

*What should law libraries
stop doing in order to address
higher priority initiatives?*

by Carl A. Yirka

the
Yirka
Question
and
Yirka's
Answer

A number of years ago during a Vermont Law School faculty meeting discussing the school's budget, I had the temerity to ask the following question:

What can we stop doing, in order to do other higher priority things?

p e r s p e c t i v e



At the time, my question seemed like a no brainer. Isn't this a question that we all ask ourselves as part of our own home budget process? We don't always have the money to fund every new project we'd like to take on. Since we can't do everything, we must prioritize our goals, eliminate the lower priority ones, and fund the higher ranking projects.

When I asked this question, our former associate dean for finance smiled from across the room. This is exactly the sort of question finance deans ask themselves all the time, but they prefer that someone else ask them publicly. No one, not even finance deans, want the backlash from whichever department might get a budget cut if the law school pursues the answer to this question.

That finance dean named my question, "The Yirka Question," and would ask it during budget meetings: "Well, I know that Professor Yirka would want us to ask the Yirka Question." He would then proceed to raise specific questions about budget items, leaving others to decide whether those were his or Yirka's questions.

I recognize that in the broader institutional context, answering this question becomes complex. For one thing, law schools have many constituencies. The variety of stakeholders—deans, faculty, administration, librarians, etc.—may well have competing views of institutional priorities. Also, the momentum of earlier decisions might keep us moving in one direction: people are hired, space assigned, and equipment purchased. Program commitments with long lead times continue on their path, whether they are high priority or not.

It takes self confidence to argue for stopping an activity that one previously started. Like the broader institutional question, library initiatives develop a momentum. We do things because we did them in the past. But as Professor Penny Hazelton, associate dean for library and computing services at the University of Washington School of Law, reminded me, the late Don Dunn, former dean of the University of La Verne College of Law, had a favorite question: "What are you doing well that you don't need to do at all?"

What We Stopped Doing

Circumstances may force institutions to change. In our library, the departure of a few staff members, as well as a tighter budget, forced us to consider what we might stop doing.

In our library we stopped doing the following: We no longer staff a physical reference desk. Instead, the circulation staff

triages questions, answers basic directional questions, and sends users to the nearby reference librarian on call for more complex work.

We no longer bind periodicals available in HeinOnline. Several years ago we stopped purchasing almost all the hardcopy Shepard's Citators, and more recently we stopped purchasing some of the regional digests.

We also considered stopping purchases of some of the state codes, but decided that online access to the codes had not yet reached a level that would allow us to cancel our subscriptions.

At the time we began these discussions, I asked my academic law library director colleagues what initiatives their libraries had stopped, which occasioned substantial discussion on the lawlibdir online discussion forum.

One library reported cutting back on interlibrary borrowing by creating a detailed policy on what it would not borrow for law journal cite checkers because of its availability in electronic formats.

Several law schools reported changing the way they teach advanced legal research by turning from three-credit classes to several one-credit classes (and as a side benefit getting more students).

In an era of near ubiquitous law student laptop ownership, some libraries report doing away with computer labs.

Many libraries reported buying fewer hardcopy materials and making use of online equivalents. Some reported dropping portions of the national reporter system and some digests. Several reported collecting fewer government document materials.

In our library, the discussion of services we would cut and add led to the discussion of library and law school goals.

Aligning Library and Law School Priorities

It struck me that we no longer live in an era when merely running a good library suffices. As I talk with my colleagues around the country, I hear great pride from directors about the good work that their libraries are doing. But I also hear the constant refrain: Deans are cutting our collection budget or not increasing it to cover ongoing expenses. It is harder to hire staff when slots become open. And deans are taking library space for non-library uses.

Budget, I believe, can be used as a measure of what law schools value. Deans find money for new initiatives. In the past decades, law school spending on information technologies has increased dramatically. At Vermont Law School, and I suspect at other law schools around the country, new institutes and centers have

proliferated, all of which cost money. Ultimately, we find a way to pay for the things we value.

But despite our efforts to educate them, some deans don't value what law libraries do. Or to put it a different way—our libraries are not in sync with institutional priorities.

