

Law Library Lights

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A CHAPTER OF THE AMERICAN ASSOCIATION OF LAW LIBRARIES

ISSUES IN LIBRARY MANAGEMENT, PART II

LIVING THROUGH THE LAW FIRM MERGER

Eva-Marie Nye
Shaw Pittman

"IT'S NOT ABOUT YOU. IT'S NOT ABOUT ME. IT'S ABOUT GROWTH, MONEY, AND MARKET POSITION,"

— PASTY HALEY STANN.

DESPITE THE ECONOMIC SLOW DOWN, LAW FIRM MERGERS CONTINUE WITHOUT PAUSE. Recent months have seen the combinations O'Melveny & Myers with O'Sullivan; Katten Muchin Zavis with Rosenman & Colin; Holland & Knight and the VanValkenberg Furber Law Group; and McKenna & Cuneo with Long, Aldridge & Norman to name a few. In addition to mergers, law firms continue to acquire practice groups from each other.

Although this article is written from the law firm perspective, mergers are not just for the private sector. Government libraries are certainly familiar with the challenges of reorganization. Just imagine the effect the proposed Homeland Security reshuffle could have on federal libraries.

For any library, a merger, acquisition, or reorganization can mean going through the most stressful changes possible – moving, losing or gaining staff, downsizing the collection and a catalog conversion – all at the same time. In addition, you may have to renegotiate your contracts and site licenses, cancel duplicate subscriptions, and then struggle for months when the vendors you meticulously notified continue to send books and bills to accounts and addresses you no longer maintain. On a more personal level, your benefits, holidays, reporting structure, commute and support staff may be completely changed.

Mergers are change and change is usually difficult. The following advice compiled from personal experience, interviews, seminars and publications can ease the transition.

1. KEEP YOUR EAR TO THE GROUND.

As librarian Pasty Haley Stann, survivor of Pillsbury Madison's two mergers, puts it, "Nobody is going to ask if you think a merger is a good idea." Nobody is going to ask you, but you need to know

if someone else is thinking a merger sounds good. One of your first clues will be reference requests from senior partners asking questions beyond the scope of *Martindale-Hubbell* about other law firms. Pay attention to the rumor mills in your firm and city-wide. Maintain contacts with people who have left your firm. They often hear rumors before you do and are willing to talk about them. Take gossip for what it is, but cultivate relationships with people in positions to confirm rumors.

2. GET A SEAT AT THE TABLE.

Mergers are preceded by a, usually secret, courtship. The sooner you become involved in the process, the better understanding of the merger's goals you will have and the better you will be able to help implement those objectives. Librarian Sue Mills, of Shaw Pittman, a survivor of several mergers and practice group acquisitions, says the key to getting a seat at the table is money. Nobody cares if a merger is inconvenient for the library, she said, but they will pay attention if you show them what the combination will cost. Before the merger is consummated, find out what the new attorneys will be adding and what has been promised to them. Mills suggested that you prepare them for those costs that will be higher than what they anticipate.

As far as implementing the library's goals, in her July presentation on mergers at AALL, Greenberg Traurig librarian Linda Will advised having your five-year plan up-to-date, having orientation and training programs ready, and using that information you got from the negotiations to prepare budget analysis.¹ Be prepared to explain and defend your vision of the library's role in the firm's future, she said. And, importantly, as soon as possible, survey the collections

continued on page 3

EDITOR'S COLUMN

Jennifer Korpacz
Covington & Burling

WELCOME TO A NEW YEAR OF LIGHTS. This issue is a continuation of our summer focus on issues in library management. In addition, one of our hot topic features is a research guide to the Federal Register and Code of Federal Regulations. We also introduce LLSDC's version of Law Library Interrogatory which is based upon the feature developed by our colleagues in the South Florida Association of Law Libraries (SFALL).

I have many people to thank for helping me with the transition over to *Lights* and the preparation of the fall issue with a tight deadline. I extend my thanks to Leslie Lee, our outgoing editor, for her guidance, and Tricia Peavler for her steady support as assistant editor. I'd also like to express my appreciation to the authors and columnists for their contributions, and Monica Luciano for her assistance in the editing process. Finally, I would like to thank Lisa Harrington for her advice and suggestions.

I didn't really know what to expect as a first-time editor. As it turns out, one space between sentences instead of two is not second nature to me. I gained new skills in the market-

ing area as I tried to convince possible authors that one month was more than adequate a turnaround time for this first issue. I was also reminded of the main reason that I enjoy being a law librarian. For all of the knowledge and experience I have yet to gain, a colleague within the LLSDC community is always there to lend a hand. Advice was given freely, numerous librarians answered the call for a brainstorming meeting, and a fun article arrived to spice up your reading pleasure.

We have a great year planned for *Lights*, and you can contribute. Our future themes are: **WINTER 2002: Legislative Research and Resources.** Article submission deadline is November 1, 2002.

SPRING 2003: Training: Tips, Tricks, and Issues. Article submission deadline is February 7, 2003.

SUMMER 2003: e-Library/Digital Library Issues. Article submission deadline is May 2, 2003.

Have another article idea that seems unrelated to our themes or an idea for a column? You can become the next hot topic author or columnist. *Lights* is your newsletter. See your name in *Lights*! ■

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and contracts of all parties. The earlier you have that information, the sooner you can cancel duplicate subscriptions. You will also have to consider renegotiating or rolling in the non-survivor's contracts. In many mergers, the surviving firm does not take on all the debts of the predecessor. Make sure you know precisely which bills the library will be responsible for, Will said.

3. MANAGE AND EXCEED EXPECTATIONS.

During the same AALL program, William Kwiatkowski, executive officer of Venable Baetjer Howard & Civiletti, told librarians that the key to successfully implementing a merger is "managing and meeting expectations." In fact, view the merger as an opportunity to promote the library and strive to exceed expectations. With all of the demands on their time, meeting the librarian will not be the new attorneys' highest priority. But you can be certain any frustration experienced accessing library information will be held against you. Be aggressive about getting in front of attorneys and support staff. In your earliest meeting, give them new passwords and share policies about using and billing for online research. New users will be concerned about continuity of subscriptions and services. Use the information about the new attorneys you obtained during the negotiation process to prepare their routing lists and to provide attorneys old and new with an inventory of routed materials from the newly combined collections. Then, of course, dazzle them with your quantity and quality of service.

Pay particular attention to training any library staff who come with the merger, Mills says. Because new patrons will go to the librarians they are familiar with, it will be beneficial for those librarians to be familiar with all of the newly available resources, both print and electronic, as soon as possible.

Often new staff are so overwhelmed with the change that they will let questions and concerns fester until they are bigger problems than they should be. Keeping communication lines open is critical.

E-mail was a simple and successful tool to this end for Shaw Pittman during its 2001 merger with Klein & Martin. The firm set up a Lotus Notes database that functioned like a listserv, sending questions, comments, and complaints from newly arrived legal and support staff to all firm managers. The database saved new staff time in finding the right person to address their needs and saved everyone the

time and effort of asking and answering the same questions again and again. Managers said they were sometimes surprised by the things the new staff worried about, but because of the constant communication, they were able to solve problems and alleviate concerns quickly.

5. BE PREPARED FOR GRIEF.

"It's not about you. It's not about me. It's about growth, money, and market position," says Stann. Still, change can be quite painful and you should be prepared for strong emotions in yourself and others. In *The Employee Guide to Mergers and Acquisitions*, Price Pritchett writes that workers are likely to go through stages: shock and numbness; suffering, which may include anger; helplessness and apathy; and, finally, resolution.² Stann says she found the popular book *Who Moved My Cheese?*³ to be a helpful tool for staff dealing with change.

Even if you and your library staff are not feeling the pain, someone is. Be kind to them, even if they are not nice to you.

6. EXPLOIT INSTABILITY.

There will be money and resources to be had during the merger; be certain the library gets everything it needs to fulfill its mission. "Do everything quickly while the dust is in the air," Will said. Consider the merger an opportunity to broaden your horizons by becoming familiar with a new practice area or to promote your own career by becoming more active in firm affairs.

7. KNOW WHEN TO FOLD.

If you feel strongly that the newly formed firm is not the place for you, do not stay. Make the decision to leave as early as possible. Give advance notice of your departure. If the decision is made for you, examine any termination agreement carefully and resist pressure to sign one right away. Some terms may be negotiable. Whether you depart because you want to or because of a layoff, leave on the best terms possible, avoiding any displays of anger or bitterness. Remember, the people you leave behind may be in a position to help you in the future.

ENDNOTES:

1 Linda Will and William Kwiatkowski, "Law Firm Merger: A Roadmap through the Minefield." American Association of Law Libraries 95th Annual Meeting and Conference, Orlando, Fla.: July 21, 2002.

2 Price Pritchett. *The Employee Guide to Mergers and Acquisitions*. Dallas, Tex.: Pritchett & Associates.

3 Spencer Johnson. *Who Moved My Cheese?: An A-Mazing Way to Deal with Change in Your Work and in Your Life*. New York, N.Y.: G.P. Putnam's Sons, 1998. ■

EVEN IF YOU AND YOUR LIBRARY STAFF ARE NOT FEELING THE PAIN, SOMEONE IS. BE KIND TO THEM, EVEN IF THEY ARE NOT NICE TO YOU.



FAST...CHEAP...ACCURATE...
GET ALL YOU CAN OUT OF WEB SEARCHING:
2002 JOINT SPRING WORKSHOP WAS RIGHT ON THE MONEY

Dee Clarkin

Federal Deposit Insurance Corp.

ONE OF THE MANY ADVANTAGES OF BEING AN INFORMATION PROFESSIONAL IN THE WASHINGTON, DC AREA IS BEING ABLE TO ATTEND THE JOINT SPRING WORKSHOP — a perennial delight that rolls around with the azaleas. This year's show was another big success for the sponsoring associations: District of Columbia Library Association (DCLA), the Law Librarians' Society of Washington, D.C. (LLSDC), Special Libraries Association, Washington, D.C. Chapter (DC-SLA), and the Federal Library and Information Center Committee (FLICC).

One of the day's themes — cheapness — was evident in that it was a huge bargain to take advantage of Gary Price's wisdom at the workshop rather than traveling to an expensive conference. Price's morning keynote was a thoughtful synopsis of the current issues facing information professionals searching the Web. He explored several themes including the fact that web searching equals research for many people, and the increasing blur between information being placed "on the 'net" versus accessed "via the 'net." Our role is to explain the difference to clients. Price outlined the challenges facing the professional web searcher in the form of multiple choices in retrieving the same or similar information. These choices boil down to a decision of whether to spend time or money. The lesson is that cheapness is certainly relative to a number of factors, including time and accuracy.

Price continued by sharing the depth of his knowledge on the construction of search engines, the ins and outs of using Google, and the advantages of some alternative search engines such as AllTheWeb, MSN Search, and Teoma. The morning's session concluded with a very helpful mini-workshop on the so-called invisible Web. Generously, Price has put his valuable presentation online at: <http://www.freepint.com/gary/jsw2002a.htm>.

Another of the workshop's themes — accuracy — was obvious during the next part of the day. Three subject specialists provided a wealth of high-quality information in their areas of expertise. Jennifer Boettcher of Georgetown University led a valuable talk on business sources. Boettcher exhorted the audience "not to look for zebras," or, in other words, start in the most obvious of places.

Boettcher discussed the value of Google, sources for finding experts, invisible Web tools, various specialized Web pages on finance, marketing, industry, economics, and demographics.

Amy Seif of the Association of American Medical Colleges outlined the potentially life-saving value of finding accurate health information on the Web. Seif's presentation included the ten red flags of junk science, and a list of trustworthy Web sites such as Healthfinder.gov and the New York Online Access to Health (NOAH) site. She completed her presentation with an in-depth discussion on the current web version of Medline.

Gary McCone, of the National Agriculture Library, completed the trio of experts with a comprehensive discussion of Science.gov, the federal Web site providing gateway access to selected U.S. government science and technology information. Science.gov provides a simple and clean interface to authoritative science information, which is similar to Firstgov. The information is clustered around twelve broad subject areas ranging from agriculture to science education.

