibility of the patron to weigh the authorities found. This section provides you with basic information on where to help your patron find information to make this determination.

Published and Unpublished Court Opinions

Researchers should be aware of the difference between a *published* and an *unpublished* opinion. An article by the American Association of Law Libraries provides an excellent explanation. All US Supreme Court cases are published; but not all federal appellate decisions are published. The **Federal Rules of Appellate Procedure Rule 32.1** provides guidance on citing unpublished federal court of appeals decisions. Your patron may also need to look at local court rules for further guidance.

All Michigan Supreme Court cases are published, but this is not true for Court of Appeals opinions. Pursuant to **Michigan Court Rule (MCR) 7.215(C)**, unpublished opinions by the Michigan Court of Appeals are not binding on any court. Using an unpublished decision, however, may be appropriate where authority *on point* is lacking, and the unpublished opinion directly rules on your issue. An unpublished decision is therefore persuasive authority. In addition to being persuasive authority, an unpublished decision may also, by reading and tracking the citations used in the opinion, lead to mandatory authority, usually a Michigan Supreme Court case.

Determining Whether a Case is Good Law

One further consideration of researching case law is determining whether a case is still good law. A characteristic of law that cannot be overstated is the fact that the law is constantly changing.

Case law may be determined to no longer be good law in one of two ways:

Subsequent History: A case's subsequent history is a later ruling by a court involving the same litigation and the same parties. A case's subsequent or procedural history is the trail a single case leaves behind as it makes its way through the hierarchy of the courts. A higher court, or one further down the trail, may rule in such a way that the prior ruling is no longer valid or no longer supports a particular legal position.

Subsequent Treatment: Subsequent treatment refers to a later case involving different parties and different litigation that overrules a previous, and all together separate, court opinion.

How to Research Subsequent History

In a hypothetical example, a single case's subsequent or *procedural history* may look something like this:

Suppose a State bought an action against Smith. In the trial court, the State is the plaintiff and Smith is the defendant. State wins, but Smith has some objections. So, Smith appeals the trial court's decision. The appeals case is called Smith v. State; Smith is the appellant and State is the appellee. On appeal, the court reverses the trial court's decision on a few issues and remands the case (i.e. demands the case be reheard) back to the trial court. The State did not agree with the appellate court,

so the State petitioned for the Supreme Court to hear the case. The Supreme Court hears the case and that case is referred to as State v. Smith, with the State being the petitioner and Smith being the respondent. The Supreme Court reverses the Appeals court decision.

With databases like **WestlawNext** and **LexisNexis Advance**, researching the procedural history of a case is as simple as clicking on a link. Without these databases, however, the research is not as easy, but can still be achieved. As the above example shows, the losing party sometimes appeals his decision to the next highest court. So, if your patron has an appeals court decision in his hand and he wants to see if a party has appealed the case to a Supreme Court, the patron can type the party names into a search box on a court website or **Google Scholar** with the loser's name appearing before the "v" and the winner's name appearing after the "v" and restrict that search to a Supreme Court opinion. Note that there may be many cases with your patron's case's party names, so point out patron to read the case and make sure that the case is discussing the same facts, issues, and parties as the opinion in hand. Checking the dates can also be useful here. Besides reversing a lower court's decision, a higher court may *affirm*, *modify*, and/or *remand* a lower court's decision, so your patron will want to pay close attention to what the opinion says. Your patron should also be aware that even if a higher court affirms a lower court's decision, it is better to rely on the higher court's opinion than the lower court's opinion.

Your patron can sometimes research case history through Google searches, as there may be a news article or a blog that may alert him that a case has been appealed or will be appealed.

How to Research Subsequent Treatment

WestlawNext and **LexisNexis Advance** alerts a researcher to when there has been negative treatment of a case by another, all together separate case automatically. If the patron cannot access either of these resources, **Google Scholar** offers a free, albeit not as comprehensive or accurate, version of proprietary software products. In 2009, Google launched a **Legal Opinions and Journals** database in **Scholar**. It allows your patron to search for federal and state cases. Once in **Scholar**, select *case law* located below the search box. Once *case law* is selected, your patron will be given the option to *select courts*. With *select courts* selected, your patron will be taken to a page that will allow him or her to select any court in the United States. The patron can select multiple courts with this feature. Once the courts the patron wants are selected, he will want to select the *done* button. The patron can then use the **Google Scholar** search box to search for terms or citations.

Keep in mind, however, that your patron's search results are likely to contain irrelevant results because he is searching the full text of the opinion.

After your patron searches for terms or a citation, **Google Scholar** will return a list of hits matching that criterion. Within these results, Google Scholar will reveal other opinions that have cited your patron's opinion (see *cited by* located under the summary text). In addition to helping your patron determine whether the case he in which he is interested is good law or not, this feature may also lead your patron to more relevant cases. Unlike **WestlawNext** or **LexisNexis Advance**, however, there will not be a sign that alerts your patron to negative treatment of a case. This means your patron should read through all the cases that cite the patron's case to determine whether the case he or she is relying on

is good law. This is a much lengthier process than using **WestlawNext** or **LexisNexis Advance**. Further, there is no guarantee that **Scholar** contains every case that cites the patron's case of interest.

One tip when researching subsequent history without the aid of a cite-checking tool is to look for the most recent case law. This may include looking at a recent trial/district level case and looking at the citations contained in that case. This tip, while not entirely effective, is likely to provide you with good case law upon which the courts are currently relying. However, it is good practice for a patron to visit a law library and use its **WestlawNext** or **LexisNexis Advance** database to make sure a case is still good law.

With the emphasis on importance of reading an opinion, you may want to refer your patrons to resources that discuss how to read a legal opinion, see, for example Keer, Orin. (2005). **How to Read a Judicial Opinion: A Guide for New Law Students** at <http://www.volokh.com/files/howtoreadv2.pdf>

Finding Case Law

Michigan and Federal case law are published in bound volumes called "reporters." For instance, you will find a Michigan case in West's **Michigan Reporter** or West's **North Western Reporter**. The latter reporter is known as a regional reporter; West divides the US into 7 regions and Michigan is in the **North Western** region with a few other states. Likewise, you will find a US Supreme Court case in the government's **United States Reports**, West's **Supreme Court Reporter**, or **LexisNexis' Lawyer's Edition**. Federal court of appeals decisions are found in the **Federal Reporter**, and federal district court cases are found in the **Federal Supplement**. These print versions are available in law libraries, and some academic and public libraries in the

state of Michigan, but you can also access the cases they contain online for free. (Any editorial material added by the reporter publishers, however, will general NOT appear in free versions. Such editorial material may help a researcher to find other, similar cases, see the discussion on digests).

Knowing that cases are in reporters is not enough to locate relevant cases by topic or legal issue, however. Researchers will want to consult secondary sources when looking for relevant case law. You may also want to suggest the annotated codes discussed previously to your patron. **American Law Reports** are excellent as well, as are state specific encyclopedias.

Another great resource for finding a case is a *case digest*. Digests are multi-volume indexes organized by a topic and **Key Number classification system** designed to help your patron locate case law. **Topic and Key Numbers**, which is a West publication phrase—Lexis uses **Core Terms**—are general legal topics that are further divided into subtopics. Under these topics, you will find cases listed in reverse chronological order and from the final supreme or appellate court down to published trial court opinions. The digest will also contain brief summaries about the case that a patron can use to determine relevancy; the patron should not rely on the language in the annotation, however, because only the language in the opinion is law. Once your patron finds a case that interests him or her, he or she can then find the case using the citation provided. The patron may go to a print reporter if it is available or the patron may search for the case by its citation online.

To find Michigan cases, your patron can search through the **North Western Digest**, which contains state and federal cases from the state.

To find federal cases, your patron can look through West's **Federal Practice Digest**. This contains all levels of federal cases. There are also US Supreme court specific digests such as West's **Supreme Court Digest**, and **LexisNexis' Digest of US Supreme Court Reports and Lawyer's Edition**.

All digests have multi-volume subject indexes. Digest indices published by West are called *descriptive word indexes*. To find cases that are factually similar to the user's, use the words identified in the reference interview or use the words your patron has identified through further research. The **Descriptive Word Index** will provide the **Topic and Key Number** associated with your keywords and will give you the volume number of the digest addressing your patron's topic.

Instead of using the **Descriptive Word Index**, the patron can also browse through the list of digest topics found at the beginning of all digest volumes. This approach may also help the user find other relevant topic and key numbers.

If your patron already has a case citation, he or she may also find other relevant cases by looking up the case in hand in a West reporter. West reporters and cases found in **WestlawNext** contain headnotes, which summarize the rule of law in a case, at the beginning of each case. These headnotes also contain relevant **Topic and Key Numbers**. **LexisNexis Advance** has a similar feature using Core Terms. With the electronic headnotes in **WestlawNext** and **LexisNexis Advance**, your patron can click on a link and be automatically taken to more cases filed under that specific **Topic and Key Number** or **Core Term**. A patron may also find cases that have cited their case of interest by using **WestlawNext's KeyCite** or **LexisNexis Advance's Shepard's** service.

When using commercial publisher reporters, the patron needs to know that the actual opinion is not the text found in the headnote. Headnotes are added by West and Lexis editors and are copyrighted material, while the opinion is not. The opinion starts after the judge's name who issued the opinion.

There are various free websites that contain legal opinions. **Google Scholar** is only one of them. Your patron can find Michigan Appeals and Supreme Court decisions on the **Michigan Court** website. Your patron can also find US Supreme Court cases on **Findlaw.com**, as well as Circuit Court opinions. Your patron can find cases on **Cornell's Legal Information Institute** (US Supreme Court or US Circuit Courts) website, or by conducting **Google** searches. Many specialty law websites, like the **Animal Legal and Historical Center**, also have cases.

Local Law

Ordinances are simply statutory-like laws passed by local, or municipal, governments. They are similar in structure to statutes. As the federal and state constitutions authorize certain functions at particular levels of government, municipalities and counties have a charter that does the same. The charter, like a state or federal constitution, will outline how municipalities or counties must enact their laws. Regardless of how much authority a charter grants a municipality or county to establish laws, local units of government usually have a broad right to enact ordinances relating to the health, safety, and welfare of their citizens. This is known as *police power*.

Most cities or counties will publish their ordinances on their websites or they are made available on **Municode** or **AmLegal (American Legal Publishing)**. Ordinances contain a table of contents that can be

browsed or, as with **Municode** or **AmLegal**, you may be able to conduct a full-text search of the ordinance.

However, not all ordinances are located online, nor can you be certain the ordinance located online is current. It is always best practice to contact the city or the county of the sought-after ordinance to obtain a copy or a current copy of the ordinance.

Your patron should also be aware that ordinances are challenged in court. If a patron is researching an ordinance, he or she may also want to do case law research on the ordinance of interest. The ordinance will alert the patron on how it should be cited, usually located in the beginning chapters of the ordinance, and the patron can therefore use that citation to search for case law.

Conclusion

There is no surefire resource that will give a patron everything he or she needs to know about the law. That is why it is recommended that the patron consult multiple resources, as one resource may pick up where another resource has left off, when conducting legal research. For instance, it is highly unlikely that your patron will be able to conduct effective legal research using the internet alone. However, you can help your patron by explaining the process, recommending resources, and making referrals. As long as you remember the process outlined in the beginning of the chapter and use the resources mentioned in this chapter, you can help transform your patrons into effective legal researchers.

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Chapter 4: Michigan Law Pathfinder

By Kimberly Koscielniak

When a patron wants to know “the law” on a particular topic, one of the first things a librarian should try doing is to help the patron to determine is whether this is something likely to be governed by *state*, *federal* or even *local* or *municipal laws*. If the patron is unsure, prompt him for clues: Is there a citation to a “public law” or “public act,” which politicians are discussing it, where did the person first hear about it, or who is attempting to enforce the law against the patron, and why? Does the patron have any paperwork – perhaps a ticket or a court letter or summons? Once the discussion is going, a Google search with keywords you are hearing the patron use may also help to determine the types of legal research resources with which the patron could start. The following chapter will focus on some staple legal research tools to use when it looks like the question will be one involving Michigan law.

Sources of Michigan Law

Like the federal system, Michigan’s government is divided into legislative, judicial and executive branches, each of which generates rules, statutes, or decisions that comprise the body of Michigan law.

Legislature	Judiciary	Executive
Public Acts or Session Laws	Michigan Court of Appeals decisions	Michigan Administrative Code
Michigan Compiled Laws	Michigan Supreme Court decisions	Executive Orders
Constitution / Initiatives	Court Rules	Michigan Administrative Decisions, including Attorney General Opinions

The materials in the table are considered *primary legal authority*, that is, they are the direct pronouncements of the branch of government that is responsible for them. They all have the *force of law*, and must be followed by Michigan citizens, government, and anyone or anything else coming under the jurisdiction of the state. While the weight of each may vary depending on the circumstance – a Michigan Supreme Court decision on an issue has more authority than, for example, an attorney general opinion in a court case - these are the sources consulted to determine how a complaint or question should be resolved. If the patron is involved in any type of legal proceeding, he will want base his argument on primary sources as opposed to information taken from a magazine, a website summarizing the law, or a legal self-help book. The source of the authority, the number of authorities, and how well the patron’s legal issue is addressed by, or is like the factual situation

presented by a precedential court decision, will all bear upon whether the matter will be decided in the patron's favor or against him.

Michigan primary legal authority is generally posted on the Internet by the body that has produced it. The **MeL Legal Gateway** <http://www.mel.org/legal> may be utilized as a platform for finding links to freely-available online copies of these primary authorities. Current authority is now generally readily available online, but superseded or older materials are often only to be found through paid subscriptions to various online services or at larger Michigan law libraries. For a listing of frequently requested primary resources, see [Common Legal Citations and How to Find Them](#), which may be found through the **MeL Legal Gateway**.

Legislative Resources

The State of Michigan's official statutory compilation is the **1979 Michigan Compiled Laws** (1979 MCL). Up until 2010, this set was updated annually by the print **Public and Local Acts** volumes, which include Michigan *session laws* as enacted by the Legislature and laws that originated as voter initiatives. It should be noted that current public acts appear only on the **Michigan Legislature** website. The State Law Library holds copies of these public acts in a binder, as does the Office of the Great Seal within the Michigan Department of State (Secretary of State). For patrons who are concerned with certified copies of public acts, **The Office of the Great Seal** <http://www.michigan.gov/sos/> will certify copies of Michigan Public Acts for a fee.

Public Acts, abbreviated **PA**, are numbered sequentially, and start over with each session, for example 2013 PA 1, 2013 PA 2, 2014 PA 1, 2014 PA 2, etc. They are commonly referred to by shortened citations like PA 451 or Public Act 92 or by a popular name such as the "Civil Rights Act",

or even just as the “Smoking Ban” or the “Foreclosure Law.” Once a public act is codified, it will appear in the **Michigan Compiled Laws**, or **MCL**, under a number that represents a subject chapter and a section of the original act. For example, in MCL 169.257, the number 169 represents laws that address campaign financing and advertising, while the numbers to the right of the decimal are a section within that chapter. MCL section numbers often correspond in some way with the original public act section numbers; for example, what is now MCL 169.257 is also Section 57 of the Campaign Finance Act, 1976 PA 388. Many people are familiar only with these original section numbers, and so may come to you for help in locating “Section 57” as opposed to MCL 196.257.

Although not deemed to be an official version, the **Michigan Legislature** <http://www.legislature.mi.gov/> website hosts the **Michigan Compiled Laws** as currently in effect. Access is free, and the website is updated regularly by a division of the Legislative Service Bureau. Users may search by MCL section number, keyword, chapter, or public act number. New features are added continually, so for up-to-date assistance with using the website, contact the **State Law Library** or **Library of Michigan**, see <http://www.michigan.gov/libraryofmichigan>.

One very common misconception about the **Michigan Legislature** website is that it only contains materials dated from 1997 to the present.⁹ While this is true for things such as copies of bills, legislative

⁹ As of this writing, the Library of Michigan and Legislative Service Bureau are working together to add copies of bills and bill analyses from the 1995-1996 legislative session. Older materials will continue to be added to the Michigan Legislature website as time and resources permit.

analysis and links to pages in the **Michigan House** and **Senate Journals**, if a public act or some portion of the act remains in effect, it will continue to appear in the **Michigan Compiled Laws**, although most likely in an amended form.

Two commercial publishers, West and Lexis Publishing, publish *annotated* print versions of the **Michigan Compiled Laws**:

Michigan Compiled Laws Annotated (MCLA)

Michigan Compiled Laws Service (MCLS)

The text of **MCLA** and **MCLS** sections – the law itself - is the same in both publications (and is the same as the **Michigan Legislature** website), but the annotations may differ. Annotations are materials added to each statutory section by the publisher, and include historical notes, excerpts showing where language was changed by certain amendments, prior laws with the comparable content, cross-references to other statutes of relevance, and notes to Michigan court cases and administrative decisions – primary legal authority - that have interpreted and applied the law. The annotated editions also provide a *popular name table* for identifying a piece of legislation by its more familiar name (e.g., “Heidi’s Law”), as well as more extensive keyword indices for pinpointing specific topics and sections in the **Michigan Compiled Laws**.

The annotated editions also provide cross references to *secondary authority*, such as books, law review articles and legal encyclopedias that provide a summary and analysis of a public act or even a specific section of the act. While reliance on such resources is usually not advisable in a legal proceeding, secondary authority is invaluable for explaining how a law works, and how courts have interpreted that law.

The secondary authority cited by **MCLA** and **MCLS** does differ, largely because each publisher provides references to its own research titles.

Both the **MCLA** and the **MCLS** also provide annotations and text for the **Michigan Constitution of 1963**.

The drawback for public libraries with respect to these annotated editions is the cost, both for the initial purchase and the annual upkeep in the form of *pocket parts* needed to update the text. Both the **MCLA** and **MCLS** are available through electronic subscriptions known as **Westlaw** and **Lexis**, but these are also extremely costly. Access to the **MCLA** and **MCLS** may be available to public patrons at a law library in the area, but it is advisable to call as access varies widely from place to place.

Bills

Although bills are not yet law for purposes of legal research, legislative documents generated in association with them are often plumbed for evidence of intent. The **Michigan Legislature** website, therefore, serves as an important resource for monitoring and researching legislation impacts a patron's interests. The Michigan Legislature website provides links to:

House and Senate Journals – a record of action taken on the floor of each house, including roll call votes and notes on language changes to a bill, including possible publication of an entire bill substitute. The Journals do not provide transcripts of discussion like the federal Congressional Record, but there are sometimes recorded objections to bills that may be plumbed for intent.

Bill text – copies of legislation as introduced, passed by the House and Senate and enrolled.

Bill analyses – prepared by nonpartisan analysts in the Legislature, the analyses provide summaries of what the bill is meant to accomplish, although not at the level of detail that would be found in federal Congressional bill reports.

Once a pending bill is identified, patrons can sign up for notifications about its progress through the Legislature. Featured links such *MCL Tables* or *Recent Actions* indicate which MCL sections have been amended or impacted by recent legislative or committee sessions.

The **Michigan House** <http://www.house.mi.gov/> and **Senate** <http://www.senate.mi.gov/> recently began providing access to current committee hearings and testimony on their websites. A bill number is needed to locate relevant material. Using the *History* section from a bill's summary and status page, the researcher can find out which committee reviewed the bill as well as an idea of the relevant proceeding dates at which to look.

