

Commentary

By the Book: Thoughts on the Future of Our Print Collections*

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Academic law libraries are increasingly confronting issues relating to the future of their print collections. The decline in use of print materials and the financial pressures of trying to maintain duplicative print and electronic collections force difficult choices. This article discusses these and other issues—philosophical and practical—that come into play in this changing environment.

¶1 A few years ago, I co-chaired an AALL committee called The Future of Law Libraries in a Digital Age. The committee's report, *Beyond the Boundaries*,¹ described many scenarios on future directions of law libraries. One of the academic law library scenarios discussed the evolution of the virtual law library, and the transition from print collections to the virtually all-electronic law library.² My participation in the discussions of the committee and the development of the committee's report stimulated my personal views and expectations regarding the direction and roles of academic law libraries.³

¶2 The scope of the *Beyond the Boundaries* report goes well beyond the future of our print collections. But the scope of this piece focuses on that precise issue. What we didn't dwell on in the course of envisioning our future were the practicalities and the minutiae and the uncertainties of moving our institutions away from print. The *process* of actually transitioning a physical, print-based library collection to an all (or mostly all) electronic one can be painful and controversial—and a lot of work.

¶3 Recently I gave a presentation to our college community about what was happening to the library collection. It's been going on for years, of course, but gradually, incrementally, and without fanfare. The pace has accelerated more

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1. BEYOND THE BOUNDARIES: REPORT OF THE SPECIAL COMMITTEE ON THE FUTURE OF LAW LIBRARIES IN A DIGITAL AGE (2002).

2. *Id.* at 8–9.

3. Our committee is not the only group that has used the boundaries metaphor. See, e.g., Taiga: A Community of AULs and ADs Challenging the Traditional Boundaries in Libraries, <http://www.taigaforum.org> (last visited Apr. 7, 2008).

recently, however, and the cuts are becoming more radical. Preparing the report and trying to capture the implications of what is happening brought me back to the days of the Future of Law Libraries visioning and wondering if we got it right.

A Convergence of Two Phenomena

¶4 The acceleration toward reliance on electronic resources in my library is largely the product of two developments (or lack of same). The first is that funding for public academic libraries in my state has dried up. The legislature has bought into the ideas that 1) there's a lot of fat up there on the hill, and 2) it's all free on the Internet (yes, I know we're not alone on this issue). They've just gone home as I write this, and yet again there is no money for academic libraries. With annual price increases running at least 8%, this effectively means an 8% cut on a flat budget, and collection decisions are all about what to cancel next.

¶5 Second, in many cases, development of electronic information products that are far superior to print versions (read: Shepard's) makes the move to electronic an obvious one.⁴ The second development means that increasing reliance on electronic sources is not necessarily a Bad Thing, since we all know that the ways that our collections are used has changed radically and precipitously in recent years. The drop in use of our print collections and the concurrent increase in demand for electronic resources is dramatic.⁵

¶6 So the financial pressures are resolved, in part, by looking at what is no longer used. This is a healthy thing. To a point.

The Obvious Candidates

¶7 At first it was easy. There were the duplicates. In retrospect it's amazing how many copies of reporters, the *United States Code* (all versions), the digests, and ALR we subscribed to. But back then, they were used—not only for the IL research problems but by journal cite checkers and other legal researchers who stacked reporters ten-deep and spread open volumes on library tables. Our *Pacific Reporters* (all five copies) were so beat up we were swapping out older volumes from law firm donations.⁶ Now in most instances we are down to one copy of what we still have.⁷

4. Also obvious is the fact that in order to add electronic resources on a flat budget we have to cut even more than the aforementioned 8%.

5. A few years ago, I asked a shelver, who had no books to shelve, to trace our shelving statistics back about five years. When he handed me the report, with its graphs showing a dramatic drop, he commented that he had just proved himself out of a job.

6. The firms were way ahead of us in this migration. Reporter volumes from recent years, on the other hand, are pristine.

7. The IL research classes do present challenges. We adopted a format-neutral method of teaching basic legal research a few years ago, which helps.

