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Leveraging Academic Law Libraries to Expand Access to Justice

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Leveraging Academic Law Libraries to Expand Access to Justice*

Paul McLaughlin, Jr.**

Academic law libraries are in a unique position to help citizens gain access to the court system and legal information. By creating clinics that focus on helping pro se patrons find and complete legal forms, academic law libraries would not only benefit their schools but also the justice system.

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Introduction: Access to Justice, the Courts, and Legal Information

¶1 Allowing citizens access to the courts and to legal information is a cornerstone of judicial administration in democratic societies and is a human right under international law.¹ Presidents, philosophers, and legal scholars have addressed the issue of equal access to justice, but in practice, there have been few improvements in making the judicial system accessible to all who seek the courts' aid.² The U.S. judicial system is facing a marked increase in the number of pro se litigants due, in part, to the economic slowdowns that have occurred in recent years.³ Access to justice is inextricably mixed with political and societal issues, which complicates the process of making legal aid available to those who need it.⁴ Despite the growing need for legal assistance, funding for legal services has been reduced, Congress has placed limitations on the assistance that Legal Service Corporation attorneys can offer, and social services have reduced the number of ways they offer support.⁵ To help citizens who represent themselves get the legal assistance and information they need, academic law librarians must adapt their methods of delivering legal information and services.⁶ State governments have begun a variety of nonattorney legal aid programs and created a number of online initiatives for those searching for legal information, but the demand for legal assistance by pro se litigants has not been met.⁷ Law libraries, while initially intended for use by legal professionals, have become places that patrons of all kinds can use.⁸ Academic law libraries have expanded their traditional reference services to include e-mail and online sessions,⁹ but their librarians are restricted as to how much aid and information they can provide due to conflicting ethical and legal guidelines governing the unauthorized practice of law.¹⁰ This article examines how academic law libraries can leverage their unique positions to improve access to justice and meet the ethical mandates of the legal profession. By creating self-help clinics, academic law libraries can not only help those needing legal assistance, but they can also bolster the law librarian profession, enhance their schools' standings, and better prepare their students for legal practice.

1. See ACCESS TO JUSTICE AS A HUMAN RIGHT 3 (Francesco Francioni ed., 2007).

2. See generally Deborah Rhode, *Access to Justice: Connecting Principles to Practice*, 17 GEO. J. LEGAL ETHICS 369, 371–72 (2004).

3. See AM. BAR ASS'N, ABA TOOLKIT FOR A RIGHT TO LEGAL COUNSEL IN CIVIL PROCEEDINGS 4–7 (2010).

4. See Richard L. Abel, *Law Without Politics: Legal Aid Under Advanced Capitalism*, 32 UCLA L. REV. 474, 476–85 (1984).

5. Mary Helen McNeal, *Unbundling and Law School Clinics: Where is Pedagogy?*, 7 CLINICAL L. REV. 341, 342–43 (2001).

6. See Paul J. Jaeger et al., *The Federal Depository Library Program (FDLP), Academic Libraries, and Access to Government Information*, 36 J. ACAD. LIBRARIANSHIP 469, 471–75 (2010).

7. See Michael J. Wolf, *Collaborative Technology Improves Access to Justice*, 15 N.Y.U. J. LEGIS. & PUB. POL'Y 759, 788–89 (2012).

8. Jerome Leone, *Malpractice Liability of a Law Librarian*, 73 LAW LIBR. J. 44, 45–46 (1980).

9. See Carol Tenopir & Lisa Ennis, *A Decade of Digital Reference, 1991–2001*, 41 REFERENCE & USER SERVS. Q. 264, 265 (2002).

10. Yvette Brown, *From the Reference Desk to the Jail House: Unauthorized Practice of Law and Librarians*, 13 LEGAL REFERENCE SERVS. Q., no. 4, 1994, at 31, 31–34.

Challenges to Ensuring Equal Access to Justice

¶2 Pro se litigants often misunderstand the nature of the problems they face, find legal advice too expensive, believe the process is too cumbersome, or think no sources are available to help with their legal problems.¹¹ Aiding low-income litigants, particularly criminal defendants, in getting the legal assistance they need is not a popular topic with attorneys, politicians, or taxpayers.¹² Despite such outlooks, numerous legal philosophers and scholars have warned that not allowing all citizens access to the legal system is an affront to the notion of justice and undermines the foundations of a democratic society.¹³ In *Farretta v. California*,¹⁴ the Supreme Court held that pro se access to the courts is a constitutional right, but it has not defined how much, if any, assistance a court or other party can offer in helping a pro se litigant gain access to the courts.¹⁵ Litigants faced with criminal charges have the right to legal counsel due to the possibility of their being deprived of personal freedom or property, though they may still choose to enter the court system pro se.¹⁶ Civil litigants have not been held to have the same right to counsel, even when issues such as their children, housing, healthcare, or work are involved.¹⁷

¶3 There are myriad reasons that those seeking access to the judicial system cannot get the aid they need, including monetary limitations, lack of information, geographic location, and the complexity of the laws and rules governing court proceedings.¹⁸ While attorneys are required for some matters, nonattorney specialists can often meet the legal needs of citizens as efficiently as licensed legal professionals.¹⁹ The Supreme Court has held that due process requires both civil and criminal litigants to have meaningful access to the courts, which includes having access to adequate legal information and assistance, whether provided by attorney or nonattorney professionals.²⁰ While helpful, the triage systems employed by the courts and other organizations to determine which litigants receive aid needs to be expanded and refined to ensure that those needing legal assistance receive services.²¹ Gaining access to low- or no-cost legal assistance is particularly important to minority groups, who often have greater legal needs.²²

11. William E. Hornsby, Jr., *Gaming the System: Approaching 100% Access to Legal Services Through Online Games*, 88 CHI-KENT L. REV. 917, 918–23 (2013).

12. Stephanos Bibas, *Shrinking Gideon and Expanding Alternatives to Lawyers*, 70 WASH. & LEE L. REV. 1287, 1293 (2013).

13. Jona Goldschmidt, *The Pro Se Litigant's Struggle for Access to Justice: Meeting the Challenge of Bench and Bar Resistance*, 40 FAM. CT. REV. 36, 38–42 (2002).

14. *Farretta v. California*, 422 U.S. 806 (1975).

15. *Id.* at 835–36.

16. *See Gideon v. Wainwright*, 372 U.S. 335, 341–45 (1963).

17. Lauren Sudeall Lucas, *Deconstructing the Right to Counsel 1* (Am. Const. Soc'y Issue Brief, 2014), https://www.acslaw.org/sites/default/files/Lucas_-_Deconstructing_the_Right_to_Counsel.pdf [<https://perma.cc/83JE-ND5W>].

18. CHARLES L. OWEN ET AL., *ACCESS TO JUSTICE: MEETING THE NEEDS OF SELF-REPRESENTED LITIGANTS* 15–16 (2002).

19. *See generally id.* at 174–81.

20. *See Turner v. Rogers*, 564 U.S. 431 (2011).

21. Daniel Curry, *The March Toward Justice: Assessing the Impact of Turner v. Rogers on Civil Access-to-Justice Reforms*, 25 GEO. J. LEGAL ETHICS 487, 496–97 (2012).

22. Ronald W. Staudt, *Technology for Justice Customers: Bridging the Digital Divide Facing Self-Represented Litigants*, 5 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 71, 71–73 (2005).

Unauthorized Practice of Law Enforcement as a Barrier to Access to Justice *Limits on Assistance from Nonlawyers*

¶4 Without nonattorney specialists assisting those who face legal issues, the judicial system would not be able to meet the needs of citizens.²³ Much like specialists in the medical field who work alongside doctors to aid patients, nonattorney specialists can help those seeking legal aid by providing moral support, assembling documents, and explaining procedural steps.²⁴ Nonattorney specialists have been found to be as effective at helping those with routine legal matters as attorneys²⁵ and are often more readily available to those needing aid.

