



Board of Trustees

Meeting of Wednesday, March 15, 2017 • 12:15 P.M.

San Diego Law Library

1105 Front St., San Diego, CA 92101

AGENDA

- 1) Call to Order
- 2) Opportunity for General Public Comment
- 3) Minutes of Previous Meetings
 - A. Approval of Minutes of February 15, 2017
- 4) Financial Report
 - A. January 2017 Financial Report
- 5) Board Committees
 - A. List of Standing and Ad Hoc Committees and Committee Members
- 6) Patron Rules of Conduct
 - A. Discussion and Review of the SDLL Policy
- 7) Staff Insight: Q&A
 - A. Luz Villalobos, Library Associate
- 8) Other Reports
 - A. Foundation Liaison Report (Judge Gill, Low)
 - B. Legislative Committee (Adkins)
 - C. Membership Committee (Adkins)
- 9) Director's Report
 - A. Library Update
 - (1) "What's New?" ...at the Law Library
 - B. Law Library press & praise
 - C. Outreach activities
 - D. Facilities maintenance reports
 - E. Patron compliments/ complaints
 - F. Incident reports
 - G. Internet/Web Report
 - H. Monthly Activity Report
- 10) Board Member Reports
 - A. Any new business not an Agenda Item.
- 11) Adjournment

****Items with asterisks will be discussion items only****

Persons wishing to make public comment at the meeting are requested to make arrangements with the Administrative Office prior to the meeting at (619) 531-4449. Persons desiring to comment on an agenda item will speak when that item comes up for discussion. An individual desiring to bring another matter to the Board's attention should be prepared to speak at the beginning of the meeting. Members of the public should limit remarks to five minutes. Materials for each agenda item, except closed session items, are available for public inspection from the San Diego Law Library Administrative Office, 1150 Front Street, San Diego, CA 92101-3904

San Diego County Public Law Library
Board of Trustees
San Diego Law Library
1105 Front Street, San Diego, CA 92101
March 15, 2017 • 12:15 p.m.

AGENDA SUMMARY AND ACTION REQUESTED

NO.	ITEM	SUMMARY	RECOMMEND
1.	Call to Order		Action.
2.*	Opportunity for General Public Comment		N/A
3.	Minutes of Previous Meetings	A. Approval of Minutes of February 15, 2017	Action.
4.	Financial Report	A. January 2017 Financial Report	Information.
5.	Board Committees	A. List Of Standing And Ad Hoc Committees and Committee Members	Action.
6.	Patron Rules of Conduct	A. Discussion and Review of the SDLL Policy	Action.
7.	Staff Insight: Q&A	A. Luz Villalobos, Library Associate	Information.
8.	Other Reports	A. Foundation Liaison Report (Judge Gill, Low)	Information.
		B. Legislative Committee (Adkins)	Information.
		C. Membership Committee (Adkins)	Information.
9.	Director's Report	A. Library Update	Information.
		(1) <i>"What's New?" ...at the Law Library</i>	Information.
		B. Law Library press & praise	Information.
		C. Outreach activities	Information.
		D. Facilities maintenance reports	Information.
		E. Patron compliments/ complaints	Information.
		F. Incident reports	Information.
		G. Internet/Web Report	Information.
H. Monthly Activity Report	Information.		
10.	Board Member Reports	A. Any new business not an Agenda Item.	Information.
11.	Adjournment		Action.

Item 3: Minutes

A. Meeting of February 15, 2017

**Law Library Board of Trustees
Minutes of the Meeting
February 15, 2017**

NOT APPROVED

The Law Library Board of Trustees held a regular meeting, pursuant to notice thereof, on **February 15, 2017** at the **San Diego Law Library**, located at **1105 Front St., San Diego, CA 92101**.

Present: **The following Board members were present:** Honorable David Berry, President; Mara Elliott, Esq. Vice President; Honorable Joseph Brannigan, Secretary; Honorable Yvonne E. Campos; Jeffrey Cawdrey, Esq.; Honorable David Gill; and Honorable Julia Craig-Kelety.

Absent: Lorena Slomanson, Esq., Treasurer and Nathan Low, Esq.

Also Present: John W. Adkins, Director of Libraries and Assistant Secretary to the Board; Marcia O'Hara, Assistant Director of Finance & Personnel; and Cyndi Quisenberry, Administrative Support Officer.

Guests: Christine Mathias, San Diego Law Library Reference Librarian and Michael Roddy, San Diego Superior Court CEO.

1. Call to Order

Judge Berry, Board President, convened the meeting at 12:18 pm.

2. * Opportunity for General Public Comment

A. No public comment.

3. Minutes

A. Previous Meeting of January 25, 2017.

MOTION (1): Judge Berry called for a motion to approve the minutes of January 25, 2017. Judge Gill moved to approve the minutes; Judge Kelety seconded the motion. The minutes passed.

Correction 1: On page 3, Item 6.A. (6), correct the minutes to show that Judge Berry asked about Border law and not Ms. Elliott.

Correction 2: The spelling of the meeting guest's name and title. Correct Name: Mayra. Title: USD Law Intern.

4. Financial Report (O'Hara)

A. Ms. O'Hara reported on December 2016 financials.

(1) Filing Fees are 6.6 % higher than this time in 2015, and 14.8 % higher than budgeted. 2017 Filing Fees are 35.8% lower than in 2009.