Prior Laws

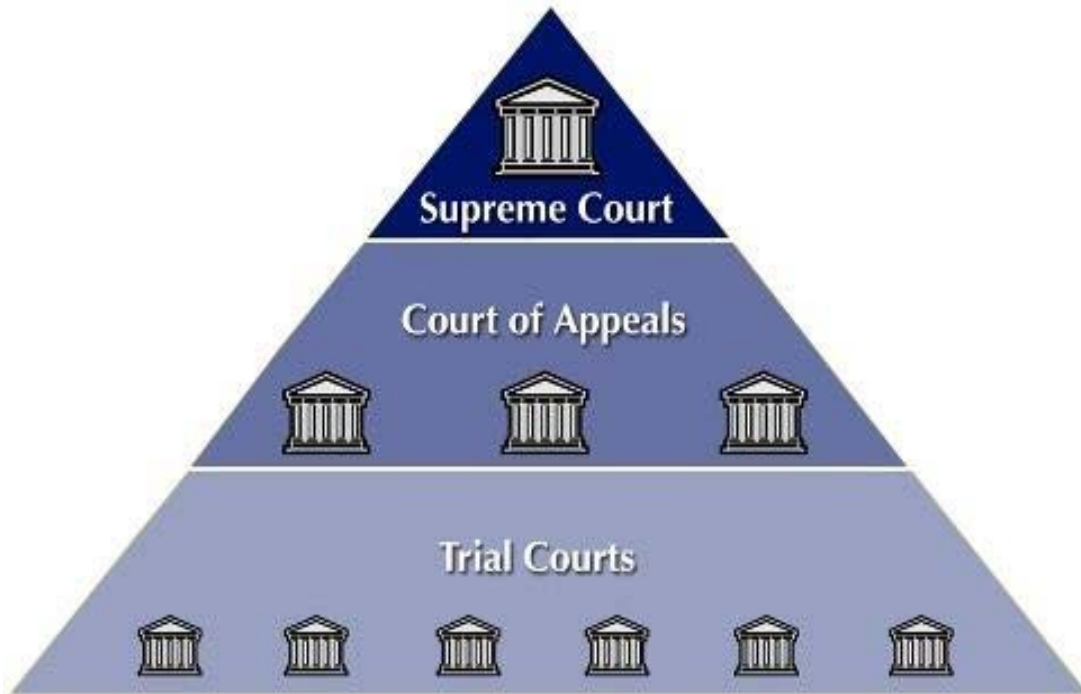
Although the Michigan Legislature website is now adding archived materials and repealed laws, prior versions of a statute or copies of public acts prior to 1995 may only be obtained by visiting a law library holding **Public and Local Acts** volumes or having access to online statutory archives. Why would anyone want to see the prior or superseded laws? These types of requests are more frequent than one would imagine, and are often made when the patron seeks to find, for example, penalties in effect for older criminal convictions or wills written under previous probate codes. Amendments to public acts and statutory sections may also provide evidence of intent to address a problem not covered by the original language.

Public Acts or compilations of Michigan law prior to 1923 are beginning to appear online because of large-scale digitization projects that include legal or governmental materials. **Google Books** <https://books.google.com/> may be searched for both **Public and Local Acts** volumes and earlier Michigan statutory compilations. The **University of Michigan Law Library** sometimes includes links to these scanned print volumes in its [catalog](#). The Library of Michigan is also working with governmental agencies throughout Michigan to obtain copyright clearance on later materials to make them available through the **Governing Michigan** website.

Patrons will still occasionally come to the reference desk with a citation to an *MSA section*. The **Michigan Statutes Annotated** were published by **Lexis** until the late 1990s. While the statutory text was identical to the **Michigan Compiled Laws**, the numbering system was completely different. Larger law libraries will have transfer tables that can help you to convert an MSA number to the MCL equivalent.

Judicial Resources

The Michigan Courts are comprised of various trial-level courts, a court of appeals that affords an appeal by right for trial court decisions, and a supreme court that grants permission to appeal so that it may hear and decide cases that are pivotal to Michigan law.



Source: <http://courts.mi.gov/education/learning-center/educator-resources/curriculum/pages/michigan-court-system.aspx>. Used by permission.

Trial Level Courts

Most patrons coming to a library with legal questions will have business in a trial court. Trial level courts are divided into courts of general jurisdiction that can hear a broad array of cases, and courts of limited jurisdiction that are restricted to hearing only certain types of cases. One of the most difficult things sometimes to determine during a reference interview is with which court the patron is dealing – people may not even be sure if the matter involves a federal or state court, especially if they are researching a matter for a friend or family member. While a brief description of each state trial level court follows below, the patron may also wish to consult the **Michigan Courts** website (<http://www.courts.mi.gov>) for a more complete explanation of the different functions of each court. In addition, the **Michigan Courts Self-Help Center** <http://courts.mi.gov/self-help/center/pages/default.aspx> helps to connect a certain proceeding or

matter with a specific court as does the **Michigan Legal Help** website (<http://www.michiganlegalhelp.org>).

Most people will have dealings in either the district or small claims courts. District courts are one of three state trial-level courts. There are approximately 100 district courts in the state.¹⁰ Traffic violations, misdemeanor criminal offense trials, and landlord-tenant issues as well as other civil cases are heard in District Court. The dollar amount for claims in civil cases cannot exceed \$25,000. The decision in these cases may be simply be an order written on form indicating the outcome of the case and any fines or fees to be paid.

The Small Claims Court is a division of the District Court. Controversies involving less than \$3,000 are brought in this court, and litigants represent themselves instead of having an attorney present. Decisions are final, and cannot be appealed to a higher-level court. Decisions in Small Claims Court are given to the litigants; they are not available electronically, and have no precedential value to other litigants.

The Probate Court is the trial court that hears matters involving wills, administers estates and trusts, appoints guardians and conservators and orders treatment for mentally ill and developmentally disabled persons. Probate Court decisions can be appealed to the Michigan Court of Appeals. One search tip to keep in mind for probate questions is that the probate court website is generally separate from the circuit court.

¹⁰ See the Michigan Courts website at <http://courts.mi.gov/Courts/trialcourts/Pages/default.aspx>. Last visited December 19, 2016.

Circuit courts are the other trial-level court. Decisions from this court are also appealed to the Michigan Court of Appeals. Circuit courts have jurisdiction over civil matters such as felony criminal offenses, civil protection orders and lawsuits in various matters such as car accidents and employment wrongful discharge involving more than \$25,000. The Family Division of the Circuit Court hears divorce, child custody and child support issues as well as matters involving abuse and neglect.

Appellate Courts

Michigan appellate courts - the Michigan Court of Appeals and the Michigan Supreme Court - issue court opinions or decisions that will help to decide similar legal questions in future cases. The Michigan Supreme Court is the highest court in the state. As such, if the Michigan Supreme Court has ruled on a given issue, Michigan's lower courts and the Court of Appeals are bound by that ruling. This is known as *stare decisis*. Moreover, all Michigan courts look to the decisions of the Michigan appellate courts and, in certain circumstances, Michigan federal courts and the U.S. Supreme Court, in similar cases to determine how a case should be decided: these prior decisions set a *precedent* or have a *precedential effect*. A court will generally stay within the bounds of that precedent, or will explain how the situation at issue differs from those already decided. Precedent and stare decisis are why a patron dealing with a matter of Michigan law must first look to Michigan statutes and case law when researching an issue. It is one of the reasons why many self-help books are not specific enough to help a patron address matters governed by Michigan law – two jurisdictions or two states may have very different ways of dealing with the same set of facts. Outcomes in child custody and visitation rights, foreclosure, divorce, traffic violations and criminal penalties, for example, may vary widely depending on which state's law governs in the matter.

Finding Your Way Around Michigan Courts

Most people understand that knowing how courts have decided similar issues to those before them will help them to obtain a favorable outcome. However, it has been demonstrated by pro bono and legal self-help advocates that understanding how the court *functions* – its rules and procedures – is a far better predictor of a successful outcome. Most people naturally turn to the court clerk’s office for guidance either in starting their quest for relief, or in responding to some type of filing made against them. As discussed in other chapters of this **Handbook**, however, the court clerk’s office may not always be the best place for a patron to begin this research. While Michigan court clerks have in recent years undergone more extensive training in responding to the needs of pro se litigants, for reasons of time and ethical constraints, including appearing as if it were giving legal advice, a clerk’s office is very much limited in the types of questions it can answer, and in the amount of attention it can give to any one litigant’s needs.

The [Michigan Legal Help](#) website was developed by legal professionals in response to increasing demands for effective help for pro se litigants. This website has grown tremendously since its initial release in 2012. It is designed to help pro se individuals begin to navigate the courts with respect to simpler civil matters involving, for example, divorce and landlord-tenant issues, while also offering links to legal assistance centers as well as suggestions as to when a given matter should likely be handled by a licensed attorney.

Other websites dedicated to helping individuals answer questions about court procedures include:

Michigan Courts Self-Help Center

<http://courts.mi.gov/self-help/center/pages/default.aspx>

Michigan Court Forms

<http://courts.mi.gov/Administration/SCAO/Forms/Pages/search-for-a-form.aspx>

Caveat: not all aspects of a court proceeding may be covered by a form.

Michigan Courts Information for the General Public

<http://courts.mi.gov/Pages/default.aspx#tabs-1> (includes accessibility, language assistance and complaint information)

Michigan Judicial Institute Publications

<http://courts.mi.gov/education/mji/publications/pages/default.aspx>

Written for judges, the **Benchbooks** provide a good overview of both law and procedure in various types of proceedings, including criminal matters.

Michigan Court Rules (MCR)

<http://courts.mi.gov/Courts/MichiganSupremeCourt/rules/Pages/current-court-rules.aspx>

Applicable throughout the Michigan court system, the court rules govern everything concerning state court procedure from the filing of a new case, to how and when it may be appealed and the form of the court's decision.

Trial Court Directory

<http://courts.mi.gov/Self-help/Directories/Pages/trial-court-directory.aspx>

More and more individual courts are using the Internet to provide information about their local operations and rules. Some even offer very practical, procedural guides for areas regularly handled by the court such as landlord tenant disputes, divorce and probate matters.

Trial Court Online Services Directory

<http://courts.mi.gov/self-help/directories/pages/online-services-directory.aspx>

More and more Michigan state courts are permitting online access to case information including a complete docket or register of actions taken or documents filed in case. At present, there is no comprehensive system allowing search of all state courts. Docket systems are still very individualized with some courts permitting free search access and some requiring payment per search. To access the documents in case files themselves, it is still usually necessary to visit the court clerk's office in person, and, if the case is closed, there may be a wait while the file is retrieved. Among other things, the case file will generally contain the "final order" or documents disposing of the case.

Court of Appeals Pro Per Manuals

<http://courts.mi.gov/Courts/COA/clerksoffice/Pages/ProPer.aspx>

Many of the materials discussed above are relevant to Michigan Court of Appeals and Supreme Court procedure as well. Among the most useful appellate-specific resources, however, are the

Court of Appeals' handbooks for litigants representing themselves *in pro per*.

Case Law

Despite the increasing reliance on electronic resources to find the law, nothing says "legal research" more than an image of endless rows of seemingly identical brown and black-stripped volumes marching along the shelves of an attorney's office or law library. Those volumes are usually case reporters containing decisions of a court on the universe of legal topics under its jurisdiction.

Michigan state courts have two reporters:

Michigan Appeals Reports (abbreviated as *Mich App*)

Michigan Supreme Court Reporter (abbreviated as *Mich*)

These are considered the *official* court reporters for Michigan. The decisions published in them have precedential value. Attorneys and litigants search for *Mich* and *Mich App* cases that have similar facts to the matter at hand, and that are, ideally, favorable to the party or, if unfavorable, distinguishable to the point the party can argue the ruling doesn't apply. It is through these cases that litigants form their own legal arguments. Court decisions also provide interpretations of statutes, constitutional provisions and administrative rules that may help a patron in his own case.

Print reporters are usually only to be found in law libraries because of the cost and shelving space required to keep the collection current. Moreover, without secondary research tools like indexes, case digests, annotated statutory materials (for example, **MCLA** or **MCLS** as noted above), going through the reporters alone would be arduous and

inefficient. Free online websites that provide keyword searching are becoming more common:

Michigan Courts: Opinions and Orders

<http://courts.mi.gov/courts/coa/opinions/pages/opinionsorders.aspx>

Coverage of both published and unpublished Court of Appeals decisions and Supreme Court opinions – see website for inclusive dates.

Google Scholar

<http://scholar.google.com/>

Keyword searching of cases in Michigan and other U.S. and Federal jurisdictions. Supplies case reporter pagination and enables researcher to find cases that have cited another case.

To do a thorough search of case law on a legal issue without an online subscription to a service like **Westlaw**, **Lexis** or **Casemaker**, it is still best to utilize research tools usually found only in a law library. Legal publishers have, for example, developed classification systems that help researchers to identify cases with similar issues to their own, as well as making sure that important legal precedent has not been overlooked. *Case digests* gather all cases that address the same issues under a common subject heading. Digests can also assist in finding cases that define a word or phrase – one of the most frequent questions posed by pro se researchers.

Secondary Resources for Finding Caselaw

One of the most efficient ways to identify relevant cases and statutes is by using *secondary resources*. Secondary resources are generally anything that offers a discussion or summary of primary authorities

such as statutes, cases and regulations. They come in formats familiar to most researchers such as dictionaries, encyclopedias, phrase books, form books, and self-help books. There are also focused studies of a topic called *treatises*, quick-reference volumes known as *desk books* or *bench books*, and something in-between generally known as *practitioner guides*. *Law reviews* are journals devoted to a myriad of narrow legal topics, and can help the researcher to understand the history behind a legal issue or to find authority about something too new or too narrowly-drawn to have been much argued in the courts. While the use and scope of these materials is covered in the **Legal Research Techniques** chapter of **Locating the Law**, it should be noted here that Michigan has at least one or two titles of legal secondary resources in all these categories.

Secondary resources are generally only found in law school or government libraries or in public libraries with dedicated legal collections, as the cost to subscribe to and maintain these resources is high. While the Internet has made secondary legal research material more available than ever before, currency and authoritativeness remains a concern when using free web resources, especially in circumstances in which the author is also advocating a particular point, or the material has not been updated in a least a year, or since the time of a major development in a legal area. For a discussion of evaluating Internet resources, see the **Major Legal Publishers** chapter of **Locating the Law**.

In Michigan, good, free secondary resources can be found through many of the resources already cited, including the **Michigan Legal Help** website, the **Michigan Courts Online Self-Help Center** and the **Michigan Judicial Institute Benchbooks**. The [MeL Legal Gateway](#)

points users to these and other free online websites and databases, see <http://www.mel.org/legal>.

Unpublished Opinions

In any discussion of case law research, a note must be included about *unpublished* opinions. In a nutshell, appeal to the Michigan Court of Appeals from a trial court is *by right*, meaning that litigants are able request a review of a lower court's decision. As the issues presented on appeal are researched by Court of Appeals attorneys, it becomes apparent that many appeals will not change how future cases are decided, nor will they act to *inform the Bar* (i.e., the legal community) of new developments or directions in the law. Thus, only a percentage of Court of Appeals' decisions – the *published* decisions – are made available for the public and legal practitioners to study.

In the past, unpublished decisions were sometimes mentioned in legal newspapers, and had either to be ordered from a source that collected them or obtained directly from the court. Then legal research services like **Lexis** and **Westlaw** began to make them available online, and finally, the Michigan Court of Appeals began to put up all its decisions – published and unpublished - on its [website](#). Most lawyers are schooled in the drawbacks of citing or relying on unpublished decisions in arguing their own cases, but they are still sought out by litigants and legal practitioners alike as examples of how the Court may approach a legal question, or for tracking down relevant published cases, statutes and regulations.

Trial Court Decisions

Trial level court decisions generally have no precedential value for other and future litigants – they are intended for the parties before the court. At best, reading a trial level decision involving similar facts and issues

may give litigants going before the same court some indication for how their case might be decided. Attorneys will sometimes seek out copies of trial court's order or decision to help them frame arguments in a case in which they intend to file a lawsuit with a specific court or judge. They also use them to gain an understanding of a client's litigation history. Patrons may seek copies of decisions in *criminal cases* for documentation necessary to file an appeal, for more insight into how a penalty was determined, or how sentencing decisions were made.

Litigants receive copies of the decision in their case, but trial court decisions are usually not published or otherwise made available online or in law libraries. These decisions are, however, public record. If the court maintains a website with online docket, and the decision was made within the previous 3-5 years, it may be possible to find the decision through the court itself. Court websites, however, generally offer minimal search capabilities, with the only access points being litigant name and case docket number. Some systems also permit searching by the name of an attorney involved. Few, if any, trial court websites offer keyword searching.

If your patron is involved in civil litigation in a state trial court, and would like to track down information about similar cases, many larger law libraries subscribed to a service called the **Michigan Trial Reporter**, which provided access to *selected cases* from the larger circuits. This former print source has been continued in online form only, however, as **Jury Verdicts Michigan**. Libraries that offer access to **Westlaw** or **Lexis** for the public may have comparable databases through this service, all of which are keyword searchable.

Two specialized circuit courts, however, are becoming exceptions to the rule in terms of posting their decisions online. [Business Court](#) decisions

from numerous counties may be found on the **Michigan Courts** website http://courts.mi.gov/opinions_orders/businesscourtssearch/pages/default.aspx, while decisions of the [Court of Claims](http://courts.mi.gov/courts/coc/pages/default.aspx), <http://courts.mi.gov/courts/coc/pages/default.aspx> which hears monetary claims against the State of Michigan, is working with the Library of Michigan to make its decisions available through [Governing Michigan](#).

Administrative Materials

Primary source materials in the administrative category are those things issued by the executive branch of state government - the governor and state agencies responsible for *executing* the laws of the state. Rules from the **Michigan Administrative Code**, decisions of the Attorney General and the Tax Tribunal, Executive Orders from the Governor are usually the most requested items. However, state agencies often post *secondary authority* – that is statements, or guidance or policies or even FAQ – about how administrative authority will be implemented, how it will impact people, and how they may comply with it.

Basic Administrative Resources

The following websites are some of the most-heavily used for matters relating to Michigan administrative law:

Michigan Administrative Code

<http://www.michigan.gov/orr>

Michigan Register

<http://www.michigan.gov/orr>

Attorney General Opinions

<http://www.michigan.gov/ag>

Executive Orders

<http://www.michigan.gov/gov> (look under the *Opinions* link)

Administrative Rules

Administrative rules are compiled into the **Michigan Administrative Code**, see <http://www.michigan.gov/orr>. Rules are policies and guidelines proposed by agencies, commissions and the public, and are usually drafted by the state agency authorized by statute to implement a legislation.

Essentially, rules set out the procedures under which state agencies operate. They have been vetted through public hearings and have undergone a process of approval and preparation for publication known as *promulgation*. They are introduced in their proposed form as well as published in their final form in the **Michigan Register** <http://www.michigan.gov/orr>. Rules have what is termed the *force of law*, meaning they must be adhered to just as statutes or judicially-developed law would be. For these reason, rules often set forth the agency's procedure for enforcement of the rules as well as more substantive matters.

The **Michigan Administrative Code** was established in the 1940's, and older versions of it may be found through the Library of Michigan's **Governing Michigan** website, <http://www.governingmichigan.org/>. Like statutes, the rule that was in force at the time of the issue in question will be the form that a legal researcher will want to find. The history notes following the text of a rule can help to locate the version of the rule that is required.

One of the easiest ways to find rules is through the website of the state agency administering the rule. Most, if not all, state agencies have a *Research* or a *Laws and Regulations* page that serves as a portal to not only relevant rules and statutes, but to guidance prepared by the agency to help the public understand them.

Attorney General Opinions and Publications

The primary mission of the Michigan Attorney General's Office is to provide the State of Michigan with legal counsel and to represent state agencies in legal matters. One of its most important functions is to provide an interpretation, usually upon the request of the legislature, governor or other state official, of state laws and constitutional provisions. Although they do not have the precedential punch of court opinions, Michigan Attorney General opinions nonetheless carry weight in terms of understanding how a law was meant to be implemented, about the rules and restrictions under which state government agencies and officials function, and whether a law or government procedure really passes constitutional muster. They are published in print in a volume called the **Biennial Report of the Attorney General of the State of Michigan**. Opinions from 1963 forward may be found on the [Michigan Attorney General's website](#) under the *Opinions* link.

Older opinions not available online may be found through the State Law Library or usually a Michigan law school library. Opinion indices have been scanned and are available through the [Governing Michigan](#) website in the *Michigan Administrative Law Materials*. Notes for Michigan Attorney General Opinions are also included in annotated editions of the **Michigan Compiled Laws** and **Michigan Constitution (MCLA and MCLS)** under the sections that the opinion addresses.

While the Attorney General's Office serves as a watchdog for the general public and the State on various matters including consumer issues, cybercrime, Medicaid fraud and patient abuse and environmental issues, it does NOT represent or counsel individuals in legal matters as a private attorney would. This is a subtle, but very important distinction to make because so many individuals do call the Attorney General seeking help with a specific problem only to be told – to great frustration and dismay - that the Office cannot provide legal advice or assistance to the public (as indeed, can no state agency). In an effort to provide information on some of the most-frequently asked questions, it receives, The Office's **Consumer Protection Division** periodically issues *alerts* that offer very helpful summaries and background concerning Michigan and federal laws, see <http://www.michigan.gov/ag/0,4534,7-164-17337---,00.html>.

State Agencies in General

One of the most important questions to consider when asked about "state law" on a topic is "Is this something the State of Michigan regulates or oversees?" For example, while there is a state statute on who is qualified to perform a marriage ceremony, there is no state agency in Michigan that licenses people to do this (although there may be in other states). While the State of Michigan once provided information and guidance for condominium associations, there is no agency that will step in when there is a dispute between a board and association members. In a final example, although State departments such as may have authority over certain uses of land for environmental quality reasons, many issues are addressed by a community's zoning ordinances.

