Thinking Like a Librarian: Tips for Better Legal Research

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THINKING LIKE A LIBRARIAN: TIPS FOR BETTER LEGAL RESEARCH

Richard Buckingham*

When it comes to conducting legal research, being able to think like a lawyer is a good start. A researcher needs to be able to identify issues; read and analyze primary sources, like cases and statutes; and determine which materials are relevant.1 But in order to find those primary sources, a good researcher needs to think not just like a lawyer, but also like a librarian; in particular, a law librarian.

Law librarians make excellent legal researchers for two reasons: (1) their knowledge of general (non-law specific) research techniques, and (2) their knowledge of legal resources and law-related research tools.2 By applying traditional research techniques to the legal field, law librarians are able to research more efficiently and effectively.

This article will offer four research tips for thinking like a librarian that will improve one’s legal research. Everyone in the legal profession—law students doing research for a paper or as a faculty research assistant, summer associates and new attorneys doing research for more senior attorneys, and law professors and seasoned attorneys researching for themselves—can benefit from the ideas covered in this article.

The research techniques described are not new and have been written about by others.3 But too often they appear in publications

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1 See Anne Klinefelter, Public Services, in LAW LIBRARIANSHIP IN THE TWENTY-FIRST CENTURY 71, 76 (Roy Balleste et al. eds., 2007) (“The process of legal research and legal analysis inform each other . . .”).
2 In a recent survey of academic, state, court, county, firm and corporate law libraries, 79.4% of library professionals had master’s degrees in library science, 35.3% had J.D. degrees, and 30.1% had both degrees. AM. ASS’N OF LAW LIBRARIES, THE AALL BIENNIAL SALARY SURVEY & ORGANIZATIONAL CHARACTERISTICS 11 (2009). For reference/research librarians in academic law libraries, the figures were 84%, 75.4%, and 66.31%, respectively. Id. at S-26.
3 As evidence of prior publications, see the numerous books and articles cited for each tip.
read primarily by librarians or introductory legal research textbooks that are several hundred pages long, where their importance is lost on first-year law students. The goal of this article is to share these research tips with a larger audience in a way that demonstrates their usefulness.

Each tip begins with the section “What Librarians Do,” which describes a technique that librarians use and their reasons for doing so. This is followed by the section “What Researchers Can Do,” which explains how the technique can be applied by others doing legal research.

I. RESEARCH TIP: MAKE SURE YOU UNDERSTAND THE ASSIGNMENT BEFORE YOU BEGIN DOING RESEARCH.

A. What Librarians Do

An important rule for any librarian helping a patron is making sure you understand the question before you try to answer it. Librarians use reference interviews to solicit information from patrons to make sure that the librarian’s answers will lead patrons to the information they seek.

The purpose of the reference interview is “clarifying the user’s needs and aiding the user in meeting those needs.” During the interview, the librarian will use active listening, which involves “paying

\[See generally \, \text{Law Library Journal, Legal Reference Services Quarterly; see also AALL Spectrum.}\]

\[See \, generally \, Amy \, E. \, Sloan, \, Basic \, Legal \, Research: \, Tools \, and \, Strategies \, (4th \, ed. \, 2009); \, Steven \, M. \, Barkan \, et \, al., \, Fundamentals \, of \, Legal \, Research \, (9th \, ed. \, 2009); \, Robert \, C. \, Berring \, & \, Elizabeth \, A. \, Edinger, \, Finding \, the \, Law \, (12th \, ed. \, 2005).\]

\[Richard \, E. \, Bopp, \, History \, and \, Varieties \, of \, Reference \, Services, \, in \, Reference \, and \, Information \, Services: \, An \, Introduction \, 1, \, 4 \, (Richard \, E. \, Bopp \, & \, Linda \, C. \, Smith \, eds., \, 2d \, ed. \, 1995) \, (“In \, most \, library \, settings, \, reference \, librarians \, must \, often \, conduct \, a \, reference \, interview, \, a \, structured \, discussion \, with \, a \, user, \, to \, help \, define \, the \, information \, need.”) \, (emph \, in \, original).\]

\[Ellen \, D. \, Sutton \, & \, Leslie \, Edmonds \, Holt, \, The \, Reference \, Interview, \, in \, Reference \, and \, Information \, Services: \, An \, Introduction, \, supra \, note \, 6, \, at \, 36, \, 36.\]
close attention to all that the user is saying, with the goal of subse-
quently paraphrasing the user’s request.\textsuperscript{8} By paraphrasing the re-
quest back to the patron, the librarian can answer based on the pa-
tron’s actual—and not assumed—needs.\textsuperscript{9}

Reference librarians get a wide variety of questions from patrons. 
Sometimes these questions are very basic and have simple answers. 
At other times the questions are more complex, but still fairly easy to 
answer. And then there are times when what the patron asks for is 
not what the patron really needs.\textsuperscript{10}

Regardless of complexity, a librarian must be sure to understand a 
patron’s question before trying to answer it. This usually involves 
asking follow-up questions during the reference interview to get all 
the relevant information from the patron.\textsuperscript{11}

For example, the most basic follow-up question in legal re-
search—assuming it is not part of the question—is about jurisdiction. 
You cannot conduct research for a case, statute, or regulation without 
knowing the relevant jurisdiction. Even a seemingly easy question 
like “where are the supreme court cases?” would lead a librarian to 
ask a follow-up question: “are you looking for cases from the United 
States Supreme Court or a state supreme court?”

