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Cynthia Myers, CRIV Chair
George Mason University Law Library
cm Myersj@gmu.edu

The CRIV Sheet

David Hollander, Editor
Princeton University Library
dholland@princeton.edu

Sara Paul Raffel, Assistant Editor
Paul Hastings LLP
sararaffel@paulhastings.com

CRIV Blog

Rebecca Rich, Blog Administrator
Jacob Sayward, Blog Administrator
Cynthia Myers, Chair's Updates

CRIV Web Pages & Tools

Diana Jaque
Cynthia Myers
Debora Person

Education Subcommittee

Julie Kimbrough
Liz Reppe
Jacob Sayward

Marketing Subcommittee

Julie Kimbrough
Todd Melnick
Debora Person
Rebecca Rich

Member Advocacy

(Request for Assistance)
Cynthia Myers, Chair
Diana Jaque
Liz Reppe
Alexa Robertson
Jacob Sayward

New Product Award Subcommittee

Liz Reppe, Chair
David Hollander
Sara Paul Raffel
Jacob Sayward

Vendor Roundtable, Annual Meeting

Liz Reppe, Chair
Cynthia Myers

Listserv Liaisons

Todd Melnick, ALL-SIS
Cynthia Myers, TS-SIS
Sara Paul Raffel, PLL-SIS
Liz Reppe, SCCLL-SIS
Rebecca Rich, Law-Lib
Jacob Sayward, Consumer
Advocacy Caucus

Secretary

Kurt Mattson

CRIV Website

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

CRIV Tools

<http://www.aallnet.org/main-menu/Advocacy/vendorrelations/CRIV-Tools>

CRIV Blog

crivblog.com

The CRIV Sheet

Editor's Corner

It is my pleasure to introduce the second issue of *The CRIV Sheet* for volume 36! In this issue we hear the unique perspective of a government law librarian on relating to vendors. The relationship between government law libraries and vendors differs in an important way from the relationship between other law librarians and vendors. In most cases the vendor is the producer and the library is the customer. However, for many government libraries, the library (or the state government more generally) is both a producer and a customer. The state government produces the primary source law, which is obtained by the vendor and then sold back to the state library. This quirk, along with budgetary constraints that are especially difficult in state libraries, is the topic that Dan Cordova explores. Also in this issue, Rebecca Rich examines two major weeding projects

undertaken by libraries. Assistant Editor Sara Paul Raffel and I hope that you find this issue both interesting and informative.

Finally, I offer another solicitation for contributions to *The CRIV Sheet*. As this issue illustrates, providing a variety of viewpoints from a variety of workplace settings is an important feature of *The CRIV Sheet*. This is only possible because working librarians volunteer to share their experiences with their colleagues across the country. If you have vendor-related issues that you find interesting, difficult, or informative, please get in touch and share them with us. Our editorial policy is here: www.aallnet.org/main-menu/Advocacy/vendorrelations/CRIV-Sheet/policy-criv.html. Please contact me with any questions!

Cynthia Myers George Mason University Law Library

From the Chair

Welcome to the second edition of *The CRIV Sheet* for the 2013–2014 term! I am writing this column on a beautiful (but cold) November day. This past fall, the committee has been active in proposing programs for next year's AALL Annual Meeting in San Antonio. Two proposals were submitted to the Annual Meeting Program Committee reflecting the range of issues CRIV is interested in. These programs are: "The Bookless Law Library: Potential Reality or Flight of Fancy?" and "The Future of E-Books is What We Make of It: A Program to Formulate the San Antonio Statement on E-Books." I would like to thank Liz Reppe and Todd Melnick for their work on these proposals. I am happy to report that "The Bookless Law Library" has been accepted as an Annual Meeting program.

The CRIV Marketing Subcommittee is looking into ways to advertise CRIV and CRIV services. Please check the CRIV Blog or AALL listservs that have a

vendor liaison to learn more about what CRIV has planned in this area as the year progresses.

