

2003

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Repository Citation

Heller, James S., "51, 36, 127, Hike: Justifying a Law Library Renovation and Expansion Project (Part II)" (2003). *Library Staff Publications*. 11.

<https://scholarship.law.wm.edu/libpubs/11>

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51, 36, 127, Hike: Justifying a Law Library Renovation and Expansion Project (Part II)

By JAMES S. HELLER, College of William & Mary, Marshall-Wythe School of Law

Efforts to renovate and expand the law library facility at William & Mary began in the mid-1990s. The first part of this article summarized how we sold the project to different constituencies. This part is a “model” document, pieced together from various sources, that the William & Mary Law Library used to persuade different groups of the need for the project and its viability. Also included (in square brackets) is a brief summary of what might appear in each section and whether internal or external documents and data are used as justification.

Introduction

[How the Law Library Has Tried to Accommodate the Inadequate Physical Plant; Internal Documents]

The electronic revolution has created new demands for flexible, technologically advanced facilities, including computer labs, training rooms, public access computers, wired carrels and tables, audiovisual rooms, telecommunications and other equipment, and adequate staff, student, and patron work areas. The current facility lacks the necessary space for research, study and technology, and storage for its collection and equipment.

The William & Mary Law Library has taken many steps to expand shelf capacity and contain growth, including:

- ◆ Converting all basement shelving to high-density mobile compact shelving in 1998 (only the basement level has load strength to accommodate compact shelving).
- ◆ Removing seating on the top two floors to add standard shelving.
- ◆ Withdrawing nearly 50,000 book volumes (more than one in five) since 1990.
- ◆ Canceling more than 1,100 serial subscriptions since 1988.
- ◆ Having more than 40% of the library's volume count in space-saving microforms.

Furthermore, the existing stacks, with only 30" aisles between shelving units, do not meet Americans With Disabilities Act (ADA) standards, which require 36" isles. Making the stacks ADA-compatible would result in an immediate 20% loss in stack space, with insufficient room to house the existing collection.

Research Instruction and Use of Print and Electronic Information

[Instruction in and Use of Print and Digital Information for Course Work and Scholarship at the Law School; Internal Documents]

William & Mary students and faculty, as well as other library users, take full advantage of information in electronic format. The research librarians encourage the use of digital information, and we offer extensive instruction and training in both print and electronic information sources.

All first-year law students use print and digital information—statutes, case reporters, legal encyclopedias, treatises, and journals—in their Legal Skills courses. Our elective advanced research courses, which are taken by nearly half of the law students, emphasize effective and efficient use of print and digital information, with a focus on the latter.

Other Law School Library Facilities

[Comparisons to Other Law Library Facilities, and Why Expansion Is Necessary to Remain Competitive; External Data]

The law library facility at William & Mary was 51st in facility size among the top fifty-four law schools in the 2001 *U.S. News & World Report* survey (There were fifty-four “top 50” law schools in 2001, as five schools tied for 50th). The three schools with smaller law library facilities all rank lower than William & Mary in the *U.S. News* survey. When the University of Maryland's new facility opens in 2002 and the University of Colorado's in the middle of the decade, William & Mary will have the second smallest library facility of these fifty-four schools.

Over the past two decades, dozens of law schools expanded their facilities or built entirely new law libraries. When our building opened in 1980, the library was 52nd in size among about 170 ABA-accredited law schools. In 1990 we ranked 80th in size among 176 law schools, and in 2001 ranked 127th among 184 schools. From 1980 to 1990 we fell 28 places, and from 1990 to 2001 another 47 places, in law library facility size.

Collection and Format Trends

[Justification for Expansion Based on Publishing Trends; External Documents]

Law libraries are acquiring books at the same or greater rate today than they were two decades ago during the early stages of the digital revolution. In 1982, libraries were acquiring about 6,000 print volumes annually. By 2000, that number had increased by 10% to more than 6,600 volumes annually. Similarly, the number of new book *titles* acquired annually by law school libraries rose by nearly 20%, from a median of 1,654 titles in 1985 to 1,964 titles in 2000.

Since 1988, the median number of serial titles (materials that are updated) subscribed to by all law libraries in ABA-accredited law schools rose by 16%. During this same period, William & Mary's number of subscription titles *decreased* by 4%; we canceled more than 1,100 serial subscriptions since 1988.

Digital Information

[The Impact of Digital Information on Collections, Providing More Support for the Expansion; External Documents]

LexisNexis and Westlaw have been available in law libraries since the mid 1970s. But they and other electronic information sources have not quelled the need for print materials, particularly in publicly funded academic law libraries that are used by the entire university community and the general public. The LexisNexis and Westlaw law school contracts mandate that these databases can be used *only* for educational purposes by law school students, faculty, and staff.

