



SAN MATEO COUNTY LAW LIBRARY IN CRISIS

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ISSUE

The San Mateo County Law Library has steadfastly served the residents and legal community of San Mateo County for 100 years. Its continued success in providing legal information to the residents of San Mateo County is in serious jeopardy due to its current inadequate funding structure. What can be done to improve this situation?

SUMMARY

The San Mateo County Law Library was established in 1916 and is one of the 58 county law libraries within the State. It is open to all members of the public, free of charge, and is funded per the California Business and Professions Code (B&P Code). The operating funds are derived almost exclusively from civil court filing fees. Codified amendments over 40 years relating to revenue include allowing the receipt of civil court filing fees and permitting additional income from the Board of Supervisors.

The Law Library operates as an independent special library within San Mateo County.¹ It is not a member of the San Mateo County Library System although the public libraries within the County refer residents to the Law Library for help with legal questions. The Law Library is the primary place for self-represented litigants to learn the law and legal processes and procedures, and to receive assistance in how to present their cases.

Rising costs and diminishing monetary resources are threatening the sustainability of county law libraries throughout the state. With respect to San Mateo County's Law Library, catastrophic reductions in filing fees, dwindling reserves, and increasing costs for the effective maintenance of the library's collection of legal resources have created a near state of emergency. Further, the Law Library's current location is highly desirable for private commercial development. These circumstances compromise a valuable and unique public asset for the residents of San Mateo County.

In light of the foregoing, the 2015-2016 Grand Jury recommends that the San Mateo County Board of Supervisors direct the County Manager to promptly adopt a formal policy to assist the Law Library in mitigating its current financial crisis. The San Mateo County Board of Supervisors must provide for continuous funding in the County's annual budget to supplement the Law Library's budget beyond the limited and arcane system of funding now in use. Although not part of the Grand Jury's formal recommendations, the Board of Supervisors' financial support for the Law Library would preferably be a component of a larger countywide effort to increase awareness of the unique value of the Law Library as a public asset.

¹ A special library is a library that provides specialized information resources on a particular subject, serves a specialized and limited clientele, and delivers specialized services to that clientele.

BACKGROUND

History

County law libraries serve a unique function in the Constitutional guarantees of access to justice in California: a society based squarely on the rule of law has no meaning if people cannot find, know, or use the law to their benefit. County law libraries provide the only free and readily available access to legal information: giving the public access to legal information is essential to understandings one's rights, and protecting one's livelihood.

John W. Adkins, President, Council of California County Law Librarians²

County law libraries in California have a long history dating from 1853 with the formation of the San Francisco Law Library. Early funding for that Library consisted mainly of donations from members of the legal community. As early as 1865, however, there was recognition that private funds were insufficient to purchase and update collections. The San Francisco Law Library Act of 1870 was the first act to mandate that a fixed share of civil court filing fees be allocated to fund a county law library. Other counties, such as Santa Clara and Los Angeles, followed suit. Ultimately, in 1907 the Legislature enacted statutes providing for the funding of county law libraries throughout the state, and in 1941, the statutes were reorganized with the law library provisions placed in the Business and Professions Code. Over the decades, the civil court filing fees payable to the libraries were regularly increased by the Legislature in order to accommodate the increasing cost of legal publications, necessary ongoing collection updates, and more recently access to electronic legal databases.

Constituency

Originally, law libraries served primarily the judiciary and the legal community. However, in the early 1970s, the services provided by law libraries began to change as the public's use of law libraries began to increase. For over four decades, there has been a "growing contingent of law library users who are self-represented litigants and non-lawyers."³ Californians from all backgrounds use their county law libraries to assist them with a variety of legal issues, including dealing with family law issues, drafting contracts and wills, and organizing businesses. Statewide, an estimated 70%-80% of library users are not legal professionals, but rather individuals trying to understand their rights, navigate the complex legal system, start a new business, or transfer property.⁴ Sole practitioner attorneys, legal students, and county court staff regularly rely on law libraries.

² Letter to 2015-2016 Grand Jury, quoted with permission from John W. Adkins, President, Council of California County Law Librarians, April 15, 2016. The Council of California County Law Librarians (CCCLL) exists to strengthen, improve, promote, and advocate for the unique legal information services provided by county law libraries that support access to justice for all Californians. www.publiclawlibrary.org.

