Librarians' Chapters in Books   Librarians' Publications

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Libraries and Legal Education

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D.   LAW LIBRARIES AND LEGAL EDUCATION
By Jonathan Franklin[1]

1.   Introduction

Academic law libraries are in the midst of radical change, probably more so than at any time in the past 100 years.[2] Two factors are converging that make business as usual no longer viable for academic law libraries: transition of legal resources from print to digital formats and economic changes in legal education. BEST PRACTICES FOR LEGAL EDUCATION[3] did not address the role of law libraries in the delivery of legal education. The changes facing law schools suggest now is the time to articulate how libraries can best contribute to the endeavor. How can best practices for law libraries be reconstructed to allocate resources and expertise to support the education mission?

2.   The Current State of Affairs

Academic law libraries are central to law school life, providing print and digital collections, study spaces, and library services. Study spaces have become both more and less important. With the growth of digital resources, more legal research can be done at home, at a café, or at the law library. At the same time, legal education has changed to involve more mandatory group assignments along with study groups. Whether supporting a traditional 1L study group or an advanced negotiation project, the library has become a hub for these activities, leading to the need for more group study spaces, technologies that facilitate group editing, and even video recording equipment for lawyering skills projects. While academic law libraries have traditionally emphasized their collection size and study spaces, the most important function of a 21st century academic law library is the services it offers to its patrons.

a.   Teaching

As schools increase curricular emphasis on preparation for practice, law libraries become more central. Librarians teach courses and classes on legal research, create student-oriented research guides and pathfinders, support former students in their new work environments, and offer new services to meet student needs.[4] In law schools that expand by offering LL.M. and Ph.D. programs, librarians teach students from countries with a civil law legal system about the common law legal system and offer specialized legal research in areas including tax, intellectual property, and international law. Librarians may offer special training sessions and courses for law journal

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[1] The reader for this section was Ann DeVeaux.

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

[3] ROY STUCKEY AND OTHERS, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007) [hereinafter BEST PRACTICES].

[4] *See generally*, Leslie A. Street & Amanda M. Runyon, *Finding the Middle Ground in Collection Development: How Academic Law Libraries Can Shape Their Collections in Response to the Call for More Practice-Oriented Legal Education*, 102 LAW LIBR. J. 399 (2010).

members to support their work in publishing legal scholarship. For other students with more specific research needs, librarians may meet one-on-one with them to help them devise research strategies. Librarians are also experts at technology and are able to train faculty, research assistants, and other students in citation formatting, citation management, research logging, and applications that make the students more efficient in law school and beyond.

b. Scholarship

In addition to teaching and training, the law library plays a central role in both the creation and marketing of scholarship, from initial research assistance and the training of research assistants, to in-depth research and the procurement of obscure resources. Librarians promote new scholarship beyond the institution in blog posts, submissions, and postings to the Social Science Research Network (SSRN), and institutional repositories. Although libraries have always facilitated scholarship, libraries are now, more than ever before, partners in this enterprise through the use of technology and other resources.

3. Identifying Future Best Practices

Academic law libraries have met and are continuing to meet existing challenges, notably the transition from walls of reporters and citators to exclusively online case access, the move from comprehensive collections to highly selective collections, the migration from print to online catalogs, and the education of a generation of students who are sometimes overconfident in their legal research abilities due to their experience with Google. New challenges on the horizon will disrupt law schools, and therefore, law libraries, even more in the next decade. These challenges include shrinking budgets, a migration away from purchasing books and towards licensing databases, rapid changes in user expectations, and transition in the needs of the faculty and students.[5]

a. Rethinking Allocation of Resources

Just as the size of a library's print collection is no longer a surrogate for the overall quality of the library, an academic law library should not be assessed by reviewing a checklist of services it offers. As law schools' missions increasingly diverge due to institution-specific survival strategies, their libraries must react and dedicate re-sources to meet the institution's new directions with limited resources, rather than implementing a laundry list of unneeded or unused services. Thus, a staffing model for a large student-centric law library would offer different services than one for a smaller scholarship-centric law library. Even small differences in the orientation of the law school can make a large difference to its library's service and staffing preferences. For example, a library's staffing would vary depending on whether the school has a robust tradition of hiring law students as faculty research assistants or whether it has

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[5] *But see* Michael Whiteman, *Book-Burning in the Twenty-First Century: ABA Standard 606 and the Future of Academic Law Libraries as the Smoke Clears*, 106 Law Libr. J. 11 (2014).

traditionally relied on the library for research and the law students for drafting and editing.

