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Law Lines

The newsletter of the Law Library Association of Greater New York

Article: Library Patron Privacy in 2014 – Honoring the Legacy of Zoia Horn

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Library Patron Privacy in 2014 – Honoring the Legacy of Zoia Horn

By Sarah Lamdan

In July 2014, Zoia Horn, the first librarian to be jailed for protecting library-patron privacy, died at the age of 96.[1] Horn, a librarian trained in New York at Brooklyn College and the Pratt Institute Library School, was an activist who fought for intellectual freedom. Decades after Horn's heroic stand for library patron privacy in 1972, in this new era of digitized research, cloud computing, and Internet-born information; law librarians can honor Horn's passing by fulfilling librarians' ethical obligations to protect their patrons' privacy.

Intellectual freedom is one of the major tenets of the [librarian code of ethics](#). The Office of Intellectual Freedom (OIF) of the American Library Association (ALA) includes privacy as a vital component of intellectual freedom; and, holds confidentiality among the imperative characteristics of library services. The ALA describes the right to privacy in a library setting as “the right to open inquiry without having the subject of one's interest examined or scrutinized by others.” Librarians are in charge of protecting this right to seek information in privacy. The ALA explains, “[c]onfidentiality exists when a library is in possession of personally identifiable information about users and keeps that information private on their behalf.”[2]

Horn believed in the vital role of libraries in healthy democracies. Horn theorized that people cannot “make intelligent decisions about how to govern themselves and make choices regarding social and political and economic issues” without having access to information.[3] Horn's idealistic vision of libraries meshed well with her enthusiasm for social justice issues. Even prior to Horn's incarceration, she had a history of provocation. As a young adult, she boycotted silk stockings when Japan invaded China; she marched with labor unions in May Day parades; and, she protested Franco's takeover of Spain in 1939.

Horn's most well-known act of protest was in the name of intellectual freedom; acting in her professional role as a librarian. In 1972, Horn was called from her home in California to testify in a court trial involving conspiracy charges. The subpoena came from across the country, stemming from patron relationships she developed during her time serving as the Head of Reference at Bucknell University's library in Lewisburg, Pennsylvania. The court wanted her to testify against her Bucknell University library patrons, who allegedly plotted a series of anti-government activities. The federal government accused the library users, who were also active anti-war protestors, of devising plans to blow up heating tunnels in Washington, D.C. and to kidnap President Nixon's national security advisor, Henry Kissinger, until the United States stopped

bombing Southeast Asia.[4]

When Horn was subpoenaed to testify for the pro-library patrons on the grounds that her testimony was a personal protest against the government’s infringing on their privacy, Horn was jailed for contempt and spent 20 days in jail for her part in the conspiracy charges.[5] Horn served her sentence for “government spying in homes, in libraries and un-

The librarian community did not immediately support her protest. The ALA’s executive board refused to publish her protest was more widely accepted among librarians. The trial and a famous mouthpiece for library privacy, “government spying in homes, in libraries and unspent time in jail for a value of our profession.” After Horn’s time in jail, [most states affirmatively passed library privacy laws](#), and the few that haven’t passed laws have adopted official state policies (attorney general opinions, etc.) reiterating the disclosure restrictions in other states’ library privacy laws. After Horn’s release from prison, she became a member of the ALA’s Intellectual Freedom Committee (IFC) in 1977, and continued to be an outspoken activist for intellectual freedom and civil rights issues. Horn went on to win numerous accolades for her professional activism, and continued her librarian rabble-rousing throughout her life.[7]

Following in Horn’s path in the decades after her imprisonment, other activist librarians have also risked their liberty defending the intellectual freedom of their patrons. Clashes between librarians and federal government agencies demonstrate the continuing importance of librarians as guardians of patron privacy. In June 2004, a librarian in Washington State named Joan Airoidi, refused to comply with FBI demands. The FBI required Airoidi’s library to release the names of every patron who borrowed the book Bin Laden: The Man who Declared War on America after a library patron noticed a handwritten note in the book’s margin reading, “*If the things I’m doing is considered a crime, then let history be a witness that I am criminal. Hostility towards America is a religious duty and we hope to be rewarded by God.*”[8] Airoidi was awarded the PEN/Newman’s Own First Amendment Award for standing up to the FBI in the name of intellectual freedom and withholding the patron records as confidential information.

Similarly, in July 2005, four librarians in Connecticut stood up to FBI agents demanding private information about library patrons’ reading habits through a USA PATRIOT Act National Security Letter. Facing possible prison time, and even the threat of the death penalty, Library Connection employees refused to hand over library subscriber information about patrons who had used the library system’s computers. The librarians sued the Federal Government, challenging the validity of a gag order that went along with the National Security Letter. The gag order suppressed the librarians’ ability to discuss the National Security Letter with anyone, even their lawyers and families. The gag order accompanying the National Security Letter prevented the librarians from even attending the court proceedings in their case or advocating their pro-privacy position before Congress. These librarians became known as the Connecticut Four.[9] In May 2006, the gag order was lifted and soon after George Christian, one of the librarians involved in the case (and Library Connection’s executive director), proclaimed that “the fact that the government can and is eavesdropping on patrons in libraries has a chilling effect, because they really don’t know if Big Brother is looking over their shoulder.”

