

The Law Library On The Brink

Running On Empty

SUMMARY

The California Business and Professions Code requires all counties to maintain law libraries that are free to the public. The Sonoma County Law Library (Law Library) provides legal resources, information about current legislation, rooms for lawyer/client meetings and depositions, and computers for word processing and internet research. The Law Library is also a continuing education provider for attorneys and a legal education resource for the public.

Approximately 95 percent of the Law Library's revenue comes from a portion of fees assessed to litigants by the Superior Court when a case is filed in a civil matter. Because its revenue from filing fees has significantly declined in recent years, the Law Library is faced with making severe reductions in services. There are two major reasons for this decline in filing fees. The most significant reason stems from State legislation enacted in 2012 that allowed trial court judges to grant waivers of filing fees to litigants who assert an inability to pay the fees. In addition, revenue from filing fees has been negatively affected by the fact that more and more potential litigants are choosing to resolve their claims in mediation or arbitration and, therefore, do not pay civil filing fees. The Law Library's financial situation is further complicated by recent, sharp increases in the cost of specialized legal publications.

Further reduction of services will have the greatest impact on people who cannot afford an attorney, and on sole-practitioner attorneys. The Law Library is exploring alternative sources of revenue. In the interim, the Law Library has asked the County to provide emergency assistance.

BACKGROUND

This is a self-initiated report. No specific complaints against the Law Library were received by the Grand Jury during the present term. The Grand Jury became

aware of the Law Library's financial situation after reviewing Sonoma County Special District financial reports.

METHODOLOGY

The Grand Jury conducted interviews with Law Library management, representatives from the Law Library Board of Trustees, a member of the Sonoma County Board of Supervisors, the County Administrator's Office and the Sonoma County Bar Association. The Grand Jury also reviewed pertinent financial data and related documents.

DISCUSSION

History and Statutory Structure of the Law Library

The rules governing county law libraries in California are found in the Business and Professions Code Sections 6300 to 6364. The original statute was enacted in 1891 and mandated the creation of law libraries in every county. Code Section 6360 provides that "A law library established under this chapter shall be free to the judiciary, to state and county officials, to members of the State Bar, and to all residents of the county, for the examination of books and other publications at the library or its branches."

Law Library Governance

Pursuant to Business and Professions Code Sections 6300-6307, each California county shall establish a Law Library Board of Trustees (Trustees). The Trustees are charged with making and enforcing all rules, regulations, and by-laws necessary for the administration, governance and protection of law libraries.

In accordance with the applicable statutes, the Law Library's Board of Trustees is composed of five Superior Court judges, who are appointed by the Presiding Judge; a representative appointed

by the Board of Supervisors; and an attorney from the Sonoma County Bar Association. One of the most important contributions provided by boards of trustees of non-profit organizations is assistance in fund-raising. Unfortunately, given the serious financial situation facing the Law Library, its Trustees who are also judges are prohibited from fund-raising activities. The California Judicial Conduct Handbook, Section 10.42, states: “Judges shall not personally participate in the solicitation of funds or other fund-raising activities.”

The Law Library and its Patrons

The Law Library serves approximately 250 patrons each week. Originally the Law Library served only the judiciary, legal community and members of the bar. Currently, 75 percent of the patrons are non-attorneys. These patrons may research state and federal laws, draft their own contracts and wills, organize businesses, research property issues or complete academic assignments. What many of the patrons have in common is their inability to afford attorney fees.

Current Financial Status and its Causes

Filing fees paid by litigants in civil matters have historically been 95 percent of the Law Library’s revenue. The fee for filing an unlimited civil matter is \$435 of which \$35 is designated by statute for the Law Library. The general decline in court filing fees has resulted in a decline of revenue to the Law Library and ensuing financial trouble. Other reasons for the Law Library’s financial crisis include:

- a reduction in civil filings overall due

to the increased use of arbitration and mediation;

- the State’s assumption of litigation in child support cases that were previously handled as civil matters;
- a decrease in civil filings due to an increase of Small Claims jurisdictional limits to \$10,000;
- a current State law prohibition against increasing the Law Library’s share of filing fees;
- an increase in the cost of legal publications by more than 61 percent since 2007.

In addition, a judge may waive the filing fee based on the litigant’s inability to pay. Such waivers are reported to be more frequent due to the increasing amount of filing fees and a decline in the economy resulting in more litigants being unable to pay. These waivers result in less revenue to support both law libraries and the courts that depend on these fees.

An independent FY 2012-13 Financial Audit of the Law Library states: “It is more likely than not that without changes in funding the Law Library will be unable to meet its obligations within 12 months after the financial statement date of June 30, 2013.” Nevertheless, the Law Library has survived by implementing cutbacks and tapping its emergency reserves, which are nearly depleted.

