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Digital Legal Information: Here Today, Gone Tomorrow?

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LIBRARY HIGHLIGHTS

Digital Legal Information: Here Today, Gone Tomorrow?

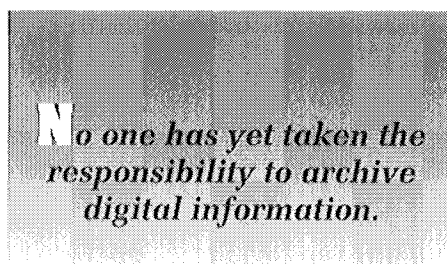
by *Claire M. Germain*

The American Association of Law Libraries and the Law Library of Congress are currently starting a process of identifying the stakeholders considered to be producers, keepers, and consumers of digital legal information, and organizing a National Summit Conference. The Conference will include judges, legislators, regulators, members of the practicing bar, academics, librarians and archivists, court administrators, official printers, public and private publishers, Internet providers, Webmasters, and computer science engineers. Judy Meadows, AALL President, has been talking with various groups to determine interested parties to involve in the Summit and she has appointed a Task Force to Identify Stakeholders. There will be an exploratory program at the next AALL Annual Meeting in Anaheim, California, in July 1998. The National Summit Conference will be held in New Orleans in January 1999, just prior to the Annual Meeting of the Association of American Law Schools.

Digital versions of current decisions, bills, statutes, and regulations issued by federal and state governments are widely available on publicly accessible Websites. Primary legal information issued by international organizations and foreign governments is also becoming available on the Web. Documents are going digital for good reasons, including easy distribution and access over the Internet, as well as hypertext and multimedia capabilities. The process is irreversible politically and economically.

However, there are currently no standards for the production and authentication of digital documents.

Moreover, the information is sometimes available for only a short time and then disappears from the site. Digital information is also characterized by fragility and rapid technological obsolescence. Under good conditions, books printed on acid-free paper, e.g., official state reports and codes, will last for centuries. The life span of a CD or a disk is



estimated at 10 to 30 years, but its life span is further limited by the hardware and software needed to read it. This means that digital information may become obsolete within five years unless it can be migrated to a newer technology. But migration has risks, such as loss or change of information in the translation. Much research needs to be done on solving these technological issues.

Who is going to be responsible for continued and long-term access to official primary legal information? This is especially important in a democracy where free access to government information is supposed to be a right.

No one has yet taken the responsibility to archive digital information for long-term public access. The U.S. Government Printing Office—which has traditionally published on paper the U.S.

Supreme Court decisions, U.S. Code, Federal Register, Code of Federal Regulations and much else, and distributed them to the elaborate system of 1,400 depository libraries (including most law schools)—has made a commitment to disseminate its publications in electronic form. But it has not committed to serve as an archive, because it is not in its mandate.

Over the centuries, libraries have played the role of preserving and making information available to present and future generations of scholars. One proposal to consider would be for libraries to form consortial agreements. Each would become responsible for digital preservation of part of the corpus of official primary legal information, and rely on others for other parts. The scheme would extend access to that information far into the future.

Stay tuned for developments on the important issue! And please send suggestions for the National Summit Conference to the author (cmg13@cornell.edu). □

Claire M. Germain is the Edward Cornell Law Librarian and Professor of Law at Cornell Law School. She is the Chair of the AALL Task Force to Identify Stakeholders in preparation for the National Summit Conference in January 1999.

REGISTERING FOR THE ANNUAL MEETING

If you plan on attending the
ABA Annual Meeting in
Toronto in late July - early
August you can download the
1998 Annual Meeting
Registration form from the
section's website:

<http://www.abanet.org/legaled>

LAW SCHOOL'S RANKINGS *Continued from page 1*

but rather, for increasing the school's *U.S. News* ranking. This can have significant negative repercussions for the quality of a university or law school. It may affect curricular planning, faculty hiring, and, perhaps most damaging, admissions decisions. By placing so much weight on the LSAT score in the rankings, *U.S. News* encourages law schools to give too much weight to the test score in making admissions decisions. This can unfairly harm deserving applicants, including minority applicants.

Increasing frustration with the rankings led deans at the 1997 ABA Dean's Workshop to suggest that a major effort be mounted to convince *U.S. News* to discontinue, or at least significantly change, its ranking practices. Dean John Sexton, New York University and then-president of the Association of American Law Schools, agreed to coordinate an effort involving leaders of the major organizations in legal education to attack the rankings.

