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Finding the Middle Ground in Collection Development: How Academic Law Libraries Can Shape Their Collections in Response to the Call for More Practice-Oriented Legal Education

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Finding the Middle Ground in Collection Development: How Academic Law Libraries Can Shape Their Collections in Response to the Call for More Practice-Oriented Legal Education

Leslie A. Street and Amanda M. Runyon

To examine how academic law libraries can respond to the call for more practice-oriented legal education, the authors compared trends in collection management decisions regarding secondary sources at academic and law firm libraries along with law firm librarians' perceptions of law school legal research training of new associates.

I. Introduction

Anyone working in any kind of law library today is familiar with the traditional stressors of library collection budgets. The recent economic downturn has placed even more strain on collection budgets as libraries have sought to find places to cut from existing budgets.[1] In the current economic climate, cancellations of library subscriptions and reductions in collections are a necessity, and have become the reality for all types of law libraries.[2]

In addition to the stresses placed on law library collections due to budgetary concerns, law libraries face other institutional changes that impact their collections. Collections are fundamentally changing because of new technologies and a growing

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[1] *See* Karen Sloan, *Law Schools Dealing with Budget Cuts*, NATL. L. J. (January 19, 2009).

[2] *See id.* for example of both Temple University Beasley School of Law and the William S. Boyd School of Law at the University of Nevada, Las Vegas, which both cut library acquisitions as a means to dealing with reduced law school budgets.

reliance on electronic materials.[3] Faced with this new reality, law libraries and scholars have done little research examining the impact of potential cancellations on legal research education. Instead, research has focused on the mechanics of collection development[4] or the mechanics of cancellation.[5] In her 2009 article, Amanda Runyon discussed survey results quantifying the types of materials academic law libraries have been cancelling and removing from their collections in recent years.[6] While this survey was the first of its kind to explore big-picture trends in cancellation based on actual quantitative data, it did not address the possible effects of such cancellations on larger themes of library services and the law library as a component of the larger law school. Collections reflect the pedagogical and scholarly needs of their larger institutions, so changes in library collections should be placed within the larger frame of law school institutional changes.

In the face of these collection changes at law libraries, academic law libraries also face complications from the notion that their supporting institutions – law schools – may also be entering a state of flux. Scholars have pointed out that legal education is at the confluence of three activities: the practice of law; the enterprise of understanding the practice of law; and the study of law's possible understandings.[7] These three purposes are frequently seen as being in conflict with each other in terms of predominance in the

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[3] Amanda Runyon, *The Effect of Economics and Electronic Resources on the Traditional Law Library Print Collection*, 101 LAW LIBR. J. 177 (2009).

[4] Connie Lenz & Helen Wohl, *Does Form Follow Function? Academic Law Libraries' Organizational Structures for Collection Development*, 100 Law Lib. J. 59 (2008).

[5] Dan J. Freehling, *Cancelling Serials in Academic Law Libraries: Keeping the Collection Lean and Mean in Good Times and Bad*, 84 LAW LIBR. J. 707 (1992); Ann T. Fessenden, *Cancellation of Serials in a Budget Crisis: The Technical Problems*, 75 LAW LIB. J. 157 (1982)

[6] Runyon, *supra* note 3.

[7] Ernest J. Weinrib, *Can Law Survive Legal Education?*, 60 VAND. L. REV. 401 (2007).

education of new lawyers. One common critique is that legal education emphasizes theory at the expense of preparing students for actual legal practice. Although the Socratic method has been the bedrock of legal education for more than a century, critics of traditional legal education are gaining prominence as their critiques are given increasing consideration.[8] A number of schools are introducing alternative curriculum models for second and third year law students as an outgrowth of the movement to modernize legal education.[9] Legal educators have come together to study and promote reform in legal education.[10]

In addition to casting doubt upon the traditional methods of legal education, critics have also pointed out that legal scholarship itself may be removed from the realities of the practice of law. Some critics have contended that legal scholarship and legal practice are diametrically opposed because legal scholarship has become pure theory while legal practice has been motivated by "pure commerce."[11] With this framing, compromises between the study and the practice of law are difficult to make and it appears that the one is always doomed to misunderstand the other. For that reason, a number of practitioners, judges and academics have called on legal scholars to pay more consideration to legal practice in their scholarship.

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[8] See WILLIAM M. SULLIVAN ET. AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007) [hereinafter *The Carnegie Report*].

[9] See *infra* footnotes 35-43.

[10] See *Carnegie Report*, *supra* note 10.

[11] Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34, 34 (1992)(noting that many firms now pursue pure profit over everything else); *See also* Dennis Curtis, *Can Law Schools and Big Law Firms Be Friends?*, 74 S. CAL. L. REV. 65 (2000)(discussing the lack of consideration given in law schools to the actual mechanics of practice and how some large law firm managing partners complained that the majority of their jobs were spent dealing with wholly financial concerns).

In spite of these discussions within the academic legal community, there have been few discussions in the corresponding academic law library community regarding what these potential changes mean for library collections. Are our collections able to adequately prepare students for practical realities as well as meet the scholarly needs of our institutions? This article hopes to focus on how our collections may or not be poised to respond to these changes by looking at collection cancellation decisions chiefly in regard to secondary and practitioner-oriented materials. Because of he importance of these sources to the practice of law, we posit that looking at the treatment of those materials is a good guide for assessing the ability of an academic law library to assist the law schools in preparing law students for legal practice.[12] We also look at the collection development decisions of law firm libraries, as well as their attitudes to secondary source legal research, to examine whether academic law library collections contain the resources that law students will use most frequently when they enter the practice of law. If law schools are attempting, at least with greater intensity, to prepare students for legal practice, then law students should be trained in legal research with collections similar to what they will encounter in a practice environment.

Part II of this article discusses the conflicting purposes of the legal academy and the calls for its reform, particularly the need to offer better professional preparation to students, law school efforts to alter their curricula, and calls for more practical legal scholarship. We will discuss the implications that these reforms may have for law library collections. Part III reviews the collection development decisions of law firm libraries

[12] See *infra* notes 32-33 for a discussion of the importance of secondary and practice materials in legal practice.

regarding secondary sources and practitioner-oriented materials, and part IV discusses the collection development decisions that academic libraries are making with regard to the same materials. That discussion is followed by a brief exploration of how the cancellation decisions of academic law libraries vary from decisions made from similar decisions made at law firm libraries. We discuss law firm cancellation decisions to frame the collection development decisions of academic law libraries in a practitioner-oriented context. In other words, are collection development decisions made by academic law libraries consistent with the aim of reforming legal education to reflect practical realities? We will discuss whether or not this incongruence bodes well for the responsiveness of academic law library collections to the increasing push to revamp the law school curriculum to more adequately prepare law students for life as a professional. Part IV then concludes with our own suggestions for aligning academic law library collection management decisions with the needs of the changing law school curricula, with the ultimate goal of increasing the academic law library's role in the preparation of new lawyers in a practice-oriented education.

Our basic premise is that although the realities of stagnant or shrinking collection budgets dictate that cancellation decisions are necessary for academic law libraries, cancellations should be made in view of larger considerations of not only pending changes in law school curriculum, but also with a view towards anticipating future needs of law students. In other words, academic law libraries should take time to consider larger implications of cancellations and not hurry through any major cancellation project simply in the name of reducing their budget. Increased attention has been given to making legal education and scholarship more practical and more reflective and aware of practice, and

academic law libraries should consider these developments in making collection development decisions.

II. Discordance in Legal Education and Scholarship

A. Critiques of Practical Legal Education

Over the past twenty years, greater scrutiny has been focused on the legal academy in both its failure to prepare students to become successful legal practitioners and its failure to promote and produce practical legal scholarship. While the purpose of the legal academy is to bring together the study of the practice of the law, the enterprise of understanding the practice of law, and the study of law's possible understandings, many critics contend that because the teaching and study of theory is emphasized, law school does not equip students with practical legal skills.[13]

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[13]Weinrib, *supra* note 7 at 403. *See* Robert W. Gordon, *Lawyers, Scholars, and the "Middle Ground"*, 91 MICH. L. REV. 2075, 2081 (1993) which describes one professor's view of its deficiencies:

> My list of skills that they do not develop would include: working with statutes, administrative rules, and other non-case materials; working with messy and complicated factual records; drafting legal instruments like contracts, settlement agreements, opinion letters, and informal letters to clients; making sustained, as opposed to two- or three-sentence, policy arguments supported by empirical data; making normative arguments based on open-ended criteria of justice, morality, and fairness; acquiring a working knowledge of how legal institutions actually operate, not just in formal supposition but in fact.

See also Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34 (1992)(arguing that students that are not taught professional skills lack "the capacity to analyze, interpret and apply cases, statues and other legal texts and "will not understand how to practice as a professional"); Nancy P. Rapoport, *Is "Thinking Like a Lawyer" Really What We Want to Teach?*, 1 J. ASS'N LEGAL WRITING DIRECTORS 91 (2002)(arguing that law school is too fixated on "thinking" and law schools should also be teaching other skills as well because thinking only gets students so far.); Jason M. Dolin, *Opportunity Lost: How Law School Disappoints Law Students, the Public, and the Legal Profession*, 44 CAL. W. L. REV. 219 (2007); Randall T. Shepard, *What the Profession Expects of Law Schools*, 34 IND. L. REV. 7, 9-10 (2000)(stating that at a basic level, practitioners seek law school graduates that have a basic foundation as a start to acquiring skills in written and oral communication that are central to a lawyer's work.).*See also* The

Legal educators and other commentators have discussed the fundamental need to change legal education several times, most prominently in the McCrate Report and more recently in the Carnegie Report.[14] These reports have been discussed in detail by legal educators more broadly, and law librarians and legal research instructors more specifically.[15] One common theme that emerges from these discussions, as well as from the reports themselves, is the need for law school to prepare future practitioners for legal practice by offering practical instruction in addition to the traditional Socratic-Casebook method of instruction.[16] Indeed, critics of legal education have noted that students themselves are increasingly dissatisfied with their law school education.[17]

Additionally, critics have noted models used by other professional education programs to transfer practical skills to their students, and discussed adapting those models to provide practical skills to law students.[18] Some ideas for changing legal education include: instituting a practicum like that used in the third year of medical school;[19]

Academy and the Profession, entry in THE OXFORD HANDBOOK OF LEGAL STUDIES (2003), pdf available at http://www.wardfarnsworth.com/media/academy.pdf.

[14] WILLIAM M. SULLIVAN ET. AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007)(hereinafter *Carnegie Report*).

[15] Joyce McConnell, *A 21st Century Curriculum*, Sept/Oct 2008 W. VA. LAW. 12 (discussing the recommendations of the Carnegie Report and how the curriculum at the West Virginia University College of Law measures up to it's recommendations.).

[16] *See* Dolin, *supra* note 13, at 221-2; Edwards, *supra* note 13; *See also* Frank S. Bloch, *The Case for Clinical Scholarship*, 6 INT'L J. CLINICAL LEGAL EDUC. 7, 8-10 (2004) for an excellent brief summary history of the development of American legal education.

[17] *See* Dolin, *supra* note 13 at 242 (noting that many students express a desire to learn more practical skills like client relations, drafting forms, and operating a law office).

