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Framing the Issue: The Case for Artwork in Academic Law Libraries

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Framing the Issue: The Case for Artwork in Academic Law Libraries

Maya Swanes

ABSTRACT

There are several potential benefits that law library patrons can gain from having artwork displayed in the library space. Given these potential benefits, original research was conducted to investigate the challenges law libraries face that may prevent them from acquiring and displaying artwork. Survey responses from 21 law libraries and an in-depth case study of the Tarlton Law Library provide insight into the potential barriers to art that law libraries face. Each of the seven barriers identified is discussed and potential solutions for overcoming are introduced. Ultimately, weighing the barriers against the benefits tilts in favor of having artwork to whatever degree is possible for each library.

1. INTRODUCTION

Libraries have a long history of housing artwork and other historical pieces within their walls and scholarly arguments in favor of the practice go back to at least the 19th Century. Writing for the *Library Journal* in 1881, Mr. H.A. Homes, then the New York City Librarian, advocated for the presence of museums within public libraries.¹ Mr. Homes asserted that there were two arguments that formed the basis for his proposition: first, museums “have an intrinsic value in themselves for the education of any community” and second, combining the library with the museum “increases the utility of and interest in both, with the least of expenditure.”² Mr. Homes further asserted that by combining the library with the museum, “those who might not be

¹ H.A. Homes, *Libraries with Museums*, 6 Lib. J. 81 (1881) (available at <https://books.google.com/books?id=KadJAAAAYAAJ>).

² *Id.*

drawn by the library at first would be attracted by the objects of the museum, and ultimately become the zealous frequenters of the library.”³

Thirty-two years later, John Cotton Dana, who is sometimes credited with the popularity of visual art in libraries,⁴ wrote a piece for *The Print Collector's Quarterly* in which he indicated that every library should have a collection of prints.⁵ In describing the benefits of even a small collection, Dana mused that:

Prints thus gathered, classified, mounted, and labeled immediately take on a certain dignity and worth. They mean something. They add to the library's importance in the eyes of the discriminating. They invite attention, inquiry, study, and what is particularly worth while, they invite contributions from print-lovers in the vicinity.⁶

Today, law libraries house a varying degree of artwork within the library space. Some have extensive, museum-quality collections of fine art. Others have a few framed posters adorning the walls and more closely resemble the modest collection described by Dana. Based on the original research conducted for this article, Mr. Homes' prediction of increased patronage does not appear to hold true for academic law libraries, no matter what the size or status of the library's artwork collection. However, it does not necessarily follow that lack of increase in patronage means that investment in artwork in the law library is an unworthy pursuit. As discussed throughout this article, the benefits of artwork in the library are many and the potential problems law libraries may encounter when pursuing artwork in the law library are not insurmountable.

³ *Id.* at 83.

⁴ William J. Dane, *John Cotton Dana: His Art Interests & Influence*, 16 *Art Documentation* 3, 5 (1997).

⁵ John Cotton Dana, *Print Collections in Small Libraries*, 3 *Print Collector's Q.* 61 (1913).

⁶ *Id.* at 61-62.

2. BENEFITS ASSOCIATED WITH ART IN LAW LIBRARIES

With shrinking budgets and increasing costs, can (or should) a law library focus on bringing artwork into the library? In other words, why would law libraries bother to spend the time, energy and money needed to obtain and maintain a library art collection? There are, in fact, a number of benefits associated with having artwork in library spaces. These benefits include creating a sense of place, stress reduction (and other health benefits) and increased inclusiveness and diversity. Each is discussed in turn below.

2.1 Placemaking

The concept of placemaking started as a way to design cities and other urban spaces with people and communities in mind.⁷ Specifically, placemaking “capitalizes on a local community’s assets, inspiration, and potential, and it results in the creation of quality public spaces that contribute to people’s health, happiness, and well being.”⁸ The Project for Public Spaces states that successful public spaces “generally share the following four qualities: they are accessible; people are engaged in activities there; the space is comfortable and has a good image; and finally, it is a sociable place.”⁹ Furthermore, “[a] good public space...is not only inviting, builds a place for the community around an artwork, or culture venue, by growing and attracting activities that make it a multi-use destination.”¹⁰

⁷ Project for Public Spaces, *What is Placemaking?*, https://www.pps.org/reference/what_is_placemaking/ (Dec. 31, 2009).

⁸ *Id.*

⁹ Project for Public Spaces, *What Makes a Successful Place?*, <https://www.pps.org/reference/grplacefeat/> (Dec. 30, 2009).

¹⁰ Fred Kent & Cynthia Nikitin, *Collaborative Placemaking: Good Public Art Depends on Good Public Spaces*, 45 *Pub. Art Review* 17, 17 (2011).

Many libraries, particularly public libraries, have readily adopted placemaking concepts to transform library spaces.¹¹ However, it is not just public libraries that are learning to reap the benefits. Law libraries have also started contemplating how placemaking concepts can improve the law library experience for students, faculty and staff. In his article *Placemaking and Assessing Physical Space in the Law Library*, Lee F. Peoples discusses how placemaking can assist law libraries in connecting students with the school's values and traditions while fostering collaboration and learning.¹² Peoples uses the University of Texas School of Law's Tarlton Law Library as an example of a library that is successfully using the placement of certain pieces from its extensive art collection to engage in placemaking.¹³ Specifically, Peoples points to Tarlton's practice of displaying art from foreign countries near the section of the library that houses materials from those jurisdiction.¹⁴ Doing so enhances the library's physical space and helps connect the patrons with that space.

Thinking about placemaking is particularly timely for law libraries in light of the fact that digitization and the rise e-resources are forcing many to rethink the best and highest use of their physical space.¹⁵ As indicated by Julian Aiken, Femi Cadmus and Fred Shapiro in their article titled *Not Your Parents' Law Library*, many law libraries are starting to appreciate that creating an attractive and welcoming space is critical to increasing library usage.¹⁶ Perhaps even more

¹¹ See, e.g. Stephanie Sendaula, *Placemaking and the Public Library*, Library Journal, <http://lj.libraryjournal.com/2017/01/shows-events/ala/placemaking-ala-midwinter-2017/> (Jan. 27, 2017); Mark Bilandzic & Daniel Johnson, *Hybrid Placemaking in the Library: Designing Digital Technology to Enhance Users' On-site Experience*, 62 Australian Library Journal 258 (2013); Project for Public Spaces, *Libraries and Placemaking*, <https://www.pps.org/reference/libraryplacemaking/> (Jan. 2, 2009).

¹² Lee F. Peoples, *Placemaking and Assessing Physical Space in the Academic Law Library*, 17 Leg. Info. Mgmt. 5 (2017).

¹³ *Id.* at 7.

¹⁴ *Id.*

¹⁵ Lee F. Peoples, *Placemaking in the Academic Law Library*, 33 Leg. Ref. Servs. Q. 157, 167 (2014).

¹⁶ Julian Aiken, Femi Cadmus & Fred Shapiro, *Not Your Parents' Law Library: A Tale of Two Academic Law Libraries*, 16 Green Bag 2d 13, 18 (2012).

important given the current economic climate, an attractive and welcoming library space may influence prospective students in their ultimate choice of law school.¹⁷ By consciously implementing placemaking concepts to meet the needs of today's law students and faculty, the law library can make a proactive plan to maintain its relevancy and importance despite loss of the standard print collection.

2.2 Connection Between Viewing Artwork and Mental/Physical Health

As described above, one component of placemaking is creation of a space that enhances the well being of those who enter it. As outlined in this section, studies show that there is a link between viewing artwork and positive psychological benefits, including stress reduction and general feelings of well being and happiness.

A study conducted at the University of Westminster found that individuals who viewed artwork for a short period of time over their lunch hour experienced a decrease in the stress hormone cortisol.¹⁸ Study participants were asked to visit an art gallery for 35 minutes over their lunch break with both self-reported stress levels and saliva swabs for cortisol measurement taken before and after the visit. Those participants who started the visit with elevated levels of cortisol experienced "rapid and substantial" decreases in cortisol levels over the 35-minute viewing period. In fact, the amount of decrease in cortisol experienced during that short time frame was equal to the decrease normally experienced during a five-hour period on an average day. The study's authors concluded from the results that "even brief respites within a hectic working lifestyle can buffer the effects of stress."¹⁹

¹⁷ Peoples, *supra* n. 7 at 169.

¹⁸ Angela Clow & Catherine Fredhoi, *Normalisation of Salivary Cortisol Levels and Self-report Stress by a Brief Lunchtime Visit to an Art Gallery by London City Workers*, 3 J. Holistic Healthcare 29 (2006). available through <http://www.wmin.ac.uk/westminsterresearch>.

([http://westminsterresearch.wmin.ac.uk/3472/2/Clow & fredhoi_2006_final.pdf](http://westminsterresearch.wmin.ac.uk/3472/2/Clow_%20fredhoi_2006_final.pdf))

¹⁹ *Id.*

Another study by researchers in the Department of Public Health and General Practice at the Norwegian University of Science and Technology asked participants to answer questions regarding their participation in cultural activities and their perceived health status, satisfaction with life and levels of anxiety and stress.²⁰ Based on responses from over 50,000 adults, the researchers found that participation in cultural activities, including viewing artwork, correlates to good health and life satisfaction as well as low levels of depression and anxiety.²¹

Yet another study conducted in 2011 showed that looking at beautiful images triggers the brain's reward centers.²² In that study, Professor Semir Zeki of the University of London had study participants view images of artwork while researchers monitored their brain activity. The results demonstrated that images identified as beautiful correlated with increased engagement of the medial orbito-frontal cortex, which is the part of the brain that may be involved with making stimulus-reward associations.²³ As Professor Zeki explained, “[t]here have been very significant new advances in our understanding of what happens in our brains when we look at works of art. We have recently found that when we look at things we consider to be beautiful, there is increased activity in the pleasure reward centres of the brain. Essentially, the feel-good centres are stimulated, similar to the states of love and desire.”²⁴

These promising studies support the assertion that having artwork on display may deliver those benefits patrons who frequent the law library space. The stress reduction potential is

²⁰ Cuypers, Koenraad et al, *Patterns of Receptive and Creative Cultural Activities and Their Association with Perceived Health, Anxiety, Depression and Satisfaction with Life Among Adults: the HUNT study, Norway*, 66 *J. Epidemiology & Community Health* 689 (2012) (available at <https://www.ncbi.nlm.nih.gov/pubmed/21609946>).

²¹ *Id.*

²² Tomohir Ishizu & Semir Zeki, *Toward a Brain-Based Theory of Beauty*, *PLOS One*, July 6, 2011 (available at <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0021852>)

²³ Richard Alleyne, *Viewing Art Gives Same Pleasure as Being in Love*, *The Telegraph*, <http://www.telegraph.co.uk/culture/art/8501024/Viewing-art-gives-same-pleasure-as-being-in-love.html> (May 8, 2011).

²⁴ *Id.*

exciting in the context of academic libraries, and particularly law libraries, as the students who frequent these facilities are often under intense academic pressure. If displaying a piece of beautiful art could give patrons a brief respite from that stress it would be a worthy pursuit for the library to acquire and display such pieces.

All that being said, the results of the first two studies mentioned above do not cite the beauty of viewed works as a prerequisite to obtaining the stress reducing benefits. Furthermore, beauty is a subjective assessment and not all artwork can (nor necessarily should) be chosen solely for its subjectively perceived beauty. As discussed in the next section, there may be benefit to selecting pieces based on the cultural value they bring to the library space.

