

A REPORT OF THE QUALITATIVE RESPONSES FROM
THE SURVEY OF PRACTITIONERS ON THE LEGAL
RESEARCH PRACTICES AND OPINIONS OF NEW
ASSOCIATES' RESEARCH SKILLS

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Introduction

In 2011, the Academic Law Libraries Special Interest Section of the American Association of Law Libraries created the Task Force on Identifying Skills and Knowledge for Legal Practice (“Task Force”).¹ The Task Force was asked to “identify the current and future research skills that law school graduates need to succeed in legal practice.”² In order to fulfill its charge, the Task Force focused on determining “how practicing attorneys conduct legal research.”³ This data was compiled to “help law schools determine how to develop their curriculum to meet the research needs of their graduates.”⁴

To this end, in 2011 and 2012, the Task Force created two surveys, one directed to practitioners and the other directed to law librarians,⁵ two distinct groups of researchers, to determine how practicing attorneys conduct legal research.⁶ The Survey on Identifying Skills and Knowledge for Legal Practice (“Practitioner Survey”), directed to practitioners, was distributed to alumni of the law schools where members of the Task Force were employed.⁷ The Task Force received 603 responses to the Practitioner Survey.⁸ One hundred and fifty (150) librarians responded to the Survey on Identifying Skills and Knowledge for Legal Practice – Librarian (“Librarian Survey”).⁹ While the Librarian Survey is not the primary subject of this report, many themes identified in the practitioner qualitative data appear in the librarian qualitative data. Some of these comments are included here to illustrate the degree to which these concerns resonate across the legal research landscape.

The Practitioner Survey was divided into four parts and composed of 13 questions.¹⁰ The first four questions solicited responses from practitioners regarding their demographics, including

¹ Task Force on Identifying Skills and Knowledge for Legal Practice, *A Study of Attorneys’ Legal Research Practices and Opinions of New Associates’ Research Skills* at 1 (June 2013), <http://www.aallnet.org/sections/all/storage/committees/practicetf/final-report-07102013.pdf> (last visited April 16, 2015).

² Current Charge of the Task Force on Identifying Skills and Knowledge for Legal Practice, <http://www.aallnet.org/sections/all/committees/charges#practicetf> (last visited April 16, 2015).

³ Practitioner Survey Final Report, *supra* note 1, at 1.

⁴ Current Charge, *supra* note 2.

⁵ The quantitative results from the librarian survey were published by the Task Force in June 2014 in *A Comparison of Responses from Attorneys and from Law Librarians on Legal Research Practices and Expectations for New Associates*, <http://www.aallnet.org/sections/all/storage/committees/practicetf/Task-Force-Report-June-10-2014.pdf> (last visited April 24, 2015).

⁶ Practitioner Survey Final Report, *supra* note 1, at 1-2.

⁷ *Id.* at 2.

⁸ *Id.*

⁹ Librarian Survey Final Report, *supra* note 5, at 4.

¹⁰ Task Force Practitioner Survey Instrument, <http://www.aallnet.org/sections/all/storage/committees/practicetf/practitioner-survey.pdf> (last visited April 16, 2015).

their state of practice, size of law office, nature of practice, and number of years in practice.¹¹ The second part of the Practitioner Survey sought to determine how the respondents engaged in the research process.¹² These questions asked the respondents to identify the percentage of time each respondent conducts legal research per week, research strategies employed and how often, and research tools used and the frequency of use.¹³ The third section of the survey concentrated on the different types of resources used, focusing on both print and electronic sources.¹⁴ The final section of the survey sought to ascertain the research skills of recent law school graduates, asking practitioners who regularly worked with recent law school graduates to rate how well recent law school graduates perform various components of legal research and use particular resources, whether "very well", "moderately well", "adequately", "poorly", or "unacceptably."¹⁵ This question addressed recent graduates' competency with respect to the use of particular sources, such as statutes, regulations, and administrative decisions, as well as broader topics including recent graduates' ability to think critically and conduct cost-effective research.¹⁶ The quantitative responses from the Practitioner Survey (questions 1-12) were reported in June 2013 by the Task Force in *A Study of Attorneys' Legal Research Practices and Opinions of New Associates' Research Skills* ("Practitioner Survey Final Report").¹⁷

The final question of the Practitioner Survey sought to elicit qualitative responses from survey participants by allowing them to answer the open-ended question "Are there any further comments you would like to share regarding legal research in practice?"¹⁸ Ninety-eight (98) of the Practitioner Survey respondents provided comments in response to this final open-ended question.¹⁹ The responses to the open-ended question were far fewer than the 603 quantitative responses to the Practitioner Survey. As such, the comments from the open-ended question cannot be extrapolated to represent all practitioners. Instead, the limited number of qualitative responses to the Practitioner Survey are meant to provide depth and further explanation to the quantitative data. These ninety-eight (98) qualitative responses are the focus of this report. The Librarian Survey also included an open-ended question: "Are there any further comments you would like to share regarding legal research in practice?"²⁰

¹¹ *See id.*

¹² *See id.*

¹³ *See id.*

¹⁴ *See id.*

¹⁵ *See id.*

¹⁶ *See id.*

¹⁷ Practitioner Survey Final Report, *supra* note 1.

¹⁸ Practitioner Survey Instrument, *supra* note 10.

¹⁹ This report is not intended to be comprehensive report of all comments to question 13 of the Practitioner Survey, as some of the comments were personal remarks or did not otherwise further the goals of the Task Force.

²⁰ Task Force Librarian Survey Instrument, <http://www.aallnet.org/sections/all/storage/committees/practicetf/librarian-survey.pdf> (last visited May 11, 2015).

Forty-five (45) respondents provided comments to this final question; however, to date, the Task Force has not analyzed or reported on the qualitative data from the Librarian Survey.²¹

The Task Force understands the importance of capturing qualitative data about the research practices of practitioners and the legal research skills of recent law school graduates due to the limited literature discussing such data. One of the few surveys of practitioners on the legal research skills of recent law school graduates to include qualitative data was conducted by Sanford Greenberg who surveyed Chicago-area attorneys in 2007.²² Greenberg's survey yielded 200 valid responses.²³ While the Greenberg survey sought to obtain much needed data, it was limited to a single geographic area (Chicago area lawyers) and not published.²⁴ As a result of not being published, it cannot be readily determined whether Greenberg's survey included qualitative responses. The limited number of other surveys on the research practices and skills of recent law school graduates seek responses from librarians²⁵ or are limited to a particular research platform (*i.e.*, digital resources).²⁶ With respect to the research practices of practitioners themselves who have not recently graduated from law school, again there is limited qualitative data available.²⁷ One study conducted by Thomson West in 2006 and 2007 interviewed partners in law firms to determine "essential law firm research skills."²⁸ The results from these interviews show that attorneys are unfamiliar with subject-specific resources and how to use state administrative codes and perform legislative history.²⁹

As a first step in analysis, several members of the Task Force independently read through the content of each of the comments received. The purpose at this preliminary stage was to get a sense for how the respondents had used the opportunity for communication the open-ended question represented, and to look for themes in that content. The next step consisted of developing a set of coding categories to assign to portions of the text in order to facilitate

²¹ The Task Force has not reported on or analyzed the librarian qualitative data because 50 comments are too few to add much depth to the discussion about practitioners' research practices.

