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How May We Help? Perspectives on Law Librarian Support of Students in Law School Clinics

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Abstract:
To determine how law librarians can support students in law school clinics, and thus support practical legal research education, thirteen confidential interviews were conducted with clinic directors and faculty nationwide. Commonly used sources, desired skills, learning hurdles, and librarian roles were identified from qualitative analysis of interview transcripts.

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Introduction

The notion that the United States legal education system does not adequately prepare lawyers for practice is not a new one. Since as early as 1902, practitioners have been critical of the preparedness of new attorneys, particularly when it comes to the use of resources to perform legal research (Callister, 2003). The Langdellian case-method model of instruction is criticized by some as being too theoretical or doctrinal, and is critiqued for its failure to prepare law students for the mechanics of the day-to-day practice of law (Berring, 1994; Johnson, 2013; Spencer, 2012). Since the recent financial crisis, rising tuition costs and the perceived decreasing benefits of the J.D. degree have added a new sense of urgency to such criticisms (Spencer, 2012). Tuition costs have risen to unprecedented levels, leaving the average law student with over $100,000 in debt from legal education alone and facing a job market severely weakened by the Great Recession (Joy, 2012). In fact, the highest average debt load of the 2013 graduates at any single law school was measured at a staggering $180,665 (U.S. News & World Report, 2014).

On top of the rising costs, the value of the degree has taken a hit with the recent economic crisis. One national study of 2011 graduates found that only 65.4% of all graduates had obtained employment requiring a law degree within nine months of graduation (Tung, 2013). That number does not take into account underemployment (part time work) or contract employment (non-temporary

employment), both of which might be assumed to impact young attorneys as they begin their careers. Statistics like these have caused overall law school application and enrollment numbers to drop to their lowest numbers in 30 years (Bronner, 2013). Between 2011 and 2012 alone, enrollment dropped 11% nationwide (Smith, 2014).

This rising crisis has given new weight to ongoing calls for educational reform. It has become imperative to make changes, and those changes are often centered on increasing the practical application of the J.D. degree through experiential learning. Scholars and administrators alike have made significant efforts at such reform. Skills requirements, clinics, and externships have become the norm in law schools, giving students the opportunity to learn by doing (Tung, 2013). Scholars have even suggested adopting an educational model which culminates in a full year of apprenticeship-like training (Barry, 2012). Most recently, the American Bar Association Task Force on the Future of Legal Education [ABA Task Force] produced a report which listed practical "skills and competencies" among its key conclusions (2014). According to the report:

> A given law school can have multiple purposes. But the core purpose common to all law schools is to prepare individuals to provide legal and related services in a professionally responsible fashion. This elementary fact is often minimized. The calls for more attention to skills training, experiential learning, and the development of practice-related competencies have been heard and many law schools have expanded practice-preparation opportunities for students. Yet, there is need to do much more. The balance between doctrinal instruction and focused preparation for the delivery of legal services needs to shift still further

> toward developing the competencies and professionalism required of people who will deliver services to clients (2014, p. 3)

Some scholars maintain that the academic exploration of law is a vital part of legal education, more important, perhaps, than the apprenticeship model of legal training it replaced (Blaze, 2007). In recent years, however, the trend is moving towards experiential education in addition to traditional academic inquiry into the law (ABA Task Force, 2014; Joy 2012). Instruction in legal research has not escaped the close scrutiny of these educational reform efforts.

In a landmark taskforce report, the MacCrate report, legal research was named a "fundamental lawyering skill" necessary for the adequate representation of clients and performance of professional duties (American Bar Association Task Force on Law Schools and the Profession: Narrowing the Gap, 1992 [MacCrate Report]). Another report of note published fifteen years later, the Carnegie report, reiterated the importance of research skills and called for more clinical education (Sullivan, Colby, Wegner, Bond, & Schulman, 2007). Failure to conduct adequate research can be considered malpractice, and has real-world consequences for attorneys, including court sanctions (Butler, 2002). Legal research is such a fundamental skill that there has been a recent push to include questions which address it on the multistate bar exam (Barkan, 2009; Mersky, 2007). Despite its apparent importance, there seems to be a disconnect between legal research instruction in school and legal research in practice (Bintliff, 2009).

Attorneys, employers of attorneys, and judges have long noted consistently poor research skills among new graduates, and complain that these new attorneys are utterly unprepared for research in law practice (Howland & Lewis, 1990; Young & Blanco, 2007). Practicing attorneys, judges, law clerks and other employers of attorneys have pointed to several basic skills that are missing among their new colleagues. Surveyed practitioners have noted that general research skills like paying close attention to detail and efficient research strategies are noticeably lacking (Meyer, 2009; Young & Blanco, 2007). Strategies more specific to practicing law— such as knowing where to start research, having the ability to utilize secondary sources, knowledge of a variety of electronic databases, and conducting cost-efficient computer assisted legal research (CALR)— seem practically foreign to new attorneys (Meyer, 2009). Experienced practitioners expect graduates to have these fundamental skills after three years of legal education, making the deficit all the more noticeable. This has prompted many scholars to explore the question of why legal research instruction is so inadequate.

According to researchers, there are many fundamental problems that inhibit adequate research instruction in law schools. The teaching of legal research is no easy task due to the variety and complexity of law and resources for finding it (Alford, 2009). Some have also blamed the increased emphasis on legal writing instruction in courses and in graduation requirements for taking attention

away from legal research (Alford, 2009). But perhaps most drastic of all is the increased reliance on digital materials and resources. The information revolution has changed the research process, and the ways in which that process is taught has gone through many modifications to attempt to adapt to this new digital world (Berring & Vanden Heuvel, 2009; Knott, 2009).

Traditional bibliographic methods of instruction are no longer accepted as the best or only method for teaching legal research. Scholars have proposed myriad methodologies and pedagogies around which to orient courses. They have also suggested changes to the content covered in courses and the more basic issues of who should teach the courses and when, all with the goal of teaching legal research—especially practice-oriented research—more effectively (Armond & Nevers, 2011; Callister, 2010; Guyer, 2013; Viator, 2012; Wu & Lee, 2012). What has not been systematically explored is the opportunity that legal research instructors—primarily law librarians—have to work with practical educational entities like clinics to provide real-world legal research instruction.

This paper will examine the interplay of legal research instruction and law school clinics in two primary ways. First, by identifying the role that law librarians currently fill in clinics nationwide, this paper will identify the range of roles through which law librarians can formally support clinics. Second, by searching for common research tasks used in clinics, this research will show what content law librarians might incorporate more explicitly into other instructional

vehicles (namely first year Legal Research Courses (LRCs) and later Advanced Legal Research courses (ALRs)) in order to offer indirect or informal support to clinics. In order to gather data for analysis, fourteen law school clinic directors and faculty members were interviewed at law school clinics nationwide.

This paper first addresses the current scholarship on legal research instruction and reform in order to ground the discussion of that instruction in a context outside of the traditional classroom. This discussion includes an examination of factors complicating legal research education before turning to more practical, content-based suggestions for legal research curriculum and theoretical methodological approaches to legal research education reform. Though some studies written prior to 1995 were consulted to ground the research, most studies discussed in the paper were published after 2000 for the sake of currency. The paper then briefly addresses existing literature on law school clinics and research. The next section discusses the methods by which data was gathered for analysis, and the final substantive section provides results and an analysis of interviews with clinicians. Finally, the paper will conclude that although this research and the work of many others may be used as a guide for clinic support, the best method by which librarians can support clinics is by reaching out to them and building a relationship based on individual school and clinic circumstances.

Background

Factors Complicating All Legal Research Instruction

The rise and expansion of computer assisted legal research (CALR) has raised several stumbling blocks for teaching legal research. One of the major advances of the digital age is the use of keyword searching to find digital information, an affordance fostered by the ease and ubiquity of Google and other online search engines. In a recent survey of over 3,500 law students designed to discover how students start their research and evaluate sources, an overwhelming majority of students chose to start research online (Wu & Lee, 2012). Fully 78% of respondents chose online sources over print resources as the starting point for their research, with the top choices for platforms being Westlaw, Google and Lexis (Wu & Lee, 2012). 79% of those respondents chose their starting resource because of ease of use, while 73% cited familiarity as their reason for selecting a particular source (Wu & Lee, 2012). One of the most common themes of recent scholarship on CALR is that overreliance has had a detrimental effect on legal research skills (Gallacher, 2006; Berring & Vanden Heuvel, 2009). One scholar even went so far as to say that "computer dependence has had a baleful impact on legal research" (Gallacher, 2006, p. 153). Such reactions beg the question: what is so bad about searching online?