¶5 In some jurisdictions, nonattorney specialists and nonlegal professionals can conduct legal services without attorney supervision, but they must not undertake activities that amount to the unauthorized practice of law.²⁶ A number of professionals perform functions that arguably qualify as the practice of law; these include accountants, insurance underwriters, and labor consultants.²⁷ Though the American Bar Association (ABA) has attempted to clarify the definition of unauthorized practice of law,²⁸ nonattorney professionals often remain unsure as to what actions constitute a violation.²⁹ Punishments for the unauthorized practice of law can range from contempt of court citations and injunctions to criminal misdemeanor charges.³⁰

¶6 Prohibitions on the unauthorized practice of law were created to ensure legal professionalism and prevent fraud, but some have criticized them for too narrowly restricting who can provide legal aid.³¹ The bar has been viewed as having a monopoly on legal services that is backed by the courts, which interpret bans on the unauthorized practice of law broadly to cover paralegals, notaries, and others who provide quasi-legal services, and thus limits the aid such nonattorney specialists can provide.³² Judges and lawyers have been accused of being biased against pro se litigants due to their adherence to the adversarial process of the law, the professional constraints and rules they work under, and the requirements that judicial proceedings strictly follow evidentiary and procedural rules, which make it difficult for pro se litigants to make use of the judicial process.³³ Bankruptcy courts, particularly those in Pennsylvania, have held preparers of petitions and court

23. Anthony Bertelli, *Should Social Workers Engage in the Unauthorized Practice of Law?*, 8 B.U. PUB. INT. L.J. 15, 32–40 (1998).

24. Jonathan Lippman, *The Judiciary as the Leader of the Access-to-Justice Revolution*, 89 N.Y.U. L. REV. 1569, 1586 (2014).

25. Deborah L. Rhode, *Access to Justice*, 69 FORDHAM L. REV. 1785, 1806 (2001).

26. Richard Zorza & David Udell, *New Roles for Non-Lawyers to Increase Access to Justice*, 41 FORDHAM URB. L.J. 1259, 1285–87 (2014).

27. Leone, *supra* note 8, at 50.

28. Linda Galler, *Problems in Defining and Controlling the Unauthorized Practice of Law*, 44 ARIZ. L. REV. 773, 774–75 (2002).

29. Madison Mosley, Jr., *Commentary, The Authorized Practice of Legal Reference Service*, 87 LAW LIBR. J. 203, 204–05 (1995).

30. Diane Leigh Babb, *Comment, Take Caution When Representing Clients Across State Lines: The Services May Constitute the Unauthorized Practice of Law*, 50 ALA. L. REV. 535, 537 (1999).

31. *See generally* Deborah L. Rhode & Lucy Buford Ricca, *Protecting the Profession or the Public? Rethinking Unauthorized-Practice Enforcement*, 82 FORDHAM L. REV. 2587, 2589–2606 (2014).

32. Bibas, *supra* note 12, at 1295.

33. Goldschmidt, *supra* note 13, at 42–45.

forms to an exacting degree of control when preparing documents, advertising services, or selling do-it-yourself kits.³⁴ Under the U.S. Code, those who do not follow the procedures that allow for document preparation by nonattorneys can be fined and held liable for any damages stemming from an improper preparation.³⁵

Limits on Online Resources and Software Solutions

¶7 In *Unauthorized Practice of Law Committee v. Parsons Technology*, the court held that Parsons Technology had violated Texas's unauthorized practice of law statutes by producing software that allowed customers to prepare their own legal forms using guidance provided by the software package's program, which performed functions traditionally provided by an attorney.³⁶ In reaction to the holding, the Texas legislature amended the state's unauthorized practice of law statutes to allow programs such as Parsons Technology's to be created without violating the state's unauthorized practice of law restrictions.³⁷ While the aftermath of *Parsons Technology* indicates that some policymakers are willing to relax the laws and rules governing what constitutes the unauthorized practice of law, others have expressed concerns over the possibility that information provided through electronic means could lead to mistakes if the author is not knowledgeable about the laws of the state where the visitor is located.³⁸

¶8 Arguments for making legal information available online stem from the idea that legal information should be provided at little or no cost to the public.³⁹ A number of government projects have made legal information free to access through the Internet but have not made the whole spectrum of legal resources available.⁴⁰ Electronic legal assistance in the form of machines such as Quick-Court and software that helps users create legal documents have become widely available through governmental and organizational websites.⁴¹ Courts and other official legal aid sites have provided videos, guides, podcasts, and questionnaires that assist people in finding legal information along with providing online assistance through self-help centers and guided form creation.⁴² The Legal Service Corporation, state and federal legal aid programs, and the State Justice Institute have made efforts to make information available and help pro se litigants by creating simplified forms and

34. Catherine J. Lanctot, *Scriveners in Cyberspace: Online Document Preparation and the Unauthorized Practice of Law*, 30 HOFSTRA L. REV. 811, 841-49 (2002).

35. Penalty for Persons Who Negligently or Fraudulently Prepare Bankruptcy Petitions, 11 U.S.C. § 110 (2012).

36. *Unauthorized Practice of Law Comm. v. Parsons Tech. Co.*, No. Civ.A. 3:97CV-2859H, 1999 WL 47235, at *5-*11 (N.D. Tex. Jan. 22, 1999).

37. Ann L. MacNaughton & Gary A. Munneke, *Practicing Law Across Geographic and Professional Borders: What Does the Future Hold?*, 65 TEX. B.J. 436, 440 (2002).

38. See Charles W. Wolfram, *Sneaking Around in the Legal Profession: Interjurisdictional Unauthorized Practice by Transactional Lawyers*, 36 S. TEX. L. REV. 665, 692-713 (1995).

39. Robert Berring, *On Not Throwing Out the Baby: Planning the Future of Legal Information*, 83 CALIF. L. REV. 615, 622-29 (1995).

40. Olufunmilayo B. Arewa, *Open Access in a Closed Universe: Lexis, Westlaw, Law Schools, and the Legal Information Market*, 10 LEWIS & CLARK L. REV. 797, 836-37 (2006).

41. Ethan Katsh, *Digital Lawyers: Orienting the Legal Profession to Cyberspace*, 55 U. PITT. L. REV. 1141, 1142-44 (1994).

42. James E. Cabral et al., *Using Technology to Enhance Access to Justice*, 26 HARV. J.L. & TECH. 241, 247-53 (2012).

online forms preparation systems for a variety of issues and jurisdictions.⁴³ Even with the development of free online resources such Pro Bono Net, LawHelp.org, A2J Author, Pro Bono Manager, and LawHelp Interactive by judicial and nonjudicial organizations, the need for legal assistance has not been met.⁴⁴

¶9 Academic law libraries have experienced a decrease in physical visits by patrons but an increase in use of their online sources.⁴⁵ While there are many online sources for litigants to gain information, some information may be controlled by a third party that limits access to the information for profit.⁴⁶ Having to pay to access information can strain a pro se litigant's financial resources and his or her ability to access the court system.⁴⁷ To make legal materials more accessible, academic law libraries have begun developing their own micro-archives that allow access to regional materials and specialized information that would otherwise be difficult for researchers to locate.⁴⁸ These archives, often called institutional repositories, have assisted librarians in making a variety of legal literature and materials freely accessible through the Internet.⁴⁹

¶10 While online forms and legal sources have helped pro se litigants get the information they need, under the various definitions and tests developed to determine what the practice of law is, almost any action could be considered the practice of law, including making legal information available online.⁵⁰ When publishing forms, online hosts have to be cognizant of the various rules governing attorney conduct, the potential of forming an attorney-client relationship with website visitors, and the rules controlling website content for legal professionals.⁵¹ Websites that ask visitors for information can create an unauthorized attorney-client relationship, even when they include disclaimers that the questions are for general information only and do not indicate that the services of an attorney are retained through answering the questions.⁵² Posting legal information on social media can also violate unauthorized practice of law restrictions.⁵³ If a visitor to a website with legal information resides in a state other than the host, the host can be held to violate the rules that control the interstate practice of law.⁵⁴

43. Richard Zorza, *Access to Justice: The Emerging Consensus and Some Questions and Implications*, 94 JUDICATURE 156, 160 (2011).