5. Featured Speaker, Michael Roddy, Superior Court CEO

A. Judge Yvonne Campos, San Diego Law Library Trustee, introduced featured speaker Michael Roddy, Superior Court CEO. Judge Campos shared how they were first introduced, and remarked that the legal community had great admiration for Mr. Roddy's administrative and budget management abilities. Mr. Roddy then spoke to the Board on current court activities and the financial status of the court. He provided details on the upcoming transition to the new courthouse, on the projected future and recent status of filing fees, on the increased workload of the superior court, and other notable local information. He then answered questions from the Board.

(1) Judge Kelety offered the Law Library's assistance to the courts as a resource in any way we can provide.

B. Judge Campos asked about incorporating the County Law Libraries into the court system. Mr. Roddy was under the belief that the County Law Libraries didn't want that, as they want to remain autonomous.

6. Patron Rules of Conduct

A. Judge Berry recommended that the Board review the provided patron conduct policy material and think about what should be included, and if changes are needed. This will be an action item at the March meeting.

B. Mr. Adkins gave some anecdotal background information on the procedures used by other Law Libraries on how they handle suspensions and penalizations.

7. Staff Insight Q & A

A. Christine Mathias, San Diego Law Library Reference Librarian

(1) Background

Christine was born and raised in Boston. Christine's undergraduate education was split between Regis College in Massachusetts and Portland State University in Oregon. She studied music in college and plays a variety of instruments. The research environment during law school encouraged her interest in becoming a librarian.

Christine has worked at the SDLL for just over a year. She came to the Law Library as an Intern from September 2015 – January 2016, and was brought on full-time following her internship.

She has previous library experience working at the Social Law Library in Boston as the Legal Alerts & ILL Manager, and at the Kellogg-Hubbard Library in Vermont as Financial and Development Assistant.

(2) Tasks/duties

(a) Works at the Information Desk for about 3 hours a day, providing research assistance to patrons.

Law Library Board of Trustees
Minutes of the Meeting
February 15, 2017

- (b) MCLE Coordinator
 - Responsible for schedules & programming, marketing & promotion, lecturer booking, and event proctoring.
- (c) Creates San Diego Law Library LibGuides.
- (d) Provides content and assists with editing the weekly SDLL Newsletter
- (e) Curated the *Law Made Public* program and trained teachers administering the class.
- (f) Administers the bi-weekly Elder Law Clinic which partners with Elder Law & Advocacy to bring virtual legal clinics to clients over 60.
- (g) Is on the Social Media Team, posting on Facebook and Twitter each Friday.
- (h) Attends the new attorney swearing-in ceremonies, providing Law Library information and outreach.
- (i) Creates the on-going “Job Hunting in the Legal Field” classes.
- (j) Assists periodically at the Public Library kiosk in Chula Vista.

8. Other Reports

A. Foundation Liaison Report

- (1) No Report

B. Legislative Report

- (1) *Included in agenda packet:* Burns, Ryan “*As Courts Desperately Seek More Space, Proposal to Move Law Library Sparks Concern About Access to Equal Justice*” Lost Coast Outpost, February 7, 2017.
- (2) CCCLL Spring 2017 Meeting Agenda.
 - (a) Laurel Moran, Head of Core Operations will give a presentation: “Balancing Act: How to Go Lean with a Mix of Print and Online Resources without Unbalancing Your Mission or Your Mind” at the CCCLL Spring meeting.
 - Mr. Low has expressed concern over the San Diego Law Library’s transition from a print to digital collection. Mr. Adkins suggested that an ad hoc committee be formed to address this issue further.

C. Membership Program Committee Report

- (1) Mr. Adkins will schedule a meeting for next month.
- (2) *Included in agenda packet:* Timeline for the implementation of the Membership program changes.
- (3) *Included in agenda packet:* Mockup of *INSIDER NEWS*, the new member newsletter in development.
- (4) *Included in agenda packet:* Membership Update Packet

9. Director's Report

A. Library Update

- (1) "What's New?" ...at the Law Library
- (2) *Included in agenda packet:* "Small Business 101" flyer.
We have received good feedback on this class. The county participates by providing information and resources for new businesses.
- (3) *Included in agenda packet:* "The Future of Cannabis in California" flyer. This is our first "members only" class.
- (4) South Bay branch space update. Bryce Kelety's Eagle Scout project is complete and the South Bay Branch space has been cleared of shelving, the bolts on the floor are set to be removed, and the shelving material has been recycled.
- (5) Judge Kelety brought up the idea of using the South Bay branch space as an attorney lounge for Law Library members. She is encouraged by the information that Humboldt County distributes keys to their members, and so it may be a viable option for us.
- (6) *Included in agenda packet:* "RUMOR HAS IT..."
We received a very nice thank you note from the East County Supervising Family Law Judge, The Honorable Selena Epley, thanking the Law Library for hosting the Family Law Settlement Conferences at our East County courthouse branch.

