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## The Future of Law Libraries

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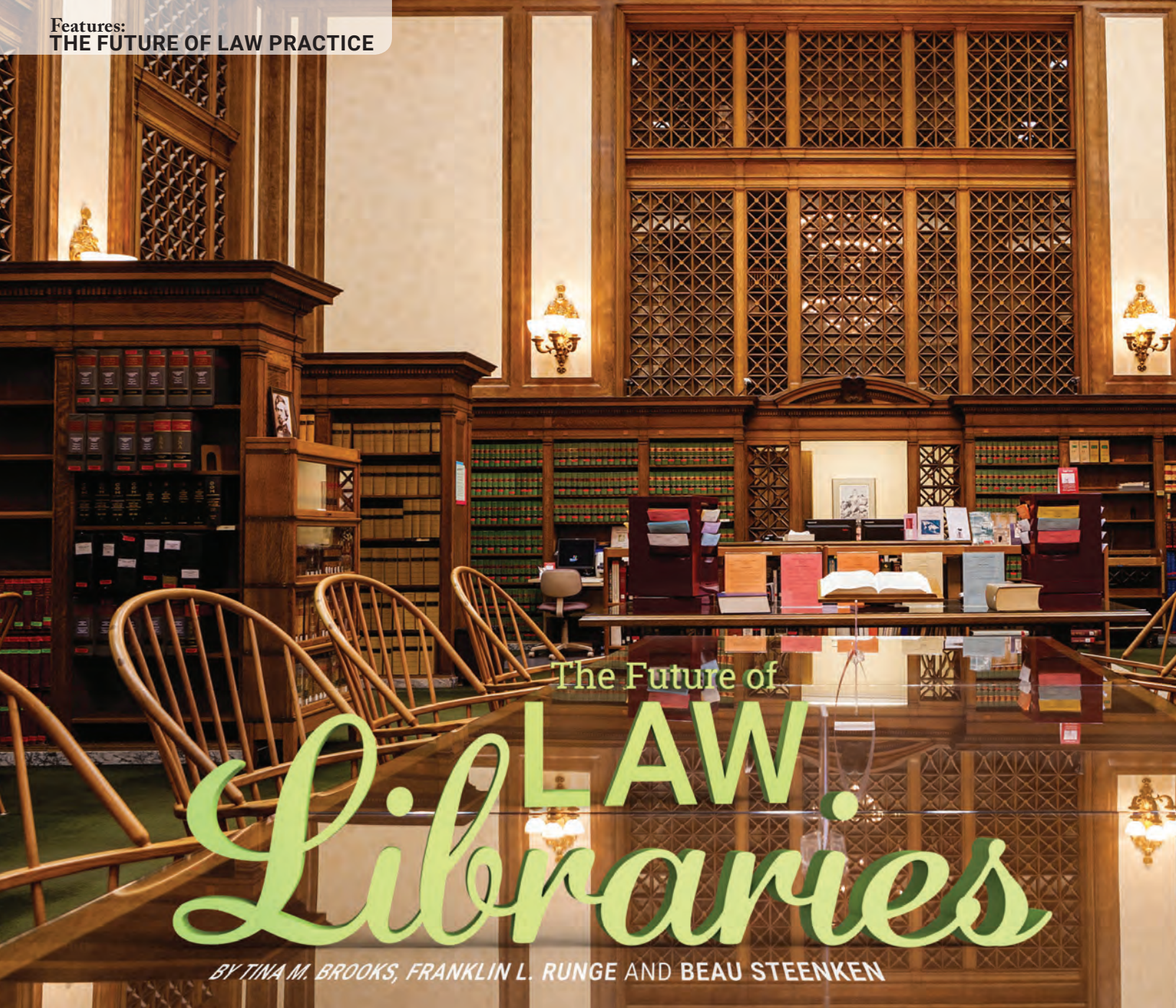
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# The Future of LAW. Libraries

BY TINA M. BROOKS, FRANKLIN L. RUNGE AND BEAU STEENKEN

Law libraries are filled with the rules that govern our society, thoughtful scholars, conscientious lawyers, some hard working students, and some procrastinating students. In the past, this required libraries to collect hardbound volumes and loose leafs. Today, the collection is beginning to give way to research platforms filled with those same, or similar, materials and then some; much of the primary legal documentation is even freely available on the web.