Additionally, the CRIV New Product Award Subcommittee has been working to evaluate submissions it received for the New Product Award. The New Product Award is given to a commercial product that is less than two years old and makes a contribution to our profession. The award will be given to the winning product at the 2014 meeting in San Antonio.

CRIV has recently handled several requests for assistance from AALL members. I encourage members to submit their questions or suggestions related to advocacy or to vendor complaints and communication via CRIV's form for vendor assistance, available at www.aallnet.org/main-menu/Advocacy/vendorrelations/request-assistance.html, as well as on page 8 of this *CRIV Sheet*.

Unbundling Online Legal Materials: One State Government Law Library's Perspective

The main electronic products of large legal information vendors are not commonly thought of as “bundles.” Most law librarians understandably think of these products as individual “proprietary databases” that provide access to a variety of legal information: primary source law, treatises, academic articles, news, business information, etc. And while some customization is permitted, even at their most basic level, these products include multiple types of items and contracts while excluding some titles that are only offered on a separate title-by-title basis. This lack of flexibility, as well as its implications for government law libraries, is the subject of this article.

The Colorado Supreme Court Library is a public law library located in and funded through the Colorado Judicial Branch. Eight librarians work for the library, all of whom have an advanced degree in either law or library science and four of whom have both. We serve the bench, the bar, and the general public. By agreement and when requested, we also work for various units of the legislature and the executive branch. We work in association with other law libraries in Colorado to provide official and reliable, verifiable legal information.

Our library provides a variety of legal information services to our patrons. In addition to primary source law, our clientele want—and sometimes need—legal analysis; annotations and updates; historical context for the development of the law; 50-state surveys; legal trend data; and docket information relating to recently filed cases, national and statewide.

Many of the challenges that we face are shared by all libraries, which include decreasing budgets and increasing costs, shrinking library space, and insufficient personnel. Additional challenges include law school pedagogy that primarily teaches electronic legal research to law students (drastically limiting print research skills still favored by some of our top-level clientele), the availability to law students of more legal research databases from multiple vendors than can be purchased by small law firms or court libraries, and the explosion of licensed lawyers each year resulting in a dramatically increased demand for more online legal material assistance without a corresponding ability to purchase relatively fewer books.

These challenges, however, have unique implications for a governmental law library that serves the public and is funded by the taxpayers. Because government library budgets are determined by a legislature, not the users of the library (such as attorneys in a firm, or

professors at a law school), it is especially difficult for government libraries to keep up with rising costs. As a result, government libraries must carefully choose what is necessary to best serve our patrons. Large electronic law subscriptions make it very difficult to target the specific titles that we need and to exclude those we do not. It is also difficult to avoid buying duplicative titles or databases. For example, perhaps we could purchase access to primary source law from one vendor along with a few chosen treatises but purchase access to more treatise titles and no primary source law from another vendor. Or perhaps a library might want to forgo electronic primary source material entirely in favor of print material but still purchase electronic treatises. What makes this especially frustrating for government libraries is the fact that we provide primary source material to vendors at little or no cost only to have them sell it back to us at high cost (granted, with value added). But this added value is not extractable from the value of the primary source material itself, and this material is often bundled with suites of secondary source material. The result is the purchase of overlapping material from multiple vendors and the purchase of titles that our libraries do not need. Given the budget constraints government libraries face, this type of bundling is not sustainable.

The purpose of this article is to open a dialog among law librarians and between law librarians and vendors about alternatives to the current model of buying and selling legal information. More specifically, this article proposes a model that would allow for customized customer-selected bundles chosen from all available titles without exclusion. Beyond that, the conversation should focus on when or why we should ever buy the same electronic content more than once, especially if the content is primary law originally published by government.

How Did We Get Here?

