

OUR QUESTION — YOUR ANSWERS

BY JUDY MEADOWS AND KAY TODD

This is a column of reader-prepared answers offered in response to a specific question posed by Perspectives. Readers are invited not only to submit “answers” but also to submit “questions” they would like to see addressed in future issues.

OUR QUESTION

We were curious as to how extensively practitioners and researchers have adopted the electronic versions of Shepard’s®. We surveyed our colleagues to determine how many law libraries are still providing print copies of Shepard’s and why. We asked: Does your library still have the hard copy of Shepard’s or do you rely solely on electronic access? What has influenced your decision to stay or convert? What were your users’ reactions to your decision?

YOUR ANSWERS

The answers were more varied than we had expected. We were not surprised to learn that very few court and practitioners’ law libraries use exclusively the print citators. Those that had shifted to Shepard’s online indicated the switch took a number of elements into account, including the following:

- Currency
- Organization of the information, with direct links to the cases
- Ease of use
- Efficiency
- Less expensive
- Increased preference for desktop convenience of all electronic media
- Extended potential for further research

In addition to these elements, some law librarians have eliminated print Shepard’s in a move to conserve valuable shelf space.

Judith Gill, a county law librarian, told us that her flat-fee subscription to LexisNexis® “allows us to provide the digital version for the same cost to the patrons as the print version access. We are beginning to have some success in getting people to e-mail their results back to themselves, since we don’t charge for that. It is particularly beneficial to the local university students and to the general

public, since they have no clients to bill. It’s nice to be able to remove some of the cost barriers to legal information, whether for non-lawyers, or for practitioners whose clients have shallow pockets.”¹

Susan Levinkind, co-author the of NOLO Press legal research book, provided this comment: “We have Lexis.com and my opinion is that Shepard’s is the legal research tool which has most benefited from electronic format—it is very much easier to use—one integrated list, words instead of symbols, current up to the minute—and the competition between KeyCite® and Shepard’s has improved both tools. I say this even though I am not a fan of competition.”²

Despite the popularity of online Shepard’s, most law libraries have kept selected print Shepard’s for financial and content-based reasons.

For many libraries, the online version is affordable only if they also keep the hard copy. One librarian said that maintaining the print Shepard’s at her current subscription level was tied to her online contract. County librarians in New York said that their online LexisNexis subscription is through a contract negotiated at the state level. They are afraid that if they lose access to Shepard’s during future LexisNexis contract negotiations they will have a very hard time justifying the expense of repurchasing the print titles.

Many law libraries are retaining the print Shepard’s for their own jurisdiction. They do so because the hard copy has features not available in the online version, such as session laws, noncurrent codes, and municipal ordinances.³ Jane Morris, director of Customer Programs, Case Law & Citations for LexisNexis confirmed the difference in print and online features: “In the state citators, which contain statutory coverage, print includes coverage of statutes that are not in current code and also session laws and other similar uncodified

¹ E-mail from Judith Gill, Wood County Law Library, Bowling Green, Ohio, to Judy Meadows, state law librarian of Montana (Jan. 14, 2004) (on file with author).

² E-mail from Susan Levinkind, Superior Court of California, County of Santa Clara, San Jose, California, to Judy Meadows, state law librarian of Montana (Jan. 14, 2004) (on file with author).

³ In Georgia, for example, the online Shepard’s doesn’t include the 1933 Code—in effect until 1982—or Georgia session laws—critical to research on local or regional authorities.

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laws. These are not available online, only the coverage of current code. I understand from a number of librarians I’ve spoken with over the years that this is one of their principal reasons for retaining print.”

Jane Morris adds, “Also, some users prefer Shepardizing™ statutes or regulations in print, because you can easily ‘check around’ your particular subsection for other variations that might be on point for you. As I suspect you know, we have historically presented statutes as they are cited, so if the court cites to ‘section 101(a) through (c)’ it will appear in Shepard’s that way, and not under each of the three separate subsections. So it can be valuable in print to cast your eyes quickly over the page, around the citation of interest to you, to pick up any odd references you might have missed. Of course it’s possible to do this online, but for many researchers who started out using print it somehow seems easier in print. Some print products will also contain divisions (e.g., for court rules with an unusual citation syntax in *Shepard’s Federal Rules Citations*) that are not available online.”⁴

Helen Capdevielle, the librarian for a St. Louis firm, had difficulty with the *Shepard’s Bankruptcy Citations* print version. She told us that full citation listings for various cases were tricky to locate. “One of our bankruptcy attorneys could not figure out why the print version Shepard’s (*Bankruptcy Citations*) did not give a full list of citing references to his case. We were able to locate a list in the print *Shepard’s Federal Citations* and online via Lexis.com. When I finally heard from Lexis, they explained the connection between the various federal Shepard’s in print. However, I personally do not feel comfortable with the particular process or explanation. The Bankruptcy Shepard’s pages have a note at the bottom stating: ‘To Shepardize® a decision shown here with bankruptcy service parallel citations, please use one of the corresponding Bankruptcy divisions.’

⁴ E-mail from Jane Morris, director of Customer Program, Case Law & Citations, LexisNexis, to Judy Meadows, state law librarian of Montana (Jan. 21, 2004) (on file with author).