¶8 Then there was Shepard's. As noted above, the electronic citators are so much better, faster, easier, more current, and more comprehensive in coverage that this was also an obvious category to cut. We did it in batches, finally cancelling everything but one copy of *Utah Citations*.⁸ This was painful for the downtown attorneys who did not warm to our public access KeyCite, but they got the hang of it eventually. And we no longer teach print Shepard's to 1Ls.

¶9 We then moved to journals, which I think we all can agree are well covered in the aggregator databases. We started with the more expensive titles. Except for what's routed (although there's less of that than there used to be—more faculty are reading online, monitoring SSRN and SmartCILP, and ordering electronic copies from document delivery). And this led to binding—we stopped that. But we haven't been as aggressive with cancelling the very inexpensive academic law reviews as we could be.

¶10 When I found out what we were paying for Halsbury's,⁹ we did a major review of British and Canadian primary materials and cancelled there.

¶11 And my latest crusade is Everything West—their pricing practices are unconscionable.¹⁰ But apart from duplication, I am loathe to let go of the National Reporter System completely, even though case law is readily available from many electronic sources. Maybe it's the artifact thing—more on that later.

¶12 Among the print publications that we have been committed to keeping are the state codes, for a couple of reasons. First, we continue to subscribe to the general consensus among serious legal researchers that statutory research works better in the print version of codes—even with improved browsing capacity and other developments in the online versions. This is a value we try to impress upon law students, though it usually doesn't stick. Second, our collection of state codes is very popular with law review cite checkers and practitioners, and it does get used. Nevertheless, after some debate, we recently cancelled upkeep on codes for selected remote, smaller states. We'll see whether we get push-back on that one.

¶13 Another area that we have protected is monographs and treatises. There is general agreement that these resources will continue to be used in print form for the foreseeable future. Practice materials, which are used mainly by the practicing bar and are among the more expensive of secondary sources, are subject to scrutiny. We're also experimenting with cancelling upkeep on certain treatises and practitioner sets for which current upkeep is not essential (e.g., *Jury Selection: Law, Art and Science*; *Cyclopedia of Trial Practice*), with the idea of selectively reinstating or replacing after three years.

¶14 Speaking of cite checkers, the issue of citation conventions is also relevant to the decision to drop print. The current editions of *The Bluebook*¹¹ and the *ALWD*

8. See *infra* ¶¶ 20–22 for a discussion of publisher, including Shepard's, practices.

9. HALSBURY'S STATUTES OF ENGLAND AND WALES (4th ed. 1985).

10. See *supra* note 8.

11. THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (18th ed. 2005) (hereinafter BLUEBOOK).

*Citation Manual*¹² continue to reflect a strong preference for citation to the print versions of legal sources.¹³ Each citation manual has “special” rules for citation to electronic versions of sources,¹⁴ and generally instructs that print sources should be cited if available.¹⁵ Star pagination in LexisNexis and Westlaw helps for case citations, but is not available for many other sources.¹⁶ And so student journal editors, mindful of the need for *Bluebook* compliance, will want the print version of sources cited—which is doubly ironic, since they are native online researchers (mostly) themselves and no doubt the author was looking at an online version of the source cited.¹⁷

Making the Tough Decisions

¶15 So as I said initially, recognizing the inevitability of the direction we’re headed, the issues become more a matter of process and priorities. What we are talking about is two separate decision paths: deciding what to cancel and deciding what to weed from the collection. The former involves consideration of what is used and potential cost savings. The latter also involves consideration of what is used, as well as space issues and the overall integrity of the collection.

¶16 Among the issues and questions:

- How consultative should we be in making these decisions?
- Do we include faculty?
- Or resurrect the Library Committee?
- Our current dean is encouraging and supportive of this direction, but what about the next dean?
- Do we publicize our cut lists, or do we cut and wait for people to complain?
- Collaborative cancellation efforts among consortial groups are much discussed, but to what end?¹⁸

12. ASS’N OF LEGAL WRITING DIRS. & DARBY DICKERSON, *ALWD CITATION MANUAL: A PROFESSIONAL SYSTEM OF CITATION* (3d ed. 2006) (hereinafter ALWD).

