

Mandatory Advanced Legal Research: A Viable Program for Law Schools?*

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Professor Schanck describes the adoption of a mandatory advanced legal research requirement for law students at Marquette University, including the range of courses offered in the program and the method used to persuade the faculty to adopt the requirement.

¶1 Many of the nation's law schools are striving to improve or expand their advanced legal research course offerings. There are a number of reasons for these efforts, among the most important being the inherent limitations in the capacity of first-year students to absorb legal research instruction,¹ higher law firm expectations of entry-level attorney research skills, expressions of dissatisfaction with the skills they do possess,² and the continued increase in the number and complexity of legal research systems. Like most law schools, Marquette University has been attempting to cope with these developments. However, through a fortunate confluence of events, we have been able to go the full route by adopting a mandatory advanced legal research requirement, separate from our upper-level writing requirement. In short, every student at Marquette must take an advanced legal research course to graduate.

¶2 Like most schools, Marquette does not possess sufficient staff, either in the legal writing program or in the library, to provide every student with a two-credit, small-enrollment advanced legal research course.³ Furthermore, the alter-

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1. See, e.g., Robert C. Berring & Kathleen Vanden Heuvel, *Legal Research: Should Students Learn It or Wing It?* 81 L. LIBR. J. 431, 441-42 (1989); Thomas A. Woxland, *Why Can't Johnny Research? or It All Started with Christopher Columbus Langdell*, 81 L. LIBR. J. 451, 463 (1989); Blair S. Kauffman, *Advanced Legal Research Courses: A New Trend in American Legal Education*, LEGAL REFERENCE SERVICES Q., Fall-Winter 1986, at 123, 125.

2. Law school librarians frequently hear complaints from law firm librarians about the deficiencies in research skills of new lawyers. The firm librarians plead with their law school counterparts to provide better instruction. For an insightful survey of law firm librarians' perceptions of the research skills of summer clerks and first-year associates, see Joan S. Howland & Nancy J. Lewis, *The Effectiveness of Law School Legal Research Training Programs*, 40 J. LEGAL EDUC. 381 (1990).

3. To my knowledge, the only mandatory two-credit advanced legal research program in the country is at the Chicago-Kent College of Law. See *infra* note 11 and accompanying text.

native of a large lecture course is seen as no more desirable here than at most schools.⁴ Instead, we provide ten or eleven one-credit courses in specialized areas of research.⁵ All but one of the courses are taught by librarians, most of whom are on our staff.⁶ One law school staff member and three adjunct law librarians teach the remaining courses.

¶13 To my knowledge⁷ there are three other one-credit and one two-credit required advanced legal research courses at other American law schools. The one-credit courses are at the Benjamin N. Cardozo School of Law at Yeshiva University, the J. Reuben Clark Law School at Brigham Young University, and the Southern Methodist University School of Law. Cardozo divides the 300-student class into eight sections for part of the course, which is taught to second-year students, and six sections for the other part taught to third-year students. Each section focuses on a specific legal subject: commercial, employment, or international and foreign. The format is lecture with five assignments, a quiz, and either an essay exam or a short paper. The course is graded on a pass/fail basis. All sections are taught by Lynn Wishart, the library director!⁸ Brigham Young is in transition. Through academic year 1999–2000, advanced legal research has been taught as a graduation requirement with no credit, with students taking ten half-day legal research “modules.” Beginning in 2000–2001 or 2001–2002 (depending on when a student entered law school), students will be required to take a one-credit advanced legal research class capped at forty-five students and graded pass/fail. Reference librarians have been and will continue to be the teachers.⁹ In spring

