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The purpose of this paper is to examine policies in academic law libraries related to the line between research advice and the practice of law. It contains a content analysis of policies taken from law library websites and categorizes them based on substance, length, and location. It concludes with a list of best practices for policies that protect the library from ethical or legal violations while still providing the most service possible to patrons.

Headings:

Public Services (Libraries)

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Law Libraries – Reference Services

UNAUTHORIZED PRACTICE OF LAW POLICIES IN ACADEMIC LAW
LIBRARIES

by
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Part One: Introduction

You are a law librarian at a local law school. It's a Friday afternoon, and you are staffing the reference desk at the front of the library. You have a law degree and are an expert in legal research, but you have not taken the state bar and are not a licensed attorney.

A patron approaches the desk and begins speaking to you. They are facing eviction, but unable to afford a lawyer. So, they are doing their own legal research to find an argument for the judge that they shouldn't be evicted. They've asked you about the eviction laws in your state, where to find more information about court procedure, and what you think they should do next.

Which of those questions do you answer, and how? What answers to those questions would be practicing law and which would be giving legal advice? This is a common dilemma for law librarians. Balancing the mission to help patrons without crossing any ethical—or potentially legal—limits can be challenging. Further complicating this situation is that different librarians on the same staff may handle the above hypothetical in different ways.

One tool to help law libraries navigate these situations is written policies on legal advice. These policies, normally publicly posted on the library's website, help establish

uniformity among the staff. They can also help the law librarian deal with difficult patron interactions in the moment.¹

But these policies should not be taken lightly. Over years of use, these policies could materially affect the assistance hundreds—or even thousands—of patrons receive with their legal problems. Drawn too broadly, the librarians might behave unethically or even illegally. Drawn too narrowly, and the law library may be underserving the patrons who most urgently need their help.

This paper analyzes the results of a content analysis of 25 law library’s publicly posted policies on the unauthorized practice of law. The analysis includes data on the length and location of these policies. It will then use this data to continue the vibrant discussion on what these policies should seek to accomplish and highlight some best practices informed from the dataset.

Part Two: Literature Review:

For insight on these reference policies, there are three relevant types of resources: (1) official laws and state bar regulations; (2) guidance from professional organizations like the American Law Library Association; and (3) research and writing on the subject by law librarians in law reviews and other academic journals.

1.1 The Legal Landscape and Professional Rules of Conduct

¹ As anybody who has worked in a public facing position can tell you, sometimes pointing to your organization’s policy and saying “it’s out of my hands” is the best way to diffuse angry patrons or customers.

Under U.S. law, each state regulates lawyers under its police power. This means that each state, through legislation and judicial rulings, establishes its own rules for legal ethics. In practice, all states have adopted a version of the American Bar Association's Model Rules of Professional Conduct (MRPC).

Section 5.5 of the MRPC deals with unauthorized practice of law, and applies to law librarians whether or not they are bar-certified. It states the following:

*“(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.
(b) A lawyer who is not admitted to practice in this jurisdiction shall not:
(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or
(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.”*

Comment two of this rule provides more detail:

“The definition of the practice of law is established by law and varies from one jurisdiction to another. Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. This Rule does not prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so long as the lawyer supervises the delegated work and retains responsibility for their work.”

The rule, generally, is vague on what exactly practicing law means. State laws are more specific. As an example, NC Gen. Stat. § 84-2.1 defines the practice of law in North Carolina:

“The phrase ‘practice law’ . . . is defined to be performing any legal service for any other person, firm or corporation, with or without compensation, specifically including the preparation or aiding in the preparation of deeds, mortgages, wills, trust instruments, inventories, accounts or reports of guardians, trustees, administrators or executors, or preparing or aiding in the preparation of any petitions or orders in any probate or court proceeding; abstracting or passing upon titles, the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi-judicial bodies, or assisting by advice, counsel, or otherwise in any legal work; and to advise or give opinion upon the legal rights of any person, firm or corporation.”

1.2 Profession-Specific Guidance

The primary professional body for law librarians is the American Association of Law Libraries (AALL). The AALL has a published list of ethical principles, the first three of which are relevant to this topic:

1. *We promote open, equitable, and effective access to legal and related information. We devise, implement, and improve methods for its access, preservation, discovery, and retrieval.*
2. *We create and implement service policies for the protection of patron confidentiality, privacy, and personal data.*
3. *We provide comprehensive information services using appropriate available resources and implement programs consistent with our employer's mission and goals. We recognize the duty to avoid the unauthorized practice of law.²*

“Unauthorized practice of law” is not defined further in any official AALL policy.³

1.3 Prior Research and Writing on Unauthorized Practice of Law

The unauthorized practice of law has seen a lot of research interest in the field of law librarianship. Over time, two distinct camps have developed.

The first group are pessimistic that a law librarian can provide much help to a pro-se patron without violating legal or ethical guidelines. They define “practicing law” quite broadly, to include simple tasks like suggesting relevant resources, or even hearing pro-se patrons’ legal problems.⁴ They usually recommend minimal contact with pro-se patrons at the law library.⁵

² AALL, *AALL Ethical Principles* (August 30 2019) <https://www.aallnet.org/about-us/what-we-do/policies/public-policies/aall-ethical-principles/>.

³ *Id.*

⁴ Robin K. Mills, Reference Service vs. Legal Advice: Is It Possible to Draw the Line?, 72 *Law Library Journal* 179 (1979).

⁵ *Id.*

This line of thinking can be traced back to a 1976 article titled, “*Library Malpractice: Could It Happen to You?*”⁶ This famously alarmist article created a fictional news story of a reference librarian being sued for malpractice.⁷ Despite having no evidentiary basis, this piece spoke to a fear many librarians have of going too far at the reference desk.

Since that article, this view has been fleshed out in law librarian academic journals, even though no librarians have ever been sued in court for malpractice. The stakes for law librarians, this group says, are higher because of the strict rules surrounding unauthorized practice of law.

