

Biography

John Eaton is Librarian & Associate Professor of Law at the University of Manitoba in Winnipeg, Canada. Such is his belief in the importance of beginning legal research with secondary sources that he recently co-authored the book, *Eaton & Le May: Essential Sources of Canadian Law*, a guide to the principal resources in all areas of Canadian law. He thanks the following fellow law librarians for their thoughts on legal research instruction: Neil Campbell, John Davis, John Sadler, Donna Sikorsky, and Dawn Urquhart.

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Life-long Learning – How Legal Research is Taught at Melbourne University

Abstract: Natalie Wieland, who teaches legal research skills, reflects on her own experiences as a law student undertaking legal research using only paper-based searches and compares them with her current experiences training completely digitally-aware law students in a world heavily biased towards electronic resources.

Keywords: Australia; legal research; academic law libraries

Introduction

This paper recalls my experiences as a law student at Monash University in the early 1990's and describes my current role as the Legal Research Skills Adviser at the Law School at Melbourne University. It reflects my observations through the eyes of a student (when all research was done in hard copy) to the eyes of a professional whose role it is to teach legal research to law students who look at the world through Google.

How to become a lawyer in Australia

In Australia we do not have a national profession, so the requirements to become a lawyer vary slightly in each state. I am Victoria-based and therefore will provide a very brief overview of the requirements in Victoria. Traditionally it has been necessary to complete a Bachelor of Laws which takes between four to five years.

Within this degree there is a set of core subjects that must be completed and these include: legal process, torts, contract law, property law, constitutional law and administrative law and the rest is made up of elective subjects.

Currently I am working at Melbourne University and it recently introduced a new approach "The Melbourne Model"¹ where it is necessary to complete an undergraduate degree before commencing the JD² which is a three year post-graduate degree. The JD course comprises 24 subjects, of which 17 are compulsory. Students usually remain in the same cohort to complete the compulsory subjects. The remaining subjects are chosen by students from a wide range of options available for the Melbourne JD and the Melbourne Law Masters.

The role of legal research at university pre-computers

Back in the dark ages when I completed my law degree in 1993, all legal research was done using hard copy sources. This meant I conducted all my research in

the law library and there was a gatekeeper, the law librarian, who had used her expertise to establish a law library filled with journals, legislation, law reports, loose-leaf services and text books. Just by stepping into the library I knew I was using well-regarded scholastic material. I did not have to spend much time establishing who wrote the information, was it published in a reputable source, was it up to date? Those decisions had been made for me.

I was able to hold an Act of Parliament in my hands and, if I needed to know when it commenced, I could flick through the pages to the end of the Act and read the details. If I wanted to track all the changes to the Act, I could find the information from the back of the principal Act and then move to my left where the numbered Acts were and find the amending Acts. Hansard was nearby and I could read through and establish what was both relevant and interesting for my research. I was enveloped in a world of legislation.

When I was researching an area of law, once I found one book on my topic all I had to do was look at the surrounding shelves and collect other books and resources that would be useful in that area of law.

Without knowing it I was learning a sound methodology to conduct legal research. I was working in an exclusively legal world and was not tempted to check the *OK* magazine to see what they had to say about the topic, because it was not in the library.

This process allowed me to understand the differences between primary and secondary resources; what resource was good for what and how to access the material. This transferred into a skill-set that I could take into practice. When I commenced my year as an articled clerk (trainee solicitor), there were many aspects of working that overwhelmed me, not least getting up early every morning, but one thing I felt confident in was legal research. My five years of study had provided me with a sound understanding of what was required to answer legal problems and where to look.

Legal research in an electronic age – who is the “gatekeeper”?

Let us fast forward to 2010.

Who are the gatekeepers now? Students almost always start their research on the internet. They put little thought into search terms. Asked about Boolean connectors, they will reply “Who is she”? We have to recognise that just because someone can use a computer and often very well, it does not mean that they can conduct legal research. Legal research is a skill and the medium is irrelevant. Without understanding the resource, its layout, whether it is a primary or secondary source, or a combination of both, like many of the loose-leaf services, how can you know how to use it and research within it effectively?