Unlike the rest of the law school, which spends almost all of its money on salaries and benefits, the library has collection expenses, including the acquisition and licensing of legal materials. In the past, preservation of legal materials for future generations of legal scholars and students was central to the library's mission.[6] It is unclear if that part of libraries' mission is sustainable beyond some federal and state materials for the state where the library is located. The "just-in-case" model has given way to a "just-in-time" model of acquisition: instead of buying materials for the future, libraries are more often trying to buy and license materials for current users. While more short-sighted and leading to less collection continuity over time, this method may be likely the only way to address the convergence of shrinking budgets and acquisition costs that are outpacing inflation. The opportunities here are to present specific faculty members with customized lists of relevant resources buried deep in databases that they had no idea might be relevant to their research. This service of unearthing useful content has the potential to grow as long as scholarship is a focus for the institution.

Almost all digital databases are now licensed rather than purchased. This means that if a library has to stop paying for a database, its patrons will lose access to all the content in it. While this might seem trivial, it has deeper implications. Licensing can be done more effectively at the consortium level, so academic law libraries may eventually select what they want for the year from a menu of databases and leave the licensing and negotiation to a third party. This outsourcing of licensing will save on salary and benefits, but at a cost — the loss of librarians' encyclopedic knowledge of what materials are and have been available in a particular topic area.

On the positive side, as the portion of the acquisitions budget dedicated to licensing increases, the institution can become more nimble in response to changing patron needs. If the law school's international commercial arbitration scholar retires and is not replaced, the library can stop subscribing to the obscure and expensive international commercial arbitration database, knowing it can restart the subscription when needed. Formerly, librarians experienced a sense of loss when cancelling a title, knowing they would never be able to acquire that content again. This is no longer necessarily the case with licensed content.

Other than new classification schemes, such as the Dewey Decimal System and the Library of Congress Classification, nothing in the past 100 years has caused as much change in libraries as increasing computerization over the past twenty years. Entire workflows have changed and formerly necessary jobs have vanished. More generally, procedures that were done by rote year after year have been replaced with operating systems, word processors, and integrated library systems that change on an annual or monthly basis. Computerization has put a premium on adaptability. This, in turn, has led to the need for a more highly skilled and paid cohort of library staff instead of

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[6] This is not meant to suggest that libraries should give up their preservation function. Libraries need to continue to work in that area, whether to prevent link rot from wiping out the utility of citations in our journals or to store state or federal materials that might disappear without preservation efforts. Even if such efforts decrease relative to the past, that does not mean they should be entirely abandoned.

relying on a cadre of student workers to do rote work on a daily basis.

Along with the automation of some parts of libraries, online access has decreased the importance of large print sets, whether primary case law, statutes, and regulations, or secondary materials, such as law reviews. This trend towards monographs has increased the need for staffing in acquisitions while decreasing the need for students to file the traditional transfer binders, pocket parts, and reporter supplements. In addition, Amazon and other used book vendors have made it possible to acquire older monographs that would previously have been deemed impossible to find, further increasing the need for an agile acquisitions department.

b.   Reorganizing Services

Based on all the changes discussed above, how should the academic law library of the future be organized? Do traditional distinctions make sense going forward? Should librarians structure the library as it has been structured, dividing libraries into a technical services department that orders and processes the books, a circulation department that shelves and circulates print materials, and a reference department that responds to content-specific questions? Is this still the best way to meet future needs? To answer these questions, it is best to start to think of the library as an aggregation of functions.