[18] *Id*. at 251.

[19] *Id.* at 251 (Calling for a medical school model for the third year of law school where students would learn primarily through clinics and practice concentrations).

increasing the numbers of clinical and experiential learning programs;[20] and limiting the reliance on the Socratic-Casebook method.[21] Clinical legal programs have been widely discussed as both a means of offering legal assistance to underserved communities and teaching practical legal skills to law students.[22] Some advocates for clinical legal education also point out that there should be more collaboration and cooperation between legal research and writing programs and law school clinics in order to better advance skills education.[23] Still others have pointed out that there can be a balanced approach between teaching theory and skills, and that the separation between doctrinal and skills courses are unnecessary.[24] In other words, the teaching of skills and doctrine need not be seen as in conflict with each other.[25]

However, despite the focus on the need for increased practical legal education, the need for legal research skills and instruction as an important part of that practical legal

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[20] Erwin Chemerinsky, *Rethinking Legal Education*, HARV. C.R.-C.L. L. REV. 595, 596 (2008).

[21] Dolin, *supra* note 13, at 254.

[22]Bloch, *supra* note 16, at 10; *See* Stefan H. Krieger, *The Effect of Clinical Legal Education on Law School Reasoning: An Empirical Study*, 35 WM. MITCHELL L. REV. 359 (2008)(finding that students who had engaged in clinical legal education more extensively developed a process and a strategy to solve the next problem); Peter Toll Hoffman, *Clinical Scholarship and Skills Training*, 1 CLINICAL L. REV.93 (1994)(arguing that clinical legal education is fundamentally skills training).

[23] Sarah O'Rourke Schrup, *The Clinical Divide: Overcoming Barriers to Collaboration Between Clinics and Writing Programs*, 14 CLINICAL L. REV. 301 (2007).

[24] Kathryn M. Stanchi, *Step Away from the Case Book: A Call for Balance and Integration in Law School Pedagogy*, 43 HARV. C.R.-C.L. L. REV. 611 (2008)(arguing that the separation between courses that teach analysis, doctrine, and skills is unnecessary and harmful to students.).

[25] *Id*. at 612. Stanchi suggests increasing the number of courses that integrate doctrine, theory and skills so that students can learn to use them together in a practical context. More specifically, she suggests reorganizing a number of different courses "so that legal skills, such as problem solving, advocacy, writing, and negotiation, are central to the course."

training has been quite neglected.[26] In her recent article, *Legal Research: MacCrate's "Fundamental Lawyering Skill" Missing in Action*, Barbara Bintliff points out that legal research education may have been given the short shrift in the Carnegie and MacCrate reports, and that, ironically, legal research instruction was de-emphasized at the majority of American law schools at the same time that these reports were being written about the practical deficiencies of legal education.[27]

1. Practical Shortcomings of Current Legal Research Instruction

While it is true that the MacCrate and Carnegie Reports do not specifically mention the shortcomings of law students and new associates when it comes to their research skills, other research and scholarship point out the flaws of young legal researchers. Faults of newer researchers that have been discussed include an over-reliance on computerized legal research that "allows researchers to proceed without thinking,"[28] along with a lack of skills in placing search results in a larger context and evaluating resources.[29] Students routinely overlook secondary sources as an integral part of their research.[30] Knott, Bintliff

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[26] Roy M. Mersky, *Legal Research versus Legal Writing within the Law School Curriculum*, 99 LAW LIB. J. 395, 396 (2007)(stating that in the author's view, the attention the ABA's MacCrate Report gave to training in legal writing was at the expense of legal research instruction). Mersky goes on to state that as bad as the position of legal writing instruction has been in law schools, it eclipsed the position of legal research, which has been relegated to an even lesser position.

[27] Barbara Bintliff, Introduction to Special Issue: Legal Research: MacCrate's "Fundamental Lawyering Skill" Missing in Action, 28 LEGAL REFERENCE SERVICES Q. 1 (2009).

[28] Thomas Keefe, Finding Haystacks: Context in Legal Research, 93 ILL. BAR. J. 484 (September 2005).

[29] *See* Christopher Knott, *On Teaching Advanced Legal Research*, 28 Legal Reference Services Quarterly 101, 102 - 104 (2009).

[30] Sarah O'Rourke Schrup notes of her experiences with students in a clinic:

and others have devoted considerable time to discussing the process of legal research instruction itself, but have largely ignored questions of whether or not the collections being built and maintained at the institutions in which they teach affect how students are prepared for the practice of law.

In his recent article, *Law Firm Legal Research Requirements for New Attorneys*, Patrick Meyer synthesized a number of earlier studies discussing the poor research abilities of law students and new attorneys.[31] These accumulated surveys found that new associates were deficient in a variety of research tasks.[32] Meyer's own 2007 study, in particular, explored practitioner librarians' uses of print resources versus online materials and found that print is still widely used in the practitioner environment.[33] Meyer's conclusions are that print research components still must be integrated into research

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> Particularly troubling to me was the fact that many of the students simply did not take the time to research the background substantive criminal law on which their appeals rested or to fully understand the procedural posture of their cases even though I had provided links to several criminal law treatises and other similar background materials. My students simply researched the relevant caselaw surrounding a discrete issue but not the history or purpose of those rules, which resulted in analytical gaps in their final products. And if they did not understand a legal principal, rule, or theory, some students simply gave up rather than dig into the research that would educate them and solve the problem.

Schrup, *supra* note 23 at 334.

[31] Patrick Meyer, *Law Firm Legal Research Requirements for New Attorneys,* 101 LAW LIBR. J. 297 (2009).

[32] *Id.* at 302. Meyer points out that prior surveys among practitioner libraries found that new associates were "deficient in research tasks such as developing a research plan and being an efficient researcher; knowledge of subject-specific resources; the importance and uses of loose-leaf services, digests, and legal encyclopedias amongst other skills." *Id.* at 302 (quoting Joan Howland & Nancy J. Lewis, *The Effectiveness of Law School Legal Research Training Programs,* 40 J. LEGAL EDUC. 381 (1990)).

[33] *Id.* at 315-319. Of particular interest to our study is Meyer's finding that 85.8% of firm law librarians expected associates to primarily conduct secondary source research in print.

classes to give law students a fairer expectation of the kind of research that they will be doing in practice.[34]

2. Curricular Changes at Law Schools in Response to the Carnegie Report

Law librarians and legal research educators are not alone in responding to the Carnegie Report's call to improve legal education. A number of law schools have implemented larger changes to their curricula to offer more practical learning opportunities for students.[35] Central to these changes has been an increased development of law school clinics and other experiential learning programs, as preliminary studies have indicated that clinics aid students with lawyerly problem solving.[36]

The most dramatic curricular change among the top tier of law schools from the *U.S. News and World Report* rankings will occur at the Washington and Lee University School of Law. Washington and Lee has adopted a new third year program to emphasize simulated and actual practice experiences.[37] This new third year program "will be entirely

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[34] *Id.* at 321. Meyer addresses his conclusions to what legal research instruction would entail and does not draw broader conclusions about what academic law library collections should look like.

[35] Susan Sturm and Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515, 516 (2007)(arguing that forward-looking deans and faculty members have responded to the call for change with a variety of new reforms in everything from curriculum to class size and even architecture). Sturm and Guiner go on to note, however, that long term reform is difficult because such reforms do not go far enough to engage the features of the law school that underscore its existing culture of competition and conformity.

[36] See Krieger, *supra* note 22; Susan R. Martyn & Robert S. Salem, *The Integrated Law School Practicum: Synergizing Theory and Practice*, 68 LA. L. REV. 715 (2008).

[37] Message from Dean Rod Smolla, *Washington and Lee's New Third Year of Law School*, Washington and Lee 1 (copy on file with the authors).

experiential, comprised of law practice simulations, real-client experiences, the development of professionalism, and the development of law practice skills."[38]

Other law schools are also transforming their curricula in response to the Carnegie Report. The University of Dayton School of Law has proposed integrating skills training throughout the curriculum, including a requirement to complete an externship, small enrollment capstone, or clinical course.[39] In their third year, all students will be "required to demonstrate their lawyering skills by participating in simulated exercises. To pass, students must demonstrate a satisfactory proficiency in a range of lawyering skills, which include research and writing, interviewing, counseling and negotiation, and other skills."[40]

Erwin Chemerinsky, the dean of the new law school at the University of California, Irvine, states wants each student at his law school to receive practical training in law school clinics or externships as part of their legal education.[41] Dean Chemerinsky notes that at Duke University Law School, clinical experiences ranged from an appellate litigation clinic, where students wrote briefs for an appeal to the Fourth Circuit, to clinics focused on transactions, litigation, or administrative proceedings.[42] Chemerinsky goes on to note that there are also many opportunities to weave practical skills into substantive classes. He

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[38] *Id.* at 3. In discussing the types of skills that students will develop in this program, Dean Smolla emphasizes the development of "strong writing and communication skills," and noticeably to law librarians, never discusses research skills specifically. *Id.* at 17.

[39] Lisa Kloppenberg, Dean & Professor of Law, Engaging Students to Educate Problem Solving Lawyers for Clients and Communities, University of Dayton School of Law (on file with the author).

[40] *Id*.

[41] Chemerinsky, *supra* note 20, at 596 stating, "My goal at the new University of California, Irvine School of Law, every student will participate in a law school clinic or have the equivalent experience, such as through a carefully selected externship."

[42] *Id*.

notes, "I taught a class on Federal Practice of Civil Rights. Each student was required to draft a complaint, prepare a discovery plan, and engage in a negotiation exercise."[43]

Since legal research deficiencies are not well discussed within the mainstream academic literature (even in literature calling for law school curricular reform), literature about curricular reform does not specifically discuss how these changes will improve legal research education and address new attorneys' research shortcomings. However, it is arguable that giving students the ability to obtain practice skills will also afford them the opportunity to research in a more practice-like setting. Thus, law librarians and other legal research instructors may hope to provide some improved research instruction within these settings.

B. Calls for Practical Legal Scholarship

Along with the criticism leveled at the lack of practical training in legal education, there has also been much criticism of the lack of "practical" legal scholarship written by legal scholars.[44] Critics have voiced the view that increasingly, legal scholarship is meant

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[43] *Id*.

