

Fostering Legal Research as a Subject Specialty

by Blair Kauffman

Expertise in legal research is a core competency uniting law librarians—especially reference and instructional services librarians—throughout AALL's wide-ranging membership. But legal research skills are often undervalued, and legal research instruction frequently lacks input from law librarians and coordination between librarians serving law schools and their graduates.

The AALL Special Committee on Fostering Legal Research as a Subject Specialty was appointed last year by President Claire Germain to address these concerns and propose concrete steps to "promote collaboration and team work between the academic and practitioner worlds of librarianship; to improve the research competencies of law students, new lawyers and judges; and to develop and promote tools for effective and efficient legal research." Further, the committee was asked to focus on (1) fostering the expertise of law librarians in providing a core competency for their institutions; and (2) promoting the teaching role of the law librarian as a faculty member in the law school or equivalent (instructor or trainer) in law firms, courts, and other law library settings.

The committee's nine members and board liaison mirror the law library profession, with membership drawn from the academic, private, and public sectors, as well as the publishing world. Members share a wealth of experience teaching legal research and are recognized as legal research experts in their respective settings. This group agreed at the outset that it should interpret its charge boldly and go well beyond the laudable but more limited PR efforts targeted by similar earlier committees. Rather, this committee saw improved PR as something that might naturally flow from concentrating on improving law librarian collaboration and competencies as legal researchers and instructors.

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Scope of the Problem

Too many of our law school graduates lack basic legal research skills in a world where research is more complex due to the many choices for accessing information. We see them in law schools—the students who think the bulk of legal research can be done using Google—and they're graduating, sometimes at the top of their classes!

Sophisticated legal research to them may be little more than the rudimentary use of Lexis or Westlaw. They move on to law firms to be taught anew by our firm colleagues, or into courthouse libraries to work with law librarians there, and sometimes even back to teach in law schools.

Those of us immersed in the world of legal research know that the many online choices have made legal research more complex, not simpler, but how do we convey this to our students, new associates, and others lacking the benefit of our experience on the frontlines of research? Are we making the best use of current learning and teaching theories to instruct our students in research skills? What might we do to improve it?

An Overview of the Committee's Work

Over the course of the year, the Special Committee on Fostering Legal Research as a Subject Specialty addressed virtually all aspects of legal research instruction. For example, it considered how legal research is taught in law school and afterwards, the relationship between the academic and practitioner worlds as it pertains to research instruction, the potential for cultivating connections with other related professional organizations, the use and potential use of technology to support research instruction, how we might better exploit current teaching and learning theory for improving legal research instruction, and finally how AALL may best further the goals of the committee.

Our True Expertise

As Lee I. Weintraub (JD '70, Cornell Law School's Advisory Council member) aptly put it, "Much of the work which a young lawyer does involves researching and finding the law. With the explosive growth in the body of reported cases, statutory law, legislative histories, and administrative regulations, good research skills are more important than ever before. In my view as a practitioner, good legal research skills are just as important to a young lawyer as good reading, analytical, and reasoning skills—they are absolutely crucial" (*Legal Research in the Internet Age*, by Charlotte Bynum and Claire Germain, 2000, at www.lawschool.cornell.edu/library/What_is_New/internetage.htm).

Traditionally, legal research has been under appreciated by law schools as a subject and not treated on a par with substantive law courses. The legal profession, however, recognizes the importance of legal research skills for law students so that they can be competent researchers when they start practicing law.

In this age of new technologies, there are now many legal information providers who compete with libraries. Finding information and doing effective research require different competencies. Law librarians are the true legal research experts. They know how to find reliable and authentic legal information. They are methodical in finding the specific information that their students, faculty, judges, or lawyers need. And they add value to their institutions through instructional services, one-on-one, in formal meetings, and through informal sessions. Some law librarians, including myself, have been asked to be expert witnesses in regard to legal research issues upon which a case may rest.

It is a pleasure for me to share with you the *Members' Briefing* provided by the Special Committee on Fostering Legal Research as a Subject Specialty. The committee has done a superb job and provided many good ideas that can inspire our members. I would like to convey my heartfelt thanks to them.



Claire M. Germain
AALL President, 2005-2006

Law School Legal Research Instruction

Clearly, legal research instruction in law schools varies widely, and the extent to which librarians, publishers' representatives, and others are directly involved in these programs varies. We know some law schools, such as Chicago-Kent College of Law, have long required legal research and writing instruction throughout every semester of law school. We also know that at least one elite law school recently strengthened its basic legal research instruction requirements. Several others offer a layered approach to legal research with optional electives beyond the first year. See, for example, the Cornell program at www.lawschool.cornell.edu/library.

