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### Volume 108: Author and Title Index [2016–36] |
The Need for Experiential Legal Research Education*

Alyson M. Drake**

With most legal research courses having experiential components, designating legal research courses as experiential would allow schools to increase offerings in legal research and to meet the ABA’s newly expanded experiential course requirement. When structured appropriately, legal research courses clearly meet the requirements laid out in the simulation category of experiential courses.

Introduction 

© Alyson M. Drake, 2016. The author wishes to thank Jamie Baker for her thoughtful contributions to this piece.

* Instructional and Student Services Librarian, Director of the Excellence in Legal Research Program & Adjunct Professor, Texas Tech University Law School, Lubbock, Texas.

** In 2007, the American Bar Association’s (ABA) experiential learning requirement is a direct response to the argument that, in the past few decades, new attorneys are beginning their professional lives without being “practice-ready.” 1 Lincoln Caplan, Editorial, An Existential Crisis for Law Schools, N.Y. TIMES, July 15, 2012, at SR10 (“[Law schools’] missions have become muddled, with a widening gap between their lofty claims about the profession’s civic responsibility and their failure to train lawyers for public service or provide them with sufficient preparation for practical work.”); Ashby Jones & Joseph Palazzolo, What’s a First-Year Lawyer Worth?, WALL ST. J., Oct. 17, 2011, at B1 (“[T]here is still a gulf between a newly minted lawyer and one who can provide value to a client.”); David Segal, What They Don’t Teach Law Students: Lawyering, N.Y. TIMES, Nov. 20, 2011, at A1 (“The fundamental issue is that law
Carnegie Report and Roy Stuckey’s *Best Practices for Legal Education* became the most recent in a long list of publications arguing that a sound legal education requires more emphasis on the actual skills that students will perform as lawyers.  

This skills deficit was compounded when law firms became less willing to undertake the cost of training lawyers in light of the 2008 recession. As such, the task of ensuring that graduates were ready to “act” like lawyers was delegated to law schools, which had traditionally focused on teaching students to “think” like lawyers.

¶2 One key skill that new attorneys must possess is how to conduct efficient research. Studies show that, on average, attorneys in their first two years of practice spend thirty-five percent of their time conducting legal research. Although the response to the call for more practice-ready attorneys has been heard and at least partially responded to with the development of the ABA's more robust experiential course requirement, legal research is rarely mentioned as one of the practice-ready skills that new associates must improve. This is despite the fact that law firms regularly cite their new attorneys’ research skills as lacking.

¶3 The development of the ABA’s experiential learning requirement has many law schools working to determine which courses they currently have that fit the ABA’s requirements for experiential courses, which preexisting courses they can modify to fit the requirements, and what new experiential courses can be developed to guarantee that there are enough seats in courses designated as experiential for every student to earn their six experiential course credits. Most, if not all, law schools already have courses classified as clinics and field placements (commonly referred to as externships) with clearly defined characteristics, but there is more room for interpretation in the third category: simulations.

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schools are producing people who are not capable of being counselors.”); see also Sarah Valentine, *Integrating Legal Research into the Law School Curriculum: Putting the Boulder Statements into Practice*, in THE BOULDER STATEMENTS ON LEGAL RESEARCH EDUCATION 1, 2 (Susan Nevelow Mart ed., 2014) (“In short, law schools teach students to think like lawyers but provide little education in what lawyers should be able to do and how they should think.”).


6. ALL-SIS TASK FORCE ON IDENTIFYING SKILLS AND KNOWLEDGE FOR LEGAL PRACTICE, A STUDY OF ATTORNEYS’ LEGAL RESEARCH PRACTICES AND OPINIONS OF NEW ASSOCIATES’ RESEARCH SKILLS 76–94 (2013), http://www.aallnet.org/gm-node/44887.aspx [https://perma.cc/3NWE-TZQF] (sharing the study’s findings of how good hiring attorneys considered new hires’ research skills to be).

Stand-alone research courses, when designed with the experiential requirements in mind, seem a natural fit for simulation experiential courses. After all, experiential courses aim to have students practice the skills they will actually perform as lawyers. Given that new attorneys spend such a large portion of their time researching, it would make sense for law schools to develop experiential courses aimed at this critical task. Despite this, previous literature on possible experiential courses rarely mentions research courses at all; when an article does mention research in the context of experiential education, it is almost always in the context of combined legal research and writing courses, with the focus on how writing components can fit the experiential requirements.

This article presupposes that legal research courses have the opportunity to fill necessary experiential learning gaps in legal education. Paragraphs 6–20 question the current state of legal research within the curriculum, given the importance of legal research in the practice of law and the ABA’s prescribed standards for law schools to prepare students for practice. Paragraphs 21–27 describe the pedagogical benefits of experiential education, as tied to the law school curriculum. Paragraphs 28–42 provide a brief history of the legal community’s ongoing plea for greater emphasis on lawyering skills in legal education and outlines the current ABA standards regarding experiential learning. Paragraphs 43–65 analyze various legal research course structures and consider which course formats best fit the experiential course requirements set out by the ABA.

The Need for Research Courses Across the Curriculum

The Role of Research in an Attorney’s Work

Legal research instruction in the law school curriculum is vital because researching takes up a significant portion of an attorney’s workweek. Studies show that attorneys spend nearly one-third of their time conducting legal research, nearly fifteen hours each week on average. This increases to around thirty-five percent
for those attorneys in their first two years of practice.\textsuperscript{13} The 2014 ABA Technology Report states that one-fifth of an attorney’s billable hours are accounting for time she is engaged in legal research.\textsuperscript{14} Eighty-five percent of associates surveyed believe that their employers expect them to have strong legal research skills, but only twenty-nine percent of that number receive any formal training on how to do legal research,\textsuperscript{15} leaving it to law schools to prepare their recently hired associates.

¶7 Unfortunately, most law schools do not emphasize the need for strong legal research skills in their curriculums. In fact, nearly one-half of associates believe that legal research should be a larger portion of the law school curriculum.\textsuperscript{16} Moreover, around eighty percent of associates believe that more time should be devoted to at least one area of legal research.\textsuperscript{17} Categories like statutory research, administrative research, and public records are those that attorneys most frequently believe should have more time in the curriculum.\textsuperscript{18} According to practitioners, another area in which new associates struggle is conducting cost-effective research, particularly using online research databases other than Lexis Advance and Westlaw.\textsuperscript{19} Finally, the study notes that new associates also struggle with legislative history research and knowing when to stop researching.\textsuperscript{20}

¶8 Of particular note is the fact that “law students . . . assess their own readiness to practice law more positively than do attorneys who work with recent law school graduates.”\textsuperscript{21} Seventy-one percent of third-year law students believe they have the research skills necessary to practice effectively, but only twenty-three percent of attorneys practicing at firms that hire recent graduates agree.\textsuperscript{22} Eighteen percent of attorneys named research as the most important skill a new lawyer should possess.\textsuperscript{23}

\begin{itemize}
\item \textsuperscript{13} Id. at 3.
\item \textsuperscript{14} Joshua Poje, Legal Research, ABA TECHREPORT 2014, http://www.americanbar.org/publications/techreport/2014/legal-research.html [https://perma.cc/CVR2-8FX7].
\item \textsuperscript{15} LASTRES, supra note 4, at 2; see also Jacob Gershman, The Ideal Law School Graduate? A “People Person” Who Can Do Research, WALL ST. J. L. BLOG (Nov. 25, 2013, 1:19 PM), http://blogs.wsj.com/law/2013/11/25/the-ideal-law-school-graduate-a-people-person-who-can-do-research (“Employers, particularly those with more years in practice, rely on new attorneys to be research experts. The employers in our focus groups have high expectations when it comes to new hires’ research skills . . . ”).
\item \textsuperscript{16} LASTRES, supra note 4, at 6.
\item \textsuperscript{17} Id.
\item \textsuperscript{18} Id.; see also ALL-SIS TASK FORCE ON IDENTIFYING SKILLS AND KNOWLEDGE FOR LEGAL PRACTICE, A REPORT OF THE QUALITATIVE RESPONSES FROM THE SURVEY OF PRACTITIONERS ON THE LEGAL RESEARCH PRACTICES AND OPINIONS OF NEW ASSOCIATES’ RESEARCH SKILLS 8 (2015), http://www.aallnet.org/gm-node/50594.aspx [https://perma.cc/ZXM2-WHRM].
\item \textsuperscript{19} ALL-SIS TASK FORCE ON IDENTIFYING SKILLS AND KNOWLEDGE FOR LEGAL PRACTICE, supra note 6, at 88, 91.
\item \textsuperscript{20} Id. at 85, 93.
\item \textsuperscript{22} Id. at 6.
\item \textsuperscript{23} Id. at 5.
\end{itemize}
The Standards

¶9 According to ABA Standard 301(a), the objective of a legal education program is to “prepare[] its students, upon graduation . . . for effective, ethical, and responsible participation as members of the legal profession.” It is difficult to imagine that an attorney could be an effective member of the legal profession without competent research skills. Indeed, Standard 302 requires law schools to establish learning outcomes that include competency in at least four areas, which are discussed next. Each of these competencies should require students to gain strong research skills.

¶10 The first required competency is “[k]nowledge and understanding of substantive and procedural law.” To understand substantive and procedural law, a lawyer must first be able to locate it. The ever-changing nature of the law guarantees that no lawyer is ever going to memorize “the law” in its entirety, even in his specialty area; the law is too vast and changes too rapidly. A concrete understanding of the sources of law—how they are published, what each contains, and how they relate to one another (hierarchy of authority)—is a prerequisite to begin locating and understanding the value of substantive and procedural law. As such, one crucial step in ensuring that graduates will have “[k]nowledge and understanding” of the law is that they have the research skills to help them locate the substantive and procedural law that relates to the legal issues on which they are working.

¶11 Standard 302’s second competency is “[l]egal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context.” Analysis and reasoning of an issue, as well as problem solving, begin before an attorney even starts searching for legal authority; research planning forces the lawyer to analyze the issue in terms of jurisdiction, the best resource in which to start researching, what steps to take in the research process, and more. The

24. ABA Standards, supra note 7, at 15.
25. Brooke J. Bowman, Researching Across the Curriculum: The Road Must Continue Beyond the First Year, 61 Okla. L. Rev. 503, 543 (2009) (“[I]f students fail to take legal research . . . ., they face enormous consequences should they decide to use their law degree.”).
26. ABA Standards, supra note 7, at 15; see also David R. Barnhizer, The Clinical Method of Legal Instruction: Its Theory and Implementation, 30 J. Legal Educ. 67, 78 (1979) (“[Legal research] supports and is integrally linked with many of the other skills and goals of legal education.”); Matthew C. Cordon, Beyond Mere Competency: Advanced Legal Research in a Practice-Oriented Curriculum, 55 Baylor L. Rev. 1, 15 (2003) (“The necessity of conducting research pervades a number of other skills areas in the MacCrate Report, not merely the problem-solving component.”).
27. ABA Standards, supra note 7, at 15 (Standard 302(a)).
28. See Kurt M. Saunders, Thinking About Research; Researching About Thinking, in Expert Views on Improving the Quality of Legal Research Education in the United States 85, 88 (1992) (“[Legal] research must draw upon an accumulated knowledge base of legal terminology, principles, relationships, and modes of analysis and then use this knowledge to access authority and answers . . . .”); Valentine, supra note 1, at 6 (“[L]egal research is what connects the legal professional to the required knowledge and the way research is done profoundly affects how one understands the substantive law.”).
29. ABA Standards, supra note 7, at 15 (Standard 302(b)).
30. See Cathy Glaser et al., The Lawyer’s Craft: An Introduction to Legal Analysis, Writing, Research, and Advocacy 242 (2002) (“[R]esearch and analysis are intertwined, because while it is true that you cannot analyze an issue unless you know the applicable law, it is also true that you cannot know—or, at least appreciate the significance of—the applicable law until you know the issue.”); Steven M. Barkan, Should Legal Research Be Included on the Bar Exam? An Exploration of the Question,
analytical problem-solving process continues as the researcher begins reading legal authority to determine whether the sources found are “on point.”31 Finally, without accurate research, an attorney cannot move on to either written or oral advocacy; the attorney’s arguments depend on her interpretation of the legal authorities discovered during the research process.32 As authors of a legal research textbook note, “legal writing is meaningless unless its content is accurate.”33

The standard’s third competency is “[e]xercise of professional and ethical responsibilities to clients and the legal system.”34 Legal research courses are an excellent avenue for teaching students their ethical responsibilities as lawyers.35 The failure of an attorney to research not only harms his reputation but violates his profession’s ethical standards.36 Rules 1.1 and 3.1 of the Model Rules of Professional Conduct are both grounded in the idea that an attorney must provide satisfactory legal research.37 After all, “competent representation” of a client cannot be acquired without satisfactory legal research.38 Likewise, Rule 3.1 requires attorneys to provide a legal and factual basis for lawsuits they bring, which again requires adequate research.39 The need for quality legal research becomes even more apparent under Model Rule 3.3(a)(2), which prohibits lawyers from “knowingly . . . fail[ing] to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel.”40

31. See Bowman, supra note 25, at 516 (“With each research project, the attorney must develop and implement an appropriately designed, effective, coherent research plan—from determining the issues and identifying search terms, to developing an alternative plan if the first research plan proves ineffective.”).

32. Id. at 513 (“Legal research is so integral to . . . the communication of arguments, written and oral, that it is difficult to separate research from other skills . . . .”).


34. ABA Standards, supra note 7, at 15 (Standard 302(c)).

35. Valentine, supra note 1, at 15.

36. See Carol M. Bast & Susan W. Harrell, Ethical Obligations: Performing Adequate Legal Research and Legal Writing, 29 Nova L. Rev. 49 (2004) (summarizing all the ethical and professional rules related to legal research with which an attorney must comply).


38. Id. R. 1.1; see also Smith v. Lewis, 530 P.2d 589 (Cal. 1975).

39. Model Rules of Prof’l Conduct R. 3.1. In Carlino v. Gloucester City High School, the court found that “a flagrant failure to conduct any legal research” was a violation under Rule 11(b) of the Federal Rules of Civil Procedure, which has language nearly parallel to that found in Rule 3.1 of the Model Rules of Professional Conduct. No. 00-5262, 2002 WL 1877011 (3d Cir. Aug. 14, 2002).

¶13 Beyond the Model Rules’ requirements, as one author notes, “[t]houghtfully prepared exercises can help prepare students for working with a diverse client population and strengthen the connection between what the students are studying and the humane purposes of a legal education.” Legal research courses force students to think about their professional and ethical responsibilities for efficient research on behalf of their clients, so as not to waste time and rack up large bills. They must learn to balance their research between free resources in print and online and more costly commercial databases; this requires them to think client-centrically.

¶14 Finally, law schools must establish learning outcomes for competency in “[o]ther professional skills needed for competent and ethical participation as a member of the legal profession.” Interpretation 302-1 of the ABA standards lists the following as other professional skills that law schools may determine are needed to be “competent and ethical” participants in the legal profession: “interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation.” Again, many of these skills necessitate an ability to conduct efficient legal research. To counsel and negotiate effectively, an attorney must understand substantive and procedural law, which she finds through effective research. Fact development is also the result of efficient research. Trial practice and document drafting both rely heavily on competent legal research, as new lawyers may need to rely on locating model or sample forms when completing a lawyering task for the first time in practice. Organization and management of legal work are tied to legal research; one area in which many law students struggle is staying organized as they research. Finally, self-evaluation is a critical part of the research process—as students practice and fail or succeed, they evaluate and internalize what to do differently or similarly next time. The mantra of many legal research instructors is that “you only get better with practice!”

¶15 Legal research’s strong ties to each of Standard 302’s required learning outcomes make clear that students cannot become effective, ethical, or responsible members of the legal profession without access to significant research instruction throughout their legal education. Moreover, the new standards were adopted under the premise that law schools must engage in “institutional self-examination and planning [to] constantly improve the quality of education and professional preparedness of [their graduates].” As such, law schools will not be able to meet the

41. Valentine, supra note 1, at 15.
43. Id.
44. ABA STANDARDS, supra note 7, at 15 (Standard 302(d)).
45. Id. at 16.
46. See Poje, supra note 14.
47. See Kristin B. Gerdy, Teacher, Coach, Cheerleader, and Judge: Promoting Learning Through Learner-Centered Assessment, 94 LAW LIBR. J. 59, 65, 2002 LAW LIBR. J. 4, ¶ 24 (“To complete the learning process, students must assess their learning and receive feedback about their performance.”).
learning outcomes they are required by Standard 302 to set out without substantial changes with regard to legal research’s role in the existing curriculum.

The Role of Research Courses in Legal Education

¶16 Despite the well-recognized need for legal research education, legal research courses remain the “stepchild in legal education.” Any required legal research instruction is offered almost exclusively in the first year; rarely is there any mandated assessment of students’ research skills between the first-year legal skills course and the students’ graduating and stepping out into the world of practicing law. Legal research is rarely discussed or called on to be put into practice during other law school courses, despite being a critical skill. This goes against what pedagogical theory tells educators about how students learn: repetition is the key to embedding skills into a learner’s memory.

¶17 Most students can continue experiencing practice-focused legal research education only by taking elective research courses, participating in clinics, or securing externships. Unfortunately, there are barriers for each of these. Because legal research courses are devalued by the administrations and doctrinal faculty at many law schools, students themselves devalue them. While law librarians continue to sound the battle cry that legal research courses are of vital importance, their call falls on deaf ears, as many students believe the more necessary classes for them to take are those that will appear on the bar exam or that are related to the areas in which they hope to practice. What many students do not seem to realize is that legal research will be critical to their practice of law in whichever area they choose. While students could practice their research skills in clinics or externships, those classes are not available to everyone, as there may not be enough clinic seats at most...
law schools for all students to participate and not all students’ schedules allow them to fit in a clinic or an externship. The work that students do in clinics and externships also depends on what is assigned to them; not all clinic and externship experiences allow for a great deal of research practice. Finally, despite being a huge portion of an attorney’s job and being called for by some in the legal community, legal research is rarely tested on state bar exams.57

¶18 In addition to the dearth of opportunities for students beyond the first year, the instruction they receive in the first year is usually insufficient. In first-year legal skills courses, students must split their focus between research, writing, oral advocacy, and other lawyering skills, while still grappling with how to analyze legal issues.58 Unfortunately, these classes often focus squarely on legal writing and legal analysis components,59 which often means that the research problems students do encounter are purposely kept simple.60 Easily maneuvered research problems do not force students to interact with the challenging materials necessary to fully grasp the research process,61 and often give them the false sense that research in general is simple and is not something they need to spend more time practicing. They also will not know how to research the complex legal issues that they will encounter during their summer clerkships or out in practice.62

¶19 This is not to say that all first-year skills instructors do not recognize the importance of legal research instruction; rather, it is difficult in a packed syllabus to find enough time to devote to both research and writing.63 Despite the “transfer of knowledge require[ing] the teacher to be an expert in the field,” too often first-year skills instructors are current or former practitioners, who are not experts on legal research.64 In those rare situations where there is equal time allotted to both research and writing, students themselves often devalue the research instruction, not recognizing the importance of those skills until after their first summer clerk-


59. See, e.g., Ann Hemmens, Advanced Legal Research Courses: A Survey of ABA-Accredited Law Schools, 94 LAW LIBR. J. 209, 213, 2002 LAW LIBR. J. 17, ¶ 7 (“Some scholars argue that the increased focus on the writing skills portion of the required first-year legal research and writing course has resulted in a decreased focus and coverage of research skills.”); Roy M. Mersky, Legal Research Versus Legal Writing Within the Law School Curriculum, 99 LAW LIBR. J. 395, 399, 2007 LAW LIBR. J. 22, ¶ 18 (noting that focusing on legal writing in first-year courses “come[s] at the cost of legal research instruction”).

60. Valentine, supra note 1, at 13.

61. Id.


64. Valentine, supra note 1, at 9.

[T]eaching writing and teaching research require different expertise and different approaches. If legal education is to truly create the expert-apprentice relationship that allows students to develop into a legal professional, then legal research must not just be included in that equation, it must be taught by those that are experts.

Id.
ships and often trying to rush through the research so they can start writing the legal documents on which the majority of their grade depends.65

¶20 Unless and until law school administrators and faculty join law librarians in advocating for the importance of strong legal research skills and their vital role in meeting all the learning outcomes prescribed by the ABA, this is unlikely to change. The newly revised requirements for more experiential education, however, could very well signal that it is time to start arguing for legal research to have a more valued place in the curriculum.

Primary Characteristics of Experiential Education

¶21 Legal research education is generally experiential in nature. Experiential education allows students to “make the transition from student to lawyer,” as they think client-centrically to solve legal problems.66 As other authors note, “experiential learning” and “experiential education” are related but different terms.67 Experiential learning can happen anywhere and has no structure, while experiential education has specific learning objectives for the students.68 In Best Practices, experiential education is defined as “integrat[ing] theory and practice by combining academic inquiry with actual experience.”69

¶22 From this definition, the most essential attribute of experiential education is evident: experiential education centers around active learning. The primary characteristics of active learning are that (1) students’ classroom experiences involve more than simply listening to the instructor; (2) the emphases are on skill acquisition and higher-level thinking; and (3) students engage directly in activities.70 There are many benefits to active learning, especially when tied with client simulations. First, studies in cognitive science show that students retain what they are learning better with active learning than when passively sitting and listening to a lecture.71 Completing an activity that requires the student to think actively about the material cements the learning so that students can recall it better next time they are asked to perform the task.72

¶23 Second, active learning tied to a client simulation demonstrates the relevancy of what the students are learning because it involves a real-world context.73 Taking on the role of lawyer in these simulations gives students buy-in for what

65. Bowman, supra note 25, at 552 & n.262.
67. See, e.g., Batt, supra note 11, at 128.
68. Id.
69. StuckeY et al., supra note 2, at 165.
71. See id. at 402.
72. Id. (“The more frequently students work with content and ideas in new situations, the more likely they will retain their understanding and be able to apply it on exams and in real life.”).
73. Ferber, supra note 54, at 431; see also Valentine, supra note 1, at 3 (“[L]egal education must teach skills and behaviors in context, allowing students to actively engage . . . .”).
they are doing. They can see themselves needing to perform the task in their chosen profession, which motivates them to engage fully in their learning. They can envision themselves needing to conduct that task as members of their chosen profession, and their impetus to master it increases as they take charge of their own learning.

Finally, active learning in law school is refreshing. Since lecture-based learning remains the norm in most classes, the change in class structure stimulates students simply because it is different. It wakes students up. Millennial law students desire interactive learning experiences and hands-on learning. They respond best to lessons that entertain or invigorate them. Additionally, students may feel compelled to work harder because experiential education usually involves the instructor monitoring the student’s progress more closely than a lecture-based class. Students transition from “learning for no more reason than acquiring knowledge” to engaging in the problem-solving tasks of an attorney.

The second essential attribute of experiential education, which stands out in comparison to most of a law student’s legal education, is the opportunity that the structure provides for feedback and reflection from an instructor. Studies show the importance of formative assessment, which targets increasing students’ learning, as opposed to summative assessment, which aims at evaluating students’ achievement. Formative feedback allows students to put what they have learned into practice in a guided atmosphere, where they can comfortably make mistakes and be corrected, at a point in the semester when they still have an opportunity to improve based on the feedback they receive. The supervision allows for the instructor to help students tie the skills they are practicing back to the theories the students have learned, using their new experiences as the basis for reflection.

The goal of experiential learning is to help students gain the practice-ready skills that they will use when they are become legal professionals. This overarching goal, then, encompasses many smaller goals, including

74. Thomson, supra note 11, at 420 (“[Experiential learning] has at its core the placement of students in the role of attorneys.”).
77. Ferber, supra note 54, at 433 (“[W]e enhance student learning by presenting important material to the learner in a distinctive way, a unique context. This facilitates distinctive encoding.”).
79. Id.
80. For example, see the ABA’s requirement that simulations and clinics must include “direct supervision of the student’s performance by a faculty member.” ABA STANDARDS, supra note 7, at 17 (Standard 304(a)(i) & (b)(i)).
81. Moliterno, supra note 66, at 434.
82. Batt, supra note 11, at 127.
84. Munro, supra note 83, at 72–73.
85. Hess, supra note 70, at 403.
engaging students, understanding unequal social structures, advancing social justice, developing lawyering skills, cultivating professional identity, fostering professional ethics, providing culturally competent client representation to a diverse array of clients, developing sound judgment and problem-solving abilities, gaining insight into law and the legal system, promoting lifelong learning, and learning to work collaboratively.86

¶27 Experiential learning allows law students to begin forming their professional identities.87

The ABA’s Experiential Course Requirements

The History

¶28 For decades, the ABA has recognized the need for students to gain more practice-ready skills. In 1979, the ABA Task Force on Lawyer Competency released its report and recommendation for more lawyering skills education, commonly referred to as the Cramton Report.88 It recommends that law schools “provide instruction in those fundamental skills critical to lawyer competence.”89 The report identified the ability to analyze legal problems and do legal research as one such critical skill.90 Many of the other “certain fundamental skills” listed depend greatly on an attorney’s ability to conduct legal research.91 Interestingly, in the section entitled “A Better Job of Developing Fundamental Skills,” research ceases to be mentioned, as the report focuses on legal writing and notes that “[i]n most law schools, the fundamental skill dimensions of fact gathering, oral communication, interviewing, counseling, negotiation, and organization and management of legal work receive even less systematic attention than legal writing.”92 It is as though the authors assume that if greater attention is given to all the above areas, competency in legal research will follow as a matter of course.

¶29 A few years later, the ABA Task Force on Professional Competence reiterated many of the same concerns as the Cramton Report, noting that “[t]he problems and issues in American legal education involve chiefly the teaching of . . . skills.”93 This report agrees with the earlier recommendations regarding skills education, but does not list researching as one of the “fundamental skills of a lawyer.”94 Later, however, the report does include “[e]ffective legal research” as a “crucial

87. Thomson, supra note 11, at 420.
89. Id. at 3.
90. Id.
91. Id. at 9. Those fundamental skills that depend greatly on or are related to the ability to research effectively include analyzing legal problems, collecting and sorting facts, writing effectively, communicating orally, undertaking counseling and negotiations, and organizing and managing legal work. Id. at 9–10.
92. Id. at 15.
94. Id. at 11–12.
ingredient[] of the law school curriculum. 95 Like the Cramton Report, this report does little to put a concrete plan into place for increasing skills education in law schools. 96

¶

30 The 1992 MacCrate Report, however, gives a more explicit list of which skills students need to acquire during law school. 97 Legal research is the third skill listed, and the report outlines precisely what a lawyer must know to “identify legal issues and research them thoroughly and efficiently”: (1) “Knowledge of the Nature of Legal Rules and Institutions,” (2) “Knowledge of and Ability to Use the Most Fundamental Tools of Legal Research,” and (3) “Understanding of the Process of Devising and Implementing a Coherent and Effective Research Design.” 98 The report breaks these knowledge bases down into concrete skills and values that a lawyer must know to conduct efficient research. 99 While it takes great steps in describing those specific research skills needed, the report seems to assume that legal research is being taught to students fairly effectively—at least compared to some other skills. 100 One must wonder whether this is because legal research is often lumped together with legal writing in first-year skills courses, where it most often takes a back seat to the writing instruction that takes place.

¶

31 Most recently, the ABA Task Force on the Future of Legal Education addressed the same concerns: 101

The core purpose common to all law schools is to prepare individuals to provide legal and related services in a professionally responsible fashion. This elementary fact is often minimized. The calls for more attention to skills training, experiential learning, and the development of practice-related competencies have been heard and many law schools have expanded practice-preparation opportunities for students. Yet, there is need to do much more. The balance between doctrinal instruction and focused preparation . . . needs to shift still further toward developing the competencies and professionalism required of people who will deliver services to clients. 102

¶

32 While the report makes recommendations in many areas, it does not identify steps to make law students practice-ready or identify specific skills, such as research, that need more time in the law school curriculum; it does, however, call for bar examinations to increase the testing and competency of students’ skills as opposed to their doctrinal knowledge. 103

95. Id. at 12.
96. But see AM. BAR ASS’N SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP 237 (1992) (MacCrate Report) (“For the decade before 1983 and in the decade since then . . . law schools have steadily added, expanded or enhanced courses encompassing a broad range of other professional skills.”).
97. Id. at 138–41.
98. Id. at 138.
99. Id. at 157–63.
100. See id. at 331 (“Each law school should undertake a study to determine which of the skills and values . . . are presently being taught in its curriculum and develop a coherent agenda of skills instruction not limited to the skills of ‘legal analysis and reasoning,’ ‘legal research,’ ‘writing’ and ‘litigation.’”).
101. AM. BAR ASS’N TASK FORCE ON THE FUTURE OF LEGAL EDUCATION, REPORT AND RECOMMENDATIONS (2014).
102. Id. at 3.
103. Id. at 33.
¶33 Along with the ABA’s own reports, outside groups have noted the lack of practice-ready skills and made suggestions for improvements; the most important of these are the Carnegie Report and Best Practices for Legal Education. The Carnegie Report concludes that law schools are not doing an adequate job teaching students how to apply the legal theories they learn in their doctrinal classes to service their actual clients. It specifically calls for experiential learning opportunities to be integrated into the formal knowledge that law schools traditionally focus on. However, in its chapter on “Bridges to Practice,” it devotes several pages to legal writing without paying any significant attention to research as one of the skills taught in those courses. Best Practices also calls for the integration of more practical skills into the doctrinally focused legal education system. It calls strongly for the need to put students “in the roles of lawyers.” Best Practices suggests that experiential learning could take place outside the traditional clinical model.

¶34 One can infer that the ABA’s decision to increase the amount of required experiential learning course credits resulted from the repeated reports both inside and outside its institution calling for more skills education.

The Current Standards

¶35 Standard 303(a)(3) requires law school students to complete at least six credit hours of experiential learning courses. To qualify, the course “must be primarily experiential in nature.” A guidance memo from the managing director of the ABA Section of Legal Education and Admissions to the Bar clarifies that “primarily” “suggests more than simply inserting an experiential component into an existing class” and “indicate[s] the main purpose of something.” Furthermore, “[t]he experiential nature of the course should . . . be the organizing principle of the course, and the substantive law or doctrinal material that is part of the course should be incidental to it, not the other way around.”

104. Stuckey et al., supra note 2, at 5–7; Sullivan et al., supra note 2, at 185–202.
105. Sullivan et al., supra note 2, at 187.
106. See id. at 12, 87–125.
107. Id. at 104–11.
108. Stuckey et al., supra note 2, at 146–53.
109. Id. at 121.
110. Id. at 179–86.
111. ABA Standards, supra note 7, at 16. Before the six hours were adopted, there was a proposal that students needed to earn fifteen hours of experiential course credits. See Clinical Legal Education Ass’n, Comment on Draft Standard 303(a)(3) & Proposal for Amendment to Existing Standard 302(a)(4) to Require 15 Credits in Experiential Courses (July 1, 2013). Some state bar associations have adopted measures that require more than the ABA-mandated six hours for those wishing to take the state bar exam. See State Bar of Cal., Task Force on Admissions Regulation Reform: Phase II Final Report 2 (Sept. 25, 2014), http://board.calbar.ca.gov/docs/agendaitem/Public/Agendaitem1000012730.pdf [https://perma.cc/Z3FZ-BSP8].
112. ABA Standards, supra note 7, at 16.
114. Id. The guidance memo notes that the course should be “easily identifiable” as an experiential course.
¶36 In addition to being “primarily experiential,” the course must meet four requirements. First, the course must “(i) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302.”\(^{115}\) As discussed in paragraphs 9–14 above, the professional competencies identified in Standard 302 are

(a) knowledge and understanding of substantive and procedural law; (b) legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context; (c) exercise of professional and ethical responsibilities to clients and the legal system; and (d) other professional skills needed for competent and ethical participation as a member of the legal profession.\(^{116}\)

Experiential courses must also “(ii) develop the concepts underlying the professional skills being taught; (iii) provide multiple opportunities for performance; and (iv) provide opportunities for self-evaluation.”\(^{117}\)

¶37 In addition, experiential courses must be one of three types: simulation, law clinic, or field placement (externship).\(^{118}\) The ABA’s guidance memo makes it clear that experiential learning courses are not limited to upper-level courses.\(^{119}\)

¶38 Standard 304 gives greater clarification on simulations and law clinics. Simulation courses provide students with substantial practice engaging in tasks similar to those of a lawyer advising or representing a client, but do not actually involve real clients.\(^{120}\) The tasks students engage in may be based on sets of facts created or adopted by a faculty member.\(^{121}\) Simulation courses must also include “(i) direct supervision of the student’s performance by the faculty member; (ii) opportunities for performance, feedback from a faculty member, and self-evaluation; and (iii) a classroom instructional component.”\(^{122}\) The guidance memo on these standards notes that the classroom instructional component must be “fairly rigorous” if the course is going to “integrate doctrine, theory, skills, and legal ethics” and “develop the concepts underlying the professional skills being taught,” as required by the experiential course requirement.\(^{123}\) The guidance memo also recommends that the classroom component would “ideally include[] assignments, learning outcomes, and assessments as with other classroom experiences.”\(^{124}\) Finally, the guidance memo states that the instructional component of an experiential course does not necessarily need to equal the number of class hours for the course because some portion of the credit hours is earned by participating in the active learning component of an experiential class.\(^{125}\)

\(^{115}\) ABA Standards, supra note 7, at 16 (Standard 303(a)(3)).

\(^{116}\) Id. at 15 (emphasis added).

\(^{117}\) Id. at 16 (Standard 303(a)(3)).

\(^{118}\) Id.

\(^{119}\) Guidance Memo, supra note 113, at 5 (“Provided the course meets the [other] requirements [for an experiential course], a simulation course offered during the first year can count toward the requirement of experiential courses . . . .”).

\(^{120}\) ABA Standards, supra note 7, at 17.

\(^{121}\) Id.

\(^{122}\) Id. (Standard 304(a)(i)–(iii)).

\(^{123}\) Guidance Memo, supra note 113, at 4 (quoting Standard 303(a)(3)(i)–(ii)).

\(^{124}\) Id.

\(^{125}\) Id. at 5.
Clinics, on the other hand, involve “substantial lawyering experience” that does include advising or representing at least one actual client. According to the ABA’s Section of Legal Education and Admissions to the Bar, a clinic likely provides the “substantial lawyering experience” required by 304(a) if it has already met Standard 303’s “primarily experiential” requirement. Like simulations, law clinics must include the direct supervision by a faculty member, opportunities for students to perform lawyerly tasks and receive feedback from a faculty member, opportunities for self-evaluation, and some classroom instruction.

Based on the ABA guidance on point, it is clear that a stand-alone legal research course does not qualify as a clinic. While legal research courses can base research practice problems on real-life problems like those from pro bono or legal aid offices—and do, at some law schools—they do not qualify as clinics unless students themselves interact with clients. And because it seems unlikely that students interacting with real clients would end their clinic experience at research, such a course no longer qualifies as a stand-alone research course. Likewise, while some students do a considerable amount of research as part of their externships, research is generally not externship students’ sole task, so externships likely would not qualify as a stand-alone research course.

The ABA has explicitly noted a few course types that likely do not meet the simulation course requirements, but stand-alone research courses are not enumerated amongst those mentioned. First, it notes that “traditional writing or seminar course[s] that require a traditional scholarly paper do[,] not seem to fit the definition.” According to the ABA, these courses probably do not allow for self-evaluation or for “multiple opportunities for performance” as required under Standard 303(a)(3)(iii) and (iv) and Standard 304(a). Furthermore, writing seminars in which students produce scholarly papers do not provide “‘substantial experience . . . reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks’” since lawyers are generally not tasked with producing academic papers.

The ABA has also clearly stated that “[i]ntegrating skills components in[to] otherwise doctrinal courses will not satisfy Standard 303(a)(3).” This stems largely from the fact that Standard 303(a)(3) calls for courses to be “primarily

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126. ABA Standards, supra note 7, at 17 (Standard 304(b)). Standard 304(b) also notes that a law clinic could have the student “serve[e] as a third-party neutral,” rather than actually advising or representing a client.
127. Id. (Standard 304(b)(i)–(iii)).
128. There could be situations where a research faculty member partners with a practicing attorney to develop research problems, but this is unlikely to be granted law clinic status because the students are not really representing a client if they go through just the research phase of the process and then hand the research off to an attorney. If the student continued beyond the research phase, it would no longer be a stand-alone research course as described supra note 8.
129. Guidance Memo, supra note 113, at 5. It notes that law schools that want to count these courses as experiential will have “the burden of showing how and why such a course should count.” Id.
130. Id.
131. Id. (quoting ABA Standard 304(a)).
132. The guidance memo notes that an exception to this could be a seminar focused on writing “research and advocacy papers that . . . lawyer[s] involved in lobbying or representing or working for an advocacy group” might write. Id. at 6.
133. Id. at 4.
experiential in nature” and that the experiential aspect of the course should be the organizing principle of the course.\textsuperscript{134} However, a skills lab attached to a doctrinal course could potentially fit the standard if they have separate course designations and syllabi.\textsuperscript{135} Because stand-alone research courses are not explicitly identified as “non-simulation” courses, it leaves open the possibility that research courses can be developed as simulation courses—if structured appropriately.

\textbf{Research Courses Under the ABA’s Experiential Course Requirements}

\section*{¶43} Legal research courses come in a variety of formats. In some, lectures on legal resources and demonstrations of how to use them comprise the majority of class time, leaving students to complete practice exercises primarily outside of class. Others take a “flipped classroom” approach, where students read and watch video content prior to class, leaving the majority of class time to practice under the instructor’s watchful eyes.\textsuperscript{136} Other legal research courses are taught fully online.\textsuperscript{137} Finally, some stand-alone research courses are tied to a specific subject, such as business law, foreign and international law, or environmental law, to name just a few.\textsuperscript{138}

\section*{¶44} As outlined above, a course must meet a number of requirements to qualify as an experiential simulation:

\begin{itemize}
  \item “[B]e primarily experiential in nature”\textsuperscript{139}
  \item “[P]rovide[ ] substantial experience not involving an actual client, that is . . . reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks” developed by a faculty member\textsuperscript{140}
  \item “[I]ntegrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302”\textsuperscript{141}
  \item “[D]evelop the concepts underlying the professional skills being taught”\textsuperscript{142}
  \item “[P]rovide multiple opportunities for performance”\textsuperscript{143}
\end{itemize}

\textsuperscript{134.} Id.
\textsuperscript{135.} Id.
\textsuperscript{137.} See, e.g., Required Basic-Level Courses, IND. UNIV. ROBERT H. MCKINNEY SCH. OF LAW, http://mckinneylaw.iu.edu/courses/required-jd.cfm [https://perma.cc/BUC7-ZRCB] (describing the law school’s one-credit online legal research course as an additional course required for graduation).
\textsuperscript{138.} Cassie DuBay, \textit{Specialized Legal Research Courses: The Next Generation of Advanced Legal Research}, 33 LEGAL REFERENCE SERVS. Q. 203, 221–23 (2014) (noting that fifty-five law schools offered specialized legal research courses that academic year, and another sixteen listed specialized legal research courses without specifying when they were taught).
\textsuperscript{139.} ABA STANDARDS, supra note 7, at 16 (Standard 303(a)(3)).
\textsuperscript{140.} Id. at 17 (Standard 304(a)(1)).
\textsuperscript{141.} Id. at 16 (Standard 303(a)(3)(i)).
\textsuperscript{142.} Id. (Standard 303(a)(3)(ii)).
\textsuperscript{143.} Id. (Standards 303(a)(3)(iii), 304(a)(2)(ii)).
• “[P]rovide opportunities for self-evaluation”144
• Include “direct supervision of the student’s performance” by and “feedback from a faculty member”145
• Include “a classroom instructional component”146

Given the many requirements to qualify as an experiential simulation course, research courses must be carefully structured to qualify.

¶45 Many of the requirements are met regardless of how the research course is structured. First, research courses are perfect examples of courses that “integrate doctrine, theory, skills, and legal ethics.”147 Before students can begin researching, they must first gain an understanding of the resources and the research methodology; these are the doctrine and theory in a research course. Students are also exposed to their professional ethical responsibilities in regard to legal research and their service of a client. Legal research is also listed in Standard 302 as one of the professional skills that students must perform to qualify as an experiential course.148 Legal research requires students to engage in legal analysis and reasoning and problem solving. To express the results of their research, students must practice their written and oral communication. Experiential courses must also “develop the concepts underlying the professional skills being taught”,149 as previously mentioned, to research effectively, students must first understand the underlying concepts of the research process, hierarchy and weight of authority, and the value of different types of legal authorities.

¶46 Research courses typically provide multiple opportunities for performance. Most research courses have regular assignments, giving students frequent occasions to practice their research skills. The multiple opportunities for performance lead to multiple opportunities for students to self-evaluate. Students are able to self-evaluate when their instructor goes over exercises in class; students can see how the instructor would go about addressing the research problem and compare their own methodology. Students also get opportunities to self-evaluate when working on problems with their classmates, if there are group assignments, and when they get graded assignments back. Some research courses also incorporate student conferences, which allow students to review their research assignments in a one-on-one or small-group setting.

¶47 In most cases, research courses provide regular feedback for the students. Regardless of course format, this feedback tends to be both formative and summative.150 In legal research courses, formative feedback, aimed at improving students’ performance, can be given through multiple avenues: (1) students complete ungraded in-class exercises and go over the assignments in class to see how their process compared with the instructor’s; (2) students complete out-of-class assignments and receive written feedback; or (3) students meet with the instructor for research conferences where the students’ progress is discussed. Summative feed-

144. Id. (Standards 303(a)(3)(iv), 304(a)(2)(iii)).
145. Id. at 17 (Standard 304(a)(2)(i)–(ii)).
146. Id. (Standard 304(a)(2)(iii)).
147. Id. at 16 (Standard 303(a)(3)(i)).
148. Id. at 15.
149. Id. at 16 (Standard 303(a)(3)(ii)).
150. See supra ¶ 25.
back, aimed at evaluating students’ achievement, usually takes the form of a final graded exam, project, or research log, but can take place across the semester if there is more than one graded assignment.

¶48 While four of the requirements are met in all types of research courses, successfully meeting the remaining four depends on (1) whether the course is “primarily experiential”\(^{151}\), (2) whether the course provides “substantial experience . . . reasonably similar to the experience of a lawyer”\(^{152}\), (3) whether the instructor has “direct supervision” of the student’s performance\(^{153}\), and (4) whether the course includes a “classroom instructional component.”\(^{154}\) There are four broad categories of stand-alone legal research courses: traditional research courses, flipped classroom research courses, online research courses, and specialized research courses.

The Traditional Legal Research Course

¶49 Traditional research courses are those where the lecture takes place during class time. These classes generally combine lecture with some classroom practice of research skills. The amount of time devoted to skills varies depending on class length, topic, and the instructor’s choice of instructional design.

¶50 Whether these classes qualify as “primarily experiential in nature” is arguable.\(^{155}\) On the plus side, research skills are the main purpose and the organizing principle of these courses. The lectures give students the context needed to perform research effectively and efficiently. However, too much lecture may mean that the course does not “provide[,] substantial experience . . . reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyer- ing tasks.”\(^ {156}\) While practicing research is obviously similar to the experience of a lawyer engaging in lawyering tasks—in fact, one that new lawyers spend thirty-five percent of their time performing—listening to a lecture is not. As such, for a traditional research course to meet this experiential requirement, the instructor would need to take care in designing the course so that there is still plenty of time for practice despite including lecture as part of the class time.

¶51 The instructor must also ensure that students gain practice in research tasks that reasonably mimic real-life legal practice. This would seem to exclude the “treasure hunt” exercises that sometimes are used in legal research courses. “Treasure hunt” exercises are those that have students find a single authority on a very narrow issue; they do not require students to problem-solve a client issue, but instead direct the students through the process of using a specific resource.\(^{157}\) Instead, students need to gain practice in research problems that are complex enough to mimic what they are likely to see in practice. While treasure hunt exercises may be a good way for students to form an understanding of the different research sources and how to

\(^{151}\) ABA STANDARDS, supra note 7, at 16 (Standard 303(a)(3)).

\(^{152}\) Id. at 16 (Standard § 304(a)).

\(^{153}\) Id. (Standard 304(a)(2)(i)).

\(^{154}\) Id. (Standard 304(a)(2)(iii)).

\(^{155}\) See id. at 16 (Standard 303(a)(3)).

\(^{156}\) Id. at 17 (Standard 304(a)).

\(^{157}\) Seligmann, supra note 63, at 190–91.
use them, they are not similar to the broad, multilayered questions students will often encounter as practicing attorneys.

§52 With the instructor in the classroom with the students while they are learning and practicing their research skills, the traditional format likely also meets the “direct supervision” of the student’s performance. While the ABA does not provide a definition of “direct supervision,” it has been a much-discussed topic in the realm of clinical courses. One author describes the following as ways through which an instructor provides direct supervision: “gives specific and explicit instructions, explains the rationale for each direction and begins to establish rapport through a friendly relationship to encourage the student to engage in a continuing dialogue of questions and clarification.” One of the primary benefits of direct supervision is that students have guidance, ensuring that they do not go too far down the rabbit hole and lose confidence in their ability to perform their new skills. The only potential roadblock to the requisite supervision is if the class size is too large. If research classes are held in a stadium-seating lecture hall with seventy, or even forty, students, instructors will not be able to directly supervise their students. Finally, the traditional legal research format does include a classroom instructional component; in fact, it probably includes more formal in-class instruction than any of its counterparts.

§53 As long as the class size is not too large, lecture does not comprise too large a portion of the course, and exercises are written to reflect real-life types of legal problems, a traditional format course seems likely to fit the experiential course requirements set out by the ABA.

The Flipped Classroom Legal Research Course

§54 A flipped classroom is one where most or all of the lecture component of the course takes place prior to class. The information that the students would get in the lecture during a traditional research course is conveyed through some combination of their textbook, videos, and pre-class assignments. This format frees up the majority of class time for skills practice.

§55 A flipped classroom format easily fulfills the “primarily experiential in nature” requirement of being. As with the traditional research course, the gaining of research skills is the organizing principle and main purpose of the course. However, by having more class time to practice, the likelihood that students will gain substantial experience in lawyering skills increases. With more class time devoted to students’ working out the complexities of a realistic legal problem, it is easier for the instructor to write problems similar to what students will see in practice.

162. ABA STANDARDS, supra note 7, at 16 (Standard 303(a)(3)).
§56 Like in traditional format classes, flipped research classes involve direct supervision of the students. In fact, the goal of a flipped classroom is for students to practice under the watchful eye of their instructor before going off and trying to solve a research problem on their own outside of class. Again, this goal would be undermined if the class size is too big. Ideally, having fewer than twenty students would allow for the instructor to walk around the room and check in with each student while they are working on their assignments.

§57 The biggest question is whether the flipped classroom offers a sufficiently rigorous “classroom instructional component.” The ABA notes that the classroom component must be “fairly rigorous” if it will allow for the “integration of doctrine, theory, skills, and legal ethics,” and for the “development of the concepts underlying the professional skills” that are being taught.163 There is certainly a significant classroom component in the flipped classroom. Whether it meets the “instructional” part of the requirement depends on one’s definition of instruction. It is important to remember that instruction does not just mean lecture; instruction can happen through practice. The dictionary defines instruction as “the action or process of teaching; the act of instructing someone.”164 The entire premise of active learning is to teach by having the students practice. The ABA recommends that the classroom instructional component include assignments, learning outcomes, and assessment165—all of which a flipped research course usually does.

§58 The flipped classroom, assuming class sizes are kept small enough, seems to be a perfect fit for the experiential requirements. The very nature of the flipped classroom leaves adequate time to practice skills.

The Online Legal Research Course

§59 In an online research course, all student-to-instructor and student-to-student interactions take place through a content management system such as Blackboard or TWEN; generally, the students learn through readings and videos lectures that are prerecorded by the instructor. Students may also complete quizzes or engage in online discussion groups with their classmates to facilitate learning.

§60 Like the traditional and flipped classrooms, the course is probably experiential in nature, for the simple reason that learning the skills of legal research is the purpose and organizing principle of the course. The greater question is whether an online research course provides an experience that is similar to a lawyer’s tasks. While assignments could be written to include researching issues similar to real-life practice, without the direct physical oversight of the instructor, students may not engage fully in the exercises. As such, where the online research course struggles most in meeting the experiential course requirements is in the “direct supervision” of the students. When students and their instructor are never in the same location, there is no direct supervision. While the instructor can give plenty of feedback, he or she is not there when the students are working through their problems.

163. GUIDANCE MEMO, supra note 113, at 4.
165. GUIDANCE MEMO, supra note 113, at 4.
¶61 The online legal research course may also struggle in meeting the “class-
room instructional component.”166 This depends on whether the ABA is willing to
recognize the content management system as an online classroom. There is sub-
stantial instruction happening, through readings, posted videos, and maybe even
virtual office hours, but the students and instructor are not in a traditional class-
room with each other. However, the online research course usually does still
include the assignments, learning outcomes, and assessments called for by the
ABA.167 While the ABA has become more tolerant of online education in recent
years, it seems unlikely to designate a course as experiential if the course is online,
given the importance of direct supervision in experiential courses. Even if an
online class does qualify as a classroom, there is the lingering question of whether
that class is sufficiently rigorous given the lack of supervision by the instructor.

The Specialized Legal Research Course

¶62 Specialized legal research courses focus on specific legal topics, such as
foreign and international legal research, business law research, environmental law
research, and many more. These courses could be structured in any of the above
formats. Traditional and flipped classroom approaches to these specialized research
courses are the most likely to qualify as experiential, given the difficulties identified
in regard to online legal research courses.

¶63 The primary strength of specialized legal research courses in qualifying as
experiential is in their ability to “integrate doctrine, theory, skills, and legal ethics”
in the performance of legal research. Because all of the research instruction taking
place is focused on one topical area, there is greater opportunity to tie doctrine and
theory into the instruction. Understanding the legal research process in that topical
area reinforces students’ understanding of the doctrine, and the understanding of
the doctrine makes it easier to conduct legal research because students have some
background knowledge of the nomenclature and the issues in that subject area.

¶64 The ABA clearly states that skills courses tied to a doctrinal course could
fulfill the experiential learning requirements if the two have separate syllabi and
course numbers.168 While legal research courses are generally officially tied to a
doctrinal course, topical courses lend themselves to being experiential because
students often have background in the topical area, allowing the instructors to
write complex, practice-focused problems that allow students to use their com-
bined knowledge of the legal research process, the key resources for research in that
topical area, and their substantive knowledge. Tying research courses to a doctrinal
course might also help demonstrate their value to doctrinal faculty.

¶65 The second key strength of the specialized legal research course is its ability
to give students “substantial experience” engaging in lawyering tasks. Many stu-
dents see themselves practicing in a particular area; since research is such a large
component of attorneys’ weekly tasks,169 learning how to research in the area in

166. ABA STANDARDS, supra note 7, at 17 (Standard 304(a)(2)(iii)).
168. Id.
169. LASTRES, supra note 4, at 3.
which they will eventually practice gives students a substantial experience similar to their future career. Specialized legal research courses seem especially well suited to the experiential treatment, particularly if structured as a flipped classroom so that a significant portion of class is spent practicing skills. However, if the amount of lecture in a traditional format legal research course on a special topic is limited, it too should qualify as experiential.

Conclusion

%66 The primary goal of experiential legal instruction is to prepare students to do the type of work that awaits them as legal professionals. In response to frequent reports from employers and scholars that new hires’ research skills are lacking, the ABA now mandates that law schools produce attorneys who are practice-ready from day one. And since thirty-five percent of new attorneys’ time is spent conducting legal research, being practice-ready clearly requires that students practice and refine their research skills throughout law school. Experiential courses are the ABA’s answer for increasing students’ practice skills; as such, law schools need to embrace the experiential legal research course so more students have the opportunity to strengthen their research skills and the chance to enter the profession as practice-ready professionals.
Here Come Your New Colleagues: Are They Ready?  
A Survey of U.S. Library and Information Science Programs’ Education of Aspiring Law Librarians*

Elizabeth Caulfield**

Law library professionals contend that they need some specialized training in law librarianship to perform effectively in their jobs. Based on that philosophy, the profession should determine whether U.S. library and information science programs are meeting the need for such instruction. This article explores whether the programs’ offerings are sufficient for educating aspiring law librarians.

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Introduction

¶1 Law library literature is replete with articles on the law librarian's education: the essential "background," the right "program," the enlightened "proposal," the inevitable "controversy," the earnest "panel[s]," the interminable debate. Despite the importance of and interest in the topic, the field of law librarianship in the United States has not officially endorsed precise educational requirements for law librarians. The one educational component that employers almost universally require is the graduate library and information science degree. If the academic qualifications for law librarianship are indefinite, the profession should evaluate the one academic program most often required of law librarians, the one that provides the final course of formal education to many of its members. Thus, this article reviews the status of America's graduate library and information science programs in preparing future law librarians.

¶2 The influence of law libraries on American society emphasizes the importance of the law librarian's education. Of the 27,424 libraries in the United States, 1316 or approximately five percent are law libraries. For the year 2015, the American Library Association (ALA) reported 54,166 members, and the American Association of Law Libraries (AALL) reported 4500 members. Although the exact numbers of available non–law and law librarian positions advertised in 2015 are...
impossible to calculate, ALA posted about 2291 positions,\textsuperscript{11} and AALL listed upward of 275 positions on their respective websites in 2015.\textsuperscript{12} While the numbers of law libraries, AALL members, and law librarian job openings are a small percentage of the corresponding numbers for their non–law library counterparts, law librarian positions are more than just career alternatives. More than 1000 law libraries across the country rely on law librarians to operate. Having well-trained law librarians filling these posts improves the likelihood that lawyers, students, and citizens obtain better research results and contributes to a more just legal system. To appreciate the need for law library training in library and information science programs, it is useful to begin with some discussion of the nature of the law librarian’s work that creates the need for specialized training.

\%3 Paragraphs 4–28 of this article examine the reasons law librarians need specialized training and summarize law library courses\textsuperscript{13} and competencies suggested by scholars. Paragraphs 29–69 provide the results of a survey of library and information science programs that offer courses in law librarianship or legal bibliography and which shed some light on the programs’ preparation of future law librarians. Paragraphs 70–119 evaluate a selection of law library courses currently offered by library and information science programs according to historical and current recommendations. Paragraphs 120–25 propose that online law library instruction can address the challenges of law library course enrollment shortages and student access to courses. The conclusion emphasizes the imperative of improving access to law library instruction for future law librarians so that law library patrons receive professional service and entry-level law librarians begin their careers prepared and confident.

\textbf{Need for Law Library Training}

\textbf{Special Nature of the Law Librarian’s Work}

\%4 Although the law library profession in the United States has not settled on formal educational qualifications for law librarians, AALL, as an organization and through individual members, historically has espoused the belief that some specialization in law libraries is imperative for law librarians to perform their work effectively.\textsuperscript{14} What are the origins of this philosophy?

\begin{itemize}
\item \textsuperscript{11} E-mail from David Connolly, Classified Ads Coordinator, Am. Libr. Ass’n & the Ass’n of Coll. & Research Libr., to author (Feb. 22, 2016, 2:25 PM) (on file with author). The 2291 number represents jobs advertised on the ALA JobLIST website and may or may not include jobs posted to the website of the Library and Information Technology Association (LITA), which is a division of ALA.
\item \textsuperscript{12} E-mail from Hannah E. Phelps Proctor, Membership Servs. Coordinator, Am. Ass’n of Law Libraries, to author (Feb. 22, 2016, 11:25 AM) (on file with author). The AALL Career Center website posted 275 jobs in 2015. However, that number includes positions that were advertised more than once during the year. In addition, this number does not include positions that were incorporated into the Career Center website from the Indeed and Legal Job Exchange websites.
\item \textsuperscript{13} For purposes of this article, the words “course” and “class” are interchangeable.
\item \textsuperscript{14} Under this philosophy, AALL offered one-week educational institutes for law librarians biennially from 1953 through 1963. \textit{Educational Structure of AALL}, 66 \textit{Law Libr. J.}, 405, 406 (1973) (remarks of Morris L. Cohen). Subsequently, the AALL Education Committee provided annual educational sessions for law library personnel through its Rotating Institutes program from 1964 until 1975. Laura N. Gasaway & Steve Margeton, \textit{Continuing Education for Law Librarianship}, 70 \textit{Law Libr.}
¶5 In the 1920s, Frederick C. Hicks pointed to three factors that distinguish the law librarian’s vocation: “a special class of readers,” a “special subject matter and form of books,” and “a special technique in [the books’] use.”\textsuperscript{15} He elaborated on each. The readers, in the form of “legislators, lawyers, judges, law clerks, law professors and law students,” have high expectations of the law library and, thus, the law librarian’s knowledge and ability.\textsuperscript{16} They have the “legal virus,” which must be fed with resources that touch on every subject in every age that has ever come in contact with the subject of law by “legally minded” librarians who are accustomed to providing easy access to “impatient” users.\textsuperscript{17} To satisfy this clientele, the law librarian should master the use of legal resources, which meant developing the ability to interpret the legal field’s intricate system of citations, comprehend texts, and teach other researchers to be as proficient.\textsuperscript{18}

¶6 Under these expectations, job boredom for the law librarian seemed unlikely. Hicks called for the law librarian to “study law as long as he is a law librarian.”\textsuperscript{19} He admitted that his portrait of the librarian was “an ideal,” but he hoped that library schools could help the profession “approach” it.\textsuperscript{20}

¶7 Another way to reflect on Hicks’s premise is to analogize the law librarian to the health sciences librarian.\textsuperscript{21} Health sciences librarians indicate in surveys that their work performance benefits from a health sciences background.\textsuperscript{22} Subject-

\textsuperscript{15} Frederick C. Hicks, The Educational Requirements of Law Librarians, 15 A.B.A. J. 699, 700 (1929).

\textsuperscript{16} Id. at 700–01.

\textsuperscript{17} Id.

\textsuperscript{18} Id at 701.

\textsuperscript{19} Id. In their article Law for the Non-J.D., Mary A. Hotchkiss and Mary Whisner refer to the practical advantages inherent in law librarians having legal knowledge, such as being more effective researchers, making more thoughtful decisions about collection development, and understanding the culture of the workplace. Hotchkiss & Whisner, supra note 14, at 4.

\textsuperscript{20} Hicks, supra note 15, at 702.


\textsuperscript{22} See Charles R. Fikar & Oscar L. Corral, Non-librarian Health Professionals Becoming Librarians and Information Specialists: Results of an Internet Survey, 89 BULL. MED. LIBR. ASS’N 59, 64 (2001) (one survey respondent with a health sciences background shared, “I speak my client’s language.”); Rebecca Raszewski, A Survey of Librarians with a Health Sciences Background, 99 J. MED. LIBR. ASS’N 304, 305 (2011) (a relevant subject background assists health sciences librarians in “understanding medical vocabulary, interpreting the health sciences literature, and knowing how the health sciences professional works”).
matter knowledge helps them contribute to “evidence-based medicine,” enabling them to “find all published and unpublished research on a topic that answers a clinical question. Their results provide the research literature foundation for systematic reviews and meta-analyses, which inform the clinical guidelines used by practitioners.” The “medical research literature” with which they work “might count as one of the many tools of medicine.” But health sciences librarians do not use or come in contact with “the tangible tools of clinical care (drugs, devices, [and] machines, etc.)."

¶8 In a similar manner, the law librarian’s work benefits from a background in law. Like health sciences librarians, law librarians may be called on to do the same kind of rigorous literature searches to provide an attorney or a judicial officer with all the relevant primary legal materials that are essential to develop arguments for a case. Law librarians document the historical jurisprudence of a legal issue, locate case law with precedential value, and discover changes in the law, all of which affect the practitioner’s legal strategy and the judge’s decision.

¶9 Whereas the field of medicine relies on multiple “tangible” tools, in the field of law, one tool is essential: legal texts. Attorneys rely on the language of primary sources found in statutes, cases, and regulations, not only to learn their craft but as the very means to conduct their work. They research texts in primary and secondary authority to determine the law. They incorporate those texts in communications that explain the law to clients and judicial officers and to defeat the arguments of opposing counsel. They recycle legal texts to create more of the same tool in memos, briefs, and transactional documents. Language itself carries the day in the lawyer’s world.

