

**The Paradox of Legal Research and Writing in Law School:  
Ignoring its Importance at Our Peril**

**Le Paradoxe de la Recherche Documentaire et de la Rédaction Juridique dans les  
Facultés de Droit: Ignorer son Importance à nos Risques et Périls**

by Ted Tjaden<sup>1</sup>

**ABSTRACT**

*Legal research and writing (LRW) is important if not critical to our mission as legal educators. Whether we are graduating lawyers as practitioners or lawyers as scholars, ensuring that our students and colleagues engage in competent and ethical research and writing practices would seem to be an easy sell to law school administrators. But it is not. Thus, the paradox: if research and writing is central to what we do as lawyers/legal scholars, and if most lawyers, legal academics and law students readily admit they are deficient in LRW, why is it that most law schools give short shrift to the discipline?*

*This paper will analyze the reasons why LRW has not been given more prominence within the law school curriculum and the impact this has on the legal profession and legal academy. I will then argue for a new model of teaching LRW that recognizes the need for “legal information literacy” among all lawyers, whether scholars or practitioners. The goal of this is to avoid the negative consequences of inadequate legal knowledge, which can range from legal research malpractice, poor writing style, plagiarism and unethical writing, and the inability to find and evaluate reliable law-related information. This new model would seek to raise the profile of LRW in law school and build stronger ties into other substantive courses by, in part, integrating it into other topics (such as legal ethics, regarding the need for ethical legal writing and the need to avoid plagiarism, for example) and across all three years of the undergraduate program. Several course ideas will be proposed, including an upper-year elective called “The Knowing Lawyer,” which seek to develop legal information literacy, improve writing skills and the ability to find, evaluate and synthesis legal information, regardless of its source or format. I will also propose the creation of a national LRW Centre that would be a virtual repository of LRW best practices, the moderator of an online discussion group for LRW and the promoter of LRW seminars and symposia within the Canadian legal academic community. With this model, it is hoped that the paradox of legal research and writing in law school will be – if not resolved – at least diminished.*

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## **The Paradox**

Legal research and writing is important (for fairly obvious reasons). Yet, legal research and writing is *not* important (due to its second class status in law school curricula). If both these statements are true – as I argue below – then there is a paradox: LRW is both important and not important. The nature of this paradox highlights the tensions regarding LRW as a legitimate topic of legal scholarship despite the ambivalence most law school administrators have towards the discipline. By examining this paradox, I hope to identify the underlying factors that have resulted in this paradox with the goal of attempting to resolve the contradiction. First, I will review several reasons why legal research and writing is important, including the need for “law-related information literacy” in an age of electronic resources. Following this, I will review several reasons why legal research and writing has not been given the importance it deserves, something which has contributed to a cycle of it often not being taught well or respected by students and faculty. In the final section of this paper, I will analyze the paradox in more detail and make several proposals that redefine our understanding of legal research and writing as a legitimate area of legal scholarship and teaching.

### **1. Why Legal Research and Writing is Important**

The importance of legal research and writing should be obvious. Whether we are graduating lawyers as practitioners or lawyers as scholars, ensuring that our students engage in competent and ethical research and writing practices would seem to be an easy

sell to law school administrators. However, since some law school administrators have difficulty in seeing the obvious, it may help to highlight several factors that justify the importance of legal research and writing:

a) **Legal research and writing is central to what law students do:** For the three years that the LL.B. or J.D. student spends in law school, the student is exposed to new ways of thinking about the law through the process of reading, participating in discussions, analyzing legal literature, participating in debates and writing papers or exams. In one way or another, and perhaps at different levels of intensity throughout the three-year program, the student is engaged in some form of “pure” legal scholarship. At the heart of this scholarship is – or should be – a level of research and writing that supports and develops the legal educational process. Even if we regard the law school experience as a theoretical exercise in the study of law (without regard to the reality that most students will practice law after graduation), legal research and writing is still central to what an “academic” law student is learning. With this view as law school as an academic discourse, should we not be ensuring that these academically-inclined students are engaging in the highest possible level of scholarly research and writing? The argument is even stronger and more obvious, I would suggest, if we also include the body of LL.M. and S.J.D. students whose scholarly endeavours are even more central to their legal education. Thus, one of the strongest rationales for the support of legal research and writing education is that legal research and writing is at the very core of what law students do.