2.3 Opportunity for Increased Inclusiveness and Diversity

By considering diversity when planning or selecting artwork to display in the law library, law librarians have the opportunity to introduce outside voices and viewpoints into the library space. This can include not only diversity of the artists, but also to diversity in the subject matter or individuals and settings portrayed in selected pieces. Of course, bringing in a variety of viewpoints and displaying artwork that invites dialogue may also come with a dose of controversy. The issues surrounding potential controversy are discussed in more detail in Section 4.3 *infra*.

The University of Washington's Gallagher Law Library hosts a collection of contemporary Native American artwork, which provides a unique backdrop to the library's offerings.²⁵ As described by John Feodorov, the individual who was tasked with building the collection:

²⁵ University of Washington Law School, Gallagher Law Library, *Contemporary Native American Art In The Gallagher Law Library*, <https://lib.law.washington.edu/services/artwalk.html> (accessed May 21, 2017).

For native peoples, cultural survival and tribal sovereignty are as much issues today as they were two hundred years ago. Land rights, whaling, fishing rights, mineral rights, religious freedom, identity, sovereignty, and racism are all continuing elements in the current relationship between Native Americans and federal and state governments. The art I have chosen for the UW School of Law provides opportunities for dialogue and brings insight into the Native American/United States relationship.

These sorts of opportunities for dialogue can be a jumping off point for other diversity-centered activities or conversations within the library. They can also act as a starting point for student reflection and engagement with diverse concepts or ideas. Such opportunities are also in line with the American Library Association's Library Bill of Rights, which states that "[l]ibraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval."²⁶ Taylor Fitchett, Director of the University of Virginia Law Library, has had extensive experience with curation of art displays for libraries. In her article titled *Monet, Manet, Mayonnaise: Is the Art Worth the Controversy*, Fitchett explains that "[a]rt is a cultural privilege and certainly embodies the mission of higher education: to broaden the lives of those who travel there."²⁷

By promoting a variety of voices, libraries also have the potential to become sites for collecting and exhibiting art that is not generally accepted by more traditional institutions.²⁸ John

²⁶ American Library Association, *Library Bill of Rights*, Article II, <http://www.ala.org/advocacy/intfreedom/librarybill> (Jan. 23, 1996).

²⁷ Taylor Fitchett, *Monet, Manet, Mayonnaise: Is the Art Worth the Controversy?*, 48 V.I. Libs. 10, 13 (2002).

²⁸ D. Vanessa Kam, *On Collecting and Exhibiting Art Objects in Libraries, Archives, and Research Institutions*, 20 Art Documentation 10, 12 (2001).

Cotton Dana embraced this opportunity by promoting the works of two modern abstract artists in an era when most Americans failed to appreciate the genre.²⁹ In doing so, Dana was able to make give a podium to artists whose message might not otherwise be heard.

In addition, artwork on campus, including artwork housed in libraries, has the potential to be a mirror for the campus community. In his article “Art on Campus 101,” Kurt Kiefer describes his work with students in attempting to increase the diversity of artwork on the University of Washington campus to better represent its student body.³⁰ As Mr. Kiefer states, “[a]esthetic and academic judgments can be only part of the process for reviewing additions to our collection. Ultimately, it is the quality of the *story* embodied by the work of art that really matters.”³¹ That story can be especially powerful when the artwork displayed is created by students, faculty or staff of the institution. Section 5 *infra* provides ideas for how a law library could work with the law school or university community to create exhibits showcasing their work.

3. ORIGINAL RESEARCH AND METHODOLOGY

Given the potential benefits associated with bringing artwork into the law library, the purpose of this research study was to further investigate the challenges associated with bringing public artwork displays into the library space. Two forms of original research were completed to further inform the ideas proposed by this paper: a written survey and a case study. From the information gathered, ideas and suggestions for thoughtful ways to integrate artwork into the law library were formulated and are presented in sections 4 and 5 *infra*.

3.1 Written Survey

²⁹ Dane, *supra* n. 4 at 5.

³⁰ Kurt Kiefer, *Art on Campus 101: Aesthetics, Identity, and Lessons Learned*, 17 Public Art Review 16 (2006).

³¹ *Id.* at 16.

A written survey consisting of 15 questions was sent to 45 academic law libraries using the online platform Survey Monkey.³² The survey was sent to individuals identified as the law library’s director or the individual holding a similar role. One survey recipient indicated that she was unable to respond to the survey as there were questions she did not wish to answer. In addition, another recipient sent a responsive email indicating that since her facility was integrated and there was not a separate law library, she was unable to respond. No explanation was received from the other law libraries that did not provide responses.

In total, responses were received from 21 of the law libraries, representing a 46% response rate. Of those 21 responding law libraries, three indicated in response to the first question that they did not have artwork in their library. As a result, those three respondents did not complete the remaining survey questions as they only pertained to libraries that have artwork. A copy of the survey as presented is provided in Appendix A.

The purpose of this short survey was to obtain baseline information as to how many academic law libraries have artwork and how that artwork is collected, maintained and regarded by the library’s patrons. A full breakdown of results of the survey is provided in Appendix B, but a few of the most important findings are highlighted below. These highlighted findings were chosen to provide information that supports the recommendations and findings throughout the rest of this article.

Q.1: Do you have artwork displayed in your library?

Response	Number of Responses and Percentage
Yes	18 (85.71%)
No	3 (14.29%)

Q.2: Did any of the librarians in your library select the artwork or participate in its selection?

Response	Number of Responses and Percentage
Yes	11 (61.11%)

³² Survey Monkey, www.surveymonkey.com.

No	7 (38.89%)
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Q.3: Does the artwork in your library rotate in and out on a regular basis?

Response	Number of Responses and Percentage
Yes	3 (16.67%)
No	15 (83.33%)

Q.6: Please select from the options below the primary manner in which your library's artwork was obtained.

Response	Number of Responses and Percentage
Donation	8 (44.44%)
Purchase	0 (0.00%)
Other	10 (55.56%)

Five of the respondents who indicated "other" in response to this question stated in writing that at least a portion of their collection was obtained through donation.

Q.8: Have you ever had a patron indicate that he/she came to the library solely for the purpose of viewing the artwork?

Response	Number of Responses and Percentage
Yes	6 (33.33%)
No	12 (66.67%)

Q.9: Have you (or your staff) received comments from patrons on the artwork?

Response	Number of Responses and Percentage
Yes	14 (17.78%)
No	4 (22.22%)

Q.10: If yes, are the comments generally positive or negative?

Response	Number of Responses and Percentage
Positive	13 (76.47%)
Negative	0 (0.00%)
N/A	4 (23.53%)

Q.12: Is the artwork in your library studied or utilized by any other departments on the University campus or by others in the community?

Response	Number of Responses and Percentage
Yes	1 (6.67%)
No	14 (93.33%)

Q.13: In your opinion, is the artwork in the library is a benefit to your patrons?

Response	Number of Responses and Percentage
Yes	15 (93.75%)

No	1 (6.25%)
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Q.14: In your opinion, does the presence of the artwork increase usage of library services?

Response	Number of Responses and Percentage
Yes	0 (0.00%)
No	15 (100%)

3.2 Case Study

One of the most renowned law library art collections is that of the University of Texas School of Law’s Tarlton Law Library. Much has been written about Tarlton’s artwork, particularly its Hyder Collection.³³ As such, this article will not provide an in-depth discussion of how the Collection came to be.³⁴ Rather, it will use the Tarlton as a case study for artwork in law libraries, particularly in respect to its work with donors and the way the public and other university departments interact with the pieces on display. A copy of the questionnaire sent to the Tarlton Law Library is provided in Appendix C. Unless otherwise indicated, all of the information provided in this section was obtained through responses to the questionnaire.

The Hyder Collection

The Hyder Collection accounts for approximately 1,000 of the 1,200+ pieces on display in the Tarlton Law Library. In 2011, the pieces in the Hyder Collection were donated to the Law School Foundation by the Hyder family.³⁵ The patriarch of the family, Mr. Elton Hyder, Jr. attended Harvard law school and, during the course of his studies there, found inspiration in the

³³ See, e.g., Jane O’Connell & Elizabeth Hilkin, *The Hyder Collection: Art and Education at Tarlton Law Library*, 19 AALL Spectrum 10 (2015); Harry “Terry” Martin, III, *Legal Issues: Hyder Collection of Legal Art*, Peabody Essex Museum 2012 Symposium, available at: <http://www.pem.org/library/symposia/index.php/article/2012/martin>.

³⁴ A description of the Hyder Collection and information on the Hydys themselves can be found at the Tarlton Law Library’s website. University of Texas School of Law, Tarlton Law Library, *The Hyder Collection*, <http://tarlton.law.utexas.edu/hyder-collection> (last updated July 27, 2016).

³⁵ *Id.*

artwork scattered throughout the school's law library.³⁶ He indicated that the law library's artwork "offered him the opportunity to pause and think about more than the next day's assignment."³⁷ Given his experience, Mr. Hyder started loaning pieces that he and his wife collected during their world travels to the Tarlton Law Library "to provide the next generation of law students with the same opportunity to study in a visually and intellectually stimulating environment as he had enjoyed."³⁸ Furthermore, Mr. Hyder hoped that the Collection would "encourage[] generations of law students to think about the law in a larger context."³⁹ The Collection includes a wide range of pieces, including portraits in oil, prints, furniture, manuscripts, artifacts, textiles, Americana and war posters.⁴⁰

Acquisition

The library also holds another large collection of several hundred "legally-themed figurines and collectables," but these items are not yet on display as they need to be inventoried and the complete transfer of ownership effectuated. Additionally, the library has a number of other items received through small donations (furniture, memorabilia and pictures), which are also on display. Typically the library will only accept donation of pieces that it intends to display. Tarlton does not actively seek out artwork to add to its collection through purchase.

Maintenance of the Collection

As one curator of the Collection indicated back in 1988, "the collection is meant to enhance the working environment, but the light needed for studying accelerates wear and tear. We know that the rugs are fading. Mrs. Hyder wants people to sit on the chairs and settles, but

³⁶ Elizabeth Hilkin & Elizabeth Haluska-Rausch, *The Hyder Collection*, Foreword ix (Jamail Center for Legal Research, 2012).

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.* at x.

⁴⁰ Hilkin, *supra* n. 36.

people are a lot bigger nowadays and they don't always remember to be careful."⁴¹ Although Mrs. Hyder has since passed, this practice continues to this day. But interaction with people is not the only reason for the wear and tear. Some of the pieces are several centuries old, which means that they show signs of their age simply due to the passage of time.

Some pieces that are either very expensive or very fragile are kept either in locked cases or in closed storage away from the rest of the Library. For the most part, however, the library only accepts donations of pieces that it intends to display.

Uses of the Collection

Tarleton Law Library has students from other disciplines, including interior design, art, art history, and history, view the collection and select individual pieces as the focus of writing assignments. In addition, the Library offers tours of its collection to various tourists and groups that visit the library. Such groups include art and art history classes and senior citizen groups, among others. Furthermore, the University of Texas Law School uses the collection to help recruit new faculty and it is a key part of any tour of the building.⁴² The artwork is also a significant part of student recruitment tours.

Placement of Pieces within the Library

Donors do not have final say on placement of the artwork that they donate, although any opinion or preference expressed by the donor is taken into account. Placement is ultimately decided by the library employees, who consider a number of factors, including educational fit with the information resource collection, space requirements, security needs and appropriateness for public display.

⁴¹ Sylvia Whitman, *The Art of Law*, 76 *Alcalde* 4 (1988).

⁴² Hilkin, *supra* n. 36 at x.

