

# The Kelly Show, Episode II:

## How to Choose the Legal Research Text That's Right for You

by Kelly Browne

**E**ditor's note: the following is an adaptation of a program presented at the 2001 Annual Meeting in Minneapolis, "The Kelly Show, Episode II: How to Choose the Legal Research Text That's Right for You." Space limitations preclude AALL Spectrum from printing the transcript in its entirety. Members wishing to sample the full wonderment of "The Kelly Show" should acquire the audiotape for Program C-3 by visiting the Association Web site, AALLNET, at [http://www.aallnet.org/products/products\\_educational.asp](http://www.aallnet.org/products/products_educational.asp). Here are the highlights.

**Kelly Browne:** Our topic today is "How to Choose the Legal Research Text That's Right for You." What kinds of legal research textbooks are out there? Do they address electronic research and technology adequately? Do they discuss the integration of manual and electronic research? How do you go about choosing the "right" one for your class, whether your program is staffed by full-time faculty, adjuncts, librarians or students? I am very fortunate to have as my guests today three people who can shed some light on this problem: the authors of two prominent legal research texts and a formerly disgruntled law student and currently disgruntled law librarian who has written his own because no available text suited him. Today we will discuss what to look for when choosing a text, the pros and cons of each text that is available, and additional supplemental material that you might use with each text.

My first guest is **Robert C. (Bob) Berring**, co-author of *Finding the Law* (West Publishing Co., 11th ed. 1999) and director of the University of California, Berkeley School of Law Library. Ladies and gentlemen, please welcome Bob Berring!

*Applause! Applause! Applause!*

**Kelly:** Welcome, Professor Berring. I'm so glad you could be with us today. I have got to be your biggest fan! We used your book *Finding the Law* in our first-year legal research and writing class in law school. I won't tell you which edition. And we also used *Finding the Law* in legal bibliography in library school. Do you remember when you did the 11th edition of the book in 1999 and do you remember creating a Web-based update for the text and do you remember putting up links to useful sites and a link to e-mail the authors and you promised to respond?

**Bob:** Beth Edinger and I are actually writing a new edition of *Finding the Law* now and that's one of the reasons I thought it was such a great opportunity to come on your show, to talk about it. It seems to be an impossible problem to solve — the students want a book that's really simple and doesn't push them and yet legal research has gotten so incredibly complicated it's difficult to parse out. When I started teaching the stuff, I thought what was most important was that people understood how things worked — that they understood how the digest system worked, understood how *Shepard's* worked, understood how an annotated circle worked — *in paper* — and I still think that's true today. I think you have to understand those things *and* I think you have to understand how the online systems are put together. *And* you have to understand how the Internet works into it. So it really becomes an exceptionally difficult challenge to try to write something, and I know that waves of books keep appearing and there are thousands of legal research books—well, not really thousands, but it seems that way—and the trend now is to make it simple. And we're going to try to do that, but what do you do? Do you abandon the old materials? Do you forget about them? I don't know; I really don't.

In a way I wish there were some kind of levels, where the first level would explain simply how to do things and people could go deeper if they wanted to. That's why in the 11th edition I really hoped that people would use the appendix. What Beth and I did was pull a case off of WESTLAW and then we tried to use that as an example to show how legal reasoning is supposed to work.

But I don't think anyone ever finds the appendix, actually. One of the things I wanted to talk West into doing in the chapter on legislative history was to put a sentence in there that says, "The first

person who reads this sentence and calls this number will win a free trip to Hawaii." We actually did it, and you know what? No one's ever called. It's very, very discouraging.

**Kelly:** Wow! That was fascinating! Unfortunately, ladies and gentlemen, that's all the time we have for our first guest. But I'd like it if you could stay for the rest of the show, Bob. Can you?

**Bob:** I wouldn't miss it!

**Kelly:** Our next guest is Donald J. Dunn, co-author of *Fundamentals of Legal Research* (Foundation Press, 7th ed. 1998), law library director and former dean of the Western New England College of Law. Please help me welcome Don Dunn!

*Applause! Applause! Applause!*

**Don:** Hi Kelly. Hi Bob. Thanks for having me on the show.

**Kelly:** So how does your book handle electronic research and technology? That is, how does it integrate manual and electronic research?

**Don:** Well, the last edition was done in 1998. That was really the first time that we were truly trying to integrate legal research technology into the book. And it worked. And that's what we're doing right now — we're working on an eighth edition, which

will come out in 2002, and it will really address all the nuances that technology has brought to bear on legal research that we hadn't been able to address in years past. And we're going to integrate technology directly into each of the chapters. Simultaneously we'll have a separate chapter on CALR, which will of course include WESTLAW

and Loislaw and Pacer and the Internet and a variety of other sources such as that.



As John Pedini, (center), looks on, Kelly Brown, (right), presents Jean Callihan, a reference librarian at Cornell University Law Library, with the show's door prize, an autographed copy of *The Law School Trip* by Andrew McClurg.

