Rebooting Legal Research in a Digital Age

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Legal Research Comes of Age

Research has always been core to the practice of law. However, we are seeing a "New Normal" in today's business climate, and profound change in legal education and the delivery of legal services that impacts how research is conducted. New technologies, resources, and methods of conducting research are evolving faster than ever before.
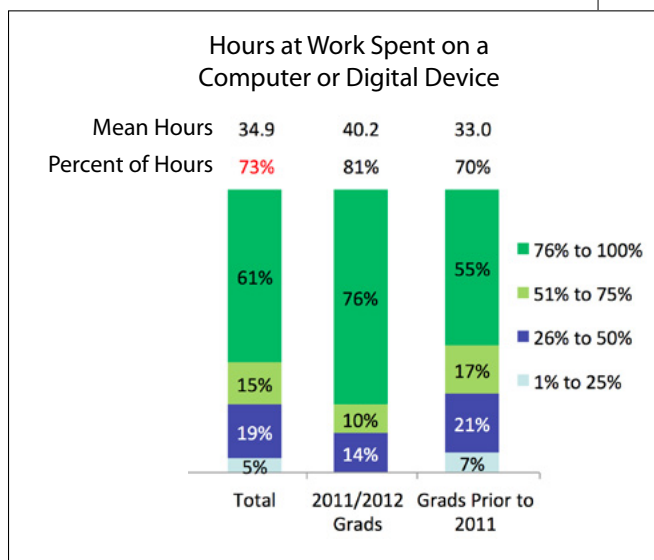
How have new attorneys, law schools and employers adapted, and what is the state of legal research today? In a recent survey, law firm associates indicated they spend nearly a third of their working hours conducting legal research, or about 15 hours per week on average. Much of that research is conducted online using a variety of sources and particular methodologies. Associates believe their employers expect them to have strong legal research skills when starting their first position out of law school. With this in mind, many feel that legal research should be a larger part of the law school curriculum.

These insights and more are derived from "New Attorney Research Methods Survey," a recent survey conducted by The Research Intelligence Group. Respondents included 190 young attorneys equally represented by large and small law firms across a variety of practice areas. Nearly forty percent of the respondents were 28 or younger, in practice for five or less years, and a quarter of the respondents were recent law school graduates from the class of 2011 or 2012.

The survey offers a compelling analysis of how this first generation of "digital natives" are conducting legal research. It shows the importance of legal research, how it is conducted today, the sources and methods utilized, and the related law school experience.
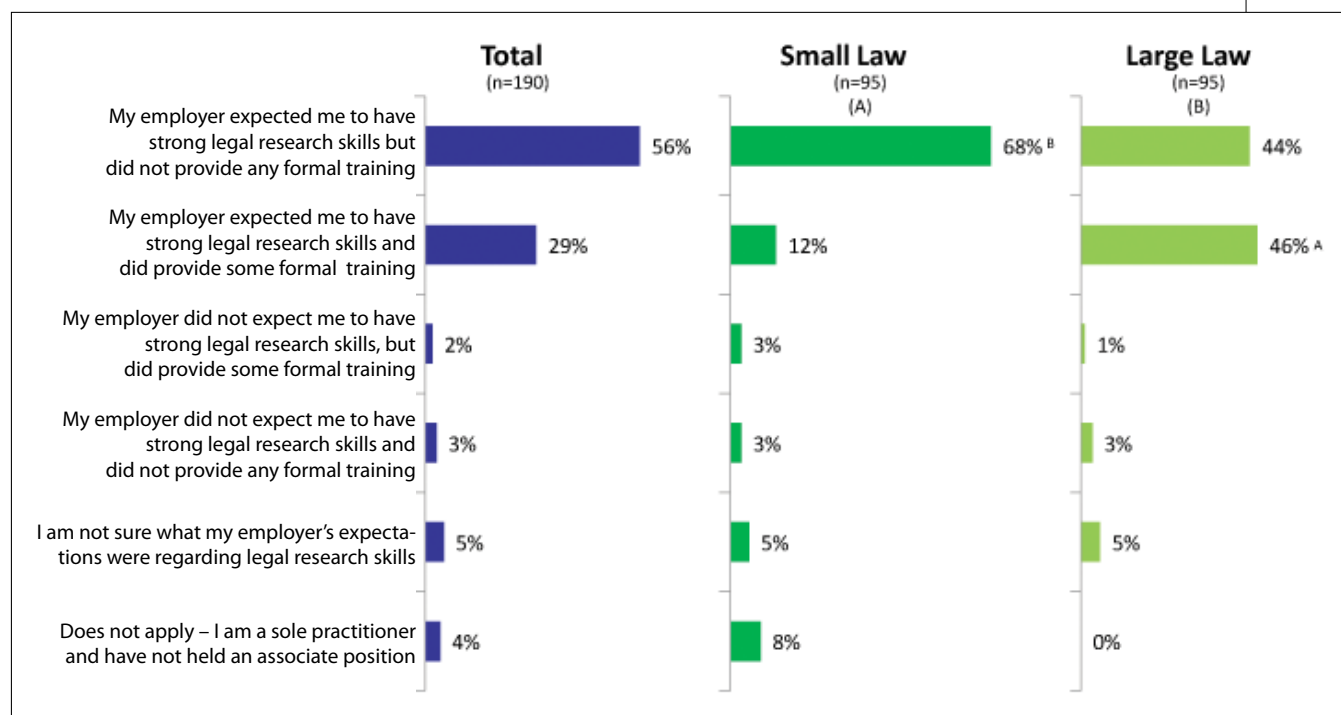
A digital environment is the norm

