

Privacy, Censorship, & Government Legislation

Lindsay Robbins

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Introduction

Privacy is a central concern for libraries, and the American Library Association upholds its importance as a key part of citizen's rights to "the exercise of free speech, free thought, and free association" (ALA Council, 2019). In an interpretation of the Library Bill of Rights, the ALA Council asserts that "[l]ack of privacy and confidentiality chills users' choices, thereby suppressing access to ideas" and that [t]he possibility of surveillance, whether direct or through access to records of speech, research and exploration, undermines a democratic society" (2019).

Censorship directly affects user access of information and is a frequent obstacle that libraries must face. This censorship can come from outside entities, legislation or even from within the library itself. Book banning is a frequently discussed topic, but other issues risk the privacy and rights of users as well, such as The Patriot Act and other legislation that requires libraries to divulge user information. Some of these challenges are especially difficult for public libraries. They often serve a much wider range of demographics than a university, children's or special library, and with this comes unique challenges for how to serve such a large and diverse community most appropriately. This is especially true in regard to The Fort Worth Public Library Central branch location, as it serves a total population of at least 918,915—an extremely large number of people for this centralized urban location (Texas State Library and Archives Commission, 2021).

Privacy

Privacy is of utmost importance in libraries, as the implementation of surveillance, or even the perception of being under surveillance can be enough to discourage users from exercising their rights to information in order to self-govern—a right they are entitled to in a democracy. It can change the way users interact with information resources, which in turn affects information use data and the ways that libraries expand their collection; if no one is interacting with a certain material, the library may be given the impression demand for that subject isn't high. Magi argues for the importance of user privacy, outlining fourteen major reasons that support user privacy as a necessity for their ability to self-govern and have autonomy (Magi, 2011). The American Library Association iterates the importance of privacy in several of their core documents as well.

Government Investigations

Having set policies and procedures in place can greatly help libraries in dealing with government inquiries. The American Library Association provides a wide range of free resources in how to adequately prepare for and respond to such events. In the case of a government investigation, the ALA suggests taking a number of steps including identifying who will be responsible for law enforcement inquiries as well as collecting and making this individual's contact information available in the case they are needed (ALA, 2021). Additionally, staff should ensure that the library has and communicates their state and local confidentiality policies as well as how all staff and volunteers should handle an inquiry (ALA, 2021). Lastly, as a general policy, the library should be prepared to address any information access deficits in the case that a court order requires removal of materials such as computers in order to ensure user access does not suffer (ALA, 2021).

Following the September 11th, 2001 terrorist attack, The Patriot Act was instated in an attempt to allow government agencies greater access to information on the public, including their access of online information (DiMaggio & Antonucci, 2016). The American Library Association's official stance on The Patriot Act is that some clauses "endanger constitutional rights and privacy rights of library users", though libraries must still comply with law enforcement when requested (ALA, 2020). Specifically, sections 215 and 205 are most relevant to libraries, as they deal with patron privacy (DiMaggio & Antonucci, 2016). Unlike previous legislation, The Patriot Act does not require that the FBI or CIA be specific about their intentions when conducting a search, and those being investigated do not need to be informed (Thur, 2009). The action of the library when asked to divulge user information can be affected by whether or not there is a subpoena or search warrant involved as well as the general context. A warrant such as a search warrant is a form of authority granted to an agency such as a law enforcement agency that gives them permission to take action to investigate or acquire information during an investigation. A subpoena is often ordered to an outside party, such as a library, in order to acquire information such as internet search history or other user information in an investigation. Both subpoenas and search warrants are very serious and must be addressed by the party they are directed to immediately.

In a real incident occurring in 2004, the Whatcom County Library of Washington state was involved with what would later become a somewhat high-profile ordeal involving patron privacy in the height of alarm post implementation of The Patriot Act (Airoldi, 2006). It began with a call to the FBI from a concerned patron regarding a handwritten note they had found in a copy of a book titled *Bin Laden: The Man Who Declared War on America*, by Yossef Bodansky (Airoldi, 2006). A member of the FBI inquired at the library regarding the information of the

person who had borrowed the book previously, to which the library responded that they would not release the information without a subpoena or court order (Airoldi, 2006). This was following their policy at the time which required that the issue be escalated to management, who then sought legal counsel before responding (Airoldi, 2006). A subpoena was issued, however it was later withdrawn, as leadership met and provided reasoning for why the information could not/should not be provided, as they argued that it would infringe on patron privacy (Airoldi, 2006). After this event, the library revised their policies in order to include protocol for instances such as this more specifically as well as passing a resolution toward amending The Patriot Act (Airoldi, 2006). In this case I believe the library handled it well overall and revising their policies to better prepare for cases such as this in the future was wise. Cases like this provide examples of how important it is to have policies in place should an event like this occur.

