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Access to Justice & Academic Law Libraries

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ACCESS TO JUSTICE

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A review of current A2J efforts, including lessons learned and best practices from Fordham Law School's Parole Information Project.

BY TODD MELNICK & CHRISTINE PARK

I n her foundational 2001 article, "Access to Justice," Stanford Law Professor Deborah Rhode argued that, notwithstanding the American court system's aspiration of "Equal Justice Under Law," the poor and the powerless in the United States are largely excluded from the halls of justice. In the two decades since she published that article, the situation has only become worse. Civil remedies are beyond the reach of those without the considerable resources required to pursue them. The Constitution guarantees criminal defense for the indigent, but not the resources needed to support truly zealous representation. To remedy the problem she identified, Rhode called for a coordinated effort on the part of courts, law schools, bar associations, and legal aid providers to make the vindication of legal rights and the redress of wrongs available to everyone with a legitimate claim. She suggested that more public resources be dedicated to the legal representation of poor people, that rules be changed to permit poor people to avail themselves of low-cost non-professional legal assistance, and that the under-represented be given better tools, training, and opportunities to represent themselves.

Looking Back

In 2014, the American Association of Law Libraries (AALL) published a white paper titled, "Law Libraries and Access to Justice," calling on all types of law libraries to "take an active part in improving access to justice." That document suggested that libraries should "push their own boundaries" and "boldly assert their own unique contributions," to the Access to Justice mission. (View the white paper at bit.ly/SO21AALLA2J.)

Seven years after the AALL white paper and in light of the social unrest and racial reckoning America has experienced in recent years, this article reviews current efforts of the academic law library community to address the access to justice crisis. We also highlight what we think is a particularly innovative and useful access to justice project undertaken by Fordham Law School's Maloney Law Library.

The AALL whitepaper recommended that academic law libraries "teach students how to utilize low-cost and free legal research resources," promote access to materials of value to the pro se litigant community, and "provide direct assistance to the self-represented."

Where We Are Today

An informal survey we conducted among academic law libraries in the spring of 2021 suggests many law school libraries have heeded this call. Academic law libraries digitize and make freely available sources of primary law (Harvard and BYU), provide research support for clinics (Oklahoma City University) and for attorneys and law students working on pro bono projects (University of Nebraska). (Learn more about Harvard Law Library's Caselaw Access Project at bit.ly/MJ20caselaw.) Many academic law libraries are open to the public and some are among the very few law libraries open to the public in a particular jurisdiction (Loyola University, New Orleans). Academic law libraries have organized pop-up legal clinics (Western State), developed automated court forms (University of Richmond), and created public-facing research guides (Ohio State University; University of Akron). As reported in the January 2021 issue of *AALL Spectrum*, librarians at the University of Missouri-Kansas City have developed and directly oversee a self-help clinic in partnership with Legal Aid of Missouri. (Read the article at bit.ly/JF21selfhelp.) The library at the Mercer University School of Law in Georgia is working on a survey of public law libraries in Georgia as part of a plan to identify and address inequality in the state-wide provision of legal information. Seattle University School of Law's library and the school's Access to Justice Institute have partnered with the King County Law Library to create instructional videos aimed at

pro se litigants. Academic librarians have taught students to create legal apps for legal aid groups in their communities (Villanova University), provided legal research instruction and support to undergraduate public interest internship programs (Emory University), provided statistical, data analysis, and user experience advice to law school access to justice centers (University of Arizona), and have gathered and disseminated valuable datasets of use to advocates and scholars (UCLA). Certainly, many law school libraries are pushing their boundaries and finding innovative ways to help underrepresented populations find legal information and legal redress. But the demand for projects like these remains vast and the results of our survey in no way counsels complacency.

A2I=A2J

At Fordham Law School, we have partnered with Fordham's Criminal Defense Clinic to create the Parole Information Project, the first of what we hope will be many projects under the banner of A2I=A2J (Access to Information equals Access to Justice).

In New York, most prison sentences are indeterminate with a minimum and maximum length set by the sentencing judge. For felonies, the minimum possible sentence is one year, while the maximum ranges anywhere from four years to life depending on the seriousness of the crime. With an indeterminate sentence, the incarcerated person may be paroled at any time after the expiration of the minimum term.

However, parole release is wholly at the discretion of the New York Board of Parole upon application of the incarcerated person after completion of the minimum sentence. The primary standard, on which the board makes release decisions, is as high minded as it is vague: "a reasonable probability that, if such inmate is released, he or she will live and remain at liberty without violating the law and that his or her release is

not incompatible with the welfare of society and will not so deprecate the seriousness of his or her crime as to undermine respect for the law."

According to the Parole Preparation Project, a volunteer grassroots effort to help parole-eligible inmates negotiate the parole process in New York, each year the New York State Parole Board considers 12,000 parole applications. Shockingly few of these applicants are assisted by counsel and all have no more than 15 minutes to make their case to the Parole Board over video conference (even before COVID). Around 60 percent of parole hearings in New York end in denials. This is true even for applicants demonstrating clean prison records, significant community ties, and other indicia of low recidivism risk. The result is that many incarcerated persons with an excellent chance of leading productive lives are languishing in New York's prisons for decades beyond their mandatory minimum sentences. Nationwide, the parole system is a significant contributor to mass incarceration.

