

# THE CRIV SHEET

THE NEWSLETTER OF THE COMMITTEE ON RELATIONS  
WITH INFORMATION VENDORS

VOLUME 40, NO. 2 / FEBRUARY 2018





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## EDITOR'S CORNER

### R. MARTIN WITT

HEAD OF PUBLIC SERVICES  
COLUMBIA LAW SCHOOL

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Welcome to Volume 40, Issue 2 of *The CRIV Sheet*. There is already a lengthy offering, so I'll keep this *Editor's Corner* brief. In this issue, we have introduced two new columns —*Law Firm Focus* and *International Insight*. We hope to have both become regular parts of *The CRIV Sheet*, and we're always looking for potential authors. We also have a new installment of *CRIV Sheet Summaries*, recapping portions of the 2017 Law Via The Internet Annual Conference. Finally, we are fortunate to have not one, but two new articles in this issue, the first tracking the evolution of the Government Publishing Office and the second on the potential challenges facing open access and how collaboration can help move us forward.

If you would like to write an article for *The CRIV Sheet*, please feel free to email me at [rwitt@law.columbia.edu](mailto:rwitt@law.columbia.edu). Potential authors of stand-alone articles and of future columns are both welcome. If you don't want to write an article yourself, please feel free to share any ideas you have about articles you'd like to see. Your comments and suggestions are always welcome, and together I know we can continue to make *The CRIV Sheet* a worthwhile publication for the entire profession.

## FROM THE CHAIR

**JIM GERNERT**

LAW LIBRARIAN

SOCIAL SECURITY ADMINISTRATION

Welcome to the second issue of *The CRIV Sheet* for this volume year. Our *CRIV Sheet* editor has lined up a number of interesting articles that cover a variety of vendor/publisher-related topics, including collaboration, government publications, and international perspectives. I hope you take time to read them all, since I'm sure you'll find something useful and informative in every article.

In addition to *The CRIV Sheet*, CRIV members stay active with a variety of other projects that keep us busy throughout the year. The *CRIV Blog* provides timely updates on new developments in the legal information industry. The CRIV Education subcommittee submitted two program proposals for the AALL Annual Meeting in Baltimore. In the spring, the CRIV Marketing subcommittee will take up plans to design a new poster for the CRIV space at AALL.

In addition to our regular subcommittee work, CRIV also takes on a number of special projects throughout the year. I'd like to give you some advance notice of one special project that CRIV is undertaking, the Legal Information Preservation/Access Survey. CRIV has sent out a survey to major legal publishers to establish a baseline for the current state of legal information preservation. We hope to begin a dialog between the legal publishing community and CRIV members on the importance of continued access to legal information in the digital era. Results from the survey will be included in the May issue of *The CRIV Sheet*.

If you have a current issue with a legal information vendor, please don't hesitate to use the [Request for Assistance form](#) on the [CRIV Tools](#) webpage to report it. For general concerns or questions about CRIV's work, please feel free to call or [email me](#) any time.

**CRIV Blog**  
[crivblog.com](http://crivblog.com)

Kirstin Nelson  
COORDINATOR

### Vendor Roundtable

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Jim Gernert  
C.J. Pipins  
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# CRIV SHEET SUMMARIES: LAW VIA THE INTERNET ANNUAL CONFERENCE 2017

**CHARLOTTE D. SCHNEIDER**

GOVERNMENT DOCUMENTS AND REFERENCE LIBRARIAN  
RUTGERS LAW LIBRARY, CAMDEN, NJ

The Law Via The Internet Conference is an annual, international meeting. Attendees and presenters typically include legal publishers, lawyers, law professors, law librarians, activists, and technologists who make law available or are interested in how laws are being made accessible online. The annual meeting is a byproduct of the **Free Access to Law Movement**, “an international voluntary association which has as its members more than 50 [organizations] from around the world [whose] members provide and support free access to legal infor-

mation...” During the inaugural 2002 free access to law meeting, the organizations published a **Declaration on Free Access to Law**. One of the agreements in the declaration is for the organizations to meet annually. These meetings, which became known as the Law Via The Internet conferences, usually take place in the fall, at locations all over the world. The **Law Via The Internet Annual Conference 2017** brought the meeting back to the United States, hosted by the Rutgers Law School in the Newark, New Jersey location.

## WELCOME & KEYNOTE ADDRESS: ED WALTERS

The conference opened up with Ed Walters, CEO of Fastcase, talking about “Who Owns the Law?” Walters’ talk involved four stories, all of which spoke to the question of who really owns the law. Walters thinks the people do. The first story discussed a then-innovate legal research database maintained by the Department of Justice (DOJ). This database is FLITE: Finding Legal Information Through Electronics. The DOJ outsourced the updating and maintenance of the database, and the company awarded the contract added pinpoint citations to each document, making the database far more useful. When the DOJ decided not to renew their contract with the company for fiscal reasons, the company reminded the DOJ of the contract in place, which stated that any propriety additions to the database documents secured with the company their own copyright in what would otherwise be public domain documents. The company essentially walked away with the entire database, which became the foundation for their own commercial legal database. That company was West Publishing Company.

