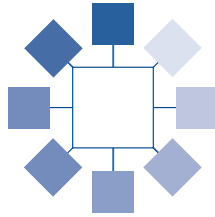


White Paper

Partnership and Solutions for Preparing Job-Ready Attorneys

July 2008



Partnership and Solutions for Preparing Job-Ready Attorneys

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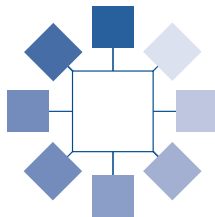
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Introduction

In 2007, Thomson West published *Research Skills for Lawyers and Law Students*, a white paper documenting the gap between desired and actual research skills among new associates. Based on positive feedback from that report, West has continued the conversation this year with additional research and perspectives from a cross-section of legal research and education innovators. The goal of this white paper is to continue the important work of “diagnosing the problem” by measuring the gaps in high expectations vs. hard realities, and also to evolve the conversation by sharing real-world solutions that are closing that gap.

Research Overview

Expectations for New Associates (May 2008) is a wide-reaching survey conducted by Thomson West of 224 individuals, including law firm librarians, development directors, attorney supervisors and newer attorneys at organizations ranging from solo practitioners to large law firms. The survey sought to answer two key questions: 1) What do law school librarians need to teach law students to help them be successful in practice; and 2) What do law firm attorneys wish they had known when they graduated from law school?

Below are two sets of key findings from *Expectations for New Associates* (which complemented and reinforced similar findings from West's *Summer Associate Research Preparedness*, Sept. 2007). The first set presents a snapshot of expectations vs. gaps on key subject matters, including legal research skills and proficiencies, as well as recommendations for improvement. The second set summarizes the characteristics that emerged as unique for each audience type surveyed.

Skills for New Associates to Possess: Most Important

- Effective and efficient use of primary authority, including statutes and cases
- Clear, concise use of research findings in writing memoranda
- Identifying the legal issue in a research problem
- Effective and efficient use of online legal research materials
- Interacting professionally with clients, partners and colleagues
- General workplace skills, including time management, punctuality, meeting deadlines and professional attire

New Associate Research Proficiency: Most Important Sources

- Electronic citation verification and validation tools
- Federal statutes
- State annotated code
- Treatises
- Code of Federal Regulations

Most Common Suggestions for Law Schools to Better Prepare Students

- Take a more practical approach, use real-world examples instead of theory
- Offer an optional or required internship, apprenticeship, clinical experience
- Teach the entire litigation process including drafting motions, discovery and depositions
- Enhance writing skills, more writing practice
- Use both print and online research sources

Skills for New Associates to Possess: Largest Gaps

- Effective and efficient use of printed legal research materials
- Effective and efficient use of online legal research materials
- Identifying the legal issue in a research problem
- General workplace skills, including time management, punctuality, meeting deadlines and professional attire
- Clear, concise use of research findings in writing memoranda
- Effective and efficient use of primary authority, including statutes and cases
- Preparation of briefs and motions using legal research effectively and complying with court requirements
- Tracking the legislative history of a statute

New Associate Research Proficiency: Largest Gaps

- State annotated code
- Digests
- Electronic citation verification and validation tools

Most Common Suggestions for Law Firms to Better Prepare Students

- Offer mentoring programs
- Better communicate expectations
- Lengthen orientation periods
- Provide more constructive feedback
- Provide more training on legal research skills

Characteristics Unique to Each Audience

Large Law Firm Librarians

- Set the highest expectations for new associates, but rate them the lowest in proficiency.
- Place greater importance on drafting sections of simple transactional documents, effective and efficient use of secondary authority, and preparing a survey across jurisdictions of the similarities and differences for statutes or case law on a specific subject.
- Are more likely to see a gap between their expectations and the proficiency ratings they assigned new associates for nearly all of the legal research sources included in the survey.
- Are more likely to place a greater importance on new associates being able to use the Code of Federal Regulations, federal statutes, legal encyclopedias and treatises.

Small/Mid-Size Law Firm Librarians

- Place a greater value on new associates being able to locate, modify and complete forms of all types, including internal, as well as court forms and government forms.

