

# The Sustainable 21st Century Law Library: Vision, Deployment and Assessment for Access to Justice

Prepared by

Richard Zorza  
Zorza Associates  
[richard@zorza.net](mailto:richard@zorza.net)

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## About The Author

Richard Zorza is an attorney and independent consultant who has worked for the past twenty years on issues of access to justice. He is the coordinator of the national Self Represented Litigation Network, see [www.selfhelpsupport.org](http://www.selfhelpsupport.org), and has acted as a consultant to the Harvard Law School Bellow-Sacks Project on the Future of Access to Civil Justice, [www.bellowsacks.org](http://www.bellowsacks.org), and works in support of the national LawHelp network of access to justice websites, [www.lawhelp.org](http://www.lawhelp.org).

His book, *The Self-Help Friendly Court: Designed from the Ground Up to Work for People Without Lawyers*, was published by the National Center for State Courts in 2002. His article *The Disconnect Between the Requirements of Judicial Neutrality and Those of the Appearance of Neutrality when Parties Appear Pro Se: Causes, Solutions, Recommendations, and Implications*, 17 GEORGETOWN JOURNAL OF LEGAL ETHICS, 423 (2004) is widely used to define the structure of thought on the topic. Recent publications include articles in the *Judges' Journal*, *Judicature*, and *Court Trends*.

Richard coordinated the National Judicial Conference on Self-Represented Litigation held at Harvard Law School in November of 2007, the launching conference of the Court Leadership Package on Self Represented Litigation, in the fall of 2008, and a national conference on Public Libraries and Access to Justice in January of 2010. He is the recipient of the 2008 American Judicature Society Kate Sampson Access to Justice Award. Additional information and publications are available on his website, [www.zorza.net](http://www.zorza.net). He blogs at [www.accesstojustice.net](http://www.accesstojustice.net).

# **The Sustainable Twenty-first Century Law Library: Vision, Deployment and Assessment for Access to Justice**

## **Executive Summary**

This is a moment of opportunity for law libraries to transform themselves as leaders in providing access to justice for all as part of a broad realignment of the legal system as a whole.

Law libraries have long served a variety of constituencies, and are well-positioned to assume a broader role, with a particular focus on those historically excluded from access to justice. Put another way, law libraries have great potential to play an important role in making the judicial system more user-friendly and accessible for people without lawyers. Moreover, there are many examples of law libraries across the country that have already embraced this role, and have experimented and innovated to make a major contribution to access to justice. These changes have been made possible by broad changes taking place in courts, in technology, and in our conceptual understandings of the way that legal information is appropriately provided, particularly to those without lawyers.

This Report shows the broad potential of this transformation and the range of changes that are needed to empower law libraries and their staffs to make this contribution.

1. Law libraries are seeing a changing user base: in many, if not most, law libraries, the numbers of lawyers and court staff visiting law libraries is decreasing at the same time that an increasing number of members of the public and people without lawyers with legal problems are approaching law libraries for help. As the number of people without lawyers coming to law libraries continues to increase, like courts, law libraries must adjust the delivery and availability of its services.
2. Law libraries need to fully appreciate the dramatic changes in legal landscape: there are now huge numbers of people without lawyers coming to law libraries for assistance because judicial institutions and legal aid and pro bono organizations are unable to provide assistance in all cases. As such, law libraries need to prepare themselves to play a greater role in meeting those needs.
3. Law libraries will need to re-think and re-conceptualize their mission. A possible expanded mission statement is below:

*The law library's mission is to play a major role in enhancing access to justice for all, a critical component in a legitimate democratic society. It plays this role by providing legal information and tools to those engaged with the justice system, including litigants and those facing legal issues, attorneys, court staff, the*

*judiciary and other governmental organizations, regardless of where they are physically. In order to do so, it partners broadly with courts, bar associations, access to justice organizations, community organizations, and government. The law library recognizes that the information needed to assist differing constituencies will depend on their needs and in fulfillment of its mission the law library will pay continued attention to these varying and changing needs, and assist in identifying, developing, and deploying the information, tools, educational programs and resources that will best meet these access needs.*

4. In order to carry out this or a similar mission, law libraries will need to move towards providing a broader range of services, including assisting individuals to diagnose their legal problems; generating and providing legal information appropriate to a wide range of constituencies with varied education and literacy levels; providing tools that assist litigants prepare and present their cases to the courts; and information and assistance designed to help with longer term legal planning.
5. This may be easier than it might seem given that technology has the potential to reduce the cost of delivering traditional library services.
6. To provide these broader services, law libraries will need to train and add staff able to provide them and assist in the development of those services and tools not yet available on the market. This will require staff with skills to deal with a new kind of patron, as well as an expanded capacity in information management.
7. Law libraries will also need to re-configure their space to meet the needs of different constituencies. Space will need to provide security, underscore the limited, non-private relationship between patrons and staff, and support access to the technology critical to fulfillment of the vision.
8. Without technology, it would be largely impossible to deploy this vision. Technology makes low marginal cost access to resources possible, and facilitates tools that allow expertise to be provided to patrons even when staff are generalists (such as: online diagnosis and document assembly). However, often-needed technology is not yet available, and access-oriented law libraries will need to play an increasing role in ensuring that it is both developed and appropriate for their target audiences.
9. Such an ambitious agenda cannot be met by law libraries on their own. Courts, legal aid organizations, the bar, access to justice commissions, and public libraries can provide needed expertise, technology, informational resources, access points, and political support. Many are already doing so.

10. Managing this transition is ultimately a matter of leadership. The Twenty-first Century sustainable law library that provides access to justice for all patrons will be one built by strong leaders who can steer broad collaborations in a clear direction.
11. A final key component of the transition is a strong commitment to assessment and evaluation. Law libraries will need to set goals, establish metrics, and obtain input and perspective from a wide variety of users and constituencies to determine and affirm that they are meeting the needs of all of their patrons.

In summary, those law libraries that make this transition will find themselves at the core of a vibrant and critical institutional delivery system. Those that fail to rise to the challenge may find themselves doomed to irrelevance by changes in technology, constituencies, funding pressures and the law and its institutions.

# **The Sustainable Twenty-first Century Law Library: Vision, Deployment and Assessment for Access to Justice**

## **I. Introduction**

The second decade of the Twenty-first Century is a time of challenge and opportunity for law libraries across the country. As the justice system re-orient itself from one only designed to decide cases to one responsible for providing access to justice for all, and as technologies transform access to legal information, law libraries will have no choice but to re-assess, re-design, and re-purpose towards a broad access to justice mission. Many law libraries have already embarked on such a transformation; and serve as proof that—with innovation and adequate resources—law libraries can play an important role in ensuring access to justice. By so doing, they can continue their critical role as supporters of the nation’s key democratic institutions.<sup>1</sup> For a country without a fair justice system, in which its people have trust, is truly a country at risk.

Sadly, this Report, and the urgency of its recommendations, is grounded in the grim reality that our justice system has not met the needs of its most vulnerable and needy litigants. Study after study of the civil legal needs of low-income people in the United States tell a remarkably consistent story: the legal needs of most low- and middle-income people remain unmet.<sup>2</sup> For example, the Legal Services Corporation (LSC)—the institution charged by Congress to report on the legal assistance required to adequately respond to the civil legal needs of low-income individuals and families—has documented our nation’s continually growing “justice gap.”<sup>3</sup> LSC’s recent report shows that nearly one million people are turned away from LSC-funded legal aid programs every year in

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<sup>1</sup> See, generally, materials by the American Association of Law Libraries, e.g., *Statement on the Value Added to Organizations by Law Librarians*, <http://www.aallnet.org/main-menu/Leadership-Governance/policies/PublicPolicies/pr-statement.html>; *Competencies of Law Librarianship*, <http://www.aallnet.org/main-menu/Leadership-Governance/policies/PublicPolicies/competencies.html>; and, *County Public Law Library Standards*, <http://www.aallnet.org/main-menu/Leadership-Governance/policies/PublicPolicies/policy-county-standards.html>.

<sup>2</sup> The growth in the numbers of unrepresented litigants has been documented in a myriad of reports and articles. *See, e.g.*, Chief Justice John T. Broderick, Jr. and Chief Justice Ronald M. George, “A Nation of Do-It Yourself Lawyers,” *New York Times* (January 2, 2010); John Keilman, “No legal ease for amateurs: more cash-strapped people act as own lawyers in court, which can save money but can cost them the case,” *Chicago Tribune* (August 5, 2009); Jerry Crimins, “Big jump in pro se cases,” *Chicago Daily Law Bulletin* (April 25, 2009); and Jonathan D. Glater, “In a Downturn, More Act as Their Own Lawyers,” *New York Times* (April 9, 2009).

<sup>3</sup> The term “justice gap” refers to the difference between the current level of available legal aid and pro bono legal assistance and the level that is needed to meet the needs of all low-income people without lawyers in the judicial system.

the US; and for every client served by an LSC-funded program, another person who seeks help is turned away.<sup>4</sup>

Similarly, courts have experienced a dramatic increase in the number of low- and middle-income and vulnerable people coming to court on their own because they have nowhere else to turn. This means that a large number of people with urgent and important issues at stake—such as the custody of a child, the preservation of one’s home, access to health care or the loss of a job—have found themselves without the legal assistance to help them with their legal problems. For these people, equal access to justice is not yet a reality.

This Report offers an ambitious perspective for how law libraries can play a major and unique role in ensuring access to justice for all. The urgency of the need for such a role is undeniable. National studies show an increasing number of litigants without lawyers, a trend exacerbated by the economic downturn, at the same time that court and pro bono and legal aid resources are under pressure.<sup>5</sup>

The good news, however, is that changes in technology are yielding efficiencies in the fulfillment of law libraries’ traditional mission and are making it possible for them to embrace this broader and newly critical role. While this larger role for law libraries may require additional resources, particularly investments to manage the transformation, the process must include a re-assessment of possible efficiencies.

The even better news is that, around the country, innovations in the institutions needed by law libraries as partners are proceeding apace. Thus, this new role for law libraries is needed, viable, and both politically<sup>6</sup> and financially realistic.

This paper draws on the experiences of those publicly-accessible law libraries that have already made the transition, such as the Court Law Library in Austin, Texas, and the Los Angeles Law Library in Los Angeles, California, and on those of the many courts and access to justice organizations that are already providing new services to provide access

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<sup>4</sup> “Documenting the Justice Gap in America,” September 2009. Available at [www.lsc.gov/JusticeGap.pdf](http://www.lsc.gov/JusticeGap.pdf).

<sup>5</sup> Recent statistics on the self-represented are collected at <http://accesstojustice.net/2012/02/29/collection-of-srl-data/>. The Legal Services Corporation tracks overall need in: *Documenting the Justice Gap In America*, [http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting\\_the\\_justice\\_gap\\_in\\_america\\_2009.pdf](http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf). The state budget crisis is tracked by the Center for Budget and Policy Priorities at: <http://www.cbpp.org/cms/index.cfm?fa=view&id=711>.

