Thank you.
As long as we have everything set, I am going to dive right in.
Example Reference Questions

1. Is it legal to open carry a loaded firearm with a concealed to carry permit?
2. My neighbors leave their children home alone all day. Isn’t that considered child abuse?
3. Are there laws that govern Reiki Energy healing?
4. Can I keep chickens in my backyard?
5. At what age is it legal to babysit?
6. I am a Minnesota resident. Can a Wisconsin resident sue me in Wisconsin small claims court?
7. My landlord doesn’t knock when he comes into our house. This morning he came at 6am and let himself in with his key to check the water heater which was repaired yesterday. Is that legal?

Read questions 1-7.

These are examples of questions we have received at my library, some more frequently than others.
Do these questions scare you?

They could look familiar, something you see everyday, or just occasionally.

Would you be able to respond if a question like this came into your library?

I hope the following information, resources, and suggestions can guide you in the future.

I will get to how I would answer those questions at the end of the presentation.
First, a bit of background.
My background:
Since graduating from SLIS, I have worked at several libraries in Madison, mostly affiliated with the State of Wisconsin government.
I am also active in library community serving on the city and system library boards.
I am a cataloger which means I love to organize.
At the Wisconsin State Law Library along with our main librarian duties, we also share time at the reference desk where we help with legal reference services.
I am part of the majority of librarians who are introverts and public service can be taxing for me.
Having training and examples to fall back on helps me provide the legal reference services necessary to my position. It is in my nature to want to help and give the best service possible.

I am not an expert. The following presentation is information I have gathered from in-library training, professional development, and several years of experience during my weekly reference shift in a law library which is open to the public. I am trying to include information that is broad enough for any type of library in the United States. However, I will have example answers associated with Wisconsin.
The Wisconsin State Law Library is the oldest library in the state. It was created to serve the needs of the territorial legislature in 1836 and became part of the judicial branch in 1876.

Our Mission as a library exists to serve the legal information needs of the officers and employees of this state, attorneys and the public by providing the highest quality of professional expertise in the selection, maintenance and use of materials, information and technology in order to facilitate equal access to the law.

In this word cloud you can see the various types of questions we have received throughout the year based on keywords.
Make sure to check out our website: wilawlibrary.gov as we have built up robust legal topic guides with resources on a variety of subjects.

The library is open to the public and all are welcome to use materials and databases in-house. Eligible library card holders are limited in general to attorneys, judges, and government employees (including librarians) and they are able to check out our materials and use some of our databases remotely.

Again, you can see the Top Topics asked for in reference help, our most popular being family law as well as state and local laws.
Access to Justice

- United States Department of Justice
  - [https://www.justice.gov/atj](https://www.justice.gov/atj)
    - Promoting Accessibility — eliminating barriers that prevent people from understanding and exercising their rights.
    - Ensuring Fairness — delivering fair and just outcomes for all parties, including those facing financial and other disadvantages.
    - Increasing Efficiency — delivering fair and just outcomes effectively, without waste or duplication.
- Wisconsin Access to Justice Commission
  - [http://wisatj.org/projects](http://wisatj.org/projects)
    - To develop and encourage means of expanding access to the civil justice system for unrepresented low-income Wisconsin residents.

And now some background to understand the idea of “access to justice.”

In access to legal information we can help provide access to justice. More people are representing themselves in court actions. These self-represented litigants, referred to as pro-se, are entering the court system, unfamiliar with legal processes. They are often distressed, worried, scared, or confused. They look to court staff and law librarians for help. However, we can not provide legal advice to these users and must remain neutral amongst the parties.

The U.S. Department of Justice established the Office for Access to Justice in March 2010 to address the access-to-justice crisis in the criminal and civil justice system. Its mission is to help the justice system efficiently deliver outcomes that are fair and accessible to all, irrespective of wealth and status. Its staff works within the Department of Justice, across federal agencies, and with state, local, and tribal justice system stakeholders to increase access to counsel and legal assistance and to improve the justice delivery systems that serve people who are unable to afford lawyers.

An example of an Access to Justice initiative at the state level is the Wisconsin Access to Justice Commission where it looks to develop and encourage means of expanding access to the civil justice system.

So similar ideas are being looked into at the state level within our circuit courts.

