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Research Assistants: Balancing Cost Effectiveness and Reciprocity

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INTRODUCTION

Research is currently considered to be central to Australia's success in the global knowledge economy. To improve Australia's position, the Commonwealth Government has developed a new research paradigm. This paradigm emphasises research outcomes and excellence in research training.² The government's aim is for young researchers to be nurtured in an environment that provides relevant experience, delivers high quality learning, and values creativity and talent.³ This paper argues that research assistants have been an undervalued part of many faculties research culture and that more careful employment and training of research assistants in Australian law faculties will not only improve research outcomes, but also provide a highly effective method of nurturing future academic researchers.

Research assistants have been quite integral to the workings of most Australian law faculties. However, further consideration should be given to increasing the effectiveness of this role and also developing its potential for research training. The aim of this paper is to instigate a fuller discussion of these issues. It seeks to identify the benefits of employing a research assistant and the perceived pitfalls. By providing solutions to these pitfalls academics will be able to more effectively utilise the services of research assistants. This in turn will clear the way for more effective research training of research assistants by both supervising academics and law faculties.

There is a paucity of information in the Australian literature about the relationship between research assistants and academics and the potential for research-training within the role. As a result, the paper considers United States sources where they deal with circumstances comparable to those that arise in the Australian context. The paper also draws from a small pilot study, which consisted of a survey and Research Interest Group discussion, conducted at QUT Law Faculty. Whilst it is likely that other Australian law faculties will have similar experiences to QUT the intention in utilising the pilot study is not to draw generalisable⁴ conclusions but rather to identify issues and commence discussion.

In order to consider how the relationship between research assistant and academic can be more effective both in regard to research outcomes and research training the paper

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² Dr David Kemp, *Knowledge and Innovation: a policy statement on research and research training*, (Canberra: Commonwealth Department of Education Science and Training, 1999).

³ Ibid.

⁴ For transferability as an alternative to generalisability see: Y Lincoln and E Guba, *Naturalistic Inquiry* (1985), cited in S Sarantakos, *Social Research*, (2nd ed, 1998), 82.

canvasses a number of aspects of the relationship. Part One places the paper in context. It outlines recent changes in higher education policies that require law faculties to reconsider their research training methods. Part Two describes the roles played by research assistants and academics when involved in a research relationship and the benefits they derive from this relationship. The third part of the paper introduces the results of the pilot study. It utilises survey results to identify both positive and negative issues that arise in the relationship between academic and research assistant, and suggests ways in which outcomes can be enhanced. Part Four addresses the difficulties that can be encountered in employing a research assistant and suggests strategies that academics can employ to overcome these. Part Five suggests policies that law faculties could employ to improve the research training of research assistants. The paper argues that there are many benefits, research training and otherwise, to be gained by a more considered approach to the employment of research assistants.

PART I - The National Research Context

The modern Australian tertiary education context has recently experienced dramatic change. Enhancing research training, attaining additional external sources of funds and grants, discouraging ‘non-productive’ research, and increasing the number of postgraduate student research completions are among the main catchcries within the tertiary sector in Australia at present. The then Minister for Education, Training and Youth Affairs, Dr David Kemp, in the 1999 Commonwealth Green Paper *New Knowledge, New Opportunities: A Discussion Paper on Higher Education Research and Research Training*,⁵ and the later White Paper, *Knowledge and Innovation: A Policy Statement on Research and Research Training*,⁶ underlined the increasing importance of research to Australia’s future with reforms directed towards performance based funding, commercialisation of research and improvements in quality and productivity for research training.⁷

In 2002, the Australian Government conducted a review of Australia’s higher education system, beginning with the release of an overview paper entitled *Higher Education at the Crossroads*. Coinciding with the release of the overview paper the Minister for Education, Science and Training, Dr Brendan Nelson, established a Reference Group comprised of representatives from across the higher education sector and from business and community groups. Several preliminary issues were addressed in the paper. It was noted that quality assurance processes for teaching, learning, research and management in universities was now being dealt with by five yearly reviews by the Australian Universities Quality Agency, which will assess the adequacy of each institution’s quality assurance processes on a five-yearly cycle.⁸ New directions for research were foreshadowed in *Backing Australia’s Ability*, released in 2001, which provided for a substantial injection of direct funds for universities, mainly for research. The national competitive grants scheme, organized

⁵ Dr David Kemp *New Knowledge, New Opportunities: A Discussion Paper on Higher Education Research and Research Training*, (Canberra: Commonwealth Department of Education Science and Training, June 1999). <http://www.dest.gov.au/archive/highered/otherpub/greenpaper/index.htm>

⁶ Dr David Kemp, *Knowledge and Innovation: a Policy Statement on Research and Research Training*, (Canberra: Commonwealth Department of Education Science and Training, 1999). <http://www.dest.gov.au/archive/highered/whitepaper/default.asp>

⁷ B.Nelson, *Higher Education at the Crossroads: an overview paper* Commonwealth Department of Education Science and Training, April 2002, 8.

⁸ B.Nelson, Id. 6.

through the Australian Research Council (ARC), has been revamped, and new national research priorities announced.⁹ These changes have resulted in more ‘market structured research’,¹⁰ collaborative research centres, commercialisation of research outcomes from public sector research agencies, an emphasis on applied research,¹¹ internationalisation through the use of enhanced information technology leading to the establishment of a ‘global community of researchers with similar interests’,¹² and correspondingly, an improved relationship among higher education institutions.