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24. E-mail from Bethany Myers, Research Informationist, UCLA Louise M. Darling Biomedical Library, to author (Mar. 16, 2015, 4:15 PM) (on file with author).

25. Id.

26. Id.

27. “[T]he literature of law is the law.” Paul D. Healey, Chicken Little at the Reference Desk: The Myth of Librarian Liability, 87 LAW LIBR. J. 515, 528 n.83 (1995). Healey attributes this observation to Dr. Carl Orgren from the University of Iowa School of Library and Information Science. See also the AALL Executive Board’s statement that “legal materials are the tools of the trade for lawyers and law students.” Archived: AALL Guidelines for Graduate Programs in Law Librarianship, AM. ASS’N OF LAW LIBRARIES (Nov. 5, 1988), http://www.aallnet.org/Archived/Advocacy/AALL-Recommended-Guidelines/graduate-guidelines.html [https://perma.cc/9LAT-G52R]. For more observations on legal texts as the lawyer’s tool, see the following quotes in Richard A. Danner, Law Libraries and Laboratories: The Legacies of Langdell and His Metaphor, 107 LAW LIBR. J. 7, 2015 LAW LIBR. J. 1: Simon E. Baldwin: “Our profession is not only explained, like other sciences, in books. For the American and the Englishman it is made by books.” (id. at 26, ¶ 45); G.E. Foss: “The single case is to the student what the experiment is to the chemist, or the specimen to the botanist.” (id. at 37, ¶ 70); Leonard Oppenheim: “[L]egal bibliography concerns itself with the tools of the profession” (id. at 39, ¶ 74); James K. Logan: “We work with words” (id. at 41 n.204); and Juergen Christoph Goedan: “Words are the stuff of his [the lawyer’s] profession: ‘The words of a statute are the law.’” (id. at 44–45 n.221).

28. Maria E. Protti summarizes the importance of citing the correct legal texts when presenting arguments to protect individual rights, avoid incarceration, collect money owed, and even to “change the law,” in Maria E. Protti, Dispensing Law at the Front Lines: Ethical Dilemmas in Law Librarianship, 40 LIBR. TRENDs 234, 234–35 (1991).
¶10 Unlike the medical practitioner’s essential tools, the lawyer’s tools are not safeguarded in a locked drawer. Instead, law librarians routinely engage in hands-on use of them as part of making legal materials accessible to the law’s “special class of readers.”29 They read and, if necessary, evaluate the same materials as attorneys. If called on to do more than simple citation searching, they must be able to gain at least a rudimentary understanding of the texts they find to determine their relevance.30 In doing these tasks, they are simply answering the call noted by Hicks that law library users expect librarians to “be en rapport with them.”31 Whatever explanation or turn of phrase one uses to refer to the subject background necessary for law librarians, the expectation that law librarians have some training in law libraries is considered essential for providing good service.

Recommendations for Law Library Courses as Part of Library School Curricula

¶11 Because the law librarian presides over the collection that constitutes the tools of the legal profession, as early as 1909 scholars recommended law library training for the law librarian.32 One of the earliest courses specializing in law librarianship began in 1937 at Columbia University’s School of Library Service.33 Miles O. Price taught the three-credit class in alternating summers.34

¶12 In his announcement about the new course to the AALL Annual Meeting, C.C. Williamson, dean of the school, noted that a more progressive step beyond one course would be “an advanced course as a major for candidates for the degree of Master of Science, their whole year’s program being built around this special interest in law library service and involving a piece of research as a basis for the required thesis.”35 Professor Price himself in 1962 wrote that although the class was

29. Hicks, supra note 15, at 700.
“useful,” “the Columbia course has never pretended to be a full one in law librarianship.”36 To provide preparation for law librarianship, he believed “that at least 40 per cent of the Masters’ courses should be law-library slanted.”37 In his opinion, “the curricula of our library schools, with the notable exception of that of the University of Washington, have not sufficiently filled the gap between the general library school course and the subject specialization required in law libraries.”38

¶13 In 1949, the Council of National Library Associations established the Joint Committee on Education for Librarianship39 “for the mutual exchange of information between library schools and the various professional groups.”40 “[I]ts purpose is to make a thorough survey to determine the most desirable educational preparation for special libraries (Law, Medical, Music, etc.). The study will serve as a guide to library schools in developing programs of training.”41 Committee Chair Julius J. Marke, law librarian at New York University, asked that AALL members work with the joint committee with “the purpose of advising library schools of the sort of curricula we need.”42 AALL dutifully created the Committee to Cooperate with the Joint Committee.43 In her report to the AALL Annual Meeting in 1951, Helen Hargrave, law librarian at the University of Texas, stated that the AALL committee would answer the joint committee’s call to compile a list of “every conceivable course that would be desirable for a law librarian candidate to take in order to fulfill the role expected of him in the law library field.”44

¶14 At the 1952 AALL Annual Meeting, at the request of the joint committee’s Subcommittee on Special Library Education, the Committee to Cooperate offered its views on the subcommittee’s proposals on education for law librarians.45 Members of the Committee to Cooperate observed that law librarians who had received only law or library training wished that library schools would offer the instruction they had missed.46 Even so, the committee voiced concern about offering specialized library training because there was no assurance that one could find employ-

36. Price, supra note 33, at 221, 223.
38. Id. See also Klaus Musmann et al., Internship: A University of California and Los Angeles County Law Library Joint Venture, 67 LAW LIBR. J. 380, 385 (1974), for the view that one subject-specific course is insufficient for training in law librarianship.
39. Report of the Committee on the Joint Committee on Education for Librarianship, 42 LAW LIBR. J. 101, 158 (1949). The Joint Committee is also sometimes referred to as the Joint Committee on Library Education.
41. Id.
42. Report of Representative to the Committee on Library Education, 43 LAW LIBR. J. 336, 338 (1950). At the Annual Meeting in 1952, Marke observed that establishing educational criteria would assist the law library profession with recruitment. “[Y]ou can’t very well recommend the field to people unless you can tell them how to prepare for it.” See Report of the Representative on the Joint Committee on Library Education of the Council of National Library Associations, 45 LAW LIBR. J. 360, 361 (1952).
43. Committee to Cooperate with the Joint Committee on Library Education of the Council of National Library Associations, 44 LAW LIBR. J. 264 (1951).
44. Id.
46. Id. at 367.
ment in a special library for which one was trained. The financial aspect of bringing special library courses to the curriculum was also a consideration; the number of enrolled students might not justify offering the course.

15 A discussion following the Annual Meeting’s Report of the Representative of the Joint Committee on Library Work as a Career also noted the challenges of bringing special library courses to library schools’ curricula. Among other concerns was ensuring that an introductory course on the subject (which might be all that a library school could offer) would focus on “the professional library aspects” rather than simply the subject (of law) itself. Marke concluded that unless AALL “sponsor[ed] courses,” they would never materialize. Richard S. Angell (member of the Joint Committee on Library Education’s Executive Board representing the ALA) pointed out that if the need for subject librarians could be established, then perhaps library school administrators would be willing to offer specialized courses.

16 In January 1954, the Library Quarterly published the subcommittee’s six “statements setting forth what are believed to be optimum and yet practical programs for the training of special librarians in the fields of finance, journalism, law, medicine, music, science-technology, and the theater.” The subcommittee embraced the philosophy “that preparation in a subject field is essential for special librarianship.” Although special librarians could learn their craft “on the job,” the committee believes . . . that the library-school graduate, embarking on a career in a special library field backed by the training proposed here, would have a much better chance for success and would develop into a useful practitioner with considerably less supervisory training and in a much shorter time than he could with the traditional library-school education alone.

Thus, the subcommittee offered the statements as templates to guide library schools in creating subject-specific librarianship courses. Perhaps with enough publicity, the mere act of offering the courses would increase recruitment to the fields of special librarianship.

17 For the field of law librarianship, a law degree was deemed “essential.” Although it does not specify why the J.D. was necessary, the article’s Law Librarianship statement notes the similarities between the law school librarian’s and the lawyer’s skill sets. The statement also emphasizes the benefit of having “[t]he abil-

47. Id.
48. Id.
50. Id. at 370 (remarks of Julius J. Marke).
51. Id. at 371.
52. Id. at 371 (remarks of Richard S. Angell).
54. Id.
55. Id. at 2.
56. Id. at 3.
57. Id.
58. Id. at 1.
59. Id. at 6. The statement takes the skill set from Arthur T. Vanderbilt’s 1950 article in the New York University Law Review: A Report on Prelegal Education. The two skills directly related to the law are “2. A working knowledge of the principles of law and of their interrelationships in action and their
ity to think in legal terms and to relate problems of any nature to the law,” which comes from the formal study for the law degree. Still, although the J.D. was deemed crucial, it must be combined with the library degree to provide the “library aspects” of the subject.

¶18 Marke, on behalf of the subcommittee and with the input of associations like AALL, provided the article’s suggested curriculum for “Law Librarianship.” The statement asserts that the curriculum is intended for academic law librarians but notes that educational requirements were approximating universality for law librarians regardless of work setting. Along with a recommended course of study for law school, the statement suggests college courses in twenty-two subjects from “Economics” and “Mathematics” to “Philosophy,” “Art,” and “Political Theory.” After undergraduate and law work, the statement recommended students complete their education with “library school.” Besides general library and information science classes, the proposal suggested five courses geared toward the law librarian: (1) a “Readers’ Service” course “related to the problems of law librarians”; (2) a “Technical Services” class defined as “[m]ethods of acquisition, cataloging, classification, and processing, keyed to law-library problems”; (3) “Government Documents”; (4) “Legal Bibliography,” consisting of “Legal bibliography proper” in the form of “American, English, and foreign,” “Use of lawbooks,” and “Legal bibliography”; and (5) “Law Library Administration.” The ideal program “would acquaint the student with the history, theory, technique, and practical problems of law librarianship.”

**Growth of Law Library Courses**


60. _Education for Special Librarianship_, supra note 53, at 9.

61. _Id._ at 2.

62. _Id._ at 6–9. See Committee to Cooperate with the Joint Committee on Library Education of the Council of National Library Associations, _supra_ note 43, at 264, for an idea of AALL’s contributions.

63. _Education for Special Librarianship_, supra note 53, at 6.

64. _Id._ at 7.

65. _Id._

66. _Id._ at 8.

67. _Id._

68. Morris L. Cohen, _Education for Law Librarianship_, 11 Libr. Trends 306, 309–12 (1963). Cohen notes the “relatively permanent” instruction at these schools: Columbia University School of Library Service (one course), University of Washington School of Librarianship (a program leading to a master’s degree), University of North Carolina School of Library Science (a program leading to a master’s degree), Western Reserve University School of Library Science (one course), University of Illinois Graduate School of Library Science (one course), and Drexel Institute Graduate School of Library Science (one course). In an article in 1962, Shirley Birdsall refers to a legal bibliography course offered at Louisiana State University, but it does not appear to be part of a library science program.

librarian at Covington and Burling and incoming AALL President, expressed concern about how little progress had been made. She wondered how future law librarians would obtain sufficient education and asked, “[W]hy shouldn’t law be included in the special subject fields in library schools?” She concluded that AALL had “not been sufficiently vocal.”

Believing that future law librarians needed more opportunity to specialize in law librarianship while in library school, in 1961 AALL’s Committee on Education proposed that Columbia University’s School of Library Service expand its law librarianship instruction to a program of six courses, incorporated into the general library science curriculum. The program would be akin to the University of Washington’s, except that Columbia’s would not require a law degree for admission. The proposal garnered “initial approval,” but never materialized. The School of Library Service at University of California, Los Angeles (UCLA), explored the possibility of adding law librarianship training to its curriculum in the early 1960s. William B. Stern of the Los Angeles County Law Library, on behalf of the school’s dean, Lawrence Clark Powell, wrote a proposal under the theory that library science–only trained librarians could fill professional law librarian positions effectively if they supplemented their educations with law library–related training. Stern’s program would include a “Cataloging and Classification” course that stressed the law library aspects; a law library practicum; “contracts or torts,” “Legal bibliography,” and “Legal terminology or a survey course in law.” The ideas percolating at Columbia and UCLA show that a number of law library leaders in the 1960s believed in the professional abilities of library science–only trained law librarians, if they acquired additional specialized knowledge.

In a marked sign of progress since the 1960s, the number of graduate library and information science programs in the United States offering at least one law library course has risen steadily. The Annotated Recruitment Checklist compiled

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69. *Panel on Certification and Education of Law Librarians, supra* note 37, at 428–29 (remarks of Elizabeth Finley).
70. *Id.* at 428. Finley was not referring to studying the law itself but having access to a class like “legal literature and librarianship.”
71. *Id.*
72. *Cohen, supra* note 34, at 225–28. The Draft Curriculum for Law Librarianship in the article lists five courses (Law Library Administration, Law and Its Literature, Selection and Acquisition of Legal Materials, Cataloging of Legal Materials, and Foreign Law Sources and International Documents), but the Law and Its Literature course was envisioned to last for two semesters.
73. *Id.* at 225.
74. *Id.*
75. Anita L. Morse, *New Directions in Education for Law Librarianship*, 70 LAW LIBR. J. 329, 334 n.46 (1977). By the early 1970s, Columbia increased its offerings to two law library courses. *Id.* at 331 n.16.
77. *Id.* at 236.
78. Indeed, in Cohen’s summary of the 1962 *Law Library Journal* symposium on law library education, he listed the writers’ priorities, which included “A graduate program for a Master’s Degree in librarianship with specialization in law librarianship” that would be “open to all qualified college graduates.” Morris L. Cohen, *Epilogue to Educating Law Librarians: Ubi Fuimus—Quo Vadimus*, 55 LAW LIBR. J. 238, 238 (1962).
by the AALL Recruitment Committee in 1965 located seven courses. The 1969 edition listed twelve classes. By 1974, the number increased to seventeen. In a 1988 article, University of Washington School of Law Professor Penny A. Hazelton’s research unearthed thirty-five U.S. library schools offering such a course.

According to the AALL website, thirty-eight library schools offer at least one “law library class[].” Even with this increase, some new law librarians may enter the field without the benefit of such courses, either because the schools they attend do not offer a course or they do not or cannot take advantage of it. But for at least a segment of newer law librarians, a law library course is a possibility.

Recent Guidelines for Law Library Curricula and Competencies for Law Librarians

AALL continues to recommend that law librarians have “some subject specializations in the law.” Specializing in law librarianship requires “an understanding of the legal system; knowledge of the legal profession and its terminology, including legal abbreviations and citation systems; knowledge of the literature of the law, including the legal documents issued by the various branches of government; and an understanding of the legal requirements and ethical considerations of the legal profession.”

The AALL Executive Board issued Guidelines for Graduate Programs in Law Librarianship in 1988. The Board intended its General and Subject Competencies to apply to “all law librarians” regardless of employment setting. In addition, instruction in the General Competencies (“Reference and Research Services,”

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79. AM. ASS’N OF LAW LIBRARIES, RECRUITMENT COMM., ANNOTATED RECRUITMENT CHECKLIST 22–25 (1965). This number does not include the course offered by the U.S. Department of Agriculture Graduate School in Washington, D.C.

80. AM. ASS’N OF LAW LIBRARIES, RECRUITMENT COMM., ANNOTATED RECRUITMENT CHECKLIST 22–27 (1969). This number includes the University of Wisconsin at Milwaukee’s “institute on Law Librarianship,” which was intended for library or law school graduates. This number does not include the course offered by the U.S. Department of Agriculture Graduate School in Washington, D.C.

81. AM. ASS’N OF LAW LIBRARIES, RECRUITMENT COMM., ANNOTATED RECRUITMENT CHECKLIST 9–14 (1974). This number does not include the course offered by the U.S. Department of Agriculture Graduate School in Washington, D.C., or the class offered by the University of Toronto in Ontario, Canada.


83. ALA-Accredited Graduate Programs in Library Science with Law Library Classes or Joint MLS/JD Classes (By Offerings), AM. ASS’N OF LAW LIBRARIES, http://www.aallnet.org/main-menu/Careers/lawlibrarycareers/Education-Requirements/offering.html [https://perma.cc/N3WK-3GG8]. The survey described in ¶¶ 29–34 of this article arrived at a lower number of schools that offer a law library course.

84. Students cannot take the course if it is not offered during the time they are enrolled. Students might also not take the class if they are not necessarily planning for a career in law librarianship and another equally attractive course is offered at the same time. See Hazelton, supra note 82, for accounts of two schools in the 1980s whose scheduling of the courses might prevent students from taking them during their enrollment.


86. Id.

87. Archived: AALL Guidelines for Graduate Programs in Law Librarianship, supra note 27.

88. Id.
“Library Management,” “Collection Management,” and “Organization and Classification”) should “emphasize the components of these areas that are specific to law librarianship.” 89 The Board envisioned future law librarians graduating from ALA accredited schools as “sophisticated users and finders of legal information” that is located in “legal materials.” 90

¶25 In its Subject Competencies, the Board advised library and information science programs to provide what might appear to be an ambitious set of learning outcomes for a single law library course:91 “at a minimum . . . basic competencies in: 1) the Legal System; 2) the Legal Profession and Its Terminology; 3) Literature of the Law; 4) Law and Ethics.” 92 If too extensive for one class, then an additional course would seem necessary because the Board deemed these competencies part of understanding “the origins, development and present state of Anglo/American law and legal literature,” which is “crucial” to the law librarian’s job performance. 93

¶26 The “essential” subject competency that seems the most challenging to acquire through a library and information science program is the Board’s recommendation of “a working knowledge of legal vocabulary, including legal abbreviations and citation systems.” 94 While covering abbreviations and the basics of citation formats is likely a standard part of many basic legal bibliography courses, it is doubtful such courses have the time to help the law librarian develop “a working knowledge” of legal terms of art. 95 Coverage of legal vocabulary raises the related question of which terms merit attention. Is it best to cover procedural terms like “summary judgment”? Should the course include substantive terms like “negligence”? Would an ideal course address the most basic procedural and substantive law terms? 96

¶27 Although the Board has not revised these guidelines since 1988, it approved a set of Competencies of Law Librarianship in 2001, revising them in 2010. 97 Most of the law-related Competencies apply to law librarians whose work encompasses public services and teaching, but all law librarians are expected to have “knowledge of the legal system and the legal profession” and “[u]nderstand[] the social, political, economic, and technological context in which the legal system exists.” 98 Law librarians who deal with “Reference, Research, and Client Services” should be able to perform

89. Id.
90. Id.
91. A single course is intended to mean one quarter- or semester-long course.
92. Archived: AALL Guidelines for Graduate Programs in Law Librarianship, supra note 27.
93. Id.
94. Id. This recommendation is a part of the Legal Profession and Its Terminology subject competency.
95. Judith E. McAdam observed that the wealth of resources covered in Library and Information Science programs leaves little time for including “legal vocabulary, legal approaches to problem solving and any discussion of substantive law” in the future law librarian’s coursework. Judith E. McAdam, The Place of Legal Education in Law Librarianship, 21 Can. L. Libr. 251, 252 (1996).
96. Austin W. Scott, Jr.’s article, Introduction to Law, sheds light on the concepts and terms that some in the profession may have thought basic to the law librarian’s understanding in 1957, as it was published by Law Library Journal. See Austin W. Scott, Jr., Introduction to Law, 50 Law Libr. J. 464 (1957). His article begs the question, do law librarians who have had only one or no law library classes have this “introduct[ory]” knowledge of the law?
98. Id.
tasks such as providing “customized reference services, including specialized subject services on legal and non-legal topics,” helping “non-lawyers in accessing the law,” and “monitor[ing] trends in specific areas of the law.” Law librarians who teach must be able to “[e]ducate[] users in cost-effective and efficient methods of legal research,” among other tasks.100

¶28 As the discussion about the growth of law library courses indicates, some U.S. library and information science schools offer law library instruction. Left to explore is whether these offerings sufficiently prepare entry-level law librarians for their careers, as recommended by leaders in the field.

Survey of U.S. Graduate Library and Information Science Programs Offering Law Library Instruction

Survey Description

¶29 As of this writing, the AALL webpage ALA-Accredited Graduate Programs in Library Science with Law Library Classes or Joint MLS/JD Classes (By Offerings) lists thirty-eight U.S. graduate library and information science programs that offer a law library course.101 It notes that five of the programs offer three or more law library courses, seven of the programs offer two such classes, and twenty-six programs offer one course. To gain a greater understanding of U.S. graduate library and information science programs’ involvement in the preparation of future law librarians, in March 2015 I conducted a survey of programs that offer at least one course in law librarianship or legal bibliography (“course” or “relevant course”).102 I e-mailed the twelve-question survey to each program’s dean, director, program coordinator, chair, or appropriate professor or employee. Of some note, the list of programs that now offer a relevant course, according to the research conducted for this survey, differs from the list on the By Offerings webpage, as this section explains.

¶30 To make responding to the survey easier, I researched each program on the By Offerings webpage and provided the survey questions and the answers that could be found for that program to the survey recipient. Thus, for programs whose

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99. Id.
100. Id.
101. ALA-Accredited Graduate Programs in Library Science with Law Library Classes or Joint MLS/JD Classes (By Offerings), supra note 83. The By Offerings webpage does not define “law library class,” but a link to the webpage refers to “courses in law librarianship.” Education Requirements, supra note 85. The By Offerings webpage also documents thirteen schools that offer a joint MLS/JD program, but those joint programs are not the subject of this discussion.
102. Degrees conferred through programs in the United States may be referred to as a Master of Library Science, Master of Science in Library Science, Master(s) in/of Library and Information Science, Master of Science in Information Studies, Master of Science in Library and Information Science, Master of Science in Information Sciences, Master of Arts in Library and Information Science, Master of Library and Information Studies, and other variations.
103. The scope of this survey did not extend to include courses in government information or special libraries, although both topics are certainly beneficial to law librarians. Thus, Library and Information Science programs that do not appear in table 1 because they do not regularly offer a course in law librarianship or legal bibliography may regularly offer a course in government information or special libraries, such as 664: Government Resources and Publications and 642: Special Libraries at the University of Southern Mississippi’s School of Library and Information Science. E-mail from Univ. of S. Miss. Sch. of Libr. & Info. Sci. to author (July 18, 2015, 5:43 AM) (on file with author).
websites provide most of the information sought, the survey became more of an information-confirming exercise than a survey. In gathering this preliminary data, I found that the websites of some programs listed on the By Offerings webpage make it difficult to determine whether the program still offers a relevant course. I also noted that the AALL webpage titled ALA-Accredited Graduate Programs in Library Science with Law Library Classes or Joint MLS/JD Classes (By State) appears to list all accredited programs in the United States, indicating which programs offer a relevant course. Believing that some programs on the By State list that are not designated as offering a relevant course might have begun offering one, I researched those programs as well. Some of the websites for those programs also made it challenging to determine whether they offered a relevant course.

¶31 To ensure that the survey reached every program offering a relevant course, before conducting the survey, I contacted the appropriate person for each program for which there was doubt about course offerings to verify whether a relevant class was a part of the curriculum. Through this preliminary research, I learned that some programs listed on the By Offerings webpage no longer offer a relevant course and that a few schools on the By State webpage do make such a course available. Thus, the list of programs in table 1 is not identical to AALL’s By Offerings webpage.

¶32 In the end, thirty-eight programs received the survey. Despite an attempt to remove from the survey those programs that no longer offer a relevant course,
nine of the programs that received the survey revealed that they do not offer a course or do not offer it regularly, no longer offer the course, or have not offered the course in years. Those nine programs were subtracted from the thirty-eight programs to arrive at a total of twenty-nine programs that appear in table 1. This list of twenty-nine programs represents as accurately as I could determine the programs that include at least one relevant course in their curricula and offer or attempt to offer the course on a regular basis.

¶33 The survey results reveal some changes in the number of U.S. library and information science programs offering a relevant course since the *By Offerings* webpage was updated. The decline in the number of programs offering at least one relevant course from thirty-eight programs listed on the *By Offerings* webpage to twenty-nine programs found through the survey is a drop of about twenty-four percent. As an overall indicator of trends, twelve programs fell off the list, and three programs joined it. There is a decrease of about twenty-seven percent in the number of programs offering a total of one relevant course, from twenty-six to nineteen. About forty-three percent fewer programs are offering two relevant courses, a decrease from seven to four programs. However, there is a twenty percent increase in programs offering or willing to offer three or more relevant courses, from five to six programs.

¶34 The numbers overall indicate less opportunity to receive law library instruction than the *By Offerings* webpage suggests. Before considering the light this new data sheds on whether U.S. library and information science programs are sufficiently preparing entry-level law librarians, it is useful to discuss the survey questions and some of the individual responses.

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108. Some programs contacted for or during preparation of the survey that do not offer a relevant course indicated an interest in doing so in the future with sufficient student interest and instructor availability. The Master of Science in Library Science program at Clarion University is one such program. E-mail from Dep’t of Libr. Sci., Coll. of Bus. Admin. & Info. Sci., Clarion Univ., to author (Feb. 9, 2015, 11:15 AM) (on file with author).

109. The twelve programs that fell off the list (or table 1) do not include Southern Connecticut State University, which no longer appears on the *By Offerings* webpage and whose accreditation ended in December 2015. It is important to note that programs that no longer appear on the list (or table 1) may continue to include a relevant course in their list of course offerings; however, because I confirmed that the courses have not been offered or taught recently at these institutions, those programs are not included in the list. The three programs that are new to the list (or table 1) are Indiana University–Purdue University Indianapolis, San Jose State University, and the University of Tennessee, Knoxville. (The *By Offerings* webpage lists Indiana University in Bloomington.)
Survey Questions

¶35 I e-mailed the following twelve questions to the appropriate person at each program that I believed offers at least one relevant course. The e-mail explained that I intended to survey each library school that offers at least one course in law librarianship or legal bibliography and publish the results. I asked the respondent to verify or provide the information asked in each question. The survey did not include the explanations below that follow each question.

1. When did the school begin offering a class in law librarianship or legal bibliography?

¶36 This question is designed to give a sense of the history of the initiative in the United States to offer courses for aspiring law librarians.

2. What are the names of the classes in law librarianship or legal bibliography offered by the school? (For this survey, I am not considering a class in government information to be a class in law librarianship or legal bibliography, although a government information class is beneficial to law librarians.)

¶37 This question is designed to reveal the nature and number of the courses in law librarianship or legal bibliography offered by each program. The answer to this question indicates the extent to which each program is committed or is able to commit to law librarianship education and may indicate the extent of the interest in law librarianship or legal bibliography by students.

3. How frequently is each class in law librarianship or legal bibliography offered?
4. What is the average amount of time needed to complete the library science degree?

¶38 The answers to questions 3 and 4 help students identify programs that offer a relevant course with regularity and predict whether they will have the opportunity to take the course while enrolled.

5. How many quarter or semester credit hours are required to complete the library science degree?
6. On average, how many quarters/semesters are generally required to complete the degree?

¶39 Questions 5 and 6 are intended to provide the law library profession with basic information about the requirements for graduating from each library and information science program. Although not the focus of this article, the answers to these questions also allow for comparison of graduation requirements among programs.

110. Survey questions used the word “school” rather than “program” as the institution offering the relevant cours(es). Survey questions used the word “class” rather than “course.”

111. In follow-up questions, I asked respondents for information regarding the time and number of semesters or quarters needed to complete the degree when attending the program part time.
7. How does the school determine how often to offer each class in law librarianship or legal bibliography?

§40 The answer to this question sheds light on the school’s view of the importance of and logistics involved in offering the class.

8. What is the school’s objective in offering the class(es) in law librarianship or legal bibliography?

§41 The answer to this question allows the law library profession to consider whether the program’s reasons reflect the profession’s objectives in advocating for law library classes and may assist students in determining whether they would like to take the class.

9. What sort of interaction, if any, does the school have with the American Association of Law Libraries (AALL) in providing the class(es) in law librarianship or legal bibliography?

§42 This question is geared to reveal the relationship between the program and AALL and allows the law library profession to evaluate whether it might benefit from increased collaboration with the programs.

10. If the school offers only one class in law librarianship or legal bibliography, do you anticipate that the school will offer more such classes in the future?112

§43 The answer to this question allows the law library profession to forecast a potential trend in training for law librarians. If the consensus in the law library profession is that one course in law librarianship or legal bibliography is helpful but still lacking as preparation for law librarianship, the answer to question 10 helps the profession gauge whether the opportunity for law library education is improving or whether increased advocacy for training is necessary.

§44 Questions 11 and 12 asked respondents for permission to publish their comments.

Survey Responses

1. When did the school begin offering a class in law librarianship or legal bibliography?

§45 The twenty-eight programs providing information for this question began offering a relevant course in the years between 1939 to 2010.113 The 2000s showed the most growth for the introduction of courses geared toward future law librarians, with twenty-nine percent of the programs beginning courses during that decade. The 1970s and 1990s were the second most active periods, with eighteen percent of the programs beginning a course in each of those decades.

112. Programs that appeared to offer more than one relevant course did not receive this question.

113. For some programs, the AALL Recruitment Committee’s Annotated Recruitment Checklist (published in the 1960s and 1970s) provided or suggested the year that a relevant course was first offered.
¶46 Ten programs offered a relevant course or an additional relevant course for the first time in 2000 or later, demonstrating that administrators continue to see the value in this specialized instruction. Several programs indicated that they cancelled the course in some years because of low enrollment, but cancellations showed no correlation to the length of time the program had been offering the course.114

¶47 There are qualifications to the results for this question. Several programs did not have easy access to historical records indicating when a course was first offered. Thus, these programs provided the earliest year the course was known to have been held; it is possible that their courses began even earlier than the time indicated by table 1.

¶48 In addition, the fact that a relevant course was first offered in a particular year does not necessarily mean that the program has offered the course regularly since that time.115 Whether a course was offered regularly since its initial offering cannot be known without checking numerous course schedules or finding an official with extensive historical knowledge of the program. Lastly, the relevant course that the program initially offered may have changed over time.116

2. What are the names of the classes in law librarianship or legal bibliography offered by the school?

¶49 Relevant courses reflected in table 1 have many names. The name indicates the topic of the course but also may suggest the extent to which the course is intended to prepare future law librarians in contrast to a course intended to expose future generalists to legal materials that they may encounter as non–law librarians. Simply based on its name, a course called Law Librarianship might appear intended to prepare future law librarians because the name suggests content that goes beyond an introduction to legal resources. However, if the course is the program’s only relevant course, it seems that the class would be introductory in nature because the program has no separate course for advanced training in legal resources, technical services, law library administration, and so on. Whether a relevant stand-alone course is sufficient preparation for future law librarians is explored in paragraphs 70–119.

¶50 Answers to this question reveal that forty-six separate relevant courses are available to library and information science students as electives through the programs listed in table 1. Obviously some programs are offering more or fewer relevant courses than is indicated on the By Offerings page.117 It is important to note that some programs continue to include a relevant course in their curriculum and

114. For confidentiality purposes, the programs that canceled courses are not named. E-mails are on file with author.

115. For instance, one program “was closed for about ten years; after the new program was established it was a few years before a Law Librarianship program was developed.” E-mail from anonymous respondent to author (Mar. 16, 2015, 9:13 AM) (on file with author).


117. As of this writing, the University of Denver, Pratt Institute, and the University of Wisconsin–Milwaukee each offer one relevant course. The University of North Texas and Dominican University include three relevant courses in their curricula.
are committed to offering the course despite the fact that the course has been cancelled on occasions when student enrollment is low. So the data is not as promising as the forty-six number implies. The misfortune in cancelling the course is aggravated by the fact that students (who might pursue careers in law librarianship) may have registered for the course but in inadequate numbers to make the course “run.”¹¹⁸ A solution to this conflict between student interest and administrative logistics is explored in paragraphs 120–25.

³⁵¹ Programs in table 1 marked with an asterisk offer a specialization in law librarianship, and the names of the relevant courses for the program are part of that specialization. Students who are enrolled in the graduate library and information science programs at those schools but who are not pursuing the school’s law librarianship specialization are eligible to take the specialization courses as electives.¹¹⁹

3. How frequently is each class in law librarianship or legal bibliography offered?

³⁵² Of those programs for which this information could be gathered, about fifteen or a little more than half of the programs provide at least one of the relevant courses annually. Eleven programs are able to commit to offering the relevant class approximately biennially. The remaining programs were less definitive about the frequency with which the course is offered. Whether this schedule is frequent enough for students to have the opportunity to take the course while enrolled in the program requires considering how long, on average, it takes to complete the degree, is the subject of question 4.

4. What is the average amount of time needed to complete the library science degree?

³⁵³ Most programs provided the average amount of time students need to complete the degree when attending full time and part time.¹²⁰ Some programs offer the

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¹¹⁸. “Administrators, faculty, and staff are always in search of the ‘magic’ number of students—the number necessary for a class to run.” Jonathan Carroll & Lea Campbell, Guaranteeing the Course Schedule, 14 COMMUNITY COLL. ENTERPRISE 25, 28 (2008). A search on the web for phrases such as “minimum enrollment policy” leads to a list of college and university policies regarding the minimum enrollment required to offer a class.

¹¹⁹. Schools that offer a Law Librarianship program or specialization are the University of Arizona, Catholic University of America, University of North Texas, St. John’s University, University of Texas, and University of Washington. It should be noted that each school that offers a program or specialization may not have a formal enrollment process for it.

¹²⁰. Initially, this question did not ask respondents to specify how much time the program requires when attending full and part time. I requested this information in follow-up questions. I also did not ask respondents to specify whether the amount of time, such as one year, referred to one calendar year or one academic year. In hindsight, this specific information would have been useful to request.

While these numbers represent the average amount of time that the majority of students need to complete the degree, some students may require more time and a greater number of semesters or quarters. Programs usually require students to complete the degree within a specific number of years. See, e.g., Master of Library & Information Science Program Requirements, KENT STATE Sch. of Libr. & Info. Sci., https://www.kent.edu/slis/master-library-information-science-program-requirements [https://perma.cc/8TNU-2AT4]. The program at Kent State requires students “to complete all requirements and graduate within six (6) consecutive years from the date of initial enrollment,” although “a one-year extension” may be an option.
option of completing some or all coursework online, which may change the amount of time listed in table 1 to complete the degree.\footnote{I did not ask respondents to specify how much time the program requires if completing some or all of it online. ALA’s website provides a database of ALA-accredited programs that is searchable by instruction type (i.e., online, partially online, etc.). \textit{Searchable DB of ALA Accredited Programs, AM. LIBR. ASS’N}, http://www.alaa.org/CFApps/lisdir/index.cfm (last visited Oct. 27, 2016). In searching the database, I noticed that there is some crossover in the results between programs categorized as “100% online” and “primarily online.” There is also crossover between programs categorized as “primarily online” and “primarily face-to-face.” The information in the database is self-reported by programs. Thus, ALA advises contacting programs directly to verify the methods of instruction offered. E-mail from Off. for Accreditation, Am. Library Ass’n, to author (Oct. 19, 2015, 8:47 AM) (on file with author).}

§54 Programs that offer a relevant course obviously see the value in offering students the opportunity for some subject specialization in law librarianship, even if the program may be able to offer only one such class because of limited student interest or faculty availability. But just as important as including the course in the curriculum is its regular appearance on the schedule of classes. Students enrolled in programs that offer the relevant course annually should have the opportunity to take it because no programs listed in table 1 can be completed in less than a year. Thus, for educators who are interested in increasing opportunities to expose students to law librarianship or legal bibliography during library school, they might focus on programs that offer the class biennially or less often and that require on average only one year to complete when attending full time.

§55 Eleven programs offer the course biennially.\footnote{These eleven programs include the two programs that offer the class once or twice every two to three years.} Four of those programs require about two years on average to complete the degree, even when attending full time.\footnote{These four programs include the program that requires twenty-two months to complete the degree.} And the majority of students attend part time at two of the programs. Thus, students at those six programs are likely enrolled during the year the course is offered.\footnote{The program at the University of Tennessee’s School of Information Science schedules the class once every two years so that every student will have the opportunity to take it if desired. E-mail from Sch. of Info. Sci., Coll. of Comm. & Info., Univ. of Tenn., to author (July 27, 2015, 11:27 AM) (on file with author).} The other five programs that offer the course biennially require from one to one and one-half years to complete the degree and thus offer less assurance that the course will be a possibility for students.\footnote{As the table indicates, an additional three programs are even vaguer about the frequency with which they can offer the course.} Such students may finish the program without realizing that law librarianship is a career option.
5. How many quarter or semester credit hours are required to complete the library science degree?

§56 Most of the programs (twenty-seven or 93%) operate on the semester system, and a majority of those semester programs (eighteen or 67%) require the same number (thirty-six) of semester credit hours to graduate. Only two of the programs operate on the quarter system. The use of different credit systems in itself does not suggest a difference in rigor of the programs. A conversion equation may be used by schools when students transfer between systems. The equation used by some schools provides that one semester credit is equivalent to approximately 150% of a quarter credit, and one quarter credit is equivalent to about 0.6667 of a semester credit. Applying this formula, thirty-six semester hours is equivalent to fifty-four quarter hours. Thus, the two quarter-based programs (at fifty-eight and sixty-three quarter credit hours) are at least the equivalent of most of the semester-based programs in terms of the number of credits required. However, most of the semester-based programs appear to fall a bit short of being the equivalent of the two quarter-based programs because the two quarter-based programs require more than fifty-four quarter credit hours.

§57 Most striking about this data is the significant difference in the range of units required by programs on the semester system. Nine semester-based programs require more than thirty-six credits, with a high of forty-eight semester credits for one program. The twelve-credit difference (thirty-six versus forty-eight credits) may mean an additional four classes or one semester for the program with the higher credit requirement. This disparity in the number of required units is a problem for the law library profession; it indicates a difference in rigor between the programs in terms of the amount of coursework necessary to earn the degree.


127. The Master of Library and Information Science degree at the University of Washington Information School is the sixty-three quarter-credit hour program referenced here, rather than the Law Librarianship program.

128. The two quarter-based programs also vary in credits required, but the difference is not nearly as significant.

129. ALA notes the range of credit hours required among Library and Information Science programs: “The number of academic credit hours required for a master’s degree varies from 36 semester hours to 72 quarter hours.” Guidelines for Choosing a Master’s Program in Library and Information Studies, AM. LIBR. ASS’N, http://wwwALA.org/accreditedprograms/guidelines-choosing-masters-program-library-and-information-studies [https://perma.cc/823T-BEH8], ALA’s 2015 Standards for Accreditation of Master’s Programs in Library and Information Studies contains no reference to number of credit hours. COMM. ON ACCREDITATION, AM. LIBR. ASS’N, STANDARDS FOR ACCREDITATION OF MASTER’S PROGRAMS IN LIBRARY AND INFORMATION STUDIES (Feb. 2, 2015), http://wwwala.org/accreditedprograms/sites/ala.org.accreditedprograms/files/content/standards/Standards_2015_adopted_02-02-15.pdf [https://perma.cc/8KJL-JEL7].
6. On average, how many quarters/semesters are generally required to complete the degree?

¶58 Students are most likely to spend four semesters completing the degree if enrolled full time and six semesters if attending part time. But they have a wide range of choices regarding the number of terms to complete the degree, from approximately four to nine quarters to two to ten semesters. Perhaps the most useful piece of information gleaned from this question is that a considerable number of students attend the programs part time, increasing the opportunity that they will be enrolled when a relevant class is offered.

7. How does the school determine how often to offer each class in law librarianship or legal bibliography?

¶59 Demand by students, historic and current enrollment, and instructor availability were the most common factors cited in determining how frequently to offer the course. Several programs indicated that they operate under the policy that a minimum number of students must show interest or enroll in a course for the class to proceed. A number of programs that do not appear in table 1 shared that low interest historically prevents them from offering the course.

¶60 Of course, low interest in a class is not no interest. Survey responses revealed that a relevant course that is cancelled because of low enrollment may attract students but in inadequate numbers for the course to be held. Paragraphs 120–25 offer a solution that meets these students’ needs.

8. What is the school’s objective in offering the class(es) in law librarianship or legal bibliography?

¶61 Objectives given by respondents fell into five categories: (1) to provide coursework for students interested in a career in law librarianship, (2) to offer an elective for students who would benefit from exposure to the topic, (3) to prepare attorneys who want to transition to a law library career, (4) to serve the community, and (5) to align curriculum with the university’s focus “on government and public administration.” By far the most frequently mentioned objectives were the first two.

¶62 The objective of the Division of Library and Information Science at St. John’s University demonstrates a commitment to mentoring aspiring law librarians, which is encouraged by leaders in the law librarianship community. According to Assistant Adjunct Professor Ralph Monaco, the program’s law librarianship specialization

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130. Respondents for six of the programs volunteered that most students are enrolled part time or many work full time while enrolled.
131. For confidentiality, the particular programs are not named. E-mails are on file with author.
132. For confidentiality, the particular programs are not named. E-mails are on file with author.
133. E-mail from Philip B. Eppard, Chair, Dep’t of Info. Studies, Coll. of Eng’g & Applied Sci., Univ. at Albany, to author (Apr. 17, 2015, 12:57 PM) (on file with author).
prepare[s] students to address the transformation of the law library as place to the law library as resource. Changes in the legal industry and legal education, including the consolidation and globalization of firms, increased demand for cost-effective legal services, significant changes in legal information publishing, as well as the impact of technology, have put increased pressure on libraries, especially on firm libraries, to change the service model. These changes affect all operational aspects of the collection, space planning and design, acquisition and maintenance of the collection, budgeting and training. Our courses provide a foundational framework to address these challenges in innovative ways and equip students with the tools and techniques to leverage their skills to provide leadership in the provision of research and collateral services to their patrons. The discussion of the transformation of the library as place is not new but the pace of change will present law libraries with many challenges over the next few years. Planning for the future of the library’s space needs, collection growth, services, technology, and staffing needs is critical to ensuring the library’s success within the organization. Our courses attempt to address all these issues.  

§63 Schools that offer only one relevant course have the same progressive philosophy, envisioning the class either for students who wish to supplement their general research knowledge or for those who have an interest in law librarianship. For example, the University of Wisconsin–Milwaukee’s School of Information Studies seeks “[t]o offer a broad-based approach to librarianship/information service work. We want our students to be as well-rounded as possible.” Wayne State University’s School of Library and Information Science wants to prepare its students for “a[n] increasingly litigious society [which] has made legal information materials more important to library collections.” Dr. Stephen T. Bajjaly, associate dean and professor at the school, shared the school’s philosophy: “Public, academic and special librarians need to be aware of the process of legal research and the legal information tools available to assist patrons in finding primary and secondary sources of law as well as legal reference materials.” San Jose State University’s School of Information provides a Law Librarianship section on its Career Pathways website for students who might consider the career after taking the school’s course in legal resources.

9. What sort of interaction, if any, does the school have with the American Association of Law Libraries (AALL) in providing the class(es) in law librarianship or legal bibliography?

135. E-mail from Prof. Ralph Monaco to author (Mar. 22, 2015, 6:37 AM) (on file with author).
136. E-mail from Sch. of Info. Studies, Univ. of Wis.–Milwaukee to author (Mar. 17, 2015, 6:57 AM) (on file with author).
137. E-mail from Dr. Stephen T. Bajjaly to author (Mar. 16, 2015, 10:08 AM) (on file with author).
138. Id. Linda C. Smith, Professor and Associate Dean for Academic Programs, Graduate School of Library and Information Science, University of Illinois at Urbana-Champaign, made a similar observation: “Legal bibliography is relevant to that career goal [law librarianship] but may be applicable more broadly in special and academic library contexts.” E-mail from Linda C. Smith to author (June 26, 2015, 9:37 AM) (on file with author).
¶64 Many respondents reported that there is no interaction with AALL at the school’s institutional level; instead, the programs rely on professors’ ties to the organization for the networking and curricular benefits that the connection provides students.

¶65 At the University of North Texas Department of Library and Information Sciences, associate professor Yvonne Chandler’s AALL connections provide students “a ready pool of speakers and expert practitioners for classes[,] . . . locations for practicums, internships, and part-time jobs[,] . . . tours of law libraries, and . . . special classes in the offices of law firms or law schools.”140 University of North Texas students become AALL members, while their future colleagues in the University of Washington’s Law Librarianship program fulfill a program requirement to attend the AALL Annual Meeting and Conference.141 Hazelton, who directs the Law Librarianship program at the University of Washington School of Law, explained that “[l]earning how to participate in professional activities and the importance of networking are considered important goals of the program.”142 Attendance at the meeting “introduce[s] [students] early in their career[s] to one of the values of our profession, sharing what we know.”143

¶66 Several programs noted the use of AALL resources for teaching purposes. Not only do students in the University of Washington program learn about “the structure of AALL,” course materials are supplemented with readings from the organization’s CRIV (Committee on Relations with Information Vendors), AALL Spectrum, and Law Library Journal.144 AALL further supports the program by making CALI lessons available to students.145 Kent State University’s School of Library and Information Science bases its courses in Legal Information Sources and Services and Law Librarianship on AALL’s Competencies of Law Librarianship.146 In 2012, Catholic University of America professor Renate Chancellor used her connection to AALL to provide meaningful coursework for her students as well as to benefit the organization. Chancellor arranged for students in the Legal Literature class to contribute to AALL’s National Inventory of Legal Materials, giving students the opportunity to learn more about agency publications and assist AALL with its initiative to promote access to government information.147

140. E-mail from Yvonne Chandler to author (April 18, 2015, 6:01 PM) (on file with author).
141. Id.; E-mail from Penny A. Hazelton to author (Mar. 16, 2015, 9:12 AM) (on file with author).
142. E-mail from Penny A. Hazelton, supra note 141.
143. Id. San Jose State University’s School of Information also “promote[s] law library association meetings and activities.” E-mail from Sch. of Info., San Jose State Univ., to author (Mar. 17, 2015, 10:34 AM) (on file with author).
144. E-mail from Penny A. Hazelton, supra note 141. The Law Librarianship and Legal Informatics program at the University of North Texas also incorporates AALL resources into coursework. E-mail from Yvonne Chandler, supra note 140.
145. E-mail from Penny A. Hazelton, supra note 141. CALI is the Center for Computer-Assisted Legal Instruction, a “non-profit consortium of law schools, law libraries and related organizations” that provides “interactive legal tutorials.” About CALI, CALI, http://www.cali.org/content/about-cali [https://perma.cc/F7ME-8SUZ].
146. E-mail from Sch. of Libr. & Info. Sci., Kent State Univ., to author (Apr. 19, 2015, 5:49 PM) (on file with author).
147. E-mail from Renate Chancellor to author (July 8, 2015, 10:59 PM) (on file with author); Emily Felten, Update on the National Inventory of Legal Materials, WASH. BLAWG (Dec. 12, 2012), https://aallwash.wordpress.com/2012/12/ [https://perma.cc/E52J-PV4Y].
In addition to the resources that an AALL membership provides professors, several respondents referred to another connection between law librarianship education and AALL, the Conference of Law Library Educators. Led by Hazelton, the conference is “a forum for librarians and others who teach law librarianship and legal research courses in graduate schools of library and information science.” This “informal group” ensures that “all legal research and law librarianship courses have access to free Westlaw, LexisNexis, and Bloomberg Law passwords, regardless of the affiliation of the professor teaching the class.”

10. If the school offers only one class in law librarianship or legal bibliography, do you anticipate that the school will offer more such classes in the future?

The majority of programs responding to this question noted the lack of demand to offer additional relevant courses. Indeed, the University at Buffalo shared its resourceful approach to combating low enrollment for two courses it used to offer separately.

Our solution is two-fold: to experimentally combine these courses, and to offer them online, so they can be opened to off-campus students (our own and others). Our own student body is 2/3 fully online. For example, in spring 2015 we offered a 511/512 [the two courses that were previously offered as Materials of Legal Practice, and Legal Information Sources, respectively] combination as a special topics course. This generated sufficient enrollment to run the course.

While some programs shared that there is no demand for a second course at their schools, there are also signs of potential growth. One program stated that while it has no plans to offer more courses from its existing faculty, it expects to offer additional courses through the WISE consortium. In addition, the University of Albany “is developing a formal relationship with Albany Law School,” which could be “a vehicle for strengthening a program in law librarianship” for Albany’s Department of Information Studies.

Is the Master’s in Library and Information Science Sufficient Preparation as Training for Law Librarians?

Review of Library and Information Science Programs’ Law Library Instruction

To determine whether the courses meet the recommendations for law library education, it is useful to review the substance of the classes. Although it does not provide as thorough a review as enrolling in the courses, examining the syllabi, or interviewing students who have completed the courses, a review of the course

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148. E-mail from Heidi Julien, Professor & Chair, Dep’t of Libr. & Info. Studies, Graduate Sch. of Educ., Univ. at Buffalo, to author (Mar. 31, 2015, 12:55 PM) (on file with author).
150. E-mail from Penny A. Hazelton, supra note 141.
151. E-mail from Heidi Julien to author (July 20, 2015 9:43 AM) (on file with author).
152. E-mail from an anonymous respondent to author (June 29, 2015, 8:05 AM) (on file with author). WISE is discussed infra ¶¶ 120–25.
153. E-mail from Philip B. Eppard, supra note 133.
descriptions gives some indication of the content each course intends to address. In the fall of 2015, I extracted the main elements from the course descriptions for forty-five of the courses listed in table 1 that are available to graduate library and information science students as electives.\footnote{154}

\¶71 Categorizing the elements of the course descriptions, I found the following number of courses for each category:\footnote{155}

- Basic or introductory legal research: twenty-six courses, or fifty-eight percent of the forty-five course descriptions reviewed
- Law library administration or management: thirteen courses, or twenty-nine percent
- Functions (technical services, reference service, collection development, day-to-day operations): thirteen courses, or twenty-nine percent
- Context of different types of law libraries: twelve courses, or twenty-seven percent
- Specialized nature of law librarianship: nine courses, or twenty percent
- Research methods or techniques: six courses, or thirteen percent
- History of law librarianship and/or law libraries: five courses, or eleven percent
- Trends in law librarianship or law libraries: four courses, or nine percent
- Orientation to the field of law, the legal process, and/or the nature of legal analysis: four courses, or nine percent
- Advanced legal research: four courses, or nine percent
- Teaching legal research: two courses, or four percent

\¶72 Collectively, the course descriptions indicate coursework with a wide range of topics that would be useful to future law librarians. But how do the individual

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154. The University of North Texas course Advanced Legal Information and Legal Informatics is a "directed study course," so it is not included in the review. E-mail from Yvonne Chandler, supra note 140. In addition, Wayne State University School of Library and Information Science provides a course profile as well as a course description for Legal Information Resources; I consulted both to review the nature of the course.

Although a subjective exercise, I reviewed the course descriptions and extracted what I reasonably believed to be the distinct elements from each, based on the logic that those elements are likely to be a part of the course. I then created categories into which I could fit all the elements and determined how many of the forty-five courses fit each category. An illustration of the subjective nature of this exercise is the analysis of the phrase “specialized research methods” from a course called Law Librarianship. By some estimates, this phrase would qualify the course as a class in advanced legal research. In others’ estimations, that conclusion would attribute too much weight to the phrase that appears in a description for a course covering multiple topics. Thus, for this course description, I determined that the element does not qualify the course as one in advanced legal research. However, this element did qualify the course’s inclusion in the category of research methods or techniques.

155. In assigning courses to categories, I made allowances for multiple ways of referring to the same course content. Thus the elements designated as basic legal research, introduction to basic legal materials, and fundamentals of legal research methods were considered the equivalent of basic or introductory legal research, and course descriptions using those phrases are included in that category. Organization of law libraries is included in the category law library administration or management.

The categories reflect the language of the course descriptions. Thus, in theory a course might include one of the components listed, but if the description does not refer to it sufficiently, the course is not included in that category. In other words, categorizing the courses is only as accurate as the descriptions are illustrative.
courses fare when evaluated by historical and current educational recommendations for law librarians? A more in-depth review of some of the course descriptions may assist in considering this question.

**Selective Set of Course Descriptions**

¶73 Courses listed in table 1 with the greatest number of elements in their course descriptions will likely compare most favorably when judged by historical and current recommendations of education for law librarians. Among the programs that offer only one relevant course, this section lists the six course descriptions with the most elements. Programs that offer only one such course are the focus of this review because most programs are able to offer only a single course. Although those programs have a greater challenge to meet the recommendations, the six courses reviewed here have the most promise among the subset of classes that come from programs that offer only one relevant course because of their greater number of elements. The six course descriptions and their number of elements follows.156

**Indiana University Bloomington and Indiana University—Purdue University Indianapolis**

¶74 Law Librarianship: An introduction to basic legal materials and law librarianship. Primary and secondary resources, indexes, digests and citators, specialized research methods, current developments in automated legal research. History of law libraries in the United States, their organization and administration. The role of law librarians in law schools and law firms.157

¶75 Six elements: basic or introductory legal research, law library administration or management, context of different types of law libraries, specialized nature of law librarianship, research methods or techniques, history of law librarianship and/or law libraries.

**University of Kentucky**

¶76 Law Librarianship: A study of the materials of legal research and reference work. Emphasis is placed on the methods of effective research and the actual use of legal materials in the solution of practical reference problems. The selection, cataloging, classification, and storage of materials in a law collection are considered. The specialized requirements of law librarianship and law library administration are treated.158

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156. The course descriptions are taken from the programs’ websites as of January 3, 2016. Any information regarding prerequisites included in the course descriptions has been removed. The six courses were chosen because they contain the most elements (four, five, or six) among the courses listed in table 1, which come from programs that offer only one relevant course.


¶77 Five elements: basic or introductory legal research, law library administration or management, functions, specialized nature of law librarianship, research methods or techniques.

**University of North Carolina at Chapel Hill**

¶78 Law Libraries and Legal Information: An introduction to the legal system and the development of law libraries, their unique objectives, characteristics, and functions. The literature of Anglo-American jurisprudence and computerized legal research are emphasized as well as research techniques.¹⁵⁹

¶79 Four elements: basic or introductory legal research, functions, research methods or techniques, history of law librarianship and/or law libraries.

**University of Rhode Island**

¶80 Law Librarianship: Introduction to legal bibliography and research and to a broad range of problems involved in the administration and operation of various kinds of law libraries.¹⁶⁰

¶81 Four elements: basic or introductory legal research, law library administration or management, functions, context of different types of law libraries.

**Wayne State University**

¶82 Legal Information Resources: Characteristics of legal literature including federal, state, and administrative law; structure of U.S. court system and its publications; introduction to legal databases; special problems in legal reference service and administration; selection and use of basic tools in legal research.¹⁶¹

¶83 Wayne State University’s Legal Information Resources Course Profile document includes this learning objective (among others): Possess knowledge of the types and functions of law libraries, the practice of law librarianship, as well as its professional standards and publications.¹⁶²

¶84 Four elements: basic or introductory legal research, functions, context of different types of law libraries, specialized nature of law librarianship.

**Historical Recommendations**

¶85 For purposes of review, the educational recommendations can be separated into historical and current eras. The historical recommendations chosen for this review are those of the Subcommittee on Special Library Education of the Council of National Library Associations, which were published in a 1954 issue of the *Library Quarterly* and referenced in paragraph 16.¹⁶³


Although the subcommittee recommended the law degree in addition to particular library school courses, the focus of this discussion is preparation of law librarians solely via the library and information science degree. Thus, this section will evaluate the six course descriptions based on the subcommittee’s recommendations for library and information science coursework, which consist of five parts:

Readers’ Service: The subcommittee did not describe this course, except to recommend that it be geared toward “the problems of law librarians.” A 1971 AALL Annual Meeting panel discussion, Reader Services in Law Libraries, notes that this service includes “[r]eference [s]ervices,” “bibliographic tools,” “information services,” and “circulation systems.” “Reader services” has also been described as “the main end product of good librarianship,” which if done well, results in “the effective use of a library’s collections and services by its readers.” For this review, Readers’ Service corresponds to the course description element designated above as functions, specifically reference service.

Technical Services: The subcommittee’s recommended course focuses on “[m]ethods of acquisition, cataloging, classification, and processing, keyed to law-library problems.” Technical Services corresponds to the course description element of functions, specifically technical services.

Government Documents: While not describing the course, the subcommittee refers to government documents as “government publications,” which are “invaluable as reference tools” and “sources of information for business, industry and economics.” Because a Government Documents course is not within the focus of this article, it is not considered in this review of the programs’ relevant classes.

Legal Bibliography: This subject can be described simply as “the description and identification of the published sources of the law.” In a 1918 article, Hicks described legal bibliography as consisting of “at least three divisions.”

They are, first, legal bibliography proper, which deals with the repositories of the law; second, methods of finding this law, which is an art to be acquired; and third, brief-making, which has to do with the orderly presentation of arguments based on authorities, and in conformity with the rules of the court to which they are addresst.

The subcommittee’s description of this course provides a similar outline: “Legal bibliography proper,” “Use of lawbooks (how to find the law),” and “Legal bibliography.” In Hicks’s estimation, legal bibliography “requir[es] an intimate

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164. Id. at 8.
166. Id. at 505 (remarks of Viola A. Bird, quoting Morris Cohen, who was describing Miles O. Price’s views).
167. Education for Special Librarianship, supra note 53, at 8.
168. Id.
170. Frederick C. Hicks, The Teaching of Legal Bibliography, 11 LAW LIBR. J. 1, 5 (1918).
171. Id. at 5–6.
172. Education for Special Librarianship, supra note 53, at 8.
and extensive knowledge of legal literature.” Legal Bibliography corresponds to the course description element of basic or introductory legal research.

¶ 91 Law Library Administration: The subcommittee’s course would cover “[b]ook-buying, cataloging, classification, and reference work.” Law Library Administration corresponds to the broad course description element of functions (because this element includes technical services and reference service).

¶ 92 While the subcommittee envisioned coursework in five law library “fields of study” for the entry-level law librarian, nineteen of the twenty-nine programs in table 1 offer only a single relevant course. Even if one recognizes a course in government information or documents as a course in law librarianship or legal bibliography, with that addition such programs still provide only two relevant courses. Imagine a student with no experience using legal resources and no professional background in the law becoming one of the two-thirds of American law librarians without a law degree; is one or two courses sufficient preparation according to historical or current recommendations?

**Comparison of Courses to Historical Recommendations**

¶ 93 The subcommittee’s recommendations (minus Government Documents) correspond to four curricular elements in the course descriptions from the forty-five courses listed in table 1 that were reviewed for this study: reference service, technical services, basic or introductory legal research, and functions. The six course descriptions will be measured against those four curricular areas.

¶ 94 Reference service: Two of the six courses provide a unit on reference service or solving reference questions. It is possible that the other four courses incorporate the concept of reference service as part of the discussion on law library administration, operations, functions, or the role of law librarians. Assessment: two of six.

¶ 95 Technical services: Just one of the six courses provides instruction on technical services, specifically acquisitions and cataloging. The other courses may include technical services in a discussion on law library administration, operations, functions, or the role of law librarians. Assessment: one of six.

¶ 96 Basic or introductory legal research: All six courses indicate a focus on basic legal materials. Assessment: six of six.

¶ 97 Functions: For purposes of this study, the subcommittee’s recommendation for instruction in cataloging, classification, and reference work falls under the generic element of functions. Two of the courses do not include a section on law library functions per se, unless those services are included in the discussion of the roles of law librarians. One course addresses the operation of law libraries and attendant problems; thus, it may be said to cover law library functions. The three remaining course descriptions make reference to either technical services or func-

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173. Hicks, supra note 170, at 7.
174. Education for Special Librarianship, supra note 53, at 8.
175. Today’s understanding of the term “law library administration” likely corresponds to management of the law library in terms of budget, personnel, and so on. See Richard A. Danner, Managing the Law Library in the 1990s, 81 LAW LIBR. J. 181, 182 (1989). The subcommittee’s meaning appears to refer to the provision of technical services and reference service. For this review, the subcommittee’s recommendation of Law Library Administration will be the equivalent of functions.
tions. Thus, four of the six courses address law library functions at least to some degree. Assessment: four of six.

Summary of Results

§98 Comparing the elements in these six course descriptions to the four subcommittee recommendations reveals that each course addresses from one to three of the recommendations, depending on one’s interpretation of the elements. This critique is not scientific; an element may only hint at the substance that is part of the course. For example, while a course may not appear to address technical services, it might include this topic as part of a discussion on the different roles of law librarians or operations of law libraries. Any course with the expansive title “Law Librarianship” may incorporate learning objectives that are not specifically listed in the course description.