³ County Law Library Task Force Report to the Judicial Council and California State Legislature, May 2005, p. 7. <http://www.courts.ca.gov/documents/lawlibrary-taskforce.pdf>; L. Simmons, "Patrons of California County Law Libraries: Early History," *CCCLL Trustees Manual*, January 3, 1997, p. I-1.

⁴ Letter to 2015-2016 Grand Jury, quoted with permission from John W. Adkins, President, Council of California County Law Librarians, April 15, 2016.

According to a May 2005 County Law Library Task Force Report to the Judicial Council and the California State Legislature:

County law librarians are being asked to perform a multitude of non-traditional services. These include assisting library patrons with legal research, basic legal education, and help in obtaining appropriate legal forms. Law librarians also routinely provide fundamental instruction for digital literacy skills required for computer legal database use. In many counties, county law libraries and their librarians often become the last and *only* option to obtain legal information for litigants who plan to represent themselves in court as well as for other non-attorneys who need to research various legal issues.⁵

John Adkins, President of the Council of California County Law Librarians (CCCLL), noted that “County law libraries have become an essential tool in upholding civil and criminal justice. There is a nationwide crisis in the number of individuals who cannot afford or access legal representation and are fending for themselves in civil litigation matters. The National Center for Access to Justice advises that more than 80% of the litigants in civil matters in this country now appear without lawyers.”⁶

Authority and Funding

California’s law libraries are authorized by the California Business and Professions Code (B&P Code), Sections 6300-6363.⁷ The primary funding mechanism is a fixed amount of each civil court filing fee in the county’s Superior Court. Additionally, Section 6324⁸ states: “The board of supervisors may appropriate from the county treasury for the law library purposes such sums as may in their discretion appear proper. When so paid into the law library fund, those sums shall constitute a part of the fund and be used for the same purposes.”⁹

For decades, county law libraries have been funded through their receipt of a portion of the filing fees paid by civil litigants in Superior Court. Effective January 1, 2006, the Legislature imposed a moratorium on the increase in such filing fees.¹⁰ Simultaneously, B&P Code Section 6322.1 allowed a county board of supervisors to increase the portion of the filing fees received by its law library (by a maximum of \$3.00) during the period of the moratorium. Although the initial moratorium on filing fee increases was scheduled to end in 2008, the Legislature has declined to increase civil court filing fees. This failure to increase the filing fee amounts, combined with a

⁵ County Law Library Task Force Report, p. 7.

⁶ Letter to 2015-2016 Grand Jury, quoted with permission from John W. Adkins, President, Council of California County Law Librarians, April 15, 2016.

⁷ California Business and Professions Code, Sections 6300-6363. <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=bpc&group=06001-07000&file=6300-6307>.

⁸ Unless otherwise noted, all statutory references are to the B&P Code.

⁹ *Ibid.*, Sections 6320-6326.

¹⁰ California Government Code 70601, called the Uniform Civil Fees and Standard Fee Schedule Act, was enacted in 2005 to “establish a moratorium on increases in filing fees until January 1, 2008.”

marked decrease in the number of civil court filings (both statewide and within San Mateo County), has resulted in a significant loss of revenues for county law libraries.”¹¹

Although the original formula for funding county law libraries was adequate for many years, it is apparent that this is no longer the case. Rising costs and falling revenues render the current funding source outdated and insufficient.

Statewide County Law Library Funding

Fiscal difficulties facing the state’s county law libraries have been recognized for more than 10 years. A report written by the County Law Library Task Force and issued jointly by the Judicial Council of California¹² and the California State Legislature in 2005 acknowledged that the current funding mechanism for supporting county law libraries was inadequate and that there was “a need to identify better supplemental funding mechanisms.”¹³ Despite extensive research, “the task force expressed frustration with its inability to identify additional specific funding options.”¹⁴

Eleven years later fiscal difficulties continue to plague county law libraries throughout the state. According to its own questionnaire to the Council of California County Law Librarians, the Grand Jury learned that the California State Bar Association provides neither funding nor in-kind support for county law libraries. Further, the questionnaire revealed no county law library receives funding via a line item in their respective county’s annual operating budget for operations. Some county law libraries have partnered with their local public library system to provide legal research services to the public but, once again, the law library receives no monetary benefit from this outreach.¹⁵

California Senate Bill 711, approved by Governor Jerry Brown in September 2015, clarified language in current law enabling county law libraries to recover the cost of special services such as electronic delivery, educational programs, and special events. Most county law libraries have taken advantage of the ability to recover costs in this way but the revenue generated from these activities is very limited.¹⁶

It should also be noted that “a reliance on miscellaneous income would tend to divert the law library from its primary task of providing library services.”¹⁷ It is also not a stable, reliable method of financial support.

