

2014 LLAGNY 75th Anniversary Education Conference

Finding Common Ground to Produce Practice Ready Graduates

Program 3–Legal Research Skills: What Do We Know?

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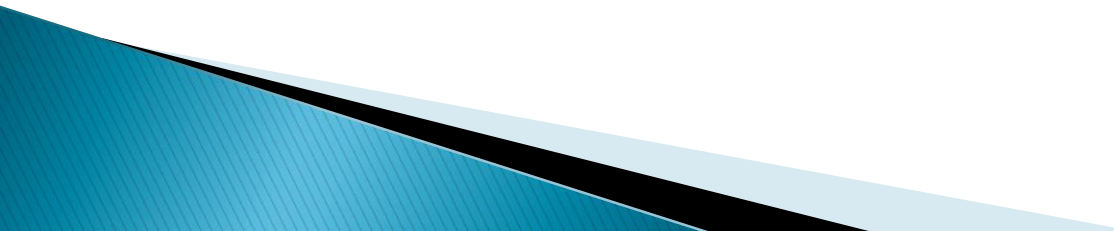
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Identifying the Research Skills & Knowledge That Our Graduates Need for Legal Practice

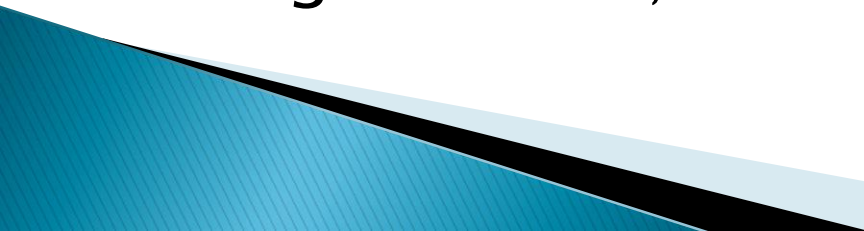
The ALL-SIS Task Force Surveys



Overview

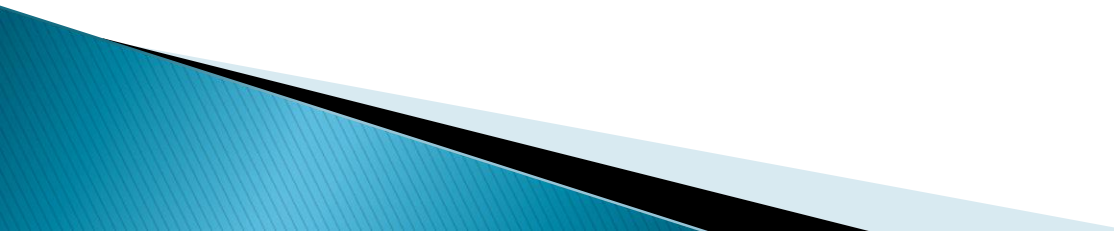
- ▶ The ALL-SIS Task Force
 - ▶ The Surveys
 - ▶ Survey Distribution
 - ▶ Survey Respondents
 - ▶ Highlights from the Practitioner Survey
 - ▶ A Preview – Some Librarian Survey Data
 - ▶ Considerations and Implications
 - ▶ Questions
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The Task Force: Beginnings

- ▶ In 2011, ALL-SIS decided to establish a **Task Force on Identifying Skills and Knowledge for Legal Practice**.
 - ▶ During the summer of that year, Susan Nevelow Mart was appointed Chair and Shawn Nevers Vice-Chair; volunteers were solicited.
 - ▶ Task Force of 8 initial members convened in August 2011; monthly conference calls
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Task Force Charge

“In conjunction with law firm librarians, identify the current and future research skills that law school graduates need to succeed in legal practice. This information will help law schools determine how to develop their curriculum to meet the research needs of their graduates.”



Task Force Members 2011–2013

- ▶ Susan Nevelow Mart, Chair (U. Colorado)
 - ▶ Shawn Nevers, Vice–Chair (Brigham Young)
 - ▶ Toni Aiello (Hofstra)
 - ▶ Sheri Lewis (U. Chicago)
 - ▶ Barbara Painter (Texas Tech)
 - ▶ Alison Shea (Fordham)
 - ▶ Nancy Talley (Rutgers–Camden)
 - ▶ Nolan Wright (Southern Illinois)
 - ▶ Jason Zarin (Georgetown)
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Work through June 2013

- ▶ 2011–2012: Develop and distribute Practitioner and Librarian Surveys
- ▶ Draft Report with some initial data from Practitioner Survey: May 2012
- ▶ 2012–2013: Conducted statistical analysis of Practitioner Survey
- ▶ June 2013: Full Report on Practitioner Survey, with charts and Appendices (the two surveys and methods used, with demographic comparisons to national attorney data)

- ▶ All these Task Force materials are available on our ALL–SIS page at the AALL website:
<http://www.aallnet.org/sections/all/committees/pages/legal-practice.html>

Currently in progress...

