

ALL-SIS Scholarly Communication Task Force Report

DRAFT

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The Academic Law Libraries SIS (ALL-SIS) Task Force was charged with creating a report that would do the following:

- identify the most significant scholarly communication issues in the legal academy and libraries
- recommend ways in which the SIS could provide a forum for information sharing and collaboration on such issues, including specific projects
- connect with other AALL (ALL-SIS faculty services, TS-SIS and RIPS-SIS) and external groups on scholarly communication issues*

*This aspect of the report still in process as we are getting feedback.

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Introduction

Law libraries have become active partners in law schools in matters related to legal scholarship. As the scholarly communication becomes more complex and dynamic, libraries are increasingly helping their law schools and individual faculty members navigate an ever-evolving landscape. This report attempts to outline and synthesize some of the most important scholarly communication issues affecting law schools and outline activities and projects in which libraries have been involved and are beginning to become involved. It attempts to identify activities and interests of entities within AALL and beyond to see where there are “gaps” or needs for additional support for law libraries and partnership. The report contemplates ways in which ALL-SIS could support such activities and partnerships/connections among law librarians and other organizations outside law librarianship and complement and supplement existing endeavors. While scholarly communication is often considered in the context of faculty activity, this report tries to consider it more broadly and does view student scholarship as part of this landscape. That said, it does not touch in depth on issues related to institutional publications (e.g. law journal publishing) which has been subject of much discussion in many venues and is worthy of its own report. The report is not intended to be an exhaustive, comprehensive research paper, but rather pull together enough of a landscape to allow ALL-SIS to make informed decisions about potential activities and support. In addition to the footnotes and bibliography

appearing in this report, a Zotero account has been created for use by the committee and potential use by ALL-SIS itself as a shared reference manager for those interested in the topic. <https://www.zotero.org/groups/allsischolcomm/items> There is also a website <http://scholarlycommunication.weebly.com/> that has been created to share materials from the report and serve as a potential site for any additional follow up work or information sharing by ALL-SIS, providing a site for a clearinghouse similar to ones that have been developed for AALL activities (e.g. the Collection Development Committee (<http://www.aallnet.org/sis/allsis/committees/colldev/index.asp>). While it is sitting on Weebly's server for the sake of convenience, it could be moved to the AALL server (or elsewhere) and to a more easily editable format like a wiki for additional feedback/input by members.

At a meeting in Boston in July 2012, a group of task force members outlined areas that would be the most beneficial for exploration: author rights and journal policies; open access policies; repository platforms/issues; web archiving; scholarly metrics/impact; metadata; and empirical/data support. While issues related to law journal publishing appear in these various sections, this topic has not been treated in any comprehensive way due to the breadth of the topic.¹ Specific recommendations are listed at the start of each topic entry and are also compiled as a summary at the end of the report. The four large themes emanating from the recommendations are: law-specific education/training; consumer advocacy; facilitating existing projects by member motivation and collaboration; and serving as an information clearinghouse and discussion facilitator for collaborative activities and information sharing.

GENERAL RECOMMENDATIONS

- **Continue with website/clearinghouse for use by ALL-SIS members-something could be easily editable by all ALL-SIS members and AALL members more generally.**
- **Appoint standing committee or continuing task force to move forward with some of the recommendations of this report. Assign chairs of existing committees as members (e.g. faculty services, programs, continuing education, collection development, Bluebook).**
- **Explore professional development programming recommendations in conjunction with planning programs for next year's annual meeting.**
- **Consider the value of appointing "liaisons" (as for ABA and AALS) to SPARC. That person could also help coordinate other recommendations centered on outreach to ABA and AALS.**

¹ Richard Danner, The Durham Statement Two Years Later: Open Access in the Law School Journal Environment, 103 Law Library Journal 39 (2011) (with Kelly Leong & Wayne V. Miller); Wayne Miller, A Foundational Proposal for Making the Durham Statement Real, http://scholarship.law.duke.edu/faculty_scholarship/2325/ (2010); Implementing the Durham Statement, Best Practices for Open Access Law Journals, <http://law.duke.edu/libtech/openaccess/conference2010/>

1. Author Rights and Journal Policies

RECOMMENDATIONS:

- **Maintain clearinghouse of guides and resources for getting published and educating about author rights on ALL-SIS website.**
- **Support AALL reaching out to AALS to work with it to revisit and revive AALS model agreement.**
- **Support projects collecting journal information about author rights and policies. Facilitate dissemination of that information in multiple places, particularly where people are making decisions about where to submit for publication or use the information (e.g. repositories and journal websites). Encourage law libraries to make sure information for their own journals is accurate and educate editors at their own institutions.**
- **Facilitate continuation of outreach efforts to journals themselves through individual outreach by libraries and libraries and coordinated efforts to larger groups like NCLR, AALS, etc...**
- **Encourage licensing opportunities to incorporate author rights language into content licenses.**

Educating authors about agreements and advocating for models

Author rights and publication agreements continue to be a concern for law libraries in advising faculty and students interested in getting published and in populating their institutional repositories, as well as liaising with their own journals. ALL-SIS and its individual librarian members should be actively involved in activities related to the development, education and dissemination about law journal policies and their agreements, taking into account the spectrum of author rights and the licensing terms of the journal (e.g. an author's right to publish in Creative Commons terms versus the journal itself publishing under a Creative Commons license).

ALL-SIS should maintain a clearinghouse of resources for librarians advising individual authors.² There are several existing resources for educating authors about their rights in publication agreements including specific suggested addenda.³ Due to the unique nature of law school law reviews, there has also been a great deal of literature specifically about considerations

² A collection of links has been posted at <http://scholarlycommunication.weebly.com>

³ SPARC in particular has a wide range of resources. Scholars Copyright Addendum Engine, <http://scholars.sciencecommons.org/> ; Northeastern University School of Law recommends U. of Georgia's addendum; other law schools recommend other addenda.

in law school law review publication agreements.⁴ Many libraries also produce guides related to supporting faculty and students getting published which could be included in the clearinghouse.

Over the years, there have been various efforts to develop model policies to be used by journals and for authors to use as guidance for reviewing their publication agreements. The Open Access Law Program at Creative Commons had a model agreement that had various terms that could be selected by preference.⁵ The American Association of Law Schools (AALS) has a model policy that is fairly old at this point and it is unclear how it is actually being used by law journals.⁶ AALL/ALL-SIS could reach out to the AALS to help revive the model policy. (As the major “sub-entity” within AALL that represent academic law libraries in particular, it makes sense for it to pursue such efforts.) Since the time of the policy, there have been several articles and programs written about ideal language for publication agreements.⁷ While there are several addenda developed for authors to use⁸, revisiting model language that is appropriate for the legal academy and its publications (with the input of the academy itself) might result in a greater chance of their adoption and use among individual authors and journals and could accommodate the issues related to both US law school law reviews and peer-reviewed publications from larger publishers. It would complement activities following the Durham Statement which itself was spurred by academic law library directors. In this process, ALL-SIS (and AALL) should consider what position they want to take on open access related to law journals when pursuing this activity.

Facilitation of dissemination of information about journal policies

Beyond the use of ideal language itself to secure certain rights, task force members have observed that one major obstacle to posting law faculty scholarship in institutional repositories

⁴ Benjamin J. Keele, Copyright provisions in law journal publication agreements, 102 Law Library Journal 269 (2010); Michael N. Widener, Safeguarding ‘The Precious’: Counsel on Law Journal Publication Agreements in Digital Times, 28 John Marshall J. of Comp. & Info. Law 185 (2010).

⁵ Open Access Law Publication Agreement

<http://sciencecommons.org/projects/publishing/oalaw/oalawpublication/>

⁶ <http://www.aals.org/deansmemos/98-24.html>; See Benjamin J. Keele, Copyright provisions in law journal publication agreements, 102 Law Library Journal 269-271-272 (explaining various model agreements and addenda) (2010);

⁷ Benjamin J. Keele, Copyright provisions in law journal publication agreements, 102 Law Library Journal 269 (2010); Benjamin J. Keele, Advising Faculty on Law Journal Publication Agreements, 31 ALL-SIS Newsletter 3 (2012); Harold Anthony Lloyd, Publish and Perish? Handling the Unreasonable Publication Agreement, 13 Wake Forest Journal of Business and Intellectual Property Law 127 (2013), Michael N. Widener, Safeguarding ‘The Precious’: Counsel on Law Journal Publication Agreements in Digital Times, 28 John Marshall J. of Comp. & Info. Law 185 (2010); Benjamin Keele and Michelle Pearse, How Libraries Can Help Law Journals Publish Better, 104 Law Library Journal 383 (2012).

⁸Scholars Copyright Addendum Engine, <http://scholars.sciencecommons.org/> ; Northeastern University School of Law recommends U. of Georgia’s addendum; other law schools recommend other addenda.

and SSRN is the difficulty of determining existing law review copyright and republication policies. Law review websites and websites like SHERPA/RoMEO (<http://www.sherpa.ac.uk/romeo/>) often do not provide this information, and faculty authors frequently fail to retain copies of their publication agreements. Thus, librarians and authors spend a great deal of time sending emails to journal editors requesting permission to post articles in repositories and maintaining records of these permission requests. In many cases, editors are slow to respond, perhaps due to the volume of these requests, the high turnover of student editors or inability to provide an informed response. Although institutions' varying level of "risk aversion" makes it less of a concern for some institutions than others, it still represents a significant member need. Moreover, individual authors benefit from having such information available when making publication decisions. Even adoption of an open access policy does not remove this problem as such policies often contain waivers (where the default would be the journal policy) and do not apply to retrospectively.

