

Way Beyond Legal Research: Understanding the Research Habits of Legal Scholars*

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How do legal scholars seek, discover, and manage information while conducting scholarly research? While the methods of legal research have been well-covered in the literature, few studies have explored the habits and practices that legal scholars actually employ when doing scholarly research. For librarians who support scholarly work through collection development, instruction, and personalized services, understanding scholars' research practices is vital. This article addresses gaps between models of legal research and actual research practices, and urges movement toward an empirically grounded understanding of the research habits of legal scholars in order to bridge some of those gaps.

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Introduction

¶1 How do legal scholars find, select, and manage information sources when they create scholarship? Today's legal scholarship is diverse, covering many topics outside traditional areas of the law, built on methodologies drawn from the social sciences and humanities as well as traditional doctrinal analysis. Do the research practices of today's legal scholars demonstrate comparable diversity? The implications of understanding scholarly research practices are important for both collection development and service model development, and yet these issues have received only brief attention in the law library literature.¹

¶2 Empirical study of the information behavior of legal scholars would provide important data about their use of the library's collections² and services,³ which is important to the profession's understanding of the changing role of the law librarian.⁴ A clearer picture of the legal scholar's research process would also provide a way for librarians to identify appropriate opportunities for collaboration with scholars,⁵ and would help deans and library directors assess the professional skills and training needed in the library in order to support such collaborative work.

¶3 Developing an understanding of the information behavior of legal scholars through empirical study is only a first step, however. Understanding why legal scholars engage in certain information behaviors could help librarians to refine their promotional and instructional activities accordingly.⁶ For example, do scholars tend not to use legal periodical indexes because they don't appreciate the added

1. For the law librarian's perspective on the changing nature of legal scholarship, see David A. Hollander, *Interdisciplinary Legal Scholarship: What Can We Learn from Princeton's Long-Standing Tradition?*, 99 LAW LIBR. J. 771, 2007 LAW LIBR. J. 47; Stephanie L. Plotin, *Legal Scholarship, Electronic Publishing, and Open Access: Transformation or Steadfast Stagnation?*, 101 LAW LIBR. J. 31, 2009 LAW LIBR. J. 2.

2. The changing roles of collection development librarians with respect to faculty are discussed in Connie Lenz, *Faculty Services in Academic Law Libraries: Emerging Roles for the Collection Development Librarian*, 96 LAW LIBR. J. 283, 2004 LAW LIBR. J. 18. Where circulation, routing, and inter-library loan data might have provided a clear picture of what faculty used twenty years ago, we now rely on usage statistics spread among many electronic databases. These statistics are not standardized, not consistently available, and generally do not report usage by patron type.

3. Different aspects of faculty services have been addressed in some relatively recent articles. For example, Jane Thompson emphasizes differences between the culture of faculty and librarians, and implications for working with faculty. Jane Thompson, *Teaching Research to Faculty: Accommodating Cultural and Learning-Style Differences*, 88 LAW LIBR. J. 280 (1996). Sheri Lewis promotes tracking details of individual faculty needs and preferences, responding reactively, and creating proactive services tailored to their needs. Sheri H. Lewis, *A Three-Tiered Approach to Faculty Services Librarianship in the Law School Environment*, 94 LAW LIBR. J. 89, 2002 LAW LIBR. J. 5.

4. See Susan Nissen Lerdal, *Evidence-Based Librarianship: Opportunity for Law Librarians?*, 98 LAW LIBR. J. 33, 2006 LAW LIBR. J. 2 (discussing incorporating research into library decision making generally, and the practice of evidence-based librarianship specifically). See also Gaby Haddow & Jane E. Klobas, *Communication of Research to Practice in Library and Information Sources: Closing the Gap*, 26 LIBR. & INFO. SCI. RES. 29 (2004).

5. Collaboration is one of the themes identified in Richard A. Danner, S. Blair Kauffman & John G. Palfrey, *The Twenty-First Century Law Library*, 101 LAW LIBR. J. 143, 2009 LAW LIBR. J. 9.

6. Understanding the "why" of information behavior represents another avenue for study. Identifying connections between characteristics of scholars and their scholarship on the one hand, and aspects of their research process on the other, may yield some answers to this question.

value of indexing, or because the search results retrieved are not valuable enough to justify the extra effort required? Understanding how and when scholars use various library resources for the type of scholarship they do would also better assist librarians in their communication with faculty members about research needs and relevant services. Librarians should be prepared to engage faculty members in high-level conversations not only about the topic area of their research, but also about their use and the usefulness of sources such as digital libraries and indexes.

¶4 Related research in other disciplines has yielded rich data about scholars and their research habits, addressing the importance of scholars' past experience with research and their reliance on trusted friends and colleagues for research tips.⁷ The literature often takes a naturalistic approach to this work, using interviews, surveys, and other techniques to help participants describe their research processes in their own words.⁸ The resulting text is then coded and analyzed for themes and can be used to validate existing models of information behavior.

¶5 This article first looks at the gaps between scholarly practice and librarianship, and the gaps in communication between librarians and scholars around research practices. These gaps can be bridged in part by better understanding the research habits of scholars, including their use of the library. The article then examines related literature about information behavior and research habits, and notes the limitations of prior work for understanding the habits of legal scholars. Finally, a brief roadmap for future empirical work in this area is presented, analyzing the important aspects of information-seeking behavior that have implications for model building in the academic law library.

Changes in Research Practices

¶6 Countless changes have been taking place in the world of legal information and legal research in recent decades, with advances in technology and publishing formats that have vastly increased the scholar's access to an ever-growing volume of legal information. How have these developments affected the day-to-day research habits of legal scholars and their use of the library? While several recent articles

7. See, e.g., Marcia J. Bates, *Learning About the Information Seeking of Interdisciplinary Scholars and Students*, 45 *LIBR. TRENDS* 155 (1996) (examining prior studies and proposing a study of interdisciplinary researchers); Cecelia M. Brown, *Information Seeking Behavior of Scientists in the Electronic Information Age: Astronomers, Chemists, Mathematicians, and Physicists*, 50 *J. AM. SOC'Y INFO. SCI.* 929 (1999); Chern Li Liew & Siong Ngor Ng, *Beyond the Notes: A Qualitative Study of the Information-Seeking Behavior of Ethnomusicologists*, 32 *J. ACAD. LIBRARIANSHIP* 60 (2006).

