

Researching "Beyond the Books"

by Diana R. Donahoe

One recent trend with faculty seems to be teaching students to think "outside of the box." However, I believe law students already think "outside of the box" when they research. In fact, they have been researching "outside of the books" for years, which is what motivated me to write the article "Teachinglaw.com," in *5 U.Va. L & Tech.* 13 (2000) and at www.law.georgetown.edu/faculty/donahoe.

Today, I will talk to you about that article. First, I'll discuss why I wrote it and my conclusions about thinking "outside of the books." Next, I will tell you my students' reactions to the article. Finally, I will talk about my plans for scholarship and teaching research in the future.

When I first started teaching legal research and writing eight years ago, I taught only book research until November when the librarians would hold a LexisNexis or WESTLAW class. (They taught the other online service in the spring.) My research projects were "book-only" research. The students had a separate online exercise. About four years ago, the librarians began teaching one online service in September, while I simultaneously taught the books in class. They were taught as two discrete entities, and my research projects treated them separately. Last year, we slightly modified that arrangement in that both online services were taught in September.

I cannot remember all the reasons for the changes at the time. However, I can remember the reactions. The students loved getting their passwords early, while the professors and librarians complained.

We thought they were not using the books at all. We discovered that they were focusing on facts instead of legal categories while they were researching, so they were finding some cases we thought were useless. We warned students of the hazards of using only online research. We nagged them: "Use the books; it's important." But when we handed out the next assignment, we would get the same results. As a department, we were not sure how to fix this problem — the problem that

I now call researching "outside of the books."

That is when I decided to write an article on the subject.

In the article, I split up the different ways of thinking into two categories: thinking by the books and linear thinking and linking (or thinking outside of the books).

The article describes the person who thinks by the books as a linear thinker. Her mind works like a book: page by page, chapter by chapter, subject by subject. She uses indexes and page numbers. She gleans context from the book; she knows how much she has read and how far she has to go. She reads one book at a time. On the other hand, the online thinker does not think linearly or chronologically. He thinks in and out from link to link. He uses fact searches instead of indexes and has very little sense of where he is in a document or how much further he has to go. He reads multiple sources at a time through windows and links.

This difference in thinking translates into very different methods of legal researching. The book researcher's mind (usually, the professor) works like a digest. When asked to solve a problem, she thinks topically: from tort to intentional tort to emotional distress to outrageous conduct, progressing down the line from general law to specific cause of action. The online researcher (typically, the student) will follow a very different strategy. He will produce a fact search, such as "stress w/5 emotional" with other specific facts from the client. The student will find some intentional infliction cases but will also find other legal categories of cases. They might be "off point" to the linear, categorical thinker, but will make sense to the fact thinker.

When I finished the article, I was no longer complaining about students researching "out of the books." To me, it was different; it was the wave of the future. My suggestion was not to stop the wave but to inform it and help the students become ambidextrous by informing their online searches with book categorization and linear thinking. My article gives some ideas on how to teach this new generation. So this fall, I incorporated some of my ideas, and I asked students to post feedback on my courseware. Here are some of their postings.

Student 1: "I didn't think that I fit into the category of Web-savvy student. Although I definitely do (or at least start) my searches for legal research on the Web, I find myself frustrated by its arbitrariness and its disorganization. It's not that I deal easy with that frustration, it's just that I'm too unfamiliar with the books to get up and use them. I think there's a lot of benefit to searching through an index and seeing what else is available, something that online searches don't allow. Also the Web often gives you the feeling that you're missing something. It seems so easy for something to fall through the cracks of your search. I guess I approach the Web with a similar feeling to professors, it's just that that feeling doesn't stop me from using the Web."



Excerpts from the Keynote Speech at the AALL Colloquium

Student 2: "I have to admit that the Web is my resource of first resort. I am much more comfortable finding information using flexible word searches instead of trying to hit on an editor's categorization."

