

## WHAT'S SPECIAL ABOUT SPECIAL LIBRARIES? - LAW LIBRARIES\*

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### Introduction

The American Association of Law Libraries (AALL) is a national association of 5000 law librarians who work in law firms, corporations, law schools, and governmental libraries such as court, state, and county law libraries. Approximately 1/3 of AALL members work in private law firms serving more than 50 attorneys. In some respects they represent the most „powerful“ constituents in the Association, at least in terms of the economics of legal information in the U.S., because of their clout in the marketplace as consumers of legal information. They alone represent over \$593 million dollars of annual purchasing power in the legal information field. Their membership in AALL gives the Association clout with legal publishers because they represent such a significant portion of the legal marketplace.

However, other groups play equally significant roles. Those who work in law schools play a pivotal role in supporting faculty research and teaching in law schools with an average of 500 or more students. Those who work in the courts and governmental libraries support the judiciary, the practicing bar, and increasingly the lay public, many of whom need access to legal information but lack the resources to hire expensive legal counsel.

On average, AALL members have worked as law librarians for 13.7 years. The majority (74%) is in mid-career age range – 36-55 years. 86% have an MLS degree and nearly a third have a J.D. degree. 23% of law librarians have both an MLS and a J.D. Although the J.D. is not a requirement for all law librarians, it is in fact quite common and prevalent among leaders, particularly academic library directors. In an independent study student Laurie Langland reported in *AALL Spectrum*, (July 1998) that „those who discussed the merits of the J.D. versus the MLS generally agreed that the library degree was more essential than the J.D. but that both were required of academic law librarians so that they could hold faculty

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status. . . The JD/MLS combination was the overwhelming requirement for academic law library directors . . . The MLS was the main degree requirement for directors of corporate law libraries . . . from the librarian's perspective, possession of a law degree, in addition to the MLS, would put him or her on equal footing with the law firm's attorneys and the corporation's attorneys. . .“

Today, I'm pleased to address the question „What's special about special libraries, and in particular, law libraries and law librarians?“ Our panel was asked to inform our audience about our unique approaches to information and service, and to share some insight into the important roles of law libraries in our modern global information economy.

I plan to respond by providing two examples of law libraries that provide specialized yet quite different services to their clients, first law firm libraries and second public access law libraries. I will also describe two major areas of concern among all law librarians and areas where they have made noteworthy contributions. These concerns - first, merger mania within the legal publishing industry, and second, access to legal information in all formats - have wide-ranging implications throughout the legal community in the U.S.

I am especially grateful for the *Report, Recommendations, and Materials of the AALL Special Committee on the Renaissance of Law Librarianship in the Information Age* published by AALL in 1997. Their committee's work addressed many aspects of the question posed by our moderator, Edward Valauskas, at this IFLA program. They did so far more eloquently and more fully than I would have found possible without consulting their work extensively.

### **Characteristics of Law Librarian Education and Law Library Mission**

In the Renaissance report, one prominent and long-standing AALL leader, Roy Mersky (Professor of Law and Director of Research, University of Texas, Tarlton Law Library) says:

- „Basically, law librarianship is an example of an area within librarianship where many individuals are successful because of the training they received in a subject specialty: law. Every librarian, to an extent, relies on training in a subject specialty (fine arts, humanities, science, music, etc.) acquired before moving through a graduate library program.“

His view is upheld by other members of the Special Committee who add in the Introduction to the work:

- „Law librarians do not always need to be lawyers, but they should be knowledgeable about the legal system and the legal profession. One cannot serve the profession or the public, if one doesn't understand legal institutions and their modes of operation“.

Further evidence of the consensus that law librarians don't need to be lawyers themselves is supported by the AALL members who completed a recent 1998 credentialling survey that inquired about the competencies of law librarians. They identified 31 Core Competencies („What Law Librarians Do“ published in AALL Spectrum, April 1998). Only a few core competencies apply directly to experience or training in law librarianship, such as:

- Assist in the use of electronic legal resources
- Provide customized reference services on law-related topics
- Evaluate the authenticity and accuracy of legal sources
- Be well-versed in the legal profession
- Understand the social, political, and economic context in which the legal system(s) exists
- Monitor trends in specific legal fields
- Assist non-lawyers in accessing the law

All other core competencies, identified in the credentialling survey, apply more generally to the field of librarianship and special librarianship, for example:

- Evaluate print and electronic resources
- Be an articulate spokesperson, promoting the library and advocating its needs
- Provide training to users
- Understand planning, budgeting, and control in the library setting
- Provide leadership within the parent organization
- Capable of selecting, supervising, and developing library personnel
- Knowledgeable about commercial, governmental, and non-profit information - providers
- Provide physical facilities that guarantee a high level of service
- Implement an appropriate level of cataloging
- Implement an automated processing system
- Create guides and aides
- Apply appropriate preservation techniques

Just as in all areas of the profession, highly sophisticated information technology is totally transforming the nature of law librarianship. However, these core competencies seem to remain constant.

