
The Evolution of Privacy within the American Library Association, 1906–2002

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ABSTRACT

From fears of anarchist terrorists in the early twentieth century through cold war conflict and contemporary fears of extremist religious terrorists, the American library community responded to the use of libraries as a site for surveillance and source of dangerous information in an increasingly proactive and organized manner. This paper traces the evolution of privacy norms and standards within the American library profession, focusing on the lack of regard for patron confidentiality in the early twentieth century, the development of privacy norms in the American Library Association (ALA) Code of Ethics in 1938, and the increased protection of privacy rights as the profession's conceptions of privacy formed around the ALA's codes. Using Nissenbaum's (2009) "contextual integrity" framework within a broad historical analysis of ALA publications, the paper examines the role of its codes regarding privacy in establishing a normative framework around which the continued application of privacy standards in libraries has taken place despite new technological challenges and continued pressure from governments and outside organizations to exploit patron information. The paper concludes that the ALA's unambiguous stance on, and consistent advocacy for, privacy standards across the profession has enabled reactions to violations of privacy norms that have shifted with technologies and new social pressures. The ALA's historic ability to maintain and protect these professional standards serves as a compelling model for new information professions that work to set professional standards in areas that range from data-analytics to social networking.

INTRODUCTION

Information privacy is a well-established value among librarians, and it has become a cornerstone of the profession's ethical foundation (American Library Association [ALA], 2016). Imagine, then, how the library profession would react to the following scenario: after loosely affiliated groups of terrorists with a shared ideology strike across Europe, the United States, and other locations around the world, a coordinated international network of government agencies develops broad information-sharing protocols to identify terrorist cells and thwart future attacks. Further, to support the hunt for terrorists, a public library in New York City seemingly assists the work of Russian agents who systematically target information access in libraries to identify, surveil, and deport immigrants who access information linked to the terrorists' ideology.

In a post-Snowden era that has focused so much of our attention on information privacy and the chilling effects of surveillance on information-seeking habits, it is easy to picture a quick, vocal, unified, and well-coordinated response from the library profession against the use of libraries and use-data to identify potential terrorists. The New York incident, however, occurred in 1906 and is among a number of instances of libraries being used as mechanisms of surveillance in the past century. As public institutions that have long mediated access to knowledge, the role of libraries in both violating and protecting privacy has a recognized history that has seen the right to privacy as a normative ideal evolve significantly.

A little over a century later there is a clear professional response to the use of libraries to monitor information access to support state-based surveillance in reaction to fears of terrorist networks. Shortly after the USA Patriot Act became law as a consequence of 9/11, librarians throughout the country began pushing back against the investigatory powers the law created to give federal authorities a broad mandate that included the ability to use the information-access patterns of library users to locate potential terrorists and terrorist networks. Despite gag-order mandates, librarians presented an organized challenge to the federal government, asserting their professional and moral obligation to protect patrons from unwarranted and broadly targeted surveillance (ALA, 2016; Matz, 2008; Sanchez, 2003). Today, librarians are also concerned with other privacy issues, advocating for public education, privacy rights, and privacy-enhancing technologies, such as the Tor browser (Macrina, 2015).

Over the past century the profession has evolved visibly in its ability to respond to threats to privacy and assert its professional stance on patron privacy. In order to understand how and why an ethic of privacy evolved in the library profession, this paper takes a broad historical view of the development of privacy as a professional obligation within the library profession. Focusing on the issue of privacy specifically, as opposed to complementary aspects of information freedom such as censorship and equitable access

to knowledge, the paper attempts to identify the manner by which the concept of privacy developed in the profession, the driving forces behind the eventual adoption of privacy norms in the ALA's 1939 Code of Ethics, and the eventual application of privacy standards in response to incidents that broke from established normative benchmarks within the profession. Knowledge of how privacy codes emerged within the profession and their impact as tools for advocacy are important in understanding how professionalization contributed to the librarians' role of privacy advocate in U.S. society, and provides a framework for both newly emerging library associations around the world and the newly emerging information profession to understand how the development of normative frameworks can impact a profession's ability to respond to outside challenges.

BENCHMARKING PRIVACY: ANARCHISTS, SPIES, AND THEIR LIBRARIANS

In June 1906 nineteen-year-old Henry Melnek was arrested for stealing two books in German from New York's Astor Library. A precursor to the New York Public Library, the Astor was open to the public, including foreigners, and featured international collections of foreign-language materials from throughout the world. The books in question were a translation of Jules Verne's *Around the World in Eighty Days* and a title identified as *Schriften* by an M. Perez [*sic*], which was described as a travel narrative of Siberia that included a description of prison conditions.

