

Maurer School of Law: Indiana University

Digital Repository @ Maurer Law

Books & Book Chapters by Maurer Faculty

Faculty Scholarship

9-2021

Working with Non-law School Patrons

Ashley A. Ahlbrand

Indiana University Maurer School of Law, aaahlbra@indiana.edu

Follow this and additional works at: <https://www.repository.law.indiana.edu/facbooks>



Part of the [Law Librarianship Commons](#), and the [Legal Education Commons](#)

Recommended Citation

Ahlbrand, Ashley A., "Working with Non-law School Patrons" (2021). *Books & Book Chapters by Maurer Faculty*. 273.

<https://www.repository.law.indiana.edu/facbooks/273>

This Book is brought to you for free and open access by the Faculty Scholarship at Digital Repository @ Maurer Law. It has been accepted for inclusion in Books & Book Chapters by Maurer Faculty by an authorized administrator of Digital Repository @ Maurer Law. For more information, please contact rvaughan@indiana.edu.



JEROME HALL LAW LIBRARY

INDIANA UNIVERSITY
Maurer School of Law
Bloomington

CHAPTER 17.

WORKING WITH NON-LAW SCHOOL PATRONS

ASHLEY AMES AHLBRAND

Working in an academic law library, the primary patrons are the law school's faculty and students. However, these may not be the exclusive patronage of the law library. Particularly in the case of a public law school library, the law librarian is likely to serve patrons outside of the law school as well. These patrons come from a diversity of backgrounds, with a range of legal research needs. Working with non-law school patrons can present a number of challenges but also many opportunities for the law library. This chapter will discuss these challenges, offer possible solutions, and highlight unique opportunities when working with non-law school patrons.

Key Concepts

- Non-law school patrons experience legal research access restrictions not felt by law school faculty and students.
- Strategic collection development decisions can facilitate the needs of non-law school patrons.
- Despite (and because of) the challenges they pose, working with non-law school patrons helps the law library better understand and address the community's legal needs.

NON-LAW SCHOOL PATRONS

But first, what do we mean by non-law school patron? In short, this includes any patrons

beyond the law school faculty, staff, and students. This chapter will primarily discuss four main categories of non-law school patrons: self-represented litigants, non-law school students and scholars, attorneys and judges, and law school alumni.

Self-Represented (Pro Se) Litigants

Parties who engage in court proceedings without the assistance of legal counsel are known as self-represented or pro se litigants. They frequently seek legal research assistance at their local libraries, and their resource needs include the same types of practice-oriented materials, such as legal forms, that attorneys often seek when preparing a case. However, as these parties typically lack any formal legal training, their needs are also far greater because they may need additional assistance understanding the legal issues involved in their case and how to proceed. Self-represented litigants may seek out assistance in county law libraries or the academic law libraries of public law schools.

Scholars & Students

Scholars and non-law students may require occasional legal research assistance, depending on their research focus. It is not uncommon for university courses to have a natural legal cross-over; for example, faculty and students in the journalism department may study the first amendment and defamation law; and those in the business school may be interested in corporate law. Similar to self-represented litigants, these non-law scholars often lack a legal background and may require both introductory and advanced resources to understand their research topic.

Members of the Local Bench & Bar

Because they have a legal background, attorneys and judges may seem much more similar to law school faculty and students than the non-law patron groups mentioned in the two previous sections. However, these patrons' needs and restrictions overlap in many ways with those of the previous two groups and can present challenges and opportunities for the law librarian.

Maintaining a private law library collection, print or electronic, can be expensive, so local attorneys and even judges often utilize their nearest law library to access print and electronic resources. Like the self-represented litigant, these patrons are typically in need of practice-oriented resources like legal forms and case dockets; but, in the academic law library context, in particular, these patrons will not have access to the law school's Lexis, Westlaw, or Bloomberg Law accounts, thus tending to these patrons' needs requires alternative strategies.

Law School Alumni

Outside of the law school faculty and students, a final group of occasional academic law library patrons to consider are law school alumni. Their needs and restrictions are very similar to those of the bench and bar: They have a legal background, so they can generally conduct their own research, but upon matriculating, they lose access to the law library's Lexis, Westlaw, and Bloomberg Law accounts. While they are quite similar to the local bench and bar, law school alumni merit their own category here because there may be some library resources and services available specifically to alumni of the law school.