The Special Committee on the Renaissance of Law Librarianship said:

- The ideal law librarian is in harmony with the values at the heart of the legal profession and librarianship, is completely knowledgeable about everything relevant to legal information, and has all the necessary character traits, attitudes, and skills to be a superbly effective legal information specialist.
- The foundation of our profession is its mission. In its broadest sense, that mission can perhaps be characterized simply as one of serving the information needs of the legal profession and the legal information needs of the public. All the functions of acquiring, collecting, organizing, retrieving, and disseminating legal and related information are only subsets of that basic mission.
- (Law librarians subscribe to) a set of essential values or principles, including genuine belief that the world is a better place when people and institutions have optimum access to information, faith that the world is also a better place when the rule of law prevails, conviction that serving the information needs of the legal profession is a noble calling, belief that democracy is the best political order, firm conviction that an effective democracy requires ready public access to the law, opposition to censorship, and commitment to fostering the equal participation of diverse peoples in library services and library employment.

### **What Is Special About Law Libraries?**

Because of time and space limits on my response to the question, „What is special about law libraries?“, I’ll focus my comments on just a few examples of the unique features and characteristics of law librarians in law firms and public access law libraries.

To conclude my paper, I will also review two overarching concerns of all law librarians. Those issues suggest the range of interests and thus the specialized nature of law librarians.

### **Law Librarians In The Law Firm Setting**

In a recent salary survey, AALL gleaned from the data that the modern law firm is big business and that the law firm library needs to be managed accordingly. Law firm librarians face all the same and intense pressures placed on corporate executives: costs, accountability, quality, relevance, customer service.. summed up in the words, „ bottom line pressure“.

On average a law firm library spends \$645,000 on information each year. Of that amount, just over half is spent on electronic information. On average, firms employ 1.8 professional law librarians, who each serve 52.7 attorneys. Many firm librarians also supervise other functions related to managing information.

- 10% supervise client development research. They gather information about prospective clients and estimate research budgets on business proposals. Some

firm libraries are expanding their offerings from pure legal research to data gathering about current and prospective clients as part of the firm's marketing efforts.

- 37% bill directly to clients at an hourly rate for non-legal research by library personnel. Clients are demanding cost-effective, rapid, and efficient legal research and other services; librarians can and do serve as research consultants to clients in non-legal areas. In some firms 30-60% of the law librarian's time is billed to clients.
- Most train associates and other users to be efficient researchers on expensive online databases like Westlaw and LEXIS.
- 9% manage dockets
- 13% manage conflicts. They evaluate potential litigation exposure, review the current legal counsel used by potential clients, and check financial viability of potential clients.
- 18% manage all the firm's information records.
- 10% manage automated information systems.
- and 7% supervise paralegals.

In an electronic roundtable discussion in 1996 (published in *AALL Spectrum*, September 1996), participants characterized the law firm library in the following ways:

„From a manger's standpoint, I see five primary purposes for information resources and research: 1. To avoid mistakes; 2. To enhance advocacy; 3. To track the activities of clients, client industries, and emerging trends; 4. To identify new opportunities for growth; 5 and to improve methods and procedures, both in the delivery of legal services and in management of the organization.“ Law libraries must be „central to the collective intelligence of the institution“. Charles Stinnet, President, Association of Legal Administrators, and Administration Partner at Chapman & Cutler, Chicago.

„The traditional services of refining information for delivery to the lawyer will continue to be needed, as lawyers' time must be saved for its highest and best use: analyzing information and applying the knowledge gained to the issues of a particular client.“ Kay Todd, Legal Researcher, Paul Hastings Janofsky & Walker, Atlanta.

„I believe that libraries are meeting the needs of the firm as long as the librarian is keeping abreast of the changes in the legal marketplace and helping the legal staff to prepare for these changes. The myriad sources of information overwhelm most attorneys . . . my job is to teach my users how to fish, and I can only do that if I know everything I can possibly know about bait, tackle, currents, etc. Let's be honest though. There are also those partners in the firm who do not want to learn how to fish, but merely want to be handed a fish. This is also part of my job. . .“ Michael Saint Onge, Librarian, Coudert Brothers, San Francisco.

