

**ADOPTED****AMERICAN BAR ASSOCIATION****STANDING COMMITTEE ON THE LAW LIBRARY OF CONGRESS  
SECTION OF INTERNATIONAL LAW  
SECTION OF DISPUTE RESOLUTION  
SECTION OF INTELLECTUAL PROPERTY LAW  
SECTION OF ENVIRONMENT, ENERGY, AND RESOURCES  
LAW PRACTICE DIVISION  
LAW STUDENT DIVISION  
SENIOR LAWYERS DIVISION  
INFRASTRUCTURE AND REGULATED INDUSTRIES SECTION****REPORT TO THE HOUSE OF DELEGATES****RESOLUTION**

- 1 RESOLVED, That the American Bar Association urges the Congress to approve appropriations
- 2 to the Library of Congress necessary to enable the Law Library of Congress to adequately staff,
- 3 maintain, modernize, and enhance its services, collections, facilities, digital projects, and
- 4 outreach efforts.



## REPORT

Established by the U.S. Congress in 1832, the primary mission of the Law Library of Congress (“LLC”) is to provide Congress with timely, innovative and excellent in-depth analytical research and reports for foreign, comparative, international and U.S. law. To accomplish that objective, the LLC has assembled a staff of experienced foreign and American-trained lawyers and law librarians to interpret complex and dynamic legal issues for all three branches of federal government: Members of Congress, the federal judiciary, and executive branch agencies. Staff rely on the Law Library’s collection, the world’s largest legal repository, with approximately three million volumes. About 60% of the collection is foreign, and often, those materials are unique and unavailable in their originating countries. In addition, staff continue developing the collection for 300 legal systems and jurisdictions, U.S. states and territories in the following formats: manuscripts, journals, film, artwork, electronic books and documents, and microfilm. Fairly recently, the Law Library developed the Indigenous Law Portal (<https://www.loc.gov/law/help/indigenous-law-guide/index.php>), bringing together materials from the Law Library of Congress, and links to tribal websites and primary source materials. Indigenous law materials can be difficult to locate, as they may not be available electronically, or they may only be passed on through oral tradition. The portal includes tribal laws and ordinances, codes and constitutions, along with digitized copies of historic Native American constitutions from the Law Library’s collection.

The magnitude and maintenance of such a unique collection brings great challenges to the development and daily administration of the collection while maintaining it for the benefit of our nation and the world. Relied on by Congress, the Supreme Court, and the nation’s lawyers, the LLC persistently faces challenges to reaching its full potential. Sustained enthusiastic support from the American Bar Association (“ABA”) and its Standing Committee on the Law Library of Congress, cognizant of current conditions, remains critical. As the need for this information and expertise grows, and new technologies emerge, the challenge of maintaining appropriate staffing and caring for collections increases. Collections care includes that facilities are maintained and that collections are preserved, stored at optimum humidity and temperature, and readily accessible.

Spurred by congressional testimony of Supreme Court Justice Harlan Stone in 1933 regarding the importance of providing sufficient funding to the LLC to expand its collection and address gaps in materials “for the purpose of conducting legal investigation and research,” the ABA established a Special Committee on Facilities of the Law Library of Congress in 1932. In its report to the ABA House of Delegates in 1933, the Committee discussed the status of the facilities and collection, the existing needs of the LLC, congressional appropriations, and the role of the Association and its members in “the building up of a legal research center for lawyers and for researchers.”<sup>1</sup> The report noted the Committee’s ongoing collaboration with the Librarian of Congress and the Law

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<sup>1</sup> Remarks of James Oliver Murdock, Chair, Special Committee on the Facilities of the Law Library of Congress, before the ABA House of Delegates, 1933.