It would benefit the entire law school community if copyright and republication policies were posted on all law review websites and in places where authors are making decisions about publication. Over the years, there have been several efforts by various individuals and entities to collect and make available agreements and policies for US law school law reviews.⁹ Even when information in existing services is available, ever-changing journal editors do not always keep the information up-to-date. Individually and with larger groups, law librarians need to educate student editors at their institutions about the importance of making information about their policies available.¹⁰ The annual National Conference of Law Reviews and the Top Law Reviews Conference are two events that AALL members could attend in 2014 to encourage law reviews to post their current copyright policies online and to adopt a model policy.¹¹ ALL-SIS should

⁹ Some examples of existing resources include SHERPA-RoMEO <http://www.sherpa.ac.uk/> (In the past, law journals had been contacted by those trying to update the database.); Copyright Experiences wiki contains user/author-contributed information about journals. http://wiki.law.miami.edu/commons/index.php/Main_Page Both Ben Keele and Michelle Pearse separately collected law journal agreements and together did a survey last spring and are doing another survey. In the past, Michelle also worked with John Doyle, developer of Washington and Lee's Law Review Submissions website to confirm journal policy and open access information with editors when they reviewed their information from the website. The hope was that authors would have the information available when considering journals for submitting manuscripts and that one could study author rights and openness in the context of rankings. Although the information has been removed as of late, a snapshot of the website from 2010 is available at <http://api.wayback.archive.org/memento/20101215213315/http://lawlib.wlu.edu/lj/> The original questions suggested are posted at <http://scholarlycommunication.weebly.com> The Copyright Clearance Center (CCC) also provides some information, but it sometimes conflicts with known policies. BePress has also attempted to collect journal policy information.

¹⁰ Benjamin Keele and Michelle Pearse, How Librarians Can Help Journals Publish Better, ___ Law Library Journal ___ (2012).

¹¹ Librarians participated in the National Conference of Law Reviews program for the last couple of years-Raquel Ortiz and Stephanie Weigman in 2012 and in 2013.

also encourage law librarians to take opportunities to verify that information in existing projects is correct, perhaps by offering a checklist of places and lobbying with services such as ExpressO, Scholastica and the Washington and Lee Law Review submissions while helping facilitate collection and accuracy of the data. While many such projects have been attempted, a consistent problem is getting journals to submit the data and ensure its accuracy, particularly over time. In addition to advocating use of a model agreement of terms referenced above, a useful additional service would include an agreed-upon central repository of data available in an open form that could be harvested and repurposed to multiple settings.¹² ALL-SIS could endorse a particular source as the information of record that could then be shared with a variety of projects. Data about standards on views of institutional open access policies, following model policies (see above) and requirements of data deposit (see below under Data) could also be included. Whatever the project or means, the ALL-SIS member community has the relevant membership to help spearhead efforts and move things along.

Advocate for and educating about the use of content licensing opportunities to secure author rights

Finally, in the more general licensing community, there have been efforts to encourage librarians to use content licensing opportunities to expand the use of language that facilitates repository deposits. These efforts are relevant to licenses where the vendor owns rights to the content and they sometimes provide an opportunity to confirm rights that facilitate repository work and author activity. To the task force members' knowledge, law libraries have not made use of such opportunities.¹³ ALL-SIS should make sure that AALL-related groups that deal with licensing such as LIPA, TS-SIS and the Collection Development Committee of ALL-SIS educate their members about such strategies and lead conversations about the ups and downs of pursuing them.

2. Open Access Policies

RECOMMENDATIONS:

- **Maintain in addition to ROARMap an updated web page with law schools that are working under OA policies and promote resources helping with considerations in adopting.**
- **As part of information about author rights, encourage law review education about open access policies. Encourage contemplation of open access policies within AALS (in conjunctions with AALL). (See also above under Author Rights)**

¹² For example, SHERPA-RoMEO is used broadly by many disciplines and actually has an API. <http://www.sherpa.ac.uk/romeo/api.html>

¹³ In law libraries that are part of larger universities, these negotiations would probably be happening at the university library level.

- **Consider working with AALS and ABA to explore ways in which to encourage and facilitate open access among institutional journals and law professor authors. (“superinstitutional” mandates and carrots)**
- **Encourage AALL to encourage more participation of law librarians in existing groups like SPARC and consider sponsorship of and sending representatives to their events.**
- **Research open access and electronic theses and dissertations (ETD’s).**

Open Access policies potentially are a substantial factor in the dissemination of the scholarly output of law school faculty. The history of the Open Access movement, including its applicability to legal scholarship, is discussed by Professor Richard A. Danner of Duke University School of Law.¹⁴ As noted in the article, “a generally-accepted definition of open access is that of the 2002 Budapest Open Access Initiative, which defines open access in reference to scientific and scholarly research as:

“free availability on the public internet, permitting any users to read, download, copy, distribute, print, search, or link to the full texts of these articles...”¹⁵

Academic policies that implement Open Access typically consist of two prongs: the faculty author grants to the university a license to make the work freely available and the faculty member is required to deposit the work in an institutional scholarship repository. One of the earliest instances of the adoption of such a policy is the adoption by the Faculty of Arts and Sciences of Harvard University, held up as a model process by SPARC/Science Commons.¹⁶ Sometimes these policies are referred to as “mandates” but that is a bit of a misnomer as they often have “opt out” provisions.

In May, 2010, Duke University announced that it would adopt such an open access policy in line with MIT, Harvard, and Stanford.¹⁷ The law schools at Duke¹⁸ and Harvard¹⁹ have either adopted their own Open Access policies or undertaken complementary initiatives.

¹⁴ Richard A. Danner, *Applying the Access Principle in Law: The Responsibilities of the Legal Scholar*, 35 INT’L J. LEGAL INFO. 355 (2007).

¹⁵ *Id.* at 355 (citation omitted).

¹⁶ Thinkh Nguyen, *Open Doors and Open Minds: What Faculty Authors Can Do To Ensure Open Access To Their Work Through Their Institution*, A SPARC/SCIENCE COMMONS WHITE PAPER, at 2, http://www.sparc.arl.org/bm~doc/opendoors_v1.pdf (last visited April 22, 2013).

¹⁷ Paolo Mangiafico, *on Open Access at Duke University*, OPENSOURCE.COM, (May 11, 2010), <http://opensource.com/education/10/5/defaulting-open-open-access-duke-paolo-mangiafico>, last visited April 22, 2013. Duke’s policy is available at <http://library.duke.edu/openaccess/duke-openaccess-policy.html> (last visited April 22, 2013).

Beyond these early and well-publicized adoptions at nationally known law schools, it becomes more challenging to determine which law schools operate under an Open Access policy, whether adopted by the school or its parent institution. SPARC does not appear to maintain a list at its web site, and the self-registering site maintained at <http://roarmap.eprints.org> may not be current. It is a useful starting place, however. The law schools at Harvard and the University of Puerto Rico are the only law schools explicitly listed on the site. Examining the language provided with a sampling of the listings at universities does not make it self-evident whether the policy applies to the institution's law school. In at least two cases where the listing reports a university policy, the law school's library director who replied to the survey described below reported that the school was not operating under a policy.

Seeking to develop information specifically about law school policies, in March 2013 Ken Hirsh sent an email to all subscribers of the academic law libraries email list, "lawlibdir," maintained at Washburn University by John Christensen. Thirty library directors or delegates responded to the survey and provided the following information:

Five schools reported that they operate under an open access policy: Florida State University, Georgetown University, Pace Law School, University of Hawaii, and University of Kansas. Florida State, University of Hawaii, and University of Kansas report that their policies were adopted by their parent institutions. Pace reports that the policy was adopted by the law school, and Georgetown reports it operates under policies adopted by both the law school and the university. Together with the well-known schools discussed above, there are at least eight law schools operating under an Open Access policy.

An additional eight respondents reported that their institutions are currently considering whether to adopt an Open Access policy: Emory University, Louisiana State University, U.C.L.A., University of Cincinnati, University of Colorado, University of Oklahoma, University of South Carolina, and University of Tennessee.

It should be noted that several law school libraries at schools that have not adopted an Open Access policy nevertheless do maintain scholarship repositories that make the articles on deposit available under Open Access guidelines.

In addition to relying on ROARMap, it would be beneficial for ALL-SIS to maintain a listing of law schools that are affected by open access policies; the listing could then be updated by members and checked each year.

¹⁸ Duke Law established an open access institutional repository in 2009 and had previously made all content from its student-edited journals freely available online in 1998. <http://law.duke.edu/libtech/openaccess/> (last visited April 22, 2013).

