

Public Law Libraries



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INTRODUCTION

Receiving little attention in the professional and popular press, the public law library lacks visibility and identity with the profession, the public and those responsible for these libraries' founding, funding and administrative oversight. By definition, these libraries face unique demands, issues and concerns, so understanding the public law library's developmental history is the key to understanding its purpose, organization, issues, challenges, and existence. Often a hybrid library tasked with multiple missions and roles, public law libraries remain invisible to both legal professionals and the general public.

It is impossible to know how many public law libraries exist in the United States. Informal estimates based upon personal knowledge, Internet search engine hits, and word of mouth range from 395 (American Association of Law Libraries-State, Court, County Law Libraries-Special Interest Section, 2014) to 1,600 libraries (Selwyn & Eldridge, 2013, p. xii). A key reason for the profession's failure to identify the number of public law libraries is the profession's inability to establish a solid definition of the public law library. Other reasons include these libraries' lack of visibility, professional memberships, and directory listings. Few public law libraries or librarians appear in the professional or popular press. Even fewer belong to a professional association such as the American Library Association (ALA), Special Libraries Association (SLA), American Association of Law Libraries (AALL), or a regional AALL article or special interest section (i.e. State, Court, County Law Libraries (SCCLL)).

Variations in laws, traditions, local decisions, and governance preferences between states and regions means public law libraries come in all shapes, sizes, governance configurations, funding levels, and services: A diversity that is reflected in the libraries' services and staffing. In many cases, differences between public law libraries can be so great that two neighboring libraries

in the same state can be complete opposites in funding, budget, organizational chart, and services.

In introducing public law library concepts, opportunities and impact on 21st century society, this article reviews the public law library's organizational structure, funding, public service demands, and librarian's responsibilities. Some of the major challenges involve funding, governance, organizational operations and staffing, identity, accessibility, and the library's value in an increasingly digital society.

BACKGROUND

Public law libraries have been defined variously as "government sponsored law libraries...[that] exist primarily to meet the needs of judges, lawyers, and government officials" (Panella, 1991, p. 6); libraries whose "...principle function is to serve a relatively open clientele" (Kent & Daily, 1975, p. 96); and libraries "...with a statutory or institutional mandate to provide the public and/or self-represented litigant access to legal resource material" (Selwyn & Eldridge, 2013, p. 2). The average person tends to think the public law library is the public library while the legal professional's definition is likely to be that of a building or room housing "...a collection of legal resources purchased by a government agency or department for use by legal professionals, elected officials, jail inmates..." (Selwyn & Eldridge, 2013, pp. 1-2).

Law library history plays a major role in the way these libraries operate today. Although colonists kept government records in the form of ledgers and court documents as early as the 1700s (Murray, 2009, p. 141), law libraries did not begin forming until the 1800s. Originally established as anthenaeum, society, court or association libraries, they have evolved into libraries specializing in legal information on the federal, state, county, municipal, academic, public, and association levels (Brock, 1974). Available to the public, these

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libraries may be open to all residents in a particular jurisdiction or limited to those self-represented patrons with active cases in a specific court.

Rather than follow a linear developmental path, public law libraries developed at different rates, in different manners, at various levels of society and government based upon different needs and demands. The American legal publishing industry, social change, legislation, the information explosion, and Supreme Court decisions establishing that the average person was entitled to access to the law (i.e. *Johnson v. Avery*, 393 U.S. 483, 1969; *Bounds v. Smith*, 430 U.S. 817, 1977; *Faretta v. California*, 422 U.S. 806, 1975) also had an impact on public law library evolution.

Widespread practice during the 18th and 19th centuries involved the informal sharing of small private collections amongst attorneys and judges throughout the American colonies (Brock, 1974, pp. 326-328). By the early 19th century, legal professionals began combining their personal collections to form private law libraries for use by the local legal community. These private collections often became the foundation for society, antenaeum and subscription law libraries. As the American legal publishing industry grew, legal professionals found they could no longer read everything published in their practice areas or geographic regions nor afford to purchase or subscribe to every title they might need to consult. These realizations combined with societal changes, judicial rulings, and the acknowledgement that non-attorneys also needed access to legal resources led to a more formal adoption of public law libraries.

The Library of Congress was established in 1800 with the first Librarian of Congress appointed in 1802 (Murray, 2009, p. 156) but it was not until 1832 that its law collection became a separate department (Brock, 1974, p. 339). Boston's Social Law Library began as a stock purchase library with an annual membership fee in 1803 (Selwyn & Eldridge, 2013, p. 5). Another stock purchase-annual membership library, The Law Library Company of the City of Philadelphia, now the Jenkins Law Library (Philadelphia, Pennsylvania), was established in 1802 (Smith, 2001, p. 114). The Allegheny County Law Library, Belmont, New York was established in 1806 and the Sullivan County Law Library, Monticello, New York was founded in 1809 (Selwyn & Eldridge, 2013, p. 7). In 1815, Massachusetts passed legislation establishing free public law libraries governed by the State but supported by

county government (Brock, 1974, p. 333). Some bar associations opened their own subscription libraries. The Cincinnati (Ohio) subscription law library, formed in 1834 as a Bench and Bar library, opened in 1846, incorporated in 1847, and has been governed by the Hamilton County Law Library Board since 2010 (Kallendorf, n.d.).

State law libraries followed a similar developmental pattern with some forming as their territories prepared for statehood. Established in 1828, Michigan's state law library was under the authority of the Secretary of State. Its position on the state's organizational chart changed several times between 1836 and 1850 when it returned to the authority of the Secretary of State (Brock, 1974, p. 336). State law libraries may be under the Department of Education, the Secretary of State, the state's judicial system, or the State Library (Brock, 1974). Often, the state law library began as the state library. As the legal collection grew in size and scope, it would be reorganized into a separate division, department or entity. For example, the Maine State Law Library began in 1826 as the Maine State Library. It was not until 1971 that the library's legal collection moved to the State House as the Law and Legislative Reference Library (Maine State Law and Legislative Reference Library, 2014).

This same developmental pattern also occurred with federal libraries as evidenced by the Law Library of Congress's 1832 reorganization and relocation within the Library of Congress. Other federal libraries began as departmental and agency libraries. As the department or agency grew, so did the collection. When the agency or department ceased to exist, its library either merged with another library or was dissolved (Brock, 1974, p. 340).

As the idea of public law libraries caught on throughout the country, a wide range of governance alternatives developed. Some libraries were part of federal, state or county government. Others remained association or society libraries, were part of a public or academic library or fell under the judicial system. As seen with Michigan's State Law Library and Massachusetts public law libraries, library governance or funding could change due to the parent organization's reorganization; or changes in legislation, funding or the local political climate. Massachusetts changed its funding methods several times over the years: Ranging from a \$20.00 attorney fee in 1815 to filing fees up to \$2,000.00/year plus a county general fund appropriation

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