

PROFESSIONAL DEVELOPMENT QUARTERLY

February 2007

Journal of Professional Development and Continuing Legal Education

Legal Research Series, Part 2

The Research Assignment: JUST ASKING for a Teachable Moment

Ellen Callinan

Poor Assignment Leads to Wasted Effort

It happens every day in law firms around the country. Senior Attorney snags Junior Associate and delivers a puzzling research assignment in verbal shorthand replete with cryptic acronyms and unrecognizable terms of art. With a perfunctory “Any questions?” Senior Attorney departs, leaving a bewildered Junior Associate wondering where to begin and how to finish in the arbitrarily assigned ten hours.

When mentoring was common in law firms, new lawyers learned their specialties the same way they learned the basics in law school – hours of reading and absorbing legal principles. Partners made time to clarify the finer points of practice, and soon enough, new attorneys had the foundation for more independent work.

Mentoring is not completely absent in law firms these days, but it is rare enough to merit great appreciation when it exists. At the recent funeral of a friend and former colleague, I noticed the deep grief of many

young associates who had worked with him. When asked, they echoed similar reasons for their genuine sadness – this partner was a true friend and an unfailing supporter of their success. One example they gave was that, as a supervisor, he always took the time to explain assignments clearly and to provide his young associates with the context of every project he asked them to undertake.

Unfortunately, many factors challenge the best intentions of senior attorneys who strive to grant their associates similar support. Nonetheless, it is worth salvaging the essential good of mentoring and replacing it with a more choreographed learning opportunity.

Analyzing the Assignment Process

Fifteen years ago, I was asked to develop a summer associate training program for Georgetown Law students. At that time, I was a firm librarian and had daily encounters with poor research. I thought it would be instructive to the law students to learn about bad research, so I analyzed some

especially dreadful research projects as I prepared for the training program.

In doing so, I found a common phenomenon: The associates who were most confused or wasted the most time started with the least amount of information regarding their assignments. They had few facts about the case, knew nothing about the client, attempted to describe legal issues using terms of art they didn't understand, and often could not even identify the courts or agencies with jurisdiction over the matter.

Always protective of the young associates, I assumed that senior attorneys had assigned the projects quickly just to get rid of what is often viewed as grunt work. Although there was some truth to this assumption, I also found that the young associates bore some responsibility for the situations in which they found themselves. Many suffered from the delusion that they were supposed to know everything. After all, they had law degrees from prestigious institutions, passed challenging bar exams and generally had spent their lives as academic superstars. Terrified of revealing that they had no idea what the assigning attorney was telling them, they simply nodded and took notes, figuring they'd find the information they needed on their own. While that approach worked in school, that kind of independence was simply wasteful with the billable clock ticking and the computerized research meter running.

I realized that when these associates showed up in my office, either after spending fruitless hours and dollars on research or because they were so lost they didn't know where to begin, my first step was to ask them questions about the nature of the assignment. When they had no answers, I sent them back to the assigning attorney to collect the missing pieces of information they needed to start their research. More often than not, they'd refuse to "bother" the senior attorney so I'd have to call and mediate the information exchange. The senior attorneys never refused to provide additional detail and

the junior attorneys were able to move forward productively.

Based on these observations, I decided to develop a checklist for the summer associate training program that would list the critical information they should collect when receiving assignments. I wanted them to understand that they should not be afraid to ask questions, so I aimed to build that concept into the checklist. JUST ASK emerged from that objective, and I have used that as the cornerstone of my teaching since then¹.

Understanding JUST ASK

JUST ASK is a mnemonic device that represents seven pieces of information associates should collect before they begin their research. It also stands as a reminder that asking questions is not a sign of weakness; it is evidence of maturity and professionalism. The seven pieces of information include:

- **J**urisdiction
- **U**seful Tips
- **S**cope of Research
- **T**erms of Art
- **A**cronyms
- **S**ources
- **K**ey Cost Constraints

These fundamentals may seem self-evident, but they are often overlooked in the excitement and haste of assigning research.

Understanding **jurisdiction** is a key to successful research. Senior attorneys should be able to assume that junior attorneys have a good handle on basic civics, but should also recognize that there are jurisdictional complexities in many areas of

¹ As a result of my involvement in the creation of the [National Legal Research Teach-In](#), JUST ASK was adopted as the theme for training materials around the country. It has appeared in bookmarks, notepads and other materials used to encourage lawyers and law students to ask questions before embarking on research.

practice, particularly those involving administrative law. Research tools reflect these jurisdictional differences, and junior attorneys can waste hours researching an issue in one set of materials, only to discover later that the relevant law was actually located elsewhere. Senior attorneys should state the names of the courts and other deliberative or legislative bodies responsible for making the law in the relevant subject area.

Senior attorneys are specialists. They understand the subtleties of their practice and are aware of current trends, decisions, statutes and regulations. They may know that someone in their practice group is a recognized expert in the very issue they assign to a young associate, but unless they share this **useful tip** with the associate, it is unlikely that the associate will seek out that in-house expert in person or in print. Senior attorneys can be guides to the hidden pockets of knowledge that can inform junior attorneys and serve clients better.

