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The FBI Creates An Awareness of Librarian Ethics: An Opinionated Historical Review

INTRODUCTION

Paula Kaufman, Director of Academic Information Services Group for Columbia University, became the whistleblower on what is now known to be one of several visits made by agents of the Federal Bureau of Investigation to libraries seeking information on the use of that institution by "foreigners." She notified the New York Library Association's Intellectual Freedom Committee Chair that the Math/Science Library at Columbia had been the target of a visit by two agents asking a clerical employee about foreigners in the library. Included in her report was the startling intelligence that in a subsequent visit with the agents, she was told that their activities were part of an FBI Library Awareness Program. All they were seeking, they said, was that librarians be alert to use of their libraries by people from countries "hostile to the U. S., such as the Soviet Union" and to report their observations to the FBI's New York City office (Kaufman, 1988).

It is noteworthy that Ms. Kaufman made it clear to the agents that it was institutional policy that such surveillance of users was unprofessional, particularly in a collection that had no classified materials. Undoubtedly, it was her personal sense of professionalism that led her to report the incident rather than ignore it, as was likely the case in some other area research libraries. ALA, upon learning of the incident, contacted John Otto, then acting director of the FBI, requesting information on the program called, by the New York office, "Library Awareness." NYLA wrote to the New York City FBI office and received

a letter that acknowledged receipt and promised to get back with an answer.

ALA received an answer from Milt Ahlerich, Acting Assistant Director, admitting that such a program existed. He made it sound as if the activity was restricted to the New York office because they wanted to alert librarians to this potential danger that "members of hostile countries or their agents attempting to gain access to information that could be potentially harmful to our national security." He stated that they were seeking "assistance" (McFadden, 1987, p. B2).

The NYLA inquiry resulted in a letter from Mr. Otto making the same admission and agreeing that the New York FBI officers would be contacting the Association with more information. After six weeks of silence, Dr. Helen F. Flowers, president of NYLA, and Nancy Lian, the executive director for NYLA, met with Robert D. McFadden and turned over copies of their correspondence to him. On September 18, 1987, *The New York Times* broke the story on the front page under McFadden's byline. He got an admission from the New York City office that "fewer" than twenty libraries had been contacted. They refused to confirm that any such contacts had been made outside the metropolitan area. James Fox, deputy assistant director of the New York office of the FBI, is quoted as insisting that "hostile intelligence has had some success working the campuses and libraries, and we are going around telling people what to be alert for . . . we don't want librarians to become amateur sleuths" (p. B2).

It is important to note at this point that the FBI has gone to considerable lengths to avoid making much in the way of written statements about their activities, preferring to make telephone statements or appearance behind closed doors. At no time have they substantiated the majority of their allegations. For instance, it was at the time of the *Times* story and the subsequent pick-up by the wire services that Anne Heanue, associate director of the ALA Washington office, had the following response read to her:

The FBI is responsible for countering the intelligence gathering efforts of hostile foreign intelligence services. The damage being done to our country by such foreign intelligence services is substantial. The FBI's foreign counterintelligence investigative efforts encompass a variety of approaches, all of which are within U. S. Attorney General guidelines and United States laws.

The FBI has documented instances, for more than a decade, of hostile intelligence officers who have exploited libraries by stealing proprietary, sensitive, and other information and attempting to identify and recruit American and foreign students in American libraries. The FBI, therefore, in an effort to thwart this activity is endeavoring,

on a limited basis, to educate knowledgeable individuals in specialized libraries to this hostile intelligence threat.

The FBI has historically depended upon the American public's assistance in carrying out its investigative responsibilities. The FBI has absolutely no interest in interfering with the American public's academic freedoms or First Amendment rights. (ALA Intellectual Freedom Committee, 1987, pp. 241-43)

This release documents the cynicism with which the FBI operates. It has been no secret that the current administration is carrying on the policy designed to limit access to information in commercial databases that bear sensitive government data. There has been a constant pressure, reported assiduously in countless releases by the ALA Washington office, by the government to get publishers to monitor the people using their systems and to seek limits to access to those databases. And in the revelations of the Awareness Program it is obvious that, having met resistance from publishers, the government has been trying to pressure academic and research libraries to do the same by disclosing user names and the subjects of the searches to the FBI.