- ▶ Statistical analysis of qualitative data (open-ended comments) from Practitioner Survey
- ▶ Coding and analysis of data from Librarian Survey
- ▶ New Sub-Task Force

Along with approval to continue our work for one more year, ALL-SIS asked us to incorporate a Sub-Task Force-- Julie Krishnaswami (Yale) and Lisa Spar (Hofstra)--to work on a related survey of current law school legal research instruction programs.

- ▶ Current Task Force roster available at:
<http://www.aallnet.org/sections/all/committees/rosters>

Sharing Our Work

▶ AALL Conference Programs:

▪ 2012 Annual Conference (Boston)

ALL-SIS Legal Research Roundtable—Member-led discussion group focused on some preliminary data and comments from the Practitioner Survey.

▪ 2013 Annual Conference (Seattle)

--ALL-SIS Legal Research Roundtable (co-sponsored with Legal Research and Sourcebook Committee)—Members led discussion groups on practitioner use of resources and research skills of recent graduates, based on Practitioner Survey.

--ALL-SIS Program, “Meeting the Needs of Students and Their Future Employers: Discussions on Legal Research Instruction and Student Services Inspired by Practitioner Feedback.” Sponsored with Student Services Committee--Data from survey (presented by Shawn Nevers) informed panel and small-group discussions.

AALL Chapter Programs: MAALL 2013 Annual Meeting, October 2013 (Nolan Wright-review of practitioner survey); 2014 LLAGNY Education Conference

Publications: Final Report, 2014; may be Task Force member articles

The Surveys

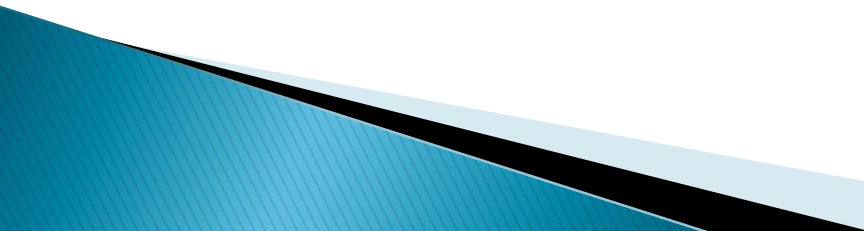
Practitioner and Librarian Surveys asked questions about:

- ▶ **Demographics** of respondents (state where majority of practice located, type of practice, years of experience in legal practice or as law librarian)
- ▶ **Time spent doing research** in an average week (librarians: working with attorneys on research) [none; up to 15%; at least 15%, not more than 25%; at least 25%, not more than 50%, at least 50%, not more than 75%; more than 75%]
- ▶ **The research process:** When beginning legal research, how often do you start with.. (examples: office work product; a secondary source). When researching an issue, how often do you..(examples: use terms and connectors searching; follow citations in an annotated code).
- ▶ **Resource usage—general types** (print materials, free internet resources) and **specific tools** (treatises; Shepard's/KeyCite for case validation; Google Scholar; government agency web sites)
[very frequently; frequently, occasionally; rarely; never]
- ▶ **Use of newly introduced fee-based services:** WestlawNext; Lexis Advance; Bloomberg Law


The Surveys (cont'd)

- ▶ **Legal research performance of “recent law school graduates”** (to be answered only by attorneys or librarians who “work with recent law school graduates”) How well do recent graduates perform specific components of legal research? Examples: develop effective research plan; use secondary sources effectively; understand the difference between statutes and regulations; conduct cost-effective research. [very well; moderately well; adequately; poorly; unacceptably; N/A]
- ▶ **Further comments:** Open-ended comments in answer to: “Are there any further comments you would like to share regarding legal research in practice?”
- ▶ **Librarian Survey** included questions about academic degrees held (MLS, JD); limited to librarians who “work with practicing attorneys on a daily basis.” Basically consistent with Practitioner Survey.