[44] *See* Edwards, *supra* note 13, at 35 (defining an impractical scholar as one who "produces abstract scholarship that has little relevance to concrete issues, or addresses concrete issues in a wholly theoretical manner"); David Hricik & Victoria S. Salzmann, *Why There Should be Fewer Articles Like This One: Law Professors Should Write More for Legal Decision Makers and Less for Themselves,* 38 SUFFOLK U. L. REV. 761 (2005)(noting that law professors are in the unique position to actually have the academic freedom and ability to write about practical legal problems); Shepard, *supra* note 13, at 11 (Discussing that the legal profession gets so little use out of much of what is published in American law journals.); Robert Gordon points out an extreme view of what is meant by this view of practical scholarship: "'Practical' scholarship thus ideally takes the form of the article addressed to some specific knotty doctrinal problem that is already, or soon likely to be, before the courts; or, even better, of the treatise devoted to encyclopedia exposition of all the doctrine in some legal field." Gordon, *supra* note 13, at 2078.

for other academics and is of no value to practitioners.[45] Some commentators have noted that law professor scholarship focuses too heavily on theory and not enough on "the marriage of theory and practicality."[46] Others have noted that there may not be a need to treat theory and practice as being so distinct from one another.[47] Furthermore, proponents of practical scholarship point out that engaging in this type of scholarship serves student needs better[48] and leads to better classroom instruction.[49]

Scholars who have written on the need for practical legal scholarship have described such scholarship as being done "with an eye towards improving the process of law or educating those who affect it."[50] Practical legal scholarship is described as being

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[45] *See* Michael J. Saks et al, *Is There a Growing Gap Among Law, Law Practice, and Legal Scholarship? A Systematic Comparison of Law Review Articles One Generation Apart*, 30 SUFFOLK U. L. REV. 353 (1996); Edwards, *supra* note 13, at 35. Edwards goes on to note a comment from one of his former clerks when questioned how much he benefits from academic literature:

> I look for articles and treatises containing solid doctrinal analysis of a legal question; comprehensive summaries of an area of law; and well-argued and –supported positions on specific legal issues. Theory wholly divorced from cases has been of no use to me in practice.

Id. at 46.

[46] Hricik & Salzmann, *supra* note 44, at 763.

[47] See Gordon, *supra* note 13, at 2096 (arguing "The point of theory is to clarify and inform practice: if it does not, it is just bad theory").

[48] Hrick and Salzmann, *supra* note 44 at 774-775 (explaining that since students edit law reviews where legal scholarship is produced, students can learn and fine tune their own practical writing skills by observing how scholars practically apply legal doctrines and principles. The authors note that engaged scholarship "marries theory and doctrine in a way that educates students beyond the classroom").

[49] *Id.* at 775 (noting that the way that professors can make up in the classroom for their lack of long term practical experience is to research and write on real issues that will help ground a professor in a knowledge of the real world situations that students will experience); Mitchell Nathanson, *Taking the Road Less Traveled: Why Practical Legal Scholarship makes Sense for the Legal Writing Professor*, 11 LEGAL WRITING J. LEGAL WRITING INST. 329, 357 (2005)(arguing "scholarship on practical issues and concerns can help satisfy these students' cravings for knowledge and information directly relevant to the issues they will be facing as practitioners in a few short years").

[50] Hricik & Salzmann, *supra* note 44, at 765.

both "prescriptive" and "doctrinal" in that it regards existing sources of law but also seeks to solve legal problems, and is also described as being "engaged" scholarship.[51]

Many commentators have offered specific prescriptions for how to make scholarly legal writing more practical in its focus. Of course, definitions of what makes legal scholarship more practical have been varied from those who argue for more skills-based scholarship to those who argue for more practical doctrinal scholarship.[52] Some clinical faculty members have pointed out that there is an important need for clinical scholarship as an antidote to the lack of practical law review articles.[53] While all clinicians do not agree on what constitutes clinical legal scholarship, most concede that it generally has some skills component or a public interest orientation (owing to most clinics' services to underserved communities).[54] Within the group of clinical professors calling for more clinical legal scholarship are some professors who believe that clinical scholarship should be focused more on skills training.[55] Some have pointed out that within the clinical literature, while

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[51] *See* Edwards *supra* note 13, at 42-3 discussing the paradigm that Edwards sees for practical legal scholarship as being the treatise: "These works create an interpretive framework; categorize the mass of legal authorities in terms of this framework; interpret closely the various authoritative texts within each category; and thereby demonstrate for judges what 'the law' requires."; Hricik & Salzmann *supra* note 44, at 764.

[52] Both those who call for more practical skills scholarship and those who call for more practical doctrinal scholarship both call for practical scholarship, although in different ways.

[53] *See* Bloch, *supra* note 16, at 7-8 (noting that clinical scholarship strengthens clinical education by helping to improve the quality of law practice and enhance the public role within the profession); Clark D. Cunningham, *Hearing Voices: Why the Academy Needs Clinical Scholarship*, 76 WASH. U. L. Q. 85 (1998); Hoffman, *supra* note 22, at 101; However, Hoffman himself worries that the clinical community is not itself focused on publishing clinical scholarship: "The clinical community appears to be no longer interested in writing about lawyering skills and only marginally interested in writing about how to teach such skills."

[54] Bloch, *supra* note 16, at 11;

[55] *See* Hoffman, *supra* note 22, at 103 (arguing that clinicians should see themselves as primarily teaching lawyering skills and thus should focus on skills training). Hoffman writes, "Clinical

there is greater coverage of some skills – like advocacy skills – entire topics of skills are omitted from the literature.[56] At least one commentator has pointed out that legal writing professors are in a unique position that makes them more able to create practical scholarship articles.[57] Others have pointed out that top law reviews need to print more practical scholarship, since they have the power to set the agenda for promoting favored articles for publication and generally show little regard for publishing articles that have a practical component.[58]

C. The Need for Academic Law Library Collections to Meet Changing Curricular and Scholarship Needs

For academic law libraries, these curricular changes must warrant review of existing library collections as well as future collection development decisions. If law librarians are to be effective advocates for increasing the level of legal research instruction in the curriculum, then we must have collections that can meet the needs for increased skills instruction and scholarship.[59] Law librarians must consider whether their collections

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scholarship should also help lawyers improve their representation of clients and help students to practice the law." *Id.* at 144.

[56] Hoffman, *supra* note 22, at 102-3.

[57] Mitchell Nathanson, *Taking the Road Less Traveled: Why Practical Legal Scholarship makes Sense for the Legal Writing Professor*, 11 LEGAL WRITING J. LEGAL WRITING INST. 329 (2005).

[58] Dolin, *supra* note 13, at 253; Hoffman, *supra* note 22, at 108 (citing Richard A. Posner, *Legal Scholarship Today*, 45 STAN. L. REV. 1647 (1993).

[59] *See* Krieger, *supra* note 22, at 394, pointing out that within his clinical study, students in clinics were more likely to see legal research as a part of the process of problem solving: "Even though these subjects identified fewer rules than their non-clinical counterparts, they focused on legal research as the next step to take in the case. One possible explanation for this finding is that these students' clinical experience has trained them no to rely on their own knowledge of legal doctrine, but to treat each case as one that needs research."

are prepared to meet the needs of students who will be enrolling in clinical and experiential learning programs in greater numbers. Do our collections include materials that can assist students who are taking on a "lawyerly" role in their education? It is from this framework that we put forward that academic law library collection decision-makers consider law firm collections, which are uniquely purposed for practical needs, when making collection development and management decisions. The decisions that law firm collection managers make reflect the legal research environment in which students will one day practice.

Furthermore, academic law libraries also need to ensure that their collections meet the needs of scholars who are attuned to engaging in more practical legal scholarship. Law professors who are working on practical legal scholarship first need to understand existing legal doctrine in a particular area.[60] Secondary and practitioner-based resources are excellent tools for an overview of existing legal doctrine in a given area of law. In print, these resources are easily readable and offer a variety codes that enable scholars to quickly ascertain the existing state of law in a given area.

III. Law Firm Library Results

A. Methods

To examine whether academic law library collections are prepared to support a transition to more practice-oriented law school curricula, we designed two different surveys. One survey was designed to examine the materials that are routinely used by legal

[60] Edwards, *supra* note 13, at 35.

practitioners at their law firm libraries. The other survey was designed to collect information from academic law libraries about their collection development and management practices in general; those portions relating to practitioner-oriented materials will be discussed in this article. These surveys were distributed to academic and firm law libraries simultaneously. The results of the law firm library survey will be discussed first. Section IV addresses the results of the academic law library survey.

1. Participants

To recruit participants for this study, a request for private law firm librarians to complete an online survey was sent to the LAW-LIB and LLSDC listservs. A follow-up e-mail reminding potential participants about the study and asking them to complete the survey was sent approximately two weeks later. Overall, 107 self identified private law firm librarians filled out the survey. The total number of members of LAW-LIB and LLSDC listservs is unknown; therefore, it is not possible to calculate a final response rate. Like the academic law firm survey, some participants did not complete the survey in its entirety so the final sample size varies by question, as indicated.

Sixty-six of the 107 libraries that participated in the study identified the state in which they were located. These respondents represented 24 different states and the District of Columbia.[61] As shown in Table One, most of the law firm libraries estimated

[61]In descending order: Did not disclose location 38.3% (41), Washington D.C. 14.0% (15), Georgia 5.6% (6), Ohio 4.7% (5), California 3.7% (4), Illinois 3.7% (4), New York 3.7% (4), Texas 3.7% (4), Maryland 2.8% (3), Massachusetts 1.9% (2), Michigan 1.9% (2), Utah 1.9% (2), Wisconsin 1.9% (2), Alabama 0.9% (1), Arizona 0.9% (1), Arkansas 0.9% (1), Colorado 0.9% (1), Indiana 0.9% (1), Maine 0.9% (1), Minnesota 0.9% (1), Missouri 0.9% (1), New Mexico 0.9% (1), North Carolina 0.9% (1), Oregon 0.9% (1), Washington 0.9% (1), and West Virginia 0.9% (1, *n* = 107).

having between 5,000 and 9,999 volumes in their print collection (36.2%, 25, n = 69) and serving more than 300 attorneys (29.4%, 20, n = 68).

Table One: Estimated Number of Volumes Held and Attorneys Served by Law Firm Libraries

Estimate Size of Print Collection[a]	% (Frequency)	Number of Attorneys[b]	% (Frequency)
0 – 5,000 volumes	24.6% (17)	0 – 10	2.9% (2)
5,000 – 9,999 volumes	36.2% (25)	10 – 29	4.4% (3)
10,000 – 14,999 volumes	15.9% (11)	30 – 49	4.4% (3)
15,000 – 19,999 volumes	7.2% (5)	50 – 74	8.8% (6)
20,000 or more volumes	15.9% (11)	75 – 99	11.8% (8)
		100 – 149	16.2% (11)
		150 – 199	11.8% (8)
		200 – 299	10.3% (7)
		300 or more	29.4% (20)

[a]*n* = 69. [b]*n* = 68.

2. Questionnaire Design

The online survey completed by participants from law firm libraries consisted of fifteen closed-ended questions and one open-ended question. Participants were not required to answer all questions. Through the use of filtering and branching questions, participants were directed to questions that were applicable to their library.

The full survey consisted of five broad sections. However, only three sections are relevant for the purposes this article.[62] The first survey section discussed in this article asked participants for information about the electronic resources and print materials within their law firm library's holdings. Next, participants were asked about training of and expectations for new associates at their law firm. Of particular interest were

[62]The remaining sections of this questionnaire examined: (1) borrowing patterns from academic and court law libraries and (2) expectations for the collections of academic and court law libraries. Please contact the authors for results about these issues.

participants' expectations for new associates' legal research training in law school. Finally, participants were asked for general information about their law library, specifically its geographic location, the estimated size of its print collection and the estimated number of attorneys within the law firm.

B. Results of Practitioner Survey

1. Law Firm Collection Management

The first part of the practitioner study was an examination of the management of law firm libraries' collections. Participants were asked to identify the practitioner-oriented materials held in their collection from a list of eight categories: subject-specific treatises, looseleafs, procedure manuals, subject-specific desk books, form books, practice guides, particular series, and nonlegal practice-specific materials. Participants then indicated which of the different types of materials they were cancelling standing orders to or removing from their law firm libraries' collections.

