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Handling Legal Questions at the Reference Desk and Beyond

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Abstract

This article offers reference librarians practical advice on how to approach legal information requests that arrive via the reference desk, as well as through e-mail and chat. It suggests how to avoid the unauthorized practice of law by focusing on the activities reference librarians can safely perform when faced with legal questions from both their on-site and virtual users. The article discusses how reference librarians can conduct effective legal reference interviews both in person and online. Additionally, it suggests ways to include instruction in legal reference encounters, and possible sources for referral of questions that require professional legal assistance.

Introduction

Reference librarians encounter a wide variety of information queries, depending on their user populations and the type of libraries in which they work. One query that reference librarians in all types of libraries face is the request for legal information. While some librarians, such as those in government documents or law libraries, receive this kind of request on a regular basis, others do so less frequently. Nevertheless, reference librarians in all library settings should be prepared to assist patrons who need legal information. Furthermore, given the rapid development of virtual reference services such as e-mail and chat, reference librarians need to be ready to fulfill legal information requests in the online environment, and not just at the reference desk.

Of course, reference librarians have to treat legal questions with special care. Generally speaking, reference librarians are not licensed attorneys, so they are not qualified to practice law. Giving legal advice or interpreting the law when one is not qualified to do so may constitute unauthorized practice of law (UPL), a felony in some states.¹ This means that reference librarians cannot, for instance, advise their users on how to fill out forms or take legal action, nor can they apply their users' particular legal circumstances

to specific legal decisions or procedures.² Thus, when faced with their users' legal questions, reference librarians have to strike a delicate balance between facilitating access to legal information and actually interpreting it.

But rather than expanding on what reference librarians cannot do for their users with legal information requests, this article focuses on what they can do:

- Provide answers to users' legal ready reference questions
- Teach users how to identify and utilize information sources for legal research
- Connect users who require legal referral with the appropriate resources

The level of reference service provided depends on the nature of the legal information request, which is determined during the all-important reference interview. This article provides some strategies for conducting a thorough legal reference interview, whether at the reference desk or online, without engaging in UPL. Additionally, it discusses the role of instruction in guiding the direction of legal information requests, and ways to incorporate instruction into both in-person and virtual reference encounters. The article also highlights the importance of making referrals to satisfy certain legal information requests and offers tips on how to do this in both the online and traditional library environments. Finally, the article cites some guidelines for handling legal questions, provided by the Reference and User Services Association.

The Legal Reference Interview

To fulfill any information request, the reference librarian must, of course, conduct a reference interview. This applies to questions or requests that arrive via e-mail or chat, as well as to those that come through the traditional channel of the reference desk. The objective of any reference interview is to gain a true understanding of the user's request, as the specific nature of the request will determine what approach the reference librarian should take to complete it. In other words, to arrive at the answer, the reference librarian has to know and understand the question.³ This knowledge and understanding is especially true when dealing with legal questions, which can be more complex than other kinds of information requests.

Legal information requests are generally of three varieties: ready reference, research, and referral.⁴ These three types of requests, in turn, generally fall into six categories: laws, regulation, cases, subject, procedure and location.⁵ Legal ready reference requests are those that require specific items, usually with citations. For example, users may ask questions or make requests such as the following: "Has S. 345 been signed into law?" (Laws); "I want the current standards for food safety" (Regulation); "I need to find the text of *New York Times v. Sullivan*" (Cases); "What does *mens rea* mean?" (Subject); "What is Rule 4.2 of *Mississippi Civil Procedure*?" (Procedure); or "Where can I find

the laws of South Carolina?” (Location). The reference librarian can provide answers to these questions or information requests.

Legal research requests involve a general subject area, usually without citations to any specific legal documents. E-mail, chat or on-site users may ask questions or make requests such as “Is there a law against carrying a handgun on the streets of Minneapolis?” (Laws); “What are the legal requirements for transporting formaldehyde?” (Regulation); “I need cases on sexual harassment” (Cases); “What major federal legislation concerning the environment is currently pending?” (Subject); “What are the basic procedures involved in filing for divorce?” (Procedure); “What are some good legal search engines on the Internet?” (Location). The reference librarian can teach users in both physical and virtual library settings how to find the answers to these questions or requests.

Legal referral requests define all questions that require professional legal counsel. Examples include “I need a copy of the Danish motor vehicle laws, in English” (Laws); “Who do I have to contact to get permission to fly to Cuba?” (Regulation); “Can I sue my employer for age discrimination?” (Cases); “How do I become a naturalized citizen of this country?” (Subject); “Can you help me calculate how much child support I should be getting?” (Procedure); “Who are some reputable corporate attorneys in Montgomery, Alabama?” (Location). The reference librarian can refer both live and virtual patrons to sources that will help them locate professional legal counsel who can answer these questions.

