

On Solid Legal Ground: Bringing Information Literacy to Undergraduate-Level Law Courses

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Abstract

The complexities of the Internet and other electronic data technologies have greatly heightened the information literacy needs of students in all subjects. Law courses are common components of many undergraduate programs and other settings external to a law degree program. The field of law has many information literacy aspects which are specialized, if not unique to the field of law. The legal information literacy basics have grown complex, and continue to do so. Successful mastery of the legal information literacy skills requires practical exercise in addition to textbook reading. Information literacy can no longer be left solely to librarian. Collaboration between instructor and librarian has great potential for bringing information literacy to the students. But several logistical, technological, economic, social and political issues complicate the process and planning behind information literacy initiatives. Awareness of these issues, and a willingness to address them, can enable students to build competent legal information literacy skills.

Keywords: Information literacy, business law, undergraduate law, adjunct faculty, librarians.

The proliferation of the Internet and other text media technologies have increasingly demanded greater information literacy skills from students of all subjects (American Libr. Assn., 1989). This is certainly true for where law is the subject being taught (Keefe, 2005).

Law courses are among the curriculum requirements or electives of many undergraduate and graduate programs, including but hardly limited to disciplines such as Business (Morgan, 2003; Mosier, 1990), Environmental Sciences (Centner & Geyer, 1993) and Psychology (Greene, 1987). Professionally and academically, the field of law has several unique attributes that impact upon the information literacy of those who seek to learn it. This article will discuss the academic information literacy issues as they pertain to teaching law courses in undergraduate programs or other settings outside of law school.

Following a discussion of the various relevant attributes of the legal field, the information literacy requirements for students in undergraduate law courses will be set forth. Next,

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the author's use of a presentation and a homework exercise to familiarize students in an undergraduate law course with key relevant information literacy matters will be described. Suggestions as to what can and should be done by instructors, department chairs, librarians and administrators to effectively teach information literacy in undergraduate or other non-law school settings will conclude this article.

Attributes of the Field of Law

Law, both as a profession and an academic discipline, has various unique attributes which significantly differ from those of the arts and sciences, and which must be taken into account in its instruction and literature (Monsma, 2006). Some of the significant ones are presently discussed from an information literacy perspective:

Specialized source materials

The literature of most academic disciplines consists mainly of their monographic texts (commonly known as "books") and their periodical articles. Some academic disciplines have appreciable literature of other genres; the performing arts, for example, have large bodies of dramatic works, audio and visual recordings, and films. While the Anglo-American legal literature certainly entails a significant quantity of scholarly monographs and periodicals, the most significant genres of source materials are constitutions, statutes, judicial opinions, and administrative regulations, which in many respects are functionally different from monographs or scholarly articles. Indeed, for legal purposes, constitutions, statutes, judicial opinions, and administrative regulations are considered primary authorities, while pronouncements of private parties or entities, such as journal articles, treatises, restatements and model codes, are secondary legal authorities (Kunz, Schmederman, Bateson, Downs & Erlinder, 1992, pp. 5 - 7; Calleros, 1998, pp. 79 - 80).

Statutes are laws enacted by the legislature (or, for that matter, dictated by a tyrant). They are usually codified according to subject matter. From an information literacy standpoint, federal and state constitutions, though superior to statutes in the hierarchy of legal authorities, are functionally similar to statutes.

Many Federal and state administrative regulations are similarly codified according to subject matter.

Judicial opinions, also known as "cases" or "judicial decisions," constitute the application and interpretation of the law by the courts. Collectively, these are the most frequently cited sources in the legal literature.

Unique citation conventions

The citation conventions used in the legal profession and discipline differ significantly from those of other academic disciplines. Though there are, within the legal discipline, some rivalries as to which of several legal citation systems to use (Barger, 1999; Temm, 2003), the legal citation systems have more in common with one another than they

collectively have in common with the *Chicago Manual*, *APA* or *MLA* systems (which, in turn, have many similarities to one another). More importantly, citation of the primary legal sources, especially the judicial opinions, differs little among the various legal citation systems.

