

Teaching Research a New Way

By Maurine J. Berens and Kathleen Dillon Narko

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Teaching research is always a challenge. Throughout our years of teaching, we have experimented with a variety of methods for teaching research. None of them has satisfied us. Students often found the “old ways” abstract, boring, or just another task to be completed. They often failed to learn research strategy and rarely became engaged in the research part of the course.

History of and Weaknesses in the Old System

In the past we tried several approaches and were unhappy, at least in part, with all of them. One former method was a lengthy guided research project, keyed to the open research memorandum topic. After some initial exposure to legal research through lecture and a short exercise, we assigned this longer, memo-tracking exercise, to be completed primarily in the library. We guided students to specific sources, such as *American Law Reports* annotations or pertinent cases and statutes that would help them with their memo research. The questions were often quite specific, such as, “What two Montana cases are cited in the footnotes in Jon W. Bruce, James W. Ely, Jr., *The Law of Easements and Licenses in Land*, rev. ed., Warren, Gorham & Lamont, 1995, as discussing what constitutes adverse (i.e., not permissive) use? *Note: Remember to check the pocket part.*” This guided research project achieved the limited goal of exposure to a variety of sources. Students met the express goals of the assignment—to find those two Montana cases, and other precise bits of information.

In practice, however, students often failed to achieve the memo-tracking assignment’s broader pedagogical goals. The memo-tracking assignment

failed to help students learn to frame research strategy and to learn other research skills. Students skimmed (at best) the background information on each type of source (such as why treatises and other secondary sources can be a good place to start) and went straight to finding those two Montana cases in *The Law of Easements and Licenses in Land*. Also, as a practical matter, when students saw 15 other classmates waiting to look at the treatise, they would skip ahead to digests. Thus, they abandoned the logical order of research provided by the assignment and failed to learn any research strategy. These assignments were also very time-consuming, often taking 20–30 hours for individuals to complete. In response to the size and length of the assignment, students often collaborated and divvied up the assignment. Hence, students only learned part of the intended research skills.

In response to the students’ practice of collaborating and dividing up the assignment, we began assigning the work to be done in groups of three or four. We thought this would encourage collaboration and ease the burden on the students. To avoid partial learning, however, we required all group members to complete all sections of the project. We encouraged one group member to take the lead in each section (e.g., treatises), do the initial work, and teach the others. Many groups did work together and gained the benefit of collaboration. Others, however, simply took a divide-and-conquer approach (i.e., less work, finish sooner). As a result, each group member in the latter category worked only on a quarter of the sources in the assignment. In these cases, the students were far behind in research skills, which hampered their research on later assignments.

Many of us then turned to more open-ended questions on our research assignments. The goal was to force students to put more thought into developing a research strategy as well as how they used the sources. The problems with limited strategy responsibility and group work remained, however.

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On the plus side, when students completed these assignments, we had some level of comfort that they were well on their way to finding the relevant sources for the memo or for the open-ended research questions. Since we thought that first-year law students were not ready for complete freedom in their research, we guided them down the path of an ideal research plan for their topic. We assumed that the students would note this path and apply it to future research problems. However, students do not learn research strategy this way, nor do they learn well with problems involving abstract questions of law. Students had no personal stake in the outcome. We have since found that first-year law students are ready for freedom in their research. They want to be the lawyer and solve legal questions relevant to them.

Birth of the Independent Research Project

Inspired by a presentation at the 2006 Legal Writing Institute (LWI) conference, we decided to revamp our long research assignment completely. Instead of using the long memo-tracking assignment, we let the students choose their own research topics. The results exceeded our expectations. Students were more engaged and learned research skills better than before.

Professor Joe Bodine gave a presentation at the 2006 LWI Conference entitled, “Finally, Something About Me! Student-Interest Based Research Instruction.” Bodine developed a semester-long research curriculum, based on individual student research projects. The broad concept underlying Bodine’s approach was to allow students to approach research from a topic of their own choosing. Students could finally take areas of interest, passion, and life experiences and translate those into a research question. Though this method gives up a certain amount of professor control, it adds much more that compels students to actually learn. Most of us intuitively understand that when a student is interested in a topic, he or she will work harder and more thoroughly, and ultimately learn concepts in more depth.

We built off the Bodine model and adapted it to fit our course structure. Rather than spend all semester

on research, we compacted the assignment into three weeks. The project consisted of choosing a research topic, creating a question presented based on that topic, researching the topic, creating a research log, and then orally presenting the answer to the research question with tips on research.

How It Worked in Practice

For preliminary exposure to research, we began with either a fairly traditional lecture or an interactive research class. The preliminary exposure was designed to teach research strategy and secondary sources. After this lecture, we gave students two handouts: a guide sheet providing a detailed description of what they were to do over the next three classes and “optional” research skills guide sheets.

According to the guide sheet, the students’ first task was to come up with a topic for their research project. To jump-start that task, we had them briefly write stream-of-consciousness style to elicit a motivating topic. Once the students discovered what topic they would like to research, they began to refine the topic into a legal question. Our assignment materials provided guidance on how to develop a research question. Their questions were framed much like a question presented—including applicable law, jurisdiction, and facts. Refining the area of interest into a legal area that could be researched proved to be the most difficult part of the project for most students.