In the past, law schools’ research agendas and funding schemes tended to encourage research publications by sole academics rather than publications researched and written by a team. At the faculty level encouragement was given through workloads policies and research awards based on individualised criteria. Law faculties were well placed within this paradigm. Doctrinal legal research, the predominant legal research methodology, promotes the individual scholar delving alone into the libraries of legislation and caselaw to provide clear statements of principle to guide the law’s evolution in the modern world.¹³ However, this is a twentieth century paper based paradigm. Lawyers in the new century need to be able to go beyond this.

In the new higher education research paradigm, group work and interdisciplinary research is encouraged. National research grant application policies now favour team research. In order to be successful researchers in the new paradigm, legal academics need to talk to others, to form groups with scholars having complementary skills and expertise. They need to band together with other disciplines and the sciences to provide meaningful ways of solving the dilemmas that globalisation and technological development bring to the law. They need to employ methodologies from the sciences and social sciences. They need to work in groups, and law faculties need to encourage this through their various research funding policies.

Therefore, there are major changes to higher education policy taking place in line with the new technologies. These will lead to more obvious research ‘shelf life’ issues. Therefore, it is important that valuable opportunities to foster research skills excellence are not squandered. The employment of research assistants is one of these opportunities. In fact, it has a three-pronged benefit by potentially increasing academic research output, while at the same time ensuring the training of an elite group of aspiring researchers, and reinforcing supervisory and team working skills in already experienced academics.

In the new paradigm, the concept of what a research assistant is and their role within faculties should be reconsidered. There should be a reconsideration of how research assistants are used to optimise outcomes. Consideration should also be given to the research training benefits inherent in the relationship between research assistant and academic. This includes the development and honing of research and team working skills in the research assistant, but it also includes development and honing of the

⁹ B.Nelson, Id. 8.

¹⁰ B.Nelson, Id. 10.

¹¹ B.Nelson, Id. 12.

¹² B.Nelson, Id. 13.

¹³ See the definitions and discussion in D.Barker ‘Legal Research at the Crossroads in Australia’ ALTA Conference, Brisbane July 2003 and T.Hutchinson *Researching and Writing in Law* Sydney: Lawbook, 2002.

managerial, supervisory, mentoring and team working skills academics need to be competitive in the new paradigm.

PART II – Definitions, Roles and Advantages

1. The Research Assistant

Two categories of research assistant are discussed in this paper. The first group are predominantly undergraduate law or combined degree students, usually in the last two years of their degree, who are paid to work on specific projects on a casual part-time basis. For the purposes of this article, this group will be called ‘undergraduate research assistants’.

The literature identifies a number of research training benefits for undergraduate research assistants, these include development of skills in:

- literature review approaches,
- sampling and data collection techniques,
- data recording methods,
- team member and collaboration,
- report writing processes, and
- ethical research conduct (and safety practices).¹⁴

Computer literacy skills, and time and project management skills could also be added to this list.

Other knowledge and benefits have also been identified as accruing as a result of the research experience. These include the development of a good knowledge of interlibrary loan procedures, and enhanced writing and editing skills as a result of critiquing others’ drafts. Lown has noted that undergraduate students are likely to enhance their problem solving skills learned through the research process.¹⁵ It also provides an opportunity to learn about the research dimension of postgraduate work for those considering further study.¹⁶ In addition, it can be an invaluable opportunity to gain research experience in non-doctrinal research methodologies, for example, by being involved in work on a large survey research project. Studies also indicate that experience gained through being a research assistant may lead to enhanced productivity later, when working as an independent researcher.¹⁷

The second group of research assistant may or may not be currently enrolled as post-graduate students, but in all cases already have an undergraduate law degree. These research assistants are generally employed by the faculty on a contract basis, sometimes fulltime, to either work on specific projects or to undertake ad hoc research tasks from academics working in the faculty. In this article, this group will be referred to as ‘professional research assistants’.

The professional research assistant is generally in a different position to the undergraduate research assistant. The professional research assistant is expected to

¹⁴ Nyquist, J D and D Wulff, *Supra* Note 2 at 73, 74.

¹⁵ Lown, J M ‘Involving Undergraduate Students in Faculty Research’ (1993) 5(2) *Advancing the Consumer Interest* 29.

¹⁶ *Id.*

¹⁷ B Worthen and M Gardiner ‘A second look at the relation of research assistantships and research productivity’. (Paper presented at the Annual Meeting of the American Educational Research Association New Orleans LA April 5-9 1988) at 13.

have already developed considerable research competencies to gain entry to the position. Some of the ‘essential skills’ required in a recently advertised position included:

- ‘legal research skills and experience,
- experience in or the ability to design, implement and evaluate legal research projects,
- experience in the preparation and presentation of legal research reports including demonstrated written skills,
- an understanding of and an ability to assist with the writing of grant proposals and papers for publication, and
- an ability to liaise with academic and research staff and university research administration.’¹⁸

Even so, there are still research training and other benefits for the professional research assistant. Working within a law faculty enables them to broaden their network of academic contacts. If they are pursuing post-graduate study, it can place them in close proximity to their place of learning as well as provide them with a variety of tools and benefits. For example, QUT has a generous study assistance scheme in place for research assistants who are studying towards a postgraduate degree in the faculty in which they work. They are also provided with office space and furniture, computer facilities and easy access to library facilities and online research databases. In some cases, funds may also be made available for conference attendance.

