



To: ABA Commission on the Future of Legal Services
From: Holly Riccio, President, American Association of Law Libraries (AALL)
Date: December 10, 2014
Re: Comments on Issues Paper on the Future of Legal Services

Introduction

Thank you for the opportunity to provide input on the Issues Paper on the Future of Legal Services. We commend the ABA for its ambitious undertaking in conducting a comprehensive examination of the delivery of, and the public's access to, legal services in the United States.

Law libraries have a keen interest in and duty to promote the effective functioning of the judicial system by providing members of the public with the resources needed to preserve their legal rights. As the principal providers of legal information and trusted institutions, law libraries of all types – be they academic, firm, state, court, county, government agency, or corporate – are key contributors to ensuring access to justice. With the number of self-represented litigants (SRLs) in the courts steadily increasing, we believe law libraries have an integral role to play in making fair, equal, and effective justice available to all.

To that end, AALL Past President Steven Anderson appointed a Special Committee on Access to Justice during his 2013-2014 term. The Special Committee was charged with “identifying and evaluating existing law library programs and strategies for enhancing citizens’ access to the justice system; suggesting new practices or projects for law libraries to adopt that will facilitate access to justice; and drafting a ‘white paper’ for circulation to the legal community that describes the existing and prospective roles all types of law libraries play in fostering access to justice.” In our comments below, we cite the findings presented in that committee’s white paper, [*Law Libraries and Access to Justice*](#).

Our comments demonstrate the many ways in which law libraries support access to justice in their communities. Law libraries are well situated to contribute to the future of legal services. We look forward to continuing to work with the ABA and other members of the legal community to expand access for all.

Issue 1: Better Service

By their very nature, law libraries serve a diverse set of patron groups, including but not limited to students, researchers, attorneys, judges, members of the public, and SRLs. In providing access to timely, reliable, and accurate legal information and services to those with legal needs, law libraries often serve as “front line” providers of information and help to ensure the effective functioning of the judicial system.

Law librarians are skilled in the reference interview, i.e., asking appropriate questions to determine the legal concern of the patron. They have legal reference materials at their fingertips,

in print or electronic form, and possess a comprehensive knowledge of primary resources in many subject areas. With the unprecedented growth of self-help legal resources and self-represented litigants, law libraries increasingly serve as resources for both patrons and the courts. Examples of the services law libraries offer include:

- Providing information about substantive and procedural law
- Implementing various forms of live assistance in the library (e.g., Lawyers in the Library, clinics, library-based self-help centers, and videoconferencing)
- Providing simplified, plain language guides, form templates, and instructions
- Using technology to increase accessibility to the courts (e.g., online chat, e-filing, and automated forms)

In these ways, law libraries both provide SRLs with the information needed to know if and when they should be in court, while also alleviating some of the stress on the courts. A judge may be able to rule on an issue more effectively and will not have to send a litigant out to gather more information or complete additional forms if s/he comes to court with completed forms and his/her documentation collected and at hand. For example, at the Ramsey County Law Library in St. Paul, Minnesota, a person with a landlord tenant issue met with a volunteer attorney. The attorney learned that the person also had a harassment issue. The law library was able to immediately connect the person with harassment services in the court.

Additionally, law libraries serve as both connectors and conveners of legal service providers. Members of the public benefit from the referrals made by law libraries to local legal aid organizations, help lines, state agencies, and pro bono resources. These same legal service providers in turn utilize law libraries to promote their services and reach new clients.

Issue 3: Alternative Providers and Regulatory Innovations

Recognizing that law librarians are unable to provide legal advice or counsel, AALL believes law librarians are in a unique position to assist SRLs, some of whom may enter a law library looking for assistance without the basic understanding that their problem is a legal issue. With the increasing costs of providing legal reference resources and often limited library budgets, all types of law libraries are collaborating together and with courts to provide essential services.

State, court, and county law libraries frequently provide initial triage of SRL needs. While other pro bono services may triage clients or patrons, law libraries are able to provide almost seamless referral to other resources available in the library, such as printed resources for self-help patrons and assistance with legal research, identifying a class or legal clinic available in the library, or referral to a source for legal advice.

