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Managing Disruptive Patron Behavior in Law Libraries: A Grey Paper

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Managing Disruptive Patron Behavior in Law Libraries: A Grey Paper*

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Nearly all law library staff has encountered or will encounter challenging patron behavior. In this article, the authors develop best practices based on their 2014 online survey of law library staff, follow-up correspondence with several survey respondents, and a review of case law and relevant literature within law librarianship and other fields.

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Introduction

¶1 It's one of those things almost everyone in a law library knows but can't talk freely about. Patrons—our reason for being here!—sometimes behave in ways that we cannot understand, control, or accept. They can be pushy or loud or threatening. They may solicit legal advice from librarians or other patrons. They sometimes walk away with a chapter of a form set. Unchecked bad behavior by patrons can be a real damper on staff morale. While writing this article about difficult and disruptive patron behavior in law libraries, we encountered many law library staff members who hesitated, or outright refused, to publicly speak about the sometimes-unpleasant behavior of their patrons. This could indicate that law librarians are uncomfortable talking about disruptive patron behavior. It could also indicate that some law library staff are not satisfied with how their institutions handle difficult patron behavior and are uncomfortable talking about this dissatisfaction. Whatever the cause, the discomfort with openly talking about the disruptive behavior of patrons and occasionally dysfunctional policies and procedures of law libraries created and instituted to respond to such behavior assured us that the topic chosen for the first American Association of Law Libraries (AALL) Research Instruction & Patron Services Special Interest Section (RIPS-SIS) Patron Services Committee White Paper was well chosen. We also saw an opportunity to give law librarians who have successfully managed patron behavior a forum to share their ideas and suggestions.

¶2 We began this project in response to a request from the 2013–2014 RIPS-SIS Executive Board to the RIPS-SIS Patron Services Committee, chaired by Jessica

Panella, for a white paper on a patron service issue. We formed a subcommittee in spring 2014 and began work immediately. After discussing several topics and researching professional literature, we chose to focus on best practices for law libraries in responding to difficult, challenging, or disruptive patron behavior. This topic, we believe, applies to a variety of law library settings but lacks adequate law library–specific resources to guide law library professionals.

¶3 To our knowledge, no detailed studies have been published on how difficult or disruptive patron behavior manifests specifically in law libraries. To draw a fuller picture, we surveyed law librarians about their patron challenges and their libraries' responses. The article begins with a review of the existing professional literature and the applicable case law on library access, which informed the survey design. The article then summarizes the results of our fall 2014 online survey of law library staff and details responses to follow-up interviews with some of that survey's respondents. The article concludes with recommendations for further study and suggested best practices drawn from this research.

Statement of Problem

¶4 While white papers, most familiar in a business context, typically include a statement of a problem or challenge and conclude with a solution to that problem, we share the view that disruptive patron behavior in law libraries is not a problem in the traditional sense that can be solved in a white paper. However, nearly all law library staff have encountered, and likely will encounter, some measure of challenging patron behavior. To that end, we dub this project a "grey paper," an attempt to analyze and contend with a fundamentally dynamic phenomenon. We hope this article, no matter what its shade, will serve as a touchstone for future law library staff and management discussions about the kind of patron behavior described here. The insights in this article are not ours but those of our survey respondents as well as those of authors who have written on this topic, within and outside of law librarianship. While this article does not purport to have a single commoditized solution to the challenge of negotiating difficult patron behavior, it does aspire to be part of the solution.

Literature Review

¶5 Libraries exist to be used by their patrons.[1] Just as patrons are essential to all types of libraries, so are difficult situations involving patrons common to all types of libraries. The general library literature is replete with descriptions of "problem patrons" and how to manage challenging patron-service scenarios, particularly as they occur in public[2] and academic[3] settings. The topic has also been addressed in

1. In the *Oxford English Dictionary*, the first definition of "library" refers to an "organized collection of books for reading or reference, *for use by the public or by a specific group*." 1 Shorter Oxford English Dictionary 1585 (5th ed. 2002) (emphasis added).

2. *See, e.g.*, Kelly D. Blessinger, *Problem Patrons: All Shapes and Sizes*, 75/76 Reference Libr. 3 (2002); Calmer D. Chattoo, *The Problem Patron: Is There One in Your Library?*, 75/76 Reference Libr. 11 (2002); Ann Curry, *Managing the Problem Patron*, Pub. Libr., May/June 1996, at 181.

3. C. Lyn Currie, *Difficult Library Patrons in Academe: It's All in the Eye of the Beholder*, 75/76

works dedicated to special libraries, such as medical libraries.[4] While the works cited in this section vary significantly in emphasis and tone, almost all share several unmistakable themes.

Defining the "Problem"

¶6 There is a distinct lack of consensus about what librarians mean when they discuss encounters with "difficult" or "problem patrons."[5] Academic librarian Kelly Blessinger suggests that "[a] problem patron could be defined as someone who infringes on others' enjoyment of the library by displaying behavior that is deemed destructive, criminal, bothersome, offensive, or otherwise inappropriate to the norms of behavior in libraries or society."[6] Law librarian Georgia Ann Clark defines "problem patrons" as those without a legal background seeking to use the library's specialized collection.[7] Others define the difficult patron even more broadly: as any library visitor who upsets another visitor or member of the library's staff.[8] It should perhaps not be surprising that at least two authors discussed in this section cite Justice Potter Stewart's famous line about obscenity: "I know it when I see it."[9]

¶7 Several authors begin their discussion of this topic by offering a taxonomy of "difficult patron" types.[10] This approach lends itself to glib and sometimes offensive characterizations of library patrons and does little to improve our understanding of how to address difficult patrons as individuals. More helpful are articles that emphasize how libraries should address problematic behaviors, instead of those that rely on assumptions about categories of people.[11] In their review of difficult patron situations in academic libraries, for example, Patience Simmonds and Jane

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Reference Libr. 45 (2002); Cheryl Kean & Faith McKoy-Johnson, *Patron Aggression in the Academic Library: A Study of the Main Library at the University of the West Indies, Mona*, 110 New Libr. World 373 (2009); Patience L. Simmonds & Jane L. Ingold, *The Difficult Patron in the Academic Library: Problem Issues or Problem Patrons?*, 75/76 Reference Libr. 55 (2002); Diane J. Turner & Marilyn Grotzky, *Help Yourself: Front-Line Defense in an Academic Library*, 75/76 Reference Libr. 253 (2002).

4. *See, e.g.*, Michael C. Schott, *The Problem Patron in a Hospital Library*, 9 J. Hosp. Librarianship 265 (2009).

5. *E.g.*, Chattoo, *supra* note 2, at 20 ("Defining 'problem patron' is the hardest part of the problem.").

6. Blessinger, *supra* note 2, at 4.

7. Georgia Ann Clark, *The Problem Patron*, 72 Law Libr. J. 52, 53 (1979).

8. *See* Bruce A. Shuman, *Problem Patrons in Libraries—A Review Article*, 9 Libr. & Archival Sec. 3 (1989) ("[A] problem patron is anyone who is doing anything illegal, immoral, annoying, or upsetting to anybody else."); *see also* Joyce C. Wright, *Partnership with Community Resources—Campus Police: Revisiting Policies to Reflect the 21st Century*, 75/76 Reference Libr. 287, 288 (2002) ("Our policy indicates that whenever a situation makes someone feel uncomfortable . . . the security guards are paged immediately.").

9. Justina O. Osa, *The Difficult Patron Situation: Competency-Based Training to Empower Frontline Staff*, 75/76 Reference Libr. 265, 266 (2002); Shuman, *supra* note 8, at 8.

10. *See, e.g.*, Curry, *supra* note 2, at 183; Kwasi Sarkodie-Mensah, *The Difficult Patron Situation: A Window of Opportunity to Improve Library Service*, Cath. Libr. World, Mar. 2000, at 159, 161 (listing "Types of Difficult People," *id*. at 163); Shuman, *supra* note 8, at 14–15, 19; Randall C. Simmons, *The Homeless in the Public Library: Implications for Access to Libraries*, Reference Q., Fall 1985, at 10–11. Descriptions of "patron types" often include categorical statements unsupported by a citation, such as "The majority of mentally ill persons are 'homeless.'" Chattoo, *supra* note 2, at 19.

11. *See* Donald A. Arndt, Jr., *Problem Patrons and Library Security*, 19 Legal Reference Services Q. 2001, nos. 1/2 , at 19, 21–24; Glen E. Holt & Leslie E. Holt, *Setting and Applying Appropriate Rules Governing Patron Behavior*, 24 Pub. Libr. Q. 73, 75 (2005).

Ingold identify specific service areas or relationships that are conflict triggers and then suggest potential solutions.[12] As Rhea Joyce Rubin points out in her book *Defusing the Angry Patron*, the American Library Association's guidelines for developing patron-behavior policies include a reminder that policies should not be based either on "an assumption or expectation that certain users might engage in behaviors that could disrupt library service" or "upon appearance or behavior that is merely annoying, or that merely generates negative subjective reactions from others."[13]

¶8 Some librarians approach the "difficult patron" theme by focusing on patron complaints, disputes over library policy, and other situations that lead to uncomfortable conversations between patrons and staff.[14] This approach pushes library staff to "try to distinguish between problem behaviors and library-related problem issues and . . . admit their part in any conflict that arises."[15] This requires critical thinking about how to deliver library services to meet patrons' actual needs and preferences, as opposed to what librarians assume or believe those needs and preferences to be.[16] As C. Lyn Currie points out, librarians may experience an encounter with a patron as difficult "simply because [the patron's] expectations for service are not met by our service provisions."[17] This may be the case even more frequently in law libraries serving the public, where patrons' needs and expectations may significantly exceed the services that librarians feel ethically comfortable providing.[18] While patrons who exhibit unacceptable behavior cannot be avoided, library practices that exacerbate patron frustrations can be addressed proactively, and complaints may be a catalyst for positive change.[19]

Creating Policies and Procedures

¶9 There is wide consensus among librarians who have tackled this topic that the first step toward effectively managing difficult situations with patrons is to develop policies governing behavior in the library and commit them to writing.[20]

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12. Simmonds & Ingold, *supra* note 3, at 59–64 (including collection development, interlibrary loan, and course-related library instruction).

13. Rhea Joyce Rubin, Defusing the Angry Patron 99–100 (2011) (citing *Guidelines for the Development of Policies and Procedures Regarding User Behavior and Library Usage*, Am. Library Ass'n (1993, rev. 2005), http://www.ala.org/advocacy/intfreedom/statementspols/otherpolicies/guidelines development).

14. *E.g.*, Mark R. Willis, Dealing with Difficult People in the Library 17–23 (1999).

15. Simmonds & Ingold, *supra* note 3, at 64.

16. *See* Currie, *supra* note 3, at 48.

17. *Id.*

18. See *infra* ¶¶ 25–45 regarding pro se patrons.

19. *See* Rebecca Jackson, *The Customer Is Always Right: What the Business World Can Teach Us About Problem Patrons*, 75/76 Reference Libr. 205, 208 (2002).

20. *See* Warren Graham, The Black Belt Librarian: Real World Safety and Security 8–12 (2012); Willis, *supra* note 14, at 113–17; Arndt, *supra* note 11, at 27; Blessinger, *supra* note 2, at 10; Sharon W. Bullard, *Gypsies, Tramps and Rage: Coping with Difficult Patrons*, 75/76 Reference Libr. 245, 247 (2002); Currie, *supra* note 3, at 51–52; Holt & Holt, *supra* note 11, *passim*; Kean & McKoy-Johnson, *supra* note 3, at 381; Linda A. Morrissett, *Developing and Implementing a Patron Behavior Policy*, *in* Patron Behavior in Libraries: A Handbook of Positive Approaches to Negative Situations 135, 136 (Beth McNeil & Denise J. Johnson eds., 1996) [hereinafter Patron Behavor in Libraries]; Sheryl Owens, *Proactive Problem Patron Preparedness*, 12 Libr. & Archival Security, no. 2, 1994, at 11, 16; Bruce A. Shuman, *Personal Safety in Library Buildings: Levels, Problems, and Solutions*, 75/76 Reference Libr. 67, 79 (2002); Turner & Grotzky, *supra* note 3, at 256; *see also* Wright, *supra* note 8, *passim*.

Written library policies serve both as reference documents for staff, who may be unsure of how to confront a new or uncomfortable situation, and as neutral authorities to which staff may direct patrons who dispute the library's approach to a specific issue. Many of these authors agree that policies governing patron rights or behavior should be publicly available or posted within the library.[21]

¶10 No one-size-fits-all approach exists to crafting a patron behavior policy. This is because different types of libraries—public or private, business or academic—operate under the authority of institutions that are themselves subject to specific limitations on how they may constrain visitors' behavior. For example, public or government libraries created by statute must provide access to their collections in accordance with that statute.[22] Academic library policies should comport with the codes of student, faculty, and staff conduct that apply to all aspects of campus life.[23] To ensure that a library's policy is consistent with the relevant authorities, some librarians recommend having it vetted by legal counsel.[24] In a 2001 article considering library safety and security measures associated with problematic patron encounters, law librarian Donald Arndt, Jr. describes the legal ramifications of a policy's limitations on patron access as well as the potential for premises liability claims; he then suggests some questions for librarians to pose to their attorneys or insurers.[25]

¶11 In addition to describing prohibited activities, library policies may include institutional mission statements that establish the context for library rulemaking and priorities.[26] As Rubin explains, "If a policy conflicts with the library's philosophy or goals, it is difficult for staff to implement. The library's mission statement should serve as a preamble to all policies so that the relationship between mission and policy is clear."[27] Libraries that wish to limit or prioritize service to specific

21. *See* Bullard, *supra* note 20, at 247; Kean & McKoy-Johnson, *supra* note 3, at 381; Owens, *supra* note 20, at 18; Shuman, *supra* note 20, at 79; Turner & Grotzky, *supra* note 3, at 258. Rubin notes that some experts advise staff to show angry patrons the relevant policy as a way of deflecting anger from the staff person; they believe that customers will become less upset if they are directed to the policy that shows they are not being treated unjustly. Others think the opposite is true—that angry patrons become more frustrated when faced with a policy. A way around this is to present the policy as a reflection of the users' wishes. For example, instead of saying "Our library policy bans cell phone use inside the building," you might say, "Users have asked us to restrict cell phone use in the library." Rubin, *supra* note 13, at 100.

22. *See* Kerry L. Fitz-Gerald, *Serving* Pro Se *Patrons: An Obligation and an Opportunity*, 22 Legal Reference Services Q., 2003, nos. 2/3 at 41, 43.

23. *E.g.*, Owens, *supra* note 20, at 21.

24. *See* Rubin, *supra* note 13, at 100 (recommending also that draft policies be reviewed by a library board or community member for legibility); Willis, *supra* note 14, at 114; Arndt, *supra* note 11, at 27; Blessinger, *supra* note 2, at 10; Holt & Holt, *supra* note 11, at 75; *see also* Katherine Malmquist, *Legal Issues Regarding Library Patrons*, *in* Patron Behavior in Libraries, *supra* note 20, at 95 (describing lawsuits contesting library access and patron policies). For more discussion of patron access case law, see *infra* ¶¶ 46–56.

25. Arndt, *supra* note 11, at 28–29.

26. Fitz-Gerald, *supra* note 22, at 44.

27. Rubin, *supra* note 13, at 97.

categories of patrons should say so explicitly in their mission statements.[28] Otherwise, it is difficult to justify serving patrons unequally.[29]

¶12 The literature also offers other, occasionally conflicting, recommendations for drafting patron-behavior policies. In her article "Proactive Problem Patron Preparedness," librarian Sheryl Owens suggests that while policies "should not (and, in any event, probably cannot) list each and every possible offense," they "should be worded in such a manner as to be broadly inclusive."[30] Arndt, however, suggests that "[r]ules should be specific as to behavior not allowed" and that policies may be further developed into a procedural manual for staff, offering specific guidance on enforcement and complaint procedures.[31] Rubin agrees that policies are far less useful without a detailed set of procedures to back them up: "Standardized procedures result in more consistent enforcement by staff . . . such uniformity is necessary to ensure fair enforcement."[32] She notes further that having an "accepted protocol also makes it easier for staff to uphold policies; instead of worrying about what is fair and what should be done in a given situation, staff members focus on carrying out the accepted procedures that they have been taught."[33] It is unsurprising, then, that a majority of respondents in a 2009 study of patron aggression in an academic library indicated that library policies should contain specific definitions of prohibited behavior, clear sanctions for violations, and "guidelines for appropriate staff responses to aggressive or violent behavior."[34] While general language may be convenient from an ex ante position, staff may feel concern when pressed to take action under an ambiguous policy.[35] The issue is not merely one of convenience: case law tells us that valid library conduct policies are narrowly tailored to address specific behaviors, as opposed to naming a class or status of people.[36]

¶13 Several authors also recommend that libraries that already have policies in place should review them regularly to ensure that they are up-to-date and are meeting

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28. Fitz-Gerald, *supra* note 22, at 44. Fitz-Gerald offers the mission statement from the North Dakota Supreme Court Law Library as an example:

> The primary purpose of the law library is to support the legal information needs of the North Dakota Supreme Court and the judicial system. The secondary purpose is to support the legislature and administrative agencies of the state. The library's resources are also available to members of the North Dakota bar and the public. The availability to others is limited to the extent that it does not compromise the library's primary purpose.

