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THE REFERENCE ASSISTANT[*]

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In 2017, the authors conducted the third survey in an unofficial series about a type of law student employee that the authors call the reference assistant. This article analyzes the survey results, argues the advantages of the reference assistant, and details a case study of successful implementation of the reference assistant model at the BYU Law Library.

Introduction

Most academic libraries, including academic law libraries, engage student labor to some degree.[1] Often this class of employee is an amalgam of graduate and undergraduate students. In academic law libraries, student employees bear an array of titles and job descriptions, including circulation attendant, law library research assistant pool member,[2] research assistant,[3] graduate assistant,[4] and reference assistant.[5] Unfortunately, a lack of common nomenclature and job descriptions

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[1] *See, e.g.*, *ARL Statistics 2013-2014*, ASSOCIATION OF RESEARCH LIBRARIES 1, 26–38 (Martha Kyrillidou et al., eds., 2015), http://publications.arl.org/ARL-Statistics-2013-2014/~~FreeAttachments/ARL-Statistics-2013-2014.pdf (Only 5 of the 112 reporting research libraries did not employ student assistants.). *See also* David Gregory, *The Evolving Role of Student Employees in Academic Libraries*, 21 J. LIBR. ADMINISTRATION, nos. 3-4, 1995, at 3, 5 ("Student assistants are widely recognized as an integral part of the workforce in academic libraries. . . ."); Emilie C. White, *Student Assistants in Academic Libraries: From Reluctance to Reliance*, 11 J. ACADEMIC LIBRARIANSHIP 93, 93 (1985) ("The employment of student workers in American college and university libraries has been a widespread practice since the nineteenth century," and "reliance upon student library assistants has become traditional in American institutions of higher education."); Katherine E. Malmquist, *Managing Student Assistants in the Law Library*, 83 LAW. LIBR. J. 301, 313 (1991) ("[Student workers] are an important and indispensable part of the law library. . . .").

[2] *See* Darcy Kirk & Barbara Rainwater, *The Research Assistant Pool in the Law Library*, 6 TRENDS L. LIBR. MGMT. & TECH., Oct. 1994, at 4. *See also* Simon Canick, *Library Services for the Self-Interested Law School: Enhancing the Visibility of Faculty Scholarship*, 105 LAW LIBR. J. 175, 178 n.17 (2013); Harriet Richman & Steve Windsor, *Faculty Services: Librarian-Supervised Students as Research Assistants in the Law Library*, 91 LAW LIBR. J. 279 (1999).

[3] *See, e.g.*, David McClure, *Joining the Conversation: Law Library Research Assistant Programs and Current Criticisms of Legal Education*, 32 LEGAL REFERENCE SERVS. Q. 274 (2013). *See also* Jon S. Schultz, *The Faculty Services Department: Fine-Tuning the Research Engine*, 83 LAW LIBR. J. 771 (1991); Canick, *supra* note 2, at 196.

[4] *See, e.g.*, *Law Library Graduate Assistantship,* UNIV. LIBR.: UNI. ILLINOIS AT URBANA-CHAMPAIGN, http://www.library.illinois.edu/administration/human/positions/ga/lawlibrary.html (last visited Feb. 28, 2017). *See also* *Library Graduate Assistantship*, UNC KATHERINE R. EVERETT LAW LIBR., https://library.law.unc.edu/about/opportunities/assistantship/ (last visited Feb. 28, 2017).

[5] For an example of the term reference assistant referring to an undergraduate in a standard academic library, see Andrew Brenza et al., *Perceptions of Students Working as Library Reference*

across the law librarianship profession make it difficult to have clear discussions of student employment in academic libraries. Therefore, for the purposes of clarity, we use the term "reference assistant" to refer to the librarian-supervised law student working in an academic law library whose primary responsibilities include both providing reference service[6] and faculty research support.[7]

We recognize that law student employees already make significant contributions in many academic law libraries across the country.[8] We also understand that how law students are expected to spend their employment time, as well as the terminology used to describe the various responsibilities their positions entail, vary dramatically from institution to institution.[9] It is likely that academic libraries use position titles, such as "research assistant" versus "reference assistant," in an effort to differentiate individual employee job responsibilities.

This distinction in the duties of law student employees from one institution to the next is one of our inspirations for conducting a follow-up of two previous surveys regarding the use of law student employees in academic law libraries. Before conducting our survey in 2017, we hypothesized that more academic law libraries employ law students than they did in 1930 or 1999, when the first and second surveys in this unofficial series were published.[10] We further posited that only a small number of academic law libraries utilize law student employees to provide reference assistance in addition to a more traditional role assisting with faculty research.

In this article, we argue that when academic law libraries limit law student employees to providing only faculty research support (or even limit them to general circulation duties), not only do they undervalue and underutilize that student

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Assistants at a University Library, 43 REFERENCE SERVICES REV. 722 (2015). For examples of the term reference assistant referring to a law student in an academic law library, see *Recruiting Law Librarians*, 69 LAW LIBR. J. 7, 12 (Sue Dyer ed., 1976) and Robert S. Payne, *Answering Faculty Research Requests*, 4 AALL SPECTRUM, Apr. 2000, at 10.

[6] As will be discussed in Part III, Section A, the reference assistant does not replace the law librarian in reference services. Rather, there exists a supplementary and supportive role for the reference assistant in reference services, which continues to be headed and maintained by professional law librarians. We realize that the reference assistant does not have the training that law librarians have. Thus, the reference assistant's supplementary role is limited, while still being valuable to the academic law library.

[7] There are some law libraries that employ students enrolled in library and information science graduate programs, who have already completed their law degrees or who are doing a dual degree, to assist in reference services and faculty research support. *See supra* note 4. While this article only focuses on law student employees, many of the principles of the reference assistant model discussed in this article can be applied to law library student employees enrolled in library school.

[8] Of the 155 law libraries that participated in our survey, 135 (87%) of the law libraries employ law students. *See infra* Appendix, question 11.

[9] *See infra* Appendix, questions 13 and 17.

[10] See *infra* Part II, Sections A and B for a discussion of the first and second surveys.

employee's potential contributions, but they also may be inefficiently carrying out their faculty research support. By employing law students to assist the law librarians with reference services in addition to faculty support, in a model that has set employment times for the law students (as opposed to a work-whenever-and/or-remotely schedule), academic law libraries will maximize the benefit this class of employee has to offer. Therefore, the purpose of this article is two-fold: (1) to follow-up on the first two surveys about law student employees in academic law libraries by giving the "state" of these employees today, as shown through our 2017 survey and (2) to advocate that academic law libraries should consider carrying out the reference assistant model (or some scaled version of it) not only to do faculty research but also to assist with reference inquiries, which can improve the faculty research support and can also improve other functional aspects for law libraries.

This article proceeds in seven parts. Part I defines who the reference assistant is and what their duties include. Part II summarizes the two previous surveys about law student employees in academic law libraries and presents the results and analysis of the new, third survey from 2017. Part III articulates the advantages of the reference assistant. Part IV addresses the practical concerns of the reference assistant. Part V is a case study of the reference assistant model, as implemented at the Howard W. Hunter Law Library at the J. Reuben Clark Law School at Brigham Young University (BYU Law Library). Part VI presents ideas for the scalability of the reference assistant. Part VII concludes this article. Finally, the appendix provides a copy of the questions asked in the 2017 survey, as well as samples of more detailed responses from it.

I. Who is the Reference Assistant?

Broadly speaking, the vast majority of students employed in academic libraries perform limited and easily defined tasks related to the library's circulation or technical services departments. Students in these capacities generally check out and re-shelve books, answer basic informational and directional questions, and perform various clerical tasks. The tasks are time-consuming and usually result in more student hires than what academic law libraries need in their research and reference departments. It is common practice for academic law libraries to hire law students to help supplement the research support they provide to their faculty;[11] some libraries manage research assistant pools,[12] while others oversee and train

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[11] Of the 155 law libraries that participated in our survey, 54 (35%) of the law libraries employ law students that conduct legal research for faculty under the supervision of one or more staff librarians. *See infra* Appendix, question 13.

[12] *See* Kirk & Rainwater, *supra* note 2. *See also* Canick, *supra* note 2; Richman & Windsor, *supra* note 2; *infra* Appendix, question 15.

research assistants selected by individual faculty members.[13] As implemented at the BYU Law Library, the reference assistant is different from the traditional research assistant in that their duties comprise everything a research assistant would do and more. While much of the current literature addresses the popular practice of hiring research assistants in academic law libraries,[14] this article seeks to focus on an expanded role, like the one at the BYU Law Library, for law student employees, one that includes providing reference coverage in addition to faculty research support and seeks to show how externalities of this expanded role will actually improve the faculty research support provided by law student employees.

Unlike most library jobs for students, the reference assistant position is associated with the reference department of the law library and requires specific expertise, knowledge, and higher order reasoning skills. The reference assistant is a current law student with a proven acumen for both legal research and legal reasoning. The reference assistant regularly fields a number of higher order questions and requests from a variety of patrons including faculty, student peers, and the public. Unlike their circulation and technical services counterparts, the reference assistant is less likely to be able to predict what a shift on the reference desk may require of them. As such, the reference assistant must have a solid legal understanding from which to draw, as well as be a creative problem solver. Additionally, they should seek to develop a firm grasp of both their library's physical and digital collections and learn to evaluate which sources will be most helpful and efficient when answering the various reference requests with which they are presented.

As the name implies, the reference assistant provides support to those who approach the reference desk looking for answers to their legally related inquiries. For the most part, the reference assistant provides this support under the supervision of a professional law librarian who can offer the reference assistant guidance and additional direction as necessary. When not responding to reference inquiries, the reference assistant is working on faculty research requests that have been directed to the reference desk or to a library faculty liaison who has deemed the project appropriate to assign to the reference assistant for completion. This way they fulfill the responsibilities of a research assistant, while offering the library many services other than just faculty research.

The reference assistant model comprises enough reference assistants to fully staff the reference desk for typical reference hours. At the BYU Law Library, this is from 8am to 9pm Monday through Friday and 9am to 5pm on Saturdays. A professional law librarian also staffs the reference desk, with the reference assistant, from 8am to 5pm Monday through Friday. The reference assistant's hours do not

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[13] This is the case at the University of Utah. It is likely the case at other institutions.

[14] *See, e.g.*, McClure, *supra* note 3. *See also* Kirk & Rainwater, *supra* note 2; Payne, *supra* note 5; Schultz, *supra* note 3; Richman & Windsor, *supra* note 2.

overlap with any other reference assistants. This model allows one reference assistant at a time to cover the reference desk and to work on faculty research support.

Understanding how the reference assistant (and its model) differs from just a research assistant (and/or the "pool" model) is paramount in understanding how they are underutilized in academic law libraries today.