There is a new emphasis on outcome measures throughout legal education.[7] Outcome measures look at what the student gained between the start and end of law school, attempting to quantify how the exiting student has been prepared for work in the legal profession. Law libraries will also undoubtedly be pressed to identify and track outcomes to demonstrate how and where they add value. If libraries cannot statistically tie library use to increased scholarly productivity, the teaching enterprise, and/or increased bar passage rates, they will need to find other ways to provide value to the institution. Benchmarking and other externally focused measures will become increasingly important as financial pressures increase. Schools should rethink some of the structure and role of law libraries and gather the data necessary to support the changes that are inevitable.

i.   Services and Administrative Issues

Due to the changing nature of law schools, there is no longer only one "right" way to organize a library. Structural questions may well vary from school to school. Nonetheless, several common directions are emerging:

- Schools should rethink the relationship between the library and the information technology/computing department. Should these programs be merged or further separated? Where can they complement each other?

- Libraries should assist law school fundraising and advancement efforts. Library personnel can research potential donors and track alumni to improve the currency and quality of the information available to the fundraising team.

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[7] *See generally*, WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007).

- Law Libraries can and should coordinate more effectively with the university library. ABA Standards require law library independence from main campus libraries and a reporting structure that at least nominally goes through the law school dean.[8] How should law libraries rethink their relationships with their main campus libraries? Libraries may need to become even more efficient than they currently are, dropping services they offer that are not absolutely essential. Outsourcing the copy cataloging, stamping, and label printing routine to the main campus library and paying it for an extra employee or two, if necessary, would free up room in the budget to redeploy existing staff to new, more specialized tasks or to add another reference librarian in the law library. The law library should also consider the benefits and drawbacks of coordinating with the main campus library by using a single catalog and/or digital repository instead of going it alone and paying a second fee to the software provider. Although the law library might lose total control, including interface design, law library branding, and methods of pushing data exclusively to law school patrons, the cost savings and on-campus expertise outside the law library might outweigh those drawbacks. With the potential savings in some areas, law libraries would in turn gain the flexibility to provide services that the law school expects but that the main campus does not and cannot provide.

- As law schools look towards additional revenue sources, including distance education, undergraduate education, and post-J.D. education, law libraries will be stretched further than ever. Standalone academic law libraries will be expected to have print monographs that meet the needs of undergraduates with a limited knowledge of civics all the way through materials needed for doctoral dissertations. Staff will need to focus more on meeting the needs of an increasingly diverse student body and an unpredictable faculty, rather than tailoring their collection and services to solely a faculty and J.D.-based population.

- An additional challenge for public universities is how to balance their public mission with decreased funding from state legislatures.[9] Should academic law libraries associated with public institutions continue to serve the public to the extent they have in the past? How central should that service be as resources tighten and the demands of faculty and students increase? Again, there is no broad answer. The question must be debated on a case-by-case basis as competing interests force the library to stop providing some services in order to either add new tasks or spend more resources on existing needs.

- Libraries should reexamine whether to continue to separate reference and circulation departments. As print acquisition, print circulation, and the need for re-shelving decrease, should the two departments be merged, creating a single point of service? Will a single point of service improve use of the

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[8] ABA Standards and Rules of Procedure for Approval of Law Schools, Standard 602, STANDARDS, http://www.americanbar.org/groups/legal_education/resources/standards.html, *archived at* http://perma.cc/BDT2-VQFS [hereinafter ABA Standards].

[9] Connie Lenz, *The Public Mission of the Public Law School Library*, 105 LAW LIBR. J. 31 (2013).

library by simplifying the point of contact and doing more of the delegation invisibly after the question is received? This model of "customer relationship management" has been successful in business and should be considered in other service-oriented areas of the law school.

ii.   Contributions to Teaching

Law libraries can and should shift resources to further more directly the teaching mission of law schools in the following ways.

Location: Law schools should embed librarians on faculty and student floors. Architecture and habits can split groups apart or they can bring them together. Librarians should relocate to faculty and student areas to better serve the primary populations they want to reach. Even having a laptop on a table in the student café during the lunch hour would be a significant step towards breaking walls between law school functions and spaces.

Direct Teaching: As discussed above, the expansion of law schools into undergraduate, graduate non-J.D., and distance education will increase the law school's need for librarians to assist the teaching endeavor. Librarians can teach at numerous levels, from basic civics for undergraduates to high-level specialized legal research for LL.M.s and Ph.D.s.

