

# Preserving Our Heritage: Protecting Law Library Core Missions through Updated Library Quality Assessment Standards\*

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*Professor Lee argues that traditional quality criteria for judging law libraries are now inadequate because they no longer capture the vital multiple missions of today's libraries. She suggests ways that law librarians can begin to develop indicia of quality that can adequately evaluate the contemporary law school library and preserve its core missions.*

## Introduction

¶1 How should the quality of a twenty-first century academic law library collection be measured? Although law school libraries, like other academic libraries, have evolved to include electronic as well as print research sources as integral parts of their collections, they still largely rely on traditional measures of quality, such as volume counts, that no longer serve to assess satisfactorily the twenty-first century law library.

¶2 This article argues that traditional quality criteria are now inadequate for reasons beyond those recognized in the literature. Because the source of the inadequacies—the inability of traditional criteria to capture the vital multiple missions of today's libraries—is seldom recognized, the reforms proposed thus far are insufficient. After explaining why this is so, the article suggests how law librarians could begin to develop indicia of quality that can adequately evaluate the contemporary law school library and preserve core library missions.

## Criteria and the Print Paradigm

### *The Print Paradigm*

¶3 “[T]he library has existed for at least twenty-six hundred years—three times longer than the university.”<sup>1</sup> The purpose of a library has always been to provide its users with access to information through collecting, organizing, storing, preserving and transmitting knowledge traditionally contained on paper, papyrus or linen, clay

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1. Peter Briscoe et al., *Ashurbanipal's Enduring Archetype: Thoughts on the Library's Role in the Future*, COLLEGE & RES. LIBR., Mar. 1986, at 121, 121.

or stone.<sup>2</sup> All items collected were tangible objects serving as vehicles to communicate the information inscribed on them. Since Gutenberg invented movable type, books and paper have been the preferred source for storing and transmitting information and thus the predominant format in libraries.

¶4 Academic libraries have traditionally emulated the great Alexandrian Library that sought to amass all known information and collected as many books and other documents as possible. In pursuit of this ideal, academic libraries sought to be complete, fully self-contained research institutions, holding under one roof physical texts with all the information scholars could ever want.

¶5 The centrality of books to libraries enabled a set of assumptions as to the criteria for evaluating libraries. This “print paradigm,” for reasons that are quite understandable, identified the quality of a library with the number of books it owned. At bottom, it maintained that “more is better.”

¶6 The print paradigm has multiple roots. First, when books were the major source of information, having more books or other printed texts meant having more information. Hence, a bigger collection of books was assumed to be a better collection, particularly for academic libraries.<sup>3</sup>

¶7 Second, because books are tangible, countable objects, library operations, buildings, and personnel have centered on acquiring and organizing thousands or even millions of physical objects. As a result, a library with plentiful “inputs,” including a large facility, staff, and budget, was assumed to be a high quality library.<sup>4</sup>

¶8 Third, as tangible objects, books must be owned in order for a library to ensure that their information is available whenever scholars want it. Owning books thus ensured that authoritative language remained fixed as it was at publication and preserved knowledge for future generations.

¶9 In effect, when print was the major medium for storing information, librarians could and did assume that volume count was the preferred measure of library quality. Libraries, however, have always served as more than repositories of large quantities of books. In fact, librarians have assumed and accepted that libraries serve multiple core missions that are informed by the core values of librarianship.<sup>5</sup>

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2. *See id.*

3. SHARON L. BAKER & F. WILFRID LANCASTER, *THE MEASUREMENT AND EVALUATION OF LIBRARY SERVICES* 55 (2d ed. 1991) (“Research has verified that the larger the collection, the greater the library’s circulation . . .”).

4. “Inputs [are] [r]esources dedicated to or consumed by a program (e.g. money, staff, volunteers, facilities, library materials, equipment)” usually described in financial or other quantitative statistics. Peggy D. Rudd, *Documenting the Difference: Demonstrating the Value of Libraries Through Outcome Measurement*, in *INSTITUTE OF MUSEUM & LIBRARY SERVICES, PERSPECTIVES ON OUTCOME BASED EVALUATION FOR LIBRARIES AND MUSEUMS* 16, 20 (2000), available at <http://www.ims.gov/pdf/pubobe.pdf>.

5. *See* Am. Library Ass’n, *Core Values Statement* (adopted June 29, 2004), <http://www.ala.org/ala/oif/statementspols/corevaluesstatement/corevalues.htm> [hereinafter *ALA Core Values Statement*] (listing “access, confidentiality/privacy, democracy, diversity, education and lifelong learning,

While different sources list slightly different formulations, one important library mission is stewardship.<sup>6</sup> Recognizing that the “availability of legal information is a necessary requirement for a just and democratic society,” law librarians seek to provide wide, equitable access to knowledge and information by all, and to preserve and assure authoritative information for permanent future access.<sup>7</sup> A second mission speaks to the fact that librarians are also educators who should deliver “lifelong learning services” to all members of society,<sup>8</sup> and “educate and train library users to be knowledgeable and skilled legal information consumers.”<sup>9</sup> A third mission widely shared by librarians is service—to individuals and community, present and future.<sup>10</sup>

¶10 Importantly, during the print era, the identification of quality with volume count assured that the key criterion by which libraries would be judged was highly relevant to enabling libraries to fulfill these core missions and deeply held values of librarianship. Only since the move away from books, and the consequent threat to the print paradigm, have librarians begun to consciously notice and discuss the danger of failing to achieve their core missions.

### *Standards and Criteria*

¶11 In the United States, standard-setting for and evaluation of academic libraries is largely controlled by the accreditation process,<sup>11</sup> which schools must engage in to be eligible for federal grants and student loans.<sup>12</sup>

intellectual freedom, preservation, the public good, professionalism, service, [and] social responsibility”). Michael Gorman discusses eight core values: stewardship, service, intellectual freedom, rationalism, literacy and learning, equity of access to recorded knowledge and information, privacy, and democracy. MICHAEL GORMAN, *OUR ENDURING VALUES: LIBRARIANSHIP IN THE 21ST CENTURY* 26–27 (2000). The core values of the American Association of Law Libraries (AALL) are: “lifelong learning and intellectual growth, the role of the law librarian in a democratic society, equitable and permanent access to legal information, continuous improvement in the quality of justice, [and] community.” Am. Ass’n of Law Libraries, *Strategic Directions 2005–2010*, at 4, available at [http://www.aallnet.org/strategic/strategic\\_direction-2005-2010.pdf](http://www.aallnet.org/strategic/strategic_direction-2005-2010.pdf) (last visited Nov. 12, 2007).

6. “Stewardship has always been a key characteristic and mission of libraries. . . . Stewardship implies mission, responsibility, integrity, trust, accountability, service, and preservation and sustainability for future use.” Sharon Farb, *Libraries, Licensing and the Challenge of Stewardship*, *FIRST MONDAY*, July 2006, [http://firstmonday.org/issues/issue11\\_7/farb/index.html](http://firstmonday.org/issues/issue11_7/farb/index.html). Farb also sees stewardship as including authenticity and rights of user access to information (equitable access, fair use and other noncommercial uses under federal copyright law, interlibrary loan, and scholarly sharing).
7. Am. Ass’n of Law Libraries 2000–2005 Strategic Plan: Leadership for the 21st Century: New Realities, Changing Roles, [http://www.aallnet.org/about/strategic\\_plan.asp](http://www.aallnet.org/about/strategic_plan.asp) (last visited Nov. 6, 2007) [hereinafter *AALL 2000-2005 Strategic Plan*] (vision statement).
8. ALA Core Values Statement, *supra* note 5.
9. AALL 2000–2005 Strategic Plan, *supra* note 7.
10. ALA Core Values Statement, *supra* note 5.
11. For more information about the accrediting process, see COUNCIL FOR HIGHER EDUCATION ACCREDITATION, *THE FUNDAMENTALS OF ACCREDITATION: WHAT DO YOU NEED TO KNOW?* (2002), available at [http://www.chea.org/pdf/fund\\_accred\\_20ques\\_02.pdf](http://www.chea.org/pdf/fund_accred_20ques_02.pdf); U.S. Department of Education, *Accreditation in the United States*, <http://www.ed.gov/admins/finaid/accred/index.html> (last visited Nov. 6, 2007).
12. See 20 U.S.C.A. §§ 1085, 1088 (West 2000 & Supp. 2007).

¶12 Since 1952, a subsection of the American Bar Association (ABA) called the Council of the Section of Legal Education and Admissions to the Bar has been the recognized agency for accrediting J.D. programs.<sup>13</sup>

¶13 The authorized accrediting body sets standards of quality that cover all aspects of educational institutions, including libraries. Accrediting bodies often set very general standards, such as a requirement that a school have a “satisfactory” or “adequate” library collection, with few detailed specifications.

¶14 To understand the discussion that follows, a brief examination of the various, sometimes confusing, terminology in this area is helpful. Academic libraries are expected to meet *standards* of quality. The scholarly literature of librarianship holds that standards are “a set of guidelines or recommended practices, developed by a group of experts, that serve as a model for good library service.”<sup>14</sup> Although the term *standard* is used indiscriminately, it can mean anything from minimum to ordinary to excellent in quality.

¶15 Standards are first a minimum baseline that an institution must meet. But *standards* can also signify either average or acceptable performance, or at other times, excellence. In this sense, standards can be aspirational and encourage “good” schools to aim higher.

¶16 In addition, educators and librarians also use the word *standards* to represent the larger accreditation system itself. Indeed, “*the standards*” is sometimes used as shorthand for the entire ABA law school accreditation system and the way things are done in American legal education. Many characteristics of U.S. law schools are quite universal, and legal educators believe that these are required under the standards. In fact, this is not always so.

¶17 Given these many permutations, it is not surprising that practicing academic law librarians rely on additional, informal but commonly accepted criteria to build, operate, and accredit a law school library. A criterion also is a type of standard: “A standard, rule, or test on which a judgment or decision can be based.”<sup>15</sup> Criteria are concrete and specific tools that serve to gel the vague quality requirements of the general standards into practically applicable guidelines. Some are now included in *interpretations* footnoted in the standards, which, while not binding as are the standards, are helpful. The data required by the ABA in its questionnaires is often used as quality criteria to judge quality internally and comparatively against other schools. Other criteria are not written anywhere, but are recognized by law librarians in practice. Surrounding

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13. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, AM. BAR ASS'N, 2007–2008 STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS, at iv (2007), available at <http://www.abanet.org/legaled/standards/20072008StandardsWebContent/2007-08%20Standards%20book.pdf> [hereinafter ABA STANDARDS].

