

A POSITION PAPER AND RESOLUTION OF FLORIDA STATE, COURT & COUNTY LAW LIBRARIES, INC.; REQUESTING LEGISLATIVE CREATION OF TASK FORCE TO STUDY NEEDS OF COUNTY LAW LIBRARIES; REQUESTING SUPPORT OF THE FLORIDA BAR, THE FLORIDA DIVISION OF LIBRARY AND INFORMATION SERVICES; AND THE FLORIDA ASSOCIATION OF COUNTIES; PLEDGING COOPERATION WITH TASK FORCE.

WHEREAS, the Florida State Court & County Law Libraries, Inc. (Henceforth “FSCCLL”), possesses an interest in the well being of Florida’s law libraries. FSCCLL is a Florida non-profit corporation and is the only voluntary State-wide organization or association, open to librarians and non-librarians and dedicated to the preservation and welfare of public law libraries, including county law libraries. It is open to any person connected with a State, Court or County law library or who is interested in law libraries; and

WHEREAS, FSCCLL’s interest is consistent with the State’s interest in promoting knowledge through the provision of library resources. The Florida Department of State, Division of Library and Information Services (DLIS) adopted a strategic plan for library development entitled, “Gateway to Information Through Florida Libraries: An Outcomes Plan, 2003-2007”. Through such plan the Division declared that the State of Florida, “....is committed to being an advocate for all types of libraries and to coordinating information and resources State-wide to serve the people of Florida efficiently and effectively.” The State adheres to the goals of the Library Services and Technology Act (LSTA), which includes as one of its objectives or purposes, “expanding services for lifelong learning and access to information and educational resources in a variety of formats in all types of libraries for individuals of all ages”; and

WHEREAS, law libraries are an essential part of Florida’s democratic and judicial processes. In *Farabee v. Board of Trustees*, 254 So.2d 1 (Fla. 1971), the Florida Supreme Court wrote as follows, *supra* at 5:

Perhaps the study of the law was less complex in 1928, and research needs of Judges, Courts, and litigant could be fulfilled by small privately-owned libraries; such, however, is clearly not the case today. The proliferation of legislation, court decisions, the increase in litigation in general, and the advancement of novel legal theories in recent decades have all combined to make the study of the law an even more specialized and complex calling. Few in the court could operate without an adequate law library. More importantly the public law library is open to and serves the needs of all persons through the county, rich and poor alike. For lawyers, it reduces or eliminates the need to acquire and maintain expensive law libraries without jeopardizing the effectiveness of the individual lawyers research. For litigants and those interested in law generally it provides a vast amount of material at no expense to the individual. In our opinion, the law library fulfills an important and growing need of practioners, judges and litigants. It is essential to the administration of justice today... .

The Hon. Gill S. Freeman, Circuit Court Judge of the 11th Judicial Circuit of Florida, stated: “Access to the Courts, and justice is denied if the public cannot avail itself of legal information. Only public law libraries can provide the public with free, accurate and up-to-date legal information, which is essential in a society such as ours with its complex laws and systems.” ;and

WHEREAS, the general public is directly benefitted by a network of adequate county law libraries. Most members of the public cannot afford their own lawyer. Nor can they afford to pay the cost of an expensive subscription to a legal data base, such as WEST LAW OR LEXIS/NEXIS. Moreover, even if they could, they do not know how to use such

data bases to obtain or to apply the information needed for their own, specific situation. A trained law librarian can provide tips in basic legal research, or help locate necessary legal forms and self help resources. By providing ready access to legal information, public law libraries play a fundamental role in preserving access to justice and promoting trust and confidence in the judicial system; and

WHEREAS, the legal profession is directly benefitted by a network of adequate county law libraries. Lawyers cannot afford to buy all the necessary books for their own offices. Economics of scale are realized because of a better assortment of materials and ability to obtain volume discounts in an organized library collection. Libraries teach and inform lawyers and, with professional staff, assist users through the maze of publications, paper and electronics, to refine and answer research questions. Organized libraries facilitate the research of legal information by making legal information more readily available to lawyers within reach of the offices where they practice.

WHEREAS, law library requirements are uniquely different from those of other public libraries. Funding needs and priorities are different. Generally public libraries don't contain enough specialized or current legal information to assist with the requirements of the administration of justice. They are not set up that way. A general public library may buy a book only once so that the cost of new acquisitions is a comparatively small part of its budget. But unlike the general library, a law library must update most of its collection with new supplements and editions annually to keep pace with changes in the law so that typically 50% and more of its budget is spent on materials. Moreover, law libraries exist to be both a legal resource and an archive – a repository of

historic and current legal information. Such information is often needed by the users immediately and on short notice where the tempo of the justice system moves rapidly. This means the law library must be kept in close physical proximity, preferably within the courthouse itself.

WHEREAS, there are serious funding and technological issues or trends which make continuation of Florida's Law Libraries in their present form doubtful.

a. Funding.