Junior attorneys may not understand the variety of purposes to which research is put to use in a law firm. Not every research project is the practice equivalent of a law review article. By defining the **scope of research** in the assignment, the senior attorney can help junior associates move beyond their academic expectations and focus instead on the task at hand. This is the most straight-forward piece of information to provide – the senior attorney simply needs to tell the junior associate how his or her work product will be used in serving the client.

As useful as it is to the expert, legal jargon can be confusing to the uninitiated. Even when senior attorneys consciously use **terms of art** to guide junior lawyers, if the terms have commonly understood, but non-legal meanings, such as “trigger” or “changes,” their value may go unnoticed. **Acronyms** are excellent “hooks” for locating relevant materials online or in print, but only when the researcher knows what they mean and how to spell them.

Today’s legal researcher faces an abundance of **sources**, which can make selecting the best source a challenge. In addition, some practices prefer that their attorneys use one perfectly good set of resources over another – and consider research without cites to the preferred tool suspect. Senior attorneys should be aware of these issues and instruct junior associates accordingly. By the same token, while junior associates should consult the sources an assignor mentions, they should remain open to newer tools that might produce faster or more complete results.

Clients often negotiate special terms for research **costs**. They may place limits on online tools or even prefer additional billable hours to detailed disbursements. If such billing arrangements are in place, the senior attorney must share that information with the junior associate during the course of the assignment.

Implementing JUST ASK

A well-assigned research project takes two parties. Associates, hungry for contact with senior attorneys, need to maximize the opportunities they have by overcoming their fears and asking questions. Senior attorneys should give themselves permission to enjoy the pleasure of sharing their knowledge with newer attorneys. A few extra minutes of their time will produce better results and save hours of associate time, which ultimately serves their client’s best interests. With some consciousness-raising and a little bit of training, both senior and junior attorneys can embrace the teachable moment presented in the assignment process.

In order to implement JUST ASK effectively, both senior and junior attorneys should be trained in the specifics of the technique. In addition, senior attorneys should be reminded what it felt like to receive unclear assignments and given an opportunity to practice the JUST ASK technique themselves

in an unfamiliar area of law. It would be helpful to impress upon new associates the importance of secondary sources and provide them with the Top Ten research tools in each practice area.

Training in certain communication skills will also enhance the application of JUST ASK in practice. The JUST ASK technique is based on my analysis of poor assignments as well as on a communication technique in which librarians are trained in graduate programs. This technique, called the “reference interview,”² allows librarians to delve into the real information needs of their patrons.

Some elements of the reference interview technique translate well into the legal research assignment. They include the following behaviors that improve the exchange of information and identification of the essential research issues:

- **Approachability:** Verbal and non-verbal behaviors set the tone for the assignment. Eye contact, welcoming body language and/or a patient, friendly tone of voice create a comfortable environment for the effective exchange of information.
- **Interest:** Some assignments may be more stimulating than others, but all involve significant issues to a client. Showing interest in an assignment creates a more satisfying exchange for both participants. Effective behaviors include focusing attention on the speaker (i.e., no checking your Blackberry) and signaling understanding by nodding your head or making short verbal concurrences.
- **Inquiring:** Effective communication involves both listening and questioning. Strong communicators allow speakers to state their needs fully before responding,

use open-ended questions, which require explanations, instead of questions that can be answered with “Yes” or “No” responses, and rephrase the speakers’ statements to clarify understanding.

Learning these communication skills can improve attorney interaction in many endeavors.

Conclusion

Evan Schaeffer posted an interesting item on his *Illinois Trial Practice Weblog* entitled “Giving Legal Research Assignments to Others.”³ In the post, he extolled the virtues of providing more complete information to junior attorneys during the assignment



Ellen M. Callinan, J.D., M.S.L.S., was with the Washington law firm of Crowell & Moring LLP for 15 years, where she served as Manager of Research Services, among other positions. Ellen was a member of the library staff at Georgetown University

Law Center for 7 years and has been an adjunct professor at the Law Center since 1999. She has extensive experience designing and teaching legal research programs, including training for the D.C. Bar, Practising Law Institute, and the Institute for Continuing Legal Education, as well as her popular course in law firm research at Georgetown. She can be reached at ellen.callinan@gmail.com. For information on Ellen’s legal research training seminars, please visit [LearnLegalResearch.com](http://www.LearnLegalResearch.com).

² ALA Guidelines for Behavioral Performance of Reference Librarians. (<http://www.ala.org/ala/rusa/rusaprotools/referenceguide/guidelinesbehavioral.htm>)

³ http://www.illinoistriallpractice.com/2005/12/giving_legal_re.html

process. The resulting responses were both poignant and telling. John Henson wrote, "As a law student, thank you thank you thank you." From Tom came the somewhat bitter observation, "My boss sure doesn't give this much thought. Apparently he thought he hired a clairvoyant." Perhaps JR offered the most compelling reason to train attorneys in this skill. He wrote:

Evan: I want to give you a hug. It would bring tears to my eyes if I ended

up with a boss who did this. I wish every senior attorney in the country would read this post and put its lessons into action!

Assigning research can be a critical opportunity to mold young lawyers and to share the firm's expertise. Although full blown mentoring may be a thing of the past, JUST ASK provides an efficient structure for this invaluable teachable moment.

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