Compiled by Barbara Bintliff

Barbara Bintliff is the Joseph C. Hutcheson Professor in Law and Director of the Tarlton Law Library at the University of Texas School of Law in Austin. She is a member of the Perspectives Editorial Board. This bibliography includes references to books, articles, bibliographies, symposia, and research guides that could prove useful to instructors of legal research and writing and their students. Also included are citations to related resources that may be of interest to those who teach legal research and legal writing. It includes sources noted since the previous issue of Perspectives, but does not include articles in Perspectives itself.

Charles D. Bernholz, Citation Abuse and Legal Writing: A Note on the Treaty of Fort Laramie with Sioux, etc., 1851 and 11 Stat. 749, 29 Legal Ref. Serv. Q. 133–148 (2010).

The author describes numerous citation errors to an important treaty in a range of cases, law review articles, and administrative materials, and then uses examples of the errors in a discussion of the importance of correct citation form.


“The [four] research techniques described are not new and have been written about by others. But too often they appear in publications read primarily by librarians or introductory legal research textbooks that are several hundred pages long, where their importance is lost on first-year law students. The goal of this article is to share these research tips with a larger audience in a way that demonstrates their usefulness.” Id. at 1–2 (footnotes omitted).


The author states that law librarianship has a well-developed literature on legal research teaching methods, but lacks the foundation of a pedagogical theory. The article suggests that Bloom’s Taxonomy be used to identify legal research skills, prioritize objectives, and organize course curricula. The author surveys the literature in law librarianship and legal education on pedagogy and research instruction, then details how the taxonomy might be applied to legal research course design, organization, and assessment.


Building on surveys of practicing attorneys and law faculty, the author seeks to understand whether assertions are correct that the West Key Number System actually affects the development of the law, and vice versa. He concludes that “the digest is a minor player in a legal culture where lawyers will go everywhere to find the law.” Id. at 265. He offers the suggestion that, by extending the digest classification system to law reviews, lawyers might be helped in their research by exposing them to more ideas that would lead to deeper analysis and better understanding of complex issues.


This article includes reviews of RegInfo.gov, Regulations.gov, OpenRegs.com, FedThread.org, Justia Regulations Tracker, and RegulationRoom.org.

The author surveyed law students about their summer research experiences to understand how much importance their summer employers placed on controlling online research costs. After analyzing results, she concludes that there is a difference in how much cost control is emphasized, depending on the size of the employer. She notes that there may be less need to emphasize cost-effective research for students who will work at smaller law firms and government organizations.


The authors, a law professor and law reference librarian, offer a summary of the basic substantive law necessary to teach a specialized legal research course on business associations, together with a model syllabus and assignments and an annotated bibliography of 25 important business law sources.


This article provides a description of the Appellate Advocacy program at the Vermont Law School, which uses pending U.S. Supreme Court cases as the subject of brief writing and moot court arguments. Details are presented on the steps taken by the legal writing faculty in learning about the cases selected and assembling class materials, and then in actually teaching appellate advocacy using the pending cases.


In response to claims that law graduates don’t know how to write well, the author suggests that the real problem is that their writing “often lack[s] a proper grasp of the issues at hand and the ability to analyze them in a meaningful, useful, and intellectually sound manner.” *Id.* at 149. To address the issue, the author explores the IRAC method and proposes an alternative model based on a legal realism–based, inductive process. The goal of the article is to provide a new model of thinking about and teaching legal writing to produce law graduates who are more prepared for the realities of the practice of law.


This article provides reflections and discoveries of a long-time doctrinal law professor who voluntarily returned to teaching legal writing after approximately 30 years. He recommends that more doctrinal faculty should teach legal writing because “[l]egal education’s doctrinal faculty unquestionably possess an enormous reservoir of legal writing talent. Diverting at least some of this talent from law review articles and treatises would be great benefit to law students, who, after all, have purchased the services of these professors. But perhaps most importantly, doctrinal professors joining in the enterprise of teaching legal writing would find common cause with the new legal writing professionals. That would make it a great deal more difficult to treat these professionals as the second class citizens of legal education. That would be a significant benefit to all faculty and, most importantly, all law students.” *Id.* at 17–18.


