

Law Firm Librarians: A Tradition of Educating Lawyers

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Imagine the typical summer associate starting his first research project. For a year or two, he *thinks* he's been reading court decisions in his casebooks. In reality, he's been reading carefully selected cases trimmed significantly to illustrate specific points of law by the casebook's author. Although he used online databases to locate cases for first year legal research and writing assignments, those exercises are often designed to lead students to existing law with clear signposts along the way to allow them to concentrate on the writing component.

The first research assignment represents a terrifying departure from the familiar territory of law school. Legal research in a law firm is the wild, wild West (or Lexis) – no study aids summarizing the cases for tomorrow's class, no certainty that the precedent you need even exists, and even worse, a Damocles' sword of cost swinging over the electronic tools you know best.

Many summers are shocked by this realization. They are usually too embarrassed to admit that the one thing they should be able to do as budding lawyers is just as confusing as figuring out how to file service of process or what to wear on casual Fridays. The timid will hide in their offices. The savvy ones will find a librarian.

For decades, law firm librarians have been on the front lines of training associates in one of the most fundamental practice skills – the art and science of legal research. Whether informally through reference service or through formal training programs, firm librarians bridge the gap between law school courses and the realities of research in practice.

Origins of the Research Skills Deficiency

A threshold question is, Why does this gap exist in the first place? The poor quality of legal research skills has been noted for over a hundred years. Paul Callister, an academic law librarian who is developing a new pedagogy of research education, assembled the following quotes from 20th century observers:¹

- From **1902**: "I have been amazed at the helplessness of law students, and even of lawyers when they go into a library to search for authorities. . . . Law schools should teach their students how to do these things."²
- From **1949**: "I speak from an experience of 25 years on the bench, an experience sometimes painful . . . , when I say to you that one of the big mistakes in legal education today is relative neglect of this important subject of legal research in law school."³
- From **1959**: "I have been concerned with the teaching of legal bibliography for nearly thirty years. . . . I am certainly not satisfied with what we are doing or with what anybody else is doing."⁴
- From **1968**: "The teaching of legal research is one of those areas that we all talk about—and do least about. . . . Those who do it well . . . readily move on to more 'worthwhile' things—such as teaching Torts."⁵
- From **1977**: "Why do recent law school graduates have difficulty using a law library? This question is a never ending source of puzzlement to private law librarians and others who come in contact with new lawyers."⁶
- From a **1988–89** survey of legal research skills: "In [my] eighteen years as a law firm librarian, I find legal research skills totally lacking among summer associates"⁷

- From **1989**: “Although the literature is replete with ‘new’ methodologies for [legal] research instruction, none of it has demonstrated that even the best taught and most innovative of legal research courses can compare with the excitement and intellectual interest that often can be found in the ‘substantive’ first-year courses.”⁸

Law schools and firms share responsibility for this deficiency.

Legal Research Education in Law School

As recently as the 1980s, legal research was taught as a non-credit enrichment course in major U.S. law schools. Even as the movement to improve skills training in law schools grew, and legal research and writing (LRW) courses emerged as credited, mandatory courses taught by full professors, the focus of this expansion was legal writing. The reason is not surprising. Until recently, most first-year LRW courses were taught by lawyers, not by librarians. Although many law schools now offer advanced legal research courses⁹ taught by librarians as electives, even within the library community, there is no consensus on the best way to teach legal research on any level.

A fierce debate has raged in the law library community for nearly twenty years over this issue. On one side, many respected academic librarians¹⁰ insist that the bibliographic method, which describes research resources and the functions they serve, is the most effective means of teaching research because it provides students with an historical context of the tools. Others¹¹ prefer a process-based approach in which students learn by doing within a three-part conceptual framework that blends civics, factual analysis and a matrix of types of research tools.

Although the debate itself continues, in many ways it has been eclipsed by a more pressing concern – the role of vendors in research training.¹² While law schools

deliberated over how and when to teach legal research, Lexis and Westlaw quietly stepped in to guide law students in the use of their databases. Because so few resources were devoted to research education, law students embraced any chance to learn how to research. The problem with this scenario is obvious – vendors teach specific techniques using only their own tools. Without a neutral venue for comparing all research tools, print as well as electronic, produced by all publishers, law students do not develop the ability to discriminate among tools based on objective criteria.

Meanwhile in the Law Firms . . .