The most extreme advocates of this approach recommend a relationship with pro-se patrons bordering on hostile. Recommended tactics include dissuading patrons from telling their story⁸ and refusing to define legal terms.⁹ Some have even concluded reference librarians should refuse to assist pro-se patrons altogether.¹⁰

A counter view has emerged on the other end of the spectrum. To this group, law librarians should have basically no fear they will face legal liability. Ethically speaking, they recommend a more hands on reference approach, with the goal of helping pro-se patrons as much as possible with their research. This group would define practicing law

⁶ Allan Angoff, *Library Malpractice Suit: Could It Happen to You?*, 7 *American Lib.* 489 (1976).

⁷ *Id.*

⁸ Larry D. Richmond, Jr., *The Pro Se Patron: An Ethical Rather than Legal Dilemma*, 22 *Legal Reference Servs. Q.* 75 (2003).

⁹ Peter C. Schanck, *Unauthorized Practice of Law and the Legal Reference Librarian*, 72 *Law Library Journal* 57 (1979).

¹⁰ C.C. Kirkwood & Tim J. Watts, *Legal Reference Service: Duties v. Liabilities*, *Legal Reference Servs. Q.* 67 (1983).

more narrowly, limiting it to actions like filling out legal forms and giving explicit legal advice like “you should make this affirmative defense in your brief.”¹¹

These librarians believe fears of potential legal liability are unfounded. Paul Healey, one of the most zealous advocates of this view, persuasively argues that a combination of lack of legal duty of care, and basic common sense, will shield law librarians from legal liability: “Unless librarians hold themselves out as experts on the particular topic at hand, it is hard to see how they assume responsibility for anything other than trying to connect patrons with the information they seek.”¹² As long as the law librarian makes reasonably clear to pro-se patrons that they are not their lawyer, no duty of care is given by the law librarian.¹³

Similarly, some librarians advocate shifting the profession’s focus away from illegality. Instead of focusing on what librarians should do to avoid hypothetical liability (that has never come to pass) they should simply try to provide the best service possible.¹⁴ This view might even consider a strict separation to be actively harmful: “it seems as if the chasm between reference work performed by librarian-lawyers and legal

¹¹ Robert H. Abrams & Donald J. Dunn, *The Law Library’s Institutional Response to the Pro Se Patron: A Post-Faretta Review*, 1 W. New Eng. L. Rev. 47 (1978).

¹² Paul D. Healey, *Chicken Little at the Reference Desk: The Myth of Librarian Liability*, 87 Law Libr. J. 515 (1995); see also Paul D. Healey, *Pro Se Users, Reference Liability, and the Unauthorized Practice of Law: Twenty-Five Selected Readings*, 94 Law Lib. J. 1 (2002); Paul D. Healey, *In Search of the Delicate Balance: Legal and Ethical Questions in Assisting the Pro Se Patron*, 90 Law Libr. J. 129 (1998); Paul D. Healey, *Pro Se Users, Reference Liability, and the Unauthorized Practice of Law: Twenty-Five Selected Readings*, 94 Law Lib. J. 1 (2002).

¹³ See Healey, *Chicken Little at the Reference Desk*, supra note 12.

¹⁴ See Randy Diamond & Martha Dragich, *Professionalism in Librarianship: Shifting the Focus from Malpractice to Good Practice*, 49 Libr. Trends 395 (2001).

advice given by lawyers is an imaginary one that benefits the legal profession by protecting the profession's claimed turf of legal elucidation."¹⁵

The vigorous debate on this issue speaks to the importance of a clear, well-written reference policy that strikes a balance between legality, ethics, and effectiveness.

1.4 Prior Data Collection on Law library Reference Policies

Compared to the ethical debate, less has been written on the composition of law library reference policies. However, there is one relevant previous study:

Artie Berns and Corrine Vogel collected all the academic law library reference policies they could find online.¹⁶ They ranked the policies on a 1-5 scale based on clarity and how easy-to-find the policy was using the following factors: "public access information, reference scope, reference disclaimer, and language used."¹⁷

Because they had two researchers on this project, they used "an initial sample group to see whether [their] rankings were similar. Where there were variations [they] clarified [their] criteria to ensure standardized rankings."¹⁸

Following their data collection, they put together the following list of best practices: (1) the policy should be within two clicks of a library's home page; (2) the

¹⁵ Maria E. Protti, *Dispensing Law at the Front Lines: Ethical Dilemmas in Law Librarianship*, 40 *Libr. Trends* 234, 239 (1991).

¹⁶ Artie Berns & Corrine Vogel, *Tell It to the World (Wide Web): Promulgating Academic Law Library Pro Se Patron Policies via the Internet*, *AALL Spectrum*, Apr. 2015, at 29.

¹⁷ *Id.* at 30.

¹⁸ *Id.*

policy should be labeled with clear, non-legal terms; (3) it should make public access of the library clear; and (4) it should clearly state the scope of reference services.¹⁹

1.5 Implications

This study seeks to improve the writing and implementation of law library reference policies related to avoiding the practice of law. These policies are essential to structuring law librarians' interactions with pro se patrons, who are often in desperate need of legal information or legal help generally. These policies, if too broad, might lead to ethical or unlawful behavior. But, if they are too severe, they may lead to the unnecessary restriction of valuable aid and information to patrons.

It's also important for these policies to be written clearly and helpfully, so that patrons can have a better understanding of the law libraries' role in their research and legal problem.

This study aims to help these goals through a rigorous evaluation of the policies, as well as their accessibility on the website. It also seeks to compare these policies to clarify if there is uniformity among the policies.

Part Three: Research Questions

- What boundaries do policies set between giving research advice and giving legal advice?
- How is this boundary communicated in the reference policy?
- Where can these reference policies be found?

¹⁹ *Id.* at

Part Four: Methods

1.6 Overview of Methods

This project is a collection and analysis of law libraries' written reference policies. Using a content analysis framework, I analyzed and compared the written reference policies of academic law libraries – specifically, their stated policy about giving research advice and giving legal advice. Following this collection and analysis of policies, I drew conclusions about broader trends, as well as any shortcomings or areas of improvement for these policies, with an eye towards law libraries being as helpful as possible for their pro-se patrons.