When the law was simpler (or at least when there was less of it) and lawyers practiced locally, states published their own law in print and sold the books at prices that recovered their overhead costs. As the law developed, the scope and purview of law firms grew with it. It did not take long before states (courts, for sure) could not provide, much less afford, the citators, finding aids, and secondary sources that the growing profession required. In exchange for free or steeply discounted access to our own law, we contracted with publishers to print (and annotate) the law for us. Under that arrangement they were free to repackage and sell one state's law to neighboring

states and other paying customers at whatever price the market would bear. Since then, book prices have steadily increased to the point that we can no longer afford to maintain a current set of 50-state print law. And somewhere along the line we started buying back our own material in multiple formats, completely negating any savings that we might have realized by outsourcing print work in the first place.

In parallel fashion, local and regional legal publishers were acquired by larger companies, the largest of which are now multinationals registered outside of the United States. This corresponded with the development of the law whereby the work of lawyers and courts incrementally began to require access to national compilations of law, and sometimes international ones, in their daily work.

Over the course of time, those global publishing corporations bundled our laws into an “all states-all federal” primary law set, which they have sold now for years in conjunction with various specialty groupings like court rules, local practice sets, and subject-specific treatises. Predictably, some were sold at a premium or subject to different rules such that the “bundle” never really included a law library’s complete requirements. Leveraging a willingness to spend more, but knowing that not many libraries could buy everything, the publishers made individual exceptions to what could be bundled, most notably if the library was willing to agree to longer contract terms for its print sets. Given the library challenges noted above, that form of print bundling has become less sustainable, and legal publishers have substituted bundled electronic databases to replace profits lost on the print side.

Where Are We Now?

Like all libraries, we subscribe to electronic legal research databases at established “retail” prices. Those rates are based upon packages of information, some of which libraries must also purchase in different formats and/or from different vendors. For example, if the state’s official publisher of its laws is not the preferred legal research vendor, the library has to buy the law twice, in effect forcing the purchase of overlapping coverage in order to receive the specialty databases that it really needs from each company. Ironically, that overlapping coverage takes the form of variously annotated versions of the law that the government originally promulgated using taxpayer dollars, that is available in alternative databases and formats, and that was provided to the publishers for free in the first place.

Our collection is now fewer than 100,000 books. Each title has been individually selected and retained over time to serve an identified need of some or all of our clientele. As our collection size diminishes,

we borrow what we cannot afford to buy through various arrangements with our federal and state library colleagues, along with public libraries and public and private educational institutions.

We augment our print collection with significant online materials from multiple legal publishers. The main reason we subscribe to services from more than one publisher is that the credibility of our library is largely based upon our ability to definitively answer our clientele’s most difficult questions. Like most libraries, our primary clientele prefer the services of one online research company. While that company provides an excellent array of solutions, the service does not always provide answers to the most difficult questions. Consequently, those unanswered questions are referred to our library. Because our clientele are excellent professional researchers, unless they specifically ask us to do so, we rarely repeat their searches in the same online service that they used. Sometimes we attempt different searches using that tool, but just as often we look for the answer using a different publisher’s research array. This is a highly effective but expensive model.

Why Do We Need to Unbundle?

Assuming (without agreeing) that the annotations appended to our primary law by the publishers are sufficiently valuable to warrant expending additional taxpayer dollars to make them available for public use, the price charged by the vendors to purchase it in the value-added form varies depending upon the type and size of the library. This means that law libraries are being charged different prices for the same source, in multiple locations, unnecessarily. Unfortunately, the flat-fee model offered by at least one major vendor, while better, is still beyond the reach of most users because it is based upon an initially inflated market value.

Given the rate of inflation for print law books and the amount of research and development money that publishers have spent “enhancing” the capabilities of corresponding electronic formats (the cost of which is being passed on to all subscribing law libraries in one way or another), we will soon be unable to afford the same coverage of legal treatment in our combined physical library and virtual space as we did in print just a few years ago. Worse, for various reasons, there is no guarantee that a given title will be available when we need it in the future.

What Do We Need?

We need a new normal.

