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 does not 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,1 I conducted an informal poll to
investigate the question.2 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:

1 The discussion lists I used were law-lib
(law-lib@ucdavis.edu) and the academic law library
directors list (lawlibdir-l@lawlib.wuacc.edu).
2 See Frederick R. Snyder, fritz@selway.umt.edu,
Lexis/Westlaw Training, Aug. 12, 1999,
lawlibdir-l@lawlib.wuacc.edu.
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 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.® or Am Jur® 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

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 used 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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