Several problems stem from use of keyword-based CALR. For one thing, the law is extremely complicated and can take a significant amount of time to

fully understand. When students and young attorneys conduct research in pay databases they can generate research bills up into the thousands of dollars (Harker, 2013). The staggering cost of researching on some databases has created what one scholar calls a "chilling effect on the comprehensiveness of research", with students avoiding costly, but time-saving secondary resources (Peoples, 2012). Since cost-effective research is considered by some to be the most important skill students can acquire when using CALR, this avoidance of time-saving sources can be seen as extremely detrimental to client representation (Hackerson, 2010). Recent advances in legal search databases—namely WestlawNext and Lexis Advance—have sparked serious debate amongst practitioners and scholars alike, many of whom are skeptical of the relative advantages of these 'enhanced' products (Harker, 2013; Peoples, 2012; Sellers & Gragg, 2012; Wheeler, 2011).

Since the ascendance of Google, legal database vendors have begun to move towards simplified, Google-like search engines based on keyword searches (Harker, 2013). Westlaw, for instance, has recently rolled out a new platform called WestlawNext with a proprietary WestSearch search engine running the show (Wheeler, 2011). Results from keyword searches in these databases are presented with limited context to give them meaning, whereas even thumbing through a print copy of a resource to find a specific section informs researchers about where the relevant section falls in relation to other information (Harker,

2013; Peoples, 2012; Wheeler, 2011). Additionally, advanced algorithms utilize past user searches to tailor "relevant" results for any given search, relying on crowdsourcing to assist with relevance ranking (Wheeler, 2011). This method unfortunately makes esoteric or unusual sources more difficult to find, since they are accessed less frequently, and takes control over searching out of the hands of the researcher (Peoples, 2012; Wheeler, 2011). While that may not seem like a major problem, in the world of legal research there is no guarantee that attorneys will not need that esoteric case to protect a client, or that the source most commonly used is the one that they need. Given that users tend to stop reading after the first few search results, assuming that any relevant results will be presented at the top of the list, it is easy to understand why research conducted in electronic databases is significantly less comprehensive than that conducted using traditional print methods (Peoples, 2012). Perhaps the most damaging result of increased dependence on electronic keyword searching is the impact on student expectations and attitudes towards electronic searches.

According to researchers, law students and young attorneys feel far more confidence in their answers from online keyword searching than the accuracy and completeness of their results warrants (Gallacher, 2006; Gilliland, 2009; Kauffman, 2010). This "confidence without competence" phenomenon has long plagued legal research instructors, but appears to have reached a fever pitch with the rise of the "Millennials" or the "Google" generation who have come to expect

quick and easy answers at their fingertips (Berring & Vanden Heuvel, 2009; Peoples, 2012). Students not only conduct poor research, but they are convinced that their results are thorough and accurate. Lee Peoples, in his exploration on the effects of WestlawNext on legal research, provided a perfect illustration of this point when describing his study of law students' research skills (2012). In one instance,

> Seven students expressed a high degree of confidence in their ability to locate the applicable Oklahoma law on nursing home resident recordkeeping. Interestingly, six out of the seven students who expressed a high level of confidence in their search results did not come anywhere close to identifying the correct answer to the question. They cited a statute as the source of law for nursing home recordkeeping in Oklahoma. The correct source is found in an administrative regulation. (2012, p. 140)

Concepts and keywords are not equivalent in legal research, and the very complexity that spawned more analytical sources than sources of law does not always lend itself to this keyword search environment (Harker, 2013). Focus on keywords may even distract researchers from fully engaging in analysis (Harker, 2013). The fundamental problems surrounding current CALR search methods are not insurmountable, but must be approached carefully with an eye towards bridging the generational gap between older, traditionalist attorneys and young digital natives (Gallacher, 2006). Unfortunately, CALR issues are not the only legal research issues that instructors must contend with in preparing their students for practice.

According to T. P. Terrell (1991), there is a fundamental difference between the skills needed in law school (academia) and those needed in practice. Terrell and others have argued, therefore, that law schools cannot assume the entire burden of teaching such skills, and have noted the difficulty inherent in trying to meet the needs of students who will practice in different areas of law, different jurisdictions, and different environments (Brooks, 2009; Gallacher, 2006; Lynch, 1997; Terrell, 1991). Law schools must in essence mass-produce new attorneys, and each type of employment situation, area of law, specialization within that area, and even position within a firm requires a different set of skills (Armond & Nevers, 2011). The skills and resources needed by a patent lawyer in a firm of five hundred attorneys bear little resemblance to those needed by a solo practitioner in a small, rural town, so preparing both with the same curriculum is problematic. Law schools have generally addressed this issue by providing a broad-based education in legal reasoning and foundational topics, which leaves specific area instruction and specialized tasks in the hands of enterprising students or their future employers (Gallacher, 2006). For legal research instructors, this translates into teaching universally applicable research skills that can be supplemented later by employers that require competency above and beyond those basic skills (Brooks, 2009). It is argued, however, that this approach will harm students who need those advanced skills to succeed by making them less desirable applicants and underqualified attorneys (Gallacher, 2006).

Another solution to the mass-production conundrum is to provide instruction in the resources most commonly used in the state (Trotta & DiFelice, 2009), or type of placement (Lynch, 1997), in which the majority of students at any given law school find employment. This solution, however, also has the disadvantage of providing inadequate instruction to a minority of students who will not find typical employment after graduating. All of these recommendations were proposed as solutions to be implemented during first year Legal Research Courses (LRCs). But the timing of LRCs, as well as practical considerations for all forms of legal instruction—in class or informally in a reference interaction—is by no means settled.

Practical Considerations

Not all scholars agree that first year research courses of any stamp can provide adequate research instruction. There is no serious discussion of eliminating some form of legal research instruction from first year curriculums entirely, but some scholars have asserted that additional Advanced Legal Research (ALR) courses in later years are critical for full development. In 1989, Berring and Vanden Heuvel argued that "[g]enuine instruction in legal research can be accomplished only in the second year of law school" (p. 441). They claimed that first year students lack the necessary legal knowledge to adequately process advanced research methods. They went on to say that first year students

require nothing more than "some basic sessions orienting them to the library, some general lectures on sources of law, and perhaps a bit of help on legal citation practice" (p. 441).

While some scholars have agreed that law students in their first semester are ill-equipped to handle legal research, they proposed that the second semester is a more ideal time to instruct the students in legal research and writing, partly so that students have some experience to take to their summer jobs (Chiorazzi & Esposito, 2009). Others proposed refresher courses and seminars during the second and third year in order to reinforce the concepts, skills, and resources presented in first year courses (Dunn, 1993; Lynch, 1997). Many schools now offer optional ALR courses for upper-level students, though making such courses mandatory for all students has gained little traction (Berring & Vanden Heuvel, 2009; Dunn, 1993; Knott, 2009). But whether taught in the first semester or the last, the question of who is the proper instructor for LRCs, ALRs, refreshers and seminars has also been contested.

The recent explosion of CALR has created unique opportunities for vendors of electronic legal databases to train law students on their system while the students have unlimited access through library subscriptions (Chiorazzi & Esposito, 2009). But the complications of allowing vendors to dictate training are well understood (Chiorazzi & Esposito, 2009). Reward programs and other incentives for using one system over another can create narrow proficiency and

cause students to lose sight of the learning goals that should be at the heart of learning to research (Gallacher, 2006). Students learn the system rather than the research, creating the CALR dependence currently causing concern in the profession. When students begin practicing law, they may no longer have access to the system they chose to learn about, and they will certainly not have access at the same low price (Brooks, 2009).