8. See Raya Fidel & Maurice Green, *The Many Faces of Accessibility: Engineers' Perception of Information Sources*, 40 *INFO. PROCESSING & MGT.* 563 (2004) (utilizing interviews); Judith M. Nixon, *How Scholars Work: Panning for Gold in Libraries*, 49 *REFERENCE & USER SERVICES Q.* 231 (2010) (describing panel discussions of scholars asked to describe their research methods); Maxine H. Reneker, *A Qualitative Study of Information Seeking Among Members of an Academic Community: Methodological Issues and Problems*, 63 *LIBR. Q.* 487 (1993) (using both quantitative and qualitative analyses). For more on the use of qualitative inquiry to collect and analyze information, see CONSTANCE ANN MELLON, *NATURALISTIC INQUIRY FOR LIBRARY SCIENCE* 64–66 (1990); STEVEN J. TAYLOR & ROBERT BOGDAN, *INTRODUCTION TO QUALITATIVE RESEARCH METHODS* (3d ed. 1998).

have addressed some of these changes from the librarian's perspective,⁹ comparatively little attention has been paid to effects on legal scholars and their research habits; to the evolving relationship between the librarian and the legal scholar; or to potential shifts in library hiring, collection development, and services to support scholarly communication.¹⁰

Understanding Scholarly Practices

¶7 Law librarians have not yet fully explored how attorneys or legal scholars conduct legal research.¹¹ As Judith Lihosit noted recently, many studies of legal research have focused on the tools of legal research¹² and the methods by which research is taught to law students, but comparatively little work has been done on understanding how practicing lawyers or legal scholars actually do their work.¹³ While many librarians work with faculty to support their research, this work provides a limited view of the scholar's research process. We don't know whether scholars are generally satisfied with search results or not, whether they're aware of

9. See, e.g., Danner, Kauffman, & Palfrey, *supra* note 5; Amanda M. Runyon, *The Effect of Economics and Electronic Resources on the Traditional Law Library Print Collection*, 101 LAW LIBR. J. 177, 2009 LAW LIBR. J. 11.

10. *But see* Barbara Bintliff, *What Can the Faculty Expect from the Library of the Twenty-First Century?*, 96 LAW LIBR. J. 507, 2004 LAW LIBR. J. 30.

11. See Steven M. Barkan, *Deconstructing Legal Research: A Law Librarian's Commentary on Critical Legal Studies*, 79 LAW LIBR. J. 617, 625 (1987) (stating that "[legal research] practices do not lend themselves to empirical measurement"); Morris L. Cohen, *Research Habits of Lawyers*, 9 JURIMETRICS J. 183, 183 (1969) ("we know . . . almost nothing about the actual procedures used by lawyers in their search into the law"); Richard A. Danner, *Contemporary and Future Directions in American Legal Research: Responding to the Threat of the Available*, 31 INT'L J. LEGAL INFO. 179, 184 (2003) ("Although librarians and others have long shared the sense that lawyers are less effective researchers than they might be, the published literature on the subject suggests that we actually know very little about how lawyers go about their research."); Judith Lihosit, *Research in the Wild: CALR and the Role of Informal Apprenticeship in Attorney Training*, 101 LAW LIBR. J. 157, 167–70, 2009 LAW LIBR. J. 10, ¶¶ 25–32 (reviewing previous studies, which she says "tend to focus on students," *id.* at 167, ¶ 25). AALL made note of this much-needed research, including it prominently in its research agenda: "How do lawyers in various professional settings actually conduct research, how do they use law libraries and librarians, and how do their approaches to research relate to those in other professions?" Am. Ass'n of Law Libraries, AALL Research Agenda § IV(A) (Sept. 10, 2000), <http://www.aallnet.org/committee/research/agenda.asp>.

12. See, e.g., Robert C. Berring, *Legal Information and the Search for Cognitive Authority*, 88 CAL. L. REV. 1673 (2000); Barbara Bintliff, *From Creativity to Computerese: Thinking Like a Lawyer in the Computer Age*, 88 LAW LIBR. J. 338 (1996); Lee F. Peoples, *The Death of the Digest and the Pitfalls of Electronic Research: What Is the Modern Legal Researcher to Do?*, 97 LAW LIBR. J. 661, 2005 LAW LIBR. J. 41.

13. Lihosit, *supra* note 11, at 167, ¶ 25. Lihosit's own model study of attorneys in San Diego spotlights notable discrepancies between the way legal research is taught to students and the way attorneys actually conduct research: namely, that attorneys report beginning research with a secondary source or consulting with a more experienced colleague, that they rely regularly on a network of colleagues for advice, and that they don't use the West Digest System the way it was taught to them. *Id.* at 174, ¶¶ 45–46. A recent dissertation reporting on a study of legal scholars and practicing lawyers appears to be a significant step in the right direction, however. Stephann Makri, *A Study of Lawyers' Information Behaviour Leading to the Development of Two Methods for Evaluating Electronic Resources* (2008) (unpublished Ph.D. dissertation, University College London), available at <http://eprints.ucl.ac.uk/14729/1/14729.pdf>.

the best tools for doing research in their topical area, or whether they understand how to search those tools efficiently and effectively. Librarians teach students how to conduct legal research based on various established models,¹⁴ but we shouldn't assume that scholars go on to conduct research according to the models we teach.

¶8 The situation is mildly ironic: librarians are building scholarship on the theories, methods, and pedagogy of legal research,¹⁵ while legal scholars spend a great deal of time practicing it, in the course of producing theoretical works on their area of interest. But though librarians work with legal scholars in various ways, library scholarship has not been well connected to faculty scholarly practices. By focusing on theory and models without accounting for the actual practice of lawyers and scholars, librarians may miss important information about the way people use legal information and about their interaction with the library and relationships with librarians. The gap between theory and practice in this area is a limiting factor in productive collaboration and service between librarians and legal scholars. We know that legal scholars no longer need to contact a librarian to obtain primary legal materials and many secondary materials. Surely this increased availability of materials has changed the way that many scholars do research, and the way that they use the library. In order for librarians to continue to provide high-quality, relevant services, it is important to understand the extent to which scholars rely on both print and online resources, including LexisNexis and Westlaw, other sources in and outside of the library, and colleagues and friends.¹⁶

Legal Research Expertise

¶9 Law librarians have long been the recognized experts on legal bibliography and doctrinal legal research techniques, but is this recognition extended to the enterprise of scholarly legal research? Do scholars seek help from librarians because they value legal research expertise, or because we're perceived as the keepers of the books (print and electronic)? The perception of scholars regarding the value and expertise of law librarians is important in the context of scholarly research. As recent law librarianship literature on public relations implies, marketing our skills

14. Texts representing the process-centered approach include MARJORIE DICK ROMBAUER, *LEGAL PROBLEM SOLVING* (5th ed. 1991); CHRISTOPHER G. WREN & JILL ROBINSON WREN, *THE LEGAL RESEARCH MANUAL* (2d ed. 1986); and the more recent CHRISTINA L. KUNZ ET AL., *THE PROCESS OF LEGAL RESEARCH* (7th ed. 2008). For a reflection on the game-changing nature of the Wrens' work, see Robert C. (Bob) Berring Jr., *Twenty Years On: The Debate Over Legal Research Instruction*, 17 *PERSPECTIVES: TEACHING LEG. RES. & WRITING* 1 (2008); Paul Douglas Callister, *Beyond Training: Law Librarianship's Quest for the Pedagogy of Legal Research*, 95 *LAW LIBR. J.* 7, 11–19, 2003 *LAW LIBR. J.* 1, ¶¶ 8–26. Notable texts representing the bibliographic-centered approach are: STEVEN M. BARKAN, ROY M. MERSKY, & DONALD J. DUNN, *FUNDAMENTALS OF LEGAL RESEARCH* (9th ed. 2009); ROBERT C. BERRING & ELIZABETH A. EDINGER, *FINDING THE LAW* (12th ed. 2005); MORRIS L. COHEN, ROBERT C. BERRING & KENT C. OLSON, *HOW TO FIND THE LAW* (9th ed. 1989). For an interesting comparison of *Fundamentals* and the other texts, see Steven M. Barkan, *On Describing Legal Research*, 80 *MICH. L. REV.* 925 (1982) (reviewing J. MYRON JACOBSTEIN & ROY M. MERSKY, *FUNDAMENTALS OF LEGAL RESEARCH* (2d ed. 1981)).

