

## The Current State of E-Books in U.S. Law Libraries: A Survey\*

Wilhelmina Randtke\*\* and Stacy Fowler\*\*\*

*Rising prices for print legal materials have caused an accelerated shift to acquisitions exclusively in electronic format. This study reports results of a survey of U.S. law libraries regarding indexing of electronic materials, including cataloging practices and other ways of making electronic materials available to and discoverable by patrons.*

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\*\* Digital Library Services Coordinator, Florida Virtual Campus, Gainesville, Florida.

\*\*\* Technical Services Librarian and Associate Professor, St. Mary's University School of Law, San Antonio, Texas.

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## Introduction

¶1 For the past five years, steadily and steeply rising prices for print materials have met steadily and often steeply shrinking law library budgets. Meanwhile, prices for electronic materials have been relatively flat. This phenomenon has caused speculation that print law books are rapidly “going the way of the Walkman, Betamax players and 35-millimeter cameras.”<sup>1</sup> A review of current literature, however, shows that many believe a nearly complete switch from print to electronic is still quite a way off, and a hybrid environment is something all law libraries are likely to be dealing with for quite some time to come.

## Literature Review

¶2 Understanding the shift from print to digital requires having a clear picture of print materials pricing, electronic materials pricing, and law library budgets. Historically, two reliable sources have compiled print and electronic pricing: Svengalis’s *Legal Information Buyer’s Guide and Reference Manual* and the American Association of Law Libraries (AALL) *Price Index for Legal Publications*.<sup>2</sup> The *Price Index for Legal Publications* tracks the average price of the same fourteen court reporters starting in 1998 and up through present, with a gap from 2005 to 2009 when the methodology was different. According to this report, annual costs for an average court reporter rose significantly, as illustrated in table 1 and figure 1.

¶3 Meanwhile, law library budgets have not experienced such sharp increases. In 2009, the AALL conducted an Economic Outlook Survey that asked about budget and personnel levels at law libraries across the country. More than 400 law libraries responded. At that time, about seventy-three percent of private law libraries had experienced recent budgets cuts, with about twenty-five percent of responding private law libraries experiencing budget cuts of fifteen percent or greater.<sup>3</sup> While comprehensive information about law library budgets over time is not available, a sustained annual increase matching the documented eighteen percent annual increase that has occurred over the past fifteen years in print pricing certainly would have attracted some press. In reality, law library budgets have likely remained flat or decreased over this time period.

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1. M.P. McQueen, *The Bookless Library*, AM. LAW., July 2015, at 64.

2. AM. ASS’N OF LAW LIBRARIES, AALL PRICE INDEX FOR LEGAL PUBLICATIONS 2014 (2015), <http://www.aallnet.org/mm/Publications/products/pub-price/price-index-2014.html> (AALL membership required for access); KENDALL F. SVENGALIS, LEGAL INFORMATION BUYER’S GUIDE AND REFERENCE MANUAL (2015).

3. *Results of AALL Economic Outlook Survey*, AALL SPECTRUM BLOG (Apr. 17, 2009), <https://aall.spectrum.wordpress.com/2009/04/17/results-of-aall-economic-outlook-survey/> [<https://perma.cc/PKV6-XDM4>].

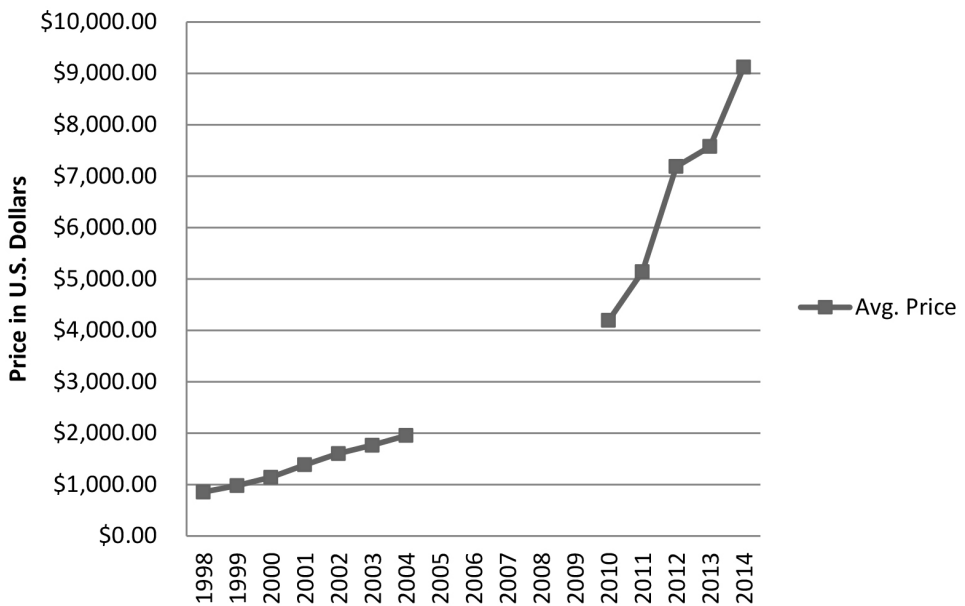
**Table 1**

Annual Costs for Court Reporters over Time

Year	Annual Cost
1998	\$856.21
1999	\$979.93
2000	\$1,143.64
2001	\$1,603.02
2002	\$1,764.21
2003	\$1,953.00
2004	\$1,953.00
2010	\$4,192.07
2011	\$5,140.36
2012	\$7,186.19
2013	\$7,574.07
2014	\$9,121.18

**Figure 1**

Court Reporter Prices over Time



¶4 In recent years, both the legal market and legal education have contracted. Since 2010, law school applications have dropped. The LSAC, which administers the LSAT, a standardized test required for law school admission, reports historical information about how many prospective law school students have taken the exam. This information indicates a drop in test takers, hence a drop in prospective law students for each year since the 2009–2010 cycle.<sup>4</sup> Law school enrollment in the United States has also fallen during this time. Nationally there was a drop of 17.5% from 2010 to 2014, following several years of increases.<sup>5</sup> This drop affects law school budgets and hence affects academic law library budgets.

