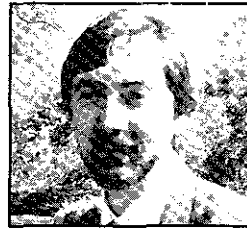


Is Research Boring?

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In the best selling novel *The Firm* by John Grisham, described as “*LA Law meets The Godfather*”, the hero, in an interesting reversal of some popular stereotypes, is a tax lawyer. This combination of two of society’s best loved anathemas takes on the Mafia and the FBI, gets the girl AND the money! In introducing his hero, a Harvard graduate who has been head-hunted by the sinister Firm, Grisham tramples on the easily bruised souls of law librarians everywhere in his description of the Office Library and its custodian:

“...we spend almost half a million a year on upkeep, supplements and new books. The partners are always griping about it, but they wouldn’t think of cutting back. It’s one of the largest private law libraries in the country, and we’re proud of it”.

“It’s pretty impressive”.

“We try to make research as painless as possible. You know what a bore it is and how much time can be wasted looking for the right materials. You’ll spend a lot of time here the first two years, so we try to make it pleasant”.

Behind a cluttered workbench in a rear corner, one of the librarians introduced himself and gave a brief tour of the computer room, where a dozen terminals stood ready to assist with the latest computerised research. He offered to demonstrate the latest, truly incredible software, but Lamar said they might stop by later.

“He’s a nice guy”, Lamar said as they left the library. “We pay him forty thousand a year just to keep up with the books. It’s amazing”.

Truly amazing, thought Mitch.

So there it is. In one short exchange, confirmation of all our deep-seated insecurities. The librarian exists to “keep up with the books” and the “truly incredible software” for which he is paid a truly amazing salary. Note that this salary is in contrast to the minimum earning of \$85,000 which the rookie lawyer is expected to take home in his first year - plus low interest mortgage, bonuses and BMW! Librarians are definitely not up there with the “Masters of the Universe”.

A library which is not having its budget cut back in the 1990s (and which is “pleasant” as well) sounds, of course, like heaven on earth. If this can only be achieved by having your subscriptions paid for by the Mob, the proposition might appear less attractive to some. The characterisation of research as a bore,

something to be done only by the new boys, is something which I consider to be of greater concern to our profession because I think it to be much more prevalent than Mafia-run law firms.

Whilst the image of a tax lawyer conjures up so many stereotypes, jokes and sniggers that most would laugh initially at the idea of such a "hero" being played by Harrison Ford (or Michelle Pfeiffer) rather than, say Danny DeVito, he at least *does* conjure up an image. What image does the law librarian put forth? Although there are probably many others, the only film with researcher-as-hero that readily springs to mind is *Three Days of the Condor* in which Robert Redford plays a CIA boffin. The film is redolent with lines such as "I'm just a researcher - why are they after me?"

Interestingly, after I had completed the first draft of this excursus, I read John Grisham's *Pelican Brief*, his third and latest best-seller, in which *Three Days of the Condor* is mentioned (it is viewed repeatedly by the foreign assassin to assist him to perfect his American accent). In that book the heroine is a law student at Tulane University Law School who, after a few days of *research* in the Law School Library works out who was responsible for the assassination of two Supreme Court Justices and then spends the rest of the book being chased by the assassin, various assorted baddies, the FBI, CIA and sundry journalists! Research it seems is not only boring, it can get you killed!

Law libraries get great publicity in the *Pelican Brief* because as the law student, Darby Shaw, is chased around the country (she has unlimited resources), she continues her researches into the crime and its perpetrators through adroit use of *Martindale-Hubbell* in the law libraries of various campuses. The book-stacks prove to be great places to hide-out!

Once upon a time librarians were regarded with awe. Take Malachi, Umberto Eco's librarian in *Name of the Rose*, for example. As custodian of all knowledge he was a powerful figure - "Only the librarian has received the secret, from the librarian who preceded him....". There are few, I would hope, who would advocate a return to such methods. Today, with general and easy access to knowledge there appears to have come a certain disdain, even a contempt for "research", to regard it as a chore, a necessary evil to be avoided if possible. The low esteem in which research is held by many influences the esteem in which the "gatekeepers" are held.

The reader of *The Firm* is left in no doubt about the low esteem in which research is held by the legal profession:

- "You made extremely high grades in your tax and securities courses".
- "That's where my interest lies".
- "We've reviewed your writing sample, and it's quite impressive".
- "Thank you. I enjoy research".

They nodded and acknowledged this obvious lie. It was part of the ritual. No law student or lawyer in his right mind enjoyed research, yet, without fail, every prospective associate professed a deep love for the library.