<sup>6</sup> For example, a bill recently entered into the Utah legislature would mandate that the state law library establish a self-help center and provide such services, <http://www.geeklawblog.com/2011/08/county-law-libraries-50-mission.html>. For a recent endorsement of this role for law libraries by the Connecticut Chief Justice, see the draft minutes of the state Judicial Branch Law Library Advisory Committee. [http://www.jud.ct.gov/Committees/lawlib/lawlib\\_minutes\\_011812.pdf](http://www.jud.ct.gov/Committees/lawlib/lawlib_minutes_011812.pdf).

to justice for the self-represented. These models lay out an overall vision of the Twenty-first Century sustainable law library. Through the course of researching for this Report, the author has conducted a number of conversations with law librarians across the country, whose ideas and experience informed the ultimate recommendations in this Report. The experiences of these law librarians underscores the conclusion that, with the appropriate focus and direction, law libraries can play an important role in helping people without lawyers better understand their legal rights and responsibilities, the legal process, and the next steps in their cases.

This Report outlines how changes in need, capacity, and opportunity make this the right moment for such a change. It goes on to explore concrete issues needed for such adaptation, such as: services, staffing, space, and technology. It concludes with discussions of collaboration, management, and assessment. A consistent theme is that the law library community is well-positioned to play a leadership role within the larger national access to justice community of courts, bar, and nonprofits.

The process of transforming a law library for the 21<sup>st</sup> century will require a sustained and ongoing leadership. It is not a brief or short-term initiative.

## **II. The Changing Environment of Need, Capacity and Opportunity**

### **A. *Need for Access Services*<sup>7</sup>**

For those familiar with what happens in courts around the country, there is an urgent and unmet need for access to legal help, which is the truism to end all truisms. This need is clear from the following:

1. There are countless legal needs' studies that show that there is an incredibly high number of people with legal problems who are unable to obtain counsel;
2. Over the past few decades, there is an increasing number of people who come to court on their own without legal representation;
3. There is an increasing number of people without lawyers who come to court who have limited English proficiency and lack the capacity to adequately navigate the courts in English;
4. Budget problems are forcing courts to cut back on hours and resources.

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<sup>7</sup> This includes services provided by lawyers through organizations such as LSC and the informational services described below.

In assessing the potential role of law libraries to improve access to justice efforts, it is important to be as specific about the needs and how law libraries can help meet those needs as possible. Some of the most important points include:

1. The vast majority of those who go to court without lawyers are making the choice for financial reasons, so changing their attitude to the legal profession will not solve the problem (although changing the business model of the profession might help).
2. While many of the unrepresented litigants are low-income, there still are significant numbers of people without lawyers who are somewhat middle-income; so that potential users of law library services may well have access to tools and resources to assist with use of those services, but not all of them will.
3. While need is spread over a very broad range of areas, there are lot of people who need assistance with economic issues, such as: housing, eviction, mortgage foreclosure, bankruptcy, credit cards, and other consumer issues. Law libraries can play an important role in helping people in consumer and housing cases because this is, generally, an area of great information gap. In some, but not all jurisdictions, courts have put greater resources into family law because those cases have to come to court and are the most disruptive to the courts.

Law libraries can play an important and much needed role to help people without lawyers navigate the judicial system. Such collaboration is even more important now given broader changes in the overall judicial system environment.

## **B. *Changes in Capacity and Opportunity***

### **1. *Change in Mission Definition of Courts***

Traditionally, courts, as institutions, were structured to resolve disputes brought before them, nothing more or less. Their core neutrality value precluded any additional activity. In the last decade, as other institutions retreated financially and politically from their obligation to provide assistance in bringing disputes to court (or in responding when others brought them), courts have come to a broader sense of mission. Courts have started to see the overall accessibility of their institution as a key measure by which they should be assessed. As Texas Supreme Court Chief Justice Wallace Jefferson recently wrote:

*The Constitution requires the Court to administer justice. This occurs not only by deciding cases but by establishing a judicial climate in which*

*people who lack money to hire a lawyer have a reasonable chance to vindicate their rights in a court of law.*<sup>8</sup>

Examples of court involvement include: providing self-help services, expanding litigant resolution services,<sup>9</sup> educating judges to ensure that litigants are heard, and developing forms programs

## **2. Expansion of the Definition of Neutral Services**

A parallel change, which has radically expanded courts' ability to provide direct services to litigants in aid of such access, has been the re-consideration of what kinds of service are appropriate for a neutral institution to provide. A little more than a decade ago, the mantra was that "clerk staff does not provide legal advice." Now, however, thanks in part to a ground-breaking article by John Greacen,<sup>10</sup> it is broadly understood that informational services are not inappropriate for court or clerk staff to provide. Indeed, across the country, court and clerk staffs are routinely trained in how to provide such informational assistance,<sup>11</sup> and self-help centers are now available in many states.<sup>12</sup>

As a general matter, the informational assistance given by these staff and programs are also totally appropriate for law libraries and other community groups to provide.<sup>13</sup>

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<sup>8</sup> Available at <http://www.supreme.courts.state.tx.us/advisories/pdf/DOC000.PDF>. Discussed at <http://accesstojustice.net/2012/01/25/texas-supreme-court-moves-forward-on-forms/>.

<sup>9</sup> For example, the Cook County Illinois Circuit Court Mortgage Foreclosure Medication Program is described at <http://cookcountyforeclosurehelp.org/>.

<sup>10</sup> Greacen, *Legal information vs. legal advice—Developments during the last five years*, [http://www.ajs.org/prose/pro\\_greacen.asp](http://www.ajs.org/prose/pro_greacen.asp); Greacen, *No Legal Advice From Court Personnel What Does That Mean?* 34 The Judges Journal 10 (Winter 1995).

<sup>11</sup> Model training materials for court staff are at: Self-Represented Litigation Network, *Ethical Guidelines for Clerks and Court Staff: Legal Information versus Legal Advice*, <http://www.selfhelpsupport.org/library/item.208596-Power Points for Module 5 Staff Ethics>.

<sup>12</sup> Rebecca Sandefur, *Access Across America: First Report of the Civil Justice Infrastructure Mapping Project*, American Bar Foundation, (2011), available at [http://www.americanbarfoundation.org/uploads/cms/documents/access\\_across\\_america\\_first\\_report\\_of\\_the\\_civil\\_justice\\_infrastructure\\_mapping\\_project.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/access_across_america_first_report_of_the_civil_justice_infrastructure_mapping_project.pdf).

<sup>13</sup> Indeed, the neutrality constraints upon courts are greater than those on law libraries—making the law library possibly sometimes the best place to provide such services. Law librarians follow professional guidelines that require the equal treatment of patrons and the avoidance of the unauthorized practice of law, <http://www.aallnet.org/main-menu/Leadership-Governance/policies/PublicPolicies/policy-ethics.html>.

### 3. Expansion of the Definition of Services Not Within the Prohibitions of the Unauthorized Practice of Law

Closely related is the realization that there is a wide range of useful services that can be provided directly to litigants and others without forming an attorney-client relationship, without any obligation of loyalty or exclusivity, without any responsibility to provide ongoing assistance, without confidentiality, and, most importantly from the library perspective, without the requirement of a law degree and professional licensure.

While the details of these changes are explored below, the key point is that it is now understood that law libraries can appropriately and helpfully provide a broad range of services to a wide population without falling afoul of regulatory limits.

In the main, it is now acceptable for people to give legal information without forming any attorney-client relationship or violating unauthorized practice of law rules. It no longer is considered within the practice of law to provide information, informational services, or informational assistance.<sup>14</sup>

Moreover, as time goes by, and experience is gained with navigating this distinction, the practical definition of “information” has expanded. At one point, telling a litigant or patron which form to use was considered the practice of law. Now court and clerk staff and law library staff can explain in detail, *in the context of the case*, what needs to be done to get the case moving, provided that the information is factual rather than strategic. The touchstones remain the same: in order to be considered neutral, the same information could be given to all sides, the information and discussion is not confidential, no independent judgment is being exercised in the giving of the information, and there is no expectation of loyalty or ongoing service.<sup>15</sup>

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<sup>14</sup> This definition is laid out in the author’s blog at: <http://accesstojustice.net/2011/07/31/unauthorized-practice-of-law-issues-and-the-not-malpractice-test/>. John Greacen posits the distinction as between “legal information” and “legal advice”. See authorities cited at note 10.

<sup>15</sup> The California courts describe the range of appropriate activities as follows in, California Administrative Office of the Courts, *Guidelines for the Operation of Self-Help Centers in California Trial Courts* (2008), *Commentary to Guideline 15* at 9: “*Basic core services most frequently include the following: Interview and assessment; Assistance with pleadings and fee waiver applications; Document review; Procedural information, including but not limited to explanation and clarification of court orders and the process by which to obtain, enforce, and modify orders; Assistance with understanding service requirements and methods; Preparation for hearings; Completion of orders after hearings and judgments; and Drafting stipulations. Additional services that self-help centers should consider offering include but are not limited to: Mediation or other settlement assistance; Readiness reviews for calendar appearances; Case status meetings; and Courtroom assistance, including but not limited to answering questions from litigants, explaining procedures, conducting mediations, preparing orders after*

#### 4. Change in Understanding of What Range of Services Help Provide Access

Perhaps also of particular relevance to law libraries, there has been a revolution in the perception of the range of services that assist legal access. Twenty years ago, there was only one service—legal aid—that was provided by non-profits independent of other judicial institutions. Now we understand that access is helped by a “continuum of services,” which includes counsel at one end, simple web-based information at the other end,<sup>16</sup> and a huge range of services in the middle, including access-oriented forms,<sup>17</sup> document assembly,<sup>18</sup> self-help services,<sup>19</sup> unbundled<sup>20</sup> legal assistance, and online diagnostic<sup>21</sup> and help tools.

This diversification includes many services that are highly appropriate for use by law libraries, and indeed the public library when supported by a law library, to provide.

#### 5. Use of Technology to Provide Neutral Informational Services to the Public

While, of course, the human element remains critical in providing access to justice, a very significant portion of this new range of services is most effectively provided technologically. It is impossible to overstate the impact that this is already having on access to justice. The Legal Services Corporation (LSC) estimates that fewer than seven (7) million people are provided assistance through its LSC-funded lawyers and paralegals, including through workshops and legal education materials, but almost 21 million are helped through technology.<sup>22</sup> It is not just that some of these services can be provided much more cheaply, but that they also transform the overall delivery system.

- These on-line services are available 24/7 (although human support, where needed, is not necessarily provided all the time.

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*hearing, and otherwise assisting litigants without making an appearance or advocating on their behalf.”*

<sup>16</sup> [www.lawhelp.org](http://www.lawhelp.org).

<sup>17</sup> Self-Represented Litigation Network, *Developing and Deploying Plain Language Forms and Instructions* (2008), available at [http://www.selfhelpsupport.org/library/item.208584-Power\\_Points\\_for\\_Module\\_2\\_Establishing\\_and\\_Operating\\_a\\_CourtBased\\_SelfHelp](http://www.selfhelpsupport.org/library/item.208584-Power_Points_for_Module_2_Establishing_and_Operating_a_CourtBased_SelfHelp).

<sup>18</sup> <https://lawhelpinteractive.org/>.

<sup>19</sup> See note 15, above.

<sup>20</sup> Unbundled legal services, often referred to as “discrete task representation,” is a process by which the attorney and client divide up the tasks and the attorney performs only the tasks that the client cannot do alone. The result is much lower cost for the client, and potentially increased clients for the attorney.

<sup>21</sup> See materials cited at note 39, below.

<sup>22</sup> <http://newrin.lsc.gov/Scripts/LSC/Grantpro/pgpb12.asp>.