14. BAKER & LANCASTER, *supra* note 3, at 321.

15. THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 431 (4th ed. 2000).

and implementing the formal standards, these criteria serve almost as an unwritten common law.<sup>16</sup>

¶18 If standards and criteria define the quality goals to reach for, what processes and tools do accrediting agencies use to determine whether a law school meets them? While the terms *evaluation* and *assessment* seem interchangeable, the professional literature distinguishes the terms. The literature of librarianship sees assessment as the internal process of a library gathering information on its own performance and using it for self-improvement. Evaluation is an external judgment on the institution's worth and quality, perhaps including comparisons with peer institutions.<sup>17</sup>

### *The A.B.A. Law Library Standards and Criteria*

¶19 The ABA began regulating law school libraries in 1921 with a requirement that law schools "supply an adequate library for the use of the students."<sup>18</sup> The standards later added specific minimum levels for two key inputs: collection size and the library materials budget.<sup>19</sup>

¶20 The print paradigm is reflected in the law school library accreditation structure: the aspirational standards and guiding criteria, self-assessment and external evaluation of a library's success in meeting them, and measurement data such as that gathered in the annual questionnaire. In all of these, the emphasis is on "bigger is better." Ownership of many books and other tangible items has defined quality. Inspectors look to inputs of resources and find that libraries with deep research collections of many volumes are of higher quality.

¶21 The ABA's accreditation standards and process have relied consistently, almost exclusively, on key quantitative inputs based on the print paradigm to measure law library quality. An important ABA tool in law school approval has been the detailed numerical data collected in its mandatory annual questionnaire.<sup>20</sup> Its many questions have collected quantified data on law library resources, the most important of which have been volume count and budget. Today's questionnaire collects quantitative data on many other law library inputs as well, such as titles,

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16. An analogy made by then-ABA Deputy Consultant Stephen Yandle. Stephen Yandle, ABA Deputy Consultant on Legal Education, ABA Update at the Southeastern Ass'n of Law Schools Annual Meeting, Hilton Head, S.C. (July 19, 2005).

17. Gwen Lee-Thomas & John Robson, *The Questions of Academic Library Assessment*, 23 IND. LIBR. 6, 6–10 (2004). A good academic library description of the differences is that "[a]ssessment is the gathering of meaningful or purposeful data that will provide information that informs, improves or confirms," and "[e]valuation . . . is the assigning of merit, value or worth to the findings." *Id.* at 7. Library evaluation expert Peter Hernon also differentiates assessment from evaluation. Though both involve planning, "in . . . assessment, the focus is on local improvement rather than a comparison with peer institutions." PETER HERNON & ROBERT E. DUGAN, AN ACTION PLAN FOR OUTCOMES ASSESSMENT IN YOUR LIBRARY, at x (2002).

18. GLEN-PETER AHLERS SR., THE HISTORY OF LAW SCHOOL LIBRARIES IN THE UNITED STATES: FROM LABORATORY TO CYBERSPACE 88 (2002).

19. *Id.* at 88-89.

20. See ABA STANDARDS, *supra* note 13, Interpretation 101–1, at 4.

interlibrary loan (ILL) transactions, and size of the staff, seating and square footage.<sup>21</sup> “Volume count has taken on a greater significance than other library statistics because it is apparently easy to measure and can be used to compare or rank libraries,”<sup>22</sup> and appears in places far beyond the accreditation context.

¶22 The ABA accreditation system, incorporating the print paradigm, serves at least four different functions. First, the accreditation standards are used for credentialing a law school, authorizing its graduates to sit for bar exams in the U.S. Second, a law school library uses these statistics for internal assessment in self-studies, budget projections, collection planning, buying decisions, and for other strategic planning purposes, including preparing for future ABA inspections. Third, the ABA statistics are used for external evaluation and comparative purposes, including determining the school’s ranking by *U.S. News* and other law school directories. Interestingly, there is only one way a school’s law library can help the school move up in the *U.S. News* rankings: increase the volume count. The volumes counted must fit the ABA’s definition of a print or microform volume,<sup>23</sup> thus the *U.S. News* formula does not recognize the existence of electronic sources. Finally, the ABA quality standards and assessment techniques derived from them have implicitly protected the multiple core missions of academic law libraries. Volume-count-based evaluations encourage a library to actively collect and preserve many authoritative print resources, and to own tangible resources that are available to provide wide, equitable access to legal information. The law library thus educates its user community and serves the public good. The resulting deep collections have allowed libraries collectively to build rich collections and participate in resource-sharing efforts. Though seldom consciously recognized, the print paradigm has, until now, enabled librarians to serve multiple core missions and values.

¶23 The print paradigm and traditional quality criteria have not been perfect, but in the past, when most information was contained in books and other tangible objects, the paradigm served as a shorthand indicator of quality. Besides, the ideal was attainable:

It used to be easy to be a librarian because everybody knew that the most important thing was to have every book that every faculty member or student might want within the walls

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21. See Section of Legal Educ. & Admissions to the Bar, Am. Bar Ass’n, 2007–2008 Questionnaires, <http://www.abanet.org/legaled/questionnaire/questionnairedocuments.html> (last visited Nov. 12, 2007) [hereinafter ABA 2007-2008 Questionnaires] (Annual Questionnaire Part 3: Library). See also Laura N. Gasaway, *Academic Law Library Statistics, 1876–1992*, 84 LAW LIBR. J. 573 (1992) (giving a full account of the development of law library statistics by the ABA, AALL, and the Association of American Law Schools (AALS)).
  22. Arturo Flores, *Volume Count: A Survey of Practice and Opinion from Academic Law Libraries*, 79 LAW LIBR. J. 241, 241 (1987).
  23. U.S. News & World Report, *Law Methodology*, [http://grad-schools.usnews.rankingsandreviews.com/usnews/edu/grad/rankings/about/08law\\_meth\\_brief.php](http://grad-schools.usnews.rankingsandreviews.com/usnews/edu/grad/rankings/about/08law_meth_brief.php) (last visited Nov. 12, 2007) (measuring “library resources” as “[t]he total number of volumes and titles in the school’s law library at the end of the . . . fiscal year”).

of your own library. It used to be that it was possible to have every Anglo-American law-related treatise published in a year for approximately \$10,000.<sup>24</sup>

## The New Information Environment

### *How Technology Changes Libraries*

¶24 Computer technology and electronic access to information are revolutionizing academic law libraries in both positive and negative ways. Electronic access offers many advantages over traditional books and journals. Digital sources allow rapid online full-text searching, even for a “needle in the haystack” term, eliminating the need to use digests or indexes. Type in some words and the search engine/software does the hard work of locating pertinent information. The researcher has more control over searches and resources,<sup>25</sup> and does not have to wait for a library employee to check out an item—it’s instantly available. It is easy to print out or copy information for later use, or modify it via cut-and-paste word-processing features. Technology allows individuals and small groups to become publishers.

¶25 Electronic sources do not close for the day; they are available 24/7. “[T]here are no misshelved or lost books.”<sup>26</sup> The user can conveniently access these sources remotely and does not have to physically travel to a library. And, of course, electronic information does not require many square feet of building space lined with heavy shelving to hold printed carriers of information.

¶26 With these exciting advantages come less well-known negative consequences. For example, electronic sources are notoriously ephemeral. Electronic documents and URL links disappear alarmingly quickly.<sup>27</sup> This has serious implications for scholarship and access to the law in force at a given time. Moreover, when libraries buy books, they are owned in perpetuity, their authoritative text fixed at creation, and they can be made available to whomever the library wants. In contrast, licensed electronic information must be repurchased anew every year. Licenses frequently exclude use by “outsiders,” such as alumni, the public, and

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24. Anita L. Morse, *Proposed Amendments to the ABA Standards for the Approval of Law Schools*, 78 LAW LIBR. J. 481, 482 (1986) (quoting remarks of M. Kathleen Price at the program, “Changes in ABA and AALS Library Standards: Impact on the Accreditation Process,” 77th Annual Meeting of the Am. Ass’n of Law Libraries, San Diego, California (July 1, 1984) (audiotape)).

25. Searchers are not “confined to the limitations of . . . relying upon the decision of a librarian to identify and classify the contents of a book so that it can be physically located in one place with other books that cover the same topic.” Gordon Russell, *Re-Engineering the Law Library Resources Today for Tomorrow’s Users: A Response to “How Much of Your Print Collection Is Really on WESTLAW or LEXIS-NEXIS?”*, LEGAL REFERENCE SERVICES Q., 2002, no. 2-3, at 29, 37.

26. *Id.*

27. For further discussion of these issues, see Mary Rumsey, *Runaway Train: Problems of Permanence, Accessibility, and Stability in the Use of Web Sources in Law Review Citation*, 94 LAW LIBR. J. 27, 2002 LAW LIBR. J. 2; William H. Walters, *Criteria for Replacing Print Journals with Online Journal Resources: The Importance of Sustainable Access*, 48 LIBR. RESOURCES & TECHNICAL SERVICES 300 (2004); Helane E. Davis, *Keeping Validity in Cite: Web Resources Cited in Select Washington Law Reviews, 2001-03*, 98 LAW LIBR. J. 639, 2006 LAW LIBR. J. 38.

sometimes even many of a school's own students and professors. Governments or publishers can change language, deliberately or carelessly, threatening the integrity of the law.

¶27 This new information environment, with its incorporation of electronic information sources, has resulted in hybrid libraries containing both print and an ever-growing proportion of electronic information sources. Many commentators believe that a paradigm shift is underway and print sources will eventually be almost entirely replaced by electronic sources.<sup>28</sup> Whether this trend results in electronic-only collections or mixed print and electronic collections, it is clear that electronic sources are an increasingly important part of library collections.

### *Challenging Traditional Quality Criteria*

¶28 Despite its past utility, flaws were inherent in the print paradigm even before the widespread use of technology. Most obviously, bigger is not always better. Large numbers of volumes do not guarantee more effective information access. Huge research collections can be more complex and confusing to use.<sup>29</sup> Excessive attention to volume count can distract from consideration of other bases of quality comparison. Moreover, too much focus on high volume counts creates incentives to inflate or manipulate a library's count.<sup>30</sup>

¶29 Electronic access brings new problems. Traditional library assessment methods such as volume count do not measure intangible information, as there is no discernable "unit" of electronic access to count, and if there were, every library could "count" everything on Westlaw, LexisNexis, and the Internet as accessible units. Other questionnaire counts are problematic in measuring intangible electronic resources. For example, most academic law libraries have identical Westlaw subscriptions. Should every library count this as one title called "Westlaw," or should libraries count separately the reporters, codes, and hundreds of other titles to which Westlaw provides access? Measurements of square footage of space and linear feet of book shelving are irrelevant when evaluating the depth of electronic collections.

