

# Singing the Bluebook Blues: A Review of the Sixteenth Edition

The new edition isn't quite what was hoped for—a tale of expectations unmet and promise unfulfilled.

by Warren D. Rees

When all is said and done, more was said than done. This maxim is certainly true of the Sixteenth edition of *The Bluebook: A Uniform System of Citation*. Expectations were high that at last the *Bluebook* would make needed changes aimed at making it more useful to the legal professional. While important changes were made, some appear to be feeble attempts to address the underlying issues and others appear to lack any obvious explanation. Beyond a doubt, the expectations for the Sixteenth edition exceeded the reality. I would like to add, however, that the chances of making a majority of *Bluebook* users happy in such a venture are slim indeed. I don't think anyone envies the job of developing a uniform system of citing.

## Reliance on Print Paradigm Retained

Having said this, however, I do believe the Sixteenth edition seriously fails in certain areas. The biggest disappointment, for me, is that it still relies so heavily upon the print paradigm of citing to materials. For example, I expected dramatic changes in the rules about citing online sources, especially materials found on the Internet. Databases, even commercial ones, are still treated as second-rate players in the world of information providers. Rule 17.3.1 clearly prefers citation to printed sources if readily available in paper. Rule 17.3.3, regarding materials found on the Internet, explicitly discourages citing them unless there is no alternative source for the information. In other words, citing to online sources, whether in the commercial databases or on the Internet, is basically only done if the item is unavailable in print or is difficult to obtain in the printed format. Does this square with the current reality and is this likely to be true over the course of the next several years?

The print paradigm is based on at least two assumptions: that all or nearly all sources worth citing are in print and that all or nearly all users of legal information have greater access to these materials in

the printed format. Regarding the first assumption, this has certainly been the case. In the past, all information has been based on the printed version. WESTLAW and LEXIS have, for the most part, loaded material that was in print and provided both the print cite with the record and the search engine that allowed the searcher to retrieve the material by the print cite.

However, the Internet has now begun to break that mold. Some material does not have print equivalents and, even if it is in print, one cannot necessarily be assured of retrieving it with the print cite. Increasingly we will see materials on WESTLAW and LEXIS that do not have print equivalents. Commercial

publishers are using the Internet to create unique products not available in print and other organizations are putting articles online that will not be available in print. Based on this, the first assumption is questionable now and certainly will not hold true in the future.

The next assumption, that users have greater access to the paper sources, is arguably the most questionable of the two. With greater variety in pricing plans from WESTLAW and LEXIS and with the increasing popularity and low cost of accessing the Internet, these sources are becoming very important in information delivery. They must be considered as serious alternatives to print resources because eventually the number of people with access to online databases will exceed those who have access to the information in paper, if this hasn't already happened.

While those working on the *Bluebook* may consider it too early in the game to specify detailed rules for citing online materials, more precise guidelines for citing materials on the Internet and permitting increased citing to the online version are necessary.

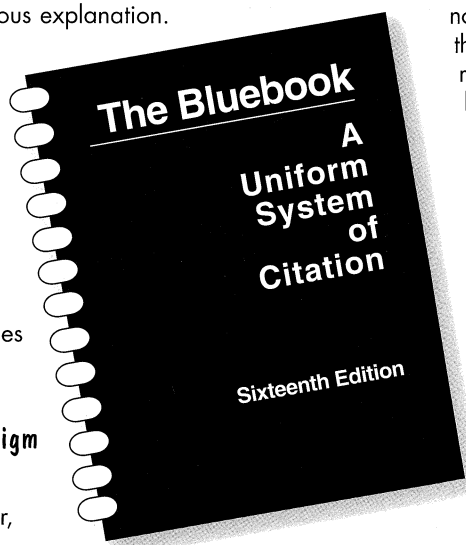
Regarding the Internet, the *Bluebook* should at least provide guidance on citing e-mail messages, news groups, and discussion lists. As clearly pointed out in the article by Mark Giangrande in the February issue of *AALL Spectrum*, other disciplines have at least attempted to publicize rules for citing Internet resources. This lack of attention on the part of the *Bluebook* leads one to wonder whether serious attention is being given to the medium as a player in the distribution of information.

Doing what I propose is, of course, not easy to accomplish. The problem for the *Bluebook* is to devise a system of citation that provides for citing as many different materials in as many different formats as possible. Given the current state of affairs on the Internet, this is a rather difficult task. The *Bluebook* also indicates another problem, the transitory nature of materials found on the Internet. While this is indeed a problem that needs to be addressed, it does not justify the almost total neglect of the Sixteenth edition.

In addition, the solution to the problems of citing does not rest solely with the *Bluebook*. Critical to breaking from the print paradigm of citing is an effort by producers of information and other interested parties to develop vendor and medium-neutral cites. The *Bluebook's* acknowledgment of the importance of medium-neutral citation systems in rule 10.3.1 signals the beginning of change to accommodate other technologies as well. The incorporation of this rule in the Sixteenth edition is a positive step for the future of legal citation.

## Sixteenth Changes Signals

A couple of other problem areas with the Sixteenth edition are also worth mentioning, such as changes in introductory signals. Changing these signals every five years creates problems in understanding what the signals meant when the author wrote the article and adds confusion for authors currently working on articles. In other words, it destroys uniformity, the very thing we are supposed to gain from using the *Bluebook*. Fine and changing distinctions, such as the differences between no signal and the "See" signal for example, can become very confusing. This type of



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change destroys uniformity between editions. The citation of foreign law materials has improved as has citation to state materials. For example, citing Texas legal materials now is more consistent with the rules that attorneys in Texas must follow. (See Hope Viner Samborn, *What's New in Blue: Citation Guidelines Change along with the Times*, *A.B.A. J.*, December 1996, at 16.)

We have come to expect a conservative approach to this subject since it is known as *A Uniform System of Citation*. Assuming the title means uniformity from one version to the next, the Sixteenth edition generally lives up to its name, although not all changes maintain uniformity. And—as pointed out in A. Darby Dickerson, *An Un-Uniform System of Citation: Surviving with the New Bluebook*, 26 *Stetson L. Rev.* 53, 97-99 (1996)—the rules themselves are not entirely uniform within the Sixteenth edition. Finally, the complexity of the *Bluebook* makes uniformity difficult. Such detailed rules and minute variations quickly become complicated, causing the user to eventually despair of ever trying to get it right. One has to believe that there must be a simpler, better way to handle this project of citing material. However, whether you love it or hate it, it is here and we must deal with it. Maybe the Seventeenth edition will make all things clear.

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