As noted above, most state agencies will have something akin to a “laws and regulations,” “legal resources” or “reference library” page in which the researcher can find links to both **MCL** and **Michigan Administrative Code** sections with which the agency has some involvement or oversight. Using key terms in the Search Box on **michigan.gov**, the State of Michigan’s website, will often provide a link to the website of the agency that has jurisdiction over the matter. Once on the agency’s website, look for a left-hand link to *Laws* or *Regulations* or check the agency’s *site map*. Another way to find state authority on an issue is to visit the **Legal, Business and Government Gateways** on **MeL**.

Finally, internal documents of a state agency may also be relevant to legal research. If the material does not appear on the agency’s website, and the researcher is certain that it is a matter over which an agency has jurisdiction, it is possible that the information may only be obtained through a *FOIA*, or Michigan Freedom of Information Act request. Like federal agencies, Michigan state agencies generally have a *FOIA Coordinator*, an individual assigned to monitor requests coming into the department and to oversee the work flow to help ensure that the request is processed in accordance with the Michigan FOIA. Patrons seeking information that cannot be found on agency websites or through a collection of state government documents such as those kept at the Library of Michigan, State Law Library, or other state government depository libraries, may wish to contact the department’s FOIA Coordinator for instructions on how to submit a request. For a fuller explanation of how FOIA works, as well as a link to the text of the statute, see Michigan Attorney General’s Office website at http://www.michigan.gov/ag/0,4534,7-164-20988_18160--

There are many times when a search through state legal materials retrieves nothing that seems to address the issue. Before jumping into the

complicated array of federal materials, it might be good to back up a few steps and consider whether this is something that might be governing by local ordinances or policies. Zoning questions, parking tickets, loud noise, fences, tree branches, permits for the use of streets and parks are all matters for which a patron will want to at least examine any local, or municipal, laws that are in place in his or her own community. The following chapter will cover how to find some of these resources.

Chapter 5: Municipal Law

By Eric Kennedy

This chapter describes basic forms of Michigan local government and their organizational structure, and lists print and Internet resources relating to local municipal law. It is not intended to be a comprehensive treatment of Michigan municipal law, nor to be a complete list of all municipal or county information resources in the state. Rather, the chapter will discuss how local governments operate in general in Michigan, the types of information they produce, where the information is located, and how to find it.

Overview – Creation of Municipal Law and Enabling Acts

Municipalities are responsible for providing basic services that impact the daily lives of the citizens residing within them. Thus, the charters, codes, and ordinances by which they are governed, and which set forth laws concerning everything from noise, trash, building permits and uses, to traffic violations, are at the heart of some of the most typical information requests made by self-represented litigants.

Michigan *municipalities* consist of cities, villages and townships. Counties are usually included under this legal rubric, sometimes also termed *local government law* in research materials. The authority both to develop and to govern these entities flows from the Michigan Constitution and state legislation. Municipalities, for example, derive their governing authority from Article 7 of the **Michigan Constitution of 1963**, while enabling statutes provide for the legislative and administrative power under which the entity manages its daily affairs.

Constitutional and Statutory Basis of Michigan Local Government Units

To find the **Michigan Compiled Laws** sections cited below, use the *MCL Search* box on the [Michigan Legislature website](#), or use the *Chapter Index* link on the left side of the page to browse to the correct sections.

Cities- Mich Const 1963, art 7, section 22

Prior to 1909, cities were incorporated by local act of the Michigan Legislature with the Act providing structure, powers, immunities, rights, and obligations under which the city would function. The Home Rule City Act, MCL 117.1 *et seq.*, now provides for incorporation and relatively comprehensive governing authority. The HRC Act and other state laws, in conjunction with the Michigan Constitution, define the powers of and restrictions on city governments.

Villages – Mich Const 1963, art 7, section 22

Subject to certain limitations and restrictions of the State Constitution, villages are also granted certain powers by general state laws. Villages are part of the township in which they are located. Residents are electors of the village and the township for county, state and federal elections.

There are two forms of village government, the general law village, MCL 61.1 *et seq.*, and the charter village, MCL 78.1 *et seq.*

Townships – Mich Const 1963, art 7, section 17

Historically recognized as separate municipal entity under the State Constitution. General laws of the state give townships specific powers and limitations. They have jurisdiction over villages within their boundaries.

There are two forms of township government, the general law township, MCL 41.1a *et seq*, and the charter township, MCL 42.1 *et seq*.

Counties – Mich Const 1963, art 7, section 8

Recognized as a municipal corporation that performs delegated state functions, a county is political subdivision that derives its responsibilities and powers from the State. It is the largest unit of government besides the State. It is responsible for criminal justice, civil and criminal court functions, record keeping, tax assessment, road construction and maintenance.

There are three forms of county government in Michigan: the general law county, MCL 45.1 *et seq*; the charter county, MCL 45.501 *et seq*, and the optional unified form of county government, MCL 45.551 *et seq*.

For a more detailed discussion of all forms of Michigan government and the powers and functions that have been delegated to them, see

Fisher, Gerald A. and Clyde J. Robinson, eds., **Michigan Municipal Law** (Institute of Continuing Legal Education) (August 2013 Update consulted)

VerBerg, Kenneth, **Guide to Michigan County Government**, 4th ed. (Michigan State University Extension, State and Local Government Programs, 2007)

Governing Documents

The basic laws of a local government municipality can be found in its *charter*. Like our state constitution, a municipal charter explains the powers and duties of local government branches and departments. Voters within a city, township, or county approve of and adopt the charter. Charters are sometimes published in bound volumes, newsprint, or are available electronically via municipality websites.

Local ordinances are the laws enacted by the city council, the county commissioners or the township board. Like statutes and regulations that are passed at the state level, ordinances have binding authority on the citizens and businesses within that jurisdiction. They are the local laws that cities, counties and townships adopt to create rules addressing matters of local concern. Ordinances cover a wide range of issues, including buildings, roads, traffic violations, public safety or nuisance and even pets. Depending on the size of the municipality, ordinances are sometimes published in bound volumes, the local newspaper and/or electronically. They are usually then arranged by subject and compiled in a *municipal code*, much like laws passed by the state legislature that subsequently codified into the **Michigan Compiled Laws**.

Municipal codes contain ordinances that are in force at the time of their publication. Codes are subdivided by titles, chapters and articles, depending on the jurisdiction. Each section of the code is numbered, and at the end of the section there is usually a note referencing which ordinance either created or amended the code section. There are electronic versions of charters and codes for most municipalities in the United States. Few are published in print any longer, except those from larger cities. Although print versions are not as current as those on the Internet, they do have indexes and sometimes a table of contents that can be useful for finding specific sections.

Some municipalities publish *public safety* or *construction codes* for building, fire, electrical, mechanical, and plumbing as part of their municipal code. Public safety codes are generally written and made available for a fee by professional organizations like the National Fire Prevention Association, the International Code Council (ICC) and Underwriters Laboratories.

Planning and zoning involves dividing the real property within a city or county into areas or zones where size and use restrictions are determined

for the buildings within them. Planners are responsible for creating an area's *master plan, zoning ordinance, subdivision ordinance* and *zoning maps*. The master plan guides development of a region and the zoning ordinance contains the regulations and standards for use of land and buildings inside the community. Enacted by city council, the zoning ordinance includes maps and outlines district boundaries. These documents are available to the public at the city, county or township clerk's office. Like municipal codes, master plans and zoning ordinances are appearing more and more online.

Locating Municipal Law

Whether published online or in print, municipal codes and local ordinances are usually available from the city, township, or county clerk's office in hard copy. Print copies of codes and ordinances can also be found in some public, municipal, state, county, and law school library collections. Some local government websites provide access to their municipal ordinances, but most are made available through various code publishing companies. The Municipal Code Corporation's **Municode** website offers free access to many city and county ordinances. **American Legal Publishing Corporation's** page also provides links to selected charters and codes for free. **American Law Sources Online** also provides free access to current municipal and county codes for many local governments around the country.

Municode uses a search engine interface where the user can browse the table of contents of charters or codes and then link to relevant sections. It also has a keyword search option to search full or selected text within a charter or code. The **American Legal Publishing Corporation's** website features an advance option to search for exact phrases, exclude terms, search using alternative terms, or to search for words that are near each other. Like **Google, Westlaw, and Lexis**, some code publisher websites allow you to truncate search terms to pick up all the possible ways a word

may end. **Municode** highlights search terms to show exactly where a word appears in a document.

The Library of Michigan has collected published copies of older local ordinances, municipal codes and charters, but it is by no means a comprehensive collection. To determine if a copy is available, check the **Library of Michigan's** [ANSWER catalog](#). Academic libraries may also house older editions of charters, ordinances and zoning codes, making them available either in print or online through digitization projects like those of **Google** or the **Hathi Trust**. To find them, try searching for the name of the municipality in a university catalog like that of the University of Michigan's [MIRLYN](#) or directly through [Google Books](#) or the [Hathi Trust Digital Library](#).

Copies of public safety codes are usually available from the local government office that oversees building projects. Many larger public libraries also try to maintain current copies of some of the most heavily-used titles. The State Law Library may have copies of older building codes and attempts to keep the most frequently used titles up-to-date (building use only). The **Michigan Bureau of Construction Codes** can address questions on public safety codes.

The increasing cost of these codes and their underlying technical standards has served as an impetus for local communities to try to join to make the materials available on a regional basis. Check with your local building department for more information. [Law.resource.org](#) is a nonprofit organization that attempts to put many of the codes on its website at no cost to the viewer. The publication of these codes online has been a controversial issue, however, and those who consult them should probably also check with local building departments to determine that an approved version is being used. The **CMD Group** <http://www.cmdgroup.com/> has

reference and contact information for the building codes of large cities, some counties, and all 50 states on the Resource Center section of its website.

Resource Lists

Checklist of Print Resources

- Public or Municipal Library
- City clerk
- County clerk or Commissioner's office
- Zoning department
- City, village or Township websites
- Law libraries
- Library of Michigan (limited collection of older statutes and charters)

Online Resources: Michigan

Links to the official website for Michigan cities and townships

<http://citytown.info/Michigan.htm>

Local Governments and Politics- University of Michigan Documents Center

<http://www-personal.umich.edu/~graceyor/govdocs/pslocal.html>

Michigan eLibrary – Government and Legal Gateways

<http://www.mel.org/government>

<http://www.mel.org/legal>

Michigan Municipal League

<http://www.mml.org/home.html>

Michigan Township Association

<http://www.michigantownships.org/>

Michigan Association of Counties

www.micounties.org

Municipal Code Websites- Nationwide

Online Municipal Code Library (nationwide coverage)

www.municode.com

American Legal Publishing's Code Library (nationwide coverage)

<http://www.amlegal.com/library/>

eCode360's access to city codes across the nation

<http://www.generalcode.com/codification/ecode/library>

Justia City websites and city codes nationwide

<https://www.justia.com/>

Go to US Law, then the individual state, for example:

<http://law.justia.com/michigan/cities>

American Law Sources Online

<http://www.lawsource.com/also>

Guide to State and Local Public Safety Codes

<https://law.resource.org>

Building Codes – CMD Group

<http://www.cmdgroup.com/building-codes>

Contacting Local Officials

Directories can also become important in researching municipal issues, and local officials may be able to provide, in general terms, citations to ordinances or code provisions.

Carroll Publishing County Directory – Contact information for all counties in the US. Directory includes personnel locator number, county demographics, county seat, address, fax number, council members, elected officials, and directors of county departments.

Carroll Publishing Municipal Directory – Comprehensive municipal directory of more than 51,000 appointed and career officials from across the country. Covers over 7500 cities, towns, and villages.

Directory of Michigan Municipal Officials – Lists contact information for Michigan community leaders. Has the phone number, address, and demographic figures for each community as well as the names of state and US representatives.

Municipal Staff Directory- Contact data and biographies of city officials and staff. Current numbers on population, county, form of government, elections, revenue and expenses, and number of city government employees. Updated twice each year.

The Michigan Freedom of Information and Open Meetings Acts

Quite often, as a patron's matter becomes more and more involved, that person will seek information held by a government office that is not readily available online or through the local library, yet is still considered under Michigan law to be a *public record*. Some patrons may also wish to obtain more detail about government operations. Every citizen in Michigan has a

right to know what government officials are doing. The Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 *et seq* (FOIA), gives citizens the right to obtain copies of the records of state and local government units, and the Michigan Open Meetings Act, 1976 PA 267, MCL 15.261 *et seq* (OMA) allows them to publicly view how state and local government officials make decisions.

The text of these laws may be read on the Michigan Legislature website at <http://legislature.mi.gov/>. For materials that help to explain how these laws work, the **Michigan Attorney General's Office** provides a summary of FOIA and OMA Provisions http://www.michigan.gov/ag/0,4534,7-164-20988_18160---,00.html. Private law firms specializing municipal law also sometimes provide an outline of the statutes as well as updates when there have been amendments. Also, the website of the government body holding the information will itself likely have request forms or contact information for the FOIA coordinator.

Researching Municipal Legal Issues

Beyond locating copies of legal documents, or primary resources, research into legal issues involving municipalities often benefits from locating secondary source material, that is, material that summarizes or interprets the primary documents. The resources below may help a patron to understand the background of questions for which he is trying to find answers. Also, because the authority of municipalities and counties is derived from the **Michigan Constitution**, secondary resources that discuss state and federal constitutional issues are often of great assistance in helping the patron to understand the bigger picture behind the situation. A law library, or one that has legal resources as part of the collection, may contain secondary resources in print that provide a comprehensive background and overview of the powers of local governments. Loose-leaf

and/or multi-volume sets that receive periodic updating are useful in understanding the legal issues relative to local governments. Some of the topics they cover are the formation of local governments, the limits on local government authority, public officers and employees, local government finances, taxes, utilities, zoning, eminent domain, planning, the regulation of business and citizens within the municipality and local government liability. Summaries or references to important cases that interpret various municipal code sections can be found in state case digests, legal encyclopedias, annotated statute sets, subject specific treatises, general reference handbooks and citators.

Many of the references here are discussed in greater detail in the chapters on legal research and Michigan legal research. Also, see, **Directory of Michigan Law Libraries** <http://www.michigan.gov/lawlibrary> for a list of law libraries that may hold these materials, or the **MeL Legal Gateway** at <http://www.mel.org/legal>. As noted previously, these materials are generally building use only, so your patron must visit that library to use them. Research materials may also be located through <http://www.mel.org/>.

Michigan Materials for Research Municipal Law Issues

Michigan Digest –a case law digest that summarizes opinions from Michigan state and federal courts on all areas of law, including municipal and constitutional law. A digest contains references to cases that interpret ordinances or charters. The Michigan Digest allows a researcher to search for cases by name or subject. Topical outlines afford the researcher a broad view of the topic, and then permit him or her to narrow the search to an issue or point of law.

Michigan Civil Jurisprudence -a state-specific legal encyclopedia that provides a general overview of Michigan legal topics. Use the index located

at the end of the set to find chapters or sections related to counties, municipal corporations, townships, cities or villages.

Michigan Compiled Laws Annotated (West Publishing) and **Michigan Compiled Laws Service** (Lexis) - **MCLA and MCLS** each contain the text of the **Michigan Compiled Laws** – the official compilation of Michigan state statutes - but are annotated with summaries of cases that relate to specific statutory sections. The case notes, references to encyclopedias, journal and law review articles, all help to explain statutory intent. Check the index for topics such as *counties, townships, charter townships, cities, villages, and municipalities*.

Michigan Municipal Law - published by the Institute of Continuing Legal Education with input from the Michigan Municipal League and the Michigan Association of Municipal Attorneys, this book analyzes the various legal issues that affect local governments. Focuses on sunshine laws, local finance, ordinance drafting and enforcement.

Jae, John, ed., **Local Government Law and Practice in Michigan** (Michigan Municipal League, Michigan Association of Municipal Attorneys, 2007) - a two volume reference work on local government law for Michigan attorneys. Chapters are updated periodically and new chapters are added over time. This resource addresses the various issues facing Michigan local municipalities. Well annotated with Michigan case and statutory references.

Bauckham, John H., **Authorities and Responsibilities of Michigan Township Officials, Boards and Commissions** (2008) - Bauckham, the state's foremost authority on township law, has served as legal counsel to the Michigan Township Association since its inception in 1953. The intent of this softbound monograph is to provide township officials with an easy reference tool to use as they perform their day to day functions.

General Reference

Antieau on Local Government Law (LexisNexis/Bender) – Now in its second edition, this multi-volume loose-leaf treatise is newly revised and completely updated. It provides a current perspective on municipal corporations and local government entities.

Local and Regional Government Information: How to Find It, How to Use It– A reference book that provides a blueprint on how to find and use local government information. It explains how local governments are organized, the types of documents they produce, and how to access and use that information.

Local Government Law – From the West Publishing **Hornbook** series, this book is geared more toward law school students. It is well-footnoted and has substantial references to cases.

Local Government Law in a Nutshell – Although not a scholarly work or an exhaustive subject specific treatise for faculty or practitioners, this **Nutshell** series is very useful in providing an overview of the key issues regarding local government

Shepard's Ordinance Laws Annotations - a multivolume publication known as a *citator* that provides summaries of cases that interpret city and county ordinances from jurisdictions across the U.S. Contains an index and is updated by pocket parts and supplements.

McQuillin, Eugene, **The Law of Municipal Corporations**. Also known as *McQuillin's* or *Municipal Corporations* (West/Thomson Reuters) – expert coverage of everything municipal law. Uses a decimal numbering system for access to materials within its 20 volumes. Provides federal and local case

annotations by jurisdiction and assistance in conducting complex litigation. Has both official and parallel citations and detailed footnotes.

Zoning and Land Use Controls (LexisNexis/Bender) –An eleven-volume loose-leaf set focusing on government regulation of land at the local level. One of the largest and most comprehensive sets on land use controls.

For Further Reading and Chapter References

Martin, Mary, ed., *Local and Regional Government Information, How to Find It, How to Use It* (Westport, CN: Greenwood Press, 2005)

Olson, Kent C. *Legal Information, How to Find It, How to Use It* (Phoenix, AZ: Oryx Press, 1999).

Barkan, Steven M., Roy M. Mersky, Donald J. Dunn, eds., Fundamentals of Legal Research 9th ed. (New York: Foundation Press/Thompson Reuters, 2009).

Chapter 6: Federal Research

By Yolanda Patrice Jones

Introduction

Finding legal information in the United States can be difficult and/or confusing for the layperson. Electronic databases such as LexisNexis or Westlaw may only be accessible for those who can afford it. Even with access to these databases, those without legal training may find them to be overwhelming. This chapter aims to shed some light on the process of doing federal legal research as well as recommend Internet sites where the layperson can get access to free legal resources.

The Branches of Government

When doing legal research, it is important to remember that there are three branches of government, which are the sources of our law in the United States. In terms of federal research, the judicial branch is the court system, which includes federal district courts (trial courts), the federal courts of appeal, and the United States Supreme Court. The legislative branch includes the United States Congress, and the executive branch includes the White House and federal administrative agencies, such as the Internal Revenue Service (IRS), the Environmental Protection Agency (EPA), and the Federal Communications Commission (FCC).

As modern federal law is developed in all three branches of government, a researcher will usually be consulting several interconnected resources. You may need to consult federal cases, statutes, and regulations during your research. Secondary sources such as books and journal articles may help to provide background information on federal legal issues and point you to the cases, statutes, and regulations, which are the primary sources of law. See

the end of this chapter for references to helpful sources of background information on doing federal legal research.

Is This Really a Matter of Federal Law?

Determining the appropriate jurisdiction and the applicable law can be tricky. A federal court may wind up applying state law, while a state court may wind up applying federal law, or both may apply both!

- First, you may want to start with the assumption that your issue is state law. The powers of the federal government are specifically set forth in the Constitution. Those powers not expressly prescribed in the Constitution are left to the jurisdiction of the fifty states.
- Does the issue you are researching fall under the subject matter jurisdiction of the federal courts? There are certain subjects within the jurisdiction of the federal sources such as federal income taxation, bankruptcy, admiralty, antitrust, copyright, and patents. Federal courts usually have jurisdiction over cases involving federal law, a federal treaty, or the Constitution.
- Does the issue involve a federal statute or regulation? Does the issue involve the Constitution or one of its amendments (for example, First Amendment freedom of speech issues or civil rights claims)?
- Is there a federal agency involved? A good rule of thumb is if federal funds are involved, federal law may be involved. This is not an exhaustive list, but these are a few of the things you should consider.

Federal judicial branch sources

Jurisdiction and the Three-Tier Courts System

The judicial branch of the United States is divided into jurisdictions, or areas in which the courts have the authority to issue opinions (also known as cases, decisions or rulings). There are court systems on the federal level

and for each of the fifty states. Each jurisdiction (federal and the fifty states) has any number of courts, usually one of three types:

- 1) a trial court,
- 2) a court of appeals, and
- 3) a "court of last resort," often (but not always) known as a Supreme Court.