²² Patrick Meyer, *Law Firm Legal Research Requirements for New Attorneys*, 101 LAW LIBR. J. 297, 306 (2009).

²³ *See id.*

²⁴ *See id.* at 306.

²⁵ *See id.* at 302, 307 (citing Joan S. Howland & Nancy J. Lewis, *The Effectiveness of Law School Legal Research Training Programs*, 40 J. LEGAL EDUC. 381, 390 (1990); Bill Taylor, *The Research Needs of Younger Lawyers: Report on Interviews, Recent Surveys, and Recent Articles* 3 (2005)).

²⁶ *See id.* at 306, 310 (citing the American Bar Association Technology Report that received 800 responses in 2008 but was limited to "online legal research habits.").

²⁷ *See* Joseph D. Lawson, *What About the Majority? Considering the Legal Research Practices of Solo and Small Firm Attorneys*, 106 LAW LIBR. J. 377 (2014) (This article compares the results from the Practitioner Survey with results from a survey of practitioners who are members of the Fort Bend County, Texas, Bar Association. The local survey included two open-ended questions but Lawson's article does not specifically address the results of these questions. Rather, Lawson provides an in-depth discussion of the quantitative results from the local survey that found that solo and small firm practitioners "appeared to use fee-based online resources far less frequently than [respondents to the Practitioners Survey]." *Id.* at 379.).

²⁸ Meyer, *supra* note 22, at 305.

²⁹ *See id.*

additional analysis and discussion, guided by the Task Force’s goals of (1) determining the legal research skills that law students and recent graduates should possess to be successful in practice and (2) developing legal research curricula to further law students’ legal research skills.³⁰ Specifically, each meaningful text fragment contained in a comment, judged against those research goals, was coded into one or more of the six categories discussed below, using a combination of “descriptive coding,” “values coding,” and “evaluation coding.”³¹ Multiple codes were assigned to the same or overlapping text fragments in some instances where applicable.³² Miscellaneous personal remarks and comments about the respondent’s alma mater were not viewed as meaningful for purposes of this analysis, and were disregarded.

In group 1, thirty (30) respondents commented about the value of free and low cost sources for conducting legal research. The second group of twenty eight (28) respondents commented negatively about the research practices of law students and recent graduates. Group 3, comprised of seventeen (17) respondents, indicated the value of legacy technology, particularly print. A fourth group of fifteen (15) respondents made comments about the value of secondary sources. A fifth group of respondents (13 in all) commented about the value of state or practice specific materials. A final group of respondents (28 in total) commented about the Practitioner Survey instrument itself, or about some aspect of their own research or legal practices that might have some bearing on how they responded to questions on the practitioner survey.

In many cases, the qualitative survey data mirrored the quantitative data set forth in the Practitioner Survey Final Report. For example, the quantitative survey data from the Practitioner Survey Final Report shows that over 40% of recent law school graduates conduct research of legislative histories, administrative decisions, and non-legal sources “poorly” or “unacceptably.”³³ One comment to the open-ended question noted recent graduates’ deficiency with respect to legislative and administrative research: “[New law school graduates] rarely go to sources beyond case law or statutes unless requested. Legislative history, governmental opinion letters, statute annotations, are good sources of information that they do not typically use.” Similarly, another respondent stated that “I think law schools really need to improve in the statutory/administrative/legislative history research area.” In addition, the quantitative survey data from the Practitioner Survey Final Report shows that only 28% of recent law school graduates engage in cost-effective research.³⁴ A respondent commented to the open-ended question about the need for cost-effective research: “I work in-house — my

³⁰ Practitioner Survey Final Report, *supra* note 1, at 1.

³¹ Johnny Saldaña, *THE CODING MANUAL FOR QUALITATIVE RESEARCHERS* (2009).

³² For instance, a text fragment in a comment that criticized a student for not using secondary sources would be coded as both an instance of a respondent valuing secondary sources, and one complaining about the practices of students or recent graduates in using available tools and resources. This practice, alternately described as “simultaneous coding,” double coding,” co-occurrence coding,” “multiple coding,” or “overlap coding,” is recognized and accepted in the qualitative research literature. Saldaña, *id.*, at 6, 23-24, 62-63.

³³ Practitioner Survey Final Report, *supra* note 1, at 84-85, 88.

³⁴ *Id.* at 88.

non-lawyer colleagues don't want 20 pages of Blue Book citations – they need cost- effective, timely practical solutions. I need to get the right answer from Free sources-online and through relationships with my colleagues.”

Responses from each of the coding groups discussed above will be explained in more detail below.

Qualitative Responses³⁵

1. The Value of Free and Low Cost Sources

The respondents to the practitioner survey reported using free internet resources “frequently” (30.7%) or “very frequently” (30.7%).³⁶ These respondents also suggest concern that new associates do not know how to use these tools effectively. Over 30% of respondents noted new associates perform cost-effective research poorly or unacceptably.³⁷ A similar number reported poor or unacceptable use of an online service other than Westlaw or Lexis, which would include free and low cost sources, the focus of this section of the report.³⁸

The qualitative comments shed some light on both the use of free and low cost sources as well as the need for training in these materials. Thirty (30) practitioner respondents made comments indicating they value free and low cost sources, more than one third of those who submitted substantive comments.³⁹ There is a strong statistically significant negative relationship between firm size and the likelihood that a respondent commented favorably about the value of free or low cost alternatives: generally, the smaller the firm, the more likely a respondent commented about depending on such resources, that many other attorneys do so, or that students need to learn about free or low cost alternatives to Westlaw and Lexis. Solo attorneys and those from firms of five attorneys or fewer were significantly more likely to make such comments than those in medium or large firms.

The qualitative data tracks with the quantitative data presented in the Practitioner Survey Final Report. As noted above, a clear majority of the respondents reported using free internet resources “frequently” (30.7%) or “very frequently” (30.7%).⁴⁰ Paralleling the qualitative data,

³⁵ Responses are set forth in multiple categories as applicable. See also *supra* note 32.

³⁶ Practitioner Survey Final Report, *supra* note 1, at 32.