Generally, the strong preference for online legal research resources is supported by an overwhelmingly digital workplace. The survey shows that nearly three-quarters of new associates' time at work is spent on a computer or digital device, equating to more than 30 hours per week. As one might expect, young associates at large law firms work more hours on average than their counterparts at small law firms (50 hours per week vs. 44 hours per week). However, they each spend 73% of their work time per week, on average, using a computer or digital device.

Hours at Work Spent on a Computer or Digital Device

	Total	2011/2012 Grads	Grads Prior to 2011
Mean Hours	34.9	40.2	33.0
Percent of Hours	73%	81%	70%

Legend: 76% to 100%, 51% to 75%, 26% to 50%, 1% to 25%

Total: 61%, 15%, 19%, 5%
2011/2012 Grads: 76%, 10%, 14%
Grads Prior to 2011: 55%, 17%, 21%, 7%

Effective legal research skills are critical, but formal training is not guaranteed

When asked, "Which of the following best describes the situation when you started your first associate position out of law school?" 56% of the survey associates indicated that their employer expected them to have strong legal research skills but did not provide any formal training. In fact, only 29% of respondents said they received some formal training, and that percentage falls to a mere 12% for those in small firms. 46% of new associates in large firms received some formal training.
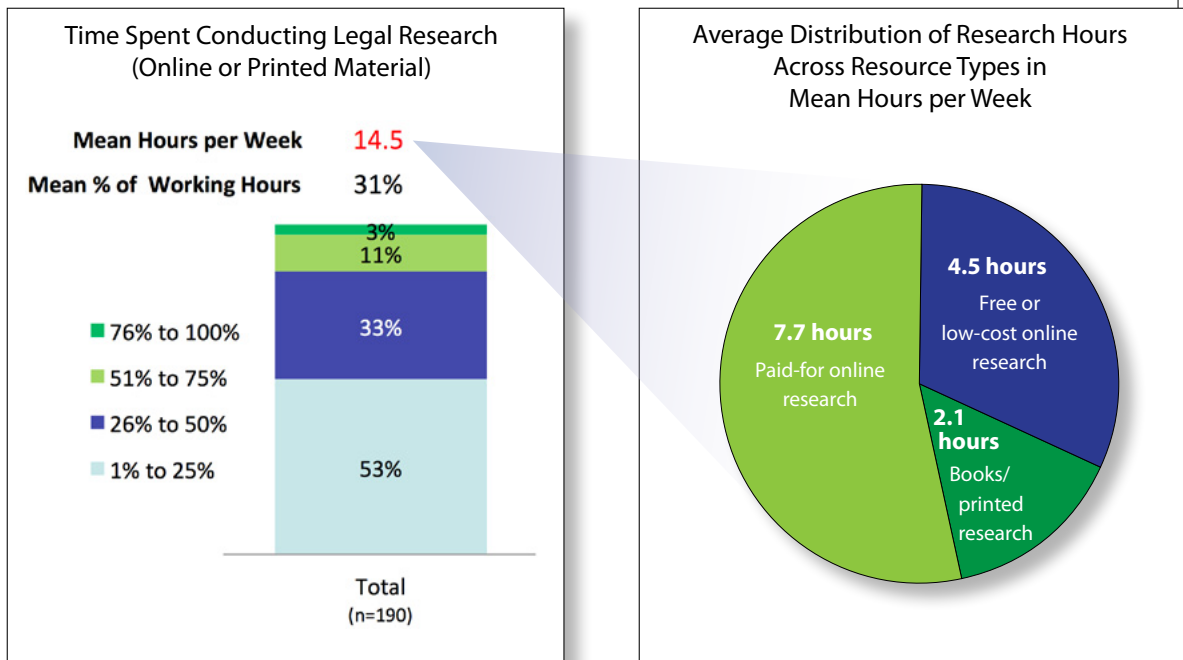
	Total (n=190)	Small Law (n=95) (A)	Large Law (n=95) (B)
My employer expected me to have strong legal research skills but did not provide any formal training	56%	68% B	44%
My employer expected me to have strong legal research skills and did provide some formal training	29%	12%	46% A
My employer did not expect me to have strong legal research skills, but did provide some formal training	2%	3%	1%
My employer did not expect me to have strong legal research skills and did not provide any formal training	3%	3%	3%
I am not sure what my employer's expectations were regarding legal research skills	5%	5%	5%
Does not apply – I am a sole practitioner and have not held an associate position	4%	8%	0%

