

**Statement of J. Kent Dunlap
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Subcommittee on Legislative Branch
Appropriations
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Madam Chairwoman, Mr. Ranking Member and Members of the Subcommittee, thank you for providing us with this opportunity to testify and present you with our concerns. The Library of Congress Professional Guild, AFSCME Local 2910 represents over 1500 professional employees at the Library of Congress. These employees are dedicated to providing the best possible service to Congress and the American people and we wish to use this occasion to present you with their concerns.

The Library of Congress is in the midst of a great transition, the outcome of which is far from clear. The Library is the oldest federal cultural institution in the United States, having begun in 1800, and has served many communities and clients during its existence. Probably the most important client is the Congress, providing specialized library services, and authoring complex studies in support of activities. The Library serves the broader library community through its cataloging program, interlibrary loan, participation by staff members at professional meetings, through operation of the gift and exchange program, and many other activities. The Library serves the copyright community by maintaining a public record, advising Congress on copyright related matters, and assisting on programs bolstering a high level of international protection for American works. The Library serves blind and physically handicapped citizens through its "talking books" program. Finally, the Library serves the American public by providing access to special one-of-a-kind resources, and maintaining one of the most used web sites in the country.

With the advent of the Internet, the delivery of intellectual content to users was altered forever. How this momentous change will affect libraries generally, and the Library of Congress specifically, remains to be determined. Moreover, processing in the Copyright Office was recently converted from a paper-based system to an electronic based system. Unfortunately, the current electronic system has many inefficiencies which the Copyright Office is struggling to overcome. Adapting programs of the agency to address the changing expectations of our constituencies represents one of the greatest challenges the Library of Congress has faced in its two hundred year history.

For Fiscal Year 2009, the Library is requesting a total budget of \$645.8 million, an increase of \$32.3 million, or 5.3 percent above our fiscal 2008 funding level. The Guild supports this budget request since most of the requested funding serves absolutely vital Library programs. This Subcommittee can play a major role in determining the directions of many changes initiated at

the Library of Congress. With that in mind, this statement attempts to provide the Subcommittee with information which we hope will be useful in guiding appropriate changes.

Crisis in the Copyright Office

The Copyright Office is requesting a total budget of \$51,592,000, of which \$33,315,000 will be offset by fees generated from delivering services and 18,277,000 will be appropriated dollars. Of the request for 18,277,000 in appropriated dollars \$9,975,000 represents a request for restoration of base funding which was decreased from the Copyright Office budget in Fiscal 2008. The Guild supports this request but adds the sad caveat that enactment of the Copyright Office's full request will not enable the staff to complete all the work coming into the Office in a timely manner. This reality is due to the inefficiencies and deficiencies of the electronic processing system being implemented in the Copyright Office and the consequent difficulty in taking that system public.

Last year in our written testimony before this Subcommittee, the Guild made the following statement:

The coming year will be a challenge for the Office as it moves from a paper based processing system to an electronic based system. Two important jobs in the Office, examiners and catalogers, are being combined into one position: a copyright registration specialist. A new, untried technology must be implemented on a wide scale to permit the processing of copyright claims electronically. For applications received in paper form, the cost of processing is likely to soar because those paper applications have to be converted into an electronic records. Clear efficiencies will be achieved where submissions are made through the Internet. In the long run, the Guild believes the efficiencies that management has promised will be achieved. In the next year, however, difficulties such as dealing with paper submissions, implementing a new and complex technology, and retraining much of staff, will likely make it impossible to achieve any sudden increase in efficiency for the Copyright Office. (Appropriation of the Library of Congress for Fiscal Year 2008, before the House Subcomm. on Legislative Branch Appropriations, 110th Cong. May 1, 2007, written comments of AFSCME 2910, p. 2)

During the last year the Copyright Office achieved many accomplishments. At the beginning of the year, most of the staff was located in Crystal City while work space in the Madison Building was reconfigured to accommodate the new technology. Between June through September the staff returned to Capitol Hill in stages, and the transition went relatively smoothly. Given the complexity of the changes which were implemented, this accomplishment is worthy of considerable praise.

Unfortunately, the picture regarding implementation of the new electronic processing system is not commendable at all. The implementation date of the new system was August 5, 2007. Leading up to implementation the Copyright Office conducted a pilot project by processing copyright claims in motion pictures both electronically and by traditional paper. Management

appeared satisfied that the pilot proved that the electronic system could be used to process claims. The Guild regretted that there was no empirical analysis comparing the relative efficiencies of the two systems, i.e., electronic processing versus paper processing. It was clear that electronic processing was less efficient, but no data was generated to document the degree of greater inefficiency. Judging from discussions with examiners working within the system, we believed the electronic system was possibly five times less efficient than the paper system it was created to replace. The obvious struggles of electronic processing in the pilot project led to the Guild's prediction that the coming year was going to be difficult.

The general public cannot yet submit applications online thus most of the 11,000 copyright claims received each week by the Copyright Office are submitted on paper. To submit an application online, the public may request to serve as a "beta tester" in order to assist in the development of the electronic system, and virtually all who request to serve as a beta tester are accepted. Beta testing began in July 2007, and the fee for submission online is lower - \$35 rather than \$45. In this test mode, electronic claims comprise a small percentage of received claims.