In all of the subsequent investigations and meetings with the legislative committees, NCLIS, and ALA, the Bureau has not once revealed that it has sought information on specific individuals known to be engaged in terrorist activities, nor has it offered any information that links such database searches by individuals to such activities. It has been clearly established by the U. S. Supreme Court that foreign nationals residing in the U. S. enjoy the same First Amendment protection as do its citizens. They also as aliens are equally protected by the due process stipulations of the Fifth Amendment and the equal protection clause of the Fourteenth Amendment.

Such veiled hints that the expulsion of Soviet employee Gennadiy F. Zakharov was triggered by his recruitment of a Queens College student he met in the library have proven to be false. In fact, another student employed at the U. N. gave the name of the Queens student to the Soviet agent after having seen it on a Queens College bulletin board soliciting library research services, according to recent research by Simmons doctoral student Cheryl Ann McHenry (1989). Such blatant manipulation of the facts by the FBI seems to point to mere justification for a "fishing expedition" and a cynical awareness that the very idea planted in the public mind that the FBI is watching the use of libraries by individuals will have a chilling effect which can help accomplish a reduction in the use of scientific and technical information.

The people gathered together at this conference are here to try and determine if it is within their power to inspire a righting of these

wrongs, if there is something in their calling as librarians that can inspire them to action.

Developing a Professional Code of Ethics

Ethics for librarians have been a struggle for a long time. Codes were adopted and proposed for revision. In 1903, Mary W. Plumer authored one; in 1922, Charles Knowles Bolton managed to get a revision passed by ALA; in 1929, uneasiness with the document surfaced with a proposed code that languished and never saw ratification. These codes were primarily an extended listing of commandments one might expect from a summit meeting of administrators, e.g., thou shalt not covet thy neighbor library's budget, thou shalt not speak ill of thy administrator, thou shalt wear sensible shoes, etc.

From 1968 to 1981 there was a constant struggle to present a code that would be adopted by the ALA Council. During this period was developed the concept that libraries as institutions must find and defend methods for people to find what they want to know in use of the graphic record. Almost immediately, a moral tenet was attached to the library's right to promulgate the right to know. Librarians have been finding ways of saying just that and insisting that to deny such access is a moral and ethical blasphemy against the U. S. Bill of Rights.

In making the statement now known as the Library Bill of Rights, librarians began to learn that when information storage and retrieval systems are manipulated so as to discourage or prevent untrammelled and intimidation-free inquiry, there is a cause and effect. Minds begin to wither, knowledge retreats, and a self-protective silence ensues.

Admittedly, for some librarians there is still an uneasiness connected to embracing the burden of advocacy of the right of free access to information. Advocacy has its roots in the Latin word *vocalis*, meaning to voice, or break the silence. And it is against societal norms to bring attention upon oneself by breaking silence and embracing advocacy.

At the ALA Convention in 1981, a revision of a Code of Professional Ethics was adopted. It is a succinct document, advisory and moralistic in its exhortations for professional conduct. There are six paragraphs in it; however, it is in the third paragraph, wherein librarians are called upon to "protect each user's right to privacy with respect to information sought or received, and materials consulted, borrowed or acquired" (ALA Council, 1982), that the true brunt of the ethics of librarianship is placed.

Careful inspection will reveal that the Library Bill of Rights stands as a separate document from the Code of Professional Ethics. The former is an advisory policy statement aimed at the institution of the

library. The latter is a statement of professional aspirations and conditions aimed at those individuals who would practice librarianship. So it is that librarians have worked with a document for nearly fifty years that has been aimed primarily at institutions. On the other hand, the Code of Professional Ethics has languished in a revisionist limbo for decades and only recently resurfaced as a statement of policy for the individual.

