Preface

OVERVIEW

A secret is rarely a secret when a government agency or department is involved yet the public law library is probably the best-kept secret anyone has ever stumbled across. Poorly defined, this little known special library can take any number of forms from the county law or court library to the academic, public, and private-public library. Unlike public libraries, many public law libraries do not have a commonly known and clearly stated duty or obligation and often find themselves at the whims and mercy of the parent organization. This book is intended to provide an introduction to the library’s unique environment, needs and demands by defining the public law library, reviewing its history and discussing public law library administration and operations. Since many of librarianship’s tenets cross library types, we have chosen to limit our discussions to those areas unique to this particular special library. Some topics such as administrative documents, policies and procedures will include a few examples but truly in-depth treatment would require a separate work. Finally, because this book is merely an introduction, each chapter ends with an Additional Reading bibliography.

There are a variety of definitions, understandings, and misunderstandings as to what constitutes a public law library. Many people, including librarians, have never heard of public law libraries, while others, depending upon the state in which they live, assume public law libraries are limited to the county government, are the public library, are part of the public library system, or belong to a specific judicial district and are part of the court system. Still other people believe the public law library is a department within the state library, requiring a trip to the state capitol; or they assume access is restricted to legislators, government officials, and government employees. In this book, a public law library is defined as any library with a statutory or institutional mandate to provide the public and/or self-represented litigant access to legal resources. In reality, the public law library may also provide services to jail inmates, attorneys, government officials, government employees, the local judicial system, legal professionals and their support staff, law enforcement agencies and their employees, students, and the local criminal justice system. Under this broadly stated definition, public law libraries take many forms: a county law library, a state law library, a judicial district library, a department within a public library, a branch of a public library system, a small collection within an academic library, a law school library, the Law Library of Congress, a private or subscription law library that allows the public access to its resources; or a travelling law librarian who visits specific locations on a set schedule.

Generally speaking, public law libraries are established by state or federal law. Although most states have at least one statute on the books regarding public law libraries, enforcement can be inconsistent or non-existent. Funding, governance, and jurisdiction are equally inconsistent. One state may rely on
county law libraries while another state has established public law library governance and jurisdiction by judicial districts, state library system regions, or a state-wide library system network. Another state may place governance under the county while jurisdiction remains with the judicial district and the two share responsibility for library funding. This diversity of organizational configurations, sizes, funding methods, and public/private status increases the ambiguity of a library’s classification as a public law library. It is also part of the reason no one knows how many public law libraries exist in the United States. There are no public law library directories for either the United States or North America and only a very small percentage of public law libraries are included in the *ALA Directory*. Unless a library or a librarian is a dues paying member of one of the various professional associations such as the American Association of Law Libraries (AALL), Special Libraries Association (SLA), American Library Association (ALA), a regional AALL chapter, or part of a larger library system, the librarian and/or the library is not listed in any directory and remains off the grid.

On January 12, 2011, the American Association of Law Libraries-State, Court, County Law Libraries-Special Interest Section (AALL-SCCLL-SIS or simply SCCLL) website reported a membership of approximately 530 members, yet the publicly posted institutional membership list totaled only 157 specific public law libraries. This membership list also included links to other websites listing some of the known public law libraries in specific states regardless of SCCLL membership. For example, the SCCLL website’s membership directory lists 17 California public law libraries plus links to a “Complete list of California county law libraries” and a link to the “Council of California County Law Libraries” (American Association of Law Libraries-State, Court, County Law Libraries-Special Interest Section, 2010). The first link belongs to a website titled “Your Public Law Library” and includes a directory of 59 public law libraries in California. The link to the Council of California County Law Libraries (CCCLL) links back to the “Your Public Law Library” website. Similar group links on the SCCLL membership page direct the researcher to additional public law libraries in nine other states:

- **Connecticut**: 13 public law libraries.
- **Kansas**: 18 public law libraries.
- **Maryland**: 24 public law libraries.
- **Michigan**: 45 public law libraries.
- **Minnesota**: 88 public law libraries.
- **New Jersey**: 21 public law libraries.
- **Ohio**: 88 public law libraries.
- **Virginia**: 23 public law libraries.
- **Washington (state)**: 39 public law libraries.