The skills required to conduct legal research are no different in either hard copy or electronic resources. You need to:

- Understand what are the best tool(s) for the task
- Establish what keywords and synonyms I should be thinking about using for searching the resources
- Who published the material?
- When was it last updated?
- Is there a comparative product on the market that I should use?

We need to ensure that a strong emphasis is placed on legal research in law school. We cannot assume that students’ knowledge of Facebook, Wikipedia, Google and Twitter transfers to conducting legal research. Prior to computers we did not assume that students could read and therefore they would be able to conduct legal research, which is a skill. It is critical to have a thorough understanding of the judicial and legislative process and the types of resources available to lawyers, in order to conduct effective research.

Legal research programmes at Melbourne University

Melbourne Law School recognises that teaching legal research is just as critical in the computer age as it has always been. In September 2008 I was employed in the position of Legal Research Skills Adviser, in the Office of Teaching and Learning in Law³. This role is divided into two parts:

1. Providing courses and lectures in legal research;
2. Providing a consultation service to students to assist them with specific research tasks.

For the purpose of this paper I will focus on the programmes I run to develop professional skills on the legal research component, in addition to the classes provided within specific subject areas. Some of the courses offered are:

- **Research and Writing in Real Time.** This is a one-day practical workshop providing students an opportunity to research a legal matter and write a short memorandum of advice. I conduct this with my colleague Dr. Anthony McCosker, who is the Law School’s Language and Learning Adviser. He has broad experience in teaching academic skills to students across the University of Melbourne and within the Law School. This workshop aims to help further develop and test research and writing skills in preparation for work in a law firm. Through instruction, examples and real time exercises, *Researching and Writing in Real Time* demonstrates how to find the right information fast, how to record and present a research trail and how to communicate the

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findings clearly in written form to colleagues or clients.

- **How to be a Thinker not just a Finder.** This half-day course focuses on teaching students to have research strategies and techniques, rather than just randomly searching. Many of our students have great finding skills, but neglect to ask who published the material, and when it was last updated. This course focuses on teaching students how to be thoughtful researchers.
- **Get Ready for Work Programme** This is an optional one-day course that is offered to all Melbourne University law students. It is a practical legal research training programme that targets those about to enter into seasonal clerkships (law firm based work in university breaks), internships, and graduate traineeships. Approximately 133 students from the LLB and JD have been through the programme to date.

The course is broken down into four two-hour sessions:

Session 1 – Understanding legal resources.

Understanding authority, currency and developing methodologies.

Session 2 – Understanding the legislative process and researching within it.

Session 3 – How to refine the task, the “reference interview”, where we watch a short video that I developed with Bliss Consulting, where a young law graduate forgets to ask the questions necessary to be able to conduct her research in a timely and effective manner.

Session 4 – How to create a research trail

Conclusion

All these programmes are optional and offered throughout the year to the Melbourne Law School students. I have been pleasantly surprised at the up take of the course and the enthusiasm the students display. This gives me much hope that the art of legal research is not dying it is just shifting and once we shift with it, we can continue to teach the art and ensure it is a skill well regarded and recognised as critical to be an effective lawyer or academic.

Footnotes

¹<http://www.futurestudents.unimelb.edu.au/about/melbournemodel.html>

²<http://jd.law.unimelb.edu.au/>

³<http://otll.law.unimelb.edu.au/>

Biography

Natalie Wieland commenced her role as the Legal Research Skills Adviser in 2008 to bring her knowledge of the legal industry to the students. She is responsible for developing legal research programmes and providing support to law students with a focus on legal research. She is a lawyer with a graduate diploma in Management Information Systems. She has 12 years of experience training legal and other professionals, particularly in online training. She runs two businesses: Bliss Consulting and CPD Interactive.

Recent publications and presentations include:

- *Why legal research is an art*, ALLIA Conference in Western Australia, July 2009
- *Introduction to the ‘Get Ready for Work’ program* Law Librarians Association 2009
- *How to conduct legal research*, Leo Cussen Institute 2009