

What Law Professors Will Want from Law Librarians in the Twenty-first Century*

Robert M. Jarvis**

Drawing lessons from the history of technological innovation, Professor Jarvis argues that law professors will want less, not more, from law librarians as the twenty-first century unfolds.

¶1 When Carol Roehrenbeck called me last year and asked me to be on this panel, she said she was inviting me because she knew I would be controversial. I therefore need to start with a disclaimer, or maybe a personal plea: many of my best friends in the academy are librarians, and I hope this will continue to be the case after we leave here today.

¶2 Now on to the reason for our convening on this wet Monday morning. I believe there are two facts that will be as true at the end of the twenty-first century as they are today. First, law professors still will be primarily engaged in three tasks: teaching, service, and scholarship. Second, ninety percent of the scholarship produced by the typical law school still will be due to ten percent of the faculty.¹

¶3 The first of these observations leaves today's discussion necessarily incomplete, for our charge as a panel is to consider the law library only as it relates to professors in their roles as scholars.

¶4 The second point has this implication: in thinking about what faculty members are going to expect from their library directors, the answer depends on which group of faculty members we are talking about. It has been my experience that faculty members tend to fall into one of three groups when it comes to the library: those who do not use the library, those who use the library only occasionally, and those who regularly rely on the library for assistance in their writing. (I suppose these categories could be expanded to include three more types: the faculty member who does not know where the library is; the one who has taken up permanent residence in the library; and the professor who has moved the library into his or her office, either for convenience or to dress up some empty bookshelves.)

* © Robert M. Jarvis, 2004. This article is a revised version of a speech delivered during a program titled "What Faculty and Directors Should Expect from a Twenty-First Century Law Library in Order to Support Legal Scholarship," presented by the Section on Law Libraries at the Annual Meeting of the Association of American Law Schools, Atlanta, Georgia, Jan. 5, 2004.

** Professor of Law, Nova Southeastern University, Fort Lauderdale, Florida.

1. See James P. Ogloff et al., *More Than "Learning to Think Like a Lawyer": The Empirical Research on Legal Education*, 34 CREIGHTON L. REV. 73, 150 (2000) ("Investigations of law faculty publications and research suggest that a small percentage of senior faculty are responsible for a significant proportion of the work produced, and that many faculty members do not produce much at all.")

¶5 Most faculty members fall into either the first or second category, in that they are only minimally connected to the library. These folks are unlikely to expect any more from their library directors in the twenty-first century than they did in the twentieth, and so I will have no more to say about them here.

¶6 This leaves us then with a somewhat altered question: what will faculty members who engage in scholarship on a regular basis look for from their library directors? And here I think the answer is clear: they will increasingly look for less.

¶7 If one thinks about it, the history of the world demonstrates two things. First, over time, there always is a movement from full-service to self-service. Second, there is a like movement from place-bound to place-free. Let me give you some examples to illustrate what I mean.

¶8 As some of you are old enough to remember—I certainly am—riding in an elevator once meant telling the elevator operator what floor you wanted; pulling into a gas station meant asking for a fill-up; walking up to a door meant being greeted by a doorman; and taking a trip meant first seeing your travel agent. Today, however, the elevator operator, the gas station attendant, the doorman, and the travel agent have all but disappeared, in part because of economics, but mostly because the average person prefers to take the initiative. This fact helps explain the rise of Home Depot and similar do-it-yourself retailers. Thus, we now push a button when we get in an elevator, fill our own tank when we need gas, rely on an electric eye to open the door, and book trips ourselves using the Internet.

¶9 The same change has occurred with respect to place. Once upon a time, listening to the radio meant sitting in the living room, the only room in the house that had a radio. The same thing happened when televisions appeared. Later, when computers came along, one had to be seated at one's desk. Now, however, we have portable radios, portable televisions, and portable computers. The same is true of telephones and numerous other gadgets.

¶10 In part, portability can be explained as an entrepreneurial phenomenon. As the ability to miniaturize components has increased, corporate America has simply found more things to sell us. But in truth, all of these items have become wireless because the average person does not want to be tied to a specific time or place.