¹¹ Ibid., Section 6322.1.

¹² The Judicial Council of California is the rule-making arm of the California court system. Under the leadership of the Chief Justice of the Supreme Court of California, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice.

¹³ County Law Library Task Force Report, p. 5.

¹⁴ Ibid.

¹⁵ Questionnaire Answers to 2015-2016 Grand Jury, used with permission from John W. Adkins, President, CCCLL.

¹⁶ Ibid.

¹⁷ County Law Library Task Force Report, p. 5.

DISCUSSION

San Mateo County Law Library

In 1916, the San Mateo County Board of Supervisors, with the assistance of the San Mateo County Bar Association, passed an ordinance to formally establish the San Mateo County Law Library. The Law Library is centrally located in downtown Redwood City, steps away from the San Mateo County Courthouse. The Law Library is the County's sole resource offering free and unrestricted public access to a complete, comprehensive core collection of California and Federal legal materials in print, as well as to quality electronic legal resources and databases.

The Law Library holds a collection of 24,560 books and collections, 168 audio programs for the continuing education of the legal community, 2,987 microfiche, 4,594 archived items, and several electronic legal subscriptions. All are available to local judges, attorneys, students, legal professionals, and increasingly, the general public. This wealth of legal information is not available at any San Mateo County public library.¹⁸

According to the Law Library Annual Report of Fiscal Year 2014-2015, the Law Library served over 7,757 patrons. About 50% of users were members of the general public, county employees, and students; and 50% were members of the legal community. As a service to the community, the Law Library presented eight noontime lectures on various legal topics. The Law Library also continued its participation in the Lawyers in the Library Program where lawyers meet with individuals and assist them with legal issues. Additionally, the library staff answered over 5,500 legal questions.

In accordance with B&P Code Section 6301, a board of trustees governs the Law Library. The Board consists of three local judges, three attorneys, and a representative from the San Mateo County Board of Supervisors. The Library Board's bylaws were adopted in 1998. The Law Library currently employs three full-time staff members—an experienced, professional library director, a reference librarian, and a library assistant. The library also employs one part-time librarian. As provided in B&P Code Section 6361, the County of San Mateo provides space for the Law Library.

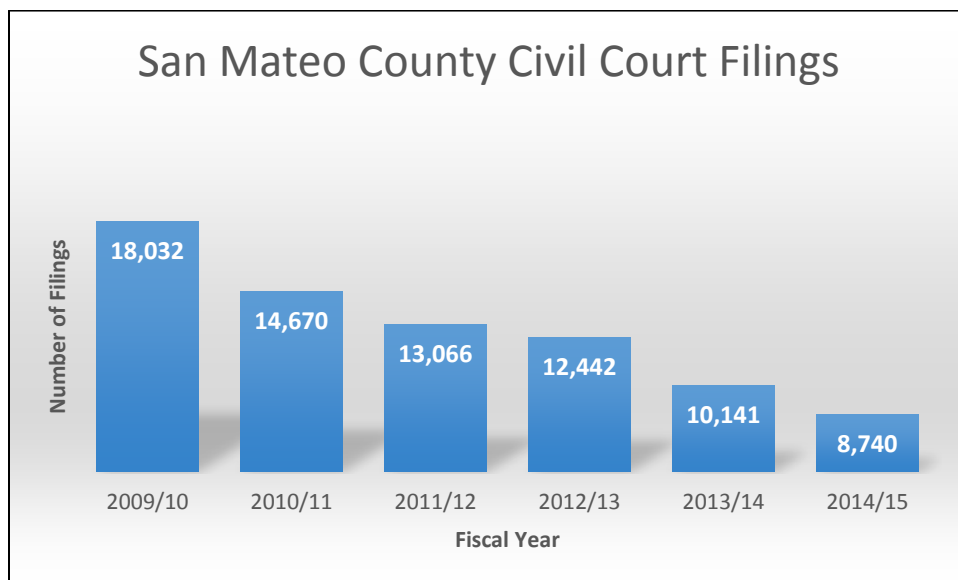
The Law Library revenues are generated primarily (96%) by civil court filing fees.¹⁹ As set by B&P Code Section 6321, the Law Library receives \$38.50 for each civil complaint and/or answer that litigants file in San Mateo Superior Court and receives \$3.00 for each small claims court filing. Although B&P Code Sections 6322.1 and 6324 provide for increases approved by the County Board of Supervisors, as noted above, the per-filing fee amounts allocated to the Law Library remain unchanged since 2005.

