ARTICLES

Legal Education in Crisis, and Why Law Libraries Are Doomed [2014-28]

James G. Milles 507

Like Mark Twain: The Death of Academic Law Libraries Is an Exaggeration [2014-29]

Kenneth J. Hirsh 521

From Disability to Usability in Online Instruction [2014-30]

Susan David deMaïne 531


Heather J.E. Simmons 563


Terry Hutchinson 579
American Association of Law Libraries

Law Library Journal Author’s Guide

General Information for Contributors

Law Library Journal is the official journal of the American Association of Law Libraries. It is published quarterly and circulates to more than 5000 members and subscribers. This guide is provided to assist authors in preparing articles for the Journal.

1. Content. Law Library Journal includes articles in all fields of interest and concern to law librarians and others who work with legal materials. Examples include law library collections and their acquisition and organization; services to patrons and instruction in legal research; law library administration; the effects of developing technology on law libraries; law library design and construction; substantive law as it applies to libraries; and the history of law libraries and legal materials. Submissions aimed at all types of law libraries and at all areas of library operations are encouraged. The Journal also encourages the publication of memorials to deceased members of the Association.

In preparing a manuscript, an author may use any approach appropriate to the topic: case studies, descriptive or historical narratives, commentaries, or reports on research projects. Bibliographies on topics of substantive law or of law librarianship are welcomed; annotated bibliographies and bibliographic essays are preferred.

2. Author’s Responsibilities. Manuscripts are accepted for review with the understanding that they have not been published elsewhere and are not currently being considered for publication elsewhere. Authors are responsible for the accuracy of statements in their articles and for the accuracy and adequacy of the references. Citations to published literature should be carefully checked. References to unpublished material may be included; however, the author is responsible for securing approval, in writing, from any person cited as the source of an unpublished work. The author is also responsible for obtaining permission to use copyrighted material. Such permissions should be secured in writing. By submitting a manuscript to Law Library Journal, an author is certifying that he or she has obtained all necessary approvals and permissions. Copies may be requested by the editor.

3. Editorial Policies. Manuscripts are evaluated for their appropriateness for Law Library Journal, significance, and clarity. If accepted, manuscripts will be edited for clarity of expression and to remove any ambiguities in the presentation. If extensive revisions are indicated, manuscripts are returned to authors for approval of changes and corrections before type is set. Throughout the editorial process, the editor’s purpose is to assist authors in effectively communicating their ideas. The editor welcomes advance queries from authors about possible Journal articles.


5. Bibliographies. All bibliographies, whether submitted independently or to accompany a substantive article, should follow the bibliography style described in paragraphs 14.56–14.317 of The Chicago Manual of Style. Prospective compilers of bibliographies or authors of bibliographic essays are encouraged to contact the editor about their projects before committing them to final form.
Instructions for Preparing Manuscripts

1. Title and Author Page. Provide a title that is brief, specific, and descriptive of the article's content. Below the title, provide the name(s), professional title(s), and affiliation(s) of the author(s), and the address of the author to whom correspondence should be sent.

2. Abstract. Provide an abstract of fifty words or less.

3. Table of Contents. If the article is divided into headings and subheadings (which is preferred), provide a table of contents telling where in the text each heading is found.

4. Text. The entire text, including quotations, should be typed double-spaced with 1½ inch margins on all sides. Quotations of fewer than fifty words should be enclosed in quotation marks; quotations of fifty or more words should be blocked off and indented an additional inch on the left and right. Footnotes should be identified in the text by superscript numbers.

5. Footnotes. Acknowledgments (if any) should be preceded by an asterisk and placed before the first footnote. Footnotes should follow the form of the AALL Universal Citation Guide (3d ed. 2014) where applicable. For matters not covered in the UCG, use the form of The Bluebook (19th ed. 2010).

6. Appendices, Bibliographies, Tables, and Illustrations. Supplementary materials, such as appendices and bibliographies, should be provided on separate pages. Each table, illustration, and all similar material that is to be published within the text should be individually numbered (e.g., “Table 1”). Indicate the desired placement by providing an appropriate instruction within brackets in the text (e.g., [Insert Table 1]). Camera-ready copy must be supplied for all illustrations.

7. Submitting the Manuscript. Manuscripts should be sent to the editor, James E. Duggan, Tulane University Law School, 6329 Freret St., New Orleans, LA 70118. Telephone: (504) 865-5950; e-mail: duggan@tulane.edu. Electronic versions in either Word (preferred), WordPerfect, or PDF may be sent by e-mail. If manuscripts are submitted in paper format, two complete copies should be mailed to the address above.

The editor will notify the author that the manuscript has been received and inform the author when an acceptance decision may be expected. After an article has been accepted, the editor will require an electronic manuscript, either on disk or as an e-mail attachment.

The author (one designated author, if there are multiple authors) will receive a clean copy of the manuscript before it is sent to the printer. The copy must be proofread, approved, and returned within 15 days. Before publication, the author will be asked to agree to the Journal’s policy on classroom photocopying, which is published in each issue of the Journal. Upon publication, the author will receive two free copies of the issue in which the article appears, plus twenty-five individual offprints of the article itself. A form for ordering additional reprints will be sent to the author at the time the issue is published.
The Hague Academy of International Law / Académie de Droit International de La Haye

Print - latest volumes

Collected Courses of the Hague Academy of International Law - Recueil des cours

Recueil des cours, Collected Courses, Tome/Volume 366 (2014)

“Trusts” in Private International Law by D. Hayton, Judge at the Caribbean Court of Justice and Res Judicata and Lis Pendens in International Arbitration by K. Hobér, Professor at the University of Uppsala.

March 2014 | 978 90 04 26395 6 | Hardback (416 pp.) | List price US$ 199.-

Recueil des cours, Collected Courses, Tome/Volume 365 (2013)

Chance, Order, Change: The Course of International Law, General Course on Public International Law by J. Crawford, Whewell Professor at the University of Cambridge

December 2013 | 978 90 04 25560 9 | Hardback (408 pp.) | List price US$ 199.-

Recueil des cours, Collected Courses, Tome/Volume 361 (2013)

The Common Heritage of Mankind: Then and Now by M.C.W. Pinto. Competence-Competence in the face of Illegality in Contracts and Arbitration Agreements by R. Kreindler, Professor at the University of Münster

August 2013 | 978 90 04 25552 4 | Hardback (488 pp.) | List price US$ 199.-

For information on more volumes, please visit brill.com/radi

Online

The Hague Academy Collected Courses Online / Recueil des cours de l’Académie de la Haye en ligne

Features and Benefits
- Content of new courses added to the online edition throughout the year
- Online edition is bilingual
- Full text search, advanced search functionality
- Full text chapters presented in PDF format
- DOI at title and chapter level
- COUNTER compliant usage statistics

Subscribers to the printed book series Collected Courses of the Hague Academy, receive a substantial discount to the online collection.

Available since 2007 | E-ISSN 1875-8096
Purchase Options and 2014 prices | Annual Subscription: US$ 5,210 |
Outright Purchase: US$ 78,260 | 2014 Installment Fee: US$ 2,070

For more information, please visit brill.com/haco

See also:
Workshops/ Law Books of the Academy/ Recueil des cours - Colloques/Livres de droit de l’Académie brill.com/radc

The Pocket Books of the Hague Academy of International Law / Les livres de poche de l’Académie de droit international de La Haye brill.com/hapb
Table of Contents

**General Articles**

Legal Education in Crisis, and Why Law Libraries Are Doomed [2014-28]  
*James G. Milles* 507

Like Mark Twain: The Death of Academic Law Libraries Is an Exaggeration [2014-29]  
*Kenneth J. Hirsh* 521

From Disability to Usability in Online Instruction [2014-30]  
*Susan David deMaine* 531

*Heather J.E. Simmons* 563

*Terry Hutchinson* 579

**Review Article**

Keeping Up with New Legal Titles [2014-33]  
*Benjamin J. Keele* 593
*Nick Sexton*

**Regular Features**

*Practicing Reference* . . .  
Race and the Reference Librarian [2014-34]  
*Mary Whisner* 625

*Thinking About Technology* . . .  
Cybersecurity: Breaches and Heartbleed to BYOD—Are Bankers, Entertainment Company Executives, Celebrities, Postal Workers, Ice Cream Lovers, Home Builders, and CIOs the Only Ones Who Should Be Concerned? [2014-35]  
*Darla W. Jackson* 633

*Making Management Work* . . .  
To Meet or Not to Meet? That Is the Question [2014-36]  
*Lynne F. Maxwell* 645
2014–2015 Officers, Committees, Chapter Presidents, Special Interest Section Chairs, Representatives, and Executive Staff [2014-39] 685
Volume 106: Author and Title Index [2014-40] 695
Legal Education in Crisis, and Why Law Libraries Are Doomed*

James G. Milles**

The dual crises facing legal education—the economic recession and the crisis of confidence in law schools’ ability to meet the needs of lawyers or society at large—have undermined the case for not only the autonomy but the very existence of traditional law school libraries. What choices individual schools make will largely depend on how they play the status game.

Legal Education in Crisis ............................................ 507
The Case for Structural Change .................................... 509
The Economic Crisis in the Legal Profession ................. 510
The Crisis of Confidence in Legal Education ................. 512
Hard Choices and Law School Priorities ....................... 515
The Overriding Value of Status ................................... 516
The Future of Law Libraries ........................................... 519
Conclusion ............................................................. 520

Legal Education in Crisis

§1 Legal education is in crisis. Numerous major newspapers and magazines have reported on the soaring student loan debt burdening law graduates and the dismal job market waiting for them.¹ Many observers both inside and outside of

** Professor of Law, SUNY Buffalo Law School, State University of New York, Buffalo, New York.

legal education have concluded that law schools are on an unsustainable path. A year ago this may have been the fringe view of a few dissatisfied law grads and dissident law professors, but by now it is the common wisdom. Law schools cannot keep on doing things as they always have, and as economist Herbert Stein has said, “[i]f something cannot go on forever, it will stop.”

¶2 The figures are alarming. Law school applications are down eleven percent from 2012 and twenty-four percent from the peak in 2010. Enrollment is the lowest it has been since 1975, when there were nearly forty fewer ABA-accredited law schools.

¶3 Most observers agree that the outlook for law schools, at least in the near to midterm, looks grim. The question is whether this is simply another cyclical downturn, a temporary slump due to the post-2008 recession, or a structural change—a long-term and radically constricted “new normal.” The best evidence suggests that this is more than a temporary or cyclical decline: we are facing a long-term restructuring of the legal market, and that restructuring is reflected in the decreasing demand for new lawyers and the declining attractiveness of a legal education.

¶4 If the believers in structural change are correct, long-term change is coming to law schools. Some law schools may change very little; others may change deeply, in ways that are difficult to foresee. Future changes are always hard to predict, especially with complex institutions like law schools—and law schools are more complex institutions than ever before. Functions like admissions and placement, which may once have been staffed part-time by law professors as part of their administrative service roles, with a few relatively low-level administrative staff, are now highly professionalized units within the typical law school, with full-time, highly educated professionals with decanal titles. It is therefore useful to look closely at law schools as the complex, professionalized institutions they are. An examination of law school libraries may help shed some light on the effects of larger changes within law schools. Law libraries inevitably will feel the effects of the shrinking lawyer market and the contraction in legal education. Most professional law librarians recognize that law libraries will change radically; many advocate for taking charge of these changes to ensure that law libraries remain viable, if not essential. After all these changes, though, we might well ask: what, if anything, will remain of law libraries as we have known them?

¶5 When I say “law school libraries are doomed,” I want to be clear what I mean. I do not mean that all law libraries will disappear, although I suspect a few schools will operate successfully without anything resembling a law library. What I


4. Id.
mean is that the law library as (1) an iconic place within the law school, (2) managed financially and administratively as part of the law school, and (3) with staff devoted to the law school, will become increasingly rare.

¶6 The American Bar Association Standards for Approval of Law Schools have long required that a law school that is part of a university must, in most instances, maintain an “autonomous law library.” The exact definition of this autonomy, and what degree of autonomy is required, has been contested for just as long. Standard 602(a) requires that “[a] law school shall have sufficient administrative autonomy to direct the growth and development of the law library and to control the use of its resources.” Standard 602(b) provides that library policy must be determined by the law school dean and the director of the law library, in consultation with the faculty. Standard 602(c) vests responsibility for “selection and retention of personnel, the provision of library services, and collection development and maintenance” in the law library director and the dean. Finally, Standard 602(d) requires that “[t]he budget for the law library should be determined as part of, and administered in the same manner as, the law school budget.” Interpretation 602-1 softens these requirements a bit:

While the preferred structure for administration of a law school library is one of law school administration, a law school library may be administered as part of a general university library system if the dean, the director of the law library, and faculty are responsible for the determination of basic law library policies.

¶7 The long-standard model of the autonomous law school library has always had shallow support. When times were good and law schools could use ABA accreditation to push universities around a bit, large, attractive libraries were useful bargaining chips. But now times are getting bad, and law schools will have to make deep cuts. If law schools do not plan carefully, law libraries may well be among the first on the chopping block.

The Case for Structural Change

¶8 Those who cling to the hope that this is merely a cyclical downturn forget that in past cycles, when the economy was poor, law school applications went up, not down. Every few years, university graduates waited out the slow economy by going to law school. It seemed to make sense to take advantage of easily available student loans to gain another degree and entry to a lucrative profession. Now, however, with typical law school loan burdens exceeding six figures, and job prospects that will enable them to pay off those loans dwindling, prospective law students are wisely looking for other options. Applications from students in the highest LSAT

7. Id.
8. Id.
9. Id.
range have shown the steepest decline, more than twenty percent, leading some observers to lament that “the wrong people have stopped applying to law school.”

¶9 Others recognize that the current numbers are not those of typical law school enrollment cycles but attribute the decline to the post-2008 recession and look forward to things getting back to normal when the economy recovers. However, Indiana University law professor William Henderson has shown that law office jobs in fact peaked in 2004 and have been declining ever since. The fact that law school applications have continued to decline, even as the economy shows signs of recovery in other areas, is further evidence that the depressed legal market is driven by factors independent of the 2008 fiscal crisis and that the number of lawyer jobs will never return to pre-2007 levels.

¶10 Both applications to law school and employment after graduation are falling dramatically. These numbers are signs, rather than causes, of the crisis in legal education. In fact, the crisis is twofold: an economic crisis affecting both the job market and the pool of law school applicants, and a crisis of confidence in the ability of law schools and the ABA accreditation process to respond and to meet the needs of lawyers or society at large. The second crisis feeds into and magnifies the first.

The Economic Crisis in the Legal Profession

¶11 While it is becoming clear that the economic crisis is not solely attributable to the post-2008 recession, it is still true that the recession has played a part in restructuring the legal profession. The recession has taught corporate clients and their in-house counsel to demand greater cost savings with respect to what they spend on legal services. As William Henderson and Rachel Zahorsky write:

In the corporate realm, general counsel are increasingly expected to achieve what other departments and businesses do—get better results at lower costs. No longer viewed as purveyors of the law, in-house lawyers are problem solvers and key business strategists. . . . The multimillion-dollar budgets that flowed unchecked into the coffers of the nation’s largest law firms are now closely guarded and counted.

12. Bill Henderson, Lots of Jobs for Law Graduates—Just Not Grads in the U.S., LEGAL WHITEBOARD (May 12, 2012), http://lawprofessors.typepad.com/legalwhiteboard/2012/05/good-news-for-law-graduates.html. “Law office jobs peaked in 2004—four years before the collapse of Lehman Brothers. Total employment in law offices (NAICS 541111) totaled 1,123,000 jobs, which was 92.2% of the larger legal services sector (NAICS 5411). Since the high water mark in 2004, the sector shrank by 26,100 jobs (at least through 2009).” Id.
14. William D. Henderson & Rachel M. Zahorsky, Paradigm Shift, A.B.A. J., July 2011, at 40, 45. There is no question that a serious recession caused a heightened sense of awareness for law firms and consumers,” says Gregory Jordan, who works out of Pittsburgh and New York City as Reed Smith’s global managing partner and chairman of the senior management team and executive committee. “As the recession starts to reverse itself, there will be some movement away from that super-heightened awareness of cost, but this recession gave buyers of legal services enough time to really appreciate that they could get the same quality of service for less than before the recession. The better, faster, cheaper concept is very much here to stay.

Id.
§12 Of course, not all law students aspire to work in large corporate law firms. At many schools, such as SUNY Buffalo, students tend to stay in the region and seek positions with smaller regional law firms. The largest Buffalo firms are small by the BigLaw standards of the National Law Journal’s top 350 law firms. But the smaller firms have also experienced contraction, if not in the form of layoffs, then at least in decreased hiring. In addition, graduates of schools like SUNY Buffalo feel the effects of the cutbacks in BigLaw. Less hiring in law firms leaves fewer opportunities for associates to receive the crucial first few years of training that might enable them to form their own small firms or solo practices. The contraction in the corporate law firm market has ripple effects that touch on all sectors of the profession.

§13 In addition, much of the work that had traditionally been done by newer associates at larger firms (e.g., pretrial discovery document review) is now being outsourced overseas, to lower-cost regions of the United States, or replaced by automated review using advanced technologies such as predictive coding. Larger law firms are hiring fewer new graduates; when they do hire, they prefer to hire laterally, after associates have received training at other jobs. Firms are also increasingly turning to hiring temporary contract attorneys, who perform legal work for $20 to $30 an hour, with no benefits and no prospect of permanent employment.

The federal government estimates that, at current graduation rates, the economy will create about one new legal job for every two law school graduates over the next decade. Most knowledgeable observers believe that the situation is unlikely to improve even if the economy fully rebounds. More employers are relying on paralegals, technology and contract attorneys to do work previously performed by recent graduates, and cash-strapped public sector agencies are facing pressure to curtail legal expenditures.

§14 The increasing cost of law school might be less of a burden if the JD continued to afford reasonably sure entry into a well-paid professional career. The fact that law schools have been graduating twice as many lawyers as there are jobs for has destroyed that traditional path into the professional class. Law schools answer by claiming that the JD is a highly flexible qualification that benefits graduates in any number of career choices, but this is increasingly doubtful. Certainly most schools can claim some highly successful businesspeople among their alumni, but many of those “use” their law degrees only in the most remote and ill-defined ways. Other law graduates find that their degree leaves them overqualified for many jobs; stories abound of law grads from well-regarded law schools working for minimum wage at Starbucks—but at least there they get health benefits.

The Crisis of Confidence in Legal Education

¶15 The perception of the diminished value of the law degree (or, at least, of the law degree offered by many schools below the elite fourteen or twenty-five) and the reluctance of many law school faculty and deans to respond to the problem have contributed to a widespread sense that laws schools, if not affirmatively taking advantage of students, are at least willfully blind to their problems. Almost three years ago Brian Tamanaha wrote a sobering blog post entitled “Wake Up, Fellow Law Professors, to the Casualties of Our Enterprise”:

Their complaint is that non-elite law schools are selling a fraudulent bill of goods. Law schools advertise deceptively high rates of employment and misleading income figures. Many graduates can’t get jobs. Many graduates end up as temp attorneys working for $15 to $20 dollars an hour on two week gigs, with no benefits. The luckier graduates land jobs in government or small firms for maybe $45,000, with limited prospects for improvement. A handful of lottery winners score big firm jobs.

And for the opportunity to enter a saturated legal market with long odds against them, the tens of thousands [of] newly minted lawyers who graduate each year from non-elite schools will have paid around $150,000 in tuition and living expenses, and given up three years of income. Many leave law school with well over $100,000 in non-dischargeable debt, obligated to pay $1,000 a month for thirty years.19

¶16 The loan debt numbers are even worse now. U.S. News & World Report has published the debt figures for the class that graduated in 2013.20 But as Paul Campos noted about the 2012 list, those figures do not include interest: “The #1 school on the list, Thomas Jefferson, reported 98% of its [2012] graduates taking out a mean of $168,800 in federal loans. A student who borrows that amount will have $201,000 in federal loan debt at repayment, six months after graduation.”21

¶17 Instead of squarely facing the economic problems of their graduates, law schools by and large sought to justify their costs with appeals to the supposed flexibility of the all-purpose law degree or, alternatively, to blame students for believing the law schools’ own hype.22 Meanwhile, law schools continued to raise tuition every year. Legal education began to look self-serving, if not actually deceitful, to exploit naïve and misinformed law students.

¶18 The image of law schools also has been tarnished within the profession of law, by widespread complaints that law school is ineffective in teaching the skills a

lawyer needs. The complaints are familiar but recently have seemed to gain more traction: law professors are unable to or uninterested in teaching “real law”; professors spend too much time on scholarship that is of no practical use to the profession; the third year of law school is invariably a waste of time.

¶19 One possible response to these perceived problems—strengthening the ABA accreditation process—is also widely discredited. Law professors and deans view accreditation as an expensive and unwelcome interference. A generation ago, the accreditation visit was an opportunity to extract resources from university administrations: new and improved buildings, added resources for faculty salaries, and increased library budgets. But the ABA has lost its teeth. University presidents routinely defy the ABA and win—if not outright, at least by achieving compromises that weaken the ABA’s stand overall.

¶20 The results of this discrediting are somewhat paradoxical. While faculty and deans view the ABA accreditation process as a pointless annoyance, the practicing bar and judges dismiss it as a tool controlled by self-interested law professors and deans, ineffective in ensuring that legal education meets the needs of the profession or of the public the profession serves. The lack of support for the ABA makes it unlikely that it will be effective, either as a force for reform or as a conservative voice preserving and strengthening the “traditional values” of legal education.

¶21 The ABA is trying to respond. The accreditation standards are moving from inputs to outcome measures. Input measures such as physical plant, number of faculty, size of faculty offices, faculty-to-student ratios, and budget figures are counted because they are easily countable, while outcomes are less tangible. Libraries have lots of things to count: volume numbers, acquisitions budgets, hours of service, circulation and interlibrary loan numbers, and numbers of seats in the library. Basing measures of quality on inputs, therefore, tends to benefit traditionally resource-heavy institutions such as libraries. Connections between library resources or services and educational outcomes, however, are difficult to make, and attempts to do so have had little success.

¶22 In addition, it is important to note that the ABA Standards for Approval of Law Schools have always been meant to be minimum standards. The preamble to the 2012–2013 edition states, “They are minimum requirements designed, developed, and implemented for the purpose of advancing the basic goal of providing a sound program of legal education.” Law librarians have long tried to push the ABA in the


24. The term “ABA accreditation” is common but misleading shorthand for the process of accreditation of law schools under Department of Education regulations. Under Title 34, Chapter VI, §602 of the Code of Federal Regulations, the Council and the Accreditation Committee of the ABA Section of Legal Education and Admissions to the Bar are recognized by the United States Department of Education (DOE) as the accrediting agency for programs that lead to the J.D. degree. In this function, the Council and the Section are separate and independent from the ABA, as required by DOE regulations.

direction of “best practices,” to encourage the adoption of “standards” that in fact aim to improve the status of libraries and librarians. However, the increasing disparity between the cost of legal education and the employment prospects of graduates is strengthening calls for reforming the ABA standards downward, or even abolishing accreditation altogether. Gonzaga University law professor George A. Critchlow speaks for many critics in a comment to the ABA Task Force on the Future of Legal Education: “The Task Force should seriously consider what it would take in terms of accreditation flexibility for a law school to competently train students at a cost of $15,000 a year. Everything from the use of adjuncts, library resources, on-line teaching, tenure, and faculty scholarship should be open for discussion.” The ABA Council on Legal Education and Admissions to the Bar is not interested in a “best practices” philosophy of accreditation standards. In 2010, it removed Standard 104, “which had provided that ‘an approved law school should seek to exceed the minimum requirements of the Standards.’”

¶23 Dissatisfaction with accreditation is also reflected in the recent moves of New York and other states to impose their own requirements, not directly in the form of state accreditation, but indirectly by means of restricting access to the bar application process. New York, for example, has recently imposed on all applicants to the bar a fifty-hour pro bono requirement, as well as a requirement of a two-hour freestanding ethics course.

¶24 One of the most respected advocates of reform in legal education, Brian Tamanaha, believes that interest groups have used and distorted the accreditation process far beyond the purposes of assuring a high-quality legal education. Three years ago, clinical faculty protested moves to weaken tenure requirements in the standards. Much of their argument, writes Tamanaha, was grounded on a claim for fair treatment:

It’s true, and lamentable, that clinical teachers have second-class status within many law schools. For that matter, professors who teach legal writing—an essential lawyer skill—have even lower status, third class, but have never [been] able to muster a lobby strong enough to get protections for themselves written into the ABA standards. Clinical professors are paid less than doctrinal professors, legal writing professors are paid still less, and on many faculties neither [has] full voting rights on matters such as faculty hiring. Nothing is fair about any of this. The market for law professors and governance within law schools developed this way.

Fairness and sympathy, however compelling, are not reasons to include special measures for clinicians in accreditation standards. These measures belong in the standards only if clinicians can establish that law schools would not be able to produce competent lawyers if clinicians do not enjoy such protections.

28. N.Y. Rules of the Court of Appeals for the Admission of Attorneys & Counselors at Law, 22 N.Y.C.R.R. § 520.3(c)(1)(ii) (2014) (“a minimum of two credit hours must be earned in a course or courses in professional responsibility”).
30. Id. at 32–33.
Note that the status of librarians is apparently so far below third class that they do not even merit a mention. ¶

For Tamanaha, legal education needs wholesale reform that focuses on decreasing the cost of legal education. Some of the reforms he advocates would have direct impacts on law libraries and their relations to both their law schools and their university libraries:

Legal education cannot continue on the current trajectory. As members of a profession committed to serving the public good, we must find ways to alter the economics of legal education. Possible changes include reducing the undergraduate education required for admission to three years; awarding the basic professional degree after two years, while leaving the third year as an elective or an internship; providing some training through apprenticeship; reducing expensive accreditation requirements to allow greater diversity among law schools; building on the burgeoning promises of internet-distance education; changing the economic relationship between law schools and universities; altering the influence of current ranking formulas; and modifying the federal student loan program. 31

Hard Choices and Law School Priorities

All of these pressures are converging to force on law schools an era of hard choices. For a long time law schools have been able to raise tuition at will, confident that uncapped, federally guaranteed student loans would ensure a steady supply of students able to pay. Increasing scrutiny of legal education and the increasing likelihood of default on student loans mean that this flow of money to law schools may be curtailed. 32 William D. Henderson and Rachel M. Zahorsky predict drastic restrictions on federally guaranteed student loans. 33

New revenues are not going to appear simply by encouraging admissions or development officers to try harder. Law schools are going to have to cut expenses. Law librarians know this better than anyone, as libraries have borne the brunt of budget reductions for years. But until recently, at least, the idea of the existence of the autonomous law library has been sacrosanct. Will this continue, as fewer things remain to cut?

Where can law schools cut expenses? Stop hiring new faculty? Lower faculty salaries? Increase teaching loads with less time for scholarship? Lower research and travel stipends? Fewer interdisciplinary centers and programs? Fewer student scholarships? Fewer student activities such as moot courts and law journals? Less administrative staff? (Which ones—Career Services? Alumni? Development?) Less technology?

31. Letter from Coalition of Concerned Colleagues, supra note 17 (emphasis added).
32. “In July [2011], a second US Senator, Charles Grassley, ranking member on the Judiciary Committee, sent a letter to the president of the ABA raising concerns about law school scholarship practices, the overproducing of law graduates during a bleak job market, and the risk that growing numbers of students might default on federally backed student loans, costing taxpayers a great deal of money. The prospect of closer scrutiny by the Senate of the law school situation was implicit in the list of thirty-one questions set forth in the letter, with a demand for a prompt response.” TAMANAH, supra note 29, at 75 (citation omitted).
Fewer clinics? Or cutting the law school’s support for the library? In view of the priority all these aspects of the law school hold, the library may be the most vulnerable.

The Overriding Value of Status

¶29 Consider where law school tuition increases go: “huge increases in dean and faculty salaries, significantly reduced teaching loads, dramatically expanded leave policies, expensive marketing campaigns, money redistributed to high-end merit scholarship recipients, and other drivers that have marked the reality of most modern decanal careers.”

¶30 Law libraries have been spared the worst for a long time by the simple fact that the U.S. News & World Report ranking algorithm is driven in part by expenditures per student. When the money was relatively plentiful, thanks to an open flow of guaranteed student loans, the library was as good a place as any to spend. The ABA’s input measures made little distinction with regard to how those inputs were allocated. Now, however, law schools have to set priorities and choose where the more limited resources are going to go. The smart money would not bet on most law schools cutting funds directly supporting faculty.

¶31 Given a choice, neither deans nor faculty are going to reduce support for faculty scholarship. The culture of academic status—the “economy of prestige” is too strong. It is much easier to cut inessentials than to change the culture of an entire academic discipline. From the perspective of faculty at least, law schools are first and foremost scholarly institutions. Concern over status is pervasive. As Brian Leiter writes, “The battle for academic distinction rages continually at almost every law school in the United States, at both an institutional and personal level.”

34. “It may well be that live-client clinical education provides a richer learning experience than do externships, even when combined with simulation, but clinic programs still are much more expensive to operate than the alternative model.” Richard W. Bourne, The Coming Crash in Legal Education: How We Got Here, and Where We Go Now, 45 Creighton L. Rev. 651, 693 (2012).


40. Brian Leiter, Measuring the Academic Distinction of Law Faculties, 29 J. Legal Stud. 451 (2000); see also Russell Korobkin, Essay, In Praise of Law School Rankings: Solutions to Coordination
¶32 Some faculty engage primarily in empirical scholarship, making relatively little use of traditional legal information resources. Other faculty rely mostly on electronic information sources such as Westlaw, LexisNexis, HeinOnline, and JSTOR, and may simply take for granted the role of the library in providing access to electronic information. For some of these faculty members, law libraries may not seem essential to producing their scholarship.

¶33 Law schools will not simply shut down or hand off their libraries—or few will. Rather, law libraries will be chipped away notch by notch, by attrition of personnel and services. But it is clear that faculty will not protest, or at least not much. In the literature on legal education reform, libraries, if they are mentioned at all, are almost uniformly described as wasteful, unnecessary, an outdated sign of the input-based measurement of law school “quality.” While legal writing is mentioned with some regularity as an important skill, legal research is rarely mentioned at all. Law school deans have resisted ABA accreditation for years. The ABA review process is no longer a ticket to a new building. Deans and faculty treat it as a nuisance to ignore when they cannot actively flout it.

¶34 Legal historians are still attached to traditional law libraries, but most faculty do all their legal research electronically (or more likely, have their research assistants do it). Furthermore, most trendy and cutting-edge scholarship now is interdisciplinary and/or empirical. Old-fashioned doctrinal scholarship fell out of fashion years ago. Even traditionally practice-oriented schools are hiring more fancy scholars doing trendy scholarship. This means less reliance on the law library as the primary source of research materials, and a greater reliance on a cooperative, if not centralized, library system. Interdisciplinary scholarship fosters continued reliance on academic libraries, but since no law library can collect all the interdisciplinary materials faculty need, it tends to decrease reliance on the law library. The law library arguably has not been central to the law school for more than a generation. Certainly faculty are not going to give up sabbaticals, high salaries, or new faculty hiring for the sake of an autonomous law library.

¶35 Many librarians insist that their faculty love the library and would never let the university wrest control from the law school, but that sentiment grants law faculties more power than they have in the modern university. As I wrote in the informal context of a Facebook comment:

I don’t know a single law school that doesn’t love its librarians. But I also don’t know a single law school that I would rely on to give up other things to protect its autonomous law library when the pressures for centralization grow strong enough. Would your law school turn over Admissions or Development to the central administration to keep the law library under law school control? Or would your faculty give up sabbaticals, take on increased teaching loads,

and Collective Action Problems, 77 TEX. L. REV. 403, 408 (1998) (“Students understand that rankings serve a coordination function, matching "high quality" students first with each other and then with the most sought-after employers”) (footnotes omitted); Yamada, supra note 38, at 253–55 (“concerns about institutional prestige have grown into something of an obsession within legal education”; U.S. News rankings undervalue student priorities, favor the corporate bar, and affirm a bias against evening programs). For a critical view, see David A. Thomas, Essay, The Law School Rankings Are Harmful Deceptions: A Response to Those Who Praise the Rankings and Suggestions for a Better Approach to Evaluating Law Schools, 40 HOU. L. REV. 419 (2003).
or forgo faculty hiring, to save the library? Or maybe they want to keep the law library so they can raid its budget and space for other needs?\textsuperscript{[41]}

\textsection{36} In the current literature on law school reform, you have to look long and hard to find a defense of the law school library. Paul Campos writes in \textit{The Crisis of the American Law School}:

\textquote{\textit{It} seems quite odd to be pumping ever-greater sums into bricks and mortar, given changes in information technology that enable education to take place outside of a $100 million structure. This point applies with special force to law libraries, which grow ever-more pharaonic even as the practice of law becomes less book-based, and as, if my own observations are accurate, law students find it less and less necessary or desirable to use these literary labyrinths even as opulent study spaces.\textsuperscript{[42]}}

Campos also suggests:

Many other opportunities for cost savings with little or no sacrifice of educational quality will likely present themselves in a world in which law schools face a choice between reducing their expenditures and ceasing to exist. As legal practice continues to move away from requiring lawyers to consult books of any sort, the millions of dollars per year that the typical law school expends on maintaining a comprehensive law library could be reduced to a more rational level of expenditure.\textsuperscript{[43]}

\textsection{37} Of the fifty comments submitted as of March 11, 2013, to the ABA Task Force on the Future of Legal Education,\textsuperscript{[44]} only the letter from the American Association of Law Libraries (AALL) mentions law libraries in a positive light. Even that letter is probably intended less to persuade a critical ABA committee than to reassure AALL members that their association is doing something. Other mentions, when they appear at all, describe expenditures on libraries as wasteful and unnecessary.

\textsection{38} Tamanaha does not hesitate to be specific:

The entire set of rules relating to the law library must be deleted. These rules require law schools to maintain unnecessarily expensive library collections and a large support staff; the book-on-the-shelf library is virtually obsolete in the electronic information age.\textsuperscript{[45]}

\begin{itemize}
\item \textsuperscript{[41]} James Milles, Facebook status update (Jan. 7, 2013).
\item \textsuperscript{[42]} Campos, \textit{supra} note 2, at 194–95 (citations omitted).
\item \textsuperscript{[43]} \textit{Id.} at 217.
\item \textsuperscript{[44]} This Task Force is separate from the academic-dominated Section on Legal Education and Admissions to the Bar. The Task Force was created under the auspices the Center for Professional Responsibility, in which practicing attorneys dominate and academics represent a minority. It was charged with study[ing] the key challenges facing the delivery of legal services and the provision of legal education in the United States, such as: \textquote{}\text{[t]}he impact of economic trends on the rising cost of legal education and declining legal employment prospects; \textquote{}\text{[i]}novations, methods and advocacy efforts by state and local bar associations and other groups to reduce the cost of legal education, improve practical skills training, match new lawyers with job opportunities, and provide student loan debt relief; \textquote{}\text{[a]}nd \text{[t]}he impact of structural changes in law practice to the nature of lawyer work and the number and distribution of attorneys in the bar. The Task Force will make recommendations on how the ABA and the legal profession can best address these issues.
\item \textsuperscript{[45]} TAMANHA, \textit{supra} note 29, at 173.
\end{itemize}
§39 Many veteran law librarians find none of this a surprise. Writes Steven D. Hinckley, Associate Dean for Library and Information Services and director of the law libraries at Penn State Dickinson School of Law:

The ABA has been “over” law libraries for years now. After completing the last accreditation inspection team visit I went on, I swore I would never do another one. Back in the day, the librarian member of those teams mattered because the ABA’s Standards on law libraries had some teeth. Now, after years of watering down those Standards, law schools often tilt toward US News rankings as the end all/be all and as we know, library matters have an infinitesimal impact on USN’s calculations. I think the fact that no one (outside of our own professional association) is mentioning libraries as a part of the future of legal education is (sadly) not accidental.46

The Future of Law Libraries

§40 What matters most to law schools? Going forward, it will not be law libraries. Revenue-generating departments such as development, alumni relations, and career services, and perhaps status-enhancing programs such as law journals, interdisciplinary programs, and research centers, will be strengthened, while revenue-draining departments will be cut. Faculty privileges will be preserved and expanded wherever possible. Faculty salaries may eventually decrease, but faculty and deans will try every measure they can before that becomes necessary. Legal writing programs and clinics, which have allied with law libraries to some extent in seeking faculty status and resource allocation, will increasingly compete with libraries and each other.

§41 What will be left of law libraries? What is essential to a law library? What are those elements without which a law library no longer exists?

§42 The first casualty will be tenure for law library directors. Tenure in higher education is under threat across the board. As law library directors retire or are replaced, it will be increasingly rare that their replacements will have full law faculty status with tenure. This has already been going on for some time. Universities are increasingly shifting from tenure-track faculty to greater numbers of adjunct and temporary appointments. In this environment, law librarians are widely viewed as just another interest group with no real claim to tenure within law schools. Faculty status and tenure have long been seen as important in preserving a voice for the law library. With the loss of tenure, library directors become easily replaceable—and disposable—staff administrators, or the job becomes yet another part-time administrative task to hand off to a faculty member. Advocacy by law librarians may slow the process in some places, but the influence of librarians is diminishing. Legal scholarship depends less on traditional legal sources. The arguments for the centrality of the autonomous law library are losing their force.

§43 For ambitious law librarians, this may make the career path to law library director less attractive. If conversations I have had with newer directors are representative, many of them do not even want tenure. Maybe this means fewer individuals will give up the relative security of a midlevel librarian position for the

46. Steve Hinckley, comment on Facebook posting (Mar. 11, 2013).
demands of a director position without the security of tenure. Maybe those ambitious and talented individuals who might once have become law library directors will turn instead to administrative positions in university libraries. Either way, the loss of talent going into law library directorships will be a net loss for law schools as well.

¶44 Technical services will be absorbed into university libraries. Space constraints will cause law libraries to share compact storage space with university libraries, with corresponding loss of autonomy over access services. After sharing compact or offsite storage, it is only a few short steps to sharing space for what remains of their active collections.

¶45 Reference librarians will probably be the last to go. Many law librarians insist that skilled law librarians will always be needed to provide the level of services law faculty demand. Even these positions, though, might be shared with other university libraries. In an environment of increasingly interdisciplinary legal scholarship, it might make sense, and might even better serve faculty research needs, to have librarians who are familiar with, but not specialized in, disciplines such as political science, sociology, or economics as well as law—and since law is unlikely to be privileged in such a shared staffing structure, they are less likely to require law degrees.

Conclusion

¶46 Of course, much will be lost in terms of the high levels of service law schools are accustomed to. However, the Yirka Question—“What should law libraries stop doing in order to address higher priority initiatives?”—does not apply only to libraries. Law schools will increasingly examine what they will be willing to give up to survive, much less to grow and move up in the rankings.

¶47 That last point—rankings—may be the best hope for the survival of law school libraries. The elite schools may continue to see the iconic law library as a signal of their elite status—although some elites have already ceded control of key functions like technical services to university library centralization. Other “wannabe,” lower-prestige schools may also want to distinguish themselves from their less elite competitors by maintaining something like a traditional law library.

¶48 Maybe I am wrong. I hope so. I do not want to see law libraries disappear. I do believe, however, that law schools must shrink admissions and control costs, not only for their survival but also to ensure access to legal services for other than large corporate clients. Law libraries serve law schools, and law schools serve—or ought to serve—the public interest. If the legal education crisis inspires legal educators to renew their commitment to the public interest, we will all gain something more valuable than traditional libraries.

At the 2013 CALI Conference on Law School Computing, James Milles posited that academic law libraries are doomed, and the author presented the contrasting viewpoints on which this article is based. While the author agrees with Professor Milles's underlying observations, he envisions a scenario where law libraries, and more importantly librarians, remain essential parts of law school life.

1. James Milles believes that the academic law library may be doomed. More accurately, he believes “that the law library as (1) an iconic place within the law school, (2) managed financially and administratively as part of the law school, and (3) with staff devoted to the law school, will become increasingly rare.” So, although the title of Milles’s article may exaggerate the fate of the academic law library as he envisions it, his article does predict enough doom that I wish to respond to it.

2. To begin with, I agree with Milles’s underlying observations about legal education. Indeed, legal education faces two crises, and these two add up to an existential threat—if not for the wider current system of legal education, then at least for some law schools. First, Department of Labor statistics show that there are twice as many law school graduates for expected open positions, which has been the case for some time. This is despite continuing discussions of a vast underserved market of legal services consumers, mostly at the low end of economic resources. Second, there is a persistent and growing crisis of confidence in the ability of law schools to meet the needs of would-be lawyers, particularly in light of high tuition and substantial and often unsustainable student loan debt loads. In the 1990s and into the mid-2000s, the salary bubble made the “investment” in obtaining a JD degree a potentially profitable one for at least the upper performing portion of the student body; the collapse in salaries and in available positions since

* © Kenneth J. Hirsh, 2014. The author thanks Christine Hepler and Keith Ann Stiverson for their assistance in reviewing the article.

** Director of the Law Library and Information Technology and Professor of Practice, University of Cincinnati College of Law, Cincinnati, Ohio.


2. Id. at 509, ¶ 5.


then and the nearly nonstop escalation in tuition have combined to wipe out this value proposition, with no signs of it returning in the foreseeable future.\footnote{In addition to the many sources Milles cites, see E. Thomas Sullivan, 2012 James P. White Lecture on Legal Education: The Transformation of the Legal Profession and Legal Education, 46 IND. L. REV. 145 (2013).}

¶3 In his analysis of likely law school cost cutting in response to the current crisis, Milles finds that “the library may be most vulnerable.”\footnote{Milles, supra note 1, at 516, ¶ 28.} Indeed, E. Thomas Sullivan identifies “the high cost of maintaining research libraries, given the near monopoly pricing that takes place in the world book market”\footnote{Sullivan, supra note 5, at 152.} as one of eight factors he considers “‘core’ cost drivers” of legal education.\footnote{Id.}

¶4 So, given that I generally agree with Milles and his sources that legal education is embroiled in a crisis with multiple foundations, why do I disagree with his conclusion that law libraries are doomed?

¶5 First, a caveat: forecasts of future events and trends are, at best, educated guesses. Nevertheless, trying to game out possible futures is a responsible way of engaging in strategic planning. One particular technique is called scenario planning.\footnote{Peter Schwartz, The Art of the Long View 3 (1996).} You can get an abbreviated description of the process in a Wikipedia article.\footnote{Scenario Planning, WIKIPEDIA, http://en.wikipedia.org/wiki/Scenario_planning (last visited Dec. 1, 2014).} Peter Schwartz argues persuasively that preparing for different possible futures (“scenarios”) increases your odds of having an appropriate response ready, but it still it does not guarantee success.\footnote{Schwartz, supra note 9, at 6.}

¶6 Milles and I both envision scenarios for law schools just beyond the range of the short term: in my view, for the next one to five years. We agree on the history and facts on which we base our future scenarios:

- Law schools have been overproducing graduates for many years, although for most of us this did not become obvious until the recession that began in 2008.
- The cost of attending many law schools does not calculate into a positive return on investment for most of their law students in the present situation, and this fact may not change for some time.
- Tenured law faculty, who govern at most university-affiliated law schools, are not wont to embrace cost reduction efforts that reduce their salaries or increase their teaching loads.
- Most of those same faculty do not see the need to revise curricula in a substantial way.

¶7 An additional set of problems is brought by the prospective students themselves: What expectations do they have of law school? Most 1L students enter immediately following the completion of their bachelor’s degree program, although a substantial number do seek a JD after spending time employed outside
of academia. The majority have spent the previous sixteen years toiling in a series of schools. Until they reached high school, their parents made most significant decisions regarding these students’ education. They went on to college and likely financed some or all of it with family funds, grants, work study, and loans. Somewhere along the way they decided to attend law school, whether to pursue a career as an attorney or for a less well-formed notion of what use they would make of a JD. Except for those who have a family member practicing law, their expectations of what a legal career entails are largely formed by representations of attorneys in popular culture: books, movies, and television series. Since each of these is a medium designed more to entertain than to inform, the emphasis is on the drama, not the day-to-day practice of law. It follows that most entering law students do not have realistic expectations of what may lie ahead of them following bar passage. Consequently, I argue that law schools are obligated to include in their curriculum information and experiences that help students develop realistic expectations of what their legal careers may include. For many law students, this is not happening now, largely because the legal professionals to whom they are most exposed—law school faculty—generally have little experience as practicing attorneys.

8 Adding this focus on student expectations is merely one more element of the crisis and does not explain how I might disagree with Milles. To return to the language of scenario planning that I describe above, simply put, each of us selects a different scenario that he considers the more likely to reflect future events. In Milles’s scenario, more and more law school libraries are merged into the parent institution’s library, the library as place is less important, and the librarians that do serve law school faculty count that among their other duties. In terms of scenario planning, all he describes could come to pass, and I will admit now that my own position in this argument is not a disinterested one.

9 I am confident that in my scenario, some law schools will close. As you would guess, I hope that mine is not among them. Somewhere and soon a university president may well conclude, as William D. Henderson suggests in a “Letter to University Presidents,” that closing the law school is the only viable choice.13

The Role of the ABA

10 Milles thoroughly explains the role of the American Bar Association (ABA), and specifically its Section of Legal Education and Admissions to the Bar, in law school accreditation.14 The ABA Standards and Rules of Procedure for Approval of Law Schools were greatly revised in 1996 and underwent comprehensive reviews in 1996–2000 and 2003–2006. A review cycle that began in 2008 has only recently

ended with the adoption of revised standards.\textsuperscript{16} To be fair, Milles wrote his article before these revised standards pertaining to libraries were fully modified.

Because the revised standards are not yet effective as of this writing, it is helpful to compare the 2013 Standards with the revised 2014 Standards. The library standards had not changed significantly since 1996. Since then, Chapter 6 of the standards has set out minimum requirements for law libraries and information resources. With regard to administrative control of the law library, Standard 602 has provided:

(a) A law school shall have sufficient administrative autonomy to direct the growth and development of the law library and to control the use of its resources.

(b) The dean and the director of the law library, in consultation with the faculty of the law school, shall determine library policy.

(c) The director of the law library and the dean are responsible for the selection and retention of personnel, the provision of library services, and collection development and maintenance.

(d) The budget for the law library should be determined as part of, and administered in the same manner as, the law school budget.\textsuperscript{17}

\textsection{11} For many years deans and library directors have relied on Standard 602 to assert the need to maintain the law library’s autonomy from the university’s library system. At most law schools, and until recently, they have succeeded. Likewise, for many years library directors have relied on the sabbatical accreditation site team visits to bolster arguments to the university administration that the library’s facilities\textsuperscript{18} or operating budgets are inadequate.\textsuperscript{19} In the years prior to 2008, when common wisdom was that law schools would continue enjoying substantial financial support from their universities, these arguments were often successful.

\textsection{12} The 2014 Standards change some word order in Standard 602 and substitute the word “shall” for the word “should” in paragraph (d) regarding the law library’s budget; otherwise, the requirement that the law school have “sufficient administrative autonomy”\textsuperscript{20} remains unchanged. At least so far as the standards are concerned, parent universities are not yet being given new ammunition for consolidating law school libraries into the operations of their central library systems. In fact, although Interpretation 602-1 has been revised, it essentially strengthens its preference favoring law school library autonomy by adding “priorities and funding requests” to the “basic law library policies” that are to be determined by the law

\begin{footnotes}
\item[16] \textsc{Am. Bar Ass’n, 2014–2015 Standards and Rules of Procedure for Approval of Law Schools} (2014) \cite{supra note 16} (hereinafter 2014\textsc{ Standards}).
\item[17] 2013\textsc{ Standards}, \textit{supra} note 15, at 46.
\item[18] Standard 702: “The physical facilities for the law library shall be sufficient in size, location, and design in relation to the law school’s programs and enrollment to accommodate the law school’s students and faculty and the law library’s services, collections, staff, operations, and equipment.” \textit{Id.} at 50.
\item[19] Standard 601(b): “A law library shall have sufficient financial resources to support the law school’s teaching, scholarship, research, and service programs. These resources shall be supplied on a consistent basis.” \textit{Id.} at 45.
\item[20] 2014\textsc{ Standards}, \textit{supra} note 16, at 40.
\end{footnotes}
library director, the dean, and the law school faculty even if the law library is administered as part of the university library system.  

¶13 Standard 603, which sets standards for the law library director, has provided as follows:

(a) A law library shall be administered by a full-time director whose principal responsibility is the management of the law library.
(b) The selection and retention of the director of the law library shall be determined by the law school.
(c) A director of a law library should have a law degree and a degree in library or information science and shall have a sound knowledge of and experience in library administration.
(d) Except in extraordinary circumstances, a law library director shall hold a law faculty appointment with security of faculty position.

