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CRIV Website

www.aallnet.org/main-menu/Leadership-Governance/committee/activecmtes/criv.html

CRIV Tools

www.aallnet.org/main-menu/Advocacy/vendorrelations/CRIV-Tools

The CRIV Sheet

Editor's Corner

This issue of *The CRIV Sheet* contains a variety of articles dealing with access to information—some provided by legal information vendors, some not. Brian Huffman's article summarizes the new *Uniform Electronic Legal Material Act*. Clanitra Stewart's submission provides a review of ProQuest's congressional and legislative insight. My article

summarizes the Minnesota State Law Library's efforts to make appellate briefs available to the public.

As always, *The CRIV Sheet* editors are looking for articles from AALL members on topics relating to vendor relations and the legal information industry. Please send article ideas to me or Associate Editor David Hollander.

Michelle Cosby North Carolina Central University School of Law Library

From the Chair

Welcome to the second edition of *The CRIV Sheet* for the 2012-2013 term! Since our first issue of the term, CRIV has handled several requests for assistance from AALL members. To see the results of these requests, as well as any future resolutions, please follow The CRIV Blog at crivblog.com. We are interested in your comments, so feel free to post your thoughts to our blog.

Additionally, the CRIV Web Pages and Tools Committee is working to improve the user experience for the Vendor Relations page at www.aallnet.org/main-menu/Advocacy/vendorrelations. Explanations of each section have been added, and the content is now alphabetized. The committee is currently evaluating the content of each page and updating it as necessary. CRIV would like to thank Chris Siwa,

AALL's director of information technology, for his assistance in these projects.

CRIV has also created a new committee, the CRIV Marketing Committee, which has been meeting, and a plan is underway to advertise CRIV and CRIV services. Please check The CRIV Blog or AALL listservs that have a CRIV liaison to learn more about CRIV as this term progresses. Listserv liaison information is available on the first page of this issue.

Finally, I would like to thank all of the librarians and vendors for their nominations for the New Product Award. The New Product Award is given to a commercial product that is less than two years old that adds value to our profession. The award will be given at the 2013 Annual Meeting in Seattle.

Brian R. Huffman Dakota County Law Library

UELMA: Summary, Minnesota Perspective, and Impact

Much has already been written about the *Uniform Electronic Legal Material Act (UELMA)*. This article offers a brief overview.

Summary of Law

The act was approved in 2011 by the Uniform Law Commission (ULC). The law provides an outcomes-based, technology-neutral framework for providing online legal material with the same level of trustworthiness traditionally provided by publication in a law book while preserving legal material in perpetuity, allowing for permanent access.

The act requires that official electronic legal material be:

- Authenticated by providing a method to determine that it is unaltered
- Preserved, either in electronic or print form
- Accessible for use by the public on a permanent basis.

For each type of legal material, the state must name a state agency or official as the "official publisher." For official electronic legal material, the official publisher has the responsibility to authenticate, preserve, and provide access to the material.

At a minimum, legal material that is covered by the act includes the state constitution, session laws, codified laws or statutes, and state agency rules with the effect of law. In addition, states may choose to include court rules and decisions, state administrative agency decisions, or other legal material. *UELMA* does not require authentication of judicial information such as court rules and case law “because in some states the judicial branch is the official publisher of those materials” and such requirement could involve separation of powers issues.

UELMA is an ideal extension of the AALL State Inventory project. Having a clear understanding of exactly what online legal materials each state authenticates, lists as official, preserves, and allows for permanent public access is key to knowing which states are prepared for *UELMA* or where more work is needed. Preliminary analysis of the inventory indicates little change in states authenticating materials since 2009, but there have been increases in states citing online legal materials as official.

Progress So Far

In 2012, *UELMA* was introduced in California, Colorado, Connecticut, Minnesota, Rhode Island, and Tennessee. Thus far, Colorado and California are the only two states that have enacted *UELMA*. AALL members continue to work with their uniform law commissioners and legislative liaisons to promote enactment of *UELMA* in their states. The states where the uniform law commissioner has put *UELMA* on the enactment plan for 2013 are Connecticut, the District of Columbia, Hawaii, Iowa, Kentucky, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Pennsylvania, Tennessee, and Utah.