¶30 Clinging to old criteria creates artificial buying decisions. Some libraries may purchase costly electronic products such as The Making of Modern Law database because it is owned, not licensed, and its cataloging records rapidly build the library's title count, making an instantly "better" collection. Following traditional criteria in a time of double-digit inflation can result in wasting money by

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28. See Robert C. Berring, *Collapse of the Structure of the Legal Research Universe: The Imperative of Digital Information*, 69 WASH. L. REV. 9 (1994); Michael Chiorazzi, *Books, Bytes, Bricks and Bodies: Thinking About Collection Use in Academic Law Libraries*, LEGAL REFERENCE SERVICES Q., 2002, no. 2-3, at 1; Russell, *supra* note 25, at 29.

29. See Richard M. Dougherty, *Needed: User-Responsive Research Libraries*, LIBR. J., Jan. 1991, at 59, 60.

30. See Flores, *supra* note 22, at 246-47.

buying the same information in both print and electronic formats. Predicting future collection growth by continuing to assume the growth of the print collection can skew facilities planning. Continued emphasis on inadequate criteria can result in new law schools building cookie-cutter libraries, as founders fear experimentation. All of this adds to increased student tuition and debt.<sup>31</sup>

¶31 Most importantly, the standards and surrounding criteria that once served to assess a library's ability to fulfill core missions can no longer do so. As noted above, law librarians view stewardship, education, and service as core missions, yet the standards do not mention them. The traditional print paradigm by its very nature secured the multiple core missions of law libraries. Buy the books once and they would be preserved for future access, they would contain the exact authoritative words in the future as they do now, and they could be used by whomever the library wished to admit.

¶32 These core missions are threatened by the rapid, unplanned conversion from print to electronic resources. Today's information environment fails to secure long-term preservation, vitiates fair use and other pro-user copyright protections, and forces librarians to actively deny access to the law. An electronic library is as expensive as a print library, but provides access only to a privileged few, and the information is only rented for a year at a time. The market is evolving to protect only "current access right now," and restrictive licenses exclude all but the most affluent users.<sup>32</sup> The wonders of electronic information come with significant hidden costs, threatening a library's ability to fulfill core missions that are important to society.

¶33 The library's service mission is also no longer measured by counts. Traditionally, the measure of how many librarians were available for how many hours could function to assess a library's service. In an electronic environment, good service is a more elusive, qualitative goal, relying less on physical presence.

¶34 Although not reflected in current assessment criteria, law librarians are deeply concerned about the erosion of traditional library core missions. For example, many published articles, conferences, and online discussions passionately address the threats to core missions created by the paradigm shift to electronic legal information.<sup>33</sup> In addition, values statements of

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31. See Richard A. Matasar, *The Rise and Fall of American Legal Education*, 49 N.Y.L. SCH. L. REV. 465 (2004); John A. Sebert, *The Cost and Financing of Legal Education*, 52 J. LEGAL EDUC. 516 (2002).

32. A good discussion can be found in JEREMY RIFKIN, *THE AGE OF ACCESS: THE NEW CULTURE OF HYPERCAPITALISM, WHERE ALL OF LIFE IS A PAID-FOR EXPERIENCE* (2000).

33. Authors of a bibliography of law library literature from 1995 to 2004 found that:

[T]he number one issue on the minds of librarians and other information professionals is "who is minding the archives?" While . . . electronic materials have earned their place in our law libraries, we are troubled by the complexities of the archival and, thus, future access issues. This concern underlies many of the debates over whether to e- or not to e-, and prevents us from coming to easy answers to the ubiquitous question—do we really need materials in both formats?

Paul E. Howard & Renee Y. Rastorfer, *Do We Still Need Books? A Selected Annotated Bibliography*, 97 LAW LIBR. J. 257, 257, 2005 LAW LIBR. J. 15, ¶ 2. See also Michelle M. Wu, *Why Print and*

librarians' professional associations reinforce the importance of these fundamental missions.<sup>34</sup> The author's short 2005 e-mail survey of twenty academic law library directors revealed that the biggest concerns were not ABA standards wording or volume counts. After the high cost of e-resources, directors were most concerned with preservation, access to e-information, quality and authority of legal sources, and technology's effects on student learning and legal analysis.<sup>35</sup>

¶35 If librarians see these missions as vital, why do ABA quality standards and criteria lack any mention of them as necessary components of quality? Probably because they have been taken for granted. Core missions did not have to be written into the standards because they were automatically protected by volume counts, assured through the print paradigm. Part of the difficulty in redefining quality to de-emphasize print resources may come from reluctance to abandon important missions without adequate replacement provisions in place.

¶36 Adherence to older print-based criteria that ignore electronic resources temporarily prolongs a library's ability to serve these valued missions via books, but it does not address the threats themselves. Librarians can no longer rely on the assumptions of the print paradigm to uphold professional values and meet core missions.

## Responses to Change Thus Far

### *What Has Been Done Vis-à-Vis Law School Library Standards?*

¶37 Increasingly, there is a disconnect between the ABA's Law Library Standards, criteria, and assessment tools, and the real world. In 1986, as computer-assisted legal research (CALR) use grew in law schools, the ABA revised its law library standards, liberalizing language to allow for information access, as well as ownership of physical books:

- (a) The law school library shall *contain* the Core Collection Library Schedule, attached as Annex II.
- (b) The law school library shall *contain or provide appropriate access to* additional publications and information services reasonably necessary for the proper conduct of the school's educational and research programs.<sup>36</sup>

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*Electronic Resources Are Essential to the Academic Law Library*, 97 LAW LIBR. J. 233, 2005 LAW LIBR. J. 14.

- 34. See ALA Core Values Statement, *supra* note 5; AALL 2000–2005 Strategic Plan, *supra* note 7; GORMAN, *supra* note 5, at 26-27.
- 35. Survey results submitted by the law library directors (on file with author).
- 36. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, AM. BAR ASS'N, STANDARDS FOR APPROVAL OF LAW SCHOOLS Standard 602 (1987) (emphasis added).

The 1986 amendment also “provided that law school libraries should subscribe to a ‘[c]omputer assisted legal research service of national scope and broad subject coverage.’”<sup>37</sup>

¶38 Discussing the drafts of the three ABA committees that prepared the 1986 revisions, Morse stated that:

Proposed standard 602 . . . does not specify book or nonbook format. The intent of the drafters was that any format would be acceptable as long as the library complied with proposed standard 603(d), which states that “[i]f the library contains materials in microform, tape or similar form, it shall provide the necessary viewing and listening equipment in an area suitable for its use.”<sup>38</sup>

Morse added that the new standards “envision a wide variety of access mechanisms in addition to books . . . .”<sup>39</sup> It is clear that Morse and others involved in the 1986 revisions saw them as opening the door widely to electronic research and closing it on volume counting.

¶39 The next significant amendment of the law library collection standards was in 1995, when the collection standard was amended to read: “[a] law library shall provide within the law school’s facilities, through ownership or reliable access, a core collection of essential materials.”<sup>40</sup> Even more clearly than the 1986 amendments, this appeared to permit all collection resources in electronic-only format. Taylor interpreted the 1995 revision:

Standard 606(b) is designed to reflect the current use of technology in law libraries, while adhering to the philosophy that law libraries should acquire and retain an adequate collection to support the mission of the law school. . . . [The new standard] is intended to cover contracts, licenses, etc. as “reliable” access.<sup>41</sup>

¶40 By 1997, the official interpretations reflected the 1995 revision. Interpretation 606-1 clarified that “the word ‘collection’ includes printed sources,

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37. Betty W. Taylor, *Books vs. Non-Book Information*, 70 ST. JOHN’S L. REV. 129, 135 (1996) (alteration in original); see also AHLERS, *supra* note 18, at 114. Julius J. Marke, *Revised ABA Standards for Law School Libraries*, N.Y.L.J., Oct. 21, 1986, at 4, stated that the new standards *required* law libraries to provide CALR. Marke noted that it took four years to get these revisions approved.

38. Morse, *supra* note 24, at 485 (footnotes omitted) (alteration in original). Morse based her comments on the August 1986 Final Draft of the proposed revisions (*id.* at 481 n.1), which was later adopted by the ABA’s House of Delegates. Marke, *supra* note 37, at 4. Marke noted that new Standard 603(c) required that “the library shall provide adequate access to commonly used materials by additional copies or nonprint means . . . .” *Id.*

39. Morse, *supra* note 24, at 483.

40. Taylor, *supra* note 37, at 135 n.23 (alteration in original). Taylor also notes: “The first draft contained the word ‘possess,’ which was later deleted when the drafters realized that a library does not and cannot ‘possess’ information that enters through communication lines. Furthermore, this information is often supplied under contract or license which prohibits users from ‘owning’ the information.” *Id.* at 135 n.25.

41. *Id.* at 135 (citation omitted).

microforms, audio-visual works, and access to electronic formats.”<sup>42</sup> Provisions remain substantially the same in the current ABA Standards.<sup>43</sup>

¶41 With these amendments, the ABA Law Library Standards appear to allow an electronic library collection. The standards have eliminated all quantitative counts and format restrictions, even on core collection titles, and encourage access as well as ownership. If the standards are read literally, it would seem that the ABA would readily accredit a predominantly electronic library.<sup>44</sup>

### *The Continued Reliance on Print*

¶42 There is little clear data about the impact of the ABA’s 1986 and 1995 revisions. Journal articles continue to criticize the standards and volume counts as if the revisions had never happened. In Flores’s 1987 survey, law school deans and library directors criticized the practice of counting volumes.<sup>45</sup> Zachert recognized the 1986 revision “brought electronic databases into the picture [but] raised new questions about how to evaluate collections.”<sup>46</sup> She notes that “[f]or electronic collections . . . previous standards have to be adapted.”<sup>47</sup> Martin remarked that as law libraries provide greater access through technology, “measuring a library’s quality by the books on its shelves will become increasingly silly. Different benchmarks will have to be invented . . . [to] emphasize access over ownership, and service over collections.”<sup>48</sup>

¶43 In 1992, in its effort to become ABA-accredited, a new law school, Massachusetts School of Law (MSL), published a self-study report criticizing the print paradigm and efficiency reliance on volume counts to evaluate library quality.<sup>49</sup> MSL argued that the 1986 standards revisions allowed a large percentage of electronic sources. This argument did not succeed.<sup>50</sup>

¶44 In 1995, Daly reiterated familiar criticisms of “size as the measure of quality”<sup>51</sup> and observed that when the ABA revised its standards in 1986, “many

42. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, AM. BAR ASS’N, STANDARDS FOR APPROVAL OF LAW SCHOOLS 59 (1997).

