



**Information Literacy in Law:
Starting Points for Improving Legal Research
Competencies**

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Abstract:

Improving information literacy in law translates into developing methods for improving legal research competencies among lawyers, law students and the general public. This paper summarizes four approaches for improving legal research skills of prospective lawyers in the U.S. and discusses their successes and shortcomings to help assess their potential application in an international environment. These approaches include: (1) offering mandatory law school courses in legal research; (2) adding elective (or optional) credit based courses in legal research; (3) offering non-credit legal research support to law students at their point of need; and (4) testing prospective lawyers on their legal research competency as a requirement to being licensed to practice law.

MANDATORY COURSES IN RESEARCH INSTRUCTION:

Legal research instruction has been a mandatory part of the law school curriculum at most U.S. law schools for nearly one hundred years, dating back to the early part of the 20th century. This long-term experience with required legal research courses likely is related to the more complex nature of legal research in the U.S., stemming from the its common law heritage and a federal system in which researchers need to be able to navigate the laws of 51 jurisdictions – including one based on civil law. It also may be related to the graduate nature of U.S. legal education, in which law school is a three year graduate program. Additionally, this expanded legal research curriculum may be fueled by the relatively high number of well-qualified, law-trained librarians placed in each U.S. law school, where even the smallest law schools have on average five or more professional librarians, including a library director who's typically a member of the law school faculty. In any case, required courses in legal research have been a mainstay of American legal education for nearly a century and are

required in the first year curriculum of virtually every one of the nation's nearly 200 accredited law schools.

These basic courses are typically taught by librarians or specialized legal research and writing instructors during the first year of the three year JD program. They may comprise up to three units of a 15 unit required set of courses offered during the first term of the standard two semesters offered during the first year. A few law schools require even more legal research instruction beyond this first semester course. At some law schools, legal research instruction is offered as a part of a larger, substantive or practice-oriented course. For example, the basic legal research course is often taught as part of a course in Legal Research and Writing offered during the first semester of law school and sometimes spanning the entire first year. Models for teaching vary greatly: sometimes these courses are taught by practicing lawyers who teach as adjuncts, but more often they are taught by professional full-time instructors. The common model is to draw on the expertise of professional law librarians who teach the required legal research course either as a separate course itself or as part of some larger, related course.

The advantage of such courses is that all students are exposed to legal research methodology at an early stage in their law school experience. However, the effectiveness of these courses in bolstering legal research competencies of law students is uncertain and perhaps uneven. We often hear complaints from our librarian colleagues who work with our law students and recent graduates. They tell us that the legal research skills of our students and graduates is less than adequate for their real world needs, and complain that they have to do additional teaching of research skills. These negative comments could stem from unrealistic expectations held by librarians in these settings. They also may be related to a large percentage of law students not taking the legal research component of their legal education as seriously as they should; this attitude on the part of students may be because they often overestimate their own legal research skills – a problem compounded in the digital age of one box search engines such as Google. Another problem may be that legal research is taught too early in the law school curriculum, before students have enough knowledge of the legal system to fully comprehend what's taught in these courses. Lastly, it may be that legal research is simply too complex to teach in one single course required at the beginning of the law school experience. In any case, the result of requiring courses in legal research does not in itself assure that all law students will be excellent legal researchers as a result, but it does have the advantage of exposing all law students to some systematic approach for legal undertaking a legal research project.

ELECTIVE COURSES IN RESEARCH INSTRUCTION:

The advent of computer-assisted legal research systems, such as LEXIS and WESTLAW, in the late 20th century made the process of legal research more complex and led to the introduction of advanced legal research courses at a number of law schools. Within the past twenty years these courses have proliferated, so that they are now offered as electives (non-required) courses at most U.S. law schools. Students typically can choose to take such a course anytime after their first year of law school. They most often carry the same amount of credit units as other law school courses and thus would be one of perhaps five courses the typical student would take over the course of one term comprising half of the academic year. They are taught by professional law librarians, often the library director who holds faculty rank in the law school.

These courses have proven very successful in improving the research competencies of those students who chose to take them. Their success may be related to the fact that these courses build upon the basic knowledge students gain in their required legal research courses. But their success likely has more to do with the self-selected nature of the course: students who chose to take these courses have a definite interest in learning and improving their legal research skills. While the courses often are called advanced (and never remedial) most instructors describe the content as remedial in nature, and the course books chosen are often the same as those used for the basic, introductory research course. Nevertheless, more is expected of students in these courses than in a standard introductory research course. Also, the number of students enrolled in these courses is often smaller than the basic legal research course, so students may receive more individually focused instruction.

The problem with advanced, specialized and other elective legal research courses is that they only reach a small proportion of the student body. Except in a small number of law schools where the instructor is particularly popular, most students don't enroll in the elective legal research courses. Thus, they are not effective as a method for improving the legal research literacy of the vast majority of law students.

