TASK FORCE TO EXPLORE FUNDING OPPORTUNITIES FOR LAW LIBRARIES

Final Report

Submitted to the AALL Executive Board at its July 2000 Meeting

I. Task Force Charge

The Task Force was appointed in 1997 by AALL President Judy Meadows. Its charge was to investigate and report to the AALL membership funding opportunities from foundations, private businesses, and public agencies for individual law libraries, law library consortia, and library networks that include law libraries. Specific attention should be paid to new programs available through the Federal Institute of Museum and Library Services. This Task Force should concentrate on publicly funded and/or public access law libraries as possible recipients. The charge includes finding opportunities to inform funding entities of the value to the public of law libraries and the obvious eligibility of these law libraries to participate in programs and share in resources previously available only to “public libraries.” The Task Force will report to the AALL Executive Board by the Spring meeting, 1999, on its work, the conclusions of its members, and its recommendation for possible continuance of its work.

II. Membership

The original chair of the Task Force was Wes Cochran, who resigned in April 1998 to become chair of the Special Committee on Ethics. Anne Grande was appointed chair in May 1998. Current Task Force members are Charles Dyer, San Diego County Public Law Library; Peggy Rogers, Collection Development Librarian at the National Center for State Courts; Pamela Gregory, Circuit Court for Prince George’s County Law Library. Mary Alice Baish, AALL Associate Washington Affairs Representative, serves as Consultant to the Task Force. The Board Liaison is Janis Johnston. LeGrande Fletcher was a member of the Task Force until this year. He was formerly with the Washoe County Law Library in Reno and has moved to Brigham Young University, which is a private institution.

III. Background

The Task Force has held two meetings, one at the 1997 Annual Meeting in Baltimore and one at the 1998 Annual Meeting in Anaheim. It sponsored a program at the 1999 Annual Meeting in Washington called “Roads Not Taken: Alternative Sources of Funding for Public Law Libraries.”
The original impetus for forming the Task Force was to investigate the possibility of public law library participation in the Gates Library Foundation (now the Bill and Melinda Gates Foundation) grants to libraries to purchase computer equipment.

IV. Organization of the Report

The Task Force report is divided into four sections:

- Recommendations
- Funding Opportunities from Foundations
- Funding Opportunities from Private Businesses
- Funding Opportunities from Public Agencies

Appendices include:

A. Report on the 1999 AALL Program on Alternative Sources of Funding for Public Law Libraries
B. Report on the Nevada Experience with Grant Funding and Legislative Efforts
C. Position paper on ongoing sources of funding, submitted by Charles Dyer
D. Task Force Interim Report – Spring 1999
Recommendations

- **AALL should support the efforts of public law libraries to reevaluate their basic funding structure.**

While public law libraries need to take advantage of grant funding, private business funding, and federal funding, there is a far more critical need for these libraries to ensure ongoing operational funding. Public law libraries must reevaluate their basic funding structures as prescribed in state statutes. Court filing fees, a traditional statutory funding mechanism for county and court law libraries, have declined in recent years due to alternative dispute resolution and an increase in the number of *in forma pauperis* filings. Tax-based funding for these libraries should be seriously considered. An SCCLL Working Group on a Model County Law Library Code, chaired by Michael Miller, is currently considering different funding models as a part of its work. The Task Force strongly supports the efforts of this group. Two Task Force members, chair Anne Grande and Charles Dyer, also serve on the SCCLL Working Group. While funding opportunities from foundations and other special programs are important and untapped sources for law libraries, there is a critical need to reevaluate the current systems for ongoing operating funds.

- **Public law libraries should seek support from for-profit user groups**

Private law firms and corporations, which regularly use public law libraries, should pay some form of user fee to help maintain those services and resources which are not necessary to support the needs of the justice system. Without their support, public law libraries cannot continue to provide these specialized services and resources.

- **AALL and its chapters should work to have state statutory language defining public libraries changed to include public law libraries.**

Many government and foundation grant programs base eligibility on statutory definitions of public libraries. If public law libraries are not included in those definitions, they are not eligible. AALL and its chapters should work to have those definitions changed. Even if that change is slow in coming, state library agencies may be willing to stretch the rules regarding LSTA funding and include a law library proposal if they feel it provides a benefit to the public that public libraries are not currently making available. The first step for law libraries is to establish a good working relationship with their state library agency and make that organization aware of the services public law libraries provide that cannot be provided by public libraries. But law librarians need to do the marketing before they can close the sale. They need to attend and participate in the programs at state library association meetings. They need to attend legislative briefings. The days of operating as separate organizations with dependable filing fee income are gone for most county law libraries. They must partner and cooperate with other library organizations in order to succeed.
• Larger public law libraries need to establish working relationships with bar associations, legal administrator organizations, and continuing legal education groups.

Funding opportunities exist through bar foundations and from Interest on Lawyers’ Trust Accounts funds, but these groups must first understand that public law libraries do indeed serve the public and not just practicing attorneys. Again, the marketing must come first. Law library staff need to attend bar activities – committee meetings, CLE programs, fund raisers, etc.

• The AALL web site or the SCCLL web site should include a section on fund-raising and grant opportunities, with a link to the ALA web site as well as a section of grant opportunities from law-related organizations.

The web site could be maintained by volunteer members or, preferably, by AALL staff. Due to the ever-changing resources and requirements for this type of funding, it would be a difficult task for volunteers to keep the website current.
Funding Opportunities From Foundations

A. Bill and Melinda Gates Foundation

Since one of the main reasons for forming the Task Force was to investigate the possibility of obtaining funding for public law libraries from the Gates Library Foundation (now the Bill and Melinda Gates Foundation) for the purchase of new technology, the Task Force began its work by contacting Richard Akeroyd, Director of the U.S. Library Program of the Gates Foundation. The response from Mr. Akeroyd was not encouraging. See Appendix A for a description of the requirements for Gates Foundation funding. It is clear that public law libraries as individual institutions will not be invited to submit grant applications.