- These on-line services have very low *marginal cost*, allowing for massive scaling, although there are initial investment costs.
- The very act of turning legal knowledge into online information or tools can help make that information more appropriate for non-lawyer use. If answers or choices are standardized, there is no longer individual judgment being applied, and the service becomes informational.
- The services are no longer limited by geography.<sup>23</sup>
- It is easier (but still hard and expensive) to make the services available to limited English proficient populations.
- Technology makes community organization partnering much easier by facilitating tool and information distribution.

## 6. Use of Technology to Free Resources by Providing Services More Cheaply to the Profession

What makes it possible for law libraries to even consider playing a significantly expanded role in this transformed access to justice system is the multiple resource savings made possible by increased use of technology to serve the profession. Among the savings:

- Reduction of duplicative paper subscriptions made possible by online subscriptions<sup>24</sup>

<sup>23</sup> This has funding implications, and suggests that the costs (and institutional structure) should be statewide or even national.

<sup>24</sup> As a general matter, the proposals in this paper are fully consistent with the *County Public Law Library Standards* of the American Association of Law Libraries State, Court and County Law Libraries Special Interest Section, [http://www.aallnet.org/main-menu/Publications/llj/LLJ-Archives/Vol-95/pub\\_llj\\_v95n01/2003-06.pdf](http://www.aallnet.org/main-menu/Publications/llj/LLJ-Archives/Vol-95/pub_llj_v95n01/2003-06.pdf). However, the implicit recommendation to reduce paper collections may be viewed as inconsistent with the listing of publications in Standard VII, *County Public Law Library Collection*. The Comment thereto reads in part: “*Alternative forms of publication or cooperative agreements with libraries within a reasonable geographic area will satisfy the collection requirements if staff is available to assist customers in effectively accessing resources, including remote resources. It should be noted that it is critically important that a proper mix of print and electronic resources be maintained in county public law libraries. While online technology will provide a fundamental baseline for research platforms of future law libraries, certain print collections will always be needed and should be retained as part of the library’s holdings as a balance against countless deficiencies inherent in today’s electronic media.* [emphasis added]” As a general matter, back-up paper collections can be centralized at the state level, further reducing costs. Less ambitiously, the number of paper copies can be reduced, particularly in those libraries that have multiple branches.

- Reduction of space needs from reduced paper holdings
- Reduction of staff needs from reduced update costs, assuming good management and effective staff
- Reduction of research time from increased online efficiency<sup>25</sup>
- Reduction of demands from the profession because online resource availability lessens reliance on physical law libraries.<sup>26</sup>

It is unlikely that any law library has fully realized these savings unless it has engaged in a systematic and ongoing review of all operations and expenditures, and this should be a crucial early step in managing the transformation process. Such savings will not necessarily be automatic, and will require careful management.<sup>27</sup>

## **7. Increased Openness to Collaboration and Division of Labor by Access Institutions**

Given that the crucial function of law libraries in the justice system has sometimes been under-recognized in the past,<sup>28</sup> the move towards a more collaborative model in the access to justice world is a very good sign for the law library community.<sup>29</sup> There is general, although far from universal, recognition within the judicial system that the mission of access can only be achieved by cooperative and collaborative relationships

<sup>25</sup> Some law librarians report that the increase in electronically submitted research questions is increasing demands on staff. They report that responding takes more time – this may be a matter of not yet having developed the skills to respond speedily. As new materials are developed, costs should fall.

<sup>26</sup> Some argue that the economic crisis means that some lawyers will rely more on law libraries. If so, this should be done by cost effective use of technology.

<sup>27</sup> Indeed, when early drafts of this Report were reviewed by law librarians with expertise in access issues, several responded that these potential savings were overstated.

<sup>28</sup> For case law on the importance of law libraries, see, e.g., *Director of State Courts, Petitioner, v. Department of Administration*, 103 Wis. 2d 311, 307 N.W.2d 658 (1981); *Young v. Board of County Comm'rs*, 91 Nev. 52, 530 P.2d 1203 (1975); *City Court of Breaux Bridge, v. Town of Breaux Bridge*, 440 So. 2d 1374 (1983).

<sup>29</sup> One highly respected and innovative law librarian commented: “*It will be a culture change for the courthouse staff to have a SRL-helpful law library. The best thing we ever did with the District Clerk's Office was to invite them to sit at the reference desk for an entire day with the reference supervisor at the self-help center. So many misconceptions were addressed. They just hired four new clerks and part of the new-clerk training will be a day at the law library. Afterwards, the librarians will spend a day at the clerk's office. I think some librarian eyes are about to opened, too.*”

between and among institutions and organizations and by dividing tasks necessary to achieve access.<sup>30</sup>

Many states have access to justice commissions.<sup>31</sup> Even those that do not often have bodies within the court or the bar tasked with leading expanding access efforts can do so through collaboration. A few of the bodies have law library participation.<sup>32</sup>

### **C. *Potential for a Twenty First Century Mission***

Taken together, these changes in the environment make this a “tipping point” moment in which law libraries can play a vastly expanded role, and can do so without major new long-term, ongoing expenditures.

To do so will require a clear vision and mission, as well as the managerial structure, to support significant re-orientation of services.

## **III. Twenty-first Century Vision and Mission**

### **A Overview**

Crafting the Twenty-first Century mission statement is not only about creating language to guide management and staff, it is also about sending a clear message to partners and patrons about the direction of the institution. Since this Report envisions a clear re-focus for the law library—one that will rely on much close collaboration and that will offer a far broader range of services to a new constituency—a revised mission statement will be necessary, rather than many existing mission statements that function to maintain, rather than grow, the institutions.

Given that a mission statement should guide the law library both to address its needs during period of change and as an ongoing basis, it must be simultaneously be written at a sufficient level of generalization and be fully actionable.

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<sup>30</sup> A list of collaborative relationships is in preparation:  
[http://www.co.washington.or.us/LawLibrary/upload/Collaborative\\_State\\_JD\\_MLS\\_Task\\_Forces\\_CMS.pdf](http://www.co.washington.or.us/LawLibrary/upload/Collaborative_State_JD_MLS_Task_Forces_CMS.pdf) (draft). A funding and governance listing is also in preparation,  
[http://www.co.washington.or.us/LawLibrary/upload/Law\\_Libs\\_All\\_States\\_Cover.pdf](http://www.co.washington.or.us/LawLibrary/upload/Law_Libs_All_States_Cover.pdf).

<sup>31</sup> This of Commissions is maintained by the ABA and is available at  
[http://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/resource\\_center\\_for\\_access\\_to\\_justice/state\\_atj\\_commissions.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/state_atj_commissions.html).

<sup>32</sup> The co-chair of the Montana Self-Represented Litigant Task Force is the state law librarian. The Maryland Access to Justice Commission includes two law librarians and one public library administrator.

## **B. Recommended Steps for Consensus on Vision**

### **1. Identify stakeholders**

The process of developing the mission statement must reflect the needs of the constituencies that are to be served in the particular jurisdiction. The first step, therefore, is to bring into the process those who have the perspectives of those constituencies. Those natural constituencies usually include: attorneys, litigants, those with legal issues, court staff, the judiciary, community organizations, other governmental institutions, public and academic libraries, and elected officials.

### **2. Integrate Possible Perspectives**

Surveying these constituencies (and including them in focus groups) might help identify their needs. It is also possible that a series of informal conversations might be sufficient at this early stage to ensure that their needs are incorporated in a mission statement.

It is also important to ensure that the mission statement is sufficiently broad in its reach, and will be relevant and appropriate as time, technology, and needs change.

### **3. Obtain Consensus on Vision and Potential Institutional Implications**

Mission statements need to encompass not only a consensus vision, but also at least a general acceptance of their institutional implications. They provide a context in which future disputes about priorities can be resolved.

## **C. Draft of Possible Reformed Mission Statement**

### **1. Possible Mission Statement Draft**

*The law library's mission is to play a major role in enhancing access to justice for all, a critical component in a legitimate democratic society. It plays this role by providing legal information and tools to those engaged with the justice system, including litigants and those facing legal issues, attorneys, court staff, the judiciary and other governmental organizations, regardless of where they are physically. In order to do so, it partners broadly with courts, bar associations, access to justice organizations, community organizations, and government. The law library recognizes that the information needed to assist differing constituencies will depend on their needs and in fulfillment of its mission the law library will pay continued attention to these varying and changing needs, and assist in identifying, developing, and deploying the information, tools, educational programs and resources that will best meet these access needs.*

For comparison purposes, a recent blog collected 50 law library mission statements,<sup>33</sup> including that of Cook County.<sup>34</sup>

## **2. Implications of the Draft Mission Statement**

A few observations on this draft mission statement that may be helpful in discussions among stakeholders:

### *Inclusion of traditional legal profession constituency*

It is important to include the phrase “serving the legal information needs of attorneys” in this statement. The proposed mission statement does not move a law library away from its traditional obligations (to serve the bench and the bar), it merely expands upon them.

### *References to “tools”*

The reference to “tools” is meant to include things like: content finding, triage assistance and document assembly (all of which are likely to be distributed online). Access to justice is more than knowing the law, it is also access to the tools that practically allow people to actually get legal information. The class of such tools is likely to expand over time.

### *Access to Information versus Access to Content*

The language includes reference to “legal information and tools,” rather than content. This is intentional. So long as law libraries limit themselves to an informational role, it is entirely appropriate for them to do more than direct patrons to content.

### *Inclusion of broad governmental constituency*

The extent of the governmental constituency varies from law library to law library. However, it is as a general matter important to recognize the involvement of government entities in the mission statement.

### *Language of ongoing flexibility*

Flexibility is crucial. Tasks change, whereas missions rarely do.

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<sup>33</sup> Three Geeks and a Law Blog, County Law Libraries: 50 Mission Statements, <http://www.geeklawblog.com/2011/08/county-law-libraries-50-mission.html>.

<sup>34</sup> “Provide a practitioner focused legal research facility; Maintain a practice-oriented collection of legal material in print and electronic format; Provide legal and legislative research assistance; Operate in a manner consistent with sound fiscal management.” <http://www.geeklawblog.com/2011/08/county-law-libraries-50-mission.html>.

### *Language of self-assessment*

If the mission statement is to have any real or lasting meaning, then there must be a mechanism for self-assessment, and for building and acting on what is learned.

### *Reference to educational programs*

It is important to remember that a library is an educational institution.

## **IV. Services and the Twenty First Century Vision**

### **A Overview of Services**

#### **1. The Complimentary Relationship of Services for Lawyers and the Public**

While this Report advocates a re-alignment of a law library's mission and services to adapt to the changing times, particularly towards helping those without realistic access to lawyers, there is nonetheless a strong complimentary relationship between the services needed for these constituencies and those traditionally provided by public law libraries. It is for this reason that those law libraries which have made, or are making the change, have found the process to be one of transition and growth, rather than disruption and conflict.

One of the best examples of this impressive transition is in Austin, Texas, where the law library now provides a broad variety of services for people without lawyers, including providing "reference attorneys" in the courtrooms to assist judges with moving their calendars.<sup>35</sup>

It must be remembered that the kinds of things being done by these innovative law libraries—such as: organizing information so it can be found as easily as possible, helping people find information, helping people use information, and acting as "translators" between different systems—are what libraries and librarians have always done, and what librarians have always been trained to do. In a certain sense, however, the expansion of services called for is a "back to basics," not in the sense of simplicity, but in the sense of why people were attracted to the profession in the first place. At their core, libraries are places to help people get information; and for law libraries in particular, it is to provide legal information. It may be for this reason that these changes have generally been welcomed by staff.