While the physical footprint of the library may be smaller as a result of this transition, the amount of legal information that researchers have access to has grown exponentially. We now have more sophisticated tools for manipulating this ocean of digital information, and the services offered by law librarians are evolving along with those tools. This article will review current trends in law libraries.

## **BUILDING BETTER ROBOTS: NEW TOOLS TO FIND LEGAL INFORMATION**

Legal research is now often conducted in online commercial legal research platforms such as Westlaw, Fastcase, or other subject-specific databases where access to the necessary documents and related analysis is often only few clicks away. However, the value of online research platforms lies not only in having quick access to all this information, but also in the new means we have available to find and manipulate it. While indexes, tables of contents, and other key finding aids still exist on the more expensive online research platforms, the ability to search all this data is a powerful addition to research toolkits. And in some cases a tool that was powerful in print has been completely transformed in its online incarnation. Not only can online citators like *KeyCite* and *Shepard's* give a quick indication on whether a case is good law, as *Shepard's* did in print, but these tools can be used to see a list of



every document on the platform that cites back to that case, and can search and manipulate those results through filters in powerful ways. These tools are critical to help manage the volume of information now accessible.

Though the transition to online materials and the development of search capabilities have been the major technological advances in legal research of the last 20 years, today new technologies and fields of study are being applied. New and old players in the legal research field are developing innovative tools using data analytics to find specific pieces of information in the ocean in a more cost-efficient manner. For example, the budget legal research platform Fastcase uses an algorithm called Bad Law Bot to determine if one case treats another negatively by looking for pre-specified terms such as “abrogated” or “overruled.”<sup>11</sup> Utilizing an algorithm to make these determinations is cheaper than having human ed-

itors employed by Westlaw and Lexis Advance lay eyes on each case, but it doesn’t yet provide the same nuanced look at cases that *KeyCite* and *Shepard’s* do.

These companies are also figuring out how to mine all the available documents for patterns to create new products that will appeal to practitioners. Ravel Law, a new case law research platform that relies extensively on various uses of data analytics, has developed a new tool to analyze judges’ opinions. It looks at all the opinions a judge has written and identifies the courts, judges, and cases they cite to most frequently and may find particularly persuasive.<sup>2</sup> This is excellent data for a lawyer to have at hand when preparing to appear before a particular judge.

In addition to using data analytics to find information more efficiently or to find new patterns, research platforms are also providing new ways to view this information.<sup>3</sup> Data visualization is the concept of imparting more information in a graphical depiction of search results than the simple text-based list we have become accustomed to. One implementation of data visualization that might be familiar is the map view of a case’s history that is available on Westlaw or Lexis Advance. A researcher can view a graph where the Y axis represents the court level and each entry in the graph represents a court opinion. This graphical display can make it easier to quickly see the path a case has taken through the court system.

Another example is the visual display that Ravel Law gives after performing a keyword search of cases. In addition to a search result list of case titles, Ravel also presents a graph of those same results with the X and Y axes representing the courts and dates of each opinion, but the graph also utilizes different sizes of shapes and lines to convey additional information. Cases are represented by circles; the larger the circle, the more that case has been cited. The thickness of the lines between case circles represents the depth in which one case is discussing another.<sup>4</sup> (Ravel’s case law database may be searched for free, and many instructional videos are provided. The judge analytics mentioned above, however, are subscription-only.) The idea is to give the researcher a way to hone in on the most important cases on a given legal issue at a glance rather than clicking their way through a search results list.