Ideally, vendors would assist all law libraries by providing specialized content choices that aren’t tied to the all states-all fed model. A title-by-title menu at affordable fixed prices for all publications in all

subject areas would be a welcome offering. Time will tell how the largest vendors will distinguish themselves in this way. Perhaps the solution will be presented by niche publishers or offered by academic publishers. Last week one such company announced a usage-driven acquisition model for e-books that allows for a deposit of funds to be applied toward titles actually accessed over a measured six-month period. It will be interesting see how the market responds to this model.

Realistically, unbundling is inevitable whether or not vendors initiate it. As much as electronic databases have made it easier to eliminate certain print titles, it is an unsustainable economic model for vendors to expect libraries to replace former print expenditures, dollar-for-dollar, with electronic bundles. This is especially true when content or services are unnecessarily duplicated elsewhere in the library, regardless of format or publisher. We have watched the bundled model play itself out in the print format.

For example, for decades our library had little choice but to purchase duplicate print copies of the same title, sometimes in multiple formats (court rules in particular, but there are other examples). When we could no longer afford to do so because of decreased funding, we stopped. We made a hard choice, and we changed our habits. There were some difficult conversations, and some exceptions exist, but it was not an extinction-level event. It was merely good stewardship of public funds.

No one knows what the end game is for how to make legal materials optimally affordable, but it is the right question to ask, and this is the right time to ask it. Different library types associating more directly, increased local and regional collaboration with regard to collection development, and sharp bargaining for needed monetary relief should be part of the solution set. Luckily, librarians associate, collaborate, and negotiate well.

Inch by Inch, Row by Row: A Tale of Two Major Weeding Projects

A large weeding project necessarily involves large and complex combinations of criteria and factors to determine how to best shape a collection to meet the needs of patrons and successfully manage space and budget limits. Often, working with vendors is an essential component of such a project. This article will report on two such weeding projects and the different roles vendors played in each.

Library 1: The Medium-Sized Florida Law Library

The location: Nova Southeastern University Law Library and Technology Center near Fort Lauderdale, Florida

The scenario: After several years of minimal collection maintenance, collection growth, budget issues, and the need for space, the library conducted a massive weeding and move of the collection. The library staff is largely young and inexperienced in the ways of massive weeding.

The timeline: A choice of what to keep, move, and discard needs to be made within two months and the move needs to happen within one month to allow for bar exam study and so as not to interfere with student and faculty needs during the summer and fall semesters.

What happened?

The situation outlined above is what my law library faced this summer as we decided to pare down and move our collection to make space for a first-floor research lab for our first-year students along with additional study space. Budget issues also entered into the picture as we wanted to eliminate books that were duplicated elsewhere in our collection and change our vendor contracts to favor the electronic form of the resource over the print form. We primarily used the following criteria, provided by the director, in deciding what to weed:

1. Circulation—Has this volume been used recently, either in-house or checked out (recently meaning within the past seven years)?
2. Historic value—Does this book have some historic value that indicates that we should keep it?
3. Duplication—Do we have this resource easily available in another format?
4. Superseded—Does this volume provide information that is still useful to our patrons? Does it provide misinformation if it is outdated?

Every volume was ultimately reviewed by at least two different librarians before being moved to the withdrawal pile. In doing this, we found a lot of treasures (and horrors) in the collection that many of us did not know existed. This was a reminder that going through the collection is something worth doing more regularly so that we can all recommend the many sources that we have to the patrons—and get rid of the Windows 3.1 books that might belie our former Most Wired Law School status. Ultimately, we withdrew more than 30,000 volumes comprising more than 3,000 titles.

We also made a point of working with our legal skills faculty on what print resources they wanted to keep and where those resources would be most useful to them. While there have been some complaints about the new layout of the collection and that everything is no longer available in every format, by and large our patrons and constituencies are happy with the outcome of our project.