The Office has dismantled some of the means for processing paper applications in converting to a new electronic business process, although Copyright claims covering group registrations are still processed in paper. However, Copyright claims in textual works, performing arts, and the visual arts are converted into electronic records by "taggers" who key in the data thus creating so-called "ingested claims," a process that was not anticipated in the design of the new system. Ingested claims represent the bulk of the work received in the Copyright Office, about 8,000 copyright claims weekly.

To fully contemplate the difficulties with the Copyright Office's new electronic system of processing, it is useful to look at the Office's paper processing system. This needs to be the starting point because the rationale for the electronic system is that it is more efficient. Clearly the paper based system of processing is imperfect and outdated, but overall reasonably efficient. The efficiency shortcomings are basically two. First, paper must be handled in a station to station processing system, and this handling is labor intensive. Second, the examination function for registrability of the copyright claim, and the cataloging of the claim to produce the index are separate professional functions performed by different staff.

Even given its shortcomings, the paper based system had a number of advantages the electronic system lacks. First the information needed by the staff member to examine the work is right there in the application and deposit copy. The electronic system, on the other hand, requires barcode scanning and multi-step navigation, scrolling, and clicking to ascertain even basic information about the claim. Second, the certificate of registration is created from an image of the application as completed by the applicant. Any errors are the responsibility of the applicant. In the electronic system the certificate of registration is painstakingly created by key entering all of the application data which occurs at several stages in the registration process and requires a huge amount of data entry that can introduce errors added by the Office.

The cost of processing in paper is amazingly low for a professional service. Examination is quick, in many cases 90 seconds or less. Approximately 80% of the applications can be passed without correspondence. Cataloging registered copyright claims takes a few minutes of time. The current

fee is \$45, but the actual cost is about \$60-70. These costs, however, do not apply evenly to the claims. For the copyright claims which can be registered without correspondence, the cost is likely about \$35. For copyright claims which require simple correspondence, costs likely raise to over \$100. For copyright claims which require complex correspondence, meaning original drafts discussing several issues, costs likely raise to several hundred dollars. Since it is administratively too difficult to charge fees on the basis of actual work done by the Office, a flat fee covers all claims, regardless of the work involved. It appears to the Guild that substantially more staff time is spent on the 20% of the copyright claims requiring correspondence than the 80% of claim requiring no correspondence.

The electronic processing system which has been put in place makes even the most mundane task difficult. Two major flaws render the system highly inefficient. First, there is no effective division of labor with simpler tasks assigned to lower graded employees, and higher functions to higher graded employees. Due to the complexity of the electronic systems, most tasks are heaped upon the registration specialist. Second, the electronic system is unreliable and slow, and contains numerous IT problems.

Most of the processing involves paper claims which have been laboriously ingested and converted into electronic records. Errors introduced while typing the hand-written paper applications into the system are frequent and must be corrected by higher graded registration specialists. The software used to capture typed information from the application often misreads characters. A perfectly typed application by the applicant is often entered into the electronic system incorrectly. All ingested claims require about 15 minutes of transcription editing alone, and specialists now devote an excessive amount of time on such minutia as punctuation, capitalization, and spelling.

A new bar coding and tracking system slows specialists down. Additionally, tasks involving fee issues have been heaped upon the registration specialists, whereas previously fee problems were resolved by lower graded staff at an earlier stage of processing. The systemic delays in Office processing create stale date checks and the specialist must contact the applicant and re-collect. Since the system software is not designed to automatically update accounting records, accounting must be done by hand which results in late posting of fees- whether cleared, stale, returned or unpaid. The specialist must reconcile these confusing financial postings and frequently write the public for clarification. Processing cannot proceed until all fee issues are resolved. Many of the specialists lament the increased "clericalization" of the jobs, which is something a well designed electronic system should reduce, rather than increase.

Furthermore, numerous IT problems and design flaws bedevil the system, leaving the specialist to rig "work-arounds." All work is done in a program that fills two monitor screens and requires arduous navigation through more than a dozen applets and tabs. All application information is displayed in a difficult to read and unchangeable font. Other design flaws include the absence of features as basic as global search and replace; sixty applications with the same problem must be individually opened and corrected sixty times because the software cannot make corrections apply to more than one title at a time. Formerly, with "inefficient" paper applications, a single note to file typed once and a check of the correspondence box on each application speeded many same-problem works through the Office. Glacial screen refresh rates mean that even the fastest

specialists are limited in their ability to speed work through the Office no matter how skilled they become in using the software. No amount of training can compensate for these flaws.

Because erratic behavior and system crashes are now a predictable part of the registration specialists' daily life, all specialists must be advanced computer troubleshooters to simply do their work. As the backlog has grown, the number of works in the Office and in the computer system have increasingly clogged the Office both physically and electronically. The repetitive motions needed to navigate the poorly designed system result in physical hardship on eyes, wrists, hands, shoulders and backs. Difficulties have arisen regarding claims submitted online due to confusing and restrictive user interfaces, software incompatibility, and deposit upload problems. Many remitters contact the specialists for one-on-one help to navigate the confusing online system. Public interactions by the staff have greatly increased due to online system and certificate status questions that overload the Public Information Office.

