

## 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: IS THE USE OF DIGESTS CHANGING?

As budget realities lead us to question legal titles that were formerly sacred cows, we wondered whether digest subscriptions were turning up on the cancellation lists, and then we wondered if the use of digests was changing. We asked: “Do you see a need to continue teaching how to use digests? Is there a need to retain print copies now? If so, are there specific sets that your customers still use? If your library has cancelled any of its print digests, what has been the reaction of your customers? Has anyone missed it?” Our question was posted on lists for state court and county law librarians and private law librarians. Similar surveys were posted for academic law library directors on their list by Mike Beaird, director of the University of Arkansas Law Library at Little Rock, and on the list for acquisitions librarians by Cynthia Aninao of the University of Cincinnati Law Library in Ohio. We benefited from Mike’s research and his tabulation of nearly 70 responses on law school practices with respect to ownership of digests and from Cynthia’s summary of 36 libraries’ practices.

### YOUR ANSWERS

Your answers provided strong support for the key role that digests play in effective legal research. Kreig Kitts of Troutman Sanders in Atlanta perhaps expressed it most compellingly: “I can’t express how strongly I feel that digests are an essential part of the big picture thinking necessary to produce research that is better than mediocre and to think critically concerning the law. Without this picture, which the digests force a lawyer to take, legal research becomes a matter of fact patterns and key words instead of legal principles. The quality of the research, and consequently of the lawyering, decreases. Unlike hopping onto a database with some thrown-

together search terms . . . a print digest requires a researcher to stop and think about things for a minute. A lawyer that stops and thinks about things is a much better lawyer for it.” This sentiment was echoed by Pamela Melton of the University of South Carolina, Coleman Karesh Law Library, in Columbia: “The West digest system is one of the monumental developments in the history of American law.” Pamela Gregory of the Circuit Court for Prince George’s County Law Library in Maryland agreed: “Digests provide hierarchical indexes to approach case law by subject. They are a valuable and highly popular resource here, as they provide still yet another access point to case law.” Barbara Zaruba of the San Joaquin County Law Library in Stockton, Calif., believes the digest enables researchers “to see the *big* picture of legal research” and added, “Most attorneys are still hooked into the Key Number System.” Kay Newman, state law librarian of Washington in Olympia noted, “Seasoned attorneys are aware that information can easily be missed by using only electronic resources.” Maria Sosnowski, Clark County Law Library, also in Washington state, likes the digests “because it’s easier to see how things fit together.” She remarks that researchers using the digests “often stumble across something by looking for something else.” And Joseph Novak, librarian at the Mound Correctional Facility in Detroit, although speaking about inmates using a law library, summarized the general view: “The digests will always be needed; whether in print or electronic format.” The importance of the *Descriptive-Word Index* was also mentioned; Elisabeth McKechnie of the University of California, Davis, noted, “Without an index, a student can only find material if he knows the correct search terms to use.”

### Digests in Print

Novak’s comment leads us to the subsidiary question of digests in print as compared to digests online. Mark Estes of Holme Roberts & Owen in Boston commented, “The print digests have value as a tool to give literally a different perspective into the research problem. It is that fresh perspective that is so crucial to stimulating the creativity of the researcher—and aligning or redirecting his/her

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thought into a different line of analysis.” Some librarians commented that use of the print digests first was a cost-effective technique before using Westlaw® or LexisNexis®. Frank Drake of Arnstein & Lehr in Chicago noted, “After the researcher has gotten some idea of the scope of the topics, then online measures are more cost-effective.” The value of the print resource when facing an unfamiliar topic was noted by Mindy Maddrey of Collier Shannon & Scott in Washington, D.C., who said, “Many of our newer attorneys have never had a chance to focus on print research. Most are pleased (and relieved!) when we point out how they can use the outlines of the digest topics as ‘cheat sheets’ when they are working with a lesser-known topic. Also, many of them find it easier to use the digest in print when they are less familiar with a subject and do not know the terms of art that would guide them into successful ... research.” Kitts finds it “easier and faster to move through the contents of a print digest without missing something.” Pam Dempsey of Rodey, Dickason, Sloan, Akin & Robb in Albuquerque, N.M., noted, “Whether any particular digest set is maintained in print is another matter, which may depend upon whether any given library’s users have access to online services.” For example, Novak noted, “In the prisons all our resources are in print.” Gregory emphasized the importance of print in a public library. “In a busy urban public law library environment you can’t always get to the public terminals, and often just one or two cases are needed to get a perspective. ... Recently, when the network went down for a week the return to the digests was something to see.” Kerry Prindiville of the Fresno County Public Law Library in California also finds digests key in the public law library setting: “I know that they are not very popular with attorneys due to all the electronic resources now available to them, but what about the self-represented litigant, who is uncomfortable using an electronic database? I just showed a self-represented litigant how to use the *United States Supreme Court Digest* because he was only interested in cases from the U.S. Supreme Court. He was thrilled that something like that existed.” Other responders focused on the cost of the electronic research. Endorsing the need

