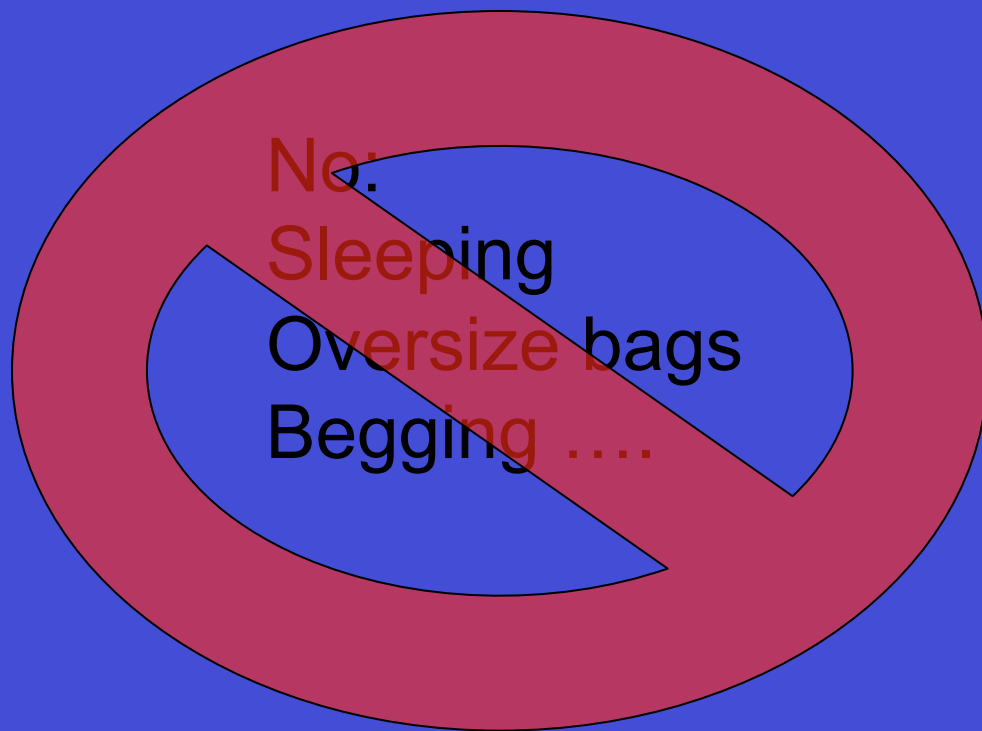


Homeless Patrons and Libraries: Legal Issues

Tuesday, September 17, 2013



Mary Minow
J.D., A.M.L.S.

Infopeople  *helping libraries think differently*

 **LibraryLaw.com**

Legal Disclaimer

Legal information

Not legal advice!

Agenda

1. Overview and Legislative Update
2. Library Ethics and the Poor
3. Library Policy Framework : FEND
 - Rules based on Speech (NO, usually)
 - Rules based on Behavior (YES, usually)

1. Overview and Legislative Update

**NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY**
Lawyers Working to End Homelessness

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Criminalizing Crisis

[Download the Digital Version \(PDF\)](#)

The Criminalization Of Homelessness In U.S. Cities

With poverty at record levels and as many as 3.5 million people homeless each year, this report by the National Law Center on Homelessness & Poverty shows that more and more cities are making it illegal to be homeless.

Criminalizing Crisis analyzes local policies in 234 cities and demonstrates the startling trend toward criminalizing basic acts necessary for homeless persons' survival, including eating and sleeping in public.

Of the 234 cities surveyed, the report shows that:

- 40 percent prohibit sleeping in public places;
- 33 percent prohibit sitting/lying in public places;
- 56 percent prohibit loitering in public places; and
- 53 percent prohibit begging in public places.

Among the 188 cities reviewed for both this report and the Law Centers 2009 report, major trends include the following:

- 7 percent increase in prohibitions on begging or panhandling;
- 7 percent increase in prohibitions on sleeping; and
- 10 percent increase in prohibitions on loitering.

http://www.nlchp.org/view_report.cfm?id=366

Homeless Bill of Rights

rhode island coalition for the homeless



Homeless Bill of Rights

How It Affects You

2012

www.rihomeless.org 401-721- 5685

EQUAL TREATMENT

You have the right to equal treatment by all state and municipal agencies and their employees, including, but not limited to:

- Libraries
- Elected officials
- Police
- RIPTA
- Fire & Rescue services
- City/town halls
- Voting/election officials
- Social service agencies
- And any others not listed

2012 RI
2013 CT
IL

California AB 5

The Homeless Person's Bill of Rights and Fairness Act.