To be sure, the *Chicago Manual* and *APA* conventions specifically defer to the legal conventions for citing primary materials such as judicial opinions (American Psychological Assn., 2001, pp. 397 - 410; University of Chicago Press, 2003, ¶ 17.275, p. 728).

The following is a typical example of a judicial opinion citation.

The matter of Richard L. Gephart versus the United States of America was decided in the Court of Appeals for the 6th Federal Circuit, and the opinion was officially filed with the Clerk of the Court on February 14, 1987. The case was reported in the *Federal Reporter, Second Series*, in Volume 818, beginning on page 469.

Using the legal citation conventions, the case is cited as follows:

"*Gephart v. United States*, 818 F.2d 469 (6th Cir. 1987)."

"*Gephart v. United States*" is the case caption.

"818" is the volume number of case reporter.

"F.2d" is the case reporter.

"469" is the first page of case reporter on which the judicial opinion appears.

"6th Cir." is the court in which the case was decided.

"1987" is the year the case was decided.

The following is a typical example of a statute citation: Section 3735 of Title 18 of the United States Code is cited as follows:

18 U.S.C. § 3575.

The following is a typical example of an administrative regulation citation: Section 1204.2 of Title 5 of the Code of Federal Regulations is cited as follows:

5 C.F.R. § 1204.2.

Syntactically, then, the legal citation systems tend to place the volume number before the title of the tome, a departure from the conventions of other academic disciplines.

Database and literature issues

Information for the legal discipline is located primarily in certain databases with which students and practitioners of the law must be familiar. The law is inextricably tied in

with the written texts upon which it is based, particularly, as previously mentioned, the texts of judicial opinions, statutes and regulations. Changes in text media brought about by the computer revolution and the Internet have profoundly affected the way these textual source materials are compiled, stored and accessed, and the databases in which they are compiled, stored and accessed (Ryesky, 2002).

The most prominent publisher of judicial opinions and statutes is the West Publishing Company; specifically, the West Reporter system. West has a digest system which interconnects and cross-references the statutes, judicial opinions and regulations it publishes (Woxland, 1985). Many jurisdictions, formally or otherwise, use the West publications as their official reporting organs.

Relatively few undergraduate libraries have the physical space or the budgets to maintain the entire West's Reporter system. The lack of these materials is no longer the pervasive and weighty problem it once was, however, because several on-line databases now carry most of the West materials that would be used in an undergraduate law class. The most notable and popular of these databases are West's own Westlaw, and the LEXIS-NEXIS database.

For the cost factor alone, undergraduate campus libraries are more likely to subscribe to the LEXIS-NEXIS database than the more pricy Westlaw database. But the LEXIS-NEXIS and Westlaw databases are each better geared to keyword searching than to browsing (though, with wildcard search terms, a user can "trick" them to facilitate browsing over a limited range of database items). Moreover, each has its own vagaries with its respective search engine; a missed punctuation mark or the use or nonuse of a reserved word or a "noise" word can throw the search off target (Desert, 1993; Ryesky, 2002, 386 - 387).

The Internet has offered some freely-accessible alternatives to some portions of the databases, but even these are problematic. The United States Code posted on the official government website is not necessarily the most current version, for example.

The specialized legal literature databases are vast, and continually adding new items on an almost daily basis. Knowing how to access these databases, and how to navigate within them, are vital skills for practitioner and student alike. Obtaining and maintaining these databases present budgetary and logistical challenges to the libraries that serve practitioners or students of law (Hallett, 1999).

Aside from West and LEXIS-NEXIS, there are other reputable publishers of judicial opinions whose publications and digest systems are heavily used in some specialized legal fields. This has resulted in redundant or "parallel" sources for the same item.