Great ideas, great initiative, however:

The ideas are still there but there is little to no funding and a lack of federal staffing to implement them.
To restate, one of the main reasons for the need for greater access to justice is the increasing number of self-represented or pro se individuals in the court system. People are trying to work through the system on their own, whether from lack of funds or a mistrust of attorneys.

National Center for State Courts states:

As the number of self-represented litigants in civil cases continues to grow, courts are responding by improving access to justice and making courts more user-friendly. This has not only empowered people to solve their own problems and improved the public’s trust and confidence in the courts, but has likewise benefited the courts through improved caseflow and increased quality of information presented to judges. Innovations include:

- simplifying court forms,
- providing one-on-one assistance,
- developing guides, handbooks, and instructions on how to proceed,
- offering court-sponsored legal advice,
- developing court-based self-help centers,
- collaborating with libraries and legal services,
- and using Internet technologies to increase access.

So this report details what form the assistance can take.
The most relevant part to us as librarians is the courts understanding that we are natural partners for providing assistance.
A Wisconsin report titled “Meeting the challenge of self-represented litigants in Wisconsin” goes further to detail the challenges of the self-represented. The confusing terms, the complicated rules, and a system not set up to serve the everyday citizen are emphasized.

Putting together the ideas of “access to justice” and the needs of the self-represented shows there is a need for assistance.

In general, the court system understands that libraries and librarians are part of the solution.

So what can we do to help?
Catherine Arnott Smith briefly touches on how librarians try to help in her webinar in the iSchool continuing education series from March 2015 titled *Weary of Helping: Public Libraries, Health Information, and The Affordable Care Act*:

- Answering reference questions from the public in the areas of the legal, medicine, and taxes are the most challenging for the librarian.
- We are not social workers
- No advice!
- Computer skills and access to the internet for those patrons asking the questions

We have to remind ourselves that we are not social workers and cannot fix everything. And of course, No advice! But what we are best at is assisting patrons who need help with computer skills, helping them have access to the internet, and finding resources.

So again mentioning the computer skills and information access that the National Center for State Courts pointed out in their report.

We are existing institutions already doing that type of work.
Here is a reminder of our librarian ethics from the American Library Association’s Code of Ethics.

Section I. We provide the highest level of service to all library users through appropriate and usefully organized resources; equitable service policies; equitable access; and accurate, unbiased, and courteous responses to all requests.
Taking it a step further when it comes to legal research and reference service, here is part of the American Association of Law Libraries Code of Ethics.

Most importantly:
We promote open and effective access to legal and related information. Further we recognize the need to establish methods of preserving, maintaining and retrieving legal information in many different forms.

We uphold a duty to our clientele to develop service policies that respect confidentiality and privacy.

We provide zealous service using the most appropriate resources and implementing programs consistent with our institution's mission and goals.

We acknowledge the limits on service imposed by our institutions and by the duty to avoid the unauthorized practice of law.
With that reminder of librarian ethics out of the way, what makes legal reference so difficult?

There is a line that librarians cannot cross and that is the unauthorized practice of law. **In Wisconsin: Supreme Court Rule 23.01 Definition of practice of law.**

The practice of law in Wisconsin is the application of legal principles and judgment with regard to the circumstances or objectives of another entity or person(s) where there is a client relationship of trust or reliance and which require the knowledge, judgment, and skill of a person trained as a lawyer. The practice of law includes but is not limited to:

1. Giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others for fees or other consideration.
2. Selection, drafting, or completion for another entity or person of legal documents or agreements which affect the legal rights of the other entity or person(s).

As librarians, we build trust with our patrons. We are information gatherers and patrons depend on us for fair and knowledgeable information. Sometimes the line between giving information and the practice of law is very clear and sometimes it is a blurry gray line that you are not sure you are jumping over.

According to the research I have done, there is no existing case law dealing with the unauthorized practice of law by a librarian. But no one wants to be the first. Now what can we do?
We can help by giving legal reference assistance.
Let me give you a few examples of giving legal reference assistance as a librarian versus giving legal advice.

Recommend law books versus explain how to fill in a specific form
OR
Define a legal term using legal reference tools versus offer an opinion on how the law applies to a patron
OR
Teach a patron how to search within a specific database versus interpret a legal document from a judge

As you can see there are other examples on that chart.
Here are a few things to look for when providing legal reference. Some of this comes out of a basic understanding of information literacy, but we can take it a step further within a legal reference context.