*Right to move freely, rest, eat, share,
accept or give food or water*

Solicit donations in public spaces

*Right to sleep, ~~lie down~~ rest in public
spaces*

*Public employees shall not be retaliated
against by employer for offering
available public resources to such as
food, blankets, water*



On hold until January 2014



CAPITOL ALERT
CLICK HERE FOR OUR INSIDER EDITION APP

THE LATEST ON CALIFORNIA POLITICS AND GOVERNMENT

May 24, 2013

California homeless rights bill fails in Assembly committee

Assemblyman **Tom Ammiano**'s bill to create legal protections and support services for homeless people stalled in the Assembly Appropriations Committee on Friday.



Ammiano, D-San Francisco, proposed several protections for homeless people, including the right to counsel when accused of crimes like loitering. His bill also called for cities and counties to build hygiene centers, which would have cost as much as \$216 million to build and another \$81 million a year to maintain.

The California Chamber of Commerce included AB 5 on its annual "job killers" list, saying it imposed "costly and unreasonable mandates on employers."

In a statement, Ammiano said he was disappointed that the "Homeless Person's Bill of Rights and Fairness Act" failed, but that he understands the state's budget picture.

Ammiano said he plans to start working right away to pursue another approach to ensure homeless people are not treated as criminals.

May 2013

*Passed Assembly Judiciary Committee

*Appropriations Committee put on hold \$300 million hygiene centers

*Advocates vow to continue; say saves more than it costs

<http://blogs.sacbee.com/capitolalertlatest/2013/05/ammianos-homeless-rights-bill-fails-in-assembly-committee.html>

California AB 652

Child Abuse and Neglect Reporting Act: homeless children

AB 652

— 2 —

CHAPTER _____

An act to add Section 11165.15 to the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 652, Ammiano. Child Abuse and Neglect Reporting Act: homeless children.

Existing law, the Child Abuse and Neglect Reporting Act, requires a mandated reporter, as defined, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.

This bill would provide that the fact that a child is homeless or is classified as an unaccompanied minor is not, in and of itself, a sufficient basis for reporting child abuse or neglect.

The people of the State of California do enact as follows:

SECTION 1. Section 11165.15 is added to the Penal Code, to read:

11165.15. For the purposes of this article, the fact that a child is homeless or is classified as an unaccompanied minor, as defined in Section 11434a of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.), is not, in and of itself, a sufficient basis for reporting child abuse or neglect. Nothing in this section shall limit a mandated reporter, as defined in Section 11165.7, from making a report pursuant to Section 11166 whenever the mandated reporter has knowledge of or observes an unaccompanied minor whom the mandated reporter knows or reasonably suspects to be the victim of abuse or neglect.

Homeless child is **not** sufficient basis
to report child abuse or neglect

“hard to imagine a youth desiring to be
taken into police custody or
returned by police to a home the
youth has fled”

- Assemblyman Ammiano



[http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0651-0700/
ab_652_bill_20130912_enrolled.pdf](http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0651-0700/ab_652_bill_20130912_enrolled.pdf)

Are California Librarians Mandated Reporters?

California Penal Code lists mandated reporters PC Sect. 11165.7

Under specific circumstances, it's possible:

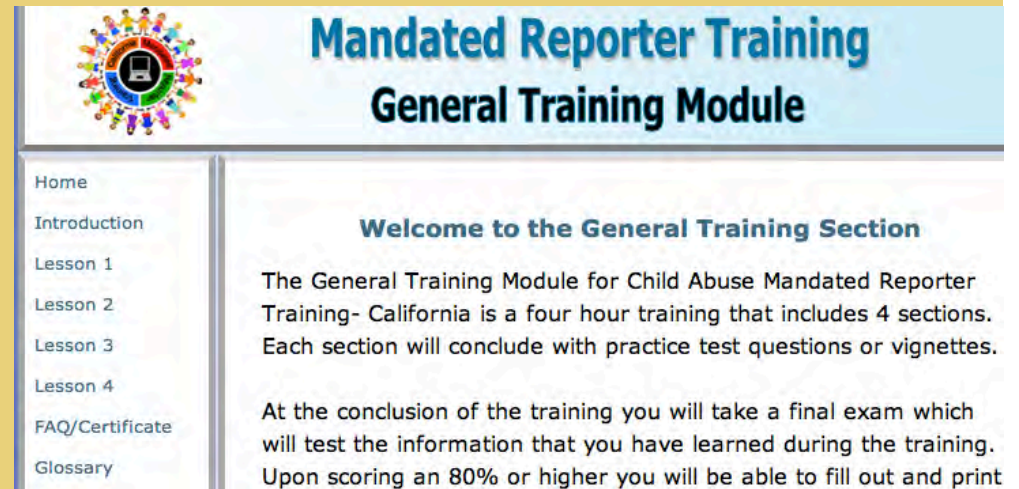
(a)(4) public school

(a)(8) if supervising children, perhaps in a reading program

(a)(41) post-secondary school

Anyone is "permissible reporter"