b) **Legal research and writing is central to what lawyers do:** Although not always a convincing argument with law school deans and those that perceive of the law school as an academic enclave, legal research and writing is also central to what lawyers do, and the reality is that most law school graduates will practice law after graduation. Since lawyers cannot be expected to “know” all of the law, and since understanding and explaining the law is at the heart of what lawyers do, legal research and writing is an essential skill needed by every lawyer:

What is it then that lawyers do and why would legal research and writing be so important to their work? Simply put, lawyers are licensed professionals who are given a monopoly to provide legal advice to clients. Given that modern society is unfortunately complex with numerous (and sometimes conflicting) rules that govern relationships between individuals, there is a role to be played by lawyers in helping people understand their legal rights and structure their affairs to comply with these complex rules. The role that lawyers play therefore involves two basic tasks: (i) *understanding* the law, which requires legal research skills, and (ii) *communicating* the law to the clients or to judges, which requires, among other things, legal writing skills.<sup>2</sup>

The Law Society of Upper Canada itself – admittedly a body from which law school deans do not take instructions – recognizes the importance of legal research and writing in its definition of the attributes of a competent lawyer:

A competent lawyer has and applies relevant skills, attributes, and values in a manner appropriate to each matter undertaken on behalf of a client. These include:

- i. *knowing general legal principles and procedures, and the substantive law and procedure* for the areas of law in which the lawyer practices;
- ii. *investigating facts, identifying issues, ascertaining client objectives, considering possible options,* and developing and advising the client as to appropriate course(s) of action;

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<sup>2</sup> Ted Tjaden, *Legal Research and Writing*, 2nd ed. (Toronto: Irwin Law, 2004) at 3.

- iii. implementing the chosen course of action through the application of appropriate skills including:
    - (a) *legal research,*
    - (b) *analysis,*
    - (c) *application of the law to the relevant facts,*
    - (d) *writing, and drafting,*
    - ...
    - (h) *problem solving ability as each matter requires . . . .*<sup>3</sup>
- [emphasis added]

In monthly meetings of research lawyers from a variety of Toronto law firms that I attend, I am regularly told by these research lawyers that Canadian law schools are graduating law students whose legal research and writing skills are inadequate. These inadequacies are not limited to “technical” skills in finding information but also extend to a broader inability to synthesize information and apply it in a meaningful, practical manner.

c) **Complexity in the information age requires new literacy skills:** It is quaint to think back as recently as 40 to 50 years ago when the body of Canadian case law was comparatively small and the journal and monograph legal literature, although inadequate, meant that the average Canadian lawyer could often confine his or her readings to one or two sets of law reporters, perhaps the *Canadian Encyclopedic Digest* and a few law journals and textbooks. Suffice to say, we live in a different world with an increasingly larger output of primary sources of law in both the legislative field (primarily in the regulatory field) and the judicial field (primarily as a result of unreported judgments being available). Secondary legal resources – books, journals and

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<sup>3</sup> Law Society of Upper Canada, “Competence Task Force – Final Report” (28 November 1997) <[http://www.lsuc.on.ca/services/comp\\_final\\_en.jsp](http://www.lsuc.on.ca/services/comp_final_en.jsp)> (date accessed: 16 June 2005).

reference materials – have also ballooned in volume. And as with primary legal resources, secondary material is increasingly available in multiple sources in multiple formats.

As a result of this increase in the amount of legal literature available, legal research has grown more complex. Although new technology and the advent of online searching brings techniques and results that were impossible in a print-only environment (the ability to quickly find all judgments by Justice Lamer on the enforcement of foreign judgments, for example), the larger volume of material and the multiple sources for that material requires new strategies that are not necessarily intuitive for law students. It is now no longer just “finding” the relevant law or commentary (a task that itself is a challenge for many law students), but it is also understanding and evaluating the information and its reliability.

d) **Written law-related discourse is not intuitive and must be taught:**

If legal research is not always an intuitive process, I would argue that the requirements for excellent academic (or practitioner) legal writing is equally unintuitive for the law student and is a skill that must be taught. What then defines excellence in legal writing? There are likely several factors. Good legal writing has a style that uses plain English, it exhibits internal logic and organization, it uses appropriate means of reasoning and argumentation, it engages the reader in a dialogue with prior literature and critics, and it is accurately supported with citations to prior precedents and sources. Although a high score on the Law School Admission Test and high undergraduate marks will often be indicative of the law school student’s general aptitude for legal scholarship, neither is a

guarantee that the law student, upon entering law school, will have all of the skills to engage in a high level of written academic legal discourse.