¶14 The careful reader will note the distinction between the uses of the mandatory “shall” in paragraphs (a), (b), and (d) and the precatory “should” in paragraph (c). In fact, some law schools have retained library directors who do not have the credentials described in paragraph (c). For example, when Milles left his directorship at SUNY Buffalo, James Wooten, a nonlibrarian faculty member, was named to that position. Likewise, in 2008 John Palfrey, who was cofounder and executive director of the Berkman Center for Internet & Society at Harvard, was named the library director at Harvard Law School following the retirement of Terry Martin. This was despite his not having a library degree. On Palfrey’s leaving Harvard in 2012, Jonathan Zittrain was named as his successor. Like Palfrey, Zittrain is not trained in library science. Despite the language in paragraph (c) of Standard 603, there was no public indication that either school was ever in jeopardy of ABA sanctions on this issue.  

¶15 The draft revision of Standard 603 removed the explicit language that the director “should have a law degree and a degree in library or information science”

21. Id.
22. 2013 STANDARDS, supra note 15, at 44.
26. I do not intend to disparage the skills of Wooten, Palfrey, or Zittrain, and I am not asserting that their libraries were disadvantaged by their appointments. Rather, I am merely showing that schools have sometimes seemingly ignored this provision.
27. At SUNY Buffalo, however, there was an unusually extended timeframe for completion of the sabbatical accreditation renewal that began with the regularly scheduled site visit in April of 2009. At the time of that site visit, Elizabeth Adelman was interim director. Professor James Wooten was named director the following August, and afterward the ABA Council requested additional information regarding the library administration. It conducted a second fact-finding visit by a law librarian in the spring of 2011, before finally approving reaccreditation after Wooten had stepped down and Elizabeth Adelman had become director. E-mail from Elizabeth Adelman, Dir. of the SUNY Buffalo Law Library, to author (July 17, 2014) (on file with author).
as noted above and instead requires that the director “shall have appropriate academic qualifications and shall have knowledge of and experience in law library administration sufficient to support the program of legal education and to enable the law school to operate in compliance with the Standards.”\(^{28}\) Following an effort by many academic law library directors to restore the specific degree language to the body of the standard, the Standards Review Committee added Interpretation 603-1,\(^{29}\) which creates a presumption that having both degrees meets the requirement of “appropriate academic qualifications.”\(^{30}\)

\(^{¶}\)16 At the time he wrote his article, Milles anticipated that any likely revision of the standard would allow deans even more flexibility in administering law libraries. I conclude that the 2014 Standards still fundamentally favor law library autonomy and that the library director be credentialed with law and library science degrees. Nevertheless, using the standards as a cudgel to preserve the library’s autonomous status will be less successful in the future than it has been in the past. Regardless of the language in the standards, in some cases the degree of autonomy has already lessened in recent years, and the question now becomes not whether additional law libraries will lose autonomy, but instead what will become the norm.

**Whither Law Libraries**

\(^{¶}\)17 Despite my agreement with Milles on his salient reference points, I disagree with his contention that most law schools will no longer administer law libraries.\(^{31}\) While the culture of reputation that Milles describes is accurate,\(^{32}\) even if legal education comes to place less value on traditional measures of scholarship, maintaining that reputation requires an active library with trained law librarians. Faculty will continue to rely on law librarians to identify and obtain more esoteric resources and to maintain the more common ones. Assigning these tasks to general university librarians will not lessen the need to train them in the law, and doing so might seem more cost-effective to faculty seeking to avoid imposing lower costs by changing their own place in the scheme of things; however, reassigning the librarians results in no net cost benefit to the university as a whole.

\(^{¶}\)18 A major reason that law schools have had separate libraries is their location: law schools typically occupy their own buildings, either on the main university campus or in a remote location. The pedagogical goal of developing a community of practice aims to teach students not only to “think like lawyers” but to “live like...
lawyers” as well. Likewise, medical schools form communities of practice for future physicians by having dedicated facilities, which are often near teaching hospitals and which also typically have medical libraries. The custom differs for liberal arts and science graduate departments, which often are housed in the same space that hosts the undergraduate departments. For so long as law school faculty and students occupy a dedicated set of buildings, meeting their needs will require that librarians and management of access to resources be housed in the same location. First, while many faculty locate and use legal resources without assistance, others seek out librarians for help in obtaining materials. Second, law students very often need librarian support to effectively use online and print resources. The experience of law librarians and faculty across the country bears this out, as do attorneys who complain that their new associates are not able to efficiently conduct research when they begin work.

¶19 One might argue that absent the requirement contained in a standard, having trained law librarians onsite does not require that the librarians report to a director under the control of the law school. On the other hand, in these circumstances it is difficult to argue that any significant cost savings will inure to the institution by shifting their administration and reporting status to the university librarian. For all these reasons, I submit that most law schools will continue operating a law library under the administrative direction of the dean and faculty of the school. My definition of law library means “an operation whose mission is to provide both services and resources optimized to meet the research, teaching, and learning needs of the school’s faculty and students.” It does not mean merely “a place where one goes to find particular books and other printed materials or to study.”

¶20 Despite the relatively minor changes in the 2014 Standards regarding library autonomy and library director credentials, the rapid and, many would argue, sustained changes in legal education make it clear that maintaining the status quo is not a viable option for academic law libraries. As law schools look for ways to modify curriculum, expand programs, minimize tuition increases (or even lower tuition), and otherwise meet the demands of current and potential students, libraries and librarians must actively participate in these efforts. Suggestions for transforming library services include the following:

• Advancing faculty scholarship efforts through managing repositories, directly conducting research for faculty or managing research assistants, managing the article submission process, and encouraging faculty to publish open access, e-book versions of treatises, practice manuals, and casebooks

• Taking a greater role in teaching practice skills by expanding the traditional coverage of legal research training and supporting other expansions of skills training in the curriculum

• Participating in the academic support programs that are being formalized in many law schools

¶21 To be sure, in an era when libraries will not be handed additional staff or larger budgets, taking on new responsibilities means giving up other ones. This requires assessing the law school’s current needs and deciding which services are no longer meeting those needs and therefore can be dropped in favor of adding new services that will help the law school in the new environment. The crucial question, “What should law libraries stop doing in order to address higher priority initiatives?” was so well stated by Carl Yirka, former law library director at Vermont Law School, that law library directors refer to it as “the Yirka Question.” Only by successfully addressing this question will law libraries demonstrate they remain essential components of today’s law schools.

¶22 Finally, I now turn to the third point of Milles’s contention, that the library will no longer be an iconic place. This is already a trend, as evidenced in both new law school construction and the repurposing of traditional library spaces in existing law school buildings. This has come about due to a combination of factors that include the shift to digital materials, the need to provide expanded space for teaching and administrative departments, and the realization by all concerned that space formerly occupied by book stacks can be put to different use. In my time at Duke, this happened several times, with journals and administrative offices being relocated into former law library space. Several years before my arrival at Cincinnati, one entire floor of the library was given over to the Ohio Innocence Project. Recently opened law school buildings, such as Eckstein Hall at Marquette and the Thomas Jefferson School of Law, still have significant dedicated library space, though at least at Marquette the library is designed to be integral with the rest of the building in a concept called the “the library without borders.” As law libraries shift more resources into digital form, less space is needed for traditional holdings of reporters and journals. Many law schools have removed their runs of bound journals, and, more recently, several schools have canceled their print subscriptions to the West National Reporter Service. More and more, library directors view modern law libraries as hybrids of electronic and print resources, with their key deliverable now being a high level of customized service by staff rather than a collection of legal publishing materials.

¶23 It is even more likely that within newer law buildings collaborative workspace and private study space will become more valuable than shelf space. I agree, then, with those who argue that dedicating a large portion of law school space to the maintenance of print materials and ornate reading rooms will not be sustainable. However, in a hybrid law library, where service is as or more important than a physical collection, ready access to skilled assistance and the dedicated programming and teaching that librarians can perform will still make a centralized “home” for librarians and related professionals (information and media technology support) efficient and desirable. The library as an iconic space that occupies the larg-

37. For other examples of such conversions, see Lauren M. Collins, Changing Spaces, AALL Spectrum, Sept./Oct. 2014, at 32.
est single portion of building floor space and is filled with rows of books does have a limited life ahead. But purpose-built space that provides workspace for librarians and students, small-group meeting places, small classrooms and labs, and accessible shelving for printed materials that are either not available online or are best used in their printed format will still be a needed component of any efficient law school building. The space may not be as large and iconic as it once was, and in some instances it may not carry the name “library,” but there you will still find librarians and ready access to the work they do.
From Disability to Usability in Online Instruction

Susan David deMaine

This article is a primer on the work needed to ensure accessibility in online instruction. It discusses different disabilities, reviews relevant laws and standards, and explores the relationship between accessibility and the principles of universal design. The article introduces a number of best practices for creating accessibility in online instruction.

Introduction ....................................................... 532
For Want of Awareness ............................................ 533
Understanding Impairments ........................................ 534
Visual Impairments ................................................. 534
Hearing Impairments ............................................... 536
Mobility Impairments .............................................. 536
Cognitive Impairments ............................................ 536
Nonnative Language Speakers .................................... 537
Accessibility Laws and Standards. .............................. 537
Section 504 of the Rehabilitation Act of 1973 ................. 537
1998 Amendments to the Rehabilitation Act .................... 538
Americans with Disabilities Act .................................. 539
2008 Amendments to the ADA .................................... 540
Twenty-first Century Communications and Video Accessibility
Act of 2010 .......................................................... 541
State Laws .......................................................... 542
Industry Standards: Quality Matters, WCAG 2.0, Section 508 .... 543
Universal Design .................................................... 546

* © Susan David deMaine, 2014. This is a revised version of the winning entry in the New Member Division of the 2014 AALL/LexisNexis Call for Papers Competition. I would like to express my gratitude to the participants of the Sixth Annual Boulder Conference on Legal Information: Teaching & Scholarship (July 10–12, 2014, San Antonio, Texas) for their insights and feedback, especially Shawn G. Nevers, Head of Reference Services, Brigham Young University Clark Law School. I would also like to thank my colleagues at the Indiana University McKinney School of Law: Benjamin J. Keele, Research and Instructional Services Librarian, and Nicholas K. Georgakopoulos, Harold R. Woodard Professor of Law, for their helpful comments, along with Hannah Alcasid, Electronic Information and Data Support Technician, Ruth Lilly Law Library, for her creative talents and dedication to good design.

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


1 Haben Girma is a recent graduate of Harvard Law School; she is deaf and blind. When asked about the role of technology in her learning, she replied:

One of the biggest issues is definitely technology, and the funny thing is, technology has the potential to make life so much easier. . . . [W]hat I want to stress to universities is that when they invest in new technologies, when they build online learning tools, think about accessibility because there are small changes [they] can make that would make it easily accessible to hundreds and hundreds of students.1

Law schools would be wise to heed Girma’s advice. The number of law students with sensory, motor, and cognitive impairments is increasing.2 At the same time, online instruction is making inroads into legal education.3 Course websites, e-texts, blogs, LibGuides, discussion forums, class Facebook pages, and other manifestations of the digitizing of legal education are cropping up more and more frequently. As Girma suggests, online instruction holds many promises for people with impairments. Digital information is nothing but 1s and 0s capable of being rendered in many different ways, including formats that reach the disabled. The tools exist that would allow disability to recede and usability to take center stage. Unfortunately, many educators who are developing materials for online instruction do not know what is needed or how the tools work. There is much to learn.


2. In 2011, more than 5000 students in law schools accredited by the American Bar Association (ABA) sought accommodations for a disability, an increase in both number and percentage over previous years. The number seeking accommodations in 2009–2010 was 4941. Not only did the raw number of accommodation-seeking students grow, but the percentage increased as well, even as the total number of law students went up. ABA COMM’N ON MENTAL & PHYSICAL DISABILITY LAW, ABA DISABILITY STATISTICS REPORT 1 (2011), available at http://www.americanbar.org/content/dam/aba/uncategorized/2011/20110314_abada_disability_statistics_report.authcheckdam.pdf. The number of students seeking accommodations is not the same as the number of students with disabilities, but since students do not have to identify themselves as disabled, the accommodations number is the statistic available. Given stigmas surrounding disability, the actual number of students with some level of disability is likely higher.

3. The ABA does not accredit any online JD programs, but a student seeking a JD may take up to twelve credits online (i.e., “distance education”) according to ABA accreditation standard 306. AM. BAR ASSN, 2013–2014 ABA STANDARDS AND RULES OF PROCEDURE FOR THE APPROVAL OF LAW SCHOOLS 27 (2013).
This article is a primer on the work needed to ensure that accessibility is achieved as law schools develop online instruction. It also explores the relationship between accessibility standards and the broader principles of universal design, concluding that universal design is an effective paradigm for approaching accessibility issues. Universal design is effective because it pursues usability, abating the concept of disability and the segregation that often accompanies it.

The section that follows sets the stage by recounting two scenarios from the Indiana University Robert H. McKinney School of Law, with discussion of the knowledge and implementation of accessibility features in online instructional materials. The next section provides an overview of various impairments and their effects on a user’s experience of the online environment. Next is a review of the laws relevant to accessibility with attention to their potential application to online instruction, along with standards used to guide accessibility compliance. The article then explores the concept of universal design and its guiding principles, followed by a discussion of how to use the universal design principles to organize and better understand accessibility standards and practices. The final section briefly summarizes the discussion and encourages law librarians and professors to become knowledgeable and skilled in universal design for online materials to benefit all their students.

For Want of Awareness

In 2011, the librarians at the Indiana University Robert H. McKinney School of Law began teaching legal research to second-year law students in a required, for-credit, online course. After many iterations, the course now consists of eight lessons. Each lesson contains several “pages” of text, graphics, and screencasts (some interactive, some not) covering the week’s topic, followed by a research assignment. All materials are delivered online, and the answers to the assignment are recorded online through the university’s learning management system (LMS).

Getting the course up and running, improving it, and keeping the material up to date has taken a tremendous amount of time. At first, it was all we could do to get the instruction ready and stay on top of the grading. Our earliest efforts to ensure accessibility involved simply making a print version of any slideshow presentations available. With growing awareness of the needs of the disabled, the requirements of the law, and the tools available for compliance, we have made great strides.

In January 2013, a law professor at Indiana University Robert H. McKinney School of Law began a class blog using Google’s Blogger platform. He now uses a blog for each of his classes. The blogs contain posts regarding readings and upcom-

---

4. Indiana University (IU) uses an LMS called Oncourse, a Sakai-based system made proprietary to IU. As of mid-2014, IU is beginning implementation of Canvas, which will incrementally replace Oncourse, but any LMS-specific observations in this article are based on use of Oncourse. Accessibility considerations are universal to all LMSs, although their handling will differ across platforms. Rather than exploring the details of accessibility accommodations in the various LMSs such as Blackboard and Desire2Learn, this article seeks to raise awareness and suggest generalized best practices, leaving implementation in specific contexts to the individual.
ing discussions, reviews of material, assignments, and links to outside readings and news items. Students are encouraged to comment on his posts but are not required to. In addition, the professor requires students to submit written work. The professor then selects two of the written pieces and posts them anonymously on the blog along with his own constructive comments regarding both content and form.

¶7 The professor admits that he knew nothing about planning and designing for accessibility when he began his first class blog. As with so many of us, the idea simply never occurred to him. He had not, at least to his knowledge, ever had a student with visual, hearing, or motor impairments such that reading a blog would be difficult. He is now in the process of learning more about the tools available to ensure that his class blogs comply with accessibility standards.

¶8 In both these situations, concern about accessibility came very late in the process and required backtracking, reworking of material, and duplication (even triplication) of effort. This is not unusual. Consider, for example, the experience of the law librarians at the U.S. Supreme Court Library when Justice Sandra Day O’Connor hired Isaac Lidsky, a blind attorney, as her law clerk for the October 2008 term. The Supreme Court had never had a visually impaired clerk before, and the librarians underwent a crash course in accessibility to make it possible for Lidsky to do his job. In the end, they were quite successful in helping him, but their accessibility expertise came only in the wake of demand.

¶9 Planning for accessibility in online materials ahead of time is both more efficient and more cost-effective in the long run. Our failure to plan ahead and achieve greater accessibility is due in part to a lack of awareness and involvement. Many of us creating online materials do not know the issues or the remedies. The following discussion may help alleviate this unfamiliarity so that online instructors will be better equipped to plan for accessibility at the outset.

Understanding Impairments

¶10 Disabilities vary widely and do not come with one-size-fits-all solutions. An instructor cannot begin to create materials with maximum usability without a sense of the range of impairments and assistive technologies.

Visual Impairments

¶11 Creating access for people with visual impairments affects just about every aspect of online instruction development. When considering visual impairments, many people think of total blindness. While certainly of vital importance in...
designing for accessibility, total blindness is not the only visual impairment to consider. Legal blindness exists when someone’s visual acuity is 20/200 or less. Low vision is defined as visual acuity of 20/70 or less. Many people have difficulty distinguishing certain colors or contrasts, and some people respond to certain visual stimuli with seizures.

¶12 People with vision impairments may use a number of different technologies to assist them in accessing online materials. Screen readers, such as JAWS,9 Hal,10 VoiceOver11 and Orca,12 read text from web pages aloud to the user.13 Those who read Braille may choose instead to use a refreshable Braille display, a device that “reads” the text on a web page and presents it to the user on the Braille device. These technologies rely on text, and to be fully effective there must be text equivalents for all non-decorative images—buttons, pictures, graphs, charts, and so on.

¶13 For those with low vision, magnification may be sufficient. This can be accomplished with a large monitor, software magnifiers such as Zoom Text, or simply using a low resolution such as 800 × 600 on a regular monitor. This must be taken into consideration when designing online materials.

¶14 Difficulty in distinguishing colors ranges from an inability to distinguish red and green, blue and yellow, dark shades of color from black, and nearly matching colors. Many meanings and distinctions in information can be conveyed by color,14 but for those who cannot make these distinctions, the information is lost. Instructors creating online materials should not rely on color distinctions alone to convey information but rather pair color with other distinctions such as size, typeface, placement, and textual explanations.

¶15 Flickering and light patterns that can trigger seizures are generally the result of video included on a web page, for example, a video of a moving train where light and shadow flash back and forth.15 The best solution to this is to include such videos only when they are essential to the instruction being conveyed. If a flickering video is essential, the next-best solution is to have it load in a stopped state and then include a warning at the top of the web page as well as an alternative description of the content for those who are unable to watch the video.

¶16 Some people include flashing effects on a web page to draw the viewer’s attention to certain information. Designers now avoid this extra flicker as it is annoying to most users and dangerous to some.

**Hearing Impairments**

¶17 As with visual impairments, hearing impairments run along a spectrum as well, from total deafness to loss of hearing only within certain tonal ranges, with many variations in between. Captioning and transcripts of auditory material can help these students. Captioning is text that is synchronized to the audio track of a video, while transcripts exist outside the video and are not synchronized. Another distinction can be made between captions and subtitles. Subtitles are limited to spoken words, while captioning attempts to capture other sounds in addition to speech, such as laughter or music.\(^{16}\) Another option is to include a sign language interpreter along with the video, though this is helpful only to those who understand sign language.

**Mobility Impairments**

¶18 Mobility impairments arise when a person loses range in or control over bodily motion. Causes of mobility impairments can include everything from arthritis to paralysis to missing limbs to Parkinson’s disease. Those with mobility impairments may have difficulties using a mouse or a keyboard and use alternative technologies that mimic mouse or keyboard actions. These technologies are often a bit slower than a mouse or keyboard, so it is important to limit or eliminate anything relying on a timing effect. Precise navigation to small areas is also challenging. This translates to a need for hotspots that are as large as possible.\(^{17}\)

**Cognitive Impairments**

¶19 Cognitive impairments are any kind of learning disability, perceptual disorder, or processing disorder. Examples include everything from dyslexia to an inability to distinguish between foreground and background. Attention deficit disorder and attention deficit hyperactivity disorder are increasingly common among students in higher education.\(^{18}\) Principles of good design such as logical

---

16. SYDIK, supra note 8, at 20–22.
17. Id. at 22.
organization, readable text, strong contrast, and proper spacing go a long way in helping students with cognitive impairments.19

Nonnative Language Speakers

¶20 While not a true impairment, being new to the language of the instructional material can certainly be a barrier to learning. Students whose native language differs from the content of the material may be unable to understand idioms, slang, or even straightforward text if it is rendered in certain fonts. They may also struggle to follow the spoken language in a video or a podcast due to speed, vocabulary, or the speaker’s accent. Many of the techniques used to help those with hearing or cognitive impairments are useful to nonnative language speakers as well. For instance, captions and transcripts can help a student whose reading ability in the target language is better than her auditory ability. The same is true for logical organization, readable text, and clear navigation.

Accessibility Laws and Standards

¶21 Several federal laws and numerous state laws address impairments by prohibiting discrimination and requiring accommodations. Of these, the Rehabilitation Act of 1973 and its 1998 amendments are the most relevant to online instruction in higher education. As discussed below, the Americans with Disabilities Act (ADA) and its amendments focus on access to physical rather than virtual spaces.20 Most recently, the Twenty-first Century Communications and Video Accessibility Act of 2010 (CVAA) targets accessibility to digital content, but it applies to hardware, software, and video content producers and providers, and not, generally speaking, to colleges and universities.

¶22 There are also accessibility standards to follow. The most comprehensive and widely used are the Web Content Accessibility Guidelines (WCAG). The U.S. government has its own standards, and other institutions have issued simpler guidelines.

Section 504 of the Rehabilitation Act of 1973

¶23 Although it did not garner the attention that other civil rights laws received, the Rehabilitation Act of 1973 was a milestone in the efforts to improve opportunities for the “handicapped.”21 Earlier civil rights laws had established a norm of including nondiscrimination clauses applicable to federal contractors and other entities receiving federal funds. By extrapolation, it made sense to include language

19. SYDIK, supra note 8, at 23–24.
20. For a comprehensive study of the disability discrimination laws and their effect on higher education, see Laura Rothstein, Higher Education and Disability Discrimination: A Fifty Year Retrospective, 36 J.C. & U.L. 843 (2010).
disallowing discrimination on the basis of “handicap” in the 1973 Rehabilitation Act.  

¶24 Section 504 of the Rehabilitation Act requires compliance by all entities that receive federal funding in any way, including universities and colleges. Under section 504 (as amended), “[n]o otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” To have a “disability,” a person must “(1) [have] a physical or mental impairment which substantially limits one or more of such person’s major life activities; (2) . . . [have] a record of such impairment; or (3) [be] regarded as having such an impairment.” Major life activities include “functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.”

¶25 Courts have held that this mandate requires colleges and universities to make “reasonable accommodations” to allow students to participate in the educational program. Reasonable accommodations are those that ensure equal opportunity for participation and access to the benefits of the institution’s programs without causing undue hardship for the institution. Undue hardship arises from accommodations that would (1) require fundamental changes to the nature of the educational program; (2) pose a safety risk to the individual or others; or (3) create an undue administrative or financial burden. For example, in *Southeastern Community College v. Davis*, the U.S. Supreme Court held that a nursing school was allowed to deny admission to a deaf applicant because the program’s requirements included a clinical phase. To accommodate the deaf student, the school would either have to provide constant supervision and assistance during this phase or eliminate the requirement. The court held that both of these options were too substantial to be required, though it left the door open for requiring lesser accommodations.

1998 Amendments to the Rehabilitation Act

¶26 In 1998, Congress amended section 508 (but not section 504) of the Rehabilitation Act to require that all federal agencies and departments ensure that all federal employees and members of the public seeking information from a federal entity have access to and use of electronic information regardless of any disability.
Under this amended section 508, federal agencies and departments have to make sure that their websites, databases, portals, electronic documents, and all other electronic information are as equally accessible to the disabled as to the nondisabled. This provision leaves no doubt—at least for federal agencies and departments—about accessibility requirements and the Internet, filling a potential gap that had arisen with advances in technology that were inconceivable in 1973.

¶ 27 That said, these protections have not been specifically extended to entities receiving federal funding under section 504, leaving open the possibility for the argument (albeit small and unlikely to succeed) that a college or university is not required to make its electronic materials accessible. However, the language of section 504 reads: “No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . .”

A search for litigation on this issue returned no relevant appellate decisions, but the National Association for the Deaf filed a lawsuit in February 2015 against Harvard and MIT for failing to provide captioning in online video courses. The complaint asserts violations of both the Rehabilitation Act and the Americans with Disabilities Act. If previous scholarship is on the mark, then there is little room for doubt that accessibility features in electronic instructional materials—along with websites, databases, and other electronic tools for learning—will be required, especially under the Rehabilitation Act. These legal particulars, of course, do not even begin to address the pedagogical imperative to reach students with appropriate instruction.

Americans with Disabilities Act

¶ 28 The ADA was signed into law by President George H.W. Bush in 1990. At the time, the Internet was in a nascent state and was not considered by Congress as a source of discriminatory practices. The ADA, as a product of its time, focused on access to physical locations and in-person activities.

¶ 29 Under title II of the ADA, “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the

---

32. See Nina Golden, Access This: Why Institutions of Higher Education Must Provide Access to the Internet to Students with Disabilities, 10 Vand. J. Ent. & Tech. L. 363 (2008) (asserting that the language of section 504, even as it stands, would require accessibility in electronic resources given how vital they are to higher education); see also Judith Stilz Ogden & Lawrence Menter, Inaccessible School Webpages: Are Remedies Available?, 38 J.L. & Educ. 393 (2009). The situation is somewhat different for a private college receiving no federal funding (there are a few like this). This school would be subject only to the ADA. Under the ADA, there has been some disagreement as to whether a website or other electronic information constitutes a “place” of public accommodation so as to require reasonable accommodations for the disabled. See, e.g., Nat’l Fed’n of the Blind v. Target Corp., 452 F. Supp. 2d 946 (N.D. Cal. 2006). For an assertion that the Constitution requires accessibility in electronic resources, see Joshua L. Friedman & Gary C. Norman, The Norman/Friedman Principle: Equal Rights to Information and Technology Access, 18 Tex. J. C.L. & C.R. 47 (2012).
benefits of the services, programs, or activities of a public entity, or be subjected to
discrimination by any such entity.” 33 State colleges and universities as well as com-

munity and city colleges fall under title II. In essence, the law extends the same

protections provided by section 504 of the Rehabilitation Act, but does so regard-

less of federal funding.

30 Title III of the ADA prohibits disability discrimination on the part of pub-

clic accommodations and services, even when privately owned. 34 To be subject to
title III, an entity must affect commerce and fall into one of a several categories.

Among these categories are private schools, both undergraduate and postgradu-

ate. 35 Like section 504 of the Rehabilitation Act, the ADA requires schools to make

reasonable accommodations for otherwise qualified individuals. These include

“auxiliary aids and services” such that “no individual with a disability is excluded,
denied services, segregated or otherwise treated differently than other individuals

. . . unless the entity can demonstrate that taking such steps would fundamentally

alter the nature of the good, service, facility, privilege, advantage, or accommoda-

tion being offered or would result in an undue burden.” 36

31 Despite similarities to the Rehabilitation Act, the applicability of the ADA
to websites and other electronic information sources has been debated due to the

ADA’s emphasis on physical location. In Young v. Facebook, 37 the district court held

that Facebook was not required to provide accommodations because it was a vir-
tual space with no nexus to a physical space. Similarly, in National Federation of the

Blind v. Target Corp., 38 the court held that the plaintiff had stated a claim under title

III of the ADA regarding the lack of accessibility of Target’s website, but only inso-

far as the inaccessibility “impedes the full and equal enjoyment of goods and ser-

vices offered in Target stores. To the extent that Target.com offers information and

services unconnected to Target stores, which do not affect the enjoyment of goods

and services offered in Target stores, the plaintiffs fail to state a claim . . . .” 39 How

these rulings play out in the suit against Harvard and MIT remains to be seen.

2008 Amendments to the ADA

32 When crafting the original ADA, Congress used the definition of disability

that had been used for nearly two decades in the Rehabilitation Act. Courts, how-

ever, construed the ADA definition more narrowly. For example, in Sutton v. United

Air Lines, the U.S. Supreme Court stated that the existence of a disability was to be
determined in its mitigated state. 40 As a result, a person whose disability can be
ameliorated may be determined not to have a disability. Three years later, in Toyota
Motor Manufacturing, Kentucky v. Williams, the Supreme Court also declared that

the standard for determining the existence of a disability must be a demanding

34. See id. § 12182(a).
35. See id. § 12181(7)(j).
38. 452 F. Supp. 2d 946 (N.D. Cal. 2006).
39. Id. at 956.
This declaration led many lower courts to find a lack of disability, never reaching the issue of discrimination.

§33 The ADA Amendments Act of 2008 (ADAAA) was designed to overturn these decisions and reestablish a broad interpretation for the definition of disability. The amendments retained the basic definition of “disability” as an “impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment,” but it changed the interpretations of several terms in this definition. One of these was “major life activities.” In a nonexclusive list, Congress included “caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.” The amendments do not mention Internet use or electronic communication as major life activities. Arguably learning, reading, communicating, and perhaps even thinking now require appropriate access to electronic information resources, but as evidenced by the Young v. Facebook and National Federation of the Blind v. Target decisions, this broad definition of disability does not displace the requirement of a nexus with a physical place.

Twenty-first Century Communications and Video Accessibility Act of 2010

§34 Two years after the ADAAA, President Obama signed the CVAA into law. This law begins to establish the rights of those with disabilities to access and use the Internet. Title I of the CVAA focuses on communications services and equipment, requiring that virtually all communication software (e.g., Internet browsers, instant messaging services) and hardware (e.g., smartphones, tablets) be made accessible to all users, with special attention paid to video playback and emergency information capabilities. As an example, Internet browsers on phones must be accessible to the visually impaired. Title II of the CVAA requires captioning on all video shown online if the video was first shown on television. In addition, all devices with Internet connectivity, regardless of size, must be capable of displaying closed captioning and other available video description. At this point, video created exclusively for communication via the Internet is exempted from the captioning requirements.

§35 Since the CVAA is directed primarily at hardware, software, and television producers, the law does not have significant legal impact on creators of online

---

41. 534 U.S. 184 (2002).
46. Id. § 104.
education materials, but it does set targets with which we can comply. Consider a video—a lecture or a screencast—created by a professor for use in an online class. Both best practices and section 504 of the Rehabilitation Act indicate that the professor should provide a text alternative for the audio track. From my own experience, I know that a transcript is a relatively easy solution. However, under the CVAA, the audio alternative of choice is captioning instead of a transcript. Furthermore, this captioning is expected to match the quality of that done for television in terms of “completeness, placement, accuracy, and timing.” Under already existing rules for television captioning, the user must be able to control captions’ text color and opacity, size, font, background color and opacity, character edge attributes, and window color. To do this in videos created for an online class would likely take considerable work and depend on the sophistication of the video presentation software, but perhaps we can use these rules as an ideal for which to strive as we develop our awareness and skills to create the best experience for the student with audio limitations.

State Laws

¶36 As of 2009, approximately fifteen states had statutes addressing website accessibility, and all fifty states had policies or guidelines on the subject. Although states’ coverage varies, Oklahoma’s law, passed in 2004, is typical in that it essentially adopts the standards of section 508, the section of the Rehabilitation Act that governs federal websites. Other states have looked to the WCAG drawn up by the World Wide Web Consortium (W3C) or a hybrid of the WCAG and Section 508 standards. Given that these standards are not dramatically different in end result, the state standards and federal standards are generally closely aligned.


51. OKLA. STAT. ANN. tit. 62, § 34.28 (West, Westlaw current through Chapter 23 (End) of the First Extraordinary Session of the 54th Legislature (2013)). Other examples include Arizona, ARIZ. REV. STAT. ANN. § 41-3532 (West, Westlaw current through the First Regular and First Special Sessions of the Fifty-first Legislature), and California, CAL. GOV’T CODE § 11135(d)(2) (West, Westlaw current with urgency legislation through Ch. 1 of 2014 Reg. Sess. and all propositions on the 6/3/2014 ballot).


Industry Standards: Quality Matters, WCAG 2.0, Section 508

¶37 Many universities and other educational institutions, including my home institution of Indiana University, have adopted the Quality Matters (QM) rubric to guide the planning, designing, and reviewing of online courses. Standard 8 of the QM rubric addresses accessibility issues with only the most basic guidance in four specific areas of review.54

¶38 Within the scope of the first of these standards is the requirement that the instructor set up the course within an accessible learning management system (LMS). Furthermore, the instructor should provide information regarding the accessibility of the course materials and how to seek accommodation if any part is not accessible.

¶39 The second, third, and fourth areas of review get to substantive design and content issues. Standard 8.3 is the most basic, incorporating design principles regarding layout, colors, fonts, and formatting as well as writing style. Standard 8.2 is the usual requirement to create text equivalents for all non-textual content (e.g., audio, video, images, and graphics). Then, standard 8.4 encourages designing for assistive technologies. The annotations in the QM rubric explain that this incorporates aspects such as navigation, metadata, and meaningful links.55

¶40 The QM standard is valuable as a baseline check, especially for those instructors who are new to accessibility concerns, but it does not provide the guidance necessary to ensure that online materials are fully accessible. Fortunately, more specific standards are available.

¶41 WCAG 1.0 was published and recommended to website and online content developers in 1999 by the W3C’s Web Accessibility Initiative (WAI).56 WCAG 2.0 followed in 2008.57 The WCAG built on multiple sets of earlier guidelines written in the 1990s. Today, the WCAG are the primary standards by which accessibility compliance is planned, implemented, and measured. They have been adopted by the International Standards Organization,58 and the Canadian and Australian federal governments have endorsed WCAG 2.0 for all government web sites.59

54. The four areas of review in standard 8 are:
   1. The course employs accessible technologies and provides guidance on how to obtain accommodation.
   2. The course contains equivalent alternatives to auditory and visual content.
   3. The course design facilitates readability and minimizes distractions.
   4. The course design accommodates the use of assistive technologies.

55. Id. at 19.

56. The W3C was founded in 1994 by Tim Berners-Lee, the author of the first web server and browser as well as the first version of HTML. The W3C is a consortium of universities, businesses, government entities, nonprofits, and individuals that develops and dispenses standards for the World Wide Web. Familiar examples of W3C standards include HTML and other markup languages as well as Cascading Style Sheets (CSS) and Resource Description Framework (RDF). Facts About W3C, W3C, http://www.w3.org/Consortium/facts (last visited Feb. 18, 2015).


other governments have done likewise. Although the U.S. government has not specified the use of WCAG, complying with WCAG standards would satisfy the requirements of the ADA and the Rehabilitation Act and is playing a role in the refreshing of the section 508 standards.

¶42 The techniques of WCAG 2.0 have been criticized as ineffective and unrealistic by some people in the accessibility field. One criticism states that the guidelines fail to address nearly half the problems encountered on websites. Another criticism states that WCAG 2.0 is a step backward in several ways. A third takes aim at the new hierarchy of compliance in WCAG 2.0. The A level is baseline compliance, with AA and AAA signifying higher levels of compliance. The A level has been criticized as leaving far too many barriers in place while the AAA level is essentially unachievable. It has been noted that individual pages may be AAA compliant, but AAA requirements can conflict with each other and with other guidelines, making compliance for an entire website more difficult than “find[ing] unicorns.”

¶43 For most of us creating online instructional materials, the basic criteria and techniques of WCAG can help us create lessons that are generally accessible to our students. Beyond this basic level, the WCAG become more complex and in many...


63. Joe Clark, To Hell with WCAG 2, A LIST APART (May 23, 2006), http://alistapart.com/article/tohellwithwcag2. Clark also lashes out at the process behind the development of the WCAG, pointing out that both the deliberations and working documents were exclusionary.

64. Power et al., supra note 62.

65. Clark, supra note 63.


67. The WCAG 2.0 Quick Reference List is as follows:

1.1 Text Alternatives: Provide text alternatives for any non-text content so that it can be changed into other forms people need, such as large print, braille, speech, symbols or simpler language.

1.2 Time-based Media: Provide alternatives for time-based media.

1.3 Adaptable: Create content that can be presented in different ways (for example simpler layout) without losing information or structure.

1.4 Distinguishable: Make it easier for users to see and hear content including separating foreground from background.

2.1 Keyboard Accessible: Make all functionality available from a keyboard.

2.2 Enough Time: Provide users enough time to read and use content.

2.3 Seizures: Do not design content in a way that is known to cause seizures.

2.4 Navigable: Provide ways to help users navigate, find content, and determine where they are.

3.1 Readable: Make text content readable and understandable.

3.2 Predictable: Make Web pages appear and operate in predictable ways.

3.3 Input Assistance: Help users avoid and correct mistakes.

4.1 Compatible: Maximize compatibility with current and future user agents, including assistive technologies.
instances highly technical, potentially putting them out of reach for educators who simply want to put class material online.68

¶44 As alluded to above, section 508 of the Rehabilitation Act has its own set of regulations promulgated by the United States Access Board.69 The Access Board finalized these regulations in 2000, well before the release of WCAG 2.0.70 Thus the Access Board interpreted the section 508 regulations in conjunction with WCAG 1.0.71 The Access Board is in the process of “refreshing” the section 508 standards,


69. The Access Board was established in 1973 to ensure physical access to federally funded buildings, parks, transportation projects, and other facilities. It now governs accessibility requirements for medical equipment, telecommunications, and information technology. Of the thirteen members of the board who do not represent federal agencies, the majority must have a disability of some kind. See About the U.S. Access Board, U. S. ACCESS BD., http://www.access-board.gov/the-board (last visited Feb. 18, 2015).

70. These regulations are as follows:
   
   (a) A text equivalent for every non-text element shall be provided (e.g., via "alt," “longdesc,” or in element content).
   
   (b) Equivalent alternatives for any multimedia presentation shall be synchronized with the presentation.
   
   (c) Web pages shall be designed so that all information conveyed with color is also available without color, for example from context or markup.
   
   (d) Documents shall be organized so that all information conveyed with color is also available without color, for example from context or markup.
   
   (e) Redundant text links shall be provided for each active region of a server-side image map.
   
   (f) Client-side image maps shall be provided instead of server-side image maps except where the regions cannot be defined with an available geometric shape.
   
   (g) Row and column headers shall be identified for data tables.
   
   (h) Markup shall be used to associate data cells and header cells for data tables that have two or more logical levels of row or column headers.
   
   (i) Frames shall be titled with text that facilitates frame identification and navigation.
   
   (j) Pages shall be designed to avoid causing the screen to flicker with a frequency greater than 2 Hz and lower than 55 Hz.
   
   (k) A text-only page, with equivalent information or functionality, shall be provided to make a web site comply with the provisions of this part, when compliance cannot be accomplished in any other way. The content of the text-only page shall be updated whenever the primary page changes.
   
   (l) When pages utilize scripting languages to display content, or to create interface elements, the information provided by the script shall be identified with functional text that can be read by assistive technology.
   
   (m) When a web page requires that an applet, plug-in or other application be present on the client system to interpret page content, the page must provide a link to a plug-in or applet that complies with §1194.21(a) through (l).
   
   (n) When electronic forms are designed to be completed on-line, the form shall allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues.
   
   (o) A method shall be provided that permits users to skip repetitive navigation links.
   
   (p) When a timed response is required, the user shall be alerted and given sufficient time to indicate more time is required.

36 C.F.R. § 1194.22 (2014).

71. Paragraphs (a) through (k) were interpreted as consistent with WCAG 1.0 while paragraphs (l) through (p) imposed higher standards than WCAG 1.0. See id.
and has been since 2010 when the first draft of the proposed new rules was published.\textsuperscript{72} The new section 508 standards were expected in 2014.\textsuperscript{73} WCAG 2.0 is rumored to be a strong influence on the refreshed standards, as the Access Board wants the section 508 regulations to be as compatible as possible with global standards.\textsuperscript{74}

**Universal Design**

\textsuperscript{¶}45 Laws and standards are helpful, but they do not solve everything. For instance, despite the fact that the United States has “the most comprehensive legislative approach to accessibility in the world,”\textsuperscript{75} implementation is weak and leaves gaping inaccessible holes. For example, a study of federal websites found that ninety percent of federal home pages did not comply with section 508 of the Rehabilitation Act. To make matters even worse, the federal compliance website itself (section508.gov) did not comply after its redesign in 2010.\textsuperscript{76}

\textsuperscript{¶}46 As for the standards, QM standard 8, while geared specifically toward online education, is simplistic and leaves many areas unaddressed. WCAG 2.0 is the gold standard, but its guidelines are extensive, complex, and highly technical in certain areas, leaving nonexperts confused. The section 508 regulations are somewhat dated and do not include more universal considerations such as layout, readability, and minimal distractions. In addition, they are in the process of revision and will soon be changing.

\textsuperscript{¶}47 The paradigm of universal design can help us cope with confusion as we wade through the laws and standards.\textsuperscript{77} Universal design is based on the idea that environments (virtual or physical) can be designed from the outset to accommodate all comers with the effect that any impairments are no longer barriers. In addition, the design is so usable that everyone benefits. Curb cuts offer an example of universal design in the built environment. It is not only those in wheelchairs who benefit from curb cuts; parents with strollers, pedestrians with groceries, travelers with suitcases, and commuters on bicycles all navigate the sidewalks and streets more easily thanks to this “accommodation.” Closed captioning has had similar “unexpected” benefits. Not only can the hearing impaired enjoy television and movies, but people running on treadmills, waiting in airports, or watching a foreign film all benefit as well.

\textsuperscript{¶}48 The reverse is also true: difficult designs challenge everyone. Consider nesting “fly-out” menus—those drop-down menus where submenus expand to the side when you hover over an item. As Raymond Chen, author of Microsoft Developer’s

\begin{quote}
\textsuperscript{72} 75 Fed. Reg. 13,457 (Mar. 22, 2010).
\textsuperscript{74} Id.
\textsuperscript{75} Lazar & Jaeger, supra note 47, at 76.
\textsuperscript{76} Id.
\textsuperscript{77} For a discussion of universal design as it applies to teaching in the traditional law school classroom, see Meredith George & Wendy Newby, Inclusive Instruction: Blurring Diversity and Disability in Law School Classrooms Through Universal Design, 69 U. Pitt. L. Rev. 475 (2008).
\end{quote}
Network’s “The Old New Thing” blog, explains, fly-out nesting menus turn navigation “into one of those mouse dexterity games where you have to guide your character through a maze without hitting any of the walls or you die and have to start over.” For those with vision or motor skill impairments, the maze might as well be a labyrinth with walls that are continually shifting.

§49 Robert Mace, an architect, is credited as the originator of “universal design,” at least as an articulated design theory. Mace’s work grew out of firsthand experience. At age nine, Mace contracted polio and spent the rest of his days in a wheelchair. Mace defined universal design as “[t]he design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.” Although Mace’s definition has been criticized as simplistic, its foundational idea—that good design benefits most people regardless of their particularities—is profound in its simplicity yet rich in challenges:

The goal of universal design extends beyond eliminating discrimination toward people with disabilities. A universal design benefits everyone or, at least, a large majority. Moreover, to avoid stigma, it engages the aesthetic realm as well as the pragmatic because it has to appeal to everyone. Universal design is about dealing with barriers as artists or scientists would. It demands creative thinking and a change in perspective. It is not sufficient merely to apply design criteria in accessibility regulations in a mechanistic way. Often a change in perspective is needed.

§50 Perhaps the most profound realization in universal design is that people are labeled as “disabled” when the environment in which they must function does not suit their abilities. When we design environments for universal use, the meaning of “disabled” begins to disappear. Take, for example, the Hall of Remembrance at the Holocaust Memorial in Washington, D.C. The Hall is a sunken space, and the design includes only stairs to reach the floor of the Hall. A lift has been installed in rather obtrusive fashion, but does not fit well because it was not planned as part of the design. Should “you enter during a quiet part of [a] ceremony, all eyes would be on you as you use this lift, and its noise would ruin the spirituality of the event. You would become a spectacle, the object of pity and/or annoyance.” Contrast this with the graceful interweaving of steps and ramps in Vancouver’s Robson Square.

81. Mace, supra note 79, at 147.
83. STEINFELD & MAISEL, supra note 82, at 43.
84. Id.
85. See photos and discussion at Eight Amazing Examples of Ramps Blended into Stairs, TWISTED SIFTER (June 12, 2012), http://twistedsifter.com/2012/06/ramps-blended-and-integrated-into-stairs/.
an environment where “accessibility features” are so much part of the design that no one has to experience the ostracism of “disability.”

### Putting It into Practice

¶51 The Center for Universal Design at North Carolina State University, founded by Ronald Mace, urges seven principles of universal design: equitability, flexibility, simplicity, perceptibility, tolerance for error, low physical demands, and provision of appropriate size and space. These principles can help us make sense of the many accessibility standards by providing a concrete and meaningful framework.

#### Equitable Use

¶52 The principle of equitable use suggests that materials be designed so that everyone can make use of the same interface and features. Practices that fall under this principle include the following.

### Information on Accommodations

¶53 Information on accessibility features should be made available to everyone up front and in one location. This provides all students with an idea of how the various materials can work in a variety of situations, increasing students’ options and allowing them the greatest possible flexibility. Information to make available can include how to navigate the site, what browsers work best, how to access video transcripts or print versions of online quizzes, how to control timed media, and when audio is present and how to turn it on or off.

¶54 Some of the accessibility features in online instruction will be expected and obvious to the students who need them most, but for nonobvious features or for students who might benefit from obvious features but not normally use them, instructors can communicate their availability in situ as well as in separate documentation. For example, in the materials for the online legal research class discussed above, when a video is embedded on a page, I add a well-labeled link that opens the video in a new window where the display will be larger. I also spell out how to get to text equivalents of the audio. The paragraph preceding the video reads, “You can view the presentation on this page or, for easier viewing, go full screen in a separate window. In the presentation player itself, the Notes tab contains

---

88. See Hadi Rangin, How-To Guide for Creating Accessible Online Learning Content, WEB ACCESSIBILITY FOR ONLINE LEARNING (last visited Feb. 18, 2015). Applying the paradigm of universal design outside the field of architecture is not unusual. It is commonly applied to both web design and education (Universal Design in Learning or UDL). For examples, see WENDY CHISHOLM & MATT MAY, UNIVERSAL DESIGN FOR WEB APPLICATIONS 51–75 (2009); UNIVERSAL DESIGN IN HIGHER EDUCATION: FROM PRINCIPLES TO PRACTICE (Sheryl E. Burgstahler & Rebecca C. Cory eds., 2008).
89. See supra ¶ 4.
the text of the audio, and a print version is available under Resources.” The line below then contains a second link—Open video in a new window/tab—in case the first is overlooked.

Judicious Use of Features Within an LMS

§55 Online classes are typically housed within a LMS. Most instructors do not control the basic functioning of the LMS, though which features are used within a class can be at the instructor’s discretion. Some features may be problematic for those with impairments. These include chats, wikis, quizzes, LMS e-mail, databases, forums, and anything where students have to fill out form-like objects.

§56 In 2011, four university experts evaluated accessibility across four LMSs: Blackboard, Desire2Learn, Moodle, and Sakai. The evaluation, although not a fully comprehensive accessibility review, looked at many commonly used features including login, navigation, tools, and customization. Each LMS was satisfactory in some features and less so in others, and they each offered different strengths and weaknesses. As explained by the study’s authors, “the goal of this evaluation is not to rate or rank these LMS for accessibility but to educate the public and product development teams about how the presence or absence of certain key usability/accessibility features can significantly impact users’ experience.” The authors also link accessibility to the broader approach of universal design, focusing on usability as an essential consideration. This study offers invaluable information about each of the four LMSs (in their 2011 versions) and provides a cadre of questions to ask as you explore the accessibility and usability of features in your LMS.

Text Alternatives

§57 Generally speaking, text should be the primary means of conveying information online because it works well with all technologies. Sometimes, of course, images and graphics are worth a thousand words. For images (photos, charts, graphics, etc.) with instructional content, the best practice is to provide alternative text that a screen reader will read. Most content editors have a space where this text belongs when you add an image that is then translated into an “alt” tag in the HTML underlying your material. See Figure 1.

§58 Alternative text descriptions are intended to be relatively brief, but some images—charts or graphs—may need longer descriptions. The best way to make longer descriptions available has been hotly debated in web development circles, and resolution is still pending as markup languages, Internet browsers, and screen readers evolve.


¶59 If the image is for visual effect only, best practices suggest that no alternative text be used. Instead, leave the “alt” value null. This way, a screen reader will ignore the image completely, and the user will not waste his or her time on irrelevancies.