Unfortunately, when the code was adopted in May 1981, there is no evidence that even one cork was popped or one fiddle bowed. No one seemed to really care or even be aware of the document. For a while, it looked as if its only contribution to the profession was to have supplied some librarians with an excuse to extract support funds from their institution to attend ALA committee meetings.

Certainly, this lethargy was not because there were no moral or ethical dilemmas flaring up almost daily. Legitimate and illegitimate authorities have been constantly after the library to violate the rights of those who come to it for access free from intimidation and with respect for the right to privacy. It is just that the issues have been primarily fought at the institutional level, with the librarian as agent.

It has long been recognized that, in some cases, librarians were being either punished or intimidated where they tried to defend the library's institutional stand on intellectual freedom matters. The ALA Office for Intellectual Freedom has conducted a fairly long campaign to promote the adoption of state statutes that would provide some legal basis for the protection of records identifying the patron with the materials used. To date, only eleven states have failed to adopt such a statute. This push for statutory protection was in recognition of the need to shield the librarian in order to accomplish the stated goals of the institution.

ETHICAL RESPONSIBILITY VS. PATRIOTIC DUTY

When the nation's media focused upon the librarian as guardian of the right to privacy in the retrieval of information from the libraries and databanks, it was fascinating news imagery: the librarian up against one of the more intimidating federal agencies, the FBI.

When the Library Awareness Program came to light, librarians found themselves the objects of admiration for their professional stand against intimidation of themselves and the users of libraries. Headlines delighted in pointing out that the librarians were refusing to act as spies. The FBI not only precipitated this public relations coup for librarians, they also compounded it by making false and misleading statements about their program. For example, early on the FBI claimed

that it was only in and around New York that the program was active. The following table is a list of documented visits reported by ALA as of May 10, 1988 (ALA Intellectual Freedom Committee, 1988):

TABLE 1
ALA-REPORTED LIBRARY VISITS BY FBI

<i>Institution</i>	<i>Library</i>	<i>Contact</i>
ACADEMIC LIBRARIES		
Columbia N.Y. University	Math/Science Library	Paula Kaufman
University of Maryland	Courant Institute of Mathematical Science	Nancy Gubman
George Mason University	Engineering/Physical Sciences Library	Herb Foerstel
University of Kansas	(details unavailable)	Charlene Hurt
University of California at Los Angeles	Engineering/Math Science Library	Ruth B. Gibbs
Pennsylvania State University	University Libraries	James G. Neal
University of Michigan	Engineering/ Transportation Library	Maurita Peterson Holland
University of Houston		Scott Chafin, University Counselor
University of Cincinnati		Dorothy Byers
University of Wisconsin at Madison		Alexander Rolich
University of Utah	Government Documents Library	Roger K. Hanson
*State University of N.Y. at Buffalo	Lockwood Library	Stephen Roberts
PUBLIC LIBRARIES		
Broward Cty (F1) System		Selma Algaze
Brooklyn		Ellen Rudley
New York City		Paul Fasana
OTHER CONTACTS		
Information Industry Association		Ken Allen

*At Buffalo, a specific request was made, citing a specific individual, and was followed by presentation of the required subpoena.

Following are some of the allegations made by the FBI as to the extent with which libraries are being used by the Soviet Intelligence

Services (SIS). In a report entitled *The KGB and the Library Target, 1962-Present*, prepared by the Intelligence Division of the FBI and dated January 1, 1988, FBI Director William S. Sessions contended that:

Included as an element of Soviet Exchange Student tasking has been the identification of scientific-technical libraries; systems of their work; possibilities for subscribing to literature and reports from the libraries or other institutions of learning; qualifications and specialties of students being trained and where they are placed after graduation from a university or college, and with which government institutions' regular business connections were being maintained.

The SIS has utilized clandestine means to obtain large volumes of documents from the Special Libraries Association (SLA).