43. See ABA STANDARDS, *supra* note 13, Standard 606, at 44.

44. However, Interpretation 606-2 may allow the ABA to refuse accreditation to an *entirely* electronic library. See *id.* Interpretation 606-2, at 45 (“The appropriate mixture of collection formats depends on the needs of the library and its clientele. A collection that consists of a single format may violate Standard 606.”).

45. Flores, *supra* note 22, at 241–49.

46. Martha J.K. Zachert, *Qualitative Evaluation of Law School Library Services*, 81 LAW LIBR. J. 269, 270 (1989).

47. *Id.* at 271.

48. Harry S. Martin III, *From Ownership to Access: Standards of Quality for the Law Library of Tomorrow*, 82 LAW LIBR. J. 129, 139 (1990).

49. LAWRENCE R. VELVEL, SARAH HOOKE LEE ET AL., THE DEEPLY UNSATISFACTORY NATURE OF LEGAL EDUCATION TODAY: A SELF-STUDY REPORT ON THE PROBLEMS OF LEGAL EDUCATION AND ON THE STEPS THE MASSACHUSETTS SCHOOL OF LAW HAS TAKEN TO OVERCOME THEM 347–57, 383–404 (1992).

50. See John H. Kennedy, *Andover Law School Loses Appeal for Accreditation*, BOSTON GLOBE, Feb. 9, 1994, at 41.

51. Gail M. Daly, *Law Library Evaluation Standards: How Will We Evaluate the Virtual Library?*, 45 J. LEGAL EDUC. 61, 61 (1995).

believed that the bigger-is-better attitude had been repudiated.”<sup>52</sup> Daly pointed out that “the ABA still asks . . . for quantitative measures and little else,”<sup>53</sup> and that “no group [had] made a serious, successful effort to design a methodology to replace the counting process with qualitative measures of access.”<sup>54</sup> She hoped that the 1995 library standards revision would “depart from the traditional volume/title count . . . for evaluating law library collections.”<sup>55</sup>

¶45 In 2005 Hinderman observed that the “ABA Annual Questionnaire has primarily sought information regarding library inputs including the number of volumes owned and purchased”<sup>56</sup> and, based on then-pending standards proposals, said that “it appears the ABA is moving toward requiring more outcomes-based assessment methods” and that “academic law libraries should begin to implement outcomes-based evaluation methods in their own environments now . . . .”<sup>57</sup> Price observed that “[t]he incentives provided by the ABA either to build electronically, cooperatively, or to take advantage of technology by moving in the direction of access rather than ownership are very slight indeed.”<sup>58</sup>

¶46 If the revised standards allowed variety, one would have expected law school libraries founded after the two revisions to show increasing divergence. That did not happen. In fact, the law school libraries that have earned the quickest and easiest accreditation since 1995 utilized traditional print and microform collections.<sup>59</sup> Only one new school, thus far, has relied primarily on nonprint holdings.<sup>60</sup> There are several

52. *Id.* at 62.

53. *Id.*

54. *Id.* at 63.

55. Daly, *supra* note 51, at 63.

56. Tammy A. Hinderman, *What Is Your Library Worth? Changes in Evaluation Methods for Academic Law Libraries*, LEGAL REFERENCE SERVICES Q., 2005, no. 1-2, at 8.

57. *Id.* at 20.

58. M. Kathleen Price, *Technology and Law Library Administration*, 70 ST. JOHN'S L. REV. 145, 159-60 (1996).

59. Edmund P. Edmonds & Margaret Maes Axtmann, *A Law Library in the New Century: The Creation of the University of St. Thomas Law Library*, LEGAL REFERENCES SERVICES Q., 2002, no. 2-3, at 175. The founders of the St. Thomas School of Law in 2002 decided “that access and ownership would have equal consideration. . . .” *Id.* at 177. However, they describe a fairly traditional print collection, stating that “we elected not to pursue a more aggressive position of relying exclusively on electronic access for these primary sources” for several reasons, including “analysis of the Standards for Approval of Law Schools.” *Id.* at 179-80. The author’s experiences as founding law library director at two start-up law schools, Massachusetts School of Law and Florida International University (FIU), proved to be very different experiences. Using a traditional law school model, FIU received provisional, and recently full, approval as fast as is possible under the ABA Standards. *See FIU College of Law Receives Bar Association Accreditation*, SUN-SENTINEL (Ft. Lauderdale), Dec. 2, 2006, at 3B.

60. Charleston School of Law in Charleston, South Carolina, received provisional ABA accreditation in December 2006. Press Release, Charleston School of Law, Charleston School of Law Wins Accreditation (Dec. 3, 2006), <http://www.charlestonlaw.org/news/06.1203.accreditation.htm>. Gordon Russell, its Associate Dean and Director of Law Library and Information, stated at the AALL Annual Meeting on July 15, 2007, that the library’s collection has 28,000 print volumes, no microforms, and over 300,000 links to digital assets. Blogs, Working Papers, Electronic Publishing: Will Changes in Legal Scholarship Affect the Future Development of Library Collections?, program presented at the 100th Annual Meeting of the Am. Ass’n of Law Libraries, New Orleans (July 15, 2007) (audiotape available from Mobiletape Co.).

reasons why schools may have hesitated to rely on the amendments to emphasize their nonprint holdings. The difficulties experienced by new law schools that relied heavily on nonprint collections may have caused understandable caution. In addition, old assumptions of measuring quality solely by inputs counts are still built in to the ABA's primary evaluation tools, the annual and site visit questionnaires. Site visit evaluators report facts and numbers only, not qualitative statements. Electronic resources are not included in most ABA annual statistics. Thus, the ABA is not even counting all collection inputs, let alone outputs or outcomes.

¶47 The standards are usually blamed for law school libraries' conservatism, but they have been expanded and so cannot be solely responsible for the continuing conservatism. Perhaps it is habit; perhaps it is due to the ABA questionnaires. Perhaps it is because the standards revisions fail to address librarians' concerns about eroding core library missions in a nonprint environment.

### *Proposals for Change* *In the Academic Literature*

¶48 Independent of technology, two other trends in the 1980s and 1990s pushed nonlaw academic libraries far beyond law school libraries in developing new assessment techniques.<sup>61</sup>

¶49 First, in the 1970s and 1980s, groundbreaking publications by professors of library science and academic librarians questioned the assumption that bigger inputs of resources automatically result in a better library, and advocated assessing libraries from the user's perspective.<sup>62</sup> Libraries were urged to assess quality by *outputs* (also called *performance measures*), "measures quantifying workload undertaken or completed . . ." <sup>63</sup> Outputs may be expressed as ratios: e.g., number of librarians as to number of students.<sup>64</sup> In the 1990s, the Association of Research Libraries (ARL) developed statistical instruments utilizing outputs to measure the level of use of library resources and services.<sup>65</sup>

61. Good sources on educational assessment include: CATHERINE A. PALOMBA & TRUDY W. BANTA, *ASSESSMENT ESSENTIALS: PLANNING, IMPLEMENTING, AND IMPROVING ASSESSMENT IN HIGHER EDUCATION* (1999); ALEXANDER W. ASTIN, *ASSESSMENT FOR EXCELLENCE: THE PHILOSOPHY AND PRACTICE OF ASSESSMENT AND EVALUATION IN HIGHER EDUCATION* (1991); TRUDY W. BANTA ET AL., *ASSESSMENT IN PRACTICE: PUTTING PRINCIPLES TO WORK ON COLLEGE CAMPUSES* (1996). The definitive work on qualitative research and evaluation is MICHAEL QUINN PATTON, *QUALITATIVE RESEARCH & EVALUATION METHODS* (3d ed. 2002).

62. Important works include R.H. Orr, *Measuring the Goodness of Library Services: A General Framework for Considering Quantitative Measures*, 29 *J. DOCUMENTATION* 315 (1973); ERNEST R. DEPROSPO ET AL., *PERFORMANCE MEASURES FOR PUBLIC LIBRARIES* (1973); *LIBRARY PERFORMANCE, ACCOUNTABILITY, AND RESPONSIVENESS: ESSAYS IN HONOR OF ERNEST R. DEPROSPO* (Charles C. Curran & F. William Summers eds., 1990); F.W. LANCASTER, *THE MEASUREMENT AND EVALUATION OF LIBRARY SERVICES* (1st ed. 1977).

63. HERNON & DUGAN, *supra* note 17, at 2.

64. See PETER HERNON & ELLEN ALTMAN, *SERVICE QUALITY IN ACADEMIC LIBRARIES* 27 (1996) (citing Charles R. McClure et al., *Output Measures: Myths, Realities, and Prospects*, *PUB. LIBR.*, Summer 1986, at 51).

65. See Ass'n of Research Libraries, *ARL New Measures: Statistics and Measurement Timeline* (last modified Jan. 12, 2007), <http://www.arl.org/stats/statsresources/timeline.shtml>.

¶50 Second, in the 1980s and 1990s taxpayers and policymakers criticized what they saw as excessive emphasis on research to the detriment of student education. Increased emphasis on institutional accountability and higher standards sparked federal and state legislation requiring regional accrediting bodies and educational institutions to implement and meet standards to assess each academic institution's "success with respect to student achievement in relation to the institution's mission . . . ."66 Failure to meet these standards rendered an institution ineligible for federal funding.<sup>67</sup> Under the Higher Education Amendments of 1998,<sup>68</sup> each institution's quality, including its library's, must be evaluated against its own unique chosen mission and "individual institutions must be able to produce evidence that their students have experienced positive outcomes as a result of their exposure to the institution's programs."<sup>69</sup> Accountability mandates thus spurred development of *outcomes* (also called *impacts*) assessment. "Outcomes [are] [b]enefits or changes for individuals or populations during or after participating in program activities, including new knowledge, increased skills, changed attitudes or values, modified behavior, improved condition, or altered status. . . ."70 Outcomes assessment also focuses on the qualitative experience of library users. In the 1990s ARL began testing new measures emphasizing service quality and outcome indicators.

¶51 Outputs and outcomes are often confused. The recent Report of the ABA Task Force on Accreditation uses the two terms interchangeably,<sup>71</sup> but the literature distinguishes them.<sup>72</sup> Legal education lags behind higher education in responding to these developments.

#### *From the Formal Literature of Law Librarianship*

¶52 Authors of the limited literature on law library assessment universally criticize the continuing use of volume count and other inputs as quality indicators and conclude that qualitative measures should be developed. The literature, however,

66. 20 U.S.C. § 1099b(a)(5) (2000). Hinderman, *supra* note 56, at 18–19, writes that many law schools are part of a university or college, and thus fall under these regional accrediting standards. This should require many law schools to produce evidence of outcomes assessment and service quality.