Of the copyright claims converted into electronic records, the Copyright Office is currently processing about 30% to 35% of the claims and placing into a backlog about 65% to 70% of the remaining claims. Since the beginning of the current fiscal year, October 1, 2007, the Copyright Office has issued 49,787 copyright registrations based on electronic processing, and placed 271,834 into a backlog as of March 30th. The Copyright Office appears on course to register through electronic processing in the current fiscal year slightly over 100,000 copyright claims, while leaving a backlog of exceeding 400,000 claims.

As horrible as these numbers appear to be, the Guild believes they are actually even worse for two reasons. First, managers are encouraging registration specialists to clear as many claims as possible, and this is accomplished by leaving the more difficult claims in the pool, and processing only the easier material. Since the roughly 30% clearance represent the easier claims, much of the remaining 70% in the backlog are more difficult and time-consuming to complete. Therefore, in measuring by staff time necessary to complete the work, the Office may be completing only 20% to 25% of the work coming into the Office.

The second reason concerns the uncertain nature of the "completed registrations" because some will be returned for corrections of the errors introduced into the public record by the Office. These errors are introduced in the conversion of the record from paper to electronic. Most applications are hand written due to the obsolescence of typewriters. In order to create the electronic record these applications are retyped by the Office, and the accuracy is checked by the specialist. Even a mistake of a single letter in the certificate of registration requires the case to be reopened in the electronic processing system in order to correct the mistake. The percentage of defective records is currently unclear, but some of the issued certificates have already come back for correction. The Guild believes this number will become much larger when the public learns to read their certificates very carefully due to the likelihood of mistakes.

The Guild has discussed the current crisis with the Register of Copyrights and other top officials. The discussions have been cordial and candid, and the Guild commends management for openness regarding the data documenting the agency's performance. The Guild strongly supports continued development of the eCO system as it relates to submission over the Internet and looks forward to the day when a Web-based system is fully functional. We have not arrived

at that day nor is that day yet in view. What can be done to improve public service during the interim? We must find alternatives.

The Copyright Office move into an electronic process has been premature. At this point, it makes more sense to process paper claims in the more efficient paper process until the electronic system is fully operational. The Guild strongly opposes continuation of converting paper applications into electronic records because of the unjustifiable delays it causes the public in receiving the service for which they have paid. If the Copyright Office does not move back to processing paper applications in paper, many applicants will not hear from the Office regarding their pending application for registration for over a year. The Guild and the bargaining unit we represent believes customers of the Copyright Office deserve far better service than that.

The Register submitted written testimony to this Subcommittee on March 5, 2008. In that testimony, she made the following statement:

Processing paper claims in eCO is cumbersome and time consuming. The result is a current backlog of 48,000 claims, representing \$2.2 million in fees that need to be entered into the system and 231,000 claims to process. We are taking steps to reduce the backlog; the real solution is a fully trained staff. Opening eService and offering the 2-D barcode application are also critical steps to improving claim processing. (Appropriation of the Library of Congress for Fiscal Year 2009, before the House Subcomm. on Legislative Branch Appropriations, 110th Cong. March 5, 2008, written comments of Marybeth Peters, Register of Copyrights, p. 4)

The Guild agrees with most of her statement except her conclusion that the solution "is a fully trained staff." Processing is slow not because the staff doesn't know what to do. It is slow for all the reasons detailed above and for other reasons not identified in this statement. The performance of the agency since the Register's testimony does not support her conclusion. The most recent trend line of the Copyright Office's performance reads as follows:

Date (Week of)	Backlog (claims in electronic form)	Electronic claims completed during week	Total Electronic Registrations since
Oct. 1st			
Mar 3-8	249,434	3,821	40,544
Mar 10-16	254,443	3,372	43,916
Mar 17-23	262,919	3,500	47,416
Mar 24-30	271,834	2,371	49,787
M 31-Apr 6	275,418	5,026	54,813
Apr 7-13	284,542	2,903	57,716

If this is a trend line predicting ultimate success, the Guild fails to see it. Fixing all the problems in the current electronic processing system will take years. In the meantime, 10,500-11,000 paper applications come into the Copyright Office every week, and the only way all of the applicants will receive some agency action in a few months will be a return to paper processing of paper applications. Undertaking huge costs to ingest paper applications into an electronic system far more inefficient than processing in paper makes no sense. The futility of the current course of the Copyright Office was apparent to the Guild months ago.

It is clear that insufficient revenues are provided the Copyright Office for providing the public record underpinning administration of rights under the copyright law. Fees will have to rise in order to close much of this gap. The \$45 registration fee does not cover processing in paper, largely due to the 20% correspondence rate. Certainly some of the cost of the registration process stems from the carelessness of customers in completing simple forms. A raise in registration fees to the \$60-70 level would go a long way towards covering processing in paper, but it would not begin to pay for processing in electronic form. The true cost of processing in electronic form cannot currently be determined because the Office is systematically bypassing processing many of the most difficult claims. Certainly it will calculate in the hundreds of dollars. Why should the public pay for the cost of electronic processing when cheaper paper processing is available? If the Office raises the fee to the level of paper processing, but continues with the current system of electronic processing, the work simply will not be completed in a timely manner.