Students had to check their topics with the professor or teaching assistant (TA) before proceeding with research. The topic choices varied greatly. Some were narrow, like “Whether in Alabama, a dog owner has knowledge that his dog is capable of harm to other humans or murder, when the dog has daily run up to humans and barked and growled at them and has attacked other dogs?” Others were broader, or tied to current political issues, such as, “Is the suspension of habeas corpus relief for non-U.S. citizen detainees in recently passed Senate Bill 3929 § 106 likely to be found unconstitutional?” The evening after the first class, all students e-mailed us their questions.

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“By the second class, all students’ topics were approved, and they proceeded with research. We held class in the library’s large study rooms so we and our TAs could answer questions. We provided a great deal of guidance at this point. We gave them written step-by-step plans on how to use a variety of secondary and primary sources. At this stage of the process, some students continued to refine their questions as they researched secondary sources. Some hung out in back rooms and probably talked to each other and did nothing, while others went immediately online and began researching their topics via Westlaw* and LexisNexis*, Google, or FindLaw*. During the research, students kept a research log noting which strategies worked for them and which did not. On the final research day students gathered in two conference rooms in the library for further guided research. A few students who had still not refined their questions began to get frustrated. One student sent a long e-mail saying that she felt she wasn’t learning research and that she was confused and didn’t know what she was doing. Since this moment of panic mimics early legal research in a work setting, we actually felt that the process was probably working. And since this process was taking place in academia, and not a work setting, we could promise the student an extra class when this project was over, for those who still felt confused. Other than that one note of frustration, we heard very little grumbling, and instead, heard lots of “ahas.” Students were finding sources that helped them, and they began to detect light at the end of the tunnel. Before the final presentations began, students sent us their research logs and we compiled all their questions and posted them on our course Web sites so they would know each others’ topics ahead of time. Presentations involved recitation of the legal question, the answer to that question, and the single best research tip that each student found. As the students recited their tips, we wrote the tips down and compiled them into a tip sheet later handed out to the class. Presentations were supposed to last approximately two minutes only, so that we could finish in one 90-minute class. In response to the disgruntled student’s lengthy e-mail, we added one more research class. During that session we used a more traditional research teaching method, providing three separate, prewritten problems and putting students into groups of two, three, and four to research online one problem set per group. The students researched online together, and then gave brief presentations of their research to the class. The disgruntled student told me she felt better about research after this class.

Changes for Next Time

At the very end of the research project, we had our students fill out a questionnaire about the entire experience to see whether it was successful, and what needed to be improved. In addition to overwhelmingly positive responses about the exercise, students also provided direct feedback about what could work better.

Because students had not yet received their full computer-assisted legal research training, many of them felt ill-prepared to go online to do any research. For purely logistical purposes, computer research skills must be taught before this independent research project begins.

In response to the question “Did the optional skill set handouts help you?” some students wrote, “What optional skill set handouts?” From this response, we realized that the students did not all use the skill set handouts as we had hoped. This was probably because they were called “optional skill sets” and perhaps because we did not emphasize them enough. We realized that we will have to call the handouts something other than “optional,” and make them a mandatory part of the research project. These handouts provided crucial step-by-step information about how to research a legal question from beginning to end. Some students simply failed to read or use these handouts.

To address the difficulty students had in framing their initial topic into a legal question, we have several possible solutions. One possible solution is to provide students with individually tailored research questions based on their interests. This solution would eliminate some of the learning that goes along

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To address the difficulty students had in framing their initial topic into a legal question, we have several possible solutions. One possible solution is to provide students with individually tailored research questions based on their interests. This solution would eliminate some of the learning that goes along

with struggling to refine a legal question, however. Another possible solution is to provide a list of possible topics and questions for the students ahead of time and let them choose from the list. However, this eliminates some of the personal stake involved in choosing a personally interesting topic of their own. Possibly the best solution is to sit with each student during class for a few minutes framing the question with them, once they have identified their interests, while also providing some past topics as examples.

Finally, the last change we will make is to provide more time for the final presentations. Our students requested more time for these presentations because they had worked so hard coming up with the legal answers and research tips, and they wanted time to show off that hard work to their classmates.

Success Overall

Students learned more, and they loved doing it! They learned to frame a legal issue that was unrelated to a case or other assignment. Another unexpected benefit was that they learned patience in pursuing the unknown results of their topics. Unlike guided exercises, their topics may not have a pat answer. They had to focus on their research strategy rather than on finding a result. All this added up to internalizing concepts of legal research and retaining the knowledge of how to research future assignments in law school and the workplace.

Survey responses confirmed the positive effects of the independent research project:

- “I was very interested in my own topic, so I remained engaged throughout.”
- “Research is hard, but at least I found out something I really wanted to learn.”
- “I really liked the exercise, it was fun and informative! My research skills improved and this was good practice.”

The final presentations clearly demonstrated how engaged students were with this project. Since the topics were their own, they had great enthusiasm for their work. Students followed their passion and enjoyed an exciting level of independence early in their career. With guidance from faculty, teaching assistants, and written materials, each student had a sense of “being a lawyer” and the process of problem solving. Finally, we found a method for teaching research that satisfied us and our students.

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