¶60 Similarly, captioning images increases their value to every user. Most users do not have text readers that will read the alt-text fields, but a visible caption on every image can exploit a teachable moment to the fullest. Also, give images and graphics unique identifiers (e.g., Figure 1) in the captions. Use these identifiers in the text when discussing the information in the image. This is universally more effective than using location references such “above” or “below.”

*Text-Based Menus and Other Items*

¶61 Make sure all menus, form items, and similar elements are text-based rather than images or at least have alt-text that is easy to follow. Text readers cannot read images. This may be acceptable for images that are for visual effect only, but it is a showstopper if your menus, form items, links, and other essential items are images rather than text.

92. In HTML code, this would appear as: alt="".
93. Rangin, supra note 88.
Alternatives for “Time-Based Media”

§62 The term “time-based media,” which is used in accessibility standards and literature, refers to audio and video materials. These may be prerecorded or live and include both passive and interactive formats. At the most basic level, an instructor needs to provide transcripts or captioning. Other alternatives include audio descriptions of video action and sign language interpretation. Figure 2 shows how we have included the transcript in real time with the video, though with less precision than true captioning. We are able to do this using Articulate Storyline, an e-learning content authoring software.

Alternative Navigation

§63 Due to mobility disabilities or personal preference, students may be navigating with keyboard strokes rather than a mouse. Keystrokes for navigation are likely handled by the LMS, but it is worth double-checking. If you add your own navigation, keystroke equivalents are an important addition.

Forms, Tables, PDFs

§64 Many elements that can be used in online instruction materials are not easily made accessible. Forms and tables are prime examples. They can be used, but

---

attention to labeling and order is required. For example, each element on a form needs to have a unique label in the form’s code that describes the element. A screen reader can then read this label when the focus is on the form element. Placing the form elements and their labels in a logical order also allows a visually impaired user to make sense of the form as read by the screen reader. Tables of data require descriptive labels as well so that the columns and rows are meaningful. Tables should not simply be added as images as this renders the data inaccessible to a screen reader.

PDFs pose challenges because they are essentially image-based files. The International Standards Organization implemented the PDF/UA standard (ISO 14289-1:2012) in July 2012. This standard “describes the required and prohibited components and the conditions governing their inclusion in or exclusion from a PDF file in order for the file to be available to the widest possible audience, including those with disabilities.”

To increase accessibility required by the PDF/UA standard, PDFs can be tagged much like HTML files. Tags indicate the logical structure and semantics of a document: sections, chapters, headings, paragraphs. Tags help identify images and other graphics and provide alternative text for these items. They build accessibility into tables and forms. Tagging also makes text and image reflow possible when a page size is changed and helps with tasks like searching, spell-checking, and exporting to other formats. Tagging can be done using Adobe Acrobat Pro or other PDF creators. Add-ins are available as well that can help tag PDFs and audit for accessibility. Other software such as word processors, presentation builders, and spreadsheets often allow for saving a document as a tagged PDF as well.

Dynamic content such as JavaScript-enabled controls also requires special handling. Generally, these elements will not be essential to online instruction, can be presented in more accessible formats, or will be handled by the LMS, but guidance for making them accessible is available if needed.
Flexible Use

§68 To be flexible, online materials must be designed so that students can access them in multiple ways. This can mean anything from ensuring that users can control the display of colors and fonts to designing so that students can use the materials on tablets and smartphones as well as laptops and desktops.

Separation Between Content and Presentation

§69 As long as humans have been sharing information, we have been distinguishing between content and presentation. The cave paintings at Lascaux are one choice as to presentation of the day’s adventure while a tale of the hunt shared around a fire is another. In the online realm, the division between content and presentation is especially powerful because it allows the user to control presentation if so desired. Using proper techniques, online instructors can create content along with default presentation choices and yet still allow users with unique needs to override the presentation defaults without affecting the content.

§70 The first step is to use “styles” rather than hard-coded text formatting to create headings and other structural cues within your content. An instructor uses text formatting when she creates a heading by selecting the text and then using the formatting options to change to a new font, increase the font size, and make the text bold. Unfortunately, screen readers do not pick up the logical difference between this formatted text and the text of the subsequent paragraph or any other text. The better practice to select the text and apply a style such as “Heading 1” or “Heading 2.” This adds an unseen tag to the text. This tag tells a browser to use display setting for Heading 1 on that bit of text, and a screen reader will use the tag to communicate the structure of the material. Most text editors offer tags in a menu of choices: Title, Subtitle, Heading 1, Heading 2, Heading 3, Paragraph, and so on.104

§71 Text formatting such as bold or italic should be used when only the appearance is meaningful, not the organizational structure. Examples include italicized foreign words or titles in a citation or emphasis of certain phrases.

§72 Browsers have certain default settings that determine how the tagged content appears. Disabled students can adjust these settings to suit their own needs. The appearance can also be changed and controlled with separate style sheets created in a coding language such as Cascading Style Sheets (CSS).105 See Figure 3. Style sheets make it possible for an instructor to create a certain consistent appearance for most students while still allowing disabled students the freedom to create their own appearance. Styles are also a boon for an instructor since they allow global changes in appearance to be made easily with a few keystrokes.

---

104. The Sakai-based LMS in which I have been working for the past three years is confusing because it has a text editor that offers two menus, one labeled Styles and one labeled Format. The Styles menu offers tags that are more appearance-based—Sample Text, Deleted Text, Variable—while the Format menu offers the structural tags such as Heading 1. Regardless of what they are called, the structural tags are the vital ones for keeping presentation and content separate.

105. For an introduction to CSS, see Jon Duckett, HTML AND CSS: DESIGN AND BUILD WEBSITES (2011).
Multiple Formats

73 The principle of flexibility also requires that online materials keep up with technological changes. The past few years have seen a remarkable increase in the use of mobile devices among students. Computer labs where all the software is tightly controlled by IT are dwindling and being replaced by a proliferation of laptops, tablets, and smartphones. Online instructors need to ensure that their materials can be used on all these devices. As an example, a screencast for a legal research class may need to be published as a Flash file, an MP4, and possibly others as well.

Simplicity

74 Google revolutionized search interfaces when it reduced the concept of an Internet search screen to a white screen adorned with nothing but an attractive logo and a search bar. The simplicity was breathtaking—so easy, so intuitive, so consistent. The only thing that changes is the Google Doodle. With the underlying simplicity of the page intact, users can enjoy the quirky surprise of the Google Doodle without losing their bearings. Simplicity is key in universal design because it always leads to greater accessibility while leaving opportunities for sensory appeal.

Consistent Design, Structure, Navigation

75 When designing an online course or online materials, keep both the structure and the appearance clean, logical, and consistent. The structure of the information should be so clear that students can focus on the content without having to find their way through a mass of information.
Likewise, navigation should be explicit, straightforward, and logical. Navigation bars or panels should be the same on all pages and should always include a link to the home page. Most navigation options exist in the LMS rather than in the materials themselves. This means that an instructor may have choices about which navigation options appear in the navigation bars or panels but does not have to worry about the coding. However, if coding is necessary, best practices dictate that navigation menus be built from unordered lists and be introduced by a heading. This makes it possible for screen readers to identify and read the navigation links properly. Also, if navigation links use images such as buttons rather than plain text, be sure to include alternative text.

Finally, in addition to structure and navigation, the design of materials should be consistent throughout. Typeface, font size, use of color—all these design choices need to carry through all materials. This can be difficult, especially as materials get used from one semester to the next and as new material is created. Style sheets that apply styles across multiple pages can help alleviate this challenge. So too can old-fashioned checklists, especially for embedded material such as videos, graphics, or screenshots.

Clear, Specific Instructions

Like consistent design, providing clear, well-formatted, and easy-to-find instructions such as syllabi, assignments, and expectations benefits everyone. Figure 4 shows the instructions that accompany the links provided for every assignment in an online class. The paragraph explains what each link is for and suggests how to use the materials at each link. The links themselves repeat what they link to and clarify which one will take students to a PDF that they can print and which one will let them submit answers.

**Figure 4**
Links with Instructive Text

**Links**

The first link below will take you directly to Assignment 2 online. The second link provides a print version. You may find it helpful to print out the assignment and review it prior to working through the instructional materials. Students have found it useful to work on the print version before entering the answers into the online assignment for submission.

Assignment 2 -- [Online (submit answers here)]
Assignment 2 -- [Print (PDF)]

106. See Rangin, supra note 88, at “Course Organization and Navigation.”
¶79 It may seem like overkill to include an indication that the print version is a
PDF rather than a Word document or some other text document. In fact, this kind
of forewarning helps those students using screen readers know what to expect
when they click. Screen readers are sensitive to file formats (as noted above, PDFs
can cause problems for screen readers if not properly tagged), and best practices
indicate that information about format is best given before the link is clicked.

No Distractions

¶80 We are all easily distracted in the online environment, but some impair-
ments make distractions even more problematic. Best practices in accessibility
prescribe reducing distractions as much as possible: set apart links to further infor-
mation, do not include anything flashing or flickering, reduce unnecessary clipart,
ensure that time-based media (video and audio) are not set to start automatically.
To achieve this last item, the presentation videos in our online class now include an
initial screen with a Play button on it (no Play button is available on the player
itself). This Play button is a hotspot that links to the next page where the presenta-
tion actually begins. Nothing happens until the Play button is clicked.

Perceptibility

¶81 The principle of perceptibility goes hand in hand with that of simplicity.
These two form the core of the universalness in universal design for online learning
because they so clearly benefit everyone.

Readable Language

¶82 Much has been written about “writing to be understood,” especially in the
legal field. In an online environment where it can be is easy to lose track of struc-
ture and location, readability is especially important. Avoid or explain lingo, keep
sentences relatively short, and use plenty of hierarchical indicators.

¶83 For large amounts of online text, sans serif fonts are preferred, and the
default size (generally 16 pt in most web browsers) should be used. Captions and
labels can be smaller; titles and headings can be larger. Titles and headings can also
make use of serif fonts, though script or fanciful fonts are best avoided.

¶84 It is also recommended that lines of text be roughly 50 to 75 characters
long. A typical line of text in Law Library Journal runs between 80 and 85 charac-
ters, including spaces. Estimates on the perfect range vary somewhat, but it is safest
not to exceed 100 characters per line for online sustained reading material.

107. For a recent example of the “plain language” movement, see JOSEPH KIMBLE, WRITING
FOR DOLLARS, WRITING TO PLEASE (2012).
108. See ROBERT BRINGHURST, THE ELEMENTS OF TYPOGRAPHIC STYLE (2004); see also
Christian Holst, Readability: The Optimal Line Length, BAYMARD INST. (Nov. 1, 2010), http://baymard.com
/blog/line-length-readability.
.com/inspire/the-line-length-misconception (citing A. Dawn Shaikh, The Effects of Line Length on
/usabilitynews/72/LineLength.asp).
Color

§85 Information on color theory abounds, and color can be used to create many different moods and effects. For purposes of universal design and usability in online instructional materials, there are three essentials:

1. Preferred colors are those that do not pose problems to the colorblind. The majority of colorblind people struggle to distinguish between red and green. Other colors can pose problems as well, but red and green are the most common.
2. Color should not be the only way the information is conveyed. Pair color with text or pattern to ensure the information is communicated.
3. Color should not be distracting. To achieve this, use a restrained palette and use the colors in that palette consistently—in the same or similar ways across all materials. For example, use pale yellow behind all callouts or use a dark blue shadow frame behind all images.

Layout and Format

§86 Tastes and trends in layout for online materials change, but there are graphic design rules that withstand the test of time because they are about more than appearance; they are about transmitting information. Graphic design considerations can fill books, but the most important ones, in brief, include the following:

§87 Contrast communicates difference. It helps our eyes and brains quickly distinguish between elements. One aspect of contrast is the need for adequate contrast between background and text (or other foreground material). Regardless of the reader’s visual acuity, dark text on a white or off-white background is best for sustained reading. Light background colors work well for smaller amounts of emphasized text, perhaps a callout or an important sentence. Dark backgrounds with white or very light text should be limited to titles, upper-level headings, labels, and the like.

§88 A title with a dark background and white text leads to another use of contrast: creating distinctions between objects in the foreground. The title is distinct from the body of the text, so it stands out and communicates organizational structure. The key to this use of contrast is making the elements different enough that the meaning is evident immediately. Fine distinctions are not effective. If you want

110. See, e.g., JOSEF ALBERS, INTERACTION OF COLOR (50th ann. ed. 2013). For a more introductory text, see PATTI MOLLICA, COLOR THEORY (2013) or LINDA HOLTZCHUE, UNDERSTANDING COLOR: AN INTRODUCTION FOR DESIGNERS (2011).

111. Color choices can be checked—for appropriate contrast as well as perceptibility by the colorblind—using color accessibility tools. Many are included on the W3C WAI’s list at http://www.w3.org/WAI/ER/tools/.

112. There are many books on the design aspect of websites and online content. These include, but are in no way limited to, JASON BEAIRD, THE PRINCIPLES OF BEAUTIFUL WEB DESIGN: A PRACTICAL GUIDE TO A USEFUL, BEAUTIFUL WEB (2007); JOHN CATO, USER-CENTERED WEB DESIGN (2001); ALEXANDER DAWSON, DISTINCTIVE DESIGN (2011); BRIAN MILLER, ABOVE THE FOLD: UNDERSTANDING THE PRINCIPLES OF SUCCESSFUL WEB SITE DESIGN (2011); ROBIN WILLIAMS, THE NON-DESIGNER’S DESIGN BOOK (2d ed. 2004); ROBIN WILLIAMS & JOHN TOLLETT, THE NON-DESIGNER’S WEB BOOK (3d ed. 2006).
to make a certain element bigger and bolder, make it considerably bigger and bolder rather than just slightly so.

¶89 Hearkening back to the scenario of the law professor’s class blog, contrast was an issue with the blog as originally created. The professor had chosen a template that used dark gray text on a medium to light gray background. The result was very muted and elegant but difficult for sustained reading or for anyone with vision impairments. Fortunately, this was easy to change in Blogger, and he now uses a very dark gray text on a white background.

¶90 Proximity builds on contrast by using filled spaces and negative spaces to communicate meaning. Proximity is the idea that things near one another are related while things that are separated from one another are less or not related. An easy example is an address, a phone number, and an e-mail. Typically, these items are together on a page or a business card because they are all the same kind of information. In online instructional materials, a bulleted list of topics covered on the page might be listed at the top followed by white space before the actual content begins, creating a group of related items separated from the rest of the information. Proximity is also helpful in clarifying which lessons go with which topic, as in Figure 5.

¶91 Alignment both creates balance and provides our eyes with signals as to the structure and flow of elements on a page. This does not mean that everything on the page must adhere to the left side. Balance is sometimes created through a combination of aligning the edges of some elements while offsetting another element. The key is that all elements are visually tied to other elements on the page.113

¶92 For many people, the default is to center an element on the page. This is effective when there is very little on the page and what is there makes a powerful statement or visual effect. Google’s search page is a good example. Center alignments are weak for text and multiple elements. There are no hard edges for our eyes to follow, and the text is difficult to read.

¶93 The tried-and-true left alignment may seem boring, but it gives our eye a strong line indicating the beginning of the text, and it is easy to scan. Left alignment should always be used for sustained reading text, at least in cultures that read left to right. Right alignment is also strong, but because we read left to right, it is not effective for anything other than short bursts of text. Right alignment makes text stand out and seem unique. It is effective for callouts and quotes.114

¶94 Repetition of design features helps users know what to expect. Many different kinds of repetition help us navigate and understand online instructional materials. For example, place the same Next, Back, and Home buttons on every page. Use the same typeface and size for every page title. Place the same kind of frame around every image. Another layer of repetition is to use an icon that means “This is important!” and place this icon next to every key idea.

¶95 Repetition of purely decorative features can create a sense of unity and flow as well. Websites will often repeat a color scheme or logo on every page of their sites.

113. See Williams, supra note 112, at 31.
so that users know they are still within that particular website. Similarly, we chose to use crimson backgrounds for every title and top-level heading in our instructional materials. Not only does this allow students to identify the structure of the page quickly, but it also creates a familiar “look and feel” that lets students know they are still within the lesson.115

Tolerance for Error

§96 The frustration felt when you hit the wrong button or press the wrong key and disaster strikes is surely universal, as is the relief when those mistakes can be undone. People with impairments may be more likely to experience unintended

115. See Williams & Tollett, supra note 112, at 122–25.
interactions with online materials. Good design allows for unintended actions and reduces the consequences of mistakes. The following practices help achieve this:

- Ensure that the navigation allows for both forward and backward movement.
- Create large target areas for any necessary clicking such as buttons, links, and menus.
- Use simple menus with little to no nesting.
- Create or enable verification for risky actions.
- Always provide confirmation of submissions.

Low Physical Demands

Although it may seem that the online realm has minimal physical demands by its very nature, this principle prompts consideration of fine motor and cognitive stamina and fatigue. Reading online or watching instructional videos and recorded lectures is fatiguing, even after ten or fifteen minutes. Clicking and typing can be tiring as well, especially if a student has motor impairments. Generally, materials need to be divided into manageable portions so that a student can regulate his or her own pace. Structure the materials along natural breaking points to facilitate pacing.

Appropriate Space and Size for Use

The final principle of universal design may also seem less relevant in the online realm than in the material realm, but it serves as the logical conclusion of the work done under the other six principles and can act as a checkpoint. Have we allowed for flexible approaches? Have we made text, navigation controls, and target areas large enough? Is information spaced and paced appropriately? Does our layout allow for intuitive use and easy reading? Have we created consistency and predictability? Have we left room for the user to control the digital environment? The end result is online instructional materials that are appropriate for use by everyone.

Conclusion

A sea change is about to occur in legal education as mainstream, ABA-accredited schools implement more online classes. Among the many challenges that will follow is the need to ensure that these online classes are accessible to students with visual, hearing, or mobility impairments.

The law does not yet explicitly require online classes to meet standards of universal access, but this may soon change. Furthermore, the CVAA signals that

116. See supra ¶ 27; Golden, supra note 32, at 411 (concluding that “where the Internet and disability law’s applicability to institutions of higher education intersect, the result should be clear: colleges and universities have an undeniable legal obligation to make their programs and services accessible to students with disabilities.”).
the law is reaching further to ensure equitable access to online materials. The writing is on the wall.

¶101 Many law librarians and professors do not have the knowledge needed to ensure that their online classes are accessible. Even when they do have the knowledge, it takes time to implement everything that can be done. Although some instructors may receive technical support that makes the process easier, many are left to their own devices. Either way, a working knowledge of the considerations that must go into ensuring accessibility is beneficial. Law librarians and professors with the necessary knowledge are likely to make better decisions in designing and creating online materials.

¶102 Standards exist for such materials, but they can be difficult to understand and apply. When we use principles of universal design to guide the creation of online materials that everyone can use, the end result is a more holistic approach that gives shape and meaning to the technical standards. Not only does the purpose of the standards come through more clearly, but the standards are also enriched with a more design-centered focus that seeks effectiveness in form as well as function.

¶103 Perhaps the most meaningful aspect of universal design, both rhetorically and actually, is that people with “impairments” are not singled out for accommodation. Instead, we are all end users, regardless of abilities, and the design of our environments benefits us all. Disability begins to disappear.117 By viewing the laws and technical standards of accessibility through this lens, we may, in the end, be better able to achieve not only the pedagogy but also the equality of information that is part of librarianship’s ethos.

117. Dolmage, supra note 86.
In 1836, Congress directed the Commissioner of Patents to develop a patent classification system. After 178 years of dynamic development, that United States Patent Classification system is being retired in favor of a new system, developed jointly with the European Patent Office, called Cooperative Patent Classification (CPC). Professor Simmons presents the history of the patent classification system in the United States and discusses how CPC is being implemented.

United States Patent Classification: An Example ........................................... 563
History of the USPC .................................................................................. 564
Patent Classification Challenges ............................................................... 568
Patent Searching Challenges ................................................................... 569
USPC in Transition: The End of an Era ..................................................... 571
Conclusion .................................................................................................. 577

Classification lies at the foundation of the mental processes. Without the power of perceiving, recognizing resemblances, distinguishing difference in things, phenomena and notions, grouping them mentally according to those resemblances and differences, judgment is impossible, nor could reason be exercised in proceeding from the known to the unknown.¹

United States Patent Classification: An Example

¶1 In the 224 years of its existence, the United States Patent and Trademark Office (USPTO) has issued more than eight million patents.² The USPTO’s ability to evaluate new patent applications requires that this collection be organized and categorized both as an aid to searching and as a tool for the departmental organiza-

---

* © Heather J.E. Simmons, 2014. The author would like to thank Stephen Adams, Magister Ltd., Travis McDade, Elizabeth Caulfield, and James T. Simmons, as well as her UIUC Libraries Writing Group (Daniel Tracy, Cynthia S. Ingold, and Mara Thacker) for reading drafts and offering suggestions, and Paul J. Gatz, now at Texas Tech University Law Library, for invaluable assistance with research and cite checking.

** Assistant Professor of Library Service and Business & Law Reference Librarian, University of Illinois College of Law, Champaign, Illinois.

tion of the thousands of patent examiners currently employed by USPTO. To this end, in 1836, USPTO developed its own classification system: United States Patent Classification (USPC), which has been in use ever since. USPC has undergone many revisions and changes since it was first introduced. Not surprisingly, given the circumstances of its development, the system can be confusing to the uninitiated.

¶ Initially consisting of sixteen classes of devices and technologies, the USPC now includes more than 430 classes. Moreover, the subdivision of inventions within a class is sometimes bewildering, counterintuitive, and inconsistent. For example, consider Class 24—Buckles, Buttons, Clasps, Etc. (See Figure 1.) This class schedule was not one of USPC’s original sixteen classes, but was added in 1872. Its organization follows the original USPC practice of reserving Subclass 1 for Miscellaneous, that is, a place to put items that belong in the class but do not fit into any of the subclasses. Thereafter, the class is divided into subclasses in numerical order, from 1 to 12. Some of the numbers are followed by decimal numbers or letters, but overall in numerical order. However, after subclass 12, the classification list begins to skip around: 10A, 15, 13, 3.2. Subclass number 11 is subdivided alphabetically, whereas 3.2 is subdivided numerically. The division and subdivision of Class 24 seemingly defies logic.

¶ Although it looks perplexing, the USPC system has worked well for much of the 178 years of its existence. But as the USPTO has grown to assume its place as a global player in the world of intellectual property, USPC has reached a point where it no longer meets the needs for which it was originally created. USPC is currently being phased out and is scheduled to terminate on December 31, 2014. On January 1, 2015, USPC will be replaced by a new, more globally compatible system.

### History of the USPC

¶ In 1790 Congress enacted the new country’s first patent act. The United States Patent Office granted its first patent a few months later, but forty-six years elapsed before Congress directed the Patent Office to develop a formal classifica-

---

The two factors necessitating formal classification were not present in the early years of the Patent Office. One is the need to manage and organize a large collection of applications, and the other is to aid the patent search process. In the beginning, the collections of U.S. patent applications and granted patents were small enough to manage without a formal classification system. By the time they began to grow larger, searching was not an issue.

¶5 Patent authorities process patent applications in one of two ways: registration or examination. Registration means that the office grants every patent for which it receives a properly completed application. Examination means that a subject matter expert reviews each application to determine whether it meets statutory criteria (typically novelty and originality) and grants the patent only when these criteria are met. This review is accomplished by performing a prior art search. The definition of prior art includes, among other things, any “printed publication,” but as a general rule, patent examiners focus much of their searching on patent documents.

¶6 The Patent Office’s examination process established in 1790 quickly became unworkable as the volume of applications increased, and in 1793 a second patent act changed the process from examination to registration. But this patent registration method had its own set of problems and limitations. Because every application resulted in a granted patent, there was no quality control, and the courts quickly filled up with patent validity and infringement actions. In 1836, Congress enacted “An Act to promote the progress of useful arts, and to repeal all acts here-tofore made for that purpose.” This act reverted back to application examination, the process the United States has used ever since. With the return to examination came a requirement for prior art searching, and it became necessary to develop a formal patent classification system.

¶7 The USPC is the world’s oldest patent classification system. The 1836 patent act included the first statutory mention of a patent classification system. It directed the Commissioner of Patents to “cause to be classified and arranged, in such rooms or galleries as may be provided for the purpose . . . the models and specimens of compositions and fabrics and other manufactures and works of art, patented or unpatented, which have been, or shall hereafter be deposited at said office.” Inventors had been required to submit a working model of their invention to accompany their written patent application since the first patent act of 1790. This requirement was repealed in 1870. Today, a model may still be required at the discretion of the USPTO.

17. Id. § 20.
20. Models or exhibits are not generally admitted as part of an application or patent. “With the exception of cases involving perpetual motion, a model is not ordinarily required by the Office to demonstrate the operability of a device.” 37 C.F.R. § 1.91 (2014).
From the beginning, the USPC grew organically; individual patent examiners did whatever they believed worked for them within their respective areas of expertise. Early on, the collections of patent documents were small enough that examiners could keep track of them without a formal, hierarchical classification system. But with the advent of the USPC, the manner of subdividing classes became an issue. In 1867 the Commissioner of Patents reported:

The new classification is nearly completed, and will shortly be printed. The number of classes has risen from 22 to 36, a number of subjects being now recognized individually which were formerly merged with others under a more generic title. Among these are builders’ hardware, felting, illumination, paper, and sewing machines, to each of which subjects so much attention has been directed by inventors that a division became a necessity to secure a proper apportionment of work among the corps of examiners.

USPC currently has more than 430 classes, which grew from the original sixteen broad categories used informally in 1830. Patent classification was more than just a method to organize a collection; it was, and continues to be, used to determine which examiner will review which patent applications. Patent examiners were allowed to make their own changes to the USPC without approval from anyone until 1877. But it took until 1898 for the Commissioner of Patents to create a Patent Classification Division, at which time its members embarked on a mission to revise the existing classification system. They looked to a number of historical sources for “Precedents and Authorities.” They referenced a philosophical principle, “the ancient tree of Porphyry,” named for Porphyry of Tyre. The Classification Division also considered library classification systems, but they “have not been deemed adequate to the exactness and refinement essential to a patent office classification of the useful arts.” In 1899 the Patent Classification Division issued its first revision to Class 20 Wooden Buildings. This was the first time a USPC class featured multiple hierarchical subdivisions.

26. Id. at 19.
27. Porphyry of Tyre was a third century philosopher whose Introduction is a beginner’s study guide to an earlier work by Aristotle. It was required reading for students of logic well into the nineteenth century. Porphyry describes Aristotle’s concepts of genus and species, providing an early precursor to Linnaean taxonomy. Porphyry, Introduction (Jonathan Barnes trans., 2003).
Patent Classification Challenges

¶11 One of the challenges faced by the developers of a patent classification system relates to the nature of the patenting process.30 One critical element of a successful application is that the idea must be “novel.”31 Because a patent application attempts to describe something that by its very nature is new, this very novelty can make the technology difficult to categorize. Nanotechnology is an illustrative example. “A precise and uniform definition of the terms nanotechnology and nano-scale has long eluded scientists and patent offices. Lack of a standardized definition has implications for patent search and classification, and for tracking patenting trends.”32

¶12 Developing a classification scheme to encompass all of “the useful arts” is an incredibly difficult endeavor. Not only are new technologies constantly developing, but existing technologies can be combined in new ways. It is a similar problem to deciding where to put the platypus, an animal having characteristics of both a bird and a mammal, in Linnaean taxonomy. While this problem is rare in nature, it occurs frequently in patent applications.

¶13 Successful classification systems typically have a single, underlying philosophy. In implementing a classification system, indexers must make choices about where to put things and refer to the philosophy for guidance. An understanding of the philosophy is critical for both indexers and searchers to be able to use a classification system effectively. Because the useful arts that comprise patentable technology are so complex, the USPC has developed several different philosophies over time.33

¶14 The preferred philosophy is called proximate function.34 The logic behind this idea is that a single invention performing the same function could have several different applications; thus function, or what the invention does, is the preferred access point. “Function” is distinguished from “use.” The proximate function of a blade is to cut things. What the cutting accomplishes—trimming paper, chopping vegetables, performing surgery, and so on—is the use. “Agitation” is a proximate function that can be used to wash clothes, churn butter, or mix paint.

¶15 While proximate function has been a primary guiding philosophy of the USPC system, it could not always be achieved. USPC has employed five different philosophies, all of which are currently in use. The other four philosophies are industry, effect, structure, and multiple aspect. Industry is an approach based on what would be helpful to practitioners of the art in companies doing similar work: automobiles, bee keeping, and brewing, for example.

30. A detailed explanation of the legal requirements that a patent application must satisfy to become a granted patent in the United States is beyond the scope of this article.
33. U.S. PAT. & TRADEMARK OFF., supra note 6, at 3; see also Louis Falasco, Bases of the United States Patent Classification, 24 World Pat. Info. 31 (2002).
34. U.S. PAT. & TRADEMARK OFF., supra note 6, at 3.
¶16 Effect, or product, covers “complex processes or structures requiring successive manipulations involving plural acts.” Examples include telecommunications, manufacturing, and chemical processes. Structure is based on what things are made out of and so is used most often as a way to divide up a larger category. Structure is used to subdivide classes covering chemical compounds and alloys. Multiple aspect is the newest addition to the list and is used for inventions that combine previously existing technologies to create something new. These combined technologies have to be indexed in more than one place.

¶17 The object of any classification system is to group like things together. Ideally, a classification system provides for only one symbol to be assigned to each item; for example, only one call number can appear on the spine of a book. But patent documents often receive multiple symbols. Classification symbols in the USPC are mainly derived by analyzing a patent filing’s claims. A “claim” is the legally enforceable part of the patent and contains the inventor’s new idea. Since most filings have multiple claims, several different USPC symbols can appear on a single patent filing. The principle mandatory classification in USPC is known as the Original Class (OR) and is based on the controlling claim. The additional symbols are called Cross-Reference (XR) classifications. If examiners believe that it will be helpful to future patent searchers, they can add additional cross-references derived from the description as well as the claims. The challenge for the examiner is to balance the utility of additional cross-references with the time it takes to generate them.

¶18 Typically, classification systems are set out in a hierarchical outline format, leading from general to more specific and detailed entries. The indexer works down through the hierarchy to find the best matching classification symbol to assign to each patent application.

Patent Searching Challenges

¶19 Classification is a critical element in the difficult art of patent searching. There are many limitations to searching collections of any type of full-text documents. One challenge is whether the searcher can compile a list of key words or whether the search involves a concept. A “concept” is an idea that cannot be described by a list of synonyms arranged into a search statement with Boolean logic. Globalization is an example of a concept—you know it when you see it. A highly relevant document could discuss how to do business in countries around the world without containing any form of the term “global.” A search of the truncated term global! (global, globally, globalization, globalisation, etc.) will find only a fraction of the relevant documents in a collection, if any. Searching with classification codes solves this problem, as it allows a searcher to specify concepts as represented by the corresponding classification symbol. Classification provides a method to search for relevant items independent from the ability of the searcher to think up relevant key words to include in the search statement.

35. Id. at 3–4.
36. U.S. PAT. & TRADEMARK OFF., supra note 3, at 1–4; U.S. PAT. & TRADEMARK OFF., supra note 6, at 35.
¶20 Another limitation of full-text searching is the inherent ambiguity of the English language, where the same word can be used as both a noun and a verb. For example, the word “drive” can be used as a verb meaning to proceed down a road in a vehicle but also as a noun meaning a computer memory storage device. Another example is the word “plastic,” which as a noun refers to a polyolefin-based material but as an adjective describes a quality of molten metal, as in super plastic forming.

¶21 Searching full-text patent filings is especially difficult due to the nature of the transaction involved. The art of patent drafting is not to reveal any more information than necessary.37 Inventors are required by law to describe how their invention works,38 but there is no provision that they have to make the technology easy to find. A classic training example is to use the phrase “dimpled spherical object” rather than golf ball. While “dimpled spherical object” is a perfectly accurate description of what a golf ball looks like, these are not words that anyone would typically think to include when searching for an improved golf ball.

¶22 An alphanumeric classification system operates outside the parameters of language altogether and so avoids all of these searching problems. Each alphanumeric code symbol, like a call number, stands for a single concept. The searcher can also employ symbols to find documents in other languages, even those written in non-Roman alphabets. This is a significant advantage when performing a global patent search.

¶23 Maintaining an up-to-date classification system is critical for both examiners and patent searchers. One of the goals of a classification system is to provide an appropriate depth of coverage. The system needs to provide enough granularity so that any single code symbol will retrieve a manageable number of items. If the classification symbols are too broad, then the searcher will retrieve an unworkably large number of results. Any body of knowledge requiring classification will grow and change over time. When a classification code symbol that worked well in the past reaches a point where it retrieves too many items, then it is time to subdivide that code.39

¶24 When a patent classification code is subdivided, the next question is whether to re-index the underlying collection of documents previously classified. Should the record display both the old code symbol and the new one, or does the new symbol replace the old one? It is critical that searchers understand how a system is updated and whether it is regularly re-indexed. If the collection is not re-indexed, searchers have to keep track of which codes were used during which

37. “The inventor of the process, or the corporate organization by which he is employed, has some incentive to keep the invention secret while uses for the product are searched out. However, in light of the highly developed art of drafting patent claims so that they disclose as little useful information as possible—while broadening the scope of the claim as widely as possible—the argument based upon the virtue of disclosure must be warily evaluated.” Brenner v. Manson, 383 U.S. 519, 533–34 (1966) (emphasis added).
39. Anyone familiar with the West Key Number System has encountered this issue. The Bankruptcy topic is continually being subdivided because this area of the law changes frequently. Bankruptcy key numbers can have up to seven digits, whereas the key numbers in most other topics typically have no more than three.
periods of time and adjust their searches accordingly, depending how far back in time they need to go.

¶ 25 A patent search combining both key words and classification symbols typically retrieves more relevant results. When searching patent literature, a reliable, up-to-date classification system is a critical piece of the search process.

**USPC in Transition: The End of an Era**

¶ 26 IP5 is a forum made up of the world’s five largest patent authorities: Europe (EPO), Japan (JPO), South Korea (KIPO), China (SIPO), and the United States (USPTO). The members of IP5 work cooperatively to reduce the global backlog of patent applications. IP5’s original ten “Foundation Projects” promoted “the elimination of unnecessary duplication of work among the offices, enhancement of patent examination efficiency and quality, and guarantee of the stability of patent right.” In 2014, the ten Foundation Projects were consolidated into four “activities” addressing different aspects of the patenting process. One of the original ten Foundation Projects, “Common Hybrid Classification,” has transitioned to an activity and is now listed as “Classification (WG1).” IP5 plays a vital role in global patent classification harmonization, and the work of this activity will be ongoing.

¶ 27 IP5 has determined that international patent classification harmonization is an important goal. “[T]he only way to ensure efficient high-quality patent searching in large multi-language document collections is by investing consistently in classification.” The efficiencies of scale created by a single, shared system outweigh the benefit of multiple classifications. EPO took the lead on the IP5 Foundation Project for “Common Hybrid Classification” in 2008.

---

40. “This approach reinforces the strength of each type of search key and enables optimum retrieval.” Stephen Adams, *Comparing the IPC and US Classification Systems for the Patent Searcher*, 23 *World Pat. Info.* 15, 16 (2001). See also Seven Things to Consider Before Starting a Search, EUR. PAT. OFF., http://www.epo.org/searching/free/espacenet/about/search.html (last visited Feb. 15, 2015). (“Don’t limit yourself to a key word search. A technical concept can also be represented by a classification symbol. A sound search strategy will therefore involve a logical combination of key words and classification symbols.”).


46. Common Hybrid Classification, supra note 44.

47. The benefit of being able to choose among different patent classification systems is that one system can do a better job than another when it comes to classification based on either structural breakdown or granularity for particular technologies.

On October 25, 2010, USPTO and EPO announced an initiative to jointly develop a patent classification system that would replace USPC in the United States and EPO’s system, European Classification (ECLA), in Europe. While both offices participated in its development, the new system, Cooperative Patent Classification (CPC), is in large part based on ECLA. The new scheme debuted on January 2, 2013. At first glance, CPC is almost indistinguishable from ECLA. Because of this similarity, EPO implemented CPC fully from the start, where USPTO had to phase it in gradually. USPTO is required by statute to classify its patent documents, but the agency has the authority to work out how to accomplish this task.

This joint initiative represents an extraordinary example of international cooperation, as USPTO will continue to work closely with EPO to further develop and maintain CPC going forward. The goal is to incorporate the best practices of both agencies. Each office will assume responsibility for different parts of the classification system. For example, USPTO will take the lead on developing the sections covering business method patents, currently listed in USPC Class 705, which includes data processing for financial, business practice, management, or cost/price determination.

On January 2, 2013, the USPTO began a two-year transition process to work through the full implementation of CPC. The USPC system will officially terminate when CPC comes fully into force in the United States on January 1, 2015. During the transition, both systems are available on the classification search page on the USPTO web site.

The decision by USPTO to retire the USPC could not have been an easy one. Former USPTO director David Kappos admitted “that the US Class system was broken.” He explained that maintaining an up-to-date classification is an expensive process. Around the turn of the millennium, USPTO diverted staff from developing the classification system to examining patent applications. Faster processing of the patent application backlog resulted in a neglected classification system. Kappos outlined why it was time for a new classification system in a June 13, 2012, blog post titled “Top Reasons Why USPTO is Moving to CPC.” The decision ultimately came down to International Patent Classification (IPC) compliance. Like the English system of weights and measures, USPC is a stand-alone system in a world where most other patent classification systems are based on IPC.

The IPC was created by a treaty, the Strasbourg Agreement Concerning the International Patent Classification, concluded on March 24, 1971. This multilateral
treaty required signatory countries to apply IPC codes to their published patent filings. The IPC is managed and maintained by the World Intellectual Property Organization (WIPO).56 The United States ratified and signed the agreement in 1975.57

¶33 While the IPC represented a huge step forward in global patent classification harmonization, it is not without problems. The main issue with IPC implementation has been updating, that is, dividing existing subsections of the classification system and adding new ones. Under a rigorous updating process, new code sections are developed by a “committee of experts” under the direction of the WIPO.58 But until recently, five years elapsed between updates. This is a glacial rate of change in the modern world, where a new generation of mobile phones comes out every few months. In the patent universe, having a current classification system is a critical issue.

¶34 While waiting between IPC editions, two patent authorities, JPO and EPO, began to go in their own directions. Both countries adopted IPC as their starting point but found a way to make their versions more current. In Japan, JPO developed the Japanese File Index (FI). In Europe, EPO developed European Classification (ECLA). Classification symbols in each of these systems look similar to an IPC code symbol but with additional alphanumerical characters added on at the end. Both provide significantly more detailed classification than is possible with IPC. IPC has about 70,00059 entries, while FI has about 190,00060 and ECLA has about 140,000.61

¶35 CPC has more than 200,000 subdivisions, thus providing for even more detailed and specific classification.62 While IPC and CPC code symbols look very similar, as both begin with the same characters, CPC symbols have additional numeric characters added on at the end, containing a total of up to eleven.63 At the top of the hierarchy, both systems follow IPC’s eight sections, A-H. CPC has added


57. Id.


62. Id.

63. Variable length was a useful feature of the ECLA system. It showed at a glance the depth of the hierarchy—the longer the symbol, the deeper the hierarchy. Because CPC has a standard number of characters, this is not possible. Kristin Whitman, Ready or Not, the Cooperative Patent Classification Has Arrived!, INTELLOGIST (July 22, 2012), http://intellogist.wordpress.com/2012/07/12/ready-or-not-the-cooperative-patent-classification-has-arrived/.
section Y, to cover new technologies. (See Figure 2.) For example, Y02 is “Technologies or applications for mitigation or adaptation against climate change.”64

¶ 36 Since 2011 IPC has been updated annually,65 where CPC is updated monthly.66

¶ 37 Figure 3 shows the listing for “BUTTONS, PINS, BUCKLES, SLIDE FASTENERS, OR THE LIKE.” When compared to USPC Class 24 (Figure 1), the CPC schedule is much easier to follow.

¶ 38 The closed ECLA code is no longer available on EPO’s Espacenet website.67 Yet patent searchers are anxious to retain access to the old ECLA schedules going forward. ECLA codes are no longer being applied, but patent searchers still want to use this classification system for retrospective searching. A number of patent information vendors have stepped up to help with this issue.68 Interestingly, Japan is the

---

66. “It is expected that there will be multiple revisions in a year.” Frequently Asked Questions, supra note 61.
68. Three patent information providers retaining the closed ECLA schedules on their systems are Thomson Reuters, Minesoft/PatBase, and Innography: Cooperative Patent Classification (CPC)—FAQ 2013, IP & SCI—THOMSON REUTERS, http://ip-science.thomsonreuters.com/m/pdfs/dwpicovkinds
only patent authority still providing this information. The JPO website features a side-by-side concordance that contains all four systems: IPC, FI, ECLA, and CPC.\(^69\)

¶39 USPC symbols are no longer applied to U.S. patent filings published after December 31, 2014, but the USPC code as a whole will be retained on the USPTO website, and the individual code symbols currently listed on published U.S. patent documents will continue to reside in a searchable field.\(^70\)

¶40 In Figure 4, the CPC symbol is identical to one of the IPC symbols: B61C 11/04. USPTO has added CPC symbols to all its published documents going back to US1 from 1836, but this was accomplished via an electronic concordance system, and the degree of accuracy is yet unproven.\(^71\)

---


71. Whitman, supra note 63.
USPTO is scheduled to complete its implementation of CPC by January 1, 2015. EPO has successfully implemented CPC. Other patent authorities around the world are watching closely, and China and South Korea have already indicated their interest in implementing CPC, at least on a pilot basis. Currently CPC is maintained by USPTO and EPO. It is unclear at this point what, if any, future involvement other countries would have in the development of the CPC system. If these pilot projects develop into full-fledged implementation, there will have to be some mechanism for other patent authorities to have input in the future development of CPC.

While CPC is good news for most of the world’s patent authorities, one country, Japan, faces a near-impossible choice. JPO has spent time and money developing the FI classification system but now must decide between three alternatives. Does it assert its independence by not implementing CPC? If so, it would replace the United States as the only major country out of compliance with the rest of the world. Does it abandon all its work on FI and adopt CPC? There are significant economies of scale to be achieved by joining the system in use in the rest of the world. Does it both maintain FI and adopt CPC? It is very expensive to maintain two independent classification systems, yet that appears to be the alternative that Japan is moving toward.

Conclusion


73. JPO has an additional indexing feature called F-terms, which are even more complex than FI. F-terms provide more granularity, but they are not part of a formal classification system, being more like metadata tags, and so are outside the scope of this article. See Stephen Adams, Information Sources in Patents 282 (3d rev. ed. 2012).
¶43 It will be interesting to watch how CPC and IPC develop in relation to each other. CPC is more detailed and has a more frequent updating schedule, but IPC is required by law while CPC is voluntary. Ideally, the people managing the two systems will be able to work in tandem going forward. If EPO and USPTO can work together, then there is hope that the people who manage CPC and IPC can work together, but it will take some very skillful negotiation to reach consensus. This is a role for the IP5 Forum to play, as evidenced by its Activity on Classification (WG1).74 Whatever happens in the future, one thing is certain—the United States will finally take its place as a full player in the global patent classification space.

74. The activities of the IP5 WG1 are focused on developing the IPC further in areas where the IP5 Offices have an interest in doing so (e.g. technical areas currently not existing in the IPC but available in an internal scheme). These activities consist of:

- Revising the IPC in areas where CPC and FI/F-term entries match, where considered appropriate, by directly introducing the scheme entries into the IPC.
- Quickly adapting classification schemes to fast moving areas / emerging technologies so that, already in the early stages of a technology, examiners from the IP5 Offices can benefit from an effective and up-to-date scheme with a sufficient granularity in those technical areas.

*Classification (WG1), supra* note 45.
Katharine Hepburn’s entertaining portrayal of reference librarian Bunny Watson in Desk Set (1957) moves her character from apprehension about new technology to an understanding that it is simply another tool. This article outlines the impact of technology on academic legal research. It examines the nature of legal research and the doctrinal method, the importance of law libraries (and librarians) in legal research, and the roles and implications of the Internet and web search engines on legal research methods and education.

Introduction

¶1 The 1957 movie Desk Set opens in the offices of the Federal Broadcasting Network and features Bunny Watson (Katharine Hepburn) as the network’s reference librarian. The action takes place during the “Mad Men era,”1 with Bunny’s character being reminiscent of Agnes E. Law, who built up the CBS (formerly known as the Columbia Broadcasting System) network’s research library. This was a few years after Alan Turing’s death, and the reverberations from his work on “computing machines” were emerging.2 In the film, the network purchases two computers to help the library and accounting staffs cope with the extra work that will result from a secret merger. The library’s “electronic brain” is an EMERAC, the acronym no doubt a reference to the early generation computers UNIVAC and ENIAC (1945).3 Richard Sumner (Spencer Tracy) comes to work in the library to

---

* © Terry Hutchinson, 2014.

** Associate Professor, Law School, Faculty of Law, Queensland University of Technology, Brisbane, Australia.

3. ENIAC had the slogan “Making Machines Do More, So That Man Can Do Less.” See also Jon Bing, Let There Be Lite: A Brief History of Legal Information Retrieval, 1 EUR. J.L. & TECH. no. 1 (2010).
ease the transition for the library employees. Richard assures Bunny that “EMERAC is not going to take over. . . . It was never intended to replace you. It’s here to free your time for research. It’s here to help you.”

¶2 This article outlines the impact of technology on law libraries since the *Desk Set* days. It examines the history and current context of legal research in common law jurisdictions. Finally, the article examines the impact of the Internet and web search engines such as Google on legal research and the implications for university law libraries and legal research education.

**Technology and Legal Research Contexts**

¶3 The digital revolution immediately changed legal research. The primary legal sources—statutes and case law—had been available only to those who had access to law libraries, understood legal terminology, were skilled in locating information in the intricate hardcopy reference sources, and could afford the photocopies! Almost overnight the full text of legislation and case law became available without charge for public access over the Internet (but not without some initial qualms regarding privacy concerns being flagged in the press\(^5\)). In Australia this development was due largely to the hard work and inspiration of Graham Greenleaf and Andrew Mowbray from AustLII (established at the University of New South Wales and University of Technology, Sydney, in 1995), who joined the Legal Information Institute (LII) (established at Cornell University in 1992) and LexUM (established at the University of Montreal in 1993) in ensuring that legal materials were freely accessible.\(^6\)

¶4 These technological advances transformed the workplace. Microfilm and microfiche machines replaced hardcopy.\(^7\) By the late 1980s, in university law libraries there were computer catalogs and desktop computers to access CD-ROM databases, with results spewing out as “folds of pyjama-striped printout,” just as occurs in *Desk Set*.\(^8\) The greatest change has been the advent of e-mail as a means of communication. Bunny’s frustrated comment in the 1957 script when she asks “Did you invent something that carries the mail?” was prescient.\(^9\) By the mid-1990s, e-mail was becoming standard in academic circles, and e-mail groups such as the Law Librarians List (United States) and ALTA Legal Research Communications Interest Group (Australia) were being formed.\(^10\) The large U.S.-based commercial databases such as LexisNexis became well established on the legal research scene—and then the World Wide Web arrived.\(^11\)

---

5. See *Cash, Sex, Divorce on the Net*, *Sunday Herald Sun* (Melbourne), May 12, 1996, at 1.
10. At that time, Lyonette Louis-Jacques of the University of Chicago Law School was also maintaining her *Law Lists*, a current listing of listservs for lawyers.
Law library standards kept pace with the new environment. *The Standards for University Law Libraries*, developed by the Law Librarians Group of the Australasian Universities Law Schools Association, initially recommended that libraries carry 50,000 volumes, but this was quickly increased to 100,000 volumes. Technology also affected physical spaces. In the next decade, standards based on volume counts were replaced with more expansive statements referring to the substance and quality of the collections, not simply the number of volumes.

Even so, hardcopy formats remain important in law library collections. As Penny Hazelton writes, “the current and proposed ABA accreditation standards (ABA Standard 606 and Interpretation 606–2 as well as the most recent April 2011 draft revisions) are clear that law libraries with only one format of legal information (print or electronic) may not meet the accreditation standards.” Large library spaces, once filled with hardcopy collections of law reports, have been handed back to the students for use as reading and group study areas or used as teaching spaces, computer training rooms, small-group discussion rooms, and electronic moot courts.

The changes were not unheralded. In 1984, in a paper presented at the Library Association of Australia/New Zealand Library Association (LAA/NZLA) Conference in Brisbane, Patricia Battin (Columbia University) noted that the library world was situated in an “environment of constant change” and predicted a resulting loss of control, dependence on telecommunications, and birth of “the electronic scholar.” According to Battin, “we have moved from the management of an operation over which we have had considerable control to the management of activities dependent upon services beyond our control.” Batten forecasted that libraries would be “thrust out of the traditional autonomous isolation within the university and the community onto the global scene,” meaning that librarians would need to “re-invent a new centralising infrastructure, organisationally and managerially dissimilar to our familiar edifice of books and mortar.” Battin predicted that library users would no longer need to come to the library to use hardcopy materials. She was not the first to do so.