Table Two*:* Law Firm Libraries' Practitioner-Oriented Holdings

	Holdings[a] % (Frequency)	Cancelled/Removed Materials % (Frequency)
Subject-specific treatises (e.g., *Collier on Bankruptcy*)	100.0% (76)	54.3% (38)[b]
Looseleafs (e.g., *CCH Standard Federal Tax Reporter*)	97.4% (74)	62.3% (43)[c]
Procedure manuals (e.g., *Wright's Federal Practice & Procedure*)	92.1% (70)	19.7% (13)[d]
Subject-specific desk books (e.g., *Washington Family Law Desk Book*)	92.1% (70)	28.1% (18)[e]
Form books (e.g., *West's Legal Forms*)	84.2% (64)	54.2% (32)[f]
Practice guides (e.g., specialized legal research guides)	80.3% (61)	28.1% (16)[g]
Particular series (e.g., *ALR Trials*)	75.0% (57)	69.2% (36)[h]
Nonlegal, practice-specific materials (e.g., business news services)	75.0% (57)	15.9% (17)[I]
Other	22.4% (17)	50.0% (8)[j]

[a]*n* = 76. [b]*n* = 70. [c]*n* = 69. [d]*n* = 66. [e]*n* = 64. [f]*n* = 59. [g]*n* = 57. [h]*n* = 52. [i]*n* = 54. [j]*n* = 16.

As shown in Table Two, three quarters or more of the libraries (*n* = 76) held each of the eight types of practitioner-oriented materials in their collection, with all of the libraries having subject-specific treatises (100.0%) within their holdings. Looseleafs (97.4%, 74), procedure manuals (92.1%, 70) and subject-specific desk books (92.1%, 70) were also very common holdings for the law firm libraries. Several libraries (22.4%, 17) indicated that they held "other" practitioner-oriented materials within their collection such as subject-specific periodicals, court rules, dictionaries, zoning regulations, and continuing legal education materials.

Perhaps signaling the necessity of these types of materials for the practice of law, in addition to having such high subscription rates, procedure manuals and subject-specific desk books had some of the lowest cancellation/removal rates of the eight different material types (procedure manuals 19.7%, 13, *n* = 66; subject-specific desk books 28.1%, 18, *n* = 64; See Table Two). In contrast, over half of the law firm libraries had cancelled and/or removed five different material types from their collections (particular series 69.2%, 36, *n* = 52; looseleafs 62.3%, 43, *n* = 69; subject-specific treatises 54.3%, 38, *n* = 70; form books 54.2%, 32, *n* =59; nonlegal, practice-specific materials 50.0%, 8, *n* = 16). Some participants indicated that they were making cancellations of every type of material.[63]

To investigate the contents and maintenance of law firm libraries' collection of practitioner-oriented materials further, the libraries were divided into three categories based on the number of attorneys employed by the law firm: small (i.e., 0 – 49 attorneys),

[63] One librarian from a law firm with three hundred or more attorneys in Washington, D.C. noted, "While we are cancelling across all of these categories, we are not eliminating any of them entirely." Although it was outside the scope of our specific survey, many survey participants noted in comments to the questions that they were cancelling primary material quite heavily. One librarian from Washington, D.C. indicated that the types of primary law materials that were being cancelled at their firm included "unannotated primary source material" and "case law reporters."

medium (i.e., 50 – 149 attorneys) and large (i.e., 150 – 300 attorneys). Eight of the law firm libraries were classified as small (7.5%), 25 were classified as medium (23.4%), and 35 were classified as large (32.7%). Thirty-nine of the survey participants (36.4%) chose to not disclose the number of attorneys within their law firm; therefore, these surveys were removed from the following analyses. See Table Three.

Table Three: Law Firm Libraries' Practitioner-Oriented Holdings by Law Firm Size

	Small % (Frequency)	Medium % (Frequency)	Large % (Frequency)
Holdings[a]			
Subject-specific treatises	100.0% (8)	100.0% (24)	100.0% (35)
Looseleafs	100.0% (8)	91.7% (22)	100.0% (35)
Procedure manuals	100.0% (8)	79.2% (19)	100.0% (35)
Subject-specific desk books	100.0% (8)	87.5% (21)	97.1% (34)
Form books	100.0% (8)	75.0% (18)	88.6% (31)
Practice guides	100.0% (8)	70.8% (17)	82.9% (29)
Particular series	75.0% (6)	66.7% (16)	82.9% (29)
Nonlegal, practice-specific materials	50.0% (4)	62.5% (15)	85.7% (30)
Other	0.0% (0)	16.7% (4)	25.7% (9)
Cancellations/Withdrawals			
Subject-specific treatises[b]	28.6% (2)	66.7% (14)	50.0% (17)
Looseleafs[c]	28.6% (2)	55.0% (11)	73.5% (25)
Procedure manuals[d]	0.0% (0)	35.3% (6)	17.6% (6)
Subject-specific desk books[e]	14.3% (1)	44.4% (8)	27.3% (9)
Form books[f, 3]	0.0% (0)	81.2% (13)	53.3% (16)
Practice guides[g]	0.0% (0)	37.5% (6)	25.0% (7)
Particular series[h]	40.0% (2)	71.4% (10)	75.0% (21)
Nonlegal, practice-specific materials[i]	66.7% (2)	28.6% (4)	23.3% (7)
Other[j]	33.3% (1)	77.8% (7)	66.7% (8)

[a]Small law firms *n* = 8, medium law firms *n* = 24, and large law firms *n* = 35. [b]Small law firms *n* = 7, medium law firms *n* = 21, and large law firms *n* = 34. [c]Small law firms *n* = 7, medium law firms *n* = 20, and large law firms *n* = 34. [d]Small law firms *n* = 7, medium law firms *n* = 17, and large law firms *n* = 34. [e]Small law firms *n* = 7, medium law firms *n* = 18, and large law firms *n* = 33. [f]Small law firms *n* = 7, medium law firms *n* = 16, and large law firms *n* = 30. [g]Small law firms *n* = 7, medium law firms *n* = 16, and large law firms *n* = 28. [h]Small law firms *n* = 5, medium law firms *n* = 14, and large law firms *n* = 28. [i]Small law firms *n* = 3, medium law firms *n* = 14, and large law firms *n* = 30. [j]Small law firms *n* = 3, medium law firms *n* = 9, and large law firms *n* = 12.

For smaller law firms, which presumably have smaller library acquisitions budgets, it appears that several of the types of practitioner-oriented materials are essential to the practice of law, as indicated by their inclusion in the holdings of all small law libraries (i.e., subject-specific treatises, looseleafs, procedure manuals, subject-specific desk books, form books and practice guides). In contrast, particular series (82.9%, 29), nonlegal practice-specific materials (85.7%, 30)[64] and "other" practitioner-oriented materials (25.7%, 9, n = 35) appear to be resources more readily included in the libraries of larger law firms. Perhaps reflecting the challenges of trying to address the needs of numerous attorneys on more limited budgets or the specification in practices of law firms was the anomaly of medium size libraries not including procedure manuals in their collections at the same rate of small and large law firm libraries.[65]

During this time of economic upheaval, many law firms are facing tighter budgets and smaller profits, leading to cuts in staff and law firm library budgets.[66] A tighter budget may be an unfamiliar situation for large and medium size law firm libraries but a familiar one for small size law firm libraries, as shown by their overall higher cancellation rates. For example, small firm libraries had not made any cancellations to procedure manuals, form books and practice guides. Form books, perhaps because of their high price tag,[67]

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[64] A statistically significant difference was found between the small, medium and large law firms' libraries and their inclusion of nonlegal practice-specific materials in their collections (χ^2 (df = 2) = 6.38, N = 67, $p < 0.05$).

[65] A statistically significant difference was found between the small, medium and large law firms' libraries and their inclusion of procedure manuals in their collections (χ^2 (df = 2) = 9.68, N = 67, $p <$ 0.01).

[66] *See* Law Librarian Blog, *Tough Times Ahead for Law Library Budgets* (February 23, 2009), http://lawprofessors.typepad.com/law_librarian_blog/2009/02/tough-times-ahe.html

[67] The prices of many form books are tracked in the *AALL Price Index for Legal Publications* under the category of Supplemented Treatises. The 6th edition of the *AALL Price Index for Legal*

were a particular target for cancellation by medium size libraries (81.2%, 13, n = 16) and also for the majority of large size libraries (53.3%, 16, n =30)[68].

As a librarian from a Utah law firm noted, "We decided to cancel the sets we cancelled (ALR, CJS, Am.Jur.2d) in print due to their availability on Westlaw. We added them to our contract with Westlaw." This comment furthered our belief that another important issue to consider in the law firm libraries' collection development and management practices is the preferred method of accessing the different types of practitioner-oriented materials (See Table Four). Results showed that law firm libraries were open to their attorneys accessing many material types either in print or online. Taken together, approximately half of all participants indicated that attorneys could use either print or online methods for accessing materials or that they had no preference for how attorneys accessed these materials. However, for the other half of participants who indicated a preference of print or electronic for access, print access was heavily preferred in all categories with the exception of particular series.

Publications lists the average 2008 price of a supplemented treatise as $1,536.36. The average cost of supplemented treatises jumped 33.03% from 2006 to 2007 (from $1079.75 to $1,436.39) and 6.96% from 2007 to 2008 ($1,436.39 to $1,536.36).

[68] A statistically significant difference was found between the small, medium and large law firms' libraries and their cancellation and/or removal of form books from their collections (χ^2 (df = 2) = 13.03, N = 53, p < 0.001).

Table Four: Preferred Method of Access for Practitioner-Oriented Materials

	Print % (Frequency)	Online % (Frequency)	Print or Online % (Frequency)	No Preference % (Frequency)
Subject-specific desk books[a]	47.9% (35)	5.5% (4)	27.4% (20)	19.2% (14)
Procedure manuals[a]	37.0% (27)	5.5% (4)	39.7% (29)	17.8% (13)
Practice guides[b]	31.9% (22)	10.1% (7)	33.3% (23)	24.6% (17)
Looseleafs[a]	31.5% (23)	23.3% (17)	34.2% (25)	11.0% (8)
Nonlegal, practice-specific materials[c]	28.6% (20)	11.4% (8)	32.9% (23)	27.1% (19)
Subject-specific treatises[d]	27.0% (20)	16.2% (12)	40.5% (30)	16.2% (12)
Particular series[e]	20.9% (14)	29.9% (20)	31.3% (21)	17.9% (12)
Form books[a]	12.3% (9)	21.9% (16)	42.5% (31)	23.3% (17)

[a]$n = 73$. [b]$n = 69$. [c]$n = 70$. [d]$n = 74$. [e]$n = 67$.