The best opportunity for Gates Foundation funding for law libraries would be through partnering with a public library. For example, a county law library in a rural county could enter into a partnering arrangement with the local public library to staff/maintain the law library collection. If the public library were eligible for Gates Foundation funding for computers and Internet access, perhaps the law library could be included as a part of the project. Another example of partnering would be if the law library provided access to legal CD-ROM titles to the local public library along with telephone reference assistance. The public library might be able to receive Gates funding to purchase the computer, printer, and telecommunications required. Since public libraries normally are open longer hours than law libraries, the CD-ROM materials would be more available to users (including attorneys) than if they were accessible only at the law library.

(Insert Peggy’s report here as “B”)

C. Other Grant Opportunities

Generally speaking, grant funding for law libraries from the foundations which give grants to libraries has been limited. Few public law libraries which are non-academic have received grants from foundations, unless for specific research purposes. Corporate foundations increased giving some 22% in 1999, according to the Foundation Center Annual Estimated Giving Press Release, 1999. However, this same report indicates that the universe of foundations has more than doubled since 1980, and in these most plentiful of times, seemingly will continue to grow.

The Foundation Center (http://fdncenter.org) publishes the Foundation Index, which was the primary source of this segment of the report. Individual libraries should be advised to seek local grant funding before fishing in a larger stream, as each state has many foundations listed in the libraries section which only give grants to libraries and other non-profit organizations within a
limited region. Libraries would be advised to check with businesses or corporations within their state which might have established foundations for philanthropic grants.

The Foundation Index listed about 1,000 foundations which have given libraries grants. The majority of the libraries receiving grants are those we regard as public, widely accessible community libraries, not special libraries. The Foundation Directory only lists foundations with budgets of 2 million dollars or more. The majority of these entries offered limited application access, that is, they preferred to work only with pre-selected organizations. How an organization comes to be "pre-selected" by such foundations provides much interest. Board members make those choices and locating grant funding is often not what you say in an application, but who on the Board knows the work of a library and its programs.

Foundations of potential interest to law libraries might be these:

W.K. Kellogg Foundation - Philanthropy and Grants
This foundation has an Information Technology Division which has given grants to improve library technology.

Special Libraries Association
SLA funds through its grants programs projects that focus on future technology in the special library, current user issues, and measures of productivity and value.

The Leon Foundation
2134 R St. N.W.
Washington, D.C.
Lists as program interests libraries, and "public interest law" in the human services. This is a very well endowed Jewish philanthropic foundation, and a newer one. It has given some small direct contributions to library program budgets.

Gladys Krieble Delmas Foundation
521 5th Avenue
New York, N.Y. 10175-1699
Supports various grants from Friends of the Library Groups, offers direct operating support.

Freedom Forum, Inc.
Arlington, Va
First amendment freedom foundation, supports journalism and media communications, but shows a keen interest in justice and democracy education for the public. Granted $300,000 to New York Public Library for a Centennial celebration of the Library.
Martin & Deborah Flug Foundation
616 E. Hyman
Aspen, Colorado
No applications accepted, pre-selected organizations, has given direct national support to county libraries.

Franklin I & Irene List Saemann Foundation
Box 105
Morrison, Illinois 61270
Small direct gifts for operating to county libraries. Open application.

Recent very large gifts to America’s libraries have come from the Carnegie Corporation in New York, with a 15 million dollar gift to New York, Brooklyn, and Queens Borough Public Libraries. AT&T gave the Library of Congress $3.5 million for the National Digital Library. Also, very recently Multnomah Library Foundation raised $6.5 million dollars in Oregon for making the library "world class". Gifts were from Meyer Memorial Trust and Collins Foundation and U.S. Bank and other local industries.

Michael and Susan Dell now have a foundation. Michael Dell, chairman and CEO of Dell Computer, formed the foundation in 1999. While not nearing the Bill Gates $5 billion dollar foundation treasury, over the past five years, the Dells have become philanthropic in the arts, community projects, and libraries. The biggest gift to date has been $500,000 to the Austin Public Library.

A significant gift was given Brigham Young University in Provo, Utah by Jon and Karen Huntsman, who gave the law library half of the new $10.4 million dollars for a new building in 1997.

Perhaps it might be possible for the work of this task force, or at least a portion of it, to be ongoing by maintaining on the AALL website a section on grant funding opportunities. The horizon on the foundation front changes from year to year, and especially in good economic times we should be tracking philanthropy to libraries.
Funding Opportunities from Private Businesses

Public law libraries in most states serve the private bar without charging them a fee. While court filing fees are usually paid by attorneys, they are passed along as costs to the client. Law library use by practicing attorneys is certainly not always tied to litigation. Public law libraries, particularly those located in more heavily populated areas, need to consider adding attorneys as a revenue source, particularly if these libraries include titles in the collection which are used almost exclusively by practicing attorneys. If these libraries circulate materials to attorneys, there is even more of a rationale for seeking their support. Other businesses which use the library regularly, including accounting firms, should also contribute toward its support.

For the past ten years, law firm collections have been shrinking as more and more legal materials have become available online or via the Internet. But law firms still need access to older journals and superseded statutes and specialized treatises. Many attorneys still prefer to consult current codified material in print format. If law firms are obtaining these materials from public law libraries, they should contribute to the cost of maintaining those parts of the collection. The availability of this material at a public law library obviates the need for separate bar association collections. Public law libraries are joint facilities which normally serve the bench, the bar, government officials, and the general public. Funding should reflect this clientele. It should come from court fees and/or government appropriation and user fees.