¹⁹ Harvard Law faculty adopted an Open Access Policy in 2008. <http://osc.hul.harvard.edu/hlspolicy> (last visited April 22, 2013)

There are various “flavors” of open access policies. Before deciding whether to pursue adoption of an open access policy, one should consider many issues. ALL-SIS should be encouraging frank discussions and should identify law library directors who might have been directly involved in decisions about adopting these policies to serve as consultants to those who are considering adopting them. Peter Suber and Stuart Shieber have developed “Good Practices for Universities Developing Open Access Policies.”

http://cyber.law.harvard.edu/hoap/Good_practices_for_university_open-access_policies One key consideration might be the degree to which the policy is a mandate. Will it be an “opt in” or “opt out” policy?²⁰ What “sticks” are there to ensure compliance?²¹ What will the infrastructure be for depositing to make it easier for faculty?²² How will the policy address versions and how will the institution ensure being able to get copies of the appropriate version?²³ What is the purpose of the policy--- electronic theses and dissertations (ETD’s) to maintain rights to distribute the work? What will the licensing terms of distribution be?²⁴ Does one want to follow the university lead if part of a larger university setting? Ideally, the library should be involved (some larger university settings might have their own Office for Scholarly Communication), but there are staffing and other resource issues and other groups such as research offices and faculty assistants might also be natural partners in implementation.

Many open access policies are designed with traditional peer review publishing in mind and might be adapted to specifically address issues related to law school publications. There are many groups that exist to discuss and support open access policies. Librarians should be encouraged to join, although the groups do not always necessarily represent issues unique to law schools and law school law review publications. Still, AALL should expressly support such organizations and consider sponsorship and representatives at their events.²⁵

Furthermore, law libraries might look to and consider mandates beyond those of their schools. The medical and scientific fields have benefitted from other types of institutional and “funder”

²⁰ The “opt out” vs. “opt in” decision is important in libraries involvement in implementing such policies. An “opt in” policy puts a great deal of onus on the library to do outreach. Depending on how the policy was adopted, even an “opt out” policy may require a great deal of outreach depending on the logistics of the institutions and the liberties it is willing to take with faculty to implement the policy.

²¹ Are there are any requirements that can be tied to compliance?

²² See **Repositories** section regarding infrastructure for deposits. In collaboration with funding agents and government, librarian colleagues in the sciences/biomedical fields have developed sophisticated tools and workflows to help their patrons deposit to PubMed Central as required by the NIH. See e.g. HM Scholar <http://repository.countway.harvard.edu/xmlui/handle/10473/137>

²³ Insert footnote about Ben’s version section in LLJ article. Some journal policies might allow distribution of published versions in repository but the terms of the open access policy could be more limited regarding versions.

²⁴ Compare MIT (CC) and others

²⁵ For example, NELLCO had sponsored and sent a representative to SPARC in 2010.

http://www.sparc.arl.org/meetings/dr10/sponsor_10/

mandates. First, libraries should be cognizant of how any potential mandates affect their faculty (e.g. NSF).²⁶ ALL-SIS might contemplate whether there are “super institutional” mandates that could be considered in the legal academic community. For example, as accrediting or major institutions of law schools, how might the ABA and AALS provide “uber institution” mandates or at least encouragement for increased access to the work of individual scholars from institutions or publications from institutions accredited? AALL/ALL-SIS should at least be actively engaging AALS in development recommendations for the implementation of open access policies in law schools.

Furthermore, absent from much of the debate about open access policies for ETD’s in law schools. Open access policies for ETD’s have evolved, although albeit slowly in the United States. While this was not covered by research in this committee, it is something for further inquiry, particularly among institutions that offer graduate programs.

3. Repository Platforms

RECOMMENDATIONS:

- **Continue to expand on vendor-neutral resources to allow those considering institutional repositories and other self-archiving platforms to make informed choices and network with fellow ALL-SIS/AALL members.**
- **Explore tools to facilitate deposits (e.g. cross-deposits with systems, authoring tools, etc.). Encourage advocacy that encourages openness and interoperability.**
- **Explore best practices for journals (and librarians facilitating this work with journals) in developing metadata: marking up pdf’s and ideally moving beyond pdf’s to use archive-friendly formats. (See section of the report on metadata.)**
- **Help develop practices for and facilitate coordination and collaboration between institutions when faculty move between institutions.**
- **Explore and support projects exploring search interfaces of law school repositories (and law journal content).**
- **Create a clearinghouse of creative uses and displays of repository data (e.g. using OMEKA, ViewShare, etc.)**

²⁶ For example, the National Science Foundation recently announcement requirements although funding for political science is currently under debate. http://www.nsf.gov/funding/pgm_summ.jsp?pims_id=5418 The White House recently announced that federally funded research must be made available to the public. http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp_public_access_memo_2013.pdf

- **Consider advocacy role with scholarly communication vendors and collaborative/organizational efforts to encourage development and interoperability with products.**

Choosing institutional repository software or services-Resources and support

The most basic decision when considering creation of an institutional repository (“IR”) is whether to adopt one of the vendor products or to construct an in-house solution. Each has its advantages: Vendor products can be operational very quickly, and often come with technical support to address any issues that might arise. They often give rise to a community of users that can serve as a source of informal exchange of ideas and innovative approaches. In-house solutions (whether adapting open source options or building from scratch) offer the opportunity to tailor the platform to the specific needs and preferences of the institution. It is even conceivable that, if successful, the product could conceivably be licensed and thus serve as a source of special prestige and revenue. Non-vendor, open source solutions that are already available with a strong user support community (e.g. DSpace, DFedora, etc.) might provide a middle-ground of flexibility and support.

The advantages of one approach are easily reframed as the disadvantages of the other. In-house projects can be Janus-faced as to whether it is a “free lunch or a free puppy.” While the initial outlay is less expensive than vendor options, suggesting that something desirable can be attained at low cost, the ongoing expenditures of local support to both launch the product and address arising problems can become significantly more expensive. On the other hand, canned vendor products can lend a certain degree of uniformity exactly where one is hoping to set oneself apart. Company product development will be driven by needs not necessarily matching local priorities, which can generate frustration and the need to create “work arounds” to achieve short-term outcomes that can complicate implementation of product updates down the line. Furthermore, vendor decisions may be based on specifically profit-based needs or specific needs relating to competition with other products. Smaller libraries with readily accessible strong IT staff support accessible might find yearly fees for commercial products cost-prohibitive and ongoing costs for open source product feasible. Also, vendor solutions using remote hosting could involve loss of control or ownership of material.

The path chosen will be heavily influenced by available resources. Institutions with well-staffed – and stable – IT departments will be more plausible candidates to select the in-house approach than will a school whose computing staff/technology department is already challenged to maintain the existing resources. Where one of the frequently cited obstacles to adoption of open source solutions is lack of a knowledgeable technical staff, ALL-SIS might be in the position to partner with another AALL entity (like CS-SIS, TS-SIS) to identify people who might potentially help, brokering assistance and expertise exchanges between institutions. ALL-SIS could also support programming and training in non-MARC data for librarians to make librarians comfortable with working in implementing open source solutions that require facility with such

formats and to partner better with IT departments that are comfortable with installing software but unfamiliar with metadata formats. (See discussion **Metadata** section of report.)

Schools that are part of larger institutions might also need to consider whether they should implement a repository locally or join a larger institution. Beyond the obvious considerations of costs and infrastructure, there are additional workflow and policy considerations in using the repositories, e.g. by joining the central one, are there limitations in local customization, risk analysis, etc.

Some other considerations in adopting the repository are workflow, licensing terms for content/reuse, authorization requirements and metadata development. ALL-SIS could also work with TS-SIS to develop more programming around these issues. See the sections of the report about **Open Access Policies** and **Metadata** for further discussion.

The point of reasonable involvement with local IR projects by the professional associations (AALL and its subsidiary, ALL-SIS) occurs during discussions on whether or not the school should support and invest in such endeavors. For example, a current and accessible directory of existing repositories would allow librarians to point to peer and aspirational institutions that have already built their IR collections. It should also develop “talking points” for these discussions highlighting the benefits the school can expect to enjoy as a result of a successful IR – these may be distinguishable from the reasons motivating the librarians, and thus may not quickly occur to them. The organizations should also systematically support through funding opportunities research into the various aspects of IR creation and use within the context of legal scholarship. The articulation of leading questions for research (such as those found in the AALL Research and Publications agenda)– if such a list were kept current – would also provide valuable guidance to the growth of the information available to support IR implementation, and could help provide direction for those that already exist. After the decision to create the IR, organizational resources could be pooled to create tools that will minimize the need to “reinvent the wheel” every time. Whatever the platform, certain decisions and goals common to IRs generally should be identified and documented, allowing a systematic, programmatic approach to IR creation. As a starting point, the task force has developed a table listing repository programs with institutions that have adopted them.

Centralized search projects and clearinghouse of display examples

While there have been efforts to aggregate law journals²⁷ and suggestions for central and interoperable platforms,²⁸ there has been much interest but less activity in aggregating searching

²⁷ Some projects/resources include American Bar Association’s Free-Text Online Law Review/Journal Search http://www.americanbar.org/groups/departments_offices/legal_technology_resources/resources/free_journal_search.html; Google Scholar <http://scholar.google.com/> (indexing HeinOnline and JSTOR contents, repositories, etc.)