Librarians also ask questions to resolve ambiguity when a pa-
tron’s request could be interpreted in more than one way. For exam-
ple, is a patron who asks for help finding information on incorpora-

\textsuperscript{8} Id. at 41.

\textsuperscript{9} Id.

\textsuperscript{10} See Mary Whisner, Finding Out What They Want to Know, 93 LAW LIBR. J. 727, 727 (2001) (“Before we get around to looking up anything, we need to figure out what is wanted or what is needed (they are not always the same.”); id. at 730 (giv-
ing the example where what the patron “was asking for (the old statute) was not going to give him what he wanted (cases citing the old statute.”)).

\textsuperscript{11} Id. at 732 (“When a patron asks a question—even a ‘simple’ question—we have to work to understand what the patron wants to know. Because language is ambi-
guous and because patrons often ask vague questions, we need to ask questions to find out more.”).
business?12 A librarian who conducts a reference interview—instead of making assumptions—will point the patron in the right direction.13

B. What Researchers Can Do

Both law students and attorneys doing legal research for someone else need to make sure that they understand their assignment before beginning the research process. This means asking questions of the professor or attorney assigning the research and paraphrasing the request back to make sure the assignment is understood.14 Any ambiguities in an assignment must be resolved before the research begins.15

In addition to asking questions regarding the jurisdiction or the specific information being sought, a researcher should ask what form the final product is to take and when it is needed. For example, does the professor want a list of law review articles or the full text of each article? Does the attorney want a memo summarizing a legal issue or a draft of a brief arguing the client’s case on that issue?

The questioning might also involve whether the professor or attorney can provide any suggestions about a starting point.16 The re-
search process can be jump-started if the researcher begins with even one case, statute, treatise, or law review article on point.17

Finally, keep in mind that even if one begins research with a clear understanding of the assignment, information found during the research may lead to more questions. When this happens, it may be necessary for the researcher to go back and ask more questions to gain further clarification.

II. RESEARCH TIP: USE SECONDARY SOURCES TO BEGIN YOUR RESEARCH

A. What Librarians Do

The goal of legal research is usually to find relevant primary law.18 Faced with the task of locating this law, a researcher has two choices: (1) search directly in primary law sources for relevant authority; or (2) use a secondary source to get citations to relevant authority. Librarians prefer the second approach.19

18 See Sloan, supra note 5, at 11 (“Your goal in most research projects will be to locate primary mandatory authority, if it exists, on your research issue.”).
19 See e.g., Morris L. Cohen & Kent C. Olson, Legal Research in a Nutshell 15 (9th ed. 2007) (“It is generally best to begin research by going to a trustworthy secondary source—a legal treatise or a law review article.”); William A. Hilyerd, Using the Law Library: A Guide for Educators Part IV: Secondary Sources to the Rescue, 34 J.L. & Educ. 273, 292 (2005) (“For individuals who are new to a given area of law, including attorneys who have never practiced in that area, secondary sources provide a quick method by which they can get a grasp on potential issues and pitfalls within that topic. If not for secondary sources, each legal problem would have to be researched by sifting through primary materials and that would be a truly daunting task. While not an impossible task, it would not be recommended.”); Jarrett & Whisner, supra note 16, at 74 (“Before you plunge into primary sources, use secondary tools to get an overview of the area.”). Librarians are not the only ones who appreciate the value of secondary sources. In a 2005 survey of attorneys, judges, and librarians, it was noted frequently that it is critical for aspiring lawyers to understand the importance of secondary sources. Meyer, supra note 14, at 303-04.
There are several good reasons to start with secondary sources. If the research topic encompasses multiple primary law sources, for example cases, statutes, and regulations, one would have to research in at least three different primary sources to find relevant authority in each category. A secondary source on the issue would cite to the relevant primary authority in one publication, whatever the type. With a secondary source, someone else has already done the work of identifying the relevant information.

Secondary authority also aids the researcher in understanding the issue being researched by providing analysis and explanation. Instead of having to read a number of cases to deduce a general rule, or examine several sections of a statute to find the controlling text, a researcher who uses a secondary source will have the rule or statute identified and explained.