For a total of 395 public law libraries (American Association of Law Libraries-State, Court, County Law Libraries-Special Interest Section, 2010).

While the SCCLL’s identification of 395 public law libraries is a start, it is far from complete. The SCCLL’s Texas public law library list is limited to seven public law libraries, yet an *Austin Chronicle* article by Jordan Smith (2011) stated “only 59 of Texas’ 254 counties ‘maintain any type of legal collection,’ and not all of those have publicly accessible legal materials.” Of the 59 public law libraries mentioned by Smith, we are personally aware of 42 public law libraries that are readily available to the Texas populace. We are also acquainted with several more libraries that fall into the “open but not really open” category. These “open but not really open” libraries consist of small print collections and/
or a single computer station and are usually located in a locked, unstaffed room. Access requires an individual to request permission from the County Attorney’s Office, a local Judge or the Court, County or District Clerk’s Office; and once in the room, that individual must be able to fend for himself as no assistance is available or forthcoming upon request.

According to Charles R. Dyer of Charles R. Dyer Consulting in Bellingham, Washington, the SC-CLL has tried to identify other public law libraries but has been unsuccessful due to roadblocks such as an inadequate definition, and a lack of media presence and institutional identity. In 2009, Mr. Dyer emailed the following statement to these authors:

...There are county law libraries in many states that are open to the public, but have no librarian, have a part- or full-time librarian who does not belong to a local AALL chapter, have such a librarian who is a member of a local AALL chapter, but not a member of AALL, and, of course, the many law libraries within AALL. Then there are some county and state law libraries which are not open to the public.

There are also a few public libraries who [sic] have a specific law library component, a few academic law libraries who have service to the public as part of their mission (or are even a combo library, like Duquesne University Center for Legal Information Allegheny County Law Library and University of Arkansas at Little Rock/Pulaski County Law Library).

We even tried to use the state statutes on county law libraries, thinking that, if the statute says the library is open to the public, then we could simply include all the counties in that state. But we found that there are exceptions, as many small rural county law libraries that are supposedly open to the public are not really open to them. Some are little more than a wall of books in the judge’s chambers...Recently, Minnesota began a program to help self represented litigants using public libraries in the 5th District and a circuit riding law librarian. There are other programs that also do such outreach services that would only be reflected in budget documents.

Until the mid-90’s, the supreme court libraries in New York...were split, with the upstate ones open to the public and the downstate ones were not. A statutory revision made them all open to the public. And those libraries’ geographical boundaries are judicial districts, rather than counties, so you’d have to count differently.

Then you have academic law libraries and membership subscription law libraries that tolerate public users, but do not consider them part of their mission. (C.R. Dyer, personal communication, September 1, 2009).

If this is not confusing enough, SCCLL member and Past Chair, Marcus Hochstetler, has postulated an unscientific estimate of 400 to 450 public law libraries in the United States based upon his work with SCCLL and his knowledge of the following numbers:

- **Washington**: 39 county law libraries with 35 open to the public.
- **Ohio**: 88 county law libraries with approximately 65 staffed and open to the public.
- **California**: 60 some county law libraries (M. Hochstetler, personal communication, September 1, 2009).
In comparing Hochstetler’s figures with the SCCLL online directory and its links to the additional non-member public law libraries with Table 427 of the 2011 Statistical Abstracts of the United States, we discovered that in 2007, Washington state had 39 counties, Ohio had 88 counties and California had 57 counties. Clearly, some states are making a serious effort to provide the public with access to public law libraries.

The lack of a reasonably broad yet accurate definition of the public law library is another obstacle to estimating the number of public law libraries in the United States. Since not all states rely on county law libraries, limiting statistics to the number of counties could result in an abnormally high figure just as relying on the number of judicial districts and state law libraries as the only sources of public law libraries could result in an unusually low figure. Then there is the difficulty of identifying and counting the number of combo libraries as well as those libraries that act as public law libraries but consider themselves to belong to another library type (i.e. academic or special interest library). All this makes it impossible to settle on a single, accurate count of public law libraries in the United States. That said, these authors firmly believe, based upon our personal knowledge through research, networking, conference attendance, electronic mailing list contacts, and the SCCLL and WashLaw directories that there are more public law libraries in the United States than have been documented. We believe the figure may actually be as high as 1,600 public law libraries scattered throughout the United States.