15. See, e.g., Paul D. Callister, *Time to Blossom: An Inquiry into Bloom's Taxonomy as a Hierarchy and Means for Teaching Legal Research Skills*, 102 *LAW LIBR. J.* 191, 2010 *LAW LIBR. J.* 12.

16. For the importance of professional networks to practicing attorneys' research process, see Lihosit, *supra* note 11, at 172–73, ¶¶ 39–41.

and services is crucial to our continued relevance as a profession.¹⁷ In order to effectively promote our value to scholars, however, we must understand how they view librarians and libraries, and what they find valuable about both.

¶10 Cultural factors as well may work against librarians' efforts to market their research expertise. In a 1996 article, Jane Thompson explored differences between librarian and faculty culture, and the implications of those differences for librarians who provide research instruction to faculty.¹⁸ She contrasted the highly theoretical, autonomous culture of teaching faculty with the less theoretical, more managerial culture of librarians.¹⁹ Faculty members generally discover through experience that librarians have expertise with the research process, but their perception of librarians as practitioners and skills instructors may initially work against this. As a potential barrier to productive collaboration between librarians and legal scholars, faculty perceptions regarding librarians and legal research expertise are an important component of understanding scholarly research habits and scholars' use of the library.²⁰

Searching and Finding

¶11 Many libraries provide instructional and promotional services for faculty in an effort to maintain their awareness of new and changed resources.²¹ Liaison programs and targeted services have largely replaced the group instructional session,²² as librarians have discovered that reaching faculty at the right time and

17. See Kristin Cheney, *Marketing Law Libraries: Strategies and Techniques in the Digital Age*, LEGAL REFERENCE SERVICES Q., nos. 1/2, 2007, at 281; Bret N. Christensen, *Livin' la Vida Virtual*, AALL SPECTRUM, Mar. 2008, at 12.

18. Thompson, *supra* note 3.

19. *Id.* at 282–83.

20. There is limited evidence about faculty perceptions of librarians, and it is not always consistent. See John B. Attanasio, *The Research Librarian in the Educational Mission of the Law School*, 81 LAW LIBR. J. 143 (1989) (law professor's discussion of the contributions of academic law librarians); Robert M. Jarvis, *What Law Professors Will Want from Law Librarians in the Twenty-First Century*, 96 LAW LIBR. J. 503, 504, 2004 LAW LIBR. J. 29, ¶ 8 (likening librarians to doormen, elevator operators, and travel agents in their impending obsolescence); Susan Westerberg Prager, *Law Libraries and the Scholarly Mission*, 96 LAW LIBR. J. 513, 516, 2004 LAW LIBR. J. 31 ¶ 12 ("I will only emphasize that librarians' engagement with the research agendas of faculty and students has been growing dramatically, and this reality has contributed to the scholarly culture and the research productivity of our law schools."). See also Richard A. Danner, *Supporting Scholarship: Thoughts on the Role of the Academic Law Librarian*, 39 J.L. & EDUC. 365, 369 n.17 (2010). Danner recalls the 2008 Association of American Law Schools' workshop for law librarians, and the address of John Garvey, then dean of the Boston College Law School and president of the Association, who admitted discounting librarians in early stages of his career, as he believed himself to be far more knowledgeable about how to find the law.

21. See, e.g., Univ. of Chi. Law School, Library Services for Faculty, <http://www.law.uchicago.edu/faculty-staff/library> (last visited Aug. 3, 2010); UNIV. OF MICH. LAW LIBRARY, SERVICES FOR LAW SCHOOL FACULTY (July 28, 2009), available at http://www.law.umich.edu/library/faculty/Documents/2009-10_faculty_services_brochure.pdf. See also Academic Law Libraries Special Interest Section (ALL-SIS) Faculty Servs. Comm., Am. Ass'n of Law Libraries, Faculty Services Survey 2005 and Comments, <http://aallnet.org/sis/allsis/committees/faculty/surveys.asp> (last visited Aug. 3, 2010) (providing access to full survey results, including comments to open-ended questions) [hereinafter ALL-SIS Faculty Services Survey].

22. See Cheney, *supra* note 17, at 289 (noting difficulty of gaining faculty participation in user surveys and focus groups). See also ALL-SIS Faculty Services survey, *supra* note 21 (when asked in question 100: "What is the normal attendance by faculty for group presentations?," 48.8% responded "less than 10%"; 38.8% responded "10–25%").

place can be a challenge.²³ It can be difficult to capture the attention of busy faculty members for any purpose, so it is important that services are useful, that they are marketed effectively, and that these efforts reach faculty at an appropriate time. Research is a challenging process for new faculty scholars, requiring significant investment of time and energy and strategic decision-making about how best to contribute new knowledge and establish status in the scholarly community.²⁴ Using databases and finding information in other library resources is a very small part of that overall process²⁵—and today’s scholars have at least rudimentary finding tools built into one or more office and portable networked devices.

¶12 For librarians, legal research revolves around finding the published sources of law and secondary sources on the law. Traditional bibliographic instruction tends to focus on the mechanics of the search process—the organization and sequence of publications, contents of databases, issues with updating and search connectors, etc.—and scholars who are invested in the doctrinal or theoretical material may not find this emphasis useful or relevant.²⁶ Librarians must help faculty to understand that our expertise lies beyond locating pieces of information—that librarians help users “formulate questions and strategies that will get them what they need.”²⁷ By talking about more than the mechanics of searching, and engaging scholars in conversations about what they are doing, librarians can cultivate an expectation among scholars that librarians can be partners in scholarly work as well as scholars in their own right.

¶13 Scholars also face challenges with their research beyond those related to the use of online systems, including the pressure to incorporate interdisciplinarity.²⁸ Their research necessarily takes them into the literature of other fields, but basic

23. The ALL-SIS Faculty Services Survey, *supra* note 21, included questions about individual and group training for faculty on new electronic resources, faculty responses to various marketing methods, and the success of marketing services to faculty. Survey responses indicated a wide variation in perceived success rates for these initiatives.

24. See Robert H. Abrams, *Sing Muse: Legal Scholarship for New Law Teachers*, 37 J. LEGAL EDUC. 1 (1987); Cheryl Hanna, *The Nuts and Bolts of Scholarship, or the “New” Rules for Legal Scholars*, available at <http://www.aals.org/nlt2004/hanna.pdf> (last visited July 17, 2010). Both contain advice to faculty about producing scholarship.

25. See Abrams, *supra* note 24, at 7 (“The hard creative work is in the organization process. Far and away the most intellectually demanding part of writing any article is determining how its pieces fit together into a logical and persuasive whole. The most time consuming parts are the research and drafting, but these are not as difficult as most neophyte legal academics imagine.”).

26. Many have noted this in the context of teaching legal research to law students. See sources cited *supra* note 14. The bibliographic vs. process approach battle appears to have ended years ago, but what of “teaching” the faculty how to do research? Jane Thompson noted a variety of issues with teaching faculty about research. Thompson, *supra* note 3, at 284–87.

27. Richard A. Danner, *Skating with Donovan: Thoughts on Librarianship as a Profession*, 27 LEGAL REFERENCE SERVICES Q., 117, 130 (2008).

