

Five Topics in Five Days: Service Limits in Public Law Libraries

April 11-15, 2016

As librarians we often wish – and sometimes try – to provide all services requested of us, all the time. But this is not realistic. There are many considerations we must take into account, including limited resources (time, staff, money, space), the ethical dilemma of how far we can go in providing information and materials, and the often-present challenge of dealing with sometimes awkward or unpleasant interactions. In handling those constraints, we are sometimes in conflict with the expectations of our patrons.

With that in mind, a coalition of four AALL Special Interest Sections, LISP (Legal Information Service to the Public), GLL (Government Law Libraries), RIPS (Research Instruction and Patron Services) and SR (Social Responsibility) took on the task of shepherding a week-long online conversation that explored service limits in public law libraries.

The week included a number of subtopics. On occasion, there was a somewhat surprising tension produced by the natural conflict of differing opinions. At the end of the week, the conclusion was clear: there is no clear conclusion. However, we think everyone learned at least one new thing or viewpoint by the end of the week. Certainly, we have all been stimulated to think past earlier presumptions and habits.

Below is a brief summary of each day's discussion. Each day's summary is followed by a list of resources – websites, organizations, and other materials – that were mentioned in that day's conversation or annexed in review. It is hoped that these materials will help inform further conversations on these topics, and aid colleagues in addressing the challenges that were identified.

Day One:

Determining a Law Librarian's Role in Providing Assistance and Information

"It really is a time of innovation but I think that computers are the most boring and regressive part. I think it's much more interesting to consider how Law Librarians can innovate in service."

Monday's topic centered on determining a librarian's role in providing assistance and information. The questions posed to start the day's discussion included:

- What parameters do we use to establish our role?
- Keeping in mind that each organization has different needs, how do we determine our role in providing assistance to information?
- How do we best determine what services are needed and what our users expect from us?
- To stay relevant, some libraries offer additional services besides access to legal information, including meeting room scheduling; cell phone chargers; coffee; and more. Where do we draw the line? Or should we expand the law librarian's role?

Summary of discussion:

- A public law librarian's role is often defined simply by the demands of the library's patrons, administration, and local community needs.
- These needs and our role in providing them can be determined by assessment and environmental scanning.

Five Topics in Five Days: Service Limits in Public Law Libraries

April 11-15, 2016

- Librarians need to be concerned about staying relevant; we stay relevant by redefining ourselves.
- There is a clear need for long-term plans.
- As a profession, we are experts at *understanding*; this is where we should develop our role.
- Librarians should be looking to contribute more to legal services, particularly in underserved areas. One idea offered for this would be to host a “legal aid intake day.”
- Librarians need to be careful not to overextend; we need to figure out where to draw the line on what our role encompasses. If we expand our services in some areas, we need to determine what current services we should perhaps let go of.
- Potential partners for libraries include social work organizations. Several contributors asked if anyone had partnered with social work organizations, faculty or students for expert assistance in areas like domestic violence where an information provider may want more constructive services to offer.
- One contributor asked what responsibility law librarians have to advocate for public patrons. His suggestion was that lawyers, as a profession, are weakening and fracturing, with many of their traditional services now being handled by legal services organizations and the self-represented litigants themselves. With the need for legal information as critical as ever, and the methods of legal research both simplifying and increasing in sophistication (think internet and databases), there is a role here to be played by law librarians, both as information intermediaries and as advocates for open access. During ensuing discussion, some of the points made included a need for clarification of (or rewriting) of unauthorized practice rules to allow for better legal research assistance.

Resources included:

- RUSA Guidelines
- TexasLawHelp.org
- AALL and local chapters
- mdcourts.gov/mdatjc/whatcanidotohelpyou.html

Day Two:

Establishing Limits through Policies and Procedures

Questions to begin discussion:

- Many library patron conduct rules incorporate a prohibition on “disruptive behavior” as a catch-all, given that there are more ways that patrons may push our limits than we could ever hope to articulate. Do you think non-specific terms like this are effective?
- In general, is it better to have standards of conduct (which puts the onus on the patron to live up to a particular level of behavior) or rules (which put the burden on the library to predict and prepare for specific types of problematic behavior)?