44. Raymond H. Brescia et al., *Embracing Disruption: How Technological Change in the Delivery of Legal Services Can Improve Access to Justice*, 78 ALB. L. REV. 553, 597–99 (2014–2015).

45. See Charles Martell, *The Absent User: Physical Use of Academic Library Collections and Services Continues to Decline 1995–2006*, 34 J. ACAD. LIBRARIANSHIP 400, 403–06 (2008).

46. See Lonny Sheinkopf Hoffman, *Access to Information, Access to Justice: The Role of Presuit Investigatory Discovery*, 40 U. MICH. J.L. REFORM 217, 220 (2007).

47. See Margaret B. Flaherty, Note, *How Courts Help You Help Yourself: The Internet and the Pro Se Divorce Litigant*, 40 FAM. CT. REV. 91, 95–97 (2002).

48. Mikhail Koulikov, *Beyond Digital Repositories: The (Sometimes) Wild World of Open Online Access to Legal Materials*, AALL SPECTRUM, Dec. 2009, at 24, 24, 26.

49. Yolanda P. Jones, *Libraries Can Help: Institutional Repositories*, 30 T.M. COOLEY L. REV. 253, 254 (2013).

50. See Cynthia L. Fountaine, *When Is a Computer a Lawyer? Interactive Legal Software, Unauthorized Practice of Law, and the First Amendment*, 71 U. CIN. L. REV. 147, 151–58 (2002).

51. Lindzey Schindler, *Skirting the Ethical Line: The Quandary of Online Legal Forms*, 16 CHAP. L. REV. 185, 193–209 (2012).

52. *Barton v. U.S. Dist. Court*, 410 F.3d 1104, 1108–12 (9th Cir. 2005).

53. Steven C. Bennett, *Ethics of Lawyer Social Networking*, 73 ALB. L. REV. 113, 127–28 (2009).

54. See Babb, *supra* note 30, at 535–40.

Limits on Law Librarian Services

¶11 Law librarians are a unique group of information specialists whose competencies and skills touch on legal matters but whose activities do not rise to the level of the practice of law because librarians do not form attorney-client relationships with those they help and are not compensated for the services they provide.⁵⁵ While other professionals have more defined boundaries as to what services they can offer, law librarians face a unique mixture of often conflicting ethical and legal duties that limit their ability to help patrons.⁵⁶ The Supreme Court, in *Bounds v. Smith*, held that for a citizen facing criminal charges to have meaningful access to the courts requires the ability to access legal information, law libraries, and assistance in finding and using the materials they need.⁵⁷ While civil litigants have not been held to have the right to access legal materials and assistance while advancing their cases, it has been argued that equal protection considerations would require that civil litigants have an equivalent right to access legal materials and assistance.⁵⁸ The American Association of Law Libraries' (AALL) ethical principles require that a law librarian not engage in the practice of law while assisting patrons.⁵⁹ Assisting patrons while avoiding the unauthorized practice of law, whether they hold a J.D. or not, places law librarians in an uncomfortable position that can make them focus on the limits of what they do for patrons rather than on assisting them.⁶⁰

¶12 Under AALL's ethical principles, law librarians are to provide equal access to legal information no matter what a patron's background or level of professional legal training.⁶¹ Different patrons require different degrees of reference services and often require instruction as to how to access the information they need.⁶² Depending on the status of a patron, librarians must tailor the services they offer so they do not commit the unauthorized practice of law, even if it means refraining from providing information that the patron needs.⁶³ Beyond face-to-face reference sessions, law librarians assist patrons using electronic means and allow access to forms or links to forms through their library's websites.⁶⁴ Even when assisting patrons through indirect electronic means, such as posting information on their library's

55. See Randy Diamond & Martha Dragich, *Professionalism in Librarianship: Shifting the Focus from Malpractice to Good Practice*, 49 *LIBR. TRENDS* 395, 404–09 (2001).

56. Maria E. Protti, *Dispensing Law at the Front Lines: Ethical Dilemmas in Law Librarianship*, 40 *LIBR. TRENDS* 234, 236–40 (1991).

57. *Bounds v. Smith*, 430 U.S. 817, 828 (1977).

58. See Robert H. Abrams & Donald J. Dunn, *The Law Library's Institutional Response to the Pro Se Patron: A Post-Faretta Review*, 1 *W. NEW ENG. L. REV.* 47, 58–66 (1978).

59. *Id.*

60. See PAUL D. HEALEY, *LEGAL REFERENCE FOR LIBRARIANS: HOW AND WHERE TO FIND THE ANSWERS* 17–20 (2014).

61. See *AALL Ethical Principles*, AALL (approved Apr. 5, 1999), <http://www.aallnet.org/mm/Leadership-Governance/policies/PublicPolicies/policy-ethics.html> [<https://perma.cc/34NG-DLF7>].

62. Paul A. Arrigo, *Taking Time for Legal Research Instruction at the Reference Desk*, 19 *LEGAL REFERENCE SERVS. Q.*, nos. 1–2, 2001, at 75, 78–85.

63. C.C. Kirkwood & Tim J. Watts, *Legal Reference Service: Duties v. Liabilities*, *LEGAL REFERENCE SERVS. Q.*, Summer 1983, at 67, 70–74.

64. See Lee Sims, *Academic Law Library Web Sites: A Source of Service to the Pro Se User*, 23 *LEGAL REFERENCE SERVS. Q.*, no. 1, 2004, at 1, 15–19.

website, librarians have limits on what they can do to help patrons due to the rules that govern law librarian's activities.⁶⁵

¶13 Scholars disagree as to what constitutes an appropriate range of services that law librarians can offer to public patrons.⁶⁶ Richmond recommends that librarians not allow patrons to give narratives about their situations and then to limit assistance to directing patrons to books and materials that could be of use.⁶⁷ Protti encourages a more open approach and writes that law librarians must make the information that a patron accesses understandable to the patron, even if the librarian brushes against the ethical and legal boundaries placed on them; otherwise, they fail in providing complete reference services and helping patrons access the legal system.⁶⁸

¶14 Law librarians also have to be cognizant of the possibility of legal claims being brought against them for providing incorrect information to a patron.⁶⁹ Healey writes that librarians face little risk in being charged with the unauthorized practice of law; he analyzed the few available articles that debated how librarians could be held liable for damages stemming from professional malpractice due to erroneous information given during a reference session.⁷⁰ However, librarians who work in specialized libraries could still face malpractice claims.⁷¹ It has been argued that public law librarians are immune from lawsuits due to their status as government employees and are protected by sovereign immunity.⁷² While the matter has not been settled definitively, experts have come to the consensus that the possibility of librarians facing a claims for damages due to professional malpractice are quite small due to the nature of what librarians do and that librarians are often not considered to hold professional positions.⁷³

¶15 Law library patrons often have misconceptions about what services librarians can offer.⁷⁴ When patrons learn that librarians are limited in what they can do, it may leave them confused and frustrated.⁷⁵ Law libraries, suggests one commentator, could post signage that explains what librarians can do when assisting patrons during in-person reference sessions.⁷⁶ A possible solution to avoid unauthorized practice of law claims when assisting patrons online is to post to library

65. *Id.* at 23–24.

66. Larry D. Richmond, Jr., *The Pro Se Patron: An Ethical Rather than Legal Dilemma*, 22 LEGAL REFERENCE SERVS. Q., nos. 2–3, 2003, at 75, 81–83.

67. *Id.* at 81–82.