Traditionally Florida's county law libraries were funded by user fees through civil filing fee surcharges, as authorized by Fla. Stat. §§28.2401(3) and 28.241(1), and as further implemented by local county ordinances and/or special acts of local application. This produced a median county library income in 2003 of \$172,986.00, with total statewide income in 2003 amounting to \$7,785,028.00. Such funding was preempted effective 7/1/04 by Fla. Stat. §939.185 (laws of 2004), which provides a "local option" fine of \$65.00 to be imposed by counties on each criminal conviction, with the fund thereby created to be shared by various beneficiaries including law libraries. If it is assumed that this levy is collected at the same rate, 48%, as the state-wide average for all criminal fines, fees, costs and service charges otherwise imposed by Florida Courts then, given that assumption, libraries may net as their share the approximate sum of \$4,260,881.00. Under that projection, of the 28 libraries for which numbers are available, 8 county libraries may benefit from improved funding under the new statutory mechanism, while 20 libraries will suffer a substantial reduction. But in fact, the actual collection rate for the new fee will be even lower than the 48% average state-wide collection rate. The actual rate will be lower because of the combined effects of s.939.185(1)(b) ("the disbursement of costs collected

under this section shall be subordinate in priority order of disbursement to all other state-imposed costs authorized in this Chapter, restitution or other compensation to victims and child support payment.”) and s. 939.185(2) (“The court shall order a person to pay the additional court cost. If the person is determined to be indigent, the clerk shall defer payment of this cost.”). With some exceptions, county governments are not by and large replacing lost library income with additional appropriations from either general tax revenues or other sources, beyond what is authorized by s. 939.185.

2. Technology.

Minimum standards for county law libraries were issued in July, 2002, by the American Association of Law Libraries. But these standards do not address the manner in which law libraries are best integrated with the electronic opportunities now available. The technological environment for delivery of library services and information is evolving rapidly. This requires a continuing reassessment of how best to serve the public through the most appropriate mix of print collections and electronic media. Although law libraries were once wholly print-based, expanding technology increasingly offers on-line data bases, remotely accessible indexes to law publications, contact-reach websites, e-mail and live reference/research, sometimes available 24 hours a day. Each format, print and electronic, offers its own advantages and disadvantages. There is an extensive literature on the relative merits and demerits of each. Electronic technology is attractive because room is freed up when shelf space for books is not needed. There are no loose-leaf filings to be outdated or lost. Any word can be a key search word. Users aren't limited to pre-defined index and subject headings. On the other hand, various electronic products use different systems so off-site technical support may be very important and not always useful. The user cannot “skim” or browse through electronic information as with printed

materials and lawyers do not have time to learn all new systems and practice law too. The typical lay user does not use the system often enough to become familiar with it. A lot of equipment is needed to support electronic research, including work stations, hardware, modems, phone lines, cables and printers. The technology is not always reliable. One day a CD-Rom will work and the next day it won't. CD-Rom Towers, once so popular, are now viewed as difficult to manage and too quirky to be effective. If the number of computer terminals is limited, users will have to wait their turn and, perhaps, be effectively denied access to information. There is a significant cost associated with upgrading and replacing computer hardware to take advantage of new software and technology is not always generationally compatible so that if the technology changes format the information can become inaccessible and therefore either lost or hard to access: Microfiche records, 8-track audio tapes, DOS and Windows 3.1 are examples. It is important to identify the best combination of print and electronic materials so that essential legal information is efficiently delivered to the people of Florida and the legal professional in a rapidly changing environment; and

***WHEREAS*, wise application of public policy requires that such funding and technological uses be studied and understood; and**

***WHEREAS*, there exists the Library Services and Technology Act (LSTA), administered by the Florida Department of State, Division of Library and Information Services, as authorized by Fla. Stat. Section 257.12, and Section 1B-2.011 (FAC), and wherein FSCCLL is or may be eligible in accordance with public law 104-108 and 45CFR part 1183 to apply for LSTA funding in a manner provided for by said Act so as to support a broad-based study of how best to deliver legal information to the people of Florida and the legal profession; and**

WHEREAS, this Resolution was adopted by and on behalf of FSCCLL upon motion made and seconded in a manner consistent with its bylaws and upon due notice.

NOW THEREFORE BE IT RESOLVED by Florida State, Court and County Law Libraries, Inc., as follows:

3. The Florida Legislature is requested to authorize during its 2005 legislative session the creation of a task force composed of representatives of the legislature, the legal profession, members of the law library community and the general public, so as to prepare a report to the legislature setting forth recommendations, with duties to:
 1. Review the state of existing county law libraries;
 2. Examine existing standards for county law library operations;
 3. Document the funding mechanisms currently available for maintenance and operation of county law library facilities;
 4. Recommend funding sources and funding mechanisms for county law library operation and facility maintenance and to make such further recommendations as necessary, to the end that adequate information is delivered to the general public, judiciary and legal profession by the most efficient means available.
2. The Florida Bar, The Florida Division of Library and Information Services, and The Florida Association of Counties are, each of them, asked to support this request and to do such things in furtherance thereof as may be necessary and proper;
3. The FSCCLL will cooperate with the aforesaid task force by assisting to gather

information, by applying for funding assistance to support the task force, based upon grant eligibility, and by undertaking whatever additional measures are reasonably within its power to carry out.

DULY ADOPTED this _____ day of _____, 2004, by
and on behalf of The Florida State, Court and County Law Libraries, Inc.

President

(Seal of the Corporation)