"Shadow" Curriculum: To accompany the law school curriculum, a library should develop a parallel curriculum with a focus on teaching students various types of fluency with legal materials. Library staff should develop special materials to correlate with the different roles that law students inhabit, such as first-year students learning the language of the law; more advanced students; journal staff and editors; summer associates; students in skills competitions; clinic and externship students; and faculty research assistants. The library staff can teach about legal resources and their specialized use in each of these activities and roles.[10]

Liaison Program for Faculty and Students: Some libraries have set up liaison programs so that a single librarian is the primary point of contact for a group of faculty members. The liaison model may serve the faculty better because the liaison librarian knows what projects his or her faculty members are working on and can provide them with more in-depth subject matter knowledge, more relevant current awareness items, and a stronger sense of how each faculty member wants to receive his or her memos, news items, and printouts. A downside of liaison programs for faculty is that the faculty members can become dependent on their liaison, which can cause problems when that person is unavailable. Libraries should consider the benefits and drawbacks of creating liaison programs for students as well. Of course, any student could ask a question at any time, but if each student had a dedicated

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[10] *See* Christopher Knott, *Libraries as Service Institutions: Meeting Patron Needs in a Changing Environment, in* How to Manage a Law School Library: Leading Librarians on Updating Resources, Managing Budgets, and Meeting Expectations 88-89 (2008).

librarian who they could consult and work with over time, it might provide a better service to the students as well as creating an even stronger bond between the students and the library.

Distance Education Support: Law librarians can provide an additional point of connection to distance education students by providing them with both access to print and digital legal information and a non-judgmental sounding board for more general questions beyond strict research. These distance education students will likely require different training and more in-depth assistance in certain areas and cannot just drop in to ask a question. Reference services might also be needed for additional hours to support after-work programs and distance education programs that span multiple time zones.

Study Space: For the near future, law students will need a physical place to study and collaborate. It makes sense for the study and collaborative spaces to remain within the library. Libraries have often maintained the space in the building that is accessible to students for the longest hours. Even though studying has become less and less associated with the library's physical collections, the law school gains from having a supervised space for law students and others to study. The library may not need staffing when open late on evenings and early on weekends beyond what public safety requires, but the library as a place to study has a resonance with students, and the law school would not save any money by staffing the study spaces outside the library. Although many law students associate the library with studying, if permanent staff availability during all hours the library is open becomes a luxury, rather than a necessity, key cards or other access methods could be provided to law students to provide a safe place to study even when the library is not staffed. The library can remain a safe place for law students to study and collaborate, even if it is staffed for fewer hours per week than before.

Curriculum Development: Libraries do not exist in isolation. Whether through interlibrary loan, shared bibliographic utilities, or even multi-campus delivery services, libraries improve services to patrons by collaborating with other libraries. Law libraries should expand the collaboration particularly to assist with the explosion of curriculum reform efforts going on across the country. Instead of having faculty and reference librarians at each school independently compile surveys of how other law schools are addressing the need for increased experiential education and other curricular reform initiatives, they should share that compilation of information, and facilitate on-going reform efforts.

Interdisciplinary Collaboration: Law librarians should collaborate with subject specialists and librarians from across the campus in teaching law students about research resources relevant to the increasingly interdisciplinary law school curriculum. Conversely, law librarians could do the same for other parts of the institution, perhaps even stimulating increased student interest and curiosity about attending law school.

Needs Assessment: Law libraries should actively and routinely conduct needs assessments by reaching out to the student and faculty populations through surveys, focus groups, and one-on-one meetings. Knowledge of what the institution wants from its library will help further the institution's goals while also informing the library what tasks and services can be altered.

4. Conclusion

In an era of such rapid change, it is hard to say that anything "should" or "should not" be done. Law schools and the libraries within them need to retain their focus on their traditional goals while investigating new ways to achieve them. Just as law schools will continue to provide an excellent education for those entering legal services professions, the libraries within them will continue to excel at serving the faculty and students as their needs continue to evolve. With agility, a service orientation, and a judicious use of limited resources, libraries will remain central to law schools and the education mission for the foreseeable future.