68. Protti, *supra* note 56, at 236–40.

69. Leone, *supra* note 8, at 64–65.

70. Paul D. Healey, *Chicken Little at the Reference Desk: The Myth of Librarian Liability*, 87 LAW LIBR. J. 515, 516–19 (1995).

71. Mark Mackler & Michael Saint-Onge, Commentary, *The Sky May Yet Fall on Firm Librarians: A Reply to "Chicken Little at the Reference Desk,"* 88 LAW LIBR. J. 456, 458–60 (1996).

72. John Cannan, *Are Public Law Librarians Immune from Suit? Muddying the Already Murky Waters of Law Librarian Liability*, 99 LAW LIBR. J. 7, 12–14, 2007 LAW LIBR. J. 1, ¶¶ 12–14.

73. *Id.* at 30–31, ¶ 53.

74. Paul D. Healey, *In Search of the Delicate Balance: Legal and Ethical Questions in Assisting the Pro Se Patron*, 90 LAW LIBR. J. 129, 134 (1998).

75. *Id.* at 133.

76. Charles J. Condon, *How to Avoid the Unauthorized Practice of Law at the Reference Desk*, 19 LEGAL REFERENCE SERVS. Q., nos. 1–2, 2001, at 165, 171.

websites the institutional policies and clear and visible disclaimers that librarians cannot give legal advice.⁷⁷

Accessibility of Legal Information as a Barrier to Equal Access to Justice

Physical Barriers to Legal Information

¶16 Beyond the limitations on who can give legal aid, considerations such as distance and time can have negative impacts on patrons who have to travel to get legal aid.⁷⁸ The lack of a local law school library is often one of the first barriers that pro se litigants encounter when trying to access the justice system.⁷⁹ During the 1970s, law libraries distanced themselves from providing services to public patrons due to the time commitments involved, the ready availability of public libraries, and the possibility of running afoul of unauthorized practice of law restrictions.⁸⁰ Changes in the requirements for government documents to be made available to the public under the Depository Library Act, the E-Government Act, and the *Faretta* holding have pushed law libraries to become more active in helping members of the public find the legal information they need.⁸¹

Composition of Legal Information as a Barrier to Access to Justice

¶17 The first legal publications, created and used by legal professionals, gave little insight into the law for readers from outside the profession.⁸² William Blackstone, an English judge and legal scholar, first organized legal materials in a way that allowed researchers to efficiently find the information they needed and to organize the concepts of law in an accessible manner.⁸³ In the 1890s, John West adapted Blackstone's concepts by taking U.S. court opinions, binding them in volumes, and creating a system that organized the materials according to their legal topics.⁸⁴ West assigned each topic a corresponding number within a digest system that researchers could use to gather materials that discussed the same legal topic.⁸⁵ West's case publications and organizational scheme later developed into the National Reporter System,⁸⁶ which has profoundly influenced the organization,

77. Artie Berns & Corrine Vogel, *Tell It to the World (Wide Web): Promulgating Academic Law Library Pro Se Patron Policies via the Internet*, AALL SPECTRUM, Apr. 2015, at 29, 29.

78. See Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 S.D. L. REV. 466, 504–08 (2014).

79. AM. ASS'N OF LAW LIBRARIES, LAW LIBRARIES AND ACCESS TO JUSTICE: A REPORT OF THE AMERICAN ASSOCIATION OF LAW LIBRARIES SPECIAL COMMITTEE ON ACCESS TO JUSTICE 7 (2014), <http://www.aallnet.org/mm/Publications/products/atjwhitepaper.pdf> [<https://perma.cc/QR7Z-K7RT>].

80. Paul T. Jaeger & John Carlo Bertot, *Responsibility Rolls Down: Public Libraries and the Social and Policy Obligations of Ensuring Access to E-government and Government Information*, 30 PUB. LIBR. Q. 91, 96 (2011).

81. Leone, *supra* note 8, at 48–49.

82. Robert C. Berring, *Legal Research and Legal Concepts: Where Form Molds Substance*, 75 CALIF. L. REV. 15, 16 (1987).

83. Robert C. Berring, *Legal Research and the World of Thinkable Thoughts*, 2 J. APP. PRAC. & PROCESS 305, 308 (2000).

84. Ian Gallacher, *Forty-Two: The Hitchhiker's Guide to Teaching Legal Research to the Google Generation*, 39 AKRON L. REV. 151, 160–61 (2006).

85. *Id.* at 161.

86. Robert C. Berring, *Full-Text Databases and Legal Research: Backing Into the Future*, 1 HIGH TECH. L.J. 27, 31 (1986).

structure, and retrieval of American legal information.⁸⁷ But what for years has been considered a success is now being named as a contributor to the imbalance in access to legal information: by giving a small group of publishers control over what legal information is available for public access, the current reporting system's commercial giants exert power over the legal system.⁸⁸ West Publishing, in particular, has been accused of using its influence over judges to ensure that it remains the main publisher of legal information.⁸⁹

¶18 With the vast and constantly increasing amount of legal information, legal professionals have come to rely on electronic searches to find the information they need, and law students are trained to use such tools over print materials.⁹⁰ The shift from print to digital legal materials has allowed researchers to gather legal and multidisciplinary materials efficiently, but it has also made knowing the proper way to conduct legal research more necessary than at any other time.⁹¹ The structure of West's digests and subject divisions has been adapted to fit the digital format, which has led to changes in how legal research is conducted—that is, from thinking about broad legal concepts to picking the words and phrases most likely to retrieve the information a researcher needs based on a search program's parameters.⁹² Natural language searches, a commonly used electronic legal information retrieval method, can return useful or useless materials, depending on the search used and how the information is interpreted by the search program and categorized by the individual who imputed the information.⁹³

¶19 The law has expanded beyond its traditional bounds and includes materials from agencies, local ordinances, municipal codes, and other sources that citizens can access through governmental websites.⁹⁴ Until the development of digital legal sources, libraries served as the primary holders of legal information.⁹⁵ Most law libraries—whether court, county, or private—have scaled down their print collections and increased their use of digital sources.⁹⁶ With the wider use of electronic publishing and increased reliance on computer-aided indexing and natural language searches, the patterns of legal topic organization created by Blackstone and West have begun to shift or dissolve.⁹⁷ Digital searching has allowed new viewpoints into the legal realm, including critical race theory and feminism.⁹⁸ Courts,

87. F. Allan Hanson, *From Key Numbers to Keywords: How Automation Has Transformed the Law*, 94 LAW LIBR. J. 563, 567–68, 2002 LAW LIBR. J. 36, ¶¶ 12–13.

88. *Id.* at 568, ¶¶ 13–14.

89. *Id.* at 567, ¶ 13.

90. Sheila F. Miller, *Are We Teaching What They Will Use? Surveying Alumni to Assess Whether Skills Teaching Aligns with Alumni Practice*, 32 MISS. C. L. REV. 419, 432 (2014).

91. *Id.* at 440–41.

92. See Barbara Bintliff, *From Creativity to Computerese: Thinking Like a Lawyer in the Computer Age*, 88 LAW LIBR. J. 338, 345–47 (1996).

93. *Id.* at 347.

94. Yvonne J. Chandler, *Accessing Legal and Regulatory Information in Internet Resources and Documents*, 44 J. LIBR. ADMIN. 263, 300–04 (2006).

95. See Arewa, *supra* note 40, at 833–34.

96. See Lee F. Peoples, *The Death of the Digest and the Pitfalls of Electronic Research: What Is the Modern Legal Researcher to Do?*, 97 LAW LIBR. J. 661, 661, 2005 LAW LIBR. J. 41, ¶ 1.

97. Carol M. Bast & Ransford C. Pyle, *Legal Research in the Computer Age: A Paradigm Shift?*, 93 LAW LIBR. J. 285, 299, 2001 LAW LIBR. J. 13, ¶ 54.