Officials in Moscow have instructed SIS officers to obtain from the Library of Congress various types of information through the use of SIS sources.

The SIS has been known to target specific librarians to be considered as possible contacts for agent development. Background investigations on these librarians, and if necessary, physical surveillance of them, have been encouraged. The SIS has obtained the *Biographical Directory of American and Canadian Librarians* and can utilize this document to identify specific librarians for targeting. (FBI Intelligence, 1988, pp. 16-17)

The report is a lengthy series of allegations, including claims to having documented cases of librarians having been recruited out of public libraries and encouraged to seek positions in more attractive targets. The report alleges that the SIS has perpetrated large scale theft of microfiche, but strangely, it does not claim to have documented such activity as being part of the Soviet intelligence gathering program.

The largest part of the report is comprised of excerpts from the April, 1987 issue of *New York Magazine* which reported on Gennadiy F. Zakharov's activities with the Queens student who was never contacted in the library. It concludes by contending that librarians are being asked to report on foreign agent activity as a patriotic duty and that in no way are they being asked to compromise the rights of the citizens using the libraries.

Librarian as Guardian of Free Access

Looking back over the editorial comments from various media on the librarian's reaction to the FBI visits, one finds a tone of respect not always evident in such accounts. It is impressive to hear politicians, writers, researchers and other opinion-makers talking about the librarian as a guardian of the free and democratic access to libraries for all people.

Is this to the benefit of the profession? Samuel Rothstein (1968), while discussing the hope for professionalization of librarianship, said

that "like any professional group (they) need some kind of statement which will indicate what they are and what they stand for" (p. 157).

Librarians have been prepared through their exposure to the Library Bill of Rights to offer guidance and assistance to the client who comes to them for help; but they have always tried to make the distinction that such assistance was not to be an attempt to make moral and ethical judgments about the individual and his or her motives for seeking information.

Louis Ranlett (1939) discussed the librarian's ethics and sounded most contemporary when he said that "public confidence in our discretion and approachability is more important than a reputation of always being right. The latter ought to keep people at arm's length. The former will permit them to speak to us without whispering" (p. 740).

Most librarians tend to avoid taking sides or entering into conflicts, perhaps out of pride that what they do benefits others. At the same time, many librarians have difficulty in maintaining their highly touted neutrality when information is being requested by those who may be perceived as somehow unsuitable.

Society's real concern for protecting itself from violence and criminal activity can and will make claims upon librarians from time to time. In order for the librarian to make an assessment of the particular circumstances, there will be a constant necessity for evaluating those stated ethics and seeking more revealing parables and homilies that can reduce the tendency to panic during a situation of moral stress and ethical dilemma.

The FBI Library Awareness Program is a compelling reason for all of the profession to take a good look at not only their own but also at the federal government's roles in pushing the librarian toward a confrontation over ethics. The damage caused by the number of government documents being removed from public access, some with and others without a security classification, is well known. The arguments publicly made by the FBI for their library contacts seem to be based upon a misunderstanding of the scientific communication process and the purpose of libraries in the growth of knowledge. Dr. Sessions in his statement to Congress allowed that "it is the very lacking of information and idea exchanges in a closed society that stifles creativity, suppresses the imagination, and acts as a barrier to social, economic progress" (FBI Intelligence, p. 32). Yet the Bureau would have librarians try to selectively create a "closed society" within our own.

Another irony is all the activity that deplores the foreign nationals from having access to unclassified information, particularly when it falls into the hands of communist countries. Yet many of the databases being turned over to the private sector corporations are in reality multinational

in ownership, owing allegiance to no political group and often headquartered in such places as France, Belgium, Japan, and Germany. Examples have already appeared wherein some of those agencies handling U. S.-inspired databases deal directly with some of the communist-block nations and other political entities such as Iran.