Fordham's Parole Information Project

Enter Fordham Law School's Parole Information Project (PIP), a curated database designed to shine light on the parole system in New York by giving scholars and advocates access to documents and data about the system that had never before been systematically collected, described, or made available. Instead of scholars and advocates cobbling together data from disparate sources and passing documents among one another, librarians at Fordham Law School created such a database by using the law school's Digital Commons-based institutional repository, FLASH.

PIP is the brainchild of Professor Martha Rayner, clinical teacher, and co-director at Fordham Law's Criminal Defense Clinic. Faced with the fact that most incarcerated people in New York were denied parole and that these decisions and supporting

documents were not published or findable on any database, she wanted to see if there was any way to collect this information and disseminate it through a searchable database for the use of advocates and scholars. She also wanted to find a way to extract meaningful data from these documents so that the entire parole process in the state could be beneficially analyzed and better understood.

In 2018, Yael Mandelstam, Fordham Law Library's associate librarian for technical services, began to work with Rayner to create such a database, using FLASH as its platform. Mandelstam met with Rayner to identify the most useful parole system documents to digitize, selected the most meaningful metadata within those documents, and developed a workflow for capturing that metadata. She developed a coding system so that documents related to the same parole applicant could be linked without compromising the privacy of that applicant. She also worked closely with the support team at Digital Commons to develop completely unique metadata fields as well as innovative ways to automatically capture and aggregate data within those fields.

PIP was officially launched in the fall of 2019, and since its creation, it has collected nearly 1,000 documents from every step of New York's parole system, including preparation for the parole interview, the parole interview, parole determinations, the parole appeal process, and appeal decisions. PIP receives these documents from attorneys and advocacy groups who are involved in individual cases. The documents are painstakingly redacted to not reveal information about parole applicants that is not otherwise publicly available. Never before have these documents been systematically collected or mined for useful data.

Not only was Mandelstam able to extract and aggregate important metadata from the documents posted within the PIP database, but she also worked to cross-reference that data with data from other publicly

available databases. For example, Mandelstam cross-referenced information in New York's Department of Correction's "inmate lookup" database to add information about parole applicants such as age, sex, and race, and maximum and minimum sentence. She also developed a workflow to extract metadata about the parole commissioners that has never before been collected or aggregated. Although laborious, the additional metadata has added tremendous value to the collection's usability. As a result of this project, data derived from the documents generated by the parole process can now be used by scholars and advocates to pinpoint the causes of failure, unfairness, and injustice in the system.

Of more immediate value, documents available in the PIP database have been used by student and professional advocates to understand the mechanics of New York's arcane parole process and to provide them with models of both successful and unsuccessful parole applications.

Recently, Goldman Sachs awarded a $100,000 grant to pay for a full-time fellow, who, among other duties, will work to further develop the database in collaboration with library staff and use it for advocacy and research initiatives.

Law school libraries considering devoting scarce resources to access to justice initiatives should be encouraged by the innovative projects currently being undertaken by peer institutions. It should be noted that projects like these offer myriad retraining opportunities for staff members whose traditional workloads have been decreased by a downturn in a library's acquisition of print materials. Technical Services librarians are already familiar with metadata and many old-school librarianship skills are readily transferable to work on such projects. Law libraries that want to follow the recommendations of the AALL Access to Justice white paper and push their boundaries can take advantage of the list of best practices

below, which we have culled from answers to our recent survey and from our own experience. Staci Pratt and Montanna Hosterman's article, "Innovation & Access to Justice: The Role of the Academic Law Library," published in *AALL Spectrum*'s January/February 2021 issue, is also an excellent resource. (Read the article at bit.ly/JF21access.)

Best Practices

- **Have a clear statement of goals.** Define the boundaries of your project clearly and have specific goals or purposes in mind when setting up the parameters of the project. This allows you and your team to plan, organize, and control the various elements of your project, without losing sight of its purpose.

- **Collaborate with others.** Whether from within the law school or a local organization, collaborating with others can greatly increase the impact of your library and the project's impact. Not only are there cost-saving benefits, but collaboration can also increase community awareness, creative innovation, and efficiency. Potential collaborators include law school legal clinics, law professors, law school administrators, student groups, courts, legal service agencies, bar associations, and library consortia.

- **Focus on local issues.** The library is an important cornerstone of the local community and can help meet the needs of the local constituency. Additionally, by narrowing your focus to local issues, your project can be more manageable and effective.

- **Provide expertise unique to the law library.** Librarians have a wide variety of useful skills to offer the Access to Justice effort. Information is key to justice and central to the library's mission. But don't define library expertise too narrowly; push those arbitrary boundaries. Take full advantage of the expertise your organization can provide.

- **Consider the sustainability of the project.** Plan your project with sustainability in mind and consider how your mission could continue in the long run. This means spending time strategizing short- and long-term goals, ensuring strong organizational memory, developing sources of staffing and funding, and envisioning the entire lifecycle of your project.

- **Retrain existing staff for new roles.** Circulation staff can digitize and upload documents. Catalogers can become extraordinary metadata librarians. Technical services clerks can become data clerks.

- **Collect evidence of program effectiveness.** Don't judge your project in terms of inputs; look for measures of successful outcomes and make sure to communicate them to stakeholders. ∎

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READ
Deborah Hackerson's article "Right of Access for Prisoners," from the March/April 2016 issue of *AALL Spectrum* at bit.ly/MA16access.

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