Another serious problem in the Copyright Office is the undergrading of professional staff and the failure to promote. In the federal classification system, most professional staff members are in the GS-1210 series, copyright specialist. This job series applies only in the Copyright Office. Since upper management of the Copyright Office claims to be the ultimate expert as to the content of the jobs, management has virtually absolute power in dictating pay level. The professional grades in the Copyright Office are essentially GS-11 and GS-12, while in the Library, generally, it is GS-12 and GS-13. The differences in pay is largely the decision of upper management in the Copyright Office to pay its professional staff less. This differential not only affects the staff, but also public service because many of the most talented younger staff leave the agency long before they became career employees. Under current pay levels, leaving professional service in the Copyright Office could become a wise career move.

Undergrading is particularly acute in the Documents Recordation Team in which recordation specialists are paid at the GS-9 level. The origins of this recordation team occurred in 1984 in a reorganization. Previous to the reorganization, the recordability of a document was determined by a GS-11 examiner, and preparing the index of the recorded document was completed by a GS-11 cataloger. The recordation unit was created by merging the two functions and the unit was placed in the Cataloging Division. The position of recordation specialist was graded at a GS-9, while the rest of the Cataloging Division remained at GS-11. GS-11 catalogers outside of Recordation Unit read a registration certificate and a deposit copy in order to create an index of the registered claim. GS-9 recordation specialists read a legal document, often complex involving multiple parties and multiple transfers, to determine recordability, and if recordable, prepared the index record by reading the document. All of the GS-9 recordation specialists are female, and most are African-American. Some have law degrees.

The Public Information Office is another area where undergrading appears widespread. While reference questions coming into the Library of Congress are responded to by specialists typically graded at GS-12 and GS-13, copyright reference questions are largely handled by a staff graded at GS-11. This is true despite the fact that understanding the workings of the complex electronic systems of processing is crucial to performing in the position.

While the reorganization added a GS-12 pay scale to the position of registration specialist, as of the date of this testimony, only one specialist has been promoted to that level since the reorganization. Slowness in processing in the electronic system is due exclusively to defects in the system, rather than the lack of staff proficiency. In implementing the current reorganization, many managers received pay increases. The Guild is unaware of any manager expressing a willingness to return his or her pay increase because processing in the new system is slower than anticipated. Equity requires the promotion of staff members who demonstrate the ability to perform at the GS-12 level.

In closing, the Guild would like to say that the Copyright Office has many fine managers, particularly at the processing level. The Copyright Office needs less centralized authority, and greater power should be shifted to those expected to do the work. By shifting power down the chain of command, the Guild believes efficiencies can be achieved in a reasonably short period of time. Central to such a course would be leaving paper in paper for processing purposes. And certainly during this transitional re-engineering period, staff should not be held responsible for the backlog.

Uncompromising Extremism in the Labor Relations Program

Last May, when the Guild testified before the Subcommittee about the controversy concerning the reporting of official time for representational activities, we requested that you review the activities of the Office of Workforce Management (OWM). We made this request because that office was engaging in behavior that did not serve the best interests of the Library of Congress and, in fact, brought the institution into disrepute. A basic principle expressed in the Federal Service Labor-Management Relations Statute is that labor organizations in the civil service are in the public interest. Unfortunately, the OWM tossed aside this principle and spent appropriated funds trying to silence the voice of its professional union – the Library of Congress Professional Guild, AFSCME 2910. And they tried to do it using tools which unions have traditionally utilized - the grievance procedure and collective bargaining.

In a grievance filed against the Guild (October 2006) Charles Carron, Director of Workforce Management (www.carronlaw.com) argued that Guild officers and stewards were not providing sufficient detail in their time reports submitted for representational activity. His remedy for this alleged deficiency was to place the Guild president, chief steward and area stewards on leave-without-pay or enforced annual leave until they did so. This harsh remedy shocked us because a month before the grievance was filed Mr. Carron sent an email to the Guild president

stating, "I would like to clarify that I am not accusing the Guild, or any of its representatives of having abused official time."

The grievance was heard before Arbitrator James Harkless and on July 16, 2007, he ruled in favor of the Guild. Mr. Harkless found that Guild officers and stewards did not violate either the Collective Bargaining Agreement or the Labor-Management Relations Statute when they reported their representational time to management.

Employees volunteer for union office and they are elected to their positions by their colleagues. Threatening these employees with loss of pay is a serious matter, so you can imagine the sense of relief in the Guild Office when the news broke that we won the grievance arbitration case.

But our troubles were not over. At the same time that he filed the grievance against us, Mr. Carron reopened Article 6 of our Agreement arguing, again, for greater specificity including the creation of records identifying the staff members who talked with us including the subject matter of the discussion.