¹⁸ Questionnaire Answers to 2015-2016 Grand Jury, used with permission from John W. Adkins, President, CCCLL.

¹⁹ San Mateo County Law Library Annual Report, FY 2014-2015, p. 8.

Mirroring a statewide trend, the number of civil court filings has declined in San Mateo County from 18,032 in 2010 to 8,740 in 2015, a decrease of 52%.²⁰ Various theories regarding this decline have been put forward such as “an increase in the use of arbitration and mediation, increased numbers of fee waivers, consolidation of the courts, increases in the Small Claims limit to \$10,000, and improvements in the local economy (i.e., less people litigating).”²¹ Regardless of the exact reasons for the decline, the reliance on civil court filing fees has resulted in a substantial and unsustainable reduction in annual funding revenue for the Law Library.²² The prevalence of filing fee waivers has also increasingly reduced the amount of revenue realized from civil court filings. Filing fee waivers are regularly granted to litigants based on economic hardship, income level, and judicial discretion.

The chart below shows the reduction in civil law suit filings in San Mateo County from FY 2010 through 2015.²³



Source: San Mateo County Superior Court Records. Data provided by the Office of the Court Executive Officer, 2016.

Moreover, the Law Library’s operational costs continue to rise, most notably for print and electronic legal subscriptions.²⁴ Many legal resources have not yet been digitized. Printed legal publications require continual updating to reflect changing law. Revisions are received daily and collections updated to maintain legal accuracy and integrity. The cost for updates increases annually by a minimum of 5%, representing the Law Library’s greatest expense at over

²⁰ San Mateo County Superior Court Records. Data provided by the Office of the Court Executive Officer, 2016.

²¹ Talking Points, San Mateo County Law Library Financial Crisis, March 2016.

²² San Mateo County Law Library Annual Report, FY 2014-2015, p. 9.

²³ San Mateo County Superior Court Records. Data provided by the Office of the Court Executive Officer, 2016.

²⁴ Personnel from the San Mateo County Law Library: interview by the Grand Jury, April 2016.

\$200,000 per year.²⁵ Cancellation of print subscriptions has accelerated since June 2015 as the Law Library implements further cost savings measures in response to the continued decrease of funds in fiscal year 2015-2016. Currently, it is estimated that between 50% and 60% of the print collection is now dormant (not updated), therefore out of date.²⁶ This has negative ramifications to Law Library patrons who rely on the law library materials to reflect current law.

Law Library personnel indicate that electronic legal databases are difficult for the general public to master, necessitating the continued reliance on print materials. In recent years, the cost to access electronic legal databases has increased as much as 25% annually.²⁷ Without the increased revenues necessary to cover such increases, the Law Library has been forced to cancel several important database services.

The annual projected cost to operate the Law Library, which would include up-to-date electronic and print subscriptions, is approximately \$850,000.²⁸ Rising costs and reduced revenues have necessitated drawing down the Law Library's reserve account. Consequently, reserve funds have dwindled from \$1,000,000 in FY 2011-2012 to less than \$300,000 in FY 2015-2016. With projected revenues decreasing to an amount less than the \$550,994 received in 2015-2016, the Law Library expenses are on track to exceed their revenues again in FY 2016-2017.

Upon the professional advice and recommendation of the Law Library staff, the Board of Trustees took steps to conserve rapidly diminishing reserves to fund essential operations by instituting numerous cost-cutting measures for FY 2015-2016, including, but not limited to:²⁹

- Elimination of all evening and weekend hours (a reduction of 18 hours per week)
- Re-classification of one full-time employee to part-time
- Elimination of four part-time positions
- Cancellation or non-renewal of a substantial number of legal print resources, including all Lexis/Matthew Bender publications,³⁰ all CCH publications,³¹ and all BNA/Bloomberg publications³²
- Cancellation of electronic legal materials, including Lexis Shepard's and Hein Online
- Suspension of the Law Library's lecture series and of the Lawyers in the Library Program for part of the year

²⁵ San Mateo County Law Library Annual Report, FY 2014-2015, p. 10.