Summary of discussion:

- Non-specific wording gives staff flexibility and discretion in determining what constitutes disruptive behavior.

Five Topics in Five Days: Service Limits in Public Law Libraries

April 11-15, 2016

- Many library policies posted on websites include rules for language, physical behavior, use of space, use of facilities and materials, cell phones and other electronics, as well as food and drink.
- Lengthy rules run the risk of being too overwhelming for patrons to bother reading, or even for the staff to be fully familiar with.
- Expressio Unius Est Exclusio Alterius, or, the expression of specific things means the exclusion of others.

The general majority was in agreement that policies should not be created to address the sins of a few. The specifics of who drafts and oversees the policies as well as the staff that enforces these policies varies from library to library, based on the institution to which the library belongs. However, one factor is agreed upon: Frontline staff need to have input, as they see and understand the daily activity of the library, and they need guidelines for support in addressing individual situations.

Day Three:

Unique Patron Groups: Those with Disabilities; Incarcerated Persons

Day Three's discussion was broken down into two discussion threads. One centered on serving those with disabilities, the other on serving incarcerated persons.

Those with Disabilities

"Most needs can be met through common sense decisions."

The questions to start discussion on the issue of serving those with disabilities included:

- Does your library have an established policy for responding to accommodation requests? Do you have a designated contact person for accommodation requests?
- Does your library's website conform to W3C accessibility guidelines?
- How can law libraries be useful to sight-impaired persons?
- Are your facilities accessible to mobility-impaired persons? If you have stacks or areas inaccessible to some patrons, what is the best way to address these limitations of the library's physical space?
- What other programs or policies has your library instituted to improve access to patrons with disabilities?
- Are there particular disabilities you have found particularly challenging to accommodate given your library's policies?

Responses and discussion included several methods of assistance, as well as challenges to some of the suggestions:

- Providing the patron with a laptop and a system that reads PDF files out loud; another respondent suggested that this system could be improved upon by using Acrobat Pro to read the text of the file to the patron. Acrobat Pro uses OCR (optical character recognition) to

Five Topics in Five Days: Service Limits in Public Law Libraries

April 11-15, 2016

translate into sound the text of a document. One challenge identified was the possibility that reading out-loud could be disturbing to other library patrons.

- Running online searches for the patron and reading the results out-loud; again, the identified challenge included the possible audio disruption to other patrons.
- Dedicated computer with special keyboard with oversized bright yellow keys, a bigger screen, and special software to enlarge the documents viewed
- Special seating to accommodate wheelchair access
- Making magnifying glasses available upon request
- Special lifts to accommodate wheelchairs if the regular elevator is not ADA compliant
- Text-to-audio software and headphones
- Referrals to local public library if nearby - one responder mentioned that her local library has a staffed disability resource center where patrons can get assistance in reading materials.
- Several people were not sure whether their websites conformed to W3C standards.
- Other challenges identified included: locating audio or braille books on law and law-related topics; older-construction buildings with heavy doors or lack of an elevator.
- Draft policies may need to include requirements for service animals, such as requiring that they sit under the carrel or table, not in the aisles.
- Most of the discussion focused on physical disabilities. However, it was mentioned that mental health disabilities might also fit under this umbrella. For this, training can provide a framework for assessing and individual's behavior and associated risks, if any; how to listen non-judgmentally, and how to encourage the patron to get the help needed.

Resources / Best Practices

- Disability Issues Standing Committee has begun compiling Best Practices
- Mental Health First Aid training, www.mentalhealthfirstaid.org
- Staff should be familiar with federal and state ADA laws and regulations

Incarcerated Persons

"The more we try to differentiate, the less 'fair' we are being overall."

Questions for discussion:

- Corrections residents' access to legal resources are restricted in time and content. Does this make them especially needful of legal reference services?
- What responsibility do government law libraries have to prisoners?
- What is a reasonable limit on mailed resources? Is it appropriate to make exceptions at the discretion of the librarians?
- Who should pay for prisoners' requests?
- Is it appropriate for law librarians to refer prisoners to advocacy organizations? What about government law librarians?
- Can volunteers be used to work through prisoner letters? What screening and supervision procedures are needed for such a volunteer program?
- What role do private law libraries play in serving these patrons?