#### **2. Integration of Face to Face and Virtual Services**

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<sup>35</sup> <http://www.traviscountylawlibrary.org/>.

The key to cost-effective expansion of services is integration of face-to-face and virtual services. As more and more of the information and tools needed by both lawyers and the self-represented move online, the face-to-face task of the library and its staff transitions to help people find, understand, and use those tools. Those skills are not so different from the traditional ones used to assist lawyers, including finding applicable law and resources, making them accessible, and organizing them.

### **3. What the Self-Represented Need.**

The self-represented need to know what to do to protect their rights, and how to move forward with their cases (exactly what lawyers need to know to do their jobs for their clients). The library first of all obviously needs information structured and accessible for those without legal knowledge. They need tools to help find that information, and to use it. Thus, the triage and online forms discussed below are critical for making the information useful. Indeed, law libraries have long been providing related services in the form of a “reference interview.”<sup>36</sup>

### **4. What Court Staff Need**

As detailed above, the needs of court and clerk staff have changed significantly in the access-era. Given that more and more court and clerk staff are now empowered to play a strong informational assistance role, they need information themselves to do that. That information is not always readily available, and court and clerk staff need additional resources to give people without lawyers beyond the confines of the court room.

### **5. What Attorneys Need**

The needs of attorneys are changing too. Law libraries are becoming the gateways for online legal information, making the bricks less important and the online aggregation more important.<sup>37</sup> As unbundled discrete task representation spreads, attorneys actually need the public to have access to self-represented tools, and they need the information that will make it easier to find and provide that assistance under that model. This makes the referral role that law libraries can play much more important, and suggests that public law libraries can be very important in making sure that those who want lawyers can find them.

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<sup>36</sup> Whisner, *Teaching the Art of the Reference Interview* (2002), available at <http://pacificreference.pbworks.com/f/Teaching+the+Art+of+the+Ref.+Interview.pdf>.

<sup>37</sup> For an example of the dramatic consequences of this phenomenon, see, e.g., The State Journal, *Bill to determine law libraries' future advances to WV Senate*, <http://www.statejournal.com/story/16901093/bill-to-determine-law-libraries-future-advances-to-senate>. Unfortunately, many of the contracts for online material limit law libraries to access from the brick and mortar location. Libraries should bargain for better terms.

## 6. What Other Governmental Constituencies Need

As the public's expectation of both knowledge and transparency in governmental institutions increases, these institutions also need help from law libraries to serve as access points about themselves and to provide knowledge about the underlying issues they are facing.<sup>38</sup>

## 7. Bottom Line – What More is Needed in Legal Access Services Today

The themes from the above are:

- The need for information for widely varied constituencies, with different skill and experience levels
- The need for direct, including in-person, assistance to both find and use legal information
- The need for tools to use the information
- The need for flexibility in assessing the need for both information and tools

In a sense there is nothing fundamentally new here, and the inventory of possible services below is intended to flesh out the concrete implications of these needs.

### B. Checklist of Possible Services To Be Provided By Law Libraries

This is today's list. It will expand over time, as public law libraries cooperate with other access partners to create new access tools and as roles expand.

#### 1. Triage, Diagnosis and Referral

As law libraries become entry points to the judicial system for more and more people, and as others come from other institutions with little knowledge of their needs, the ability to decide what people need to move forward, whether the library can provide it, and, if not, what alternative referral might be helpful, becomes more and more important.

Unfortunately, very little attention has been paid to this issue, with almost no writing even about triage in the court or legal aid context,<sup>39</sup> and none in the law library context.<sup>40</sup>

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<sup>38</sup> Governal depository programs are part of this picture.

<sup>39</sup> It is noteworthy that an article has just appeared in the *Court Manager* on court-based triage. The University of Colorado Law Review is anticipated to publish an article on triage generally, written by the author of this paper, in its Spring 2012 Symposium issue. See also Meehan Rasch, *Development: A New Public-Interest Appellate Model: Public Counsel's Court-Based Self-Help Clinic and Pro Bono "Triage" for Indigent Pro*

Most of the triage that occurs is based on the instincts of the person doing the triage, and not based on any protocol or system.<sup>41</sup> It is certainly not grounded by research. There is, finally, some consideration being given to the development of online triage tools that will follow protocols, and integrate research lessons.<sup>42</sup>

In the interim, triage and diagnosis services will have to be provided by skilled staff, based on intuition and strong knowledge of available resources, both within and outside the library, and based on prior experience with the related so-called “reference interview.” The descriptions of those services are, of course, usually available online in the statewide legal information self-help website funded by the legal aid community.<sup>43</sup> Part of the diagnostic process may be giving instructions on how to use these resources.

## **2. Substantive and Procedural Information and Assistance**

For the self-represented, this issue is the core of the matter: people without lawyers need information about the law and how to move forward in the system to get a decision. Much of that information is now available online, at least in the areas of most common need such as housing, consumer, government benefits, and family. However, in many jurisdictions, significant gaps remain.

For law libraries (and indeed public libraries too), the task is how to make sure that the patron gets to the needed information or legal or social service referrals (if that is more appropriate). While the online finding tools are getting better and better, and while our ability to write it in comprehensible form is also improving, there are still significant barriers to finding, understanding, and applying the law, even in this form.<sup>44</sup>

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*Se Civil Litigants on Appeal*, 11 J. App. Prac. & Process 461 (2010); Earl Johnson, Jr., *Justice for America's Poor in the Year 2020: Some Possibilities Based on Experiences Here and Abroad*, 58 DePaul L. Rev. 393 (2009); and Peter Salem, Debra Kulak and Robin M. Deutsch, *Triaging Family Court Services: The Connecticut Judicial Branch's Family Civil Intake Screen*, 27 Pace L. Rev. 741 (2007).

<sup>40</sup> Maryland State Law Library's Guidelines for E-mail Reference, may be able to serve as a starting point for a discussion of law library reference triage.  
<http://www.lawlib.state.md.us/aboutus/policies/EmailReferenceGuidelinesMSLL.pdf>.

<sup>41</sup> Although there is certainly much accumulated experience and some librarians would argue that their own years of skill and experience in triage at the reference desk is sufficient for successful information provision because protocols and systems do not lend themselves to quantifying the “human element” or the emotion-laden interaction that often takes place during the triage session.

<sup>42</sup> A small working group has emerged out of the legal aid technology world, and is discussing the principles by which such a system might be built.

<sup>43</sup> The system of state sites is accessible at [www.lawhelp.org](http://www.lawhelp.org).

<sup>44</sup> Of course, as discussed below, there is also a key role in helping plug any content holes.

It is at this crucial interface that the law library role must be most innovative. Library staff need to be able to help people actually find the information they need and to understand it. This is different from being the source of legal judgment (as discussed below under training). But, it is necessary to underscore, this function is also more than just pointing at the relevant material and walking away.

### **3. Substantive and Procedural Underlying Law**

For the bar, and for more educated and literate litigants and agency staff, the underlying sources of law remain a crucial type of information. While traditional law finding mechanisms may have been sufficient for members of the legal profession, the newer constituencies need tools and help to find and make sense of that underlying law. To a large extent the informational tools described above help meet that need, but the greater complexity of the underlying sources of law present additional challenges, and may require greater informational assistance.

For the legal profession, the law library will also remain an access point and aggregator of multiple sources of law, both in print and online terms.

### **4. Court Submission Tools (Forms and Document Assembly) and Assistance**

Law libraries have always provided forms books, so there is in sense nothing new in libraries providing tools to assist in presenting cases to the system. With the new constituencies however, the materials and legal tools must be easier to use and more sophisticated. Slowly, standardized forms are becoming, well, standardized throughout the country.<sup>45</sup> For example, a recent survey showed that 48 states and DC have standardized state forms available and 33 of those states require their courts to accept the forms when a litigant chooses to use them.<sup>46</sup> Moreover automated document assembly systems are making such forms far more accessible.<sup>47</sup> Illinois, through Illinois Legal Aid Online, has one of the most comprehensive online forms systems, but no mandated acceptance of these “unofficial” forms.<sup>48</sup>

As customer-friendly e-filing advances, law libraries will become more and more important as e-filing gateways for those who do not have direct access to the technology otherwise, or need help in using it.<sup>49</sup>

### **5. Court Preparation Tools**

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<sup>45</sup> Although, not yet, of course, in Illinois.

<sup>46</sup> Texas Access to Justice Commission, *Why Forms are Important*, <http://richardzorza.files.wordpress.com/2012/01/1-summary-talking-points-final.pdf>.

<sup>47</sup> [www.lawhelpinteractive.org](http://www.lawhelpinteractive.org).

<sup>48</sup> <http://www.illinoislegalaid.org/>.

<sup>49</sup> See, e.g., *E-Filing Help (King County Washington)* at <http://kcll.org/learnhow/efiling-help/index.html>.

Much less advanced in their development, and much less common, are tools that assist litigants preparing in their presentations in court. As a general matter, the access movement, rather than developing such tools, has focused on working with forms to make sure that they include as much relevant information as possible. To a certain extent, these forms, in part through their instructions, can provide some of the needed assistance to litigants. Some courts have prepared relatively general videos.<sup>50</sup> It is largely a task for the future to prepare such tools. Law libraries might be able to participate in the preparation of videos, clinics and trainings aimed at this task.

## **6. Court Support and Navigation Tools and Assistance**

Similarly, there are scant resources designed to help people deal with preparation for the court or hearing process. Those concerned with access have focused on training judges to adapt their ways of operating to gather more information during the course of the hearing.<sup>51</sup> While judicial involvement and training is crucial to improving access, this, alone, will not address this information gap. Some courts have prepared evidentiary guides, but self-represented litigant tools in this area remain an area in which law libraries can also play a major role. It is not clear that traditional books on evidence would be sufficient for the self-represented.

## **7. Follow up Tools and Assistance**

As a general matter, courts and pro bono and legal aid organizations have come a long way in developing follow-up diagnostic tools to assist litigants to comply with orders of the court or to obtain compliance if the other side is failing to do so.<sup>52</sup> But more tools are always necessary, and this may be a particularly fertile area for the law libraries to lead in, since some, particularly losing parties, may be somewhat reluctant to go to court to get information and run what they perceive is the risk of getting into trouble. They may well perceive law libraries as more neutral locations.

## **8. Preventive Tools and Assistance**

It is an endless refrain that the legal system should do a better job of helping people avoid legal problems. Better to know about the risks of buying a used car, for example, than to try to void the transaction. Law libraries, particularly in association with public libraries, can offer hospitable and natural environments in which these preventive materials and

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<sup>50</sup> The King County (Seattle) Law Library has an online video, <http://your.kingcounty.gov/kcsc/yuflash/home1.htm>.

<sup>51</sup> Self-Represented Litigation Network, *Judicial Education Curriculum Project Report and Evaluation* (2008), available at [http://www.selfhelpsupport.org/library/item.259761-Judicial\\_Education\\_Curriculum\\_Project\\_Report\\_and\\_Evaluation](http://www.selfhelpsupport.org/library/item.259761-Judicial_Education_Curriculum_Project_Report_and_Evaluation).

<sup>52</sup> Self-Represented Litigation Network, *Access Innovations to Increase Compliance* (2008), [http://www.selfhelpsupport.org/library/item.208595-Power\\_Points\\_for\\_Module\\_15\\_Access\\_Innovations\\_to\\_Increase\\_Compliance](http://www.selfhelpsupport.org/library/item.208595-Power_Points_for_Module_15_Access_Innovations_to_Increase_Compliance).

experiences, such as guides to handling certain kinds of transactions, can be communicated. People may be more willing to go there without “invoking trouble.”

