

From the Editor: Public Access to the Law

Law librarians long have recognized a responsibility to meet the legal information needs of the general public as well as those of the specialized professional clients our libraries are created to serve. Yet, for all but a few of us, the effort to serve the private citizen must take second place to the demands of our primary clientele. The diverse and changing needs of legal professionals have resulted in the development of law libraries specialized to meet those needs. Many of these specialized collections are not open to the public. Yet, even in law libraries that are publicly funded or otherwise open to nonprofessional users, there is usually little time to provide direct assistance to the laypersons who need the most assistance.

Beyond the walls of our law libraries are the collections of legal materials in public, general academic, and other libraries that are open to the public and organized to serve the public's needs. Collections of primary source legal materials in public libraries have developed both as conscious collection development priorities and as the by-products of government document depository systems. Since the traditional law book publishers began targeting nonlaw libraries as potential markets, law collections in those libraries have been supplemented by certain commercial finding tools, as well. It has been argued persuasively that citizens should turn first to their public libraries for legal information.¹ Yet, unless a public library staff member has taken a special interest in the law collection, or particular demands on the library have created pressures for well-maintained and organized collections of local primary sources, the legal resources may be inadequate to the citizen's needs, and the library's staff may be unable to provide the assistance needed to make full use of them. The citizen's choice often is between a large, specialized legal collection, where service to the public is limited, and a library ready to serve the public, but with inadequate resources and staff untrained in using the resources effectively.

Citizens turning to the law library for answers to their questions no doubt will need to develop the skills necessary to identify and locate materials and to do much of the research themselves. Law libraries used by the public must develop policies to facilitate use of the collections by nonlawyers without

1. *Legal Information to the People*, 72 LAW LIBR. J. 612, 620-23 (1979) (remarks of Robin K. Mills).

reducing support for the research needs of primary patrons. Yet, law librarians may have put too little thought into defining guidelines and limits for the services we provide the nonprofessional public. Too often, it seems, our focus is on the problems nonlawyer patrons and pro se patrons can cause.²

Some of the most perceptive writing on the law library's responsibility to serve the general public is by Donald Dunn. While recognizing that there must be limits to service provided to the public, Dunn notes that librarians can go further than they traditionally have to assist pro se patrons "by narrowing or redirecting research efforts, expressing views about the weight to be given to various authorities, or engaging in similar activities."³

The public's ability to educate itself in legal research and the law has been enhanced by the growth in recent years of the self-help law book industry. AALL's Committee on Legal Information Service to the Public (LISP) last year compiled a twenty-five page sampler of books, articles, and kits taking a self-help approach to education about the law; this sampler also lists publishers and others in the self-help field.⁴ Another bibliography, focusing on materials from government agencies, advocacy groups, and noncommercial publishers, was published in *Clearinghouse Review* in 1985.⁵ Perhaps the best known of the commercial publishers is California's Nolo Press, which publishes a variety of materials including Steven Elias's legal research manual for nonlawyers⁶ and *Nolo News*, a quarterly tabloid providing advice in self-help law, announcing new publications, and discussing trends in pro se activities. Another legal research guide appropriate for nonlawyers is Al Coco's *Introduction to Legal Research*.⁷

Although law books for nonlawyers are of varying quality and usefulness (particularly those which present basic legal principles without references to the local variations which make up the law in a jurisdiction), law librarians whose institutions serve the public should be aware of them. At a minimum, law libraries open to the public should invest in legal research guides written for laypersons, keep the guides handy, and promote their use to nonlawyer clients. Whether to invest in other law books for the nonlawyer is a matter

2. See, e.g., Leone, *Malpractice Liability of a Law Librarian?*, 73 LAW LIBR. J. 44 (1980); Mills, *Reference Service vs. Legal Advice: Is It Possible to Draw the Line?*, 72 LAW LIBR. J. 179 (1979); *Legal Reference Service: The Delivery Process*, 72 LAW LIBR. J. 47, 57-64 (1979) (remarks of Peter C. Schanck).