67. 20 U.S.C. § 1099b(j) (2000).

68. Higher Education Amendments of 1998, Pub. L. No. 105-244, 112 Stat. 1581.

69. Hinderman, *supra* note 56, at 11.

70. Rudd, *supra* note 4, at 20. Also, "[m]easures designed to show the impact or effect that a program's resources and services have on individuals and the cumulative impact on the institution as a whole are known as outcomes measures." Hinderman, *supra* note 56, at 11.

71. See SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, AM. BAR ASS'N, REPORT OF THE ACCREDITATION POLICY TASK FORCE (2007), available at [http://www.abanet.org/legaled/AC%20Task%20Force/cmtef\\_20070612134026.pdf](http://www.abanet.org/legaled/AC%20Task%20Force/cmtef_20070612134026.pdf). In examining possible changes in accreditation policy, the findings and recommendations use "output" and "outcome" as synonyms, without making it clear which type of indicator is intended. See *id.* at 7–8.

72. "Outcomes differ from outputs (services provided) in that outcomes are the impact of the outputs on the environment." PETER HERNON & CHARLES R. MCCLURE, EVALUATION AND LIBRARY DECISION MAKING 36 (1990).

offers few specific alternatives. Four articles offer hortatory calls for more qualitative measures of worth, but give no suggestions.<sup>73</sup> Two of those suggest that title counts, though imperfect, are preferable to volume counts in the interim.<sup>74</sup>

¶53 The newest article is the most specific. Hinderman notes that federal law requiring outcomes-based assessment applies to law schools that are part of a university, but that ABA and AALS standards, unlike those of regional accrediting agencies, do not address outcomes-based assessment.<sup>75</sup> She lays out a process that law school libraries could use to develop their own outcomes assessment programs and identifies potential qualitative tools, such as surveys, portfolios, and interviews.<sup>76</sup> Hinderman, however, does not give any specific examples of assessment, nor does she address the need for systemwide change by the ABA or the profession.

#### *Recent Revisions to the Annual Questionnaire*

¶54 Rather than further amending the ABA's formal standards, contemporary attempts to update library assessment focus on the Annual Questionnaire, the source of many criteria and the mechanism for collecting volume, title, and other counts.

¶55 Following a failed attempt in the early 2000s to question schools on Web-based holdings, in May 2006 the chair of the Law Libraries Committee of the ABA Section of Legal Education reported its intention to propose new statistical measures. "Libraries will continue to count and report print, microform and non-book titles [but] there will be no attempt to count electronic or digital titles."<sup>77</sup> The committee believed that the difficulties in counting electronic titles made this impossible. For electronic resources, "the key measure would be dollars spent on electronic resources."<sup>78</sup>

¶56 In November 2006, the committee released for comment proposed revisions to the questionnaire consistent with its earlier announcement.<sup>79</sup> It proposed eliminating counts of print volumes, microform volume equivalents, and serial titles and subscriptions. "Titles owned by the library will be the primary collection measure."<sup>80</sup> Counts of "electronic titles (*owned*)" would be added to print and

73. Flores, *supra* note 22; Martin, *supra* note 48; Zachert, *supra* note 46; Daly, *supra* note 51.

74. Flores, *supra* note 22, at 247; Martin, *supra* note 48, at 139.

75. Hinderman, *supra* note 56, at 14–15.

76. *Id.* at 20–32.

77. Posting of Rita Reusch, Chair of the Law Libraries Comm. of the ABA Section Legal of Educ. & Admissions to the Bar, reuschr@law.utah.edu, to lawlibdir@lists.washlaw.edu (May 25, 2006) (on file with author).

78. *Id.*

79. Joint posting of Allen Easley, President & Dean, William Mitchell College of Law, Chair of the Annual Questionnaire Comm. of the ABA Section of Legal Educ. & Admissions to the Bar, allen.easley@wmitchell.edu, and Rita Reusch, Chair of Law Libraries Comm., reuschr@law.utah.edu, posted to leap-library-changes@mail.abanet.org, a new ABA listserv composed of deans and law library directors of ABA-accredited law schools (Nov. 27, 2006) (on file with author).

80. *Id.*

microform title counts.<sup>81</sup> This definition excludes most electronic resources, which are licensed from vendors, not owned by libraries. In May 2007, the committee announced it would recommend the proposal to the ABA Council of the Section on Legal Education and Admissions to the Bar. While it still believed “that volume counts are no longer critical measures of law library compliance with accreditation standards,” due to comments expressing concern about “abrupt cessation” of data collection, it would propose continuing volume counts in the 2007 and 2008 questionnaires and then eliminating them.<sup>82</sup> “This will give the academic law library community time to develop alternative approaches.”<sup>83</sup> In June 2007, the council passed this proposal.<sup>84</sup> The 2007 questionnaire is posted on the section’s Web site.<sup>85</sup>

*Assessment Indicators Discussed Online by Law Library Directors*

¶57 Despite limited formal literature, law library directors have actively discussed possible new assessment methods online, particularly changes in the annual questionnaire.<sup>86</sup> A general summary of these ideas may suggest new directions.

¶58 Most commentators agreed that volume count should be eliminated or de-emphasized as the primary quality measure of a library. All favored development of new assessment techniques to recognize the growing number of electronic resources essential to their collections.

¶59 Proposals for replacement fell in two general categories. Most focused on quantitative assessment and recommended redefinition or further development of quantitative measures already in the annual questionnaire, such as adding some sort of count of e-resources, replacing volume count with title count, measuring e-resources through expenditures, adding librarian-faculty or -student ratios, or developing a formula composed of several such measurements. A few focused on qualitative evaluation techniques used by non-law academic libraries and advocated that law libraries abandon quantitative measurements and instead rely on qualitative, user-centered assessment.

¶60 As in the formal literature, title count was most often suggested as a better measurement of electronic resources than volume count, though it is still a quantitative input. Traditionally a collection is seen as deeper when a library has one copy each of three different titles (title count of three, volume count of three) than

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81. *Id.* (emphasis in original).

82. Joint posting of Allen Easley, President & Dean, William Mitchell College of Law, Chair of the Annual Questionnaire Committee of the ABA Section of Legal Educ. & Admissions to the Bar, allen.easley@wmitchell.edu, and Rita Reusch, Chair of Law Libraries Committee, reuschr@law.utah.edu, posted to leap-library-changes@mail.abanet.org (May 10, 2007) (on file with author).

83. *Id.*

84. Posting of Rita Reusch, Chair of Law Libraries Comm., reuschr@law.utah.edu, posted to lawlibdir@lists.washlaw.edu (July 5, 2007) (on file with author).

85. ABA 2007-2008 Questionnaires, *supra* note 21.

86. Summary based on discussions on lawlibdir@lists.washlaw.edu during the years 2005 through 2007. These informal discussions did not reference the formal literature (posts on file with author).

if it has three copies of the same title (title count of one, volume count of three.) However, it is difficult to apply well-established rules for counting titles in print and microform to bundled electronic resources. Some discussants noted that if only individual bibliographic records on e-resources are viewed as signals of a higher quality library, it may divert librarian attention to cataloging from more relevant access points, such as Web access. Questions arose about “aggregators,” services that bundle together many different electronic sources, including whole indexes and databases as well as individual titles, but package them in different ways, raising questions about what constitutes a title.

¶61 Several participants suggested that instead of absolute counts, the questionnaire should provide a list of “core” electronic resources most likely available in law libraries. A library would check off those it held. Another idea was to count only those individually cataloged titles that could be reasonably expected to support research by faculty and students.

¶62 A few librarians considered ranking based on overall collection excellence (on undefined criteria) or rankings of libraries’ excellent in-depth collections in chosen specialty subjects. For example, Library X might receive a top ranking for a superior collection in legal history, while receiving an average rating for other topics. No specifics were discussed.<sup>87</sup>

¶63 Fiscal measurements were also recommended. Many discussants advocated reporting a separate dollar figure for e-resources as part of the total materials budget, or reporting the percentage of the materials budget spent on electronic sources. Commentators noted both the advantages and limitations of this technique, which would allow peer and aspirational comparisons and show the relative emphasis different libraries place on e-resources. While any budget-based measure, absolute or proportionate, has the flaw of measuring inputs rather than outputs or outcomes, some noted that money spent on services may be the best of an imperfect lot of comparative indicators of institutional commitment.

¶64 There was far less discussion of output and outcome measures. A few discussants hoped that unspecified qualitative measures of library use or user behavior could be developed. Ideally, library impact on user behavior and research skills would be measured, perhaps by counting the “hits” received on a library’s online catalog, Web site, and databases, number of reference questions from students and faculty, or transactions per student. Some recommended looking at the outputs of faculty and student satisfaction and the services provided, but offered no specifics.

¶65 Beyond collection measures, many librarians found it imperative to measure the types and amounts of services provided. Some recommended patron assessment, including a qualitative staple, user surveys, to reveal how patrons

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87. One possibility would be to structure this like a collection development plan, with levels ranging from “not collected” to “extensive.”

themselves rated service.<sup>88</sup> Others suggested development of a standardized checklist of core services and comparison of libraries based on which and how many of these were offered.

¶66 Many librarians believed the ABA questionnaire should reflect librarians' increasing teaching roles with questions asking about how often librarians teach in first year programs, advanced research courses, or in substantive courses. However, thus far the discussion has not gone much further in recognizing the importance of core missions to the challenge of assessment.

### *Discussion and Critique of Proposals*

¶67 The profession and the ABA continue to focus on revising inputs and quantitative assessment methods. Too often the question asked has been "What type of count will replace volume count?"

¶68 Occasional recognition in the literature of the need for qualitative assessment and outcomes criteria, in deference to current assessment theory, is no longer enough. The conversation seems to be "stuck." Law librarians and the ABA have struggled for twenty years to redefine accreditation standards and criteria to recognize electronic access. These incremental efforts, including the recently adopted questionnaire revisions, have focused solely on collection counts and have overlooked a critical factor: the print paradigm itself is melting away. Information access is re-forming into, at the least, a hybrid print-electronic paradigm, and, as time goes on, into a predominantly electronic paradigm of information access.

¶69 To develop new quality indicators that adequately recognize information access and services in this post-print age, the profession needs to refocus and ask different questions: What is a 'quality' academic law library? Why do we have standards? What is valued enough to warrant assessment? The standards' purpose is not just to produce a number to use in ABA questionnaires. While developing a new number that includes nonprint sources would cause the least disruption to the status quo, it would not serve to completely capture what "quality" means, now that the underlying traditional print paradigm is eroding.