Id. The Gallagher Law Library at the University of Washington School of Law takes a similar approach in the academic context. *See Law Library Mission Statement,* UNIV. OF WASH. GALLAGHER LAW LIBR. (1992), http://lib.law.washington.edu/dir/mission.html; *see also Mission Statement,* UNIV. OF DETROIT MERCY SCH. OF LAW, http://www.law.udmercy.edu/udm/index.php/law-library/about-us/mission-statement (last visited Nov. 8, 2015).

29. Fitz-Gerald, *supra* note 22, at 46.

30. Owens, *supra* note 20, at 20. Owens also reminds us that we cannot "assume that everyone knows how to behave." *Id.* at 21.

31. Arndt, *supra* note 11, at 28.

32. RUBIN, *supra* note 13, at 100.

33. *Id.*

34. Kean & McKoy-Johnson, *supra* note 3, at 381.

35. *Cf.* Holt & Holt, *supra* note 11, at 75 ("Staff members need to know what they can do, what they can't do, and what they should do (i.e., the action they ought to take, which can range from a quiet one-on-one conversation to calling police to help handle a disturbance and make an arrest).").

36. *See* RUBIN, *supra* note 13, at 98; *see also infra* ¶¶ 46–56.

the needs of library staff and patrons.[37] Rule review should incorporate meaningful staff involvement in the decision-making process; policies are unlikely to succeed without staff and management support.[38] This review should not only ensure that the library's rules address current and likely future issues, but also analyze whether existing policies create conflicts that outweigh the potential benefit to the library.[39]

Training

¶14 In addition to emphasizing the need to create thoughtful library policies, the majority of librarians who have studied difficult patron interactions also stress the importance of staff training.[40] Staff training is associated with consistent enforcement[41] and may improve staff morale.[42] Training should educate staff about what the library's policies and procedures are, but also why they exist, "both in terms of the law and in consideration of the library's philosophy and mission statement."[43] Justina Osa also suggests that staff training for professional and (inter)personal competencies generally is essential to minimizing the patron frustrations that might otherwise escalate into a confrontation.[44] For librarians who work with patrons who experience symptoms of mental illness, Jennifer Murray recommends offering targeted training from a mental health professional.[45] Several other librarians recommend training staff specifically on conflict-management techniques they may use to reduce tensions or safely resolve disputes with an angry or a disruptive patron.[46] These include simple actions such as expressing empathy

37. *See, e.g.*, Sarkodie-Mensah, *supra* note 10, at 166–67; Turner & Grotzky, *supra* note 3, at 259–60.

38. Turner & Grotzky, *supra* note 3, at 256–57.

39. *See* Willis, *supra* note 14, at 114 ("Ask yourself, 'What would happen if we didn't have this rule? Is it creating more hassle than it's worth?'").

40. *Id.* at 118–25; Arndt, *supra* note 11, at 29–30; Blessinger, *supra* note 2, at 10; Bullard, *supra* note 20, at 248; Currie, *supra* note 3, at 51–52; Curry, *supra* note 2, at 182; Jackson, *supra* note 19, at 212–13; Jennifer S. Murray, *Library Psychiatry: Is There a Place for the Mentally Ill in Your Law Library?*, AALL Spectrum, Nov. 1999, at 12–13; Simmons & Ingold, *supra* note 3, at 64–65; Turner & Grotzky, *supra* note 3, at 261.

41. *See* Rubin, *supra* note 13, at 101.

42. *Cf.* Osa, *supra* note 9, at 277 (describing how an in-house professional competency training program will improve library services and "individuals on both sides of the reference desk will be happier").

43. Rubin, *supra* note 13, at 101; *see also* Willis, *supra* note 14, at 114 ("If you can't justify the rule in a clear manner that the average person would understand, the rule needs to be rethought.").

44. Osa, *supra* note 9, at 275–76.

45. Murray, *supra* note 40, at 12. Murray also advises against making amateur diagnoses of patrons who may be mentally ill, and instead taking a critical look at aspects of a library's services or reference interviews that may be creating barriers to working with mentally ill patrons. *Id.*

46. *See* Rubin, *supra* note 13, at 14–15; Arndt, *supra* note 11, at 31–34; Curry, *supra* note 2, at 184; Glenn S. McGuigan, *The Common Sense of Customer Service: Employing Advice from the Trade and Popular Literature of Business to Interactions with Irate Patrons in Libraries*, 75/76 Reference Libr. 197, 201–03 (2002); Murray; *supra* note 40, at 11–12; Sarkodie-Mensah, *supra* note 10, at 164–65; Shuman, *supra* note 20, at 80.

with a patron's problem,[47] breathing deeply,[48] listening attentively,[49] staying calm and avoiding overreactions,[50] offering an apology (regardless of actual "fault"),[51] and focusing on the problem presented rather than on the person.[52]

¶15 Closely related to training, "empowering frontline staff" is another common theme in the library literature.[53] By giving staff the tools to fix problems without waiting for a supervisor and soliciting meaningful staff input on the substance of new policies or policy changes, a library can ideally prevent patron frustration and staff resentment.[54] C. Lyn Currie recommends that decision-making authority "should be extended to the lowest level possible so that staff involved in direct contact with patrons possess the ability to make those decisions that directly affect their operations, their patrons and themselves."[55]

Incident Reporting

¶16 In addition to creating policies and training staff, the most common advice in the library literature is to create and use incident reporting forms or procedures to document difficult patron encounters and the library's response.[56] For the most serious incidents, documenting what happened and how library staff responded may supply important information to security staff or police.[57] But creating a written record of all incidents, even those that are relatively minor, has several benefits: allowing staff a cathartic outlet after a trying experience, inspiring examples for

47. Willis, *supra* note 14, at 13; Arndt, *supra* note 11, at 31; McGuigan, *supra* note 46, at 201–03; Rhea Joyce Rubin, *Defusing the Angry Patron*, Libr. Mosaics, May/June 2000, at 14–15; Sarkodie-Mensah, *supra* note 10, at 164–65.

48. Arndt, *supra* note 11, at 31; *see also* Kathy Fescemyer, *Healing After the Unpleasant Outburst: Recovering from Incidents with Angry Library Users*, 75/76 Reference Libr. 235 (2002).

49. Rubin, *supra* note 13, at 27–64; McGuigan, *supra* note 46, at 202–03; Rubin, *supra* note 47, at 14–15; Nathan M. Smith, *Active Listening: Alleviating Patron Problems Through Communication*, *in* Patron Behavior in Libraries, *supra* note 20, at 127, 128.

50. Sarkodie-Mensah, *supra* note 10, at 164; Shuman, *supra* note 46, at 80.

51. Willis, *supra* note 14, at 14; Arndt, *supra* note 11, at 32 ("Even if the library is not at fault, it can make an irate person feel better."); Rubin, *supra* note 47, at 15.

52. Willis, *supra* note 14, at 14–15; Arndt, *supra* note 11, at 32 ("Once the problem is understood, restate it clearly and concisely, but do not restate the solution offered by the patron. By separating needs from solutions, it becomes possible to identify many more alternatives."); *see also* Sarkodie-Mensah, *supra* note 10, at 164 ("Resist finding fault with the person making the complaint or accusation.").

53. *See* Bullard, *supra* note 20, at 250; Currie, *supra* note 3, at 53; James E. Duggan, *The Customer Is Always Right: Law Libraries in the Age of Customer Service*, AALL Spectrum, Dec. 1998, at 12–13; Sarkodie-Mensah, *supra* note 10, at 166; Turner & Grotzky, *supra* note 3, at 256–57; *see also* Osa, *supra* note 9, *passim*.

54. *See* Turner & Grotzky, *supra* note 3, at 259 ("Since frontline employees set the tone in libraries, it is important that they believe in and can enforce the policies and procedures that make the library function.").

55. Currie, *supra* note 3, at 53 (citing Christopher Millson-Martula & Vanaja Menon, *Customer Expectations: Concepts and Reality for Academic Library Services*, 56 C. & Res. Libr. 33, 46 (1995)).

56. *See* Shelley E. Mosley, Dennis C. Tucker & Sandra van Winkle, Crash Course in Dealing with Difficult Library Customers 113–15 (2014); Rubin, *supra* note 13, at 105; Bullard, *supra* note 20, at 249; Holt & Holt, *supra* note 11, at 76; Jackson, *supra* note 19, at 213; Sarkodie-Mensah, *supra* note 10, at 166.

57. *See* Arndt, *supra* note 11, at 34.

future staff training, and identifying repeat offenders who may require restriction or other special handling.[58]

¶17 Tracking complaints can make it easier to confirm that patron issues have been responded to appropriately, or signal a need for investigation of potential systemic problems. Rebecca Jackson offers an example:

> Constant complaints that students cannot find books on the shelves that should be there could be the result of different underlying problems. One could be that students do not know how to read call numbers correctly; in that case, education is definitely in order. Another reason could be that the books are not shelved correctly. The library will have to explore all of these possible causes, and often the solution may be complicated. However, a solution is required if we want to maintain our users' satisfaction.[59]

¶18 Jackson notes another advantage of tracking complaints: they may indicate areas where the library can develop specific procedures for allowing frontline staff to fix patron problems. For example, "Under what circumstances should a fine be waived? When can a faculty member take a periodical out of the library, and for how long? With the proper training, frontline staff should be able to resolve all but the most complex problems."[60] Rubin suggests taking a page from the world of sales and creating a "rebuttal file," a selection of short "scripts" crafted to respond to common complaints.[61] These are not intended to be read aloud to a patron; instead the process of thinking about the most frequently voiced problems and the best response to each can be useful preparation and allows staff to practice dealing with difficult situations.

Guidance from Other Fields

¶19 Several authors have approached management of difficult patron encounters from a business-world "customer service" perspective.[62] While many librarians disapprove of analogizing libraries to businesses, Rebecca Jackson argues that both types of organizations depend on the goodwill of the communities to which they cater.[63] Negative patron encounters may jeopardize a library's funding or popularity.[64] Jackson offers several specific tips for improving complaint management in libraries and leveraging complaints for better service.[65] Rubin similarly describes how a proactive focus on "customer service," including welcoming behaviors by staff (such as smiling, making eye contact, and avoiding jargon), taking a positive approach to problems (focusing on what a librarian can do for a patron, rather than limitations), hanging useful signage, being mindful about instilling a helpful

58. *See* Rubin, *supra* note 13, at 106; *see also* Jackson, *supra* note 19, at 213. Of course, such records must not be used "as a way to track and intimidate certain patrons." Arndt, *supra* note 11, at 34.

59. Jackson, *supra* note 19, at 214.

60. *Id.* at 213.

61. Rubin, *supra* note 13, at 104.

62. *See id.* at 9. *See generally* Duggan, *supra* note 53; Jackson, *supra* note 19; McGuigan, *supra* note 46.

63. Jackson, *supra* note 19, at 208–09 (citing Darlene Weingand, Customer Service Excellence: A Concise Guide for Librarians (1997)).

64. *Id.* at 209.

65. *Id.* at 212–14.

attitude among staff, understanding patron expectations, and soliciting patron feedback, can do much to minimize patron anger.[66]

¶20 Some librarians have looked further afield for guidance in dealing with difficult patrons. These works include lessons from Zen Buddhism,[67] nursing,[68] and psychotherapy.[69] Librarians have also relied on psychological concepts and insights to better understand the roots of patron hostility and to alleviate the mental burden that unpleasant patron encounters may place on staff.[70]

Suggested Applications to Law Librarianship

¶21 Most of the literature on managing difficult patron encounters addresses a generalist audience. Some points, however, may speak directly to the experience of law librarians.

¶22 For example, Ann Curry describes how patrons who are unemployed, "[h]aving possibly been 'battered' by other bureaucracies . . . may turn quite hostile when facing a seemingly minor defeat in the library, yet another government agency."[71] This could easily apply to public patrons using the law library to find assistance in dealing with a confusing or overwhelming legal problem, especially those who have already had contact with the courts. Such patrons may "lack the emotional distance from their problems that an advocate has," offering excessive detail or taking up disproportionate amounts of staff time.[72] In any library, a lack of resources or inefficiencies in service may fuel disputes.[73] So, too, can the physical, economic, or intellectual inaccessibility of vital legal information increase the likelihood of patron frustration and anger. Turner and Grotsky suggest that librarians "should 'learn to discriminate between the customer from hell and customers who have gone through hell'"; they include in the latter group patrons who have "been sent from one desk to another one time too many."[74] Librarians should thus seek not to compound the ill feelings patrons, especially pro se litigants, might have accumulated elsewhere.[75]

¶23 In the academic context, Currie writes that some librarians may "regard patrons as difficult because they do not conform to [the librarians'] view of how information research 'should' be conducted."[76] It is easy to see how the same conflict

66. *See* Rubin, *supra* note 13, at 9–23.

67. Louisa Toot, *Zen and the Art of Dealing with the Difficult Patron*, 75/76 Reference Libr. 217 (2002).

68. Shelley Ferrell, *Who Says There's a Problem? A New Way to Approach the Issue of "Problem Patrons,"* 50 Reference & User Services Q. 141 (2010).

69. Brian Quinn, *How Psychotherapists Handle Difficult Clients: Lessons for Librarians*, 75/76 Reference Libr. 181 (2002).

70. *See* Chen Su-may Sheih, *An Exploratory Study on Coping Strategies of Confronting Difficult Patrons: The Case of University Circulation Librarians*, 7 J. Libr. & Info. Sci. Res. 120 (2012); *see also generally* Fescemyer, *supra* note 48.

71. Curry, *supra* note 2, at 185.

72. Luis M. Acosta & Anna M. Cherry, *Reference Services in Courts and Governmental Systems*, 26 Legal Reference Services Q. 2007, nos. 1/2, at 113, 122.

73. Kean & McKoy-Johnson, *supra* note 3, at 376, 379.

74. Turner & Grotzky, *supra* note 3, at 260.

75. See also *infra* ¶¶ 25–45 regarding pro se patrons.

76. Currie, *supra* note 3, at 46.

could arise in the law library, where there have been seismic shifts in the tools and methods of legal research over the past two decades. Faculty may disagree with librarians and one another about which formats take precedence in the collection or in student training; students may resist using print sources; librarians may disapprove of students using Google as part of their legal research. Critically examining these potential disagreements may push law librarians to reevaluate their perspectives.

¶24 Finally, there is the issue of expectation management. Whenever patron expectations are mismatched with a library's abilities and priorities, there are grounds for conflict. The general library literature describes dashed patron expectations in a number of contexts (handling of holds or recall notices, fines, etc.).[77] Academic libraries of all types may face outsized expectations from faculty, who may want the library to purchase books, databases, or other resources beyond its means.[78] Faculty may also expect librarians to go beyond typical research tasks, perhaps by synthesizing information or assisting with drafting. Law librarians may also encounter pro se patrons seeking legal services beyond what librarians can or are ethically able to provide.[79] In each case, clear and consistent communication is crucial to modifying patron expectations by providing ample notice of potential problems.

Pro Se Patrons

¶25 This section briefly addresses the special case of the pro se patron in the law library. First, a point of nomenclature: although the term "pro se" specifically refers to a person who represents herself in court without counsel, writings in this area (and many law librarians) use this term colloquially to refer to all nonlawyers using the law library. This may include public patrons who have counsel, or who are researching the law in anticipation of future legal action or on behalf of someone else. For purposes of this discussion, we use the definition of "pro se patron" used by Robert Abrams and Donald Dunn: "any library patron, not at the time represented by counsel, who seeks information about a personal legal problem."[80]

¶26 In a 1978 panel discussion hosted by the Michigan Association of Law Libraries, librarian Georgia Ann Clark mused on the definition of a "problem patron." "I began with the idea that a problem patron is any patron using a law library without having a legal background. These people are problems and have to be dealt with in one way or another. But you deal with them through the perfect reference interview."[81] Clark's remarks focused on handling patrons whose comportment or demands do not fit nicely with a library's rules—the topic of the previous section. Yet, as many librarians will attest, the "perfect reference inter-

77. *See, e.g.*, Willis, *supra* note 14, at 17–23.

78. *See* Simmonds & Ingold, *supra* note 3, at 60, 61–62.

79. *See infra* ¶¶ 25–45.

80. Robert H. Abrams & Donald J. Dunn, *The Law Library's Institutional Response to the* Pro Se *Patron: A Post-*Faretta *Review*, 1 W. New Eng. L. Rev. 47, 48 n.2 (1978).

81. Clark, *supra* note 7, at 53.

view" remains an aspiration, and working with pro se patrons remains a particular challenge.

¶27 While a significant percentage of pro se litigants are unrepresented because they cannot afford to pay for the services of an attorney, others eschew counsel for a variety of reasons, including mistrust of the legal system or lawyers generally, or confidence in their own capacity to address their legal problems.[82] The available statistics demonstrate, unfortunately, that self-represented litigants tend to fare poorly.[83] This is commonly understood, as evidenced by the aphorism: "He who is his own lawyer has a fool for a client."[84]

¶28 Pro se patrons are familiar to librarians in public law libraries, as well as those libraries that participate in the federal depository program.[85] Despite the conventional wisdom, no evidence supports the idea that pro se patrons are more likely to be disruptive, angry, or abusive to library staff than anyone else. Yet their status as nonspecialists, confronting and trying to harness a specialized body of knowledge, creates predictable problems for librarians. How should librarians provide helpful reference service without crossing the line into unauthorized practice of law? How can librarians manage patron expectations, which may significantly exceed what the library is prepared (or willing) to offer? How can court or academic law libraries balance service to their "primary" patron communities (judges, law faculty, and students) with service to the public?[86] These questions have significant ramifications for collection development, the allocation of often-scarce resources, and reference practice, which have already been robustly explored in the literature.