„I believe that it is critical that firm librarians continually look to the bottom line to show how the services provided help ensure the firm’s bottom line is maximized.“  
Holley Thompson, Director, Strategic Customer Alliances, LEXIS NEXIS, Dayton.

These comments and many other similar ones emphasize the corporate pressures and the economic ones facing law firm librarians. On the other hand, other types of demands are placed on law librarians working in the public sector of the profession.

### **State, Court and County Law Libraries**

„Court and public access law libraries play unique roles in the legal information world. We serve those who create the body of legal information – the courts, as well as participants in the legal process – the public, and increasing numbers of private practitioners and attorneys from corporations and other government entities.“ Ruth Fraley, Director, Records Management and Library Services, New York State Unified Court System.

The San Diego County Law Library in California is one example of a public access law library. 89% of its budget is derived from filing fees for the first initial filings in the superior and municipal courts in San Diego County. It is available to 9,500 attorneys. The Main Library holds 270,000 volumes and three branches hold 17,000 volumes each. One branch is 42 miles away from the Main Library. The library is staffed with 48 employees.

About 34% of the San Diego County Law Library users are pro se litigants. According to the Director, Charles Dyer, what used to be an exceptional situation is becoming the norm. More and more people are pro se litigants who cannot afford lawyers. In 72% of the divorce cases in San Diego County, both sides are pro se. Pro se litigants are also tackling cases like landlord-tenant disputes, adoption, immigration, and even some stock and antitrust cases. Studies show that pro se patrons actually seek information in nearly every subject area in the law library. In San Diego they consume 75% of reference staff time at the Main Library and 90% of reference staff time at the three branches.

Service to pro se litigants raises ethical issues for law librarians. Will political and economic forces make fee-based services the norm and free services to the public the exception? If so, the rich will still spend money more easily than the poor. Librarians will need to decide which basic services will be available to all. Given the enormous range of reference needs of even the poorest pro se litigant, librarians will make choices that may occasionally deprive someone of the justice he or she deserves.

However, Ruth Fraley, reports that not all pro se litigants are indigent. She says:

„Many are well prepared, intelligent . . . some have already used self-help resources before entering the library. Many are doing sophisticated legal research. A lot of them are angry about the system and angry with the law. They will not accept the word of an attorney and come to the library to check on the accuracy of the lawyers.“

Public access law libraries play a role in serving the public, welcoming nearly everyone - judges, attorneys, and pro se patrons - on an equal footing. They share many of the same concerns as public librarians about access for the poor to both highly specialized and local legal information. Access for the poor is limited by knowledge, skills, and financial resources. Often pro se litigants cannot afford online access.

Some court libraries and state law libraries are developing special services for the pro se patron. For example, creating automated kiosks with simple instructions for automatic filings and developing hand-out packets to be used in routine matters like divorce. The trend toward self help is expected to grow, acerbated by the lack of respect for lawyers and by the growth in the ranks of the urban poor.

In Montana, the State Law Library of Montana has launched the „Law Library Legal Advice Clinic“ to assist those interested in self-representation. They have done so in partnership with the governor’s office, justices of the supreme court, the attorney general, a district court judge, the state bar, the local district court clerk’s office, and the Montana Legal Services Association. Their goal is to help pro se litigants handle increasing numbers of questions on topics such as family law, bankruptcy, consumer law, employment law, and landlord tenant law. This library serves as a clinic, an advice-only clinic, where qualified pro bono attorneys can meet clients, but the attorneys do not appear in court or represent the client. Federal poverty guidelines determine whether one is eligible or not for assistance at the clinic. The law librarians serve as the point of contact for interviewing litigants on financial eligibility, on the nature of the inquiry, the current status of litigation, etc. They screen and schedule appointments with pro bono attorneys. The law librarians report satisfaction in being a part of a process involving representatives from the legal community working collaboratively to achieve a common goal.

Although some public access law libraries are not-for-profit entities with elected boards and dues - paying members, most depend on local governments for their offices, funding, utilities, and telecommunications. Public access law libraries are integral parts of local and county government, the judiciary, or part of a statewide system. Law librarians in these institutions need considerable political skills, not only to fully understand the governance structure under which they operate, but also marketing skills to propose and defend the library’s needs to decision-

makers. Many of these see the law library as „a financial drain . . . serving fringe citizens“ who are few in number and usually the most cantankerous.

Although these examples illustrate a few of the characteristics that distinguish two types of law libraries from each other and qualify them as „special libraries,“ all law librarians share some common concerns that have far - reaching impact on the legal community, legal information users, and ultimately the public. Two examples illustrate the point.

