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BUTTERFLIES ARE FREE— BUT SHOULD CALR PRINTING BE?

BY NANCY McMURRER

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This fall our law school began charging students to print. Unlimited printing could no longer be supported in an era of increasingly tight budgets. The decision was not unusual; many law schools now require students to pay to print documents in school computer labs.¹

An additional step we considered, however, was not so common: to remove the LEXIS-NEXIS and Westlaw stand-alone printers and require students also to pay for documents from those services that they choose to print. While we are not the only law library that has debated this issue or that has actually taken this step,² most schools have retained free printing for students using CALR services.

Reasons to Charge

Why charge for printing from LEXIS-NEXIS and Westlaw? Here are a dozen reasons.

- Free printing wastes natural resources; stacks of printouts never picked up by students are a common sight.
- Free printing encourages sloppy research habits. Why, for instance, should students bother to limit their Shepard's or KeyCite results to the issues and courts in which they were interested? If printing is free, it does not matter whether they print three pages or 50 pages.

¹ See Univ. of Richmond William Taylor Muse Law Library, *Law School Printing Survey* (visited Jan. 14, 2000) <<http://law.richmond.edu/general/printsurvey.htm>>. Joyce Manna Janto, Deputy Director of the Law Library, is conducting an ongoing survey to identify those law schools that charge students for laser printing in library or law school computer labs. The survey does not necessarily include printing done on attached printers for Westlaw or LEXIS-NEXIS. Janto acknowledges that “[w]hile some schools have begun charging for this type of printing, many have not.” *Id.*

² At least 15 law schools that charge for Westlaw and LEXIS-NEXIS printing have been identified: Boston University, Chicago-Kent, University of Florida, Florida State University, Harvard, University of Illinois, University of North Carolina, University of North Dakota, University of Pennsylvania, Roger Williams, St. John's University, Stetson, Thomas Cooley, University of Utah, and Washington and Lee.

- Free printing discourages students from carefully analyzing their project *before* starting research. Instead, it is easier *first* to jump online to Westlaw or LEXIS-NEXIS with a very general search, print everything, and then analyze the project based on the printed results. More precise online searches can always be done later. At best, this process merely wastes the researcher's time; at worst, it results in important points being overlooked.
- Increasing numbers of electronic research tools are becoming available. If free printing is available only for LEXIS-NEXIS and Westlaw, students may be less inclined to investigate other alternatives: either free resources on the Internet or other subscription products purchased by the library.
- Students are sometimes overwhelmed by the materials they print. Students with stacks of printouts that they could not reasonably be expected to read and digest are a common sight.
- Free printing leads to too many instances in which a student who wants a copy of one document not in the library is frustrated because other students have tied up the printers with requests for printouts of multiple documents that are easily found in the library.
- Students also tie up the printers by sending multiple print requests for the same document or documents. With free printing, they have no incentive to check first, then resend the request only if necessary.
- The library has purchased Westlaw and LEXIS-NEXIS as *research* tools, but many students use them only as free *photocopy* machines.
- Removing the stand-alone printers frees space for additional computers in the computer lab.
- The LEXIS-NEXIS and Westlaw printers require constant maintenance by the lab staff, which takes time away from their other duties. (Although the student representatives are conscientious about their jobs, they only work part time and often are not there to load paper, change toner cartridges, fix paper jams, etc.)
- The possibility exists that saving the vendors the costs of maintaining the stand-alone printers will help avoid future price increases for the services themselves. In the past, for instance, we avoided price hikes in our LEXIS-NEXIS subscription by ensuring that our students connected to LEXIS-NEXIS via the Internet.

- Reports from the “real world”—where our graduates hope to practice—indicate that summer clerks and new associates are not learning how to use LEXIS-NEXIS and Westlaw in a cost-effective manner.

Printing in the “Real World”

Before making a decision about imposing charges for CALR printing, we decided to investigate the degree to which judicious printing is indeed a concern in the real world of law practice. I posted three questions to discussion lists for law librarians in firm, corporate, government, and court law libraries. Here is a summary of the 25 responses.

1. Do you restrict printing from any electronic research resources (including, but not limited to, LEXIS-NEXIS and Westlaw)?

The answer was an overwhelming NO. Printing is not restricted in most firms, courts, and legal departments. There are, however, exceptions. One response, for example, described a LEXIS-NEXIS feature that permits limits to be established on a client-by-client basis. If a researcher wishes to exceed the limit, say, for the number of documents that can be printed, he or she must get permission of the billing attorney and then contact LEXIS-NEXIS to set up an override. A few respondents stated that their organizations require some types of projects (e.g., nonbillable research, use of databases not covered in flat-rate contracts) to be approved in advance. Another librarian said that access as well as printing is restricted; one commented that summer clerks are not given passwords or IDs.

