

*Approved by the Supreme Court of Virginia
November 16, 1994
Effective November 16, 1994*

UPL Opinion No. 161.

**Assistance Provided by Non-Lawyer Library
Staff to Library Patrons.**

I am writing in response to your letter of August 20, 1992, requesting an Unauthorized Practice of Law advisory opinion dealing with the provision of assistance to law library patrons by non-lawyer library staff.

The committee has considered your inquiry at a number of its meetings and has directed me to transmit its conclusions to you.

You have indicated that a public law library, operated in Virginia by a local bar association, has adopted the Policy for Information Service ("Policy") as specified in prior UPL Opinion 152. You further indicate that, for the purposes of the Policy, all non-lawyers will be treated alike.

You have advised that neither computer assisted legal research ("CALR") assistance nor CALR retrieval services are provided to non-lawyer patrons and CALR is performed only for attorneys. All computer commands and searches are typed in by non-lawyer library staff and no library patrons are permitted to use the computer keyboards. You have also indicated that many attorneys are present while the staff run their CALR searches from prepared written forms.

Finally, you indicate that, frequently, non-lawyer student patrons, who may be employed as law clerks or summer associates and who may be spending significant time on library research, request library staff reference assistance for academic or employment purposes. Such requests are for the most part refused, pursuant to UPL Opinions 127 and 152 and the Policy.

As an initial matter, the committee does not undertake to comment on the Policy of the library, except as it relates to the issue of the unauthorized practice of law. The committee believes that the policy of each library is a matter for its governing body to decide.

As to your inquiries, the committee is of the opinion that inquiries from non-lawyers will ordinarily fall within one of three general categories.

The first category is the patron who seeks assistance in legal research for academic, historical, employment or other non-legal purposes. Since a legal opinion or advice is not being requested and the patron does not intend to use the assistance to affect his legal or constitutional rights or to advise others, provision of assistance would not constitute the unauthorized practice of law. Upon adequate verification of these purposes, such a patron may be given any assistance that the library policies permit and the staff might choose to provide, without limitation.

The second general category would be the law student, clerk, summer associate, paralegal, etc., who

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is performing legal research under the supervision of a licensed attorney. The committee is of the opinion that the supervising attorney retains the ultimate responsibility for his own work product and the accuracy of his advice. Therefore, assistance to his agent or employee would not constitute the unauthorized practice of law. Upon the library staff being satisfied that the patron is acting under the supervision of a licensed attorney, then assistance may be provided without limitation, subject of course to the policies of the library and the availability of its staff.

The third category would be inquiries from *pro se* litigants or members of the public seeking legal advice and opinion without the involvement of an attorney. The committee is of the opinion that responses to such inquiries must of necessity be limited since the patron would presumably intend to take positions or actions or advise others in a manner that would affect their legal and/or constitutional rights and which might have grave consequences.

The committee believes that, in such cases, the library staff may only respond to specific questions or requests rather than attempt to interpret the patron's need as to do more would constitute the unauthorized practice of law.

For example, if the patron sufficiently identifies a case, statute, regulation or other legal material by name, citation or other unambiguous description, the library staff may either provide the requested document or direct the patron to the place in which it might be found. This would include showing the patron how to locate the material if they are unfamiliar with the index or other locator. However, the library staff should caution such a patron that other decisions, statutes, regulations, etc., may exist that would affect or alter the effect of the material actually identified and provided. Likewise, the staff may provide CALR service if the inquiry is formulated by the patron without assistance from the staff.

The committee does not undertake to place limitations on the manner in which the material should be described since this will vary depending upon the material in question. The committee does caution that the inquiry should be specific enough that there is little or no doubt in the mind of the staff member as to what is being sought.

If the request by the non-lawyer patron is nonspecific or general in nature, the committee is of the opinion that the librarian and staff may only direct the patron to the general location of the materials and instruct the patron in the use of indexes or other finding tools. The committee does believe, however, that questions relating to the meaning of legal citations, to the extent that they will assist the patron in locating materials from indexes or citators, may be answered since this is a proper function of a library of any description.

The committee does not undertake to opine on the manner in which the library staff should undertake to verify the status of a patron. The committee believes that such verification is case specific and should be to the satisfaction of the library staff. In a small legal community, patrons may be known by name and association with specific attorneys. In a larger community, more formal means of

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identification may be required.

However, the committee cautions that verification of the status of the patron is of great importance. The provision of assistance in legal research to a *pro se* litigant or a patron seeking legal advice, either for themselves or to provide to others, is not only the unauthorized practice of law, but is fraught with peril to both the patron and to the person providing the advice if it prove incorrect or if legal rights are affected.

By issuance of this Opinion 161, the committee hereby restates and reaffirms its conclusions as stated in prior UPL Opinions cited herein, i.e., Opinions 127 (February 2, 1989) and 152 (July 2, 1991).

This opinion is based only on the facts provided and the questions posed and is subject to review by Bar Council at its next regularly scheduled meeting in accordance with Part Six: Section I: & 10(c)(iv) of the Rules of the Virginia Supreme Court. Should Council approve the Opinion, it will then be reviewed by the Supreme Court pursuant to Part Six: Section I: & 10(f)(iii).