The Task Force sponsored a program at the 1999 AALL Annual Meeting in Washington, D.C. entitled “Roads Not Taken: Alternative Sources of Funding for Public Law Libraries.” One of the speakers was Jean Holcomb, Director of the King County Law Library in Seattle. She described the process King County went through to establish a program for charging the private bar an annual fee. Her excellent documentation is available in the Educational Program Handout Materials for 1999 at page 501. There will always be resistance, but once attorneys are made aware of what they will lose if a fee is not charged, they are more receptive to the idea. It is a difficult sales job at a time when the popular perception is that everything is available on the Internet.

In smaller communities, private attorneys should be encouraged to collectively purchase materials for the local public law library beyond the standard courthouse collection or they should obtain specialized material from the state law library for a fee.
Funding Opportunities From Public Agencies

A. Library Services and Technology Act (LSTA) Funding Through The Institute of Museum and Library Services

Federal grant funds to public libraries under LSTA are administered through the Institute of Museum and Library Services. They are funneled through the states to state library agencies using a population-based formula. State library agencies may either use the appropriation to support statewide initiatives and services or distribute the funds through competitive subgrant competitions or cooperative agreements to public, academic, research, school and special libraries in their state.

LSTA outlines two broad priorities for this funding. The first is for activities using technology for information sharing between libraries and between libraries and other community services. The second is for programs that make library resources more accessible to urban, rural or law income residents, or others who have difficulty using library services.

Each state has a five-year plan outlining the state programs. The state programs support the goals of the Act, which are to:

- Establish or enhance electronic linkages among or between libraries;
- Link libraries electronically with educational, social or information services;
- Assist libraries in accessing information through electronic networks;
- Encourage libraries in different areas, and encourage different types of libraries to establish consortia and share resources; or
- Pay costs for libraries to acquire or share computer systems and telecommunications technologies; and
- Target library and information services to persons having difficulty using a library and to underserved urban and rural communities.

In some states law libraries are eligible for LSTA funds; in others they are not. Eligibility is normally determined by the statutory definition of a public library. See Appendix B for a description of a recent experience with LSTA funding in Nevada, which illustrates the importance of public law library cooperation and collaboration with public library agencies and organizations.

B. National Leadership Grants from the Institute of Museum and Library Services

In addition to grants to the states under LSTA, IMLS offers National Leadership Grants. The program supports three funding categories for libraries, three for museums, and one for joint library-museum partnerships.
Successful proposals will have national impact and provide models that can be widely adapted or replicated by others to extend the benefit of federal support. Such proposals must reflect an understanding of current issues and needs related to library services and will have a far-reaching impact throughout the library community. Projects must provide creative solutions on issues of national importance and provide leadership for other organizations.

To ensure that this program will result in significant benefits to the public, IMLS establishes a set of priorities for each fiscal year for activities listed in the Library Services and Technology Act portion of the Museum and Library Services Act. All proposals submitted under any of the four types of proposals are considered on their merit; however, projects that address the program priorities for a given year will be given preference for funding.

Categories of funding include:

1. **Education and Training** supports training and education in library and information science, including traineeships, institutes, graduate fellowships and other programs.
2. **Research and Demonstration** supports research in library science and for demonstration projects to test potential solutions to real-world problems.
3. **Preservation or Digitization of Library Materials**, supports innovative approaches for preservation or digitization of resources.
4. **Model Programs of Library and Museum Cooperation** support innovative projects that model how museums and libraries can work together to expand their service to the public, with emphasis on how the community is served, technology is used, or education is enhanced.

Eligible libraries include special libraries. Libraries may apply individually or in a partnership.

The IMLS web site includes application forms, guidelines, sample applications, and lists of previous grant recipients with brief descriptions of their projects. There are clearly opportunities for public law libraries to submit proposals. They were encouraged to do so by two high-ranking IMLS officials at the 1999 AALL Annual Meeting in Washington, D.C. Beverly Sheppard, Acting Director of IMLS spoke at the second AALL Business Meeting on Wednesday, and Joyce Ray, Director of the Office of Library Services, participated in a program sponsored by the Task Force on Alternative Sources of Funding for Public Law Libraries.

C. **Justice-related Organizations**

Funding for individual law libraries from the federal agencies listed below is not normally available. In almost all instances a partnership with a public
library and the state are needed to apply for these funds. Detailed descriptions of the grant processes are available on the web sites listed below.

*The State Justice Institute (SJI) project grants are available to support a variety of programs to improve the quality of justice in the state courts. Grants such as judicial branch education, demonstrations of new technology applications, evaluations of new court procedures, and technical assistance both nationally and regionally are awarded. The grant guidelines are located on their Web site at http://www.statejustice.org/. A draft is available in August and the final version is available in October. These guidelines are also available in the Federal Register. Public libraries may tap into block grant moneys that go back to the states.

*The Department of Justice Web site http://www.usdoj.gov/ offers access to the annual Program Plan for National Institute of Justice. Most grant opportunities deal with criminal and juvenile justice. Unfortunately, funding for public libraries would be limited to pro se collections for prisoners.