Solo/Small/Mid-Size Law Firm Attorney Supervisors

- Place a greater value on new associates being able to find a statute by subject, and find periodical articles by using an index.
- Are more likely to expect new associates to be proficient at clear, concise use of research findings in writing memoranda, effective and efficient use of online legal research materials, finding a statute by subject and general workplace skills—including the use of common software packages and general understanding of financial terms and principles.
- Place the greatest value on new associates knowing how to use electronic citation verification and validation tools and state annotated code.

Solo/Small/Mid-Size Law Firm Attorneys

- Rate their own performance much higher than do librarians or attorney supervisors, seeing themselves as “highly proficient” for nearly all the skills listed in the survey.

Moderator Perspective: Karl Gruben

Law Library Director and Professor of Law, St. Thomas University Law Library and former Director of Libraries, Vinson & Elkins

I started in our business 33 years ago as a court law librarian. Two and a half years later, I moved to a law firm library where I stayed for 25 years. The year I went (1977), Vinson & Elkins was the second-largest law firm in the United States and had a whopping 197 attorneys. A quarter of a century later, the year I left, they had 850 attorneys and were somewhere around the 17th largest in the U.S.

Law firms were a patriarchal business then, and the first few years I was with V&E, the recruiting of new associates was a relatively haphazard process, as I am sure it was with most law firms in the U.S. The summer clerks were recruited by senior associates or junior partners who had gone to the school in question, and there were preferred schools. For V&E, the preferred school was the University of Texas, with some minor branching out to the Ivy League schools (but not too much, lest the “flavor” of the firm be compromised). Recruiting was not the professional business that it is today. New associates were brought in, and – depending on the internal group – work was piled on and increased as the perceived capabilities were assessed to be sufficient to handle the increased load. Sometimes there was mentoring, sometimes there was not. The new associate, however, was not considered to be a fungible tool, discarded as necessary – but rather, an asset to be cultivated. Working there was a lifetime commitment to “The Firm.”

As the law librarian in the largest of the offices, I knew all the attorneys and assisted the few summer clerks who came in, as well as the new associates. I noted that the summer associates and the associates, even those from the same law school, had varying degrees of legal research capabilities. I assisted them as possible. Some who came from the Ivy League had lesser skills; some did not – mostly due to a lack of exposure, the difference depending on the individual. Those of us in the Houston Area Law Librarians group (and later AALL Chapter) compared notes on our summer associates, and some summers we had contests (this was in the mid-1980s) to see who had the biggest individual Lexis or Westlaw charge made in error. One summer, I won with a charge in the lower five figures for someone who did not understand the difference (apparently failing to listen when it was explained) between hourly and transactional. I say “failing to listen” because we did have a training program for computer assisted legal research. The firm had (and still does have) mandatory sessions for online legal research when new summer associates and new associates arrived, mostly given by vendor representatives who had worked with the firm for many years. All of the firm librarians made distinct efforts to educate all who came through our summer program, and as word filtered back to our academic colleagues, more such “cost” training was conducted in the academy.

As our summer program became more and more professional, and the feedback from our associates and partners became more easily compiled, it became evident that the writing and research skills of our participating law students were insufficient. We began training programs in writing with professional writing instructors, and I put together a program for legal research. I focused mainly on the non-computer applications, such as statutes, administrative codes, looseleaves and treatises, because our attorney feedback had been that these were research areas in which our students’ skills were lacking. In retrospect, and from my perspective in legal education, it is not surprising that this was the case. The majority of the second year in law school is taken up with mandatory bar exam courses, and the subject-specific courses are enjoyed by the student in his or her third year. It is not surprising that they did not know the looseleaves or treatises in a field. Once they accepted an offer and knew which work group they would go into, I am sure most took courses in that field and became more aware of what was available in the third year in law school.

We continued this sort of indoctrination into writing and research tools into the first and second years for new associates. Litigation associates had outside courses such as NITA (National Institute for Trial Advocacy) or the local bar association workshops – both highly encouraged, with the expenses paid by the firm for training opportunities. The litigation work groups also put together internal mock trials for skills practices. Transactional skills were more drafting skills, and tended to be taught within the work groups at weekly sectional meetings, and with an annual program of a week of intensive training.