Recently, twenty-four students at the University of Toronto Faculty of Law were suspended for falsifying their grades with perspective employers,<sup>4</sup> and a group of students (apparently from a different law school, but reports were unclear as to which law schools the students were from) were also investigated for cheating on a bar admission assignment<sup>5</sup>. Obviously, neither incident was the “fault” of the law schools involved and it would be a weak argument to suggest that better training in legal research and writing would have prevented these incidents. However, if these extreme forms of academic dishonesty occur, should we be surprised if law students engage in what they might perceive as the less serious and potentially harder to discover academic offence of plagiarism or sloppy research and writing practices? I think not. While we might reasonably expect students to not be so brazen as to falsify their grades or openly cheat on assignments, we should not assume too much when it comes to plagiarism, especially when it recently came to light that two law professors from Harvard Law School appear themselves to have been guilty of plagiarism (claimed to be “unintentional”).<sup>6</sup>

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<sup>4</sup> Michael Volpe, “U of T Suspends Law Students for Year in Fake-Marks Scandal” *The Globe & Mail* (2 May 2001); James Cowan, “Atonement: When 24 Students at U of T’s Faculty of Law Lied About their Grades to Land Summer Jobs, They Tarnished the School’s Reputation and Risked their own Futures” (2002) 36 *Toronto Life* 57.

<sup>5</sup> Tracey Tyler, “Cheating Probe Ends Abruptly: Law Students’ E-Mails Probed; Governing Body Sworn to Secrecy” *Toronto Star* (16 July 2004).

<sup>6</sup> Sara Rimer, “Plagiarism Scandal Clouds Harvard’s Norms of Scholarship” *International Herald Tribune* (25 November 2004) News 1R; Sara Rimer, “When Plagiarism’s Shadows Falls on Admired Scholars” *New York Times* (24 November 2004) B; Noah Peters, “Punishing Plagiarizing Professors a Must” *University Wire* (5 October 2004).

At the University of Toronto law school (and in many others), there is little or no formal “for credit” teaching of legal research and writing or legal ethics in first year (and even in upper years). We expect students to engage in legal discourse and to act with academic integrity without fully teaching them how to do this and why proper attribution is important. This is a problem, especially when increasingly students enter law school from divergent pre-law backgrounds, ranging from music to biology, for whom the rigours and methods of legal scholarship may be less than obvious. Likewise, in graduate programs, with an increasing number of international law students enrolling in North American law schools, we are seeing students who may not speak English as a first language and whose foreign legal training may not have fully prepared them for graduate-level research and writing and the unique rigours of scholarly legal writing at the graduate student level.

Because there is often no formal training in academic legal writing, law students are therefore expected to pick up many of the nuances of legal writing on their own. While many are able to become good legal writers – note the quality of law review articles written by law students – these are usually the exceptional students, and there is a risk that many students will simply not “get it.” I submit it is not sufficient to simply tell students “do not plagiarize.” Instead, students should be explicitly taught how *not* to plagiarize, the consequences of academic plagiarism, the differences in the perception of

plagiarism in law school versus plagiarism in the practice of law,<sup>7</sup> and most importantly, examples of good legal writing.

Thus, the first part of the paradox posits that legal research and writing is central to the role of law students as academics and law students as future lawyers. Due to the increasingly complexity of the legal literature and the need for researchers to be able to find information in multiple sources in multiple formats and to then evaluate and synthesize that information, there is a need to actively teach legal information literacy. Likewise, scholarly legal writing is also not intuitive and is something that needs to be taught if legal research and writing are to be taken seriously.

## **2. Why Legal Research and Writing is not Important**

The other side of the paradox is that legal research and writing is not important (or at least is *perceived* as being not important) and is not always well taught as a result.