¶70 The print paradigm's core missions and values have been embodied in past standards of quality, both in the generalized sense of having high standards and in prescriptive accreditation standards for law schools. The ABA accreditation system has served more functions than the ABA's sole declared purpose of minimum entry standards. Until now, academic law librarians have hung on to volume count, even under accreditation standards that no longer require it, not only because it was the traditional approach for measuring quality, but also because it has protected the core missions that law librarians value most. Volume count has been a jack-of-all-trades, a valuable short-form, multipurpose quality indicator.

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88. Possibly faculty and student surveys could be standardized and require a certain level of participation.

¶71 In the post-print era, volume counts can no longer serve as the proxy or indicator of quality. A new approach is needed. If the profession steps back from collection counts, and instead focuses on redefining and enlarging the definition of quality, the door will open to develop other quality assessment indicators which can serve multiple functions, including protection of core missions.

## What Needs to Be Done

### *Reconsidering the Paradigm—Toward a Richer Definition of Quality*

¶72 Most importantly, new indicators in a post-print era must be able to assess a library's performance of core law library missions as integral parts of its overall quality. The discussion below does not set forth a complete set of new criteria; rather, it seeks to begin the discussion by outlining key considerations that should inform their development.

¶73 Rather than moving from one exclusive technique—inputs—to an exclusively qualitative approach, experts advise use of several assessment techniques.<sup>89</sup> A composite of many discrete indicia gives a richer picture of a given library. Indicators could eventually be accumulated into a formula or a ranked index indicating overall performance,<sup>90</sup> allowing deliberate inclusion of core missions as part of library quality.

### *Proposals for ABA to Adopt Standards and Criteria on Core Missions*

¶74 Recall that in the print paradigm, volume count served as a proxy for assessing at least three core library missions: stewardship, education, and service. In the new era, law librarians need innovative approaches to assess a library's performance with respect to each mission.

#### *Proposal 1: Stewardship Mission*

¶75 A general stewardship standard should be added to require law libraries to participate in collaborative and individual efforts to ensure continuing equitable access to and preservation of high quality, authoritative legal information. Since the traditional assessment system has judged libraries only on their isolated

89. See Ass'n of College & Research Libraries, ACRL Standards for Libraries in Higher Education, <http://www.ala.org/ala/acrl/acrlstandards/standardslibraries.htm> (adopted June 2004) ("These Standards provide both a quantitative and a qualitative approach to assessing the effectiveness of a library and its librarians. They advocate the use of input, output, and outcome measures in the context of the institution's mission statement."). See also BAKER & LANCASTER, *supra* note 3, at 80 ("Combining studies helps overcome the disadvantages of any one method."); OUTCOMES ASSESSMENT IN HIGHER EDUCATION: VIEWS AND PERSPECTIVES 150-51, 166-67 (Peter Hernon & Robert E. Dugan eds., 2004).

90. See Ulla Wimmer, BIX – The Library Index, Basic Information in English 2 (Jan. 24, 2007) (German Library Ass'n & the Bertelsmann Foundation, Working Paper No. 116), available at <http://www.bix-bibliotheksindex.de/index.php?id=116> (discussing such an index in a benchmarking project to measure library performance).

collections, cooperative work should be explicitly required to convey the message that it now “counts” toward quality.

¶76 Shared responsibility is essential for the survival of what librarians value most. Despite the tradition of library autonomy, academic law librarians have built and shared their collections trusting that other libraries, particularly large research libraries, have been collecting the rest, preserving it, and making it available to other librarians and patrons. Information has thus been available “somewhere.” It is now becoming too expensive for even top academic research libraries to collect this thoroughly.

¶77 Libraries cannot equitably expect a free ride by depending on other libraries to bankroll all the necessary staffing and infrastructure to accomplish valued goals. “We run the risk of relying on others until there are no others to rely on. If every library were to rely on interlibrary loan to supply its own collection, the system collapses.”<sup>91</sup> Similarly, if all libraries do not contribute to preservation and equitable access, there will be nothing preserved and there will be no access. Law libraries that devote time and money to support these vital missions should get credit for this work.

¶78 Feasibility, as much as fairness, dictates more extensive cooperation to prevent loss of legal information, especially information available only in digital form. Preservation is a large, costly endeavor and “as such does not lend itself to solution by smaller actors like individual law schools . . . .”<sup>92</sup> All need to contribute to the common good for core missions and values to survive. Gorman urges libraries to go in “the direction of incorporation, cooperation, coexistence, and peaceful progress.”<sup>93</sup> We should aim high.

¶79 The new stewardship standard should be applied through the ABA annual questionnaire. It is difficult to create three neatly separate sub-questions on access, preservation, and collaboration. The stewardship missions do not exist in watertight compartments. Work on one usually contributes to others. For example, preservation work through membership in the Legal Information Preservation Alliance (LIPA) also contributes to broader access to authoritative, high quality information (the type chosen for preservation) and strengthens collaboration. An institutional repository, with the authenticity of its documents vouched for by an educational institution, enables both wider access and preservation. Questions must be flexible and address both individual and collaborative work. Also, definitions should accompany questions to clarify what is meant by the new, different options.

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91. Chiorazzi, *supra* note 31, at 24.

92. Susan Westerberg Prager, *Law Libraries and the Scholarly Mission*, 96 LAW LIBR. J. 513, 523, 2004 LAW LIBR. J. 31, ¶ 28. “Law schools and their libraries acting in isolation from the university as a whole, or universities acting in isolation from one another and important other actors such as government entities, cannot address the challenges adequately.” *Id.* at 514, ¶ 2.

93. GORMAN, *supra* note 5, at vii.

¶80 While the 2007 Annual Questionnaire regressively eliminated questions on collaboration, the questionnaire used in 2006 and before contained several questions that can serve as good examples of how to expand questions to obtain richer data on quality and collaboration.<sup>94</sup> Former question 11 on interlibrary collaboration asked if the library is a member of any “consortia providing resource sharing, mutual access to services, cooperative collection development or other collaborative activities among the participating libraries?” with a simple yes/no answer.<sup>95</sup> In an expanded formulation, *collaborative activities* should be defined broadly to include collaboration on core missions, such as joint preservation efforts, and experimental joint ventures, such as shared virtual catalogs or reference, as well as traditional ILL networks. If collaboration for its own sake were enough, one long A–Z check-off list of all possible collaborative programs would suffice. However, this would not focus attention on efforts most important to library quality.<sup>96</sup> Therefore a revised questionnaire should ask more targeted questions on organizations and efforts that further core missions.

¶81 The first cluster of questions should focus on broader access via resource sharing. As examples: To which resource-sharing networks does the law library belong—OCLC, regional affiliates, other state, regional, and academic networks, or others? What preferences come with membership, such as free ILL transactions or rush service? Which ILL and document management tools are used by the library: ILLiad loan management software, Ariel document transmission system, Odyssey software, OCLC’s WorldCat Resource Sharing system, or other tools? What types of delivery methods are used: standard mail, overnight, fax service, a consortial courier truck, other? What is the average delivery time?

¶82 Questions should also address mutual access to services, which are less standardized than ILL networks. Each consortium membership brings many and different services, and corresponding obligations, to a library. Libraries could write in names of the multiple consortia to which they belong and list the mutual services provided and received. The questionnaire could list only the services most important to core stewardship missions.<sup>97</sup>

¶83 In collaborative collection development, libraries agree to purchase heavily in designated subject areas and rely more on other members’ collections for other topics.<sup>98</sup> Individual libraries use their funding efficiently and attend to col-

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94. See ABA 2006 ANNUAL QUESTIONNAIRE PART 3: LIBRARY (2006), available at <http://www.abanet.org/legaled/questionnaire/2006questionnaires/part3library.pdf> [hereinafter ABA 2006 Questionnaire].

95. See *id.* at 6.

96. For example, while it is admirable if members of a regional law librarians’ chapter cooperate to benefit a charity, it is less relevant to the quality of their libraries than collaboration on resource sharing or preservation.

97. For example, cooperative reference service between libraries, shared union lists and catalogs, and a shared scholarship repository definitely expand access, while joint staff training and centralized billing may not.

98. For a good introduction, see A. Hayes Butler, *Cooperative Collection Development Programs in Law Libraries: Barriers and Benefits*, LEGAL REFERENCE SERVICES Q., 2001, no. 3, at 13.

lection and preservation of important sources—and members receive access to a richer shared collection. The questionnaire could ask for descriptions of such efforts and what subject areas are covered. For example, the Northwest Commission on Colleges and Universities revised its library standards to give credit for expanded access through the Orbis Cascade Alliance, which shares purchasing, borrowing, and electronic access through a shared catalog and a daily courier service.<sup>99</sup>

¶84 On bibliographic access, the former ABA questionnaire encouraged collaborative action more than the bare new questionnaire. Former question 11 asked if the law library participated in OCLC (the shared central bibliographic database) with a yes/no answer choice.<sup>100</sup> Instead of the yes/no reply, which enables a library to receive full credit whether it contributes one record or a thousand, the question could ask for the number of records contributed. The question could also list regional affiliates (Neline, etc.) and other joint bibliographic groups, such as Innovative Law Users Group (ILUG), and a library could check off those in which it participates.<sup>101</sup>

¶85 Former question 12 asked what percentage of titles was included in the online catalog, while question 13 asked “from what locations can faculty and students access the online catalog?”<sup>102</sup> General quality could be assessed by asking what types of resources are in the library’s catalog: does the library catalog Westlaw and Lexis resources? Other electronic products? Web sites? Does the library participate in networked virtual or union catalogs? Individual library quality could be further measured by a check-off list of bibliographic “best practices.” There could be an “other” line for individual libraries to fill in other bibliographic efforts, individual or cooperative. These specifics give a much richer picture of the quality of a library’s internal bibliographic access, as well as its collaborative work toward the greater good. These factors could be converted to a point score based on the number of quality signifiers the library follows.

¶86 The open access movement has opened up new avenues for scholarly publication through electronic journals, ideally making literature widely accessible and preserving it.<sup>103</sup> Most law schools subscribe to, and many publish, series on

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99. Thirty-five college and university libraries in Oregon and Washington share purchasing, borrowing, and electronic access through a shared catalog, relying on a daily courier service to deliver most materials within 48 hours. Eric Wills, *Book by Book, College Libraries Pool Their Collected Wisdom*, CHRON. HIGHER EDUC., Jan. 27, 2006, at B5, B6. See also Northwest Commission on Colleges & Universities, Accreditation Standards, Standard 5.C.2, Library & Information Resources, Facilities & Access, <http://www.nwccu.org/Standards%20and%20Policies/Standard%205/Standard%20Five.htm> (last visited Nov. 13, 2007).