Practitioner Survey: Distribution

- ▶ **Distribution to attorneys: February 9 – April 18, 2012**
 - ▶ Excellent geographic diversity among the Task Force members
 - ▶ Members worked with own schools to arrange for distribution of the survey to alumni, with permission, by a variety of means: direct emails to adjunct faculty, alumni newsletters, alumni Facebook pages and LinkedIn pages.
 - ▶ Goal: reach practicing attorney engaged with their schools and interested in providing feedback.
 - ▶ Contacted other law librarians to help us reach out to Harvard, University of Texas, and University of New Mexico alumni.
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Librarian Survey: Distribution

- ▶ **Distribution to law librarians: March 8 – April 10, 2012**
 - ▶ Solicited diverse respondents through AALL listservs and newsletters, including those of Special Interest Sections: Private Law Libraries (PLL– SIS), State, Court & County Law Libraries (SCCLL–SIS) and Foreign, Comparative & International L (FCIL–SIS)
 - ▶ Solicited respondents through Law–Lib listserv
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Practitioner Survey: Respondents

- ▶ **603 attorneys completed the survey**

Not all answered every question; missing answers were not counted for a question's totals and percentages (valid percent used for each question)

- ▶ **Geographic Diversity:**

- Wide geographic response (indicating “state where you currently conduct the majority of your practice”)
- New Mexico, Illinois, Utah, Texas, and California were represented by the most attorneys—all between 8.7 and 15% of the total
- New York: 7.3% of respondents
- No respondents from only 11 states (Arkansas, Delaware, Louisiana, Maine, Montana, Nebraska, New Hampshire, North Dakota, Rhode Island, South Carolina, and West Virginia)

- ▶ **Size of Office:**

- 25.3% were practitioners in offices of 2–5 attorneys
- 18.7% from solo practitioners
- Very pleased with response from these groups, since they were not heavily represented in previous surveys and the current job market may result in more graduates than ever going into small firms or solo practice
- 12.6 % of respondents worked in offices of 201+ attorneys
- All intermediate categories represented

Practitioner Survey: Respondents

- ▶ **Type of Practice (largest categories):**
 - Private practice: 57.4%
 - litigation: 27.2%
 - transactional: 9%
 - mixed litigation and transactional services: 21.1%
 - State government: 12.3%
 - Federal government: 5.6%
 - In-house/corporate counsel: 8.3%
- ▶ **Years of Practice:**
 - **Very even distribution** among the 5 categories: 0–4 years; 5–9 years; 10–19 years; 20–29 years; 30+ years
 - Largest group: 10–19 years (25%)
 - Second largest group: 0–4 years (22%)
 - Other groups: 5–9 years, 20–29 years, and 30+ years, all either 17% or 19% of total respondents

Librarian Survey: Respondents

- ▶ **184 librarians completed the survey**
- ▶ **Geographic Diversity:**
 - All but 14 states represented (Alaska, Delaware, Hawaii, Iowa, Louisiana, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Carolina, South Dakota, Utah, and West Virginia)
- ▶ **Most Representative Work Environments/Settings:**
 - More than 4 out of 5 from law firms, 83.5%
 - Court/judicial: 4.9%
 - Govt. agency – federal: 4.9%
 - Govt. agency – state: 2.2%
 - In-house/corporate: 1.6%
 - County: 1.6%

Librarian Survey: Respondents

- ▶ **Size of Office (number of attorneys)**
 - 201+ (29.4%)
 - 51-100 (27.2%)
 - 101-150 (16.7%)
 - 21-50 (12.2%)
 - 151-200 (11.7%)
 - Fewer than 50 attorneys or solo practitioner (2.3%)

- ▶ **Years of Experience:**
 - Nearly 60% had between 10 and 29 years
 - Nearly 20% had 5-9 years
 - 13.7% had 30+ years
 - 7.7% had 0-4 years

- ▶ **Education:** Have MLS: 89% Have JD: 9.8%

Attorneys—Research Process

- ▶ **Time Spent on Research:** nearly half spend at least 15% of time; nearly one-quarter spend at least 25%; over 10% spend at least 50% of their time, and nearly 18% of those with 0–4 years' experience do. (average week)

Percentage who either “frequently” or “very frequently”:

- ▶ **Start Their Research with...:** Case law databases, most popular starting point (56.6%); statutory databases (52.1%) — frequency increases with office size. Google: nearly 40%; secondary sources: only 31.4%.
- ▶ **Do the following...:** follow citations in a case (72%); follow citations in annotated code (52.5%). Nearly two-thirds (65.3%) use terms and connectors searching; one-third (32.3%) use headnotes and key numbers in case to find others; only 20% use case digest or online equivalents with any frequency.

Attorneys: Resources Used

- ▶ Use source “frequently” or “very frequently”:
 - Fee-based databases (67%)
 - Free internet resources (61.4%)
 - Print resources: (42.3%)
 - Shepard’s/KeyCite: about 50%-- for validation: more than half; for further research, nearly half (delegation? transactional work?)
 - Treatises: less than one-third (27.2%)
 - Practice Guides: one-third (33.7%)
 - Google: more than half (53.7%)
 - Court websites: nearly half (48.7%)
 - Government agency and legislative websites: about 40%
- ▶ Use source “never” or “rarely”: looseleafs (73.6 %), ALR (72.3%), legal encyclopedias (67.4%), Restatements (65.1%); case digests (62.7%) law review/journal articles (62.1%)
- ▶ **Comments:** Mentioned value of Fastcase, Casemaker and other “free” bar association resources; state-based CLE practice guides.