Research efficiency is critical for associates – they spend more than 50% of their research time using paid-for legal research services.

As previously mentioned, new associates spend a significant amount of time doing legal research, about 31% of their time or 14.5 hours per week on average. For associates in practice less than two years, the percentage is even higher, with respondents reporting that 35% of their time at work per week is spent on legal research.

For all associates surveyed, most of their research time, nearly eight hours per week, is spent using paid online resources. Interestingly, graduates within the past two years spend more than 10 hours per week (or 59% of their research time per week) using paid online resources.

Roughly four hours per week are spent using free or low-cost online resources. Associates spend fairly limited time – a mere two hours per week or less – using books or printed materials, and more than one in ten new attorneys surveyed do not use print resources at all. This may be attributable to the prevalence and focus on computer-assisted legal research instruction in law schools, but is part of a larger trend of the millennial student as a digital native. They have been accustomed to using a computer in the classroom from a young age.

Time Spent Conducting Legal Research (Online or Printed Material)

Mean Hours per Week	**14.5**
Mean % of Working Hours	31%

- 76% to 100% — 3%
- 51% to 75% — 11%
- 26% to 50% — 33%
- 1% to 25% — 53%

Total
(n=190)

Average Distribution of Research Hours Across Resource Types in Mean Hours per Week

7.7 hours Paid-for online research

4.5 hours Free or low-cost online research

2.1 hours Books/ printed research

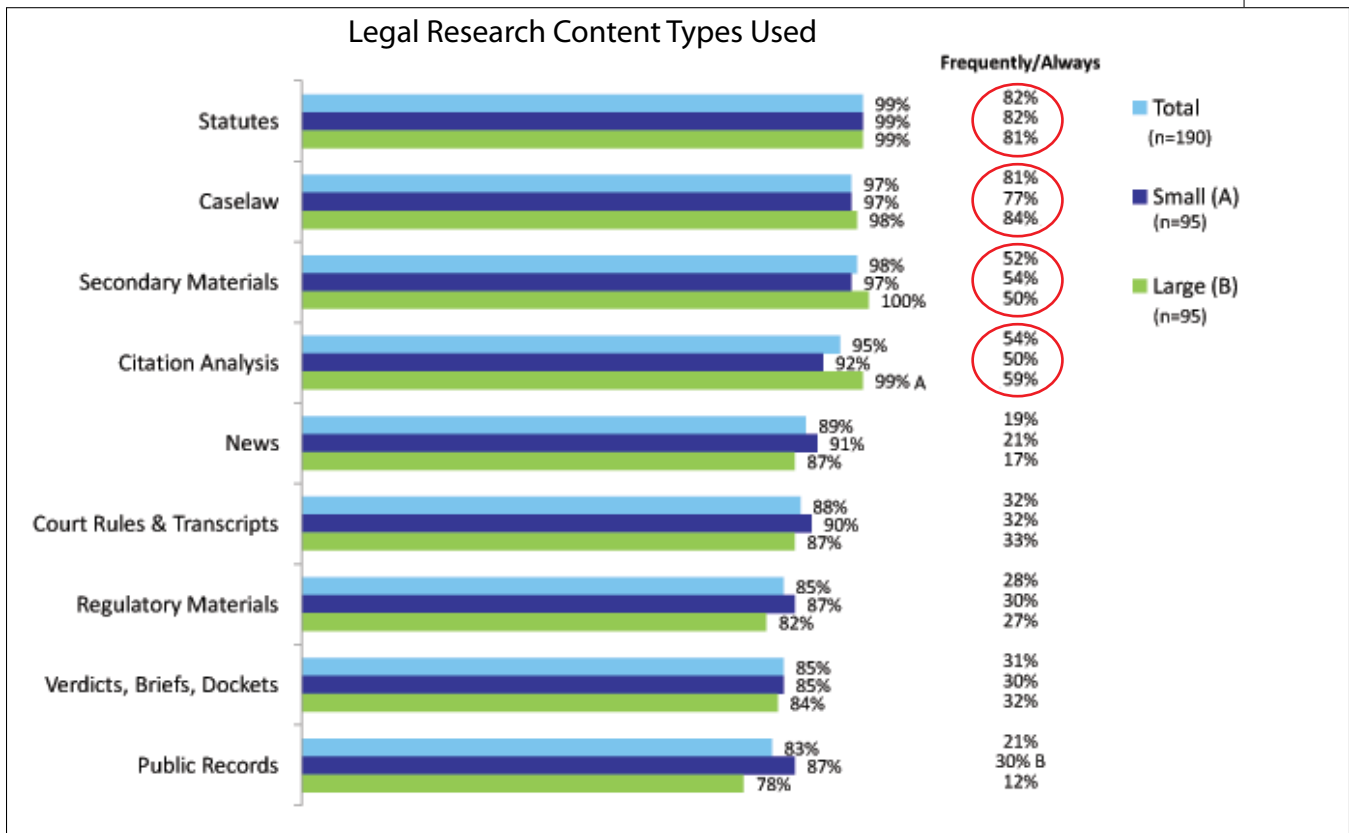> Graduates within the past two years spend more than 10 hours per week using paid online resources.

Extensive range of content is accessed