II. Which Law Libraries Employ the Reference Assistant?: Three Surveys

Prior research has been conducted on the potential benefits and drawbacks of employing law students in the law library.[15] We are the third set of law librarians, since 1930, who have endeavored to quantify the use of such employees in the academic law library settings. In doing so, we relied on the work of our predecessors—Rowena U. Compton, who published the first survey in 1930,[16] and Harriet Richman and Steve Windsor, who published the second survey in 1999.[17] Our goal in conducting the third survey in 2017 was to determine whether there has been an increase in the number of law libraries employing law students as research assistants and how many of these law libraries are using these law student research assistants in their reference departments—i.e., which academic law libraries employ the reference assistant.

A. The First Survey (1930)

In 1930, Rowena U. Compton, then-law-library-director of the Jerome Hall Law Library of the Maurer School of Law at Indiana University—Bloomington, published the first survey about how the larger academic law libraries utilized, if at all, student assistants and what their perceptions of student assistants were.[18] Her research and analysis was improperly documented (at least by today's standard). For example, Compton never explicitly said that the student assistants were law students, as opposed to undergraduate students, but the article implied it.[19] And

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[15] *See, e.g.* McClure, *supra* note 3. *See also* Kirk & Rainwater, *supra* note 2, at 5 (concluding after a trial year of having a research assistant pool in the law library that the authors were "delighted" that [the pool] was a success"); Payne, *supra* note 5; Schultz, *supra* note 3, at 773 (arguing that the research assistance the librarian-supervised law students provide to his faculty is "indispensable"); Richman & Windsor, *supra* note 2.

[16] Rowena U. Compton, *The Student Assistant*, 23 LAW LIBR. J. 24 (1930).

[17] Richman & Windsor, *supra* note 2, at 280.

[18] Compton, *supra* note 16.

[19] *See id.* at 26 ("Appointments [of the student assistants] should be made from first, second, and third year classes each year . . . .").

without publishing the questions and results of her survey, Compton instead summarized different aspects of what she learned from the survey, along with adding her own vague opinion of how best to utilize student assistants.

Compton reported that "[t]he majority of the largest and most important law libraries [participating in the survey] had either entirely done away with student assistants or had retained only one or two for minor work at night and on Sundays or holidays."[20] She listed that the "[d]uties of student assistants, in the majority of cases, consisted in bringing books from stacks, charging them to students, checking [the books] in and replacing on shelves, messenger service, locking and unlocking building, and keeping order in reading room," with only fifty percent of the law libraries "entrust[ing]" the student assistants with reference work.[21] She also essentially categorized the law libraries into three groups: (1) those that did not have student assistants; (2) those that did have student assistants because they wanted them; and (3) those that had no choice but to have student assistants, with herself being in the third category.[22]

After reporting about the survey, Compton then gave advice on what she thought was the best method to utilize student assistants, if one is forced to have them.[23] Her recommended method includes the following: only hiring one new assistant at a time, employing assistants from all three years of law school at once, and not hiring the applicants with the highest GPA because they will not be as service-oriented.[24]

Since Compton did not advocate the hiring of law student employees,[25] and was not particularly pleased to conduct the survey and publish a write-up of the results,[26] we reason that this is why her article is sparse with details. This has caused scholars to disagree about Compton's conclusion. For example, the authors of the second survey from 1999, discussed in Part II, Section B of this article, summarized Compton's conclusion as follows: "[R]esistance to student-employees in the law

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[20] *Id.*

[21] *Id.* at 25–6.

[22] *Id.* at 24, 26 (explaining that she "supervises a library of only 20,000 books and . . . would not choose to, but . . . must use student help").

[23] *Id.* at 26–7.

[24] *Id.* at 26 ("The man who is striving to lead his class is too often impatient of being interrupted, in the midst of briefing a case or studying a difficult point of law, to find material or to show another student how to find it; he is apt to be less painstaking in checking up charges, shelving books, etc., and will probably do little to encourage inquiries and stimulate interest in the use of law books. This sort of grudging service defeats the main purpose of the library.").

[25] *See id.* at 26.

[26] *See id.* at 24 (Compton begins her article with the following paragraph: "The notes originally written . . . on this question [of student assistants] were destroyed on the assumption that the discussion was purely informal. When requested to submit them as an outline for the stenographic notes taken during the meeting, it was necessary to write entirely new notes.").

library arose from primarily economic concerns. These libraries found student-employees less economical and satisfactory for the work involved."[27] However, we read a different conclusion from Compton's article—not only did she never explicitly say economic reasons were the primary concern, but out of all the law librarians that participated in her survey, and out of all the comments she must have received in their responses, she chose to highlight in her article the following gem: Student assistants should "be eliminated as far as possible . . . [because] if you are to have good work done in the library," then it should not be done by student assistants.[28]

Nonetheless, her survey was a starting point for an unofficial series of surveys about the topic of law student employees in academic law libraries.

B. The Second Survey (1999)

Sixty-nine years after Compton's survey was published, Harriet Richman and Steve Windsor conducted and published the second survey about law student employees in academic law libraries.[29] Out of the 184 academic law libraries that they contacted, 124 responded to their survey, and their responses, along with the actual questions in their survey, were included in the appendix of their article,[30] providing more details than Compton's survey and her subsequent article.

According to Richman and Windsor's survey, very few academic law libraries employed law students for faculty research. The exact number is unknown due to the inconsistency and opaqueness in their article. In the main body of their article, Richman and Windsor concluded that less than twenty-five law libraries employed law students for faculty research and that only ten law libraries had a pool of law student research assistants supervised by a law librarian;[31] in the appendix of their article, Richman and Windsor did not even record how many law libraries employed law students for faculty research, only giving the average of students employed (fifteen for law schools with 500 or more students and six for law schools with 200 to 500 students).[32] However, they did record that twenty-five law libraries have the research assistant pool, which conflicted with the body of their article where they said the number was ten.[33] In analyzing their results, Richman and Windsor pointed out that it was "unclear why most libraries fail to

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[27] Richman & Windsor, *supra* note 2, at 280.

[28] Compton, *supra* note 16, at 24 (quoting Margaret Klingelsmith, Librarian of the Biddle Law Library).

[29] Richman & Windsor, *supra* note 2.

[30] *Id.* at 289–90.

[31] *Id.* at 281.

[32] *See id.* at 290.

[33] *See id.* at 281. *But see id.* at 290.

employ students in a research capacity" and offered the following explanations: the constant turnover of student employees; the expense to train new student employees; and the custom that law librarians fulfill faculty requests just like patron requests, neither with any help from student employees.[34]

In addition to explaining their survey and the results, Richman and Windsor did a case study of how they personally used the law students in their library at the University of Houston Law Center. In a stark contrast to Compton's article, Richman and Windsor elaborated on hardly anything but the advantages of law student research assistants in the law library, while recognizing that their point-of-view is an anomaly.[35]

However, they only advocated as far as having law students as research assistants in the law library (supervised by a law librarian), preferably as a "pool" of them; they did not address law students' ability to do reference work, with scheduled hours so that there is always a law student employee in the law library most hours of every day to help with faculty research support. We thought it was time to take their ideas one step further.

C. The Third Survey (2017)

Because of the positive advocacy for law student employees in the article by Richman and Windsor, we were curious if, after eighteen years, more academic law libraries employed law students in the ways that Richman and Windsor recommended in their article. Our curiosity got the best of us, and what followed was the third survey in this unofficial series.

In our 2017 survey, we asked law librarians the same questions as Richman and Windsor,[36] plus a few of our own.[37] To keep the integrity of the survey, we individually reached out to one law librarian at each law library associated with an ABA-accredited law school.[38] This way no more than one law librarian from each law school could participate in the survey, so as to not skew our results. We also think that individually reaching out to law librarians helped to increase the

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[34] *See id.* at 280–81.

[35] *See id.* at 280 ("Library administrators and staff have traditionally resisted using student-employees in any but the most menial roles.").

[36] *See id.* at 289–90.

[37] See the Appendix of this article for a copy of all the questions in our survey and a summary of the responses from the participating law librarians.

[38] We included provisionally approved law schools and law schools on probation in our category of ABA-accredited law schools, in accordance with the ABA website. *ABA-Approved Law Schools in Alphabetical Order*, AMERICAN BAR ASSOCIATION, http://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools/in_alphabetical_order.html (last visited Feb. 8, 2017).

participation rate in the survey. We reached out to the law librarians through email, but the survey itself was conducted through and recorded by Qualtrics.[39]

Our hypotheses for the results of our survey were: (1) More law libraries employ law student employees than when Richman and Windsor conducted their survey; (2) More law libraries allow these law student employees to participate in faculty research; (3) But the overwhelming majority of law libraries still do not employ law students for assistance in faculty research; and (4) Less than five law libraries besides the BYU Law Library employ the reference assistant—meaning less than five task a pool of law student employees with reference work, in addition to faculty research, using the model implemented at the BYU Law Library. Upon completion of our survey, we determined that our initial hypotheses were correct. What follows is a discussion of the results of our survey.

One hundred fifty-five law librarians responded to our survey out of the 205 ABA-accredited law schools that were invited to participate. This made the participation rate reach 76%, which is an increase from the 67% participation rate that Richman and Windsor had.[40] The following analysis is based on this 155 number—the total number of participating law libraries in the survey.

Hypothesis (1): More law libraries employ law student employees than when Richman and Windsor conducted their survey.

The survey supports our first hypothesis that most academic law libraries do employ law students. More specifically, 135 law libraries (87%) do employ law students,[41] meaning that only twenty law libraries do not. Of the twenty law libraries that do not employ law student workers, possibly the same number of law libraries that did not employ law student workers when Richman and Windsor conducted their survey,[42] the reasons why they do not employ law students are as follows: Two law libraries have used them in the past and deemed them ineffective; two law libraries have used them in the past, but their positions were eliminated for budgetary reasons; nine law libraries have library staffs that can adequately fill faculty research demand; thirteen law libraries have law faculty that have their own research assistants; and one law library noted other reasons.[43]

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[39] The survey results in their entirety from Qualtrics are on file with the authors.

[40] *See* Richman & Windsor, *supra* note 2, at 281.

[41] *See infra* Appendix, question 11.

[42] See *id.*, while remembering the note earlier that their results are inconsistent and non-transparent, so this number may not be correct.

[43] Law librarians could select more than one answer to this question of why their law libraries do not employ law student workers. *See infra* Appendix, question 12.

Hypotheses (2) and (3): More law libraries allow these law student employees to participate in faculty research, but the overwhelming majority of law libraries still do not employ law students for assistance in faculty research.

The 135 law libraries that do employ law students were asked to select how they would best describe the law student employees' responsibilities. One hundred and eight law libraries use law students for general support such as shelving, circulation duties, etc.; fifty-four law libraries use law students for legal research for faculty under the supervision of one or more staff librarians; thirty-five law libraries use law students for reference work; and twenty-three law libraries use law students for other reasons.[44] Because of the opaqueness of the Richman and Windsor survey, we cannot know for sure if these numbers are an increase in law libraries tasking law students with more advanced responsibilities, such as faculty research and reference. However, we suspect there has been some increase while still not even the majority of law libraries employing law students to help with faculty research. This conclusion supports our second and third hypotheses.