Censorship

A. Censorship and Self-censorship

There are two major forms of censorship that can affect an information center—actual censorship and self-censorship. As Hill describes, most cases of true censorship usually occur due to a book's perceived "offensive language, sexual content, or unsuitability by age" (2010). As Hill points out, as of 2010, there had been a total of 10,415 censorship cases recorded—a majority of which had occurred within the contexts of schools (Hill, 2010). As of September 2022, the American Library Association "documented 681 attempts to ban or restrict library resources", with a total of "1,651 unique titles" under scrutiny—all in 2022 alone

(ALA, 2022). This number is expected to surpass the total number of challenges that were presented in 2021 (ALA, 2022). The ALA is able to provide a quantifiable number of actual censorship numbers because of the challenges to materials that are submitted, however the nature of self-censorship makes it difficult, if not impossible, to count as they are not officially documented (Hill, 2010). Self-censorship can take many forms, but it is often a result of a librarian's fear or expectation that including a certain book in their collection could cause controversy, so in many cases it is not necessarily intentionally harmful, but still should not be ignored as it is still a form of censorship.

B. Examples of Censorship

Censorship can include anything that affects a user's access to an information resource (Oltmann et. al, 2021). In actual censorship, often complaints or requests to pull material from shelves are submitted by any concerned parties including individuals such as parents or by organizations representing a specific set of values. Self-censorship is much harder to pinpoint than true censorship. As Garry points out, self-reported studies can be skewed, as indicated by studies where "the majority of librarians professed to fight censorship" while simultaneously "often avoid[ing] controversial materials" (Garry, 2015).

Aside from simply not selecting or including an item in a collection, other forms of self-censorship may include "book labeling, parental control requirements, and restricted rooms and shelves" (Hill, 2010). It is also important to keep in mind that some more controversial materials such as those with LGBTQ themes may be less likely to be checked out for fear of self-identification, therefore potentially

contributing to a low circulation rate which may be used to justify “circulation-driven deselection” (Brendler et. al, 2017). Oltmann et. al identify three major categories of censorship—relocation of a material to another part of the physical library, restricting a book’s access based on requirements like a parental permission slip or total removal from the library—which would be more along the lines of actual censorship rather than self-censorship (2021). It is also certainly possible for the personal beliefs and values of an individual librarian to self-censor, especially if materials are strongly grounded in political or religious subject-matter that they do not agree with.

Another example of censorship that occurs is in internet filtering, which has often been found to be over-reaching beyond necessity, or at times completely ineffective (Oltmann et. al, 2021). Oltmann et. al identify some of the larger issues with filtering, such as the fact that much of it is handled by privately run companies that are not at liberty to share their algorithms or procedures with library staff or administration, therefore making it difficult for them to affect any change on their filtering, let alone understand it (2021). The authors discussed findings in which “public schools and libraries were blocking categories such as ‘alcohol,’ ‘alternative lifestyles’ and ‘society,’” which they argue are not necessarily harmful to minors and may even provide information that helps them in affirming their sexuality or deal with temptation to drink (Oltmann et. al, 2021).

C. How to Handle Censorship

Libraries should always stay involved in discussions on censored materials and be as involved as possible in affecting legislation that impacts their collections and services. The ALA and other professional organizations are good places to stay up to date, and many community-driven efforts such as banned book weeks can help raise awareness in the community as well. These efforts are important, especially for public libraries, as staff need to be advocates for their profession and having the support of the community that they serve is invaluable. As with any issues that libraries face, having clear policies can ensure consistent and appropriate responses. When dealing with issues of censorship, many libraries utilize a “Request for Reconsideration” form—a document that may take the shape of a written survey or online submission that typically allows the challenging party to share specific reasoning as to why they are requesting a restriction on materials. The title of the form may vary; Preer found that “[a]mong Wisconsin public libraries, forms are variously called ‘Statement of Concern about Library Resources’, ‘Materials Selection Inquiry’, and ‘Request for Review of Library Materials’ but rarely ‘Challenge Form’”. (2014). The author also points out that libraries should pay special attention to what the form conveys, as it could benefit more from being worded in a more positive way (Preer, 2014). Regardless, this document can be a powerful tool for providing context into complaints about controversial materials by ensuring that those presenting arguments for a book’s removal have actually read its content and are forced to provide reasoning for their complaints. The Fort Worth Public Library utilizes a “Request for Reconsideration” form that can be completed online. The form requests basic

information such as the submitter's name, address and contact information as well as basic information about the item in question such as the title and author.

(Fort Worth Public Library, n.d.). Submitters must provide answers to the following questions, "Did you examine the material in its entirety?", "What did you find objectionable about this material? Please be specific, cite page(s)/section(s)", "Do you believe this material would be suitable if located elsewhere in the library's collection?", and "Are you familiar with reviews of this material?" (Fort Worth Public Library, n.d.). Additionally, submitters are asked to provide alternative titles that might be more suitable for the collection in lieu of the material they are voicing a complaint over.

