2015

External Litigation Threats

A Guide for Public Libraries

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Table of Contents

Introduction

Ordinarily my message to librarians is to go to great lengths to avoid litigation. The time and expense and potential risk associated with litigation create an incentive for awareness and attention to the law and what it requires. This is particularly true in the context of an entity such as the public library, which must carefully allocate scarce resources. It is important, however, to recognize the true risks of legal liability as distinguished from irrational threats of legal action. In today's society, threats to sue are commonly used to press certain agendas, obtain a desired personal result, or even as a method to generate income. Therefore, response to threats of legal action must be carefully measured rather than reactionary and motivated by fear.

The point of this work is not to trivialize or denigrate any viewpoint or suggest that particular challenges to library decision-making are unworthy of legitimate consideration. To the contrary, this document is for the purpose of informing the library community about threats of legal action that may come from unexpected sources. The information provided here is intended to equip library administrators with tools to evaluate and respond to threats in a thoughtful and professional manner.

Threats of legal action can come to a public library from many directions. Very often these situations stem from the employer/employee relationship between a library and its workers; individuals or groups who are external to the library can

also generate uncomfortable and troubling circumstances with litigation threats. Becoming aware of potential sources who seek to influence decision-making through the use of threats to sue will allow library administrators an opportunity to anticipate risks and plan accordingly. In sum, knowing your opponent allows you to develop strategy.[1]

[1] Warren Graham, *The Black Belt Librarian: Real World Safety & Security* (Chicago: American Library Association, 2012), 36-37.

1: Censorship

Censorship efforts come with library territory. Intellectual freedom and the librarian's duty to protect it are prevailing tenets of the profession. In its Freedom to Read Statement, the American Library Association ("ALA") charges librarians with the responsibility to "contest encroachments" on availability of the "widest diversity of views and expressions, including those that are unorthodox, unpopular, or considered dangerous by the majority." [2] Thus, it is not a surprise that challenges to public library holdings occur frequently.[3] According to ALA's Office for Intellectual Freedom, in the first decade of the twenty-first century, American libraries reported 4,659 formal written complaints regarding library materials, nearly a quarter of which occurred in public libraries. It is likely that the actual number of challenges is even higher because of underreporting by libraries, says the Office for Intellectual Freedom.

Collection development textbooks routinely address the controversies that stem from challenges to library holdings.[4] Evans and Saponaro warn, "There is

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[2] American Library Association, "Freedom to Read Statement," http://www.ala.org/advocacy/intfreedom/statementspols/freedomreadstatement (accessed September 14, 2015).

[3] Sanford Berman, "'Inside' Censorship" speech given at Minnesota Atheists meeting, April 16, 2000, Brooklyn Center, MN. A version of this speech was published in *Progressive Librarian*, No. 18, Spring 2001, 48-63.

[4] Vicki L. Gregory, *Collection Development and Management for 21st Century Library Collections: An Introduction* (New York: Neal-Schuman Publishers, 2011).

nothing worse than having no idea of what to do when facing an angry person who is complaining about library materials."[5] Often the angry complainant threatens legal action and media exposure. Generally, those who threaten suit against the public library regarding materials deemed inappropriate are attempting to coerce or intimidate library decision-makers to capitulate to a certain viewpoint.

There are a number of resources available to a librarian facing a challenge. A controversial materials policy is the public library's first line of defense against challenges made to the items within the collection. The value of any policy that addresses external efforts to override a librarian's selections is dependent upon the time and thought that goes into the policy's development. A strong policy will: (1) specify the method in which complaints are made, (2) contain specific designation of who will conduct the library's initial review of the material, and (3) denote the final decision maker.

Another resource for librarians facing a materials challenge is Libraries: An American Value, a policy document created by ALA that is directed at library users as opposed to librarians. This document explains the role libraries play in a democratic society, a precept well known to librarians but probably less so by citizens. According to Pinnell-Stephens, there is a high success rate of stemming

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G. Edward Evans and Margaret Z. Saponaro. *Developing Library and Information Center Collections*. (Englewood, Colo: Libraries Unlimited, 2000).