¶11 Nowhere is the yearning for freedom more vividly seen than in the development of first the VCR and now such services as TiVo. The success of TiVo was easy to predict, for it allows users to watch what they want when and where they choose.

¶12 We can apply the foregoing lessons to the library. When I was in grade school, a successful library experience required physically going to the library and utilizing the services of a librarian. Today, however, the library increasingly resides online and can be accessed from any computer at any time of the day or night.

¶13 What are the implications of this change? In the short run, I think it is this: law professors who regularly engage in research will want their library directors to help them become even more independent and even less time- and place-bound. Thus, you can expect law faculties to clamor for more online services and for more

digitalization of existing and new works. Faculty members will want librarians to spend a good part of each day convincing publishers and other rights holders to put their materials online. As initiatives like Amazon's "Search Inside The Book" and Google's "Google Print" make clear, whatever their current misgivings, content owners eventually will take this step.² How fast they do so, however, will depend on how much pressure they feel, and it is here where the faculty will expect librarians to be vocal and persistent advocates.³

¶14 In the long run, however, I think the move to greater faculty autonomy will mean that librarians will have an increasingly difficult time justifying themselves, their staffs, and their physical space to their deans and university presidents, especially now that so many academic institutions are putting so much emphasis on the bottom line.⁴

¶15 As recent studies make clear, we either are at or near the point where student tuition simply cannot increase.⁵ Indeed, if Concord University's current experiment in cyber legal education proves a success, as it appears it will,⁶ its greater convenience and much lower tuition will put tremendous pressure to drop prices on all but the most elite institutions. While this will be a very good thing for students and the profession at large, which will benefit from increased socioeconomic diversity, the reduction in student dollars will have to be made up somewhere.

¶16 The library, of course, will be a natural place to look for savings because it consumes enormous sums but has only limited fund-raising potential.⁷ As more and more materials move online, it will become harder and harder to justify the expense of having and maintaining a physical library. And so I expect that when the AALS meets here in Atlanta in January 2104, law schools will no longer have libraries in the sense they do now. There still will be designated spaces for faculty and students to meet, socialize, and study, but only the richest—or most stubborn—law schools will continue to devote enormous portions of their physical plants to housing row after row of books and periodicals.

¶17 Thus, what do faculties want from their library directors? Although I suspect that most professors do not yet realize it, what they want is for you to become victims of your own success and put yourselves out of business.

-
2. See John Markoff, *Google Experiment Provides Internet with Book Excerpts*, N.Y. TIMES, Dec. 18, 2003, at C6.
 3. Of course, many librarians already are waging this battle. See generally Duncan E. Alford, *Negotiating and Analyzing Electronic License Agreements*, 94 LAW LIBR. J. 621, 2002 LAW LIBR. J. 38.
 4. See, e.g., Elizabeth Olson, *Business Lessons for a Law School C.E.O.*, N.Y. TIMES, Aug. 3, 2003, § 3, at 12.
 5. See, e.g., Jonathan D. Glater, *High Tuition Debts and Low Pay Drain Public Interest Law*, N.Y. TIMES, Sept. 12, 2003, at A1.
 6. See Kate Schott, *Lack of Bar No Bar to Enrollment at Online Law School*, CHI. LAW., Feb. 2003, at 1.
 7. Compare Jane L. Hammond, *Library Costs as a Percentage of Law School Budgets*, 80 LAW LIBR. J. 439 (1988), with Kent Milunovich, *Issues in Law Library Acquisitions: An Analysis*, 92 LAW LIBR. J. 203, 2000 LAW LIBR. J. 18.

¶18 Let me end with this thought. Change is never easy and dislocations are always wrenching. But the librarians who are serious about their craft will not fight the downsizing and eventual elimination of the library and its staff. Rather, they will embrace the coming demise, for it will mean that the original goal of libraries—to ensure that scholars could find what they needed when they needed it—will at long last have been accomplished.⁸

8. Don Marquis famously observed, “The chief obstacle to the progress of the human race is the human race.” Hopefully, a future quipster will not have reason to say, “The chief obstacle to the progress of law libraries is law librarians.”