From 2009-2011 the library underwent extensive renovation. During that time the entire Collection had to be placed in storage. Following the renovation, the library staff attempted to retain the “spirit of the collection and the original look of its placement through thematic placement and cohesive groupings as close in proximity as possible to the original installations.”

Tarleton also includes thematic rooms, such as a conference room with a *Vanity Fair* theme. This room is decorated with “a large number of lithographs of judges, barristers, heads of state and notable ‘men of the day’ published by Vanity Fair magazine from the 1860s to the early 1900s.” Following the library’s renovation, these pieces were placed largely back in the same location.⁴³

Patron feedback

Overall, the Tarleton Law Library has primarily received positive feedback from patrons. Patrons often express interest in finding out more about the provenance and history of certain pieces they encounter. They indicated, however, that some people do comment on the condition of certain pieces that are experiencing wear and tear. However, as library staff explained, “the intent of the Hyders was for people to be able to touch, sit on, and otherwise interact with the pieces in the Hyder Collection, which has, over the years, resulted in some wear and tear of the artwork.”

In addition, alumni often express that they look back fondly on the Collection and sometimes particularly memorable pieces, after graduation. One of the most memorable (and macabre) pieces that library staff regularly receive comments on are the plaster casts of the hands and faces of Albert Pierrepoint and Syd Dernley, two of the last English hangmen.⁴⁴

⁴³ *Id.*

⁴⁴ Additional information on these pieces can be found on the library’s website. University of Texas School of Law, Tarleton Law Library, *Highlight: Executioner’s Life Masks*, <http://tarlton.law.utexas.edu/life-masks> (last updated Sept. 7, 2016).

Despite the generally positive feedback and increase in visitors due to the Hyder Collection and other works, the presence of the artwork does not appear to increase the usage of library services. While students do often express appreciation for the presence of the artwork, the Library's information resources are still the primary reason for people using library services.

Working with Donors

When asked about challenges associated with working with donors, the Tarlton Law Library provided the following guidance:

Art donors are like all other donors. Some require a great deal of attention and hand-holding, and others are just glad to be done with their "stuff." Some will want to control the display or at least offer suggestions and advice on display, preservation, signage, etc. Some will remain protective of "their" items, and want frequent reports. Others will have a complete hands-off attitude. Some will want their name attached to their donation, and others will want to be low-key or even anonymous. You cannot stereotype art donors any more than other donors.

In addition, the Tarlton Law Library provided the following as a set of "best practices" for libraries that want to work with donors:

(1) Know if your larger institution (law school, university, foundation, or even state government) has a role in accepting or approving gifts.

If the larger institution has a role in accepting donations, they should be involved immediately in the discussions about whether to accept a gift. What are their requirements, conditions, processes, etc.? Will they take over the entire transaction, leaving you on the sidelines, or will they give you carte blanche in the deal?

(2) All expectations need to be identified and dealt with and there will likely have to be some compromise.

For example, as a starting point, on behalf of the library/your institution, you want to assume full ownership and control of the artwork. You want to be able to handle the artwork as you wish—display it whenever and wherever you wish, maintain and preserve it in a manner you consider appropriate, put into storage, sell, or discard when you decide to do so. You want it clear that the library/institution retains all rights regarding its new property. Perhaps you would like the donor to provide funds for temporary assistance in processing and preparing the artwork.

They will likely have other thoughts—permanent display (or guaranteed display for a period of years) and input or final decision on location, etc., signage, perhaps naming a room or space after them (depending on the extent of the collection), eventual disposition (e.g. returning it to the owner if the library is no longer interested in maintaining the work). They may want to retain some sort of ownership interest, or a right of first refusal when the artwork is not being displayed, or a veto power over all decisions. They may want to have a yearly reporting relationship (what the library is doing with “my” artwork), or status reports on the development of displays, publications, programs, etc. They may want to choose who is hired if they provide money for temporary staffing (e.g. a family member, or someone with specific qualifications).

(3) Give your donors plenty of advance preparation and transparency.

This is no different than any other contractual negotiations. You need to know what compromises you will accept and where your bottom line is in terms of the donor retaining some oversight or control. You need to be able to explain the reason for each of your decisions. It helps to have policies or procedures documented. Most of the time donors will be pretty reasonable if you can clearly explain the reasons behind your expectations.

4. POTENTIAL PROBLEMS AND SOLUTIONS ASSOCIATED WITH ARTWORK IN LAW LIBRARIES

The results of the original research outlined above illuminate a number of obstacles that law libraries may face if they wish to actively bring artwork into the library space to provide their patrons with the associated benefits. These obstacles range from the standard budgetary concerns to understanding the potential pitfalls involved when working with donors. None of these barriers are insurmountable, though, and may just require a bit of creativity to overcome. Below are explanations of those barriers along with possible solutions for breaking through.

4.1 Budgetary Concerns: Where's the Monet?

The Problem: One of the biggest hurdles involves an aspect of librarianship constantly at the forefront of our minds: the library budget. As indicated in the recent publication titled *Law Library Budgets in Hard Times*, it is likely that the current budgetary constraints and hard times being experienced by law libraries are here to stay.⁴⁵ Due to these constraints, much of the law library's discretionary spending has been or will be curtailed. As such, absent monetary donations given expressly for purchase of artwork, it is unlikely that the funds needed to start or expand an art collection will be available to many academic law libraries.

⁴⁵ Taylor Fitchett, et.al., *Law Library Budgets in Hard Times*, 103 L. Lib. J. 91 (2011).

Implicitly included in the budget concerns are the time constraints of librarians tasked with curation or management duties related to the art collection. Unless time for curation can be built into the librarian's full time schedule without taking away from other primary duties, the librarian may be devoting personal time to enable display of artwork.⁴⁶ The time and energy commitment involved in curation of a collection is especially high where a law library chooses to host rotating or periodic exhibits.⁴⁷ These types of exhibits require participation of librarians who are willing to reach out to work with artists to arrange for the artwork's display, work to market the exhibit to the law school community and, potentially, the greater university and community populations.⁴⁸ This time commitment may account for the reason why the vast majority of survey respondents who have artwork in the library (83.33%) indicated that their collections do not rotate.

Some law libraries are fortunate enough to obtain funds for arts projects through a percent for art (PFA) program and thus are not faced with the same budgetary woes when it comes to acquisition of artwork. PFA programs require that a certain percentage of the cost of a building projects within a county or city be reserved for use on public art projects. Acquisition of the Native American artwork collection at the University of Washington's Gallagher Law Library, for example, was funded through Washington State's Art in Public Place's program, which is funded by ½ of 1 percent of the state's portion of construction costs.⁴⁹ Of course, these types of projects are not available to all academic law libraries and, even if such funding is available, it generally only covers a one-time acquisition.

⁴⁶ Irene Avens, *On Running a Small Art Gallery in an Academic Library*, 6 *Art Documentation* 121, 123 (1987).

⁴⁷ *See, e.g., id.* Avens describes the steps taken to host rotating exhibits in the Queens College Library Art Center. Each exhibit is planned 12 to 18 months in advance and involves a number of major stages that must be timed and executed according to the exhibition date. *Id.* at 122.

⁴⁸ *Id.*

⁴⁹ ArtsWA, *Public Art*, <http://www.arts.wa.gov/public-art> (accessed May 21, 2017).

Furthermore, academic law libraries that want to acquire artwork need to be cognizant of the fact that potential budgetary constraints may prevent adequate stewardship of the works. As one author studying the collection of an academic library put it, “[s]hould art be collected if no plans are made for its maintenance and care?”⁵⁰ Specifically, a library may lack the space and technology necessary to properly maintain a collection. As explained by D. Vanessa Kam in her article *On Collecting and Exhibiting Art Objects in Libraries, Archives, and Research Institutions*, “[m]any institutions struggle to maintain the resources to provide their collections with the necessary environmental controls (humidity and temperature), acid-free materials for processing, and archival storage containers. Materials exposed to inferior environmental conditions and housing will deteriorate more rapidly, severely compromising their future availability to users.”⁵¹ Even having someone responsible for reviewing and insuring compliance with necessary standards of care for the library’s artwork could involve a substantial amount of time and energy.⁵²

Potential Solutions: Law libraries with tight budgets have to be creative in finding ways to bring artwork into the library space without a large monetary expenditure. Some are already finding ways to do so. For example, one survey respondent indicated that while her library is unable to obtain original artwork due to budget constraints, they do have framed art posters and reproductions as well as photos depicting the surrounding city and alumni. Even in John Cotton

⁵⁰ Sarah Laleman Ward, *Hidden in Plain Sight: The Story of the Hunter College Collection of Puerto Rican Graphic Arts*, Art Documentation,

⁵¹ Kam, *supra* n. 28.

⁵² For example, the Smithsonian’s Museum Conservation Institute has guidelines related to care of certain types of art objects. Smithsonian Museum Conservation Institute, *Taking Care*, https://www.si.edu/mci/english/learn_more/taking_care/index.html (accessed May 21, 2017).

Dana's time concerns about the costs of acquiring and displaying artwork was at the forefront of a librarian's mind.⁵³ But, as Dana reasoned:

[A] very simple and inexpensive collection, gathered by the librarian himself and his friends in the community, will often prove a more effective teacher than would a collection of prints too rare to be often handled, too large in number to be framed, and so costly that the library could make no worthy additions to it.⁵⁴

Furthermore, if the law library does not have the resources necessary to properly maintain certain types of artwork, then it may choose not collect, store or display those types of works. Perhaps the law library does not have the resources available to keep a painting at a certain temperature with the requisite amount of ambient humidity. In that case, the library may decide not to acquire or accept the piece if it is offered as a donation. However, if the library is considering accepting a donation of a piece that would require special care, the library may make acceptance of the donation contingent upon the additional donation of funds to would allow for proper care of piece.⁵⁵

Finally, law libraries that want to find cost effective means for providing artwork for their patrons should look to assistance and resources available from the law school and, where available, the larger university community. This includes resources both in the form of time and expertise of others. For example, collaborating with university museums or museums within the community may create relationships that foster sharing of information and, potentially, exhibits.

⁵³ Dana, *supra* n. 6.

⁵⁴ *Id.* at 66.

⁵⁵ This could include, for example, a climate-controlled room or specially built case to house the work such as the ones used by the Maryland State Law Library to house their collection of valuable Audobon lithographs. See Stephen P. Anderson & James G. Durham, *A Safe Haven*, 19 AALL Spectrum 12 (March 2015).

Additional ideas for how to collaborate with law students and faculty as well as other university departments can be found in Section 5 *infra*.

4.2 Physical Space Constraints

The problem: In addition to budgetary concerns, space constraints must be taken into account. Some law libraries are able to dedicate significant square footage to displaying their art collection. For example, Harvard Law School's Lillian Goldman Law Library's Caspersen Room, which was opened in 1948, acts as the Library's space to showcase its extensive collection, which includes manuscripts, memorabilia and other fine art.⁵⁶ Other libraries struggle to find real estate for displaying any pieces at all. As one survey respondent indicated, other than a few framed posters and class composites, the library did not have artwork displayed because "[t]he interior of the library is not really conducive to the display of artwork. Shelving and study carrels line most of the walls."

Law libraries with space restrictions may gain additional real estate as they weed print works from their collection that are no longer needed due to digital access.⁵⁷ However, that newly vacated library space may quickly be claimed by the law school and used for other purposes.⁵⁸ To prevent this, law libraries may have to work to create plans for the new space prior to removal of the print resources.⁵⁹

Potential Solutions: Even spatially challenged libraries can utilize small photographs or pieces to help add flair and aesthetic interest to the library stacks and spaces. In his article, *Placemaking in the Academic Law Library*, Lee F. Peoples states that a law library does not need

⁵⁶ Harvard Law School, *About Historical & Special Collections*, <http://hls.harvard.edu/library/historical-special-collections/about-historical-special-collections/> (accessed May 21, 2017).

