

## U.S. FEDERAL COURTHOUSE LIBRARIES FACING COVID-19: A LIVED CASE STUDY

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SUMMARY: I. *Introduction*. II. *Problem Statement*. III. *Development or Discussion*. IV. *Conclusions*. V. *Bibliography*.

### I. INTRODUCTION

At the beginning of March 2020, all thirteen federal circuits that compose the federal legal system in the United States had at least one central library located in their headquarters courthouse. This central library is in charge of the coordination, management, development and support of all library services throughout each Circuit. Besides the central libraries, each circuit also has branch libraries located in several states. Depending on the geographical size of the Circuit, central libraries can have multiple branch libraries which vary in size, staff and functions. Furthermore, the U.S Administrative Office for the Courts based in Washington, DC also has an office in charge of helping with coordination, collecting national data and standardization of services and programs among all court libraries. Despite attempts to centralize and coordinate efforts among court libraries, federal court libraries in the United States, either the central or branch libraries, are incredibly independent from one another. Furthermore, they respond to local demands and imperatives from their particular stakeholders: judges, clerk's office, law clerks, staff and the local communities they serve.<sup>1</sup>

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<sup>1</sup> Elliot, Margaret and Kling, Rob, "Organizational Usability of Digital Libraries: Case Study of Legal Research in Civil and Criminal Courts", *Journal of the American Society for Information Science*, vol. 48, issue 11, 1997, pp. 1023-1035.

What was my job and role? In my case, I was the Reference and Training Librarian at the Court of Appeals for the Second Circuit located in the Thurgood Marshall Building in downtown Manhattan. This library is the central library located in the headquarters courthouse for the Second Circuit. It coordinates the work for its users as well as requests and services located throughout the Circuit, which encompasses the states of New York, Connecticut and Vermont. As my title suggests, I was in charge of providing reference and research services to a myriad of users, including the public. Furthermore, I was in charge of educational programming for our internal users, primarily law clerks and also the public, especially high school students through civic education programming. As most U.S. federal court libraries, our library was a highly “democratizing” space. In one day, you could have judges, law clerks, interns, visitors, students, attorneys, public, etc., all using the same sources in the same space. Different from other spaces in the courthouse with limited entry and specific roles, the court library was a unique place where everyone played the same role as patrons regardless of the role they might place somewhere else. It is in this position that the pandemic found me in March 2020.<sup>2</sup>

## II. PROBLEM STATEMENT

There is a wealth of literature explaining how the “new normal” impacted the work of libraries. Some libraries were severely struck when the pandemic hit and most services had to transition to virtual and remote in a matter of days, if not hours. This cascade of challenges and obstacles created by the ever-changing and unpredictable nature of the crisis provoked a new set of unprecedented and at times insurmountable challenges and obstacles. Libraries in diverse settings and serving different communities had to improvise and become resilient if they wished to survive. U.S. federal court libraries were no different, at least to some extent.

Through my next observations, I would like to note what were the main challenges and features making headlines in the world of U.S. federal court libraries. These observations help the readers have a picture of the context and situation in which COVID-19 found court libraries once it irrevocably hit them. Right after these initial observations, I mention the immediate and lingering impact of COVID-19 on these challenges and others. My inten-

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<sup>2</sup> Cabral, James E. *et al.*, “Using Technology to Enhance Access to Justice”, *Harvard Journal of Law & Technology*, vol. 26, issue 1, 2012, p. 241.

tion is to provide readers with a more nuanced perspective on how the “new normal” exacerbated problems which were already present, instead of creating a new set of unprecedented issues.

### III. DEVELOPMENT OR DISCUSSION

What did I observe right before? Before the pandemic hit in the United States, federal court libraries were already experiencing three major problems: 1) major resistance to digital resources; 2) security issues; and 3) expansion of access to justice programs. These three challenges were already occupying most resources both personnel and finance in all U.S. federal courthouse libraries before COVID-19 began.

U.S. federal court libraries are known for preferring a more traditional work setting. Primary users in these libraries, including judges and law clerks do prefer paper sources and exhibit a strong resistance to anything digital. These trends seem to be in complete contrast to predominant trends in other libraries such as increased reliance on digital resources and decrease of physical library collections. In the United States, federal courts are incredibly independent when it comes to budget, allocation of funds and overall management of space and resources. This independence transpires to the libraries. Judges, in coordination with librarians, decide on broad parameters for collections in court libraries as well as the acquisition of new databases.