This project has used the Grounded Theory Method of coding (Strauss and Corbin) to compare these policies.²⁰ (See: “Data Analysis/Evaluation Methods” section).

1.7 Eligibility Criteria

The reference policies were taken from a purposive sample of 25 public Academic Law Libraries in the United States.

Purposive sampling is the deliberate choice of a participant due to the qualities the participant possesses.²¹ It is “used to select respondents that are most likely to yield

²⁰ See “Data Analysis and Evaluation Methods” section for more.

²¹ Ilker Etikan *et al.*, *Comparison of Convenience Sampling and Purposive Sampling*, 5 American Journal of Theoretical and Applied Statistics 1 (2015).

appropriate and useful information”²² and a way of identifying and selecting cases that will use limited research resources effectively.²³

Purposive sampling was appropriate for this project because law schools (and their law libraries) have identifiable distinguishing features. For example: (1) are they private or public? (2) how much tuition do they charge and how many students do they have? (3) where are they ranked among other law schools? (4) where are they located? Because of this, I was able to limit my sample to law libraries with similar missions and resources, while keeping the project within a realistic scope.

For this project, the sample is made up of the law libraries from the top 25 public law schools in the United States. Public law schools have been chosen because they are taxpayer funded. This makes them more likely to have a public facing mission, or to consider pro se patrons a core patron base. Private law schools, on the other hand, are less likely to be accessible to the public, and less likely to be giving out research advice to those outside of their university community on a regular basis. The top 25 schools have been chosen because they should have similar budgets, faculty size, and staff size. It also, for simplicities sake, gave me an ordered list to go through when finding the policies.

²² Steve Campbell et al., *Purposive Sampling: Complex or Simple?*, 25 *Journal of Research in Nursing* 652, 654 (2020) (citing Susan E. Kelly, *Qualitative interviewing techniques and styles*, in *The Sage Handbook of Qualitative Methods in Health Research* 307, 317 (2010).

²³ Lawrence A. Palinkas et al., *Purposeful sampling for qualitative data collection and analysis in mixed method implementation research*, 42 *Administration and Policy in Mental Health and Mental Health Services Research* 533 (2015).

The sample used the most recent U.S. News “2022 Best Law Schools” ranking that was released on March 29th, 2021.²⁴ This is the most relied upon ranking in the legal community. The U.S. News ranking is also a helpful, ordered list of schools to base the sample on. In the case that a school didn’t have a relevant policy on their website, I simply went to the next school on the list until I collected 25 policies.

1.8 Data Collection

The data collection for this study followed a uniform process.

The first step in my data collection was to visit the chosen law library’s website. Most law libraries have a policy page on their website or have their reference policy stated on their reference contact page. I browsed the website until I found the relevant policy. I also continued to search the websites until all potentially relevant locations had been checked just in case there were multiple policies or an area of the website with a more detailed policy.

If a policy was not listed anywhere on the library website, I listed the school as having no publicly available policy and moved on to the next school in the ranking. This was only necessary a handful of times in the entire course of the study.

1.9 Data Management

First, none of the data I collected in this study is sensitive or tied to any individual. As such, extra protective measures were not necessary.

I compiled my data in a Microsoft Excel sheet organized in this fashion:

²⁴ US News, *2022 Best Law Schools*, <https://www.usnews.com/best-graduate-schools/top-law-schools/law-rankings>.

School	US News Rank	Location	Policy	Word Count / Type of Policy
John Doe Law School				“...“
Jane Doe Law School				“...”

1.10 Data Analysis/Evaluation Methods

This project used the Grounded Theory Method (GTM) of coding to analyze the selected reference policies.

GTM, as laid out by Barney Glaser and Anselm Strauss, is a flexible approach to data coding.²⁵ It advocates for the researcher to follow-the-data, while still following a clear methodological framework: “The pluralistic nature of GTM [does not] mean that researchers can do pretty much whatever they want...there are certain principles about which grounded theory proponents concur and as long as these principles are kept in mind, the details of the procedure can be modified to suit a researcher’s needs.”²⁶

²⁵ Anselm Strauss & J.M. Corbin, *Grounded Theory in Practice* (1997).

²⁶ Ralph Larossa, *Grounded theory methods and qualitative family research*, 67 *Journal of Marriage and Family* 837, 840 (2005).

This process is deductive, “focusing on generating theory from collected data.”²⁷

The GMT method has been laid out in the following steps: Data collection and analysis, open coding, axial coding, selective coding, theory development, and construction meaning.²⁸

Open Coding, the first level, is “identifying distinct concepts and themes for categorization.”²⁹ It is the “process of breaking down, examining, comparing, conceptualizing, and categorizing data.”³⁰ Here, I analyzed the selected policies for similar words, phrases, concept indicators, and broad thematic domains.³¹

Axial Coding “further refines, aligns, and categorizes the themes.”³² Data are “put back together in new ways after open coding, by making connections between categories. This is done by utilizing a coding paradigm involving conditions, context . . . strategies and consequences.”³³ At this stage, I refined the data into distinct thematic categories using constant comparison and “line-by-line” coding.³⁴

Selective Coding enables the researcher to “select and integrate categories of organized data from axial coding in cohesive and meaning-filled expressions”³⁵ and fill in

²⁷ Michael Williams & Tami Moser, *The Art of Coding and Thematic Exploration in Qualitative Research*, 15 *International Management Review* 45 (2019).

²⁸ Michael Williams & Tami Moser, *The Art of Coding and Thematic Exploration in Qualitative Research*, 15 *International Management Review* 45 (2019).

²⁹ *Id.* at 48.

³⁰ Anselm Strauss & J.M. Corbin, *Basics of Qualitative Research*, 61 (1990).

³¹ See Strauss, *supra* note 25 at 841.

³² Williams, *supra* note 27 at 50.