All this experience, of course, was with graduates from the top 5 percent of the top law schools – what today would be called first-tier schools. Today, I am working in a law school that is considered to be in the fourth tier. Our mission is to offer a legal education to the lower LSAT and lower GPA student whose scores may not enable them to attend a top state or private school. As a result, we produce many students who take jobs in the public sector as assistant state attorneys, public defenders and assistant county attorneys, or who enter either a solo or small practice. We produce only a few students who take jobs in AmLaw 100 law firms. Are we producing students capable of going to work immediately? No – and this is no different than it was in 1977 – nor should we be expected to do so.

As an analogy, medical schools do not produce doctors who finish their course work and start performing major operations immediately upon graduation. There is a trial period where those doctors are introduced through practical experience into the mysteries and vagaries of a medical practice. New law school graduates should have the same sorts of opportunities. Can legal educators do better than we currently do? Of course.

At St. Thomas University, we have a program where students are identified in the first semester as being poor writers based on their LSAT writing samples, and an English Ph.D. works with them throughout their first year. Similarly, we've started a Legal Research Boot Camp – a one-hour pass/fail class spread out over a semester, aimed at second- or third-years who are going to work or clerk. We focus mostly on paper research, with some added electronic components. We talk about costs and smarter ways to do things. We emphasize one of the more nebulous aspects of legal research in a law firm environment: that the students need to ask questions. Questions, of course, are tricky, because no one wants to appear stupid. But there are ways to intrigue the person giving the assignment into disclosing more about an assignment than would otherwise be disclosed. We do some role playing for this part.

One of our faculty members has proposed what he calls a capstone project, where you divide a student group into teams and they act like a law firm. Some people are partners, others are associates; some do drafting, others do editing. They do a legal problem, and then they flip roles. If law schools did that, you could expect a student to come out with better workplace skills. We also offer externships and internships and some court clerkships. The problem we face is that in the fourth-tier law school, bar passage is a problem. The more we take away from doctrinal teaching, the greater the possibility that we may lower our bar passage rate. We continue to tinker with our problems and advance skills where possible.

These are ideas that have been or are being tried at other law schools, all with varying levels of success. Are they sufficient? Probably not, but new ideas are being tried. Below are some ideas for additional activities – coordinated efforts between practitioners and educators to advance skills. Others need to be advanced and tried.

Panelist Perspective: Schelle Simcox

Law Librarian, Paul, Hastings, Janofsky & Walker LLP

What are the strengths and weaknesses of new associate skills?

Last year's white paper documented it well. I see new associates jumping on case law before they really know the issue. They know little if anything about the resources that practicing attorneys use; they have not been exposed to them. However, once new associates are familiar with the resources, they quickly grasp the potential of the variety of resources and approaches. Framing the legal issues and figuring out where to look is very difficult. They need to be taught to use the right practice guides first, and then follow it up with other secondary sources to frame the issue. They have had unlimited Westlaw and Lexis use in law school, so they may not have been exposed to pricing and client issues, and are not yet aware of why a cost-effective approach is so important. They may not have experience with digests, the Key Number System and other classification systems that can make research faster, cheaper and more comprehensive than a keyword search of cases. A lot more are coming in with limited searching skills, and since they are spending much of their time online, that's kind of scary.

What research skills should new associates develop in law school?

Each law school handles teaching legal research differently. Some schools are very focused on practical legal research. Others focus on theory and do not emphasize legal research as much in the curriculum. Research methodology has gotten a little lost with the move online. We should be using the same methodology in the online environment as we would in the print environment, but it is not translating well. Law librarians used to be able to say: "Start here, go here, then there." It is a lot harder to replicate that methodology combining the online and print environments unless you're very deliberate about it. One thing that surprised me last year is that despite my perception that there was a gradual movement away from print resources, our summer class overwhelmingly preferred print for all the benefits we are aware of, such as browsing, layout and ease of use. I now see use of print and online formats breaking out more evenly. So one focus I have had over the last few years is finding ways to mimic a "print" teaching research methodology in a hybrid world.

