

# PERSPECTIVES

## Teaching Legal Research and Writing

### WHAT'S THE MATTER WITH KIDS TODAY?

“Why can’t they be like we were, perfect in every way? What’s the matter with kids today?”<sup>1</sup>

BY DIANE MURLEY

*Diane Murley is the Reference/Web Services Librarian for the Southern Illinois University School of Law Library in Carbondale.*

Students beginning law school today have different research backgrounds than we had when we began law school, but that does not mean that they are any less prepared to become legal researchers. This year’s incoming class will have to learn more about legal research in more formats than we did, and we can use their familiarity with Internet searching to teach them what they need to know. This article offers some ideas for using our students’ experiences with Internet research to help them learn the research skills that will be expected of them when they are lawyers.

### Incoming Law Students Have Valuable Research Skills

With the arrival of every new first-year class, legal research instructors lament the students’ lack of basic research skills. Like the refrain about the younger generation from *Bye Bye Birdie*, we compare the research experiences of incoming law students unfavorably to our own. If there was ever a time when the research skills of an entering law school class met the expectations of their legal research instructors, it was a long time ago.

The current theory explaining the students’ asserted lack of skills is that they made it through college doing all their research on the Internet without ever setting foot in the library. Therefore,

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<sup>1</sup> “Kids” from *Bye Bye Birdie: A Musical Comedy*, book by Michael Stewart; music by Charles Strouse; lyrics by Lee Adams. Vocal score. New York, NY: Edwin H. Morris & Co. (1962).

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*Manuscripts, comments, and correspondence should be sent to Mary A. Hotchkiss, William H. Gates Hall—Box 353020, Seattle, WA, 98195-3020, (206) 616-9333, Fax: (206) 543-5671, E-mail: hotchma@u.washington.edu*

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Ann Laughlin  
West  
Customer and Product Documentation  
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the theory goes, incoming students believe that everything they need is on the Internet and everything on the Internet is reliable, so they never even consider using print or specialized electronic resources to which the library subscribes. (Westlaw® and LexisNexis® are the obvious exceptions to this theory.)

It is certainly true that students use the Internet for research more often than they did even a few years ago, and the ready availability of information on the Internet can explain in part why students today have little or no experience using research tools we consider to be basics. However, complaints about the research skills of incoming law students date back to long before Internet searching was generally available to students. The Internet is only the latest accused offender.

Students who have used the Internet to find materials for undergraduate papers have done research, and that gives legal research instructors something on which to build. We need to stop treating Internet searching as a bad habit that must be discouraged so the students can learn to use print resources. A better approach would be to start using our students' experiences with searching the Internet as a foundation for teaching them what they need to know about legal research in all formats.

### **A New Approach: Incorporate Internet Legal Research into First-Year Legal Research Courses**

Law students today have to learn more about legal research than we had to learn when we attended law school. Not only do they have to find their way through an increasing number of both primary and secondary sources, but they are also expected to learn how to use legal resources in all formats. It is up to us to provide them with the tools they will need to face the legal research challenges they are likely to encounter.

By incorporating Internet research into the first-year legal research course, we can take advantage of the actual research experiences of our incoming first-year students, teach them general research principles that they can apply to the broad range of legal resources available today,

and improve their Internet research skills. The ideas that follow are suggested ways to use Internet research examples and concepts for these two purposes.

First, we take advantage of the fact that the students are comfortable doing research on the Internet to teach them legal research skills they can use in all formats. A simple way to build on the students' basic familiarity with the Internet is to explain new materials using Internet terms and concepts. For example, using a headnote number to skip to the part of the case that the headnote summarizes is very much like clicking a link in a Web page to jump to another point on the same page. Using the topic and key numbers of a known case to find other cases on the same subject, or using references in a secondary source to find related secondary and primary sources, is comparable to using links to browse from page to page, a concept with which our students are already familiar.

Second, we recognize that the students will use the Internet for legal research, with or without our instruction, and we teach them some basics of Internet legal research as early as possible. Of course, how much time you can spend on Internet legal research practices will depend on how much total time you have to teach the first-year students legal research. You may be able to fit an entire class session on Internet legal research into the schedule, or you may be limited to mentioning research tips and warnings in passing within classes devoted to other legal research topics. At a minimum, our students need to be taught that not everything is available on the Internet, not everything on the Internet is reliable, and there is more to Internet research than keying a word or phrase into a search engine.

If you are as fortunate as I am and participate in a first-year program that includes legal research instruction throughout the first year, you can incorporate more information on Internet legal research into each class. Besides disabusing the students of the notions that everything is on the Internet and everything on the Internet is reliable, we can start to teach them how to evaluate information they find in all formats and compare the various sources that will be available to them

throughout their careers. Here are some ideas I have for including a little knowledge about legal research on the Internet into some of our first-year lawyering skills classes.