News of the incident spread across the United States because Melnek was an immigrant and suspected of being an anarchist. As reported in numerous national and regional newspapers across the country, he was apprehended with aid from both the Chief Librarian and Russian agents of the czar stationed in New York to identify anarchist organizations and enemies of the Russian state. The *New York Times* ominously reported that "secret agents of the Russian Government have under observation all libraries in the city, including the Jewish branches . . . to note the persons who call for books relating to anarchy or dealing with anarchistic subjects" ("Russian Spies on Watch," 1906, p. 1). According to news accounts, the library's index included *Schriften* among books on anarchy, leading Russian agents to investigate all patrons who requested this and similar titles.

In court the librarian reported the role of the Russian agents in the arrest and the fact that Melnek "had become familiar with the library, and usually called for books dealing with Anarchy and Socialism" (p. 7). Ironically, the librarian kept the identity of the Russian spies confidential. Further, it is suggested that the librarians worked in some form of collaboration with the agents. As reported by the *New York Tribune*, the "agent is not known to persons other than the library officials. The agent has two or three assistants, who follow persons designated by the agent, learn their addresses, and follow them at night" ("Libraries Schools of Anarchism,"

1906, p. 7). As was the case with most free or public libraries of this era, patrons needed to request books to be retrieved from closed stacks. According to reports, Melnek was apprehended for stealing books after Russian agents followed him home and discovered that he still had the books in his possession.

Nationally, this case was widely publicized. City newspapers in Chicago, Los Angeles, Baltimore, and Atlanta carried accounts of the incident.¹ In the late nineteenth and early twentieth centuries the United States and much of the rest of the world was concerned with threats posed by a growing and increasingly organized global antigovernment and anticapitalist movement that was broadly labeled “anarchist.” The assassinations of Czar Alexander II in 1881 in Russia and President William McKinley in Buffalo, New York, in 1901, plus other high-profile assassinations, bombings, and labor disputes around the world, raised the profile of any case involving anarchism in much the same manner that incidents involving so-called Islamic extremists attract broad news coverage in the early twenty-first century (Jensen, 2013). By 1906, international agreements on information-sharing for the policing of anarchists had been formed, and the United States had passed numerous laws limiting the dissemination of anarchist propaganda and allowing for the deportation of immigrants with anarchist backgrounds in efforts similar to contemporary fears of immigrants and social networks being used to radicalize people (Jenson, 2014; Sage-man, 2011).

The case of the anarchist offers an interesting view of privacy practices and perceptions regarding libraries in the early twentieth century. Like the use of catalogs and patron records in attempting to surveil patrons in libraries today, library technologies and practices for organizing collections and mediating access a century ago similarly provided a point at which outside surveillance could take place (Black, 2001). Although not embedded in the technical infrastructure of a computer network, this information flowed through the technology of library practices aimed to facilitate an efficient dissemination of knowledge that also exposed patron information. This information was clearly exploited and used to deduce the potential political ideologies of readers. This case indicates the level to which privacy did not yet exist as either a professional obligation or social expectation within the context of reading and information-seeking within free libraries and among the general public.

The response to anarchist surveillance in the Astor Library did not focus on concerns for privacy brought on by the act of surveillance nor a need for libraries to better protect their patrons through enhanced practices or policies. The overarching narrative from the news media ranged from criticism of libraries for providing access to anarchist-related materials, to neutral recognition of the role of Russian agents in helping to identify and locate anarchist groups operating within a United States that

lacked a federal-level policing agency, such as the FBI. Reports describe the Russian agents as being vigilant, watchful, carefully shadowing, and well-informed (“Vigilance,” 1906). At the same time, the *New York Tribune* (1906) printed a version of the story that suggested fault in the concept of public libraries for providing access to questionable materials. In its article titled “Libraries Schools of Anarchism,” the newspaper suggested that the public should be thankful that Russian agents have exposed libraries as “nurseries of crime” (1906).

For the library profession, this case demonstrates both the professional and social challenges the public library movement faced at the time. The profession’s failure to respond to the incident does not suggest that librarians supported the activities of Russian agents in libraries, although it seems that the librarians at the Astor Library may have provided material support to the agents. The response, however, did suggest a profession that had yet to develop standards and practices that consistently address questions of privacy, professional confidentiality, and the development of professional practices and technical systems that aim to promote confidentiality and privacy. In essence, the profession lacked an ethical obligation to protect the privacy of its patrons, and there was no compulsion to shield library patrons from either negative publicity or surveillance.