Both categories can be contrasted with ‘teaching assistants’¹⁹ in the US context, who are ‘graduate students and have instructional responsibilities for undergraduate students.’²⁰ As a result US discussion is only relevant to this paper where it considers the provision of research assistance by teaching assistants to academics.

2. The Academic

The criteria used to judge academic success in Australia includes expertise in teaching, research, and academic and professional leadership. Academics have several roles. Arguably the most important is the role of researcher. Academics tend to call on research assistants for many purposes – most often to hasten their research, and thereby allow more speedy outcomes. However, many of these underlying academic functions are merged when academics are working with research assistants. The academic becomes the employer/supervisor, the research supervisor/teacher, and the professional mentor.

Research supervision is a senior academic teaching function, associated with ensuring research completions by those students enrolled in specific programs such as a Masters by Research or a doctorate. The supervisor is both coach and guide, who is there on the journey, not necessarily only to impart substantive knowledge, but also to help ensure the end. Although there is potentially this same pseudo-supervisory

¹⁸ ‘Senior Research Assistant: Law Research’ Position advertised on QUT website <http://www.hrd.qut.edu.au/recruitselect/jobs/22134.htm> last sited on 25 March, 2002.

¹⁹ Some graduate research assistants in Australian faculties may also be employed on a separate basis to undertake part-time teaching, but this paper does not discuss the teaching role of assistants

²⁰ Nyquist, J D and D Wulff *Working Effectively with Graduate Assistants* Thousand Oaks: Sage Publications, 1996 at 3.

function inherent in taking on a research assistant, the relationship has tended too often to be one of employer and employee. Certainly though, practice in instructing a research assistant which engenders productive outcomes will reinforce the attributes of a good supervisor and team worker.

An academic's mentoring role encompasses formalized assistance of a less experienced person by another who is more senior in the organization and more knowledgeable about the work environment. It is a means of work socialization, career education, and introduction of the protégé into the academic environment.²¹ Mentors are often the means of providing the protégé with an entrée to networks, and are invaluable in providing guidance and encouragement. This process of 'accumulating merit' may be achieved through invitations to 'participate in research projects, to present guest lectures' or perhaps to join an influential committee.²² Tony Becher, in his sociological study of the academic world, underlined the importance of being able to sell yourself in order to 'get on', and the fact that 'it is not only what you write but who you are and where you come from that counts'.²³ Therefore, good mentoring can provide one means of gaining more opportunities, more visibility, more recognition, and enhanced work socialization.²⁴ Research assistants often look to the academic to become their referee and thereby undertake a mentoring role.

Of course, there are a number of other advantages for an academic in employing a research assistant, not the least of which may be motivation. Research can be a solitary activity and the assistant can be a great sounding board and someone with whom to share research task successes and failures. Honest critique is always invaluable and can be provided by a research assistant. It is, for example, helpful to be told about confusing sentence structure or 'unfunny' jokes before your writing is put before a wider audience.²⁵

Given the real and potential benefits of the relationship between a research assistant and academic to both parties and its ability to provide research training it is important to examine how the relationship works in practice and to consider how it can be improved.

PART III - The Pilot Study

In order to identify the issues that arise in the use of research assistants the authors undertook a small pilot study of the academic staff at the QUT Law Faculty. A short survey was circulated amongst staff. Subsequent to this a Research Interest Group met to discuss the issues identified in the survey.

²¹ See generally Clark, E. 'Mentoring: Its potential for staff development and learning enhancement in a legal environment' (1994) 12 (2) *Journal of Professional Legal Education* 239 at 244-245 and T.Hutchinson, 'Seeking Yoda: Mentoring Women Legal Academics' (2002) 2 (2) *QUT Law & Justice Journal* 175.

²² P Todd and D Bird *Does Gender Make a Difference? Gender in Promotion Procedures at the University of Western Australia* (Perth: University of WA, The Graduate School of Management, 2000), 2.

²³ T Becher *Academic Tribes and Territories : Intellectual Enquiry and the Cultures of Disciplines* (Milton Keynes: Open University Press, 1989), 54 and 56.