³³ Strauss, *supra* note 25

³⁴ Williams, *supra* note 27 at 51.

³⁵ *Id.* at 52.

categories that need further refinement and development.³⁶ Here is where I established the story of the data and began to make sense of my findings.

Overall, my goal was to use GTM theory to be flexible while maintaining a consistent methodology throughout the data analysis process.

Finally, a brief positionality statement. I am currently one of the graduate assistants at the UNC-Chapel Hill Katherine R. Everett Law Library. As part of my job, I am part of the team that staffs the reference desk on a weekly basis. As such, I am an “insider” in the field of law librarianship and am approaching this project from that perspective. My firsthand experience at the reference desk may make me more likely to understand a less-clear reference policy. Generally, I won’t be able to read the policies as someone walking into a law library for the first time would.

Further, I am also a law student at UNC Chapel-Hill, who has worked in the legal field as an intern at a federal public defender’s office. So, I am also approaching this project from the perspective of a law student, and someone with a greater-than-average knowledge of the American legal system. I am not, however, a law school graduate or a member of the bar. This may color my perspective because I’m more likely to understand legal terms or have a greater awareness of unauthorized practice of law rules that a pro-se patron might not have.

Part Five: Results

³⁶ Anselm Strauss, *Qualitative Analysis for Social Scientists* (1987).

Now, we will turn to the results of the study. Practice of law policies, despite their differences, can be categorized in two camps I call “minimalist” and “explanatory” policies.

This section will begin with an analysis of the location of the practice of law policies on the website. Next, it will provide some empirical data on the length of the examined reference policies. Finally, it will provide a content analysis of the examined practice of law policies by categorizing them into two categories: (1) minimalist; and (2) explanatory.

The full list of results is compiled in Appendix A.

1.11 Location of Practice of Law Policies

Of the 32 schools that I ended up analyzing, 27 had a practice of law policy publicly accessible on their library website. Their specific locations were:

- “Services” page – 10
- “Reference Services” page – 7
- “Policies” page – 5
- Located in a research guide – 3
- “Catalog Search” page – 1
- Home page – 1
- “Library Visitors” page – 1

Most policies are located on either the services or reference services page.

Another sizable number are located on the “policies” page.

1.12 Length of Practice of Law Policies

The length of the analyzed practice of law policies are summarized below:

- *Average word count:* 104
- *Median word count:* 62
- *Range:* 13-329

1.13 Minimalist Policies

Minimalist policies are brief and without much detail. They are between one and two sentences long and are almost always part of a broader page on the website rather than being placed on their own page. They do not typically provide any explanation for why this policy is in place, or link to other resources.

Here are some examples of these policies:

- **University of Minnesota:** “Reference librarians cannot give legal advice or interpretations of the law. Please consult an attorney for assistance.”
- **University of North Carolina-Chapel Hill:** “Please note that law the librarians are not permitted to give legal advice.”
- **University of Arizona:** “While the Reference Librarians and others can assist you with locating and using printed and online sources available in the law library, they cannot provide legal advice on specific legal problems.”

1.14 Explanatory Policies

Explanatory policies are typically longer in scope and may even get their own dedicated page or policy document on the website. However, some explanatory policies are only a sentence or two longer than most minimalist policies.

The primary distinguishing factor between explanatory and minimalist policies are that explanatory policies provide examples and/or justifications for why the library needs to have this policy. They are also more likely to provide further legal aid resources following the policy.

Here are some examples of explanatory policies from the dataset:

Arizona State University:

Our Reference librarians are experts in legal research methodology and are available to answer questions from the public about how to do legal research; however, the librarians cannot do research for others, nor may they answer questions about the law or provide legal advice. If you need to find out what the law is, we encourage you to come into the Law Library where you will have access to the books and computers to conduct your own research. When you come in, we will show you where to find the materials you need and how to use them.

Examples of questions that we CAN answer

- Suggest specific books, journals, databases, websites or other resources that might be appropriate to your research topic.
- Show you how a particular books or databases are organized and indexed.
- Help verify a citation or that we own a particular book, journal, or online resource.
- Show you how to access and use the library’s catalog or the law library’s public databases.
- Show you how to determine what a legal abbreviation stands for using the [Cardiff Index To Legal Abbreviations](#).

For ethical and practical reasons, we cannot answer these types of questions:

- What is the statute of limitations for an automobile accident?
- What does this case mean?
- Which court do I go to if I want to sue my boss?
- Which form do I use, and how do I fill it out?
- Interpret or explain the meaning of any document, legal or otherwise.
- Give legal advice.
- Recommend a lawyer.
- “Update” cases, statutes, etc., or let you know if they are still good law or have been overruled

Why does the law library have these rules?

As law librarians, we are here to assist you in using and accessing the materials in the law library. Only your lawyer can interpret documents or give you legal advice. If you do need legal advice, we have a referral list of local legal resources, including free and low-cost providers.”

University of Illinois:

“How We Can Help You

Reference librarians and graduate assistants will assist patrons in selecting print or electronic resources and in using those resources. Examples of what we can do include, but are not limited to:

- Recommending a source for research on Illinois divorce law
- Helping you to find a book in the library
- Helping you to use the library’s online catalog to find a book or journal
- Suggesting alternative sources for your research

While you are welcome to contact us via telephone, our ability to provide effective service over the phone is limited. We encourage anyone seeking reference assistance to visit the library during reference hours, so that we can assist you with both print and electronic resources in the library. If you wish to call to confirm we have certain materials in our collection, please contact us at (217) 244-0614.

What We Cannot Do

While we can help you locate and use resources in the library, we cannot give legal advice or opinions. We also cannot do your research for you. The following are some examples of what reference staff cannot do:

- We will not find “The statute of limitations on X”
- We will not explain the meaning of a particular legal term or concept
- We will not read definitions or sections from legal materials over the phone
- We will not help you make your arguments in a pending or potential case, nor will we review your legal documents.
- We will not create lists of sources, organizations, attorneys, or other material for you.