And later,

"The large firms are infamous for being sweatshops where the associates are flooded with tedious research and locked away in some library for the first three years. I want no part of that. I don't mind doing my share of research and I realise I will be the low man on the pole.... I'd like to work with real clients and their real problems".

This derogation of research is not something new to John Grisham's novel. A quick glance through a couple of books of quotations on the Library shelves under the heading "research" found the following gems:

"Research! A mere excuse for idleness; it has never achieved, and never will achieve any results of the slightest value."¹

"...members of the Bar will be well advised to stay very far away from computers if they want to remain - or become - lawyers.Computers are fine for inertial guidance problems - but the law is neither a missile nor an atomic submarine. Let us be done with the learned nonsense that is based on the contrary assumption."²

To be sure, there are many avid researchers and users of computer databases among the legal profession. They are our supporters, financiers, members of the Library Committee. But in my opinion they are, as Grisham says, in the minority. I have been told, proudly, and on numerous occasions by solicitors and barristers and by those more elevated, that they do not use books. This is said in a way that implies that these persons have progressed beyond the need to do so, that like Sherlock Holmes or Umberto Eco's brother William, they can deduce the law, or simply absorb it by osmosis from the ether.

When lawyers say that they do not use books, they tend to mean that they do not refer to texts, commentaries, journals or looseleaf services. They *do* refer to law reports, which are not regarded in the same light. If possible the authorities in their law school note books will be made to suffice. If in doubt over the currency of a twenty year old decision they will use the old boy network rather than do research. Research is regarded as a bore and is delegated to the newest recruits to the firms or the judges' associates (the book *The Brethren* is an excellent account of this type of delegation) or, in the Public Service, to staff below the senior officer level.

1 Benjamin Jowitt, 1817-1893

2 Frederick Bernays Wiener, 1962

In a recent survey of information needs conducted by the Australian Taxation Office Library Network, those surveyed were asked about the role of the librarian in research. The majority of respondents replied that the librarian should have sufficient skills to conduct research at all levels *excluding* any questions relating to the interpretation of law. The overwhelming majority of comments which accompanied the survey indicated that respondents saw librarians as essential to locate and identify relevant material, that they valued that service extremely highly and that regardless of how sophisticated and available via desktop terminals information might become in the future, librarians were essential to the efficient performance of their work.

Research then, up to a point, is seen as the province of the librarian. When this point is reached, the lawyer takes over and brings his or her interpretive skills to bear, and this is as it should be - the two professions working in tandem. But however important the *research* task may be it is the *interpretive* process which attracts the kudos. This is because it is the interpretive process which results in an end product - a judgment or legal opinion for example, and which of course can have extremely important consequences for the parties involved or even society in general. It is not the process which is seen but the end product. Judgments do not, unfortunately, come with a list of credits!

The dividing line between the two processes is a fine one and crossing it can lead to unlooked for results - as witness the decision in *Shaddock v Parramatta City Council*³. That line is very easy to cross, not least because of the English language and its broad definition of *research*. But when does research cease to become "finding" and take on the character of "analysis"? Is not the "research" task of locating cases and articles on a particular point of law a matter of interpretation as well? The task after all involves the selection of some materials and the rejection of others based on an analysis of their relative merits. When you tell lawyer X, "Here is a case on the point you have described", are you not engaging in analysis?" Yes, Virginia, but you are part of the *process*, not the packaged product!

There is little doubt in my opinion, that the image of librarians has suffered because society values the results of "interpretation" over the process of "research" - and understandably so. Most of us, when we take our cars to the garage with a funny noise in the engine, want it fixed - we don't care *how*! Looking at the same two books of quotations referred to earlier, there are pages of references to "interpretation" as opposed to a few entries for "research". Librarians are finders and guides, helpers to those "masters of the universe" who bill the clients, write the judgments or draft the rulings or legislation. Research is not an "excuse for idleness". It is highly valued by those for whom we undertake it, and therefore do not have to do it themselves. We have a major part in the process, a part which I and so many others like and enjoy tremendously, and we seem to have an assured future in it, but wouldn't we rather be heroes?

Next project: Write a best selling novel in which a law librarian, Jack Stud, by expert use of LEXIS makes the firm millions of dollars profit, embarrasses the partners with his superior research ability, is made a partner himself, foils a terrorist attempt to kidnap the President of the United States and in which senior lawyer Sonja Vamp, impressed by the better career opportunities, trains to become a law librarian. The film version will star Harrison Ford and Sigourney Weaver.

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