The Battle for Intellectual Freedom

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Within American society, there is a confrontational spirit among various groups of people. Liberals spar with conservatives, police officers clash with criminal suspects, and politicians quarrel with librarians. The rivalry between politicians and librarians is encompassed within a larger national debate between national security and freedom. In other words, should freedom be traded for greater security? Politicians want to use whatever resources they can to ensure the safety and security of the masses, whereas librarians want to make sure that politicians do not trample on the democratic values of the American people in the process. Librarians strive to provide patrons with access to information and safeguard their privacy; which includes preventing law enforcement from routinely accessing patron information. Protecting intellectual freedom is one of the main tenets of librarianship, but librarians face continued obstruction from government officials in their efforts to carry out their professional responsibility. This obstruction involves passage of legislation that allows monitoring of user activity and legislation that requires filtering of materials available to children.

Maintaining intellectual freedom is an important part of a democratic society. According to librarian Eliza Dresang (2006), "The U.S. Constitution's Bill of Rights protects freedom of expression of ideas. Attempts by the government or an agency of the government to subvert this freedom are regarded as censorship" (p. 170). Censorship is inherent in the Children's Internet Protection Act (CIPA), which requires that librarians place filters and restrict access to offensive or obscene content (p. 180). But what is obscene? That is something that not even Associate Supreme Court Justice Potter Stewart could explain in *Jacobellis v. Ohio*. In his contention that obscene materials were not necessarily protected by free speech, Associate Justice Stewart maintained that while he could not concisely define obscenity, "I know it when I see it"

(*Jacobellis v. Ohio*, 1964). For something to be considered obscene, he insisted that it has to have no redeeming social quality as viewed by the nation as a whole. This largely applied to hardcore and child pornography, which is something that the ALA accepts as harmful to children (Jones, 1999, p. 118). Despite this consensus on what constitutes obscenity, the term is often applied towards materials that are viewed as controversial or disliked by portions of the community in which they are utilized.

Librarian Angela Maycock (2011) stresses that filters traditionally block out controversial subjects, such as gay rights, so that children would not be exposed to such topics (p. 9). She argues that preventing children from learning about contentious topics impedes on their first amendment Constitutional rights, which is something that librarians ardently strive to defend. Questions regarding what constitutes free speech are as old as the amendments themselves and perceptions on what constitutes free speech are likely to change as new events change the political discourse. Nevertheless, utilizing filters within the library, even though librarians are not necessarily setting the filters, as they are often pre-set by program manufacturers, can be deemed as discriminatory by patrons, which could result in legal challenges (p. 9).

Legal challenges are not new in the field of librarianship. Librarians consistently begrudge against laws that they perceive as violations of patron privacy, including attempts by government officials to casually learn about patron activities in the library. In the 1965 Supreme Court case, *Griswold v. Connecticut*, librarian Barbara M. Jones argues that privacy became recognized as a Constitutional guarantee afforded to Americans (Jones, 1999, p. 50). In this case, justices expressed that individuals had a right to utilize contraception, maintaining that it would be governmental overreach for police to monitor individuals within their homes. Privacy rights recognized by this legal decision extended beyond the home with the passage of the

Privacy Act of 1974. This act maintained, "There must be a way for an individual to prevent personal information obtained for one purpose from being used for another purpose without consent" (52). That is why librarians are ethically restricted from disclosing reference questions, checked out books, or other patron activity within the library (p. 147). Defending patron privacy is paramount in defending intellectual freedom and librarians vigorously challenge attempts by government officials who want to use libraries to monitor individuals.