³⁷ *Id.* at 88.

³⁸ *Id.* at 91.

³⁹ It should be noted, conversely, that five (5) practitioners who submitted comments, made positive comments about the value of Westlaw or Lexis.

⁴⁰ Practitioner Survey Final Report, *supra* note 1, at 32.

analysis of the quantitative data demonstrated that “frequency of using free internet resources for legal research decreases as size of the office increases.”⁴¹

Specific free and low cost resources identified in the comments included government websites, Fastcase, materials available through bar associations, Google Scholar, blogs, and bulletin boards. Bar resources, which often include Fastcase or Casemaker, were most often mentioned, perhaps because the attorney survey did not specifically name these sources in the series of questions on “specific free internet sources.” (See below for more attention to bar resources in specific.)

This example comment contextualizes the need for free and low cost resources:

At the top schools, there’s still too much emphasis on writing 20 page Blue Booked memos – rather than practical, useful pieces. I work in-house — my non-lawyer colleagues don’t want 20 pages of Blue Book citations – they need cost-effective, timely practical solutions. I need to get the right answer from free sources – online and through relationships with colleagues.

The Practitioner Survey Final Report also demonstrated a fair amount of concern regarding new associates’ abilities to use these resources, as noted above. A substantial number of practitioner respondents reported negatively regarding new associates’ abilities both to perform cost-effective research and to use online services other than Westlaw or Lexis.

The qualitative comments include apt statements supporting this point:

One of the growing databases used by many attorneys, especially those of us in small firms is Fastcase. This service is typically provided free through state bar websites. It is cost effective and almost as good as Westlaw or Lexis. It was not mentioned in the survey at all. Access to free databases is important to small firms and I would suggest greater emphasis on these site [sic]. The problem I encountered in transitioning from Law School to practice was that because you had complete and free access to everything on West and Lexis in school, you never learned how to research with limited or no access to them which is what you’ll experience in many instances after graduation. ...

Teach us (I’m a recent grad myself) how to conduct research effectively without relying on Westlaw or Lexis. I work at a small firm that cannot afford either, so I’m scrambling to find other cites and resources online (as well as in print).

⁴¹ *Id.*

The qualitative data from the Librarian Survey indicate shared views, although as described in the introduction, that data did not yield statistical significance. Here are two examples of law librarian concern that new associates lack mindfulness about research costs and are unaware of free and low cost alternatives:

Probably one of the biggest problems encountered in the law firm setting for recent law school graduates, is the culture shock of NOT having free access to online legal research. The concept of charging it back to the client is VERY difficult for them to accept.....but.....it's reality.

New associates do not understand billing or billable hours, cost recover, let alone the cost of online resources. Most need to learn other, free or low cost databases, not hours and hours of Wexis. They need to be taught FREE AND LOW COST databases. They need to have an awareness that many other databases other than WEXIS are available and how to find them, how to determine if they are authoritative.⁴²

Both librarians and lawyers, then, seem interested in free and low cost sources as well as in training with these sources. This data suggests that smaller and solo firms in particular value these kinds of sources. One possible explanation for smaller firms' emphasis on these sources is that smaller firms and solo attorneys have smaller budgets, and many of them rely on free and low cost resources to reduce overall research costs. As clients become less willing to pay for research costs, larger firms may begin to seek out free and low cost resources more aggressively. Because attorneys pay for bar resources through their bar dues, use of bar materials may maximize a necessary expenditure. In states with voluntary bar associations, the offering of research materials may promote membership; attorneys who join such associations may seek to maximize a relatively lower cost resource

A possible explanation for practitioners' and law librarians' concern about training in these resources is that law school graduates are increasingly beginning their careers in solo and small practices, making those types of practitioners more likely to note the need for skill in using free and low cost resources.

The increasing number of free and low cost sources may further exacerbate the need for this skill. For example, Casetext and Ravel Law both debuted after the survey was drafted. As free and low cost resources multiply, law schools face a growing challenge to incorporate these tools, especially in light of limited instruction time. Nevertheless, the quantitative and qualitative data this survey has yielded suggest that law schools should increase instructional efforts regarding free and low cost sources.

⁴² Task Force Librarian Survey Qualitative Responses (see Appendix C).

2. Negative Comments about Research Practices of Law Students and Recent Law School Graduates

Question #12 of the Practitioner Survey asked attorneys who work with recent law school graduates to rate their performance in eighteen components of legal research, from developing an effective research plan to finding non-legal information.⁴³ For all of the legal research components, at least a majority (51%) of respondents rated recent graduates' performance as either "adequate" or better.⁴⁴ However, the percentages of those rating their performance as either "poor" or "unacceptable" were highest for researching legislative history (47.7%); researching regulations; and researching administrative decisions (both 44%).⁴⁵ These were followed by finding non-legal information (43.3%); knowing when to stop researching (42.3%); and performing cost-effective research (37.7%).⁴⁶ For only two components of legal research-- researching case law (64.3%) and updating legal sources with a citator (60.3%)--did at least 60% of respondents' rate recent graduates as performing either "moderately well" or "very well."⁴⁷ In only two more skills did at least 50% rate recent graduates as performing either "moderately well" or "very well": understanding the difference between statutes and regulations and using Westlaw efficiently.⁴⁸ The paragraphs below focus on the open-ended comments submitted by respondents to the survey (Question #13), and what additional light these may shed upon the deficiencies observed by practitioners and their recommendations for law school curriculum development.

Interestingly, regulations, administrative sources, and/or legislative history were mentioned in very few of the open-ended comments to Question 13, and only two of these comments specifically complained about recent graduates or law students not using or understanding these resources. However, a primary area of complaint reflected in the practitioner comments was a general lack of critical acumen, context, focus, and efficiency brought to the research process by their new associates, interns, and clerks.

Of the 98 practitioners who provided one or more comments in response to Question 13, 17 of them (or 18%) listed complaints about the research skills of recent graduates that involved the application of their minds to the research process--their habitual thought processes and strategy choices in conducting legal research. This number also represents slightly over 60% of the 28 respondents who commented negatively about any aspect of student and recent graduate research practices.

⁴³ Practitioner Survey Instrument, *supra* note 10.

⁴⁴ Practitioner Survey Final Report, *supra* note 1, at 77-94.

⁴⁵ *Id.* at 83-85.

⁴⁶ *Id.* at 88, 93-4.

⁴⁷ *Id.* at 81, 87.

⁴⁸ *Id.* at 86, 89.