## **9. Planning Services**

Similarly, there are areas of legal need, such as will preparation, that are more accurately described as planning, than responding to an immediate legal need. As a general matter, those who do not have on-going relationships with lawyers are least likely to engage in this planning, often at great cost. Once again, law and public libraries, with their credibility as general access institutions, can help fill this gap.

## **V. Staffing and the Twenty First Century Vision**

### **A. Overview of Staffing Issues**

#### **1. A Careful Process That Respects and Uses the Skills of Staff.**

Implementing a Twenty-first Century vision, and providing the services identified by such a vision, will ultimately lead to a different configuration of staff activity and skills than is now in place. The process to get to that configuration need not be crisis-driven or unacceptably disruptive. This is because the core skills needed to provide such services are not that different from the skills being used by traditional law libraries— although strong leadership and staff support is needed to ensure that the new tasks identified are performed.

#### **2. Weighting to Short Term Informational and Navigational assistance**

The new staff service delivery structure must be weighted towards heightened short-term informational and navigational assistance capacity. Fewer of the staff will be conducting long-term major research for patrons, and more will be helping people find specific information and tools in online environments designed to provide just those services.<sup>53</sup> This will require education in the tools themselves, in how to deal with the different populations who need the tools, and in the ethics of playing this informational role, without engaging in the practice of law.<sup>54</sup> It will also require that the catalogers and other

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<sup>53</sup> Some self-represented litigants have complex research needs and require more staff time in order to learn how sources are used. Whereas attorneys and paralegals may tend to frame a research problem within a mutually understood legal context (i.e., jurisdiction, cause of action, case posture, etc.), that is almost never the case with questions from self-represented litigants. Often, a self-represented litigant’s legal question must be extricated from a lengthy description of detailed actions, parties and hearsay. In practice, this can mean that more staff time is required to successfully meet a patron’s information needs.

<sup>54</sup> Many of these materials are in place, compare, e.g. Self-Represented Litigation Network, *What Public Librarians can do* (2010),

informational organizers structure the finding tools to assist staff perform this function quickly and efficiently.

### **3. Value Added From Staff Skill in Triage and Diagnosis**

Most law librarians already do diagnosis of their patrons' legal problems. Under the new vision, it will be critical that all law library staff are able to perform this function. Depending on the law library, it may take additional training to get all law librarians comfortable with helping not only lawyers, court staff and judges, but also people without lawyers. For staff to be able to do the triage and diagnosis needed to serve non-lawyers, as described above, they will need to know:

- About the law itself
- About the range and problems and how they may interrelate in different populations
- About the existing resources that can assist people with legal problems
- About which of these resources work for which populations
- About how to talk to people about their problems in ways that ensure that patrons are in fact directed to the tools and information that they need
- About how to help people actually use those resources and find meaning in them,
- Where needed to help users draw what they need from information, or use tools

The development of this capacity in staff – and the development of the institutional structures that support staff in providing this capacity – will be a great challenge for staff and management, particularly as numbers of the self-represented continue to grow. However, the experience of those law libraries that have made the transition, and that of those courts and programs that have provided such services themselves, shows that it can be done.

### **4. Ethical Issues**

Perhaps the greatest anxiety in the law library community about this transition – reflecting the greatest anxiety in the court community – is the fear that library staff taking on these tasks are at risk of violating rules prohibiting the unauthorized practice of law. This anxiety is ultimately misplaced, just as it turned out to be misplaced in the court services context.

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[http://www.selfhelpsupport.org/library/item.300262-031PowerPoint\\_3\\_What\\_Public\\_Librarians\\_can\\_do](http://www.selfhelpsupport.org/library/item.300262-031PowerPoint_3_What_Public_Librarians_can_do). See also educational strategy discussed below.

The best protection, both against the underlying problem and the anxiety that it produces, it, are clear written guidelines and a robust and ongoing staff educational program for all staff, well integrated into operations and staff development.

Such a program, and such guidelines, should:

- Make clear the complete appropriateness of an informational role.
- Prepare staff to understand, apply and indeed where necessary explain the difference between the informational and advocacy role.
- Include the directing of patrons to material and tools within the informational role.
- Include the explanation of information within the informational role.
- Include the giving of information when fully validated by informational resources.<sup>55</sup>

Given the apparent breadth of this definition, it is perhaps useful to make clear what is not within the appropriate librarian role, as defined in such a training and guidelines:

- The offering of judgments as to likely outcomes
- The making of recommendations between legally available choices of action
- Suggestions for tactical steps
- Assistance in how to make arguments or judgments as to what arguments are most likely to be effective (although pointing to materials that play such a role is appropriate, providing they are not endorsed, but are presented as opinion)

It should finally be noted with respect to this topic that our understanding of these issues is rapidly expanding. With experience, we are finding more and more ways in which assistance is needed, and ways to provide such assistance that previously seemed it impossible for non-lawyers to help with, so that non-lawyer help can be now appropriately be given. As a general matter, the ways to finding such methods include:

- Finding ways to give the information at a general rather than a specific level

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<sup>55</sup> It should be noted that there are those who take a more limited view, and teach that librarians can only point to information, or perhaps explain it, rather than in fact give it. It should be noted that the actual giving of information is limited to true facts, as to which there is no doubt and does not extend further,

- Having an unquestioned authority such as a court, develop materials (that might go beyond written materials to video, software, etc.) that convey what needs to be conveyed.

## 5. Other Training Issues

Education and training on these ethical “scope of services” issues is not enough alone to prepare staff to transition to the broader role. As indicated in the triage and diagnosis issue above, the transition to a broad informational role with diverse constituencies needs the following areas of training:

- Communication with limited English proficient (LEP) individuals
- Communication with those with fewer legal skills
- The process of explaining legal concepts (and perhaps better understanding of those concepts)
- Plain language skills
- Dealing with patrons who are suffering high anxiety and/or anger at the system
- Patrons for whom nothing can be done

As a general matter, educational programing has been developed in both courts and the private sector, and can be used.

## 6. Materials Assessment and Development Capacity

Librarians have always been material developers, if only of materials describing how to use a library and some have already developed material finders. Now, however, they also have to be able to assess the sufficiency of materials for the targeted constituencies, and identify and fill gaps in the materials and tools inventories.

The extent to which this skill is critical, and the size of the required capacity, will depend on the range of available resources. However, a law library that lacks any such capacity will be at the mercy of a system over which it has no control. Thus some capacity – particularly evaluative and leadership capacity – will be important.

Law library leadership should be part of the process that strengthens this capacity within the overall access to justice community.<sup>56</sup>

<sup>56</sup> There have been programs on forms and document assembly plain language. Self-Represented Litigation Network, *Developing and Deploying Plain Language Forms*, (2008), <http://www.selfhelpsupport.org/library/item.208587-Power Points for Module 6 Developing and Deploying Plain Language Forms>.

## **7. Technology**

The role of technology in access delivery will continue to increase. So far, law libraries have largely been purchasing access to content, just as they did with paper content. A law library content to play a limited constituency role might be able to make no changes, but it would run the risk that those it currently serves will ultimately become the direct customers of online services.

In the broader access community, however, because of the relative failures of vendors to meet self-represented-patron need,<sup>57</sup> the technology component for accessible material will continue to increase, as will the need for staff to understand and support that component.

- All staff will need to be far more familiar with access to justice technology, including long term trends.
- The law library will need the capacity to participate in the development of additional information, tools, and content.

## **8. Technical Support/Back Office Needs**

Law libraries will continue to need back office operations (although in the long-term there is likely to be some trend to contract out such operations). The big changes will be in what the back office operation supports. Back office staff will continue to be important to support the modified mission.

Moreover, technology should make the processes much more efficient with custom systems giving way to off-the-shelf systems, the adoption of which should produce savings. As a general matter, training for these systems should be simpler, with the organization less dependent on institutional memory. However, there will need to be additional training on certain technology matters.

## **9. Collaborative and Planning Skills**

Almost all staff in a library delivering a Twenty-first Century vision will need more capacity in collaborative and planning skills. Some staff will already have such skills, in others it will need to be nurtured.

As a general matter, such collaborative and planning skills are best nurtured through modeling by senior staff. Senior staff can create such a culture which then impacts relationships with other organizations.

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<sup>57</sup> The practical reality is that attorney-oriented systems assume levels of understanding that the self-represented do not necessarily possess.

## **10. Supervision and Management Needs**

For this reason, both senior and middle management must be imbued both with the overall vision and with the collaborative techniques needed to bring it to fruition.

### ***B. Recommended Steps on Staffing Issues***

#### **1. Develop Staff Need Inventory (with Flexibility for Future)**

The first recommended step, after the creation of the overall vision, is to build an overall staff needs inventory, which should be developed independently of current capacity. While the section above is a general guide, the precise need inventory is likely to be influenced factors such as the capacity of other access organizations. The extent of technology capacity need, for example, will depend greatly on how much of the burden can be carried by other organizations.

#### **2. Develop Educational Strategy**

Once the inventory is developed, the next task is to see what can be done to bring that capacity to current staff. This involves analysis of what is missing, and of whether it can be brought to current staff.

#### **3. Develop Staffing Addition Strategy**

To the extent that an educational strategy is not going to allow the library to complete its staff needs inventory, then staff need to be added, dependent on money and flexibility.

#### **4. Develop Ongoing Evaluation Strategy**

Finally, it is critical that the library develop a mechanism for ongoing evaluation of their skill set.

## **VI. Physical Space and the Twenty First Century Vision**

### ***A. Overview of Physical Space Issues***

#### **1. A Different Paradigm and its Implications**

The physical space layout and design needed for a publicly-accessible law library is fundamentally different from that of the traditional practitioner-oriented library.<sup>58</sup> The

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<sup>58</sup> A PowerPoint on these issues, in the court self-help context, drafted by the Self-Represented Litigation Network, is at <http://www.selfhelpsupport.org/library/item.208585->

differences come from the different needs of the patrons and the different needs of the staff in serving patrons. Because of these very significant differences, this document will go into significant detail, including the use of visuals. Depending on the needs and plans, costs can be significant.

## **2. Location**

Self-help services need to be in a location that the public can find and use easily. Some have experimented with co-location with general court concierge services, but found that inadequate. Self-help services must be highly visible. Location convenient to courtrooms and clerk offices is also advantageous.

## **3. Client Accessibility**

One fundamental shift is accessibility. Non-practitioner patrons need a library whose physical design not only welcomes, but facilitates the interaction with staff that is critical to accessible triage.

This triage desk at a court-based self-help program in California is suggestive.

Triage Desk at Contra Costa Family Law Center

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[Power Points for Module 3 Designing and Modifying Physical Space for Access.](#)  
Some of the material in this section is edited from that PowerPoint.



**Family Law Center Triage Desk**

Some important points about accessible space:

- The entry portal must be easy to see and find, particularly as people enter the law library
- There must be counters or tables where staff can interact openly with patrons at the entry portal
- There must be easy to identify public and non-public areas
- There must be a quiet and comfortable waiting area for patrons
- As with practitioners, there must be independent work space for public patrons
- There must be workshop/training rooms for group access activities
- Staff need work space away from patrons
- Child care issues must be dealt with, either in the library or the building; children will come to the law library, and space is needed to accommodate them while helping their families with needed legal issues

- Facilities also must be ADA compliant in order to ensure access. Therefore, it is possible that even some non-public libraries will need to address such design issues.