²⁸ Wayne Miller, A Foundational Proposal for Making the Durham Statement Real, http://scholarship.law.duke.edu/faculty_scholarship/2325/ (2010).

of law library repositories more generally.²⁹ ALL-SIS could follow up with helping develop a central interface that could also take into consideration issues discussed under the sections on Research Profiles and Metadata. Also, some libraries have experimented with interesting interfaces for their repositories whether using products like OMEKA and ViewShare or their own creative web development and programming. ALL-SIS should maintain a clearinghouse of such examples for inspiration (and to develop potential contacts for networking) and support educational programming in using such tools. (This might be in coordination with TS-SIS.)

Advocacy

Finally, ALL-SIS should be as mindful of monitoring commercial service providers like BePress and SSRN as they would be for legal information provider vendors. Any issues and concerns should be considered for discussion within CRIV, the Consumer Advocacy Caucus and the ALL-SIS Collection Development Committee. Efforts should be made to include repository vendors in discussions related to vendor relations and business practices. One of the limitations of commercial vendor products is often interoperability with other systems and development of additional tools outside of that vendor's product to facilitate work flow operations, user-contributed data, and discoverability. Advocacy with vendors should include vendors such as ExpressO, ContentDM, SSRN, Ex Libris etc. to adopt standards and technology that allow them to be more interoperable with other systems and facilitate use of their products (e.g. compliance with SWORD³⁰). Collective discussion of desire for enhancement and changes could also be more persuasive if presented collectively.

As referenced above in the author rights section, there might also be opportunities in licensing content to secure rights to deposit content and sometimes even use the vendor's pdf's.³¹

5. Web Archiving/Preservation of Born Digital Material

Recommendations

- **Identify grant opportunities to support metadata work and tools.**
- **For libraries that are unable to participate in web archiving activities, encourage conversations about biggest concerns for at-risk materials to see if there is way the community could help respond or address concerns.**

²⁹ A meeting of librarians interested in Scholarly Communication issues at the ALL-SIS breakfast in 2011 indicated many were interested in such an application.

³⁰ As of the writing of this report, it is not believe that any of these vendors have publically announced compatibility with SWORD. SWORD is a ingest tool to facilitate cross deposits and transfers among systems. <http://swordapp.org/author/stuart/> For example, efforts to create deposit tools that would allow deposit to multiple repositories such as BePress and SSRN. See e.g. Deposit@Harvard, seeking to create cross-deposit with SSRN and DSpace repository <https://github.com/berkmancenter/deposit-harvard>

³¹ Some vendors even allow negotiation of use of their pdf's under certain circumstances.

- **Help promote existing activities among individual ALL-SIS members and their institutions.**
- **While there is a lot of support in the larger digital preservation community, provide collaboration and educational support among the law library community itself with similar interests in collections and publishing.**
- **Explore how research tools could be harnessed to support web archiving.**
- **Encourage conversations among other constituent ALL-SIS groups like Collection Development and particularly among larger academic law libraries to ensure that digital preservation is part of conversations involving collaborative collection development more generally.**

A recent survey of law library directors on the lawlibdir list about activities related to the archiving of born digital materials received 21 responses. Interestingly, approximately half of the directors said they did not intend to pursue such activities. When asked “What do you find your biggest obstacle in maintaining or potentially launching activities related to capturing born digital material?” the most common answer was staff time/personnel concerns. One task force member’s interactions with various people in the web archiving space over the years confirms staff time and metadata work and quality control as one of the biggest obstacles in maintaining a productive pace in such activities. ALL-SIS (perhaps in conjunction with other entities like LIPA and TS-SIS) could help identify and disseminate grant opportunities designed to support library activities in this area. ALL-SIS could also harness some of the work already gained through its Archives Committee.

For libraries that are unable to participate in web archiving activities, ALL-SIS should have conversations focusing on the biggest concerns about at-risk materials to see if there is a way the community could help respond or address concerns. Conversations that happen around collaborative collection development in general should include discussion of born digital materials. ALL-SIS should also encourage conversations between the academic law library community and organizers of other projects that focus on collection of relevant material, e.g. Library of Congress blawgs project that does include professor blogs and some law review companions. There could be solicitation of material that smaller libraries would like to maintain if they had the resources and matching with appropriate projects, e.g. the Columbia Human Rights Archive accepts nominations for content. In any event, ALL-SIS should be encouraging discussion of born digital content in discussions of collection development more generally.

Law librarians have long been lamenting the concerns about preservation of at-risk sources both in the context of the sources themselves and from the perspectives of law review publishing and in making suggestions for efforts to improve the situation.³² There have been various projects

³² Benjamin Keele and Michelle Pearse, How Law Librarians Help Journals Publish Better , 104 Law Library Journal 382 & note 96 (2012)(commenting on libraries working with journals to provide services for archiving web resources and working with Bluebook editors

designed to deal with link rot. Dana Neacsu launched a pioneering project preserving URL's in Columbia Law journals in 2002.³³ The Harvard Library Innovation Lab at the Harvard Law Library is developing a service for law review authors and editors to preserve online cited content in perpetuity. The project, in its early phases, should be ready for beta testing in the fall of 2013. Contact Kim Dulin (kdulin@law.harvard.edu) for more information.

The Legal Information Preservation Alliance has a relationship with the web archiving utility, Archive-It, allowing LIPA member libraries to participate in Archive-It at a discounted rate through a consortial license.³⁴ Many of the law libraries engaging in web archiving activities using this tool. In addition to archiving their own digital content, Archive-It subscribers can designate other sites of interest for Archive-It to crawl, preserve, and make available. For example, the Fordham Law Library is an Archive-It subscriber and Archive-It crawls and preserves the entire Fordham Law School website once each semester.

A list of law school libraries known to be engaged in Web Archiving activities appears at <http://scholarlycommunication.weebly.com>. This page could be maintained and updated by ALL-SIS, including updating information about collection scopes.

Finally, ALL-SIS should consider how research tools such as Zotero could be harnessed to facilitate participation in web archiving projects.³⁵

6. Scholarly Metrics/Impact

RECOMMENDATIONS:

to provide better guidance within Rule 18) (<http://www.aallnet.org/main-menu/Publications/llj/LLJ-Archives/vol-104/no-3/2012-28.pdf>); Sarah Rhodes, Preserving Born Digital Legal Materials: Where to Start?, VoxPopulii (January 10, 2010), <http://blog.law.cornell.edu/voxpop/2010/01/10/preserving-born-digital-legal-materials/>; Simon Canick, Availability of Works Cited in Recent Law Review Articles on LEXIS, Westlaw, the Internet and Other Databases, 21 Legal Reference Services Quarterly nos.2/3, 2002, at 55; Helene E. Davis, Keeping Validity in Cite: Web Resources Cited in Selected Washington Law Reviews, 2001-03, 98 Law Library Journal 639 (2006); E. Dana Neacsu, Legal Scholarship and Digital Publishing: Has Anything Changed in the Way We Do Legal Research, 21 Legal Reference Services Quarterly, no.2/3, 2002, at 105; Mary Rumsey, Runaway Train: Problems of Permanence, Accessibility and Stability in the Use of Web Sources in Law Review Citations, 94 Law Library Journal 27 (2002).

³³ <http://web.archive.org/web/20080828045627/http://library.law.columbia.edu/urlmirror/>

³⁴ Archive-It is a subscription service of the non-profit Internet Archive allowing subscribers to archive their own or any freely available web-based content on a schedule of their choice. Users can access archived web pages on the Archive-It website at www.archive-it.org. According to a recent e-mail exchange with LIPA Executive Director Margie Maes, approximately 6 law libraries have participated in this consortial license.

³⁵ See e.g. Zotero Commons <http://www.zotero.org/support/commons>

- **Provide clearinghouse of resources related to metrics and profiling systems now in existence. Potentially collaborate with AALS to create recommendations to faculty as to where they might want to appear.**
- **Encourage in any participation in and critique of existing projects those that might not cover Law very well but have the potential to be useful.**
- **Organize collaboration and education with other interested entities such as the ABA, AALS and AALL around appropriate metrics for faculty productivity and benchmarking for institutions.**
- **Support additional training for librarians in analyzing metrics (particularly in interdisciplinary context), perhaps in conjunction with empirical research librarian community so as to provide educated support to institutions.**

Background

Traditional indexes and metrics generally fail to capture web-based citations from non-journal sources. Assuming the trend toward open access continues, it will be important to take advantage of new methods of collecting, measuring and analyzing citation statistics, as well as new sources of data. For librarians endeavoring to support and serve law faculty in their publishing choices as well as in promoting and measuring the impact of their scholarship, it will be important to be aware of the available tools and to be able to advise faculty about their optimal use.