For a legitimate source:
Does it cite the law, regulation, or source instead of saying “there is a law”

Agreement between sources, are you seeing the same cite multiple times in your research?

Currency, has the law changed? Are you finding an older reference of the law?

Jurisdiction, what does it mean in your area? In law, location is key.
Legal Reference

• Suggestions
  – Reword question
  – Set expectations
  – Read directly from the source and avoid interpretation
  – Provide appropriate level of information
  – Be cautious of bias and treat the patron with respect
  – Librarians will interpret questions differently
  – “I cannot give legal advice” should not be used as an excuse not to provide service.

For a few more tangible suggestions:
During the reference interview, try to get a question out of the patron that you can answer. This becomes a problem when dealing with an email. Grab the keywords that can lead to a helpful answer.
Set the expectation to the patron by stating: “I am a librarian and can point you to information” and try to emphasize the positive of what you can do for them.
If you find a law that might answer the question, read it directly or include it in an email to the patron. Be prepared for the follow up from the patron of “but what does that mean” by explaining that you can not interpret it, tell them what it means, or what they should do next. The patron needs to take it to the next step of whether the information you provided is relevant.
The appropriate level of information could depend on the patron. Can you find a legal resource written in everyday language, such as titles from Nolo, a specific legal publisher? Or is an analytical law review article more appropriate to answer the question. In this, however, we do have to watch for bias. Enlist the patron as an ally and become a team during the reference interaction and treat the patron with respect.
Your colleagues might have a different take on a question based on their personal or professional experience. Collaborate with each other to help patrons and to learn more about legal reference.
Although legal advice should not be given, there is usually some amount of information to pass along to a patron so “I cannot give legal advice” should not be used as an excuse not to provide service.
Phrases to Use

- The law states...
- In general
- See this information from this source
- This may help answer your question
- This form is used for...
- Based on the information we have in the library...

- I am a librarian and can point you to information. I am not an attorney and can not give legal advice.
- I don’t know. Let me look into this and get back to you.
- You will need to speak to an attorney to discuss your particular situation.

Wisconsin State Law Library  wilawlibrary.gov

Phrases to Use
Legal Reference

Phrases to Avoid

- My opinion
- Should
- That means
- I predict
- If it were me

- Let me fill that out for you
- Do this... and you are set
You or your patrons may come across vendors and websites which offer legal forms - some available for download and some fillable with the help of an automated assistant. We are often asked, "I found this online. Is it legal? Can I use it?" As librarians, we cannot answer that question with a yes or no. Unless it is from a government agency or a trusted source, we cannot make guesses about whether a form is legal. Instead, we can tell the patron the types of forms we can provide - links to standard, statewide forms, links to statutory form language, copies of sample forms from our books or databases. Especially in situations where there is no standard form we will say something like, "Here are some other examples. You will need to read through them and determine on your own or with the help of an attorney if it will suit your situation."

You might also have form vendors contact you at the library to sell their form product. Some factors to consider when evaluating a vendor or resource with legal forms:
Main question being "Is it worth the money?"
Similar to those questions to ask when providing legal reference and the legitimacy of a source.
What is the Currency of the material from this vendor?
Location - are the forms tailored to your state’s courts?
Are they simply repackaging free form language, for example forms from the Wisconsin Court System or statutory language forms like the Wisconsin Basic Will?
Legal Reference

- Resources to learn more:
  - Self-Represented Litigation Network Public Library Package: #3. What Public Librarians Can Do
  - Self-Represented Litigation Network
  - LAW LIBRARIES AND ACCESS TO JUSTICE A Report of the American Association of Law Libraries Special Committee on Access to Justice
  - Legal Reference and the Unauthorized Practice of Law: A Guide for Minnesota Public Librarians
  - Case Law Research with Google Scholar (WSLL)
  - Nolo.com
- Title recommendation: Legal reference for librarians: how and where to find the answers / Paul D. Healey

With all that said, there is still more to learn. I created a small list of other online resources hyperlinked here to look into if you would like to do some more research. The slides for this presentation will be posted for you to click into later.