Our unscientific estimate of 1,600 public law libraries is based upon the following information and assumptions. According to Table 427 of the 2011 Statistical Abstracts of the United States, there were 3,033 counties in 2007. Assuming 50% of these counties have some form of a public law library, there would be approximately 1,500 county law libraries. Add to that figure approximately 50% of the state law libraries, 25% of the court libraries and 25% of the academic, public, combo, private-public and special interest law libraries, the number would increase to approximately 1,600 public law libraries in the United States.

WHERE DOES THE PUBLIC LAW LIBRARY FIT IN TODAY’S WORLD?

Many public law libraries were originally established as a result of laws that, until recently, remained largely unenforced by the Courts. As growing numbers of poorly prepared and unprepared self-represented litigants enter the judicial system and appellant courts hear an increasing number of appeals based upon a lack of access to legal resources, these same statutes have experienced increased enforcement. The result is that many of today’s public law libraries are evolving from “just existing” to meeting a rapidly growing need and demand for their services from both laypeople and legal professionals.

There are few statistics available as public law librarians rarely take the time to track public law library statistics. Those librarians who have made the effort have only recently begun doing so. On January 10, 2011, Selwyn posted a request to the Law-Lib electronic mailing list for usage and door count statistics and received eight responses. Five of those responses indicated having kept some form of statistics for the past five to ten years; one response indicated that her library only began keeping statistics two to three years ago; the seventh responder confused the request for public law library statistics with public library statistics; and the eighth response was a request that we share our findings. In addition to the five public law libraries responding with statistics, the California State Library made its county law library statistics available to these authors. Two other public law libraries have been the subject of local newspaper coverage about increased patron traffic. Not all libraries reported door count just as not all
libraries tracked service statistics so a true statistical comparison is not possible; however, door count, service statistics and three newspaper articles provide a good birds-eye view of the increasing service demands public law librarians have observed in their daily work (Table 1).

Reasons for the increased use range from attorneys unable to afford all the resources needed to adequately represent their clients to an increase in the number of self-represented litigants in the American judicial system from Justice of the Peace, Small Claims and Traffic Court to misdemeanor, felony, and civil litigation. According to the National Center for State Courts (n.d.):

While there are no national statistics on the numbers of self-represented litigants, individual states and jurisdictions have documented high numbers of self-represented litigants in domestic-relations (especially divorce and domestic abuse), small-claims, traffic, and landlord/tenant cases. For example:

* In Utah, for divorce cases, 49 percent of petitioners and 81 percent of respondents were self-represented...

* In New Hampshire, one party is pro se in 85 percent of all civil cases in the district court, and 48 percent of all civil cases in superior court are pro se...
*In California, in a survey of pro se assistance plans submitted to the Administrative Office of the Courts by 45 counties, the pro se rate of family-law cases overall averaged 67 percent. In the larger counties, the average was 72 percent. In domestic-violence restraining-order cases, litigants are reported to be pro se over 90 percent of the time... Furthermore, in 2006, Utah's Committee on Resources for Self-Represented Parties reported that 99 percent of petitioners and respondents were self-represented in small claims cases with 80 percent seeking assistance before going to the courthouse (Herman, 2006).

While the Internet is a tremendous boon to both layperson and legal professional, it is also the modern day equivalent of the legal researcher’s wild-west. Websites providing free access to a state’s black letter law may not have been updated to reflect the current year’s changes if the company responsible for administering that particular website also has a proprietary interest in the annotated subscription version. Websites such as LawHelp.Org, ‘Lectric Law Library® and professional legal database portals share equal space with inaccurate, outdated, and false information, all of which is easily accessible through general, undiscriminating search engines. A simple Google® search for “free Arkansas divorce forms” performed on January 12, 2011 returned 272,000 results of free and fee forms, divorce information, and family law attorney websites.