Traditional Tools and Indexes

One key feature of the best and most widely-used traditional tools for measuring scholarly impact is that they are proprietary. The most prominent of these is Thomson Reuters's Web of Knowledge (and its Journal Citation Reports); in legal scholarship, HeinOnline's ScholarCheck has become an important tool, alongside Shepard's on LexisNexis and KeyCite on Westlaw (which are more limited in their scope of coverage). As scholarly publishing and dialogue move more toward web-based and open access models, these proprietary, subscription-based tools will be less able to capture all relevant citation measures. The growth of open access does not necessarily mean the death of proprietary journals and databases, however. An argument in support of open access archiving and web-based promotion of legal scholarship that often succeeds with law faculty is the point that citation statistics generally demonstrate increased citation of articles that are more widely available without a fee on the web. Stated another way, archiving a published article in an open access repository tends to increase citations to the published article.³⁶ So the traditional tools live on; however, they may have diminishing relevance as newer tools and approaches to citation analysis become more widely recognized as

³⁶ James M. Donovan and Carol A. Watson, Citation Advantage of Open Access Legal Scholarship, 103 Law Library Journal 553 (2011).

effective expressions of previously unmeasured scholarly impact.³⁷ As expressed above, an important role for academic librarians in this environment, particularly those focused on faculty services, will be to understand what these tools measure and how best to use them.³⁸ In Law in particular, duplication/overlap across both traditional and newer platforms makes meaningful comparison difficult. While groups such as SPARC, ACRL, etc. provide fora and education on scholarly communication issues for academic librarians in general, ALL-SIS and a committee focused on scholarly communication issues could provide resources and training for academic law librarians focused more on issues related to legal scholarship and the legal academy. It could potentially partner with the Empirical Legal Caucus and empirical law librarians generally to review and assess methodologies and systems.

Next Generation Tools and Indexes

The recent efforts to develop metrics for collecting and analyzing data from the open web that can help describe scholarly impact are often described generally as part of a movement toward "altmetrics." These measures differ from traditional metrics in their collection of data from multiple social networks and other popularity measures from the open web, but also in their focus on the article rather than on the journal. The move toward open access publishing and archiving, alongside web-based self-publishing, makes article-level metrics necessary. The altmetrics manifesto (available at <http://altmetrics.org/manifesto/>), posted by the group of information scientists behind the project called Impact Story (see <http://impactstory.org/>), explains the basic tenets of the argument for next generation metrics.

“In growing numbers, scholars are moving their everyday work to the web. Online reference managers Zotero and Mendeley each claim to store over 40 million articles (making them substantially larger than PubMed); as many as a third of scholars are on Twitter, and a growing number tend scholarly blogs. These new forms reflect and transmit scholarly impact: that dog-eared (but uncited) article that used to live on a shelf now lives in Mendeley, CiteULike, or Zotero—where we can see and count it. That hallway conversation about a recent finding has moved to blogs and social networks—now, we can listen in. The local genomics dataset has moved to an online repository—now, we can track it. This diverse group of activities forms a composite trace of impact far richer than any available before. We call the elements of this trace altmetrics.”

³⁷ See Michelle Pearse and Fred Shapiro, *The Most-Cited Law Review Articles of All Time*, 110 *Michigan Law Review* 1483, 1508-1520 (2012)(discussing alternative and burgeoning metrics and contemplating future of legal scholarship and citation metrics)

³⁸ See Simon Canick, *Library Services for the Self-Interested Law School: Enhancing the Visibility of Faculty Scholarship*, 105 *Law Library Journal* 175 (2013).

Impact Story is an open source tool that allows users to create an author profile, with references to articles, blogs, and other web sites for which the author wants to track impact. Another interesting open source project is Scholarometer (<http://scholarometer.indiana.edu/>) which is a browser extension that allows authors to run ad hoc queries in Google Scholar to generate citation metrics, and like Impact Story, includes social media references. Another example is Altmetric Explorer and its free bookmarklet tool, Altmetric It. Using the bookmarklet, a researcher can see altmetrics for an individual article with one click, provided there is a DOI available for the tool to reference. The information that these next generation tools capture includes citations on Twitter, Wikipedia, blogs, and Facebook. Other sources that are included are social bookmarking sites such as CiteULike, Delicious, and Mendeley. With more appropriate coverage for Law, this could be a useful tool for legal scholars. Law librarians should give feedback about what additions would make it useful for our community. As part of research for an article, a librarian on the task force reached out to the ImpactStory managers in 2012 to inquire about inclusion of additional services relevant to law.³⁹

Research Profiles

Several research (or author) profiling and networking tools have evolved over the years, some of which help authors identify and manage article-level metrics to demonstrate the value of their scholarly work. While some are a bit like comparing apples and oranges, a table on the website attempts to list selected tools. Some are built to incorporate larger subject connections between disciplines.

- Academia.edu
- Google Scholar
- Microsoft Academic
- ORCID
- Scopus
- VIVO⁴⁰
- OpenScholar
- Mendeley
- SSRN
- Digital Commons/Selected Works

In a recent survey on the law library directors' list, members were asked if their faculty actively use any of the following tools: Google Scholar, Microsoft Academic, academia.edu, SSRN, Mendeley, OpenScholar, Digital Commons/Selected Works. The majority of the 21 respondents

³⁹ In preparation for the article Fred Shapiro and Michelle Pearse, *The Most Cited Law Review Articles of All Time*, 110 *Michigan Law Review* 1483 note (2012), Michelle Pearse reached out to the managers of Impact Story.

⁴⁰ VIVO (a platform out of Cornell) is a dynamic platform in use by Cornell University and is harvesting the data. Duke University is currently using the platform for Scholars@Duke and their website indicates that the law school will be included in a final phase this summer.

indicated that their faculty use Google Scholar and Microsoft Academic. 10 indicated that they use Digital Commons/Selected Works and all other services received less than 5 responses.

In addition to these individual platforms, the ORCID project was recently launched to create a central researcher ID. In the aforementioned survey, no respondent indicated that their faculty were using ORCID (an unsurprising result given the product did just launch). A recent inquiry to those involved in the ORCID project indicated that they do not yet have data on how many law professors might be participating. SSRN seems to be involved as a partner, so it will likely be something that faculty might be encountering if they incorporate the ORCID ID into SSRN.

A problem for law faculty and authors of legal scholarship is that most of the next generation tools described above are focused on the sciences and are not very good at including law review articles. For example, Impact Story relies on the Digital Object Identifier (DOI) to track article metrics on the web, and very few law school-based law reviews and journals have a DOI to reference. To the knowledge of this task force, at least one law librarian has reached out to one of the principals in the Impact Story project; they have responded with interest in expanding the tool's ability to include scholarship from a broader range of disciplines.⁴¹ This would be a role for ALL-SIS – to work with some of these open tools and assist them with the challenges of incorporating legal scholarship into their metrics. From the other side of the problem, ALL-SIS could also work to make law reviews and law faculty (as authors) more aware of the importance of the DOI in tracking citations and measuring scholarly impact, and hopefully to increase its availability and use.⁴²

Clearinghouse of information and support of expertise and recommendations in evaluation

Law libraries are positioned to help with activities related to scholarly productivity and visibility.⁴³ They may be helpful in evaluations of products larger institutions in particular are beginning to adopt in their benchmarking and productivity analyses. ALL-SIS should encourage maintenance of a web page providing information about related profiling, benchmarking and metrics products and tools. While there are other scholarly communication entities that might be monitoring these products, ALL-SIS should maintain information that would help librarians evaluate them for the use of law schools in particular. While there has been scholarship and other commentary questioning the law coverage in some of the

⁴¹ Fred Shapiro and Michelle Pearse, *The Most Cited Law Review Articles of All Time*, 110 *Michigan Law Review* 1483, note ____ (2012). SSRN and Digital Commons have already been suggested. Zotero was also suggested, but it currently lacks the structure.

⁴² See Benjamin Keele, *What If Law Journal Citations Included Digital Object Identifiers? A Snapshot of Major Law Journals*, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1577074 (2010).

⁴³ See Simon Canick, *Library Services for the Self-Interested Law School: Enhancing the Visibility of Faculty Scholarship*, 105 *Law Library Journal* 175, 184-185 (2013)(suggesting libraries could absorb functions related to promotion and dissemination of scholarship)

commercial, free, traditional and emerging tools, AALL might want to consider collaborating with AALS (such as its Scholarship section) to do more formal assessment and recommendation to law schools about use of various tools in assessing faculty productivity and institutional benchmarking, particularly when they are being used by a larger university in evaluating its law school. Many research analytic and “institutional benchmarking” products have evolved over the years. It is unclear how much these have taken hold in law schools. Many of these products are incredibly selective for law and do not necessarily contemplate other metrics for work done by law professors.⁴⁴ While a recent survey of law library directors⁴⁵ did not indicate that there is currently pervasive use of commercial benchmarking tools, law school libraries that are part of larger universities (and law schools in general) might become less autonomous or at least need to be prepared to explain why they are (or are not) appropriate for evaluating performance of their faculty.

Journal metrics

Authors continue to use “journal level” metrics and “rankings” to assess offers from journals. Libraries also sometimes use these metrics and rankings to make collection development decisions. There are many traditional as well as newer sources for ranking of law journals⁴⁶ There are also newer projects looking more at usage, including vendors participation in pilot projects that focus on “usage factor.”⁴⁷ While there have already been academic scholarship, blogging commentary⁴⁸ and several library research guides about law journals and rankings,⁴⁹ all including significant representation of academic law libraries (and directors), ALL-SIS is in the position to lead an informed discussion about the roles and relevance of various rankings.