Walters followed with three additional stories. One was about Fastcase’s battle with the Georgia legislature when the company wanted to make the Georgia statutes available in their database to subscribers. The company who publishes the Georgia statutes online claimed copyright in the state’s statutes. The copyright claim was based on the fact that they wrote in titles for each of the statutes. Fastcase ended up rewriting tens of thousands of titles to each statutory section in order to make those public laws available in their database. The next story was about Carl Malamud and Public.Resource.Org’s own battle with the Georgia Legislature over their statutes annotated. The Georgia Statutes Annotated is the official statutory compilation for the state. Annotated versions of materials tend to enjoy copyright protection, and the Georgia government claimed copyright in this annotated version when Carl Malamud made it available online for free. Malamud reasoned that a government publication, designated as official, annotated or not, is still a government publication,



and therefore qualifies as public domain material and falls outside of copyright protections. Walters' last story was another Fastcase battle with Georgia, this time over their Administrative Code, very similar to their battle over the statutes.

These stories brought hope at the opening of a conference whose purpose is to discuss and share stories of publishing law online. There are organizations around the world that fight for everyone's right to be able to access the law. The next day's keynote speaker spoke of another such fight.

## WELCOME & KEYNOTE ADDRESS: CORYNNE MCSHERRY

The second day of the conference began with another talk on the topic of "Who Owns the Law?" delivered by Corynne McSherry, legal director of the Electronic Frontier Foundation (EFF). McSherry is leading EFF's defense for one of Public.Resource.Org's battles to free the law; believe it or not, this is an entirely different story than the one told by Walters during the previous day's keynote. To the delight of this legal research instructor, and because of the international affiliations of most members in attendance and to give context to the ownership of the law, McSherry delivered a basic administrative law lecture that focused heavily on standards that are incorporated by reference.

McSherry began with quotations from court opinions that, according to her, seem to very clearly answer the question of who owns the law. Several opinions over the course of the last century, including recent opinions, unequivocally stated that laws that bind citizens should be accessible to those bound by the laws. As such, Public.Resource.Org and Carl Malamud, have taken a "beg forgiveness after, rather than ask permission before" approach to publishing online laws that have general applicability. Public.Resource.Org makes available online laws that bind the general citizenry. For the purposes of this keynote, McSherry talked about Public.Resource.Org's current battle with Standards Organizations.

Standards Organizations are often private organizations that publish industry standards for administering and regulating jobs, tasks, etc., which can be authoritative within that industry. These standards are essentially guidelines created by experts. In such cases,

the standards created by private organizations are proprietary, and would otherwise create a copyright in those standards. These industries are regulated by the many Executive Branch agencies, which promulgate rules for enforcing the statute(s) that give that agency the authority to create rules in the first place. In many cases, the agencies defer to industry experts for more detailed enforcement and administration information. In many instances, those agencies "incorporate by reference" the expertly-created industry standards. While agencies publish proposals in the Federal Register in which they decide to incorporate by reference to such standards, the standards themselves are usually not published verbatim along with the proposal. However, once an agency incorporates by reference a standard into the Code of Federal Regulations (CFR), that standard has the same force and effect as a final rule published in the Federal Register and then codified in the CFR.

Unfortunately, most of the standards that are incorporated by reference into the CFR are not as readily or freely accessible as the laws and rules themselves. The agencies that incorporate these standards by reference do make them available in print, in the agency-headquarters' reading room to be used only in person and without the use of photocopy machines or scanners. Because the standards organizations are private organizations that claim copyright in their materials, they can and usually do charge for online access to this information that has general applicability within an industry and to which the industry is bound. This means that people bound by these standards laws must pay, one



way or another, to even find out the language to which they are bound. McSherry and Public.Resource.Org are arguing that traveling to an agency's headquarters

as the only way to view the standards without paying for the information does not satisfy the meaning of accessibility in the twenty-first century.

## THE GRAPH EXPANDS: LESSONS FROM THE DOCKET WRENCH PROJECT

Speakers: Sara Frug, Sylvia Kwakye & Nic Ceynowa (Cornell LII)

Cornell's **Legal Information Institute** (LII) has been using technology to help people find and understand the law for 25 years. The LII's **CFR** (Code of Federal Regulations) is one of their most popular collections, and contains features that lower the barrier of understanding between the law and the general public. For example, the definitions feature allows visitors to look up a defined term without losing their place in the CFR text, and often without having to know the work has its own definition within the context of the law.

For legislation, there exists many websites for accessing this information, including **Congress.gov**, **govtrack.us**, **ProPublica**, and many other sites that gather information necessary to bring some transparency to the process. However, for agency rules and regulations, there exists two primary government websites for the rulemaking process: **federalregister.gov** and **regulations.gov**. Unfortunately, these two sites, even together, do not bring a desired level of transparency to researchers who want to track rulemaking and potential players in the rulemaking process.

The **Sunlight Foundation** originally developed software for such agency transparency to answer questions about the rulemaking process. They called it Docket Wrench (DW). DW pulls in the relevant information and makes the rulemaking process that much more understandable.

DW allows users to search rulemaking dockets. DW accepts several entry points for searching, including natural language or keyword searching. Each rulemaking docket pulls all relevant information onto a single page showing the docket overview

and a timeline, which includes the notice of proposed rulemaking, a final rule if one is available, details about submitted comments and supporting materials, and the number of comments and top commenters.