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<sup>7</sup> I am working on a separate paper on ethical legal writing and am struck by the possibility that some law students may be confused by the strict prohibition in academia against plagiarism compared to the somewhat more lax attitude by lawyers in practice to appropriating without attribution model forms, agreements and pleadings prepared by other lawyers. While the prohibition in academia makes sense due to the fact that students receive credit based on the quality of their own, individual research, the apparently ambivalent attitude among the profession to “sharing” legal documents requires more study and whether this ambivalence influences law students to cheat. For more discussion of plagiarism in the practice of law, see: Robert D. Bills, “Plagiarism in Law School: Close Resemblance of the Worst Kind” (1990-1991) 31 Santa Clara L. Rev. 103; Laurie Stearns, “Copy Wrong: Plagiarism, Process, Property, and the Law” (1992) 80 Cal. L. Rev. 513; Philip Crennan, “Plagiarism and Legal Practice” (1993) 67 Law Institute Journal 128; David Vaver, “Copyright in Legal Documents” (1993) 32 Osgoode Hall L.J. 661; Jaime S. Dursht, “Judicial Plagiarism: It May be Fair Use but is it Ethical?” (1996) 18 Cardozo L. Rev. 1253; Marilyn V. Yarbrough, “Do As I Say, Not As I Do: Mixed Messages for Law Students” (1996) 100 Dick. L. Rev. 677; Terri LeClerq, “Failure to Teach: Due Process and Law School Plagiarism” (1999) 49 J. Legal Educ. 236; Lisa G. Lerman, “Misattribution in Legal Scholarship: Plagiarism, Ghostwriting, and Authorship” (2001) 42 S. Tex. L. Rev. 467.

There are several, often related, reasons why legal research is not given the attention it deserves:<sup>8</sup>

a) **Legal research and writing is a practitioner's skill:** As already briefly mentioned, there is a perception by many law school administrations that legal research and writing is a practitioner's skill best taught through the bar admission program or by law firms during the articling process. This excuse, however, which seeks to pass the obligation outside of the law school, overlooks the fact that the law school has the student captive for three years and during this captivity one would assume or expect the student to engage in some level of scholarship that requires legal research and writing skills. But even if we put this assumption aside and assume that the student does not need LRW education while in law school, the reality is that not all bar admissions programs are able to deliver effective LRW training (due to lack of time) and not all law firms have the resources to provide the necessary LRW training. Many in the profession expect – reasonably so – that our students will graduate with competent legal research and writing skills.

b) **The law school curriculum is not well designed to support LRW:** The casebook method used by most North American law schools has resulted in the fact that students are largely given the materials they must read, particularly in first-year, lessening the need for them to determine and then find what the relevant reading

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<sup>8</sup> For what continues to be the best and most detailed analysis of the problems with LRW education in Canada, see Maureen Fitzgerald, "What's Wrong with Legal Research and Writing? Problems and Solutions" (1996), 88 Law Libr. J. 247.

materials might be.<sup>9</sup> In first year law, for example, where 100% final examinations still dominate many of the courses, there is in fact little opportunity, need or expectation for first year law students to conduct in-depth legal research or engage in serious legal writing. Many Canadian law schools do not even offer legal research and writing courses for credit in first year, and where an elective is offered in upper-years, it is often only a single course offered once or possibly twice per academic year.

Although I am not advocating the abolishment of case-books, I think something can be said about the advantages of designing courses that require students to find relevant resources on their own and that engage a need to conduct meaningful research and to then apply that research in assignments that require them to develop their writing skills and to obtain feedback on their writing.

c) **There are no tenured faculty qualified or willing to teach it:** There are few (if any?) tenured or tenure-track faculty in Canadian law schools who are assigned to specifically teach legal research and writing or who are in fact qualified to teach it. At best, courses are taught by adjunct professors or non-credit training is provided by law librarians.<sup>10</sup> This lack of “status” is not missed by students, which creates an ambivalence

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<sup>9</sup> See Thomas Woxland, “Why Can’t Johnny Research? Or it all Started with Christopher Columbus Langdell” (1989) 81 Law Libr. J. 451 at 456 where Woxland states that “the case method, in concert with its bibliographical offspring – the casebook – has made library research (and thus the learning of research skills) largely irrelevant in modern legal education. The fate of many law libraries has been to become study halls for students carrying casebooks, rather than working collections heavily researched by student-scholars.”