²⁴ *Id.*

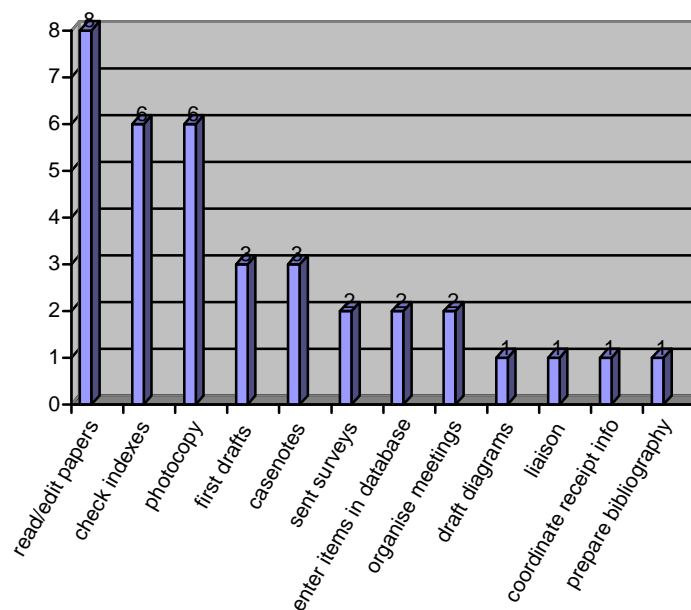
²⁵ See generally J Jones and M Draheim 'Mutual benefits: undergraduate assistance in faculty scholarship' (1994) 5 (2) *Journal of Excellence in College Teaching* 85-96

The survey asked academics to detail the tasks that they asked their research assistants to perform. There were 15 responses obtained from a total of approximately 50 staff. Although this is a low number overall, the responses obtained were from all levels of staff including Professors and Associate Professors, Senior Lecturers, Lecturers and Associate Lecturers and a variety of interesting issues were identified. Of the respondents, 13 had used an assistant, 10 were presently using a research assistant and four had acted as research assistants earlier in their careers.

1. Utilising Research Assistants Services

The survey revealed that research assistants were used for a variety of tasks including: reading and editing written pieces, checking indexes and undertaking electronic research, photocopying, preparing first drafts, writing casenotes, sending out surveys, entering items in research databases, organising meetings of research teams, drafting diagrams and flowcharts, liaison with government departments and other academics, coordinating receipt of information by research team members, preparing bibliographies, transcribing interviews, data analysis, and indexing.

Table 1
Research Assistant Duties

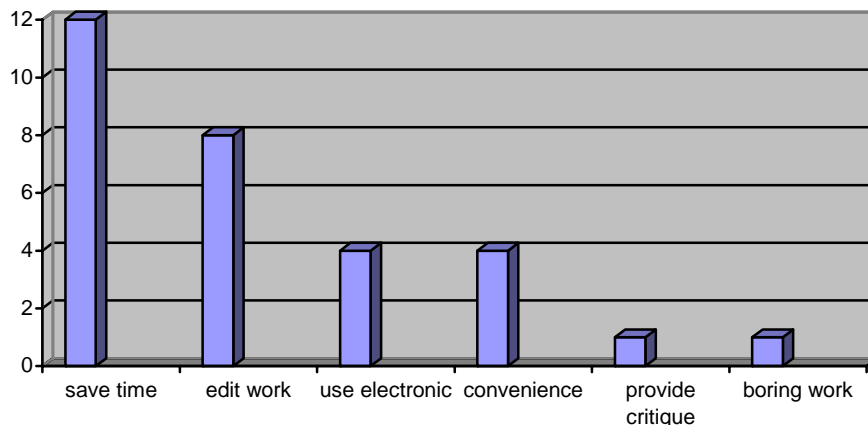


An interesting point to emerge from the survey was that newer academics were less likely to use a research assistant than those who had been in the job for some time. The more junior members of staff were more likely to point to the disadvantages such as research assistants' tendency to miss pertinent information and the need to check information carefully. This could be a result of younger staff members being more skilled in electronic research methods themselves. It may also be a reflection of the newer staff members' insecurity. On the other hand, the result may simply be a reflection of the level of staff receiving research grants. Newer associate lecturers may not have had the expertise or opportunity to apply for funding for research.

2. Specific Advantages of Utilising a Research Assistant's Services

A number of advantages associated with the use of an assistant were identified. Time-saving advantages were almost universally referred to. Assistants also helped with work some academics considered they could not effectively do themselves. Such tasks included final editing and the conduct of electronic searches. The assistants also provided additional critique and were able to take up some of the more boring/time-consuming work. The benefits of using a research assistant were rated as follows:

Table 2
Advantages identified by academics

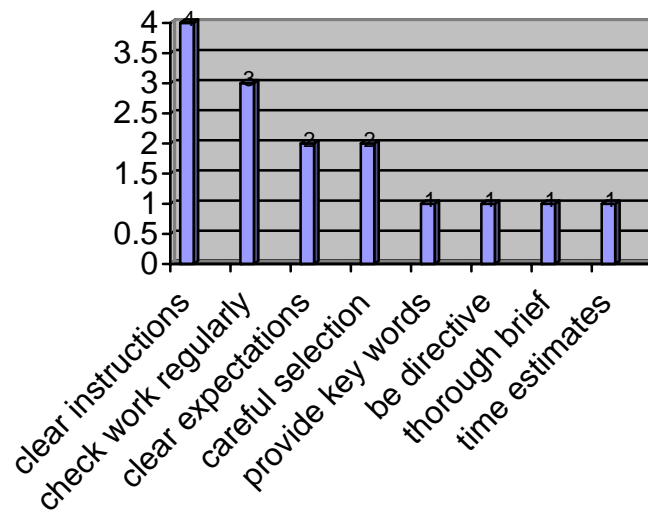


4. Strategies for Effective Use of Research Assistant's Services

Academics were also asked to identify the strategies they used to ensure that research assistants use their time effectively. The need for clear instructions was the most important aspect identified. Others included checking work regularly, clear communication of expectations, and careful selection of the assistant in the first instance. Often a reference from another academic was considered the best means of ensuring success. It was also considered helpful to give the research assistant key words and search terms in order for them to begin work on electronic databases. Academics thought the relationship was most successful if they were directive. They considered that they first needed to know what they wanted from the project themselves so that they could fully brief the research assistant on the expected

outcomes. It was also thought to be helpful for the academic to provide time estimates and ask the assistants to account for the time used.