¶29 In an oft-cited 1976 article, Robert Begg cautions: "Once you identify a *pro se* patron, be nice to him; if not, you may have an opportunity to see first hand how effective in court he can be."[87] While this quip greatly overstates the library's legal exposure from serving pro se patrons, it sounds the familiar caution to try to prevent

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82. *See* Michael P. Forrest, Mike Martinez, Jr. & Paul S. Miller, *Updated Lessons in Conducting Basic Legal Research by Pro Se Litigants Who Cannot Afford an Attorney*, 11 SCHOLAR: ST. MARY'S L. REV. ON MINORITY ISSUES 1, 3–4 (2008).

83. *See* Donald Zeigler & Michele G. Hermann, *The Invisible Litigant: An Inside View of Pro Se Actions in the Federal Courts*, 47 N.Y.U. L. REV. 157, 246 (1972); Spencer G. Park, Note, *Providing Equal Access to Justice: A Statistical Study of Non-Prisoner* Pro Se *Litigation in the United States District Court for the Northern District of California*, 48 HASTINGS L.J. 821, 833 (1997) ("[P]ro se litigants overwhelmingly find themselves on the losing side of the judicial outcome regardless of their status as plaintiff or defendant.").

84. M. FRANCES MCNAMARA, 2,000 FAMOUS LEGAL QUOTATIONS 42 (1967). *But see id.* at 522 (quoting Plutarch's *Lives*: "The good have no need of an advocate.").

85. *C.f.* Elizabeth M. McKenzie, Elizabeth Gemellaro & Caroline Walters, *Leaving Paradise: Dropping Out of the Federal Depository Library Program*, 92 LAW LIBR. J. 305, 309–10, 2000 LAW LIBR. J. 27, ¶¶ 11–16. The authors note that lay researchers, entitled to access by virtue of a library's depository status, "may be the patron group that generates the most conflict between the various missions our libraries profess." *Id.* at 309, ¶ 13.

86. *See, e.g.*, C.C. Kirkwood & Tim Watts, *Legal Reference Service: Duties v. Liabilities,* LEGAL REFERENCE SERVICES Q., Summer 1983, at 67, 74–75 (describing service to pro se litigants, as "tertiary" patrons, to be "an act of grace which must not interfere with service to primary or secondary patrons.").

87. Robert T. Begg, *The Reference Librarian and the Pro Se Patron*, 69 LAW LIBR. J. 26, 32 (1976).

problems rather than deal with the fallout. This section explores how the pro se patron/law library dynamic may create difficult patron encounters, and some proposed ways to mitigate these problems.

Lack of Familiarity

¶30 As Paul Healey points out, the crux of the pro se problem is the popular conflation of legal tools and legal practice.

> The tools of the legal profession are legal information and the ability to analyze and use that information in a legal setting. Many people errantly suppose that law school is a process of mastering legal information, when, in fact, legal training is intended to develop and hone legal thinking and analytical skills. The heavy reliance on such thinking and analysis means that much of the practice of law is not visible to outsiders. This, in turn, can lead to the assumption that the only real tools for practicing law are the sources of legal information available in the law library.[88]

This can lead a layperson to have certain unrealistic expectations of the law library or his ability to identify definitive, concrete answers to legal questions using library materials.[89] However, pro se patron's needs cannot be entirely attributed to a basic lack of information or misunderstanding; some legal domains, such as family law, have become much more complex in recent decades.[90]

¶31 Pro se patrons are likely to be unaccustomed to doing legal research and are therefore more likely to rely on library staff for guidance.[91] Both the potential breadth of the patron's need ("I don't know anything! Where do I start?") and the risk of a patron's overreliance on the librarian's reference suggestions make some librarians fearful of serving pro se patrons beyond the mere provision of primary source materials.[92] (Several commentators have demonstrated that such concerns are overblown.[93])

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88. Paul D. Healey, *In Search of the Delicate Balance: Legal and Ethical Questions in Assisting the Pro Se Patron*, 90 Law Libr. J. 129, 130–31 (1998).

89. *Id.* at 131.

90. *See* Drew A. Swank, *The Pro Se Phenomenon*, 19 BYU J. Pub. L. 373, 377 (2004).

91. *See* Abrams & Dunn, *supra* note 80, at 48. However, "[i]n the prison library context, many inmates develop significant legal research skills." *Id.* at 48 n.7.

92. *Id.* at 50–51; *see also id.* at 56 ("The foreseeable reliance of the *pro se* patron upon law librarian advice opens to door to liability if poor advice results in loss of the *pro se* litigation which otherwise would have succeeded. In contrast, giving bad research advice to attorneys . . . is far less likely to bear a requisite link to any subsequent injury for the imposition of tort liability."). Given that, to date, no librarian has been found liable for unauthorized practice of law, several treatments of the topic have relied on hypotheticals. *See* Gerome Leone, *Malpractice Liability of Law Librarian?*, 73 Law Libr. J. 44 (1980); Robin K. Mills, *Reference Service vs. Legal Advice: Is It Possible to Draw the Line?*, 72 Law Libr. J. 179 (1979).

93. *See* Abrams & Dunn, *supra* note 80, at 51–53; Merrilee Harrell, *Self-Help Materials in the Law Library: Going a Step Further for the Public Patron*, 27 Legal Reference Services Q. 283, 296–97 (2008) (describing a 1995 ABA report concluding that "informal help with legal problems" offered by law librarians and others "who are considered to be reliable sources of information" has not generally been considered unauthorized practice of law); Paul D. Healey, *Chicken Little at the Reference Desk: The Myth of Librarian Liability*, 87 Law Libr. J. 515, 530–32 (1995) [hereinafter Healey, *Chicken Little*]; *see also* John Cannan, *Are Public Law Librarians Immune from Suit? Muddying the Already Murky Waters of Law Librarian Liability*, 99 Law Libr. J. 7, 2007 Law Libr. J. 1 (analyzing several types of public official immunities available to law librarians should the question of librarian liability ever become

¶32 While librarians' concerns about liability for unauthorized practice of law are well known, there is also the matter of harm to the patron from inaccurate legal reference. As Robin K. Mills describes in her 1979 analysis on the topic, while a librarian's risk of tort liability for providing erroneous legal information is slight, the patron's risk is not.[94] A patron who believes that her legal fortunes have been negatively impacted by the library is a difficult situation waiting to happen.

¶33 The literature is clear that a pro se patron's lack of familiarity with legal materials and practices creates a double bind for librarians. They may underserve the patron as an act of self-protection, possibly causing the patron to feel frustrated and disappointed. Alternatively, they may overserve the patron, risking an unethical and impractical entanglement with the patron's legal problem.

Lack of Access

¶34 In law libraries that serve multiple discrete patron groups, there may be pressure to devote limited resources to serving the library's "primary" constituencies.[95] In an academic law library that is also open to the public, this might mean prioritizing the purchase of scholarly monographs or student study aids over legal guides written for laypeople, whose presence in the library is permitted rather than cultivated and valued. Yet law libraries have continued to be destinations for pro se patrons seeking access to primary authorities, and until recently, the availability of these core components of the collection could generally be assumed.

¶35 This is no longer the case. Many academic law libraries have cut their print subscriptions to case reporters, digests, statutes, and regulatory materials, as well as *Shepard's* and the major treatises now available on WestlawNext or Lexis Advance.[96] A library that relies largely (or exclusively) on digital platforms for its primary sources may be unable to serve pro se patrons as it has in the past.[97] Not only are such resources generally not available to those outside of the law library's institutional community, they presuppose basic legal knowledge and require user training.[98] In this respect, pro se patrons at American public law libraries are worse off

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non-hypothetical); Paul D. Healey, *Pro Se Users, Reference Liability, and the Unauthorized Practice of Law: Twenty-Five Selected Readings*, 94 Law Libr. J. 133, 2002 Law Libr. J. 8; Madison Mosley, Jr., *The Authorized Practice of Legal Reference Service*, 87 Law Libr. J. 203, 208 (1995) (describing opinion of the Virginia State Bar Association's Standing Committee on Unauthorized Practice of Law, which distinguished acceptable legal retrieval services based on whether the requesting party had a citation).

94. *See* Mills, *supra* note 92, at 192. Contrast this with Charles J. Condon's suggestion that patrons who receive substantive legal advice or suggestions from librarians have "an advantage over litigants who have no assistance" and may reap unfair rewards from the justice system. Charles J. Condon, *How to Avoid the Unauthorized Practice of Law at the Reference Desk*, 19 Legal Reference Services Q., 2001, nos. 1/2, at 165, 169. This leads him to conclude, absurdly, that "[i]f pro se litigants begin demonstrating a greater understanding of the process, fewer judges and attorneys may be willing to accommodate pro se litigants needing help." *Id.*

95. *See* Mills, *supra* note 92, at 193 ("Most public law libraries are specifically set up to serve an identified group or institution . . . and serve the general public only incidentally. We should ask ourselves, then, whether we are really justified in using our resources to serve this secondary set of users.").

96. *See* Amanda M. Runyon, *The Effects of Economics and Electronic Resources on the Traditional Law Library Print Collection*, 101 Law Libr. J. 177, 189–90, 2009 Law Libr. J. 11, ¶¶ 29–31.

97. Forrest, Martinez & Miller, *supra* note 82, at 4–5.

98. *See id.* at 5.

than many prison inmates, who may enjoy access to current collections of basic primary sources or access to LexisNexis or Westlaw.[99]

Suggested Approaches

¶36 The literature offers several commonsense suggestions for anticipating the needs of pro se patrons in the hopes of minimizing potential problems.

¶37 Many authors emphasize the need to manage patron expectations, so as to avoid the perceived formation of an attorney-client relationship, the librarian being ascribed a duty of care, or an outsized disappointment on the patron's part.[100] At a threshold level, this requires library staff to be fully aware of their service limitations.[101] As Healey suggests, this can be addressed simply with a verbal disclaimer circumscribing the librarian's expertise and advisory capacity.[102] Other authors suggest posting signs iterating that "librarians provide access to information, not legal advice," and urging patrons needing legal assistance to consult an attorney.[103]

¶38 Managing a patron's expectations can also require keeping firm but subtle control of the reference interview. As Peter Schanck comments, allowing pro se patrons to present a lengthy and detailed description of the legal problem that has brought them to the library may both tempt the librarian to offer inappropriate legal advice and heighten the patron's expectations for the librarian's reply: "Listening patiently and attentively to a rambling patron will cause him to expect some very specific kind of aid—aid which can probably not satisfy him short of a direct opinion or advice."[104]

¶39 Using prepared guides to the law library's space, its collection, or frequently asked legal research questions can save staff time and allow patrons to gather information more independently and at their own pace.[105] Robin Mills recommends keeping contact information available for patrons for state and local consumer affairs offices, the local courts, and city hall staffers who are well positioned to answer a patron's question.[106] Charles Condon recommends developing a list of local legal services organizations, "perhaps beginning with the American Bar Association's Lawyer Referral Service which identifies national, state, and local

99. *See* Jonathan Abel, *Ineffective Assistance of Library: The Failings and the Future of Prison Libraries*, 101 Geo. L.J. 1171, 1173–74 (2013). We have chosen not to explore the literature on working with patrons in prison law libraries. The unique problems posed by the operation of prison libraries are better addressed in more detail elsewhere.

100. *See, e.g.*, Healey, *Chicken Little*, *supra* note 93, at 528.

101. Begg, *supra* note 87, at 31.

102. *See* Healey, *Chicken Little*, *supra* note 93, at 528.

103. Condon, *supra* note 94, at 171; *see also* Mills, *supra* note 92, at 192.

104. Peter C. Schanck, *Unauthorized Practice of Law and the Legal Reference Librarian*, 72 Law Libr. J. 57, 62 (1979).

105. *See, e.g.*, Abrams & Dunn, *supra* note 80, at 63–64; Begg, *supra* note 87, at 32; Condon, *supra* note 94, at 172; Harrell, *supra* note 93, at 300.

106. *See* Mills, *supra* note 92, at 193; *see also* A. Cameron Allen, *Whom Shall We Serve: Secondary Patrons of the University Law School Library*, 66 Law Libr. J. 160, 170 (1973) (recommending keeping a list of state and municipal agencies, as well as local Legal Aid and legal services offices, available for the use of "the poor.").

programs."[107] Merrilee Harrell advocates for librarians to create rich, jurisdiction-specific guides on topics of the greatest interest to pro se patrons, preferably online.[108]

¶40 Several authors suggest that libraries build collections of "self-help" materials for nonlawyer patrons, such as those published by Nolo Press.[109] In her article on self-help legal materials, Harrell offers collection development suggestions for libraries seeking to branch out beyond these well-known publishers and points out that state-specific materials, and those addressed to family law, landlord-tenant law, and consumer issues, are often of the greatest use.[110] A document or web-based source listing reputable free online sources for legal information can also be helpful, albeit with a disclaimer indicating that the library does not endorse any particular website.[111] Lee Sims, in a 2004 article encouraging academic law libraries to use their websites to share legal information for pro se patrons, suggests several practical tips for making this information easy to find and use.[112] Offering this information, Sims suggests, is a kind of pro bono service; moreover, "[h]aving a Web site that addresses the needs of the public goes a long way toward helping a significant segment of the population without undue distress on the library."[113]

¶41 Law librarians can also serve pro se patrons by demonstrating how common finding aids are used.[114] Many law librarians are accomplished in teaching basic legal bibliography and research skills to novice users. Maria Protti writes that the "cooperative philosophy" of librarianship, which emphasizes cooperative practices, sharing government information, and community outreach, is well suited to serving patrons who are underserved by lawyers.[115]

¶42 In addition to knowing what is in (or not in) a library's print collection, a librarian should be familiar with the free and low-cost legal research resources available online, both to use in individual reference transactions and to prepare useful guides for library patrons. Many law librarians already work with these materials in the course of training law students or attorneys.[116] Librarians can use this knowledge directly when assisting patrons and as allies of attorneys working to expand access to justice.[117]

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107. Condon, *supra* note 94, at 171. A current version of the ABA's Lawyer Referral Directory and Information Service is available at http://apps.americanbar.org/legalservices/lris/directory/.

108. Harrell, *supra* note 93, at 298–99.

109. Condon, *supra* note 94, at 172, *see also* Richard A. Danner, *Public Access to the Law*, 79 Law Libr. J. 163, 164 (1976). For some interesting background on Nolo Press, see Harrell, *supra* note 93, at 285.

110. Harrell, *supra* note 93, at 289.

111. *Id.* at 173; *see also* Lee Sims, *Academic Law Library Web Sites: A Source of Service to the* Pro Se *User*, 23 Legal Reference Services Q., 2004, no. 4, at 1, 21 (describing the use of disclaimers on an academic law library website).

112. Sims, *supra* note 111, at 20–23.

113. *Id.* at 24.

114. Maria E. Protti, *Dispensing Law at the Front Lines: Ethical Dilemmas in Law Librarianship*, Libr. Trends, Fall 1991, at 234, 239.

115. *Id.*

116. Deborah K. Hackerson, *Access to Justice Starts in the Library: The Importance of Competent Research Skills and Free/Low-Cost Research Resources*, 62 Me. L. Rev. 473, 483 (2010).

117. *E.g.*, *id.* at 485 (describing the work of the Minnesota Association of Law Libraries' Volunteer Librarians Coalition).

¶43 By working cooperatively with the local bar or law school clinics, law librarians may be able to assist pro se patrons secure representation.[118] Courthouse assistance services may also be available to serve pro se patrons in several jurisdictions.[119] While it is clear that librarians should not give patrons legal advice, Peter Schanck reminds us that it is a good idea to advise pro se patrons to consult an attorney whenever possible.[120]

¶44 The attitude of library staff can also make a significant difference. Some older examinations of pro se patrons take an explicitly adversarial tone. For example, C.C. Kirkwood and Tim Watts's 1983 article on legal reference suggests making patrons bear "the burdens of persuasion and proof" to show that they are entitled to reference services: "Unless, and until, a patron proves otherwise, he or she should be presumed to be a tertiary patron of the most unstable sort."[121] The professional literature burgeons with descriptions of pro se patrons as ignorant,[122] grasping,[123] deluded,[124] potential thieves,[125] and likely to confuse reference librarians with legal counsel.[126] Madison Mosley, however, questions the accuracy of this view: "Are reference librarians to believe that a library user when asking a medical question believes the staff to be medical experts? Or when seeking stock quotations believes the library staff to be stock analysts? I think not. Why should it be different with a legal question?"[127] A better approach, Mosley suggests, is that "[t]he pro se litigant who comes to the library must be viewed the same as anyone else using the library's resources."[128] Libraries that attempt to give pro se patrons "the old run

118. Abrams & Dunn, *supra* note 80, at 64; *see also* Pamela J. Gregory, *Coloring Outside the Lines—The Prince George's Pro Se Project*, Trends in Law Libr. Mgmt. & Tech., Sept./Oct. 1997, at 1.