Practitioners' complaints about the thought process and patterns habitually used by new attorneys and law student interns can be roughly divided into four often intersecting problem areas involving thoroughness, focus, and context: (1) lack of thoroughness in understanding the client problem before researching and in finding the relevant and correct supporting case law; (2) missing or ignoring the factual, legal, and case-specific adversarial context in reading the language found in cases, in analyzing specific issues, in applying specific case law holdings to the client problem, and in analogizing creatively from the larger body of available case authority to find support for the client's position; (3) lack of creativity in constructing thoughtful, result-oriented word searches; and (4) ending research prematurely as soon as a case with "good language" or a holding (for or against the client) on point is found, without exploring further relevant case law to meet the research assignment objectives in support of the client's legal position.

The following comments illustrate the frustration felt by respondents in their everyday practice when encountering these less-than-satisfactory approaches to legal research:

I find that young lawyers tend to only read the part of the case that pops up on the search screen, thus missing important context.

Most new law school graduates I have worked with are not thorough enough. They find a case they think is on point and then stop. They do not review enough cases and do not make sure the on-point case they found is the current standard.

Too often, finding SOMETHING is the goal, not finding what's best.

In my experience, new grads and law students (clerks) do not ask enough questions before, during, or after completing an assignment. This frequently results in mediocre work product that does not apply to the issue at hand. On several occasions many of the issues discussed with the individual were not addressed and the individual ignored the request to report periodically for progress checks and feedback to get the research on track.

The problem I continually encounter is that first year associates cite a case because it has 'good language', regardless of the outcome of the case. [T]hey need to cite the cases that not only have 'good language' (e.g., language setting out the proposition) but actually come out in their client's favor. Even if 'THE' case is one that comes out against the client, the student should learn to find and cite to other cases that actually support their client's position. I am also surprised at how infrequently first year associates pull the cases cited within the cases they cite to--this should be standard operating procedure, to get as fulsome a lay of the land as possible.

A problem is their inability to imagine and find analogous cases or cases representing general principles outside the particular field in which they're working. In other words, if I say 'find some cases that stand for the principle that litigants may not maintain inconsistent positions in different forums in matters involving the same parties' or 'the principal that otherwise confidential material may be used to impeach,' they are at a stand.

Only practice makes one efficient and effective in doing legal research. Be creative in using words and phrases. Many times the courts use a phrase or words which we do not use in daily life. Try using as many words and phrases as possible in trying to snag a line of cases.

Eleven (11) of the practitioner complaints about the research practices of recent graduates and law student specifically focused on their lack of ability to select the most appropriate tool or resource for the research problem at hand. Two examples follow.

I think that students need to have good basic understanding of the pros/cons of using hard copy materials that would normally be in a law office library. I have found increasingly that students default solely or almost exclusively to online searches (google or paid databases) without understanding that for some topics, using key cites or annotated compilations can be far more efficient in targeting research results.

It usually takes 3-4 years to get associates to get associates to forget everything they were taught in their legal research class and start using their minds to figure out how to research something without resorting to broad-based open ended and largely useless while expensive searches on either Westlaw or LEXIS, depending on which source the law school pushed them to use. 90% of what we do day in and day out as attorneys is already in a treatise or secondary source, which at the very least will get a researcher started most of the way to the answer and/or at least a citation to the critical cases, and law students know nothing about these sources.

Mirroring these practitioner comments are these complaints by three of the many librarians commenting on research focus and context, critical thinking, selection of resources, and/or efficient searching in response to Question #18 (the open-ended comment question) on the Librarian Survey:

New associates need more skill in 1) asking questions to define the research task assigned; 2) thinking about the variety of research sources available and selecting the right source to start; 3) when using wexis [sic] selecting the

appropriate search, transactional or hourly, and developing cost-efficient searches.

Students come to us thinking that they can use ‘google-like’ research techniques, i.e., type a search and then give up if it’s not on point. They seem to have a poor grasp of the value of persuasive arguments as opposed to precedential.

Ensure solid research skills foundation using critical thinking skills and how to respond and adapt to an assignment not react to it by jumping on to Wexis.⁴⁹

Practitioner responses to the quantitative portion of the practitioner survey (Question #12), which asked attorneys working with recent graduates how well these new attorneys performed specific components of legal research, are somewhat but not fully consistent with the opinions stated in these open-ended comments. For example, of those respondents who answered the first part of Question 12, relating to how well recent graduates develop an effective research plan, approximately 80% said that recent graduates did so “adequately” or better, while nearly 20% rated their performance as either poor (18.2%) or unacceptable (1.6%).⁵⁰ Although nearly half (45.8%) rated their ability to develop an effective research plan as only “adequate,” clearly the majority of the 253 respondents answering this question were at least minimally satisfied, if not impressed, with recent graduates’ research plan abilities.⁵¹

Responses to the second part of Question 12, asking how well recent law school graduates “use critical thinking to evaluate the relevance of case law and other primary authority,” show that approximately the same percentage said that recent graduates did this “adequately” (44.2%).⁵² However, more than one-third (37.6%) said that recent graduates performed either “moderately well” (30.6%) or “very well” (7%) in this area.⁵³ The percentage of attorneys rating their performance in using critical thinking to evaluate the relevance of case law and other primary authority as something better than “adequate” was slightly higher (nearly 37%) than the percentage rating their ability to develop an effective research plan as something better than “adequate” (34.4%).⁵⁴ It is interesting, however, that for both of these important skills, the percentage of attorneys rating the recent graduates as able to perform them “very well” was virtually the same—approximately 7%.⁵⁵

⁴⁹ Task Force Librarian Survey Qualitative Responses (on file with Task Force).

⁵⁰ Practitioner Survey Final Report, *supra* note 1, at 77.

⁵¹ *Id.* at 77.

⁵² *Id.* at 79.

⁵³ *Id.*

⁵⁴ *Id.* at 77-81.

⁵⁵ *Id.*

Other parts of Question 12 that relate closely to the “application of their minds to the research process” comments in Question 13 were those asking respondents to rate recent graduates’ ability in “developing appropriate search protocols (terms and connectors, etc.),” “researching case law,” “performing cost-effective research,” and “knowing when to stop researching (found everything reasonably possible).” With respect to developing appropriate search protocols, while the vast majority of the practitioners responding rated recent graduates’ performance as adequate or better (87%), more than 45% said they performed only “adequately.”⁵⁶ Similarly, over 90% of practitioners responding said that recent law school graduates researched case law either adequately or better.⁵⁷ For this skill, however, the percentages of practitioners rating recent graduates as performing either “moderately well” or “very well” was considerably higher at nearly two-thirds (over 64%).⁵⁸