The first effort was to obtain *U.S. News*' agreement to limit its ranking of law schools in the same manner that it limits its rankings of other programs—to a top 20 or 25, with no other schools ranked. One hundred fifty deans signed a letter to *U.S. News* requesting such a limitation. A series of telephone calls and meetings with *U.S. News*' officials followed. Two face-to-face meetings were held, with John Sexton, Rudolph Hasl, dean of St. John's University School of Law and immediate past chair of the Section, and me, present. Although *U.S. News*' officials listened cordially and respectfully to our arguments, they refused to abandon the practice of ranking every law school.

Another letter, circulated to deans by Peter Shane, dean of the University of Pittsburgh School of Law, and immediate past chair of the AALS Section for Law School Deans, was signed by 164 deans, including deans of eight of the top ten-ranked law schools and 22 of the top 25 top-ranked schools in the 1997 *U.S. News* rankings. This letter urged applicants to law school to pay no

attention to the rankings, and provided information about why the *U.S. News* rankings, and other rankings, are invalid. The letter also called to the attention of applicants sources of information, such as the *Official American Bar Association Guide to Approved Law Schools* and the *LSAC's Official Guide to U.S. Law Schools*, that contain important and reliable comparative information, but do not get into the rankings game.

On yet a third front, John Sexton convened a "steering committee" to consider the most appropriate and effective means for calling to the public's attention the problems with rankings. This steering committee was composed of John Sexton; Rudolph Hasl; Peter Shane; Dean Scott H. Bice, University of Southern California and president, American Law Deans Association; Dean Herma Hill Kay, University of California at Berkeley and current chair of the AALS Section for the Law School Dean; Dean Richard J. Morgan, University of Nevada, Las Vegas; Leo M. Romero, University of New Mexico and chair of the LSAC Board of Trustees; and Philip D. Shelton, President, LSAC, and me. As a result of conversations among steering committee members, the AALS agreed to commission a study by Stephen P. Klein to review the *U.S. News*' rankings. Klein, along with his colleague Laura Hamilton, completed the study in his capacity as senior partner of GANSK & Associates. He is also a Senior Research Scientist with Rand Corporation. The study was completed in mid-February and a news conference was held in New York City to release the study. The speakers at the news conference were Carl Monk, Deans Bice, Sexton, Hasl, and Shane, Leo Romero, and Dean Pamela Gann, Duke University, member of the AALS Executive Committee.

The press conference began with my statement highlighting the results of the study and calling upon *U.S. News* to discontinue its rankings of law schools. John Sexton followed by noting that any system of ranking is inherently flawed because of the individual, nonquantifiable factors that are important in selecting a law school. Leo Romero noted that the emphasis placed on Law School

Admission Test scores in the rankings is a gross misuse of the Law School Admission Test. Peter Shane talked about the letter to applicants and noted how decision making at law schools is affected by the rankings. Scott Bice highlighted numerous flaws, including an excellent analogy of the reputational survey of law schools to a survey of restaurants in which the respondents ranked 100 restaurants from 1 to 100, but had only eaten at 15 or 20 of the restaurants. Rudolph Hasl discussed the important consumer information that is available in the ABA and LSAC publications and Pamela Gann discussed the importance that various constituencies, particularly applicants to law schools, are now attaching to the rankings, and thus the need to call to their attention the flaws of the rankings. Questions and answers followed from a number of reporters, including representatives of *The New York Times* and *Wall Street Journal*. Numerous media outlets, including newspapers, magazines, radio, and television, carried stories about the critique of the rankings.

Among the practices that cause the rankings to be seriously flawed, some of which are revealed by the Klein Study, and others admitted by *U.S. News*, are the following:

- 1) important aspects of law school quality such as quality of instruction, are not assessed by *U.S. News*;
- 2) although *U.S. News* claims to consider 12 factors, almost 90 percent of the difference among law schools in the overall rankings can be explained by the difference in the median LSAT score of the entering class;
- 3) the weights *U.S. News* claims to assign to the various factors are not the actual weights because of *U.S. News*' failure to control for standard deviation;
- 4) the so-called reputational survey is based on ranking all 180 law schools from top to bottom, although no one possesses sufficient information to rank more than four or five;
- 5) "strategic voting" permits respondents to manipulate the results of the reputational survey.