¶5 Following decades of growth, there is also a general contraction in the legal market that began around 2007 or 2008.<sup>6</sup> These economic impacts on academic and firm markets have directly impacted law library budgets.<sup>7</sup> Although the current budget crunch follows a long period of boom, print prices continued to rise dramatically as the economy slowed and contracted. A survey covering academic law libraries from the five-year period just before the recession reported budget increases averaging twenty percent over that period, but forty percent of responding libraries also reported cuts to acquisitions due to pricing issues.<sup>8</sup> In general, these cuts were to print resources, showing that cancellations of print had already begun at that time.

¶6 The literature supports print pricing as a driving factor for the cancellation of print materials. Yale and Cornell both canceled almost all regional reporters by 2012, primarily in response to steep price increases.<sup>9</sup> Additionally, an informal survey on print cancellations circulated in June 2012 on the Law Library Directors listserv indicated widespread cancellations of print case reporters, digests, and codes when that same information was available in stable digital formats.<sup>10</sup>

¶7 Over this same time period, electronic materials pricing rose at a much slower rate. Since 2010, the AALL has tracked electronic format pricing in its *Price Index for Legal Publications*. This tracks access to a specific set of loose-leaf services, newsletters, and periodicals in electronic form. From 2010 to 2013, pricing for this

4. Law School Admissions Council, *Data: Total LSATs Administered—Counts and Percent Increases by Admin and Year*, <http://www.lsac.org/lsacresources/data/lsats-administered> [https://perma.cc/8ART-72NM].

5. Press Release, Am. Bar Ass'n, ABA Section of Legal Education Reports 2014 Law School Enrollment Data (Dec. 16, 2014), [http://www.americanbar.org/news/abanews/aba-news-archives/2014/12/aba\\_section\\_of\\_legal.html](http://www.americanbar.org/news/abanews/aba-news-archives/2014/12/aba_section_of_legal.html) [https://perma.cc/65BX-C2S2].

6. Bernard A. Burk & David McGowan, *Big but Brittle: Economic Perspectives on the Future of the Law Firm in the New Economy*, 2011 COLUM. BUS. L. REV. 1, 27; Samantha Robbins, *From Big Law to Legal Education: The Trickle Down Effect of the Recession*, 27 GEO. J. LEGAL ETHICS 841 (2014); Eli Wald, *The Great Recession and the Legal Profession*, 78 FORDHAM L. REV. 2051 (2010).

7. AM. ASS'N OF LAW LIBRARIES, PRIVATE LAW LIBRARIES SPECIAL INTEREST SECT., COLLECTION REBALANCING FOR LAW LIBRARIES (2011), <http://www.aallnet.org/mm/Publications/products/Law-Librarians-Making-Information-Work/pll-guide-4.pdf> [https://perma.cc/Q9ND-5J5N] (hereinafter COLLECTION REBALANCING) (indicating a budget cut trend for firm law libraries); Taylor Fitchett, James Hambleton, Penny Hazelton, Anne Klinefelter & Judith Wright, *Law Library Budgets in Hard Times*, 103 LAW LIBR. J. 91, 93, 2011 LAW LIBR. J. 5, ¶ 6 (discussing academic law library budget cuts).

8. Amanda M. Runyon, *The Effect of Economics and Electronic Resources on the Traditional Law Library Print Collection*, 101 LAW LIBR. J. 177, 186, 2009 LAW LIBR. J. 11, ¶ 24.

9. Julian Aiken, Femi Cadmus & Fred Shapiro, *Not Your Parents' Law Library: A Tale of Two Academic Law Libraries*, 16 GREEN BAG 2D 13, 15 (2012).

10. *Id.*

set of resources in electronic form actually decreased by 10.19%.<sup>11</sup> Information from this study is not as detailed or comprehensive as for print, however, and it shows the lowest price when an electronic source is available through multiple vendors. It is also perhaps not the best way to measure electronic pricing since electronic resources are almost always purchased in bundles.<sup>12</sup> When several resources are bundled in a large database, pricing for that database over time is more important than average price for a sample of individual titles as stand-alone electronic purchases. Electronic pricing may also vary for the same resource, based on what permissions are allowed for that resource. For example, a book can be loaned from one law firm employee to another, but an e-mail newsletter may have restrictions on forwarding or sharing. For a library that is open to the public but serves a specific closed community, such as law students at a university or judges and staff at a courthouse, public access may come with a significant surcharge. Nevertheless, available information on electronic legal materials indicates flat pricing from year to year. Other reasons for discontinuing print in favor of electronic include ease of access, ease of ingesting into a collection, space concerns, and regulatory requirements, such as accreditation standards, which require a resource be kept.<sup>13</sup>

### Indexing Costs and Ease: A Driving Concern for Electronic Resources

¶8 The library catalog was invented to hold information about books and allow users to locate physical copies of specific books. For print books, the catalog and stacks are a proven method of providing discovery and access. Cataloging print books is a mature system; any physical book can be ingested into a catalog and library, and the process is smooth and proven. The catalog provides discovery and the shelves provide access, working as a one-size-fits-all approach for any print collection.

¶9 In contrast, there is no universal approach for access to electronic materials. Databases have different ways to authenticate users, terms of use are different for different resources and may change over time, and online locations of resources can change with no control by or notice to the library.<sup>14</sup> Pricing models range from an all-you-can-read model to a cost per checkout, and all must be managed to prevent libraries from going over budget.<sup>15</sup> Often, catalog records can be loaded without

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11. AM. ASS'N OF LAW LIBRARIES, THE AALL PRICE INDEX FOR LEGAL PUBLICATIONS 2013, at 8 (2014), <http://www.aallnet.org/Documents/Publications/Price-Index/price-index-2013.pdf> (AALL membership required for access).

12. For a discussion of electronic package purchasing, see Karla L. Strieb & Julia C. Blixrud, *Unwrapping the Bundle: An Examination of Research Libraries and the "Big Deal,"* 14 LIBR. & ACAD. 587 (2014); for a discussion of bundled electronic purchasing and law libraries, see Dan Cordova, *Unbundling Online Legal Materials: One State Government Law Library's Perspective*, CRIV SHEET, Feb. 2014, at 3.

13. Michael Whiteman, *Book Burning in the Twenty-First Century: ABA Standard 606 and the Future of Academic Law Libraries as the Smoke Clears*, 106 LAW LIBR. J. 11, 2014 LAW LIBR. J. 2, is a comprehensive study of causes for the shift from print to electronic.