Attorneys: Recent Graduates

- ▶ **Note: Less than one-half of respondents answered any given question about recent graduates' research performance—either skipping the section or responding N/A to individual parts.**
- ▶ Majority of those answering said recent grads perform “adequately” or better on all listed components of legal research.
- ▶ Majority said they perform “**moderately well**” or “**very well**”: researching case law; researching statutes; using Westlaw online services; updating sources with a citator.
- ▶ Over 40% said they perform “**poorly**” or “**unacceptably**”: knowing when to stop researching; researching legislative history; researching administrative decisions.
- ▶ 30%–40% said the same about: performing cost-effective research; using online services other than Westlaw or Lexis; researching pleadings, motions, other court documents.
- ▶ 20%–30% said the same about: using secondary sources effectively; using critical thinking to evaluate the relevance of primary sources; researching regulations; developing effective research plan (nearly 20%).

Attorneys: Recurring Themes

- ▶ **About their own research:**
 - Increasingly reliant on state bar resources, CLE publications, government websites
 - Want more affordable sources for secondary resource material
- **About recent graduates:**
 - Not thorough enough; apt to find a case on point, for or against, and stop. (Comment: “*Finding the tree is important, but understanding its place in the forest is more so.*”)
 - Research is too case-dominated.
 - Don’t make effective use of secondary sources
 - Too reliant on full access Westlaw & Lexis
 - Too reliant on electronic research generally

Librarian/Practitioner Comparison Data: Conducting Research

Selected preliminary data from Librarian Survey:

[What practitioners say they do is also indicated.]

- ▶ **When beginning their legal research, how often do the attorneys you work with do this frequently or very frequently:**
 - Start with Google? Librarians: **81.5%** Practitioners: **33.9%**
 - Start with a Case Law Database? Librarians: **74.5%** Practitioners: **56.6%**
 - Start with a Secondary Source? Librarians: **36.1%** Practitioners: **31.4%**

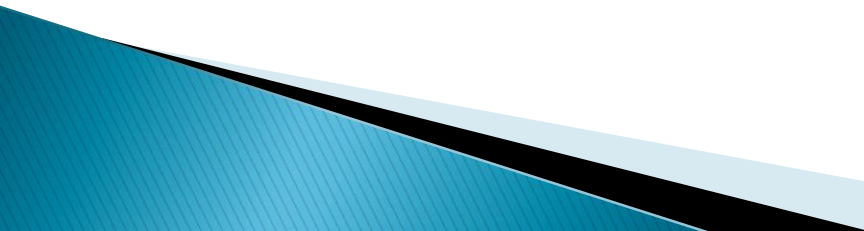
- **When engaged in legal research, how often do the attorneys you work with do this frequently or very frequently:**
 - Use Print Materials? Librarians: **55.3%** Practitioners: **42.3%**
 - Use Free Internet Sources? Librarians: **81.0%** Practitioners: **61.4%**
 - Use Treatises? Librarians: **65.0%** Practitioners: **27.2%**
 - Never or Rarely Use Treatises? Librarians: **3.6%** Practitioners: **39.0%**
 - Google Scholar? Librarians: **52.8%** Practitioners: **15.7%**

Librarian/Practitioner Comparison Data: Recent Graduates

Selected preliminary data from Librarian Survey

- ▶ In your opinion, how well do recent law school graduates perform the following components of legal research? -- % responding “Poorly” or “Unacceptably”
 - Develop an effective research plan Librarians: **51.5%** Practitioners: **19.4%**
 - Use secondary sources effectively Librarians: **59.1%** Practitioners: **26.2%**
 - Use critical thinking to evaluate relevance of case law/other primary sources
Librarians: **19.2%** Practitioners: **20.0%**
 - Understand difference between statutes and regulations
Librarians: **43.9%** Practitioners: **14.4%**
 - Research regulations Librarians: **62.6%** Practitioners: **29.1%**
 - Perform cost-effective research Librarians: **65.1%** Practitioners: **37.7%**
 - Know when to stop researching Librarians: **49.2%** Practitioners: **42.3%**

Considerations & Implications

- ▶ There seems to be a need for instruction for more sophisticated, contextual understanding, and also for wider coverage of resources actually used in practice. Can we do both?
 - ▶ Should the reality of the legal market, with fewer graduates in large firms, change the focus of instruction?
 - ▶ What are the implications of the small firm/large firm divide in affordable access to secondary sources?
 - ▶ What do the apparent disparities in librarian and practitioner opinions of recent graduates' skills in key components of legal research tell us?
 - ▶ We need your feedback.
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Questions?

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