In conducting the reference interview, the reference librarian can determine which type of legal information request the user is presenting and thus how to handle it. This is especially important when dealing with a remote user who asks a more in-depth legal question; e-mail questions of this nature may require a longer turnaround time than the user would normally expect, and chat questions of this kind would probably need more time than could be devoted in the standard 10-15 minute session. Regardless of the user’s location, the legal reference interview should pinpoint three things in particular: what kind of legal information the user seeks, any legal details needed to successfully complete the information request, and the amount of information the user needs.⁶ To accomplish this, the reference librarian should conduct a thorough reference interview that includes both open and close-ended questions.

For example, to ascertain the kind of legal information the user is looking for, the reference librarian may ask questions such as “Do you have specific citations, or are you interested in a general subject area?” or “What is the original purpose (or source) of your question?” or “What do you already know about this topic?”⁷ To encourage the user to provide legal details, the reference librarian can ask, “Do you need laws (or regulations, cases, procedures, news, history, etc.)?” or “Which jurisdiction?

(International, Federal, state, or local)?” or “Do you want the text of the law as it was originally passed, or as it stands today?”⁸ Then, to find out how much information the user needs, the reference librarian might ask, “Are you looking for full text or summaries?” or “Would you like this to be written in plain language or in official legal texts?” or “What is the deadline for this assignment?”⁹

While most users can articulate what kind of legal information they need and how much they need, they may be less certain about the details. If this is the case, the reference librarian can employ various strategies. For instance, if the user comes to the reference desk and has a written document (homework assignment, textbook, legal text, newspaper article), the reference librarian may politely ask to see it.¹⁰ This may allow him or her to find clues like case citations, references to court rules, the name of the person who introduced a bill, or the violation written on a speeding ticket. In another scenario, if the user provides an incomplete citation in an e-mail, the reference librarian might ask about the context of the question.¹¹ For example, a student may be researching the Americans with Disabilities Act. If the assignment is for an education class, he or she may be interested only in the sections pertaining to topics covered in that particular class. Finally, if the user asks during a chat session “what the law says” about a particular issue, the reference librarian might ask him or her to provide keywords or subject headings, as well as the jurisdiction that applies.¹² Then, if the librarian is unable to match the user’s terms with those listed in the library’s legal reference sources, he or she can invite the user to visit the library and use the materials there. This would give the user the opportunity to receive instruction on how to utilize these and other information tools.

If the user is unfamiliar with his or her legal topic, the reference librarian can suggest a subject-specific law book or electronic resource written for non-specialists.¹³ If the library’s print or online collections do not contain such sources, the librarian can check the catalog of the nearest law library. Alternatively, the reference librarian may provide contact information for the local bar association, court or government agency that would offer such resources.¹⁴ Once the user has a better understanding of the process or procedure of the law, he or she can then provide the reference librarian with more definite information.

The most important point to remember when conducting a legal reference interview, as with any type of reference interview, is that the assistance the reference librarian can offer depends largely on the information provided by the user. Therefore, the reference librarian should gently remind the user that the more information he or she can provide up front, the better the results of the legal information request will be.¹⁵ This is true for reference transactions with both live and remote users. Additionally, the reference librarian should remind the user of his or her role, which is to help the user locate and

access legal information sources, and not to interpret the law or provide the user with legal advice.¹⁶

Instruction in the Use of Legal Ready Reference & Research Sources

If, during the course of the reference interview, the librarian determines that the legal information request is of either the ready reference or research variety, he or she can either provide the answer to the user's question or teach the user how to find the answer. The library may have access to various print and electronic resources for both legal ready reference and legal research questions. Examples of print sources for legal ready reference questions include *Black's Law Dictionary*, *Martindale-Hubbell Law Directory*, *Bluebook: A Uniform System of Citation*, and *Bieber's Dictionary of Legal Abbreviations*.¹⁷ Examples of print sources for legal research reference questions include: *American Jurisprudence, 2nd Series*; *Corpus Juris Secundum*; *United States Reports*; *United States Statutes at Large*; *United States Code Annotated*; *Federal Register*; and *Code of Federal Regulations*.¹⁸

If the library owns print legal reference sources such as these, the reference librarian can direct an on-site user to the materials and instruct him or her on how to use them if necessary. For example, the librarian can demonstrate how to use the index or table of contents of a legal encyclopedia to find the law that might apply to the user's particular issue.¹⁹ Additionally, the reference librarian can discuss which sources to use to find judicial decisions, legislative acts, and administrative regulations at both the state and federal levels. He or she can also provide the user with print or online research guides that explain basic legal research activities such as looking for cases. If an e-mail or chat user submits a legal information request that requires the use of print legal resources, the reference librarian can invite him or her to the library to learn how to use them, or the librarian can direct the user to other law or government documents libraries in his or her area. In the meantime, the remote user can view the online legal research guides available via the library's web site or that of another library with such guides.²⁰