One feature of DW allows users to understand the influence of comments on the rulemaking process. This information includes top commenters and how influential commenters are within their industry. The rulemaking process allows for comments to be submitted as form letters. DW shows similarities in the comments and highlights unique additions to what would otherwise look like form submissions. DW runs a program against those form letters submitted in the course of rulemaking, and highlights any variations within; this means that, while users can see who submitted form letters, the software will tell users what individual flair was added to any given submission.

The LII decided to adopt this software in October 2016 because it "filled a niche adjacent to a popular offering," i.e., their CFR, according to Sara Frug, associate director for technology. DW also aligned with the LII's technologic interests in the semantic web, which allows them to make connections between various repositories of law, scattered all over, to get everything in one place. Working with a team of graduate engineering students from Cornell, the LII programmers were able to begin to get this system up and running again, but not without challenges.

One challenge was that the application had not been maintained for two years, which meant that data gathering had not been preserved. This means that all executive branch activities that occurred



from the time of the application's dormancy were not included in the 3 terabytes worth of data that came with the software package. The students first worked to restore functionality to existing data before the team started working to fill in the information gaps.

Another challenge was trying to capture all the relevant data because not all agencies participate in Regulations.gov, including the FCC (Federal Communications Commission) and the SEC (U.S. Securities and Exchange Commission). This means that relevant data from nonparticipating agencies has to be sourced from other places. The students and programmers had

to design unique programs for gathering the data for each of the nonparticipating agencies. These unique programs provide their own challenges with respect to the format of the gathered data. The way that the government agency maintains the information dictates whether or not that information would need to go through a conversation format for inclusion in the DW database.

Docket Wrench is still a work in progress as the team continues to update the data. As that happens, the LII is looking for volunteers to test it out and provide feedback. [Reach out](#) to them if you are interested.

## WHEN LAW GOES VIRAL: THE IMPLICATIONS OF SOCIAL MEDIA FOR ONLINE LAW PUBLISHERS

Speaker: Craig Newton (Cornell LII)

Craig Newton is the associate director for content, and the Legal Information Institute's (LII) only lawyer. Chagrined about having to follow the presentations by Ed Walters and LII co-founder Peter Martin, Newton joked about being the "third garage band playing after both Beyoncé and Bruce Springsteen," and gave a presentation to illuminate the impact that social media has for online law publishers. As one might expect, the points made during the presentation were enhanced with memes and viral videos.

For background, Newton acknowledged that while they do publish some original secondary content, most of the LII's content is primary law. For context, Newton explained the usual traffic patterns to the site, displaying screenshots from the analytics that show that about one-third of LII traffic goes to their U.S. Code collection while one-fourth of their traffic goes to their Code of Federal Regulations collection. For those literally keeping score, those two collections are looked at by just over half of the "28.6 million sessions from nearly 18 million unique users viewing 73 million pages of content, and spending an average of 11 minutes on each page."

To give the audience a baseline for what traffic looks like and where it comes from, Newton used the LII's most popular page: Rule 26 in the Federal Rules of Civil Procedure that deals with discovery. As the most popular page, the traffic pattern over those five months show the ordinary, saw-tooth pattern; analytics also reveal that most traffic to that page comes from a search engine. This is called an "organic search." In terms of session duration, visitors coming from organic searches spend an average of just over 12 minutes per page, view an average of 2.6 pages per session, and then stop interacting with the page (in a way that the analytics can detect) 64 percent of the time. Compare that with the traffic coming from social media, which shows that visitors spend an average of just over 2 minutes per page, view an average of 1.3 pages per session, and then stop interacting with the page 81 percent of the time.

Newton showed the audience an ordinary traffic pattern over the course of five months; the picture showed what Newton called a "saw-tooth" pattern that represents peaks during the week and valleys during the weekends, when fewer people are visiting the LII site. As observed from the analytics, traffic



coming in from social media is not a major source of traffic, making up just over 3 percent of all traffic to the site. The main social media sources are Facebook and Twitter.

Newton uses the analytics, especially noticeable patterns, to try to figure out where else those users might want to go. One such pattern was the traffic driven from social media. Newton focused the “traffic driven from social media” as only sources external to the LII, meaning that content created by the LII and posted to the LII social media accounts were not factored into these observations. Newton posited whether specific events justified assumptions about traffic patterns and used specific events in America’s recent history for illustration to figure out when traffic from social media sources made up a larger percentage of overall traffic than normal, using 2016 as a baseline for comparison.

On January 29, 2017, an Executive Order was signed that implicated 8 U.S. Code 1182. Traffic from social media made up 18 percent of page views to the statute. As expected, traffic coming from social media meant the session durations were shorter and fewer pages were viewed. On January 31, 2017, an appointment to the National Security Council was made that implicated 50 U.S. Code 3021. On that day, traffic from social media made up 16 percent of page views while the overall traffic coming from organic searches saw a smaller-than-usual percentage. With respect to the average session duration, traffic from organic search still spent more time on pages than traffic from social media. Twitter seemed to beat out Facebook and Facebook mobile as the force behind the traffic-from-social surge simply because of the aggregation of tweets. Newton was not able to find “tweet-zero” to follow the snowball effect. Another Executive Branch event that happened February 14, 2017 implicated 18 U.S. Code 2381, which is a statute dealing with treason. Traffic coming from social media made up 8 percent of page views, with Facebook mobile being a major source for that traffic.