Five Topics in Five Days: Service Limits in Public Law Libraries

April 11-15, 2016

- What resources do you designate to prisoner requests (e.g., staff time, stationary, postage, database access)?
- What are the bounds of services and resources you make available to prisoner patrons? E.g., will you run searches in databases?
- Do you provide cases, statutes, etc. from official sources? Lexis/Westlaw/Bloomberg Law? Google Scholar or other free resources?

Summary of discussion:

- Exceptions are appropriate if staff is communicating, with each other and the patron to maintain consistency about the limits to exceptions.
- There was much discussion on the process involved in providing materials to correctional residents. Most if not all respondents follow a similar set of steps in responding to inmate requests: (1) identify the requested materials; (2) complete a page count for those materials; (3) respond via letter with the page counts and total cost; and (4) await the response, which more often than not does not arrive, as correctional residents have limited access to funds. These steps require a significant amount of time. Many libraries indicated that they follow this process; no library was able to offer a way to speed up that process. One offered the suggestion that accounts be set up for inmates to draw from; however, the drawback of the required administrative investment in time and staff makes this unlikely.
- One suggestion was made that volunteers be used to review, screen, and respond to prisoner letters. However, no models for such a program were offered.
- Many participants allow for a set maximum page count at no cost. Depending on the institution, this limit varies from 5 pages to 20.
- Others set a limit on the type of materials provided; some fill only requests for their own state's materials; others only fill requests for criminal law.
- Concerns were expressed about providing more efficient, speedy or cheaper service than any already-structured systems, which risks inmates bypassing or circumventing the very systems that have been set up to help them.
- What libraries provide varies as much as how they do it. Most provide primary source materials upon receipt of specific citations; most do not do research. But how "research" is defined varies from library to library. One library indicated that for topical research questions, they will try to identify a basic secondary source, such as a topical treatise or legal encyclopedia, and provide the table of contents to the general topic to help the inmate get oriented. One library indicated that they will lend books over a weekend.
- A few responders indicated that their library provides training classes for prison librarians, to help them apply legal reference knowledge to their interactions with prisoners, and make their requests more sensible.
- One responder inquired as to whether inmates have access to any sort of free internet resources, like Google Scholar or FDSys. The response was that, while this may vary from state to state and prison to prison, generally speaking, inmates do not have internet access of any kind.

Several participants described partnerships or systems in their jurisdiction that have been set up to specifically deal with the issue of correctional requests. These include:

Five Topics in Five Days: Service Limits in Public Law Libraries

April 11-15, 2016

- Nevada: The Nevada Supreme Court Law Library partners with the Nevada Department of Corrections. Requests from inmates are routed through NDOC; the library replies within 24 hours of receipt; and NDOC staff review the queries and handle payment. At the end of the fiscal year the Library bills NDOC for pages provided. The downside to the NDOC program is that it does not provide access to all materials.
- Minnesota: MN State Law Library has an interagency agreement with the Department of Corrections. They have three librarians (2.5 FTE, employed by the State Law Library) who provide resources to inmates in state prisons, and also provide assistance to MN state prisoners housed in county jails and in other states. The librarians visit each prison once a month. Inmates can receive up to 80 pages every two weeks. The DOC reimburses the State Law Library for salaries, copy costs, mail and mileage.
- California: The Sacramento County Public Library has a contract with the California Department of Corrections; they work with the prison librarians to provide materials to the prisoners.