⁵⁷ Peoples at 170

⁵⁸ Fitchett, *supra* n. 45 at 95.

⁵⁹ Peoples, *supra* n. 14 at 170.

a large and expensive art collection to capitalize on the placemaking benefits of artwork.⁶⁰ Peoples provides a number of ideas for space-conscious ways to incorporate objects and photographs into the library setting. One such suggestion involves displaying photographs of alumni or the surrounding area to connect students with “their community and its values and traditions.”⁶¹ Similarly, Peoples indicates that prints of news articles or publications related to a specific subject area could be used to designate the actual space in the library where that subject matter is covered.⁶²

Peoples also promotes the idea of co-location of library and non-library uses as a way to integrate the library with the world outside of its walls.⁶³ In terms of display of artwork, this could also work to incorporate artwork into rooms or areas already being used for other purposes. This could take the form of dedicating a small wall or panel to a rotating artwork exhibition, making the physical space requirements minimal.⁶⁴ Librarians at the Brooklyn College Library successfully created such a space when they repurposed the walls of a computer lab within the library to act as a gallery.⁶⁵ This allowed the space to double as both a place to display artwork while continuing to serve its practical function as computer lab.⁶⁶

Physical space constraints are not the be-all end-all when it comes to artwork in the library. By employing some creative and space-conscious solutions, even a single wall can work to support the introduction of artwork into the library.

4.3 Law Librarians as Collectors and Curators

⁶⁰ *Id.* at 190.

⁶¹ *Id.* at 183.

⁶² *Id.* at 181.

⁶³ *Id.* at 184.

⁶⁴ See, e.g., Veronica Funk, Programming Librarian, *News: Arts and Culture on a Budget*, <http://www.programminglibrarian.org/articles/arts-culture-budget> (Sept. 8, 2015).

⁶⁵ Jill Cirasella & Miriam Deutch, *From Art on the Wall to Something for All: How an Academic Library Turned Its Art Collection Into a Campus Attraction*, 3 *J. Lib. Innovation* 1, 15 (2012).

⁶⁶ *Id.*

The Problem: In her 1999 study of mid-size college libraries, Jane Kemp asked a number of questions regarding the participant libraries' collection and the individuals within the library assigned responsibility of administering the collection.⁶⁷ Based on her findings, Kemp determined that three questions should be asked and answered in the affirmative before an academic library decides to take on the added responsibility of art management. Those questions are:

- (1) Do the library and the assigned librarians have a genuine interest in the visual arts?
- (2) Are adequate resources available to the library, e.g., staff and space, to manage an art collection? and
- (3) Do the library and assigned librarians recognize the necessity of becoming knowledgeable about visual arts collection management procedures?⁶⁸

In regards to Kemp's first question, there needs to not only be interest of library staff, but also institutional buy-in. Suzanna Simor gives further support for this idea in her article *Art Exhibitions in Academic Libraries: A Necessary (?) Luxury (?)*.⁶⁹ Simor describes the seven main requirements needed for a successful art exhibition in a library, the sixth of which is institutional support.⁷⁰ According to Simor:

Administrators and colleagues should be informed and involved, in order to see the program as a proper part of the library and as a contribution to the intellectual life of the campus. The latter is especially important for the higher levels of the

⁶⁷ Jane Kemp, *Art in the Library: Should Academic Libraries Manage Art?*, 20 J. Academic Librarianship 162, 165 (1999).

⁶⁸ *Id.*

⁶⁹ Suzanna Simor, *Art Exhibitions in Academic Libraries: A Necessary (?) Luxury (?)*, 10 Art Documentation 137 (1991).

⁷⁰ *Id.* at 137.

school's administration whose informed and enlightened support is a condition for the existence of an art gallery in an academic library.⁷¹

Exploration of the second question touches on both budget and space constraints, which are discussed in Sections 4.1 and 4.2 *supra*. Even if a law library determines that these barriers can be overcome, D. Vanessa Kam cautions that “collecting and exhibiting art objects come with certain responsibilities, and institutional resources should ideally be in place *before* any such undertaking is attempted.”⁷² This is especially true as budget constriction decreases library staff, which can put additional strain on librarians to keep up with both their full-time work as a librarian and any curatorial responsibilities.⁷³

Kemp's final questions presents the very real issue that law librarians are not, by and large, trained in art curation. Even those librarians who aspire to the role may find themselves in over their head when it comes to some issues associated with acquiring and managing an art collection.

Potential Solution: This can be an especially tough hurdle for law libraries to overcome. If no one on library staff is either interested or able to take on the tasks associated with curating an exhibit or collection, then that is pretty much the end of the road. Likewise, if library administration is unwilling to provide support, the program will lack the necessary backing to make it a success.

However, if there are staff members with interest and administration is supportive, the skills needed to manage a collection and meet Kemp's third requirement can be learned. Reaching out to other libraries on campus or colleagues at other academic law libraries for advice on what skills need to be learned could go a long way. In addition, there may be

⁷¹ *Id.* at 138.

⁷² Kam, *supra* n. 28, at 14 (emphasis added).

⁷³ *Id.* at 10.

applicable courses or seminars held at museums within the community. This is not to say that the ability to curate an art collection in a library can be learned overnight. But, as Kemp concludes in her study, “[a] summary of the common characteristics shared by museums and libraries argues that library professionals are well positioned to assume an art management role.”⁷⁴

Furthermore, if there is neither time nor inclination on behalf of the library staff to take on the tasks associated with art curation, the library could reach out to a local museum, either on campus or off, to create a partnership between the institutions. This was done at the University of Virginia in early 2000s.⁷⁵ In that instance, the librarians at the University’s Boatwright Memorial Library discovered that they did not have the expertise needed to curate the library’s newly created gallery space. In light of this realization, the librarians reached out to the director of the University Museum who agreed to take over selection and hanging of artwork within the library. The museum also agreed to rotate the works every six months, which kept the exhibits fresh. James Rettig, one of the librarians at the Boatwright Memorial Library, found the arrangement to be “more than a win-win deal; it was a win-win-win” in light of the benefit to the library, museum and library patrons.⁷⁶

4.4 Controversy and Criticism

The Problem: As discussed in Section 2.3 *supra*, bringing diverse ideas and viewpoints into the library space is beneficial to library patrons. However, law libraries may face public outcry when displaying controversial artwork. As Taylor Fitchett observed, university and law students have to live as captive audiences with any art installations in their libraries.⁷⁷ This is in

⁷⁴ Kemp, *supra* n. 67 at 165.

⁷⁵ James Rettig, *Art for Everyone’s Sake*, V.I. Libs. 4 (2004).

⁷⁶ *Id.* at 5.

⁷⁷ Fitchett, *supra* n. 27 at 11.

contrast to museumgoers who are free to skip another trip to the museum if they find some of the artwork on display particularly offensive.⁷⁸ This means that the patrons to a law library that displays art may be constantly confronted with pieces that offend or upset them. There are many examples of universities facing criticism due to the presence of controversial artwork.

One recent example from the University of Iowa demonstrates just how complicated this issue can be. University Professor Serhat Tanyolacar erected a seven-foot tall sculpture that looked like a robed member of the Ku Klux Klan.⁷⁹ The robe was made from historical photos and newspaper clippings that described some of the worst acts of racial violence from throughout U.S. history.⁸⁰ The immediate reaction from many University students was outrage and, after only four hours, the Professor voluntarily took the piece down. The University's president issued a statement to the University community citing the offensive nature of the work and the fact that it was placed without permission as the reason for its removal.⁸¹ The University's actions led to rebuke from the Foundation for Individual Rights in Education (FIRE) and the National Coalition Against Censorship (NCAC) who issued a joint letter to the University's president stating their concern for the University's censorship and lack of commitment to First Amendment rights.⁸²

In another example, four murals on display at the University of New Mexico's Zimmerman Library have drawn criticism from the community for decades.⁸³ The murals, titled

⁷⁸ *Id.*

⁷⁹ Alex Parrott, *UI Art Professor Embraces Controversy*, Iowa City Press Citizen (Jan. 2, 2015) <http://www.press-citizen.com/story/news/local/2015/01/02/ui-professor-tanyolacar-embraces-controversy/21200971/>

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² FIRE-NCAC Letter to University of Iowa (Dec. 12, 2014) (available at <https://www.thefire.org/fire-ncac-letter-university-iowa/>).

⁸³ Sarah MacNiel, *Zimmerman Library Murals Have Drawn Ire for Decades*, DailyLobo.com, Oct. 6, 2016 (available at <http://www.dailylobo.com/article/2016/10/6-murals-controversy>).

the “Three Peoples Murals” were painted in 1939 and include images that many consider to be racist and sexist, including one panel that shows a Native American and Spaniard on either side of an Anglo American. The Native American and Spaniard are holding hands with the Anglo American and face him with closed eyes while the Anglo American looks forward with eyes open. The murals have faced protest and defacement over the course of many decades, but the University has thus far refused to remove them. The University’s website detailing the artwork in its Zimmerman Library includes the following statement in regards to the murals at issue: “University Libraries is committed to open discussion about the murals and welcomes suggestions on how to provide alternative interpretations and viewpoints while maintaining the historical integrity of these controversial art works.”⁸⁴

A university can also find itself at the center of a controversy not for the content of the pieces displayed, but rather for the provenance of the pieces. In 2010, California State University at Fresno extended an offer to display a set of supposedly lost Ansel Adams glass negatives that a local construction worker claimed to have purchased at a garage sale.⁸⁵ The Ansel Adams Publishing Rights Trust disputed the authenticity of the plates and its managing director stated that display of the plates would “be an embarrassment for Fresno State.”⁸⁶ Complicating matters further was the fact that both Ansel Adams’ heirs and the attorney for local construction worker were all Fresno State alumni, leaving the University in the unenviable position of picking sides.⁸⁷

⁸⁴ University of New Mexico, University Libraries, *Zimmerman Library Artwork*, <http://library.unm.edu/services/rooms/zimart.php> (accessed May 21, 2017).

⁸⁵ Goldie Blumenstyk, *A University Finds Itself in the Middle of an Art-World Controversy*, Chron. Higher Educ. (Aug. 4, 2010) (available at <http://www.chronicle.com/article/A-University-Finds-Itself-in/123768/>)

⁸⁶ *Id.*

⁸⁷ *Id.*

Implicit in the conundrums faced by each of the universities in the scenarios above is the idea that by hosting an exhibit or owning a particular piece of art, the university is making a value statement as to the validity of the viewpoint or subject matter. This implication often exists even if untrue. As posited by Gwendolyn J. Reece in her article *Multiculturalism in Library Exhibits: Sites of Contested Representation*:

Perhaps more than any other institution, academic libraries, as the repository of a university's collection of recorded information and wisdom, serve as concrete symbols of the intellectual pursuit of truth. The exhibits they sponsor, therefore, 'carry the weight and implicit authority' not only of the library, but of the university and of academia as a whole.⁸⁸

Even the way that pieces are displayed can be perceived as making a particular statement. As described by D. Vanessa Kam, "[t]he manner in which we contextualize the objects on display reveals our inner thoughts and approaches to history, documentation, and the significance of the human record."⁸⁹

Fortunately, none of the law libraries involved in the survey for this article have had to deal with such extreme circumstances. In fact, all of the survey respondents indicated that the responses that they receive from patrons in regards to the artwork, are, on the whole, generally positive. But even in the small sample of libraries surveyed for this article, there were indications that not all comments received from patrons in regards to the artwork were positive. Examples of negative reactions from patrons reported by respondents include the following:

- "[P]ortrait of our graduate, Richard Nixon, has been controversial due to his record, but not the art."