Minnesota Experience

Minnesota is a prime example of hard work and good intentions gone awry. AALL members were contacted to support passage of House File 2527 and Senate File 2476. Staff from the Minnesota Office of the Revisor

of Statutes made appearances at key committee hearings. Local Minnesota Association of Law Libraries members drafted letters of support, and a plea to call key legislators was issued. In the end, the bill made it through the House Civil Law Committee and stalled at the Senate Judiciary and Public Safety Committee.

In retrospect, passage of the law was sidetracked by a perennial political juggernaut: the Vikings stadium. As politicking over the stadium entrenched the legislators, this bill, along with many others, became a political victim. There was not enough time as the deadlines sailed by. Renewed awareness has ensured continued interest and hopeful passage of *UELMA* in 2013.

How This Will Affect Publishers

UELMA was drafted to have no effect on relationships between an official state publisher and a commercial vendor that produces the legal material, leaving such relationships to contract law. Copyright in state publications will also be unaffected. The *UELMA* Drafting Committee received input from several legal publishers, including Thomson Reuters, Lexis, and Fastcase.

For More Information

The best way to advocate is to share information with colleagues and learn what’s happening in other states. You can join the *UELMA* Advocates Community on AALLNET’s My Communities page to connect and prepare yourself for the months ahead. See the *UELMA* Resources website on AALLNET and Uniform Law Commission for more information.

UELMA Summary (2012):
www.uniformlaws.org/ActSummary.aspx?title=Electronic%20Legal%20Material%20Act

UEMLA Summary and FAQs:
www.aallnet.org/Documents/Government-Relations/UELMA/UELMAFAQs.pdf

ProQuest Congressional and Legislative Insight: A Few Thoughts from a Future Law Librarian

Editor's note: This article is reprinted with permission from *Southeastern Law Librarian* (Volume 37, Issue 3, Summer 2012).

As a current M.L.I.S. candidate at the University of South Carolina, I have been fortunate to have the opportunity to immerse myself in librarianship projects and experiences that have enhanced my study beyond the classroom.

One such project, completed earlier this year, was a collaborative initiative between the Coleman Karesh Law Library and the Thomas Cooper Library at the University of South Carolina that allowed me to develop extremely detailed research guides covering the many features of ProQuest's Congressional and Legislative Insight databases. The process of developing the research guides, which are accessible through an accompanying LibGuide located at <http://guides.law.sc.edu/federallegislativehistory>, impressed upon me the usefulness of these databases for quickly accessing Congressional information and federal legislative histories. Having extensively explored the databases for that initiative, I am excited to share five reflections so that others may find them as useful for their patrons as I do.

A Brief History of Congressional and Legislative Insight

In 2010, ProQuest announced its purchase of the Congressional Information Service line of products from LexisNexis, which included the LexisNexis Congressional and LexisNexis Statutes at Large products, as well as an extensive number of digital Congressional materials through collections such as United States Serial Set document and map collections, the Congressional Research and Congressional Hearings collections, and the Congressional Record Permanent Digital Collection. Since that time, Congressional and Legislative Insight have been expanded to the databases that we know today. In the summer of 2012, ProQuest Congressional and Legislative Insight were both moved to the ProQuest servers from the LexisNexis servers, with ProQuest Congressional also being redesigned under the ProQuest platform.

Congressional contains Congressional materials from 1789 to present, although specific coverage is dependent upon the type of Congressional material sought and an institution's subscription level. Similarly, Legislative Insight provides legislative histories for nearly 18,000 federal laws from 1929 to

present, with plans in place to offer pre-1929 laws soon. Although most law librarians will be familiar with several other online and electronic resources for Congressional publications and federal legislative histories, few can deny the positive aspects of finding all of this information aggregated so fully in just two databases.

