Effective Research Assistance and Scholarly Production in Legal Writing

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Professors who teach legal research and writing (LRW) can face unique challenges in producing scholarship,1 and some of those challenges relate to research assistants (RAs). Unlike many casebook professors, we use research assistants both for help with our scholarship and for designing writing assignments and research exercises. Balancing these different demands can be difficult for students and professors. In addition, given the status inequities that have existed in the past, some LRW professors came of age without the benefit of research assistants. After years of doing everything themselves, they may struggle to find effective ways for research assistants to help.2

At the beginning of the summer of 2005, I arranged a roundtable discussion for faculty to share ideas about effective use of research assistants.3 Participants included LRW faculty and casebook faculty. Throughout the summer, I implemented a number of the suggestions shared in the roundtable. This essay reports on that experience and makes recommendations for others who need more effective ways to work with research assistants.4

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1 See Susan P. Liemer, The Quest for Scholarship: The Legal Writing Professor’s Paradox, 80 Or. L. Rev. 1007, 1113-14 (2001).

2 Legal writing faculty who still do not have research assistants should refer their deans to the current survey of the Association of Legal Writing Directors (ALWD) and the Legal Writing Institute (LWI). In the 2005 survey, Question 80 reported that at 88 schools legal writing faculty receive sufficient funding to hire student research assistants. Assn. Leg. Writing Directors & Leg. Writing Inst., 2005 Survey Results 69, http://www.alwd.org. (accessed Apr. 9, 2006). An additional 13 schools reported that LRW faculty received limited funding for this purpose.

Moreover, some have argued that it is the obligation of a dean to support faculty scholarship: “My guess is your dean will do everything possible to get you extra allowance for research assistance, if that will help, or extra money to attend a conference or to meet with an editor. It is the dean’s job to try to get you the support.” Donald J. Weidner, A Dean’s Letter to New Law Faculty About Scholarship, 44 J. Leg. Educ. 440, 444 (1994).

3 I am grateful to all of my colleagues who participated in the roundtable and in the discussions following it. Deserving particular note is Michael Moffitt, who shared many of the ideas presented here.

4 For additional suggestions, see Christian A. Johnson, Teaching Research Assistants, The Law Teacher 6-7 (Spring 2004).
Hire a team

Most projects benefit from having several students working together. Few students are so savvy that they can identify all of the angles on a particular project. While many professors typically hire just one research assistant, the more productive ones hire a team.5 In choosing team members, try to consider the relative strengths of each and choose RAs who complement each other and you.

The team can include more than one professor. Joining forces with a colleague can make the team work more efficiently so long as expectations are set at the beginning. Our summer team included five RAs and four professors. We discussed which students we would hire, and we scheduled in May the times that each professor expected to need heavy assistance. Two LRW professors worked with the team of RAs primarily at the beginning of the summer, then two other professors worked with them at the end of the summer, after they had finished teaching summer school. The team approach was advantageous because colleagues could keep RAs busy when other professors needed some time for deep thinking, writing, reviewing student work, and planning future projects.

Hold regular meetings

Schedule team meetings at least weekly throughout the summer. Prepare an agenda for each meeting that lists projects in progress and new projects to be assigned. These meetings give students concrete deadlines — they don’t want to embarrass themselves in front of their classmates by admitting that they did not complete a project. A surprising benefit of the meetings was the decrease in number of stop-by visits to professors’ offices. Students knew when they would have access to us, so they didn’t stop by randomly during the week with short interruptions to our other work. As a consequence, we were each much more productive and less harried.

It’s not necessary for all of the professors on the team to come to each meeting. It is important that someone coordinate the meetings, schedule agendas, and ensure that each RA has sufficient work without being overwhelmed.

Plan ahead for a variety of assignments

Throughout the year, keep a file for each project to be researched in the summer. Into the file put information that relates to the topic or sparks your interest. The file may contain cites to articles or books you want to read, copies of e-mail exchanges on a listserv, notes of conversations, handouts

from a conference, class material from a previous year when you assigned a similar problem, or anything else.\textsuperscript{6}

The contents of each file will be different, depending on the type of project. Some assignments — especially those related to your scholarship in its early stages — will be big picture, theoretical questions for students to think about and research over a period of several weeks or months. Others will be straight forward and narrow, like cite-checking an article or updating a memo assignment from the Legal Writing Institute Idea Bank.

In your planning stage, no project is too small to deserve a file. Some of my colleagues at the roundtable felt that mindless busy work should not be assigned to student RAs. But if the alternative is for the professor to do the busy work, by all means give the project to a student! It’s possible that a student will appreciate some easier mental lifting as a break between two tough assignments. Photocopying articles (so that footnotes are with the related text), compiling notebooks of class handouts, updating LRW program material, and creating mailing lists all may be valuable.

\textbf{Give detailed instructions}

Students produce better results when they know exactly what is expected. Before giving a file to a student, spend some time thinking about how the student can advance your work. Do you need summaries of books and articles? Do you need a memo examining relevant cases that affect your argument? Do you want a critique of an assignment or a sample brief based on the assignment as it currently exists? Being clear in your own mind about what you hope to get from the RA will help the student produce that result.

For our RAs, we wrote one-page memos for each assignment that set out the goal of the project, the steps we might take if we were beginning it, issues that needed to be resolved, and the product we expected in return. These short memos accompanied each file, whether the project was an article we planned to write or a simple worksheet that needed to be reviewed. Students left meetings feeling confident that they understood what they were expected to do, what they should produce, and how long it should take.