In one bargaining session, we pointed out that no other federal agency required labor organizations to divulge such confidential discussions. Mr. Carron's reply was that he intended to create new law.

Since the Guild would never consent to create the records Mr. Carron sought, a bargaining impasse was reached between the parties and the matter was referred to the Federal Service Impasses Panel (FSIP). On November 30, 2007, Panel Member Barbara Bruin attempted to mediate between the parties but was unsuccessful. Mr. Carron did not compromise in his insistence on records identifying employees who sought assistance from the Guild.

The FSIP has broad statutory authority to resolve negotiation impasses in the Federal sector and both parties were instructed to submit their "last best offers." Mr. Carron revised his proposal to make it even more draconian by requiring the Guild to report confidential discussions with employees to the Inspector General's office.

Karl Schornagel has been the Library's Inspector General since 2001. In a letter to Mr. Carron dated December 18, 2007, he disavowed the position which was being argued before the Panel. This letter stated in part:

"We do not advocate collection of detailed information concerning representational activities. We believe that in order to compile meaningful statistics, union officials should record , at minimum (a) the type of encounter, using broad categories on which the Library and unions can mutually agree, and (b) responding to privacy concerns raised by the unions, no information concerning the identity of the person raising an issue need be recorded. . . . [emphasis added]"

On January 15, 2008 the Panel issued its final and binding decision in Case No. 07 FSIP 111 adopting the Guild's position. See http://www.flra.gov/fsip/finalact/07fs_111.pdf . In its

decision, the Panel noted "we are not persuaded that . . . the Employer has established a record that would warrant the adoption of its approach to official time reporting."

And so the battle over representational time was over, but what an incredible waste of federal resources. Looking back, the battle was clearly unnecessary as well as costly and damaging to all involved.

We will be forever gratified for the support we received from our members, from other labor organizations, the library community, friends in Congress, journalists and members of the public concerned about protecting privacy rights and union rights. And, yes, there were many supervisors and managers at the Library of Congress who wished us well.

We are cheered by the fact that this sad chapter in the Library's history has ended. And we hope for a new direction in the Library's labor relations program that leads to reconciliation.

Proposed Changes in the Office of Workforce Diversity

In early March the Librarian's Office suddenly announced its plans to restructure the Office of Workforce Diversity (OWD). This office consists of the Dispute Resolution Center, the Equal Employment Opportunity Complaints Office and the Affirmative Action & Special Programs Office which includes the Interpreting Services Program. The employees who work in these offices are not represented by our union, but the programs and services they provide directly affect our bargaining unit so we are thankful for this opportunity to comment on the proposed restructuring or realignment.

The Dispute Resolution Center , (DRC) is a small office which was created as a result of the Administrative Dispute Resolution Act of 1990. The DRC was one of the first Alternative Dispute Resolution offices in the federal government and has served as a model program for numerous agencies over the last fourteen years. Originally, the DRC consisted of four conveners, one GS-15, and three GS-14s. Some years ago, the GS-15 retired and was not replaced. Recently, one of the conveners retired so the staffing levels in the office have been reduced by half. (The statistics which the Inspector General relied upon in his September 2007 report which was critical of the DRC are already obsolete.)

We wish to point out to members of the Subcommittee that the greatest resource at the Library of Congress is the people who work here. The 4,000 staff members who comprise our community include managers, supervisors, professionals, clerical and technical staff. The hard work, loyalty, and dedication of staff to the institution and to the Congress is well-known. But what is not known – nor talked about – is that woven through the complex relationships in many workplaces at the Library is the reality of stress. Miscommunication or misunderstandings added to the mix can spur disputes and conflict.

When employees come to the Guild office to voice their concerns, Guild stewards and officers try to be good listeners and advisors. Upon hearing such a wide variety of concerns and complaints we address them by seeking resolutions that will be beneficial to the employees and to the Library.

Many of these situations are of such a nature that utilizing the traditional grievance procedure to litigate the "rights and wrongs" before a Library official or a hearing officer could be counter productive. Besides being costly and inefficient for all involved, the parties end up characterized as "winners" and "losers." For these and other reasons, our union has steered disputants to mediation in the DRC for a better resolution of their problems.

It has been our experience that even seemingly minor disputes, such as the wording of a counseling memorandum or the narrative of a performance evaluation, are very important to the parties involved and mediation often reveals the deeper underlying issues that need attention to foster good working relationships. Even in serious violations of the collective bargaining agreement or a Library of Congress regulation, we often prefer to resolve the grievance informally and at the lowest step possible through mediation.

Resolutions which are achieved through skilled mediation have an added value when good working relationships are reestablished. This outcome, beneficial to both parties, is not the norm in the grievance process.

To resolve disputes, conveners must possess considerable diplomatic skills. They must also respect the confidentiality of the information they receive, and be acutely aware of the functioning of the agency in order to advise on realistic courses of resolution. Conveners must be sufficiently graded to relate effectively to high graded managers. In a briefing we attended on the proposed restructuring of the OWD, we were pleased to learn that the Librarian's Office does not plan to replace the neutral mediators of the DRC with managers appointed in their stead. Managers rotated through the DRC would never be trusted by the staff as being unbiased and respectful of confidentiality and the mediation process would become useless. Aggrieved staff would then have few alternatives to litigation.