State, court, and county law libraries have also met challenges by proactively replicating certain legal self-help services that originated in courts, law schools, and legal aid programs. Many law libraries have undertaken self-help center programs to provide greater assistance to SRLs. Self-help center support is available in three scenarios: in the library and coordinated by the law library; in the library but coordinated by an outside organization; and physically located outside of the library. Largely, courts are the primary partners for these libraries that support self-help

centers. Other partners include local legal service providers and state bar associations. Common services of self-help centers include:

- Making available existing forms and instructions packets
- Creating and making available forms and instructions packets
- Making referrals to other legal service providers
- Coordinating “attorneys in the library programs” (staffed by volunteer attorneys)
- Sponsoring clinics in library (organized by others)

Some law librarians are also involved with services that are less frequently deployed in law libraries, including creating their own court forms, maintaining websites to provide legal information for the person without a lawyer, producing classes and webinars for patrons, and maintaining legal advice clinics. A well designed self-help website, online forms, and informational videos become even more effective with the assistance of trained library staff.

Self-help centers that are located in the law library benefit from the additional resources and services of expertly trained information staff, computers, print, and online resources, often in multiple languages, which can be folded into services provided to the self-help center users, depending upon the user’s needs. If someone visits a brief advice clinic held in the law library and the attorney volunteer recommends completion of a specific form, the user can consult with the librarian about accessing and completing the form in the law library. The packaging of document assembly technologies with a self-help center depicts one of the unique strengths that law libraries contribute to centers located within them. Some law libraries provide scanners for patrons who must now e-file documents to the court.

Academic law librarians promote access to justice through library services, collection development, legal research instruction, scholarship, and service. They may also promote public access to legal information by digitizing print and archival materials, such as state codes, state registers, and appellate court records and briefs, and making them available on their websites. Law schools and particularly academic law librarians are keenly aware of the gap in legal services in the United States. Even if promoting access to justice is not central to the mission of a particular law school or law library, doing so will help that law school meet its AALS and ABA values and standards as well as help academic law librarians satisfy their ethical obligations as members of AALL.

Law librarians in private institutions may also provide their services to support access to justice. As private firm librarians provide research support to the attorneys within their firms, they can also use this as an opportunity to partner with firm attorneys in their mission to support pro bono needs. Librarians have strengths that may enable lawyers to service greater numbers of pro bono clients in a more efficient manner, such as:

- Knowledge of legal resources and information organization
- Working knowledge of legal research
- Understanding of efficient workflow and work product in the form of knowledge management

For example, the Volunteer Librarians Coalition (VLC) of Minnesota works in tandem with the Volunteer Lawyers Network (VLN), the oldest and largest pro bono referral organization in the state. VLN consists of approximately 1,000 lawyers, many of whom work in private firms, providing support either directly to VLN as member attorneys or indirectly as their firm elects to support VLN in their respective firm pro bono committee programs. The organization provides consultants, training, and materials on a statewide basis. Firm law librarians gained familiarity with VLN and its mission through their work supporting lawyers within their respective firms; it seemed natural to provide direct support to this organization. The [VLN homepage](#) directs volunteer attorneys to VLC, stating: “VLC WIKI - created by our valued partners, the Volunteer Librarians Coalition, this includes up-to-date research links for every VLN volunteer area and free Westlaw research, conducted by private firm librarians, for your VLN client issues. It also includes all forms that our resource attorneys have created for the various areas of law. All VLN volunteers are eligible to be members of this valuable resource!” The VLC WIKI allows VLN members and VLC organizers to communicate by asking questions, answering questions, and posting valuable information to share with one another. Currently, VLC’s membership consists of 475 attorneys.

Issue 4: Underserved Communities

Geographic disparities, staffing, and funding impact the levels of service that attorneys, bar associations, legal aid, law libraries, and public libraries may provide to SRLs. Thus, robust access to justice requires the cooperation and collaboration of many parties and creative efforts to reach SRLs in underserved communities.