On the federal level, there is a Supreme Court of the United States, a United States Court of Appeals, and a trial court, which is known as the United States District Court. The federal appellate courts are subdivided into numbered "circuits." Michigan, for example, is in the jurisdiction of the Sixth Circuit Court of Appeals.

Binding Authority

The decisions of a higher court in a jurisdiction are usually "binding" or mandatory authority. For example, the decisions of the United States Supreme court are *binding* on all of the courts in the United States. In other words, all courts in the United States must follow, or obey, United States Supreme Court decisions. The decisions of the high court of a particular state are binding on the courts within that state, and so on. However, the decisions of a Michigan state court may or may not be followed by a federal court in the Sixth Circuit, which includes the state of Michigan. Many researchers try to find US Supreme Court cases as they are binding authority over all other US courts, however, if you are in federal court, other federal decisions can also be used in legal documents if there is no United States Supreme court decision on the issue.

Searching by Citation - Federal Reporters and Their Citation Abbreviations

One of the biggest challenges for those new to doing legal research is being able to understand and use legal citations to retrieve documents. The basic citation pattern for a case is:

(Case Name), Volume number/court reporter abbreviation/ page number
(year)

For example: *Troxel v. Granville*, 530 U.S. 57 (2000)

The citation format above was developed in conjunction with the printing of court decisions in *reporters*. The *Troxel* case was is a US Supreme Court opinion. It follows at standard citation format where 530 is the volume number, U.S. is the abbreviation of the book, in this case, the **United States Reports**, and 57 is the page number. The case was decided in the year 2000. You can use this basic information to find the case in print, in an electronic subscription database, or on a free website.

There are hundreds of reporters publishing legal opinions from courts and tribunals all over the United States. The trick is being able to recognize the reporter abbreviation if you are retrieving the case in print. The citation system most used by attorneys and courts is **The Bluebook, a Uniform System of Citation**. A good website which provides explanation and examples of Bluebook citation formats is **An Introduction to Legal Citation**, by Peter W. Martin at <http://www.law.cornell.edu/citation/>. Most electronic databases will recognize these standard citation formats.

United States Supreme Court

The reporters for the US Supreme Court are the official **United States Reports (U.S.)** and the unofficial, commercially published **Supreme Court**

Reporter (S.Ct.) and United States Supreme Court Reports, Lawyer's Edition (L.Ed.).

Individual court websites may provide *slip opinions* (the text of brand new cases that may not yet have citation information). Supreme Court opinions are highly sought after the moment they are issued by the court. The **US Supreme Court website** at <http://www.supremecourt.gov> is the first place you should go to find recent Supreme Court cases. They are made available on the website as soon as they are released. The website also has an archive of older Supreme Court opinions.

Other good free sources for Supreme Court opinions and other legal information are the **Cornell Law School Legal Information Institute** at <https://www.law.cornell.edu/supremecourt>, **Findlaw** (<http://www.findlaw.com/casecode/supreme.html>) and the **Justia** website at <https://supreme.justia.com/>. The home page of each of these websites are great general starting points for free legal information sources.

The Supreme Court website provides PDF copies of the bound volumes back to 1991. They also provide archives of older Supreme Court opinions. Cornell Law School provides a search feature for all Supreme Court cases going back to the earliest opinions. They also have an archive of Supreme Court opinions organized by topic, and information about cases currently being argued before the Supreme Court.

The **Google Scholar** website at <http://scholar.google.com>, provides a database which includes Supreme Court opinions back to the very first opinions which were issued. You can both search Supreme Court opinions and browse them by year at the **Justia** website at <http://law.justia.com/> and the **Public Library of Law** (<http://www.plol.org>) can be searched from the earliest opinions to the present. The **Scotus Blog**

(<http://www.scotusblog.com>) provides “breaking news” coverage of new Supreme Court opinions.

United States Court of Appeals (Federal Circuit Courts)

The reporter for the published Court of Appeals decisions is the **Federal Reporter** (F. or F.2d or F.3d). The courts of appeals are divided into 13 circuits. Michigan is in the *Sixth Judicial Circuit*. Individual court websites may provide recent (particularly on hot issues) and/or older opinions.

A good place which links to individual federal websites is the official **US Courts** website at <http://www.uscourts.gov>. It has a court locator, which you can search by location or by clicking on a map. You can search for court of appeals cases at **Google Scholar** (<http://scholar.google.com>), which at the time of this writing, covers federal cases from 1923 to the present.

You can search or browse federal appeals cases at **Justia** (<http://law.justia.com/>) and the **Public Library of Law** (<http://www.plol.org>) allows searching of the federal circuit courts from roughly 1950 to the present. **OpenJurist** (<http://openjurist.org/>) has Court of Appeals decisions from about 1880. News and information about recent federal appellate cases is available via the **How Appealing** blog at <http://howappealing.law.com>.

Federal District Courts (trial level)

The reporter for the published federal district court decisions is the **Federal Supplement** (F. Supp., F.Supp. 2d, F.Supp. 3d). An example of the name of a federal district court is *United States District Court for the Eastern District of Michigan*. You can search for federal district court cases at **Google Scholar** (<http://scholar.google.com>), which at the time of this writing covers

federal cases from 1923 to the present. You can search or browse district court cases at **Justia** (<http://law.justia.com/>).

Parallel Citations

Not all cases are published in one place. Any number of parallel citations (the same case published in a different reporter) may follow the main citation. In the example above, the *Troxel* case was published officially in the **United States Reports** (abbreviated as **US**), as well as in the commercially published **Supreme Court Reporter (S.Ct.)** and the **United States Supreme Court Reports, Lawyer's Edition (L.Ed.)**. The **Bluebook** rule is to provide a citation to the official reporter - for example: *Troxel v. Granville*, 530 U.S. 57 (2000). However, it is common to see a citation provides the parallel citations as well –

for example: *Troxel v. Granville*, 530 U.S. 57, 120 S.Ct. 2054, 147 L.Ed. 2d 49 (2000).

More on Retrieving Cases from Websites

Many times, copies of cases are placed on websites of the courts, the parties, or organizations or groups with an interest in the case. In those instances, an official citation may not be included, but a web search engine should be able to retrieve them by the names of the parties.

The main problem with online cases is that they may or may not be provided by an official or authoritative source or have the official print pagination required by the major legal citation systems. If you have access to a library which owns the **Bluebook**, consult that publication for information about citing to web resources. Otherwise, an **Introduction to Basic Legal Citation**, by Peter W. Martin at <http://www.law.cornell.edu/citation/> includes a section on citing to sources from the web.

It is by far easier to work with the official cites, if possible. The **Google Scholar** website provides official and/or commercial print citation and pagination.

Searching for Cases in Google Scholar by Topic Keyword, Party Name, and Exact Legal Citation

The **Google Scholar** website (<http://scholar.google.com>) provides access to both state and federal court cases. As of this date Google Scholar includes all United States Supreme Court Cases, Federal appellate and trial court cases from 1923 to the present, and State appellate and Supreme Court cases from 1950 to the present.

Google Scholar is not on the menus from the main **Google** web page, so go to <http://scholar.google.com>. Click on the bullet next to *Case Law*, and type in your search terms. You are often given the option to narrow your search to cases from your home state or another state below the search box.

Your terms can be subject keywords, the names of the parties of a case (for example, the name of our sample case, *Troxel v. Granville*), or the exact legal citation (in our example, 530 U.S. 57). You can also select to search federal courts only, the courts in your state (what you see as the default varies according to where your computer is located), or you can select one or more specific courts.

Once you do a search, browse the results list to see if any of the items are relevant to your search. You can filter or limit the search by type of courts (Federal courts, or Michigan courts), and by date. Once you have your result set, click on the link of the case you wish to read.

In a sample search I ran using the name of the case in the general Google Scholar search box without choosing a specific court, the *Troxel* case was

the first case in the search results. The *Cited By* link shows that the case has been cited by a large number of people. Clicking on *How Cited* brings up quotes from other representative cases on the issue and other cases which cited the *Troxel* case.

Star Pagination

Star pagination is used in unofficial reporters or databases to provide corresponding page numbers in official or print reporters. In our example for the *Troxel* case, **Google Scholar** provides the citation for the “official” ***United States Reports (U.S.)***. The citation to the case, 530 U.S. 57 (2000), is at the top of the document. The case starts at page 57. Notice as you scroll through the case that page numbers corresponding to the print version of the case are visible in the left margin. For example, *60 and *61. These numbers indicate the print page numbers that you can cite to in your document.

Is Your Case Still Good Law? Use a Citator Before You Stop Your Research

Once you have found a case, you must make sure that it has not been overturned by a higher court. Lawyers use *citators* such as **Shepard’s Citations** (print/LexisNexis) or **KeyCite** (Westlaw) to make sure that their case is still *good law*. They are becoming rare in print, but a law library that is open to the public may allow access to an electronic version of Shepard’s or other citators. Electronic database citation research is recommended, and many libraries no longer carry the print volumes.

Be familiar with the common **Shepard’s/KeyCite** signals, especially those which indicate that at least part of your case has negative treatment (or, is no longer “good law”). Online, look for the red stop sign (Shepard’s on Lexis), or red flag (KeyCite on Westlaw). Remember that if you see a red Shepard’s or KeyCite symbol, it does not necessarily mean that your *entire*

case has been overturned. You must read the case carefully to determine whether a particular issue received strong negative treatment.

If you cannot gain access to a commercial citator in print or a citator database, try the *Cited by* and *How cited* features at [Google Scholar](https://scholar.google.com). You will get a general idea of how your case has been cited and quoted, but it does not tell you with certainty if your case has been overturned/is still “good law.”

Research tip: if you have found one case that seems to be on your topic, you can expand your research using a citator to find other court opinions that cite to the one “good case” as well as relevant secondary sources such as journal articles. You can also search for the case by citation or name at <http://scholar.google.com> and use the *How cited*, *Cited by*, and *Related Articles*, features to find related cases and journal articles.

Federal Docket Information - PACER

What is a Docket?

The *docket* is a file of all documents associated with a particular court case. The file may include the *briefs of the parties*, *motions*, *transcripts*, *exhibits*, and other documents. For any one court case, there may be dozens of documents filed with the court that are tracked using the docket listing. Often, when people refer to the *docket*, they are actually talking about the listing of all the docket files, which is used to request specific documents. Each file is given a number, called the *docket number*, which is used to retrieve the docket listing. The docket number can also be used to search for a copy of the case itself in online databases, as it is often included at the beginning of the text of the court opinion.

The PACER System

The official, though not quite free, source for federal docket searching is the **PACER (Public Access to Court Electronic Records)** website at <http://www.pacer.gov>. The **PACER** system includes background materials connected with a federal appellate or district court case. Any links to docket information from a federal appeals court or federal district court website will direct you to the PACER system.

PACER charges around 10 cents per page, and requires that you set up an account with a username and password to access the database. Anyone can register for a PACER account - you do not need to be an attorney. If you are a party to the litigation you may petition the court for free access to PACER. See the **PACER Frequently Asked Questions** and video tutorials at <http://www.pacer.gov> for more information.

Using Docket Numbers

When a case is first filed with a court, it is given a number called a docket number, which the court uses to track the case through the court system. If you go to a court to look for background documents for a case, you will often be asked for the docket number. If you do not already have the docket number, it will be more difficult to retrieve the case. If a case has been published, you can often search for the case in a free or subscription database to retrieve the docket number. If a case is pending, or otherwise has not been published, obtaining the number can be difficult. PACER does allow for name searching through its **US Case/Party Index** (now called the **PACER Case Locator**), but there are sometimes large numbers of cases to look through before finding the correct one.

Docket numbers are usually provided after the party names in a case. Going back to **Google Scholar**, I searched for the case *Coalition to Defend Affirmative Action v. Regents of the University of Michigan*, at 701 F.3d 466 (2012). At the beginning of the case, directly below the names of the parties are a series of docket numbers, beginning with 08-1387. These are the docket numbers which can be used to search **PACER** or other databases. Most of the time, only one docket number is given to a case; however, if there were several cases that were joined together, there may be more than one docket number. This case was decided in the United States Court of Appeals for the Sixth Circuit (the **F.3d** citation lets the researcher know this is a federal Court of Appeals case), of which Michigan is a part.

You can select your region, such as the Sixth Circuit (Michigan). This helps to narrow the scope of your search so you do not have to browse through as many search results as an unrestricted search. You can also select the type of case, such as *civil*, *bankruptcy*, etc. However, it may be better to use the default settings, which searches all types of cases. This is helpful if you are unsure what type of case you have.

You can search by the *docket number* (called the *case number* in **PACER**), the case title (for example, *Smith v. Jones*), the party name (last name first, such as *Smith, John*), or other information such as the date filed or decided.

Although searching by docket number is the most systematic method, it can often be the most difficult part of a **PACER** search. Each jurisdiction may have a slightly different format for their docket numbers, which are *normalized* in PACER. For example, you may see a listing for "2008-cv-1387." Unfortunately, that means that you may not be able to find your case with the docket number format you obtained from the text of the case. If you are having problems, try searching by party names.

If a document is available online, you can click on the link next to the docket listing. Note that not all docket information is available online. Online docket links are generally available in cases after 2000 or so. The older the case, the less likely the chance of finding the full text of the case documents linked from the docket. In addition, either all or part of or the proceedings may be sealed, by order of the court.

Other Sources of Docket information

There are other free sources of docket information on the web, such as **Justia.com** (<http://dockets.justia.com/>) and the **Law Librarian's Resource Exchange (LLRX) Court Rules, Forms, and Dockets** guide. The **LLRX** guide contains a listing of free state and federal court docket sources on the web (<http://www.llrx.com/courtrules/>). **Justia.com** has offered a federal docket search at <http://dockets.justia.com>.

Court Rules and Forms

Some courts provide court rules and forms free on the web while others do not. One of the largest collections of links to court rules and forms on the web can be found at **LLRX.com** (<http://www.llrx.com/courtrules/>). Legal forms can be some of the hardest documents to find because one person may call a form by one name while another person knows it by an entirely different name (neither of which may be the actual, official name of the form). Law libraries often have many sets of formbooks to search and may have library guides to help you find local forms. Often the most direct method is to look for your local court on the web. They may post copies of their most requested forms on their website.

Finding Federal Cases Checklist

1. Take stock of what you already know. Do you already have information about a specific case you wish to find?
 - a. Name of one or more of the parties.

b. Exact citation

- United States Supreme Court
 - *United States Reports* (official reporter): _____ U.S.

 - *Supreme Court Reporter*: _____ S.Ct. _____
 - *United States Supreme Court Reporter*: _____ L.Ed.

- Federal Courts of Appeal
 - Federal Reporter
 - _____ F. _____
 - _____ F. 2d _____
 - _____ F. 3d _____
 - Federal District Courts
 - Federal Supplement
 - _____ F. Supp. _____
 - _____ F. Supp. 2d _____
 - _____ F. Supp. 3d _____

c. Docket number

- Example: 08-1387
- Example: 2008-cv-1387

2. If you have specific information about a case as listed above, search for your information in the resources below:

- a. Google Scholar (<http://scholar.google.com>), by exact citation, docket number, or party name. Google Scholar covers all US Supreme Court Cases, Federal cases back to 1923, and State cases back to 1950.
- b. Justia (<http://www.justia.com>). Look under "Laws: Cases & Codes," which allows you to search by circuit, by state, and by year back to 2001.
- c. Public Library of Law (<http://www.plol.org>), by exact citation, docket number, or party name.
- d. OpenJurist (<http://openjurist.org/>) has U.S. Court of Appeals decisions from about 1880.
- e. In print, if a library has the print reporter set, the first number in the citation is the volume number and the last number is the page number.
 - Local law libraries or academic libraries with access to the public may provide access to subscription databases such

as Lexis, LexisNexis Academic, and Westlaw, as well as print tools for finding cases.

- f. READ THE CASE! Do not just quote the summary at the beginning of the case.
3. If you do NOT have specific information about a case:
 - a. Brainstorm for search terms to use in electronic databases and print indexes. Use words from your fact situation and write your question in sentence form about what you are looking for.
 - b. Use your search terms as keyword searches in sources such as Google Scholar, Justia, the Public Library of Law, and OpenJurist.
 - Local law libraries or academic libraries with access to the public may provide access to subscription databases such as Lexis, LexisNexis Academic, and Westlaw, as well as print resources.
 - c. Read the case. Double check: is this really a matter of federal law?
 4. Is your case still good law? Use a citator service to make sure that your case has not been overturned.
 - a. Local law libraries or academic libraries with access to the public may provide access to subscription databases such as Lexis, LexisNexis Academic, and Westlaw.
 - b. The Google Scholar "how cited" feature provides basic information about cases which have cited to your case. Remember, it does not provide specific information about whether a case is still "good law."
 5. Need docket information? (background documents)
 - a. Supreme Court
 - Use the Supreme Court website (<http://www.supremecourt.gov>) to find United States Supreme Court docket information.
 - b. Federal appellate and district court docket information.
 - Pacer (<http://www.pacer.gov>)
 - Justia (<http://dockets.justia.com/>)
 - c. See generally LLRX Court Rules and Forms guide - <http://www.llrx.com/courtrules/>.
 6. Tracking news about the Federal Courts?
 - a. Try blogs such as <http://www.scotusblog.com>, and <http://www.howappealing.law.com>.

- b. Newsworthy cases may receive coverage in local or national news outlets.
- c. Jurist legal news (<http://www.jurist.org/>). The Jurist site is covers legal news nationwide but if your topic is covered it will also often include links to documents (such court complaints) related to the story.

Legislative Branch Sources

United States Constitution and Other Founding Documents

The **United States Constitution** is available at the **Government Printing Office Federal Digital System**, or **FDSys**, website (<http://www.gpo.gov/fdsys/>). Note that this website was formally known as **GPOAccess** and will soon be updated again under the name **Govinfo** (<http://www.govinfo.gov/>).

An annotated text called **The Constitution of the United States of America, Analysis and Interpretation** is available at **FDSys**, but a more readable version resides at the **Cornell Law School Legal Information Institute (LII)** (<http://www.law.cornell.edu/anncon/html/index.html>).

The **National Archives** website has links to the **Constitution**, the **Declaration of Independence** and other documents at <http://www.archives.gov/exhibits/charters/>.

Another very useful source for the Constitution is the **National Constitution Center** (<http://constitutioncenter.org/>).

The **Congress.gov** (<http://www.congress.gov>) website links to these documents under *Founding Documents*.

Federal Statutes

The Life Cycle of a Statute

A statute is passed by an elected body, such as the **United States Congress**. There is legislation for the federal jurisdiction as well as for each of the states. There is a "life cycle" to the publication of statutes that helpful in understanding how to find them. Federal statutes first start as individual *slip laws*, then are published chronologically as *session laws* known as the **Statutes at Large**. Finally, the statutes are arranged in subject order in books called Codes.

Public Law

Statutes start their "lives" by being signed by the President, and are then given a **Public Law** number (abbreviated as **P.L.** or **Pub.L.**) It is then issued as a *slip law* that can be found on the web at places such as the **Congress.gov** website at <http://www.congress.gov> (formerly known as **Thomas.gov**). Congress.gov is maintained by the Library of Congress and is the official United States legislative information system. It provides information about federal legislation such as whether it became a public law, its congressional sponsors, and links to related reports and **Congressional Record** legislative debates. The amount of coverage varies, with less information provided for its materials in the early 1970's to more extensive materials provided the closer you get to the present day. In print, you could use the year of passage and the public law number to find text of the law in books known as *session laws*.

Session Laws

At the end of a Congressional session, all laws passed in that session are arranged in chronological order by public law number, and bound in volumes known as **Session Laws**. The session laws for federal statutes are

published in the **United States Statutes at Large**. For example, the **Civil Rights Act of 1964** is known as **Public Law 88-352**. *88* stands for the number of the congress in which the law was passed, *i.e.*, the 88th Congress. *352* means that it was the 352nd law passed in the 88th Congress. For laws passed after the mid 1990's, researchers often utilize a source like <http://www.congress.gov> to retrieve the session law by the public law number.

United States Code

Most researchers start their federal statutory research by consulting a version of the codified statutes. To *codify* means to arrange by subject, so the statutory codes are sets of statutes that are arranged into subject categories that are generally noted on the spines of the print volumes. The official code for federal statutes is the **United States Code (USC)**. The publisher is the **Office of the Law Revision Counsel of the U.S. House of Representatives**. A base set is printed every 6 years, followed by a set of supplemental volumes that updates the base set. Both the base set and the supplements must be searched to make sure that you have found all potential changes to the statute. Various commercial publishers print annotated codes, with changes added in paperbound pocket parts in the back of the volume, or supplementary pamphlet volumes.