The responses to that part of Question 12 relating to “performing cost-effective research” more closely align with those comments above reflecting dissatisfaction with the habitual use of expensive but familiar databases even when inappropriate, and with the ineffective use of them in conducting searches. Nearly 40% of the respondents said that recent graduates performed cost-effective research either “poorly” or “unacceptably.”⁵⁹ However, the remaining respondents’ answers were split nearly evenly between “adequate” performance (34.3%) and performing cost-effective research either “moderately well” or “very well” (28%).⁶⁰

The question about “knowing when to stop researching (found everything reasonably possible)” could have been understood by respondents as referring primarily to researching beyond the point necessary to be sure of a reliable answer to the problem, or conversely, to stopping too soon, before a pertinent and reliable answer was found. While it is impossible to determine how the question was understood by the majority of respondents (the survey question was meant to indicate going on too long with researching an issue), it is interesting to note that the results nonetheless indicate that this skill area is problematic. Nearly one-third (30.5%) of the practitioners said that recent graduates performed “poorly” at knowing when to stop researching, and nearly 12% said that they performed “unacceptably.”⁶¹ Less than one-quarter of the respondents said that recent graduates performed either “moderately well” or “very well” at knowing when to stop researching.⁶²

⁵⁶ *Id.* at 80.

⁵⁷ *Id.* at 81.

⁵⁸ *Id.*

⁵⁹ *Id.* at 88.

⁶⁰ *Id.*

⁶¹ *Id.* at 93.

⁶² *Id.*

While we cannot know the reasons why related quantitative question responses are not entirely consistent with the 17 negative comments about these research process skills, several possibilities may be suggested. First, those practitioners who took the time to detail their dissatisfaction and frustration with a particular failing in the open-ended comments do not necessarily reflect the opinions of the majority of respondents who work with recent graduates. Their dissatisfaction may be tied to the particular focus of their practices or to the pool of eligible new employees that their offices attract. It should also be noted that Question 12 on the survey is specifically limited to the “research skills of recent law graduates.” This is not the case with the open-ended comments, which ask for “any further comments you would like to share regarding legal research in practice.” As the comments themselves indicate, law students (summer associates, interns and clerks) were also considered and addressed in these respondents’ complaints. One constant shared by the comments and the quantitative data merits concern, however. The relatively low percentages of practitioners rating recent graduates’ performance as anything above “average” in these skills involving application of the mind to the research process in the context of the client problem, together with the prevalence of related complaints about both recent graduates and law students, likely indicates that a high standard of good to excellent preparation for legal research practice is not being met.

3. The Value of Legacy Technology

The quantitative data from the Practitioner Survey found that over 40% of respondents use print sources “frequently” (26.9%) or “very frequently” (15.4%).⁶³ This data shows a weak but statistically significant positive relationship between years of experience and frequency of using print resources.⁶⁴ “Overall, across all subgroups, the frequency of using print materials increased as the number of years in practice increased.”⁶⁵ This result is consistent with the fact that attorneys with several years of experience were likely trained using more print resources, as electronic resources were less prevalent. The qualitative data confirms that, at least, some practitioners continue to value legacy technology, particularly print sources. The qualitative responses identify the print resources that practitioners continue to value and use regularly. Specifically, seventeen (17) of the ninety-eight (98) respondents commented about the value of legacy technology, primarily print sources.⁶⁶ Respondents commented generally about how they continue to use books or print sources:

I use books at the law library in the courthouse in the county in which I live.

I think that students need to have good basic understanding of the pro/cons of using hard copy materials that would normally be in a law office library. I have

⁶³ *Id.* at 30.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ It should be noted, conversely, that two practitioner respondents made comments dismissing print as still having value.

found increasingly that students default solely or almost exclusively to online searches (google or paid databases) without understanding that for some topics, using key cites or annotated compilations can be far more efficient in targeting research results.

Other respondents noted that because of their age or years in practice they continue to value print resources:

I am old and I like books...I find it impossible to assess a convoluted statute without a book.

I am old enough that I really prefer researching in the books over research in on line legal research systems.

Regulations and statutes were among other specific print resources that respondents continue to value as evidenced by the following comments:

I would purchase an annotated code in particular areas and that would always take me where I needed to go.

Practitioners also continue to value secondary sources and state specific resources in print. Respondents commented:

A trip to the library to look through digests and treatises and restatements is still needed when I'm not sure or am exploring a topic.

There are still situations where a practitioner needs to be able to use treatises, bound volumes of regulations, restatements, property records in books or other database forms, etc.

The young lawyers and law students I have worked with almost never start with secondary sources, which means that they begin case research without understanding either the general principles or the particular catch-phrases of the area they're working in.

Primarily rely on readily available soft back volumes (Family Law, Probate Code, etc).

The O'Connor's Guides are mainstay reference sources...They are extremely useful and particularly useful and particularly handy in court.

As my answers will show, I find that recent law school graduates tend to rely too heavily on pure computer research and in particular on word searches. They seem not to be trained to survey secondary sources first to get the 'lay of the land' before heading off into terms and connectors searches on Lexis or Westlaw.

In addition, respondents noted the serendipitous nature of researching using print resources:

My experience is that lawyers who went to law school after the advent of the internet search for a specific answer/case that fits what they are looking for. They often find one or two without realizing there are 40 or 50 that are exactly against their answer. In the days of book based research with digests, you could still find that one or two but you could also recognize that the other 40 or 50 existed so that you could better inform the person from whom you were doing the research. Finding the tree is important, but understanding its place in the forest is more so.

The on line systems let you research by words, while researching in the books lets you research by ideas. I get much better results researching by ideas.

Three of the 18 respondents also commented about the value of CD Roms, microfiche, and microfilm, other forms of legacy technology.

There were no statistically significant relationships between subgroups observed with the responses from the qualitative responses. While it cannot be determined with certainty why practitioners continue to value legacy technology, specifically print resources, it may be due to the close proximity of state or court law libraries to practitioners' offices or the high cost of many proprietary resources. The Practitioner Survey results were consistent with the Librarian Survey data, which also found that practitioners continue to use print resources.⁶⁷

4. Value of Secondary Sources

In the quantitative portion of the practitioner survey, secondary sources in the research process were the focus of questions on how practitioners begin their research, the frequency of their use in the research process generally, the use of specific types of secondary sources and specific secondary source tools, and practitioners' opinions of how well recent graduates perform in using secondary sources effectively. Overall, the responses to these questions indicate that secondary sources play an important role in the research process for practitioners generally, but that the frequency of their use varies considerably within the large number of attorneys answering the questions on their own use of secondary sources. By far the largest percentage (44.2%) of those practitioners working with recent law school graduates who rated their performance in "using secondary sources effectively" said that they performed "adequately," with just over one-quarter responding that their effective use of secondary

⁶⁷ Librarian Survey Final Report, *supra* note 5, at 17 ("Attorney respondents were significantly more likely than librarians describing their attorneys' practices to report that they 'never' use this resource or approach..." Not a single librarian respondent answered that practitioners "never" use print resources.).

sources was either “poor” or “unacceptable.”⁶⁸ In this section of the report, we examine those practitioner comments that address the value of secondary sources in the legal research process and/or the proficiency of recent graduates and law students in using them, in light of the quantitative data, to gain additional insight into the role of secondary sources in everyday legal practice and possible implications for law school curriculum development.