13. See, e.g., BLUEBOOK, *supra* note 11, at 7 (R. B5.1.2); ALWD, *supra* note 12, at 64 (R. 12.1) (describing basic case citation form as including volume and beginning page number).

14. E.g., BLUEBOOK, *supra* note 11, at 95 (R. 10.8.1); ALWD, *supra* note 12, at 95 (R. 12.12) (giving rule for citing “unreported” cases available electronically).

15. See BLUEBOOK, *supra* note 11, at 151 (R. 18) (“*The Bluebook requires the use and citation to traditional printed sources* unless (1) the information cited is unavailable in a traditional printed source; or (2) a copy of the source cannot be located because it is so obscure that it is practically unavailable.” (emphasis in original)); ALWD, *supra* note 12, at 291 (R. 38.1(a)) (“If a source is available in print and electronic formats, typically cite *only* the print source if it is readily available to most readers.” (emphasis in original)).

16. The universal, or format-neutral, citation movement seems to have had no effect on law review citation practices. For a discussion of format-neutral citation, see generally AM. ASS’N OF LAW LIBRARIES, *UNIVERSAL CITATION GUIDE* ¶¶ 25–31 (2d ed. 2004).

17. Rumor has it that the next edition of the *Bluebook* will be more receptive to electronic sources.

18. The Desert States Law Libraries Consortium is an informal group of academic law libraries from Arizona, Colorado, New Mexico, Nevada, Utah, and Wyoming. We have been in the discussion stage regarding collaborative cancellations for a few years. So far, we just share our cancellation lists.

- What do we do with what we've cancelled?
- Do we care about volume count anymore?¹⁹

¶17 This is all very controversial among librarians and staff. Some miss the good old days of big print collections and multiple copies; others are more realistic about the demise of print. Some feel we are moving too fast. I wonder if we are being too conservative and moving too slowly.²⁰ In my presentation to the law school community, I solicited user feedback, but have not had significant response (perhaps itself an indication that it is not hurting yet).

¶18 And it's a lot of work. We've developed a database and tracking system, spreadsheets, spine marking and other disposition models, ILS records procedures, statistics procedures. Vendor communications, obtaining confirmation of our actions, and tracking refunds and credits are all time-consuming. All of this requires implementation of training and oversight responsibilities and an overall review of workflow procedures in acquisitions, cataloging, serials, and financial management.²¹ And many meetings. And reference, circulation, and document delivery need to be kept in the loop.

¶19 The ABA Standards continue to require that we maintain a Collection Development Policy.²² We are in the process of updating ours to reflect what we are actually doing; as I said before, collection development is all about what to cut next.²³ Typically, a collection development policy begins with a discussion of the mission of the law library in supporting the teaching, scholarship and research, and service mission of the law school. As a public law library, and the largest public law library in the state, we have always recognized our secondary mission to provide for the legal information needs of the university, the legal community, and the public. This secondary mission has been part of our rationale for not cancelling print titles that are readily available to law students and faculty under LexisNexis and Westlaw licenses. What will the revised S.J. Quinney Law Library Collection Development Policy say about mission-based decisions regarding cancellation of print materials?

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19. The ABA Section of Legal Education Annual Questionnaire is dropping volume count beginning with the 2009 cycle. E-mail from Paul M. George, Chair, Section of Legal Educ. & Admissions to the Bar, Am. Bar Assoc., Comm. on Law Libraries, May 6, 2008 (on file with author). Will this accelerate the move away from print?
 20. Our main campus and health sciences libraries have moved much more aggressively than we have to replace print journals with e-journals, for instance.
 21. Projecting the impact of cancellations on the budget, and long-term savings, is wildly imprecise. We've just received a big refund from Ebsco, and we're having a hard time reconciling it with our own savings projections.
 22. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, AM. BAR ASS'N, 2007–2008 STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS, Standard 606(c); on the other hand, the standards and current ABA practice seem to be more open to providing access to the core collection electronically. *See id.* Standard 606(a), (b); Interpretation 606–2.
 23. A conceded overstatement, for the purpose of making my point. As I've said, like everyone else we continue to actively add electronic resources (requiring even more cancellation of print), and that part of the collection development policy needs updating as well.