The continued fears of anarchists’ use of libraries was to manifest itself in 1919, thus demonstrating the ways that libraries had started to assert their professional position amid censorship. Notions of patron privacy, however, were not yet evident. In December 1919 newspapers circulated stories of the role of the New York Public Library in facilitating the education of anarchists—an ongoing fear among some sectors of society. According to these accounts, a youth, who was later deported for anarchist activities, testified that “he got his anarchist education at the New York Public Library” (“Anarchistic Books in Public Library,” 1919). A librarian, E. H. Anderson, responded through a series of published letters to newspapers. He began one response by noting that the young anarchist named in the papers was not listed as a registered patron of the library, then proceeded to defend the library’s collection policies without addressing any questions of patron confidentiality that the case may have raised. This letter to the editor showed a development of organized responses supported by ALA, noting that some of the titles in question appeared on an ALA-recommended list of publications. Additionally, Anderson asserted the library’s duty to “admit books of liberal thought; to show both sides of controverted questions”—an early example of public libraries promoting intellectual freedom regarding widely censored materials (Anderson, 1919).

Anderson’s defense of library practices and purpose in this regard anticipated controversies that the profession still navigates at regular intervals: for example, surveillance through library technologies, and fears that

broad access to some knowledge may corrupt young readers, undermine the state, or violate social norms. The reactions both in society and within the profession at the time, however, suggest that standards for privacy had yet to develop to a level that might have constituted a benchmark. This begs the questions of how and when privacy became an ethical norm within the profession.

PRIVACY AS A LEGAL AND PROFESSIONAL CONSTRUCT

Today, the *right to privacy* is a well-established norm among professional librarians in the United States. The concept is fully integrated into the profession's educational indoctrination, professional practices, and social advocacy efforts (ALA, 2016). Furthermore, librarians have actively moved beyond advocacy for privacy within libraries to push for wider privacy-enhancing laws and technologies to shield citizens from unwarranted surveillance, and to provide people with the knowledge and tools necessary to control the personal information that is collected, shared, and traded through the daily transactions mediated by the proliferation and advancement of information technologies (Falk, 2004; Klinefelter, 2007; Magi, 2011; Matz, 2008).

Among American librarians, *privacy* as a professional standard was not explicitly codified until 1939. As both a legal concept and right to be protected, it developed in the United States at roughly the same time as did librarianship as a profession. By 1890, when Samuel Warren and Louis Brandeis brought privacy to the attention of the U.S. legal community with their landmark law-review article *The Right to Privacy*, ALA had already hosted a dozen conferences and Melvil Dewey was the association's fifth president (ALA, 2007, 2010). Warren and Brandeis's article is considered to be the first on the topic of privacy to be published in the United States, and it developed the legal rationale for the right of people to be "left alone" amid growing concerns regarding the potential for personal harm posed by social and technical trends, such as the proliferation of newspapers and the advent of the portable camera. This landmark article, however, did not have an instantaneous impact. As noted by Gyves (1989), legal rights to privacy were not immediately embraced and did not gain wide acceptance among jurists until the late 1930s, which is also when ALA first adopted a code that established norms for patron confidentiality. In this sense, privacy in libraries runs in parallel with privacy as a legal right.

From the 1890s to the late 1930s librarianship as a profession began to adopt the concept of *confidentiality*, or *privileged communication*, as an ethical obligation, which had long been codified in professions like law and medicine. These professions have a longstanding tradition of maintaining the confidentiality of privileged or private information derived through work with patients and clients. Although dating back to the Hippocratic oath, the American Medical Association included a more modern version

of professional confidentiality in its 1846 Code of Ethics (Higgins, 1989). Similarly, in the legal profession the notion of privileged communication and confidentiality dates back to the sixteenth century, and it continues through the development of the modern legal profession (Richards & Solove, 2007). For librarians, the idea of privacy in the form of confidentiality was not formalized by ALA until 1939, when it revised the 1930 Code of Ethics to include a statement obliging librarians “to treat as confidential any private information obtained through contact with library patrons” (ALA, 1939, p. 129). This statement established a clear normative framework from which librarians successfully implemented and protected policies that strive to ensure the privacy of library patrons.

Most accounts of privacy in librarianship begin in 1939. Wiegand (1990) notes that the library profession began an abrupt shift toward protecting and advocating for free access to information with ALA’s 1939 “Library Bill of Rights and Code of Ethics,” which have become, “a relatively unquestioned part of the professional credo” (p. 318). Other historical accounts of privacy in libraries, however, end at 1939, each pointing to the importance of ALA’s code as the starting point for privacy advocacy (Magi, 2011). Bowers (2006), for example, provides an excellent history of the privacy of patrons’ records in U.S. libraries, but focuses entirely on the legal and policy developments in libraries since 1940. Similarly, Foerstel (1991) offers an in-depth history of the profession’s response to FBI surveillance in New York libraries during the late twentieth century that traces libraries’ concern for privacy to 1939. This scholarship establishes a clear record of the proliferation of privacy policies and activities within the profession that extends from the cold war to the 2001 USA Patriot Act and beyond.