*Bureau of Justice Assistance (BJA), (http://www.ojp.usdoj.gov/BJA/), provides funding, training, and technical assistance to state, local, and tribal governments and agencies in an effort to prevent and control violence and drug-related crime and to improve the criminal justice system. BJA provides discretionary grants to develop and test the effectiveness of new approaches to significant problems affecting states and local communities. Through its Byrne Formula Grant Program, BJA works in partnership with the states as they develop strategies to comprehensively address issues of drugs, crime, and violence. BJA makes Byrne Program funds available through two types of grant programs: discretionary and formula. Discretionary funds are awarded directly to public and private agencies and private nonprofit organizations; formula funds are awarded to the states, which then make sub-awards to state and local units of government. Public libraries have an opportunity to partner with the state in applying for these grants. BJA will administer over 12,000 continuing grants and sub-grants in 2000 and will make over 3,000 new direct awards totaling over $1.8 billion.

*Office for Victims of Crimes (OVC), http://www.ojp.usdoj.gov/ovc/ was created by the Victims of Crime Act of 1984 to improve our nation’s response to crime victims. One of the tasks performed by the OVC is administering formula grants that support a network of victim assistance and compensation services. It also manages discretionary grants for training, technical assistance, and demonstration programs to benefit crime victims. The funds are not derived from tax dollars, rather from fines, penalty assessments, etc., of Federal criminal offenders. Of the $500 million available, about 90 percent is distributed directly to the states in formula grants to help fund critical victim assistance services and crime victim
program efforts. It appears that the only way public libraries can benefit from these grants is to develop partnerships with the state in preparing applications for funding.

*Violence Against Women Office (VAGO), (http://www.ojp.usdoj.gov/vawo/stategrants.html) administers the DOJ’s formula and discretionary grant programs authorized by the Violence Against Women Act of 1994. Grant programs emphasize enhanced delivery of services to women victimized by violence, outreach efforts to minorities and disabled women, and Indian tribal governments with funds to develop and improve tribal justice system’s response to violent crimes committed against Native American women. Public libraries again can develop partnerships with state government to prepare funding applications.

*Office of Juvenile Justice and Delinquency Prevention (OJJDP), (http://ojjdp.ncjrs.org/) provides funding to states, territories, localities and private organizations through block grants and discretionary funding. Block grants go to states and territories. Discretionary funding is awarded through competitive peer review. In the past OJJDP has provided funding for Law Related Education programs. Public libraries can apply for funding to build a collection on LRE for children.
APPENDIX A

Report on the 1999 AALL Annual Meeting Program
On
Alternative Sources of Funding for Public Law Libraries
Sponsored by
The AALL Task Force to Explore Funding Opportunities for Public Law Libraries

The Task Force To Explore Funding Opportunities for Public Law Libraries sponsored a 90-minute program on Thursday, July 21 (Program K-2) at the 1999 AALL Annual Meeting in Washington, D.C. The purpose of the program was to make public law librarians aware of funding alternatives in addition to the traditional funding sources for these types of law libraries – statutory filing fees and government appropriation.

Two categories of alternative funding were addressed: (1) An annual membership or subscriber program directed primarily at private bar users; and (2) Grant funding for special projects. Anne Grande, Director of the Hennepin County Law Library in Minneapolis, served as coordinator of the program and gave an overview of various types of user fees that have been implemented by public law libraries. Jean Holcomb, Director of the King County Law Library in Seattle, outlined the steps involved in implementing a membership or subscriber fee. Her materials were reproduced in the Educational Program Handout Materials for 1999 at page 501. Joyce Ray, Director of the Office of Library Services at the Institute of Museum and Library Services, discussed the grant funding available from IMLS and urged law libraries to take advantage of these opportunities. IMLS’ grant programs are described in detail on their web site (www.imls.gov). Application forms are also included. Past grant recipients are listed, with brief descriptions of their projects.

There was considerable audience participation after the formal presentations. While there was interest in grant opportunities, most of the law librarians attending this program were from smaller libraries without sufficient staff to apply for and administer grants. Many of the questions and comments were about how to secure ongoing funding since filing fee revenues are steadily declining due to alternative dispute resolution and the waiver of the fees for indigent litigants. There was also interest in an annual fee program directed at the private bar, but many county law libraries serve communities without enough practicing attorneys for a fee program to generate significant revenue.

As a result of the discussion at this program, as well as ongoing concern within the State, Court, and County Law Library Special Interest Section of AALL, incoming SCCLL Chair Shirley David, has appointed a Working Group to Study the Advisability of Drafting a Model County Law Library Code. This Working Group, chaired by Michael Miller, Director of the Maryland State Law Library, will report its findings at the 2000 AALL Annual Meeting in Philadelphia. Task Force members Anne Grande and Charles Dyer are also participating in the Working Group.
APPENDIX B

Task Force to Explore Funding Opportunities

The Nevada Experience With Grant Funding
And
A Legislative Proposal to Deposit State Legal Documents at County Law Libraries

By LeGrande Fletcher

These are my thoughts based on my three and a half years at the Washoe County Law Library (WCCLL) in Reno, Nevada 1994-1997.

FUNDING DEPENDS ON DEFINITIONS

Federal grant money to public libraries is based on state statute definitions. If the state laws governing public libraries define the public law libraries as being public libraries, then the federal grant funding can go to the public law library.

In Nevada, WCCLL received a federal LSTA grant two or so years ago only because the state librarian was convinced WCCLL serves the public, and the federal grant funding allowed her that discretion. On straight statutory grounds, WCCLL was ineligible as all of its governing laws are outside the public library state statutes.

The Nevada Supreme Court Law Library is also ineligible for certain federal funding for the same reasons, and the new academic law library in Las Vegas probably cannot receive public library money either. (Both are open to and directly serve the public.)

For example, the 1997 Nevada legislature passed a law increasing technological support (T-1 line funding etc.) for schools, to which the state librarian managed to get school libraries and public libraries included. The political support was there for schools, and slipping in libraries was a good move. Stretching the definition to include public law libraries did not happen, and so WCCLL and other Nevada county law libraries missed that financial source.