Many who have access to print statutes argue that the print layout is superior for reading and browsing. If you have access to print statutes, they are quite useful. However, there are now several resources for accessing federal statutes online, the most important being the **United States House of Representatives** website at <http://uscode.house.gov>. Other good places to search the United States Code are the **Cornell Law School Legal Information Institute** (<http://www.law.cornell.edu/>) and at <http://www.justia.com>.

United States Code Website

Unfortunately, if you visit a law library and look for the official print **United States Code**, you would find that it is one to two years out of date. The **United States Code website** at <http://uscode.house.gov>, however, now has close to real time updating.

Title VII of the **Civil Rights Act of 1964** is a good example of how knowledge of the entire life cycle of a statute may be needed to understand how to retrieve a federal statute in either print or digital format.

When the Civil Rights Act of 1964 was signed by President Lyndon Johnson on July 2nd, 1964, it became (public law) **P.L. 88-352**. Title VII, on Equal Employment Opportunity, began at section 701 of P.L. 88-352. The public law was later published in chronological order in the **Statutes at Large** with the citation **78 Stat. 253**, where *78* is the volume number, *Stat.* is the abbreviation for the **Statutes at Large**, and *253* is the page number.

Newspapers and journals of the day referred to the provision simply as *Title VII* and the name stuck. However, once the law was classified by subject in the **United States Code**, it was given another numbering scheme. It now became known as **42 USC §2000e**. The **United States Code** is divided into many topic areas, which are given *Title* numbers. *Title 42* stands for Public Health and Welfare. Each title is then divided into section numbers. Title VII was now 42 USC §2000e, which stands for *Title 42, United States Code, section 2000e*.

Both the print and web versions of the **United States Code** provide tools to help researchers translate to the United States Code citation if they have, for example, only the name of the act or **Statutes at Large** citation. If you have the **United States Code** citation, you can retrieve the law in print or in a database such as the one at <http://uscode.house.gov>. Click on the

Search and Browse link and type in the title and section number in the provided *Jump to* boxes. The United States Code Website provides close to real time updating. If you do not have the exact citation you can click on *Search the United States Code* to search by keyword. The *Advanced Search* link allows you to search past versions of the **US Code** back to the 1994 edition.

You can also select the *Popular Names Table* link to find **United States Code** citations using the name of the statute. Also, if you only have the **Statutes at Large** citation, such as 78 Stat. 253, as in the example above, you can use the *Table III – Statutes at Large Tool* (found under the *Other tables & tools link*) to translate **Statutes at Large** citation to **United States Code** citation.

To retrieve 42 USC 2000e in print, one would go find the volume which includes Title 42 (should be visible on the spine of the book, like a volume number), and then look for the desired section. The print **United States Code** has a subject index, a popular name table, and a table to convert **Statutes at Large** citations to **United States Code** citations.

Other free sources for federal statutes include **Justia** (<http://www.justia.com>), the **Public Library of Law** (<http://www.plol.org>), and the **Cornell Law School Legal Information Institute** (<http://www.law.cornell.edu>). For more detailed information about statutory research, see the **Law Librarian’s Society of Washington D.C Legislative Sourcebook** (<http://www.llsdc.org/sourcebook>).

Annotated Codes

Most lawyers use the more current, commercially published **United States Code Annotated (USCA)** or the **United States Code Service (USCS)**. They are called *annotated codes* because specially-trained editors have

located and developed case notes or summaries of court or administrative decisions that address or interpret a law or even a section within that law. Annotate codes may also include references to journal articles, legal encyclopedias, and other research materials providing additional interpretation and background about an issue, so it is good to look at an annotated code either in print or on Lexis/Westlaw as soon as you know there is a statute involved in your research problem.

Retrieval from print annotated codes is similar to the methods for the print official **United States Code**. You can search subject index, a popular name table, and a table to convert **Statutes at Large** citations to **United States Code** citations.

Online, the annotated code services are only available via subscription databases. The **United States Code Annotated (USCA)** is published by Thomson publishing, and can be searched online as part of the Westlaw database. The **United States Code Service (USCS)** is published by LexisNexis Publishing, and can be searched as part of the Lexis service. If you wish to search an annotated code, check with a local law library that may be able to provide access to these or similar services.

Legislative History

In addition to the text of the current law itself, you may also have to research the background documents connected with the statute, which is known as *legislative history*. Legislative history refers to documents generated by a legislative body during the process of passing a bill. It includes bill text, hearings, congressional debates, committee reports, presidential messages, and other documents. You may need detailed information about the definition of a particular term, more detailed information about the purpose of the law, or you may only need general history and background information.

Legislative history is often used to find *legislative intent* and to provide additional context which can be used to interpret the meaning of a statute. **Black's Law Dictionary** defines *legislative intent* as the "design or plan that the legislature had at the time of enacting a statute." In other words, what was the outcome that the legislature wanted to produce by passing the statute?

To find background information about a statute, it is important to understand the process of how a bill becomes a law. Information about the legislative process is available at <http://www.congress.gov/legislative-process>. For a more amusing viewpoint, see the old **Schoolhouse Rock** video, **I'm Just a Bill**, which is available on **YouTube**.

How a Bill Becomes a Law

As a general overview, the legislative process begins when a *bill* is introduced in either the House or the Senate. A bill can have one or more sponsors. Once it is introduced it is assigned to a *committee* who decides whether the bill should be voted on by the legislature. The bill can be sent to the floor of the House or Senate for a vote, usually accompanied by a *report* by the committee. Before the vote there may be *debates* in the House and/or the Senate. The bill is then voted on and sent to the other chamber of Congress for a vote. For example, if the bill originated in the House and passes, it would be sent to the Senate for a vote.

Sometimes the House and the Senate pass different versions of the bill, in which case a *conference committee* with members from both chambers work out the differences. The revised bill would then be sent back to both houses of Congress for a vote.

If the bill passes both houses of Congress, it is sent to the President for signature. If the President signs the law, it is given a public law number and goes through the publication process described at the beginning of this section. The President may also issue a *signing statement*.

Each stage in the legislative process generates documents that may be useful in determining congressional intent. For recent statutes, many legislative history documents and resources can be found free on the web. Older statutes may require searches in law libraries and/or government depositories. The section will focus on getting the most out of free web legislative history sources.

Locating Legislative History Documents

Congress.gov, see <http://www.congress.gov>, provides the full text of proposed bills, bill status information (Did it become a public law? To what committee was it referred?), the text of debates from the **Congressional Record**, the full text of committee reports and other legislative information such as the *roll call* information, which records which legislators voted for and against a bill.

Congress.gov may also contain information about which Member of Congress sponsored a bill. If you are researching legislation that is still under consideration, the legislator's website may be a source of background information. You can generally contact the office of the bill's sponsor, locating email and telephone information on websites such as <https://whoaremyrepresentatives.org>.

Presidential signing statements may be found in the **Compilation of Presidential Documents**, at the **FDSys** website at <http://www.gpo.gov/fdsys/> (or the new beta site <https://www.govinfo.gov/>).

Check to see if a local library is a *Federal Depository* library. Depository libraries often have the text of older hearings, reports, and debates in print, and may have microfiche or electronic database subscriptions to a wide variety of federal legislative history sources. The **Library of Michigan** is one such depository library, see <http://www.michigan.gov/libraryofmichigan>.

Finding Compiled Legislative Histories

Always try to find out if someone has already done some of the legislative history work for you! Check the online card catalog of an academic library near you, as well as the **Michigan Electronic Library (MEL)** at <http://www.mel.org> and the **Worldcat** catalog at <http://www.worldcat.org>. Check **Google Scholar** at <http://scholar.google.com> for journal articles that may include legislative history information. Depository libraries may provide access to government documents that include legislative history information, and these documents are can often be found via their online card catalog. If you must compile a federal legislative history from scratch, a checklist is below. An interesting example of a compiled legislative history is the legislative history of the **Civil Rights Act of 1964** from the **Dirksen Congressional Center** website at http://www.dirksencenter.org/print_basics_histmats_civilrights64_contents.htm.

Tracking Recent Legislation, Hot Bills and Legislative Documents

A good snapshot of “hot” issues is the *Most Viewed Bills* feature at <http://www.congress.gov>. If you are interested in pending legislation that has not yet come up for a vote, you may want to look for interest groups that may be tracking the issue. Such groups often place information about the legislation they are tracking on the web, and may have staff willing to talk with you about the proposed legislation. You can find associations and

interest groups by using a search engine such as **Google** or by using the **Encyclopedia of Associations** at your local library.

Members of Congress also often place fact sheets and briefing documents about recent legislation on their websites, and their aides may be willing to speak about the issue. The **Congressional Research Service**, which is part of the Library of Congress, writes reports on new legislation for members of Congress, and these reports are often available on the web at websites such as <https://archive-it.org/collections/1078>. Also, the **Govtrack.us** website at <http://www.govtrack.us> is a good source for tracking pending legislation and voting records. Another handy voting records website is **Project Vote Smart** (<http://votesmart.org/>). The **Jurist Legal News** (<http://www.jurist.org/>) provides news coverage on a national level. If your topic is covered it will also often include links to documents (such as bills) related to the story. For political news try **The Hill.com** (<http://www.thehill.com>) and **Roll Call** (<http://www.rollcall.com/>).

In addition, the **Library of Congress** has written some useful blog posts called **Federal Statutes: A Beginner's Guide** (<http://blogs.loc.gov/law/2013/09/federal-statutes-a-beginners-guide/>); **How to Trace Federal Legislation** (<http://blogs.loc.gov/law/2014/01/how-to-trace-federal-legislation-a-research-guide/>); and **Congressional Voting Records, a Beginner's Guide** (<http://blogs.loc.gov/law/2013/01/congressional-voting-records-a-beginners-guide/>).

Federal Statutes Checklist

1. Take stock of what you already know. Do you already have information about a particular federal statute?
 - a. United States Code Citation:
_____ USC _____ or _____ USCA _____ or _____ USCS

 - b. *Statutes at Large* Citation: _____ Stat. _____
 - c. Public Law Number: P.L or Pub. L. _____
 - d. Statute Name (ex. Civil Rights Act of 1964)
2. To find a statute using the United States Code Citation:
 - a. Look up the citation on a free website
 - i. Official US Code Website – <http://uscode.house.gov>
 - ii. **FDSys** - <http://www.gpo.gov/fdsys/> (or the new beta site <https://www.govinfo.gov/>).
 - iii. Cornell Law School Legal Information Institute - <http://www.law.cornell.edu>
 - iv. Justia - <http://www.justia.com> (see “Laws: Cases & Codes”)
 - b. Look up citation in print volumes in a local library.
 - c. Look up citation in subscription databases such as Lexis, LexisNexis Academic, or Westlaw in a local library.
3. To find a statute using a United States Statutes at Large Citation:
 - a. Use **FDSys** - <http://www.gpo.gov/fdsys/>
 - i. Click on “Retrieve by citation” and enter the volume number and the page number.
4. Look up the Public Law Number in:
 - a. **FDSys** - <http://www.gpo.gov/fdsys/>
 - b. Congress.gov (formerly Thomas) – <http://www.congress.gov> (back to 1973)
5. Search by the name of the statute in:
 - a. Official US Code Website – <http://uscode.house.gov> see the “Popular Names” link.
 - b. **FDSys** - <http://www.gpo.gov/fdsys/>
 - c. Justia - <http://www.justia.com> (see “Laws: Cases & Codes”)
 - d. Cornell Law School Legal Information Institute - <http://www.law.cornell.edu>
6. Has your statute been repealed or amended?

- a. At the Official US Code Website – <http://uscode.house.gov>, use the *USCprelim* search, or search the United States Code website beta.
7. Looking for the United States Constitution and Founding Documents?
- a. The National Archives website links to the constitution, the Constitution, the Declaration of Independence and other documents at <http://www.archives.gov/exhibits/charters/>.
 - b. **FDSys** - <http://www.gpo.gov/fdsys/>, has the text of the constitution and an annotated interpretation, called *The Constitution of the United States of America, Analysis and Interpretation*, which is also available at <http://www.law.cornell.edu/anncon/html/index.html>.
 - c. Congress.gov - <https://www.congress.gov/founding-documents/>

Federal Legislative History Checklist

1) Make sure that you have the essential bill information. Check the bill history information at the end of the statute online at <http://uscode.house.gov> or in a print resource such as the United States Code (USC) or the United States Code Annotated (**USCA**). Look for;

- a. the Public Law Number (PL. or Pub.L _____)
- b. the *Statutes at Large* Citation (___ stat. ___),
- c. Check the Statutes at Large for the Bill Number (H.R. ___ or S. _____).
- d. Optional: if you have access to the United States Code Annotated (USCA) check for a citation to the *United States Code Congressional and Administrative News* (USCAAN).

2) Look for **compiled legislative history** (don't reinvent the wheel!).

Check secondary sources:

- Search for journal articles in Google Scholar (<http://scholar.google.org>).
- Check your online catalog and WorldCat (<http://www.worldcat.org>) to see if compiled histories exist at your library or at a library near you. If there are none near you check with your local library to see if you can Interlibrary Loan items using services such as MEL.

- Look for Congressional Research Service (CRS) reports (<https://archive-it.org/collections/1078>).
- Try a Google search – [your act] “crs report.”

3) Use tools to find **individual documents**:

- Congress.gov (<http://www.congress.gov>) for bill versions, committee reports, and congressional record (debates), and who sponsored the bill (may be a resource for further information), and voted for and against the bill.
- Govtrack (<http://www.govtrack.us>)
- Presidential signing statements and speeches – <http://www.gpoaccess.gov/executive.html>. See the *Weekly Compilation of Presidential Documents*.
- Optional: If you have access to a law library check their online card catalog to see if they provide information about individual congressional hearings or other documents. A reference librarian can help you identify resources.
- Optional: If you have access to a law library which subscribes to the Proquest Congressional Service or the USCAAN database or Legislative History (LH) database on Westlaw.

4) Find/ contact an *advocacy group* that is tracking the issue (use a search engine such as Google or the **Encyclopedia of Associations** at your local library).

More details on doing a Federal legislative history can be found in FEDERAL LEGISLATIVE HISTORY RESEARCH: A Practitioner's Guide to Compiling the Documents and Sifting for Legislative Intent, from the Law Librarians' Society of Washington, D.C. (LLSDC) at <http://llsdc.org/sourcebook/fed-leg-hist.htm>. See also the CRS Report, Legislative History: a Basic Guide for Constituents (<http://www.senate.gov/reference/resources/pdf/RS21178.pdf>).

Executive Branch Resources

Federal Regulations

Regulations are rules issued by administrative agencies such as the **Internal Revenue Service (IRS)** or the **Environmental Protection Agency (EPA)**. In the world in which we live, there is almost no aspect of our environment that is not regulated, from the air and water, to the width of aisles and the height of furniture for disabled access, to food safety. Agencies are created by legislatures (elected bodies), or by the White House, and are authorized to act in particular areas.

A legislature usually has neither the time nor the expertise to administer all details of a particular statute. It may, for example, pass a statute mandating clean water. However, it delegates the authority to implement the statute to a government agency, such as the Environmental Protection Agency (EPA) (<http://www.epa.gov>). Agencies issue administrative regulations to implement the details of the *enabling legislation* that gave the agency authority to act.

Agencies may also issue *quasi-judicial* opinions that functionally are the same as court opinions, but are issued via divisions of the agency. Recent quasi-judicial opinions can often be found on the website of the issuing agency, or in a **Federal Depository Library** (see <http://www.gpo.gov/libraries/>).

Life Cycle of a Regulation

The challenge is to track down the rules, regulations, and publications of federal administrative agencies. In terms of rules and regulations, administrative regulations have a "life cycle" that is very similar to that of statutes. Regulations start out as an agency document, which many

agencies now post on the web. They are then published in chronological order in *registers*, and finally are published in subject order in *codes*.

Federal regulations are first published in the **Federal Register (FR)**. The Federal Register is published each weekday and contains proposed rules, announcements, and final rules/regulations. Regulations are codified (arranged by subject/agency) in the **Code of Federal Regulations (CFR)**. The **CFR** is published only once a year (on a rotating basis), so recently enacted regulations will be found in the **Federal Register**. The system was created so that the public would have notice of new and proposed regulations and the ability to comment on proposed regulations.

Locating Federal Regulations

The **Federal Register** and the **Code of Federal Regulations** are available at the Government Printing Office **FDSys** website at <http://www.gpo.gov/fdsys/>. Go to <http://www.regulations.gov> to comment on proposed federal rules and regulations.

Both the **CFR** and the **Federal Register** are among the featured collections on the **FDSys** main page. You can browse by year back to 1996 or click on the link for the **Electronic Code of Federal Regulations (e-CFR)**. You can also access the **e-CFR** directly at <http://www.ecfr.gov>.

Updating the CFR

The **e-CFR** provides real time updating of the regulations. If you browse the **CFR** from the main **FDSys** webpage (as opposed to from the **e-CFR** site), to update for new rules and changes to existing rules, you must refer to the publication called the **List of Sections Affected (LSA)**, which is available in the same section of the website.

To find out if there has been a change with respect to a particular regulation a *print CFR* user has to go through a two-step process of checking 1) the **List of Sections Affected (LSA)** and 2) the *CFR Parts Affected* section the latest issue of the **Federal Register** for the current month. On the web, consult the **e-CFR** project at **FDSys**, or consult the **List of Sections Affected** on **FDSys** at <http://www.gpo.gov/fdsys/>.

Other Sources of Executive Branch and Federal Agency Documents

The **United States Government Printing Office** publishes the federal regulations and presidential documents mentioned above, in addition to many other federal information sources. Check their **FDSys** website at <http://www.gpo.gov/fdsys/> for electronic versions. Items in print may be found at local federal depository libraries. Federal depository libraries in your area may carry a variety of print and electronic federal agency resources. Search for a federal depository library near you at <http://www.gpo.gov/libraries/>.

Libraries may include federal agency documents in their online catalogs, and sometimes link to federal documents which are available either free on the web or via a library subscription database. You can search for federal agency documents directly using the **Catalog of U.S. Government Publications** at <http://catalog.gpo.gov>.

General information about the major federal government agencies, including their contact information and web address, can be found in the **United States Government Manual** (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=GOVMA> [N](#)). Tip: next to *view entire edition* click on *PDF*.

Other publications of federal agencies can be found individually via their websites such as FCC.gov, EPA.gov, and IRS.gov. If you want to search

documents from multiple agency websites, the official portal for US government information is **USA.gov** (<http://www.usa.gov>).

For those who are more phone-oriented, the **National Contact Center** (<http://www.usa.gov/About/FEDINFO.shtml>) at (800) 333-4636 will refer you to someone at a government agency who can answer your question about Federal programs, benefits or services. See the <http://answers.usa.gov> website. The **National Contact Center** is part of the **Consumer Information Center** (<http://publications.usa.gov/USAPubs.php>) which has now merged with the main **USA.gov** website.

Presidential Documents (White House)

The foremost executive branch entity is, of course, the Office of the President. The **White House**, <http://www.whitehouse.gov> has its own website, which provides access to many current Presidential documents. Presidential documents such as *Executive Orders* and *Proclamations* are published in **Title 3** of the **CFR** and the **Compilation of Presidential Documents**. Selected documents from past Presidents are available in the **Public Papers of the Presidents** at **FDSys** - <http://www.gpo.gov/fdsys/>. The **National Archives** at <http://www.archives.gov> archives presidential library websites. The **National Archives** also provides on the web the **Codification of Presidential Proclamations and Executive Orders** at <http://www.archives.gov/federal-register/codification/>. Other information, documents, and papers of the presidents can be found at the **American Presidency Project** at <http://www.presidency.ucsb.edu/>.

How Statutes Work with Regulations

The relationship between statutes and regulations means that you usually never consider just a regulation alone. You will probably have to look at the

related legislation and any cases that interpret the statute and regulation, as well as any related Presidential documents. This intertwined grouping of regulations, statutes, and cases is often best deciphered using secondary sources such as books and journal articles (See Chapter 3, *Secondary Legal Resources* section).