14. SHARON JOHNSON ET AL., INT'L FED'N OF LIBRARY ASS'NS & INSTS., KEY ISSUES FOR E-RESOURCE COLLECTION DEVELOPMENT: A GUIDE FOR LIBRARIES 5-6 (Aug. 2012), <http://www.ifla.org/files/assets/acquisition-collection-development/publications/electronic-resource-guide-en.pdf> [<https://perma.cc/PZH7-EDZ9>].

15. Ava Seave, *You'll Need a PhD to Make Sense of the Pricing Schemes Publishers Impose on Libraries*, FORBES (Nov. 19, 2013), <http://www.forbes.com/sites/avaseave/2013/11/19/youll-need-a-phd-to-make-sense-of-the-pricing-schemes-publishers-impose-on-libraries/> [<https://perma.cc/PE4B-R932?type=image>].

purchase, and parameters are set up by which specific activities will trigger a purchase of the full e-book.<sup>16</sup> Volatile pricing can also mean a large set of resources will disappear all at once if a database becomes too costly for the library's budget. This is in stark contrast to print collections, where a price hike may prohibit new purchases, but access to material already in the collection will not be removed.

¶10 In theory, the catalog can reliably provide comprehensive discovery of electronic resources, but if access cannot be guaranteed, then the process of getting to the resource cannot be completed. Concerns with access have motivated a variety of indexing procedures for electronic materials, and there is no consensus as to whether everything can or should go in the catalog. Instead, libraries may use a catalog, an e-journal locator, an online pathfinder, or some other tool to provide indexing information for electronic resources. Electronic resources have not been around long enough to develop a comprehensive and robust system for handling them. The special concerns for electronic resources that do not affect print are a relatively recent phenomenon, and there is not yet a reliable system for handling all electronic materials together in one unified collection. Hence the library catalog is a comprehensive inventory of print holdings but is unlikely to comprehensively cover electronic resources.

¶11 A 2002 survey on electronic resources cataloging in large academic research libraries identified these top reasons for not cataloging resources: insufficient staff time, the questioned value of cataloging electronic materials, and a preference for providing access through different means, such as a website.<sup>17</sup> In response to an open-ended question on workflows for electronic journal titles, survey respondents reported problems specific to electronic resources, which included link rot, difficulty determining exactly what titles were included in a database at any given time, lack of communication with vendors, and concerns over ownership of materials.<sup>18</sup> A 2007 survey of libraries generally found sixteen percent of respondents did not catalog electronic journals.<sup>19</sup> Reasons cited included difficulties establishing a workflow, insufficient staff time, and compliance with cataloging standards.<sup>20</sup> A 2011 survey on cataloging electronic journals noted that the workload for cataloging electronic materials far exceeds that of cataloging print.<sup>21</sup> Difficulties also noted in cataloging electronic journals included record maintenance when links break.<sup>22</sup>

¶12 Bundled pricing and indexing through third parties is also a possible natural trend for electronic materials. Search of electronic resources is fundamentally different from search of print resources. Physical constraints mean print books will be similar and recognizable whether bound volumes or loose-leaves. But for electronic materials, those constraints don't exist. Electronic treatises don't have

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16. A good discussion of a trigger arrangement is available in Erin Gallagher, Edward Hart & Sarah Pearson, *Two Florida Law Schools—One E-Book Collection*, CRIV SHEET, May 2012, at 5.

17. Charity K. Martin & Paul S. Hoffman, *Do We Catalog or Not? How Research Libraries Provide Bibliographic Access to Electronic Journals in Aggregated Databases*, 43 SERIALS LIBR. 61, 71 (2002).

18. *Id.*

19. Abigail C. Bordeaux, *Single, Separate, or Something in Between: Results of a Survey on Representing Electronic Serials in the Catalog*, 7 J. INTERNET CATALOGING 37 (2007).

20. *Id.*

21. Wendy L. West & Heather S. Miller, *Electronic Journals: Cataloging and Management Practices in Academic Libraries*, 37 SERIALS REV. 267 (2011).

22. *Id.*



the size and organizational constraints of other books and could be reenvisioned as anything. For example, annotation tools, collaboration tools, and the ability to search across many treatises at once have already emerged as new traits of e-books.<sup>23</sup> MARC was never designed for full-text search. Collaboration tools that work across electronic resources and full-text searching across sources have to be provided outside the catalog, and the importance of these features shifts emphasis away from the catalog.

¶13 When many treatises are bundled together in a database, MARC records can often be purchased as a package and batch-loaded. However, the trend is for third-party vendors to supply these, and, in fact, the availability of these began with pressure from law libraries. The vendor Cassidy Cataloging created MARC records for Westlaw and LexisNexis treatises in response to a request by Rutgers University Law Library and Charleston School of Law, which was joined by several other law schools.<sup>24</sup> So a purchase of MARC records is an additional cost on top of purchase of the database.<sup>25</sup> It is important to note that the two dominant vendors in the legal market, Westlaw and LexisNexis, were not supportive of federated search. As of 2008, neither Westlaw nor LexisNexis provided indexing information to tools such as Serials Solutions, MetaLib, and WebFeat.<sup>26</sup> In 2015, LexisNexis provided this information, but Westlaw still does not. Neither LexisNexis nor Westlaw currently markets MARC records, even for an additional fee. Third-party vendors for records pool the costs of cataloging and so are cheaper than individual libraries maintaining links; however, for many fields of study, the dominant vendors do provide indexing information that can be automatically loaded into federated search or a catalog.

¶14 Furthermore, studies on indexing of electronic materials may not look at the catalog at all. A 2010 study investigating whether open access law journals were indexed in library collections looked at whether specific resources were indexed in H.W. Wilson's *Index to Legal Periodicals and Books* (ILP), Gale's *Current Law Index* (CLI) (also known as LegalTrac), University of Washington School of Law's *Current Index to Legal Periodicals* (CILP), and the AALL's *Index to Foreign Legal Periodicals* (IFLP).<sup>27</sup> All these are themselves databases or tools, which assist in discovery of journal articles but do not necessarily provide access to full-text articles. Library cataloging practices were not considered.<sup>28</sup> Instead, it was assumed that discovery of these open access materials, if discovery came through a law library, would come in the form of a third-party database not maintained by the law library.

¶15 Just as pricing differs for print and electronic materials, costs for indexing also differ. Indexing a print book has a predictable cost in cataloging and handling

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23. Todd Melnick, *Program E1: Off the Page and Beyond the Book: New Models for Buying and Selling Legal Information*, CRIV SHEET, Nov. 2013, at 8.