“This article begins the investigation into the different ways results are generated in West’s ‘Custom Digest’ and in LexisNexis’s ‘Search by Topic or Headnote’ and by KeyCite and Shepard’s. The author took ten pairs of matching headnotes from important federal and California cases
and reviewed the results sets generated by each classification and citator system for relevance. The differences in the results sets for classification systems and for citator systems raise interesting issues about the efficiency and comprehensiveness of any one system, and the need to adjust research strategies accordingly. “Abstract.


The authors assert that most instruction in legal analysis does not include counter-analysis, that is, looking at the “other side of the story.” The article explains why teaching counter-analysis is so difficult, using social science and educational psychology theory, and examines learning theory by focusing on the use of the graphic organizer, “a visual display that presents the key ideas in a structure that reflect the relationships among the concepts.” Id. at 237. Examples of possible uses of graphic organizers in the law classroom are offered, and the article concludes with an argument that teaching counter-analysis, while difficult, is critical to law students’ analytic abilities.


“The first half of [the] article presents an introduction to the field as a basic substantive grounding necessary to [anyone] pondering a legal research course grounded in bankruptcy law. The article also familiarizes the prospective research instructor with the major sources of law in the field and assesses numerous secondary sources and research tools covering the field with an eye to which print and online sources will be of the best anticipated value to today’s legal research students. Model syllabi are proposed for either a larger, three-credit course or for a one-credit minicourse in specialized research that might either stand alone or serve as a supplement to a substantive source or seminar in the field.” Synopsis.


The article examines the use of references to popular culture in legal communications. “Understanding [this use] gives insight into the use of popular culture as a valuable persuasive device. It also, however, raises the issue of whether using popular-culture references is simply good lawyering or manipulation that masks the truth. Learning how to tap into the former while avoiding ethical issues raised by the latter” is the article’s overall purpose. Id. at 242.


As an experienced legal writing professor who has read a large amount of legal writing, the author has come to believe that most legal writing is mediocre. He uses this article to explain why legal writing is not as good as it should be. He argues that there are nine complex and connected factors causing poor writing and concludes that, because of this, significant improvement will be difficult. Nevertheless, he offers four recommendations that should make a difference in attorney writing skills.


“This article proposes that lawyers can draft more persuasive appellate briefs and motion memoranda—documents that convince the court of the authenticity and correctness of the outcome they suggest—by paying more attention to what stories they tell, and to the elements of narrative. To that end, this article first reviews the current state of cognitive research with regard to narrative and establishes the importance of narrative as a tool for persuasion. Next, this article discusses the elements of a story and establishes how they might be used to mold an appellate brief or motion memorandum into a persuasive narrative.” Id. at 258 (footnotes omitted).

The author, a practitioner, “suggests and discusses content that could form the body of one or more courses on drafting contracts.” Id. at 90.


“In an effort to provide more attention to the legislative and administrative law processes than typical first year legal research instruction can provide, the author created a specialized legal research course on legislation and administrative practice and procedure. Set forth within this article is a very brief background on the substantive law an instructor for a course would need to know. Also included is an overview of the resources taught, assignments given, and evaluation tools used.” Abstract.


“This article provides a comprehensive review of the history of Arizona juvenile law and available Arizona legal resources along with their usefulness and accessibility for the Arizona juvenile legal practitioner. It also provides assessments of the cost, best applications, overall utility and locations of the various resources around the state. The appendices include outlines of the Arizona case law regarding both delinquent and dependent juveniles.” Id. at 194–195.


This article explores 20 legislative, judicial, regulatory, and secondary authorities on the Internet that are important for legal research. For the most part, the databases and search tools noted are free, although some might require a library card.


In the “sea change” of today’s curricular responses to improve skills training and the “ever-growing waves of information” that threaten to overwhelm law students, the author shows how “[l]egal research, recognized and taught as both a legal and a lawyering skill, can be a lifeboat for law schools and law students riding out this storm.” Id. at 173. She argues that current legal research education is “dangerously deficient,” and explains the consequences of continuing this state of instruction. Id. at 179. After showing how legal research can bridge the education-practice divide, she offers four principles for rebuilding legal research education.


The article addresses the disconnect between what is taught in legal writing programs and what level of writing ability is expected of new attorneys. The authors administered two surveys—one for lawyers, judges, and clerks, and another for judges only (who were also asked to read student papers and were then interviewed by the authors)—in order to understand whether there was a real gap between legal education and practice needs. After explaining survey results and determining such a gap exists, the authors explore many of the ideas that came from the surveys and the analysis of responses, and describe how some of the ideas have been integrated into their first-year curriculum.

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