Finding Federal Regulations Checklist

1. Take stock of the information that you already have.
 - a. A Code of Federal Regulations citation: _____ CFR _____ ?
 - b. A Federal Register citation: _____ FR _____ ?
2. If you have a Code of Federal Regulations citation
 - a. Use **FDSys** - <http://www.gpo.gov/fdsys/> (covers CFR back to mid-1990's)
 - i. Click on "Retrieve by citation" and enter the volume number and the section number (also known as the "part" number).
 - ii. Select the Code of Federal Regulations from the **FDSys** front page, then choose the year and browse for your CFR title and section.
 - b. Browse the Electronic Code of Federal Regulations (e-CFR), which provides real-time updating, at <http://www.ecfr.gov>.
 - c. Check local libraries for availability in print or in a subscription database such as Lexis, Westlaw, or HeinOnline for older CFRs.
3. If you have a Federal Register citation
 - a. Use **FDSys** - <http://www.gpo.gov/fdsys/> (covers Federal Register back to mid-1990's)
 - i. Click on "Retrieve by citation" and enter the volume number and the page number.
 - ii. Select the Federal Register from the **FDSys** front page, then choose the year and browse for your Federal Register volume and page number. Or chose retrieve by citation from this page.
 - b. Check local libraries for availability in print or in a subscription database such as Lexis, Westlaw, or HeinOnline for older Federal Registers.
4. If you do not have a specific CFR citation

- a. Use **FDSys** - <http://www.gpo.gov/fdsys/>
 - i. Search by keyword using the search box on the **FDSys** front page.
 - ii. Narrow your search by type of document, date, etc. from the search results page.
 - b. Search the Electronic Code of Federal Regulations (e-CFR), which provides real-time updating, at <http://www.ecfr.gov>.
 - c. Search the CFR by keyword at <http://www.law.cornell.edu/>.
 - d. Check local libraries for availability in print or in a subscription database such as Lexis, Westlaw, or HeinOnline for older Federal Registers.
5. If you do not have a specific Federal Register citation
- a. Use **FDSys** - <http://www.gpo.gov/fdsys/>
 - i. Search by keyword using the search box on the **FDSys** front page.
 - ii. Narrow your search by type of document, date, etc. from the search results page.
 - b. Check local libraries for availability in print or in a subscription database such as Lexis, Westlaw, or HeinOnline for older Federal Registers.
6. Updating CFR citations
- a. To make sure that you have the most up to date version of a regulation in the CFR, it is recommended to search the Electronic Code of Federal Regulations (e-CFR), which provides real-time updating, at <http://www.ecfr.gov>.
 - b. Another method is to go through a two-step process of checking 1) the List of Sections Affected (LSA) and 2) the "CFR parts affected" section of the latest issue of the Federal Register for the current month. The List of Sections Affected can be found on the CFR web page on **FDSys** at <http://www.gpo.gov/fdsys/>.
7. Looking for a government agency document?
- a. Search the specific agency website.
 - i. Use a web search engine such as Google to search for federal agency website.
 - ii. If you want to search documents from multiple agency websites, the official portal for US government information is Firstgov, at <http://www.firstgov.gov>.

- b. Federal depository libraries in your area may carry a variety of print and electronic federal agency resources.
8. Looking for information from the President/Whitehouse?
- a. Search or browse <http://www.whitehouse.gov/>.
 - b. Presidential documents such as Executive orders and Proclamations can be found in Title 3 of the CFR.
 - c. The *Codification of Presidential Proclamations and Executive Orders* is at the National Archives - <http://www.archives.gov/federal-register/codification/>.
 - d. Compilation of Presidential Documents at **FDSys** - <http://www.gpo.gov/fdsys/>.
 - e. Selected documents from past Presidents are available in the *Public Papers of the Presidents* at **FDSys** - <http://www.gpo.gov/fdsys/>.
 - f. The National Archives at <http://www.archives.gov> archives presidential library websites.
 - g. Other information, documents, and papers of the presidents can be found at the American Presidency Project at <http://www.presidency.ucsb.edu/>.

For Further Information

This chapter is a general overview, but you may need additional guides which provide more in-depth information about federal legal research or about specialty topic areas, such as federal tax research. Your local library will may have research guides on a wide variety of topics. Also feel free to call a law library near your area to see if they have research guides that you can visit the library to browse.

Recommended Print Resources Include:

- Mary Garvey Algrero et.al., *Federal Legal Research* (2012)
- "Federal Law," chapter 7 of *Locating the Law: A Handbook for Non-Law Librarians* - <http://www.aallnet.org/chapter/scall/locating/ch7.pdf>.
- Penny A. Hazelton, ed., *Specialized Legal Research* (updated periodically). *Specialized Legal Research* provides chapters on several federal research topics such as Securities Regulation, Federal Income Taxation, Copyright Law, Federal Labor and Employment Law, Environmental Protection, Admiralty and Maritime Law, Immigration Law, Military and Veterans Law, Banking Law, Federal Patent and Trademark Law, and Federal Government Contracts.
- There are also separate guides on Federal Tax such as Gail Levin Richmond's *Federal Tax Research*.

Good Web Sources Include:

- The Zimmerman Guide - <http://www.lexisnexis.com/infopro/Zimmerman/> provides a handful of the best places to start in both print and electronic format for a wide variety of legal topics.
- LLRX.com - <http://www.llrx.com> – Law and technology resources for legal professionals. LLRX has several great research guides on topics
- For legislative history, see *A Practitioner's Guide to Compiling the Documents and Sifting for Legislative Intent*, from the Law Librarians' Society of Washington, D.C. (LLSDC) at <http://llsdc.org/sourcebook/>.

- For federal regulatory research see the LLSDC guide Research Guide to the Federal Register and the Code of Federal Regulations - <http://llsdc.org/sourcebook/>.
- Congressional Research Service Reports (good for federal legislative issues) - <https://archive-it.org/collections/1078>.

Finding Current News and information about “Hot” Topics

- Legal news can be found at
 - Jurist legal news (<http://www.jurist.org/>). The Jurist site will also often include links to documents (such as reports and court complaints) related to the story.
 - Findlaw legal news (<http://legalnews.findlaw.com/>).
 - CNN Justice (<http://www.cnn.com/JUSTICE/>).
- Try Legal blogs (or blawgs, as they are sometimes known) in your area of interest. A directory of blawgs is provided by the American Bar Association at <http://www.abajournal.com/blawgs>. Justia also has a legal blog search directory at <http://blawgsearch.justia.com/>.
 - Current news and information about US Supreme Court cases is available via the SCOTUS blog at <http://www.scotusblog.com/>.
 - News and information about recent federal appellate cases is available via the How Appealing blog at <http://howappealing.law.com>.
- Interest group websites (search Google or other web search engine).
- Generally see the Library of Congress listing of News & Periodical Resources on the Web (<http://www.loc.gov/rr/news/lists.html>).

Getting Help

- You can find listings of various types of law libraries in Michigan (along with a copy of this chapter) at the Library of Michigan website at <http://michigan.gov/libraryofmichigan> (click on the “Law Library” icon). County law libraries are usually open to the public and several Michigan academic law libraries are also. However, not all law school libraries are open to the public so call ahead for their access policies.
- Look for an e-mail or online chat-based “ask a librarian” service. Michigan law libraries may provide an online ask a librarian service. Check the library’s website for the online services which are available.

The Library of Congress at <http://www.loc.gov/rr/askalib>, has an “ask a librarian” service for many subject areas, including law. The Government Information Online - <http://govtinfo.org> website allows you to get live chat help from a government reference librarian. “Ask a librarian” services are usually available only at specified hours. Check the library’s website for information about online services and hours.

- For those who are more phone-oriented, the National Contact Center (<http://www.usa.gov/About/FEDINFO.shtml>) at 1-844-USA-GOV1 will refer you to someone at a government agency who can answer your question about Federal programs, benefits or services.
- A layperson may also want to seek a lawyer referral service or look for a free or low cost lawyer or legal aid organization. The American Bar Association has a legal aid listing at <http://www.findlegalhelp.org>. The Michigan lawyer referral and legal aid information is available at <http://michiganlegalhelp.org>.

Good luck with your federal government research.

Chapter 7: Assisting the Pro Se Patron

By Marlene Coir

Part I: The Pro Se Litigant

An individual has the right to proceed *pro se* within the United States federal court system under the Judiciary Act of 1789. (Section 35 (1789), codified at 28 USC 1654). Most states have likewise bestowed on their citizens the right to bring court action on their own behalf without legal representation. The Michigan Constitution, Article I, Section 13, grants an individual “the right to prosecute or defend his suit, either in his own proper person or by an attorney” in any court within the state.

Litigants decide to represent themselves for a number of reasons, not always purely financial in nature. Some individuals may proceed with the thought that the court system will provide justice without the need for an attorney. Others may look forward to the sense of individual empowerment gained by bringing suit on one’s own behalf. (See Swank, **Pro Se Phenomena**). Anecdotally, surveys have found that litigants who have represented themselves have a more positive view of our system of justice than those who have had legal representation. That said, the pro se phenomenon continues to increase, fueled, at least in part, by recent downturns in the economy.

At the federal appellate court level more than 48% of filings were made by pro se litigants in 2010. Most of those appeals fall into the categories of criminal matters and prisoner petitions; however, private civil matter appeals brought by unrepresented litigants rose by 13.4 % from 2009 to 2010 (**Case Management Procedures in the Federal Courts of Appeals**).

This increase in litigants who are often unprepared for the procedural hurdles of managing a law suit has had a taxing effect on all levels of the judicial system, which has itself experienced cut-backs in available resources. So what is the standard to which pro se litigants should be held? The U.S. Supreme Court has ruled that those proceeding pro se should be held to less stringent standards than practicing attorneys at the pleading stage of a lawsuit. (*Haines v. Kerner*, 404 U.S. 519, 520 (1972)). However, the Court has not established that pro se litigants can expect leniency throughout the court proceedings. So, it must be accepted that a court may hold a pro se litigant to the same standards as a trained attorney after the pleading stage.

Working with the Pro Se Patron in the Public Library

First of all, assess your collection and other resources. Other chapters in this Handbook are designed to introduce non-law librarians to some well-known online and print resources for pro se patrons, many of which are accessible to patrons at libraries with the smallest collections.

This Handbook also provides a chapter on providing legal information without providing legal advice, probably the concern most expressed by non-law librarians (as well as a good many who do legal reference every day). It provides some basic concepts with which anyone doing public service should become familiar. I will try to add some additional nuggets of wisdom here. Try to approach assisting the pro se litigant in a way that is similar to any other patron; however, resist using phrases such as “you really want to look at this” or “this is the [book, form, website, etc.] that you need.” Although it may go against the librarian’s instincts, it is more prudent to avoid specificity when providing legal information: “This appears to be on your topic and might be useful.” ... “Here, you can look in the [index; table of contents,

etc.] of the court rules to see if there is something on [small claims court, filing a motion, serving a party].”

If your library patrons would, however, have little or no access to materials, or they have already examined what is available, or the question is so pointed that you have a realistic sense that it will NOT be answered by looking at a statute or a legal self-help book, then it is time to point the pro se patron to other organizations or specialized libraries. Bear in mind, too, that the individual may be too distraught or overwhelmed by what is happening to him or a family member to assimilate or comprehend anything that is offered. It is appropriate to apprise the pro se litigant of the limits of the legal resources at your location, and refer the patron to one of the many community resources available to him or to her.

Sources of Assistance for the Pro Se Patron

With the exception of law libraries and lawyer referral services, the organizations listed below are set up to provide varying degrees of legal guidance to individuals with their specific issues and concerns. They are often staffed by licensed attorneys or paralegals or law students supervised by licensed attorneys. The scope of the interaction with an individual is usually defined right away, with assistance and guidance involving everything from help in filling out forms to perhaps even advocacy and representation. Thanks to the advent of the **Michigan Legal Help** website, many of these organizations may be located based on the areas they serve. More information on the types of services that they provide can be found either on the Michigan Legal Help website or that of the organization itself.

- Pro Bono
- Legal Aid
- Legal and Community Assistance Hotlines
- Clinics

- Lawyer Referral Services
- Law Libraries

It should be noted here that legal aid, clinics, and community assistance hotlines are generally able to help only on *civil* issues, *e.g.*, landlord-tenant matters. Many patrons will have matters involving criminal charges and procedures, or civil infractions, such as traffic or ordinance violations. A discussion of resources in these areas is outside the scope of this chapter, but individuals may find additional information on the [MeL Legal Gateway](#).

A word on law libraries: County law libraries, public libraries, law schools and other government libraries such as the State Law Library may have librarians with law degrees. However, like their public library counterparts, law librarians can only provide information to pro se patrons, not advice or an opinion. Law librarians try to take a “one size fits all” approach to legal reference, not only with pro se patrons, but with anyone outside of their primary service group. They seek to help the pro se patron identify a resource that may, or is likely to, address a particular legal issue, but will leave it up to the patron to apply the information to the issue. As noted above, law librarians will also refrain from identifying an issue by avoiding directives in favor of suggestions on where to look. This does not stem from an unwillingness to help a pro se; rather, these degreed librarians must 1) also refrain from providing legal opinions or counsel if they are not licensed by a state bar to practice, and 2) if licensed, avoid creating a situation that would lead the pro se patron to feel that some type of attorney-client relationship has been established. In all cases, when working in a law library, a lawyer-librarian would be exceeding the scope of both the library’s services and the terms of his or her employment were the librarian to provide more tailored assistance to that pro se patron.

Law libraries also do not provide extensive research on an issue to anyone outside of their primary patron group, for the simple fact there is not enough time to pull together all the materials that an individual might require to answer the question. Legal questions are rarely a matter of “yes or no” answers, and even “answers” often lead to more questions through which the patron must work. The greatest benefit to your patron from referral to a law library is that librarians there will have the capability – through a combination of resources, training, and experience - to instruct a patron in how to use some of the more specialized and vetted tools of legal research.

To find a law library near you, please consult the Directory of Michigan Law Libraries at http://www.michigan.gov/libraryofmichigan/0,2351,7-160-50206_18639-52451--,00.html.

Part II: Basic Civil Procedure for the Pro Se Patron

Many people have, for one reason or another, become comfortable with handling legal matters on their own. Still, there are many levels of interaction with the legal system, and the Michigan Legal Help website, for example, is designed to help individuals reach an understanding of when their own matters become too complex to handle without legal counsel. If a person decides to pursue a remedy without legal counsel, or if he or she decides to handle a portion of the matter to try to contain costs, that person may be required to pursue a greater understanding of court procedure and the steps involved in litigation. What follows below is a roadmap of civil litigation for the pro se patron. While a number of online resources have been included here to flesh out the information provided, a pro se patron may wish to visit a law library to obtain some of the print materials cited.

The Pleading

The pleading stage of a legal suit revolves around the *complaint* which is the document that opens the door to court proceedings; it outlines alleged wrongs (the *allegations*) brought by the suit-bringer, or *plaintiff*, and sought after *remedies* or *damages* which that plaintiff claims are owed him from the person or entity he is suing (the *defendant*). The allegations must contain enough facts to justify the complaint and they must be clearly written. The necessary facts to uphold adjudication are often spelled out in a governing statute or in prior case law. Each party must be clearly identified. The plaintiff must declare that the court has jurisdiction over the parties and the matter being litigated.

There is also a time-line, usually governed by statutes and court rules, to which a litigant must adhere. Court rules indicate how and when a plaintiff must notify, or *serve*, the defendant(s) with *notice* of the lawsuit, also known as the *summons*. Other items of *civil procedure* include the window of opportunity for bringing the law suit, governed by a *statute of limitations* or the concept of *laches* as defined by *common law* (law created by judges in the written determinations of law found in court opinions); the appropriate place to file the law suit, which involves choosing the correct *jurisdiction* and *venue* – the court where the law suit may be heard due to the place where the alleged incident happened, the parties geographic location(s), the *amount in controversy*, and/or the type of legal question being litigated.

After a complaint is filed with the court and served on a defendant, the defendant is given a fixed amount of time to *answer* the allegations in the complaint. The defendant may admit, deny or claim insufficient knowledge to admit or deny each allegation within a complaint. The defendant may also bring a *counterclaim* against the plaintiff. If a counterclaim is filed, plaintiff must answer the allegations in the counterclaim. The defendant may also

claim that plaintiff's complaint is deficient and that plaintiff should not be allowed to go forward with his law suit. Plaintiff may then have to defend the sufficiency of his pleading or he may have to ask the court if he may *amend* his complaint to correct any deficiencies or errors. A party may also provide *affirmative defenses* when answering a complaint or claim.

Either party may request that the suit be heard before a jury rather than the presiding judge.

Forms:

Summons & Complaint

<http://courts.mi.gov/Administration/SCAO/Forms/courtforms/generalcivil/mc01.pdf>

Summons & Complaint Second Page

<http://courts.mi.gov/Administration/SCAO/Forms/courtforms/generalcivil/mc01a.pdf>

Answers & Affirmative Defenses

<http://courts.mi.gov/Administration/SCAO/Forms/courtforms/generalcivil/mc03.pdf>

Michigan Court Rules

<http://courts.mi.gov/courts/michigansupremecourt/rules/pages/current-court-rules.aspx>

Print Resources:

Michigan Causes of Action Formbook. Ann Arbor: ICLE, 1996-.

Michigan Basic Practice Handbook. Ann Arbor: ICLE, 1996-.

Michigan Rules of Court. St. Paul, MN: West, 1984-.

Court rules are very important and must be paid close attention to. The court rules inform a litigant which documents he must file with the court, when he must file them, who he must serve them on, acceptable methods of delivery, motions he may bring before the court, when he may bring them, etc. When contemplating bringing a law suit, a pro se litigant should become aware of all the court rules that may apply in the jurisdiction (court) which he is bringing the suit. In addition to the print [Michigan Court Rules](#) volumes cited above, rules for Michigan state courts may also be found online (see link above).

Discovery

If a complaint survives the pleading stage of a law suit, there will usually be a period of *discovery* during which the parties may request information relevant to the law suit from each other. Discovery may include a request from one party to the other to answer a list of questions or *interrogatories*. Interrogatories may contain requests for routine information such as place of employment, full address, full name and/or any aliases a party may have used. Request for documents or physical evidence pertaining to the complaint, or claim, or the defense of the claim, may also be requested through interrogatories.

The *deposition* is another form of discovery. The deposition format is similar to the examination and cross-examination of witnesses during a trial. A party may request a deposition of the other parties in a lawsuit, or of any witness who will be giving testimony in court. A court reporter will be present in order to make a record of the questions asked and answers given and the deponent will be sworn to tell the truth. The individuals being deposed will usually be physically present along with the parties and/or any attorneys representing any parties in the law suit. Depositions allow parties to find out in advance how certain questions will be answered by other

parties and/or their witnesses. Depositions may also be used to preserve testimony in case the witness is not available at the time of trial. Because the parties and any attorneys will be present at a deposition (which may take several hours or even days), and because a court reporter must be hired to record testimony, depositions are a much more costly method of discovery than interrogatories.

Requests for Admissions are also included as part of the discovery process. A party may agree to admit to certain facts which must be established but are not contested. A party may also deny a request for admissions, or claim insufficient knowledge to admit or deny the request.

Print Resources

Bender's Forms of Discovery. New York, M. Bender, 1963-

Pattern Discovery. St. Paul, MN: West, [various dates].

(Series comprised of various titles related to types of litigation – e.g. premises liability, tort actions, employment and labor).

Michigan Basic Practice Handbook. Ann Arbor: ICLE, 1996-.

Motions

A motion may be brought orally or in writing at any point during the life of a lawsuit. Motions constitute a formal method of asking the court to make a decision at any step of the proceedings. A party may motion the court to dismiss a lawsuit immediately after a complaint has been filed because there is no legal basis for that claim; it is without merit. A motion for summary judgment or summary disposition can be made because there has been insufficient evidence submitted to support a claim, or because there is no dispute over the facts and the court need only apply the appropriate law to

conclude the case. A motion may also be made in an effort to override a jury verdict or to try to persuade the court to reconsider its own decision.

After the factual and legal reasons for bringing a motion have been enumerated, a written brief in support of that motion may be appended. The brief will state the relevant facts and provide a legal argument in the hope that the court will agree with the party bringing the motion. The opposing side may reply to the motion with a written *reply brief* containing counter arguments and, in addition, may ask the court for relief on its own merits.

Generally, whenever one party is "attacked" by another party within the context of a law suit, the party being "attacked" may defend itself *and* may "counter-attack". This is accomplished by filing an *answer* and a *counterclaim*, providing *affirmative defenses*, or filing a *reply brief* to a motion entered by an opposing party.

Motion practice is a sophisticated area of law; therefore, it is difficult for a pro se litigant to proceed when faced with the various motions that may be filed before, during and after trial. It is also likely that if a pro se litigant finds that he must reply to a motion, that motion will be brought by an experienced attorney and litigator who represents the opposing party (*i.e.*, the other side). However, since it is not unlikely that a pro se litigant will have to defend a motion, we have included the following explanatory articles and sample documents.