<sup>10</sup> See the discussion by Fitzgerald, *supra* note 8 at 268-71 on this point. Many law librarians are in fact qualified to provide this training. The problem, however, is more complex and is compounded by other factors that negatively impact LRW instruction, such as the lack of faculty status given to the instructors (law librarians or not) and the lack of resources devoted to LRW.

within the law school community – “if the law school does not take it seriously by devoting resources to it, I won’t take it seriously” is the thinking of many law students.

d) **LRW is labour-intensive to teach properly:** To be done properly, the teaching of legal research and writing is most effective when done in smaller groups that meet regularly and are engaged to use and apply the skills and techniques they are being taught.<sup>11</sup> To provide “for credit” training for an entire first-year class is therefore labour intensive if it is to be done properly. Under this rationale, legal research and writing is not important not necessarily because of its content but because of the perceived low “cost-benefit” analysis when compared with other substantive first-year law courses. On the “writing” side of the legal research and writing equation, there are often very few opportunities for an undergraduate law student to receive meaningful feedback on his or her written work. Such feedback is also relatively labour-intensive which also adds to the challenge in provide meaningful feedback.

e) **LRW is not always taught well:** Likewise, often due to the lack of resources devoted to LRW, legal research and writing is sometimes not taught well, especially where it is taught in a “not for credit” setting and where the training is done in large lecture halls involving a “bibliographic” approach<sup>12</sup> to legal literature or where generic computer lab training is provided in the use of a particular online database without the context of when and why such online research might be important.

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<sup>11</sup> This point is fairly obvious, but see Fitzgerald, *ibid.* at 258-67.

<sup>12</sup> *Ibid.* at 255.

As a result of all of these factors, there are a number of perceptions about legal research and writing that has resulted in it becoming a poor second cousin to other substantive law courses. Many of these perceptions about LRW are false – such as the perception that legal research and writing is only a practitioner’s skill not needed in law school. Other factors that hinder the effectiveness of LRW education include the design of many law school curricula not being conducive to supporting LRW; the lack of tenured faculty to teach the subject; and the lack of resources being devoted to legal research and writing education.

### **3. Resolving the Paradox – New Directions for LRW**

The tension between law as an academic endeavour versus law as vocational training has existed for some time. However, part of my argument is that the value of legal research and writing transcends the dichotomy. Stated differently, my argument does not necessarily depend where one places his or her stake on the theoretical/practical continuum – a properly supported legal research and writing program can benefit all points on this continuum. Unfortunately, many of the perceptions described above about legal research and writing as unworthy of serious academic respect are well-entrenched in the minds of many law school administrators. While the importance of legal research and writing is recognized by many law students and faculty, a major change of thinking is needed by many law school deans. In the spirit of promoting a healthy debate on these issues, I propose several ideas to raise the profile of legal research and writing in Canadian legal education:

a) **Reconceptualize LRW more broadly as “legal scholarship”:**

A first step in having legal research and writing recognized as a serious discipline is to reconceptualize it in broader terms. When recently reviewing a 1956 article in the *Canadian Bar Review* entitled “Report of the Committee on Legal Research,”<sup>13</sup> I was quite excited when I happened upon the following passage:

We find that the legal profession in Canada is deficient in research and writing, in the personnel capable of doing research, in the facilities for research, and in a general interest in and desire for research.<sup>14</sup>

At first blush, I thought I had strong support for my sense that the state of legal research and writing education in Canada was deplorable. However, it soon became apparent that what the Committee was intending by the phrase “legal research” was in fact the notion of “legal scholarship” more broadly. As such, what the committee is describing as deficient is the state of legal scholarship in Canada, which at that time, was not very robust.<sup>15</sup> Despite this, I think it may be valuable if we do not pigeon-hole legal research and writing separate from other aspects of legal scholarship or legal education. When it is pigeon-holed, it becomes thought of as mere technical, library skills that are often devoid of a larger context. However, by reconceptualizing legal research and writing into the broader framework of legal scholarship and showing how legal research and writing is integral to the scholarly process, it would then become patently unreasonable for law

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<sup>13</sup> “Report of the Committee on Legal Research” (1956) 34 Can. Bar. Rev. 999.