The following table illustrates the decrease in revenue over the last five years. Changes in expenses are

Fiscal Year	Filing Fee Revenue	Other Revenue	Total Revenue	Expenses	Net Amount
2010-11	\$531,906	\$29,180	\$561,086	\$517,200	\$43,886
2011-12	\$430,218	\$29,191	\$459,409	\$535,725	(\$76,316)
2012-13	\$420,824	\$35,236	\$456,060	\$489,307	(\$33,247)
2013-14	\$359,721	\$45,871	\$405,592	\$445,467	(\$39,875)
2014-15	\$336,699	\$41,094	\$377,793	\$379,134	(\$1,341)

largely due to reductions in periodical and publication subscriptions as well as reductions in staff. In government finance the use, or non-use, of reserves is considered a yardstick of financial health. Regular tapping of reserve funds is seriously frowned upon by nearly all governmental agencies.

As a result of this negative operating cash flow, the Law Library depleted its reserves to pay expenses. Over the period in the chart above, these reserves declined from \$105,000 to \$15,000. By the end of March 2016 the Law Library's reserve balance was a negative \$15,465. In April 2016, monthly revenue from filing fees of \$25,246 brought the reserves back up to \$15,000. Nevertheless, the Law Library is still without sufficient funds to cover payroll and expenses.



Effects of Reduced Revenue

In an effort to offset declining revenue, starting in FY 2012-13, the Law Library cancelled a number of subscriptions to legal publications. Each year the Law Library made the following net reduction in spending on publications and periodicals:

FY 2012-13	(\$59,962)
FY 2013-14	(\$26,725)
FY 2014-15	(\$24,806)
FY 2015-16	(\$24,446)
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	(\$135,939)

Additionally, the Law Library reduced staff from two full-time employees, including the Director, and one part-time employee, to the full-time Director and two part-time employees. Because the cost of legal publications continues to increase, the only other substantial cost savings that could be made would involve reducing employee hours and/or hours of operations. These reductions would further impair the Law Library's ability to effectively meet the needs of our community.

The County's Role

Business and Professions Code Section 6324 states: "The board of supervisors may appropriate from the county treasury for law library purposes such sums as may in their discretion appear proper." The Board of Supervisors has provided the Law Library with a space that is large and welcoming. However, the Board has not provided any financial assistance to meet the Law Library's current needs. The Grand Jury found that a number of counties do provide direct financial assistance to their law libraries. Additionally, some counties provide maintenance, custodial service, insurance and utilities.

In September 2013, and again in July 2015, the Law Library requested emergency funding from the County. To date, no action has been taken by the County on this request.

Alternative Funding Efforts

The Law Library has implemented the following public-private and alternative funding measures:

Empire College: Partnering with Empire College, which will contribute about \$23,000 annually to the Law Library. In exchange, the Law Library will reopen on Saturdays and Empire College students will have exclusive access to the Law Library on weekdays from 4:00 to 6:00 p.m.

Conference Room Rental: Offering conference space to rent for classes, depositions and mediations. Conservative estimates of possible revenue are \$3,000 per year.

Continuing Education: Expanding continuing education offerings for attorneys, which could provide revenue as high \$20,000 per year.

Friends of the Law Library: The Law Library recently re-activated a Friends of the Law Library group to promote future fund raising. The new Friends group has 501(c)(3) non-profit status to encourage tax-deductible donations.

Santa Rosa Junior College: The Law Library has approached Santa Rosa Junior College Paralegal Program officials in an effort to identify mutually beneficial ways of working together.

The Law Library is an active member of the Northern California Association of Law Libraries: This group has retained a lobbyist to advocate for changes to the funding mechanism for law libraries.

Income from these alternative revenue sources is unknown and may not be available immediately. Moreover, it may be insufficient to consistently bridge the gap between decreasing filing fee income and increasing expenses. Given the current situation, it is just a matter of time before the quality of service at the Law Library is more severely affected.

Legal Resources in the Community

The Grand Jury noted that there is some overlap, or duplication, of Law Library services and resources with other agencies that provide free, or low-cost, legal services to the community. For example, the Family Justice Center maintains a very limited law library. There are several other agencies offering legal support to low-income persons and families including California Rural Legal Assistance, Inc. and the Legal Aid Society of Sonoma County.

The Grand Jury found that the Law Library and its Trustees have not been proactive regarding the Library's serious financial situation. A determination of how the situation was allowed to deteriorate to the point where reserves were consumed was beyond the scope of our investigation. Addressing these issues is essential to ensure that the Law Library can continue to provide the resources and services which the community needs and expects.

FINDINGS

F1. The Law Library can no longer rely on court filing fees to meet expenses and must seek additional funding to sustain services.

F2. There is little coordination with other agencies that provide services similar to those offered by the Law Library.

RECOMMENDATIONS

The Grand Jury recommends that:

R1. The Board of Supervisors provide an emergency, one-time payment of \$40,000 for operational expenses.

R2. The Board of Supervisors create a community Task Force to examine the long term needs of the Law Library and work toward the elimination of duplication of services among other community agencies.

R3. Pursuant to Task Force findings, the Board of Supervisors allocate annual funding until Law Library funding is stabilized.

R4. Pursuant to Task Force findings, the Board of Supervisors waive annual interfund expenses (e.g., insurance, utilities, etc.) for a savings of approximately \$18,000 per year until Law Library funding is stabilized.

REQUIRED RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requires responses as follows:

R1, R2, R3, R4 – Sonoma County Board of Supervisors