Hypothesis (4): Less than five law libraries besides the BYU Law Library employ the reference assistant—meaning less than five task a pool of law student employees with reference work, in addition to faculty research, using the model implemented at the BYU Law Library.

In regards to how research support for faculty members is provided by the law libraries, all 155 law libraries responded to this question. 104 law libraries have a law librarian who fills the request or delegates it; seventy-one law libraries have a specific librarian assigned to each faculty member who can be contacted for research support; thirty-seven law libraries have a pool of law student research assistants under the supervision of a law librarian, an increase from either ten or twenty-five when Richman and Windsor surveyed the libraries;[45] and three law libraries provide no research support to faculty members.[46]

A new element that was explored in the 2017 survey that had not been explored in the past two surveys was the employment of law students to do reference work. First, it was important to see if reference desks are still common in law libraries, and the survey showed that they are—135 law libraries have a reference desk. Of those 135 law libraries, thirty-two have law students employed to participate in staffing the reference desk. Because this element had not been

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[44] Law librarians could select more than one answer to this question of what responsibilities law student employees have in their law libraries. *See infra* Appendix, questions 13 and 14.

[45] *See* notes 31–33 and accompanying text for an explanation of this ambiguity.

[46] Law librarians could select more than one answer to this question of why their law libraries do not employ law student workers. *See infra* Appendix, question 15.

quantified by a survey before, we individually contacted these thirty-two law libraries that have law students doing reference work in order to gather more details. Our research found that it is apparent that few use the same large pool of law student employees to do both reference and faculty research support like the reference assistant model at the BYU Law Library. Out of these thirty-two law libraries, eight use law student employees to do reference and faculty research support during the evenings and/or weekends only (or they only hire one or two law students, usually ones interested in law librarianship, for the position), not allotting them very many hours a week in order to benefit from these employees like the reference assistant. Five law libraries use law student employees at the reference desk for 40+ hours each week but do not enlist them to help with faculty research support during their spare time. They either hire additional law student employees to do faculty research support, or they do without law students assisting the professional law librarians with faculty research support. Eleven law libraries use the law student employees at the reference desk for less than 40+ hours a week (usually either evenings only and/or weekends or they only hire one or two law students who are especially interested in law librarianship for the position), and they do not enlist these employees' help with faculty research support. It is unknown at the time of writing this article what five of these thirty-two law libraries do with their law student employees that staff the reference desk.[47]

Our fourth hypothesis was that less than five carry out a model like the reference assistant model at the BYU Law Library. Our survey revealed that two other law libraries, in addition to the BYU Law Library (which was included in the survey and in these thirty-two law libraries), have a model where law student employees staff the reference desk for 40+ hours a week and do faculty research projects when they are not answering reference questions.

It should be noted that there is overlap between the thirty-two law libraries that staff their reference desks with law student employees and the thirty-seven schools that have law student research assistant pools. This is likely for two reasons: (1) the "pool" of employees that staff the reference desk are also doing faculty research, so they would meet the definition for a law student research assistant pool or (2) there are two different types of positions available for law students in these law libraries, one being in the research assistant pool, and the other being in the pool of reference assistants. In short, some of the overlap between the thirty-two law libraries and the thirty-seven law libraries comes from overlap with the same employees and others come from having two distinct positions filled by law students in their law libraries.

Overall, for the majority of law libraries, there is clearly a need and a budget for law student employees. However, not even half the libraries use law students in

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[47] These five law libraries did not respond to our individual contacting after they completed our initial survey through Qualtrics.

a research capacity, and even less use them in a reference capacity. What follows is a discussion of why academic law libraries should, and how they can, increase the capacity and productivity of law student employees in their libraries.

III. Advantages of the Reference Assistant

A. Benefits for the Academic Law Library

Academic law libraries stand to benefit in many significant ways by employing the reference assistant and implementing the reference assistant model. The major benefits observed include that the reference assistant can: contribute to the workloads of overextended law librarians, allow the library to serve more patrons effectively in a cost-efficient manner, and perhaps even increase patron use of reference services. Additionally, the adept reference assistant can help the law library contribute more fully to the academic mission of its law school by responding to increased numbers of faculty requests more expeditiously and more thoroughly and by actively engaging in the educational lives of law students through guided practice and real-life problem solving.

Hiring the reference assistant can ease some of the law librarian's extensive workload. While the reference assistant cannot answer every reference question, they can answer "many reference questions [that] do not require a reference librarian's expertise."[48] Some scholars argue that in order to alleviate some of the law librarian's impossible workload, artificial intelligence should be used to answer many reference questions.[49] Others suggest the implementation of "an information

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[48] Nancy B. Talley, *Imagining the Use of Intelligent Agents and Artificial Intelligence in Academic Law Libraries*, 108 LAW LIBR. J. 383, 394 (2016). *See, e.g.*, Bradley Wade Bishop & Jennifer A. Bartlett, *Where Do We Go from Here? Informing Academic Library Staffing Through Reference Transaction Analysis*, 74 C. & RES. LIBR. 489, 499 (2013) (concluding from the study the authors conducted that "two-thirds of the total [reference] questions asked in [the authors' academic library] concerned library locations and their attributes, all of which staff with minimal training may easily answer"). *See also* Margaret McDermott, *Staffing the Reference Desk: Improving Service Through Cross-Training and Other Programs*, 19 LEGAL REFERENCE SERVS. Q., nos. 1/2, 2001, at 207, 211 (suggesting that a "major problem[] in staffing reference desks" is "the number of questions that do not require a professional librarian").

[49] *See* Talley, *supra* note 48 ("With evidence suggesting that such a small percentage of reference questions actually require librarian assistance, the question remains whether academic law libraries should eliminate the traditional reference desk. Rather than forgo the reference desk, a better solution is to incorporate agent technology into academic law libraries so that librarians, along with intelligent reference assistants, answer patrons' reference questions efficiently and effectively. . . . . Librarians can then focus their attention on the percentage of reference questions that require expertise and other important duties, including teaching and involvement in clinics or directed research.").

desk near the circulation area [where] more difficult inquiries are referred to a reference desk," or a "combination of an information desk and an office consultation with a professional librarian who works away from a hectic reference desk."[50] Hiring the reference assistant to help staff the reference desk remains more true to the historical model of an independent reference desk, while maximizing its potential to provide patron service. It ensures a face at the reference desk, serves patrons, and allows law librarians more time to engage in duties that do require their well-honed expertise. However, this is not a suggestion that the reference assistant should completely replace law librarians on the reference desk; they do not have the knowledge, training, schooling, or expertise that the professional law librarians have. The reference assistant's role is supplementary. In fact, many of the reference shifts during regular hours can, and should, be covered by both the reference assistant and the law librarian. But should a librarian have other pressing commitments or meetings during their shift (making coverage of the reference desk impractical), the reference desk would not go uncovered; the reference assistant would be available to field inquiries and pass the more difficult questions on for follow up by a law librarian.

The reference assistant can also help the law library elevate its "competitive edge,"[51] by creating increased face-to-face interaction with the patrons while still maintaining cost-effectiveness. Some law libraries continue to offer extended reference coverage on evenings and weekends, but this approach to reference coverage can be costly and force many law libraries to perform a difficult cost-benefit analysis. Library administrators across the country are likely asking themselves whether the extended reference services their library is providing are worth the cost needed to maintain a physical presence at the reference desk or whether reference hours should be reduced and the money saved be invested elsewhere.[52] The reference assistant helps alleviate some of the tension between offering convenient service for patrons and reducing the cost of doing so in that they allow libraries to offer extended reference services at a fraction of the budgetary impact. The seasoned and well-trained reference assistant could be assigned to cover reference desk hours when law librarians are unavailable for consultation, while the more novice reference assistant, who would benefit from the mentorship and guidance of a law librarian, could be assigned to cover shifts

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[50] McDermott, *supra* note 48, at 208–09.

[51] *See* Jean M. Holcomb, *Maintaining Your Competitive Edge*, 101 LAW LIBR. J. 121, 121 (2009) (arguing that a law library must "maintain its competitive edge" and that "[i]n today's information age, where answers to every question appear to hide only a keystroke away, law libraries must compete as never before for customer loyalty").

[52] According to our survey, twenty law libraries do not even have reference desks. *See infra* Appendix, question 16. Our rationale of the cost-benefit analysis of a reference desk is likely one of the reasons why some law libraries do not have reference desks.

that overlap with librarian desk coverage. Further, most law librarians today are easily available by phone or email if the reference assistant needs immediate guidance while covering the reference desk singlehandedly.[53]

The reference assistant model not only helps expanding law libraries facing budgetary restraints, but the model is also of significant benefit to smaller or shrinking law libraries looking to supplement service needs. It is likely that many law libraries, similar to the James E. Faust Law Library at the University of Utah, are not replacing professional law librarians as they retire or leave their employment. In some cases, this may be due to reduced need, but in most, if not all, it is an attempt to maximize the work capacity of remaining library staff and professionals while minimizing the impact on library budgets. Generally, the exiting librarian's duties are divided amongst the remaining, already over-burdened librarians.[54] The budget may be spared, but chances are the quality and quantity of work being produced may decline. This is not because librarians are not conscientious and hard-working but because they are being forced to turn their attention in a number of different directions to compensate for the reduction in staff. In these cases, the well-trained and astute reference assistant can help ease some of the burden. The expectation is not to have the reference assistant replace law librarians, but rather to have them provide librarians, especially those in smaller or shrinking libraries, with an additional support structure.

Employing law students to work on the reference desk could potentially increase patron use of reference services. Many students benefit from peer to peer learning or may feel more comfortable approaching a fellow student with their inquiry rather than a professional law librarian.[55] Similar to the law student who is approaching the reference desk, the reference assistant is a current law student and, in limited cases, may be better informed than the law librarian to address the questions being asked because often, as a fellow student, the reference assistant benefits from unique insights or contextual understanding related to the request that could enable them to respond more efficiently and empathetically than the law librarian could.[56]

Additionally, the new ABA standards for law school accreditation include six credit hours of experiential learning where students are required to work on

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[53] This is the case at the BYU Law Library.

[54] *See* Taylor Fitchett, et al., *Library Budgets in Hard Times*, 103 LAW LIBR. J. 91, 107 (2011) ("Each time a position [in a law library] becomes open, it offers a chance to see if duties can be eliminated or reassigned to another position. . . .").

[55] *See, e.g.*, Brenza et al., *supra* note 5, at 726 ("[S]tudents are more comfortable approaching someone their own age for help.") (citation omitted).