The third theme of the day — fast — came when Gary Price, assisted by Laura Gordon-Murnane, returned to the podium to present "60 Sites in 60 Minutes: A Web Tour of Quality Tools and Resources." Anyone (including this writer) who has attempted a similar presentation can appreciate how much work it is to compile a high-quality list of sites, organize them into themes, and present the information in a way that does not leave the audience either numbed or dazed. Price succeeded, and his valuable list is still online at: <http://www.freepint.com/gary/jsw/2002d.htm>. The list is unique in that does not just provide the "best of the best" in terms of subject web pages. Instead, it also provides great tools for the busy information professional trying to organize, keep current, and in control of the avalanche of information on the web.

Once again, April in Washington would not be complete without a trip to the Joint Spring Workshop. This year's program was fast, cheap, definitely accurate, and much appreciated by the information community. Not only is the substance of the program always timely and enriching, but it is one of the rare opportunities for librarians of diverse backgrounds to get together. We'll be back next year!



Editor's Note: The author received a free full registration to the 2002 American Association of Law Libraries (AALL) Orlando Conference from the LLSDC Grants & Scholarships Committee.

THE "HOT TOPIC" SELECTED FOR THE 2002 AALL ORLANDO CONVENTION WAS THE USA PATRIOT ACT ("the Act").¹ The Act was introduced by Representative F. James Sensenbrenner on October 23, 2001, and signed into law by President Bush on October 26, 2001, just three days later. The Act increases surveillance activities of law enforcement in its efforts at countering terrorism. Organizations and individuals have already expressed concerns relating to privacy issues and First Amendment rights of citizens. Librarians need to be aware of the implications of the Act on law enforcement, society, and libraries.

Two speakers, Robert E. O'Neill and Rodney Peterson, provided valuable information on this topic. A summary of their presentations from this session follows.

EFFECTS OF THE ACT ON LAW ENFORCEMENT

The first speaker, Robert E. O'Neill, is the Chief of the Criminal Division of the US Attorney's office for the Middle District of Florida. O'Neill has almost twenty years of experience, and his first position upon graduating from law school was Assistant District Attorney in Manhattan.

The events of 9/11 had a great impact on the division between the intelligence community and law enforcement organizations. Prior to the Act, law enforcement could monitor telephone calls through the use of a pen register (a device placed on a telephone that records all outgoing telephone calls), but not the content of these calls. The law enforcement officer would also not necessarily know who is doing the calling. Law enforcement could also use a trap and trace (trap/trace), a device on a telephone which records all incoming telephone calls. Again, the content of the conversation is unknown. A court order is needed to obtain these, and the law enforcement officer need only to affirm that it is relevant to an ongoing inquiry.

The next step is the wiretap order. This is more difficult to obtain from the court, frequently requiring an affidavit of 50 to 75 pages detailing all the steps of the investigation to that point and describing what avenues have been explored. Wiretaps allow access to content, and they require a great deal of work to obtain. As a result, they are not used frequently.

O'Neill identified three areas in which the USA Patriot Act has made changes:

1. AREA OF IMPACT: INTERNET AND COMPUTER TECHNOLOGY

Pen register and trap/trace may now track conversations on the Internet and computers. At this time, it is not clear how this will be accomplished. When the law regarding pen register and trap/trace was introduced in 1986, the Internet and computer systems were not included or even considered. This Act now amends relative statutes to cover line and other facilities used in cell phones, Internet user calls, email, and networked systems. However, it is restricted to non-content; for content, a wiretap order is still required. For computer networks, one can obtain the "from" information, but the "subject" line is considered content and cannot be touched without a wiretap order.

2. AREA OF IMPACT: BROADENED JURISDICTION

Pen register and trap/trace requests are now effective nationwide, and it will no longer be necessary for law enforcement officials to file with each jurisdiction as was previously required. Now, law enforcement need only identify the first carrier and then alert carriers

**HOT TOPIC:
2002 AALL
ORLANDO
CONFERENCE:
THE USA
PATRIOT
ACT AND ITS
IMPLICATIONS
FOR LAW
LIBRARIES**

*Constance P. Dickson
Gibson, Dunn &
Crutcher LLP*

**...LIBRARIANS WILL
NOW SEE FBI AGENTS
IN THEIR LIBRARIES.**

**WASHINGTON
EXPRESS AD**



**THE UNIVERSITY
CAN DISCLOSE SOME
NON-CONTENT
INFORMATION
ABOUT USERS,
BUT IT NEEDS
TO ESTABLISH
INTERNAL
PROCEDURES FOR
DOING THIS.**

down the line of that communication without going to court. If a provider requests it, law enforcement can obtain a written or electronic order authorizing the pen register or trap/trace. Geographic limits no longer exist.

3. AREA OF IMPACT: THE PUBLIC SECTOR

Law enforcement will now be required to submit a special report with the court when using a pen register and/or trap/trace order to install monitoring devices on computers belonging to a public provider. The provider will collect information for the FBI, and if that should that not be possible, the FBI can install its own equipment. In this instance, they must file a statement under seal including the identity of the officers, date, time, access, modifications to configuration, and other information within 30 days.

O'Neill observed that, in order to apply the law as it is today, librarians will now see FBI agents in their libraries. The agents will have a trap/trace court order, and should they fail to provide one, the library has no legal obligation to grant access. O'Neill encouraged preparation instead of reaction.

TLC AD

**EFFECTS OF THE ACT ON CITIZENS
AND LIBRARIES**

The second speaker, Rodney Peterson, addressed the impact the USA Patriot Act will all have on our personal lives and our libraries. Peterson is the Director of Information Technology and Planning in the office of the Vice President and Chief information Officer at the University of Maryland. He participates in Infoguard, a group whose mission is to ensure responsible use of information technology, user education, and enforcement of acceptable use guidelines.

Librarians are faced with the task within our organizations to provide secure computer systems and Internet access and to maximize their effectiveness in our environment. Peterson discussed how the USA Patriot Act impacts these objectives, and current and emerging technology. He also addressed the effect of electronic surveillance on societal values. Peterson answered four additional questions:

1. Who can do it? The USA Patriot Act emphasizes on role of the law enforcement community has drawn criticism. Yet our own staff can do considerable electronic surveillance themselves within our workplaces through the IT department and security cameras.
2. What laws and policies govern it? The Act amends 15 existing laws and is already leading to possible changes in other laws. Additionally, there are layers of state and local laws relating to access to records.
3. When and why surveillance is possible and desirable? We focus now on e-mail, the Web, telephones, but there are other technologies, such as video cameras and electronic card keys. As time passes, what levels of trust and safeguards are needed relating to law enforcement and what of past laws intended to protect citizens, such as the Civil Rights Act.
4. How far should we go? We must address the financial issue of costs related to security, as well as values and the implications this holds for privacy and freedom as well as other civil liberties.

ALREADY UNDER SURVEILLANCE

Peterson underscored the degree to which we are already under surveillance by describing the everyday activities of his typical workday:

1. He logged on to his e-mail before going to work. The server backs up the e-mail, until the IT department deletes it. In addition, he has a cable internet service provider.
2. He has cable TV, and what he watches might be of some interest to others. (The USA Patriot Act now makes it possible to obtain



this information.)

3. He drives to the office and passes a number of intersections which have video cameras which record red light runners; once on campus, there are video surveillance cameras in buildings and parking lots.
4. He logs on to his laptop, into the university system; he accesses the Internet.
5. He goes to the Library where there are video cameras and records are kept of the books he checks out.
6. He uses his cell phone.
7. Home once again, he spends part of the day telecommuting and the university knows what his access points are.
8. He goes to the airport and through airport security, checks into the hotel with a key card, and once again checks his e-mail through the hotel system.

TENSIONS IN SOCIETY – DUE PROCESS & CRIME CONTROL

Peterson identified forces and tensions in our society that evolve around due process and crime control. There are ongoing debates and exchanges and a wide range of opinions on

these topics: responsibilities versus rights, privacy versus surveillance, monitoring versus secrecy, accountability versus autonomy, consequences versus free will, restrictions versus mobility, and safety versus danger.

On the topic of security versus an open system, the computer has become an important tool and a new ingredient in the equation, especially where discussions focus on identifying the level of security needed. Hackers have no authorization to hack into another system, but the problem is that the Department of Justice and law enforcement cannot monitor hackers without an order and the consent of the victim.

DISCLOSURE IN THE ACADEMIC SETTING

Contractual relations between a university and faculty, patrons, students, staff, all have a deeper relationship. Under the Act, many provisions for communications service providers are permissive. The university can disclose some non-content information about users, but it needs to establish internal procedures for doing this. This requires developing policy on the appropriate response to such questions as: what is the organization's protocol to deal with the

A FUNDAMENTAL SHIFT HAS TAKEN PLACE IN OUR SOCIETY.

WESTLAW AD



HEIN AD

FBI; who is the person to respond to requests; is the protocol in place and the policy in force; what kind of evidence might be collected (e.g., computer files, disks, computer workstation, laptop, enterprise servers)? To assist in formulating answers and developing policies to these questions, Peterson advised that legal counsel should be used whenever it is available.

Once these policies become effective, the following steps should be taken:

1. Notify users when a policy has been developed and adopted. This will provide a level of privacy expectation and of use.
2. When disclosing account information, the policy should be explicit as to who is the custodian and who has authorization to disclose the information.
3. For records, develop a retention policy that defines how long and how much to retain and who is responsible. Organizations keep logs for convenience rather than good policy. One does not have to provide access to materials that one does not have.
4. Respond to computer crime. A computer trespass provision is more than just about law enforcement. We have an interest in providing privacy within our institutions.

A fundamental shift has taken place in our society. It is no longer our systems versus their system, but it is our systems that can be used to destroy other people's systems, whether it is a PC in the library, an anonymous access to perpetrate a crime, or other serious disruption. The possibility of someone in another country remotely accessing our system to threaten or to harm others underscores how the issue of computer security is being played out in the post 9/11 era.

The problem we face today is maintaining academic freedom of inquiry while at the same time preventing the large scale computing power of universities from experiencing a service attack or other malicious activity.

CONCLUSION

The selection of the USA Patriot Act as the "hot topic" at the 2002 AALL Orlando conference and the presentations by O'Neill and Peterson underline the impact of this Act on law enforcement, society, and libraries. For more information, see the AALL Washington Affairs Web site at <http://www.ll.georgetown.edu/aallwash/>.

ENDNOTES

- 1 Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, Pub. L. No. 107-56, 115 Stat. 272 (2001). ■



WHAT "DEWEY" WE DO WITH ALL THIS STUFF? CLEAN OUT THE PRIZE CLOSET WITH A CONTEST!

*Bill Grady, Paul, Hastings, Janofsky and Walker LLP Library and
Mary Grady, U.S. Environmental Protection Agency Law Library*

I am sure you have accumulated piles of stuff in the corners of your offices from Lexis and Westlaw and all those other publishers. At Paul, Hastings, we had on hand: bags, briefcases (plastic and leatherette), mugs, cups, calculators, picture frames, clocks, stress balls, and hats. Everything, in short, except the kitchen sink. (The sink I got from Lexis I took home.)

If you have enough prizes to make it interesting, spring a contest on your unsuspecting firms. No occasion is needed. No need to wait for National Library Week. A surprise contest is great. Just "Dewey" it. We guarantee it will build morale and clear out the leftover AALL Convention premiums you no longer want. And it's lots of fun.

Not enough prizes on hand? Maybe you can even extort a few from your reps. (But don't tell them I suggested that.)

When I first ran the contest at Paul Hastings, I strove for the fastest response times with the least work for the contestants. When Mary ran it at EPA, she formalized the structure with a point scale. Her version actually required some Internet work to win, but responses still arrived in less than 30 minutes. We accepted only email responses because the email systems record the time the messages were sent.

THE RULES:

Read the Rules Carefully: You might lose points unless you follow instructions:

1. The only source you may use to answer the questions is the Internet. (Lexis and Westlaw are forbidden.)
2. You have to provide the full names of individuals (First and Last). You can score an extra ? point by giving middle names.
3. You have to provide the URL of the web page where you located the information.
4. Only email responses are accepted.
5. Unless specified, each question is worth one point.

THE CONTEST:

QUESTION 1: Who invented the most widely used library book classification system?

QUESTION 2: Who commanded the American Fleet in the Battle of Manila Bay in 1898?

QUESTION 3: Who is the brother of Huey and Louie and the nephew of Donald?

QUESTION 4: Who lost to Truman in the 1948 Presidential election?