---


16. *Id.* at 245.

17. *Id.* at 244.

18. *Id.* at 245.
In 1967, at the LAA Conference in Brisbane, Dennis Pryor envisaged “a library system in which the librarians and users never met.”¹⁹ In speaking of the transition to the electronic scholar, Battin made some other interesting comments. She noted the importance of terminology and emphasized that the discussion should focus not on “information or data” generally but on “scholarly information.” University librarians in the new environment, said Battin, must “define that subset of the information society which is vital to the university.”²⁰ Battin was suggesting that librarians must identify what information scholars need and then ensure that it is available, organized, and accessible.

¶8 Battin’s prophesies have come to pass. Individual libraries can no longer control all the required resources and knowledge. Technology has become the main conduit for information. And lawyers, along with everyone else, have had to become electronic scholars. In addition, in moving away from the enclosed culture of the law library, lawyers have been tempted to research beyond “black letter” law so that the research methodologies lawyers use have expanded beyond the doctrinal method.

¶9 Is there anything different about how technology is affecting law libraries? The Australian Universities Commission said of law libraries in 1966:

Unlike almost all other libraries, a law library while it serves the purpose of all other libraries, is not merely a collection of books and other writings containing information, reason, argument and opinion to be organised by skilled librarians for convenient use by readers. . . . [M]ore important, it is a repository of living systems of authority as well as of reason—systems, which change and grow from day to day. Most law books . . . are affected by new materials added to the library from day to day, and the effect of these new materials must be entered on the old.²¹

¶10 The Pearce Committee, which reported to the Commonwealth Tertiary Education Commission in 1987, also commented on the importance of a sufficient standard of law library for law schools:

It is essential to the work of teaching and researching law that staff and students have ready access to the materials of the law. . . . Law library collections include . . . materials which constitute the primary authoritative statements where “the law” is to be found, as well as secondary material where commentary and discussion is found which may be “persuasive or relevant” to the process of establishing the law or the working out of policy and appropriate lines of the law’s development, or its critical evaluation. The special role of these materials appears to make law libraries more uniquely important to the discipline of law in tertiary education than libraries are to any other disciplines. They are . . . often compared to the laboratories in science-based disciplines, because so much of the daily work of the law school takes place in the law library.²²

¶11 This passage was “repeated and endorsed” in the 1994 McInnis and Marginson impact study. The difference two decades later is that these “collections of authority” are not physically housed in a law library building but accessible to users via the Internet.

Defining the Terminology—“Research” and “Doctrinal Research”

¶12 So how have these changes affected how lawyers research? “Research” is a label that covers many different activities. Research is a way of advancing the knowledge in a field through “unrestricted questioning” by “individuals doing the damnedest with their minds, no holds barred.” It is “something that people undertake in order to find out things in a systematic way” to increase “their knowledge.” The Organisation for Economic Co-operation and Development (OECD) defines “research and experimental development” as including creativity, originality, and systematic activity that will increase the world’s “stock of knowledge.” The definitions invariably include the need for systematic collection of data for a specific purpose, along with an explanation, interpretation, or evaluation of the new information, with the whole process resulting in an addition to the general body of knowledge in the area. The Australian Standard Research Classification (ASRC) provides a national measure for research being undertaken in all discipline areas in government, universities, and business. It classifies research according to type of activity, research fields, courses and disciplines, and socioeconomic objectives. The types of activity include Pure Basic Research, Strategic Basic Research, and Experimental Development. Most legal research fits within the category of “Applied Research” because it is directed toward finding solutions and information about specific problems so that the outcomes are tangible, functional, and directed.
¶13 In the past, lawyers have principally undertaken doctrinal research. The term “doctrinal” is derived from the Latin “doctrina,” which means instruction, knowledge, or learning,31 but the word “doctrine” has many derivations and layers of meaning. Doctrine has been defined as “a synthesis of rules, principles, norms, interpretive guidelines and values” that “explains, makes coherent or justifies a segment of the law as part of a larger system of law.”32 The common law is built on the doctrine of precedent. Legal rules are doctrinal because they are “rules which apply consistently and which evolve organically and slowly.”33 In the method, the essential features of doctrinal research involve a critical conceptual analysis of all relevant legislation and case law to reveal a statement of the law relevant to the matter under investigation. Scientists and social scientists have always been somewhat critical, even scathing, about this text-based “research,” referring to it as “scholarship” rather than true research. One law librarian’s recent comment on a public discussion list describes this dynamic, writing that the library was not able to call itself a research department because “[a] part of our organisation that does pure statistical analysis and research doesn’t believe what we do is ‘research’, and therefore we can’t use the word.”34

¶14 Langdell tried to fight this biased view of the physical sciences being “real research” (which no doubt has always affected funding and status) with his promotion of law as a “legal science” and of the law library being the “lawyer’s laboratory.” Langdell, interestingly in relation to the context of this discussion, held the position of Harvard Law School librarian for some of his academic career. In the preface to Contracts, he commented:

Law, considered as a science, consists of certain principles or doctrines. . . . Each of these doctrines has arrived at its present state by slow degrees; in other words, it is a growth, extending in many cases through centuries. This growth is to be traced in the main through a series of cases. . . . Moreover, the number of fundamental legal doctrines is much less than is commonly supposed. . . . If these doctrines could be so classified and arranged that each should be found in its proper place, and nowhere else, they would cease to be formidable from their number. . . . It seemed to me, therefore, to be possible . . . to select, classify, and arrange all the cases which had contributed in any important degree to the growth, development, or establishment of any of its essential doctrines.35

¶15 A few years later, in the Harvard Law School Annual Report, Langdell again noted: “The work done in the Library is what the scientific men call original investigation. The Library is to us what a laboratory is to the chemist or the physicist, and what a museum is to the naturalist.”36 And finally, in 1886:

34. E-mail from Team Manager Library to alla-anz@lists.alla.asn.au (Apr. 5, 2012) (on file with author).
36. Id at 350.
It was indispensable to establish at least two things—that law is a science, and that all the available materials of that science are contained in printed books. . . . My associates and myself, therefore, have constantly acted upon the view that law is a science and that a well-equipped university is the true place for teaching and learning that science. . . . We have also constantly inculcated the idea that the library is the proper work-shop of professors and students alike; that it is to us all that the laboratories of the university are to the chemists and physicists, the museum of natural history to the zoologists, the botanical garden to the botanists.37

¶16 In this respect Langdell was suggesting that the law “ought to be studied from its own concrete phenomena, from law cases, in the same way that the laws of the physical sciences are derived from physical phenomena and experiments.”38 Despite the earlier declarations, Langdell did eventually acknowledge the differences and conceded in another (later) annual report that “[l]aw has not the demonstrative certainty of mathematics . . . nor does it acknowledge truth as its ultimate test and standard, like natural science.”39

¶17 Given this derivation of legal education that was transferred to the Australian academy, it is no surprise that the Pearce Committee categorized the research emanating from Australian law schools as encompassing predominantly doctrinal research, that is, “[r]esearch which provides a systematic exposition of the rules governing a particular legal category, analyses the relationship between rules, explains areas of difficulty and, perhaps, predicts future developments.” The Committee also identified other types of research taking place, including reform-oriented research (“[r]esearch which intensively evaluates the adequacy of existing rules and which recommends changes to any rules found wanting”) and theoretical research (“[r]esearch which fosters a more complete understanding of the conceptual bases of legal principles and of the combined effects of a range of rules and procedures that touch on a particular area of activity”).40

¶18 But the Council of Australian Law Deans’ (CALD) description most succinctly captures that idea of conceptual analysis and the sophisticated higher-level thinking that is the hallmark of doctrinal work and permeates all high-quality legal research:

To a large extent, it is the doctrinal aspect of law that makes legal research distinctive and provides an often under-recognised parallel to “discovery” in the physical sciences. Doctrinal research, at its best, involves rigorous analysis and creative synthesis, the making of connections between seemingly disparate doctrinal strands, and the challenge of extracting general principles from an inchoate mass of primary materials. The very notion of “legal reasoning” is a subtle and sophisticated jurisprudential concept, a unique blend of deduction and induction, that has engaged legal scholars for generations, and is a key to understanding the mystique of the legal system’s simultaneous achievement of constancy and change, especially in the growth and development of the common law. Yet this only underlines that doctrinal research can scarcely be quarantined from broader theoretical and institutional questions. If doctrinal research is a distinctive part of legal research, that

37. Id.
40. PEARCE ET AL., supra note 22, at 311–12.
distinctiveness permeates every other aspect of legal research for which the identification, analysis and evaluation of legal doctrine is a basis, starting point, platform or underpinning.\textsuperscript{41}

¶19 Therefore, the doctrinal research methodology is widely accepted as part of the legal research and lawyering paradigm, and it has become synonymous with “thinking like a lawyer.” No doubt legal researchers are branching out into interdisciplinary research groupings and are being encouraged to use interdisciplinary research methods. But a doctrinal approach remains the core method for lawyers. It is more than mere scholarship, and at its best it evidences originality and creativity as well as rigorous analysis.

Law Libraries and the Law Librarian’s Research Role

¶20 So what part do law libraries and law librarians play in the doctrinal research process? Certainly the role and skills have changed from Bunny Watson’s day. Bunny is a skilled reference librarian with an amazing general knowledge and memory of where to find information. She knows the library’s collection thoroughly, including the reference books (the year books, digests, encyclopedias, bibliographies, and indexes), and this was a priority for a librarian in the predigital world. Bunny has specialist bibliographic knowledge. She associates “many things with many things.”\textsuperscript{42} Bunny uses techniques and skills such as effective questioning to clarify her client’s reference queries. She deals with her clients politely and efficiently, and she mentors or trains more junior staff “on the job.” In Desk Set, Bunny comments on the role of the librarian to one of her coworkers:

B: No machine can do our job.
S: That’s what they said in Payroll. . . .
B: Well, the machine in Payroll is just a calculator.
They can’t build a machine to do our job.
There are too many cross-references in this place.

¶21 The law librarian’s role is more complex still. In Setting a Precedent, the history of the Australian Law Libraries Association, the authors explain the law librarian’s role:

In addition to the expected generic skills of the librarian in managing information and services, law librarians need an understanding of how the law is made and amended. They need to know the process whereby law is enacted. They need to know how courts make law. They need to know the jurisdiction of the courts. They must know the appeal process. They must know how to read a judgment. They must understand legal citation. They must know how to determine the current state of the law on any issue and they must know how to locate what the law was on that issue at any relevant time. They should know the most authoritative sources for information on all areas of the law. In addition they must be aware of how to access this information from both print and digital sources and have an awareness of the strengths and limitations of particular sources. They must have the ability to teach library clients how to use the materials in the library.\textsuperscript{43}


\textsuperscript{43} JOHANSON ET AL., supra note 13, at 18, 19.
Law librarians in universities still provide “scholarly information support services.” But as predicted, their roles have changed. Whereas in 1983, academic researchers “sat in” while law librarians carried out electronic searches using a list of keywords the user had provided, researchers today conduct their own research using commercial databases along with web search engines such as Google and Google Scholar. Legal researchers depend on law librarians for timely access to specialized databases and the materials located as a result of those searches. Patricia Battin’s comment that scholars “want what they want when they want it whether or not they know what it is they want” remains true, and the buck stops with the law librarian. University law librarians do not routinely undertake “research queries” as they once did—the type of queries that might take days or even weeks depending on the extent of research necessary to locate an answer—but they do still handle the more obscure information requests.

Legal resources management (through maintaining infrastructure, collection development, cataloging, curating, and, most important, archiving arrangements) remains a primary library function. However, law librarians still have a valuable legal research training role. In a 2013 survey of major law libraries, David Gee’s figures suggest that “library staff were the most significant trainers in legal research skills” in law libraries, “with external trainers and law school lecturing staff generally far less involved and Lexis Student Associates and other staff even less involved.” The international survey established that “of 123 libraries 87% (i.e., 107 major law libraries) confirmed that they provided some form of legal research skills training.”

Legal Research in 2014

In providing this current research training, law librarians (and legal academics) face a number of challenges. Google adds an important new option to the research tools available for lawyers. Legal research can take on an aspect of an archaeological dig, with the content spread across at least six different formats or versions of the research materials now available as a result of the unfolding technologies:

Version 1: Hardcopy books, journals, and reference sources
Version 2: Commercial legal research databases originally produced by digitizing the hardcopy sources but since modified and extended to include unreported and unauthorized sources

---

44. Battin, supra note 15, at 246.
48. Id. at 24.
49. For example, LexisNexis and Westlaw.
Version 3: Official government websites for legislation and case law (e.g., Office of the Queensland Parliamentary Council web site, Queensland Courts Judgments)\(^{50}\)
Version 4: Legislation and case law held in LII repositories\(^{51}\)
Version 5: University and institutional repositories of academic papers (e.g., SSRN,\(^{52}\) QUT e-prints\(^{53}\))
Version 6: Data mining through web search engines such as Google, Google Scholar, Google Books, Google Maps, Google Translate, and knowledge-sharing sites such as Wikipedia

\(^{25}\) The original versions of all the primary legal sources exist in hardcopy. However, the authorized law reports, official versions of legislation, and reference sources such as case digests, case citators, and legislation annotations are increasingly accessible in digital form. Modern editions of texts and journals are often available as e-books, but many readers prefer to read and ponder hardcopy. Modern libraries are hiding their online catalogs from readers and providing “Google-type” single search box facilities. The impression is that mechanized data mining is taking the place of skilled indexing by experienced catalogers. For the professional researcher, this introduces a degree of vagueness into the research process. It is not always clear exactly what sources are being covered in the library search, but it is clear that the contents of many journal titles and other extraneous material are being included. Case law and legislation is not. And browsing the law library shelves can still uncover information gems not readily discoverable from the catalog search.

\(^{26}\) Second are commercial, mainly U.S.-based research databases that contain immensely large collections of legal materials of all types. These are professional—and expensive—tools built specifically for the practicing lawyer. However, because the databases are so all-encompassing, users require skill to locate pertinent material. In addition, researchers need to be aware of the bibliography of their subject and the types of materials held in each file, be it a journals index, case citator, or case digest. Researchers must craft precise search terms and use Boolean search sequences effectively, both of which require some preexisting knowledge of sources. Researchers need to understand the requirement of searching in specific categories of materials. However, key word searching and hypertext have transformed researching, and a skilled researcher can do efficient searches over multiple databases.

\(^{27}\) Third are government web sites. To a great extent, official government publishers have stopped publishing large volumes of hardcopies. Legislation, for example, is frequently made available gratis in its official authorized form on the web. In Australia, the government sites are easily accessed and very reliable. Each jurisdiction takes responsibility for its own legislative material, and often the individual

current reprint of the legislation includes extensive endnotes itemizing changes to the acts or regulations. The parliamentary websites include the current and historical versions of the parliamentary debates, explanatory notes for bills introduced into the House, and all parliamentary committee and library-compiled research reports. The courts’ websites include all written judgments for the various court jurisdictions. These are unreported and unauthorized full-text versions of all the cases heard in the courts, so there are no headnotes and the additional editing is limited to a few catchwords added by the judge or the judge’s associate.

¶28 Fourth are the Legal Information Institutes (LIIs). Examples include AustLII, WorldLII, and the LII at Cornell University in the United States. These free nonprofit services provide full-text primary legal materials—legislation, regulations, case law—for public access. The materials include little additional editorial work such as case headnotes. However, these sites have a significant advantage over government websites because searches can be made over a number of jurisdictions at once.

¶29 Next are university and academic association websites that provide full-text academic articles. These research papers may or may not be peer reviewed. Often they are penultimate versions of publications made available prior to the final edited and referreed papers being formally published in academic journals, so it is possible to locate two or three different versions of the same paper while researching. These papers are included on university websites or sites such as SSRN and are usually linked to their authors’ university profiles.

¶30 Finally, there are the web search engines data mining the Internet. This search functionality is a new paradigm that is seeping through the retrieval mechanisms for all the previous categories of legal materials. The searching facilities are free to those with access to the Internet. Law students do not need to learn a complex search language for each separate database and can use natural language to search across all types of materials simultaneously. Students will always receive some result. It may not answer the question they asked or the one that they meant to ask, but the system very rarely returns the annoying “No result” response often received from standard research sources. The instantaneous results include definitions of research terminology, background information, history, and they check spelling. The material they locate is interdisciplinary, unstructured, and democratic in its origin, so for those academics who have been philosophically opposed to the privileged liberal antecedents of the “legal voice” found in standard legal texts, that aspect of the new frontier is a particularly positive change.

¶31 In addition to the breakdown of copyright regulation and the Creative Commons projects gaining a stronghold in academic circles, much academic information is available quickly and in full text via the Internet rather than in bound subscription-based journals. The searching mechanisms are becoming more precise through the use of advanced search features. With the launch of Google Scholar in 2004, access to scholarly information was improved immeasurably, and for the lawyer, there is now the availability of a targeted search of U.S. case law as well as scholarly articles.

In addition, the full text of these articles is more often available when the author is self-published or the search is done using a university library portal that has subscribed to HeinOnline and other full-text databases or offers an interlibrary loan service. And although Google Scholar tends to be biased toward the sciences, its coverage for legal materials will gradually improve. In addition, online legal publication means that researchers have access to “gray literature”—all the working papers, blogs, conference papers, news headlines, and speeches that previously were inaccessible.

Implications of Changes in Source Context for Legal Research Education

¶ 32 Finding sources of the law used to be the most difficult aspect of legal research. Free access to legislation, case law, and government websites has streamlined this step. But the process is not yet seamless. Users still require enough background knowledge to make sense of what they are looking at—including whether it adequately answers their queries—and the skills to effectively use the resources found on the sites.

¶ 33 Another major challenge in the current environment is inducting students familiar with Google-type searching into the more precise realms of research. This may appear a minor issue. But from a professional education standpoint, it has serious ramifications. Despite Brin and Page’s vision for Google as a means to “organize all the world’s information and make it universally accessible and useful,”55 Google and other common search engines are not, and were never meant to be, professional tools. Even Google Scholar has been framed as a way for average U.S. citizens “to educate themselves about the laws of the land.”56 Legal educators need to consider the ramifications of law students’ and professionals’ uncritical use of search engines such as Google Scholar.

¶ 34 In particular, legal educators must make their students aware that basic web engine searches have limited value for most legal research inquiries. Such searches do not necessarily access current legislation or the most recent authorities. Unlike the commercial legal databases, Internet sources lack reliable citations.57 Google-type searches do not set out clearly what sources exactly are covered in the search.58 In addition, the search results appear in order of relevance, which is affected by how often others have cited the article.59 Therefore, the most current or pertinent material is not necessarily at the top of the retrieved list. What does count are its PageRank algorithms,60 its ability to provide what Herbert Simon terms mere “satisfaction with sufficiency,”61 or the risk of turning us all into Fore-

58. Id.
59. Id.
61. Id. at 29.
man’s “pancake people” spread wide and thin as we connect with that vast network of information accessed by the mere touch of a button.\textsuperscript{62} As a mechanism for searching computers, Google has no editorial controller reading and summarizing cases and assessing the contents of the material located. Just because a paper is popular does not make it the best source of the law. It is only necessary to compare a paper written by a student with one written by a superior court judge to appreciate that quality is intrinsic to doctrinal research.

\textparagraph 35 So in streamlining access to materials, the current research environment increases the focus on lawyers’ and law students’ critical reading and thinking skills and their ability to organize and make sense of the information located. Such users may find a wide range of information, but how well do they understand exactly what they have found? Do they know whether it is the current law? Do they understand what is missing? Do they recognize whether or how well their results answer their original query? Do they understand how their results raise new queries altogether? Do they see what criteria have been used to judge relevance in the retrieved list? Effective legal research still requires a high skill level. Critical thinking skills and a refined knowledge of legal materials and sources are immensely important in this new environment.

\textparagraph 36 Are students approaching their use of general Internet sources with the requisite amount of skepticism and critique? Alison Head and Michael Eisenberg’s 2010 report on U.S. college students’ information-seeking strategies and research difficulties includes findings from 8,353 survey respondents from twenty-five campuses, as part of Project Information Literacy.\textsuperscript{63} Although the respondents “reported taking little at face value and were frequent evaluators of Web and library sources used for course work, and to a lesser extent, of Web content for personal use,” the authors concluded that “today’s students have systems for finding and using information the academy often disregards, or in some cases, even prohibits (e.g., Wikipedia).”\textsuperscript{64} The study expressed concern that the systems students are using “are increasingly becoming the basis of what is being used for finding information and collaborating, sharing, and creating knowledge in many workplaces.”\textsuperscript{65} The potential therefore exists for students to transfer bad practice or inferior research knowledge and practice to the workplace.

\textparagraph 37 Therefore, the enhanced research context presents law librarians and legal academics with additional challenges in training researchers in the doctrinal research process.

\textbf{Conclusion}

\textparagraph 38 In the current context, legal researchers cannot avoid using the specialized legal databases. Lawyers need the skills to accurately search online sources for up-


\textsuperscript{63} \\ALISON HEAD & MICHAEL EISENBERG, \textsc{Truth Be Told: How College Students Evaluate and Use Information in the Digital Age} (Nov. 1, 2010), \textit{available at} http://journalistsresource.org/wp-content/uploads/2012/01/PIL_Fall2010_Survey_FullReport1.pdf.

\textsuperscript{64} \textit{Id.} at 40.

\textsuperscript{65} \textit{Id.}
to-date legislation and case law. They need to distinguish reliable electronic sources from outdated or unreliable ones. Lawyers need to understand how to use case citators to find relevant case law and legislative annotations to track legislative change; and they need to use these tools effectively no matter what version of material they are accessing. In addition, law librarians still play an extremely important role as conservators of material so that the records are collected and organized, and important data is archived effectively as electronic formats evolve. Law librarians are still the guides for the plethora of sources now available. Instead of legal researchers having access to one format (hardcopy), they can now access up to six different sources and versions of legal materials including commercial databases, government web sites, and free full-text services such as AustLII. There are still way too many cross-references for the latest technology to handle without some human intervention. Law librarians have an intrinsic role in the legal research process. They are still called on to associate “many things with many things,” just as did Bunny Watson.66

66. Bunny Watson, supra note 42.
# Keeping Up with New Legal Titles

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

## Contents

<table>
<thead>
<tr>
<th>Title</th>
<th>Reviewed by</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>On Being Here to Stay: Treaties and Aboriginal Rights in Canada</td>
<td>Mary Hemmings</td>
<td>595</td>
</tr>
<tr>
<td>Law Librarianship in the Twenty-First Century, Second Edition</td>
<td>Paul F. McKenna</td>
<td>596</td>
</tr>
<tr>
<td>Employability Skills for Law Students</td>
<td>Suzanne B. Corriell</td>
<td>598</td>
</tr>
<tr>
<td>Bottlenecks: A New Theory of Equal Opportunity</td>
<td>Cathryn O’Neill</td>
<td>599</td>
</tr>
<tr>
<td>Legal Reference for Librarians: How and Where to Find the Answers</td>
<td>Robert F. Brunn</td>
<td>600</td>
</tr>
<tr>
<td>Reinventing the Practice of Law: Emerging Models to Enhance</td>
<td>Jennifer Robble</td>
<td>602</td>
</tr>
<tr>
<td>Domestic Politics and International Human Rights Tribunals: The</td>
<td>Roseanne M. Shea</td>
<td>603</td>
</tr>
<tr>
<td>Problem of Compliance</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* The books reviewed in this issue were published in 2013 and 2014. 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 and Reference/Collection Development Librarian, Katherine R. Everett Law Library, University of North Carolina School of Law, Chapel Hill, North Carolina.
<table>
<thead>
<tr>
<th>Title</th>
<th>Reviewer</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Little Book of Space Law by Matthew J. Kleiman</td>
<td>Nancy Scibelli Bouthilet</td>
<td>605</td>
</tr>
<tr>
<td>The Medical Marijuana Maze: Policy and Politics by Nancy E. Marion</td>
<td>Helen N. Levenson</td>
<td>606</td>
</tr>
<tr>
<td>Storytelling for Lawyers by Philip N. Meyer</td>
<td>Christine Timko</td>
<td>608</td>
</tr>
<tr>
<td>Putting Intellectual Property in Its Place: Rights Discourses, Creative Labor, and the Everyday by Laura J. Murray, S. Tina Piper, and Kirsty Robertson</td>
<td>Elizabeth Outler</td>
<td>609</td>
</tr>
<tr>
<td>The Forensic Autopsy for Lawyers by Michael J. Panella and Samuel D. Hodge, Jr.</td>
<td>SaraJean Petite</td>
<td>611</td>
</tr>
<tr>
<td>The Anthropology of Law by Fernanda Pirie</td>
<td>Patricia M. Dickerson</td>
<td>613</td>
</tr>
<tr>
<td>The Snail Darter and the Dam: How Pork-Barrel Politics Endangered a Little Fish and Killed a River by Zygmunt J. B. Plater</td>
<td>Benjamin J. Keele</td>
<td>614</td>
</tr>
<tr>
<td>The Bill of the Century: The Epic Battle for the Civil Rights Act by Clay Risen</td>
<td>Marquita Harnett</td>
<td>616</td>
</tr>
<tr>
<td>The Emergency Sasquatch Ordinance and Other Real Laws that Human Beings Actually Dreamed Up, Enacted, and Have Sometimes Even Enforced by Kevin Underhill</td>
<td>Louis M. Rosen</td>
<td>619</td>
</tr>
<tr>
<td>The Devil Is in the Details: Understanding the Causes of Policy Specificity and Ambiguity by Rachel VanSickle-Ward</td>
<td>Matthew S. Cooper</td>
<td>621</td>
</tr>
<tr>
<td>Teaching Law: Justice, Politics, and the Demands of Professionalism by Robin L. West</td>
<td>David W. Bachman</td>
<td>622</td>
</tr>
</tbody>
</table>

Reviewed by Mary Hemmings*

§1 Chief Justice Antonio Lamer of the Supreme Court of Canada stated, “Let us face it, we are all here to stay.”¹ This was a reference to the relationship between the Settlers and First Nations. It was also a reference to the state’s assertion of sovereignty and jurisdiction over First Nations land.

§2 Michael Asch frankly admits that this book restates many of his other treatises, insofar as it relies on the 1960 U.N. Declaration on the Granting of Independence to Colonial Countries and Peoples (Declaration of Decolonization). Essentially, the Declaration asserts that it is morally and legally wrong to move onto lands belonging to others without their express permission. It may be argued that a profound cultural misunderstanding exists between European and Aboriginal peoples about what “property rights” are. It may also be argued that North American lands were obtained from Aboriginal nations fraudulently.

§3 Asch considers the impact of R. v. Badger,² which recognized that the Crown must be regarded as having dealt with treaty negotiations transparently and honestly. To test this premise, Asch looks at the contemporary sources that are readily available for Treaty 4, negotiated in 1874. He considers language such as “nation to nation” and admits that, in principle, the power balance the term implies may have been flawed. Although the Crown believed that treaties were concluded on the basis of a shared understanding, in the long run, this was not the case. The Aboriginal understanding of “nation to nation” was founded on an entirely different worldview. For this assertion, Asch relies on the work of Thomas Hobbes, the Mohawk Chief Kiotskeaton, Claude Lévi-Strauss, and Harold Johnson in considering the principles of how societies organize themselves.

§4 By 1982, the Canadian constitution recognized Aboriginal (that is, Indian, Inuit, and Métis) treaty rights, but the parameters of section 35 of the Canadian Constitution Act are overbroad, according to Asch. The Act referenced the pre-Confederation Aboriginal rights to economic, spiritual, and landholding practices and not to political rights, as noted by Justice Lamer in Delgamuukw: “‘the reconciliation of the pre-existence of aboriginal societies with the sovereignty of the Crown.”³ Asch, however, is concerned with political rights.

§5 At the heart of the treaties’ language were principles that were articulated in Britain in 1840 by the Aborigines’ Protection Society’s model legislation: no country has the right by force or fraud to assume sovereignty over any other nation, and sovereignty can be asserted only “by fair treaty, and with their consent.”⁴ These

2. [1996] 1 S.C.R. 771 (Can.).
principles were echoed by Canada’s governor general, Lord Dufferin, in 1876 and followed by the treaty commissioner, Alexander Morris.

¶6 Asch discusses how 150-year-old treaty-making and treaties have become the dominant narrative history for Settlers and Aboriginals alike. He reviews contemporary relationships (1973 to the present) between indigenous peoples and the Canadian government; he discusses why he rejects the idea that Aboriginal rights include political rights; and he suggests the possibility of reevaluating the “nation to nation” contract based on principles of Western political thought. The question remains whether the treaties provide a sound basis for renegotiation.

¶7 The relationship is imperfect. As the poet Robert Kroetsch observed, “We cannot find our beginning. There is no Declaration of Independence, no Magna Carta, no Bastille Day. We live with a terrible unease at not having begun.” The historical nature of Canada’s treaty obligations with its various Aboriginal nations is very different from the U.S. experience. This book overviews the Canadian experience. For academic law libraries with collection interests in aboriginal law, this title is an essential addition.


Reviewed by Paul F. McKenna*

¶8 In this collection of fourteen chapters, the authors have produced a solid overview of specific areas relating to the modern practice of law librarianship. The editors have assembled a highly competent crew of colleagues who offer perspectives on key topical areas relevant to practitioners and, more important, those hoping to enter the world of law librarianship.

¶9 After reciting a brief history of this specialized field, the authors consider the day-to-day work in any given law library. Next the book introduces academic law libraries and the peculiarities of their administration, with a subsequent chapter devoted to that most important of interface activity known as “public services.”

¶10 State, county, and law firm libraries are each examined in turn, with valuable insights into their particular characteristics and clientele. Next is a thorough and competent consideration of the complex sequence of topics relevant to collection development, acquisitions, and licensing. These subjects, of course, are planted on increasingly difficult terrain for all types of law libraries as the ground experiences seismic shifts due to technological innovation combined with unprecedented financial tremors. This chapter is followed by a contribution dealing with foreign, comparative, and international law librarianship. Anyone involved in this subfield knows that it is an area rich in challenges, rewards, and intellectual complexity. It should also be highlighted as a growth area for those seeking employment opportunities in law librarianship as the forces of globalization continue to evolve. The
next chapter unpacks the realm of technical services in law libraries, followed by an excellent survey of U.S. federal government documents. The volume concludes with a prognostication about the future of law libraries, a chapter on the prodigious Law Library of Congress, and a final piece dealing with collaborative possibilities in library consortia.

¶11 This worthy collection of essays is meant to update and extend the treatment offered in the first edition, published in 2006. The contributors deal with relevant, pertinent, and practical topics that will refresh the practitioner and reward the novice librarian. It is valuable to have this much insight and information condensed in a single publication. As a Canadian reviewer, I found this publication especially enlightening. AALL’s core competencies for law librarianship are added as an appendix, along with a top ten to-do list for depository library staff. A thorough bibliography is included that mirrors the wide range of topics treated in this work.

¶12 I have only a few concerns about this recent production. First, this effort might have included more reflection on the pivotal area of legal research and the law librarian’s role as an instructor in this arena. Clearly, this is an endeavor within the craft of law librarianship that holds considerable promise for relevance, respect, and reward. In all manner of law libraries, this is a clear zone of activity where competent practitioners can capitalize on their skills to claim a vital and viable place within their ever-evolving organizations. Also, it seems to this reader that the editors and authors have not fully or fearlessly confronted the level of actual threat that may be behind, or beyond, some of the challenges that are appearing on our collective horizons. The digital world holds much that is beneficial to the profession. And yet, it also heralds some major upheaval that could dislodge law librarians from established patterns of practice. It may be too pessimistic to point to the crisis in one academic law library in the Canadian province of Saskatchewan where university administrators are seeking to blend the bulk of that collection with the larger campus collection. The proliferation of electronic resources has begun to erode the sanctity of “place” in this context and requires careful attention. This, combined with the collapse and closure of several major law firms on both sides of the border, may be viewed as a harbinger of things to come.

¶13 It is important to embrace the wisdom, advice, and sound counsel contained in this collection. It is vital that the principles and practice of law librarianship be guided by those with the competencies articulated by AALL. However, it is also essential that law librarians look directly into the face of future challenges, both internal and external, that may transform the entire field. Accordingly, this work will be a useful addition to virtually any law library collection as a primer or reminder of what is done in this field. It should also be of considerable interest to schools of librarianship and information management, especially those that offer a course on law librarianship.

Reviewed by Suzanne B. Corriell*

¶14 Geared to an undergraduate U.K. audience, Emily Finch and Stefan Fafinski’s *Employability Skills for Law Students* aims to help students acquire and apply the skills for success beyond their formal legal education. Anecdotes from students about their real-life experiences emphasize some of the authors’ key points, and the results are readable and easy to follow. For readers who are unfamiliar with the U.K. legal system, the authors’ descriptions of the traditional route to becoming a barrister or solicitor (and the difference between the two) are incredibly helpful. The authors go into great detail about the requirements for a pupillage or training contract, explain the most helpful steps to obtaining such a position, and provide appendixes with information on firms’ vacation schemes and training contracts. Unfamiliar acronyms are frequently used, but the index makes this less challenging.

¶15 Emphasis on personal development planning is at the heart of the book. Charts provide students with tools to evaluate their practical, personal, interpersonal, and professional skills; to assess their comfort level with these skills; and to determine what activities aid their development and demonstration of these skills. Practical examples throughout help students see how to apply this advice in routine situations, and checklists suggest activities and goals for various points during the undergraduate law degree calendar. A skills audit in chapter 1 describes the skills at the core of the book. The audit encourages students to conduct a self-assessment, to describe the evidence to support that self-assessment, and then to create a concrete action plan to improve their skills and provide evidence they can rely on in interviews to discuss how they have acquired or improved those skills.

¶16 Perhaps the most useful part of the book is not the discussion of the employability skills themselves but of the importance of demonstrating these skills and scrutinizing one’s activities to determine how they demonstrate the skills that employers seek. The authors include several skills—such as numeracy, flexibility, information technology, and customer service—that lie outside the norm of what is traditionally emphasized, yet these highly relevant skills deserve inclusion.

¶17 The authors recognize many students’ anxiety about the employment and placement process, and they suggest several concrete steps for addressing and alleviating this anxiety. Refreshingly, they also recognize that many of these undergraduate law students will not necessarily pursue careers as solicitors or barristers; consequently, they spend an entire chapter and portions of other chapters discussing careers outside the legal services industry. In addition, the book covers the traditional career preparation topics of resumes, cover letters, and interviews.

¶18 An interactive Online Resource Centre6 provides access to customizable documents, practical activities, and video clips designed to give students the oppor-

---

* © Suzanne B. Corriell, 2014. Associate Director for Reference, Research, and Instructional Services, William Taylor Muse Law Library, University of Richmond School of Law, Richmond, Virginia.

portunity to receive feedback on skills development. The Centre is not as robust as one might glean from reading the book, but the documents provided are useful. Finch and Fafinski are adept at preparing students: they are also the authors of Law Express, a popular study aid series in the United Kingdom, as well as authors of *Legal Skills.*

¶19 *Employability Skills for Law Students* is well researched and thoughtfully written, and the general career advice throughout would be useful to U.S. students who are beginning their law school careers. It is not, however, a necessary purchase for most U.S. academic law libraries. However, students who are considering internships or future career pursuits in the United Kingdom would benefit from reading it to learn more about that legal system.


*Reviewed by Cathryn O’Neill*

¶20 Joseph Fishkin caught my interest early, when he stated that we have to look at individuals as a whole and not equalize everyone based on a single characteristic, such as race, socioeconomic status, family status, or wealth. This idea of looking at the whole individual has always seemed to make more sense to me. However, as Fishkin points out, one reason that this is not done so often is because the concept is so encompassing it is almost implausible for the mind to grasp and work with. This, too, I understand. Reality says, though, that people are more than their individual parts, and if this lesson has not been learned or needs repeating for some, the author spends the first half of his book explaining why the theories currently propounded for equal opportunities do not succeed in addressing the sum of the whole.

¶21 Fishkin seems to have found some of his inspiration in *Griggs v. Duke Power Co.*, in which the U.S. Supreme Court held that if the skills necessary to perform a job require a high school education as a legitimate requirement, then a company can impose those requirements. However, if the requirement is not necessary for the job and the requirement is imposed with intent to discriminate, then the company cannot legitimately impose such a requirement. It is these types of requirements that the author seeks to identify as bottlenecks. If it is necessary to establish this “bottleneck,” Fishkin asks, what can we do to see that as many people as possible can pass through the bottleneck; that is, what can we as a society do to ensure that as many people as possible have the opportunity to possess a high school diploma? The author does not say that everyone with a high school education can and will desire a job with this requirement, but equal opportunity means that everyone who is interested in obtaining this job should have this qualification.

¶22 This brings me to the author’s second and main point, which is that when we examine the individual we come to realize that equal opportunities do not

---

necessarily mean the same thing for everyone. Fishkin proposes that we ensure that developmental opportunities are provided so that individuals are free to make independent choices as to the path they wish to follow in life, that we provide equal foundations so that each person can choose among the paths presented, and that some of these paths are not foreclosed by the lack of developmental possibilities. A relatively simple example of this idea is that on high school graduation, all students, no matter where they might have attended school, have the opportunity to choose among college, vocational schooling, military, or the work force. It is up to each individual to choose the path that would make him or her most happy, and no one should be prevented from choosing any of these paths due to a lack of preparation. In addition, we should provide nontraditional ways of passing through these bottlenecks for individuals who might elect to start down one path and then seek to change the direction in which they are traveling. Following up on the example in this paragraph, should an individual join the military directly out of high school, there should be multiple opportunities both during and after military life to enter college; the individual should not be excluded from college because he or she chose to enter the military first.

Fishkin argues that we must do all that is possible to ensure that every individual has the opportunity at each stage to make choices from a variety of options instead of being restricted due to a lack of developmental opportunities, and this includes the opportunity to be able to move among an array of choices as the individual progresses down one path and then decides to choose another path.

Fishkin establishes his new theory in the first few pages. He then sets out why the current theories of equal opportunity do not meet society’s needs. He explains how his theory addresses the weaknesses of existing theories. He does an excellent job of citing to multiple works on the many theories, but these extensively footnoted citations are somewhat distracting. The book can be challenging reading at some points.

I recommend this book for its theories; it presents a logical argument for examining the individual as a whole as we attempt to ensure equal opportunities for all. Readers, however, should have advanced reading skills and vocabulary or be committed to having both the book and a dictionary available.


Reviewed by Robert F. Brunn*

During the last forty years, increasing numbers of people have handled their own legal affairs. The discussion in Paul D. Healey’s Legal Reference for Librarians: How and Where to Find the Answers of these do-it-yourselfers is the most significant part of his book. These “pro se” or “self-representing litigants” do not hire lawyers to represent them in transactions or in court. Many court systems encourage self-representation by providing forms and, in some areas of the coun-

try, even lawyers who teach court-annexed programs for pro se litigants. How-to legal guides in print and an ever-growing amount of online self-help information are available. We should not be surprised; do-it-yourself is part of life in the United States and a reason why Home Depot and This Old House are popular.

§27 Part 1 of Healey’s book, “Legal and Ethical Issues,” addresses the concerns of a reference librarian. Healey states that a librarian handling a pro se reference inquiry should be careful not to engage in the practice of law; that is, to make sure that a pro se litigant could not reasonably think that the reference librarian is giving a legal opinion or providing legal services normally associated with an attorney. Healey writes that the other concern for the reference librarian is not to commit malpractice; however, he also asserts that a reference librarian would not be sued for malpractice liability.

§28 Healey notes that some pro se litigants are mentally ill. Additionally, other practical concerns should come to mind while helping pro se patrons: a pro se litigant may have a personal agenda, a vendetta, or activism involved in his or her lawsuit. It is the experience of this reviewer that some pro se litigants express a desire to file complaints against attorneys or judges with their respective licensing or oversight organizations.

§29 Legal Reference for Librarians does not sufficiently highlight that the reference librarian must also avoid a conflict of interest because a pro se’s judicial opponent may be another pro se who is consulting the same reference librarian. Also, it is a mistake to assume that all pro se litigants cannot afford an attorney. Some people just do not like lawyers. An increasing number of such litigants think that they can do as well or even better than an attorney. There are also pro se litigants who maintain an inventory of their own pro se cases over a number of years. Domestic relations lawsuits account for a high percentage of the pro se cases.

§30 It is conceivable that a pro se litigant might sue a reference librarian (or a library) because he or she thinks the librarian did not provide all the necessary information or believes that the information given was wrong. The law constantly evolves, and what once was thought to be legally impossible or unlikely may later become the legal norm or an area of controversy.

§31 Legal Reference for Librarians is on the mark when it states that legal professionals (lawyers and their support personnel) would not think that a reference librarian assisting them is practicing law. Such professionals would merely think that they were being helped in getting information they were seeking. Nor would they normally consider the issue of library malpractice. Rather, legal professionals would be focused on the issue of whether they might be liable for their own legal malpractice.

§32 Part 2, “Legal Research Basics,” the most relevant part of the book for a pro se litigant, does an excellent job of covering the methods of researching the law. It explains in plain English how to start doing legal research and what to look for along the research path. The book explains the foundational functions of our federal and state constitutions and clarifies where our primary sources of law, statutes, case law, and regulatory rules come from. It makes understandable how legislatures enact laws. It shows the reader what the roles and functions are of trials, intermediate appellate courts, and courts of last resort. The development of case law in the
judicial resolution of disputes, interpretation of statutes, and nature of precedent are discussed.

¶33 Chapters 4 through 8 in part 2 cover the “Structure of Law and the Legal Research Process,” “Secondary Legal Resources,” “Statutes and Constitutions,” “Case Law,” and “Regulations and Administrative Law.” Here the book discusses, among other things, the two best-known legal publishers (West and LexisNexis), digests, the West Key Number System, research methods, and the use of and differences between secondary and primary sources.

¶34 The appendix’s list of online legal resources takes up more than half the book. It covers nationwide sources, the federal government, the District of Columbia, and the fifty states. The introductory page gives a caveat about Internet volatility factors, such as link rot, and resources being taken down or merged. With this warning in mind, the appendix is a useful resource for a reference librarian.

¶35 It is not necessary to have ever attended law school to understand Legal Reference for Librarians. A reference librarian can confidently send a pro se or anyone else to the “Legal Research Basics” part of the book to get information about legal research. Libraries that should own this book are both law libraries that are open to the public and public libraries. Often public library patrons want to know how to research the law. To patrons of both libraries, this book resolves any mystery as to where our law comes from in our federal-state system.


Reviewed by Jennifer Robble*

¶36 Reinventing the Practice of Law: Emerging Models to Enhance Affordable Legal Services may appear at first blush to be yet another voice in the law practice and legal education reform debate, but it joins other ABA Standing Committee on the Delivery of Legal Services publications that detail innovative legal service delivery methods, including Model Lawyers Guide to Legal Services9 and Innovations in the Delivery of Legal Services: Alternative and Emerging Models for the Practicing Lawyer.10 Each chapter examines legal practice models that allow lawyers to make a decent living while providing affordable services to low-income and middle-class clients. These models include limited scope representation, collaborative representation, online legal services, fee shifting, pro bono clinics and solo practitioner incubators subsidized by law schools, and copay clinics.

¶37 Written primarily by practitioners using the delivery methods described in each chapter, the ethical implications of nontraditional practice are thoroughly explored, and footnotes provide references to additional resources for readers to

---


examine before implementing a particular business model. Although the personal stories contained in each chapter are inspiring, the authors also acknowledge that these models are not appropriate in every practice area and attempt to illuminate the potential pitfalls associated with a nontraditional service model. They also admit that while these models can be profitable, it often takes a few years until new firms are out of the red.

§38 One of the major themes of this book is the necessity of collaboration to make these models successful. Whether it is a network of local attorneys working with students in a law school pro bono clinic, the support structure of a solo practitioner incubator, or a branded network of small firms to aggregate search engine optimization funds, it is important to pool resources and learn from more experienced professionals. These networks and collaborations between private attorneys and public service providers also lead to referrals, which are often the lifeblood of many private public interest firms.

§39 The role of libraries in innovative practice is discussed in different chapters of the book. One practitioner, who describes himself as a “collaborative and preventative peacemaker” (p.23) who often engages in limited representation, maintains a client library so that clients can educate themselves about the various aspects of their legal matter and determine which tasks they can handle and which require a lawyer’s assistance. A small firm in western Massachusetts paid through fee shifting keeps its overhead costs lean by using its local county courthouse library and a subscription to the Social Law Library’s databases.

§40 Reinventing the Practice of Law, although targeted at solo practitioners and small firms, would also be an excellent addition to academic and court libraries interested in partnering with the local bar association as described in the book. Students will find a roadmap of how to help people and still pay off their loans, while professors and law school administrators will discover how other schools are providing access to justice and developing students’ business acumen at the same time. The experiences described in this book were positive for all practitioners, educators, courts, and clients involved. Learning more about this bright view of the future of the legal profession would be of value to anyone preparing for tomorrow’s legal market.


Reviewed by Roseanne M. Shea*

§41 Courtney Hillebrecht has chosen to focus her study on the interrelationship of international human rights tribunals with the domestic politics of their member states. She examines the record of state compliance with tribunal rulings and mandates in her quest to determine how well the tribunals have carried out their missions. She focuses on two organizations in particular: the European Court of Human Rights (ECtHR) and the Inter-American Court of Human Rights (IACtHR).

¶42 The ECtHR was developed through the 1950 European Convention on the Protection of Human Rights and Fundamental Freedoms (the Convention). The Convention set up three institutions for enforcement: the European Commission on Human Rights (the Commission), the ECtHR, and the Committee of Ministers. The Convention allows individuals to petition the Commission after exhausting domestic judicial remedies. In 1998, the Council of Europe (COE) went through a major reorganization, and one of the reforms made it mandatory for a respondent state to accept the ECtHR’s jurisdiction. “[T]he ECtHR became the primary venue for the adjudication of human rights practices” (p.5) for the COE member states.

¶43 The basis for the Inter-American Commission on Human Rights (IACmHR) lies in the 1948 American Declaration of the Rights and Duties of Man, which was adopted at the same time as the charter for the Organization of American States (OAS). Ten years later, the OAS established the IACmHR. In 1969, the Inter-American Convention on Human Rights created the IACtHR. The IACmHR has many responsibilities: providing education, processing individuals’ complaints, publishing special reports, issuing recommendations, and sending human rights cases to the IACtHR. The rulings of the IACtHR are legally binding, but there is no strong enforcement mechanism to ensure compliance by member states.

¶44 Focusing on compliance, the author gathered data from both organizations. She compiled and adjusted her dataset to account for the differences in data-gathering methods within each organization. On the surface, the ECtHR has a forty-nine percent and the IACtHR has a thirty-four percent compliance rate. There are variations in compliance by members within each organization, and often selective compliance occurs when a member state picks and chooses which mandates or parts of a ruling it will comply with. Each ruling usually imposes multiple obligations on a state: reparation, education, accountability, symbolic and individual measures, and changes in domestic policies by the executive, legislature, and judiciary to avoid repeating that particular violation. Hillebrecht contends that domestic politics is the key factor in compliance.

¶45 Colombian president Alvaro Uribe’s desire to be seen by the international community as an upholder of human rights led to that country’s compliance with an IACtHR ruling to placate observers, both domestic and international. Colombia does not have the domestic institutions that would allow full compliance. It complied with only enough obligations to signal some commitment to human rights and made no attempt to alter domestic institutions to make full compliance possible. In contrast, the United Kingdom does have domestic institutions in place, especially the Joint Commission on Human Rights, which was created as a result of the Human Rights Act 1998. The Joint Commission has no power to enforce the rulings by the ECtHR, but it is very influential and has started important public and political debates over human rights. The United Kingdom also has a strong judiciary, a strong civil society with nongovernmental organizations focused on human rights, and an active and free media. These strong domestic institutions have pushed it toward begrudging compliance in some instances.

¶46 A chapter is devoted to noncompliance, and Russia, Italy, and Brazil are used as examples of “persistent noncompliance” (p.113). There is very little domestic pressure for full compliance in any of these countries. Russia does pay reparations to vic-
tims in compliance with ECtHR rulings but makes no attempt to change domestic institutions to prevent the abuses from recurring. Cases against Italy dealing with judicial delay clog the ECtHR, and Italy continues to ignore the mandates to reform its judicial system. It has little pressure from domestic institutions to consider compliance, though it has recently started to take some steps in reforming its judicial system. Brazil does not have much interaction with the IACtHR or the IACmHR, and the few cases that have been brought against it are contentious. Hillebrecht believes that Brazil’s stature in the region translates into its not needing help in setting policy agendas and that compliance can be on its own terms, not those of the IACmHR or IACtHR.