2. If you do not restrict printing, what, if any, action is taken in cases of excessive printing?

Some librarians reported that careful printing is just part of their organizational cultures. One corporate librarian stated that “it is understood in our corporate legal department that you only print what is actually needed” and that she rarely needs to mention a printing problem to anyone. A firm librarian stated that, although attorneys in his firm print many documents, he believes they “by and large use what they print.” Another commented that “researchers are not particularly anxious to print excessively because they know they’ll have to read all they print!”

Most respondents described a range of actions that are taken in cases of printing misuse.

Typically, the librarian talks with the offender, described by one librarian as providing “gentle advice” and by another as having a “nice sit-down.” One East Coast librarian emphasizes to associates the need to justify to her and to the billing partner why they needed to spend so much. She assures them, however, that “if they feel confident that they wrote out the search first, consulted the guides (to choose files and databases accurately), contacted the 800 numbers if stuck, and printed just as many pages as were necessary,” then the cost of their research will be “OK.”

A common theme of these conversations about printing misuse is an explanation about the cost of online research and printing. One Midwestern firm librarian described his use of “the appropriate sense of humor and eye contact” as he asks the associate to picture the billing attorney explaining to the client why the online charges are so high, or the client reviewing the bill in detail before authorizing a check. A couple of librarians point out to the abuser that using the books in the library or photocopying may be a cost-effective alternative to printing, though another response suggested that the time it takes to photocopy may make printing less expensive to the client. Each situation, she believes, requires a “judgment call” to limit costs.

Those who print excessively may find that other attorneys in the organization will speak with them, perhaps in increasingly serious steps. In one office, the librarian has found that comments from colleagues who find the printer tied up by large print jobs rein in excesses most effectively. Usually, however, supervisory or billing attorneys are the ones most likely to have some formal contact with lawyers who have run up large research and printing bills.

Several responses from firms highlighted the unpleasant choice facing the billing attorney when high print charges are involved. Should the cost be passed on to the client, who may well complain about the firm’s inefficiency, or absorbed by the firm, thereby decreasing profitability? The problem, as described by one Southwestern firm librarian, is that new associates do not know how much online research costs and “don’t know diddly about how we handle billing.” According to a number of respondents, researchers are often called in by billing attorneys to explain unreasonable online research and printing costs. Excesses by summer associates were mentioned as a reason not to “invite them back.”

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The problems created by printing misuse are even worse in those organizations that cannot pass on costs to a client. Concomitantly, the actions taken by supervisors may be more severe. In one government legal department, any attorney who runs up more than \$1,000 (online time and printing) in one month receives a letter from one of the senior supervisory lawyers. If the offender is a summer intern, the misuse is passed on to the hiring director. As the librarian phrased it, “since competition for a job here is so tight, the director is glad to have the additional information.” A court librarian reported that online usage and printing is monitored on a weekly basis to control costs and she “cancels passwords of people who do not get the message.”

Whatever other actions are taken when excessive printing is noted, many legal organizations rely on training to get the word across to new law school graduates and summer clerks. “Invariably,” one librarian stated, “they have to be ‘re-educated’ or educated on the cost of Westlaw, LEXIS-NEXIS, printing, etc.” Several organizations sponsor specific training sessions about costs and billing. These sessions may be a formal part of orientation or folded into the Westlaw and LEXIS-NEXIS training conducted by the librarians. Even classes presented by LEXIS-NEXIS and Westlaw representatives, several librarians reported, emphasize cost. Some organizations require additional follow-up training classes focusing on cost-saving alternatives for those users who incur high research and printing charges.

3. Do you hear complaints from supervisory and billing attorneys about excessive printing?

Most librarians had heard complaints linked to misuse of printing. Many had tales to share, some of which seemed to have become legends in their organizations. One librarian wondered if the story of the summer associate who ran up \$25,000 worth of online charges on his last day “just fooling around” was true or apocryphal; nevertheless, he continued, “there is a long institutional memory of the SAs [summer associates] who set new records.” A government legal department with several locations budgets a fixed amount for online research each year. The fiscal year was just under way when the librarian had to call one office with the unpleasant message that it had already spent over one-third of its entire research budget for printing.

A librarian in a West Coast law firm found the printer overflowing one afternoon. She called the new associate to ask whether he realized “what an incredibly large print job he had . . . and by the way, . . . did he really want to print all of a statute from the USCA?” Another firm librarian tried to warn one clerk about the amount he was printing. Ignoring her, he ran up a total online research bill of \$4,000 for a bankruptcy client and was “severely reprimanded.” An intern in a Northeastern government office “ran amok” and printed more than 27,000 lines, about a ream of paper; the office’s online research bill that month jumped to more than \$800. A librarian in one Midwestern firm said the problem seems to crop up every year. “They run up *huge* bills. Five thousand dollars a month? We have one every year!”