QUESTION 5: What beach is just south of Rehoboth Beach, Delaware? (One point) Who is it named for? (One point)

QUESTION 6: Who is the American philosopher and educator, author of such titles as "The School and Society" and portrayed on a 30 cents U.S. postage stamp in 1968?

TIE BREAKER: In the song, who was born on a mountaintop in Tennessee and killed him a bear when he was only three? (Hint: it is not Dewey.)

SCORING:

The only Deweys with middle names are Thomas and Melville (or Melvil). Mary felt bad about the time some contestants wasted looking for nonexistent middle names.

Dewey Duck presents an interesting problem in scoring. Since he is a developing character in the funny papers, comic books, the silver screen and TV, what actually *is* his name? Walt Disney apparently didn't study with Melville Dewey and has no authority file for names of his characters. Be prepared for Dewey Duck, Deuteronomy D. Duck or variations thereof.

I threw the Davy Crockett question in as a joke, but a diligent and literal-minded Internet search will reveal that D. Crockett was not born on a mountaintop, but along a creek bank, so be sure to refer to the song!

This yields a perfect score of 9 ? points if you accept Deuteronomy D. Duck as little Dewey's full name (including middle initial) and the additional Davy Crockett tiebreaker answer.

Perhaps you can discover some additional significant Deweys to add to the quiz. It just so happened when Mary was running her contest that one of EPA's summer law clerks was named Scott Dewey and Scott became the tiebreaker. He proved to be a very popular person for a couple of days as contestants tried to track him down to find out his middle name.

Have fun and Do the Dewey!

HOT TOPIC
A RESEARCH
GUIDE TO
THE FEDERAL
REGISTER AND
THE CODE
OF FEDERAL
REGULATIONS

Rick McKinney
Federal Reserve Board
Law Library

**THE FEDERAL
REGISTER ACT
REQUIRES THAT
THE FEDERAL
REGISTER, BEGUN
ON MARCH 14, 1936,
BE THE FEDERAL
GOVERNMENT'S
PRINCIPLE VEHICLE
IN PUBLISHING
ALL AGENCY
PROMULGATED
RULES AND
REGULATIONS...**

HISTORICAL DEVELOPMENT OF THE
FEDERAL REGISTER

In earlier times U.S. Executive branch agencies and the Office of the President would each publish their own regulations in various separate publications—gazettes, bulletins, rulings, digests, pamphlets, notices, codes, certificates, orders, etc. This profusion of authoritative documents, especially as agency regulations began to mushroom in the 1930's, made it extremely difficult for the public to determine where a U.S. regulation could be found, when it was issued, and whether it had been altered or revoked.¹ The U.S. Department of Justice itself had a difficult time determining the status of regulations as became embarrassingly apparent when the Department had to acknowledge before the Supreme Court that an Executive order it was trying to enforce had been inadvertently revoked.² To remedy this situation Congress passed the Federal Register Act in 1935, which empowered the Archivist of the United States to establish a division within the National Archives to be responsible, with the Government Printing Office, for the publication of a daily *Federal Register* under the authority of a newly established Administrative Committee of the Federal Register.³

The Federal Register Act requires that the *Federal Register*, begun on March 14, 1936, be the Federal government's principle vehicle in publishing all agency promulgated rules and regulations as well as all Presidential proclamations, executive orders, or other such documents that the President determines has general applicability and legal effect or as may be required by Act of Congress. Other documents, such as notices of meetings, agency collection activities, applications, and policy statements may be included as well. However, the law does not permit the publication of comments or news items in the Federal Register.⁴ After the enactment of the Administrative Procedures Act in 1946, notices of proposed rulemaking are now also required to be published.⁵ The proposed rules are to be accompanied by a description of the subject and issues involved and from 1947 to 1972 these descriptions in the preamble to the proposed rules were about the only place to find an explanation or rationale for a rule.

Beginning in the 1960's finalized rules began to be accompanied in the *Federal Register* by brief explanations, usually just after the text of the rule, but it was not until 1973 that final rules were required by the Administrative Committee of the Federal Register to have in

their preamble to the rule a statement summarizing the general subject matter of the rule.⁶ A rule effective on April 1, 1977, requires that comments to proposed rules and answers to them be summarized in the preamble before the rule, and it also requires that agencies submit their final and proposed rules with specific preamble heading material.⁷

HISTORICAL DEVELOPMENT OF THE CODE
OF FEDERAL REGULATIONS

The Federal Register Act originally provided, within six months, for a complete compilation of all existing regulations promulgated prior to the first publication of the *Federal Register*. However, this was deemed inefficient, and instead of a "compilation" of existing regulations, the Federal Register Act was amended in 1937 to provide a "codification" of all regulations every five years.⁸ A six member Codification Board was established which determined the precise structure of the new *Code of Federal Regulations* (CFR). A similar organization to the *United States Code* (USC) was followed by the Board so that a majority of the 50 titles to the CFR (some held in reserve) have similar alphabetically arranged subject categories and title numbers to that of the 50 titles in the USC.⁹

The first edition of the CFR was published in 1938 and included all finalized regulations that were published in the *Federal Register* from March 14, 1936 to June 1, 1938, as well as those agency regulations deposited with the Archivist, and still in effect, that may have been published by the agencies before March 14, 1936. Source notes in the first edition of the CFR are to pages in the rebound edition (1936-1938) of the *Federal Register*, not to the original pages in the daily edition.

Supplements to the first edition of the CFR were published for the period beginning on June 1, 1938 to the end of 1938 (in 1 vol.), and for the years 1939 (in 2 vols.), 1940 (in 4 vols.), and 1941 (in 4 vols.). Due to the war effort, there was no 1942 supplement and the new CFR edition that was supposed to come out in 1943 was instead replaced with a cumulative supplement (in 10 vols.) that covered regulations still in force and published in the *Federal Register* from June 1, 1938 to June 1, 1943. This publication was an adjunct to the original 1938 edition, not a replacement. Supplements were again published for the period to the end of 1943 (in 2 vols.), for 1944 (in 3 vols.), for 1945 (in 4 vols.), for 1946 (in 6 vols.) and for 1947 (in 5 vols.). A supplement



was not published for 1948, “because preparations were being made for the second edition of the CFR to replace the 1938 codification and the 1943 update.”¹⁰

In 1949, the second edition of the *Code of Federal Regulations* was finally published. It included all the regulations still in effect as of January 1, 1949, and was largely taken from the 1938 edition, the supplements, and the regulations issued in the *Federal Register* in 1948. However, there were some additional regulations added that were not published in the *Federal Register*. These were generally either rules of procedure or rules received by the Division of the Federal Register and considered as officially promulgated and applicable to the general public or a class of the public and effective on or after January 1, 1949.¹¹ Each book of the 1949 CFR, containing one or more titles, also had a subject index and a place at the back to fit a cumulative pocket supplement. Cumulative pocket supplements were issued annually for each book until it was deemed appropriate that a new edition of a particular book should be published with space in the back for subsequent pocket supplements. Each supplement also contained various finding aids, including a “Codification Guide” or “List of Sections Affected” as it was later called.

After considerable discussion on the best way to proceed, beginning in 1963 for some titles and for all titles in 1967, the Office of the Federal Register (OFR)¹² began publishing yearly revisions to the titles of the CFR, effective on January 1 of each year. The new books were bound in soft covered, dark blue paper stock, but beginning in 1970 each annual edition of the CFR has a different color on its outside binding. If there are no changes to regulations in certain books then a colored paper stock is issued so it can be used to cover the older edition. Although ponderous in size, an annual republication of the CFR in softbound books, instead of cumulative supplements or loose-leaves, allows the researcher to determine how a regulation read on any given date.¹³

Soon, however, it became apparent to the OFR that revising the entire *Code of Federal Regulations*, at the same time, was administratively unmanageable. So beginning on October 1, 1972, the OFR has divided the titles of the CFR into four groups with each group being revised in staggered quarters of the year. Titles 1-16 are revised effectively on January 1 of each year. Titles 17-27 are revised effectively on April 1 of each year. Titles 28-41 are

revised effectively on July 1 of each year, and titles 42-50 are revised effectively on October 1 of each year.

CONTENTS AND ORGANIZATION OF THE FEDERAL REGISTER AND CFR

The daily *Federal Register* is generally divided into three large sections consisting of “Rules and Regulations,” “Proposed Rules,” and “Notices.” These three groups are sandwiched between a title page and table of contents in the front (with pages numbered in uppercase Roman numerals) and certain reader aids in the back (with pages numbered as lower case Roman numerals). Frequently, major proposed and final rules are published with their own title page and published as various parts (starting at Part II) in the back of an issue after the “Notices” section. Presidential proclamations and Executive orders are generally published just before the “Rules and Regulations” section unless a Presidential Documents section is assigned its own part. In this case it will be published in the back, just before the “Reader Aids” section.¹⁴

Since 1977 preambles to final and proposed rules have been required to contain certain headings and related material including the name of the agency, a brief line on the action being taken, a summary of the rule, the effective date of the rule (or date when comments are due), contact information, and supplementary information.¹⁵ The supplementary information frequently provides a discussion of the background and need for the regulation, and in the case of a final rule how it differs from the proposed rule as well as responses to comments made on the proposed rule.

Unless there are certain problems with a document, it is generally published three working days after it is received by the OFR,¹⁶ which is normally about a week after an agency approves the document. A newly approved regulation can usually be found on an agency’s public Web page before it is published in the *Federal Register*. However, the effective date of a rule, which is required, with some exceptions, to be not less than 30 days after publication, is generally based on when it is published in the *Federal Register*.¹⁷

The Administrative Procedure Act, as amended by the Freedom of Information Act, requires that certain documents be published in the *Federal Register*.¹⁸ These include substantive rules and interpretations of general applicability, statements of general policy, rules of prac-

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STATEMENTS.**

tice and procedure, descriptions of agency forms, rules of organization, descriptions of an agency's central and field organization, and amendments or revisions to the foregoing.¹⁹ Matters of national secrecy or those relating to an agency's internal management have always been exempted from publication.²⁰ The Administrative Procedure Act also requires notice of proposed rulemaking to be published in the *Federal Register* with the exception of 1) a substantive rule which grants or recognizes an exemption or relieves a restriction; 2) interpretive rules and statements of policy; or 3) as otherwise provided by the agency for good cause found and published with the rule.²¹

To assist Federal agencies in preparing documents to be published in the *Federal Register* the OFR has published a *Document Drafting Handbook*. The *Handbook* makes no distinctions between the word "rule" from the word "regulation," but pursuant to the Administrative Procedure Act, it does make a clear distinction between a final rule and a proposed rule, and also attempts to clarify the kinds of documents that are considered rules and regulations, proposed rules, and notices.²² In addition, the *Handbook* allows for the publication of interim or temporary rules that are effective immediately for a short period or for a definable period of time with comments solicited for later consideration.²³ Because U.S. courts generally defer to Federal agency rules that have gone through notice-and-comment rulemaking requirements, it makes a difference in the authority of an interim rule, policy statement, or interpretation, if they have not gone through such a process.²⁴

Unlike the *Federal Register*, the *Code of Federal Regulations* does not contain preambles, proposed rules, notices, or even general policy statements. It only contains the finalized and effective rules of Federal agencies as well as any related official interpretations or supplements to those rules. These rules are organized by subject matter into CFR titles, chapters, parts, and sections. Generally an agency's rules are all placed under one title or chapter. However, unlike most of the *United States Code*, sections or parts of the CFR that have been rescinded are frequently reused as a publishing vehicle for new unrelated regulations. CFR titles are published annually according to a staggered schedule (see above) and finalized rules in the *Federal Register* update the annual rules published in the CFR.

Title 3 of the CFR contains all the Presidential proclamations and Executive orders

issued that year and as such, it is not updated like agency rules. Libraries are wise to retain this Title indefinitely. A one volume *Codification of Presidential Proclamations and Executive Orders* was last issued in 1990 and covered the period 1945-1989. The OFR on its Web site now maintains an online disposition table for executive orders issued from 1937 to the present.²⁵ Beginning with the Clinton Administration the Executive orders on that Web site are also available in full text.