Unfortunately, free analytics software is far from perfect. The way that the software assesses traffic and traffic sources dilutes one’s ability to better assess those traffic sources when it classifies “direct traffic” as a catchall that includes traffic coming from email client software (e.g., Outlook’s “safelinks”); certain other software, like Microsoft or Adobe; or URL shorteners, like tinyURL.

All-in-all, Newton, who professed to be nothing of an expert in analytics or in social media, demonstrated that a trend seems to be emerging when specific moments in time drive social media engagement and traffic. As such, Newton concluded that traffic from social media sources is slowly growing, while also recognizing that organic search traffic still reigns. One hypothesis for this conclusion is that people still use search engines to find the information that they then put on social media. Newton mused that this could mean that access to the law is decentralized, diffused, and devoid of the “celebrity effect,” in that such access is made by the people, for the people. In terms of the LII’s mission to help people find and understand the law, Newton continues to debate just how much the LII should take on in the way of civic education. That said, the LII is constantly looking to improve the user experience by providing context, sources of traffic, and current events that make the law go viral, and can shed light on what the context ought to be.



# LAW FIRM FOCUS: ARTIFICIAL INTELLIGENCE AND THE BILLABLE HOUR

## LEGAL TECH STARTUP FOUNDED BY FORMER ATTORNEY AIMS TO REVOLUTIONIZE HOW LAWYERS TRACK THEIR TIME

MARIANA NEWMAN

REFERENCE LIBRARIAN

COLUMBIA LAW SCHOOL

Artificial Intelligence (AI) technologies are becoming increasingly intertwined with lawyers' workflows, from e-discovery to contract review, due diligence, and litigation analysis. How AI might affect the process of legal research is, of course, an ongoing topic of great interest. AI also has a role to play in a more mundane aspect of legal practice: keeping track of billable hours. One new legal tech startup uses AI technology in an attempt to take the time and frustration out of timekeeping.

Entrepreneurs talk a lot about providing solutions to “pain points”: problems that their products can fix. For former attorney Ryan Alshak, staying on top of timekeeping was the biggest pain point in his practice of law. While working as an associate at Los Angeles-based law firm Manatt, Phelps & Phillips, Alshak found the process of tracking billable hours stressful and frustrating. He called himself “the world’s worst timekeeper” and would wait until the end of the week to estimate the hours he had spent on various tasks and matters. Because of this, he assumes that he frequently underbilled his time. When Alshak polled twenty of his colleagues at Manatt, he discovered that they, too, found keeping track of billable hours stressful. Ultimately, Alshak decided to leave his firm, joining some friends to create a legal tech startup that could provide a solution to the problem.

Their product is **Ping**, an automated timekeeping and data analytics software program. Ping provides an alternative to the many methods attorneys use to keep track of their billable hours, whether that method

is a simple sheet of notebook paper, a word processing document, a spreadsheet, or an existing time-tracking software program like Chrometa or Freshbooks. (Chrometa is similar to Ping in that it passively tracks time in the background while an employee completes his or her work. Unlike Chrometa, Ping is designed for lawyers and incorporates some elements of artificial intelligence.)

The Ping software plugs into a law firm’s suite of application programs—the word processing, spreadsheets, databases, web browsers, and email platforms used by the firm’s employees. Ping integrates with the firm’s telephone, document management, and billing systems as well. It automatically tracks time that attorneys spend on various tasks, without the attorney having to start or stop a timer. Then, using AI technology, the software categorizes each entry by client and matter, creates a descriptive narrative for each entry, and assigns it to the correct task and phase code. Even without the AI component, Ping’s ability to run in the background of an individual’s applications and keep track of time spent on various tasks would be a time-saver for attorneys in and of itself. The AI features, if they work well, would be even more useful.

Here is an example of how Ping works in practice: An attorney drafts and sends an email to a client, Ping identifies whether the email is billable and, if so, creates a time entry with the client and matter along with a narrative about the subject matter of the email. Ping then assigns it to a task and phase code based on the



substance of the email, and notes how long the attorney spent drafting the email. At the end of the day, the attorney must review the timesheet Ping has created. Therefore, Ping does not yet completely eliminate an attorney's involvement with the timekeeping process. However, Alshak claims that attorneys he has talked with spend about three to four hours a week creating their timesheets, and, under Ping's beta testing, lawyers using the software reduced that to thirty minutes. Alshak hopes to reach "full automation" in the future.

According to Alshak, one of Ping's primary goals is to help attorneys "capture lost billable hours." He says that lawyers who reconstruct their time spent long after the fact often underbill, much as he did himself in practice. Automated timekeeping will help them more accurately bill the time they spend on matters, often increasing billable hours. Alshak thinks that clients will appreciate increased accuracy and transparency.

In addition to automated timekeeping, Ping provides data analytics to law firms. As the software tracks time spent on tasks, matters, and clients, it accumulates a large quantity of useful data. Alshak hopes this data will give lawyers more insight into their work and help them create more accurate budgets. The team at Ping thinks that data analytics will be the future focus of the company. Rather than fearing what an increasing shift toward a flat-fee billing model might mean for a company focused on helping attorneys track billable hours, Alshak predicts that having access to the type of data Ping provides will become even more critical as the industry heads in that direction.