for print digests, Karla Castetter at Thomas Jefferson School of Law in San Diego explained “that some graduates practice in a court, agency or other environment where access to electronic resources is constrained or non-existent.” She reinforced this with an example of a judicial clerkship position in Vermont where the court has no access to electronic resources. Rebekah Maxwell, at the University of South Carolina School of Law in Columbia, noted, “There is no way to tell what kind of firm a graduate will end up in nor is there a way to predict what sort of technology online budget they will enjoy, so we teach the basic paper sources as well as their online counterparts.” A few of our correspondents cited times of power outages and network problems as justifying print as a fallback option. Several in academic libraries described the print versions as useful for training law students in digest research.

#### **Print Digests—Public Law Libraries and Private Law Firm**

State digests for the home state or adjacent states were cited most frequently as those retained and heavily used in law firms. Many who responded to the survey noted the heavy use these print volumes receive. Kay McClain of the Indiana Attorney General’s Office said, “I am continually searching for volumes that are missing from the shelves, as attorneys (we have over 120 on staff) do use them.” In her library, print resources are required of summer clerks, engendering in some of them “a state of shock.” McClain added, “I cannot imagine canceling the digests!” McClain has also retained the *Bankruptcy Digest*®, *United States Supreme Court Digest*®, and *Federal Practice Digest*®. Our survey suggests the home state digest and the federal digests are most often retained in print. The *Bankruptcy Digest* and *United States Supreme Court Digest* were a secondary citation by many. The *General Digest*® and *Decennial Digest*® were noted by many as having been cancelled, and in some cases not without regret. As might be expected, those who have owned the *General Digest* and *Decennial Digest* were predominantly in academic or court settings. A number of academic law librarians noted that retaining those digests has provided backup for them when they

have discontinued regional digests or digests for other states. David Lang of Dechert LLP in Washington, D.C., cited the benefit of the state digests for including both state and federal coverage—"a nice combo; and not the cost and size of the regional or federal." Lang also noted the increasing costs of upkeep for digests, in particular the financial burden of the expanded topic coverage made in certain areas of the federal digests recently. "That ended our subscription in this office," he indicated, although he has retained them and marked them "not current." Zaruba, of the San Joaquin County Law Library, summarized her cancellations as follows: "The main reasons that we cancelled the digests were: the cost (staff time/space/subscriptions), the growing size/space, the infrequent use, the redundancy, and the difficulty of use."

#### Print—Academic Law Libraries

Academic law libraries are canceling print digests, but their holdings are still major. Of 70 academic libraries responding to Beard's survey, 27 subscribe to all the regional digests. Beard concluded that all the schools that responded owned the *Bankruptcy Digest*, *Federal Practice Digest*, and *United States Supreme Court Digest*. State digest holdings are substantial as well: while only 11 schools reported having all state digests, only nine schools own only their home state's digest. Several schools that get the *Decennial Digest* do not maintain the interim *General Digest*. In Aninao's survey, 10 of 36 responding schools have cancelled the *General Digest*. Some schools own print digests for adjacent states, others maintain digests for important or large states, and still others own state digests for those states not covered by a regional digest.

#### Did Anyone Object?

There was general agreement that cancellations did not meet with resistance. "To my knowledge, not one of our users complained," reported Brenda Larison of the Supreme Court of Illinois Library in Springfield. Some public law libraries compensate by offering to run a free headnote search online. Many libraries that cancelled upkeep for the digests reported keeping the sets on the shelf marked as not current.

#### Our Conclusions

Enough librarians responded positively about the continuing value of some print digests that we feel their organization and utility should still be taught to law students and others studying legal research. The electronic searching of the digest topic paragraphs is a technique that saves a lot of time and money. It certainly leads to more substantive results than the mere searching of words or facts. Print products allow researchers to identify vital key numbers. A print digest search followed by the application of relevant key numbers in Westlaw is a powerful and efficient combination.

When the law library's resources are stretched to the maximum, or space issues become paramount, some print digests can be eliminated without sacrificing the quality of materials available to the researcher. State, and regional digests that include the home state, are the most preferred by both librarians and their libraries' users. When space and cost issues come to a head, however, and all print digests must be cancelled, the librarian probably will not be accused of misfeasance; the absence of print digests may not even be noticed.

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