Librarian, the importance of acquiring foreign legal materials, and a recent appropriation increase for the acquisition of books. The Law Library's John T. Vance thanked the members of the ABA House of Delegates for their support, underscoring the importance of the Association's advocacy by stating:

“When Senator Reed of Pennsylvania, upon the floor of the Senate last February moved an amendment to the legislation increasing the appropriation of the law library, he called particular attention to the fact that it had been supported and endorsed by the American Bar Association and I have not the slightest doubt but that that was very effectual in its passage. I can say without hesitation that the continued support of the American Bar Association is absolutely indispensable to the proper development of the Law Library of Congress.”<sup>2</sup>

In recognition of the importance of the LLC to Congress, the nation's lawyers, and the legal profession, in 1993 the ABA Special Committee became the Standing Committee on the Law Library of Congress. Through the Committee, the ABA actively serves as the voice of the legal profession concerning the Law Library of Congress. Working with Members of Congress and their staffs, the Committee has obtained higher levels of funding for the LLC over the past 85 years. Collaborating closely with the LLC and other nationally recognized professional societies, the Committee also has increased Law Library visibility and supported digitization of legal materials and other efforts that improve access to legal literature and resources. These efforts have included bringing LLC tours, presentations and information to ABA Day participants and to ABA entities and leadership; organizing in-person workshops and webinars presented by LLC specialists for ABA members; participating in outreach about the highly expert staff and the unparalleled collections – their richness and breadth, diversity, and import for the rule of law worldwide – that, in one example, reached not only an intended audience of ABA law student members but also multitudes of lawyers when other outlets aired the talk (<https://legaltalknetwork.com/podcasts/aba-law-student-podcast/2017/02/library-congress-free-legal-research-resource/>); co-organizing major undertakings (such as Magna Carta) that bring attention to the collections; and more. The Committee continues to work on enhancing the LLC as a national resource serving not only Congress but also the legal profession, universities and law schools, and the public.

The early challenges facing the Law Library continue today, along with new challenges posed by rapidly evolving technology, staff shortages and retirements, and aging equipment and facilities. Demand continues to outpace what its funding levels support, including furnishing access to U.S., foreign and comparative law materials unavailable elsewhere. This situation affects the work of the U.S. Congress, the U.S. Supreme Court, executive agencies, lawyers, law students, universities and law schools.

As a pillar of support to the rule of law worldwide, when Haiti sustained a massive earthquake it was the LLC, along with partners worldwide, that located and provided to the Haitian people primary source materials and access to their laws. When Afghanistan

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<sup>2</sup> Remarks of John T. Vance, Law Librarian of Congress, before the ABA House of Delegates, 1933.

was liberated from Taliban rule in 2001, the LLC located and provided the Afghani people a preserved copy of their legal codes. Other collections within the larger Library of Congress provide materials of importance to global stability and security, such as the general library collection in which the only known U.S. copy of the autobiography of Osama Bin Laden was found. Despite this, and further recognized as the premier source of international and foreign law in a single collection, due to inadequate funding the LLC lags in its ability to provide ready, full, and safe access to its wide-ranging collections.

Through its Board of Governors and House of Delegates, the ABA has on several occasions adopted formal resolutions intended to advance the case for the LLC in the face of budget cuts and budget constraints.<sup>3</sup> With budget cuts and Continuing Resolutions (“CR’s”) that have not kept pace with the needs of the LLC, the LLC faces dire issues, including staffing sufficiency, safety, and preservation concerns. Congress has failed to provide adequate funding for such essentials as these – among other requirements:

- Maintenance of key LLC resources, including overseas offices (critical to the LLC’s ongoing efforts to obtain legal materials from jurisdictions with acquisitions challenges); specialized foreign law staff, consisting principally of foreign-born and foreign-trained lawyers employed by the LLC; specially-trained staff of U.S. lawyers and librarians; and other LLC staff that provide critical support such as foreign language law material cataloguers in the Acquisitions and Bibliographic Access Directorate of the Library of Congress. Increasing globalization makes availability of foreign, international, and comparative law materials and expertise necessary at unprecedented levels;
- Full reclassification of material under the “Law” shelving arrangement to the modern “K” classification: 311,805 volumes remain to be reclassified. Law titles that remain in the obsolete LAW classification scheme require specialized language expertise to retrieve. Reclassification enables faster retrieval of materials, improved patron service, and better collection discovery through availability on shared online catalogs. Classifying titles from LAW to the K class has uncovered materials not previously cataloged, added titles to the online system that were omitted in previous transfers of information, and increased the number of inventoried volumes with scannable barcodes for easy identification. All has improved the discoverability of the collection for staff and patrons;
- Construction of enough environmentally sensitive off-site storage facility modules at Ft. Meade, Maryland to store the voluminous materials for which space no longer is available in Washington, DC;
- Meeting escalating costs of both acquisition of new materials and preservation of existing collections;
- Acquisition of an automated commercial off-the-shelf Content Management System to track inquiries, work products, workflows, and other processes, as well

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<sup>3</sup> Including House of Delegates adoption of various resolutions supporting the Law Library of Congress in 1932, 1933, February 1990, February 1992, February and August 1993, and February 2011; the Board of Governors adopted a policy resolution, Exhibit 2.11, in November 1991.

as to manage document archival and retrieval throughout the Law Library to better serve Congress and other Law Library users;

- Mounting of large-scale exhibitions of materials and related programs that engage citizens across the globe and of all ages in discussions about critical issues highlighting the rule of law in resolution of cultural conflicts;
- Digital initiatives that will provide greater transparency and access to digital materials, benefiting the globe in the law-making process, among other benefits;
- Staff training; and
- Safe staff access to materials that presently reside on outdated, insufficient basement compact-shelving units.

The FY2017 Consolidated Appropriations Act was signed into law recently after a seven-month Continuing Resolution (CR). With the exception of funding for replacement of compact shelving in Quad C in the LLC's basement, the enacted budget was flat compared with FY2016. In addition to failing to provide funding for the LLC to improve services and most facilities, the flat budget requires the LLC to absorb increased payroll costs, compelling them to hold vacant critically-needed positions. While the LLC was able to receive unspent funds from other Library of Congress divisions, this has not made up for the lack of adequate congressional funding. Upon submission of this report, the LLC is operating once again under a CR, through December 8, 2017, absorbing yet more unfunded "mandatories." The consequences of inadequate funding are many, as evidenced by the bulleted list above.

Even were FY2018 and FY2019 congressional appropriations to meet every single stated need of the Library of Congress and its LLC – an unrealistic notion – that would be far from a guarantee of adequate funding in succeeding years. This is particularly so given that the Library and LLC require funds simply to catch up with ongoing essentials, much less to maintain and enhance services, systems, and facilities. Clear-cut ABA support for adequate congressional funding for a 21<sup>st</sup> century LLC well into the future is a necessity. Today's proposed statement of support both updates the House of Delegates on LLC and will enable the ABA to continue to advocate on this matter before Congress for years to come based on an informed understanding of the LLC's essential needs.

The LLC's diverse stakeholders – Congress, the U.S. Supreme Court, the legal profession, law libraries throughout the country and around the world, the business community, and the general public – deserve a fully functioning institution that meets the needs of our increasingly complex and competitive world. Whether through digital access or in-person scrutiny of print materials, the hundreds of thousands of stakeholders must be able to rely on the LLC for prompt access to authentic, accurate sources of law and reliable analysis.

In many societies and regions of the world, the rule of law is under threat or altogether absent. This state of affairs harms both our nation and international stability. The Law Library of Congress possesses a rich store of expertise and personalized guidance, helping to implement U.S. efforts in support of the rule of law through access to primary materials (in many languages) and other important authenticated documents. Further, the

LLC services and collections are available not only in person but also online, through Law.gov, Congress.gov, Ask-a-Librarian, and the *Global Legal Monitor*, among its many platforms. Online access can occur at any time of day or night, 365 days a year.