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4. Bob Berring’s advanced legal research course at the University of California at Berkeley School of Law may be one exception to this general point. Berring’s outstanding skills as a lecturer result in a very high percentage of students voluntarily taking the course; classes of 100–150 students require the use of a lecture format. See Filippa Marullo Anzalone, *Advance Legal Research: A Master Class*, 5 PERSPECTIVES: TEACHING LEGAL RES. & WRITING 5, 5–6 (1996). This article also describes the advanced legal research course at six other law schools: Georgia State, Harvard, Mississippi, Northern Illinois, Southern Illinois, and Thomas Cooley.
 5. In 1999–2000 we taught the traditional two-credit advanced legal research course, but with so many one-credit courses available, now find little student interest in it. We do not expect to be offering it in the foreseeable future.
 6. I teach three courses while the Associate Director, Ted Potter, and two reference librarians each teach one course.
 7. In an attempt to identify existing mandatory advanced legal research courses, I posted an inquiry on the academic law library director’s electronic discussion list. Peter C. Schanck <Peter.Schanck@marquette.edu>, *Mandatory Advanced Legal Research*, May 1, 2000, <lawlibdir-1@lawlib.wuacc.edu> The results of my informal e-mail survey were confirmed by a survey conducted as part of Ann Hemmens’ masters paper at the University of North Carolina on advanced legal research courses. Four of the 72 schools responding to her survey indicated that they had a mandatory advanced legal research course. E-mail from Ann Hemmens, Graduate Assistant, Kathrine R. Everett Law Library, University of North Carolina (May 12, 2000) (on file with author).
 8. E-mail from Lynn H. Wishart, Librarian and Professor, Benjamin N. Cardozo School of Law (May 2, 2000) (on file with author).
 9. E-mails from Constance Lundberg, Professor, Associate Dean, and Librarian, Brigham Young University Law School (May 2 and May 3, 2000) (on file with author); J. Reuben Clark Law Sch., Brigham Young Univ., *Course Descriptions* (visited May 10, 2000) <www.law2.byu.edu/curriculum/coursede.html#695R_24>.

2000, Southern Methodist adopted a one-credit advanced research course to be taught to third-year students over two or three weekends beginning in September each year.¹⁰ Finally, the only known two-credit mandatory advanced legal research course is at the Chicago-Kent College of Law, Illinois Institute of Technology, under the direction of the legal writing program. All sections are taught by adjuncts, most of whom are practicing lawyers, but Chicago-Kent librarians do teach as adjuncts on their own time.¹¹

¶14 After a year's experience with the approach we have adopted at Marquette, we are enthusiastic about its success and optimistic about the long-term prospects for the advanced program. The courses have received generally favorable evaluations from students,¹² and several have gone out of their way to praise the usefulness of the courses in individual conversations with instructors. So far, at least, any glitches have been in implementation, not in the basic design. In this brief overview of our experience, I will first describe our advanced legal research program and then explain how we were able to persuade the faculty to adopt such a program.

A Description of the Program

¶15 Although the goals of our mandatory legal research program have not been explicitly formalized, they can be characterized in this way: (1) shore up students' knowledge of and skill with the basic legal research sources learned in the first year; (2) provide a more nuanced and comparative understanding of research sources and techniques; (3) provide effective instruction in more specialized sources not discussed (or only touched on) in their first year (e.g., legislative histories, loose-leaf services, Internet research methods and sources, court rules, practice materials, forms, jury instructions, reference sources); (4) focus on one subject, jurisdiction, or research format to provide students with information and skills directly applicable to the type of practice they expect to engage in.

¶16 In pursuit of these goals, Marquette offers a reasonably varied list of options for students, with individual courses based on jurisdiction, subject matter, or research format. In 2000–2001, for instance, we will offer three advanced research courses on Wisconsin law, two on federal law, and one each on intellectual property, sports law, environmental law, federal taxation, business associations, and electronic legal

10. E-mail from Gail Murphy Daly, Library Director, Associate Dean, and Associate Professor, Southern Methodist University School of Law (May 2, 2000) (on file with author).

11. E-mail from Mickie Voges Piatt, Professor of Law, Chicago-Kent College of Law (Apr. 29, 2000) (on file with author).

12. The overall score for each course falls within a range of fair to outstanding. The average for all the advanced legal research courses is above the overall average for the school. This high level can partly be explained by the fact that the enrollment cap is 20 (small classes tend to evaluate instructors higher), but counteracting that factor is the generally unglamorous perception of legal research.

research.¹³ These courses represent topics that are most in demand, are emphasized at Marquette, or fit the interests or experiences of our librarians.

¶17 Each course has an enrollment cap of twenty students, runs for seven weeks, and meets in either one two-hour block or two one-hour blocks per week. We reasoned, and the faculty agreed, that spreading out a one-credit course over fourteen to fifteen weeks would result in its being lost or marginalized among the typical three- and four-credit courses.