Working with vendors:

We also learned a lot about working with vendors. Our Lexis and West representatives were able to help us find all areas of duplication and move some resources to electronic versions that we had not thought of utilizing. As we go through our collection again this year for updating purposes, space needs, and budgetary reasons, we will work with these and other vendors to find the right formatting for our price point and future needs.

Library 2: A Mid-Sized Midwestern Public Library

The location: Urbana Free Library, Urbana, Illinois

The scenario: The collection, particularly the adult nonfiction collection, needed to be weeded both for space and because the library was embarking on a massive radio frequency identification (RFID) project that would touch every book in the library.

The timeline: Due to staffing and funding availability, the weeding portion of the project happened in a couple of weeks over the summer.

What happened?

I visited my hometown during June 2013 to get some training at the law library and to visit family. All that anyone in the library could talk about was the weeding project happening at the downtown public library. The entire library community is small and well-connected, but when you add in a library school with nationally networked graduates and professors, many of whom either trained in or worked at the Urbana Free Library, you have a situation where any perceived mistake will immediately become volatile and go viral.

According to the accounts I was given and newspaper articles published in the *News-Gazette*, the director decided to go ahead with the weeding project while many of the staff members who would ordinarily have assisted with the weeding were on vacation. Staff claimed that the only criterion used to weed adult nonfiction was that the books were more than 10 years old. They were given only a couple of days to review the list and decide what to keep.

Student employees who had been hired for the RFID tag project (in which an RFID tag would be placed on every book in the library), eager to start working, began to pull books on the list off the shelves. Within a week, more than 9,000 books had been removed, boxed up, and shipped to Better World Books, a vendor that sells used books and gives a portion of the proceeds back to the libraries.

Patrons started to notice the rapidly emptying shelves and complained. A meeting of the Board of Trustees was convened. Many library school professors, library school students, and patrons testified at the meeting, and the weeding project was halted. An interim director was appointed to replace the existing director. Current news stories indicate that the Urbana Free Library is likely to sever ties with the director who was in charge while the weeding project was going on.

Working with vendors:

Better World Books, after reading the news stories and the blog reports, immediately contacted the library and ultimately shipped 200 boxes of books back to Urbana. Many of these books were returned to the shelves. The company's quick response and friendly comments on news stories and posts ensured that no one thought of it as the bad guy in this situation and also helped to salvage the nonfiction collection.

Lessons Learned

I learned many lessons from participating in my own massive weeding project this summer and from watching the aftermath of the Urbana library project.

1. As far as possible, community buy-in to a large-scale project is important. Where buy-in isn't possible, communication with the community about the project as it proceeds is very important.
2. Do not anger librarians, for their voices are heard all over the world.
3. Strong weeding criteria speed up the process and make it easier for novice staff to participate.
4. Smaller-scale, ongoing weeding projects are easier than larger scale projects, though both have to happen sometimes and are important.
5. Working with vendors that can help do some of the research for you on changing formats or consolidating resources can make big projects like this a lot easier—and a strong vendor relationship can help save a project gone wrong.

When I next face a new weeding project, I will keep these lessons in mind and use them to make the project more enjoyable for all involved.

Request for Assistance: Committee on Relations with Information Vendors

Note: Prior to filing a request for assistance, individuals are expected to have made a reasonable attempt to resolve the issue at hand. To avoid duplication of effort, please provide a complete account of your efforts to communicate with the vendor. Copies of notes from conversations with the vendor are helpful.

Date: _____

Name: _____

Library: _____

Address: _____

Telephone: _____

Fax: _____

Email: _____

Vendor: _____

Nature of problem: _____

Please send this form and supporting documentation to:

Cynthia Myers

Head of Collection Development and Technical Services

George Mason University Law Library

3301 Fairfax Dr.

Arlington, VA 22201-4426

703/993-8592

Fax: 703/993-8113

cmyersj@gmu.edu

You may also complete this form online at:

www.aallnet.org/main-menu/Advocacy/vendorrelations/request-assistance.html