Why the disconnect between librarians' perceptions of the value of libraries and deans' perceptions? On one hand, the cost of library materials has grown at a pace well beyond inflation; some would argue it is growing at an unsustainable rate. On the other hand, the general public, including deans, mistakenly believes that everything has been digitized, is now free, and is readily available by searching Google. Finally, one wonders whether deans believe, though maybe not consciously, that if libraries were important, *U.S. News & World Report* law school rankings would value libraries more than they currently do.

Academic law libraries might get a bigger slice of the budget if their goals were more closely connected to broader institutional goals. While broader institutional goals might vary among law schools, the commitment to moving up the *U.S. News* rankings seems ubiquitous. If libraries don't count in the rankings much, perhaps libraries need to find a way to affect other *U.S. News* categories, such as reputation. Libraries might help the law school's academic reputation by helping faculty with their writing.

What We Started Doing

And what of the other half of the Yirka question, what higher priority tasks and initiatives are we willing to take on?

At Vermont Law School we believe that the library needs to do more to help faculty be more productive scholars. Yes...that means helping them publish more. Faculty productivity is an institutional goal and one that is related to running a good library.

I've surveyed our faculty about what sorts of things they would like the library to do to assist them to become more productive scholars. During the interview process I stressed that I could not yet make any firm commitments, but that I want them to "dream no small dreams."

When Professor Jim Milles, vice dean for legal information and director of the Sears Law Library at the University at Buffalo Law School, interviewed me for his "Check This Out" podcast, he pointed out that asking the faculty what library services would make them more productive scholars is the most radical aspect of this project. While it is more common for librarians to ask users if they like the library's services, it

is uncommon for librarians to ask open-ended questions.

Surprisingly, some of the faculty ideas were for services that we already provide, although perhaps not to the level faculty would like. Other ideas were completely new to the law library staff.

For those faculty who are interested in publishing books, they asked that librarians learn about the book publishing industry: understand the standards and requirements, develop an expertise in *The Chicago Manual of Style* citation format, become familiar with guidelines for non-legal journals, and become consultants or literary agents for faculty.

Faculty asked that the librarians train a pool of research assistants (RAs) that provide assistance to the faculty under the supervision of librarians and that librarians review RA work product before forwarding it to faculty members. Librarians should train RAs to do social science, government document, and empirical research.

Faculty asked that we create “on demand” bibliographies for faculty members, provide “embedded” librarians near faculty offices, assist faculty in publishing their blogs, and review the vast array of current awareness services, forwarding to faculty only the most relevant hits.

Perhaps most controversial is that faculty have suggested that we might play a role in assisting them in creating footnotes for the articles they write. “Draft some of the footnotes; write the complex research footnotes; complete 50-state surveys; review drafts of faculty articles; and determine whether there could be better footnotes,” they suggest.

At first blush, working on footnotes may seem too much like the work that faculty members themselves, or their research assistants, ought to be doing. However, working on faculty footnotes would provide librarians with a better understanding of the substantive topics about which faculty are writing, would help librarians better understand what materials our libraries should purchase for the scholarship being done, and could provide an entrée to educate the faculty on the variety of materials our library already collects. As my colleague, Vermont Law School Professor Emeritus Richard O. Brooks, points out, working on footnotes is not merely an after the fact justification but is an important part of the process of inquiry.

More than one was suggested to me that the path of increased involvement in faculty scholarship ends with librarians writing articles for faculty members. The joke is not lost on me. Like all good humor,

it has a bit of truth. The distinction between providing materials and being more involved in faculty scholarship is not an easy line to draw. What part of the scholarly process can be outsourced and still be genuine scholarship raises questions. The editorial process of law review or book editors has long been considered a legitimate function of scholarly publication. Might the increased duties of law librarians somehow cross the scholarly line? If so, might the problem be solved by granting librarians some level of co-authorship?

New Roles for the Law Library

Some library directors would argue that the role of the law library should be constrained. Kent McKeever, director of the law library at Columbia Law School, says of the role of the law library, “We find things—we don’t read things,” arguing that librarians should not be in the business of interpreting sources for faculty. The strength of the library, asserts McKeever, is in understanding and gathering information sources. “Maintaining a high level of these services is much more important than anything else,” he says, adding that librarians need to ask themselves, “Do proposals for any other tasks dilute the main focus?”

