

Teaching Electronic Research: Bookless But Not Bootless
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Thesis: Changes in legal research media and changes in electronic research platforms are not serving to develop research skills and analytical abilities of current law students, the majority of whom show deficiencies in these areas.

- I. Changes in Law Student Demographics -- and Analytical (and Other) Abilities
 - A. Falling Enrollment and Changes in Who is Going to Law School
 - B. Changes in Undergraduate Education
 - C. Falling Bar Pass Rates and an Increase of Upper-Level Remedial Courses and Bar Pass Courses

- II. Changes in Research Media
 - A. Books to Electronic Databases
 1. Parallel Existence
 2. Elimination of Books
 - B. Changes to Electronic Databases
 1. Boolean to Natural Language
 2. Modern Platforms Based on the Google-Type Search: Westlaw Next and Lexis Advance
 3. Free Legal Research Sources on the Internet

- III. Efforts to Define Outcome Goals for Legal Research Teaching and Learning
 - A. Bloom's taxonomy of Learning: Knowledge; Comprehension; Application; Analysis; Synthesis; Evaluation
 - B. Paul D. Callister's taxonomy for legal research instruction and competencies: Remembering; Understanding; Application; Analysis/Synthesis; Concluding; Metacognition

- C. AALL Principles and Standards for Legal Research Competency
1. Knowing legal system and legal information sources;
 2. Gathering information through effective and efficient research strategies;
 3. Critically evaluating information;
 4. Applying information effectively to resolve a specific issue or need; and
 5. Distinguishing between ethical and unethical use of information and understanding legal issues related to discovery, use, or application of information.

IV. Effect of Recent Changes in Research Media on Students' Research and Analytical Abilities

A. Use of Electronic Sources

1. Less thinking and analysis of problem before beginning search; no "plan"
 - Conceptualizing
 - Abstracting to proper level
 - Generating synonyms (because systems generate based on algorithms)
2. Less browsing and less understanding of the "Big Picture" because of the failure to review tables of contents / outlines in sources
3. Lesser tendency to refine search if too many or too few retrievals
4. Lesser understanding of what sources are and the weight of different retrievals
5. Less thorough reading
6. Less use of secondary resources; greater reliance on case law
7. Lesser use of legal concepts in researching and greater framing of searches based on facts (Krieger & Kuh: 62% of print researchers used a legal-concept frame, compared to 22% of electronic researchers; print researches used fact frames in

10% of searches, compared to electronic researchers who used fact frames in 64% of searches)

8. Leading to less creative arguments (analogizing from one area to a different area of the law)

B. Newer Platforms Exacerbate These Problems

1. Google-like search box brings with it Google-based expectations

2. No need to think whether to begin in case law, statutes, regulations

3. Secondary authorities have a place of lower prominence in results / require more “clicks” to access

Familiarity with digital media does not mean efficiency in use of such media and in attainment of sophisticated goals of a legal researcher.

V. Solutions to Help Students Research – and Think Better

A. A Stand-Alone 1L Legal Research Class (because poor writing and bar pass issues cause the emphasis to be greater than before on writing in combined legal writing and research courses) and/or a Required Upper-level Research Class, which requires more than treasure hunt “answers”

B. Problems that focus on process as well as answers (e.g., as described in Appendix A of Harker article)

C. Problems that cause students to reflect on what they have done in order to refine their processes and to push them to engage in metacognition about the research process

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