119. *See* Condon, *supra* note 94, at 174.

120. Schanck, *supra* note 104, at 64.

121. Kirkwood & Watts, *supra* note 86, at 75.

122. Begg, *supra* note 87, at 27 (citing Maurice M. Garcia, *Defense Pro Se*, 23 U. Miami L. Rev. 551, 552 (1969)).

123. Allen, *supra* note 106, at 170 ("[The patron] does not wish to be pointed to a specific set of books. He wants matters explained to him; he wants further material, and that explained to him; he wants to relate a few facts so that material may be applied to facts."); *see also* Begg, *supra* note 87, at 30.

124. *See* Begg, *supra* note 87, at 29 (describing "Perry Mason Syndrome," in which a pro se litigant "believes that he can do it just as well or better than" the attorneys depicted on television); Suzan Herskowitz, *"Lawyer-Librarians in Public Law Schools": Too Many Unanswered Questions*, 85 Law Libr. J. 205, 205 (1993) ("Pro se patrons, however, will automatically assume that whatever a librarian says is true.").

125. Begg, *supra* note 87, at 30 ("The librarian must also be conscious of the possibility of loss by theft by such patrons. Furthermore, *pro se* patrons are among the most prolific photocopiers in existence and have a tendency to tie up the photocopier for long periods of time.").

126. *See* Yvette Brown, *From the Reference Desk to the Jail House: Unauthorized Practice of Law and Librarians*, 13 Legal Reference Services Q., 1994, no. 4, at 31, 32 ("Law library patrons are unaware of some of the fundamental differences between the services of an attorney and the services of a librarian."); Herzkowitz, *supra* note 124, at 206 ("I assert that [an attorney-client relationship] will arise if lawyer-librarians perform any pro bono work, because the typical pro se patron will assume that there is an attorney-client relationship."); Kirkwood & Watts, *supra* note 86, at 74 ("An unsophisticated patron, however, may well view the law librarian sitting behind the reference desk and surrounded by trappings of knowledge, as a source of legal advice.").

127. Mosley, *supra* note 93, at 207.

128. *Id.* at 206.

around"[129] may be repaid for this disservice by a return visit from a patron who is now "in an even more confused, frustrated, and belligerent state of mind."[130]

¶45 Maria Protti formulates the law librarian's task as one "to dispense understandable, timely, relevant, complete, and appropriate information."[131] These standards inform librarians' ethical obligations, and these obligations do not change from patron to patron.[132] They may help law librarians, however, to analyze and explain their service offerings and limitations to pro se patrons.

Case Law

¶46 The worst outcome from a difficult patron situation is physical violence. The second worst thing might be a lawsuit. A legal challenge to a library's treatment of a patron can be terribly costly in terms of money, time, and staff morale.

¶47 Library patrons have brought several federal and state cases since the early 1990s that challenged the constitutionality of public library conduct and access rules. While the First Amendment issues that undergird these cases do not apply to private law libraries, they illustrate how well-intentioned policies may be misconstrued or backfire in a difficult patron encounter. Librarians working in public law libraries should be aware of these precedents and all other local laws construing library access.

¶48 The seminal case in this area is *Kreimer v. Bureau of Police for the Town of Morristown*,[133] in which a homeless man sued his local public library on First Amendment grounds after he was expelled from the library for violating its rules of patron conduct. The library in this case had operated for several years without any written rules.[134] After noting certain recurrent "problem behavior" in the library, the director instituted the use of an incident log describing problems as observed or reported to library staff.[135] Most of the entries in the log described alleged infractions by the plaintiff, Richard Kreimer.[136] Eventually the library's governing board enacted written rules to govern patron conduct, authorizing the library director to expel patrons in violation.[137]

¶49 The rules specifically circumscribed what should be considered legitimate use of the library and promulgated rules proscribing specific behaviors, such as "annoying" other patrons by being noisy, "unnecessary staring," or talking to oneself, as well as a rule requiring patron dress and hygiene to "conform to the standard

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129. Begg, *supra* note 87, at 32 ("Here the librarian refers the patron to the court clerk, who in turn refers him to legal aid, and then he is referred to the district attorney's office, and next to the law school library and so on.").

130. *Id.*

131. Protti, *supra* note 114, at 235.

132. *Id.* at 236.

133. 958 F.2d 1242 (3d Cir. 1992).

134. *Id.* at 1246.

135. *Id.* at 1247. The problem behavior included "theft of property, smoking, use of drugs and alcohol, disruptively loud behavior, intimidation of patrons through staring and following them, and exuding of repulsive odors." *Id.*

136. *Id.*

137. *Id.*

of the community for public places."[138] Kreimer contacted the New Jersey chapter of the ACLU, which sent a letter to the library asserting that portions of the policy were unconstitutionally vague and excessively reliant on staff discretion. In response, the library revised its policies to be more specific and concrete, including a rule requiring that patrons "be engaged in activities associated with the use of a public library while in the building. Patrons not engaged in reading, studying, or using library materials shall be required to leave the building."[139]

¶50 Noncompliant patrons would be asked to leave the library and would risk losing access to the library permanently. Kreimer was subsequently found to be in violation of the rules and ejected accordingly. He then sued the library, complaining that the rules violated his rights under the First and Fourteenth Amendments, as well as the New Jersey Constitution. On cross-motions for summary judgment, the trial court found for Kreimer and ordered that the library rules were "null and void on their face and unenforceable."[140]

¶51 The Third Circuit reversed.[141] The court began with a painstaking First Amendment forum analysis,[142] concluding that the library constituted a limited public forum: a space intentionally opened by the government to the public for express activity, but only for the specified purposes of reading, studying, and using library materials.[143] As such, the library's rules would be subject to one of two standards of review: restrictions that do not limit specifically permitted First Amendment activities must be "reasonable and not an effort to suppress expression"; so-called "time, place, and manner" restrictions that limit permissible First Amendment activities must prove to be "narrowly tailored to serve a significant governmental interest and . . . leave open ample alternative channels for communication of information."[144] In other words, rules that govern patron *conduct* in the library, such as a prohibition on harassing library patrons or staff, would be subject to the

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138. *Id.*

139. *Id.* at 1248. The other rules at issue included:

> 5. Patrons shall respect the rights of other patrons and shall not harass or annoy others through noisy or boisterous activities, by staring at another person with the intent to annoy that person, by following another person about the building with the intent to annoy that person, by playing audio equipment so that others can hear it, by singing or talking to others or in monologues, or by behaving in a manner which reasonably can be expected to disturb other persons.
> 6. Patrons shall not interfere with the use of the Library by other patrons, or interfere with Library employees' performance of their duties. . . .
> 9. Patrons shall not be permitted to enter the building without a shirt or other covering of their upper bodies or without shoes or other footwear. Patrons whose bodily hygiene is offensive so as to constitute a nuisance to other persons shall be required to leave the building.

Id.

140. *Id.* at 1250.

141. *Id.* (noting that because "the appeal concerns only issues of law . . . we are free to enter an order directing summary judgment in favor of the appellant.").

142. For First Amendment purposes, the scope of permissible restrictions on access depends on the nature of the forum. *See* Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37 (1983) (adopting forum analysis).

143. Kreimer, 958 F.2d at 1259–60. As a limited public forum, the library was "only obligated to permit the public to exercise rights that are consistent with the nature of the Library and consistent with the government's intent in designating the Library as a public forum. Other activities need not be tolerated." *Id.* at 1262.

144. *Id.* (internal quotations and citations omitted).

reasonableness standard. Rules that could curtail a patron's otherwise-legitimate *access* and use of the library, such as a "hygiene" rule mandating that patrons wear shoes, would be judged more stringently.[145]

¶52 Applying these standards, the court reversed the district court's determination that the challenged library rules were impermissibly vague, specifically noting drafting points in the rules that enhanced their specificity and restrained the library's discretion.[146]

¶53 The *Kreimer* court left the Morristown public library with some leeway to exercise discretion within the parameters established by its rules and practices. Its situation contrasts with that of the District of Columbia's public libraries, which were sued in 2001 for denying access to a homeless patron pursuant to a policy barring patrons with an appearance that is "objectionable (barefooted, bare-chested, body odor, filthy clothing, etc.)."[147] The district court found the rule to be vague and overbroad, noting that the term "objectionable appearance" was neither a legal standard nor a specific definition.[148] Evidence in the case demonstrated that the policy was enforced entirely by the ad hoc determinations of library staff and local police, and that there had been no training or written guidance on how the rule was to be applied.[149] The library argued that library staff was capable of enforcing this "commonsense" standard, and the use of "etc." was "not so mysterious as to warrant a finding of vagueness or overbreadth."[150] The court disagreed, however, concluding that the rule amounted to "an effectively standard-less test whose daily application is governed only by subjective determination."[151]

¶54 Although the case law is unclear as to whether an individual has a protected liberty interest in using public libraries,[152] it is prudent for libraries that constitute limited public fora to provide due process to those patrons who are denied access. In *Spreadbury v. Bitterroot Public Library*, the plaintiff was served with a written notice banning him from the library and explaining why (in this case, intimidating and threatening staff).[153] He was later offered an opportunity to be heard and submit a

145. *But see* Neinast v. Bd. of Trs. of the Columbus Metro. Library, 346 F.3d 585, 591–92 (2003) (indicating that a library regulation mandating that patrons wear shoes in the library did "not directly impact the [patron's] right to receive information" and was thus subject to a rational basis standard). The court ultimately subjected the rule to heightened scrutiny anyway and found that it passed muster. *Id.* at 592–95.

146. Specifically, with respect to rule 1, the library's discretion to determine who is making use of library materials "must be exercised in accordance with the criteria in the rules and is thus not unbridled"; the reference to annoying behavior in rule 5 "lists specific behavior that is deemed annoying," avoiding a problematic subjective standard; the "nuisance" standard in rule 9 "is broad, in our view necessarily so, for it would be impossible to list all the various factual predicates of a nuisance." *Kreimer*, 958 F.2d at 1267–68.

147. Armstrong v. Dist. of Columbia Pub. Libr., 154 F. Supp. 2d 67, 77 (D.D.C. 2001).

148. *Id.*

149. *Id.* at 78.

150. *Id.* at 78–79.

151. *Id.* at 79.

152. *See* Mpala v. City of New Haven, No. 3:11CV1724(VLB), 2013 WL 657649, at *3 (D. Conn. Feb. 22, 2013) (citing cases).

153. Spreadbury v. Bitterroot Pub. Library, 862 F. Supp. 2d 1054, 1057 (D. Mont. 2012).

request for reconsideration to have his library privileges reinstated.[154] The court determined that these measures were adequate to protect the plaintiff's liberty interest while furthering the government's interest "in maintaining the peaceful character of a library."[155]

¶55 Case law also illustrates the pitfalls of failing to commit library policies to writing. In *Brinkmeier v. City of Freeport*, the plaintiff was barred from entering his local public library after allegedly harassing and following a library employee.[156] The record showed that Brinkmeier had been removed from the library pursuant to the library's "*unwritten* practice/policy of the library that persons 'harassing and/or intimidating other library patrons or employees of the library may be precluded from use of the library.'"[157] The court adopted the Third Circuit's analytical framework from *Kreimer* but rejected the library's motion for summary judgment.[158] While the court agreed "that a rule which prohibits disruptive behavior in a public library is at least conceptually inoffensive to the First Amendment . . . the way in which any given rule is worded will have a direct effect on whether its designed purpose is effectuated with the least amount of harm."[159] In this case, the court found that the unwritten policy was excessively broad (failing to define crucial terms like "harassing" or "intimidating") and lacked appropriate limitations on disapproved conduct.[160] The court also pointed out that the lack of evidence of any formal or informal procedure for a patron to appeal her denial of library access supported its conclusion that the policy was unreasonable.[161]

¶56 In a footnote, the court pointed out the obvious problems with failing to put library policies in writing: "While the court cannot say than an unwritten rule is *per se* constitutionally suspect, it at the very least opens the door to justifiable concern. Unwritten rules lend themselves to a myriad of problems, none the least of which is proof of its existence, both temporally and substantively."[162] The wisdom of the second sentence may apply to *any* library facing a challenge to its authority to enforce conduct rules against patrons.[163]

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154. *Id.*

155. *Id.*

156. Brinkmeier v. City of Freeport, No. 93 C 20039, 1993 WL 248201 (N.D. Ill. July 2, 1993). Problems with the plaintiff's conduct were established by (among other things) "numerous incident reports" maintained by the library. *Id.* at *2.

157. *Id.* at *1 (emphasis in original).

158. *See id.* at *5.

159. *Id.*

160. *Id.*

161. *Id.* at *6.

162. *Id.* at *5 n.6.

163. It is likewise important for libraries to be aware of not only the content of their formal policies, but how those policies are interpreted or otherwise (mis)applied by staff. *See* Lu v. Hulme, No. 12-11117-MLW, 2013 WL 1331028 (D. Mass. Mar. 30, 2013). In *Lu*, the court rejected a library's motion to dismiss the claims of a homeless patron who allegedly was refused entry to the library on the grounds that "homeless people cannot come in with their belongings." *Id.* at *2. The library noted that its policy prohibited the plaintiff from bringing certain items into the library, but the court rejected this defense: "These allegations assert that the actual conduct of the Library's staff, as opposed to any facially reasonable written policy, violated [the plaintiff's] First Amendment right to access the Library." *Id.* at *7.

Survey Description

¶57 While much has been written about managing difficult patron behavior in libraries generally, little of this work has focused on law libraries and their unique challenges. Having identified this need, we sought to better understand how difficult patron situations manifest themselves in law libraries and the extent to which law libraries rely on the policy prescriptions or techniques discussed in the wider library literature. To compile information about the best practices, policies, and procedures law libraries are currently using to manage difficult patron behavior, we created a brief online survey. We were specifically interested in gathering information about the disruptive behavior of all types of patrons (attorneys, judges, students, stakeholders, members of the public, legislators, elected officials, etc.) from all types of law libraries and examining the existing policies and procedures, both formal and informal, that those behaviors might trigger a law library to implement.

¶58 The survey was available for completion from September 8, 2014, through October 12, 2014, on SurveyMonkey and accessible via a link we shared with potential respondents. In advance of the survey being available, we formulated a communications strategy to elicit respondents consistently over the month the survey was available online and to reach a wide audience of law librarians by creating multiple ways a law librarian might receive the survey invitation.[164] Our goal for survey distribution was to obtain responses from a large group of law librarians working in different law library settings. We hoped to obtain survey responses from law librarians who were members of AALL and those who are not; law librarians who wrote or created policies about difficult patron behavior and those who implemented them during service interactions; law librarians working in institutions that had formal policies about disruptive patron behavior and those that did not.

¶59 Because of the potentially sensitive nature of the survey, respondents completed the survey anonymously. However, respondents were given the option of sharing their contact information at the end of the survey if they were willing to be contacted by one of us for follow-up questions about their institution's policies or their feelings about the successes or failures of their institution's policies, procedures, and training in this area.

¶60 The survey asked about the type of law library in which the respondent worked, the type and frequency of difficult patron behavior the respondent had witnessed or experienced, the formal or informal nature of the respondent's

164. The link to the survey was shared weekly in an e-mail sent to different subgroups of law librarians. The e-mail distributing the link contained a short description of our project and the names of the subcommittee members. The e-mail was shared with the chair of the AALL Council of Chapter Presidents asking for wide distribution to all chapter members by all chapter presidents, to the chair of the AALL Council of SIS Chairs asking for wide distribution by all SIS chairs to SIS members, and to the NELLCO president asking her to distribute the survey to NELLCO members. We also shared the link to the survey in postings on AALL's MyCommunities to SISs, of which we were members, and with fellow SIS members who knew colleagues who would be willing to post on behalf of the subcommittee. We also shared the link in e-mails to AALL-affiliated regional chapters to which we belonged via chapter listservs, and in an e-mail on the law-lib listserv. The link and a short description of the survey were also included in an AALL monthly news e-mail in October.

institution's policies or procedures about difficult patron behavior, the training respondent had been provided on dealing successfully with disruptive patron behavior, and the respondent's feeling about the training and adequacy of the policy or procedures of his or her institution. The complete survey can be found in the Appendix.

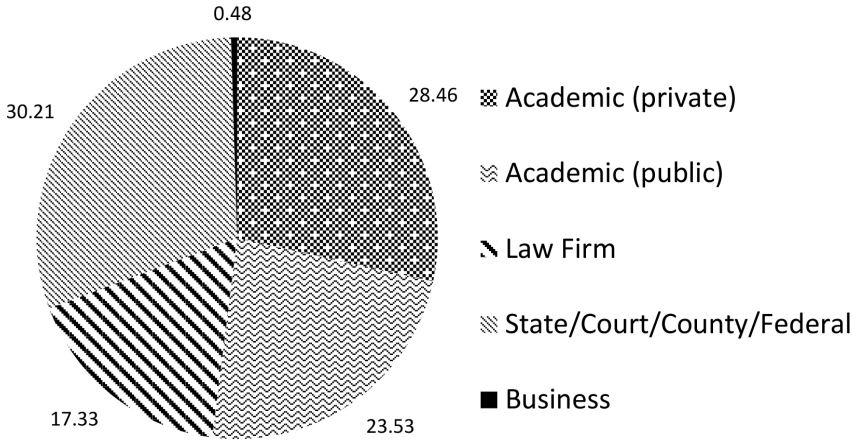
Survey Results

Libraries, Problems, and Problem Frequency

¶61 There were 629 replies to the survey, although several of these were incomplete. Based on answers to Question 1, approximately twenty-eight percent of respondents were from private academic libraries, twenty-four percent from public academic libraries, seventeen percent from law firm libraries, thirty percent from public governmental law libraries,[165] and less than one percent from business libraries.[166] (See figure 1.)