With vendors considered unsuitable candidates, the question of who should teach legal research is one that is answered differently at many institutions. According to one 2005 study, 84 responding programs employed doctrinal professors and adjunct faculty to teach legal research in the first year, while librarians were involved in instruction with varying degrees of responsibility in about 100 programs (Gallacher, 2006). A 2010-2011 survey conducted by the Academic Law Libraries Special Interest Section of the American Association of Law Librarians indicated that law librarians were involved in teaching at 96% of 114 responding law schools, and 93% of the schools surveyed indicated that law librarians taught Advanced Legal Research Courses (Black-Dorward, Butler, Olejnikova, & Ostiguy, 2011). These numbers and the presence of so many articles in the *Law Library Journal* and *Legal Reference Services Quarterly* indicates the implied notion that it is law librarians, particularly in academic settings, who should teach or are teaching legal research. This assumption has been challenged. As previously noted, some authors have advocated shifting the

burden of detailed or advanced legal research instruction onto the legal employers who require unusually high research proficiency of their attorneys (Brooks, 2009) and vendors for legal databases also play a controversial role (Brooks, 2009; Gallacher, 2006).

Though the participation of law librarians in formal research instruction is varied when it comes to first year courses, it is vitally important to remember that most students do not complete their training in research when they leave those courses. Advanced Legal Research classes, seminars, and one-on-one help with research projects all provide instruction in legal research with varying degrees of formality, and nearly all involve law librarians. In order to provide the most complete education to law students, experts in legal research, namely law librarians, should take on the task of constructing and implementing legal research instruction in their schools both formally and informally. It is formal classroom instruction on which most scholars fix their analytical gaze, however, and some argue that additional course material lumped in with legal research has shifted attention away from what should be the primary focus of legal research courses.

Legal research instruction is, in many law school curriculums, taught in conjunction with legal writing, reasoning, and other lawyering skills (Dunn, 1993; Mersky, 2007; Millemann & Schwinn, 2006). Some argue that the push for legal writing requirements for graduation have taken focus away from research (Alford, 2009), even going so far as to argue that this distraction is one of the core reasons

that legal research instruction is suffering (Dunn, 1993). However, writing is crucial to the communication of information discovered during the research process, and is considered another of the fundamental lawyering skills, not to be given short shrift in legal education (MacCrate Report, 1992). Although instruction in the two require inherently different methods (Dunn, 1993), these two skills complement each other, making tandem teaching a practical, efficient solution.

Despite the detail and thoroughness with which these various articles propose practical changes to courses, any alteration will remain inadequate without serious discussion of whether instructional content should be revised as well. In order to assess content changes, scholars have primarily focused on surveying practicing attorneys and law firm librarians about 1) skills needed by new associates (Taylor, 2005; Meyer, 2009; Meyer, 2012; Young & Blanco, 2007) and/or 2) the resources most commonly used by law firms (Justiss, 2011; Meyer, 2009; Meyer, 2012; Street & Runyon, 2009). The results of these surveys and interviews are then used to compile a list of research skills or resources on which to focus during legal research instruction. Although these articles are primarily composed with formal courses in mind, it must be reiterated that the resources and skills discussed could also be incorporated into seminars, research guidance and even reference interactions when appropriate.

Content-Based Approaches

In the body of literature that addresses content-specific solutions for legal research instructors as they prepare their students for real-world legal research, the theme of connecting law librarians to practicing attorneys stands out clearly. Some scholars have argued that librarians are too far removed from the world of practical legal research, creating a divide between what students are taught in law school and what they need in the real world (Armond & Nevers, 2011). Others blamed that disconnect on the inadequate legal education of some law librarians (Wright, 2009). Researchers have attempted to bridge the gap between academia and practice through surveys (Brooks, 2009; Howland & Lewis, 1990; Meyer, 2009; Meyer, 20129; Young & Blanco, 2007) or in depth interviews and conversations (Armond & Nevers, 2011; Taylor, 2005). By connecting with practicing attorneys, judges, law clerks, law firm librarians, and other legal employers, scholars gathered respondent's information in order assess LRC content and to create a list of resources most valued by practicing attorneys.

Researchers asked survey and interview respondents to describe those resources with which they felt students and young attorneys should be familiar. Some argue that knowing which resources attorneys utilize is seen by some scholars as a futile effort, doomed to fail because lawyers use such a wide variety of sources in practice, and because research processes are more enduring than the specific tools practitioners use (Davidson, 2010; Heller, 2009). But useful results

may still be obtained if results are adequately generalized. The resources most commonly listed by respondents were subject-specific secondary sources, such as treatises (Johnson, 2009; Meyer, 2009; Meyer, 2012; Taylor, 2005). Legal secondary sources sum up existing settled law, analyze trends and development of laws, and address many of the key issues to be considered in nearly every subject area. Familiarity with state and federal court rules (Armond & Nevers, 2011), state and federal statutory codes, state and federal case reporters, and primary administrative law were also desirable (Johnson, 2009; Meyer, 2009; Meyer, 2012; Trotta & DiFelice, 2009). These resources seem general enough to meet the needs of most law students, but are they sufficient for attorneys in practice? For that, we turn to another survey which focused instead on law firm libraries.

In a recent survey of law firm librarians, Leslie A. Street and Amanda M. Runyon focused on resources being utilized at law firm libraries as a way of informing collection development (2010). The authors asked law firm librarians to identify what secondary, practice-oriented resources were available in their firm libraries, as well as how satisfied librarians were with new associates' training on each. Common secondary resources at law firms of all sizes were subject-specific treatises, loose-leafs (treatises updated periodically with new information), procedure manuals, and subject-specific desk books (Street & Runyon, 2010). Other practice materials, such as form books and practice guides, were also popular (Street & Runyon, 2010). About half of the firms surveyed

showed no preference between print and online access, but the remaining firms had a distinct preference for use of print materials (Street & Runyon, 2010). The survey indicated that respondents were generally dissatisfied with new associates' exposure to these secondary materials, both online and in print (2010). From this survey, legal research instructors may take away several important points. First, that students should be at least familiarized with print resources in addition to online resources, and second that students should be exposed to secondary practice materials in addition to primary law. Determination of what skills are necessary to utilize these resources effectively is by no means simple, but survey data offer avenues for the identification of research skills to teach students.

Data collected from several studies shows that the ability to conduct cost-effective searches using CALR was deemed one of the most important skills that many young attorneys lacked when entering practice across the board (Brooks, 2009; Howland & Lewis, 1990; Meyer, 2009; Taylor, 2005; Young & Blanco, 2007). Patrick Meyer notes in his forthcoming article that survey respondents believed CALR costs were driven up by students and new attorneys "not being aware of low cost research alternatives to online researching; not realizing the value to using print resources or even that they're available; and poorly constructed search queries/failure to understand proper search techniques." (2012, p. 4) Cost-effective search strategies suggested by scholars included: planning, using print resources before going online, effectively using search languages (e.g.

Boolean operators, truncation, and root extenders), using free features on pay electronic legal databases to narrow searches, and reading online rather than printing (Meyer, 2009; Meyer, 20129).

Other useful skills noted by researchers include using others' previous work rather than attempting to create original research (Taylor, 2005), general attention to detail and high quality analysis of material (Young & Blanco, 2007), and spending more time thinking through problems (Lynch, 1997). In several studies, interviewees and survey respondents remarked that students were conducting shallow searches, and expressed opinions that the skill of complex, in-depth searching was sorely lacking (Brooks, 2009; Gallacher, 2006). Many voiced worries that overreliance on computer search functions in other areas of life led to student overconfidence in incomplete research (Gallacher, 2006) as well as generally poor search strategies, particularly with print resources (Howland & Lewis, 1990). These authors advocated course emphasis on improved search strategies and instruction in the use of subject-organized print resources (Gallacher, 2006; Howland & Lewis, 1990). Survey data, however, is not the only means of identifying skills to teach.

Several scholars have proposed that information literacy competencies are effective, standardized measures by which all legal research instruction can be designed and evaluated (Margolis, 2012; Kim-Prieto, 2011; Kauffman, 2010). In July of 2012, the American Association of Law Libraries approved "Legal

Research Competencies and Standards for Information Literacy" based in part on the Association of College & Research Libraries' set of information literacy skills (AALL, 2012). The AALL Legal Research Competencies include five main principles, each with multiple subparts, designed to describe what law students should be able to do upon graduation in order to be competent attorneys. The basic principles state that a successful legal researcher: "possesses fundamental research skills," "gathers information through effective and efficient research strategies," "critically evaluates information," "applies information effectively to resolve a specific issue or need," and "distinguishes between ethical and unethical uses of information, and understands the legal issues associated with the discovery, use, or application of information" (AALL, 2012).