The Publishers

¶20 There's been a fair amount of discussion recently about the role of the publishers in this process. I'm not an expert in their business model or the economics of publishing generally, but I can't see how West can sustain its print empire much longer. While they have not yet ceased publication of the print decennial digests and other dinosaurs, price increases are well beyond the rate of inflation, and they are issuing supplements, replacement volumes, and new editions with great rapidity: when was the last time you saw a fat West pocket part? Or volume, for that matter?

¶21 Shepard's was also into this big time back when we were still subscribing. They would issue complete revisions where formerly they would just add supplementary volumes (granted, the Shepard's supplements were a pain, but then so is print Shepard's, period). One wonders how much longer LexisNexis will continue its print Shepard's products.

¶22 It is worrisome that we are all so dependant on the practices of the two dominant publishers—print and electronic. So much of our electronic content comes from LexisNexis and Westlaw (and can we cancel print with confidence that the content will remain available under the educational contract license?) that cutting back on print only ties us to their tactics more than ever.²⁴

Space

¶23 Going back to the weeding side of the equation: all of the discarding of duplicate reporters, bound journals, and other miscellaneous cancelled sets has saved us enormously on shelf space. By rights we should have been out of space years ago. We've downsized our print collections to such an extent that we've pulled out stacks to create two lounge areas for casual seating.

¶24 My law school is in the early planning phase of new, or a major renovation of, facilities. Anyone who has planned a library building project—new or renovation—in recent years has confronted the question of how to project long-term print storage capacity. Our main library is in the midst of a \$70 million renovation which includes installation of an Automated Retrieval Center (ARC) with a capacity to hold over two million volumes. It is an amazing facility, and so far, after a few months of operation, it's busy—which means people are still requesting print books (even those that had been predicted to be low use and that's why they are in the ARC). On the other hand, one major category of what is stored in the ARC is journals (the e-version of which are readily available through numerous

24. A recent flurry of exchanges on the lawlibdir listserv bemoans the news regarding LexisNexis and Westlaw pricing for the 2008/09 academic year. My library got off relatively lightly, with increases of 6% and 9% respectively.

aggregators)—and you’ve got to wonder how much longer they are going to want to hold on to those.²⁵

¶25 We know that at a minimum our net volumes added annually will be minimal, and the rate at which we use shelf capacity will decline. We haven’t finished weeding all of the back runs of duplicate copies of cancelled sets, which could buy us more time in our existing space and which in any case we would not (presumably) move to a new facility. We also value much of our historical holdings, however, which we expect to house in a new facility.

The Long Haul

¶26 The Future of Law Libraries Committee tried to articulate where all of this is headed. A lot has happened since 2002, some of which the committee anticipated (amazingly so, if I say so myself), much of which we did not. More energy is being invested in the concrete and practical things that need to happen, like last copy projects,²⁶ LIPA,²⁷ digitization of law collections,²⁸ and institutional repositories.

¶27 The continuing concerns about the reliability of²⁹ and permanent access to³⁰ digital legal information sources—particularly primary sources of the law—are also implicated as we continue our migration to electronic sources. These concerns are not unique to law and are the subject of intense debate throughout the library world.³¹ Until these concerns can be laid to rest, we need to be cautious about dumping our print legal record.

25. Any discarding of these journals would be subject to the terms of the UALC Distributed Print Repository Agreement. UTAH ACADEMIC LIBRARY CONSORTIUM DISTRIBUTED PRINT REPOSITORY AGREEMENT (2005), <http://www.ualc.net/DPR.pdf>.