Table 4
Ensuring Success

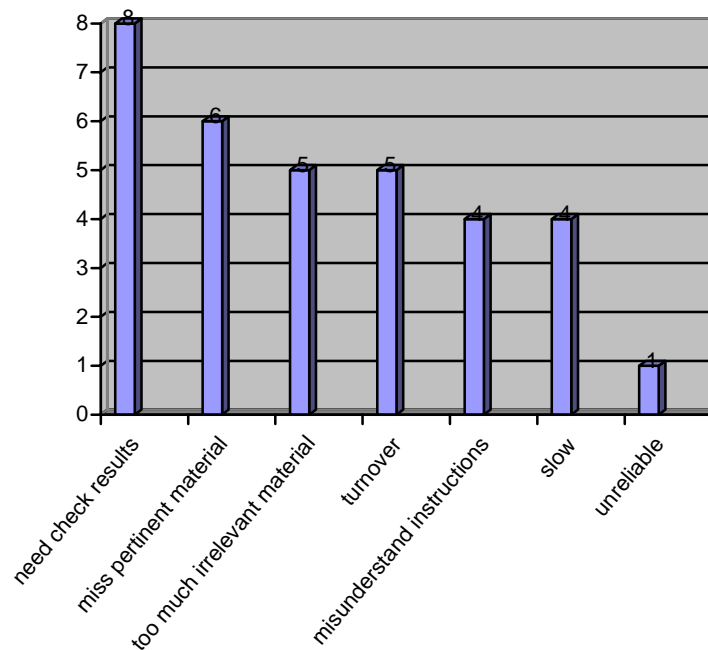


Academics who had been research assistants themselves suggested additional strategies. These strategies included regular checks and clarification of issues with the supervisor, active listening to research assistants to identify when they felt overloaded with work, and the establishment of mutual agreements on deadlines and targets for the work. Overall, academics who had themselves been research assistants in the past, were more likely to use research assistants themselves. All the ex-research assistants had subsequently employed an assistant. This may be because ex-research assistants understand the role and capabilities of assistants. Therefore, they felt more confident about their ability to effectively direct the research assistant.

PART IV - Difficulties in Utilising Research Assistants' Services

Several difficulties in the use of research assistants were identified. These issues were generally mechanistic and capable of fairly simple individualised resolution however they often represented a road-block for academics in employing a research assistant. These issues can be divided broadly into three categories: student issues, communication issues and appropriateness of tasking. However, a more serious issue arose in relation to the attribution of research assistants' contributions. Given the serious consequences of plagiarism and the importance of authorship to building a research profile, this issue is discussed last and in greater detail than those already mentioned.

Table 3
Disadvantages Identified by Academics



1. Student Issues

Academics noted that using research assistants could increase the likelihood of error. These included the need to check the results presented very carefully, the propensity of assistants to miss pertinent material due to a lack of subject knowledge, or to bring back too much irrelevant material. There was a difficulty identified with the turnover of assistants during the lifespan of a single academic project. The blanket response of ‘unreliable’ was given by at least one respondent. Sometimes it seems the student assistant’s other priorities seem to take precedence. Student research assistants have also been known to ‘go missing in action’. This occurs when the student is given work to complete and the formal appointment to the position is made only for the student to disappear, not call back or answer emails, thus putting projects behind schedule and wasting precious research funds.

2. Communication Issues

A few issues were mentioned that might be attributed to ineffective communication skills on both sides. It was reported that research assistants tended to misunderstand instructions. Sometimes, too, it seems the research assistants’ response time was too slow for the academic deadlines. Often this might be a result of poor communication between the parties.

3. Appropriateness of Tasking

Survey results and a subsequent Research Interest Group discussion about the issues raised by the survey indicated that many staff members did not distinguish between the research tasks they gave to their undergraduate assistants and the ones they gave to the professional research assistant. Furthermore it was apparent that a number of staff were not aware of the variety of tasks that the professional research assistant was capable of performing, or of the skills for which he or she was employed.