The sheer volume of search engine hits can be overwhelming and many people, including legal professionals, do not know how to properly evaluate a website – or if they know how, they fail to take the time to do so. Laypeople discover they need help in sorting through and evaluating the World Wide Web’s massive search engine hits. Legal professionals notice that free legal resources such as Google Scholar® do not provide the detailed and most current legal materials necessary for their research. There are times patrons, including legal professionals, need assistance devising an effective database search. And many a librarian has faced a patron—including a legal professional—and observed that just because Google®, Yahoo®, or Blekko® retrieved a search result does not mean the website hit provides accurate, correct, or current information.

Then there is the issue of the Digital Divide: according to Internet World Stats Usage and Population Statistics (2011), approximately 22.7% of the American population did not have home internet access as of June 30, 2010. While internet access is available through most local public libraries, the majority of public librarians have no training or exposure to the idiosyncrasies of legal research, and few have the professional skills and collection resources necessary to guide a layperson through the legal research quagmire. Public access computers typically have a short time limit of thirty minutes to one hour per session with an average maximum of two sessions per day. Legal research often requires significantly more time than that thirty minute to two hour allotment. As for smart phones, there are even fewer smart phone users than home internet users. According to Entner (2010), at the end of 2009 only 21% of American wireless subscribers used a smart phone.

**BOOK DESCRIPTION**

Despite librarians’ willingness to share with colleagues, something as basic as creating or updating organizational documents including mission statements, goals, objectives, policies, and procedures can be a time-consuming and frustrating process, particularly when the librarian has to create them from scratch without a clear picture of exactly where the library fits within the larger organizational structure. Relying on institutional documentation such as established policies and procedures is impractical for the
majority of public law librarians because such documentation does not exist—or it is so broad as to be useless. Those public law librarians trying to rely on organizational or supervisory direction or assistance quickly learn that often not even the librarian’s supervisor understands where the library fits within the larger organization. All this makes it critical for the librarian to be able to step into the job and create the necessary structure for everyone while simultaneously educating those individuals responsible for the library’s oversight regarding the library’s importance to the organization and wider community. Inherent in this educational process is the need to stress the importance of the role of professional librarian’s skills and expertise. Professional public and academic library resources address only a small portion of the public law librarian’s needs as do professional private law library resources.

Because of the dearth of primary resource material concerning public law libraries, these authors found it necessary to conduct several surveys during the writing of this book. Because all surveys were conducted using the Internet, email, and electronic mailing lists, results reflect only those public law libraries active enough and organized enough to have at least an email address and limited internet presence. Three surveys, door count/usage statistics, Public Law Library Services Survey, and Public Law Library Collection Development Survey, were summarized in the summer 2011 issue of the SCCLL News (Selwyn & Eldridge, 2011).

The Public Law Library Services Survey conducted in 2010 was disseminated by electronic mailing list to members of Law-Lib, SLA-DSOL, SWALL-L (Southwestern Association of Law Libraries), and AALL-SCCLL-SIS. One hundred eleven law librarians responded directly to these authors via email and the tabulated results appear in Appendix A. On January 10, 2011, Selwyn posted a request for door count and usage statistics to the Law-Lib electronic mailing list and received five useful responses. Those responses are included in the table located in this Preface.

The Public Law Library Collection Development Survey found in Appendix B was conducted in June 2011. This survey was accessed via Survey Monkey® and survey invitations were issued through the same four electronic mailing lists: Law-Lib, SLA-DSOL, SWALL-L, and AALL-SCCLL-SIS. Fifty six libraries responded to this survey.

The cataloging and classification survey conducted by these authors in March, 2012 appears in Appendix H. This brief, nine question survey concentrated on classification, cataloging and processing with some surprising results. This survey, accessed via SurveyMonkey®, resulted in 71 responses from members of four electronic mailing lists: Law-Lib, SLA-DSOL, SWALL-L, and AALL-SCCLL-SIS and members of the Facebook® Group, Friends of Small Law Libraries.

Additional information was gathered from Facebook®’s Friends of Small Law Libraries. This information came from a series of informal polls and the monitoring of posted comments by group members. This data was used to assist in the writing of chapters nine and ten. Also, several Law-Lib email mailing list members generously shared the results of their various informal and unpublished surveys with these authors when requested. Those surveys are cited as unpublished manuscripts. One member, Laura Orr, permitted us to include her survey results concerning public law library governance and funding in Appendix C. All discussions and references to the still forming Public Charitable Community Memorial Law Library of Harlem have been taken from telephone conversations and organization documents provided by Cornelius R. Ricks, President and Founder of the Friends of the Public Charitable Community Memorial Law Library of Harlem, Inc. and the organization’s legal counsel, Paul E. Kerson.