Ping's software developers are planning new features in the field of data analytics as well: they are working on "using machine learning to build a cost-budget estimator" that could help firms predict actual costs for their cases and therefore establish more accurate fees. The developers at Ping want to identify all the variables that affect the course of litigation and use machine learning across a large enough dataset to be able to eventually predict cost,

length of time, and the likely outcome of the litigation more precisely.

The Ping team has participated in competitions and programs for legal tech startups. In 2016, the American Bar Association (ABA) TECHSHOW'S "Startup Alley" competition chose Ping as one of ten finalists out of more than 40 entrants; Ping won first prize. Ping also participated in LexisNexis's first legal tech accelerator program, a several-weeks-long curriculum that exposes legal tech entrepreneurs to the expertise of programmers and executives from LexisNexis and its subsidiary Lex Machina. In May 2017, the Ping team was invited to participate in London law firm Mishcon de Reya's legal tech incubator, MDR LAB. This allowed Ping's developers to test the software with Mishcon de Reya's attorneys and receive and respond to their feedback.

Ping's target audience is BigLaw. At this stage, the team at Ping hopes to start two to three pilot programs with major law firms before launching on a larger scale. They recently closed their first deal with Mishcon de Reya.

Alshak hopes his program will allow attorneys to spend less time tracking hours and more time focusing on lawyering. As legal tech entrepreneurs continue to launch more and more products promoting their use of AI technologies, it will be interesting to follow whether Ping can deliver on its promises and ease the pain of law firm timekeeping.

# INTERNATIONAL INSIGHT: VOLUME 4 OF THE WEEKLY LAW REPORTS

## DEVELOPING AND DESIGNING THE EXPANSION

DANIEL HOADLEY, BARRISTER

HEAD OF MARKETING

INCORPORATED COUNCIL OF LAW REPORTING FOR ENGLAND AND WALES (ICLR)

The following question was recently posted on the International Law Librarians List (Int-Law):

*I am hoping that one of my UK colleagues can assist with citing cases reported in The Weekly Law Reports Vol. 4.*

*I have discovered that Vol. 4 is online-only and a counterpart court-ready PDF is available. However, rather than [base] the citation on the page number, the citation has a sequential case number system, i.e., the first case reported in 2016 will be [2016] 4 WLR 1; the second will be [2016] 4 WLR 2.*

*I would like to know if there is a guide on how to cite these cases? The OSCLA (Oxford University Standard for the Citation of Legal Authorities) guide was printed before this series began. Has there been any guidance from the profession or the courts?*

As the designer of the series in question, Volume 4 of *The Weekly Law Reports*, this posting provided me with a rare opportunity to explain the rationale behind the decisions that were taken during the development of the relevant series and why certain choices were made. I am very grateful to the editor of this publication for being given the opportunity to refine and expand upon the reply I posted on the International Law Librarians List.

### THE WEEKLY LAW REPORTS

By way of background, *The Weekly Law Reports* is a generalist series of law reports published by The Incorporated Council of Law Reporting for England and Wales (ICLR). The series entered circulation in 1953, is published on a weekly basis (as the name

suggests), and is one of the most widely cited series of English law reports.

*The Weekly Law Reports* (known by the abbreviation, “WLR”) is annually divided into three volumes. Volume 1 is reserved for cases dealing with procedural matters and points of law of general interest (cases in this volume are cited as [year] 1 WLR page, e.g., [2017] 1 WLR 123). Volumes 2 and 3 are reserved for cases of greater long term importance and will go on to be republished with a note of oral argument in our official series, *The Law Reports* (cases cited in volume two or three are cited as [year] 2 or 3 WLR page).

### CONTENT DEVELOPMENT

In 2015, ICLR set the goal of dramatically expanding its reported coverage and shortening the length of time that elapsed between the date a judgment was handed down and the date upon which our report of that judgment went to press.

We identified two broad obstacles that stood in the way of that overall goal:

1. The application of the classic canons of reportability was making it difficult to broaden coverage. In effect, the threshold of reportability had been set so high that we were excluding cases that merited fuller coverage notwithstanding that they did not, strictly speaking, set a precedent.
2. Even if the reporting threshold had been lowered, the constraints of print (both financial and physical) would make it extremely difficult



to publish the expanded content without ramping up costs (which, in the face of the terminal decline we have been observing in subscriptions to our print products, seemed difficult to justify).

We were clear on what we wanted to do—report more cases at a faster rate; and we were clear on what we did not want to do—attempt to cram the expanded coverage into printed form and pass the added cost on to our subscribers.

## DESIGN

### *Reportability Threshold*

We sought to expand our coverage by letting in cases that would, on the strict application of our reportability criteria, not have “cut the mustard” for volumes 1, 2, or 3 of *The Weekly Law Reports*. In particular, we were keen to expand our reach to cases that illustrate the application of existing (and reported) principles to particular factual situations or cases that helpfully bring together and summarize established (and reported) principles as well as providing deeper coverage of family law, shipping, sentencing, and damages.