These trends in developing new tools for manipulating the large volumes of information will probably continue in the near future. In fact, as this article was being finished Lexis Advance announced a new data visualization tool that involves using a color-coded bar to indicate search terms and frequency in its results list.<sup>5</sup> More of these types of features can be expected to roll out on legal research platforms as they strive to stay competitive with newcomers in the field

## THE BATTLE FOR OPEN ACCESS

There is a battle for legal information that is gaining in strength, numbers, and noise. On one side, you have traditional powers that

have been the gatekeepers to cases, statutes, and commentary for over a century. A growing band of newcomers have coalesced to generate new ways to make U.S. legal information freely available online. Over the next 15 years this battle will be fought, and we predict that the newcomers will emerge with popular and viable platforms for distributing legal information.

The newcomers ride under the banner of Open Access, which is the publication of works that are “digital, online, free of charge, and free of most copyright and licensing restrictions.”<sup>6</sup> This definition squarely fits the potential for the vast majority of legal information. Federal statutes, regulations, and cases are not entitled to copyright protection.<sup>7</sup> The Commonwealth of Kentucky has determined that the Constitution, Kentucky Revised States, Kentucky Acts, and the Kentucky Administrative Regulations shall be made publically available via a “nonproprietary, nonprofit cooperative public computer network” and that cases are not protected by copyright.<sup>8</sup> It is true that commercial legal databases add editorial content and an organizational scheme that is proprietary and deserving of protection. However, advances in artificial intelligence, crowd-sourcing, and data management will allow the Open Access platforms to not only produce legal information, but to compete with the traditional platforms in the realm of usability, organization, and citator tools.

The Open Access proponents have similar genesis stories: big thinkers at large, well-funded, civic-minded institutions. One of the forerunners of the movement is the Legal Information Institute (LII) at Cornell Law School, which has been focused on providing Open Access to the law since 1992. Their stated goal is to “ensure that the law remains free and open to everyone, which includes supporting global expansion of the free access to law movement, serving government, empowering citizens, serving the legal profession, and developing web science for the law.”<sup>9</sup>

Another newcomer deserving of mention is Casetext, which is a free legal research and publishing platform launched in 2013 using \$8.8 million in venture capital funds.<sup>10</sup> This product uses crowd-sourcing concepts to incentivize users to add editorial content to primary sources of law and build a citator.<sup>11</sup> Casetext’s founder Jake Heller, said, “We’re developing technology similar to that of Quora or Reddit, where incentives to contribute are paired with intelligent data science to determine which contributions to highlight.”<sup>12</sup>

In 2015, the Harvard Law School Library entered the fray with Free the Law, which is focused on making all U.S. case law freely accessible on the Internet.<sup>13</sup> To complete this project, Harvard teamed up with Ravel Law, which is funding the digitization process and will make the resulting database publicly available for free searching.<sup>14</sup> In arguing for Open Access principles to be applied to legal information, Free The Law appeals to our better nature, in stating, “Our common law—the written decisions issued by our state and federal courts—is not freely accessible online. This lack of access harms justice and equality and stifles innovation in legal services.”<sup>15</sup>

The newcomers firmly believe that right makes might.<sup>16</sup>

Will the traditional gatekeepers of legal information crumble in the next 15 years? No. Will the threat of viable new entrants shape industry competition?<sup>17</sup> Yes.

Westlaw, Lexis Advance, and Bloomberg Law have incumbency advantages in the marketplace, but it is hard to beat the cost of Open Access.<sup>18</sup> The Open Access movement in legal information will be a disruptive technology that forces rivalry.<sup>19</sup> We see the traditional gatekeepers going in two directions: (1) to cater to users with money, they will enhance their search algorithms, practice tools, and secondary source materials and (2) they should create new products that compete at the free or low-cost level.

