


Library Services and the Homeless: A Legal Perspective

Infopeople Webcast



Tuesday September 27, 2005
12:00 noon to 1:00 p.m

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Technical Housekeeping

- Today's webcast:
 - presentation: 50 minutes
 - Q&A: final 10 minutes
- Submit your questions via 'Chat' *during* webcast so presenter gets them in time
- Fill out evaluation during Q&A


Don't wait for Q&A to submit questions

Webcast Archives: <http://infopeople.org/training/webcasts/archived.php>

Using Chat

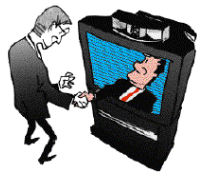
- Get help with technical difficulties
 - send message to "HorizonHelp"
- Ask presenter questions
 - send message to "ALL" To: ALL ▾
- Chat with other participants
 - "select name from dropdown list"

Chat Area There List of Participants There



Legal Disclaimer

- Legal information
- **Not** legal advice!



AGENDA

1. Background: Library services and homeless users
2. Behavior policies and the law
 - **E**qual enforcement
 - **N**otice
 - **D**ue Process (Appeals)
3. Specific issues
harassment, hygiene, loitering, begging
4. Key resources



1. Background: Library Services and Homeless Users

Anyone
Katrina

Poor people
Street people
Mentally disabled
Substance abusers

www.nationalhomeless.org/experiences/

A collage of images including a map of the United States, several small photographs of diverse individuals, and a large, semi-transparent text box containing the text. The text lists various groups of people: 'Anyone', 'Katrina', 'Poor people', 'Street people', 'Mentally disabled', and 'Substance abusers'. At the bottom, there is a URL: 'www.nationalhomeless.org/experiences/'.

Homeless in California

CRB



>1 % any given day

>360,000 homeless

1-2 million homeless during a year

California State Library Research Bureau
www.library.ca.gov/crb/03/12/03-012.pdf

Homeless Children in California

You can ENROLL in school!

California Dept. of Education

Broad definitions:
Children and youth in motels, hotels, trailer parks, shelters, cars, parks, public spaces, abandoned buildings, substandard housing, similar settings...

Leanne Wheeler
State Coordinator
916-319-0383
www.cde.ca.gov/sp/hs/

Seattle Public Library Services for the Homeless



- Brochures on food, shelter, medical, job opportunities
- Classes for life skills (e.g. literacy, job hunting, Internet)
- Clear fines "fresh start"

- Positive undercover report by street newspaper
- FareStart library café - run by homeless organization

realchangenews.org 9/16/04, tinyurl.com/964g3 and farestart.org

SEATTLE PUBLIC LIBRARY SECURITY OFFICERS EXAMINATION



9. Describe how you would interact with an individual who may be homeless and show signs of mental illness. You have been authorized to expel him and you also have contact numbers for human service and mental health agencies.

He has repeatedly violated Library rules that prohibit patrons from bringing in large bags and alcohol, and from bathing in the restroom....

www4.spl.org/libraryjobs/securityofficertakehomeexam.pdf

Last Decade – More Library Services for Homeless Users

- Email – vital address
- User web pages, blogs
- Learn computer job skills
- Literacy
- Safe environment



thehomelessguy.blogspot.com

Do Your Users Need a Valid Library Card to Use the Internet?

“If I lose [the Moby Dick CD], then I'll owe the library big time. And if I owe the library, I'll lose my library card privileges. Without library privileges, I won't be able to use the library computers. It would mean the end of my access to the internet. It would mean the end of my blog.”



thehomelessguy.blogspot.com Nov 15, 2004

Do Your Users Need an Address to Get a Library Card?

Recent publicity when the Chattanooga library stopped library cards with mission address



Do Your Users Need an Address to Get a Library Card?

Recent publicity when the Chattanooga library stopped library cards with shelter address

Apologized and now offers guest cards with all privileges except material loans



American Libraries Online Jan. 23, 2004
tinyurl.com/bz54x

CHATTANOOGA HAMILTON COUNTY
BICENTENNIAL LIBRARY

"A library doesn't need windows. A library is a window."
-Steven Berk
How Buildings Learn (1994), p. 33

Kid's Catalog Reading Room Business Page **Your Account**

How to Get a Library Card

To check out library materials and use our online databases a person must have a valid library card.
The following types are available:

- Member
- Temporary
- Online Patron
- Restricted
- Guest

www.lib.chattanooga.gov/librarycards.html

Hunger, Homelessness & Poverty Task Force

Social Responsibilities Round Table
of the American Library Association

Home
about us
archive

About Us

Task Force is working on model library card policy

www.hhptf.org

2. Behavior Policies and the Law



First Amendment
tread carefully

Equal Enforcement

Notice

Due Process (Appeals)

**FIRST AMENDMENT:
Courts Require More Justification
if ANY Speech Involved**

- Must be sufficiently clear that a reasonable person would understand that what s/he is doing violates the rule
- If speech is involved *at all*, "more stringent" standard

Armstrong v. D.C. Public Library, 154 F. Supp. 2d 67 (D.C. 2001),
citing *Anderson v. Creighton*, 483 U.S. 635 (1987)

Enforced Equally

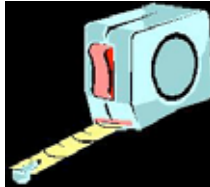


No Sleeping



thhomelessguy.blogspot

... I had a back pack and a sleeping bag with me - both nearly brand new and completely out of people's way, a security guard came by with a measuring tape - measured both bags - and declared that their total length exceeded limitations and that I'd have to take them out of the library.



Later that same day, a couple kids with cello cases came rolling into the library, right past the guards, and the guards said nothing to them about their oversized items.

thhomelessguy.blogspot.com Nov 15, 2004

Notice to Patrons

- Written, posted
- Not vague

"Unwritten rules lend themselves to a myriad of problems, none the least of which is proof of its existence..."



Brinkmeier v. Freeport, 1993 U.S. Dist. LEXIS 9255 (N.D. Ill. July 2, 1993)

Due Process (Appeals)



Courts look at

- *Liberty and First Amendment interests* in using libraries

- Risk of error

- Administrative burden

Bottom Line: Offer appeals

3. Specific Issues - Harassment Two Library Lawsuits

Kreimer case

Patrons shall respect the rights of other patrons and shall not harass or annoy others through noisy or boisterous activities, by staring at another person with the intent to annoy that person, by following another person about the building with the intent to annoy that person, by playing audio equipment so that others can hear it, by singing or talking loudly to others or in monologues, or by behaving in a manner which reasonably can be expected to disturb other patrons.

Kreimer v. Bureau of Police, 958 F.2d 1242 (3d Cir. N.J. 1992)

Brinkmeier case

Unwritten policy

Brinkmeier v. Freeport, 1993 U.S. Dist. LEXIS 9255 (N.D. Ill. July 2, 1993)

3. Specific Issues - Harassment

Kreimer case

Patrons shall respect the rights of other patrons and shall not harass or annoy others through noisy or boisterous activities, by staring at another person with the intent to annoy that person, by following another person about the building with the intent to annoy that person, by playing audio equipment so that others can hear it, by singing or talking loudly to others or in monologues, or by behaving in a manner which reasonably can be expected to disturb other patrons.

Kreimer v. Bureau of Police, 958 F.2d 1242 (3d Cir. N.J. 1992)

Brinkmeier case

Unwritten policy

Library won

Library lost

Brinkmeier v. Freeport, 1993 U.S. Dist. LEXIS 9255 (N.D. Ill. July 2, 1993)

Harassment Rule that Won (NJ)

Rule upheld

Patrons shall respect the rights of other patrons and shall not **harass** or annoy others through noisy or boisterous activities, by **staring at another person with the intent to annoy** that person, by **following another person about the building with the intent to annoy** that person, by playing audio equipment so that others can hear it, by singing or talking to others or in monologues, or by behaving in a manner which reasonably can be expected to disturb other persons.