²⁶ San Mateo County Law Library Annual Report, FY 2014-2015, p. 7.

²⁷ Personnel from the San Mateo County Law Library: interview by the Grand Jury, April 2016.

²⁸ Ibid.

²⁹ San Mateo County Law Library Annual Report, FY 2014-2015, p. 2.

³⁰ Ibid., p. 6.

³¹ Ibid.

³² Ibid.

Relocation Considerations

In 2011 Redwood City’s City Council adopted the “Downtown Precise Plan,” which, among other things, describes the vision for development in the city’s entertainment district. The Law Library is housed on a parcel within this district. A significant portion of the shared block has recently been listed for sale and is considered “one of the last key development sites in the downtown core.”³³ Based on several interviews conducted by the Grand Jury, there is a strong likelihood that the Law Library will be required to relocate within the next several years. It is critical that any new Law Library site should have adequate space to house the collection, offer extended hours for public use, be safe and easily accessible to all users, and be located close to the Courthouse to accommodate foot traffic, as many Law Library patrons utilize resources at the Library before or after court appearances, and during court recesses.

County Library Survey

The Grand Jury conducted a survey of San Mateo County library directors to determine the extent of their libraries’ legal collections and the level of legal knowledge of their staff members (see Appendix). The Grand Jury received a 100% response. The responses acknowledge that the County’s public libraries contain minimal legal resources, that public library staff lacks the specialized training needed to assist patrons seeking information on legal matters, and that the County’s public libraries are not poised to absorb the services currently available at the Law Library.

Additionally, the survey revealed that County librarians believe that the public has minimal awareness of the existence of the Law Library. As a result, County library personnel routinely refer legal questions and requests for research to the Law Library. Not surprisingly, the County’s public library librarians overwhelmingly support the preservation of the Law Library. They cite insufficient funding for the purchase of expensive legal collections and databases, the lack of necessary expertise to provide the specialized legal information, and inadequate space for their organizations to absorb the Law Library collections and services.

One librarian included this important message:

The San Mateo Law Library fulfills an important role to residents of San Mateo County. Public libraries in San Mateo County do not have the budgets to support specialized legal collections (whether in hard copy or through online databases). San Mateo County Law Library represents a unique resource that needs to be well funded and maintained.³⁴

³³ Bill Silverfarb, “Downtown Bank Now On Market: Chase Selling Property in Redwood City; Hotel, Housing Could Replace It,” *Daily Journal*, April 1, 2016.
<http://www.smdailyjournal.com/?s=Downtown+Bank+Now+on+Market%3A+Chase+Selling+Property+in+Redwood+City%3B+Hotel%2C+Housing+Could+Replace+It>.

³⁴ San Mateo County Grand Jury Survey of San Mateo County Library Directors, 2016.

Another librarian compellingly wrote:

The bricks and mortar law library that we have in San Mateo County is such a valuable resource. As public libraries we don't have a need to direct our patrons there every day but when it's needed it is fulfilling a role necessary to a thriving and educated community.³⁵

The Law Library and the San Mateo County Bar Association

An official of the San Mateo County Bar Association stated that Bar Association members utilize and patronize the Law Library in the same way as any other members of the general public. There is no formal, official, or even unofficial, relationship between the Bar Association and the Law Library.³⁶

However, in recognition of the importance of the Law Library's role in providing essential legal information and with the goal of helping fund the restoration of evening and weekend hours, appropriate updating and maintenance of the legal collections, and renewal of online legal subscriptions, various Law Library users and County Bar Association attorneys have sought potential solutions. Members of the County Bar Association including, but not limited to, Estate Planning/Probate, Barristers, and Women Lawyers' Sections as well as some of the non-judicial Board members, and other concerned individuals, in 2016 spearheaded the establishment of a new nonprofit foundation called the San Mateo County Law Library Foundation, a 501(c)(3) organization, to assist in the preservation of the Law Library. According to the founders of this organization, these laudable efforts, however, can only supplement funding and cannot be relied upon to provide a continuous and guaranteed funding mechanism for the Law Library.

