

Next Steps: Moving Forward on a National Plan*

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Mr. Clareson describes the steps required for the development of a national plan to deal with the numerous preservation issues facing those in the law library field.

An Issue of Great Size and Severity

¶1 The size and severity of the preservation issues in the law library field may be second only to those faced by federal, state, and local governments. Within the field, there are a variety of creators, scholars, academic entities, court systems, and legal firms. As Richard Danner noted in his presentation,¹ these creators are more interested in dissemination than in preservation.

¶2 Law librarians face a deluge of documents, including case law, statutory and administrative codes, platte maps, dockets, testimonies, commentaries, and other primary and secondary legal sources. The problem is compounded by multiple versions and formats of the documents and by the high production capacity of the creators. What is the *library staff* capacity and *human bandwidth* to deal with these materials?

A Need to Unify Divergent Viewpoints

¶3 We need a national strategy to be able to deal with multiple formats and versions. There is great need to unify the many divergent viewpoints on how to address preservation concerns. These viewpoints echo discussion in other fields. Some of the questions raised by these viewpoints include:

- Which materials should be preserved in original form?
- Microfilm and preservation photocopy are preservation strategies with existing standards. Where should these be utilized?
- Digitization is excellent for access. What are its implications for preservation?

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1. Richard A. Danner, *Issues in the Preservation of Born-digital Scholarly Communications in Law*, 96 LAW LIBR. J. 591, 591, 2004 LAW LIBR. J. 38, ¶ 1.

¶4 As information professionals, we may not have all the necessary technical skills and resources to move digitization to a preservation strategy and solve the technical issues. But we need to be at the table and provide input about policy and procedural issues. The reality is that our users want to receive information electronically. In order to serve them, we must commit to digital access. The question is: are there enough resources for us to retain both the original and a microfilm preservation copy along with a digital copy? Ideally we would like to preserve all three, but in reality, there may not be enough resources to do so. This is one of the most serious debates in the cultural heritage field in the past twenty to thirty years. Research funding, human resources, and technological solutions are being used to address the issue. What is at stake is the growing majority of scientific, technical, and increasingly, legal information.

What Are We Doing and Where Are We Going?

¶5 So, what is the library field doing to address these issues? We are active in gathering data and developing standards, policies, and procedures. We need to pool our knowledge and our efforts to work effectively together. Standards-making groups are working on the issue, as evidenced by work on the ANSI Digital Still Image Standards.² The OCLC/RLG Working Group on Preservation Metadata³ is starting phase two of its project, looking at implementation issues. The Library of Congress, the National Library of Australia,⁴ and others are developing best practices; and OAIS (Open Archival Information System) and digital repositories are up and running.

¶6 Even small digitization projects are committing to preserving their digital resources. In another trend, governments, a vital source of legal records, are committing to digitization and to born-digital materials with no analog backups. It doesn't make sense to them to create and store paper, film, *and* electronic versions—their financial sources can't support all three. We are moving down a path where digitization will be considered preservation. We are already there in some sectors, notably some state government and county clerks. Research, funding, consortial, commercial, academic computing, and other communities are all working toward this common goal.

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2. See NAT'L INFO. STANDARDS ORG., STANDARD IN DEVELOPMENT: NISO Z39.87 -2002, DATA DICTIONARY—TECHNICAL METADATA FOR DIGITAL STILL IMAGES, at http://www.niso.org/standards/standard_detail.cfm?std_id=731 (last visited July 19, 2004).
 3. See OCLC/RLG WORKING GROUP ON PRESERVATION METADATA, PRESERVATION METADATA FOR DIGITAL OBJECTS: A REVIEW OF THE STATE OF THE ART (2001), available at http://www.oclc.org/research/projects/pmwg/presmeta_wp.pdf; OCLC/RLG WORKING GROUP ON PRESERVATION METADATA, A METADATA FRAMEWORK TO SUPPORT THE PRESERVATION OF DIGITAL OBJECTS (2002), available at http://www.oclc.org/research/projects/pmwg/pm_framework.pdf.
 4. See NAT'L LIBRARY OF AUSTL., PRESERVATION METADATA FOR DIGITAL COLLECTIONS, at <http://www.nla.gov.au/preserve/pmeta.html> (last updated Oct. 15, 1999).

Roadblocks and Open Issues

¶7 To paraphrase Paul Conway,⁵ we have not experienced the equivalent of a Florence flood yet with digitized materials, but we all are familiar with some urban legends and frightening truths, including the fate of some census data, aerospace data, and the life expectancy of materials stored on CDs. The community has not yet fully committed to using digitization as the *only* method of preservation. Right now, if digital images are lost, the information or artifacts will not be lost. We still have the ability to return to the analog version, via retention of the original or through hybrid projects. We need to remember this: microfilm's life expectancy, if processed and stored according to standards, is five hundred to fifteen hundred years. We do not yet know the life expectancy of digital materials.

¶8 We also need to remember that we are in the infancy of digital preservation. In the infancy of microfilm, a great deal of film was created that will not last five hundred years. We lost information as a result of this. We will lose digitized information as well, but we *will* find the solutions because we have to!

Best Practices—For Now

¶9 We are taking the hybrid approach, using the equivalent of “belt *and* suspenders,” by putting in place procedures that we believe will facilitate digital preservation. Most are practical in nature: good metadata, good data handling practices, and use of formats that we think will lend themselves toward preservation. We are formulating redundancy and backup policies and preservation strategies such as migration or emulation. We continue to develop and test strategies for digital preservation. We haven't found *the* strategy yet, but we are trying. I suggest you watch the major funders to get a sense of where we are heading.