Resources:

- List of Law Libraries Serving Prisoners, SR-SIS Standing Committee on Law Library Services to Prisoners
- ALA's ASCLA division has a listserv for prison librarians, it is open to non-ALA members: <http://lists.ala.org/sympa/info/prison-l>
- <http://www.ala.org/tools/atoz/prison-libraries>
- Directory of State Prison Libraries: <http://wiki.sos.wa.gov/ils/>
- American Correctional Association/ALA Library Standards for Adult Correctional Institutions: <http://www.ala.org/ascla/asclaprotocols/asclastandards/standardsguidelines>
- Prisoners' Legal Services of Massachusetts: <http://www.plsma.org/prisoner-self-help/pro-so-materials/general-legal/>

Day Four:

Unique Patron Groups: Sovereign Citizens; Competency Issues; Public Information Act Requests

Sovereign Citizens

"Working through the question and getting the patron thinking about solving the question together at least gets the patron working with real legal books."

Questions:

- What implications (literally and theoretically) does a patron being a member of an anti-government group (labeled by some as an extremist) group have on their rights as a patron of a public government law library?
- In my experiences, some sovereign citizens (and non-sovereign citizens!) have distrusted me because I am an attorney and a female. How do you work to overcome this in your library? If a patron asks to speak only with a male reference librarian do you grant this request?

Five Topics in Five Days: Service Limits in Public Law Libraries

April 11-15, 2016

- Please discuss your own experiences setting service limits for those identified with the Sovereign Citizens movement.

The starting questions heated up discussion immediately, with several participants stating that they felt that identifying patrons by their political beliefs was “unethical”: *“We shouldn’t even be making assumptions about a patron’s political views based on their research requests.”*

The question about service limits was clarified; the question was not whether librarians should place limits on service *because* a patron was a sovereign citizen, but rather, asked how librarians evaluate the consequences of imposing service limits on patrons who have been identified and recognized for their high level of document requests. Some online shared their experiences with patrons who requested old, outdated, and superseded materials; requested that all copies of documents be certified; or appeared “...demanding, threatening, confusing, and hard to understand.” Some of these terms may in fact apply to a number of patrons, and not simply the public ones, not just those identifiable as sovereign citizens.

Challenges in assisting sovereign citizens / anti-government persons:

- High level of persistence
- Repeat requests
- Demand for older, superseded materials that are often difficult to identify or locate

Ideas for interactions included:

- If older versions of statutory law are requested, offer current versions in addition
- Suggest a treatise in the area of law of the inquiry
- Work through the question and try to get the patron to problem-solve

Resources:

- Sovereign Citizens, <http://mn.gov/law-library-stat/lawedge.html>
- SPLC website
- *Meeting the Information Needs of Constitutionalist Patrons*, by Vicenc Feliu, 25 Legal Reference Services Quarterly 89 (2006): describes the legal theories of sovereign citizens and similar groups; provides helpful context

Competency Issues

Discussion began with a hypothetical situation, posed as, “A patron comes into the library and reports that her neighbor is implanting fetuses in her stomach and she wants to see the law in your state which makes this illegal.” How do you respond to this? Does your answer differ if you are more or less busy?

Possible actions:

- Show them state statutes and how to use the index to look up statutes, especially demonstrating the criminal code sections
- Show them the local or city ordinances
- Remind the patron of their option to file a police report if they think something illegal is taking place

Five Topics in Five Days: Service Limits in Public Law Libraries

April 11-15, 2016

- Encourage them to speak with an attorney
- Don't judge the situation
- Limit the sources provided to concrete reviewable ones like statutes; avoid the "rabbit hole" of demonstrating case law research
- Refer them to services
- Refer them to secondary sources, if identifiable
- If busy, do this in stages while helping others

Public Information Act Requests

Discussion began with a hypothetical situation, posed as, "A patron is looking for information about state DHHS policies that are only available by requesting them through a public access to information request. How far are you able to go in helping this patron based on your library's existing rules? Do you agree with these rules?"

Assistance challenges:

- Requests to fill out forms – respond with usual non-form-filling language

Steps for assisting with a PIA request:

- Show the patron the relevant open government / freedom of information statute and any available annotations
- Direct them to the appropriate online portal, if any
- Make the library's general computing resources available

Resources:

- Maryland Attorney General's Office, www.oag.state.md.us/Opengov.pia.htm
- Maryland State Law Library, Public Information Act Requests, <http://www.lawlib.state.md.us/aboutus/pia-requests.html>
- MuckRock, <https://www.muckrock.com>

Day Five: Information vs. Interpretation

While everyone agrees librarians shouldn't be providing legal advice, the challenging part is determining what is and isn't legal advice.