- Filing a motion for summary disposition
<http://www.michbar.org/journal/pdf/pdf4article2005.pdf>
- Sample motions for summary disposition and brief in defense of motion <http://www.sado.org/fees/2007-04-05%20Def%20Motion%20for%20Summary%20Disposition.pdf>

- Brief in defense of motion

<http://www.citizen.org/documents/CtWMotionSummDisp.pdf>

Mediation, Settlement, Judgment

If a suit is not dismissed by action of the court, it may conclude by *settlement* or by *judgment*. Parties are free to reach a settlement on their own at any time during the pendency of the law suit. If an agreement is made between the parties, they will usually file a signed document with the court indicating that they have reached a settlement. The court will then enter a judgment which binds the parties to the agreement and closes or dismisses the suit.

If the parties cannot agree to settle on their own they may participate in formal *mediation*. The parties may request mediation, or they may be ordered into mediation by the court. In mediation, the parties and attorneys meet with a *mediator* or a panel of mediators. The mediators are not involved with the suit and will encourage the parties to negotiate a settlement. A mediation panel will usually include individuals who are familiar with court proceedings and the subject matter of the suit being mediated. After hearing both sides of a law suit, a recommendation as to an appropriate settlement will be issued by the mediator or the mediation panel. Each party will then be given an opportunity to accept the recommended settlement. If all parties accept, a judgment to that effect will be entered by the court. If any party rejects the recommendation, the suit will continue to trial and the court will reach a final judgment in the matter. There may be incentives for accepting the mediators' recommendation and there may be penalties for rejecting the recommendation.

Mediation is a form of *alternative dispute resolution (ADR)*. The **Kent County Circuit Court** has a very informative page on mediation as part of its court website. Please be advised that some or all of the information at

this website may not apply to other court jurisdictions. Find the Kent County information at <https://www.accesskent.com/Courts/17thcc/mediate.htm>.

The **Michigan Legal Help** website also has an entry for alternative dispute resolution in the context of family matters:

<http://michiganlegalhelp.org/self-help-tools/family/mediation-and-other-forms-settlement>

Collection of Judgments

A prevailing party in a lawsuit may encounter obstacles when attempting to collect what is owed based on the judgment. If the *judgment debtor* (the party who lost the case) refuses to pay, the *judgment creditor* (the prevailing party) the amount ordered by the court, the debtor is in *contempt of court*. He may be ordered to appear before the court to answer as to why he has not complied with the order to pay. The prevailing party may have to *garnishee* (garnish) the debtor's salary / wages or seize the debtor's property in order to satisfy judgment. If the judgment creditor does not have sufficient information to garnishee wages or seize property, he may have to request discovery from the court to gain sufficient knowledge to proceed in his attempts to have the judgment debtor satisfy the debt owed. The Michigan Courts site has a more detailed self-help page on debt collection in civil matters and restitution in criminal matters that includes links to the appropriate Michigan Compiled Laws (MCL) sections, forms and additional instructions on obtaining an order to garnishee wages or seize property, see the **Michigan Courts [Self-Help Center](http://courts.mi.gov/self-help/center/collect/pages/default.aspx)** at <http://courts.mi.gov/self-help/center/collect/pages/default.aspx>.

Overview of How Courts Work

The following sites provide an overview of court processes and procedures:

American Bar Association – How Courts Work

http://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work/casediagram.html

This site provides information on the steps involved in both civil and criminal trials, including pleadings, discovery, motions, judgments and appeal. The information is not specific to any particular jurisdiction; however, it provides an excellent overview of the court process in the United States. When using this service, select any of the **How Courts Work** links in the left column of the page or scroll down to the links found under the diagram. There is a separate section on Mediation which is quite detailed and informative. This website becomes unavailable at times when information is being changed or re-organized.

Kalamazoo Public Library "Filing a Civil Suit"

<http://www.kpl.gov/law-library/nutshells/filing-civil-suit.aspx>

This is a more succinct overview of the steps that may be encountered when filing a civil suit. This would be suitable to share with a pro se litigant seeking help at your library.

Michigan Courts Self-help – Types of Court Cases

<http://courts.mi.gov/self-help/center/pages/default.aspx>

This site provides information on the many types of case which come before the courts in Michigan. The available links provide assistance with forms and filing for some types of cases.

Michigan Court Websites

Michigan One Court of Justice General Website

<http://courts.mi.gov/Pages/default.aspx>

Directory of Trial Courts

<http://courts.mi.gov/Self-help/Directories/Pages/Trial-Court-Directory-Results.aspx>

Michigan Courts Self-Help Center

<http://courts.mi.gov/self-help/center/pages/default.aspx>

Michigan Court Rules

<http://courts.mi.gov/courts/michigansupremecourt/rules/pages/current-court-rules.aspx>

Michigan Model Civil Jury Instructions

<http://courts.mi.gov/courts/michigansupremecourt/mcji/pages/home.aspx>

Trial Courts in Michigan

<http://courts.mi.gov/courts/trialcourts/pages/default.aspx>

Michigan Courts General Information Page

<http://courts.mi.gov/Pages/default.aspx>

Michigan Judicial Institute Benchbooks

<http://courts.mi.gov/education/mji/Publications/Pages/benchbooks.aspx>

(detailed manuals for Michigan judges on specific types of adjudication (e.g. adoption, child protection) as well as the judicial process in general)

Michigan Online Legal Self-Help Center (State Bar of Michigan)

<http://www.michbar.org/generalinfo/libraries/selfhelp.cfm>

Circuit Court

There are 57 circuit courts in the state of Michigan. (Judgepedia.org) The circuit courts are courts of general jurisdiction. They hear civil matters valued at over \$25,000, matters appealed from lower courts such as the district courts, and criminal cases involving felonies. The circuit courts may be divided into several divisions such as a criminal division, civil division and

family court (see next paragraph). There may be additional divisions such as drug courts where the emphasis involves treatment rather than criminal conviction and punishment.

Because most parties are represented by legal counsel at the circuit court level, unrepresented litigants should not expect to find the detailed help pages that can be found at the district court web pages. There is still quite a bit of information at the various circuit court websites.

To find what information is available for your county or circuit, use a simple Google search such as “Wayne County Court Court” or “Michigan 16th Circuit Court” to locate a court’s website. The technique may also be used to find information on family courts, district and municipal courts, small claims courts, probate courts, and other specialized venues.

Family Court

Family courts concern themselves with matters involving divorce and child custody, adoption, personal protections orders (PPO) involving domestic violence, juvenile abuse and neglect, and adoption proceedings. The office known as the *Friend of the Court* may assist individuals, families and the court with issues such as alimony and child support. Parties are often referred to as petitioners and respondents in family courts. The *petitioner* is the party who initiates the proceeding by filing a petition before the court (similar to a plaintiff); the respondent must then answer or respond to the petition (similar to a defendant). Family court proceedings are often less formal than in the other divisions of circuit courts and a court case may be heard before an appointed court referee rather than a judge.

Probate Court

The probate courts make up the third type of trial court in the state of Michigan. These courts concern themselves with the estates and wills of

individuals who are now deceased, trusts -- whether testamentary or living, guardianships and conservatorships involving protected individuals, and mental health issues such as the civil commitment of individuals to an in-patient mental health facility against their will. The parties in probate court are referred to as petitioners and respondents; a probate court proceeding is initiated by filing a petition. There is cross-over between proceedings in probate court and those in family court. For instance, a guardianship or conservatorship may be ancillary to child custody or support proceeding. As in family court, proceedings in probate court are often less formal than in circuit courts; the purpose of the probate court is to protect and benefit vulnerable individuals as well as settle contentious litigation.

District Court

The district courts in Michigan are meant to be accessible to the citizens in their jurisdictions and they generally try to be helpful to the unrepresented litigant. They may be broken into several divisions; usually there will be civil and criminal divisions and a separate division for dealing with traffic citations. There may also be a division for landlord / tenant disputes and a small claims court.

The district courts deal with civil matters when the monetary damages being sought do not exceed \$25,000.00 or when a criminal matter involves a misdemeanor offense which has a maximum jail sentence of one year or less. Preliminary matters in criminal proceedings which will eventually be tried in circuit court may also be handled by the district courts.

There are over 100 district courts in Michigan. Densely populated counties may have several district courts while in areas of sparser population more than one county will share a single district court. (*Judgepedia.org online.*)

In the five Grosse Pointes, municipal courts serve their communities in the same way as district courts do in other Michigan jurisdictions.

Small Claims Court

The Small Claims Court is a division of the District Court. Because small claims courts do deal exclusively with pro se litigants, the individual district courts often have very good self-help pages at their official sites. A good way to find and review these pages for individual courts is to run a Google search similar to this sample: *small claims Kent County Michigan*. This search uncovered the 63rd District Court's home page which had a quick link to its small claims help page

http://www.accesskent.com/CourtsAndLawEnforcement/63rdDistrictCourt/63dc_smclaims.htm.

Since any party may request that a claim be removed from small claims court to a more formal venue, such as the district court, bringing a suit in small claims court does not guarantee that it will be litigated there. Once a suit is removed to another court, such as a district court, it will become more procedurally complex and any party may opt to be represented by an attorney. The information on removal to a higher court should be explained in the self-help pages of the small claims courts.

If parties agree to have their suit heard in small claims court they may have their case assigned to a *magistrate* who has been appointed to hear cases but is not an elected judge.

Parties who elect to stay in small claims court give up their right to a jury trial, their right to be represented by an attorney in court, and the right to appeal the holding of the small claims court to a higher court. However, a party may appeal if their case was heard before a magistrate.

Landlord / Tenant Court

Landlord-tenant courts generally are divisions of the district courts in Michigan. Landlord-tenant courts hear complaints such as those regarding non-payment of rent, hazardous or unhealthful conditions in tenant occupied buildings; refusal to release security deposits after a lease is terminated, etc. These courts may also hear complaints involving disputes regarding land contracts for the sale of real estate. The Michigan legislature has partnered with the Michigan State University Law School to produce a comprehensive publication to assist individuals in matters involving landlord/ tenant issues. The Michigan Courts Self-help website also provides links to the appropriate forms to use when bringing landlord tenant actions. Both are available online and the URLs can be found below.

Tenants and Landlords: A Practical Guide (MSU College of Law Housing Clinic, Michigan Legislature)

<http://www.legislature.mi.gov/documents/publications/tenantlandlord.pdf>

Michigan SCAO Approved Forms

<http://courts.mi.gov/Administration/SCAO/Forms/Pages/Landlord-Tenant-and-Land-Contract.aspx>

Filing an Appeal in Michigan

Most of the information listed thus far has focused on trial-level courts. When a party is dissatisfied with a result in the lower courts, she may wish to take it to the next judicial level. Most of the time, the appeal will be filed with the **Michigan Court of Appeals** (COA). To assist pro se or pro per litigants with preparing appeals, the COA has developed manuals for parties on both sides of the case. These appellee and appellant manuals may be found online at

<http://courts.mi.gov/courts/coa/clerksoffice/pages/proper.aspx>.

Filing a Case in Federal Court

Federal courts in Michigan include district courts for civil and criminal matters and bankruptcy courts divided into the Eastern and Western Districts of Michigan. For more information on the structure of federal courts and how to research federal legal issues, see Chapter 7 of this Handbook. Websites that will assist the library patron in filing a case in Federal court include:

Eastern District of Michigan Pro Se Handbook

<http://www.mied.uscourts.gov/PDFFiles/howToFileYourLawsuithandbook.pdf>

Frequently Asked Questions about filing a case in Federal Courts

www.uscourts.gov/frequently-asked-questions-faqs

www.mad.uscourts.gov/general/pdf/prosefaqs.pdf

Information for Parties Without Counsel (Pro Se Litigant)

<https://www.mied.uscourts.gov/index.cfm?pageFunction=proSe>

US Courts Forms for the Sixth Circuit Court of Appeals

<http://www.ca6.uscourts.gov/internet/forms/forms.htm>

Bankruptcy Court

- Explanation of various bankruptcy chapters and their consequences
<https://www.debt.org/bankruptcy/>
- **U.S. Bankruptcy Court for the Eastern District of Michigan**
<http://www.mieb.uscourts.gov/forms>
- **U.S. Bankruptcy Court for the Western District of Michigan**
<http://www.miw.uscourts.gov/>

For Further Reading

Drew A. Swank, Pro Se Phenomena, 19 BYU J Pub L 373, 379 (2004-2005).

Laurel Hooper, Dean Miletich and Angelia Levy, Case Management Procedures in the Federal Courts of Appeals, 2nd ed. Federal Judicial Center, 2011, p. 38

Chapter 8: The Michigan Legal Help Website and Additional Resources

By Angela Tripp

MichiganLegalHelp.org is an interactive website built to enable self-represented persons to handle relatively simple civil legal matters on their own. This project of the Michigan Poverty Law Program (MPLP) is funded by a grant from the Michigan State Bar Foundation (MSBF) and was originally a project of the Solutions on Self-Help Taskforce (SOSTF). The SOSTF was created in April 2010 by (then) Michigan Supreme Court Chief Justice Marilyn Kelley to promote greater centralization, coordination, and quality of support for self-represented litigants in Michigan.

This website includes legal information and forms covering a variety of legal subject areas, currently including consumer, family, protection from abuse, housing, expungement, public benefits, and income taxes. Users can complete several of the forms by answering questions in a simple interview format; the interviews and forms are programmed so the answers complete the forms selected by the user.

The site also provides self-represented people with jurisdiction-specific procedural instructions. These instructions guide users through the steps they need to take after completing their forms, and give them an idea of what to expect once they get to court. In addition, the website is a clearinghouse for referrals to community services and legal assistance (specifically, to legal aid programs, local self-help centers, and lawyer referral services operated by state and local bar associations).

When the website was being developed, two rounds of usability testing were conducted to make sure the design of the website was user friendly. To help ensure that all the legal information content is understandable, the content is written in plain language style and at a sixth-grade reading level. All content on the website is reviewed at least once a year to make certain it is up to date, all the links work, and all style and plain language guidelines continue to be met. All the content on the website is HTML content, so users don't have to download documents to get information. The site is also accessible and fully functional on a mobile or tablet device; efforts continue to improve the look and operation of the website so users get the same experience no matter what device they are using. The **Michigan Legal Help (MLH)** website collects no personal information from users; it only passively collects anonymous analytics data.

An **MLH User Guide** has been created to help website users and to assist Navigators, librarians, and others who are helping users access the resources on the website. If you find that you need a **User Guide** or other promotional materials about the Michigan Legal Help website (such as business cards or flyers), you may download and print these from the website, or you may request that copies be sent to you using the *MLH PR Materials* link in the footer of the website. Navigators are individuals who help users access the resources on the MLH website. Navigators may be Self-Help Center staff, librarians or others who have been trained to assist MLH users. This is true if the browser is set up to accept cookies. We recommend that browsers be set up to accept cookies in order for users to get the best possible experience on Michigan Legal Help. More content is continually being added to the website. MLH invites users and those assisting users to provide feedback and ideas for improvements that will benefit self-represented people in Michigan. Input and suggestions may be

submitted using either the *Contact Us* link in the footer of the website, or the *Please Tell Us What You Think* survey at the top.

Navigating the Website

Users can navigate the MLH website in a few different ways. Please consult the **Michigan Legal Help User's Guide** for detailed instructions (www.MichiganLegalHelp.org/UsersGuide). Users start navigating by using the search box, or by selecting a legal information or referral subject area from the drop down menus or buttons on the home page. Once a user has searched or selected a subject area, she can narrow her results by filtering based on content type (i.e., articles, toolkits, forms, etc.) or specific legal issue (i.e., debt collection, garnishment, etc.). Once a user selects a piece of content to view, he must select a county: either the county where he lives or where his legal case is pending. By selecting a county, the user will view referral resources and procedural instructions that are specific to that county. Once a user has selected a county, it will stay selected for the entire session, until the Michigan Legal Help browser window is closed. It is possible to change the county by clicking on the orange arrow between the words *Change County* and the name of the county. Users can return to the home page by clicking on the *Welcome/home* icon in the header, or by clicking on the word *home* in the breadcrumb at the top of the page if they are already viewing an article or toolkit.

Getting the Most Out of the Legal Information Resources on the Website

The Michigan Legal Help website has several different types of legal information resources. All legal content is developed and updated by a staff of lawyers who follow quality control protocols. Volunteer legal subject area experts also serve on content review committees; they review materials and provide suggestions before legal information is posted to the website.

Articles

These are longer pieces of content that are useful for researching common legal topics and for getting the big picture of a legal issue. Users are encouraged to read Articles to learn general information about a topic. Each Article is relatively short and has a table of contents which is linked to the different headings in the Article, so users can go directly to a specific area of the Article. Article pages also include subject- and county-specific referral resources in the right-hand column.

Common Questions: These give short answers to questions users most frequently have in a given area. These are useful for users who have a general idea of the topic they are researching, but who need a reminder of a detail, or who have a very specific question (e.g., “What is the purpose of a security deposit?”). Common Questions are only available in **Toolkits** (see **Toolkits** section below).

Forms

There are two types of forms on the website: *Automated Online Forms* and *Fillable PDF Forms*. All Form pages have explanations about what each form is, and when someone might use it. Form pages also include subject- and county-specific referral resources on the right-hand column.

The Automated Online Forms have interviews that users must finish. The interviews generate completed forms based on the information and answers the users input. All interviews are drafted by Michigan Legal Help staff for use by Michigan litigants, and the court forms created through this process have all been approved by the **State Court Administrative Office (SCAO)**. Some interviews complete other Forms aside from court forms, such as letters. While all interviews have been drafted by MLH staff and are

specific to Michigan forms, users are sent to a different website – **LawHelp Interactive** – to do the interview to complete the Automated Online forms. LawHelp Interactive is a nationwide website that hosts these types of interviews for many different states’ self-help websites. The LawHelp Interactive landing page for the interview selected by the user will open in a new tab or a new window. After a user answers all the questions in the interview, the finished forms will be ready for the user to print or email. When a user is finished with the interview, she can return to **Michigan Legal Help** by going back to the other open tab or window she was using.

Before leaving the **LawHelp Interactive** site, users can save their answers and forms on LawHelp Interactive. This lets them come back later and complete the form, or update information in the form. Because it does take in users’ personal information, the LawHelp Interactive website has a level of security that is equal to that of a bank or credit union. More information on the interview process can be found below. Some forms, specifically the divorce and custody-related forms, are not available to the public as blank forms. The only way users can access them is through the Michigan Legal Help website and by completing the interview on LawHelp Interactive. The decision to not make blank forms available was made by the State Court Administrative Office, not by the Michigan Legal Help Program. Before these interviews were created by the Michigan Legal Help program, there were no free statewide divorce or custody forms for self-represented litigants in Michigan.

The *Fillable PDF Forms* pages have links to State Court Administrative Office-approved forms on the [One Court of Justice](#) [**Michigan Courts**, under *Court Forms* link] website. The forms will download or open in a new window, depending on the settings on the user’s computer. Then the user must fill

out the blanks on the form; many forms have instructions that were written by the State Court Administrative Office, but some do not.

Checklists

Checklists only appear in those **Toolkits** which contain forms to be filed in court. Checklists are printable step-by-step instructions that guide users through the process to handle a specific legal matter. The Checklist first appears as a set of steps. Under each step are the words *Read more* with an arrow. Click *Read more* to see detailed instructions and information in each step. Efforts continue to make all Checklists county-specific, including for family law matters, where procedures vary widely from county to county. However, this is a very time consuming process and will take a while to complete. Some counties require additional forms that are not completed as part of the interview. Links to those forms will be included in the Checklist or users are instructed that they can get the forms at the court clerk's office.

Toolkits

Each **Toolkit** contains legal information and referral content about a particular issue such as divorce without children, eviction for non-payment of rent, or many other topics. Each Toolkit contains Articles, Common Questions, one or more Checklists, and one or more Court Forms related to the issue. It also contains referral resources corresponding to the user's county and related to the legal issue. Some Toolkits may not have Forms or Checklists, depending on the type of legal matter covered by the Toolkit. Some subjects have a 'toolkit guide' that asks users a series of questions to direct them to the proper Toolkit. Not every subject area has a toolkit guide, but these will be added to the website soon. All information can be shared (via email or social media) or printed by using the print and share icons on the page. When Checklists or Toolkits are printed, all accordions open –

meaning that the answers to Common Questions and the detailed information in the Checklists will appear on the printout, even if they are not opened on the computer screen. Throughout the website, certain words or phrases are underlined with a dotted line; these words or phrases are defined in the website's lexicon. When a user hovers over the word with a mouse, the definition of the word or phrase appears. This helps users who may not be familiar with a legal word or phrase.

Automated Interviews for Creating Forms

The **Automated Interviews** are very helpful to self-represented individuals who need forms for court, or forms or letters for other legal processes. Here are some tips that can make these interviews even more useful:

Do the Research First

Users are encouraged to do their research before starting an interview. They should review the Articles and other legal information content on the website to be sure they know what forms they need, and what information they need to gather to finish the interviews.