What are firms doing that is innovative in teaching and training?

I can speak about what we are doing in our office. To me, the most important – and most well-received – exercise I do during orientation is to select a few volumes from a multi-volume practitioner's resource and have the summer associates answer a series of questions about that resource. They each have a few minutes to present the resource to the group. This serves a few purposes. It familiarizes them with the most important resources in our practice and jurisdiction, and it gives them experience with added features such as tables, indices and checklists. If they take away one thing from my sessions, I want it to be that they understand that they should be consulting these resources first when beginning research.

Also at orientation, I let new associates know that framing the legal issue and knowing the resources available is one thing we're good at as librarians. I don't expect them to know how to strategize the research early in their careers; this comes with time. The attorneys assigning the issue may not even know where to start. New associates use a lot of natural language searching, but they don't understand the trade-offs between using that and Boolean, so we teach a class on that and "beyond Google" Internet searching. We also give an online and walk-through library tour where we show them how to find the practice guides and practitioner materials that attorneys use on a daily basis. Another popular session is a lunchtime panel presentation with older associates who talk about lessons learned and tips for new associates.

I've heard of other firms using a Jeopardy-style game show format during orientation, or offering a research question and having a print associate team race an online associate team to find the answer. There are many effective hooks. It is all about finding the right vehicle for your orientation and needs.

How are academic and law firm librarians creating partnerships?

A few years ago, I invited interested local law school and law firm librarians to form a group to discuss teaching legal research to summer associates. One thing that came out of this was a greater understanding of the realities and pressures of each environment, and the issues surrounding legal research instruction. I recently attended the "Back to the Future" legal research symposium in Chicago in 2007. It was presented by and for law school librarians, but there were about four law firm librarians in attendance. This type of symposium would be a fantastic opportunity for partnership between law firm and academic law librarians.

What new solutions can librarians sponsor to create better researchers?

In our group of law school and law firm librarians, we realized that this was a complex issue with many players involved. Our ultimate goal mirrors recommendations from the white paper last year, of finding ways to involve decision-making law firm partners and law school deans in the conversation. Exploring ways to get that off the ground involves other organizations and entities that we need to bring to the table.

Panelist Perspective: Susan Nevelow Mart

Faculty Services Librarian and Adjunct Professor of Law, UC Hastings College of the Law, University of California

What research skills should new associates develop in law school?

The only research you can be sure every law student has been taught is that very small part of first year legal writing and research. The problem with a lot of first year research is that it's mostly canned. The research is a treasure hunt, and there is a clear answer, which is very much not like actual research. Research tools are now constantly changing, so you need to teach students to be flexible and evaluate which ones are going to work for them. Legal research means knowing what it is you're looking for, what the shape of the law is, what your client is looking for, what your assigning attorney is expecting from you, and then asking: What are the tools I need to use? One thing that should be taught is listening. It might sound strange as a research skill, but it's related to knowing the problem that you're researching. Students are so used to getting information as a written problem, they're flabbergasted when someone just sits down and tells them a rambling story.

Law schools have incorporated many more skills classes in their curricula, and I would definitely like to see them do more in nurturing practice skills. But that's not how most classes are set up. The current way most classes are taught is: We keep you in the dark and hope you can figure out the contours of where we're going based on the Socratic method. So it should not be a surprise that students graduate without much in the way of practice skills. The *Carnegie Report* may help fuel a trend to incorporate some modicum of practice skills into lecture classes.

Not all students can really be taught all the research skills they need in law school. This isn't a problem that the school can solve, or the firm can solve. You're never going to have law schools turning out people who are completely ready to practice. There will always be a learning curve. The question is how to ease the transition.

What new solutions can librarians sponsor to create better researchers?