Figure 1

Question 1: In what type of library are you currently employed? n=629

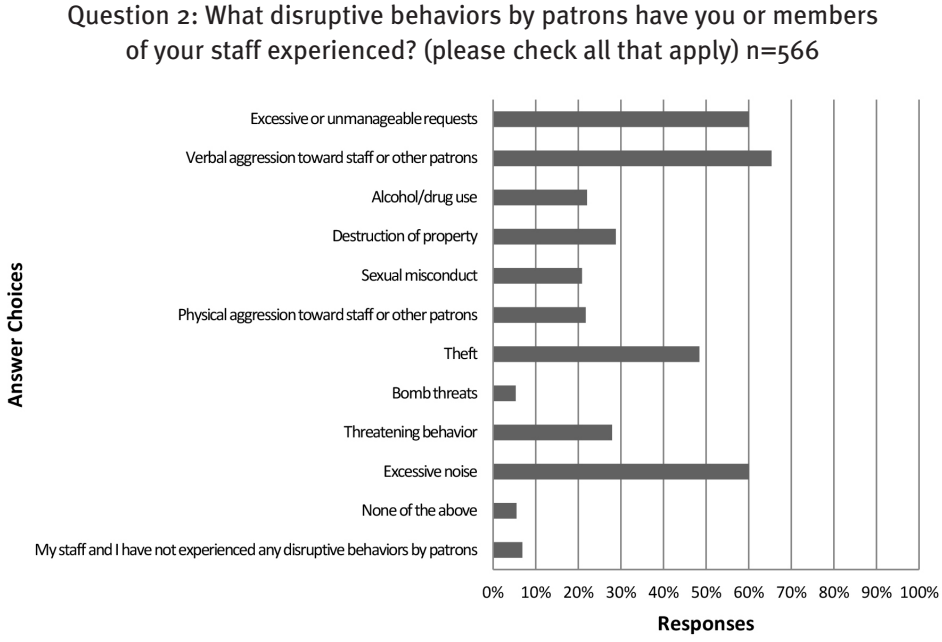


¶62 Question 2 sought to determine what types of disruptive behavior were encountered by library staff. The top three types of behavior encountered were verbal aggression, excessive or unmanageable requests, and physical aggression, which were each reported by at least sixty percent of respondents. Theft is also a significant problem, reported by almost half of respondents. Figure 2 shows the entire breakdown of disruptive experiences encountered.

165. Two respondents also specified that they worked in membership law libraries.

166. The authors received four responses from staffers of non–law libraries. Three respondents indicated that they worked in public libraries; one worked in a school library. We also received one response from a county archive staffer.

Figure 2



¶63 In addition to the ten behaviors listed as options in Question 2, respondents volunteered dozens of other examples of problematic patron conduct. These fell into several broad categories, including poor hygiene or body odor; disruptive or unauthorized use of food, drink, or tobacco; confused, deluded, or erratic behavior consistent with symptoms of mental illness; misuse of library computers; viewing online pornography; soliciting legal advice from lawyers and students using the library; trespassing or loitering; sleeping; stalking or harassment of library staff or other patrons; making excessive requests or monopolizing librarians' services; racism; and general rudeness. (There were also rare but more serious problems presented: patron lawsuits, attempted abduction, and suicide.)

¶64 However, when asked about the estimated frequency with which librarians and their staff encountered disruptive behavior, more than seventy percent of respondents indicated that disruptive behavior was infrequent, very infrequent, or never occurred. Less than six percent indicated that it was very frequent, and approximately twenty-four percent said it was somewhat frequent. (See figure 3.)

¶65 When we compare the frequency of disruptive patron behavior by library type, it appears (not surprisingly) that disruptions are far less common in private spaces. While none of the law firm respondents indicated that disruptions occurred very frequently in their libraries, more than ten percent of state, court, county, and federal government library respondents did so. "Somewhat" frequent disruptions were also most commonly reported in government-affiliated law libraries (35%), followed by public academic libraries (25.78%), private academic libraries (17.5%), and law firms (8.89%). Figure 4 illustrates the frequency by library type.

Figure 3

Question 3: Please estimate how frequently you or your staff encounter the disruptive behavior you selected. n=561

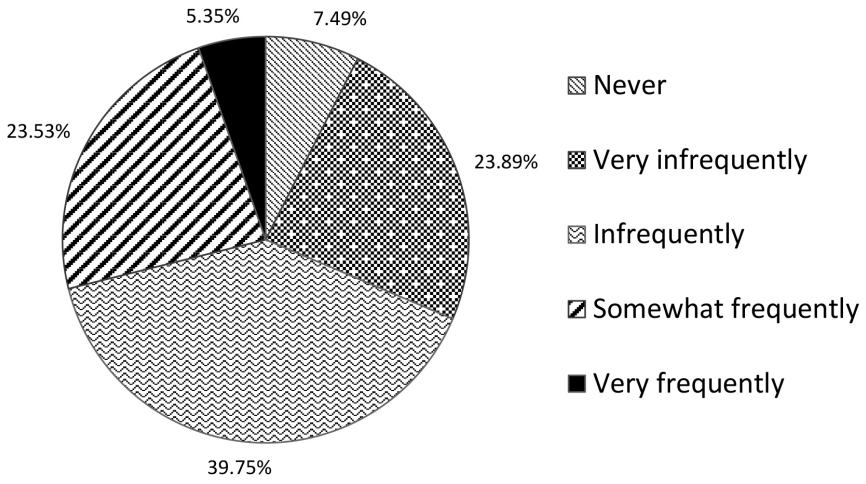
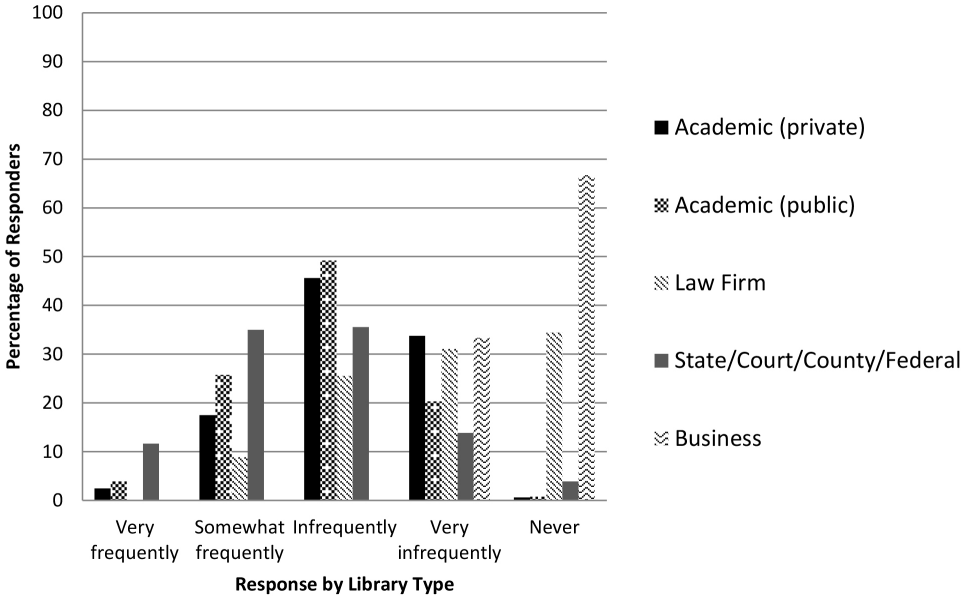


Figure 4

Frequency by Library Type



Formal Patron Conduct Policies

¶66 Next, the survey sought to determine whether libraries used a formal policy to manage or respond to disruptive or difficult patron behavior. The majority of respondents, more than fifty-seven percent, indicated that their libraries did not

have a formal policy, although rates varied by library type. According to the survey, public academic libraries had a policy in place more often than private academic libraries. Governmental libraries, however, were less likely to have a formal policy than public academic libraries, even though almost forty-seven percent of respondents from the former indicated that incidents of disruptive or difficult patron behavior occurred very or somewhat frequently. None of the business libraries indicated that they had a formal policy, though only three responses were received from this type of library. Among law firm library staffers surveyed, more than ninety-five percent did not have a formal policy, with only four respondents indicating that their library had such a policy.

¶67 Of those respondents whose libraries use a formal policy, eighty-five percent expressed satisfaction with the policy. The survey asked respondents to expand on what makes them satisfied or dissatisfied with their library's policy if one is in place. We received seventy-four free-format responses, which anecdotally support the importance of several themes.

¶68 First, satisfied respondents credited policies that were simple and clear, while unsatisfied respondents complained that their policies were convoluted and confusing. One academic library director shared that her library's policy worked because "[i]t addresses a general behavior and gives specific actions that we will take." Two government librarians attributed the effectiveness of their libraries' policies to being "simple and provid[ing] escalation levels" and "simple and easy to implement. One warning, then referral to higher authority, then they are escorted out by the sheriff."

¶69 By contrast, a respondent who works in an oft-disrupted county law library suggested that the library's policy did not meet its needs because it "is overly complicated and makes it difficult for staff to enforce conduct rules." Another government librarian described the library's policy as being "too convoluted. It involves yellow flags and red flags vaguely based on soccer rules. Basically, the librarian must give a warning, then a yellow flag, then red flag. Sounds simple but in between the lines it is much more complicated. Even following this process and even for the most egregious behavior, the patron is banned for 1 week." A third government librarian expressed dissatisfaction with a library policy that is "[v]ery convoluted. Consequences for bad behavior are few and far between."

¶70 Policies may also be applied inconsistently if they are general or vague. One law librarian illustrated the problems this could cause at her public law library in a major metropolitan area:

> There is much room for discretion, and sometimes patrons who create a disturbance in the library and harass staff are allowed to stay when according to the policy they should be asked to leave immediately. Each time a situation arises, staff seems to have to approach management and ask how they would like to handle it, and the result depends on who the patron is, what they are doing, and how management feels at the moment.

¶71 In addition to clarity, several satisfied respondents described how good communications between library staff were instrumental to their success. "In addition to having a clear policy," wrote one county law library director, "we have worked on setting boundaries as a team and we've reviewed [the policy], along with our organization's fair treatment policy and emergency policy and protocol." An academic reference librarian and access services supervisor said of her policy:

"I wrote it and consistently speak to my staff of student workers about their concerns regarding their safety." Some respondents also alluded to the importance of working closely with security personnel. Another academic reference librarian emphasized the importance of ensuring that security officers understand and enforce the library's policy to avoid misunderstandings: "It took much communication to enlist the support of campus police, who were more tolerant of behaviors that we prohibited." When such collaboration is lacking, policies may be less robust. For example, as one respondent described their government library's policy, "[i]t's somewhat vague regarding remediation of the disruptive behavior. Assessment of the situation is left to the individual staff person on duty, so the assessment and response to situations can vary widely. It was not formed in conjunction with building security." Or as another respondent put it, "[t]he policy is meaningless if security staff does not enforce it."

¶72 Communications and training can go hand in hand. In the words of one government librarian:

> Our policy is brief, but it must be accompanied by conversation and training—and even drills on occasion. New employees often don't know until they are deep into a problem that it is nothing new and that there is a way to handle the patron or the situation. Conversation, sharing of stories, participation by the Safety Committee members and law enforcement, etc. all make employees feel safer and more confident, which leads to cooler heads and decision making when emergencies arise.

Good communications also include conveying expectations to patrons. Making conduct policies obvious or accessible can be helpful. An academic electronic services librarian described how her library's policy is "posted on the website and near the front of the library. It allows us to point at something and helps in trespassing[,] repeat or really bad violators." Conversely, multiple dissatisfied respondents complained that their libraries' policies were inaccessible or outdated.

¶73 Several respondents commented that their libraries' policies were not comprehensive enough to address the problems they faced. One respondent wrote that "[t]he policy is very long and covers a wide range of issues but it seems as if we have to continuously add to it because there are always new issues popping up." Another complained that the library's policy needs "more detail regarding consequences for inappropriate behaviors other than inappropriate use of technology." Policies may be incomplete because they fail to address specific problem behavior, but also if they fail to address repeated bad behavior. "For example," one respondent offered, "if I catch a guy watching porn multiple times, it seems as if there are no consequences except me ending his session and kicking him out of the library. If there are repeat offenders, something needs to be done about it." Similarly, another respondent said that in the government library where he or she works, the policy is incomplete because "it ends right after asking the patron to leave the library. What if s/he won't leave? Is the patron allowed back? Under what circumstances?" Of course, as one public services director has reminded us, "[i]t is difficult to create one policy that responds to every situation that may arise in the library."

¶74 Some respondents praised the rigor of their libraries' policies, and others expressed disappointment that their policies did not cover all problematic behaviors they faced or were not tough enough. No respondent indicated that he or she believed the library's policy was excessively harsh or aggressive.

¶75 Perhaps most important, these responses indicate that a library's policy cannot be effective if either library management or staff do not believe in it or are unwilling to lend support. Several respondents wrote that their libraries' policies were undermined by a lack of support from either the library's parent institution or its director. For example, one respondent lamented that the policy governing his or her government library "is well written but would be better if management trusted that the front line staff actually knows what is going on and is able to handle the situation." Another government librarian noted that her library's policy "is almost impossible to enforce because we require our legal department['s] approval to take action." One respondent wrote that most staff at his or her government library had "given up" trying to enforce the library's policy because the director rarely supports the accounts of reference librarians, with the result that "[m]orale here is extremely low because our patrons are abusive and we see no recourse." By contrast, another government librarian specifically cited the support of administrators as important to her sense of satisfaction with library policies.

¶76 Meanwhile, several respondents identified policy enforcement by staff as a problem. Moreover, a lack of clarity about the policy's terms can exacerbate problems. According to one respondent at a public academic library, "[t]here is considerable disagreement among staff regarding what constitutes an 'excessive request.' This results in staff feeling undermined while enforcing the policy." Student workers appear especially prone to enforcement problems. Another public academic respondent indicated that "our undergraduate student workers . . . tend to be more permissive or timid and evidently do not feel very empowered to enforce the rules or ask for a library professional to deal with situations as they arise," with the result that it is "not clear to patrons that it is in fact a policy." (By contrast, one government librarian told us "[o]ur policy meets our needs because we enforce it.")

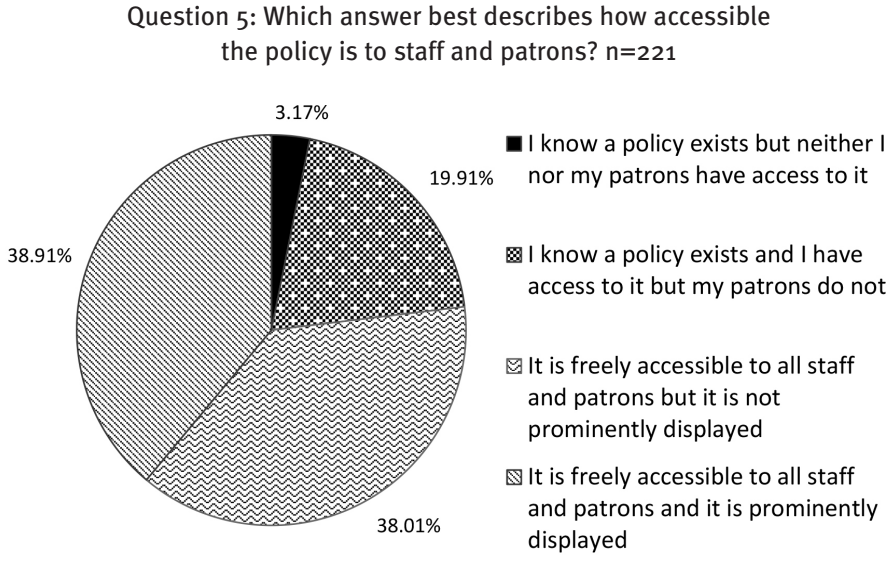
¶77 On the other hand, policies that grant staff autonomy and flexibility to manage problems were cited favorably. Mariann Sears, Director of Houston's Harris County Law Library, wrote "[o]ur policies give the library staff the authority to enforce them, including the authority to request that disruptive patrons leave for the day or be banned permanently." Another satisfied respondent complimented a public academic library's policy for "empower[ing] staff to nip disruptive behaviors or disruptive patrons in the bud." Another respondent similarly praised a private academic library's policy because it "empowers staff to take action. Any staff person can call campus security and request a specific response, e.g., removal of patron, walk-through, ID check." Another respondent noted that a private academic library policy worked because it "permits flexibility of response on the part of Access Services staff."