There may be statutory obligations of public non-law libraries which law libraries may not want (reporting requirements, etc.?), but I am unacquainted with these.

S.2288 ON THE STATE LEVEL

The small success Nevada county law libraries had in improving funding in 1995 was based, in part, on the state statute & regulations requiring county law libraries to have certain primary legal sources available to the public (see NRS 380.153 and NAC 380.010). [Nevada Revised Statutes and Nevada Administrative Code are at: http://www.leg.state.nv.us/ under "Nevada Law."]
Public libraries and the Nevada Supreme Court Library received these required documents for free from the state printer & agencies, but county law libraries did not. The change was to require the state printer to provide one copy of each publication to those county law libraries which requested them. See NRS 380.170 & AALL Newsletter, 6/1995, pp. 422, 424. This change was initiated by Ann Jarrell at Clark County Law Library in Las Vegas, with assistance from Susan Southwick, NV S.Ct Librarian.

The biggest opposition that bill received in Nevada came from the bill's language that it required the state to give each county law library the complete run of Nevada Reports, Nevada session laws, and other publications going back to statehood. Once it was shown that most Nevada counties already had those publications and were looking instead at publication "subsidies" in the future only, the legislature passed the bill. A state wide survey of county library holdings based on the required pubs list helped on that issue.

As has been very visible on the federal level (with S. 2288), laws requiring state document delivery to public law libraries require some "teeth."

A year ago, I moved from Nevada to Utah to become a state and federal government documents librarian. After spending three years telling and re-telling public librarians at the Nevada Library Assoc conferences that worked for a *public* law library (and seeing some education happen there), I now work for a non-public law library which serves the public (due to our state and federal depository agreements). I see better now how many AALL members not directly serving the public can forget the mission of public law librarianship. In whatever position paper the Task Force comes up with, we'll need to remind our fellow law librarians about public service.

That's a summary of some of my experiences, which I hope is helpful.

--G. LeGrande Fletcher
Government Documents/Microforms Librarian

Brigham Young University
Howard W. Hunter Law Library
260C JRCB
Provo UT 84602-8000

(801) 378-9051 / 378-2188 fax
LeGrande_Fletcher@byu.edu
Appendix C

Need for Permanent Increased Funding for Public Law Libraries

Although not a part of the initial charge to the Task Force, the issue of permanent funding for county and other public law libraries was quickly raised during the Task Force's early deliberations. A subcommittee, with Charles Dyer as chair, began examining this issue. In addition to surveying the need for this, the subcommittee was specifically charged to determine just how the American Association of Law Libraries might play a role in the process of increasing permanent funding.

The subcommittee soon found the issue to be substantially more complicated than simply promoting the advocacy for new funding. Most of the work was done through informal discussion and observation of several separate initiatives presently going on. Participants in the work of the subcommittee included LeGrande Fletcher, Shirley David, Greg Lambert, Mike Miller, and Janice Milliken, to whom the chair is very grateful. This report is a summary of the observations and a short list of recommendations for the AALL Executive Board.

Observations

Funding and governance for public law libraries varies greatly across the country. The Sourcebook for Law Library Governing Boards and Committees (AALL Publ. #45, 1994) is the best compilation of the varying governing and funding practices, but there have been several significant changes since it was published.

Nearly every public law library across the United States has experienced a significant change in clientele and numbers of users. Starting twenty years ago, pro se litigants began using public law libraries in increasing numbers. As legal representation has become more expensive for the average citizen, not only were there increases in the number of lower income library users, but also there were increases in middle and upper middle income users. Low middle income users did not increase as much, probably because they have the fewest lawsuits per capita. Increasingly, the average age of the pro se litigants has lowered, as family law matters, traffic offenses, landlord-tenant law, and immigration became the primary areas of concern for litigants. Unlike law-trained users and their support staff, pro se litigants often cannot complete their research quickly and need extensive reference help. Also, usually because of travel time and the inability to get off work, pro se litigants would try to complete their work at the public law libraries in fewer trips. So, from this, not only were the numbers of library users increasing, the average length of stay was also increasing. Gate counts do not adequately reflect this trend.

Also, during the 80s and early 90s, large law firms began to alter their use patterns, often sending runners and librarians to the public law libraries for materials, in lieu of young associates. The use of Lexis and Westlaw at large law firms increased dramatically, lessening the need for public law library resources. Beginning in the middle 90s, solo practitioners and
attorneys at small firms began to use Lexis and Westlaw to the extent that they began coming to the public law libraries less frequently. By the year 2000, young lawyers nearly always presume that online research in their offices is the paradigm pattern, and public law libraries are used primarily for printec materials or online resources that they need too infrequently to bother with keeping personal subscriptions. Older lawyers that do research have also been making this change, but not as fast.

(In spite of this trend, bar associations have continued to support public law libraries in their communities, often with the rationale that lawyers need a place to send people who cannot afford their services. Older lawyers that do not do research obviously do not use the libraries anyway, although many high-powered and politically-connected senior partners remain avid public law library supporters.)

In the late 90s, courts have begun to address the problem of increasing numbers of pro se litigants. Several states have begun programs wherein public attorneys become small claims advisers and family court facilitators. These attorneys do not form an attorney-client relationship, but they do help people fill out forms for routine, standard matters. Often for other political reasons, some states have also begun to offer public attorney representation for certain types of private litigation, such as child support (which lowers welfare rolls).

Some states have also created computer kiosks and software programs aimed at pro se litigants. These tend to be interactive programs, which through question and answer, create forms useful in several of the more common areas, provided the case is routine. Some have been located in public law libraries. Similarly, publishers of self-help law books, such as Nolo Press, have begun developing software that can produce wills and business documents. (The publishers have generally avoided court pleadings because of the differing local court rules as to format and content.)