24. Paul Tejada, Gordon Russell, & Joni L. Cassidy, *Collaborative Experience: Cataloging Projects with Cassidy Cataloging*, CRIV SHEET, Feb. 2010, at 7.

25. Caroline Walters et al., *The Task Force on Vendor-Supplied Bibliographic Records Creation and Distribution Models: A Librarian's Perspective*, CRIV SHEET, May 2014, at 3.

26. Yumin Jiang & Georgia Briscoe, *The Wise Researcher: One Library's Experience Implementing a Federated Search Product*, AALL SPECTRUM, Nov. 2008, at 11.

27. Edward T. Hart, *Indexing Open Access Law Journals . . . or Maybe Not*, 38 INT'L J. LEGAL INFO. 19, 22 (2010).

28. *Id.*

time, but indexing an electronic resource has a widely variable cost based on what indexing information, if any, is available and whether that indexing information can be ingested automatically into any existing search tool. For electronic material, the cost to process a collection or item is purely in the realm of technical services, and a technical services background is required to understand the issues thoroughly. Likewise, it may not be possible to include an electronic resource in a law library's search tools: for example, if indexing information cannot be ingested easily or is not available, and staff are not available to manually maintain it. This is the aspect of collection development that this study seeks to address: how are law libraries enabling patrons to search and discover electronic materials?

¶16 Ease with which a resource can be ingested into a law library's collection is a concern. Continuing resources from West Publishing have risen most steeply of all print materials.<sup>29</sup> For more reasonably priced materials like law journals, costs of staff time to handle and index print copies that duplicate readily available online content was a driving consideration at Yale and Cornell.<sup>30</sup> It is worth noting that the two dominant databases, Westlaw and LexisNexis, both include law journal coverage since the early 1990s in academic accounts,<sup>31</sup> and both are often starting points for law students engaged in legal research. Older articles are readily available through HeinOnline's Law Journal Library,<sup>32</sup> and HeinOnline makes coverage information available to dominant federated search products like Serials Solutions, MetaLib, and EBSCO Integrated Search at no additional charge.<sup>33</sup> Not only do academic law libraries have electronic copies of these items, they also have an easy and nearly automatic way to enable access with very little additional staff time. If students were not already in LexisNexis and Westlaw, or if indexing information were not available in a form that was interoperable with an e-journal locator or discovery tool, then costs of processing the electronic material would rise significantly. If indexing information were available through a third-party vendor, pricing for access would be higher. So the driving factor in the decision to cancel some print duplicates of electronic content was staff time, which is heavily impacted by what indexing information is available for electronic databases and how much that information costs. Significantly, the Yale and Cornell librarians who published on print cancellations did not mention indexing costs for electronic, even though cost was a driving factor for some cancellation decisions.

## Methodology

¶17 This study began with the assumption that large-scale print cancellations have already taken place across U.S. law libraries and that digital resources are already heavily in use. This study was not concerned with the scope of adoption of

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29. AM. ASS'N OF LAW LIBRARIES, *supra* note 11, at 6. Court reporters in print are almost all published by West, and the prices of these went up more than any other category of resource measured in the price index, almost doubling in price.

30. Aiken, Cadmus & Shapiro, *supra* note 9, at 15.

31. ANDREW ZIMMERMAN, ZIMMERMAN'S RESEARCH GUIDE: LAW REVIEWS AND LAW JOURNALS (2015).

32. *Id.*

33. *Does Hein Online Support Federated Searches?*, HEINONLINE, <https://help.heinonline.org/does-heinonline-support-federated-searches/> [<https://perma.cc/BW67-DP28>].



electronic resources, the scope of print cancellation, or the rate of adoption of electronic resources generally. Instead, this study concerns how electronic resources, once adopted, are made available and the thought processes driving library acquisitions.

¶18 This study was designed as an exploratory sampling into cataloging practices and ways to reveal the resources to library patrons. Information was gathered using a structured interview. The interview consisted of a series of general questions about the type of law library and whether it shared catalogs or other electronic resource tools with any other libraries. This was followed by a section of questions about how various listed types of electronic materials were made discoverable. Finally, interviewees were given the opportunity to speak about specific successes and challenges they had had with electronic resources.

¶19 Requests for participants were distributed through AALL's online forums and by directly contacting librarians in the Southeastern Chapter, American Association of Law Libraries (SEAALL) and the Southwestern Association of Law Libraries (SWALL). Interviews were conducted by phone with both investigators taking notes on each interview. Only persons from law libraries located in the United States were interviewed. In locating a contact within the law library, emphasis was placed on both technical services and collection development roles. For some libraries, two people at the library participated in a single interview to capture both the collection development and technical services aspects of electronic resource discovery.

## **Analysis of Results**

### **Academic Law Library Interview Results**

#### *Technologies*

¶20 Thirteen academic law libraries participated in interviews. Technologies in use for connecting patrons to electronic treatises included OCLC WorldCat catalog, Sierra catalog, Millennium catalog, OCLC's discovery tool, AquaBrowser discovery tool, Serials Solutions for journal tracking, virtual private network (VPN) for remote access, EZproxy for remote access, WAM for remote access, and LibGuides for keeping a treatise or subject list. Notably, no open source tools were mentioned by participating libraries, so access is always through a vendor-supplied tool.

¶21 Two law libraries were using discovery tools. One used AquaBrowser, which is a light, low-cost discovery tool. The other used Summon, a more expensive, high-end tool. Despite the high cost of Summon, the library appreciated the discovery tool and value provided to patrons.

#### *Budget Drives Collection Development*

¶22 Almost universally, budget pressure has driven the switch to electronic materials in academic law libraries. What was most striking was the lack of a planned switch or sense of control in librarians we spoke with. The shift to electronic was entirely dictated by economics and vendors. During the 2014–2015 academic year when this survey was conducted, there was a drop in law school applications nationally, and the legal market was widely believed to be in a contraction period. All but one academic law library we spoke with mentioned budget cuts,

and for almost a third of respondents, there had been recent budget cuts of twenty percent or more. Only one academic law library had had a flat budget (and had even had an increase over the last ten years).