Fifteen (15) practitioners’ comments in response to Question 13 specifically noted the value and importance of secondary sources in conducting legal research. The following types of secondary resources were mentioned by at least one respondent: treatises; legal encyclopedias; American Law Reports (ALR); statute annotations; Restatements; digests; law review articles; state-specific practice guides; and BNA publications. Treatises were mentioned most frequently (4 times).

These practitioner comments illustrate the value these attorneys place on secondary sources in the legal research process:

Generally, I find online research works best when I know what I’m looking for. A trip to the library to look through digests and treatises and restatements is still needed when I’m not sure or am exploring a topic.

Having access to legal treatises, encyclopedias and similar materials online would be a tremendous help to smaller firms or solos such as me.

Five (5) practitioners commented negatively about the lack of knowledge and ability to use secondary sources among new attorneys and law students. Among their comments were these:

The young lawyers and law students I have worked with almost never start with secondary sources, which means that they begin case research without understanding either the general principles or the particular catch-phrases of the area they’re working in.

They seem not to be trained to survey secondary sources first to get the “lay of the land” before heading off into terms and connectors searches on Lexis and Westlaw.

90% of what we do day in and day out as attorneys is already in a treatise or secondary source, which at the very least will get a researcher started most of the way to the answer and/or at least a citation to the critical cases, and law students know nothing about those sources. It [sic] as if they don’t exist with the

⁶⁸ Practitioner Survey Final Report, *supra* note 1, at 78.

emphasis law schools placed on primary sources. I am a labor and employment attorney. I usually spend a couple of hours with new associates teaching them to use BNA. Not a single one in my 25+ years of supervising them has ever seen it before starting at my firm. It is the fundamental resource of every labor and employment lawyer I know.

Comments from law librarians to the last question on the Librarian Survey--“Are there any further comments you would like to share regarding legal research in practice?”--were entirely consistent with those of the practitioners. Of 50 librarians commenting, no less than 11 specifically mentioned the importance of secondary sources, complaining of recent graduates’ lack of understanding and appreciation of them.⁶⁹ Several comments directly linked lack of secondary source use to poor analysis of issues and/or time and cost inefficiency. As one librarian expressed it:

The number one mistake I see (and I could easily come up with a list of 10+) is that new attorneys start their research in a case law database, then muck around for hours, wasting [sic] valuable time and money – when the answer they need is in a secondary source and could have been found cheaply and within minutes.⁷⁰

Comparing the quantitative data from the practitioner survey to the comments, a number of questions are relevant to the value placed on secondary sources in legal research. In question #6, survey respondents were asked, “When beginning research, how often do you “start by looking in a secondary source?”⁷¹ Of the 581 respondents to this question, encompassing all subcategories of practitioners in terms of years of experience, office size, and types of practice, slightly less than one-third (31.4%) started their research by looking in a secondary source either “frequently” or “very frequently.”⁷² Another approximate one-third (34.1%) began with a secondary source “occasionally.”⁷³ And the remaining approximate one-third (34.6%) began with a secondary source either “rarely” or “never.”⁷⁴ Statistical analysis showed a very weak but statistically significant relationship between years of experience and reported frequency of beginning research by using a secondary source. As might be expected when survey respondents vary in experience from 0-4 years to 30+ years in practice, the frequency of beginning research with secondary sources decreases as years of experience increase, most likely due to the increased familiarity with the issues in a practice area over time.

⁶⁹ Task Force Librarian Survey Qualitative Responses (on file with Task Force).

⁷⁰ *Id.*

⁷¹ Practitioner Survey Instrument, *supra* note 10.

⁷² Practitioner Survey Final Report, *supra* note 1, at 18.

⁷³ *Id.*

⁷⁴ *Id.*

Question #7 asked respondents, “When researching an issue for your practice, how often do you follow citations in a secondary source you are reading to find primary law and other relevant materials?”⁷⁵ Of respondents answering this question, nearly half (46.1 %) reported following citations in secondary sources either “frequently” or “very frequently.”⁷⁶ Another 30.3% reported doing this occasionally.⁷⁷ No statistically significant relationships were observed on the basis of years in practice or office size for this question.

In Question #9, practitioners were asked how often, “when performing legal research for your practice,” they utilized various research tools.⁷⁸ Among these were several types of secondary sources. Interestingly, nearly 40% of respondents to this question reported that they either “never” or “rarely” use legal treatises for research.⁷⁹ One-third reported using treatises occasionally, but only slightly more than one-quarter (27.2 %) reported using them frequently or very frequently.⁸⁰ Overall, across all subgroups, there was a statistically positive relationship between years of experience and frequency of using treatises. The frequency of use at some point during the research process increased with years of experience, and newer attorneys (those with less than a decade of experience in practice), are significantly more likely to report “never” using treatises than those with 30+ years of experience.

A much smaller percentage of respondents (6.3%) reported using legal encyclopedias either “frequently” or “very frequently, and the substantial majority (nearly 70%) used them either “occasionally” or “rarely.”⁸¹ One quarter of respondents across all experience levels, office sizes, and types of practice reported “never” using legal encyclopedias.⁸²

With respect to the legal research performance of recent law school graduates, Question #12 asked how well they “use secondary sources effectively.”⁸³ Fully one-quarter of practitioners answering this question rated recent graduates as performing “poorly” in effective use of secondary sources.⁸⁴ The largest percentage judged their use of secondary sources as “adequate (44%), while only 30% reported that recent graduates effectively used secondary sources either “moderately well” or “very well.”⁸⁵

⁷⁵ Practitioner Survey Instrument, *supra* note 10.

⁷⁶ Practitioner Survey Final Report, *supra* note 1, at 27.

⁷⁷ *Id.*

⁷⁸ Practitioner Survey Instrument, *supra* note 10.

⁷⁹ Practitioner Survey Final Report, *supra* note 1, at 35.

⁸⁰ *Id.*

⁸¹ *Id.* at 38.

⁸² *Id.*

⁸³ Practitioner Survey Instrument, *supra* note 10.

⁸⁴ Practitioner Survey Final Report, *supra* note 1, at 78.