ELECTRONIC SOURCES OF THE FEDERAL REGISTER AND CFR

There are a number of electronic sources to the *Federal Register* and CFR. GPO Access, for instance, has the *Federal Register* from 1994 forward with portable document format (PDF) copies from 1995 forward, and it has annual CFR issues with PDF copies from 1997 forward. Both LexisNexis and Westlaw have the *Federal Register* online from July 1, 1980, with citation retrieval capability and with all pages noted in versions after 1992. Lexis has the CFR editions back to 1981 and Westlaw has them back to 1984. They both have citation retrieval capability for sections in the current CFR. Dialog has the *Federal Register* from 1985 forward, OnCongress.CQ.com has it from 1990 forward, and GalleryWatch.com has it from 1999 forward.

GPO Access has a new "Electronic Code of Federal Regulations (e-CFR)" service under development which gives you CFR sections in their current form with any recent amendments from the *Federal Register* already incorporated.²⁶ The e-CFR service is updated daily and also allows you to separately view appendices and supplements to CFR parts, instead of having them tacked together onto the concluding final section of a part of the CFR. Other similar electronic CFR updating services include QuicklawAmerica.com (updated within 48 hours), Lexis (updated within two weeks), and Westlaw (updated within three weeks). Portions of the CFR are also available from other commercial vendors in selected subject areas.

In a new development, the William S. Hein & Co., Inc., is currently optically scanning older issues of the *Federal Register* and will be placing them on its Hein OnLine service.²⁷ The service will have browse capability, citation retrieval capability, and even word search capability of the unedited optically scanned text. It will also have the annual *Federal Register Index* and the "List of CFR Sections Affected". The project timetable first calls for optical-



ly scanning the *Federal Register* from 1970 to 1980, which will be done by the fall of 2002, then to optically scan the *Register* back from 1969 to 1936, and finally to complete the project by optically scanning the *Register* from 1981 to the present. The entire project should be completed in 2004, but certain portions completed earlier will be available sooner.

FINDING OLDER ISSUES OF THE FEDERAL REGISTER AND CFR

The *Federal Register* has been published daily each federal working day²⁸ since 1936 on newspaper quality paper. Only the earliest issues, from March 14, 1936 to June 1, 1938, were republished on better quality paper and repaginated in a bound form much like the bound form of the *Congressional Record*. A few libraries hold the entire *Federal Register* set in paper form and continue to bind the daily editions like other periodicals,²⁹ but most have discarded their paper copies in favor of microfilm or microfiche. The annual *Federal Register Index* is generally retained by libraries having microform copies. Federal depository libraries, academic law libraries, and Federal agency libraries are all good sources for finding older issues of the *Federal Register* and the *Code of Federal Regulations*, but they may not have complete sets. Searching for the titles on OCLC may help you locate libraries that have the years and titles that you are interested in obtaining.

The William S. Hein & Co., Inc. and LexisNexis Academic and Library Solutions (LNALS, formerly known as CIS - the Congressional Information Service) both sell microfiche copies of the *Federal Register* from 1936 to the present. With the Hein subscription comes a hard copy of the annual *Federal Register Index* (albeit somewhat reduced in size). LNALS also sells the annual CFR (or its annual supplements) in microfiche from 1938 to the present. In the near future Hein OnLine will have available, by optical scan method, the entire *Federal Register* series in electronic format (see above).

CITATIONS AND ID NUMBERS TO THE FEDERAL REGISTER AND CFR

The OFR cites to the *Federal Register* by employing the volume number, the publication abbreviation "FR", and the beginning page number on which the document or the regulation within the document begins, as well as the date of publication. An example would be "67 FR 49264, July 30, 2002." *The Bluebook*³⁰ uses more detail,

including the name of the regulation, the volume number, the abbreviation "Fed. Reg.," as well as the publication date and where the document is to be codified, e.g. "National Coastal Wetlands Conservation Grant Program, 67 Fed. Reg. 49264 (July 30, 2002) (to be codified at 50 C.F.R. pt. 84)." A document can be obtained by citation method on either Lexis or Westlaw by using an FR cite method without reference to a date or codified cite.

Citations to the CFR are cited in the *Federal Register* with the title number, the abbreviation CFR, the word "part" or the symbol "§" for section and the number of the part or section, e.g. 12 CFR part 220 or 12 CFR §220.1. The *Bluebook* citation method is similar to the above, but it requires you use periods in "C.F.R." and the issue year of the C.F.R. title as well, e.g. 12 C.F.R. pt. 220 (1999). By just using a simple CFR part or section citation, a current year's CFR document can be obtained on Westlaw.

Besides citations, there are several identification numbers to *Federal Register* documents. These include the agency docket number found at the beginning of the regulation (the same number is used for the proposed and final rule) or the *Federal Register* document number found at the end of the regulation (unique for each document published, including notices). The Web version of the *Federal Register* on GPO Access uses the unique FR Document number for its URLs and one that utilizes the date.

Another identification number to some regulations is the RIN or regulation identification number found at the top of the document right underneath the agency docket number. RIN numbers are assigned to descriptions/status reports of agency regulations under development and published twice a year in the *Federal Register* during April and October pursuant to the Regulatory Flexibility Act and Executive Order 12866. GPO Access does not include this semi-annual publication in its online version of the *Federal Register*, but places it separately in its multi-database search facility under the term *Unified Agenda*.

INDEXING TO THE FEDERAL REGISTER AND CFR

Since its inception in 1936, the *Federal Register* has always been accompanied by an annual *Federal Register Index*. The *Index* is organized by agency (or subsidiary agency) and then within the agency index there are three groups—rules and regulations, proposed rules, and notices, which are then broken down into alphabetical-

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**GPO ACCESS HAS
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REGULATIONS
(E-CFR)" SERVICE
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MENT WHICH GIVES
YOU CFR SECTIONS
IN THEIR CURRENT
FORM...**

ly arranged subjects. Within the main index are scattered subjects referencing the appropriate agency or agencies dealing with those particular subjects. Cites in the *Index* are to page numbers only, but in the back of the publication there is table with corresponding dates. A cumulative monthly issue is also published, with the final January-December issue of each year becoming the annual index. From 1984-1998 the Congressional Information Service (CIS - now called LexisNexis Academic and Library Solutions) published a more detailed annual index entitled *CIS Federal Register Index*.

The Office of the Federal Register also prepares and publishes an annual *CFR Index and Finding Aids*. The "Index" portion of the publication is organized by detailed subjects with references to CFR parts. The "Findings Aids" portion is divided into four sections including the following titles: "List of Agency-Prepared Indexes Appearing in Individual CFR Volumes;" "Parallel Table of Authorities and Rules;" "List of CFR Titles, Chapters, Subchapters, and Parts;" and "Alphabetical List of Agencies Appearing in the CFR." Particularly helpful is the parallel authorities section, which provides CFR cites to regulations from various legal authorities that are organized by U.S.C. section, U.S. statute page number, Presidential proclamation number, and Executive order number. From 1949 to 1963 a specialized index was published in the back of each book of the CFR, which sometimes covered one or multiple titles of the CFR, and since 1975 a few agencies (see list in the *Index*) have prepared an agency index that is published along with their regulations in the CFR.

The *Index and Finding Aids* is also reproduced annually as part of the *United States Code Service: Lawyer's Edition* published by Lexis Publishing, and a more detailed *Index to the Code of Federal Regulations* is published quarterly by LexisNexis Academic and Library Solutions.³¹

Another related index is *Shepard's Code of Federal Regulations Citations*. Published by Lexis Publishing and organized by CFR section, it includes citations to judicial interpretations and treatments of regulations in federal courts since about 1949. It also cites to state court decisions and law reviews since 1977, and provides related cites to ALR annotations as well. Reference notes to sections in both the *United States Code Service* and the *United States Code Annotated* also cite to related CFR sections. However, it is important to note that authorities cited in sections of the CFR itself are often

citations to broad policies and laws that may or may not appear in any index or reference note.

LIST OF CFR SECTIONS AFFECTED

Finally, no article on the *Federal Register* and CFR would be complete without making reference to the *List of CFR Sections Affected* (LSA).³² The LSA began in 1950 by being placed in the cumulative pocket supplements to the 1949 edition of the CFR. It is organized by CFR title and part and contains page references to the annual *Federal Register* volumes that publish changes to final and proposed rules in the CFR. The changes referenced include final and proposed amendments, revocations, or newly established regulations published in the *Federal Register*. The LSA makes it easier for researchers to track the development and ascertain the currency of particular regulations. This kind of regulatory history tracking is more difficult for early documents published in the *Federal Register* before 1949, as those did not note what the corresponding CFR citations were. Before 1964 LSA was simply called *List of Sections Affected* and contained little information on how a CFR was affected. Since 1964 LSA has provided section-by-section information on how CFR parts were affected. However, LSA provides minimal details on proposed rules (and IRS final rules), and only notes that a certain part is affected.

Beginning in 1963, monthly and annual issues of the LSA were published instead of being inserted into cumulative pocket supplements. The cumulative January-December issue of the LSA would then be designated as the annual issue for the volume. In 1972 the titles of the CFR began to be published with staggered effective dates and after that time certain monthly issues of the LSA would be designated as the annual issue for certain titles of the CFR (December issue for Titles 1-16, March issue for Titles 17-27, June issue for Titles 28-41, and September issue for Titles 42-50). Subscribers are instructed to save the four annual LSA issues and sometimes other months as well. GPO has also published several multi-year volumes of the LSA, including volumes covering the periods 1949-1963, 1964-1972, 1973-1985, and 1986-2000. These multi-volume sets are arranged by CFR title and then by year within those titles.

In the "Readers Aids" section of each issue of the daily *Federal Register* there is a cumulative list of CFR parts affected that month. A current cumulative list for the month can be found in the most recent issue of the *Federal*



Register and earlier monthly cumulative lists can be found on the last day of the month that a *Federal Register* was issued. It is possible to determine the currency of a CFR part by reviewing the annual CFR together with the most recent monthly LSA supplemented by the most recent *Federal Register*.

LSA is also available on GPO Access from 1997 to the present.³³ GPO Access now offers a prototype electronic service called e-CFR that updates the regulatory text on a daily basis. Similar electronic updated text services are available commercially (see above). Some libraries continue to retain all four of the LSA's that complete a year's cumulative listings. Other libraries now rely on the multi-volume LSA as well as the LSA on GPO Access, the annual *Federal Register Index*, and electronic searching of the *Federal Register*.

A final caution in conducting research using the LSA is that parts to the CFR, which have been rescinded by a Federal agency, may be reused by an agency at a latter time for any newly established regulation on a totally different subject matter.

CONCLUSION

Although not perfect, the *Federal Register* and the CFR appear to have met their original purpose of providing the public with a comprehensive publication vehicle for all the regulations issued by Federal agencies and the President. The *Federal Register*, faithfully prepared and published every workday since 1936, and the annual *Code of Federal Regulations* which it supplements, are considered to be the core documents of the Executive Branch of the U.S. Government, and as such have become indispensable to the Government's operations and to its communication to the public which it serves.

ENDNOTES:

- 1 See generally Griswold, E.N. *Government in ignorance of the law; a plea for better publication of executive legislation*. 48 Harv. L. Rev. 198-215 (1934).
- 2 *Panama Refining Co. v. Ryan*, 293 U.S. 388 (1935).
- 3 Act of July 26, 1935; ch. 417, 49 Stat. 500-503, (current version at 44 U.S.C. §§1501-1511 (2000)).
- 4 44 U.S.C. §1505.
- 5 Act of June 11, 1946, ch. 324, §4, 60 Stat. 237, 239 (current version at 5 U.S.C. §553 (2000)).
- 6 37 Fed. Reg. 23602 (Nov. 4, 1972) (codified at 1 C.F.R. pts. 1-22).
- 7 41 Fed. Reg. 56624 (Dec. 29, 1976) (codified at C.F.R. §18.2).
- 8 Act of June 19, 1937, ch. 369, 50 Stat. 304-305.
- 9 Similar subject categories and title numbers between the CFR and the USC include titles 1, 3, 5, 7, 8, 12, 15, 19, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 33, 38, 39, 41, 42, 43, 46, 47, and 49.
- 10 Jablonski, Sandra. *The Federal Register and the Code of*

Federal Regulations, p. 1. Draft paper prepared for an LLSDC Legislative SIS presentation on February 29, 1996 (published on the LLSDC Web site at <http://www.llsdc.org/sis/legislative/fr-cfr-1996.pdf>).

11 *Id.*, p. 2.