4. Recommendations for Improving the Utilisation of Research Assistants' Services

A number of recommendations have been formulated to overcome the types of mechanistic difficulties described above:

- It is absolutely crucial that all the important aspects (like deadlines) are discussed in their entirety early in the relationship. Miscommunication regarding such basic issues should be avoidable.
- Often projects have very limited funds. This needs to be made clear to the assistant. Merely stipulating the total grant amount can be misleading as it is a pre-tax figure and does not incorporate administration and employment costs.
- Set workable deadlines. Ask the research assistant how many hours it is feasible for them to devote to the project each week. Ensure there is a mechanism in place to vary the agreed work schedule.
- Ensure that all the administrative arrangements are in place including the organization of a library photocopy card and computer access.
- From the start of the project be clear about expectations for the research assistant and the project. Communicate this information to the assistant during the employment interview.
- Explain the hypothesis or argument being investigated. Speak about it with the assistant and listen to their responses and comments. This way the academic can ensure that the research assistant understands the project objectives. It will also assist in identifying and rectifying any misunderstandings early.
- Have a document setting out the basic research proposal including the methodology and timeline for the project. Provide a copy of this to the research assistant at the beginning of the project and request that they bring it with them to each project meeting. Any changes that are made to this information should be noted on the research assistant's copy during project meetings.
- Do not allow the research assistant to undertake more than 5 hours of work without checking back. In the early stages this is a good way to keep control over the project. Give the new assistant one small task to begin the project and then follow up with small achievable tasks. This way the academic supervisor can monitor the work progress and ensure the work is taking the intended direction.
- Be clear on citation styles for the project and ensure the assistant knows how to use the style guide. If the assistant is writing anything up, or keeping records of data collected, ensure that the style guide is being used consistently.
- Listen to the assistant's feedback regarding data collection. The assistant will often be at the initial point of collection and will quickly get to know the pros and cons of any method proposed.
- On employment provide the research assistant with a notebook or diary which remains the property of the faculty. The research assistant can then record all the work they undertake in this notebook or diary. This would not simply record progress for future reference (although it can be invaluable for a long project where a succession of research assistants work with the academic), but can also be used to record issues or problems as they arise. It will then provide points for later discussion with the supervising academic. This is also the place where very basic decisions regarding the direction and limitations of

the project can be recorded. In this respect the journal is very much like a reflective research diary and would be useful to any subsequent research assistants working on the project.

- It may also assist research assistants to plan their work by providing them with a project management table setting out the main deadlines for the project as well as the ebb and flow of work likely to be expected because of the academic's other commitments.
- Finally, agree on the most convenient contact method for both parties so that communication is easy.

5. The Problems of Attribution

A particularly problematic issue that arose was the lack of consensus over when a research assistant's work should be attributed. Given the importance of authorship to the development of a career in research this issue deserves more in depth consideration. One of the questions in the survey asked whether respondents thought a policy should be put in place regarding acknowledgement of research assistants' work. The overall group of respondents were nearly evenly divided on the issue. Fifty percent of respondents who had been research assistants considered that a policy was needed. When asked about what their practice was in respect of acknowledgement, the highest response from the overall group indicated that no formal acknowledgement was given when the work done was 'basic', such as gathering literature from a prepared list. When it was felt that acknowledgement was warranted it was generally given in the introduction, preface, or footnotes, although some did acknowledge substantial contributions through an offer of joint authorship.

Written acknowledgement of contribution in a piece of published research not only represents acknowledgement of work performed, it is also a valuable tool for career building. Where a research assistant works on a piece of research that is later published, two issues arise. The first issue is whether their contribution was sufficient to warrant some form of acknowledgement. If it is, the second issue is the appropriate form of acknowledgement. For example should the research assistant be attributed with joint authorship, be thanked in the preface, or in a footnote or endnote?

Given the variety of tasks research assistants perform it is quite plausible they will contribute words and/or ideas to a project. To adopt the ideas and/or words of another without acknowledging their source is plagiarism.²⁶ Plagiarism is considered an "academic crime".²⁷ It has been described as "a very serious offence, a slap in the face to academic honesty and propriety".²⁸ Most institutions take severe action against it. However, the problem of what is plagiarism is not always clear.²⁹ This is even more so in the case of research assistant work because the research is based on the academic's ideas. It is the academic's project and the academic is paying the research assistant for a discrete service.³⁰ There needs to be a balance made between the proportionality of the research assistant's contribution and the acknowledgement. There should be some way of differentiating between the research and writing

²⁶ Nemes, I and Coss, G *Effective Legal Research* (2nd ed) (Sydney: Butterworths, 2001) at 47.

²⁷ Stuhmcke, A *Legal Referencing* (2nd ed) (Sydney: Butterworths, 2001) at 20.

²⁸ *Id.*

²⁹ *Id.*, at 21.

³⁰ See also Lerman, LG, 'Misattribution in Legal Scholarship: Plagiarism, Ghostwriting, and Authorship' (2001) 42 *South Texas Law Review* 467 at 472.

contribution. It would seem fair that if the material is published, then some type of formal acknowledgment should be required.

In Australia, there is currently no university wide policy that deals with when, and how, research assistants' work should be acknowledged. Furthermore, extensive literature searches did not reveal any Australian literature on the issue. This should be surprising given the substantial proportion of those who believe a policy should be put in place. However, there are a number of possible reasons for the limited consideration of the issue. If the assistant is seeking to enhance relations with faculty members, it is unlikely that they will want to risk putting faculty members 'off side' by raising the issue of acknowledgement. As almost all research assistants' work is either casual or based on contract, the research assistant may feel that pursuing the issue might jeopardise their chance of further employment. If and when the assistant ceases to be employed in that capacity, they are likely to leave university employment, so that the issue will become less and less relevant. If they continue to work at universities and become an academic, it is likely they will have to spend a great deal of their time dealing with new teaching requirements and coping with the rigours of academic life. Again, the issue may amount to a trade-off in regard to experience and the need for academic patronage for new staff. Nor can advice be gleaned from government documentation regarding research training as there is little or no reference to research assistants in these reports. FOOTNOTE