Despite the advent of powerful databases covering and analyzing immense amounts of legal data, most U.S. federal court libraries relied heavily on their print collections combined with some databases. Electronic and digital sources had a reputation of being temporary, dubious authority, difficult to cite and ultimately not reliable. There are numerous examples of judges not being able to retrieve what they previously consulted because of a “broken link” or the information had been removed altogether from the website. There was also a significant need to educate and train judges, law clerks and all court staff on new products and features in databases in order to effectively use them. Librarians in these institutions were called upon to provide this type of ongoing training, sometimes in coordination with vendors as well.

Increased security threats to federal courts in the United States also directly impact libraries in these institutions. All court staff are affected by these threats and the library, because of its public facing services is a major target. Security threats include physical threats to the staff either in person or through phone calls. Libraries in U.S. federal courthouses are for the

most part open to internal staff as well as the public. Programs and functions directed to the public are incredibly important and vital for certain groups in the larger community. However, they also carry some security issues and present a danger to internal staff and librarians.

Security mechanisms and protocols have been developed and adapted extensively in several courthouses and their libraries. However, some of these measures did not anticipate a severe increase of cyberattacks. Security threats coming through email, internet browsing and even databases pivotal to research and daily tasks have also become a hotspot when it comes to cyberattacks such as phishing and scam. Libraries were forced to collaborate closely with IT departments in their respective courthouses in order to face and combat against more complex and sophisticated cyberattacks. Besides developing comprehensive software and computer programs, librarians were also at the forefront of educating its personnel as well as most court staff in best practices when consulting and using information online.

For a few years, several U.S. federal court libraries took it upon themselves to create, plan and implement several access to justice programs. These programs aim to bring together the federal legal system and the communities it serves. Specifically, the central library of the U.S. Court of Appeals for the Second Circuit located in New York plays a central role in the court's efforts to access to justice programs. These programs are created with the purpose to provide primary and secondary sources to the public, specially those without the economic resources and also to raise awareness about the different legal procedures and the legal system as a whole. Due to the multiplicity of stakeholders, these programs tend to be very specific to the courthouses and they are limited by the amount of personnel and financial resources allocated.

With the increase of misinformation and ignorance in the U.S. legal system, the judicial branch creates and supports these access to justice programs in an effort to raise awareness of the courts' role in our societies and the rule of law as a whole.

### *Immediately After and During the Pandemic*

Right when stringent and all-encompassing lockdown and quarantine measures were implemented in most U.S. states, the courts and their corresponding libraries also responded with an abrupt closure of all their locations. At the time, I was working at the Headquarters Library of the U.S. Court of Appeals for the Second Circuit in New York City, and we closed

our locations immediately and all personnel was instructed to work from home for a certain period of time. These new working from home policies also meant that our users would have to rely exclusively on digital and electronic resources. As mentioned before, there was already a lack of interest in these digital resources overall. However, the pandemic changed that trajectory completely. Suddenly all librarians as well as users were forced to use exclusively the electronic resources available both through our library portal as well as freely available online.

This new normal immediately prompted librarians to provide training and educational materials either specific for certain databases or research strategies for some topics. Different from pre-pandemic times, users had literally no other option but to use these new learning materials as well as attend our training seminars. Despite their previous reluctance, users had to adapt to their working from home scenarios and make frequent and wide usage of electronic resources. Our usage of ebooks and different databases and digital platforms literally exploded right after the lockdowns due to COVID-19 went into effect. Despite the explosion in usage, librarians had to think about ways in which these new patterns and “willingness” could be maintained, sustained and replicated in the future.<sup>3</sup>

Summer of 2020 also witnessed a major increase of physical and cyber threats against U.S. federal courthouses. Due to their public facing tasks, federal court libraries were at the center of some of these threats. Librarians had to learn quickly how to respond to these threats in person, over the phone or virtually. Since most library personnel were working from home, librarians had to become more vigilant when using e-resources as well as teaching users how to be vigilant themselves. At the beginning of the pandemic in March 2020, the process took a format of try and error. The federal courts and the libraries experienced several attacks during most of the pandemic.