12 The Division of the Federal Register was renamed the Office of the Federal Register on February 6, 1959.

13 For past discussions on the proper way to publish the CFR see Factor, *Modernizing federal regulations publications*, 21 Fed. B. J. 219 (1961); Eberhart, *A modern approach to making federal regulations available*, 22 Fed. B. J. 32 (1962); and *Federal register and the Code of federal regulations - a reappraisal*, 80 Harv. L. Rev. 439 (1966).

14 From May 1, 1971 to February 19, 1982, a highlights section preceded the daily table of contents section. Currently a section on "CFR Parts Affected in this Issue" follows the table of contents section and the "Reader Aids" section in the back includes customer service and electronic information, pages covered during the month, CFR parts affected during the month, a list of rules going into effect during the month, a list of comments due during the next week, a list of new public laws, and a notice on how to receive information about new public laws electronically. A good overview of the *Federal Register* can be found in the OFR publication, *The federal register: what it is and how to use it*, last revised in 1992.

15 1 C.F.R. §18.2.

16 See publishing schedule at 1 C.F.R. §17.2.

17 5 U.S.C. §553(d) and 1 C.F.R. §18.17.

18 The Administrative Procedure Act (1946) was amended by the Freedom of Information Act (FOIA, Pub. L. No. 89-487, July 4, 1966, 80 Stat. 250) with an effective date of July 4, 1967. However, on September 6, 1966, Title 5 of the U.S. Code was codified into positive law by Pub. L. No. 89-554 without the FOIA amendments. Consequently on June 5, 1967 Pub. L. No. 90-23 was enacted to codify the Freedom of Information Act as section 552 of Title 5 of the U.S. Code. Note that unlike most codifications, which utilize unused sections of the U.S. Code, sections 501-559 of Title 5, which was assigned to the Administrative Procedure Act, had been assigned to unrelated subjects before the Title was codified into positive law.

19 5 U.S.C. §552(a)(1).

20 5 U.S.C. §552(b)(1) & (2).

21 5 U.S.C. §553(b).

22 Office of the Federal Register, *Document Drafting Handbook*, Oct. 1998 revision, available electronically at http://www.archives.gov/federal_register/document_drafting_handbook/read.html. See particularly sections 1.1, 2.1, and 3.1.

23 *Id.*, sec. 2.1.

24 For discussion of these issues see the Spring 2002 (v. 54, No. 2) issue of *Administrative Law Review*; particularly noteworthy is the article by William Funk, *When is a "rule" a regulation? Marking a clear line between nonlegislative rules and legislative rules*, 54 Admin. L. Rev. 639-671 (2002).

25 See http://www.archives.gov/federal_register/executive_orders/disposition_tables.html.

26 See <http://www.access.gpo.gov/ecfr/>.

27 See <http://www.HeinOnline.org/>.

28 From 1936 through 1972 publication of the *Federal Register* occurred on the day after it was prepared, including Saturdays, but not Sundays and Mondays or the day after federal holidays. Since 1973 publication has occurred Mondays through Fridays, but not on holidays.

29 Libraries with a complete set and known by the author to bind the paper edition of the *Federal Register* include Office of the Federal Register Library, the Department of Interior Library, and the Law Library of Congress.

30 *The bluebook: a uniform system of citation, seventeenth edition*, 2000, p. 96., Harvard Law Review Association.

31 See <http://www.lexisnexis.com/academic/3cis/cise/IndexCodeFederalRegulations.htm>.

32 Before 1964 the LSA was just called "List of Sections Affected"

33 See <http://www.access.gpo.gov/nara/browselsa.html>. ■

THE FEDERAL REGISTER, FAITHFULLY PREPARED AND PUBLISHED EVERY WORKDAY SINCE 1936, AND THE ANNUAL CODE OF FEDERAL REGULATIONS WHICH IT SUPPLEMENTS, ARE CONSIDERED TO BE THE CORE DOCUMENTS OF THE EXECUTIVE BRANCH OF THE U.S. GOVERNMENT...



THE FIRM LIBRARY'S ROLE IN CONFLICTS

David S. Mao
Covington & Burling

**...LIBRARIANS
ARE TRAINED TO
ASK THE RIGHT
QUESTIONS...**

IT IS A WELL-ESTABLISHED GENERAL PRINCIPLE THAT A LAWYER MAY NOT REPRESENT A CURRENT CLIENT ADVERSE TO ANOTHER CURRENT CLIENT unless — at a minimum — both clients consent to or waive any conflict after full disclosure. Almost all law firms today use some sort of process to check potential conflicts in order to comply with this principle. A conflict check means checking to see if any party (client, adverse, co-party, etc.) to a firm's proposed representation is currently a party to another pending firm matter that would create a potential conflict of interest for the firm. In addition to current client conflicts, other types of potential conflicts include former-client conflicts (e.g., matter-specific and information-specific cases); personal or business conflicts (conflicts between the client and lawyer's or firm's own interests); and issue or positional conflicts (a lawyer or firm represents on behalf of one client a position adverse to the position of another client).

With today's many conglomerate and multi-practice firms, keeping track of all current and previous matters is a challenging task. The increasingly complex corporate relationships of many companies make conflict checks difficult. Searching for precise related-entity information often requires time-consuming and exhaustive research. In many firms, the accounting or records department usually handles conflict checks. After all, conflict information is based upon general client information maintained by these departments. Nonetheless, many firms now include conflict checking as part of the library's work.

WHY THE LIBRARY SHOULD BE INVOLVED

Why should the library be involved in a firm's conflict checking process? Perhaps the most important reason is that librarians are trained to perform research. Second, librarians are trained to ask the right questions (e.g., the reference interview). Third, conducting exhaustive research requires a myriad of resources. Many resources used to research company information are housed in the library. Finally, the library can offer a critical check and balance to information compiled and maintained by other departments. All of these factors suggest that the library should be intimately involved in a firm's conflict checking process.

Librarians are the experts when it comes to conducting research. Often when performing a conflict check, one must search for additional information to make an accurate decision. For

example, suppose one is asked to check the name The Hertz Corporation (a car rental company) for possible conflicts because a firm client wants to sue Hertz. A search of the company name through the firm's conflicts database does not reveal any entries. Thus, initially, there does not appear to be a conflict. However, in doing further research into Hertz's corporate family tree, one discovers that Hertz is a subsidiary of Ford Motor Company. Moreover, what if Gentle Winds Reinsurance, Ltd. (another Ford subsidiary) is a current and very active client of the firm? One can conclude that there may be a potential conflict of interest. Certainly, other factors—including the type of work involved in both the current and potential matters, and whether or not there are waivers—will dictate if there is an actual conflict. Only through such accurate and thorough research could one determine this potential conflict. As trained researchers, librarians are best-suited to conduct this type of work.

Librarians also are trained to conduct reference interviews. Experienced reference librarians will quickly agree that patrons — especially lawyers — often provide inaccurate or incomplete information when seeking research help. Adept at conducting the reference interview, librarians know what questions to ask. When asked to check conflicts for particular names, librarians can develop follow-up questions ranging from the simple to the complex. For example, suppose one is asked to check the name "ABC" for potential conflicts. The obvious question is which ABC? Is it ABC, Inc. the television network, or is it ABC Bancorp, or ABC Technologies, Inc.? Sometimes the questions may not be so obvious. What if a third-party in a matter is potentially both an ally and an adverse party? In a complex, multi-party financial transaction, for example, the various parties' relationships may not be as simple as "for" and "against." An experienced librarian will know to ask for more information about these relationships in order to make a proper determination of potential conflicts.

Libraries are the best place to conduct conflicts research. As noted above, conflict research often involves in-depth investigation. To conduct corporate or business research, a librarian may need to consult sources such as *The Directory of Corporate Affiliations* or *Standard and Poor's Register of Corporations, Directors and Executives*. These resources generally are available in the library. In addition to traditional print sources, many popular resources are



now available electronically. Online services such as Hoover's, Lexis-Nexis, and Dun & Bradstreet all offer various corporate research information products. Often the library is delegated the task of subscribing to and keeping abreast of these various electronic sources. Thus, the library and librarians clearly are in the best position to provide the resources necessary to conduct extensive conflict research.

Librarians' critical eyes and organizational skills offer a valuable check against the work of others. Most firms use electronic methods to check conflicts. They usually maintain an electronic database of information against which potential clients and matters are checked. The conflicts database typically contains not only conflict information (e.g., client or adverse status) but also accounting and other record information (e.g., billing information, contacts, etc.). The librarian can double-check the information entered into the records to ensure that the information is entered correctly and accurately. In a typical scenario, an attorney or secretary initiates a search by completing a conflicts search request form. The names listed are checked against entries in the firm's records. A librarian then conducts exhaustive research to determine other potential conflicts. Assuming any conflicts are cleared, the names and any additional relevant information are entered into the existing database with appropriate relationship information. Generally, a clerk will perform the initial data entry. Although redundant, the librarian should then double-check the information to ensure proper spelling, and that relevant information is included. Incorrect or incomplete details not only create more work for the librarian conducting an initial search, but also expose the firm to potential liability. Accordingly, it is in the researcher's best interest to ensure that all information in the firm's records is accurate and correct.

HOW THE LIBRARY SHOULD BE INVOLVED

Now we know why firm libraries should be involved in the firm's conflict checking process. How should it be involved? The library should be involved from the beginning — the initial information-gathering stage. The library also should establish a policy and procedure manual for carrying out conflict checks. Most certainly, the library should participate in maintaining the conflict database. Finally, the library should be involved in any staffing issues. These are but a few examples of how the library can take an active role.

As mentioned above, a librarian is well-suited to gather all necessary information for conducting a conflict check. If at all possible, the library should review and help streamline the initial information-gathering forms. For example, if the initial conflict search request is made in writing, the librarian can help design an information-gathering form. Good reference librarians know that the more information collected, the better and easier it is to find an accurate answer. A well-designed information-gathering form will ask for more than just the names of the parties. Addresses, states of incorporations, family tree information, and prior names for businesses are just a few examples of additional helpful information. Because attorneys and secretaries may not like including so much detail, the librarian may also take on the role of trainer to get forms completed correctly. Diligence in ensuring that all forms are completed consistently and correctly is second nature to librarians with an eye for detail.

The library also can help establish policies and procedures for a conflict check. With the consultation of the firm's ethics committee (or whatever jurisdiction the firm may use), the librarian should establish a manual detailing the steps necessary to complete a conflict check. Examples of helpful information for a manual include a list of decision-making authorities, a flow chart that illustrates the process, searching and reporting procedures, data entry procedures, conflict determination and resolution procedures, and database maintenance issues. The librarian should keep such a manual close at hand for quick reference and should continually update it should procedures change. A librarian's strong organization skills will ensure that firm policies are followed correctly.

Clearly, the person or persons who conduct the actual conflict check also should be actively involved in the maintenance of any conflict database. The library should have a role in entering conflict information into the database. Even if the librarian does not enter other non-conflict information (such as address and contact information) into the database, the librarian should be the one to enter specific conflict information (like name and relationship information). The librarian can maintain the integrity of the conflict information, and ensure the consistency of how information is compiled and entered. For example, if a company name is initially entered into the database in one format (e.g., GE vs. General Electric), the librarian can

DILIGENCE IN ENSURING THAT ALL FORMS ARE COMPLETED CONSISTENTLY AND CORRECTLY IS SECOND NATURE TO LIBRARIANS WITH AN EYE FOR DETAIL.



ensure that future entries conform to the initial entry. A librarian's strong organization and collocation skills will ensure that records are maintained accurately.

Finally, the library should be involved in the staffing of any conflict position. As mentioned above, a library professional is well-suited to conduct conflict searches. Moreover, librarians may need to supervise the day-to-day operations of the firm's conflict checking process to ensure that all tasks are completed accurately. Some skills to consider for any conflicts department include attention to detail, problem-solving skills, data entry skills, proofreading skills, effective communication, the ability to work well under pressure and work independently, and strong research skills. The staff person also should be self-motivated and have a very serious service ethic.

NEW DIRECTION FOR THE LIBRARY

As we can see, a firm's library should have an active role in the firm's conflict checking process. The research skills of librarians are ideal for determining corporate relationships and other background information. Organization and attention to detail (traditional librarian hall-

marks) also help with conflict research. More firms should consider including conflict checking as part of its library's duties — at a minimum, firms should consider including a professional librarian in this important process. ■

A REMINDER FOR ALL PLANNERS OF SOCIETY EVENTS



All meetings, educational programs, and other LLSDC events must be coordinated on the Society's master calendar. Each person who is planning a meeting must check with Millie Gallahan at 703/619-5033 or management@llsdc.org to ensure that the date is available, and that the function does not conflict with any other gathering. A current list of scheduled LLSDC activities is available at <http://www.llsdc.org/calendar.htm>.