Similarly, an expanding number of law schools offer courses in advanced and specialized legal research, and at least one new course book authored by law librarians was published for advanced legal research in the past year. Also, librarians at many law schools offer legal research components for substantive and clinical courses. And non-credit legal research instruction, such as brown bag luncheon lectures on specialized research topics and "going-out-the-door" review lectures at the end of each academic year, are common fare at a large number of schools.

We don't have data on the benefits of these programs, and it's unclear whether there are best practices. While we also know that law librarians are highly valued members of their institutions, too many law schools continue to undervalue research skills; many law students continue to graduate with minimal research knowledge. The Academic Law Libraries Special Interest Section has gathered information about legal research instruction in law schools, which it shares on its Web site, www.aallnet.org/sis/allsis/legalresearchcommittee/index.asp. What role can AALL play to better gather and share information about law school legal research instruction programs to support law librarians teaching in these programs?

Beyond the Law Schools

Research instruction targeted at law school graduates also varies widely. Many of the large law firms provide research instruction, and their law

librarians often are key players, but the type of research programs in the firms spans a broad horizon. Court librarians, too, may play a role in research instruction. For example, the Connecticut Judicial Branch law librarians are an integral part of the judges' pre-bench orientation program, and they serve as faculty for the "Mastering Computer Applications" series, which is offered annually to all judges.

Some bar associations offer bridge the gap programs covering legal research, which are often the creatures of law librarians. For example, "Bridge the Legal Research Gap" is a half-day training session jointly taught by law librarians at Seattle University and the University of Washington. This program has been offered for the past decade. What role can AALL play to encourage and support law librarians teaching in all of these programs?

Employing Technology

Technology is playing an ever greater role in legal research instruction in the classroom and beyond. In fact, technology is so pervasive in research instruction, we can only offer a brief overview here. Instructional technology, such as Power Point and Blackboard, is used routinely to support classroom instruction. Providing a forum for sharing Power Point slides and related course materials could be one of the many supportive roles played by AALL.

Law librarians have also played a key role in writing online lesson plans for independent study outside the classroom. The Center for Computer Assisted Legal Instruction (CALI) is a major vehicle for distributing such programs, and there now are more than 50 lessons listed on the CALI Web site under the general topic of Legal Research. These cover everything from finding statutes and evaluating Web sites to performing state-specific legal research and international legal research. Most have been authored by law librarians.

Additional uses of technology to further research instruction include online reference, law library Web page development, blogs, vlogs, podcasting, and no doubt some other nifty new tool by the time this reaches the printer and you the reader. The line between reference and instruction becomes blurry here, but we might think of instruction

as a more assertive form of reference services. In this regard, some law librarians are experimenting with online reference to reach a new generation of students and library users at their desktops.

In architectural literature, this is the generation of students sometimes referred to as "zombies" (in reference to their use of head phones and isolation from the immediate world around them), and online reference is one way of catching them at their desktops where they may be doing online research. For example, several academic and public New England Law Library Consortium (NELCO) libraries collaborated on a joint project to offer online reference support to their patrons. Other law school libraries have participated in campus-wide projects using online reference. Also, specialized Web pages have been developed by a number of law libraries to support research by law students; for example, see the "Summer Survival Skills" Web page at www.law.yale.edu/library/research/SummerSurvivalSkills/index.htm.

Taking Web pages one step further, law library research blogs provide a method for time shifting and continually updating users on research skills. For example, "After Hours in the Law" (from the Pierce Law Center) and the "Barclay Blog" (from the University of Pittsburgh's law library) are two (of many) legal research blogs targeting library users and allowing research instruction to take place any time the user needs it.

Perhaps an even better technology for time shifting research instruction is the podcast, which allows users to download recordings and even video to listen to and view at a convenient time. A number of libraries are using podcasts for purposes ranging from library tours to summarizing research classes. A good example of its use for legal research instruction is a recent podcast from the Lewis and Clark Law School Library called "Legal Research Strategies: What You Need to Know to Succeed in Your Summer Clerking Job," which presents a joint one-hour end-of-the-year talk by a law firm and academic law librarian.

Collaboration

While the collaboration between law firm and academic sectors of the profession in teaching research is not new, there

appears to be much more that could be done in this area. Similarly, the successful collaborative work of law librarians working on an individual level with CALI, resulting in an impressive output of online legal research exercises, suggests both the need to better publicize these efforts and to explore collaborating with other professional organizations.

In regard to the latter, one of the most fruitful developments of the year was a warm reception from the National Conference of Bar Examiners (NCBE) pertaining to the testing for legal research skills on the bar exam. The current NCBE leadership agrees that testing research skills on the bar is a worthy topic for exploration. A step in this direction could help signal law schools and students to take research instruction more seriously. This proposal was further explored at a session scheduled with the NCBE leadership and representatives of the AALL in late June.