Notably, the Open Access movement has already taken hold in legal academia. With respect to law reviews, scholars are not selling their product. The law reviews are composed of an unpaid staff that work for a notation on their resume and course credit hours.<sup>20</sup> In return for generating content, law professors receive a convenient forum to distribute their ideas and help in their tenure process.<sup>21</sup> This model shows the perfect ingredients for Open Access: a well-supported author that is given the room to become an expert on, and write about, a particular subject; a group of publishers that do not have labor costs; and technological tools that allow for the distribution of work free of charge to readers. The best example of this phenomenon can be seen in the 66 law schools that have implemented a Digital Commons platform.<sup>22</sup>

In the coming years, the battle of Open Access will rage, but in the end, the Internet is of the people, by the people, and for the people.<sup>23</sup>

## THE EVOLUTION OF LAW LIBRARY SERVICES

In addition to changing the way that law libraries collect and house legal materials, the information revolution also led law libraries to provide new and different services and to redefine—at least partially—the roles of law librarians. The shift in emphasis from publishing legal materials in print form to electronic format allowed law libraries to collect more information and to house it in less space. Furthermore, the shift allowed law library patrons to access a truly massive amount of legal information within a relatively short time period. While these changes enable researchers to overcome easily many of the challenges of print-based legal research, electronic research itself presents many of its own challenges. Law libraries have thus refined their service offerings to take advantage of the utility offered by computers but also to help researchers minimize the new challenges presented by electronic research.

Traditionally, finding relevant precedents and ensuring the continued validity of the precedents found represented the most challenging aspects of legal research. In fact, the difficulty in finding applicable caselaw and the even greater difficulty in exploring cases’ subsequent treatment during the Early Republic period led directly to the creation of the first citator, an early precursor to *Shepard’s Citations*.<sup>24</sup> Even after the advent of the more comprehensive *Shepard’s Citations* and the national reporter and digest system of John B. West, which made comprehensive topical case research possible later in the Nineteenth Century, legal research

remained a time-intensive process, under which the main challenge remained finding relevant cases. Law libraries and law librarians played key roles in the process. The former housed the massive collections necessary to make comprehensive research possible, and the latter served as guides by recommending treatises or showing patrons how to use digests.

Note that neither of the traditional functions disappeared completely with the information revolution, though they did shift a bit. Law libraries still maintain subscriptions to many print legal titles, though print collections have gotten smaller. Furthermore, libraries now also subscribe to a large number of electronic sources; either as more efficient versions of old titles or as new tools altogether. Citators are often an example of the former, while ProQuest's Legislative Insight serves as an example of the latter. *Shepard's Citations* can be used much more efficiently electronically than it can in print. As such, many law libraries have dropped print subscriptions to *Shepard's* but maintain a public-access subscription to the electronic version of *Shepard's* or an alternate citator such as West's *KeyCite*. Legislative Insight is a new tool that compiles federal legislative histories and that provides the full text of all documents related to a Public Law's passage. Similarly to how law libraries still collect print while adding digital content, law librarians still recommend sources to researchers. However, the types of sources have expanded. While many recommendations will still direct researchers to print treatises on point, law

librarians may also now refer researchers to electronic tools as well, if one is best suited for the job.

In addition to the traditional services offered, the information revolution has enabled law libraries to offer additional services, while also mandating that law librarians assume an important new role. Computers and digital publishing allow the easy creation and sharing of information sources. Law libraries have taken advantage of the technological developments to better serve their users. In addition to subscribing to electronic tools such as those described above, law libraries can now use digital technology to share paper-based resources with researchers from afar, either upon request or by creating their own digital collections. However, computers' removal of many of the entry barriers to publication along with their ability to deliver massive amounts of information with just a few key strokes combine to present legal researchers with a new challenge. While finding an obscure case (and every case that has ever cited it) is much easier in the computer age, researchers now face the opposite problem: too many research results. Rather than spend extra time tracking down cases, then, researchers must now spend extra time eliminating less-relevant cases to try to focus on the most relevant authorities. Furthermore, since anyone with a computer and an internet connection can now publish information to the Web, researchers must now also be vigilant in assessing the trustworthiness of information found on the internet. Luckily, law librarians have adapted their roles to assist legal researchers with these tasks.