§99 What is evident from this review is that the six courses are committed to providing instruction on basic legal research; indeed in some cases, that element appears to be the most significant part of the course. Significantly less time appears to be devoted to technical services instruction. Perhaps that compromise is sensible; one must have an understanding of the materials before one can categorize, evaluate, and acquire them.

§100 In addition, studying the course descriptions reveals that several of these six courses offer curricula in areas beyond the subcommittee’s recommendations: law library administration (as defined today),177 the specialized nature of law librarianship, and the context of different types of law libraries. Still, arguably these six courses cannot fully meet the recommendations because the subcommittee envisioned a separate course for each recommendation, rather than a unit that is only one part of a broader course. As noted earlier, the subcommittee also suggested that the properly educated law librarian should not only complete its library and information science course recommendations but should graduate from law school, advice that AALL reports only one-third of today’s law librarians follow.178

Current Recommendations

§101 The current recommendations chosen for this review are the Guidelines for Graduate Programs in Law Librarianship, which the AALL Executive Board approved in 1988 to inform ALA’s “accreditation of graduate library school programs.”179 The general competencies within the guidelines consist of four parts.

§102 Reference and Research Services: With this guideline, AALL adopted the subcommittee’s call for training in reference service, while adding the skill of providing research services. The most telling aspect of this guideline is that it reveals AALL’s belief that law librarians’ education should prepare them to teach others how to “identify and use” legal research resources.180 Teaching suggests mastery, in this case mastery of sources and research methods and an ability to place a research question into the relevant legal context. These skills fall under the first half of the guideline, to provide reference service. Advanced knowledge will also be needed to

177. Danner, supra note 175.
178. Education Requirements, supra note 85.
179. Archived: AALL Guidelines for Graduate Programs in Law Librarianship, supra note 27.
180. Id.
meet the other half of this guideline’s expectation that the librarian be able to respond to requests for research services, which include source evaluation and delivery of information in creative ways.\footnote{181} The guideline on reference and research services corresponds to the course description elements designated above as functions, specifically reference service, research methods or techniques, advanced legal research, and teaching legal research.

¶ 103 Library management, collection management, and organization and classification comprise the three remaining parts of the general competencies. Rather than making these proficiencies law library–specific, AALL lists aspects for each (“managing library personnel and resources,” developing a relevant and accessible collection, and demonstrating cataloging knowledge and skills, respectively)\footnote{182} that could apply to any library. Library management corresponds to the course description element of law library administration or management; collection management to functions, specifically collection development; and organization and classification to functions, specifically technical services.

¶ 104 The guidelines’ subject competencies contain four parts:

- The Legal System: As part of understanding this system, the law librarian should understand the origins and “the interplay” of primary sources of law.\footnote{183} This competency corresponds most closely to the course description elements of basic or introductory legal research; and orientation to the field of law, the legal process, and/or the nature of legal analysis.
- The Legal Profession and Its Terminology: AALL believes that the law librarian should be informed about the “institutions and professional organizations” that are a part of the legal and law librarianship professions.\footnote{184} In addition, the law librarian must have an understanding of “the professional language” of legal practitioners.\footnote{185} This competency corresponds to the course description element of orientation to the field of law, the legal process, and/or the nature of legal analysis.
- Literature of the Law: As the name of this component suggests, literature of the law corresponds to the course description element of basic or introductory legal research.
- Law and Ethics: Several components in this proficiency are advisable for any type of librarian, but some of the recommendations are more likely to apply to law librarians, such as an understanding of the “unauthorized practice of law” and malpractice.\footnote{186} Law and Ethics corresponds most closely to the course description elements of specialized nature of law librarianship; and orientation to the field of law, the legal process, and/or the nature of legal analysis.

\footnote{181}{\textit{Id.}} \footnote{182}{\textit{Id.}} \footnote{183}{\textit{Id.}} \footnote{184}{\textit{Id.}} \footnote{185}{\textit{Id.}} \footnote{186}{\textit{Id.}}
Comparison of Courses to Current Recommendations

105 The six course descriptions above can be compared to the current standards. The Executive Board’s guidelines correspond to ten curricular elements in the course descriptions from the forty-five courses listed in table 1 that were reviewed for this study: reference service; research methods or techniques; advanced legal research; teaching legal research; law library administration or management; collection development; technical services; basic or introductory legal research; orientation to the field of law, the legal process, and/or the nature of legal analysis; and the specialized nature of law librarianship. The six course descriptions will be measured against those ten curricular areas.

106 Reference service: As documented when reviewing the six course descriptions by the historical standards, two of the six courses appear to provide a unit on reference service or addressing reference questions. Assessment: two of six course descriptions meet this recommendation.

107 Research methods or techniques: Four of the six courses address research methods, which will assist the law librarian in the guideline-recognized skill of providing “information to meet specific needs.” Two of the six courses do not contain a unit on research methods per se. Assessment: four of six.

108 Advanced legal research: None of the six course descriptions indicate instruction on advanced legal research skills. Assessment: zero of six.

109 Teaching legal research: None of the six courses provide training on teaching per se, although course segments that introduce students to legal bibliography might assist them in building the skill of explaining legal research tools. Assessment: zero of six.

110 Law library administration or management: Four of the six courses include a component on the administration or organization of law libraries. The remaining two courses might address this topic as part of a discussion on law library functions or characteristics. Assessment: four of six.

111 Collection development: Only one of the six courses separately covers the selection of materials. It is possible that the other courses incorporate the concept of collection development as part of the discussion on law library administration, operations, functions, or the role of law librarians. Assessment: one of six.

112 Technical services: A separate unit on technical services is covered by just one of the six courses. Assessment: one of six.

113 Basic or introductory legal research: All six courses indicate a focus on basic legal materials. Assessment: six of six.

114 Orientation to the field of law, the legal process, and/or the nature of legal analysis: It could be assumed that a discussion of the origins and interplay of primary law (a component of the guideline on the Legal System) is included in all six courses’ discussion of primary legal resources, the legal system, or the U.S. court system. However, it appears that these courses do not address the guidelines’ recommendation for instruction on the Legal Profession and Its Terminology, beyond any discussion of those topics’ connections to legal materials. Assessment: six of six for the Legal System. Assessment: unclear for the Legal Profession and Its Terminology.

187 Id.
¶115 Specialized nature of law librarianship: Five of the six courses include a component on the specialized practice or requirements of law librarianship or the unique nature of law libraries. The other course may address the field of law librarianship as part of the discussion on law library administration or operations. Assessment: five of six.

**Summary of Results**

¶116 Evaluating the course descriptions based on the guidelines, one notices the high number of law library competencies that AALL expects the future law librarian to obtain through a library and information science education. According to the course descriptions, the six courses above address from two to seven of the guidelines’ ten competencies, depending on one’s interpretation.

¶117 The six courses compare most favorably to the guidelines in their provision of basic legal research instruction and an introduction to the legal system. All six courses provide a survey of legal materials, and, presumably, the systems that produce these materials. The courses’ others areas of strength include the specialized nature of law librarianship or law libraries, law library management, and research practice. Five of the six courses devote time to a discussion of law librarianship as a profession, and four of six classes incorporate a unit on the administration or organization of law libraries, and to research methods or techniques.

¶118 Where are the gaps in the course descriptions? The Executive Board recommends advanced legal research skills to be able to conduct research for clients and to teach others how to research independently. The Board also advocates development of the law librarian’s teaching skills as well as an understanding of the language of the legal profession. These three learning outcomes generally are missing from all six course descriptions. Pedagogical skills could be pursued through a general course in information literacy instruction, if offered.188 But advanced legal bibliography and an orientation to legal terminology are unlikely to be covered by another course within those programs that offer only one relevant course.

¶119 As when judged by the historical standards, with one exception the six course descriptions indicate a lack of coverage in the areas of technical services and collection development. Because it is unrealistic to expect one course to address ten curricular topics, students enrolled in programs that offer only one relevant course should consider supplementing the course with a government information course and field experience in a law library. Still, consider how much more prepared future law librarians without J.D.s will be if they are able to access multiple courses in law librarianship, plus a government information course and a practicum, as part of their formal library and information science studies.

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188. An example of a course in bibliographic instruction is UCLA’s Information Literacy Instruction: Theory and Technique. See General Catalog, Current Course Descriptions, UCLA Registrar’s Office, http://registrar.ucla.edu/Academics/Course-Descriptions [https://perma.cc/J5NN-W4AD] (search for specific courses from this page).
Online Solution: WISE Consortium

¶120 The survey indicates a decrease in the number of programs offering a single course in law librarianship or legal bibliography. If, arguably, offering only one relevant course is inadequate preparation for law librarianship,¹⁸⁹ is concern about the drop in the number of programs offering only one class misplaced? Should the focus instead be on the opportunity to provide multiple law library courses, which might be feasible through an online system?

¶121 Law librarianship instruction is facing an enrollment dilemma that online education can address. As table 1 shows, students enrolled in the majority of programs in the United States have the opportunity to take, at most, only one course in law librarianship or legal bibliography. Often, programs are able to offer courses only if they meet a certain enrollment threshold.¹⁹⁰ An online education model could connect student interest to program resources, increasing educational opportunities for students and satisfying enrollment numbers required for programs to hold courses.

¶122 The beauty of this remedy, besides its use of extant resources to fill a documented need, is that it already exists in the form of a “collaborative, cost-effective distance education model”¹⁹¹ called WISE, Web-based Information Science Education.¹⁹² As a matter of fact, some of the programs listed in table 1 are members of the organization, or “WISE schools.”¹⁹³

¶123 Visionaries in library and information science education at Syracuse University and the University of Illinois at Urbana-Champaign established the WISE consortium in 2004.¹⁹⁴ After receiving financial support from the Institute of Museum and Library Services,¹⁹⁵ WISE began offering online courses in the summer

¹⁸⁹. The subcommittee suggested coursework in five curricular areas in addition to a law degree. The AALL Executive Board recommended mastery in ten subjects under the categories of General Competencies and Subject Competencies. While the Board’s suggestions may not require ten courses, ten topical areas would seem to exceed what is manageable in one course.

In 1984, Catherine K. Harris suggested that historically only the Law Librarianship program at the University of Washington or perhaps a law degree offered adequate training in law for aspiring law librarians. She recommended a paralegal certificate as another way to acquire this knowledge. Catherine K. Harris, Paralegal Programs: An Educational Alternative for Law Librarians, 77 LAW LIBR. J. 171, 172–73 (1984).

¹⁹⁰. Carroll & Campbell, supra note 118. Indeed, some programs that are interested in offering a relevant class are unable to because they cannot allot resources to a course with low student enrollment. Several program staff indicated this dilemma in e-mails to me and wished to remain anonymous. E-mails from these programs are on file with author.


¹⁹². Id.

¹⁹³. The WISE website lists seventeen member schools as of this writing. See WISE Schools, WISE, http://wiseeducation.org/ [https://perma.cc/RR93-YDDJ].


¹⁹⁵. Id.
of 2005. The heart of WISE is a “course share model,” which “pool[s] resources and increase[s] the scope and quality of educational connections in LIS.”

¶124 Through WISE, member schools offer and host other member schools’ students in an online course. They can also offer their own students other members’ WISE classes that they believe “complement” their programs. In this way, WISE has been compared to “seat-sale in airline industry terms,” as WISE members “utilize[e] excess capacity in existing courses to increase access and diversity of courses available for WISE students.”

¶125 Thus, the range of subject competencies envisioned by the subcommittee and the AALL Executive Board may be achievable through an initiative such as the WISE consortium. Indeed, “WISE course share offerings include mainly special topics, intended to enhance programs of study available at students’ home institutions.” After each of the first two semesters offering online classes, the WISE consortium surveyed participating students on course quality, instruction, and overall learning experience, especially with regard to an online program. Students indicated that they took a WISE course mostly because it was “not available through their own institutions.” They used WISE to enhance their library and information science educations. Similarly, curricular gaps between the subcommittee’s and the Executive Board’s recommendations and the course descriptions reviewed in paragraphs 70–119 could form the learning objectives for new law library classes proposed to become part of the WISE course offerings.

Conclusion

¶126 Law schools have officially entered the era of learning outcomes, with the 2015–2016 revision of the American Bar Association Standards and Rules of Procedure for Approval of Law Schools. As professionals who teach, support, and collaborate

197. Id. at 37.
198. Id. LIS refers to Library and Information Science. What is WISE?, supra note 191.
200. Id.
201. Montague & Pluzhenskaia, supra note 196, at 37.
203. Montague & Pluzhenskaia, supra note 196, at 51 n.12.
204. Id. at 41–42.
205. Id. at 46.
206. Although this discussion advocates for broadening access to law library instruction through online methods, the advantages and disadvantages of online library and information science education merit further discussion. For instance, one student responded to the WISE survey by noting that “working within a virtual environment teaches volumes about communication, group-work, and time management.” Id. at 47. See also Kathryn Kennedy et al., Student Perspectives on Library School Degrees and the Hiring Process, 48 J. EDUC. LIBR. & INFO. SCI. 284 (2007), for a discussion of library and information science students’ concerns about employers’ views of online programs.
207. The 2015–2016 changes to the American Bar Association Standards and Rules of Procedure for Approval of Law Schools reflect the organization’s focus on “student attainment of
with law students and attorneys, law librarians have a responsibility to evaluate the programs training their future colleagues as rigorously as the ABA evaluates law schools. AALL reports that two-thirds of U.S. law librarians do not have law degrees; instead, most professional law librarian positions require a graduate-level library and information science education.\textsuperscript{208} This means that the majority of law librarians depend on their library and information science education and perhaps other relevant scholarly or practical experiences (such as college or graduate school coursework, field experiences, and professional experience) to gain the basic knowledge necessary for a career in law librarianship.

¶127 Measured against historical and current educational recommendations from scholars in the field, the survey conducted for this discussion revealed that formal instruction in preparation for law librarianship at the majority of U.S. library and information science schools today seems wanting.\textsuperscript{209} Arguably, historical and current recommendations for law library education advise a program of curricular training rather than a single course. The survey indicated that about fifty-six percent of U.S. library and information science programs (twenty-nine of fifty-two)\textsuperscript{210} offer law librarianship or legal bibliographic instruction, but about sixty-six percent of those programs (nineteen of those twenty-nine) are able to offer only one such course. The survey also revealed some library and information science programs with student interest in law library courses but with insufficient enrollment to justify offering the classes. These findings confirm that law librarianship is a niche area that must be nurtured to thrive. The specialized nature of law librarianship coupled with the geographic dispersion of future law librarians sometimes results in students without access to classes and, conversely, library and information science programs without enrollment numbers to offer the instruction. An online initiative such as the WISE consortium is one way to unite geographically dispersed future law librarians with programs that are willing to offer relevant instruction and prepare our future colleagues for careers in law librarianship.

\textsuperscript{208} Education Requirements, supra note 85.

\textsuperscript{209} The exceptions to this finding, of course, are the Library and Information Science programs that regularly offer multiple law library courses or a program, certificate, or degree in law librarianship.

\textsuperscript{210} The number fifty-two reflects the fifty-one programs listed on the By State webpage and ALA’s webpage of accredited programs, as well as the additional program that each list omits. See supra note 105.
Table 1
U.S. Library and Information Science Programs Offering at Least One Course in Law Librarianship or Legal Bibliography

<table>
<thead>
<tr>
<th>Program</th>
<th>Year Course(s) First Offered</th>
<th>Name(s) of Course(s)</th>
<th>Frequency with Which Course(s) Offered</th>
<th>Average Time Needed for Degree</th>
<th>Credit Hours Needed for Degree</th>
<th>Average Quarters/Semesters Needed for Degree</th>
<th>Reasoning for Frequency at Which Course(s) Offered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Univ. of Alabama</td>
<td>By 1996</td>
<td>• Law Libraries and Legal Resources</td>
<td>About twice every 3 years</td>
<td>• 15 months full time</td>
<td>36 semester credit hours</td>
<td>• 4 semesters full time</td>
<td>Both student demand and instructor availability are determining factors.</td>
</tr>
<tr>
<td>Univ. at Albany, SUNY</td>
<td>1978</td>
<td>• Introduction to Legal Research</td>
<td>No more than once a year</td>
<td>• 2 years full time</td>
<td>42 semester credit hours</td>
<td>• 3 semesters + 1 summer or 4 semesters full time</td>
<td>“A combination of gauging what might be the student demand and the availability of an adjunct instructor (since we no longer have a full-time faculty member to teach the course).”</td>
</tr>
<tr>
<td>Univ. of Arizona*</td>
<td>2004</td>
<td>• Law Library Practice and Administration</td>
<td>• Law Library Practice and Administration; Teaching Legal Research: Annually</td>
<td>Certificate</td>
<td>15 semester credit hours</td>
<td>Certificate</td>
<td>Student interest and registration enrollment</td>
</tr>
<tr>
<td>Law Librarianship</td>
<td></td>
<td>• Advanced Legal Research</td>
<td>• Advanced Legal Research: Every semester</td>
<td>Certificate</td>
<td>37 semester credit hours</td>
<td>Degree</td>
<td></td>
</tr>
<tr>
<td>Graduate Certificate</td>
<td></td>
<td>• Teaching Legal Research</td>
<td>Degree</td>
<td>2 years full time</td>
<td>Degree</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>3–4 years part time</td>
<td></td>
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</tr>
<tr>
<td>Institution</td>
<td>Year</td>
<td>Program Focus</td>
<td>Frequency</td>
<td>Duration</td>
<td>Credits</td>
<td>Duration</td>
<td>Notes</td>
</tr>
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</tr>
<tr>
<td>Univ. at Buffalo, SUNY</td>
<td>1986</td>
<td>• Special Topics: Introduction to Legal Research</td>
<td>Biennially</td>
<td>2 years full time</td>
<td>36 semester credit hours</td>
<td>4 semesters full time</td>
<td>According to expressed need on the part of students</td>
</tr>
<tr>
<td>Catholic Univ. of America*</td>
<td>1974</td>
<td>• Law Librarianship * Legal Literature * Advanced Legal Research</td>
<td>Annually</td>
<td>2 years full time</td>
<td>36 semester credit hours</td>
<td>• 4 semesters + 1 summer full time</td>
<td>On a regular basis if possible</td>
</tr>
<tr>
<td>Law Librarianship Course of Study</td>
<td></td>
<td></td>
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<td></td>
<td></td>
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</tr>
<tr>
<td>Univ. of Denver</td>
<td>1969</td>
<td>• Law Librarianship and Resources</td>
<td>The class is offered about every other year</td>
<td>1.5–2 years full time</td>
<td>58 quarter credit hours</td>
<td>Most students can finish easily in 6 quarters (attending full time)</td>
<td>Demand</td>
</tr>
<tr>
<td>Dominican Univ.</td>
<td>2000</td>
<td>• Legal Information Sources * Law Librarianship * Advanced Topics in Law Librarianship</td>
<td>Regularly, if enough student interest</td>
<td>1.5–2 years full time</td>
<td>36 semester credit hours</td>
<td>• 3–4 semesters full time</td>
<td>The frequency with which classes are offered is based on prior and current enrollment</td>
</tr>
<tr>
<td>Emporia State Univ.</td>
<td></td>
<td>• Legal Information Research and Retrieval</td>
<td>Annually</td>
<td>2 years</td>
<td>36 semester credit hours</td>
<td>6 semesters</td>
<td>Past student enrollment</td>
</tr>
<tr>
<td>Florida State Univ.</td>
<td>1974</td>
<td>• Introduction to Legal Resources</td>
<td>Biennially</td>
<td>1 year full time</td>
<td>36 semester credit hours</td>
<td>• 3 semesters full time</td>
<td>Instructor availability and student demand</td>
</tr>
<tr>
<td>Univ. of Illinois at Urbana-Champaign</td>
<td>2009</td>
<td>Law (Legal Resources) or Legal Bibliography since at least the 1960s * Law Librarianship since 2009</td>
<td>Annually</td>
<td>1 year full time</td>
<td>40 semester credit hours</td>
<td>• 2 semesters and 1 summer full time</td>
<td>Student interest and faculty availability</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Law (Legal Resources) * Law Librarianship</td>
<td></td>
<td>1.5–2 years part time</td>
<td></td>
<td>• 4–5 semesters part time</td>
<td></td>
</tr>
<tr>
<td>Program</td>
<td>Year Course(s) First Offered</td>
<td>Name(s) of Course(s)</td>
<td>Frequency with Which Course(s) Offered</td>
<td>Average Time Needed for Degree</td>
<td>Credit Hours Needed for Degree</td>
<td>Average Quarters/Semesters Needed for Degree</td>
<td>Reasoning for Frequency at Which Course(s) Offered</td>
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</tr>
<tr>
<td>Indiana Univ., Bloomington</td>
<td>1978–1979</td>
<td>• Law Librarianship</td>
<td>Annually</td>
<td>2 years</td>
<td>36 semester credit hours</td>
<td>4 semesters</td>
<td>Student interest and faculty availability</td>
</tr>
<tr>
<td>Indiana Univ.–Purdue Univ. Indianapolis</td>
<td>Since at least 2000</td>
<td>• Law Librarianship</td>
<td>Biennially</td>
<td>3 years part time</td>
<td>36 semester credit hours</td>
<td>• 4 semesters full time</td>
<td>“We look at historic enrollments and also how many students (not many) are joint JD-MLS students.”</td>
</tr>
<tr>
<td>Kent State Univ.</td>
<td>Legal Information Sources and Services in 2010</td>
<td>• Legal Information Sources and Services • Law Librarianship</td>
<td>Biennially; enrollment is typically low</td>
<td>• 1–2 calendar years full time • 2–3 calendar years part time</td>
<td>37 semester credit hours</td>
<td>• 3–4 semesters full time • 6 semesters part time</td>
<td>Based on past enrollment, instructor availability, and student interest (stated specializations)</td>
</tr>
<tr>
<td>Univ. of Kentucky</td>
<td>Since at least 1980</td>
<td>• Law Librarianship</td>
<td>Annually in the summer</td>
<td>• 1.5–2 years full time • 3 years part time</td>
<td>36 semester credit hours</td>
<td>• 3–4 semesters full time • 6 semesters part time</td>
<td>By enrollment numbers</td>
</tr>
<tr>
<td>Univ. of North Carolina at Chapel Hill</td>
<td>By the late 1950s or early 1960s</td>
<td>• Law Libraries and Legal Information</td>
<td>Biennially</td>
<td>2 years</td>
<td>48 semester credit hours</td>
<td>4 semesters</td>
<td>“We have a master schedule for 4-year periods and adjust according to demand and as curriculum changes are made.”</td>
</tr>
<tr>
<td>Univ. of North Texas*</td>
<td>Current program ca. 1994</td>
<td>• Law Library Management • Legal Information Access and Services • Advanced Legal Information and Legal Informatics</td>
<td>• Law Library Management: each spring • Legal Information Access and Services: each fall • Advanced Legal Information and Legal Informatics: independent study</td>
<td>2 calendar years part time</td>
<td>36 semester credit hours</td>
<td>6 semesters</td>
<td>The two major law librarianship courses are offered on the department’s regular rotation schedule of once a year</td>
</tr>
</tbody>
</table>

*Law Librarianship and Legal Informatics Program
<table>
<thead>
<tr>
<th>Institution</th>
<th>Start Date</th>
<th>Program Description</th>
<th>Duration</th>
<th>Credit Hours</th>
<th>Enrollment/Data Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pratt Institute</td>
<td>Early 2000s</td>
<td>Legal Research Methods and Law Literature</td>
<td>Annually</td>
<td>36 semester</td>
<td>Based on enrollment/registration data</td>
</tr>
<tr>
<td></td>
<td></td>
<td>in the fall, based on demand</td>
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<td>credit hours</td>
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<td>2 years full time</td>
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<td></td>
<td></td>
<td>2 years + 2 summers part time</td>
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<tr>
<td>Univ. of Puerto Rico</td>
<td>1985</td>
<td>Development and Use of Legal Information</td>
<td>Based on</td>
<td>36 semester</td>
<td>Based on demand</td>
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<td></td>
<td></td>
<td>in demand</td>
<td></td>
<td>credit hours</td>
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<td>2 years full time</td>
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<tr>
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<td></td>
<td>3 years part time</td>
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<tr>
<td>Queens College</td>
<td>ca. 2000</td>
<td>Law Librarianship</td>
<td>Biennially</td>
<td>36 semester</td>
<td>Student demand and faculty availability</td>
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<tr>
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<td>if possible</td>
<td></td>
<td>credit hours</td>
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<td></td>
<td>1 calendar year</td>
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<td></td>
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<td>full time</td>
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<td></td>
<td></td>
<td>3–3.5 years part time</td>
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<tr>
<td>Univ. of Rhode Island</td>
<td>Uncertain</td>
<td>Law Librarianship</td>
<td>Approximately once every 2–3 years</td>
<td>36 semester</td>
<td>Student interest and general curricular rotation</td>
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<tr>
<td></td>
<td></td>
<td>in demand</td>
<td></td>
<td>credit hours</td>
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<td></td>
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<td>1.5 years full time</td>
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<td></td>
<td>2–4 years part time</td>
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</tr>
<tr>
<td>San Jose State Univ.</td>
<td>Since at least 2009</td>
<td>Resources and Information Services in Professions and Disciplines: Legal Resources</td>
<td>In the fall (special session)</td>
<td>43 semester</td>
<td>Based on interest</td>
</tr>
<tr>
<td></td>
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<td>in demand</td>
<td></td>
<td>credit hours</td>
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<td>1.5–2 years full time</td>
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<td>2–3 years part time</td>
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<td></td>
<td></td>
<td>7–8 semesters part time</td>
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<tr>
<td>Simmons College</td>
<td>By 1983</td>
<td>Legal Information Sources</td>
<td>Biennially</td>
<td>36 semester</td>
<td>Demand</td>
</tr>
<tr>
<td></td>
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<td>in the spring</td>
<td></td>
<td>credit hours</td>
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<td></td>
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<td>2 years full time</td>
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<tr>
<td>Univ. of South Florida</td>
<td>Since at least 2004, Information Sources since 2002</td>
<td>Law Librarianship: approximately annually Information Sources: approximately biennially</td>
<td></td>
<td>39 semester</td>
<td>Student demand and faculty availability</td>
</tr>
<tr>
<td></td>
<td></td>
<td>in demand</td>
<td></td>
<td>credit hours</td>
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<tr>
<td></td>
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<td>1.5 years full time</td>
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<tr>
<td></td>
<td></td>
<td>2 years part time</td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>5 semesters full time</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Program</td>
<td>Year Course(s) First Offered</td>
<td>Name(s) of Course(s)</td>
<td>Frequency with Which Course(s) Offered</td>
<td>Average Time Needed for Degree</td>
<td>Credit Hours Needed for Degree</td>
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</tr>
</tbody>
</table>
| St. John’s Univ.* Law Librarianship Specialization | 1978                         | • Law Library Administration  
• Basic Legal Research  
• Advanced Legal Research                                                                 | Annually                          | • 2 years full time  
• 3 years part time | 36 semester credit hours | • 4 semesters full time  
• 6 semesters part time | Guided by the number of students entering the DLIS program who have expressed an interest in the Law Concentration Program |
| Univ. of Tennessee, Knoxville               | ca. 2010                     | • Special Topics: introduction to Legal Research                                      | Biennially (every other summer)       | • 2.5–3 years part time | 42 semester credit hours | • 5 semesters full time  
• 7–8 semesters part time | The two-year cycle ensures that all students in the program have a chance to take the class |
| Univ. of Texas at Austin*                   | Since at least 1994          | • Legal Information Resources  
• Law Libraries                                                                             | Annually                          | 2 calendar years full time | 40 semester credit hours | 4 semesters                         | The classes are offered annually                  |
| Univ. of Washington* Law Librarianship Program | 1939                         | • Legal Research Methods  
• Selection and Processing of Law Library Materials  
• Law Library Administration  
• Current Issues in Law Librarianship                                                                 | Annually                          | LL Program  
10 months  
Degree (Residential)  
2 years full time  
(Online)  
3 years part time | LL Program  
43 quarter credit hours  
Degree (Residential)  
6 quarters full time  
(Online)  
9 quarters part time | LL Program  
3 quarters plus an abbreviated intensive summer quarter  
Degree (Residential)  
6 quarters full time  
(Online)  
9 quarters part time | All law librarianship courses are always offered annually since a new cohort of law librarianship students begins each fall quarter |
| Wayne State Univ.                            | 1994                         | • Legal Information Resources                                                          | Annually                          | • 1.5 years full time  
• 2 years part time | 36 semester credit hours | • 4 semesters full time  
• 6 semesters part time | Annual expected enrollment | All law librarianship courses are offered on-campus |

*St. John’s Univ.* and *Univ. of Texas at Austin* have law librarianship concentration programs, and *Wayne State Univ.* and *Univ. of Washington* have law librarianship programs.
Univ. of Wisconsin–Milwaukee  Probably in the late 1990s  • Legal Information Sources and Services  Annually  • 1.5 years onsite taking 9 credits per semester  • 2–3 years online taking 6 credits per semester  36 semester credit hours  4–5 semesters onsite  • 6–8 semesters online  The decision is based on past enrollment numbers—online enrollments are stronger than onsite

Information in table 1 comes from survey respondents and program websites. In some cases, the information is a direct quote from the respondent or the website, although in most instances quotation marks are not used.

* These programs offer a specialization in law librarianship.
Human Subjects Research Review: Scholarly Needs and Service Opportunities*

Sarah E. Ryan**

Academic law libraries have evolved to support new forms of legal research and instruction. Attendant to the rise in empirical legal research, law libraries could provide human subjects research review services. These interesting and value-added offerings leverage librarians’ regulatory analysis skills and contribute valuably to the campus research community.

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Introduction

1 Legal scholarship has been evolving for decades. While doctrinal analyses still dominate academic law reviews, law faculty are increasingly undertaking complex interdisciplinary research.¹ Law librarians have witnessed “a growing diversity

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* © Sarah E. Ryan, 2016. The author wishes to thank Cathleen Montano, Carrie McDaniel, and Brandy Dionne of the Yale Human Research Protection Program for one-on-one training, guidance on research regulation analysis, and detailed explanations of IRB processes at Yale, and Cathleen Montano and Fred Shapiro for comments on an earlier draft of this manuscript.

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in the nature of legal scholarship” for many years. This difference might be more a matter of degree than kind, as law professors have long incorporated ideas from other disciplines and empirical data into their work. Still, the scholarly portfolios of many law school professors—and student researchers—seem to have diversified in recent years. Concomitantly, legal education and research support services have expanded.

¶ For a while, law faculty have been experimenting with “new forms of interdisciplinary legal education.” They have deployed anthropological methods of teaching professional responsibility, employed students in verifying crime statistics, engaged emerging scholars in challenging unscientific legal studies, and mentored students through the process of drafting social science study designs. A number of law schools have launched working groups and centers that immerse students in public policy and data-intensive clinical work, some of which requires information-gathering from clients and community members, or “human subjects” in social science parlance.

¶ The topic of human subjects research has appeared in prominent empirical legal studies textbooks, though sparse attention has been paid to navigating human


3. Lee Epstein & Gary King, The Rules of Inference, 69 U. Chi. L. Rev. 1, 1 (2002); see also N.E.H. Hull, Some Realism About the Llewellyn-Pound Exchange over Realism: The Newly Uncovered Private Correspondence, 1927–1931, 1987 Wis. L. Rev. 921. See, e.g., a report produced by the interdisciplinary Institute of Law at the John Hopkins University: LEON C. MARSHALL, COMPARATIVE JUDICIAL CRIMINAL STATISTICS: SIX STATES, 1931, at 1 (1932) (“These pages [report research] brought back from the courts of general criminal jurisdiction of six states a record of happenings to some 45,265 defendants whose cases were filed in 1931.”). That Institute was created for the social scientific study of law. COMMITTEE ON ORGANIZATION, THE STORY OF THE INSTITUTE OF LAW AT JOHN HOPKINS UNIVERSITY 10 (1929).


7. Elizabeth Warren, The Market for Data: The Changing Role of Social Sciences in Shaping the Law, 2002 Wis. L. Rev. 1, 42 (“Everyone in this room should care about the developments I have described. Your Congress, your state legislature, your city council, your fellow citizens, and you will be affected by data and pseudo-data in all manner of public policy debates.”).


subjects research review boards,10 nationally known as institutional review boards (IRBs). Notably, one prominent textbook features a portion of a law review article that might mislead law school students and faculty into believing that they do not need to seek IRB approval for most research. The excerpt states: “all research funded by the federal government and involving human subjects [must] be overseen by an IRB.”11 The passage implies that unfunded or privately funded research need not pass through the university IRB. In practice, nearly all universities opt to apply federal regulations as requiring institutional review of all human subjects research projects conducted by students, faculty and staff—regardless of funding source—if an institution receives any federal research funding.12 The paucity of IRB information in leading empirical legal research textbooks suggests that human research ethics and IRB review processes are potential growth areas for library support.

¶4 As legal scholarship and teaching have evolved, so too have library services. Law libraries have honed existing offerings and launched new programs, particularly for social science research support.13 For instance, empirical research assistance now ranges from in-house statistical analysis14 to publishing guidance15 to data procurement—including the filing of Freedom of Information Act requests for


government data. Further, while law libraries continue to offer time-honored services such as interlibrary loan, bibliographic production, database training, and preemption checking, law librarians are increasingly furnishing complementary empirical services such as SSRN and research data management assistance. Innovative services respond to existing researcher challenges, such as the need to work remotely, and anticipate future opportunities and obstacles, such as increased funding in a particular empirical legal studies research area or information loss absent data management education. Similarly, research ethics training and librarian review of research packets submitted to the IRB, known as protocols, address a nascent community research need. Further, as this article will describe, human subjects research support can be a highly visible, low-volume, interesting, and valued addition to existing library services.

This article will proceed in four parts: (1) the need for human subjects research support services, (2) the four research review designations IRBs employ in classifying empirical research, (3) the research and regulatory work involved in classifying empirical research and reviewing human subjects research protocols, and (4) a conclusion.

The Need: Criticisms and Realities of Institutional Review Boards (IRBs)

Researcher Criticisms of IRBs

For decades, academic researchers have criticized IRBs for being needlessly slow, technocratic, and intrusive. This perception reflects varying degrees of
truth. Empirical studies have demonstrated a heterogeneity of IRB efficiency, and some scholars have concluded that IRB review of social science protocols is routinely, needlessly stringent. But others have documented the competing demands faced by academic IRBs, including industry and university preferences for legalistic research participant consent forms. Still others have credited IRBs with curtailing inhumane research, particularly in the biomedical sciences, as they were created to do. Many scholars have acknowledged that researcher mistakes impede timely review, and a number have advocated for presubmission protocol screening to minimize researcher errors and, ultimately, IRB delays. Prescreening and researcher education—particularly student training—could also ease the burden of overworked university IRBs.

Workloads and Organizational Challenges of University IRBs

There is near consensus that the workloads of university IRBs have grown in recent decades. This expansion is due in part to a half-century of growth in the creation of new disciplines, scholarly production, and research resource consumption. During that time, researchers and research participants became more mobile [24. Abbott & Grady, supra note 22, at 9, 14; Silberman & Kahn, supra note 22, at 599, 607. This diversity extends beyond the academy, as a study of Veterans Affairs and VA-Affiliated Medical Center IRBs demonstrated. See Todd H. Wagner, Anne Marie E. Cruz & Gary L. Chadwick, Economies of Scale in Institutional Review Boards, 42 MED. CARE 817, 817 (2004).]

25. See Schrag, supra note 22, at 122–23. But see Tim Bond, Ethical Imperialism or Ethical Mindfulness? Rethinking Ethical Review for Social Sciences, 8 RES. ETHICS 97, 104–07 (2012) (response to Schrag) (“The extent to which researchers and ethical reviewers engage in issues around the best methods for seeking adequately informed consent is arguably one of the hallmarks of the degree to which they are seriously committed to being respectful of research participants.”).


27. See Bond, supra note 25, at 104; Mary Faith Marshall et al., Perinatal Substance Abuse and Human Subjects Research: Are Privacy Protections Adequate?, 9 MENTAL RETARDATION DEVELOPMENTAL DISABILITIES RES. REV. 54 (2003); John H. Noble, Jr. & Vera Hassner Sharav, Protecting People with Decisional Impairments and Legal Incapacity Against Biomedical Research Abuse, 18 J. DISABILITY POL’Y STUD. 230, 241 (2008). On modern, unethical research as a conduit of institutional racism and neocolonialism, see Harriet A. Washington, Medical Apartheid: The Dark History of Medical Experimentation on Black Americans from Colonial Times to the Present 389 (2008). (“The bad news is that the racial mythology, the medical exploitation of black bodies for profit, and even the instances of medical sadism that threatened African Americans in the past have been exported to Africa.”). On 1990s U.S. government-funded research that denied HIV/AIDS drugs to pregnant women in Uganda, see Susan M. Reverby, Examining Tuskegee: The Infamous Syphilis Study and Its Legacy 228–36 (2009); see also Alexander M. Capron et al., Pace of Research Should Not Barrel Ahead of Ethical Safeguards, Bos. Globe, Aug. 6, 2015, at A15.


29. Bell et al., supra note 28, at 29; Abbott & Grady, supra note 22, at 16.


31. See Diana Crane, Invisible Colleges 171–87 (1972); Derek J. De Solla Price, Little Science, Big Science . . . and Beyond 9–10, 62 (1963); Ellickson, supra note 1, at 536–38; Posner, supra note 1, at 1119.
and reliant on new technologies that complicated issues of anonymity, consent, and confidentiality. Simultaneously, the U.S. government provided inconsistent guidance to human research protection programs on “covered research . . . who counts as a research subject” and other key terms. Some IRBs resolved definitional issues by erring on the side of expansive review, while others drew sharp lines that complicated multisite IRB review. Some researchers erred on the side of submitting protocols to their IRBs even when their research did not technically involve human subjects. Even seasoned researchers sometimes clogged IRB pipelines with numerous amendments to hastily designed and IRB-approved protocols.

Recent data from PRIM&R (Public Responsibility in Medicine and Research), a leading professional organization for IRB staff, demonstrates the workloads of modern IRBs. While more than two-thirds of IRBs employ fewer than five people (see figure 1), most IRBs process hundreds of protocol applications, amendments, and modifications each year (see figures 2 and 3).

Figure 1

IRBs Full-Time Staffing Levels (n=497)

35. Multisite or multicenter review is often required for human subjects research directed by researchers from two or more institutions. See Abbott & Grady, supra note 22, at 10–12.
36. For example, when it involved records of deceased individuals. See Solberg, supra note 33, at 337–38.
38. PRIM&R, 2014 IRB WORKLOAD AND SALARY SURVEY [summary statistics PowerPoint] (on file with author); see also Grad Assistants Help with One-Person Office, IRB Advisor, July 1, 2014.
39. There were 497 responses to the Number of Full-Time Equivalent Staff 2014 survey item.
Noting the workloads and challenges of university IRBs, academic law librarians can assist our IRB staff colleagues, faculty, and students by helping to reduce unnecessary submissions and improve the quality of submitted protocols. To do so, we must be conversant in the research designations employed by IRBs. Then, we can help our faculty and students to correctly classify their research, select the proper forms, and execute IRB requirements accurately and completely.

**Regulatory Classifications: The Four Review Designations IRBs Employ**

The work of IRBs is best understood in relation to the four research designations suggested by the Public Health Service Act (PHS) and its regulations, which appear in title 45 of the *Code of Federal Regulations*.42

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40. There were 526 responses to the Number of Initial Reviews of New Studies 2014 survey item. As is discussed below, even exempt protocol applications comprise a number of documents; greater-than-minimal-risk study protocols can be quite lengthy.

41. There were 526 responses to the Number of Amendments or Modifications 2014 survey item.

1. Not human subjects research
2. Exempt review permitted
3. Expedited review permitted
4. Full IRB review required

Not Human Subjects Research

¶11 Not all scholarly work requires IRB review. In a university setting, only those faculty, students, and staff planning to conduct research with human subjects must submit IRB protocols prior to commencing work. The phrase “human subject means a living individual about whom an investigator (whether professional or student) conducting research obtains (1) Data through intervention or interaction with the individual, or (2) Identifiable private information.”

¶12 The regulatory definition of human subject excludes historical research about deceased individuals, observations about the behaviors of large crowds acting in public, and some medical specimens.

¶13 Research refers to a “systematic investigation . . . designed to develop or contribute to generalizable knowledge.” Research data can be collected via surveys, interviews, educational tests, and other methodologies. However, if information is collected solely for quality improvement (QI) purposes, such as a library survey of law students’ preferences for print or electronic books, it will not be considered research by most IRBs. Scholars have noted that it can be difficult to draw distinctions between research and “not research” in practice-based data collection efforts. Law school clinics illustrate this dilemma. If a student presents an indigent client with a satisfaction survey, that might be strictly QI and not subject to IRB review. But if the clinic adds questions about the client’s long-term access to legal representation, those questions start to veer into research territory, particularly if the student hopes to generalize across clients and publish the findings. IRB staff can provide guidance on whether an exploration has crossed the research

43. 45 C.F.R. § 46.102(f).
45. 45 C.F.R. § 46.102(d).
47. Some seminal IRB guidelines assumed a biomedical research model that is ill suited to the social sciences and law. Gunsalus, supra note 30, at 626; see also Ethical Principles and Guidelines for the Protection of Human Subjects of Research [The Belmont Report], HHS.GOV (Apr. 18, 1979), http://www.hhs.gov/ohrp/humansubjects/guidance/belmont.html [https://perma.cc/K65X-4GUU]. On how some IRB members focus on whether research will produce a scientific product rather than how it is conducted, see Ivor A. Pritchard, Travelers and Trolls: Practitioner Research and Institutional Review Boards, 31 Educ. Researcher 3, 4 (2002).
If a project involves human subjects research, it will be subject to exempt, expedited, or full IRB review.48

**Exempt Review Permitted**

¶14 A large swath of human subjects research involves minimal risk to research participants49 and falls within a federal research exemption category. “Minimal risk means that the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.”50

¶15 Section 101 of 45 C.F.R. 46 lists six categories of minimal risk research that “are exempt from this policy,”51 including most research conducted in classrooms,52 survey research and interviews,53 and research involving existing data, if research participants cannot be identified.54 For some years, the U.S. Department of Health and Human Services (DHHS), which promulgates national IRB regulations, did not require any institutional review of exempt research.55 Officially, researchers were free to determine whether their research was exempt.

¶16 Regardless of the loose federal guidelines for exempt research, many universities required researchers to submit truncated exempt protocols to the IRB so that a professional staff member or single IRB member could determine whether the proposed research was exempt.56 Eventually, the Office for Human Research Protections (OHRP) at the DHHS recommended that “investigators not be given the authority to make an independent determination that human subjects research is exempt.”57 This updated guidance should signal academic researchers to submit exempt research protocols for review. Unfortunately, some researchers still interpret the word “exempt” literally and perceive no obligation to interact with the IRB.58 Education of the research community is an important, ongoing activity of the IRB. Law librarians can provide one-on-one, real-time research ethics education on an

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50. 45 C.F.R. § 46.102(i) (2015).
51. Id. § 46.101(b).
52. Id. § 46.101(b)(1).
53. Id. § 46.101(b)(2).
54. Id. § 46.101(b)(4).
58. Interview with Cathleen Montano, IRB Comm. Manager, Yale Univ. (June 25, 2015) (notes on file with author) [hereinafter Interview with Cathleen Montano].
as-needed basis. Specifically, law librarians can assist IRB staff in educating faculty, students, and staff so that exempt protocols are created and submitted; at some institutions, librarians can serve as designated exempt protocol reviewers. Law librarians can also spread the word that exempt review is typically much less time-consuming than expedited or full IRB review.

Expedited Review Permitted

¶17 If a human research study involves minimal risks to participants but does not fall within one of the federal exemption categories, it might be subject to expedited review. To secure expedited review, the research methodology must align with a category on the DHHS expedited review list of categories. Expansible research methodologies range from “[c]ollection of blood samples by finger stick, heel stick, ear stick, or venipuncture” to “[c]ollection of data from voice, video, digital, or image recordings made for research purposes.” Expedited protocols may be reviewed by “the IRB chairperson or by one or more experienced reviewers designated by the chairperson from among members of the IRB.” Typically, the IRB chair will select faculty reviewers who are familiar with a researcher’s chosen methodology (e.g., ethnography) or routine human subjects protection procedures in the researcher’s field (e.g., cultural anthropology). Selected single reviewers have the authority to approve a protocol, but cannot singularly disapprove of it. So, if they feel that research procedures will not adequately protect participants, the protocol must be routed to the full IRB for review at a future meeting.

59. This is true at Yale Law School, where I am a designated exempt protocol reviewer. But staff review of exempt protocols would not be required at schools with the most minimal forms of IRB review, as documented by the AAUP. Research on Human Subjects: Academic Freedom and the Institutional Review Board, supra note 12.

60. For example, a week versus a few weeks or one to two months for exempt, expedited, and full IRB review, respectively. On comparative review times, see Scott Kim et al., Pruning the Regulatory Tree, 457 Nature 534, 535 (2009).


63. 45 C.F.R. § 46.110 (“The Secretary, HHS, has established, and published as a Notice in the Federal Register, a list of categories of research that may be reviewed by the IRB through an expedited review procedure.”); see also Protection of Human Subjects: Categories of Research That May Be Reviewed by the Institutional Review Board (IRB) Through an Expedited Review Procedure [Notice], 63 Fed. Reg. 60364 (Nov. 9, 1998).


65. 45 C.F.R. § 46.110(b)(2).


67. 45 C.F.R. § 46.110(b)(2).

 Expedited reviewers—and full IRBs—review each proposal separately according to seven criteria specified in the federal regulations:

1. Risks to subjects are minimized . . . .
2. Risks to subjects are reasonable in relation to anticipated benefits . . . .
3. Selection of subjects is equitable . . . .
4. Informed consent will be sought from each prospective subject . . . .
5. Informed consent will be appropriately documented . . . .
6. When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects.
7. When appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data. 69

Reviewers pay particular attention to studies involving vulnerable populations, “such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons.”70

Full IRB Review Required

An IRB meeting comes to order when a “majority of the members of the IRB are present”;71 typically, this will be seven or more faculty members.72 IRB staff members also attend and provide regulatory guidance, record meeting minutes,73 and collect follow-up questions and directions for researchers,74 who are often referred to as principal investigators, or PIs, throughout the meeting.

At the start of each protocol discussion, a single IRB member might recite basic study information gleaned from the IRB application. Then, various board members will discuss human subjects protections issues they noticed when reading the entire submission packet, including recruitment tools (e.g., flyers), consent forms, interviewer training documents, and so on.75 If the research involves a “vulnerable population” such as prisoners,76 IRB members will critically examine

69. See 45 C.F.R. § 46.111(a). Note, there is some flexibility in the process. The regulations do not specify, for instance, that the seven criteria must be considered in the order listed above.
70. Id. § 46.111(b).
71. Id. § 46.108(b).
72. On average (i.e., mean) IRB sizes and compositions, see Raymond de Vries & Carl P. Forsberg, Who Decides? A Look at Ethics Committee Membership, 14 HEC FORUM 252, 253–54 (2002). De Vries and Forsberg found that the most common professional affiliation of an IRB member was physician. Id. at 254. This finding would not hold for social science–dedicated IRBs. Some institutions (e.g., Yale) bifurcate IRB work into biomedical and social science IRBs.
73. Meeting minutes are vital, as they are used in audits of IRBs and can demonstrate whether an IRB has met the burdens set out in the relevant regulations. Best Practices: Improving Meeting Minutes Documentation, IRB ADVISOR, Jan. 1, 2013.
74. Some examples of these are: “Please send us your revised consent form when it is completed,” and “Tell us more about how you will recruit participants in the rural areas.” Questions such as these were observed when I attended a full IRB meeting at Yale University on July 9, 2015. Sometimes protocols are approved even if the IRB requests additional documentation; sometimes protocol review is tabled until a researcher completes, corrects, or supplements a submitted protocol. See BELL ET AL., supra note 28, at 29; Abbott & Grady, supra note 22, at 16.
75. I observed this process when I attended a full IRB meeting at Yale University on July 9, 2015. For a rich collection of sample documents, see IRB Applications, Forms and Samples, Boise State Univ., http://research.boisestate.edu/compliance/institutional-review-board-irb-home/irb-applications-forms-and-samples/ [https://perma.cc/7JM-Q3L6].
76. 45 C.F.R. § 46.111(b).
“whether risks are minimized adequately” and make determinations about the protocol as required by the regulations. IRB staff will likely record explicit details of the discussion in the meeting minutes. Overall, the goal of the IRB is to promote ethical treatment of research subjects and sufficient screening to reduce the risk of a “federal for-cause audit” while also respecting diverse research methods and topics of study. Law librarians could assist IRBs by performing research and regulatory work across research review types.

Table 1 summarizes the four research designations discussed in this section.

Table 1

<table>
<thead>
<tr>
<th>Review Type</th>
<th>Research Type</th>
<th>Who Can Review?</th>
<th>Key Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exempt</td>
<td>Minimal risk and meets one of six exemption categories</td>
<td>Trained professional staff member, including law librarian or single IRB member</td>
<td>45 C.F.R. § 46.101</td>
</tr>
<tr>
<td>Expedited</td>
<td>Minimal risk and aligns with one or more expedited review research categories</td>
<td>IRB chair or IRB member(s) designated by chair</td>
<td>45 C.F.R. § 46.110, 63 Fed. Reg. 60364</td>
</tr>
<tr>
<td>Full IRB</td>
<td>Not minimal risk or does not meet either exempt or expedited review categories</td>
<td>Full IRB</td>
<td>45 C.F.R. § 46.111</td>
</tr>
</tbody>
</table>

Performing Research and Regulatory Work

Law librarians could perform research and regulatory work aimed at improving the quality of IRB submissions, increasing the efficiency of IRB review, and enhancing the empirical research practice literacy of law school faculty, students, and staff. In current practice, initial protocol screening is performed by IRB staff, who also field calls from researchers and train faculty, students, and staff. Most IRB staff have bachelors or masters degrees; some hold J.D. or doctoral degrees.

77. Risk-Benefit Assessment: One Size Doesn’t Fit All, IRB ADVISOR, Sept. 1, 2013; Interview with Cathleen Montano, supra note 58.
78. Price, supra note 32, at 40.
79. IRB Workload Sharing Strategy Reduces Board Member Fatigue, IRB ADVISOR, Nov. 1, 2014; see also Abbott & Grady, supra note 22, at 10–12; Solberg, supra note 33, at 337–38.
82. PRIM&R, supra note 38; see also Success with IRB Staffing Begins with Interview Process, IRB ADVISOR, Nov. 1, 2014 (“While 30 years ago an IRB could rely on a long-time employee who had
Like their IRB colleagues, law librarians handle informational telephone calls and e-mails, review drafts of research proposals, organize and catalog learning resources, and provide training on a host of research topics and methodologies. And law librarians tend to hold graduate degrees. Nearly all law library jobs require a masters in information or library science and “[a]bout one-third of all law librarians also have a law degree.” Additionally, our professional proficiency requires continual (re)training in new information systems, resource classification schema, and research techniques. Adding human subjects research services to academic law library portfolios would require training akin to what technical services librarians have completed to learn RDA (Resource Description and Access) or myriad law librarians have undertaken to hone their empirical legal research skills. Human subjects research services would align to the four designations employed by IRBs.

experience without credentials, this model is becoming rare. These days, IRBs increasingly are staffed with people who have bachelor’s and master’s degrees and human research subjects protection certification.”


86. See Chapman, supra note 85, at 211–12.

Not Human Subjects Research Library Work

¶24 Every IRB protocol review starts with a single question: Is this human subjects research? As previously discussed, both “human subjects” and “research” are defined in the regulations that govern IRB work. Still, applying these definitions to a specific research project requires information about local interpretations of federal regulations and judgment. For instance, each IRB is likely to have a slightly different bright line for what constitutes QI versus human subjects research.88 Given the rise of QI initiatives at health centers and among academic researchers, some IRBs have created educational materials and forms to facilitate researcher understanding and streamline requests for “not human subjects research” determinations.89 Law librarians can assist researchers in finding such documents and determining how to classify their work. In some instances, law librarians can render initial determinations of “not human subjects research” for their university IRBs.90

¶25 Some typical law faculty, student, and staff projects illustrate how such determinations might work. For instance, if a faculty member talked “on background” to attorneys at the Environmental Protection Agency to determine whether citizen lawsuits against the agency were increasing or decreasing, this would likely not be human subjects research. A law librarian could ask clarifying questions of the faculty member such as, “Do you plan to publish quotes from your discussions with these attorneys?” or “Are you going to aggregate their responses and publish those statistics?” A “yes” answer to either question would suggest that the faculty member might be conducting human subjects research. But the research might still be “not human subjects research” if all of the interview questions concerned agency trends rather than individual attorneys’ beliefs, experiences, or legal strategies.

¶26 Similarly, a student might interview members of the local bar association about their workloads, work-life balance, and career satisfaction. If the interviews were conducted as part of the student’s job-hunting process, they would not constitute human subjects research. But if the student hoped to publish an article in the local bar journal, the project would veer into human subjects research terrain. Comparably, if staff of a law school’s career development office (CDO) wanted to survey alumni about their ongoing professional development needs, that project would typically complement the office’s ongoing QI work. However, if the CDOs of five law schools surveyed their students and hoped to publish a cross-institutional analysis in an academic journal, that would signal human subjects research.

¶27 Law librarians could push patrons to consider their “best-case scenario” research goals (e.g., publication) to determine how likely they would be to cross the threshold of human subjects research.91 If a project were likely to cross that line, law librarians could help researchers determine whether to submit an exempt review application or an expedited/full IRB review application. Law librarians

88. See Bellin & Dubler, supra note 46; Casaret et al., supra note 46; Miller & Emanuel, supra note 46.
90. As previously noted, reviews that occur lower on the IRB pyramid, such as determining that work is not human subjects research, may be completed entirely by professional staff, including librarians. See Human Research Protection Program, supra note 48.
91. Retroactive approval of research that has crossed the human subjects research threshold is not possible. See Institutional Review Board, supra note 12.
could also assist researchers in understanding and completing required presubmission work, such as research ethics training.92

Exempt Review Library Work

¶28 Human subjects research that falls under one of the regulatory exemption categories still requires staff member review at nearly all U.S. universities.93 If the staff reviewer agrees that the research is exempt, the IRB will issue the researcher an exemption letter.94 This letter can be cited in research article footnotes.

¶29 Minimally, law librarians can assist faculty, students, and staff in assembling accurate and complete exempt protocols. At Yale, a Social, Behavioral, and Educational Research exempt protocol contains six components:

1. Conflict of interest form, submitted through the university portal
2. Human subjects research training (online certification)
3. Request for HSC Determination of Exempt Status form
4. Survey, interview, focus group, etc., script, if using a script
5. Consent form or script for verbal or written consent95
6. Recruitment document, if using a written recruitment instrument, or script for verbal recruitment (if applicable)96

¶30 Like Yale, most universities require each member of the research team to complete human subjects research training.97 Many institutions use a customizable training course created by the Collaborative Institutional Training Initiative (CITI).98 Researchers must repeat this training regularly (e.g., every three years), so faculty with previously accepted protocols might need to train again. In addition to assisting researchers in assembling their protocols, “deputized” law librarians can serve as staff screeners of exempt protocols.

¶31 Exempt protocol screenings revolve around a series of questions implicated by the regulatory exemption categories.99 A typical initial question, “Will you use existing data?,” is particularly relevant for law school constituents, who often mine government datasets. If legal data is reported at the institutional level, such as the number of prisoners housed in each U.S. prison, it will be classified as “not human

93. Ferraro et al., supra note 56, at 277; Howe & Moses, supra note 56, at 48; Exempt Research Determination FAQs, supra note 57.
95. Some surveys will include the consent language in a survey box/block/slide. In that instance, the consent language will be contained in item #4: survey instrument.
subjects research." And much human subjects justice data is anonymized before it is released publicly, so it will often qualify for exempt review. A reviewer employing an exempt review decision tree would likely determine that unidentifiable individual data merits a category 4 exemption (see figure 5).

¶32 If a human subjects protocol does not meet one of the exemption categories, law librarians can assist faculty members in preparing an expedited/full IRB review protocol submission.

Expedited/Full IRB Review Library Work

¶33 Both expedited and full IRB reviews must be handled by IRB members. Expedited reviews sometimes proceed more quickly because IRB chairs can designate the work to just one or two board members. But in either case, protocol approval takes significantly longer than exemption determinations. Additionally, completed expedited/full IRB review protocols are usually much longer than exempt review protocols. Some university IRBs maintain separate application forms for expedited and full IRB review, but many combine the two review types in a single application form.

¶34 As with exempt protocols, law librarians can assist researchers in assembling high-quality expedited/full IRB protocol submissions, including human research training certificates. At most law schools, this will be a low-volume service (e.g., fewer than a dozen per year). Beyond that work, law librarians can facilitate efficient, high-quality review by teaching patrons about the intent behind IRB review and by collecting human subjects research protection resources.

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101. See, e.g., U.S. DEP’T HEALTH & HUMAN SERVS., NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: GENERAL POPULATION SURVEY RAW DATA, 2010 (2014) (“To protect respondent privacy, all perpetrator names and/or initials have been anonymized as [PERP 01] . . . . ”).

102. Important exceptions exist, such as federally funded, preexisting, anonymized prisoner data; it typically cannot be exempt. Cathleen Montano and other members of the Yale HRPP have educated me about such issues. Readers are encouraged to ask local IRB staff about vulnerable population research, as such research reveals the nuances of the federal regulations.

103. See 45 C.F.R. § 46.110(b)(2). But see Kim et al., supra note 60, at 535, on how expedited and full board review times are identical for some protocols at some institutions.

104. I reviewed exempt protocol examples submitted at Yale, and they tended to be two or three pages long. By contrast, an expedited/full board protocol can run a dozen or more pages. I could not find solid guidance on the typical page lengths of exempt versus expedited/full IRB applications. I did find examples of remarkably long appendixes, such as twenty-seven-page (i.e., median length for the institution) consent forms. See True Simplicity Remains Elusive for IC Forms, IRB Advisor, Feb. 1, 2013.


107. I am generalizing from Yale, where the IRB typically receives fewer than a dozen IRB submissions from the law school each year. It is worth noting that Yale Law School has a relatively large cohort of law and social science faculty.
Figure 5

Sample Exempt Protocol Decision Tree

108. Created by Yale Human Research Protection Program and adapted by Ryan, supra note 96. Yale has a seventh category of exemption that most institutions will not have.
¶35 First, law librarians can educate patrons, particularly students, about the focus and intent of IRB reviewers. In my experience, student researchers tend to concentrate too heavily on their desired outcomes and too lightly on their research processes in IRB applications.109 That is, they focus on persuading reviewers that their projects are intellectually meritorious rather than reasonably safe. While the “anticipated benefits” of research matter to IRB members—and to drafters of federal regulations governing human subjects protections110—the management and minimization of risks to research participants is the focus of protocol review.111 Federal regulations repeatedly instruct IRB members to consider risks, consent, safety, and privacy.112 Law librarians can educate patrons about such considerations, including research data confidentiality. For instance, we can provide workshops on the pitfalls of cloud storage,113 write blog posts about health data regulations,114 and showcase data protection technologies during library orientations.115 To complement new educational offerings, we can collect resources on research risks and best practices in human subjects protections.

¶36 Second, law librarians can foster ethical study design by collecting human subjects research protection resources. These can include books about the history of research abuses and the rise of formal review,116 how modern IRBs operate,117 or how IRBs intersect with legal practice, particularly in health law.118 Additionally, law librarians can build bibliographies of published articles that divulge successful

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109. I have reviewed about a dozen new protocols at Yale Law School, some of which were not ultimately submitted to the Yale IRB. During previous work at other universities, I noticed a similar trend across a number of communication and public affairs graduate student protocols.


112. 45 C.F.R. § 46.111. While the regulations are not crystal clear on the distinction between privacy and confidentiality, members of our HRPP have indicated that privacy refers to the person whereas confidentiality refers to the data. Of course, context influences such distinctions.