There has been discussion and analysis of the issue in the United States. Authors there identify a number of problems with not acknowledging a research assistant's work, including:

- a) The quality of the final product may be diminished because of delegation of thinking by an academic to an assistant.³¹
- b) The reader may attribute more authority to a work they believe is researched and written by an academic than they would if they realised that it had been produced by an assistant.³²
- c) The professional development of the assistant could be held back because of the limits placed on the work that can be listed on their resume.³³
- d) The practice can model deceptive conduct as a way to achieve academic success.³⁴
- e) The practice harms the legal profession as legal academics become cynical about whether it is necessary to be truthful about authorship. That cynicism may be incorporated into their teaching of subjects like evidence and professional responsibility.³⁵
- f) The practice cheats other academics who research and write their own work as regards their ability to achieve promotions and advancement.³⁶
- g) The practice has the potential to expose the law faculty to embarrassment.³⁷

³¹ Lerman, LG, 'Misattribution in Legal Scholarship: Plagiarism, Ghostwriting, and Authorship' (2001) 42 *South Texas Law Review* 467 at 479.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Williamson, BL, '(Ab) Using Students: the Ethics of Faculty Use of a Student's Work Product' (1994) 26 *Arizona State Law Journal* 1029 at 1038.

³⁷ *Id.*

- h) The practice potentially identifies work that may be inferior with the law faculty.³⁸

There are some guidelines on the acknowledgement of research assistants' work in the United States. These can be found in the Handbook of the Association of American Law Schools Executive. These guidelines provide:

“When another's scholarship is used -- whether that of another professor or that of a student -- it should be fairly summarized and candidly acknowledged. Significant contributions require acknowledgement in every context in which ideas are exchanged. Publication permits at least three ways of doing this: shared authorship, attribution by footnote or endnote, and discussion of another's contribution within the main text. Which of these will suffice to acknowledge scholarly contributions by others will, of course, depend on the extent of the contribution.”³⁹

However many argue that the guidelines are not sufficient. They have been criticised as “only stating the obvious”,⁴⁰ being “inherently unclear in actual practice”,⁴¹ merely “aspirational”⁴² and “vague and exhortatory”.⁴³

United States' scholars who have considered the issue of acknowledgement of research assistants' contributions to academic research have proposed a number of solutions. Some call for the promulgation of detailed standards and discuss possible methods for their implementation and enforcement.⁴⁴ Others call for the adoption of preventative policies, which once in place could become a reference point to assist academics in determining what work should be acknowledged.⁴⁵ Given that Australian academics employ research assistants in a similar fashion to their counterparts in the United States and that the attribution of research assistants' work in the US has spawned such strong attitudes, this is probably an issue deserving of much greater consideration by Australian academics.

PART IV – Recommendations for Faculty Implementation

It would seem sound practice for law faculties to take some control over the system of employing research assistants. This control could for example, take the form of implementing measures to identify a pool of potential undergraduate research assistants. This is presently happening at QUT for example where a scheme, ‘the

³⁸ Id.

³⁹ See, Association of American Law Schools Executive Committee, “Statement of Good Practices by Law Professors in the Discharge of their Ethical and Professional Responsibilities” *Association of American Law Schools Handbook* (1989) at 81-86. Cited in Williamson, BL, ‘(Ab) Using Students: the Ethics of Faculty Use of a Student’s Work Product’ (1994) 26 *Arizona State Law Journal* 1029 at 1030.

⁴⁰ Hricik, D ‘Life in Dark Waters: A Survey of Ethical and Malpractice Issues Confronting Adjunct Law Professors’ (2001) 42 *South Texas Law Review* 379 at 403.

⁴¹ Id.

⁴² Williamson, BL, ‘(Ab) Using Students: the Ethics of Faculty Use of a Student’s Work Product’ (1994) 26 *Arizona State Law Journal* 1029 at 1033.

⁴³ Lerman, LG, ‘Misattribution in Legal Scholarship: Plagiarism, Ghostwriting, and Authorship’ (2001) 42 *South Texas Law Review* 467 at 487.

⁴⁴ See for example, Williamson, BL, ‘(Ab) Using Students: the Ethics of Faculty Use of a Student’s Work Product’ (1994) 26 *Arizona State Law Journal* 1029.

⁴⁵ See for example, Lerman, LG, ‘Misattribution in Legal Scholarship: Plagiarism, Ghostwriting, and Authorship’ (2001) 42 *South Texas Law Review* 467 at 486.

Dean's Scholars Awards' has been put in place. Under the scheme the best and brightest undergraduate students are identified. They are then given various opportunities to advance their research skills, including through employment as a research assistant. They are also encouraged to undertake an undergraduate Research Project unit which encompasses some research training together with an individually supervised research paper of their own choice. From there, the hope is that they will progress to a postgraduate research programme and a publication record.

The benefit of this strategy will be to promote the skills of reliable students. If the faculty can identify a good pool of undergraduate research assistants and ensure that they are given general orientation and training, this should at least discourage 'false starts'. However, this process does not need to be totally prescriptive. Academics should be able to choose an assistant who they feel is outstanding and best suited to work within the area they have chosen to develop, even though the faculty process may not have identified that assistant.