Policy Accessibility

¶78 Of those respondents whose libraries had policies, almost forty percent reported that their policies are freely accessible to all staff and patrons and are prominently displayed. (See figure 5.)

¶79 Multiple respondents commented that their libraries' policies were publicized through the library's website. Another thirty-eight percent said that the libraries' policies were accessible to all staff and patrons, but not prominently

Figure 5



displayed. Fewer than four percent of respondents said they knew of their institutions' policies, but neither they nor their patrons had access to them.

Policy Training

¶80 In addition, more than seventy-five percent of respondents whose libraries used formal policies indicated that their staff had been trained on the policies' provisions.[167] A follow-up question asked respondents to describe what, if any, training on their libraries' policies was available. Eighty-two respondents offered expanded answers to this question.

¶81 A significant number of respondents said that their staff members are "trained" on library policy exclusively or primarily through informal discussion among colleagues, either in meetings or in the course of regular work activities. In some cases, training or other kinds of conversation about handling challenging patrons is spurred by a particularly problematic encounter. One respondent from a public academic library offered an example: "The University requires that all employees (student, staff, and faculty) take anti-harassment and anti-discrimination courses. Locally, our patron policies are reviewed whenever we have an incident."

¶82 Several other respondents said that, in their libraries, staff learned about conduct and behavior rules primarily by reading existing policy documents. This "self-training" may be reinforced by discussion with a supervisor or by ensuring that employees know whom to contact if they need help.

167. Question 7, n=221. *See infra* appendix.

¶83 Multiple respondents indicated that their libraries conducted formal training or organized discussion of patron conduct policies. For example, one county law librarian reported that her library "did training in boundary setting with representatives of the local mental health board" as well as reviewing its policy and emergency response protocol at least once a year. Marcia Bell, director of the San Francisco Law Library, described a multipronged approach to training at her library, including "[s]taff meetings, role playing, attendance at outside training programs and webinars, [and] handling difficult patron reference materials." Several other respondents reported that they had received formal training specifically on handling "active shooter" or other emergency scenarios. In some cases, these trainings may be led by a parent institution's security department.

¶84 The responses suggested that, in many libraries, training resources are focused on specific groups of workers rather than staff as a whole. For example, several respondents said that their libraries provide training on conduct policies specifically for new hires. Other respondents indicated that circulation and reference staff were designated to receive training. Others emphasized training for student workers.

¶85 At least five respondents reported that they were dissatisfied with the training that they had received. For example, one respondent described a county law library's training as "very informal, haphazard and inconsistent." Another government library respondent described the training as "[m]eaningless lectures. Not relevant." In some of these cases, respondents report dissatisfaction with training tied to poor communication between staff and management, similar to sentiments reflected in Question 6 regarding library policies. For example, one government librarian describes receiving "emails on the process, but no training with us all in a room with the ability to ask questions. Staff feedback by email was discounted. [The] Boss never meets the public by working at circulation/reference desk."

¶86 Even libraries that do not encounter disruptive patrons on a regular basis may struggle with how best to train staff. As one academic librarian in a private institution wrote, "more training is always needed because events are infrequent enough and under stressful conditions," making it difficult to respond appropriately.

Informal Policies and Practices

¶87 In some libraries that have formal policies, there are informal practices used in addition to (or as departures from) the official "rules." Other libraries have no formal policy but have established routines in place. Question 8 asked respondents whether their libraries used informal procedures to deal with disruptive patrons, with the intention to capture information about how libraries manage difficult situations when they do not have specifically promulgated rules in place or if they use strategies day to day that add to or differ from their formal policies.[168] A slight majority of survey takers answered that their libraries did not have informal policies or procedures in place to handle disruptive or difficult patron behavior. However, the breakdown was almost fifty-fifty, with just over fifty-one percent saying that there was no policy and just under forty-nine percent saying there was an informal policy. When the Question 4 and Question 8 responses are compared, they

168. Question 8, n=517.

show no pattern of libraries having either a formal or informal policy in place. Some libraries have both a formal and informal policy, and some have neither.[169]

¶88 Of the 253 respondents who indicated that their library uses informal procedures, 214 also gave some additional description of their practices. In one public academic library, a respondent reported that "[w]e have a formal policy statement which is essentially there as a backstop—we can point patrons to it if we need to, we don't make it prominent and generally don't refer to it unless someone is being disruptive and claims that 'well, it doesn't say that anywhere.' Otherwise, the system is almost entirely ad hoc and informal; it's a local joke that 'we have no rules, only exceptions.'" On the other hand, some libraries strive to take only formally sanctioned approaches to difficult patrons; as one respondent put it, [i]nformal actions put staff in danger. All staff are to conform to our written process."

¶89 A common scenario emerged: staff would typically begin with a polite request to the patron to cease the problematic behavior, following up with either a consultation or referral to another library staff member, asking the patron to leave, and finally a call to local security services. Or, in the succinct words of one respondent, "Deal with it. Get the director. Then call bailiffs."

¶90 Many respondents indicated that they try initially to resolve disputes with patrons through conversation. This may give library staff a chance to explain the perceived violation or policy issue, such as a librarian's inability to dispense legal advice. Several specifically emphasized the need to remain calm during these encounters to avoid escalation. Some use a "buddy system" so that individual staff members need not address a problem alone. These conversations can also offer an opportunity to accommodate patrons who may behave unconventionally but are nonthreatening. For example, Mariann Sears, director of Houston's Harris County Law Library, wrote, "We have several non-violent regular patrons with varying degrees of mental health challenges. For instance, one of our patrons is compelled to clean his work area before he begins his research. We accommodate this patron by providing him with a single disinfecting wipe to clean the area he works at."

¶91 In many libraries, a noncompliant patron may be asked to leave, be barred from returning to the library, or be suspended from receiving certain library services. Several dozen respondents also said that they were to notify a designated person, often someone higher in the library or organizational hierarchy, when difficult patron situations arise. This can pose a problem, however, if and when the designated person is not available to assist. As one public academic library respondent wrote, "[i]t depends on who the patron is, but the general informal policy is to report the person to the Head of Circulation or Public Services. This is not helpful for evening and weekend staff or for when that person is not available."

¶92 More than seventy respondents reported that they can call on local security officers or police in various circumstances, including to help assess a potentially difficult situation, to assist in removing an obstinate rule breaker, or at the first suggestion of aggression or violence. (As one public academic librarian put it, "Call

169. Approximately forty-two percent who said yes to having a formal policy also said yes to having an informal policy. Approximately forty-six percent who said no to having a formal policy also said no to having an informal policy.

the cops when things get real.") A private academic law librarian wrote that staff should call security first if they feel uncomfortable handling a situation: "[w]e ask that the staff (students or professional staff) take care of themselves before anything else—none of us are heroes." Thirteen respondents also specifically mentioned that they have panic buttons available.

¶93 Nine respondents described using an incident reporting system of some kind to document difficult patron situations. "We have started creating 'incident reports' to better track issues," wrote one reference department director. "In the past we found that it took months for us to realize that we were experiencing a problem patron on a variety of shifts—and then sometimes it was hard to reconstruct how often/recent previous incidents were."

¶94 Several respondents indicated that their typical practice was to address difficult patrons "on a case-by-case basis" or to rely on their best judgment or discretion. This, unsurprisingly, can lead to inconsistencies. One respondent, who works in a public academic setting, wrote: "we tolerate almost anything until the individual librarian or staff member reaches a point where the behavior is personally disturbing or disruptive to them. All professional[s] and staff members are encouraged to use their own judgment. This means that there is no consistent way to curb disruptive behavior. What one librarian or staff member will tolerate another cannot. Patrons are not put on notice about what behavior is prima facie disruptive and what is not. Welcome to the monkey house. . . ."

¶95 Several law firm library respondents provided descriptive answers to this question. The survey found that more than ninety-five percent of law firm libraries do not have formal patron behavior policies in place. However, the survey indicated that disruptive patron behavior is rare in firms: more than one-third of law firm respondents indicated that they never encountered such problems, and less than ten percent reported that patron behavior was a problem "somewhat frequently." Yet when such problems occur, firm library staff must operate under unique constraints. For example, one respondent wrote: "[i]f materials go missing, I send out firm-wide emails asking for people to check their offices and areas for the item, and to send it back or notify me if they find it. Often materials come back anonymously. Unfortunately we have no check out period limitation and there is no way to police the library 24/7. It is always accessible by firm attorneys and staff, regardless of librarian presence." One library director alerted us to another firm-specific problem: attorneys purchasing their own books or subscriptions without approval from the firm's chief operations officer or library director: "Do not go 'rogue' and decide to start a subscription to Lexis or Westlaw on your own." While missing materials, in some circumstances, are retrieved from attorney offices, firm library staff may also simply choose to replace them from the publisher. Other firm library staff emphasized the need to keep patron encounters positive, for example:

- "Pacify and/or ignore. Be diplomatic and calm at all costs."
- "Try to defuse the situation and provide any help possible."
- "We manage the difficult patrons with humor, research the problem, and we do point out when the patron's perception is mistaken, with the facts."

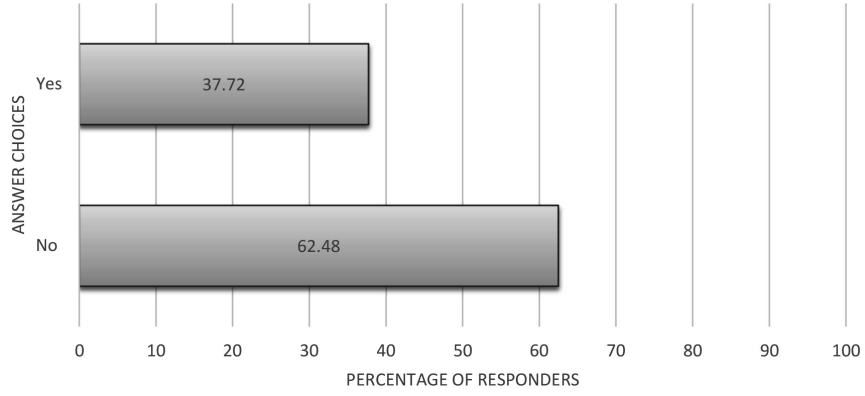
¶96 Several respondents indicated that they would refer problems with their patrons (presumably attorneys) to the firm's administrator, managing partner, or human resources department.

General Training

¶97 Respondents were also asked whether they had received any training on dealing with difficult patron behavior, regardless of whether their library had relevant policies in place. Almost two-thirds of respondents indicated that they had not received such training. (See figure 6.)

Figure 6

Question 9: Has staff at your library been trained on dealing with difficult patron behavior? n=517



¶98 Among the respondents who had received such training, 130 also gave a brief description of what it looked like. Again, as was the case with responses to Question 7 (regarding policy training), many respondents indicated that their training arose primarily through informal discussions among colleagues. Several others relied on consultations, lectures, or workshops arranged by consultants or outside library organizations like AALL or a local chapter or other professional group. Some respondents noted training provided by their institution's Human Resources department as well as specific instruction on how to handle active shooter scenarios and other emergencies. Among libraries that had sought aid from other professionals, social workers were the most commonly referred to.

¶99 A few respondents said that their training was largely self-directed; others mentioned that their training was unsatisfactory in some way. One court library respondent commented on the disconnect between the training available, which focuses on law enforcement issues, and the needs of the library:

> Since no weapons can be brought into the courthouse, we are not considered to be in any real danger. BUT that does not mean we don't have problems dealing with the misplaced expectations of patrons. The problem stems from the lack of legal services in this area and the mistaken belief that the law library staff will help them with the actual problem, not just give them books. . . . No one officially addresses that issue of underserved people going off the deep end at us!

Follow-Up Discussion

¶100 Once the survey had closed, we read and synthesized the results. The final question of the initial survey asked respondents whether they would be willing to answer follow-up questions. Eighty-four respondents agreed, and shortly after the close of the survey, we e-mailed these respondents to announce that follow-up questionnaires would be forthcoming.

¶101 We separated the eighty-four respondents into four subgroups: respondents whose libraries had formal policies that they were satisfied with, respondents whose libraries who had formal policies that they were not satisfied with, respondents whose libraries did not have formal policies but did use informal ones, and respondents whose libraries who did not have formal or informal policies. Each of us took all of the respondents for one or more subgroups and contacted that subgroup via e-mail several weeks after the close of the initial survey. The follow-up questions were written after the results of the survey had been collected and synthesized and contained questions crafted to solicit additional information from respondents on key issues. We wrote, edited, and agreed on all follow-up questions and sent each subgroup identical sets.

¶102 The questions were sent to respondents via e-mail. The respondents were asked to respond within three weeks and were also given the option to schedule a phone call with one of us if they preferred answering the questions verbally. Of the eighty-four respondents contacted, twenty returned completed responses to the follow-up questions or were interviewed by phone.[170]

Libraries Without Formal Policies

¶103 In follow-up conversations with respondents whose libraries do not have formal patron policies, we noted several key points, many of which echo the respondents' initial survey answers. First among these: there is no general consensus that having a formal policy is necessarily beneficial or something they missed.

¶104 Flexibility is an issue discussed by more than one of the respondents in the two subgroups who stated their libraries did not have formal policies. Multiple respondents among the two subgroups without formal policies cited flexibility as a concern. To these respondents, not having a formal policy can be beneficial in that it allows the librarians to be flexible in their approach to patrons exhibiting disruptive behavior. One respondent at a public academic institution stated that not having a formal policy gives his staff flexibility and allows his staff to respond individually to patron quirks. Catherine McGuire of the Maryland State Law Library stated, "We make decisions on a case-by-case basis, based on what aligns best with the Library's mission. . . . Not having a written [policy] probably helps all the time—gives us constant flexibility. No two interactions are ever exactly the same, after all." The perceived flexibility created by not having a formal policy may also have positive long-term effects for the library. Dennis Kim-Prieto, reference librarian at

170. The twenty follow-up respondents included thirteen individuals whose libraries had a formal policy and were satisfied, six respondents whose libraries either used an informal policy or no policy, and one respondent whose library had a formal policy and was not satisfied. It should be noted that some respondents communicated that they were not able or willing to answer the follow-up questions due to the sensitive nature of the topic.

Rutgers School of Law, states, "It might be better for the librarians to have a one-size-fits-all policy for removing people, but it wouldn't help the library's clients and the library's relationship with its clients. A bright line rule might be more decisive, but could also end up excluding more people from the library."

¶105 While more than one respondent commented about the flexibility not adopting a formal policy can bestow, others commented about how adopting a formal policy could be beneficial, especially with regard to improving the consistency with which staff respond to patrons exhibiting challenging or disruptive behavior. Of the follow-up respondents without a formal policy, most stated that staff did not consistently implement the informal policies in place or did not respond consistently to disruptive patron behavior. However, there was a variety of reasons given for the lack of consistency. One librarian posited that the size of the library staff, which includes a large number of student workers, contributes to the inconsistency. Librarians from two different institutions also mentioned library staff personality traits as being a cause of inconsistency. Said one, "There are some of us who are really good at setting limits while there are others of us who, perhaps because of the nature of the profession, we want to help, are not as good at that," while another librarian commented, "Some people don't like to enforce policies or be 'the bad guy.' Some people don't like confrontation so they try to avoid it. Some people enforce policies with gusto!" Finally, another librarian suggested the ambiguous nature of disruptive patron behavior itself may be driving the inconsistencies: "Our policies are not consistently followed by staff, because it's hard to gauge when behavior becomes disruptive." Beyond just supporting consistency of patron treatment, one respondent at a public academic institution thought having a formal policy could foster equality of patron treatment, stating, "I think we would benefit from a formal policy to help make sure we are all on the same page when it comes to these types of incidents. They can be delicate situations sometimes and it is very critical to treat people equally." Another respondent from a courthouse library also spoke about the need for equal treatment: "As an attorney-friendly courthouse where pro se [patrons] really feel intimidated, it's important that we make sure both attorneys and pro se litigants have to avoid disruptive behavior."

¶106 In addition to flexibility and consistency, another issue that was widely discussed among these respondents was mental illness. Several respondents made comments about a patron who may appear to be exhibiting signs of mental illness and may be engaging in challenging or disruptive behavior. When asked what type of challenging patron behavior their libraries handled especially well or especially poorly, several respondents mentioned patrons exhibiting signs or symptoms of mental illness. One respondent stated, "I think our law library doesn't handle mentally ill patrons very well, because our staff sometimes either tries to be too helpful or too hands off." Another respondent expressed a belief that her library excels during interactions with mentally ill patrons who may be engaging in disruptive behavior. Catherine McGuire, head of reference and outreach at the Maryland State Law Library, explained, "We handle phone calls from residents of psychiatric institutions very well, I think. We are fortunate to have a number of very patient and compassionate reference staff, which I think means we do well at listening—the biggest need of these patrons. I think as well, the fact that we are such a cooperative group, very good at backing each other up, that everyone feels supported, which

makes it easier to sit and listen. . . . And we hold regular bi-weekly reference staff meetings where we spend time discussing these patrons, how we handle them, how to handle them going forward, and agreeing on a consistent method." In contrast, Sue Luddington, assistant law librarian at Washington County Law Library, recognized that patrons with mental illness who exhibit disruptive behavior can be both a challenge and a success for her institution: "We recognize that, even though we don't have legal advice to give, we can lend an ear and, at a minimum, empathize, and I feel this is something we do well. . . . Of course, at the same time, these are also the same types of interactions that we sometimes don't handle well, because the social services that the individual really needs simply aren't available. It is quite disheartening to not have ANY resources to give to someone, and there have been times I've felt like we've failed a patron by not being able to provide more options."