100. ABA 2006 QUESTIONNAIRE, *supra* note 94, at 6 (question 11). The questionnaire discouraged free riders by defining “participation” as actual contribution of records to the database.

101. Ideally, groups would require qualifying actions to encourage efforts beyond nominal membership.

102. ABA 2006 QUESTIONNAIRE, *supra* note 94, at 6.

103. Peter Suber gives a good overview of open access at <http://www.earlham.edu/~peters/fos/overview.htm> (last revised June 19, 2007). ARL’s SPARC, the Scholarly Publishing and Academic Resources Coalition, an international alliance of academic and research libraries, has further information at:

the Social Science Resource Network (SSRN) and Berkeley Electronic Press (bepress). These may be under library auspices. While a general subscription for viewing is like any other library subscription, a question could ask about school- or library-sponsored publication, substantial authorship in subject series, and other electronic publication. Also, the questionnaire could ask about library membership and participation in other open source efforts.

¶87 Preservation of paper and digital sources is critical to good stewardship. “Legal information is at the core of a democracy. From the U.S. Constitution to local legislation and court decisions, legal information is fundamental to the principles of open government to which citizens have free access.”<sup>104</sup> Questions should focus on the law library’s support for preservation through membership in relevant organizations, subscriptions to products that preserve authoritative information, and other efforts to “accept stewardship responsibility for designated areas of legal information.”<sup>105</sup> A library could list other preservation collaborations in which it is involved, such as partnering with state or local government agencies, courts, state libraries and archives, or other academic institutions. Current Q.9 on maintenance could expand to ask about in-house efforts such as use of LOCKSS software,<sup>106</sup> the OCLC Digital Archive, or a university repository. Libraries should be asked whether they are members of LIPA, the organization focused expressly on preserving legal information. The library could also list other preservation-related organizations and ventures that it supports. For example, Law Library Microform Consortium (LLMC),<sup>107</sup> Legal Education Document Archive (LEDA),<sup>108</sup> or others not specific to law, such as the Council on Library and Information Resources (CLIR)<sup>109</sup> and Center for Research Libraries (CRL).<sup>110</sup> The questionnaire could

<http://www.arl.org/sparc/about/index.html> (last visited Nov. 13, 2007). See also James G. Milles, *Redefining Open Access for the Legal Information Market*, 98 LAW LIBR. J. 619, 2006 LAW LIBR. J. 37.

104. JUDITH COBB & JOAN ALLEN-HART, PRESERVING LEGAL MATERIALS IN DIGITAL FORMATS 3 (2005), [http://www.aallnet.org/committee/lipa/LIPA\\_White\\_Paper\\_Final.pdf](http://www.aallnet.org/committee/lipa/LIPA_White_Paper_Final.pdf).

105. *Preserving Legal Information for the Twenty-first Century: Toward a National Agenda, Conference Report, May 2003*, 96 LAW LIBR. J. 655, 665, 2004 LAW LIBR. J. 46, ¶ 43.

106. LOCKSS Program (“Lots of Copies Keep Stuff Safe”) is a Stanford University Libraries program using a “LOCKSS-box” computer with “open source software that provides librarians with an easy and inexpensive way to . . . preserve, and provide access to their own, local copy of authorized content.” LOCKSS, About LOCKSS, [http://www.lockss.org/lockss/About\\_LOCKSS](http://www.lockss.org/lockss/About_LOCKSS) (last visited Nov. 13, 2007).

107. LLMC is a nonprofit consortium of libraries devoted to providing economical access to a wide range of legal and law-related materials. Law Library Microform Consortium, <http://www.llmc.com/index.asp> (last visited Nov. 13, 2007).

108. LEDA uses different freeware technologies and services to create a distributed archive of legal scholarship in electronic form, based around Harvard Law School Library and Cornell’s Legal Information Institute. Legal Electronic Document Archive, <http://leda.law.harvard.edu/leda> (last visited Nov. 13, 2007).

109. CLIR “works to expand access to information, however recorded and preserved, as a public good.” Council on Library & Information Resources, <http://www.clir.org> (last visited Nov. 13, 2007).

110. “CRL is a consortium of North American universities, colleges, and independent research libraries [that] acquires and preserves traditional and digital resources for research and teaching and makes

contain a check-off list of products, commercial and nonprofit, that support preservation, such as resources from LLMC, Making of Modern Law, HeinOnline, Lexis/CIS, JSTOR, and others. The library could list memberships in digital repositories, electronic archives organized by discipline or institution, which may be hosted by a law school, its university, or a central entity such as the New England Law Library Consortium (NELLCO). There are many good resources on the Association of Research Libraries (ARL) Web site.<sup>111</sup>

¶88 The questionnaire could also inquire about a library's public access efforts, including whether the law library allows the public to use the library, assists prisoners with legal information, serves community groups, schools, or nonprofit institutions, or participates in collaborative reference services open to pro bono patrons. To whom is the print collection available? What electronic resources are widely available rather than restricted by tight licenses?

### *Proposal 2: Education Mission*

¶89 Law librarians are professional legal educators. Hence, assessment should consider the amounts and types of teaching done by law librarians in their own right, as well as support given to others' teaching. Current standards can be amended and questions added to the annual questionnaire.

¶90 As part of an educational institution, an academic law library should contribute directly to the education, learning, and scholarship of students and faculty. With the growth of complex sources, and the diminution of legal research training in first-year programs, law schools cannot depend on law students picking up research skills after graduation. The MacCrate Report and its predecessor, the Cramton Report, both emphasized the importance of teaching legal research skills.<sup>112</sup> ABA Standard 302 (1) now requires law schools to ensure that each student receives "substantial instruction . . . in legal research."<sup>113</sup> A proposed bar examination on legal research would further underscore this obligation.<sup>114</sup> Professional law librarians are most qualified to teach these skills.

¶91 Many law librarians already do a good deal of teaching in first-year programs, advanced legal research courses, orientation for new users, instruction on specialized legal subjects in substantive courses, continuing legal education ses-

them available to member institutions through interlibrary loan and electronic delivery." Center for Research Libraries, <http://www.crl.edu> (last visited Nov. 13, 2007).

111. Ass'n of Research Libraries, Preservation, <http://www.arl.org/preserv> (last visited Nov. 13, 2007).

112. See TASK FORCE ON LEGAL COMPETENCY, AM. BAR ASS'N, THE ROLE OF THE LAW SCHOOLS, Recommendations Addressed to Law Schools I. B., Recommendation 3, at 3 (1979) (Cramton Report); TASK FORCE ON LAW SCHOOLS & THE PROFESSION: NARROWING THE GAP, AM. BAR ASS'N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, Sec. 3 (1992) (MacCrate Report).

113. ABA STANDARDS, *supra* note 13, Standard 302(a)(2), at 19–20.

114. For a good discussion of the need for and methodology of testing legal research skills on a bar exam, see Steven M. Barkan, *Should Legal Research Be Included on the Bar Exam? An Exploration of the Question*, 99 LAW LIBR. J. 403, 2006 LAW LIBR. J. 23.

sions, small groups in the library, and individualized teaching in faculty liaison programs and to patrons—but the value of this teaching and substantial time invested are not recognized by the ABA. Although current Standard 601(a) contains a general duty of supporting the teaching and learning of others,<sup>115</sup> and Standard 605 obliquely refers to potential teaching by librarians,<sup>116</sup> the current annual questionnaire has no question on librarian teaching.<sup>117</sup>

¶92 The questionnaire should add questions on librarian involvement in these different forms of teaching, including the number of librarians involved, number of contact hours provided, and the topics taught. If adopted, a bar exam on legal research would be a good measure of student outcomes.

¶93 Beyond legal research, there is also the essential new skill of information literacy: students' ability to identify reliable, authentic information from online clutter or misinformation, critically evaluate it, and use it effectively.<sup>118</sup> Professional librarians in other educational institutions actively teach information literacy, often using ACRL's *Information Literacy Competency Standards*<sup>119</sup> and its *Objectives for Information Literacy*.<sup>120</sup> This should be added to legal research training.

¶94 The annual questionnaire should ask if and how law librarians teach information literacy skills, including the number of librarians involved, number of contact hours provided, and in what venues. Next, the study committee (see Proposal 4, *infra*) should consult ACRL's widely used information literacy assessment methods, which can be adapted to "local uses and unique situations, and into disciplinary-based guidelines for accreditation,"<sup>121</sup> and ARL's standardized assessment of information literacy skills, ProjectSAILS.<sup>122</sup> These approaches and instruments could be adapted to the law school setting.<sup>123</sup> Also worth investigating is

115. ABA STANDARDS, *supra* note 13, Standard 601(a), at 42.

116. *Id.* Standard 605, at 44.

117. See ABA 2007-2008 Questionnaires, *supra* note 21.

118. For a discussion of information literacy, see Am. Library Ass'n, Presidential Committee on Information Literacy: Final Report (1989), <http://www.ala.org/ala/acrl/acrlpubs/whitepapers/presidential.htm#importance>.

119. *Information Literacy Competency Standards for Higher Education*, issued in 2000, included five broad standards, each with performance indicators and outcomes demonstrating student progress. ASS'N OF COLLEGE & RESEARCH LIBRARIES, AM. LIBR. ASS'N, INFORMATION LITERACY COMPETENCY STANDARDS FOR HIGHER EDUCATION 8-14 (2000), available at <http://www.ala.org/ala/acrl/acrlstandards/standards.pdf>.

120. Also, "the Objectives provide[d] terminal objectives . . . that 'break down the overall [outcomes of the Competency Standards] into specific discrete measurable results.'" Ass'n of College & Research Libraries, Am. Libr. Ass'n, Objectives for Information Literacy Instruction: A Model Statement for Academic Librarians (approved Jan. 2001), <http://www.ala.org/ala/acrl/acrlstandards/objectives-information.htm> (quoting Lori Arp, *Model Statement of Objectives for Academic Bibliographic Instruction: Draft Revision*, COLLEGE & RES. LIBR. NEWS, May 1987, at 257).

121. Ass'n of College & Research Libraries, Information Literacy: Adapting the Standards (Sept. 29, 2006), <http://www.ala.org/ala/acrl/acrlissues/acrlinfolit/infolitstandards/adapting/adaptingstandards.htm>.

122. Project SAILS, About Project SAILS, <https://www.projectsails.org/sails/aboutSAILS.php?page=aboutSAILS> (last visited Nov. 13, 2007).