As is evident to researchers from a thorough examination of the databases, Congressional provides access primarily to Congressional publications and related documents while Legislative Insight focuses specifically on federal legislative histories. Like most databases, Congressional and Legislative Insight provide researchers with several methods to access information using both keyword terms and citations. Under the new ProQuest platform, Congressional provides Basic Search, Advanced Search, and Search By Numbers options, as well as search options for Congressional member and committee information, federal regulations, and political news. Similarly, Legislative Insight allows researchers to retrieve federal legislative histories through a Quick Search, a Guided Search, a Search By Numbers option, and a Legislative Process search. While Congressional and Legislative Insight do contain some overlapping content, the databases are sufficiently distinct for novice researchers to quickly learn which database to use for their research needs. For those experienced with this type of research, the databases eliminate much of the need to refer to cumbersome print volumes or microform materials.

Reflections on ProQuest Congressional and Legislative Insight

After gaining experience researching within Congressional and Legislative Insight, a researcher will definitely come away with some distinct impressions (positive or negative) about the databases. For me, those impressions were as follows:

1. ProQuest Legislative Insight's Legislative Process Search Feature is Truly a "Go-To" Resource

A researcher seeking the federal legislative history for a law need do little more than enter the Public Law number for the law being researched to retrieve the law's full legislative history. That is, of course, assuming the federal law was passed in 1929 or later and is one of the laws selected by the database developers for inclusion in the content. Despite this limitation, as ProQuest's content grows, the Legislative Process feature is likely to become an increasingly

useful resource for researchers. Legislative Insight's display for a federal law's legislative history not only breaks down the Congressional publications comprising the legislative history by type of publication (e.g., bill, report, Presidential signing statement, etc.), but also allows the researcher to limit the display to a specific part of the legislative process (e.g., after a bill goes to committee, after a bill goes to the floor, etc.). This allows researchers, particularly novice ones, to quickly isolate the Congressional documents within the legislative history that are most relevant for their research purposes. For students in particular, this feature has the potential to be one of the most frequently used parts of the database.

2. ProQuest Congressional's Migration to the New ProQuest Platform is a Big Improvement

Compared to the old platform, Congressional's new interface under the ProQuest platform provides a much more user-friendly search experience. While the search process remains substantially the same, the clean, familiar look of the ProQuest platform lays out the search options and available content more clearly for the researcher. Additionally, the Help features, which were a bit difficult to fully appreciate under the old platform, are now more prominently displayed at the top of the database and through "How Do I?" links in the sidebar. These improvements make the database much easier to understand and navigate.

3. ProQuest Congressional's Political News Feature Would Benefit from Expansion

Within Congressional, researchers can access political news on relevant topics primarily from the *Washington Post*, from *Roll Call*, and from *The Hill*. While these publications are certainly relevant to Congressional news, and allow researchers to get some political news without leaving the database, the feature could greatly benefit from the inclusion of additional news sources. As ProQuest expands its coverage of news sources through Congressional, the Political News feature will grow in its potential to become a substantial feature of the database.

4. Easy Access to the U.S. Code and to Federal Regulations through ProQuest Congressional Should Not Be Underestimated

Although there are other online and electronic resources available for retrieving sections of the United States Code, the Federal Register, and the Code of Federal Regulations, Congressional allows researchers to easily retrieve this information both through keyword terms and by citation. Law students, and even undergraduate students studying Congressional information, may feel more comfortable searching for this information within Congressional than with some other online and electronic resources, particularly if they are already researching within the database for related information. It is worth emphasizing these features to students, if only to get them more comfortable with using Congressional for their research needs.

5. ProQuest Congressional and Legislative Insight Offer an Extensive Amount of Information, Which Could Be Overwhelming for Some

Despite the clear usefulness of Congressional and Legislative Insight, it is worth pointing out that the sheer number of search features and types of documents available through the databases could easily overwhelm novice researchers who are unacquainted with this type of research. While Congressional's new platform helps to clear up some of the potential confusion, it is incumbent upon librarians to try to make the research process through the databases as simple for patrons to understand as possible. While ProQuest's training materials and guides can serve as resources for us in fully understanding the databases, creating our own research guides and other training materials designed for our patrons can help us frame the Congressional information/federal legislative history research process in a way that will be most easily understood by our own patrons.