¶23 In academic law libraries, a standard core academic Westlaw package and a standard core academic LexisNexis package are available. All academic libraries we spoke with had both Westlaw and LexisNexis. These standard packages are priced based on full-time equivalent student body size and provide accounts to current law students, law faculty, and law staff only. A common trend we heard from academic law libraries was to check whether a resource was available in the academic Westlaw or LexisNexis accounts and, if so, to cancel the print. This is a newer strategy. Librarians spoke of looking at value and overlap in previous years, but now many were making across-the-board cuts of any print materials that were duplicated in electronic format and only keeping print subscriptions for a small set of core legal materials for the state in which the law library is located.

### *Cataloging Trends*

¶24 Of the thirteen academic law libraries interviewed, seven were sharing a catalog with a main campus library. In all cases, the main campus library took the lead in maintaining the shared catalog and often selected the integrated library system (ILS) independent of law library input. In general, when a catalog platform is shared by libraries, it will allow search by library, so patrons can get results for law library holdings only. Several libraries mentioned that while this approach means there is less systems work at the law library level, there are also many catalog records that are not relevant to their patrons as those resources have nothing to do with law.

¶25 We specifically asked interview subjects about the dynamics of adding links to a shared catalog if the links point to resources licensed only for law. In all cases, this was not a problem. Catalog records with electronic resources licensed only for law student and faculty use were acceptable to other libraries sharing the catalog as long as the catalog record noted that the resource was for law only.

¶26 Of the six schools interviewed that were operating their catalogs independently, only one of these was a stand-alone law school. The others were attached to larger campuses, and often there was not a clear reason for keeping a separate catalog. For one law library annexed to a large university, having a smaller set of resources to provide a search that contains only relevant results was a factor. For two others, the fact that the school's law campus was not physically located in the same place as the rest of the university may have been a factor.

### *Indexing Practices for Treatises in Westlaw and LexisNexis*

¶27 Each academic law library we interviewed was doing something with treatises in Westlaw and LexisNexis, although the extent and method of their inclusion varied greatly. The same library might use multiple strategies to expose the treatises. The most popular ways of providing access to these are by adding links from a law library website or by purchasing vendor-supplied MARC records. Only one library had activated treatise listings in the A-to-Z journal lists. The vendor Serials Solutions now provides tracking information on treatises, and this had been activated and used with that library's discovery tool.

¶28 Six libraries were using a website link list, LibGuide, or something similar to post links to treatises in Westlaw and LexisNexis. These web links tended to focus on frequently used resources or around specific legal topics, like a research guide on a particular area of law. No academic law libraries interviewed were using web links to comprehensively catalog these resources.

¶29 Five libraries purchased vendor-supplied MARC records. Two obtained records from Serials Solutions, and four obtained MARC records from Cassidy. Three libraries we spoke with used MARC records to index treatises in Westlaw and LexisNexis, but only for select resources that were requested or heavily used. One library comprehensively cataloged all treatises in LexisNexis, Westlaw, CCH, and Bloomberg Law, but did so manually rather than by purchasing MARC records from a vendor.

¶30 Problems noted with vendor-supplied records included quality control, maintenance issues in vendor-supplied records, and issues with Westlaw discontinuing resources. One library that was using Cassidy records for both LexisNexis and Westlaw treatises had all the links break with the rollover to Lexis Advance and WestlawNext. Even though the library had a maintenance plan with Cassidy for the MARC records, the links never changed to WestlawNext, which currently does not allow deep linking. So the records are still loaded and still under a maintenance contract, but they have no hyperlinks. To address this, the law library added a note stating that the treatise is available in WestlawNext and directing the user to ask a librarian for assistance.

¶31 An additional concern was that if a treatise were dropped by Westlaw, then there would be no easy way to monitor for removal. A catalog platform might not have an easy way to do a batch removal of records for withdrawn resources. This was mentioned by one library using MARC records and by one library not using MARC records for electronic resources but considering whether to add MARC records.

### *E-Book Platforms*

¶32 E-book packages in use in academic libraries included Lexis Digital Library through OverDrive, demand-driven acquisitions packages from YBP, West Study Aids package, Oxford e-book collection, and Cambridge e-book collection. Only a few of the academic law libraries we surveyed were purchasing e-book packages, but many had patron access to e-books because they shared a catalog with the main campus.

¶33 Both LexisNexis and Westlaw have e-book platforms. LexisNexis makes its treatises available through the OverDrive e-book platform as the Lexis Digital Library. Westlaw has created its own e-book platform, ProView. Only one academic law library we spoke with had looked at ProView, but it was not purchased. One academic law library we spoke with had purchased the Lexis Digital Library. Additionally, seven libraries had looked at the Lexis Digital Library but did not purchase it. Three libraries cited pricing as a barrier, one cited outdated content as a deterrent, and one cited too many restrictions on use of the material.

¶34 Additionally, we asked about West Study Aids. Two libraries had purchased this package and were very pleased with the amount of student use it generated.

The best feature of this subscription was that it allows concurrent users, so if a professor recommends a Nutshell book, all the students in the class can read it at the same time, which also takes pressure off the reference desk. Two additional libraries had looked at West Study Aids but had not purchased it; both cited cost as a reason not to buy.

### *Open Access Materials, Including Government Documents*

¶35 Government documents were far more likely to be indexed comprehensively by law libraries. Only one law library was not doing anything with open access government documents. Two others weren't doing anything because the libraries were annexed to large university systems that cataloged all electronic Federal Depository Library Program (FDLP) materials. Those two libraries didn't have to do any cataloging because the MARC records were already in the catalog.

¶36 The most common ways of making these available were MARC records or website links. For libraries indexing government documents, the most common way to index these was to get MARC records from a vendor. All ten libraries that indexed electronic government documents used MARC records as one strategy for making these available. Four libraries selectively cataloged material. One of those used to purchase records from Serials Solutions but found the quality was not good enough. Two libraries were purchasing and loading Cassidy records, and the other four libraries were using Marcive records.

¶37 Open access materials other than government documents were less likely to be indexed by academic law libraries. Ten libraries were doing something to make open access materials available, but the extent of what they were doing was limited. Libraries may add only a few links from a website for open access materials but comprehensively index, catalog, and list government documents. The most common way open access materials are exposed to patrons is through linking from library websites or LibGuides, a strategy used by five libraries. In general, this is not a comprehensive strategy, and only a handful of materials are listed. Additionally, an e-journal locator or discovery tool may allow a library to pull in a listing of open access materials, such as materials in the *Directory of Open Access Journals*. Four law libraries were using this method to expose open access materials, and two others were annexed to main campus libraries that include some open access material in the e-journal locator.