26. The Desert States Law Libraries Consortium is engaged in an inventory of print primary materials of our six states held by member libraries, with an eye to last copy commitments and digitizing some subset of our holdings down the road. *See supra* note 17. For an example of a formal last copy agreement, see UTAH ACADEMIC LIBRARY CONSORTIUM DISTRIBUTED PRINT REPOSITORY AGREEMENT, *supra* note 25; *see also* BEYOND THE BOUNDARIES, *supra* note 1, at 52; BERNARD F. REILLY, JR., DEVELOPING PRINT REPOSITORIES: MODELS FOR SHARED PRESERVATION AND ACCESS (2003), *available at* <http://www.clir.org/pubs/reports/pub117/pub117.pdf>.

27. Legal Information Preservation Alliance, <http://www.aallnet.org/committee/lipa> (last visited Apr. 14, 2008).

28. *See, e.g.*, Law Library Microform Consortium, About LLMC Digital, <http://www.llmc.com/AboutLLMCDigital.asp> (last visited Apr. 14, 2008).

29. *See* BEYOND THE BOUNDARIES, *supra* note 1, at 111; *see also* AM. ASS’N OF LAW LIBRARIES, ACCESS TO ELECTRONIC INFORMATION COMMITTEE & WASHINGTON AFFAIRS OFFICE, STATE-BY-STATE REPORT ON AUTHENTICATION OF ONLINE LEGAL RESOURCES (2007), *available at* http://www.aallnet.org/aallwash/authen_rprt/AuthenFinalReport.pdf. AALL hosted a National Summit on Authentic Legal Information in the Digital Age in April 2007, in which this issue was thoroughly examined. *See* Authentic Legal Information in the Digital Age: AALL National Summit, <http://www.aallnet.org/summit/default.asp> (last visited Apr. 14, 2008).

30. *See, e.g.*, OYA Y. RIEGER, PRESERVATION IN THE AGE OF LARGE-SCALE DIGITIZATION (2008), *available at* <http://www.clir.org/pubs/reports/pub141/pub141.pdf>; *see also* Robert C. Berring, *Losing the Law: A Call to Arms*, 10 GREEN BAG 2D 279 (2007), and the response to it, Richard Leiter, *Paper is Not a Drag*, 11 GREEN BAG 2D 12 (2007).

31. *See, e.g.*, REILLY, *supra* note 26; RIEGER, *supra* note 30.

¶28 Similarly, it's not clear to me whether we will abandon completely the notion of book as *artifact* apart from the *information* or *intellectual content* contained in the book.³² Certainly electronic resources in many cases provide superior access to the information, if that is all we are interested in. But is there some intrinsic value in preserving the format and packaging of the original print publication? Is there a pedagogical reason to continue to teach law students about the print history of publication of the law? And while this may be an issue for historical and dual format (print and electronic) publications, how does this affect the increasing amount of material that never sees the print light of day, i.e., those that are born digital?

¶29 The *Beyond the Boundaries* report concluded, based on feedback on the scenarios and listserv discussions, that “[t]he concept of the hybrid library [is] the most realistic future law library scenario,”³³ meaning that there was widespread agreement that print books will be in the law library of the future. I think that this prediction from 2002 remains mostly true today, at least as to academic law libraries. But the proportion of book to digital will continue to shrink, and the rate at which electronic resources dominate our collections will continue to grow. The financial strain of trying to pay for all of this cannot be sustained—something has to give. The myriad issues surrounding our migration from print that are briefly addressed in this Commentary are not going to go away. Dealing with this phenomenon will continue to challenge our professional judgment, our planning and organizational strategies, and our perspective as academic law librarians.

32. See e.g., COUNCIL ON LIBRARY AND INFORMATION RESOURCES, THE EVIDENCE IN HAND: REPORT OF THE TASK FORCE ON THE ARTIFACT IN LIBRARY COLLECTIONS § 2 (2001), available at <http://www.clir.org/pubs/reports/pub103/contents.html>.

33. BEYOND THE BOUNDARIES, *supra* note 1, at 63.