Some states have also begun to allow attorneys to “unbundle” services, whereby attorneys can sell or give pro bono small consultations to pro se litigants, without taking on the whole obligation of the attorney-client relationship. The initial purpose of such unbundling is often to allow local bar associations to provide pro bono services similar to the family court facilitators (public attorneys). Sometimes, the attorneys performing such services have a desk or office at the local public law library.

Since 1995, those locales that provide these additional services have seen a net reduction in the number of pro se litigants seeking public law library services. (The lengthy economic boom has also resulted in some fewer users, as divorce and small commercial litigation are not as common as during periods of economic crisis.) Also, the pro se litigants who are referred from such programs are better informed and ask better reference questions. However, the pro se litigants thus referred may still stay as long or longer at the library while doing their research and may still use large amount of the reference librarians’ time. They are probably much more thorough and possibly obtaining more just results from their litigation.
Although not categorically so, the recent trends toward smaller numbers of *pro se* litigants have occurred predominantly in the more populous states. States and parts of states with smaller populations spread thinner have generally not been able to enjoy these new developments. Their *pro se* litigants are generally under served for lack of an available public law library, and these litigants often create great expense for the courts, with badly prepared forms and a poor understanding of their rights and obligations under the law. A couple of these states have begun to address the problem by providing statewide group rate access to online materials at local courthouses (e.g., Minnesota and Oklahoma) or statewide dial-up facilities. This is a recent trend, for which the results are still in doubt, given the difficulty of providing meaningful reference service, but the effort is obviously a positive development.

**Governance and Funding**

Most public law libraries are locally governed, either as a staff operation of the local court, a county department, a separate special district government, or a benevolent not-for-profit organization. Along the East Coast, wherein bar association libraries or subscription libraries serve attorneys' needs, the general public is often sent to the general public libraries. Some less-populous states have only a state law library. These varying governmental arrangements create havoc when one tries to attempt a nationwide funding solution.

A large number of states finance their local public law libraries through a portion of civil court filing fees. These fees are usually set at a specific dollar amount through legislation or county ordinance or resolution. To increase the fee, even to cover the effects of inflation, requires a legislative process. Often, for political reasons not directly relevant to the public law library, a legislator or county executive may advocate against raising such fees as an anti-tax measure. Similarly, increasing court fees is seen by otherwise liberal politicians as not progressive and frowned upon. So, even in good times, such fees are hard to increase.

Traditionally, the states that have supported their public law libraries through civil filing fees and traffic fines have had better public law libraries because their financing had remained stable. Public law libraries in these states often have a relatively large amount of autonomy, either as special district governments, county government departments that have boards of trustees, or not-for-profit organizations. Smaller law libraries in such states have often been in worse shape, though, because unlike state-controlled libraries, libraries for sparsely populated regions cannot be consolidated.

Many states now "suffer" from a declining amount of litigation, or at least fee-paid litigation. Commercial and employment legal battles are now increasingly settled through arbitration and mediation. Divorce and consumer litigation tends to drop during periods of economic growth. Granting of *in forma pauperis* fee waivers has been on the rise in many states. As noted above, some states have taken over certain types of private litigation, thus lessening the
number of paid fees. While all these events, in and of themselves may well represent improvements in attaining justice, these areas of law still need public law library support.

In many states, the amount of criminal litigation has increased to the extent that commercial litigants try to avoid the delays in court through using arbitrators, even if they prove to be very expensive when compared to the courts. These businesses need their litigation settled quickly, so as to be able to resume their business activities, to lessen their capitalization needs and to manage their tax liabilities. The added expense of an arbitrator is seen as minimal under these circumstances. Unfortunately, the commercial litigation left for the courtroom is now the most complex and disputatious, causing court and law library expense to serve such customers well beyond that which is recovered through fees.

The other "fee" often used to support public law libraries is a portion of traffic fines and smaller criminal fines. These fees are also difficult to increase. In part, the public law library may be perceived as supporting criminal defendants and their attorneys, a politically unpopular group. In part, these fines are often increased to support law enforcement agencies or to increase city coffers for other uses, so the law libraries find themselves competing with more popular agencies for such increases. Finally, many such fines are never paid. Jails are crowded with felons in this age of extended sentences, thus preventing the most effective means of enforcement of fines. Increasing the amount of fines leads to greater numbers of unpaid fines. The net result for public law libraries dependent on fines has been a flat or declining revenue from such fines. It should also be noted that the number of crimes overall usually drops during periods of economic boom, but a direct relationship with economic boom and these smaller fines has not been established by the subcommittee.

Another fee used to support public law libraries is the "membership" fee, normally an annual fee for the privilege of borrowing books and perhaps for other services. (Often, there is a price break for pro se litigants, as compared to attorneys.) Some subscription law libraries which normally charge an annual fee for use of the law library (i.e., entrance and response to telephone questions) may charge a "day use" fee to members of the public and thus become "public law libraries" in that sense. Generally, borrower fees and day use fees are quite low in comparison to the service obtained. Subscription fees, especially at not-for-profit libraries, can represent a significant portion of income. In recent years, membership and subscription fees have declined, as attorneys turn more to online services. Day use fees have never been sufficiently significant to be helpful in funding at all. Some libraries have sought to include additional services in hopes of revitalizing this source of income, such as offering password access to a CD-ROM server. In general, though, this source of revenue has diminished and will likely continue to do so.