Training for Librarians

⁴⁴ Fred Shapiro and Michelle Pearse, The Most Cited Law Review Articles of All Time, 110 Michigan Law Review 1483, 1508-1520 (2012)(outlining alternative and newer metrics for legal scholarship)

⁴⁵ A recent survey of the law library directors’ list asked “Is your law school or university presently using or considering using any research analytic or institutional benchmarking product (e.g. InCites by ThomsonReuters)” and yielded only one “yes” response.

⁴⁶ Some of these include: Thomson Reuters Journal Citation Reports; Washington and Lee Journal Submissions and Ranking, <http://lawlib.wlu.edu/LJ/>; HeinOnline releases occasional top cited journal lists <http://home.heinonline.org/blog/2009/05/most-cited-journals-and-journal-articles-in-heinonline-updated/> Google Scholar now has its own journal rankings with Law-related subcategories under the Social Sciences.

http://scholar.google.com/citations?view_op=top_venues&hl=en&vq=soc An explanation of its metrics appears at <http://scholar.google.com/intl/en/scholar/metrics.html#metrics>

⁴⁷ See e.g. Counter project-usage factor http://www.projectcounter.org/usage_factor.html

⁴⁸ Discussion about law reviews appears frequently on PrawfsBlawg <http://prawfsblawg.blogs.com/prawfsblawg/law-review-review/> Brian Leiter’s Law School Reports <http://leiterlawschool.typepad.com/leiter/> and Faculty Lounge http://www.thefacultyounge.org/law_reviews/

⁴⁹ For a compilation of guides, see <http://scholarlycommunication.weebly.com>

Librarians have a role in educating faculty and students about these traditional and emerging metrics.⁵⁰ With the evolution of new metrics and systems at the article/author and journal level, ALL-SIS should consider support programming (in person at the annual meeting or perhaps through a webinar) about the application of metrics systems (traditional and emerging) to law. This could be done in conjunction with librarians in empirical legal services to help understand some of the methodological issues and concerns in assessing these services. This would make librarians more educated in their constituents' use of these tools and metrics. While there are existing programs around metrics, they are not necessarily designed around Law. Within larger venues like SPARC, ACRL, etc., there is also the potential to partner with the larger social sciences (e.g. business, government, etc.) to have joint planning about interdisciplinary considerations (e.g. how to faculty can increase impact in other disciplines).⁵¹

7. Metadata, discovery and access issues in law libraries

RECOMMENDATIONS

- **Reach out to TS-SIS and CS-SIS to see how ALL-SIS might provide support for additional training and programming opportunities for digital initiatives/repository librarians, particularly in non-MARC data and basic programming..**
- **Develop author-oriented tools regarding metadata (develop plug-ins and tools to let authors help contribute at document level). Encourage development of crowdsourcing tools.**
- **Discuss licensing of metadata; encouragement of open metadata and platforms that can be harvested. Encourage consideration of openness and interoperability in evaluating vendor products.**
- **Encourage quality metadata in projects. Work on librarians and libraries' involvement in ontologies and interrelationship with existing ontologies and taxonomies; not just technical aspects and tools, but substantive knowledge creation. Collaborate on standards of practice and substantive taxonomies and ontologies for marking up content.**

This project evolved as follow up to the PIRUS2 project.

http://www.cranfieldlibrary.cranfield.ac.uk/pirus2/tiki-download_wiki_attachment.php?attId=170&download=y

⁵⁰ Heather Piwovar, Jason Priest and Scott Lapinski, Riding the crest of the altmetrics wave:

How librarians can help prepare faculty for the next generation of research impact

Metrics, <http://arxiv.org/ftp/arxiv/papers/1305/1305.3328.pdf>

⁵¹ Some potential partners might include SLA, ARL, ACRL, ALA.

- **Encourage cross-training about metadata. Consider a joint institute or project with RIPS, TS-SIS, etc..**
- **Identify grant opportunities for metadata work.**

One of the most crucial components of scholarly communications is that of discovery and access. In the current climate, methodologies must be developed for communicating standards and best practices for the indexing and dissemination of legal scholarly materials. Because ALL-SIS is an influential SIS within AALL (and heavily populated with leaders within academic law libraries), it should be partnering with TS-SIS to support technical services staff in their evolving role related to scholarly communication and metadata support.⁵² It should also be active in promoting the importance of metadata even with those who are not directly engaged in its creation (e.g. law library directors, reference librarians, etc.)⁵³ Encouragement of metadata for institutional work is particularly important if it lives on the web and hopes to be open, discoverable and interposable with other larger systems. Librarians who are educated about issues related to metadata are also well-poised to advise and collaborate with IT in their law schools for development of law school websites.⁵⁴

The use of non-MARC metadata in cataloging has grown significantly, as physical collections in law libraries shrink and electronic collections expand.⁵⁵ Assistance in the development of and understanding of non-MARC metadata indexing standards and best practices for legal materials in particular would significantly improve the quality and efficiency of cataloging legal materials and can provide a stable foundation for dissemination of these materials within and beyond the legal community. While there is programming in other organizations and online related to metadata development and new standards and some programming at AALL itself regarding things like RDA⁵⁶, there have not been as many opportunities related to more substantive

⁵² Richard A. Leiter, The Leiter Perspective: Tech Services in a Digital World, AALL Spectrum, <http://www.aallnet.org/main-menu/Publications/spectrum/Spectrum-Online/tech-services-in-digital-world.html>

⁵³ For example, at CALICON 2012, John Joergensen gave a very informative talk about metadata that was attended by librarians of very perspectives. He stressed not getting caught up in which metadata standard you were using, but crosswalking and mapping between them.

⁵⁴ The most recent survey of law school web pages indicates that 43 of 201 websites used semantic markup to their web content. Roger V. Skalbeck and Matthew L. Zimmerman, Top 10 Law School Home Pages of 2012, 3 Journal of Legal Metrics 51, 73-76 (2013)

⁵⁵ Rob Richards, The Use of Non-MARC Metadata in Law Libraries: A Baseline Study, 103 Law Library Journal 631 (2011).

⁵⁶ The AALL Annual Meeting 2013 in Seattle, WA is offering the following programming: RDA

metadata development for legal scholarship.⁵⁷ There could also be opportunities for education for metadata development for data.⁵⁸ (See **Data** section of report.)

Intellectual aspects of metadata development and partnership

ALL-SIS is also in the position to facilitate conversation about the intellectual aspects of metadata creation, which is particularly important for the development of scholarly communication-related or institutional content that might have unique attributes or concerns. Recent surveys of law school repositories and websites indicate a broad range of subjects and terminology used for scholarship and institutional content description and “expertise” across law schools.⁵⁹ Many have expressed the importance of metadata in academic law-related digital libraries in general⁶⁰ and the potentiality for collaboration in ontological and taxonomic development⁶¹ ALL-SIS should contemplate opportunities (perhaps in conjunction with a joint institute as mentioned above) to develop projects and programs with both public and technical services librarians in knowledge system development of online law school resources.

Training and partnership

The Scholarly Communications Task Force would like to assist ALL-SIS and AALL and its members more generally in exploring the issues related to discovery and access to legal materials through forums, training opportunities, and through the development of specific projects. What are the training needs of legal catalogers working with digital collections and institutional repositories? How do we share the scholarly assets at our institutions locally and nationally? The

⁵⁷ A workshop for Creating Data for the Semantic Web was cancelled.

<http://aall2013.crowdcompass.com/activities/vJgl40N3uO>

⁵⁸ Many training opportunities for metadata creation for data are designed more the sciences. ICPSR and Dataverse have training in the use of its system, but use of keywords and taxonomies vary.

⁵⁹ Michelle Pearse, Whither Law Journal Indexing

⁶⁰ Tom Boone, Librarians Key to Open Access Electronic Law Reviews, <http://tomboone.com/library-laws/2009/09/librarians-key-open-access-electronic-law-reviews> (September 3, 2009) ; Sarah Glassmeyer, Getting to Durham Compliance, SarahGlassmeyer(Dot)Com, <http://sarahglassmeyer.com/?p=442> (April 26, 2010); Wayne Miller, A Foundational Proposal for Making the Durham Statement Real, http://scholarship.law.duke.edu/faculty_scholarship/2325/ (2010).