### *Electronic Access Bundled with Print Purchase*

¶38 Many publishers provide electronic access with a print purchase of a single copy of a book. This can be provided through an access code and installation of a single copy, through registration of an Internet protocol (IP) address range for access, or through a single-user online account.

¶39 When asked, most academic law libraries said that if it was possible to provide access by IP, then they registered an IP address and added a catalog record to allow access. However, when asked about specific resources, such as National Consumer Law Center publications which do allow IP range access complementary with a print purchase, often the person we interviewed was not aware that specific treatises could be set up this way. For example, a law librarian we interviewed learned that National Consumer Law Center materials could be configured by IP range only when we asked a follow-up question about these materials during the

interview. Because the electronic access bundled with print works differently for different publishers and different treatises, it takes time and effort to individually examine each treatise. This is a barrier to knowing what can be configured for campus-wide access and what resources will have to be accessed by different means.

¶40 If only a single installation of an e-book or a single-user registration is available, most academic law libraries do not make the resource available. Six libraries were doing absolutely nothing with these single-user e-books. Four libraries had some variation of keeping all registration codes in a folder. For two of them, it was an actual folder; for the other two, it was a shared drive. One library was loading current awareness tools onto a single iPad kept in a waiting room, and one library was registering single-user e-books on a specific reference computer. Only one library was noting in the catalog record that electronic access may be available and to see a librarian; that librarian keeps a password list. As can be seen, no good strategy emerged for handling individual e-books tied to a single print purchase. Quotes on the topic included, “I just won’t go there” and “Nothing seems important enough to justify a new process.”

### *Public Access to the Law and Academic Law Libraries*

¶41 Of the thirteen law libraries we interviewed, eleven were open to the public. The two libraries that were not open to the public were both housed within law schools that were established within the last ten years.

¶42 Of law libraries open to the public, about half noted public access when asked a general question about who uses the library. The other half did not mention the public when asked about users in general, but did talk about public patrons when asked specifically. The extent to which the public was considered in acquisitions decisions, and even whether public access existed at all, did not correlate with whether the law library was part of a publicly or privately owned school.

¶43 Because the academic Westlaw and LexisNexis accounts provide access only through individual logins issued to students, faculty, and staff, shifting to electronic materials means the bulk of material may not be available to the public. Other databases commonly subscribed to by law libraries, such as HeinOnline, focus on specialty practice areas or older material and are not comprehensive legal research platforms.

¶44 Westlaw and LexisNexis both offer patron access accounts, where for each account, a single computer in the building has access to the online platform with no individual logins. Only one of the academic law libraries open to the public had purchased this type of access and provided a Westlaw Patron Access terminal. Motivations for the terminal included providing access to the public as well as to local attorneys. In the interview, the general public was specifically named as a beneficiary of this resource. Notably, this law library was housed in a private law school. Additionally, one of the academic law libraries not open to the public also had a Westlaw Patron Access terminal and a Lexis Patron Access terminal. Motivation for these was to provide access for alumni.

¶45 An alternative way to provide access to core legal materials is to subscribe to LexisNexis Academic or to Westlaw Campus Research. These are general purpose databases geared toward campus-wide use for undergraduates. Licensing allows the public access from inside the building. These databases were not mentioned by

interview subjects but were not specifically asked about. In general, it is our belief that a law school housed within a larger university would have access to these through the university but that a stand-alone law school would probably not purchase these as the cost might be redundant.

¶46 Electronic resources from vendors like HeinOnline, LLMC Digital, and most other legal research databases are typically licensed for use by the public from within a subscribing library and are commonly subscribed to by academic law libraries. However, the bulk of current legal materials are in Westlaw and Lexis-Nexis, and other legal research databases are often for older materials or a specialized research area.

¶47 The overall trend in the transition to digital is that academic law libraries no longer provide a full range of legal materials to the public, including to local attorneys.

### *Federal Depository Library Program (FDLP) Trends*

¶48 Culturally, academic law libraries have a history of being open to the public. The FDLP is a federally established program through which libraries sign up to receive government documents free of charge from the Government Publishing Office (GPO). In return, the libraries must guarantee that they will provide everyone access to these materials. A hundred years ago, all the government documents would have been available in print. Now government publishing takes place both online and in print, with electronic access quickly becoming the more common of the two.

¶49 Six of the thirteen academic law libraries we interviewed were participating in the FDLP program, and a seventh had just dropped the program. Libraries participating in the FDLP program spoke of changes that came with the shift to electronic materials. As cataloging shifts to links that are accessible from anywhere and away from books that are physically accessible only from the main library or the law library, some law libraries have pulled back and reduced involvement in the program since main campus links are readily available.

¶50 Catalog records are available to FDLP libraries. For several years, the GPO has been running the Cataloging Record Distribution Program (CRDP), which provides participating libraries with free catalog records for FDLP materials. Approximately half the FDLP law libraries we spoke with were participating in this program. Records are received monthly and then batch-downloaded into the participating library's catalog, which allows for more comprehensive indexing of government materials at a relatively low cost.

## **Law Firm Library Interview Results**

### *Technologies*

¶51 Interviews were conducted with twelve law firm libraries. The principal ILSs used were EOS, Softlink Liberty, and Inmagic. For the most part, remote access was provided using Citrix, EOS, or VPN. Intranet platforms include Sharepoint, Citrix, and homegrown solutions. No law firms we spoke with were using a discovery system.



### *Convenience Drives Collection Development*

¶52 Our interviews show that law firms have generally been quicker than academic law libraries to adopt new technologies for accessing legal materials. This is most likely due to the often urgent nature of a law firm's work rather than the scholarly focus associated with academia. Accordingly, it is a main thrust of law firm librarians to make sure their patrons know how and where to access these electronic materials.

¶53 One example relates to electronic access that comes bundled with print. Academic law libraries tended to do nothing with this type of access. In contrast, law firms were interested in getting the word out to their lawyers about electronic access, and most firms put notes in their catalog records regarding access information.

### *Treatises in Westlaw and LexisNexis*

¶54 The firms we spoke with were about evenly split, with four having only Westlaw, three having only LexisNexis, and five subscribing to both major databases; this largely depended on firm size. All firms subscribed to other common legal databases such as HeinOnline and CCH IntelliConnect, depending on firm size and specialization area.