I try and make most "teaching" moments have a practical aspect. In class, one of the things I teach is how to interview a partner. I have a partner come in from a large firm and give the students a real problem – orally. These real research problems that I get from law firms, partners – or even friends at dinner parties – don't have a clear answer. I have students spend a lot of time working on research problems that are practice-oriented. Then the students say that the homework is hard, and I say, "Sorry, no one's going to pay you to answer easy questions."

Law students are very comfortable on the computer, but their searching skills are not fully developed. They think if they put in a few search terms, they'll find the resources they need. That works for typing "thai food San Francisco" into Google, and scanning through the results, but legal research is more nuanced. That being said, Google can actually be a very powerful tool to get oriented in a topic. I had the students work on a real-world problem related to wine-making regulations. The students who went to the Internet and found the ATF (U.S. Bureau of Alcohol, Tobacco and Firearms) and Wine Institute Web sites did a much better job on the problem. They got grounded, because it's an area of law where there isn't really a good treatise or a law review.

I also think it's important to let students actually see how I do research. I don't prepare it; I just do it cold, live, online, in class. It doesn't always work, which is the risk. Using problems that have an obvious answer is self-defeating – it makes students think that research is easy, when in fact it's this very loopy, iterative, back-tracking process where things don't always work. I sit down at a computer with them, or I have them follow me. I talk through it, I research out loud and let students follow the process and see that there are clues in every result. It's not fair to make students think that research is easy. Research is not pretty.

How are academic and law firm librarians creating partnerships?

Schelle [Simcox] got a group of firm and academic librarians together about a year and a half ago to work on best practices for teaching summer associates. We all submitted ideas about what we thought the best program would be, and out of that came a lot of awareness that law school librarians don't teach all or even most law students, and firm librarians get very little time to teach associates legal research, because it isn't required. So we worked together and came up with a program. And our collaboration was so much fun, we're now working on a research program that firm, law school and county librarians can put on. Trying to come up with a bank of real-world research problems – and bringing what's happening in the firm into the schools – is a good area for partnership.

Panelist Perspective: Monice Kaczorowski
Director of Library Services, Neal Gerber & Eisenberg LLP

What are the strengths and weaknesses of new associate skills?

When you receive your first project at a firm, you aren't looking at a casebook that lays out background and a fact pattern – and provides cases on point. You need to be able to step back and strategize on how you're going to start a project. Have you conducted a thorough interview with the partner who gave you the assignment? Are you clear on what's being asked of you, and do you have an overall understanding of that basic area of law? Do you start with the statutes or case law – or does the project call for statutory interpretation and performing a legislative history?

New associates are so used to hopping online or Googling their way through research that breaking the pattern is hard once they join a law firm, where they're held accountable for the time and resources that appear on client bills. In interviewing summer associates about their law school online experiences, many have told me that they just click through the links until they find their answer. They don't see the costs associated with the research, so they don't really care, because of the perception that it's free. They're used to word searches on Google, so they transfer those skills to Westlaw searching.

A positive development is Westlaw WebPlus, because this is a product where they've tamed Google, given you vetted Web sites and gotten rid of the advertising to give you a safer and more focused way to search the Web. We have this in place to see the reaction of summer associates and study their usage patterns. Hopefully this will give us information to better teach online search skills to new associates.

There also seems to be a disconnect with how books can help you with online research. These are the words I most often hear from summer and young associates when I ask them about their use of print in law school: "I was forced to use print!" "It was tedious!" "I had to get up and walk to the stacks, and not everything was in the same place!" (But they did tell me that seeing the partners using the library in our firm makes them think it must be okay.) They don't realize that everything isn't online. If it were, I certainly wouldn't have all the subscriptions I pay for. And they don't realize that the same tables of contents and indices you find in print are still being used in online services. We start them in print, with the index and table of contents. It's a big "wow" from their perspective when they find exactly what they need without going online. As we continue to teach how print resources complement online searching, we've seen a greater use and understanding of digests and secondary sources.

What skills should new associates develop in law school?