From an editorial perspective, volumes 1, 2, and 3 did not appear to be the appropriate vessels for the expanded class of coverage. Therefore, we were faced with the choice of developing an entirely new series (which was an idea we briefly entertained) or to expand *The Weekly Law Reports* by creating a new volume (which was the route we eventually opted to pursue).

### *Media*

Having settled on the path of expanding *The Weekly Law Reports* through the creation of a fourth volume, the next question was whether it should be made available in print. We struggled with this one. On a commercial analysis, the answer was a definite ‘no’. Subscriptions to print were tumbling (and continue to do so), and we would invariably have to increase the subscription fees for the customers holding onto their paper subscriptions to cover the cost of production (which, I for one, didn’t think was going to go down too well).

On top of the cost-issue was the problem of currency. Typesetting, accommodating each case in a printed part, printing, distribution, and the construction of separate indexes were practical problems that were going to conspire to act as a millstone around the neck of getting the reports out in a timely manner.

Rather than waiting for the right combination of cases to move through production to compile a printed weekly part, we wanted to be able to publish each report the moment the editor passed it for press. This capability would only be possible using digital publishing. Therefore, we opted to make Vol. 4 of the *WLR* online-only, and available worldwide on [ICLR.3](#) and in the UK on WestlawUK and LexisLibrary.

## CITATION AND PAGINATION

By this stage in the development process, we knew what the reportability criteria were going to be and that Vol. 4 *WLR* cases would only be published online. The final question was how the citation for each Vol. 4 *WLR* case was going to be structured. This caused no end of head scratching and heated debate within ICLR.

On the one hand, we could have anchored the citation on the number of the first page of the report, which is the traditional way of doing things. Doing this would have depended on sequentially dealing with the pagination of each case (which is trickier than it sounds if you intend to publish a piece of content as soon as it has been editorially signed off as ready to go). On the other hand, we could adopt a case number system and run the pagination internal to the case (i.e., the third case to be published in 2017 would be [2017] 4 *WLR* 3 and the first page would be page 1).

Mindful of the fact that we would only be publishing Vol. 4 *WLR* cases online (not to mention the fact that our numbers demonstrated our content was being accessed online far more often than from a library shelf), we opted for the latter, case-number based system. From the perspective of retrieving the case via an online search, it didn’t matter whether the number at the end

of the citation was a page number or a case number—what mattered was that the citation was unique.

Moreover, from the perspective of citing a Vol. 4 *WLR* case in court, we looked at how practitioner’s handled references to cases in other UK non-page numbered citations (e.g., a publisher neutral citation, [2017] *EWCA Crim* 4567, or cases reported in Sweet & Maxwell’s *Criminal Appeal Reports*, [2018] 1 *Cr App* 1).

It has been suggested, and was discussed internally, that the number at the end of the citation be prefixed with C or C- (e.g., [2017] 4 *WLR* C1). We looked at this but ultimately rejected the idea for two reasons.

First, it was one more thing to get wrong when doing a search in an online platform. Second, to my eye at least, it looked weird.

#### HOW DO YOU CITE A 4 *WLR* CASE?

Bringing the matter back to the question posted on Int-Law, the mode of citation for a 4 *WLR* case in oral argument, I would suggest, would go like this (in the quaintest, most old-fashioned way):

“My Lord, may I take the court to *Harry v. Sally*, reported as case number X in the fourth volume of *The Weekly Law Reports* for 2017.

## THE EVOLUTION OF THE GPO

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With the White House seemingly always in turmoil and Congress failing to break partisan lines for years, it would be reasonable to think that many of our government offices have ground to a halt, or at the very least, a trickle. But if you think this is the case with the Government Publishing Office (GPO), you would be wrong. The GPO has been working steadily on tasks that should please any researcher who wants to access free, authenticated government information. Digitization of Congressional and Administrative materials has been occurring at a fast clip throughout the spring, summer, and fall. At the same time, the GPO has also continued to enhance the beta version of govinfo, and created a beta version of their new website, [GPO.gov](https://www.gpo.gov). It also began a program to provide education to members of its depository program. Since its inception, the GPO has not stopped striving to provide access to government information.

The U.S. Government Printing Office was created by Congress in June 1860 and began operating with 350 employees on March 4, 1861 at the corner of

North Capitol and H Street in Washington, DC. Joint Resolution 25, dated June 23, 1860, laid out the duties of the Superintendent, reporting requirements, salaries, and quality of the paper to be used. Throughout the years, the GPO has been responsible for publishing government documents such as the *United States Code*, *Congressional Record*, and *Federal Register*. In 2014, Congress recognized the change in the way people access government information by renaming the Government Printing Office as the Government Publishing Office in section 1301 of P.L. 113-235. This name change, although seemingly small, recognizes that the GPO does more than just print materials; the GPO also creates databases to find materials and provides access to authenticated government documents online for free.