Committee Recommendations

The committee discussed a wide range of recommendations and ultimately collapsed them into two broad categories: (1) collaborating and (2) communicating.

Recommendations falling within the category of improving collaboration include:

- developing models (such as "Bridge the Gap" programs for legal research) and best practices (such as recommended exit courses in legal research);
- encouraging law schools to utilize non-academics for a portion of legal research training;
- working with CALI to improve training programs on the Web;
- challenging chapters to provide model programs for improving the research skills of students, lawyers, and the public; and

- last, but not least, continuing our work with the NCBE to test for legal research skills on the bar exam.

Recommendations falling within the category of improving communication include:

- developing a legal research instruction blog;
- developing a column for *AALL Spectrum* on teaching legal research; and
- populating AALLNET with model teaching materials and a current listing of programs and materials pertaining to how to teach and how students learn.

Neither of these lists of recommendations is exhaustive, and we fully expect readers may have excellent additional ideas. The next step is to work on the implementation of these recommendations. The AALL Executive Board has asked the Special Committee on Fostering Legal Research as a Subject Specialty to continue until November 2006, so as to move its ideas forward with AALL constituent groups, specifically using the Annual Meeting in St. Louis, and other avenues. The committee will report back to the Executive Board for its fall 2006 meeting with a progress report. In turn, we'll look to you, the members, to help move these proposals along. Please see "Special Committee on Fostering Legal Research as a Subject Specialty Seeks Your Input" on page 4 for more information about how you might help move the committee's agenda forward.

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AALL to Work with National Conference of Bar Examiners Regarding Bar Testing for Legal Research Skills

Thanks to the initiative of Roy Mersky, representatives from AALL and the National Conference of Bar Examiners (NCBE) met in late June in Madison, Wisconsin, to discuss testing for legal research skills on the bar exam. Mersky raised this matter when the NCBE's Board of Trustees met at the University of Texas last October. The NCBE President Erica Moeser was immediately receptive. Subsequent conversations between Special Committee on Fostering Legal Research as a Subject Specialty members and Moeser led to scheduling a meeting this June.

The full-day meeting included testing experts from the NCBE who will work with AALL representatives to discuss the many issues surrounding testing for legal research skills. What is the minimal research knowledge we should expect from bar members? How do we test for this knowledge? How much time can be devoted to this portion of the bar exam? As one might imagine, this is a complex matter.

AALL members invited to this session included Steve Barkan, Claire Germain, Penny Hazelton, Roger Jacobs, Blair Kauffman, Roy Mersky, and Rita Reusch. Needless to say, success in getting legal research questions onto the bar could lead to more emphasis on teaching legal research in law schools. All of us on the Special Committee on Fostering Legal Research as a Subject Specialty are excited about this prospect. We appreciate Mersky's initiative and Moeser's receptiveness to getting this matter on the national agenda.

Special Committee on Fostering Legal Research as a Subject Specialty Seeks Your Input

The AALL Executive Board voted to continue the Special Committee on Fostering Legal Research as a Subject Specialty for another year to allow time for it to help implement some of its many suggestions. The committee found successful, innovative programs designed by law librarians at specific institutions, but we need a coordinated effort to highlight successful programs and make practical suggestions available for implementing them in other institutions. In short, the committee needs your help. If you would like to work on any of the following projects, please contact the committee or the AALL Executive Board.

1. **Assume responsibility for writing a regular column in *AALL Spectrum*.** The column could be used to help generate ideas for model "Bridge the Gap" programs, provide information about how

students learn, encourage communication between those in the academic and private sectors, and otherwise churn ideas for improving legal research instruction.

2. **Assume responsibility for developing the legal research component of AALLNET.** This site would be the logical nexus for uploading syllabi, teaching materials, PowerPoint slides, and other materials related to teaching legal research. The site needs to be designed and populated and may require member volunteers to develop it.
3. **Assume responsibility for creating a legal research blog.** To make the blog useful and keep it current, more than just a single

person will be required.

It seems like a logical project for a group such as the Research, Instruction, and Patron Services Special Interest Section, perhaps working jointly with the Computing Services-SIS.

4. **Develop more AALL programming focused on improving teaching skills.** Such programs could include exploring what we know about teaching and learning theory or be more practical surveys of how to teach research skills. If you have ideas in this area, talk with some of us and make a proposal for next year's AALL Annual Meeting.

Again, if you have an interest in this area and suggestions for how we might further the committee's agenda, we'd like to hear from you.