98. Jean Stefancic & Richard Delgado, *Outsider Jurisprudence and the Electronic Revolution: Will Technology Help or Hinder the Cause of Law Reform?*, 52 OHIO ST. L.J. 847, 847, 853–54 (1991).

including the Supreme Court, now commonly cite to nonlegal materials, which has further blurred the line as to what is considered legal information.⁹⁹ Law libraries are leasing access to information of all kinds through online publishers rather than owning their legal information sources.¹⁰⁰ The trend of legal information becoming available only through online databases has put commercial vendors in control of what materials are available for the public and has eliminated centralized points of access for individuals to search for legal information, even if pro se litigants visit the law library for assistance.¹⁰¹

Law Library–Based Solutions

¶20 Modern legal ethics have begun to articulate more than vague aims and ideas concerning access to justice, equality, and working for the public interest. They may urge concrete actions to improve the legal profession and the justice system.¹⁰² To make legal information more accessible, states have initiated programs to create centralized website networks for those seeking legal information and have offered online, graphically based interview programs that help users determine what documents and information they need.¹⁰³ Law schools and students have begun to contribute to the effort to make legal information available online by creating software that pro se litigants can use to generate documents,¹⁰⁴ but more needs to be done to help those seeking access to justice. Morris Cohen, the influential director of the Yale Law School library and legal scholar, advocated that law libraries serve as central resources for universities, legal professionals, public patrons, and students, with librarians serving as innovators and teachers.¹⁰⁵ Academic law libraries, with their inherent combination of legal information experts and sources, can become indispensable to their communities and schools and make significant contributions to access to justice efforts through the creation of self-help clinics.

¶21 Government officials have prompted law libraries to use Internet-based sources to help patrons access forms for a variety of functions and to help them enroll in medical insurance programs.¹⁰⁶ Mimicking methods used by nonattorney professionals to deliver legal services under Washington State's Limited License Technician program, librarians can work with local bar associations and courts to provide legal aid online without committing the unauthorized practice of law and without creating an attorney-client relationship during electronic assistance

99. Frederick Schauer & Virginia J. Wise, *Nonlegal Information and the Delegalization of Law*, 29 J. LEGAL STUD. 495, 500–10 (2000).

100. See John Palfrey, *Cornerstones of Law Libraries for an Era of Digital-Plus*, 102 LAW LIBR. J. 171, 184, 2010 LAW LIBR. J. 11, ¶ 49.

101. Arewa, *supra* note 40, at 833–34.

102. See Trevor C.W. Farrow, *Sustainable Professionalism*, 46 OSGOODE HALL L.J. 51, 53–56 (2008).

103. See, e.g., Staudt, *supra* note 22, at 79–90.

104. Marc Lauritsen, *Liberty, Justice, and Legal Automata*, 88 CHI-KENT L. REV. 945, 947–48 (2013).

105. S. Blair Kauffman, *Cornerstones for Enduring Law Libraries: Morris Cohen's Influence at Yale*, 104 LAW LIBR. J. 45, 46, 2012 LAW LIBR. J. 8, ¶ 5.

106. See John Carlo Bertot et al., *Drafted: I Want You to Deliver E-Government*, LIBR. J., Aug. 2006, at 34, 35–36.

sessions.¹⁰⁷ In Michigan, lawyers, legal aid organizations, law librarians, and a member of the Michigan Supreme Court coordinated their access to justice efforts to create the Michigan Legal Help website, which allows access to online forms and research handbooks for pro se litigants.¹⁰⁸ Librarians can use their libraries' and schools' Internet presence as platforms to publish materials they create and to act as or establish gateways to governmental information hubs.¹⁰⁹ The expansion of online government publications has caused an increase in grey legal literature (publications not categorized and controlled by commercial publishers), which can provide the information that patrons need and that law librarians have skill at navigating.¹¹⁰ By creating online resources and research guides, law librarians can provide structures that facilitate a logical flow of questions or information frameworks that guide patrons to the information they need.¹¹¹

¶22 Meaningful access to information requires more than physical or electronic access alone; it requires patrons to have the means to understand the information they access.¹¹² Beyond helping patrons find the information they need, librarians must assist them to interpret the information.¹¹³ The Oakland County Law Library, as part of a wider access to justice clinic network in Michigan, has created its own self-help clinic that combines its staff's knowledge with the resources available through the Michigan Legal Help website to help pro se litigants.¹¹⁴ Academic law libraries can follow the Oakland County Law Library's example and create their own self-help clinics that use law librarians to teach in-depth workshops in legal topics.¹¹⁵ The establishment of law school legal clinics has been one of the most influential developments in legal education and has helped law schools meet the legal needs of their communities and the educational needs of their students.¹¹⁶ Every state has a student practice rule that allows students to provide all the functions of a lawyer while being supervised by licensed attorneys.¹¹⁷ The vast majority of law schools have legal clinics, which are often one of the few opportunities for students to gain practice experience before completing their studies.¹¹⁸

107. See Kara Noel, *The Unbundling of Legal Service and Its Implications for Law Librarianship*, 34 LEGAL REFERENCE SERVS. Q. 245, 260–63 (2015).

108. Yolanda Jones & Caroline Ilako, *Dynamic Law Libraries: Access, Development and Transformation in Africa and the United States 4* (IFLA WLIC conference paper, Aug. 2015), <http://library.ifla.org/1120/1/114-jones-en.pdf> [<https://perma.cc/57KW-22PE>].

109. See Ellen R. Tise et al., *Libraries Driving Access to Knowledge: A Discussion Paper*, 34 IFLA J. 341, 344 (2008).

110. Taryn L. Rucinski, *The Elephant in the Room: Toward a Definition of Grey Legal Literature*, 107 LAW LIBR. J. 543, 544–45, 2015 LAW LIBR. J. 26, ¶ 3.

111. See Zorza & Udell, *supra* note 26, at 1298–99.

112. See Peter Johan Lor & Johannes Jacobus Britz, *Is a Knowledge Society Possible Without Freedom of Access to Information?*, 33 J. INFO. SCI. 387, 390 (2007).

113. Noel, *supra* note 107, at 251–52.

114. Jones & Ilako, *supra* note 108, at 4.

115. See, e.g., Amy C. Henderson, *Meaningful Access to the Courts? Assessing Self-Represented Litigants' Ability to Obtain a Fair, Inexpensive Divorce in Missouri's Court System*, 72 UMKC L. REV. 571, 580–81 (2003).

116. See Stephen Wizner, *The Law School Clinic: Legal Education in the Interests of Justice*, 70 FORDHAM L. REV. 1929, 1934 (2002).

117. Elliot S. Milstein, *Clinical Legal Education in the United States: In-House Clinics, Externships, and Simulations*, 51 J. LEGAL EDUC. 375, 376 (2001).

118. Erwin Chemerinsky, *Rethinking Legal Education*, 43 HARV. C.R.-C.L. L. REV. 595, 595 (2008).

Benefits Beyond Helping Pro Se Litigants from Library-Based Self-Help Clinics

Benefits to the Law School Library

Enhances the Library's Position Within Its Community and School

¶23 With limited budgets, pressure to modernize their facilities, and demands to offer a broader array of services, law libraries must find productive means to meet the needs of their patrons, maintain funding, and remain relevant.¹¹⁹ The ABA has changed its accreditation standards for academic law libraries to encourage them to be innovative in their use of their resources and to expand beyond their traditional roles.¹²⁰ An increasing dependence on digital resources has led law libraries to reduce their physical collections and create spaces for classrooms and computer labs.¹²¹ Much as they have shifted their libraries' collections and research methods, law librarians must adapt their roles as legal education professionals.¹²² Through self-help clinics, librarians can teach their students about the numerous nonreporter and nonstatutory sources of legal information, such as formbooks and practice guides, which might not be covered in a standard legal research class.¹²³ Librarians can also use the clinic setting to teach students effective and practical research skills to resolve a client's legal problem rather than having them look for a particular answer to an exercise.¹²⁴

Confirms Law Librarians as Law School Faculty

¶24 Most law librarian positions below the level of library director are not given faculty status in their law schools.¹²⁵ It has been found that academic qualifications and the status of the school where professors earned their J.D. degrees have more impact on their rank within their schools than their teaching ability or other credentials.¹²⁶ While there has been a rise in the number of law professors who hold a degree other than a J.D.,¹²⁷ a noticeable portion of law school faculty hold a J.D. alone.¹²⁸ Law professors must have knowledge of the subjects they teach, but they do not have to have training in conveying that knowledge to students in a classroom

119. See Connie Lenz, *The Public Mission of the Public Law School Library*, 105 LAW LIBR. J. 31, 54–55, 2013 LAW LIBR. J. 2, ¶¶ 56–58.