113. Nancy J. King & V.T. Raja, *What Do They Really Know About Me in the Cloud? A Comparative Law Perspective on Protecting Privacy and Security of Sensitive Data*, 50 AM. BUS. L.J. 413, 414 (2013). (“Although consumers and companies may find economic and other advantages in adopting cloud computing for their information processing needs, they must also consider the risks of cloud computing for sensitive personal data.”).


116. E.g., REVERBY, supra note 27; LAURA STARK, BEHIND CLOSED DOORS: IRBs AND THE MAKING OF ETHICAL RESEARCH (2012); WASHINGTON, supra note 27.

117. E.g., ROBERT AMDUR & ELIZABETH A. BANKERT, INSTITUTIONAL REVIEW BOARD: MEMBER HANDBOOK (3d ed. 2011); INSTITUTIONAL REVIEW BOARD: MANAGEMENT AND FUNCTION (Elizabeth A. Bankert & Robert J. AMDUR eds., 2006); STARK, supra note 116.

human subjects protection measures. Legal researchers can consult the methodology sections and appendices of these articles for examples of research recruitment procedures, survey or interview scripts, informed consent texts, and so on. Teaching and collection efforts can round out the new service area, which will enhance existing reference, faculty service, and library outreach offerings.

**Conclusion**

§37 Human subjects research assistance makes sense as an academic law library service because it complements existing reference work, faculty services, and library outreach efforts. Reference librarians routinely assist researchers in finding studies related to their topics; human subjects research reference shifts this focus to the methods sections and appendices of published works. Faculty services librarians already track down documents for faculty research projects; IRB services add new forms and templates to the cacophony of resources obtained by faculty services librarians. Library outreach currently connects academic law librarians to their research communities in an effort to assess emerging needs; human research assistance addresses a need voiced by diverse faculty and students, including law school constituents. This new type of outreach signals a commitment to weathering challenging times via innovation.

§38 Like many law schools, law libraries are facing stagnant or declining budgets. In the wake of financial challenges and changes in legal education, academic law libraries are developing services consonant with emerging legal practice, research, and teaching areas. Though empirical research services still occupy a small segment of most law library portfolios, they can be among the most appreciated offerings, partly because they respond to unmet needs. Human subjects research support not only acknowledges faculty frustrations with university inefficiencies, but it also indicates that librarians understand the flow of faculty research work. Further, human subjects reference work can bolster empirical

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122. On how data services are sometimes more perceived and appreciated than other information services, see Glon, supra note 13, at 17; Simon Lord, *Closing the Gap: The Five Essential Attributes of the Modern Information Professional*, 14 LEGAL INFO. MGMT. 258, 262 (2014).

123. Supra ¶ 6 and notes 22–29.

research grant applications, demonstrating library recognition of the increasing emphasis on faculty revenue generation. Similarly, IRB support can enhance the quality of service to an institution of great importance to law students (and faculty): law reviews.

¶39 It is worth noting that sweeping changes have been proposed to the federal regulations governing IRB work. For instance, one of the largest alterations to the regulatory framework, or “Common Rule,” would allow PIs to self-determine that certain projects were exempt and self-report that determination to their IRBs. Such a system would likely increase the need for researcher education, decrease IRB review work, and increase randomized compliance check-ins with the PIs of exempt research. Law librarians should take away two points from the current discussion of proposed changes to the Common Rule: (1) education and protocol review support would still be needed under the new regime, and (2) widespread changes to human subjects research rules will take years to implement. Additionally, there might be an opportunity for law librarians to help students and faculty transition to new federal and campus practices.

¶40 More generally, a conversation about adding human subjects research services to an academic law library portfolio can spark information gathering and problem solving around a number of important questions, such as:

1. What is slowing down our patrons’ research?
2. What university research and teaching processes could the law library assist with, circumvent, speed up, disseminate information about, and so on?
3. What institutional work meshes with our existing skill sets in data discovery, resource acquisition, patron training, and administrative law?
4. What research and teaching support work meshes with our training in information science (e.g., research data management)?

¶41 These questions intimate the broader purpose behind this article: to contribute to the lively debate about the constitution of twenty-first-century academic law library services. The legal profession and law schools are changing, and so are law libraries. While no academic law library has the resources to offer every conceivable service, the addition of highly visible, low-volume, interesting, and value-added offerings like human subjects research support illustrate the sorts of exciting new initiatives we might explore in the coming years.

125. E.g., Law & Social Sciences (LSS), supra note 20.
129. This could be done using checklists or web-based tools. See Kathy L. Hudson & Francis S. Collins, Bringing the Common Rule into the 21st Century, 373 NEW ENGR. J. MED. 2293, 2295 (2015).
131. Id.
Discovering the Knowledge Monopoly of Law Librarianship Under the DIKW Pyramid

Alex “Xiaomeng” Zhang**

Introduction

Historical debates demonstrated that knowledge monopoly is a key to a profession. This article explores the exclusive knowledge base of the law librarianship profession through the lens of the Data-Information-Knowledge-Wisdom (DIKW) paradigm.

Knowledge Autonomy as the Core Characteristic of a Profession

Core Defining Characteristics of a Profession

Is Librarianship a Profession?

Is Law Librarianship a Profession?

Seeking Out the Knowledge Base—Filling the Gap Between Theoretical Studies and Practice

Epistemological Foundations of Librarianship

New Proposal: Epistemological Foundation Found in DIKW Hierarchy

Epistemological Foundations of Law Librarianship

Law Librarianship Through the Lens of the DIKW Hierarchy

Knowledge Base of Law Librarianship

Implications for the Future

Introduction

¶1 This article uses the Data-Information-Knowledge-Wisdom (DIKW) pyramid to help identify the exclusive knowledge base and practical skills that law librarians must possess to solve practical problems. Paragraphs 4–24 trace the historical debates on whether law librarianship is a profession, which focus on autonomy as a key component of a profession. The consensus is that autonomy boils down to two major issues: identifying problems and providing solutions through exclusive methods that are restricted to a profession. Both require a solid and exclusive abstract knowledge base.

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Paragraphs 25–77 discuss the epistemological approaches employed thus far to identify a knowledge basis for library and information science. This article argues that the epistemological approach is helpful to identify the nature of knowledge, but it does not reflect the moving feature of knowledge, that is, knowledge as a process to know. Therefore, the DIKW model is employed to examine the moving process. Examining law librarianship through the DIKW lens helps identify not only the abstract knowledge base but also the practical value that law librarians, as a profession, contribute exclusively and uniquely to society.

Paragraphs 78–80 propose building a strong knowledge and power base by searching for metanoia on three levels: by individuals, through local institutions, and through national associations.

Knowledge Autonomy as the Core Characteristic of a Profession

Core Defining Characteristics of a Profession

The word “profession” dates to the thirteenth century, though its more modern use, as an “occupation one professes to be skilled in,” appeared later during the early fifteenth century. In 1836, Samuel Warren described the nature and challenges of the legal profession as including “the keen competition . . . the publicity of the struggle, the obstacles impeding the acquisition of the necessary knowledge, the harassing nature of business, and of responsibility with scarce any intermission or alleviation.”

Defining what qualifies as a profession is no easier now than in 1915, when Abraham Flexner examined whether social work was a profession. Flexner started by formulating objective criteria of universally recognized professions and then examining whether a particular potential candidate, such as nursing or pharmacy, met those criteria. He first characterized learned professions like physicians and lawyers. He defined a profession as intellectual, learned, and practical. A profession must be intellectual in the sense that members of the profession “need to resort to the laboratory and the seminar for a constantly fresh supply of facts; and it is the steady stream of ideas, emanating from these sources, which keeps professions from degenerating into mere routine, from losing their intellectual and responsible character.” A profession must be learned and “the professional’s raw material is derived from the world of learning.” It also must be practical in object

5. “There are few professions universally admitted to be such—law, medicine, and preaching.” See Flexner, supra note 4, at 902.
6. Id. at 903.
7. Id. at 904.
and cannot be merely theoretical as an ultimate goal. In other words, to become a profession, an occupation must be independent. Its members must create knowledge to solve problems that can be solved only by the profession itself without relying on other professions or divisions of labor.

§6 Max Weber, though never focused on defining “profession,” laid out the main characteristics and elements of an ideal profession (Beruf⁹) throughout his work, Economy and Society. In Economy and Society, Weber identifies the major characteristics that distinguish priests from sorcerers: (1) association with social organization; (2) “professional equipment of special knowledge, fixed doctrine and vocational qualifications”;¹⁰ and (3) doctrine, the outstanding marks of which are “the development of a rational system of religious concepts and . . . the development of a systematic and distinctively religious ethic based on a consistent and stable doctrine which purports to be a ‘revelation.’”¹¹ In later chapters, he describes the development of legal professionals, the legal Honoratioren,¹² which are generally understood as “those classes of persons who have (1) in some way made the occupation with legal problems a kind of specialized knowledge, and (2) enjoy among their group such a prestige that they are able to impress some peculiar characteristics upon the legal system of their respective societies.”¹³ George Ritzer, in Professionalization, Bureaucratization and Rationalization: The Views of Max Weber, drew eleven defining characteristics of profession embedded in Weber’s Economy and Society. Among them, a rational system of knowledge solving special problems is again considered as the core feature of a profession.¹⁴

§7 William J. Goode, after reviewing a wide variety of definitions of “profession,” concluded that they shared two main characteristics: “(1) prolonged specialized training in a body of abstract knowledge, and (2) a collectivity or service orientation.”¹⁵ Knowledge must be organized in abstract principles and can be used to solve concrete problems. Professions must not only possess knowledge, but also create knowledge. Collective service orientation means that “the professional decision is . . . based on . . . the need of the client,” which requires control through self-regulation or external regulation, because “[o]nly to the extent that the society believes the profession is regulated by this collectivity orientation will it grant the profession much autonomy or freedom from lay supervision and control.”¹⁶ Goode again emphasized that autonomy results from the trust and approval of society, as

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8. Id.
11. Id. at 426.
13. Legal Honoratioren (Rechtshonoratioren), in id. at 147.
16. Id.
a consequence of maintaining independence from other players through a rational system of knowledge used to solve concrete problems.

Later in the 1970s, Eliot Friedson argued that “the only truly important and uniform criterion for distinguishing professions from other occupations is the fact of autonomy—a position of legitimate control over work.” The source of professional power comes from knowledge monopolies and gatekeeping. “Knowledge monopolies” refer to the control over the determination and evaluation of knowledge used in the work.

The profession . . . gains special occupational autonomy on the basis of its claim that its work is guided by knowledge too esoteric and complex for the layman to even evaluate, let alone share, that the knowledge guiding its work is as systematic and reliable (scientific) as the age permits and, finally, that the knowledge is schooled, stemming from a long period of training through which every practitioner goes.

As shown in the debate above, autonomy is established through specialized knowledge to solve unique problems that can be solved only by a profession. Derived characteristics vary among debaters, but knowledge monopoly is commonly recognized as a key factor.

Is Librarianship a Profession?

What about librarianship? Does it qualify as a profession? Does it meet the defining characteristics identified in paragraphs 4–8?

The most famous take on this issue was probably William J. Goode in 1961 through his article, *The Librarian: From Occupation to Profession?* After evaluating librarianship based on the two core standards, specialized abstract knowledge and service orientation, Goode claimed that librarianship is not a profession for two major reasons: first, lack of “a firm knowledge base and its recognition by the relevant publics,” and second, lack of a code of ethics regulating its service orientation.

More specifically, Goode argued that neither librarians nor society recognized a defined set of problems that only librarians can solve. As a result, no specialized system of knowledge can develop to provide solutions to the problems that do not exist or are not yet recognized by society. Consequently, “it is hard to know even in what sense or for what, an occupation demands autonomy.” The lack of service orientation is a consequence of the lack of abstract exclusive knowledge system. If a librarian’s job is to help readers find solutions to their research problems, then the librarian “must work within the client’s limitations, instead of imposing his professional categories, conceptions and authority on the client.”

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18. *Id.* at 167.
19. *Id.* at 174.
20. *Id.* at 341.
22. See discussion *supra* ¶ 7.
24. *Id.*
25. *Id.* at 316.
26. *Id.*
According to Goode, other recognized professions, such as lawyers and physicians, can solve problems regardless of whether the client understands what they are doing.27 In contrast, librarians, whose job is to assist clients to solve problems, do not possess exclusive powers or solutions to laypeople’s problems.

¶12 Goode is not alone on this. Many others shared the same concern long before 1961. In 1951, ten years before Goode published his article, Pierce Butler started off with the same emotional conviction and ended with a very similar and unfortunate conclusion. After a brief recount of the historical development of librarianship, Butler wrote, “For we all do believe that librarianship is a profession. . . But our belief here is an emotional conviction rather than a rational conclusion.”28 However, after rationally examining the field of librarianship, Butler concluded, “the librarian can be a librarian only in the degree that his scholarship becomes truly professional.”29

¶13 By scholarship, Butler meant “[t]he only real unit of scholarship is one in which scientific, technological, and humanistic elements are organically integrated by their relevance to a specific cultural routine.”30 He further explained that the cultural motivation, differing from lower vocational levels, must “not only be conscious and explicit, but it must be developed intellectually to the point that it becomes a specific humanistic discipline, just as distinctive and esoteric as the coordinate professional science and technology.”31 He argued that all three universally recognized professions (physicians, lawyers, and engineers) possess “real scholarship,” whereas librarians do not. He recognized that “[t]he intellectual content of librarianship undoubtedly consists of three distinct branches. It deals with things and principles that must be scientifically handled, with processes and apparatus that require special understanding and skills for their operations, and with cultural motivations that can be apprehended only humanistically.”32 But the real issue is that this intellectual content is not “so abstruse as to become a special professional scholarship.”33 He argued that library technology is so simple that a layperson can become an experienced library user overnight. Moreover, librarianship lacks the explicit humanistic discipline. Although librarianship promotes wisdom in society, librarianship’s role is too vague and other professions promote wisdom as well. At best, librarianship can play an assisting role to the other two professions that also promote wisdom—journalism and teaching. Butler concluded that in order for librarianship to be recognized as a real profession, a librarian must have a specific humanistic perspective, and “it is only by explicit study and discipline that he can thus exploit the humanistic possibilities and probabilities of his office.”34

¶14 Although Butler and Goode seem to approach the issue from different angles, they share a common concern: librarians cannot demonstrate their value as a profession and, therefore, have a hard time being recognized by society as a profession. Butler argued that librarians must demonstrate their value by showing

27. Id.
29. Id. at 247.
30. Id. at 242.
31. Id. at 243.
32. Id. at 245.
33. Id.
34. Id. at 247.
professional scholarship, an organic thing with three aspects: scientific, technological, and humanistic. In other words, librarians must show values of the discipline in all three areas. Goode examined librarianship at a more concrete level and claimed that librarians must seek out problems for which they can provide exclusive solutions in order to claim that librarianship is a profession. Therefore, both argue that librarianship is not a profession unless librarians can show society the value of their work and services, except that Butler elaborated it from a more abstract level, whereas Goode reasoned it from a more concrete level.35

¶15 Debaters in the 1950s and 1960s such as Butler and Goode failed to identify the knowledge monopoly of librarianship, and the lack of a theoretical systematic knowledge base in the librarianship field, according to both of them, discredits librarianship as a profession.

Is Law Librarianship a Profession?

¶16 Before we decide on whether law librarianship is a profession, we must first examine whether any distinct features distinguish law librarianship from librarianship in general. A review of the historical debates regarding whether law librarianship is a profession shows that first, law librarianship is generally considered as an intercategory of librarianship and legal profession36; second, law librarianship shares the same issue with the rest of librarianship, that is, lack of a definitive theoretical body of knowledge and public recognition as a profession; and ultimately, it lacks autonomy.

¶17 John Schultz in 1975 laid out several distinctive features of law librarianship as a profession, and once again, a knowledge base was considered key.37 Admitting doubt as to the librarian’s status as a member of a profession, Schultz claimed that “we deal with scholarly works and we have some of the trappings of professionalism.”38 He agreed that one of the attributes of professionalism is the possession of a specialized body of knowledge. However, he did not elaborate what exactly the specialized body of knowledge is and how to achieve it.

¶18 He is not the only person who has struggled to identify the knowledge base and ways to achieve it. In fact, looking back to the history of law librarianship, no consensus has yet been reached on the requisite skills and educational requirements for someone to become a law librarian. Elizabeth Caulfield traced the historical debates on the educational standards for law librarians back to the beginning of the twentieth century. Despite the ebbs and flows of the debate, there is still no agreement.39 Although there seems to be an agreement that “law librarians

35. There have been attempts to rebut Goode’s conclusion that librarianship is not a profession by coming up with a new model to define a profession. See, e.g., Michael Winter, The Professionalization of Librarianship (Univ. of Ill. Occasional Papers no. 160, 1983), https://www.ideals.illinois.edu/bitstream/handle/2142/3901/glisoccasionalp000000i00160.pdf?sequence=1.
36. This makes it even harder for law librarianship to assert the status of profession, as it seems to presume a reliance on the legal profession. It automatically leads to another important question: what distinguishes law librarians from other legal professionals? That question will be addressed later.
38. Id. at 156.
should distinguish themselves through knowledge,” there is no consensus on what the body of knowledge should be and how to achieve it even within the field. At the early stage of the debate, the expectation was high that “law librarians [should] be knowledgeable about ‘[t]he science of law, library science, and legal bibliography.” As a result, an ideal degree requirement would be “four years at college, then three years at law school and finally two years in a library school.” But then for a long time (even until today), the debate centered on whether two degrees are necessary, or whether one should be preferred over the other, or even whether the training can be achieved by experience as opposed to formal education. An essential, if not the only, reason for this unresolved disagreement is that no one can clarify what are (or ought to be) the essential tasks of a law librarian. If a law librarian’s job is book keeping, there is probably no need for any formal education, as cataloging and acquisition skills would be sufficient. If a law librarian’s job is to maintain a library, as Dean Arant of the Ohio State University Law School suggested, then whoever knows “something about the requirements of a library” can do it with or without formal education.

¶19 People advocating three-year formal legal education usually base their argument on the premise that a law school education trains people to solve legal problems. For example, Miles O. Price pointed out in order for someone to become a law librarian, he must possess “a background of general, technical and legal education enabling him to appreciate the breadth of the problems involved” and must know “how to present and use the material once it is on the library shelves.” But what problems are to be solved by law librarians exactly? Price seemed to suggest that a law librarians’ job is to assist lawyers, who will be the final resolvers of any legal problems.

¶20 The debate seems to center around the educational requirement, but the driving force behind it is to seek out what knowledge base and expertise law librarians actually possess and can maintain a monopoly over. Without a clear knowledge monopoly, we will not be able to identify the problems that can be solved only by law librarians or through what methodologies the problems will be solved. Law librarians will not be able to establish autonomy and therefore will not be able to claim a professional status successfully.

¶21 Furthermore, throughout the entire debate, there seems to be an underlying assumption that law librarians’ role is to assist lawyers and that law librarians are anxious to achieve endorsement by lawyers. For example, in 1936, William R. Roalfe pointed out that the librarian “cannot play his real part in the law school organization

40. Id. at 290, ¶ 7.
41. Id. at 290, ¶ 8 (quoting E.A. Feazel, The Status of the Law Librarian, 2 LAW LIBR. J. 21, 21–22 (1909)).
43. Caulfield, supra note 39, at 291, ¶ 12.
44. See Schultz, supra note 37, at 157 (“Professor Gallagher suggests that the technical services of the acquisition processing and cataloging of books can be operated without law-trained people.”).
45. Caulfield, supra note 39, at 297, ¶ 36.
47. See id.
unless he is both generally and legally trained.”

Lester Asheim, while emphasizing that lack of a law degree would not impair the law librarian, claimed that “it is my belief that [lawyers] will recognize the virtue of expert knowledge other fields as well, and that they will accord respect to a man who demonstrates his ability even in some field other than law.”

John Ritchie’s comforting remarks also demonstrated that law librarians’ eagerness to prove their professional status originated (at least partly) from dependence on the other profession, lawyers.

Nearly twenty years ago, Richard Danner affirmed the knowledge base as an essential element to define the library profession. Furthermore, he added two very important aspects to the discussion. First, knowledge, along with skills and shared values, are the core criteria of a profession. Knowledge refers to abstract knowledge, whereas skills are more practical: “In practice, professionals and clients alike are more likely to be concerned with whether a practitioner has the current skills or competencies needed to serve the client’s needs, than with the practitioner’s academic knowledge base.”

Values “inform and shape” the professionals’ “use of professional skills.” This paradigm implicates two major points. First, a knowledge base is the fundamental component of the three elements. Second, there is an assumption that practitioners in a profession are expected to serve clients (solving problems) using professional skills, derived from abstract knowledge. Again, Danner reemphasized the same consensus drawn through the historical debates about what constitutes a profession.

Danner understood that the knowledge base is changing. “[T]he knowledge base can be expected to change in response to changes in the information environment as new technologies grow in importance, and suggests specific areas where this will happen.” He specifically asked what knowledge and skills are needed for librarians to add value to “the information-seeking process in an environment that seems to require less mediation between individuals and the information they seek.”

The debate about the educational requirements of law librarianship also centered on the knowledge base of law librarianship. However, unfortunately, none of the debaters shed light on exactly what constitutes the abstract exclusive knowledge base. To answer this question, we need to look at the existing studies on the epistemological foundation of law librarianship.

Seeking Out the Knowledge Base—Filling the Gap Between Theoretical Studies and Practice

One major barrier that the entire profession of librarianship is facing in its claim of professional status is a lack of doctrine—a systematic body of knowledge.

49. Caulfield, supra note 39, at 301, ¶ 51 (quoting Lester Asheim, A Proposed Program of Preparation for Law Librarianship, in CHI. ASS’N L. LIBR. PROC. SECOND WORKSHOP ON L. LIBR. PROBS. 37, 37 (1954)).
52. Id. at 332.
53. Id. at 335.
54. Id. at 329 (emphasis omitted).
55. Id. at 316.
But what is knowledge? Epistemology, an important branch of philosophy, studies the theory and nature of knowledge.56

Epistemological Foundations of Librarianship

§26 There have been two major attempts to find the epistemological foundations of librarianship, one by Jesse Shera and one by Luciano Floridi. Both introduced a new component or perspective to the traditional theories of knowledge.57

§27 Shera and Margaret E. Egan proposed a new discipline, “social epistemology,” a term first coined by Egan.58 This discipline focuses on studying the epistemology of collective and social beliefs. The principle was first discussed in a 1952 article on examining the foundation of bibliography.59 Social epistemology is an obvious expansion of epistemology: “The derivation of the term is readily apparent. Epistemology is the theory or science of the methods and foundations of knowledge, especially with reference to the limits and validity of knowledge . . . . Social epistemology merely lifts the discipline from the intellectual life of the individual to that of the society, nation or culture.”60

In addressing the social dimensions of knowledge, [proponents] understand “knowledge” as simply what is believed, or what beliefs are “institutionalized” in this or that community, culture, or context. They seek to identify the social forces and influences responsible for knowledge production so conceived. Social epistemology is theoretically significant because of the central role of society in the knowledge-forming process. It also has practical importance because of its possible role in the redesign of information-related social institutions.61

§28 Shera claimed that social epistemology is best suited to the study of librarianship. According to Shera, the aim of librarianship is to “bring to the point of

56. There have been many attempts to apply philosophy to the library science studies in the modern age. Robert Labaree and Ross Scimeca summarized six categories of existing scholarship employing philosophy to study librarianship. These categories can be divided into two major benefits: the core benefit is that philosophy helps identify and broaden the theoretic foundations and core knowledge base of the librarianship: theoretically, philosophy (1) incorporates qualitative research methodologies; (2) helps critique and clarify the meaning of terms, concepts, and ideas; and (3) ultimately informs critical thinking about epistemology and metaphysics of librarianship studies. As a result, in practice, philosophy (4) guides librarians to better understand and refute criticisms of their profession such as the library’s role in the future; (5) helps librarians to resolve ethical dilemmas such as combating censorship, promoting intellectual freedom, etc.; and finally (6) helps librarians gain self-understanding and self-knowledge of the purposes of librarianship. In sum, philosophy helps librarians identify the values of the librarianship profession and advocate for more intellectual legitimacy. See Robert V. Labaree & Ross Scimeca, The Philosophical Problem of Truth in Librarianship, 78 LIBR. Q. 43, 43–46 (2008).


58. “So far as the present writer knows, Miss Egan never used the phrase in any published writing, but she used it frequently in class lectures and in conversation.” SHERA, supra note 4, at 112 n.8.


60. Id. at 132.

maximum efficiency the social utility of man’s graphic records,” and in order for a librarian to successfully master the job, he must have “not only a thorough understanding of the nature of that knowledge, but also an appreciation of the role of knowledge in that part of society in which he operates.”

¶29 Social epistemology is based on four assumptions. First, it is possible for the individual to know the environment with which he has personal contact. Second, the knowledge process is not just based on his immediate personal experience, but is a synthesizing process, whereby “man can achieve an intellectual synthesis with his environment and that that environment . . . includes remote and vicarious as well as immediate and direct experience.” The first two basic assumptions are based on the traditional individual epistemology principle. It is basically a recounting of the correspondence theory of truth and the coherence theory of truth (on an individual level).

¶30 The last two assumptions add the “social” ingredient. Third, “by co-ordinating the differing knowledge of many individuals, the society as a whole may transcend the knowledge of the individual.” And lastly, “that social action, reflecting integrated intellectual action, transcends individual action.” The last two assumptions reveal the core foundation of social epistemology that asserts that knowledge can be gained through a social process.

¶31 Shera argued that in the modern world, it is almost impossible for an individual to gain a complete understanding of the totality of the environment, and thus specialization becomes the only alternative. The only way that specialization “can achieve unity of action” is through “a rational synthesis of the collective contributions for the solution of inter-or-intra-disciplinary or group problems.”

¶32 Against this background, “a comprehensive and integrated system of bibliographic organization,” if developed, would “meet the needs of specialized groups for specialized information, provide the layman with syntheses and generalizations that would be guides to intelligent social action, and release sources of essential data for continuing research and inquiry.” In other words, the social epistemologist believes that knowledge building is a social process in the modern age. Librar-
ians not only build connections from individual knowledge to social knowledge, but also stand in between layman and specialists (who possess expertise in certain areas). According to Shera, the role of librarians lies in knowledge management. Thus, the epistemological foundation of knowledge management lies in the core skills and knowledge base that librarians must possess for successful knowledge management that can connect individual knowledge to social knowledge. In other words, Shera seems to believe that the essential role that librarians can play is between individual knowledge and public knowledge, creating a connection or bridge between two ends through knowledge management and skills.

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33 Shera focused on the social dimension of knowledge, which was considered an unsatisfactory foundation for library and information science (LIS) by Luciano Floridi.68 “Social epistemology,” Floridi asserted, “should rather be seen as sharing with LIS a common ground, represented by the study of information, to be investigated by a new discipline, [Philosophy of Information].”69 He regarded LIS as applied philosophy of information and argued that LIS “works at a more fundamental level than epistemology.”70 LIS studies information, more specifically it investigates “the properties and behavior of information, the forces that govern the flow and use of information, and the techniques, both manual and mechanical, of processing information for optimal storage, retrieval and dissemination.”71 Therefore, philosophy of information, concerned with both “the critical investigation of the conceptual nature and basic principles of information . . . and . . . the elaboration and application of information-theoretic and computational methodologies to philosophical problems,”72 should be the foundation of LIS.

¶

34 Floridi introduced the concept of information to the search for the knowledge base of LIS. He suggested that the study of information is broader than the study of knowledge, but did not elaborate on the difference between the two or define what information is. But he did imply that the information that LIS studies would be “documents, their life cycles and the procedures, techniques and devices by which these are implemented, managed and regulated.”73 This leads us to the question of what distinguishes knowledge from information.

New Proposal: Epistemological Foundation Found in DIKW Hierarchy

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35 Shera’s social epistemology and Floridi’s philosophy of information as the core theoretical basis of LIS do not necessarily conflict with each other. However, neither of the approaches reflects a holistic view of LIS studies and librarianship. In fact, I argue that the knowledge basis of LIS can be revealed in the DIKW hierarchy, which includes four essential elements: data, information, knowledge, and wisdom.

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36 Originally proposed by Russell Ackoff in From Data to Wisdom,74 this new hierarchy not only incorporates both Shera’s and Floridi’s theories of the major

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69. Id. at 37.
70. Id. at 41.
71. Id. (quoting Harold Borko, Information Science: What Is It?, 19 AM. DOCUMENTATION 3, 5 (1968)).
72. Id. at 43.
73. Id. at 46.
research targets of LIS, knowledge and information, but also includes two other major targets that have not been extensively considered as research objects of LIS: data and wisdom. More important, examining LIS in the DIKW hierarchy helps us to understand the ultimate goal of LIS studies in theory as well as the practical problems that LIS practitioners (librarians) try to solve: the client relationship, and ultimately, the value of the profession. In other words, the DIKW hierarchy provides a more holistic view of LIS studies and the profession both theoretically and practically.

§37 The DIKW hierarchy has been studied and fleshed out in many different perspectives since it was first proposed in 1989. Several of them are particularly helpful for our discussion. The first concerns the relationship between data, information, knowledge, and wisdom. Although Ackoff in his original paper defined the terms and articulated the differences among the four elements, Gene Bellinger et al. added an important medium to understand the relationship and nature of the four elements; that is, human understanding. By understanding, Bellinger et al. meant a synthesizing process from previously held information or knowledge. The process of understanding reflects two theories of truth, the correspondence theory of truth (from data to information) and the coherence theory of truth (from information to knowledge and from knowledge to wisdom). Besides adding the human component, another important contribution of the article is its assertion that the difference among the four elements lies in relations, patterns, and principles.

§38 Another important development of the DIKW hierarchy came from C.W. Choo’s study, where he added two additional components within the human understanding transitioning from one element to another. According to Choo, as we move from signals to data, to information, and to knowledge, changes from physical structuring to cognitive structuring and belief structuring occur. The transition from signal to data is a process of sensing and selection. The transition from data to information is a cognitive process involving identifying meanings. The transition from information to knowledge is a (true) belief structuring process involving justifying true belief, as knowledge is commonly identified as true justified belief. The top of the DIKW hierarchy is wisdom, defined as not only “accumulated and abstract knowledge,” but also “the ability to act critically or practically based on ethical judgment related to an individual’s belief system.” The development of human understanding and interaction is embedded in the entire process from the bottom to the top of the hierarchy.

§39 Each profession establishes its own DIKW hierarchy, and this process is also the process of building a profession. Furthermore, the process of changing data to information is the process of specialized knowledge building and creation process, which involves both physical (correspondence theory of truth based on sense and experience) and cognitive (coherence theory of truth based on inference)

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76. Id.
78. Id. at 174.
processes. The transformation of knowledge to wisdom is the process of abstracting
principles and values through knowledge and ethical judgments, which will be
employed to solve practical problems. The process reflects both the coherence the-
ory of truth and the pragmatic theory of truth.

§40 Therefore, exploring the identity of librarianship through the DIKW hier-
archy (incorporating knowledge theory and profession theory) will help us identify
not only the theoretical knowledge base but also the practical problems that librar-
ians can solve as a profession.

Epistemological Foundations of Law Librarianship

Law Librarianship Through the Lens of the DIKW Hierarchy

§41 The major difference that distinguishes law librarians from other librarians
is that law librarians predominantly work with legal information. The knowledge
base may include both library studies knowledge and legal knowledge, but the ulti-
mate problems that our clients try to solve are legal problems.

§42 Data, according to Ackoff, are “symbols that represent properties of objects,
events and their environment.”\textsuperscript{79} Types of data include any collection of facts and
can be stored in any format.\textsuperscript{80} They can come from any sources, such as statistical
data prepared by a government, research institutions, or individual researchers.
Professions in the legal field deal with all kinds of data.

§43 Information is processed data. It can be processed in different ways. Legal
information generally includes primary sources of law, such as cases, statutes, and
regulations; and secondary resources such as legal treatises, journal articles, and
newsletters.\textsuperscript{81}

§44 Legal information costs can be generally divided into two types of costs:
search-related information costs and comprehension-related information costs.\textsuperscript{82}
Search-related information costs refer to the costs associated with the information-
seeking process and activities. During the process, researchers can incur search-
related information costs due to time, energy, and money spent on identifying
appropriate resources in which to look up information. If appropriate resources are
correctly identified, costs can still arise due to time, energy, and money spent on
locating exact information within the resources. If researchers cannot identify
appropriate resources, costs will be higher, including not only the time, energy, and
money spent, but also costs due to financial, legal, and other unintended conse-
quences. For example, if an attorney tries to find a federal regulation, she will first
incur costs for finding the appropriate resources that contain federal regulations,
such as the \textit{Code of Federal Regulations} or the \textit{Federal Register}. If instead of relying
on an official and authoritative source, she relies on a random website found via
Google, she may not only waste all the time, energy, and money spent on searching
but incur higher financial or legal costs for relying on an incorrect source. Both
information overload and information deficiency can add to the search-related
information cost.

\textsuperscript{79} Id. at 166.
\textsuperscript{80} Data, in \textsc{International Encyclopedia of the Social Sciences} (William A. Darity ed., 2008).
\textsuperscript{81} Kent C. Olson, \textit{Legal Information: How to Find It, How to Use It} 8–9 (1999).
\textsuperscript{82} Mairtin Mac Aodha, \textit{Legal Lexicography: A Comparative Perspective} 79 (2014).
¶45 Comprehension-related information costs can arise due to lack of accurate understanding of the nature, content, and applicability of certain already-found or available information. For example, the same attorney who already located the exact regulation needed might fail to notice and examine the exemption provision of the regulation and thus fail to conclude that the regulation does not apply to her client’s situation, which falls right under one of the exempted situations. Here, the attorney’s failure to comprehend a key piece of information located causes the failure to find the truth based on all three theories of truth. She fails to find truth under the correspondence theory of truth in that the information she finds fails to correspond to her client’s actual factual situation. She fails to find truth under the coherence theory of truth in that the exemption provision is a coherent part of the regulation, and the failure to comprehend the exemption provision leads to failure to comprehend the entire section. Finally, she fails to find truth under the pragmatic theory of truth in that the information located is not valuable or functional, and failure to identify and comprehend appropriate information causes dire consequences. The two types of information costs can occur at any point during the search process. A searcher’s lack of ability to comprehend the nature, reliability, and function of a resource can incur both search-related and comprehension-related information costs.

¶46 Libraries are not producers of legal information, generally speaking. Legal information is usually produced either by the government (for primary sources) or by individual or institutional authors (for secondary resources). However, librarians can play a significant if not determining role in reducing information costs, both search-related and comprehension-related costs.

¶47 Knowledge is generally considered as justified true belief, though not without controversy. Social epistemology adds the cultural component to the understanding of knowledge. Legal knowledge reflects both theories. Legal knowledge is a process of knowing. According to James Boyd White:

Legal knowledge is an activity of mind, a way of doing something with the rules and cases and other materials of law . . . . [W]hat a lawyer knows at the center is how to speak and write the language of the law, in actual situations in the world—how to use legal language to create legal meaning. Legal knowledge is in the end not factual but rhetorical and imaginative.83

Thus, legal knowledge is a process of knowing legal information (and nonlegal, factual information and data).

¶48 Furthermore, it is subject to transformation over time, and it is “constantly created and recreated, differently by different minds on different occasions.”84 Legal knowledge is an art of expression by subjective minds, subject to “critical judgment, from the outside as well as the inside, and to propose, or perform, transformations of it.”85 It is also subject to the test of coherence all the time:

[T]he knowledge [of the Model Penal Code] requires in those who use it is not merely skill at interpretation, as that term is usually meant, but the knowledge of an art, an art of writing: a way of resisting what looks like entropy, as system after system, text after text, reveals incoherencies that cannot be rationalized away. It obviously cannot be taught or learned in

84. Id. at 1400.
85. Id. at 1401.
a mechanical or routine way, but calls upon capacities of invention and imagination. This is the kind of knowledge—a writer’s knowledge—that the Code calls upon us to have.86

\[49\] Legal knowledge is also subject to the test of correspondence theory and the test of pragmatism theory. Knowledge of law is gained not just through understanding primary legal texts, but, more important, by application and interpretation of doctrinal legal texts to the specific factual circumstances. Knowledge of law includes knowledge of primary laws, knowledge of facts, knowledge of cognitive legal reasoning that establishes correspondence between laws and facts, and coherence between laws and facts. Ultimately, legal knowledge is used to solve legal problems, demonstrating the pragmatic value of legal knowledge. For example, legal scholarship has been considered as a type of representation of legal knowledge. Edward L. Rubin, when discussing methodologies of evaluating legal scholarship, claimed, “the most distinctive feature of standard legal scholarship is its prescriptive voice,” which “distinguishes legal scholarship from most other academic fields.”87 Prescriptive voice is asserted by legal scholarship that is “intimately involved with legal doctrine.”88 The validity of the prescriptions of a piece of legal scholarship, according to Rubin, can be measured by whether “it actually did persuade the decision-maker, perhaps with the qualification that no calamitous result followed too quickly upon the decision-maker’s action.”89 For example, it might persuade a group or audience that “a judge should reach a given decision because certain consequences will flow from that decision, or that the legislature should enact a given statute because it will produce particular results.”90

\[50\] Prescription can be based on three types of claims, “norms, instrumentalism and authority.”91 Furthermore, as Rubin pointed out, normative arguments almost always underlie the instrumental ones; the legal scholar needs to persuade the judge or legislature that those consequences and results are desirable. Of course, all instrumental arguments ultimately rest on normative choices, but the crucial question for a scholarly field is how controversial these choices are, how far below the surface of the discourse they reside.92

\[51\] Rubin introduced four major criteria for evaluating legal scholarship: “a principle of normative clarity or coherence,” “convincing, [in terms of both] the author’s normative claims and his descriptive or expressive means of implementing those claims,” “significance, implying ultimate recognition and eventual acceptance,” and “applicability, whether the work contains an insight that makes sense according to the evaluator’s framework of legal analysis, . . . which suggests that the work contains insight that adds to the evaluator’s understanding.”93 Applying these criteria, true legal scholarship, one type of legal knowledge representation, reflects

86. Id. at 1411.
88. Id. at 1848.
89. Id. at 1850–51.
90. Id. at 1852.
91. Id. at 1851.
92. Id. at 1852.
three major theories of truth—corresponding to facts, coherent with other norms and doctrines, and of pragmatic value.

¶52 Wisdom is at the top of the paradigm. Jennifer Rowley and Frances Slack, after surveying literature discussing wisdom, summarized the following commonly agreed main facets of wisdom as something that

(1) is embedded in or exhibited through action; (2) involves the sophisticated and sensitive use of knowledge; (3) is exhibited through decision making; (4) involves the exercise of judgment in complex real-life situations; (5) requires consideration of ethical and social considerations and the discernment of right and wrong; and (6) is an interpersonal phenomenon, requiring exercise of intuition, communication, and trust.94

This definition involves both sophisticated use of knowledge and sound judgment, judgment based on ethical and social considerations. Ultimately, wisdom is interpersonal and builds trust.

¶53 Wisdom is indispensable for establishing the core values of a profession. In his article, In Search of Core Values, W. Bradley Wendel asserted that the true core value that distinguishes legal professionals from other occupational groups is not the simple loyalty to the clients. Instead, “lawyers are . . . not at liberty to pursue any of their clients’ ends; rather, their obligation is to seek to further their clients’ lawful ends.” Although “[c]onidentiality and loyal client service are rightly held to be core values,” “the obligations traditionally associated with the public, or ‘officer of the court’ role of the lawyer” are “the distinctive ones in comparison with other occupational groups.”95 So justice is the ultimate value that lawyers as a profession strive to preserve. Their (claimed) expertise (knowledge and judgment) to preserve, protect, and realize the core values is their most powerful justification for their autonomy and self-regulation.

¶54 Richard Danner surveyed both historical and contemporary statements on professional values of librarianship as a profession. The core values have been consistently and commonly considered as ensuring “ready public access to law.”96

Knowledge Base of Law Librarianship

¶55 Identifying the abstract knowledge base of the law librarianship profession requires answering two more practical questions. First, what are the practical problems that law librarians are equipped to solve in daily practice? Second, what are the skills required to solve these problems? The answer to the first question will determine the answer to the second question.

¶56 My methodology is to seek the answer through a close examination under the DIKW pyramid (based on the assumption that knowledge is a process to seek truth in a social dimension) from one phase to another. The examination will also reveal concrete problems that need to be solved at each phase and identify the common skills that are requisite for law librarians to successfully solve the problems. Finally, I argue both normatively and pragmatically that the problems I identified through the process can and should be solved only by law librarians because of the requisite knowledge and skills as well as the mission of the profession.

96. Danner, supra note 51, at 338.
Phase 1: Data

§57 Data is valuable, which can be demonstrated from the fact that almost all countries in the world now have at least two sets of data-related laws: data protection laws and information disclosure laws. The two sets of laws protect two competing interests related to the data, but both demonstrate the value and significance of the data.97

§58 However, for data to become useful, it must be preserved, collected, analyzed, and communicated, and then understood correctly. The process from data to information is one of extracting meaning and significance. Meaning and significance depend on several different factors: the accessibility of the dataset, the accuracy of the dataset, the cognitive ability of the data users, and ultimately the purpose of the data use. Technology may help with collecting, recording, and analyzing data, but technology serves only a supplemental role. The meaning and significance of data and data use ultimately depend on human beings. Every step (collection, recording, analyzing, and putting to use or reuse) involves subjective judgment and control at both the individual (data producers and users) and institutional levels. Michael Mattioli identified the following challenges with big data reuse which apply to other data use and disclosure.98 First, there is the difficulty of aggregating data from multiple sources, as data is “recorded and published in a wide variety of formats.”99 Mattioli believes that this barrier would be overcome in time as technology evolves.100

§59 The second barrier concerns collecting and organizing data that involves more subjective judgment, according to Mattioli. Understanding the source of the data, including data production and data collection methods, is imperative to data users. However, there is a lack of incentives for data producers to disclose their practices and methods at the data production stage. Mattioli argued that not only is there a “lack of affirmative economic incentives to disclose their practices,” but data producers may face strong disincentives to disclosure from regulations.101 To overcome this barrier requires institutional and government interference to balance the equally important yet potentially conflicting interests they need to protect, such as open disclosure versus privacy, and free market versus government intervention.

§60 Many professions and institutional actors are involved in the data producing and collecting process. Librarians shall play and have always played a significant role in the process, but unfortunately, librarians’ roles have been largely ignored both externally and internally. Public perception of libraries is always related to their collections of physical books. Libraries provide access to books, allow users to borrow books, and offer a place for users to read books. Based on this assumption, pessimists argue that libraries will disappear in the future because digital books will

99. Id. at 545.
100. Id.
101. Id. at 549.
eliminate the need for a physical place in which to read or borrow books, and access to books will be provided by computers through the Internet.102

¶61 Optimists argue that libraries will still exist in the future, but will be places to hold computers or to work as incubators, or as laboratories, where users work or learn with high-technology tools and equipment.103 However, the underlying assumption remains unchallenged: future libraries, according to the optimists, will still be physical environments that store computers or other high-tech tools.

¶62 What is missing is the public recognition that librarians have worked with data for a long time, and one of the major values of librarians is their expertise with data. The earliest library classification system, a cataloging system, dates to 1791, when the French government issued the first cataloging code in human history, described as “a paragon of brevity and practical simplicity.”104 Since then, many library classification schemes have been developed, including ones that are universally recognized in English-speaking countries, such as the Dewey Decimal System105 and the Library of Congress (LOC) Classification System.106 Similar systems have been developed in non-English-speaking countries. For example, CCL (Classification for Chinese Libraries107) is a subject-based classification system commonly used in China. In Japan, the Japanese Library Association developed its own library classification system in 1956, the Nippon Decimal System,108 based on the Dewey Decimal System. It has been commonly used in libraries across Japan since then.

¶63 The classification/cataloging systems and rules are what connect libraries with books, not the libraries’ physical locations. However, when the public thinks of libraries, they think mostly of the books, the staff who shelve the books, and the staff who check out books or, at most, the staff who recommend books. Library patrons are rarely aware that these staff members base their tasks on well-developed systems, just like attorneys and doctors do. But legal clients and medical patients are aware that their hired professionals work based on complex systems of principles or theories. Even if people are aware of a library classification system—after all, words like “LOC cataloging” or “Dewey Decimal System” appear on each book that belongs to a public, academic, or government library—they may not recognize the value or importance of the system.

¶64 This is probably why debates on the future of libraries center on the value of the libraries as physical spaces. Pessimists think that everyone can have a computer at home to access all the information and data they need, so we do not need

103. Id.
105. MEVLIL DEWEY, A CLASSIFICATION AND SUBJECT INDEX, FOR CATALOGUING AND ARRANGING THE BOOKS AND PAMPHLETS OF A LIBRARY (1941).
107. For more information about the Chinese Library Classification system, see http://clc.nlc.gov.cn/ [https://perma.cc/U3HN-YAGK].
108. For more information about the Japanese Library Classification System, see NDC: Nippon Decimal Classification, RITSUMEIKAN UNIV. LIBR., http://www.ritsumei.ac.jp/library/eng/service/libraryriyou/ndc_e.html/ [https://perma.cc/QLW3-8ATY].
libraries in the future. Optimists think we still need a community or a place that provides interactions among people and access to computers or other tools to learn, so the future of the libraries will be as a place holding high-tech tools as opposed to physical books. Both miss the central principle and system behind the libraries, the classification system. Similarly, the value of the public highway system does not lie in the physical tarmac or concrete roads that connect one city to another, but in the highway design and architecture system and the highway regulations. People probably will not be aware of that even if they drive on the highway daily, because the highway itself seems to be concrete and apparent just like the books held in a library. In contrast, the legal system and diseases seem abstract and therefore enigmatic. Not being perceived or recognized does not mean not existing. This lack of recognition threatens a profession, as public perception and trust matter to a profession, as shown in previous debates. But the problem is not unfixable.

65 As more and more materials become digital, the systems that connect libraries to the users will evolve to cover e-books and other electronic materials. Therefore, the future will focus on cataloging and metadata services, as they provide effective tools to help users understand, access, and use data properly. Understanding metadata rules is important not only to cataloging librarians, but librarians focusing on other areas, such as collection development, reference, and research. In addition, preservation of e-resources (as well as physical formats) is also imperative in the digital era and requires attention and investment in the librarianship field.

**Phase 2: Legal Information**

66 Librarians work with information. Librarians also help others work with information. Two major barriers to information are information overload and information deficiency (i.e., a lack of information). Often, the two barriers exist at the same time. Information overload is caused by too much “bad” information that creates barriers for people to find, use, and process “valuable” information. To overcome the barriers, users need to understand what to search, why to search, where to search, and how to search. For example, if someone with a prior conviction for bribery tries to determine whether he is eligible for an air traffic controller certificate, he must determine first what information he needs. That is, he needs to first find out who issues the certificate and what laws or regulations govern the specific eligibility requirements for the certificate. Once he identifies the exact information he is looking for, he needs to know what resources would contain the information he needs and how to find them. And finally, after he locates the appropriate governing laws and regulations, he needs to figure out whether the laws and regulations apply to his particular situation, that is, his prior bribery conviction.

67 Each single step involves gleaning valuable information from “bad” information—information that is irrelevant, nonessential or misleading, and confusing. To successfully complete this legal research or problem-solving process, the knowledge and skills required include knowledge of the political and legal system of a country, the authoritativeness of legal information, and the reliable resources that include relevant information. Law librarians and lawyers gain that knowledge from formal legal training at law school and from practice. No other profession possesses this special type of knowledge.
Moreover, the profession that possesses special knowledge on legal information resources is the law librarianship profession, not lawyers. Lawyers understand the nature of the legal system, including what constitute primary and secondary resources and which government branches or entities regulate what. Lawyers generally work with information resources in their specialized areas, but they do not study and examine information resources on a more abstract level or with a broader scope. For example, a lawyer who practices in a heavily regulated area such as tax works closely with the Internal Revenue Code and IRS regulations as well as all the other types of rulings, decisions, and orders issued by the IRS and judicial systems. He may be searching in a tax law database such as CCH or Checkpoint several hours a day, but he probably never spends time scrutinizing the database itself or musing on the accessibility and availability of information resources on tax law in general. When he was at law school, he was taught (probably by a law librarian) to find tax laws and regulations on certain free websites and in electronic databases such as CCH or Checkpoint. When he started practicing law, he was probably given a tutorial on what databases he had access to and how to use them (again, probably by another law librarian). Lawyers, here, are more like consumers of cars, whereas a law librarian knows the nature, the quality, and function of the car, as well as which car to choose among a wide variety of cars.

The expertise of a law librarian comes from her understanding of the nature of information resources, including their accessibility, availability, authenticity, and function, as well as the nature of the information. For example, most law students and lawyers end up using LexisNexis or Westlaw as their primary legal resource (the “car” they drive every day at work); however, no lawyers or students will delve into the inner deficiency of the database unless a problem reveals itself. A typical driver will not be aware of the mechanical problem with his own car until, on a random Sunday morning, the car does not start. Similarly, lawyers relying heavily on LexisNexis or Westlaw probably do not realize that the design of the database, including the searching algorithm, not only determines what they can find, but also how they approach a problem.

Two approaches predominate when it comes to constructing key words for the purpose of legal research: factual key words and key words for major legal principles or categories. Many law librarians critique the factual key words approach as it causes lawyers to approach a legal question based on facts as opposed to legal principles. For example, when asked a question on whether a worker who cleans a winery tank every day is required to wear any type of mask, inexperienced lawyers or law students would start with typing some key words or combination of the key words, such as “winery” and “mask” into the search bar of Westlaw or LexisNexis. If the appropriate primary sources they try to identify include these words, then they are lucky. If it turns out the primary sources that include those words are not relevant to their question, then they may end up wasting several hours moving in the wrong direction.

There are two issues here. First, users are generally unaware of the design of a particular database despite using it on an hourly basis. LexisNexis and Westlaw encourage factual key word searching because it is easier to understand and follow, and it functions similarly to Google, which younger generations were born or raised with. But the problem is that not every single word appears in the primary text of laws, regulations, or cases. Furthermore, although history repeats, each
single case scenario is unique, especially in its factual details. By using this key word searching approach, inexperienced lawyers or law students jump right into searching without first thinking of the governing principle or laws. Experienced lawyers or experts, on the other hand, would ask first, what is the more general question being asked here? Who regulates the people who employ workers cleaning tanks? Is the word “winery” really that important? What is so special (or not) about the winery industry? These questions to ask at the beginning of the search process involve so-called expert thinking. In other words, experts tend to recognize a pattern when it comes to thinking about problems.¹⁰⁹ Commercial vendors such as LexisNexis and Westlaw have neither the incentive nor the obligation to promote this type of thinking and reasoning. However, law librarians have both the expertise and the obligation to teach more sophisticated reasoning and analyzing skills in legal research. To develop expertise in this field, law librarians must develop knowledge of the design and infrastructure of information resources, including commercial databases, and also expertise in legal research and problem-solving process. The latter requires actual and constant research, which many librarians (including law librarians) do not perform.¹¹⁰

**Phase 3: Legal Knowledge**

Knowledge is true justified belief. It involves constantly testing information gained against reality (per the correspondence theory of knowledge) against the higher system or other knowledge (per the coherence theory of knowledge) and against the consequence of applying the knowledge for problem solving (per the pragmatism theory of knowledge).¹¹¹ More important, it is a process, a process in social context. It requires interacting and communicating with others. Legal scholars interact and communicate with others as part of the process of polishing their legal scholarship, which then influences others’ gaining knowledge. Study of “good” legal scholarship, including articles and treatises, is important to everyone in the legal profession. Making “good” scholarship available and accessible is a primary task of law librarians. This task involves not only the principle of what constitutes “valuable” scholarship (criteria may change based on individual circumstances and individual needs), but also an understanding of the nature and features of the information resources that contain “valuable” scholarship. Furthermore, librarians should engage with other colleagues, patrons, and professionals in general to communicate their own knowledge, as knowledge is a constant process. As Butler and Goode have suggested, librarians must produce scholarship to thrive as a

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¹¹⁰. Many research services in the academic law libraries of the United States are designed to help faculty members with bibliographic assistance.

¹¹¹. This theory was first set forth by John Dewey and then further developed by William James and Charles Pierce. See Russell Goodman, *William James, Stanford Encyclopedia of Philosophy* (rev. Oct. 29, 2013), http://plato.stanford.edu/entries/james/ [https://perma.cc/8JT-WHFN]. All three of them believed that truth is to be found through scientific methods. This pragmatic theory of truth influenced the development of U.S. law in many areas, such as civil procedure, contract, and corporate law. For a comprehensive discussion on the influence of pragmatism on U.S. law, see Richard A. Posner, *Law, Pragmatism, and Democracy* (2003).
profession,\textsuperscript{112} as knowledge kept to oneself will not survive as knowledge. It must be communicated to others to keep it as a moving process.

\textbf{Phase 4: Wisdom}

\textsuperscript{73} Wisdom, at the pinnacle of the DIKW hierarchy, involves every single transition down to the bottom of the hierarchy (data, information, and knowledge) and integrates and combines them into a higher level. It requires sophisticated understanding and use of data, information, and knowledge to achieve high-ended goals. In the legal field, the development of the legal system and principles reflects the development of wisdom. Librarians can play a significant role in the process. In the past, classification of legal information guided by West’s Key Number System (primary legal information, cases), as well as the Dewey Decimal System and the Library of Congress classification system, directly affected the development of U.S. legal system and legal principles.\textsuperscript{113}

\textsuperscript{74} Daniel Dabney, while critiquing the closed nature of West’s Key Number System, identified the main contribution and influence of the system: first, it classifies the entire legal system including categories of legal problems; second, it directs the way people think of legal problems and what legal questions to ask. Precisely because of these significant influences of the West’s Key Number System, the closed nature becomes a more serious issue:

If an idea doesn’t correspond to something in the Key Number System, it becomes an unthinkable thought. The essence of a classification scheme is to be a closed list of the salient ideas in the literature it serves, and when the system, by omitting an idea, implies that the idea is not sufficiently salient to be included, it can be an obstacle to considering the idea.\textsuperscript{114}

As the legal system and legal principles are constantly evolving and developing, the closed nature of the key number system can be a serious barrier for further development and innovation.

\textsuperscript{75} The Key Number System is based on the fact that the U.S. legal system is a common-law system driven by cases. This is definitely still true, but not without changes. For example, administrative regulations have become more and more important, both in the legal field and in people’s daily lives. Federal and state agencies regulate almost all areas of people’s lives, from labeling pickles to recalling cars. Core primary administrative laws are regulations, agency decisions, and orders. An appeal against an administrative law ruling generally first requires exhaustion of administrative remedies.\textsuperscript{115} The U.S. administrative law system, viewed independently from other primary sources of law, is a regulation-based as opposed to a

\begin{itemize}
\item \textsuperscript{112} See discussion \textit{supra} \textsuperscript{\textsuperscript{¶¶} 9–15.}
\item \textsuperscript{113} Robert C. Berring, \textit{Legal Research and the World of Thinkable Thoughts}, 2 J. APP. PRAC. & PROCESS 305, 311 (2000).
\item \textsuperscript{114} Daniel Dabney, \textit{The Universe of Thinkable Thoughts: Literary Warrant and West’s Key Number System}, 99 LAW LIBR. J. 229, 236, 2007 LAW LIBR. J. 14, \textsuperscript{¶} 31.
\item \textsuperscript{115} See 5 U.S.C. § 704 (2012) (“Agency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review. A preliminary, procedural, or intermediate agency action or ruling not directly reviewable is subject to review on the review of the final agency action.”).
\end{itemize}
decision-based system. There are hundreds of federal and state agencies in the United States. Although all agencies are required to publish their regulations and rules, agencies issue all different kinds of guidance, manuals, decisions, and orders in a wide variety of ways. It is a complicated and yet disorganized system. Updating agency decisions is also cumbersome. Although Westlaw and LexisNexis have started to cover agency decisions in their KeyCite and Shepard’s functions, many other materials are not otherwise covered. For example, in Westlaw, the Occupational Safety and Health Review Commission’s administrative law judge and commission decisions are covered by KeyCite, but standards interpretations issued by the Occupational Safety and Health Administration (OSHA) are not. Someone researching whether a particular OSHA standard interpretation is still effective will find KeyCite unhelpful.

¶76 There are many areas like this, and commercial vendors may not have an incentive (financial or otherwise) to invest in solutions. But a law librarianship profession that considers “equitable and permanent public access to legal information” as one of its core organizational values does have the obligation to promote more clear organization and accessibility of agency publications such as standard interpretations. Furthermore, this is an area in which law librarians can “add value to the information-seeking process in an environment that seems to require less mediation between individuals and the information they seek,” a partial answer to Danner’s question.

¶77 This is not a goal that can be accomplished by an individual or even by a few libraries; it is a goal that requires institutional support and the collective expertise of the entire law library profession. Moreover, if the library profession strives to add value to the process of creating wisdom, the profession must be supported by institutional norms. Adding value requires financial, intellectual, and institutional investments, but it is worth the investments, as it promotes the core value of the library profession and gains public trust and recognition, something librarianship as a profession generally lacks.

**Implications for the Future**

¶78 Law librarianship is a profession: it has an abstract knowledge base focusing on information resources and knowledge building; it helps others not only to solve practical problems but in solving problems for others it also possesses core professional values that are crucial to society as a whole. However, librarians’ main work objects are moving targets: information, knowledge, and even wisdom are constantly changing. Just as Danner correctly pointed out, “the knowledge base can be expected to change in response to changes in the information environment as new technologies grow in importance.” Furthermore, technology is not the only factor that drives information, knowledge, and wisdom to change. As DIKW shows, these elements change by nature.

117. See Danner, supra note 51, at 316.
119. See Danner, supra note 51, at 329.
Therefore, law librarianship as a profession must constantly strive to keep abreast and even get ahead of changes, both of which require institutional and collective efforts to build a learning profession. Donald Schon, when establishing a theoretical framework for building a learning society, stated:

We must learn to understand, guide, influence and manage these transformations. We must make the capacity for undertaking them integral to ourselves and to our institutions. We must, in other words, become adept at learning. . . . We must become able not only to transform our institutions, in response to changing situations and requirements; we must invent and develop institutions which are “learning systems,” that is to say, systems capable of bringing about their own continuing transformation.120

Peter Senge, in The Fifth Discipline, argued that a learning organization requires five key components: personal mastery, mental models, building shared vision, team learning, and, most important, system thinking.121 “At the heart of a learning organization is a shift of mind,”122 in other words, “metanoia.” To find metanoia, we need a shift of mind as a profession and as individual librarians. We need to identify librarians’ role in the transformation from data to information to knowledge to wisdom. Instead of observing the transformation from outside, we need to move ourselves along with the transformation. We need to realize that we are not just to respond to changes; instead, we are an important part of the change. We make the change happen. To find metanoia, we need to implement a shift of mind on all three levels—individually, locally, and nationally. Therefore, we need to add a new perspective to the debate on the expertise, skills, and educational requirements of law librarians: that is, how to be an organic and driving force of change in the DIKW process.

121. SENGE, supra note 1.
122. Id. at 12–14.
The history of court reporting of the federal lower judiciary dates from the early days of the Republic. Mr. Fishman helps to document that history by reviewing the publication of the reports for the Third Circuit (circuit and district courts) covering the nominative reports from the late-eighteenth to the late-nineteenth century, before their republication in Federal Cases by West Publishing Company. A bibliography is appended.

Introduction

¶1 The early history of court reporting for the United States Supreme Court has been covered in a number of recent volumes and articles.¹ The lower federal courts,
however, have not received as much attention. This article aims to fill at least one such gap by discussing the nominative court reports of the Third Circuit from 1789 to 1879, the year that West Publishing Company began its Federal Reporter.\textsuperscript{2}

\textsuperscript{¶} To start, some observations about the court reports of the lower federal judiciary of the nineteenth-century may be useful. First, there are 164 volumes of nominative reports covering the period from 1789 to 1887, including 127 circuit court volumes and only 37 district court reports. Most libraries today no longer possess these nominative reports, but contain the West version published as Federal Cases.\textsuperscript{3} This set of more than 18,000 cases is arranged in alphabetical order, so unless a researcher looks at a list of reports, it is difficult to determine the coverage of these reports. The introductory pages of volume 1 provide a preface with an explanation of how the book was compiled (pp. iii–vi), a chronological table of the circuits (pp. x–xi), the federal judges arranged by circuits and districts (pp. xiii–xxxviii), and titles of all sources obtained for the reports (pp. xxxix–xlvi). These reports were never considered complete, but were selected by the reporters.\textsuperscript{4} Table 1 shows the 127 volumes broken down by circuits and districts. Table 2 lists the breakdown for the district courts.

