

Tribal Law Resources and American Indian Law Research Guides

By Jan Bissett and Margi Heinen

Researching American Indian legal issues may encompass federal, state, or tribal jurisdictions. Researchers often think of federal resources—legislation, treaties, cases, statutes, agency rulings, and litigation as well as regulations—as a starting point. But is your issue governed by this law, or is it an entirely different jurisdiction? The sources of law for individual tribes may not be familiar to the average researcher. Research guides, web portals, and curated digital collections can assist you with your research, help you locate resources, and provide a direction and strategy when seeking often elusive tribal law resources.

Web portals

For those interested in federal resources, several web portals, including the Tribal Court Clearinghouse, have compiled a summary of federal statutes that are of particular interest. Treaties between tribes and the federal government may have a role in legal proceedings.¹ The American Indian Treaties Portal provides researchers with an overview and historical documents of these treaties.² Tribal-state relationships are also described by compacts—most often in the gaming context.³ The National Indian Law Library (NILL) provides access to the latest news from federal, state, and tribal courts; United States regulatory and legislation updates; and news and law reviews of interest via their Indian Law Bulletins.⁴ Researchers can find links to Michigan's 12 recognized tribes at the State of Michigan Tribal Governments page.⁵ A quick review of tribal websites listed illustrates the variety of legal resources available; some tribes have links to constitutions, codes, and ordinances, while others do not.

Research guides

“A Legal Practitioner’s Guide to Indian and Tribal Law Research” introduces research strategies, distinguishes between Indian and tribal law, and provides resources in each of these areas, specifically targeting legal practitioners.⁶ Bonnie Shucha’s “‘Whatever Tribal Precedent There May Be’: The (Un)Availability of Tribal Law” discusses the publication of tribal law and its costs and benefits while advocating in favor of making more of these materials accessible. It also provides an appendix of published materials.⁷

Research guides, especially web-based guides, are readily available in the areas of American Indian and tribal law research. Often authored by legal research experts from institutions with Indian law collections, these guides pull together primary and secondary sources in a variety of formats as starting points for researchers. Nonlegal research guides may also provide sources of interest to those researching law in this area. These guides may be associated with Native American Studies programs and offer related research resources, such as Michigan State University’s “Native American Studies Research Guide: Michigan’s American Indian Heritage.”⁸

Although titles vary from American Indian to Indian to Native American, these guides provide useful information to researchers, especially specific local information about research collections and tribes. The Indian Law Research Guides page from NILL makes available guides for various federal and tribal topics and offers researching tips, discussing secondary and primary sources and the NILL catalog and website.⁹ Many law school libraries have helpful research guides, including the University of Minnesota,¹⁰ Arizona State University,¹¹ the University of Arizona,¹² the

University of Oklahoma,¹³ the University of Tulsa,¹⁴ the University of Wisconsin,¹⁵ and the University of California, Los Angeles.¹⁶ Use your favorite search engine to identify more of these guides, especially if seeking research tips on a specific tribe’s or state’s resources.

Tribal legal materials

Mary Whisner has put together a particularly helpful chart, “Sources of Tribal Court Decisions,”¹⁷ as part of her online research guide, “Indian and Tribal Law,” at the Gallagher Law Library.¹⁸ The chart is arranged by tribe and notes coverage within eight identified sources of tribal court decisions. Her discussion and research tips preceding the chart are helpful to novice and seasoned researchers alike. The Indigenous Law Portal from the Library of Congress includes digital access to tribal constitutions and legal materials by state or region, with historical constitutions and legal information for Michigan tribes in the U.S. North Central region.¹⁹

The NILL Tribal Law Gateway provides a variety of information: tribal code, constitutions, court opinions, other legal material, and contact information and research tool suggestions. You may search by topic or subject, name of tribe, or full text via the custom search engine.²⁰ The familiar municipal code website, source of municipal codes and charters, also offers links to tribes and tribal nations.²¹ The Tribal Law & Policy Institute’s Tribal Court Clearinghouse contains tribal law links, including courts, constitutions, laws and codes, state and federal relations, law reviews, law enforcement, and jurisdiction topics.²² The Native American Constitution and Law Digitization Project, a joint project of NILL and the University of Oklahoma Law Library, provides access to “constitutions, codes and other

legal documents.”²³ Tribal law materials may also be available from commercial database providers. Lexis, Westlaw, and Casemaker have tribal court decisions and other tribal legal materials; however, all three seem to provide access to only two of Michigan’s 12 federally recognized tribes: the Grand Traverse Band of Ottawa and Chippewa Indians and the Little Traverse Bands of Odawa Indians.

Other sources

The *Turtle Talk* blog from the Indigenous Law and Policy Center at Michigan State University College of Law is a useful source of information about legal jobs, legal news, and resources for tribes in Michigan and beyond.²⁴ The blog posts complaints and other pleadings of interest from around the country along with interviews with tribal judges, conferences, and research. Matthew Fletcher and Kathryn Fort are instrumental in maintaining the blog and post many publications and class assignments. Fletcher’s book, *American Indian Tribal Law* (New York: Aspen, 2011), provides a narrative on the development of tribal justice systems throughout history.