Institutionalizing Preservation

¶10 We need to develop a strategy for making preservation part of the institutional mission of law libraries, both individually and collectively. We also need to convince the field and the public of the value of this strategy. We must

- review past efforts at creating strategies, along with models from other disciplines;
- participate in educational and awareness-raising activities;
- address selection and prioritization issues;
- seek funding opportunities to pursue our goals; and
- ensure the sustainability of our strategies and practices.

5. Paul Conway, Address to American Library Association Midwinter Meeting (Jan. 2003).

Past Efforts and Other Models

¶11 There are many things to learn about successes and risks the law library field has encountered by considering past preservation efforts. In addition, other associations and organizations have attempted to address these issues for their communities. For example:

- The American Library Association has a Preservation Section⁶ and has a preservation policy⁷ in place.
- The Society of American Archivists has a Preservation Section⁸ and has made preservation part of its core mission, programs, and education efforts.
- The National Association of Government Archives and Records Administrators⁹ is working on developing preservation-related tools and is among the leaders in electronic records preservation.¹⁰
- The American Theological Library Association has a long history of working on microfilm and digital projects.¹¹
- The National Library of Medicine¹² and the National Agricultural Library¹³ are leader institutions in the field of preservation.
- MATRIX at Michigan State University¹⁴ is a leader in humanities computing.

¶12 After reviewing and emulating best practices, we need to decide what is feasible for our community.

Education and Awareness Raising

¶13 The next step is to educate and raise awareness of law librarians across the field, the creators whose works we collect, and our funders and users. We all are familiar with Wes Boomgaarden's quote, "If you think preservation planning is

6. See Preservation & Reformatting Section, Ass'n for Library Collections & Technical Servs., Am. Library Ass'n, at <http://www.ala.org/ala/alcts/alcts.htm> (last visited July 17, 2004).
7. AM. LIBRARY ASS'N, PRESERVATION POLICY (1991), available at <http://www.ala.org/ala/alctscontent/alctspubsbucket/webpublications/alctarchives/alapreservationpolic/alapreservation.htm>.
8. See Preservation Section, Soc'y of Am. Archivists, at <http://is.gseis.ucla.edu/saapreserv/prindex.htm> (last visited July 17, 2004).
9. See Nat'l Ass'n of Gov't Archives & Records Adm'rs, at <http://www.nagara.org> (last visited July 17, 2004).
10. See, e.g., COMM. ON ELEC. RECORDS & INFO. SYS., NAT'L ASS'N OF GOV'T ARCHIVES & RECORDS ADM'RS, STATUS OF THE PRESERVATION OF ELECTRONIC RECORDS BY STATE ARCHIVES (2004), available at http://www.nagara.org/news/ceris_report.pdf.
11. See AM. THEOLOGICAL LIBRARY ASS'N, PRESERVATION, at <http://www.atla.com/preservation/preservation.html> (last visited July 17, 2004).
12. See NAT'L LIBRARY OF MED., NATIONAL LIBRARY OF MEDICINE'S PRESERVATION PRACTICES, at <http://www.nlm.nih.gov/psd/pcm/nlmprespract.html> (last updated Dec. 23, 2003).
13. See NAT'L AGRIC. LIBRARY, PRESERVATION PROGRAM, at <http://www.nal.usda.gov/preserve> (last visited July 19, 2004).
14. See MATRIX—The Center for Humane Arts, Letters, and Social Sciences Online, at <http://matrix.msu.edu> (last visited July 17, 2004).

expensive, try winging it!” Many firm and county law libraries, and even those at the state level, are lacking even the basics in digitization and preservation planning, including a disaster plan, environmental control, a written policy for preservation, review of collections, consortial preservation activity, and planning for digital activity. We need to bring people up to a level playing field with regard to preservation and digital standards. We should try to accomplish this through newsletters, publications, conference presentations, and even through subliminal advertising! This is a great way to attract new leaders to the effort, as well as to market and sell the plan.

Selection and Prioritization

¶14 Not everything created is worth preserving, and we need to develop policies that address where we draw the line. We can develop these through surveying collection condition and use patterns. We need to realize that what the end users want may be different than we think. Scholars also need to be involved in selection. One model law library digitization program has scholars voting on cases to be put on the Web. The suggestion has been made that we start with primary legal literature. We also need to explore the benefits of preserving international legal literature; and working with international partners has been discussed.

Funding Issues

¶15 There is money for both traditional and digital preservation. The National Endowment for the Humanities, the Institute of Museum and Library Services, and the National Historical Publications and Records Commission all have lines for traditional preservation funding. Questions about grant funding that need to be answered include: If grants are sought, will firms be excluded from such funding because of their for-profit status? Is corporate foundation funding appropriate? Right now, collaborative projects are attracting a great deal of preservation and digitization funding.

¶16 Preservation projects may start as grant-based projects, but the target should be to move them to a standard budget line for implementation, production, and maintenance.

Sustainability

¶17 Finally, we need to address issues of sustainability. First of all, we need to ensure the sustainability of our collections and of our preservation efforts. One way we can do this is through ensuring the sustainability of our funding. We also need to begin building models to use on the local level. Another way to increase sustainability is through projects developed by collaborative and cooperative efforts.

Conclusion

¶18 Preservation is seldom central to strategic planning, but it must be or we will have nothing to serve to our clients. Preservation and continued access must become central to our service mission. Among our first steps, we need to conduct a risk assessment and develop business risk models to see what will be lost if we do *not* pursue preservation activities. We must also develop implementation plans with realistic timelines. And we must publicize our successes and our failures, so that all in the field can learn from our activities.