Great training resources at
<http://mandatedreporterca.com>



Mandated Reporter Training
General Training Module

Home
Introduction
Lesson 1
Lesson 2
Lesson 3
Lesson 4
FAQ/Certificate
Glossary

Welcome to the General Training Section

The General Training Module for Child Abuse Mandated Reporter Training- California is a four hour training that includes 4 sections. Each section will conclude with practice test questions or vignettes.

At the conclusion of the training you will take a final exam which will test the information that you have learned during the training. Upon scoring an 80% or higher you will be able to fill out and print

(8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children. -

Source: email from California Department of Social Services (CDSS),
Office of Child Abuse Prevention (OCAP)

Library Ethics and the Poor

ALA Policy Statement: Library Services to the Poor

The American Library Association promotes equal access to information for all persons, and recognizes the urgent need to respond to the increasing number of poor children, adults, and families in America. These people are affected by a combination of limitations, including illiteracy, illness, social isolation, homelessness, hunger, and discrimination, which hamper the effectiveness of traditional library services. Therefore it is crucial that libraries recognize their role in enabling poor people to participate fully in a democratic society, by utilizing a wide variety of available resources and strategies. Concrete programs of training and development are needed to sensitize and prepare library staff to identify poor people's needs and deliver relevant services. And within the American Library Association the coordinating mechanisms of programs and activities dealing with poor people in various divisions, offices, and units should be strengthened, and support for low-income liaison activities should be enhanced.

The American Library Association shall implement these objectives by:

1. Promoting the removal of all barriers to library and information services, particularly fees and overdue charges.
2. Promoting the publication, production, purchase, and ready accessibility of print and nonprint materials that honestly address the issues of poverty and homelessness, that deal with poor people in a respectful way, and that are of practical use to low-income patrons.
3. Promoting full, stable, and ongoing funding for existing legislative programs in support of low-income services and for pro-active library programs that reach beyond traditional service-sites to poor children, adults, and families.
4. Promoting training opportunities for librarians, in order to teach effective techniques for generating public funding to upgrade library services to poor people.
5. Promoting the incorporation of low-income programs and services into regular library budgets in all types of libraries, rather than the tendency to support these projects solely with "soft money" like private or federal grants.
6. Promoting equity in funding adequate library services for poor people in terms of materials, facilities, and equipment.
7. Promoting supplemental support for library resources for and about low-income populations by urging local, state, and federal governments, and the private sector, to provide adequate funding.
8. Promoting increased public awareness—through programs, displays, bibliographies, and publicity—of the importance of poverty-related library resources and services in all segments of society.

9. Promoting the determination of output measures through the encouragement of community needs assessments, giving special emphasis to assessing the needs of low-income people and involving both anti-poverty advocates and poor people themselves in such assessments.
10. Promoting direct representation of poor people and anti-poverty advocates through appointment to local boards and creation of local advisory committees—service to low-income people, such as... library-paid transport...

Tips and tools you can use from the American Library Association's Social Responsibilities Round Table and Office for Literacy and Outreach Services

Extending Our Reach: Reducing Homelessness Through Library Engagement

"The best thing that libraries can do for the homeless is to treat them with the same status afforded to all other library patrons...the library has been a focal point of my homelessness."

Kevin Barbieux, "The Homeless Guy"

The American Library Association promotes equal access to information for all persons, and recognizes the urgent need to respond to the increasing number of poor children, adults, and families in America.

...combination of limitations, including illiteracy, illness, social isolation, homelessness, hunger, and discrimination, which hamper the effectiveness of traditional library services.

... crucial that libraries have concrete programs of training and development are needed to sensitize and prepare library staff to identify poor people's needs and deliver relevant services.

Content used by permission of OLOS, ALA.

http://www.ala.org/offices/sites/ala.org.offices/files/content/olos/toolkits/poorhomeless_FINAL.pdf

Hunger, Homelessness & Poverty Task Force

Social Responsibilities Round Table
of the American Library Association

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About Us

Saturday October 17, 2009

In 1990, the American Library Association adopted [Policy 61, Library Services for the Poor](#).

This "Poor People's Policy" was developed to ensure that libraries are accessible and useful to low-income citizens and to encourage a deeper understanding of poverty's dimensions, its causes, and ways it can be ended.