[56] *See, e.g.*, Brenza et al., *supra* note 5, at 726.

professional skills development.[57] These courses may include simulation-based training, as well as opportunities to participate in pro bono initiatives.[58] Although employing law students as reference assistants does not fulfill these new standards, it is very much in keeping with the spirit behind this paradigm shift to include practice-based learning. By helping to prepare students to practice through mentorship and training of the reference assistant, law libraries are contributing in a very meaningful way toward law schools' goals of producing "effective, ethical and responsible . . . members of the legal profession."[59]

Ideally, law librarians want to make sure that responding to faculty requests is one of their primary priorities[60] because this helps law libraries to prove their value.[61] However, the many constraints on law librarians' time do not always make this prioritization possible. Many law librarians teach research courses for the law school, participate in professional committees, advise law students, staff the reference desk, and contribute to librarianship and the law school in a variety of other ways that may conflict with their ability to address faculty needs immediately. It is in instances such as these that having access to the reference assistant can be particularly helpful because the reference assistant can make a significant contribution to the faculty services the library offers. Since some faculty requests are "administrative support,"[62] the reference assistant can be trained to complete many of these tasks, thereby freeing up the law librarian's time for more involved or complicated projects. Having the reference assistant handle faculty members' administrative requests also ensures that these needs are addressed expeditiously.

Furthermore, the reference assistant can do so much more than provide administrative support for faculty members; they can also help with their "substantive research assistance."[63] In most law libraries, "substantive research

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[57] AM. BAR ASS'N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2016–2017, at 16 (2016) (Standard 303(b)), *available at* http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2016_2017_aba_standards_and_rules_of_procedure.authcheckdam.pdf.

[58] *Id.* at 16 (Standard 303(a)(3)).

[59] *Id.* at 15 (Standard 301(a)).

[60] *See* Sheri H. Lewis, *A Three-Tiered Approach to Faculty Services Librarianship in the Law School Environment*, 94 LAW LIBR. J. 89, 89 (2002) ("A primary function of the law library in the academic setting is to support the research and teaching needs of the faculty.).

[61] Richard A. Danner et al., *The Twenty-First Century Law Library*, 101 LAW LIBR. J. 143, 143 (2009) (explaining that "[q]uestioning the role of the library, particularly the role of the law library . . . [is] now a common question" and that law libraries need to prove they are "worth it").

[62] Lewis, *supra* note 60, at 96 ("Administrative support requests tend to comprise a significant amount of the ongoing library services provided to law faculty.").

[63] *Id.* ("When law faculty . . . see assistance from their academic library, these requests tend to fall into two distinct categories. The first is administrative in nature; the second is for

services are typically the work of professional librarians."[64] However, the reference assistant can address many of these requests with the guidance of law librarians. Law librarians should seek ways to make meaningful contributions to the academic growth of law students. Encouraging the reference assistant to undertake complex research or reference tasks with the careful oversight of the law librarian allows the librarian to impart valuable transferable skills and knowledge to that student.

Many law libraries have already embraced the law student employee as a member of their research assistant pool.[65] What makes the reference assistant model different is that the reference assistant has set hours and is readily available during those set, reference hours to complete a faculty request, whether that request be administrative support or substantive research assistance. This model means there is always someone available to start on requests right away and allows faculty projects that require many hours of work to get done more quickly than if the faculty used their own personal research assistant. With a pool of research assistants, the research assistants might not be available that day to begin working on a project. Thus, the reference assistant model is able to take faculty support to a higher level than the pool can. By way of example, many law professors have complained to the BYU Law Library that their personal research assistants are busy, have finals, or are gone for the summer and cannot complete their requests quickly enough. But where there is the reference assistant assigned to work for seventy-three hours every week, the law professors' requests are completed in a timely manner by the reference assistants, bypassing one of the major pitfalls of either personal research assistants or a pool of research assistants.

The faculty also benefit from the reference assistant because their research requests receive the collaboration of multiple law students, as well as close supervision from the law librarian. Because most faculty research requests are passed on from one reference assistant to the next, the faculty's requests are more thoroughly and creatively researched than if just one research assistant worked on the request. Further, the supervising law librarian looks over every faculty request that the reference assistant works on. This allows the law librarian to not do all the work on the faculty request but rather to spend time on it after the reference assistant has had the first go on the project. This means more faculty requests can be fulfilled and have the expertise of the law librarian brought to the request, without overburdening the law librarian.

Overall, if law libraries are limiting their law student employees' contributions to administrative tasks and ready reference, they are failing to maximize the potential benefits of employing a law student.

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substantive research assistance."). *See, e.g.*, Schultz, *supra* note 3, at 774 ("Much of the work that reference librarians should delegate can be assigned to research assistants.").

[64] *See* Lewis, *supra* note 60, at 97.

[65] *See infra* Appendix, question 15.

B. Benefits for the Reference Assistant

The reference assistant can prove to be a valuable asset to the law library because an effective reference assistant contributes in a myriad of significant ways to the law library and the law school community. In return for their contributions, the reference assistant can be compensated in a variety of different ways. The following are some of those enumerated compensation possibilities, which are discussed in more detail below: monetary gain, research assistant experience for a variety of law professors, opportunity to work under guided practice of law library professionals, mentoring relationships with the law librarians, relationships with the other reference assistants, transferrable "good employee" skills, and a future career.

Primarily, the reference assistant receives generous monetary remuneration for their work. The options law libraries have for doing so include a tuition waiver, an hourly wage, or both. The BYU Law Library offers the hourly wage that matches that of a research assistant for a professor. Since the pay is the same amount, the reference assistant positions are easily just as coveted as the research assistant positions. Along with the matching pay, part of the work of being the reference assistant includes essentially being a research assistant for various law professors. The chance to be a research assistant for a law professor is considered by some to be the best job in law school.[66] So to essentially be like a research assistant for many law professors can be a highly desired benefit for the reference assistant.[67]

The reference assistant also profits from opportunities to perform guided practice with the oversight of law library professionals, in addition to receiving valuable training from various library professionals (circulation, inter-library loan, reference, etc.).[68] This guidance and training helps the reference assistant improve more quickly than their research assistant counterparts, who may receive little feedback, if any, from the law professors for whom they work. Further, mentoring relationships may develop between the reference assistant and law librarians as they

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[66] *See, e.g.*, Mark E. Wojcik, *Should You Be a Faculty Research Assistant?*, 36 STUDENT LAW., Sept. 2007, at 35, 35 (listing ten reasons why being a research assistant to a law professor is a great job).

[67] *See, e.g.*, Kirk & Rainwater, *supra* note 2, at 5 (noting that the authors' law student assistants "praised the [research assistant] pool [in the law library] for the opportunity to work with a variety of faculty and in a directed program which provided a positive learning experience").

[68] *See, e.g.*, Patricia Warren, *Inside Internships*, 4 COLLEGE & UNDERGRADUATE LIB., no. 1, 1997 at 117, 123 (calling student jobs in a library "a priceless opportunity to learn from experienced professionals").

work together to complete complex legal research requests.[69] These mentoring relationships can lead the reference assistant to being better prepared when applying for post-graduation jobs in the legal field.

The reference assistant also has the opportunity to develop relationships, both academic and personal, with the other reference assistants. Although the reference assistant does not work a shift with another reference assistant, both are often involved in collaborative research efforts to complete projects or fulfill faculty requests. This necessitates that the reference assistant regularly communicates with the other reference assistants, giving them the opportunity to develop these relationships.

The reference assistant also has occasions to interact in person with the other reference assistants during regular training meetings. During these meetings, the reference assistants can discuss current reference desk issues or projects and problem solve together. These regular trainings (monthly at the BYU Law Library) afford the reference assistant the opportunity to learn not only from the supervising law librarian, but also from the other reference assistants. Discussions about experiences while working on the desk, research strategies, and even personal matters enrich the reference assistant's law school experience and better equip them to make the ultimate transition out of law school and into the legal field.

The reference assistant benefits from a unique opportunity to broaden their network to encompass students across all law school classes. Many law students have limited academic and social spheres, sometimes only establishing personal and academic relationships with those in their own class. However, because the hiring pool for the reference assistant could span all three law classes, hired law students have a naturally expanded network that takes them beyond those in their current law class. Due to these larger networks, the reference assistant has the opportunity to become a mentor to and be mentored by their peers. The novice research assistant can turn to the more seasoned reference assistant for guidance and advice. Eventually, as relationships are built, this guidance and advice may go beyond working on the reference desk and spill into the realm of law school generally. The third-year reference assistant may be able to provide advice to the first-year or second-year reference assistant about coursework, externship opportunities, and beneficial study aids and techniques.

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[69] This article itself came about because of a mentoring relationship between us, before we were co-authors—one of us as the reference assistant, and the other as the nurturing mentor. Further, law librarians as mentors, in general, is paramount to keeping our profession sharp, relevant, and indispensable. *See* Renee Rastorfer & Liza Rosenof, *Mentoring Across Generations: The Training of a Millennial Librarian*, 108 LAW LIBR. J. 101, 117 (2016) ("The health of our [law librarianship] profession depends in part on taking measures now to ensure our roles going forward as effective mentors and trainers.").

As part of their employment, the reference assistant not only becomes a better legal researcher, but they also develop practical skills such as customer service, organization, teamwork, and responsibility. These marketable soft skills make the reference assistant more attractive to future employers, [70] perhaps resulting in full-time professional opportunities. Their interactions with the local attorneys who visit the law library will also afford them opportunities to expand their professional network and establish a reputation as thorough, reliable, and skilled. Perhaps these interactions might ultimately lead to employment opportunities post-graduation.

The reference assistant position could also be seen as a vehicle for recruitment to the profession of law librarianship. Students who show aptitude and interest during their employment as the reference assistant may consider, or be encouraged to consider, entering the field.[71] A number of students who were introduced to law librarianship as law students while working as reference assistants at the BYU Law Library are currently employed as law library professionals, including the current Director (Kory Staheli) and the current Deputy Director (Shawn Nevers) of the BYU Law Library.[72]

By way of example, one of the authors of this article, Annalee Hickman Moser, was recruited to the field of librarianship because of her initial employment as a reference assistant at the BYU Law Library. Ms. Hickman Moser had originally intended to join a small personal injury firm as a litigator after graduation.

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[70] *See* McClure, *supra* note 3, at 282 (believing that hiring law students in law libraries "offer[s] a unique opportunity to equip law students with skills that meet the new demands of the legal marketplaces").

[71] *See Recruiting Law Librarians*, *supra* note 5 ("Recruitment of law-trained personnel is . . . an integral part of the recruitment program. One method that can be helpful is the use of law students as reference assistants. Ideally, these positions should be available after the law students have had thorough training in the circulation department and are competent to handle circulation problems. A 'promotion' to the reference department for those law students who are competent and interested can provide an experience that will demonstrate to law students that the law library profession can be an interesting professional alternative to the practice of law.").