28. For more on the rise of interdisciplinarity in legal scholarship, see Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34 (1992); George L. Priest, *The Growth of Interdisciplinary Research and the Industrial Structure of the Production of Legal Ideas: A Reply to Judge Edwards*, 91 MICH. L. REV. 1929 (1993). The Association of American Law Schools tracks the educational background of candidates who submit their information to the Faculty Appointments Register (FAR). In 2008–09, out of 875 registered faculty, 328 (37%) had advanced degrees in disciplines other than law. Ass’n of Am. Law Sch., 2008–2009 AALS Statistical Report on Law Faculty, <http://www.aals.org/0809stats.php>.

and even advanced legal research courses in law schools continue to emphasize traditional doctrinal sources and techniques. Scholars also face challenges in locating material within the enormous collections that are available to them through libraries. Technology has brought documents to their desktops, but they are distributed across many different systems—making research more challenging for faculty who are less facile with technology. Learning how to navigate among all the available resources, filter the choices, and make effective use of the materials is of great importance no matter what the discipline of the literature.

Understanding Scholarly Research

Value of Empirical Study

¶14 Librarians must leverage their specialized expertise to meet the needs of legal scholars, but in order to proceed we need empirical data on the current research habits of legal scholars, including their use of the library, and an empirically grounded understanding of their research needs. Empirical description of the research process of legal scholars will begin to bridge gaps between scholars and librarians, giving librarians and others an understanding of research practices from the scholar's perspective and experience. Nearly twenty years after Morris Cohen's *Jurimetrics Journal* article, Steven Barkan echoed the gap in research, noting, "we know little about how lawyers and judges actually do research."²⁹ He expressed doubt about the feasibility of empirical research into legal research techniques, arguing that "we can only speculate about the methods and sources actually used."³⁰ The substantial literature on the research habits of scholars and professionals, discussed in the next section, suggests that empirical studies with qualitative approaches can yield rich descriptions.

¶15 The goals of a large-scale project to investigate the research practices of legal scholars should be descriptive and nuanced. It is important that this work aim to understand, as well as to describe, faculty research behavior. Scholars in library and information science have explored the use of empirical studies of the research habits of professionals³¹ and scholars in various academic disciplines³² to understand research behavior. Research on information-seeking behavior has been prominent within library and information science since the 1980s,³³ and some of

29. Barkan, *supra* note 11, at 624. Barkan wrote in response to the implied attack of the Critical Legal Studies movement on legal research ("the nature and effects of categorizing legal problems," *id.* at 618), and used legal research texts as a model for the research process.

30. *Id.* at 625.

31. Two articles reviewing studies of research needs of physicians are Paul N. Gorman, *Information Needs of Physicians*, 46 J. AM. SOC'Y. INFO. SCI. 729 (1995) and James D. Haug, *Physicians' Preferences for Information Sources: A Meta-Analytic Study*, 85 BULL. MED. LIBR. ASS'N. 223 (1997).

32. See, e.g., Brown, *supra* note 7; Susie Cobbledick, *The Information-Seeking Behavior of Artists: Exploratory Interviews*, 66 LIBR. Q. 343 (1996); Thomas E. Pinelli, *The Information-Seeking Habits and Practices of Engineers*, SCI. & TECH. LIBR., no. 3, 1991, at 5.

33. See CAROLE PALMER ET AL., SCHOLARLY INFORMATION PRACTICES IN THE ONLINE ENVIRONMENT 4 (2009), available at <http://www.oclc.org/research/publications/library/2009/2009-02.pdf>.

this work has focused on users of legal information,³⁴ including lawyers,³⁵ law students,³⁶ and judges.³⁷

Types of Empirical Study

¶16 Recently, Stephann Makri and his colleagues sought to inform the development of legal information systems through a study of online legal database users.³⁸ As they note, this subfield of research contains many models of the information-seeking process.³⁹ For the purposes of addressing the functionality of online research systems, they chose a model with a low level of abstraction, examining specific user behaviors that could be supported by system designers. They turned to Ellis, whose model is based on observations of the information-seeking behavior of academics across the social and physical sciences. Ellis's model consists of a set of nonsequential activities of research: starting/surveying, monitoring, browsing, chaining, differentiating, extracting, verifying, information managing, and ending.⁴⁰ Through the theoretical lens of Ellis's model, Makri, Blandford, and Cox analyzed the behavior of law students and other legal researchers while using various electronic resources, and challenged designers to consider how better to support each of the identified behaviors.⁴¹

¶17 Kuhlthau's Information Search Process Model (ISP)⁴² has been used as the basis for many studies of information-seeking behavior. Kuhlthau and Tama's 2001

34. Robert Richards, *Legal Information Systems and Legal Informatics Resources: Information Behavior* (Selected), <http://home.comcast.net/~richards1000/InformationBehavior.html> (last visited Aug. 3, 2010), is an extensive bibliography of scholarly works on users of legal information.

35. F. Allan Hanson, *From Key Numbers to Keywords: How Automation Has Transformed the Law*, 94 *LAW LIBR. J.* 563, 2002 *LAW LIBR. J.* 36.

36. Bert J. Dempsey et al., *Design and Empirical Evaluation of Search Software for Legal Professionals on the WWW*, 36 *INFO. PROCESSING & MGMT.* 253 (2000); Gillian Kerins et al., *Information Seeking and Students Studying for Professional Careers: The Cases of Engineering and Law Students in Ireland*, *INFO. RES.*, Oct. 2004, <http://informationr.net/ir/10-1/paper208.html> (examining how law students develop information-seeking strategies). See also Carolyn R. Young & Barbara A. Blanco, *What Students Don't Know Will Hurt Them: A Frank View from the Field on How to Better Prepare Our Clinic and Externship Students*, 14 *CLINICAL L. REV.* 105 (2007) (reporting results of a survey of externship directors on which skills students lack).

37. Melody M. Hainsworth, *Information Seeking Behavior of Judges of the Florida District Courts of Appeal* (1992) (unpublished Ph.D. dissertation, Florida State University), abstract available at <http://ssrn.com/abstract=1367308>.

38. Stephann Makri, Ann Blandford & Anna L. Cox, *Investigating the Information-Seeking Behaviour of Academic Lawyers: From Ellis's Model to Design*, 44 *INFO. PROC. & MGT.* 613 (2008). See also Makri, *supra* note 13.

39. See Makri, Blandford & Cox, *supra* note 38, at 614–15.

40. DONALD O. CASE, *LOOKING FOR INFORMATION* 260 (2d ed. 2008).

41. They quote Stuart Sutton as saying that “both Lexis and Westlaw were designed with no apparent attention being paid to the information-seeking behaviour of attorneys.” Makri, Blandford, & Cox, *supra* note 38, at 617 (quoting Stuart A. Sutton, *The Role of Attorney Mental Models of Law in Case Relevance Determinations: An Exploratory Analysis*, 45 *J. AM. SOC'Y INFO. SCI.* 186, 198 (1994)). Makri continued his work to inform the development of legal information systems in a larger study of law students, faculty, and practicing lawyers that formed the basis for his Ph.D. dissertation. Makri, *supra* note 13.