120. Theodora Belniak, *The History of the American Bar Association Accreditation Standards for Academic Law Libraries*, 106 LAW LIBR. J. 151, 171–73, 2014 LAW LIBR. J. 9, ¶¶ 68–73.

121. Kenneth J. Hirsh, *Like Mark Twain: The Death of Academic Law Libraries Is an Exaggeration*, 106 LAW LIBR. J. 521, 528–29, 2014 LAW LIBR. J. 29, ¶ 23.

122. Terry Hutchinson, *Valé Bunny Watson? Law Librarians, Law Libraries, and Legal Research in the Post-Internet Era*, 106 LAW LIBR. J. 579, 591, 2014 LAW LIBR. J. 32, ¶ 37.

123. Randy J. Diamond, *Advancing Public Interest Practitioner Research Skills in Legal Education*, 7 N.C. J.L. & TECH. 67, 121–24 (2005).

124. *Id.* at 72–82.

125. Barbara A. Bintliff et al., *Rebuilding the Profession: Recommendations for Librarians Interested in Becoming Academic Law Library Directors*, 99 LAW LIBR. J. 101, 106, 2007 LAW LIBR. J. 6, ¶ 26.

126. Donna Fossum, *Law Professors: A Profile of the Teaching Branch of the Legal Profession*, 5 AM. BAR FOUND. RES. J. 501, 521–28 (1980).

127. See Joni Hersch & W. Kip Viscusi, *Law and Economics as a Pillar of Legal Education*, 8 REV. L. & ECON. 487, 489–92 (2012).

128. See Justin McCrary et al., *The Ph.D. Rises in American Law Schools, 1960–2011: What Does It Mean for Legal Education?*, 65 J. LEGAL EDUC. 543, 553 (2016).

setting.¹²⁹ Many law librarian positions now require that applicants hold both a J.D. and a master's degree in library and information science.¹³⁰ Master's degrees in library and information science stress not only information literacy, but also the ability to teach research concepts and methods,¹³¹ which is not emphasized in most advanced degrees' curriculum.¹³² It has been found that without both degrees, law librarians often face challenges in meeting the requirements of their positions in finding legal information and instructing patrons in using legal reference materials.¹³³

¶25 Studies showing that many law schools are not in compliance with ABA standards in providing their library directors a faculty position and changes in the ABA's requirements for directors to hold a J.D. and a master's in library science reflect the prevalent opinion that law librarians of all ranks should not be counted among law school faculty.¹³⁴ Creating self-help clinics would bolster law librarians' positions since a licensed attorney must oversee legal clinic activities.¹³⁵ Using a clinic setting to enhance their roles as instructors, law librarians could assist in creating more effective legal research classes, relieve pressure on legal writing professors by separating legal research from legal writing, and provide knowledge of current research practices and materials to their students,¹³⁶ while affirming their status as full faculty members.

Creates an Opportunity to Define Law Librarians' Service Boundaries

¶26 Defining where librarians' reference assistance ends and where their libraries' self-help clinics' services begin will aid librarians in avoiding the unauthorized practice of law during reference sessions and help them gain malpractice coverage for the actions they undertake when acting as members of the clinics.¹³⁷ One of the key issues that law librarians face when interacting with patrons is determining when their actions could progress into the practice of law.¹³⁸ To avoid possible ethical or legal issues, law librarians can work with their law schools' administrations to define the boundaries of what they can do when helping clinic clients and when

129. Kevin H. Smith, *How to Become a Law Professor Without Really Trying: A Critical, Heuristic, Deconstructionist and Hermeneutical Exploration of Avoiding the Drudgery Associated with Actually Working as an Attorney*, 47 U. KAN. L. REV. 139, 144 (1998).

130. Stephen Young, *The Dual Degree: A Requirement in Search of a Justification*, AALL SPECTRUM, Dec. 2012, at 7.

131. See Claudene Sproles et al., *What the Teachers Are Teaching: How MLIS Programs Are Preparing Academic Librarians for Instructional Roles*, 49 J. EDUC. LIBR. & INFO. SCI. 195, 203–07 (2008).

132. See Nira Hativa, *Becoming a Better Teacher: A Case of Changing the Pedagogical Knowledge and Beliefs of Law Professors*, 28 INSTRUCTIONAL SCI. 491, 493–97 (2000).

133. See Elizabeth Caulfield, *Is This a Profession? Establishing Educational Criteria for Law Librarians*, 106 LAW LIBR. J. 287, 325, 2014 LAW LIBR. J. 19, ¶ 126.

134. Michael J. Slinger & Sarah C. Slinger, *The Career Path, Education, and Activities of Academic Law Library Directors Revisited Twenty-Five Years Later*, 107 LAW LIBR. J. 175, 193, 2015 LAW LIBR. J. 8, ¶ 104.

135. See David Hricik, *Life in Dark Waters: A Survey of Ethical and Malpractice Issues Confronting Adjunct Law Professors*, 42 S. TEX. L. REV. 379, 405–15 (2001).

136. Carol A. Parker, *How Law Schools Benefit When Librarians Publish, Teach, and Hold Faculty Status*, 30 LEGAL REFERENCE SERVS. Q. 237, 240–43 (2011).

137. See Laura L. Rovner, *The Unforeseen Ethical Ramifications of Classroom Faculty Participation in Law School Clinics*, 75 U. CIN. L. REV. 1113, 1179–85 (2006).

138. Mosley, *supra* note 29, at 204.

providing reference services to patrons.¹³⁹ If it appears to a librarian that a patron will require help beyond reference services, he or she can direct the patron to the library's self-help clinic, which will do an intake and explain the limits of the clinic's services.¹⁴⁰

Benefits of Law Library Self-Help Clinics for Law Schools and Students

Law School Benefits

¶27 To remain marketable, law schools must provide students the practical skills that employers now demand of new hires.¹⁴¹ Clinics allow law schools to expand their class offerings into new areas of the law and create dialogues between students and faculty as to whether the schools' courses are preparing students to succeed in their future practices.¹⁴² Law schools must also show that they can provide research support on a wide variety of topics for students while in law school and in their later professional positions.¹⁴³ Increasingly, law school clinics are accepting clients with particular kinds of legal issues to reflect the trend of specialization in legal practice and to make things more predictable for professors and students.¹⁴⁴ By offering broader-based access to justice clinics, such as library-based self-help clinics, law schools can instill in their students the skills needed to help their clients with a variety of issues¹⁴⁵ and demonstrate they have the experts and resources to support their students in their future endeavors, whatever areas of practice they enter into. Broad-based legal clinics also allow schools to show students the many avenues that a legal profession can take, which can help students find the areas of law where they will find satisfaction working, and can help their schools strengthen their alumni relations, which can help their students find jobs.¹⁴⁶

¶28 The ABA has stressed that law schools should do more to encourage their students to be active in social justice projects and in assisting society as a whole.¹⁴⁷ Law schools must teach their students how the law affects their communities, or they fail a key part of educating their students about what legal advocacy means.¹⁴⁸ Through library-centered self-help clinics, law schools can become integral parts of

139. Rovner, *supra* note 137, at 1180–82.

140. See Robert R. Kuehn & Peter A. Joy, *An Ethics Critique of Interference in Law School Clinics*, 71 *FORDHAM L. REV.* 1971, 2030–37 (2002).