Libraries with Formal Policies

¶107 The follow-up responses received from librarians whose institutions use formal policies confirmed many of the virtues described in the literature. Respondents from satisfied policy-using libraries cited clarity, consistency, and good communication as key to their management of patron behavior.

Using Formal Policies

¶108 Many respondents shared copies or links to their patron conduct and access policies. The majority of follow-up respondents indicated that their policies had been updated within the past two years.[171] There were two key commonalities among the policies provided. Several libraries incorporate explicit statements about the purpose of the law library and what patrons are expected to use the library for. A typical example is the Harris County (Texas) Law Library rule stating that "[p]atrons shall be engaged in activities associated with the use of a public law library while in the Law Library. Patrons not engaged in reading, studying, or using Law Library materials may be required to leave the Law Library." And almost all policies included "disruption" clauses: generally stated rules prohibiting patrons from conduct that could reasonably be expected to disturb others.[172]

¶109 In a university setting, an academic law library can get crowded by undergraduate or other nonlaw students (or unaffiliated users), which can lead to disputes and law student frustration. At Arizona State University (ASU), the Ross-

171. While there was only one respondent in the follow-up subgroup of staff from libraries that have a formal policy but find it unsatisfactory, that respondent's answers to our follow-up questions was of note. The respondent's library, a public judicial library, had gone through a process of reviewing and formalizing its general and patron suspension policies in the intervening weeks since respondent had completed the initial survey and the follow-up responses. Of particular interest to us was that respondent expressed increased satisfaction since the policies were updated and changed. The respondent stated, "I am more satisfied with the policies now than when I responded last year. Specifically, since then we updated and formalized them. I think they are flexible enough to meet any contingency (although you never know)."

172. *See, e.g.*, *Law Library Rules, Rule 5.1*, Harris Cnty. Law Library (Sept. 1, 2012), http://www.harriscountylawlibrary.org/law-library-rules/; *Marian Gould Gallagher Code of Conduct*, Univ. of Wash. Gallagher Law Library (May 23, 2005), http://lib.law.washington.edu/dir/conductcode.html ("Behaviors that infringe on the rights of library users or staff are prohibited. Prohibited activities and behaviors include, but are not limited to, the following . . . [c]reate disturbances.").

Blakley Law Library uses both a library code of conduct (describing its expectations for patrons and proscribing certain activities) and a limited access policy that specifies who has access to the library during the academic term and the identification patrons are required to provide. The University of Connecticut's Thomas J. Meskill Law Library's policy specifies who may use the law library, including a statement limiting public access to "[a]ttorneys and the general public who are conducting legal research."

¶110 Multiple public law libraries included citations to the statutes that authorize their operations or govern their conduct.[173] The San Francisco Law Library cites to specific sections of the California Penal Code that prohibit specific conduct or empower staff to take particular actions, such as check a patron's bags. At some public law libraries, like the San Francisco Law Library, "computer use is often a source of bad behavior" according to Director Marcia R. Bell. In addition to its Patron Rules of Conduct, the library has a separate Technology Policy and printed Terms of Use for its computers, printers, and wireless internet network.[174]

¶111 Not all policy documents are geared toward patrons; some exist for the aid of staff. The California State Library, for example, uses a Patron Behavior/Consequences Matrix that gives staff a quick visual guide of how to respond to fourteen different categories of prohibited patron conduct after one, two, or three occurrences. (The most serious infractions, such as threatening staff or engaging in sexual activity, trigger an immediate patron ban.)

¶112 Multiple respondents spoke favorably about having a formal, written policy to regulate patron conduct, in large part because they could refer patrons to the text as needed. For example, Cheryl Nyberg, of the University of Washington, reported that "[w]hen we need to approach a patron about undesirable conduct, we highlight the section of the Code of Conduct that the patron is violating." Several other respondents mentioned bringing printed and highlighted copies of their policies with them when intervening with a disruptive patron. As one put it, "When I am confronting anyone, I *always* like to have backup whether it be a paper or a person. Anytime I approach a disruptive patron, I print out the policy, highlight the violation, then talk with the patron about the policy. . . . The majority of the time, they are very compliant since I have the policy in front of them and they have no room to argue."

Consistency and Communication

¶113 When asked whether their libraries' policies were enforced consistently, a plurality of respondents was quick to connect consistent enforcement to good communication among staff (and vice versa).

¶114 Small staffs may have an advantage when it comes to consistency if their size translates to improved communication. As San Francisco Law Library's Marcia Bell describes, "Our staff is quite small—less than 10 employees—so it is not difficult to maintain procedures. Decisions regarding patron conduct are made by

173. *See, e.g.*, *Law Library Rules, supra* note 172, at § 1.

174. *See also Computer & Internet Use*, Sacramento Cnty. Pub. Law Library, http://www.saclaw.org/pages/computer-internet-policy.aspx (last visited Aug. 26, 2015).

management, and staff routinely inform and consult with managers about issues as they arise."

¶115 ASU's Leslie Pardo described her library's success in using incident reporting to get important information to police, when necessary (for example, the time, location, and physical description of a student's stolen property), and to ensure good communication among public services staff. Similarly, Coral Henning of the Sacramento County Public Law Library described the library's use of an incident database incorporating photographs from security cameras "so we know who is who. The incident report is emailed to all staff so we are all on the same page." Similarly, at the Witkin State Law Library of California, Marguerite Beveridge reports that

> [w]hen a patron is banned from the library, it is the State Librarian who handles the situation. Once someone is banned from the library, we have a picture of them, pertinent information and we keep these logged in binders at the reference desks. I also make sure that the court security guards have the pictures, information, and punishment received [by the patron]. Communication is vital.

¶116 By contrast, one (anonymous) respondent described how such communications can fall short:

> When it comes to threatening [library] workers, it seems as if management does jump on that quickly. They will ban a patron for any kind of threatening conversation and will make sure the rest of the branches know about it. However, when they let staff know about the ban, they don't really go into detail or provide photos of the person, which makes it difficult to identify the patron if he or she enters another branch.

¶117 Having a formal policy does not guarantee consistency in enforcement. Two respondents pointed out that if some staff members are uncomfortable in an enforcement role, there is a greater likelihood that the policy will not be applied evenly. As Bell points out,

> Different employees have different abilities to cope with challenges and stress, which can be challenging for the employee who may feel anxious or threatened when another may not, and there can be differing responses to the same situation. We have materials for staff regarding working with challenging patrons, as well as public service standards and guidelines, and send staff to outside training programs. Nonetheless, it is not always possible for 100% consistency among staff in response to a given situation.

¶118 The same can be said for management. One respondent described how, in her library, the rules may be undermined by a lack of follow-through: "Management rarely ever adheres to the policy of consequences but instead uses a 'he or she is not hurting anyone' approach and usually ignores the situation." By contrast, Marguerite Beverage, principal librarian of the Witkin State Law Library of California, illustrated the importance of keeping staff and managers on the same page. She described "spend[ing] several hours every day, walking through the libraries, watching and talking to patrons. It is imperative that staff believe that management and administration take these situations seriously. Management and administration take the policy very seriously and are always asking about the well-being of staff."

Efficacy

¶119 When asked about how effective (or not) their libraries' policies were in addressing patron conflict, the most common sentiment was that even the best policy was incapable of preventing all problems, specifically those in which patrons do not consider themselves bound by the rules or do not care about the library's norms. (These culprits may also be some of the library's most important patrons. Joshua LaPorte of the University of Connecticut's Thomas J. Meskill Law Library reported, "Our policies are very effective at handling public and student patrons, but often fail us when working with faculty.")

¶120 Staff at the San Diego Law Library aptly illustrated the value of library rules even when confronted by a patron who has no intention of complying:

> [W]e recently had a patron return to the library before a prior suspension (for a conduct violation) had expired. He was asked to leave by security and refused. In this particular instance, the person was unreasonable and clearly wished to push staff to call police to force an arrest for trespass. Staff was required to wait hours for the police to arrive. . . . At times there is no policy that will cover the conduct when a patron refuses by abide by the Library rules. . . . On the plus side, our rules are clear. If a patron refuses to leave when asked[,] they are considered a trespasser and law enforcement will be notified.

In such a case, the rules provide clarity and justification for imposing serious consequences.

¶121 Another advantage of a formal approach: documentation can support a library's position in case of a dispute or chronically negative situation. In 2014, as Marcia Bell reports, the San Francisco Law Library "obtained 3 year restraining orders against two patrons for threatening conduct, primarily verbal. Compliance with our patron rules policy by staff, incident reports, and the support and leadership of management enabled the library to demonstrate that the restraining orders were reasonable and needed." In this case, the library's willingness to enforce its rules is key. In Bell's words, "I believe the library has moral, ethical, legal, and safety obligations to protect staff and patrons and that rules of conduct and consequences for breaches are essential to ensure that the library is a safe and comfortable place for everyone."

¶122 Inconsistent enforcement was the most oft-cited corrosive to a formal policy. As Washington's Cheryl Nyberg puts it, "Not enforcing the Code [of Conduct] with regular patrons leads to situations where they resist an eventual attempt to convince them to comply." San Francisco's Bell describes not having meaningful consequences for patron infractions as "a huge mistake." In her experience, it has been helpful for patrons to know that the library stands by its rules. "It doesn't mean that they will always follow the rules in the future, but they seem to know it is necessary to be able to use the library to cooperate. If we don't have consequences, nothing will happen to get patrons to moderate their conduct." Or as Sacramento County Law Library's director Coral Henning put it, "The policy is not what helps or hinders a situation[;] it is the consistent enforcement that makes changes in behaviors."

¶123 At the San Diego Law Library, having policies that are clear but well adapted to patron's needs has been successful.

> [W]e do allow patrons to use cell phones in the library but we do limit that use where it may disrupt the work of others. For that reason, patrons that attempt to talk on cell phones in the close-confines of the computer lab are asked to step out of that area to take their call so that they do not disturb others. The flexibility of this policy lets patrons use their phones in the library, but allows librarians or security to step in and intervene when it is obvious that other library patrons are being disturbed by the phone call.

¶124 Success is not just structural. ASU's Leslie Pardo noted that some staff are generally better at managing difficult patrons than others, and that this has to do with their level of experience more than anything else. Experience informs judgment, allowing a librarian to tailor her approach to a patron's infraction based on its severity. Carla Knepper of Texas's Ellis County Law Library mentioned similarly that years of experience working with the public has been a help, along with keeping calm, having compassion for patrons, and being able to repeat yourself often. She emphasized the role that thoughtful customer service played in avoiding or minimizing problems with patrons.

Useful Training

¶125 Follow-up respondents recommended several types and sources of training. These included cultural competency, working with people for whom English is not a first language, conversational skills to diffuse difficult situations, dealing with difficult people in a service environment, and working with difficult personalities within one's own workplace. Multiple respondents mentioned using role-playing scenarios to build staff skills. Maryann Sears praised her county's "fantastic" county-wide training and professional development programming, specifically on providing services to the public. She also recalled the tragic shooting deaths of two prosecutors in nearby Kaufman County, Texas, in 2013 as a reminder for why any library, no matter how small, can benefit from training on responding to an active-shooter scenario.[175]

¶126 ASU's Leslie Pardo mentioned using resources produced by the American Library Association as well as offering training activities and speakers in-house. Her staff recently attended an in-service training with an outside speaker on identifying mental illness in patrons and knowing how to respond to such patron's needs. Librarians from other university libraries were able to attend as well.

¶127 Others expressed an interest in integrating wellness programming, such as a mindfulness and stress-reduction program for staff coping with the challenges of public service. San Francisco's Marcia Bell noted that many existing programs focus on developing or using patron conduct policies, which hold limited interest for libraries that already have policies in place.

Recommendations for Further Study

¶128 The goal of the survey was to get a basic understanding of the climate for difficult and disruptive patron behavior within the various types of law libraries and the existence of policies and training for dealing with these patrons and their

175. *See* Manny Fernandez et al., *Gunfire Claims 2nd Prosecutor in Texas County*, N.Y. Times, Apr. 1 2013, at A1.

behavior. The population surveyed was not necessarily representative, and there was no control to prevent multiple staff members from the same library answering the survey. Therefore, results may be skewed to overrepresent individual libraries. For more conclusive results and correlations, a more controlled survey would need to be administered using a representative sample of the population. However, some broad observations can be made.

¶129 First, not every library has a formal or informal policy. Even among librarians who have experienced difficult or disruptive behavior within their libraries, there may be no consistent procedure for handling such matters. Within business and law firm libraries, this point may be moot because disruptive behavior is infrequent. Library staff may not be in a position to enforce a policy over the employees who use the library. The existence of a policy may be of no help. Further investigation into correlations between the frequency with which a library serves the public and the existence of a formal policy may be beneficial. For example, public academic libraries were more likely to have a formal policy than private academic libraries. Some private academic libraries are open to the public. Private academic libraries open to the public may be more likely to have a policy than those not open to the public. This survey did not distinguish between the two. This survey also did not investigate whether having a formal patron conduct policy correlates to greater satisfaction or confidence among librarians in dealing with difficult patrons.

¶130 Very few respondents indicated that they have never experienced any type of difficult or disruptive behavior.[176] Difficult behavior does occur on occasion, and it is good to be prepared so that it can be handled as smoothly as possible. Yet fewer than forty percent of respondents said they had been trained to deal with such behavior or incidents. If a policy does not seem appropriate for a library, staff should at least be trained to handle such situations to reduce their impact on the other patrons and the staff. Further inquiry into whether staff who received such training were satisfied with it and felt better able to handle difficult patrons and disruptive situations may be beneficial.

Solutions for Overcoming Challenging Patron Behavior

¶131 As previously stated, disruptive patron behavior is not a problem that can be solved at a discrete point in time within the confines of one article. Such behavior resides outside of the control of library staff and is variable based on library, context, and patron needs. However, we can confidently state that the solutions to the problems of disruptive patron interactions can most nearly be found by providing a library atmosphere of safety for patrons and staff, equality in the staff treatment of all library patrons, consistency and predictability in staff responses accomplished by flexibility not rigidity, and communication and transparency of both policies and service limitations. Based on comments from the survey and follow-up questions, some common themes emerge for best practices in dealing with difficult or disruptive patrons, which are included in lieu of a traditional solution. These are tips and

176. Slightly less than seven percent of all respondents indicated that they have never experienced any kind of disruptive patron behavior.

suggestions that have anecdotally worked for other library staff. Each practice may not be beneficial for all libraries. It is important to evaluate your library and the population you serve. More in-depth studies on various library types and populations served may help determine what indeed works best for managing patron behavior. We hope this study provides a jumping-off point for further inquiry.

Interacting with Patrons

¶132 Here are some suggestions for interacting with patrons.

- Address problematic patron behavior early, before it escalates. A courteous word from a library staff member or a nod to a sign displaying a rule may be all that is needed. In one courthouse librarian's experience,

> we have tons of patrons talking on their cell phone in the library who are not disruptive, but at times then they begin to yell at the person they are talking to, thereby becoming disruptive. We should probably address disruptive behavior as it is first beginning, when it first appears minor, rather than waiting until it escalates to become a bad issue.[177]

- Make sure that patrons who face losing some or all of their library privileges due to behavior problems have some avenue for internal appeal and review. This could mean involving the library's governing board, a library committee, or dean.
- Keep contact information for local free and low-cost local legal services providers available at all public services desks and in printed handouts for patrons. Consider also posting this information on your library's website or in a LibGuide. Update the information regularly and include a currency date. It is especially helpful to include information on individual organizations' intake hours, case-type coverage, and any limitations that patrons will benefit from knowing about ahead of time. Make sure that any information on your website or meant for distribution to patrons is written in easy-to-read language that a layperson can understand.
- Libraries that serve homeless or economically marginalized patrons may also wish to keep current lists of local social service providers, such as food pantries. In Harris County, Texas, patrons whose bodily aromas are disruptive to others are notified of the library's hygiene policy and receive a bookmark printed with a list of local organizations that provide a place to take a shower and other social services. Consider it an extension of reference services. In the words of one courthouse law librarian, "I always try to send the person on their way with some information or a contact number of a service agency that can help them if we don't have the resources. I try not to let them leave empty handed."
- Make sure that patrons feel heard when they voice a complaint. One courthouse librarian described her successful strategy:

177. This respondent recommended a blog post: Karen Pundsack, *Library Security Is Everybody's Job*, Pub. Libr. Online (Nov. 21, 2014), http://publiclibrariesonline.org/2014/11/library-security-is-everybodys-job/.

> I always take the time to listen to the problem or complaint from members of the public (yes, this is very time-consuming). Oftentimes this is really all they want—someone in the courthouse to listen to them and understand. I'm always aware that their view of the situation is what they believe to be the truth, so I operate under that premise.