B. What Researchers Can Do

There are numerous secondary sources that are excellent starting points for legal research. Annotated codes comprise both primary (state or federal statutes) and secondary (annotations) authority and are a good place to begin research that has—or might have—a statutory component.Annotations give the researcher “references to relevant judicial or administrative decisions, administrative code sections, encyclopedias, attorney general opinions, legislative history materials, law reviews, and treatises.” Annotated codes are especially useful for finding judicial decisions because the cases decided under a given statute are ar-

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20 See OLSON & BERRING, supra note 17, at 107 (“Don’t burden yourself with re-compiling materials that have already been brought together.”).
21 Id. at 96 (describing “the beloved ‘let someone else do the work for you’ rule.”);
see also MARCI B. HOFFMAN & ROBERT C. BERRING, INTERNATIONAL LEGAL RESEARCH IN A NUTSHELL 20 (2008) (“One of the most important tenets of carrying out efficient legal research is to find someone who has done the work for you.”).
22 COHEN & OLSON, supra note 19, at 15-16.
23 See OLSON & BERRING, supra note 17, at 82 (“It is easy to find information with a statute in hand, using the annotated code.”).
24 BERRING & EDINGER, supra note 5, at 123.
ranged by topic and include a brief summary of the issue addressed by the court.

*Legal encyclopedias* are a good place to start for topics without statutory components because case law will figure more prominently in the research. Legal encyclopedias are, like other encyclopedias, arranged alphabetically by subject, and for each subject “simply state general propositions of law, with introductory explanations.” Legal encyclopedias are helpful as a starting point because they can provide an overview of an issue, supply important vocabulary associated with the issue, and identify leading cases.

*Law review articles* provide in-depth analysis and usually have extensive footnotes, which can be an excellent source for references to primary and secondary authority.

*Legal treatises,* like law review articles, can provide analysis and explanation, along with references to primary and secondary authority. They can be multi- or single-volume works and range in focus from scholarly to self-help. Some treatises are specifically geared to practicing lawyers and are a good source for “practical guidance, forms, checklists, and other time-saving aids.” While some of these

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25 See COHEN & OLSON, supra note 19, at 41 (“Legal encyclopedias tend to emphasize case law and neglect statutes and regulations . . . .”); id at 42 (“Their extensive citations to judicial decisions give encyclopedias their major legal research value.”).
26 Id. at 45.
27 BARKAN ET AL., supra note 5, at 317.
28 See BARKAN ET AL., supra note 5, at 343 (“[The legal periodicals’] value lies in the depth to which they analyze and criticize a particular topic and the extent of their footnote references to other sources.”); OLSON & BERRING, supra note 17, at 91 (“In addition, one can turn to the footnotes [in law review articles] to find citations to relevant cases, statutes, administrative rules and regulations, legislative histories and any other primary or secondary documentation that has a relationship to the matter at hand.”).
29 See BARKAN ET AL., supra note 5, at 371-72 (describing four types of treatises: “critical, interpretive, or expository,” “student textbooks,” “practitioner-oriented books,” and “law for the general public”).
30 Id. at 372.
practice-oriented treatises are national in scope, those that are particular to an attorney’s jurisdiction can be more helpful.31

There are several tools that can be indispensable for doing multi-state research, which would otherwise be a labor-intensive endeavor.32 The National Survey of State Laws33 summarizes state laws, with citations to statutes, regulations, and constitutions, in fifty subject areas. It is available in print and on Westlaw in the SURVEYS database. LexisNexis gives citations to state statutes and regulations in thirty topic areas in its 50 State Surveys, Legislation & Regulations database. References to these resources, and many others, can be found in Subject Compilations of State Laws: An Annotated Bibliography,34 an annual publication that points to “articles, books, government documents, looseleaf services, court opinions, and websites that compare state laws on hundreds of subjects.”35 These tools should be the starting point for any researcher doing comparative multi-state research as they epitomize “the beloved ‘let someone else do the work for you’ rule.”36

31 See BERRING & EDINGER, supra note 5, at 323.
34 CAROL BOAST & CHERYL RAE NYBERG, SUBJECT COMPILATIONS OF STATE LAWS: AN ANNOTATED BIBLIOGRAPHY (1986).
35 BARKAN ET AL., supra note 5, at 205-06.
36 See OLSON & BERRING, supra note 17, at 96.
III. RESEARCH TIP: USE LIBRARY CATALOGS AND INDEXES TO IDENTIFY AND LOCATE RELEVANT RESOURCES

A. What Librarians Do

Librarians use the term bibliographic control to refer to “the organization of library materials to facilitate discovery, management, identification, and access.”\(^{37}\) Bibliographic control “is an activity basic to librarianship.”\(^{38}\)

The goal of bibliographic control is to organize a library’s resources so that they can be identified and located.\(^{39}\) Librarians’ understanding of bibliographic control aids them in identifying and locating legal information.

Library users are familiar with some of the components of bibliographic control, even if they do not recognize the term. The way books are given call numbers and arranged on a library’s shelves is part of bibliographic control; as is a catalog record, which shows a book’s title, author, and call number.

When one has a citation to a known item—for example a case, statute, regulation, treatise, or law review article—the goal is to locate the full text of the item in a library or through the library’s resources. When beginning research on an issue—without a citation in hand—the need is to identify items (cases, treatises, etc.) that address that issue. Bibliographic control can help with both tasks.