[5] Evans & Saponaro, 560.

complaints through simple explanation that the library serves the entire community, which requires including diverse viewpoints in the collection.[6]

Of course, it is important for librarians to be mindful that along with the First Amendment right of access to information that undergirds the profession's desire to provide the widest possible range of viewpoints, opinions, and ideas, the First Amendment also guarantees citizens the right to petition the government for redress of grievances. Therefore, it is likely that both librarian and challenger will be relying on the same basis of constitutional authority in a dispute about information made available by the library. What is important for a librarian to keep in mind is that while a challenger's reasoning for challenging a particular item within the library collection may seem irrational or silly, the right to proceed with that challenge is not.

Challenges to library holdings will be made, often through unpleasant or overly emotional presentation and demands. And if not handled appropriately, the threat of litigation may arise. It is the responsibility of library administrators to put in place policies for allowing community members to challenge library materials and to express to challengers the role of the public library in democratic society. Undertaking these steps offers no guarantee that a citizen unhappy with the end result of his or her complaint will not sue the library. However, if that suit arises, it is preferable that it remains focused on the challenged material rather than blown

[6] June Pinnell-Stephens. *Protecting Intellectual Freedom in Your Public Library: Scenarios from the Front Lines*. (Chicago: ALA, 2012), 80.

up to include personality conflicts, name-calling, and finger pointing between library staff and challenger.

2: Transient Population

Like challenges to library materials, use of public libraries by transient individuals and its attendant problems are not new to librarians. Libraries are a popular congregation point for homeless persons, who, not welcomed in other spaces, seek shelter, comfort, and quiet escapes.[7] Of course, use of a public library for its intended purposes is open to all citizens. However, the following examples illustrate how use of the library by the homeless can create problems that must be addressed: (1) Using library bathrooms for bathing, (2) not wearing shoes or shirts, (3) sleeping or passing out in the library, (4) intoxication, and (5) violence.

It is commonplace for libraries to invoke hygiene rules to address the negative effect the homeless may have on other library users. The creation and enforcement of such rules are where the threats of and actual litigation arise.

The most widely known litigation challenging a library's hygiene policy is *Kreimer v. Bureau of Police for Town of Morristown.*[8] In that case, a public library prohibited a homeless man from using the library due to his odor. The Third Circuit Court of Appeals ultimately upheld the library's policy, which stated, "Patrons whose bodily hygiene is offensive so as to constitute a nuisance to other persons shall be required to leave the building." The court in *Kreimer* recognized

[7] Marc L. Roark, "Homelessness at the Cathedral", *Missouri Law Review* 53 (2015): 80.

[8] 958 F.2d 1242 (3d Cir. 1992).

that this rule "would require the expulsion of a patron who might otherwise be peacefully engaged in permissible First Amendment activities within the purposes for which the Library was opened, such as reading, writing or quiet contemplation."[9] The Third Circuit went on, however, to conclude that because the purpose of the rule was to prohibit one patron from unreasonably interfering with other patrons' use and enjoyment of the library, the policy was a narrowly tailored restriction used to promote the library's "significant interest in ensuring that 'all patrons of the [library] [can] use its facilities to the maximum extent possible during its regularly scheduled hours.'"[10]

In a more recent case, *Armstrong v. District of Columbia Public Library*,[11] a court found that the public library's regulation instructing personnel to deny access to individual patrons with "objectionable appearance" to be a violation of First Amendment rights.[12] The D.C. court noted that the library enacted the regulation due to "proliferation of more street people and more homeless."[13] What troubled the court about the regulation was that it lacked a legal standard or a specific definition of "objectionable appearance" and called for the exercise of a subjective

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[9] Ibid. at 1264.

[10] Ibid.