### **Concerns Shared By All Law Librarians: Publisher Relations**

The legal publishing industry has been revolutionized in the past few years. Mergers and take-overs of legal publishers and information vendors have occurred on a monumental scale. Today a few major international corporations, whom one AALL member called the „Robber Barons of the Information Age,“ now own more than a dozen formerly independent publishers.

One law librarian in a recent AALL President’s Briefing on Publisher Relations expressed the view of many: „Between all the mergers and restructuring of (legal) publishers, I just don’t trust them anymore. I used to think we were partners in the cause of providing legal information to the public. But lately it seems money is their only priority.“

On the other side, publishers have said „. . . Our whole work environment is being reinvented and it’s not easy for us either. . . Technology has turned our industry upside down, increased demands on sales reps and made us reorganize. . Our company is just doing what we have to do to keep up with the changes in world.“

These are obvious indications of an industry and an environment in great flux. Law librarians have remained in the thick of the fray from the beginning.

It is estimated that the total U.S. legal publishing market for 1996 was \$3.9 billion. There are only three major legal publishers in the U.S. today. These are Thomson’s West Group, Reed Elsevier’s LEXIS NEXIS, and Wolters Kluwer’s CCH and Aspen. Each has a foreign-based parent, and together they control the majority of the U.S. legal publishing market – almost \$3 billion of the \$3.9 billion is U.S. sales. Remember that AALL member librarians are a significant portion of this market, spending almost \$900 million dollars in 1997.

In the words of Donna Tuke Heroy Editor of Legal Information Alert ( *AALL Spectrum*, October 1996):

„Traditionally law librarians have had the ear of legal publishers. This is surprising, in one way, because there are so few (about 7000) of us compared to the total number of

other legal professionals in this country. Perhaps it is because librarians are so educated about the products and services that they purchase from these vendors. Then too, law librarians have been outspoken in criticizing legal vendor marketing and publishing practices“.

Law librarians have served as a watchdog on the impact, both potential and actual, of mergers and acquisitions. In a letter to the Department of Justice in 1996 on the question of the merger of Thomson and West, law librarians said: „ . . . our goal has been to ensure the continuation of high quality legal information products at reasonable prices in a healthy competitive environment.“ In that same letter law librarians raised concerns about the increased consolidation in the industry and reduced competition in the availability of print materials for libraries and the potential to impact on the online environment as well. They are concerned about limitations on choices resulting from reduced competition:

- Mergers have increased concentration in the print legal publishing industry and reduced product competition through the elimination of overlapping products that, in the past, assured the quality of those products at competitive prices. In certain instances West Group now controls 100% of certain codes, court reports, and other basic legal materials.
- Increased concentration and reduced competition are likely to lead to increased prices.

These and other concerns remain at the forefront of the attention of the Association and law librarians in the U.S.

### **Concerns Shared By All Law Librarians: The Path To Citation Reform**

By the spring of 1994, it was apparent to some librarians, attorneys, and judges that legal citation was „broke“ and needed „fixing.“ As more and more case law was published in electronic form, legal writers began to desire a simpler way to cite cases: one citation, from the beginning and good across both paper and electronic forms. Since the 1990’s West Publishing, the sole print publisher of the opinions of many jurisdictions, had claimed copyright to the actual citation form of cases it published. This claim has been and is once again the subject of litigation in the courts in the U.S.

Following months of study and debate, law librarians issued recommendations for a „medium-neutral form“ and began working with the bench and the bar toward the goal of better citation formats. Today, four years after AALL and law librarians initiated a study of citation reform, courts at all levels appear to be moving in the direction of a citation format that will indeed work equally well for electronic and print sources, and indeed challenges the longstanding West

Publishing copyright on citation format. This year, 11 states have adopted or allowed some form of vendor and medium neutral citation form based on the AALL model. This was done despite intense opposing pressure from West Group throughout the legal system.

In the words of the AALL committee,

- „It seemed only natural that law librarians assume a leadership role in framing a new set of citation standards for the American legal community“.

## **Summary**

What is special about law libraries? My remarks have suggested that even though the basic education and the core competencies of law librarians are similar to those of other types of librarians, there are sufficient differences in mission and responsibility to separate them. Law librarians and law libraries play a unique and integral role in shaping the quality of the legal system in the U.S. at all levels. They are part of the process from the very start. They participate in law school education of attorneys and the training of associates in law firms, they support the practice of law from the bar to the judiciary, and they now play an increasing role in helping the public protect its legal rights. They are also part of the legal effort at the other end of the process, protecting the availability and quality of legal information at reasonable cost, and ensuring open and equal access to legal information for everyone

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