The reference librarian may use various online resources, including websites and databases, to fulfill their users' legal information requests. Some of these include *THOMAS*, <http://thomas.loc.gov>, for Congressional bills; *GPO Access*, <http://www.gpoaccess.gov/>, for Congressional bills, committee hearings, prints, reports, and floor debates; and *Lexis-Nexis Congressional*, for all of these items, if available.²¹ As with print resources, the reference librarian can conduct a one-on-one instruction session with an on-site user in order to assist him or her with these online legal resources. For instance, the reference librarian can suggest possible search strategies the user can employ when searching full-text databases; however, the reference librarian cannot offer strategies specific to the user's legal circumstances.²²

The reference librarian can also suggest sample database search strategies to e-mail and chat users; for chat users, the reference librarian can push pages from helpful legal research websites or utilize co-browsing to help these users navigate the numerous online legal resources. The reference librarian can convey this same information to e-mail users.

Regardless of the format chosen, the reference librarian is responsible for providing the user with access to the most current information possible. Laws and regulations may change on a daily basis, and court cases may be overruled, so the reference librarian should inform the user that the information he or she finds in a legal text or online may need to be updated.²³ To this end, the reference librarian should teach the user how to update information found in both print and electronic legal research sources, be it through a one-on-one session at the reference desk, or through an online legal research guide or tutorial that explains this process. Additionally, the reference librarian should advise the user to evaluate any legal information he or she finds on the Internet. Whether it be in a print or electronic resource, if the user finds a law or case that might be relevant to his or her legal situation, the reference librarian cannot state that the law or case is, in fact, the one the user needs, as this would be considered interpreting the law, which is beyond the scope of the librarian's professional duties.²⁴ The user is ultimately responsible for choosing the laws, cases, forms or other legal documents that he or she needs.

Referral to Professional Legal Counsel

The reference librarian may decide, at any point during the interview, that the user requires professional legal assistance. The user may ask a question that falls under the category of legal referral requests, or the user may require explanation of a law or other legal information, a service the reference librarian cannot provide. Ultimately, the user has to make the decision as to which information is relevant for his or her purposes. This may require professional legal aid. If this is the case, the reference librarian may refer the user to various sources that can connect him or her with legal assistance, whether the user contacts the library in person, or via e-mail or chat. Some of these sources include lawyer referral services, the local public defender's office, bar associations and government agencies devoted to the user's specific area of legal inquiry.²⁵ The reference librarian can use print reference tools such as local telephone books to provide the user with contact information for these and other sources. Also, he or she can point the user to state, regional and national directories of legal professionals, such as *The Martindale-Hubbell Law Directory*.²⁶ The reference librarian can also direct both live and remote users to online resources for locating professional legal help. Some of these include the American Bar Association's (ABA) website, which includes a "Consumer's Guide to Legal Help" and a "Lawyer Referral Services" feature; the

Martindale-Hubbell website, which houses a “Lawyer Locator”; and the Findlaw website, which contains a “Find a Lawyer” feature.²⁷ However, the librarian should not recommend specific attorneys, law firms or other legal professionals.²⁸ He or she may only provide the user with access to information tools that can help the user identify and locate such sources.

RUSA Guidelines

This article has offered several recommendations regarding the legal reference interview, instruction in legal research, and referrals to professional legal counsel. These are largely based on the “Guidelines for Medical, Legal and Business Responses,” established by the Reference and User Services Association (RUSA).²⁹

RUSA addresses the subject of the reference interview throughout the Guidelines. For example, under the section entitled “Role of Information Services Staff,” RUSA states, “When asked legal, medical, or business questions, information services staff should make clear their roles as stated in their library’s specialized information services policies.”³⁰ Then, later in this same section, RUSA declares, “Information Services staff should use discretion during the reference interview. While it is important to conduct a thorough interview, this should be done in such a way as to minimize discomfort to the user. Staff should try to identify the issue in question without intruding on the user’s privacy.”³¹

With regard to instruction, the Guidelines state, “Staff should provide instruction in the use of the sources, enabling users to pursue information independently and effectively, if so desired.”³² Then, under the section entitled “Referrals to Other Sources,” the Guidelines state, “Information services staff should make every effort to answer users’ questions in accordance with local information services and collection development policies. If the question cannot be answered using available sources and personnel, they should be prepared to refer questions to individuals as well as to published sources in a variety of formats.”³³

The Guidelines sum up the duty of the reference librarian with the following statement: “The information service transaction should satisfy the user’s need for information, by providing either accurate sources in hand or clear and concise referrals to obtainable sources and/or services elsewhere.”³⁴

Notes

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4. Paul A. Arrigo, "Taking Time for Legal Research Instruction at the Reference Desk," *Legal Reference Services Quarterly* 19 (January 2001): 76; Condon, "How to avoid the unauthorized practice of law," 171.
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13. Paul A. Arrigo, "Taking Time for Legal Research Instruction," 79.
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