\textsuperscript{¶} Second, the scope of coverage differs significantly among the circuits: under the Judiciary Act of April 1802, six circuits were created, followed by the seventh circuit in 1807, and the eighth and ninth circuits in 1837. In 1862, a reshuffling of


\textsuperscript{3} The federal cases comprising cases argued and determined in the circuit and district courts of the United States from the earliest times to the beginning of the Federal Reporter, arranged alphabetically by the titles of the cases, and numbered consecutively (St. Paul, West Publishing Co. 1894) (31 vols.). The nominative reports are digitized in LLMC-Digital, http://www.llmc-digital.org/ (subscription required for full access).

\textsuperscript{4} SURRENCY, supra note 1, at 35–39.
circuits took place, and California, Nevada, and Oregon were added to a tenth circuit, which was later abolished in 1866 and reverted back to the Ninth Circuit.\(^5\)

§4 The First Circuit is covered from 1812 to 1875, less three years in midcentury. The Second Circuit for New York has only two volumes covering cases from 1810 to 1840, but twenty-four covering 1845 to 1887. Third Circuit cases cover 1801 to 1862, with a gap between 1834 and 1842, and a twenty-year gap after 1862. Although the Fourth Circuit reports cover 1793 to 1869, there are only nine volumes in total, including two volumes of *Marshall’s Reports* covering 1802 to 1835 and *Taney’s Reports* covering the twenty-five years from 1836 to 1861. The Fifth Circuit, revised in 1842 to consist of Alabama and Louisiana, later to be augmented by Florida, Georgia, Mississippi, and Texas, has coverage from only 1870 to 1883. The Sixth Circuit, originating in 1802, and Seventh Circuit in 1807, did not begin coverage until *Bond’s Reports* started in 1855 and *Flippen’s Reports* in 1859. The

\(^5\) Id. at 38.
Eighth Circuit began in 1839 and continued until 1883, with a seven-year gap between 1855 and 1863. The Ninth Circuit also began in 1855, but the bulk of the reports are Sawyer’s Reports covering from 1870 to 1884. Finally, the District of Columbia Circuit is covered from 1801 to 1841.

¶5 In addition, circuit court cases were published in other sources. First, Alexander James Dallas published cases from 1791 to 1806 in volumes 2, 3, and 4 of Dallas’s Reports, also known as volumes 2 to 4 of the United States Reports. Judge Francis Hopkinson’s admiralty decisions were published as part of volume 3 of his Miscellaneous Essays and Bee’s Admiralty Cases for South Carolina. Second, circuit and district court reports are found in full text or in an abridged version in various law journals published between 1808 and the 1880s, for example, American Law Journal (1808–1814), Pennsylvania Law Journal (1842–1848), American Law Register (1852–1896), and in legal newspapers such as Legal Intelligencer or Pittsburgh Legal Journal.

Third, there are collections of cases under topics such as Banning & Arden’s Patent Cases, Fisher’s U.S. Patent Cases, McArthur’s Patent Cases, Official Gazette, and Thompson’s National Bankruptcy Reports. How many of these cases were published in regular nominative reports has not been determined. In determining the importance of a case by the number of citations that later cite to it, researchers must Shepardize or KeyCite the case under each citation in both publications. A review may show that some cases are more important than originally thought.

¶6 These nominative reports contain additional information that usually includes a preface indicating why the reports were being published and by whom, biographies of judges as well as lawyers, and court rules of the various jurisdic-

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6. FREDERICK C. HICKS, MATERIALS AND METHODS OF LEGAL RESEARCH 35–39 (3d ed. 1942). Hicks provided the dates of coverage as well as the number of volumes per report. Hicks’s listing is different from Federal Cases in that the latter overlaps volumes in the circuits and between the circuits and districts. For purposes of this paper, I have used Hicks’s list.

7. Alexander Dallas published his Reports of Cases Ruled and Adjudged in the Courts of Pennsylvania, Before and Since the Revolution and covered Pennsylvania cases from 1754 to 1789. The second volume expanded its coverage: Reports of Cases Ruled and Adjudged in the Several Courts of the United States and of Pennsylvania, Held at the Seat of the Federal Government (1798). By enlarging the scope of the work to include the U.S. Supreme Court, the Pennsylvania Supreme Court, and Philadelphia Common Pleas Court, Dallas successfully recognized the importance of the Supreme Court and Pennsylvania courts. The succeeding three volumes contained cases from the circuit court from 1791 to 1806. Volume 2 had twenty-nine cases (pp. 294–398), volume 3 had four cases (pp. 510–19), and volume 4 had twenty-eight cases (pp. 325–432).

8. The Legal Intelligencer (1842–present) was the official legal newspaper for the Philadelphia courts and is now considered the oldest continuous legal newspaper in the country. The Pittsburgh Legal Journal (1853–present) was the official legal newspaper for the Allegheny County courts and is now considered the third oldest continuous legal newspaper in the country. Both newspapers published full-text cases of the Pennsylvania Supreme Court, as well as federal court cases during the nineteenth century.

9. HICKS, supra note 6, at 490–92. Hicks lists twelve or thirteen different titles of reports under this category whose starting dates begin before 1879, though I have not included all of them that I know were published later than 1870.


tions. These materials do not appear in a computer database, nor do the usually
detailed indexes found at the end of each volume. In addition, some publishers
included their sales catalogs, which may be helpful to scholars interested in law
publishing.12

¶7 A third observation is that only a limited number of contemporary reviews
include these court reports, and they are difficult to locate because they do not
appear in the standard legal indexes (for example, Jones-Chipman Index to Legal
Periodical Literature). With the nineteenth-century periodicals now available
electronically through HeinOnline, it is possible to search and locate book reviews. The
reviewers generally provide important comments about the volume, both as to the
reporter’s capability in presenting the reports and as to the publication itself. This
comment also is true for state reports and treatises, for those researchers consider-
ing writing a history of legal literature on a state level.13

¶8 The first part covers organization of the courts; the second and third sections
cover the circuit courts and district courts, respectively, providing each set of
reports along with biographical sketches of the judges and the court reporters, and
some comments on the publication of the reports. The appendix presents a detailed
bibliographical description of each volume of the reports.

Court Structure

¶9 Statutory law provides for the court structure of the United States. Under the
U.S. Constitution, “[t]he judicial Power of the United States, shall be vested in one
supreme Court, and in such inferior Courts as the Congress may from time to time
ordinant and establish.”14 The Judiciary Act of 1789 created both circuit and district
courts.15 Section 2 provided for district courts within each state, while section 3
provided for district judges in each district. Section 4 set up the circuit courts with
three circuits: Eastern, Middle, and Southern. The Middle Circuit consisted of New
Jersey, Delaware, Pennsylvania, Maryland, and Virginia. Each circuit court consisted
of one district court judge and two Justices of the Supreme Court.16 In 1793, the
circuit courts had the number of Supreme Court Justices reduced to one because of
too much travel time for both Justices.17 This was followed by an 1803 act that let
the single district court judge hold court by himself.18

¶10 President John Adams’s adoption of the Judiciary Act of 180119 in the closing
days of his administration revised the court and resulted in the appointment of the

12. For instance, volume 2 of Dallas’s Reports (1806) contains two catalogs of the Philadelphia
bookseller, Patrick Byrne, a noted Irish emigrant, who on at least one occasion sold books to President
Thomas Jefferson.
13. Swisher, supra note 2, at 297 n.15. Swisher provides a list of reviews in the periodicals for
various state and federal court reports. He states that “[r]eviews of state court reports during the
Taney period are themselves worthy of independent research.” For a recent article, see Richard A. Danner,
scholarship.law.duke.edu/faculty_scholarship/3480.
16. Id. § 4.
18. Act of Apr. 29, 1802, ch. 31, § 4, 2 Stat. 73, 78–79.
19. Act of Feb. 13, 1801, ch. 4, 2 Stat. 89. The official name of the act was “An Act to Provide for
the More Convenient Organization of the Courts of the United States.”
“midnight judges” that led to the famous case of *Marbury v. Madison*.\(^{20}\) The act created six circuit courts with three judges in each court (a chief judge and two associates). Under section 6, the Third Circuit consisted of the “districts of Jersey, the Eastern and Western districts of Pennsylvania, and Delaware.”\(^{21}\) President Jefferson repealed the act and restored the previous court system the following year in the Judiciary Act of 1802.\(^{22}\) A successor act passed a month later redefined the court system in which six circuits were restored, with New Jersey and Pennsylvania consisting the Third Circuit and directed to meet two sessions a year in April and October.\(^{23}\) The Judiciary Act of 1866 increased the number of circuits to ten and revised the states within each circuit, adding Delaware back to the Third Circuit, joining Pennsylvania and New Jersey.\(^{24}\) Three years later, an additional circuit judge was added to each circuit, holding the same power and jurisdiction as the Justice of the Supreme Court who sat in that circuit.\(^{25}\) The legislation then defined which judges could sit together or alone on the court. No additional changes occurred until the revision of the circuit courts in 1891.\(^{26}\)

¶11 The District Court of Pennsylvania was split into an Eastern and a Western District in 1818.\(^{27}\)

**Third Circuit Court Reports**

¶12 Before discussing the nominative reports, it should be pointed out that Alexander James Dallas published circuit court cases in his *Reports of Cases Ruled and Adjudged in the Several Courts of the United States, and of Pennsylvania, Held at the Seat of the Federal Government*; these cases were published in volume 2 in 1797 (pp. 294–398), volume 3 in 1799 (pp. 510–19), and volume 4 in 1807 (pp. 329–432). These volumes are volumes 2 to 4 of the *United States Reports*.\(^{28}\) There were five sets of reports published in ten volumes of reports covering the federal circuit courts from 1789 to 1862 and six sets of reports published in nine volumes for the federal district courts for 1789 to 1879.\(^{29}\) Table 3 shows the reports for the Third Circuit. The run of cases from 1801 to 1833 and then 1842 to 1862 consists of 753 cases.

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21. 2 Stat. at 90.
29. I have placed *Fisher’s Prize Cases* within the district court listing following Hicks’s arrangement. Hicks, supra note 6, at 486. *Federal Cases* lists it as a circuit report.
¶13 For the Third Circuit under Chief Justice Marshall (1801–1835), Herbert Johnson counted 3620 cases from *Federal Cases* classified “by date of decision, court of origin, judge delivering the opinion, and points of law involved in the case.” Of twelve legal categories, Table 4 contains the number of legal categories in opinions by justice, followed by Table 5 on the “points of law decided in each reported circuit court case and . . . calculate[d] . . . percentage of a justice’s circuit time . . . devoted to such matters.”

¶14 Table 6 contains a breakdown of twenty-two categories into the number of points of law digested under the West Digest System according to each jurisdiction.

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31. *Id.* at 116.
of New Jersey and Pennsylvania with a certain number of excluded miscellaneous cases.32 Table 7 then contains a more limited listing of cases that had complete information between the Supreme Court and Circuit Court. The table shows Baldwin with 51 digest topics broken down under 21 categories (excluding 43 miscellaneous cases), while Washington has 525 digest topics broken down under 21 categories (excluding 384 miscellaneous cases).33

¶15 For Washington’s period of time on the court, Johnson found 245 Supreme Court points of law and 909 circuit court points of law. For Baldwin’s time on the court, Johnson found 76 Supreme Court points of law and 94 circuit court points

32. Id. at 265, 270, 273.
33. Id. at 282, 290.
of law. For both Justices, then, there were 321 Supreme Court points of law and 1003 circuit points of law.34

Wallace Senior’s Reports

¶16 John Bradford Wallace (1778–1837) was admitted to the Philadelphia bar on December 9, 179935 and became a leader of the Philadelphia bar in the early nineteenth century. He married the sister of Horace Binney and had six children,

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34. Id. at 118 n.b, 119 n.i, and summarized from Points of Law Decided by Supreme Court Justices in United States Circuit Courts, 1801–1835, app. B, at [278–79, 282–83, 290–91].

35. JOHN HILL MARTIN, MARTIN’S BENCH AND BAR OF PHILADELPHIA 320 (Phila., Rees Welch & Co. 1883).
including Horace Binney Wallace and John William Wallace. His uncle was William Bradford, Attorney General of the United States. He was elected to the Pennsylvania legislature for three terms. He published his *Reports of Cases of the Third Circuit United States Court* in 1801. He also edited *Abbot on Shipping* (1802) and was a founding member and on the first board of directors of the Law Library Company of the City of Philadelphia (1802) (today Jenkins Law Library).

¶ 17 His *Reports* contain the only cases of the Pennsylvania Circuit Court created under the Federalists’ Judiciary Act of 1801. The judges of the court were William Tilghman of Pennsylvania (chief justice), Richard Bassett of Delaware, and William Griffith of New Jersey.

¶ 18 William Tilghman (1756–1827) grew up in Maryland, but graduated from the College of Philadelphia (B.A., 1772) and read for the bar and was admitted to the Philadelphia bar on September 1, 1794. He served as a representative in the House of Delegates (1788–1790) and senator (1791–1793) before moving to Philadelphia to practice privately from 1794 to 1801. He was appointed by President John Adams on March 2, 1801, as chief justice of the Third Circuit under the newly passed Judiciary Act of 1801, serving until March 8, 1802. He returned to private practice until 1805, when he became a judge of the Philadelphia Court of Common Pleas and was appointed by the governor to the Pennsylvania High Court of Errors and Appeals for a year. In 1806, he was appointed chief justice of the Pennsylvania Supreme Court, serving until his death in 1827. In his last years, he also served as president of the American Philosophical Society (1824–1827).

¶ 19 Richard Bassett (1745–1815) read for the law and was admitted to practice in Delaware. He participated in the Delaware Constitutional Conventions of 1776 and 1792; was a member of the Delaware Senate (1782) and the State House of Representatives (1786); attended the Constitutional Convention in 1787, where he signed the U.S. Constitution; served as a federal senator (1789–1793), chief judge of the Delaware Court of Common Pleas (1793–1799), and governor of Delaware (1799–1801); and was appointed by President Adams in 1801 to the circuit court. Following his service on the court, he returned to his plantation home in Cecil County, Maryland.

36. George Egon Hatvary, Horace Binney Wallace (1977); *Obituary, the Late Horace Binney Wallace, Esq.*, 1 Am. L. Reg. 310 (1852).
40. Martin, supra note 35, at 318.
41. The Pennsylvania High Court of Errors and Appeals took appeals from the Supreme Court. It was a short-lived court that existed only from 1790 to 1806. Its reports can be found in *Dallas's Reports, Addison's Reports, and Binney's Reports*.
¶20 William Griffith (1766–1826) was born in Boundbrook, New Jersey, and read law in 1788. He practiced privately in Burlington, New Jersey (1789–1801, 1802–1826); was surrogate in Burlington County (1790–99); sat as a member on the Burlington Common Council (1793–97) and the New Jersey Assembly (1818–1819, 1823–1824); and served as mayor of Burlington (1825–1826).44

¶21 Wallace served as a reporter, obtaining copies of the opinions from the judges themselves, wrote points of counsel, and provided the substance of the argument on each side. He went on to state that

[i]t may be thought that I sometimes give to the arguments a cast rather more forensic than is usual in the modern style of reporting; and that I too frequently introduce into the principal report, colloquial and incidental matter. I am not conscious, however, of having indulged this too far; and where I have yielded to it, I promise myself, it will be found to answer some useful purpose; and to present, if not so much of symmetry, at least a more natural exhibit of the case.45

This report contained eighteen cases, with two more published in its reprint in 182846 and one case reported in appendix 1 of 1 Wallace Jr.’s Reports.47 Three of the cases deal with William Duane, publisher of the *Aurora*, one of the leading Philadelphia newspapers, whose editor supported President Jefferson against the Federalists. An interesting feature of the report is that the judges issued some of their opinions *seriatim* similar to the U.S. Supreme Court at this time.48 Wallace, in his preface, dated October 1, 1801, assured his readership that he would continue publishing the reports of the Third Circuit.49 However, the Judiciary Act of 1802 ended the court and ended that idea. A contemporary reviewer stated that “Mr. Wallace’s Reports ended with a single number, leaving us only to regret that he who has shown us how well he could report, has not gratified the public expectation, in respect to the same court, since Judge Washington presided in it.”50

Peters’s Circuit Court Reports

¶22 The judges in *Peters’s Circuit Court Reports* consist of Bushrod Washington sitting as the circuit court judge, with Robert Morris as the district court judge of New Jersey and Richard Peters as the district court judge of Pennsylvania. Richard

49. 1 Wallace Sr.’s Rep., at vi.
Peters (1744–1828) succeeded the one-year appointment of William Lewis, as the third judge of the district court in 1792, and served thirty-six years on the court. He attended the College of Philadelphia in 1761 and read law in 1763, before being admitted to the Philadelphia bar on September 26, 1765. He was in private practice for more than ten years (1763–1771, 1783–1787); served in the Continental Army (1771); was register of admiralty in Philadelphia (1771–1776); served as secretary and member, Continental Board of War (1776–1781); was a delegate to the Continental Congress (1782–1783); and served as both a state representative (1787–1790) and state senator (1791–1792) in the Pennsylvania legislature. Aside from politics, he was a devout Episcopalian and helped found the Protestant Episcopal Church in the United States and consulted with President Washington over agricultural innovations. President Washington nominated him on January 12, 1792, and he was confirmed by the Senate the next day. He sat on the court until his death. During that time, he sat with the early Justices of the U.S. Supreme Court in the 1790s, but mainly with Bushrod Washington once he was appointed circuit judge upon his appointment to the Supreme Court.

Richard Peters, Jr. (1779–1848) was the son of Richard Peters, who was admiralty judge in the Eastern District of Pennsylvania. The junior Peters was admitted to the Philadelphia bar on December 3, 1800. He first published the Admiralty Decisions in the District Court of the United States (1807), followed by his Reports of the Circuit Court of the Third Circuit (1819), and finally Reports of Cases Determined in the Circuit Court of the United States for the Third Circuit (1826–1829). He followed Henry Wheaton as the fourth Supreme Court reporter from 1828 to 1843. Craig Joyce suggests that it was because of Peters’s publishing efforts and his father’s friendship with Washington that he came to edit Bushrod Washington’s Reports. He was the solicitor for Philadelphia County from 1822 to 1835 and helped to found the Philadelphia Savings Bank. He is best remembered over the copyright case of Wheaton v. Peters, in which the Supreme Court held that its opinions could not be copyrighted.

In the preface to the Reports, Peters stated his indebtedness to Bushrod Washington, from whose notebooks he compiled these reports, adding that Washington had not intended to publish the reports at all. Peters suggested that he would have omitted his name from the reports, but Washington insisted, although Peters recognized that this was only the first of several volumes of cases covering

51. William Lewis sat for only one year and went back to a profitable private practice. He was considered one of the leaders of the Philadelphia bar in the late-eighteenth/early-nineteenth centuries as described in Horace Binney, Leaders of the Old Bar of Philadelphia 9–45 (Phila., Printed by C. Sherman & Son 1859), and more recently in Robert R. Bell, The Philadelphia Lawyer: A History, 1735–1945, at 83–87 (1992); see also William Lewis, Biographical Directory of Federal Judges, supra note 2.
52. Martin, supra note 35, at 301.
53. Richard Peters, Biographical Directory of Federal Judges, supra note 2; see also Bartle, supra note 2, at 20–30, for Peters’s role on the court.
54. Martin, supra note 35, at 301.
55. See the listing in the appendix for the complete title.
56. See the listing in the appendix for the complete title.
57. See the listing in the appendix for the complete title.
58. 33 U.S. 591 (1834).
59. Cohen & O’Connor, supra note 1, at 61–74; Joyce, The Rise of the Supreme Court Reporter, supra note 1, at 1351 n.373; White, supra note 1, at 385–426.
the circuit court. The cases reported are from the district courts of New Jersey and Philadelphia. The cases cover New Jersey from 1803 to 1818 and Pennsylvania from 1815 to 1818. There are ninety-three cases reported, twenty from New Jersey and seventy-three from Pennsylvania. Morris is only mentioned as giving an opinion in one early New Jersey case against Washington, while Richard Peters delivered none. Fourteen cases were by the court. Of seventy-eight remaining cases, Washington delivered sixty opinions and eighteen jury charges.

Washington’s Reports

¶25 These reports are named for Bushrod Washington (1762–1829), nephew of President George Washington and his executor, who served on the U.S. Supreme Court from 1798 until his death in office on November 26, 1829. Washington graduated with a B.A. from the College of William and Mary (1778), listened to George Wythe’s law lectures in 1780, served in the army at the time of the defeat of Cornwallis in 1781, and read law under James Wilson in 1782 and 1783. He practiced law in Virginia in the following years, attended the Virginia Convention ratifying the U.S. Constitution in 1788, and returned to private practice from 1790 to 1798. President John Adams made a recess appointment on September 28, 1798, and then a regular appointment on December 28, 1798, and Washington took the oath on February 4, 1799, as Associate Justice of the U.S. Supreme Court. He served thirty years, ten months, and twenty-two days.

¶26 He wrote eighty-one opinions on the Supreme Court and more than 500 opinions on the circuit courts. David Farber has written the most extensive article about these decisions. David Paul Brown of the Philadelphia bar wrote effusively of Washington on the court: “Perhaps the greatest nisi prius judge that the world has ever known, excepting Chief Justice Holt or Lord Mansfield, was the late Justice Washington.” He lauded “his great perspicuity and great-mindness, exemplary self-possession and inflexible courage, all crowned by an honesty of purpose.” Farber explores Washington’s cases in four areas: “constitutional cases, maritime law (particularly marine insurance and prize cases), western lands, and a miscellany category involving slavery and criminal law.”

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60. Peters’s Circuit Rep. at [v]–vi. Peters states: “They have been compiled from his note books, in which they were entered, with no view to their publication, but solely for his private reference.” Id. at [v].


64. Blaustein & Mersky, supra note 61, at 106 (quoting David Paul Brown).

65. Farber, supra note 63, at 737.
¶27 Washington compiled four volumes of cases as a circuit court justice from 1803 to 1826, but they were published posthumously by Richard Peters, Jr. Volume 1 had a copyright date of May 8, 1826, volume 2 had a date of September 11, 1827, volume 3 had a date of December 26, 1827, and volume 4 had a date of November 23, 1829.66

¶28 In volume 1, Peters wrote that when in 1819 he wrote his *Cases Determined in the Circuit Court of the United States for the Third Circuit*, it was his intention to proceed with a work which would have placed in the hands of the Profession, the decisions of that Court from 1815 to the present period. This purpose has been suspended, in consequence of an impression, derived from the limited sale of the volume, that the publication of the earlier cases, should have preceded those which were then printed.67

With expectations “disappointed,” and with Washington’s approval, these reports were now published. Peters took the cases from Washington’s manuscripts reports, “and they will be found to contain all the matters essential to be known, and a full and accurate statement of the opinions of the Court, in every case.”68 In volume 3, Peters stated that he could not finish Washington’s reports in less than four volumes. Volume 3 contained circuit court of Pennsylvania from April Term 1811 to April Term 1814, April Term 1818 to October Term 1819, and circuit court of New Jersey from April 1818 to October 1820. Intervening cases appeared in *Peters’s Circuit Court Reports* (1819), of which he wrote “[i]t is not intended to proceed further with the last-mentioned Work.”69 In publishing these reports from 1803 to 1828, he stated that

[i]n no portion of the political existence of the United States, have cases of such novelty, interest, and high importance to the Community, been presented before the Courts of the United States, for judicial investigation and decision; and before the Circuit Court, for the Third Circuit, most of the questions of law arising out of these cases, have been first examined and adjudged.70

¶29 In volume 4, Peters expressed his gratitude to the publishers Nicklin & Johnson for enlarging the size of the volume to almost 800 pages to complete the project. He believed that “it will be found to contain a body of most useful and highly valuable law learning, and an equal, if not greater number of interesting cases, than any volume of reports heretofore published in the United States.” He praised Washington

...to express his high sense of the judicial talents, legal discrimination, laborious and persevering industry, and exalted virtues of the learned and venerable judge, from whose manuscripts, exclusively, this work has been published. In this record of his feelings, he proudly testifies his gratitude for the affectionate friendship, and for the many manifestations of kindness and regard he has received from Mr. Justice Washington.71

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66. The copyright including the date of each book can be found on the unnumbered verso page behind the title page in each volume.
67. 1 Wash. C.C. Rep. advertisement at [iii].
68. Id. at iii–iv.
69. 3 Wash. C.C. Rep. preface, at iv. There is a volume I on the title page and spine label.
70. Id.
71. 4 Wash. C.C. Rep. at [iii].
Washington had 527 cases in the four volumes broken down as follows: volume 1 had 119 cases, volume 2 had 138, volume 3 had 97, and volume 4 had 173 cases.72

**Baldwin’s Reports**

¶30 Henry Baldwin (1780–1844) also served both as a reporter and judge of the United States Court of Appeals and an Associate Justice for the U.S. Supreme Court. He studied law under Alexander Dallas in Philadelphia and then moved to Pittsburgh, where he gained prominence as a lawyer. He later served as a member of the U.S. House of Representatives from Crawford County (1817–1822). As a supporter of Andrew Jackson for President, he obtained the Pennsylvania seat on the court after the death of Bushrod Washington, gaining nomination over two major Pennsylvania legal personalities, Horace Binney and Chief Justice John Bannister Gibson,73 thereby placing him in the U.S. Supreme Court’s #3 club.74 He served fourteen years, three months, and three days.75 He was a moderate in constitutional interpretation, but divisive to some extent on the Court. He had an ongoing controversy for several years with Richard Peters, court reporter, over the publishing of his opinions.76

¶31 Baldwin compiled his *Reports* sometime in 1836, writing his introduction on December 26, 1836, and publishing a single volume in 1837.77 In his introduction to Joseph Hopkinson, he thanked the judge for his contributions to the court, and to the memory of “that eminent and most beloved judge who preceded me [Bushrod Washington].”78 He praised Hopkinson for his “acute, discriminating mind, [his] cogent reasoning and sound judgment, as well as for the large fund of legal information, acquired during a long and active course of professional experience, in the development and application of the great principles of federal and state jurisprudence.”79 He acknowledged that there were occasions when the two disagreed on opinions,

but however it may have operated on us during a discussion, it ended with it, and we always parted with the same mutual sentiment as we have since done after a judicial conference, when each felt compelled to adhere to his opinion, more diffidence of himself, and respect for the other.80

¶32 There were forty-nine cases reported from October 1827 to April Term 1833. The first five cases were between 1827 and 1829, heard by Joseph Hopkinson before Justice Baldwin assumed his position on the U.S. Supreme Court. Only six cases derived from the circuit court for New Jersey (two in April Term 1830, four in

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72. *Table of Citations*, 30 Fed. Cas. 77–79. The *Table of Citations* follows the *Federal Cases Digest* and has a separate numbering from the *Digest*. I counted the number of cases per volume.


77. He probably expected to publish more than one volume because he included volume 1 as part of the title page.


79. *Id.*

80. *Id.* at iv.
October Term 1830). Justice Baldwin issued sixteen opinions and fourteen jury charges. Judge Hopkinson issued seven opinions and three jury charges. There were nine opinions issued “By the Court.” No opinions were given by the New Jersey judges.

**Wallace, Jr.’s Reports**

¶33 John William Wallace (1815–1884) was born in Philadelphia, the son of John B. Wallace, and studied law in his father’s office. He became the librarian and treasurer of the Law Association of Philadelphia in 1841. He became widely known for his scholarship in *The Reporters, Chronologically Arranged* (1844), a commentary on the English law reporters.81 Wallace later succeeded Jeremiah Black in 1863 as the seventh reporter of the U.S. Supreme Court where he authored volumes 68 to 90 of *U.S. Reports* from 1863 to 1875. His high reputation as a law reporter of the Third Circuit opinions, however, did not extend to his Supreme Court opinions.82 After his retirement from the position, he continued to work for the Historical Society of Pennsylvania as its president from 1868 until his death in January 1884.83

¶34 *Wallace’s Reports* contain cases from 1842 to 1862.84 The first volume covers from April 1842 to October 1849. In his preface, Wallace states that Justice Baldwin asked him to undertake this venture. Baldwin’s illness and subsequent death in 1844, the failure to appoint a new Supreme Court Justice until 1845, and the time it took for newly appointed judges to restore the court led to the long delay in publishing volume 1.85 He published volume 2 of his *Reports of the Circuit Court*...
for the Third Circuit in 1849, covering the period from April session 1850 to November session 1853. Wrote one reviewer, “This volume owes much of its value to the industry and learning of the Reporter.” He went on to praise the points reported, noted that the statements were prepared with care and the citations verified, and summed up that the “Reporter has spared neither pains, labor nor expense to give the profession a truly useful book . . . .” He commended it “to all our professional brethren, both at home and abroad, as a volume which will (a rare thing certainly in law books) at once gratify the taste of the fastidious scholar, and instruct and enlighten the dryest, hard-working, practical every day legal laborer.”

§35 Volume 3 was not published until 1871, covering from October 1854 to April 1862. In an appendix, Wallace added an 1829 circuit case, The Seneca, previously unpublished, reversing the case decided by Judge Hopkinson printed in Gilpin’s Reports at page 10.

§36 Volume 1 contained rules adopted by the circuit in 1849 and two appendixes. The first one was a case from 1801 cited in a later case, and the second appendix contains the arbitration dealing with the Pea Patch Island Case. This case was a dispute between New Jersey and Delaware against the United States over an island in the middle of the Delaware River that had accreted in size to forty-five acres. All parties agreed to the selection of John Sergeant, one of the eminent leaders of the Philadelphia bar, to be the sole arbitrator in the case, who settled the arbitration in favor of the United States.

§37 Volume 2 contained eloquent eulogies upon the deaths of Charles Chauncey and John Sergeant, two leaders of the Philadelphia bar, the latter presented by Horace Binney, the most senior and respected lawyer of the Philadelphia bar for a half
century.\textsuperscript{94} The book reviewer wrote, “This volume is quite as interesting, and contains as many, perhaps more cases of permanent interest and importance, than the first volume. We have read it with undiminished pleasure, and would gladly give our readers a full and extended notice, did our limits permit.”\textsuperscript{95}

\textsuperscript{38} The justices who were reported in these cases include the two Supreme Court Justices, Henry Baldwin and Robert Cooper Grier, and district judge John K. Kane. Robert Cooper Grier (1794–1870) graduated Dickinson College (B.A. 1812), read for the bar, and was admitted in 1817. He practiced privately until 1833, when he became the president judge of the district court of Allegheny County for thirteen years, before being selected by President James Polk for appointment to the Supreme Court. He was appointed on August 3, 1846, and confirmed by the Senate the next day. He sat on the court for twenty-three years, five months, and twenty-one days until his retirement on January 31, 1870.\textsuperscript{96} He is the sole member of the #5 Club, four people selected before him for nomination to the Supreme Court.\textsuperscript{97} As a Democrat, he was considered a “northern doughboy” willing to go along with slavery, writing at least one circuit court opinion supporting slavery issues,\textsuperscript{98} providing President Buchanan with information about the \textit{Dred Scott} decision before it was announced,\textsuperscript{99} and providing a short concurrence to Taney’s and Nelson’s opinions in the \textit{Dred Scott} case.\textsuperscript{100}

\textsuperscript{39} John Kintzing Kane (1795–1858) graduated from Yale College (1814) and read law before being admitted to the Philadelphia bar on April 8, 1817.\textsuperscript{101} Among his positions were private practice for sixteen years (1817–1824, 1836–1845), a state representative in the Pennsylvania General Assembly (1824–1825), city solicitor of Philadelphia (1828–1830, 1832),\textsuperscript{102} and attorney general of Pennsylvania (1845–1846). President James Polk nominated him for the Supreme Court on June 11, 1846, and he was confirmed by the Senate and received his commission on June 17, 1846. He died in office.\textsuperscript{103}

\textsuperscript{40} There were 114 cases reported in the three volumes.\textsuperscript{104} An additional nineteen cases from legal periodicals was found in Westlaw.\textsuperscript{105} Grier sat as judge in

\begin{itemize}
\item \textsuperscript{94} 2 Wall. Rep. at xi. (Death of Charles Chauncey, Esq. at xii; Death of John Sergeant at xvii).
\item \textsuperscript{95} Book Review, 3 Am. L. Reg. 64 (1854) (reviewing 2 John William Wallace, Cases in the Circuit Court of the United States for the Third Circuit (1854)).
\item \textsuperscript{96} Frank Otto Gatell, Robert Grier, in 2 The Justices of the United States Supreme Court, supra note 2, at 1, 2; Robert C. Grier, Biographical Directory of Federal Judges, supra note 2. There also is an interesting article on Grier’s decision in the case of Pennsylvania v. Wheeling & Belmont Bridge Co., 50 U.S. 647 (1850); 52 U.S. 528 (1851); 54 U.S. 518 (1852); 59 U.S. 421 (1856); 59 U.S. 460 (1856). See Daniel J. Wisniewski, Heating Up a Case Gone Cold: Revisiting the Charges of Bribery and Official Misconduct Made Against Supreme Court Justice Robert Cooper Grier in 1854–55, 38 J. Sup. Ct. Hist. 1 (2013).
\item \textsuperscript{97} Ward, supra note 74, at 117–18.
\item \textsuperscript{98} Van Metre v. Mitchell, 28 Fed. Cas. 1038 (No. 16,845) (C.C.M.D. Pa. 1845).
\item \textsuperscript{99} Gatell, supra note 96, at 6.
\item \textsuperscript{100} Id. at 8; Dred Scott v. Sandford, 60 U.S. 393, 469 (1857).
\item \textsuperscript{101} Martin, supra note 35, at 283.
\item \textsuperscript{102} Contrary to the Federal Judicial Center’s summary, King is listed as appointed as solicitor for 1829 and 1831 only. See Martin, supra note 35, at 88–89.
\item \textsuperscript{103} John K. King, Biographical Directory of Federal Judges, supra note 2.
\item \textsuperscript{104} I have left in the two cases from the appendixes of Hurst v. Jones and Pea Patch Island, though they were not technically heard by this court.
\item \textsuperscript{105} I searched: JU(Grier) & Date (aft 1841 & bef 1863), which brought up 289 cases. I then deleted all of the U.S. Reports citations and was left with 133 cases.
\end{itemize}
almost all of the cases and delivered opinions and one jury charge, except for two that Kane sat on while Grier was absent. In one case when Justice Grier was absent, King gave a charge in a treason case that Grier later agreed with. He was also involved with several important slavery cases including Christiana Riots in 1851 and Passmore Williamson in 1855.

<table>
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<tr>
<th>Reports</th>
<th>No. of Vols.</th>
<th>Dates</th>
<th>No. of Cases</th>
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<tr>
<td>Hopkinson's Judgments in Admiralty (1789)</td>
<td>1</td>
<td>1779–1788</td>
<td>4, 5, or 6</td>
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<tr>
<td>Hopkinson's Judgments in Admiralty (1792)</td>
<td>1</td>
<td>1785–1786</td>
<td>13</td>
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<tr>
<td>Fisher's Prize Cases</td>
<td>1</td>
<td>1812–1813</td>
<td>4</td>
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<tr>
<td>Peters's Admiralty Decisions</td>
<td>2</td>
<td>1780–1807</td>
<td>71</td>
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<td>Gilpin's Reports</td>
<td>1</td>
<td>1828–1836</td>
<td>57</td>
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<tr>
<td>Crabbe's Reports</td>
<td>1</td>
<td>1836–1846</td>
<td>65</td>
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<tr>
<td>Cadwalader's Cases</td>
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<td>TOTAL</td>
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<td>335, 336, or 337</td>
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District Court Reports

§41 Six sets of court reports covered the period from 1779 to 1879. However, the two early volumes by Francis Hopkinson are not in Federal Cases, nor is Cadwalader’s Reports. The numbers for the later reports come from the listing in Federal Cases. The listing is shown in table 8.

Hopkinson’s Admiralty Reports

§42 It is fitting that Francis Hopkinson’s Judgements in Admiralty (1789) was the first law report published in the United States. According to Frederick Hicks, it preceded Kirby’s Connecticut Reports by several months in publication in 1789, and Ritz accepts that designation. Since it was the first law report that published “verbatim judicial opinions,” Francis Hopkinson has been recognized as the “first Anglo-American law reporter.” Ritz’s article on “a most unusual literatuer and

107. Charge to the Grand Jury on the Law of Treason, 2 Wall. Jr. 134 (1851). This was followed by the case of United States v. Hanway, 2 Wall. Jr. 139 (1851). This was part of the Christiana Hanway Riots in Pennsylvania in 1851. Another Kane jury charge can be found in United States v. Darnaud, 3 Wall. Jr. 143 (1855).
108. Bartle, supra note 2, at 48–51.
109. Hicks, supra note 6, at 32 n.4
110. Ritz, supra note 1, at 299.
111. Id.
judge” portrays the importance of Hopkinson in the history of printing American law reports.112

¶43 Hopkinson was born on September 21, 1737, and died on May 9, 1791, of an “attack of apoplexy” at age fifty-three. He was the first graduate of the College of Philadelphia, studied law under Benjamin Chew, and was admitted to the bar of the Supreme Court in April 1761. In 1774, he was appointed to the governor’s council, and in 1776 he was elected to the Continental Congress and became a signer of the Declaration of Independence. He held several other offices until his appointment as judge for the state court of admiralty in Pennsylvania in 1779 to 1789. When that court was abolished, President Washington appointed him to the District Court for the Eastern District of Pennsylvania. He was a leading Federalist writer, a highly rated literary writer, and a musician.113

¶44 His son, Joseph Hopkinson, admitted to the bar just five days before the untimely death of his father, published his father’s papers in a three-volume work entitled The Miscellaneous Essays and Occasional Writings of Francis Hopkinson in 1792.114 Volume 3 contained Hopkinson’s Judgments in Admiralty (1792). In this work, Hopkinson reported forty-nine cases, including all those published in the 1789 Judgments.115 A single known copy of Judgments in Admiralty by Francis Hopkinson (1792), derived from the Miscellaneous Essays, belongs to the University of Chicago Law Library.116 And Dennis & Co. reprinted the issue in 1942 under an agreement with Francis Drummond, law librarian, at the University of Chicago Law Library.117 Finally, Ritz summarizes the reprinting of Hopkinson’s cases in Federal Cases: only the cases found in Peters’s Admiralty Reports and Bee’s Reports were reported, but none of the cases found in the 1789 and 1792 Hopkinson Reports.118

**Fisher’s Prize Cases**

¶45 Redwood Fisher (1782–1856) published Fisher’s Prize Cases, but there is no introduction as to who he was or why it was published. Fisher was a son of Miers Fisher and Sara Redwood, the former a prominent Quaker mercantilist in late-eighteenth to early-nineteenth century Pennsylvania.119 Fisher’s Prize Cases contained only four cases adjudicated during the War of 1812, three from Pennsylvania and one from Massachusetts. The first case has a *seriatim* opinion by Peters and Washington, the second and third just by Peters. The fourth case, in Massachusetts,
was delivered by Judge John Davis of the district court.\footnote{120} The cases were never cited later, and John Wallace discounted the usefulness of the small volume.\footnote{121}

**Peters’s Admiralty Decisions**

\textsection 46 Richard Peters, Jr. published two volumes covering the cases of his father during the period from 1780 to 1807: *Admiralty Decisions in the District Court of the United States for the Pennsylvania District* (1807).\footnote{122} The two volumes were numbered continuously: volume 1 covered pages 1–260, volume 2, pages 261–471. In a postscript, Judge Peters wrote that “‘t[he]se only are inserted which were thought necessary to shew the principles established in a long course of multifarious, often perplexing, and frequently laborious duty.”\footnote{123} He did not intend to have them published, but realized that the Philadelphia bar could use the cases “to facilitate their business, as well as to supersede the necessity of discussions upon points settled.”\footnote{124} In addition to the introductory statement, he had added notes and corrections to twenty cases from just a phrase to more than a two-page discussion.\footnote{125}

\textsection 47 Peters published two cases that were not from Pennsylvania, *Concklin v. The Brigantine Harmony & Cargo*\footnote{126} from the district court of New York and *United States v. The Ship Anthony Mangin* from the district court of Maryland.\footnote{127} Peters published seven earlier Hopkinson cases, three published in the 1792 *Judgments* and four unpublished opinions between 1789–1790,\footnote{128} while Hopkinson’s earlier opinions from 1780 (2), 1788 (1), 1789 (1), and 1790 (2) consisted of seven cases.\footnote{129} In the preface to his *Reports*, Peters said of Francis Hopkinson:

> He confidently trusts that the cases from the notes of the late Judge Hopkinson will be highly estimated by all who read them; and he thus publicly renders his acknowledgment to Mr. J. Hopkinson for these valuable additions to his collections. The principles on which these cases were decided, are those which have been uniformly adopted by the present judge of the Pennsylvania district and which claims as authority the best writers in civil and admiralty law.\footnote{130}

==Footnotes==

\footnote{120} John Davis (1761–1847) graduated from Harvard College (1781) and read law and was admitted to the bar in 1786. He was a delegate to the Massachusetts convention to ratify the U.S. Constitution in 1788, a state senator in 1795, Comptroller of the U.S. Treasury (1795–1796), and U.S. Attorney for the District of Massachusetts (1796–1801). He then was appointed as a “midnight judge” in 1801, but sat on the district court until his retirement on July 10, 1841. *John Davis*, Biographical Directory of Federal Judges, supra note 2.

\footnote{121} John Wallace, *The Reporters Chronologically Arranged . . . .* (1845). Furthermore, the four cases cannot be found either in LexisNexis or Westlaw.


\footnote{123} 2 Pet. Adm. [473].

\footnote{124} Id.

\footnote{125} Id. at 474–83.

\footnote{126} 1 Pet. Adm. 34 (1797) appears in smaller print under another case.

\footnote{127} 2 Pet. Adm. 452 (1802).

\footnote{128} Ritz, supra note 1, at 314–15.

\footnote{129} 2 Pet. Adm. 403. *The Names of Cases Reported* (id. at 501) lists the cases reported identifying which cases were Hopkinson’s (including two cases listed separately but consolidated as one case).

There appear to be two incorrect citations in the table of citations. Under volume 2, the first entry of p.256 should be p.356. Second, the consolidated case of *Weeks v. Certain Goods & Rigging Saved of the Snow Catharina Maria* and *Jurgensen v. The Snow Catharina Maria* is not divided into two cases in *Federal Cases*.

¶48 Each case has a subject category assigned to it, and in the Reports, the cases are broken down into Prize (3), Salvage (7), Salvage-Rescue (2), Seamen’s Wages (30), Admiralty Jurisdiction (1), Stewards of Ships (1), Prequisites Claimed by the Ship’s Cook (1), Ship Fitted Out by the Majority of the Owners (1), Bottomry (1), Illegal Capture (1), Neutral Property Illegally Condemned-Restored (1), Mariner’s Wages (7), Mariners Deserting a Vessel on Shore (1), Owners and Master (1), Distribution of Prize Money (1), Breach of the St. Domingo Law (1), and Forfeiture of a Ship for Being Falsely Registered (1).

¶49 The appendix of the volume contained valuable historical information dealing with admiralty law: Laws of Oleron and Wisbuy, and the Hans-Towns; Marine Ordinances of Louis XIV; and a treatise on the Rights and Duties of Owners, Freighters, and Masters of Ships, and of Mariners; and the laws of the United States concerning mariners. Both James Kent and Hoffman considered Peters’s decisions “as generally sound, sufficiently learned, and well reported.”

### Gilpin’s Reports

¶50 Henry Dilworth Gilpin (1801–1860) was born in Lancaster, England, attended school in England and moved to the United States in 1816, where he studied at the University of Pennsylvania. He graduated in 1819 and studied law under Joseph R. Ingersoll; he was admitted to the Philadelphia bar on November 14, 1822. He became editor of the *Atlantic Souvenir* and brought out a second edition of John Sanderson’s *Biography of the Signers to the Declaration of Independence* (1828). He was appointed U.S. Attorney for the Eastern District of Pennsylvania in 1832, government director of the Bank of the United States in 1832, and solicitor general of the U.S. Treasury in 1837. President Van Buren appointed him Attorney General of the United States on January 11, 1840, and he served fourteen months until March 1841. He argued the *Amistad* case against John Quincy Adams. He also published *The Papers of James Madison* and *Opinions of the Attorneys General of the United States*.

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131. 2 Pet. Adm. 256 is the case *Swift, Hastings v. The Ship Happy Return*, and not the case listed as *Coulon v. The Neptune* 3273.
132. 2 Pet. Adm. 424 is listed as Federal Case no. 17351, not 17357 as listed in the *Table of Citations*.
133. The title page says Laws of Wisbuy and Oleron, but the Law of Oleron comes before the Laws of Wisbuy in the actual volume.
¶51 Gilpin’s Reports covered the Eastern District of Pennsylvania, from the November 1828 session to the February 1836 session. Gilpin dedicated the work to Joseph Hopkinson, “deriving its chief value from his genius and learning” and for the “uniform kindness and courtesy” shown him throughout the years. He noted that Hopkinson’s opinions “are very able and excellent expositions of Admiralty Law. The Reporter has given clear, and concise statements of the facts in each case, and the book enjoys, in all respects, a high reputation.”

¶52 Joseph Hopkinson presided over all fifty-seven cases in the Reports, giving forty-five opinions and twelve jury charges. Hopkinson (1770–1842) graduated from the University of Pennsylvania in 1786, read law under James Wilson and Jared Ingersoll, and was admitted to the Philadelphia bar on May 4, 1791. He was the attorney for Samuel Chase in his impeachment in 1805 and served in Congress from March 1815 to March 1819 as a Federalist. In private practice, he joined with Daniel Webster to win the Dartmouth College Case (1819) and represented Maryland on the losing side in M’Culloch v. Maryland (1819). Later, President John Quincy Adams appointed him a judge of the Eastern District of Pennsylvania in 1828. Adams gave Hopkinson a recess appointment in October 1828, but his nomination was not considered by the Senate until February 23, 1829, less than two weeks before President Andrew Jackson was to take over. Adams likened this to his father’s appointment of “mid-night judges,” and he was pleased as his friend to nominate him. After failing to delay a vote, the Senate granted Hopkinson his commission. He served on the court until his death. He was the author of “Hail Columbia” and a member of the board of trustees of the University of Pennsylvania for thirty-five years, vice president of the American Philosophical Society, and other groups. His opinions “were marked by unusual clarity and literary skill. He was in no sense a pathfinder, and his interpretations of law and precedent were in accord with his conservative outlook.”

Crabbe’s Reports

¶53 William H. Crabbe (b. 1827) read law under Henry Gilpin (as acknowledged in the preface) and was admitted to the Philadelphia bar on October 14, 1846. Crabbe is best known for his service as the reporter for the Third Circuit Court of Appeals, where he compiled Gilpin’s Reports. His work as a reporter was highly regarded for its clarity and conciseness, and he is remembered for his ability to present complex legal arguments in a clear and accessible manner. Crabbe’s Reports played a significant role in the development of legal education and practice, providing a comprehensive and reliable resource for lawyers and judges alike.
1848. Only five years later, he published his Reports covering May 1836 to May 1846. No further biographical information on him can be found.

¶54 The volume contained the cases of two judges: Joseph Hopkinson (1836–1842) and his successor, Archibald Randall (1842–1846). Archibald Randall (1797–1846) was admitted to the Philadelphia bar on April 13, 1818, and was in law practice with John Vogdes for several years. He began his career in private practice, served as clerk of the Philadelphia Select Council (1830–1833) and then judge of the Court of Common Pleas for eight years (1834–1842) before his appointment by President John Tyler on March 3, 1842, to the seat vacated by the death of Joseph Hopkinson. He was confirmed by the Senate, received his commission on March 8, 1842, and died in office on June 8, 1846.

¶55 William Crabbe dedicated the volume to Henry Gilpin “as a tribute to his legal learning and ability, and as a token of gratitude for the many kindnesses, professional and personal, conferred on his sincere friend and former pupil.” In his preface, Crabbe wrote that the Reports covered the period from when Gilpin’s Reports terminated and ended with the appointment of Judge John Kane to the court on June 16, 1846. Furthermore, he also published ten cases that fell under the Bankruptcy Law of 1841, “as involving points of the most general interest, from a very large number of manuscript opinions by Judge Randall on the subject, which I was not willing wholly to pass by.” Finally, he thanked the notes of various counsel because of “many obstacles in the way of an intelligible report of cases so long since decided which these notes greatly assisted to remove, while at the same time, they afforded the fullest and most reliable materials for an abstract of the arguments at the bar.”

¶56 The reviewer of the Reports commented:

Mr. Crabbe's reports are extremely well done. The style is good, the facts of the cases well stated, and the syllabus carefully abstracted. The editor has had, too, in the present case, an unusual difficulty to overcome the very considerable lapse of time since the decisions which he has reported were pronounced, during which the testimony has become lost or obscured, or the arguments of counsel forgotten. The cases contained in the volume are in general valuable and important.

¶57 Sixty-six cases were reported in the volume. The first part of the book contained the cases of Judge Hopkinson from the last years of his judgeship. The reviewer commented:

143. Martin, supra note 35, at 260.
144. Id. at 304; 2 Scharf & Westcott, supra note 38, at 1544.
146. Crabbe Rep., at [iii].
147. Id. John Wallace had published thirty-eight bankruptcy cases in 1 Pa. L.J. 145–49, 159–88, 223–48, 287–333, 367–72. At the time, the editor stated: “They deem it quite unnecessary to say how much the value of the Journal will be enhanced by this arrangement, and as they have been at no small expense to procure this advantage, they rely in turn upon the increased patronage of the Profession, for support and encouragement.” Id. at 142.
148. Crabbe Rep., at [iii].
149. Book Review, 1 Am. L. Reg. 508, 510 (1852–1853) (reviewing William H. Crabbe, Reports of Cases Argued and Determined in the District Court of the United States for the Eastern District of Pennsylvania, from May Sessions, 1836, to May Sessions, 1846, Inclusive (1853)).
The cases contained in the volume are in general valuable and important. Judge Hopkinson, by whom most of them were decided, was a lawyer of extended and varied accomplishments. It seems, indeed, to have been the good fortune of the Court of Admiralty to have secured everywhere men of the highest classical acquirements and literary taste. Judge Hopkinson was not the least among these. A fluent and copious writer, he has left a collection of miscellanies behind him in which are combined clear good sense, a wide range of thought, and a happy humor, which can never fail to secure admirers. Nor did he altogether throw aside, in his judicial opinions, the peculiar characteristics of his style. Without ever failing in strength or cogency of reasoning, these opinions are always clothed in the most graceful and lucid language. They differ scarcely, except in their subject, from his more professedly literary essays. . . . Besides these qualities, which were sure of commanding respect, his elevated character and universal kindness won for him the most affectionate regard from all his fellow citizens. More than ten years have elapsed since his decease, but the deep feeling of regret in all at his loss has not yet been extinguished. Sero quamvis, plorare fas est . . . .

Cadwalader’s Reports

§58 John Cadwalader (1805–1879) had the last series of district court reports covering the period from 1858 to 1879. Cadwalader graduated from the University of Pennsylvania in 1821 and studied law under Horace Binney. He was admitted to the Philadelphia bar on September 29, 1825. He became an expert in land law, served as counsel to the Bank of the United States, and was vice provost of the Law Academy of Philadelphia from 1833 to 1853. He supported consolidation of Philadelphia and was elected to the U.S. Congress of 1855–1856. President James Buchanan nominated Cadwalader as a judge of the District Court for the Eastern District of Pennsylvania on April 19, 1858; Cadwalader was confirmed by the Senate on April 24, 1858, and held this position until his death in 1879.

§59 Cadwalader’s Cases embraced the period of the Civil War, and many of the cases decided concerned admiralty, belligerency, equity, and common law. One colleague, Isaac Hazelhurst, stated that Cadwalader

is associated in the minds of a generation as the embodiment of that learning, that integrity and that ability which is the pride of our profession. He was a great lawyer—great, not only from natural abilities and his aptitude for the profession, but deeply learned in every branch of it. He was proud of his profession, and kept its standard so of excellence so high, by his precept and example, that no one ever approached him without feeling that in the law . . . nothing is done as long as anything remains to be done, . . . and that contentment with his acquisitions was but the self-delusion of ignorance.

150. Id.
151. Martin, supra note 35, at 254.
A newspaper also commented upon his death: “He was loved and respected by all with whom he came into contact, and he dies an illustrious name.”¹⁵⁴

¶60 Cadwalader’s reported cases are not listed in the table of citations of Federal Cases, since bound volumes were not published at the time of the compilation. Rather, 121 cases from a variety of sources were reported in the court reports and legal periodicals published over the twenty-one years of Cadwalader’s sitting as a judge.

¶61 The 121 cases reported in Westlaw have 232 citations,¹⁵⁵ mostly parallel citations between the Federal Cases and other reports, but only 89 have parallel citations to Federal Cases, nine just to Federal Cases, and 23 having non–Federal Cases citations. It is to be expected that the next two largest titles, Philadelphia Reports (55) and Weekly Notes of Cases (30), contain cases determined in the court, the latter being a reprint of cases reported first in Legal Intelligencer, the local weekly legal newspaper for Philadelphia. In addition, the five cases reported only in the Legal Intelligencer bring the total case number to ninety from the three Philadelphia sources. The sources for the cases are found in table 9. In 1907, these reports were published posthumously by Cadwalader’s son. Volume 1 contained the proceedings at a memorial service held by the Philadelphia bar upon his death.¹⁵⁶

Conclusion

¶62 The reports of the United States Circuit and District Courts for the Third Circuit were valuable contributions to law reporting through the nineteenth century. The reporters were generally distinguished judges and lawyers who understood the value of having these cases published. The judicial opinions reported were important contributions to American law in a wide range of subjects. Although this article touches on the basic information about the reports, the substantive law delivered by the judges of these courts still needs to be analyzed, either by subject or by judicial biography. How these reports affect the growth of the law in the United States, and especially the relationship between the U.S. Supreme Court and the lower federal judiciary, awaits further research.

¶63 In addition to producing additional surveys along the themes of this article, it is necessary to better understand the publication history and contribution of the other circuit reports to legal history and bibliography. Furthermore, more information needs to be gathered on how the reporters came to publish these reports, how they collected their opinions, and how book companies came to publish the reports. But those are papers for another day.

¹⁵⁴. Bartle, supra note 2, at 61.
¹⁵⁵. I used only the citations given by West in their listing of the cases; individual cases may have as many as seven different citations. It is unclear why in some cases, Westlaw does not list the first two citations listed in the string citations, but sometimes draws from the middle or end citation.
¹⁵⁶. 1 Cadwalader’s Cases 645.
**Table 9**

**Cadwalader's Cases**

<table>
<thead>
<tr>
<th>Source</th>
<th>Cases</th>
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<tr>
<td>Federal Cases</td>
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<td>Philadelphia Reports</td>
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<td>Weekly Notes of Cases</td>
<td>30</td>
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<tr>
<td>National Bankruptcy Register</td>
<td>12</td>
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<tr>
<td>American Law Register</td>
<td>9</td>
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<tr>
<td>American Law Times/ Reports</td>
<td>5</td>
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<tr>
<td>Legal Intelligencer</td>
<td>5</td>
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<tr>
<td>Albany Law Journal</td>
<td>3</td>
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<tr>
<td>Fisher's Patent Cases</td>
<td>3</td>
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<tr>
<td>Legal Gazette</td>
<td>3</td>
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<tr>
<td>Brewster's Reports</td>
<td>2</td>
</tr>
<tr>
<td>American Law Record</td>
<td>1</td>
</tr>
<tr>
<td>Baltimore Law Transcript</td>
<td>1</td>
</tr>
<tr>
<td>Bigelow's Life &amp; Accident Insurance Cases</td>
<td>1</td>
</tr>
<tr>
<td>Chicago Legal News</td>
<td>1</td>
</tr>
<tr>
<td>Internal Revenue Record</td>
<td>1</td>
</tr>
<tr>
<td>Pittsburgh Legal Journal</td>
<td>1</td>
</tr>
<tr>
<td>Thompson National Bank Reports</td>
<td>1</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>232</strong></td>
</tr>
</tbody>
</table>
Appendix

Circuit Court Reports

Hopkinson’s Judgments in Admiralty


Contents: Vol. III: [iii]–vi; Cases: 1–215; Poems on Several Subjects: [1]; Poems: [3]–199.

Note: Act of March 8, 1780, permitting jury to determine cases was repealed and now left to judges to determine: [24].

Wallace Sr.’s Reports


Later Editions:

*Reports of Cases Adjudged in the Circuit Court of the United States, for the Third Circuit*. J. B. Wallace. 2d ed. Philadelphia. 1838. Additional two cases added.


Peters’s Circuit Court Reports


Contents: Copyright: [ii]; Advertisement: [v]–vi; Table of Cases Reported: [vii]–xii; Cases: [1]–527; Contents of the Index: [529]–531; Index of the Principal Matters: [533]–581; Errata: [582].

Washington’s Reports

*Reports of Cases Determined in the Circuit Court of the United States, for the Third Circuit, Comprising the Districts of Pennsylvania and New-Jersey. Commencing at April Term, 1803*. Published from the Manuscripts of the Honourable Bushrod Washington, One of the Associate Justices of the Supreme Court of the United

Contents: Copyright: 1826: [i]; Advertisement: [ii]; List of Cases Contained in Vol. I: [v]–[xii]; Circuit Court of the United States: [1]–531; Contents of the Index: [533]–35; Index of Principal Matters: [537]–84.


Contents: Copyright: 1827: [ii]; List of Cases Contained in Vol. II: [iii]–x; Circuit Court of the United States: [1]–524; Contents of the Index: [525]–26; Index of the Principal Matters: [527]–80.


Contents: Copyright: 1827: [ii]; Advertisement: [iii]–iv; List of Cases Contained in Vol. III: [v]–xi; Circuit Court of the United States: [1]–590; Contents of the Index: [591]–92; Index of the Principal Matters: [593]–640.


Contents: Copyright: 1829: [ii]; Preface: [iii]; List of Cases: [v]–xii; Circuit Court of the United States: [1]–733; Contents of the Index: [735]–36; Index of the Principal Matters: [737]–97; To Members of the Bar: [concerning new subscription to English Common Law Reports] [i]–ii; List of Agents for the Sergeant and Lowther’s English Common Law Reports: ii–iii.

Wallace Jr.’s Reports


Contents: Copyright: 1849: [ii]; Preface: [iii]–[iv]; Table of Cases Reported: [iii]–[vi]; Rules at Law and in Equity of the Circuit and District Courts of the United States for the Third Circuit, Eastern District of Pennsylvania: [iii?]–x; Cases in the Third
Circuit: [1]–372; Appendix: No. 1. Hurst vs. Jones [iii]–viii; No. II. The Pea Patch Island: An Arbitration Before the Honourable John Sergeant, of Philadelphia: [ix]–clxi; Index: [i]–xii; Errata: xii.

“Rules of court were adopted in both courts November 13, 1849,” p.x.

Pages are unnumbered after title page; 1 leave for advertisement [iii–iv]; Table of Cases Reported: [v] unnumbered, verso is also listed as v as well as next page which should be vii but is renumbered as v and viii as vi.


Contents: Copyright: 1854: [v?]; Table of Cases Reported: [vii]–x; Proceedings of the Bar of Philadelphia, on the Occasion of the Deaths of Charles Chauncey and John Sergeant: [xi]–xxxi; Cases in the Third Circuit: [33]–598; Index: [599]–616; Errata: 616.

Notes: Death of Charles Chauncey, Esq.: xii–xvii; Death of John Sergeant, xviii–xxxi.


Note: Appendix contains the case of The Seneca, decided by Judge Hopkins in Gilpin 10, but reversed by Judge Washington in the circuit court, and never published until now.