It is our experience that the work of the Dispute Resolution Center is generally effective. Not all disputes are successfully resolved. That, however, is the reality of mediation. A dispute is resolved when disputants find common ground. Sometimes, that doesn't happen, but more often than not, it does. At a minimum, the issues separating the parties become better defined. Moreover Guild stewards, who do the lion's share of representational activity in the DRC, praise the mediation skills of the conveners whom they regard as being fair and even-handed.

The Affirmative Action and Special Programs Office was heavily criticized in the IG's report. The Library employs an exceptionally diverse staff, yet upward mobility within the agency has not been easy for under-represented groups. This office administers the programs to enhance upward mobility opportunities and provides forums to learn about and discuss diversity issues.

In order to succeed in the mission of this office, it is necessary to achieve a buy-in from the Library's operating divisions since these divisions have the jobs to provide the upward mobility. To date, few Library offices have offered positions for internship and detail programs and some offices resist the loss of staff selected for leadership development. Most of the short-comings of the affirmative employment program are attributable to this lack of buy-in from the operating divisions not to any alleged ineffectiveness of the staff in that Office.

The emphasis on downsizing this Office hardly communicates support for the mission of promoting upward mobility, nor is it likely to result in greater buy-in from the operating divisions.

The Interpreting Services Program for the deaf and hard of hearing is administered by the Affirmative Action and Special Programs Office. There has been instability in the interpreting service program since 2004 when the OWD abolished the position of staff interpreter and hired contractors to provide service but only on a part-time basis. Thereafter, contracting problems plagued the interpreting service and there was no program manager to schedule and coordinate service. Denial of service, no shows for scheduled service, and service that arrived too late were frequent experiences at the Library. Deaf staff in our bargaining unit have been very patient but they are weary of this continuing struggle for interpreting service. They advocate for a permanent staff interpreter because experience has shown that a staff interpreter who understands the organization and its employees is much more effective than a constantly changing roster of contractors who have trouble locating the rooms for their assignments. In the turmoil that will accompany a restructuring of the OWD, we ask that you give attention to the needs of deaf and hard of hearing staff, and their hearing colleagues who need and want to communicate with them. A fact sheet attached at the end of our testimony contains additional information about the deaf and hard of hearing staff.

The Equal Employment Opportunity Complaints Office

Enforcement of equal employment opportunity laws (EEO) at the Library of Congress is peculiar relative to other federal agencies. In the executive branch agencies, the Equal Employment Opportunity Commission is responsible for enforcing EEO law. This policy makes sense because it would be foolish to expect federal agencies to enforce EEO laws against themselves. At the Library of Congress, the Librarian's Office is responsible for enforcing EEO laws. (42 USC §2000e-16)

Because the Librarian is both the employer/respondent and the administrative official charged with making the final decision on an EEO complaint against the Library, his roles are in conflict. For the same reason, the Library's EEO process is neither impartial nor fair because the Librarian rarely, if ever, rules for the complainant. This process compares unfavorably to processes which apply to our colleagues in other Legislative Branch agencies. Employees who are covered by the Congressional Accountability Act have the right to counseling, mediation, and adjudicatory procedures administered by the independent Office of Compliance, and may appeal to the Board of Directors of the Office of Compliance, a tribunal independent of their employing agencies.

As regarding the Equal Employment Opportunity Complaints Office, the IG's report generally supported the performance of the staff, and found staffing levels and workload levels comparable to the benchmark agencies. Nevertheless, it appears the Librarian's Office has targeted this Office for major changes in the reorganization. The Guild believes the EEO process in the Library of Congress needs to be reformed through greater independent oversight, similar to other

federal government agencies. Reform of this nature would require changes to the statutory provisions for EEO in the Library of Congress.

We wish to commend the Library for the revision of its merit selection and employment procedures following the resolution of the Cook Class Action Case in 2001. But since the record of the Librarian of Congress on individual EEO complaints is to deny discrimination in virtually all instances, we would view any plan for reform of the EEO process coming from the Librarian's Office with skepticism.

The Future of Cataloging

In Guild testimony one year ago, we discussed the concerns of Library employees about the directions that Library management was choosing for the Library's future. These concerns have not been eased over the last year, but heightened. We do not fear anything so drastic as an outright closure, the fate of several Environmental Protection Agency libraries. What we do fear is the harm done to the Library's mission of service to the nation caused by the cumulative impact of seemingly small decisions. Through action and inaction, the effects of unheralded decisions are being felt and the consequences will grow as time passes.

The issues we would like to address in the area of cataloging include proposed changes in the manner of performing subject analysis at the Library of Congress and the impact of staffing decisions on the cataloging services provided by the Library of Congress.

On January 9, 2008, a report was issued by the Working Group on the Future of Bibliographical Control, a group of 16 library and information industry professionals organized by Associate Librarian Deanna Marcum in November, 2006.

