ARTIFICIAL INTELLIGENCE:

Thinking About Law, Law Practice, and Legal Education

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COZEN O'CONNOR
“Alexa, Write a Memo”
The Promise and Challenges of AI and Legal Writing

Presentation for Artificial Intelligence: Thinking About Law, Law Practice, and Legal Education Conference
April 27, 2019
OUTLINE

1. Basic overview of AI and NLP.
2. What are the possibilities of AI “writing” an office memorandum?
3. How should the legal writing class change in response to AI?
4. What are the implications when we get (inevitably) to the point when AI can write a memo?
Basic overview of AI

1. Machine learning
2. Deep learning
3. Neural networks

Stages of Artificial Intelligence:
- Machine Learning
- Machine Intelligence
- Machine Consciousness
WHAT IS NATURAL LANGUAGE PROCESSING?

Natural Language Processing (NLP) is “ability of machines to understand and interpret human language the way it is written or spoken”. The objective of NLP is to make computer/machines as intelligent as human beings in understanding language.

DIFFERENCE BETWEEN CLASSICAL NLP & DEEP LEARNING NLP

Classical NLP

Pre-processing

- Tokenization (English)
- Tokenization (Spanish)

Modeling

- Future Extraction (EN)
- Future Extraction (EN)
- Future Extraction (EN)

Output

- Sentiment
- Classification
- Entity Extraction
- Translation
- Topic Modeling

Deep Learning

Preprocessing

Dense

Hidden Layer

Output Units

Output

- Sentiment
- Classification
- Entity Extraction
- Translation
- Topic Modeling
Current Examples of AI Writing instead of humans

http://bbcnewslabs.co.uk/projects/juicer/


https://www.theregister.co.uk/2018/02/15/google_brain_ai_wikipedia/


https://www.wired.com/story/ai-text-generator-too-dangerous-to-make-public/
Process from a Client’s Problem to an Office Memo
Steps in preparing an Office Memo: Pre-Writing

1. Intaking of client’s facts
2. Finding macro-law (governing statute or common law principle)
3. Pulling out elements of macro-law
4. Applying client’s facts to macro-law and dismissing elements not in contention
5. Identifying any questionable elements
6. Finding case law to define questionable elements and articulating Rules
7. Organizing cases into yes and no
8. Comparing client’s facts to yes and no cases
Step One: intake of client facts

- Client JC was caring for a friend’s dog and the dog bit a guest at JC’s party. JC thinks the neighbor will sue him. Etc.
Any search, including Google, comes up with 510 ILCS 5/1.

510 ILCS 5/16
Formerly cited as IL ST CH 8 ¶366
5/16. Animal attacks or injuries
Effective: May 31, 2006

§ 16. Animal attacks or injuries. If a dog or other animal, without provocation, attacks, attempts to attack, or injures any person who is peaceably conducting himself or herself in any place where he or she may lawfully be, the owner of such dog or other animal is liable in civil damages to such person for the full amount of the injury proximately caused thereby.
Step Three: pulling out required elements of macro-law

--If

- Dog or other animal
- Without provocation
- Attacks, attempts to attack, or injures
- Any person
- Peaceably conducting himself
- In any place where he may awfully be

Then

- owner is liable
- Owner defined as
Some computational models exist:

Challenges:
- Statutory ambiguity and vagueness
- Varieties of ways that legislatures write law
Step Four: apply client’s facts to elements

- Dog or other animal—yes dog
- Without provocation—yes (but check)
- Attacks, attempts to attack, or injures—yes, bit neighbor—
injured
- Any person—yes, neighbor a person
- Peaceably conducting himself—yes, in own yard
- In any place he may lawfully be—yes, in own yard
- Then—owner liable but DJ not owner
- Owner defined as “Owner means any person having a right
of property in an animal, or who keeps or harbors an animal,
or who has it in his care, or acts as its custodian, or who
knowingly permits a dog to remain on any premises
occupied by him or her.” 510 ILCS 5/2.16
Step Five: identify any questionable element(s)

- Check on provocation—no
- How do IL courts define “custodian”?
Step Six: search IL case law for non-owner liability under 510 ILCS 5/1; synthesize and articulate Rule for owner/custodian
Step Seven

- Organizing cases into yes/no
Step Eight

- Analogizing and Distinguishing Cases
What About the Memo?