Create an Account on LawHelp Interactive

Creating a user account on **LawHelp Interactive** enables users to log back in to finish an interview or to make changes to a completed form. Some interviews are fairly short and straightforward; others are not. Some require information that the user may not have when they begin the interview. Some interviews are long and complex, like the divorce interview, and produce forms that the user will need at different stages in the case. For instance, the divorce interview creates both a complaint for divorce and a judgment of divorce, although the judgment won't be filed for many months

after the complaint is filed. A user may need to make changes to the judgment of divorce based on things that happen over the course of the divorce. If the user has an account which enables work in progress to be saved and accessed again later, this is much easier – otherwise the user will have to do the entire interview over again.

Carefully Answer All the Questions in the Interview

The interviews are screening tools as well as a way to complete the forms. Some users may be excluded from completing the interviews. This might happen, for example, when a user answers a question that shows that her situation does not meet the requirements for using the form, or that her case is too complicated for the interview to accommodate. Individuals in the latter category are advised that they may want to consult with an attorney in order to complete their legal processes. The website provides links to any user who would like to find a lawyer. Users must answer all questions in the interview in order to get to the point where the forms are created. All answers that the user inputs into the interview print out exactly as they are typed in, so users should be careful with spelling, capitalization, and punctuation when they answer questions.

Print or Email the Forms

When an interview is complete, users can review their forms, and print or email the completed documents. The completed forms will be in either .pdf or .rtf format. Some users may need assistance opening an .rtf document in Word® depending on how the computer is set up. Even if they have chosen not to create a user account, until they close the browser or save their answers, users can return to the interview to correct errors they find in reviewing the forms. After the browser is closed, the only way a user can return to his answers is if he created a user account.

To Access a Saved Interview

To return to an interview in process or to modify answers in a saved interview, users should return to that interview's Form page on the **Michigan Legal Help** site and click on the link to go to the interview on **LawHelp Interactive**. Once on the LawHelp Interactive site, they can enter their user name and password, and they will be taken back to the interview with their saved data in it.

Referral Resources

In addition to legal information, the **Michigan Legal Help** website contains referral information content. Referral information connects users to resources in their community that may help them solve their legal issues and obtain related assistance. There are four categories of referral information: **Find a Lawyer**, **Self-Help Centers**, **Community Services**, and **Court Information**.

Find a Lawyer

Sometimes people decide they cannot handle their legal problems on their own, so they want to consult with an attorney. "Find a Lawyer" is a list of lawyer referral services and free legal aid offices that handle the type of law the user selected, and serve the county selected by the user.

Self-Help Centers

Some counties have legal self-help centers (SHCs) located in a courthouse or library nearby. Seven local SHCs have been set up as part of the Michigan Legal Help Program, including three based in libraries. They are staffed by non-lawyer Navigators who can help visitors use the Michigan Legal Help website, and answer questions that don't require legal advice. Several other SHCs are also in operation and help their patrons use the Michigan Legal Help website and other resources. If there is a Self-Help Center in the user's

county, the website lists that SHC's location and hours. The MLH website will soon include a page listing all Self-Help Center locations so users can find the closest one if there is no SHC in their county. The seven Michigan Legal Help affiliated SHCs to date are located in Oakland, Oscoda, Allegan, Monroe, Marquette, Muskegon and Wayne Counties. The Oscoda, Oakland and Marquette SHCs are located in libraries. The Michigan Legal Help Program intends to open additional local SHCs in the future.

Community Services

Sometimes people need help from non-legal resources in order to resolve a legal problem – this includes help with low-income housing, or emergency shelter, or mediation services, among others. The Community Services on each page are tailored to the county and the legal problem the user is researching. More Community Services are continually being added to the website.

Court Information

These pages include information about the court where a user's case will be held. Each county has one Circuit Court, one Friend of the Court office, one Probate Court, and one or more District Courts depending on the size of the county. Each court page has a description of what types of cases each court handles, the address and hours of the court, and a link to the court's website. Tribal Courts in Michigan are also included.

Other Resources on MLH

There are a few other features of the **Michigan Legal Help** website. Two of them collect feedback from users – the *Contact Us* link in the footer, and the *Please Tell Us What You Think* survey button. These are two ways users can communicate with the people who make and maintain the website. Is there something else they'd like to see added to the website? How was their

experience with the website? Patrons should be encouraged to use these feedback tools, because their opinions are very important to helping the **Michigan Legal Help Program** continue to expand and improve. The website also has videos for people who learn best by watching and listening. In the Fall of 2013, Live Help was incorporated into the website. This service lets website visitors chat online with a navigator who can help them use the site, and answer simple questions that do not require legal advice. In 2014 some Spanish language content will also be added to Michigan Legal Help, including Spanish language videos.

Chapter 9: Major Legal Publishers and Evaluation of Internet Sources

By Jan Bissett

Legal Publishing

Legal publishing in the United States encompasses both primary and secondary source material from government and commercial publishers. The text of the law, a primary source, is widely available from government and commercial sources in print and digital formats. For example, the United States Government Printing Office provides access to federal government information including law from the legislative, judicial and executive branches via its federal depository program, **FDSys** digital materials and government bookstores. Michigan government documents are also available to the public through a depository program and State websites.

The major commercial publishers of United States legal information are Reed Elsevier (LexisNexis, Matthew Bender, Martindale Hubbell), Thomson Reuters (West, RIA and Sweet & Maxwell) and Wolters Kluwer (Aspen, CCH and Loislaw). These publishers offer primary and secondary source materials covering federal and state laws as well as areas of law practice, including Michigan legal materials. Secondary sources of particular interest to Michigan legal researchers include publications from the Institute of Continuing Legal Education (ICLE), the leading provider of Michigan practice materials and continuing education seminars for lawyers. The State Bar of Michigan and its practice sections also offer materials of interest to those researching Michigan legal issues.

In addition to the Library of Michigan Legal Roundtable members, many bibliographies and research guides are available to help you identify specific sources of legal information. These selected titles may provide guidance:

- The History of Michigan Law, Paul Finkleman and Martin J. Herschok, Editors. Athens, OH: Ohio University Press, 2006. ISBN 02821416618. <http://www.ohioswallow.com/book/The+History+of+Michigan+Law>
- Legal Information Buyer's Guide & Reference Manual: Chapter 28, State Legal Publications: A Practitioner's Guide, Kendall F. Svengalis. N. Stonington, CT: New England Law Press, 2012. ISBN 9780981999524. <http://www.rilawpress.com/index.html> [Earlier editions available via LexisNexis Academic].
- Michigan Legal Documents: A Bibliography of Legal & Law-Related Materials, Michael W. Tillman-Davis, Editor. AALL/GDSIS 2006. ISBN 9780837718576. Available from WSHein, <https://www.wshein.com/catalog/345240>.
- Michigan Legal Literature: An Annotated Guide, 2nd Edition. Richard L. Beer and Judith J. Field. Buffalo, NY: WS Hein, 1991. ISBN 089941740X.
- Michigan Legal Research, Second Edition, Pamela Lysaght and Christina Lockwood. Durham, NC: Carolina Academic Press, 2011. ISBN 9781611630497. <http://www.cap-press.com/books/isbn/9781611630497/Michigan-Legal-Research-Second-Edition>
- The Michigan State Constitution, Susan P Fino. NY: Oxford University Press, 2011. ISBN 0199779082. <http://www.oup.com/us/catalog/general/?view=usa>
- Recommended Publications for Legal Research, Mary F. Miller, Compiler. Buffalo, NY: WSHein. ISSN 0898266X. <https://www.wshein.com/catalog/316000>
- RR Bowker's Law Books & Serials in Print. Amenia, NY: Grey House Publishing. ISBN 9781592379545. http://www.greyhouse.com/bowk_law.htm
- Spinelli's Law Library Reference Shelf, Dick Spinelli, Editor. HeinOnline. <https://www.wshein.com/catalog/701330>
- State Practice Materials: Annotated Bibliographies, Frank Houdek, Editor. AALL Publications Series, Buffalo, NY: WSHein, 2013. ISBN 0837793475. <https://www.wshein.com/catalog/324560>
- Zimmerman's Research Guide: An Online Encyclopedia for Legal Researchers, Andrew Zimmerman. <http://law.lexisnexis.com/infopro/zimmermans/>

Major Legal Publishers Contact Information

This alphabetical list identifies major legal publishers as well as Michigan-specific and legal self-help publishers, providing contact information and a brief description of their products.

ABA [American Bar Association]

800-285-2221

Monday-Friday, 7:30am – 5pm, Central time

http://www.americanbar.org/publications_cle.html

The ABA and its sections publish books, journals and other media of interest to legal researchers. Information about the legal profession as well as specialized areas of law practice is available for purchase. Please note that membership is required to access much of the electronic information available from the association's sections.

The Division for Public Education's 'How Courts Work',

http://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work.html, provides basic information

about the litigation process including *Courts and Legal Procedure* and *Steps in a Trial*. The Division also publishes a series of self-help books to further their mission ... "to support public understanding of law and its role in society."

ALI CLE [American Law Institute Continuing Legal Education]

(800)CLE-NEWS [press 2 for Customer Service]

<http://www.ali-cle.org/index.cfm>

ALI provides publications, course books, videos and other continuing legal education materials for lawyers.

Aspen

1-800-234-1660 (within the U.S.)

Customer Care, Monday - Thursday: 9:00 a.m. - 6:00 p.m. EDT

Friday: 9:00 a.m. - 5:00 p.m. EDT

<http://www.aspenpublishers.com/>

Aspen, part of Wolters Kluwer Law & Business, offers analytical materials in specialized law practice areas. It publishes *Michigan Corporation Law & Practice* as well as formbooks, treatises and practice guides.

Bloomberg BNA

1.800.372.1033(US and Canada)

Customer Contact Center is available Mon.-Fri., 8:00 a.m. to 8:00 p.m.

ET *

<http://www.bna.com/>

Legal, business, tax & accounting, human resources, environment and health & safety materials are available from this publisher. These detailed and comprehensive materials are targeted at practitioners and highly regarded by their users.

Research & Custom Solutions, <http://www.bna.com/research/>, provides fee-based services and document delivery of administrative, court and other documents.

CCH (Commerce Clearing House)

<http://onlinestore.cch.com/>

CCH, a part of Wolters Kluwer Law & Business, is a publisher familiar to legal researchers. Practice area publications include banking, securities, corporate, labor and employment, and tax materials. Print materials are published in a loose-leaf format to accommodate the ever-changing law. The electronic version of these publications is available via the CCH Intelliconnect database.

Detroit Legal News

(313)961-3949

(248) 577-6100

(800) 875-5275

<http://www.legalnews.com/>

The Detroit Legal News is the official newspaper of the City of Detroit, Wayne Circuit Court, U.S. District Court, and U.S. Bankruptcy Court. Website content is limited for those without a subscription. Sister publications include the Flint-Genesee County, Grand Rapids, Ingham County, Jackson County, Macomb, Muskegon, Oakland County and Washtenaw County Legal News.

Grand River Press

P.O. Box 1342

East Lansing, Michigan 48826

Publisher of several Michigan legal self- help titles:

The Michigan Divorce Book: A Guide to Doing an Uncontested Divorce (with minor children), 2009; ISBN 9780936343211 (pbk.); 0936343214 (pbk.)

The Michigan Divorce Book: A Guide to Doing an Uncontested Divorce (without minor children), 2013; ISBN: 0936343222; 9780936343228; 0936343230; 9780936343235

The Michigan Estate Planning Book: A Complete Do-It-Yourself Guide to Planning and Estate in Michigan, 2000; ISBN: 0936343095 9780936343099

After the Divorce: A Do-It-Yourself Guide to Enforcing or Modifying a Divorce Judgment in Michigan, 2005; ISBN: 093634315X 9780936343150

Hein

800-828-7571

716-882-2600

<https://www.wshein.com/>

WSHein is the largest distributor of law and law related periodicals, a subscription agent; reprinter of classic legal treatises as well as providing the largest collection of law and law related images via HeinOnline. Hein publishes many legal bibliography series from the American Association of Law Libraries.

ICLE (Institute of Continuing Legal Education)

877-229-4350 or 734-764-0533, Monday-Friday 8:00 a.m.-5:00 p.m.

icle@umich.edu

<http://www.icle.org>

The Institute of Continuing Legal Education is the leading provider of seminars, how-to publications, and treatises to Michigan legal practitioners. In addition to print books, electronic access to seminar materials, Michigan Law Online (court opinions, court rules, rules of evidence and professional responsibility) as well as summaries of recent cases, statutes and rules and over 50 online books on Michigan law is available to attorneys via an ICLE Partnership, Online Library or Michigan Law Online subscription. The Online Library and Michigan Law Online subscriptions are also available to law school libraries.

LexisNexis

(800) 833-9844 (8:00 a.m. - 8:00 p.m. EST, Monday through Friday)

<http://www.lexisnexis.com/store/us/>

Reed Elsevier's LexisNexis and its imprints (Anderson Publishing, Butterworths, Courtlink, Martindale-Hubbell, Matthew Bender, Michie and Shepard's) is one of the pre-eminent commercial publishers of American Law. It publishes *Michigan Compiled Laws Service*, *Michigan Corporate Forms*, *Michigan Real Estate Forms*, *Michigan Penal Code* and *Motor Vehicle Law Handbook* among its formbooks, treatises and practice guides.

Michigan Lawyers Weekly

(800) 678-5297

<http://milawyersweekly.com/>

MLW, a weekly newspaper, and its companion website, offers summaries of Michigan law, digests of state and federal cases, changes to court rules, verdict and settlement awards as well as professional discipline matters. Special sections (limited accessibility via the website without subscription) include Michigan's Largest Law Firms, Million Dollar Verdicts & Settlements and the Bar Exam Results.

Michigan Municipal League (MML)

<http://www.mml.org/resources/publications/index.html>

MML offers publications of interest to municipal officials such as *Handbooks* and the *Directory of Michigan Municipal Officials*.

Nolo

<http://www.nolo.com/>

Nolo is one of the leading publishers of legal self-help materials. Get Informed – Free Legal Information provides access to Nolo's Legal Encyclopedia of articles on 'everyday legal topics' as well as law blogs, a law dictionary and legal research podcasts. Do It Yourself – Shop at Nolo is an online collection of legal forms, documents, books, e-books and software available for purchase by those interested in representing themselves in legal matters. Find A Lawyer – Nolo's Lawyer Directory includes lawyers by location and legal issue as well as tips on hiring a lawyer. Library purchases are handled by Ingram Library Services, (800) 937-5300,

<http://www.ingramlibrary.com>

SADO (State Appellate Defenders Office)

313.256.9833

517.334.6069

<http://www.sado.org/>

SADO's mission is to provide indigent defendants court appointed appellate defense services as well as to provide legal resources to support criminal defense practitioners. Self-help informational materials including the process of a criminal appeal, federal pro se litigation and expungement are available at their website, <http://www.sado.org/Page/24/Self-Help>. Contact SADO for information on its publications such as the Defender Books and Model Pleadings.

State Bar of Michigan

(517) 346-6300

<http://www.michbar.org/>

The State Bar of Michigan publishes the *Michigan Bar Journal*, the *Member Directory* and *Economics of Law Practice Survey*. Its law practice sections also publish newsletters and journals specific to an area of law. Many of these materials are available via the SBM website although membership is required to access some sections' publications.

State of Michigan

Various State publications are available for purchase, please consult specific department/agency for information. For example, legislative publications may be purchased from the Legislative Service Bureau,

<http://www.legislature.mi.gov/documents/publications/publicationOrderForm.pdf>.

Thomson Reuters Legal Solutions (Thomson West)

(888)728-7677

<http://legalsolutions.thomsonreuters.com/law-products/>

Find Your Rep, <http://legalsolutions.thomsonreuters.com/law-products/findYourRep>

Thomson West is one of the largest commercial publishers of United States legal information. It publishes the National Reporter System (federal and state cases), *Michigan Compiled Laws Annotated*, *Michigan Law & Practice*, *Michigan Reports*, *Michigan Appeals Reports* *Michigan Court Rules Practice*, *Michigan Rules of Court* as well as formbooks, treatises and practice guides. Also available is its legal research database, **WestlawNext**, <http://legalsolutions.thomsonreuters.com/law-products/westlawnext/patron-access>

U.S .Government Printing Office (GPO)

<http://www.gpo.gov/>

"The U.S Government Printing Office (GPO) provides publishing and dissemination services for the official and authentic government publications to Congress, Federal agencies, Federal depository libraries, and the American public." These publications include *Statutes at Large*, *United States Code*, *United States Reports*, *Code of Federal Regulations*, *Federal Register* and other agency and administrative materials. GPO's Federal Digital System, **FDSys**, provides free online access to many of these publications, <http://www.gpo.gov/fdsys/search/home.action>.

Additional listings of law or legal publishers are available from the following websites:

- ACQWeb's Directory of Publishers and Vendors > Law Publishers
<http://www.acqweb.org/pubr/law.html>
- AALL Vendor Relations > CRIV Tools > Vendor Contact Information
<http://www.aallnet.org/main-menu/Advocacy/vendorrelations/CRIV-Tools/vendors.html>
- Findlaw > Legal Publishers
<http://www.findlaw.com/04publications/index.html>

- HG Global Legal Resources > Law & Legal Publishers
<http://www.hg.org/publishers.html>
- Social Law Library Research Portal > Legal Publishers
<http://www.sociallaw.com/content.htm?sec=legpub>

Evaluating Legal Information Sources

Evaluating information quality, in print and digital forms, is an essential part of research. Making a determination about information quality in an area unfamiliar to you can be intimidating. Two major concerns of legal researchers when starting research are jurisdiction (as in real estate, location is everything) and whether a source is current – law can change daily.

The criteria used to evaluate legal information – scope of coverage, authority, objectivity, accuracy and timeliness¹ are similar to the criteria you may use to evaluate materials in your own collection.

Consider:

<i>SCOPE OF COVERAGE</i>	<ul style="list-style-type: none"> ✓ Information Included? Excluded? ✓ Periods of Coverage? ✓ Jurisdiction?
<i>AUTHORITY</i>	<ul style="list-style-type: none"> ✓ Attribution? ✓ Author/Publishers Qualifications? Expertise? Reputation for Reliability? ✓ Official Information Provider? Government Entity? ✓ Who is? ✓ Domain: .edu? .gov? .org? .net? .com?
<i>OBJECTIVITY</i>	<ul style="list-style-type: none"> ✓ Balanced Point of View? Bias? ✓ Obvious Affiliation? ✓ Obvious Ads, Sponsors?
<i>ACCURACY</i>	<ul style="list-style-type: none"> ✓ Information Factually Verifiable? Correct? ✓ Refereed/Peer-Reviewed?
<i>TIMELINESS</i>	<ul style="list-style-type: none"> ✓ Publication Date? ✓ Revision Date?

Legal research is often a multi-step process: gathering information, determining how that information applies to the problem and then applying it. Librarians are involved in the first step of this process. The subsequent steps often involve legal analysis or legal strategy – areas to be handled by an attorney.

Gathering or searching for legal information, especially primary sources – court decisions, legislation and regulations often begins with an internet search engine. Government entities, courts, law firms, law schools, libraries

and public interest groups or associations may provide access to legal information or guides to assist you in your research. As with any other internet search, conducting an effective reference interview to determine useful terms can influence your results. An effective research strategy can influence your results as well. Using a state legislative website to retrieve current law and pending bills is more efficient than a search engine. Or you may want to think about the legal portals using a relevant law library research guide or a quick peek at **Zimmerman's Research Guide**, <http://law.lexisnexis.com/infopro/zimmermans/>.

Might your user provide legal terms or terms of art? Useful acronyms? You may want to consider discussing:

- Jurisdiction [Michigan? Federal? Local city or municipality? International?]
- What type of law/legal authority (if known) [statute, pending legislation, court opinion, regulation]
- Date – recent? [Changes to laws occur frequently – is the request based on something recently in the news or a reference that occurred years ago?]
- Ask if there's a specific document or related legal citation

Once you've determined your research strategy, selected search terms and performed the search, examine or review your results. Are the websites reliable? Accurate? These guides may help you with that evaluation process:

- Evaluating Legal Websites, The People's Law Library of Maryland. <http://www.peoples-law.org/node/29>
- Evaluating Web Pages: Techniques to Apply & Questions to Ask. UC Berkeley > Teaching Library Internet Workshops > Finding Information on the Internet: A Tutorial. <https://www.lib.berkeley.edu/TeachingLib/Guides/Internet/Evaluate.html>
- Guidelines for Evaluating Government Information on the Web. AALL > Advocacy > Access to Legal Information, <http://www.aallnet.org/main-menu/Advocacy/access>

- Justia.com Virtual Chase, Information Quality > How To Evaluate Information – Checklist. <http://virtualchase.justia.com/how-evaluate-information-checklist>

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