University of Virginia:

“The Law Library can provide research guidance, but we cannot interpret the law or provide legal advice. We cannot, for example, find statutes applicable to a particular subject or a specific set of facts. This is an inquiry that requires you to exercise your own legal judgment. Persons needing assistance in analyzing a legal problem are advised to consult an attorney.”

1.15 Policy Types by the Numbers

While there are some clear-cut differences between minimalist and explanatory policies, the decision on how to classify a policy is ultimately a subjective decision. You could make a spectrum with “Most Explanatory” on one side and “Most Minimalist” on the other, with no clear-cut categorization. However, the scope of this project best lended itself to a simpler binary categorization. Refer to Appendix A to see which policies were classified as which type. Overall, in the dataset there were 12 minimalist policies and 15 explanatory policies.

Part Six: Discussion

1.16 Website Location – Does it Matter?

It can be tricky to decide where to place the reference policy on the website. There can be no unified practice because library websites vary wildly in how they are organized. In this dataset, the majority were placed in either the “services” or “policies” section of the library website. In general, most policies were in the general “public services” areas of the website, except for a few outliers.

The goal should be to have the policy wherever it will be seen most by the relevant patrons. Some policies required a fair bit of finding, and it would be unlikely that a patron would find the policy unless they were specifically looking for it.

1.17 Pros and Cons – Minimalist Policies

Bigger is not necessarily better. There are advantages to keeping a policy short and sweet.

Mainly, it leaves more flexibility for reference librarians at the reference desk. It is difficult to account for all reference questions in a single policy and leaving the policy short and ambiguous allows reference librarians to refer to the policy as a justification for not helping a patron with their question, but not be hamstrung if the policy is not helpful in context. For example, a patron may read an example of what the library “can help” with in the practice of law policy and incorrectly think that is what they are asking, when they are really asking for legal advice. This situation would be arguably easier to navigate if the policy had not tried to give specific examples.

Second, a patron is more likely to read the whole policy if it is concise. Some of the longer explanatory policies take up a whole webpage on their own, and it is possible that patrons will either skim or skip reading the policy.

Third, it makes the policy easier to draft and revise. Law libraries are not typically flush with extra time, and a reference policy should ideally be drafted as a group or with group input. The process for creating a longer explanatory policy with relevant examples may take much longer than a shorter minimalist policy. Longer policies may also require more frequent editing.

There are some downsides to a minimalist policy. The most obvious one is that a public patron may not understand what counts as giving legal advice. This may lead them to either incorrectly think the library can help them with their problem, or incorrectly think the library *can't* help with their problem. Minimalist policies may also come across as less helpful than explanatory policies and may make patrons feel less welcome in the library. Finally, minimalist policies may lead to individual reference librarians drawing very different lines on what counts as legal advice and result in the library team not

acting in unison. This could also lead to certain librarians going “too far” and unethically practicing law.

1.18 Pros and Cons – Explanatory Policies

Explanatory policies come with their own set of upsides and downsides.

First, the policies that give examples and explanations are more likely to be understood by patrons. Arizona State’s policy, for example, provides a detailed list of what they can and can’t do. This should give any patrons who are unsure of the role of a law library more clarity about the assistance they can expect when coming into the library.

Second, the process of writing out a detailed policy may help the reference team clarify what they are and are not comfortable with. This will lead to more consistency with patrons and may help improve the amount of assistance given, rather than having an ambiguous policy and acting with a lot of caution.

The downsides of explanatory policies were revealed by the upsides of minimalist ones. Longer, detailed policies require much more time and effort to create, can be restricting to librarians because they don’t have the context of individual problems, and may overwhelm patrons with their length and detail. Explanatory policies also may require more space on the website and may be harder to fit in to a page that isn’t just about the line between research and practicing law.

1.19 Best Practices

1.19.1.1 A. Provide Examples, Even Brief Ones

A library interested in maintaining a broader, more flexible policy can still include at least a short example in its policy to help patrons understand what “practicing law” entails. For example, the University of Virginia’s policy states “[w]e cannot, for example, find statutes applicable to a particular subject or a specific set of facts.” That adds only a short sentence to their policy and isn’t restricting but might be enough to provide some clarity to a confused patron.

1.19.1.2 B. For longer policies, link to a Separate Policy Page

Longer policies can take up too much space on the webpage. One solution is to host the policy document as a separate page, and then simply link to the page when necessary. This way, you can briefly state the policy and link to the longer, example driven policy for patrons who may need it. This also helps with the next best practice:

C. Provide the Link to the Policy Page Multiple Times on the Website

It can be tricky to find the “perfect” spot for the policy on a library website. But keep in mind that there is no rule that your policy can only appear once. It’s unlikely that any one patron will see every page on the website, so stating it multiple times or whenever it is relevant can help the information spread.

1.19.1.3 Provide Local Legal Aid Resources after the Policy

Some of the policies immediately follow their policy with links to legal aid resources. This is an excellent idea for two reasons: (1) it can help patrons who are negatively affected by the policy; and (2) it immediately reestablishes the library as a place that helps patrons with their problems rather than turns them away.

Conclusion

The goal of this study was to collect and analyze law library policies about the line between practicing law and giving research advice, with the goal of improving public patron clarity about what services law libraries can provide. Two policy types emerged from this analysis: minimalist and explanatory policies. Minimalist policies are short and very broad, providing little detail or explanation for why law librarians can't practice law. Explanatory policies are longer, less flexible, and more difficult to draft, but provide more detail and clarity on what the law library can and cannot do.

This paper has examined the pros and cons to each type of policy, but what is most important when creating a policy is the goal: to maximize service to patrons. Any library setting about drafting or revising a practice of law policy should do so with clear goals. What services can the library provide? What services are reference librarians comfortable providing to pro se patrons with legal problems?

Once that is decided, libraries should follow the best practices provided in this study: providing examples, linking to a separate policy page, providing the link to the policy in multiple places on the website, and providing local legal aid resources at the end of the policy. Law libraries should make revisions of their practice of law policies a priority to improve service to the patrons most in-need of their help.