42. The ISP model is explained in Carol C. Kuhlthau, *A Principle of Uncertainty for Information Seeking*, 49 *J. DOCUMENTATION* 339, 342–44 (1993).

study looked at the complexity of tasks performed by eight “early career expert” litigators preparing a case for trial.⁴³ Their findings suggested the need for customized services and systems to aid lawyers in this work.

¶18 Another study, done in 1996, also looked at the information-seeking behavior of lawyers.⁴⁴ That study took a broader look at the information seeking of professionals, incorporating many functions of their work beyond those strictly defined as legal research, and considered variables that affect their information-seeking behavior, including their attitude toward legal research, their practice environment, experience, legal research training/education, and available research systems.⁴⁵

¶19 The results of these studies suggest that an approach using qualitative techniques, also referred to as a naturalistic or ethnographic approach, would be most effective.⁴⁶ While the use of survey techniques to measure service quality and user needs quantitatively is often recommended for use in law libraries,⁴⁷ qualitative methods can also be used to seek meaning, and to support a more nuanced understanding of how legal scholars use information resources. This approach also aligns with other research in the library and information science field on the information-seeking behavior of scholars and professionals.

¶20 An ethnographic approach can suggest both a paradigm for framing faculty information behavior⁴⁸ and techniques for exploring associated research questions. The toolkit available to the ethnographic researcher includes questionnaires, interviews, and structured observation. Questionnaires can be useful in their anonymity, for gathering data on topics that participants might be less comfortable discussing with an interviewer. Questionnaires can also be used for closed-ended questions that do not warrant taking up face-to-face interview time. Interviews are useful for going deeper with questions, and for pursuing trails suggested by the subject’s responses. Interviewers can establish an environment in which participants can reflect on a process that consumes much of their scholarly life. The logistical difficulty and skill required for effective face-to-face interviewing, how-

43. C.C. Kuhlthau & S.L. Tama, *Information Search Process of Lawyers: A Call for “Just for Me” Information Services*, 57 J. DOCUMENTATION 25, 29 (2001).

44. Gloria J. Leckie et al., *Modeling the Information Seeking of Professionals: A General Model Derived from Research on Engineers, Health Care Professionals, and Lawyers*, 66 LIBR. Q. 161 (1996).

45. *Id.* at 174–75.

46. See Yvonna S. Lincoln, *Insights into Library Services and Users from Qualitative Research*, 24 LIBR. & INFO. SCI. RES. 3 (2002) (discussing the benefits of qualitative research). See also generally YVONNA S. LINCOLN & EGON G. GUBA, *NATURALISTIC INQUIRY* (1985).

47. Many recent articles cover the use of surveys to gather information about users and their needs, and their satisfaction with the library, through quantitative methods. See, e.g., Cheney, *supra* note 17, at 286; H. Kumar Percy Jayasuriya & Frances M. Brillantine, *Student Services in the 21st Century: Evolution and Innovation in Discovering Student Needs, Teaching Information Literacy, and Designing Library 2.0-Based Services*, LEGAL REFERENCE SERVICES Q., nos. 1/2, 2007, at 135, 147–52; Dwight B. King, Jr., *User Surveys: Libraries Ask, “Hey, How Am I Doing?”*, 97 LAW LIBR. J. 103, 2005 LAW LIBR. J. 5. For a discussion of the importance of asking the right questions and designing surveys based on the user’s experience, see Steve Hiller, *Assessing User Needs, Satisfaction, and Library Performance at the University of Washington Libraries*, 49 LIB. TRENDS 605, 623 (2001).

48. See generally MELLON, *supra* note 8; JULIET CORBIN & ANSELM STRAUSS, *BASICS OF QUALITATIVE RESEARCH* (3d ed. 2008).

ever, are substantial, and limit the number of participants that can be managed in a study.

¶21 Qualitative researchers collect and analyze data to seek meaning, rather than testing explanations of behavior.⁴⁹ Qualitative researchers mine data for themes, building hypotheses about participants' behavior and motivations. A qualitative approach does not foreclose the limited use of quantitative tools, either as a preparatory step to fieldwork or as supplementary information to add to the description. Indeed, prior research on information-seeking behavior has incorporated the use of multiple methods of data collection and analysis to triangulate research questions.⁵⁰ Data that are naturally occurring and readily available, such as the educational background of legal scholars, and the citations in the text and footnotes of published legal scholarship, can be analyzed using quantitative techniques to identify similarities and variance, and to test understandings of categories. Maxine Reneker, in her 1992 study of Berkeley researchers, gathered individual data on each participant to support limited quantitative analysis, enabling the discovery of relationships between selected characteristics of researchers—such as cognitive style—and elements of their research process.⁵¹

¶22 Librarians can use their specialized expertise to bridge gaps between models of research and scholarly research practice. To do this effectively, we must commit to rigorous research.

Call for a Large-Scale Empirical Study

¶23 While several studies of information-seeking behavior have included users of legal information resources, most of these have focused on attorneys, whose work is distinguishable in many respects from that of legal scholars. Attorneys, whether litigators or transactional, are engaged in the full-time work of client advocacy. From intake through research, strategizing, drafting documents, negotiating, and communicating with the court or opposing counsel, all activities are shaped by the goal of seeking resolution or advice for a client. Legal scholars, by contrast, are engaged in a process shaped by the traditions of scholarly inquiry, working within

49. For more background on qualitative inquiry, see generally NORMAN K. DENZIN & YVONNA S. LINCOLN, *COLLECTING AND INTERPRETING QUALITATIVE MATERIALS* (2d ed. 2003); NORMAN K. DENZIN & YVONNA S. LINCOLN, *STRATEGIES OF QUALITATIVE INQUIRY* (3d ed. 2008). "Qualitative research aims to investigate and understand the social world rather than to predict, explain and control behaviour." Linda Finlay, "Going Exploring": *The Nature of Qualitative Research*, in *QUALITATIVE RESEARCH FOR ALLIED HEALTH PROFESSIONALS: CHALLENGING CHOICES* 3, 7 (Linda Finlay & Claire Ballinger eds., 2006). Though there is no one definition, qualitative research is rooted in "a commitment to some version of the naturalistic, interpretive approach to its subject matter and an ongoing critique of the politics and methods of postpositivism." Norman K. Denzin & Yvonna S. Lincoln, *Introduction: The Discipline and Practice of Qualitative Research*, in *STRATEGIES OF QUALITATIVE INQUIRY*, *supra*, at 1, 14.

50. See Makri, *supra* note 13, at 61–62 (discussing ways to avoid bias in data collection) (citing ANSELM STRAUSS & JULIET CORBIN, *BASICS OF QUALITATIVE RESEARCH* 44 (1998)). See also LINCOLN & GUBA, *supra* note 46, at 305–07; Clara M. Chu, *Literary Critics at Work and Their Information Needs: A Research-Phases Model*, 21 *LIB. & INFO. SCI. RES.* 247, 269 (1999).

51. Reneker, *supra* note 8. Reneker tracked sex, age, academic degrees and disciplines, areas of current academic interest or study, scores on the Myers-Briggs Type Indicator, and status in the university and incorporated these into cross-tabulations of various information needs.

the discipline's standards for rigorous scholarship. The work of law faculty may in some ways resemble more closely that of their colleagues across campus in the history, political science, or economics departments, than that of practicing attorneys. While they share with attorneys their use of the literature of the law, the purpose of legal scholars' work is different, and their research habits may be as well.