CHALLENGES

Meeting the needs of non-law school patrons can pose several challenges, including what resources are available to them, what level of knowledge they bring with them, and what degree of service the law librarian can provide without crossing any ethical boundaries. This section will discuss these challenges and offer possible solutions.

Meeting Non-Law School Patrons' Expectations

Evaluating and addressing the needs of non-law school patrons can present a challenge. Because most non-law school patrons lack a legal background, getting to the heart of their particular legal question can take time and effort, putting the librarian's reference interview skills to the test. Their question may be too broad, like the journalism student who says he'd like to write a paper on freedom of speech. They may ask for content that is difficult to attain from any resource, including Lexis and Westlaw, like filings in state court dockets. They may ask for content that simply does not exist, like a self-represented litigant asking for a very specific legal form, not realizing that there are not stock legal forms for every single type of filing.

One significant challenge that can arise in terms of the non-law school patron's request is when a non-law school patron, usually a self-represented litigant, asks for legal advice. When they ask this bluntly, the answer is an easy no, explaining that the law librarians are not attorneys and cannot give legal advice. The trickier scenario is when they ask for things that could amount to legal advice, such as asking for the "best case" to prove X or Y, or when they ask the librarian to interpret the text of a statute for them. These questions can border on rendering legal advice, and intelligent minds can differ on which side of the line these questions lie.

What the librarian wants to avoid is the unauthorized practice of law (UPL). As its name suggests, UPL occurs when someone without the right to practice law in a particular jurisdiction does so. The practice of law is defined differently from state to state, but

conducting UPL typically violates state statute, regulation, or rules of ethics. The topic of UPL in libraries has been a frequent topic in library literature over the years. Fortunately, to date, no record exists of a librarian being charged with UPL. The best thing to do when a situation like this arises is to explain the library's policy to the patron and the array of services the librarian can offer. For example, "As a librarian, I cannot answer that question, as I am not an attorney, but I can direct you to several resources where you may find these answers yourself." Many law libraries put a disclaimer on their website explaining this policy as well.

Electronic Legal Research Options for Non-Law School Patrons

Particularly in the academic setting, another significant challenge when working with non-law school patrons is that our go-to legal research platforms, Lexis, Westlaw, and Bloomberg Law, are typically unavailable to those outside the law school. This can pose challenges for each of the non-law school user groups. University faculty and students conducting legal research often expect that they can get accounts as members of the university and have a legitimate need for a legal research platform. Some non-law faculty members and graduate students may even have law degrees and experience working within these databases, yet law library contracts with these three vendors are fairly strict. Likewise, local attorneys and self-represented litigants, who may not feel as entitled to these platforms, are nevertheless left without access to the legal forms and other practice aids published there. Fortunately, there are some workarounds.

Conducting Core Legal Research

At the heart of any legal research question is the pursuit of the law itself. For non-law school patrons seeking statutes, cases, constitutions, or regulations, there are many alternatives to Lexis, Westlaw, and Bloomberg Law. Government websites provide access to state and federal constitutions, statutes, legislation, and regulations, most even providing a short archive of superseded codes and previous legislative sessions. At the federal level, for example, sites like congress.gov and govinfo.gov are excellent resources for federal government research, with coverage typically from the mid-1990s forward. Likewise, many state appellate and federal courts today provide a small archive of recent slip opinions and oral arguments. Additional state and federal case law can be found on sites like Google Scholar.

As robust as the availability of the law is on these free sites, there are some research drawbacks. In particular, these sites lack the analytical features a citator provides. A federal case opinion pulled up on govinfo.gov, for example, contains no treatment symbols or citing references. It is just the text of the case. However, for non-law school patrons, such as local attorneys, whose legal research relies on the currency and treatment of the law, alternative databases to Lexis, Westlaw, and Bloomberg Law can provide the solution.

Many academic law libraries offer campus-wide access to these database alternatives. One such database is Fastcase, a lower-cost legal research platform that provides citator-like features, including citing references and an algorithm-based citation analysis tool, Authority Check. For those non-law school patrons desiring a full citator, both Thomson Reuters and LexisNexis offer legal research platforms intended for a broader, campus-wide audience. Thomson Reuters' product is Westlaw Campus Research, and LexisNexis' product is Nexis Uni (formerly LexisNexis Academic). In both of these services, a user can conduct core legal research with the added advantage of access to the Lexis and Westlaw citators, Shepard's, and KeyCite. Though these two products lack the full suite of secondary sources and other editorial content found in the traditional law school Westlaw and Lexis products, they do provide users the enhanced tools necessary for conducting core legal research.