OFFICE MOVERS AD

WHEN MOST PEOPLE THINK ABOUT MOVING ANYTHING A SENSE OF DREAD GENERALLY WASHES OVER THEM. Library moves are no different. Fear not, your library move does not have to disintegrate into total mayhem. Mayhem can be identified as: materials that are inaccessible for days – even weeks, movers arriving late and unprepared for the variety of materials to be moved, books getting lost, shelves not meeting ADA requirements, and, “gasp,” a miscalculation of your shelf space needs. Although a library move can be a mammoth task, all these disasters can be avoided if you have a precise, long-range plan with short-term goals, and the support of your organization in the implementation of this plan. Do not succumb to that feeling of dread. Harness it as energy necessary to meet the task head on.

The first step in developing a library move plan is determining the primary objectives. For example, in drafting the library move plan for my law firm library I determined that my primary objectives are to: 1) minimize the inconvenience and disruption that is inevitable in any relocation; 2) address long standing collection maintenance issues; and 3) create a serviceable library layout and organize a functional relationship around reference sources, electronic sources, and staff work stations.

Disruption of service and some inconvenience is inherent in moving, but careful planning can drastically minimize the adverse effects on patrons and their ability to continue working. Provide patrons with as much information as possible. Creating a move newsletter keeps patrons aware of what changes have already been made and what events are on the horizon. Forewarning makes it possible for patrons to plan ahead. If shifting various parts of the collection as materials are removed becomes necessary, provide updated library maps to keep patrons abreast of the progress and to make the materials easy to find in their new locations. Ask for input from patrons. If they feel that they are a part of the process and have some control over it, they will likely be less resistant to the change and more understanding about the inconvenience.

LONG-STANDING COLLECTION MAINTENANCE ISSUES

While a library move can be beneficial for several reasons, a very important reason is dealing with long-standing collection maintenance issues. These issues seem always to exist and have not been dealt with for a variety of reasons: inadequate personnel, getting bogged down in day-

to-day service, inherited libraries that either did not have collection maintenance policies or the policies have long been lost. A library move, given sufficient time and assistance, is an excellent opportunity to look objectively at the library collection and assess which materials are truly necessary. It is a rare occasion, in these days of expensive commercial space, highly competitive office assignments, and major maneuvering for cubicle space near the water cooler, that a library move involves increased space. Inevitably the collection must be pared down.

From the beginning of the planning process think carefully about what items do not need to be retained. These items may include resources that support a long defunct research group, or items that “looked so good for photo ops,” they remained on the shelf. There may also be items that a few select people in your organization would not allow the library to part with because they used it once 10 years ago and “one just never knows. . .” Encompassed in the move plan is the need to:

1. Establish retention (disposition) schedules for periodicals and to use them as while weeding the collection
2. Initiate the cancellation of periodical and treatise subscriptions that are no longer beneficial to the firm’s practice areas
3. Identify cost effective and user friendly electronic alternatives for some print resources, discard superseded materials
4. Transfer infrequently used materials to off-site storage

As you can see from the examples, paring down the collection does not have to mean placing items in the proverbial “circular file.” It may also include placing items in some kind of archival or off-site storage. Off-site storage can often be a major selling point for patrons who are hesitant to discard materials, while at the same time preserving prime library space for more frequently used materials.

HOW MUCH MATERIAL MUST BE MOVED? Once you have determined what will not be taken, it is time to tackle the task of determining how much material must be moved. There are many different collection measurement techniques, some more complicated than others. A few methods require exact measurements, others suggest estimates. According to Habich, “exact measurements take more time to construct, but are appropriate for large non-homogeneous collections.” Estimates are sufficient when the collection is relatively small.

MOVING ≠ MAYHEM

*Tanya Brown
Spiegel & McDiarmid*

**CREATING A MOVE
NEWSLETTER KEEPS
PATRONS AWARE OF
WHAT CHANGES
HAVE ALREADY
BEEN MADE AND
WHAT EVENTS ARE
ON THE HORIZON.**



IT IS A RARE OCCASION, IN THESE DAYS... THAT A LIBRARY MOVE INVOLVES INCREASED SPACE. INEVITABLY THE COLLECTION MUST BE PARED DOWN.

Estimates may be garnered from many sources: shelf list, online catalog, and stack inspection—fractional shelf amount occupied multiplied by the actual linear measurement of a shelf.

LIBRARY LAYOUT

Last, but certainly not least, create a new serviceable library layout and organize a functional relationship around reference sources, electronic sources, and staff work stations in the new location. The layout of the new library space will inevitably require negotiating with architect(s), the firm administrator or office manager, and other department managers. As the librarian, your knowledge of the collection and the manner in which it is used by patrons and library staff makes you the best advocate for appropriate library size, location, staff and patron work space requirements, and shelving requirements. Ensure that patron work space is conducive to the patrons' work styles. If the patrons often work in groups at large tables they will not be satisfied with individual carrels. The layout should not only consider the needs of the patrons, but also the needs of the staff. Satellite library space far flung from the main library collection may seem a brilliant plan to provide the library with additional space; however, it may be difficult to maintain the satellite space, and will require carting books back and forth for check-in and updating.

Keep in mind that a room with shelves and books does not a library make. Think about the environmental conditions that the materials will be subjected to in the new space, i.e. sun, water, if the space is in close proximity to or below a bathroom or kitchen, heat/cold from vents, etc. While the plans are being drafted attempt to meet with the architect as often as possible because plans change all the time. Be prepared to look at blueprints, ask questions, contribute constructive criticism, and make suggestions. To get prepared visit other libraries to see different library layouts, and sketch several alternative plans for your collection. Talk to librarians and equipment distributors about shelving and workstation options, the cost of installation and maintenance, and the lead time required for installation.

CHECKLIST FOR DEVELOPING THE MOVING ≠ MAYHEM PLAN

1. Do not succumb to that feeling of dread
2. Determine the primary objectives
3. Carefully plan to minimize the adverse effects on patrons and their ability to continue working

4. Provide patrons with as much information as possible
5. Think carefully about what items do not need to be retained
6. Address long-standing collection maintenance issues
7. Determine how much material must be moved
8. Create a new serviceable library layout and organize a functional relationship around reference sources, electronic sources, and staff work stations
9. Think about the environmental conditions that the materials will be subjected to in the new space

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PRESIDENT'S COLUMN

*Lisa Harrington
Holland & Knight, LLP*

AS I SAT IN MY OFFICE ONE VERY HOT DAY IN JULY, I FOUND MYSELF ALTERNATING MY THOUGHTS BETWEEN THE TECHNICIANS AT MY HOUSE INSTALLING THE NEW AIR CONDITIONING UNIT AND WHAT TO WRITE FOR MY FIRST LIGHTS COLUMN. Since there was not much I could do about the air conditioner (except hope it would be working by the time I got home), I decided to focus on my column.

Hmmm...what should I write about? I guess I could start by thanking everyone for a job well done last year. Ann Green would have to be at the top of that list. She managed to juggle a demanding job, two full years of chapter meetings, plus many other jobs too numerous to mention. It is a daunting feeling following in her footsteps and I am just grateful that she is available for consultation as Past President. Thanks also to the numerous committee chairs, special interest section chairs and board members whose terms are up. Yes, I could write about that, but every new president does that. Plus, it does not make for a very exciting column.

I guess I could write about how excited and nervous I am about being President this year. Excited because it is a huge job with many challenges to which I am looking forward. I hope I will get to meet many of you and somehow enrich your professional lives through the various programs and events that are being planned for the coming year. Nervous because...well it

IS a huge job with many challenges!

Another topic that I could write about would be the subject of volunteerism (is that even a word?). As the largest chapter of the American Association of Law Libraries, we can offer many educational programs, social events, etc., but to do this we need input and help from you! I know we are all busy but please take the next five minutes to at least think about volunteering for a committee this year. Ok?...Ok, if you are finished thinking and would still like to volunteer give me a call or, shoot me an e-mail and I promise to get back to you (lharring@hkllaw.com; 202/457-5911).

On a serious note, I would like to focus this year on making sure the society is meeting the needs of its members. The special interest section chairs and the committee chairs find themselves having to make the best decision for the greatest number of members, finding a common area of interest. It is always the goal to plan something everyone will like or find useful in their professional lives. Over the coming year as you attend the programs, if you find that they are not meeting your needs, please let me know or let a board member know. Though I cannot guarantee that your specific need will be of general enough interest for a program, there may be other ways to help.

I look forward to working with all of you in the coming year! ■

LAW LIBRARY INTERROGATORY

*Lisa Harrington
Holland & Knight, LLP*

"WHAT IS THE WEIRDEST, FUNNIEST OR MOST OUTRAGEOUS REFERENCE QUESTION YOU HAVE HANDLED WORKING IN A LAW LIBRARY?"

This one's easy. A few years ago I was working the reference desk and one of our older attorneys came up to me to ask if it would be possible for him to remove the newspaper from the "sticks" we kept them on for a few minutes. After telling him that was fine, he proceeded to let me know the reason he wanted to remove the paper... He said it was TOO difficult to read in the bathroom if the stick was attached!

— **Kristy Yarnell**, Department of Labor Library

One of the weirdest reference requests I had was when I worked for the U.S. Senate Library. One of the Senators needed me to compile information regarding the history of Bozo the

clown. For about a week after that, I was referred to as the "Bozo expert."

— **Abbie Bradfield Mulvihill**, library director, Zuckerman Spaeder LLP

I once had an attorney tell me I had 45 minutes to find cases to save his client from the electric chair. My search was successful and at last account the client was still alive and fighting for a new trial. There is nothing like an extreme rush request to get the reference adrenaline pumping!

— **Tricia Peavler**, reference librarian, Jenner & Block LLC

I once had to find the contact people for Phil Collins when I was at HUD.

— **Michael Timpani**, DOE law librarian

I was once asked to find out at what temperature human skin burns. Please understand the attorneys I work for are not sadists; this was for a



question involving fire retardant plywood. I was so thoroughly repulsed by the question, that I've forgotten what the answer ultimately was.

— **Steve Mellin**, law librarian, Jenner & Block LLC

My favorite reference question came from one of our professors (now an administration official) who wanted to use the phrase “tipping of sacred cows” in an article he was writing. He needed information on the phenomenon of cow-tipping, and I was able to assure him that people really do tip cows for amusement and found him a Web site about it.

— **Susan Ryan**, reference librarian, Georgetown University Law Center

Associate enters the library and says “I've heard you like Lexi(u)s!” Then, asks “how many miles do you get per gallon?”

— **Sarah Bass**

It started out normal enough. A partner (one of those powerful ones who make you cringe when they talk to you) asked for an article about a particular senator that he had read in an issue of the *National Review* while on an airplane 6 months prior. I searched the *National Review* on Lexis, prior 6 months...nothing. Ok – so now I'm thinking it's not the *National Review* but something similar like the *Economist*. I searched the relevant file on Lexis...nothing. Ok – so he's got the time frame wrong. Maybe it's older than he recalls. I searched ALL magazines for the past year and, while I obviously get many hits, there is only 1 article that I find is on point and was 6 months prior. It was in *Playboy*. Sure enough, it was the article he was after. I got an interesting explanation about the wrong cite information and, I'm happy to add, it's the only time in my career that I've ever had to pull soft porn for anyone.

— **Amy Ratchford**, librarian, Chadbourne & Parke LLP (but the above question did not occur there)

Of course, we've all probably had this one – but it never fails to amaze me that an attorney would ask it. “Can you help me look for a book? I don't know the title or author, but it is a red book.”

— **Diahann Kouznetsov**, reference librarian, Morgan, Lewis & Bockius

I am sure I must have had some stranger ones, but the oddest I can remember right now is the request to track down some pre-World War II

correspondence between U.S. Secretary of State Cordell Hull and the U.S. Ambassador in Germany. The State Department Library was able to supply us with volumes containing the correspondence, and I then had to go through them looking for the information the attorney needed. Reading the correspondence from late 1930's, Berlin was both fascinating and chilling. I don't remember the specifics, but I remember chills going down my spine as I read the first hand accounts of the events transpiring in Germany, and sensed the ambassador's increasingly urgent tone as the situation worsened.