Questions to get started:

- Where and how do we draw the line?
- What are the dangers of providing legal interpretation?
- Do you personally struggle with drawing the line? How and why?
- How do we explain the line to the patrons? Do you have a standard line that works?
- Does the patron type (i.e., attorneys, pro se, etc.) affect your approach?

Five Topics in Five Days: Service Limits in Public Law Libraries

April 11-15, 2016

- What kind of training might help reference staff understand this line (and stick to it)?
- Does having a J.D. hurt or aid a librarian in trying to toe the line?
- What are some common scenarios you run across where it is trickier to avoid interpretation? How do you handle them?

During discussion, many offered their perspective on where the line is drawn and what, exactly, librarians can offer:

- We help patrons identify resources that will explain the law to them.
- When a patron asks for legal advice, we treat the question like a reference request and offer resources that can help answer the question.
- When a patron asks what a term means, we direct them to a legal dictionary or encyclopedia.
- *"...my job is frequently to set up information 'maps' and 'warning signs' so they can make their own best informed decisions."*
- General opinion is that we all follow up the statement that we can't provide advice with information and handouts with local legal assistance options.
- Many patrons who are accustomed to asking public library reference staff for answers to specific questions are surprised when a public law librarian will not respond with a specific answer. They do not understand the difference between information and advice.
- Many expressed their dislike of the commonly-used phrase "we are only librarians", and advocated for a stronger emphasis on what librarians *can* do, and are skilled at doing.
- Related to the comment above, librarians sometimes need to soften the perceptions of lawyers and legal services.
- One commenter said she has been offered treats and gifts to provide advice.

Running through the comments was an almost visible tension about "the fuzzy gray line". Generally, it seems that everyone draws the line in a slightly different place. Some of the differences can be attributed to institutional beliefs. Participants all strongly recommended that librarians work closely with their institutions / administration to make sure the institution's goals are being met and not overstepped, and to clearly communicate with stakeholders about boundaries and how libraries were meeting them. The most critical guidelines for each of us are those established by our parent organizations.

It was universally agreed that there should be more training available on the ethics of law reference practice. The LISP-SIS is pursuing this angle as part of its mission of *legal information services to the public*.

One of the more intense discussion strings focused on the pros and cons of having a J.D.

- Having a J.D. doesn't change the level of assistance or ability to help a patron, as they are still not the patron's legal representative.
- The J.D. can help inform the service we are able to provide.
- Many do not share the fact that they have a J.D.
- The term "lawyer-librarian" was not considered acceptable to most.
- Some, in response to a question from a patron about whether they are a lawyer, respond "no", to discourage requests for legal advice.
- One non-J.D. offered the thought that the J.D. would make it harder to know where to stop.

Five Topics in Five Days: Service Limits in Public Law Libraries

April 11-15, 2016

- Some J.D. librarians voiced the opinion that non-J.D.s provide more information that teeters on advice than those with J.D.s. The perception is that those with J.D.s have a better sense of the line. One reason offered for this opinion is that J.D.s understand they could “get in trouble with the bar.”

Resources:

- Sacramento County Public Law Library, Civil Self-Help Center
- Forms on OJD website: <http://courts.oregon.gov/OJD/OSCA/JFCPD/Pages/FLP/Forms.aspx>
- Oregon’s Lawyer Referral Services provides an unbundled half-hour consultation for \$35
- Nevada: SCR 44: <http://www.leg.state.nv.us/CourtRules/SCR.html#SCRRule44>
- *May I Help You? Legal Advice vs. Legal Information: a Resource Guide for Court Employees and Law Librarians*, Administrative Office of the Courts and the Nevada Supreme Court Commission on Law Libraries, Subcommittee on Training:
http://nvcourts.gov/AOC/Programs_and_Services/Judicial_Education/Resources_and_Events/
- *What Can I Do To Help You?*, Maryland Judiciary,
<http://mdcourts.gov/mdatjc/whatcanidotohelpyou.html>