[72] *See Kory D. Staheli*, BYU LAW, http://law.byu.edu/faculty/profile_2016.php?id=45 (last visited Nov. 20, 2017); *Shawn G. Nevers*, BYU LAW, http://law.byu.edu/faculty/profile_2016.php?id=43 (last visited Nov. 20, 2017). Others include the following. Kristin Gerdy is a teaching professor and director of the Rex E. Lee Advocacy Program at BYU Law School. *Kristin B. Gerdy*, BYU LAW, http://www.law2.byu.edu/faculty/profile_2016.php?id=17 (last visited Feb. 21, 2017). Ron Fuller is a law firm librarian at Steptoe and Johnson and is a former law librarian at the University of Utah and Washington and Lee University. *Ron Fuller*, LINKEDIN, https://www.linkedin.com/in/ron-fuller-a1243b6 (last visited Feb. 21, 2017). Dennis Sears, is the senior law librarian for foreign and international law at the BYU Law Library. *Dennis S. Sears*, BYU LAW, http://www.law2.byu.edu/faculty/profile_2016.php?id=44 (last visited Feb. 21, 2017). Steve Averett was a senior law librarian and the head of collection development at the BYU Law Library until his retirement in August 2017.

However, in her final months of law school, she learned of a fellowship opportunity that became available at the BYU Law Library. After learning of the possible employment opportunity, she began to research the profession and learned she was uniquely qualified to apply for the position because of her experience gained while working at the reference desk. She was gratified to learn that the skills she had developed while working on the reference desk could potentially translate into a productive and fulfilling long-term legal career. She is currently fulfilling a two-year law library fellowship with the BYU Law Library and, upon its completion, hopes to begin work as an assistant law librarian.

While it is unlikely that a single reference assistant will benefit in all of these ways, they are illustrative of the many ways the reference assistant might be advantaged because of their position.

IV. Practical Concerns of the Reference Assistant

Embracing any new service model is difficult. It is important to have all of the information and to consider the potential downsides and drawbacks of implementing such a model. The following sections discuss some of the issues— namely supervision, cost, competence, and retention—that may be of concern when deciding whether or not to hire the reference assistant and why law librarians might be hesitant to do so. Overall, we respond to these hesitations by pointing out that when law librarians perform a cost-benefit analysis with regard to these concerns, then they will realize that the benefits that both the library and the law students hired stand to gain outweigh any of the costs that may be incurred by doing so.

A. Supervision

An understandable concern when instituting a model like the reference assistant model is how and by whom the reference assistant will be supervised.[73] It would be wise to task a single law librarian with the management of the reference assistants. This way each reference assistant will know to whom they are accountable and whom they should approach for help. This does not mean that the reference assistant cannot approach whichever law librarian is working with them on the reference desk at any given moment; however, a single supervisor gives the reference assistant a consistent point of contact on whom they can rely to meet their needs. Like a faculty services librarian, the librarian assigned to oversee the reference assistant should expect to dedicate some time to the smooth running of

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[73] See generally Malmquist, *supra* note 1, at 301–313 for a discussion about supervising student employees in a law library setting.

the reference assistant model.[74] Consistent and clear management can often eliminate potential problems and save time. Plus, once the model is up and running, the supervising librarian can do more overall with the reference assistants so that the reference assistants are helping the librarian accomplish even more with their time than the librarian could do by themselves, increasing the librarian's work product.[75]

Additionally, trainings must be designed, developed, and delivered. Ideally, these training sessions should be determined and coordinated by the supervisor as they should be intimately aware of the reference assistant's needs. This does not mean that the supervisor should necessarily deliver or facilitate every training. The supervisor should draw on the various talents of others throughout the library to enrich the training experience. People working in technical services or circulation have a wealth of information that can be helpful for the reference assistant. Even the reference assistant themselves could be called upon to present a training on an area of their expertise or to update the other reference assistants on the status of a project and how best to proceed. The supervisor should also take advantage of training time to conduct housekeeping, relay significant information, and set or reinforce expectations. This can mitigate redundant questions by the reference assistant and contribute to uniformity of product, both of which will ultimately save valuable time. Appropriate training opportunities not only contribute to the reference assistant's overall aptitude at the desk but also help encourage faculty confidence in the student's competence to complete difficult or complex research assignments.

Because the reference assistants all work on the same faculty research projects, the supervising law librarian must ensure that these group projects are clearly communicated from one reference assistant to another. There are many free and low-cost programs available to help manage group tasks such as these. Some of these programs include Trello, Taiga, Restyaboard and TaskBoard. All of them are similar, but by way of example, Trello, the free program of choice at the BYU Law Library, is essentially a digital Kanban board. Kanban, "a tool for managing the flow of materials or information in a process," was developed in response to the movement of Lean methodology[76] that seeks to eliminate waste and increase efficiency.[77] In simplest terms, a Kanban board helps workers visualize work flow processes and manipulate those workflows to produce optimal efficiency. In the

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[74] *See* Schultz, *supra* note 3, at 774 ("Supervision and training of research assistants is a big job, and it takes up a large portion of the faculty services librarian's time and thought.").

[75] *See* Malmquist, *supra* note 1 ("Without student workers, [law] librarians would not be free for other duties.").

[76] *See generally* ERIC RIES, THE LEAN STARTUP: HOW TODAY'S ENTREPRENEURS USE CONTINUOUS INNOVATION TO CREATE RADICALLY SUCCESSFUL BUSINESSES (2011).

[77] Paul Klipp, *Getting Started with Kanban*, KANBANERY 4, https://morebetterlabs.kanbanery.com/ebook/GettingStartedWithKanban.pdf.

case of Trello, this is done by maintaining a series of lists where each individual task or project in the list is a digital card or post-it note that can be easily edited or moved until optimal efficiency is achieved or projects are completed. Management solutions such as Trello are key to supervising the reference assistant because there are many reference assistants and lots of switching off amongst each other. Trello helps the work of the reference assistant not to be repeated by the next one and allows the supervising law librarian to keep an eye on the faculty projects, to make sure that the research is going in the correct direction, and to make sure no project is ever forgotten.

B. Cost

A potentially significant downside law librarians may have to consider when implementing the reference assistant model is the cost. Law library budgets are tight,[78] and it is doubtful they will ever be less tight.[79] So realistically, how much does the reference assistant cost if they are staffing the reference desk during the days, evenings, and weekends?

At the BYU Law Library, the reference assistant is employed for seventy-three hours of labor every week, meaning that approximately 3,700 hours of reference and faculty research are completed by the reference assistant every year, upping the productivity of the library. The reference assistant's hourly pay is the same pay as the law faculty's own research assistants, so while this may be high for some libraries, if the academic law library already has money allocated for a pool of research assistants, the overall cost of the reference assistant model would be about the same. The difference is that the reference assistant has set hours that do not overlap with the other reference assistants so that there are more hours of coverage, both at the reference desk and for answering faculty requests.

Further, even if the pool of research assistants is not a model currently implemented in a particular law library, most law libraries do employ law students—87% of law libraries to be specific.[80] Perhaps many of these law libraries are employing less law students than ever before. Regardless, in 2017 87% of law libraries had some kind of budget to employee these law student employees. Thus,

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[78] *See, e.g.*, Fitchett, et al., *supra* note 54, at 91 (claiming these times to be "the worst recession many law librarians have ever seen, . . . driv[ing] the need for academic law library directors who are imaginative, creative, and strategic thinkers, particularly about resources"). *See also* Bishop & Bartlett, *supra* note 48, at 489 (recognizing "the ever-present challenges . . . with declining budgets in the academic environment").

[79] *See* Fitchett, et al., *supra* note 54, at 93 ("[V]irtually every law library director . . . [thinks] [the current tough economic times are permanent,]" with "most qualif[ying] their remarks by saying they [think] that while economic conditions for law schools will improve, those of academic law libraries probably will not.").

[80] *See infra* Appendix, question 11.

the cost for the reference assistant model, or a scalable model, may already be covered for most law libraries. What we encourage these law libraries to see if how to more effectively use these law student employees that they have already hired and budgeted for. Thus, for most law libraries, it should not be a question of how to get the money for the reference assistant but more a question of how can these law libraries use student employees more effectively.

It is possible that the Dean of the law school may help law librarians increase their law library budget to be able to afford the reference assistant, and their requests to increase their budget in order to hire the reference assistant may save their law school money overall, as was the situation at Georgetown.[81] Emphasizing how the reference assistant will help the law school's faculty members could make the model attractive to law school administration. Knowing that at the drop of a hat the faculty can get help with a variety of needs from the reference assistant that is already clocked in and ready to work, will bring immense happiness to the law faculty, and we all know how important it is to keep the faculty happy.[82]

While a budget increase is probably not the norm, it is wise to not discount (no pun intended) the creative cost solutions available to law libraries, either by expecting more out of the law libraries' current law student employees or by seeing if the reference assistant model can be a more efficient and a cost-effective answer to research assistants provided by the law school, as shown by the Georgetown example. Regardless, the reference assistant model can help the law library produce more work product and serve more patrons, students, and faculty members.

C. Competence

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[81] *See* Kirk & Rainwater, *supra* note 2, at 4 (explaining that a research assistant pool in the Georgetown University Law Library began when the Academic Dean, with their "cost-cutting focus," reduced the research assistant funds for faculty to have individual research assistants, and instead gave the library an increased budget to hire research assistants that could work efficiently and for a variety of faculty members, and that the pool of research assistants stayed because of the monetary savings for the administration).

[82] *See* Lewis, *supra* note 60, at 96 ("A pivotal role of librarians in a law school environment is to ascertain the research and teaching needs of the faculty and to assure that those needs are served by the library.") (footnote omitted).

Some law librarians and scholars may believe that law students are not knowledgeable enough to perform reference work,[83] research for faculty,[84] or even menial administrative tasks in the law library. However, those views are outdated and, frankly, grossly inaccurate.[85] Although it is true that the reference assistant may require initial development before the law library's investment returns dividends, it is also true that part of the purpose of hiring the reference assistant is so the law library can contribute in a meaningful way to law student growth and education. The training that comes from the close supervision of the reference assistant by the law librarian is what will make their skills better, making them more competent over time as a reference assistant.[86]

There is a widespread tendency for law faculty to favor the upper echelons of student achievers when choosing student research assistants. The top ten percent of any given law class seem to account for the vast majority of scholarship and job offer recipients while the remaining ninety percent tend to languish.[87] While law libraries should seek out law students with potential and acumen when looking to hire reference assistants, they should not be reluctant to reach deep into the applicant pool when searching for suitable candidates. Unlike the limited training provided to most research assistants, the reference assistant benefits from on-going training and support opportunities. Unlike law professors, many of whom have little time or inclination to train the students they are paying to do research, law librarians can factor in the time to train and supervise the reference assistant into their

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[83] Compton, *supra* note 16, at 24 ("Several librarians, . . . in no uncertain terms, . . . consider[] [law student employees] a bane and not a blessing and strongly recommend[] discontinuance of their employment, giving it as their experience that full-time assistants g[i]ve much more satisfactory service and at slightly additional cost.").

[84] *See, e.g.*, Monroe H. Freedman, *The Professional Responsibility of the Law Professor: Three Neglected Questions*, 39 VAND. L. REV. 275, 281 (1986) (remarking that "[a law] student might not have known any better" when she plagiarized as a research assistant for a law professor).