⁸⁸ Gwendolyn J. Reece, *Multiculturalism and Library Exhibits: Sites of Contested Representation*, 31 J. Academic Librarianship 366, 366 (2005).

⁸⁹ Kam, *supra* n. 28 at 12.

- “[R]acially offensive, promotes homosexuality, harmful to the environment, many more.”
- “Some art formerly on loan to the library was criticized as depressing.”

Potential Solutions: The potential for controversy is not necessarily an area that has concrete solutions as artwork is so subjective and the reactions of patrons to any piece of work will differ widely. The American Library Association’s Intellectual Freedom Manual provides the following guidance in regards to controversial library exhibits:

In developing library exhibits, staff members should endeavor to present a broad spectrum of opinion and a variety of viewpoints. Libraries should not shrink from developing exhibits because of controversial content or because of the beliefs or affiliations of those whose work is represented. Just as libraries do not endorse viewpoints of those whose work is represented in their collections, libraries also do not endorse the beliefs or viewpoints of topics that may be the subject of library exhibits...The library should not censor or remove an exhibit because some members may disagree with its content.⁹⁰

Having a written policy regarding artwork in the library, law school or university could help provide guidance to law library staff as to the types and content of works being exhibited. If a policy is too restrictive, though, it could be perceived as dampening intellectual and academic freedom. A recent article published in *Art Documentation* reviewed the exhibit and artwork display policies of a number of universities in light of issues of censorship, intellectual

⁹⁰ American Library Association, *Intellectual Freedom Manual* (Chicago: American Library Association, 2015) 161-162.

freedom and freedom of expression.⁹¹ After reviewing the particulars of each policy and the degree to which they addressed the foregoing issues, the study's author concluded:

Libraries and librarians traditionally have been viewed as being at the forefront of upholding the principles of intellectual freedom. However, there appears to be an inherent conflict between intellectual freedom and other core values they seek to uphold, such as neutrality. University libraries are generally considered to be one of the sites for the safe space debates roiling on university campuses, which raises the question of how safe space is defined. At the very minimum the library, and its accompanying exhibit spaces, should provide a safe space for the free and open exchange of ideas.⁹²

It is up to each law library and/or its parent institution to ultimately decide where it wants to fall between the guideposts of complete intellectual freedom and safe space for students and other patrons. As Taylor Fitchett ultimately concluded from her experiences, “[a]rt invites controversy, and in trying to create a show that will appeal to all people, a curator is sure to fail.”⁹³ Fitchett further advises that “if you cannot tolerate controversy, you’d best stay away from art curation. It is not for the timid. Art has a powerful effect on us. It can educate and enrich, as well as provoke and enrage. It is extremely hard to predict what people will find offensive.”⁹⁴

However, even if a law library would prefer not to have controversial works included as part of its permanent collection, there can be value in bringing potentially controversial pieces in as part of a rotating exhibit. If an academic law library chooses to display a potentially

⁹¹ Mary Kandiuk, *Avoiding Controversy: Academic Freedom and the Library Exhibit*, 36 *Art Documentation* 91 (2017).

⁹² *Id.* at 106.

⁹³ Fitchett, *supra* n. 27 at 11.

⁹⁴ *Id.* at 10.

controversial piece or exhibit, it could turn a potentially divisive work into an opportunity for growth by inviting students, faculty and staff to attend or participate in a discussion about the works. As explained by Gwendolyn J. Reece after her study of a contested exhibit at American University Library, “[c]ontroversy about representations should not be avoided but should be seized as potentially educative moments.”⁹⁵

4.5 Working with Donors

The Problem: Obtaining artwork through donation can be a cost-effective way to obtain artwork and cultivate relationships with alumni or community members. But why would a donor choose to donate his or her paintings, sculptures or other objets d’art to an academic law library? One reason, of course, may be that the donor attended the parent university or law school and has fond memories of the law library as a place of sanctuary during long nights of memo writing or moot court preparation. Other factors may also come into play, however. For instance, the collection may have a legal focus and thus the donor sees a connection between the law library and the nature of the work. In addition, donors may feel that the library is an institution that will care for the donated works in a responsible way.⁹⁶

Working with the donors can be a challenging, yet rewarding, part of curating the library’s collection as there are many legal and practical considerations that each law library must address before accepting a donation.

A number of high profile lawsuits act as instructive tales for institutions regarding the importance of understanding donor intent.⁹⁷ One of the most widely publicized cases of a court relying on the cy pres doctrine to determine donor intent was that of Fisk University and its

⁹⁵ Reece, *supra* n. 88 at 371.

⁹⁶ Kam, *supra* n. 28 at 13.

⁹⁷ See Kathryn Miree & Winston Smith, *The Unraveling of Donor Intent: Lawsuits and Lessons*, 11 J. Prac. Est. Plan. 13 (2009).

collection of artwork donated by Georgia O’Keefe. The cy pres doctrine is defined as “[t]he equitable doctrine under which a court reforms a written instrument with a gift to charity as closely to the donor’s intention as possible, so that the gift does not fail.”⁹⁸ The collection came to Fisk with a number of restrictions on proper display of the works, including a requirement that the donated pieces always be displayed as one collection. Several years after O’Keefe had passed and sixty years after the initial donation, Fisk decided to sell two of paintings in the collection in an attempt to save itself from insolvency and even obtained approval from the Tennessee Attorney General to do so.⁹⁹ However, the Georgia O’Keefe museum sued to block the sale citing the cy pres doctrine and O’Keefe’s original requirements. The matter was ultimately resolved (albeit several years after the initial proposed sale date), but it still cost an extraordinary amount of time and money.¹⁰⁰

Potential Solution: The possibility of conflicts arising between a law library and its art donor should not be the reason that a law library refuses donations. Rather, the above cautionary tales should merely bring awareness to the fact that there are certain steps that should be taken when negotiating the donation. Law libraries who are new to the donation game should review the best practices provided by Tarlton Law Library as set forth in Section 3.2 *supra*. These law libraries should, of course, also consult with legal counsel prior to executing any donor agreement. In addition, law libraries like those 72.22% of survey respondents who indicated that at least a portion of their library’s artwork was received through donation, may want to revisit and review their current practices to insure they are protecting themselves.¹⁰¹

⁹⁸ Black’s Law Dictionary (Bryan A. Garner ed., 10th ed., West 2014)

⁹⁹ Melanie B. Leslie, *Time to Sever the Dead Hand: Fisk University and the Cost of the Cy Pres Doctrine*, 31 *Cardozo Arts & Ent. L. J.* 1, 3 (2012).

¹⁰⁰ *Id.* at 9.

¹⁰¹ Most libraries responded that their collection was obtained through a combination of methods.

Furthermore, working with donors often also requires finesse and a certain skill set. In his 2005 article *Donor Relations for Librarians*, Miguel Juarez suggested that skills in cultivating donor relations are becoming increasingly important for academic librarians.¹⁰² Cirasella and Deutch of the Brooklyn College Library indicate that they sometimes refuse an offered donation, “which requires finesse and diplomacy, especially when the donor is a Brooklyn College alumnus/a or staff member.”¹⁰³ These are the types of interpersonal skills needed to successfully interact and build relationships with library donors. It is just as important to cultivate your donor relationships as it is to insure that the donor agreement be an accurate reflection of each party’s wishes.

There is speculation in the philanthropic field that the new and upcoming era of donors will want to be more involved and engaged in the organization to which they are making the donation.¹⁰⁴ Some in the philanthropy field find this both daunting and exciting.¹⁰⁵ On the one hand, more involvement may lead to more strings and requirements for any donation. On the other hand, engaging younger donors at an earlier age means they may continue to donate throughout their lives. Thus, getting potential donors excited and involved in the library’s projects and direction may lead to a continuous future stream of donations. Given these potential changes, law librarians tasked with donor relations may need to revise the playbook on how donors are solicited and the way that relationships are built.

Finally, if a law library wants current students to become future arts donors, it is important to make them think of the library as a place where artwork is displayed, discussed and

¹⁰² Miguel Juarez, *Donor Relations for Librarians*, 24 *Art Documentation* 38 (2005).

¹⁰³ Cirasella & Deutch, *supra* n. 65 at 15.

¹⁰⁴ Mike Scutari, *These Aren’t Your Grandparents’ Arts Donors. Is that a Good Thing?*, Inside Philanthropy (Dec. 15, 2016) (available at <https://www.insidephilanthropy.com/home/2016/12/16/these-arent-your-grandparents-arts-donors-is-that-a-good-thing>).

¹⁰⁵ *Id.*

appreciated. This may, of course, depend on each student's experiences with the law library and the law school as a whole.¹⁰⁶ Fostering good experiences and memories of the law library may induce future philanthropic giving. Employing artwork as a means of placemaking within the law library, as described in Section 2.1 *supra*, may go a long ways toward creating those feelings of goodwill.

4.6 Deaccessioning

The Problem: Conflicts often also arise when the university attempts to sell off all or a portion of the artwork it holds in an attempt to ward off financial demise or for other reasons. This practice, known as deaccessioning, may leave the university in the unenviable position of looking like a villain against the arts.

One particularly high profile example of public outcry at a university's attempt to deaccession its artwork occurred in 2009 when Brandeis University decided to close its Rose Art Museum and sell off its contemporary art collection in order to keep the school financially viable.¹⁰⁷ The decision led to a lawsuit, which ultimately settled, but not until after a lengthy and expensive legal battle. The University of Iowa faced similar uproar when it decided to sell a Pollack mural included in its collection in an attempt to defray costs associated with flood damage.¹⁰⁸

¹⁰⁶ Although there are currently no law schools approved by the ABA that allow for a J.D. to be earned solely through distance education, it is interesting to consider how the law library would connect with those students such that they would want to donate to the library. One recent article discusses potential techniques for connecting the library with alumni of distance learning programs in order to solicit donations. See Anne Marie Casey & Michael Lorenzen, *Untapped Potential: Seeking Library Donors among Alumni of Distance Learning Programs*, 50 J. Lib. Administration 515 (2010).

¹⁰⁷ Armando Montaña, *Brandeis U. Agrees to Settlement in Dispute Over Rose Art Museum*, Chron. Higher Educ. (June 30, 2011) (available at <http://www.chronicle.com/article/Brandeis-U-Agrees-to/128113>).

¹⁰⁸ Christopher Knight, Culture Monster: LA Times Blog, *Here We Go Again with the Iowa Jackson Pollack Sale*, <http://latimesblogs.latimes.com/culturemonster/2011/02/university-of-iowa-jackson-pollack-sale.html> (Feb. 11, 2011).

The attorneys who represented Randolph College when it faced a lawsuit related to deaccessioning wrote an article for the *Chronicle of Higher Education* after the matter had ended.¹⁰⁹ In it, they provided the following viewpoint on deaccessioning by colleges and universities:

Owning art that can be displayed in a museum or elsewhere on a campus undoubtedly plays an important role in furthering a college's mission — as do concert halls, theaters, sports facilities, dining halls, and dormitories — but the interest in preservation by art-museum professionals and others should never be allowed to overtake a college's mission or run counter to it. Critics of selling parts of collections for the purpose of anything other than replenishing them must remember that without a college, there can be no college art collection. The opposite is not also true.¹¹⁰

This insight helps focus the fact that ultimately the goal of the institution is to educate and adhere to its stated mission in doing so.

