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Redefining Academic Law Library Excellence in a Technological Age: From Evolution to Revolution

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Redefining Academic Law Library Excellence in a Technological Age: From Evolution to Revolution

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W hen I served on the ABA Law Libraries Committee for a few years at the beginning of this decade, the near constant agenda item that we discussed was how to make our traditionally print-oriented statistical surveys produce data that provided an accurate picture of library resources and quality in an increasingly technological age. Oh sure, we were all aware of the presentations made and the position papers published by library colleagues over the last twenty years or so predicting the inevitable seismic shifts that libraries would experience as digital information access began to supplant on-site print ownership as the *sine qua non* for libraries in the 21st Century. And, certainly, we had each personally witnessed the effect of digitization in our own law libraries over the last thirty years brought about by Lexis/Westlaw, the explosion of digital publishing, and eventually by the seemingly limitless resources of the World Wide Web. Yet,

despite the fact that our committee at that time featured some of law librarianship's most dynamic and innovative individuals, all armed with knowledge that a paradigm shift of historic proportion was on the horizon that would affect how we would build collections and serve research interests in the future, I left most of those meetings with the feeling that academic law libraries (and perhaps more to the point, their parent institutions and the legal professional itself) simply weren't ready to embrace the new paradigm spreading throughout libraries in other disciplines.

Despite our best efforts to think expansively into the future, it seemed that we couldn't imagine proposing anything that appeared to abandon the increasingly romantic Langdellian image that library excellence is measured principally by the number of books (or other tangible information delivery formats) locally owned by each law school. We educate and serve a profession that, it would be charitable to say, is slow to abandon its traditions and for them, the primacy of recorded (read, printed) precedent is just too vital and delicate to the legal justice system to trust to the more ethereal qualities of digital publication.

The rise and (inexorable) fall of the parallel collections rationale

As a result, academic law library collection development over the last century has resembled an arms race of sorts in which everyone wished their holdings could be like Harvard's, Yale's, Berkeley's and the rest of the limited number of truly elite legal research institutions that, by virtue of almost unlimited resources and institutional vision, have built what everyone would agree are among the greatest legal research collections in the world. Despite the quixotic nature of the quest "to be like the big guys," we spent many decades seeking, and often getting, increasingly larger book warehouses and buying everything our budgets would allow us to have to populate them. That approach was fed by the ABA and our own profession through the implementation of accreditation standards that emphasized information ownership over information access thereby at least implicitly associating the raw size of physical collections with library quality.

Until the advent of massive full-text digitization of much of the core American law collections by Lexis and Westlaw in the mid-1970s, such a strategy made sense because it was the best assurance that each school's students and faculty would have the quality of resources needed to support credible teaching and research programs. Furthermore, in the earliest years of Lexis and Westlaw availability in academic law libraries, we displayed appropriate caution toward these new electronic services, realizing that they were too untested and technologically limited to serve as a true substitute for locally-owned print collections. If anything, the digitization of legal materials simply heated up the collection development arms race as academic law libraries felt obliged to embark upon a parallel universe in which they owned as much print and microform as possible while fully embracing the emerging wonders of the computer age. This collection and service duality has largely dominated the way that all but the most experimental start-up academic law libraries have done business to this day despite the fact that the underlying justification for our dogged devotion to local print and film ownership arguably began to disappear almost a decade ago.

Having spent the early part of the 1990s getting law school faculty and students used to the concept of engaging in online research using proprietary dial-up software, Lexis and Westlaw turned the way we viewed legal research on its ear with the introduction of Web-based versions of their systems in 1998. In ways that many of us immediately realized were revolutionary without being able to fully predict the long-term effects this would have on our traditional ideas about collections and services, Lexis and Westlaw's availability using the user-friendly interface and technology of the Web began an inexorable shift in the way that our primary clientele conducted legal research. That shift has been compounded by other publishers' rush to make their formerly print-only collections available via Web-based subscriptions.