123. OUTCOMES ASSESSMENT IN HIGHER EDUCATION, *supra* note 89, at 149 (explains several methods to evaluate student learning).

ETS's *iSkills* assessment, a comprehensive test of information and communication technology proficiency that measures both cognitive and technical skills.<sup>124</sup>

¶95 In the longer term, a study committee could develop more sensitive assessment tools for this mission.

### *Proposal 3: Service Mission*

¶96 Service to library users is central, and use-based assessment techniques yielding outputs and outcomes, and qualitative techniques assessing user satisfaction should be developed. This will bring law school library assessment into accord with modern assessment theory and enable compliance with federal accreditation requirements.

¶97 The study committee should first consult with ARL on its programs and instruments for outcomes assessment. Its most mature assessment tool, the LibQUAL+ Web-based survey for measuring user satisfaction with library service quality, is a logical place to start. More than 1000 libraries, including some law school libraries, have implemented it.<sup>125</sup> ARL also offers DigiQUAL, an instrument measuring digital library service quality.<sup>126</sup> ARL offers a consulting service to assist libraries in implementing the instruments,<sup>127</sup> and even a Service Quality Evaluation Academy.<sup>128</sup> In addition, there are many good online collections of assessment information hosted by educational institutions.<sup>129</sup> Descriptions of types of qualitative evaluation methods are available in writings by Hernon and McClure,<sup>130</sup> Hinderman,<sup>131</sup> and Hernon and Dugan.<sup>132</sup>

¶98 Baker and Lancaster offer useful examples based on academic library studies testing assessment tools, including qualitative instruments. Their insightful discussion on evaluation of reference services suggests expanded questions to

124. Educational Testing Service, ETS *iSkills*, <http://www.ets.org/portal/site/ets> (follow *iSkills* hyperlink) (last visited Nov. 6, 2007). Another interesting tool is the AX-SNet Project to measure service quality of special collections and archives, developed by the Society of American Archivists. See Helen R. Tibbo & Brian Dietz, *Developing Standardized Metrics for Assessing Use and User Services for Primary Sources*, ARCHIVAL OUTLOOK, Nov./Dec. 2004, at 8, available at [http://www.archivists.org/periodicals/ao\\_backissues/AO-Nov04.pdf](http://www.archivists.org/periodicals/ao_backissues/AO-Nov04.pdf).

125. LibQUAL+, Welcome to LibQUAL+, <http://www.libqual.org> (last visited Nov. 6, 2007) ("LibQUAL+ is a suite of services that libraries use to solicit, track, understand, and act upon users' opinions of service quality. . . . The program's centerpiece is a rigorously tested Web-based survey . . .").

126. StatsQUAL, <http://www.digiqual.org> (last visited Nov. 6, 2007) ("StatsQUAL includes instruments and data such as . . . DigiQUAL").

127. Ass'n of Research Libraries, New Measures: Effective, Sustainable, Practical Assessment, <http://www.arl.org/stats/initiatives/esp/index.shtml> (last visited Nov. 6, 2007).

128. Ass'n of Research Libraries, Service Quality Evaluation Academy, <http://www.arl.org/stats/statevents/sqacademy> (last visited Nov. 13, 2007).

129. See, e.g., University Planning & Analysis, N.C. State University, Internet Resources for Higher Education Outcomes Assessment, <http://www2.acs.ncsu.edu/UPA/assmt/resource.htm> (last visited Nov. 13, 2007); Office of Evaluation, Research, & Grants, University of Maryland University College, Assessment Resource Center: Assessment Tools, <http://www.umuc.edu/odell/irahe/arc/6too.html> (last visited Nov. 13, 2007).

130. Hernon and McClure have a useful chart summarizing the methods and their strengths and weaknesses. HERNON & MCCLURE, *supra* note 72, at 92–93, fig.5-7.

131. Hinderman, *supra* note 56, at 24–29.

132. HERNON & DUGAN, *supra* note 17, at 104–10.

obtain quantitative and qualitative data: “[W]hen evaluating the overall success of reference services, the following questions are all appropriate: To what extent is the population aware that reference service is provided? How many questions are received? Are the answers given both complete and correct? How often are patrons satisfied with the answers they receive?”<sup>133</sup> In addition to a simple count of questions received, the library should collect data on the number that the library attempted to answer. A thorough evaluation would also categorize the reasons the library did not attempt to answer certain questions,<sup>134</sup> such as lack of necessary resources, lack of experience, or policy reasons, such as a patron who is ineligible to use the library. In addition, the library should track the proportion of answers that were complete and correct and the average time taken to answer the questions. Surveys of patrons who do *not* ask librarians for help can be even more useful: other studies show patrons did not ask for assistance when “they did not want to bother the busy librarian, . . . they felt the question was too simple, or . . . they were not satisfied with the image or past services of a librarian.”<sup>135</sup>

¶99 Many law school libraries already keep statistics on the number and types of inquiries received, and do periodic surveys of faculty and student satisfaction. These basic statistical instruments and surveys could be expanded and standardized so that all law schools are tracking the same information for the annual questionnaire.

¶100 Use-based quantitative indicators attempt to measure usage of electronic resources, such as the number of hits on library Web resources and usage of electronic subscriptions. Libraries might consider membership in COUNTER (Counting Online Usage of Networked Electronic Resources), an international initiative designed to facilitate online usage statistics.<sup>136</sup> Another method would be to sample use in a given time period. It would be logical to examine ARL’s MINES, an online survey measuring the impact of networked electronic services.<sup>137</sup>

#### *Proposal 4: Study Committee on Expanded Assessment Techniques*

¶101 Law librarians should not continue to rely solely on ABA accreditors, most of whom are not law librarians, to develop quality indicators. Nor should every library be left on its own to reinvent the wheel. Individual law libraries do not have the technical expertise or surplus staff to develop a personalized qualitative assessment plan from scratch, though that is the ideal under pure qualitative assessment theory.<sup>138</sup> Qualitative research, statistics, and data analysis are complex and best

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133. BAKER & LANCASTER, *supra* note 3, at 18.

134. *See id.* at 232.

135. *Id.* at 233.

136. *See* Counter, About Counter, <http://www.projectcounter.org> (last visited Nov. 13, 2007).

137. MINES for Libraries “is an online transaction-based survey that collects data on the purpose of use of electronic resources and the demographics of users.” Ass’n of Research Libraries, MINES for Libraries, <http://www.arl.org/stats/initiatives/mines/index.shtml> (last visited Nov. 6, 2007).

138. *See* Robert E. Dugan & Peter Hernon, *Outcomes Assessment: Not Synonymous with Inputs and Outputs*, 28 J. ACAD. LIBRARIANSHIP 376, 377 (2002).

outsourced to professionals. A central law librarians group could grapple with the unwieldy, voluminous assessment and evaluation literature, and develop standard measures that an individual library cannot.

¶102 Law librarians themselves need to take a much more active role in developing well-informed quality assessment alternatives. AALL is the logical organization to take the initiative, just as ARL and ACRL assist universities and regional accreditors by addressing these issues for their members. The Academic Law Librarians Special Interest Section (ALL-SIS) would be most suited to confronting these issues. (An alternative would be a new Library Assessment SIS.) The SIS should create a study committee on assessment, which could start by examining the more developed programs and instruments of other academic libraries. ARL's and ACRL's work over the past ten years should serve as starting points to be adapted to law school library and ABA needs. The committee and SIS can develop standardized assessment instruments and guidelines to assist the ABA. This would allow economies of scale and hiring of professionals with the technical expertise to develop good evaluation techniques and instruments.

¶103 The committee could also develop a standard template or toolkit on outcomes assessment. This can be piloted by some ABA-approved law school libraries to test its efficacy. Adjustments can be made before formal adoption. Multiple new measures, clearly labeled as such, should be tested in the near future, not just one or two proposals at a time. This will establish which indicators are valid and give a richer picture of academic law libraries.

¶104 It is also useful to learn from other colleagues' experiences. The Law School Survey of Student Engagement (LSSSE) used by an increasing number of law schools<sup>139</sup> should be studied with an eye to including more relevant questions on law libraries.<sup>140</sup> Other useful sources are the actual questionnaires and instruments used by regional accrediting agencies when inspecting university libraries, such as the New England Association of Schools and Colleges (NEASC) library questionnaire, and by the Special Libraries Association and Association of Health Sciences Libraries.

¶105 In the longer term, U.S. academic law libraries should study the more advanced quality indicator programs used in European libraries. These are often based on international standard ISO 11620 on performance measurement in libraries.<sup>141</sup> A group of Dutch university libraries developed performance indicators to measure the effectiveness of their services in relation to users' requirements and to

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139. See Law School Survey of Student Engagement, Participating Law Schools, [http://lssse.iub.edu/html/lssse\\_schools\\_since2004.cfm](http://lssse.iub.edu/html/lssse_schools_since2004.cfm) (last visited Nov. 12, 2007).

140. The current instrument has only one question (6f) on student satisfaction with libraries. It classifies "library assistance" as *non-academic* support, despite emphasizing academic papers which presumably need research. Question 10g does ask about "developing legal research skills" under the heading of educational and personal growth. Center for Postsecondary Research, Indiana University, Law School Survey of Student Engagement 2007 (2007), [http://lssse.iub.edu/pdf/LSSSE\\_2007\\_Mockup%20\(for%20MW\).pdf](http://lssse.iub.edu/pdf/LSSSE_2007_Mockup%20(for%20MW).pdf).

141. INTERNATIONAL STANDARD ISO 11620: INFORMATION AND DOCUMENTATION - LIBRARY PERFORMANCE INDICATORS (1998).

allow benchmarking with similar libraries.<sup>142</sup> Also, the German Library Association's BIX Library Index combines performance indicators into a ranked index that represents the overall performance of the participating libraries. This "suite" of performance indicators is used by academic libraries to provide internal guidance and benchmarking data for comparison with other libraries.<sup>143</sup>

### Conclusion

¶106 With the future of valuable core missions, and of libraries themselves, at stake, law librarians must proactively develop new quality assessment indicators that capture individual and collective efforts by academic law libraries to perform core law library missions. While academic law librarians' current efforts focus on developing collection indicators for electronic sources, that should not be the only quality assessment project underway. Law librarians care deeply about the importance of law and legal information, and that concern should be translated into action. The author hopes that the ideas raised here serve to stimulate the profession's discussion of these vital issues, and the development of new quality standards that will ensure law libraries' continued ability to perform their important societal functions.

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142. Hubert Laeven & Anja Smit, *A Project to Benchmark University Libraries in the Netherlands*, 24 LIBR. MGMT. 291, 291-92 (2003).

143. Wimmer, *supra* note 90.