As an example, the judicial opinion in the case of *United States v. Boyle*, decided by the United States Supreme Court in 1985, can be cited to the following publications:

469 U.S. 241 (*United States Reports*, the official reporter of the Supreme Court);

105 S. Ct. 687 (West's *Supreme Court Reporter*);

83 L. Ed. 2d 622 (Lawyers Cooperative Publishing Co.'s *Lawyers' Edition*);

85-1 U.S.T.C. (CCH) ¶13,602 (Commerce Clearing House's *U.S. Tax Cases*);

55 A.F.T.R.2d 1535 (*American Federal Tax Reports*, now published by the Research Institute of America and formerly published by Prentice-Hall);

1985-1 C.B. 372 (Internal Revenue Service's *Cumulative Bulletin*); and

53 U.S.L.W. 4059 (Bureau of National Affairs, Inc.'s *United States Law Week*).

In addition to the foregoing print sources, the Internet has provided additional reliable versions of judicial opinions, including the Supreme Court's own official website. Opinions from other courts are similarly posted on the Internet.

The existence of parallel sources for the same text material, so pervasive in the legal sphere, is not so commonplace in other academic disciplines, and indeed, until the development of the Internet, was a comparatively scarce phenomenon.

Another database issue is that some states have their own unique databases. In the New York City metropolitan area, for example the *New York Law Journal*, a daily newspaper for the legal profession, publishes judicial opinions, many of which never appear in either the West reporter system or the LEXIS-NEXIS database. Pennsylvania has its various "Side Reports" which publish many otherwise unreported judicial opinions from the lower courts of the various counties. Such state-specific sources are often not mentioned at all in most of the undergraduate law textbooks.

Legal research and writing as a specialty

Students at the law school level are required to take several courses devoted substantially or exclusively to legal research and writing (American Bar Assn., 2006, 17 - 18). The legal writing and research programs at the various law schools are now going through a period of intensification (Boland, 2006; Liemer & Levine, 2003), no doubt a consequence of the increased size and complexity of the legal database universe and its ever-diversifying text media modes and formats.

Undergraduate law courses do not and cannot provide their students anything resembling the legal research instruction that students in a law school receive. But the students in undergraduate law courses do need grounding in certain basics of legal information literacy.

Political issues

The political agenda of the writer and/or publisher of a legal textbook or other legal source material can have text media implications. As an example, for citation of Supreme Court opinions, a significant number of textbooks, and judicial opinions themselves, use the standard official citation with the West and the Lawyers' Cooperative parallels, *e.g.*, the aforementioned *Boyle* case is often cited as:

United States v. Boyle, 469 U.S. 241, 105 S. Ct. 687, 83 L. Ed. 2d 622 (1985).

But some textbooks specifically favor and/or eschew the parallel citations of one or more specific publishers. As an example, the *Federal Taxation* texts by Pope, Anderson and Kramer use neither the official *United States Reports* nor the standard parallels published by West or Lawyers' Cooperative; instead, they cite to the parallels published in *U.S. Tax Cases* and *American Federal Tax Reports*. The politics behind this is quite obvious, given that the text primarily competes with a text published by West for designation as a course textbook.

For their part, the undergraduate law textbooks published by West make sparse if any mention of *LEXIS-NEXIS* citations, a policy doubtlessly molded by the fact that the *LEXIS-NEXIS* database competes with West's own Westlaw.

Academic discipline

Though many colleges and universities have designated pre-law programs, there is no standard pre-law curriculum in the same sense as there is a requisite undergraduate curriculum for other academic or professional disciplines. Accordingly, the various undergraduate law courses and programs administratively reside in diverse academic departments, depending upon the particular institution.

Academic regulations and practices dictate that law courses, undergraduate or otherwise, are almost always taught by attorneys (Assn. to Advance Collegiate Schools of Business, 2007, 44; Hasl-Kelchner, 2006, 50). Accordingly, there often is a reporting relationship to a department chair and/or dean who may or may not share the instructor's legal background, and who may or may not be attuned to some or all of the aforementioned information literacy issues that pertain to the law.

Moreover, librarians at undergraduate college and university libraries are not always attuned to all of the issues and esoterica relating to the legal discipline or profession, and/or have limited experience in using the specialized legal sources (Harwell, 1996).

Adjunct faculty instructors

Undergraduate law courses are very frequently taught by adjunct faculty or other instructors with status other than full-time (Morgan, 2003, 286). Aside from remuneration issues that often pertain when adjunct faculty members are called upon to

use uncompensated preparation time (Longmate & Cosco, 2002), various campus amenities and services, including access to computers and other technology, are often not adequately available to adjunct faculty (Tillyer, 2005). This constrains the adjunct faculty member's ability to instruct the undergraduate law course as the databases for law grow increasingly internet-centered.

