

## HIGH-TECH LAW STUDENTS: WHEN TO TRAIN THEM ON CALR

BY FRITZ SNYDER

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“Each law school has three Legal Research and Writing courses: the one they had last year, the one they have this year, and the one they will have next year.”

– *Old adage, recently unearthed by Nickie Singleton, Director and Associate Professor of Law, University of Oklahoma Law Library*

### The Traditional Approach

At one time, perhaps 10 to 15 years ago, there was fairly strong agreement that students should be trained on computer-assisted legal research (CALR) systems—LEXIS® and Westlaw®—after they had been introduced to print materials. Usually print materials would be taught in the first semester of the first year, and CALR training would not be conducted until the second semester. (It was possible to train students on CALR in the last part of the first semester, after they were trained on print materials, but this seemed too much to cram into a single semester.)

The traditional approach was based, in part, on the view that simultaneously teaching LEXIS and Westlaw and print materials would add to the confusion that many law students already feel when introduced to the complexities of legal research. (This situation later was exacerbated by the introduction of natural language searching on CALR, which is particularly problematic for first-years since any fool can write a natural language search and automatically, with the default, get 25 or 30 cases, many of them worthless. Unfortunately, the student doesn't realize the poor quality of such a result.) And, conceptually, it seemed to work much better for students to actually use the print materials a good deal *before* moving to LEXIS and Westlaw. For example, the thinking went, it has to be difficult for students who have never used key numbers in a print digest to understand key number searching on

Westlaw. CALR simply had to be easier to comprehend *after* students understood the makeup and use of print materials.

### Is the Tide Turning?

Today, however, law students are much more electronically adept than they were in 1985. Moreover, Westlaw and LEXIS now are much more widely available to legal practitioners. Flat-rate pricing has made CALR more affordable, even for small firms and solo attorneys.

Given this situation, I was curious to see whether the traditional approach to the timing of CALR training was still followed in law schools today. Using two prominent law library electronic discussion lists,<sup>1</sup> I conducted an informal poll to investigate the question.<sup>2</sup> I first asked whether a school now incorporated CALR training into the basic legal research course. I next asked whether a school conducted CALR training during the second semester of the first year, while keeping the basic legal research course in the first semester. A few schools answered yes to both questions, but, for the most part, if the answer was yes to the first question, it was no to the second, or vice versa.

While the results of my survey are certainly not conclusive, the tide may be turning. A slight majority of the law schools that responded (21 of the 38) offer CALR training during the *same* semester as training in the print materials. (Five other law schools couldn't really be categorized.) It should be noted that this is not necessarily *simultaneous* training, integrating print and electronic resources in a single functional introduction to legal research. Some of the 21 schools that teach CALR and print during the same semester begin with the print materials and only provide CALR training *after* students have received training on traditional legal research tools. Nevertheless, large holes have been punched in the “print first, CALR second” dike. Among the reasons mentioned by respondents were the following:

<sup>1</sup> The discussion lists I used were law-lib ([law-lib@ucdavis.edu](mailto:law-lib@ucdavis.edu)) and the academic law library directors list ([lawlibdir-l@lawlib.wuacc.edu](mailto:lawlibdir-l@lawlib.wuacc.edu)).

<sup>2</sup> See Frederick R. Snyder, [fritz@selway.umt.edu](mailto:fritz@selway.umt.edu), *Lexis/Westlaw Training*, Aug. 12, 1999, [lawlibdir-l@lawlib.wuacc.edu](mailto:lawlibdir-l@lawlib.wuacc.edu).

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- KeyCite® is only available electronically.
- Passwords are available that limit students to using Shepard's or KeyCite, and the Find and LEXSEE features, thus allowing a more reasonably paced introduction to the CALR systems.
- The increasing availability of LEXIS Academic Universe and the use of LEXIS by debate teams have made new law students more aware of CALR and impatient to use it.
- Finally, it is difficult to ignore the electronic generation of law students and their clarion call: "Computers are our God-given right."

Beyond numbers, there are other signs of the crumbling walls: Southern Illinois University School of Law, something of a leader in the teaching of legal research as a distinct course, reported: "We do not [yet] incorporate training in LEXIS and Westlaw with the basic legal research course, although this is something we are rethinking." And the University of Kentucky echoed: "While Westlaw and LEXIS are mentioned as resources in our fall legal research presentations, we do not integrate the materials. I am not sure how long we will be able to maintain this stance." One law firm librarian said: "If the law school has only one whack at teaching legal research [during the first year] why not teach the [print and CALR] skills side-by-side?"

Tim Kearley, law librarian and professor at the University of Wyoming, reported that he uses *The Process of Legal Research*<sup>3</sup> as a text and brings in online research when the book does, which works out to be the sixth and seventh week of the course. At that point, he figures students have become reasonably library-oriented and so won't be too taken by online research. He is reasonably satisfied with the results.