Often a person who needs legal services is unsure of where to turn. Many show up at their local law library or public library. Referrals to legal services providers allow the patrons to connect with an attorney, if they meet certain qualifications. The state and local bar associations may offer services specific to an area. Other partners include local senior centers or neighborhood centers, social services agencies, and other departments of local governmental entities who reach the public, who may not be aware of the availability of assistance for SRLs. Law libraries may already have relationships with public libraries, which can provide basic legal resources and serve as gateways to access to legal information. Public libraries are more prevalent than law libraries; they typically offer evening and weekend access and can provide access to resources and information in remote locations, where there is often no legal aid office or courthouse law library.

With the advent of pro se e-filing, the connection between public and law librarians should only grow stronger. Law librarians may be able to provide training to public librarians, who often express uncertainty about their role in providing legal services. In a [survey](#) conducted in 2012 by Minnesota Legal Services State Support, 77 percent of public librarians were concerned about providing legal information. Law librarians are very familiar with the types of issues self-represented litigants bring to the library, and they are experienced in techniques for drawing the line. While law librarians may have a greater zone of comfort when it comes to providing legal information, they also have a good perspective on ways to provide encouragement and guidance for public librarians trying to tread these waters. Law librarians may offer valuable resources for teaching public librarians about the unauthorized practice of law.

Legal information websites that are designed to assist those with low and moderate incomes can also help to address the issue of underserved communities. For example, the Maryland State Law Library's [People's Law Library](#), an award-winning legal information and self-help website, has provided SRLs information about the law, including summaries of the law, links to primary and secondary legal sources, and referrals for legal services, for more than a decade. The site currently receives approximately 2 million hits and 300,000 page views per month, which demonstrates significant usage. When selecting content development topics, the People's Law Library gives highest priority to topics that closely relate to civil case types most frequently handled in Maryland state courts by self-represented parties. Recently, with assistance from Maryland's Pro Bono Resource Center, the web content coordinator has begun a successful project that taps volunteer attorneys for creating and updating articles on the site. The site has several pages in Spanish and additional content in other languages is planned. The Maryland State Law Library has been able to provide this service in part because expenses can be kept modest. In addition to the full-time staff member, other direct costs include hosting, translation services, and the printing of brochures and posters. These purchases are made even more affordable by leveraging existing state government contracts and the professional expertise provided by the judiciary's procurement department.

Moreover, public and academic law libraries may be the only source for access to online Westlaw or Lexis for solo and small firm attorneys. Libraries also provide these attorneys with access to form templates, ATJ interactive tools for advocates, and other practice-related print resources. By providing excellent, but sometimes costly, resources to these attorneys, law libraries assist with the delivery of services by small law practices.

Issue 5: Policy Changes

AALL is pleased to join the ABA in supporting funding for the Legal Services Corporation (LSC). We echo the sentiments expressed by ABA President James Silkenat in his May 2014 [op-ed](#) that, "Access to justice is not an abstract right...Congress can help Americans live safer, more productive lives by giving them access to legal aid." Support for LSC will remain a priority for AALL, and we look forward to working with the ABA and members of Congress to secure adequate funding for the agency.

AALL commends the ABA for its support of the *Uniform Electronic Legal Material Act* (UELMA). Adoption of UELMA enhances access to justice by ensuring that members of the public have access to authentic electronic versions of the primary legal information. As states move toward electronic distribution of legal information, it is increasingly important that online legal material is trustworthy, preserved, and permanently available to the public. As of December 2014, twelve states have enacted UELMA, including California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Minnesota, Nevada, North Dakota, Oregon, and Pennsylvania. We encourage the ABA to continue to advocate for the adoption of UELMA in all states and the District of Columbia.

Issue 7: Data

A [2013-14 survey and study](#) of Self-Represented Litigation Network's (SRLN) law library subgroup describes what some libraries are doing to promote access to legal services. One hundred and fifty-three respondents—largely from state, court, and county law libraries—described their current efforts to support access to justice and self-help center programs. Questions assessed the availability of reference, form and general services to self-represented litigants, number and types of programs offered, availability of educational services, and self-help centers.

The findings demonstrate both the frequency with which law librarians are engaging with SRLs and the variety of resources law libraries have made available to them. For example, 99 percent (152) of respondents reported that their library provides services to SRLs. The top three services provided were legal research help (traditional legal reference); referral to legal aid programs, find-a-lawyer, mediation, and/or limited scope representation; and computerized legal research (e.g. HeinOnline, Lexis, and Loislaw).