Baldwin’s Reports


Contents: Copyright: 1837: [ii]; Dedication: [iii]–iv; Abbreviations: [v]–vi; List of Cases Reported: [vii]–viii; Circuit Court of the United States: [9]–605; Appendix: [607]–22; Index of Principal Matters: [623]–51; Errata: [652].
District Court Reports

Hopkinson's Reports


Peters's (and Hopkinson's) Admiralty Decisions


Contents: Copyright: 1807: [i]; ???: [ii]; Preface: [iii]–vii; Admiralty Decisions: [1]–260; An Appendix to Volume First, Containing, the Laws of Wisbuy [lx]–xc—The Laws of Oleron [iii–lxiii] and the Laws of the Hanse Towns: [xc]–ccxi]; ll; Index to the Appendix of Volume First: [cxiii]–cxvii.


Contents: Copyright: 1807: [ii]; Admiralty Decisions in the District Court of the United States: [261]–471; 1, Postcript: Additional Notes and Corrections: [473]–83; ll.; Index to the Admiralty Decisions and Notes: [485]–500; Names of Cases Reported: [501]–02; Errata: [503]; An Appendix to Volume Second, Containing, the Marine Ordinances of Louis XIV [iii]–lxii; A Treatise on the Rights and Duties of Owners, Freighters and Masters of Ships, and of Mariners [lxii–xcii], and the Laws of the United States for the Regulation of Seamen, &c. [xciii]–cxxix; ll.; Index to the Appendix of Volume Second: [cxxxix]–cxxxii.

Fisher's Prize Cases

[American Prize Cases from the War of 1812 [Trials].] [Fisher's Prize Cases]. United States, Circuit Court (Third District).] Cases Decided in the District and Circuit
Court of the United States for the Pennsylvania District, and also a Case Decided in the District Court of Massachusetts, Relative to the Employment of British Licences on Board of Vessels of the United States. Philadelphia: Published by Redwood Fisher, No. 30, South Fourth Street. 1813.

Contents: Copyright: 1813: [ii]; Contents; Cases: [1]–91. BEAL 1612.00

Gilpin’s Reports


Contents: Copyright: 1837: [ii]; Table of Cases Reported: [v]–viii; District Court of the United States: [1]–627; Index: [629]–56.

Crabbe’s Reports


Contents: Copyright: 1853: [ii]; Dedication: [iii]; Preface: [v]; or [vii]; List of Cases According to Their Date: [ix]–xii; Alphabetical Table of Cases: [xiii]–xvi; Cases: [17]–586; Index: [587]–624.

Cadwalader’s Cases


Contents: Copyright: 1907: [ii]; Preface: [iii]–xii; Table of Cases Reported: [xiii]–xv; Table of Cases Cited: [xvii]–xxviii; Table of Authorities Cited: [xxix]–xxx; Table of Statutes, Vol. I: [xxxi]–xxxiii; Cases: [1]–639; Memorial Proceedings: [641]–60; Index: [661]–690.


Contents: Copyright: 1907: [ii]; List of Cases Reported: [iii]–viii; Table of Cases Cited: [ix]–xiv; Table of Authorities Cited: [xv]; Table of Statutes, Vol. II: [xvi]–xviii; Cases: [1]–596; Index: [597]–635.
Keeping Up with New Legal Titles

Compiled by Benjamin J. Keele* and Nick Sexton**

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* The works reviewed in this issue were published in 2015 and 2016. If you would like to review books for “Keeping Up with New Legal Titles,” please send an e-mail to bkeele@indiana.edu and nsexton@email.unc.edu.

** Research and Instructional Services Librarian, Ruth Lilly Law Library, Indiana University Robert H. McKinney School of Law, Indianapolis, Indiana.

*** Clinical Assistant Professor of Law/Head of Access Services and Reference Librarian, Kathrine R. Everett Law Library, University of North Carolina School of Law, Chapel Hill, North Carolina.
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Reviewed by Joel Fishman

¶1 *Madison’s Hand: Revising the Constitutional Convention* is a remarkable book. For more than 150 years, James Madison’s *Notes on the Constitution* provided historians with the most complete contemporary account of the Constitutional Convention of 1787. Mary Sarah Bilder contends that Madison did not take the notes for the public, but instead as “a genre of legislative diaries, kept by political figures in the era before official reporters and recorders kept accounts of the speeches and strategies of legislative proceedings” (p.3). Madison, however, took the diary and revised his notes several times after 1787, thereby changing the nature of the document from a contemporary one to a source for debates that were transformed over five decades. Refuting various modern interpretations of Madison, Bilder tries “to persuade that Madison was not the intellectual father of the Constitution; instead, his constitutional ideas were nurtured through participation in Convention discussions and the endeavor of taking and revising the Notes” (p.7).

¶2 Following an introduction that provides background information on Madison’s Notes, Bilder opens with two chapters on the late eighteenth century “genre of legislative diaries” for legislative bodies whose proceedings were closed, except to the extent that individuals may have kept diaries to provide political information to friends. Madison began to keep records in the Confederation Congress and continued to do so later in the Annapolis Convention of 1786.

¶3 The first weeks of the Convention during June show Madison keeping a legislative diary. On May 28, the members decided that no confidential communications could be sent by members until the Convention was over; most abided by this, though there was no agreement that it would not occur after the Convention was over. Bilder surmises that Madison wrote rough notes during the Convention that if written out in full after a couple of days “revised his understanding of which discussions were significant and which could be omitted” (p.62).

¶4 A review of Madison’s work in the first week of June shows Madison recasting the speeches; he moved from working from memory to taking rough notes during the proceedings. Notes were written once a week, and with the knowledge of the succeeding days’ debates, the rough notes were revised. Madison’s omissions were also important. His speeches in the notes differ from their oral delivery.

¶5 Madison’s notes for mid-June to July 17 discuss the Convention’s review of the Virginia Plan, concepts of what states would be, and the size of the second house. Madison wanted to limit the states’ role in national politics. Notes from June 29 to July 10 moved “from moderated emotion to outright anger” (p.104). He criticized Oliver Ellsworth’s view of proportional representation in one house and equal state suffrage in another.

* © Joel Fishman, 2016. Associate Director for Lawyer Services, Retired, Duquesne University Center for Legal Information/Allegheny County Law Library, Pittsburgh, Pennsylvania.
Madison’s notes from mid-June to mid-August reflect changing positions. By July 9, Madison still supported proportional representation in both houses, but now he wanted to support slavery to stop equal state suffrage. By early August, Bilder finds that Madison’s Notes “recorded successes and failures measured against Madison’s initial political commitments” (p.116). His notes after August 6 “portrayed the proceedings . . . as a discussion over a draft rather than a freewheeling debate on legal theory” (p.122), and after August 6 his “notetaking became increasingly disjointed and uneven” (id.). By mid-August “the Notes became an unwanted distraction” (p.130). Madison’s notes end on August 21.

From mid-August onward there is an “unconformity” in the notes, that is, a delay in time in which he wrote them. Madison began to participate more in the various committee meetings, which took time from his note taking. It appears that rough notes were taken during this time, but they were not found. Knowledge of Madison’s ideas in early September come from his various letters.

Following the Convention, Madison began to revise his views on the Constitution in various letters to Thomas Jefferson, in the Federalist Papers, and at the Virginia ratification convention. Madison’s introduction of amendments in the First Congress was not completely successful; they were adopted as a supplement to the Constitution rather than incorporated into it.

Madison’s correcting of the notes, beginning in fall 1789, led to the change of the document from diary to debates. He obtained a copy of the official Convention journals (he made his own copy for future use) as well as the journal of the Committee of the Whole House. Madison used the official journal to complete his own notes for the post-August 21 period. Bilder compares notes to journal to show how Madison updated the notes in various ways: for example, adding names, changing terms, adding motions, deleting or altering characterizations, revising sentences, adding footnotes, and the like. Madison also added three replacement sheets, and Bilder is unsure why he did this.

Following Jefferson’s return from France in 1789 after a five-year hiatus, he and Madison quickly began to correspond; later they met in person. Jefferson had John Wayles Eppes’s copy of Madison’s notes from the summer of 1791 to 1793. Eppes did not make a perfect copy nor did he proofread. Jefferson, and then Madison, began to oppose Hamilton’s monarchical views in their writings. But later in the decade, Jefferson’s support of states’ compacts conflicted with Madison’s view of the Convention.

In her concluding chapter, Bilder discusses Madison’s continued revision of the notes in the early nineteenth century (as various publications were issued) and their reception into the early twentieth century. An edited version appeared in 1900 but was not received well. Max Farrand’s Records of the Federal Convention (1911) continues to serve as a primary source for the Convention.

Bilder presents an important revision of Madison’s notes that will change how future scholars study the Constitutional Convention. Bilder’s book won a 2016 Bancroft Prize in History, an impressive award that highlights how well her work has been received.

Reviewed by Alexander B. Burnett*

¶13 Notorious RBG: The Life and Times of Ruth Bader Ginsburg does not try to be anything that it is not. It is not a comprehensive biography or an unbiased look at the legal philosophies of the second woman ever nominated to the U.S. Supreme Court. It is, however, a humorous and nuanced look at Ruth Bader Ginsburg’s (RBG) life and RBG as a social media phenomenon.

¶14 Shana Knizhnik’s law student blog equating an octogenarian Supreme Court Justice to the famous New York rapper The Notorious B.I.G. is undoubtedly an unlikely source for a viral social media phenomenon. Yet the success of the Notorious R.B.G. blog on the Tumblr platform is undeniable. This book builds on that successful blog, which helped turn a Supreme Court Justice into an improbable social media and pop culture icon. Notorious RBG serves as both an entertaining introduction to Ginsburg’s life and career as well as an examination of a cultural phenomenon that is only possible in a world of memes and social media where “[h]er every utterance is clickbait” (p.7).

¶15 Notorious RBG is delineated into several chronological professional phases of RBG’s life. It covers her formative years to 2015. Knizhnik and Irin Carmon use anecdotes and annotations of RBG’s court opinions to paint a picture of her evolution from an intellectual who was hesitant to challenge the structure of the male-dominated legal profession to one of the most successful and unabashedly feminist women in the history of the American legal system.

¶16 The culmination of RBG’s evolution into an outspoken defender of her beliefs—the scathing dissents highlighted in Notorious RBG—helped vault her into the cultural and political spheres during the 2012–2013 Supreme Court Term. Carmon and Knizhnik call on several legal experts, including David S. Cohen, Janai S. Nelson, Reva Siegel, and Neil Siegel, to contribute commentary to a selection of RBG’s briefs and dissents. The commentaries provide a layman’s interpretation of the legal arguments as well as a deeper explanation of subtle references that might otherwise be overlooked. Mirroring the dissents and temperament of RBG, the tone of Notorious RBG is partly light and sarcastic and partly trenchant.

¶17 Touching on many aspects of RBG’s life from her personal and professional resilience to her role in contentious Supreme Court Terms, this book gives a peek into the life and times of the second female Justice. Using interviews and research, Notorious RBG weaves her personal relationships, work ethic, humor, and philosophies together, providing rich context for many of the landmark moments in her life. The book emphasizes the relationship between RBG and her husband, Marty Ginsburg, a prominent attorney in his own right. Discussion of their relationship touches on themes of sharing domestic responsibilities in demanding careers, choosing sacrifices, and challenging traditional family roles. Notorious RBG uses their relationship as context for events in RBG’s career, for many of the highlighted cases, and for some of the discussions of her “careful, incremental plans for revolutionary goals” (p.12).

¶18 The weaknesses of this book are not surprising given its premise. It is not an in-depth biography. The book is written from an unabashedly biased fan perspective and is full of humorous pictures, illustrations, and graphics. Yet there are no pretenses in those respects. It is very accessible and well written and would be at home next to more serious and comprehensive biographies of Justices. It is likely not appropriate for law school research and therefore not an essential part of most law library collections, yet its unique perspective and popular culture references warrant consideration at least to provide a diversion for law school students who are familiar with the Notorious R.B.G. blog. It could also be a source of inspiration for a professor trying to add a dash of humor and pop culture to a traditional law school classroom experience.

¶19 Just as RBG refuses to sacrifice her career for her family or her family for her career, Notorious RBG does not sacrifice quality biographical research and analysis for the spirit and humor of the Tumblr blog. At a time when the Supreme Court and its Justices seem to be firmly in the public spotlight, this book would be a welcome addition to many law school libraries.


Reviewed by Marie Summerlin Hamm*

¶20 The Complete Legal Writer is not your average first-year textbook. The work is a fully developed expansion of the legal writing pedagogy that Katie Rose Guest Pryal proposed in a 2013 article, The Genre Discovery Approach: Preparing Law Students to Write Any Legal Document.1 The underlying argument is that since students will necessarily encounter unfamiliar legal documents, perhaps in an upper-level course and most certainly in practice, the current trend toward merely introducing more and more “templates” in the first-year writing course is ultimately ineffective. Instead, Pyral and coauthor Alexa Z. Chew adopt the cutting-edge “genre discovery approach.” In essence, their book seeks to teach “students to guide themselves through the process of writing unfamiliar legal documents” (p.xvii).

¶21 The authors define a genre as “a recurring document type that has certain predictable conventions” (p.27). Legal genres thus include all documents that lawyers produce (such as client letters or motions to suppress). Each genre includes specific parts or “conventions” called for by certain rhetorical situations. Because conventions are predictable, students can be taught to discover and ultimately to write any genre they encounter.

¶22 The text is divided into four major sections. Part 1 covers “Legal Foundations.” Although much of the material covered is familiar ground for any legal writing professor, the authors’ grounding in principles of rhetorical genre theory permeate the approach. Students are first introduced to the broad concept of “legal discourse,” which is defined as “written and spoken communication by legal pro-

* © Marie Summerlin Hamm, 2016. Assistant Director for Collection Development and Adjunct Professor of Law, Regent University School of Law, Virginia Beach, Virginia.
fessionals,” and then given the disconcerting news that “legal discourse is strange” and learning it is a bit like learning Middle English (p.3). This is followed by the equally unsettling news that while learning to read legal discourse can be hard, writing legal discourse, particularly writing well, is harder still. To aid in their quest to master this unfamiliar skill set, students are given a tool undoubtedly new to some—the rhetorical triangle.

¶23 Chapter 3, which delves deeply into the genre discovery approach, is in many ways the heart of the text. The complex concept is cogently explained, and students are given a practical pattern for analyzing any genre: identify the genre, identify the audience, locate strong samples, create a document map, and write. The chapter is brilliantly crafted, and the approach seems workable, though undoubtedly mastering the technique would require practice. The opportunity to implement genre discovery principles is offered in part 4, but the text first turns to a thorough discussion of the familiar concepts of legal logic, legal analysis, legal reading, and analysis structure.

¶24 Although part 2 is entitled “Writing Legal Genres,” perhaps “reading legal genres” would be a more apt description of what this portion of the text prescribes. Each chapter in this section focuses on a single document genre, following the litigation life cycle. The first documents relate to case assessment: office memo, e-mail memo, client letter, and demand letter. Trial-level documents include complaint, trial motion and brief, and motion hearing. Appellate genres include appellate oral argument and appellate opinion. Perhaps underscoring the fact that new genres develop over time, part 2 also considers an employer blog post. Each chapter follows the same pattern, beginning with a brief description of genre purpose and a few sage words about practical nuances. Three exacting examples of the genre/document type are presented, and students are exhorted to read closely. After the first example, the authors walk students through a detailed study of the genre using the rhetorical triangle: audience, purpose, and persona. The authors then concisely lay out the distinguishing features of the genre and offer questions to guide students as they contemplate conventions in two additional samples. The final step is to extract conventions and create a document map that takes into account both genre structure and genre execution.

¶25 Innocuously titled “Composing Legal Documents,” part 3 covers a tremendous amount of material. Research strategy and citation literacy are presented as integrated components of the writing process, effectively underscoring the importance of the topics and setting the stage for further instruction. The authors provide a thorough treatment of all aspects of the writing process, beginning with brainstorming and ending with considerations such as style and document design. The chapters covering organizing and writing analysis, as well as illustrating rules, are exceptionally clear and effective.

¶26 Part 4 is dedicated entirely to preparing the writer to give and to receive constructive feedback both in the classroom and in the workplace. Peer feedback, professor or supervisor feedback, and self-feedback are covered. This frank discussion of the crucial role of evaluation is both timely and most welcome, particularly as the ABA standards invite increased deliberate integration of formative assessment paired with meaningful feedback.
The Complete Legal Writer promises much and delivers more. The text covers fundamental concepts including legal logic and analysis, research methodology, the writing process, and citation literacy. The overall tone is refreshingly readable and will undoubtedly resonate with students. What sets the text apart is not the wide variety of sample legal documents offered, but its potential to equip students with a method of evaluating all documents/genres using an approach that will prepare them to write and ultimately to practice more effectively. The rhetorical legal genre approach is quite a discovery, and no law library collection would be complete without this book.


Reviewed by Kyle K. Courtney*

As a lawyer, librarian, or civilian, it is particularly frustrating to read about cases from our nation’s past where the victims are citizens of the United States seeking justice in the courts, and they end up being railroaded by the very system designed to protect them. Many of us have read *Dred Scott v. Sandford*, the *Civil Rights Cases*, *Plessy v. Ferguson*, and *Korematsu v. United States*, and think of the horrible consequences resulting from the rationalization of such legal decisions. Many of the cases mentioned above have been thankfully overturned by new precedent, reflecting the mistake of the prior decision. However, in Adam Cohen’s *Imbeciles: The Supreme Court, American Eugenics, and the Sterilization of Carrie Buck*, we are led to another dark moment in U.S. legal history, but one that technically has not, to this date, been officially overturned. The Supreme Court’s decision in *Buck v. Bell* upheld, for the greater good of the country, the forced sterilization of those with perceived intellectual disabilities. This book is the tale of Carrie Buck, a young woman abused by the legal system from childhood, misidentified as an “imbecile” under the questionable mental testing methods of the era, and forced to live in a makeshift prison, where women and men were required to undergo mandatory sterilization.

Cohen’s book, although offering an excellent profile of the case, the Virginia sterilization law in question, and Carrie Buck’s tragic story, methodically organizes itself around four specific individuals who truly represent the forces that were driving this forced sterilization (also called “eugenics”) issue to its ultimate acceptance as a verified legal doctrine in *Buck v. Bell*. Many of the chapters are named for these individuals: Albert Priddy, superintendent of the Virginia Colony for Epileptics and Feeble-Minded; Harry Laughlin, leader of the Eugenics Record Office and one of the nation’s most influential eugenicists; Aubrey Strode, famous trial lawyer who helped solidify model sterilization legislation, and attorney for the defendant in the Supreme Court case; and Oliver Wendell Holmes, Jr., considered

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2. 60 U.S. 393 (1857).
3. 109 U.S. 3 (1883).
4. 163 U.S. 537 (1896).
5. 323 U.S. 214 (1944).
by many to be the greatest Supreme Court Justice in history, and majority author of the eight-to-one opinion in *Buck v. Bell*. Each of these chapters delves into the background of the individual, their influences, and notable colleagues, and offers up various anecdotes about their unique involvement in the eugenics movement, the creation and enforcement of sterilization laws, and the case itself.

¶30 Carrie Buck and her mother, Emma, had been committed to Dr. Priddy’s Virginia Colony for Epileptics and Feeble-Minded in Lynchburg, Virginia. In that era, there was little understanding about epilepsy, mental infirmities, or the particular methodologies adopted for education, intelligence, and science. “Feeble-minded” was, as Cohen describes, clearly a catchall term that had no real medical definition. What we would laugh off today as ridiculous testing procedures and doubtful evidence was enthusiastically embraced by the fields of science, education, and law, especially in Priddy’s institution. Under these reckless standards and tests, Carrie and Emma were both judged to be “feeble-minded” and promiscuous, primarily because they had both had children out of wedlock. (Carrie’s child, Vivian, was judged to be “feeble-minded” at seven months of age.) These generations of “imbeciles” became the model family for Virginia officials to use as a test case to sanction the Virginia eugenic sterilization law enacted in 1924.

¶31 *Imbeciles* outlines the shocking truth that in 1924 eugenics was a concept that had been accepted by the elite of the world for decades. As Cohen describes in various chapters, the initial fascination with eugenics was based on homegrown xenophobia. The United States was seeing an increase of immigrants from southern and eastern Europe. These immigrants would, according to intellectual elite supporters such as Alexander Graham Bell, Margaret Sanger, and Theodore Roosevelt, water down the hearty American-born stock mostly derived from the United Kingdom and western Europe. And this watering down was sure to lead to an uncontrollable problem of promiscuity, pauperism, and criminality.

¶32 Also riding the wave of the eugenics craze was U.S. law. Cohen notes that the United States actually passed strict immigration laws initially to fight the “feeble-minded” immigrants arriving on U.S. shores. With continued helpful testimony from Laughlin, leader of the Eugenics Record Office, both Congress and the U.S. elitists were convinced that immigration and eugenics were related concepts, and laws should be passed to save America’s best and brightest. Cohen shockingly notes that the U.S. Immigration Act of 1924, dutifully supported by Laughlin, earned both citation and praise from Adolf Hitler in his infamous *Mein Kampf*. According to Cohen, the first eugenic sterilization statute was passed in Indiana in 1907. Other states followed suit, but many of these statutes were legally flawed and often successfully challenged in state courts. As a result, social do-gooders of the day decided to create model legislation that could withstand legal scrutiny. Laughlin, again viewed as the nation’s most influential eugenicist, designed a model eugenic law that was reviewed by legal experts. The Virginia statute of 1924 was closely based on this new model law.

¶33 For the law librarian community, I would guess the most troubling chapters will be the ones about the eight Supreme Court Justices who were in the majority, including William Howard Taft, the former U.S. President; Louis Brandeis, the renowned Court progressive; and Oliver Wendell Holmes, Jr., who wrote the majority decision upholding the program of eugenic sterilization nationwide, stating
coldly, “three generations of imbeciles are enough.”7 The book’s later chapters focus, as they should, on Holmes’s opinion, which at least one critic referred to as “one of the most ‘totalitarian’ statements in the history of the Court” (p.274).

¶34 Holmes, as it turns out, was a verified supporter of eugenics. In a 1923 introduction to Henry Wigmore’s treatise on evidence, Holmes stated he “favored laws ‘to improve the quality rather than increase the quantity of the population’ and ‘keep certain strains out of our blood’” (p.264). So it was no surprise when, four years later, he wrote in *Buck v. Bell* that the Virginia statute was necessary “to prevent our being swamped with incompetence.”8 Cohen refutes much of Holmes’s opinion, which ignores the facts, the growing doubts surrounding the testing for “feeble-mindedness,” and any other scientific inquiry that was highly skeptical of the eugenicists’ conventions. Holmes readily dismissed both the due process challenge and equal protection argument in mere paragraphs and stated, “It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind.”9 The Court upheld the Virginia law and said plainly that “if the state had the power to draft people into the army and send them to their deaths,” then it most certainly had “the right to take the lesser step of sterilizing them” (p.274). As Cohen deftly points out, the entire opinion is flawed, lacks support in legal precedents, and utilizes cruel and distasteful language about some of our most vulnerable citizens.

¶35 Although in 1942 the Supreme Court struck down a law allowing the involuntary sterilization of criminals, it never reversed the general concept of eugenic sterilization.10 The law remained: Cohen estimates that the number of Americans who were involuntarily sterilized between 1907 and 1983 is between sixty and seventy thousand. And, chillingly, Cohen points to where it was used as a precedent elsewhere: at the Nuremberg trials following World War II, Otto Hoffman, head of the SS Race and Settlement Office, defended himself at trial by citing *Buck v. Bell*. In 2001, the Virginia General Assembly acknowledged that the sterilization law was based on faulty science and expressed its “profound regret over the Commonwealth’s role in the eugenics movement in this country and the incalculable human damage done in the name of eugenics.”11

¶36 *Imbeciles* has a bit of everything: eugenics societies, dubious science, horrifying legal precedent, corrupt politicians, anti-Semitism, Nazi sympathizers, racism, and the Marxian notion of the rich continuing to exploit the poor. Lawyers and law librarians alike will enjoy the quick and accessible style of writing, without the slowdown of heavy footnotes or scholarly semantics. And while we know the ending from the beginning of the first page, the research into the lives of the parties involved in this legal travesty makes it a thoroughly interesting read, although, like reading *Plessy* and *Korematsu*, you too will shudder at the tragic ability of the law to fail Americans who need the greatest protection. It is important we stare into the void to make sure we do not repeat these same mistakes. Cohen’s excellent writing

7. Id. at 207.
8. Id.
9. Id.
makes sure your eyes are wide open as you stare into this dark chapter in American jurisprudence.


Reviewed by Jocelyn Stilwell-Tong*

¶37 This evergreen legal research guide has been newly updated, and the text is just as reliable and well documented as you have come to expect from Kent Olson and the late Morris Cohen. If you are unfamiliar with past editions of the book, what should you expect? It contains a thorough review of most online and print legal research resources, organized by type. The focus of the book is on federal and national law, but it also includes some references to state and local materials, as well as chapters on “International Law” and “The Law of Other Countries.” Though it does not list the body of resources for each individual state, one of the appendixes consists of a bibliography of state-level reference resources. It even addresses the often overlooked topic of tribal law. If you cannot find information on a resource or subject within this book itself, it will tell you where to look.

¶38 One welcome update, new to the twelfth edition, is the auxiliary website “Legal Research in a Nutshell” maintained by the University of Virginia Law Library, which hosts the illustrations and web links for the book.¹² This website happily replaces the clumsy and quickly outdated in-book screenshots, and allows for updates to the text between editions. This website is noted in Olson’s introduction and at the start of each chapter, but it is not always mentioned throughout the text. These references to the website give the reader notice that it exists, but they may be overlooked by the reader using the book as a quick reference, turning straight from the index to a subsection.

¶39 My first exposure to an earlier version of this title was in my Advanced Legal Research (ALR) class as a law student, where it was presented as one of the treatises. The twelfth edition serves this function well; the first chapter is on the legal research process, and the book as a whole presents both digital resources and print resources in a harmonious way and in logical order. It gives a lot of helpful research tips throughout, breaks large and in-depth research tasks into step-by-step processes, and uses engaging examples where possible. Also appropriate to the law student market: the book has a slight slant in favor of online materials rather than print sources. One possible drawback, as you would expect from a title in the Nutshell series, is that it gives a quick overview of many different kinds of materials rather than an in-depth treatment. Some professors may prefer a longer reference for their ALR classes, one that treats each resource in more depth.

¶40 The book seems to be designed for law students who (presumably) have access to all of the different resources through their school libraries. Few firms, government libraries, or independent practitioners would subscribe to every paid source listed within this treatise (and if they did, they might not subscribe to every

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segment of the product listed). This is not necessarily a detriment to the book; it may point out products or resource sections these institutions should subscribe to. It may save them time reviewing products that would not be useful.

¶41 A quick note on format choice: this item is available as a print book and also as an e-book. I received a review copy of the print book and purchased the Kindle edition for my own reference. They are nearly identical, but I find the print book’s small size and excellent index especially pleasant to use. This is one case where the spatial recognition of a good table of contents, index, and appendix outweighs the constant availability of the e-book. I know many librarians dislike the small size of the Nutshell series because it tends to get lost on a library shelf; that may be a problem with the print edition, which is the size of a small trade paperback. Because this text is not available on Westlaw or LexisNexis, it is possible that some institutions will want both formats.

¶42 As Michelle Botek noted when reviewing the tenth edition of this resource: it is “a solid foundational text and a great book, equally suitable for inclusion in a law firm, municipal, or academic library setting.”13 The newly updated edition remains excellent.


Reviewed by Sarah K. Starnes*

¶43 In MOOCs and Libraries, Kyle Courtney defines what a MOOC is (a massive open online course), describes how to create a course from start to finish, and presents some best practices for librarians who are pioneering the introduction and use of these courses in universities across the country. Courtney does a nice job of separating the book into chapters that build on one another, from simply defining and introducing MOOCs to discussing the tools necessary to create and carry out a MOOC, presenting a step-by-step guide to creating a course, and providing examples of current and past successful MOOCs. Courtney defines a MOOC as “a course of study made available over the Internet without charge to a very large number of people” (p.1). Although online, these courses do have traditional start and end dates, deadlines for assignments, recorded lectures by the professor, and a certificate of completion when finished. The book focuses on libraries in general with no specific focus on the legal community.

¶44 MOOCs were first introduced in 2008, making them a very recent development in the academic world. One of the most important aspects of ensuring success is complying with copyright law. Law librarians will have an advantage over other librarians because of their access to and knowledge of this area of law. Because the course is presented online to potentially thousands of participants, there is a high likelihood that infringement may occur through the reproduction,


distribution, or performance of a work. The author suggests using material that is created either by the library, instructor, or institution.

¶45 Courtney then moves into a discussion of the different tools available for use based on the size of the MOOC. Depending on the investment, ranging from modest (free to $500) to moderate ($501 to $3000) to super ($3000 and up), the creator of the MOOC has several options as to the equipment used to design the course. Courtney spends more than twenty pages discussing specific and suggested tools depending on the size of the MOOC and the type of equipment already available. There are options for those who use both Windows and Apple, and this discussion is invaluable for those who are interested in starting a course from scratch.

¶46 Before providing a step-by-step guide to creating several sample MOOCs, Courtney highlights how libraries and librarians can support these courses. In addition to copyright assessment, librarians are also stepping in front of the camera to actually teach. More prevalent than teaching is the support that librarians can provide others. This is done through production and participant support. Librarians are also vital to providing access to the MOOC as well as the preservation and archiving of completed courses. Courtney takes the time to highlight how legal research can be taught at a law school through the use of a MOOC. The online course was developed to assist international students, and although it generally worked well, some participants in other counties were unable to access the necessary information to complete the assignments.

¶47 The tips and tricks section is particularly helpful, as the best practices offered stem from experience and will help ensure success. Courtney encourages creators and participants to meet, and to do so often. He also recommends recorded video lectures and other uses of social media and interaction to keep participants involved in the course. Another tip is to take advantage of open access sources, which provide participants access to a wider range of materials. Last, Courtney discusses future trends. He indicates that the future of MOOCs is bright and steadily growing every year.

¶48 Overall, Courtney does a very nice job of breaking down a complicated and new idea and putting it in realistic and achievable terms for those interested in creating, teaching, or supporting a MOOC. Not only does he take the time to fully introduce and provide examples of the different types of courses available, he also gives specific suggestions on what equipment to use. The course examples and discussions are put in realistic and relatable terms so the individual creating the MOOC has a solid basis on which to build his or her own course. With all of the changes happening in legal education, this book is a great tool for librarians to use to come up with different ways to support and educate both the faculty and students in a new type of learning.


Reviewed by Wanita Scroggs*

¶49 This is a book full of highly useful ideas for creating digital collections and exhibits in your library—yes, even your law library. It is suitable both for beginners

and those who may have more advanced technology knowledge and skills. This
title can be easily read front to back by a novice like myself, or it can be used as a
reference by picking and choosing the chapters that pertain to your individual
project.

§50 Juan Denzer’s *Digital Collections and Exhibits* begins with an introduction
to digital collections and exhibits and a chapter on how to get started on your own
project. There are discussions throughout the book, not just about the technology,
but about other concerns that are related to digital exhibits, such as copyright
issues, location, budgets, and project selection, as well as how to give new life to
some outdated computer hardware that may exist in your library’s storage closet.
The ideas go well beyond simple digital displays of material—they help you incor-
porate sound and touch to get your patrons fully engaged with the collection.
There are chapters on tools and applications, from free open source to the fancy
expensive ones. The book even points out how you may have helpful functions
already included in technology that you use every day. I was pleasantly surprised to
find the “kiosk function” discussed in the book, which is already available on my
iPad mini and the iPhone that lives in my pocket.

§51 Denzer follows this tools-and-apps discussion with specific library exam-
pies and case studies to help readers visualize possibilities for their own libraries.
Once readers are inspired to wade into creating their own digital collections or
exhibits, there are step-by-step instructions for actual projects, even including how
to tweak the code if necessary. There is an extremely helpful section on practical,
learned-from-experience tips and tricks.

§52 Denzer wraps up the book with a chapter on future trends for digital exhib-
its. References include a robust selection of books, articles, and websites for further
reading. My one critique, and this is unavoidable for any work on technology, is
that the book has specific instructions for using Microsoft Windows 7 and 8, but
now many of us have upgraded to Windows 10. Even so, the book has been
inspiring.

§53 Our library archives cover not only the life of our law library as an aca-
demic institution but our physical facility as well. The location of our law school
campus began life as a resort hotel. At one point it was a military academy, and for
the last fifty-plus years it has been home to our college of law. We are particularly
intrigued by the idea of creating a time line exhibit, as detailed in the book, to allow
our library users to explore all of the history of our school’s location while preserv-
ing the integrity of our physical archival collection. *Digital Collections and Exhibits*
is one volume in a series about library technology. After reading this volume, I am
interested now in reading the others.

Reviewed by Nick Sexton*

¶54 Peter Graham Fish’s large, double-columned *Federal Justice in the Mid-Atlantic South: United States Courts from Maryland to the Carolinas, 1836–1861*, is part of Carolina Academic Press’s Legal History Series. It is also the second volume in Fish’s personal series on this subject. The first was *Federal Justice in the Mid-Atlantic South: United States Courts from Maryland to the Carolinas, 1789–1835* (2002), which is accessible to most readers of this book review column through HathiTrust.¹⁴ The volume under review here, covering the period from 1836 to 1861, is adorned with 40 tables; 14 graphs; 18 maps; 137 illustrations; 17 appendixes; separate indexes for cases, persons, and subjects; and literally thousands of footnotes. Its eight parts and thirty-two chapters cover many political, judicial, and historical aspects of the five states that in 1866 would become the United States Court of Appeals for the Fourth Circuit. Fish’s book has to be among the most thorough examinations of federal courts in the antebellum South. For that reason alone, it belongs in all of the academic and law libraries of what Fish calls the mid-Atlantic South, and in libraries outside the region that want an example of how such an immensely challenging historical project can be done.

¶55 In a book of this size and scope, even a general overview will take quite a bit of space; it presents too much information to be easily summed up in a few sentences. Those eight parts, for example. The first, “Politics, Courts and Judges,” introduces readers to the region the book will be dealing with, namely North Carolina, South Carolina, Virginia (before West Virginia broke off in the early 1860s; Fish writes of an Eastern Virginia and a Western Virginia, referring to the court circuits Virginia was broken into), and Maryland, the total of which Fish calls the mid-Atlantic South. For each state he provides biographies of two or three pages each of several of the judges who were, as described in the title of the book’s second chapter, “appointed and (mostly) confirmed.” Detailed information about how these judges moved through their respective political parties and the circumstances of the times to reach their positions as judges is engagingly laid out. These life stories are a reminder that there was never a time in our history when the judiciary was untainted by some political bias.

¶56 Part 2, “Supporting and Accommodating the Judiciary,” looks at such everyday issues as staffing the court with marshals, clerks of court, and other personnel, and the administration of the courts. The first chapter in that part even spends several pages discussing how these officers of the court were compensated. The next chapter covers the very practical question of where the courts in the mid-Atlantic South would be located, how federal buildings moved from tenancy to ownership, and how, in every state, the federal courthouses came to be.

* © Nick Sexton, 2016. Clinical Assistant Professor of Law and Reference/Collection Development Librarian, Kathrine R. Everett Law Library, University of North Carolina School of Law, Chapel Hill, North Carolina.

¶57 How these federal courts actually worked is the subject of the book’s third part, with separate chapters for each state (Virginia gets two chapters for Eastern Virginia and Western Virginia). Some of the topics covered are the federal court’s caseload, the number of days a court was in session, and the complications of Western Virginia’s six court seats being so geographically spread out. The final chapter in that part takes a close look at how a case in South Carolina passed through various legal operatives in the federal system there, including a district judge, a rising legal figure in the Charleston area who was then U.S. attorney, a Supreme Court Justice who was riding that circuit, and even the attorney general of the United States.

¶58 Parts 4 and 5 cover judicial powers and federalism, the former having to do with determining the authority of a judiciary under a relatively new Constitution, and the roles of congressional and executive powers. The federalism of Fish’s book is, as he characterizes it, a “states-centric federalism,” wherein the federal system takes ideas for how to function from state practices.

¶59 In part 6 Fish writes about the mid-Atlantic South’s technologically developing economy, the changes the region underwent during the antebellum period under review, and the role the federal courts played in, for example, determining disputes involving copyrights and patents. Some notable cases involved Isaac M. Singer (sewing machine), Charles Goodyear (vulcanization process for rubber), and William Woodworth (planing and matching machine).

¶60 In the penultimate part of Fish’s book, attention turns to the criminal law, what Fish calls “crimes, procedures and punishments.” In this section, federal crimes having to do with murder and assaults, the robbery and obstruction of mail, counterfeiting, forgery, and the Atlantic slave trade are discussed. Fish also touches on a problem at the time that remains a problem today: sufficient places to incarcerate prisoners.

¶61 In the book’s final part, “Twilight of the Old Republic,” Fish once again breaks down chapters in terms of states (Virginia gets separate chapters for its Eastern and Western districts here too) and writes about the crucial years of 1860 and 1861, the period of the nation’s greatest constitutional crisis. Fish describes what was happening in each state, the presidential nominating conventions that were going on, the final cases related to the Atlantic slave trade, and how district judges in both districts of Virginia eventually showed their loyalty to the Confederate South.

¶62 Fish’s aim is to provide researchers and anyone else who has an interest in the federal judiciary in the mid-Atlantic South during the twenty-five years before the Civil War with a single volume that provides an abundance of relevant and fascinating information. He has done a splendid job of achieving that goal.


Reviewed by Lauren Michelle Collins*

¶63 Wil Haygood’s decision to write *Showdown: Thurgood Marshall and the Supreme Court Nomination That Changed America* may have been prescient given

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* © Lauren Michelle Collins, 2016. Director of the Law Library and Associate Professor of Law, Cleveland-Marshall College of Law, Cleveland State University, Cleveland, Ohio.
President Obama’s current battle to replace the late Justice Antonin Scalia. Though this generation expects what Haygood describes as “partisan battles, televised and constantly looped around the clock on news outlets for the world to see” (p.352), Justice Thurgood Marshall, in his quest for confirmation, “was the first nominee to undergo such an extensive grilling face-to-face, and his hearings created a new level of senatorial inquiry” (p.349). With questions about the confirmation process currently at the forefront, the book provides information about the history and evolution of the means by which Supreme Court Justices are seated, set against the backdrop of the confirmation hearings of the first African American Supreme Court Justice.

¶64 As with his prior biographies, Haygood’s intent is, “through their subjects’ respective lives, to sharply illuminate epochal periods in the shaping of the American story” (p.357). To this end, the book is framed by the five days of confirmation hearings experienced by Marshall. Each section of the book opens with an overview of that day’s hearings and proceeds with historical stories related to the events of that day. Many of these stories read like novellas, and all are informative and enlightening. However, the book sometimes falters in drawing these interesting short stories back to the main topic of Marshall’s confirmation.

¶65 One place where the connection between the confirmation process and a timely and relevant aside is successful is the chapter entitled “Flames,” about the 1967 riots in Detroit. On July 23, between the fourth and fifth days of confirmation hearings, allegations of police brutality sparked a four-day riot across the city. Because much of the questioning at Marshall’s hearings had focused on painting him as “sympathetic to criminals” (p.27) and characterizing his representation of those making claims of discrimination as harmful to national security, there was fear that the nation’s focus moving from the hearings to the riots in Detroit would quash any chances of confirmation. The decision of the Judiciary Committee chair, Senator James Eastland, to conclude the confirmation hearings after the one held the Monday after the riots began, was troubling and left a sense that the nomination was in limbo. Where the connections between a short story and the confirmation hearings in time and relevance are clear, the book shines.

¶66 The link between the hearings and some other sections, and at least one entire chapter, are less obvious. Though still historically noteworthy, discussions of the movies In the Heat of the Night and Guess Who’s Coming to Dinner, the Houston riot of 1917, and an entire chapter on the confirmation of Justice Louis D. Brandeis seem misplaced. While the comparison of the complex confirmations of two men of ethnic backgrounds new to service on the Supreme Court might be deserving of a book of its own, the chapter entitled “The Jew” seems to float in the narrative with no clear connection between it and the rest of the book.

¶67 There is a great deal to learn from Showdown. It is full of fascinating historical facts, some of which are generally known but many of which are revelatory. One was particularly exciting to me: Marshall worked in the law library at Howard University while a student there. Unfortunately, many of those facts do not add to the examination of the confirmation of Marshall. Where the confirmation is the focus of the book, there is substantial background information, but questions are also left open. The most glaring involves a witness, George Williams, who was poised to speak at the hearings with no explanation of what he would add to the discussion.
Williams was never presented, and the hearings abruptly concluded. With access to the private papers of many of the characters in this drama, it is surprising this mystery is not solved in the book.

Showdown is packed with factual information, which shows the depth of Haygood’s research, and includes many lyrical stories of race relations in the United States. It is worth overlooking a few flaws to learn interesting American history and to look into the minds of the players involved in the developments surrounding the controversial nomination and confirmation process of the nation’s first African American Supreme Court Justice, especially now, during a time of particularly troubling race relations in this country. Now, almost fifty years later, with the occurrence of an unpredicted, problematic vacancy on the Supreme Court, it is a perfect time to read Showdown.


Reviewed by Jennifer Morgan*

The newly revised, third edition of Locating U.S. Government Information Handbook comes nearly two decades after the second edition was published, and much has changed in the world of government information.

The Handbook is organized into eleven chapters, followed by four appendices. Each chapter is prefaced with a recommended list of considerations to ponder while reading. For example, chapter 1 (“Introduction to Government and Government Documents”), which offers an introductory lesson on the structure of the United States government, the nature of government information, the Government Publishing Office (GPO), and the Federal Depository Library Program, advises the reader to consider the types of information published by each branch, to become familiar with how the GPO and depository libraries distribute that information, and to think critically about government information.

Chapter 2 (“Introduction to Online Research”) discusses online research skills and gives valuable lessons on the distinction between search engines and search directories, examines advanced search techniques such as using “site:” and “inurl:” commands, and makes comparisons between the three largest search engines (Bing, Google, and Yahoo). The chapter includes useful tables that illustrate different types of domains (e.g., .com, .edu, .org, .net, .gov, .mil), appropriate and inappropriate search examples, and a comparison of search commands and their effects in Bing, Google, and Yahoo. Chapter 3 (“Internet Directories and Portals”) continues the discussion of Internet research strategies by covering government directories and information portals, such as USA.gov, FedFlix, and C-SPAN. The chapter concludes with a comprehensive table summarizing the type of information available in government Internet directories and portals.

Chapter 4 (“Government Publishing Office Indexes”) describes the Catalog of U.S. Government Publications, MetaLib (GPO’s federated search tool), the U.S. Government Bookstore website,

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and FDsys (GPO’s soon-to-be-retired online repository and content management system). The chapter includes resource tutorials that contain descriptions of search techniques, and it is amply illustrated with multiple screen captures of sample searches and comparative tables. The authors do not mention Govinfo, which will replace FDsys in 2017.

¶73 Chapters 5 through 9 focus on specific types of publications and data, with each chapter reporting on characteristics of and access to government publications such as technical report literature, maps and geographic information systems (GIS), statistics, and historical government documents. Chapter 9 (“Historical Government Documents”) discusses how the “information revolution of the late 20th and early 21st centuries transformed the accessibility of historical documents” (p.155). The chapter is particularly valuable for its detailed discussion of the United States Congressional Serial Set (what it includes and excludes), resources providing additional information on the Serial Set, and a lengthy annotated list of indexes and guides to historical documents. One notable omission to this bibliography is the annual reference work Guide to U.S. Government Publications (popularly known as Andriot).16

¶74 Throughout the Handbook, the authors focus their discussion on free government resources, giving background information and detailed descriptions of the resources, illustrated with screenshots. Quite a few of the online resources covered in the book were last consulted by the authors as far back as 2012 and 2013. Some of these resources have been significantly redesigned (and no longer resemble the screenshot or description in form, function, or content)17 or have ceased to exist.18

¶75 One of the most valuable features of the Handbook is the chapter conclusions, which include research guidelines and detailed tables. For example, chapter 7 (“Maps, GIS, and Cartographic Resources”) has a lengthy table describing “Sources of Published U.S. Government Maps and Data” (pp.137–44) and chapter 8 (“Statistics or ‘Lies, Damned Lies, and Statistics’”) has a table defining selected statistical concepts. I wish that these tables were published online in digital format, available to download for educational or instructional purposes.

¶76 Chapter 10 provides a topical guide to U.S. government information resources. Valuable features include a glossary of key terms in the section on “Budget, Spending, Deficit, and Debt” (p.197), and the section on Congress includes tables to help the reader understand Congress, the legislative process, and the various types of congressional publications. Chapter 11 provides an inventory of congressional directories, published online and in print, and other similar resources that would assist the researcher in learning more about congressional members’ activities.

¶77 The book has four “quick reference” appendixes. Appendix 1 (“Decoding Numbers and Citations”) provides an explanation of the Superintendent of Documents (SuDoc) numbering system and offers a table with examples of citation

17. For example, USA.gov was relaunched in June 2015 with a new responsive web design and some altered content and functionality.
18. For example, the USA.gov index of Cross Agency Portals (described on p.37 of the Handbook) and the Louisiana State University Libraries Federal Agency Directory (described on p.236) no longer exist. “Open CRS,” referred to on p.22 and p.205, has been nonfunctional since October 2014.
format for documents from all three branches of the government. The table also includes information on what resources to use to find the documents. Appendix 2 discusses how to use the Freedom of Information Act (FOIA) to obtain documents. Appendix 3 has an annotated bibliography of resources that provides further information on government publications, including online resources such as GPO’s FDLP academy and annotations for classic reference works on government information.

¶78 Until appendix 4 (“Selected Commercial Resources for U.S. Government Information”), the authors focus almost entirely on free resources, paying scant attention to commercial databases, especially ProQuest Congressional and HeinOnline (the two most comprehensive resources of government documents), while entirely neglecting others, such as LexisNexis Academic, CQ.com, and Bloomberg Law. The authors explain that commercial resources “are not emphasized because their availability is limited to large research libraries” (p.155). This omission seems counterproductive because I think that this book would make a valuable addition to any academic research library’s reference collection. I also recommend this book to public libraries and law libraries.

¶79 As an adjunct instructor for two library and information science programs, I eagerly read this book to evaluate its utility as a textbook or supplement for my courses in U.S. Government Information. Given the mutable nature of U.S. government information and online resources, Hein should consider publishing Locating U.S. Government Information Handbook as a frequently updated e-book. With more careful editing¹⁹ and publication as an e-book, I would be happy to recommend this book as an authoritative textbook to my students.


Reviewed by Sandra B. Placzek*

“They chose to become lawyers when there was not even a whisper of a women’s legal movement, but their choice of career placed them perfectly to make a social revolution through the law when the opportunity arose” (p.xvi).

¶80 There are two overriding themes in Linda Hirshman’s Sisters in Law: How Sandra Day O’Connor and Ruth Bader Ginsburg Went to the Supreme Court and Changed the World: the modern struggle for equality and the growth of the women’s legal movement. Hirshman uses the lives of the first two women appointed to the U.S. Supreme Court and selected cases to track that fight and illustrate this


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movement. Providing personal vignettes to illustrate how their characters and views developed, discussing their professional history, and exploring the jurisprudence of Justice Sandra Day O’Connor and Justice Ruth Bader Ginsburg, Hirshman offers a thought-provoking view of equality in the United States.

¶81 Using *Reed v. Reed*,20 “the first constitutional sex-discrimination case to go to the Supreme Court since 1961” (p.34), as a starting point, the book discusses legal equality from 1971 to the present. And as much as this work is a history of the development of equal rights from the mid-twentieth century, it is also an exploration of Justice O’Connor’s and Justice Ginsburg’s individual jurisprudential philosophies on equality. In addition, this examination of their careers and jurisprudence provides a unique view of the women’s legal movement and the attendant social change.

¶82 Hirshman does an excellent job of identifying relevant equality cases covering a range of issues from sex discrimination to admitting women to the Virginia Military Institute, from affirmative action to Title IX. She clearly outlines the facts and legal issues of these cases in a few succinct pages and then examines how those cases shaped modern equal rights jurisprudence, often including insights into the communications and discussions between the Justices as applicable law is being discussed, decisions are being hammered out, and opinions are written.

¶83 While the equal rights discussion dominates this work, Hirshman consistently interweaves the women’s legal movement and social changes throughout, not only by the selection of cases she discusses but also by her exploration of the politics, actions, and events influencing both women. She juxtaposes O’Connor’s staunch Republicanism with Ginsburg’s liberal Democratic views, the politics of both important in shaping their views and jurisprudence. She chronicles O’Connor’s time in private practice and in the Arizona legislature and judiciary, as well as Ginsburg’s work in academia and later as a litigator for the American Civil Liberties Union. She reminds readers of the personal battles that both women fought during their terms on the Court: with cancer, John O’Connor’s diagnosis of Alzheimer’s disease, and the death of Martin Ginsburg. And through this exploration of influences and events, Hirshman provides an in-depth study of two figures at the forefront of the women’s legal movement who were involved in shaping laws and implementing social change.

¶84 Hirshman’s discussion navigates back and forth between O’Connor and Ginsburg, starting with their early years, and briefly chronicles their youths and academic years before getting into the heart of the book: their legal work and jurisprudence. With a less deft hand, this shifting could be distracting, but Hirshman handles these shifts in such a way that the reader finds them natural. After a thoughtful introduction called “Ruffled Collars,” she organizes the work into parts, then chapters within the parts. This organizational structure works well, introducing the reader to larger topics (e.g., “Part II: Chief Litigator for the Women’s Rights Project”) and then subtopics within (e.g., “Act One: Building Women’s Equality”). The chapters are further broken down into individual topics (e.g., “Ginsburg the Sneaky Litigator”), permitting the reader to digest smaller bits of the larger issues being addressed before moving on to the next larger topical area.

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This exploration and brief history of modern equal rights law provides an interesting contribution to this area of the law. Hirshman’s examination of the development of equal rights law through the prism of Justice O’Connor’s and Justice Ginsburg’s experiences and contributions adds a unique perspective to both the equal rights discussion and the history of the women’s legal movement. With more than forty pages of footnotes, and a bibliography and sources section of twenty pages, filled with references to a variety of sources to support her work, Hirshman also provides a trove of resources for those interested in exploring further. Its eminent readability, unique perspective, and thought-provoking discussion make Sisters in Law an excellent pick for acquisitions.


Reviewed by Whitney A. Curtis*

This review of the National Survey of State Laws (NSSL) is somewhat different from a typical review since it is a review of both the print edition and the digital version. The purpose of NSSL is to provide a series of fifty-state surveys of laws in several broad subject areas: business and consumer, criminal, education, employment, family, general civil, real estate, and tax. NSSL is divided by legal category into eight sections. In each of the sections the topics are arranged alphabetically and presented in their own subsections. They begin with a general overview followed by a table describing each state’s and the District of Columbia’s statutes on particular aspects of law.

The seventh edition covers changes in the law since 2008, when the sixth edition was published, and includes updates on abortion, the right to die, gun control, prayer in public schools, marijuana, marriage, personal income tax, drunk driving, capital punishment, right to work, lemon laws, leases and other agreements, child custody, and other legal areas. The salient changes between the sixth and seventh print editions are new charts on interest rates and defense of marriage acts. Additionally, marijuana has been removed from the illegal drugs section and placed in its own category.

In the digital version, users are able to make basic state-by-state comparisons of current state laws. The new seventh edition, along with the sixth and fifth editions, are included in database format, which also allows users to compare the same laws as they existed at the time those editions were published in 2005, 2008, and 2015. All print editions are included in HeinOnline’s image-based, searchable platform.

The charts are exceptionally detailed. For example, the annulment and prohibited marriage section includes notations of each state code section that contains specific same-sex marriage prohibitions, in direct contravention of Obergefell

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The author of this section opines that many states will not revise their statutes to reflect the ruling out of spite, protest, or legislative inertia. Topics are easy to locate within the volume, and the categories covered within each are appropriate and useful. The time a product like this saves is huge; having to do something like this on your own would quickly prove both exhausting and expensive. At typical billing rates, saving several hours of research time would quickly pay for the title. It is hard to imagine a resource that provides more value for the cost.

It is important to remember that, however useful the print edition is, maintaining currency is a concern. At this time, the laws in the print volume are up to date as of June 30, 2015. As if anticipating the staleness issue, Hein bundled the print edition with the digital product. In fact, since the print edition was published, the online version has added civil shoplifting as a new topic and updated interest rates, marijuana laws, and medical records this year alone. Hein has indicated it foresees occasional major updates to the digital NSSL as needed, with new print editions appearing roughly every three years.

As previously mentioned, the digital product is offered in two parts: a database and a searchable image archive. The database provides instant access to the fifth, sixth, and seventh editions, allowing easy comparison among them. The image archive, meanwhile, provides PDFs of all seven editions. Both greatly increase the utility of the NSSL, and, if major updates continue to occur throughout the life of the product, there is no reason you should not find this package indispensable to your collection.


Reviewed by Benjamin J. Keele*

Sahar Maranlou, a postdoctoral researcher at Oxford University, specializes in Iranian studies and Islamic law and gender. Her book, Access to Justice in Iran: Women, Perceptions, and Reality, appears to be based on her 2012 doctoral thesis at the University of Warwick. In my experience, books based on theses and dissertations tend to follow a fairly regimented structure: they have a very thorough literature review, discuss a discrete research project, and include more academic jargon than I would like. Access to Justice in Iran confirms all these expectations; it is a valuable piece of research in a neglected field, but it would be most useful to specialists in Iranian law.

Maranlou spends about half of the text providing conceptual background on different theories of justice. She particularly distinguishes between procedural justice, which is concerned with fair processes regardless of the ultimate outcome, and substantive justice, which is concerned with just results in each individual case. While Western legal systems mostly worry about procedural justice, Maranlou suggests Islamic legal traditions place greater emphasis on substantive justice.

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ever, when Maranlou examines the Iranian legal system and the extent to which it provides justice to women, she finds it lacking in how it provides procedural or substantive justice.

¶94 Despite imperatives for a strong justice system in Islamic legal thought, the Iranian legal system Maranlou describes needs substantial reform to achieve those principles. Corruption is a major concern, and persistent cultural norms discourage women from pursuing legal remedies, especially in family disputes. The Iranian judiciary and legal profession is working to establish more robust legal aid programs, but they are not yet enough or sufficiently well known to women to provide adequate access to the courts.

¶95 Maranlou surveyed and interviewed 120 Iranian women in Tehran to learn how they perceived the legal system and what recourse they had to it. She concludes that Iranian women generally understand their legal rights, but do not know how to vindicate those rights in court if need be. She also detects a cultural distrust of the courts and a common view that the courts are one of the last places a woman should go for help in a dispute.

¶96 Maranlou concludes that the Iranian legal community should empower women with more information on how women can protect their rights through the legal system, and that cultural taboos against women invoking legal protections should be challenged.

¶97 This book will be worthwhile for libraries supporting strong research programs in women’s rights and Middle Eastern legal issues. It is probably too specialized for basic collections on Islamic law.


*Reviewed by Hannah Alcasid*

¶98 *Data Visualizations and Infographics* is an accessible book for information professionals with varying levels of, or even no, experience with graphic design or image-generating tools. Though useful for all levels of expertise, it gives attention to the timid user, allowing the reader, chapter by chapter, to take small, comfortable steps up to designing a project of his or her own with many tools and strategies. In a time when libraries are urged to rethink how information is disseminated, Sarah K.C. Mauldin not only instructs but sets out to inspire librarians to think about their stories and how they might share them with their communities in palatable, visual forms. She also states that “[t]here is no right way to use this book” (p.xii). It can be used as a handbook or read as an overview of infographics and data visualizations, and how libraries have used and can use them to further their mission.

¶99 The book consists of seven concise chapters. To dip your feet, Mauldin begins with a brief history of how images have been used for communication and storytelling, from Paleolithic times to the present. In chapter 2, she employs various hypotheticals to help the reader understand the context for her visual project and decide what tools may be appropriate at different times, with an emphasis on the

questions of when, why, and what to use. For readers with a different understanding of a potential project, in chapter 3 Mauldin provides an overview of the free and low-cost creator tools available. These include Piktochart for infographics and Tableau Public for data visualizations, among several others. She also covers a number of resources for pulling data, such as Data.gov, that may assist in creating a compelling story. And for those not yet comfortable with being in waist high, Mauldin provides case studies, in chapter 4, of successful projects spanning academic, public, and special libraries. Those who have made it in but are still unsure about wading further will find chapter 5 most practical. It provides step-by-step technical instructions for eight potential projects using different creator tools, as well as standard software like Microsoft Word. The final chapters discuss tips and the expanding consumption of information in a visual form in the future. Throughout the text, Mauldin references prime examples and other sources for inspiration, but concludes with a list of recommended readings that includes books, presentations, websites, and blog posts to explore further. So by the end, you should be ready to swim.

¶100 I found this text to have three purposes: to be persuasive, instructional, and informative. There are a number of books that review available tools, but with this book’s catering to library projects and including successful case studies, it is unique in that it also addresses the reservations library professionals might have about creating visual projects, including why they are useful. Mauldin digs into the process in a very practical way to answer questions, to relieve those reservations, and to help make plans. She provides inspiration to be innovative with examples of how other libraries have used visual tools to tell stories to their audiences.

¶101 While useful for the novice, as someone versed in Adobe InDesign, Illustrator, and other such software, I also found Mauldin’s suggestions informative in figuring out what tools may be more suited for different visual projects, especially ones with less time for creation, denser data to display, and perhaps different audiences. The design tools mentioned would certainly save time compared to creating something from scratch. For seasoned designers, there also may be times when one has less creative flow, and the strategies and tools outlined in this book can be employed to still make that sleek product or even an inspiring mock-up that leads to a final product using other software.

¶102 Visuals not only help library professionals reach a larger audience but also prove the evolution of the library from an institution rooted in access to knowledge through text (the book) to one that promotes access to knowledge and information in as many forms as we can imagine.

¶103 Mauldin asks, “Why should you, an information professional, be interested in the content of this book? The short answer is in the word information. . . . This book is about corralling information of all shapes, sizes, and types into manageable and readable presentations that can be easily comprehended . . . .” (p.1). She successfully gives both novices and designers the techniques and tools to corral and create in any context.

\[\text{Reviewed by Ann Walsh Long}\]

¶104 In 2016 we are all paying as much attention to issues about debt and credit as law students enrolled in a course on payment systems. In fact, that is exactly how Rowena Olegario’s book, *The Engine of Enterprise: Credit in America*,\(^{23}\) landed in my lap. Our payment systems professor was interested in the book for his class to cover the history of credit, which this surprisingly readable book covers in incredible detail.

¶105 Olegario provides a fascinating and comprehensive description of the development of credit in America through four chronological phases. The first phase (1790–1850) provides an overview of the new credit culture in the developing world. The second phase (1865–1910s) explores the inequities of credit and the effects of the Civil War. The third phase (1920–1970s) focuses on the expansion of household credit, the Great Depression, and the effects of the Second World War. The fourth phase (1980–early 2000s) wrestles with how the standards for credit-worthiness are changing and what constitutes a good credit risk today. The book ends with a postscript entitled “Creative and Destructive Credit.”

¶106 Our story begins with the founding of America and the need to create a new domestic economy while simultaneously relying on existing overseas merchants. Two very different types of credit developed during this period. The first was between local storekeepers and their customers, and it flourished based on the relationships and necessity each provided. The second type, business credit, was already in use for retail purposes by the “Atlantic world” of overseas merchants. Without an American national bank, a uniform monetary system, or any reliable service to verify who might be a good trading partner, a person’s character largely determined their success in obtaining credit. During the founding of America, you really could buy things based on your good looks (or more correctly, your good reputation).

¶107 Business credit was fairly well established and came primarily from merchants, not banks. Mercantile debt was not uncommon and was a necessary condition of economic growth. Interestingly, debt was the basis for paper money in the colonies. Merchants relied on the bill of exchange over silver or gold, which could be scarce during times of heavy economic trading. Benjamin Franklin, at the age of twenty-three, believed that the basis of paper money should be determined by the value of land as long as it was carefully monitored by the colonial authorities. Thomas Jefferson also believed in government-issued bills of credit and vehemently opposed notes issued by banks, believing that bankers grew rich by trading an insubstantial commodity. Olegario sprinkles quotes and insights from many historical figures throughout the book, and the notes and references section of each chapter are thorough and well researched.