⁶¹ Michelle Pearse, Is it Time for Law Libraries to Collaborate on Description for Their Own Institutions’ Legal Scholarship?, VoxPopulii, <http://blog.law.cornell.edu/voxpath/2011/09/30/is-it-time-for-law-libraries-to-collaborate-on-description-for-their-own-institutions%E2%80%99-legal-scholarship/> Other disciplines have already done similar work: NeuroCommons, See also Nuria Casellas, comment in <http://blog.law.cornell.edu/voxpath/2011/09/30/is-it-time-for-law-libraries-to-collaborate-on-description-for-their-own-institutions%E2%80%99-legal-scholarship/> and Dr. Nuria Casellas, Semantic Enhancement of Legal Information: Are We Up for the Challenge?, VoxPopuLII, <http://blog.law.cornell.edu/voxpath/2010/02/15/semantic-enhancement-of-legal-information%E2%80%A6-are-we-up-for-the-challenge/> (February 15, 2010). The recent HIVE (Helping Interdisciplinary Vocabulary Engineering) project https://www.nescent.org/sites/hive/Main_Page could be viewed as inspiration

Task Force encourages ALL-SIS to work with AALL to develop a summit on metadata standards and training (and maybe the future of technical services).⁶² Colleagues from the open law and free law movement community (from the United States and abroad) could be invited as well. Such a possibility could be discussed at the next AALL meeting in Seattle. Even while the future of the law library itself is being debated, the skills and development for individual librarians that could emanate out of this meeting could serve them well for careers in a variety of fields.

Encourage development of tools for author-contributed metadata

As touched upon in our Repositories section, ALL-SIS could also support development of tools to help authors mark up their own files and contribute their own metadata.⁶³

Vendor and openness advocacy

As with other issues outlined in this report, ALL-SIS should also be on the lookout for opportunities within discussions about licensing of e-resources and collection development to discuss the concept of metadata use of licensed databases for discovery.⁶⁴ The section should also encourage open use and standards for their own metadata and knowledge system creations.

8. Data

RECOMMENDATIONS

- **Help disseminate listing of staffing in academic law libraries. (It is currently on task force web page.)**
- **While there are many data curation training opportunities through other organizations, consider creating additional opportunities specific to law librarians and empirical legal research, particularly from a technical “data curation” perspective (including metadata development).**

⁶² Such a project could evolve beyond concerns for scholarship as similar issues affect private law librarians who are often responsible for knowledge management systems and government/state/court/county librarians and open law advocates involved in development of standards for primary legal information.

⁶³ Benjamin Keele and Michelle Pearse, How Librarians Can Improve Law Journal Publishing, 104 Law Library Journal 383, 400 note 81 (using Microsoft Add-In for Word as an example). Georgetown Law takes author contributions for metadata in marking up data for its Dataverse instance.

⁶⁴ For example, Ex Libris has not been able to come to an agreement with EBSCOHost about use of its metadata for its Primo Central Discovery service. Amira Aaron, Associate Dean for Scholarly Resources of Northeastern University Libraries recently posted a question to liblicense listserv inquiring whether there has been licensing language to contemplate availability for vendor data for discovery systems.

<http://listserv.crl.edu/wa.exe?A1=ind1305&L=LIBLICENSE-L#23>

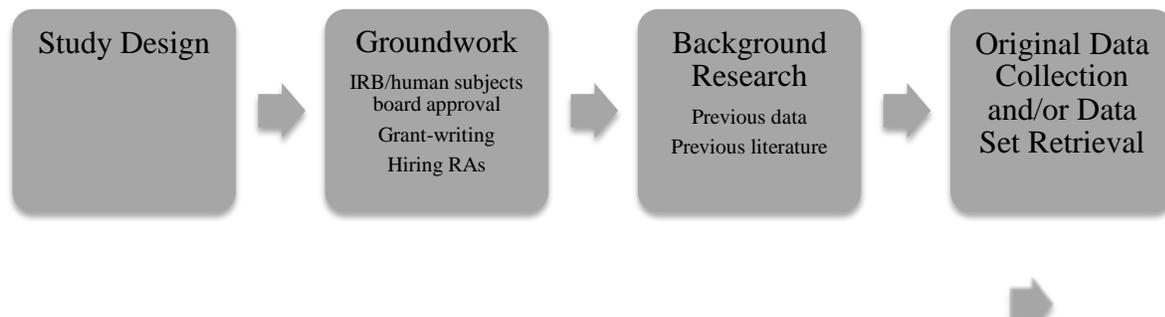
- **Explore “mixed trainings” with research and tech services groups (e.g TS-SIS, RIPS-SIS, etc.), as well as with legal informatics and computational legal studies communities.**
- **Reach out to Empirical Research Caucus to coordinate on training.**
- **Organize training in visualizations for both systems and research librarians. Coordinated efforts with computational legal studies community.**
- **Educate about licensing terms for data (e.g. open data commons)**
- **Educate about textmining.**
- **Work with Empirical Research Caucus to identify funding opportunities and data management requirements related to them. Provide information about institutional review board requirements.**
- **Advocate for facilitation of data citation. Recommend Bluebook Task Force look closely at coverage for data in Bluebook (compare to APA).**
- **Educate about DOI’s for data (datacite.org).**
- **Explore how ALL-SIS can help support needs of small libraries that do not have staffing to support such work.**

Current Staffing for Empirical Support at US Law School Libraries (Facilitate networking and information sharing)

Empirical legal research (ELR) and data support take at least six forms at U.S. law schools (see Appendix x). First, most law libraries that provide these services designate an existing librarian as the data or ELR librarian. These librarians are housed in diverse units ranging from access services to reference; they have social science degrees and/or practice experience in data management, statistical analysis, etc. Second, one library (Yale) employs an empirical research librarian, who is housed in the reference department. Third, one library (Harvard) and a two-library partnership (Duke-UNC) employ non-MLS statisticians and social scientists in-house. Fourth, at least one library (Georgetown) relies on a law school center for empirical support. Fifth, several schools (e.g., Cornell) rely on faculty members to support their peers and students. Sixth, some schools (e.g., Columbia) utilize non-law university resources, almost exclusively, to fill ELR and data support requests. Many schools employ some combination of these approaches, offering primary ELR and data services while relying on the expertise of the broader university community for specialized trainings (e.g., ArcGIS) and support. ALL-SIS may serve a role in helping to disseminate and network for information about how law libraries are supporting empirical research. Recently, Blair Kaufman of Yale Law Library inquired about empirical research and data support at law libraries via the lawlibdir listserv. The results appear at Empirical Support at U.S. Law Schools and Libraries, <http://scholarlycommunication.weebly.com/> ALL-SIS should consider continuing to make this information available and updated.

Research Data Management

Research data management comprises a multi-step process that commences with a study design and concludes with a feedback loop (see graphic below). The process often includes peer-to-peer data sharing via local, consortial, national, and/or international data repositories. Increasingly, these repositories are web-based. The largest global repository is arguably the University of Michigan’s ICPSR, or Inter-university Consortium for Political and Social Research, which electronically houses more than a half-million data sets.⁶⁵ Numerous U.S. government agencies share their research data via ICPSR (e.g., the National Archive of Criminal Justice Data portal).⁶⁶ Additional inter-university data portals exist, such as Harvard’s Dataverse Network, maintained by the Institute for Quantitative Social Science. Few law professors share their data via ICPSR, Dataverse, or other multi-university clearinghouses.⁶⁷ Rather, law professors typically share data via their law school faculty pages,⁶⁸ personal scholarly web pages,⁶⁹ or data repositories located within the architecture of their law school or university websites.⁷⁰ As the field of Empirical Legal Research (ELR) expands, librarians will have more opportunities to participate in the lifecycle of data management, particularly in the sharing and curating phases. They will be asked to advise on issues ranging from the technical (e.g., server space, metadata training) to the economic (e.g., funding for data preservation) to the philosophical (e.g., is a data set a “publication?”).



⁶⁵ See ICPSR. “About ICPSR.” www.icpsr.umich.edu/icpsrweb/content/membership/about.html

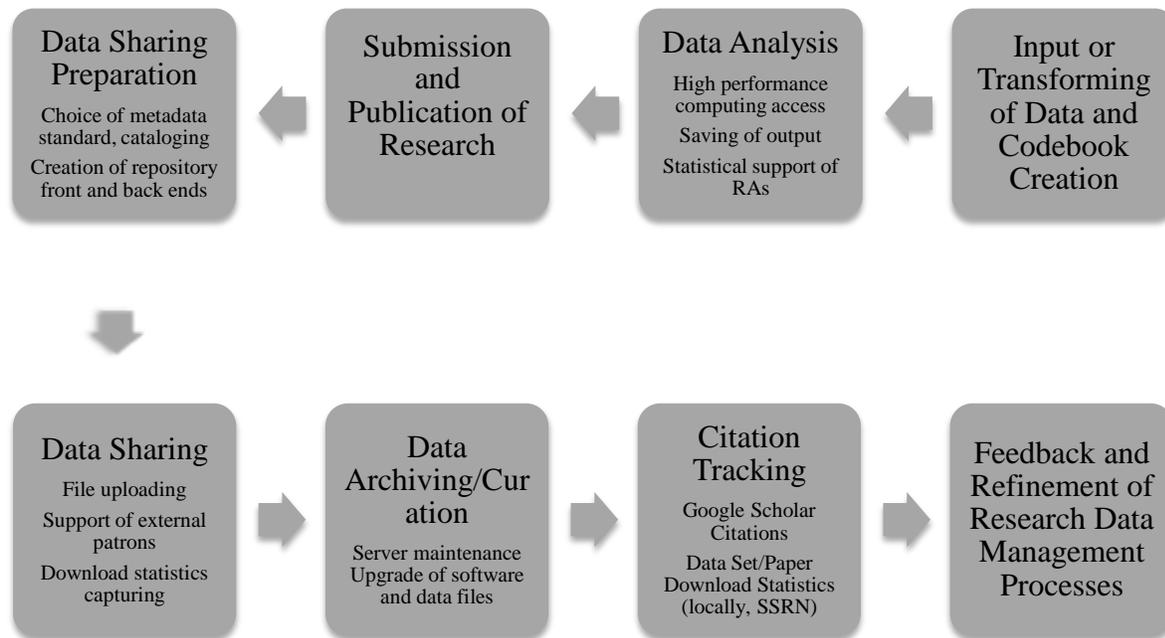
⁶⁶ ICPSR/NACJD portal: <http://www.icpsr.umich.edu/icpsrweb/NACJD/>