141. Daniel Thies, *Rethinking Legal Education in Hard Times: The Recession, Practical Legal Education, and the New Job Market*, 59 *J. LEGAL EDUC.* 598, 605–07 (2010).

142. Frank S. Bloch, *The Andragogical Basis of Clinical Legal Education*, 35 *VAND. L. REV.* 321, 323–26 (1982).

143. Jootaek Lee, *Frontiers of Legal Information: The U.S. Law Librarians of the Future*, 43 *INT'L J. LEGAL INFO.* 411, 427 (2015).

144. JoNel Newman, *Re-Conceptualizing Poverty Law Clinical Curriculum and Legal Services Practice: The Need for Generalists*, 34 *FORDHAM URB. L.J.* 1303, 1311 (2007).

145. Antoinette Sedillo Lopez, *Learning Through Service in a Clinical Setting: The Effect of Specialization on Social Justice and Skills Training*, 7 *CLINICAL L. REV.* 307, 316–21 (2001).

146. Howard R. Sacks, *Clinical Legal Education at the University of Connecticut School of Law*, 16 *CONN. L. REV.* 765, 765 (1984). *But see* Alex M. Johnson, Jr., *Think Like a Lawyer, Work Like a Machine: The Dissonance Between Law School and Law Practice*, 64 *S. CAL. L. REV.* 1231, 1256 (1991).

147. See John O. Sonsteng et al., *A Legal Education Renaissance: A Practical Approach for the Twenty-First Century*, 34 *WM. MITCHELL L. REV.* 303, 331–32 (2007).

148. Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 *CLINICAL L. REV.* 37, 39–44 (1995).

their communities, create a network of connections for their schools and students, and gain access to resources that otherwise would not be available.¹⁴⁹

¶29 One of the main functions of law libraries in the new era of digital information is to work with organizations of all varieties to exchange ideas, make legal information more widely available, and put their law schools into people's minds.¹⁵⁰ Often, law schools that offer clinic course options and assist the local legal community gain funding and support from their local bar associations.¹⁵¹ If libraries open their clinic training sessions to attorneys outside the school, they can serve as centers of professional camaraderie and development, create links with solo and firm practitioners in their area, and allow networking opportunities for their students with potential employers.¹⁵² Some issues facing those who enter the legal system pro se have become international in scope and require coordinated efforts by governments and organizations around the world to counter.¹⁵³ By creating library-based self-help clinics that develop Internet platforms for legal materials and research and provide services to clients and patrons around the world, law libraries can expose their students to international issues and legal concepts, get their schools' names out on the global market, and potentially gain funding for their schools from organizations such as the United Nations.¹⁵⁴

Benefits for Law Students

¶30 Law students are classified as adult learners and have been found to develop new skills more efficiently when using them in a manner that will directly apply to their professional activities.¹⁵⁵ Christopher Langdell, Harvard law school dean and founder of the case law method of teaching legal theory, perceived the law library as a laboratory where students learned legal concepts and their practical applications.¹⁵⁶ In keeping with Langdell's vision, librarians can establish self-help legal clinics to not only help their patrons but to also create learning opportunities for students.¹⁵⁷ By including students in self-help clinic activities, law librarians can use their knowledge, nontraditional teaching methods, and pedagogy to introduce students to the ethical and practical issues they will face when in practice.¹⁵⁸

¶31 The Socratic Method approach to teaching law does not adequately prepare students for working with a diverse body of clients and within a cooperative group

149. David J. Herring, *Clinical Legal Education: Energy and Transformation*, 31 U. Tol. L. Rev. 621, 627 (2000).

150. Palfrey, *supra* note 100, at 174–75, ¶ 12.

151. Quintin Johnstone, *Law School Legal Aid Clinics*, 3 J. Legal Educ. 535, 537–38 (1951).

152. Joan Rataic-Lang, *The Collaborative Law Librarian: The Partnership Between the Library and the Lawyer's Association*, ALL-SIS NEWSL., Winter 2015, at 16, 16.

153. See Edgar S. Cahn, *Reinventing Poverty Law*, 103 YALE L.J. 2133, 2133 (1994).

154. See Richard J. Wilson, *Training for Justice: The Global Reach of Clinical Legal Education*, 22 PENN ST. INT'L L. REV. 421, 424–28 (2004).

155. See JOHN O. SONSTENG ET AL., A LEGAL EDUCATION RENAISSANCE: A PRACTICAL APPROACH FOR THE TWENTY-FIRST CENTURY: THE HISTORY AND STATUS OF LEGAL EDUCATION 113–16 (2008).

156. Richard A. Danner, *Law Libraries and Laboratories: The Legacies of Langdell and His Metaphor*, 107 LAW LIBR. J. 7, 27, 2015 LAW LIBR. J. 1, ¶ 49.

157. See Tiffany Buxton, Note, *Foreign Solutions to the U.S. Pro Se Phenomenon*, 34 CASE W. J. INT'L L. 103, 124–25 (2002).

158. See Vicenç Feliú & Helen Frazer, *Embedded Librarians: Teaching Legal Research as a Lawyering Skill*, 61 J. Legal Educ. 540, 556–59 (2012).

setting.¹⁵⁹ Working collaboratively on projects while in the classroom or through electronic forums fosters students' interpersonal skills and awareness of working with a group to accomplish a task.¹⁶⁰ It has been found that students in legal clinic settings tend to use a social networking approach to seek information,¹⁶¹ which enhances their ability to learn concepts at a higher level of understanding and to produce quality works.¹⁶² The traditional classroom method of teaching legal practice also tends to teach students ideologies and methods that are often more harmful than helpful to those seeking legal aid who have limited resources.¹⁶³ Working in clinics that help with a variety of issues, students learn alternative approaches to solving legal needs, such as participating in legal hotline programs and creating legal information packets.¹⁶⁴ Allowing students to approach their clients' issues in a variety of ways provides them an opportunity to develop a broader view of what the judicial system was created to do when examining the concepts of fairness and justice.¹⁶⁵

¶32 Attorneys have begun to employ Internet marketing, including posting on social media sites, as part of their practices.¹⁶⁶ The use of Internet communication services has allowed attorneys new forums to correspond with potential clients and other legal professionals, but its use has also raised a variety of ethical concerns.¹⁶⁷ Posts made on attorneys' personal or professional pages on sites such as Facebook, whether posted by the owner of the page or not, can have serious consequences for legal practices.¹⁶⁸ Through assisting in the creation of online materials for their self-help clinics, law students can learn how legal concepts can be transferred to practical information sites and formatted into working documents.¹⁶⁹ During the process of creating and posting legal materials to the Internet, law librarians can teach students the ethical and professional considerations they must be aware of when making information available online.¹⁷⁰ Students need to understand the possible ramifications of their online activities before they enter into the legal profession

159. See Vernellia R. Randall, *Increasing Retention and Improving Performance: Practical Advice on Using Cooperative Learning in Law Schools*, 16 T.M. COOLEY L. REV. 201, 211–12 (1999).

160. WILLIAM CLYDE & ANDREW DELOHERY, *USING TECHNOLOGY IN TEACHING* 70–71 (2005).

161. See Yolanda Patrice Jones, "Just the Facts Ma'am?" A Contextual Approach to the Legal Information Use Environment 175–81 (Mar. 2008) (unpublished Ph.D. dissertation, Drexel University), <https://idea.library.drexel.edu/islandora/object/idea%3A2837>.

162. CLYDE & DELOHERY, *supra* note 160, at 55.

163. See Stephen Wexler, *Practicing Law for Poor People*, 79 YALE L.J. 1049, 1049–53 (1970).

164. Katherine R. Kruze, *Biting Off What They Can Chew: Strategies for Involving Students in Problem-Solving Beyond Individual Client Representation*, 8 CLINICAL L. REV. 405, 409, 417–18 (2002).