#### **4. Security Issues**

In contrast to accessibility, there is need for sensitivity to the security issues raised by a broader non-practitioner clientele. In particular:

- Space should be designed to provide clear lines to sight for review of activities
- Staff should have access to security assistance through electronic call
- Sound must be controlled
- Crowding must be prevented

#### **5. Design of Space to Underline Message on Non-Confidentiality**

There is broad agreement among those who have thought about access to justice space that the message of non-confidentiality must be reinforced by an open space design that creates no expectation of privacy. Thus spaces must be open, and while sound must be suppressed, this should be seen as a matter of convenience, not of right.

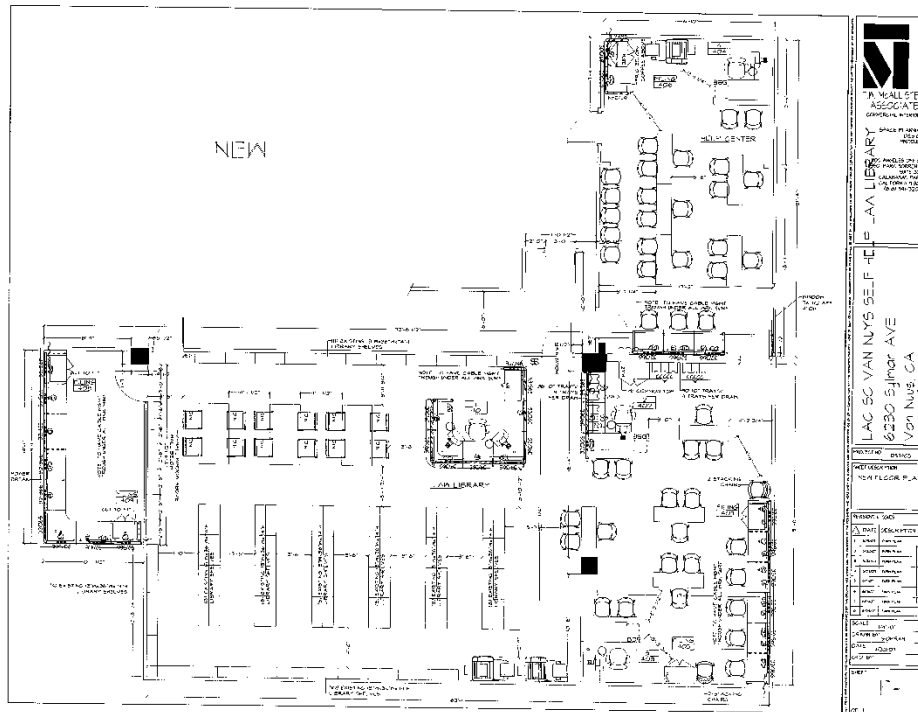
#### **6. Integration of Technology into Space**

As more and more of the content collection is accessed electronically, the space design must reflect the goals of appropriate access to the technology. This requires:

- Clear access points for technology
- Visibility of use, to prevent usage abuse without formal or technological policing
- Sufficient privacy that patrons private information is not broadly visible to each other
- Access to printing spaces
- Flexibility to ensure changes as appropriate over time

All the principles listed in this section are well illustrated by the design that appears below.

### Design of Van Nuys, CA Self-Help Center Co-Located in Law Library



## **7. Signage Issues**

For the non-practitioner, signage is critical. Telling people that they are, or are not, in the right place, has a large impact on the perceived openness of the institution. It is also saves time for both staff and patron. Plain language, sign legibility and clear positioning are important.

## **8. Specialized Spaces**

Consideration should be given to the creation of specialized spaces, focusing on those parts of the collection of most use to different constituencies.

### ***B. Recommended Process for Space Issue Agenda***

#### **1. Consult with public librarians and court self-help centers**

In addition to design experts within the law librarian community, it may be beneficial to look towards the public library and court self-help communities for additional ideas on

access issues. When necessary, libraries also should seek consultation from architects or others who can advise on ADA compliance.

## **2. Role play the Design**

Designs should be tested by role playing the day to day use of the proposed space by typical patrons from the various constituency groups, and by typical staff roles.

# **VII. Technology and the Twenty First Century Vision**

## **A. Overview of Technology Opportunities and Environment**

### **1. A Huge Change to an Integrated System**

Technology has already transformed the law library environment. The shift to the Twenty-first Century vision will accelerate that process. There are two main themes that will require planning attention:

- Shaping a technology that works for the non-practitioner patron community (see detailed discussion of innovations below)
- Supporting the use of that technology within the law library online and library location environments (see digital divide issues discussion below.)

### **2. Digital Divide Issues and Support Needs**

The perils of the digital divide are well-documented.<sup>59</sup> A law library that takes on a commitment to target the self-represented population also requires a commitment to provide special support for the usage of the technology.

- Making sure that the hardware technology is as user-friendly as possible in its location, deployment, etc.
- Making sure that the software (tools) is as accessible as possible, meaning that it uses simple language, intuitive commands and directions, and does not overwhelm the user. There are lots of ways of testing this, and the access community has access to tests and assessors.
- Making sure that the library's online assets are easy to access through a single gateway. (The access world, through grants from LSC, is developing tools to create library gateways integrated with the lawhelp network of statewide websites.)

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<sup>59</sup> Pew Internet tracks this data in great detail, by device type and excluded group. <http://pewinternet.org/About-Us.aspx>.

- Making sure that a Library's access tools for its own collections, via online catalogs and websites, are straightforward for self-represented litigants' use.
- Making sure that there are always staff to get people started with, and trained on, finding tools – and sometimes do the finding for them.
- Making sure that there are tools – such as chat – to help out-of-library users get the most from online tools.
- Making sure that the print systems are accessible.
- Making sure that people get enough time on the machines, and that they are not artificially inhibited.<sup>60</sup>

## ***B. Technologies for Information and Support***

This section reviews the basic technologies currently available, and discusses the relationship between those technologies and the access to justice law library.<sup>61</sup>

### **1. Basic Informational Technology**

As a result of leadership from the Legal Services Corporation (LSC), every state has a statewide legal information gateway. In most states, these are administered and maintained by a coalition of organizations, and aim to comprehensiveness of content with respect to civil access to justice.<sup>62</sup> Indeed, in Maryland, the statewide website (<http://www.peoples-law.org/>) is operated by the State Law Library, pursuant to a memorandum of understanding with the Maryland Legal Aid Bureau. Here is one such legal aid gateway.

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<sup>60</sup> Document assembly of court documents often takes longer than some time-out software allows.

<sup>61</sup> Of course, libraries maintain more traditional technologies. These include online catalogs, “back office” software (especially for purchasing and budgeting) and general public websites. Other libraries have undertaken scanning and digital preservation initiatives to make unique resources publicly available; some have explored the integration of “discovery platforms” with their existing online catalogs. Skills acquired in managing these technologies will be of use in moving into new areas.

<sup>62</sup> E.g. Illinois Legal Aid Online, <http://www.illinoislegalaid.org/>.



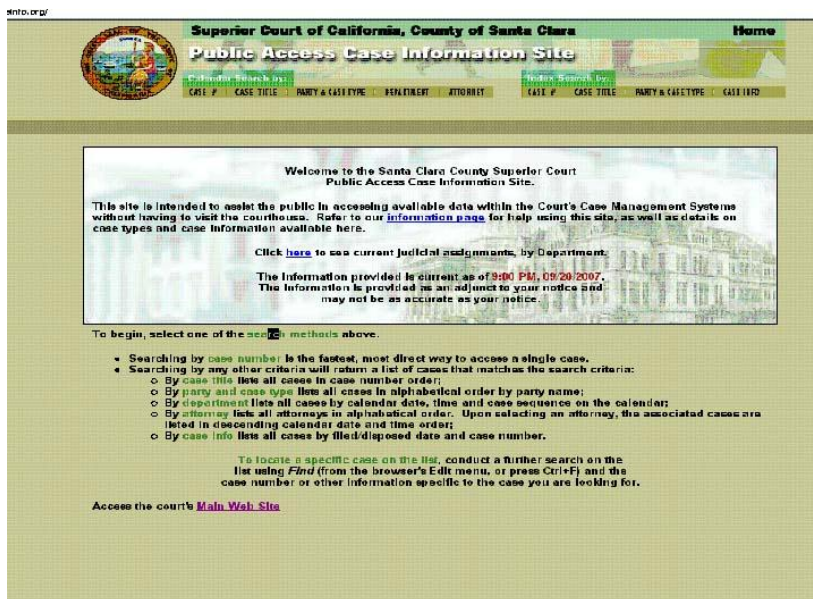
These LSC-funded systems provide an excellent gateway for law libraries to make available to their patrons.

## 2. Court Access Technology

More and more, courts themselves offer a 24/7 online gateway to information about the court, about the law, and about individual cases, including both public case files and, for litigants only, their own case files.

The problem for many is the accessibility of this information, both because of computer access issues and lack of skill in using the technology. These are obviously problems that can be addressed by law library assistance.

Here is the Santa Clara, California access site:



### 3. Information Gathering and Document Creation

Information is not enough. It is true that litigants need tools to start and continue their cases. In the old days, these were forms. Now there are online document assembly programs which both gather information and assemble the completed forms for possible printing or electronic filing.

LSC and the State Justice Institute have partnered to create a national capacity tool to be used by legal aid and pro bono providers and courts to create these tools and to make available to the public. Here is the online gateway to these tools, now available in most states, (called LawHelpInteractive) with an ever-increasing library of documents.

**LawHelp INTERACTIVE**  
Legal documents made simpler

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### Fill Out Legal Forms Faster

**LawHelp Interactive** helps you fill out legal forms. Answer a series of questions and print your legal form.

The forms are free and have been created by nonprofit legal aid programs and courts. They are for use by legal aid advocates, pro bono lawyers, and people representing themselves.

Looking for a specific form? Go to [Find Forms](#) to see if there are forms for your state.

**LawHelp Interactive** is a project of **Pro Bono Net**, a nonprofit that increases access to justice through technology.

**Live Help**  
Unavailable  
Please leave a message

**Useful Links**

- Find Forms
- Find Legal Help and Information
- Learn More About LawHelp Interactive
- Log In

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**LSC SJI HOTdocs**

While more and more online support is available for those using these question and answer tools, litigants will still need assistance and support, in-person, and law libraries are well-suited to provide this kind of assistance.