Most legal research projects involve trying to find relevant primary authority on a given issue of law. A researcher with access to computer-assisted legal research (CALR) tools like Westlaw and LexisNexis might be tempted to begin the research by running searches in full text databases of legal materials. While this can


\(^{38}\) Prudence Ward Dalrymple, Bibliographic Control, Organization of Information, and Search Strategies, in Reference and Information Services: An Introduction, supra note 6, at 55, 55.

\(^{39}\) Id. at 56.
sometimes be an effective way to find relevant items,

there are times when the research can be most efficiently started by using two of the main tools of bibliographic control: catalogs and indexes.

1. Catalogs

As mentioned above, a treatise can be a useful secondary source for beginning a legal research project. Library catalogs are a useful tool for finding relevant treatises.

By searching a given library’s online public access catalog (OPAC), one can identify items available in that library’s collection.

See Barbara Bintliff, Electronic Resources or Print Resources: Some Observations on Where to Search, 14 PERSP.: TEACHING LEGAL RES. AND WRITING 23 (2005) (describing seven situations in which electronic research should be preferred over print); Paul Douglas Callister, Beyond Training: Law Librarianship’s Quest for the Pedagogy of Legal Research Education, 95 LAW LIBR. J. 7, 40 (2003) (“[A]s a general rule, known item searches work better in electronic databases with full-text searching of primary legal sources.”); Barbara Bintliff, From Creativity to Computerese: Thinking Like a Lawyer in the Computer Age, 88 LAW LIBR. J. 338 (1996) (suggesting that CALR is better for finding cases with similar facts and is not suited to finding concepts and rules); but see Lee F. Peoples, The Death of the Digest and the Pitfalls of Electronic Research: What Is the Modern Legal Researcher to Do?, 97 LAW LIBR. J. 661 (2005) (finding in a study of 26 law students doing research using print digests and electronic resources that participants had slightly more success finding cases with similar fact patterns when using print digests and finding cases that applied legal rules with full-text terms and connectors searching).

See Ian Gallacher, Forty-Two: The Hitchhiker’s Guide to Teaching Legal Research to the Google Generation, 39 AKRON L. REV. 151, 182 (2006) (“Although print-based legal research tools, with their pre-indexed research modality, have some conceptual limitations, they still possess some advantages over the freer interface offered by LexisNexis and Westlaw.” (footnote omitted)); Joan Shear, The Librarian as Educator: Teaching Essential Research Skills, in INSIDE THE MINDS: THE CHANGING ROLE OF ACADEMIC LAW LIBRARIANSHIP: LEADING LIBRARIANS ON TEACHING LEGAL RESEARCH SKILLS, RESPONDING TO EMERGING TECHNOLOGIES, AND ADAPTING TO CHANGING TRENDS 89, 93 (Eddie Fournier ed., 2008) (“Another problem with keyword searches is that the search engines on LexisNexis and Westlaw can’t tell the difference between the various unrelated meanings associated with a particular word. They can only locate instances of particular words, and don’t always capture the context.”).
WorldCat, a free online union catalog, gives researchers the ability to search more broadly and identify items in the collections of thousands of libraries around the world.  

A library catalog is composed of bibliographic records that describe the items in a library’s collection. There is a record for each item in the collection, whether it is a treatise, periodical, code set, DVD, or some other type of research material. The record is divided into numerous fields, for example author, publisher, and call number. When librarians use a catalog to identify items related to a given issue, they focus on the title, contents, and subject fields.

As its name suggests, the title field contains the title of the item. The contents field will not appear in every catalog record, but when present for a treatise it typically lists the treatise’s table of contents or chapter headings. The title and contents fields are created by a cataloger using the same text used in the title and table of contents of a treatise.

The subject field is different. While the concepts expressed in the subject field are based on the topic(s) covered in the treatise, the words and phrases used do not come from the treatise itself but from a controlled list. The list used by most law libraries is that of “subject headings established by the Library of Congress,” which is called the “Library of Congress Subject Headings,” or LCSH.

The primary advantage to using a controlled list for subjects is uniformity. Because catalogers can only select words or phrases from the LCSH, items in a catalog on the same topic will have the same subjects. Without a controlled list, for example, books on drunk driving might be cataloged by different catalogers with subjects like drunk driving, drunken driving, driving while intoxicated, DWI, driving under the influence, or DUI. Under the LCSH, only drunk driving would be used.

Because subject headings are uniform, and because books on the same topic should have the same subject headings, librarians use the

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43 BARKAN ET AL., supra note 5, at 373.
44 The list appears in the multivolume set of LIBRARY OF CONGRESS SUBJECT HEADINGS, which is published annually.
subject fields from one relevant treatise to identify other relevant treatises—a technique referred to as citation pearl growing.\(^{45}\) By running additional searches with search terms that appear in the subject headings of relevant books, additional books on the same topic can be found in the catalog.