165. See Jane H. Aiken, *Provocateurs for Justice*, 7 CLINICAL L. REV. 287, 290–98 (2001).

166. Margaret M. DiBianca, *Ethical Risks Arising from Lawyers' Use of (and Refusal to Use) Social Media*, 12 DEL. L. REV. 179, 179 (2011).

167. See Amy-Kate Roedger, Comment, *Wall Posts, Status Updates, and the Bar: How Social Networking Impacts Character and Fitness Requirements*, 35 J. LEGAL PROF. 145, 148–49 (2010).

168. Tal Harari, *Facebook Frenzy Around the World: The Different Implications Facebook Has on Law Students, Lawyers, and Judges*, 19 ILSA J. INT'L & COMP. L. 1, 20 (2012).

169. See Paul D. Callister, *Time to Blossom: An Inquiry into Bloom's Taxonomy as a Hierarchy and Means for Teaching Ordered Legal Research Skills*, 102 LAW LIBR. J. 191, 212–18, 2010 LAW LIBR. J. 12, ¶ 42.

170. See Anna P. Hemingway, *Keeping It Real: Using Facebook Posts to Teach Professional Responsibility and Professionalism*, 43 N.M. L. REV. 43, 53–57 (2013).

since state character and fitness boards can review their posts as part of their bar application process and employers often review candidates' social media presences before making a decision to hire.¹⁷¹

Possible Drawbacks to Library-Based Self-Help Clinics

¶33 Establishing self-help clinics can have a variety of benefits for both law libraries and their schools, but law school clinics can also have their drawbacks. Due to the debate of whether to classify law students as full attorneys or student practitioners under the ethical rules, there could be professional responsibility issues for faculty involved in the clinic.¹⁷² Of particular concern are the rules that control conflicts with clients.¹⁷³ Conflicts of interest can arise between faculty and students, faculty and outside legal groups, and students and their future employers, which can adversely affect students' ability to find a professional position after they have completed their studies.¹⁷⁴

¶34 Clinics can provide law schools with positive standing in their communities, but they can also cause the school to face political pressure to curtail or stop activities that would potentially harm local businesses or touch on politically volatile topics.¹⁷⁵ Clinics that receive funding from community groups can become beholden to those giving the funds, which could compromise the clinics' independence when conducting activities.¹⁷⁶ Clinics can establish rules as to who qualifies to be a client and what topics they will assist with, but they must remain within the limits of the student practice laws of their jurisdiction.¹⁷⁷ There have been incidences of judicial rulemakers being pressured to change the rules that govern student clinic activities by business and political groups when clinics took up controversial topics.¹⁷⁸ If the rules that govern student practice limits change, clinics must adapt their procedures to reflect the new rules, which can limit the services that law clinics offer and diminish the impact they have in their communities.¹⁷⁹

Conclusion

¶35 Access to justice has been an issue concerning legal systems throughout history. Though many approaches have been used, allowing full access to the courts for citizens remains an aspiration rather than a reality. Due to recent economic downturns and limitations placed on social service providers, access to the court system for pro se litigants has become more difficult to obtain. To increase access

171. Harari, *supra* note 168, at 5–12.

172. Peter A. Joy & Robert R. Kuehn, *Conflict of Interest and Competency Issues in Law Clinic Practice*, 9 CLINICAL L. REV. 493, 514–15 (2002).

173. *Id.* at 522–28.

174. *Id.*

175. Peter A. Joy & Charles D. Weisselberg, *Access to Justice, Academic Freedom, and Political Interference: A Clinical Program Under Siege*, 4 CLINICAL L. REV. 531, 532–37 (1998).

176. See Abel, *supra* note 4, at 479.

177. For an example of one such clinic, see Sam A. LeBlanc, III, Essay, *Debate over the Law Clinic Practice Rule: Redux*, 74 TUL. L. REV. 219, 220 (1999).

178. *Id.* at 221–30.

179. *Id.* at 223–34.

to justice, coordinated efforts from a number of legal organizations must make information easier to access and provide support to those entering the judicial system without legal counsel.

¶36 While criminal litigants have been given the right to access legal information and the corresponding support to use such information effectively, civil pro se litigants have not been found to have the same right. This has left civil pro se litigants to find legal information, interpret the materials they find, and navigate the court system without assistance. Due to a number of considerations ranging from physical location of the legal information and assistance that a pro se litigant needs to information being accessible only through commercial databases, pro se litigants often cannot obtain the information and support they need to advance their cases. While nonattorney specialists have been found to be effective in helping those needing legal assistance, due to the limits placed on them by the laws and regulations that govern the unauthorized practice of law, they are limited in the ways and scope of assistance they can provide pro se litigants. Law librarians, even those who hold a J.D., are classified as nonattorney specialists and have to limit the assistance they provide patrons to reference services.

¶37 The structure of legal information itself can make it difficult for pro se patrons to find the information they need. Due to the unique categorization and indexing system of printed legal materials, pro se litigants may not be able to utilize the sources they access without legal training or without specialized assistance. When searching for information online, pro se litigants must sift through commercial, official, and sometimes misleading websites to find the information they need, if the information is available on the Internet at all.

¶38 Law libraries possess the experts and resources needed to help pro se litigants gain access to the courts and can help ease the pressure on the judicial system by assisting litigants who would otherwise take time from judges or court staff. Beyond the traditional methods of assisting pro se litigants, working with their law schools, and collaborating with community legal organizations, law libraries can expand the services they offer to those who need legal information and procedural guidance. By establishing self-help clinics that focus on legal reference and form completion, law libraries can help their communities, their schools, and the law librarian profession.

¶39 Law librarians are skilled at publishing legal information in usable and understandable formats on the Internet and helping patrons find the information they need through online and in-person reference sessions. Working in a clinic setting, law librarians can expand the services they provide to patrons beyond those of reference services and can help pro se litigants to find the information they need for their cases, put the information in context, and direct them in what actions to take to progress their case. Law librarians can also use the clinic as a dynamic setting to teach law students practical legal skills, ethical concerns about publishing information online, and social justice in a less abstract manner than presented in the classroom. Library-based law clinics would allow schools to make connections within their communities, create programs to attract potential students, and meet the ABA's practical educational requirements.

¶40 Establishing self-help clinics would benefit law libraries and librarians. With budgetary challenges, shifts in their collections, and changing informational

requests by faculty, students, and patrons, law libraries must adapt to meet the needs of their users and emphasize their positions as indispensable parts of their communities and law schools. By working with community legal and social service providers, law libraries can form professional networks that better serve community needs and open new opportunities for law schools to share knowledge and resources with other community service providers. Law librarians can also work with their legal communities to clarify and loosen the rules governing the practice of law while making sure that safeguards such as certifications, malpractice insurance requirements, and ethical training are put into place to ensure that no harm is done to those seeking aid.¹⁸⁰ Through managing and teaching in law library clinics, law librarians would elevate their status as law faculty, particularly directors, who would need J.D. degrees to oversee their clinics' activities. Law library self-help clinics would also allow librarians to define their reference services and those conducted by the clinic, provide more clarity about what can be done during a reference session, and give malpractice insurance for any activities that could rise to the practice of law.

¶41 By taking on new roles and changing to meet their communities' needs, their ethical responsibilities to help those who need legal information, and their schools' goals to teach their students to be socially conscious and skilled legal professionals, law libraries can enhance their status and become the centerpieces of access to justice initiatives. While there are potential ethical and legal issues with establishing self-help clinics, law libraries and their patrons stand to gain substantially from their creation. As integral parts of their communities and law schools, academic law libraries have the potential to become indispensable in the efforts to make the courts accessible to all citizens.

180. See Deborah L. Rhode, *Whatever Happened to Access to Social Justice?*, 42 *Lox. L.A. L. REV.* 869, 899-907 (2009).