Evidence, even if anecdotal, that this digital revolution in publishing has had serious implications for the way academic law libraries are being used by today's clientele is too compelling to deny. For better or worse, students now conduct much of their research online, typically from somewhere other than the law library. Our faculty colleagues are not far behind in most cases. Most of us would

admit that use of our facilities and onsite collections has been declining over recent years and is nothing like it used to be in the days when the most senior of us went to law school. While we have done a great deal to alter our libraries to make them more comfortable and relevant to today's users (ubiquitous computer network/Web access throughout our libraries, installation of collaborative work spaces and seating, and even the now commonplace introduction of library-based coffee bars) I am still amazed at how reluctant we in academic law libraries and, to some extent, the legal profession and our parent institutions are to admit that the very core concepts that have traditionally guided us are in need of retooling. It's time for a new academic law library collection and service paradigm, but one wonders how much resistance there will be before this is allowed to happen.

Penn State Dickinson: embracing change without compromising quality

Why am I ruminating about these things and suggesting that you should ponder these issues, too? Well, as I write this, I am responsible for drafting plans for law library operations at the "new" Penn State Dickinson School of Law. I say new because, while the Dickinson School of Law has been operating as an independent law school for over 170 years from its base in Carlisle, a now nearly decade old merger with Penn State University and the School's decision to open a second program site on that university's main campus in University Park in 2006 fundamentally changes the way our program operates. Because our school has chosen to operate as one unified program seamlessly offered at two geographically separate sites, there is no question that the programmatic challenges of supporting the teaching and scholarship of faculty and students as if they are in the same building, despite the reality that they are separated by 90 miles, are significant.

Our aspiration, over time, is to compare favorably with other Big 10 law schools in scholarly productivity and teaching excellence. That's a pretty fast crowd to want to emulate, especially in light of the fact that the Big 10 includes some of the most highly regarded law schools in the country with long established bases of traditional programmatic excellence. Penn State Dickinson's opportunity

(or dilemma if you choose to see it that way) is that we are setting ourselves on this path in the post-Web world of today rather than in the environment in which our established Big 10 peers developed their programs more than 100 years ago. With the exception of relative newcomer Michigan State University College of Law, Big 10 law schools built their facilities and programs on the traditional large-scale model and their law libraries reflect that approach. Other than Michigan State and Penn State, Big 10 law libraries boast some of the largest print collections in legal academia holding an average of more than 583,000 print volumes each. By virtue of their incredibly deep research collections and tradition of extraordinary service, these libraries have earned their place among the best legal research facilities in the world and I don't mean to suggest that they will fall from those ranks in any way. I do suggest, however, that the future holds a new and equally acceptable path to academic law library excellence that recognizes that no institution building a law school program in today's environment should, or even could, try to adopt the model law schools all around the country have dutifully copied for the past 100 years.

Librarians have faced questions for years from deans and university administrators about when they could expect to see the impact of technology on the cost of collections and the size of library space needed. Over the past twenty years, most of us have answered, not inaccurately, that our need to accommodate parallel print and digital worlds in our libraries had, if anything, increased overall costs and space needs. Penn State is making the largest investment in law school construction in this young century, spending $110 million to provide Dickinson with what are essentially two new buildings to house our newly-conceptualized law school program. In this time of runaway construction costs, our new building at University Park (being built now and slated to open in January, 2009) will cost approximately $500/sq. ft. to build. Our combined new construction/renovation project in Carlisle (expected to break ground early in 2008 and to open two years later) will not be much less expensive. Try telling today's law school and university administrators who have to cram a lot of diverse programmatic needs into buildings this costly that you need an extra 10,000 or 20,000 sq. feet, at $500/sq. ft., to house sets of reporters, superseded materials, and print journals

that you know, largely because of their availability online, probably haven't been touched in the last decade or so except to dust. See what their reaction is when you tell them that you need to have a seat for everyone in your student body when usage patterns indicate that students simply are not populating the library for hours on end as in the days of old. And look at yourself in the mirror when you describe your future needs for technical processing staff and workspace in an environment where it is likely that a reduction in print collection purchasing and processing will radically change this enterprise in many of our libraries. The end result is likely to be that our academic law library facilities will be much smaller, on average, in buildings built in the next few decades than they have been in buildings constructed during the last century. In fact, the space devoted to our new law libraries at Penn State Dickinson will total approximately 35,000 net square feet. On-site shelving space will be limited in our new buildings as compared to the typical model of the past with our emphasis being placed on technologically-equipped collaborative study space and enhanced research support personnel.