¶47 The amount of data compiled and charted in this book is impressive. The text, though, could be better organized and written. I think more in-depth discussion of the domestic climate within the countries at the time of the tribunal rulings would have aided the reader and reinforced the points being made. The author makes a good case for her argument that strong domestic institutions are essential for compliance with human rights tribunal rulings and that these tribunals have been successful in their work of advancing the cause of human rights and in protecting the rule of law. This title would be a good addition to an academic library’s collection on human rights.


Reviewed by Nancy Scibelli Bouthilet*

¶48 *The Little Book of Space Law* by Matthew J. Kleiman is neither a comprehensive treatise on space law nor a must-have acquisition for space law practitioners. It is, however, an entertaining introduction to space law for “space enthusiasts” (p.xi). A new addition to the American Bar Association’s Little Books of Law series, this book provides background information and discussion of current issues related to a variety of space law topics. Subjects covered include patent law in space, liability related to loss of spacecraft, environmental impacts of space travel, harm to human life and property, legal issues related to space debris and planet contamination, and ownership of space resources. Throughout the various chapters, the book also discusses the commercial space industry and legal issues related to the privatization of space exploration.

¶49 The book is well organized and indexed, and comprehensible to a variety of readers. Due to its light nature, legal and astronomical expertise are not necessary to understand and enjoy the book. It is organized in a space-themed fashion with the first three sections discussing the legal issues around the three basic stages of spaceflight: launch, orbit, and reentry. The final section of the book is dedicated to property rights in space. It is aptly titled “Who Owns the Moon?” Within each section are three to four chapters on a specific space law topic. Each chapter provides background information on the issue; explains the legal issues related to the topic by referencing the key laws, treaties, and cases; and discusses some of the ongoing issues and questions related to the specific space law issue. References to primary and secondary sources are provided where appropriate throughout the text.

* © Nancy Scibelli Bouthilet, 2014. Director of Knowledge Management, Locke Lord LLP, Dallas, Texas.
Some of the book’s most entertaining aspects are the quotes, photographs, illustrations, and trivia that pepper the pages. Readers will also find numerous quotes related to space law, travel, and science by a variety of individuals, ranging from comedians to astronauts. These quotes are separated from the main body of the book and appear either at the beginning of chapters or at breaks in the text. Additionally, the author includes photographs and graphics to illustrate concepts, such as key feats in space exploration, and to better explain some of the topics discussed in the book. For example, a photograph showing smoke and steam from solid rocket boosters illustrates and emphasizes the related discussion of the environmental impact of launch operations.

The bits of space and science trivia are bound to entertain readers. For example, this bit of Star Trek trivia will interest Trekkies: “Virgin Galactic’s first two spaceships are named after the fictional starships Enterprise and Voyager in honor of the science fiction series Star Trek” (p.139). Although always interesting, these factoids are sometimes more significant in terms of understanding space science and the issues Kleiman discusses.

This resource offers an engaging introduction to space law and some of the legal issues facing the space industry and space law attorneys. The Little Book of Space Law would be a unique addition to a general or law library collection. However, it should not be purchased with the expectation that it will provide substantial guidance in the practice of space law. It is best read for entertainment and as an introduction to the topic.


Reviewed by Helen N. Levenson*

The Medical Marijuana Maze: Policy and Politics is an aptly titled book since the current status of the legal use of medical marijuana varies substantially among the fifty states. In addition, there is no federal statute that provides for legal use of marijuana for medical purposes, which further complicates this relatively new area of the law. In this excellent book, Nancy E. Marion, a professor of political science at the University of Akron, provides a comprehensive description and analysis of the history and the current state of medical marijuana usage and its legal status. The book includes complete information on all states with medical marijuana laws and those jurisdictions considering similar legislation. The book also encompasses the public policy and interest group positions; public opinion survey results; congressional bills, analyses, and activities; the agendas of the executive branches at the federal, state, and municipal levels; and major court decisions at the federal and state levels on this controversial issue.

The Medical Marijuana Maze is superbly laid out as a teaching tool. Each chapter begins with a single thesis sentence. After the thorough and well-footnoted discussion in each chapter, the author provides review and discussion questions, a list of key terms that offer opportunities for vital retention of important points and issues, and keywords and phrases for additional research.

¶55 Marion’s book provides the reader with a scintillating history of the use of marijuana for medical purposes and incorporates discussion of various medical conditions that are reportedly improved with medical marijuana usage. These medical conditions can include arthritis, attention deficit disorder, breast cancer, diabetes, epilepsy, hepatitis, irritable bowel syndrome, and mesothelioma. Much of this examination is supported by peer-reviewed scientific and medical journals. As part of this history, Marion expertly elucidates the intricate factors that led to the current and oftentimes contradictory status of the legal use of medical marijuana. Because of a federal law called the Comprehensive Drug Abuse and Prevention and Control Act of 1970 (more commonly known as the Controlled Substances Act, or CSA), marijuana remains classified as a Schedule I drug. This is the highest classification for a drug out of the five categories (or schedules) established by the CSA. The CSA “classified drugs based on the potential for medical use and the potential for abuse,” and those drugs placed in the Schedule I category were deemed to have “no medical value along with a substantial, or high, potential for abuse” (p.29).

¶56 The CSA also outlined the level of criminality for each drug schedule for possession, possession with intent to sell, and sale to a minor. While numerous states have made medical marijuana legal, use of medical marijuana remains illegal at the federal level under the CSA. Although the U.S. Food and Drug Administration has “recognized and approved the medicinal use of isolated components of the marijuana plant and related synthetic compounds,” the federal government “maintains that marijuana has no accepted medical value in the treatment of any disease” (p.41).

¶57 Marion describes the detailed processes that the twenty-two states and the District of Columbia have conducted to make medical marijuana legal at some level. She provides a precise analysis of how this usage became legal and the variety of levels of lawfulness that exist in each jurisdiction. The book also includes a review of the legal processes for dispensing marijuana. This can vary greatly from one state to another. One chapter is devoted to information and background on the states that are currently considering or have considered passing medical marijuana legislation.

¶58 The book includes a chapter on federal and state court decisions regarding medical use of marijuana. Of particular note is Gonzales v. Raich, where the U.S. Supreme Court applied the Commerce Clause, the CSA, and marijuana’s classification as a Schedule I substance as part of the reasoning of its opinion. This chapter on cases is very clearly written, and readers without a legal background would be able to easily understand its contents and analyses of the cases.

¶59 The Medical Marijuana Maze is exceptionally comprehensive in its scope. The book has a chapter entitled “The Cannabis Industry” that offers information on the projected size of the pharmaceutical markets that are developing as more states make medical marijuana usage legal and more and varied medical conditions

are treated with marijuana. This chapter also includes information on the assorted companies (including one that is publicly traded) that support the medical marijuana industry. Another chapter, “Campaigns and Elections,” supplies information on the positions that the major political parties, grassroots organizations, and the candidates from the 2012 presidential primaries and general presidential election have espoused on the medical marijuana issue.

¶60 This is a most exceptional book that would be a valuable addition to academic law, university, and public library collections. It brings a plethora of valuable and intelligently presented information together all in one place, allowing the reader to clearly understand the current state of medical marijuana legality. This understanding is enriched by both the historical perspective and the future projections that Marion includes in her well researched book.


Reviewed by Christine Timko*

¶61 In Storytelling for Lawyers, Philip N. Meyer makes a very strong case that lawyers are storytellers and that effective storytelling enhances the successful practice of law. Unlike popular storytelling, the rules and constraints on legal storytelling are explicit, and lawyers often do not tell the whole story. It is left for others to decide the ending and provide the meaning.

¶62 This is not a handbook on how to practice the art of legal storytelling. It is an informative and thoughtful study that explains why legal storytelling is a useful skill to have and how to recognize and use the various parts of a well-told story to practice law successfully.

¶63 Meyer identifies the components of a story and relates them to legal arguments from notable cases. As he puts it, “legal arguments are stories in disguise” (p.2). Meyer starts by listing the five components of legal stories: scene, cast and character, plot, time frame, and human plight. These identify the main sections of the book.

¶64 Meyer begins his book with plot because “legal stories . . . are plot-driven and protagonist-centered stories” (p.4). He spends an entire chapter analyzing attorney Gerry Spence’s closing argument in the Karen Silkwood case13 and points out the plot-driven story used in that case and why Spence was successful. The Silkwood case was subsequently the plot of an Academy Award–nominated movie.14

¶65 Meyer states that often the actors in law stories seem borrowed from stock film characters, and he writes about how the successful legal storyteller recognizes that we are influenced by our knowledge of such film and television characters. Because of new technologies, jurors make sense of complex information through references to stories created by popular culture. He uses the examples of characters

---

* © Christine Timko, 2014. Law Librarian, Nevada Supreme Court Law Library, Carson City, Nevada.

from movies such as *High Noon*\(^{15}\) and literature such as *This Boy’s Life* by Tobias Wolff\(^{16}\) to demonstrate differences between character types.

¶66 In chapter 5, Meyer discusses character development in the closing argument in the jury trial of reputed mobster Louis Failla.\(^{17}\) Meyer shows how Failla’s attorney, Jeremiah P. Donovan, used narration and visuals to clue the jury into what Failla was thinking. The prosecution had taped evidence of Failla agreeing to the murder of Tito Morales. Donovan showed, with the use of his cartoon drawings, that Failla was actually trying to prevent the murder of Tito Morales by Failla’s inaction. If Failla did not act, Tito Morales would not be murdered.

¶67 Meyer explores how the style of the story influences the voice. Voice and style are intertwined but different parts. The melodramatic style of the Silkwood case influenced how Spence effectively used timing and pacing, and how he voiced his words in his arguments to the jury.

¶68 Meyer analyzes all components of storytelling with the same process. He defines what the components are by using quotations from well-known writers as examples, and he relates the concepts to legal situations, such as the writing style used in the postconviction defense brief in *Riggins v. Nevada*.\(^{18}\) This story begins with the no-nonsense visual depiction of a heavily drugged Riggins who “appear[s] like a zombie throughout his trial” (p.124) and lets the reader’s own imagination supply the definition of what a zombie is.

¶69 The process of defining the component, explaining the component, and then relating the component to actual legal “stories” is fascinating and compelling, and it leads the reader to “aha” moments that help her understand why a successful lawyer is also a good storyteller. *Storytelling for Lawyers* is a well-done exploration of legal storytelling and would be well placed in any lawyer’s toolbox of practical works. This title is recommended for attorneys and for law libraries that collect practice-oriented materials.


Reviewed by Elizabeth Outler*  

¶70 The authors of this scholarly monograph take an interdisciplinary and mostly sociological approach to the discussion of intellectual property (IP) law and its evolution in the early twenty-first century. Through case studies of the norms and activities of certain groups and communities of practice, they examine the everyday life of IP and question whether black letter IP law really has much of a role in the lives of ordinary people and their relationships to the subjects of copyright, patent, and trademark. The authors look at three paired case studies of groups or
professional communities, some focused on historical development of attitudes to IP law, others on very contemporary communities and practices. Some of the pairings are quite surprising on the surface (early twenty-first century online knitting communities are paired with a historical study of World War II–era plant research scientists) but their juxtaposition highlights certain norms, values, or approaches to IP law that can be remarkably informative when considered together.

¶71 One fascinating result of the case studies and their juxtaposition is the somewhat explicit conclusion that a great deal of copying and sharing goes on within many communities of artists, scientists, and other professionals, and this practice is maintained alongside an awareness of the boundaries and protections available under black letter IP law. There is an implicit balancing analysis done within many of these communities of the benefits of sharing and copying, which may include efficiencies of scale, different types of artistic values and expression, citation incentives, and other types of market forces. All of these gains are weighed against the harms anticipated from enforcing IP claims in court. In many of the case studies, the authors remark that the members of the group resort to such action only against outsiders who may seek to gain access to the benefits of the group’s sharing practices without contributing with the labor or skill that the members typically provide. Of likely interest to lawyers and law librarians is the case study in chapter 6, which considers copying in the legal profession by analyzing a recent copyright ruling of the Supreme Court of Canada19 in light of lawyers’ norms and practices with regard to copying.

¶72 It seems clear from their thesis that the authors question the value and appropriateness of the IP law regime, but they take pains to portray an objective stance. All of the case studies in the book are paired, with the exception of the first one, which is the generator of the phrase “rights discourses” in the book’s subtitle. In this chapter, the authors consider the nature of the free culture, or copyleft, movements and suggest that those approaches to law reform have their own myopia and inability to adequately address the needs and mundane activities of real-life creators and users of objects that may or may not implicate IP law. The authors point out that the objections to the restrictions of copyright, particularly in environments that depend on sharing, sampling, and the making of derivative works, so forcefully argued by Lawrence Lessig20 and others, are themselves features of the same belief system that focuses mainly on rights, a vision that tends to be binary and absolutist. They suggest that such a focus unduly emphasizes individualism while failing to recognize accompanying duties and responsibilities. This chapter also carefully analyzes the free culture movement as one that largely fails to include women, indigenous cultures, and workers. Additionally, it points out that while copyright law has become internationally consistent through the ratification of the Berne Convention, the attempt to export the Creative Commons system of licenses does not always translate well outside of the United States. Surprisingly, even in a

neighboring jurisdiction as geographically and culturally close as Canada, there are cultural and legal traditions that make the application of Creative Commons awkward and operate against its wide adoption.

¶73 Another important feature of the authors’ thesis is that many of the norms and practices regarding IP law are essentially unarticulated. They can be gleaned to some extent from these case studies and histories of particular events and controversies, but they are not necessarily present in the awareness of the actors involved. They state that “IP law is, it is often said, in an expansionist mode, and its expansion seems to extend into the lives of ordinary people. However, in the end, we find essentially the opposite” (p.14). This book is a valuable contribution to the ongoing conversation about IP law and its proper extent and role because it provides an outsider perspective to which many within the legal community of the United States may not otherwise have access.

¶74 There are no particularly special finding tools offered in this book, but the index is impressively detailed, and a lengthy bibliography is provided that should be of value to researchers assembling material on the intersection of IP law and culture. This book is a scholarly monograph, and it is recommended for law school and general academic libraries.


Reviewed by SaraJean Petite*

¶75 As those who have read detective stories or watched TV crime shows know, when a person dies under suspicious circumstances, the coroner’s office performs an autopsy. If litigation follows, the lawyer’s ability to understand the autopsy report helps the lawyer use that information in the way most beneficial to the client. This book, by two law professors with impressive forensic science credentials, strikes just the right balance between detailed explanations for the inquisitive and concise, clear information for those with a minimal background in human biology.

¶76 The book’s user-friendly table of contents includes the titles of the book’s ten chapters and the major headings within each chapter. Each chapter includes a discussion of its subject, a “Practice Checklist” (a bulleted list of the main points discussed in the chapter), a list of research tools, and the endnotes for that chapter. In addition to the usual sources one expects to find in endnotes, these endnotes also include interesting and helpful supplemental information. The research tools include West Key Numbers, legal encyclopedia articles, law review articles, and other helpful secondary sources.

¶77 The first four chapters introduce the forensic autopsy. This introduction includes a description of the process and its limitations. The fifth chapter discusses the patterns of injuries uncovered at a forensic autopsy when the decedent was killed with a weapon, asphyxiated, drowned, electrocuted, or burned to death. The
sixth chapter is about natural causes of death that a forensic autopsy may reveal. This fascinating chapter describes how various body systems should work and what happens when they fail. It would be equally at home in a book about how the body functions, and the lack of violence is a nice break after the previous chapter. The seventh chapter is largely about how drugs, including prescription drugs, affect the body and how their misuse can result in death. It does not include as much detail as the chapter about injury, but the reader who needs more detail can go to the sources in the endnotes or the research guide. The eighth chapter focuses on issues that are unique to the death of a child, such as SIDS, neglect, child abuse, and whether or not a baby was born alive. The ninth and tenth chapters move from the science of the autopsy to the legal issues related to that science, such as the autopsy’s evidentiary value and tort liability associated with a wrongful autopsy.

¶78 The authors rely on a variety of sources, including practice guides, treatises, law review articles, case law, and Internet sources. Most of the Internet sources are stable commercial sites with URLs that were working at the time this review was written, though the endnotes did include a few broken links. Vincent DiMaio, an expert in forensic pathology, authored or coauthored the three books the authors cite most frequently. Panella and Hodge’s book is a nice complement to DiMaio’s work because the language and illustrations in DiMaio’s suggest that the audience is medical professionals who do not need the background that Panella and Hodge provide.

¶79 The page layout is friendly to the reader who simply wants to get the information. Subchapter headings are in bold font that is larger than the text, and there is space before the beginning of each subchapter. The wide margins are empty except for captions for the illustrations. The photographs are in black and white, and most of them show only as much of the decedent as is needed to illustrate what the text describes. While the circumstances under which a forensic autopsy is necessary are unquestionably horrible, this narrow visual focus can help the reader unfamiliar with autopsies maintain some emotional distance and concentrate on the issues related to forensic science.

¶80 There are two drawbacks to the layout of this book. First, several of the illustrations are not on the same page as the accompanying text, so the reader must flip back and forth to see the illustration the text describes. Second, there is much interesting and helpful information in the endnotes; the reader who wants to see the endnotes must flip back each time a reference appears to find out whether the reference is to a source or supplemental information. With some chapters containing more than 200 endnotes, this can be time-consuming; putting this material in footnotes would have been much easier on the reader.

¶81 The title indicates this book is for lawyers, and it would be a good addition to a law firm library. However, it would also be a valuable reference tool for students at an academic library.


Reviewed by Patricia M. Dickerson*

¶82 Seeking to understand the law by stepping outside of legal academia and looking at what other disciplines can offer is becoming common among legal academics and practitioners. In fact, Fernanda Pirie opens *The Anthropology of Law* by asking, “What can anthropology bring to the study of law? What questions can it answer and what aspects of the law can it illuminate?” (p.1). The answer: a lot. Using anthropology as a tool to study the nature of the law, and how it is understood and functions within a society, allows scholars to broaden their focus to cultures and societies they may have overlooked, such as medieval Europe or modern day Tibet. It also allows for different questions to be asked. Adding the lens of anthropology over a legal lens can create a richer understanding of the law because it forces academics to look for connections, commonalities, differences, inconsistencies, and contradictions they may not have seen without it.

¶83 *The Anthropology of Law* begins with an introduction to legal anthropology to assist the reader in understanding how law has been treated by anthropologists. This discussion includes overviews of many different anthropological studies that can be a challenge for readers to keep straight if they do not read carefully and critically. Pirie wraps this section up nicely by asking researchers to focus on the purely legal aspects of the law—the texts, social practices, forms, and functions of law within a society—and revisits this point numerous times throughout the book.

¶84 Another point Pirie makes many times throughout *The Anthropology of Law* is the importance of creating and maintaining categories when searching for the meaning and nature of law. The strongest example of this comes from Pirie’s discussion of law in societies where colonialism played a formative role. Here Pirie discusses two studies that describe the search for customary law as part of the British colonization of Africa and India. As the British expanded their empire, they sought to discover and categorize the indigenous or customary laws of their new lands and to write them down so they could be used to assist with the development of the legal systems in the new colonies. However, because the British did not have a firm grasp of what was actually considered law within the new colonies, and what its role was prior to their arrival, the laws created and imposed were not easily understood by the people. These examples make it clear that there needs to be a better comprehension of how a society understands and applies law. The law differs globally, and oftentimes this difference is overlooked by scholars coming from a Western worldview. Anthropology enables the researcher to see how other cultures understand and apply the law because sometimes a code of law can serve as more a suggestion for proper behavior than a legal mandate.

¶85 Pirie also builds the argument that looking at the form of law instead of its function can add a layer of insight into both how a society interacts with the law

---

* © Patricia M. Dickerson, 2014. Legal Information Librarian and Lecturer of Law, Boston College Law Library, Newton, Massachusetts.
and how the law is distinguished from other elements of society. Pirie discusses this throughout the book as she describes the law from a wide range of cultures and how the law works within those cultures. Examining the law this way enables the reader to see how diverse law can be in both form and application, and to begin to develop an understanding of how and why law may develop as it does.

¶86 *The Anthropology of Law* is not an ideal text for readers with only a rudimentary background in law or anthropology. For more advanced readers, though, it provides an interesting starting point for research on the subject of legal anthropology. It will make a worthwhile addition to academic libraries seeking to increase their interdisciplinary holdings. However, it should not be the only resource on the topic of legal anthropology; some readers may need more introductory resources to begin their research.


Reviewed by Benjamin J. Keele*

¶87 *The Snail Darter and the Dam: How Pork-Barrel Politics Endangered a Little Fish and Killed a River* is part memoir, part polemic. As the title hints, this book does not have a happy ending. In 1959, the Tennessee Valley Authority (TVA) began planning to build the Tellico Dam in the Little Tennessee (Little T) River. In addition to building a dam, the TVA condemned large tracts of land around the proposed reservoir to make way for a planned model city. The model city fell through, but the TVA claimed that plenty of other benefits justified the dam, and pork-barrel politics kept funds flowing for the project. A coalition of farmers, conservationists, and other groups opposed the project. A fish, the snail darter, was discovered in the Little T and determined to be an endangered species that could be wiped out by the dam’s disruption of the fish’s natural habitat. The activists lobbied and litigated in virtually every government agency and court possible, even the U.S. Supreme Court.

¶88 After winning before the Supreme Court and the Endangered Species Committee, a special review panel established by Congress, congressional appropriators (responsible for directing pork-barrel funds to the Tellico Dam) added a rider to an appropriations bill that exempted Tellico from the Endangered Species Act and any other laws. The dam was finished, and TVA sold the condemned land to private developers at a substantial profit.

¶89 As a memoir, *The Snail Darter and the Dam* is a detailed account of the political and legal struggle to save the Little T, the snail darter, and productive farm land that would be flooded. The author, Zygmunt J. B. Plater, was a leader of the campaign and delivered the oral argument before the Supreme Court. During this time he was also a law professor in Tennessee and Michigan while lobbying in Washington and litigating the case. Plater wants to break out of the David and Goliath archetype, but throughout much of the campaign he and his compatriots struggled to compete with fewer resources and less access to the political leadership and press.

¶90 As a lesson in civics, the story is a fascinating account of the snail darter case’s progress through the three branches of government. The group contended with administrative infighting between the TVA and the Fish and Wildlife Service to add the snail darter to the list of endangered species and have the Little T designated as a critical habitat. The litigation for an injunction to prevent the Tellico Dam from destroying the snail darter’s habitat wound from the federal district court in Tennessee, through the Sixth Circuit Court of Appeals, to the Supreme Court. The district court refused to issue an injunction, the Sixth Circuit reversed, and the Supreme Court affirmed the Sixth Circuit.22

¶91 While Plater devotes a good deal of space to the oral arguments before each court, even more of the action occurred in the U.S. Capitol. The author and his group assembled a coalition to lobby Congress. They attempted to persuade and pressure legislators through constituent visits, position papers, and testimony before congressional committees. Here the snail darter’s cause was blocked by regional loyalties and special interests. Even after the Tellico Dam was all but declared a boondoggle by the Endangered Species Committee, the dam was completed after an appropriations rider exempted the dam from any contrary laws. President Jimmy Carter wanted to veto the appropriations bill but, running low on political capital, he signed the bill for concessions on other issues.

¶92 For such a multifaceted story, the author keeps the various threads fairly distinct and understandable, although the large number of people involved sometimes makes it difficult to recall any one individual’s role in the story. The tale is told in the first person and the present tense throughout. Plater clearly played a pivotal role, and he portrays himself as an eager but sometimes ineffective advocate. Much of the book is dialogue reconstructed from records, the author’s notebooks, and participant recollections. The text avoids legal jargon, and source references are in endnotes at the back of the book.

¶93 *The Snail Darter and the Dam* is also a deeply cynical look into pork-barrel politics, interagency squabbles, and legislative politics. The author is still a true believer that building the Tellico Dam was a terrible injustice that deprived honest farmers of their fertile land, destroyed important Cherokee religious sites, and eliminated the last original population of an endangered species. Throughout the book, the author advocates for an alternative development plan for the area that would have focused on attracting tourism to the area’s natural and cultural sites. The book makes a strong case that the Tellico Dam was a very bad idea pushed by the TVA in a stubborn effort to justify its own existence. The arguments that the environmentalists’ alternative plan would solve the area’s economic woes are not as persuasive, but perhaps the advocates, fighting off attempts to delist the snail darter or exempt the dam, were stretched too thin to build the evidence needed to support their plan.

¶94 If the snail darter’s champions are the heroes of this story, there are plenty of villains. They include legislators who privately acknowledged the strength of the snail darter’s case but voted against it due to political expediency, intransigent TVA officials who skirted their legal duties and issued misinformation that supported

---

the Tellico Dam, and (perhaps the worst) the press that parroted TVA claims or ignored the story. Only after the battle was lost did major media outlets pay attention.

¶95 The only bits of optimism that can be scraped from this story are that a dedicated group of activists can get as far as they did in the power-obsessed halls of government, and that the snail darter, while still a threatened species, did survive after being transplanted to other rivers. The Snail Darter and the Dam is worthwhile for readers (and libraries that serve them) interested in environmentalism, lobbying, and pork-barrel politics.


Reviewed by Marquita Harnett*

¶96 This year marks the fiftieth anniversary of perhaps the most important piece of legislation passed by Congress in the twentieth century. The Civil Rights Act of 1964 ended discrimination on the basis of race, sex, religion, and national origin in public accommodation and in the workplace. It gave teeth to Brown v. Board of Education and banned federal funds from going to state or local programs that discriminated. The bill, however, was weak on voting rights and school and housing desegregation, and it largely targeted the South while not affecting racial segregation in schools and housing in the North.

¶97 The Bill of the Century: The Epic Battle for the Civil Rights Act by New York Times editor Clay Risen provides an in-depth account of the passage of the Civil Rights Act of 1964. While the struggle for civil rights had been going on for decades, even before Dr. Martin Luther King, Jr., it came to a boiling point in late 1962 and 1963.

¶98 In September 1962, James Meredith, an African American, enrolled at the University of Mississippi in Oxford, Mississippi, amid riots between Ole Miss students and National Guards and U.S. Marshals. Riots in Birmingham, Alabama, occurred the following spring after police there arrested hundreds of African American children for parading without a license and used attack dogs and fire hoses on them the next day. Similar unrest spread throughout the South as people across America watched these demonstrations and outbreaks of violence on television. Alabama governor George Wallace refused to allow two black students to register at the University of Alabama, despite a court order commanding him to let them in. President John F. Kennedy again sent in National Guard troops and Wallace stepped aside. That summer saw the March on Washington, and in September the 16th Street Baptist Church in Birmingham, Alabama, was bombed and four young African American girls were killed. In November, Kennedy was assassinated. When Lyndon Johnson took office, the issue of civil rights was thrust to the forefront of his legislative agenda.

* © Marquita Harnett, 2014. Law Librarian, University of New Mexico School of Law Library, Albuquerque, New Mexico.

¶99 Risen grants that Kennedy worked to put the bill together, but Johnson’s use of rhetoric was brilliant as he told a grieving nation that in memory of Kennedy a civil rights bill must be passed. Johnson hammered the issue repeatedly. He pushed partisanship aside and reinforced the idea that the entire country must get behind it. Risen portrays Johnson as a genius at convincing members of Congress that the deal-making system had to end. He appealed to them on Christian terms, namely that it was morally wrong to sanction Jim Crow segregation. Risen explains that Johnson knowingly and courageously destroyed his own political base in the South; he did so because he astutely and pragmatically knew that blacks would become enfranchised. In these passages, Risen seems to dispute his thesis that Johnson was only slightly more than a cheerleader in a process that was truly the work of a vast array of lesser-known players.

¶100 Civil rights–era legislative history researchers will appreciate the depth of research Risen has pored over. He coldly analyzes and vividly portrays the legislative hand-to-hand combat that took place to pass the bill. The book will also appeal to political historians, as Risen recounts the story of powerful senators swearing to fight for segregation by any means, who set in motion the longest filibuster in U.S. history to defeat the bill and, more important, what it took to end it. The most compelling feature of Risen’s book is how detailed and well researched it is. With each character he introduces, he meticulously explains his or her role. He gives a nearly daily accounting of events.

¶101 While generally well written, Risen’s book is disorganized in places, and unsubstantiated assertions prompt more questions than he answers. As an example, his assertion that King was a key player in the “children’s crusade” decision flies in the face of all we know about him. Risen provides no documentation for this claim. Readers are left to wonder and to do their own research. In an effort to bring context to certain situations, Risen jumps around in time, but by doing so, the thread of cause-and-effect is lost. In addition, his footnotes for acronyms are spotty, which results in a frustrating and tiresome reading experience.

¶102 The author’s attention to so many characters, both primary and secondary, is a strength, but it is also a weakness in that it at times makes the book slow and meandering. The depth of research and the exquisite detail the author provides is razor sharp. However, he mitigates veracity with his penchant for editorializing, which he does throughout. As a niche selection, The Bill of the Century is a good candidate for library collections appealing to legislative history researchers and political historians.


Reviewed by William R. Gaskill*

¶103 Accretion, the slow transfer of sand and soil along a river, does not change boundary lines, while avulsion, sudden dramatic shifts in a watercourse, does. This

maxim from property law came to mind as I read Michael P. Scharf’s exploration of whether avulsion-like events can change international law. Scharf argues persuasively that under some circumstances the normal accretion-like processes of state practice and acquiescence can be supplemented or even supplanted by sudden changes brought about by one or more acts. In doing so, he lays the foundation for further research on an important subject.

¶104 Scharf starts with a very well written and well documented short history of modern international law. Using Hugo Grotius’s life and times as an initial backdrop, Scharf describes the influential texts, practices, and resulting rules of law that arose from practice and acquiescence of mostly European states from the 1640s to the present. He explains how states differ on the length of time a practice or asserted rule must operate before being accepted (for example, thirty years for Germany, forty for France), but states accept that some things done and not rejected can and do become binding law. I found this explanation worth the purchase price in itself; it is a great primer for faculty, law students, and others interested in the subject.

¶105 Scharf next sets out his theory that rules can rise outside of this traditional path when an urgent issue involving fundamental change and authoritative or widespread acceptance occurs. He then uses six case studies—two involving war crimes, two about the legality of the decision to go to war, and two involving the exploitation of resources—to see whether this theorized process has actually happened.

¶106 As seen in the headlines, from the Syrian civil war to displaced refugees in South Sudan and the kidnapped schoolgirls in Nigeria, violations of human rights are an important part of the international agenda. Scharf points out that individual responsibility for war crimes or human rights abuses is now accepted as a nearly uncontroversial rule of law. He explores whether this came about suddenly by looking at the Nuremberg trials and decisions from an international tribunal for war crimes in the former Yugoslavia. In both cases he argues that adopting individual responsibility (including under a common criminal enterprise theory) happened because the international courts and the prosecution teams acted to punish the morally outrageous acts that appeared to be outside of the existing rules of international law. He finds acceptance of these outcomes in the rulings of other international courts, such as the one set up for Cambodia, and various U.N. resolutions and treaties.

¶107 As to the decision to go to war, Scharf looks at the NATO-led bombing of Serbia and the U.S. response to the September 11 attacks. He concludes in both instances that there has been a general rejection of these claims because several major nations have refused to recognize the right of a nation or an international body such as NATO to authorize the use of force. He argues that the invasion of Iraq in 2003 and the Russian invasion of Georgia in 2008 are viewed by some in the international community as abuses of any right to intervene or duty to protect.

¶108 In contrast, the exploitation of sea resources and the agreed use of outer space do meet the criteria for quick change in international law because technology created new means to exploit resources and there needed to be rules of the road. The United States played a key role in proposing rules that it felt served its interests
and that the other powers involved concluded were in their interests as well. Thus, the rules were adopted in short order with the outer space principles converted into treaty law less than a decade after the first space launch.

¶109 Based on his studies, Scharf argues that international law rules can and have been rapidly adopted over the past several decades. However, he rejects the notion that one act can instantly become law. He instead proposes what he calls Grotian Moments, which are best understood as times of telescoped accretion, when a fundamental issue arises and something needs to be adopted. He concludes that these rare moments are better understood, in my analogy’s terms, as special cases of accretion—not as an avulsion that changes the legal consequences of state action in an instant.

¶110 One improvement to the book would have been a short guide to alternate theories or further reading on both sides of the subject. Scharf does mention other theories and thinkers in his case studies, but, given that this is a piece about a novel way of analyzing potentially new international law and given the blurb on the back cover asserting that “[v]irtually everything that Scharf argues is contestable,” guiding the reader to sources and scholars who offer different views in one bibliographic essay or further reading list would have been appropriate.

¶111 That one area of comparative weakness does not detract from the genuine strength of the book’s narrative and analysis. This book is highly recommended for academic law libraries and for public and firm libraries with international law collections. As a pioneer work in the field, this book sets a high standard for the scholars who follow.


Reviewed by Louis M. Rosen*

¶112 The majority of law librarians work in law schools, law firms, or other serious legal settings, and we often conduct important legal research or assist others in doing so. As a result, we tend not to dwell on how inherently silly certain laws can be, although we would probably enjoy our jobs more if we did.

¶113 Kevin Underhill must really revel in his work. A partner in a large and successful law firm, he is probably best known for his irreverent legal humor blog, LoweringTheBar.net. *The Emergency Sasquatch Ordinance and Other Real Laws that Human Beings Actually Dreamed Up, Enacted, and Have Sometimes Even Enforced* is his first book, and he continues the sardonic tone of his blog in this collection of some of the weirdest and dumbest laws in human history, each one quoted, cited, and annotated with his own sly, dry commentary. Underhill organized the book into “ancient times,” covering the Code of Hammurabi, Babylonian, Hittite, Greek, and Roman laws; “post-ancient but pre-modern times;” “laws of the United States;” “laws of the states of the United States;” “laws of the cities of the states of the United

* © Louis M. Rosen, 2014. Reference Librarian and Assistant Professor of Law Library, Euliano Law Library, Barry University School of Law, Orlando, Florida.
States;” and “laws of states that are not the United States or states of the United States,” covering the rest of the modern world. The sections on state and city laws are arranged alphabetically by state.

¶114 Some examples: Underhill mentions a Prohibition-era Alabama code section that singles out secret passages in billiard rooms as illegal, regardless of whether any illegal activity is done in them. And on the topic of billiard rooms, South Carolina outlawed persons under eighteen years old from playing billiards in a billiard room unless accompanied by a parent or guardian or with written consent, and also outlawed minors from playing pinball, without even making an exception for parental permission.

¶115 Georgia makes it a misdemeanor to “sell, apprentice, give away, let out, or otherwise dispose of” minors for circus work, including as clowns, contortionists, and beggars (p.140). Texas is one of three states to make the bolo tie its official state neckwear, but it drafted a longer statute than New Mexico or Arizona, full of florid prose about the determination and independence of the Lone Star State and the romance and pioneering spirit of the American West (of which Underhill gently makes fun).

¶116 There are laws for animals: a U.S. Code section detailing the complex procedures for packaging and mailing live scorpions, a Delaware statute encouraging the hunting and killing of woodchucks, and a similar Hawaiian statute declaring the mongoose a thoroughly unwelcome animal. Illinois requires reptile sellers to post a list of “safe reptile-handling practices” for consumers, including an admonition against nuzzling and kissing them (p.166). Missouri has laws against wrestling bears, while Tennessee makes it illegal to import, sell, barter, or even possess live skunks. Underhill mocks Arizona for naming its official state butterfly while in the same statute deflating this honor by clarifying that it is not protected in any way.

¶117 There are laws for extreme body modification. Delaware heavily regulates the surgical procedure of tongue-splitting, while Georgia makes it a misdemeanor to tattoo anyone within one inch of an eye socket. Along those lines, Idaho is the only state with a specific law against cannibalism (defining it in a hilariously gory way), but it includes an affirmative defense if there are life-threatening conditions and cannibalism is the only apparent means of survival.

¶118 Perhaps relevant for some librarians, Massachusetts is the only state that punishes anyone who willfully makes noise in a public library with up to a month in jail or a $50 fine. Meanwhile, South Carolina has a law that could benefit all of us in law school libraries, declaring it unlawful “to act in an obnoxious manner thereon [school or college premises]” (p.214).

¶119 This book obviously is not intended for serious legal research or study, but due to its entertainment value and low cost, I would still recommend it for every academic law library collection and probably most law firm libraries as well. Attorneys, law students, and law librarians all need to blow off steam, decompress, and remind themselves of the silly aspects of our field. Breaking the tension with laughter is better than crying, screaming, or worrying oneself sick, especially when surrounded by professional colleagues. A book like The Emergency Sasquatch Ordinance will help a great deal by relieving tension, thanks to Underhill’s well-researched collection of weird laws and his hilarious asides.

Reviewed by Matthew S. Cooper*

¶120 In *The Devil Is in the Details: Understanding the Causes of Policy Specificity and Ambiguity*, Rachel VanSickle-Ward presents the findings of a multilayered empirical study attempting to determine the causes of specificity and ambiguity in statutory language. VanSickle-Ward, an assistant professor of political studies at Pitzer College, provides substantial support to her hypothesis that ambiguous statutory language generally results not from inexpert or underresourced legislators, but from deliberate compromise in the context of political interest fragmentation. She asserts that ambiguous statutory language emerges most frequently when a bill’s topic is highly salient, meaning prominent in the eyes of the public and the media. In such a context, legislators feel pressured to pass a bill, necessitating compromise among various interests. Ambiguous language results as bill proponents avoid more specific language that would cause key legislators to oppose the bill.

¶121 In the book’s opening two chapters, VanSickle-Ward effectively situates her work within the relevant scholarly literature. She sets forth opposing conclusions in public law and public administration scholarship, namely that public law scholars generally conclude that political fragmentation produces ambiguous statutory language, while public administration scholars conclude that fragmentation produces bill specificity. VanSickle-Ward asserts that the key reconciling factor is whether the topic addressed in the bill is salient. In the context of political fragmentation, she contends that highly salient bill topics often lead to ambiguous language, while less salient bill topics tend to produce specific language.

¶122 Before VanSickle-Ward presents her quantitative analysis, she sets forth in chapter 3 the results of numerous interviews with legislators, legislative staff, and lobbyists. She and her team analyzed interview transcripts from respondents in Massachusetts and California in an attempt to directly capture the perspective of policymakers. While the responses were not completely uniform, they were generally consistent with VanSickle-Ward’s view that legislative compromise often occurs through open-ended, ambiguous language, especially when the interests of key political players are fragmented and the bill topic is highly salient.

¶123 In chapters 4 and 5, VanSickle-Ward discusses her analysis of two types of bills across a wide variety of states. First, she addresses highly salient bills establishing mental health insurance parity. Second, she examines less salient legislation creating individual development accounts—government-matched savings accounts targeted at impoverished households. VanSickle-Ward defines salience in terms of how many media reports covered a bill topic. She and her team coded particular types of bill provisions for ambiguity and specificity on a three-point scale. Again, the results are consistent with VanSickle-Ward’s hypothesis. With regard to the

---

* © Matthew S. Cooper, 2014. Assistant Director for Public Services, Michael E. Moritz Library, Moritz College of Law, The Ohio State University, Columbus, Ohio.
highly salient issue of mental health parity, political fragmentation tended to pro-
duce ambiguity. With regard to the less salient issue of individual development
accounts, political fragmentation tended to produce specificity or had limited
effect.
¶124 VanSickle-Ward concludes her data-intensive chapters with chapter 6,
where she discusses her analysis of a large number of California bills from 1993 to
2004 in the area of health and human services policy. Again, the findings are con-
sistent with her hypothesis: a fragmented political environment, not lack of legisla-
tive capacity or expertise, contributed significantly to bill language ambiguity.
Further, less salient bills were less susceptible to this effect of political
fragmentation.
¶125 VanSickle-Ward’s book is concise and well organized. A helpful list of
figures and tables at the outset gives readers a quick reference point for the book’s
graphical content. VanSickle-Ward amply supports her work in notes and refer-
ences. Further, appendixes to the book set forth the coding scheme used to classify
bill provisions, which is useful for readers’ full understanding and for other schol-
ars who subsequently engage in similar empirical studies. VanSickle-Ward also sets
forth in the appendixes each bill considered in her analysis.
¶126 While VanSickle-Ward’s study is rigorous, it is by her own admission not
comprehensive. Readers must wait for other scholarly works to show whether her
analysis holds for bill language in different areas of the law. Nevertheless, her find-
ings and analysis are compelling and have significant implications. If deliberate
legislative compromise is frequently the source of statutory ambiguity, and more
frequently so in highly salient contexts, legislators may be delegating some of the
most difficult and important policy decisions to unelected agency officials and the
courts. This delegation is arguably inconsistent with representative democracy and
political accountability.
¶127 This book is well suited for general academic and academic law libraries,
especially those with strong public policy collections. While VanSickle-Ward is a
political scientist and not a legal scholar, her analysis is likely of interest to those in
the legal academy studying the intersections of law, politics, and policy.

Reviewed by David W. Bachman*

¶128 Robin L. West begins her critique of U.S. legal education in Teaching Law:
Justice, Politics, and the Demands of Professionalism by summarizing the two crises
that have garnered the most attention to date. First is the economic crisis: with too
many law schools graduating too many students for too few available satisfactory
jobs, “[a] law degree is no longer worth the investment of time and tuition it
requires” (p.6). Second is the professionalism crisis, which reflects a “lack of confi-
dence in the ability of American law schools to produce either minimally compe-

* © David W. Bachman, 2014. Senior Legal Information Librarian, Pappas Law Library, Boston
University School of Law, Boston, Massachusetts.
tent lawyers or significant scholarship that is of interest to the profession” (pp.9–10).

¶129 Though sobering and unflinching, the summary of these problems is not the focus of the book. Rather, West identifies a deeper, older problem that is rooted in how U.S. legal education evolved. This “existential crisis” (p.22), as announced in the book’s subtitle, consists of three elements: the failure of U.S. legal education and scholarship to address justice, the end to which the study and practice of law should be directed; the failure to highlight the legislative and administrative sources of most U.S. law, grounded in an avoidance of politics; and the failure to formulate and advance a coherent vision of what the legal profession and law school should be. To deal with the economic problem without addressing the existential one, West writes, could make the professionalism crisis and legal education worse, even if it is less costly for students.

¶130 “Justice is not taught, studied, or much discussed in American law schools,” West writes, “either in the classroom or in the pages of law reviews” (p.60). No less problematic in West’s vision is the avoidance of politics. West traces these absences to the two dominant schools of thought in the formative years of U.S. legal education. Harvard’s Christopher Langdell and his formalist followers placed discovery of principles in appellate court decisions at the heart of the curriculum. Legal realists preferred social sciences as sources of sound, utilitarian policy outcomes. Both camps focused on court decisions, and neither looked to notions of justice as the basis for judges to decide.

¶131 Developed in pre–New Deal America, before the rise of the administrative state, the classic first-year curriculum (emphasizing contracts, property, torts, and civil procedure) has grown only more removed from the reality of the legal landscape in the decades that followed. According to West, the absence of justice is dispiriting to students, many of whom come to law school with an idealism they lose in the classroom, bolstering the widespread perception of new lawyers as amoral hired guns.

¶132 The third in West’s list of shortcomings is the failure of law schools to conceive a new vision of the legal professional to replace Langdell’s conception of “the lawyer as a member of a learned profession immersed in the study of the common law” (p.155). The failure to develop a post-Langdellian conception of what a lawyer should be, or what a law student should learn, is reflected in the aimlessness of law school curricula.

¶133 The book’s prescriptions for reform include a modest makeover of the first-year curriculum, concentrating traditional common-law courses in the fall semester and revising the spring semester to include introductory courses on international law and a topic (such as environmental or labor law) that emphasizes legislative and administrative processes. West would then greatly curtail the

24. West’s model for legal realism is Oliver Wendell Holmes, whom she quotes repeatedly, e.g., “I hate justice, which means that I know if a man begins to talk about that, for one reason or another he is shirking thinking in legal terms” (p.43).

25. Earlier in the book, West considers a “more global change” to the first-year curriculum, offering most of what is typically taught in the first year in the first semester (p.128). The second semester could then be given over to all legislation-oriented courses, such as consumer protection, workplace law, basic income tax, the history of the administrative state, and the legislative process.
“upper-level array of electives” that “say[ ] nothing . . . about how the law school either conceptualizes or serves the ‘whole lawyer’” (p.187). Instead, she would mandate or strongly recommend courses on administrative law, legislation, theories of justice, and the legal profession, with third-year electives focused on the student’s chosen field, and externship, clinical, or experiential learning courses in the final semester.

¶134 West acknowledges that the economic crisis will necessitate restructuring. Some law schools will close and surviving schools will downsize; that is the only way for the value of a law degree to rise. Necessary cost cutting will include cutting or freezing faculty and administrative salaries, increasing faculty teaching loads, and cutting travel budgets and other perks related to scholarship. However, West rejects the bifurcated law schools approach proposed by Brian Tamanaha,26 with so-called academic law schools continuing to do what all law schools do now and other, less academic law schools devoting more resources to making students “‘practice-ready’ upon graduation” (p.14).

¶135 Teaching Law: Justice, Politics, and the Demands of Professionalism is a significant contribution to the current discussion, and it belongs in the collections of academic law libraries. Whether West is correct that her proposals would improve the quality of legal education, for little or no added cost, is debatable. Some would dispute West’s suggestions for curricular reform or note that they reflect what many students are already doing. U.S. law schools are indisputably facing a crisis. This book is a plea that law school administrators and faculty “not let this current moment of crisis go to waste” (p.23). That plea deserves a hearing and a spirited response.

I’d like to accept Ronald Wheeler’s invitation to talk about race. Much writing on diversity in law librarianship starts with demographics—observing that the profession has a small proportion of people of color compared to the population at large—and then considers how to change the mismatch—suggesting ways to recruit, encourage, and retain more people from underrepresented groups. I have no quarrel with that enterprise, and I’m heartened by Wheeler’s report of a salutary increase of people of color in law librarianship. But I think there’s room for more in the diversity discussion. I’d like to think about how race arises in our day-to-day work as law librarians, emphasizing that this includes those of us who are white. How can we improve our knowledge and skills? What is our role in fostering cultural competence? Can we help create a welcoming environment in our diverse institutions?

Race has been tremendously important in U.S. history and society and hence in U.S. law. Indeed, the founding documents of our government were shaped by the politics of slavery, an institution that by 1787 was defined largely by race. Four constitutional amendments have directly or indirectly addressed
issues of race. Among the handful of Supreme Court cases known to nonlawyers as well as to lawyers are some that wrestled with racial inequality. And it is not just in constitutional law that race is important. Race looms large in criminal law and criminal procedure, from investigation through prosecution and trial to sentencing. Consider racial profiling, police brutality, cross-racial identification, sentences for drug offenses, the school-to-prison pipeline, jury selection, the overrepresentation of African Americans and Hispanics in prison. There are also racial issues in most (perhaps all) areas of civil law, including immigration, employment discrimination, property, education, tax, voting, family law, civil procedure, health law, bankruptcy, and even intellectual prop-

profit-seeking. Not until the American Revolution did self-identified ‘white’ elites perceive the need to concoct ideas of racial difference; these elites understood that the exclusion of a whole group of native-born men from the body politic demanded an explanation, a rationalization.” JACQUELINE JONES, A DREADFUL DECEIT: THE MYTH OF RACE FROM THE COLONIAL ERA TO OBAMA’S AMERICA, at xii (2013).

5. U.S. Const. amend. XIII (abolishing slavery); amend. XIV (making all persons born in the United States—including former slaves—citizens, guaranteeing the equal protection of the laws, changing the formula for apportioning representatives); amend. XV (forbidding the denial of the vote based on race, color, or previous condition of servitude); amend. XXIV (outlawing poll taxes).


9. See, e.g., Ulan v. Eastern Airlines, Inc., 742 F.2d 1081, 1085 (7th Cir. 1984) (“When Congress enacted the Civil Rights Act of 1964 it was primarily concerned with race discrimination. ‘Sex as a basis of discrimination was added as a floor amendment one day before the House approved Title VII, without prior hearing or debate.’ This sex amendment was the gambit of a congressman seeking to scuttle adoption of the Civil Rights Act. The ploy failed and sex discrimination was abruptly added to the statute’s prohibition against race discrimination.”) (citations omitted).


As specialists in legal information, we have a responsibility to be aware of these issues. Those of us in academia should also have some sense of the discussions in law reviews and books. We should have heard of “critical race theory,” “implicit bias,” “white privilege,” and the notion that race is socially constructed, not an immutable biological category.