The political animosity and racial reckoning of summer 2020 also touched the buildings of several federal courthouses which included libraries. At the time, librarians were only going to their physical locations sporadically, similar to most court personnel. However, even that sporadic presence had to deal with massive protests in front of federal buildings and the security around them. Some buildings had several security checkpoints to enter them. In a couple of cities throughout the country, protesters even prevented any court personnel from entering courts altogether. Despite sur-

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<sup>3</sup> Elliot, N. and Kling, Rob, “Organizational Usability of Digital Libraries in the Courts”, *Proceedings of HICSS-29: 29th Hawaii International Conference on System Sciences*, vol. 5, 1996, pp. 62-71.

passing the first wave of COVID cases and returning to work in person for a few days, librarians could not fully operate their libraries due to the security threats posed by these protests.<sup>4</sup>

Finally, all access to justice programs previously mentioned were abruptly halted. The pandemic made it impossible to continue with any in person programming. Right at the offset of the pandemic, librarians considered the idea of transferring these programs into a virtual format. Thinking of creating or translating any programming into a virtual format was a common pattern at the time, especially when the pandemic continued to grow and affect more and more people. The students who would normally benefit from such a program were also learning from home completely virtual. Despite their best intentions, librarians had to immediately grasp with more pressing needs such as providing library and research services to their priority users such as judges, law clerks, staff attorneys and other court personnel. The unpredictability of the times and the immediate change of scenarios made adapting these programs to a virtual format incredibly complicated.

The threat of new variants made opening up courts to the public completely impossible. Therefore, any access to justice programs had to be suspended indefinitely. Librarians are either hoping to return to normal in the coming years or offer some programming virtually. However, these hopes are completely dependent on the COVID-19 situation in the country.

#### IV. CONCLUSIONS

Needless to say, the situation concerning U.S. federal court libraries remains dire and in pause. As of the time of writing (February 2022), most federal courthouses around the United States have opened to some extent to all users. This opening process includes libraries as well. Federal court librarians need now to reckon with questions regarding lessons learned during this unprecedented period of time.

As the return to office becomes a new reality for most U.S. federal courts, librarians will need to ponder how best to derive the correct answers and lessons learned from this pandemic and virtual experience.

First, there is a pressing need to build on the skills and patterns the users have just learned and got used to. The overwhelming increase of usage of e-resources and virtual databases for almost every single research need

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<sup>4</sup> Rhode, Deborah L., “Whatever Happened to Access to Justice”, *Loyola of Los Angeles Law Review*, vol. 42, 2008, pp. 869-911.

should be taken into account even after libraries start welcoming patrons in person once again. Leveraging this new normal of relying almost exclusively on online resources for extensive legal research should be maintained and encouraged. Librarians should be wary of patrons and users wanting to go back to a time when there is a major reluctance to rely on digital resources. Particular attention should be given to access to e-books and monographs. Before the pandemic, most patrons in U.S. federal court libraries were hesitant to use these extensively, if all, as part of their research. Nowadays and because of the pandemic, the situation has changed dramatically. Librarians in federal courts should relish in these new patterns, take full advantage and prevent falling in obsolete patterns. Constant training and education should be a part of it.

The more we move into online library services and digital resources, librarians also need to assess and combat security threats that come with more people using these online platforms. Cyberthreats to federal courts are real and increasing in intensity and sophistication. As part of these court institutions, federal court libraries are at times in the front lines of these battles and receiving the onslaught of cyber attacks. In this scenario, librarians need to train themselves and be aware of these challenges. The more librarians train themselves, the more they can probably address these issues and any concerns their users might have. Education of librarians will also help them facilitate workshops and training sessions to educate all users about these problems. This new normal might force librarians to be more cognizant and fluent in IT technologies and how they impact their own services.

Nothing will be successful in these libraries if channels of communication with several partners and stakeholders within the court system at large are not open and maintained. Heavy reliance on digital sources and security training related to cyberattacks will not become a viable option if the libraries do not take it upon themselves to establish relationships with other important sections and offices throughout the court institutions. Immediately, robust relationships should be established with IT departments to ensure compliance and knowledge of security systems and how to help educate all users.

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