The one type of governmental support that has experienced reasonable growth in income is taxes. During an economic boom, as wealth accumulates and property increases in value, taxes go up without increasing the rate. Many state and local governments are experiencing substantially increased revenues in the last few years. There are few public law libraries supported directly from a sales tax or property tax. We know of no instance of a public law library directly supported by an income tax. Tax income does, however, play a significant role in
governmental appropriations or allocations from a general fund. Many county law libraries, albeit a minority, and most state law libraries are supported from some sort of budgeted appropriations, as noted below. Recently, some public law libraries have been able to convince their local county legislatures and executives to increase their tax-based support for their law libraries (e.g., Hennepin County, MN, and King County, WA).

Some public law libraries (e.g., San Diego County and Santa Cruz County, CA) have recently sought new direct funding from a new sales tax or property tax (as distinct from a change in commitment of current tax revenues in favor of increased support for public law libraries). These generally have not been successful. The usual pattern is to try to piggyback onto a property tax or sales tax measure brought up to fund general public libraries. General public librarians seem willing to agree that the local public law library may well save the general public library the expense of providing adequate legal information materials and reference service for the public, but are loath to include law libraries in their plans because they lose political support. Some members of public library friends groups presume that public law libraries primarily serve attorneys and, because of their own prejudices against attorneys, argue against public law library inclusion in tax measures. What polls as have been conducted, as far as the subcommittee is aware, show that a large portion of the general public does not understand the role of the public law library within the community. In those states wherein a vote of the public is needed to raise such taxes (and often a two-thirds majority is required), it would be very difficult to educate the public sufficiently to obtain approval for a direct tax for supporting a public law library.

Many of the public law libraries which are a part of a judicial system or county government are funded primarily through an appropriation process. The various funding mechanisms that provide income directly to public law libraries in other states could be used by these governments as funding mechanisms as well, but such funding would going to a larger fund, from which the appropriation is made. During the economic crises of 1982-84 and 1990-1992 governments were required to cut back substantially. In some states, the tax revolts of the early 1980s greatly exacerbated this problem. Often, public law libraries supported by taxes were forced to make significant sacrifices as cost-cutting measures. Some libraries, such as those in New York in 1992, were required to bear an unreasonably large share of the budget-cutting burden.

As it would be inappropriate to suggest that a specific percentage of funding be given to public law libraries, given the lack of knowledge of other agencies similarly funded, it would seem that the appropriate suggestion would be for a creation of standards for these libraries. Such standards should be created at the state level, through legislation. However, some flexibility should be allowed in order to enable these libraries to determine the most cost-effective ways to meet their mission. Rapidly changing technology can create opportunities to increase services in some locales, but might not be as easily adapted elsewhere.
Recent Cost Factors in Public Law Libraries

Like all law libraries in the 1990s, public law libraries have seen a significant inflation in the cost of law book materials. The practitioner-oriented materials needed in public law libraries have been especially susceptible to inflation. Every public law library contacted, even those with relative prosperity, has had to cancel large numbers of looseleaf and compression-bound looseleaf sets since 1990.

In order to access computer-based information sources (commercial online, CD-ROM, and Internet-based) public law libraries have also been required to increase their numbers of computers and related hardware. Subscriptions to these sources have been high throughout the decade, reflecting the virtual monopoly of Lexis and Westlaw, only recently dropping in the face of competition from start-ups, such as Lois Law. With the recent advent of flat-rate pricing suitable for public law libraries, only within the last year or so have public law libraries considered actually offering non-mediated public access to legal research databases. While it is likely that such services could save larger law libraries the cost of print subscriptions (e.g., out-of-state statutes), smaller law libraries would have to be content with offering more services.

All such use of new technology will require a significant increase in reference service for several years. With the shift in users toward pro se litigants, librarians are seeing mostly novice users, unskilled in both legal terminology and computer use. In coming years, as more people learn to use the Internet on their own before reaching the law library, training in equipment use will not be needed as much. Training in adequate search strategy will still be needed.

Unfortunately, recruitment of staff has been increasingly difficult in recent years, in part due to the low salaries available at public law libraries. Just as more professional law librarians and computer staff are needed, the going rate for such employees is increasing much faster than the general rate for salaries, and decidedly much faster than the budgets of public law libraries. Many jobs remain unfilled as newly minted librarians and information scientists go to the better-paying and more glamorous private market. Many existing staff at public law libraries, hired when the book was the paradigm medium, are not skilled computer users, and training is now an increasing cost. (Fortunately, it appears that the "fear of computers" phase of employee relations has now passed on, except in smaller, more remote communities.)

Construction of new facilities and renovation of existing facilities to accommodate the heavier use of new technologies will also impact public law libraries. Since the tax revolts of the early 1980s, replacement of the infrastructure for courthouses and public law libraries has taken much longer. Many public law libraries have significant building problems.
The Position Recommended for the American Association of Law Libraries

The above observations are to be taken as broad and general. Many local variations exist. Nevertheless, the subcommittee submits the following conclusions:

• Changes in user populations has affected the mission of public law libraries, which now must provide a greater amount of support for *pro se* users, as compared to the support of repeat users from the legal community.

• Fees, fines and similar revenue sources that require specific legislative action to adjust for inflation are failing to provide adequate support for public law libraries. Increases in rate alone would be inadequate to provide a sustaining income for those libraries heavily dependent on such sources since the numbers of filings and fines are dropping.

• Tax-based revenues are providing a greater amount and proportion of governmental services, compared to fees and fines, because they have automatically adjust for increases in wealth due to the recent economic boom. Support from such sources should be sought for public law libraries.

• Some public law libraries which have traditionally been supported by tax-based revenues have had dramatic decreases in support during lean times, primarily because such income was appropriated as part of a larger budget and the law libraries were given short shrift compared to other constituents within the budget.