And we should remember that it’s not all black and white. While pondering the different perspectives held by African Americans and European Americans, we might also think about the varied experiences of people within those groups. For instance, a Somali refugee, an immigrant from Barbados, a Chicagoan whose grandparents were part of the Great Migration, and a rural Mississippian living near where her enslaved ancestors lived might all be seen as “black”—but their dramatically different life experiences caution against ready generalizations. And an Orthodox Jew in New York City, an Irish Catholic from Boston, and a Norwegian American fishing for salmon in Alaska have very different lives and perspectives, despite all being termed “white.” And then there are all the other shades included within “people of color.” The term “Asian Americans” encompasses people whose ancestry is Chinese, Japanese, Korean, Thai, Vietnamese, and so on—plus South Asians, from the diverse communities within India, Pakistan, and Sri Lanka. Asia is

---

22. “White privilege’ refers to the myriad of social advantages, benefits, and courtesies that come with being a member of the dominant race.” DELGADO & STEFANCIC, supra note 20, at 87.
23. See, e.g., Statement on “Race,” AM. ANTHRO. ASS’N (May 17, 1998), http://www.aaanet.org/stmnts/racepp.htm (“In the United States both scholars and the general public have been conditioned to viewing human races as natural and separate divisions within the human species based on visible physical differences. With the vast expansion of scientific knowledge in this century, however, it has become clear that human populations are not unambiguous, clearly demarcated, biologically distinct groups. . . . [T]here is greater variation within “racial” groups than between them.”).
24. Other important concepts include “microaggressions,” see, e.g., Daniel Solórzano et al., Keeping Race in Place: Racial Microaggressions and Campus Racial Climate at the University of California, Berkeley, 23 CHICANO-LATINO L. REV. 15, 16–17 (2002), and “stereotype threat,” see CLAUDE STEELE, WHISTLING VIVALDI: AND OTHER CLUES TO HOW STEREOTYPES AFFECT US (2010).
26. Today they are all considered to be of the same race, “white,” but earlier in U.S. history, they would have been seen as different races. See, e.g., Bruce Baum, On the History of American Whiteness, 39 REV. AM. HIST. 488, 491 (2011) (reviewing NELL IRVIN PAINTER, THE HISTORY OF WHITE PEOPLE (2010)) (“Emerson’s views typified the prevailing Anglo-Saxon view that some European peoples were not full-fledged white people. They were thought to be inferior white races compared to the superior white race (variously called Saxon, Anglo-Saxon, Teutonic, Nordic, and Aryan from the mid-nineteenth to the early twentieth centuries). Emerson and other mid-nineteenth-century Anglo-Saxon race chauvinists were chiefly concerned about Irish ‘Celts’; their ‘Nordicist’ and eugenicist successors focused on the next great wave of immigrants of 1880 to 1920—Eastern European Jews, Italians, and Greeks, among others . . . .”).
a big continent with many cultures. And, as with any other American, an Asian American or a Hispanic might be a new immigrant or the child of a family that has been in the United States for a century or more. A Native American might have grown up in a big city or a sparsely populated reservation; and life in the Navajo Nation (occupying 27,000 square miles in Utah, Arizona, and New Mexico) is not the same as life in the Bois Forte Band of Ojibwe in Northern Minnesota. Individuals’ racial identities may be complex, involving connections with more than one racial or ethnic group. Moreover, racial identities interact with gender, class, sexuality, religion, and class. And some people prefer not to identify with any race.

4 Some of us work at law schools with courses in critical race theory, LatCrit theory, or the like, but those schools are in the minority. Some schools go beyond a single course to offering a concentration or centers dedicated to issues of race.


29. The way the government counts race is in flux. See Jens Manuel Krogstad & D’Vera Cohn, U.S. Census Looking at Big Changes in How It Asks About Race and Ethnicity, FACTANK: NEWS IN THE NUMBERS (Mar. 14, 2014), http://www.pewresearch.org/fact-tank/2014/03/14/u-s-census-looking-at-big-changes-in-how-it-asks-about-race-and-ethnicity/. “As many as 6.2% of census respondents selected only ‘some other race’ in the 2010 census, the vast majority of whom were Hispanic.” Id.

30. “Intersectionality” means the examination of race, sex, class, national origin, and sexual orientation, and how their combination plays out in various settings. Delgado & Stefancic, supra note 20, at 57.

31. See, e.g., Camille Gear Rich, Decline to State: Diversity Talk and the American Law Student, 18 S. CAL. REV. L. & SOC. JUST. 539 (2009) (discussing students who, for various reasons, “decline to state” their race on law school applications); see also, e.g., Tony Ruiz, The World: Please, Stop Promoting the Question “What Race Are You?” in Any Capacity, CHANGE.ORG, http://www.change.org/p/the-world-please-stop-promoting-the-question-what-race-are-you-in-any-capacity (last visited Feb. 15, 2015). I visited Change.org after a patron told me that he had started a petition to ask the U.S. Equal Employment Opportunity Commission not to require employers to create racial data; I didn’t find his petition, but I did find this one, as well as other petitions that give glimpses of people’s concerns.

32. In 2002, Cheryl Harris reported, “Courses in CRT have proliferated at many American law schools”—but the proliferation was “over twenty” schools. Harris, supra note 20, at 1216 & n.3. Even if the course offerings have grown in recent years, I assume the number hasn’t, say, quintupled.

33. See id. (describing UCLA Law’s concentration in critical race studies); see also Critical Race Studies, UCLA Law, https://www.law.ucla.edu/centers/social-policy/critical-race-studies/about/ (last visited Feb. 15, 2015).

A few dozen schools host student-edited journals on race and the law, such as the Berkeley Journal of African-American Law & Policy and the Journal of Gender, Race & Justice from the University of Iowa. Reference librarians at institutions with such courses, research centers, or journals will doubtless get more questions about race and the law than others, but the issues are so important and pervasive that they could arise anywhere. Even if a school doesn’t have a seminar on race and the law, students in other seminars, from criminal justice to tax policy, could pursue those issues. And students can write notes and comments about racial issues for general law reviews or journals focused on business law, technology law, or anything else, not just for those focused on race, poverty, or social justice.

Of course, any of us would help a user who asked where to locate information about civil rights laws or race-based challenges in jury selection. Finding the “race” in law is straightforward in these instances: it’s right there in the statute and the case headnotes. But racial issues are not always so clear. For instance, appellate decisions reviewing criminal convictions might never mention the races of the defendant or the victim (let alone the judge, prosecutor, defense attorney, jurors, and witnesses). And yet race could have been salient. For example, in McClesky v. State, the Georgia Supreme Court did not mention race, and yet the issue during


37. E.g., 42 U.S.C. § 2000a (2012) (codifying § 201 of the Civil Rights Act of 1964) (“All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.”).

38. E.g., Batson v. Kentucky, 106 S. Ct. 1712, 1712 (1986) (first West headnote) (“A state denies a black defendant equal protection when it puts him on trial before a jury from which members of his race have been purposely excluded.”).

39. 263 S.E.2d 146 (Ga. 1980). This opinion spells the defendant’s name “McClesky,” but later opinions spell it “McCleskey.” I learned the hard way that searching for “mcclesky” does not turn up the news stories I wanted about “McCleskey”!
later habeas corpus review was profoundly racial: was McCleskey’s death sentence suspect because, statistically, black men (like him) convicted of killing whites (like his victim) in Georgia were much more likely to be sentenced to death than defendants in cases with any other racial combination of perpetrator and victim? 41 To raise that issue, McCleskey’s attorneys went outside strictly legal research, bringing in a statistical analysis by social scientists. 42 They saw a need to go beyond the record of McCleskey’s trial—and the statutes and rules governing the conduct of the trial—to see a bigger picture. Like an appellate case that doesn’t mention the race of the parties, the Anti-Drug Abuse Act of 1986 43 says nothing about punishing blacks more heavily than whites, but that’s what was accomplished by the huge differential between sentences for “cocaine base” (crack cocaine) and cocaine because of the racial identities of the predominate users of each type of cocaine. 44 The rulings about discovery in lead paint litigation cases would not be seen as race-related unless you knew that the children at the greatest risk for elevated levels of lead are children of color. 45 So searching for the “race” in many legal contexts calls for creative research. As is generally true, starting with secondary sources will save a lot of time if someone else has pulled together the primary sources and drawn a line to connect the dots.


44. See, e.g., David A. Sklansky, Essay, Cocaine, Race, and Equal Protection, 47 STAN. L. REV. 1283, 1289 (1995) (“From October 1991 through September 1992, more than 91 percent of all federal crack defendants were black; only 3 percent were white. During this same period, by way of contrast, blacks accounted for only slightly over 27 percent of federal prosecutions for powder cocaine and 28 percent of federal prosecutions generally; 32 percent of the powder cocaine defendants, and more than 45 percent of all federal defendants, were white. The particularly harsh federal penalties for trafficking in crack cocaine thus have a particularly disproportionate impact on black defendants.”) (footnote omitted).


45. CHAMALAS & WRIGGINS, supra note 11, at 139 (citing study finding that sixty percent of affected children are African American and sixteen percent Hispanic).
Not all of our work is simply reacting to someone else’s questions, and we can incorporate race ourselves. When we read on our own—to keep up with legal developments, to be ready for potential questions, and to offer current awareness service to our patrons—we can include works on race and the law. And we can also include racial issues in the examples we use in class, in our research guides, in our blog posts, and in our displays. Why? Racial issues are interesting and important. Using the examples communicates that the library is a place where people can learn about these issues. Maybe more questions will come in once people see the potential.

Showing an interest in issues of racial justice could help law students of color feel a little more welcome in a law school where most of the students, most of the faculty, and all the portraits on the walls are white. Many students of color are alienated “by discussions that focus on problems, interests and values that either minorities do not share or that obscure or overlook issues that are particularly relevant to minorities.” Seeing blog posts or displays about issues affecting communities of color could help these students—as well as students of all races who come to law school passionate about public interest work and find that their first-year courses don’t necessarily address the issues they care about. *International Shoe,* landowners’ duties to guests, and the mailbox rule can seem remote from the social issues that attracted students to law school. Issues that are important to them may not be addressed in class.

Some years ago, my law school’s diversity committee (which includes students, faculty, and staff with a variety of racial, sexual, and gender identities) asked reference to compile a list of readings about diversity issues in standard first-year courses. Students who felt that those themes were missing from class wanted help finding material to read on their own or in groups; of course, the reading list could also be used by faculty who want to address the issues in class. That wasn’t the last time we were asked to put together a guide on race-related issues in law. When our dean was part of a task force on race in the criminal justice system, she asked for a


47. *This is not* to say that issues of racial justice are only important to people of color. On the contrary, those of us who are white need to learn about and address the many ways that our race affects our positions in society and our perspectives on the law. All “students should graduate and become lawyers prepared to face the racial justice issues that pervade daily life in the United States.” *Id.* at 671.


guide. Later when she hosted a conference on promoting diversity in law school leadership, she did again. On our own, the library created a guide and wrote several blog posts for the law school's Diversity Week.

In a way, these efforts seem very small. A skilled and committed professor can have a much greater and deeper impact on students' engagement with racial justice than any number of blog posts and research guides. But blog posts and research guides are what we do. And they do contribute. A blog post about Japanese American internment during World War II or a display of new books about race in the criminal justice system let students and others know that the issues are out there and that we have resources to explore them further—even if the students are too busy to pick up one of the books. And when a student does have a research interest, it will certainly be helpful to have easy access to relevant materials.

As law librarians, we can and should educate ourselves about racial issues in the law and share that information with others. The complexity of issues may seem overwhelming—but it also offers the rich potential for lifelong learning and growth. And we all can learn.


Thinking About Technology . . .

Cybersecurity: Breaches and Heartbleed to BYOD—Are Bankers, Entertainment Company Executives, Celebrities, Postal Workers, Ice Cream Lovers, Home Builders, and CIOs the Only Ones Who Should Be Concerned?*

Darla W. Jackson**

*© Darla W. Jackson, 2014.
**Director, McKusick Law Library, University of South Dakota, Vermillion, South Dakota.

In 2013 and 2014, several high-profile data security breaches underscored the importance of cybersecurity in today’s world, including the legal community. Reports of leaked information and security breaches at legal information vendors, firms, universities, and even courts continue to increase. Ms. Jackson addresses these concerns and suggests some considerations in developing responses to such security threats.

1 October 2014 was designated as National Cybersecurity Awareness Month.1 Most individuals, however, did not need such a formal observance to remind them of the increasing concerns regarding cybersecurity. In the past few years, we have continually heard about cybersecurity incidents. During the holiday season of 2013 and into 2014, the Target security breach was in the news. Later information regarding breaches of other service providers’ and retailers’ security led some to designate 2013 as the “Year of the Mega Breach”2 and instigated congressional hearings on the matter.3

2 Despite the broad scope of breaches in 2013, the magnitude of the threat in 2014 surpassed that of the previous year. In late November 2014, a hack of Sony Entertainment’s systems resulted in the public disclosure of the company’s internal e-mails, financial information, and information about upcoming movies.4 In October 2014, the Department of Homeland Security released a bulletin on Black-
Energy malware, which was attributed to a Russian hacking campaign against the nation’s critical infrastructure, ongoing since 2011.5 Earlier in October 2014, news surfaced of a hack of J.P. Morgan Chase that compromised contact data from 76 million households.6 Dairy Queen also reported that the payment system in 395 of its restaurants had been hacked.7 In mid-September 2014, the U.S. Postal Service discovered a breach of its systems that “potentially compromised” the personal data of 800,000 past and present postal workers.8 In late August 2014 and again a few weeks later, “intimate photos” of celebrities obtained without their permission were posted to websites.9 The celebrity photo incidents were followed by the revelation that lax data security management at Home Depot had allowed a breach resulting in the compromise of credit card information of 56 million customers.10

These recent examples are part of a continuous string of incidents involving online security breaches.11 In addition, the Heartbleed bug and vulnerabilities found in Dropbox also brought the topic of cybersecurity to the forefront.

Cybersecurity has become a major concern for the legal community as well. Reports of leaked information and security breaches at law firms continue to increase.12 Legal information vendors, court systems, and universities’ systems supporting law schools have also increasingly become cybertargets. Yet, a number of technology surveys indicate that many attorneys have little security training or

---


understanding of the security measures undertaken by their firms and organizations. This article addresses these increasing cybersecurity concerns and suggests some considerations for law librarians\textsuperscript{13} and the organizations they serve when developing measures to address security threats.

\textsuperscript{4}At the 2014 American Bar Association (ABA) Techshow, cybersecurity was a topic of concern for many attendees.\textsuperscript{14} Events since 2012 have caused an increased emphasis on cybersecurity. In fact, eighty-seven percent of the technology directors and chief technology officers responding to the 2013 \textit{American Lawyer} Law Tech Survey indicated that they were “more concerned” about security threats in 2013 than they were two years before.\textsuperscript{15} This is not surprising given reports that more firms are being attacked, sometimes without knowing it.\textsuperscript{16}

\textsuperscript{5}Products and services used by firms were found to have vulnerabilities as well. News of Dropbox’s vulnerabilities to Heartbleed,\textsuperscript{17} a bug in the Open SSL encryption code “that could have allowed people to see what was supposed to be encrypted data passing between users and the websites using OpenSSL,” potentially threatened law firms’ data security.\textsuperscript{18} Further, Dropbox issues regarding shared links to documents permitting inadvertent disclosure to unintended recipients, although eventually fixed,\textsuperscript{19} caused legal technology professionals to advise firms and corporate counsel to block the use of document-sharing tools such as Dropbox.\textsuperscript{20}

\textsuperscript{6}But firms are not the only targets of cybersecurity crimes in the legal community. Legal information vendors, including LexisNexis, have also suffered loss of data.\textsuperscript{21} Compromise of a vendor’s database in March 2014 allowed hackers access to an international law firm’s servers, resulting in the breach of hundreds of employees’ W-2s and other information.\textsuperscript{22} Court systems have also been victims of those

\begin{itemize}
\item \textsuperscript{13}Throughout this article, “law librarians” is used to refer to all legal information professionals.
\item \textsuperscript{14}Victor Li, “60 Sites” Session Takes In the Crowd’s Favorites, \textit{A.B.A. J. Daily News} (June 1, 2014, 3:00 AM CDT), http://www.abajournal.com/magazine/article/60_sites_session_takes_in_the_crowds_favorites/.
\item \textsuperscript{18}Aarom Street, Heartbleed: What Lawyers and Law Firms Need to Know, \textit{Lawyerist} (Apr. 11, 2014), http://lawyerist.com/72733/heartbleed-lawyers-law-firms-need-to-know/.
\item \textsuperscript{20}Allison Brecher, 8 Tips for Corporate and Outside Counsel to Protect Client Data, \textit{Law Tech. News}, Apr. 4, 2014 (available on LexisNexis).
\item \textsuperscript{22}Richard J. Bortnick, \textit{Perspectives: Lawyers Need to Put Cyber Security Policies in Place}, \textit{Bus. Ins.
working to illegally access or block access to data. For example, the Public Access to Court Electronic Records (PACER) system was reportedly the target of a denial-of-service attack in January 2014. In 2013, the Washington state court system was attacked. The attack reportedly resulted in the potential breach of 160,000 social security numbers. At the 2014 E-courts Conference, organized by the National Center for State Courts, Bryant Baehr, Chief Information Officer of the Oregon Judicial Department, acknowledged that courts are targets of cyberattacks; he suggested that, in response, they use encryption and two-factor authentication for access to critical systems.

University systems supporting professional schools, including law schools, have increasingly become cybertargets. According to a July 2013 New York Times piece, U.S. universities are increasingly under attack, with “millions of hacking attempts weekly.” In February 2014, the University of Maryland reported that it had been attacked and hackers accessed Social Security numbers from more than 300,000 individuals. In 2010, Ohio State University experienced a similar data breach. Further, as students have continued to increase their use of mobile devices to conduct educational activities via university networks, security becomes increasingly important. Mobile device management is no longer optional for institutions engaged in educating medical professionals in teaching hospitals, which are required to comply with federal regulations concerning the confidentiality of health information. As law schools increasingly engage in clinical and experiential work, in part to fulfill the requirements for such opportunities set forth in chapter 3 of the ABA’s Accreditation Standards, academic personnel may find that they also are “required” by ethical considerations, client expectations regarding confidentiality, and perhaps even future enhanced regulation to manage access to information in a manner to ensure greater security.


29. While law school clinical work would not be subject to trade regulation, the recent aggressiveness of the Federal Trade Commission (FTC) in pursuing claims of unfair trade practice claims against companies that fail to take adequate data security measures is an example of increasing regulatory enforcement based on security concerns. FTC action on data security matters has been a topic of discussion in recent legal news sources. Todd Taylor & Karin McGinnis, Trade Commission Takes
§8 In addition, academic law librarians who teach legal technology classes now recognize the need to familiarize themselves and their students with data and cybersecurity concerns.\(^{30}\) In teaching such classes, librarians typically integrate data security and ethics discussions with the coverage of other technology-related topics. For example, librarians might discuss that while security experts view encryption as a “basic safeguard” whose use should be a “no-brainer” for organizations, full-drive and e-mail encryption use in firms remains “low.”\(^{31}\) Thus, “[a]ttorneys who do not use encryption on laptops, smartphones, and portable devices should consider the question: Is failure to employ what some consider a no-brainer solution taking competent and reasonable measures” to protect client information as required by the ethics rules?\(^{32}\) Notwithstanding the involvement in legal technology classes, there is little evidence that academic law librarians are lending their talents to and leading strategic institutional efforts in the area of data security and cybersecurity.

§9 Despite assertions today that security is “everyone’s business,”\(^{33}\) law librarians often still marginalize security concerns, believing that security is the responsibility of information technology (IT) departments. Instead, librarians are often interested in a “philosophy of freedom” of information with an emphasis on open source products and access,\(^{34}\) and are frustrated by network or other security concerns that may interfere with open access initiatives. This commitment to open access is reflected in the preamble of the American Association of Law Libraries’ (AALL) Ethical Principles:

---

\(^{30}\) A presentation at the 2014 Mid-America Association of Law Libraries Annual Meeting focused on the legal technology course offered at Valparaiso Law School. One presentation slide entitled “Learning About and Selecting Topics” indicates that the law librarians had to familiarize themselves with some topics. Further, the instructors list the first two topics for the course as “data security” and “cloud computing resources and ethics.” Emily Janoski-Haehlen & Jesse Bowman, Teaching Technology to the “Techie” Generation, Mid-America Ass’n of L. Libr. Ann. Meeting (2014), http://maall.wildapricot.org/Resources/Documents/TEACHING%20TECHIE%20GENERATION.pdf.

\(^{31}\) Ries, supra note 12.

\(^{32}\) Id.


When individuals have ready access to legal information, they can participate fully in the affairs of their government. By collecting, organizing, preserving, and retrieving legal information, the members of the American Association of Law Libraries enable people to make this ideal of democracy a reality. . . . [F]ostering the equal participation of diverse people in library services underscores one of our basic tenets, open access to information for all individuals.35

However, the commitment to open access should not overshadow all other principles, and the AALL Ethical Principles also note that AALL members “uphold a duty to our clientele to develop service policies that respect confidentiality and privacy.”36 Service polices certainly must address access to electronic and digital resources and data and take into consideration the reasonable steps needed to minimize the risk associated with access to protect the confidentiality of users.

¶ 10 Further, as law librarians increasingly manage both library and IT functions or serve as chief information officers (CIOs), their marginalization or delegation of security concerns can no longer be justified. This is particularly true in cases where there are no or few IT or technical support staff.37 Even when law librarians are not responsible for IT functions, they must recognize that security “is an enterprise issue, and that means that attorneys, firm management and support personnel [including law librarians] need to be involved.”38 There are some actions that law librarians might consider to assist in reducing security risk. Closing every security loophole and blocking every vector of attack would likely render networks unusable for patrons. Thus, there is a need to find the right balance between accessibility and security. This requires a conversation about the library’s mission and audience.39 To facilitate these conversations, law librarians have to become more familiar with the security environment and the possible risks associated with the products and services provided.

¶ 11 Law librarians who are not familiar with the details of today’s security environment should concentrate first on becoming more aware of security risks. Reviewing texts addressing these security concerns, such as The ABA Cybersecurity Handbook40 and Locked Down: Information Security for Lawyers,41 is a first step. With increasing frequency, the ABA Continuing Legal Education (CLE) offerings include cybersecurity topics.42 Participating in such CLEs, both as continuing learners and presenters, is a means of gaining additional knowledge and raising the profile of law librarians in dealing with data security and cybersecurity.

36. Id.
37. Thirty-seven percent of respondents to the 2013 ABA Legal Technology Survey reported that their firms had “no technical support staff at all locations combined.” AM. BAR ASS’N, 2013 LEGAL TECHNOLOGY SURVEY REPORT, at 1-vii (2013).
Some security professionals indicate that education is perhaps the most important step, in part because individual firm employees are primary sources of information leakage. Yet it is interesting to note that the ABA TechReport 2013’s Security Snapshot: Threats and Opportunities reveals that thirteen percent of the respondents to the 2013 ABA Legal Technology Survey reported that “they simply didn’t know if their firm had technology policies in place”; thirty percent of the same respondents revealed that their employers offered no technology training. And the International Legal Technology Association Survey of almost 500 firms reflected that sixty-seven percent of the responding firms did not have a security awareness training program for users.

With so many attorneys unsure about technology policies or untrained in using technology safely, one growing trend is causing special concern within the legal community. Bring Your Own Device (BYOD) programs allow users to use their own devices to conduct business. Although seventy percent of respondents in a 2012 survey of law firm CIOs agreed that “BYOD programs produce ‘more cheerful users’” within the firm, failure to adequately assess and address the security risks associated with BYOD programs is a serious problem. Recognition of this concern, in 2013, led one commentator to question whether Bank of America’s cybersecurity audits of its law firms could be “the beginning of the end of the BYOD era?” However, BYOD does not appear to be going away. Daniel Burris, a technology forecaster, predicted in 2012 that BYOD “is not only here to stay but that it will continue to accelerate.” In fact, the percentage of respondents to the ABA Legal Technology Survey reporting they used “personally owned smartphones” to perform law-related work increased from sixty-five in 2012 to sixty-seven percent in 2013. It seems that technology users are not only using their own

---

43. See Ed Finkel, Inside-Out Threat: Law Firms’ Own Employees Are Among the Major Cyber-threats to Be Protected Against, A.B.A. J., July 2014, at 28.
49. AM. BAR ASSN, supra note 37, at VI-xxi. It should be noted that this reflects an overall percentage and percentages varied slightly depending on the size of the firm, with solo practitioners reporting the highest percentage of those using personally owned smartphones.
devices more but are also using software specific to these devices and “consumer-oriented cloud services,” thus broadening the trend into Bring Your Own Technology (BYOT). In such an atmosphere, educating library patrons about the risk of accessing resources on these devices is essential.

Further, since mobile devices and technologies are here to stay, law librarians, IT staff, and organizational administrators must continue to develop creative means to protect data. Fortunately, some guidance is available. The International Legal Technology Association (ILTA), for example, announced in May 2012 that it was launching the LegalSec Initiative, designed in part to develop standards and templates for security programs. Yet information about progress made as a result of the LegalSec Initiative appears to have had limited distribution.

The U.S. Commerce Department’s National Institute of Standards and Technology (NIST), at President Obama’s direction, has developed “a ‘cybersecurity framework’ to help regulators and industry participants identify and mitigate cybersecurity risks that could potentially affect national and economic security.” The framework is intended for adaptation to a variety of organizational structures, and organizations are to be able to use the framework to conduct a basic review of cybersecurity practices, establish or improve cybersecurity using the steps outlined in the framework, communicate cybersecurity requirements with stakeholders, and identify opportunities to revise or create new standards or practices. However, the framework has received some amount of criticism.

In June 2013, NIST released a revision of its Guidelines for Managing the Security of Mobile Devices in the Enterprise. As summarized by the Information Law Group, these new guidelines recommend that organizations should:

1. Have a mobile device security policy that defines the types of devices permitted, the resources that may be accessed and how provisioning is handled.
2. Develop system threat models for mobile devices and the resources that are accessed through mobile devices.
3. Consider the merits of each provided security service, and determine which services are needed for the specific environment, and then design and acquire one or more solutions that collectively provide the necessary security services.

---

51. Id.
52. Using storytelling about incidents of breach may serve as a motivational component of the educational experience. Julia Montgomery, Once Upon a Data Breach: How Story Telling Can Make You the Hero of Your Firm’s Security Awareness Program, Peer to Peer, Fall 2014, at 56, 57, available at http://epubs.iltanet.org/i/411912. Law librarians can conduct research and use the references outlined in this work to add the aspect of storytelling to security education.
54. However, several references to the LegalSec Initiative and some information about the standard on which LegalSec is “focused” is available in the Security-themed Fall 2014 issue of Peer to Peer. Herman et al., supra note 33, at 88.
57. Id. at 18.
4. Should implement and test a pilot of their mobile device solution before putting the solution into production.
5. Should fully secure each organization-issued mobile device before allowing a user to access it.
6. Should regularly maintain mobile device security.⁶⁰

17 Certainly law librarians could and should assist in developing models for reducing potential threats regarding how legal resources are accessed, as recommended by the NIST guidelines summarized above. Law librarians might advocate for a “spirit of compromise” that balances convenience with reduced risk.⁶¹ For example, law librarians could advocate for an information structure that encourages e-book users to download materials to their mobile devices using secure networks rather than insecure wireless networks. Such programs would likely also be appreciated by users who have capped data plans on their wireless devices.

18 Law librarians should also advocate for and select security solutions such as mobile device management (MDM) products and services. The ABA Cybersecurity Handbook advises law organizations that permit personal devices on their networks to use MDM as a “centralized way to manage mobile devices remotely, including significantly the ability to lock or erase a lost device remotely and check its geographic location.”⁶² There are a number of leaders in MDM products and services, including Airwatch, Good Technology, and Mobile Iron,⁶³ but security experts suggest that MDM is the “bare minimum” for organizations allowing BYOD. Security options for such organizations include “MDM, mobile application management, container-based apps, mobile virtualization, mobile backend as a service, or MBaaS, network access control, and software defined networking.”⁶⁴ However, use of a particular security technology does not ensure success. As one writer adeptly summarizes,

[the issue of managing all mobile devices, both user-owned and firm-supplied, is clearly one that extends beyond tracking inventory and basic security. It requires a comprehensive plan that starts at the top with management buy-in to firm wide policies relating to usage, sanctioned apps, access to corporate data, and auditable procedures to protect sensitive client data in the event of stolen devices. Regardless of the technology used, these strategies will be less than successful without a formal process to educate users regarding appropriate use of mobile devices and their responsibility to act in the best interest of the firm and its clients.⁶⁵

19 This focus on education applies to all law-related organizations, and librarians may assist by evaluating security products and services and participating in the educational process. Hopefully law librarian involvement in the educational process

---

⁶⁰New Federal Guidance for BYOD Security Released, INFO\LAW\GROUP LLP (June 26, 2013), http://www.infolawgroup.com/2013/06/articles/mobile/nist_sp800-124r1/.
⁶²RHODES & POLLEY, supra note 40, at 19.
⁶³NELSON ET AL., supra note 41, at 79.
will result in improved security practices so that one-third of our organizations do not “allow personal mobile devices (e.g., tablets, laptops, smartphones) to access the firm’s [or organization’s] network” without the imposition of security restrictions.66

¶20 Law librarians are increasingly involved in vetting apps used by those in the legal community.67 One of the criticisms of some MDM security services is that they foreclose the use of particular apps. A 2011 ALM Legal Intelligence Report notes that while only seven percent of survey respondents indicated that their firm had implemented a MDM platform, fifty-three percent of the users in such firms indicated that the system had “limited, in some way, the usefulness of the device”; specific examples identified the limitation of apps as a concern.68 Law librarians could make themselves even more valuable by addressing security concerns in the apps they assist in developing69 and collaborating with app developers, who may be lawyers and law students working to address access to justice concerns,70 to overcome the security characteristics that make some apps unacceptable for use by their legal organizations.

¶21 While evaluation of MDM products and services and implementation of other security measures may seem to require higher levels of technological knowledge, there are less complex measures that may be helpful. Password development and storage are areas that are relatively simple. At a CLE program at the ABA’s annual meeting, Andrew Perlman, a professor and director of the Institute on Law Practice Technology and Innovation at Suffolk University, indicated that lawyers do not have to be technology experts but, at “the very least, . . . should know how to develop strong passwords that will be difficult to compromise.”71 Perlman described a strong password as containing “at least 12 characters . . . mixing letters, numerals and special characters, with at least one capitalized letter. Your cat’s name, your

66. Responses to the 2013 ABA Legal Technology Survey indicated that one-third of the respondent firms allowed mobile device access to their networks without the discussed security restrictions. AM BAR A’SSN, supra note 37, at I-48. In 2014, slightly more than thirty percent of the respondents to the Legal Technology Survey indicated that the firm allowed personal mobile devices to access the firm’s network without restrictions. AM BAR A’SSN, 2014 LEGAL TECHNOLOGY SURVEY REPORT, at I-45.
71. James Podgers, You Don’t Need Perfect Tech Knowhow for Ethics’ Sake—but a Reasonable Grasp Is Essential, A.B.A. J. DAILY NEWS (Aug. 9, 2014, 6:00 PM CDT), https://web.archive.org/web/20140814014255/http://www.abajournal.com/news/article/you_dont_need_perfect_tech_knowhow_for_ethics_sake--but_a_reasonable_grasp (retrieved from the Internet Archive). Perlman has noted that attorneys also need to be aware of the importance of encryption and multifactor authentication. Perlman, supra note 32.
birthdate or password 123 are not strong . . . " 72 While some may argue that strong passwords alone are not as secure as a biometric measure or security tokens that provide two-factor authentication, 73 it appears that for now strong passwords remain most commonly used, considering they are not as complex to implement. It is surprising, then, that according to ILTA's 2013 Technology Survey, twenty-one percent of the respondents did not force the use of a password to unlock mobile devices. 74 Law librarians can assist others by recommending tools that generate random passwords, test the strength of existing passwords 75 (e.g., Telepathwords 76), or manage passwords 77 (e.g., LastPass 78).

§22 In summary, security is a growing concern in all legal organizations. With new technological advancements come new opportunities, threats, and security solutions. No longer can law librarians delegate all security responsibilities to the IT Department staff. Law librarians need to be aware of the security environment and need to participate in organizational security policy development, security product and service selection, and security educational efforts. With our skills in knowledge management and document preservation, we may also contribute greatly to "cyber-attack response teams." 79 If we creatively find opportunities to assist with issues of organization cybersecurity, we will add immeasurable value to our organizations.

72. Podgers, supra note 71. Failure to change default passwords (like 1234) was noted as the security weakness allowing access to home video systems and the posting of such video recordings from 100 countries to a Russian web site. Amelia Smith, Russian Website Streams Footage from Thousands of Hacked Webcams, NEWSWEEK (Nov. 20, 2014, 10:00 AM), http://www.newsweek.com/russian-website -streams-footage-thousands-hacked-webcams-285721.

73. Victor Li, Be Vigilant About Protecting Sensitive Client Data with These Tools, A.B.A. J. L. NEWS NOW (June 1, 2014, 3:10 am CDT), http://www.abajournal.com/magazine/article/be_vigilant_about _protecting_sensitive_client_data_with_these_tools.

74. 2013 Technology Survey, supra note 46, at [132]. In 2014, seventeen percent of the responding firms continued to report their firms did not force the use of a password to unlock mobile devices. 2014 Technology Survey, supra note 46, at [212].

75. Li, supra note 14.


79. Stuart D. Levi & Jessica Cohen, A Weak Response Can Also Bring Lawsuits: States Are Cracking Down on Companies that Lag in Reporting Data Security Breaches, NAT’L L.J., Nov. 24, 2014, at 12, 13. “Cyberattack response teams” are discussed more often in the context of companies such as large retailers. However, as law firms and other organizations in the legal community increasingly find themselves targets of cyberattacks, the legal community, like other industries, must start to think of establishing plans and internal bodies to respond to cybersecurity incidents. Doug Brush, Ask the Vendor: What’s One Tip You’d Offer on How to Improve Security in an Organization? Develop an Incident Response Plan, PEER TO PEER, Fall 2014, at 22, available at http://epubs.iltanet.org/i/411912.
To Meet or Not to Meet? That Is the Question*

Lynne F. Maxwell**

Professor Maxwell discusses why law library managers should make it a priority to schedule regular staff meetings.

¶1 Ask my former colleagues at my previous institutions, and they will tell you that I have been singularly unenthusiastic about meetings, whether holding or attending them. Yes, admittedly, I thought some meetings were necessary evils: indispensable, perhaps, when planning group projects such as the new curriculum for an Introduction to Legal Research course. There, face-to-face contact and energetic exchanges of ideas are critical in generating course content and delivery methods that all participants will endorse. Well and good—but regularly scheduled staff meetings? Really? How could a law library benefit from gathering the entire staff in a room when the staff is so small that everyone interacts numerous times during the workday? Read on and learn in this brief column why I was wrong and why I suggest that law library managers make it a priority to schedule regular staff meetings.

Information and Communication

¶2 Despite the fact that library administrators may converse with coworkers frequently during the day, they are not necessarily well informed about what everyone is doing. In fact, they may know practically nothing about major library endeavors that fall outside of their own departments. For instance, the head of Public Services may not know that her Technical Services counterpart is busy evaluating next year’s materials budget and evaluating options for renewals. Likewise, the Technical Services staff may not realize that the Public Services librarians are immersed in a last-minute project to assemble print and electronic versions of all faculty scholarship for the last five years. And the library director may be blissfully unaware that Circulation staff members are busily entering new patron records and purging old ones, while preparing to put new materials on course reserve. The point is obvious: we concentrate on activities that most directly concern us and our particular library department, while trusting people in other
departments to behave competently in similar fashion. And this is a good thing. It would be catastrophic if everyone were involved in all aspects of library workflow. Still, this does lead to a critical disconnect. After all, it is easy to lose sight of the library’s overall mission as everyone compartmentalizes tasks. But does this really matter? Of course it does!

¶3 Library leaders benefit by providing regular opportunities for all library staff to share information. Weekly staff meetings encourage such communication, a leadership strategy I learned from Vicenç Feliú, Associate Dean of Information Services and Associate Professor of Law at Villanova Law School. When everyone on the library staff is able to report on what he or she is working on and to describe anticipated projects, a greater sense of investment infuses the group. “We’re all in it together” becomes the library mantra. When members of the library team share information, everyone learns something about the organization as a whole and how the seemingly disparate pieces fit together. Thus, everyone benefits. Library team members are often truly surprised to learn the scope of their colleagues’ job duties and responsibilities. Sharing this information creates greater appreciation for everyone’s role in making the library successful in carrying out its mission.

Camaraderie

¶4 Not only do meetings provide tangible benefits such as information sharing among library team members, but they also afford opportunities for less tangible but equally valuable benefits such as establishing camaraderie. Simply spending time together enables employees to get to know one another better, as well as to interact in the context of the group. When I came to my library a little more than a year ago, I immediately scheduled weekly staff meetings of no longer than one hour and, as expected, sensed resentment among the group, most likely because people expected the meetings to be a waste of time. It took approximately six months for staff members to regard the meetings as largely positive, productive experiences. It became clear (to me, at least) that the group benefited from having fun together. Fortunately, my coworkers have fabulous senses of humor, so we actually have a good time during our meetings. While, admittedly, I don’t always look forward to the meeting sessions when I am consumed by other administrative or academic work, in the end, I have never regretted devoting our collective time to gathering and exchanging information. In fact, as I perceive them, the meetings are always time well spent in consistently working together to achieve common goals and to enhance camaraderie.

Problem Solving and Planning

¶5 In addition to providing wonderful opportunities for communicating information and establishing and fostering camaraderie, meetings are valuable sources for generating strategic plans, along with general strategy. While, presumably, library leaders can effectively assess the strengths and weaknesses of their libraries after eliciting the appropriate data, other insider perspectives from primary stakeholders are invaluable. Input from individual team members operating from their
own unique perspectives allows leaders to more fully comprehend the scope of concerns and to hear the issues that might otherwise go unnoticed. For instance, a Circulation supervisor may comment on the unnerving behavior of a problem patron who is known to have a criminal record and a penchant for knives; as a result, the library director might enhance the presence of security personnel and add swipe card access to prevent unauthorized access to the library. A Technical Services team member might point out that, in a renovated building, the elevator needs to be located closer to the Technical Services work area than the drawings anticipate. Fortunately, this concern, unnoticed by the architects, could be addressed in the early stages of design. In short, when members of the library team gather in staff meetings, they can point out problems—and perhaps solutions—that library leaders can address in their long- and short-range planning.

**Conclusion**

6 Despite the temptation to minimize meetings to maximize work time, library leaders should understand the value inherent in organizing regular staff meetings. We all have much to learn from one another, and, indubitably, a library will benefit from good communication and collective wisdom. Moreover, meetings afford opportunities for humor and camaraderie, both of which make for healthy work environments. In addition, meetings provide venues for strategizing and discussing future directions for the library. Ultimately, the question is not whether the library team can afford time to meet, but whether it can afford not to meet. I encourage library leaders to arrange regularly scheduled staff meetings and to emphasize that these meetings are a priority. Try it. You’ll like it!

General Business Meeting, Monday, July 14, 2014

Call to Order and Introductions ........................................... 650
Adoption of the Standing Rules ........................................... 650
Adoption of the Agenda ..................................................... 650
President’s Report ............................................................. 651
Remarks of the Vice President/President-Elect ......................... 654
Treasurer’s Report ............................................................. 656
Report on Elections ........................................................... 658
Introduction of New Board Members ................................. 659
2014 Hall of Fame Inductees ........................................... 659
President’s Certificates of Appreciation .............................. 662
Memorials .......................................................... 662
Introduction and Remarks of Special Guests ......................... 663
Resolution of Appreciation ............................................ 664
Other Resolutions ......................................................... 665
New Business ............................................................... 665
Announcements and Adjournment .................................... 665

Appendix A

Report of the Director of the Government Relations Office ............. 667
Report of the Executive Director ........................................ 669

Appendix B

Statements of Candidates for 2014–2015 AALL Election ................. 672
Candidates for Vice President/President-Elect in 2014–2015 ............... 672
Candidates for Executive Board Member in 2014–2015 ................. 674
[The General Business Meeting of the American Association of Law Libraries was called to order at 4:02 P.M. at the Henry B. Gonzalez Convention Center, Grand Ballroom C, with Steven P. Anderson, President, presiding.]

**Call to Order and Introductions**

1. **President Steven P. Anderson** (Maryland State Law Library, Annapolis, Maryland): Good afternoon. I’m Steve Anderson, and as Association president and chair of the 2014 Business Meeting of the American Association of Law Libraries, I am pleased to call this meeting to order. As of today, July 14, 2014, we have 1,256 members registered for the 2014 Annual Meeting. The AALL bylaws, article V, section 3, stipulate that a quorum for a business meeting of the Association shall consist of fifty members registered at that meeting. The chair observes there is a quorum.

2. The chair would now like to introduce those present at the head table, beginning on my left: Parliamentarian Sheila Tate; Vice President/President-Elect Holly Riccio; Treasurer Gail Warren; Secretary Deborah Rusin; and Executive Director Kate Hagan.

**Adoption of the Standing Rules**

3. The Rules of Conduct for the AALL General Business Meeting are available on the table at the back of the room, but I think that is actually over on the side of the room. In the interest of managing today’s agenda, no member may speak for more than three minutes, and the discussion is limited to no more than ten minutes on any one agenda item. I will announce when the time is completed. If members wish to extend discussion beyond the allotted time, a motion to extend discussion will require passage by a two-thirds majority. If I hear no objections, these rules will be adopted for this meeting. (No response.) Hearing no objection, these rules are adopted for this 2014 Business Meeting.

**Adoption of the Agenda**

4. Copies of today’s agenda and accompanying handouts are available on the side of the meeting room. The meeting will be recessed no later than 5:15 P.M., unless extended by a vote of those members present. Are there any changes or additions to the agenda? (No response.) Hearing none, I declare the agenda adopted.
President’s Report

The next item on the agenda is my president’s report. This past year was the first year for the implementation of our 2013–2016 Strategic Directions. Its three goal areas include: Authority—Law Librarians will be recognized as an essential part of the profession; Advocacy—AALL and its members will influence legal and government information policies in the public and private sectors; and Education—AALL will become the premier provider of education to legal information and allied professionals.

The Strategic Directions are developed by the Executive Board with thoughtful deliberation and, of course, member input. Last year, as Vice President/President-Elect, I served as chair of the Executive Board’s Strategic Directions Committee and worked to develop the new plan. Our activities are all related to the Strategic Directions plan, and this year, in order to meet these goals, the following special committees were formed:

The Economic Value of Law Libraries Special Committee. The objective of this project is to produce a comprehensive study on the return on investment and consequent value propositions that law librarians and law libraries provide. As we all know, the last few years have brought fundamental changes to the legal profession and the business of law. These changes have served as the impetus for us to transform our operations and services in varied and profound ways. And now it is imperative for us to demonstrate our value in concise, measurable ways. This committee is chaired by Bob Oaks, who plans to release a full report and findings once the study is finalized this fall. The report will include important metrics to calculate the return on investment legal research and information professionals provide within the legal community. We will use the report to develop strategies and toolkits for all of you to use to communicate the ROI that you provide. Bob will also be hosting a Coffee Talk tomorrow morning, so if you want to learn more about this project, please plan to attend.

The Digital Library Initiatives Special Committee. My goal in establishing this special committee was to identify existing and planned digital library initiatives and discover ways in which our association and law libraries could effectively and sustainably participate in these projects. This will ensure legal information is an important segment of these digital library initiatives, and it is important to the long-term preservation of legal information. Chaired by Tory Trotta, the committee has issued its report, which the board considered at its meeting this past Thursday. Once we get back home from this meeting, a full report will be posted to AALLNET. The report serves as a blueprint for how we can be better engaged in this critical, developing area. Tory will also be hosting a Coffee Talk tomorrow morning on digital library initiatives, so please plan to participate to learn more.

Access to Justice Special Committee. Public access to legal information has always been one of AALL’s core values. With that in mind, this special committee, chaired by Sara Galligan, worked to identify and evaluate existing programs and strategies that enhance citizens’ access to justice and to the justice system. The committee also identified and suggested new practices and projects law libraries can adopt to facilitate access to justice. The committee has just issued a white paper for
circulation to the legal community which describes strategies and programs that can be adopted to foster access to justice in our communities. The white paper will soon be available on AALLNET, so please look for that announcement soon. The committee will be holding a program on their report tomorrow morning. It is program E2.

¶10 In addition to these special committees, the board’s annual action plan called for the creation of a Committee Review Task Force, which is chaired by Ron Wheeler. The task force is conducting a review of our standing committees, their purpose and charge to determine if our structure is responsive to the needs of AALL and its members. The task force has submitted a preliminary report to the board and will submit its final report in the fall. Please look for more information about this as we move forward.

¶11 The board also is working to increase the visibility of law librarianship as an integral part of the legal profession. In support of that goal, a CLE and Practice-Oriented Education and Publication Task Force was formed. Chaired by Jane Larrington, the task force submitted its report and recommendations to the board at its meeting last Thursday. This comprehensive report identifies initiatives already underway at the chapter level and provides recommendations for developing toolkits and other resources for AALL and chapters to use to increase our visibility through CLE and publication in legal newsletters and periodicals. Their report will soon be available on AALLNET as well.

¶12 Another board initiative was planning for a first-ever Chapter Summit, which was held this past Friday here in San Antonio. The summit brought together chapter and AALL leaders for a discussion about the future of the profession. Topics covered included communicating value, mentoring future leaders, member retention and engagement, and a session on change as an opportunity. We think it was a very successful event and will help us facilitate planning and initiatives in support of our profession.

¶13 During the year, I was also gratified to work with the Social Responsibilities SIS on an amendment to the AALL bylaws to include gender identity in our anti-discrimination clause. This needed amendment was brought to our attention by the chair of the SR-SIS, Sarah Jaramillo. The amendment was overwhelmingly approved by the membership and is now included in our bylaws.

¶14 I am also happy to report the addition of a new SIS to our ranks. The GenX/GenY Caucus successfully petitioned the board to become our fourteenth SIS. While they are just getting started, and as I understand it, are working on a name change, bylaws, and an election of officers, I look forward to working with them as they grow and develop programs in support of our Association. The purpose of the new SIS is to help newer members become active participants in the Association and in the profession. Their goal is the engagement of the members to learn, contribute, innovate, and network.

¶15 This year we also set some ambitious priorities on the government relations front, including increasing access to government information, striving for a balance in copyright law, protecting the privacy of library users, and ensuring adequate funding for the Legal Services Corporation to support access to justice. In support of access to government information, we advocated for funding for the
Government Printing Office and Library of Congress by submitting testimony, educating congressional staff, and working with the agencies to support their vital missions. Public Printer Davita Vance-Cooks is our speaker at tomorrow’s Association luncheon, and I know you will enjoy learning more about her, the GPO, and plans for its future.

¶16 We also had a seat at the table for the Copyright Office’s Roundtables on Orphan Works and Mass Digitization in March. Our Copyright Committee drafted comments that were submitted in May to the Copyright Office on behalf of our Association, the Association of Academic Health and Sciences Libraries, the Medical Library Association, and the Special Libraries Association. Our comments focused on the reasons libraries digitize and the need for the Office to continue to seek a solution to the orphan works problem.

¶17 At the state level, our members and chapters advocated tirelessly for the adoption of the Uniform Electronic Legal Material Act, or UELMA. As of June 2014, UELMA has been adopted in nine states—California, Colorado, Connecticut, Hawaii, Idaho, Minnesota, Nevada, North Dakota, and Oregon. My own state of Maryland considered UELMA at the start of this year, and we hope to see a reintroduction in 2015.

¶18 In March, I was pleased to welcome members to our second Lobby Day in Washington, D.C. Seven states were represented at the event, and each participant met with staff members in the offices of their representatives and senators to discuss key legislation affecting law libraries. The influence of these meetings was magnified by participants in our Virtual Lobby Day, which sent over eighty-five messages to congressional offices via our Legislative Action Center.

¶19 In addition to trainings we conducted chapter meetings, and here at the Annual Meeting, we also held six online advocacy trainings on topics including what to expect in the 113th Congress, the structure of congressional committees, and advocating at the state level. Since the start of last year, we’ve trained more than 300 members to effectively advocate for themselves in the profession.