- Communicate clearly and reinforce positive take-aways from challenging situations. As one county law librarian responded in the survey, "If I have to ask someone to leave because they're disruptive to other patrons I explain to them why they need to leave, but also that they are welcome to use the library another day when they are less agitated. This usually works."
- In an academic library, use student orientation sessions as an opportunity to open channels of communication, including how to engage staff to solve problems. One academic librarian reported that "[a]ll students are advised at library orientation that if there are noise problems to come to the circulation desk and staff will handle it." Knowing where to address complaints, and that such feedback is welcome, may make problems easier to resolve and also improve patron satisfaction.
- Consider posting anonymous patron complaints, and the library's response, in a public place or online. This demonstrates that the library is responsive and takes patron feedback seriously. For complaints that the library cannot satisfy, it provides an opportunity to explain the library's rationale or limitations.
- Remember that small amenities can build goodwill and prevent conflict. For example, if some of your library's reading areas are within easy earshot of group study areas, the reference or circulation desk, or the main entrance, consider lending noise-cancelling headphones and offering patrons individually wrapped earplugs.
- If your patrons include students or attorneys who perennially leave their laptops unattended at their desks, consider lending laptop locks.
- Be alert and aware, but take pains not to assume from the start that a particular patron encounter will end poorly. In the words of one courthouse librarian,

> I greet every patron with fresh eyes. (Sometimes I am aware of certain people from information that colleagues in the courthouse give me, but have not had an interaction myself.) That means I don't judge anyone by first impressions. I try to treat everyone the same—from a judge to a street person. They are all visiting the library because they need help.

- Consistency and equal treatment go hand in hand. Although a law library may prioritize services for its primary patron groups, consistent with its mission, all patrons who are permitted to use the space are entitled to be treated equally with respect to conduct rules. This requires that all staff understand the library's rules or expectations and that they enforce these rules or expectations consistently for all patrons. To do otherwise invites conflict between favored and disfavored patrons or between disfavored patrons and the library. For example, a public academic law library that prohibits patrons from eating or sleeping, but applies this prohibition only

to public patrons and not to students, makes it less likely that the rule (or any other rule) can actually be enforced against anyone, and it opens the door to hostility from public patrons.

Policies and Procedures

¶133 Not every library needs a detailed list of proscribed patron conduct, but many libraries find using formal rules to be helpful for patrons and staff. The following suggestions are for libraries that choose to use formal rules and procedures for managing patron behavior.

- Library policies or rules should be simple and clear. Avoid library or legal jargon.
- A written library policy need not spell out the justification for every rule, but staff should be familiar with the reasoning behind the rules they must enforce so that they can explain the rules to patrons with confidence.
- Leave room for policies to change or grow as needed to adapt to new circumstances. Document who is permitted to change or add rules, and the approvals needed. While you do not want to impose sudden changes on your patrons, you also want to preserve the flexibility to address unanticipated problems.[178]
- Many survey respondents indicated that an otherwise useful patron conduct policy may fail if it does not state explicitly how to address repeat offenses. This can create inconsistency when dealing with patrons. In addition to putting this information into your library's policy, consider creating a one-page "response matrix" for staff that identifies how to respond (or who to call) for the first, second, and third occurrence of a particular rule violation.
- Post your library's conduct rules on its website. This can put patrons on constructive notice and serve as a go-to location for printing copies should you need to present a patron with documentation of library policy.
- Tailor your signage to the location and problem you want to address. Keep posted rules brief and to the point.
- Signs are not the only way to convey the library's expectations of patrons. At the Stetson University College of Law Library, the policy covering library visitors is printed on the back of cards detailing the library's hours. When

178. While this article was being written, we became aware of a county courthouse librarian who was being sued by a patron for denial of access because the patron was not permitted to videotape in the library. As this situation was potentially relevant to the topic of this article, we contacted the librarian who agreed to speak anonymously. When asked what changes, if any, were made after the lawsuit was filed, the librarian stated,

> Whenever we experience particularly troublesome patrons we revisit our use policies to see if they cover types of behavior that we would like to discourage. Recently we amended our use policy to add this provision: *Prohibited acts: Record moving or still images and/or audio in any part of the Library or record moving or still images and/or audio of any person in the Library. Photo copies or other equivalent images shall be permitted in accordance with applicable law.* This will prevent (we hope) the use of cell phones (primarily) to film or capture audio of anyone or anything in the library, but still allow patrons to use their phones to make a few copies.

In addition to this specific change to the library's policies, the librarian also contributed several recommendations that have been incorporated within the best practices text.

patrons ask about the library's hours, this is a great way to share the policy as well. Consider where patrons are likely to focus their attention in the library.

- Sometimes an image may be worth a thousand words. Staff at the San Diego Law Library suggested creating visual handouts that can be given to patrons demonstrating how the library determines that personal items (like luggage or bags) present a hazard. The same technique could be used to illustrate potentially ambiguous concepts like "disruptive behavior."
- If you serve a patron community whose first language is not English, make sure that your posted patron conduct rules, lending policies, and other signage are available in whatever languages are most often used and that staff know what is being communicated on any non-English signs.
- Some states have laws specifically governing public libraries' privileges in handling theft or other patron malfeasance. Patrons who flout library rules may find reference to municipal or state laws more persuasive. New Jersey, for example, has a statute specifying that library staff who have probable cause to believe that a patron is deliberately concealing library materials are entitled to detain the patron for a reasonable time.[179]

Staff Communications

¶134 Similarly, libraries need to work on staff communications.

- Library staff are entitled to work in an atmosphere free from violence, threatening behavior, harassment, physical or verbal abuse, and sexual misconduct. Just as staff must be familiar with the library's expectations for patron services, staff should be familiar with their own rights to a healthy and safe workplace, and confident in their ability to set boundaries and protect themselves from inappropriate patron behavior. As one survey respondent described, "In addition to having a clear policy, we have worked on setting boundaries as a team and we've reviewed it, along with our organization's fair treatment policy and emergency policy and protocol."
- Not every library needs a formal slate of patron policies, but every library needs to have good communication among staff. In the words of Maryland State Law Library's Catherine McGuire, "I think that the best help in handling challenging patrons comes not so much from having formal policies as in (1) making sure the whole staff understands completely how the library wants these interactions handled; and (2) communicating regularly and openly, across the staff, about how such interactions are going."
- Dedicate some regular staff meeting time to discussing recent patron issues, how they have been handled, and how you would like them to be handled in the future. This is a great way to ensure that staff feel supported day to day and to build consistency.
- Use staff or departmental retreats to create space to brainstorm and critically review policies, hear from outside speakers, and hold all-staff training sessions.

179. N.J. STAT. ANN. § 2C:20–15 (West 2015); *see also id.* § 2C:20–13 (regarding presumption of intent to steal concealed library materials).

- Many survey respondents emphasized the importance of letting frontline staff play a role in developing patron conduct policies and entrusting them to resolve many common problems or potentially disruptive scenarios with patrons. Empowering staff may allow problems to be resolved more quickly and may improve staff morale. Frontline staff are also the most likely to know who or what has triggered problems in the past.
- Use your intranet (or another collaborative online tool) to make policies, incident reports, or other important information easy to update and instantly accessible to all staff. For example, a private LibGuide, accessible only to library staff, is an effective way to share library policies and link to outside resources.
- Create a simple incident reporting form and make it easy for staff to access, either in print or online. Include space to record the name of the staffer completing the form, the date and time of the incident, the name (or a description) of each patron involved, a description of the incident, the action taken (or recommendation for action), and whatever follow-up information is appropriate (for example, a police report number, the outcome of an appeal, corrective action taken, etc.). If possible, include a photograph of the patron involved.
- Compile and preserve reported incident information for future use. For example, create an "incident database" that can help libraries identify repeat offenders, share information across shifts, and document patterns of crime or bad behavior that may justify greater security investments.
- Records of prior incidents are a great resource for staff training, especially role-play scenarios.

Security

¶135 Libraries also need to be aware of work with local security services.

- Many, many survey respondents linked the success and consistency of their library's rule enforcement to their relationship with local security services. Building these relationships may take time and effort, but is well worth the investment.
- Make sure that all staff know exactly which security services are available to them (for example, building security, campus police, city police), who to contact for different threat levels, and how they can be reached. Keep the contact information easily visible from every telephone.
- Conduct a security audit of your library's physical space. This should cover the interior and exterior of your facility and cover security precautions in place (alarms, cameras), escape routes, sight lines, emergency procedures, staff preparedness, system maintenance, training, and so forth. You may wish to hire a security consultant to perform this review.[180]
- Many libraries use "panic buttons" to silently alert security of a dangerous situation. A silent alarm can be very useful not only when facing an enraged

180. *See* Arndt, *supra* note 11, at 25–27.

or aggressive patron, but also when working with someone who may pose a threat to themselves.[181]

- Create a staff "code word" for emergencies. Using a code word can allow library staff to discretely share information about a threat or an escalating situation without being provocative or panicking other patrons.

Training

¶136 Libraries should continue to implement and monitor staff training programs.

- Staff training is an essential part of patron behavior management, regardless of whether a library has a formal patron conduct policy. Training predicates any consistent approach to patrons by staff, and can help staff feel less anxiety and more confidence. Training also allows staff to better resolve novel situations outside the scope of existing rules.
- Do a "training audit" of your staff. What are the patron issues you face most frequently? What kinds of problems do you wish you could handle more gracefully? Have there been any changes to your library policies since your public services staff was last trained? Use this critical appraisal to help refine your search for training opportunities.
- As part of a training audit, consider what constituencies your library serves and whether particular groups are underserved. You may want to see training on cross-cultural interactions.
- If your library employs student workers or relies on volunteers, ensure that they receive significant training opportunities and have input into policy decisions they may be asked to enforce.
- Check out what programs or training may be available from other branches of your institution. Many government organizations and universities offer both mandatory trainings and optional programming that can be helpful to staffers serving the public. If your parent institution has a Human Resources department, see what programs it may offer on developing professionalism and strong communication skills among coworkers.
- Consider partnering with local non-law libraries to arrange for training on perennially important topics like active-shooter response or diffusing angry customers.
- Libraries serving the public may also want to seek out training on nonlegal topics that arise in reference transactions. Sue Luddington, assistant law librarian at Oregon's Washington County Law Library, described some of the programming available at the city and state level, "such as on public housing assistance and elder abuse. These trainings are certainly helpful and contribute to our ability to serve our patrons with excellence."
- Do not be afraid to borrow training resources from nonlibrary settings when they serve an identified need within your staff. As one respondent described, "We have found that the very best antidote to difficult patron

181. *See also* Elie Mystal, *Does Your Law School Need a Panic Button?*, ABOVE THE LAW (Apr. 30, 2013, 10:06 AM), http://abovethelaw.com/2013/04/does-your-law-school-need-a-panic-button/.

behavior is excellent customer service. We modify formal HR training modules on customer service to comport with the library scenario."

- Seek expert training on recognizing and serving patrons who demonstrate symptoms of mental illness and identifying local resources. Be mindful that mental illness is not limited to people who are homeless or pro se; law students who are under academic and professional stress can be vulnerable to anxiety, depression, and substance abuse.[182]
- Use staff meeting time or "in-service" days to brainstorm standard responses to challenging questions (for example, why library staff cannot provide legal advice or assistance such as completing forms). This allows everyone to discuss and understand the reasoning behind a particular practice, and provide consistent responses to patrons.
- Use role-playing exercises, particularly drawn from real scenarios experienced in your library or one like it. In the words of Maryland State Law Library's Catherine McGuire, "I'm not a big fan of role-playing, but in the case of pressure situations, the more practice[] the better we are at handling such interactions. . . . [P]racticing language to use when situations occur is very helpful—certain sentences become rote, which makes responding under pressure easier."
- Use your intranet or a LibGuide to store or link to training documentation or videos.

Information Technology

¶137 For those with the resources, use information technology expertise to craft functional compromises and sidestep potential points of contention.

- A public academic library might offer PCs dedicated for public legal research, while other libraries set up for student use may offer broader functionality, like word processing or file storage.
- Flat-bed scanners that send documents to a user's e-mail account or USB drive may help public patrons save time, spare them costly copier fees, and avoid infuriating paper jams.
- Form sets can be tempting targets for theft by attorneys and pro se patrons, especially if they are held in loose-leaf sets. Consider collecting these resources as e-books or on CD-ROM.
- Let technology play some of the policing role instead of staff. At the San Francisco Law Library, for example, the library uses software that governs the amount of time a patron may use library computers daily. According to the director, "the software system enables staff to manage the technology-related issues better and more successfully." Ensure that patrons are aware of the technical limits in place to avoid unpleasant surprises.
- Use a chat program to allow patrons to anonymously report problems or disturbances. Librarians can respond to a tip about a disruptive patron

182. *See* Am. Bar Ass'n, Law Student Div., Mental Health Initiative Tool Kit for Student Bar Associations and Administrators 4 (2008), *available at*: http://www.americanbar.org/content/dam/aba/events/professional_responsibility/2014/05/30th-aba-national-forum-on-client-protection/topic7_4_mh_initiative_toolkit.authcheckdam.pdf.

without the tipper needing to physically summon staff. This may encourage patrons who are reticent to complain for fear of hostility from the person who has spurred the complaint.

- Technology can also be a source of friction and patron frustration, as well. If your library charges fees for services, such as printing or faxing, ensure that patrons are notified of these fees before they are incurred (with signage or verbal notification). Consider using print-release software to queue patron print jobs, so that staff may verify the size of the job and collect the fee before printing the document(s).
- Introducing new technology, like scanners in place of photocopiers or digital microform readers, can occasionally confuse patrons. Ensure that all staff are fluent in the use of new hardware and software or are able to do basic troubleshooting for patrons. You may also wish to host short training sessions for regular patron groups (for example, the staff of a law journal).
- If you offer e-mail or chat-based reference services, make it easy for staff to remember to respond promptly. Consider automatically forwarding messages sent to a generic reference e-mail address to a dedicated librarian or keeping the sound on for any computer used for chat reference.
- Keep any of your library's web content for patrons up to date, and make sure all staff are clear on where to refer patron complaints or notifications of outages.

Conclusion

¶138 While the institutional setting, location, size, and patron population among law libraries differ, one thing that remains nearly constant across the profession is the presence of disruptive patron behavior. The mission of law libraries may sometimes present unique situations and challenges, but the best ways to deal with challenging patron behavior are fundamentally the same as at non–law libraries. The solutions to the problems of disruptive patron interactions can most nearly be found by creating and maintaining a library environment which is safe for all; serving and treating patrons equally, consistently, and predictability through flexibility not rigidity; and providing communication and transparency of policies and service limitations.

¶139 Taking a formal approach can be helpful but is not imperative for success. What is most important is to look analytically at one's institution; take a proactive approach to prevent escalations from happening, when possible; and prepare one's staff for how to deal with those situations when they do arise. While librarians cannot control the behavior of library patrons, they can control their responses to those behaviors. That is where libraries, librarians, policymakers, firm managers, stakeholders, trustees, administrators, and government officials should focus their energy and resources.

Appendix

Fall 2014 Survey Questions

1. In what type of library are you currently employed?

   - ❑ Academic (private)
   - ❑ Academic (public)
   - ❑ Law Firm
   - ❑ State/Court/County/Federal
   - ❑ Business
   - ❑ Other (please specify)

2. What disruptive behaviors by patrons have you or members of your staff experienced? (please check all that apply)

   - ❑ Excessive or unmanageable requests
   - ❑ Verbal aggression toward staff or other patrons
   - ❑ Alcohol/drug use
   - ❑ Destruction of property
   - ❑ Sexual misconduct
   - ❑ Physical aggression toward staff or other patrons
   - ❑ Theft
   - ❑ Bomb threats
   - ❑ Threatening behavior
   - ❑ Excessive noise
   - ❑ None of the above
   - ❑ My staff and I have not experienced any disruptive behaviors by patrons
   - ❑ Other (please specify)

3. Please estimate how frequently you or your staff encounters the disruptive behavior you selected.

   - ❑ Very frequently
   - ❑ Somewhat frequently
   - ❑ Infrequently
   - ❑ Very infrequently
   - ❑ Never

4. Do you have a formal policy on managing or responding to disruptive or difficult behavior by patrons?

   - ❑ Yes
   - ❑ No

5. Which answer best describes how accessible the policy is to staff and patrons?

   - ❑ I know a policy exists but neither I nor my patrons have access to it.
   - ❑ I know a policy exists and I have access to it but my patrons do not.
   - ❑ It is freely accessible to all staff and patrons but it is not prominently displayed.
   - ❑ It is freely accessible to all staff and patrons and it is prominently displayed.

6. Are you satisfied with the policy?

   - ❑ Yes
   - ❑ No

   Why is or isn't the policy meeting your needs?

7. Has staff been trained on the policy?

   - ❑ Yes
   - ❑ No

   If yes, please describe this training.

8. Is there an informal policy or procedure in place?

   - ❑ Yes
   - ❑ No

   If yes, please describe.

9. Has staff at your library been trained on dealing with difficult patron behavior?

   - ❑ Yes
   - ❑ No

   If yes, please describe this training.

10. We are collecting information about best practices, ethical concerns, unique strategies, successful interventions, unsuccessful procedures, and more. Would you be willing to share your policy with us or communicate with us further on this topic? If so, please provide your contact information.

    Name:
    Title:
    Institution:
    City/Town:
    State:
    E-mail address:
    Phone number: