

# Everyday Ethics for Libraries\*

## Part 4: Privacy

*Pat Wagner*

There are four standard library ethical principles that we want to talk about, and the third one I'd like to mention is privacy. Privacy is a very interesting principle. It is alluded to in the Bill of Rights, but it's not really actually mentioned. And for some people it goes back to the concept of English law that "every man is the king of his castle." In effect, the laws that prevent unwarranted seizure of property, the laws that prevent the government from billeting soldiers in private homes, all the laws that protect the rights of the individual in those ways and the activities of the person are what we call the private laws. And there's a lot of controversy about that.

This is one of those standards that really comes out of an understanding of how privacy affects the intellectual freedom of the average person. That people can be judged, not just on what they do, but what they read. Not all western countries have the same standards as the United States regarding privacy and access to information. For example, in Canada, you are not permitted to publish or distribute books that are about what you might call "historical revisionism," having to do with the Holocaust and World War II. Now I happen to be Jewish. I'm not an observant Jew, but I am Jewish. And I did lose family members on both sides of my family who were killed during World War II by the Nazi government. Nonetheless, I'm glad I live in the United States where books and websites by people who think that the Holocaust was a hoax – that those people are able to express their views just like everyone else. And that someone can read a book about those topics.

Now in a practical sense we want privacy so that people can deal with things in their life that are difficult

without feeling that somebody else is imposing their views on them. So if I come into a library, and let's say I hold an unpopular political view or an unpopular religious view, I don't have to worry about checking a certain book out and suddenly having the whole town whispering about the fact. "Well Pat Wagner just checked out a book on bankruptcy. I wonder if her business is having a problem?" Or "Pat Wagner just checked out a book about the White Sox. Oh my goodness, has Pat Wagner suddenly become a White Sox fan?" Or "Pat Wagner just checked out some books on cancer. I wonder if Pat has cancer? I wonder if somebody else in her family has cancer?"

We take those kinds of privacy issues very seriously in the United States. And the way that we forget about them in small libraries is that we forget about the fact that the front desk is not your kitchen table. And that the kind of discussions that you might have with friends and family at a party are not the same as you are allowed to discuss inside and outside the library. That the casual remark that's overheard by somebody else is a violation of that particular trust.

If you think about it, even in small town, you have professionals and trades people who are basically taught by law and by ethical standards to keep their mouths shut. I don't have to worry about the fact that Dr. Solano, our family practitioner, is going to be discussing my medical issues with friends and family at a dinner so everyone knows the personal business of my husband and myself. I have no concerns that my banker at Wells Fargo is going to have discussions with people. Or that the teller at the front desk is going to be talking to the next person who comes in line and says, "Oh you know that lady who just came in? You know, she had an out-of-town check – it looked like from her mother. I wonder if she's just like living off her mother? Maybe that's where the money came from." Or when we were trying to help a friend in another country, nobody at the bank was saying to us "Well, why are you sending money to that country and that person? And who are you? And why are you doing it?"

We have the right of privacy in this country, more so than in most countries in the world. So when you're at that front desk or front line, the privacy issue means a lot. So what happens? Well the first thing is that we have to teach everyone, and that includes volunteers, friends of the family, part-timers and full-timers, that you don't discuss other people and personal issues of other people at front desks. That you don't discuss them at the reference desk. And you don't discuss them at the circulation desk.

That we don't talk about what people are reading. Now this might sound a little controversial to you, but at the famous Tattered Cover bookstore in Colorado whose customer service standards are high enough that they often teach customer service programs at library associations around the country including ALA, they have a rule that people at the front desk are not allowed to comment on their customers' purchases. And one of the reasons for that is that you never know why that person is buying the book. It might look like a very innocent book to you, but it might have very emotional import for the person that she doesn't want to discuss for whatever reason. You also don't want to bring attention to what that person is checking out or buying to people who may be standing within earshot. But some people may say, "Isn't it good customer service to compliment people and say 'Oh I love that book! Or whatever?'" Yes, however, if you take the ethical standard seriously, you have to think about the fact that maybe, just maybe, that person did not want anyone else to pay attention to what he was checking out that day. And that's an issue that we have to take seriously.

The second thing is no sharing of records or information from the library to any kind of legal authority, to a police department, sheriff's department, district attorney's office, whoever, without a court order. Now there are a lot of reasons for this, but this is a reason that even if you are concerned with the activity of a library user, why you want the courts to deal with it and not what you think is the right thing

to do. When evidence is identified that is needed in a court case, they need kind of a trail, a train of evidence to be able to say “We did the right thing at every point of discovering the evidence and using it for the court case.” And if you watch enough episodes of *Law and Order*, you've probably figured that out. So if somebody comes into the library and says we need to seize these particular records, no matter what the records are, even if they are very benign, the best thing the library can do – not just for the library in terms of ethics, but for that particular police officer or district attorney – is to say, “Not without a court order.” And to appeal the court order.

And one of the things you're doing by doing that is allowing the people who might be justifiably prosecuting the case to be able to say, “Yes, we've followed every bell and whistle.” That the case can't be turned out of court. And that, of course, applies for the other side, for the defense as well. So you're making sure that the people in your community, in their haste to rush to judgment, are not corrupting the evidence that goes on. We also have the case that sometimes local police officers are not well-trained in understanding what their job is. And I've heard first-hand accounts from library directors about police officers just coming in to a library and yanking books off the shelf, just because they wanted to see what was available in the library at that point. So, you always make sure to obey the rule of privacy to the letter of the law and let the courts argue it out.

The third thing we already mentioned is refraining from comments on usage. And I'll tell you one place I've seen this and that's in the use of computers where I was working with a library about how to set up fair and equitable policies as far as computer use. And one of the people said, “Well, we let young people use the computers as long as we're assured they are using them for a use that is appropriate.” And I said, “Who are you to decide what's appropriate? Do you have a library where kids are not allowed to check out recreational reading? Well, if you have recreational reading books, why not let the

kids use the computers for gaming?" So there're a lot of times where it is not the job of the libraries to decide if they're OK with a book somebody is reading or if they've decided it's not OK for a kid to use a computer for fun. So we don't make comments on usage. Either we let them use the materials or we don't – within the limits of the law.

And then finally, no discussion of personnel issues. That part of the issue of privacy -- and this is not an just an ethical issue but it's the law -- is that regardless of what happened, you don't have the right to talk about other people's personnel issues. That often times, I know it's difficult because you have an audience, and there're rampant rumors about what is going on. But privacy protects everyone, and there will be the day when you want your privacy protected as well. So even though it can be difficult in a small town, to be honest with you, it's not just an ethical issue it's often the law.

*\*Edited with the permission of Pat Wagner to enhance readability.*