¶20 A year ago, I selected the theme “Beyond Boundaries” for this year’s Annual Meeting, not only to celebrate our host city, but also as a theme I looked to throughout the year. In order to be successful and remain relevant in today’s legal environment, we need to look beyond our boundaries and get outside of our comfort zones. On a personal level, during the year, I also tried hard to stretch myself beyond the boundaries of my limitations of Parkinson’s disease.

¶21 I am confident that the work of the Board, our special committees and task forces, our standing committees and the leaders of SISs, caucuses, and chapters have put us on the right course. One thing that I admire about our profession is how hard we work to research, investigate, and take action in recognizing problems and then identifying solutions. We are skilled in networking and sharing information. These are all important skills to have in creating our future, which I know is a very bright one. Thank you very much for letting me serve you as President this past year. I am very grateful for the opportunity.

¶22 I will now invite incoming AALL President, Holly Riccio, to the podium to share with you her plans for the year ahead. Holly, the floor is yours.
Remarks of the Vice President/President-Elect

¶23 Ms. Holly M. Riccio (O’Melveny & Myers LLP, San Francisco, California): Thank you, Steve. Before I begin my actual remarks, I would like to take this opportunity to thank Steve for the leadership he’s provided the Association this past year. I am so grateful to have such a wonderful example to learn from. With Steve’s mentoring and guidance, becoming Vice President didn’t seem quite so daunting or overwhelming. Thank you, Steve, and congratulations on a boundlessly informative and successful Annual Meeting.

¶24 I am very much looking forward to my new leadership role as your incoming President. AALL has been a part of my professional life from the very beginning. I am amazed at how far we’ve come since then. This Association has consistently provided me with the education and networking opportunities necessary to learn, grow, and develop as a law librarian.

¶25 This past year, Steve has appointed task forces and special committees that address both the current and future needs of our members and our profession. In the coming year, I look forward to building on the knowledge and information gained from these groups, and using that to create continuity and develop a strong legacy of leadership for our Association.

¶26 Last year, I learned so much from the various activities I took on and the committees on which I served. Specifically, I chaired the Executive Board of Strategic Directions Committee, and in this role, I worked with the other Executive Board members to discuss the issues that are facing our profession and our members and helped develop strategies to help address them. The outcome of this committee was the 2014–2015 Executive Board Action Plan, which is available on AALLNET. We have set some pretty ambitious goals for the upcoming year, and our goals are always tied to moving our Strategic Directions forward.

¶27 With the research report and recommendations from the Return on Investment Study nearly complete, we’ll devote energies to understanding the research findings and how we can use them to develop strategies and best practices for our members to employ in communicating the value of the resources and services they provide. The Board will be giving this its full consideration at the fall meeting, and will work with AALL entities and chapters to implement a successful course of action.

¶28 Another area of focus will be on business skills education for members. Developing these skills will help our members advance in their careers and pursue leadership opportunities in the organizations in which they work. Developing competent business and leadership skills will help our individual members and our profession as a whole. I plan to appoint a task force to develop the program and curriculum for this educational opportunity. I’ll be reporting to all of you on this initiative as it develops.

¶29 Another goal is to include more members in selecting and curating content for the Annual Meeting program. In order to develop this further, this year we’ve created six member teams that will work with the AMPC to develop “must have” programs and review submitted proposals to ensure that we are delivering maximum value to our members. We’ve established six content areas for which these
teams will work to develop the content. These areas are Management and Leadership; Technology; Content Management; Legal Research and Reference; Raising the Profile of the Library/Librarian; and Collaboration. We think this will add even more value to our Annual Meeting program and will also allow for much more input from our members. Each team will be led by an AMPC member and have four team members underneath. This new structure should help us develop programs to meet our members’ growing need for cutting-edge education and providing training to meet the continuing challenges we face as legal information professionals. After the 2015 meeting, we’ll review this process to determine if it met or even exceeded our goals and make any necessary adjustments to ensure continued improvement in our processes. I’m looking forward to working with the AMPC and the content teams, under the leadership of our chair, Carol Watson.

¶30 We also expect another busy year advocating at the federal and state levels. We’ll continue to promote our priority issues and support agencies that produce, disseminate, and preserve government information. After the November elections, we will set new policy goals for the 114th Congress that reflect our priorities. Our Copyright, Digital Access to Legal Information, and Government Relations Committees will work to develop a policy position document that we will use to move our information policy agenda forward during the next two years. At the state level, I know we will see more introductions and enactments of UELMA. As of this month, we have pending bills in Delaware, Illinois, Massachusetts, Pennsylvania, and Washington, D.C. And we will continue to work closely with the Uniform Law Commission to identify priority states and potential introductions. So please stay tuned.

¶31 This past year, as Steve has already touched on, the Board did some planning and environmental scanning to help prepare us for changes that may affect the Association, our members, and the profession. At the Board’s fall meeting, we’ll spend some time reviewing the work in this area so that we can continue to monitor and update AALL’s Strategic Directions plan to ensure it’s aligned with the changes occurring in the legal profession.

¶32 One of the initiatives that assist the Association with staying on top of these developments as a whole is our Representatives program. The individuals who take on these important liaison roles with our partner organizations help us work more closely with them and their members to communicate our value and identify common interests and goals. I had the privilege of appointing six new representatives to expiring terms this year, and I look forward to working with all of our representatives to leverage these connections and continue to look for partnering opportunities in the year to come.

¶33 And speaking of connection, the theme for next year’s Annual Meeting in Philadelphia is “The Power of Connection.” I chose this theme because I believe that growth is achieved through connections and the trust and accountability that truly authentic interpersonal connections can foster. I know this theme will serve us well in the year ahead. We will continue to look to you to help us make connections with other allied groups, associations, and institutions in communicating the important role information professionals play in this knowledge-centric environment in which we are all working.
¶34 I would like to close by again thanking Steve, the members of the AALL Executive Board, Executive Director Kate Hagan and her amazing headquarters staff, O’Melveny & Myers, Director of Information Services Cheryl Smith, and all of my colleagues in the O’Melveny & Myers library for their assistance and support this past year, and to thank you for the privilege and honor of serving you.

¶35 I came across a quote recently that I’d like to close with because I think it sums up things quite well. It said, “No one can whistle a symphony. It takes a whole orchestra to play it.” So I look forward to connecting with all of you, the AALL orchestra, in the coming year and seeing you in Philadelphia in 2015. Thank you.

Treasurer’s Report

¶36 President Anderson: Thank you very much, Holly, for your kind words, as well. I really appreciate them. I will now invite Gail Warren to the podium for her treasurer’s report.

¶37 Ms. Gail Warren (Virginia State Law Library, Richmond, Virginia): Thank you, Steve. Good afternoon. I’m very happy to be with you today to share a summary of our Association’s financial statements for the 2013 fiscal year, which ended on September 30, 2013. My remarks today are culled from the Treasurer’s Report which appeared in the May 2014 issue of AALL Spectrum.¹ If you would like to follow along with me as I go through the report or my summary, copies are available on the tables adjacent to the entrance to the ballroom.

¶38 Each year, typically in February, the AALL Executive Board sets aside a specific time to assess the financial health of our Association and prepare an annual report. A range of activities informs this process, including an examination and audit of our year-end financial statements, as well as an examination and audit of these statements by a qualified certified public accountant. Legacy Professionals, LLP, an independent audit firm, prepared the 2013 audit report dated February 26, 2014, rendering an opinion that the Association’s financial statements “present fairly, in all material respects, the financial position of American Association of Law Libraries as of September 30th, 2013 and 2012, and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.”

¶39 The AALL Spectrum article also provided narrative for four schedules that summarize the data presented in that Legacy Professionals audit report. Like my colleagues on the Board, I, too, will be using visual aids to illustrate the information shared in the Treasurer’s Report.

¶40 Schedule A provides a summary of the Association’s financial position on September 30, 2013, including a comparison with our position on September 30, 2012. As you can see from the slide, the greatest percentage of the Association’s assets continues to be its investments.

¶41 What are these investments? The Association’s investment portfolio, managed by Chevy Chase Trust, is composed of three invested funds: number one, the Permanent Investment Fund, or the PIF; number two, the Restricted Endowment Fund, or the REF; and number three, the Current Reserve Fund, or the CRF. The PIF is the largest fund within our investment portfolio; it is invested in a variety of managed equities and fixed-income instruments, such as mutual funds. The REF includes money set aside from contributions to a variety of endowed funds, such as the Scholarship Fund, the AALL/Thomson Reuters George A. Strait Minority Scholarship Endowment, the LexisNexis/John R. Johnson Memorial Scholarship Endowment, and other similar endowments. Like the PIF, this fund is also invested in a variety of equities and fixed-income instruments. The third fund, the CRF, serves as a short-term reserve for investing cash available from our operations—essentially our Association’s short-term savings account. For fiscal year 2013, the Association reported an increase in net assets of 5.8 percent. Additional sources of cash include the revenue we receive from the Annual Meeting and our publications. Let’s look a little more closely at this revenue.

¶42 In the *AALL Spectrum* article, the narrative and chart for Schedule B provided a snapshot of the various revenue and expense accounts for all funds for the 2012 and 2013 fiscal years. This slide illustrates the Association’s four primary sources of revenue. Now, I want you to note that the greatest source of revenue is the Annual Meeting.

¶43 Total revenue in 2013 was lower than that received in 2012 by a little over twelve percent. While revenue from membership dues, the Annual Meeting, and dividend and interest income have obviously declined, we continue to see strong performance from the *Index to Foreign Legal Periodicals*, other publications, and professional development. And, when compared to revenue received during the 2011 fiscal year, the 2013 revenue from the Annual Meeting, as well as dividend and interest income, was higher.

¶44 Schedule C itemizes the fiscal year annual statement for the Association’s general fund—essentially, our Association’s checking account. As a result of less revenue and continued expenses, which were outlined in Schedule B, Schedule C reflects a much smaller increase in net assets. Membership dues revenue to the general fund in 2013 was reported at $916,760, down from the previous year’s total of $975,661.

¶45 This next slide provides a visual snapshot of the balancing of revenue and expense in fiscal year 2013. Although Association expenses were higher in many areas during fiscal year 2013, cost-cutting measures implemented by Association staff contributed to a decrease in overall expenses, particularly those for this Annual Meeting.

¶46 The “All Other” category you see on that chart includes the costs related to our representatives to allied associations, Executive Board and committee expenses, and expenses related to headquarters. Despite lower revenues, by the end of the 2013 fiscal year, our net assets reflected an increase of approximately five percent, for a grand total of $5,760,725.

¶47 You will note that there appears to be a trend regarding declining dues and Annual Meeting revenues. The Board has discussed this at length and will continue
to explore ways to diversify our revenue stream, grow membership, and reduce expenses. In all, while the increase in net assets was less than that reported in 2012, we realized growth in Association assets.

¶48 Schedule D provides more detail about the restricted and unrestricted funds I mentioned, the funds that appeared in the pie chart illustrating Schedule A as “net assets.”

¶49 Many years ago, the AALL Executive Board established a variety of funds and programs to support the Association’s commitment to its Strategic Directions, currently authority, advocacy, and education. Investing these funds wisely and depositing any investment income received into these restricted accounts ensures that restricted endowment contributions are accounted for and any use is limited to their intended purposes.

¶50 This slide clearly illustrates the importance of the investment portfolio as our Association’s greatest asset. Rest assured, I am not making any investment decisions. Instead, the Board’s Finance and Budget Committee relies on the expert counsel of our Chevy Chase Trust account representatives.

¶51 Association investment funds continue to be invested according to an asset allocation model, spread over a range of diverse asset classes. Although the overall value of the Association’s investments did not increase as much as they did last year, the 2013 year-end total of $5,760,725 reflects a five percent increase from the September 30, 2012, value.

¶52 If you have questions about the information presented in the Spectrum article or in today’s report, please feel free to speak with Paula Davidson or me. In conclusion, I would like to acknowledge the contributions of AALL Finance Director Paula Davidson and AALL Executive Director Kate Hagan. Their efficiency, flexibility, and attention to shifting financial trends keep our Association well grounded for a healthy financial future. Thank you.

¶53 President Anderson: Thank you very much, Gail, for that very good report. I would like to now call Secretary Deborah Rusin to the podium for the report of the 2013 election results. Deborah?

Report on Elections

¶54 Ms. Deborah Rusin (Katten Muchin Rosenman LLP, Chicago, Illinois): Thank you, Steve, and good afternoon. The ballots for AALL’s election of officers and Executive Board members were distributed to all voting members on November 1, 2013, returned by December 1, 2013, and tabulated electronically the following day. This schedule is consistent with the bylaws. The successful candidates were Keith Ann Stiverson, President-Elect; Katherine Coolidge, Secretary; John Adkins and Donna Nixon, members of the Executive Board. Continuing on the board will be Holly Riccio, President; Steven P. Anderson, Past President; Gail Warren, Treasurer; Femi Cadmus, Amy Eaton, Ken Hirsh, and Suzanne Thorpe, members of the Executive Board. One thousand three hundred and thirty-four ballots were returned, and none were invalidated. Thank you.
Introduction of New Board Members

¶55 President Anderson: Thank you very much, Debbie. The chair declares the following persons duly elected by the membership and asks them to stand and be recognized. Keith Ann Stiverson, President-Elect/Vice President. Katherine Coolidge, Secretary. John Adkins and Donna Nixon, members of the Executive Board. If there are no objections, the chair will authorize the Secretary to destroy the ballots of the 2013 election. (No response.)

2014 Hall of Fame Inductees

¶56 Now I would like to honor some of our colleagues and recognize them for their accomplishments. First it is time to honor some very important members, those who have been inducted into this year’s Hall of Fame.

¶57 The Hall of Fame was established in 2009 to recognize those members whose contributions to the profession and service to the Association have been significant, substantial, and long-standing. Today it is my honor to induct into the 2014 Hall of Fame four individuals deserving of this recognition.

¶58 Carol Bredemeyer. Carol, will you please come forward? Carol Bredemeyer is Assistant Director for Faculty Services at Salmon P. Chase College of Law Library at Northern Kentucky University. And she an exemplary member, volunteer, and a leader. One simple but telling illustration: Carol has served on at least one AALL or special interest section committee or board every year since beginning her professional career in 1984. She also served as a member of the Executive Board from 2008 to 2011. There is little doubt that her example has inspired countless members with the notion that they, too, can be a leader, regardless of job position or title.

¶59 As noted in a nomination letter, Carol’s contributions to law librarianship and her service through many years as an AALL member, volunteer, and leader have certainly been significant, substantial, and long-standing. In 2004, as chair of the CONELL subcommittee, Carol introduced the Friday night “Dutch Treat Dinners” and “Speed Networking” session, both of which are still part of the CONELL program. As chair of the Law Student Research Competencies Task Force, she shepherded the creation of the specific measurable competency for legal instruction based on the Research Principles adopted by the Executive Board. Under her leadership, the Special Committee on New AALL Awards Implementation developed procedures for several new awards, including the Hall of Fame, Emerging Leader, Volunteer Service, Distinguished Lectureship, and Innovations in Technology awards.

¶60 Carol’s service is not limited to our Association. She is a past president of ORALL and is an active member of SEAALL. She also has demonstrated the value of law librarians within her own institution, serving as president of the Northern Kentucky University Faculty Senate and on numerous university committees. Another nomination letter called Carol “a wonderful cheerleader and advocate for AALL membership and the law librarian profession in general. She inspires and motivates those with whom she works with her dedication and professionalism.”
Truer words could not be spoken. Carol, welcome to the AALL Hall of Fame. (Applause.)

¶61 Richard A. Danner. Dick, will you please come forward? Without question, Richard A. Danner, Professor of Law and Senior Associate Dean for Information Services at Duke University School of Law Library, belongs in the Hall of Fame. Dick is an educator, scholar, mentor, and administrator, and he has made many substantial and significant contributions to the Association and the profession throughout his long and distinguished career. Dick’s leadership positions in our Association are numerous, chief among them serving as AALL President from 1989 to 1990. Dick also served as chair of the Academic Law Libraries SIS and as chair of many special committees and task forces, including ones on Strategic Partnerships, Visions of the Academic Law Library, and the AALL Research Agenda. He also served as Editor of Law Library Journal from 1984 to 1994. Additionally, Dick has served as president of SEAALL, as a member of the Executive Committee of the Association of American Law Schools, and two terms as vice president of the International Association of Law Libraries. But service and leadership are just a few aspects of Dick’s professional life. Equally significant is his prolific scholarship. He has written and presented on topics relating to the impacts of information technology on legal education and the profession of law librarianship, as well as on the effects of electronic publication on scholarly communications in law.

¶62 In addition to more than fifty articles, papers, and book chapters, Dick also is the author or editor of several important books, including Strategic Planning: A Law Library Management Tool for the ’90s and Beyond and Toward a Renaissance in Law Librarianship. Most recently, he received the 2012 AALL Joseph L. Andrews Bibliographical Award for his work with coeditor Jules Winterton, the IALL International Handbook of Legal Information Management. In 2009, Dick hosted the meeting of law library directors that resulted in the Durham Statement on Open Access to Legal Scholarship. The Durham Statement calls for law schools to cease publishing their journals in print and to rely instead on electronic publication and a commitment to keep the electronic versions available in stable, open, digital formats. Not surprisingly, Dick’s work has not gone unrecognized, and now he receives the AALL Hall of Fame Award, which could not be more appropriate. (Applause.)

¶63 James E. Duggan. James, will you please come forward? James E. Duggan, Director of the Law Library and Associate Professor of Law at Tulane University Law School, has provided distinguished service to the Association, not just during a substantial portion of his membership, but throughout all of it. James has held many leadership positions within AALL, serving as President from 2008 to 2009. He chaired the Placement, Nominations, Awards, and AALLNET Advisory committees, as well as the Council of Chapter Presidents. He also chaired both the Computing Services and Social Responsibilities SISs. On the local level, he was president of two chapters, MAALL and NOALL. As AALL President, James promoted two initiatives with long-lasting impact. One was initiating a review and renovation of AALLNET. The lengthy process to redesign the Association’s website led to a new “look and feel” and has enhanced functionality. His second initiative was the creation of new awards, including this very Hall of Fame Award which he
now receives. Maybe this was before he knew he was going to receive it. In addition, the Member Recognition Special Committee he appointed also recommended the establishment of several other new awards: Innovations in Technology, Distinguished Lectureship, Emerging Leader, and Volunteer Service. He also established the practice of awarding pins to members who have twenty-plus and forty-plus years of continuous membership.

¶64 In addition to this remarkable record of service, James has published numerous articles on law librarianship, leadership, legal research, and legal information in publications such as *Law Library Journal*, *AALL Spectrum*, *Legal Reference Services Quarterly*, and various bar journals, to name a few. He has served as a speaker, coordinator, and moderator for countless AALL and chapter educational programs. And showing that he is far from finished, James currently serves as the Editor of *Law Library Journal*. As one nomination letter notes, any listing of James’s innumerable professional activities and accomplishments fails to capture the enthusiasm, persistence, creativity, and spirit James has brought and continues to bring to every professional endeavor that he undertakes. It is with equal enthusiasm that I present him the AALL Hall of Fame Award. (Applause.)

¶65 Margaret K. Maes. Margie, will you please come forward? (Applause). Margie Maes, Executive Director of the Legal Information Preservation Alliance, is well known to AALL members. She has a long and distinguished record of significant and sustained contributions to the Association and to the profession. Her contributions include active and ongoing SIS participation, serving on and chairing critical committees, service as an Executive Board member, and as the Association’s President from 1999 to 2000. Margie is highly regarded for her expertise in building academic law library collections, and she has generously shared and utilized her knowledge and expertise. Margie has chaired or been involved with standing and special committees that relate to information resources or vendor relations, such as the Committee on Relations with Information Vendors, the *Price Index for Legal Publications* Committee, the Vendor Colloquium Planning Committee, and the Special Committee on Licensing Principles for Electronic Resources, to name just a few. She was involved in the formation of the Legal Information Preservation Alliance, the affiliated nonprofit group that brings law libraries together for the purposes of studying and furthering preservation of the print and electronic legal record and now serves as its executive director.

¶66 Finally, in her current role as AALL Vendor Liaison, she serves as a liaison to all the major legal information providers, translating needs and concerns of law librarians to the private information publishers at the highest level. As a leader, Margie consistently explores not just the value of law librarians today, but what our value can be. How do we, as professionals, develop and grow to meet the challenges of the ever-changing legal information environment? This is evident in her work as a principal contributor to the Renaissance of Law Librarianship Task Force and the Future of Law Libraries in the Digital Age Task Force. Margie’s long-standing contributions have been recognized on national, SIS, and chapter levels. She received an AALL Presidential Certificate of Appreciation in 2004, the Minnesota Association of Law Libraries Law Librarianship Award for Outstanding Service in 1997 and 1998, and the AALL Technical Services SIS Renee D. Chapman Memorial Award for
Outstanding Contributions to Technical Services Law Librarianship in 1994. To this impressive list, she can now add the richly deserved AALL Hall of Fame Award. (Applause.)

President’s Certificates of Appreciation

¶67 Each year the President has an opportunity to present special certificates of appreciation to people or organizations who have contributed to the Association or the profession in exceptional ways. I am so happy I can count on their leadership and direction, so it is my pleasure to present several such certificates. I ask that each recipient come forward when his or her name is called.

¶68 Robert Oaks, for vision and exemplary leadership as chair of the Economic Value of Law Libraries Special Committee and for his many contributions to AALL and the profession. (Applause.)

¶69 Victoria Trotta, for dedicated and exemplary leadership as chair of the Digital Library Initiatives Special Committee and for her many contributions to AALL and the profession. (Applause.)

¶70 Sara Galligan, for dedicated and exemplary leadership as chair of the Access to Justice Special Committee and for her many contributions to AALL and the profession. (Applause.)

¶71 Jane Larrington, for dedicated and exemplary leadership as chair of the CLE and Practice-Oriented Education and Publication Task Force and for her many contributions to AALL and to the profession. (Applause.)

¶72 Ronald E. Wheeler, Jr., for dedicated and exemplary leadership as chair of the Committee Review Task Force and for many contributions to AALL and to the profession. (Applause.)

¶73 And now I would like to recognize one of our AALL staff members who has reached a service milestone. Chris Siwa for ten years of dedicated service to AALL and its members. (Applause.)

¶74 I also want to recognize all of our exceptional staff members for all of their behind-the-scenes efforts that have helped make this meeting a success. While doing so may be their jobs, they are truly dedicated and regularly go above and beyond the call to make sure everything runs smoothly. They are truly remarkable individuals. Will our staff members please stand? (Applause.)

Memorials

¶75 It is now time to recognize and acknowledge our colleagues who have passed away this last year. They were members and friends of our Association. Richard E. Adamo, Richard Brown, Sylvia Castano, Linda Dean, Constance Dickson, Robert “Bob” Gee, Gail Hartzell, Kelly N. Hess, Mary Katherine “Katie” McDonald, Jose Rodriguez, Harva Sheeler. Are there any other members or friends we should remember at this time?

¶76 Ms. Pauline Aranas (University of Southern California Law Library, Los Angeles, California): Mary Dryden.
¶77 President Anderson: Mary Dryden, thank you. Please stand and join me in a moment of silence as we remember the contributions of these individuals to our professional and personal lives. Thank you. You may be seated.

**Introduction and Remarks of Special Guests**

¶78 We are delighted to have special guests from our counterpart law library associations in other countries. At this time, I would like to introduce each of them and invite them to give us a brief greeting from the floor microphones, if they so choose. Marianne Barber, President of the British and Irish Association of Law Librarians.

¶79 **Ms. Marianne Barber** (University of Law, Chester, England): Good afternoon. Greetings from the British and Irish Association of Law Librarians. This is my first official assignment as president, and it is very a pleasant one. I’d like very much to thank you for inviting me here to this wonderful conference. I’ve been so impressed by the organization and the amount of people involved and the variety of all the programs. It’s wonderful. I would also like to thank individual members who have talked to me and made me feel very welcome since I’ve been here and put up with my geographical questions. One of the things that we certainly learn when we attend these conferences is how little you know and how much of the world there is out there and how much of the world has issues in common. On that note, I’d like to encourage all of you to at least think about attending our conference next year. It’s in Brighton, which is very handy for London. It’s only fifty miles down the road. It’s on the south coast. You have seaside, you have sea gulls, fish and chips, fresh air, and possibly some sun, who knows? The dates are the 11th through the 14th of June, and if you wish to learn anything more about the conference (we don’t have a theme yet but we will have one soon) it will be on the web site. Do come and talk to me at any time. Thank you very much.

¶80 President Anderson: Charmaine Bertram, Secretary of the Organisation of South African Law Libraries.

¶81 **Ms. Charmaine Bertram** (Norton Rose Fulbright, Sandton, South Africa): Good afternoon, everyone. I have to apologize for the voice. I expected something because of the summer/winter thing, but didn’t expect the summer/winter inside of the conference hall. I think this is the first time we officially visit you. And our organization was started in 1976, so I had to finally get here. We are around about 150 members, so roughly everyone in this room would be our members and our conference is a lot smaller than yours. We have it every second year. We had it this year, and in order to make it economically viable, we join up with two other organizations in South Africa. One is an online user group and another is a special group that are auditors (and people like that). But we have stations for each of the individual groups. I would advise you in two years’ time to come and visit us. We can guarantee you the sun, even though ours is in June and in the winter. On a sad note today, South Africa lost Nadine Gordimer, for which we are very sorry, but all libraries in South Africa will pay tribute to her. I have to thank you. This is an
incredible conference, and it was greatly enjoyable to be here. Thank you very much.

¶82 **President Anderson:** Kirsty McPhee, the National President of the Australian Law Librarians’ Association.

¶83 **Kirsty McPhee** (Tottle Partners, Darwin, Australia): I’ll try to keep this brief. Like my colleague from South Africa, I’d like to thank everybody. This has been an incredible learning opportunity, and starting with the program I attended on the first day, everyone has been really patient trying to explain things. It’s been an incredible language barrier, which I hadn’t been expecting. There are a lot of words that mean very different things, so that’s been really interesting. We also have a conference running in September this year, and we’d like to invite everyone here to attend. I think you’ll find that there are member rights for our sister associations. That’s the way you pay to attend. It is in September in Adelaide, which is one of the top ten places in the world to visit this year. We have pandas at the zoo, and we also have some of the best wine from Australia in the Barossa Valley. I am here with Jolene Cooke (who’s on the Conference Planning Committee). So if you have any questions about the conference or about Australian law, please come and say hi. This conference has been amazing, and I thank you for inviting me to attend. As per usual, I think the best part of it has been the networking opportunities. So thank you to everyone who sought me out, sat at the table with me, or came to say hello, and I hope that will continue tomorrow and tonight for the people I haven’t met.

¶84 **President Anderson:** Joan Rataic-Lang from the Canadian Association of Law Libraries, CALL/ACBD.

¶85 **Ms. Joan Rataic-Lang** (Toronto Lawyers Association, Toronto, Canada): Greetings from your friends and colleagues in the North, the Canadian Association of Law Libraries. Thank you very much for this very informative, educational, and fun conference. And the best thing is, it’s not over yet. Considering the winter and the spring we’ve had, I would also like to extend a special thank you to the weather organizing committee. It’s been outstanding. I would invite you to extend your theme of “Beyond Boundaries” into 2015 and cross the boundary from Maine into New Brunswick in May of 2015, and you can participate in the CALL conference. Moncton is a small city, but it’s like Brighton, on the water. It’s very pleasant, and we hope that we will see some of you there. Thank you for letting us participate in the conference and allowing us to continue nurturing that strong relationship between our two associations. Thank you.

**Resolution of Appreciation**

¶86 **President Anderson:** I will ask AALL member Larry Meyer to come forward to a floor microphone for a Resolution of Appreciation.

¶87 **Mr. Lawrence Meyer** (Law Library for San Bernardino County, San Bernardino, California): Thank you, Mr. President. I rise to make the following motion: Whereas the 107th Annual Meeting and Conference of the American Association of Law Libraries which took place in San Antonio, Texas, July 12 through July 15, 2014, was an exceptional educational and networking success;
¶88 And whereas the success of AALL’s 107th Annual Meeting and Conference can be attributed in large part to the contributions of many individuals and entities that gave willingly of their time, energy, resources, and support;

¶89 Therefore, be it resolved that on behalf of AALL and its members, thanks be given to the following who worked throughout the year on Annual Meeting arrangements:

- President Steven P. Anderson and the AALL Executive Board;
- Stacy Fowler and Mike Martinez, Jr., co-chairs of the Local Arrangements Committee and the members of the committee;
- Amy Hale-Janeke, chair of the Annual Meeting Program Committee and its members;
- all members of the AALL staff;
- all the speakers, moderators, and program coordinators;
- all those who volunteered their time and assistance; and
- all AALL members, without whom the Annual Meeting would not have been such a success.

¶90 And be it further resolved that, on behalf of AALL and its members, thanks be given to our Gold-level sponsors, Bloomberg BNA, LexisNexis, Thomson Reuters, and Wolters Kluwer Law & Business; and all our other corporate contributors who have cosponsored or sponsored an event, service, or publication or otherwise given their support to the Annual Meeting. Be it so moved.

¶91 President Anderson: Thank you, Larry. Do we have a second to the resolution?

¶92 Ms. Carol Bredemeyer (Northern Kentucky University Chase College of Law Library, Highland Heights, Kentucky): Second.

¶93 President Anderson: All in favor?

¶94 Voices: Aye.

¶95 President Anderson: Motion carries.

Other Resolutions

¶96 We have received no other resolutions, therefore, we will move on to new business.

New Business

¶97 Are there any other items of new business? (No response.) Receiving no requests for new business, we will move to the next item on the agenda, which is announcements.

Announcements and Adjournment

¶98 Are there any announcements to be made? (No response.) Hearing none, we have now completed all items on the agenda and the chair now requests a motion to adjourn.
Voice: So moved.
President Anderson: Is there a second?
Voice: Second.
President Anderson: It has been moved and seconded that we adjourn. All in favor of signify by saying “aye.”
Voices: Aye.
President Anderson: All those opposed, please say “nay.” (No response.)
Excellent. The 2014 Business Meeting of the American Association of Law Libraries is now adjourned. But we hope you will stay for the Members’ Open Forum, which will begin immediately. Mark Estes will serve as the moderator, and the Forum will last no later than 5:15. So if you have questions for us, please stick around.
(WHEREUPON the meeting was adjourned at 4:51 P.M.)
Appendix A

Report of the Director of the Government Relations Office

Ms. Emily Feltren (American Association of Law Libraries, Washington, D.C.): Guided by AALL’s Strategic Plan 2013–2016, the Government Relations Office (GRO) staff members work closely with AALL’s three policy committees (Copyright, Digital Access to Legal Information, and Government Relations), chapters, and members to advocate for our policy priorities at the federal and state levels. Here are some highlights from the past Association year. For more information, and to join AALL’s influential Advocacy Team, please visit www.aallnet.org/gro.

Federal Public Policy Priorities

Public Access to Government Information: Following the October 2013 government shutdown, AALL, the American Library Association (ALA), the Association of Research Libraries (ARL), and the Special Libraries Association (SLA) sent a letter to Public Printer Davita Vance-Cooks thanking her for keeping the Government Printing Office’s (GPO) FDsys running during the shutdown. We also urged GPO to ingest more agency content into FDsys and to continue harvesting agency websites. The letter included member stories, collected by the Government Relations Committee, which demonstrated the impact of the shutdown on law librarians and their patrons.

In January 2014, we celebrated when the House of Representatives unanimously passed the Presidential and Federal Records Act Amendments of 2013 (H.R. 1233). The bill, which AALL strongly supported, would reform the ways in which a President can assert privilege over his or her records. We also applauded when the House voted in favor of the FOIA Oversight and Implementation Act (H.R. 1211), which would enact a “presumption of openness” for agencies administering the Freedom of Information Act.

The GRO worked with staff of the House Oversight and Government Reform Committee to address AALL’s concerns with the Federal Register Modernization Act (H.R. 4195). The bill would remove the statutory requirement to print the Federal Register and Code of Federal Regulations and eliminate all requirements to produce their indexes. Members submitted anecdotes to the GRO and to their members of Congress about the need for the indexes.

AALL supported funding for GPO and the Library of Congress by submitting testimony in support of the agencies’ Fiscal Year 2015 budget requests and educating congressional staff about the mission of the agencies. AALL also supported legislative efforts, including the Government Publishing Office Act of 2014 (S. 1947), to change GPO’s name to the Government Publishing Office to reflect its unique and expanding role in the digital age.

GRO staff attended GPO’s Federal Depository Library Program (FDLP) Conference April 30 to May 2, held for the first time at GPO’s “big red building” on Capitol Hill. During the conference, Superintendent of Documents Mary Alice Baish announced a new vision for the future of the FDLP, based on data gathered from libraries as part of GPO’s FDLP Forecast Study. AALL will work with GPO and other library associations to strengthen and transform the FDLP.
Balance in Copyright Law Between Rights Holders and Users: AALL submitted comments to the Copyright Office in response to its Notice of Inquiry on Orphan Works and Mass Digitization (79 Fed. Reg. 7706, Docket No. 2012-12) on behalf of AALL, the Medical Library Association, the Association of Academic Health Sciences Libraries, and SLA. Our comments focused on the reasons libraries digitize and the need for the Office to continue to seek a solution to the orphan works problem. AALL also participated in two meetings hosted by the Department of Commerce on the topic of “Copyright Policy, Creativity, and Innovation in the Digital Economy.” The GRO and Copyright Committee continued to monitor the House Judiciary Committee’s review of copyright law and developments in the courts.

Protection of Privacy: AALL advocated for privacy protections for library users and all Americans in light of revelations of intrusive government surveillance. We worked with Senate Judiciary Committee chairman Patrick Leahy, Senator Jeff Merkley, and other key congressional offices to develop a proposal for substantive changes to surveillance authorities. A weakened version of our priority bill, the USA FREEDOM Act (H.R. 3361), passed the House in May. The GRO is now working with the Senate on changes to the legislation that would result in more meaningful reform.

State Public Policy Priorities

In November 2013, the Executive Board approved a resolution on the Uniform Electronic Legal Material Act (UELMA), urging its adoption in the states. Thanks to the dedicated advocacy of our members and chapters, UELMA has been enacted in nine states as of June 30: California, Colorado, Connecticut, Hawaii, Idaho, Minnesota, Nevada, North Dakota, and Oregon. UELMA bills are pending in Delaware, Illinois, Massachusetts, Pennsylvania, and Washington, D.C.

We continued to provide direct assistance to members and chapters looking for support in areas such as public law library funding and the elimination of print and electronic legal materials. Most recently, we worked with ALLA and SEAALL to oppose the Georgia governor’s decision to remove executive orders from his website.

AALL’s Advocacy Team

In March 2014, AALL hosted its second annual Lobby Day in Washington, D.C. Participants met with the staffs of their representatives and senators to discuss key legislation affecting law librarians. The influence of these meetings was magnified by participants in our Virtual Lobby Day, who sent over eighty-five messages to congressional offices via our Legislative Action Center. In addition to the in-person trainings conducted in D.C., at chapter meetings, and at the Annual Meeting, we hosted six online advocacy trainings on topics including what to expect in the 113th Congress, the structure of congressional committees, and advocating at the state level. Since January 2013, more than 300 AALL and chapter members have participated in these trainings to help them effectively advocate for themselves and the profession.
Report of the Executive Director

Ms. Kate Hagan (American Association of Law Libraries, Chicago, Illinois): AALL has a strong 108-year history and has continued to evolve and adapt to the changes taking place in law librarianship. We are fortunate to have this legacy and longevity. Building on this strong history, the Executive Board works diligently with members and staff to maintain a healthy financial position. This fiscal year we realized an increase in net assets of $179,000. This allowed us to contribute money to our current reserve fund while also providing start-up funding for some new initiatives.

This year the Executive Board also began implementation of the Association’s 2013–2016 Strategic Directions Plan with a number of new projects.

Economic Value of Law Libraries Special Committee: The objective of this project is to produce a comprehensive study of the return on investment and the consequent value proposition that law libraries provide.

Digital Library Initiatives Special Committee: The goal of this special committee is to identify existing and planned digital library initiatives and to discover ways in which AALL and law libraries can effectively and sustainably participate in these projects.

Access to Justice Special Committee: This special committee is working to identify and evaluate existing law library programs and strategies that enhance citizens’ access to legal information and the justice system.

Committee Review Task Force: This task force is conducting a review of AALL’s standing committees, including their purpose and charge, to determine if our structure is responsive to the needs of AALL and its members.

CLE and Practice-Oriented Education and Publication Task Force: This task force is working to identify programs, toolkits, and other resources for AALL and its chapters to use to increase their visibility through CLE and publication in legal newsletters and periodicals.

Once these special committees and task forces have completed their work and submitted their recommendations, we will develop appropriate projects and initiatives in response.

The Promoting the AALL Principles and Standards for Legal Research Competency Task Force worked this year to produce a publication outlining AALL’s research competencies, which has since been shared with the legal community. It provides a roadmap for teaching legal research. We also added a new legal research competency section to AALLNET. It provides additional legal research competency-related information, assessment examples, and best practices.

Both of our publications editors “retired” in July of last year after providing editorial leadership to *Law Library Journal* and *AALL Spectrum* for six years. Janet Sinder and Mark Estes turned over the editorship reins to two new editors. James Duggan now serves as editor for *Law Library Journal*, and Catherine Lemmer serves as editor for *AALL Spectrum*. Both have brought energy and enthusiasm to their new roles.

We also continue to collaborate and work with other legal and library-related groups to expand our role and to communicate the value of law librarians and
libraries. AALL representatives, Executive Board members, and staff continued traveling to meetings across the country to attend programs and host information exhibits.

This year, these members and staff attended sixteen chapter meetings and/or institutes. This provided an opportunity for us to learn more about those chapters and for the chapter members to learn more about AALL. In addition, our representatives attended and exhibited at the meetings of the International Legal Technology Association (ILTA), the Legal Marketing Association (LMA), the Association of Legal Administrators (ALA), and the National Association of Law Placement (NALP). We also exhibited at the Canadian Association of Law Libraries meeting.

AALL representatives also attended the American Library Association’s annual and midyear meetings, the American Bar Association Section of Legal Education and Admission to the Bar’s quarterly meetings, the Association of American Law Schools’ annual meeting, and the Special Libraries Association’s annual meeting.

In June, we, along with ALA, ILTA, LMA, and NALP, hosted our second C-Level Summit in the Chicago area. We are hopeful that the summit will result in similar meetings between our associations in the future. Julie Pabarja, research services manager at DLA Piper LLP, was our representative on the Summit Planning Committee.

This year we also held the first-ever Chapter Summit on July 11 in San Antonio. This event was designed to build a stronger alliance between AALL and its chapters. The daylong program provided an opportunity for an open dialogue about shared priorities and challenges.

In addition to retooled leadership training for incoming AALL and chapter leaders, we also conducted a number of virtual trainings for this group. These included:

- Government Relations in Action
- AALLNET—Using My Communities to Facilitate Communications
- Financial Management and Reporting
- Education Program Development Resources
- Annual Meeting Planning Tools and Resources

This year, we implemented a successful public relations effort to communicate to the media and other outlets about the important role of legal information professionals. More than twenty news releases, ranging in topic from our advocacy efforts to our awards program, have been issued since the first of the year.

There have been several additions and improvements to AALLNET this past year, and I’d like to highlight the most notable ones. First, the AALL Knowledge Center was developed to serve as a growing collection of information and resources that will help our members succeed. The resources include tools on different subject areas such as advocacy, professional development, and vendor relations. This collection of models, samples, and toolkits is designed to save time and provide ideas and resources for members to adapt to meet their own needs.

Additionally, in an effort to improve the member experience, we worked with our vendor to update My Communities. The homepage, navigation, and content organization were some of the areas that were addressed by the updates. The big-
gest improvement was the new and improved reply functionality. Members who opt to receive messages in real time can now send or reply to messages directly from their e-mail client without having to log in to My Communities.

A successful website is one that is always evolving and improving, and we will continue to incorporate new elements as identified through member feedback and association trends.

AALL headquarters underwent several important system upgrades late last year. Several outdated servers were decommissioned, and the roles of those servers were migrated over to new servers. Our membership management application, iMIS, was upgraded to the latest version. In addition to the “bug” fixes, this version contains new features for membership management. Finally, in preparation for the end of Windows XP support, all desktop PCs were upgraded.

Members were again challenged economically this past year with lower budgets and the struggle for funding for professional development. AALL continues its commitment to offering support and resources to members who are seeking new positions in the profession and looking to learn new skills to advance their careers. Once again this year, AALL offered the unemployed dues rates for members who are between jobs and the Annual Meeting registration discount to support those members who need the networking and resources offered at the profession’s premier education event.

Despite these economic struggles, AALL’s membership remains healthy. We closed out the 2013–2014 membership year with a ninety percent retention rate, while the average renewal rate for membership organizations is eighty-five percent. Our recruitment rate decreased slightly this year with 333 new members in 2013–2014 compared with 358 the year before.

We have a very knowledgeable and dedicated staff with an average of eight years of service to AALL. Our staff works as a team and understands the value of member service and of supporting the Association’s mission. Our staff members also continue to serve as liaisons to committees, supporting their work on behalf of the profession. If you have not already, I hope you will take the time to get to know some of the staff. They welcome member input and suggestions and are always willing to take on new projects and initiatives. They support each other and are great ambassadors for AALL. It is a privilege to work with them every day.

It is also a privilege to work with the AALL Executive Board. The board works very hard to make wise decisions regarding Association programs, initiatives, and outreach. They are committed to moving AALL and law librarianship forward. I admire the time, talent, and treasure they give to the Association and to the profession.
Appendix B

Statements of Candidates for 2014–2015 AALL Election

Candidates for Vice President/President-Elect in 2014–2015

Carol Watson*

I am honored and humbled to be nominated for Vice President/President-Elect of AALL. AALL is an outstanding organization due to the contributions of its many members. I believe in its mission, values, and principles. However, our profession faces unprecedented challenges as technology transforms our society with the force of a tsunami. Constant change is our new reality. It is crucial that we nimbly adapt and solidify our role in the face of new forms of competition, or we face extinction. My vision for the future of our organization and our profession is to capitalize upon the diversity and strength of our membership so that we can ride atop the wave of the information revolution and convert the challenges into opportunities.

I pledge to foster a strong collaborative and team-based environment for our organization as we strategize about how to harness the potential of the dramatically shifting information environment. I am a strong proponent of inclusiveness, consensus building, and transparent communications. Accordingly, I will seek input, participation, and collective wisdom from all members on the following topics:

- **Encouraging experimentation and risk taking.** Creating an environment to support innovation in our profession is critical for our survival. AALL should be an integral resource that provides inspirational services and resources to stimulate our creative thinking and new ideas. I pledge to champion the innovators among us.
- **Future-proofing our profession.** Support for professional growth and career security is essential. I will work diligently to ensure we have the educational resources to be prepared to support the inevitable transformation of legal education, services, and systems.
- **Unifying our organization.** Whether you are an academic, court, or private law librarian, we can all benefit from a greater interaction of ideas and perspectives. My goal is to increase collaboration across all types of libraries and librarians.
- **Building strategic partnerships.** In addition to expanding our relations with similar professional organizations, I also commit to mining the full potential of our existing partnerships. We do not need to reinvent the wheel or assume we are alone in experiencing future shock.
- **Increasing our influence.** Advocacy for open access, best practices for the dissemination and preservation of legal information, and enhancing access to justice for the underserved are but a few of the many values we strongly

---

* Director of the Law Library, Alexander Campbell King Law Library, University of Georgia School of Law, Athens, Georgia.
support. My ambition is to fully engage the network of connections of our members to influence the outcome of critical legal information issues.

Ronald E. Wheeler, Jr.*

When I think of the American Association of Law Libraries (AALL), I think of deep and enduring professional relationships and networks, I think of high-quality professional education, I think of effective leadership development, and I think of an organization that I regard as my professional home.

Throughout my career, AALL has been the hub for every aspect of my professional growth. When I was new to the profession, CONELL was where I found other newer law librarians from different library types with whom to begin building my professional network. Early on I acquired mentors by getting involved in SIS work and by volunteering. It was through that work that I began meeting more experienced librarians from around the country. Through programing offered by AALL and its chapters, I enhanced my skills, learned about new technologies being used in libraries, and discovered what law firms expect of my students once they graduate. Later in my career, in an effort to develop managerial skills, I found library directors and middle managers willing to share their thoughts and experiences while at the AALL Annual Meeting. Moreover, when I wondered whether attributes like race or sexual orientation would be an impediment to my full participation in AALL or in the profession of law librarianship, I discovered LGBT people and people of color taking on meaningful leadership roles throughout AALL and in every type of law library. By this I was inspired.

We all know the types of challenges our profession faces in the coming years. They include ongoing changes in how law is practiced and billed, unprecedented levels of financial control being exerted by consumers of legal services, fewer legal jobs, a severe decline in law school enrollments, and ever-shrinking funding for public law libraries. At the same time, there are unprecedented numbers of citizens with unmet legal needs. These are all components of what seems to be our new normal. The challenge before us as a profession is to turn these problems into opportunities to prove that our professional skills can make a difference. I really believe that AALL will be the vehicle that helps us rise to meet these challenges.

If elected, I hope to work toward creating greater opportunities for member participation and engagement so that all law librarians and those who care about law libraries have meaningful ways to get involved in our association. My hope is also to expand educational opportunities aimed at helping members identify and solve problems essential to the survival of our organizations, thus proving our unique talents and worth. My vision is for AALL to be the epicenter for solutions to our most difficult problems, whether those problems be how best to educate excellent lawyers, how best to deliver excellent and cost-effective legal services, or how best to provide free and open public access to legal information and, ultimately, access to justice. I hope also to continue to aid our association with efforts to enhance diversity and inclusion both in law librarianship and in the broader legal community.

* Director of the Law Library and Information Resources, Suffolk University Law School, Boston, Massachusetts.
This nomination is one of the greatest honors of my life. I am certain that I have the time, energy, and creativity required to devote to this office. Perhaps more importantly, though, I have the passion necessary to serve you well as your next AALL Vice President/President-Elect.

Candidates for Executive Board Member in 2014–2015

Scott D. Bailey*

The future of law librarianship is in our hands rather than handed to us; we have heard this before. There has never been a more exciting time to be a law librarian, and the need for collaboration across our institutions has never been greater. Together we can determine whether this time is exciting in the way that leads to extinction or exciting in the way that leads to growth and opportunity. This effort will take all types of law librarians and the diversity, insight, and power of our people that has kept me engaged, involved, and proud of my membership in AALL since 1997.

Artificial and real divisions do exist within our field and association, but the greatest opportunities arise from setting those aside and joining together to leverage our larger environment and role in the business of law. By reaching out to other professionals and constituents in the legal community and speaking their language, we can give visibility to our value regardless of our perceived boundaries. I propose that we continue the work we have begun with the LLSDC and LLAGNY Showcases nationally, include all types of law libraries, and bring the legal industry to a new level of awareness of our field that transcends preaching to the choir. By inviting faculty, government, legal marketing, administrative, and technology professionals to targeted events, promoting and creating a brand that demonstrates our value and brings visibility to our existing high-level contributions, we can create new interest and demand and recognition for our widening array of services industry-wide. Approaching the legal field strategically and aligning our priorities with those of our institutions will be essential to a prosperous future for the law library community and the legal profession as a whole.

We can find new ways to thrive, but we have to do it together. Bringing our services to the people who are our clients, mobilizing our services to provide convenient efficiency to the practice and study of law is the way forward for our field. We can incorporate a tradition of excellence with a proactive direction toward dynamic librarianship. As we approach the critical 2015 conference theme of “Connections,” I will continue to advance these critical concepts and will facilitate programs and funding of actions that would strategically align us with our constituent interests and evolve the business of law across sectors and divisions. We are an ideal alternative in a competitive market and are poised to provide more analytical, higher-level services at a tremendous value. If elected, I will be honored to be a bridge of action between PLL leadership and the AALL Executive Board as we move forward together as law librarians toward brighter horizons.

* Global Director of Research Services, Squire Patton Boggs LLP, Washington, D.C.
Emily R. Florio*

I am honored to be nominated as an AALL Executive Board candidate in my first ten years of law librarianship. I am both excited and prepared to bring a fresh perspective to the board, representing my engaged and energetic colleagues from whom I have learned so much. Working with AALL staff, the board, and members, I am confident we will continue to evolve the premiere association for law librarians and will raise awareness of current issues that confront our profession in these dynamic times, along with tackling the as-of-yet unknown forces we will encounter in the future. It is crucial that all opinions are honored individually while we also join together to be a cohesive, powerful voice in the legal community.