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Appendix A

School	US News Rank	Policy	Word Count:	Type of Policy
New York University	6	"Inclusion of a link to a website on this research guide should not be interpreted as an endorsement of the accuracy or currency of the material on the website. Moreover, no information in this research guide should be interpreted as legal advice."	42	Minimalist
University of Virginia	8	"The Law Library can provide research guidance, but we cannot interpret the law or provide legal advice. We cannot, for example, find statutes applicable to a particular subject or a specific set of facts. This is an inquiry that requires you to exercise your own legal judgment. Persons needing assistance in analyzing a legal problem are advised to consult an attorney."	61	Explanatory
University of California-Berkley	9	As librarians, we can help you find legal information that will help you answer your question. If we do not have the information, we may be able to direct you to a place to find answers. We are not attorneys so cannot provide legal advice such as helping you fill out forms or interpreting the law. We have compiled this guide to help direct you to resources for legal advice with an emphasis on free and low-cost alternatives."	79	Explanatory

University of Michigan-Ann Arbor	10	<p>What Librarians Can Do For You Library Staff Can:</p> <p>Help you locate specific resources or categories in the catalog. Instruct you on how to use the law library resources for your research. Direct you to a list of legal assistance organizations that may be relevant to your research.</p> <p>Library Staff Cannot:</p> <p>Give legal advice or opinions. Do legal research for you. Tell you which forms you may need or where to file them. Check out library materials to a member of the public. For questions about using the library as a member of the public, give us a call at (734) 764-9324.</p>	103	Explanatory
		<p>The University of Michigan Law Library cannot provide legal advice. Drafting/editing documents, filling out forms, representing someone in court, or providing any advice on a legal matter—including identifying relevant laws or cases—are some of the activities that may count as providing legal advice.</p> <p>We can, however, connect you with many resources, including some free and low-cost options.</p>	61	Explanatory
University of California-Los Angeles	14	Reference Librarians are available within the library to help you locate specific titles and identify and use appropriate legal sources, as well as, provide a general overview of the law library's information systems, services, and collection. In addition, they can often advise you on appropriate research strategies, including advice on the use of electronic resources, such as the	69	Minimalist

		Internet and any of the databases subscribed to by the Library.		
		Disclaimer: the UCLA Law Library does not endorse or warrant the services provided by any of the groups, organizations, or offices listed below. The UCLA Law Library also does not warrant the accuracy of the information provided on this list. The information is provided merely as a service to the community.	69	
University of Texas-Austin	16	Reference librarians at Tarlton's Reference Desk are available to help patrons locate information and to provide assistance in legal research methodology. However, they do not perform research for patrons and may not provide substantive legal advice or interpret legal materials for the benefit of patrons.	45	Minimalist
University of Florida	21	Reference librarians can help you use the Legal Information Center and recommend resources to you, but reference librarians cannot provide you with legal advice or conduct research for you. If you need someone who will research and interpret the law for you, you should talk to an attorney. We have a list of free and low-cost legal services and referral services. Attorney Referrals A research guide providing details on resources available for pro se patrons including local and statewide attorney referral services.	62	Minimalist
University of Minnesota	22	Reference librarians cannot give legal advice or interpretations of the law.	17	Minimalist

		Please consult an attorney for assistance.		
University of North Carolina-Chapel Hill	24	"Please note that law the librarians are not permitted to give legal advice. In addition, many questions require detailed research in the library and are not within the scope of this service"	13	Minimalist
Arizona State University	25	<p>Our Reference librarians are experts in legal research methodology and are available to answer questions from the public about how to do legal research; however, the librarians cannot do research for others, nor may they answer questions about the law or provide legal advice. If you need to find out what the law is, we encourage you to come into the Law Library where you will have access to the books and computers to conduct your own research. When you come in, we will show you where to find the materials you need and how to use them.</p> <p>Examples of questions that we CAN answer</p> <p>Suggest specific books, journals, databases, websites or other resources that might be appropriate to your research topic.</p> <p>Show you how a particular books or databases are organized and indexed.</p> <p>Help verify a citation or that we own a particular book, journal, or online resource.</p> <p>Show you how to access and use the library's catalog or the law library's public databases.</p> <p>Show you how to determine what a legal abbreviation stands for using the Cardiff Index To Legal Abbreviations.</p> <p>For ethical and practical reasons we cannot answer these types of</p>	329	Explanatory

		<p>questions:</p> <p>What is the statute of limitations for an automobile accident?</p> <p>What does this case mean?</p> <p>Which court do I go to if I want to sue my boss?</p> <p>Which form do I use, and how do I fill it out?</p> <p>Interpret or explain the meaning of any document, legal or otherwise.</p> <p>Give legal advice.</p> <p>Recommend a lawyer.</p> <p>"Update" cases, statutes, etc., or let you know if they are still good law or have been overruled.</p> <p>Telephone and Email Reference</p> <p>What we will do for you over the phone is limited by the above guidelines and staff availability.</p> <p>Also, because of licensing restrictions, we cannot do searches of our subscription databases for people who call or email. We can assist you to use these databases when you are in the library.</p> <p>Due to the volume, nature, or frequency of research questions, we may request that you come into the library to conduct your research. Our email and phone services are intended to provide information to patrons who have occasional questions regarding legal research rather than to substitute for patrons doing their own research.</p> <p>Why does the law library have these rules?</p> <p>As law librarians, we are here to assist you in using and accessing the materials in the law library. Only your lawyer can interpret documents or give you legal advice. If you do need legal advice, we have a referral</p>		
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		list of local legal resources, including free and low-cost providers.		
University of Alabama	25	The Reference Librarians' primary role is instructional. They can provide directional assistance and offer one-on-one assistance in using legal research tools. We cannot provide legal advice. It is the policy of this library that staff will not do anything which might be interpreted as the unauthorized practice of law. Whether or not the answer to a question would qualify as the unauthorized practice of law is at the discretion of the reference librarian.	75	Minimalist