[85] *See, e.g.*, McClure, *supra* note 3, at 282 ("Students who have served a year or longer [as the research assistant] typically experience tremendous improvement in their legal research skills as a result of the one-on-one instruction and the variety of projects they have encountered. . . ."). *See also* Schultz, *supra* note 3 (advocating for law student help with faculty research projects given to a law librarian); McDermott, *supra* note 48, at 212 ("A conscientious law student who is well-trained and closely monitored can be an especially valuable employee" to the law library.).

[86] *See* McDermott, *supra* note 48, at 212 ("Training and supervision can address the occasional problems, such as the overconfident student who fails to refer appropriate questions to the librarian.").

[87] *See, e.g.*, Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112, 117 (2002) (arguing the existence of "[t]he top-ten-percent tenant," defining it as "the belief that success in law school is exclusively demonstrated by high grades, appointment to a law review, and similar academic honors," and concluding that the "belief is entirely obvious at most law schools, whether elite or more typical.").

reference hours when no student or patron is approaching the reference desk. The reference assistant position is an opportunity for the law school to implement a more egalitarian approach to student employment by hiring law students with interest and potential (even with a range of GPAs), not just the top ten percent.

Further, the hiring process can be structured so that competent law students are hired as the reference assistant. Some important aspects of the hiring process can include: (1) a requirement that the applicant has completed a rigorous legal research program in their first year of law school, (2) a strong recommendation from their legal research instructor, and (3) a research hypothetical given during the interview in which the applicant must explain their methodology for solving the research problem. These aspects, when carried out, can help law librarians to hire applicants with strong legal research skills.

As discussed in Part III, Section A, the American Bar Association (ABA) is moving away from all theory-based law school courses toward including more skills-based courses in which law students are expected to put into practice the principles they are learning in the classroom.[88] Law schools have a duty to prepare their law students to go out and practice law, and there is a variety of new approaches to legal education that appeal to today's students' diverse learning styles.[89] There is nothing more practical than addressing real life legal research

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[88] *See generally* Roy Stuckey, *The American Bar Association's New Mandates for Teaching Professional Skills and Values: Impact, Human Resources, New Roles for Clinical Teachers, and Virtual Worlds*, 51 WAKE FOREST L. REV. 259 (2016) (discussing the ABA's new accreditation requirements that include more skill-based courses for law students and hypothesizes about the speed schools will implement skill requirements); Harriet N. Katz, *Evaluating the Skills Curriculum: Challenges and Opportunities for Law Schools*, 59 MERCER L. REV. 909 (2008) (exploring the implementation of more skills-based courses in law schools because of the ABA's push for more skills education).

[89] *See, e.g.*, Myra E. Berman, *Portals to Practice: A Multidimensional Approach to Integrating Experiential Education into the Traditional Law School Curriculum*, 1 J. EXPERIENTIAL LEARNING 157 (2015) ("The cost of legal education, the reluctance and often the incapability of law firms to bear the cost of training new attorneys in basic lawyering skills, costs which they must pass on to their already overburdened clients due to increasing costs of litigation, the new technologies and the concomitant need for different kinds of lawyers with skills unfamiliar to the academy, the glut on the market of lawyers, except in the public interest areas where they are most needed – these factors have combined to create the perfect storm for thrusting experiential education to the forefront of the law school agenda and for altering the way law schools train future lawyers. And with two major national organizations focusing on this type of professional education, Educating Tomorrow's Lawyers and the Alliance for Experiential Learning in Law, we can state definitively that experientially-based legal education is here to stay.") (footnotes omitted). *See also* Genevieve Blake Tung, *Academic Libraries and the Crisis in Legal Education*, 105 LAW LIBR. J. 275, 279 (2013) ("Many of the most urgent voices for [law school] reform advocate a dramatic overhaul of the traditional scholarly curriculum in favor of experiential learning and cultivating 'practice-ready' [law school] graduates."); Ann Marie Cavazos, *Demands of the Marketplace Require Practical Skills: A Necessity for Emerging Practioners, and Its Clinical Impact on Society – A Paradigm for*

inquiries. By offering law students the opportunity to work as the reference assistant, law librarians become part of the solution by helping law students become practice-ready, which in turn helps the law library demonstrate its worth and relevance[90] during today's legal education crisis.[91]

The reference assistant participates in active learning daily as they problem solve and address real-world issues, building their competence the longer they work as the reference assistant. "Studies in cognitive science show that students retain what they are learning better with active learning than when passively sitting and listening to a lecture."[92] Additionally, rather than tackling engineered hypotheticals with predictive or prescribed outcomes, the reference assistant faces the reality that legal research problems are not always easily resolved and finding answers may require skillful use of multiple resources.

Some law librarians might be concerned that the reference assistant is not competent enough to avoid engaging in the unauthorized practice of law[93] or that the reference assistant is incapable of believing and conveying to a patron that they do not know everything. Not only is the latter an improper blanket judgment of all law students, it is also unsupported and unfounded. Additionally, because the supervising librarian maintains constant contact with the reference assistant, and because most shifts at the reference desk involve the law librarian advising the reference assistant, it is unlikely that the reference assistant will cross the line of the unauthorized practice of law. Moreover, patrons from the community, whether they are contacting the academic law library in person or by phone, seem to follow a similar pattern when they are asking for legal advice. The reference assistant, who has already received training before beginning work at the reference desk, will soon be able to differentiate these patrons from the others that contact the reference desk. Simplistically, the reference assistant can be trained to ask themselves the following: Does answering this patron's question involve using skills or knowledge

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Change, 37 J. LEGIS. 1, 5 (2011) ("[I]ncorporating practical skills into legal education provides a solution currently demanded by today's marketplace.") (footnote omitted).

[90] *See* Tung, *supra* note 89, at 278 ("Law librarians must demonstrate, to both our schools and our students, that our work is part of the solution, not part of the problem.").

[91] *See* McClure, *supra* note 3, at 275 ("Legal education is under siege.").

[92] Alyson M. Drake, *The Need for Experiential Legal Research Education*, 180 LAW LIBR. J. 511, 520 (2016) (footnote omitted).

[93] *See* Robin K. Mills, *Reference Service vs. Legal Advice: Is It Possible to Draw the Line?*, 72 LAW LIBR. J. 179, 192 (1979) ("It is virtually impossible to develop a reliable test or standard to be applied to determine where the line should be drawn between giving legal information and legal advice," so "law librarians should still be very concerned about the giving of legal advice by library staff members" and should mitigate the unauthorized practice of law by: (1) "posting . . notices urging those who need legal assistances to consult an attorney"; (2) "carefully instruct[ing]" any library staff member who may be approached by library patrons; (3) "urg[ing]" the patrons to speak to an attorney; (4) "refer[ing patrons] to other agencies whenever possible.").

that are singular to the education and training of a lawyer? If so, this patron requires legal advice that the reference assistant should not and cannot provide. If the reference assistant has any doubt about providing the patron with an answer, they can always turn to the law librarian for guidance. As a law student, the reference assistant is apt enough to follow this guidance. To date, the BYU Law Library has never encountered a problem with the reference assistant providing legal advice.

Another concern that law libraries might have with regard to the reference assistant's competence is their ability to interact with *pro se* patrons. Many individuals visiting the law library are seeking legal information in order to represent themselves in a legal action and assisting them can often be akin to traversing a minefield. *Pro se* patrons are often feeling a gambit of emotions, depending upon the nature of their legal action.[94] Some may be angry and combative while others may be seeking a sympathetic ear. Serving these kinds of patrons may be difficult for even the most seasoned law librarian. However, like other practical skills, such as negotiation, which the reference assistant is learning in law school, working with potentially difficult patrons such as these is excellent preparation for the practice of law. Under the careful guidance of the law librarian, the reference assistant can be taught mechanisms for helping these patrons. And like the other practical skills they are developing in law school, the more opportunities the reference assistant has to participate in guided practice the better they will become at it. As with every other instance, the law librarian can become involved in the transaction should they determine the reference assistant is struggling.

D. Retention

Some law librarians have addressed their concerns that the reference assistant would not be effective because of the high rate in turnover—that they would not be worth the cost.[95] However, law librarians can combat the high rate of turnover with the following ideas.

First, have a wide variety of law students who are the reference assistant, so that there is never a completely new group of them. This can be done by making

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[94] *See* Amy Hale-Janeke & Sharon Blackburn, *Law Librarians and the Self-Represented Litigant*, 27 LEGAL REFERENCE SERVS. Q. 65, 73–76 (2008).

[95] *See, e.g.*, Schultz, *supra* note 3, at 774 (acknowledging the high turnover of law students working in a law library). *See also* Richman & Windsor, *supra* note 2, at 280 ("Two leading reasons for [the] resistance [of law students employed in law libraries] are the constant turnover of student-employees and the cost associated with repeatedly training new students in the intricacies of a law library and its resources.") (footnote omitted); McClure, *supra* note 3, at 285. (recognizing that "[c]onstant turnover of [law student employees in law libraries] can be a drain on law school resources").

sure there is a somewhat equal balance of second-year law students and third-year law students. While some may suggest to have law students from all three years of law school,[96] we recommend law students from only the second and third years so that they have had an entire year of legal research curriculum before becoming the reference assistants.

Second, law libraries should "market" the opportunity to law students and then ensure the experience reflects the marketing done. Over time, the position will be marketed by the students themselves that are the reference assistants as a prized opportunity, one that is not just limited to students with the highest GPA in their class. In the beginning, the law library has to make the position of the reference assistant attractive to students, and as students see the benefits involved with being the reference assistant, they will take over the marketing through peer recruitment and word of mouth.

Third, the law librarians can make it a point to give meaningful faculty requests to the reference assistant so that they can see the value in their job.[97] The pride that comes from seeing their research appear in a law professor's article published in a law review or in a law professor's blog post that then gets cited in the Washington Post[98] cannot be understated. Knowing that they had a hand in helping further the scholarly work of a plethora of law professors will give the reference assistant satisfaction in their learning progress and in their position in the law library.

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[96] *See* Compton, *supra* note 16, at 26 ("Appointments should be made from first, second, and third year classes each year to keep a trained senior assistant always available to have only one new man at a time.").

[97] *See, e.g.*, McDermott, *supra* note 48, at 212 ("If law students understand that improved research skills will be a benefit of the position, they may appreciate having the experience on their resume and keep the job throughout law school.").

