

State Law Library of Montana



Justice Building
215 North Sanders
PO Box 203004
Helena, MT 59620-3004
Phone 406-444-3660
Fax 406-444-3603

<http://www.lawlibrary.mt.gov>

SECONDARY RESOURCES RESEARCH GUIDE – FINDING BOOKS AND ARTICLES ON A PARTICULAR TOPIC

(Last Updated: September 2, 2005)

Legal Encyclopedias

A legal encyclopedia is a great place to start your research and to get a good overview of an unfamiliar topic. Because legal encyclopedias provide a multijurisdictional perspective on the “black letter law” on a topic as it exists across the nation, they are a great resource for learning the context behind an issue and for learning how other states have tackled problems that may not have been decided by the Montana Supreme Court. Like normal encyclopedias, they are multi-volume sets arranged alphabetically by topic with individual articles of varying lengths. Each article will have its own outline, which is a good way to determine whether it will be useful or not. They also have detailed subject indexes to help you pinpoint the parts of articles across topic headings that address your issue.

- *Corpus Juris Secundum* (known as “C.J.S.”)
Call #: KF154 .C6, 1st Floor
- *American Jurisprudence, 2d* (known as “Am. Jur.2d”)
Call #: KF154 .A42, 1st Floor

American Law Reports (A.L.R.)

A.L.R. articles, known as “annotations,” collect the most current information on a topic in a single place. Unlike legal encyclopedias, A.L.R. is arranged like a reporter (e.g., the Pacific Reporter) and contains the text of actual opinions. The editors select a case in a new or interesting area of law and then write an essay that discusses the points of law raised in the case by exploring related decisions from all over the country. The article is littered with footnotes, references to law review articles, and references to related treatises, which offer a good launching point for further research. The articles also provide cross-references to other annotations on similar topics. To find articles in A.L.R., use the A.L.R. Index at the end of the set. You can also use West’s A.L.R. Digest, which follows the same organization as other West Digest and key number products.

You can find the A.L.R.s, 1st through 6th Series, plus A.L.R. Fed. and A.L.R. Fed.2d on the first floor of the library at Call #: KF132 .A5 through .A6.

Restatements of the Law

The Restatements have garnered a reputation as authoritative pronouncements of the common law. Judges often cite Restatements as persuasive authority and may even adopt particular sections of the Restatements as the law of a particular jurisdiction. Restatements usually are arranged by topic in an outline form and provide the black letter rule on a particular issue followed by notes, comments, and illustrations designed to show how that rule has been applied. Restatement topics include:

Agency	KF1345 .A3 2D
Conflict of Laws	KF411 .A44 1971
Contracts	KF801.A4 A5
Foreign Relations Law of the United States	KF4651.A64 A43 1987
Judgments	KF8990.A84 A43
Law Governing Lawyers	KF730 .A74
Property, Landlord & Tenant	KF561 .A61
Property, Donative Transfers	KF561.A51
Property, Mortgages	KF561.A7
Property, Servitudes	KF561 .A8
Property, Wills and Other Donative Transfers	KF561 .A85
Restitution	KF1244 .A3
Security	KF1050 .A76
Suretyship and Guaranty	KF1045 .A43 1996
Torts, Apportionment of Liability	KF1249.A4 A461 (In Reserve)
Torts, Products Liability	KF1249.A4 A46 (In Reserve)
Trusts	KF730 .A74
Trusts, Prudent Investor Rule	KF730 .A73
Unfair Competition	KF1609 .A96

Selected Secondary Sources on Specific Topics

- Federal Practice and Procedure*** (known as “Wright and Miller”)
 - By Charles Wright and Arthur Miller
 - Call #: KF8840 .W68, in Reserve
 - This multivolume treatise is probably the most-cited secondary source out there. It provides a very scholarly treatment of federal civil, criminal, and appellate procedure, including sections on the Rules of Evidence, jurisdiction, and collateral estoppel. It is arranged by topic and, where appropriate, rule number. The various sections are comprehensive, covering the law, its history, policy considerations, and critiques. They are heavily footnoted with primary authority and other secondary authority.