The GPO began its foray into online information services with GPO Access. This website first appeared in 1994 as a way to provide permanent public access to government information. GPO Access grew out of the GPO Electronic Information Access Enhancement Act, which directed the GPO to establish some system



of online access to the *Congressional Record* and the *Federal Register*. Initially, GPO Access was developed as a subscription-based service; however, there were few subscribers, so in 1995 the decision was made to stop charging users. GPO Access grew rapidly from there, and at the end of the last millennium, the service offered more than 225,000 titles. At the beginning of the current millennium, the GPO became aware of the limitations of GPO Access and sought to develop a new system. The goal was for the new system to house all known federal government information within the scope of the Federal Depository Library Program, both of which originated in print and were born digital. The new system would be the Federal Digital System (FDsys). The first release of FDsys in 2009 was the replacement of GPO Access with a new search interface. GPO Access eventually ceased operation once all the content migrated to FDsys. In February 2016, the GPO started moving away from FDsys to the newest public website, [govinfo.gov](http://govinfo.gov). Developers designed govinfo.gov to have a more responsive interface using an Open Source search engine that allows for linking between related publications.

The GPO anticipated replacing FDsys with govinfo in 2017, but it stayed in beta release through most of that year, only recently having that designation removed. Govinfo is optimized for screen size to ensure that it can be used on any sized device (a fact that I verified by using the site on my smartphone). The site allows for browsing documents in alphabetical order, by category, date, issuing committee, or author. An advanced search function allows for searching across several different criteria, even a citation. The provision of URLs that can be bookmarked, and the ability to share search results through a variety of methods including email, Facebook, LinkedIn, Twitter, etc., make transmitting information easy. Govinfo also includes a Related Documents feature, which will display other documents within govinfo related to or referencing that particular document, a useful feature for anyone doing research.

The GPO has been working in concert with the Library of Congress to digitize the bound *Congressional Record* going all the way back to its first publication in 1873. In September 2016, the GPO released the bound

*Congressional Record* for the period from 1991-1998 on govinfo. This was followed by the release of the volumes from the 1980s in November, the 1970s in March 2017, the 1960s in April, the 1950s in June, the 1940s and 1930s in August, 1920s in September, 1911-1921 in October, and 1891-1911 in November. With this latest release of the *Congressional Record*, only about 20 years of print volumes await digitization. Although funding for this project was originally approved back in 2011, it is moving very quickly now that the project is truly underway. These digitized versions feature a searchable PDF of the original print version of the *Congressional Record*, including the GPO authentication seal (the outline of an eagle) on the first page. This means that researchers can access this material without cost on any device and from the comfort of any location with an internet connection. Users are also provided with a zip file, which is handy since PDFs can be over one thousand pages.

The *Congressional Record* is not the only resource that the GPO has been digitizing. Work has commenced in partnership with the National Archives Office of the *Federal Register* to digitize every issue of the *Federal Register* from 1994 back to its original publication in 1936. The GPO announced this project back in October 2015, but only began work on the project in January 2017 with the digitization of the *Federal Register* from 1990-1994. As of August, the GPO had completed digitization of the *Federal Register* volumes for the 1980s, while volumes from 1936-1979 still await digitization. The digital version of the *Federal Register* allows easy access on smartphones, tablets, and computers as a PDF document.

The GPO distributes some government documents free of cost to designated libraries throughout the U.S. through the Federal Depository Library Program (FDLP). In the fall of 2014, the FDLP launched the FDLP Academy with the intention of informing and educating members of the Federal Depository Library community about different government information resources. The Academy has the motto of “engage and empower through education.” Offerings include events and conferences as well as webinars and webcasts on a wide variety of topics, including finding government information, preservation, and classification. Webinars are presented through WebEx. Archives of previous



webinars are available and can be viewed at a later date. All participants in the webinar receive a link to the recorded presentation once it is uploaded, as well as any instructional materials used and a certificate of completion. Webinars vary in length, although many are around one hour.

The GPO has truly evolved from being just a printer of government information to being a supplier of free,

authentic government information online. Whether through its online systems, digitization projects, or education initiatives, the GPO has grown and adapted throughout the years to ensure that everyone can access reliable government information. Today's GPO has evolved exponentially from a building with printing presses and 350 employees; it is not your father's or mother's GPO.

## COLLABORATION INSTEAD OF CONFLICT

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There is a tension in other fields between vendors and libraries—a tension that seems to be straining relationships. When Elsevier joined our community, many worried that we would face problems that had thus far eluded us. However, we do not need to accept that our field will become like others. Rather, this change should be a watershed moment that allows us all to come together. There are issues in the legal field that we can collaborate on solving. By collaborating, we can support community members facing increased burdens, improve communication, and reaffirm our relationships. By choosing collaboration over conflict we can build a stronger community.

### THE WATERSHED MOMENT

The tensions between vendors and libraries have some origin in the recession. As budgets were frozen or cut, so too were purchases. Alternative avenues were found to serve populations, and vendors looked for ways to make up for the loss. Elsevier earned a less than admirable reputation by taking **“advantage of its rights to sue as a plaintiff in United States courts on multiple occasions...”**

When Elsevier purchased SSRN (Social Science Research Network) things changed. The academic legal community seemed to collectively hold its breath as we watched with trepidation, unsure of what it might mean for our status quo. Would our open access default become harder to maintain? This concern was only heightened when Elsevier subsequently purchased bepress.

We are at a fork in the road. We can watch and wait, hoping that this is not a sign of an impending shift in our culture toward the environment of distrust and conflict visible in other disciplines. That defeatist attitude is counter to activist library history. As an alternative, we could take this concern as motivation to have all stakeholders come together, and we should. We need to send a message that this field will not be like others. Collaborating on a community problem, like the access to justice gap, we can find new ways forward we would not have found alone, support burdened members of our community, and strengthen our relationships in the process.