They should know the business of law. I think there should be a bridge program like "comps" in college. A law firm CFO could give an overview of what's happening in the market, why you bill for your time and what constitutes a client engagement letter – and someone needs to let them know that even some Fortune 500 clients will not pay for online charges. Legal research and writing classes usually happen in law students' first year, when they're so overwhelmed getting used to the pace of law school that it's just a blur. They should have a legal research overview explaining, this is how a bill becomes a law, this is a Code of Federal Regulations, this is what is promulgated from the agencies, and these are your core secondary sources if you don't know where to start on a project. The response I've received about this sort of class is that it would be really helpful – even talking about etiquette in a law firm. It doesn't have to be a semester, just a final class for third-years bridging the gap into practice.

What are firms doing that is innovative in teaching and training?

What I'm hearing is that it's up to law firm librarians to teach legal research. If that's the case, then we'd better be prepared to do it, and you'd better have buy-in from your firm. We do have that, and we're lucky. Every first-year associate is assigned to a practice group, and we ask them to bring down their first project. We work with them one-on-one to introduce them to all of the resources in their universe as a labor attorney, a corporate attorney, etc. We tell them what attorneys use these materials, and that their partners will expect them to know these resources. I make sure my staff is customer service-oriented, can analyze a fact pattern for a project and knows the collection so they can get attorneys to those resources.

We focus on specifics to practice areas. It's mandatory to take integrated legal research and the West Topic and Key Numbers seminar. The feedback was that they learned more in that hour than they learned in their law school legal research class on how to use topics, key numbers and digests, and how to apply it online. Their researching gets better. Bills go down, and partners aren't in my office complaining about online charges. I'm seeing a return on investment. As firm librarians, we need to step up as teachers. I really want to empower young associates to become good researchers, because it's for their benefit and that of the firm.

How are academic and law firm librarians creating partnerships?

I'd like to see more communication. I was relying on what summer and first-year associates were telling me on what they did and didn't learn in law school. I'd ask, did you go in and ask librarians to help you with search strategy? "No." Did you use the library? "No." I use this information so I know how to structure teaching legal research in the firm. West's roundtables were quite an eye-opener. It really got everybody thinking. Librarians in the Chicago area are much more aware of what we're trying to do. Our firm has a legal writing instructor on staff. She's a professor at a local law school, and a former practicing attorney. She structures research and writing seminars and makes sure that we have the resources in the library to support her teaching initiatives, and she keeps me current regarding what's going on in legal research and writing at her school. But across the country, it's the West white papers that keep this going. I think it's great to keep this out on the table and build on it.

Panelist Perspective: Chris Mickus
Partner, Neal Gerber & Eisenberg LLP

What are the strengths and weaknesses of new associate skills?

I'm eight or nine years out of law school, so I am still able to relate to the younger associates and serve as a liaison between them and the senior partners on a case. One of the things I'm seeing is that newer associates almost exclusively use online tools and stay away from the library. Up-the-line partners complain that younger associates just don't have an understanding of how to use the library. That makes them feel uneasy, and makes them wonder if things are being missed. When I was in law school, we were required to learn how to use the library before we were even given Westlaw passwords. I have vivid memories of sitting on the floor of the law library on a Saturday morning, and meeting with my legal research professor. She would walk through the assignment, starting with such basic questions as, "What words come to mind that we should look for in a descriptive word index?" Then we would go through digests, select cases, Shepardize to find other materials, then go through secondary resources.

What skills should new associates develop in law school?

I would put more emphasis on research skills than writing skills. Young associates go through a major, steep learning curve with regard to their writing skills when they begin working at a firm. Writing skills can effectively be taught at the firm to a young lawyer. It is more important to understand where to look for an answer. It's a matter of understanding what's in the library, and the nuts and bolts of how it works. In law school, projects are designed with a clear answer (as one panelist refers to it, "canned" assignments), so students can be evaluated on their end work product. However, cases are in litigation precisely because there oftentimes is no clear-cut answer.

What are firms doing that is innovative in teaching and training?

One of the simple things we do is encourage people to ask questions. I'll be the first person in the litigation department to walk into our library and ask someone for help, because if there's a resource out there, I want to know about it. Young lawyers can't be expected to know how to find everything, or how their project will fit into the larger piece. I tell them, don't waste your time or the client's money. Before you come back and say there are no cases, make sure you have used the resources available in the library and have exhausted your searching, because that is what the partners up the line are going to look for.