— **Martha Klein**, reference librarian, Morgan, Lewis & Bockius

I think my weirdest reference request was to determine the value of a quince farm in Iran. I learned that quinces are in the pome family with apples and pears, but that in the U.S. they are not grown commercially. This request was before the internet was widely available. After days of phone calls I actually reached an Iranian who was an agriculture professor at a western university and was very helpful. But in the end, it was very difficult to make an accurate estimate so I believe various sources were used for guesstimates.

— **Carol Tropea**, reference librarian, Morgan, Lewis & Bockius

Anyone who does legislative work finds it hard not to laugh sometimes. Consider this: “I need to know why Congress used the word ‘administrative’ in the Fair Labor Standards Act regulations. Can you find that out for me in the next two hours?”

— **Laura Reilly**, legislative librarian, Morgan, Lewis & Bockius

I was once asked by an attorney to find out if a frog can jump backwards. He wanted to use it as an analogy in a brief he was filing. I called the zoo, which referred me to a reptile organization that answered the question for me (and gave me an interesting lesson on frogs and hot water).

— **Lisa Harrington**, librarian, Holland & Knight, LLP

Thank you for all your entries. The question for the next issue of lights is:
WHAT IS THE LAST BOOK YOU HAVE READ FOR PLEASURE?

Please forward your responses to lharrington@hkllaw.com. ■



NEWS OF MEMBERS

Laura Reilly
Morgan, Lewis &
Bockius LLP

THE MEMBERSHIP COMMITTEE IS OFF TO A GREAT START THANKS TO MY CO-MEMBERS, JENNIFER PRESTON, AND JEFF FREILICH! We met in mid-July for a brainstorming session and already have our first event planned and reserved. On October 16 a new member breakfast will be held at Old Ebbitt Grill. (We decided to “creatively swipe” Hillary Rubin’s idea from last year!) The location is an historical and quintessential DC place, and we thought it was quite fitting for a DC organization to hold it there. In addition, we tossed around many ideas for a spring event, but have not made any decisions just yet. More information will follow on that later.

After 13 years at Baker & McKenzie’s D.C. office library, **John Hoffman** has made a move to 13th St. and is now the librarian at McDermott, Will & Emery.

Name change time! McKenna & Cuneo, and Long Aldridge & Norman have merged and the firm is now known as **McKenna Long & Aldridge**. In addition, the library welcomed Edith Crutchfield from the former Long Aldridge office to the McKenna staff. According to **Kate Martin**, fax and phone numbers, and addresses stay the same.

Kudos to **Mary Grady**, the law librarian at the EPA Office of General Counsel. She recently had an article published in the May 2002 (vol. 17, no. 4) issue of *National Environmental Enforcement Journal*. The title of the article is “Internet-Based Environmental Law Research”.

Julia Schaffer recently left Shea and Gardner, and **Marielena Fina** has been hired to take her place there as librarian.

Congratulations to **John Walker Chaffin**, who was a reference specialist at Skadden Arps. He has earned his MLS from the University of Maryland and has been promoted to assistant librarian.

Who is this **Cindy Carlson** person? Cindy Curling, electronic resources librarian for Fried, Frank and organizer of LLSDC’s Legal Research Training Focus Group, has changed her name. She is now known as Cindy Carlson, and while most of her contact information remains the same, her e-mail address at Fried has changed to carlsci@ffhsj.com.

Robert A. Farina, director of the Trademark Law Library, was awarded a Certificate in Advanced Public Management from the Maxwell School of Citizenship and Public Affairs at Syracuse University on June 12, 2002. This was a year-long Executive Management Program sponsored by his employer, the US Patent & Trademark Office. His capstone project: “Mediated

Reference/Research Services Provided by the Law Library as a Factor in Examiner Production in the US Trademark Office” was a statistical correlation that proved that attorney-examiners who used the reference services of the Trademark Law Library heavily in FY2001 were also the most productive in terms of Trademark filings processed.

Sharon Kissel, legislative librarian at the ACLU, writes that the Washington National Office of the American Civil Liberties Union is moving. Effective August 19th, their new address will be: ACLU Library, 1333 H Street, NW, 10th Floor, Washington, D.C. 20002. Their telephone & fax numbers, and e-mail address will remain the same.

Kimberly J. Wilson, currently with Seyfarth Shaw, will be joining Zuckerman Spaeder LLP as the new library assistant on August 26th.

Bon Voyage to **Laura Whitbeck** who is moving to the Rochester office of Nixon Peabody.

Larry Guthrie, inter-library loan librarian at Covington & Burling, received a Special Libraries Association (SLA) Legal Division Leadership Award 2001-2002 for his participation on the Nominating Committee, Strategic Plan Committee, and as the Representative to British and Irish Association of Law Librarians Conference (BIALL).

Lots of things are going on at UDC School of Law. **Brian Baker** writes that he received the Dean’s Cup for Exemplary Service at graduation in May, and also welcomed two new staff members. **Han Ouyang**, previously at the Chapman School of Law in Irvine, CA, is the new head of technical services, and **Rick Apgood** has recently come on board as reference librarian. Previously Rick was at the University of Utah College of Law. In addition the Law Library will begin a major renovation during the Fall of 2002, and last into the Spring of 2003. According to Brian it will be a “stunning facelift, and give us additional space one floor below our current space”.

Stephanie Paup has recently joined Patton Boggs. She previously was at Skadden Arps.

Kelly Vinopal and husband Chris Hofer announce the adoption of their daughter Kate Lian Hofer, born on September 8, 2000.

WELCOME TO

Eric Adams – library assistant at McDermott, Will & Emery

Richard Apgood – reference librarian at UDC Law School



Mary Ellen Ash – student at CUA
Cynthia A. Banicki – librarian at USPTO
Mary Ann Becker – law librarian at Wilkes Artis
Maureen Cummings – law librarian at GAO
Alanna Dalton – reference librarian at Bryan Cave
Juaquin Duff – library assistant at Clearly Gottlieb
Marielena Fina – reference librarian at Shea & Gardner
Jana Frankel – library clerk at O'Melveny & Myers
Susan Golden – library assistant at Spiegel & McDairmid
G. Fay Gunn – office manager at Morris, Manning & Martin
Tanya Gutierrez – branch librarian at Troutman Sanders
Kevin B. Hall – senior library specialist at Bingham McCutchen
Shannon Hein – sales manager at William S. Hein & Co.
Patricia Hennessy – research assistant at Williams & Connolly
Sylvia Hussey – information technician at EPA
Patrick Johnson – paralegal/librarian at Bredhoff & Kaiser
Beth Kirton-Crane – technical services librarian at McKee Nelson
Susan Maloney – librarian at Scribner, Hall & Thompson
Heather McClung – library assistant at Chadbourne & Parke
Carolyn McKelvey – reference librarian at Covington & Burling
Zoraida Michaud – legislative librarian at Shea & Gardner
Felicia Miller – acquisitions assistant at McDermott, Will & Emery
Kimberli Morris – head of electronic services at GWU/Burns Law Library
Kate Morrison – research assistant at Williams & Connolly
Nduku Ndumbu – reference assistant at Arnold & Porter
Martin Newhouse – president at Research Associates
Deborah Norwood – assistant director, public services at GWU/Burns Law Library
Roberta Peel – assistant librarian at McDermott, Will & Emery
Neomah Roberts – assistant administrator/librarian at Brand & Frulla
Ann Shearer – government relations specialist/librarian at Weiner Brodsky Sidman Kider

Howard Sinclair – librarian at Kilpatrick Stockton
Mark Theby – student at GMU Law School
Myesha Tyler – library manager at GWU/Burns Law Library
Beverly Walker – law department at Amtrak
Anne Waller – library assistant at Dyer Ellis & Joseph
Mark P. Walters – library assistant at Morrison & Foerster
Kimberly Walton – law librarian at GAO
Paul Wanner – applications consultant at CT Corp.
James Ward – senior account executive at Court EXPRESS
Steve Young – reference librarian at CUA/DuFour Law Library ■

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ALERT PUBLICATIONS AD



PRIVATE LAW LIBRARIES SIS NEWS

Peter Vay
Shaw Pittman

HELP! SPEAKING FOR THE OTHER PRIVATE LAW LIBRARIES (PLL) SIS OFFICERS, WE NEED YOUR HELP. We need your bright ideas, enthusiasm, and willingness to 'be involved' in your Library community, the LLSDC. There are a number of ways that you can help us, help others in the community, and in turn, help yourself. You can be involved with planning the PLL's educational or social programs as a member of either of the planning committees. Or, if you are looking for a low-key way to contribute, you can do so by suggesting program ideas to the committees. And those looking for an even 'lower-key' way to contribute can do so by attending the events that the Section puts on for the entire Society. Each is a great way to be involved in your Society, and none of these options is very time consuming or labor intensive. With your involvement, we can make sure we maintain the high quality of educational and social events that the Section has put on year after year.

As this LLSDC year is about to begin, I am looking forward to working with this year's PLL officers, Vice President Jim Walther, Treasurer Tracy Fritz, and Secretary Lisa Benjamin. I am also eager to meet and work with other SIS and LLSDC members. But there is more to life than working, which is why the PLL and LLSDC sponsor social events. (My two cents...be sure to stay balanced and participate in educational and social programs.)

I would be remiss if I did not save space in this column to thank last year's PLL officers. Current LLSDC Vice President Scott Larson did a great job as PLL president last year. We are lucky that he will continue to serve the Society. Working with Scott and officers Adeen Postar and Steve Mellin has helped me prepare for the upcoming year. Thanks.

If you would like to know more about the ways you can become involved in the PLL or the Society, please feel free to contact me at peter.vay@shawpittman.com or 202/454-7475. ■

FOREIGN & INTERNATIONAL LAW SIS NEWS

Herb Somers
The George Washington
University Law Library

THE COMING YEAR WILL AGAIN BE AN ACTIVE ONE FOR THE FOREIGN & INTERNATIONAL LAW SIS. Thanks to the continuing support of the Law Library of Congress, Society members will again have the opportunity to tap into the expertise of the Library's foreign legal specialists through a new series of instructional programs. For example, in the fall a fifth installment in the series entitled *Fundamentals of Foreign Legal Research* is being planned which will cover French legal research.

In addition to this program, a number of other educational events and lectures dealing with international and foreign law issues will be scheduled as well. All program details will be announced in the coming weeks in *Dates to Remember* and at the SIS's Web site at <http://www.llsdc.org/sis/forint/>. Stay tuned for more information.

IALL ANNUAL COURSE FOR 2002: The International Association of Law Libraries is hosting its 21st Annual Course on International Law Librarianship in the United States this year. This provides an excellent opportunity for LLSDC members to attend one of the premier educational events dealing with international and foreign legal research. The program, *Order from Chaos: Contexts for Global Legal Information* will be held at the Yale Law School in New Haven, CT on October 20-23, 2002. An optional day, featuring the topic *Law of the Islamic World* will also be

held at the Harvard Law School in Cambridge, MA on October 24, 2002. For more information about this exciting event, including registration materials, go to: <http://library.law.yale.edu/library/iall2002/>.

CALL FOR VOLUNTEERS: The Foreign & International SIS is looking for members interested in planning programs and events for the coming year. If you have an idea for an event that you would like to see developed, please contact Herb Somers at hsomers@burns.nlc.gwu.edu or at 202/994-5177. ■

DATES TO REMEMBER



Dates to Remember (DTR) is a monthly (September - May) newsletter designed to keep the membership informed of current Society events. *DTR* and the Society's Master Calendars are now being handled by the Society's management office. To clear your date and publicize the event, please contact Millie Gallahan at 703/619-5033 or management@llsdc.org.



GREETINGS! I HOPE EVERYONE HAS BEEN ENJOYING THE WARM SUMMER WEATHER! I would like to introduce myself as the Academic SIS President for 2002-2003. When I am not fulfilling my presidential duties, you can find me working at Georgetown Law Library as the Head of Acquisitions. I have returned recently from maternity leave and I am just starting to get back into the swing of things as a working mother. My son, Wilson, is almost seven months old as I write this column. It is amazing how fast they grow!