[11] 154 F. Supp. 2d 67, 70 (D. D.C. 2001).

[12] Ibid.

[13] Ibid.

interpretation of the objectionable characteristics.[14] The court noted that the lack of specific objective standards for defining exclusion criteria caused the regulation to fail for vagueness.

Kreimer and *Armstrong* demonstrate that when a public library opts to deny access to an individual, litigation may be threatened and the threat may well come to fruition. While it may seem absurd that a library risks being sued for invoking a rule that simply calls for a modicum of personal decorum by those using a shared public space, the risk is real, and thus, libraries must tailor their conduct policies carefully. The two cases discussed above establish that in order for a library policy that results in the denial of access to pass Constitutional muster, it must be narrowly tailored to meet a significant interest of the public library, and it must contain objective standards. Therefore, policy-makers grappling with how to prohibit improper conduct such as misuse of restroom facilities, sleeping, not wearing shoes or shirt, and excessive bags or belongings, must take care in drafting a legitimate policy, and staff members must be trained on how to properly apply the policies.

[14] Ibid. at 81-82.

3: Harassment of Library Staff and Trustees

Often, individuals who are dissatisfied with decisions made by library administrators harass library staff by making demands and threating litigation. What library employee has not been told by a disgruntled patron, "I pay your salary!"? More times than not, the targets of harassment are not the ultimate decision-makers. However, library trustees, those with whom the power to vote on binding library-related decisions, are not immune to harassment from the public. Employees and trustees alike should be trained on how to respond in the event they are targeted by unhappy citizens.

Graham posits a number of tips for how a library employee faced with continuing complaints or harassment can best respond.[15] Begin with the attitude that an individual will comply with a request to cease inappropriate behavior. Maintain an easy demeanor, becoming more authoritative only as necessary. Actively listen to complaints or demands but be deaf to insulting language. Exercise due caution—when an individual is obviously impaired by drugs or alcohol or is physically threatening, call 911 immediately.

Another strategy for curtailing repeated harassment by an unhappy citizen is to allow for public comment at library board meetings. In other words, redirect the complaining voice to an official forum. Georgia's open meetings law applies to

[15] Graham, 27-29.

meetings of the governing authority and any committees of a public library.[16] While Georgia's Open Meetings Act does not require a board to allow public participation in the meeting, giving disgruntled citizens a time and place to "officially" state their grievances may lessen incidents of harassment of staff and trustees. Whether a library board will allow public comment and what time limitations apply should be addressed in the library's bylaws. In establishing bylaws to address public comment at board meetings consider the following:

> (1) An individual may address the Library Board only during the "Citizens' Comments" portion of the Agenda.
>
> (2) Comments must be limited to subjects on the agenda of the meeting at which the comments are made. The Board will not prohibit comments based on the viewpoint expressed in the comment.
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> (3) There is a 10-minute time limit per issue and citizens are restricted to discussing no more than two issues per meeting.
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> (4) At the discretion of the Board's presiding officer comments that are irrelevant, repetitious, or disruptive may be suspended. The presiding officer may also deny the opportunity to speak to a person who has previously addressed the Board on the same subject within the last two months.

[16] O.C.G.A. § 50-14-1(a)(1).

Banning Patrons

In some unfortunate instances, conduct is so egregious or persistently repetitive that decision-makers must bar a patron from the library altogether. As set forth in Chapter 2, there is a recognized right of access to the public library stemming from the First Amendment. While the right to access information and, thereby, the public library is not specifically enumerated within the language of the First Amendment, the United States Supreme Court's interpretation of the law has broadened its scope to encompass the right to receive information and ideas as well as the right to read. "Public libraries play a vital role in promoting the fullest exercise of that right."[17] Therefore, members of the public have a protected interest in accessing the library and its holdings. The individual's right is not unlimited, however.