- *Moore's Federal Practice* (known as "Moore's")
 By James Moore
 Call #: KF8820.A3 M66, 2nd Floor
 This multi-volume treatise covers much of the same ground as *Wright and Miller*, but from a more practical and less academic perspective. Includes a subject index and 3 separate pamphlets:
 - *Judicial Code* (U.S.C. Title 28 and Appendix)
 - *Manual for Complex Litigation*
 - *Reference Manual for Scientific Evidence*

- *Statutes and Statutory Construction* (known as "Sutherland")
 By Norman Singer, C. Dallas Sands, and J.G. Sutherland
 Call #: KF425 .S96 2000, 2nd Floor
 This 9-volume set provides extensive coverage of legislative power and procedure and statutory construction/interpretation. Provides specific examples of the application of the rules to particular areas of law. Recognized as authoritative and cited by courts across the country.

- *Uniform Laws Annotated* (known as "ULA")
 By American Law Institute & National Conference of Commissioners on Uniform State Laws
 Call #: KF165 .A5 1968, in Reserve
 This multi-volume set is organized by uniform law. Provides the text of each uniform law. Notes which states have adopted the uniform laws in some format, explains the variations from the uniform version adopted by individual jurisdictions, and includes annotations to cases decided by courts in the adopting jurisdictions. Especially helpful if Montana has adopted a uniform act, but has not interpreted a particular section yet because it provides references to resources from other states who have adopted the same or similar language. Includes uniform laws such as the U.C.C., model business codes, Uniform Probate Code, Model Penal Code, and the Model State Administrative Procedure Act, among others.

- *Substantive Criminal Law*
 By Wayne LaFave
 Call #: KF9219 .L385 2003, 2nd Floor
 This 3-volume set is organized around the Model Penal Code. It provides the elements of most common criminal offenses and shows how each state's statutes and caselaw relate to and differ from the language in the MPC. Also provides discussions of the bases of criminal law and policy issues.

- *Criminal Procedure, 2d*
By Wayne LaFave, Jerold Israel, and Nancy King
Call #: KF9619 .L34 1999, 2nd Floor
This 6-volume set leads you through the typical state court criminal case, from pre-arrest, to pre-trial, post-conviction, and appellate proceedings. Covers topics such as Miranda warnings, Sixth Amendment Right to Counsel, Double Jeopardy, and Fourth Amendment Search and Seizure jurisprudence. Special attention is paid to U.S. Supreme Court cases on these topics.
- *Search and Seizure: A Treatise on the Fourth Amendment*
By Wayne LaFave
Call #: KF9630 .L26 2004, 2nd Floor
This 6-volume treatise provides comprehensive coverage of search and seizure law, including the use of the exclusionary rule and other remedies. Discusses topics such as probable cause, search warrants, consent searches, stop and frisk situations, and investigatory searches in detail and with fact-specific examples.

Finding Other Secondary Resources – Library Catalog

The law library's catalog is available online through our website, www.lawlibrary.mt.gov. Just click on "Find a Book" in the right-hand column to enter our catalog. The law library's catalog contains individual records for all of the books, journals and law reviews, newsletters, pamphlets, audiotapes, and videos that the library owns. (Note: you will not be able to search for individual articles in law reviews or journals using the catalog; you can only find out if we own a particular issue of a particular journal, not what articles it contains. See the following section for information on searching for law review articles).

You can search our catalog records by Title, Author, Subject, or a combination of all three (a Words and Phrases search). There is also an Advanced Search feature that allows you to combine search terms across these various fields. In addition, you can also browse the catalog using these fields. This is particularly helpful if you know the first few words of the title of an item (or an author's name), and you want to see if we own it. Just click the radio button next to "Catalog Browse," enter your title words in the searchbox, and then click on the "Title" button. Note: If you do not change any of the default options, you will perform a keyword or "Words and Phrases" search of the catalog by entering words in the searchbox and then hitting Enter.