Collaboration is at the heart of what we as librarians do, whether it is answering reference questions, orienting new students or lawyers, working with colleagues, or defining the future of law librarianship. I believe there will always exist more opportunities for collaboration, especially as it relates to raising the visibility of law librarians, both within our own institutions and the legal community as a whole. For example, by partnering with the ABA, ALA, LMA, and other associations, we are poised to exhibit a strategic approach as a force of change in a shifting legal landscape. As law librarians in this ever-changing and demanding digital age, we have become familiar and even embraced the reality of the new normal, which includes fewer staff members, shrinking budgets, and generally doing more with less. Every law librarian has his or her own challenges, and through our peers, colleagues, and friends, we collaborate to tackle the stresses and problems head on and to find new approaches to the familiar and new roadblocks that we encounter every day.

If elected, I would like to see increased collaboration with newer librarians, including supporting their involvement from the start of their membership, as a way to ensure or at least promote the growth and development of future leaders. AALL has so much to offer, and educating new members on how they can become involved will require collaboration among AALL and its committees, SISs, caucuses, and chapters. Needless to say, there are untold opportunities for collaborative events that will crop up in the future.

Within AALL, I am surrounded by many diverse and insightful friends, colleagues, mentors, and leaders who will guide and inspire me in this year and in many years to come. As a member of the AALL Executive Board, I will remain committed to serving you, and I feel it is our responsibility to address your needs and exceed your expectations. Thank you for this opportunity.

Mary Eileen Matuszak*

To say that the library landscape has undergone an extreme makeover since many of us entered our profession is an obvious understatement. Gone are the days of card catalogs, advance sheets, and printed materials too numerous to count. Case reports in book form gather dust on the shelves, relegated to visual backdrops for

* Manager of Library Services, Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, Washington, D.C.

* Director of Library Services, New York County District Attorney’s Office, New York, New York.
televised interviews and press conferences. Our world has gone digital. Attorneys now have access to all sorts of information at the click of a mouse or the touch of a screen, giving them the ability to go for long periods of time without setting foot in the library. What, then, is our role in this environment? How do we keep ourselves relevant at a time when bottom-line HR types roam the halls in search of economies? I would submit that the answer lies not only in continued mastery of the latest advances in our field, but in a sustained effort to communicate to our employers that we are indispensable to the optimal running of their firms, schools, government agencies, or other entities. Law librarians do it better, faster, and cheaper! AALL members all know this, but in order to ensure the future of law librarianship, it’s time for the Association and its members to let others in on our secret.

Since 1906, the Association has provided its members with the opportunity to learn from, and network with, fellow information professionals. Among ourselves, we have always recognized the value we bring to the legal profession, yet as economic and technological forces bring about fundamental changes in the way our institutions operate, we need to work harder to get that message across to our employers: law librarians do it better, faster, and cheaper! Our members possess many skills, developed through education, experience, and ongoing study. Our abilities are best utilized in a collaborative environment. Our attorneys need not shoulder their burdens alone; they should be made more aware of what we can do to lighten their load. For instance, our principal strength is the ability to efficiently retrieve and organize information. Why not, then, let librarians do more of the basic research, freeing up the attorneys to concentrate on the analysis and use of the materials uncovered? Indeed, expanding the librarian’s research role not only makes the best use of his or her training and abilities, but it is cost-effective as well—no small consideration in the current economic climate.

In addition to tooting our own horns in-house, we should also seek to raise our profile in the legal community at large. In January of this year, the American Bar Association’s Task Force on the Future of Legal Education, in order to increase the public’s access to sorely needed legal services, issued a recommendation that courts and other attorney regulatory bodies look for ways to utilize qualified individuals, other than those with JD degrees, to provide such assistance. In recognition of this state of affairs, AALL should work closely with such agencies to advertise our credentials and thereby secure appropriate opportunities for our members.

Change is exciting and sometimes frightening, but it is inevitable. I’d be honored to serve as a member of the Executive Board of the American Association of Law Libraries and to help the profession chart our future course!

Francis X. Norton, Jr.*

I am both excited and honored to be nominated for the Executive Board of AALL. This organization is made special by the dedicated work of its many talented and insightful members.

* Head of Public Services, Law Library of Louisiana, Louisiana Supreme Court, New Orleans, Louisiana.
Recently I’ve seen a number of articles on social media that lampoon the differences between parenting in the 1970s and parenting today. While often amusing, they have nevertheless caused me to reflect on the state of education and libraries back then, and the state of education and libraries today. And because I’m a parent of two small children, I also wonder how those institutions will fare when my children are my age.

Forty years ago, new regulations and executive orders traveled through the U.S. mail and could take weeks or months to arrive at a depository library after adoption. Today, they are posted online within hours of adoption. However, they can also disappear within seconds. The permanence of bound sheets of paper has been replaced by the instability of electrons in a fluid matrix.

Because of the obtuse confluence of exploding technology and imploding budgets, librarians find themselves facing unprecedented challenges. For leadership, we need individuals who are familiar with our rich and complex history, yet open to new ideas and changing paradigms.

If elected to the Executive Board, I hope to

- continue the drive for open access to all government documents;
- push for adoption of UELMA in all remaining states;
- work to educate the public on the vital role that libraries play in our democracy; and
- support the creative energy and drive of the most educated, concerned, and dedicated professionals in the country.

I have received so much from my participation in AALL over the years. I hope for the opportunity to give back.
Proceedings of the Members’ Open Forum
Conducted at the 107th Annual Meeting of
the American Association of Law Libraries
Held in San Antonio, Texas
Monday Afternoon, July 14, 2014

¶1 Mr. Mark Estes (Bernard E. Witkin Alameda County Law Library, Oakland, California): Well, while we let those who are leaving leave the ballroom, I hope that we have questions to the Executive Board or perhaps to the membership as a whole in this Members’ Open Forum. As a bit of context, in 1992, I suggested to then-President Carolyn Ahearn that we needed a way to allow members to raise issues in a less formal manner than the business meeting where an idea had to be framed as a motion under Roberts Rules of Order. She agreed, and she allowed me to chair that first Members’ Open Forum. I appreciate the opportunity that Steve Anderson, our current President, has given me to chair this one. I hope that we have some questions or comments from the membership about what has happened or is happening as part of our Association. So first, what questions might you have about the recently completed business meeting?

¶2 Ms. Victoria Trotta (Arizona State University Ross-Blakley Law Library, Tempe, Arizona): Thank you for the sprightly financial report. I have a question about the current reserve fund. How come there’s $1.227 million in it? That seems like a lot. Maybe you might have changed the way you calculate the risk, but it still seems like a lot.

¶3 Ms. Gail Warren (Virginia State Law Library, Richmond, Virginia): Well, there’s a certain amount in the fund, but a lot of that has been allocated for projects that will be happening in the 2014–2015 fiscal year. So while we’re looking at funds in the financial statement aspect, that didn’t necessarily reflect what we’ve done in terms of an operating budget. Plus, that was the year-end amount for 2013, and these are the September 30, 2013, figures. We have since allocated specific amounts of that to projects that will go forward in the 2014–2015 year.

¶4 Ms. Trotta: Thank you.
¶5 Ms. Warren: Did that answer your question, Tory?
¶6 Ms. Trotta: Yes, it does, thank you.
¶7 Mr. Estes: Thank you. What other questions are there about the business meeting?

¶8 Ms. Janet Sinder (Brooklyn Law School Library, Brooklyn, New York): It bothers me now that we only have one business meeting, that there are basically never any resolutions introduced. There is never any discussion by the membership. Even the Open Forum seems to be getting shorter and shorter every year, and I just wonder if we couldn’t find a way to make the business meeting or the forum
a little more of a discussion of the issues that people are thinking about rather than just a scripted event.

¶9 Mr. Estes: This part is not scripted. Thank you.

¶10 President Steven P. Anderson (Maryland State Law Library, Annapolis, Maryland): Let me jump in here real quickly, Janet, and thank you very much for your comments. One thing that I see out here is it seems to me that there are about twice as many people as were here last year, so I just want to add that maybe that's a start. We do try to advertise the resolutions process before the Annual Meeting with enough time and publicity to get resolutions. And for better or worse, we haven't had any in the recent past. But we do try to make sure that people are plugged in. I think there are a lot of comments that are shared via e-mail in the discussion list on AALLNET, and the Executive Board does try to read as many of those as possible. So it's not a way of getting out of it necessarily, but please do follow up with Janet’s comments and mine and please hold us accountable.

¶11 Mr. Estes: Thank you, President Anderson. Yes?

¶12 Ms. Catherine Lemann (Law Library of Louisiana, New Orleans, Louisiana): I did want to comment on the visual aids that you provided this year during the business meeting here, and I do think that was an improvement. It provided some visuals of people that we might not have otherwise known who they are. One of the things that I tell people who are considering applying for a committee or whatever is that they should post their photograph on the membership page on AALLNET, because we don’t always know what somebody looks like even though we might have seen their name for years. So I think that’s a really good thing, and to actually have all the initiatives that you, Steve, have done and that Holly is considering put out there in black and white was very useful. Thank you for doing that.

¶13 Mr. Estes: Thank you. That raises a question that I often hear, about the committee selection process?

¶14 Anonymous Voice: How does it work?

¶15 Vice President/President-Elect Holly Riccio (O’Melveny & Myers LLP, San Francisco, California): There is an appointments committee. We appoint the Annual Meeting Program Committee (AMPC) earlier because that committee needs to start earlier, i.e., at the end of the year. The Vice President takes a look at the applications for that and forms a committee that’s going to work on the next meeting. Then, in January, we send out the call for volunteers and publicize that as widely as possible. We then look through all of the volunteers, look at what they’re interested in, take into account balance on the committees in terms of different types of libraries and interests and then take the volunteers and match them up to the open slots that we have. And then if we are not able to place everyone, since we generally have more volunteers than slots, we keep those names of members not selected for future consideration because there may be activities that happen during the year, such as task forces or other things, where we want to tap those folks. That’s pretty much the process, unless there’s any other specific questions.

¶16 Mr. Estes: As a member of that selection committee this year, let me add two things for you to consider when completing your application. One, if you’re willing to serve on any committee, say so. Second, list your preferences. Because
when we reach the point of needing to fill a slot, if you indicated a preference, then we have a better chance of being able to put you into that preference.

¶17 **Ms. Kate Irwin-Smiler** (Wake Forest University, Winston-Salem, North Carolina): This is a follow-up question. Thank you for explaining that, and I have heard that description before and the advice to say if you’re willing to serve on any committee, that’s wonderful. That advice is often given to newer members, and there are many members who are newer to the Association. And I’m thinking in particular that there are a lot of members of the GenX/GenY Caucus, now SIS, who have discussed this experience of applying for committee membership and not being appointed to committee year after year after year over and over, and it gets disheartening. So I wonder if you had any particular suggestions for things that they could do in addition to filling out the form year after year that might help, in addition to adding their picture to AALLNET to help people connect names with faces.

¶18 **President Anderson:** One of the questions that I believe we still have on the form is whether you have ever served on a committee before, or have you ever asked to serve on a committee and not been selected. I know that I’ve tried very hard to appoint everyone who had applied before and never been selected, and I believe that Holly has done the same. Hopefully people haven’t gotten so discouraged they don’t even fill out the form because there is space on the form for that declaration. But in the meantime, anything that they do would be aligned with a particular committee’s purpose. Let’s say they’re writing an article on copyright. If they want to join the copyright committee, that would be very useful. If they are interested in some type of SIS function that could be very closely aligned with another committee, that would be very useful. I hope that people will try hard to apply, and hopefully they’ll be selected.

¶19 **Ms. Irwin-Smiler:** Thank you.

¶20 **Mr. Estes:** I might add, be patient and keep trying. I was not appointed to a committee until my third or fourth year in the Association. I appreciate that I may be unique in that regard. And that’s the other thing. Volunteer in your local institution, in your chapter or SIS so that you’re showing other activity that the committee can refer to.

¶21 **Ms. Lucy Curci-Gonzalez** (Kenyon & Kenyon LLP, New York, New York): I’ve also served on this committee. And any of your chapter activity that relates to the committee, anything you may have done in your institution, even things that you may have done in your personal life that relate directly may be relevant to the application, so please put that information on the application, as well.

¶22 **Ms. Rebecca Rich** (Nova Southeastern University Shepard Broad Law Center, Ft. Lauderdale, Florida): I have two questions, if that’s okay. The first one is can you tell me what the ratio is of volunteers to people selected for committees?

¶23 **Vice President Riccio:** I believe we had 175 volunteers and maybe 90 slots. Does that sound right to you, Mark?

¶24 **Mr. Estes:** It may have been, that’s like two-to-one. Although, I think it may have been higher than that.
¶25 Ms. Rich: I hear the complaint from a lot of people that all of the SIS events are overlapping with other events people want to go to. I wonder if you might talk about that a bit.

¶26 President Anderson: Sure. We try to make it as difficult for members as possible. (Laughter.) Seriously, though, that’s a comment we hear quite frequently, and the Annual Meeting Program Committee and the AALL staff try really hard every year to balance to make sure that there aren’t too many programs in the same slot that would appeal to the same type of person. If you ever get on the AMPC (which I would highly recommend you apply for at some point), you go around the room at the end of the day, and there are all these posters with the different programs listed. We take the programs and slot them on these poster boards around the room. It just is really very intense. You look at the slate of the programs and you finish it up that way and you hope for the best. But there is a lot of work involved in doing that, and while I’m sorry it didn’t work out for you this year, hopefully it will get better in the future.

¶27 Ms. Rich: Thank you.

¶28 Mr. Estes: If I may add a follow-up, the other solution for those of us who want additional programs is to propose them ourselves during the year. Webinars are not nearly as good as a face-to-face, but they are a place for us to exchange ideas and further our own professional development. What other questions do you have about education programs, programming selection, speakers, etcetera?

¶29 Ms. Tracy L. Thompson (New England Law Library Consortium, Inc., Albany, New York): I just want to say how much I appreciate the schedule this year. I got the schedule, and it felt so much lighter to me than it ever has in the past, and I thought, “Wow, there’s really been some adjustments to the schedule.” I really love that there doesn’t seem to be such an overwhelming amount of programming. It seems just a little bit more manageable this year. Maybe that’s just me. I’m not sure. But the other thing I noticed, since I’m an old-timer and I know what to expect, I know what’s going on outside of the educational opportunities. But if I was a new person and I was looking through this, I might not know what I’m supposed to be doing between the programming opportunities. I don’t know how to change that, but maybe there needs to be something in print that says what’s going on, before a program, and then after the next program, so that the newer person can figure out what else is going on other than the educational programs.

¶30 Vice President Riccio: Thank you. As someone who will be working on the program for Philadelphia, that is very good feedback, and I think that’s something we can look at and definitely try to incorporate. Because I agree with you. I think you’re right. The more information we can give people about all of the opportunities that we provide at the Annual Meeting will be helpful.

¶31 Mr. Estes: What other questions might you have about education programming? Or any other topic, please. I’m not limiting you.

¶32 Mr. Steven Lastres (Debevoise & Plimpton LLP, New York, New York): I just have a question in terms of some of the other association conferences that I go to. They’re really held on topical areas so that you can get a broader depth of knowledge. And it seems that we’re still trying to, even with the limited program slots we have available, meet everyone’s needs at the conference, instead of thinking
about topical business areas of law, technology, and reference research teaching. All areas that we can get really in depth and try to focus on having a keynote address for each one of those tracks. Perhaps over a three-day period go from basic to advanced, allowing individuals to go through one track to another based on their needs, instead of just having a limited number of programs that are either introductory, intermediate, or advanced, where there’s only one of each and it doesn’t really meet the needs of the members. Particularly today in law firms and with what’s happening in academia, we need a lot more in-depth education, and it just seems that there isn’t quite enough of the core and advanced expertise types of programs to meet a need in the specific areas that many of us are trying to fill.

¶33 Vice President Riccio: We do use the core competencies currently to essentially track programming, but I think the addition of the content area teams working with the AMPC and the six areas that we have (such as technology and collaboration) will add some robustness to the AMPC and really allow us to do that kind of thing and be as responsive as we can and make sure we’re meeting the needs of the members. These groups are going to tell us what the members are saying and what the “must-haves” in those areas are. The AMPC is then going to take that into account when we’re looking at the programs.

¶34 Mr. Estes: Thank you all. As President Anderson has pointed out to me, as my clock also says, we have exceeded 5:15 P.M., and because the Business Meeting is over, we cannot have a resolution to extend the meeting. Thank you for attending the Members’ Open Forum. If you have additional questions, please send them to President Anderson or individual Executive Board members and encourage your friends and colleagues to send questions and comment on the Members’ Open Forum next year. Thank you. (Applause).

(WHEREUPON the meeting was adjourned at 5:19 P.M.)
2014–2015 Officers, Committees, Chapter Presidents, Special Interest Section Chairs, Representatives, and Executive Staff

Executive Board

President
Holly M. Riccio
Director of Library Innovation, Library Manager San Francisco
O’Melveny & Myers LLP
2 Embarcadero Center, Fl. 21
San Francisco, CA 94111-3903
Phone: (415) 984-8761
Fax: (415) 987-8701
E-mail: hriccio@omm.com
Liaison to:
Annual Meeting Local Arrangements Committee
Annual Meeting Program Committee
Business Skills Education Task Force
CLE and Practice-Oriented Education & Publication Task Force
Committee Review Task Force
Education Program Review Special Committee
Government Relations Committee

Vice President/President-Elect
Keith Ann Stiverson
Director of the Library/Senior Lecturer
IIT Chicago-Kent College of Law
565 West Adams St.
Chicago, IL 60661-3652
Phone: (312) 906-5610
Fax: (312) 906-5679
Email: kstivers@kentlaw.iit.edu
Liaison to:
Legal Research Competency Special Committee
Nominations Committee

Immediate Past President
Steven P. Anderson
Director
Maryland State Law Library
361 Rowe Blvd.
Robert C. Murphy Courts of Appeals Bldg.
Annapolis, MD 21401-1672
Phone: (410) 260-1432
Fax: (410) 974-2063
E-mail: steve.anderson@courts.state.md.us
Liaison to:
Economic Status of Law Librarians Committee
Economic Value of Law Libraries Special Committee
Law Library Mass Digitization Special Task Force

Secretary
Katherine K. Coolidge
Law Librarian
Bulkey, Richardson and Gelinas, LLP
1500 Main St, Ste. 2700
Springfield, MA 01115-5507
Phone: (413) 272-6275
Fax: (413) 785-5060
Email: kcoolidge@bulkey.com
Liaison to:
Bylaws and Resolutions Committee
Price Index for Legal Publications Committee
Scholarships Committee

Treasurer
Gail Warren
State Law Librarian
Virginia State Law Library
100 N 9th St., Fl. 2, Supreme Court Bldg.
Richmond, VA 23219-2335
Phone: (804) 786-2075
Fax: (804) 786-4542
E-mail: gail.warren.56@comcast.net
Liaison to:
Indexing of Periodical Literature Committee
Leadership Development Committee
Members

John W. Adkins
Director of Libraries
San Diego Law Library
1105 Front St
San Diego, CA 92101-3999
Phone: (619) 685-6567
Fax: (619) 239-1563
E-mail: jadkins@sdlawlibrary.org
Liaison to:
Conference of Newer Law Librarians Committee
Continuing Professional Education Committee
Public Relations Committee

Femi Cadmus
Edward Cornell Law Librarian & Associate Dean for Library Services
Cornell University Law Library
Myron Taylor Hall
Ithaca, NY 14853-4901
Phone: (607) 255-7644
Fax: (607) 255-1357
E-mail: femi.cadmus@cornell.edu
Liaison to:
Diversity Committee
Index to Foreign Legal Periodicals Advisory Committee
Recruitment to Law Librarianship Committee

Amy J. Eaton
Seattle Library Manager
Perkins Coie LLP
1201 3rd Ave., Ste. 4800
Seattle, WA 98101-3099
Phone: (206) 359-3164
Fax: (206) 359-4164
E-mail: aeaton@perkinscoie.com
Liaison to:
Grants Committee
Relations with Information Vendors Committee

Kenneth J. Hirsh
Director of the Law Library and Information Technology; Professor of Practice
University of Cincinnati College of Law
Robert S. Marx Law Library
P.O. Box 210142
Cincinnati, OH 45221-0142
Phone: (513) 556-0159
Fax: (513) 556-6265
E-mail: hirshkh@ucmail.uc.edu
Liaison to:
AALL/LexisNexis Call for Papers Committee
Digital Access to Legal Information Committee
Membership Development Committee

Donna Nixon
Electronic Resources and Access Services Librarian
University of North Carolina at Chapel Hill
CB #3385 160 Ridge Road
Chapel Hill, NC 27599-3385
Phone: (919) 843-9280
Fax: (919) 962-2294
E-mail: dnixon@email.unc.edu
Liaison to:
AALLNET Committee
Law Library Journal and AALL Spectrum Committee
Research and Publications Committee

Suzanne Thorpe
Associate Director for Faculty, Research, and Instructional Services
University of Minnesota Law Library
229 19th Ave. S.
120 Mondale Hall
Minneapolis, MN 55455-0400
Phone: (612) 625-0187
Fax: (612) 625-3478
E-mail: s-thor@umn.edu
Liaison to:
Awards Committee
Copyright Committee
Placement Committee
Committees

AALL/LexisNexis Call for Papers
Shawn G. Nevers, Chair
Sara Sampson, Vice Chair
Catherine Deane
Catherine Lemmer
Kenneth J. Hirsh, Board Liaison
Hannah Phelps Proctor, Staff Liaison

AALLNET
D. Prano Amjadi, Chair
Creighton John Miller, Jr., Vice Chair
Iain W. Barksdale
Alex Berrio Matamoros
Deborah Ginsberg
Rebecca M. Sherman
Donna Nixon, Board Liaison
Christopher Siwa, Staff Liaison

Annual Meeting Local Arrangements
(Philadelphia, Pennsylvania)
Kathy M. Coon, Co-chair
Jill M. Poretta, Co-chair
Furman Scott DeMaris
Jennifer Hohenstein
Janet Lindenmuth
Denise C. Mines
Mary Alice Peeling
Connie Smith
Marianne Watson
Gregory C. Weyant
Holly M. Riccio, Board Liaison
Pam Reisinger, Staff Liaison

Annual Meeting Program
(Philadelphia, Pennsylvania)
Carol Watson, Chair
Pauline S. Afuso
Ellen Frentzen
Darla Jackson
Elaine M. Knecht
Gayle Lynn-Nelson
Mary E. Matuszak
Elizabeth Outler
Michelle Tolley
Holly M. Riccio, Board Liaison
Heidi Letzmann, Staff Liaison
Celeste Smith, Staff Liaison

Appointments
Keith Ann Stiverson, Chair
Jeffrey J. Berns
Mary Jenkins

Meg Kribble
Caren Z. Luckie
Ronald E. Wheeler, Jr.
Kim Rundle, Staff Liaison

Awards
Frank G. Houdek, Chair
Pauline M. Aranas, Vice Chair
Michelle Cosby
Tina Dumas
Rachel E. Gordon
Patrick E. Kehoe
Katrina M. Miller
Suzanne Thorpe, Board Liaison
Kim Rundle, Staff Liaison

Bylaws and Resolutions
Janice E. Henderson, Chair
Anna C. Blaine, Vice Chair
Johanna C. Bizbub
Catherine Lemann
Ryan Overdorf
Eric C. Parker
Andrew Winston
Katherine K. Coolidge, Board Liaison
Kate Hagan, Staff Liaison

Conference of Newer Law Librarians
(CONELL)
Erika V. Wayne, Chair
Emily M. Janoski-Haehlen, Vice Chair
Kathryn Crandall
Carla Evans
Felicity Murphy
Christine Scherzinger
Lei Zhang
John W. Adkins, Board Liaison
Cara Schillinger, Staff Liaison

Continuing Professional Education
Erin Schlicht, Chair
Carol Watson, Vice Chair
Cynthia Condit
Emerita Cuesta
Laura F. McKinnon
John B. Nann
Laura Gach Ross
Courtney L. Selby
Charlie Wilson
John W. Adkins, Board Liaison
Celeste Smith, Staff Liaison
Copyright
D.R. Jones, Chair
Kelly Mahealani Leong, Vice Chair
Patricia E. Barbone
Pam Brannon
June Casey
Lacy Rakestraw
Victoria J. Szymczak
Barbara A. Bintliff (Ex-Officio)
Jonathan A. Franklin (Ex-Officio)
Sarah G. Holterhoff (Ex-Officio)
Roger Vicarius Skalbeck (Ex-Officio)
Suzanne Thorpe, Board Liaison
Emily Feltrten, Staff Liaison
Elizabeth Holland, Staff Liaison

Digital Access to Legal Information
Jane Larrington, Chair
Connie Lenz, Vice Chair
Erik Beck
Danielle Becker
Scott Childs
Catherine M. Dunn
Thomas Heard
Yolanda P. Jones
Konya L. Lafferty
Deborah Norwood
Leanna Simon
Heather Williams
Barbara A. Bintliff (Ex-Officio)
Jonathan A. Franklin (Ex-Officio)
Sarah G. Holterhoff (Ex-Officio)
Roger Vicarius Skalbeck (Ex-Officio)
Kenneth J. Hirsh, Board Liaison
Emily Feltrten, Staff Liaison
Elizabeth Holland, Staff Liaison

Diversity
Ulysses N. Jaen, Chair
Shamika Dinice Dalton, Vice Chair
Eugenia Charles-Newton
Thomas E. Hemstock
Meldon D. Jenkins-Jones
Ann H. Lee
Julie Pabarja
Anupama Pal
Femi Cadmus, Board Liaison
Paula Davidson, Staff Liaison

Economic Status of Law Librarians
Karen Skinner, Chair
Cathleen Cochran, Vice Chair
Daniel Blackaby
Diana J. Koppang
Ashley Brooks Moye
Stacy F. Posillico
Elizabeth M.C. Scheibel
Kathleen M. Wilko
Steven P. Anderson, Board Liaison
Cara Schillinger, Staff Liaison

Government Relations
Leslie A. Street, Chair
Peggy Roebuck Jarrett, Vice Chair
Melissa J. Bernstein
Deborah Darin
Marlene K. Harmon
Wendy Lamar
Richard A. Leiter
Anne McDonald
Patricia L. Morgan
Christopher A. Vallandingham
Jason Zarin
Barbara A. Bintliff (Ex-Officio)
Jonathan A. Franklin (Ex-Officio)
Sarah G. Holterhoff (Ex-Officio)
Roger Vicarius Skalbeck (Ex-Officio)
Holly M. Riccio, Board Liaison
Emily Feltrten, Staff Liaison
Elizabeth Holland, Staff Liaison

Grants
Suzanne Corriell, Chair
Christopher C. Dykes, Vice Chair
Jaye Anne Barlous
Cassie Bruner
Christine Morong
W. Clinton Sterling
Jessica Wimer
Amy J. Eaton, Board Liaison
Paula Davidson, Staff Liaison

Index to Foreign Legal Periodicals
(Advisory)
Alison A. Shea, Chair
Kristina J. Alayan, Vice Chair
Susan Gualtier
Yousuf Jaleel
Kimberli Morris Kelmor
Heidi Froste stad Kuehl
Jonathan Pratter
Marci Hoffman (Ex-Officio)
Femi Cadmus, Board Liaison
Paula Davidson, Staff Liaison

Indexing of Periodical Literature
(Advisory)
Edward T. Hart, Chair
Kincaid C. Brown, Vice Chair
Kimberli Morris Kelmor
Susanna M. Leers
Joseph Luke
Akram Sadeghi Pari
John Schroeder
Gail Warren, Board Liaison
Ashley St. John, Staff Liaison

Law Library Journal and AALL Spectrum
Deborah S. Dennison, Chair
Grace Feldman, Vice Chair
Ashley Ames Ahlbrand
Andrew Christensen
Shaun Esposito
Elizabeth A. Greenfield
Andrew W. Lang
Morgan Stoddard
Alyssa Thurston
James E. Duggan (Ex-Officio)
Catherine Lemmer (Ex-Officio)
Donna Nixon, Board Liaison
Ashley St. John, Staff Liaison

Leadership Development
Michele Finerty, Chair
Joanne Kiley, Vice-Chair
Jennifer Joan Ash
Patrick H. Butler
Julie Lim
Dana Rubin
Gail Warren, Board Liaison
Celeste Smith, Staff Liaison

Membership Development
Suzanne R. Graham, Chair
Cynthia Guyer, Vice Chair
Christine Anne George
Katherine Hall
Gregory L. Ivy
Kate Miller
Julia E. Stahl-Hughes
Kenneth J. Hirsh, Board Liaison
Cara Schillinger, Staff Liaison

Nominations (2015 Election)
Darcy Kirk, Chair
Jean M. Wenger, Vice Chair
Steven Antonio Lastres
David S. Mao
Kristina L. Niedringhaus
Christine Sellers
Cornell H. Winston
Keith Ann Stiverson, Board Liaison
Kate Hagan, Staff Liaison

Placement
Brian R. Huffman, Chair
Emily Marcum, Vice Chair
Susan Ayndar
DawnMarin Dell
James C. Gernert
Judith Lavine
Elizabeth L. Moore
Nina Scholtz
Kris Anne Tobin
R. Martin Witt
Suzanne Thorpe, Board Liaison
Hannah Phelps Proctor, Staff Liaison
Cara Schillinger, Staff Liaison

Price Index for Legal Publications
Casey Duncan, Chair
Linda Kawaguchi, Vice Chair
Michelle Gorospe
Debora Person
Lisa Ross
Luz C. Verguizas
Xiaomeng Zhang
Margaret K. Maes (Ex-Officio)
Carol Avery Nicholson (Ex-Officio)
Katherine K. Coolidge, Board Liaison
Christopher Siwa, Staff Liaison

Public Relations
Joy Shoemaker, Chair
Frances Brillantine, Vice Chair
Nicole Dyszlewski
Ellen Q. Jaquette
Karin Johnsrud
Ingrid Mattson
Shira Megerman
Abigail Ellsworth Ross
Clare Gaynor Willis
John W. Adkins, Board Liaison
Cara Schillinger, Staff Liaison

Recruitment to Law Librarianship
Kirstin Nelson, Chair
Wanita Scroggs, Vice Chair
Laurence Jay Abraham
Betsy Cheessler
Steven Antonio Lastres
Eileen Santos
Lisa A. Spar
Femi Cadmus, Board Liaison
Cara Schillinger, Staff Liaison
Relations with Information Vendors (CRIV)
Liz Reppe, Chair
Jacob Sayward, Vice Chair
B. Valerie Carullo
Cindy Hirsch
David A. Hollander
Diana C. Jaque
Julie L. Kimbrough
Sara Paul Raffel
Jeanne Frazier Price
Rebecca Rich
Alexa Robertson
Margaret K. Maes (Ex-Officio)
Amy J. Eaton, Board Liaison
Kate Hagan, Staff Liaison

Research and Publications
Joseph Molinari, Chair
Joanne Dugan Colvin, Vice Chair
Douglas Cox
Lucy Curci-Gonzalez
Judy K. Davis
Ryan Harrington
Kathleen Jo Klepfer
Sibyl Marshall
David McClure
Heather Braithwaite Simmons
Carissa J. Vogel
Donna Nixon, Board Liaison
Paula Davidson, Staff Liaison
Ashley St. John, Staff Liaison

Scholarships
Ian Blake Bourgoine, Chair
Louis Michael Rosen, Vice Chair
Irene M. Crisci
Esther E. Koblenz
Amy Lipford
Seth Quidachay-Swa
Alison Rosenberg
Katherine K. Coolidge, Board Liaison
Hannah Phelps Proctor, Staff Liaison

Special Committees

Business Skills Education Task Force
Kathleen Brown, Chair
Alex Berrio Matamoros
Elaine M. Egan
Mark E. Estes
Antoni Stosh Jonjak
Jason R. Sowards
Holly M. Riccio, Board Liaison

Committee Review Task Force
Ronald E. Wheeler, Jr., Chair
Amy J. Eaton
Coral Henning
Holly Pinto
Roger Vicarius Skalbeck
Holly M. Riccio, Board Liaison
Kate Hagan, Staff Liaison
Kim Rundle, Staff Liaison

CLE and Practice-Oriented Education and Publication Task Force
Jane Larrington, Chair
Brian R. Huffman
Mark W. Podvia
Nathan Aron Rosen
Jean W. Wenger
Holly M. Riccio, Board Liaison
Cara Schillinger, Staff Liaison

Economic Value of Law Librarians Committee
Robert Oaks, Chair
Donna K. Bausch
Barbara A. Bintlfiff
Mary Jenkins
Monice M. Kaczorowski
Catherine Monte
Michael J. Robak
Margaret K. Maes (Ex-Officio)
Patricia A. Scott (Ex-Officio)
Steven P. Anderson, Board Liaison
Kate Hagan, Staff Liaison
Kim Rundle, Staff Liaison

Law Library Mass Digitization Task Force
Victoria K. Trotta, Chair
Anna L. Endter
JoAnn Houshshell
John Joergensen
Laura J. Orr
Wilhelmina Randtke
Anna Russell
Jane Larrington (Ex-Officio)
Margaret K. Maes (Ex-Officio)
Steven P. Anderson, Board Liaison
Emily Feltren, Staff Liaison
Chapter Presidents

Council of Chapter Presidents ............................................. Jean L. Willis
Arizona Association of Law Libraries ................................ Genevieve Nicholson
Association of Law Libraries of Upstate New York ................ Christine Demetos
Atlanta Law Libraries Association .................................... Deborah Schander
Chicago Association of Law Libraries ................................. Margaret A. Schilt
Colorado Association of Law Libraries ............................... Christopher D. Hudson
Dallas Association of Law Libraries .................................... Charlotte Thomas
Greater Philadelphia Law Library Association ..................... Nicole Snyder
Houston Area Law Librarians .............................................. Shelby Shanks
Law Librarians Association of Wisconsin ........................... Lisa M. Winkler
Law Librarians of New England ......................................... Melinda Kent
Law Librarians of Puget Sound .......................................... Philippe Cloutier
Law Librarians’ Society of Washington, D.C. .................... Mary Kate Hunter
Law Libraries Association of Alabama ............................... Timothy Alan Lewis
Law Library Association of Greater New York ................... Elaine M. Egan
Law Library Association of Maryland ................................. Kathleen S. Martin
Michigan Association of Law Libraries .............................. Kathleen Anne Gamache
Mid-America Association of Law Libraries ........................ Cynthia W. Bassett
Minnesota Association of Law Libraries .............................. Barbara Minor
New Jersey Law Librarians Association .............................. Carrie Hayter
New Orleans Association of Law Libraries .......................... Susan C. Jones
Northern California Association of Law Libraries ............... Michele Finerty
Ohio Regional Association of Law Libraries ....................... Shannon Kemen
San Diego Area Law Libraries ....................................... Anna Russell
Southeastern Chapter of AALL ............................................ Francis X. Norton, Jr.
Southern California Association of Law Libraries ............... Kelsey Chrisley
Southern New England Law Librarians Association ............. Catherine M. Dunn
Southwestern Association of Law Libraries ......................... Kathleen Bransford
Virginia Association of Law Libraries .............................. Benjamin T. Almoite
Western Pacific Chapter of AALL ..................................... Timothy P. Kelly
Western Pennsylvania Law Library Association .................. Cynthia A. Cicco

Special Interest Section Chairs

Special Interest Section Council ............................................ Camilla Tubbs
Academic Law Libraries .................................................. Christine Iaconetta
Computing Services ....................................................... Caroline Young
Foreign, Comparative & International Law ......................... Teresa M. Miguel-Stearns
Government Documents .................................................. Edward T. Hart
Legal History & Rare Books .......................... Sabrina Sondhi
Legal Information Services to the Public .................. Brian R. Huffman
Micrographics and Audiovisual ............................ Joel Fishman
Online Bibliographic Services ............................. Karen Selden
Private Law Libraries ................................. Cheryl Lynn Niemeier
Professional Engagement, Growth, and Advancement .. Jordan Jefferson
Research Instruction & Patron Services ..................... Jennifer Wondracek
Social Responsibilities ................................. Charles A. Pipins, II
State, Court & County Law Libraries .................... Maryruth Storer
Technical Services ................................. Suzanne R. Graham

Official Representatives

American Bar Association. Council of the Section on Legal
   Education and Admission to the Bar ................ Sally Harral Wise
American Bar Association. Standing Committee on the
   Law Library of Congress .............................. Emily Feltren
American Library Association .......................... Holly M. Riccio
American Library Association. Association for Library
   Collections & Technical Services. Cataloging and
   Classification Section. Committee on Cataloging:
   Description and Access ................................ Robert Bratton
American Library Association. Association for Library
   Collections & Technical Services. Cataloging and
   Classification Section. Subject Analysis Committee .... Lia Contursi
American Library Association. Association for Library
   Collections & Technical Services. Machine-Readable
   Bibliographic Information Committee ................ Jean M. Pajerek
Association for Library and Information Science Education .. Ralph A. Monaco
Association of American Law Schools .................... Holly M. Riccio
Association of Legal Administrators .................... Scott Snipes
British and Irish Association of Law Librarians ............ Holly M. Riccio
Canadian Association of Law Libraries ................... Holly M. Riccio
Center for Computer-Assisted Legal Instruction .......... Deborah Ginsberg
Federal Depository Library Council ........................ Emily Feltren
Friends of the Law Library of Congress ................... Emily Feltren
Institute of Museum and Library Services ................ Emily Feltren
International Association of Law Libraries ............... Holly M. Riccio
International Federation of Library Associations and
   Institutions ........................................ Anne E. Burnett
International Legal Technology Association ................ Kate Hagan
International Practice Management Association .......... Kate Hagan
Legal Information Preservation Alliance .................. Dean Rowan
Legal Marketing Association ............................. Julie Pabarja
Mayflower II Conference ................................. Holly M. Riccio
National Association of Law Placement ................... Kate Hagan
National Center for State Courts..................................... Claudia Jalowka
Self-Represented Litigation Network .................................. Joan Bellistri
Special Libraries Association ............................................. Holly M. Riccio
Special Libraries Association. Legal Division ...................... Diane Rodriguez

Executive Staff

Executive Director......................................................... Kate Hagan
Education and Meetings Assistant................................. Vanessa Castillo
Director of Finance and Administration ......................... Paula Davidson
Director, Government Relations Office......................... Emily Feltren
Public Policy Associate.................................................. Elizabeth Holland
Accounting Clerk............................................................. Alkeval Hubbard
Education and Programs Manager................................. Heidi Letzmann
Membership Services Coordinator................................. Hannah Phelps Proctor
Director of Meetings......................................................... Pamela Reisinger
Executive Assistant to the Executive Director.................. Kim Rundle
Director of Membership Marketing and Communications..... Cara Schillinger
Director of Information Technology............................... Christopher Siwa
Director of Education..................................................... Celeste Smith
Marketing and Communications Manager ..................... Ashley St. John
Author Index

American Association of Law Libraries, 2014–2015 Officers, Committees, Chapter Presidents, Special Interest Section Chairs, Representatives, and Executive Staff, 685
AsKew, Sally Curtis, Vivian Campbell, Margaret M.R. Durkin, and Paul M. Kurtz, Memorial: José Federico (Fico) Rodríguez, 277
Belniak, Theodora, The History of the American Bar Association Accreditation Standards for Academic Law Libraries, 151
Campbell, Vivian, Sally Curtis AsKew, Margaret M.R. Durkin, and Paul M. Kurtz, Memorial: José Federico (Fico) Rodríguez, 277
Castanias, Greg, Martha Goldman, Gloria Miccioli, Ann Lloyd, Kathryn Kerchof, Karen Oesterle, Sharon R. McIntyre, Dean B. Gisselman, and Jill Long, Memorial: Harva Sheeler, 491
Caulfield, Elizabeth, Is This a Profession? Establishing Educational Criteria for Law Librarians, 287
Chiorazzi, Michael G., Mentoring, Teaching, and Training the Next Generation of Law Librarians: Past and Present as Prologue to the Future, 69
deMaine, Susan David, From Disability to Usability in Online Instruction, 531
Duggan, James E., From the Editor: The Next Chapter, 7
Durkin, Margaret M.R., Sally Curtis AsKew, Vivian Campbell, and Paul M. Kurtz, Memorial: José Federico (Fico) Rodríguez, 277
Eshleman, Michael O., A Preliminary Legal Bibliography of the Pitcairn Islands, South Pacific Ocean, 221
Gisselman, Dean B., Martha Goldman, Gloria Miccioli, Ann Lloyd, Kathryn Kerchof, Karen Oesterle, Sharon R. McIntyre, Jill Long, and Greg Castanias, Memorial: Harva Sheeler, 491
Goldman, Martha, Gloria Miccioli, Ann Lloyd, Kathryn Kerchof, Karen Oesterle, Sharon R. McIntyre, Dean B. Gisselman, Jill Long, and Greg Castanias, Memorial: Harva Sheeler, 491
Goodman, Naomi, Memorial: Gail Hartzell, 275
Hallows, Kristen M., It's All Enumerative: Reconsidering Library of Congress Classification in U.S. Law Libraries, 85
Hirsh, Kenneth J., Like Mark Twain: The Death of Academic Law Libraries Is an Exaggeration, 521
Hutchinson, Terry, Valé Bunny Watson? Law Librarians, Law Libraries, and Legal Research in the Post-Internet Era, 579
Jackson, Darla W., Cybersecurity: Breaches and Heartbleed to BYOD—Are Bankers, Entertainment Company Executives, Celebrities, Postal Workers, Ice Cream Lovers, Home Builders, and CIOs the Only Ones Who Should Be Concerned?, 633


Kurtz, Paul M., Sally Curtis AsKew, Vivian Campbell, and Margaret M.R. Durkin, *Memorial: José Federico (Fico) Rodriguez*, 277

Lawal, Vicki, and Peter Underwood *Information Literacy Learning Outcomes Among Undergraduate Law Students in Two African Universities*, 431


Maxwell, Lynne F., *To Meet or Not to Meet? That Is the Question*, 645


Milles, James G., *Legal Education in Crisis, and Why Law Libraries Are Doomed*, 507


Russell, Gordon, *The ABA Section on Legal Education Revisions of the Law Library Standards: What Does It All Mean?*, 329


Shucha, Bonnie, “Whatever Tribal Precedent There May Be”: The (Un)availability of Tribal Law, 199

Simmons, Heather J.E., *Categorizing the Useful Arts: Past, Present, and Future Development of Patent Classification in the United States*, 563

Talley, Nancy B., *Are You Doing It Backward? Improving Information Literacy Instruction Using the AALL Principles and Standards for Legal Research Competency, Taxonomies, and Backward Design*, 47

Underwood, Peter, and Vicki Lawal, *Information Literacy Learning Outcomes Among Undergraduate Law Students in Two African Universities*, 431

Wheeler, Ronald, *AALL Diversity Redelineated*, 135

Wheeler, Ronald, *Let’s Talk About Race*, 267


Whisner, Mary, *The 4-1-1 on Lawyer Directories*, 257

Whisner, Mary, *Getting to Know Fastcase*, 473

Whisner, Mary, *Race and the Reference Librarian*, 625
<table>
<thead>
<tr>
<th>Title</th>
<th>Author(s)</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title Index</td>
<td></td>
<td></td>
</tr>
<tr>
<td>of Law Libraries, 649</td>
<td>Management: A Selected Annotated Bibliography</td>
<td>4</td>
</tr>
<tr>
<td>2014 Members’ Open Forum—107th Annual Meeting, American Association</td>
<td>Whisner, Mary, There Oughta Be a Law—</td>
<td>125</td>
</tr>
<tr>
<td>of Law Libraries, 679</td>
<td>A Model Law</td>
<td></td>
</tr>
<tr>
<td>2014–2015 Officers, Committees, Chapter Presidents, Special Interest</td>
<td>Whiteman, Michael, Book Burning in the</td>
<td>11</td>
</tr>
<tr>
<td>Section Chairs, Representatives, and Executive Staff, American</td>
<td>Twenty-First Century: ABA Standard 606 and</td>
<td></td>
</tr>
<tr>
<td>Association of Law Libraries, 685</td>
<td>the Future of Academic Law Libraries as the</td>
<td></td>
</tr>
<tr>
<td>AALL Diversity Redelineated, Ronald Wheeler, 135</td>
<td>Smoke Clears</td>
<td></td>
</tr>
<tr>
<td>The ABA Section on Legal Education Revisions of the Law Library</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standards: What Does It All Mean?, Gordon Russell, 329</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are You Doing It Backward? Improving Information Literacy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Using the AALL Principles and Standards for Legal Research</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Competency, Taxonomies, and Backward Design, Nancy B. Talley, 47</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Breaking Down the Black Box: How Actor Network Theory Can Help</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Librarians Better Train Law Students in Legal Research Techniques,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judith Lihosit, 211</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Book Burning in the Twenty-First Century: ABA Standard 606 and the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Future of Academic Law Libraries as the Smoke Clears, Michael</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Whiteman, 11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Categorizing the Useful Arts: Past, Present, and Future Development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>of Patent Classification in the United States, Heather J.E. Simmons,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>563</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A Century’s Worth of Access: A Historical Overview of Cataloging in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Law Library Journal, Ellen McGrath, 407</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cybersecurity: Breaches and Heartbleed to BYOD—Are Bankers,</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Like Mark Twain: The Death of Academic Law Libraries Is an Exaggeration, Kenneth J. Hirsh, 521
Memorial: Gail Hartzell, Naomi Goodman, 275
Memorial: Harva Sheeler, Martha Goldman, Gloria Miccioli, Ann Lloyd, Kathryn Kerchof, Karen Oesterle, Sharon R. McIntyre, Dean B. Gisselman, Jill Long, and Greg Castanias, 491
Memorial: José Federico (Fico) Rodríguez, Sally Curtis Askew, Vivian Campbell, Margaret M.R. Durkin, and Paul M. Kurtz, 277
Mentoring, Teaching, and Training the Next Generation of Law Librarians: Past and Present as Prologue to the Future, Michael G. Chiorazzi, 69
A Preliminary Legal Bibliography of the Pitcairn Islands, South Pacific Ocean, Michael O. Eshleman, 221
Race and the Reference Librarian, Mary Whisner, 625
Stereotype Threat and Law Librarianship, Ronald Wheeler, 483
There Oughta Be a Law—A Model Law, Mary Whisner, 125
To Meet or Not to Meet? That Is the Question, Lynne F. Maxwell, 645
Valé Bunny Watson? Law Librarians, Law Libraries, and Legal Research in the Post-Internet Era, Terry Hutchinson, 579
What About the Majority? Considering the Legal Research Practices of Solo and Small Firm Attorneys, Joseph D. Lawson, 377
“Whatever Tribal Precedent There May Be”: The (Un)availability of Tribal Law, Bonnie Shucha, 199
Statement of Ownership and Management

Law Library Journal, Publication No. 23-9283, is published quarterly (spring, summer, fall, winter) by the American Association of Law Libraries, 105 W. Adams St., Ste. 3300, Chicago, IL 60603-6225. Annual subscription price, $110. American Association of Law Libraries, Kate Hagan, executive director, owner, and publisher; James E. Duggan, editor; Ashley St. John, managing editor. Periodical-class postage paid at Chicago, Illinois. Printed in U.S.A. As a nonprofit organization authorized to mail at special rates (Section 423-12, Domestic Mail Manual), the purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes have not changed during the preceding 12 months.

Extent and Nature of Circulation

(“Average” figures denote the average number of copies printed each issue during the preceding 12 months; “Actual” figures denote actual number of copies of single issue published nearest to filing date: Spring 2014, vol. 106, no. 2 issue.) Total number of copies printed: Average, 5,012; Actual, 5,095. Paid and/or requested circulation: not applicable (i.e., no sales through dealers and carriers, street vendors, and counter sales). Mail subscription: Average, 4,680; Actual, 4,769. Free distribution by mail, carrier or other means, samples, complimentary and other free copies: Average, 5; Actual, 0. Total distribution: Average, 4,685; Actual, 4,769. Copies not distributed: office use, leftover, unaccounted, spoiled after printing: Average, 328; Actual, 326. Returns from news agents: not applicable. Total (sum previous three entries): Average, 5,012; Actual, 5,095. Percentage paid: Average, 99.9%; Actual, 100.00%.
HAVE YOU LOST ACCESS TO ENGLISH CASE LAW?

If you used to reference English Case Law via Lexis.com that service ended in January this year.

The (official) Law Reports for England and Wales are no longer available in the USA on the Lexis.com platform but you can still access them direct from the ICLR.

Act now to make sure you still have access to 150 years of case law.

• The source for the whole official Law Reports archive dating back to 1865, available online and in print
• ICLR Online is optimized for all digital platforms; mobile, tablet and desktop
• The ICLR is a not for profit legal charity, dedicated to the provision of excellence in case law.

Contact us anytime on sales@iclr.co.uk, call us on +44 207 242 6471 or sign up for a free trial at iclronline.co.uk