Law Library as Purveyor of Appellate Briefs

The Minnesota Rules of Civil Appellate Procedure dictate the number of briefs that must be submitted when filing an appeal: 12 bound and two unbound for the Supreme Court, six bound and one unbound for the Court of Appeals. In each appeal the Clerk of Court's Office provides one bound and one unbound copy of the briefs to the Minnesota State Law Library. The law library makes those briefs available to the public in a variety of formats.

Note that in Minnesota attorneys must file an addendum and an appendix with their briefs. The appendix must include: "(a) the relevant pleadings; (b) the relevant written motions and orders; (c) the verdict or the findings of fact, conclusions of law and order for judgment; (d) the relevant post trial motions and orders; (e) any memorandum opinions; (f) if the trial court's instructions are challenged on appeal, the instructions, any portion of the transcript containing a discussion of the instructions and any relevant requests for instructions; (g) any judgments; (h) the notice of appeal; (i) if the constitutionality of a statute is challenged, proof of compliance with Rule 144; and (j) the index to the documents contained in the appendix." Minn. R. App. P. 130.01(1). The addendum includes: "(1) a copy of any order, judgment, findings, or trial court memorandum in the action directly relating to or affecting issues on appeal; and (2) short excerpts from the record, other than from the transcript of testimony, that would be helpful in reading the brief without immediate reference to the appendix." Minn. R. App. P. 128.02(3).

Formally Bound Briefs

One of the copies of briefs the library receives from the Clerk of Court's Office is formally bound. This means that the party has sent it to a brief binding company where it is prepared according to the rules of court. Appellants' briefs are bound with a blue cover. Respondents' briefs have a red cover. They are connected along the left spine with a plastic or cloth binding. The library's bound briefs are put in a temporary briefs collection for viewing and circulation, arranged by docket number. Every week a representative from Thomson West checks out the new briefs, scans them, and adds them to their briefs database. The appendices and addenda are not included in this database.

Once a case has been decided by the Court of Appeals, the briefs will remain in the collection until the period for review by the Supreme Court has passed. Briefs of unpublished Court of Appeals cases are discarded if they are not granted review by the Supreme Court. If a case is granted review, the brief will remain on the public shelves for several months after the Supreme Court opinion is released and published in the *North Western Reporter*. Briefs for published Court of Appeals cases will also remain on the shelves until after the opinion comes out in the *North Western Reporter*.

Unbound Briefs

One of the copies we receive from the court is loose; its pages are not bound with a spine. The law library uses this copy to create three formats of briefs.

First, the briefs for published cases are scanned by library staff. The civil briefs are then loaded to the law library's website. The library has been providing briefs online since 2005. These briefs are also sent to Lexis to load into its briefs database. Criminal briefs, appendices, and addenda are not put onto the public website due to the sensitive material they often contain.

Next, the loose briefs are sent to a microfiche company. The company prepares eight sets of fiche. One set is retained by the State Law Library. Seven sets are sold to other local law libraries. Appendices and addenda are included in the microfiche.

Once the loose briefs are returned from the microfiche company, they are prepared to be sent to the bindery. The library has bound briefs going back to 1864, though the collection is not complete. The briefs are hard-bound and published according to the *North Western Reporter* citation of the corresponding case. Since the appendices and addenda are included in the bound volumes, there can be several volumes of briefs for each published case.

Once the library has received the volumes from the bindery, the briefs on the public shelf are discarded.

Restriction, Redaction, and Public Access

Minnesota courts are governed by the Rules of Public Access To Records Of The Judicial Branch. They dictate that court records are presumed to be public unless a court order or rule says otherwise.