Adjunct faculty are held in low esteem by many in academia (Banachowski, 1996). This negatively impacts their ability to teach. Colleges and universities are not only academic systems, but also social systems. The social environment of the university plays a major role in the effectiveness of its professors (Wilson, 1942, 221). The negative attitudes towards adjunct faculty members, and the exclusion of adjunct faculty from the social interactions of their departments and their schools as a whole, has a disparate effect upon the effective teaching of undergraduate law courses (Ryesky, 2007).

Information Literacy Requirements for Undergraduate Law Courses

Information literacy has been defined as "the abilities to recognize when information is needed and to locate, evaluate, effectively use, and communicate information in its various formats" (SUNY Council of Library Directors, 1997). Many variables affect the requisite level of information literacy a student needs to attain for any given undergraduate law course.

As with any type of course in any subject, the level of the course would obviously impact the students' informational literacy needs (Mackey & Jacobson, 2004).

The type of law being taught is another factor that determines what information literacy the student would need to successfully complete the course. Specialized areas of the law often have specialized primary materials; for example, a law course geared to military contracts can hardly avoid discussing decisions made by the Armed Services Board of Contract Appeals, and a taxation law course would have frequent occasion to reference the Internal Revenue Service's administrative materials such as the *Cumulative Bulletin* and IRS private letter rulings. Such materials are not among the mainstream legal literature typically carried by a library that is not geared specifically to lawyers or law students.

The course textbook and similar materials likewise affect a course's information literacy criteria. A business law course textbook, for example, will frequently feature appendices with such statutes as the Uniform Commercial Code or the Revised Uniform Partnership Act.

The campus library is a major determinant of information literacy needs. The ink-on-paper West reporter books are accessed and navigated by different information literacy skills than the LEXIS-NEXIS or Westlaw database. And a library's specific set-up for accessing its on-line materials is similarly relevant to the information literacy requirements of the library user.

Though specific information literacy requirements vary from campus to campus and course to course, a typical undergraduate law course would demand most if not all of the following information literacy abilities from its students:

- Distinguishing a statute from a regulation from a judicial opinion.
- Understanding a citation of a statute or regulation or judicial opinion.
- Knowing which database is likely to contain a given statute, regulation or judicial opinion.
- Accessing the relevant database.
- Locating the given statute, regulation or judicial opinion within the database.

The Author's Implementation of an Information Literacy Presentation and Assignment for an Undergraduate Law Course

Presentation Background

The author has taught undergraduate business law courses at the same institution for over a decade. The author has incorporated a lecture session which expands upon the basic and meager textbook coverage, to bring business law students to a baseline level of information literacy in the introductory business law courses. The author has developed, and continues to use, a PowerPoint sequence as a lecture aid to explain the distinctions between statutes, regulations and judicial opinions. This PowerPoint sequence is also made available to the students via the campus library's electronic reserve facility.

The author's own limited empirical evidence gives some support to the subjective impression that the legal information literacy segment is beneficial to students taking undergraduate law courses. Of the 97 students total who completed the author's Business Law I courses taught in the Summers of 2005 and 2006, 19 enrolled in his Business Law II courses, for which the Business Law I course is a prerequisite. The mean final grade for the 287 students who completed the author's Business Law II courses given from Fall 2005 through Spring 2007 was 80.1%. The mean final grade for the 19 students among the 287 who had taken the author's Business Law I course was 82.2%.

In light of the relatively small sample size, the diversities among the teaching styles and grading criteria of the various instructors who teach Business Law courses at the institution, the textbook edition changes and consequent variations in course syllabi, and the diverse backgrounds of the individual students themselves, the foregoing statistic can hardly be viewed as definitive or conclusive; it is, however, consistent with the premise that a course segment dedicated to legal information literacy is beneficial to students of undergraduate law courses. The author's adjunct faculty status and posture does not immediately facilitate further statistical analyses of broader samples without approval by and coordination with diverse superior powers-that-be at his institution.