Tribal legal materials are unique and unfamiliar to researchers accustomed to working only in the legal system of our dominant culture. The efforts of the tribes and others are making these resources more accessible. ■

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ENDNOTES

1. *Federal Laws*, Tribal Court Clearinghouse, Tribal Law and Policy Inst <https://www.tribal-institute.org/lists/fed_laws.htm> [https://perma.cc/ZG5A-VE4H]. All websites cited in this article were accessed June 27, 2019.
2. *American Indian Treaties Portal*, Center for Digital Research in the Humanities, University of Nebraska-Lincoln <<http://treatiesportal.unl.edu/>> [https://perma.cc/9LFD-GSLM].
3. *Indian Gaming Compacts*, Office of Indian Gaming, Indian Affairs, United States Dept of the Interior <<https://www.bia.gov/as-ia/oig/gaming-compact>> [https://perma.cc/L79R-QSSM].
4. *Indian Law News Bulletins*, Nat’l Indian Law Library <<https://narf.org/nill/bulletins/index.html>> [https://perma.cc/2X3E-ZPH5].
5. *Michigan Tribal Governments*, State of Michigan <https://www.michigan.gov/som/0,4669,7-192-29701_41909--,00.html> [https://perma.cc/ES7R-LLME].
6. Kunsch, *A Legal Practitioner’s Guide to Indian and Tribal Law Research*, 5 *American Indian L J* 102 (2017) available at <<https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1112&context=ailj>> [https://perma.cc/U2LS-LHM7].
7. Shucha, *Whatever Tribal Precedent There May Be: The [Un]Availability of Tribal Law*, 106 *Law Library J* 199 (2014), available at <<http://dx.doi.org/10.2139/ssrn.2308056>> [https://perma.cc/B2L2-ZTA4].
8. Ponder, *Native American Studies Research Guide: Michigan’s American Indian Heritage*, MSU Libraries, Michigan State Univ <<https://libguides.lib.msu.edu/c.php?g=95603&p=624366>> [https://perma.cc/EXF8-YTV2].
9. *Indian Law Research Guides*, Nat’l Indian Law Library <<https://www.narf.org/nill/resources/index.html>> [https://perma.cc/YM2G-L6YY] and Selden, *Researching American Indian Tribal Law*, 43 *The Colorado Lawyer* 51 (2014), available at <https://www.narf.org/nill/documents/selden_article_tribal_law.pdf> [https://perma.cc/6EDU-Z75H].
10. Garces, *American Indian Law Research Guide*, Univ of Minnesota Law School <<https://libguides.law.umn.edu/nativeamerican>> [https://perma.cc/8JT6-CPBH].
11. *Indian Law*, Ross-Blakley Law Library, Sandra Day O’Connor College of Law, Arizona State Univ <<http://libguides.law.asu.edu/indianlaw/home>> [https://perma.cc/Z7NP-R3JF].
12. Delgado, *IPLP Resource Guide: American Indian Law*, Daniel F. Cracchiolo Law Library, James E. Rogers College of Law, Univ of Arizona <<https://libguides.library.arizona.edu/c.php?g=705243&p=5007867>> [https://perma.cc/HH4F-MZQ6].
13. Nicely & Jackson, *Native American Law Research*, University Libraries, Univ of Oklahoma <<https://guides.ou.edu/nativeamericanlaw>> [https://perma.cc/VJ8Y-THY5].
14. *Native American Legal Research Guide*, Mabee Legal Information Center, Univ of Tulsa <<http://mlc.utulsa.libguides.com/c.php?g=237117&p=1575521>> [https://perma.cc/YKZ9-QPPA].
15. Babler, *Native American Law & Legal Sources*, Law Library, Univ of Wisconsin–Madison <<https://researchguides.library.wisc.edu/c.php?g=125278&p=819850>> [https://perma.cc/X2BJ-SETZ].
16. *Native American Law Guide: Federal Indian Law and Tribal Law Materials*, Hugh & Hazel Darling Law Library, UCLA School of Law <<https://libguides.law.ucla.edu/c.php?g=183381&p=1208801>> [https://perma.cc/3MV7-XZV7].
17. Whisner, *Sources of Tribal Court Decisions*, Univ of Washington School of Law <https://guides.lib.uw.edu/d.php?content_id=36848686> [https://perma.cc/3LH5-F6Z4].
18. Whisner, *Indian & Tribal Law*, Gallagher Law Library, Univ of Washington School of Law <<https://guides.lib.uw.edu/law/indian-tribal/home>> [https://perma.cc/2WAZ-8H64].
19. The Law Library of Congress, *Indigenous Law Portal: United States, Mapping American Indian Constitutions and Legal Materials* <<https://www.loc.gov/law/help/indigenous-law-guide/americas/north-america/united-states/index.php>> [https://perma.cc/E7GW-BKU8] and *American Indian Constitutions and Legal Materials: US North Central* <<http://www.loc.gov/law/help/american-indian-const/us-north-central.php>> [https://perma.cc/Y5D7-FJ8M].
20. Nat’l Indian Law Library, *Tribal Law Gateway: Find Tribal Law Materials by Tribe* <<https://www.narf.org/nill/triballaw/>> [https://perma.cc/L47M-4JJK] and *Researching Tribal Codes and Constitutions* <<https://www.narf.org/nill/triballaw/codes.html>> [https://perma.cc/XT5F-N6LM].
21. *Tribes and Tribal Nations*, municode <https://library.municode.com/tribes_and_tribal_nations> [https://perma.cc/7EBD-7J74].
22. *Tribal Law Links*, Tribal Court Clearinghouse, Tribal Law and Policy Inst <http://www.tribal-institute.org/lists/tribal_law.htm> [https://perma.cc/9A3L-TS7N].
23. *Native American Constitution and Law Digitization Project*, Univ of Oklahoma Law Library and Nat’l Indian Law Library of the Native American Rights Fund <<http://thorpe.ou.edu/>> [https://perma.cc/2ZBR-9GRR].
24. *Turtle Talk* <<https://turtletalk.blog/>> [https://perma.cc/9PWN-3UTJ].



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