Because developments in law librarianship change daily, some of the survey results and information imparted in the following chapters will be outdated by the time this book is published. In an effort to make readers aware of changes that have occurred between the writing and final editing of this book, such changes as the Bloomberg purchase of BNA have been end-noted in the appropriate chapter.
This book introduces the reader to the public law library’s myriad governance and organizational structures and the most common legal jargon and concepts the librarian is expected to know. While many public law librarians are solos, we have chosen to address solo issues within discussions of specific topics such as the use of volunteers and staffing configurations. Previously published titles on the generic one-person library are included in the Additional Reading Bibliography at the end of each chapter and suggested core collection and professional resources bibliography in Appendix F. We have tried to incorporate discussions of thought provoking issues in the broader discussion of related issues. For example, rather than write a separate chapter on the unlicensed practice of law (UPL), we have included it in the Public Services chapter. A discussion of vendor relations, DRM, and copyright are part of Chapter 8, and upgrading the position title “law librarian” from clerical to professional status is discussed in Chapter 5.

Chapter 1 introduces the smallest special library category: the public law library. Recognizing the complexity of this library’s existence, governance, and operations, we review a variety of definitions before settling on a single, broad definition most pertinent to the public law library. Much of the chapter reviews the history of law librarianship and public law library development, and examines the field’s standing within librarianship.

Chapter 2 reviews the public law library’s widely varying constituencies, their needs, common expectations, and demands. In addition to discussing each patron group, we also review library types and how a multiple mission is likely to affect a public law library’s ability to provide adequate services to its various service populations.

Chapter 3 reviews the diverse governance and organizational structures most commonly seen among public law libraries. Recognizing that the parent organization and the governing authority can be two different entities, sample organizational charts illustrate the various ways the library may relate to both organizations. Also discussed are organizational documents such as mission statements, goals, and objectives for each type of public law library structure. And finally, we examine the law library committee, the advisory law library board, the governing law library board, and law library board of trustees.

Chapter 4 continues the administrative discussion begun in Chapter 3. The discussion of long and short range planning builds on the discussion of governance, mission statements, and goals and objectives. Since the public law library is heavily impacted by politics, long and short term planning can be impacted by the political climate in which the library exists. Political realities are addressed throughout this chapter as we discuss funding methods and issues, the budget process, and the purpose of written policies and procedures. Because much of this information is generic to all library types, we have tried to keep the discussion and examples specific to the public law library’s peculiarities.

Chapter 5 reviews the definition of the phrase “law librarian” before moving into a discussion of staffing issues as they relate to library governance, staffing configurations, the widely varied job descriptions, staffing options, training, various levels of professionalism within the public law library field, and it reviews approaches to changing the position over time to create a less clerical, more professional position. Other topics include the dual degree and certification arguments as well as unpaid and temporary assistance.

Chapter 6 touches on the need for public relations and marketing activities. Over the past several years, a number of public law libraries have been closed or merged with other libraries as parent organizations look for ways to cut costs. Public law libraries may be lost in the bowels of the courthouse with little budget; or worse, they may be closed, unless they are vigilant in marketing themselves to the parent organization and their patrons. This chapter discusses ways to reach the library’s audience through both the more traditional methods and the use of social media. The business approach of marketing research and a marketing plan are also discussed.
Chapter 7 concentrates on collection development issues including the major differences between standard collection development theory and practice and the theory and practices specific to law librarianship. Furthermore, differences between law library specifics and public law library needs are highlighted. A discussion of the various formats, their advantages, and disadvantages could entail a full-length monograph; therefore, this discussion focuses on the basics and then only as format determination impacts the public law library’s collection development plan. Further discussion of digital resources including format advantages/disadvantages, electronic licenses, package or bundle sales, digital resources, and contracts in general is covered in chapter eight. Collection maintenance, weeding, and discard procedures are reviewed in chapter nine.