On access to information topics allied with privacy, scholars have extensively documented the evolution of libraries in terms of censorship, equal access, and exploitation for political propaganda within U.S. libraries throughout the twentieth century (Robbins, 1994, 2001; Starr, 2004; Wiegand, 1989; Witt, 2013, 2014). These histories, however, scarcely include the development of the right to privacy among library users, because the right evolved prior to what Wiegand (1990) characterizes as a watershed event: the passing of ALA’s Library Bill of Rights.

SERVICE, PRIVATE SPACE, AND THE PURSUIT OF PROFESSIONAL LEGITIMACY

Despite the fact that widely publicized and sensational incidents like foreign spies conducting surveillance in a public library did not appear to elicit an organized reaction within the library profession, the notion of *privacy* as a professional ideal and condition to promote within libraries existed and evolved throughout the early twentieth century. As public libraries proliferated in the United States, so also did the idea that library

services and spaces interacted within the wider society at multiple levels, which included a need for privacy and the potential harm that the sharing of privileged information could inflict. In what may be one of the earliest statements concerning the privacy and confidentiality of library records, Arthur Bostwick, president of ALA during 1907–1908 and a prominent public librarian, gave a series of speeches in 1909 and 1911 on the exploitation of public libraries. These talks addressed concerns for the use of patron information by outside organizations, and he noted that businesses were beginning to view libraries as spaces in which to advertise and seek access to patron records to enhance their marketing abilities. Bostwick (1911) describes the allure of public libraries to outside organizations:

In its registration files it has a valuable selected list of names and addresses which may be of service in various ways either as a mailing-list or as a directory. Probably there are no two opinions regarding the impropriety of allowing the list to be used for commercial purposes along either line. The use as a directory may occasionally be legitimate and is allowable after investigation and report to someone in authority. I have known of recourse to library registration lists by the police, to find a fugitive from justice; by private detectives, ostensibly on the same errand; by a wife, looking for her runaway husband; by persons searching for lost relatives; and by creditors on the trail of debtors in hiding. Where there is any doubt, the matter can usually be adjusted by offering to forward a letter to the person sought, or to communicate to that person the seeker's desire and let him respond if he wishes to do so. *One thing is certain: except in obedience to an order of court, it is not only unjust, but entirely inexpedient from the library's standpoint to betray to anyone a user's whereabouts against that user's wishes or even where there is a mere possibility of his objection. If it were clearly understood that such consequences might follow the holding of a library card, we should doubtless lose many readers that we especially desire to attract and hold.* (p. 61; emphasis in original)

Bostwick's concerns, which echo contemporary debates related to third-party collection of patron data and investigative surveillance, impart the idea that the propriety of sharing patron information is not fully settled within the profession (Lambert, Parker, & Bashir, 2015). At the same time, he espouses information practices that suggest the development of context relative to informational norms that would allow patrons to control access to their information amid the need for librarians to be wary of the "chilling effect" of unjust access to records, noting that such acts could undermine the role of libraries and inhibit the use of information services by the public.

The continued growth of the profession and subsequent academic research on the science of librarianship provided opportunities to develop new perspectives on privacy, but its role as a professional norm still appeared small. William Warner Bishop, who had a profound impact on the creation of library science and the early development of the profession in the United States, provided an early indicator of the role of privacy

in libraries. At the 1915 ALA conference he presented a paper, subsequently published as "The Theory of Reference Work," which focused on the trend among libraries to provide reference services, and to even designate certain staff members as "reference librarians." Within the context of describing the importance of establishing standards for this new service, Bishop asserted the need for patron privacy to ensure that information inquiries could be made in comfort and confidentially. He advocated that "there should be (even in small libraries) some provision for privacy of consultation when necessary. It is extremely difficult to have no place to take an embarrassed inquirer, no place to consult on what may be very important matters other than the open reference room" (p. 138). Again, this suggests the development of early standards of a library's duty to provide physical privacy to shield the professional interaction between librarian and patron from public view.

In the tradition of Antonello da Messina's late-fifteenth-century painting *St. Jerome in his Study* (Jolly, 1983), Pierce Butler's 1933 *An Introduction to Library Science* espoused physical privacy as a precondition for reading (p. 57). In terms of service, he also described the major one to readers as assisting "him to an effective method for achieving his own private purpose, so long as this is not anti-social, and to safeguard him from losing his labor in activities which are futile with reference to his own immediate desire" (p. 106). In both Bishop and Butler there is no visible obligation to actively protect all patrons' privacy from outside scrutiny regarding their library use and information-seeking behaviors. The benchmark appears to be developing, but there is little clarity that could guide a librarian's professional behavior.