Potential Solution: Obviously no law library would want to find itself in this situation and many won't given that a prerequisite to deaccessioning is having high value artwork to sell in the first place. If a law library and parent university were faced with this conundrum, though, it would ultimately be up to the university's board or administrators to make the final decision and hopefully do what is in the best interest of the institution and its students.

4.7. Lack of Concrete Evidence of Increased Patronage

The Problem: When asked whether they thought the presence of artwork increased usage of library services, 100% of respondents who provided an answer to this question said no. One

¹⁰⁹ Gilbert E. Schill Jr. & Jacob H. Rooksby, *Colleges as Collectors: Questions to Ask When Buying and Selling Artwork*, 55 Chron. Higher Educ. A96 (Sept. 12, 2008).

¹¹⁰ *Id.*

reason for this universal response may be that making a direct connection between artwork and patronage can be difficult as it is not something that is generally measured or tracked. As one respondent indicated “[t]hat is hard to answer. Anecdotally, alums have mentioned how they liked studying in space with the art but I think they would have chosen to be at the library whether or not art was present.” Even the Tarlton Law Library with its museum-quality collection that regularly draw in art-admiring visitors, stated that there was no indication that their art collection increased use of the library’s information resources.

Potential Solution: The above survey responses provide a blunt reminder as to why bringing artwork in the law library is often seen as a luxury rather than a necessity. It is important to contrast those responses, however, with the 93.75% of respondents who indicated that they felt that their library’s artwork is a benefit to their patrons. The purpose of this study and article is to show that there are real benefits that flow from the presence of artwork in the law library. Even if those benefits are intangible and thus cannot be easily measured, it is worth having the discussion with library or law school administrators to make the case for artwork in the law library.

However, if library or law school administration needs concrete proof of the demand for artwork in the library, library staff could solicit feedback from library patrons on their opinions on the library’s artwork or lack thereof is a way to gauge interest and demand.

5. RECOMMENDATIONS FOR LAW LIBRARIES GOING FORWARD

After weighing all of the benefits and challenges discussed herein, hopefully law librarians will conclude that bringing artwork into the law library is a worthy endeavor. Once that conclusion is reached, there are a number of ways law libraries can use artwork to engage with law students, faculty, other university departments and the community as a whole. Below

are a few ideas for those law librarians who are interested in using artwork for outreach, whether that be outreach to students and faculty or, where applicable, the greater university community.

5.1 Collaboration with Other University Departments

If the library already has a significant collection of art, one way to connect with other departments is to promote the library's artwork as available for study and reflection. The Tarlton Law Library embraces this opportunity and invites students from other disciplines, including interior design, art, art history, and history, view the collection and select individual pieces as the focus of writing assignments. In addition, faculty members have used the pieces in the law library's collection to conduct research and scholarship.¹¹¹ Similarly, the law library could have art students could write critiques/critical reviews of the artwork for class and, potentially, for publication in the university's newspaper or online blog.

Furthermore, law libraries can coordinate with other departments within the university to obtain pieces for a temporary exhibit.¹¹² This could also include less traditional forms of artwork, such as rocks from the geology department, photographs from the art or journalism departments or costumes from the theater department.¹¹³ Once such a relationship is established, the partner department may also want to borrow some of the law library's manuscripts or rare books for a display in its building. Starting these types of collaborative relationships may lead to additional, unexpected opportunities for cross-departmental partnerships.

5.2 Collaboration with Law Students, Faculty and Staff

Another opportunity lies in the possibility of having students take responsibility for finding and bringing artwork into the library for display. For example, law students in art or

¹¹¹ Zipporah Batshaw Wiseman, *Foreward*, 12 *Texas Journal of Women & Law* 193, n. 13.

¹¹² Jennifer Mayer, *Visual Arts in the Academic Library*, *Bringing the Arts into the Library* 74 (Carol Smallwood ed., American Library Association 2014).

¹¹³ *Id.*

intellectual property courses could work with students from the university's art department to work through the legal issues needed to display the student's artwork in the library on a temporary basis. This project work to teach both the law student and the art student the steps necessary to review and execute an agreement for loan and display of artwork. For stand-alone law schools, the law students could instead work with local artists. As an added bonus, the library could hold an opening celebration for the exhibit that would bring the law students, art students or community members together.

In addition, a number of libraries find showcasing student, faculty and staff artwork rewarding and, importantly, cost effective. In her article *Staff Speaks Volumes with "Art of the Library,"* Jo Cates, the library director at Columbia College Chicago, provided information regarding the institution's "Art of the Library" program, which seeks to make the library into a space promoting artistic endeavors.¹¹⁴ The former coordinator of the program, Thomas Stubblefield, found that "when you work with people day in and day out, there's a tendency to see them only in terms of their professional roles, but I think this program has shown that we have meaningful extracurricular lives as well."¹¹⁵ As described in Section 2.3 *supra*, showcasing work from individuals affiliated with the law school gives the entire community insight into the variety of life experiences and backgrounds represented.

Aside from actually having students, faculty or staff contribute their own artwork to an exhibition, the following ideas could work to bring students into the library space for creative outlet.

¹¹⁴ Jo Cates, *Staff Speaks Volumes with "Art of the Library,"* 34 *American Libs* 57 (2003).

¹¹⁵ *Id.*

- Have students and faculty participate in creation of exhibits in conjunction with specific days or events that are important to the law. For example, a live reading of the Constitution or Constitution-themed artwork on Constitution Day.
- Set up craft workshops with students using old books as the medium. Pinterest has a wealth of book art ideas that could act as inspiration for projects.¹¹⁶ The pieces created could then be displayed throughout the library. Pieces could also be created to represent a particular subject within the library and be displayed as markers to identify certain sections or collections.¹¹⁷
- Hold art or poetry contests using cases taught in 1L classes as the theme or inspiration.¹¹⁸ Contests could also ask that submissions be artistic responses to other works within the library, thus promoting students, faculty and staff to visit the library and view the works already on display.¹¹⁹ The visual or written submissions could then be displayed the library and a reception held to announce the winners.
- Have law students taking a class related to subject of the artwork incorporate it into their studies. For example, the contemporary Native American artwork collection at the Gallagher Law Library could be used by students studying American Indian Law.
- Allowing art law or intellectual property students to review the library's donor or licensing agreements to understand the factors involved in creating such a document.

¹¹⁶ Pinterest, *Book Art*, <https://www.pinterest.com/explore/book-art/> (accessed May 21, 2017).

¹¹⁷ Peoples, *supra* n.15 at 177. For additional crafty ideas to create artwork for the library, see Lewis Giles & Edward T. Hunt, *Selecting Art for your Law Library*, 34 ALL-SIS Newsletter 2 (2014).

¹¹⁸ An in-depth description of one library's contest is described in Cirasella & Deutch, *supra* n. 65 at 12-14. In addition, some wonderful examples of law-related haikus can be found at Haiku Briefs (available at <https://haikubriefs.wordpress.com>). The explanation for the site is summed up (in the form of a haiku, of course) as follows: *I write some haikus / Summarizing court cases / I read for law school.*

¹¹⁹ Cirasella & Deutch, *supra* n. 65 at 12.

- Actively creating and promoting a “de-stressing” room or area for students to enter for the sole purpose of viewing artwork at times of high stress to cash in on the benefits associated with reduced levels of the stress hormone cortisol. This could take the form of a hybrid space¹²⁰ containing artwork, comfortable reading chairs and the library’s popular collection and magazines.¹²¹

There are, of course, a multitude of other ways to use artwork and the library space to connect with the law library’s patrons. Each law library should consider its strengths and avenues for support to find ways to use art to bring the library and its patrons together.

6. CONCLUSION

In these uncertain budgetary times, it takes a strong argument to funnel staff time and funds towards something that does not have a clear and measurable positive effect on the library’s primary patrons. And while it is true that having artwork in the law library likely does not increase patronage, there are many important intangible benefits that weigh in favor of making artwork a priority where possible. These benefits include: (1) creating a sense of place for patrons, (2) capitalizing on the effects on health and well being associated with viewing artwork and (3) increasing the diversity of voices and viewpoints represented in the library space.

Of course, academic law libraries must not lose sight of the fact that they are, first and foremost, an educational institution and not a museum. As such, any time and money directed towards bringing artwork into the law library must be done with an eye towards supporting the library’s mission and purpose. The law library can, however, be thoughtful and deliberate in how

¹²⁰ Dorothy Fouracre, *Making an Exhibition of Ourselves? Academic Libraries and Exhibitions Today*, 41 *J. Academic Librarianship* 377 (2015).

¹²¹ Jordan A. Jefferson, ‘*We’re Going to Make You Popular*’: *Popular Collections in the Modern Academic Law Library*, 32 *Leg. Ref. Servs. Q.* 78, 86 (2013).

it acquires, maintains and utilizes an art collection to both promote its foundational mission and goals while thinking broadly about the library's aesthetics. And while there is no right or wrong amount of artwork that a law library should display, there are steps that every law library can follow to take advantage of the benefits of having artwork in the library space.

Appendix A

1. Do you have artwork displayed in your library?

Yes

No (If selecting this response, you may skip to the end of the survey and select "done." Before doing so, please provide the reason why your library has chosen not to obtain/display artwork (i.e. budget, not knowing where to obtain, etc.) in the "other" box below)

Other (please specify)

2. Did any of the librarians in your library select the artwork or participate in its selection?

Yes

No

3. Does the artwork in your library rotate in and out on a regular basis?

Yes

No

Other (please specify)

4. Does your library (or parent University) have a formal policy addressing rotation/maintenance of the collection?

Yes (if policy is available online, please provide url in "other" box below)

No

Other (please specify)

5. Does your library (or parent University) have a formal policy addressing selection and display of artwork?

Yes (if policy is available online, please provide the link in the "other" box below)

No

Other (please specify)

6. Please select from the options below the primary manner in which your library's artwork was obtained.

Donation

Purchase

Other (please specify)

7. Is your library's art collection highlighted or promoted on the library's website?

Yes (please provide link to webpage in the "other" box below)

No

Other (please specify)

8. Have you ever had a patron indicate that he/she came to the library solely for the purpose of viewing the artwork?

Yes

No

9. Have you (or your staff) received comments from patrons on the artwork?

Yes

No

10. If yes, are the comments generally positive or negative?

- Positive
- Negative
- N/A

11. If you have had any particularly strong reactions by patrons and are able to share, please describe (or indicate N/A).

12. Is the artwork in your library studied or utilized by any other departments on the University campus or by others in the community?

- Yes (please describe in the "other" box below)
- No

Other (please specify)

13. In your opinion, is the artwork in the library is a benefit to your patrons?

- Yes
- No

Other (please specify)

14. In your opinion, does the presence of the artwork increase usage of library services?

Yes

No

Other (please specify)

15. Do you personally like the artwork on display in your library? Please note that responses to this question will remain anonymous!