### Statutory Research Classes

Statutory research classes offer opportunities to use the Internet to help teach legal research skills that students can use in all formats and to introduce Internet legal research practices that will enable them to be informed online legal researchers.

#### Use Statutory Web Sites to Help Teach Updating

Use a state statutory code Web site to introduce the steps necessary to find the most current version of a statute. Most state codes on the Internet are only updated as frequently as the official code; changes are not made every time another session law passes. We can start a lesson on updating statutes by displaying a state code Web site and the information about when it was last updated. Then show the students how they would have to find the most current version of a statute by searching the state legislature's site for session laws passed since the code was updated.

Projections of these Web sites on a screen and on the students' laptops will be easier for a classroom of students to see than books and their updates displayed by the professor. And the addition of another example of the steps necessary to update statutes will help the students to understand how the statutory code and session laws work together and how to find the current version of a statute.

#### Use Statutory Web Sites to Demonstrate that Internet Information Is Not Necessarily Current

We already teach the students about the need to update. The discussion of updating presents a good opportunity for demonstrating the need to check when a legal Web site was last updated. Students assume that Internet information is by its nature more current than print. By showing them that primary legal information on the Internet, especially statutes and regulations, is frequently out of date, we can demonstrate that Internet information may not be the most current and

reinforce the message that they need to update their research in any format.

### Case Law Research Classes

#### Use Case Web Sites to Demonstrate that Everything Is Not on the Internet

Case law research classes lend themselves better to teaching good Internet legal research practices than to teaching general case law research skills.

Students may assume that everything they need will be available on the Internet. Case collections on the Internet rarely go back beyond the early 1990s, and some courts remove them after a certain period of time. We can use case Web sites to show that not everything they will need is available on the Internet. This may also be an opportunity to demonstrate that search engines would not retrieve individual cases, and that students would have to know which Web site has the cases of a particular court, thus introducing the concept of the deep or invisible Web.

### Research Strategy Classes

#### Use Internet Examples to Demonstrate the Need to Evaluate Information

Government Web pages of statutes, regulations, or cases frequently have warnings that the information is made available as a public service, but that it should not be relied upon unless it is confirmed by checking the official publication. We can point out these warnings and explain that most of the government agencies placing information on the Internet cannot afford the quality control necessary to guarantee accuracy and completeness.

We should also start the students thinking about whether information they find on the Internet is reliable. There are plenty of examples of information found on the Internet that proves to be unreliable. We can use these examples to illustrate the need to know who is the author and who is making the information available, what are their credentials, and whether they have any biases that might affect the accuracy and credibility of the information provided.

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### Use Examples of Unreliable Internet Information to Help Teach the Concept of Authority

For example, we can use the discussion of ways to evaluate Internet information for reliability to introduce concepts necessary to evaluating legal information in general. An evaluation of a source of legal information must include questions about who is the source of the information, as well as whether it is complete and current, regardless of the format.

The discussion of the different authority and weight accorded different sources of legal information might also be more memorable if it includes nonlegal examples with which the students are more likely to be familiar. If the students are asked which source should be given greater authority or weight on the question of whether a sports star has been traded—a statement by the team and player, a report on ESPN, or a rumor on a fan Web site—they can begin to see the issues. Then they will be more likely to begin to understand the finer points of primary and secondary authority, and mandatory and persuasive authority.

### Have the Students Compare Internet and Print Resources

If your first-year legal research class includes legislative history and administrative research, you have a couple of excellent opportunities to begin to teach the students how to evaluate legal resources for cost and efficiency. Have them do legislative history exercises in print and on the Thomas Web site<sup>2</sup> and compare. It doesn't matter which format they prefer, as long as they can say why they prefer it. Include other electronic resources in the comparison if you teach them.

After teaching the students how to update regulations, break them into teams and have them race to update the regulations in print and on GPO Access,<sup>3</sup> preferably allowing each student to use each format. Again, include other electronic

resources in the race if you teach them. It won't matter which format wins the race. You will have laid the foundation for an informed discussion of the two formats.

### Conclusion

Law students today have to learn more about legal research than we did, and we have to find ways to continue to teach them what they need to know. By taking an integrated approach and focusing on general principles rather than formats, we can help our students become better legal researchers. If we treat law students' experiences with Internet research as a tool rather than as a bad habit that should be discouraged, we can help them learn the research skills that will be expected of them when they are lawyers.

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<sup>2</sup> <thomas.loc.gov>.

<sup>3</sup> <www.gpoaccess.gov>.