¶24 Ellis's and other models of information seeking and their follow-up studies may be useful for studying the legal scholar's research practices, however. These emphasize the active role of the researcher, and tell us that scholars manage a vast array of information from a wide range of sources throughout their research as they read, engage, analyze, develop ideas, and produce their own work.⁵² Lawyers, despite their having access to such large digital law libraries as LexisNexis and Westlaw, nevertheless "often find legal information-seeking difficult, making them interesting to study."⁵³ Leckie's model offers a framework for viewing the broad range of tasks that scholars do; Ellis offers nonsequential tasks that may be more useful for looking specifically at research-oriented activities.

¶25 While theoretical research in this area is still developing, and while law librarians could help in this enterprise, what is needed in the short term is to begin building descriptive data about the research habits of legal scholars. After some attention to their process and experience, collecting stories that resonate with librarians, scholars, and administrators, we may be able to turn back to theory and work on testing models within the community of legal scholars.

Important Questions

¶26 There are many potential approaches to take to develop greater understanding about the research process and habits of legal scholars, but the following questions are suggested as highest priority for research:

- How do legal scholars satisfy information needs they encounter during their scholarly research? What are the types of information needs that legal scholars encounter, and what sources and channels of information (e.g., systems and people) do they use to satisfy each of these types of needs?
- How do legal scholars manage information in the course of their research and writing process? What are their most significant information management challenges, and what tools and strategies do they use to solve them?
- How significant a role do scholars' communities and social networks play in the research process? What are the most important professional communities to scholars, and how do they use both these and their broader social networks to support or facilitate their scholarly work?

¶27 While any study should aim to draw out details of a scholar's research process, the questions above relate to three general areas of inquiry. First is the *sources* that faculty use: whether faculty prefer LexisNexis or Westlaw, print periodical indexes, Google news alerts, RSS feeds, books, government reports, or something else. Do faculty scholars use the resources that librarians expect them to use? When

52. See Kuhlthau & Tama, *supra* note 43, at 31–34.

53. Makri, Blandford & Cox, *supra* note 38, at 613.

scholars choose Google news alerts over WestClip searches, does this represent an interface or access preference, or a teachable moment? Some of the results of source-based questions should be unsurprising to law librarians, and we could anticipate them to some degree by analyzing the footnotes of published scholarship. But not all resources encountered in the research process are cited in published work, and mere citation does not necessarily convey the relative importance of one source over another.

¶28 Equally important to the questions regarding sources, however, are questions that relate to the *channels of communication* that faculty rely on for new information: How do faculty scholars stay informed in their areas? How do they become aware of new cases, new research databases, or new journal titles or articles? Who are their “gurus” or “experts” when they find themselves with a gap in information? To whom do faculty scholars turn to exchange ideas or brainstorm about new projects, and at what stages of the process do they engage others? Understanding these channels of communication is important for understanding faculty research behavior. As library and information science researchers have emphasized, researchers are not passive recipients of information, but instead engage in an active process of managing information to create new knowledge.⁵⁴ How or where do librarians fit into the legal scholar’s network, if at all? For those faculty scholars who do engage librarians in conversations about their research, what makes that relationship valuable for the faculty member? These are important questions that could be incorporated into library assessment, using both traditional and other assessment tools.⁵⁵

¶29 Finally, a study of legal scholars’ information behavior should seek some understanding of faculty *habits and preferences*,⁵⁶ and the significance of those personal characteristics to the overall picture of a scholar’s research process. To what extent does a scholar’s preference for a solitary or a collaborative process affect their use of the library’s collections and services? To what extent do scholars’ facility with or preference for technology impact their interactions with the library? Some faculty members may simply prefer not to assign research tasks to librarians or to research assistants, whereas others find it helpful to have assistance. Do some faculty just need help making sense of complicated interlibrary loan systems, or is this a task that they would prefer to delegate, no matter how simple the library might make the form? Understanding the role of habit and preference in the research process could facilitate a framework for conversations between librarians and faculty, to better support individual scholars in their work.

¶30 Ultimately, it would be important to discern the extent to which aspects of a scholar’s research habits are linked to the type of research that they do or the type

54. Carol C. Kuhlthau, *Investigating Patterns in Information Seeking: Concepts in Context*, in *EXPLORING THE CONTEXTS OF INFORMATION BEHAVIOUR* 10, 13 (Thomas D. Wilson & David K. Allen eds., 1998).

55. Gary J. Bravy & K. Celeste Feather, *The Impact of Electronic Access on Basic Library Services: One Academic Law Library’s Experience*, 93 *LAW LIBR. J.* 261, 268, 2001 *LAW LIBR. J.* 11, ¶ 14 (“A dramatic shift in the focus of what libraries measure is needed to provide more inclusive evaluation techniques.”); Martha Kyrillidou, *LibQual+ and Beyond: Library Assessment with a Focus on Library Improvement*, 9 *PERFORMANCE MEASUREMENT & METRICS* 155 (2008).

56. See Attanasio, *supra* note 20, at 146; Lewis, *supra* note 3, at 93–95, 98, ¶¶ 13–14, 26–27.

of scholar that they are. Would we find similarities in how groups of scholars doing empirical work in law and social sciences, for instance, encounter and address problems in managing information? Would we find similarities among junior scholars, or clinical faculty, that could be addressed with new library services?

Categorizing Scholars and Scholarship

¶31 Examination of both published scholarship and information about legal scholars would yield one set of useful data. This data collection should incorporate the stated methodology, subjects, and footnotes of published scholarship, and the academic background, affiliations, and tenure status of legal scholars. The footnotes of published scholarship present a large data set for study, though their implications for this work should not be overstated. The works cited in an article represent both authority and context for the author's ideas, and the research material that is most important to the article. Footnotes suggest something about the scholar's research needs, as well. An article that cites heavily and primarily to U.S. law journal articles suggests that LexisNexis, Westlaw, and HeinOnline databases would have served this author well. For scholars who work primarily with these sources, skilled research assistants are plentiful. On the other hand, authors who work with international court decisions and empirical or other literature outside law may find the traditional crop of student research assistants less useful without specialized instruction. What footnotes fail to provide, however, is any indication of how sources were discovered by scholars, whether through PsycInfo, a blog posting, subscription-based alerts, or as a referral from someone in a scholar's network of friends and colleagues. The paths that legal scholars take to discover sources are equally, if not more, important to understanding the research process of legal scholars and the relevance of this process to the library.

¶32 Establishing some preliminary categories of legal scholars and scholarship will present specific relationships to examine in the study, such as the connection between educational background and the use of community and social networks in the research process. Though a few bloggers have engaged in playful exercises to classify legal scholarship,⁵⁷ no taxonomy can be found in the legal or librarianship literature.⁵⁸ Legal scholars and their work could be classified along any number of

57. See, e.g., J.B. Ruhl, *The Hierarchy of Legal Scholarship*, JURISDYNAMICS (Sept. 21, 2006, 10:29 P.M.), <http://jurisdynamics.blogspot.com/2006/09/hierarchy-of-legal-scholarship.html>; Lawrence B. Solum, *Ruhl on the Hierarchy of Legal Scholarship*, LEGAL THEORY BLOG (Sept. 22, 2006, 1:09 P.M.), http://lsolum.typepad.com/legaltheory/2006/09/chen_on_the_hie.html (response to Ruhl); Jim Chen, *A Value-Based Hierarchy of Legal Scholarship*, JURISDYNAMICS (Sept. 23, 2006, 10:50 A.M.), <http://jurisdynamics.blogspot.com/2006/09/value-based-hierarchy-of-legal.html> (response to Ruhl and Solum).