¶18 A few faculty members also expressed a firm conviction that the courses should maintain a reasonable degree of rigor, and thus insisted that there be some fairly sizeable written student product. Every course is, therefore, graded and includes a pathfinder as the principal basis for the grade. Otherwise, individual instructors retain considerable autonomy over the content and structure of their courses. The instructors, however, did meet at length in the process of planning the initial courses and reached agreement on some general principles of course content and structure. We also met after the conclusion of the first five courses to review our experiences and especially to exchange our views about what worked well and what didn't. We expect to continue these meetings.

Guiding Principles for Course Content and Structure

¶19 The first serious concern we addressed at the beginning was how to construct the courses so students could receive sufficient instruction and experience without requiring two or three credits of work. Our first principle, therefore, was to de-emphasize readings as much as possible in the belief that hands-on experience is far more useful. In teaching the Wisconsin Legal Research course, for example, I gave only one reading assignment—on Wisconsin legislative histories. In Federal Legal Research I will give no reading assignments. For most of the courses this is entirely feasible because the advanced classes take off from a foundation of basic sources and techniques learned (however insufficiently) in the first year.

¶10 Mentioning basic legal research sources leads to our second principle: to the extent possible, we provide a review of basic legal research materials and techniques. This is not popular with students. Not only do they disdain print sources, but many suffer under the delusion that they already know everything there is to know about legal research. I was appalled (but not surprised) when two students in my first advanced class used the index to the first series of *ALR* as their only means of researching that publication. I used that example fairly effectively the next semester to impress on my students why we should review the print (and electronic) research sources and techniques they only partially learned in their basic course.¹⁴

13. See *infra* appendix for descriptions of those courses and a few offered in 1999–2000 which will not be taught in 2000–2001.

14. In our first-year legal research course (one credit, taught by librarians), we cover both standard print and CALR research sources for secondary authority, statutes, cases, and administrative law. We also introduce students to research strategy.

¶11 A third principle is that we require a number of assignments throughout the semester, aside from the pathfinder. This assures sufficient practice using the sources, keeps the students involved in the class, and maintains a certain level of rigor. These assignments vary from course to course. For example, a number of courses require students to keep logs or journals of their research experiences. In my Wisconsin and federal legal research courses, I require ten logs, covering different types of sources, in which the students are asked to describe how they research the source and what they find in the process of seeking information on their individual pathfinder topic. I grade each log. By having the logs tie into the pathfinder we are also assuring that the workload will not be overly burdensome. The logs constitute 40 percent of the grade and the pathfinder 60 percent. Although I have no minimum or maximum page length, most logs have been two to four pages in length. I could not have been more pleased with the overall quality of these logs, despite the fact that each only represented 4 percent of a one-credit course. I think the students gained far more from the logs than they would have from the traditional treasure hunts or from elaborate “problem” types of assignments.¹⁵

¶12 Other instructors did not find logs or journals appropriate for their particular courses, and have used other types of assignments. Because logs did not seem to work for international and foreign law research, for example, I used more traditional “treasure hunt” exercises in that course. I am not satisfied with the results and am seeking alternatives.

¶13 Finally, we had originally agreed to include an assignment requiring a class presentation, but ultimately decided not to because of the limited class time afforded a one-credit course and our negative experiences with presentations in introductory legal research. Others may find ways to make student presentations effective.

Initial Appraisal of the Program

¶14 During the planning stage we were a little nervous about whether a one-credit course could accomplish the goals of mandatory advanced research,¹⁶ but overall we think these classes have been highly successful. Although they don’t take neophytes and transform them magically into highly skilled and effective researchers, we believe our students do learn a substantial amount in the classes, have an opportunity to perform research in a tightly supervised framework, and are considerably better researchers after the course than they were before. The one

15. A couple of students were so pleased about the pedagogical effectiveness of the log assignments that they urged me to employ them in the introductory legal research course. I am dubious whether they would work as well in that setting.

16. See *supra* ¶5 for a description of the goals.

caveat to this appraisal is that our third-year students will only feel pressed to satisfy their advanced legal research requirement in 2000–2001, the second year of the program's operation. During the first year, these students knew they had another year to fulfill their requirement, so we began with the assumption that only students with some commitment to improving their research skills enrolled in the classes. A number of students, however, indicated that their purpose in taking the course this year was to get their requirement out of the way, so all of them may not be especially interested in the subject or in improving their skills. We will have to wait until next year to see if we experience a significant decline in the quality of student work.