#### 4. E-filing Challenges and Partnerships

While electronic filing of court documents has moved slowly in the state courts, at least where the self-represented are involved, there are now a number of initiatives in which courts, often in cooperation with legal aid programs,<sup>63</sup> are moving to create access friendly e-filing. This means that it is not just about getting a -.pdf file to the court through the Internet, but about making that the end step in a process of gathering the data that enables the form to be created and filed.<sup>64</sup>

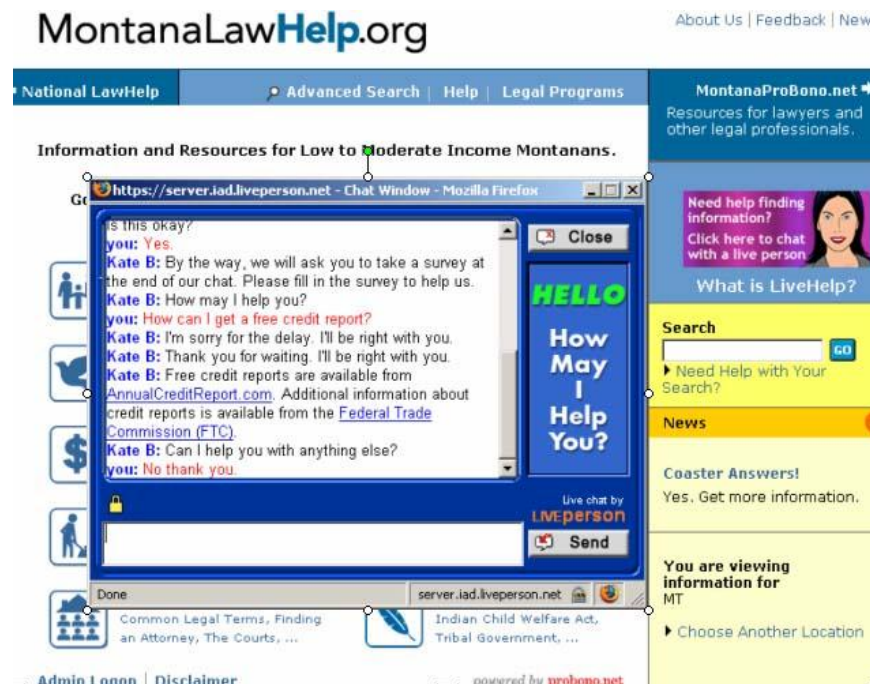
#### 5. User Support Technologies

Particularly important for law libraries to consider are user support technologies – those that help libraries themselves help the patrons through the direct use of technologies. One example is online chat, which allows the library or other helper to chat with the end user, even as they are using some of these tools. Below is a Montana chat in progress. The example speaks for itself, in terms of its efficiency and power. Note that some

<sup>63</sup> Central Minnesota Legal Services has received an LSC TIG grant to move forward in this area.

<sup>64</sup> An example is the Sacramento Small claims, <http://www.saccourt.ca.gov/small-claims/process.aspx#ocs>.

programs integrate co-browsing, which means that the helper can actually take over the users screen and get them to where the need to go.



Some libraries already provide online “Ask a Librarian” programs. For example, the Maryland State Law Library’s chat service is integrated with Maryland’s “AskUsNow” program, maintained by public libraries: <http://www.askusnow.info/fun/law.html>. This partnership, in turn, promotes the roles of liaisons in both the law library and public library communities. California county law libraries also cooperate to provide this service.<sup>65</sup>

## 6. Diagnostic/Referral Systems

Finally, and still in the early stages of development, are true diagnostic systems, that ask people about their legal problems, and make referrals based on the most appropriate and actually available assistance.<sup>66</sup>

As these become more and more powerful, they will make it possible for more and more services to be provided, or at least referred to, from the law library environment.

<sup>65</sup>

<http://www.questionpoint.org/crs/servlet/org.oclc.admin.BuildForm?&page=frame&institution=11341&type=2&language=1>. The Massachusetts Trial Court Law Libraries did 5,535 chat sessions in FY2011 along with responding to 9,183 email reference questions. <http://www.lawlib.state.ma.us/libraries/services/ask.html>.

<sup>66</sup> Zorza, *The Access to Justice “Sorting Hat:” Towards a System of Triage and Intake that Maximizes Access and Outcomes*, University of Denver Law Review (forthcoming; 2012)

## **C. Recommended Steps for Technology Agenda**

### **1. Create Vision with Partners**

Perhaps more than any other part of the vision, the upfront investment needed for technological advancements requires a common vision among entities and partners. Given the fragmentation in the access world, no single organization has the resources and capacity needed to execute the technology needed to fulfill this comprehensive vision.

It may be of help that the LSC is now in the process of planning a Summit on Technology and Access to Justice. The products of that Summit may well provide a focus around which the common vision can be build. Until that product is available, it is probably best to look at states like California and New York<sup>67</sup> that are working within a broad common vision of the use of technology.

### **2. Decide Components and Division of Labor with Partners**

The next step is to decide, with partners, upon the service components needed and the division of labor to create, support, and maintain those components. Given the huge range of needed components, it is unrealistic for law libraries to develop all of them on their own. For many, but not all, components, law libraries are more likely to be supporters and maintainers.

They can play a unique role in ensuring a feedback loop, telling the operators of each subsystem what is missing, what is being used, etc.

### **3. Purchase, create, or integrate – and the Law Library Contribution to the Process**

As a general matter, the detail of the process of purchase, creation and integration content and tools is beyond the scope of this Report, it should be noted that law libraries bring particular assets and perspectives.

- As long-term buyers of content, they know how to manage those relationships with vendors. There is often in the access community reluctance to buy, and an excess focus on building your own. The purchase culture of libraries can be helpful in avoiding waste (while libraries develop some materials, most is purchased or obtained).

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<sup>67</sup> 2011 New York State Courts Access to Justice Program, Part II at p. 21; [http://www.nycourts.gov/ip/nya2j/pdfs/NYA2J\\_2011report.pdf](http://www.nycourts.gov/ip/nya2j/pdfs/NYA2J_2011report.pdf).

- Similarly, as long-term members of purchasing networks, the libraries can help ensure interstate cooperation in purchasing.<sup>68</sup>
- They can provide detailed feedback to publishers about need and appropriateness of materials to publishers, potentially increasing publishers' understanding of the need for more material appropriate for the self-represented.

## VIII. Collaboration and the Twenty First Century Vision

### A. *Overview of Collaboration Opportunities and Strategy*

#### 1. Access an integrated matter

Everything in this Report confirms the twin conclusions that access to justice can only be achieved by close collaboration and that law libraries can and should be key members of that collaboration. Moreover, models such as Montana,<sup>69</sup> Austin, Texas<sup>70</sup> and Los Angeles, California<sup>71</sup> show the power and potential of such collaboration.

#### 2. Keys for Strategy and Role

While the precise configuration of the collaboration depends heavily on the capacity and flexibility of the potential partners, the following appear to be the most likely and appropriate roles for law libraries, beyond their traditional role, when the other players in the system are playing the access roles that they should be playing:<sup>72</sup>

- As a place that non-practitioners, such as the self-represented, can go to get help accessing information and tools, on- and off-line.
- As an intermediary between public libraries and content-providing legal aid and pro bono organizations to make sure that the available materials are available and useful to people without lawyers.

<sup>68</sup> For example, the California County Law Libraries and the Ebsco Legal Center have an agreement which allows, amongst other things, public access to most NOLO legal self-help titles to any county resident, from wherever they have computer access. Similarly, the Massachusetts trial court law libraries (a 17 member consortium) allow access to the Ebsco Legal Reference Center via a library card #.

<sup>69</sup> <http://courts.mt.gov/library/default.mcp.x>.

<sup>70</sup> <http://www.traviscountylawlibrary.org/>.

<sup>71</sup> <http://www.lalawlibrary.org/default.aspx>.

<sup>72</sup> See, for example, *Report of the Minnesota Statewide Law Library/Self-Help Center Project Advisory Workgroup* (2007), <http://www.lawlibrary.state.mn.us/StatewideLLReport.pdf>.

- As a resource to assist with feedback to content providers as to what information and tools are needed.
- As a feedback mechanism as to whether the content being provided is actually working for the target audiences.
- As a place that non-practitioners can go when providers of brief legal advice are unable to deal with their legal issues, either because of limited capacity or because their cases are somewhat more complex or they have unusual needs. (This is a role that is needed even when all the other players are doing what is needed at a very high level of capacity.)
- As an intermediary between the traditional commercial content providers (particularly of primary sources) and the access organizations and those they serve.
- As a resource for courts and other judicial system stakeholders for referral of those who need informational assistance in order to move their case forward. (This is sometimes done with a “prescription pad.”<sup>73</sup>)

### **3. Key Partner Profiles and Relationships to Law Libraries**

#### *Public Libraries*

There is massive variation among public libraries in their participation in access to justice. Some, such as those in Queens NY,<sup>74</sup> make it a major part of their mission, in cooperation with state access to justice websites. Others provide nothing unless the patron knows where or how to find the legal information they need on a library computer.

Among the opportunities for collaboration, law librarians may provide the following:

- Training public librarians on what they can appropriately do to assist patrons
- Training public librarians on where the key content is<sup>75</sup>

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<sup>73</sup> See, e.g., [http://www.chicagobarfoundation.org/images/stories/Advocacy/courts/cbf\\_prescription\\_pad.pdf](http://www.chicagobarfoundation.org/images/stories/Advocacy/courts/cbf_prescription_pad.pdf)

<sup>74</sup> <http://www.queenslibrary.org/>.

<sup>75</sup> Maryland, as an outcome of the Austin public libraries and access to justice conference, <http://ga.webjunction.org/legal-information/-/articles/content/93601257>, produced such training sessions: [http://www.merlincommunity.org/index.php?option=com\\_content&task=view&id=43](http://www.merlincommunity.org/index.php?option=com_content&task=view&id=43).

- Working with public library networks to create gateways to access content
- Providing informational clinics and educational programs in public libraries
- Moving some of their hard copy collections to public libraries for access in the community

### *The Courts*

The prerequisites for close cooperation are already in place. Not only are law libraries usually located very close to, indeed often in the same building with, the courts, but there are typically institutional relationships in place and an obligation to serve an overlapping constituency. Moreover, courts are coming to realize that there are huge financial and mission advantages of having fully informed litigants.

Among the natural collaborative roles within the vision promoted in this Report:

- Providing a wide range of direct self-help services to litigants, particularly if this service is not provided within the court.
- Providing more complex and research oriented informational assistance when beyond the easy and efficient scope of court-based self-help services.
- Providing “reference attorney” assistance to the litigants who are stumped in completing needed forms or presenting materials to the court.
- Developing forms and other self-help materials, often in cooperation with clerks, judges, pro bono and legal aid organizations and other staff.
- Providing the location and support services for online access to self-help informational assistance and tools, as needed by court users
- Operating a concierge desk or a more advanced triage/referral service so that litigants can quickly learn where they need to go in the court, and if they need a referral.

### *Legal aid and Access Nonprofits*

Legal aid programs are in desperate need of partners that can help them leverage their limited resources. Here are some possibilities:

- Providing neutral court space for clinics and educational programs offered by legal aid
- Providing access points for the legal aid website network, agency websites, and others, and their contents and tools

- Participating in the development of content for those networks
- Promoting that network and content
- Assisting with providing multi-lingual access to content
- Providing locations for associated pro bono programs

### *The Private and Organized Bar*

For the private and organized bar, law libraries, of course, continue as a source of on- and off-line content, and as a potentially lower cost way of accessing commercial content.

In a broader view, law libraries that were providing significant services to non-practitioners would have more to offer private lawyers:

- Making sure that non-practitioner patrons know when they need an attorney, including possibly one providing unbundled services, and how to obtain such services.<sup>76</sup>
- Making available the kinds of materials that help litigants assess whether they need an attorney.
- Making available the content that can support the self-represented in managing part of their case, making unbundled services more realistic – and thus increasing use of the private bar.

### *Access to Justice Commissions*

When in place and performing to their potential, access to justice commissions can be the key collaborative partners to engage with by bringing all the players together in the creation of a common agenda.

- Bringing to the Access to Justice Commission the substantive legal resources of the law library
- Offering the Access to Justice Commission the partnerships described above
- Playing a leadership role when others are failing to do so
- Bringing the perspectives of the wide variety of constituencies served by the law library

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<sup>76</sup> Of course, law libraries cannot recommend particular lawyers, but can make use of referral services.