As a result of these conclusions, the subcommittee recommends the following:

• The American Association of Law Libraries should recognize the issue of permanent funding for public law libraries as a significant one, worthy of Association effort to resolve.

• As a general principle, AALL should support efforts to increase budgets for public law libraries, especially if they follow this pattern:
  
  ○ The main revenue support should be tax based.
  ○ Connected with the revenue should be a recommendation for standards, especially for the smaller public law libraries within the jurisdiction.
  ○ The funding for public law libraries should be separate from other state-supported agencies and constituencies, such that support levels would not change more drastically than the state's economy as a whole.
  ○ Insofar as reasonable, with significant local public law library input, statewide planning efforts, such as group purchase of online services, should be supported.
The guiding principle of such efforts should be the needs for legal research information of the public, including pro se litigants and regular members of the legal community.

- Insofar as it can, AALL should provide legislative advocacy support for such efforts at the state level. If plausible, it should consider such support at the local level.

- The AALL Executive Board should support the efforts of the State, Court, and County Law Libraries Special Interest Section's Working Group for a Model County Law Library Code.

Note: Debates on Governance

During its research on this topic, the subcommittee came upon several instances where the efforts to obtain increased funding for public law libraries has included debates on governance issues. Obviously, if locally governed public law libraries depend on largesse at the state level, especially with a system of standards, some elements of local control may have to be given over to the state. This is typical of the attitude of many state legislators. Variant patterns can be used to accomplish this. One common one, especially for a state with relatively small county law libraries, is to have the standards and perhaps the statewide planning set by the state law library. Another is to employ various incentive schemes, similar to those employed by state libraries in giving largesse to general public library jurisdictions. This report does not intend to get into such discussion, as the discussions will vary too much from state to state.

Another significant item with relation to governance is the possibility of including “members of the public” on a county law library board of trustees or the board of a not-for-profit law library organization. Presently, this practice is very uncommon. Almost all such board members are judges, attorneys, or local governmental officials. Given the increase in use of public law libraries by the general public, some state legislators and even some board members have begun to recommend this. Unfortunately, there is no consensus among law library boards for this, even though it may likely become a stumbling block in the advocacy for increasing funding in many states. The subcommittee makes no recommendations in this regard.

Charles R. Dyer
March 7, 2000

23
TASK FORCE TO EXPLORE FUNDING OPPORTUNITIES FOR LAW LIBRARIES

Interim Report

Submitted to the AALL Executive Board at its Spring 1999 Meeting

I. Task Force Charge

This Task Force will investigate and report to the AALL membership funding opportunities from foundations, private businesses, and public agencies for individual law libraries, law library consortia, and library networks that include law libraries. Specific attention should be paid to new programs available through the Federal Institute of Museum and Library Services. This Task Force should concentrate on publicly funded and/or public access law libraries as possible recipients. The charge includes finding opportunities to inform funding entities of the value to the public of law libraries and the obvious eligibility of these law libraries to participate in programs and share in resources previously available only to “public libraries.” The Task Force will report to the AALL Executive Board by the Spring meeting, 1999, on its work, the conclusions of its members, and its recommendation for possible continuance of its work.

II. Membership

Anne Grande (Chair) - Hennepin County Law Library
Charles Dyer - San Diego County Law Library
LeGrande Fletcher - Brigham Young University (formerly Washoe County Law Library) (Resigned in 1999)
Pamela Gregory - Prince George’s County Law Library
Peggy Rogers - National Center for State Courts
Mary Alice Baisch - Washington Affairs Office representative
Judith Meadows, Board Liaison
Roger Parent, Staff Liaison
III. 1998 Progress

The Task Force was appointed by AALL President Judith Meadows in 1997. Wes Cochran, the original chair, resigned in early 1998 to become Chair of the newly formed Special Committee on Ethics. He was replaced by Anne Grande. The Task Force met once at the Anaheim annual meeting and the following assignments were made:

- Peggy Rogers agreed to investigate the grant programs of the Bureau of Justice Assistance, the National Institute of Justice, and the State Justice Institute and summarize their procedures. (in process)

- LeGrande Fletcher agreed to write a summary of how the Washoe County Law Library obtained an LSTA grant and got a bill through the Nevada legislature to provide free copies of certain primary legal sources to county law libraries (done)

- Charles Dyer will write a position paper on the need to diversify ongoing sources of funding for public law libraries. Most county law libraries are currently supported by either court filing fees or direct appropriation. (in process)

- Anne Grande will present a program proposal for the 1999 annual meeting on alternative sources of funding for public law libraries. Mary Alice Baish agreed to assist in obtaining a speaker from the Institute of Museum and Library Service to outline grant opportunities. (program accepted for Wednesday morning at the Washington meeting. Jean Holcomb will also speak on lobbying local government officials for additional funding).

- Anne Grande will investigate what SLA, MLA and ALA do to disseminate information about grant opportunities to their members. (in process)

Efforts to have law libraries included for consideration for funding through the Gates Library Foundation have so far not been successful. An inquiry about eligibility for law libraries from Mark Parker, Library Development Services Bureau, California State Library, received the following response on November 2, 1998 from Richard Akeroyd, Director of Library Programs, GLF:

“No Mark, they are not eligible. LSTA funds eligibility is not sufficient. Our grant program is focused on public libraries as we typically understand them - providing a full range of library and information services to the general public of all ages, etc., etc. – not to libraries with specialized collections and services, community college libraries, etc.”
IV. Future Plans

The Task Force would like to postpone its final report until the Fall 1999 Executive Board meeting to give it an opportunity to hold a second meeting in Washington, D.C. to discuss the work in progress, to evaluate the annual meeting program, and to make recommendations about the best ways to provide for ongoing dissemination of information about alternative funding opportunities.