In 1996, members of the [Social Responsibilities Round Table \(SRRT\)](#) formed the Hunger, Homelessness & Poverty Task Force to promote and implement Policy 61 and to raise awareness of poverty issues.

Since then, the task force has ...

- mounted major conference programs
- secured policy-support from ALA Presidential candidates
- initiated a SRRT resolution on poverty-related subject headings
- distributed resource information
- encouraged the ALA [Office for Literacy & Outreach Services \(OLOS\)](#) Advisory Committee to create a Poverty Subcommittee
- published a first-ever statement on class and libraries in *American Libraries*
- inspired the publication of *Poor People and Library Services* (McFarland, 1998), edited by former task force chair Karen Venturella
- and coordinated poverty-focused surveys of ALA units and members in 2007.

<http://www.hhptf.org/about>

Infopeople Webinar

WHAT DO I DO NOW?:

[May 2013]

Handling Challenging Situations with Mentally Ill and Homeless Library Users



← Karen Strauss



Kathleen Lee →

Positive approach
on partnerships,
effective limits
and kindness



Leah Esguerra ↑

San Francisco
Public Library

http://infopeople.org/training/what_do_i_know_part_2

3. Library Policy Framework



Free Speech
tread carefully

Equal Enforcement

Notice

Due Process (Appeals)

FEND off lawsuits

Free Speech or Behavior?

Library can set behavior rules

Check with attorney before restricting speech



Rule: No bare feet



Neinast v. Board of Trustees of the Columbus Metropolitan Library (2002), 190 F.Supp.2d 1040; *Neinast v. Board of Trustees of the Columbus Metropolitan Library* (2003), 346 F.3d 585; and *Neinast v. Board of Trustees of the Columbus Metropolitan Library*, 165 Ohio App.3d 211, (2006), *Neinast v. Fairfield Cty. Dist. Library Bd. of Trustees*, Ohio Court of Appeals, 5th Appellate Dist. (2011)

Free Speech or Behavior?

Library can set behavior rules

Check with attorney before restricting speech

No bare feet
is
behavior not speech



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Speech Outside of Library

Does the public have a right to solicit funds and leaflet outside the library?



Prigmore v. City of Redding (2012) 211 Cal.App.4th 1322

<http://lj.libraryjournal.com/2013/01/litigation/appeals-court-redding-ca-must-allow-leafleting-in-front-of-library/>

Arguments for Restrictions

Not purpose of library

Captive audience

... separate “free speech zone”

LIBRARY JOURNAL

Appeals Court: Redding, CA, Must Allow Leafleting in Front of Library

By [Meredith Schwartz](#) on January 2, 2013 [4 Comments](#)

Justice Elena Duarte, writing for the [Third District Court of Appeal](#), held that the City of Redding, CA's—and its library's—policy of limiting leafleting to a “free speech area” on the plaza outside the [library](#) violated the First Amendment. (The policies are tightly tied together, as the library's board of trustees is made up of all the same members as the city council, and the council made violation of the library policy a criminal act.)

Though considered together by the courts, the legal challenges were originally filed separately by Suann Prigmore, the chair of the Bostonian Tea Party's Constitution Week Committee, The Bostonian Tea Party and the North State Tea Party Alliance, and by the [American Civil Liberties Union \(ACLU\) of Northern California](#), as well as two individual ACLU members. According to [The Metropolitan News-Enterprise](#), the Daughters of the American Revolution was involved in the original leafleting dispute, but did not bring suit.

THE RULING

Duarte concluded that the exterior of the library is a traditional public forum, not just a limited public forum as the [city](#) contended, and thus free speech rights should receive the greatest degree of protection. “Characterizing the area as a public forum is consistent with the role of a library as ‘a mighty resource in the free marketplace of ideas,’” she said, also citing physical characteristics of the space, such as unrestricted access to the public and benches for congregating, which make the plaza more like a park than the entrance to a retail establishment.



The entrance to the City of Redding public library

Prigmore v. City of Redding (2012) 211 Cal.App.4th 1322

<http://lj.libraryjournal.com/2013/01/litigation/appeals-court-redding-ca-must-allow-leafleting-in-front-of-library/>

COURT: Free Speech Rights

Sidewalks are **public forums**, unlike inside the library (limited public forum)

Public has right to solicit funds, at least with regard to future donations

Public has right to leaflet

Fact specific – plenty of room to enter/exit library

LIBRARY JOURNAL

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More Speech

Does public have a right to offensive coarse utterances, gestures or displays, abusive language towards another?