¶15 From the beginning we were also concerned about increasing the workload on our reference librarians by adding a course to their responsibilities. Perhaps in a couple of years we'll feel differently about this, but at present it does not seem to have unduly taxed staff resources. In fact, most participants have truly enjoyed the experience and feel that it has enriched their jobs. I confess that I personally became bored with teaching introductory legal research years ago,¹⁷ but find the advanced classes very rewarding. In fact, I also find them more satisfying than the substantive courses I had been teaching over the past sixteen years.

Gaining Faculty Approval

¶16 How did we gain faculty approval for such a far-reaching curricular change? We were fortunate in having several faculty members committed to improving student opportunities for research. In fall 1996 this commitment resulted in approval for an advanced legal research requirement as part of an extensive revision of the overall law school curriculum. Under this revised system, a student could satisfy the advanced research requirement by (1) taking the two-credit Advanced Legal Research course, (2) writing a major research paper for a seminar, or (3) doing directed research. This sounds like a typical advanced writing requirement, but actually the regulations stated that this requirement was separate and in addition to the advanced writing requirement. Thus, students using either method (2) or (3) to satisfy the requirement would write at least two major papers while in law school. The law school would certify which of the available seminars met the advanced research requirement. As time went on, however, no seminars were approved and the requirement languished.

¶17 In the meantime, some of the proponents of the requirement expressed reservations about whether students would receive an appropriate level of research supervision and instruction if they chose to satisfy the requirement through a seminar or directed research. They asked the Director of Legal Writing,

17. Nonetheless, I continue to teach two or three sections of the first-year course each year.

Katie McManus, who was also a member of the Curriculum Committee, to talk to me and the then associate director of the library, Julia Wentz, about possible alternatives to seminars and directed research. Julia and I had for some time been talking about trying to obtain faculty approval for a few one-credit, elective courses on specialized legal research.¹⁸ After considerable discussion of various alternatives, the three of us decided that advanced research courses were the only viable method of providing supervised instruction in advanced legal research.¹⁹ We also agreed that it would be impossible for an already busy library staff to teach two-credit courses. We thought—and in retrospect our experience has borne this out—that one-credit courses would provide genuine value and would at least be better than an additional, unsupervised research paper, which was the existing, but unimplemented, requirement. We also concluded that one-credit courses would be more effective if limited to a particular subject-area, jurisdiction, or mode of research (e.g., electronic). It did not seem realistic to try to squeeze all of legal research into a one-credit course. On the other hand, working in a single subject area or jurisdiction would serve as an experience in how effective research is performed and could carry over into other areas in which the students might find themselves.²⁰

¶18 Katie McManus and I presented our general plan to the Curriculum Committee in fall 1998 and it was accepted, with a few modifications, in spring 1999, after a total of about four hours of discussion during three meetings. The only major amendment eliminated the option of doing a seminar or directed research paper as a means of satisfying the advanced requirement. Originally, we thought the committee would be unwilling to accept our courses as the only vehicle; we had assumed they would want to retain authority to certify seminars or directed research. It turned out they were even more negative than we about the level of instruction and supervision provided in seminars or directed study. The faculty as a whole then discussed the plan, with a few members expressing concern only about there being sufficient rigor and about whether one subject would suffice for each course. Apparently everyone was satisfied by our responses because the plan passed the faculty unanimously.

18. The inspiration for these elective courses were the one-credit, subject-oriented courses offered at the University of Texas School of Law. See Roy M. Mersky, *Rx for Legal Research and Writing*, LEGAL REFERENCE SERVICES Q., 1991 nos. 1-2, at 201, 205.

19. For support of this view, see Lydia M.V. Brandt, *The MacCrate Report and the Teaching of Legal Research: A Scenario for Educational Malpractice*, 2 TEX. WESLEYAN L. REV. 123, 126 (1995) (citation omitted) (“Because legal research is a skill, the law school curriculum must require a mandatory upper level research course either in a particular subject (e.g., tax research) or a general advanced legal research course to reinforce and refine the learning from the first year.”).

20. Shortly after this initial planning, Julia Wentz departed Marquette for Loyola (Chicago), but our Head of Reference, Robin Schard, who was also enthusiastic about this plan, volunteered for the Curriculum Committee, partly so she could support the proposal.

Conclusion

¶19 It may be too early to declare this program an unadulterated success. Time will tell if unforeseen troubles emerge, but for now we're very satisfied with the results.