In addition, there are myriad other legal research databases, beyond Lexis, Westlaw, and Bloomberg Law, that many academic law libraries subscribe to for the use of law school and non-law school patrons alike. HeinOnline offers users access to a vast array of digitized legal materials, historical and current, covering federal and state, international, and some foreign jurisdictions. ProQuest Congressional is a superb and user-friendly platform, with a robust congressional collection from the 1700s forward. And these only scratch the surface. While non-law school patrons are often disappointed to find that they do not have access to the law school's Lexis, Westlaw, and Bloomberg Law subscriptions, chances are that some of these other databases may provide satisfactory answers to their questions as well.

Conducting Background Research

While many alternatives exist for conducting core legal research in primary sources of law, if a non-law school patron is interested in background research, finding authoritative secondary sources in law outside of the law school's Westlaw and Lexis platforms can be more challenging. Core secondary sources in law, like legal encyclopedias and treatises, are proprietary to their publisher, and therefore are typically only available online through specific subscription databases, namely, Lexis and Westlaw. However, some alternatives may be available, depending on the patron's needs.

For a self-represented litigant, for example, one of the many free websites specifically designed for those conducting their own legal representation without the aid of an attorney might be a helpful place to start. These sites often contain articles on a variety of legal topics written for a non-law audience. They may also provide access to free or low-cost customizable legal forms, and most include a lawyer referral feature for those patrons who ultimately decide to seek legal representation.

Another resource for commonly used legal forms and attorney referrals are court websites, as many jurisdictions have begun putting commonly-requested legal forms up on their websites, specifically with this audience in mind. Law school libraries that receive frequent requests for

legal forms from non-law school patrons may seek to partner with their local court; often, the clerk of court's office will have a set of forms available in print and may be interested in offering the law library a set of print forms, or the option to make those forms available online on the law library's website.

Non-law school scholars and students conducting academic legal research may need secondary sources that analyze and critique rather than simply explain. For these patrons, law journal articles may prove a better resource. Of the many types of secondary sources in law, law journal articles are the type most easily found outside of Lexis and Westlaw. HeinOnline has a robust collection of law journals. Other common academic databases, outside of the law, pick up major law journals as well, including JSTOR and Academic Search Premier. And increasingly, law journal articles can be found online for free, through library or institutional digital repositories, pre-print sites like the Social Science Research Network, or even the journal's own website. Search engines usually index these, so pointing the non-law school patron to a site like Google Scholar may allow them to retrieve relevant law journal articles by keyword search.

Another resource non-law school patrons may find helpful for background and analysis of the legal issues of the day are law blogs (blawgs). Though not as highly reputed as formal law journals, blawgs offer some distinct advantages: They are freely available; most are fairly authoritative, being written often by professors, librarians, and attorneys; and perhaps most importantly, they are much faster to publish than journal issues; therefore, if a patron is researching a newsworthy topic or a brand new area of law, one of the only resources for background, context, and analysis may be a blawg.

When people, even those with no legal background, think about legal research, they often think about Lexis and Westlaw because that is what they have heard of. Therefore, they are disappointed and frustrated to hear that they cannot get access to those platforms as a non-law school patron. As just discussed, however, those two platforms are just the tip of the iceberg, so the challenge to the law librarian is exposure: Show the non-law school patron the many other legal research databases available to all patrons in the law library, ones that do not require an individual account for access. Many patrons, attorneys and law school alumni included, are surprised to learn how many primary and secondary sources in law are available freely online. Showing the non-law school patron how to craft smart internet searches may help them find the answers to their research inquiries without accessing any subscription databases at all.

Print Resources: Solution or Challenge?

The other option for alternatives to Lexis and Westlaw for non-law school patrons is print. However, print comes with its own challenges. For instance, the print materials that non-

law school patrons may need access to, such as statutory codes, case reporters, legal encyclopedias, and major treatises, because they are more heavily used, are non-circulating, so a patron who would like to take a volume of West's Legal Forms home with her cannot. She will have to scan or copy the section she is interested in instead.