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More Speech

Does public have a right to offensive coarse utterances, gestures or displays, abusive language towards another?

YES. Vague. Constitutionally protected speech.

LIBRARY JOURNAL

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Panhandling Update

The New York Times U.S.

WORLD U.S. N.Y. / REGION BUSINESS TECHNOLOGY SCIENCE HEALTH SPORTS OPINION

POLITICS EDUCATION TEXAS

Homeless Are Fighting Back Against Panhandling Bans



Matthew Staver for The New York Times

Dimples, left, and Turtle Dean panhandled on Thursday in downtown Colorado Springs.

By **DAN FROSCH**
Published: October 5, 2012

COLORADO SPRINGS — Panhandlers, with their crumpled signs, coffee cups and pleas, are as customary a sight in many American towns and cities as Starbucks or McDonald's. But for one Utah homeless man, the right to ask people for money has become a personal legal crusade.

- FACEBOOK
- TWITTER
- GOOGLE+
- E-MAIL

Several lawsuits

<http://www.nytimes.com/2012/10/06/us/homeless-are-fighting-back-in-court-against-panhandling-bans.html>

Most Recent: Michigan Anti-Begging Statute

Sign:

“Cold and Hungry, God Bless.”

...

Ask a person on the street:

“Can you spare a little change?”



<http://www.wzzm13.com/news/article/259006/2/Mich-AG-fighting-ruling-that-legalizes-panhandling>

Speet v. Schuette, Aug. 14, 2013 (6th Cir.)

<http://docs.justia.com/cases/federal/appellate-courts/ca6/12-2213/12-2213-2013-08-14.pdf>
See also <http://lawprofessors.typepad.com/conlaw/2013/08/sixth-circuit-begging-protected-by-first-amendment.html>

Begging is Free Speech. Protected by the Constitution (6th Cir.)

RECOMMENDED FOR FULL-TEXT PUBLICATION
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 13a0226p.06

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

JAMES SPEET and ERNEST SIMS,
Plaintiffs-Appellees,

v.

BILL SCHUETTE,

Defendant-Appellant.

No. 12-2213

Appeal from the United States District Court
for the Western District of Michigan at Grand Rapids.
No. 1:11-cv-00972—Robert J. Jonker, District Judge.