B. Press & Praise

C. Outreach activities

5 Classes, 15 Lectures, and 52 Legal Clinics.

D. Facilities Maintenance Reports

12 Facilities Maintenance Reports

E. Patron compliments/ complaints

1 Patron Compliments/Complaints

F. Incident reports

2 Incident Reports

G. Monthly Activity Report

- (1) Downtown: 48 questions for every 100 patrons who entered, up 41% from February 2016.
- (2) Vista: 64 questions for every 100 patrons who entered, up 7% from February 2016.

10. Board Member Reports

A. No Reports

- B.** Judge Berry asked that the Board Committee list be included in the March packet and included on the March agenda.

11. Adjournment

The meeting adjourned at 1:32pm.

Item 4:
Financial Report

A. January 2017

****Financial Report to be distributed upon availability**

Item 5:
Standing and Ad Hoc
Committees
of the
San Diego Law Library
Board of Trustees

SAN DIEGO LAW LIBRARY

BOARD OF TRUSTEES COMMITTEES

PERSONNEL COMMITTEE (STANDING COMMITTEE)

Jeffrey D. Cawdrey
Judge David Gill
Judge Julia Kelety

BUDGET COMMITTEE (STANDING COMMITTEE)

Jeffrey D. Cawdrey
Judge David M. Gill
Judge Julia Kelety
Lorena Slomanson, Board Treasurer

John Adkins, Director of Libraries
Marcia O'Hara, Assistant Director Finance & Personnel

LEGISLATIVE COMMITTEE (AD HOC)

Judge David Berry, Board President
Jeffrey D. Cawdrey
Judge Julia Kelety

John Adkins, Director of Libraries

MEMBERSHIP COMMITTEE (AD HOC)

Mara Elliott, Board Vice President
Lorena Slomanson, Board Treasurer

INACTIVE AD HOC COMMITTEES

TRUSTEE SEARCH COMMITTEE (NOT ACTIVE)

DIRECTOR'S COMPENSATION COMMITTEE (NOT ACTIVE)

ASSESSMENT COMMITTEE (NOT ACTIVE)

STRATEGIC PLANNING (NOT ACTIVE)

Item 6:
San Diego Law Library
Patron Rules of Conduct



San Diego County Public Law Library

www.sdcplli.org

Rules of Conduct

The San Diego County Public Law Library has adopted the following Rules of Conduct.

All Law Library users are expected to follow all Law Library policies including these Rules of Conduct. Anyone in violation of these rules or whose conduct poses a threat to the safety of Law Library patrons or staff may be removed and excluded from the Law Library.

The term Law Library as used in this policy means all branches of the San Diego County Public Law Library.

Unacceptable behavior, which may be the basis for removal or exclusion, includes behavior that impinges on the rights of others, behavior that could result in injury to oneself or others, or behavior that may result in damage to the building, equipment, or property of the Law Library. The Law Library staff is authorized to determine what constitutes unacceptable behavior. Unacceptable behavior includes but is not limited to the following:

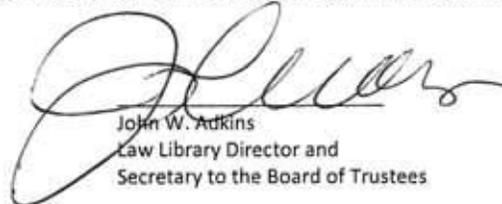
1. Disturbing, offending, intimidating or harassing other library patrons or staff.
2. Exhibiting intoxication or drunken behavior. Consuming or possessing alcoholic beverages or illegal drugs.
3. Carrying or displaying weapons in the library.
4. Using sounds or images in a way that disturbs other library patrons or staff. Disturbing images include, but are not limited to display of obscene or sexually explicit materials on computers.
5. Having personal hygiene that is so offensive as to constitute a nuisance to others.
6. Using pagers, cell phones, or other electronic devices in Library areas that disrupt the work of others.
7. Stealing, vandalizing, damaging or defacing library facilities, equipment or materials.
8. Bringing shopping carts or wheeled conveyances except wheelchairs and trial briefcases with collapsible luggage carriers.
9. Bringing bedrolls, blankets, luggage, containers, packages, parcels or bundles which singly or collectively exceed 26" x 17" x 9" or any items that pose a potential safety hazard to others.
10. Refusing to have their items searched or inspected or to leave when asked.
11. Using library restrooms inappropriately including but not limited to bathing or washing of clothes.
12. Smoking or chewing tobacco.
13. Bringing food or drinks in non-spill proof containers or eating in the library except during library-sponsored events.
14. Soliciting, panhandling, sleeping, or loitering in or around the library building.
15. Bringing animals other than service animals into the building.
16. Coming into the library without wearing appropriate attire.
17. Leaving children (below 14 years of age) unsupervised at any time in the library.
18. Distributing printed material or taking photos in the library without prior authorization from the Law Library Administration or a designated representative.
19. Engaging in lewd conduct including but not limited to flashing, petting or sexually-oriented gestures, sounds or comments.
20. Engaging in loud conversation or using abusive or obscene language.
21. Maliciously accessing, altering, deleting, damaging or destroying any computer system, network, computer program or data.
22. Engaging in any illegal activity.