For example, a librarian might run an OPAC search for *driving while intoxicated* and find a relevant treatise. Looking at the bibliographic record for the treatise, the librarian would see that the term *drunk driving*—not *driving while intoxicated*—is used in the subject headings. The librarian could then search for *drunk driving* to identify additional relevant treatises.

Another way a librarian might use a known item in a catalog to find other items on the same topic is with a call number. The call number provides the address where an item is located within a library\(^ {46}\) and is essential to retrieving the physical item. Because call numbers are created based on the topic of an item, they can be used to find other items on that topic.

Just as most law libraries use Library of Congress Subject Headings, most law libraries also use Library of Congress Classification (LCC). Libraries use classification to “provide[] formal, orderly access to the shelves.”\(^ {47}\) “[T]he purpose of classification is to bring related items together in a helpful sequence from the general to the specific.”\(^ {48}\)

The first half of a call number classifies an item\(^ {49}\) so that it will be located on the shelf with related items. The second half of the call number is unique to the item and defines where among the related items it can be found.\(^ {50}\)

\(^{45}\) *See* Dalrymple, *supra* note 38, at 74-75.


\(^{47}\) Arlene G. Taylor, *Introduction to Cataloging and Classification* 391 (10th ed. 2006).

\(^{48}\) *Id.*

\(^{49}\) This first half of a call number “contains a mixed notation of one to three letters, followed by one to four integers, and possibly a short decimal.” *Id.* at 444.

\(^{50}\) *Id.*
Because related items are grouped together, librarians can find a known item on the shelf and browse the items close by it to identify additional resources. Furthermore, a call number search in the library catalog allows librarians to browse nearby items electronically.

2. Indexes

“Index means ‘to point to.’ Indexes ‘point to’ information located somewhere else . . . .” Librarians use print indexes because sometimes it is easier to find legal materials if a research tool points to them, rather than having to search for the materials themselves. A good index can be an especially useful tool because it will point to the same material in several ways (i.e., the same material will be indexed under more than one entry); use cross-references to direct the user to similar or related terms; be structured in a way that gives context to the terms used; and help the user find material based on the concept covered and not the specific words used.

As an example, consider a research project that involves finding a state’s drunk driving law—a potentially difficult task because each state has a different way of expressing the idea of drunk driving, most without using that term. For instance, to convey the concept of driving, the statute might use driving, a variant like drive, or a synonym like operating. For the concept of drunk, the statute might use influence, intoxicated, or impaired. Many states use multiple variants and synonyms for drunk and driving in the same statute.

To conduct a successful search on Westlaw or LexisNexis, one would either need to know the specific terms used in the state statute

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51 Dalrymple, supra note 38, at 60.
or construct a search that covers all possible word combinations. The search might look like this: driv! or operat! /s influence! or in-toxicat! or impair!. An alternative would be to use an annotated code, which several librarians have noted usually have very good print indexes. A researcher looking for the Massachusetts drunk driving statute has two annotated code options: Annotated Laws of Massachusetts (published by LexisNexis) and Massachusetts General Laws Annotated (published by West). The print index of either can be used to easily find the drunk driving statute without knowing what words appear in the statute to express the idea of drunk driving.

In the General Index to Annotated Laws of Massachusetts, there is an entry for “DRUNKEN DRIVING” with citations to four rele-

59 Both LexisNexis and Westlaw have features (“Suggest terms for my search” and “Thesaurus,” respectively) that recommend additional search terms. Westlaw seems to only offer synonyms, while LexisNexis offers synonyms and word variants.

60 This is a terms and connectors search in which the root expander—an exclamation mark (!) on both Westlaw and LexisNexis—finds any word that starts with the given letters and has any or no additional characters. Searching for operat! will return operate, operates, operating, and operations. The /s means the search words must appear within the same sentence.

An alternative would be to do a natural language search, which is an option on both Westlaw and LexisNexis. On both systems, this type of search does not appear to look for synonyms, although Westlaw does appear to look for word variants. A natural language search for drunk driving returned results with the words drunk, drunken, drank, drinks, drinking, driving, drive, driven, and drove on Westlaw, but just drunk and driving in LexisNexis. Neither system searched for synonyms like operate, influence, or impair.

61 BERRING & EDINGER, supra note 5, at 124 (“Most annotated codes feature good general indexes at the end of the set.”); OLSON & BERRING, supra note 17, at 95 (“Annotated codes tend to have outstanding natural language indexes.”). Cf. Olivia Leigh Weeks, We Are in the Business of Service: Serving Students and Faculty in an Academic Law Library, in INSIDE THE MINDS: THE CHANGING ROLE OF ACADEMIC LAW LIBRARIANSHIP: LEADING LIBRARIANS ON TEACHING LEGAL RESEARCH SKILLS, RESPONDING TO EMERGING TECHNOLOGIES, AND ADAPTING TO CHANGING TRENDS, supra note 41, at 125, 127 (“It is much easier to go to the shelf and pull the index to a state code, look in the index, and then go to the provision than it is to go online and find the same information.”).
vant statutes. In addition, there is a cross-reference that directs the user to “See DRIVING WHILE UNDER INFLUENCE OF ALCOHOL OR DRUGS.”