Jalen O'Neil, who teaches the research and writing course at Washburn, said:

Although most of us very much understand and agree with the reasons for delaying LEXIS and Westlaw training, we have concluded that we will teach it in the first semester. ... The reasons for this conclusion are just as you state: the times are not with us. ... We plan to allow CALR access from the first day. ... Eventually we hope to develop a good set of problems that proves to the students that they are foolish to rely only on LEXIS and Westlaw. ... It is absolutely true that this will be more confusing and time-consuming for the students.

## Doubts Remain

Charles Dyer, now director of the San Diego County Public Law Library but formerly law library director at the UMKC Law School, noted that the advantage of print sources is that editors have created good indexes for their tools. With CALR, however, key word searching amounts to doing your own indexing: "If you do enough secondary source work to understand the topic adequately, you can do better on an individual query. The issue is the same as it has always been: teaching law students to be thorough, rather than lazy."

John Edwards, director of the law library and professor of law at Drake University, argued that students need to learn the books first to appreciate what CALR can and cannot do. "Too many think everything they need can be found on the computer." Lynn Connor Merring, director of Library Services at Paul Hastings Janofsky & Walker in Costa Mesa, California, noted that some clients just will not pay for CALR, so associates might be forced to research the old-fashioned way. Bob Hughes, another law firm librarian, added that some questions, specifically statutory ones, do not lend themselves to initial computer searching since the question may depend upon context: "There's great value in a table of contents and an index when the specific statutory term alludes even the experienced practitioner." Carol Barra, librarian at Whitman, Breed, Abbott & Morgan in New York City, said that some of the partners in her firm complain that new lawyers really don't know how to do thorough research anymore:

The new lawyers think that if they jump onto LEXIS or Westlaw they will find their answer quickly and will be doing a thorough job of researching an issue. Our partners are concerned that students are losing the ability to think and reason on their own. Also, whatever happened to starting with a treatise, a CCH looseleaf service, or C.J.S.<sup>®</sup> or Am Jur<sup>®</sup> 2d to get some background on a particular subject before jumping into case law? I think LEXIS and Westlaw are great resources, but they should be approached with more intelligence than I see from the younger attorneys.

Joan Pedzich, librarian at Harris, Beach & Wilcox in Rochester, New York, said that the

<sup>3</sup> Christina L. Kunz et al., *The Process of Legal Research* (4th ed. 1996).

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students she gets as summer associates and permanent hires have almost no manual research skills. When they are using CALR as a sole source, they sometimes do not understand what they have found when they see it online: "They don't know the difference between a statute and a regulation, for example." According to Pedzich, the visual, physical presence of the print version helps to draw some distinctions about what the sources are and what they are used for.

Finally, there is the note of exasperation voiced by some academic law librarians but felt, no doubt, by many, many more. Lamar Woodard, law librarian and director of Information Services at Stetson University College of Law: "For the most part, teaching first-year students the intricacies of the CFR and *Federal Register*, legislative history, and looseleaf services is like teaching a pig to sing—the pig doesn't do it very well and certainly doesn't appreciate the lesson." Mary Brandt Jensen, director of the law library and assistant professor of law at the University of Mississippi: "I've tried situations where we gave them full-blown passwords at the beginning of the fall semester. It doesn't work. I've tried situations where they got no passwords until the spring semester. But there is no way we can teach citators properly now without exposing them to KeyCite." Penny Hazelton, law librarian and professor of law at the University of Washington School of Law: "The students will use CALR whether they know how or why or not. ... The truth is, they don't care if they do good searching online." She thinks the most viable solution is to have good advanced legal research courses that teach print sources, among other things, to second- and third-year students who, by then, know that they need to know how to do print research.

## Conclusion

Of course, to some degree, it all goes back to first-year students. They're such a pain. They don't know anything except computers and the Internet. They complain about civil procedure; they complain about legal research exercises; they want to reform legal education. Still, I like 1Ls. They are fresh and enthusiastic. So what's the

answer? Probably there isn't one, at least not a good one. A few of us teach graded legal research (not legal research *and* writing) courses and think this approach emphasizes legal research properly. But at most schools, the approach appears to be to use the more traditional legal research and writing course, taught by adjuncts or teachers on term contracts, with legal research somewhat de-emphasized. And, let's face it, lawyers seem to muddle by. Maybe the decision when to teach CALR is more a matter of personal preference, and it actually doesn't make too much difference what you do.

The nagging doubt still persists for me, however. If students are not forced to use the print digests, the print ALR, or the print encyclopedias, how can they properly appreciate them on LEXIS or Westlaw? So for my two-credit, graded legal research course, which I teach in the fall with no lectures and no hunt-and-peck library exercises, using 12 teaching assistants who each have six or seven students and grading based on casefinders and pathfinders that I alone review, I'll stick to having CALR training in the spring. Just too much stuff, otherwise.

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