Maycock (2011) explains that the ALA established a Code of Ethics in 1939 in order to help librarians navigate clashes with governmental officials (p. 9). Consequently, when the Federal Bureau of Investigation (FBI) wanted to monitor the library activities of college students who protested against the Vietnam War, librarians united behind the ALA's policies. During these turbulent years of the 1960s, there was also a rise in the number of patrons requesting books dealing with bomb making. Naturally, the federal government became alarmed, but in a move to protect user privacy, librarians refused to release circulation records to governmental officials (Lamdan, 2013, p. 133). Librarians held sit-ins, which were common among protesters during this time period, and rallied against governmental interference with intellectual freedom. Librarians felt that defending intellectual freedom was of greater importance to a democracy than any danger that its users may cause by utilizing its resources. The FBI contended that librarians were not using sound judgment as foreign agents "duped" them into supplying them with information (Jones, 1999, p. 89). Lamdan disagrees with that assessment, contending that "library policies are based upon the philosophical belief that both privacy and the ability to obtain information are basic human rights" (Lamdan, 2013, p. 133).

In a democracy, citizens have a right to monitor governmental activities. To watch over the government, Americans have a powerful tool at their disposal in the form of the Freedom of

Information Act (FOIA). This act enables citizens to request that governmental information be declassified and released to the general public. However, are the privacy rights of the individuals making these requests kept private? In short, the answer to that question is no. In fact, in 2011, California Congressman Darrell Issa "demanded that 180 federal agencies release data naming people who placed FOIA requests, the dates of their requests, and the information sought in those requests" (Lamdan, 2011, p. 131). Monitoring such information could make potential requestors hesitant to place an information request, which undermines the democratic spirit of the United States. Issa contended that he wanted to find out how rapidly federal agencies responded to information requests. If that were true, however, the requestor's information would not be necessary to fulfill his curiosity (p. 131). In the face of the horrific terrorist attacks against the United States on September 11, 2001, governmental monitoring of its citizens escalated with the passage of the USA PATRIOT Act of 2001.

In the face of this act, librarians remain steadfast and defiant of the government, finding ways to protect intellectual freedom. The USA PATRIOT Act passed in haste following the September 11, 2001 terrorist attacks without being read by the majority in Congress (Stone, 2004, p. 553). This law blatantly ignores the fourth Constitutional amendment, which prohibits unreasonable searches and seizures without a warrant and allows law enforcement officials to routinely monitor patron activities and gain access to their records without specific cause or a warrant (Lamdan, 2011, p. 134). But in order to be able to access those records, they have to remain in existence. Motivated in defense of intellectual freedom, librarians routinely clear internet search history and delete patron borrowing records (p. 134). Not all records are quickly destroyed, however. There are times when libraries feel compelled to retain records of books checked out from rare books and archives collections. In these cases, Jones (1999) contends that

it would be better to inspect the materials in front of the patron, ensuring that the book has been returned in an acceptable manner and then delete the record (pp. 90-91).

Librarian Barbara Jones maintains that library staff should not be quickly intimidated by police officers who possess subpoenas for information. Subpoenas should be passed to the library director who will subsequently consult with a lawyer who can attempt to have the subpoena dismissed (p. 153). She maintains that "it is essential that librarians understand applicable federal, state and local ordinances, and the amount of protection they afford to libraries and librarians. Almost every state has a confidentiality of library records statute" (p. 150). These laws are not just applicable to adults; they are also applicable to children. Maycock asserts that minors are afforded the same Constitutional rights as adults (Maycock, 2011, p. 12).

In order to protect intellectual freedom, librarians must combat censorship, ensure user privacy, and familiarize themselves with established laws. Congressional laws, such as the Children's Internet Protection Act and the PATRIOT Act have placed the United States at the crossroads between democracy and dictatorship. Reflecting on the state of governmental interference over librarianship, Lamdan reminds patrons and librarians that "unlike the federal government, the institution of librarianship has a code of ethics to protect requestors. While librarians should not break the law, they should know on how to react to perceived governmental intrusions over patron privacy. Only by fighting to protect intellectual freedom will it continue to exist. With the advent of the internet, previously marginalized groups have gained a voice that enables them to communicate their message. As librarian Eliza Dresang (2006) aptly expresses, "The interactivity, connectivity, and access of the digital environment make possible both greater access and greater restriction—this interaction and access bring power to the user that has never existed before, power of the sort that came with an earlier invention, the printing press" (p. 185).

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