Public libraries may impose reasonable policies governing patron behavior and may even ban habitual violators altogether. Georgia courts have not addressed the legal implications of restricting access to a public library, but courts in other jurisdictions have recognized as legitimate reasonable decisions and policies imposed to prevent access under certain circumstances.

In a federal lawsuit filed Montana, a district court upheld a public library's decision to ban a patron from library premises.[18] The loss of library privileges was

[17] Torrans, 153.

[18] Spreadbury v. Bitterroot Public Library, 862 F.Supp.2d 1054 (D. Mont. 2012).

the result of the plaintiff repeatedly intimidating library staff members in an effort to persuade them to include in the library collection a letter he had written to President Obama.[19] The court in Montana cited the *Kreimer* decision (discussed in Chapter 2) for the proposition that while "we all have a right to use our public libraries," that right is not unqualified.[20] What was important to the Montana court was whether the individual was afforded due process before being deprived of his right of access. Because the Montana patron was notified of what behavior was prohibited and the consequences of such behavior and because he was given an opportunity to be heard during a library board meeting in an effort to obtain reconsideration of library's decision, the court found that adequate procedural safeguards were utilized in imposing and maintaining the ban.

In another suit filed in federal court in Massachusetts, a library patron complained that he had been barred from using a public law library because the librarian determined that "he made other patrons uncomfortable."[21] The Massachusetts patron was not informed what conduct was at issue or what conduct to refrain from, and he was not given an opportunity to be heard. After 18 months of litigation, the Massachusetts library settled the suit on the eve of trial.

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[19] Ibid. at 1056.

[20] Ibid.

[21] Dolan v. Tavares, No. CIV.A. 10-10249-NMG, 2011 WL 10676937, at *3 (D. Mass. May 16, 2011).

Neither library personnel nor trustees must endure harassment from citizens who disagree with library decisions. In the event a disgruntled citizen is threatening or appears violent, assistance from law enforcement should be sought immediately. Also, if library staff members or trustees are repeatedly approached outside the scope of their official position, it may be wise to seek a restraining order. For less serious behavior, providing an official forum for members of the public to voice opinions may diffuse the situation. Finally, should an individual persist in improper conduct within the library itself, administrators may deny access to the wrongdoer so long as procedural safeguards are employed.

4: Americans with Disabilities Act

ADA Profiteers

The Americans with Disabilities Act ("ADA") governs access to public services. Title II of the ADA prohibits public providers of programs and services from (a) discriminating against "a qualified individual with a disability" and (b) excluding such individual from participation in or denial of the benefits of services, programs, or activities.[22] A disturbing trend in the area of the law related to access to public accommodations and services is an uptick in the lawsuits generated by "frequent filers" hoping for quick settlement. Often these suits accuse businesses or governmental entities of technical violations of the ADA such as fading paint on disabled parking spaces, miniscule height discrepancies of soap dispensers or paper towel holders, or square handrails rather than round. The lawsuits filed by these frequent filers are profit driven, not legitimate efforts to raise awareness and seek correction of violations. An example is a single individual who has filed 48 federal lawsuits in the Northern District of Georgia alleging violations to access provisions of the ADA; these suits have targeted local businesses as well as governmental entities.[23] In not one of these cases did the plaintiff notify the target entity of the

[22] 42 U.S.C. § 12131 et seq.

[23] Gaylor v. Georgia Department of Natural Resources, No. 2:11-CV-288-WCO (N.D.Ga. Oct. 11, 2011).

violations and request voluntary compliance. Rather, he filed suit, and in most instances, he obtained a settlement within six months.

Despite the less than honorable motives of the ADA profiteers and regardless of the trivial nature of the alleged violation, strict compliance with ADA requirements is compulsory. Your library should be making every effort to reach full compliance. ALA offers library-specific guidance on accessibility issues.[24] Another source summarizing areas of attention for ADA compliance within a public library, Access Advocates,[25] includes the following twelve areas that should be reviewed in evaluating ADA accessibility compliance.