<sup>14</sup> *Ibid.* at 1012.

<sup>15</sup> By 1970, Bora Laskin in “Legal Scholarship and Research in Canada” (1970) 4 Gazette 42 at 42-43 notes an increase in the number of legal periodicals published in Canada along with an increase in the number of graduate and research programmes but also notes that “Canadian texts on such basic subjects as torts, contracts, criminal law, and administrative law, to mention a few that are needed are still to be written for the common law lawyer.”

school deans to deny the importance of legal research and writing. This idea – of equating legal research and writing as integral to legal scholarship – seems to have been adopted by the Report of the Committee on Legal Research:

Research, and learning or scholarship, are inseparable concepts, perhaps not capable of differentiation; research involves fact-finding, fact ordering and correlating, but does not exclude the thinking about the facts and the observation of trends which are more exclusively the role of the scholar. The multiplicity of facts in contemporary society . . . makes fact-gathering research and legal writing more than ever essential to orderly progress in the law, and to the validity of the scholarship which largely depends on the accuracy of this research.<sup>16</sup>

b) **Recognize the need for a new form of “legal information literacy”:**

As mentioned above, the complexities of modern life, combined with an explosion in the volume of information, has resulted in the need for a new form of information literacy. Combine this with the trend towards multidisciplinary research in legal scholarship and you have a situation where law students will need to be equipped with particular information skills in order to excel in their studies and their given professions. It is no longer simply about “looking it up in a book” but is instead about identifying relevant issues and facts, considering the best possible sources for information, using different sources of information in different formats, evaluating and updating that information and then synthesizing the information and recording it accurately and ethically in the form of a paper, memo or other acceptable form of legal writing. To expect that law students will already have these skills coming into law school is expecting too much. To also expect them to pick this up on their own while in law school without specific instruction is risky

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<sup>16</sup> *Supra* note 13 at 1002.

and a dereliction of the duties of legal educators to ensure that their students are equipped with the best possible research and writing skills.

The consequences of not taking active steps to remedy the current state of legal research and writing instruction will be the increase in the risk of our students (and lawyers) lacking information literacy, exposing themselves to the risk of legal research malpractice and shoddy writing styles. Ultimately, this then risks depreciating the value and quality of the academic output of legal scholars and the quality of advice that clients receive.

c) **Raise the profile of LRW within the law school curriculum:** Legal research and writing currently has an extremely low profile in most Canadian law school programs, for reasons discussed above. Raising the profile of LRW education can be done in a number of ways. Since the curriculum can differ between law schools, there is not really a single “one size fits all” solution. Despite this, there are several steps that can be taken to raise the profile of legal research and writing:

- **Faculty status:** Tenured or tenure-track faculty who are qualified to teach legal research and writing need to be hired. Alternatively, faculty status could be provided to qualified law librarians to teach legal research and writing. This single move would do a lot to send the message to students that the law school treats the subject seriously, and it would also raise the quality of LRW education. There is a growing number of dual-degree law librarians in Canada who would be qualified to take on this role.
- **Integration:** LRW education needs to be more explicitly integrated in all law school courses in part through the use of assignments that require original research and writing. For courses with close parallels to legal research and writing and information – such as courses on intellectual property and legal

ethics – legal research and writing issues can be directly raised, including issues on access to information and plagiarism.