CONFIDENTIALITY, PROFESSIONAL LEGITIMACY, AND CODES OF ETHICS

As noted above, ALA's adoption of a new, professional Code of Ethics in 1939, which established the confidentiality of patron transactions in libraries, was a significant advance for creating privacy standards in libraries. The evolution of the codes, however, suggests that developing norms for privacy was not the primary animating force in their development: both the professional status of librarians and rampant unemployment within the profession initiated the process.

Throughout the early twentieth century the library profession developed multiple official and unofficial codes. Often noted as the first suggestion of professional ethics for librarianship, Mary Wright Plummer (1903) compared librarians to doctors, lawyers, college professors, and military officers, who have certain codes presupposing a social status and etiquette that regulates their professional order (1903). Charles Bolton's 1922 "The Ethics of Librarianship" continued the work of Plummer: he again compares librarians to other professions, such as law and medicine,

and develops a more detailed and normative concept of *ethics* that speaks to the censorship of book collections. In section 14, "Professional Obligation," Bolton expresses what might be the beginning of a statement on privacy when he notes that "the staff stands as the interpreter of the library to the public and that it may be materially helped or harmed by his individual conduct" (p. 143). And in the next paragraph he notes that "an assistant sometimes fails to realize that some of the more desirable constituents who use the library are shy. To the mind of such a user of books the friendly assistant personifies the library. Habitual ridicule in private of mistakes or ignorance on the part of the public will affect, eventually, the conduct of the assistant" (p. 143). Although not specifically referencing confidentiality and privacy, Bolton builds on other statements concerning the need for discretion to both protect patrons and the library's status, thus establishing a professional ethic that revolves around the notion of doing no harm to either the patron or the institution of libraries.

In 1930 the latest code of ethics continued to build on previous codes and again suggests the notion of *harm* while coinciding with the drive toward professionalization by comparisons with the medical and legal professions (Rathbone et al., 1930). This suggests a developing code of ethics aspiring more toward establishing the legitimacy of librarians as a professional class than rights to privacy or unfettered information access.

By the mid-1930s the Great Depression depleted the number of professional positions available to librarians in the United States. The situation prompted ALA to focus on the employment, wages, and status of librarians, with specific concern for new graduates of library schools. For ALA's leadership, one solution to this problem was to both bolster the professional status of librarians and control the number of individuals eligible to practice librarianship. Suggestions for this plan included adopting professional standards and certifications similar to fields like law and medicine, thus continuing the comparisons with these well-established professions (Kaiser, 1934b, p. 719). One aspect of this plan, which was advocated by the Subcommittee on Unemployment, was to update the Code of Ethics once again to help raise professional standards and clarify professional roles (Kaiser, 1934a). In 1934 John Boyton Kaiser, chair of ALA's Personnel Division's Committee on Salaries and Employment, issued a call for suggestions, asking the membership to contribute ideas to ALA's drafting of a new code. In his call Kaiser (1934a) noted that the instructions for the new codes "state that the code shall include the essential personnel provisions of our present Code of Ethics but shall be more specific and comprehensive. It shall include provisions relating to compensation and working conditions of library personnel; provisions for other employer and employee relationships and governmental relationships" (p. 902). There is no mention of the relationship between patrons and librarians

or any indication that this new Code of Ethics would create a revised normative framework for privacy within the profession.

By 1936, however, ALA's Committee on the Code of Ethics, which was initially chaired by Edith Coulter, had broadened the code's scope and purpose to encompass a more normative and aspirational trajectory for the guidance of professional practice in regard to the library's social mission. The following reasons for a written code of ethics appear in the committee's report to ALA's membership:

As a national body, librarians are conducting a great social undertaking. As in any other extensive activity engaging the services of a large variety of people, harmonious and united action is essential for success. It is highly desirable that librarians have a definite statement of ideals of conduct for the guidance of all members and particularly for the use of new members of the profession. It is not that a code of ethics is suggested in any sense as a measure of reform, but rather that by stating in writing our collective opinion of what we think is right in certain situations, more uniform procedure would result and the individual member would have some measure of protection. (qtd. in Vance et al., 1936, p. 369)

Although not addressing this issue of privacy and confidentiality directly, the committee's statement points toward a code that would provide a normative framework to both guide professional action and protect members when making professional decisions guided by these ethical principles. During the next year, the committee finally included notions of *confidentially* as a professional obligation. The committee's 1937 report asks the membership a series of eleven questions to gain the collective opinion on specific issues to address in the new Code of Ethics. For example, question 5 asks, "Should impartial service be given [to] all patrons of the library? Should information received in answering reference questions be considered confidential?" (Lydenberg et al., 1937, p. 557). After statements advocating for the confidentiality of reference transactions in the literature and others advocating for what amounts to various standards of patron privacy through architecture and the protection of patron information, the 1937 process for development of ALA's Code of Ethics represents one of the first profession-wide discussions of privacy among librarians that is documented in the literature.