New attorneys access a broad range of content as part of their legal research. State and federal statutes and case law are most frequently used, with over 80% of respondents accessing this content frequently or always, when they conduct legal research. Secondary materials and citation analysis are frequently used by over half of those surveyed as well. Treatises and practice guides are the most utilized secondary sources, followed by law reviews. A high percentage use other sources – over 80% access news, public records, regulatory materials, court rules, pleadings and motions. While profiles of judges, expert witnesses, and jury verdicts are least used, they are still accessed occasionally by over half of those surveyed.

Not surprisingly, litigation associates are more likely to use jury instructions, profiles of judges, court rules and transcripts, pleadings/motions, dockets, jury verdicts and public records than lawyers in non-litigation practice areas. Associates practicing two years or longer are more likely to use verdicts, briefs, and dockets than those practicing less than two years, suggesting a lack of awareness among newer associates regarding the value of these sources.

There is widespread use of many types of content sources, but free and fee-based research services along with federal and state government websites are used frequently by over half surveyed. When researching an unfamiliar area of law, the majority (52%) of surveyed associates conduct a free web search as their first step. According to 22% of respondents, consulting secondary sources available at the firm (either online or other) is the second most prevalent first step taken.

When asked, "How often do you typically use each of the following content sources or services during legal research?" 71% of litigation associates indicated they use fee-based resources. Fee-based information resources are more frequently used among large firm associates (74% using frequently/always vs. 46% among small firm associates).