Chapter 8 is intended to be an extension of the collection development and public services chapters. Exploring the effect of the digital revolution on the public law library, this chapter reviews the reasons public law libraries are being driven to increase their use of digital technology. Discussion of library automation and IT services is limited to those automation and IT decisions and responsibilities most commonly found in public law libraries. Topics covered include transitioning from the card catalog to the OPAC and ILS, electronic formats, vendor selection, miscellaneous electronic technologies and pricing issues. The contract discussion applies equally to print and non-print resources, but because contracts are commonly thought of as being associated with electronic resources, we have chosen to discuss contract and licensing issues here rather than in chapter seven. We have also chosen to cover the use of the Internet and other digital formats including e-books, vendor relations, DRM and copyright concerns in this chapter. Preservation is covered in chapter nine.

Chapter 9 looks at the behind the scenes duties including cataloging and collection maintenance. Classification schemes are reviewed briefly. Security, although not technical services per se, is discussed along with theft control. Other areas discussed include repair, weeding, discarding and preservation responsibilities. Since much of technical services is universal regardless of library type, this chapter is fairly short with discussion limited to classification and organizational options, the collection, and collection maintenance.

Chapter 10 examines public services in the public law library setting. A significant amount of space is spent on the reference interview as well as bibliographic instruction, jail services, handicapped access, and circulation. Many laypeople do not understand why the librarian cannot give legal advice, so UPL (Unauthorized Practice of Law) is discussed in this chapter.

Appendix F contains professional resource lists including a suggested core collection, reliable websites and organizations, email mailing lists of interest to the public law librarian, and job search options. The basic core bibliography should be viewed only as a general guide and not be taken as an all-inclusive collection. There is also a sample Pathfinder in Appendix G. Sample job descriptions for staff, library boards, and library committees can be found in Appendix E, and Appendix C includes Laura Orr’s 50 state survey of public law library laws. A glossary of commonly used legal terms and acronyms appears at the end of the book.

**CONCLUSION**

Professional skills demanded of the public law librarian differ greatly from those required of public, academic, and special librarians. In addition to generic administrative and public relations skills, the public law librarian must also be comfortable with the bibliographic instruction, research guidance, and
on-line database training of academic librarianship; master and maintain the specific legal database and legal research training of law librarianship; and possess public library skills in the areas of internet use, computer resources, reference for all ages, and public speaking. If such an eclectic skill set is not enough, additional obstacles arise when the newly hired librarian discovers no-one knows where the library fits into the larger organization because the organizational groundwork has never been established or has not been updated since the original creation date; or the library’s various constituencies attempt to dictate what the library will and will not provide and who is and is not entitled to library services.

Frustrated by the lack of professional resources available to the public law librarian, we decided to write this book in order to share our hard-learned and hard-earned knowledge with other librarians and paraprofessionals suddenly thrust into the unique and virtually unheard of public law library environment. Our hope is that by providing administrative guidance, knowledge of basic professional resources, and a few document examples, current and future public law librarians will have an easier time than we had in creating the structure necessary for a smoothly running public law library. While we would love to concentrate on the practical nuts and bolts of policy and procedure templates and daily administrative work tips, this much more basic title will merely touch on administrative documents as they pertain to specific discussions, theory, situations, and issues unique to the world of public law librarianship.

As there are very few professional resources, we have combined information from such organizations as AALL-SCCLL-SIS and the Self-Represented Litigation Network (SRLN) with federal and state statutory research, information from current and past SCCLL officers, database searches for newspaper and journal articles about public law libraries, informal surveys disseminated through the various law library email mailing list communities, and personal experiences drawn from our work experiences, colleagues, conference attendance, and email mailing list participation. We have also relied on basic library science resources regardless of the type of library under discussion. In order to accommodate smooth flow of a discussion, once an organization’s full name has been identified with its acronym, all future references to that organization will appear as the acronym. In some cases, an acronym may be shortened (i.e. AALL-SCCLL-SIS will be shortened to SCCLL). While we may occasionally refer to a specific case as it applies to discussion of a specific topic such as the establishment of the institution of the public law library, we have purposely avoided getting into any significant case law discussions. We have also purposely restricted discussion to American public law libraries.

We hope readers find this book useful in their education and everyday practice of public law librarianship.

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REFERENCES