Monice [Kaczorowski] has done a terrific job making sure that training is available for all attorneys at the firm. I just sat through one of her programs with our summer associates, and it was a fantastic refresher course. If I'm not aware of a resource, one of the firm's librarians will point me in the right direction before I can blink an eye. That's a good feeling to have as a lawyer.

Additional Commentary: Karl Gruben

Just as a medical doctor does not emerge from medical school perfectly ready to perform the first operation unassisted, so does the freshly sworn-in attorney need assistance in performing the duties of a fairly detailed profession. I have talked with practitioners of many years' experience who describe the practice of law as a battlefield filled with hidden mines, each waiting to trap the unwary attorney and explode some problem into their professional lives. How, then, can we expect a new entrant to the profession to learn enough to "practice" law after only three years of education? The truth is, you probably couldn't get a roomful of people to agree on the meaning of "job ready."

My opinion is that new lawyers coming into the profession should be able to do legal research confidently in the basic paper and electronic sources. They should have some background in the subject matter of their work group. But they can't know everything, nor will they be able to draft a complete document from day one. What should be expected is that they can write a coherent sentence, and they should have the ability to take the basics from someone else's work and apply it to another situation. Just as the experienced practitioner learns about and avoids newly found "mines" in practice, the new attorney will be required to learn, through experience and discernment, to do the same. All of life is a learning experience.

The newly minted lawyer, though, can learn some skills in school that better marry the theoretical concepts of doctrinal teaching with the oddly twisted fact and law patterns the real world tosses at one in practice. It is here that legal education should be changed, and it is my opinion that there is about to be a sea of change in legal education.

The *MacCrate Report*¹ came out in 1992. More recently, we have received the wisdom of what is known as the *Carnegie Report*², which continues the MacCrate notion that the teaching of law needs to change. The Socratic method in conjunction with the Langdellian casebook is not a great way to teach law. What are needed are more practical applications in the classroom.

The *Carnegie Report* doesn't really mention legal research skills, per se, and, indeed, skips over the writing skills as well – examining, for the most part, first-year doctrinal courses such as torts, contracts and property. It is interesting that this report was done by a group composed primarily of educators who were not law school educators; though one member is a former law school dean, the other members have their feet placed in psychology or educational psychology. The *Carnegie Report* does, however, point toward a complementary report known as *Best Practices*³, also completed in 2007. This report was completed by members of the Clinical Legal Education Association based on a project inspired by the *MacCrate Report* – along with discussions about that report within the CLEA – that took place over several years. The members of the CLEA who worked on *Best Practices* were all law school professors.

There is currently a great deal of discussion in legal education about these two reports and how and what changes should be made in the classrooms. Deans are looking at the reports and hearing from employers, and deciding that law schools need to produce students better able to practice law – and the only way that can be accomplished is to have some kind of application in the classroom.

Best Practices is divided into chapters or groups of chapters that address goal setting, organization of a program of instruction, delivering that instruction, assessing the learning of the students during the instruction, and evaluating the success of the instruction after its completion. Legal research is mentioned quite often as a tool to be used in the doctrinal courses, as well as a skills course in its own right.

The author of chapter three of *Best Practices*, Michael Hunter Schwartz, notes that law schools should achieve "congruence" in their program of instruction. He defines this congruence as the harmonization of the school's mission, educational programs, education outcomes, curriculum and course-by-course instructional objectives⁴. Schwartz further notes that law schools need to know when outcomes will be achieved, and states that curriculum maps can show where

¹ The American Bar Association Section Of Legal Education and Admissions To The Bar, Legal Education and Professional Development—An Educational Continuum, Report Of The Task Force On Law Schools And The Profession: Narrowing The Gap (1992) (*MacCrate Report*)

² William M. Sullivan, et al., *Educating Lawyers: Preparation for the Profession of Law* (2007) (*Carnegie Report*)

³ Roy Stuckey et al., *Best Practices for Legal Education—a Vision and a Road Map* (2007) (*Best Practices*)