Any person who violates these rules may be asked to leave or be removed from the Law Library by the Law Library staff, security guard, or peace officer. The person removed shall not enter the building, premises or grounds of the library for the remainder of the business day or for a period of time as may be specified by the Director of the Law Library or the Director's designee. Violation or repetitive violation of any of these rules shall result in suspension of that person's library privileges for such period of time as deemed appropriate by the Law Library. Any person who refuses to leave when asked or re-enters the building during the term of his or her suspension shall be considered a trespasser, law enforcement will be notified and he or she will be prosecuted to the full extent of the law.

A copy of these Rules of Conduct shall be posted at the Law Library's entrance.

These Rules of Conduct has been approved by the San Diego County Public Law Library Board of Trustees at a regular meeting held on September 22, 2010.


 Judge Julia Craig-Kelety
 President of the Board of Trustees


 John W. Adkins
 Law Library Director and
 Secretary to the Board of Trustees

Note: These Rules of Conduct supersede the "Rules of Conduct and Acceptable Use Policy" dated January 23, 2008.



APPEALS PROCEDURE

The Director of the Law Library, or the Director's designee, shall have the authority to order the removal of any person from all locations of the Library for any violation of policies and rules of conduct. The person removed pursuant to this order shall not enter the buildings, premises, or grounds of any location of the Library the remainder of the business day or the period of time as may be specified by the Director or the Director's designee in writing.

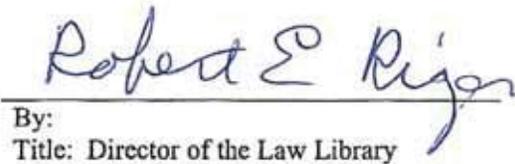
The Director and the Director's designee shall have the authority to suspend a person's privileges to use the Library and its branches for such period of time as she/he determines to be appropriate for violation of any policies and rules of conduct. Any suspension shall be in writing. A suspension of five days or less shall be final. Any person who re-enters any Library location during the term of his/her suspension shall be considered a trespasser.

Any person who has been suspended from the Library for a period of six or more days for any violation of policies and rules of conduct may file an appeal with the Board of Trustees. Such appeal shall be in writing and shall be submitted to the Director within 15 days of the date of the order of suspension and shall contain a brief description of the reasons for the appeal and why the suspension should be modified or overturned. The term of the suspension is not reduced or delayed by filing the appeal. The Library Board of Trustees shall designate a person to serve as hearing officer and to hear the appeal.

Such hearing officer shall be either a member of the Board of Trustees or such other person as the Board of Trustees determines is qualified to hear the appeal. The hearing officer shall conduct the hearing and provide a decision within 30 days of the filing of the appeal to ensure a timely resolution of the appeal. The decision of the hearing officer shall be reported to the Board of Trustees, the Director of the Law Library, and the person appealing the decision. The decision of the hearing officer shall be final.

Approved this 25th day of March, 2009.


By:
Title: President of the Board of Trustees


By:
Title: Director of the Law Library

MEMORANDUM

TO: BOARD OF TRUSTEES, SAN DIEGO LAW LIBRARY
FROM: JOHN ADKINS
RE: PATRON SUSPENSION GUIDELINES – OVERVIEW & RECOMMENDATIONS
DATE: February 2017

After reviewing our rules/policies/procedures, patron incident database, and comments from our colleagues at other California county law libraries, we have drafted revisions to the guidelines. Numerous factors come into play when dealing with patrons who bend or break the rules, are unruly or angry, or who verbally or physically attack staff or other patrons. We have tried to take into account the great variety of possible infractions in creating these guidelines and recommendations.

Background:

Patron behavior: Although it is true that multiple offenses often warrant increased deterrence measures, a person's behavior can rise to the level of suspension with just one incident depending on their actions.

Staff behavior: We must also take into consideration that the way a situation is handled may make the difference between a simple explanation of our rules and someone becoming disruptive.

After reviewing all patron incidents (see 'Patron Suspension Background' excel sheet), it is important to note the following:

- 1) Since 2008 we have had approximately 265 documented patron incidents.
- 2) Of those 265 incidents, only 95 resulted in any kind of suspension of library privileges.
- 3) Repeat violations by problem patrons dramatically decreased when we started suspending privileges for 5 and 30 days
- 4) Breakdown of violations and suspensions from May 2008 to September 2016:

Number of patrons	Suspension Period	Notes
32	1 day	
17	5 days	
15	30 days	
1	6 months	
10	1 year	
5	Lifetime	Lewd behavior, assault on staff, threaten violence on staff
15	Unknown	Suspension period not documented in database 2008-2012

Recommended Suspension Guidelines based on current Rules of Conduct:

Automatic 1 year suspension*

- 1) Verbally or physically threatening or assaulting staff/patrons
- 2) Viewing pornography on our computers or via our wifi
- 3) Lewd behavior as defined in California Penal Code 647(a)
- 4) Any criminal behavior (including theft or destruction of library property)

*At the discretion of the Director, the Library may pursue a restraining order to prohibit library usage.