To better understand this lack of preference for how attorneys access different types of practitioner-oriented materials, we took into consideration whether or not the law firms' subscriptions to commercial databases included electronic access to practitioner-based materials at a flat rate.[69] Only 11.6% of the libraries (8, *n* = 69) did not have electronic access to any secondary or practitioner-oriented materials at a flat rate. However, some of the participants with flat-rate electronic access to practitioner-oriented materials noted that few secondary source titles were available through their flat fee contracts.[70] Additionally, the fact that some participants favored online access for particular series, for example, could indicate that these materials are more likely to be made available in a flat fee contract with Lexis, Westlaw, or other commercial databases.[71] Participants also indicated one factor that shaped their preferences regarding whether a material was accessed electronically or in print was which electronic database contained the resources (Made a difference, 63.6%, 42; Did not make a difference 36.4%, 24, *n* = 66).[72]

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[69] *See* Table 5.

[70] One librarian at a firm with three hundred or more attorneys in New York noted, "Although treatises may be included in a contract, they are often at a premium rate. New lawyers have no idea about being efficient and cost effective by using the smallest library/file. If we have the title in a web-based format, such as exclusive BNA or CCH contracts, attorney is urged not to use fee-based service."

[71] Some librarians who responded to this survey went even further with regard to materials duplicated in electronic format. At a law firm with three hundred or more attorneys in Washington, D.C., one participant noted, "We are trying to replace print materials that are covered extensively by an online version when possible in all subject areas." This went much further than most participants surveyed who indicated that cost and usability were also considered in determining when to prefer a print or electronic version.

[72] For example, on survey participant from a law form with between 200 and 299 attorneys in Ohio indicated that they preferred to use Lexis because Lexis gave them freely available treatises in their contract. Another librarian from Michigan at a law firm with between 150 and 199 attorneys noted a similar preference for Lexis in providing online materials, "If our preferred provider is Lexis and we have Moore's in our flat rate contract then we will not have Moore's in print. We will probably continue to have Wright & Miller in print. However, another firm librarian (from a firm with between 30 and 49 attorneys in Arizona) note the exact opposite regarding Lexis, "We do not have a flat-rate with Lexis so prefer that it is not accessed online."

Table Five: Preferred Method of Access by Those With Flat-Rate Contracts

	Have Flat Rate Access % (Frequency)	Do Not Have Flat Rate Access % (Frequency)
Subject-specific desk books[a]		
Print	42.4% (25)	62.5% (5)
Online	6.8% (4)	0.0% (0)
Print or online	28.8% (17)	25.0% (2)
No preference	22.0% (13)	12.5% (1)
Procedure manuals[a]		
Print	30.5% (18)	62.5% (5)
Online	5.1% (3)	0.0% (0)
Print or online	44.1% (26)	25.0% (2)
No preference	20.3% (12)	12.5% (1)
Practice guides[b]		
Print	29.1% (16)	50.0% (4)
Online	10.9% (6)	0.0% (0)
Print or online	36.4% (20)	25.0% (2)
No preference	23.6% (13)	25.0% (2)
Looseleafs[c]		
Print	29.3% (17)	37.5% (3)
Online	24.1% (14)	12.5% (1)
Print or online	34.5% (20)	37.5% (3)
No preference	12.1% (7)	12.5% (1)
Nonlegal, practice-specific materials[b]		
Print	25.5% (14)	62.5% (5)
Online	10.9% (6)	0.0% (0)
Print or online	32.7% (18)	25.0% (2)
No preference	30.9% (17)	12.5% (1)
Subject-specific treatises[a]		
Print	18.6% (11)	75.0% (6)
Online	16.9% (10)	0.0% (0)
Print or online	45.8% (27)	12.5% (1)
No preference	18.6% (11)	12.5% (1)
Particular series[d]		
Print	18.2% (10)	28.6% (2)
Online	30.9% (17)	14.3% (1)
Print or online	29.1% (16)	57.1% (4)
No preference	21.8% (12)	0.0% (0)
Form books[e]		
Print	10.2% (6)	28.6% (2)
Online	22.0% (13)	14.3% (1)
Print or online	42.4% (25)	28.6% (2)
No preference	25.4% (15)	28.6% (2)

[a]Have flat rate access *n* = 59, Do not have flat rate access *n* = 8. [b]Have flat rate access *n* = 55, Do not have flat rate access *n* = 8. [c]Have flat rate access *n* = 58, Do not have flat rate access *n* = 8. [d]Have flat rate access *n* = 55, Do not have flat rate access *n* = 7. [e]Have flat rate access *n* = 59, Do not have flat rate access *n* = 7.

Only one statistically significant difference emerged when flat rate access was taken into consideration for the preferred methods of using practitioner and secondary materials.[73] However, trends are still visible when examining all of the different types of practitioner-oriented materials as a whole. None of the participants whose firms did not have flat rate access indicated that they preferred attorneys to access subject-specific desk books, procedure manuals, practice guides, subject-specific treatises, or nonlegal, practice-specific materials electronically. The remaining types of practitioner-oriented materials – looseleafs, particular series, and form books – had only one participant each indicate that electronic access was preferable. In contrast, no discernable patterns for preferred methods of practitioner-oriented materials were found among participants whose libraries had flat rate, electronic access to these types of materials.

Anecdotal comments provided by the survey participants also highlighted that cost was a significant factor in determining whether or not to access a source electronically.[74] Some librarians pointed out in open-ended responses to the survey that they historically have tried to recoup the costs of Lexis and Westlaw use, but, increasingly, clients are refusing to pay for them[75] which seems to increase the impact of cost as a factor in determining how to access materials. Others pointed out that if something was not included in their flat fee

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[73] Statistically significant differences for how libraries preferred attorneys to access subject-specific treatises were found between those whose libraries had flat rate access and those that did not (χ^2 (df = 3) = 12.19, N = 67, $p < 0.05$).

[74] A survey participant from Illinois at a law firm with between 100 and 149 attorneys indicated that the decision whether or not to access something in electronic format is "cost-driven."

[75] One librarian from a law firm with three hundred or more attorneys noted, "BNA and CCH electronic contracts are Firm overhead so lawyers can use as much as needed. We try to recover Lexis and Westlaw expenses but this seems to be a thing of the past. Clients refuse to pay for them."

contract with a vendor, they will discourage its use in an electronic format.[76] However, some law firm librarians also pointed out that another consideration was not simply whether or not something was available electronically, but whether or not it was easy and useful for lawyers to use in that format in making decisions to use a print or online source.[77] One librarian at a law firm with three hundred or more attorneys in Washington, D.C. offered this specific example of the kind of consideration beyond cost given to material selection at the firm: "For example, the separate online versions of the Matthew Bender materials, like Moore's and Chisum are terrible. Searching and navigation is clunky and not user-friendly. It is hard to get buy-in from the attorneys to use it vs. the print when it is so hard to use."

Another distinction that was made anecdotally in comments was the need for materials based on practice areas and groups. One librarian at a firm with between 100 and 149 attorneys in California noted, "We don't do litigation, so don't need some of the items above," in response to the question about cancellation of specific secondary sources. This raised the point that research in this area in the future should include an exploration of practice areas in regard to the need for print versus electronic secondary sources.

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[76] A survey participant from a Wisconsin firm with between 100 and 149 attorneys noted, "If it is not in our flat rate contract, we discourage use."

[77] One survey participant from a large firm in California noted, in regard to the considerations in determining whether to encourage print or online format: "Ease of use and training support are our primary benchmarks". Another survey participant from a firm with three hundred or more attorneys noted "functionality and usability are extremely important. Sometimes we opt not to purchase electronic databases because it is impractical for the attorneys to access what they need." From a firm with between 50 and 74 attorneys in Washington, D.C., one librarian summed it up this way, "What matters is price, ease of use, level of indexing, etc. Some material will never work in electronic format (ex: CCH reporters)."

2. New Associate Training on and Knowledge of Secondary Sources

To make students more marketable it is important that their law school education focuses on issues and tasks that they will face regularly as practitioners of law. While it is reasonable to expect that law firm librarians will have to train associates to some extent about the collections and materials available at the firm library, this training should not be completely new information. Rather, it is the job of academic law librarians, through collection development, to expose law students to the materials they will likely use in their future practice and to help them develop timely and fiscally efficient research techniques. To that end, this study explored three issues: (1) the training provided by law firm librarians to new associates, (2) law firm librarians' satisfaction with new associates training prior to joining the law firm, and (3) importance of teaching students about different material types during law school.

The majority of participants indicated that their law firm library trained new associates about three different types of legal sources. Almost all of the firm libraries trained new associates on the use of electronic sources (97.1%, 68, n = 70), while 78.3% (54, n = 69) held trainings on the use of print sources and 70.1% (47, n = 67) held trainings on the use of subject-specific sources.

Overall, participants were dissatisfied with new associates' training and exposure to practitioner-oriented materials and secondary sources prior to joining their firm was low. On average, participants were neutral with new associates' exposure to and training with practitioner materials (M = 3.40, SD = 1.42, n = 42; Measured on a seven point scale where 1 = Extremely Unsatisfactory, 7 = Extremely Satisfactory) and secondary sources, such subject-specific practitioner materials as an effective part of a complete research strategy (M = 3.12,

SD = 1.35, *n* = 57; Measured on a seven point scale where 1 = Extremely Unsatisfactory, 7 = Extremely Satisfactory). Although, as shown in Table Six, more participants were dissatisfied than satisfied with new associates' training on and exposure to practitioner materials and secondary sources. For practitioner materials 21.4% (9) of participants were satisfied or somewhat satisfied as compared to 50.0% (21) who were extremely unsatisfied, unsatisfied or somewhat unsatisfied. For secondary sources, 17.6% (10) of participants were satisfied or somewhat satisfied as compared to 64.9% (37) who were extremely unsatisfied, unsatisfied or somewhat unsatisfied.

Table Six: Law Firm Librarians' Satisfaction with New Associates' Training on and Exposure to Practitioner Materials and Secondary Sources

	Practitioner Materials[a] % (Frequency)	Secondary Sources[b] % (Frequency)
Extremely Satisfied	0.0% (0)	0.0% (0)
Satisfied	2.4% (1)	5.3% (3)
Somewhat satisfied	19.0% (8)	12.3% (7)
Neutral	28.6% (12)	17.5% (10)
Somewhat unsatisfied	21.4% (9)	29.8% (17)
Unsatisfied	23.8% (10)	24.6% (14)
Extremely unsatisfied	4.8% (2)	10.5% (6)

[a]*n* = 42. [b]*n* = 57.

Levels of satisfaction with new associates' training and exposure to secondary sources prior to joining their firm differed at a statistically significant level depending on the size of the law firm where librarians were employed.[78] Librarians from medium size law firms (*M* = 2.57, *SD* = 1.31, *n* = 23) and large law firms (*M* = 3.31, *SD* = 1.24, *n* = 29) were both "somewhat

[78] $F(2) = 5.02$, $p < .01$.

unsatisfied".[79] In contrast, librarians from small firms were "somewhat satisfied" (*M* = 4.50, *SD* = 0.58, *n* = 4) with new associates' training and exposure to secondary sources.[80]

Participants levels of satisfaction with new associates' training and exposure to practitioner materials did not differ at a statistically significant level depending on the size of the participants' law firm (Small firm *M* = 4.25, *SD* = 0.96, *n* = 4; Medium firm *M* = 3.46, *SD* = 0.97, *n* = 13; Large firm *M* = 3. 33, *SD* = 1.34, *n* = 24).[81]

The final portion of the law firm library survey asked participants to indicate how important it was for new associates to be trained on ten different material types during law school using a five point scale ranging from "important" (5) to "not important at all"(1). Of the ten different materials, online databases had the highest average level of importance (*M* = 4.80, *SD* = 0.53) and received the highest ranking of important from the most participants (84.1%, 58). Procedure manuals (*M* = 4.68, *SD* = 0.53), looseleafs (*M* = 4.57, *SD* = 0.58) and treatises (*M* = 4.58, *SD* = 0.55) were the three other materials that law firm librarians rated as being "important" for law students to be trained on. The importance of training on different types of legal materials did not differ depending on the size of the law firm that employed participants.[82]

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[79] Large and medium law firm libraries did not differ in levels of satisfaction at a statistically significant level as shown in a means comparison, using a Games-Howell correction (Mean Difference = 0.75, $p = 0.11$).