By May 1938 the draft codes were ready for wider discussion among the library community. Clara Luddington, who was then chair of the Code of Ethics for Librarians committee, sent a draft copy of the codes along with invitations to attend a closed meeting at ALA's 1938 conference in Kansas City. Invitees included several hundred stakeholders, such as presidents of state and regional library associations, directors of state and regional libraries, library school directors, and other prominent members of the professional community (ALA, 1938). The 1938 draft included much of

the same language and structure of previous codes. In a section titled "The Relationship between the Librarian and His Constituency" a new statement appealed to both impartial access to libraries and confidentiality. Item 11 of the draft code, which mentions confidentiality, states that the librarian "will render courteous and impartial service to all users, without regard to race, creed, or social condition, maintaining a cordial, approachable manner, and treating as confidential any privacy information divulged by users, except in its library significance" (Dabagh et al., 1938, p. 631). This version of the code combined impartial access to materials and services to all library users with a right to privacy.

Based on feedback from the professional community, a revised version of the code was submitted to the ALA Council in November 1938. This code contained significant changes to item 11. The revision was much weaker, replacing "will" with "should"; in addition, the "equal access" clause is weakened and "privacy" is gone. The revised item 11 now stated:

The librarian should feel a responsibility to make known as widely as possible among its potential users the resources and services of the library. He should render impartial service to all who are entitled to use the library. The librarian should protect and preserve property entrusted to him, and should try to cultivate in the users a sense of their responsibilities to library property. (Dabagh et al., 1938, p. 631)

ALA's proposed revision of its Code of Ethics is vastly different in tone and content from the first version, limiting the notion of access to all regardless of race, creed, and social class while deleting the obligation to protect patrons' rights to privacy. Moreover, this revision lacked clarity, which might enable institutions to set their own standards that weaken any sense of a national professional code. Instead, the librarian is charged with protecting the institution and collections from users.² This draft did not signal a benchmark that librarians could invoke when challenging state or federal authorities or database vendors seeking broad access to patrons' personal information; rather, it represented the continuing debate within the profession that advocated, on one side, for the surveillance of immigrants, while the other camp argued that libraries must be protected from these very exploitations. Considering the absence of a unified and consistent stance on the privacy and confidentiality issues prior to 1939, it is easy to picture how the role of the library profession in regard to protecting information freedom and privacy would be much different today if this proposed revision of the code had been approved.

In February 1939 the Committee on the Code of Ethics approved a final version, one that again changed item 11. It now read: "It is the librarian's obligation to treat as confidential any private information obtained through contact with library patrons" (ALA, 1939, p. 129). Patrons' right to privacy as a professional obligation of librarians finally was established

despite the fact that the important provisions of information freedom and access were lacking in the finalized Code of Ethics.

VISUALIZING THE CONTEXTUAL FRAMEWORK OF PRIVACY SINCE 1938

Using digital humanities techniques to explore the library literature in the JSTOR database, a clear trajectory toward more frequent professional discussions of privacy and more vigorous responses to well-documented violations to privacy emerge. Viewed through Nissenbaum's (2009) "contextual integrity" framework, these episodes provide an overarching historical perspective on the frequency and intensity of reactions to violations of privacy or "context-relative informational norms." Her theory proposes that benchmarks for privacy become evident through breaches in contextual integrity that are manifested in "indignation, protest, discomfit, and resistance to technology-based information systems and practices" (p. 140). Although often used within the context of privacy-policy analyses or the rise of technologies that threaten privacy (Barth, Datta, Mitchell, & Nissenbaum, 2006), Nissenbaum's notion of *context-relative information norms*, and the reactions to violations of these norms in the profession, provides a means by which to analyze their development and the changing privacy benchmarks within a historical perspective. As figure 1 depicts, the frequency of privacy topics in the ALA's member-focused publications reveals the relevance of the topic within the field, and the concomitant responses to professional crises surrounding the right to privacy.