General Guidelines:

- 1) For anything other than an automatic one year suspension:
First advise patron of our rules/policies and ask the patron to stop the unwanted behavior.
- 2) If patron refuses to stop behavior or argues with staff, ask patron to leave for the day (“cooling off” period) – give a copy of our rules/policies.
- 3) If patron engages in conduct that disrupts or interferes with the normal library operation, or disturbs staff or library users, patron may be suspended for 5 days – give a copy of rules and suspension letter.
- 4) If patron uses abusive or obscene language, intimidates or harasses staff or other patrons, patron may be suspended for 30 days - give a copy of rules, suspension letter, and appeals process.
- 5) If patron refuses to stop behavior or refuses to leave the library when asked forcing us to call the police, patron may be suspended for 1 year - give a copy of rules, suspension letter, and appeals process.
- 6) For any activity requiring staff to ask a patron to leave, the incident should be documented in the Patron Incident Database.
- 7) Suspension of library privileges, for more than one day, should be documented with a suspension letter, a copy given to the patron, and a digital copy saved to the Patron Incident folder on the library’s network.

Note: All suspensions are discretionary and require public service experience and the use of good judgment. All suspensions over 5 days are appealable.

Progressive suspension for repeated violations:

Two or more advisals of library rules within a one year period, patron can be suspended for a 5 day period - - give a copy of rules and suspension letter (document in database).

Two or more violations of 5 days or longer within a one year period, patron can be suspended for a 30 day period - give a copy of rules and suspension letter (document in database).

Two or more violations of 30 days or longer within a one year period, patron can be suspended for a 1 year period - give a copy of rules and suspension letter (document in database).

Behavior	1 st Occurrence	2 nd Occurrence	3 rd Occurrence
Note: Multiple occurrences can happen within one encounter to escalate suspension period			
Verbally or physically threatening staff/patrons	1 year		
Viewing pornography on our computers or via our wifi	1 year		
Lewd behavior as defined in California Penal Code 647(a)	1 year		
Any criminal behavior (including theft or destruction of library property)	1 year		
Refuses to stop behavior or refuses to leave the library when asked forcing us to call the police	1 year		
Abusive or obscene language, intimidates or harasses staff or other patrons	30 days	1 year	
Engages in conduct that disrupts or interferes with the normal library operation, or disturbs staff or library users,	5 days	30 days	1 year
Patron refuses to stop behavior or argues with staff	1 day	5 days (unless behavior escalates into a different violation warranting longer suspension)	
Anything other than an automatic one year, 30 day, 5 day suspension, or	Advise of policy	5 days	

hygiene/baggage: advise patron of our Rules/policies and ask the patron to stop the unwanted behavior			
Violation of Hygiene policy or dress code	Advise of policy – ask to leave and clean up – patron can return with good hygiene		
Violation of Baggage policy	Advise of policy – ask to leave and come back when they can comply with baggage policy		

Reasoning behind language used:

1) **Lewd Behavior** Background: PC 647(a) as interpreted by Pryor v. Municipal Court (1979) 25 C.3d 238, 256, “the terms ‘lewd’ and ‘dissolute’...are synonymous, and refer to conduct which involves the touching of the genitals, buttocks, or female breast for the purpose of sexual arousal, gratification, annoyance or offense, if the actor knows or should know of the presence of persons who may be offended by his conduct.” (from Witkin California Criminal Law)

2) Engages in conduct that **disrupts or interferes with normal library operation or disturbs staff and library users** – examples:

- Blocks entry way to library or blocks access to the iDesk for other patrons
- Creation of unreasonable noise so as to disturb other library users (yelling, loud talking, slamming of books/chairs, hitting walls/desks)
- Staring for prolonged periods of time at staff or other patrons
- Using restrooms inappropriately (e.g., washing clothes, bathing)

Our guiding message: SDLL is a safe and peaceful environment both for patrons and staff. Our Patron Rules of Conduct govern the behavior of those using the law library. They are posted prominently at the entrance and at the Computer training area. Disruptive behavior, harassment, and violence are taken seriously and will not be tolerated. Law library privileges may be suspended for violations of our Patron Rules of Conduct. You have the right to appeal any suspension of library privileges.

Legal research from LA County stresses the importance of due process/adequate procedural protections:

- 1) notice of rules
- 2) written letter w/ violations
- 3) appeal procedure

Based on our rules and procedures, I am confident that we meet all these due process requirements.

ADDITIONAL FACTORS & INFORMATION, INCLUDING LEGAL RESEARCH & STORIES FROM OTHER LAW LIBRARIES

Since we have a full-time uniformed security officer, I try to keep staff out of the security business. If staff sees a problem they report it to security. I prefer that the public see the reference staff as purely helpful. Sometimes that is not possible, but it is worth trying.

In addition, any subjective rules are based upon disturbing others (or more technically, disturbing a 'reasonable person'...), so my preference is that we don't enforce unless someone is being disturbed (complains). If a security officer sees a violation that s/he thinks likely is disturbing others but no one has complained, they will ask the patrons nearby, "Is that bothering you? I can ask them to quiet down if you'd like." The response from offenders is generally pretty cooperative because we let them know they are disturbing others and most people don't really intend to be a bother. And if we are ever challenged we have a record that someone complained.

As for the problem of enforcing the rules against those who won't (or can't) comply, there is a fair amount of research – legal, social, library policy, mental health, etc – out there. My conclusion is that a well-drafted and clear set of rules is important. Having an appeals process is important. Having a good record to support your actions is important.