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\(^{23}\) Special thanks to Dean Matthew Lyon of the Duncan School of Law for bringing this title to my attention.
¶108 About the same time Americans began purchasing superfluous items on credit, credit’s kissing cousin, bankruptcy, arrived. Prior to the 1700s, bankruptcy did not exist. Usury laws kept the rate of interest on credit between six and eight percent until around 1825, when the moral, economic, and legal bases of the laws were questioned. Merchants could raise the price of an item purchased on credit by adding between twenty and thirty percent more to the sales price and still be considered legally within the laws of usury. State usury laws were the only form of consumer protection until the latter half of the twentieth century, leaving the potential for default estimated at about fifty percent. Bankruptcy laws protected the interests of the creditors, and defaulting borrowers were imprisoned for their debts. By the beginning of the nineteenth century, bankruptcy affected nearly every socio-economic circle, and in 1927, the U.S. Supreme Court declared state debtors’ prisons unconstitutional. People gradually came to realize that the relationship between debtors and creditors involved a mutual credit risk. The Bankruptcy Act of 1841 changed everything, allowing debtors to voluntarily declare bankruptcy and be discharged from their debts.

¶109 Around this same time (c. 1850), credit reporting became a profitable enterprise. One company, John Bradstreet & Company, hired lawyers to report on business deals and write credit reports on existing and potential customers (one of the lawyers hired was Abraham Lincoln). Bradstreet pioneered the use of credit ratings and published volumes annually. Later, R.G. Dun & Company published its first volume of ratings in 1859, covering more than 20,000 firms. Eventually Dun and Bradstreet joined forces and the world of credit became more transparent with the three “Cs” of credit—capital, capacity (ability), and character—forming the basis of responsible lending and borrowing.

¶110 Fast-forward past the Civil War, the Great Depression, the Second World War, and into the twenty-first century. Now we have a national bank that guarantees loans, a national currency that was used as the basis for financial stability in more than forty countries until the Bretton Woods system ended in 1971, and credit reporting that is reliable and easily obtained. However, one thing has changed: consumer credit. Credit cards were introduced in the 1960s, and during the 1980s credit card charges more than quadrupled in the average American household. Initially, credit cards were not lucrative for the banks. During a three-year period between 1979 and 1981, Citibank lost more than $500 million on its credit cards, mainly due to high inflation, which made the cost of obtaining funds to loan very expensive. As you may expect, credit card issuers, like many creditors in the past, found a way around usury laws. As you may not have expected, credit card issuers were helped by the Supreme Court, when it allowed banks to impose their home state’s higher interest rates on credit card accounts issued in other states. For example, South Dakota waived its usury laws for Citibank, allowing it to charge as high a rate as it saw fit, in return for the relocation of Citibank’s headquarters to the state.

¶111 Whether you are currently enrolled in a payment systems class or just adding interesting titles to your collection, Olegario’s *The Engine of Enterprise* would be a worthwhile investment of your time (and money). Unfortunately, the last phase

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of the book ends during the early 2000s, without an exploration of the collapse of the derivative markets of the last decade. To see how this story ends, I would also recommend adding a movie to your collection: *The Big Short*.


Reviewed by Madelaine A. Gordon*

¶ 112 The failure of the drafters of the rules of evidence to take into account how human decision-making derives its impetus from psychology and social influences results in many of the rules being ineffective or even counterproductive in fulfilling their goals. Michael J. Saks and Barbara A. Spellman present the purpose of the rules as twofold: first, to give everyone an equal opportunity to present their claims before a decision maker, and second, to encourage good behavior outside the courtroom. Attorneys during the last century have been given increasing opportunities to advocate for their clients. The role of the attorney has expanded significantly from the early English trials where attorneys spent little or no time advocating on their clients’ behalf. Courtrooms were more formal and the role of the attorney limited. Now the skill levels of attorneys vary widely, and for many people access to skilled counsel is too expensive. The evidence rules attempt to equalize the field and protect individual parties’ rights.

¶ 113 The discussion and theories about the rules in *The Psychological Foundations of Evidence Law* are supported by extensive research and numerous studies of human behavior. The rules are arranged into groups based on the intent behind each rule. One group are the rules designed to provide decision makers, whether judges or juries, with the information relevant to the conflict and in the most emotionally neutral manner. The authority given to judges to tell juries to disregard witness answers or pieces of evidence, and the expectation that judges themselves will also disregard the same items, may actually serve to increase awareness about the evidence and accord it more weight in the decision-making process. The authors cite several studies that demonstrate that individuals are not able to automatically disregard information and may be cognitively unable to do so.

¶ 114 A second group of rules, concerning the character of the individuals involved in a case, seem in conflict with one another in their application by the courts. The exceptions to almost every rule in this category allow evidence prohibited by one rule to be admitted for a different purpose by another rule. The decision makers will automatically make connections between the evidence. Humans take information and put it into stories so that they will retain and have a greater understanding of the information conveyed to them every day.

¶ 115 The authors argue hearsay rules lack validity. There are few studies to determine whether an individual’s excited utterance or dying words are more likely to be accurate and truthful. Changing belief systems and advancing technology also need to be examined for their impact. For example, can a tweet be considered an excited utterance? The existing research in this area lacks practicality as the studies do not translate into a format useful in the law.

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¶116 Rules of evidence concerning expert and scientific evidence are thoroughly trounced by the book. Courtroom simulations have demonstrated that very few jury members and judges actually understand this type of evidence, and the tools in place for determining admissibility are flawed. Evidence based on one form of study that once found general acceptance by the scientific community is admitted and given weight until a flaw is discovered. The courts must then review cases involving that type of evidence, and, if possible, new scientific tests must be conducted to determine whether case outcomes were correct. This situation has occurred in the past, resulting in courts expending great resources over a period of years reviewing cases. Further studies have also found that the validity of scientific and expert testimony is usually judged on the appearance and demeanor of its presenter.

¶117 *The Psychological Foundations of Evidence Law* is the latest entry in a field that is drawing greater attention each year as the ties between human psychology and individual and group behavior is demonstrated more concretely through research. People in professions such as law are beginning to utilize this information in their preparations for litigating and negotiating disputes. The role of the rules of evidence is being examined in light of years of psychological research, which indicates that some rules are effective, some are ineffective, and some are counterproductive. The book provides a solid overview of the interaction between these two fields.

¶118 The information is presented in an easy-to-read and understandable format. The specifics of psychological research are not discussed; rather, it is a general overview of the impact of psychology on the rules of evidence’s use and effectiveness. The book is written for educators and scholars, but the information could also be used by other legal professionals. Anyone whose practice interacts with the rules of evidence should review the book to gain more insight into how people rationalize and think.


Reviewed by Sabrina A. Davis*

¶119 Libraries are encouraged to use data to prove their value and make decisions about matters such as collection development, hours of operation, and services. There are many books available on this topic, each with its own focus, and selecting the most useful books for a particular institution can be a challenge. *Library Analytics and Metrics: Using Data to Drive Decisions and Services* is most appropriate for larger academic institutions with funds available for data collection and analysis. However, before acquiring it, a library should consider its cost in relation to the amount of information provided.

¶120 *Library Analytics and Metrics* is a fairly easy read without too much technical jargon, but the authors make many assertions that are not supported by references. This book has an introduction and seven chapters; each chapter begins with introductory material, followed by one to three case studies, and ends with a brief

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conclusion. Reading the introduction is recommended because it defines the terms “analytics” and “metrics” as used in the book: “Analytics is the *discovery* and *communication* of meaningful patterns in data,” whereas “metrics means the criteria against which something is *measured*” (p.xxx).

¶121 The chapters cover the following topics: (1) big versus small data, (2) data-driven collections management, (3) using data to demonstrate library impact and value, (4) qualitative research on user experiences, (5) web and social media metrics, (6) the risks of analytics (i.e., ethical considerations), and (7) a data-driven future. In general, beginning with an overview of big and small data, and then focusing on more narrow topics, makes a good organizational approach. However, the authors provide only a cursory overview of each topic, which acts as an introduction for things to consider, but it is not useful for aiding in the selection of metrics or analytics for a particular institution. Further, the book does not address using data to assist with reference decisions, procedures, or policies, which seems like an important topic for a complete discussion on library analytics and metrics. On the other hand, there is a chapter devoted to the timely issue of web and social media metrics, which many readers may find informative.

¶122 The case studies for each chapter vary significantly in their characteristics and usefulness. For example, some use fairly small sample sizes (e.g., a 2012 survey regarding desire for a shared library analytics service of all U.K. academic library directors yielded only sixty-six responses), while others analyze large amounts of data (e.g., a study measuring the web impact of five significant cultural heritage institutions in the United Kingdom: the British Museum, the National Gallery, the National History Museum, the British Library, and the U.K. National Archives). In addition, the case studies were limited in the amount of information provided, so visiting the websites provided by the studies would be necessary to get a complete understanding of the raw data and results.

¶123 In summary, a large library with funding available for data collection and analysis may be able to use *Library Analytics and Metrics* as a starting point for information on what analytics and metrics other large institutions have explored, but the book will not provide a roadmap for a library to navigate developing its own data-driven decisions.


*Reviewed by Melissa Strickland*

¶124 Using just ten selected U.S. Supreme Court cases, Gillian Thomas manages to give a compelling and varied tour of women’s rights issues under Title VII of the Civil Rights Act of 1964 over the last fifty years. Thomas, a senior staff attorney with the American Civil Liberties Union, begins by describing the laughter that followed the amendment to insert sex into the list of protected classes in the act and ends with some of the issues still facing women in the workplace today, in spite of the progress that has occurred.

* © Melissa Strickland, 2016. Reference and Instructional Services Librarian, Charleston School of Law, Charleston, South Carolina.
¶125 The first half of the book includes the cases that set the precedents and framework for many of the major areas of discrimination due to sex, such as sexual harassment or pension policies that penalize women for their longer life spans. The last half of the book is more about filling in the details in the framework built by the first half. Here are the cases about punishing women who do not appear “feminine” enough, treating all women as “potentially pregnant,” and penalizing women because they are actually pregnant.

¶126 The trip through the cases begins with Phillips v. Martin Marietta,26 which is the very first case where the Supreme Court considered Title VII. The chapter on this case includes references to the standard cases, articles, and books, along with interviews with some of Ida Phillips’s children and her attorney. Thomas made an effort to interview people behind all of these cases where possible, leading to a very personal view of not only the situation leading to the case, but, in most instances, the negative consequences these women had to endure just as a result of pursuing equality.

¶127 Some of the facts behind these cases are downright shocking to those of us young or lucky enough not to have lived through similar treatment. For example, the severity of the harassment described in chapter 4 on Meritor Savings Bank v. Vinson27 would without question be harassment, and possibly even criminal, in today’s society. Similarly, the blanket refusal to hire women with young children in Phillips would unquestionably be unacceptable today. Some of the other cases show us how far we have yet to go, such as chapter 9’s Burlington Northern & Santa Fe Railway Co. v. White,28 where Sheila White was retaliated against after speaking up against the harassment she endured in her male-dominated workplace, a scenario that continues to play out in workplaces today. Similarly, chapter 10’s discussion of the recent Young v. United Parcel Service, Inc.29 case shows how a pregnant woman with medical restrictions is still treated differently from a man or nonpregnant woman with the same medical restrictions.

¶128 Thomas’s tone is closer to that of a storyteller than an academic. She begins each chapter with the events behind the case and the sometimes difficult search for an attorney willing to take the case, leading through to the litigation and appeals process, and finishing with a look at the lasting effects of each case, both on the women behind the case and society as a whole. She wraps everything up with an epilogue that discusses how the cases studied continue to affect the law, and the issues that still have not been addressed by the legal system.

¶129 This book is likely to appeal to a broad audience: it makes the cases included accessible to those without legal training, and it provides background that most decisions do not contain to make it worthy of reading by those in the legal field. While lacking the scholarly tone of the traditional legal treatise, the accessibility of the material would make this a good addition to any library’s collection.

¶130 Marlene Trestman’s goal in authoring the biography of her mentor, Bessie Margolin, is to “rescue [her] from undeserved obscurity” (p.xv), and Trestman’s beautiful account of her mentor as a skilled and singular legal advocate does just that. Personally, I am not one for reading biographies, but Trestman does a wonderful job of interweaving the legal history of the Tennessee Valley Authority, the Fair Labor Standards Act, and the Equal Pay Act into the book. The book feels more like a snapshot of a great shift in the legal world, not just for female attorneys, but also for our views toward social welfare in the United States.

¶131 Bessie Margolin was an extraordinary individual whose life as an attorney was truly remarkable. Her life story started as an orphan of sorts (her mother died when she was two) in 1911. In 1913, Margolin was sent, along with her sister and eventually her brother, to live in the Jewish Orphans’ Home in New Orleans. The Home proved an integral part of her life and instilled in her a love of education and advocacy for social justice issues. Through attendance at a community school and the Jewish community’s willingness to provide volunteer “matrons” (prominent women in the community to mentor young women), Margolin was exposed to the wealthy and well-established Jewish elite of New Orleans, and the skills she learned in New Orleans social circles surely assisted her ability to navigate the world of Washington, D.C.

¶132 Margolin’s legal career began at Tulane University, where she was the only woman in her law school class. She condensed her six-year dual degree program into five years while earning high marks, serving on law review, and graduating second in her class. From Tulane, Margolin moved to Yale Law School, where she was hired as a researcher—though not without concern for her gender and religion. Her performance there exceeded expectations, and when the time came to move on, she found support from the male colleagues and faculty at both Tulane and Yale. Up to this point, the book recounts such an unlikely story that I was deeply engrossed, but the story so far is just a precursor to an amazing career and a legal record that would make anyone envious.

¶133 The book then follows her distinguished career through the Tennessee Valley Authority, the Labor Department with a brief stint working on the Nuremberg Trials, and unrealized hopes of a judicial appointment. Trestman does an exceptional job of interweaving Margolin’s life, including her struggles and love affairs (usually with married men), with the federal laws that she defended and largely shaped through her advocacy. Margolin undoubtedly shaped the Fair Labor Standards Act and put the Equal Pay Act on a legal path that would see it grant thousands of women back pay and increased wages. The book makes very clear that throughout Margolin’s life her abilities, intellect, and demeanor garnered the admiration and vocal support of her male counterparts and mentors, including numerous federal judges and a handful of Supreme Court Justices.

* © Kelly Leong, 2016. Reference Librarian, Hugh & Hazel Darling Law Library, UCLA School of Law, Los Angeles, California.
¶134 While I have recited much about Margolin’s beginnings, I do not feel I can do justice to the beautiful story that Trestman paints of a life filled with achievement that Margolin made for herself. As for her achievements, here is just a brief recount as provided by the book: 24 arguments before the Supreme Court; 150 circuit court cases argued with 114 favorable rulings, only one of which was overturned by the Supreme Court. “Of the 36 circuit court arguments she lost, 7 were reversed by the Supreme Court—6 of which Margolin argued” (p.119).

¶135 The book provides an insightful look into the life of an accomplished attorney and a woman excelling in a male-dominated profession while making choices that many others struggle with today. I recommend this book for libraries collecting legal biographies, gender-related legal issues, the legal profession, U.S. Supreme Court advocates, and those with leisure collections.


*Reviewed by Sarah K. C. Mauldin*

¶136 *Deep Web* is a documentary feature film that tells the story of the rise and fall of Silk Road, a dark website used as an international marketplace for drugs and other illegal goods and services, and the arrest and prosecution of Ross Ulbricht, a/k/a “Dread Pirate Roberts,” as Silk Road’s founder. Its writer and director, Alex Winter, is known for a wide variety of theater, television, and film projects, most notably starring as “Bill S. Preston, Esq.” in *Bill and Ted’s Excellent Adventure*; writing, directing, and starring in television comedy and animation projects; and writing and directing both the 1991 thriller *Fever* and, most recently, *Downloaded*, a documentary for VH1 Rock Docs examining peer-to-peer file-sharing systems and intellectual property rights in the 1990s.

¶137 The film is narrated by Keanu Reeves and begins with a brief introduction to the concept of the dark web and how Tor, open source software used for anonymity on the Internet, and Bitcoin made sites like Silk Road (SR) possible. It also discusses the SR administrators, including “Dread Pirate Roberts,” or DPR, and the activity on the site’s forum, including postings on the libertarian philosophy of SR and the rules of the community, including the idea that the site cannot be used for transactions that cause direct harm to others and that the sale of drugs on SR is a step toward minimizing the violence of the drug trade and the war on drugs. Two anonymous sellers talk about their experience on SR and state that the site’s ideals were seen as a way to keep inexperienced drug users from harming themselves. *Deep Web* also provides a brief look at the rise of the CypherPunks and cryptography as a necessity for privacy and anonymity in the exchange of information online.

¶138 From this introduction the film turns to government interest in SR and an investigation requested by Senator Charles Schumer after a constituent discovered that her teenage son had ordered drugs from the site. This is one of many investigations of SR being conducted by federal, state, and local authorities, including the

* © Sarah K.C. Mauldin, 2016. Director of Library Services, Smith, Gambrell & Russell, LLP, Atlanta, Georgia.
FBI, Homeland Security, and the NSA. These investigations led to attaching a name to DPR, Ross William Ulbricht. Ulbricht is a young serial entrepreneur with degrees in physics and materials science, but with little formal knowledge of coding, and a streak of libertarianism that led him to create business ventures intended to promote social justice through commerce. Ulbricht is identified as DPR and is arrested at his local public library branch in San Francisco while logged in to SR on his laptop over the library’s Wi-Fi.

¶139 The film turns at this point to the criminal case against Ulbricht. This includes an overview of Ulbricht’s life from videos and photographs as well as interviews with his astonished friends and family. Deep Web also reviews how the multiple investigations coalesced into one, describes what steps law enforcement and other agencies took to build the federal indictment, and questions the legality of the methods used. The remainder of Deep Web is a close look, through interviews with activists, at privacy rights online, search and seizure, and the rising movement to protect anonymity in an era of surveillance, all set against the background of Ulbricht’s impending trial.

¶140 Deep Web is a film with a definite point of view that is pro-Ulbricht and deeply wary of the government’s conduct in investigating Silk Road and building a criminal indictment. It is also a must-see documentary for anyone who uses the Internet, whether for good or nefarious purposes. The film provides a solid overview of how the dark web works and how simple it is to log in with freely available, open source software. It is also a history of cryptography and the quest for online privacy and anonymity. But more than that, it is a film that highlights the movement questioning the government’s need for open surveillance of Internet users, and whether authorities should be able to use hacking techniques that are crimes in the United States as investigative tools. It is also an excellent discussion of the Fourth Amendment protection against illegal search and seizure and what that means in a digital world. Deep Web is also just a good suspenseful story that uses a single case to highlight how little Americans really know about the world beyond the surface web.

¶141 Deep Web offers options for purchasing or renting the film for personal use as well as DVD and streaming options for academic institutions. I recommend offering it as a purchase option to faculty teaching courses involving Internet or privacy issues or for advanced courses in constitutional law. If the library has a law-related movie collection, I would recommend the purchase. Anyone else with interest in any of the issues discussed should consider streaming Deep Web from VHX or another streaming service.


Reviewed by Sarah Jaramillo∗

¶142 Legal scholars and social movement activists often look at Roe v. Wade30 as a textbook example of how not to achieve social change. They say it catalyzed a
deep distrust in the judiciary, fomented a major cultural backlash, polarized activist camps into uncompromising postures, and halted state regulatory experimentation. Law professor Mary Ziegler thinks that characterization is at best oversimplified and at worst factually incorrect. Her book seeks to correct the historical record. Ziegler agrees that the *Roe* decision shaped the activism that came after it. However, the abortion debate did not start to take its extremely polarized tone until the rise of the new right and the religious right in the late 1970s and 1980s.

¶143 This book is logically organized and well footnoted. The only stylistic criticism worth noting is that sometimes the author tilts toward the repetitive in her effort to state what exactly she has asserted. Chapter 1 addresses the question of whether *Roe* precipitated a crisis of constitutional and judicial legitimacy. In the wake of the *Roe* decision, pro-life activists did not want the issue of fetal rights left to the will of the majority, but rather believed that there already existed a fetal right to life. These activists feared that the majority of people would not support a restoration of traditional norms after the great social changes of the 1960s. Instead of wanting judges to bow out of the fight, they wanted judges to overrule *Roe*. Judicial activist language did not become part of pro-life rhetoric until the 1970s, with the rise of the incrementalists, whom Ziegler talks about more in subsequent chapters.

¶144 Chapter 2 describes in detail how the pro-life movement shifted from an absolutist agenda that favored a fetal rights amendment to a practical, incrementalist agenda that worked around and within the *Roe* framework to restrict abortion. Incrementalist strategies gave the pro-life movement the concrete wins and political viability it needed, as well as increased membership and donations. An interesting part of this discussion was Ziegler’s description of the early pro-life and pro-choice movements as nonpartisan. The shift to current party uniformity on abortion did not occur until the incrementalist ascendancy and alignment with the new right and the religious right.

¶145 Chapter 3 challenges the conventional narrative that connects the abortion rights movement to women’s rights. The early abortion rights movement used arguments related to the population control, privacy, and the rights of the physician. Eventually, the mainstream of the abortion rights movement distanced themselves from the population control argument due to its association with forced sterilizations and its racist and classist overtones. Around this time, abortion rights proponents started using women-centered arguments based in either the Equal Protection or Due Process Clauses.

¶146 Chapter 4 addresses the claim by many that *Roe* narrowed the abortion rights agenda too artificially. Ziegler asserts that while the movement did eventually adopt a single-issue choice-based agenda, there were large factions early on who advocated for broad reproductive rights initiatives and employed various equality-based arguments. However, in the mid-1970s, the Equal Rights Amendment (ERA) failed to pass and was the focal point of intense cultural backlash. This environment made using equality-based arguments with respect to abortion less popular. So movement leaders began to emphasize the language of choice and autonomy to ensure more popular and electoral support.

¶147 Chapter 5 discusses whether *Roe* halted a vibrant social experimentation in regulating abortion. Ziegler finds that *Roe* definitely anchored both movements.
However, both sides constantly reinterpreted Roe, and the abortion dialogue changed rapidly throughout the 1970s. The abortion rights movement’s arguments progressed from interpreting Roe as a medical and privacy rights decision to one based on women’s rights (such as equality) to a choice-based rationale.

¶148 Pro-life strategy evolved quite a bit in the 1970s as well. Early pro-life advocates said women should not support Roe because the decision did not promote women’s rights, but rather the rights of physicians. In terms of strategy, the main organizations at first championed an absolute ban on abortion and then moved to the aforementioned incremental strategy. The incremental strategy produced a variety of state abortion regulations and narrowed the judicial application of Roe. In the late 1970s, to woo more supporters from other conservative movements, pro-life leaders began using the language of the new right and religious right, including accusations of judicial activism and anti-feminist arguments.

¶149 Chapter 6 focuses on the conventional view that Roe undermined any compromise on abortion. While both sides used absolutist rhetoric in the first five to ten years following the decision, there were factions who sought common ground with movement opponents. This chapter tells a series of stories of pro-life activists who worked with abortion rights activists to promote the ERA, laws banning pregnancy discrimination, laws to offer financial support to new mothers, and laws guaranteeing the right to child care. However, with the larger cultural shift to the right and the subsequent shift to the right of the pro-life movement in the late 1970s and early 1980s, the little space these women and men occupied in the pro-life movement became nearly nonexistent.

¶150 In her conclusion, Ziegler summarizes why she believes it is incorrect to hold out the Roe decision as the sole cause for this country’s failed attempts to liberalize abortion policy. In addition to Roe, politicians, activists, a larger cultural backlash to the ERA, and the radical movements of the 1960s and 1970s created the charged, uncompromising abortion debate we see now. Whether this thesis is true is for each individual reader to decide. What is clear is that Ziegler does a fine job unearthing the untold stories of pro-life and pro-choice activists from the 1970s and 1980s to weave an interesting story about abortion, women’s rights, and cultural change.
Memorial: Peter S. Nycum (1941–2015)

Amazingly Upbeat

Peter Nycum, professor emeritus of law, died October 5, 2015, with his wife, Marilyn, by his side. Nycum joined the Lewis & Clark Law School faculty and was appointed director of the Boley Law Library in 1978. He had a deep love and appreciation for the law school, the faculty, and the staff, but especially for the many law students who crossed his path.

Peter received his B.A. (1963), LL.B. (1967), and M.L.S. (1968) all from his hometown school, the University of Pittsburgh. His legal information career began in the mid-1960s at the Health Law Center of the University of Pittsburgh, where he helped create a legal information retrieval system. Early positions included stints as the assistant director of the Allegheny County Law Library in Pittsburgh, manager of user services for the Stanford University Computer Center, and director of the San Mateo County Law Library. He also developed and ran his own microfilm publishing company, Legal Information Science Corporation, before it was acquired by Xerox Corporation in the 1970s.

Under Peter’s directorship, the Boley Law Library collection grew from 120,000 volumes in 1978 to more than 500,000 volume equivalents, an accomplishment the law school celebrated during the 2004–2005 academic year. Although he remained a dedicated print enthusiast, Peter made sure the law library moved quickly to adopt new technology. In 1981, the law library became one of the first institutions in the country to offer law students both LexisNexis and Westlaw. Highlights of his career include the establishment of the Peter S. Nycum Rare Book Room in 2002, along with sharing the stage with Supreme Court Justice Antonin Scalia during the dedication ceremony for new library space. Peter also worked closely with Portland author Phillip Margolin to create the Doreen Margolin Law in Popular Culture Collection. Throughout his many years at Lewis & Clark, Peter taught legal writing and research, computer law, and legal ethics. His greatest curricular passion, however, was reserved for his legal history courses and seminars.

When I joined the Boley Law Library staff as reference librarian in 1994, stories about Peter Nycum’s early years at the law library had become legend; luckily many more stories were to be written over the course of the next seventeen years of Peter’s tenure as library director. Peter started many “traditions” at the library and law school during his thirty-three years in charge of the library. Librarians Kathy Faust and Lynn Williams, who were Peter’s first hires after he came onboard as library director in 1978, recalled that the early traditions included both “Beer Friday” and “Daiquiri Tuesday.” The former was a social event held on Friday afternoons, the latter was a more relaxed way to get through Tuesday morning acquisi-

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tions meetings. Another popular tradition at the law school was the law student Halloween Party, sponsored by the law library. Each year Peter whipped up a batch of “artillery punch” for the party. Among other things, the recipe for artillery punch included a potentially lethal combination of rye whiskey, dark rum, gin, brandy, Benedictine, red wine, and orange juice. No one knows for sure, but odds are that the artillery punch was at least partially to blame for the incident in which a law student rode his motorcycle through the middle of the party held in the student lounge. The next year Peter attempted to water down the punch, which proved to be an unpopular decision; a memo written after that year’s party strongly recommended that the punch be brought back to full strength the following October.

Each year the library staff eagerly anticipated both the winter holiday party and summer barbecue, traditionally held at Peter’s home on nearby Lake Oswego. In addition to the pleasant venue and abundant adult beverages, the party was popular with staff because Peter’s backyard was awash with a variety of boats, including a canoe, a pedal boat, and a motorboat. During one summer get-together, two staff members cheerfully paddled the canoe onto the lake, only to be promptly “pulled over” by the lake’s boat patrol. Peter had forgotten to properly register his boats that summer, and although the staff members got away with just a warning, Peter was quite embarrassed. The staff took great delight in reminding him of the event during every summer party for years afterward. Food, drink, and collegial fun were important hallmarks of Peter’s management style.

Peter collected things: chess sets, vintage typewriters, meerschaum pipes, Pittsburgh Steeler souvenirs, and all kinds of bears—teddy bears, ceramic bears, wooden bears, novelty bears. His greatest collector zeal, though, was reserved for his book collection. English legal history was his forte; he never encountered a sixteenth-century treatise on the Magna Carta or a tome written by Mathew Hale or Sir Edward Coke that he didn’t like (or buy). His donation of rare books to the law school enabled the creation of the Peter S. Nycum Rare Book Room. The Sir Edward Coke Society, which he founded to “stimulate an interest in legal history through educational presentations, collegial discourse, and informative libation tasting,” provided funding for the acquisition of additional rare books for the collection. Rare English legal treatises were just a small part of Peter’s book collection, however. Upon his retirement in 2011, the law library received more than 3000 of the legal history titles Peter had acquired, nurtured, and shelved in his (cluttered) office for thirty-three years. In April 2015, the law library dedicated the Nycum Legal History Collection. Happily, Peter was able to attend the festivities in his honor despite several health issues.

One of the reasons Peter loved the law school as much as he did was due to the school’s very welcoming policy toward canine companions. One almost never saw Peter on the law school campus without two or three of his furry friends scampering along beside him. His devotion to animals is exemplified by his involvement with the Animal Law program at the law school. In the mid-2000s, Peter quietly endowed an Animal Law scholarship that each year goes to the editor of the Animal Law Review. For several years, in addition to the scholarship, Peter presented the “Noodles Award” to a deserving animal law student. The award, named after his longtime animal companion Noodles (who lived to be seventeen and a half) included a plaque and a small stipend.
As library director, Peter was known as an understanding and approachable boss, and throughout his directorship he remained a tireless advocate for the law library and staff. As a friend and mentor, Peter was generous with his time and equally generous with his frequent words of praise and encouragement. He maintained an amazingly courageous and upbeat attitude about life even as he struggled with multiple health issues including hearing loss, cancer, and Parkinson's disease. We miss him.—Tami Gierloff

Peter Nycum: The Man and the Beard

When I think back on my incredibly fond memories of Peter Nycum, two things immediately come to mind: his office and his beard. I was still in library school at the University of Washington in the early summer of 1988 when I applied for a reference librarian position at the Paul L. Boley Law Library at Lewis & Clark Law School. It was ahead of the “meat/meet market” of the AALL Convention, and I was very excited when I was asked to interview for the position. I had grown up near Portland, Oregon, so I was particularly interested in a chance to come back to my hometown.

Peter’s office at that time was not in the library but near the dean’s office in the main faculty wing of the law school. I don’t recall who brought me over to his office, but I do remember my first impression when I walked in: how did I end up in England? How does one fit a labyrinth of bookshelves and furniture into a standard ten-by-fifteen office? Peter somehow pulled it off. First of all, the office was wall-to-wall books with floor-to-ceiling bookshelves completely filled with books. Peter was primarily a legal historian as well as a librarian, and his love of legal history and books was evident.

But the wall-mounted bookcases weren’t enough. There was an internal half wall bookcase (also floor to nearly ceiling) that divided his office into a front half and a back half. The front half (nearer to the entry door) was like a quaint English drawing room, surrounded by books with comfortable chairs, small tables, and lamps. The back half had Peter’s work desk. Peter was (and always will be) a mentor for me in many respects, including in the art of keeping a messy desk! Well, perhaps cluttered more than messy, with books, papers, journals, etc., all strewn about. And while I don’t think he was part of my first visit, Noodles the Poodle was a ubiquitous and grand addition to Peter’s office.

Now, about the beard: in some respects it wasn’t particularly unique. Somewhat reddish in color, nattily trimmed, it’s hard to describe its character in the abstract except to say that it fit Peter perfectly and made Peter “Peter.” He always had the beard, from the day I met him in 1988 through our last encounter at the Portland AALL Conference in 2008. He once told me that he had “three wives who had never seen him without a beard.”

But I have! At least in pictures. Peter Nycum was a three-time graduate of the University of Pittsburgh, earning his B.A. degree in 1963 and his LL.B. degree.

1. Professor and Associate Dean, Boley Law Library, Lewis & Clark Law School, Portland, Oregon.
* © George H. Pike, 2016.
from the University of Pittsburgh School of Law in 1967, and finally his M.L.S. from the University of Pittsburgh Graduate School of Library and Information Science in 1968. When I left Lewis & Clark after six years, it was to take on the directorship of the University of Pittsburgh Barco Law Library. Shortly after settling in, I made it my quest to see whether I could track down Peter’s class picture, as rumor had it there was no beard at that time. It took a while, as Peter was mistakenly listed in the Alumni Directory as part of the class of 1966—and there was no picture available of that class. But it turns out he was part of the class of 1967, and a class picture was available for that class. And there is Peter S. Nycum in all his clean-shaven glory!

¶ 14 I was at Lewis & Clark for six years, starting as a reference librarian in 1988 and ending my time there as the deputy director of the law library in 1994, and I will always be grateful for the professional and personal support that Peter gave me. Professionally, I couldn’t have asked for better support and better opportunities. After an initial term as reference librarian followed by a couple of years as a computer services librarian, I was promoted to deputy director. Peter then decided to take a well-deserved sabbatical year (in Florida if I recall correctly, and I think that boating was as important to that sabbatical as scholarship), and I became the acting director for that period. It gave me great insight into the running of a large law library and was the key part of my resume as I began to look for my own opportunities to be a director.

¶ 15 Personally, Peter was a friend and mentor. His annual holiday parties were legendary, and he always enjoyed wandering over to my office to chat (or when I would wander over to his office to chat). When I applied for the position as director at the University of Pittsburgh Law Library, he was incredibly supportive and provided my introduction to Iron (‘Arn’) City Beer and many other Pittsburgh traditions.

¶ 16 I will always remember Peter Nycum with fondness and gratitude for the friendship that he gave me and the opportunities that he provided me. And I’ll always remember the beard.—George H. Pike

Remembering Peter*

¶ 17 As I return to law librarianship after a three-year absence, I find myself thinking often about Peter Nycum. I happily recall our late afternoon chats (okay, lectures) on English legal history in the labyrinth that was Peter’s office; of him stopping by many a fall Monday to celebrate the latest victory of his Steelers; of staff meetings and memos and the other daily incidents of work; and even of my first interview with him, when I walked out with my first full-time librarian position, feeling as though the extra $30 a month for which I had bargained was a great deal.

¶ 18 But mostly I think about the example Peter left, as a librarian, a mentor, and a friend. Peter, of course, was a very successful librarian, in his tenure turning the

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2. Senior Lecturer and Director, Pritzker Legal Research Center, Northwestern University Pritzker School of Law, Chicago, Illinois.

Boley Law Library into the largest and in many ways most innovative law library in Oregon. In doing so, he was very much driven at all times by his devotion to the law school and its students. Peter loved teaching, mostly I think because it provided him an opportunity to spend time talking law and life with generations of law students.

¶19 He loved nothing better than to devote an hour or two or more in his sitting room with one of his legal history students. Surrounded by stacks of books, in comfortable high-backed chairs, and in the company of one to three dogs, Peter and his student would engage in long discussions about a paper draft, the class, clerking, the stresses of life as a law student, sports, politics, etc., and, always, one or all of the following: the Code of Justinian, the Magna Carta, the War of the Roses.

¶20 Peter loved these discussions and was always inspired by his students’ scholarly efforts. He worked endlessly to motivate his students to see the relevance of legal history to daily legal issues, and took great pride in their ability to make those connections in their papers and, later, their careers. He provided them with unique opportunities to write about everything from admiralty to zoo animal protections, and successfully encouraged many to produce publishable pieces. They loved him back, staying in touch as they became lawyers, judges, and professors themselves.

¶21 Peter kept a copy of every paper written by his students and would return to them as resources for his own work and teaching. The law library still holds a collection of those papers.

¶22 Peter was also very much dedicated to his staff. Throughout his career he championed the employees at the library and law school, advocating for fair compensation and treatment. His devotion to his staff was returned in kind. Library personnel tended to stay and work with Peter for a long time, many for their whole careers. There was a core group at the library who had worked with Peter for more than twenty or, sometimes, thirty years.

¶23 There was one time, when I was young and full of new-librarian fire, where I strongly disagreed with certain library-related decisions. I have no memory of the particulars, but no doubt felt we were not moving quickly enough on something or other. I was grumbling about all this to another dear departed friend, Barbara Glaze, our longtime (twenty-six years) accounts manager. Barbara, who was kind to the core, patiently listened to my complaints. She then told me to trust Peter, because Peter trusted us.

¶24 Now, I didn’t necessarily accept that at the moment, and I certainly disagreed with Peter throughout the years on various policies and decisions. But over time I learned the wisdom of Barbara’s advice, and she couldn’t have been more right. Trust was at the core of Peter’s leadership style. In retrospect, I might go so far as saying that for Peter, the son of a Presbyterian minister, you could call it “faith.” Once Peter trusted you to share his dedication to the school and its students, that is, placed his faith in you, the library was yours.

¶25 The results of this trust-based system were exhibited in many ways. Members of the staff were given enormous freedom to innovate and take the library in new directions. As a result, and coupled with Peter’s long-standing interests, the Boley Law Library was a very early adaptor of legal technologies, including Lexis-Nexis, Westlaw, LLMC-Digital, an innovator in creating a productive web presence, and a supporter of online legal education initiatives. It showed in other projects as
well over the years, such as a rich legal research educational program that few law libraries of any size have attempted, and early efforts to make analog and digital library resources equally accessible.

¶26 It was revealed in other, less noticeable ways. Peter was always a strong proponent of tenure for law school directors, a topic often discussed in these pages and at academic conferences. Whenever there was a conflict between library employees and faculty or school administrators, Peter would quietly but forthrightly work out the differences with the parties, always with an eye on protecting his staff. He felt that tenure provided him the safety net to handle these issues in a way that nontenured employees could not.

¶27 He also trusted his library colleagues to have fun. There were the famous all-school Halloween parties, organized by a rotating group of library staff. For years these were the go-to events of the school calendar, and remain for many alums the most memorable non–class event of their law school careers. Peter’s Ronald Reagan mask was his favorite costume, outlasting the President himself by many years. And, of course, there were his storied library parties at his house. Peter’s wife Marilyn patiently put up with us as library staff, present and past, annually returned to their house to celebrate. For our part, we attempted (unsuccessfully) to protect the white carpets and keep the dogs from escaping the house. We all have fond memories of hiding our drinks and heading off on Peter’s pedal boats down the canal to the local lake.

¶28 Finally, no recollection of Peter is complete without returning to the excitement of the informal organization N.E.R.T., the Noodles Emergency Response Team. Noodles was Peter and Marilyn’s aged and beloved poodle who had lost much of his sight. When Noodles would occasionally get lost in the state park surrounding the law school, the library staff would be called into action. I remember being sent to my car by the dean’s assistant and tasked with driving down the local streets and holding the perimeter while others hit the trails. Fortunately Noodles was always found, and is now remembered by the annual Noodles Award presented to an Animal Law Review student board member.

¶29 At his retirement party, Peter said: “To call them staff is a misnomer. They are my family, and I will greatly miss being around them on a daily basis.” He may well have missed us, but not nearly as much as we miss him. We were lucky to have him in our lives.—Robert M. Truman

3. Librarian for Legal Research Instruction, Boley Law Library, Lewis & Clark Law School, Portland, Oregon.
1 Erwin Campbell Surrency was born in Jessup, Georgia, and graduated from
the University of Georgia, B.A. (1947), LL.B. (1948), M.A. (1949), and Georgia
Peabody College, M.A.L.S. (1950). He was professor of law and law librarian at
Temple University School of Law Library from 1950 to 1979 and then director of
the University of Georgia Law Library from 1979 to 1994. Among his contempo-
raries he was well known for his bibliographical knowledge, especially after build-
ing up the Temple law library collection, only to see the library burn down in the
early 1970s, and having to rebuild the collection a second time.

2 His professional activities included cataloging the library collection of the
American Bar Foundation, assisting in setting up the Supreme Court Historical
Society, serving as a Fulbright lecturer at Queens University in Belfast from 1963 to
1664, and attending an IALL Institute in Nigeria in February to March 1974.
Locally, he spoke at the Institute on Legal Biography at the Law Librarians of New
England fall workshop in 1973 and served as cochair (with Frances Farmer and
Julius J. Marke) of the conference on Expanding Use of Microform in Law Libraries

3 Erwin served in a number of leadership positions within AALL. Beginning
in the 1950s, he was an active member who served on numerous committees and
special interest sections; he eventually became President of the Association (1973–
1974). He served as the AALL representative to the American Bar Association
(1952–1956), member of the Committee on Microcards (1953–1954), member of
the ALA Joint Committee’s Executive Board on Bibliography (1955–1956), mem-
ber of the Audio-Visual Committee (1961–1963), representative to the Council of
National Library Associations’ Joint Library Committee on Copyright Law (1967–
1968), member of the Constitution and Bylaws Committee (1970–1972) and Chair
1979), and member of the Awards Committee (1995–1997). He was one of the
founders of the Legal History and Rare Books Special Interest Section in 1989.

4 As the Association’s President (1973–1974) he created the Task Force on
Organization that eventually led to the restructuring of the Association in 1976 by
introducing the very popular Special Interest Sections.

5 Given his wide-ranging interests, Erwin participated in nine panel sessions
at the annual conference, including ones in 1952, 1957, 1959, 1961, 1966, 1968,
1971, 1972, and 1973. He presented papers at several of these panels. He also led
the business meeting when he was President in 1974.

6 Erwin is perhaps best known as the cofounder of the American Society for
Legal History, its first president, and the first editor of the American Journal of Legal

* © Joel Fishman, 2016.
History (serving for twenty-five years from 1957 to 1981). The Journal was the first academic journal devoted solely to legal history. In 1981, the Society changed the name of its journal to Law and History Review, and instituted the Erwin C. Surrency Prize for the best article published each year in the Review. Temple Law School continued the editorship of the Journal until 2016.

¶7 In the post–World War II period, Philip Cohen (Oceana, Transmedia, Glanville), Fred Rothman (Rothman Co.), William Hein (William S. Hein & Co.), and William Gaunt (Gaunt & Sons) created their own law book companies to serve the legal profession and law libraries. Erwin was among a number of academic law librarians who assisted these companies in developing products for the legal community. Erwin worked with Phil Cohen as an early editor of the Legal Almanac series of introductory works on a wide variety of legal topics, worked on microform projects of the Code of Federal Regulations, and served as project director of the State Attorneys-General Opinions microform collection.

¶8 Erwin’s scholarship dealt primarily with law librarianship, legal bibliography, and legal history. Over a sixty-year career, he wrote fourteen books, more than fifty articles, and eighty book reviews. For law librarians, his A History of American Law Publishing (1990) is the standard work on the history of legal publishing in the United States. He coauthored Research to Pennsylvania Law (1965), which was the standard work for more than forty years. His History of the Federal Courts (1987, 2d ed. 2002) also serves as a basic introduction to the history of the courts. His interest in courts was further shown in his reproduction of early U.S. Supreme Court minutes from 1790 to 1806 in the American Journal of Legal History, articles on the history of the Pennsylvania courts, and two books on the history of the Georgia state courts and the Georgia federal courts.

¶9 Erwin also wrote a wide range of articles. His early bibliography articles on the Restatements of the Law were important as first collections of this important secondary source. His book reviews were chiefly published in Temple Law Quarterly, American Journal of Legal History, and the LH&RB Newsletter/Unbound. The reviews were pithy, showed full knowledge of the topic, and were important to readers who wished to know the authors’ strengths and weaknesses.

¶10 For these and many other accomplishments over a sixty-year career, Erwin was elected to the AALL Hall of Fame in 2012.

¶11 Erwin was married to Ida Winn Surrency for sixty-eight years and had two children, Robert and Ellen.

¶12 Personally, Erwin served as a mentor to me, as much of my own work in Pennsylvania legal history and bibliography grew out of his works. I was proud to nominate him to the Hall of Fame.—Joel Fishman

1. Assistant Director, Retired, Duquesne University Center for Legal Information/Allegheny County Law Library, Pittsburgh, Pennsylvania.
General Business Meeting, Monday, July 18, 2016

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General Business Meeting
July 18, 2016
Grand Ballroom C-F
Hyatt Regency
Chicago, Illinois

[The General Business Meeting of the American Association of Law Libraries was called to order at 3:35 p.m. at the Hyatt Regency, Chicago, Grand Ballroom C–F, with Keith Ann Stiverson, President, presiding.]

Call to Order and Approval of the Agenda


¶2 The AALL bylaws stipulate in article V, section 3, that a quorum for a business meeting of the Association shall consist of fifty members registered at that meeting. The Chair observes that there is a quorum present.

¶3 Copies of today’s agenda, standing rules, and accompanying handouts are available at your table. Because our agenda is so full and Ron and I might end up dancing when we show you the visual identity, we have provided copies of our complete reports, but we will forgo the opportunity here to give you our reports verbally. Our reports will be a permanent part of the meeting. The treasurer’s report will consist of highlights, too, rather than a complete recitation of her report.

¶4 Are there any changes or additions to the agenda? Hearing none, the Chair declares the agenda adopted.

Introductions

¶5 I would like to introduce the people up here with me. On my left, Vice President/President-Elect Ron Wheeler, Treasurer Gail Warren, Secretary Katherine Coolidge, and Executive Director Kate Hagan. (Applause.)

AALL’s New Visual Identity

¶6 Now we are going to talk about the visual identity, and we are very excited about this. Beginning more than a year ago, I think it was actually talked about in Jean Wenger’s presidency and then talked about more in Steve Anderson’s and then much more in Holly Riccio’s, and then mine. It has taken us a while. But we started with a rebranding initiative that sparked a lot of debate in AALL, and I think all of us would agree that although the conversation was somewhat heated, that it was a really healthy conversation to have. And remember, sixty percent of the members voted on the name change (which still kind of blows my mind, and it was really great to have so much participation), even though eighty percent really didn’t like the name.
What we learned from that, and we know very well now, is that the American Association of Law Libraries and its legacy are very important to all the membership and also to their support for the Association. We appreciate that, and we acknowledge that for certain. The name discussion was only one component, however. Rebranding is a great big thing and the name is not the most important part, really. We had not even decided that we were going to put forward a suggestion of a new name at the beginning. This is actually about developing a strong identity that is consistent with our message, our image, and our visual identity to have a consistent brand. That’s really what this is all about.

Much like Nike, which is a good example, because they are made memorable by their tagline, “Just Do It.” Everybody knows that’s Nike. We, too, need tools to more effectively position ourselves in a changing legal landscape.

Today we will share with you the new brand and our plans to move it forward. This was not developed just by us. We had many comments from you, and we took them all to heart. All of your opinions were part of the big world that we looked at in coming to the conclusions that we did. It was not developed in a vacuum. We had town halls. We had surveys. We had a long discussions.

So why rebrand? Why should we want to do that?

At AALL we believe that people need timely access to relevant legal information to make sound legal arguments and wise decisions. Our members are legal information experts and problem solvers of the highest order. We own it. Every day we connect members with each other, and we passionately champion the value of our roles because when we do, it makes the legal system stronger. And we believe that.

Why rebrand? Because to live with the words that I just spoke, we need a strategy, a real strategy, an organizational strategy that is supported in everything we communicate, whether it is verbal, a written word, or visual, and whether it is communicated internally or externally. I think we communicate very well internally, but I think externally we really have to think about what we tell other people about ourselves and the way we express things.

There is a new strategic plan, and the three pillars are knowledge, leadership, and community. Ron Wheeler and his committee worked very hard on the new strategic directions for this year and the next two years after that, and it is really a rich and difficult and fabulous strategic direction. It really is. I think you will be pleased with it.

It is time to look at our brand strategy in relation to its support of those strategic directions and to make our brand as strong as our commitment to the profession. So what does a strong brand do for an organization?

Mr. Ronald E. Wheeler, Jr. (Fineman & Pappas Law Libraries, Boston University, Boston, Massachusetts): I’ll take that question.

President Stiverson: Good.

Mr. Wheeler: Did you like that transition? A strong brand creates an affinity for an organization among its target audience. A strong brand enhances self-image both internally and externally. And a strong brand means that an audience does not have to work as hard to support its organization. It does not have to think as hard about supporting its organization.
¶18 President Stiverson: As you know, we have been working on this for a long time, and we worked with Mission Minded, a company that works exclusively with nonprofits to create an updated brand, and they have been wonderful. They are a great company. I know a number of questions came up during the community discussion that we had about Mission Minded. They have been patient and have been very good at learning our community, understanding us and have been being really good with us.

¶19 Our goal for our brand is to act as a barometer for everything we do. We champion our profession and our people.

¶20 Mr. Wheeler: In working on this, we developed the following values that the new brand should communicate. Those values are law librarians are essential; relationships enrich our work and our lives; that we stay ahead of the curve; nothing compares to true expertise, which is coupled with our brand personality and embodied by the fact that we are knowledgeable, welcoming, dedicated, proud, and forward-thinking. The brand really does capture who we are.

¶21 President Stiverson: Now we are getting to the exciting part. Last night I dreamed that we had a runway down here and Ron and I were going to get a conga line going; but no, we are not doing that today. But we could!

¶22 Mr. Wheeler: I was going to say that I hope my enthusiasm does not overwhelm everyone, but I think you all know me better than that.

¶23 President Stiverson: We didn’t want to leave anything out!

¶24 Mr. Wheeler: But I do want to point out that I did buy new shoes for the occasion. And before we move on, I want to take one last look at our old logo, and I want to do that because I want to point out that it served us well in the past. I think it really has. But it is not working hard enough for us anymore. Now, does this logo embody who we are now? Is it our image? Does it embody our profession? Does it make you excited? This one? (Points to the screen.)

¶25 President Stiverson: With that, Ron and I are excited to present to you AALL’s new visual identity. See why we needed the runway? We are excited. We are going to calm down now. But I love it. I just love it. “AALL, Your Legal Knowledge Network.” I can’t tell you how often network and knowledge, those two words, came up in everything that we looked at from the membership.

¶26 It is a testament to our legacy. I don’t think there’s anything shocking here. It is a testament to our legacy, but it is also indicative of forward thinking and our future because it is just dressed up a little. When you think about the difference in AALL Spectrum, for example, I think everybody would agree, “Wow, look at that!” So it is bold, stable, and powerful; and blue is a really great color.

¶27 Mr. Wheeler: And speaking of blue, the blue honors our past, but it also expresses trust, balance, and dependability. The orange (and you know I love orange) is warm and inviting, and it adds an element of fun.

¶28 Now, the custom typeface alludes to our expertise and our irreplaceability. I want to point out that this is custom work. It is not something just out of the box. The linked letters indicate networking and collaboration, the angled line creates movement, and it illustrates movement forward and growth. The angled line is not just a design element. It also functions as a visual cue.

¶29 This is an example of how it all works together. AALLNET will be redesigned to incorporate the new logo, the new fonts, and the new color palette.
President Stiverson: We also have other examples, and we have a special gift for all of you who are attending the business meeting today. AALL staff are now in the aisles distributing to each of you a notebook and pen with the new logo and tagline, and I hope you love it.

Mr. Wheeler: So don’t you feel a little bit like you are on Oprah? Now you may be wondering, what’s next?

President Stiverson: There is still a lot of work to be done. You do not come up with a logo and a tagline and, say, “oh, everything is done.” We are a big organization with a lot of groups. So there is still a lot of work to do. Mission Minded will create a visual identity guide, templates, and a new brochure, and will also refresh the look of the website, which I think you’ll agree needs some refreshing. AALL staff will do a lot in the days ahead to help us get this out as quickly as possible (but also in a way that we can afford), but we don’t expect this to be done tomorrow.

Ron and I and the rest of the Executive Board and staff hope you are as excited with the new look as we are. We are going to wind this up now and go on with the agenda, but we’ll happily take any questions you have or comments you’ve got at the open forum; and the open forum can go on forever if necessary. Thank you. Next, Gail Warren, our treasurer, will provide her report. (Applause.)

Treasurer’s Report

Ms. Gail Warren (Virginia State Law Library, Richmond, Virginia): Good afternoon. Thank you, Keith. I am pleased to be with you today to share a summary of our Association’s financial statements for the 2015 fiscal year, which ended on September 30, 2015. Today’s report was culled from the treasurer’s report appearing in the May/June 2016 issue of AALL Spectrum, and copies of this report are on the tables where you are sitting.

The AALL Spectrum article featured three charts summarizing the data presented by our auditors, Legacy Professionals. The slide you see now on either side is one of the Association’s investment portfolios, and you can see the Association’s total assets on September 30, 2015, were valued at $6,515,687 with a little over five million of that total in investments.

At the end of the 2015 fiscal year, the total revenue of $3,790,645 received was $144,488 less than that received in 2014. This slide illustrates how each of the three primary sources of our Association’s revenue has performed over the past five years. The good news is that revenue from the Annual Meeting in 2015 was up over

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the total received in 2014. This uptick, however, was not enough to offset a decline in membership dues and revenue from the *Index to Foreign Legal Periodicals*.

¶38 The bottom line: our investments are solid. Addressing declining revenues is, and will continue to be, a priority for the board and Association staff. Cost-cutting measures and a reduction in overall expenses, particularly for the Annual Meeting, ensure our Association’s strong financial health.

¶39 In conclusion, I would like to acknowledge the many contributions of Financial Director Paula Davidson and Executive Director Kate Hagan and all the members of the Executive Board who are serving or who have served on the Finance and Budget Committee since I began my term as treasurer in July 2013. It has been an honor to serve the Association and a privilege to work with so many bright, talented, and committed individuals. And I would be remiss if I did not acknowledge the assistance and support of the staff of the Virginia State Law Library during my three-year term as treasurer. Thank you. (*Applause.*)

¶40 President Stiverson: Katherine Coolidge will now give the secretary’s report on the elections.

**Secretary’s Report on Elections**

¶41 Ms. Katherine K. Coolidge (AccuFile, Inc., Boston, Massachusetts): Thank you, Keith Ann. Good afternoon. The ballots for AALL’s election of officers and Executive Board members were distributed to all voting members on October 1, 2015, returned by October 31, 2015, and tabulated on November 2, 2015. This schedule is consistent with the bylaws.

¶42 Before I read the results, I want to thank all the candidates who stood for office this past Association year and who are standing for office in the coming year. We are a great professional association because of your willingness to volunteer and serve.

¶43 The successful candidates were Greg Lambert, Vice President/President-Elect; Jean Willis, Treasurer; and Mary Jenkins and Meg Kribble, members of the Executive Board. Continuing on the board will be Ron Wheeler, President; Keith Ann Stiverson, Past President; myself as secretary; John Adkins, Emily Florio, Mary Matuszak, and Donna Nixon, members of the Executive Board. 1254 ballots were returned and none were invalidated. (*Applause.*)

¶44 I would now like to introduce the candidates for the 2016 election coming up in October. Candidates, when I call your name, please stand. For Vice President/President-Elect, Kathleen “Katie” Brown and Femi Cadmus; for Secretary, Luis Acosta and Scott Bailey; for members of the Executive Board, Beth Adelman, Katherine Lowry, Catherine Monte (who is not with us in the room today), and Jean O’Grady. I wish you all the very best of luck. (*Applause.*)

**Consideration of the Status of the South Florida Association of Law Libraries (SFALL)**

¶45 President Stiverson: Thank you, Kathy. We will now consider an action item for a vote by this body. On Thursday, July 14, 2016, the Executive Board voted to recommend to the membership the discontinuance of an AALL chapter, the South Florida Association of Law Libraries. The board took this action after a
proper review conducted by both the past and current chapter council chairs. In addition to that, a number of us, both past and present presidents, spoke with the group.

¶46 SFALL has had no leadership since 2012 and has been unable to gather support from the local law librarian community to revive the chapter. This action does not preclude a group of members from starting a chapter in the future. According to the AALL bylaws, article XI, section 7, the Executive Board may, after proper investigation, recommend to the membership at an Annual Meeting the discontinuance or suspension of any chapter that has ceased to be active or that fails to comply with any provisions of these bylaws.

¶47 Do I have a motion to dissolve the South Florida Association of Law Libraries? Please identify yourself for the record before making the motion.

¶48 Mr. Philippe Cloutier (Microsoft Corp., Redmond, Washington): My name is Philippe Cloutier, and I move the motion.

¶49 Ms. Jean L. Willis (Sacramento County Public Law Library, Sacramento, California): My name is Jean Willis, and I second the motion.

¶50 President Stiverson: Thank you for the second. It has been moved and seconded that the South Florida Association of Law Libraries be discontinued. Before I open the floor for discussion, the rule is that we adhere to basic meeting rules, and that is three minutes per person and a total of ten minutes per topic. Is there any discussion? We have talked to everyone I can think of on this issue, so I’m not surprised not to see anyone go to the microphone. Those in favor of the motion to discontinue the South Florida Association of Law Libraries, say aye. (Chorus of ayes.) Opposed? (No response.) The motion carries. Thank you very much.

**Law Library Journal (LLJ) Update**

¶51 Now, I understand that some members did not receive the e-mails that we sent out about *Law Library Journal*, so I thought I would do a quick update on that for you. Soon after my term as President began, I appointed a special committee to make recommendations to create a sustainable model for continued publication of *Law Library Journal*. There was a pressing need to reduce the deficit we were running, and I think any of us in the law schools know that we are running a deficit on our law journals, that is just what happens, so we wanted to solve this problem.

¶52 Anne Klinefelter from the University of North Carolina is a member of the LLJ Board of Editors, and I asked her to chair a committee, whose recommendations were adopted by the Executive Board. The committee took a lot longer than we thought because there was so much information that the committee wanted, and we had to put that together for them. It certainly was not due to any delay on their part.

¶53 The committee recommended that AALL work with William S. Hein & Company to provide members of the Association with access to an enhanced *Law Library Journal* digital library on HeinOnline (which we are doing), that an open access digital archive of *Law Library Journal* be provided through AALLNET, and that members who prefer print be given the opportunity to subscribe to a print version.

¶54 Subscriptions will cost $35 for individuals and $125 for institutions. AALL staff will soon be in touch with members about the new print subscription option,
which will take effect with the Winter 2017, that’s the volume 109, number 1, issue of *Law Library Journal*.

**Memorials**

¶55 It is now time to remember our colleagues who died during the last year. They were members and friends of our Association, and I will now read their names: George W. Baker, William J. Beintema, Vivian Bryan, Bob Bucci, Beverly Burmeister, Mario Ceresa, Calmer Chattoo, Sandra Gold, Janet Ann Hedin, Gisèle Laprise, Nancy Lenahan, Linda Lockwood, Irwin G. Manley, John (Jack) McNeil, Peyton Neal, Peter Nycum, Diana Pierce, Elaine T. Sciolino, Kathryn Bates Turner, Andrea Ada Van Der Poll, John (Jack) Francis Whelan, and Gary Yessen. Are there any others who should be remembered at this time? (No response.) Please stand and join me in a moment of silence in their memory. (Audience stands for a moment of silence.) Thank you.

**President’s Certificates of Appreciation**

¶56 Here is the fun part. It is for Certificates of Appreciation. Each year the President has an opportunity to provide Certificates of Appreciation to people or organizations who have contributed to the Association or to the profession in exceptional ways this year. I was pleased to rely on their leadership and direction, so it is my pleasure to present four certificates to individuals.

¶57 Anne Klinefelter, “for her exemplary leadership as chair of the *Law Library Journal* review special committee and for her many contributions to AALL and to the profession.” Thank you so much, Anne. (Applause.)

¶58 Catherine Lemmer, and I’ll read this, as I don’t believe Catherine could be with us today. Many of you may know that she’s at Lake Forest Public Library showing how great it is to have a law library director. “For her dedicated leadership as editorial director of *AALL Spectrum* which helped to ensure the publication’s recent transformation and for her many contributions to the AALL and the profession.” I’m going to work on her staying a member. (Applause.)

¶59 Jean O’Grady, Jean, are you here? Let me read this: “for her dedication to serving the profession since 2011 through her blog, Dewey B. Strategic, and for the hard work that distinguishes her, resulting in singular contributions to AALL and to the profession.” You know, whenever I have a big challenge, I say to myself, “What would Jean do?” Thank you, Jean. (Applause.)

¶60 Carol Watson, “for her devotion to improving AALL’s educational offerings, particularly the 2016 Annual Meeting which was enriched by Carol’s partnership with AMPC Chair, June H. Liebert.” I understand her wall is full of these now. She was volunteer of the year. You cannot have too many of these, Carol. (Applause.)

¶61 I would also like to recognize those AALL staff members who have reached service milestones. The first is Celeste Smith, with ten years of devoted service. And I also want to say that it is very fitting that this comes after Carol’s because Celeste was so helpful this year. When we said the AMPC ought to be forty-eight people, Celeste just said, “well, sure,” and she just adjusted. So thank you for that. Ten years with us!
I get to do this again because Heidi Letzmann also helped us with programs this year, and I think you will agree it is a fabulous program this year, which is great. Heidi has been here longer than Celeste; she’s been here fifteen years, and she was another one who did not blink when we came up with all sorts of impossible demands. So thank you, Heidi.