Government Legislation

A. Current Pandemic

With the beginning of the COVID-19 pandemic in late 2019 to early 2020, many libraries were required to comply with legislation including stay-at-home orders or other actions that changed the ways they could serve their communities. Some solutions to limited service included offering curbside pickup or expansion of online collection availability as well as implementation of social-distancing protocol. The Fort Worth Public Library Central branch was directly affected by an executive order enacted by Tarrant County Judge B. Glen Whitley on March 24th, 2020, declaring a stay-at-home order due to a "public health emergency"—namely COVID-19 (Tarrant County, 2020). As reported by the Fort Worth Public

Library Foundation in a 2020 issue of the *Texas Library Journal*, the library was able to adapt fairly quickly to this order and implemented several new procedures and programs to help facilitate user access while still adhering to new requirements for social distancing and safety (Gorman, 2020). As with many libraries, the Fort Worth Public Library implemented curbside at all of their branch locations, including Central, by June of 2020 (Gorman, 2020). Services and programming were also altered, however many normal services such as self-checkout was still available at limited capacity (Gorman, 2020). Staff attempted not to duplicate exactly what they had been doing previously in their programming but innovate in order to adapt more closely to online formats; one way this is apparent is through their “Learn. Dream. Do. Show.” children’s program which was uploaded to their YouTube channel on a bi-weekly basis (Fort Worth Public Library, 2022a). In addition to this, the library instated the “Stay at Home Book Club”—a online book club group for adults that still meets today (Fort Worth Public Library, 2022b). Texas Governor Greg Abbott amended the stay-at-home order to be in effect May 1st, 2020, allowing certain businesses to open to the public once again; these included an emphasis on museums and libraries (Ranker, 2020). The Fort Worth Public Library did not choose to re-open any of its physical locations at that time, however, despite this relaxing of the executive order (Ranker, 2020). At this time, the library is open for regular service, though some services such as curbside pickup are still available.

B. Legislation

As seen very clearly with The Patriot Act especially, legislation can be a major

influence or barrier on the day-to-day operations of a library—especially a large public one like the Fort Worth Public Library. Legislation such as The Patriot Act and the USA Freedom Act may influence collection development by libraries by discouraging them from obtaining potentially controversial materials. Issues such as the removal of net neutrality will potentially affect the types and extent of access to information resources for all users, and it can even influence our children’s school curriculum. As Adams and Harris discuss, without the security of net neutrality, school “curriculum decisions may be influenced by ISPs” (Adams & Harris, 2018). They introduce the question—“What if ISP X signs a deal with McGraw-Hill to make it the exclusive digital textbook partner?” (Adams & Harris, 2018). Those who are familiar with current and ongoing issues with school curriculum decisions know that there are already a large number of factors that negatively impact curriculum decisions such as monopolies on textbook publishing—online resources may be one of the only alternatives, but without net neutrality, this isn’t as reliable as it once was.

C. Importance of Awareness

The ALA provides a number of resources to help librarians stay up to date on current issues. Being proactive by getting involved with local government, attending board meetings and joining and participating in professional organizations are all good ways to stay active and aware of what is impacting libraries, as well as being a good way to affect change on their own circumstances and be advocates for the profession. It is crucial for library staff to be aware of

legislation at all levels as it can greatly affect their circumstances and their attempts to serve their community while maintaining their rights.

Conclusion

Prior to reading for this lesson, I was aware that privacy and censorship especially were core concerns for library professionals and that the ALA took special note of these topics. I had always assumed that all of my data was being thoroughly tracked and stored at libraries, especially when dealing with public library computers. I did not realize that there was such an active effort to protect this privacy and just how difficult it can be. Reading about cases dealing with The Patriot Act were honestly very shocking. I did not realize that so much authority could be brought down to obtain information from libraries like in the scenario with the Whatcom County Library in Washington. Personally, I felt that the reaction of the FBI to the note in the margin of the book in that situation was extreme. The actions of the library during the conflict were admirable to me, as I can imagine many other negative consequences for all parties. I was very young and did not really understand the impact of the September 11th attacks until I was much older, but it is clear that not only then but also now we are still struggling with the ramifications of it in surprising ways. As we become more and more polarized, I am concerned that these issues will only become worse. It is difficult, if not impossible, to remain truly neutral and not take part in self-censorship especially in consideration of current political and social climates, but I think the readings and analysis of privacy and censorship have influenced me more in believing that all citizens have a right to all information. There is no perfect procedure, but library professionals must use their best judgement in dealing with situations as they come. Having policies in place to deal with potential issues is certainly helpful, but in some cases I

would argue that we can't completely plan for the future—we just have to do the best we can now.

While there are a lot of concerning things affecting libraries, especially in regard to legislation, it doesn't always promise hardship for libraries, however. While it is still in its infancy, a recent executive order issued by President Joe Biden on September 30th, 2022, will “provide funding and administrative support for the re-establishment of the President’s Committee on the Arts and the Humanities” (Institute of Museum and Library Services, 2022). The order instates a committee of leaders that will provide advice on “policy objectives, philanthropic and private sector engagement, and other efforts to enhance federal support for the arts, the humanities, and museum and library services”, which may improve library resources in the future (Institute of Museum and Library Services, 2022).

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