Amid complaints about the legal research skills of lawyers, law schools and law firms achieved a division of labor to produce lawyers who could research well enough. When mentoring was alive and well in law firms, law schools taught their students to think like lawyers, and law firms taught recent graduates how to act like lawyers. Senior lawyers spent time explaining the intellectual context of issues and pointed their charges to law librarians who led them to the appropriate research tools. It was expected that new lawyers would master the fundamentals of their subject specialties by spending hours finding and reading the relevant laws.

As the billable hour became the guiding principle in firm decision-making, senior lawyers found less time to explain the law, and firm librarians found themselves thrust into expanded roles in the education of researchers. Because the billable hour made formal training programs difficult to implement, firm librarians taught at the point of need; *i.e.*, when an associate showed up with an actual research question, the librarian showed her how to select and use the correct resource to find an actual answer. This arrangement filled the gaps in law school training and worked fairly well when a library was primarily a physical

entity and the limited resources were in print format.

The growth of computer technology disrupted this arrangement. Computers made it possible to capture and reproduce cases, statutes and regulations without incurring the high costs of linotype printing, opening the door for small publishers to compete in niches with the big vendors. Small, specialty legal publications flooded the marketplace of legal information, and practicing lawyers embraced these increasingly relevant materials. For firm librarians, this phenomenon meant more titles to purchase, organize, and learn in order to support the attorneys who used them.

The more obvious impact of computer technology was the creation of Lexis and Westlaw, in 1973 and 1975 respectively.¹³ In the early days of Lexis and Westlaw, researchers used slow, dedicated terminals to access impressive, but still small, collections of laws. These limitations confined the databases to case finding status, and most attorneys still read decisions in print. Notably, the huge Star Trek-like consoles were physically located in the library. But changes were afoot.

The speed and size of the databases increased throughout the 1980s, and law students and lawyers alike spent more time online. Personal computers replaced dumb terminals, freeing individuals to purchase their own hardware. Lexis and Westlaw responded by developing software for these machines, thus extending the amount of time customers could spend on their databases by increasing the number of physical seats available to do so.

Soon the two companies took a momentous step that accelerated the pace of use – they gave all law students individual, unlimited passwords for the duration of their academic careers.¹⁴ Law schools paid deeply discounted fees for access; law firms did not. Firms did, however, bill back the growing

costs to clients, often making a nice profit on the service. Nonetheless, as these newly-minted attorneys filtered into law firms, the firm librarians who watched their annual online costs soar derisively termed this practice “heroin pricing.”

For some time after Lexis and Westlaw started distributing free passwords to all law students, law firms continued to bill back the rising Lexis and Westlaw costs, marked up to cover administrative costs. New lawyers sat online and gained expertise in their practice areas while clients paid for both their time and the online fees. Efficiency was not an objective.

Things changed in September 1991 when the *American Lawyer* published “Skaddonomics,” a cover story that blew the cover on the “ludicrous world of law firm billing.”¹⁵ By then, Corporate America was already examining its legal bills more carefully and requesting more detail than previously supplied.

This scrutiny was fueled, in part, by the presence of so many former firm attorneys then working in-house at these companies. Multi-tiered career tracks didn’t exist to accommodate the population bubble that entered law school in the late 1970s and reached firm maturity seven years later, and placing those attorneys rejected as partners with firm clients was seen as a kind alternative. Grateful or not, those lawyers were intimately familiar with the billing practices of their former firms and started to review bills with sharper eyes.

Other developments, including the Total Quality Management movement and the emergence of the DuPont Legal Model,¹⁶ increased the pressure on law firms to reign in costs and reduce inefficiency. Changing their relationship with Lexis and Westlaw was an obvious starting point for law firms, and negotiations began to create flat rate contracts and other managed pricing arrangements. The advent of the Internet gave the firms some bargaining leverage;

however, the efficient and effective use of all research tools became an objective as well as the means of this new frugality.

Enter the Law Firm Librarian

With all these forces at play, firm librarians saw an opportunity to contribute to their companies by assuming greater responsibility for research education. The library profession was already being transformed by the technology revolution, and many felt that teaching lawyers to use new research technology was simply part of this phenomenon.¹⁷

Teacher is just one of many hats today's law librarian at a law firm. The fundamental skill of librarians - information management - is more valuable than ever in a world of information overload. Librarians emerged in new roles, such as knowledge managers, IT directors, web developers, as well as in traditional positions involving the selection, acquisition, dissemination, utilization, storage and preservation of print and electronic information.¹⁸

The typical law firm librarian is a member of the senior administrative staff, along with managers of technology, human resources, and financial services. The librarian may be a "solo," running all aspects of the library's operations, or the director of a staff of over 100 employees. Librarians typically hold masters' degrees in library and information science from accredited universities. Dual-degree librarians, who possess both law and library science degrees and traditionally found employment in academic settings, flocked to firm librarianship, attracted by substantial salaries and benefits befitting their education and experience. The legal background of many firm librarians fueled their entrance into training roles.