Aligned with the ABA's priority to maximize access to justice and the availability of legal assistance to all who may need it, a key – and immeasurable – benefit of the LLC is that anyone, regardless of economic circumstances or geographic location, has access. From in-house counsel to non-profit organizations, solo practitioners to law school libraries, clients in major metropolitan areas to remote U.S. towns, or villages abroad, the Law Library of Congress offers its bounty. But its ability to keep up with the demand for its services and to preserve and facilitate timely access to its materials is stretched thin. For a nation of laws, the Law Library of Congress is an American treasure in the fullest sense. Congress must adequately fund the Library of Congress in order to effectively support the needs of our nation's law library, and the ABA very strongly urges the Congress do so. It is to be noted, however, that the purpose of this resolution is to urge adequate funding of the Law Library; the resolution is not intended to provide support for reducing funding of other divisions of the Library of Congress.

Respectfully submitted,

Sheila Slocum Hollis  
Chair, Standing Committee on the  
Law Library of Congress  
February, 2018

GENERAL INFORMATION FORM

Submitting Entity: Standing Committee on the Law Library of Congress

Submitted By: Sheila Slocum Hollis, Chair

1. Summary of Resolution(s). The resolution calls on the ABA to urge Congress to approve appropriations necessary to enable the Library of Congress to adequately staff, maintain, modernize, and enhance the Law Library of Congress's services, collections, facilities, digital projects, and outreach efforts.
2. Approval by Submitting Entity. This resolution was approved by the Standing Committee during the weeks of November 6 and 13, 2017. Cosponsors: approved by the Section of International Law on November 17, 2017; by the Section of Dispute Resolution on December 1, 2017; by the Section of Intellectual Property Law on December 5, 2017; by the Section of Environment, Energy, and Resources on December 8, 2017, by the Law Student Division on December 9, 2017; by the Law Practice Division on December 11, 2017, and by the Senior Lawyers Division on December 12, 2017.
3. Has this or a similar resolution been submitted to the House or Board previously? In November 1991, the ABA Board of Governors approved a resolution urging continued congressional funding for the Law Library of Congress. In February 1993, the House of Delegates approved a resolution supporting reasonable cost-recovery by the Library of Congress and Law Library of Congress for their provision of specialized services. In February 2011, the House approved a resolution supporting efforts by the Library and Law Library to develop, maintain, and enhance their services, facilities, operations, staff; materials acquisition, preservation and care; and use of the best available technologies to make their collections accessible.
4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption? Please see response to #3. The current position builds on and updates prior policy positions.
5. If this is a late report, what urgency exists which requires action at this meeting of the House? NA
6. Status of Legislation. The FY2017 Consolidated Appropriations Act was signed into law recently after a seven-month Continuing Resolution (CR). With the exception of funding for replacement of compact shelving in Quad C in the LLC's basement, the enacted budget was flat compared with FY2016. In addition to failing to provide funding to improve services and most facilities, the flat budget requires the LLC to absorb increased payroll costs, compelling them to hold vacant critically-needed positions. For FY2018, the Library of Congress, parent institution of the Law Library of Congress, continues to operate under a CR through December 8, 2017, that may be extended to the end of 2017. The CR includes a rescission of 0.6791%, representing an annualized decrease of 6.3% from the amount requested to maintain the Law

Library's current operating level. The decrease will be 6.7% if the CR rescission is applied to the entire FY18. This funding level requires the Law Library to absorb mandatory payroll increases and price level increases in FY18 outlays by holding several critical positions vacant and decreasing funds for contracted services, among other needs. This in turn jeopardizes any increase in access to legal materials, both online and in person, placing at risk the LLC's status as a world leading foreign and comparative law research institution. H.R. 3354 decreases FY2018 appropriations below FY2017 levels; The Senate Appropriations Committee has yet to take action on all 12 of the required annual funding bills. The Library of Congress is now developing an FY2019 budget submission, due to Congress in late January.