Under “DRIVING WHILE UNDER INFLUENCE OF ALCOHOL OR DRUGS,” there are citations to the same four statutes referenced under “DRUNKEN DRIVING” as well as fifty sub-entries (specific issues related to driving under the influence) ranging from “Aftercare programs, temporary release for” to “Victims of drunk driving trust fund.”

It is also possible to get the citations to the relevant statutes by looking in the index under “ALCOHOLISM AND INTOXICATION,” with the sub-entry “Driving while under influence of alcohol or drugs,” and “DWI.” In addition, there are cross-references to “DRIVING WHILE UNDER INFLUENCE OF ALCOHOL OR DRUGS” under the “ALCOHOLIC LIQUORS” sub-entry “Driving while under influence of alcohol” and the “MOTOR VEHICLES” sub-entries “Alcohol” and “Drunken driving.”

The index to Massachusetts General Laws Annotated also gives numerous ways to find the drunk driving statute through multiple entries and cross-references. Although there is no entry for “drunk driving,” relevant citations can be found under “TRAFFIC RULES AND REGULATIONS” sub-entry “Driving while under the influence of alcohol or drugs,” and under “MOTOR VEHICLES” sub-entry “Fines and penalties” sub-entry “Driving while intoxicated,” and cross-references appear under “DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS,” “MOTOR

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63 Id.
64 Id. at 698-99.
65 Id. at 162.
66 Id. at 709.
67 Id. at 154.
68 MASS. ANN. LAWS, General Index E to O, p. 653 (LexisNexis 2009).
69 Id. at 656.
70 MASS. GEN. LAWS ANN., General Index L to Z, p. 1401 (West 2009).
71 Id. at 347.
72 MASS. GEN. LAWS ANN., General Index A to K, p. 1012 (West 2009).
VEHICLES” under sub-entry “Driving while under the influence of alcohol or drugs,”73 and “ALCOHOLICS AND INTOXICATED PERSONS” under sub-entry “Driving while under the influence of alcohol or drugs.”74

This simple example shows how useful a print index can be because of its use of common terminology, numerous entry points, and multiple cross-references.75

Another area where indexes can be especially useful is finding law review articles. Law review articles can be very long, sometimes over one hundred pages.76 Full-text searches on Westlaw, LexisNexis, or HeinOnline must be carefully constructed so that the words being searched are closely related within an article and not separated by dozens of paragraphs or pages. At the same time, even a narrowly constructed search can return articles that mention the concept being searched without going into any detail about the subject and are primarily about a different legal issue.

Another issue to keep in mind is coverage. Westlaw and LexisNexis typically only have full text availability back to the early to mid-1980s77 and do not include all law journals. Fewer law reviews are included in the HeinOnline Law Journal Library; however, the site typically has greater retrospective coverage, usually back to the first issue, although sometimes with delays in making recent issues available.78

Law review indexes address all these issues. The indexes classify articles by their subjects, making it possible to identify articles pri-

75 See Berring & Edinger, supra note 5, at 124 n.7 (A print index is “often easier than logging on to a commercial online service and doing a keyword search for your statute. This is because an editor has already given some thought to the use of synonyms.”).
77 Sloan, supra note 5, at 50.
78 Cohen & Olson, supra note 19, at 57.
arily about a given legal issue. They cover some journals not available in full text on Westlaw, LexisNexis, or HeinOnline, and when used in combination, the major law review indexes cover articles published from 1786 to the present.79

One downside to indexes is that they give the citation to articles, not the full text, which must then be located. If one uses a law review index on Westlaw or LexisNexis, links are provided from index entries to those articles that are available in full text. Similarly, there are versions of both LegalTrac and Index to Legal Periodicals that include full text of selected articles.80 For articles that are not available in full text through these sources, HeinOnline is an excellent resource, especially for older articles not available on Westlaw or LexisNexis.81

When electronic full text of an article is not available, WorldCat can be used to find the nearest library that subscribes to the journal. Although WorldCat does include entries for some articles, it is better to search for the title of the journal in which the article is published.82 This first requires determining the title of the journal based on the abbreviation used in the citation, for which there are several good resources.83 Once you find the journal, the citation will lead you to the article.