The description of these high-level principles are of limited use to legal research instructors, given their abstract nature. However, each principle is further broken down into parts which contain lists of more specific "knowledge or skills required"—a nuts and bolts approach to understanding the necessary legal research competencies. Instructors may use this list of information literacy competencies to identify skills to teach in the classroom, just as they may use survey information to identify skills and resources to teach. Deciding which teaching methodology and pedagogy is best for imparting these skills and resources, however, is also a matter of debate (Armond & Nevers, 2011; Callister, 2010; Guyer, 2013; Murley, 2007; Viator, 2012; Wu & Lee, 2012).

Methodological and Pedagogical Approaches to Instruction

Contemporary legal research instructors are by no means agreed on the teaching methodology or pedagogy that will best prepare law students for legal research in practice. Over the last twenty-five years, scholars have divided into roughly five different camps: proponents of process-oriented instruction, traditional bibliographic instruction, cognitively rooted instruction, structuralist instruction, and experiential/clinical, instruction.

Christopher G. Wren and Jill Robinson Wren (1989) argued that the traditional bibliographic method of instruction long used in law schools was in dire need of change. They proposed a new model of teaching, which they termed "Process-Oriented Instruction" (p. 7). Rather than focusing on how and why to use legal resources, their Process-Oriented model purported to instruct students in the process of moving through resources in response to information needs for research problems. The system used frameworks for instruction, including Legal System Orientation, Assessing the Research Problem, and Library work. These three frameworks were designed to give students instruction on the basics of the legal system, legal analysis and legal problem solving before familiarizing students with how and why to use a variety of resources through hypothetical legal research questions. The Wrens proposed that by focusing on the process of legal research rather than merely the materials used, students would develop more

in-depth research skills. Process-oriented instruction would do more than show students where to find a case in a reporter and where to find case analysis; rather, it would teach students where to start when conducting case research and when to move to other types of resources given the problem identified. In response to this new model, supporters of the more traditional bibliographic method, Robert C. Berring and Kathleen Vanden Heuvel, published a defense of bibliographic instruction.

Berring and Vanden Heuvel critiqued the process-oriented model as one that encourages students to learn on the fly with no grounding in legal resources (1989). They argued that legal research is more than a set of step-by-step tasks that lead to easy answers, and that teaching in that way might make students proficient in answering only those types of research questions they practice in class. Berring and Vanden Heuvel proposed that a genuine understanding of a variety of legal resources—how to find them and use them, what the primary function of each is, and so on—would give students the necessary knowledge and evaluative skills to approach any new legal research situation they faced, no matter how different from the tasks completed in the classroom. The debate between these two sets of scholars remained unresolved, and nearly fifteen years passed before further contributions to legal research instruction scholarship were made.

Paul Douglas Callister (2003) was the first to enter the fray of legal research instruction research with his cognitively based pedagogy. Callister asserted that there is a difference between training someone to research (conditioning someone to apply certain resources and tasks in specific instances), and educating them in research (teaching them to thoughtfully analyze a problem). Callister advocated the art of learning, or "Mathetics," which he believed was all the more important after the advent of widespread CALR (p. 30-33). In later articles, he expanded on this notion of teaching problem-solving research skills as opposed to methods and materials (Callister, 2009; Callister, 2010). He applied the cognitive functions and higher order thinking skills defined in Bloom's Taxonomy of Learning to create a model for cognitive processes required by legal research, from recalling, remembering or recognizing sources, to analyzing and synthesizing both primary and secondary sources of law to answer a complex simulated legal problem (2010). Callister also included detailed examples of LRC activities such as quizzes and research memoranda that incorporate the cognitive schema of learning into the classroom (2010).

Callister's approach to teaching legal research is both thorough and highly student-focused, and his use of Bloom's taxonomy in particular has found support among instructors (Butler, 2012; Feliu & Frazer, 2012b). However, it is a purely theoretical model, and there have been no practical applications to test it at the time of this publication. The structuralist approach, on the other hand, was

derived from actual teaching experience and strikes a balance between the various approaches.

Christopher A. Knott (2009) took a less theoretical approach to choosing a methodology by formalizing and relating his own method for teaching advanced LRCs. In the structuralist approach, LRCs focus on the ways that legal resources have grown and changed in response to the needs of the legal profession over time. Knott saw exploring this overall structure of legal resources as a way of introducing complex ideas and understandings of legal materials. However, this approach was not meant to supplant all earlier methodologies. Knott encouraged instructors to create syllabi with a balance of the three approaches in order to gain the benefits of each, meet the goals of the course and help students achieve the desired level of proficiency. Although not explicitly aligned with Knott's terminology, Diane Murley also advocated a mixed-methods approach that teaches "the underlying theory and processes of legal research" as well as the functions of individual research sources (Murley, 2007, p. 172). The structuralist approach, like the other methodological approaches, also strongly advocated the use of practical research assignments to give students solid grounding for their instruction and to engage student enthusiasm for the research process. This emphasis on practical clinical experience in law schools gave rise to a new experiential methodology for legal research instruction.

Legal research instructors recognize the importance of seeking experiences outside of classroom exercises to teach students about legal research for the real world (Staheli, 1995; Wright, 2009). Kory D. Staheli found that inviting practicing attorneys into the classroom to discuss personal experiences, along with creating panels of practicing attorneys available for questions about the research process, was beneficial to students (1995). In one school, instructors invited a panel of attorneys to relate their "war stories" about legal research and explain their methods for solving the difficult problems they faced (Armond & Nevers, 2011). Michael C. Cordon advocated the use of task (or skills) focused instruction (2011). The most extensive foray into experiential territory was that of Michael Millemann and Steven Schwinn (2006). They created two experimental legal research and writing courses based on the clinical model in which students assisted adjunct attorneys with actual legal work for in-need clients. Millemann and Schwinn asserted that exposing students to real world situations created a sense of urgency and importance that made the students take the work more seriously.

Each of these methods aimed to solve a particular problem with legal research instruction, whether students' unfamiliarity with and misunderstanding of sources (bibliographic), or lack of understanding of the unique process of researching law (process-oriented), fundamental lack of legal analysis and problem solving skills (cognitive), poor motivation and lack of practical

experience (experiential) or some combination of these (structuralist). Using these methodologies in research course design, as well as the content identified previously, will certainly benefit those law students who take advanced legal research electives. But classroom exercises, however well designed, are not fully equivalent to the practice of law. They lack the urgency that comes with serving an actual human being with needs and often serious legal issues. Therefore, any research exercises in the classroom will retain some artificiality. Additionally, benefits of improved educational design will be limited to a small number of students who opt to take elective upper level research courses or seek help from law librarians who are practice-focused. If the purpose of legal research instruction reform is to prepare law students for practice, there is another law school institution which will give law librarians the opportunity to interact with a portion of the student population as they represent real clients: law school clinics.

The Law School Clinic

Law school clinics originated both as a means of giving much-needed practical experience to law students—since the J.D. degree replaced traditional apprenticeship models of attorney training in the United States—and as a means of providing legal aid to those who could not afford it (Blaze, 1997). Though few clinics operated during the middle part of the twentieth century, there was a surge of clinic building in the 1960s and 1970s (Blaze, 1997). This push was due in

large part to the efforts of national organizations to fund law clinics where low-income clients could receive the help they needed free of charge, particularly in areas where civil rights activism was high (Blaze, 1997). Clinics have now moved into the mainstream of legal education thanks in part to the changing standards of education introduced by the MacCrate Report and reiterated by Carnegie (Blaze, 1997). The American Bar Association Standards for accreditation of law schools now require that law schools offer "substantial opportunities for … live-client or other real-life practice experiences, appropriately supervised…" (American Bar Association. Section of Legal Education and Admissions to the Bar, 2013) and many schools satisfy this requirement by offering clinics.