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates. Adoption of this resolution will enable the ABA to reference policy – sponsored and/or or supported by several concerned ABA entities operating in diverse substantive legal realms – in its advocacy efforts on behalf of the Law Library of Congress that is attuned to current-day and future significant needs.
8. Cost to the Association. (Both direct and indirect costs) Member and GAO staff time
9. Disclosure of Interest. (If applicable) None
10. Referrals. This policy resolution has been referred to the following entities, including those represented through association with the Standing Committee on the Law Library of Congress:

Section of Administrative Law & Regulatory Practice  
 Section of Antitrust Law  
 Business Law Section  
 Section of Civil Rights and Social Justice  
 Section of Dispute Resolution  
 Section of Environment, Energy and Resources  
 Section of Family Law  
 Government and Public Sector Lawyers Division  
 Health Law Section  
 Infrastructure and Regulated Industries Section  
 Section of Intellectual Property Law  
 Section of International Law  
 Judicial Division  
 Section of Labor & Employment Law  
 Law Practice Division  
 Law Student Division  
 Section of Legal Education and Admissions to the Bar  
 Legal Services Division  
 Section of Litigation  
 Section of Public Contract Law  
 Section of Real Property, Trust & Estate Law  
 ROLI

Section of Science & Technology Law  
 Section of State & Local Government  
 Senior Lawyers Division  
 Solo, Small Firm and General Practice Division  
 Section of Taxation  
 Tort Trial and Insurance Practice Section  
 Young Lawyers Division  
 Center on Children and the Law  
 Communications and Media Relations  
 Cyber Security Legal Task Force  
 Commission on Disability Law  
 Committee on Disaster Response and Preparedness  
 Commission on Domestic and Sexual Violence  
 Standing Committee on Election Law  
 Governmental Affairs Office  
 Commission on Hispanic Rights  
 Commission on Homelessness & Poverty  
 Center for Human Rights  
 Center for Innovation  
 Commission on Law & Aging  
 Standing Committee on Law & National Security  
 Center for Pro Bono  
 Center for Professional Responsibility  
 Public Education Division  
 Center for Racial and Ethnic Diversity  
 Commission on Sexual Orientation and Gender Identity  
 Standing Committee on Technology & Information Services  
 Commission on Women

11. Contact Name and Address Information. (Prior to the meeting. Please include name, address, telephone number and e-mail address): Sheila Slocum Hollis, Duane Morris LLP, 505 9<sup>th</sup> Street, NW, Suite 1000, Washington, DC 20004, tel. 202-776-7810; [SSHollis@duanemorris.com](mailto:SSHollis@duanemorris.com).
12. Contact Name and Address Information. (Who will present the Resolution with Report to the House? Please include best contact information to use when on-site at the meeting. *Be aware that this information will be available to anyone who views the House of Delegates agenda online.*): Sheila Slocum Hollis, Duane Morris LLP, 505 9<sup>th</sup> Street, NW, Suite 1000, Washington, DC 20004, tel. 202-776-7810; [SSHollis@duanemorris.com](mailto:SSHollis@duanemorris.com).

## EXECUTIVE SUMMARY

### 1. Summary of the Resolution

This resolution urges Congress to approve continued levels of appropriations to the Library of Congress necessary to enable the Law Library of Congress to adequately staff, manage, modernize, and enhance its services, collections, facilities, digital projects, and outreach efforts.

### 2. Summary of the Issue that the Resolution Addresses

The resolution addresses the consistent need for adequate congressional funding for the nation's Law Library through appropriations to its parent institution, the Library of Congress. As the representative of the nation's legal profession, the American Bar Association must stand in support of the Law Library of Congress to ensure continued collection, preservation, and access to the vast and often unique legal resources available through the Law Library to legislators, practitioners, scholars, and law students throughout the country and across the globe.

### 3. Please Explain How the Proposed Policy Position Will Address the Issue

The proposed policy resolution addresses the issues by identifying current and new future needs of the LLC and stating clearly an ABA position informed by a cross-section of Association expertise.

### 4. Summary of Minority Views or Opposition Internal and/or External to the ABA Which Have Been Identified

None known.