3. Abrams & Dunn, *The Law Library's Institutional Response to the Pro Se Patron: A Post-Faretta Review*, 1 W. NEW ENG. L. REV. 47, 54 (1978). See also Dunn, *Service Strategies for Non-Primary Patrons in Academic Law Libraries*, LEGAL REFERENCE SERVICES Q., Summer 1982, at 5; *Legal Information to the People*, supra note 1, at 624.

4. SELF-HELP LAW: A SAMPLER [1986].

5. Carter, *Resources for Nonlawyers*, 19 CLEARINGHOUSE REV. 444 (1985).

6. S. ELIAS, *LEGAL RESEARCH: HOW TO FIND AND UNDERSTAND THE LAW* (2d ed. 1986).

7. A. COCO, *INTRODUCTION TO LEGAL RESEARCH: A LAYPERSON'S GUIDE TO FINDING THE LAW* (1985).

that individual librarians must decide, based on how much use the books will receive and how much money has been allotted for such purchases in the library budget. Although most law librarians probably will resolve resource allocation questions in favor of materials written for their professional clientele, it is worth bearing in mind that many of the student aids held in academic law libraries, such as West's Nutshells, will be of use to the public. Also worth keeping handy are the explanatory pamphlets produced by many state and local bar associations, as well as federal and state documents written to explain the law and legal procedure to the public. These all are sources of information that reference librarians, experienced in dealing with the public, will know about and will keep current.

What can we do, though, to assist those members of the public who choose to rely on other libraries for legal information? What responsibilities do legal information specialists have to train other librarians and the public in using legal research sources and tools, and to help other libraries develop and maintain legal collections to meet the needs of their patrons?

Law librarians have focused on improving public access for a number of years. Their efforts are chronicled in an annotated bibliography prepared a couple of years ago by Gail Reinertsen for the Legal Information Service to the Public Committee.⁸ Reinertsen's work shows that, initially, much of the professional effort of law librarians in this area was in the preparation of lists of basic legal materials appropriate for public library collections.⁹ Much of what went on prior to the mid-1970s was in the form of isolated individual effort.

By 1979, the situation had changed, and the legal information needs of the public had become a much more visible concern for law librarians. The AALL annual meeting that year featured a panel discussion on "Legal Information to the People," which included a description of the already extensive efforts to provide public access to the law in Canada, a discussion of programs recently organized in Massachusetts to provide a manual for local libraries and workshops for public librarians, and Robin Mills's argument that because of their differing orientations, public libraries can be better sources for the public to obtain legal information than law libraries.¹⁰ Law librarians' growing interest in improving public access to the law, coupled with the impetus of the 1979 White House Conference on Libraries and Information Services,¹¹ led to AALL establishing in 1981 what eventually became the Com-

8. Reinertsen, *Bibliography on Public Access to Legal Materials*, LEGAL REFERENCE SERVICES Q., Fall/Winter 1986, at 181.

9. The earliest list cited is Coen & Mersky, *Law Books for Public Libraries*, 84 LIBR. J. 2117, 2270 (1959) (exhorting public librarians to maintain collections adequate for their patrons' needs).

10. *Legal Information to the People*, *supra* note 1.

11. INFORMATION FOR THE 1980'S: FINAL REPORT OF THE WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES, 1979 [1980].

mittee on Legal Information Service to the Public. The Committee's activities were to be in pursuance of Resolution A-12 from the White House Conference, which stated the "need for a national policy to ensure equal access to necessary basic legal information to all people," and called for activities to include "1) the establishment of programs designed to improve basic legal resource materials in public libraries; 2) continuing library educational programs which include the development of basic legal reference skills; and 3) most importantly, guaranteeing access to publicly supported law collections within their locality."¹²

Initially known as the Committee on Services to the Public and Legal Resources in Public Libraries, the AALL committee acted on the basis of a five-year plan written by Albert Brecht and Judith Foust.¹³ The plan was designed largely to provide support for a variety of educational activities on the local level. Over the years, the Committee has produced two editions of a start-up project guide for local chapters that wish to improve their services to the public,¹⁴ created a clearinghouse of information about existing programs and projects to improve public access, sponsored AALL annual meeting programs, and encouraged chapters to initiate local LISP committees and programs. Now at the conclusion of its five-year plan, the Committee is charting its future activities.