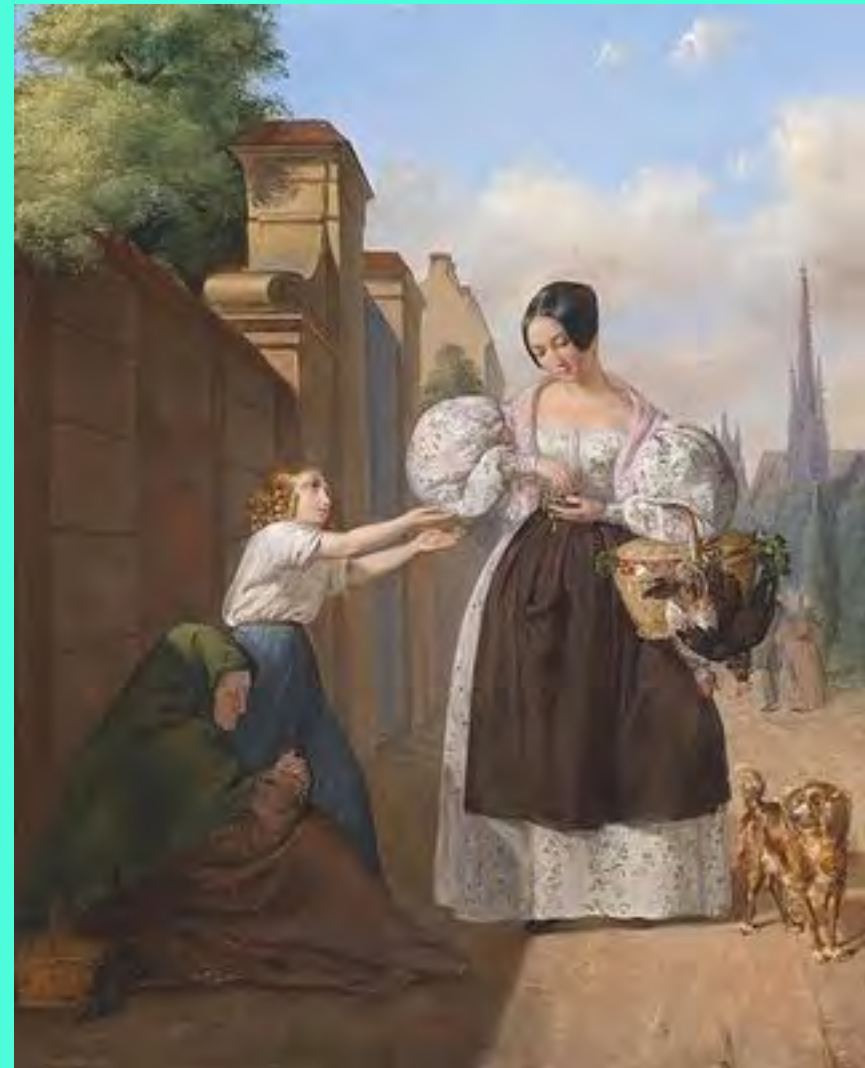
Argued: June 13, 2013

Decided and Filed: August 14, 2013

Before: MARTIN and SUTTON, Circuit Judges; ADAMS, District Judge.

COUNSEL

ARGUED: Ann M. Sherman, OFFICE OF THE MICHIGAN ATTORNEY GENERAL, Lansing, Michigan, for Appellant. Miriam J. Aukerman, AMERICAN CIVIL LIBERTIES UNION FUND OF MICHIGAN, Grand Rapids, Michigan, for Appellees. **ON BRIEF:** Ann M. Sherman, OFFICE OF THE MICHIGAN ATTORNEY GENERAL, Lansing, Michigan, for Appellant. Miriam J. Aukerman, AMERICAN CIVIL LIBERTIES UNION FUND OF MICHIGAN, Grand Rapids, Michigan, Michael J. Steinberg, Daniel S. Korobkin, AMERICAN CIVIL LIBERTIES UNION FUND OF MICHIGAN, Detroit, Michigan, for Appellees.



Ensure Procedural Safeguards

May not leave it to “whim of administrator”
– objective standards

Equal Enforcement

Notice

Due Process (appeals)



Enforced Equally



www.zinasaunders.com/

- Sit-in at Audubon Regional Library (Clinton, LA)
- Violation of state breach of peace law

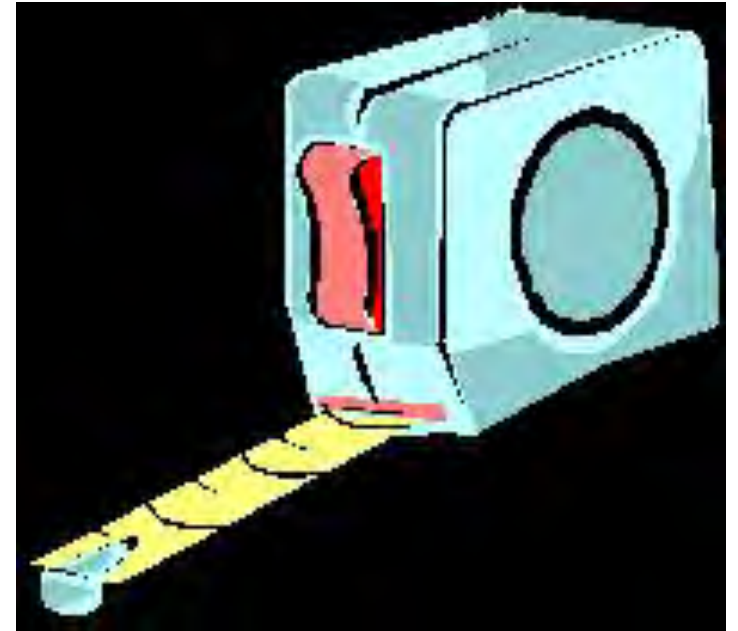
Supreme Court:
Law violated Equal Protection in U.S. Constitution

Brown v Louisiana, 383 U.S. 131 (1966)

thehomelessguy.blogspot

... I had a back pack and a sleeping bag with me - both nearly brand new and completely out of people's way, a security guard came by with a measuring tape - measured both bags - and declared that their total length exceeded limitations and that I'd have to take them out of the library.

Later that same day, a couple kids with cello cases came rolling into the library, right past the guards, and the guards said nothing to them about their oversized items.



thehomelessguy.blogspot.com Nov 15, 2004

Library Cards and Shelter Addresses

Case 4:06-cv-40133-FDS Document 25 Filed 12/21/2006 Page 1 of 13

Case 4:06-cv-40133-FDS Document 23 Filed 12/18/2006 Page 1 of 13

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JANE DOE,
SUZETTE LINDGREN,
ANDREW MOYER,
on behalf of themselves and all others
similarly situated, and
MASSACHUSETTS COALITION
FOR THE HOMELESS, and
CENTRAL MASSACHUSETTS
HOUSING ALLIANCE,

Plaintiffs,

v.