The larger challenge with print materials is shrinking space and shrinking budgets. Print collections grow as new volumes are added, requiring frequent shifts of the collection to make more room. At the same time, library space is at a premium, and libraries have to balance the desire for a strong print collection with the need for study space or even office space. In addition, print is expensive and often duplicated in an online platform like Lexis or Westlaw. With legal materials increasingly available online, many libraries are making the fiscal decision to shrink their print collections in favor of digital, only holding on to those print titles not available in a digital equivalent. Though this decision is most often made out of necessity, it regrettably disadvantages non-law patrons.

While print may seem like the logical solution to the access issue many non-law patrons face with core legal materials, some options may still be available if a law library is up against space and financial restraints. If the law library has some small amount of funds that can be allocated to print, they can develop the collection strategically. For instance, it is likely cost-prohibitive to purchase every major legal treatise in print. Still, one prominent treatise on civil procedure may be beneficial if the law library has many attorneys and self-represented litigants using their collections. If the law school's parent institution has a strong environmental studies program, the law library might also invest in environmental law secondary sources. Likewise, analyzing reference statistics to ascertain the types of questions the librarians most commonly receive can help curate a collection that best meets all patrons' needs.

Thinking of self-represented litigants specifically, additional titles may be beneficial for this audience.

- Legal Encyclopedias – State-specific, if available (examples: Ohio Jurisprudence or Indiana Law Encyclopedia), or one or both of the major national legal encyclopedias, American Jurisprudence and Corpus Juris Secundum.
- Quick Reads – Easy-to-understand, quick reads may be beneficial to the non-law crowd, such as West Academic's Nutshell series and NOLO books; the latter is specifically written for an audience of laypeople intending to handle their own legal matters. NOLO books are relatively inexpensive and can be especially helpful to self-represented litigants.
- Legal Forms – These can be helpful for attorneys and self-represented litigants. These materials are typically proprietary to a particular publisher and therefore only

available online through a subscription database, so print is a helpful alternative. In addition to offering forms, they also typically include short treatise-like passages on legal topics, but written from a practice standpoint, and therefore particularly helpful for those preparing a case for court.

If monetary or spatial constraints limit the law library's ability to develop a print collection that fully meets non-law school patrons' needs, other potential solutions include consortial arrangements with local libraries, with each agreeing to purchase certain titles so that, collectively, all have access to adequate print materials to suit patron needs. Likewise, law libraries may be able to acquire certain titles through interlibrary loan. For non-law school scholarly patrons, interlibrary loan may be beneficial for acquiring scholarly legal texts. One particular challenge of working with non-law school patrons, then, is access limitations. Although these patrons cannot typically access Lexis or Westlaw, an array of other options may suit their needs, from campus-wide versions of Lexis and Westlaw to lower-cost legal research platforms to free online resources to print. No solution is perfect, but each provides possibilities for meeting these patrons' needs. A large part of working with non-law school patrons is education, showing them the world of resources available to them beyond what they have heard of.

CONCEPT IN ACTION: ASSISTING A SELF-REPRESENTED LITIGANT

Peter Pro-se, a local farmer, came to the reference desk complaining about his new neighbor, who erected a hideous, ten-foot barbed wire fence between their properties in Lawrence County, Indiana because he planned to raise cattle on his land. The neighbor claimed that Peter now owed him \$5000 for his "share" of the fence. Peter couldn't believe that was true and wanted to know if he had to pay, and if not, could he sue to have the fence removed?

To give Peter background on this legal issue, Patsy directed him to the law library's print copy of Indiana Law Encyclopedia, where he read about spite fence law in Indiana. Here he learned that fences higher than six feet might be considered spite fences under the Indiana spite fence statute. However, it would have to be proven that the neighbor erected the fence maliciously or for the purpose of annoying the adjoining landowner. To find the law itself, Patsy directed Peter to the Indiana General Assembly website to pull up the text of the statute. To address his question about having to pay for the fence, further work with Peter showed that he might be out of luck. A resource on FindLaw explained that the Indiana law governing partition fences requires both adjoining landowners to pay for the partition fence, even if only one benefits from it. Finally, Patsy directed Peter to the Indiana Legal Help online portal to find self-help tools, forms, and an attorney directory if he decides to seek representation.

OPPORTUNITIES

So far we have discussed the common challenges presented by working with non-law patrons, but non-law patrons present a number of opportunities as well.

Opportunities Within the Law Library

The previous section discussed, at length, the variety of print and electronic resources non-law school patrons may find beneficial. If a law library has the resources to create a small collection of print materials for non-law school patrons, locating those materials together can create designated space in the law library for those specific patrons, with all the print materials they may be interested in located in one convenient space. Likewise, with so many databases and websites that could prove helpful to a non-law school patron, creating resource guides for those patrons may help them navigate to the best resources more quickly.