Today's clinics can best be described as programs that operate within the law schools, offering students course credit for their work with real clients on real legal cases (Joy 2012). Students sign up for some number of credit hours, and are expected to devote a certain number of hours each week during the term to the representation of clinic clients. The vast majority of clinics still maintain a financial need requirement for clients, although the definition of need is variable depending on the clinic. Clinics usually have a classroom component before the clinic begins and/or regularly throughout the clinic term, and cases are always supervised by licensed attorneys. There are hundreds of clinics operating at nearly all law schools in the country, with over 85% of schools in a 2010 survey

reporting in-house live-client clinics (American Bar Association. Section of Legal Education and Admissions to the Bar. Curriculum Committee, 2012). In them, students engage in client representation in a variety of practice areas, from tax work to criminal defense. While clinics seem an ideal solution, there are some limitations—both pedagogical and practical—to the clinic model.

In terms of student experience, students may only practice under attorney supervision according to student practice rules, which vary by state (Joy 2012). Thus, students rely heavily on their supervisors to ensure they get the appropriate levels of instruction and hands on work. Additionally, there are significant concerns that clinical education may be too expensive to maintain and may be driving up the cost of legal education (Joy, 2012; Goldfarb, 2012). But on the whole, scholars seem to agree that the value to students is far greater than the costs (Goldfarb, 2012; Joy, 2013). At least one author notes that there are other ways to cut costs which would have a lesser impact on the educational value that students gain from the degree, including scaling back on faculty salaries and large-scale building and renovation projects (Joy, 2012). Regardless of criticisms, new ABA emphasis on practical and experiential education indicates that clinics are here to stay. As part of law libraries' mission to support student education and prepare students for practice, exploring the role that law librarians can take in these clinics is a natural marriage of experiential and pedagogical education.

The study of law librarians' roles in supporting students in law school clinics is an emerging field. To some scholars, the pairing of legal research instruction with actual legal work through clinics is natural (Tung, 2013). It mimics the work of librarians in the private sector, who are occasionally embedded in law firm practice groups to perform research tasks for specialist attorneys (Feliú & Frazer, 2012a). Although the literature does not suggest that the practice of embedding librarians in clinics is widespread at the moment, there is some evidence that librarians are stepping into the fray at their own law school clinics (Kauffman, 2010; Feliú & Frazer, 2012a). Discussion of law librarian participation in clinics is primarily anecdotal, however, and there is a call for more widespread and systematic research on the subject. This paper will explore two of the ways that librarians can support clinical programs. First, by identifying formalized roles that librarians might be able to play within clinics. Second, by identifying skills and resources particular to clinical work that librarians can either teach in other instructional modes or emphasize in reference support of clinic students.

Methodology

Due to the lack of scholarship on the subject, an exploratory, qualitative approach to analysis was chosen for this study. In order to gather data to determine appropriate action for librarians to take in supporting clinics, nine

broadly worded interview questions were posed to elicit the impressions of clinical directors and professors (clinicians) of varying experience levels. Clinicians were chosen in order to gain generalized information about overall student performance and research needs based on personal observation. Who better to tell what is required of students in the clinics than the faculty who run them year in and year out?

Other possible participant pools were considered, including clinic students and law librarians. Individual students were not chosen as participants for a self-reporting instrument because they have a narrow view of clinical work based on their own experiences, and may suffer from personal biases when describing their experience. Longitudinal testing of clinic students' research proficiency in clinic was determined to be impractical for the purposes of this study, primarily due to time constraints as well as limited scholarship on which to base questions and testing assessments. Law librarians were also considered as possible subjects, but were not chosen for two main reasons: 1) only those librarians which were already involved in clinics would be likely to respond, and this study was designed to obtain a broad view of librarian work in the clinics, including non-participation; 2) one of the goals of this study was to not only identify ways in which librarians participate, but also to determine their success rate. Librarians were not chosen to provide this information in order to avoid self-reporting bias. In lieu of empirical testing of students to determine "success" of librarian

participation, clinician satisfaction with library services was used as a means of assessment.

In order to explore librarian participation in law school clinics and avenues for support, interviews were chosen as the instrument for gathering data (See Appendix A). These interview questions were phrased in order to solicit the broadest possible range of responses with as little guidance as possible. In order to gather the most prominent impressions of clinicians and those issues that they were already aware of, the questions contained no list of research skills, tasks, resources, or types of librarian participation, which might limit responses. Questions and a project description were submitted to the University of North Carolina at Chapel Hill Office of Human Research Ethics, which determined that this study did not involve human research subjects, and that Internal Review Board approval would not be required.

To avoid any potential geographic bias or community of practice, email solicitation for participants was distributed over a nationwide law clinic professional listserv. A letter describing the scope of the study, research question, and participant requirements, was distributed over the listserv along with a confidentiality notice (See Appendix B). Both the initial call for participants and a "last call" for participants was sent with the assistance of Tamar Birckhead, Interim Director of Clinical Programs at the University of North Carolina at Chapel Hill School of Law. Of the 21 initial respondents, 14 clinical professors

and directors were able to schedule time for interviews during the study period. Several participants discussed involvement in externship programs as well as clinical programs during the course of the interviews. Those discussions were determined to be outside the scope of this study and were excluded from analysis. One participant's data was eliminated from analysis entirely due to the fact that she exclusively worked with an externship program, leaving 13 total participants' data for analysis.

Interviews were conducted over a four week period, from February 11, 2014 - March 6, 2014, and lasted between nineteen and forty-six minutes per interview, averaging thirty-two minutes per interview. Interviews were recorded and transcribed for analysis, but transcripts are not included here in order to maintain confidentiality. Each interview's audio recording, author notes, and transcript are on file with the author. All participants gave permission for the author to use quotes from their interviews in the paper, provided that names and institutions were kept confidential. Interview texts were analyzed qualitatively in two primary ways. First, using Atlas.ti—a qualitative data analysis program—automatic content analysis indicated key words for coding. Second, a close reading of interview texts with knowledge of results from relevant literature indicated other codes. A total of approximately 90 codes were selected, applied to transcript text, and analyzed within the program using several analytical tools as well as independently.

Participants came from a variety of institutions and practice areas, and had varying degrees of personal experience both in practice and in clinics. Participants represented thirteen states in nearly every region of the United States, including the Northeast (three), the Southeast (four), the Midwest (four), the Southwest (one), and California (one). Of the thirteen participants, eight came from public institutions, while five worked in private institutions. The law schools represented by the clinicians had total student enrollments averaging 538 students for the 2013-2014 academic year, with the smallest school enrolling under 350 and the largest enrolling over 1000. The clinicians themselves had an average 9.2 years of clinical experience, and ranged from less than one year to over twenty years of experience in the clinic. Eight of the thirteen participants were directors of the clinics in which they worked; the remaining participants were either assistant/associate professors (four) or fellows (one).

Areas of clinical law practice included: tax, immigration, elder law, business and non-profit, bankruptcy, foreclosure, criminal, and general civil practice. All clinics only took clients that could not otherwise afford to hire attorneys (low income clients) although the definition of "low income" varied by clinic.

Results and Discussion

This study was initially conducted in order to identify the range of librarian support that might be useful to students in clinical settings. However, several themes emerged from analysis of the interview texts which impact legal research instruction and are, to this author's mind, equally as important as any bullet list of skills or librarian roles that may be produced.

Sources of Law Covered in Clinics

As might be imagined, the sources of law with which students in clinics needed to be familiar varied based on the type of law practiced and jurisdiction of the clinics. In the tax clinics, the IRS tax code was the most commonly mentioned resource, while in criminal clinics the most commonly mentioned source of law was the state statutory code. There are, however, some generalizations about sources of law and administration with which librarians could familiarize students to prepare them for clinics (See Figure 1). All thirteen respondents indicated that research in two sources of law were required by their students. The first of these was statutory research, with either state (six respondents) or federal (seven) statutory code research being a part of clinical research requirements. The second major type of research required by all thirteen clinics was research into court rules and procedures, with state court rules (five),

federal court rules and procedures (six) and local court rules (two) being mentioned explicitly by clinicians.

[Insert Figure 1]

Other sources of law touched on in clinical research include both state (three) and federal (six) case law, as well as state (two) and federal (four) regulations. Case law was mentioned most often in the context of interpreting statutes rather than pure case law research. Two of the clinics dealt with immigration law and required some knowledge of foreign or international law research. Finally, two clinics required students to complete research memos or special projects which occasionally required research into legislative history and intent. The incredible breadth of sources mentioned in these interviews mirrors those listed by attorneys in the literature (Armond & Nevers, 2011; Johnson, 2009; Meyer, 2009; Meyer, 2012; & Trotta & DiFelice, 2009) and confirms the difficulty of creating a concise curriculum to prepare students for clinics. Making sure that students are generally familiar with statutory research and finding appropriate court rules and procedures is one way to help prepare students, but it seems that in order to effectively prepare students for the clinics at a particular school law librarians should familiarize themselves with the particulars of those clinics. This will allow individual librarians to focus on narrower sources of law. Knowing the specific sources of law with which students must be familiar, however, is only one aspect of clinic research.