Using JSTOR's Data for Research (DFR) platform to analyze the frequency of terms related to privacy—*confidential*, *surveillance*, *privacy*—in the ALA's publications *Bulletin of the American Library Association* (1907–1938), *ALA Bulletin* (1939–1969), and *American Libraries* (1970–2002), there is a clear upward trend in relevant articles. Those with keyword matches that concern *privacy* increased from an average of only four articles annually from 1907 to 1938 to an average of seventeen from 1939 to 2002. The gradually increasing number of discussions of privacy in the literature are punctuated by spikes. These sharp increases provide glimpses of what might be considered to be a combination of the evolution of privacy benchmarks in the profession; the advent of new technologies that challenge ideas of privacy; and responses to violations of context-relative informational norms. For example, there are clear shifts in years that correspond with important events in the history of privacy within the library profession: the establishment of ALA's Code of Ethics in 1939; widespread U.S. Department of Treasury surveillance of radicals during the 1970s; the FBI's Library Awareness program during the 1980s and 1990s; and the advent of the internet and proliferation of data-focused technologies; and the USA Patriot Act of 2001.

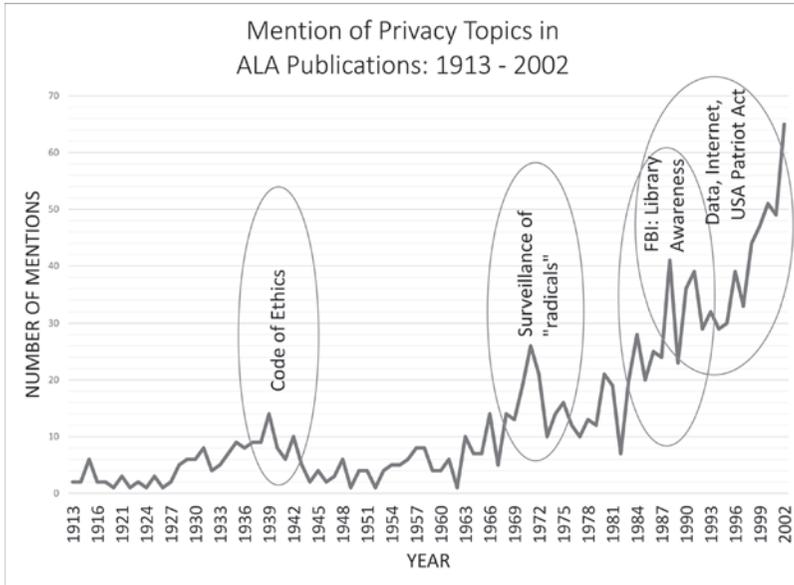


Figure 1. Mentions of privacy topics in ALA publications, 1913–2002.

One of the most prominent spikes in the discussion of privacy occurred in the early 1970s, when the library profession responded to the IRS's attempts to use patrons' borrowing records in Milwaukee and Atlanta for broad investigations into identifying possible domestic terrorists because of their interest in bomb-making. In the same year, Judith Krug and James Harvey (1970) published an account of the federal government's attempts to use patrons' records for unwarranted investigations. The authors called on the library profession to increase its efforts to strengthen standards to ensure the privacy of borrowing records so that the "chilling effect" of reader surveillance did not damage the ability of libraries to provide freedom of inquiry and unfettered access to information without fear of recrimination. Krug and Harvey, however, also cited a lack of public outcry or general response to the incident, suggesting, in Nissenbaum's terms, differing contextual standards for privacy within both the library profession and the public at large.

Another increase in the volume of references to privacy issues also corresponds to the FBI's Library Awareness program. As documented in Foerstel's *Surveillance in the Stacks* (1991), librarians advocated against the FBI's use of New York libraries as a venue for surveilling access to nonclassified technical materials by individuals from the Soviet Union. Like the incident during the 1970s, the profession as a whole reacted strongly and indignantly to what it perceived as the government's overstepping of in-

formational norms and asking librarians to break with the well-established confidentiality standard that had been adopted in 1938. The library profession responded similarly to governmental efforts to once again gain access to patron-usage information when the USA Patriot Act was passed in response to 9/11 (ALA, 2002).

From 1939 up to the present there has also been a continuous increase in discussions about privacy issues within the profession. The average number of articles published by ALA concerning these issues has increased each decade. During the 1970s, the articles per year averaged fifteen, with the high point of twenty-six corresponding to the profession's response to the surveillance by the Department of Treasury. The 1980s saw an average of twenty-two articles, with a high of forty-one during the FBI's Library Awareness program and ALA's advocacy on the Video Privacy Act. By the 1990s the annual average increased to thirty-five due to concern over the proliferation of online resources and internet technologies. Throughout this period, ALA's Library Bill of Rights and Code of Ethics have been invoked as clear standards upon which to build professional norms related to the value of privacy and confidentiality both for the profession and the pursuit of knowledge.