Appendix

Topics in Advanced Legal Research Course Descriptions

Topics in Advanced Legal Research: Intellectual Property (1 Credit)

This variable topics course focuses on advanced legal research methodologies and sources related to intellectual property. Sources include loose-leaf services, treatises, practice materials, commercial databases, and the Internet. Students will prepare a major paper (i.e., pathfinder or research guide) on the sources and techniques of researching a copyright, trademark, or patent law problem. This course may be used to satisfy the advanced legal research requirement.

Topics in Advanced Legal Research: Criminal Law (1 Credit)

This variable topics course focuses on advanced legal research methodologies and sources related to criminal law. Sources include treatises, practice materials, trial advocacy materials, commercial databases, and the Internet. Students will prepare a major paper (i.e., pathfinder or research guide) on the sources and techniques of researching a criminal law problem. This course may be used to satisfy the advanced legal research requirement.

Topics in Advanced Legal Research: Business Associations (1 Credit)

This variable topics course focuses on advanced legal research methodologies and sources related to business associations. Sources include loose-leaf services, treatises, practice materials, commercial databases, and the Internet. Students will prepare a major paper (i.e., pathfinder or research guide) on the sources and techniques of researching a legal problem concerning a business association: corporation, partnership, nonprofit corporation, LLC, or closely held corporation. This course may be used to satisfy the advanced legal research requirement.

Topics in Advanced Legal Research: International and Foreign Law (1 Credit)

This variable topics course focuses on sources and methodologies used in international and foreign legal research. Sources will include treatises, loose-leaf services, commercial databases, and the Internet. Students will prepare a major paper (i.e., pathfinder or research guide) on the sources and techniques of doing legal

research in international law, international business transactions, international and regional organizations, or foreign law. This course may be used to satisfy the advanced legal research requirement.

Topics in Advanced Legal Research: Health Law (1 Credit)

This variable topics course focuses on advanced legal research methodologies and sources related to health law. Sources include administrative materials, loose-leaf services, treatises, practice materials, commercial databases, and the Internet. Students will prepare a major paper (i.e., pathfinder or research guide) on the sources and techniques of researching a health law problem. This course may be used to satisfy the advanced legal research requirement.

Topics in Advanced Legal Research: Sports Law (1 Credit)

This variable topics course focuses on advanced legal research methodologies and sources related to amateur and professional sports. Sources include administrative materials, treatises, practice materials, association regulations, commercial databases, and the Internet. Students will prepare a major paper (i.e., pathfinder or research guide) on the sources and techniques of researching a sports law problem. This course may be used to satisfy the advanced legal research requirement.

Topics in Advanced Legal Research: Wisconsin Law (1 Credit)

This variable topics course focuses on advanced legal research methodologies and sources related to Wisconsin law. Sources include administrative materials, treatises, legislative sources, practice materials, commercial databases, and the Internet. Students will prepare a major paper (i.e., pathfinder or research guide) on the sources and techniques of researching a Wisconsin legal problem. This course may be used to satisfy the advanced legal research requirement.

Topics in Advanced Legal Research: Electronic Methods and Sources (1 Credit)

This variable topics course focuses on advanced electronic legal research methodologies and sources. Students will work toward gaining a high degree of proficiency in the use of LEXIS, Westlaw, LOIS LAW, the Internet, and CD-ROMs. Students will prepare a major paper (i.e., pathfinder or research guide) on electronic sources and techniques of legal research on a particular legal topic. They will develop their own Web site containing the text of their pathfinder, any other material relevant to electronic legal research on their topic, and links to Web sources mentioned on their Web site. This course may be used to satisfy the advanced legal research requirement.

Topics in Advanced Legal Research: Environmental Law (1 Credit)

This variable topics course focuses on advanced legal research methodologies and

sources related to environmental law. Sources include federal administrative materials, loose-leaf services, treatises, practice materials, trial advocacy materials, commercial databases, and the Internet. Students will prepare a major paper (i.e., pathfinder or research guide) on the sources and techniques used to research an environmental law problem. This course may be used to satisfy the advanced legal research requirement.

Topics in Advanced Legal Research: Federal Law (1 Credit)

This variable topics course focuses on advanced legal research methodologies and sources related to federal law. Sources include administrative materials, treatises, legislative sources, practice materials, commercial databases, and the Internet. Students will prepare a major paper (i.e., pathfinder or research guide) on the sources and techniques of researching a federal legal problem. This course may be used to satisfy the advanced legal research requirement.