Many of those responding to the survey supported a decision to remove the Westlaw and LEXIS-NEXIS stand-alone printers in the law school setting. One thought such a move would be a “great heads-up to the students about real-world costs.” Two agreed that having to pay for printouts would help force students “to focus their thinking and analysis” and “learn to keep what is relevant” only. Another said it was “great to see someone in academia expressing concerns about indiscriminate usage of LEXIS and Westlaw. . . . It would be wonderful if training in law school was similar to training in the firms, instead of the students’ ‘blank check’ attitude.” Still another requested: “The message I would like to see trickle into law schools is that you will be held accountable for your actions when you are employed by a firm. So you better think before you act.”

Many of the respondents coupled concern about printing misuse with the larger problem of the generally poor online research skills of summer clerks and new associates. A librarian in a Midwest firm paraphrased comments by the attorney in charge of her library: “Why do these young attorneys think they have to have copies of every case remotely involved in an action? It usually comes down to several cases that are on point. It’s [copying every case] a waste of time. They really should try to hone their research skills and develop better research habits.” Some librarians stated that too much online time and too many searches were greater problems than excessive printing. One firm’s librarians, however, sounded this cautionary note: “Remember that these are students and may need more leeway in this area as part of their

learning process. First-year students, like first-year associates, don't always know what is relevant and what they may need at first, so they may as well print more than they'll need."

In organizations with flat-rate contracts that include printing, misuse of printing is less often viewed as a problem. One librarian, in fact, stated that printing is a nonissue: "Printing was an issue only when [the vendor] ... made it a special part of law firm contracts. In a pay-as-you-go firm, printing costs do matter, as does use of [the service] itself, but how many of them are left? Law schools set many bad examples for students who go to work in firms without flat rates. But in a flat-rate firm, printing only mattered when the contracts said it did. I don't think you should police printing at your school with the expectation that you are doing us a favor."

Some flat-rate contracts do not include printing, which is then charged either on a page-by-page or on a per-document basis. An East Coast librarian with per-document fees stated: "In some cases (law reviews, periodicals, out-of-state materials), we encourage online retrieval because it's cheaper than document delivery costs." Organizations with inclusive contracts often track only the printing from databases not covered in their contracts. A few librarians with inclusive flat-rate contracts described their contracts as including "free printing." Several others, however, commented that they worry that increased printing under flat-rate contracts will result in big increases when the next contract is negotiated. One firm librarian stated that several firms in her area "have abandoned flat rates because the use jumped so much that the cost for subsequent years was prohibitive."

Conclusion

As is evident from the variety of the comments, excessive printing from Westlaw and LEXIS-NEXIS is not viewed as the universal problem in firms, courts, and other legal departments that it once was. However, those in the real world without flat-rate contracts that include printing are still quite interested in increasing students' awareness of online research and printing costs. In addition, even librarians with inclusive flat-rate contracts worry that misuse now will lead to soaring costs for future contracts.

Many more of the respondents mentioned their concern with the ineffective and inefficient online research skills they continue to see among

summer clerks and new associates. We have hypothesized that being forced to pay for printing would be an incentive for students to analyze their legal issues more carefully and plan their online research strategy more fully. Moreover, we also see a growing number of online research alternatives available to our students, a very different situation from just a few years ago when "computer-assisted legal research" meant only Westlaw and LEXIS-NEXIS. We want to encourage our students to explore a range of online resources. Does our acceptance of printing support from the two vendors in effect mean that we are endorsing them over other alternatives for which no free printing is offered?

On the other hand, the great advantage of the academic contracts that law school libraries have with LEXIS-NEXIS and Westlaw is that they permit students to explore those services without financial penalties for the mistakes they make while learning how to use these systems. Even those law students who eventually work in offices without either service benefit from having used them in law school; exposure to any electronic research tool helps them use other electronic research tools more effectively. In addition, of course, printing is already included in the contract price; we do not know that either vendor will offer us a price break if we save them money.

A decision to require students to pay for LEXIS-NEXIS and Westlaw printing is not easy and straightforward. Students know that free printing is part of the vendors' contracts. They see free printing as an entitlement. Many students are already incurring huge debts to attend law school and they do not wish to add to that burden. The message from legal departments in government and corporations, courts, and firms is mixed. Finally, several of the reasons listed earlier for considering pay-for-print have anecdotal rather than empirical support.

The printing support law libraries receive from Westlaw and LEXIS-NEXIS is an issue law school libraries should explore. But more information would be welcome. We need the input of those law schools that require students to pay for LEXIS-NEXIS and Westlaw printing. Why did those libraries take that step? What did they hope to gain? Have the students' online research habits changed? What benefits and disadvantages for the students have resulted from their decisions? Another survey, anyone?

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