## **B. Recommended Initial Collaboration Steps**

### **1. Identify Partners**

This will be relatively simple, at least in theory. Each local jurisdiction should be able to easily identify some of the stakeholders who have been working in the access to justice space, and it is those key stakeholders that need to be brought into the process as soon as possible.

### **2. Create Structure**

If there is no access to justice commission in the jurisdiction,<sup>77</sup> it will be critical to create something equivalent, whether it be formal or informal, that brings together the most appropriate stakeholders. If there is no commission because of the lack of willingness of one player, then a body should be created without that player.

### **3. Maintain Ability to Move Alone in Taking the Lead When Needed**

A final note: while collaboration is important, it is not a substitute for leadership. Ten groups in the room talking about how great collaboration is will generally not get anything done. Leadership is what leverages the groups to move forward. All too often one group has to take the lead, and this Report suggests that, in many places, the law library is a natural candidate for such leadership.

## **IX. Managing the Transition to the Twenty First Century Vision**

### **A Overview of Transition Issues**

#### **1. Impact on All Aspects of Management and Delivery**

Because constituency, delivery systems, services, collection, technology and operations are all going to change in the transition to a Twenty-first Century vision, it must be understood that no aspect of the operations will be left unchanged, including, of course, budget structure.

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<sup>77</sup> There are some states in which there has been opposition to creation of an access commission because of fears that a player such as the court might act as a brake on access innovation. In other states, courts have not been willing, as yet, to play a leadership role in the matter. It should be noted that the Conference of Chief Justices, by Resolution, has strongly supported the approach, and that the United States Department of Justice Access to Justice Initiative has been active in encouraging the formation of new Commissions.

## **2. Requires Ongoing Monitoring and Feedback Systems**

This transition will require ongoing monitoring and feedback. It is relatively easy to create a broad mission statement, re-define job descriptions and then do nothing.

So, as discussed in detail below, both intermediate steps and ultimate outcomes must be monitored, including, but not limited to, changes in tasks performed, job descriptions, and changes in content inventory, usage, patrons served and the mission statement.

## **3. Fundamentally a Leadership Issue**

The transition will be comprehensive, and needs a leader who both internalizes the vision and can operationalize it – this is not easy to find. The leader of the law library will need strong support from the governance structure.<sup>78</sup>

## **4. Skills Needed**

The leader of the law library needs to understand the needs of the non-practitioner/pro se constituency, the potentials of service, and the capacity of existing systems to stretch to meet that need.

The leader needs to understand change, and how to manage staff through change – including having the staff own this initiative, not one that is being imposed on them.

The leader needs to be familiar and comfortable with this new law library vision and operations to deal with staff, board, funders, and customers in terms both of the traditional vision and the new broader vision.

If current leadership is to play this role, then it is critical to build support mechanisms that will ensure that the transition is informed by the broad vision, rather than just labeled with it.

## ***B. Recommended Approach***

### **1. Establish Mission**

As described above, the mission is crucial, and the process of establishing agreement on the mission almost as crucial. For the long term, it makes sense to involve staff in this transition from the beginning so that they feel more vested in the process, even though it may be disruptive. Moreover, if the consultative process with potential partners can build relationships between staff and those in other organizations with experience with an access vision, the foundations for change will have been well-laid.

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<sup>78</sup> While beyond the scope of this paper, governance structures should reflect a broad view of constituencies.

## **2. Align Management**

Every organization must respect its culture in establishing management, while at the same time putting in place a structure that will meet the challenges of the broader mission statement. While the details of this process are beyond the scope of this Report, it should be noted that the establishment of a mission statement should precede any major change in leadership, and any management alignment should be assessed against the mission statement.

## **3. Establish Outcomes**

It is similarly recommended that a preliminary set of outcomes be established very early in the process – understanding that this will be subject to change as experience is gained. These are discussed in more detail below.

## **4. Align Staff**

The process of aligning staff is discussed in detail above. It is likely that there will be needs for continuing educational programs for staff, and that staff adjustments and shifts may be necessary as the transition proceeds.

## **5. Create Services**

The opening of additional services, as described as a result of the process above, is the key step, which will make clear whether needed capacity has been developed. It is at this point that outcome tracking will be crucial.

## **6. Modify Content Acquisition Processes and Priorities**

To support these services, purchasing processes will need to be modified, with much less reliance upon traditional publishers, more of a local focus, and emphasis on creating or at least encouraging the creation of content.

## **7. Create Culture of Self-Assessment and Learning**

The next section discusses on-going assessment. More important than the use of any particular tool or data point is the creation of a culture of self-assessment such that the entire library culture is oriented to evaluate how it is doing, and what needs to be done to improve results.

## **X. Ongoing Assessment of Fulfillment of the Vision**

### **A. *Overview of Need and Approach for Assessment of Transition and Beyond***

#### **1. Conservative Organizational Culture as Barrier to Change**

It has to be acknowledged and faced that organizations are inherently conservative, and the transition to a Twenty-first Century law library vision will be a major change for many law libraries. Given the complexity of systems, the stability of staff, the collegiality of environments, and the expectations of existing constituencies, maintaining momentum for change will not always be easy.

Thus, establishing early in the process expectations for assessment and monitoring is critical.

#### **2. Need Mix of Insiders and Outsiders, Including Users**

This assessment should be conducted not only by staff and management, but by a mix of outsiders and insiders, including users from varied constituencies. In the case of the self-represented, it may also be necessary to use “proxies,” such as court staff and the staff of pro bono and legal aid organizations to play this feedback role.

#### **3. On the ground, not just self-congratulatory**

The review systems must be very much on the ground. It is not fair to either funders or the patrons to rely on general reporting of such data. The assessment must relate to what is happening, through observation and numbers, as well as interaction with patrons, as described in detail below.

### **B. *Recommended Steps and Tools to Ensure Appropriate Ongoing Assessment***

#### **1. Obtain Multiple Stakeholder Input**

Multiple stakeholders will have views as to the concrete things they expect to see: kinds of content, kinds of services, quality of interaction with patrons, responsiveness, compliance with law, etc. While it may not ultimately be practicable to track all of these, the consultative process will help ensure that those chosen reflect the needs and views of as broad a range of constituencies as possible.

## **2. Obtain Multiple Staff Input**

Similarly, staff will have very helpful ideas about specific goals and outcomes. Because they know the systems, they may be most helpful about specific data measures that can easily be tracked within those systems – things like types of holdings, numbers served, etc.

## **3. Establish Goals**

The next step is to establish clear goals within the mission statement. Some possibilities include:

- Have the ability to respond to the needs of all self-represented, through direct service or referral
- Have content accessible online and/or in person relevant to all major areas of self-represented litigant need
- Have staff capable of assisting non-practitioners identify and understand such content
- Have staff who are able to assist non-practitioners with user tools to access courts systems through electronic filing and access to records

## **5. Establish Outcome Measures**

Goals need outcome measures. For example, some outcome measures might include:

- An adequate balance between lawyers and non-lawyers served so that both constituency groups' needs are being met
- The numbers of non-practitioners/people without lawyers served
- Sufficient focus on non-practitioner content
- The development of a checklist of needed substantive content and non-practitioner content
- The extent to which users report needs met

## **6. Establish Data Collection and Analysis Systems**

Systematic collection systems must be established. In some cases, the libraries' own systems will already be producing the adequate metrics, particularly as they relate to access to online content, materials circulation, and materials acquisition. It is important, however, that the choice of data collection is not driven only by easy availability. Such a choice moves toward measurement of more traditional services.

It is strongly recommended that systems be real time whenever possible. The online report to all staff sent by e-mail each day on the number of people served, the content accessed, and the areas of content reported not to be sufficient or available is far more helpful than the quarterly print out of the same data.<sup>79</sup>

Moreover, reporting systems that summarize trends and highlight areas of need for action are much more useful than those that report only current numbers.

## **7. Use of Observation**

The value of simple observation, particularly by outsiders, cannot be overstated.

The outsider, sitting quietly watching how people are treated, will get a very quick sense of the attitude of staff and of the need for any additional training on either substance or patron relationships.

One technique, which is often recommended in the court world, is to have a person unaffiliated with the institution present with a problem, and observe how the system responds to them:

- Does the signage tell them where to go?
- Is there someone to welcome and direct them?
- Are they helped?
- Is what can and cannot be done explained?

## **8. Use of Interviews and Focus groups**

Detailed discussion with patrons will provide additional information on the experience of users. Moreover, there may be greater candor in dealing with difficult issues. However, the advantage of focus groups over individual interviews is that focus group members often build on each other's insights, and are more likely to provide genuinely new ideas.

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<sup>79</sup> Experience shows that real time data is given much more attention, and results in a feedback system of data, changes, and more data.

## 9. Use of Surveys

Survey data has the advantage of standardization. It is possible, for example, to track whether user satisfaction is increasing, and whether the percentage of those finding the information they need is increasing.

## 10. Use of Online Feedback mechanisms

One the great advantages of the use of online survey tools is that survey systems can be built in, meaning that the cost of data gathering is greatly reduced.<sup>80</sup>

## XI. Conclusion

The reader should be left in no doubt of the potentially transformative contribution that law libraries can make to access to justice.

What makes the taking on of this role so appropriate is that it grows organically out of law libraries' long tradition as pioneers in the neutral provision of information to all. Libraries have carried out their vision of access to information for all – often in the face of great hostility – for centuries, and in so doing have provided a bulwark in building and protecting democratic institutions.

Law libraries can now continue to expand this mission in their relationship to our legal institutions, one of the most critical pillars of our democratic society. Law libraries are a natural partner in the protection and enhancement of our democratic society.

## XII. Resources

American Association of Law Libraries, County Public Law Library Standards (2008), <http://www.aallnet.org/main-menu/Leadership-Governance/policies/PublicPolicies/policy-county-standards.html>.

Self-Represented Litigation Network, *Best Practices in Court-Based Programs for the Self-Represented: Concepts, Attributes, Issues for Exploration, Examples, Contacts, and Resources* (2008), [http://www.selfhelpsupport.org/library/item.223550-2008 edition of Best Practices in CourtBased Programs for the SelfRepresent](http://www.selfhelpsupport.org/library/item.223550-2008%20edition%20of%20Best%20Practices%20in%20CourtBased%20Programs%20for%20the%20SelfRepresent).

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<sup>80</sup> For an example of a technology innovation assessed largely through the use of such online surveys, see, *LiveHelp Pilot Project Final Evaluation Report*, [http://www.probono.net/library/item.179623-LiveHelp Pilot Project Final Evaluation Report](http://www.probono.net/library/item.179623-LiveHelp%20Pilot%20Project%20Final%20Evaluation%20Report).

Self-Represented Litigation Network, *Austin Conference on Public Libraries and Access to Justice Materials* (2010), [http://www.selfhelpsupport.org/library/folder.299603-Austin\\_Conference\\_Materials](http://www.selfhelpsupport.org/library/folder.299603-Austin_Conference_Materials).

Self-Represented Litigation Network, *Supporting and Integrating Law Library Services for the Self-Represented* (2008), [http://www.selfhelpsupport.org/library/item.208592-Power\\_Points\\_for\\_Module\\_12\\_Supporting\\_and\\_Integrating\\_Law\\_Library\\_Services](http://www.selfhelpsupport.org/library/item.208592-Power_Points_for_Module_12_Supporting_and_Integrating_Law_Library_Services).