To illustrate the advantages of an index, consider the Legal Resource Index, a Westlaw/LexisNexis version of the Current Law Index, which is also available online as the LegalTrac database.84 The

79 BARKAN ET AL., supra note 5, at 352-54 (explaining that the major indexes and their coverage periods are Jones & Chipman’s Index to Legal Periodicals (1786-1937), Index to Legal Periodicals & Books (1908-present (sub nom. Index to Legal Periodicals from 1908-1994)), and Current Law Index (1980-present)).
80 SLOAN, supra note 5, at 38.
81 COHEN & OLSON, supra note 19, at 57.
82 For example, given the law review citation “Jessica Silbey, Patterns of Courtroom Justice, 28 J.L. Soc’y 97 (2001),” one would do a title search for “Journal of Law in Society”—not “Patterns of Courtroom Justice.”
83 See MARY MILES PRINCE, BIEBER’S DICTIONARY OF LEGAL ABBREVIATIONS (Prince’s 5th ed. 2001); THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (Columbia Law Review Ass’n et al. eds., 18th ed. 2005); Cardiff Index to Legal Abbreviations, http://www.legalabbrevs.cardiff.ac.uk/ (last visited Oct. 18, 2009).
84 See BARKAN ET AL., supra note 5, at 353-54 (explaining the small differences
same terms and connectors searches run in both the Legal Resource Index database and JLR database (full-text articles law review and journal articles) on Westlaw can produce dramatically different results.

To find articles on the issue of mandatory arbitration in employment contracts, one might search in the JLR database for mandatory /2 arbitration /s contract /3 employment.85 Even though this is a fairly narrow search, with all the search words in close proximity to each other, 417 documents are found.86 While some of the articles in the results list have in-depth discussions of mandatory arbitration in employment contracts,87 most do not treat the issue in any detail. In the Legal Resource Index database, however, the same search returns eighteen hits, all of which are highly relevant to the topic.88

Because the search was narrowly constructed with the terms in close proximity to each other, it is possible that relevant articles were not included in the results because the specific requirements of the search were not met. A very broad search like mandatory & arbitration & contract & employment can identify these articles, but creates the risk that more irrelevant articles will infiltrate the search results.

Running this broad search in the JLR database returns 10,000 documents,89 far too many to be useful. The same broad search in the Legal Resource Index database, however, returns fifty-three docu-

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85 This search will return documents in which the word “mandatory” appears within two words of the word “arbitration” and within the same sentence in which the word “contract” (or “contracts”—since Westlaw automatically searches for plurals) appears within three words of the word “employment.” One could search for the phrases “mandatory arbitration” and “employment contract” in the same sentence, but then the results would not include documents where these concepts—but not exact phrases—appear. For example, the author might use “mandatory binding arbitration” or “contract for employment.”

86 Westlaw, JLR database search (July 10, 2009).


88 Westlaw, LRI database search (July 10, 2009).

89 Westlaw, JLR database search (July 10, 2009).
ments, more than the narrow search but not many to review. Importantly, this search identifies several highly relevant articles that were not included in the more narrowly-focused search. Exploring why the second search identified these articles will illustrate another key benefit to using an index.

Consider one of the articles identified in the broad search—but not the narrow—of the *Legal Resource Index*: *Too Many Arbitrators Do Spoil the Soup: NLRB Charges Filed by Non-Unionized Employees Should Not Be Subject to Mandatory Pre-Dispute Arbitration Agreements.* Two of the search terms, mandatory and arbitration, appear in the title of article. The other two search terms, employment and contract, appear in the descriptors field.

The descriptors field in the *Legal Research Index* is similar to the subject field of the library catalog. The field is populated with terms that describe the topic(s) of the article, which are selected by an indexer from a controlled list. As a result, articles that are primarily about a given topic can be identified in the index, even if the search words used do not appear in the article title.

More importantly, once a relevant article has been found in the index, the descriptors field can be used for citation pearl growing. By incorporating terms from the descriptors field for a known relevant article, other articles on the same topic can be identified.

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90 Westlaw, LRI database search (July 10, 2009).
92 As mentioned above, the Legal Resource Index is, with some differences, an electronic version of the Current Law Index. See BARKAN ET AL. supra note 84 and accompanying text. According to the Current Law Index, “Subject headings are assigned by indexers from a controlled list. The list is based on Library of Congress Subject Headings, modified where headings are unsuited to periodical indexing or do not conform to current terminology.” 29 CURRENT LAW INDEX pt. A, v (2008).
93 See Dalrymple, *supra* note 45, and accompanying text.
B. What Researchers Can Do

Researchers looking for a treatise should search their library’s OPAC or WorldCat. They should run keyword searches, which look in the title, contents, and subject (and other) fields. When the record for a treatise that appears to be relevant is found, the researcher should review the subject headings to identify additional search terms that can be used in a new keyword search. The researcher can also use the call number to find related items, either by going to the shelves and browsing, or by searching the catalog using the known call number.

If keyword searching returns too many results, researchers should try to limit their keyword search to the title field alone. This will reduce the number of results and improve their quality, because a treatise with a researcher’s search words in its title is likely to be highly relevant.

Note that a title keyword search, which looks for the search words anywhere in the title of an item, is different than a title search, which searches for items with a title that begins with the exact terms searched. For example, a title keyword search for “Massachusetts drunk driving” would find any item in the catalog with those three words anywhere in the title, in any order. A title search for “Massachusetts drunk driving” would only find an item if those exact words, in that order, were the first three words of the title.