- **Give credit:** We need to increase the number of “for credit” courses that have legal research and writing components. This will also show students that the law school treats the subject seriously.
- **Across all three years:** To increase the effectiveness of LRW education, it should ideally be taught across all three years of the law school program, ideally with some form of “credit” in all or most cases. In first year, for example, the likely and best opportunity is within the small group class or through a specific LRW course or built into a “Public Law” or “Legal Process” course, depending on a school’s particular curriculum. In second year, the mooted program is likely a good opportunity to incorporate LRW training, in addition to offering upper-year elective courses in LRW and legal drafting. In third year, the use of an extended paper requirement that also involves specific LRW tasks (such as providing literature searches and attending lectures on scholarly writing) could provide good results for students.
- **Graduate training:** Provide LRW training specific to the needs of graduate students, particularly international law students.<sup>17</sup>

d) **Develop new courses:** In the spirit of broadening legal research and writing education beyond its perception as technical training in “library skills”, I would propose the development of an upper-year elective called “The Knowing Lawyer”<sup>18</sup> that seeks to develop legal information literacy, improve writing skills and the ability to find, evaluate and synthesis legal information, regardless of its source or format. The course

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<sup>17</sup> I have in fact developed a 3-credit course entitled “Legal Research and Writing for International Law Students,” with a large majority of the students being international LL.M. students – see: “Law 505 – Legal Research and Writing for International Law Students.” Available online: <<http://www.law-lib.utoronto.ca/law-505/index.htm>>. The course seems to be popular with students and is meeting a need that introduces them to the Canadian legal system and the Canadian way of engaging in scholarly legal research and writing.

<sup>18</sup> I am not yet convinced about the name for this new course. I have been so crass as to try to think of a name for a course that students would want on their transcripts (yes, students take this into account when they pick their courses). For example, I took a course from Professor Mark Weisberg in 1985 at Queen’s Law entitled “Legal Imagination.” That entry on my transcript has likely invited the most questions at interviews because of its intriguing name (it was an excellent course involving regular writing assignments and seminars using Professor White’s text entitled *Legal Imagination*, which looks at how lawyer’s use language).

size would be limited to 20 to 25 students and would offer assignments that allow for regular feedback. The course would incorporate the “traditional” LRW training but would also go further by discussing the role of information in the life of a lawyer, information policies, the evaluation of information, privacy issues, intellectual property laws that affect access to information, and so on.

e) **Use technology effectively to teach LRW**: Although technology is not the “be all and end all” – legal research remains a hybrid process involving the need to use both print and online resources – technology can be used to supplement in-person legal research and writing education. The Bora Laskin Law Library has created an online legal research and writing tutorial that is available to law students at the Faculty of Law, University of Toronto, at all times. The tutorial is divided into five chapters on the following topics:

- **Introduction** (covering the legal research process, legal citation, law school success and legal research guides)
- **Secondary Sources** (using law books, using law journals, using encyclopedias, reference tools)
- **Primary Sources** (case law and legislation)
- **Special Topics** (international legal research, American legal research, British legal research, Internet research, online databases, working for law review, and mooted resources)
- **Legal writing** (effective legal writing, case comments, research memos, research papers/theses, factums, forms and precedents, briefing a case, common citation mistakes, legal writing guides)

There are several advantages to delivering material through an online tutorial as a means of supporting in-person training: the online tutorial accommodates different styles of learning for those students who like to learn at their own pace on their own time; the tutorial is interactive, providing links into related materials and resources; and the tutorial incorporates sound files and images and sample documents (and could incorporate video as well). Alternatives to a customized online tutorial include the “CALI” lessons from the Center for Computer-Assisted Legal Instruction.<sup>19</sup> Although the CALI lessons emphasize American materials, Professor Paul Murphy (Windsor) has prepared Canadian content material on legal research and the materials on American legal research are also relevant to Canadian law students.

f) **Promote scholarship in LRW**: As a means of promoting scholarship into legal research and writing best practices and a better understanding of the pedagogy of LRW training, I propose the creation of a national Legal Research and Writing Centre that would be a virtual repository of information and resources on legal research and writing, including information on best practices in teaching and learning legal research and writing and a bibliography of resources available. The Centre would also be a clearinghouse for those who teach in this area to share information, research problems and new resources. The Centre could also host an online discussion group for legal research and writing and could also promote seminars and an annual symposia within the Canadian legal academic community on legal research and writing.

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<sup>19</sup> See Center for Computer-Assisted Legal Instruction, “Home Page.” Available online: <<http://www2.cali.org>> (date accessed: 16 June 2005).

It is hoped that with the six foregoing proposals the paradox of legal research and writing in law school will be – if not resolved – at least diminished and that the state of legal research and writing in Canadian legal education will be vastly improved.

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