Furthermore, LexisNexis and Westlaw are for the most part distributors, rather than creators, of information. Most of the information in their databases is owned by others. We cannot count on the availability of critical legal materials through governmental or for-profit database providers; access—and cost-effective access—depends on marketing analysis, strategies, and policies not within our control.

Much law-related information—information law libraries must continue providing—remains available only in print. For example, although most states now publish their appellate court decisions on the Internet, few states include decisions prior to 1995. Also, court rules and nationally accepted standards require citation to court decisions as published in printed books, most of which are published by the private sector.

Past statutes, cases, legislative histories, treatises, and journal articles provide the basis for understanding the law as it exists at the moment, and also form the foundation for law to be developed by legislative bodies, courts, and administrative agencies in the future. A law library cannot dispose of or warehouse older legal materials without adversely affecting those who use them. It is also a mistake to assume that most printed materials held by law libraries are available digitally. A recent study at the University of Washington Law Library revealed that only 13% of that library's print collection was available on Lexis or Westlaw; that number decreased to 7% if the law library reduced their print holdings to only one copy.¹

Libraries are great consumers of digital information, but we are not bewitched by the information revolution. We know that electronic collections create different demands on library staff, including increased workload for acquisition, cataloging, and reference functions.² We are aware of the volatility of digital information and of the digital information industry: in late 2001, Time Warner ended its iPublish.com electronic publishing division, Princeton University Press ended its e-publishing program, and netLibrary filed for bankruptcy.³ Questia Media, begun in 1999 with an infusion of \$130M and the goal of becoming the largest online library of books for university students, went from 280 employees at the beginning of 2001 to only twenty-eight employees by February 2002.⁴ And we know that it takes twenty-six steps to download one of McGraw Hill's Primus Online e-books.⁵

Law School Accreditation Standards

[Reference to Standards from Accrediting Bodies on Facilities; External and Internal Documents and Report]

The American Bar Association (ABA) and Association of American Law Schools (AALS) are the two professional organizations that accredit law schools. Every six to seven years, the ABA and AALS visit each member law school to determine compliance with the respective accreditation standards. The ABA/AALS team

continued on page 6

HELLER, *continued*

visited William & Mary in 1995 and again in late 2001. Although their evaluations spoke well of the library's services and collections, they were critical of the small physical plant and the inability to utilize fully current technologies due to the age of the building (we shared the ABA and AALS inspection teams' comments with the law school board of visitors, the university administration, and representatives from our state council of higher education, but they are not included here). The relevant ABA/AALS standards include:

- ◆ ABA Standard 701: A law school shall have physical facilities and technological capabilities that are adequate both for its current program of legal education and for growth anticipated in the immediate future.
- ◆ ABA Standard 702: The physical facilities for the law library shall be sufficient in size, location, and design in relation to the law school's programs and enrollment to accommodate the law school's students and faculty and the law library's services, collections, staff, operations, and equipment.
- ◆ ABA Standard 703: A law school shall provide, on site, sufficient quiet study and research seating for its students and faculty. A law school should provide space that is suitable for group study and other forms of collaborative work.
- ◆ AALS Bylaws: Section 6-11. Physical Facilities. (a) A member school shall have an adequate physical plant.

Epilogue

The William & Mary Law Library renovation and expansion project was included in the statewide \$900 million general obligation bond package for higher education capital projects and was submitted to the voters in the fall 2002 election. The package, which included \$11.8 million for the law library project, was approved in the November 2002 election. The \$11.8M will be supplemented by an additional several million dollars that will come from private funds and tuition. By the time you read this we will have selected architects for the project. With luck, the shovels will meet the dirt in the spring of 2005.

Endnotes

1. Penny A. Hazelton, *How Much of Your Print Collection is Really on Westlaw or LEXIS-NEXIS?* 18 LEGAL REF. SERVS. Q. 3 (1999).
2. Carol Hansen Montgomery, *Measuring the Impact of an Electronic Journal Collection on Library Costs*, D-LIB MAGAZINE (Oct. 2000).
3. Michael Rogers & Mirela Roncevic, *E-Book Aftermath: Three More Publishers Fold Electronic Imprints*, NETCONNECT (Jan. 1, 2002).
4. HOUSTON CHRON. (Nov. 20, 2001); PUBLISHER'S WKLY. (Feb. 4, 2002).
5. Available at <<http://ebooks.primisonline.com>> (last visited Aug. 11, 2003).

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