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So it's one-stop shopping all the way. It'll be good.

**Kelly:** Wonderful! Is there any supplemental material that goes with the text, like a teacher's manual or exercises?

**Don:** Well, there are two things that come with it. Those of you that have seen fit to adopt it — and I hope that is everyone in the room — and if not, I think at least every study carrel in every law library should come equipped with the book. We do two things, maybe we'll do three next year. One of the things we do is called the "Noter Up." The University of Texas does it; it really is an update, sort of, to the book — a supplement — it keeps it current. The other thing we have is problems and exercises that are done by Mary Ann Nelson at the University of Iowa. There is a *Teacher's Manual* and an *Instructor's Guide* and individual assignments. And we will probably have added information on the Web this time to keep it up to date as well.

**Bob:** I should mention Susan Phillips and Nancy Johnson do a problem book that goes along with *Finding the Law*, too. I think that no matter who does it, that's a really important component of the book.

**Don:** Absolutely.

**Kelly:** Wow, Don, this is great stuff. Can you tell us quickly about the difference between *Fundamentals of Legal Research* and *Legal Research Illustrated*? I mean, I know that *Legal Research Illustrated* is an abridgement of *Fundamentals*, but when would you suggest using one or the other?

**Don:** Well, the *fundamental* difference — I like to use that word, *fundamental*, is (*thumping on book*) a hard cover! The abridgement is paperback. There are also a number of chapters that are taken out of *Legal Research Illustrated* because you expect that the audience simply will not have time to go through the entire text. What you find in law schools with people who use *Fundamentals* as compared to *Legal Research Illustrated* most often is that they have a class that goes through the entire semester. For example, a class devoted to legal research will use *Fundamentals*, and a first-year research class taught as part of a legal writing class will use *Legal Research Illustrated*. There are about 800 pages in *Fundamentals* and only about 500 pages in *Legal Research Illustrated*, so you can see the difference is substantial.

**Bob:** (*rolling his eyes*) Yea, I'll say! 300 pages. That's pretty substantial, all right.

**Kelly:** Ladies and gentlemen, John Pedini, director of media services at the Social Law Library in Boston!

*Applause! Applause! Applause!*

**Kelly:** Welcome, John! It's so nice to have you on the show again.

**John:** Thanks, Kelly. I'm so happy to be here again!

**Kelly:** Well, John, tell us about your book. I understand you've written your own legal research text because you can't find one to suit your class. What class do you teach, anyway?

**John:** Wow, Kelly, that's really a good first question, because you know, one size *does not* fit all when it comes to legal research texts. The details of publishing patterns necessary for library school may be overwhelming for first-year law students. The simple explanations necessary for beginning researchers may be lacking in the details and gradations desired by the student of advanced legal research. And the interaction between classroom learning and learning through reading legal research texts varies as much as each teacher and student varies.

**Kelly:** Wow! That's really deep. So what class do you teach?

**John:** Well, Kelly, I teach several. Our first-semester legal-research and writing class is staffed by full-time legal writing faculty with upperclass students as teaching assistants. Our second semester class is taught by adjuncts with upperclass students as teaching assistants. I oversee the research component — manual in the fall and computer-assisted in the spring — in both semesters. I teach an upperclass elective, *Advanced Legal Research*, once a year. I also teach legal bibliography at the local library, I'm sorry, I meant to say *information* school, and a legal-research class for paralegals at the local community college.

**Kelly:** Wow! You must be busy! Did you write a book for each class?

**John:** What I did, after a thorough review of all the available legal research texts, was select the best chapter or section on each subject for each of my classes, and combine them in an order of my choosing, which is different for each class I teach.

**Kelly:** Well John, which chapters in which texts do you prefer, and for which classes?

**John:** Well, I like parts of [Morris L.] Cohen & [Kent C.] Olsen's *Legal Research in a Nutshell* for a 1L class because of its brevity and simplicity. I also like parts of

Nancy Johnson's *Winning Research Skills* for the same reason. Another advantage to this book is that it's free from West Group and saves the students some bucks, but because of this, of course, it is biased toward West products and you have to counteract that. I also like Joan Howland's *Principles of Power Research* for 1Ls; it is excellent but dated (1992). I also like Edward Good's *Legal Research without Losing Your Mind*, because of the way it provides research in context and uses humor as a device to make the material interesting. However, it suffers from the same problem: It is somewhat out of date (1993) and requires supplementation.

**Kelly:** What about CALR?

**John:** I use Penny Hazelton's *Computer Assisted Legal Research: The Basics* for the 1Ls in their second semester; again, it's excellent but dated (1993). I use parts of [Christopher G.] Wren & [Jill Robinson] Wren's *Using Computers in Legal Research: A Guide to Lexis and WESTLAW* in *Advanced Legal Research*; I wish I could use all of it but I can't because it's so dated (1994).