⁸⁵ *Id.*

The quantitative data seems to bear out the value of treatises in the research arsenal of today's practitioners across the profession, but not necessarily other types of secondary sources, such as legal encyclopedias. A substantial majority of practitioners reported using treatises at least occasionally in conducting legal research, although the data on how well recent graduates use secondary sources effectively mirrors the concern of the open-ended comments about newer graduates and law students ignoring them or not appreciating their value to effective research for clients. The impact of treatise and other secondary source costs on small firms and solo practitioners is being felt in limiting access to tools that they consider valuable for their practices. The percentage of attorneys, across all subgroups, reporting that they "followed citations in a secondary source they were reading to find primary law and other relevant materials" frequently or very frequently also points to the continuing value of secondary sources in the legal research process. Law schools, however, need to improve their efforts to make treatises and other secondary sources more familiar to, and valued by, today's graduates.

5. The Value of State or Practice Specific Materials

The quantitative data from the Practitioner Survey found that practitioners were more likely to use practice guides rarely or occasionally. Specifically, "[t]he majority of respondents reported using practice guides 'rarely' (26.9%) or 'occasionally' (31.9%).⁸⁶ In contrast, a fairly large percentage (31.7%) of respondents reported that they use these types of resources "very frequently" (11.3%) or "frequently" (20.4%).⁸⁷ The quantitative data did not show a statistically significant relationship based upon years in practice or office size.⁸⁸ The respondents who provided comments to the open-ended question tend to value state and practice specific materials. There were no statistically significant relationships observed in connection with these responses. Thirteen (13) respondents provided comments to the open-ended final question of the Practitioner Survey relating to the use of practice guides.

Respondents commented about state resources generally:

Law students should probably learn the contents of the New Mexico Rules Annotated as part of basic legal research....Additionally, the first two years of litigation practice is typically based on motion practice grounded in the rules of civil procedure and discovery.

I suspect that what I do is similar to what a lot of folks in private practice do, at least this is my experience in talking with lawyers over the years, asking them

⁸⁶ *Id.* at 37.

⁸⁷ *Id.*

⁸⁸ *Id.*

how they researched something. They go to IICLE⁸⁹ then they go to Westlaw (or now presumably they could go to fastcase [sic] with the ISBA, or Lexis if they are still in business).

Since my practice is mostly criminal defense and juvenile, I use the annotated statutes the most...

Once a young attorney finds a position, he or she should make themselves acquainted as thoroughly and soon as possible with practice guides and research options particular to that jurisdiction.

Several respondents commented about state or practice specific resources available through a bar association or state government:

Family law (a huge practice area) firms in Colorado seem to use Cobar⁹⁰ resources and other free resources primary.

...I...have recently discovered the official State of Illinois website to get the latest version of the administrative regulations.

[I p]rimarily rely on readily available soft back volumes (Family Law, Probate Code, etc) and the free legal research tools available online through the State Bar of Texas.

The Texas State Bar CLE online library is very useful.

Other respondents commented about particular resources in specific practice areas:

In the research of Indian Law and Tribal Law it is important that law students understand that they must research on micro-fiche, micro-film, and paper books. So much of the information to use in preparing an argument or defending against an argument is found in these resources.

The O'Connor's Guides⁹¹ are mainstay reference sources.

I am a labor and employment attorney. I usually spend a couple of hours with new associates teaching them to use BNA. Not a single one in my 25+ years of supervising them has ever seen it before starting at at [sic] firm. It is the fundamental resource of every labor and employment lawyer I know.

⁸⁹ IICLE refers to Illinois Institute of Continuing Legal Education materials, many of which are comprehensive Illinois-specific practice area handbooks.

⁹⁰ Cobar refers to materials available through the Colorado Bar Association.

⁹¹ O'Connor's Guides are materials published by Jones McClure Publishing.

Two respondents commented about proprietary databases:

I have a somewhat unique quasi-legal position. I rarely use WestLaw anymore but have found Thomson Reuters Checkpoint to be a valuable resource for researching employee benefits and health care reform compliance issues, especially with the EBIA Benefits Compliance Library.

WestLaw Business is frequently used at my firm.

One respondent commented about information on federal government websites:

I practice almost exclusively in the area of securities law. I primarily use free online resources (SEC and state securities regulators' websites and state and federal statutes) and paid Lexis securities law and public records databases. I follow changes in law and rules on the official regulators' websites on a regular basis.

These comments show that, while some practitioners are not making frequent use of practice materials, respondents to the open-ended question value state and practice specific materials. One reason for the use of bar association resources may be cost. It is noteworthy that responses from the Librarian Survey found that librarians were significantly more likely to report that practitioners “frequently” use practice guides.⁹² These results may be due to the fact that librarians continue to teach how to use such resources and are under the impression that practitioners use them in practice.

6. Comments about Respondents’ Legal or Research Practices or the Practitioner Survey Instrument

A. Comments about Respondents’ Legal or Research Practices

Fourteen (14) respondents referenced the limited or specialized nature of their legal practices, with implications for the generalizability of their responses on other portions of the survey in terms of answering our underlying questions about the research skills and knowledge needed in practice. That aside, some of these comments were noteworthy because they specifically referenced using resources in the respondent’s specialized practice that are not always the focus of legal instruction in law school. Law librarians should at least consider exposing law students to some of these resources before they enter the practice of law. Specifically, respondents commented:

⁹² Librarian Survey Final Report, *supra* note 5, at 21.

In the research of Indian Law and Tribal Law [sic] it is important that law students understand that they must research on micro-fiche, micro-film, and paper books.

I am a labor and employment attorney. I usually spend a couple of hours with new associates teaching them to use BNA. Not a single one in my 25+ years of supervising them has ever seen it before starting at at [sic] firm. It is the fundamental resource of every labor and employment lawyer I know.

Family law (a huge practice area) firms in Colorado seem to use Cobar resources and other free resources primarily.

Since my practice is mostly criminal defense and juvenile, I use the annotated statutes the most and have recently discovered the official State of Illinois website to get the latest version of the administrative regulations.

I practice almost exclusively in the area of securities law. I primarily use free online resources (SEC and state securities regulators' websites and state and federal statutes) and paid Lexis securities law and public records databases. I follow changes in law and rules on the official regulators' website on a regular basis.

Another six (6) respondents' comments indicate that they delegate research to others. These responses help clarify who is conducting legal research and emphasize other concerns for attorneys with respect to legal research, such as cost. A sample from the respondents' comments is as follows:

I have found a lawyer in my community who only does research. I e-mail her and she gets back to me right away. She charges \$75 per hour and it is much easier than trying to figure out my Lexis program or anything else I have tried to use.

I typically hire third years to do my legal research and pay them an hourly rate.