During the period 1907 to 1938, however, issues of privacy appeared in the literature with less frequency. Since the standards were adopted in 1938, the increase in articles for the library profession that discuss topics of privacy clearly indicates that these professional norms and the values they represent have become increasingly important and contested in both technology and society. What is less clear, however, is why patrons' confidentiality was cited as an ethical value when the 1938 revisions were being discussed. Also, there is no clear understanding of how the profession's concept of *privacy* evolved into a professional norm that is now a core value of librarianship. As noted previously, historical accounts of the key episodes in library privacy indicate that the 1938 Code of Ethics is foundational, the basis for the protection of privacy within libraries. Prior to this, however, there is little evidence of reaction to privacy violations in libraries. As was seen in the use of surveillance in the New York Public Library by agents of the Russian imperial police during the early twentieth century, however, the emergent library profession was ill-equipped or disinclined to react to the kinds of violations of privacy that inspire immediate, national reactions today.

CONCLUSION

Although much of the original language of the Code of Ethics remains and its continued support for wide access to libraries, coupled with confidentiality, persists, its ongoing existence is not guaranteed. In November 1959 ALA circulated a new Code of Ethics to replace the "outdated" document of 1938 (ALA, 1959b). Drafted by a Code of Ethics Committee, the

new code represented a departure from the original. Written as a pledge, it was much more aspirational, leaving out much of the emphatic language that focused specifically on concepts related to access to information and privacy issues. In addition, the 1959 draft revision emphasized the obligation of librarians to serve their governing organizations with loyalty. As section 2 of the draft stated:

In serving my governing authority I will loyally discharge my obligation to provide effective and efficient library services, and to make good use of every opportunity to improve and extend helpful services to readers. I will adhere to principles of intellectual integrity in maintaining high standards of library service, and will defend these principles against any actions that will compromise or weaken the usefulness of the library to its readers. (ALA, 1959a, p. 1)

In a manner similar to attempts at limiting the power of the 1938 codes discussed above, this proposed change created ambiguous standards that could be interpreted and adopted on a case-by-case and institution-by-institution basis rather than as a profession-wide mandate that could be protected on a national scale. Members of ALA vigorously defended the original codes. One of the strongest responses came from Rutherford Rogers, a member of the ALA Intellectual Freedom Committee and the assistant librarian of the Library of Congress. Rogers (1959) asserted that these new codes were unacceptable because they adopted “vague language regarding conflict between governing authority and notions of intellectual freedom.” He continued, stating that “the Code is a very important document and must be carefully drafted” (n.p.). The vigilance of Rogers and others in the profession ensured that strong and unambiguous privacy and intellectual-freedom language remained in the codes, as they do today. Without the actions of professionals like Rogers, who actively defended these norms, the late twentieth- and early twenty-first-century history of ALA’s advocacy for privacy may have been quite different.

This broad historical analysis of the evolution of privacy as a professional norm within the library profession shows how professional codes and the capacity to advocate for intellectual-freedom issues have expanded since Melnek was arrested and the Russian secret police stalked library patrons across New York City. Taking the wide view of privacy violations and concerns as they have been actively addressed by the library community makes it clear that the library’s conception of privacy developed in conjunction with its adoption as a legal concept. At the same time, notions of patron confidentiality were adopted in part as a means to emulate other professions, such as law and medicine. More importantly, however, analysis of the development of ALA’s Code of Ethics and its impact on professional practice through responses to violations of what Nissebaum (2009) calls “contextual integrity” demonstrates the monumental importance of clear ethical standards as represented in ALA’s Code of Ethics of 1938, which

has continuously protected privacy rights and been improved on since its adoption. Although it is impossible to demonstrate a causal relationship, the role of the code and the ability of the library professional community to both respond to privacy concerns and adjust privacy benchmarks as new technologies and threats emerge are evident in the increasing levels of discourse surrounding concepts of privacy within the profession.

For newer information professions like computer programming, data analysis, and data archiving, a historical view of the library profession's initial disregard for and eventual leadership in advocating for privacy provides a compelling model and potential roadmap. At the same time, if the library profession aims to maintain privacy standards, it is essential for it to remain vigilant in its continued advocacy for the value of clear standards regarding privacy and privacy-enhancing behaviors. The privilege of privacy related to information access as a hallmark of open societies developed slowly and over a long period of time; devolution may take less time if clear norms and professional leadership are absent.

NOTES

1. Other accounts (all in 1906) of the incident include the following: *Atlanta Constitution's* "Russian Agents Watch Libraries"; *San Francisco Chronicle's* "Russian Spies in Libraries"; *Los Angeles Times's* "Theft Shows Russia's Hand"; and *Cincinnati Enquirer's* "Vigilance."
2. Aside from matters of confidentiality and privacy, this revision of the code reflects the continued debates within ALA regarding the ethical dilemma posed by the racial segregation of library services. This subject is examined in-depth by Cheryl Knott's (2015) study, *Not Free, Not for All: Public Libraries in the Age of Jim Crow*, on Jim Crow-era racism as it was enacted within U.S. public libraries.

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