I included the link here to Case Law Research with Google Scholar, which is a tutorial created at the Wisconsin State Law Library to guide patrons and librarians through searching court cases using Google Scholar, a free and open tool any patron and library can use.

As well as nolo.com, the online legal resource and legal publisher with helpful legal topic articles and titles written in everyday language.

If you are looking to add one title to your professional development collection concerning legal reference, I suggest Paul Healey’s Legal reference for librarians.
Now I would like to go circle back to the initial example reference questions. What would I do to help the patron who asked it? Again, my responses are in the context of Wisconsin and each state will have different sources and responses. I am including the basic information that would be given to a patron with references hyperlinked to the online source when applicable.

In this first one, I give the reference to a specific state law. If the question came from a patron on the phone, I would read the full language so as not to take something out of context or give an interpretation. I also give a resource to a state agency, the Wisconsin Department of Justice, that handles concealed carry as well as our non-partisan state research agency detailing information on the law.
The answer I give does not discuss how the legal definitions relate to the given situation or interpret if the neighbor’s action is considered child abuse.

Instead I give the statute reference to the terms “abuse” and “neglect” in the Children’s Code chapter of the Wisconsin Statutes.

I also point the patron to more information available in our legal topic guide.
This is an example of asking about regulations of a profession.

And sometimes there is not an answer. I checked those authority sources of Wisconsin Statutes and Wisconsin Administrative Code, the next and more detailed level of the practical application of those laws, and could not find the word reiki.

As I am a helpful librarian, I want to point out where one could find other regulations about professions so I point the patron to a relevant state agency, the Wisconsin Department of Safety and Professional Services.

In the end, I turn it back to the patron to find out more by suggesting contacting the certifying organization on reiki energy healing practice for more assistance.
This question combines state regulations along with local ordinances.

The Wisconsin Department of Agriculture, Trade, and Consumer Protection has detailed guides on their website about backyard chickens, what they require, what they recommend, and further resources.

However, the ability to have backyard chickens comes down to the local municipality on whether they are allowed.

The Wisconsin State Law Library has a list of local ordinances that municipalities have placed online, however it is not a complete list as not everything is online.

If the patron provides the municipality, you can search for a chicken ordinance or have the patron contact his or her local clerk to read over the ordinances that could deal with chickens.
This is a common question at my library.

Again, as in the previous question about reiki energy healing, we do not simply state “No, there is not a law.” Instead, we detail how an age limit is not mentioned in state law and go on to give references to Wisconsin Statute and Administrative Code.

Then we give a credible outside source, this being the American Red Cross, with appropriate level of information, followed by a link to our legal topics guide.
To answer the question being asked by the patron is just too difficult to know as it comes down to the specific scenario of the patron. And that would be jumping over the line into possible legal advice.

So instead I point to information for the patron to find out more, including the basic guide to small claims and other forms from the Wisconsin Court System.

In the end, it is up to the patron to turn to an attorney to find out for sure in this particular situation.
This is an example of a question that needs rewording to focus on the issue that you as a librarian can answer.

In essence, the question comes down to when and why can a landlord enter?

This is addressed in Wisconsin Administrative Code under the regulating agency of Agriculture, Trade, and Consumer Protection under unauthorized entry. That section goes on to detail when the landlord can be in the premises, for what reasons, and for how long, as well as when notice is to be given, although it states “reasonable times” and that is not defined.

I also refer to an outside credible source of the Tenant Resource Center in Wisconsin that has detailed, everyday language about landlord tenant issues on their website.
That brings me to the end of my sample reference questions.

Seeing the increased number of self-represented litigants and the general nature of legal reference means that the majority of our questions are not as simple as what is the capital of Armenia or how many paintings did Van Gogh paint. Patrons are on edge and need help. As you get off the phone or finish your reference interaction with the patron, you as the librarian will not have a problem, but the patron will get off the phone and still have a problem to deal with and hopefully you have passed along the tools to help solve the problem.

I hope I have passed along some nuggets of information on how we as librarians can help access to justice with our existing infrastructure and tools, how to answer questions without providing legal advice, and examples of legal reference questions.

Please keep the Wisconsin State Law Library in mind if you have any legal reference questions and make sure to check out our website for further resources.

And with that, I have reached my end. I have my contact information available on this last slide if you need to it.

I will turn it back over for any questions.