Trained as Trainers

As the need and interest in teaching at law firms grew, resources sprung up to support the efforts of the law firm librarians. Since 1993, the American Association of Law Libraries has sponsored the National Legal Research Teach-In,¹⁹ a campaign to collect and share high quality training materials within the library community to streamline the process of developing effective programs. These training programs are conducted in conjunction with National Library Week, an international event held every April.

Lexis developed a training program, Teaching Research in Private Law Libraries (TRIPLL), to improve the teaching skills of law firm librarians.²⁰ Since 1990, Lexis has selected thirty firm librarians to attend a three-day workshop at which they learn effective techniques for teaching research. Topics include presentation skills, lesson planning, marketing and program evaluation. Lexis also makes Training Toolkits available to firm librarians to support educational programs during National Library Week and summer associate season.²¹ Firm librarians can also use Tips from the Pros at the Lexis site.²²

Successful librarian-teachers have shared their expertise through written scholarship. *Perspectives: Teaching Legal Research and Writing*,²³ a free newsletter from West Publishing, has been a channel for tips and techniques since 1992. Marie Wallace, a former firm librarian turned professional speaker, has a column in LLRX²⁴ in which she covers such training techniques as connecting with an audience and using ice breakers. Articles have appeared in the major law library journals on this subject as well.²⁵

The American Association of Law Libraries (AALL), the major professional association for the community, has taken other steps to support librarian trainers. In 2000, AALL partnered with Lexis to endow a research

fund for studying, among other things, how lawyers actually conduct legal research.²⁶ Kris Gilliland, director of the law library and assistant professor of law, University of Mississippi Law Library, was among the first recipients of this grant.²⁷ This project continued the independent research of Patricia DeGeorges,²⁸ Penny Hazelton, and Morris Cohen in the mid-1990s, in which they surveyed alumni of the Yale, University of Washington, University of Southern California, University of Florida, and William Mitchell law schools.²⁹ This work has helped law librarians define the training needs of practicing attorneys. In addition, AALL appointed a special committee to promote law librarians as research trainers in 2002³⁰ and another committee to foster legal research as a subject specialty in 2005.³¹

Research Training Initiatives at Law Firms

Firm librarians recognize that their training programs compete with the billable hour, and find creative ways to offer training to their attorneys. National Library Week, an annual event in early April, is a favorite excuse to educate and entertain firm attorneys. The Lexis Library Relations Group posts ideas and resources on its librarians' website³² to inspire librarians to host training as part of National Library Week celebrations. West, in conjunction with AALL, publishes training kits every spring.

Librarians sneak training into research trivia contests and use the week to introduce themselves to firm attorneys, who are more likely to ask for point-of-need training from someone they know.³³ Donna Trimble of Bowman and Brooke compiled a useful list of her favorite NLW training activities,³⁴ including:

1. An acronym contest to test and expand attorneys' knowledge of legal, medical and government terms;
2. A display featuring different types of reference sources each day of the week,

- including directories on Monday, medical books on Tuesday, and Partners' Picks on Friday;
3. Training programs to introduce newly acquired tools.

The arrival of summer and fall associates is a common trigger for research training programs. At Clausen Miller, library director Nancy Tuohy supervises the assignment of all research assignments to summers, giving her a unique opportunity to mold their research skills.³⁵ Jan Bissett of Dickinson Wright shared tips in her LLRX column, including advice to teach associates to use the reference interview and to document their research process.³⁶ Fried Frank's Cindy Carlson conducted a survey of skills to create tailored training for incoming summers.³⁷ Firm librarians in Cincinnati created their "Inside Look" program to give summers a heads up on the realities of legal practice.³⁸

Some law firm librarians educate lawyers on a full-time basis, such as Marlene Gebauer, Amy Carr and their team at Greenberg Traurig. These team leaders receive their own training in instructional design from such organizations as ASTD (American Society for Training and Development), then manage the process of creating extensive research training programs within the firm.

Conclusion

Law firm librarians can and do train lawyers at all levels to perform a fundamental practice skill – legal research. Firm librarians are involved in research training in a variety of ways, from full-time teams of educators to others who conduct training programs between managing libraries and other functions. Professional Development directors would be well served to team up with law librarians to provide strong skills to their attorneys.



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