Equal enforcement, Notice, Due Process

Earlier Version of Same Rule

Library changed rule after talks with ACLU

Patrons shall respect the rights of other patrons and shall not annoy others through noisy or boisterous activities, by *unnecessary staring*, by *following another person* through the building, by playing walkmans or other audio equipment so that others can hear it, by singing or talking to oneself or by other behavior which may reasonably result in the disturbance of other persons.

Harassment Policy that Lost (IL)

Let's have sex

- Followed library clerk as she left library
- Gave note asking for sex

Brinkmeier v. Freeport, 1993 U.S. Dist. LEXIS 9255 (N.D. Ill. July 2, 1993)

Library Lost in END



Unwritten practice

No definition of "harass"

Unlimited geographic scope

No formal appeals

Enforcement, Notice, Due Process

Hygiene – Two Library Lawsuits

Kreimer case

Patrons whose bodily hygiene is offensive so as to constitute a nuisance shall be required to leave the building...

Library won

Kreimer v. Bureau of Police, 958 F.2d 1242, (3d Cir. N.J. 1992)

Armstrong case

Objectionable appearance (barefooted, bare-chested, body odor, filthy clothing, etc.)... or if his or her appearance is so offensive as to constitute a nuisance, the library may require the orderly provision of...

Library lost

Armstrong v. D.C. Public Library, 194 F. Supp. 2d 67 (D.C. 2001)

Hygiene Rule that won (N.J.)

Rule upheld

Patrons whose bodily hygiene is offensive so as to constitute a nuisance to other persons shall be required to leave the building...



Earlier Version of Same Rule

Patron dress and personal hygiene shall conform to the standard of the community for public places. This shall include the repair or cleanliness of garments.

Library changed to "nuisance" standard

Kreimer v. Bureau of Police, 958 F.2d 1242, (3d Cir. N.J. 1992)

Hygiene Rule that Lost (DC)

Objectionable appearance (barefooted, bare-chested, body odor, filthy clothing, **etc.**) ... or if his or her appearance "interferes with the orderly provision of library services."

Did not reference nuisance
D.C. law prohibits discrimination based on "personal appearance"

Armstrong v. D.C. Public Library, 154 F. Supp. 2d 67 (D.C. 2001)

Library Lost in END

Objectionable appearance (barefooted, bare-chested, body odor, filthy clothing, **etc.**) ... or if his or her appearance "interferes with the orderly provision of library services."



END - "Etc." depends on interpretation, no instructions to guards, no appeals process

Enforcement, Notice, Due Process

Homeless Advocacy Group Agreement on Odor (NV)



1992 Homeless advocacy group lawsuit against Las Vegas library

Consent decree: representative of advocacy group must be present before library can expel patron for offensive body odor

Libraries Struggle Over Rules on the Homeless, *CQ Researcher*, June 26, 1992, at 562; cited in "Why Kreimer Can't Read: Striking the Proper Balance Between Library Access and Problem Patrons in *Kreimer v. Bureau of Police*", 46 *Rutgers L. Rev.* 1845, (Summer, 1994).

Homeless Advocacy Group Agreement on Odor (NV)



If advocate didn't arrive within half hour, library asked patron to leave until bathed.

Every case when advocate arrived, concurred that person truly needed to bathe.

As time passed, the list of people to call got shorter and shorter. Finally, no one ever arrived.

Current policy: Ask person to leave, refer to shelters, return when bathed. Also applies to cologne users...

Source: Robb Morss, Deputy Director and Susan Williams, Coordinator of Virtual Reference, Las Vegas Clark County Library District, by phone and email, September 20, 2005

Loitering Inside the Library

Kreimer case

Old Rule: 1. Patrons shall be engaged in normal activities associated with the use of a public library while in the building. Patrons not engaged in reading, studying, or using library materials may be asked to leave the building. **Loitering will not be tolerated.**

After talks with ACLU, changed to:

1. Patrons shall be engaged in activities associated with the use of a public library while in the building. Patrons not engaged in reading, studying, or using library materials shall be required to leave the building.