Implementing the Presentation at a New Institution

The author was engaged, on relatively short notice by a different institution, to also teach an undergraduate business law course for a single semester. The author was unfamiliar with this new institution, having physically visited the campus but once, twenty-five years earlier. Based upon experiences at the author's regular teaching institution, the author determined that the course textbook used by the new institution did not, standing on its own, provide an adequate grounding in legal information literacy. The author therefore decided to include a legal information literacy segment in the course at the new institution. Accordingly, before the semester began, the author ascertained that the institution made available to its students the LEXIS-NEXIS Academic Universe database. An e-mail message was sent to the chief librarian, explaining the situation and suggesting that the author and a librarian collaborate in a presentation to the students.

The legal information literacy segment was placed in the course syllabus, an appropriate room in the library was reserved, and an assistant librarian who had experience with the LEXIS-NEXIS database was designated to collaborate with the author. The plan was that the author would explain the various types of legal sources, and the collaborating librarian would then demonstrate how to use the various electronic resources provided by the school's library, including but not limited to the LEXIS-NEXIS database. The PowerPoint sequence developed by the author at his regular teaching institution was modified to suit the new institution, and placed on the electronic reserve page for the course. Students were advised of the PowerPoint sequence's availability and were strongly advised to access and review it prior to the lecture.

[As matters actually transpired, the initially-scheduled session was further delayed, and on the rescheduled date the librarian was exigently called to attend to a personal matter. After weighing the pros and cons of the particular situation, the author chose to cover both parts of the presentation himself rather than further postpone the already belated training session.]

The students were given approximately two weeks to complete an assignment distributed at the conclusion of the presentation. The assignment is further detailed in Appendix A to this article. Each assignment had different specific items for research, which made the inevitable collaboration among the students a beneficial part of the learning process instead of an academic integrity issue.

The first three items required the students to find particulars for citations of judicial opinions decided by, respectively, the United States Supreme Court, a Federal District or Circuit Court, and a state court. The fourth item required the students to find the citation for a judicial opinion of which they were given only the caption and the state in which it was decided (New York). The last three items were citations of, respectively, a Federal statute, a state statute (New York), and a Federal regulation, for which the students were to retrieve and attach copies of the text.

Discussion

Information literacy, once the exclusive province of librarians, is increasingly becoming an area of collaboration and shared responsibility between the library/information discipline and the other academic disciplines (Saunders, 2007; Mackey & Jacobson, 2005). The author's experience illustrates several practical issues involved in bringing information literacy to an undergraduate law course. These are presently discussed.

First and foremost, though many undergraduate textbooks do nominally address basic legal information literacy, the experience of this author, and of many other instructors of undergraduate law courses, has been that the students need something more than a mention in a textbook (Centner & Geyer, 1993, 15 - 16; Swenson, 1983). The essential content of the professional law school level courses must be gleaned, and distilled into a single class lesson for presentation to undergraduate students in a law course. The lecture material needs to be reinforced through some sort of "hands-on" practical exercise.

This takes special effort on the part of the Instructor, inasmuch as there seem to be few if any suitable "off the shelf" materials that adequately serve the purpose. Indeed, as mentioned previously, there are certain practical and political complications which would, for example, prevent a textbook published by West from promulgating materials to help students use the LEXIS-NEXIS database which the school's library avails to the students. The author has accordingly found it necessary to develop a PowerPoint presentation for such a purpose, after several unproductive inquiries to the various publishers and LEXIS-NEXIS regarding the availability of suitable "off the shelf" materials of such nature.

Each individual undergraduate institution's library has its unique attributes and quirks. Librarians can offer much in the way of showing students how to use their particular library's resources. Collaboration with librarians who know the databases and the particular institution's resources is often a very desirable and effective way for course instructors to impart information literacy to the students (Foster, 2007; Crouse & Kasbohm, 2004; Bloxham & Armitage, 2003).