Other Research Performed in Clinics

One of the more surprising aspects of this data was the number of times that non-legal research or non-primary law research was integral to the work performed by the clinics. The non-legal research required was primarily factual research. One aspect of clinics which varies greatly from academic inquiry is that the facts of the case are not always settled in the real world as they are in textbooks and classroom hypotheticals. Of the respondents, three specifically indicated that students are required to complete factual research in order to build their cases. This includes, for example, information from clients or from others required to build the facts of a case to support a particular claim for immigration visa. Such support may take the form of proof of birth dates and locations, or the conditions for ethnic minorities in a foreign country. This aspect of clinic research is one of the reasons why working with students in clinic is so important. Setting up a simulated classroom exercise which requires fact finding on the part of the students is difficult and, no matter how artfully written, still artificial. This is a skill that might only be accessible in the clinics, and so if librarians are involved formally in clinics it is a skill that they should be sure to emphasize.

Use of secondary sources to search for summary of the law, or to assist in understanding the background and context of a particular case, was also frequently mentioned by clinicians. Ten of the thirteen respondents mentioned

the importance of using secondary sources—whether traditional law treatises or newer online resources provided by reputable sources such as federal regulatory agencies. A further eight respondents made a point of discussing the fact that their students were required to do background or foundational research to familiarize themselves with a particular area of law, which included the use of many sources, primary and secondary. Practice aids to be found in secondary law sources were also mentioned as important sources of research, particularly for those clinics which engaged in transactional work. Librarians can assist students with these research tasks in many ways, both outside clinic in a reference interaction and inside clinic in formal instruction. By familiarizing themselves with the preeminent secondary sources, form books, and practice manuals in the areas of law practiced in the clinics, librarians can be ready with advice and guidance to any clinic students in search of help.

Clinic Skills Perceived as Lacking

One of the primary purposes in conducting this study was to identify particular skills needed for clinic work in addition to particular resources. When asked to identify the types of problems students had in completing research, clinicians named many different skills that students seemed to be lacking. Among the most frequently mentioned skills was identifying where and when to start research. Students' ability to decide where or when to start research was noted as

a problem by seven of the thirteen respondents, six of whom mentioned that difficulty in the particular context of maneuvering in unfamiliar areas of law. Six clinicians advocated the use of secondary sources and practice manuals over primary materials when students were unsure of the area of law or struggling with where to focus research. Unfortunately, they also noted that students seemed unaware of and unable to use these resources. Using secondary sources of all types—e.g. treatises, practice guides, reliable online resources, and research guides—to familiarize oneself with new areas of law is a skill that law librarians can also emphasize to students, whether in class, in research seminars, or in reference interactions.

Clinicians also mentioned that students had difficulty with the analysis and/or selection of particular sources. For instance, when it came to understanding the full meaning of statutes, or statutory construction, five respondents noted that students had trouble getting beyond the basic meaning of the words in a statutory provision. Only one clinician did not find statutory construction to be problematic for their students, but believed this was primarily due to the extensive work finding statutory meaning and applying the language to specific situations in pre-clinic classroom study. In contrast, few clinicians found that students had difficulty analyzing cases. In the words of one clinician, "[i]n truth, the only thing the students are reliably good at –RELIABLY good at—is case law analysis." That does not mean, however, that students were fully

successful at case law research. In fact, six clinicians found that students had difficulty selecting appropriate cases for their purposes, mostly due to students' inability to narrow down large numbers of cases or navigate through poorly indexed cases. These two issues, analysis and selection of sources, are also skills which can be exercised in a classroom setting, reference interaction, or other instructional situation. By walking through steps necessary to fully understand a statute or to select relevant cases, law librarians can offer students examples of how to exercise these skills. In the context of working with students in clinic, law librarians can take on the role of guide, asking questions to help nudge students in the right direction.

A skill more commonly mentioned by the clinicians was synthesis of multiple sources of law and/or resources. Seven clinicians noted the difficulty that students had pulling multiple pieces of law together to get a complete picture of their case and the way all of the parts fit together. According to one clinician,

> The… problem I see is students not understanding how different sources fit together to support their case. So, for example, I've had to work with my students a lot on if you're bringing a claim under a particular statute, you don't want to just read the statute, you also want to go and take a look at case law interpreting that statute.

Yet another described a similar problem with student synthesis of materials they are faced with:

> I think it's the research that cuts across those traditional subject area lines. Because all the research they've been asked to do in property or contracts

> or torts or whatever the course was, was very specific to that subject area of the law. And the things that we get … they may not.

The skill of synthesizing many different types of law from many different resources is another that is difficult, but by no means impossible, to teach in in a classroom setting. Law librarians can help to equip students with this skill by the creation of real-world scenarios in a classroom setting. During a reference interaction, law librarians might ask guiding questions to help students identify the different areas of law that might be involved. There is another theme, however, that dominated discussion of student problems with research in the clinic: electronic research.

Electronic Research

Electronic research—whether Google searching or queries in major legal databases such as Westlaw and Lexis—was discussed in conjunction with student research problems by nine of the thirteen clinicians interviewed. Seven clinicians noted that pay databases such as Westlaw or Lexis are not always effective or efficient sources to use for certain types of research, yet they are the first resources that students go to when presented with a new research issue. One respondent noted that student expectations of electronic resources leads to frustration and poor research results.

> With Boolean searches and the wonderful availability of Westlaw and Lexis, these students feel that they can find answers really quick… The problem is that those very quick answers often don't take into account all

> of the other possible arguments that might be out there for or against their position. And it may give them the answer they like, but that doesn't mean there aren't other arguments to be made simply by reading and educating yourself that you really know whether or not the issue you have asked and answered is really the pivotal issue—the deciding issue in the case.

Another clinician notes that not only are students using electronic databases as a first resort, they are also missing something very important: context.

The context surrounding any particular legal issue is something that students appear to have a difficult time processing when using online resources. The solution to that issue, according to several respondents, is the use of traditional print resources. Students, however, are extremely reluctant to use these resources, which is a source of frustration for clinicians.

> [T]he students have a hard time not using Lexis and Westlaw, and they have a hard time … looking at books now. So I find that really frustrating. Because I think sometimes looking through a book is so much easier, and they only look at one section of either a code or rule or statute [online]. They're not getting the context, and I find that really frustrating. So they tend to have a little tunnel vision in terms of some of the legal research.

Yet another respondent shared a similar point of view.

> They don't know how to use books, and how to do research in books… Well, I don't know if this is my generational bias, but I thumb through the code and I say "Oh, I didn't see that." I might be looking for something, one thing, and I might find something else that I wasn't aware of. And you just don't get that on the computer training that they get.

This clinician also hit on an important aspect of overreliance on and ineffectiveness of strategies in electronic legal databases: the generational gap. Older attorneys, attorneys in smaller firms, and most legal professionals who went

to law school before the advent of electronic legal databases take a dim view of overuse of electronic research. That is especially true when research yields poor results. One clinician shared a memorable story about a visit to court with her students.

> [W]e were in court when we filed [some] motions and the judge asked us to come step into his chambers while he read the motions that we filed. And while we were waiting the judge had on his shelf all the [state] annotated volumes—West's Annotated. And one of the students said to me, "Oh, are those the code books you were talking about?" And I said, "Yes." I pulled them off the shelf and I showed them the book … And they say "Yes, but I can get all that on Westlaw." And I said "Yes, but you can't see the context, you can't see the table of contents, and you can't see what it's next to or how it's organized which informs you about its relevance and might alert you to something else you hadn't even thought of because you see it's adjacent to what you're concerned about. So we went through that and I showed them the pocket parts and how that worked again.
>
> So then the judge finished and we went back into the courtroom and the judge took the bench… The district attorney asked for a continuance and I didn't oppose it, and the judge said. "That's fine. But Professor M—, next time you come into my courtroom don't bring these students who walk into my chambers and offend me and are disrespectful." And of course my heart flips over and I could see my students turn ashen. And I said, "Your honor, I'm terribly sorry. Please tell me how my students have offended you." And he just said, "They come into my chambers and tell me they don't know what a book is!" So I was like, "Oh, my gosh!" And I said, "Well judge, on that one I'm afraid I'm in agreement with you."

