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**INFORMATION BEHAVIOR:
LOOKING AT THE LAW**

Team 8

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Information Behavior: Looking at the Law

Our review of the literature concerning the information behavior of lawyers found that new technological developments altered the landscape of the legal profession. As Roberta I. Shaffer wrote, lawyers were “information perfectionists” who took great care in assuring that the information they use was valid and accurate enough to support their arguments. “Digitized information holds out the promise of concurrent access to various versions of the laws and the ability to compare law across time and application” (Shaffer, 2002: 25). At first glance one might have celebrated Shaffer’s “promise,” given the need to access a wide range of verifiable information within the legal profession. Internet databases, such as FindLaw and LexisONE.com, provided this information for free.¹ However, Kuhlthau and Tama (2001) identified that the methods lawyers use to conduct research were not necessarily compatible with the use-design of digital databases.

Consider a lawyer conducting research using her firm’s print-based legal library. She pulls down a case reporter and reads a legal opinion that references a different case. She finds the book holding the source of the reference. She is then reminded of a third case and searches for the book. Over the course of her research, she may have eight or ten books spread open on a table. The activity of looking at books allows her to visualize the history of her search as it progresses, and represents how each of her thoughts link one to the next. To conduct this same search using a digital database would be a qualitatively different experience. As Kuhlthau and Tama observed, legal databases were designed to follow one search at a time and, within that search, find specific answers to specific questions. The computer search, unlike the books laid out on the table, does not facilitate easy movement back and forth between materials, nor does it provide the clear visual history of the search.

Another issue that Kuhlthau and Tama raised regarding database searches was the lack of flexibility with the keyword search. They noted that “lawyers seemed to require the opportunity to locate information outside the keyword range in order to spark an idea that enabled them to formulate the issues in a case” (2001: 41). Also, Kuhlthau and Tama observed that lawyers did not proceed in a strictly logical manner, and needed what they call “just for me” information

¹ We found that large internet databases, such as Westlaw and Lexis-Nexis, provide access to comprehensive information resources for a fee, contrasted with Findlaw and LexisOne, which provide only limited access to information sources created in the last five years for free, and links to a wider array of database sources for a fee.
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systems. These were characterized as less rigid services that catered to individual preferences and facilitated a more creative approach to the material. The limitations imposed by the keyword search forced lawyers to think like the search engine and less in the manner that they were trained.

In the computer age, our approach to thinking, our methods of research, our written output, and therefore the input judges receive, are becoming less rule-oriented, less structured, and more dependent on the chance that the fact-matching of a computer search will also return the right rules (1996: 338).

The above quote from Barbara Bintliff's 1996 research presented a foreshadowing of Kuhlthau and Tama's research in 2001. This quote indicated a shift in the methodology of legal research from "big picture creative" to "fact-specific keyword searching" (338), and suggests that Bintliff's observations from nearly ten years ago are even more relevant today. Implicit in the convergence of perspectives from these two research projects was that technology did not facilitate the way that lawyers thought about and approached legal questions. Moving from the law library environment to the computerized search, lawyers lost a critical component: context. In response to the lawyer's queries, internet database searches tended to fragment common approaches to legal research and de-emphasized the significance of context in moving a lawyer's understanding of a particular field of law from a "big picture" perspective to a narrower set of facts that supported the case on which he or she worked.

Compounding the problems that database searches created for lawyers were the public's expectations. In "The Legal Community Meets the Internet" Glen Bencivengo remarked that individuals seeking legal aid were aware of the vast amount of legal information available on the Internet, and expected lawyers to have a comprehensive knowledge of those digital databases. In Bencivengo's words, "lawyers must now operate under a higher standard of care and competence when performing research" (2003: 35).

Along with the frustrations generated by new technologies, Lawyers also had the added problem of organizing day-to-day information. Kuhlthau and Tama observed, that like other professions, lawyers had not developed classification systems that facilitated negotiating through the materials they generated over time. They needed to create "systems of organization with more predictable, yet flexible, access" (2001: 41).