Student 3: "I guess, having grown up in the Internet age, I really do learn through a creative, cluster method, rather than linearly. However, it is much easier to become distracted online, and because of that, I think I do prefer the library and the books for research."

Student 4: "The article asserts that the electronification of legal information will likely not replace books. ... But, we should remember that this is indeed a 'brave new world.' Cyberspace is fast changing lifestyles of people. Already, e-mails have overtaken hand-delivered mail in their usage. One may argue that hand-delivered letters will never go out of fashion due to certain qualities of such activity that cannot be replaced by e-mails. I argue that we are at an overlapping period where the old and new are changing batons. Already many corporations have achieved paperless working environment. A virtual library with no physical volumes is not so hard for me to imagine. Perhaps the judge sitting at his bench would rather see me frantically flipping through the pages of thick volume books to respond to his question, but I would rather type in a key word and run a search while I think through as to how to best respond."

Student 5: "The article was very helpful in terms of articulating my frustrations with both mediums of research. While I have found online resources extremely convenient when I know exactly what I'm looking for, at other times, I end up with either an unworkable number of hits or with missing components. For example, with the Texas statute, my Lexis search only produced Sections 96.001 to 96.003. It never occurred to me that there was a 96.004 because I had no sense of context. Book research may not be the most efficient or convenient method; however, it has the advantage of tangibility — which can be very reassuring during my

research of the unknown. The best strategy, certainly, is to be "ambidextrous." Being able to navigate both methodologies with ease will result in thorough and time-efficient searches — and fewer research-induced headaches."

These postings indicate that first-year students are not solely online researchers. They are striving to learn the books as well. What about upper-class students? I also teach an upper-class writing seminar to 12 students. After their first major research assignment, I asked them who had used the books. Only one student raised his hand. The other 11 had used just online sources. I then had them read "Teachinglaw.com." They were extremely interested in the legal publishing history and wished they had read about it during their first year. They said that they wanted to know the books better — they simply hadn't used them since first year (when they were forced to do so in their research projects). They asked for more familiarization with the library. So I arranged for a tour, which took almost two hours and provided a thorough review of first-year sources. A week later, I gave them the second major research project. Again I asked them how many went to the books first. NONE of them raised their hands. Most had used books at some point, but most had started online. However, when I asked them about their search terms, they were using categorical terms, (i.e., contracts) not just word searches.

So where does all this information leave us? My conclusion is that research does not fall into one of two categories — books or no books. They are not two discrete sources. We should be teaching the students how to use them together, to complement each other.

We should be teaching the students to research "beyond the books." How do we do that? To begin the brainstorming that I hope will continue throughout the colloquium, I have three specific ideas that I am working on with my colleagues at Georgetown to teach students to research "beyond the books": an electronic book, online tutorials and a recent survey project.

This summer, I will begin co-authoring, with Director Jill Ramsfield, an electronic legal research and writing case book. In the book, the students will read the history of legal publishing to understand how publishers categorize the law. Book and online research will not be treated as discrete sources. Instead, students will learn a cohesive research strategy and will perform interactive trial-and-error word searches combining factual and categorical thinking to find the law. The case book will allow students to actively engage in their learning by researching a spectrum of sources instead of the traditional books vs. online sources. We are hoping that this electronic case book will be ready for use in the 2002–2003 academic year.

Second, our librarians are working in conjunction with my department to develop online tutorial research projects for our first-year students next year. These are self-paced Web sites that teach the students to use book resources and online resources interactively and interchangeably.

Third, our department implemented a survey this spring through a research project. Each student was given the same fact pattern, but one group could research online only and the other could use only books. We are going to study them this summer to determine how the minds think (alike or not) when researching and compare what categories of law they found based on their sources.

In the future, I do not plan to ignore the books. Instead, I am hoping to teach the students to research "beyond the books." The nature of research is changing, and we have the opportunity to help guide and define that change. We should not be spectators. I hope that we all walk away from this colloquium with innovative ideas to take the leading role in shaping the change instead of watching it happen.

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