A faculty-based process like this can also ensure that undergraduate research assistants are given enhanced training and assistance. For example, the recipients of the Dean's Scholars Awards at QUT are currently offered extra training such as a full law library orientation and are provided with information regarding interlibrary loans and photocopying facilities. It is likely that other training would also be beneficial. For example, advanced training in the use of the catalogue, and Endnote could be useful.⁴⁶ In some cases, it may also be appropriate that the research assistants have additional training on other software such as SPSSX⁴⁷ and NVivo.⁴⁸

Faculties might also consider embellishing their guidelines for academic staff employing research assistants. A policy on attribution may well form part of this. It would also be helpful for faculties to implement policies requiring professional research assistants to keep a brief up to date resume detailing the types of research tasks that they are able to perform. This list could then be kept on a central register so academics seeking research assistants for specific tasks could search the list to see who was most qualified to perform the task. Similarly simple checklists could be made up and include a list of possible options for assistants' tasks and a delineation of responsibilities. The academic must be certain to check every aspect of the assistant's work, but it should be possible to delegate various aspects and be reasonably assured the work will be undertaken without supervision. This would include such tasks as assembling mail-out packs for surveys or addressing envelopes. These sorts of tools might also encourage junior academics to consider using research assistants.

Of course, every project is unique and sometimes much more complex than the list of activities on the proforma suggests. However, this type of table will provide a start and prompt a tighter view of steps required within the chosen methodology.

⁴⁶ Endnote is a bibliographic database that can be used, amongst other things, to organise references and summaries as well as create bibliographies.

⁴⁷ SPSSX is data analysis software. It can be used, to create tables and charts, as well as undertake descriptive and complex statistical analysis.

⁴⁸ Nvivo is software that is used to analyse qualitative data.

CONCLUSION

As the preceding discussion reveals the benefits of the relationship between research assistant and academic go beyond swifter research outcomes to encompass broad research training. In order for these benefits to accrue the utilisation of research assistants needs to become more directed and effective. Once academics become aware of the range of solutions there are available to difficulties they may encounter in the employment of research assistants it is likely that they will take more time to cement a stronger relationship with their research assistants. This will in turn open up numerous research training benefits for both the research assistant and the academic.

This article provides a range of suggestions for improving the relationship between research assistants and academics to improve research outcomes. It also suggests a number of methods faculties might employ to improve research training of research assistants. The paper argues that the answer to the changing role and needs of the research assistant lies in a paradigm move away from the unconnected doctrinal scholar to a group research effort including roles for senior researchers, more junior academics, graduate students and research assistants who are 'skilling-up' for academic roles. This change in paradigm raises the importance of 'research supervision', mentoring skills and managed training for professional legal academics.

The brief pilot survey carried out as part of this examination has underlined the need for increased effort and concentrated attention on the management of research assistants. It is timely for legal academics to examine how research assistants are managed, and how better to achieve more cost-effective outcomes for both parties. When these training paths are in place, they need to be fully acknowledged within academic circles and development engendered in a systematic manner. This has been a neglected area of the research life of law faculties.

Bibliography

Hutchinson, K 'Encouraging Undergraduate Scholarship: Institutional Strategies'. Paper presented at the Annual Meeting of the Speech Communication Association Chicago October 29-November 1 1992.

Hricik, D 'Life in Dark Waters: A Survey of Ethical and Malpractice Issues Confronting Adjunct Law Professors' (2001) 42 *South Texas Law Review* 379

Jacob, L 'Library use and library skills of research assistants: pilot study'. Paper presented at the Illinois Library Association Conference Urbana, November 8-9, 1990.

Jones, J and M Draheim 'Mutual benefits: undergraduate assistance in faculty scholarship' (1994) 5 (2) *Journal of Excellence in College Teaching* 85-96.

Lerman, LG, 'Misattribution in Legal Scholarship: Plagiarism, Ghostwriting, and Authorship' (2001) 42 *South Texas Law Review* 467.

Lown, J M 'Involving Undergraduate Students in Faculty Research' (1993) 5(2) *Advancing the Consumer Interest* 29-31.

Miller, M and J Stephens 'A Partnership Paradigm: A Case Study in Research Assistant and Faculty Interaction' (1997-1998) 15 (3) *Journal of Staff, Program & Organisation Development* 111-119.

Nelson, B *Higher Education at the Crossroads: An Overview Paper* Canberra: Commonwealth Department of Science Education and Training, 2002.

Nemes, I and Coss, G *Effective Legal Research* (2nd ed) Sydney: Butterworths, 2001.

Nyquist, J D and D Wulff *Working Effectively with Graduate Assistants* Thousand Oaks: Sage Publications, 1996.

Stuhmcke, A *Legal Referencing* (2nd ed), Sydney: Butterworths, 2001.

Williamson, BL, (Ab) 'Using Students: the Ethics of Faculty Use of a Student's Work Product' (1994) 26 *Arizona State Law Journal* 1029.

Worthen, B and M Gardiner 'A second look at the relation of research assistantships and research productivity'. Paper presented at the Annual Meeting of the American Educational Research Association New Orleans LA April 5-9 1988.