Discussion of Findings

In our own research we began with a theoretical framework derived from the literature reviewed on the subject of the information behavior of litigation attorneys. Our literature review suggested that, broadly speaking, lawyers preferred to use print resources, such as reference books, treatises and other printed publications to gather contextual information, and internet databases to gather analogous cases containing specific facts and applications of law that could be relevant to a client's case. The literature suggested that lawyers used print and internet resources to facilitate their need to progress from a "big picture" that established context to a narrower set of facts and legal analysis in developing support for the client's case. The literature also suggested that internet database searches tend to fragment common approaches to legal research and de-emphasize the significance of context in anchoring what a lawyer understands of a particular field of law.

For our own project we decided to expand on the findings found in the literature we reviewed. We turned our attention to the resources litigation lawyers sought for obtaining information. Examples of questions that interested our team were: What kinds of information did litigation lawyers typically search for? Did litigation lawyers prefer the use of internet databases and web sites or printed resources to facilitate the processes they went through to gather information in support of their particular practices of litigation law? What were the processes or methods that litigation attorneys followed in gathering information resources to support the services or cases they worked on for their clients? How did they organize the information they gathered for future case reference?

To answer these questions we conducted field observation and face-to-face interviews. Field observations gave us a sense of the characteristics of a law library as an information ground and its influence on the information behavior of lawyers. We interviewed litigation lawyers to learn about their research methods. We wanted to determine if their research methods were similar or if they varied by personality or area of litigation law practiced. We also thought that these methods suited our study population. We thought that most attorneys would not participate in a survey or focus group due to the heavy premium on their time.

Two members of our research team selected two locations to conduct field observations. These observations were conducted at locations that we considered to be excellent examples of

places frequented by lawyers seeking information related to case work. One research team member made two visits to the Snohomish County Law Library located inside the Snohomish County Courthouse in central Everett, Washington. Another team member made one visit to the Marian Gould Gallagher Law Library on the campus of the University of Washington in Seattle, Washington. We made our observations as unobtrusive law library users.

Findings from Field Observations

We discovered that, although law libraries were excellent information grounds to observe lawyers researching and gathering information, they provided a limited view into the overall process of case preparation. This limitation was due, in part, to the library environment and how it was organized. Although law libraries subscribe to internet databases dedicated to legal research information, their environment emphasizes the storage and use of printed books. For example, our observations at the Gallagher Law Library revealed that most of the patrons were there to find printed publications to study for projects they were working on. If they were using internet research resources, they were doing so in private from personal laptop computers. In the Snohomish County Law Library, most of the lawyer patrons appeared to be solo or small-firm private practitioners. The users of the internet research tools were predominantly young lawyers, while most of the older lawyers tended to stick with the print materials.

The law library was one stop among many for litigation attorneys tracking down information resources for their cases. Many lawyers maintain private subscriptions to research databases and can conduct online searches in the environment of their choice. Therefore, it was difficult to determine what percentage of the library research was done with internet versus printed resources.

Findings from Face-to-Face Interviews

For the face-to-face interviews we developed a set of questions designed to allow interviewees the opportunity to offer as much information as possible (interview questions are appended at the end of this document). The interviews were conducted with three litigation attorneys who practice in different areas of litigation law. The interviews were recorded and then transcribed. This fieldwork method offered an insight into the information-seeking patterns of

the litigation attorneys and how the percentage of use of Internet databases and printed resources related or did not relate to the area of law in which they practiced.

One interview respondent has been a practicing attorney for three years and specializes in internet Spam litigation, but also works on some personal injury and criminal cases. Confirming our observations, he remarked that “law libraries are where people would go to look up cases but most of that is done online now.” This respondent prefers to use internet databases, such as *WestLaw* or *LexisOne.com*, and federal, state and municipal databases and websites for nearly all of his information-gathering needs. Rather than driving through Seattle traffic to use the library, or visit the courthouses, he uses his office computer to find the majority of his information. While he complained that subscriptions to internet research databases were expensive, the expense, in his opinion, was worth it. In addition to his preference for internet resources, this respondent also has a complex system of organization. He uses his desk and shelf space to organize his information files by client. His forms, which were downloaded from various sites, are saved on the computer using a similar filing method.

The second respondent follows a different pattern in his gathering of information. Being a litigation attorney specializing in areas of civil practice, such as divorce, property and probate law for approximately 46 years, he relies heavily on his own extensive experience, and little on printed or internet resources. Additionally, his area of practice has remained relatively unchanged for long periods of time. Thus, he has a reduced need to consult recent internet or printed publications for reference. Much of his practice also relies on information gathered from his clients. He engages in lengthy interviews with his clients and frequently counsels them on matters related to their cases. Compared to the respondent mentioned above, who is at the beginning of his career, this respondent is at the end of his career. His many years of experience combined with interpersonal communications are his primary information sources.