Kreimer v. Bureau of Police, 958 F.2d 1242 (3d Cir. N.J. 1992)

Supreme Court Civil Rights Case – Library Lost



With permission
Zinasaunder.com

Sit-in at segregated public library

Five young black men stayed after told to leave.

Court ruled that sitting did not interfere with functioning of the library.

...tread lightly before making anti-loitering rule inside a library

Brown v. Louisiana, 383 U.S. 131 (1966)

Loitering Outside the Library – SEE A LAWYER before Writing Policy



Anti-loitering ordinances hard to write. Supreme Court struck Chicago ordinance defining loitering "to remain in any one place with no apparent purpose" *even though aimed at violent gang activity*

FAILED in **END** – too little notice what's forbidden, too much police discretion

City of Chicago v. Morales, 527 U.S. 41 (1999)

Ordinances – Work with Municipalities

SEC. 63.93 LIBRARY REGULATIONS.

Within the limits of any public library no person shall do any of the following acts:

(h) Remain, stay or loiter within the limits of any public library between the hours of 9:00 p.m. and 9:00 a.m. the following day.

Los Angeles Municipal Code Sect. 63.93(h)
Effective August 27, 2005

**Amended from 10:30 p.m. and 5:00 a.m.
as recommended by the Library Commission**

More at <http://tinyurl.com/a58x3>

See also California Penal Code Sect. 653g

Panhandling, Begging, Solicitation INSIDE the Library

Libraries can make reasonable behavior policies, consistent with the libraries mission.



No Solicitations

Panhandling, Begging, Solicitation INSIDE the Library

Must apply rules equally to everyone



**Equal enforcement
Notice
Due Process**

nonprofit group using meeting room

Panhandling, Begging, Solicitation OUTSIDE the Library

California municipalities can prohibit "aggressive solicitation and limit certain types of "captive audience" solicitation



Los Angeles Alliance for Survival v. City of Los Angeles, 22 Cal. 4th 352, 993 P.2d 334 (2000).

"Ask for Money, Commit a Crime: What Happened to Free Speech?" *Western State University Law Review*, Vol. 29, No. 1, Fall 2001.

ALA American Library Association

Policy Manual 61. Library Services for the Poor

The American Library Association promotes equal access to information for all persons, and recognizes the urgent need to respond to the increasing number of poor... [by]

- Promoting the removal of all barriers to library and information services, particularly fees and overdue charges...
- Promoting direct representation of poor people and anti-poverty advocates through appointment to local boards...

www.ala.org/ala/ourassociation/governingdocs/policymanual/servicespoor.htm

ALA American Library Association

www.ala.org/ala/olios/aboutolios/subcommonp/

Home - Literacy and Outreach Services - About OLOS - Subcommittee on Library Services to the Poor and Homeless

Literacy and Outreach Services

- About OLOS
- Advisory Committee
- Literacy Assembly
- ALA
- Committee on Literacy
- Subcommittee on Library Services to American Indians
- Subcommittee on Library

Office for Literacy and Outreach Services

Subcommittee on Library Services to the Poor & Homeless

Consonant with the Office for Literacy and Outreach Services (OLOS) mission, the Subcommittee on Library Services to Poor and Homeless People is charged with developing and recommending to the OLOS Advisory Committee initiatives and priorities to achieve implementation of the ALA Poor People's Policy.

211.org

Information and Referral Systems

Step 1: Define your search by entering a ZIP Code or Service Area.

Step 2: Specify search by priority or by geographic area.

Step 3: Review matching your search for Comprehensive Information and Referral.

These providers are located within 50 miles of 95614.

UNITED WAY FIRST CALL FOR HELP (CALIFORNIA)
UNITED WAY FIRST CALL FOR HELP (CALIFORNIA)
6522 Alameda
San Jose, CA 95128

COMPREHENSIVE INFORMATION AND REFERRAL
(877) 337-4834 more

www.211.org/callcenter.htm