58. Some works, however, address the enterprise of legal scholarship, analyzing a range of purposes, aims, and goals of legal scholars and their work. See, e.g., Stephen M. Feldman, *The Transformation of an Academic Discipline: Law Professors in the Past and Future (or Toy Story Too)*, 54 J. LEGAL EDUC. 471, 488–89 (2004) (suggesting categories of approaches taken by modern legal scholars with respect to the connection to the practice of law); Robert Post, *Legal Scholarship and the Practice of Law*, 63 U. COLO. L. REV. 615 (1992) (discussing a “crisis of identity” in current American legal scholarship); Edward L. Rubin, *The Practice and Discourse of Legal Scholarship*, 86 MICH. L. REV. 1835 (1988) (using the critique of methodology as a means of assessing legal scholarship).

dimensions based on characteristics of scholars or of their published work. Some possible dimensions are addressed below, and for each a set of possible groupings is provided.

Inquiry Paradigms

¶33 Methodology implies a whole host of details about a scholar's research process. The slate of services that the library offers to a faculty that includes several scholars engaged in original empirical work might be very different from that offered to scholars doing work in law and the humanities. A scholar who draws on the toolkit of the experimental psychologist to study problems in law, for example, begins research with a plan and proposal for a study, must obtain IRB (Institutional Review Board) approval,⁵⁹ then conduct experiments and analyze the data, all as a prelude to writing the bulk of an article. A scholar applying feminist theory to problems in child custody, on the other hand, may require sources from other disciplines, along with judicial decisions and statutes. To what extent does a scholar's methodological tool or approach implicate or dictate the research process and the information-seeking activities that make up that process? Understanding the differences in how various scholars do their work will help libraries to tailor their service offerings to the extent they determine is appropriate, and will facilitate more productive conversations with new faculty members about the library's services.

¶34 Methodology represents only one aspect of a scholar's approach to his or her work. Scholars may disagree on "basic assumptions about the nature of the world and the possibilities for research about it."⁶⁰ In their work on inquiry paradigms, Lincoln and Guba categorized scholarly work based on the foundational assumptions scholars make about the world and their goals for producing new knowledge. Toma extended these to legal scholars:

The first assumption that each scholar must make is ontological. One must either assume that there is a single reality or absolute truth that the researcher can discover; [or] that reality and truth are contingent upon what individual people necessarily construct. The same holds for epistemological assumptions. Scholars adopt one of two postures toward the proper relationship between the researcher and the phenomenon being studied. They either believe that one can be objective in the search for some truth, or that values necessarily influence any investigation.⁶¹

¶35 Toma divides legal scholarship into four paradigms: Formalist, Realist, Critical, and Interpretive.⁶² Legal scholars working in these paradigms, he notes,

59. James Donovan, *Back Away from the Survey Monkey*, AALL SPECTRUM, Nov. 2009, at 20, 23 (providing a brief introduction to IRB requirements for librarians conducting even small surveys).

60. J. Douglas Toma, *Understanding Why Scholars Choose to Work in Alternative Inquiry Paradigms*, 40 RES. IN HIGHER ED. 539, 541 (1999).

61. *Id.* at 543–44. Toma borrows the typology of Lincoln and Guba, following Thomas Kuhn. See Yvonna Lincoln & Egon Guba, *Competing Paradigms in Qualitative Research*, in HANDBOOK OF QUALITATIVE RESEARCH 105–17 (Norman Denzin & Yvonna Lincoln eds., 1994). Lincoln and Guba included methodology in their calculus; Toma, acknowledging the presence of both empirical and normative work in legal scholarship, eliminates it as a distinguishing aspect. Toma, *supra* note 60, at 544–46.

62. Toma, *supra* note 60, at 544–545 & tbl.2.

“view the purposes of their work differently, apply different evaluative standards, rely upon different methods and frameworks, and accept different types of values.”⁶³ Each of them approaches the entire enterprise of scholarship differently; how are these differences related to the research process, and what are the implications for libraries who support these faculty?

¶36 In the context of advising a new legal scholar on whether to develop a specialty in a single doctrinal area, Lawrence Solum explored the “foxes and hedgehogs” metaphor in his *Legal Theory Blog* (“the fox knows many things, but the hedgehog knows one big thing”),⁶⁴ arguing that this distinction represents something more than the level of specificity of a scholar’s attention to a subject. Instead, he locates the distinction between “many things” and “one big thing” in the scholar’s choice of toolkits, rather than in the choice of subject or issue of focus. He suggests that foxes and hedgehogs each come in two varieties, homebodies and wanderers. Wandering hedgehogs take their “one big” well-developed toolkit across a broad landscape of problems, while homebodies explore one area or issue in successively greater breadth or depth. The wandering fox, however, wanders among both methodologies and problems, while the homebody fox brings a whole host of tools and theories back to solve problems in one field or subfield of the law. Solum suggests that these two distinctions reflect something fundamental about the way that a legal scholar views the world:

There are those who are disposed (perhaps even deeply) to feel ill at ease with “a single central vision, one system,” to use Berlin’s words. If you are a fox, then maybe you cannot choose to be a hedgehog. And if you are a hedgehog, then becoming a fox may not look like a live possibility either. *It may be that by the time we would like to make this choice—early in an academic career—we are already hedgehog or fox, wandering or homebody.*⁶⁵

¶37 Further development of the typology for legal scholars could help librarians understand some basic differences in scholars’ approach to their overall body of work. Understanding the ways that some scholars are bound to their toolkits and others to their subjects, and having a way to differentiate between these types on a faculty, and to associate them with particular service needs, would be a useful component of a framework for faculty services in the library.

¶38 Asking scholars to place their own approach among these types could be useful as a start, providing some insight into how scholars define the scope of their scholarly interest. It is also important to ask whether these are distinctions with a difference, and whether the results would tell us something that librarians don’t already know about their faculty from talking with them and studying their

63. *Id.* at 540.

64. There is a line among the fragments of the Greek poet Archilochus which says: “The fox knows many things, but the hedgehog knows one big thing.” Scholars have differed about the correct interpretation of these dark words, which may mean no more than that the fox, for all his cunning, is defeated by the hedgehog’s one defense. But, taken figuratively, the words can be made to yield a sense in which they mark one of the deepest differences which divide writers and thinkers, and, it may be, human beings in general.

Lawrence B. Solum, *Foxes, Hedgehogs, and the Legal Academy*, LEGAL THEORY BLOG (July 10, 2007, 1:06 P.M.), <http://lsolum.typepad.com/legaltheory/2007/07/foxes-hedgehogs.html> (quoting ISAIAH BERLIN, *THE HEDGEHOG AND THE FOX* 3 (rev. ed. 1978)).

65. *Id.*

research agendas. Wandering foxes already stand out, especially to the librarians and staff who buy or borrow materials from far and wide, cataloging new titles in a wide variety of subjects. Librarians might also make ready identification of the homebodies of both types.