Researchers looking for statutes should consider using the print indexes to annotated codes instead of searching full-text databases. A researcher using a print index will often save time because of the work done by the indexers in creating multiple access points, adding cross-references, and arranging the index in a way that gives context to the entries.

Similarly, instead of searching full-text databases for law review articles, researchers should consider using law review indexes. These indexes include articles not available on Westlaw or LexisNexis. The entries are much shorter than full-text articles and have added value like descriptors, which allow them to be searched more efficiently.
IV. RESEARCH TIP: ASK FOR HELP

A. What Librarians Do

In spite of their excellent research skills, there are times when librarians are not able to find an answer to a patron’s question. But that does not always mean the patron is out of luck because librarians know when to ask for help.

In 1988, Olson and Berring wrote that “[t]here is an ancient but valuable chestnut from library school reference classes that the telephone is the most important reference tool.” The telephone is still an important tool, as is e-mail. In addition, librarians might talk to a colleague when their own research fails to turn up an answer.

B. What Researchers Can Do

Researchers who need help getting started, or hit a road-block in their research, should not be afraid to ask for help. There are many places they can turn.

Researchers can ask a librarian for assistance. Current law students should contact their law school’s reference librarians. Practicing lawyers at firms with librarians should start there; otherwise, see

95 Olson & Berring, supra note 17, at 107.
96 See Amy Hale-Janek, Pushing the Limits of PR: How to Handle Animals in the Library and Comply with the Americans with Disabilities Act, AALL.SPECTRUM, March 2009, at 15 (describing the author’s telephone call to the the Disability Rights Section of the U.S. Department of Justice when she was unable to find standards for service animals).
97 See Whisner, supra note 94, at 586 (suggesting asking questions on listservs).
98 Id. at 586; see also Olson & Berring, supra note 17, at 107 (“Don’t hesitate to pick up the telephone and call someone who may be able to help you: a colleague who is a specialist in the subject area of your search . . . .”).
100 Hook, supra note 32, at 373 (“Lawyers should be . . . quick to turn to their law firm’s librarian for assistance with research.”).
they can try contacting the library at their law school alma mater,\(^{101}\) a
public law school,\(^ {102}\) or a state court.\(^{103}\) Many librarians help patrons
in person, over the telephone, via e-mail, or even through live online chats.\(^{104}\)

Students might also consider contacting a professor at their school who teaches or publishes on the research topic.\(^{105}\) Some professors may be more willing than others to help, but “[m]any knowledgeable people like to share information, especially when asked.”\(^{106}\)

Another option for practicing attorneys is to talk to other attorneys with expertise in the area being researched.\(^{107}\) Attorneys who work in firms might talk to more experienced colleagues within that firm.\(^{108}\) Sole practitioners might contact other attorneys in their office building,\(^{109}\) attorneys in practice-related organizations in which they are members,\(^{110}\) or even attorneys who previously acted as opposing counsel.\(^{111}\)

\(^{101}\) \textit{Id.} (“Within reason, most schools will do their best to assist an alumnus.”).

\(^{102}\) \textit{Id.} (suggesting that Illinois attorneys “Call one of Illinois’ public law school libraries”).

\(^{103}\) \textit{Id.} (suggesting a call to the Illinois Supreme Court Library).

\(^{104}\) Mary Whisner, \textit{The Pajama Way of Research}, 99 LAW LIBR. J. 847, 849 (2007) (“Even if a student wants to stay home, she can still get help from us via e-mail, chat, or telephone.”); Charles R. Dyer, \textit{The Queen of Chula Vista: Stories of Self-Represented Litigants and a Call for Using Cognitive Linguistics to Work with Them}, 99 LAW LIBR. J. 717, 741 n.60 (2007) (“Many librarians also will accept reference questions via telephone, e-mail, or immediate contact methods variously called ‘virtual reference’ or ‘live reference,’ but basically all using sophisticated chat room software.”); see also American Association of Law Libraries State, Court and County Law Libraries Special Interest Section, \textit{Standards for Appellate Court Libraries and State Law Libraries}, 98 LAW LIBR. J. 189, 193 (2006) (proposing that libraries adopt policies that allow patrons to “ask for assistance in person, as well as by telephone, mail, fax, or e-mail”).

\(^{105}\) See Jarrett & Whisner, \textit{supra} note 16, at 76.

\(^{106}\) \textit{Id.}


\(^{108}\) Lihosit, \textit{supra} note 107, at 172.

\(^{109}\) See \textit{id.} (noting that attorneys with offices in the same building would consult “about basic procedural issues, such as those dealing with the preparation of standard discovery instruments or motions”).

\(^{110}\) See \textit{id.} at 172-73 (describing how attorneys in the California Appellate Defense

Electronic copy available at: https://ssrn.com/abstract=1651315
V. CONCLUSION

Because of their experience and training, law librarians are excellent researchers. The research tips described in this article are some of the techniques they use to make their research more efficient and effective. By following these tips, law students, law professors, and practicing attorneys can begin to think like a librarian and become better legal researchers.

Counsel assisted one another).  

111 See id. at 172.