⁴ *Best Practices*, p. 93.

students should be expected to have achieved some desired level of proficiency, such as the introduction, the practice and the mastery of a subject or skill. It is in this curriculum map, it would seem, that the legal research skills can be deployed and enhanced. Many will want to claim that students can achieve all three levels of legal research (introduction, practice and mastery) in the first year. This is, of course, absurd, since the first-year student has little idea of what the law is or is about, and cannot complete the mastery until some of the doctrinal vocabulary and schematic mapping of the law is made clearer through additional study. Indeed, given the results of the Thomson West study, mastery is sometimes not indicated even after the end of the third year of study.

Both *Best Practices* and the *Carnegie Report* recommend a more practicum-oriented approach to legal education: the introduction of practical matters in the heretofore rigidly doctrinal courses such as torts, property and contracts. There should be a component about how to find the law pertaining to these doctrinal courses, and such should be included in most of the doctrinal courses. The doctrinal materials would need to be supplemented with real-world experience that the law professor, for the most part, cannot supply. Law professors, after all, are in the “doctrinal law” business, and while many have side practices or have practiced in firms, practical skills need constant attention or they become tarnished. Thus, the adjunct instructor drawn from the practicing world of attorneys and judges should become one of the mainstays of the law school curriculum. These supplemental instructors are readily used by most law schools already for courses supplementing the curriculum, and this is fine, so far as it goes. The true value, though, would be to use supplemental instructors to add the practical to the theoretical in the basic courses: torts, contracts, property, civil procedure, criminal law. Not war stories. While entertaining and instructive, to a certain extent, the practical aspect of instruction is accomplished by “doing,” not just listening. This would be an excellent point for the injection of legal research skills into the regular curriculum – legal research that complements the doctrinal and practical applications of the course.

Some schools do this already, with bibliographic instruction on particular aspects of a subject matter course, followed by the use of those tools to find answers to problems. This should be improved and expanded as the new *Carnegie Report* and *Best Practices* volumes are read, and their recommendations adopted by more law schools. But what the schools truly need are the real-world problems that can be shown to students. I bring those to my students from my time in firms, but that time is now seven years old and getting older – so some of my examples are starting to age. I have contacts for current firm affairs, but would truly love some other workable way to achieve some kind of cross-training to get real-world examples that will resonate with the students. I am looking forward to Ms. Mart’s and Ms. Simcox’s bank of real-world problems.

West Conclusion

Expecting a long-standing problem to disappear overnight is seldom realistic. And clearly, the gap in expected vs. demonstrated legal research skills among new associates is as large as ever. However, based on the stepped-up knowledge-sharing taking place among law librarians, attorneys and legal educators, a new sense of optimism has taken root. West is honored to play a role in fostering the continued growth of these emerging innovations.

A point of interest in this year's discussions is the evolution from "oppositional thinking" to "congruence." We hear about successes in teaching print and online resources together, rather than treating them as separate tools. Educators are moving away from the false choice of "theoretical" vs. "practical," blending the two in exercises that teach theoretical points by drawing from real-world experiences. Academic and law firm law librarians are working together like never before – formally (such as this forum), as well as in informal groups that share best practices.

Also noteworthy is the need to complement specific proficiencies with abstract skills. In addition to teaching new associates the nuances of treatises in specific practice areas, we also learn of the need to teach basic listening skills. Law librarians recognize that they have to eliminate assumptions – about their colleagues, about the competencies of summer and first-year associates, about how law students and new associates view the law library as a resource. We hear about the need to teach new associates how to ask questions – despite an ingrained culture of pride that tells them never to appear as if they "don't know what they're doing." We learn that law students need to shed Google's culture of instant gratification to embrace the real world of "no easy answers."

Through this ongoing forum, working with law school educators to develop legal research curricula, exploring Real World Legal Research programs, further developing the West Integrated Legal Research (WILR) program, and continuing to raise the profile of law librarians and legal educators, West is committed to closing the skills gap, serving as a conduit for knowledge-sharing and giving all parties the tools needed to produce job-ready attorneys.

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