[80] The difference in satisfaction between small and medium law firm libraries was statistically different in levels of satisfaction as shown in a means comparison, using a Games-Howell correction (Mean Difference = 1.93, $p < 0.01$). The difference in satisfaction between small and large law firm libraries was statistically different in levels of satisfaction as shown in a means comparison, using a Games-Howell correction (Mean Difference = 1.19, $p < 0.05$).

[81] $F(2) = 0.99$, $p = 0.38$.

[82] Online databases $F(2) = 0.90$, $p = 0.41$. Form books $F(2) = 1.83$, $p = 0.17$. Desk books $F(2) = 0.40$, $p = 0.67$. Treatises $F(2) = 0.35$, $p = 0.71$. Practice guides $F(2) = 0.04$, $p = 0.96$. Procedure manuals $F(2) = 2.38$, $p = 0.10$. Particular series $F(2) = 0.45$, $p = 0.64$. Looseleafs $F(2) = 1.55$, $p = 0.22$. Digests $F(2) = 1.26$, $p = 0.29$. Nonlegal $F(2) = 2.16$, $p = 0.12$.

Table Seven: Importance of New Associates' Training on Key Materials during Law School

	Not Important at All % (Frequency)	Somewhat Unimportant % (Frequency)	Neutral % (Frequency)	Somewhat Important % (Frequency)	Important % (Frequency)	*M* (*SD*)
Online databases[a]	0.0% (0)	1.4% (1)	1.4% (1)	13.0% (9)	84.1% (58)	4.80 (0.53)
Procedure manuals[b]	0.0% (0)	0.0% (0)	2.9% (2)	26.5% (18)	70.6% (48)	4.68 (0.53)
Looseleafs[c]	0.0% (0)	0.0% (0)	4.5% (3)	34.3% (23)	61.2% (41)	4.57 (0.58)
Treatises[a]	0.0% (0)	0.0% (0)	2.9% (2)	36.2% (25)	60.9% (42)	4.58 (0.55)
Digests[b]	1.5% (1)	5.9% (4)	17.6% (12)	19.1% (13)	55.9% (38)	4.22 (1.03)
Practice guides[d]	0.0% (0)	1.5% (1)	9.1% (6)	42.4% (28)	47.0% (31)	4.35 (0.71)
Particular series[d]	1.5% (1)	6.1% (4)	12.1% (8)	39.4% (26)	40.9% (27)	4.12 (0.95)
Desk books[b]	0.0% (0)	7.4% (5)	22.1% (15)	35.3% (24)	35.3% (24)	3.99 (0.94)
Form books[d]	1.5% (1)	10.6% (7)	22.7% (15)	33.3% (22)	31.8% (21)	3.83 (1.05)
Nonlegal materials[e]	4.6% (3)	9.2% (6)	43.1% (28)	23.1% (15)	20.0% (13)	3.45 (1.06)

[a]*N* = 69. [b]*N* = 68. [c]*N* = 67. [d]*N* = 66. [e]*N* = 65.

IV. Academic Survey Results

A. Methods

The second survey used in this study was designed to collect information about the materials within academic law libraries' collections. This section will discuss the results of this study to highlight trends in cancellations within academic law libraries.

1. Participants

Law school librarians responsible for collection development, as indicated on the ALL-SIS web page, were emailed a request to complete the linked electronic survey. A follow-up e-mail asking potential participants to complete the survey was sent approximately five days later. Of the 200 ABA approved or provisionally approved law schools,[83] 76 completed the survey, for a response rate of 38.0%. However, some participants did not complete the survey in its entirety so the final sample size varies by question, as indicated.

The academic law libraries that participated in this study were from all areas of the United States.[84] As shown in Table Eight, the typical library held an estimated 250,001 - 500,000 volumes in its print collection (43.9%, 29, n = 66) and served between 400 and 750 students (47.8%, 32, n = 67).

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[83] The ABA's information on approved and provisionally approved law schools is available at http://www.abanet.org/legaled/approvedlawschools/approved.html (accessed on November 5, 2009). As of June 2008, a total of 200 law schools were ABA-approved; nine of those schools were provisionally approved.

[84] The geographic regions used in this survey were taken from the 2007 edition of the AALL Biennial Salary Survey, *available at* http://www.aallnet.org/products/pub_salary_survey.asp. The geographic regions are broken down as follows: New England (CT, MA, ME, NH, RI, VT); Middle Atlantic (NJ, NY, PA); South Atlantic (DC, DE, FL, GA, MD, NC, SC, VA, WV); East North Central (IL, IN, MI, OH, WI); West North Central (IA, KS, MN, MO, ND, NE, SD); East South Central (AL, KY, MS, TN); West South Central (AR, LA, OK, TX); Mountain West (AZ, CO, ID, MT, NM, NV, UT, WY); and Pacific West (AK, CA, HI, OR, WA).

Table Eight: Geographic Region and Size of Academic Law Libraries

Geographic Region[1]	% (Frequency)	Estimated Number of Volumes in Print Collection[2]	% (Frequency)	Estimated Number of Law Students Enrolled in all Programs[1]	% (Frequency)
South Atlantic	26.9 (18)	More than 750,001 volumes	4.5 (3)	More than 1,250 students	3.0 (2)
Pacific	13.4 (9)	500,001 to 750,000 volumes	24.2 (16)	1,000 to 1,250 students	9.0 (6)
East North Central	11.9 (8)	250,001 to 500,000 volumes	43.9 (29)	750 to 1,000 students	32.8 (22)
Middle Atlantic	10.4 (7)	100,001 to 250,000 volumes	24.2 (16)	400 to 750 students	47.8 (32)
West South Central	9.0 (6)	50,001 to 100,001 volumes	3.0 (2)	0 to 400 students	7.5 (5)
West North Central	9.0 (6)	0 to 50,000 volumes	0.0 (0)		
Mountain	7.5 (5)				
New England	6.0 (4)				
East South Central	6.0 (4)				

[1]n = 67. [2]n = 66.

2. Questionnaire Design

The online survey completed by participants from academic law libraries consisted of twenty-six closed- and open-ended questions. Participants were not required to answer all questions. Through the use of filtering and branching questions, participants were directed to questions that were applicable to their library.

The full survey consisted of seven broad sections. However, only three sections are relevant for this article.[85] The first survey section that was key for this study examined trends in how practitioner-oriented materials were being treated by academic law libraries. In this section, participants were asked about practitioners' use of the academic law library and the cancellation of practitioner materials. Also pertinent to this study was the survey's examination of legal clinics. This section asked participants about the presence of legal clinics at the law school and the role of the law library in supporting those legal clinics. Finally, participants were asked for general information about their law library, specifically its geographic location, the estimated size of its print collection and the estimated number of students attending the law school.

B. Results

1. Treatment of Practitioner-Oriented Print Materials

[85] The remaining sections of this questionnaire examined: (1) development and maintenance of the overall print collections in light of electronic availability of materials, (2) availability of print Shepard's Citators and KeyCite, (3) influences of free access to official sources of primary, and (4) the influence of budget on collection development. Please contact the authors for results about these issues

The first issue investigated within the academic law library survey was how these libraries were treating practitioner-oriented materials and other materials that tend to be part of law firm libraries' holdings and, thus, important types of materials for law students to be familiar with. When asked whether, generally, their libraries had cancelled any practitioner-oriented materials since 2007, over three-fourths of participants (77.3%, 51, n = 66) answered in the affirmative. Of the libraries that had cancelled practitioner-oriented materials, the overwhelming majority had cancelled print-based materials (90.0%, 45, n = 50).[86] Five libraries (10.0%, n = 50) reported that they had cancelled practitioner-oriented materials in both print and electronic formats. No libraries reported canceling practitioner-oriented materials only in electronic format.

The overall high number of cancellations in practitioner-oriented materials was surprising when juxtaposed with our finding that 95.5% of participants (63, n = 66) reported that practitioners used their academic law library. Looking more closely at this relationship, we found that only 19.0% (12) of the 63 academic law libraries that had practitioners among their patrons *had not* cancelled any practitioner-oriented materials. In contrast, none of the libraries that did not have practitioners among their patrons had cancelled any practitioner-oriented materials.[87] Given that looseleafs and treatises were included as practitioner-

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[86] One librarian from a 400-750 student law school in the Pacific Region indicated that so many print titles had been cut that they had reduced two technical services positions to part-time.

[87] This is a statistically significant difference between libraries that did and did not have practitioners among their patrons (χ^2 (df = 1) = 10. 69, N = 66, p < .001)

oriented materials, it is unlikely that this difference exists simply because these libraries did not have practitioner-oriented materials in their collections.

Participants were also specifically asked whether if their libraries had stopped updating, cancelled, withdrawn, considered cancelling, or considered withdrawing practitioner materials, treatises and looseleaf services. See Table Nine. Of the three types of materials, practitioner materials were most likely to no longer be updated (32.4%, 22, *n* = 68). In contrast, looseleaf services were the most likely to be cancelled (61.8%, 42, *n* = 68). Over half of the participating libraries reported that they were considering cancelling practitioner materials (54%, 34), treatises (55.6%, 35) and looseleaf services (66.7%, 42, *n* = 63). However, looseleaf services were the only type of practitioner-oriented material that the majority of libraries had considered withdrawing (58.6%, 34, *n* = 58). These trends were consistent with Runyon's earlier findings that a substantial number of libraries have cancelled, stopped updating, or are considering cancelling various types of print materials that are duplicated electronically.[88]

[88] Runyon, *supra* note 3.

Table Nine: Academic Law Libraries' Treatment of Practitioner-Oriented Print Resources

	Practitioner Materials % (Frequency)	Treatises % (Frequency)	Looseleaf Services % (Frequency)
Stopped updating[a]	32.4% (22)	13.2% (9)	17.6% (12)
Cancelled[a]	41.2% (28)	42.6% (29)	61.8% (42)
Withdraw[b]	31.8% (21)	27.3% (18)	40.9% (27)
Consider cancelling[c]	54.0% (34)	55.6% (35)	66.7% (42)
Consider withdrawing[d]	37.9% (22)	37.9% (22)	58.6% (34)

[a]n = 68. [b]n = 66. [c]n = 63. [d]n = 58.