This narrative was no surprise given the breadth of literature that already exists on the perils of CALR. Perhaps if students were conducting research that was equally effective online as that which older attorneys can complete using print resources, the stigma against online research would not exist. However, the

fact remains that students' searching strategies online leave something to be desired in practice because of the missing context, not to mention the costs associated with electronic legal databases.

A solution to this conundrum does exist. For instance, law librarians would be well advised to emphasize the complexities of legal research in order to manage student expectations of electronic research. Since persuading students to use print resources in law school may be a lost cause given student preferences in the digital age, law librarians should focus on the affordances of digital materials that mimic the features of print materials. Indexes, tables of contents, other finding aid tables and charts, and browsing through sections are among the features to emphasize. The presence of so much linked data in addition to more effective search strategies may in time make CALR as effective as print research and even more efficient. But the investment in training that this education would require is something that clinics will have difficulty providing without outside help.

Priorities

Legal research, although acknowledged as important by all 13 of the respondents, is nonetheless often deprioritized. This low prioritization of research is most often a function of time and resource allocation, and occasionally is not even deliberate. Although eleven clinics offered some form of instruction in

research within the clinic, seven of these clinicians noted that the instruction was really a cursory introduction to basic resources totaling two hours or less for the entire clinic term rather than in-depth instruction. Five of the clinicians noted that they would have done more instruction if they had more time, but that legal research instruction was a lower priority than other instruction, such as education about substantive law. One of the clinicians had no formal instruction within the clinic at all, though the majority of clinicians (nine) "taught" legal research through case-by-case guidance provided to students.

One respondent contributed to the general de-emphasis of legal research instruction by framing his instruction as something else entirely. Rather than explicitly tell students that he was teaching them about research and the research process, he used a roundabout way of challenging their research process and choices framed as "confidence level." In his words,

> I don't frame it as teaching them research, I frame it as how to become confident in the law.… If they come to me and say, "Here's my answer to the question," typically I'll already know that area of law and what the parameters are. If I know that they're wrong, I'll engage them in one way. Even if they're right I'll ask them, "Are you confident in that; are you sure? How confident are you?" That actually unsettles a remarkably high number of students.… I want to know how confident you are in your answer. And if you're not confident, let's talk about what you need to do, what you need to read, where you need to go to generate that confidence.

He found students to be more engaged with this less formalized method of research instruction, and so kept an effective teaching tool. In all of these ways, clinicians contribute to the image of legal research as a less important aspect of

law practice. These actions are by no means malicious or indicative of a dismissive attitude towards research; they simply don't have the time.

Despite relatively low numbers of students enrolled in clinics—the most that any one clinician supervised was 12 in a semester—clinicians are hard pressed to keep up with the tremendous amount of work required to represent clients. The substance of law is of primary importance when working on legal cases, and when clinicians are experts in the area of law practiced in the clinics they are able to vet student answers without necessarily knowing every step of the process by which students found those answers. By teaching research incidentally rather than explicitly, clinicians are still teaching effectively while bypassing another barrier to adequate instruction—students' reluctance to seek help from law librarians.

Librarian Relationships with Students

One of the emerging themes of this research is the less-than-perfect relationships between students and law libraries and librarians. Of the respondents, nine explicitly referred their students to law librarians for extra help on research, and six of those noticed that students were reluctant to make the effort. One clinician believed that students didn't understand the value of law librarians.

> I don't think they get it, that the person at the reference desk is not a reference librarian. That it's a lawyer that has an MLS... They don't

> understand that they know more than you do about the law. And they know more than you do about the law library. They think of them as kind of reference librarians in the New York Public Library sense of the word. Smart people who know where the books are. As opposed to lawyers who know more sources than you'll know probably in your career.… I think if they had a better understanding of what the reference librarians can do for them that they might use them better than they do now.

Another clinician found that students were not as attentive to librarians teaching legal research as they were to her when she taught legal research. Though she felt the librarians were "fantastic", she also found that "something in students turns off [when the librarians teach] and I've found it's best to just do it myself." Some of this attitude may come from the general de-prioritization of legal research as a discipline of study. But another clinician had a different theory. She believed that low utilization of law libraries and law librarians in the world of legal practice contributes to the issue. According to that clinician,

> I was in practice for seven years before starting with the clinic program here. And during my time in practice I can probably count on one hand the number of times I went to a law library and used a law librarian.… I think there isn't the expectation in the bar that practicing attorneys use those resources, and I don't know if that's because it's not established as part of our culture in law school and so when law students become attorneys they continue to not use the libraries as much, or if the law students see that in practice the attorneys with whom they're clerking or interning that they don't use those resources and so they don't see those resources as helpful.

This attitude is much more difficult to address than any simple list of skills or resources that students will need in clinic. One of the first steps in any solution includes making sure that librarians are giving satisfactory help when they are asked. One clinician noted that students who were required to meet with a

reference librarian on a particular project had a negative experience when they weren't given the sort of specific directed assistance with formulation of search terms that they needed. If librarians are to make any headway in supporting students in clinic, they will need the cooperation of the students they aim to help. In addition to student outreach, librarians must develop relationships with professors and clinicians who can advocate or mandate the use of librarian services.

Librarian Relationships with Clinics

Despite the fact that reference librarians are available for students at every school, only eight clinicians claimed to explicitly refer their students to reference librarians for help when they struggle. The current roles that librarians play in the participating clinics include: providing reference services to clinical students outside of clinic (at thirteen respondents' schools), creation of research guides for clinics (four), giving presentations on research topics independent of the clinic (three) and giving presentations on research topics within clinic instruction and classroom time (seven) (See Figure 2). It is important to note, however, that one of the clinicians reporting librarian instruction within the clinic later took over the job of research instruction themselves. Additionally, one of the clinicians who reported that their librarians offered research sessions outside of the clinic said that the librarians were forced to stop offering the sessions from a lack of student

interest. Of the participants, four spent time praising library services generally, and five discussed their positive reaction to librarian offers of help in their clinics. None of the participant clinics had embedded librarians—librarians who spent a significant amount of time in the clinic—or liaison librarians who are formally assigned as the point of contact between clinicians and clinic students and the library, although one of the respondents was interested in a liaison librarian relationship. But that is not to say that the relationship between clinics and librarians is fully positive.

[Insert Figure 2]

Several clinicians expressed doubts as to the expertise of law librarians in areas outside of academic research, with four explicitly commenting that practical research did not seem to be within the realm of librarian expertise and one complaining that librarians were too focused on print resources that students would not use. One clinician actively desired to limit the role of librarians in the clinic. His reasoning was that too much librarian involvement might equate to a pedagogical loss, with librarians doing too much and students failing to learn through a healthy struggle with legal research. Clinicians also seemed inclined to go to other experts for assistance with tricky legal questions. Asking local attorneys for quick advice was the favored method of four of the clinicians, while two others sought help from non-attorneys such as vendors and office management experts. And while one participant seemed to have never considered

involving librarians more extensively in clinics, several participants expressed a desire to have more open communication between librarians and clinics in order to better serve students. Despite the expressed sentiment, none of the clinicians indicated doing so. This limited effort on the part of clinicians, whether due to a lack of time or a lack of awareness of library services, is theme that emerged from data analysis.

Of those clinics that involved librarians in research instruction, most had incorporated librarians into research instruction at the suggestion of librarians. It was librarian outreach that led to the formalized relationship. Just like students, clinicians are unlikely to make the extra effort to seek help from law librarians for a variety of reasons. If librarians are to be of use to students as they work in clinics, this preliminary study supports the notion that librarians will have to make serious efforts at outreach.

Conclusion

Despite the literature and methodology and data gathering conducted by scholars nationwide, there are some fundamental barriers to providing support to students in the clinics. There are certainly issues complicating student preparation for clinics, from familiarity with resources to advanced researching skills. But emerging from this research are the more complex social and cultural barriers to better preparation of students. De-prioritization of legal research as a discipline

for study, student reluctance to utilize library services, and the limited effort which clinicians are able to put into expanding clinic-librarian relationships all contribute to limiting the role that librarians play in supporting law clinics.