Issue 8: Legal education and training

Legal research is a critical component of legal practice. Law librarians are the experts on legal research at their institutions, and they are the primary source of legal research instruction in the legal academy. Whether through stand-alone 1L legal research courses, advanced legal research courses, or the delivery of targeted research training in seminar courses, law librarians train law students to be effective legal researchers, which benefits access to justice.

AALL has developed objective standards for the measurement of legal research skill, the [Principles and Standards for Legal Research Competency](#). This set of principles and standards for legal research competency is drawn from information professionals' deep involvement in legal research within academe, law firms, the courts, government agencies, and other related settings, as well as the literature of the legal profession indicating that research competency directly impacts professional efficiency and effectiveness.¹

AALL hopes that the Principles and Standards for Legal Research Competency will provide value to the legal profession in these key ways:

- To foster best practices in law school curriculum development and design
- To inform law firm planning, training, and articulation of core competencies
- To encourage bar admission committee evaluation of applicants' research skills
- To inspire continuing education program development
- To impact law school accreditation standards review

¹ See AALL Legal Research Competency section at <http://www.aallnet.org/legalresearchcompetency> for additional information targeted to specific constituent groups (such as practicing attorneys, legal educators, bar examiners and admission regulators, national and state bar associations, educational accrediting authorities, libraries and library associations, et.al.), along with documents and reports chronicling the development of the Principles and Standards for Legal Research Competency and supporting research discussing information literacy and legal research skills.

Academic law librarians often use their 1L and advanced legal research courses to promote access to justice. In *Engaging First-Year Law Students Through Pro Bono Collaborations in Legal Writing*, Professor Mary Nicol Bowman describes the Legal Writing Collaborative that the legal research and writing faculty at Seattle University School of Law (SU) created, in cooperation with its Access to Justice Institute and the local legal services community, to provide SU's 1L students with current legal research problems from lawyers in the legal services community.² Deborah Hackerson, in *Access to Justice Starts in the Library: The Importance of Competent Research Skills and Free/Low-Cost Research Resources*, calls on those who teach practical skills in law schools to ensure access to justice by preparing their students to “enter the legal profession with the level of competence needed to provide assistance to all potential clients.”³

Even without a formal program like SU's Legal Writing Collaborative, academic law librarians know the typical legal issues of their self-represented litigant patrons and use those issues as examples and assignments in their 1L and advanced legal research classes. Academic law librarians also teach their students to use free and low-cost resources for their legal research. Both help students to become competent legal researchers by preparing them to represent all types of clients. Academic law libraries also support clinics, pro bono, and self-help programs through library services, collection development, and research instruction (e.g., collaborating with clinics and pro bono programs for research and writing problems).

Academic law librarians also work with local public law librarians in training law students who could provide support for the various online and/or phone reference services provided by public law libraries. These programs may include local chat services or regional/statewide 24/7 or “Ask Now” services. The AALL Special Committee on Access to Justice [surveyed](#) academic law libraries about the services they provide to the public. Of the 89 libraries that responded to the committee's survey, 19 support on-campus and six support off-campus clinic programs; 10 support on-campus pro bono programs and one supports an off-campus (community sponsored) pro bono program; three support on-campus and four support off-campus self-help programs; and three support on-campus incubator programs. These numbers would surely increase if access to justice and pro bono service were more integrated into law school communities and curriculums.

Conclusion

AALL appreciates the opportunity to share our input on the Future of Legal Services and law librarians' integral role in expanding access to justice to all individuals and communities. We look forward to working with the ABA Commission on the Future of Legal Services to improve the delivery of, and access to, legal services in the United States.

² Mary Nicol Bowman, *Engaging First-Year Law Students Through Pro Bono Collaborations in Legal Writing*, 62 J. LEGAL EDUC. 586 (2013).

³ Deborah K. Hackerson, *Access to Justice Starts in the Library: The Importance of Competent Research Skills and Free/Low-Cost Research Resources*, 62 ME. L. REV. 473, 486 (2010).