INFORMATION AND THE POWER STRUCTURE

Looking beyond the rhetoric and the posturing that has particularized the FBI Library Awareness Program, an agenda begins to surface. In this age of technology, it is not the minerals, water power, fossil fuels, etc., that are going to serve society; it is information that is the infinite resource humankind has left. Information collection, storage, and retrieval are essential to the survival of society when the finite resources are no longer available.

At the same time, it is difficult to put a fence around information, to bury it underground, to push it through a pipeline, or to harness it to the wheel. However, information in the hands of a few will create the new elite, the power structure able to dominate the remainder of society much in the manner that those who control the mineral and real estate resources today do.

Given that the FBI admits that this sort of activity has been going on for at least a decade, and that in the past eight years an accelerating program seeking control of all information has been promoted at the highest government levels, one realizes that this is the true national information policy.

In his report to the ALA Council in January 1989, James Schmidt revealed how strong the drive is among those with vested interest in controlling access, and that this drive is based on the construction of a climate of intimidation and fear. At its previous annual conference, ALA had endorsed the passage of H.R.4947 and S.2361, intended to give federal protection from disclosure of personally identifiable information about library users as kept by libraries. However, by October 1988, ALA was forced to agree to withdraw the library portion of that legislation because it was well known that an amendment was in the works that would have replaced the court order requirement for access to such information with a simple letter from the FBI (or other government agency) stating that such inquiry was a matter of national security; it would have imposed a gag order on any library employee who had been questioned by an agent of the government about library patrons; and it would have subordinated all state statutes protecting such records when it was a matter of national security. The bill, without

a mention of libraries other than those maintained by video rental agencies, was passed. Thus, one cannot find out what videos one's legislator is renting, but one can find out what materials he or she is checking out at the library!

Negative publicity has not given the FBI pause. Director Sessions repeated his promise to continue to visit libraries.

The librarians . . . may have reason to contact the FBI regarding an individual if he identifies himself as a Soviet national and:

- 1) [seeks] assistance in conducting research in the library;
- 2) requests a librarian to refer him to a student or professor who might assist him in a research project;
- 3) advises a librarian that he is conducting research for an unnamed Soviet friend and needs access to specific documents;
- 4) [removes materials] without properly checking them out of the library; and
- 5) asks a librarian . . . for biographical or personality assessment information . . . on a student or academician. (FBI Intelligence, pp. 9-10)

Sessions goes on to say that the FBI also wants to know about anyone who says they are doing some project for Soviet-bloc nationals. He states that the FBI does not want to hear about anyone who does not fit the above criteria. He claims that the FBI will not force librarians to comply or give information, but he feels certain that once everything is explained to them, librarians will be happy to assist.

To many observers, it is clear that the FBI program is part of a systematic, coordinated, interagency effort to prevent access to unclassified information, and that the coordination emanates from a multi-agency Technology Transfer Intelligence Committee hosted by the CIA. The committee has reported their concern over the issue of sensitive but unclassified information. There seems to be no hesitancy on their part to use whatever intimidation or coercion they can muster to create a climate of fear and mistrust. There seems to be a tacit admission that surveillance by government agencies, many of them shrouded in secrecy and covert activities, is an acceptable way to run a democracy.

CONCLUSION

An ideal has haunted humans for centuries, a hope that somehow, through perseverance, a world can be created without fear and without hunger, where justice is commonplace and peace can become a reality. Librarians have only recently discovered their real and measurable role in maintaining that ideal, and can take solace from a man who half a century ago captured the imagination of this nation with his dream of

One World. "Freedom," Wendell L. Wilkie said, "is an indivisible word. If we want to enjoy it, and fight for it, we must be prepared to extend it to everyone, whether they be rich or poor, whether they agree with us or not, no matter what their race or color of their skin" (Bartlett, 1980, p. 824).

Libraries have always been based upon an optimistic view of the future. There are many librarians who have already committed themselves to "each user's right to privacy with respect to information sought or received, and materials consulted, borrowed or acquired." Those librarians who have not despaired offer hope to all for the future.

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