For the self-represented litigant, print and digital handouts could also include pro bono resources in the area, and even basic court forms, often available from the clerk of court's office. The law librarians might even consider creating digital resources for their non-law school patrons, including quick video tutorials showing them how to search a particular database or website. Legal research is a challenge for even those with a legal background; the challenge can be overwhelming for those without. Librarian resource aids can help make this task more manageable.

In addition to creating spaces and resources for non-law school patrons, the law library might also consider hosting events for them as well. For example, if your library sees heavy foot traffic from self-represented litigants, you might partner with your local bar association to offer Lawyer Days, in which local attorneys come to the law library to offer brief counseling sessions for those in need of legal advice.

Outreach: Opportunities Beyond the Law Library

Who says librarians have to stay in the library? Another unique opportunity that non-law school patrons afford is the ability to support outreach initiatives within the community.

Continuing Legal Education

For attorneys in the area, a law library might offer continuing legal education (CLE) programming on free and low-cost legal research options, a research refresher, or something topic-specific, like administrative law research. This can also be beneficial for paralegal associations, who have similar continuing education requirements. Because paralegals spend

a great deal of their time conducting legal research, they may be particularly grateful for legal research training and updates.

Public Library Training

There are far more public libraries around the country than there are public law libraries. Especially in regions where public law libraries are not easily accessed, librarians at public libraries are often on the front lines of legal research inquiry from self-represented litigants, even though they have no formal legal research training themselves. Therefore, many law libraries have begun offering legal research training to public libraries to help fill this knowledge gap.

Legal Research Instruction for Non-Law Students

In university courses that have a legal tie-in, such as a journalism seminar focused on freedom of the press, or even a business law course taught at the business school, faculty may appreciate having a law librarian come in to guest lecture to their students on legal research. This is an opportunity to demonstrate the databases available to students for their legal research needs and highlight the print holdings and law library services available to non-law students, should they make the trip over to see a law librarian in person.

Prisoner Outreach

Prisoners are a common body of self-represented litigants, and prison libraries are continually shrinking. Many law libraries, therefore, have established prison outreach programs, in which their librarians can fulfill specific legal research requests via mail.

Whether within or outside the law library, there are myriad ways that we can put our legal research knowledge to use, with profound impacts on individuals and the greater community.

CONCLUSION

For the public academic law library, non-law school patrons can present both unique challenges and unique opportunities. Their needs can be urgent or ill-formed; they may take more patience and dedication to properly serve; but they can also be some of the most grateful patrons as well. One of the biggest challenges when working with non-law school patrons is the restriction on what resources are available to them, particularly their general inability to access Lexis, Westlaw, or Bloomberg Law.

Other resources certainly exist, both in print and electronically, but it becomes a cost/benefit analysis to determine what resources the law library can afford to offer this group of patrons, while still adequately serving its main patron base. While they can be a challenging group

to adequately serve, non-law school patrons also offer an opportunity for law libraries to be creative, seeking out free research options to offer these patrons, creating resources that address some of their common legal issues, and reaching out to the community to partner with courts, public libraries, and local bar associations to offer the law librarians' specialized knowledge to a broader audience.

DIVE DEEPER

DIVE DEEPER

To learn more about working with non-law school patrons, explore:

- Charles J. Condon, "How to Avoid the Unauthorized Practice of Law at the Reference Desk," *Legal Reference Services Quarterly* 19, nos.1-2, (2001): 165-179, DOI: 10.1300/J113v19n01_11.
- Amy Hale-Janeke & Sharon Blackburn, "Law Librarians and the Self-Represented Litigant," *Legal Reference Services Quarterly* 27, no. 1, (2008): 65-88, DOI: 10.1300/02703190802128814.
- Paul D. Healey, "In Search of the Delicate Balance: Legal and Ethical Questions in Assisting the Pro Se Patron," *Law Library Journal* 90, no. 2 (1998): 129-147.
- Kimberly Mattioli, "Access to Print, Access to Justice," *Law Library Journal* 110, no. 1 (2018): 31-57.
- Marsha C. Thomas, "Collaborating with Public Librarians," *Legal Reference Services Quarterly* 20, no. 3 (2001): 35-42, DOI: 10.1300/J113v20n03_05.