CITY OF WORCESTER,
WORCESTER PUBLIC LIBRARY, and
WORCESTER PUBLIC LIBRARY
BOARD OF DIRECTORS,

Defendants.

CIVIL ACTION NO.:
06-40133-FDS

CONSENT ORDER AND SETTLEMENT AGREEMENT

Plaintiffs brought this action challenging the constitutionality of Defendants' policy that restricts the public library borrowing privileges of residents of homeless shelters, transitional housing programs, teen/children's programs and other facilities.

WHEREAS, Plaintiffs and Defendants, having carefully considered the issues raised in this case, agree that such issues should be resolved without further litigation;

WHEREAS, Plaintiffs acknowledge that Defendants understand the need for and believe

Consent Order Settlement Agreement

Patrons with temporary residences treated equally (had been limited to 2 items)

Doe v. Worcester Public Library, Case No. 06-40133, Dist. MA, Consent Order, Dec. 21, 2006

<http://dockets.justia.com/docket/massachusetts/madce/4:2006cv40133/104172/>

Notice to Patrons

- Written, posted
- Not vague

“Unwritten rules lend themselves to a myriad of problems, none the least of which is proof of its existence...”



Brinkmeier v. Freeport, 1993 U.S. Dist. LEXIS 9255 (N.D. Ill. July 2, 1993)

Hygiene Policies

Two Outcomes

Kreimer case

Patrons whose bodily hygiene is offensive so as to constitute a nuisance to other persons shall be required to leave the building...

Kreimer v. Bureau of Police, 958 F.2d 1242 (3d Cir. N.J. 1992)

Armstrong case

Objectionable appearance (barefooted, bare-chested, body odor, filthy clothing, etc.) ... or if his or her appearance "interferes with the orderly provision of library services."

Armstrong v. D.C. Public Library, 154 F. Supp. 2d 67 (D.C. 2001)

Hygiene Policies

Two Outcomes

Kreimer case

Patrons whose bodily hygiene is offensive so as to constitute a nuisance are required to leave the library.

Library won

Kreimer v. Bureau of Police, 958 F.2d 1242 (3d Cir. N.J. 1992)

Armstrong case

Objectionable appearance (barefooted, bare-chested, body odor) does not constitute a nuisance if his or her appearance does not interfere with the provision of library services.

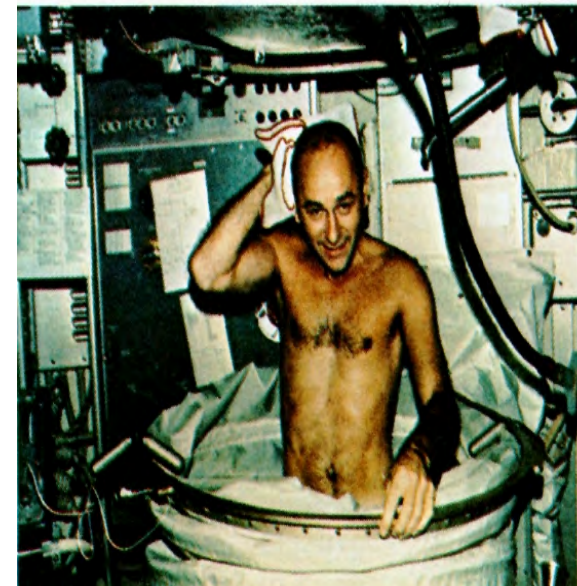
Patron won

Armstrong v. D.C. Public Library, 154 F. Supp. 2d 67 (D.C. 2001)

Library Won

Library Rule:

Patrons whose bodily hygiene is offensive so as to constitute a nuisance to other persons shall be required to leave the building.



Kreimer v. Bureau of Police, 958 F.2d 1242 (3d Cir. N.J. 1992)

Objective Legal Definition

New Jersey Nuisance Law

"anything that unduly interferes with the exercise of the common right"

“Nuisance” is objective legal term.

Earlier Version of Same Rule

Patron dress and personal hygiene shall conform to the standard of the community for public places. This shall include the repair or cleanliness of garments.

Library changed to
“nuisance” standard

Kreimer v. Bureau of Police, 958 F.2d 1242 (3d Cir. N.J. 1992)

Hygiene Policy that Library Lost on END

Objectionable appearance (barefooted, bare-chested, body odor, filthy clothing, etc.) or if his or her appearance "interferes with the orderly provision of library services."

END - "Etc." depends on interpretation, no instructions to guards, no appeals process

Enforcement, Notice, Due Process

Sample Notification



Violators will receive a warning from and an opportunity to cease.

Repeat violations may result in suspension of Library privileges.