Parking Lot

Signage

Path and Doors

Elevators and Stairs

Floors

Lighting

Public Access Catalogs and Computer Stations

Furniture

Periodicals and Stacks

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[24] American Library Association, "ADA and Libraries" available at http://www.ala.org/tools/ada-and-libraries (accessed September 8, 2015.)

[25] http://www.accessadvocates.com/ada-compliance-library/#.Ve4Hv5WFNMs (accessed September 8, 2015).

Checkout

Reference or Help Desk

Restrooms

Periodic review of the technical requirements for each of these areas is advisable in order to avoid becoming a target of an ADA profiteer. An excellent resource for what is required of the public library by the ADA the *Title II Technical Assistance Manual*.[26]

ADA Unreasonable Accommodation Requests

In addition to the standard accessibility requirements to which a public library must always adhere, Title II of the ADA, also requires public service providers such as a public library to make accommodations for certain individuals. Title II defines a "qualified individual with a disability" as "an individual with a disability who, with or without reasonable modifications . . . or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity."[27]

The Department of Justice ("DOJ") has promulgated regulations implementing Title II's prohibition against discrimination, one of which provides, "A

[26] http://www.ada.gov/taman2.html (accessed September 10, 2015).

[27] 42 U.S.C. § 12131(2).

public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity."[28]

An example of an accommodation that may be required of a public library in order to remove barriers to the acquisition of information by visually impaired individuals is the provision of auxiliary aids and services including readers, taped texts, and Braille materials. However, the ADA's "reasonable modification" principle does not require a public entity to employ any and all means to make services accessible to persons with disabilities but only to make "reasonable modifications" that would not fundamentally alter the nature of the service or activity of the public entity or impose an undue burden.[29]

A Georgia public library has been requested to provide patron who has Attention Deficit-Hyperactivity Disorder with a private room in which to read to allow her to concentrate. Assuming the patron meets the ADA's definition of "qualified individual," a public library has a legal obligation to make services

[28] 28 C.F.R. § 35.130(b)(7).

[29] Tennessee v. Lane, 541 U.S. 509, 531-32, 124 S.Ct. 1978, 1993-94, 158 L.Ed.2d 820 (2004) ("Title II does not require States to employ any and all means to make judicial services accessible to persons with disabilities.... It requires only 'reasonable modifications' that would not fundamentally alter the nature of the service provided . . . [or] impose an undue financial or administrative burden.").

available to that person through a reasonable accommodation. But, the request to provide a private reading room is not reasonable. First, it would likely impose an undue burden on a public library to provide it (allocation of scarce resources). Second, private, quiet space for reading is not guaranteed to any library patron, whether disabled or not. The existence of a disability does not entitle the patron to more or better services than what is provided to the general public.

Another request that has become common in public libraries is that a patron be allowed to bring his or her "service animal" into the library. On its face, this request appears reasonable. However, the DOJ has provided guidance specifically defining a service animal as one who is trained to take a specific action when needed to assist a person with a disability.[30] According to the DOJ, "emotional support, therapy, comfort, or companion animals" are not service animals under the ADA. This is so even if a doctor has prescribed accompaniment by the animal for mental health reasons. This is not to say, however, that there is no circumstance in which an animal that provides emotional comfort does not rise to the level of "service animal." For example, a library patron who suffers from an anxiety disorder may seek permission to bring his dog into the library. According to the DOJ, if that dog has been trained to sense that an anxiety attack is about to happen and take specific action to help avoid the attack or lessen its impact, it would

[30] United States Department of Justice, Civil Rights Division, Disability Rights Section, "Frequently Asked Questions about Service Animals and the ADA" http://www.ada.gov/regs2010/service_animal_qa.html (accessed September 10, 2015).

qualify as a service animal. That the patron derives comfort from the mere presence of the dog is not sufficient to qualify it as a service animal.