Legal Research Content Types Used

Frequently/Always

| Content Type	Total	Small (A)	Large (B)	Freq/Always Total	Freq/Always Small (A)	Freq/Always Large (B)
Statutes	99%	99%	99%	82%	82%	81%
Caselaw	97%	97%	98%	81%	77%	84%
Secondary Materials	98%	97%	100%	52%	54%	50%
Citation Analysis	95%	92%	99% A	54%	50%	59%
News	89%	91%	87%	19%	21%	17%
Court Rules & Transcripts	88%	90%	87%	32%	32%	33%
Regulatory Materials	85%	87%	82%	28%	30%	27%
Verdicts, Briefs, Dockets	85%	85%	84%	31%	30%	32%
Public Records	83%	87%	78%	21%	30% B	12%

Total (n=190)
Small (A) (n=95)
Large (B) (n=95)

Associates in practice less than two years prefer Natural Language search; those in practice two years or more prefer Boolean

There is wider use of Boolean queries over Natural Language searching as a search method, particularly among associates in practice two or more years (51% use Natural Language, 79% use Boolean with nearly half using both). That said, associates in practice less than two years favor Natural Language, and this trend is expected to continue as a result of Google exposure and the emergence of next-generation research platforms such as Lexis Advance® and WestlawNext®. Certainly, as this trend grows, there will likely be a debate about the effectiveness of research results using Boolean search query compared to Natural Language.

A Legal classification is rarely followed

The lawyers surveyed use a variety of case law and statutory research processes. The majority report that they rarely or never begin case law research with a legal classification system using a digest or jurisprudence. There is limited use of the classification system on the Headnote as well, and then it is used only as a later step in the research process for finding related content. Even with that, a third of respondents admit typically not accessing a legal classification system at all when conducting case law research.
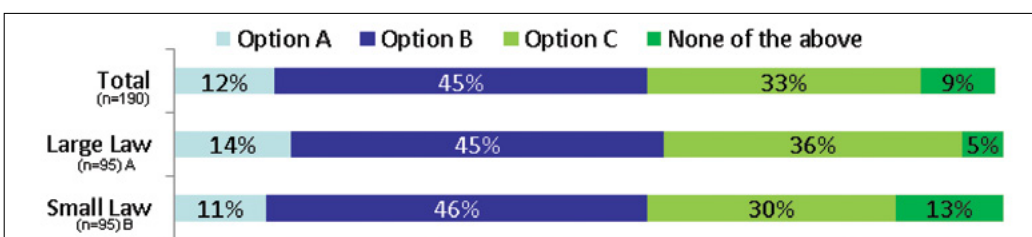
Research Process	A	B	C[1]
Conduct free, open web research (in government site, Wikipedia or through Google)	X	X	X
Conduct research in a legal classification system in a jurisprudence or digest.	X		
Conduct a search in a paid online or print research resource in primary law sources (case, statute, rules, or administrative decisions)	X	X	X
Narrow search results with additional search terms, modifying search terms or use of post-search filters, if using online research resource	X	X	X
Search for additional related content by accessing a legal classification system found on top of case headnotes or statutory case note links		X	
Access related resources (CLEs, law reviews, treatises, practice guides) links a within the primary law document if using online research resource	X	X	X
Validate case law with citation validation program (Shepards or KeyCite or Other)	X	X	X

The most popular process among associates (45%) for researching case law begins with running a free web search, then searching in a paid-for research service, narrowing results with additional terms or filters, accessing related content using a legal classification system above a relevant Headnote, reviewing related documents linked within a primary law document, and finally, validating case law with a citation service. This process was consistent among associates at both small and large firms. The second most popular process for researching case law was the same except no one in this group accessed a legal classification system at any stage of the research process. The widespread practice of not using a legal classification system implies that

[1] Option C: Approximately one third of associates do not use a legal classification system during any stage of the process.

law schools may need to adapt how they teach legal research to better align with methods attorneys actually use in practice.

For statutory research, the process varies among four main methods, with only 28% of respondents starting with an index or table of contents and 29% starting with a Natural Language search. In general, small and large law firm associates both tend to take similar approaches but start out quite differently. Large law firm associates start by consulting an index or table of contents for federal statutes or a particular state, then go to case annotations in relevant statutes, and next link to related materials, ending with a citation validation program. In contrast, small law associates begin by formulating a Natural Language search in statutes, follow the same workflow of reviewing case annotations in statutes, linking to related materials, and concluding with a citation validation program. 20% of associates begin statutory research by running a search in an online case law database to find a case mentioning a relevant statute. One may hypothesize that the variation in research methods is a result of cost recovery. Large law firms typically charge clients for online research and consulting an index or table of contents is a free or inexpensive option.