Not all briefs the library receives from the court can be accessed by the public. Juvenile, child protection, criminal expungement, and adoption case briefs are not made available in any format. For other cases, the law library redacts certain types of information or removes the appendix and addendum from public access. The appendix and addendum can contain information that is restricted from public view by court rule. This is often the case in criminal, civil commitment, and paternity cases.

Library staff reviews each brief for certain restricted data, including social security numbers, financial account numbers, and the names of minor victims of sexual assault. This information is redacted before the briefs are made available to the public. Certain documents are removed altogether from public view, including wage stubs, W-2 forms, tax returns, bank statements, other financial statements, and medical records.

The access rules are different for briefs that are put online. In addition to the restrictions listed above, telephone numbers, street addresses, and other identifying information for parties, family members, victims, jurors, and witnesses must be redacted prior to the briefs being made available on the public website. Appendices and addenda are not available electronically via the library's website.

Future Considerations

Minnesota is in the process of implementing a statewide eFiling system for the trial courts. It started in 2011 and will take four years to fully implement. The appellate courts are now in the beginning stages of planning for appellate eFiling. A vendor has been selected, and the planning committee will be making decisions about the process. Once parties are required to eFile their appellate briefs, it is unknown whether the State Law Library will continue to process briefs as it has done.

It has not yet been decided whether briefs, appendices, and addenda will be available online for anyone to see, or just the parties. Currently the public access rules state “[d]ocuments electronically filed or served using the E-Filing System designated by the state court administrator shall be remotely accessible to the person filing or serving them and the recipient of them, on the E-Filing System for the period designated by the court, and on the court’s case management system to the extent technically feasible.” Minn. R. Pub.

Access 8(2)(e)(4). At present, these rules apply to trial court documents only.

The Minnesota Court of Appeals did an “e-reading” trial in April 2012. Two panels of judges were selected to receive all appellate filings in electronic format for one quarter. A total of 144 cases were handled during this trial. The judges and their staffs reviewed all materials on their computers or tablets. The documents were only available internally. Electronic filings from these cases were not made public via the online case-management system, through which the public can currently view the appellate docket, decisions, and orders issued by the appellate courts. This option will likely be considered for appellate eFiling implantation.

One concern regarding remote public access is the issue of redaction. Currently the State Law Library reviews the briefs for nonpublic information prior to posting them online. If briefs are filed by the parties and automatically made available online, attorneys and pro se parties would need to become very familiar with the public access rules. At the trial court level in Minnesota, parties are required to file confidential information forms if they want certain information in their pleadings to be kept private. In addition, certain cases can be classified as confidential or sealed by court administration or the judge.

Some states that don't allow for remote access by the public have a terminal in the courthouse that provides online access to appellate filings. This is how trial court documents are currently handled in Minnesota. If a member of the public wants to look up his (or his neighbor's) divorce decree, he must go to the courthouse to view it. Documents currently are only available in the county where the case was filed. Once the state has fully implemented eFiling at the trial court level, the public will be able to access trial court documents from any county in any courthouse. There is no plan to make trial court documents remotely available online.

It is likely that even if the briefs are available via remote access, they would not be searchable by keyword. This is a service the State Law Library could look into providing. Currently, the library has a searchable database that contains the issues statements from the briefs. Its coverage goes back to January 2002.

Another issue to consider is how long briefs will be kept in the appellate case-management system.

If there will not be long-term retention and access, it would still be desirable for the law library to continue providing microfiche, bound volumes, or some other format for archival purposes.

As we consider the possibility that there might no longer be a need for the State Law Library to provide multiple formats of future appellate briefs, we embark on a project involving our older briefs. The Minnesota Association of Law Libraries has created a task force to look into the possibility of

digitizing the state's old (pre-1900) appellate briefs. This would greatly increase access to these fragile materials. For many of these briefs, only one copy is in existence.

Although the uncertainty of online access to briefs makes long-term planning difficult, changes in the way our court partners operate and advancements in technology have provided a good opportunity for us to examine our collection and services.