[98] This exact situation happened to one of the authors when she, as the reference assistant, worked tirelessly collecting the cases in a time-sensitive matter that then was highlighted in a Washington Post article. *See* Jonathan H. Adler, *What Happened When Merrick Garland Wrote for Himself*, WASH. POST: THE VOLOKH CONSPIRACY (Mar. 21, 2016), https://www.washingtonpost.com/news/volokh-conspiracy/wp/2016/03/21/what-happened-when-merrick-garland-wrote-for-himself/?utm_term=.34ceaf619e44 (highlighting that "[BYU Law professor] Aaron Nielson has collected all the cases in which Garland wrote concurrences or dissents . . . [and] has also collected those cases in which Garland was in the majority but another judge dissented" and citing Aaron Nielson, *Reviewed: Brooding Spirits, C.J. Garland Edition*, YALE J. REG.: NOTICE & COMMENT (Mar. 16, 2016), http://yalejreg.com/nc/d-c-circuit-review-reviewed-brooding-spirits-c-j-garland-edition-by-aaron-nielson/ and Aaron Nielson, *D.C. Circuit Review – Reviewed: More Brooding Spirits, C.J. Garland Edition*, YALE J. REG.: NOTICE & COMMENT (Mar. 18, 2016), http://yalejreg.com/nc/d-c-circuit-review-reviewed-more-brooding-spirits-c-j-garland-edition/).

Overall, these four practical concerns—supervision, cost, competence, and retention—of the reference assistant can be overcome and should not be a deterrence to implementing the reference assistant model.

V. The Reference Assistant Model: A Case Study

A. The History of the Reference Assistant at the BYU Law Library

Brigham Young University's J. Reuben Clark Law School opened on August 27, 1973, and as part of his opening remarks, University President Dallin H. Oaks expressed the pride he felt at the "extraordinary efforts" that made the school a reality.[99] In his description of what the law school had to offer prospective students, he highlighted "a law librarian whose professional skills and performance… [had] already won [the law school] wide acclaim in the world of legal education."[100] Additionally, he described how the founders of the law school "assembled and placed in operation a law library of just over 100,000 volumes."[101] The clear implication of Oak's effusions is that the inclusion of a law library and its services were a pivotal component of creating a state-of-the-art law school that would contribute to the institution's mission to "provide an education that is spiritually strengthening, intellectually enlarging, and character building, thus leading to lifelong learning and service."[102]

Many changes have occurred since those early days of the law school, including a major expansion of the BYU Law Library in 1995. According to the "Mission of the Law Library," the expansion allows the BYU Law Library to meet the "demands of the new legal education and launch another generation of growth in legal education and legal research."[103] The substantial increase in space contributes to the library's ability to "respond to the changing ways law is taught and learned" and to "provide better service to all of the library's varied clientele."[104] A fundamental way that the BYU Law Library has been able to offer better service for the library's clientele is by increasing its reference presence.

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[99] President Dallin H. Oaks, *Opening Remarks*, BYU LAW 10, 10 (Aug. 27, 1973), http://www.law2.byu.edu/site/files/info/oaksbecomingclarksschool.pdf.

[100] *Id.*

[101] *Id.*

[102] *Mission & Goals*, BYU LAW, http://www.law2.byu.edu/site/mission/ (last visited Feb. 8, 2017).

[103] Constance K. Lundberg, *Learning in the Light: The New BYU Law Library*, CLARK MEMORANDUM, Spring 1995, at 16, 18, *available at* http://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=1016&context=clarkmemorandum.

[104] *Id.* at 25.

The BYU Law Library originally began hiring law students to work on the reference desk in a limited capacity in the mid-1980s. The original reference assistant model was designed and instituted by now retired BYU Law librarians Constance K. Lundberg[105] and Gary Hill.[106] The goal of the model was to have coverage for the reference desk be as comprehensive as possible without imposing too heavily on the schedules of the law librarians.[107] As such, law librarians provided reference coverage from 8am to 5pm on weekdays, and the reference assistants, who were law students, were hired and trained to cover reference during the week from 6pm to 9pm and on Saturdays from 9am to 5pm. These early reference assistants served patrons who came to the desk and worked on a limited number of research assignments for the faculty. This remained the model for meeting faculty research needs and for maintaining extended reference desk hours until the early 1990s. It was at this time that the BYU Law Library embraced an additional model—a pool of research assistants. Although the reference assistant model was not dissolved, it became ancillary to the newly established research assistant pool.

Moving the focus to this additional model of a research assistant pool was partially motivated by an increased national discussion amongst law librarians about how to meet faculty research needs more effectively.[108] One of the recommendations getting the most traction at the time was the creation of a pool of research assistants, overseen by the library, from which the faculty could draw. The research assistant pool is a model of faculty services that is still popular in many law libraries today.[109] In simplest terms, the research assistant pool involves hiring a group of law students who will field faculty research requests as they are submitted to the librarian tasked with pool administration. The BYU Law librarians found that although the pool gave them access to a number of law student research assistants, the model never really performed up to their expectations.[110] It was particularly frustrating when faculty would contact the library with urgent research

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[105] Lundberg was the second director of the BYU Law Library from 1989 to 2008. *Constance K. Lundberg*, BYU LAW, http://www.law2.byu.edu/faculty/profile_2016.php?id=187 (last visited Feb. 16, 2017).

[106] Hill was the deputy director of the BYU Law Library until his retirement in 2014. *After 30 Years Gary Hill Retires from the Law Library*, BYU LAW (Dec. 3, 2014), http://www.law2.byu.edu/news2/after-30-years-gary-hill-retires-from-law-library.

[107] Telephone Interview with Gary Hill, Former Deputy Director, BYU Law Library, in Provo, Utah (Feb. 10, 2017).

[108] Interview with Kory Staheli, Director, BYU Law Library, in Provo, Utah (Feb. 10, 2017) (recalling research assistants supervised by law librarians being the buzzing topic at many AALL programs in the 1990's).

[109] *See, e.g.*, Kirk & Rainwater, *supra* note 2. *See also* Canick, *supra* note 2; Richman & Windsor, *supra* note 2; *infra* Appendix, question 15.

[110] Interview with Kory Staheli, *supra* note 108.

requests and research assistants could not be contacted in a timely manner to complete them or had only just checked out because they had been told that there were no outstanding requests.[111] After only a few years of using the research assistant pool with limited success, the BYU Law Library received a boon—they were to be the recipients of an impressive library expansion.[112] Between May 1995 and November 1996, a 60,000-square-foot addition was added to the library, more than doubling its original size and making the BYU Law Library "one of the most functional and best-equipped academic law libraries in the nation."[113] This transformative building remodel motivated the law librarians to re-invent their faculty and reference services to take full advantage of the renewed building's potential.

If you were to visit the BYU Law Library today, you would enter past the circulation desk onto the main floor of the library. The very large reference desk is centrally located on this main floor and has a dedicated workstation for both the full-time law librarian and the reference assistant. Both stations are equipped with a two-monitor computer and have easy access to the shared reference telephone, which is located between the two workstations. The desk is also adjacent to the bank of public access computer terminals, computer terminals reserved for exclusive use by students, the law students' Lexis printer as well as a large campus printer. From the reference desk, the law librarian and the reference assistant have an unobstructed view into the reserve reading room, which houses the majority of the library's reference materials. The reference desk is a considerable presence in the library and was designed with implementation of the current reference assistant model at its core.[114]

Kory Staheli, the current Director of the BYU Law Library, characterizes the building today as a "true teaching library."[115] Motivated by a desire to educate all patrons groups, the BYU Law Library planned and instituted the existing reference assistant model to fill the gap in faculty services left by the abandonment of the research assistant pool. The reference desk, in particular, is a fundamental tool in forwarding this idea of a teaching library and supporting the reference assistant model. Ample room is available at the desk not only for the librarian and reference assistant, but for patrons to sit across from them to discuss their legal research needs. The reference assistant model has been in place at the BYU Law Library for over twenty years. The model has undergone minor adjustments in that time in order to meet the changing demands placed on the library, but at its core,

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[111] *Id.*

[112] Stephanie Tripp, *Hunter Law Library Dedicated*, BYU MAGAZINE, https://magazine.byu.edu/article/hunter-law-library-dedicated/ (last visited Feb. 16, 2017).

[113] *Id.*

[114] Interview with Kory Staheli, *supra* note 108.

[115] *Id.*

the model remains the same and has become the embodiment of a "teaching library" paradigm.

B. What Does the Reference Assistant Do at the BYU Law Library?

The BYU Law Library generally employs between five and eight law students as reference assistants. Each of these students has completed the rigorous year-long legal research and writing course and has been fully vetted by their legal research instructor as competent to fulfill the responsibilities associated with the reference assistant position. Chosen reference assistants have also completed the highly competitive hiring process that includes an in-person panel interview where they must be prepared to discuss research strategy.

Once hired, each reference assistant works a variety of shifts for a total of approximately ten hours each week, during which they help with coverage of the reference desk and respond to faculty requests. The reference assistant schedules may vary depending upon the availability of the employed law students and often change from semester to semester as student class schedules change. The BYU Law Library makes an effort to accommodate the academic schedules of its reference assistants as much as reasonably possible, which contributes to the attractiveness of the position for law students. This flexibility also helps with employee retention as current reference assistants know their supervising law librarian will ask for their input as they develop upcoming shift schedules.

The first thing the reference assistant does when they come to the reference desk for their shift is determine whether or not there is any patron assistance or faculty research in progress. This is done verbally by communicating with the reference assistant vacating the desk or by referring to messages and notes that have been conveyed through the management program that the BYU Law Library uses. The reference assistants recently moved away from communicating through long, complicated email chains and adopted a free project management program called Trello instead. Trello allows the reference assistants and the librarian supervisor to communicate with one another and track project progress in real time. Trello is easy to use and eliminates the confusion that is often associated with long email exchanges amongst multiple recipients. Once the reference assistant is sufficiently up-to-speed with the status of the projects they proceed with their shift by either addressing patron reference queries or resuming research for faculty members. The reference assistant is expected to make answering reference questions, especially ones brought to them in person, their first priority.

Although some patrons may approach the reference desk and immediately begin talking to the law librarian fearing a student may not be able to help them, with proper training the reference assistant is usually capable of assisting most patrons on their own. At the very least, having the reference assistant take care of

all printing, scanning, computer, and directional needs is convenient and frees up the librarian's valuable time for tasks requiring their advanced expertise. In addition to aiding in-person patrons, the reference assistant also answers the reference desk phone. Many times the caller is seeking legal advice. In these cases, the reference assistant has been trained to direct the caller to potential community services or legal resources which also saves the librarian time.

By tasking the reference assistant with some of these more straightforward responsibilities, the law librarian can turn their attention to working on things like preparing lesson plans for teaching their legal research course, working on in-depth faculty projects, and developing personal scholarship. Of course, the law librarian is always present to assist the reference assistant in addressing more difficult or advanced reference questions. Such scenarios allow the librarian to teach the reference assistant "on the desk" by answering patrons' questions together. These teaching moments allow the librarian to model behaviors and skills that the reference assistant should be using, including, but not limited to, how to conduct the reference interview. With each teachable moment, the reference assistant learns more and becomes more equipped to handle increasingly difficult or complex reference questions on their own.

When not answering caller inquiries or providing directional aid, the reference assistant works on faculty research requests, just like a research assistant would. Since the hours the reference assistant works are carved out into their weekly schedule and do not overlap with the other reference assistants, there is always one reference assistant clocked in and ready to work every minute between 8am and 9pm on weekdays and from 9am to 5pm on Saturdays. This means that when a faculty member has a request, it is immediately worked on because the reference assistant is right there ready to begin. This provides a large advantage over having a pool of research assistants managed by the library because their schedules are not as set and not as comprehensive. This allows the BYU Law Library to get results back quickly and thoroughly to the faculty.