If law librarians are to overcome these barriers, they must not only learn about the types of work being done in the clinic, they must also learn about the workload distribution, clinic workflows, commonly used resources, and research strategies for narrow areas of practice. Shadowing clinicians is one way to gather this information, but this study also models questions that law librarians may ask their clinicians to gain a better understanding of what needs must be met. Rather than entering the conversation with some preconceived notion of what a librarian role should be, librarians can and should let individual clinic needs inform their suggestions. After assembling a complete picture of clinical work, librarians may then present innovative methods for meeting perceived needs appropriate to the specific situation.

In addition to those roles which librarians already fill at the respondent clinics, there are other, more innovated ways to help meet student needs. Law librarians may promote liaison relationships or embedded relationships with clinics. One interesting suggestion for an alternative role for librarians came from two of the clinicians who also participated in externship. Although their input was not examined for the bulk of this analysis, their use of law librarians was sufficiently unique to warrant mention. In two cases, externship instructors

required students to keep a research journal, and then to meet with law librarians in order to review journal entries for feedback and instruction. By requiring students to first reflect and then seek help, instructors found that students became more aware of their research strategies and were better able to assimilate the intended lessons. But presenting the ideas is not enough. Law librarians must engage in outreach to students, professors, and clinicians alike to overcome bias against using library services. They must prove their worth by providing excellent service to those who seek it. It may be difficult for many librarians, a notoriously introverted lot, to reach out to clinics. But if librarians are able to successfully promote library services, they can provide better support to students as they prepare for real-world legal work and, ultimately, do their part to create better attorneys.

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Figures and Graphs

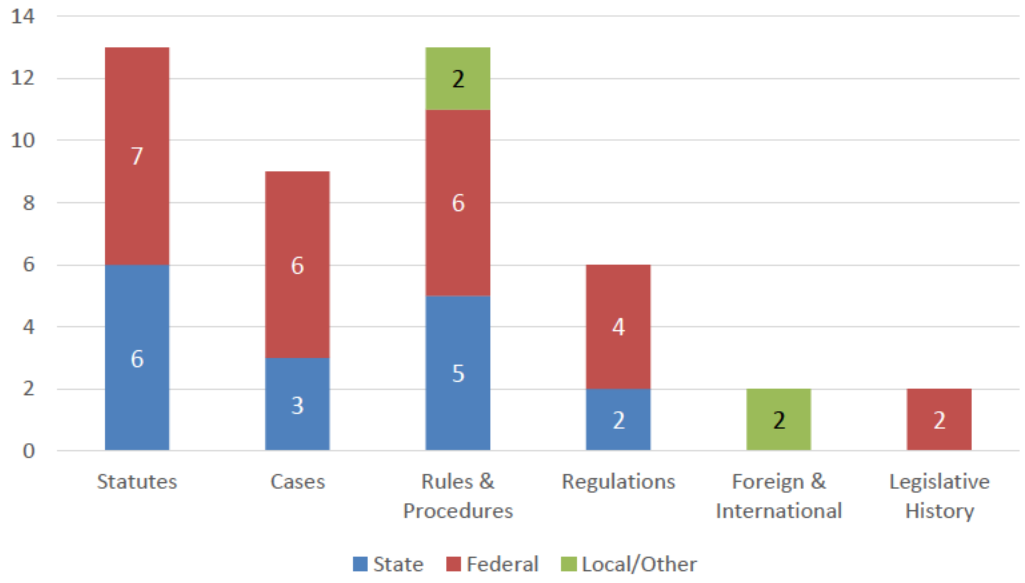

Figure 1: Most Commonly Named Primary Sources of Law

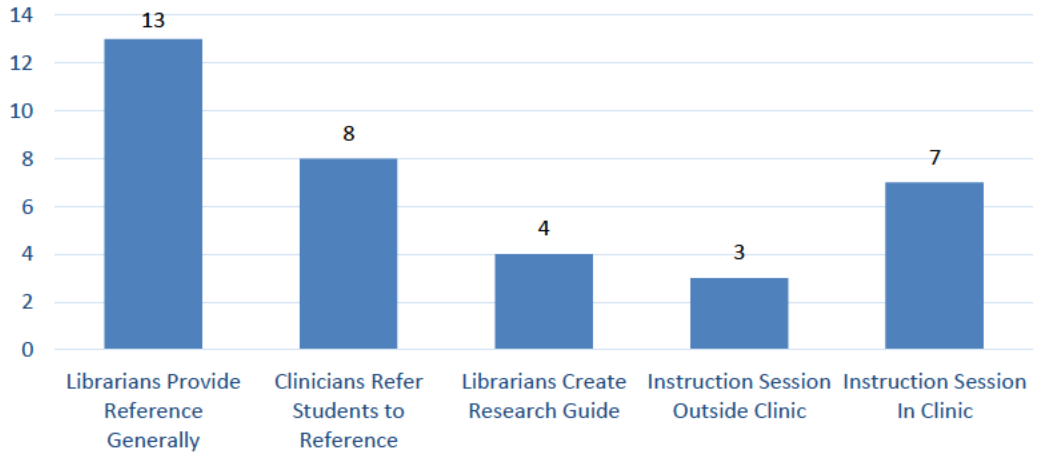

Figure 2: Librarian Activity Supporting Clinics

Appendix A

Clinician Interview Questionnaire

1) Tell me about your clinic, including what sort of legal work you do, how the workload is distributed over time, and what role students play in completing it.
2) How long do students typically work in the clinic?
3) Does seniority affect workload for students?
4) What kinds of legal research are students asked to complete while working on clinic matters?
5) What sorts of research, if any, do your students have trouble with?
6) What kinds of problems have your students encountered when doing research?
7) Do you, or any other law faculty or staff, offer training or instruction in legal research?
    a. If YES: Who offers that training/instruction? How do they offer it (in a classroom setting, one-on-one, or some other method)?
    b. If NO: move on to question 8
8) Thinking about all that we've talked about so far… if you could do anything or have anything to make the clinic work better, what would that be?
9) Do your law librarians offer any support to your clinic program? If so, how? If not, does that interest you?

Appendix B

Call for Participants Letter (personal information redacted for privacy)

Dear Law Clinic Professionals,

My name is Virginia A. Neisler, and I am a former practicing attorney and current second year Masters of Library Science student at UNC-Chapel Hill School of Information and Library Science. In order to complete my Masters studies, I am conducting research on the legal research tasks and skills required by law students who are working in law school clinics. I would like to invite you, as a legal clinic professional, to be interviewed for this study.

I am currently seeking participants for a brief interview of 15-30 minutes. There is no known risk associated with participation, and participant names, clinics, and associated schools will be held in confidence. Interview questions will focus on participants' observations of the legal research skills required for law students working in clinics as well as the research support and instruction they currently receive. **The goal of this study is to identify skills or tasks on which legal research educators might focus in order to better prepare and/or instruct law students as they begin real-world legal work.**

If you are interested in being a part of this study, please contact me, Virginia Neisler, via telephone: [redacted] or email: [redacted]. Interviews will be scheduled at the convenience of participants, beginning immediately, and may take place in person, via telephone or through Skype video chat.

For the duration of this project, I will be working under the supervision of Sara A. Sampson, Clinical Assistant Professor and Deputy Director of the Katherine R. Everett Law Library at the UNC School of Law. The UNC Office of Human Research Ethics has determined that this project is exempt from Internal Review Board approval and oversight. My findings will be compiled in a Masters Paper and may be used for later professional publication in which I will explore how legal research educators can better equip students for their work in the clinics and later in law practice.

Confidentiality Notice: As an attorney, I understand the importance of confidentiality—both for clinic clients and clinicians themselves. Therefore, participants will only be asked general questions regarding student research tasks

and support, and will not be asked for specific case or identifiable client information. Additionally, participant names, clinic names, and school names will be held in confidence along with any other identifying information.

Thank you sincerely for your time, and I hope to speak with many of you soon.

Sincerely,

Virginia A. Neisler, J.D.
MSLS Candidate, 2014
[redacted]