I assign research projects to others. Hence, I do not do my own case cite checking, or Westlaw etc searches. I just do preliminary checks for the 'lay of the land', refine what I need researched, and make assignments to associates.

Frankly, when I need real legal research done, I call a law librarian. It's cheaper to the client and much faster.

Research is usually referred to outside counsel. When research, I will use CaseMaker which is provided as a benefit of my state bar membership.

I rarely research except in treatises. When I need research, I have an associate do the research.

In light of these comments, the Task Force also proposes suggestions for the design of future surveys, which are meant to ensure that the respondents' comments are clear and the resulting data is unambiguous. Any future surveys should include something akin to a definition or example section at the beginning of the survey instrument. In this section, a list of resources that should be included in each category should be identified. It would also be helpful to provide respondents with examples of the types of resources that should be included in each category. For example, a survey instrument should instruct respondents that continuing legal education materials should be included under practice materials. The survey instrument should include instructions asking each respondent to identify specifically whether he or she uses each particular resource in print or accesses it electronically. Finally, time periods should be identified specifically, eliminating words such as "recently" and clarifying what is meant by "frequently", "rarely" or "occasionally". These suggestions are designed to clarify respondents' comments, allowing the data to be analyzed more fully.

B. The Survey Instrument and Assumptions

As the Task Force has compiled the qualitative and quantitative data from the Practitioner Survey and Librarian Survey, it has become evident that several assumptions were built into the survey instruments and, in certain cases, the coding categories that likely influenced the survey results. These assumptions should be considered when designing future surveys to more fully capture how legal research is performed by practitioners.

In particular, the questions in both surveys tend to be slanted to favor responses from practitioners in general practice or litigation. While the surveys solicited responses regarding the use of sample legal forms and transactional resources, which would more likely relate to transactional and business type practices, many of the questions solicited responses from practitioners about the research process and resources-materials and skills that are critical to generalists and litigators. For example, the surveys asked questions about the frequency of use of such resources as treatises, legal encyclopedias, case digests, restatements, and litigation resources/discovery, jury instruments, etc., all of which are geared primarily toward a litigation practice more so than to transactional or business practices.

Several respondents to the Practitioner Survey commented about this bias. Specifically, respondents noted:

I'm in IP law. I only research a very narrow slice of law and I am familiar with most of it...so I'm not exactly your target audience for this research survey.

Your questions seem to be geared to people who are doing legal research geared to litigation.

The survey seems to focus on a traditional law practice. It has little application to my work as a tax attorney working in the tax compliance and planning group of a major US multinational corporation.

Another assumption of the Task Force was that respondents would understand how certain sources should be categorized. One such example is that the Task Force assumed that respondents would know that continuing legal education materials should be included in the category of practice guides. It is evident from the respondents' comments that not all respondents understood where to include particular resources. One (1) respondent sought clarification about how to categorize a particular resource:

With regard to this survey, I could have used clarity as to what category IICLE is in...I am concerned that this survey doesn't capture this and may not adequately capture the data you want. I suspect one could say that IICLE and Westlaw fall under the categories provided in the survey, but if that is the case an example needs to be provided so those taking the survey can click away with confidence.

Furthermore, for coding purposes of the Practitioner Survey, the Task Force assumed that treatises were print resources and coded all responses discussing treatises as such. Many treatises, however, are available in both print and electronic formats. In some instances, a respondent's comment was ambiguous as to whether he or she was referring to print treatises or treatises available electronically, yet the responses were coded as print resources. For example, respondents commented:

There are still situations where a practitioner needs to be able to use treatises, bound volumes of regulations, restatements, property records in book or other database form, etc.

90% of what we do day in and day out as attorneys is already in a treatise or secondary source, which at the very least will get a researcher started most of the way to the answer and/or at least a citation to the critical cases, and law students know nothing about those sources. It as if they don't exist with the emphasis law schools placed on primary sources.

Another assumption made by the Task Force was that government attorneys should not be included in the coding for practitioners who perform research in specialized areas. These attorneys were excluded from this group for two reasons. First, government attorneys, while most likely working for a specific agency, may handle a variety of legal issues covering a number

of practice areas. For example, a government attorney working for the department of education may handle labor and employment matters, litigation cases, and tort claims. The second reason that government attorneys were excluded from the category relating to specialized areas of practice is because the comments from government attorneys tended to relate to a lack of funds or resources and not to research practices in any specialized area of law. The government attorneys' comments highlight the use of free resources. For example, one government attorney commented:

The biggest barrier to my research, as a state government attorney, is cost. Our Westlaw gives us access to cases and statutes, but nothing else. Thank god for google scholar!

In addition, the survey instruments included questions that tended to be slanted toward the types of resources that have traditionally been taught in law school. The surveys neglected to specifically include resources available to practitioners through local or state bar associates. Several respondents noted the limitation of the survey in this regard. In particular, respondents commented that certain sources were not mentioned in the survey instrument, including Casemaker, Fastcase, or other service:

I use LoisLaw for my online research – you should add it to the list.

By referring to Leix/Nexis, Westlaw and other fee-based services, you're leaving out our primary database and research tool –Casemaker, available free to members of the Mass. Bar Ass'n.

One of the growing databases used by many attorneys, especially those of us in small firms is Fastcase...It was not mentioned in the survey at all.

By identifying these biases and assumptions, the Task Force hopes that others can design survey instruments that eliminate them, ultimately expanding upon the findings of the Task Force, as published in their reports.

Conclusion

As the last in a series, this report marks the culmination of this Task Force's work. The Practitioner Survey, the Librarian Survey, and this discussion of the qualitative data from the Practitioner Survey have yielded much information regarding current attorney research practices and practitioner assessment of recent law graduates' legal research proficiency. The data and analysis presented should provide support for law schools' appraisals of their research curriculums. The currency of this information is important, as it is the only national survey to shed light on the research practices of attorney since the economic crisis of 2008. Further, the

broad spectrum of attorneys and law firms represented in this data will enrich these curricular appraisals considerably.

Many forces shape instructional needs, from local practices to incoming student characteristics. The Task Force surveys, and any other surveys, form only one component of curricular planning for legal research. As a result, the Task Force encourages law schools to engage in their own assessment of how this data should influence the curriculum.

This data also contributes to a more global conversation about legal research practices and how law schools should prepare their students. As noted above, a recent article used the data from the Practitioner Survey to inform analysis of a local survey.⁹³ The Task Force encourages scholarly analysis and debate about its reports.

The Task Force also recognizes the time-bound nature of this data. The legal research landscape continues to evolve, especially in light of advances in technology. Therefore, this kind of survey should be conducted on a regular basis in order to continue the conversation about how best law schools can develop curriculum to meet the research needs of their graduates.

⁹³ See Lawson, *supra* note 27.