Disciplinary Training

¶39 It is also important to consider the implications of the relatively recent shift in typical academic credentials required for new legal scholars. Expectations for those entering the law school teaching market now include facility (or at least familiarity) with social science methods, law and economics, and more.⁶⁶ Even junior legal scholars are expected to go beyond case crunching, critically examining legal rules and proposing reform using sharp, well-honed tools from a toolkit that is most definitely not that of their predecessors on the faculty.⁶⁷ The J.D. remains the prerequisite degree, but no longer provides sufficient academic training for legal scholars. Entrants to the law school teaching market instead complete post-J.D. fellowships and degrees in other disciplines to acquire those skills, in what appears to be increasing numbers.⁶⁸

¶40 Graduate work in an academic discipline—unlike the experience of law school—provides specific training in the culture and methods of that discipline. Scholars emerge from a Ph.D. program socialized to that discipline's questions, ideas, paradigms, methods, and language.⁶⁹ That a scholar possesses a Ph.D. in an academic discipline suggests particular methods of inquiry that he will use, but it also suggests the very questions that he will ask, his approach to law itself, and perhaps his approach to the research process as well. While gathering data on the

66. Responding to a graduate student expressing interest in building credentials for the law teaching market, Lawrence Solum wrote:

Increasingly, what separates candidates is the possession of some significant set of interdisciplinary tools—the ability to do law and economics, normative legal theory (moral and political philosophy), to do empirical work (data acquisition and analysis), to deploy PPT (positive political theory or “game theory” applied to political problems), and so forth. If I were advising someone who was just starting a postgraduate legal education, I would counsel that their projects should enable them to develop and master some transdisciplinary tool set.

Lawrence B. Solum, *Belle Lettre on “Packaging,”* LEGAL THEORY BLOG (Sept. 20, 2006, 7:44 A.M.), http://lsolum.typepad.com/legaltheory/2006/09/belle_lettre_on.html. See also Lawrence Solum, *Tools and Disciplines*, LEGAL THEORY BLOG (Sept. 20, 2006, 1:29 P.M.), http://lsolum.typepad.com/legaltheory/2006/09/tools_and_disci.html.

67. Margaret A. Schilt, *Faculty Services in the 21st Century: Evolution and Innovation*, LEGAL REFERENCE SERVICES Q., nos. 1/2, 2007, at 187.

68. See Ass'n of Am. Law Sch., *supra* note 28. Lawrence Solum collects data on entry-level hires at U.S. law schools on his *Legal Theory Blog*. In his 2009 report, which captured 158 placements as of April 27, 2009, he notes that thirty-five candidates (22%) possessed a Ph.D. in addition to the J.D. The majority of these Ph.D.s were distributed among philosophy (5, or 14%), economics (4, or 11%), history (3, or 9%), and political science (3, or 9%). Thirty-six of the entry-level hires had LL.M.s or an equivalent; six had S.J.D.s or Ph.D.s in law. Lawrence Solum, *2009 Entry Level Hiring Report*, LEGAL THEORY BLOG (Apr. 26, 2009, 6:59 P.M.), <http://lsolum.typepad.com/legaltheory/2009/04/2009-entry-level-hiring-report.html>.

69. See, e.g., J.M. Balkin, *Interdisciplinarity as Colonization*, 53 WASH. & LEE L. REV. 949, 952–57 (1996); Douglas W. Vick, *Interdisciplinarity and the Discipline of Law*, 31 J.L. & SOC'Y 163, 167–69 (2004).

educational background of legal scholars helps to illustrate the connection between training and legal research process, it is necessary to explore the types of informal training available to scholars as well.

Subjects of Scholarship

¶41 It may be tempting to group and compare the work of legal scholars superficially, using the legal subjects they focus on, but a closer examination of published work suggests that this distinction may have limited value for understanding the research process. Scholars working on similar subjects or problems do not necessarily share the same approach to studying or solving those problems. A scholar working in the topical area of federal income tax, for instance, might draw primarily on traditional sources of primary legal materials to produce articles or treatises,⁷⁰ or may bring the tools of critical theory to bear on a particular area of tax policy.⁷¹ The approach a scholar takes to the subject may be a better place to begin, assuming a connection between method and inquiry paradigm and aspects of a scholar's research process. Some similarities may be found at particular intersections between approach and subject, however, such as a law and economics approach to income tax.

Status in the Institution

¶42 A scholar's status or role in the institution must have some connection to their research process. Whether junior or tenured, with a permanent or a visiting appointment in the law school, as tenure-track or clinical or legal research and writing faculty, scholars who are similarly situated in terms of status may share important aspects of their research process. Status is likely to affect the research process in three important areas: funding, community, and time.

¶43 Financial support can affect a scholar's ability to travel for conferences and workshops, hire research assistants, take sabbaticals or pursue course relief options, purchase books, or even pay for photocopying. These may be significant to a scholar's research process, shaping information-seeking habits. Legal research and writing scholars, for example, may have unique needs that the library could help to support, such as coordinating a suite of services related to the research process, from photocopying to editing.

¶44 Participation in the law school community may also affect a scholar's research process. Adjunct and clinical faculty scholars may or may not be included in workshops and other scholarly events in the law school. The culture of the law school may affect the degree to which these faculty members are welcome at such events and included in the scholarly community. The role of casual and formal communication with other faculty members is important, as these connections

70. See, e.g., MICHAEL J. GRAETZ & DEBORAH H. SCHENK, *FEDERAL INCOME TAXATION: PRINCIPLES AND POLICIES* (2005).

71. See, e.g., ANTHONY C. INFANTI & BRIDGET J. CRAWFORD, *CRITICAL TAX THEORY* (2009); Anthony C. Infanti, *Bringing Sexual Orientation and Gender Identity into the Tax Classroom*, 59 J. LEGAL EDUC. 3 (2009).

provide opportunities for collaboration, mentoring, feedback, and advice on the journal submission process, the teaching market, and perhaps more.

¶45 The time constraints of particular scholars should also be examined. Faculty members who have visiting appointments or other limited-term fellowships may be under pressure to apply for teaching jobs within a couple of years after graduation, with multiple articles in publication by that point. Junior faculty and those not yet in the tenure stream may also feel pressured to build a package of scholarship quickly, limiting the scope of their research and the feasibility of certain types of methodologies.

Conclusion

¶46 It is important for librarians to understand the nuances of legal scholarship, and the implications for scholars' information-seeking behavior and habits, in order to anticipate service needs. While some scholars may be most dependent on sources of doctrinal material, others may care more about reliable, efficient systems for managing data for collaborative projects, or mobile access to their research material. While a typology of legal scholars for purposes of developing faculty services may be elusive, a study of a large group of legal scholars could help us to develop models that take into account a scholar's methodology, academic training, subject(s), or problem(s) of focus, and how these work together to affect a scholar's research habits and needs.

¶47 Though it is tempting to think that law librarians understand the research process of legal scholars by virtue of their experience providing various direct services, this is not necessarily so. Law librarians and legal scholars belong to very different cultural communities, and communicate only across limited areas of shared expertise and work. Law librarians and legal scholars have different interests, goals, assumptions, and even different associations for the concept of "legal research." In order to bridge this gap, we need to commit to empirical research that will tell us what scholars do when they produce scholarship. Through this understanding, librarians can build services that support the full spectrum of faculty scholarly work.