CASE LAW

Below are a couple of cases of interest:

At least some courts have been pretty stringent in the standard they apply to rules of conduct within libraries. For example, while the court found in favor of the library *Spreadbury v. Bitterroot Pub. Library*, 862 F. Supp. 2d 1054, 1056-57 (D. Mont. 2012) held that patrons have a “limited liberty interest” in using a public library and therefore due process must be afforded:

A. Termination of Library Privileges

Spreadbury was not wrongfully deprived of his statutory and constitutional liberty interest in the right to use a public library when the Library Defendants² banned him from the premises. The record demonstrates that he intimidated various library staff and patrons after the Library refused his request to include a letter he had written to President Obama in its collection. We all have a right to use our public libraries. *Kreimer v. Bureau of Police for the Town of Morristown*, 958 F.2d 1242, 1255 (3rd Cir.1992) (recognizing “the right to some level of access to a public library, the quintessential locus of the receipt of information”). But the right is not unqualified. *Id.* A person may be constitutionally deprived of a liberty interest if afforded due process, and Spreadbury was granted adequate procedural protections. *Pinnacle Armor, Inc. v. United States*, 648 F.3d 708, 716 (9th Cir.2011).

Judge Lynch properly identified the Library as a limited public forum. [A]s a limited public forum, the Library is obligated only to permit the public to exercise rights that are consistent with the nature of the Library and consistent with the government's intent in designating the Library as a public forum. Other activities need not be tolerated. *Kreimer*, 958 F.2d at 1262. A public library may refuse service to anyone who willfully violates a library policy. Mont.Code Ann. § 22–1–311. The relevant Library Operation Policy in place at the time stated:

Patron behavior that becomes disruptive to other library users or staff or constitutes a public nuisance is not allowed and the person(s) will be asked to leave. The library reserves the right to refuse service to anyone not complying with established library policies.

(Quoted in doc. 152–10). Contrary to Spreadbury's assertions, the policy does not state that the Library may only refuse service to a disruptive patron if it has previously asked the patron to leave. Such an interpretation would require the Court to insert words in the policy that are not there.

Spreadbury willfully engaged in behavior that became disruptive. On at least two occasions prior to the termination of his library privileges, he confronted staff in an intimidating manner. (Docs. 152–1, –7, –8, –9; 158–1, –2.)

Additionally, his reference to the Unabomber in a letter to the Library director could reasonably be construed as threatening. (Doc. 152–4.)

Willfulness “does not require any intent to violate the law [or] to injure another.” Mont.Code Ann. § 1–1–204(5). It is enough that Spreadbury had a “purpose or willingness,” *id.*, to confront staff and reference the Unabomber, and a reasonable person would see his behavior as disruptive. Accordingly, Spreadbury violated a Library policy, and the Library could refuse him service so long as it provided him the minimum due process requirement of notice and an opportunity to be heard. *See Hill v. Derrick*, 2006 WL 1620226, *8 (M.D.Pa.2006).

1 The Library provided adequate procedural protections. *See Mathews v. Eldridge*, 424 U.S. 319, 334–35, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976) (describing the three factors a court must weigh in determining the adequacy of the process by *1057 which a person was deprived of a liberty interest). Based on repeated disruptive incidents that frightened staff, he was given written notice that he was banned from the premises and told the reason why. (Doc. 152–10). He was also afforded an opportunity to be heard. He emailed a member of the Board of Trustees requesting permission to attend a meeting to argue that his rights should be restored, and he submitted a Reconsideration Request Form to Library staff again demanding his letter be accepted into the Library's collection. (Docs. 152–6, –13, –14). The Library considered and denied his requests for reconsideration, and the Library Board supported the decisions. (Doc. 152–6). Finally, the ban furthered the government's significant interest in maintaining the peaceful character of a library. *Brown v. State of Louisiana*, 383 U.S. 131, 142, 86 S.Ct. 719, 15 L.Ed.2d 637 (1966) (noting a library is “a place dedicated to quiet, to knowledge, and to beauty”). The Library was not required to follow the specific procedures Spreadbury believes it should have, and it provided sufficient process to protect Spreadbury's limited liberty interest.

“Prohibiting disruptive behavior is perhaps the clearest and most direct way to achieve maximum Library use.” *Kreimer*, 958 F.2d at 1263 (upholding a

library rule prohibiting disruptive behavior). Unfortunately, Spreadbury has continued to engage in disruptive behavior, resulting in a criminal trespass charge, an order of protection that has been affirmed by the Montana Supreme Court,³ and his *nolo contendere* plea to felony intimidation.

In Armstrong v. D.C. Pub. Library, 154 F. Supp. 2d 67, 77 (D.D.C. 2001) the court held that the Library's restrictions on hygiene of patrons were subject to the "narrowly tailored" standard, not a reasonableness standard, because ejection from a library results in deprivation of first amendment rights:

Although defendants attempt to minimize the distinction made in *Kreimer* between treatment of conduct rules versus hygiene rules, the instant case clearly raises questions concerning the constitutionality of a *hygiene* rule, not a conduct rule. Moreover, defendants concede that plaintiff's need to "clean up," and not his anticipated use of the library, triggered enforcement of the appearance regulation. Thus, under the unique circumstances of this case, plaintiff's intended use of the Library is irrelevant since the appearance regulation, and its enforcement here, prevented him from engaging in *any* conduct or activity within the Library. To be sure, First Amendment protections extend to access to information and ideas, *see Stanley*, 394 U.S. at 564, 89 S.Ct. 1243; *Griswold*, 381 U.S. at 482–483, 85 S.Ct. 1678; *Kreimer*, 958 F.2d at 1256. Accordingly, because plaintiff's access to the Library was restricted based upon his appearance, the appropriate standard to apply in this case is the stricter, "narrowly tailored" standard of review. *Perry Educ. Ass'n*, 460 U.S. at 46, 103 S.Ct. 948.

