

Intellectual Freedom Case Study Essay

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A public library is a place anyone is allowed to come to. Librarians are the “face” of a library and patrons who frequent a library on a regular basis tend to form familial relationships with library staff. Patrons are individuals who may be well-to-do, homeless, alcoholic, rude, elderly, young, and the list goes on. Librarian’s diplomatic skills are often called upon to deal with a person who is angry about fines, or talks too loudly, or is having a mental health crisis. Librarians often rely on mission statements and library polices to navigate how to respond to different patron issues that arise. Having library policies posted throughout the library or on a handout as a source of information that can be shared with a patron in violation of library polices is helpful in de-escalating confrontational situations.

Yet, there are times when a librarian or library staff reach an impasse with a patron who refuses to follow library polices. Asking a patron to leave the library is a delicate situation because a patron can file a complaint, or in the case of *Kreimer v. Bureau of Police for Morristown 1991*, file a lawsuit. Libraries must make sure their policies do not violate a patron’s civil rights. Seeking legal advice about the polices that library staff create is prudent and should be done to ensure First Amendment rights are not violated when asking a patron to leave a library.

The library is a public and personal space.

Kreimer v. Bureau for Morriston 1991 found the Morristown Library violated a patron’s First Amendment rights by asking him to leave the library on various occasions because he was homeless and had bad hygiene. He also was accused of sleeping in the library and staring at people on different occasions, which was a violation of the Morristown library policies. Despite

being a public place, the library can often feel like a personal space for patrons, who do not expect to encounter a homeless person with bad hygiene. Is it fair for other patrons to be subjected to smelling someone with bad hygiene? Most people would say no, it is not fair. But what if the problem was a patron who wore too much cologne or perfume? A patron wearing too much cologne/perfume could be accused of a hygiene issue, because too much cologne/perfume is equally offense as a smelly homeless person. Should or would staff ask this patron to leave? Does library polices cover the issue of too much cologne/perfume worn by a patron? The decision to ask a patron to leave a library due to a policy violation cannot be an arbitrary decision.

Librarian and Patron interactions

The outcome of *Kreimer V. Bureau for Morristown 1991*, found the Morristown library violated Kreimer's First Amendment rights:

For the foregoing reasons, the court concludes that paragraphs 1, 5, 9, and the last two unnumbered paragraphs of the Morristown Library "Patron Policy" violate the First Amendment to the United States Constitution; these provisions are not narrowly tailored or reasonable time, place, and manner regulations which serve a significant government interest. In addition, paragraphs 1 and 5 of the library policy are unconstitutionally overbroad; paragraphs 1, 5, and 9 are unconstitutionally vague; and paragraphs 1, 5, and 9 violate the equal protection and due process clauses of the Fourteenth Amendment in conjunction with the free association guarantee of the First Amendment. This case impacted how libraries deal with homeless patrons. Today's libraries create services that bring the library to homeless shelters by making sure homeless patrons have access to library materials and computers. Homeless patrons are viewed as valued members of the community libraries serve.

Enforcement of Library Policies and the First Amendment

The article *The Legacy Kreimer v. Bureau of Police Twenty Years Later* looks at the propositions the case has come to stand for:

1. there is a First Amendment right to receive information;
2. it is possible to violate the First Amendment by expelling library customers;
3. however, it is okay to expel customers who violate the library's behavior policy;
4. behavior policies must meet First Amendment standards;
5. policies may impose time, place, and manner restrictions, and they must be nondiscriminatory;
6. customers must be given an opportunity to appeal to have their access restored;
7. rules of conduct can serve to protect the use of the library as a public entity with a defined mission;
8. it is vastly to the library's advantage to adopt behavior policies; and
9. you cannot prevent a disgruntled patron from suing the library, but you can win.

The court decision did set a precedent for libraries to make sure their policies do not violate a patron's First Amendment rights, while also providing libraries with the right to ask a patron to leave if the patron violates the library's behavior policy. Patrons also have recourse by having the right to appeal against a ban from a library.

Patron Responsibilities and rights Patrons are protected by the First Amendment while at the library. Patrons have the right to sue a library if their rights are violated. Patrons have the responsibility to read library policies and adhere to library policies. Patrons must realize a public space is a shared

space and it is their responsibility to respect the rights of other patrons to use the library without hearing loud talking, sleeping, or stalking.

A Better Way to coexist My takeaway from the case *Kreimer v. Bureau of Morristown, 1991* is that libraries recognized homeless patrons need the library and the library recognizes the challenges facing homeless patrons. Libraries understand dealing with the public requires police to be vetted to protect First Amendment rights, but also to protect the library's rights when a cordial relationship between patron and library staff goes awry. No librarian should be afraid to request a patron leave the library for violating well defined policies. No patron should feel they were asked to leave the library because they are homeless. However, in a post-pandemic era, if a patron's personal hygiene is considered a health threat to staff and other patrons, the patron should be asked to leave. The key to coexisting with the public is for libraries to have a clear mission and policies that support the library and patrons. Librarians are asked to reevaluate policies through a lens of equity and compassion in the article *Behavior Policy Reboot* (Dorman Calkins, 2023). Librarians participated in training for mental health, first aid, and suicide prevention. Revised behavior policies included adding microaggressions, racism, and bullying. A cloud-based log was created to track behavior concerns, warnings, and exclusions for a unified and timely response. According to Dorman Calkins (2023), "The layers of this work can be daunting—such as collaborating with staff, a board, legal counsel, and others to revise procedures and implement change. But policy is at the core of what we do. It holds us accountable, shields us, and demonstrates our values. We must be watchful for any mismatch between our policies and the progress we are trying to make "(p.42).

References

Kreimer v. Bureau of Police for Morristown, 765 F. Supp. 181 (D.N.J. 1991)

Grayson Barber (2012) *The Legacy: Kreimer v. Bureau of Police, Twenty Years Later*, *Library & Archival Security*, 25:1, 89-94, DOI: 10.1080/01960075.2012.657948

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Doman Calkins, A. (2023, March 1). *Behavior policy reboot*. *American Libraries*, 54(#3/4), 42–42.

To link to this article: [Behavior Policy Reboot | American Libraries Magazine](#)