This year's SIS Vice President is Leslie Lee

of George Washington University Law Library, and the Treasurer is Jeffrey Bowen of Georgetown Law Library. We will soon be getting started on planning for the fall SIS picnic, which will be held this year at Georgetown. Information about date and time will be forthcoming as planning progresses. I am also considering topics for a brown bag lunch or two, and possibly a tour of a local library. If you have any ideas or suggestions, or would like to volunteer your library for a tour, you can reach me at 202/662-9184 or by e-mail at kuhlman@law.georgetown.edu. ■

ACADEMIC SIS NEWS

Kristina K. Tryon
Georgetown University
Law Library

WELCOME BACK, NEW AND RETURNING MEMBERS OF THE LEGISLATIVE SIS! Congress began its summer recess on August 5, giving us a well-deserved break and allowing me to slip in as Legislative SIS President for 2002-2003. I am very excited about being involved this year, and I am looking forward to working with Christine Ciambella of Miller & Chevalier as the Vice President/President-Elect.

Thanks and applause go to Julia Taylor as

departing President. She did a fantastic job last year, and I can only hope to do as well. Thankfully, as head of this year's Union List Update Committee, she will continue to take a leading role in the SIS. We will be producing the first supplement to the Union List of Legislative Histories this year, and we are already looking forward to December's holiday party! Please stay tuned to this column and to *Dates to Remember* to find out about our upcoming programs. ■

LEGISLATIVE RESEARCH SIS NEWS

Lorelle Anderson
Crowell & Moring LLP

NEW! LLSDC T-SHIRT

\$10/shirt

100% cotton white short sleeve T-shirt with the LLSDC logo on the front and the red stars logo on the back.

GET YOURS TODAY!

Make check payable to LLSDC and mail to:

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PRINT PUBLICATIONS

Georgetown Journal of Law and Public Policy, 2002-

Published semiannually by the Georgetown University Law Center, 600 New Jersey Avenue, NW, Washington, DC 20001-1417; 202/662-9823; Fax: 202/662-9492; E-mail: gjlpp@law.georgetown.edu; Web site: www.law.georgetown.edu/journals/gjlpp/index.html Price: \$35.00 per year.

This publication is a scholarly legal journal with a focus on conservative, libertarian, and natural law thought. The bulk of the content will be opinion pieces either advocating or critiquing these positions, but information on current developments in the areas of law and public policy will be offered as well.

Michigan Compiled Laws Service, 2001-

Published by LexisNexis, 701 East Water Street, Charlottesville, VA 22902; 800/446-3410. Price: \$847.50 for the full set of 71 volumes plus an annual fee for updates.

This set replaces the *Michigan Statutes Annotated* set. It will use the official code numbering and include the old *MSA* numbering in brackets. 2002 pockets parts have already been published for this set.

ONLINE SUBSCRIPTION

CQ Supreme Court Collection, 2002-

Published by CQ Press, 1255 22nd Street, NW, Suite 400, Washington, D.C. 20037; 800/834-

9020; E-mail: librarysales@cqpress.com; Web site: <http://library.cqpress.com>.

Price: call 800/834-9020 ext. 1906 for pricing information.

This database blends historical analysis with updates on current events and commentary on Supreme Court decisions, biographies of Supreme Court justices, Supreme Court institutional history, and the U.S. Constitution. Users can access information by topic, justice, and case name. This collection includes summaries and analysis of more than 4,000 major decisions and links to the full text of the cases, and tools to research justices' voting records and opinion alignments.

TITLE CHANGE

Penn State International Law Review, 2001-

Published three times per year by the Dickinson School of Law of the Pennsylvania State University, 150 South College Street, Carlisle, PA 17013; 717/240-5233; Fax: 717/241-3511. Price: \$25.00 per year.

Formerly *The Dickinson Journal of International Law*, this new publication began with volume 20, issue 1 dated Fall 2001. The last issue of the previous title was volume 19, issue 3 dated Spring 2001. ■

EYE ON SERIALS

Susan Ryan
Georgetown University
Law Library

UPCOMING ISSUES OF LIGHTS

■ ■ ■ Themes for this year's upcoming issues of *Lights* are as follows:

VOLUME 46, NUMBER 2 (Winter 2002):

Legislative Research and Resources

VOLUME 46, NUMBER 3 (Spring 2003):

Training: Tips, Tricks, and Issues

VOLUME 46, NUMBER 4 (Summer 2003):

e-Library/Digital Library Issues

Each issue of *Lights* will contain feature articles on the designated theme, the slate of regular columns, and a hot topic article (or articles) that will cover a topic of current interest which may not neatly fit into the designated theme. If you are interested in writing for *Lights*, please contact Jennifer Korpacz, editor, at lights@llsdc.org or 202/662-6153.

INFOCURRENT AD



BOARD MEETING SUMMARY

Emily Carr
Law Library of
Congress

PRESENT: Ann Green, Lisa Harrington, Susan Ryan, Barbara Fisher, Steve Mellin, Michael Petit, Scott Pagel, Debbie Trocchi, Emily Carr
ABSENT: Mary Alice Durphy, Susan Lewis-Somers

CALL TO ORDER: Vice President/President Elect Lisa Harrington called the May 9, 2002 meeting to order at 12:34 P.M.

MINUTES: A motion to approve the February 14, 2002 and April 11, 2002 minutes as approved carried.

REPORTS

PRESIDENT: A. Green thanked everyone for their support and hard work during the past Board year.

The Town Meeting was held over lunch on April 23, 2002, at the Charles Sumner School. President A. Green kept the format informal in order to solicit feedback from the members present. This year's hot topics included: (1) publications update; (2) LLSDC proposed bylaw changes; (3) society leadership and management company update; (4) LLSDC Job Line; (5) LLSDC listserv and interlibrary loan issues; (6) scholarships and grants and (7) AALL Annual

Meeting update. The issues that require a vote will be presented to the members on paper for a formal vote. After discussion and comments, the Institutional Membership category issue was tabled and will be discussed at a future date.

To enhance LLSDC public relations and to further update our "look," the Board agreed to purchase a new tabletop display booth for taking on the road as well as new T-shirts for LLSDC. The LLSDC display will cost approximately \$500. LLSDC T-shirts are being produced by the same company which did our new logo. We will offer sizes of adult M, L, XL and 2XL and price the shirts at \$10/shirt which will include shipping and handling. The T-shirt order blank is on the LLSDC Web page <http://www.llsdc.org> and the LLSDC management company will handle all orders.

LLSDC Elections: LLSDC election votes were tallied on May 6th at 5:30 P.M. The results were:

VICE PRESIDENT/PRESIDENT-ELECT: Scott Larson, Beveridge & Diamond

RECORDING SECRETARY: Barbara Folensbee-Moore, Morgan, Lewis & Bockius

ASSISTANT TREASURER: Frances Brillantine, Catholic University of America Judge Kathryn J. DuFour Library

BOARD MEMBER: Ellen Feldman, Williams & Connolly

BOARD MEMBER: Judith Leon, Shea & Gardner

Vice President L. Harrington reported that a list of tentative committee appointments has been drafted and will be finalized sometime after the SLA convention (June 10-15).

Treasurer B. Fisher reported on the status of the LLSDC accounts. Approximately \$8,500 were paid in bills, with \$12,000 in the checking account. Final year figures are expected to show greater expenditures than receipts for FY 2001-2002.

Assistant Treasurer S. Mellin reported on further LLSDC accounts issues. Last month included deposits greater than \$7,000. Income included the Legal Research Institute and CAPCON refund category. He has spoken to the incoming Assistant Treasurer Frances Brillantine and will be meeting with her in June. Private Law Librarians SIS elections were held and the new officers are Vice President/President Elect Jim Walther, Secretary Lisa Benjamin, Treasurer Tracy Fritz.

A. Green wanted to be sure that LLSDC received the \$500 from Hein for sponsoring the lunch at the Town Meeting. D. Trocchi and S. Mellin will check.. CAPCON told LLSDC

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that seven firms owe money for the last Counsel list that was published. B. Fisher will investigate. Corresponding Secretary S. Ryan is busy with certificates and plaques for the closing banquet. *Lights* is on schedule for its Summer issue in June. Connie Dickson has been awarded the grant for AALL registration for the Orlando meeting. The awarding of the other scholarships and grants is pending as the committee meets Friday to make its selections.

Recording Secretary E. Carr reported on the ballot counting and thanked the Elections Chair Dawn Sobol and volunteers Helene Davis, Yvette Brown, and Christine Ciambella.

Board Member S. Lewis-Somers reported on negotiations with LSI, who originally had expressed interest in the online COUNSEL project, but decided that at present the project is too complicated and the programming could not be done immediately. They felt the online project could be handled in about six months. Although leads on other possible programmers exist, LSI is our strongest contender at this point. We may want to go paper in the meantime. GLP Union List changes are due back to SIMA by the end of May 2002.

Board Member S. Pagel reported on the activities of the Foreign and International SIS and co-sponsorship of the Night at the Baysox with the Academic SIS.

Board Member M. Petit reported on the Bowie Baysox event of June 11, 2002, open to all LLSDC members. The game starts at 7:05 PM, with an all-you-can-eat dinner buffet beginning at 6:30pm. The cost is \$25 and includes admission to the game and a buffet dinner. Checks should be sent to LLSDC and not to the organizer Herb Somers. Possible sponsorship opportunities were discussed.

NEW BUSINESS

A. Green confirmed that e-mail exchanges of the LLSDC Board should be archived by the Recording Secretary. Business forms relating to archives are on the web. The archives currently reside at Georgetown Law Library and submissions have varied over the years. A list of files exists but needs to be updated. S. Ryan will ask Laura Bedard about the archives, especially as Rachel Jones has old *Lights* that she would like to donate soon. Other LLSDC leaders and members may have items to donate as well. A. Green has talked to Hein about imaging old issues of *Lights*. *Lights* is currently archived online on the LLSDC Web page. It will remain there as long as space permits. Imaging by Hein would allow greater access

to all issues of *Lights*. This issue will be discussed in more depth at a future board meeting.

LLSDC Closing Banquet is May 14, 2002, at 6 P.M. at the Crowne Plaza Hotel. The speaker is Bruce Rosenstein, Reference Librarian, USA Today and his topic is "All News All the Time: The Never Ending World of Online News Searching." The price is \$20/person and there will be a cash bar. West Group/Westlaw and Anne Ellis and the West Librarian Relations Team are sponsoring this event. There are at least 80 RSVPs to the dinner.

MANAGEMENT COMPANY REPORT

D. Trocchi discussed various membership issues. These include the question of whether to accept the information members submit on membership applications as is. She discussed the time-consuming activity of double-checking members for accuracy, and membership type (Regular, Institutional, Associate). The issue of possibly changing the bylaws to better address the Institutional aspect and transfers of memberships was discussed. A motion to accept the new members passed.

L.Harrington thanked Ann for her leadership over the past two years.

MOTION TO ADJOURN: The meeting was adjourned at 1:31 P.M.

ITEMS DISTRIBUTED: Agenda Monthly Board Meeting, May 9, 2002; Statement of LLSDC Accounts; Management Company Memo of May 9, 2002, "Monthly Update on Administrative Activities"

NEXT MEETING: A lunch meeting of outgoing and incoming LLSDC leaders is planned for June 20th. ■

SEE YOUR NAME IN "LIGHTS!"



Law Library Lights welcomes submissions of feature and hot topic articles for publication. Authors whose articles are selected for publication will receive a gift compliments of the *Lights* committee. Editorial inquiries or requests for additional information should be addressed to Jennifer Korpacz, editor, at lights@llsdc.org or 202/662-6153.



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	Judith Leon.....	828-2069
	Scott B. Pagel.....	994-7337

SPECIAL INTEREST SECTIONS

Academic:	Kristina Kuhlmann Tryon.....	662-9184
Federal:	Meldie Kish.....	205-6849
Foreign & Int'l:	Herb Somers.....	994-5177
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Private Law Libraries:	Pete Vay.....	454-7475

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	Barbara Gabor.....	663-6624
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Education:	Alea Henle.....	663-6732
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	Michael Timpani.....	586-4849

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	Jeannine Sachar.....	719-7387

FOCUS GROUPS

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Laurie Johnson Malone.....	737-4582

Legal Research Training Focus Group

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LLSDC INFORMATION

Web site.....	http://www.llsdc.org
Listserv.....	llsproc@gmu.edu (to subscribe)
	llsdc@gmu.edu (to post messages)

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