STORIES FROM OTHER LAW LIBRARIES

Subject: RE: Rationale for suspension & other punishments

We had Rules of Conduct and it was so negative that recently we abandoned it. The two items left are don't disturb others and we foster a safe environment for staff and patrons.

We went way overboard on enforcement. IT set up an incidents database six years ago and staff would enter that Suzy got a warning for food and then Suzy got a warning for sleeping and then at three warnings for these infractions of the Rules of Conduct Suzy would get a letter from Kelly telling her she may lose library privileges. NEVER use the word BANNED. It will bite you in the butt. If you want more info ask me later. Enforcement for these minor things were very punitive. SCPLL keeps score!!! Staff were becoming yard monitors. Jumping up for every little thing and then patrons would push back some harder than others and it was demoralizing to staff. I finally said enough. Let's not sweat the small stuff.

So now if someone is out of line we ask them to leave for the day. We don't document it in a database. No longer keeping score and giving warning letters. Of course if they don't leave we call the non emergency SPD number. Sometimes they arrive quickly but usually more than two hours. One SPD officer on Thursday told staff that if the person refused to leave we would either need to do a citizen's arrest or a no trespass. For the citizen's arrest they would be escorted out and we could at a later time make it a no trespass. The no trespass could result in arrest. The no trespass means they can't come in ever again. Which is harsh, but sometime necessary. Mainly we just want folks to leave for the day.

Subject: RE: Rationale for suspension & other punishments

Ours is a sort of "progressive discipline" for documented violations of the Rules of Conduct that impact other patrons:

1st offense: warning
2nd offense: removal from library for remainder of day
3rd offense: removal for one week
4th offense: removal for two weeks
More: protective order banning them

The exception is any violence or threat of violence which jumps immediately to a higher level. That said, we rarely go beyond removal for a day. Occasionally, we have to call the police to get someone to leave.

Item 8: Other Reports

B. Legislative Committee Report

Council of
California County
Law Librarians



Free Public Access to the
Law Since 1871

John W. Adkins
Director of Libraries
San Diego Law Library
1105 Front Street
San Diego, California 92101

February 17, 2017

The Honorable Holly Mitchell
Chair, Senate Budget
and Fiscal Review Committee
State Capitol, Room 5019
Sacramento, CA 95814

The Honorable Phil Ting
Chair, Assembly Budget Committee
State Capitol, Room 6026
Sacramento, CA 95814

Dear Honorable Chairs Ting and Mitchell:

On behalf of those Californians desperately in need of the legal support and resources County Law Libraries provide, the Council of California County Law Librarians (CCCLL) submits this letter requesting that a 16.5 million dollar appropriation for California County Law Libraries be included in the state's 2017 budget. County Law Libraries play a critical role in providing the public access to California's legal system -- and without a funding allocation for County Law Libraries that access will be further and severely diminished.

Role of County Law Libraries: County Law Libraries are an essential tool in upholding civil and criminal justice. Every day people tell us they feel ignored, frustrated and helpless to assert their rights because of their lack of resources and representation; so we help them. Every day, we assist distressed parents fighting for custody of their children, adult children trying to navigate the conservatorship process to care for their elderly parents, entrepreneurs trying to start new businesses, immigrants struggling with complex application forms, people terrified by threats from unscrupulous bill collectors, those barred from gainful employment because they don't know how to get criminal records cleared, tenants living in deplorable conditions, and so much more.

www.publiclawlibrary.org

In fact, 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 matters as important as evictions, mortgage foreclosures, child custody and support proceedings, and debt collection cases fend for themselves without the benefit of counsel.

For many self-represented litigants in California, County Law Libraries provide the only available access to legal resources. Legal aid, pro bono organizations and court-based self-help centers do wonderful work, but they can only address a very small portion of the need because they have both income and subject matter limitations. (Indeed, many of our referrals come from these organizations.) Even at median and upper middle class income levels, Californians don't have tens of thousands of dollars in disposable income to pay to attorneys.

As the access to justice gap has widened, the need for County Law Library resources and services has increased. An estimated 70-80% of library users are not legal professionals, but rather individuals trying to understand their rights, navigate the complex judicial system, start a new business or transfer property. The assistance they receive at their county law library is more than can be found in a book or legal database; it is personal assistance, legal research classes for non-lawyers, hands-on workshops, free consultations with lawyers and a safe, friendly, helpful place to ask questions and find help. They may enter the library feeling alienated, stressed or even hostile towards their government, but the support they find at their County Law Library helps them feel that they too can obtain justice.

Funding of County Law Libraries: Although the word "County" appears in the name, County Law Libraries are not county agencies and are not funded by county governments. Moreover, they receive **no** general or special fund appropriations from the State. Over 90% of County Law Library funding comes from a small portion of civil filing fees (ranging from \$2 to \$50 per case, depending on the county and type of case).