The third interview respondent has been a practicing attorney for three years and specializes in Native American Tribal Law. Since she works on cases that involved United States federal, state, and municipal laws in combination with various tribal laws, her job requires a high level of information sleuthing. Her practice focuses primarily on criminal defense and “family law” cases involving custody issues, domestic violence, and substance abuse. She uses information gathering techniques consistent with the two other respondents. She relies on

internet databases for specific factual information related to cases involving tribal and non-tribal rulings, and printed information to provide some context. She also depends heavily on information from interpersonal resources, such as drug and alcohol counselors, domestic violence counselors, tribal elders, and a client's family relations. This information helps her to fill gaps in information related cultural differences.

Conclusion

The results of the fieldwork indicated that litigation lawyers followed diverse information-gathering approaches. They sought information from a combination of on-line databases, printed materials, personal experience and interpersonal resources. The manner of information-gathering chosen by the individual lawyers depended on a number of factors, primarily his or her area of law specialization and experience and comfort-level in using on-line versus print resources.

At the risk of generalizing from a limited amount of data, our field work suggested that young, computer-savvy lawyers practicing in a relatively "mainstream" field of litigation (as opposed to Native American Tribal Law, for example) tend to be the greatest users of Internet databases in their research. Older, more traditionally-minded lawyers, lawyers with a wealth of experience in a relatively narrow area, and lawyers practicing in non-mainstream fields tended to rely more on print materials. Additionally, older lawyers tend to rely more on their personal databases of knowledge and expertise than on print resources.

Our findings also supported the general analysis of the literature reviewed above: that most lawyers had not smoothly incorporated the new computer-based legal research into their practice. These technologies lacked flexibility and were not compatible with the lawyers' research methods. In fact, the findings—consistent with the literature analysis—highlighted the irregular, uneven use of such technologies by practicing litigation lawyers.

Appendix 1 – Interview Questions for Litigation Attorney IB Research Project

1. How long have you been working as a litigation attorney?
2. Are there particular types of litigation cases that you focus on in your work?
3. What types of research sources do you use in your litigation work (i.e. libraries, databases, colleagues, etc)?
4. Do you prefer print sources or computer-based resources, or neither, and why?
5. What are the steps you take to find information resources for your work?
6. Do you work collaboratively with other attorneys or assistants on information source finding?
7. What is the percentage of time that you spend with each information resource you use in your work? (i.e. the Internet, other attorneys, books and journals, clients, others, etc.)
8. Do you access any electronic information exchanges such as chat rooms or listservs as sources for information gathering?
9. Would you walk me through a recent situation where you needed to find out about something for your work, and what were the steps you took to find the information you needed?
 - Where did you go (web, library, café, etc.) and why did you go there?
 - What were the sources you expected to find there?
 - How did you know about these sources?
 - What do you have in common with the people you encounter in the place(s) go to seek information?
 - How did you think the source(s) would help with the information you were seeking?
 - Were there other sources that you consulted?
 - Are these sources that you use frequently?
 - Did you find the information you were looking for?
10. Is the situation you just told me about typical of your work?
11. Are there times when you seek information related to your work that is non-legal in nature?
12. Is there an example of a source you turn to for non-legal forms of information?

13. Are some of your information seeking needs more complex than others?
14. Could you characterize for me a routine task you perform in order to find information for your work?
15. Are there examples of complex tasks you had to perform to find information that you remember and can tell me about?
16. Could you give an example of your approach to a recent complex information task that you were faced with?
17. Do you find complex information seeking tasks frustrating? Fun? Neither? Both?
18. How do you know when you have enough information related to a project or case you are working on?
19. How do you organize the different information sources you use in your work?
20. Do you have a system for keeping and organizing useful sources of information for future cases?
21. How do you access useful sources of information that you keep for future cases?
22. In light of the preceding questions, is there anything else you think I should ask you?
23. Any final closing comments?
24. Thank you for volunteering your time to assist us with our study of the Information Behavior of lawyers!

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