¶55 In each firm that had lawyers using both Westlaw and LexisNexis, there was still a strong tendency toward using one or the other, so all lawyers might have Westlaw, with only a handful having LexisNexis accounts, or vice versa. This is in contrast to academic law libraries, which universally had both LexisNexis and Westlaw accounts, and county and government law libraries, the majority of which had access to both platforms equally.

¶56 According to our statistics, firms have taken a more robust approach to cataloging individual titles in both Westlaw and LexisNexis. The level at which each firm has cataloged items in those databases does vary, however, with some cataloging virtually everything and others making catalog records only for unmetered treatises. Unmetered access refers to access where the amount of use does not affect the price; in other words, more users or more time spent with the resource does not result in an additional cost.

### *E-Book Platforms*

¶57 E-book packages in use included LexisNexis Matthew Bender unmetered treatises, firm-wide electronic Bluebook, Lexis Digital Library through OverDrive, Courthouse Laws, and Law360. Additionally, several law firms we interviewed were using EBSCO Ebrary, which is available to their patrons through the New York Law Institute's subscription. For libraries using the EOS catalog platform, the New York Law Institute catalog can integrate and allow seamless access through the law firm's catalog.

### *Open Access Materials, Including Government Documents*

¶58 There was more of a tendency in law firms to catalog and link to open access materials, especially if they believed the resource would have heavy usage. Besides government documents, the majority of those open access materials were court rules and state statutes. No matter the library type, everyone had something from HeinOnline, and everything in the firm's HeinOnline subscription was cataloged as

completely as possible. Many of the materials that firms purchase through Hein are government documents that have been canceled in print due to their availability electronically. Government websites were also linked to for government documents, especially when the print publication had been canceled.

### *Electronic Access Bundled with Print Purchase*

¶59 For electronic access that comes bundled with print, academic law libraries tended to do nothing with this type of access, but law firms were more interested in getting the word out to their patrons that electronic access was available. Most firms put notes in their catalog records, with instructions on how to access the resource if access was available firm-wide, and it was common to add a catalog note telling the attorneys to speak with a librarian for those instances where access comes in the form of a single-access code.

### *Special Concerns Regarding Print Material at Law Firm Libraries*

¶60 One reason specified for switching back to print for certain materials was given by a firm that had switched from Westlaw-only to LexisNexis-only and had to reorder print copies of some treatises that are only available in Westlaw. In other words, if something cannot be purchased electronically, as is the case for a LexisNexis-only firm eyeing a Westlaw-only electronic version, then print is the only option. Additionally, when a firm library has an exclusive contract with either Westlaw or LexisNexis, there will be less material available in electronic format. Another practical reason we heard for choosing print is that electronic books often do not have good displays of charts or may omit diagrams and illustrations. For resources in which this is the case, a firm will switch back to print, and the law firm librarians we interviewed gave examples of specific treatises where pictures mattered and the electronic version had not worked out.

¶61 Convenience was also cited as a major reason for choosing print over electronic. One librarian we spoke with described trying to get a lawyer connected with the e-book she had purchased for him. She had to order the book to an e-mail address. The vendor sent an automatically generated e-mail to the lawyer. The lawyer did not follow the instructions immediately, going to the e-mail a few days later. By that time, the activation link had timed out. She contacted the vendor, had the link resent, and again the lawyer waited until he needed the book, by which time the link had timed out yet again. She had to get another e-mail sent, then go to his office to walk him through installing the book, and it took more time than it should have.

¶62 Another concern told by multiple interviewees was about installing software, then more software, to be able to read a single e-book. It can take significant time to get an e-book ready to read, and lawyers often do not have that time. Instead, as one interviewee explained, a print book can be ordered with overnight shipping, and when it arrives the next day, it is ready to use.

### **Government Law Library Interview Results**

¶63 We interviewed five county law libraries, three court libraries, and one law library for a large state agency. Only one of the court law libraries was primarily for the court with the other two split between serving the court and serving local attorneys and the public.

### *Technologies*

¶64 Government law libraries used the following catalog platforms: Inmagic, LibraryWorld Gold, SyrsiDynix, Millennium, a Microsoft Excel spreadsheet of library resources, SidneyPLUS, and EOS. They used the following technologies for remote access: VPN, court-issued laptops that authenticate to the court's network, and a custom build of WordPress to authenticate patrons through to resources. The sample size is too small to determine a complete range of technologies in use. Nevertheless, government libraries had a wide range of quality levels for technology tools, with catalog products ranging from a hand-created list all the way up to a full-fledged catalog like Millennium.

¶65 Each court library and the agency library had an intranet. They used the following technologies for intranet: SharePoint or a shared drive. The intranets each contained some e-book material or access information. Often, these offered PDFs of single-download e-books. In general, county law libraries did not have intranets unless the county law library was tied to and intended to support a specific court. However, some did have a drive or server that was available only from computers set up in the building, and this was used for providing access to PDFs and CLE material.

### *Space Reduction Drives Collection Development*

¶66 While we did not ask about space reduction, three of the five county law libraries we spoke with volunteered this as a recent change that had affected collections. These were dramatic reductions. One library was going from 4000 to 200 square feet and from 15,000 to 4000 print volumes. Another had just gone from 10,000 to 3000 square feet. This indicates that space pressure is a significant force affecting county law library collection decisions.

### *Treatises in Westlaw and LexisNexis*

¶67 The trend was for government law libraries either to index everything in Westlaw and LexisNexis or to index nothing. This was split almost equally. No libraries we spoke with were selectively cataloging; it was all or nothing. For those libraries cataloging everything, a common complaint was that there was no way to comprehensively monitor for discontinued material. If something were removed from the database, the library had no way to get a comprehensive list of removals to facilitate the removal of records. This was particularly a concern for Westlaw Patron Access materials. No government libraries were using a LibGuide or treatises list to expose items in Westlaw and LexisNexis.

### *E-Book Platforms*

¶68 In general, more government law libraries had LexisNexis Library Patron Access and Westlaw Patron Access terminals than any other library type. This is in keeping with the public mission of these libraries. More of the government law libraries were using Lexis Digital Library (OverDrive) than any other library type. Reasons mentioned focused on competitive pricing, and reasons other law library types had for not subscribing do not apply to county law libraries. Firm libraries often did not subscribe because the content overlapped with attorney LexisNexis

accounts or because the firm only had Westlaw and outgoing links from the Lexis Digital Library went to LexisNexis and so did not work for the firm. These reasons do not apply to government law libraries, which primarily serve the public.