(<http://www.loc.gov/bibliographic-future/news/lcwg-ontherecord-jan08-final.pdf>) During 2007, the Working Group held three meetings in different locations around the country, gathered viewpoints via email on the future of bibliographic control, and wrote a 44 page report with ten general recommendations and 38 specific recommendations for the Library of Congress and other members of the library community.

Recommendation 4.3.2 advocates the transformation of Library of Congress Subject Headings (LCSH) through the "decoupling" of subject strings. The Working Group views LCSH as overly complex and difficult to use for both catalogers and library users. This proposal is an evisceration of the manner in which subject cataloging and classification has been developed and maintained at the Library of Congress for over a century.

While management may claim that it has no intention of destroying the LC Subject Heading system, this radical revision, despite retaining the name of LC subject cataloging, fundamentally alters the end product of LC subject analysis, its characteristics, and the functions it is able to perform. Instead of providing libraries in every congressional district and throughout the world with a continuation of the system of subject access that makes the book literature of the world findable in a systematic manner, the new system would make book retrieval haphazard, superficial, partial, and largely confined to English language books.

Catalogers assign subject headings according to a set of rules which result in "pre-coordinated subject strings" that describe the concepts discussed in a resource. Catalogers often have academic training, but their expertise is developed by cataloging all the literature received by the Library in their subject. In turn, that cataloger will help to develop the controlled vocabulary of LCSH as an ongoing collaborative process.

The Working Group's "decoupling" proposal suggests a simplification of subject analysis which would limit each subject field to a single term, essentially ending the ability of a single subject string (which combines subject terms and "subject subdivisions" that provide topical, geographical, chronological, and genre data) to describe the concepts contained in a resource. For example, "Afghanistan – History – Soviet occupation, 1979-1989 – Chronology."

This proposed simplification disables subject headings from suggesting possible avenues of discovery to researchers and revealing a greater context of knowledge which is exhibited when the subject strings are displayed together in a single list. This new understanding of Library of Congress cataloging would dismantle the professionally-created networks of relationships and interconnections among the various standardized subject headings. These networks of cross-referencing and relational displays are integral to the functioning of the subject retrieval system.

In layman's terms, a standardized subject string composed of standardized subject terms can be broken down as needed by software such as web browsers with faceting capability. However, only humans can assemble standardized terms into sophisticated and complex concepts.

Concepts, as expressed in "subject strings," provide a level of analysis that cannot be provided by single words located by keyword searching. The subject displays created by LC employees using LCSH are much more efficient than Web-search mechanisms, such as those provided by Google or Amazon or LibraryThing, both in presenting easily intelligible and systematic overviews of available literature, and in preventing the burial of high quality sources within mountains of irrelevancies that have the right words in the wrong conceptual contexts.

There are many complex technical requirements in enabling American scholars to gain a quick overview of very large and involved bodies of literature in all subject areas, and in the more than 450 languages that the Library of Congress collects. The complexity of the work done by our professionals, however, results in a system that allows simple recognition of a wide variety of available search options within any subject, recognition that does not require prior subject expertise on the part of the researchers using the system. In other words, because of the professional work done by catalogers, researchers can simply recognize what they cannot specify in advance.

These cataloging activities, the underpinning of scholarly research at the deepest and most comprehensive levels, cannot be replaced by the Web 2.0 mechanisms that the Working Group – and LC management itself – is recommending as their replacement.

The Library's Cataloging Policy and Support Office (CPSO) completed a report in March, 2007, entitled "Library of Congress Subject Headings, Pre- vs. Post-Coordination and Related Issues." (http://www.loc.gov/catdir/cpso/pre_vs_post.pdf) Endorsed in June, 2007, by senior cataloging division managers, the document supports current LCSH practice and provides suggestions for lowering the cost of the process. The report states that "... pre-coordinated strings provide context, which is needed for 'disambiguation, suggestibility, and precision' and browsability. Pre-coordinated strings have a sophisticated syntax that can express concepts better than single words, yet also can be faceted by systems to group topics into categories for post-coordinated displays when desirable." Unfortunately this document was not publicly released by the Library until February, 2008, after the Working Group had conducted its deliberations, formulated its recommendations, and released its report.

Internationally, LCSH is well known and widely used. The British Library, after a hiatus of eight years, reinstated its use of LCSH in January, 1995. (<http://www.loc.gov/today/pr/1995/95-022.html>) Library of Congress employees travel around the world to train library staffs to use LCSH. (<http://www.loc.gov/catdir/lccn/lccn1012.html>) Surveys conducted between 1997 and 2000 by the International Federation of Library Associations and Organizations (IFLA) showed that LCSH is extensively used in national libraries worldwide. Many non-English speaking nations reported using a translation or adaptation of LCSH as their principal subject heading language (Heiner-Freiling, Magda. "Survey on Subject Heading Languages Used in National Libraries and Bibliographies," in *Cataloging & Classification Quarterly*, vol. 29, no. ½, 2000).

We believe that the dissolution of the current Library of Congress Subject Heading system would be a great loss to the nation and to the Library's ability to organize and provide access to its collections. For further information on this topic, please see the Guild website www.guild2910.org.