University of Georgia	27	<p>The Reference Desk is located at the front entrance to the library. Members of the Reference Team are law school and library school graduates. The Reference Desk is also staffed by other professional law librarians and skilled Research Assistants. They are available to assist with any question related to use of the Law Library, location of materials, or research strategy. Reference staff cannot give legal advice.</p>	27	Minimalist
University of Illinois-Urbana-Champaign	29	<p>Reference services are provided by reference librarians and library graduate assistants. Reference librarians have both law and library science degrees, are members of the University Library faculty, and often have practice experience. Graduate assistants at the reference desk have law degrees and are currently enrolled in the Graduate School of Library and Information Science.</p> <p>LIBRARY STAFF DIRECTORY</p> <p>HOW WE CAN HELP YOU Reference librarians and graduate assistants will assist patrons in selecting print or electronic resources and in using those resources. Examples of what we can do include, but are not limited to:</p> <ul style="list-style-type: none"> Recommending a source for research on Illinois divorce law Helping you to find a book in the library Helping you to use the library's online catalog to find a book or journal Suggesting alternative sources for your research <p>While you are welcome to contact us via telephone, our ability to provide</p>	291	Explanatory

		<p>effective service over the phone is limited. We encourage anyone seeking reference assistance to visit the library during reference hours, so that we can assist you with both print and electronic resources in the library. If you wish to call to confirm we have certain materials in our collection, please contact us at (217) 244-0614.</p> <p>WHAT WE CANNOT DO While we can help you locate and use resources in the library, we cannot give legal advice or opinions. We also cannot do your research for you. The following are some examples of what reference staff cannot do:</p> <p>We will not find “The statute of limitations on X” We will not explain the meaning of a particular legal term or concept We will not read definitions or sections from legal materials over the phone We will not help you make your arguments in a pending or potential case, nor will we review your legal documents. We will not create lists of sources, organizations, attorneys, or other material for you.</p> <p>LOCAL ATTORNEYS AND SELF-REPRESENTING PATRONS We do have a variety of Illinois-specific resources that will be of interest to local attorneys and those seeking to represent themselves in a legal matter. These include:</p> <p>Illinois Compiled Statutes Illinois Jurisprudence Illinois Continuing Education guides (IICLEs) General Public</p>		
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		<p>Standard references services are available to all members of the public. Reference librarians and graduate assistants will assist patrons in selecting print or electronic resources and in the use of those resources.</p>		
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University of Iowa	29	<p>While the needs of the University of Iowa law students, faculty, and staff are first priority, the reference librarians also assist students, faculty and staff campus-wide, as well as members of Iowa government, attorneys, and members of the general public.</p> <p>Reference Librarians may:</p> <ul style="list-style-type: none"> help patrons locate Law Library resources instruct patrons in the use of library materials and electronic resources suggest appropriate resources and research strategies look up readily available information, such as legal citation verifications, addresses, or telephone numbers assist patrons with locating resources not found in the law library collection refer patrons to other libraries or institutions for materials <p>Reference Librarians are not allowed to:</p> <ul style="list-style-type: none"> conduct legal research on patron's behalf interpret the law provide legal advice read statutes, cases, court rules, or definitions over the phone confirm that resources currently are on the shelf and available to use <p>For more information regarding reference services, proceed to the policy on Legal Research and Legal Advice.</p>	117	Explanatory
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		<p>Reference librarians primarily serve the College of Law's students, faculty, and staff. Reference librarians also help attorneys and the general public, as time permits. However, reference librarians are not allowed to do research for public users, and may not give them legal advice. Public users are responsible for their own research.</p> <p>Legal research is complicated and time-intensive. Simple questions can require complex analysis. Researching law, applying law to specific facts, and advising clients must be done by a licensed attorney meeting all Iowa State Bar requirements for operating a legal practice. Our reference librarians are highly qualified legal professionals, but they are not practicing attorneys.</p> <p>Reference Librarians will locate legal resources and demonstrate their use. However, reference librarians are not allowed to conduct public users' research, nor may reference librarians analyze or interpret information found in library resources. In addition, reference librarians may recommend resources for finding an attorney, but are not allowed to recommend specific attorneys to public users.</p>	161	Explanatory
University of Wisconsin-Madison	29	<p>As with all of our reference services, we cannot interpret the law as it applies to specific facts or explain the substantive content of statutes and case law. Our assistance does not constitute legal advice.</p> <p>For more information, check out our Reference Services Policy on our Policies page.</p>	48	Explanatory

	<p>As librarians, we cannot provide legal advice or interpretation of the law because to do so would be considered the unauthorized practice of law, which is illegal. If you need someone who will research and interpret the law for you, consider talking to an attorney. For information on identifying and locating attorneys, please consult our Low Cost Legal Resources in Dane County Guide. The Wisconsin State Bar Lawyer Referral and Information Service, Findlaw, Justia, and Martindale.com are other options.</p> <p>We encourage you to come into the Law Library where you may access books and databases in order to conduct your own research. If you cannot visit the Law Library, many resources including laws, cases, regulations and articles are now available on free, reliable Internet websites. See our Wisconsin Legal Information Sources Guide as a starting point for locating state legal resources. Many local public libraries also have the current Wisconsin Statutes in print.</p> <p>Finally, we often are asked if the Law School offers services where people can get help with their legal questions. The University of Wisconsin Law School has numerous clinics through which law students obtain practical experience in delivering legal services. Whether these clinics can assist you will depend on your particular situation or problem, their current caseload, and the time of year (the clinics typically operate only when classes are in session). Most clinics do not take walk-in clients. The Reference</p>	174	Explanatory
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		Librarians will refer you to the appropriate clinic whenever it is feasible.		
University of California-Davis	35	Reference Librarians are available to assist in locating print and online resources through the Mabie Law Library. Librarians can also provide research tips, but are not able to give legal advice or to do legal research on demand.	21	Minimalist
University of California-Irvine	35	N/A		
Ohio State University	40	The Reference Librarians can assist you in locating information in the collection or outside of the Library. They can help you use specific resources. However, they cannot give you legal advice or provide an interpretation of any legal document, or read definitions of legal terms or parts of legal documents over the phone. Reference Librarians staff the Reference Desk on the second floor of the Law Library and also may be contacted by telephone at (614) 292-9463 or by e-mail at lawlibref@osu.edu.	53	Explanatory