To further explore these trends in the treatment of practitioner-oriented print materials, the libraries were classified into three groups based on the estimated number of volumes in their collection: small (i.e., 0 – 250,000 volumes), medium (i.e., 250,001 – 500,000 volumes), and large (i.e., more than 500,001 volumes). Eighteen (23.7%) of the academic law libraries were classified as small, 29 (38.2%) were classified as medium and 19 (25.0%) were classified as large. Ten (13.2%) participants did not estimate the number of volumes in their libraries' collections; therefore, these libraries were removed from these analyses. All three types of libraries were equally likely to include practitioners among their patrons.[89]

As shown in Table Ten, with two exceptions, small, medium and large academic law libraries treated practitioner-oriented print resources similarly. The first exception to this general statement was that practitioner materials were being cancelled by large libraries at a statistically significant, larger frequency than small and medium libraries (63.2% (n = 19) vs. 22.2% (n = 18) and 41.4% (n = 29),

[89] (χ^2 (df = 2) = 3.40, N = 65, p = .18)

respectively).[90] The second exception was that medium and large libraries were more likely to be considering weeding their treatises holdings than small libraries (50.0% (*n* = 26), 46.1% (*n* = 17) vs. 7.1% (*n* = 14), respectively).[91]

Table Ten: Treatment of Practitioner-Oriented Print Resources by Size of Academic Law Library

	Small % (Frequency)	Medium % (Frequency)	Large % (Frequency)
Stopped Updating[a]			
Practitioner materials	44.4% (8)	33.1% (9)	26.3% (5)
Treatises	16.7% (3)	13.8% (4)	10.5% (2)
Looseleaf services	33.3% (6)	13.8% (4)	10.5% (2)
Cancelled[a]			
Practitioner materials	22.2% (4)	41.4% (12)	63.2% (12)
Treatises	33.3% (6)	44.8% (13)	52.6% (10)
Looseleaf services	50.0% (9)	62.1% (18)	78.9% (15)
Withdraw[b]			
Practitioner materials	41.2% (7)	24.1% (7)	38.9% (7)
Treatises	23.5% (4)	27.6% (8)	33.3% (6)
Looseleaf services	47.1% (8)	37.9% (11)	44.4% (8)
Considering Cancellation[c]			
Practitioner materials	41.2% (7)	60.7% (17)	58.8% (10)
Treatises	35.3% (6)	60.7% (17)	70.6% (12)
Looseleaf services	58.8% (10)	71.4% (20)	64.7% (11)
Considering Weeding[d]			
Practitioner materials	28.6% (4)	42.3% (11)	41.2% (7)
Treatises[2]	7.1% (1)	50.0% (13)	47.1% (8)
Looseleaf services	42.9% (6)	65.4% (17)	64.7% (11)

[a]Small libraries *n* = 18, medium libraries *n* = 29, large libraries *n* = 19.
[b]Small libraries *n* = 17, medium libraries *n* = 29, large libraries *n* = 18.
[c]Small libraries *n* = 17, medium libraries *n* = 28, large libraries *n* = 17.
[d]Small libraries *n* = 14, medium libraries *n* = 26, large libraries *n* = 17.

[90] (χ^2 (*df* = 2) = 6.36, *p* < .05, *N* = 66)

[91] (χ^2 (*df* = 2) = 7.79, *p* < .05, *N* = 57)

Participants were also asked to specify the types of practitioner-oriented print materials that their libraries were canceling, both within their jurisdiction and in other jurisdictions (see Table Eleven). For materials within the same jurisdiction, fifteen respondents reported that they had not cancelled any practitioner-oriented print materials, while three respondents did not collect these materials at all. Three participants failed to respond to the question. When looking at materials in other jurisdictions, fifteen respondents again reported that they had not cancelled any practitioner-oriented print materials, while eight respondents did not collect these materials at all. Twelve participants failed to respond to the question.

Overall, the most frequent cancellations of practitioner-oriented print materials were for other jurisdictions than that in which the law school was located. Cancellations were less common if the secondary source material related to the jurisdiction in which the law school was located. However, of the participants who responded to this question, looseleaf services ranked as the most common materials canceled for both types of jurisdiction.[92]

[92] Further supporting this finding were the open-ended responses that indicated looseleaf services were a particular target. One librarian from a 750-1000 student academic law library in the East North Central region stated specifically, "There may be more looseleaf services that will be replaced with electronic subscriptions." Two librarians stated that looseleaf services would be cancelled because of subscriptions to the BNA-All Database.

Table Eleven: Cancellation of Practitioner-Oriented Print Materials by Jurisdiction

	Cancelled % (Frequency)
Same Jurisdiction[a]	
Looseleafs	56.4% (22)
Nonlegal practice-specific materials	43.5% (17)
Subject-specific treatises	41.0% (16)
Form books	33.3% (13)
Practice guides	33.3% (13)
Particular series	28.2% (11)
Subject-specific desk books	23.1% (9)
Procedure manuals	20.5% (8)
Other Jurisdictions[b]	
Looseleafs	75.6% (31)
Nonlegal practice-specific materials	63.4% (26)
Subject-specific treatises	65.9% (27)
Form books	73.2% (30)
Practice guides	65.9% (27)
Particular series	48.8% (20)
Subject-specific desk books	73.2% (30)
Procedure manuals	48.8% (20)

[a]*n* = 39. [b]*n* =

2. Presence of Legal Clinics

Some of the primary users of practitioner-oriented materials within a law school are legal clinics run by the law faculty, staff and students. Given the potential relationship between legal clinics and academic law libraries, it was important to account for the presence of legal clinics within this study.

The overwhelming majority (97.0%, 64, *n* = 66) of the libraries that participated in this study had legal clinics at their law school. Of the schools with legal clinics, it was most common for the schools to house between three and five clinics (40.6%, 26, *n* = 64). The remaining schools had one or two legal clinics (35.9%, 23) or six or more clinics (23.4%, 15).

Of academic libraries that belonged to institutions with active legal clinics, 95.3% (61, $n = 64$) maintained print materials regarding the subject area of those particular clinics.

Neither the presence of legal clinics at an institution[93] nor the maintenance of print materials for legal clinics[94] was statistically related to the library's decision to cancel practitioner-oriented materials.

V. Comparison of Results

In her article *Context and Legal Research*, Barbara Bintliff points out that it appears that user preference for electronic resources has won out over print resources in most areas of legal research.[95] However, the questions of the relative costs of ownership in print format versus access through electronic databases continue to trouble librarians, with many concluding that it is cheaper to switch to electronic resources even if that means that the library may not own the item.[96] Although many academic librarians may have come to the conclusion that, based on their cost structure and the preference of students, electronic sources should generally be favored above print sources, our survey of firm librarians revealed that the reality of the legal practice environment is entirely more complex. The opinions of law firm librarians differ greatly with regard to cancelling print copies of material that may be available electronically; at one extreme, a firm librarian indicates that the duplicated item is always cancelled when it is available in an online format, while at the other

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[93] As indicated by a nonsignificant chi-square test (χ^2 ($df = 1$) = 0.57, $N = 65$, $p = 0.45$).

[94] As indicated by a nonsignificant chi-square test (χ^2 ($df = 1$) = 3.6, $N = 63$, $p = 0.06$).

[95] Barbara Bintliff, *Context and Legal Research*, 99 LAW LIBR. J. 249 (2007).

[96] *Id.* at 250; Carol Hansen Montgomery & Donald W. King, *Comparing Library and User Related Costs of Print and Electronic Journal Collections; A First Step Towards a Comprehensive Analysis*, D-LIB MAG. (Oct. 2002) available at http://www.dlib/october02/montgomery/10montgomery.html.;

extreme online formats are not workable for some law firms because of cost and usability concerns.[97] A librarian from a firm in Colorado with between 200 and 299 attorneys helpfully noted, "If an electronic version is only searchable, without a Table of Contents browse feature or if it doesn't have a navigation feature to view section-by-section or page-by-page then it isn't a full alternative to the print version. Just being able to search an online treatise isn't enough."[98] Generally, however, it appears that the default position for most firms is favoring the electronic so long as the electronic version is covered in a flat fee contract with a vendor.[99]

Our findings support the Patrick Meyer's findings from his 2007 survey that firms are not cancelling widely used secondary sources in favor of electronic access because of the relative costs of accessing this content online.[100] According to Meyer's survey, 90% of

[97] One librarian from a firm with between75 and 99 attorneys summed it up this way, "If it is in contract we use electroic (*sic*) source. If the content of the electronic resource is not user friendly we use it in print." Another, from a Utah law firm with three hundred or more attorneys noted, "It depends on the publisher, the format, and the dependability of the database. If the database is poorly organized, or difficult to maneuver or access, we would rather have the print version and forgoe (*sic*) the electronic." Another from a law firm with three hundred or more attorneys in the District of Columbia offered this specific example of the kind of consideration beyond cost given to material selection at the firm: "For example, the separate online versions of the Matthew Bender materials, like Moore's and Chisum are terrible. Searching and navigation is clunky and not user-friendly. It is hard to get buy-in from the attorneys to use it vs. the print when it is so hard to use." Thus, these librarians indicate that there are at least two levels in the analysis of whether to use something in print or online – first, if it is covered by their contract in electronic form, and second, even if it is covered, whether it is user-friendly in electronic format.

[98] Survey participant comment, on file with the authors.

[99] *See* Table 5. A respondent from a law firm with between 100 and 149 attorneys in North Carolina noted, "If it is part of our flat rate then the attorneys use it electronically. We normally try to hunt down any material not covered by our contract if we do not have it in print"; Another respondent from a law firm with between 100 and 149 attorneys in the District of Columbia responded, "The price may be prohibitive if it's not in our contract."

[100] *See* Meyer, *supra* note 31, at 313 for table showcasing, for example, that even though the majority of law firms have access to Lexis and Westlaw through flat rate contracts, very few have unlimited access to all materials, including secondary sources, for no additional charge.

respondents kept federal and state secondary sources in print.[101] Our survey confirmed that most firms keep a variety of materials in print.

It is arguably easier for law firm libraries to be much more deliberate and thoughtful about which print secondary sources they cancel in favor of electronic materials because their total volume counts are much smaller than academic law libraries.[102] When academic law libraries must make cost-saving cancellations, they generally must consider titles and costs more broadly rather than applying the individual-level consideration for specific titles based on specific practice needs and uses. Cost and availability in electronic format are quickly quantifiable commodities when academic law libraries must make cancellation decisions. In contrast, determinations of usability are entirely more time-consuming. Accordingly, the idea of cost means to different things to law librarians in a firm versus an academic setting. Academic law librarians are more likely to see the cost of maintaining a print subscription to a title, while law firms are more likely to see the cost of accessing a title electronically if it isn't included in a flat fee contract with a vendor.

What is clear from the law firm survey results is that it continues to be the desire of law firm librarians to encounter new associates who are trained how to use secondary sources and who know when to use them in print versus electronically. It is also clear from both the law firm and academic library survey results that the differing needs and realities of both environments means that academic libraries may be eliminating some of the print materials that law firms prefer their associates to use. This pattern has the potential to create a gap in the education of law school graduates and affect their preparedness for the practice of law.

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[101] *Id.* at 319.

[102] *See* Tables 1 and 8.