Lest our choice of smaller library facilities and less book shelving space be seen as a mere budgetary compromise, we intend to provide a research support operation that is the modern equivalent of the best traditional libraries through a combination of old school and new school methods. At least initially, we will not totally abandon print; in fact, we are developing what we call our "critical core" collection of state and federal primary materials and seminal secondary materials that we still believe are so important to law faculty and students on a daily basis that we will maintain those collections in both of our buildings. Our aim, however, is to cap those collections at between 50,000 and 75,000 print volumes at each site and it is anticipated that titles included in the critical core, particularly secondary works, will change over the years to reflect their availability in electronic format. Perhaps out of an excess of caution, we will not go cold turkey on other print collections, choosing instead to weed and sharpen our current print holdings to allow an additional 125,000 volumes of still important, but somewhat lesser used titles to reside in a Penn State University Libraries– managed off-site storage facility that we hope will provide 24- to 48-hour

retrieval and delivery of requested items. We will monitor the use of those items in the earliest years in our new facilities and will almost undoubtedly remove any that we become convinced are simply not in regular enough demand to warrant the cost of local ownership and housing. An obvious corollary to our decision to draw down our print holdings is that we are willing to rely upon the fact that so much of what we have housed in print is now available on at least one, and often multiple online services that are fully accessible by our law school clientele and, increasingly, by our non-law school users. Finally, our users have ready access to the extraordinarily rich collections of one of the great research systems in the country, the Penn State University Libraries, whose print holdings of over 5 million volumes and burgeoning electronic subscriptions provide terrific depth of coverage and support for interdisciplinary scholarship.

While it is clear that the Penn State Dickinson Law Libraries will not look exactly like the iconic research law libraries that we are all used to, I would argue that when the collection strategy described above is considered in the aggregate, we will be able to provide ready and reliable access to all but the most specialized and esoteric collections held by the best research supporting academic law libraries. We are excited about this future and believe that it is the most significant application of a new paradigm in collections and services that any law school associated with a major research university has engaged in, to date.

Will our professions acknowledge the inevitable primacy of digital collections?

Of course the devil's in the details whenever library planning is being done and we have much more to work out to put meat on the bones of the plan that I have outlined in this article. We are not unaware that the exact decisions about the print volumes we retain in our primary buildings versus those we decide to put in off-site storage versus those we decide to cut entirely in favor of digital access will go a long way toward determining how successful we will be in fully satisfying the research needs of our users and toward gaining acceptance from those in the academy and legal profession who must endorse our continuing satisfaction of professional standards.

It's here where I worry a bit because while I am convinced that our plan presents the only sensible approach to the building of new academic law libraries in today's world, I am certainly not unaware that many will be reluctant to accept this paradigm shift. Having served on a number of ABA law school accreditation inspection teams, I know there is still a visceral connection between the number of print volumes one sees on a library's shelves and the perceived quality and gravitas of that institution although we know in our heart of hearts that such a presumption is often deceiving. I know our own profession is still struggling with the question of how we count and evaluate the significance of digital collections, insisting still on trying via the latest ABA Law Library Committee statistical guidelines to reduce the unprecedented democratization of information access that academic law libraries of all stripes may now offer their users via digital subscriptions by applying counting rules that hearken back to the traditional paradigm. (With all respect, what sense does it make to preclude libraries from counting the clearly quantifiable individual titles made accessible through a HeinOnline or BNA-ALL subscription to name but a few; wouldn't the better rule be that libraries should be able to report digital titles that are an actual part of their working collections on the condition that they withdraw them if they become inaccessible due to a failure to maintain the subscription or the rather unlikely event that the digital data disappears entirely? How can we spend hundreds of thousands of dollars to gain unprecedented digital access to hundreds of electronic titles for our users and be told by our own colleagues that we may only count them as one title and one database?)

I agree that we need to work aggressively toward the long term preservation of digital information so that its availability becomes as predictable and dependable as our historic print archive. But, those of us who are pushing forward with the new digital-centric paradigm hope to get a fair and encouraging reception from our fellow professionals and to that end, I ask my colleagues to consider the near certainty that the questions we are facing at Penn State Dickinson will confront all academic law librarians, in one form or another, much sooner than they may realize.

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