Yes

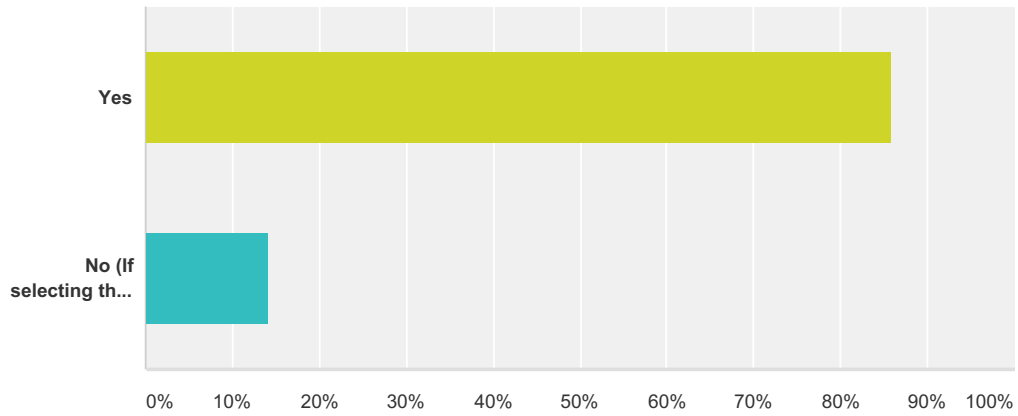
No

Other (please specify)

Appendix B

Q1 Do you have artwork displayed in your library?

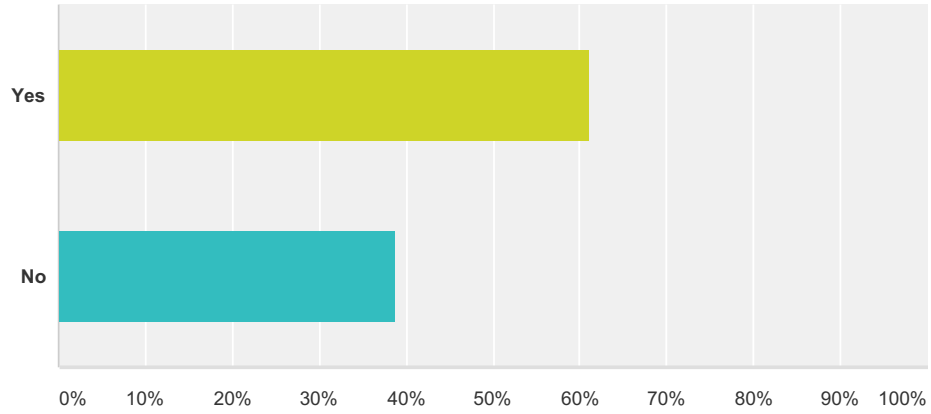
Answered: 21 Skipped: 0



Answer Choices	Responses
Yes	85.71% 18
No (If selecting this response, you may skip to the end of the survey and select "done." Before doing so, please provide the reason why your library has chosen not to obtain/display artwork (i.e. budget, not knowing where to obtain, etc.) in the "other" box below)	14.29% 3
Total	21

Q2 Did any of the librarians in your library select the artwork or participate in its selection?

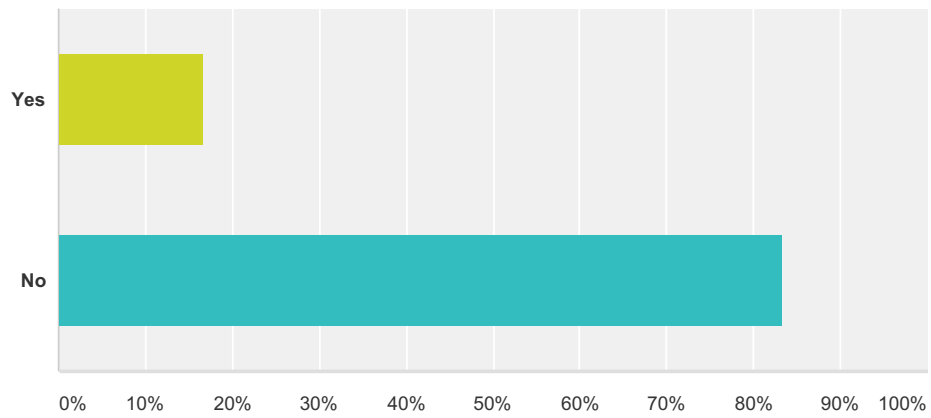
Answered: 18 Skipped: 3



Answer Choices	Responses	
Yes	61.11%	11
No	38.89%	7
Total		18

Q3 Does the artwork in your library rotate in and out on a regular basis?

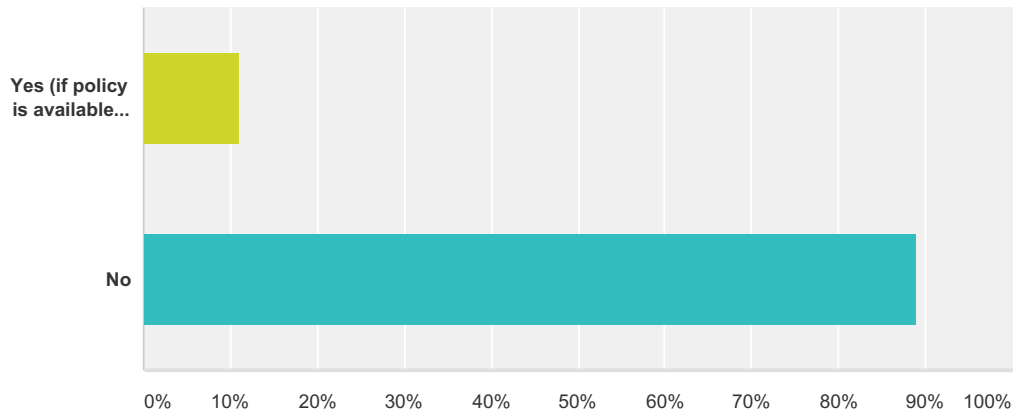
Answered: 18 Skipped: 3



Answer Choices	Responses
Yes	16.67% 3
No	83.33% 15
Total	18

Q4 Does your library (or parent University) have a formal policy addressing rotation/maintenance of the collection?

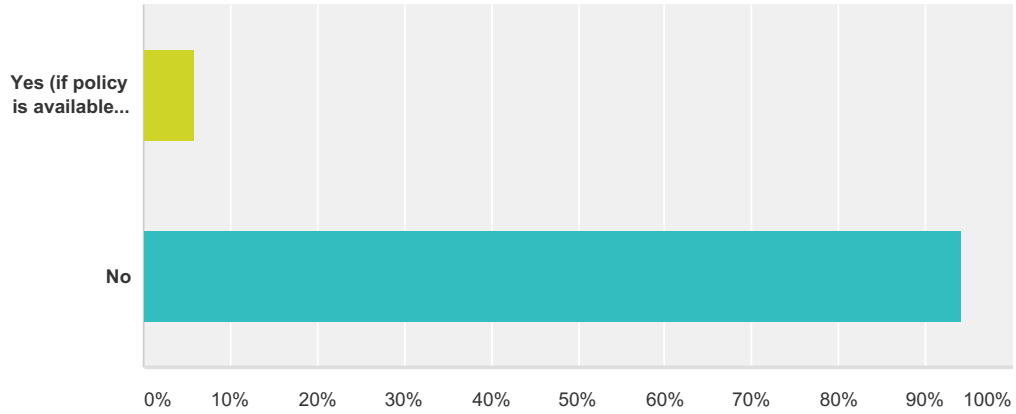
Answered: 18 Skipped: 3



Answer Choices	Responses
Yes (if policy is available online, please provide url in "other" box below)	11.11% 2
No	88.89% 16
Total	18

Q5 Does your library (or parent University) have a formal policy addressing selection and display of artwork?

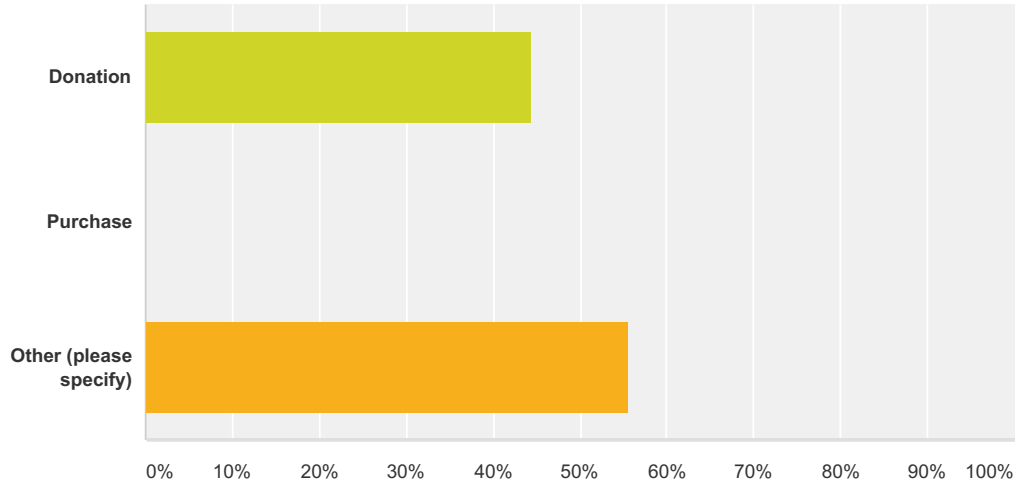
Answered: 17 Skipped: 4



Answer Choices	Responses
Yes (if policy is available online, please provide the link in the "other" box below)	5.88% 1
No	94.12% 16
Total	17

Q6 Please select from the options below the primary manner in which your library's artwork was obtained.

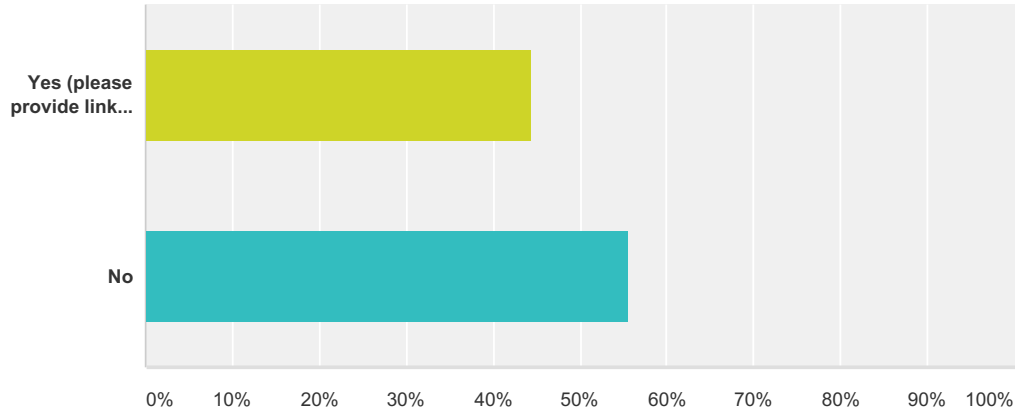
Answered: 18 Skipped: 3



Answer Choices	Responses
Donation	44.44% 8
Purchase	0.00% 0
Other (please specify)	55.56% 10
Total	18

Q7 Is your library's art collection highlighted or promoted on the library's website?