Appropriate staffing is another issue which raises our concern about the Library's ability to provide service to our nation's and the world's libraries and their users. Over the last several years large numbers of staff have retired and their positions remain unfilled. These staff losses have been felt acutely in the technical services area where the absence of language and subject expertise to provide human analysis of the Library's vast resources, both analog and digital, has left the Library ill-equipped to deal with the large volume of materials it receives.

This places the Library in the position of being unable to provide to the nation's libraries the high quality cataloging records which have been its hallmark. This is work that can only be performed by highly skilled, extensively trained and experienced, conscientious human beings.

The proposed reorganization of LC's acquisitions and cataloging operations includes plans to rewrite the position descriptions of professional catalogers in such a way as to minimize, or even eliminate, their need for subject expertise. Additionally, acquisition responsibilities, which require expert knowledge of a different set of skills and abilities, will be combined with cataloging duties in the new position descriptions, further diluting the attention paid to cataloging activities. More, rather than less, subject and language expertise is required to maintain cataloging process at the Library of Congress.

Certainly all of the cataloging that needs to be done across the United States cannot be accomplished in one place, but, there are efficiencies to be gained by having a significant part of the work and the process for establishing guidelines for performing this work centralized at the Library of Congress – the nation’s library. This has been the situation for most of the past century, but this system can easily be lost and not easily reconstructed.

Is Library management exercising proper stewardship over the unique institution they guide? Will the legacy of the current Library management be a legacy of abandonment that discards useful and necessary activities that have been developed over decades? Shouldn’t the Library be working to integrate the unique contributions of the human information analysis performed by its staff with the potential of new technology? What should the Congress be doing to exercise its proper oversight responsibility as caretaker for the Library of Congress?

Closing remarks

We close our testimony with a plea to the Librarian’s Office to urge the new food service contractor, I. L. Creations, to settle its contract dispute with Local 25 of the Hotel and Restaurant Employees Union. This small group of dedicated employees has served the staff and public in Library cafeterias, some for over thirty years. The new food service contractor has attempted to quash their local union and, on more than one occasion, has called the police in an attempt to remove the union’s service representative from the premises (the LC police refused.) This is shameful.

At the Library of Congress, the collective bargaining rights of every person - whether they work as reference librarians or in food service - must be upheld.

"Where, after all, do universal human rights begin? In small places, close to home -- the factory, farm, or office. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world."

-- Eleanor Roosevelt, 1953

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Deaf and Hard of Hearing Employees at the Library of Congress

Fact Sheet

May 2008

The Library of Congress is a highly technical and academic workplace with a mission to make its resources available and useful to Congress and the American People and to sustain and preserve a universal collection of knowledge and creativity for future generations. Currently, eighteen deaf and hard of hearing staff members work throughout the Library providing service to the public and to Congress, creating collections of valuable materials, and sustaining programs provided by the Library. Many of these staff members are in senior positions with over 25 years of service. They are part of the Library's extraordinary linguistic and cultural diversity.

Where they work, what they do:

- Congressional Research Service as Legislative Information Specialists
- Financial Reports Office as an Accountant
- Law Library as Legal Information Technicians and Clerk Assistants
- Bibliographic Access Division as Catalogers, Senior Acquisition Assistant, Acquisition Assistant, Verification Cataloger, Copy Technician, and Serial Technician
- Collections Access, Loan, and Management Division as Stack Attendants
- Geography and Map Division as Senior Cataloging Specialist and Senior Cartographic Materials Cataloger
- Prints and Photographs Division as Digital Conversion Specialist and Library Technician
- Information Technology Services as Programmer/Systems Designer

Cumulatively, the deaf/hard of hearing staff have several hundred years of experience which they are passing on to a new generation of librarians through an internship program for deaf high school students. Between five and ten deaf/hard of hearing students from the Model Secondary School for the Deaf participate in the Library of Congress' Model Secondary School for the Deaf Internship Program (MIP) every Wednesday from October to April. The interns work in different divisions performing a variety of jobs in exchange for the work experience, training, and mentoring from senior deaf staff at the Library of Congress.

Deaf Staff Participate and Associate

Communication is one of the values of the Library of Congress and the Interpreting Services Program is a vital tool of communication for all staff. Deaf and hard of hearing employees and interns, and their hearing colleagues, rely on the Interpreting Services Program to fully communicate with each other and for full participation in staff meetings, team or project

meetings, one-on-one meetings, training/classes, organization meetings/events, committee meetings, council meetings, LC public events and programs, LC staff services, medical emergencies, staff social events, and other occasions. As with any organization, communication is key to collaboration and success.

Due to staffing and funding problems and reorganizations at the Library, the Interpreting Services Program has declined over the past seven years thus hampering the work of deaf/hard of hearing staff and their colleagues. The Library needs a permanent full-time employee to provide interpreting service and it needs supplemental services by contact interpreters. Rebuilding the Interpreting Services Program will ensure that the Library is in compliance with the Americans with Disabilities Act and contractual agreements with its unions. A good Interpreting Services Program will restore the Library's reputation as a quality workplace for deaf/hard of hearing employees.