There are many cultural barriers to librarian-professor collaboration (Foster, 2007). The great shift to electronic media has transformed the librarian's role from gatekeeper to facilitator. Many instructors of undergraduate law courses came of age at a time when the librarian was more of a gatekeeper, and have had negative experiences with one or more librarians who overly relished their gatekeeping function. As a result, these instructors do not inherently view librarians as potential allies or collaborators (Pierce, 1996). And some professors who have yet to adjust to the electronic media take a dim view of their students' use of electronic reference sources (Foster, 2007).

In this case, it was the professor who reached out to the librarians with a collaboration request. To their credit, the librarians willingly facilitated the professor. But professors of lesser experience may well be reluctant to cross organizational lines of authority, particularly where the professor is new to the institution, and/or the departmental

leadership's style is to zealously guard and assert their authority and power. In such instances, the department chair's awareness of the special information literacy needs relating to law courses, and his or her relationship with the library, can be a key factor in whether and to what extent an effective information literacy instructional component for an undergraduate law course can be arranged.

Also affecting the instructor's ability and willingness to take the initiative in approaching the librarians is the instructor's departmental support and backing. Faculty members who perceive that they will receive little support from their departments are less likely to take any initiative to maintain or improve the quality of the courses they teach. Worse still are the cases where the instructors have received the message, founded or otherwise, that their department chairs do not want them to "make waves" in remedying a deficient situation (Keith-Spiegel, Tabachnick, Whitley, & Washburn, 1998, 222 - 223).

Because, as mentioned previously, undergraduate law course instructors are particularly likely to be adjunct faculty members, departmental and school-wide measures to reinforce their support are particularly appropriate (Fagan-Wilen, Springer, Ambrosino, & White, 2006). There are some schools whose policies prevent adjunct faculty members from accessing the library's resources (Dalhousie University Libraries, 2003), which surely is counterproductive, especially when the instructor who teaches a course is accorded less database access privileges than the students he or she teaches. Resolving such dysfunctional policies can be a daunting task.

Though bringing an information literacy component to the undergraduate law course curriculum is often a very sore need, it is also an achievable goal. The instructor is obviously the primary point of action in any course-specific information literacy initiative, but the instructor's actions can be facilitated by the department chair, and by the campus librarians. Information literacy in an undergraduate law course not only enables better performance in the course itself, but also is a skill which is transferable to other situations, academic and otherwise (Crouse and Kasbohm, 2004, 47).

There is no single procedure appropriate to all institutions, and faculty members obviously must structure their courses to fit their specific institution's unique political, social and organizational environment. But regardless of the specifics, information literacy initiatives for undergraduate law courses are well worth the effort.

Librarians, department chairs, and instructors should be encouraged to take the initiative, and to cooperate with one another, to teach information literacy in undergraduate law classes. But neither the librarian, the department chair nor the undergraduate law instructor operate in a vacuum. There are a myriad of logistical, technological, economic, social and political issues that must be addressed and navigated to bring students in undergraduate law courses to the requisite information literacy levels, and all concerned parties must be attuned to these issues, and should be encouraged to participate not only in the information literacy initiatives themselves, but also in scholarly research concerning these issues.

Appendix: Legal Citation Exercise (Sample)

For Questions 1 through 3, a legal case citation is given. For each citation, indicate:

- A. Court which decided the case.
- B. Date decided or date judgment entered.
- C. Name of Judge writing the opinion.
- D. Attorneys for the parties (which attorney represented which party).
- E. Parallel citation(s).

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1. *United States v. Boyle*, 469 U.S. 241 (1985).

- A.
- B.
- C.
- D.
- E.

2. *State of Michigan v. United States*, 40 F.3d 817 (6th Cir. 1994).

- A.
- B.
- C.
- D.
- E.

3. *State v. Horton*, 170 A.2d 1 (1961).

- A.
- B.
- C.
- D.
- E.

4. The following case has been reported, but you know only the case name and the fact that it was from some state court in New York. Give the case citations, the court(s) which decided it and the year it was decided.

Kozlowski v. Seville Syndicate, Inc.

For questions 5 through 7, attach the complete text of the statute or regulation cited.

- 5. 26 U.S.C. § 162.
- 6. N.Y. Tax L. § 998.
- 7. 24 C.F.R. § 1715.50.

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