Requests for accommodation should be addressed on a case-by-case basis. Even if the requested accommodation appears outlandish, a public library is obliged to take seriously its obligations under the ADA and evaluate the factual scenario involved in every request. Establishing a uniform process for receiving and assessing a request for an accommodation will ensure that the library gives due consideration to all individuals who claim entitlement to an accommodation as well as consistency in responding.

5: Gun-Rights Advocates

Public libraries around the country are increasingly being faced with threats of litigation and actual lawsuits from another type of interest group—guns-rights advocates. In August 2014, a public library in Colorado asked an armed patron to leave the premises. A gun rights group threatened suit on her behalf, and the library immediately changed its no firearms policy.[31] The showdown arose because the gun rights group vigorously encouraged its members to carry their firearms to public libraries in the state in an effort to challenge any organization resistant to its viewpoint.

In 2012, a Michigan public library lost its court fight to prevent patrons from bringing weapons into the library.[32] The lawsuit stemmed from a number of incidents in which individuals came into the library displaying firearms in direct contravention of the library's policy of disallowing weapons on the premises.[33] In one instance, a man carried a shotgun over his shoulder into the library making library staff members and other patrons uncomfortable.[34] The gun owner was required to leave because he was violating the library's policy. In its opinion

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[31] "Rocky Mountain Gun Owners vs. Small town library" *The Colorado Independent* August 27, 2014 http://www.coloradoindependent.com/148873/rock-mountain-gun-owners-vs-small-town-library. (Accessed on August 14, 2015).

[32] Capital Area Dist. Library v. Michigan Open Carry, Inc., 298 Mich. App. 220, 223-24, 826 N.W.2d 736, 738 (2012).

[33] Ibid. at 225, 739.

[34] Ibid.

striking down the library's policy, the Michigan Court of Appeals apparently recognized that the library may not be an appropriate venue to carry and display firearms. Nevertheless, because the state legislature had prohibited local governmental entities from interfering with a citizen's possession rights with regard to firearms,[35] the court sided with the gun-rights group and enjoined the library from enforcing its anti-weapons policy.[36]

Like Colorado and Michigan, Georgia has an extremely active gun-rights group entitled GeorgiaCarry.Org. That group's efforts led to Georgia's expansive new law on where gun owners may bring their weapons. Effective July 1, 2014, Georgia's law regarding where permit holders may carry firearms was widened to include: "a government building when the government building is open for business and where ingress into such building is not restricted or screened by security personnel."[37] This is an affirmative right that the state has conveyed on licensed gun carriers. Assuming most public libraries in Georgia do not have security screening, a public library building falls squarely within the statute's definition of government building. Therefore, any policy or practice that prohibits guns in a public library would be in direct contravention to this law, and libraries can expect gun owners to test their compliance with the law.

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[35] Mich. Comp. Laws Ann. § 123.1101 (West).

[36] Capital Area Dist. Library, 298 Mich. App. at 241, 826 N.W.2d at 747.

[37] O.C.G.A. § 16-11-127(e)(1).

It is the stated goal of GeorgiaCarry.Org to "reclaim and expand our right to bear arms."[38] In June 2015, a member of that organization walked through the unsecured areas of Hartsfield-Jackson International Airport in Atlanta carrying a fully-loaded AR-15 rifle. He posed for photographs of himself with the gun strapped across his chest. His stated purpose was to exercise his Second Amendment right to bear arms. Public libraries in Georgia can expect similar incidents.

When a public library in Georgia is faced with gun owners who seek to assert their rights with respect to firearms in public buildings including libraries, library administrators would be wise to heed the words of the Michigan Court of Appeals: "Our job is not to determine who has the better moral argument regarding when and where it is appropriate to carry guns. Instead, we are obligated to interpret and apply the law, regardless of whether we personally like the outcome."[39]

[38] "GeorgiaCarry.Org is Georgia's No-Compromise Voice for Gun Owners" http://www.georgiacarry.org/ (accessed on Aug. 15, 2015).