Other library directors see the library’s role more expansively. Professor Filippa Marullo Anzalone, associate dean for library and computing services at Boston College Law School, manages information technology and educational technology services, along with the library. A more recent addition to the library’s portfolio is administration of the faculty support assistants (FSAs).

Why should these assistants report to the library? Anzalone says that “the library now has a more active role in training the FSAs to professionalize the service contact that FSAs provide to faculty members and to streamline the process that faculty members use for service requests.” Anzalone acknowledges that while all the bugs have not been completely worked out in this system, they will persevere. “We are determined that faculty requests—whether they be for research assistance, uploading documents to a class Web site, or placing an article—will be answered and taken care of no matter where the requests are placed,” she says. “In other words, one-stop shopping for the faculty.”

I realize that the library’s extension into nontraditional areas seems scary; the things faculty might want to outsource to the library are those things that are not working at all or are not working well. That’s the

way life is—the opportunities lie where things are not going well.

There are risks here. Will we increase the faculty desire for things we can’t produce? Will some of their requests be so far outside the scope of traditional library work that we lack sufficient expertise? Might we become glorified (or unglorified) research assistants? Will we need to hire librarians with different skill sets if we proceed down this road? I think the benefits of taking on some of these challenges outweigh the risks.

What is a Good Law Library?

If we do change what law libraries do, what does it mean to have a good library? When I was head of acquisitions at Northwestern University Law Library in the late 1970s and early 1980s, George Grossman, my boss at the time, told me that I had the best job in the world. We lived in an era when more books meant a better library, and my job was to buy, within the constraints of our collection development policy, as many books as I could. The volume count of the library was thought to be the measure of quality.

Today we are well past the death of volume count as a measure of library quality. With the advent of LexisNexis, Westlaw, and the Internet, most academic law libraries could be thought of as having the same collections with the marginal addition of their hardcopy collections. Hardcopy collections, though still important, have become a smaller and smaller percentage of available information.

In considering our own profession’s future, a look at another profession’s attempts to become better might be helpful.

Last year, during a time of various family illnesses, I found myself reading books about the practice of medicine. One bit of Atul Gawande’s fine book, *Better: A Surgeon’s Notes on Performance*, got me thinking about our own profession and how we might improve it.

“Finding a meaningful way to measure performance...is a form of ingenuity in itself,” Gawande writes. “What you actually do with that measure involves another type of ingenuity, however, and improvement ultimately requires both kinds.”

What is the law library’s “meaningful way to measure performance”? And if we had such a measure, what would we do with it?

The first quoted sentence refers to Gawande’s discussion of Apgar scores. One doctor, Virginia Apgar, figured out a measurement for the condition of a child’s life at one and five minutes after birth.

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Using such a measure for all infant births provided a number that could be collected and compared, ultimately providing an array of benefits. Gawande argues that every patient should get an Apgar-like score to measure his or her encounter with medicine.

The second quoted sentence begins the discussion of the differences among cystic fibrosis programs nationwide. Because cystic fibrosis programs have kept very good records, the best and the weakest programs are known. For individuals, being in the best program can add decades to one's longevity.

Gawande discovers the difference between the best programs and the good programs is not a magic pill or new

treatment. While good cystic fibrosis programs ensure that patients test results do not drop to crisis levels, the best programs are concerned with maintaining the highest quality. They make sure that patients whose regular test results dropped just a bit, though still within the normal range, take steps to get their test results to an optimal level. It turns out that doing things a little bit better ends up making a substantial difference in the length of life for cystic fibrosis patients.

The uncertainty about what to count fills law library online discussion forums. Should we count volumes, titles, bibliographic records, or amount of money we spend? We know the old measures don't

fit, but we have yet to develop a new quantification of quality.

It would be helpful if libraries could develop some sort of library Apgar score. If Virginia Apgar could figure out a way to measure something as complex as the quality of child delivery, can't we figure out what to measure for the quality of law libraries? With such a measure we could begin to better compare and improve what we do. We might be better able to discover whether the small steps, such as those we are attempting at Vermont Law School, are really making law libraries better. ■

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