And those are just two, and we have twelve. I want to now recognize all of the staff because they are just fabulous, and I cannot tell you how many times I send an e-mail in the middle of the night, and before I’m at work the next day I’ve got an answer from usually Chris Siwa because I am his nightmare.

But all of them are wonderful and helpful, and Emily Feltren is at my right hand because I have to call her all the time about policy matters that I do not know anything about. So please, staff, all of you stand up wherever you are sitting. And if I start talking about Kate Hagan’s contributions, I will weep a little, and I’m not going to do it. So we’re not going to talk about that. But really, we just have the best staff, and I cannot tell you, I know a lot of people in associations with management companies; it is not the same. We are so picky about everything too, the whole Association, all of us are. Thank you so much. (Applause.)

Introduction and Remarks of Special Guests

We now have some special guests, and we are delighted to have them from other countries, although you’re all going to be cousins depending on the election results. I want to introduce each of them; and we are ahead of time, so please feel free to give brief remarks. Connie Crosby is president of the Canadian Association of Law Libraries, and I know it is CALL/ACBD, but I won’t try the French of the ACBD, just to distinguish it though from Chicago Association of Law Libraries. So welcome to the microphone there, Connie.

Ms. Connie Crosby (Crosby Group Consulting, Toronto, Canada): Thank you very much. I bring greetings from the Canadian Association of Law Libraries/Association Canadienne des Bibliotheques de Droit, and which we do affectionately call CALL/ACBD. I would like to invite all of you to join us at our conference in 2017. It will be held in Ottawa from May 7–10. Our theme, which will sound slightly familiar, is “Celebrate Our History, Create Our Future.” You can hear the echo of your conferences here, so we obviously have some synergies there. But with “Celebrate Our History,” the Canadians are excited because it will actually be our 150th anniversary, the sesquicentennial, of Canada. It is a young country. So we are excited about that. But what I am hearing from my colleagues here at AALL is that everybody is excited because of the chance of possibly getting to see Justin Trudeau. I do invite you to join us, and we would love to see you there. Thank you. (Applause.)

President Stiverson: Thank you. Michael Gavan is treasurer of the Australian Law Librarians Association. Please, Michael, make some remarks.

Mr. Michael Gavan (Minter Ellison, Melbourne, Australia): Thank you. There’s a couple of things I would like to do. It has been an absolute joy to be able to come across and share in your conference, and this has been made possible by the kind invitation from AALL and also through sponsorship by Wolters Kluwer. Through that, we have had the opportunity to share our issues and also to forge
links, so at least I have gained some really wonderful contacts from this visit to the AALL conference.

¶69 I have noticed that many of the issues that we are dealing with in Australia are similar to those being dealt with here, and again, the opportunity to benefit from the experience here has been very beneficial to me, and I hope that our organizations continue to benefit through these methods.

¶70 We also have a conference coming up. If you have not heard about it, I fear it may be too late. It is going to be from August 24–27 in Melbourne, Australia, and if any of you can make it, it would be wonderful, but having made the trip across here, I know it is a very long way.

¶71 And the very final thing, I would also like to extend on behalf of the ALLA board, which is ALLA, the Australian Law Librarians Association, an invitation to any of the AALL members visiting Australia, to please give us a call because we would love to talk to you as well as to assist you in any way we can. In finishing, thank you all very much. (Applause.)

¶72 President Stiverson: Thank you. And now Sandra Smythe, president of the British and Irish Association of Law Librarians (BIALL).

¶73 Ms. Sandra Smythe (Mishcon de Reya, London, England): Thank you for inviting me to your conference. I have had such a fascinating and informative time, and everyone has been so wonderfully friendly. Obviously I would love to invite you to consider to come to our conference, which will be next year. It runs from June 8–10, 2017, and it is being held in Manchester. I know my accent does not necessarily say this, but I am from the north of England, and I would be absolutely thrilled to see you in my home city. Also, if it helps entice you across the pond, our call for papers is going to come out in the autumn after we have settled on the theme for our conference next month. Thank you once again. I am absolutely thrilled to be here. (Applause.)

¶74 President Stiverson: Thank you. And last, but not least, Jeroen Vervliet, President of the International Association of Law Libraries (IALL).

¶75 Mr. Jeroen Vervliet (The Peace Palace, The Hague, The Netherlands): Dear president and dear members of the American Association of Law Libraries, thank you for the invitation. I have gratefully accepted your invitation to the president of your small though international sister organization, the International Association of Law Libraries.

¶76 I congratulate you, of course, on the new branding and also with a highly interesting program that I have followed. For instance, I have attended the workshop last Saturday on public and private international law at the United Nations, and it gave a very good overview of the U.N. system and its documentation, and it also shed light on the convention on the international sales of goods and its database. And speaking about databases, I attended the session on database usage and statistics, as well as the session on presidential libraries and the President Obama library to be built in Chicago.

¶77 Our annual course of the International Association of Law Libraries will take place this year within two weeks from now in Oxford. Our 2017 annual course will take place in late November, and early December 2017 in Manila. Please write it down in your agendas.
Finally, I want to draw your attention to our journal, the *International Journal of Legal Information*, since this year it is being published by Cambridge University Press. Individual members of the International Association of Law Libraries will continue to receive it as a benefit. Organizations, however, need to purchase it through a subscription. The current issue is our special issue containing some papers of our annual course that took place in Berlin last year, and of course I’m going to donate one to Keith Ann Stiverson. I thank you for allowing me to be present over here, and I wish you a good continuation of this marvelous conference. Thank you. (*Applause.*)

### New Business

**President Stiverson:** Thank you so much. Are there any other items of new business? (*No response.*)

### Announcements and Adjournment

**President Stiverson:** Are there any announcements? Anyone need to make an announcement? (*No response.*) We are ahead of time. I cannot believe it. If there are no announcements, then we have completed our agenda, and the 2016 Business Meeting of the American Association of Law Libraries is now adjourned. Now, please stay for the open forum, which is going to go on forever, if you want it to. Barbara Bintliff is going to be the moderator, and I cannot thank her enough.

(WHEREUPON the 2016 General Business Meeting was adjourned at 4:15 P.M.)
Appendix A

Report of the President

Ms. Keith Ann Stiverson (American Association of Law Libraries, Chicago, Illinois): It’s been a wonderful year! Thanks to so many of you who have welcomed me to your chapters or called me with comments or questions about the business of the Association. It has been a great pleasure getting to know so many of you, and I appreciate the opportunity I’ve had to serve you and the Association. I also want to thank the hard-working Executive Board, as well as Kate Hagan and the incomparable staff at headquarters, who are unbelievably helpful in every way; the value of our staff cannot be overstated.

Law Library Journal (LLJ) Review Special Committee

Soon after my term as president began, I appointed a special committee to review our scholarly journal, Law Library Journal (LLJ), and make recommendations to create a sustainable model for its continued publication. There was a pressing need to reduce the deficit we were running and to get costs under control. Anne Klinefelter, a member of the LLJ Board of Editors, ably chaired the committee, and was joined by committee members Joseph Lawson, Judith Lihosit, Lee Peoples, and Steven C. Perkins. Gail Warren served as board liaison and Kate Hagan was staff liaison.

The committee recommended that AALL work with William S. Hein & Company to provide members of the Association with access to an enhanced LLJ digital library on HeinOnline, and that an open access digital archive of LLJ be provided via AALLNET. For those members who prefer it, print subscriptions will be offered at $35 for individuals and $125 for institutions, which it is estimated will result in a savings of nearly half the annual deficit we were running. When it becomes known the number of print copies that are needed, it is hoped that most of the deficit will disappear. The Executive Board accepted the committee’s recommendations at our April meeting. Staff will soon be in touch with the membership about the new print subscription option, which will take effect with the Winter 2017 (vol. 109, no. 1) issue of LLJ. I am sure that you join me in thanking the committee for its service to the Association.

Representing the Association

I represented the Association at a number of meetings during the year. I attended the International Association of Law Libraries (IALL) meeting in Berlin September 20–24, the 34th Course on International Law and Legal Information. Nearly one-third of the attendees were colleagues from the United States, many of them AALL members.

I attended nearly all meetings of the Council of the American Bar Association Section of Legal Education & Admissions to the Bar. I also attended the annual meeting of the Association of American Law Schools (AALS), held in New York City in January, and the Mayflower Meeting in Washington, D.C., in May; the latter
meeting includes representatives of most groups associated with legal education, including the ABA, the National Association for Law Placement, the Association of American Law Schools, ACCESS, the National Conference of Bar Examiners, and others.

I assigned many chapter visits to other officers and members of the Executive Board, but I also had the pleasure of representing the Association when I was invited to speak at chapter meetings. I met many wonderful members and toured some beautiful libraries.

- Ohio Regional Association of Law Libraries in Fort Wayne, Ind., October 21–22, 2015

I served as a member of the Finance and Budget Committee of the Executive Board. I also served as board liaison to the Government Relations Committee, attending their monthly conference calls and commenting when appropriate or when my opinion was requested. I was in touch with Emily Feltren, AALL’s Director of Government Relations, throughout the year.

I attended a retirement luncheon to honor Mary Alice Baish at the Government Publishing Office in Washington, D.C., at the end of April.

**Branding Initiative**

I spent a good deal of time on the Association’s branding initiative, which really began for me last year. Holly Riccio, Past President; Ron Wheeler, Vice President; and I have served as a working group with Cara Schillinger, Director of Membership, Marketing, and Communications; Kate Hagan, Executive Director; and the excellent group from Mission Minded. We learned a lot as we worked with the Executive Board and representatives from many entity groups within AALL to help elucidate what our brand should be and how to showcase our value to stakeholders both within and outside the Association. We constantly asked, “How do we want to be viewed by current and potential members and by the people we serve?” We did a lot of work with many of our members. Eventually we decided to recommend a new name to the membership, and did so after the Executive Board unanimously approved suggesting the name, Association for Legal Information. The name was put forward to the membership for a vote after a long discussion on a community page created specifically for the purpose. Sixty percent of the members voted in the election at which the name was soundly defeated.

We held town halls both before and after the vote, and responded to many questions during an intense period when the name was being considered. I think I can speak for both the working group and the Executive Board when I say we found it very helpful to hear all the many points of view. Although the name change did not succeed, that was only one piece in a much larger consideration of the many
elements of branding. We have continued to work on creation of a new logo and tagline, a new color palette, messages that help showcase our value, and other aspects, including an updated look.

Thank you for many kindnesses throughout the year. I have very much enjoyed serving you as President, and I know that our best days as an Association still lie ahead.

Report of the Vice President

Mr. Ronald E. Wheeler, Jr. (American Association of Law Libraries, Chicago, Illinois): My year as Vice President of AALL has been a joy. It has also been more work than I had ever imagined, primarily due to the extensive traveling I did to meet with chapters, to talk with members, and to try to really connect with the people who make our profession great. I could have delegated much of this travel, but I chose not to. I did so because I think my strength as a board member is my ability to find commonality, to have collegial and respectful conversations, and to really find a place of understanding with even those members with whom I disagree. That is what I attempted to do throughout the past year.

I traveled to the following chapter meetings and met with members. At each chapter meeting I made formal remarks updating them on our Association and its activities, and I answered their questions to the best of my ability. I also listened to their feedback both positive and negative, and took that feedback back to the AALL Executive Board for consideration.

- Houston Area Law Librarians (HALL), February 9–10
- New Orleans Association of Law Libraries (NOALL), February 18–19
- Joint DALL, SWALL, SEALL meeting in Dallas, April 13–15
- Atlanta Law Library Association (ALLA), May 10
- Michigan Association of Law Libraries (MichALL) in Ann Arbor, May 20

At each of these chapter meetings I also visited individual law libraries, toured their facilities, and spoke with staff. Those included the law libraries at the Houston office of Andrews Kurth LLP, the Harris County Law Library, the Texas Southern Thurgood Marshall School of Law, Tulane University Law School, Loyola Law School in New Orleans, the UNT Dallas College of Law, the Atlanta office of Smith, Gambrell & Russell, Atlanta’s John Marshall Law School, and the University of Michigan Law School.

As Vice President, I have the distinct pleasure of representing AALL as our Association’s official visitor to other association meetings. June 7–12 I attended the British and Irish Association of Law Librarians (BIALL) Conference in Dublin, Ireland. July 30–August 4 I will be attending the International Association of Law Libraries (IALL) meeting in Oxford, England. August 28–September 1 I will be attending the International Legal Technology Association meeting in Washington, D.C.

I worked with the Executive Board Strategic Directions Committee to craft new directions and to do the leg work for strategic planning. Our new Strategic Directions Action Plan was approved at our Executive Board meeting here in
Chicago just a few days ago. In March, I met with the Appointments Committee to appoint volunteers to our AALL Standing Committees and Juries, and I also met with the Nominations Committee to propose a slate for the AALL elections to be held in October.

I have worked throughout the year on various phases of our branding exercise, which I think is essential for our Association. I talked with members on the phone about our Association’s name, I participated in virtual town hall meetings, I participated in discussions via our online communities, I listened, and I participated in the resulting bylaws vote. I continue to be inspired by the passion and the commitment of our members. I continue to work on the visual identity and messaging components of branding for our Association.

Three of the most exciting of my activities involve planning for my presidential year. On November 16–17 I joined Kate Hagan, Pam Reisinger, and the cochairs of the 2017 Local Arrangements Committee, Barbara Bintliff and Jane O’Connell, both from the University of Texas Law School, in Austin to tour the downtown as well as to see the Annual Meeting convention center site and the Hilton Austin. Both were spectacular. It is a great honor to have former AALL President Barbara Bintliff on the team for the Austin meeting. Additionally, I chose Beth Adelman of the University at Buffalo Law School to chair the Annual Meeting Program Committee for the Austin meeting. Beth is simply remarkable, and the tireless work and energy she brings to her every endeavor give me confidence that our programming in Austin will be impeccable. Finally, we have chosen a theme for Austin, and it is “Forgo the Status Quo.” This theme resonates with me because it captures what we must all continually do to keep pace with our ever-changing environments. Technology, the practice of law, legal education, the access to justice movement, open government, and indeed librarianship itself are all evolving at a breakneck pace. We cannot afford to champion the status quo. We must forgo stagnation, and forge ahead and author our own futures.

Overall, it has been both a supreme pleasure and a distinct privilege serving as AALL Vice President. As I prepare to move into the presidential role, I am forced to pause and consider our ever-changing world. I feel compelled to examine the landscapes of our profession and our Association, both of which cannot be divorced from the troubling times in which we live. Our country and our entire world both have serious problems to solve. Our work as law librarians, no matter what type of employer we work for, will help to find necessary solutions. I am confident of that. Given the atmosphere of violence, war, police killings, racial and religious hatred, and history-making political campaigns in which we find ourselves, it is particularly meaningful for me to be openly gay and to have been elected by you to become the first African American male President of the American Association of Law Libraries. I hope in the coming year to continue working on issues of diversity and inclusion both within our Association and in the broader legal professions. I sincerely hope all of you will find the time to read my ongoing Diversity Dialogues essays in Law Library Journal. In those essays I share the parts of myself that I want all of our members to know. Whenever I talk with members about those essays, no matter who they are or where they are from, I find commonality with them. I also hope to continue working on improving our educational offerings so that all AALL
members have access to the tools that make them vital and indispensable to the organizations in which they work. Finally, community is our greatest asset. I hope to continue to work to foster community, collegial discussion, innovation, and information sharing across interest groups throughout our Association.

Report of the Government Relations Office

Ms. Emily Feltren (American Association of Law Libraries, Washington, D.C.): AALL’s advocacy program celebrates another remarkable year, thanks to the active involvement of AALL members who spoke out on the public policy issues that affect the profession. This year, we saw progress at the federal and state levels on several of our policy priorities. Here are some of the highlights.

Federal Priorities

AALL continued to pursue the goals outlined in our position statement, Public Policy Priorities for the 114th Congress (http://bit.ly/policypriorities114). The priorities fall into five categories: access to government information, access to justice, balance in copyright law between rights holders and users, commitment to openness, and protection of privacy.

Access to government information—AALL submitted testimony in support of the Fiscal Year (FY) 2016 and 2017 funding requests of the Government Publishing Office (GPO) and Library of Congress. Amplifying the Association’s message, AALL members sent hundreds of emails to Capitol Hill urging members of Congress to provide adequate funding for these critical legislative branch agencies.

AALL worked with the sponsors of the Equal Access to Congressional Research Service (CRS) Reports Act of 2016 (H.R. 4702 and S. 2639) to promote the bills and urge committee consideration. The legislation would provide for comprehensive public access to CRS reports through GPO’s FDsys/govinfo.

Access to justice—AALL supported the Fiscal Year 2016 and 2017 funding request of the Legal Services Corporation. We are pleased that the FY 2017 House and Senate appropriations bills provided an increase in funding for LSC over 2016 levels.


We opposed the Copyright Office for the Digital Economy Act or CODE Act (H.R. 4241), which would move the Copyright Office out of the Library of Congress. AALL believes that the placement of the Copyright Office within the library has allowed the United States to build what has become the largest library in the world, known for its rich collection of cultural artifacts.

Commitment to openness—AALL celebrated passage of the FOIA Improvement Act (S. 337), which makes the first substantial changes to the Freedom of Informa-
tion Act (FOIA) in a decade. President Obama signed the bill into law on June 30, 2016, days before FOIA's fiftieth anniversary on July 4. Also in June, the U.S. Court of Appeals for the D.C. Circuit ruled in favor of net neutrality, upholding the Federal Communication Commission’s Open Internet Order and rejecting the First Amendment challenge by several Internet service providers and their trade associations.

Protection of privacy—We applauded House passage of the Email Privacy Act (H.R. 699), which would amend the Electronic Communications Privacy Act of 1986 to protect sensitive personal information from intrusive government surveillance by requiring a warrant based on probable cause before obtaining the content of e-mails and other electronic communications. We also submitted comments to the Federal Communications Commission in favor of proposed rules that would offer greater privacy protections for Internet users who access commercial broadband in public law libraries.

Finally, following the retirement of Librarian of Congress Dr. James H. Billington in September 2015, AALL provided recommendations to the White House on the qualifications of the next Librarian of Congress. Upon the announcement of the White House’s nomination of Dr. Carla D. Hayden to be Librarian, we urged the Senate to act quickly to approve the nomination. We eagerly await Senate confirmation of Dr. Hayden as the fourteenth Librarian of Congress.

State Priorities

AALL continued to promote adoption of the Uniform Electronic Legal Material Act (UELMA). This year, Arizona became the thirteenth state to adopt the act, joining California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Minnesota, Nevada, North Dakota, Oregon, and Pennsylvania. The AALL Government Relations Office (GRO) also provided guidance and assistance to members and chapters on issues related to government law library funding. The GRO regularly communicates with chapter leaders through our Government Relations Committee liaisons and our Chapter Government Relations listserv.

AALL’s Advocacy Team

AALL’s advocacy program is a success because of the involvement of our members who make up the Advocacy Team. You took up our calls to action and spoke out about the importance of law librarianship and the policy issues that affect the profession. Our first all-virtual Lobby Day in 2016 made an impact because of you, with AALL members sending nearly 450 messages to Capitol Hill. To learn more about AALL’s policy work and to join our Advocacy Team, please visit www.aallnet.org/gro.
Report of the Executive Director

Ms. Kate Hagan (American Association of Law Libraries, Chicago, Illinois): This Association year saw some significant changes to our Association publications: an extensive branding project, the development of the next three-year strategic plan, and some changes to our staff organization. We also continued to work to meet the goals of our current strategic plan and will be releasing a digital publication, *Defining ROI: Law Library Best Practices*, this fall.

Association Publications

*AALL Spectrum* underwent a total makeover this past year, with a new design, digital edition, bimonthly publication schedule, and the creation of a member editorial board. The six-member board, chaired by *AALL Spectrum* editor Catherine Lemmer, met monthly to develop topics and identify authors for the magazine. Each bimonthly issue now has a theme, and this year those included technology, management and leadership, career development, education and training, information technology, and best practices. In addition, there are articles on business topics, education, and research in every issue. There is also an emphasis on highlighting our members with both a leadership and member profile and an ask-a-director feature.

We will begin the new Association year with a new editorial director for *AALL Spectrum*, Kristina L. Niedringhaus. Kris is the associate dean of library and information services and associate professor at Georgia State University College of Law. Kris has been published in *AALL Spectrum*, *Legal Reference Services Quarterly*, and *Perspectives: Teaching Legal Research and Writing*, and has contributed chapters to several books.

It is also important to thank Catherine Lemmer for her guidance and dedication as *AALL Spectrum* editorial director. During her three-year tenure, the *AALL Spectrum* Editorial Board was established, digital functionality was upgraded and enhanced with an interactive online platform, and the magazine underwent a complete redesign.

The *Law Library Journal* (*LLJ*) also went under review by the *LLJ* Review Special Committee, chaired by Anne Klinefelter. The five-person committee was charged with developing a sustainable model for the continued publication of the *Journal*. The committee completed its work and submitted its recommendations to the Executive Board for its April 2016 meeting. The committee’s recommendation was approved by the board to enter into an agreement with William S. Hein & Company to provide access to all members to an *LLJ* digital edition, with search capabilities and active links to content cited within each article. Print copies of *LLJ* will continue to be offered to members at a subscription rate of $35 per year. In addition, an open access PDF digital archive will be available on AALLNET, volume 1 to the most current issue. This new model will be implemented for volume 109, number 1 (Winter 2017). Later this summer, we will be contacting all members to advise them of these changes with the opportunity to subscribe to a print subscription if they would like to do so.
AALL Branding Initiative

This year, AALL also undertook a project to update and refresh its brand. This included developing brand values, external messaging, a tagline, and a new visual identity. The goal was to be more strategic about how we communicate to stakeholders, the legal community, and the public that law librarians are essential. As the project progressed, an AALL brand position was developed: “AALL is the only national association that keeps law librarians on the leading edge of industry advancements and passionately champions the value of the profession.” This statement served as the cornerstone for all aspects of the project.

As part of this initiative, a new name, the Association for Legal Information, was also put forward to a vote by the membership. That proposal generated much discussion within the membership, and ultimately was not adopted by a vote of eighty percent opposed, with sixty percent of the membership voting.

The last phase of the project will be the brand launch, where we will introduce our new logo, tagline, and visual identity. We will also begin to update our marketing and communications materials with our new messaging and brand identity.

Strategic Planning

The Executive Board spent time this year to develop a new three-year strategic plan, focused on delivering more value to members. The new plan will focus on three strategic goals:

• Knowledge: To be the profession’s hub of information, the authority and creator, conduit and co-collaborator of industry information. Liberating resources from silos and making them available to all members.
• Community: Build a platform and opportunities for meaningful engagement between and among members and key stakeholders throughout their careers.
• Leadership: AALL and the profession are recognized experts in the field of legal information within the legal community.

The plan was approved by the Executive Board at its July 2016 meeting and will be communicated to all members in the weeks ahead.

ROI Defining Value

In 2015, the Association published its report The Economic Value of Law Libraries, which analyzed best practices for communicating value to employers and stakeholders. This year, under the leadership of Holly Riccio, a committee is working to develop a digital publication, Defining ROI: Law Library Best Practices.

The publication will be released in fall of 2016, and the authors include:

• Steven P. Anderson
• Joan Axelroth
• Colleen Cable
• Mark E. Estes
• Joan Howland
• Kevin Iredell
• Steve Lastres
Other News

This year, we also transitioned the role of the vendor liaison to the Committee on Relations with Information Vendors (CRIV). After serving for five years in that role, Margie Maes helped AALL move the role to CRIV. That transition allows CRIV members to serve as liaisons to legal information vendors, meeting with them by teleconference biannually. This allows CRIV to stay abreast of vendor activities, products, and services, and report back to the membership through the CRIV Sheet and CRIV Blog.

AALL published its biannual salary survey in 2016, and this year also launched an online salary calculator. The calculator allows members to view salary information using different parameters including location, library type, years of experience, and other factors. In addition, this year the committee is surveying members about the salary survey to implement improvements for the next survey.

We also hosted a number of education events this year, including the inaugural AALL Business Skills Clinic, in which forty-three members participated. We also held our fifth Leadership Academy, with forty-five members attending. Just a few days ago, on July 15, we held the second biannual Chapter Summit. This event brings together chapter leaders and Executive Board members to discuss items of mutual concern and to develop solutions.

Also launched this year was a monthly Education Update for members to keep them informed about all AALL education offerings.

We also produced eleven webinars this year, with more than 2000 members participating. AALL webinars covered a variety of topics from “Organizing with Apps,” to “Why Libraries Matter: A Conversation with John Palfrey,” with an average of about 180 registrants.

We continue to meet with and collaborate with a number of associations and organizations, including:

- Association of American of Law Schools
- American Bar Association, Section of Legal Education and Admissions to the Bar
- American Library Association
- Association of Legal Administrators
- British and Irish Association of Law Librarians
- Canadian Association of Law Libraries
- International Association of Law Libraries
- International Legal Technology Association
- Legal Marketing Association
- Medical Library Association
- National Association of Law Placement
- Special Libraries Association
- Uniform Law Commission
In addition to attending their conferences and meetings, we also hosted information booths at the meetings of the Association of Legal Administrators, International Legal Technology Association, the Legal Marketing Association, and the National Association of Law Placement.

We also continue to focus on our public relations efforts. This year we issued more than twenty-five news releases on a variety of topics from member awards to the release of our salary survey to our statements on information public policy issues.

**Corporate Sponsorship**

We are pleased to have a number of corporate sponsors this year, who, in addition to hosting AALL Annual Meeting events, also support a number of our programs and publications. We value their support and collaboration.


**AALL Membership**

AALL continues to have an active and engaged membership. The 2015–2016 membership year ended with a total of 4329 members, which is four percent lower than our total for the prior year. We closed the 2015–2016 membership year with a ninety percent retention rate, while the current average renewal rate for membership organizations is eighty-five percent.

**Staff Organization**

As is always the case, year after year, the AALL staff work hard to deliver value and provide superior service to our members. They work with committees, task forces, SISs, chapters, and caucuses to support their projects and initiatives. They are also mindful of AALL’s strategic plan, and strive to achieve its goals.

This year, we had a number of staff changes and a realignment of position responsibilities. We had four of our staff members leave to take on new challenges with other organizations. All of them had provided many years of service to AALL, and their new roles allowed them growth opportunities. This staff attrition did cause us to look at our overall structure, and we replaced only two of those positions.

Heather Haemker joined the staff in January as our publications manager, and Kylie Weller joined the staff in May as our membership services manager. Both have been valuable additions to our staff team.

You should never hesitate to contact a member of the AALL staff. We are all dedicated to serving our members and to making AALL the recognized authority in all aspects of legal information.

It has also been very rewarding to work with the AALL Executive Board this past year. They are dedicated to the profession and to AALL and its members.
Appendix B

Statements of Candidates for 2015–2016 AALL Election

Candidates for Vice President/President-Elect in 2015–2016

Gregory R. Lambert*

For nearly twenty years, the American Association of Law Libraries (AALL) has been my resource for professional development, mentoring, and networking, and I am thrilled to be given an opportunity to give back to this association that has given me so much. AALL’s strategy of advancing the profession of law librarianship and supporting the professional growth of its members is something that has assisted me in my career as well as in the careers of my fellow AALL members. I have a high regard for this association and consider it the bedrock on which I’ve built my career.

From the moment I decided to become a law librarian, I found AALL a necessary resource to understand and help guide me into the profession. Coming from a family that had neither a lawyer nor a librarian, I was in unfamiliar territory, and I needed guidance from those within the profession. CONELL introduced me to a number of law librarians who took me under their wings and pushed my fledgling career further than I could have ever gone without their mentorship. Within a couple of years, I found myself in front of the CONELL group giving back in the same way that others had given. The concept of AALL is to take that knowledge and wisdom and pass it along to the next group of law librarians and information professionals.

During my career, I have worked at diverse libraries and held many different titles. I’ve worked in academia, courts, and private law firms. I have been a computer programmer, cataloger, billing supervisor, researcher, manager, director, and chief. I have spread and discussed ideas through conferences and through my blog, Three Geeks and a Law Blog. It is through relationships I have built with other AALL members that I have been able to take on the next challenge and know that I have others to whom I may reach out for ideas, suggestions, and counsel.

We face challenges every day to contribute to our organizations and lead these organizations into the future. We do our jobs promoting the organization’s mission and strategic goals and show that we are a part of the strengths of our organization. Without our contribution, the organization weakens. Our professional association knows and understands our challenges. It knows how other members handle similar challenges, and it is a vehicle to push ideas to the members and give them the education, resources, and guidance to meet current challenges and prepare for the challenges to come.

I am running for AALL Vice President/President-Elect because I believe that I can promote the strategy of advancing the profession of law librarianship. AALL should be the place that legal information professionals, regardless of their official

* Chief Knowledge Services Officer, Jackson Walker LLP, Houston, Texas.
titles or where they are physically located within their organization, turn to for
guidance, mentorship, education, networking, and strategic planning. I want to
offer my service to this association and its members who have given so much to me.
As I look to the next twenty years, I envision AALL, its members, this profession,
and those joining us to reach new heights.

Diane M. Rodriguez*

My involvement in law libraries began in 1989 when I moved to San Francisco
for college and took a part-time position at the Bank of America Law Library. I am
forever grateful to the librarians there who not only introduced me to the profes-
sion of law librarianship, but who also encouraged me to get involved in my local
chapter, NOCALL, which ultimately led to my introduction to AALL. I immediately
sensed the generosity and dedication of the members of these groups, and I wanted
to become a part of it.

I joined AALL as a student member, where I received a Matthew Bender schol-
arship to finish my M.L.I.S. Once I secured my first reference librarian position, I
attended my first conference. I was blown away by the welcome I received from
everyone I spoke to and especially from my first appointed meeting mentor, Carol
Billings, who encouraged me to volunteer in order to get involved. My volunteer
work began in my local chapter, where I worked on numerous committees and
served as president. My work extended to AALL as the chair of the Council of
Chapter Presidents. There I coordinated efforts and facilitated education among
the chapter chairs and advocated for them to the AALL Executive Board. Next I was
appointed to the AALL Executive Board as a member at large. I had the opportunity
to learn firsthand about the issues and challenges facing our profession and the
organization. I enjoyed liaising with the committee and SIS chairs to coordinate
efforts and help solve problems. I also gained invaluable lessons from the collabora-
tive minds of my fellow board members. I truly enjoyed working as a team to
improve our association.

Volunteering in AALL and NOCALL has enriched my professional develop-
ment in immeasurable ways: from networking with colleagues around the globe to
finding specialized continuing education opportunities, from participating in
advocacy efforts to having a forum to develop leadership skills; I don’t know where
I would be today without the opportunities AALL has offered.

Today all of us are coping with constant change in the economy, the legal indus-
try, academic structures, global information models, access to justice, and new
resources and technologies. Keeping up with change has always been a driving force
in our need for a solid professional association. Just as our profession is evolving,
AALL must also continue to evolve into a modern association that both addresses
new business models and keeps our members on the cutting edge of guiding the
future. AALL provides the forum for legal information professionals to gather and
exchange ideas, mentor one another, and advocate for the changes we need to keep
our profession relevant and recognized as an authority.

* Assistant Director, San Francisco Law Library, San Francisco, California.
Sometimes implementing new methods is difficult, but it is important to take risks and try new directions to stay ahead of the curve. I am honored to have served as chair of the Executive Board Annual Meeting Special Committee in 2012. Our committee worked with the membership and consultants to restructure the Annual Meeting into a more modern and relevant learning environment. While some of the changes the committee suggested were controversial, I am pleased to see many of the resulting changes now in place are helping us all learn in new ways.

Having worked in private firms, government agencies, and public libraries, I recognize that all of our SISs and committees have individual needs that are equally important. I also feel it is our responsibility to advocate for access to justice for all. By working together and coordinating our efforts, we can create more opportunities and become a vital force. I have gained so much from AALL and my colleagues that I want to give back. If elected, I hope to continue my involvement and channel my passion to help this great association continue to evolve, grow, and nurture future generations of legal information professionals to succeed.

**Candidates for Treasurer in 2015–2016**

Elaine M. Knecht*

Membership in AALL has introduced me to a world beyond my reference desk and given me myriad opportunities to learn how to be an important member of the management team at our firm. Meeting with colleagues, both virtually and in person, has helped to reassure me that we are not alone in our struggles to get attorneys to come to training sessions, to get vendors to be more transparent and responsive to the needs of our business, and to manage a tight budget while at the same time providing the high-quality resources and services that lead to successful client outcomes.

One of the primary responsibilities of AALL’s Executive Board is to spread the message regarding the importance of professional law librarians in all types of libraries and to equip librarians in the trenches, as it were, to develop the skills they need to impress that value on managing partners, jurists, and law school deans. In law firms, the milieu with which I am most familiar, that means presenting hard evidence that professional librarians and the skills they bring to their organizations save attorneys and their firms time and money, mitigate risk, and prepare new attorneys to practice at a sophisticated level. I would be proud to be part of the furtherance of these goals.

From the larger public’s point of view, we must also be in the forefront of the major issues of the day—privacy, access to justice, authentication of information, and the permanence of that information. These are all embodied in AALL’s Core Organizational Values.

And who can resist the BHAG—Big (Hairy) Audacious Goal? We all want to be recognized authorities in all areas of legal information, and I look forward to helping all of us achieve that BHAG.

* Director of Information Resources, Barclay Damon, LLP, Buffalo, New York.
Jean L. Willis*

The 2014–2015 AALL theme, “The Power of Connection,” emphasized the significance of internal and external alliances. Together we can be creative in raising awareness about our value as law library and information professionals, as well as enhance and expand our partnerships in the legal and library communities. To stay strong and vital, we must not only face inward and work together but also reach out to create new roles and relationships.

A strong association is built, in part, on a foundation of sound fiscal policies and practices. AALL is financially strong, but it is critical to review our income and expenses, along with what programs and initiatives we choose to support and those that may need to be revised or let go. We cannot rely simply on current practices. To stay strong, we must continuously question, review, and update what we do.

Over the past year, I served as chair of the Council of Chapter Presidents and had the privilege of attending Executive Board meetings. The board worked with a consultant who led us through an exercise of examining every AALL program and expense with a critical eye on making hard choices where needed. Proactive decision-making is crucial to AALL’s ability to serve our needs and ensure the continuation of mission-critical educational programs, publications, the Government Relations Office, grants and scholarships, and headquarters, SIS, committee, and chapter activities. For example, the Association has partnered with Wolters Kluwer, who now underwrites the costs of our monthly webinars so that members can attend them for free. What a benefit! And what a powerful connection with a trusted partner that ensures integrity while promoting law librarianship and offering free continuing education.

Like many of you, I face uncertain financial realities in my library. As an assistant director for support services overseeing technical services and IT, I develop yearly budgets that are then folded into our library’s overall budget. As a member of our collection development team, I participate in creating our annual collection budget, which is one of the larger expenses for our library. Like other organizations, our library is grappling with a revenue stream that has steadily decreased since 2008. We constantly assess our library’s programs and our collection and make decisions to cut or change services and programs where needed. We do so mindfully, seeking input from our closest connections: our board, the courts, other local legal service partners, and our patrons.

As a recent vice president/president of the Northern California Association of Law Libraries (NOCALL) and continuing chair of the Audit and Budget Committee, I have been faced, along with the NOCALL board and members, with declining revenue streams combined with rising costs of providing education and other member services. I initiated an effort two years ago to review the NOCALL budget closely in connection with members and partners to seek cost reductions where possible while examining measures to improve income. This is a work in progress, and it requires the type of communication with and commitment to NOCALL members that may also be required of the AALL Treasurer. Having this kind of fiscal and communication experience in my job and with NOCALL has definitely prepared me for the work necessary to be AALL Treasurer.

* Assistant Director for Support Services, Sacramento County Public Law Library, Sacramento, California.
I have been an AALL member for more than twenty years, and I have been extremely active, especially at the chapter and SIS levels. I have worked in nearly every type of law library and held a variety of law library positions, from reference to technical services to IT, as well as administration. This gives me a depth and breadth of insight into AALL member needs. I feel that I am suitably qualified to serve as your Treasurer for AALL, and I welcome the opportunity to give back to the association that has meant so much to me and from which I have benefited so greatly over the course of my career.

**Candidates for Executive Board Member in 2015–2016**

Pauline M. Aranas*

I am honored to be nominated to serve on the AALL Executive Board. I have derived innumerable benefits from participating in AALL programs and activities, and I welcome the opportunity to give back and serve the AALL membership.

The 2015 Annual Meeting theme, “The Power of Connection,” deeply resonates with me. AALL has connected me to educational programs that have helped me develop my professional skills, learn new technologies, and stimulate thinking about broad policies relating to legal information, law librarianship, and legal education. More importantly, through AALL I have connected with a wide range of people with whom I share the same passion, interest, and commitment to law librarianship.

Without question, our profession has undergone rapid transformation over the past several years. While our core function—providing legal information services to support our institutional mission—hasn’t changed, how we perform our mission and the roles we play have dramatically changed and continue to evolve. AALL has evolved as well, positioning itself to readily adapt to the membership’s growing needs. Recent Association initiatives, such as the Return on Investment Study, the comprehensive Association-wide branding initiative, the CLE Task Force Report, the AMPC Content Area Team initiative, and the Business Skills Education program, all reflect the Association’s efforts to deliver services, advance law librarianship, and develop policies that benefit all members.

My experience serving on professional association and consortium executive boards taught me that to be a responsive, effective board member, one should reach out, listen, and address member concerns and support endeavors to allocate resources that best support the association’s mission and core values. If elected to the AALL Executive Board, I will continue to reach out and listen and will lend my support and advocacy to programs, initiatives, policies, and resources that strengthen AALL’s educational mission, enhance members’ endeavors for collaboration and connection, and advance our role as leaders in the field of legal information and information policy.

My involvement with AALL and its diverse membership has broadened my perspective and enriched my professional and personal development. I am deeply

*Associate Dean, John Stauffer Charitable Trust Chief Information Officer, Director of the Law Library, and Adjunct Professor of Law, Barnett Information Technology Center & Call Law Library, University of Southern California, Los Angeles, California.*
honored to be a candidate for the Executive Board, and I appreciate this opportunity to serve and represent AALL members.

Madeline Cohen*

Change is one of the few constants in life; how we approach and accept that change will inform where we go as a profession. I believe that we should embrace change, especially when it feels scary. As a court librarian, I have encountered many challenges and opportunities for growth as policies, service models, and budgets have changed. Has it been easy? No, but I feel that it is my responsibility as a director and advocate for my staff and for my profession to be a leader in change management, both in my institution and within AALL. The creation of AALL’s Strategic Directions for 2013–2016 sets the stage for positive change within our organization and our profession.

Community and collaboration is a core value both for AALL as an organization and for me as a library director. As librarians who are beholden to differing types of institutions, we tend to become siloed and removed from the experiences of other librarians. As a court librarian, I continually learn from my colleagues in academic, law firm, and other specialized library settings. If elected, I hope to work toward fostering greater collaboration, not only between types of institutions, but also between AALL and other library organizations. These professional collaborations can enlarge perspectives, broaden networks, and help to facilitate change.

As the face of the profession continues to change, AALL will be an indispensable resource for newer library professionals. Librarians need to strategically harness institutional knowledge and plan for the future through the succession planning process. The Executive Board sets the standard for leadership and mentoring for AALL but also has the unique opportunity and privilege to provide the forum and collegial support for members to lead from within.

AALL can and should play a vital role in helping its members manage change and innovate by providing them with multiple avenues for professional development and continuing education. These growth opportunities need to extend beyond the Annual Meeting and should include

- increased support for innovative chapter projects,
- focus on cutting-edge technology and trends, and
- promotion of the value that librarians and libraries add to our respective institutions.

While we may not all agree on what change will and should look like, these conversations need to continue if AALL is to remain relevant to its members and an integral part of the legal community. Both the Executive Board and the community of AALL members can benefit from listening to each other and working together.

Over the past eight years of being an AALL member, I have reaped countless rewards from attending the Annual Meeting, serving on committees, actively participating in my local AALL chapters, and meeting some of the most fabulous and talented librarians in the business. It is an absolute honor to be nominated to run

* Director and Circuit Librarian, U.S. Courts Library for the Tenth Circuit, Denver, Colorado.
for AALL Executive Board member, and I want to thank the Nominations Committee for doing so. If elected, I look forward to having the opportunity to give back to such a worthy organization and its members, and to a profession that excites and challenges me every day.

Mary Jenkins*

AALL is at the center of my professional engagement, so it is an honor to be considered for a position on the Executive Board. From my CONELL experience as a new librarian at Case Western to my more recent deep dive into committee and SIS work, I have been tremendously appreciative of the collaboration and problem-solving opportunities that this organization provides us. I will not claim to have put in as much as I’ve gotten out of my AALL affiliation, but I believe strongly in being a contributor to any community of which I am a part. My committee and association service demonstrates my strong interests: standards, legal research competency, legislative advocacy, economic value, vendor relations, and UELMA. Add to that my past and long experience as an academic librarian and my current role as the director of a library that is equal parts public law library, membership or subscription law library, and government law library, and that gives you a good sense of the varied user groups and needs that I serve and for which I advocate.

You can see from my bio that I began my career as a law librarian and then moved to a college setting and back to law librarianship. I took a nonlaw position because of a family move and found deep and meaningful work in the academic realm. I trained as a facilitator of community deliberation and dialogue around difficult public issues, a skill set that I bring to community engagement now and to my work life. Then I moved again for family reasons and found my way back to law, specifically because of my experience in serving multiple academic user types onsite and off with a wide variety of resources and services. If you have read Mary Catherine Bateson’s Composing a Life, you’re familiar with the themes of discontinuity and the threads that compose or weave seemingly disparate elements of life together into something that one can look at later and say, “Aha! That makes sense, and this life was richer for it.” My years in academe influence and inform my newer stint as a law librarian and provide me with context for the issues that all librarians face regardless of organization type. My changes in job type are not nearly as interesting as Ms. Bateson’s, but I appreciate her lens when explaining the shifts in my own work experience.

I hope that my chapter, SIS, and committee service demonstrate the work ethic that I bring to organizations. I have been an active member of all of the groups on which I’ve served, taking on tasks that will move our work forward. I know the value of setting strategic directions and of nuts and bolts project planning; I enjoy both. I especially like working with AALL members across library types to find common themes and creative approaches and solutions that will make a difference. Because of my library’s multiple user types, I am well versed at the micro level in the challenges that our libraries face more universally: a digital divide that continues to exist, diminished resources at the firms and government agencies that we serve, barriers to access to justice, a need for improved technological and research skills, the need for trustworthy online legal information, and so many other areas

* Law Librarian and Director, Hamilton County Law Library, Cincinnati, Ohio.
of concern. If elected, I will be honored to work with other members, and the membership, generally, to leverage Association resources to focus on the priorities before us and to make excellent use of the educational and human resources we have in the Association to set and meet high standards for programming, problem solving, and advocacy.

Meg Kribble*

AALL has been an important part of my professional life since I walked into CONELL, overwhelmed at the prospect of my first Annual Meeting. If you’ve been to CONELL, you know it isn’t long until you’re made to feel at home. AALL is first and foremost an amazing community, and I love that this makes itself clear so quickly to new members.

During the decade since my CONELL experience, the Association and our profession have changed. Some changes have been controlled, such as the evolution of Annual Meeting programming, but much of it, like the changes in the legal profession, has been out of our control. Regardless of how it comes, change brings with it opportunity and the chance to grow.

One thing that hasn’t changed is our association’s commitment to our most important values. Our current Strategic Directions—promoting our authority, advocacy, and education—could have come from any time in AALL’s history, yet they’re just the goals we need to respond to our changing times. In an era of shrinking resources, it’s never been more important for our organizations to know that our legal information expertise is essential; to advocate for UELMA and thoughtful copyright reform; or to be always learning, whether formally at conferences or webinars or informally through social media.

We could pursue these goals individually, but it would require much more time and effort. AALL is at its best when the organization facilitates our working together: shining the spotlight on our expertise, amplifying our voices, and enabling us to teach each other more than we could learn alone.

Change comes too slowly sometimes and faster than we’d like at other times, and the perception is different for everyone. In recent years, I’ve seen AALL make positive changes, like experimenting with creative program formats and initiating strategic partnerships, as well as seen it correct missteps—for example, by restoring conference funding support that benefits technical services members. If elected to the Executive Board, I would encourage further thoughtful change as the Association strives to meet the needs of all of our members. At the same time, I would advocate for more transparent communication between the board and membership in the hopes of alleviating some of the frustration that can occur.

Creative collaboration is another area where I would encourage further exploration: both facilitating more collaboration among the membership toward common goals as well as strategic external partnerships that would have the additional benefit of demonstrating our expertise to a wider audience.

My history of involvement, including chairing an SIS and a policy committee, gives me a foundation for understanding how the Association works, yet I’m still on

* Research Librarian and Outreach Coordinator, Harvard Law School, Cambridge, Massachusetts.
the newer end of the membership spectrum and would hope to bring a fresh perspective to the Executive Board. During my time in AALL, I’ve had wonderful opportunities to learn, to present, to observe, to advocate, and to lead. AALL has given me so much, and it would be an honor to give back by serving you on the board. Thank you.
Proceedings of the Members’ Open Forum
Conducted at the 109th Annual Meeting of
the American Association of Law Libraries
Held in Chicago, Illinois
Monday Afternoon, July 18, 2016

¶1 Ms. Barbara Bintliff (Tarlton Law Library & Jamail Center for Legal Research, University of Texas, Austin, Texas): Good afternoon, and thank you for being here at the Members’ Open Forum. I am Barbara Bintliff from the University of Texas, and I will be the moderator for the forum. This is your opportunity to ask questions of, make suggestions to, or raise issues for the Executive Board and the executive director. This session is run without the usual constraints of parliamentary procedure. Instead we have developed some basic ground rules for the open forum, and please allow me to briefly run through them. There are only a couple. First, we will address the questions and the comments that were submitted in advance. I will read the submissions and the appropriate Executive Board member or our executive director will respond. Following the comments and questions already submitted, we will have an opportunity to take questions and comments from the floor. I will call on those who wish to participate. Each speaker will have up to two minutes to present his or her comment. You will know when your time is up. There will be a response from the Executive Board member or the executive director, after which the speaker may follow up. The follow-up comment or question is limited to one minute. This session is being recorded, so we ask that you identify yourself and your institution before making your remarks so that you’re properly identified.

¶2 We have three questions that were submitted in advance. I will read them in alphabetical order by the last name of the person who submitted them because there is no favoritism here.

¶3 The first question comes from Druet Cameron Klugh (University of Iowa Law Library, Iowa City, Iowa). She is concerned about scheduling conflicts. “It is great to have wonderful programming but unfortunate to have great sessions opposite the General Business Meeting. Any ideas on how to alleviate this problem?”

¶4 President Keith Ann Stiverson (IIT Chicago-Kent College of Law, Chicago, Illinois): I will respond to that, and if Kate wants to add something, she will. Members asked for the opportunity to use the General Business Meeting time to schedule other things, and I think it was perhaps mainly SISs who felt they were really squeezed in the programming. So there was a time when we never permitted scheduling during the business meeting, and it has just changed. So if there are too many things going on, that is just the way it is, it just seems to have been that way forever. If there are any suggestions for a solution, I don’t know what it is. Perhaps
there is some suggestion you want to make, but I cannot think of one because we have just got so much going on. But thank you for the comment, and we will talk about it at a board meeting.

¶5 Mr. Ronald E. Wheeler Jr. (Fineman & Pappas Law Libraries, Boston University, Boston, Massachusetts): I would like to add something. I think it is important to also add that those who chose to schedule events during the business meeting were alerted to the fact that the time they had chosen happened during the business meeting and so had full disclosure and chose to choose that time anyway. So I think it is important for everyone here in the room to know that.

¶6 President Stiverson: Pam Reisinger also reminds them. But thank you though.

¶7 Ms. Bintliff: The next question comes from Bill Mills (New York Law School, New York, New York). His question is: “Does the Association sell the list of members’ or Annual Meeting attendees’ e-mails to vendors; and if so, how much income does the Association realize from this, and if so, can members opt out?”

¶8 Ms. Gail Warren (Virginia State Law Library, Richmond, Virginia): I think this is a question for me. Yes, the Association does rent our list of members as well as the list of Annual Meeting attendees for a one-time use. So again to clarify, that is a rental, not a sale. However, members can opt out of being included in those lists by going to their profile on AALLNET. If any member has trouble figuring out how to opt out or take advantage of that feature, you see any member of the AALL staff or come and see us at the member services booth at this conference, and we would be happy to walk you through how you can do that. To answer the question about the actual amount of money, revenue from the rentals of these member lists for the 2015 fiscal year (which coincides with the report that you see on the tables there) totaled $45,792.

¶9 Ms. Bintliff: Thank you, Gail. The next question is from Wendy Moore (University of Georgia Law Library, Athens, Georgia). She asks: “Would the Executive Board consider consulting and getting feedback from the SIS Council on issues and changes related to the Association? The SIS Council is made up of representatives from across the membership elected by members.”

¶10 President Stiverson: I will start with that and perhaps others will want to add something. We have an SIS council chair who comes to the board meetings, and we have a chapter council chair, and they both keep us informed and we keep them informed. And I have seen a lot of e-mail on the communities portal that is sent out. So I think the first place to start would be to talk to the SIS council chair.

¶11 Mr. Wheeler: It seems to me that that is exactly what that structure is set up to do, to get input from the SISs, who, as Wendy correctly states, are elected by our members, and often, actually almost every meeting, we get input from the SIS council chair that is elected from the SISs.

¶12 Ms. Katherine K. Coolidge (Accufile, Inc., Boston, Massachusetts): I would just like to add that a board member serves as a liaison to both the Council of Chapter Presidents and also to the SIS Council. So, throughout the year we are conferenced in on the meetings; and there is an opportunity at that time, if there is anything that needs to be raised and brought to the board, the liaison offers that service to do that throughout the year. It does not need to wait until one of the three times that the board meets.
Mr. Wheeler: I just want to mention that the new SIS Council chair is Stacy Etheredge (if anyone in the room has feedback for her).

Ms. Bintliff: Thank you. Are there questions now from the membership? If you have a question, I ask that you approach the microphone and state your name and your institution.

Ms. Heather Simmons (University of Illinois Law Library, Champaign, Illinois): There seems to be a trend among the SISs to start having virtual business meetings ahead of the conference so that we can spend our time here together doing more social networking, idea-generating events, rather than struggling to get through a long agenda on a business meeting. Would it be possible for the Association to subscribe to some kind of electronic tool that would allow us to meet virtually?

Ms. Hagan: The Association does have a conference calling service that SISs can use to conduct their business. We also can offer a subscription to you for WebEx. If you are interested in that, you should contact me, and I can give you more details.

Ms. Bintliff: Do we have another question?

Ms. Tracy Thompson (NELLCO Law Library Consortium, Albany, New York): I really enjoyed Will Evans, the keynote speaker, yesterday. And I thought as I left, “Gee, I wish I could walk right out of this session and buy the books that he just mentioned.” So I wondered if you had considered looking at the keynote speaker’s work in advance to see what he was referring to and whether we might be able to sell it right on site. I think a lot of people would buy those books.

President Stiverson: That came up at this meeting because we had Judge Posner’s book and also we had a book on digital memory. But it just becomes so complicated when it is so easy to get them on Amazon. I don’t mean to shut off the idea. It is just that it gets really complicated to get a set of books, to know how many, and what do you do with the leftovers, and do you have enough, because it is so easy to get them other ways. But I know what you mean, and luckily we have the whole deck from Will with all of his references there. He knew who he was talking to, didn’t he?

Ms. Bintliff: Jean?

Ms. Jean O’Grady (DLA Piper, Washington, D.C.): You may not be able to answer this, but I want to raise an issue about metrics within the organization. Within the private law library community we have seen an uptick in people who are no longer employed by the law firms but are employed by outsourcing companies, and I am wondering if you plan to track the impact of that on membership. Are those people going to continue being AALL members? We are just seeing this happening more in our community, so I think all of the issues around that have to be looked at. We are all obviously concerned about our colleagues and the possible career implications of that, but I also think it has implications for future membership growth of the Association.

President Stiverson: Thank you, Jean. We have been talking about it, but that is about all we have done so far. We know that we have to do a lot more to know a lot more. We just have to get more statistics and numbers. But we have our President-Elect here, and he may want to say something.
Mr. Wheeler: I will just add that Kate Hagan and I are beginning to investigate and have talks with particular outsourcing companies in order to do many of the things that you have talked about, but also to do some education (hopefully in the next several months) with our members about the impact of outsourcing, its uses, its pros and cons, and all that. So you have that to look forward to in the coming months.

Ms. O’Grady: May I also suggest that we educate law firms about the impact of outsourcing. I think we need to find venues to get to executive directors or chief financial officers or the other people who are making those decisions. Because I think in the final analysis, those organizations are going to have information decisions made by IT guys. The management-level decision-making is not going to be made by librarians (who are not going to have a seat at the table, as Greg Lambert so accurately stated).

President Stiverson: Thank you, Jean. I do want to say that I think libraries like yours and people like you are able to communicate that very well, where perhaps some of our members cannot. So there is more work to be done and we have been talking about it quite a bit.

Ms. Bintliff: Yes?

Ms. Janet Sinder (Brooklyn Law School Library, Brooklyn, New York): I think there was an e-mail that went out about the Law Library Journal task force. I never received it. So if this was in there, I apologize. I had heard there was a possibility the Association was going to stop publishing the business meeting proceedings in LLJ, and I wanted to find out whether that was the case or not.

President Stiverson: Thank you for your question, and the proceedings are definitely going to be in there. We talked at some length about the need to publish the chairs of all committees and all of that kind of thing because, frankly, five or six or seven change before we have a final list. That list is never really accurate. However, the business meeting and the proceedings are definitely going to be in there.

Ms. Sinder: Okay. Thank you.

President Stiverson: Yes, and it is being recorded several ways.

Ms. Bintliff: Yes?

Ms. Janice Henderson (Brooklyn, New York): I have a question about the branding, and I might have missed this, but is there a formal plan that the members can look at for the branding in the next few years, i.e., which steps you are going to take?

President Stiverson: We have a lot already on the website, and we have been working on messaging, such as the one-minute message, the two-minute message, the five-minute message, where you can corner somebody. We have to be consistent in what we say and how we talk to the people outside our group. A lot more is going to happen. I know over the years a lot of our members have said we need a big public relations organization. In fact, Mission Minded is helping us come up with the tools ourselves to do a much better job of championing our profession. So there is going to be a lot more coming out, but it is going to roll out a little slowly. You will recall in working with Mission Minded that we stopped several times and held another survey or town hall in order to get more information from our members about their feelings, and that sometimes delayed things. We might have been
lickety-split about it, but we just couldn’t be because of different concerns. But there is much more to come, and you will be seeing it, and you will have better tools.

³³⁴ Ms. Henderson: But there is not a formalized plan, with a schedule, that says when you are going to do this, when you are going to do that, i.e., the next steps?

³³⁵ President Stiverson: We have had a schedule that we have broken several times. Perhaps, Kate, you want to say anything else about it?

³³⁶ Ms. Hagan: We are going to receive from Mission Minded a brand guide that we are going to communicate to all the AALL entities. We are also going to be training entities about how to use a brand, how to use a logo, placement, colors, what the color palette is, and what the PMS numbers are. All of that will be provided to everyone, and we will also provide training.

³³⁷ Ms. Henderson: Thank you.

³³⁸ Ms. Bintliff: Are there other questions? Again, I’m here until 4:59.

³³⁹ President Stiverson: I was afraid you weren’t going to ask one, Mark. So I am glad to see you there.

⁴⁰ Mr. Mark Estes (Bernard E. Witkin Alameda County Law Library, Oakland, California): It is a question/suggestion. I may have missed it, and if so, I apologize. Are the notices of the Executive Board board books announced to the members? Can we see the agendas well before the meeting is announced? And if so, where are they announced? How far in advance? I think this would address the SIS Council question.

⁴¹ President Stiverson: I do not remember how far in advance, to tell you the truth, because I do not have to do it.

⁴² Ms. Hagan: Prior to every board meeting, every entity of the Association (including the SIS chairs), receives an announcement for agenda items and how they can submit them. Then the full board book is made available on AALLNET to all members approximately two weeks before a board meeting because that is when we have it completed, and we send that out either through our weekly communication to members, and it goes out every Monday, or in the Thursday, the third Thursday newsletter. The business meeting agenda is always announced in advance as well. Does that answer your question?

⁴³ Mr. Estes: Yeah. I missed it.

⁴⁴ President Stiverson: We are drowning in information.

⁴⁵ Ms. Bintliff: Camille?

⁴⁶ Ms. Camille Broussard (New York Law School, New York, New York): I like the logo. I am just curious where will the words “American Association of Law Libraries” go on various pieces of literature?

⁴⁷ President Stiverson: It is still there. It will depend on the nature of the publication. It will depend on where it is on the publication because we are not abandoning “American Association of Law Libraries” at all. The reason this sits alone right now is because we want you to look at it and fall in love with it. That is the goal. But you notice that, for instance, we have our copyright notice and lots of other things that express the full name, which is really long.

⁴⁸ Ms. Bintliff: Yes?
Mr. Steve Lastres (Debevoise & Plimpton LLP, New York, New York): I like the logo, but the reality is while we can promote the logo to our membership, where we really need to reach is the legal industry, all of the CFOs, CEOs, deans, and judges. Those are the individuals that we serve, and those are the individuals that we have to reach out to and impact. Is there a plan to have a marketing person within the Association headquarters help lead an effort by membership who, quite frankly, all have full-time jobs? I know certain SISs like PLL have tried to do this, but it is more than a full-time job. What is the Association going to do to address protecting the image of law librarians, promoting the value of law librarians to the greater community so that there is an understanding of what it is we do and the value we contribute to the legal industry?

President Stiverson: Thank you, Steve. We have three people I can think of specifically, but all of us are working on this now. Cara Schillinger is our chief of membership, marketing, and communications, and she has saved us a million times, let me tell you. She is really an expert on color too, and she has been very helpful in leading us through this process. She works with Heather Haemker in marketing, and we have a new position, director of content strategy. We are working on it. I know that is not quite enough to tell you, but we really needed to get through and have something to work with in terms of a new image instead of ramping it all up now. We are working on messaging really hard because while we talk so well to each other, we do not always talk well to our stakeholders.

Mr. Wheeler: I just want to say that the addition of the new staff member gives us three people in marketing and communications now. Once we have our messaging phase of the branding done, we will then have more staff than ever to roll out our messaging plan that ties into our new strategic directions, authored by my committee. What I really want to respond to you is that you are exactly right. There is a role for the Association in championing who we are and what we do beyond our membership, and to the extent we can, I think we have a good plan moving forward to do that. But I also want to add that it is the role and the responsibility of every member to also do that to the extent they can within their organizations and beyond, and that is exactly what our marketing plan and our branding talking points are going to help people do.

Ms. Schillinger: Do you have more questions?

Mr. Jeff Berns (Spiegel & McDiarmid LLP, Washington, D.C.): Obviously if you had gotten this to the Trademark Official Gazette before the meeting, it would let the cat out of the bag, but I am just wondering where in the logo are we going to be putting our little restrictive notice and other things like that?

Ms. Cara Schillinger (American Association of Law Libraries, Chicago, Illinois): The application was just received back from the lawyer and will be signed next week, or this week actually since it is Monday. Until it is an official trademark, we will use the “®” symbol, and that has already been signed by the company, and then we will do the trademark as soon as it is official. It takes some time, and we have to show that we have been using the mark. It is the same with the tagline. Both are being done independently.

Ms. Bintliff: Do you have an idea of the relative position? Is that your question, the position?
Mr. Berns: That was one part of it, but I do want to thank you for being proactive in getting the trademark stuff done. Thank you.

President Stiverson: We have a really good lawyer.

Ms. Schillinger: The position will be next to the “k” on network at the bottom, bottom right.

Ms. Bintliff: Thank you. Do we have any further questions? If there are no further questions, I am happy to adjourn the Members’ Open Forum for the 2016 AALL Annual Meeting. Thank you for your attendance.

(WHEREUPON the Members’ Open Forum was adjourned at 4:39 P.M.)
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