[39] Capital Area Dist. Library, 298 Mich. App. at 223-24, 826 N.W.2d at 738.

6: Sovereign Citizens

Labeled by the Federal Bureau of Investigation as domestic terrorists, sovereign citizens are "anti-government extremists who believe that even though they physically reside in this country, they are separate or 'sovereign' from the United States."[40] Those who consider themselves to be sovereign citizens often do not pay taxes, carry a driver's license, or hold a Social Security card.[41] The foundation of the sovereign citizen movement is based on the notion that the federal government drastically changed from its original republican form and now attempts to exert control over citizens' lives, essentially "reduc[ing] the People to slavery, peonage and involuntary servitude."[42]

Sovereign citizens have a wide array of tactics, which they use to bully and harass individuals and entities they view as part of the illegitimate government. The most common sovereign citizen tactics fall into the realm of what has come to be termed "paper terrorism." Paper terrorism involves the use of bogus legal

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[40] Federal Bureau of Investigation, "Domestic Terrorism: The Sovereign Citizens Movement," April 13, 2010 http:// www.fbi.gov/news/stories/2010/april/sovereigncitizens_041310 (accessed August 21, 2015).

[41] CBS News, "A Look at the 'Sovereign Citizen' Movement" http:// www.cbsnews.com/news/a-look-at-the-sovereign-citizen-movement/ (accessed August 21, 2015).

[42] Francis X. Sullivan, "Comment: The 'Usurping Octopus of Jurisdictional/Authority': The Legal Theories of the Sovereign Citizen Movement," *Wisconsin Law Review* (1999) 785, 796.

documents and filings, or the misuse of legitimate ones, to intimidate, harass, threaten, or retaliate against public officials, law enforcement officers, or private citizens. Acts of paper terrorism can range from simple and straightforward acts, such as frivolous lawsuits, to more complex strategies, such as filing fraudulent IRS forms alleging that the victim has been paid large sums of money, in order to sic the IRS on him or her.

While no court has ever recognized the sovereign citizen theories as valid, the sovereign citizen movement appears undeterred, and its efforts to disrupt governmental functions continue. Because a Georgia public library is an arm of local government, library administrators should be aware of the sovereign citizen movement and tactics its members may employ that could involve the library.

One example is a sovereign citizen who subpoenaed a federal prosecutor to appear at a Chicago public library.[43] The situation arose from a woman who attempted to retaliate against an assistant United States attorney who had prosecuted her brother. In addition to filing a $100 billion lien against the prosecutor's home, the sovereign citizen sought to compel his appearance at her "common law" court to be convened at a branch library. Also, there are instances of sovereign citizens using a public library as a recruiting base and hub of operations.

There is nothing inherently problematic with the use of a public library by sovereign citizens or like-minded individuals so long as the library's rules of conduct

[43] http://articles.chicagotribune.com/2014-06-17/news/chi-exus-attorney-takes-stand-i-dont-owe-anyone-100-billion-20140617_1_lefkow-ex-u-s-attorney-fitzgerald (accessed September 14, 2015).

are followed. However, given the wide array of tactics that are used by anti-government groups such as sovereign citizens, it is easy to imagine a scenario in which a public library becomes a target of such groups. A possible tactic in the paper terrorism attack often employed by sovereign citizens may be abusive open records requests served on a public library.

Georgia law broadly defines what records are open to public inspection: "'Public record' means all documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, data, data fields, or similar material prepared and maintained or received by an agency or by a private person or entity in the performance of a service or function for or on behalf of an agency or when such documents have been transferred to a private person or entity by an agency for storage or future governmental use."[44] Under this definition, an individual whose motivation is to harass the public library could inundate it with multiple requests requiring vast resources to respond.