To date, the LISP committee has been successful in gathering resources and creating a framework for developing programs in public education on the chapter level, or by individual libraries and librarians. What can we do on the local level to take advantage of the Committee's efforts? We can continue to publish materials for public use and keep up-to-date lists of basic legal resources suitable for public and general academic libraries in our areas. Through local chapters, local library associations, our libraries, or individually, we can organize workshops for other librarians in collection development and maintenance and in legal research techniques. We also can improve our contacts with local bar associations and encourage those groups to include legal research among the subjects covered in their "law for the layperson" pamphlets and other services to the public. We also can increase our efforts to educate the public by teaching the basics of legal research directly to interested citizens.¹⁵ Any efforts made in this area, of course, may increase

12. *Id.* at 54.

13. See Long Range Planning Subcommittee on Services to the Public and Legal Resources in Public Libraries, *Report*, 74 *LAW LIBR. J.* 780, 780-81 (1981).

14. *LEGAL INFORMATION SERVICE TO THE PUBLIC COMMITTEE, AMERICAN ASSOCIATION OF LAW LIBRARIES, PUBLIC SERVICES PROCEDURAL GUIDE: START-UP PROJECT GUIDE FOR AALL CHAPTERS* (2d ed. 1985).

15. See Remarks of Claire Germain at the program "Legal Information to the Public: The Law Library Role," Annual Meeting of the Southeastern Chapter, American Association of Law Libraries, Charleston, South Carolina (April 3, 1987).

pro se traffic in law libraries, and raise the risks of crossing the line into unauthorized practice and irritating the local bar. Increased traffic and the effect on already strained library resources are real concerns; in libraries with heavy public use there are limits to how much service can be provided to the general public. The actual possibilities of a librarian's liability for unauthorized practice are a matter of debate.¹⁶ It is perhaps more likely that pro se patrons will leave the library with incomplete or misunderstood information despite a librarian's help, but with greater reliance on that information because they consulted a librarian. The possible effects of public access programs or relations with the local bar must be considered, both because of the attorney's business concerns¹⁷ and because of the library's need for financial and other support from alumni and other local attorneys. It is a good idea to consult with the local bar and to publicize plans before engaging in significant library-centered public access programs.

But not all citizens seeking access to the law do so as pro se patrons. People need legal information for reasons other than pursuing their own causes in court.¹⁸ In Canada, tremendous efforts have been undertaken in pursuit of goals similar to those of the White House Conference resolution, and programs there are much better developed than in the United States.¹⁹ Certainly, in a year when we are celebrating the bicentennial of our constitution, it is appropriate to consider seriously what responsibilities we have as legal information specialists to improve public access to the law. As information of all sorts becomes more and more complex and access to it more difficult, the need for our expertise will increase. It is appropriate that we share that expertise not only with our professional clientele but also with those members of the public who need it.

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16. See Abrams & Dunn, *supra* note 3, at 50-56.

17. *Id.* at 53-54.

18. Remarks of Claire Germain, *supra* note 15. Students in a continuing education course on legal research included librarians, paralegals, university students, researchers, and prospective law students, as well as pro se parties. See also Allen, *Whom We Shall Serve: Secondary Patrons of the University Law School Library*, 66 LAW LIBR. J. 160 (1973) (results of a survey of academic law library use).

19. See *Legal Information to the People*, *supra* note 1, at 613-18 (remarks of Gail S. Dykstra).