I have encouraged our attorneys who do research involving bankruptcy case law to update cases and statutes online.”⁵

Reasons for keeping print copies varied. Judith Gill told us that her decision to retain hard copy was based on what her judges would need if online access were unavailable. “In a pinch, if all we have is a flashlight, we could still provide information support until everything got up and running again.”⁶

In San Francisco and other metropolitan areas, the public law libraries support paralegal training programs. The librarians feel they must have at least one print citator available for educational purposes. The authors wonder however about the disconnect of paralegal programs teaching students how to use the print Shepard’s when law school legal research programs focus on online citators.

One county law librarian, who has kept all the print titles, told us that she is unable to project what her library’s mission will be in the future. She struggles with balancing the preservation of the integrity of the collection with the cost of offering access through various formats. Another said, “I think the trend is such that, inevitably, multiple volumes of Shepard’s and their attendant supplements will be replaced by the ease of use of online sources whether these sources contain an equal level of detail and authority or not. Sadly, most patrons will gravitate toward a quick solution rather than an authoritative one.”⁷

The survey showed limited resistance to converting from print to online citation services. Not surprisingly, it appears that it is the older attorneys and judges who have been the least enthusiastic about new formats. Ann Fessenden, circuit librarian for the U.S. Court of Appeals for the Eighth Circuit, said, “The Judicial Conference of the U.S. eliminated print Shepard’s from the list of publications purchased for new judges’ chambers in 1992, and there was a big push to cancel the existing subscriptions. Some judges were pretty upset at first, but I think they have adjusted.

⁵ E-mail from Helen Capdevielle, librarian, Lewis Rice & Fingersh LC, St. Louis, to Kay Todd, senior legal researcher, Paul Hastings Janofsky & Walker LLP, Atlanta, Georgia (Jan. 14, 2004) (on file with author).

⁶ Gill, *supra* note 1.

⁷ E-mail from Kevin Clanton, library director, Clark County Law Library, Nevada, to Judy Meadows, state law librarian of Montana (Jan. 13, 2004) (on file with author).

Of course, the Shepardizing is normally done by law clerks. Most of today's law clerks are very electronically oriented and may not even know how to use the print!"⁸

Judith Gill said, "There was some resistance to the change; there always is. However, our patrons had ample warning and training opportunities. There were a few stubborn die-hards ('just call me Compusaurus'), but the changing information world imposed its own imperatives. We offered support, sympathy, and good systems, and in the end, it worked."⁹

The San Bernardino County law librarian told us that some users at one of his branches did not like the online version because of the slowness of response. Once a high-speed connection became available the complaints disappeared. He said, "There are some people that claim they do not like or cannot use the computer and they want a staff person to do the search for them. They are probably the same people who would have asked someone to walk them through each print volume as well."¹⁰

Acceptance of online Shepard's is winning out over original resistance. In Kentucky, the Supreme Court law clerks do all the Shepardizing for the justices, and they do it online. The court's librarian, however, said, "I would never presume to take the hard copy Shepard's away from our Justices as they might use them one day. Besides, the books look really nice on their bookshelves!"¹¹

In the law firm environment, firms have had to adjust from previously absorbing the cost of print collections as overhead to billing clients for online research. Frank Drake said, "Our attorneys, for the most part, have had no problem switching to using Shepard's on Lexis or KeyCite on Westlaw®, though a couple dinosaurs have balked, and one

branch office objected to paying (i.e., billing clients) for online charges."¹²

Our colleagues' thoughts on the necessity of teaching how to use the print citators were fairly consistent. One state law librarian said, somewhat facetiously, "I think that Shepardizing is the one legal research process that can be totally taught and done online—and that the books will soon disappear. The only reason law school students should even have to see the maroon volumes is to appreciate how cumbersome the process used to be. However, most students, raised in the era of computers, probably don't care to hear how hard it used to be in the old days!"¹³

Our prognostication is that print citators will be but a dim memory in another decade or so. Until then, we will rely on a few of the hard copies for Shepardizing statutory law and serving our older clients who have not been able or willing to embrace electronic research. Fewer schools will teach how to use print Shepard's, as they will see no reason to do so and, undoubtedly, because no law faculty will know how to use them!

Our thanks to everyone who responded to the questions we posed.

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⁸ E-mail from Ann Fessenden, U.S. Court of Appeals for the Eighth Circuit, to Judy Meadows, state law librarian of Montana (Jan. 13, 2004) (on file with author).

⁹ Gill, *supra* note 1.

¹⁰ E-mail from Larry Meyer, Law Library director, San Bernardino County, California, to Judy Meadows, state law librarian of Montana (Jan. 13, 2004) (on file with author).

¹¹ E-mail from Carol Parris, Kentucky state law librarian, to Judy Meadows, state law librarian of Montana (Jan. 14, 2004) (on file with author).

¹² E-mail from Frank Drake, Arnstein & Lehr LLP, Chicago, to Kay Todd, senior legal researcher, Paul Hastings Janofsky & Walker LLP, Atlanta, Georgia (Jan. 14, 2004) (on file with author).

¹³ E-mail from Jane Colwin, state law librarian of Wisconsin, to Judy Meadows, state law librarian of Montana (Jan. 15, 2004) (on file with author).

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