⁶⁷ The Dataverse Network project is accessible via: <http://dvn.iq.harvard.edu/dvn/>

⁶⁸ For example, University of Southern California Law School’s Lee Epstein shares her Judicial Common Space data this way at: <http://epstein.usc.edu/research/JCS.html>

⁶⁹ For example, Yale Law School’s Ian Ayres shares his law and economics data via his personal scholarly web page at: <http://islandia.law.yale.edu/ayres/indexempirical.htm>

⁷⁰ For example, Theodore Eisenberg and Kevin M. Clermont’s Judicial Statistical Inquiry web pages: <http://legal1.cit.cornell.edu:8090/>



Issues with Human Subjects Data and University Institutional Review Boards (IRBs)

When university researchers conduct human subjects research, they must navigate the human subjects review, or institutional review board (IRB), process. The purpose of the IRB is to vet research proposals to identify and minimize potential harm to human participants. The IRB process begins with ethics training/certification, often conducted via the Collaborative Institutional Training Initiative (CITI).⁷¹ This is followed by the submission of a detailed study design that includes descriptions of potential harm to participants, informed consent procedures, privacy and confidentiality measures, and data management procedures (e.g., in the case of confidential health information). Librarians can assist researchers in navigating their universities' IRB requirements, and in training RAs to meet these requirements (e.g., obtain CITI certification).

Licensing terms of data

⁷¹ The CITI program is described at: <https://www.citiprogram.org/Default.asp?>

Discussions about author rights and publication agreements should include conversations about data licensing. Efforts to encourage openness of data have evolved over the years.⁷² ALL-SIS should recognize the role of librarians in advocating for open data and advocating for funding of the social sciences.⁷³

Textmining/Consumptive Use

Although textmining, or computer analysis of large sets of text, is not yet prevalent in legal scholarship, some law school librarians are receiving an increasing number of requests to do such work. Before legal scholars can analyze large sets of text, they must be able to obtain those sets. Analysis of a large set of law journal articles obtained from Westlaw was used to examine sponsored legal scholarship in a Stanford Law Review article.

(<http://www.stanfordlawreview.org/sites/default/files/articles/BardayPD.pdf>).

Statutes and cases are generally free from copyright restrictions, but Westlaw and Lexis both prohibit large scale downloading of materials contained in their databases. Westlaw License 2.3 (<http://lscontent.westlaw.com/images/content/2012ClickwrapAll.pdf>) and LexisNexis Terms and Conditions 1.3 (<https://www.lexisnexis.com/terms/general.aspx>). Secondary sources are generally copyrighted as well, although an argument could be made that textmining does not implicate copyright exclusive rights or is a transformative fair use. The Stanford Law Review article does not mention obtaining permission from Westlaw or any copyright holders.

Textmining of statutes, regulations and cases in the public domain should be possible if properly formatted collections of materials are made available for bulk download. The section should also support the work of those in the open law community to work with government agencies to produce and maintain collections of public domain materials that can be analyzed. For example, the Government Printing Office already makes some of its materials available in XML for bulk download (<http://www.gpo.gov/fdsys/bulkdata>).

ALL-SIS should encourage discussion and consideration of the use of licensed databases for textmining and bulk downloading activities. Occasionally, in the United States, one could argue such activities are within fair use, but occasionally vendors try to insert terms that prohibit uses required by such activities.⁷⁴ There are already several fora for such conversations (CRIV,

⁷² <http://creativecommons.org/tag/open-data> At the time this report was being published, the Obama administration recently issued an executive order regarding requiring open data for federally funded research. This will necessitate librarians' deeper understanding of licensing terms for data in order to better be able to help faculty or students involved in federally funded projects. (Note: Funding for political science data in jeopardy).

⁷³ The AALL Washington Affairs Office is actively engaged in these issues.

⁷⁴ ARL Code of Best Practices in Fair Use for Academic and Research Libraries, Seven, <http://www.arl.org/storage/documents/publications/code-of-best-practices-fair-use.pdf> ("Librarians should be mindful of this as they negotiate license agreements and

ALL-SIS Collection Development Committee, TS-SIS, etc.). While discussions with librarians actively engaged in licensing at the consortial level indicated that it does not seem to be a prevalent problem, one-on-one conversations with librarians have indicated that problems arise when students want to mine certain databases (e.g. run programs on them). While standard licenses like NELLCO's do not include language related to data mining, there are other standard licenses that do include sample language.⁷⁵

Data citation

ALL-SIS should be incorporating issues related to data citation into any other work related to scholarship and publication. While there has long been discussion of permanent links and DOI's for publications, issues related to permanent links for data are growing in number.⁷⁶ The Bluebook does not offer much guidance on data and social science research instrument citation. The ALL-SIS Bluebook Committee could consider making recommendations regarding suggesting rules related to data looking at existing guides for social sciences work as a starting place.⁷⁷

Visualization

Any training support and clearinghouse functions that ALL-SIS provides should include support for visualizations. Librarians should be able to help faculty and students in thinking about useful ways to display information. Training could be incorporated into broader data scientist training. Dissemination of such information could include facilitating existing projects like the Computational Legal Studies blog or encouraging member contributions from their own faculty, students and journals.

Training in General

There are already many training opportunities for data science and data curation.⁷⁸ The Empirical Legal Caucus already has a blog that lists training opportunities. ALL-SIS could work with it as well as TS-SIS to include more listings for data curation/research management from a librarian's perspective. Recently, a librarian at Harvard University coordinated a program called

should work to preserve their patrons' rights to conduct nonconsumptive research across licensed database materials.")

⁷⁵ California Digital Library, Standard License Agreement, http://www.cdlib.org/services/collections/docs/toolkit/Model_License_LATEST_Revised_08-11.docx (see Textmining under Authorized Uses).

⁷⁶ For example, the popular social science data repository Dataverse recently joined the project DataCite. <http://www.datacite.org>

⁷⁷ Some examples include the APA Manual and the Chicago Guide to Writing about Numbers (University of Chicago Press 2004).

⁷⁸ For example, Coursera is currently offering Introduction to Data Science.

Data Scientist Training for Librarians (<http://altbibl.io/dst4l/>).⁷⁹ ALL-SIS could also work with other AALL-related groups on continuing ed programming (perhaps online) for Data Scientist training for librarians. A clearinghouse maintained by ALL-SIS could include information related to data licensing.⁸⁰

Funding Opportunities

ALL-SIS should help with development of dissemination of opportunities for funding and grants. The Empirical Legal Studies blog already lists grant opportunities <http://elslibrarians.wordpress.com/category/grant/> and could be linked to or helped developed. ALL-SIS could also help with education of members about grant requirements (e.g. funder mandates-See section on Open Access policies) and projects related to metadata development⁸¹.

Task Force Members

Ken Hirsh, Director of the Law Library and Information Technology, University of Cincinnati Law Library, ken.hirsh@uc.edu (co-chair)

Michelle Pearse, Senior Research Librarian, Harvard Law School Library, mpearse@law.harvard.edu (co-chair)

Valeri Craigle, Access Technologies Librarian, University of Utah Law Library, craiglev@law.utah.edu

Dick Danner, Director, Duke Law School Library, zad@law.duke.edu

Jim Donovan, Director, University of Kentucky Law Library, james.donovan@uky.edu

Todd Melnick, Associate Librarian for Public Services, Fordham Law Library, tmelnick@law.fordham.edu

Laura Hartnett, Faculty Services Law Librarian Northeastern University Law Library, l.hartnett@neu.edu

Elliot Hibbler, Northeastern University Law Library, e.hibbler@neu.edu

⁷⁹ The Harvard Library also recently launched a Research Data Collaborative to develop research data management services <http://library.harvard.edu/library-launches-research-data-collaborative>

⁸⁰ Data Commons

⁸¹ Fundref is a new project out of CrossRef for organizations and publishers. <http://www.crossref.org/fundref/>

Benjamin Keele, Research and Instructional Services Librarian, Indiana University Robert H. McKinney School of Law, bkeele@indiana.edu

Elizabeth Outler, Associate Librarian at University of Florida Legal Information Center, outler@law.ufl.edu

Fred Shapiro, Associate Librarian for Collections and Access, Yale Law School Library, fred.shapiro@yale.edu

Stefanie Weigmann, Head of Legal Information Services, sweig@bu.edu

Special contributor to report: Sarah Ryan , Empirical Research Librarian, Yale Law School Library