Associates want more legal research training

Considering the significant amount of time that associates spend conducting online legal research, nearly half surveyed (49%) feel that legal research should be a larger part of the law school curriculum. And, eight in ten feel that there was at least one area of legal research that should have been given more time. Statutory research, administrative law, and public records searching topped the list for specific areas that deserved more time or exposure. A greater law school focus on online research would seem even more critical given that, as previously noted, associates believe employers expect them to have strong legal research skills, they spend the majority of their time in paid for legal research services, and many firms may not be offering professional development in this area.

Legal Research Should be Larger Part of Curriculum / Areas of Legal Research that should have been given more Time/Exposure
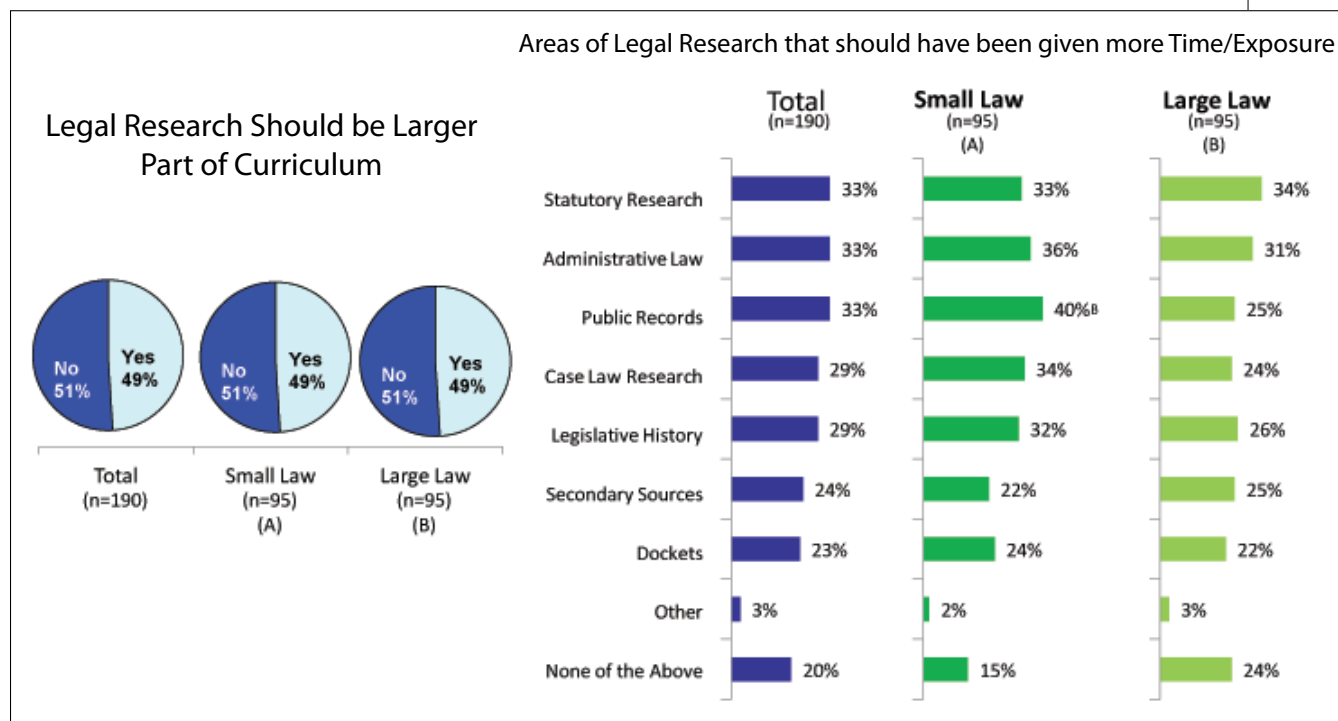
While there have been significant advancements and changes in research tools and methodologies, the ultimate goal of legal research remains the same: to efficiently find the relevant primary law in the right jurisdiction and to use secondary sources to discover analysis of legal issues that ultimately solve a client's problems. How should law schools and law firms respond to better serve our new and future lawyers? What can we learn from this study?