CONCLUSION

The funding model for California's law libraries created in the early twentieth century no longer works to properly maintain the San Mateo County Law Library. Law libraries are no longer just for lawyers but are instead a unique public asset frequented by residents of all backgrounds and needs. The 2015-2016 Grand Jury urges the San Mateo County Board of Supervisors to step up as a model for the state and take visionary action to ensure the San Mateo County Law Library continues to serve the residents of San Mateo County with current, relevant legal resources.

³⁵ Ibid.

³⁶ Response of San Mateo County Bar Association leadership to inquiry from San Mateo County Grand Jury, April 18, 2016.

FINDINGS

- F1. The San Mateo County Law Library provides a valuable and unique service to the residents of San Mateo County that cannot be replicated elsewhere in the County.
- F2. At least half of those who use the San Mateo County Law Library are members of the general public including County and city employees and students. However, the Law Library receives no public funds beyond the minimal amount received from civil court filing fees.
- F3. Due to a reduction in civil court filings and the increased granting of civil court filing fee waivers, San Mateo County Law Library revenues have declined by 52% over the past five years.
- F4. Law library collections and services are expensive to maintain and support. In trying to maintain its legal services, the San Mateo County Law Library has cut back on hours and materials, reduced staffing, increased fund-raising efforts, and drawn down its dwindling reserve funds.
- F5. The County of San Mateo is required by statute to provide adequate space and basic maintenance for its law library, but has no further state-mandated responsibility. The statutes governing law libraries, however, specifically authorize counties to provide additional annual allocations supporting their law libraries.

RECOMMENDATION

- R1. The Grand Jury recommends that the San Mateo County Board of Supervisors promptly adopts a formal policy to mitigate the Law Library's fiscal crisis, and establish ongoing supplemental funding for the Law Library commencing with the FY 2016-2017 County budget.

REQUEST FOR RESPONSES

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

From the following governing bodies:

- R1. San Mateo County Board of Supervisors

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

METHODOLOGY

Documents

Adkins, John W., President, Council of California County Law Libraries. Letter to 2015-2016 Grand Jury. April 12, 2016.

Adkins, John W., President, Council of California County Law Libraries. Questionnaire Answers to 2015-2016 Grand Jury. April 12, 2016.

San Mateo County Grand Jury Survey of San Mateo County Bar Association leadership. April 18, 2016.

San Mateo County Grand Jury Survey of San Mateo County Library Directors. January 2016.

San Mateo County Office of the Court Executive Officer. Records. 2016.

Talking Points: San Mateo County Law Library Financial Crisis. December 2015.

Site Tours

- San Mateo County Law Library

Interviews

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

The Grand Jury interviewed and obtained information from the following:

- A professional staff member of the San Mateo County Law Library
- A governing board member of the San Mateo County Law Library Board of Trustees
- A member of the San Mateo County Board of Supervisors
- A member of the San Mateo County Bar Association
- A member of the ad hoc committee to form the San Mateo County Law Library Foundation

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APPENDIX QUESTIONNAIRE SENT TO PENINSULA LIBRARY DIRECTORS

Date: January 26, 2016

To: Peninsula Library Directors

From: San Mateo County Civil Grand Jury

Subject: San Mateo County Law Library Survey

Dear Directors:

The San Mateo County Grand Jury's Education Committee is studying the value of the San Mateo County Law Library to the citizens of the county. As part of our analysis, we would appreciate some input and information from you and your staff. Could you please take a few minutes to complete the survey below?

- 1) Do you feel that your collection of legal resources is sufficient to meet the needs of your patrons?
Yes: No:

- 2) Does your library provide access to:
A) In-house printed legal resources? Yes _____ No _____
B) Online legal databases Yes _____ No _____

- 3) What is your library's current budget for:
A) Printed legal sources \$ _____
B) Online legal sources \$ _____

- 4) Is all public desk staff trained in assisting patrons with legal questions? If so, what kind/how much training do they receive?

- 5) On average, how many times per month would you estimate your patrons are referred to the San Mateo County Law Library?

- 6) What types of legal questions do the patrons you refer to the Law Library have?

- 7) Where, besides the San Mateo County Law Library, does your staff refer patrons with legal questions?

8) How would assisting your patrons with legal questions be impacted should the San Mateo County Law Library cease operations?

9) Additional comments:

Thank you for completing our survey.

Sincerely,

2015-2016 San Mateo County Grand Jury

Issued: June 28, 2016