In 1891, the State of California recognized the need for free public access to legal information, authorized the formation of county law libraries in all 58 counties and provided for their funding via civil filing fees. Up until 2005, the Legislature provided for local control over library revenue by periodically authorizing County boards of

supervisors to increase filing fees to enable law libraries to fulfill their defined mission. From 1994 to 2005, 75% of all counties used this authority to raise the local law library portion of the civil filing fee to maintain an adequate level of funding and public access to legal resources.

However, the Uniform Civil Fee and Standard Fees Schedule Act of 2005 (UCF) established a schedule for trial courts across the state and provided a sunset to the authority of counties to adjust filing fees. Since 2008, the funding of County Law Libraries through civil filing fees has been entirely within state control. Over that same time, County Law Libraries have advocated for additional funding from the state. Despite four separate increases to the overall filing fees totaling approximately 26%, no part of those increases has been given to law libraries-- and no supplemental funding has been provided. In addition, increases in the jurisdictional limit in small claims court have resulted in decreases in funding for County Law Libraries. Each of these jurisdictional changes took funding from County Law Libraries because the portion of the filing fee attributable to law libraries in small claims cases is only \$2, just a small fraction of the revenue the libraries receive for a limited or unlimited civil matter. Due to these and other factors, County Law Library funding has plummeted.

In the past 7 years, a decrease in the number of case filings combined with an increase in the number of fee waivers granted, changes to jurisdictional limits and new exemptions adopted into law, have caused law library revenue to drop precipitously. County law libraries have lost more than 37% of their revenue, while simultaneously experiencing more than a 60% increase in the cost of legal materials. Specifically, civil filing fee revenue for County Law Libraries statewide dropped \$16.5 from \$43.6 million in 2008/9 to \$27.1 million in 2014/15.

In other words, \$16.5 million dollars would not backfill the past seven years of lost funds, but would restore funding to the 2009 level for just a single year.

Efforts to Date

County law libraries have been diligent in attempting to address our fiscal plight. County Law Libraries have collaborated with other public libraries, courts and legal aid and pro bono service organizations to maximize efficiency and coordinate programming and referrals. We have generated additional revenue by creating fee-based programming for attorneys and non-attorneys, renting conference rooms and other facilities and

developing new services. However, these new revenues cannot begin to offset the 40% loss in revenue and more than 60% increase in costs County Law Libraries have experienced; and they are a drop in the bucket compared to the overwhelming need for free access to legal resources and information for hundreds of thousands of Californians.

As a result, County Law Libraries have also been forced to lay off and furlough staff, reduce hours, eliminate services and cut back on the purchase or license of legal reference materials available to the public. Many would have had to close their doors had they not cut back on these services and resources. Others are still at risk of closing notwithstanding these cuts. Sadly, as a result of these dire financial circumstances, the public suffers, because we have been unable to fully address the need for service in new and growing areas of the state, adequately address the needs of multilingual patrons or wholly provide for the needs of working individuals to have convenient access outside of working hours.

Solutions for County Law Libraries:

The reduced revenue and increased use has created a severe crisis for these critical, access-to-justice institutions. This vital community resource is in dire need of consistent and ongoing funding.

A one-time funding allocation of \$16.5 million dollars is a necessary first step in keeping County Law Libraries open and fully functional. Without this immediate funding the State is at risk of losing law library services and its residents are at risk of losing critical access to legal information and services. With this financial bridge, we will be able to continue to provide services while a longer term solution is forged.

Moreover, adequate funding for County Law Libraries would generate benefits well beyond the individual patrons assisted. The courts are inundated with self-represented litigants who, without support and education, often delay proceedings, waste the court's time and frustrate court officers. With access to resources, these same individuals can file proper pleadings, come prepared for the court hearing process and be heard the first time (instead of the third, fourth or fifth). Similarly, the stress, strain and time dealing with custody disputes, evictions and family care issues—or even more minor civil legal matters—creates significant health impacts, anger, distrust and alienation. The societal costs of not addressing the need for access to legal information are enormous. These costs decrease significantly when patrons receive legal assistance.

Access to justice is a statewide issue: it is imperative that the State demonstrate a true commitment to access to justice by providing an adequate, uniform, statewide solution to the plight of County Law Libraries throughout the state. CCCLL asks for a one-time allocation in the 2017 budget and the convening of a task force of interested parties and stakeholders to identify and secure a reliable, stable funding source for County Law Libraries going forward.

Sincerely,



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

encl: Civil Filing Fee Revenue Chart

cc: Senator Nancy Skinner, Chair, Senate Budget Subcommittee 5
Senator Joel Anderson, Senate Budget Subcommittee 5
Senator Jim Beall, Senate Budget Subcommittee 5

Shirley N. Weber, Chair, Assembly Budget Subcommittee 5
Reginald Jones-Sawyer, Sr., Assembly Budget Subcommittee 5

Michael Cohen, Director of the California Department of Finance
The Honorable Kevin De Leon, Senate President pro Tempore
The Honorable Anthony Rendon, Speaker of the Assembly
The Honorable Jean Fuller, Senate Minority Leader
The Honorable Chad Mayes, Assembly Minority Leader
Daniel Seeman, Deputy Legislative Secretary, Office of the Governor