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In addition to their traditional roles as guides, law librarians now also serve as gatekeepers. Individually, law librarians can help legal researchers to narrow their results to sources likely to be useful for solving a given problem. Law librarians can recommend databases, show researchers how to use the databases' interfaces, and suggest search queries or filters to use. Law librarians also often assist researchers with seeing the connections between electronic search results and advise on how to use those connections to stay on a relevant path. Beyond helping individual researchers, however, law librarians as a professional collective help to establish standards for providing legal information electronically so that researchers can differentiate between authentic sources and those that are less reliable. For instance, the American Association of Law Libraries is currently assisting the Uniform Law Commission in campaigning to have each state pass a version of the Uniform Electronic Legal Material Act.<sup>25</sup>

Thus as the tools of legal research have changed, the roles of law libraries and law librarians have adapted, though the end goal of connecting researchers with useful

legal information remains the same. Most law libraries, including the University of Kentucky Law Library, now offer a blend of traditional print-based services and new computer-based services.

### SERVICES OFFERED AT THE UNIVERSITY OF KENTUCKY LAW LIBRARY

The University of Kentucky Law Library welcomes members of the bar to use its collections, both print and electronic. The library maintains a large number of treatises, form books, and other secondary sources in print, and also keeps both Kentucky and federal primary sources in print. While treatises that are volume sets do not circulate, the library will loan individual titles to members of the bar who set up a free special borrowing account. Furthermore, the library will loan these titles via Inter Library Loan to participating libraries (including public libraries) for individuals outside of Lexington. If a researcher only needs a small portion of a title and has a citation to the relevant portion, it may be possible to scan the portion and send it by email.

In terms of electronic sources, the University of Kentucky Law Library subscribes to a version of LexisNexis accessible to the public (on-site in the library only) that provides searchable cases and statutes from across the country as well as electronic *Shepard's*. On-site researchers in the library will also be able to use various other electronic databases to which the library subscribes, including ProQuest Legislative Insight (discussed above) and HeinOnline (which provides a comprehensive, searchable collection of law

review and journal articles). And, of course, researchers can use the digital collections created by the University of Kentucky Law Library itself, as discussed earlier in this article.

Reference assistance is also available for researchers wishing to use the University of Kentucky Law Library or its collections. Reference assistance can be conducted in person, over the phone, or via email. The reference desk in the library is staffed M-F, 9 a.m. – 5 p.m. The reference desk may be reached at (859) 257-8131, or the law librarians may be reached via email at [rs\\_lawref@uky.edu](mailto:rs_lawref@uky.edu). **B&B**

### ABOUT THE AUTHORS



**TINA M. BROOKS** joined the UK Law Library faculty in July 2011 as the electronic services librarian. Prior to this position, Professor Brooks studied history and Spanish at the University of Northern Iowa, one semester of which was spent abroad at the University of Oviedo in Spain. The summer following her first year at the University of Nebraska College of Law she studied international law abroad at the University of Cambridge in the United Kingdom. She then obtained her masters in information science at the University of Texas's School of Information while working in the circulation department at the Tarlton Law Library. She began her current position at UK directly after finishing her master's program in 2011.



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**FRANKLIN L. RUNGE** joined the UK Law Library faculty as the faculty services librarian in May 2011. Franklin received a B.A. in political science from Hiram College in 2000, a J.D. from Northeastern University School of Law in 2003, and a M.L.S. from the School of Library and Information Science at Indiana University in 2010. Following law school, he clerked for the judges of the Massachusetts Probate and Family Court. After his clerkship, he stayed in Boston and practiced law at Weisman & McIntyre, PC.



**BEAU STEENKEN** joined the law library faculty at the University of Kentucky in September 2010 and serves as the instructional services librarian. He teaches two to four sections of 1L Legal Research a year and also coordinates informal research instruction of various sorts. Before coming to the University of Kentucky, he managed to collect a B.A., a J.D., and an M.S.I.S. from the University of Texas, as well as an M.A. in history from Texas State University and an LL.M. in public international law from the University of Nottingham, where he also took up archery.

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