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Many years have passed since Horn served time in prison in the name of intellectual freedom. During subsequent years, through the continuing struggle to secure the privacy of library patrons, the concept of intellectual privacy has remained embedded in librarian ethics, even though the methods for protecting library patrons' privacy have changed. In 1972 when Horn was jailed for protecting patron privacy, the Internet was not the "information superhighway" travelled so well by information-seekers, and librarians' means for protecting library patrons' privacy relied on a completely different (and now outmoded) set of mechanisms. Prior to mainstream computer use and widespread Internet access, librarians concerned with privacy did not focus on computer records, but on paper reference notes and cards tucked into library book pockets.

In the Internet era, safeguarding patron privacy is an even more challenging task. Law library users often access library materials remotely using proxy servers and passwords, utilize electronic media on libraries' public computer terminals (including viewing video resources and logging on to websites through our library portals), and librarians track many library activities using online tracking systems to record patron data. Even with the increase in patron data creation, recording, and tracking, law librarians can prevent patron privacy breaches. For example, libraries can avoid using services that sell, share, or rent personal information; and they can regularly expunge personal data from their patron tracking systems. They can also regularly remove cookies and tracking devices from public computer terminals. Law library staff can limit access to patron data (for example, law firm librarians can shield information about the research requests and book-borrowing practices of their attorney patrons from other attorneys in the firm) and hide passwords linked to specific users to assure that nobody, aside from the password's intended user can log-on to personal-use accounts like WestlawNext and Lexis Advance. More in-depth privacy measures may require looking beyond the library, asking vendors whether their data centers are secure; and assuring that law libraries partner with information providers that utilize security measures for user information.

Most importantly, law librarians can destroy all personally identifiable information after its use is completed. Once the book is returned, expunge the checkout record. When students graduate, and when attorneys leave the law firm, assure that the passwords connected to their names and the related search histories are terminated.

Law librarians can also keep their patrons informed to better preserve their intellectual freedom. If law libraries use any systems that are not secure, or that will permanently save user information (or save patron information over a significant period of time), then librarians should warn patrons to use those systems with caution, and to be aware that the information they share while using those resources may not be private. Consider including links to the privacy policies of the major databases and services commonly utilized by your patrons. (For example, [Fastcase](#), [Westlaw](#), and [LexisNexis](#) provide their own privacy policies for their online services). Finally, if law libraries use any tools or services that pose privacy risks (collecting cookies to promote easy "remember password" log-ins to websites, monitoring database use for reference statistics or data collection purposes, etc.) let the library's patrons know when their information is being collected and what the information contains (names, passwords, database names and contents, search terms, etc.). Remember to keep these privacy notifications current and to inform patrons of changes to your library's privacy provisions.

The ALA also has a wealth of privacy resources for librarians, and the ALA's Office of Intellectual Freedom even holds an annual privacy awareness campaign week called "[Choose Privacy Week](#)." Look to the ALA

privacy websites, and their [privacy toolkit](#). The toolkit contains guides for performing privacy audits in your library, developing a privacy policy for your library, and implementing privacy procedures for library users and library administrators. Rachel Gordon, law librarian at Mercer University Law Library in Macon, Georgia, [presented a poster about Privacy Audits at the 2014 AALL Conference](#). The poster recommends the Theresa Chmara's 2009 book, titled *Privacy and Confidentiality Issues: A Guide for Libraries and Their Lawyers* and an article by law librarian Anne Klinefelter titled *Privacy and Library Public Services: Or, I know What Your Read Last Summer*[10] for more information about how to ensure privacy and confidentiality in your library. As Zoia Horn surmised, in 2002, "All kinds of options are there for a librarian with a conscience." [11]

*To learn more about Zoia Horn, check out the book *Zoia Horn, Zoia!: Memoirs of Zoia Horn, battler for people's right to know* (1995). This book is available in an online format at [archive.org](#).

[1] John N. Berry III, *Library Freedom fighter Zoia Horn Remembered*, *Library Journal*, (Aug. 19, 2014), available at <http://lj.libraryjournal.com/2014/08/people/library-freedom-fighter-zoia-horn-remembered/>.

[2] Office of Intellectual Freedom, American Library Association, *Intellectual Freedom Manual*, 177 (8th ed. 2010).

[3] Bob Egelko, *Zoia Horn, Librarian Jailed for Not Testifying Against Protestors*, SFGate, <http://www.sfgate.com/nation/article/Zoia-Horn-1st-U-S-librarian-jailed-over-alleged-5624023.php> (July 15, 2014).

[4] The protesting library patrons would eventually be known as the "Harrisburg Seven."

[5] Dorothy Bryant, *Zoia Horn Takes Pride in Provoking*, *Berkeley Daily Planet*, (Jan. 9, 2004), <http://www.berkeleydailyplanet.com/issue/2004-01-09/article/18064?headline=Zoia-Horn-Takes-Pride-in-Provoking>.

[6] John N. Berry III, *supra* note 1.

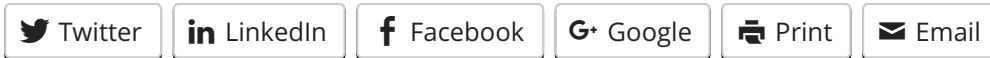
[7] Dorothy Bryant, *supra* note 5.

[8] Nicole Brodeur, *Deming's Defender of Words*, *Seattle Times* (Apr. 21, 2005), available at http://seattletimes.com/html/localnews/2002248045_brodeur21m.html.

[9] *Doe v. Gonzales*, 386 F. Supp. 2d 66 (D. Conn. 2005). The librarians in this case were represented by the ACLU.

[10] 26 *Legal Reference Services Q.* 253 (2007).

[11] Bob Egelko, *supra* note 3.

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