You might consider preparing all of your project files at the beginning of the summer. This pre-planning could help you prioritize the help that you need on the projects most important to your academic success. Those of us in LRW teaching are sometimes guilty of letting the urgent overtake the important;\textsuperscript{7} we overlook scholarship because students will be breathing down our necks soon. Writing out your RA memos for two scholarly projects can keep you focused on them rather than the set of writing assignments and research workshops that your students will complete in the fall. Another advantage to having a set of assignments in advance is to fill any RA dead

\textsuperscript{6} See Christian C. Day, In Search of the Read Footnote: Techniques for Writing Legal Scholarship and Having It Published, 6 Leg. Writing 229, 249-50 (2000).

\textsuperscript{7} See id. at 250.
time, especially if some professors plan to work with the team at different times during the summer.

**Match the product to the project**

Some projects can be completed without a formal memo. For these, students would waste valuable time by formatting and editing a memo. For the smallest projects, a quick oral report at the team meeting may be sufficient. For others, an e-mail may do the job. Memos are invaluable, however, for forcing students to think through problems and develop their analysis. In addition, memos are essential when there may be lag between the completion of the student’s project and the time the professor is able to incorporate it into the final product. If several weeks or months are likely to intervene, only a formal memo is sufficient to preserve the work the student did so that it does not need to be repeated. I once wasted the efforts of a very talented RA who worked diligently on a project for several months but then graduated before I incorporated her work into my article. Because I was certain I would finish the project soon, I never asked her to write a formal memo. In that instance, the time she would have spent writing and editing a memo would have been a good investment.

**Let the students pick**

We began meetings by describing the assignments by topic, jurisdiction, type of work, hours needed, and deadline. Then we let students select the ones that they found most compelling. This approach allowed students to follow their own interests and to consider their past experiences, some of which we didn’t know about. The approach also gave students more ownership of each project, which may have produced a higher quality of work.

**Require questions to accompany the student’s answers**

Students are good at giving you their answers. Often it is helpful to have your questions as well. In the future, I will require students to return to me the assignment memo I gave them at the beginning of the project, along with the completed assignment.

Along the same line, if I ask specific questions, I need specific answers, and I need to know which answer applies to which question. Twice over the summer RAs provided me with a list of answers, which I then had to match to questions myself. This was not efficient because I spent my time piecing together the puzzle that the RA should have completed.

**Give feedback**

Students need to learn from their work. We tried to provide written feedback on formal memos, and we discussed our comments with the students privately. But just as important were the group feedback sessions.

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8 See Richman & Windsor, supra n. 5, at 284.
In these, we reviewed the good and bad points of a memo or other project in front of the group. Each student was subjected to this public scrutiny over the summer, but no one seemed to experience hurt feelings. The rest of the team’s RAs learned from their classmates’ experiences, again leading to higher work quality as the summer continued.

In addition to helping students by providing feedback, your immediate review of their work will tell you whether the student is providing information you can use. If you defer going through the work to the level of giving feedback, you may not recognize that what looks good initially is not very helpful.

**Ask for feedback from students**

Especially when students were completing writing assignments, we asked them to submit a memo critiquing the assignment. This critique accompanied the expected sample memo and supporting documents (e.g., case lists, suggested transcripts to convey the facts). The critique memo explained snags the RA encountered in understanding the assignment, conducting the research, and writing the paper. These are likely the same snags first-year students will encounter. Sometimes the critique memo was able to suggest solutions, but other times it just concluded that the assignment was too easy or too difficult for our classes.

**Set deadlines**

While projects should be of varying lengths, every project should have a deadline. Otherwise, the "end of the summer" seems far away, and the student may do very little until the last week — just as you think of another argument for your article or find a new project that needs to be completed. Front loading the summer with short deadlines will avoid the crunch at the end and also help students appreciate the time constraints of practice. At the beginning of the summer, our RAs were stunned to hear that we expected each of them to produce a memo in less than a week. Within a short time, they were able to produce a high quality memo in a day, just as they would be required to do in a law office.

**Demand professionalism**

Some students working for you will be holding their first jobs and encountering professional demands for the first time. Use this opportunity to teach professional behavior.

For example, what quality of appearance is required? I was surprised to receive a notebook of authorities that looked like a third-grader had run over it with a bicycle. Papers were included haphazardly. Nothing was tabbed. Analytically the notebook contained everything it needed, but the appearance kept it from being useful.

Another issue we discussed was what students should do if a deadline became unattainable. We related the situation to a law office environment,
explaining that merely letting a deadline pass is grounds for firing. We explained that students should first devote some intensive time to the project, then let us know well in advance of the time pressures. Because we anticipated this situation, we had no problems, but the students’ facial expressions made us realize that we had avoided sticky situations. Students want to meet our professional standards, but we need to be clear about what they are before making assignments.

**Results**

We ended the summer with more work completed, fewer student hours billed, and less harried professors than in past summers.

The students enjoyed the weekly meetings, which kept them from feeling cloistered in the library. The camaraderie often produced better work because they were able to bounce ideas off each other and because they could comment meaningfully on each other’s work in our team meetings. The RAs also appreciated the variety of assignments and the opportunity to work with several faculty members. One commented that this experience was more like working in a firm than an RA position with one professor.

From the faculty perspective, we were much more productive than we have been in the past. On our scholarly agenda, we completed one book and substantially moved forward the manuscript for another. We completed the research for two articles and one presentation. To prepare for our LRW courses, we completed all of our fall memos, several of us finished our appellate brief assignments for the spring, and collectively we prepared five sets of research worksheets. And we enjoyed the process.