- Structure of an Office Memo (highly patterned)
  - Heading
  - Question Presented and Brief Answer
  - Facts
  - Analysis
    - Umbrella showing macro-rule etc.
    - Subsections for contested elements
  - Conclusion
Context and conclusion
Macro–Rule (relevant parts quoted)
Elements of Macro–Rule
Case facts applied to elements
Extraction of uncontested elements and why, using case facts
Isolation of contested elements
The Illinois Animal Control Act seeks to encourage tighter control on animals to protect the public from harm. *Docherty v. Sadler*, 689 N.E.2d 332, 334 (Ill.App. 4 Dist. 1997). Illinois courts find people liable under the Act even if not legal owners if they were in a position to have exercised control over the dog. Thus Castro is probably liable for the injuries, despite not being the legal owner.

The statute outlines what qualifies as an animal attack:
If a dog or other animal, without provocation, attacks, attempts to attack, or injures any person who is peaceably conducting himself or herself in any place where he or she may lawfully be, the owner of such dog or other animal is liable in civil damages to such person for the full amount for the injury proximately caused thereby.


A plaintiff must show that the animal attack occurred while he or she peaceably conducted himself, that he did not provoke the animal, and that he was in a place he could lawfully be. In the present case, the encounter between Bevers and the dog satisfies the elements that qualifies an attack under the statute. Bevers peaceably conducted himself at the time of the incident. He entered the home through the front door and exited to the backyard through the back door in order to enter the party. Bevers did not provoke the dog when it bit him. He dropped a plate of chicken, and when he reached for it, the dog bit his hand while attempting to eat the chicken. Castro invited Bevers to the party, so he lawfully could be there.
The question remains as to whether Castro’s is considered an owner under the Illinois Animal Control Act. The Act gives a definition of an owner:

Owner means any person having a right of property in an animal, or who keeps or harbors an animal, or who has it in his care, or acts as its custodian, or who knowingly permits a dog to remain on any premises occupied by him or her.

510 Ill. Comp. Stat. Ann. 5/2.16 (West 2006). Illinois courts have consistently required that for a person to be liable, he or she must knowingly and voluntarily consent to care for the animal at the time the attack. Thus, a court will probably not hold Castro liable for the injuries Bevers sustained from the dog attack because she did not knowingly and voluntarily assume responsibility to manage, control or care for the dog in a manner that owners would generally be accustomed because the dog was left in her yard when the attack occurred without her explicit consent.
https://iv.ai/project/pencil
A Paradigm Shift in How We Teach Legal Writing and Research

AI will not replace lawyers, but lawyers who use AI will replace lawyers who do not.

“We aren’t there ‘quite yet.’”
Objective Writing

- Students write a closed office memorandum, receive feedback, and revise.
- Students write an open office memorandum, etc/

Persuasive Writing

- Students transition into persuasive writing by researching and writing a trial level memo (in support of a motion) and (or) an appellate brief
The office memo as we know it may well be obsolete.

But how?

What will or should the new form look like?

In the meantime, let’s see what a machine can do.
Student AI–Related Activities

- Normalizing statutes into propositional logic—makes a complex statute easier to understand

- Text annotation—highlighting data makes a case understandable

- Developing searchable questions

- Using student activities can help us understand the kinds of human/AI collaboration that can and should occur

- Analyzing relationships between how students learn and how machines learn

- Anything that makes students less suspicious of/worried about AI and more intrigued with the possibility of using it