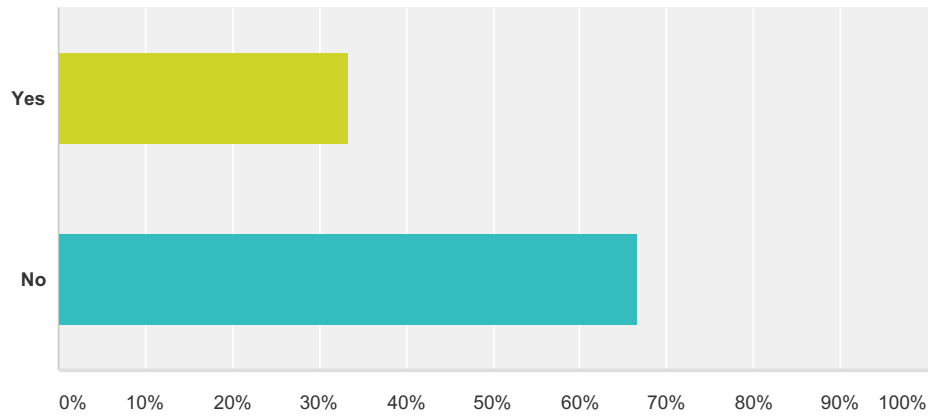
Answered: 18 Skipped: 3



Answer Choices	Responses	
Yes (please provide link to webpage in the "other" box below)	44.44%	8
No	55.56%	10
Total		18

Q8 Have you ever had a patron indicate that he/she came to the library solely for the purpose of viewing the artwork?

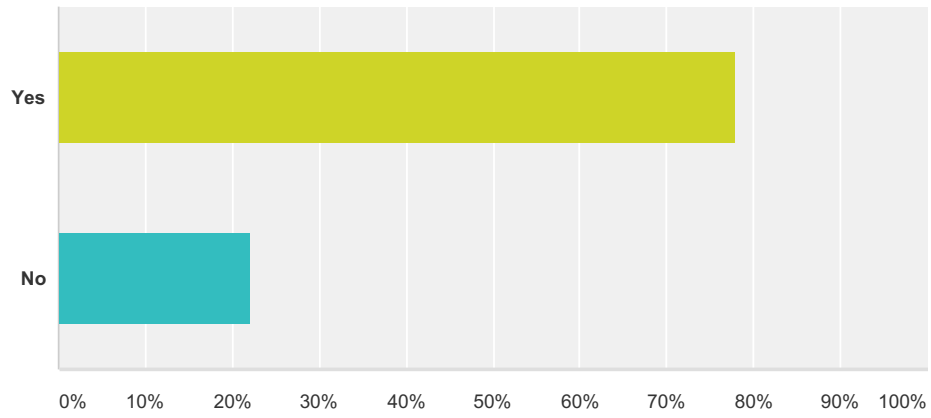
Answered: 18 Skipped: 3



Answer Choices	Responses
Yes	33.33% 6
No	66.67% 12
Total	18

Q9 Have you (or your staff) received comments from patrons on the artwork?

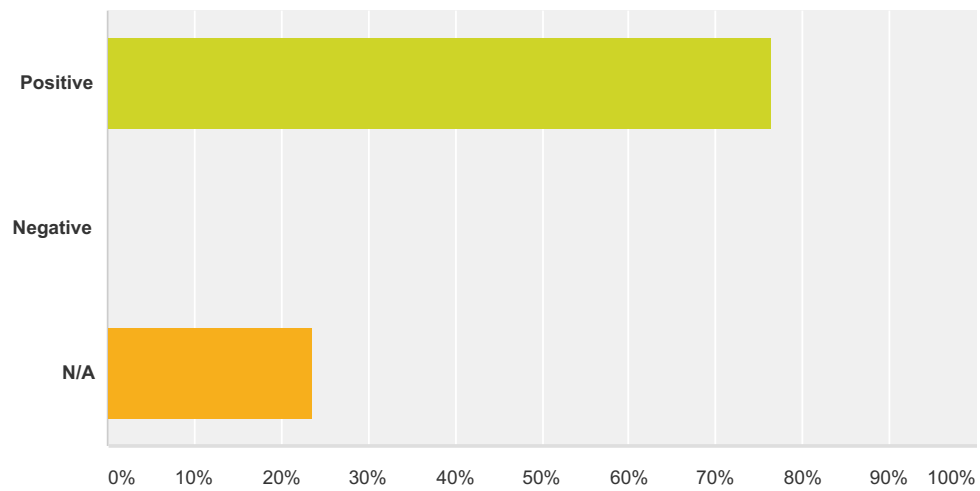
Answered: 18 Skipped: 3



Answer Choices	Responses
Yes	77.78% 14
No	22.22% 4
Total	18

Q10 If yes, are the comments generally positive or negative?

Answered: 17 Skipped: 4



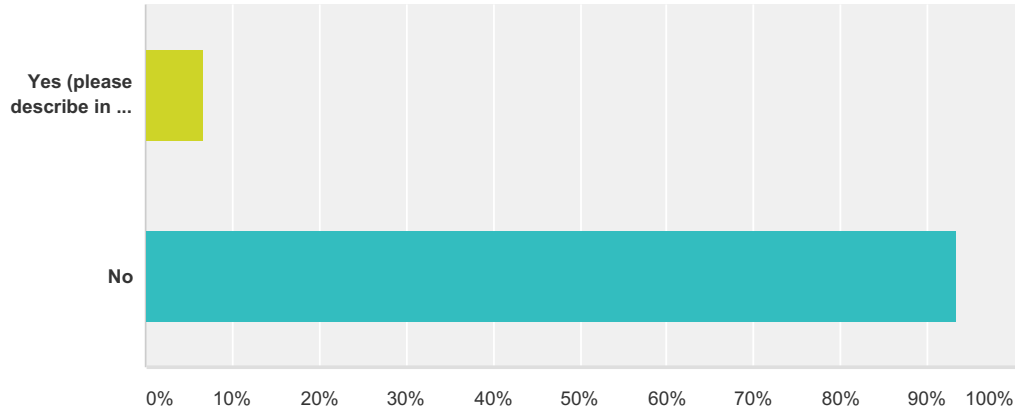
Answer Choices	Responses
Positive	76.47% 13
Negative	0.00% 0
N/A	23.53% 4
Total	17

Q11 If you have had any particularly strong reactions by patrons and are able to share, please describe (or indicate N/A).

Answered: 10 Skipped: 11

Q12 Is the artwork in your library studied or utilized by any other departments on the University campus or by others in the community?

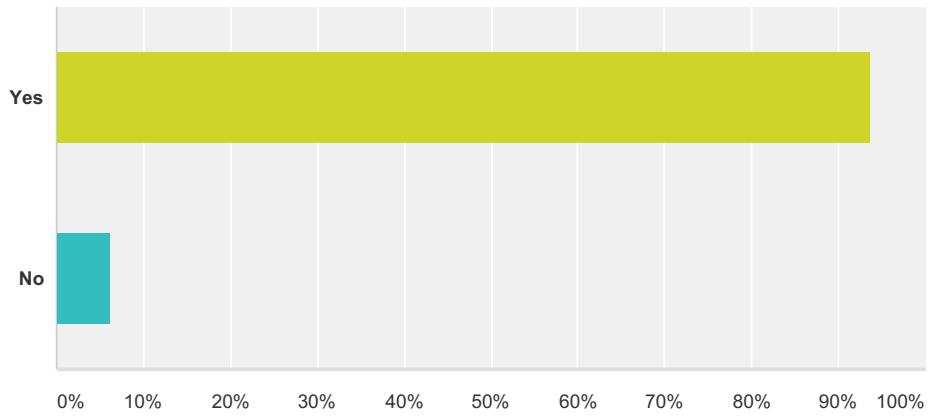
Answered: 15 Skipped: 6



Answer Choices	Responses
Yes (please describe in the "other" box below)	6.67% 1
No	93.33% 14
Total	15

Q13 In your opinion, is the artwork in the library a benefit to your patrons?

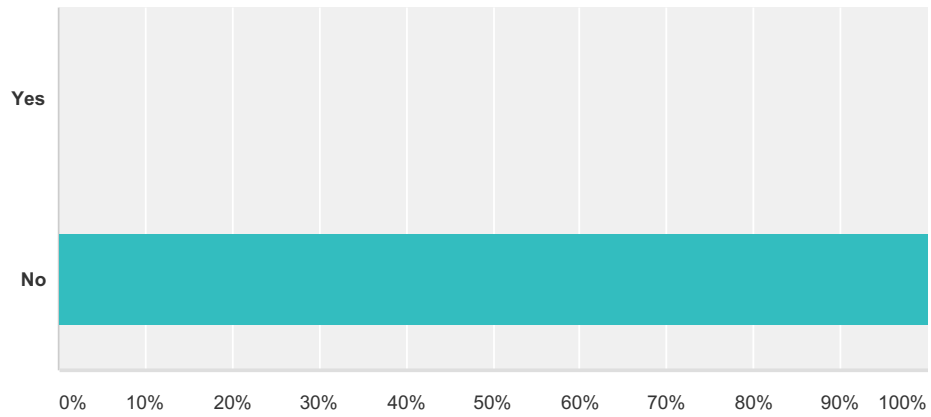
Answered: 16 Skipped: 5



Answer Choices	Responses
Yes	93.75% 15
No	6.25% 1
Total	16

Q14 In your opinion, does the presence of the artwork increase usage of library services?

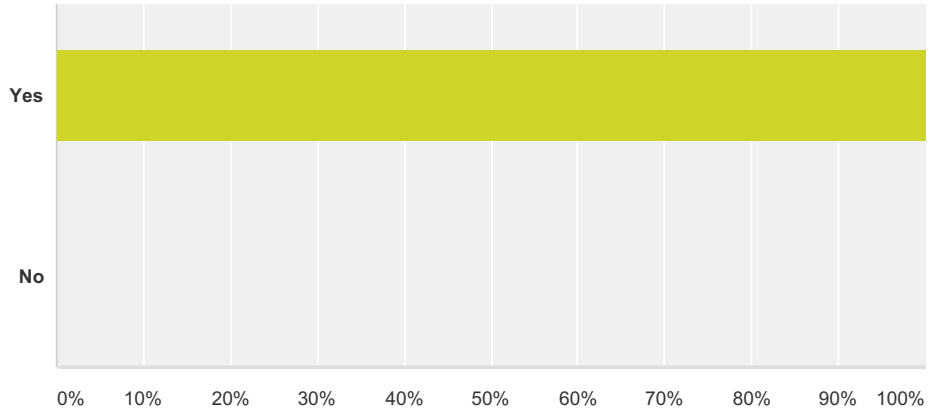
Answered: 15 Skipped: 6



Answer Choices	Responses	
Yes	0.00%	0
No	100.00%	15
Total		15

Q15 Do you personally like the artwork on display in your library? Please note that responses to this question will remain anonymous!

Answered: 11 Skipped: 10



Answer Choices	Responses
Yes	100.00% 11
No	0.00% 0
Total	11

Appendix C

Questionnaire – Tarlton Law Library

1. Was all of the artwork on display at the library obtained through donation?
 - If yes, does this ever create conflicts with other library projects that may require moving the artwork?
2. Does the artwork in the library rotate in and out on a regular basis?
 - If yes, how is the rotation schedule determined?
3. What challenges exist when working with donors?
4. Do you have any “best practices” to share regarding working with donors?
5. Do you have any “best practices” to share regarding provisions to watch for or include in written donor agreements?
7. Do you have public patrons who visit the library solely to see the artwork?
 - Do you think the presence of the artwork has increased usage of library services?
8. Do you or other library staff members receive comments from patrons on the artwork?
 - If so, are the comments generally positive or negative?
 - If you have had any particularly strong reactions by patrons and are able to share, please describe.
9. Does your library (or the University of Texas) have a formal policy addressing selection and display of artwork?
 - If yes (and if you are able) please provide a copy of that policy with your response.
10. Is the Hyder Collection (or other library artwork) studied or utilized by any other departments on the University of Texas campus (or in the Austin area)?
 - If yes, please describe.
13. Do you have a favorite piece or pieces from the collection?
 - If yes, which one(s) and why?
14. What other law libraries that have noteworthy art collections?