### BUILDING ON A STRONG FOUNDATION

The legal field is different from other areas of study as we have long enjoyed a more open environment than most. The general inability to copyright the law provided an open foundation from which to work. The community built an open framework on this foundation by transitioning to an open access default for law school journals and making the law available online for free. The community added to that framework by creating freely available research guides, toolkits, and other efforts. This background made the infiltration by Elsevier only more concerning.

The community is active and responsive. We have proven that we can and do regularly find solutions to the problems we face. **LawArxiv** is a response to Elsevier's arrival. When Hurricane Harvey hit, **lawyer Michael Edelman took to Twitter** asking legal re-



search database vendors for support. Fastcase responded by providing free access to anyone working on Harvey relief. Later they **joined forces** with the Florida Bar to make Irma recovery just a bit easier. The desire to collaborate is there. We need to leverage it.

## THE CHALLENGES

Great work has been put into making legal information available. Open is about more than availability. Accessibility is key to the concept. There is a multitude of projects, tools, and resources, but they are so scattered it can be difficult for the uninitiated to locate them. For those who are not comfortable with technology, a legal database can be an intimidating barrier to the already complicated process of legal research.

A recent article, titled “**Where Does Open Access Go From Here?**” was directed at supporters of open access to information. The article focuses on open access in the sciences, but we should be asking ourselves this very same question in the legal field. Journals are open, statutes are open, and soon the entire corpus of case law is going to be open. Where do we go from here? In the article mentioned above, Alison Mudditt comments that open access “does need to adapt to new realities.” New products, services, and trainings are being brought to the market regularly in an effort to predict where our industry might land next. These developments are evolving law firm workflows and academic research, but there remains a **large underserved population**. For some of this population, advances in technology can **leave them worse off**. Together we can decide how to answer the question, and there are projects from which we can draw inspiration to do so.

## A MODEL TO MIMIC

Closest to home is the **Caselaw Access Project**, a partnership between Harvard Law School and Ravel Law. When LexisNexis acquired Ravel Law, **they affirmed** their “commitment to continuing Ravel Law’s support for and fulfillment of the objectives of the Caselaw Access Project. . .” The goal of the project is to provide ongoing free public access to the entire corpus of federal and state case law. It was a combination of Harvard’s labor and Ravel’s resources to help fill a gap in available legal materials. It is a great example of the potential of a partnership.

**The National Information Standards Organization (NISO) Privacy Principles** are the product of another inspirational collaboration. The ebook revolution expanded the digital library infrastructure but came with new problems to address. For each new third-party service a library adopted, more and more control was lost. Concerns arose about protecting patron privacy in this new environment. Instead of allowing the situation to continue unguided, potentially leading to increased tension and disruption of services, NISO brought all stakeholders together to develop the privacy principles that would guide future library technology.

These 12 principles cover security, transparency, data collection, and more. This was no small task, it required grant money, four virtual meetings several hours long, three days of in-person meetings, and several drafts and edits. It was an impressive seven months from the first meeting to the publishing of the principles. Considering the number of stakeholders involved, the multitude of differing opinions, and the ultimate breadth of the final work product, seven months is an impressive timetable.

Collaborations like this and the Caselaw Access Project are ones on which we can mirror future efforts.

## COMMUNITY BUILDING THROUGH COLLABORATION

The Committee on Relations with Information Vendors (CRIV) was created to “foster positive, constructive, and open communication between information vendors and the membership of AALL.” This watershed moment is an opportunity to do just that. There are many ways we can work together to solve these challenges and others that we may face in the future. The numerous projects, labs, and other endeavors provide a small glimpse of what might be possible with larger collective action.

Mirroring the NISO Privacy Principles, one project could be creating guidelines for new legal technology. The idea is purposefully vague because the project could take one of two different angles. Either it could be a set of guidelines for adopters on implementing new legal technology, or it could be a set of guidelines for developers and vendors to prevent harm. The former could provide guidance like requiring human oversight



for an initial period to allow any faults to be quickly detected. The latter could require **transparency when due process would be affected**.

Another possibility might be the creation of a landing page on each of the research databases and AALL for pro se patrons. There are many useful resources, but they are not easy for public patrons to identify when faced with a deluge of Google results. When patrons visit a law library, they can do their research with Westlaw Academic, Lexis Uni, Fastcase, or Casemaker. Any librarian that has taught a legal research course knows that legal research is not an intuitive process. A landing page with links to useful sources (e.g., **North Carolina Landlord/Tenant Booklet**) could prove invaluable. If we could collaborate with public libraries, that page could also include links to the **AALL Public Library Toolkit**. AALL wants to be the source for Legal Information, and collaborating on a non-lawyer centric page could support that goal.

### **THE GOAL**

Collaborative brainstorming sessions might birth better project ideas than the ones suggested here, but they are provided as examples. Ultimately, the goal is to work together on useful projects to continue developing strong bonds, and to provide support for libraries sitting on the front lines with large pro se patrons; libraries that have to find ways to fit public access in with supporting a law school community. Bringing all stakeholders together on a project like guidelines or principles fosters open communication and joint preparation for the future.



[www.aallnet.org](http://www.aallnet.org)