

# Facing the New Normal

By Jan Bissett and Margi Heinen

The “new normal” has become the shorthand phrase to express our economic instability, societal changes, and business models in flux. The legal community is not immune from this new normal as law firms tighten their belts, law school enrollment drops, and newly minted lawyers find the job market skimpy. Law as a staid and slow-to-evolve profession began a transition in the 1980s when growth and mergers created a more adventuresome feel to practicing law. Likewise, legal research moved from bodies hunched over print resources to eager faces in the glow of computer screens. But the speed of change and the insecurity of the business environment have us all rethinking our research sources, skill levels, and needs for the future.

Legal education, including legal research, has been a topic of significant discussion in both legal and research services publications of late. Closer to home, the SBM blog covers legal education and legal research news and issues in many of its posts in categories ranging from law schools to general interest to practice management.<sup>1</sup> Several recently published reports concerning legal research, practice management, and the new normal may also be of interest to Michigan lawyers: *A Study of Attorneys' Legal Research Practices and Opinions of New Associates' Research Skills* (June 2013) [ALL-SIS Study],<sup>2</sup> the annual *Law Librarians Survey* from The American Lawyer,<sup>3</sup> and Steve Lastres' *Rebooting Legal Research in a Digital Age*.<sup>4</sup>

The ALL-SIS Study, designed to elicit information from legal practitioners identifying research skills needed to succeed in law practice, was conducted in spring 2012 with a report published in June 2013. Demographics, the research process, use of

particular types of legal research materials, and evaluation of recent graduates' ability to perform research tasks were all subjects of the survey. Among the findings: when beginning legal research, nearly one-third of survey respondents start with a Google™ search,<sup>5</sup> although more than half never use Google™ Scholar;<sup>6</sup> more than 40 percent of respondents use print resources;<sup>7</sup> more than 60 percent use free Internet sources; and more than two-thirds use fee-based databases.<sup>8</sup> And how were recent graduates' research skills rated? Performing cost-effective research<sup>9</sup> and researching regulations,<sup>10</sup> legislative history,<sup>11</sup> and administrative decisions<sup>12</sup> were all of concern, while researching caselaw,<sup>13</sup> using a citator,<sup>14</sup> and developing appropriate search protocols<sup>15</sup> scored highly.

American Lawyer Media's 12th annual law librarians' survey<sup>16</sup> takes a gander at the new normal for law libraries and librarians. This survey queries AmLaw 200 head librarians about managerial responsibilities, budgets, resources, and staffing with an overarching emphasis on the impact of the new economy on law firms—everything is leaner and libraries are no exception. A major shift has been building in larger law firms for some time, but the tipping point seems to have been reached in terms of

recouping costs of online legal research. At the inception of online legal research in the 1970s, computerized research via Westlaw and Lexis was considered an add-on. Research could still be done using print sources (the cost of subscriptions was part of the firm's overhead) but much of the cost of online research, which was more comprehensive and saved time, was billed to clients. Thus, many firms were able to keep costs down and even recoup some. As more and more attorneys become familiar with web research, they become more comfortable with online legal resources, and clients hesitate to pay for sources they perceive should be overhead. Seventy-one percent of law firms in the survey report less monies recouped for online research.

What does this mean for the new normal in law firms? More firms will decide to purchase online resources from one vendor (Westlaw, Lexis, or BloombergLaw) to keep costs down. More lawyers will need to become skilled with online research and, more specifically, with association-provided free access to legal research sources such as Casemaker<sup>17</sup> (provided by 28 state bars, including Michigan) or Fastcase<sup>18</sup> (provided by 31 state bars).

What does this new normal mean for law schools and law students? Students will

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have to be even more aware of the culture of law practice they want to pursue. They will need the research skills and open minds to absorb how their firms want research done within cost constraints. Perhaps most importantly, students must learn and schools must teach the context within which the law is found. The paths we used to follow—statutory, judicial, or regulatory—have become blurred, and the novice can easily miss the most relevant trail by believing all paths are equally important.

LexisNexis' Insights Paper, *Rebooting Legal Research in a Digital Age*,<sup>19</sup> provides Steve Lastres' analysis of the recent New Attorney Research Methods Survey addressing the state of legal research today. This brief report found<sup>20</sup> that newer attorneys spend more than 30 percent of their time performing legal research using an extensive range of content, including primary and secondary legal sources as well as nonlegal materials. While free online sources are included in this range, the majority of online use is spent in commercial databases. And what about legal research training? There needs to be more of it, with an emphasis on online research and more attention to statutory research, administrative law, and public records.

Much is made of a practitioner's self-sufficiency in this era of electronic research and use of digital and open-source materials. Now more than ever, this notion puts a heavier burden on lawyers and law students to know more about resources and effective research techniques. An equally heavy burden exists for those providing legal research instruction. No longer are there one or two approaches to research. A multifaceted approach using a mix of materials and formats is necessary. Research tools such

as Ravellaw.com,<sup>21</sup> Wellsettled.com,<sup>22</sup> and Casetext.com<sup>23</sup> are being developed by recent graduates who recognize the importance of legal research while using a design fitting their digital focus. Practitioners and librarians alike will need to know much more about the options for free and fee sources. And the role of the law librarian will grow as evaluation and management of reliable, cost-effective research materials becomes more crucial to the practice of law in this new normal. ■

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## ENDNOTES

1. SBM Blog, *Comment, News, and Issues of Interest to Michigan Lawyers* <<http://sbmblog.typepad.com/sbm-blog/>>. All websites cited in this article were accessed August 19, 2013.
2. ALL-SIS Task Force on Identifying Skills & Knowledge for Legal Practice, *A Study of Attorneys' Legal Research Practices and Opinions of New Associates' Research Skills* (June 2013), available at <<http://www.aallnet.org/sections/all/storage/committees/practiceif/final-report-07102013.pdf>>.
3. Cohen, *Law Librarians Survey: The New Normal*, *The American Lawyer*, July 15, 2013 <<http://www.americanlawyer.com/PubArticleTAL.jsp?id=1202607834446>>.
4. Lastres, *Rebooting Legal Research in a Digital Age*, LLRX, August 10, 2013 <[http://www.lexisnexis.com/documents/pdf/20130806061418\\_large.pdf](http://www.lexisnexis.com/documents/pdf/20130806061418_large.pdf)>.
5. ALL-SIS Study, n 2 *supra* at 12.
6. *Id.* at 61.
7. *Id.* at 30.
8. *Id.* at 32.
9. *Id.* at 88.
10. *Id.* at 83.
11. *Id.* at 85.
12. *Id.* at 84.
13. *Id.* at 81.
14. *Id.* at 87.
15. *Id.* at 80.
16. Cohen, n 3 *supra*.
17. <<http://lawriter.net>>.
18. <<http://www.fastcase.com/barmembers/>>.
19. Lastres, n 4 *supra* at 1.
20. *Id.* at 3-4.
21. <<https://www.ravellaw.com/>>.
22. <<http://wellsettled.com/>>.
23. <<https://casetext.com/>>.