NON-CREDIT INSTRUCTION AT THE POINT OF NEED

The current born digital generation of students now entering law school may have a false sense competence in legal research stemming from their use of one box search engines such as Google and Wikipedia. As a result librarians have focused on offering research training on a point of need basis. This builds upon a more traditional notion of reference support, where professional librarians answer questions from library users who take it upon themselves to ask for assistance. The problem with this more traditional model is that it is too passive to reach the born digital students who don't think they need help. Point of need instruction takes the reference model on step further and sometimes is referred to as assertive reference. This assertive model is more akin to the instructional model of reference support. It may include creating strategic partnerships with other faculty members to add a research component to substantive or clinical courses, or it may be creating separate non-credit lectures or liaison relationships.

Partnerships with faculty can mean adding a research legal research segment to a traditional law school course; for example participating in an Immigration Law course to teach a segment on researching immigration law. Partnerships can work even more effectively with clinical education instructors to provide research instruction related to the work of the clinic. Most U.S. law schools have a clinical education component, in which the students work with real clients on real legal issues under the guidance of a licensed attorney-instructor. In the clinic environment, librarians are often welcomed as partners who can are capable of adding useful research instruction at the point law where students need it most. Another of the many models for providing research instruction at the point of need is to offer short, non-credit refresher courses near the end of the academic year to help students brush up their legal research skills prior to going off to work in the real world where they will be expected to do research. Lastly, liaison relationship with law school moot court teams and journal editorial boards can provide opportunities for legal research instruction related to these extra-curricular academic programs.

Non-credit instruction at the point of need is a proven method for improving legal research competencies of law students and may be far more effective than the more passive traditional

reference support that it supplements but doesn't entirely replace. The problem with simply providing instruction at the point of need without something more is its limited scope. Students only get a glimpse of legal research expertise in a finely focused area and not a broad overview. Thus, providing support at the point of need may be an effective strategy in getting students more interested in developing their research competencies, but it is not enough to teach students the full array of research strategies they should know to be fully competent legal researchers.

LEGAL RESEARCH TESTING FOR ADMISSION TO THE PRACTICE OF LAW

All U.S. jurisdictions require prospective lawyers to pass a comprehensive examination in order to be licensed to practice law. While each of the fifty states has its own examination requirements, helpful coordination and guidance is provided by the National Conference of Bar Examiners (NCBE). This body helps draft a substantial portion of the exam, including the portion known as the Multistate Bar Exam (MBE), which is a multiple choice examination administered by most of the states and comprises one full day of examination time for the multiple day bar examination of each jurisdiction. The MBE covers a wide array of subject areas, which the examiners believe newly admitted lawyers should be familiar. These include such subjects as contracts, criminal law and procedure, property and constitutional law. Also, the NCBE helped develop a separately administered exam covering legal ethics, known as the Multistate Professional Responsibility Exam (MPRE), now required in most U.S. jurisdictions, as well as two lesser used bar exam series. Legal research has never been a subject area covered by any part of the bar examination administered by U.S. jurisdictions, either as a part of the MBE or as a separately created examination.

As one might expect, most law students seek out and enroll in courses covering subject areas they need to master in order to pass the bar examination. Further, many (if not most) law schools emphasize these courses in their curriculum coverage. Also, nearly all students take bar review courses after law school to refresh their memories about the subject areas covered on the bar examination. These are intensive cram sessions typically meeting daily for about one month. Thus, students are well motivated to study and review any subject covered on the bar examination and are presented with many opportunities to master these subject areas.

Adding a legal research component to the bar examination could be an effective method to encourage more law students and law schools to take legal research skills seriously. In furtherance of this effort, law librarians have been working with the National Conference of Bar Examiners to encourage the addition of a legal research component on the bar exam. Happily, the leadership of the NCBE agrees with law librarians on this matter and has been considering the various approaches to make this a reality. It now appears that a legal research component will appear on the widely adopted Multistate Bar Examination within the next five years. Should this come to pass, legal information literacy among prospective U.S. lawyers will get a good boost. The current courses and other efforts for improving legal research skills in U.S. law schools also will benefit.

LEGAL INFORMATION LITERACY AT THE INTERNATIONAL LEVEL

In our increasingly globalized legal market, internationally based law firms seek to hire the best trained lawyers they can recruit from around the world. As a result, legal education has taken an ever more international flavor, and models for legal education across the globe are

rapidly evolving. Particular attention has been given to U.S. legal education, and other countries, such as Japan and Korea, recently have introduced legal education schemes closely modeled on the U.S. Additionally, whole scale copies of U.S. law schools have appeared on an experimental basis in countries, such as China (with its Peking Transnational School of Law) and India (with its Jindal Global Law School).

To the extent that legal information literacy becomes a more widely accepted skill needed by all new lawyers in the U.S., these skills will be considered more desirable internationally. Law schools seeking a place for their graduates to compete successfully in the international market place will look carefully at the curriculum and support provided to students at peer institutions across the globe. Methods for improving legal information literacy for U.S. lawyers might serve as models at other global law schools.