

Effective Legal Research in Criminal Cases

by Randy E. Davidson

Criminal law is constantly in a state of flux. During the pendency of a typical felony case, whether before trial or on appeal, literally hundreds of decisions will be released by the appellate courts of this state, some of which will likely have a direct bearing on the case.¹ The legislative branch of state government is equally active. In the 1997-1998 session, for example, the governor signed over 500 public acts into law, many of which directly changed criminal law and procedure.² Add to the mix the annual thousands of federal district and circuit court opinions, dozens of United States Supreme Court opinions, numerous acts of Congress, as well as appellate court decisions in other states, and the practitioner faces a virtually unending blizzard of new information.

Frequently, critical issues arise before or during trial which require fast, accurate discovery and citation of controlling authority. Effectively finding the controlling authority may make the difference between prison and freedom for a client.³ To be effective, the practitioner must not only work *harder*, but *smarter*. This article offers practical tips for effective legal research in criminal cases.

Using the Best Research Tools

Twenty-five years ago, legal research often involved spending the day at a law library, lifting and poring through hefty volumes, taking notes on a yellow pad, and spending hours at a photocopy machine. The practitioner then brought the research results back to the office, spending many late hours preparing a motion or brief. The Internet has changed all of that.

The best research tools involve inexpensive, up-to-date Internet sites, which permit the practitioner to quickly find controlling authority without leaving the comfort of the office, and to download the results to a personal computer for pasting into a document.⁴

Here is a sample of some of the sites that will save a trip to a law library.

Michigan Case Law

To locate the most recent Michigan Supreme Court opinions and orders, as well as published Michigan Court of Appeals opinions, go to www.icle.org/michlaw/ This site lists current opinions by date. Practitioners can also search this site by key word, such as the name of a party, docket number, or the name of a leading case cited in the opinion.

Another excellent searchable source, which includes unpublished opinions of the Court of Appeals cited in the green pages of the *Michigan Bar Journal*, is available through the State Bar of Michigan website, www.michbar.org

Michigan Court Rules and Supreme Court Administrative Orders

ICLE maintains a Michigan court rules site at www.icle.org/rules/mcr/ It includes a link to recent amendments.

Practitioners can also review administrative orders of the Michigan Supreme Court on ICLE's website at www.icle.org/michlaw/rules/ao/ao-list.htm

Michigan Statutes and Administrative Code

The Michigan Legislature maintains a searchable site for the Compiled Laws of Michigan at www.michiganlegislature.org/law/default.asp Registration is required to use the site, but there is no charge. New legislation, as well as information on pending bills, is available at www.michiganlegislature.org The Michigan Administrative Code is available at www.state.mi.us/orr The site also includes a search engine.

Federal Case Law

United States Supreme Court opinions and orders (including grants and denials of *certiorari*) are posted free of charge by Cornell University Law School within hours of release. Go to <http://supct.law.cornell.edu/supct/> Sixth Circuit opinions are found at www.law.emory.edu/6circuit/

Federal Statutes and Code of Federal Regulations

Cornell University Law School also maintains a searchable website for the United States Code at www.law.cornell.edu/uscode/ The National Archives and Records Administration has a site for the CFR at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>

On-line Research and Citator Services

At some point, a practitioner may need to turn to on-line research for issues that involve examination of older or out-of-state opinions and will need to use one of the traditional citator services to make sure cited cases are still good law. A subscription to one of the recognized services, such as Westlaw (www.westlaw.com) will save a trip to the law library, and may be cheaper in the long run for some practitioners when factoring in the cost of a basic research library, pocket parts and supplements, as well as office space to house the collection.

Putting It All Together SADO's Legal Resources Project and Criminal Defense On-line

Michigan law requires the State Appellate Defender Office (SADO) to maintain a brief bank available to private attorneys providing criminal defense appellate services for indigents.⁵ SADO's Legal Resources Project not only maintains the brief bank, but, fortunately for criminal defense practitioners, maintains a one-stop website, www.sado.org with comprehensive on-line research service, as well as links to numerous websites of interest to practitioners.

For a nominal annual fee, subscribers receive password access to SADO's searchable collection of up-to-date, on-line, full-text appellate briefs. This can save the practitioner countless hours of having to "reinvent the wheel" when researching an issue. Subscribers can participate in an on-line e-mail forum and get help on a particular issue from other experienced practitioners. Subscribers can also search full text opinions and summaries of recent Michigan and federal opinions and can even download copies of model pleadings and forms.

The website also includes the searchable text of SADO's two popular standard reference books: the *Defender Trial Book*, and the *Defender Plea, Sentencing & Post-Conviction Book*, as well as the *Criminal Defense Newsletter*.

Conclusion

The Internet has revolutionized legal research. Effective research requires using computer skills to manage a blizzard of new information and get right to the point on an issue. Practitioners relying solely on hard copies of books and other traditional research tools will find themselves at an increasing disadvantage. Knowing how to use the Internet for legal research has become just as important as knowing substantive law.

Footnotes

¹ See, e.g., *Michigan Bar Journal*, July 1991, p 702.

² See, *Criminal Defense Newsletter*, March 1999, p 1-10; *Criminal Defense Newsletter*, April-May 1999, p 1-7.

³ See, e.g., *People v Carrick*, 220 Mich App 17, 22; 558 NW2d 242 (1996) (defendant convicted of resisting and obstructing a police officer and sentenced to jail with work release; conviction reversed after Court of Appeals found defense trial counsel ineffective in failing to challenge off-duty motor carrier commercial vehicle enforcement officer's authority to stop and detain truck driver for equipment violation).

⁴ For a general reference, see *Internet and Technology Guide for Michigan Lawyers* (ICLE, August 1999 ed).

⁵ MCL 780.716(d); MSA 28.1114(106)(d).

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