Appeal requests may be made in writing to the Library Director.

Further appeals may be made to the Library Board.

Due Process (Appeals)



Courts look at

- *Liberty and First Amendment interests* in using libraries
- Risk of error
- Administrative burden

Bottom Line: Offer appeals

Two hour suspension

Library sued by patron
suspended for two hours



Grigsby v. City of Oakland, 2002 U.S. Dist. LEXIS
10621 (N.D. Cal. June 10, 2002).

Two hour suspension

Library sued by patron
suspended for two hours

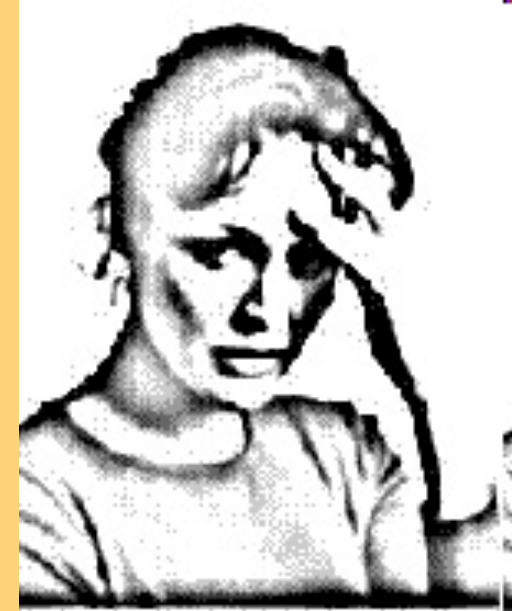
Court: minimal intrusion
outweighed by library's
interest in safe and
efficient operation



Grigsby v. City of Oakland, 2002 U.S. Dist. LEXIS
10621 (N.D. Cal. June 10, 2002).

How much Due Process?

Woman complained man following her around, staring at her, making her uncomfortable



Banned for two years.

Sued Library over **Due Process**

Doyle v Clark County Public Library, 2007 U.S. Dist. LEXIS 73490 (S.D. Ohio, Oct. 2, 2007.) see also docs.justia.com/cases/federal/district-courts/ohio/ohsdce/3:2007cv00003/112491/65/0.html

Court: Public interest in immediate intervention

No pre-deprivation hearing required
immediate intervention to prevent
criminal behavior

Post-deprivation, patron given:
immediate notice of charges
opportunity to see all evidence,
opportunity for hearing with ultimate
decision maker and even
right to be represented by counsel

Patron claimed right to confront accusers
and right to jury

Court: Not required



Library wins

Doyle v Clark County Public Library, 2007 U.S. Dist. LEXIS 73490 (S.D. Ohio, Oct. 2, 2007.)
see also [docs.justia.com/cases/federal/district-courts/ohio/ohsdce/
3:2007cv00003/112491/65/0.html](https://docs.justia.com/cases/federal/district-courts/ohio/ohsdce/3:2007cv00003/112491/65/0.html)

May city destroy property left by homeless persons?



Nine homeless individuals sued when city seized and destroyed personal possessions left on sidewalk

City ordinance “no person shall leave personal property on any parkway or sidewalk”

Lavan v. City of Los Angeles (9th Cir. 2012) 693 F.3d 1022, *cert. denied*, 2013

Court: Not without DUE PROCESS



Absent objectively reasonable belief property is abandoned, presents immediate threat to public health or safety, is evidence of a crime or contraband

Must give prominent NOTICE and OPPORTUNITY TO BE HEARD

Maintain in secure location for 90 days

Lavan v. City of Los Angeles (9th Cir. 2012) 693 F.3d 1022, *cert. denied*, 2013

Summary



Free Speech
tread carefully

Equal Enforcement

Notice

Due Process (Appeals)

Pending case

Patron claims guard would not let him in with his wet cart

1½ x 1 x 3 ft

paper bags, plastic bottle plus three plastic grocery bags



Claims: First Amendment
Equal Protection
Due Process

Court thus far:
survived motion to dismiss
“His complaint states a plausible First Amendment claim. Lu has a First Amendment right to access the Library.”

Lu v Hulme and Trustees of the Boston Public Library, Civil Action No. 12-11117-MLW (D. Mass. Mar. 30, 2013). <http://dockets.justia.com/docket/massachusetts/madce/1:2012cv11117/144735/>

Recap

1. Overview and Legislative Update
2. Library Ethics and the Poor
3. Library Policy Framework : FEND
 - Rules based on Speech (NO, usually)
 - Rules based on Behavior (YES, usually)

Questions?



Comments?
Mary Minow
consult@librarylaw.com



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