**Kelly:** What else do you use for *Advanced Legal Research*?

**John:** Well, Kelly, this may come as somewhat of a surprise, but I use a lot of Wren & Wren's *The Legal Research Manual: A Game Plan for Legal Research and Analysis* (1986). I wish they'd come out with a new edition. It has the best chapter on researching legislative history that I've ever seen.

**Kelly:** Do any of these books come with exercises or do you make up your own?

**John:** Well, of course, I always make up my own because they are far superior to anything else published today (*sniff*), but I know that some of my colleagues at other institutions use [Christina L.] Kunz's *The Process of Legal Research* because of the problem sets in the back of the book, which contain 10 variations on each exercise to minimize drain on the library's resources. Some people use [Larry L.] Tepy's *Legal Research and Citation* because of the exercises. Ruth Ann McKinney has a third edition of her *Legal Research: A Practical Guide and Self-Instructional Workbook* coming out; I haven't seen it yet. The second edition has a "Computer-Assisted Legal Research Problem Set" that goes with it, and the first edition, as you know, was designed to be used in conjunction with the *Nutshell*.

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I even like some of the exercises in Good's *Citing and Typing the Law*. And the only complaint I've ever heard about the [Amy] Sloan book, [*Basic Legal Research: Tools & Strategies*], is that there are no exercises to go with it.

**Kelly:** Wow! This is terrific stuff. Weird, wild, wacky stuff. Too bad we can't spend more time on it. But now, ladies and gentlemen, it is time for the portion of our show where we read our viewer mail.

**Viewer Mail:** *(on PowerPoint screen)*

**Dear Kelly,**

What's the deal with Christina Kunz? I heard she's not going to come out with any new editions of *The Process of Legal Research*. I hope I heard wrong because I just love that book — it has such good charts and graphs and it's coverage is encyclopedic.

**Kevin from New Jersey**

**Kelly:** Well, Kevin, unfortunately for us, after 20 years as co-director of William Mitchell's respected legal research and writing program and five editions of the best-selling text you mention, Professor Kunz is indeed closing the curtain on her legal-writing career and turning her

professional energy to contracts, commercial transactions and e-commerce. Ironically, the encyclopedic coverage you mention was stated as a disadvantage in a survey my research staff conducted on Law-Lib and the legal-writing listservs. At least three law librarians have stopped using the Kunz book because they feel it is too detailed and law students just refuse to read it. Three legal writing instructors switched from the Kunz book to the Sloan book this year. I used to use the Kunz book, and I liked it. Even if the students didn't read it prior to class, it works well as a reference work, and my students often looked up specific research processes later when they actually needed to perform research.

**Kelly:** Now, ladies and gentlemen, it is time for the portion of our show where I go into the studio audience with the microphone so you can ask your questions.

**Kelly:** Hi, what's your name and where are you from?

**Michelle:** I'm Michelle Pearse from Northeastern Law School Library in Boston and this question is for Professor Pedini. Which text do you feel best integrates manual and electronic research?

**John:** That's a very good question Michelle, and I could easily answer it succinctly and comprehensively, but I think we'd be better off having one of the persons in the audience answer. Maybe then we can get a dialogue going.

**Kelly:** The question is which text best integrates manual and electronic research? Anyone have an opinion? Bonnie Koneski-White?

**Bonnie:** Well, I think *Fundamentals of Legal Research*. Especially the three chapters I wrote!

**Kelly:** Bob and Don?

**Don:** I truly think Bob's book does it best.

**Bob:** Aw, thank you. But seriously for a moment, I think that is our biggest challenge because the online sources keep changing. And the vendors, well, if you go into the Exhibit Hall, the vendor mix is changing right now as far as what's available. The Internet is going to be a whole lot of new providers — coming from every direction. Blending it in is just a gigantic problem for any print-based book.

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Every time I do *Finding the Law*, I think this is the last one that's going to be a print-based, but we're going to do one more, like Don is. And it's very hard for print to ever keep up.

**Don:** My son practices law, solo in California, and he says to me all the time, "Why don't you talk about the small sources? For 20 bucks a month I can get every resource I need relating to California law, but no legal research text ever talks about the individualized small boutique sources that are specialized for the practitioner in each of the states. I mean, that's extremely important — I didn't know about that. They didn't teach me about that when I went to law school." And so, somebody needs to talk about those sources and nobody does.

**Bob:** I know its old-time religion, but that's why I think you really do have to understand how the stuff works. If you understand what a judicial opinion is, how it is generated, and what a code is, and what administrative rules and regulations are and how they come out, then at least the student, if it's someone in a small practice, who wants to have a minimum contract with an Internet provider or someone who wants a deluxe flat rate, steroid-enhanced WESTLAW or Lexis contract, can understand what they're looking at.

**Kelly:** Well, that's all the time we have for the show. You've been a great audience! Thanks for coming!

**Kelly Browne** ([kbrowne@law.uconn.edu](mailto:kbrowne@law.uconn.edu)), coordinator of the program, is head of reference at the University of Connecticut School of Law Library in Hartford, Conn.