Overall, the BYU Law Library finds that the reference assistant model elevates its legal reference services and its faculty research support to a more efficient and productive level. It also alleviates unnecessary burdens on its law librarians, allowing them to have more time to dedicate to their expertise, such as their legal research courses and their personal scholarship. The BYU Law Library has enjoyed continued success with its reference assistant model over the past twenty years and anticipates a continued employment of the model into the foreseeable future, benefiting law students, law librarians, and patrons of the law library alike.

C. The Future of the Reference Assistant

The longevity of the reference assistant model at the BYU Law Library is due in vast part to dedicated law librarians who see the value of the model and their willingness to make adjustments to it as necessary in order to accommodate changing student, faculty, and patron needs. Ongoing training of the reference assistant will be vital as the law library makes new physical and digital acquisitions. In addition, with the increase of faculty interest in empirical research, the reference assistant will need to be taught to mine, organize, and interpret data. Ultimately, to remain as relevant and productive as it has been historically, the reference assistant model will need to maintain its malleability, and subsequent law librarians and administrators will need to continue to give the model its enthusiastic support.

VI. Scalability of the Reference Assistant

This article has given details about, including a case study of successful implementation of, the reference assistant when they are used and applied at maximum capacity. However, the reference assistant and the model at the BYU Law Library can be scaled back, while still perhaps improving law student employment in the law library, as well as library work-product given to law professors.

At minimum, use employees where they are most needed. Consider if it is better for law faculty to be responded to quickly and with research requests in more depth or whether internal library shelving and organizing should be as up-to-date as possible. Consider whether a law student employee can be staffing the reference desk and doing something productive for the law library when no students or patrons are requesting reference services.

Additionally, use employees efficiently. If you already have a research assistant pool, consider what your work-product for law faculty would be like if you had on hand, at a moment's notice, a research assistant ready to take on a research project. Other times, when you seek for help, some research assistants may avoid volunteering because they are in the middle of studying or turning in a paper and find it an inopportune time. If a law library does not have any law student employees, consider switching out a few of your undergraduate student employees for law student employees. Start with this change, then work your way into introducing more law-school-like, advanced responsibilities, like research and reference as the law library administrator(s) sees fit. As a reversal, law libraries can also exchange a couple of law students that are doing more general and menial tasks to undergraduate students, who cost less, so that the law student employees that remain can do faculty research and reference work.

Lastly, be creative. Law librarians know their specific law libraries best. Consider all the tasks that need to be done and the budget that is currently allocated to student employees and see if faculty requests and reference work can somehow

happen with a few law student employees. Once the model is in place, the law librarians will be supported and will be able to accomplish more, pleasing their law schools and law faculty.

In short, 87% of the law libraries that participated in our survey have at least one law student worker, if not more. In general, most law libraries have the employees, and therefore the funding to some extent, already. This article encourages allocating responsibilities so that the law libraries are maximizing that funding that is already being spent on law student employees.

VII. Conclusion

The reference assistant is a multi-purpose employee who improves many aspects of academic law libraries' productivity, including faculty research support and reference services. They prove themselves to be invaluable and, in return, benefit themselves, in preparation to graduate from law school and contribute to the legal field in some way. This article showed that although there has been an increase in employees like the reference assistant since past surveys on the topic were published, there is room for more academic law libraries to implement the reference assistant model or a scaled version of it. It is hoped that this article has an impact on academic law libraries, increasing the number that employ the reference assistant so that law libraries can continue to soar and continue to demonstrate their worth to the law school community and beyond.

Appendix: 2017 Survey Questions and Results

This appendix presents in more detail the questions[116] and results from our 2017 survey.[117] The survey was sent to all 205 ABA-accredited law libraries.

1. At which university are you currently a law librarian?
   - 155 of the 205 ABA-accredited law schools had a law librarian participant in our survey.

2. Approximately how many law students are enrolled at your law school?
   - 11 law schools have less than approximately 200 law students.
   - 76 law schools have between approximately 200 and 500 law students.
   - 68 law schools have approximately more than 500 law students.

3. Approximately how many full-time law faculty are at your law school?
   - 16 law schools have approximately less than 20 law faculty.
   - 99 law schools have between approximately 20 and 50 law faculty.
   - 35 law schools have between approximately 51 and 100 law faculty.
   - 5 law schools have approximately more than 100 law faculty.

4. Approximately how many full-time law librarians are on the library staff at your law school? (You should include any full-time law library employee with an M.L.I.S. (or equivalent) and/or J.D. degree in your response.)
   - 1 law schools have approximately 1 full-time law librarian.
   - 66 law schools have between approximately 2 and 5 full-time law librarians.
   - 68 law schools have between approximately 6 and 10 full-time law librarians.
   - 17 law schools have between approximately 11 and 20 full-time law librarians.
   - 2 law schools have between approximately 21 and 30 full-time law librarians.
   - 1 law schools have between approximately 31 and 40 full-time law librarians.

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[116] Many of the questions in our survey are the same ones asked by Richman and Windsor in the 1999 survey. Richman & Windsor, *supra* note 2. We did this to keep with the integrity of the their survey, so that we could accurately follow up and see if there had been an increase in law student usage and variety in their duties since the second survey was published in 1999.

[117] More detailed results are on file with Annalee Hickman Moser. Email her at mosera@law.byu.edu with questions or a request for access.

5. Approximately how many part-time law librarians, if any, are on the library staff at your law school? (You should include any part-time law library employee with an M.L.I.S. (or equivalent) and/or J.D. degree in your response.)
    - 98 law schools have approximately 0 part-time law librarians.
    - 33 law schools have approximately 1 part-time law librarian.
    - 23 law schools have between approximately 2 and 5 part-time law librarians.
    - 1 law schools have between approximately 6 and 10 part-time law librarians.

6. Approximately how many full-time law librarians participate in reference work at your law library?
    - 4 law libraries have approximately 1 full-time law librarian participate.
    - 106 law libraries have between approximately 2 and 5 full-time law librarians participate.
    - 43 law libraries have between approximately 6 and 10 full-time law librarians participate.
    - 2 law libraries have between approximately 11 and 20 full-time law librarians participate.

7. Approximately how many part-time law librarians participate in reference work at your law library?[118]
    - 9 law libraries have approximately 0 part-time law librarians participate.
    - 29 law libraries have approximately 1 part-time law librarian participate.
    - 19 law libraries have between approximately 2 and 5 full-time part librarians participate.

8. Approximately how many full-time law librarians participate in faculty services at your law library?
    - 0 law libraries have approximately 0 full-time law librarians participate.
    - 16 law libraries have approximately 1 full-time law librarian participate.

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[118] This question was only asked to the 57 law librarians that indicated that part-time law librarians are on the library staff at their law libraries.

- 99 law libraries have between approximately 2 and 5 full-time law librarians participate.
- 36 law libraries have between approximately 6 and 10 full-time law librarians participate.
- 4 law libraries have between approximately 11 and 20 full-time law librarians participate.

9. Approximately how many part-time law librarians participate in faculty services at your law library?[119]
   - 27 law libraries have approximately 0 part-time law librarians participate.
   - 25 law libraries have approximately 1 part-time law librarian participate.
   - 4 law libraries have between approximately 2 and 5 part-time law librarians participate.
   - 1 law library has between approximately 6 and 10 part-time law librarians participate.

10. Approximately how many *non-law student* workers are employed in your law library? (You should include any undergraduate or non-law graduate students in your response.)
   - 40 law libraries have approximately 0 non-law student workers.
   - 9 law libraries have approximately 1 non-law student worker.
   - 43 law libraries have between approximately 2 and 5 non-law student workers.
   - 34 law libraries have between approximately 6 and 10 non-law student workers.
   - 21 law libraries have between approximately 11 and 20 non-law student workers.
   - 7 law libraries have between approximately 21 and 50 non-law student workers.
   - 1 law libraries have approximately more than 50 non-law student workers.

11. Approximately how many *law student* workers are employed in your law library?
   - 20 law libraries have approximately 0 law student workers.
   - 9 law libraries have approximately 1 law student worker.

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[119] This question was only asked to the 57 law librarians that indicated that part-time law librarians are on the library staff at their law libraries.

- 39 law libraries have between approximately 2 and 5 law student workers.
- 43 law libraries have between approximately 6 and 10 law student workers.
- 33 law libraries have between approximately 11 and 20 law student workers.
- 11 law libraries have between approximately 21 and 50 law student workers.

12. You indicated that no law students are employed by your law library. The reason(s) is: (You may select more than one answer.)[120]
  - 2 law libraries have used them in the past, and they are not effective.
  - 2 law libraries have used them in the past, but their positions were eliminated for budgetary reasons.
  - 9 law libraries have library staffs that can adequately fill faculty research demand.
  - 13 law libraries have faculty that have their own research assistants.
  - 1 law library has other reasons.

13. You indicated that law students are employed by your law library. How would you best describe their responsibilities? (You may select more than one answer.)[121]
  - 108 law libraries use law students for general support such as shelving, circulation duties, etc.
  - 54 law libraries use law students for legal research for faculty under the supervision of one or more staff librarians.
  - 35 law libraries use law students for reference work.
  - 23 law libraries use law students for other responsibilities.

14. You indicated that your law library employs law students for research purposes. How do you consider the quality of their work?[122]
  - 16 law libraries consider the quality of their work excellent.
  - 30 law libraries consider the quality of their work good.
  - 7 law libraries consider the quality of their work fair.
  - 1 law libraries consider the quality of their work poor.

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[120] This question was only asked to the 20 law librarians that indicated that no law students are employed by their law libraries.

[121] This question was only asked to the 135 law librarians that indicated that law students are employed by their law libraries.

[122] This question was only asked to the 54 law librarians that indicated that law students are employed in their law libraries for research purposes.

15. For faculty members who do not hire their own research assistants, research support is provided by: (You may select more than one answer.)
    - For 104 law librarians, a law librarian who fills the request or delegates it.
    - For 71 law libraries, a specific librarian assigned to each faculty member who can be contacted for research support.
    - For 37 law libraries, a pool of law student research assistants under the supervision of a librarian.
    - For 3 law libraries, no one in the law library.

16. Is there a reference desk at your law library?
    - Yes in 135 law libraries.
    - No in 20 law libraries.

17. Because law students are employed in your law library and your law library has a reference desk, we would like to know if the law students employed in your law library participate in staffing the reference desk.[123]
    - Yes in 32 law libraries.
    - No in 84 law libraries.

18. Because you indicated that your law student employees participate in staffing the reference desk, would you please describe how you utilize them?
    - 32 law librarians answered this question.

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[123] This question was only asked to the 116 law librarians that indicated that law students are employed in their law libraries and that their law libraries have reference desks.