Should your library be faced with abusive open records requests, the following aspects of Georgia's law may prove helpful:

Timeframe: the library has three days to produce records that are readily available; if the requested documents exist but are not available for production within three days, the library may establish a reasonable timetable for production—

[44] O.C.G.A. § 50-18-70(b)(2).

but must notify the requester of the anticipated time of response within three days of the original request.[45]

Non-existent documents: The library is not required to prepare any reports, summaries, or compilations that are not in existence at the time of the request.[46]

Exceptions: Georgia's Open Records Act has numerous exceptions, which can be found at O.C.G.A. § 50-18-72. In order to refuse access to a document under one of the legal exceptions, the library must provide, in writing, the specific legal authority excepting the record from disclosure by code section, subsection, and paragraph.[47] If a requested document contains both open and excepted information, the records custodian must still release the document but may remove or mark out the excepted information.[48]

Single Access Point: Consider assigning a staff member to be the library's Open Records Officer. Then, all requests may be required to be made in writing to this designated officer.[49] If the library elects to designate an Open Records Officer, the designation must be in writing, the legal organ in the county of the library's

[45] O.C.G.A. § 50-18-71(b)(1)(A).

[46] O.C.G.A. § 50-18-71(b)(1)(A).

[47] O.C.G.A. § 50-17-71(d).

[48] O.C.G.A. § 50-18-72.

[49] O.C.G.A. § 50-18-71(b)(2).

principal office must be notified, and the library must prominently display the designation on its website.[50]

Monetary charges: The library may collect a uniform copying fee of up to 10 cents per page for letter- or legal-sized copies.[51] For the production of electronic records, the library may charge the actual cost of the media on which the records are produced. Reasonable charges for search, retrieval, and other direct administrative costs may be collected.[52] However, the hourly charge shall not exceed the salary of the lowest-paid full-time employee with the requisite skill and knowledge to perform the request, and there may be no charge for the first 15 minutes of work.

If the projected cost to produce the requested documents exceeds $25, the library must provide an estimate of any copying/administrative charges for responding to the request.[53] The library must notify the requestor of the estimated charge prior to fulfilling the request.

If the estimate of costs to produce requested records exceeds $500, the library may require payment before beginning the search, retrieval, redaction, and copying of records.[54] Also, if a requester has failed to pay legally incurred costs in the past,

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[50] O.C.G.A. § 50-18-71(b)(2).

[51] O.C.G.A. § 50-18-71(c)(2).

[52] O.C.G.A. § 50-18-71(c)(1).

[53] O.C.G.A. § 50-18-71(d).

[54] O.C.G.A. § 50-18-71(d).

the library may require prepayment for all future requests until the prior costs are paid or the dispute regarding the prior payment is resolved.

Conclusion

The underlying mission of public libraries is to provide a point of access to information for all citizens. In fulfilling that role, libraries often become embroiled in controversy with members of the public who many times appear less than rational. There are pressure groups that use litigation threats and media exposure to push their own agendas, which may be completely at odds with the fundamental principles of librarianship. There are individuals who set out to victimize the library for their own personal gain. And, there are those who approach the library with preposterous demands.

There is no magic bullet to prevent controversial incidents; anyone who has worked with the public knows that reasonless demands and threats may come anytime, anywhere. The focus for library administrators should be on how the library will respond. While it may be tempting to disregard many complainants as crazy, the better practice is to develop a mechanism for dealing with all expressions of dissatisfaction in a thoughtful and transparent manner. That a disgruntled patron presents an irrational grievance or expresses a complaint in an aberrant fashion is not a license for library employees to act in similar fashion.

To create a process to address complaints from external sources, it is helpful for library decision-makers to anticipate trouble before it happens. There are some controversies that librarians are trained to expect, i.e., intellectual freedom issues. On the other hand, there are some circumstances that could never be foreseen. In

any event, having a strategy to deal with threats and complaints coming to the library from the outside will engender confidence in those who must employ the process. Moreover, consistent utilization of the process, even in the face of bizarre circumstances will demonstrate fairness and propriety to a library's constituency.