Indiana University-Bloomington	43	<p>Highly trained reference librarians are available to assist with research projects or questions. They can help locate information, develop research strategies, and identify appropriate sources, both print and digital.</p> <p>Reference librarians cannot give legal advice, but can direct you to materials that may help you answer your legal questions. The Colleen K. Pauwels Reference Office is located in Room 105 of the Jerome Hall Law Library, directly across the lobby from the library entrance. For in-depth questions, please schedule an appointment with one of our reference librarians in advance.</p>	49	Minimalist
University of Utah	43	<p>The Ask a Librarian reference service is available to assist with questions about the collection, to help find specific legal materials, or to set up a research strategy. We will do our best to get back to you in 1-2 business days.</p> <p>DISCLAIMER: Reference librarians cannot perform research for patrons or give legal advice or interpretations of the law; please consult an attorney who is engaged in the practice of law for such help.</p>	32	Minimalist

University of Washington	45	<p>The Gallagher Law Library is open to the public as well as to the UW community and you are welcome to visit us in person to use our legal resources and materials.</p> <p>If you need help identifying and finding legal resources, you can speak to library staff at the Info Desk, located on floor L1 (the first lower level) of William H. Gates Hall. We are open Monday through Friday, closed on the weekends. You can find our hours here. Note: Because of the COVID-19 crisis, the library is closed to all visitors. We are not sure when we will reopen. We are following guidance from the Governor and UW administration.</p> <p>You may also reach us by phone at (206) 543-6794 or by email via our Ask Us! service. Please allow a 24-48 hour turnaround time for questions asked via this service.</p> <p>Library staff provide legal research assistance; that is, we can direct you to resources that you can use to find answers to your legal research questions. We cannot tell you what law applies to your situation or give you legal advice. For similar reasons, it is our policy not to read legal materials over the phone or email the text of legal resources via our Ask Us! service. If you cannot come into the law library, you might want to use our fee-based Copy & Send Service. Many Federal and Washington State laws, cases, and regulations are available for free online, as described in Researching a Legal Issue. Note that the law on many subjects (family law, inheritance and wills, real estate, etc.</p>	269	Explanatory
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		<p>varies from state to state. We cannot answer questions dealing with states other than Washington or countries other than the United States. Visit lawhelp.org for links to free or low-cost providers and information for U.S. states other than Washington.</p> <p>Common examples of questions library staff cannot answer:</p> <p>What does this legal phrase/word mean? What statute or law applies in my situation? Could you find and explain this case to me? Can you help me fill out this form or tell me if I have filled it in correctly?</p> <p>How a library staff member might help you instead:</p> <p>Where would I learn what this legal term means? How do I find which law applies in my situation? Is there a book or article that talks about this case? Do you have a sample of this form that I could look at or copy?</p>		
University of Arizona	46	<p>Reference Librarians, Law Library Fellows, and circulation staff are available to assist campus faculty, staff, and students, the local bar, and the general public with locating materials and conducting legal research.</p> <p>While the Reference Librarians and others can assist you with locating and using printed and online sources available in the law library, they cannot provide legal advice on specific legal problems.</p>	31	Minimalist

Florida State University	48	N/A		
University of Colorado-Boulder	48	<p>Reference and Research Services The professional librarians provide reference and research assistance. Patrons can schedule an appointment or check to see if a professional librarian is on duty at the reference desk. For a current reference schedule, please consult the library hours. The reference desk phone number is 303-492-3522.</p> <p>What the reference librarian CAN do for patrons: Suggest specific titles and/or areas of the collection that might be useful to consult on a particular question. Show you how a particular title or set of books is organized and indexed. Help verify a citation or that we own a particular title, or assist you in locating it at another library. Show you how to access and use the law library's catalog and public databases. Photocopy or fax material for a fee if you have a specific citation. The circulation desk takes these requests at 303-492-7534. Due to staffing limitations, this service is not available to patrons in the Boulder area. Refer you to legal assistance organizations in the area, such as Colorado Legal Services .</p> <p>What the reference librarian CANNOT do for patrons: Interpret or explain the meaning of any document, legal or otherwise. Give legal advice. Recommend a particular lawyer. Read any part of a statute, case, definition, etc. over the phone or to patrons in the library. "Update" cases, statutes, etc. or let</p>	312	Explanatory

		<p>you know if they are still good law or have been overruled.</p> <p>Tell you who has a particular book checked out.</p> <p>Help you fill in a form.</p> <p>Do legal research.</p> <p>Why does the law library have these rules?</p> <p>As law librarians, we are here to assist you in using and accessing the materials in the law library. Only your lawyer can interpret documents or give you legal advice. For the law librarians to do so would be unauthorized practice of law, which is illegal.</p> <p>If you do need legal advice, we can refer you to the University of Colorado School of Law Legal Aid and Defender Program at 303-492-8126, or a similar organization. The Boulder County Bar Association maintains a listing of local legal resources, including free and low-cost legal service providers .</p>		
University of California-Hastings	50	none		
University of Maryland (Carey)	50	Librarians are available to assist visitors with finding resources, but cannot give legal advice or answer questions concerning the interpretation of the law. See our general Guidelines for Visitor Services for more information.	33	
		Separate web page.	291	Explanatory
Texas A&M University	53	As time permits, our law librarians, experts in legal research, are available to assist law library guests in locating legal information.	71	Explanatory

		Librarians can demonstrate the use of law books and legal information sources but cannot conduct legal research for you. Nor can librarians provide legal advice, interpret the law for you or apply the law to your particular set of circumstances. If you need legal advice, you should consult an attorney.		
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