Legal subject headings can be a great way to find treatises and other practice materials on a particular topic. Keep in mind that you can always add a jurisdiction to your subject to limit the materials that you retrieve. For example, if you are interested in materials on Montana constitutional law in particular, try searching for "Constitutional Law Montana." Another good tip: if you find a book that seems to be what you are

looking for, you can find similar books by clicking on the subject term in the catalog record. Or you can click on the link on the left-hand side that says "Nearby Items on Shelf." Because the books in the law library are arranged by topic, scanning the shelves near a good book is always a great way to find other good (or even great) books on your subject.

If you cannot find what you are looking for in our catalog, please let us know. We can place interlibrary loan requests for legal materials on your behalf. Requests for copies of items can occasionally be faxed the same day; requests for books, however, can take several weeks. Loan periods are determined by the lending library. Also, we are always open to suggestions for items to add to our collection.

Law Review and Law Journal Articles

Law review and journal articles can be great resources for a number of different reasons. First, they can provide a starting place for legal research on an unfamiliar topic. They often provide a historical perspective on a topic, the current status of the law on that topic, and, perhaps, a recommendation for future changes to the law. Law review articles also often tackle the "hottest" or "newest" areas of law and, therefore, can be great resources when no mandatory authority requires the Court to take a certain position. Plus, law review articles are riddled with footnotes, which can provide a great shortcut.

To find law review and journal articles on a particular subject, you will need to use an index to these sources. The law library has subscriptions to several different law review indexes:

- ***LegalTrac – Available ONLY in Law Library***

LegalTrac is an online index of post-1980 articles from all major law reviews, legal newspapers, specialty law publications, bar association journals and thousands of law-related articles from general interest publications. LegalTrac generally provides only a citation to materials; however, some entries contain abstracts of articles and selected full-text articles are also available.

You can search articles in LegalTrac by Title, Author, Subject, and Keyword, among others. You can also search for a particular journal to see if it is indexed in LegalTrac. Because LegalTrac is an Index that includes subject headings for articles, you should be able to find more relevant articles and eliminate from your search results the many irrelevant articles that you would find doing a full-text search. In other words, you should find fewer, but better, articles. Plus, LegalTrac's coverage dates back to 1980 and pre-dates the time span that most law reviews are available on Westlaw and LexisNexis.

To search LegalTrac, double-click on the icon on the Law Library computer's desktop and then enter the password, "state_log".

- **HeinOnline – Available ONLY While Using Law Library Computer Workstations**

HeinOnline is a database that contains five collections of full-text, digitized legal resources, one of which includes older law review articles. The **Law Journal Library**: Contains full-text articles from over 650 academic legal periodicals (with licenses to work with over 1000 journals in the future), beginning with Volume 1 of each publication and working forward in time. At this time, HeinOnline is the only source for these early articles in digital format. Plus, all articles in HeinOnline are in .pdf format. As a result, each page appears exactly as it does in print format, with footnotes at the bottom of the page and with graphs, charts, and pictures in tact.

Searching in HeinOnline is somewhat limited. You can search the articles by Author, Title, or Full-Text. In addition, if you choose full-text searching, the application can be very slow because it is searching the full-text of thousands of .pdf files.

You can access HeinOnline by double-clicking on the icon on the desktop of the Law Library computer workstations. No password is necessary.

- **Westlaw LAWREV database – Available ONLY on Law Library computers and Public Access Westlaw terminals in Bozeman and Kalispell Justice Centers**

The LAWREV database contains articles from law reviews, CLE course materials, and bar journals. The coverage varies for each publication, but does not include any articles written before 1980. Full, post-1980 coverage is now available for some periodicals. However, for other law reviews, this database includes only selected works prior to 1994. The articles chosen by West were those articles that “presented pragmatic discourses on legal issues of national interest.” In other words, even if Westlaw subscribes to the journal that contains a particular article, the article itself may not be included unless it was written after 1994. Plus, you cannot be sure that you are searching every law review article or that you are retrieving every article pertinent to your topic.

You can search articles in the **LAWREV** database by Title, Author, Journal Title, and Full-Text. The articles are not indexed by subject, however. Tables, photographs, and other supplementary materials are not included.