To their credit, some academic law librarians are keeping teaching considerations in mind when making cancellation decisions. One academic librarian stated that their library had been selective when determining what to update in print when materials are duplicated by electronic resources, noting, "For example, we only have a few digests and keep them for those who teach 1Ls."[103] Another librarian commented, "We have certification programs in Business Law and Criminal Law, so we retain more materials, even if practitioner oriented in those fields."[104]

It was somewhat surprising that academic law librarians routinely did not address a theme picked up on by some firm law librarians, namely the usability of materials in an online format. As one firm librarian from Colorado pointed out, an online treatise that is only searchable but not browseable by Table of Contents, page, or section, is not the same product as a print version of that treatise.[105] Instead, more common among academic librarians was a determination that the same material was made available in an online format.

The conflict between "practitioner" and "scholarly" materials was explicitly mentioned by at least one academic librarian, who noted, "Practitioners rarely use our collection and our collection development policy is worded to promote buying scholarly rather than practitioner materials."[106] This is significant because it contradicts the desire of firm librarians to see better familiarity amongst new associates of practitioner and secondary sources, and reinforces the presumed conflict between a "scholarly" and a "practical" collection.

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[103] Comment from survey participant, on file with the authors. Other librarians noted in comments the need to "maintain a balance tailored to the needs of the faculty and the students."

[104] Comment from survey participant, on file with the authors. The same librarian went on to note, "If a title only serves the practitioner and does not support the curriculum and is outside of California, we cancel it."

[105] Comment from survey participant, on file with authors.

[106] Comment from Survey Respondent, on file with authors.

VI. Limitations

This study raises a number of limitations that should be taken into consideration when planning future studies. Because of the nature of this survey, resources had to be categorized together. However, in the law library community, there is not consensus about which category many resources fit into. We attempted to clarify for purposes of our survey what types of materials we believed fell into each of the broader categories. However, some librarians in our study noted that they did not agree with our classifications. Of course, ideally, a comprehensive study of this type would look at cancellations on a title-by-title basis without the need for broader categorization in order to understand how libraries are treating each specific title.

The most notable limitation of our survey of law firm librarians is that our survey responses generally came from larger law firms, which housed separate law libraries staffed by at least one librarian. This does not reflect the practice environment that most law students will enter upon graduation. However, it is arguable that law school graduates who go on to work at smaller law firms, government agencies, and as solo practitioners may have access to even fewer electronic resources as they do not have the economic means to afford flat fee Westlaw, Lexis, or other electronic database contracts. To support this position, our study did find a statistically significant correlation between the size of the law firm and the need for use of print materials. The larger the firm, the less likely the firm was to rely on print materials, probably based on cost and the ability to maintain flat fee electronic contracts that include access to secondary sources. Thus, those employed by smaller law firms, public interest organizations, and even government agencies could arguably be even more reliant on

print materials. Additionally, these practice environments also may not have the readily available expertise of in-house research experts, librarians, for research assistance.

Our survey did not reach public, state, or court law libraries, which may be the primary means of access to materials for those lawyers not employed at law firms hosting in-house law libraries. Our survey also did not reach those law libraries serving government agencies. A future study may seek to understand the collection development decisions at other types of law libraries that future practitioners may encounter.

VII. Recommendations and Conclusion

Just as legal education scholars have pointed out that critics should refine their views that see the teaching of legal theory and practice as in conflict, collection development does not need to be seen as favoring either a scholarly or practical collection over the other. Academic law libraries can seek to find their own "middle ground" when it comes to collection development. Just as scholars have pointed out that legal theory can be woven into more practical skill courses and vice versa, academic law library collections can find ways to weave in and preserve a print collection of heavily used practitioner and secondary sources.

In order to ensure that our collections are poised to provide the scholarly and curricular support that reflect greater attention to what is occurring in legal practice, we must take note to ensure that our collections regard what kind of research is being done in practice. Thus, if practitioner librarians are relying on print secondary sources as their primary means of accessing that information, then we should ensure that our collections provide the resources needed to transfer that skill, even while responding to budgeting realities.

We will discuss the following recommendations when considering future cancellations of print secondary and practitioner resources: aligning collections of secondary and

practitioner content to clinical and experiential learning programs at the institution; keeping a core collection of print practitioner materials for the jurisdiction in which your institution is located or in which a majority of your students will likely practice; discussing potential cancellations of specific titles and subject areas with practitioner libraries to determine the importance of the resource in question in the practice world.

A. Recommendations

1. Basing collections of print secondary sources on clinical and experiential learning curricula

Clinical and experiential learning programs are perhaps the area of the law school curriculum where scholarship and practice most intertwine. Proponents of clinical legal education have pointed out that law school clinics are the venue where the goals of the MacCrate and Carnegie Reports are most precisely met, as they offer students the opportunity to weave theory with practice under the supervision of able practitioners.

Basing a collection of print secondary and practitioner sources on the clinical and experiential learning programs that exist at the school allow students the opportunity to interact with secondary source materials that they may use in practice in a different way. Although it is true that most law students will not ultimately practice law in the area in which they obtain their clinical experience, having these resources available can help students recognize when it may be efficient to use a print resource and look for print materials.

Schools that may not have clinical or experiential learning programs may look at other areas where their curriculum emphasizes practical instruction when building a collection of print secondary and practitioner sources. For example, does the law school have a tax LL.M. program? Do joint degree programs indicate that students are more likely to practice in one area in the future?

Certainly, it is not possible for academic law libraries to collect or keep print copies of resources in every subject in which a law school has courses. However, the goal of the library should be to keep at least some of these materials so that they may be used in a practical, pedagogical setting that could also include legal research instruction.[107] It certainly makes sense to keep in print those materials that the students are most likely to encounter in a practical, experiential setting.

2. Keeping core print secondary and practitioner sources for the local jurisdiction

Some large-scale titles, like series, are seen as less important,[108] while practitioners routinely noted that local jurisdiction secondary sources are important. This appears to be an area where many academic law libraries, at least those that responded to our survey, are maintaining their collections.[109] For any number of reasons[110], many academic law libraries are reluctant to cancel many of the most useful practitioner resources for their local jurisdiction. We also recommend that academic law libraries maintain these collections.

[107] For example, similar to the librarian who mentioned that a few digests were kept in print for 1L legal research instruction, the same philosophy could be applied to keeping a few print secondary and practitioner materials in the library for teaching purposes.

[108] *See* Table 7.

[109] See Table 11. At least one academic law librarian indicated with a comment that there were no plans to cancel any materials from their state or region.

[110] We could hypothesize a number of reasons as to why these materials are not being cancelled: Demands placed upon the library by the local bar or public, demands for the materials from faculty members who may be active within the local jurisdiction, a belief that these materials be kept locally for preservational value, etc.

3. Ongoing discussions with local practitioner libraries on potential cancellations of specific titles and subjects

One of the goals of this paper is for it to be a first step in considering the needs of both academic law libraries and those law libraries that serve practicing attorneys together in order to bring the academic world more closely aligned with the realities of the practical library. This is by no means meant to be the final word on the subject, but rather an opening of a dialogue between both types of law libraries in terms of future collection development decisions. It is our hope that this study will enable librarians at both types of institutions to make collection development and management decisions with a full understanding of the needs at the other. To that end, we recommend that academic law librarians consult with firm librarians or other individuals at law firms to understand collection needs for more specific legal practices when making large scale cancellation decisions.

Commonly, librarians more generally recommend consulting with faculty members when making cancellations of titles within the academic law library.[111] While consulting with faculty members in many instances may be useful, it may also not be the most instructive strategy for determining whether to cancel secondary sources that attorneys may use in practice.[112] In fact, many faculty members are far removed from the practice world[113] and may not be familiar with the either the materials used in practice or the format in which the resources are used. Adjunct faculty members may be less commonly consulted in collection

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[111] *See* Dan. J. Freehling*, Cancelling Serials in Academic Law Libraries: Keeping the Collection Lean and Mean in Good Times and Bad,* 84 LAW LIBR. J. 707, 717 (1992).

[112] *Id.* at 718 (noting "Others may not be completely familiar with the literature in their areas of substantive expertise").

[113] *See* David B. Wilklins, *The Professional Responsibility of Professional Schools to Study and Teach About the Profession*, 59 J. LEGAL EDUC. 76, 92 (1999).

development decisions, but actually may provide better guidance on decisions involving the cancellation of secondary and practitioner titles.

Consulting librarian counterparts at practitioner libraries as well as practitioners and judges themselves enables the academic law librarian to mirror the call by some practitioners and scholars for legal scholarship to more closely focus on legal practice itself.[114] By consulting practitioners, academic librarians may hope to not only to model collections around sources that students will actually use in practice but will also be able to speak more authoritatively to students about what they can expect in the practice world when it comes to available sources.

For example, tax practice is commonly an area of law that relies very heavily on the use of secondary sources like looseleaf services (for example, the Standard Federal Tax Reporter) and treatises for many ordinary and routine research questions. Schools that collect heavily in tax, including schools that have LL.M. or other programs that specialize in federal taxation, could consult with law firms that have specialized tax practices to determine how those sources are collected and used in the practice setting.[115]

Even if not conducting specific title or subject review, consulting with firm librarians can be useful in understanding the methods by which they make cancellation determinations.

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[114] For discussions of the need for scholarship on the practice of the law itself *see* Gordon, *supra* note 13, at 2088 (pointing out, "But in the present state of scholarship, none of us can give the students much of anything reliable to read that provides thorough, systematic descriptions and reflective analyses of what it is that corporate lawyers actually do, of the ways in which lawyers negotiate their work ask and its boundaries with their clients and then translate client demands into work product, and of the strategic and ethical choices lawyers constantly have to make."); *See also* Curtis *supra* note 11, for discussion of the many reasons law schools need to study and seek to understand the practice of law at firms more.

[115] For example, consider the recent discussion circulating on the ALL-SIS list serve regarding the platform delivery change of CCH, the publisher of the Standard Federal Tax Reporter in print and online format. Anne Meyers at Yale conducted an informal survey of firm law librarians regarding their satisfaction with the new product. These kinds of informal surveys can be useful in determining how academic law libraries collect, use and teach online products.

In particular, our survey clearly revealed different considerations coming into play from firm versus academic law librarians in regard to the word "cost". Discussions with firm librarians about their cost considerations can help academic law librarians not only understand the different dynamics of cost in a practical law library, but also convey that information to students. Furthermore, in the anecdotal comments submitted as a part of our survey, firm librarians revealed a variety of factors that they considered in determining whether or not to cancel a particular title. Understanding the decision-making process that librarians use in making large scale cancellation projects certainly merits further study.

B. Conclusion

All law libraries must consider many different factors when choosing where to make cancellations and adjustments to existing collections. Although our survey found an increasing reliance on electronic media, our results also indicate that there is a continuing need for print in both the law firm and academic setting to mitigate high costs as well as to most efficiently retrieve information. Furthermore, it is our hope that this study opens the door to greater discussion between all types of libraries about their collection development decisions and how decisions made at one library impact other libraries. If academic law libraries mean to provide law students the tools to understand research in a practical setting, then they should continually promote contact with law firm libraries as well as court and other governmental law libraries that practitioners utilize. Collection development decisions can then be seen in a larger context and without pitting so-called "scholarly" materials against "practical" materials.