We continue to hope that *U.S. News* will recognize the harm to its own journalistic integrity that is inflicted by the misleading and deceptive nature of the rankings. All of us in legal education and higher education can be grateful for the statesmanlike approach of *Newsweek* editor Kenneth Auchincloss, who has recently stated that *Newsweek* will not get involved in the rankings business because "rankings generate huge hype, which is far more likely to serve the publisher's purpose than the readers' . . . Applicants need help in widening their knowledge of schools that may be right for them, not narrowing their choices according to a ranking system."

Until *U.S. News* does abandon the rankings, we must work diligently to call the rankings' flaws to the attention of all of our constituencies. We must also avoid lending credence to the rankings by attacking them with one stroke of the pen, while touting our own school's place in the rankings with another stroke. Promotional activity of this type seriously undermines the credibility of our attack.

To view the "validity study" in its entirety, please visit the AALS website. <http://www.aals.org> □

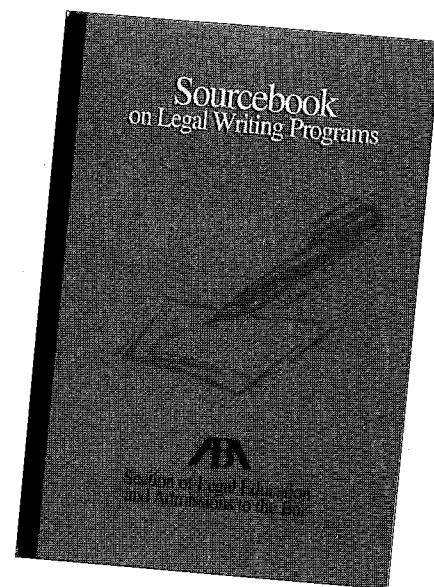
Carl C. Monk is the Executive Vice President for the Association of American Law Schools.

SOURCEBOOK Continued from page 1

defines the outside limits of successful pedagogies and accompanying administrative structures, and describes some established practices within those limits.

The Communication Skills Committee produced the Sourcebook with the following readers in mind: (1) a faculty committee charged with revamping all or part of the school's legal writing program; (2) a newly hired director of a legal writing program; (3) an experienced director who seeks information about alternative teaching and administrative approaches; and (4) a dean who seeks information about legal writing programs. The Committee's goal was to help improve the overall quality of legal writing programs across the country while increasing the consistency with which those programs are administered.

The genesis of the Sourcebook was a suggestion by Dean Frank Walwer, then a member of the Committee on Legal Writing for the Section, that law school deans and faculty would benefit from a book reviewing the various kinds of legal writing programs and staffing models, and evaluating the benefits and detriments of each kind of program.



Dean Barry Vickrey, as Chair of the Committee, enlisted the authors, formally launched the project, and helped prepare the original outline for the book. Subsequent Committee Chairs, Dean Jacqueline Allee and Dean Maximalian Kempner, have lent immense moral support and gentle prodding to the authors.

The Sourcebook was drafted by five current or former legal writing program directors who were members of the Committee; who collectively had experience with a wide variety of programs; and who each had more than a decade of experience as a director. After many drafts, the authors circulated the penultimate draft among teachers and directors throughout the country, as well as the practitioners, judges, teachers, and deans who were members of the Communications Skills Committee. Many of the suggestions thus gained have been incorporated into the final product, which was then approved by the Committee as a whole. However, the authors envision that further revisions will continue to be made in the Sourcebook, even after its initial publication, as the profession advances, new ideas are generated, and program refinements are made.

The authors gratefully acknowledge the help and support of the many individuals who participated in the project. To order a copy of the *Sourcebook on Legal Writing Programs*, please call the ABA Service Center at (800) 285-2221, PC#5290091. □

Committee Nominations Sought

The Section's Nominating Committee chaired by Erica Moeser invites suggestions of individuals whom it should consider for appointment to the Council. The following seats will need to be filled by the Section at the ABA Annual Meeting in Toronto, Canada, in August. Please send any nominee suggestions to Erica Moeser or to James P. White, American Bar Association, 550 West North Street, Indianapolis, IN 46202.*

Council Terms Expiring:

Dean Herma Hill Kay, (three-year term)

Chief Justice Gerald VandeWall, (three-year term)

Justice Elizabeth Lacy, (three-year term)

Dr. Maria Rameriz, (three-year term) (public member)

William Rakes, Esq., (one-year term)

* Suggestions should be received by May 25, 1998.