There is no question that making some timely changes to legal research instruction would help students, law schools, and employers. Law school faculty should consider updating their curriculum to better align with modern legal research practices. They can do this by adjusting the time allocated for hard copy vs. online research, reducing emphasis on legal classification systems, offering more comprehensive training with both paid and free online legal research services, including mastery of search and filtering functionality that these systems embody. Additionally, students will be better prepared if they can master the use of treatises, practice guides, and other highly used sources such as legal news and regulatory materials, and provide greater emphasis on primary law materials such as statutes, case law and public records. With a modern curriculum focused on modern research tools, law schools and legal research departments in particular, can help their students develop the research skills necessary to produce a high quality work product expected of them in the workplace.

Law school reform has taken center stage. Schools need to integrate more "legal skills" training. Considering that new associates spend one third of their time conducting legal research, additional legal research instruction is a good start. This survey will help administrators become aware of the importance of legal research skills and support the case to enhance this part of the curriculum, not only for first-year students but upperclassmen as well. Offering mandatory advanced legal research courses may be an effective way to equip students as they prepare for summer associate positions or internships. Having law firm partners echo a similar message to law school students about the importance of legal research skills will go a long way to elevating the level of legal research integration in the law school curriculum, particularly in the current economic environment where law school deans are feverishly courting legal employers.

While large law firms provide formal legal research training, smaller firms provide limited, if any, research training for new associates. Perhaps due in part to challenging economic times and high entry-level associate salaries, some law firms depend on law schools to fill this requirement and help ramp up first-year associates with the critical practice skills necessary today. However, law firm leaders also have a responsibility to keep the channels of communication open with law schools and provide feedback about what practice, business and technology skills they expect law students to possess to be practice ready. Over the last few years, formal and informal groups in the legal profession have started a dialogue to address reforming legal education. The American Bar Association (ABA) created a Task Force on the Future of Legal Education which is charged with "making recommendations to the American Bar Association on how law schools, the ABA, and other groups and organizations can take concrete steps to address issues concerning the economics of legal education and its delivery."

The ABA Task Force, Educating Tomorrow's Lawyers, an IAALS initiative, recently submitted a comment focused on aligning legal education with the needs of an evolving profession, and made a number of recommendations.

Similar themes were addressed at a recent Institute event on Finding Common Ground to Produce Practice Ready Graduates (http://law.gsu.edu/events/index/seaall2013/institute) sponsored by the Southeastern Chapter of the American Association of Law Libraries. Law firm hiring partners, associates, librarians and technology staff joined law school deans, professors, and legal research instructors to talk about how to effectively bridge the legal research gap between law schools and law firms to produce practice-ready

graduates that can better serve their clients Educating Tomorrow's Lawyers *("ETL")* (http://online.iaals.du.edu/category/educating-tomorrows-lawyers/) is an organization formed to advance innovation in legal education in order to train new lawyers to the highest standards of competence and professionalism, in which legal research is a core practice skill.

The Academic Law Libraries Special Interest Section Task Force on Identifying Skills & Knowledge of Legal Practice recently released a report (www.aallnet.org/sis/allsis/committees/practicetf/index.asp) based on the results of a survey to attorneys from 0-30 plus years in practice on how they do research and what they think about the research skills of new attorneys. Although the sampling and certain content differs, many findings are consistent with the results outlined in this paper. The American Association of Law Libraries (AALL) has also developed a set of Principles and Standards for Research Competency (http://www.aallnet.org/main-menu/Advocacy/recommendedguidelines/policy-legalrescompetency.html) drawn from information professionals' deep involvement in legal research within academia, law firms, the courts, government agencies, as well as the literature of the legal profession indicating that research competency directly affects professional efficiency and effectiveness.

Although the committees referenced are evaluating many aspects of legal education, legal research is an important piece. To reboot legal research for the new digital age, it is critical that all stakeholders participate in this discussion and that concrete steps are taken to align legal research instruction with the needs of an evolving complex legal profession. Understanding new research technology, combined with how new attorneys conduct legal research today, as addressed in this survey, provides us with meaningful data to consider when developing new programs and instructional materials for both law school courses as well as law firm training and professional development initiatives. Law schools and law firms have an important role to play together with the singular goal of preparing law students and attorneys to successfully master the research skills required in today's complex legal marketplace.