¶69 For other legal databases, those purchased by government libraries correspond with those purchased by other library types. Databases we found in our sample include HeinOnline, LLMC, open access legal materials in HathiTrust, CEB OnLaw, Aspen treatises library, Ravel, and Loislaw.

¶70 Consortial pricing figured heavily into tools and products used by government law libraries. Often the decision of what tool to use was made by a larger body. For example, one court library in a statewide system got the catalog through the statewide system, and all e-book cataloging was done by the central library.

### *Open Access Materials, Including Government Documents*

¶71 Government law libraries were likely to catalog open access materials if a court system was pushing them out for pro se litigants or for the public to get self-help, or if the resource came up frequently in reference questions. A common way to expose links to government documents was through a website with a list of links. Libraries subscribing to HeinOnline specifically mentioned government documents collections in Hein.

### *Electronic Access Bundled with Print*

¶72 Strategies for managing electronic access bundled with a print purchase were the same across all library types. Government law libraries would set up IP access, if possible. Government law libraries generally had done this to a greater degree than other library types. For example, government law libraries with National Consumer Law Center material knew that it could be set up by IP and had done so. We did not encounter any example of a government law library that was unaware that an item in its collection could be configured for access by IP, while we had encountered these in academic and firm law libraries. This may be done by necessity. Libraries that do not primarily serve the public can handle single-user accounts or can share passwords with specific patrons. Libraries that primarily serve the public cannot share passwords, and so practically must have IP access or nothing.

### *Regulations Restrict What Technologies Government Libraries Can Use*

¶73 Several government libraries we spoke with mentioned regulatory constraints on what technology tools the library was allowed to use. For court libraries, it was important to protect in-process opinions. This prevents use of cloud technologies because the vendor would then have access to those opinions. The agency library had the same concern. One library could not put links in the catalog unless the link was to an .edu site or government agency, due to regulations on cloud computing. Public records concerns were also an issue and restricted what technologies could be used. Another library said these restrictions were the greatest barrier to overcome in moving to more extensive use of electronic resources.

## Overall Trends

¶74 When it comes to money spent on print versus electronic materials, county and academic law libraries have generally not adopted as many electronic materials as have law firms. This was often because, for law firms, resources need to be available “just in time” rather than “just in case,” a model better associated with print resources. Percentages of acquisitions budgets in law firms that are now devoted to electronic resources rather than print were often in the seventy to eighty percent range, whereas government libraries were almost at an even split, and academic law libraries were more likely to be spending only thirty to forty percent of their acquisitions budgets on electronic resources.

¶75 While all interviewees had adopted quite a few electronic resources, most still felt that print was easier to use—with electronic access, you have to set up the platform, install software, register the software, download the material, and so on. But with a book, you buy it, the book arrives, and it is available. Major issues involved with electronic resources included getting the business model to work in the legal environment and problems caused by having so many platforms that have to be incorporated and no easy way to tie them together.

¶76 Almost universally, law librarians spoke of a need for a uniform way to access e-books, and preferably one not tied to a single vendor. Frustration with any resource requiring special access procedures was obvious. Even if a law library can arrange to provide access, it is difficult and frustrating for patrons to install software or learn a new procedure for accessing something. One stark example of this was that of the thirty-four libraries interviewed, none were using Thomson Reuters’ ProView. Most people we spoke with thought having a completely separate platform was unnecessary and problematic. One large firm tried to get its court rules through ProView, but we were told it never worked correctly, and because Thomson Reuters was making them buy the print as well, it was quickly dropped by the firm.

¶77 Frustrations were also readily apparent regarding stand-alone e-book purchases that did not come as PDFs. There was frustration with e-books that would need special software or unique access procedures or yet another password. For e-books in general, platforms exist into which e-books from multiple vendors can be loaded. For example, EBSCO Ebrary will hold books purchased from other vendors (although certainly not all vendors), and OverDrive is a platform that multiple publishers use for distribution. In law, the duopoly of LexisNexis and Westlaw dominates, but books from other publishers cannot be purchased and loaded into those platforms.

## Conclusion

¶78 All law library types are rapidly transitioning from print to electronic materials. For academic law libraries, this is driven by budget pressure, has not been planned, and is not a choice. For law firm libraries, this is driven primarily by speed and convenience of access, with budget pressure a definite concern in the background. For government libraries, the transition is driven primarily by space issues as several libraries we spoke with had recently moved to significantly smaller facilities. Unfortunately, our interviews suggest that no matter the library type, in

general there has been no real “game plan” for when to switch from print to electronic; what resources to target for conversion; and, once the shift has been made, how to manage the changes in workflow that invariably arise. Most of what has been done has been on an ad hoc basis as various situations have arisen.

¶79 Previous literature predicted a hybrid environment of print and digital for years to come, but we think the shift to an almost exclusively electronic legal research environment is much more imminent. Core patron groups use print only for a handful of treatises by small publishers and only because these resources are not integrated into any usable electronic platform. Secondary patron groups, such as bar members visiting an academic law library, use print only because licensing restrictions prevent electronic access, but under budget pressure, the materials available to these patrons are already drastically reduced. For treatises published by the big two, West and LexisNexis, the research environment is electronic and not particularly hybrid. If small publishers were able to accomplish electronic distribution through already existing electronic databases, then the shift to electronic materials would be almost immediate.



## Appendix

### E-Book Interview Questions Used to Guide the Interviews

IRB statement: The purpose of this is to gather information about how law libraries are indexing e-books. We are conducting a series of interviews with librarians in U.S. law libraries. We plan to publish a summary of findings from the interviews, including examples of how law libraries make resources available and of barriers to efficiently indexing e-books.

- What size population does the library serve?
- What is your catalog platform?
- What is your remote access platform?
- Do you share a catalog with a main campus library?
- Describe how the law library shared resources for the catalog and remote access tools.
- How have dynamics with the main campus library (or other library) affected your ability to index e-books?
- What are you doing to index
  - treatises in Westlaw and LexisNexis?
  - OverDrive?
  - open access materials?
  - government documents?
  - CDs/DVDs that come with books?
  - electronic access bundled with print?
  - stand-alone purchases of e-books?
- What is your biggest success in e-books in the past two years?
- What is the largest hurdle to overcome?