

Ethics & Public Service

by Kay Schlueter

What is the essence of our profession? It is serving the legal information needs of a varied clientele. Since this service is the central philosophical theme in our existence as librarians, it seems crucial that a code of ethics address our professional obligation to satisfy the needs, to promote the interests, and to respect the values of our clientele. Ralph Monaco defined this obligation in his article, "Revision of the AALL Code of Ethics," as central to all professions (*AALL Spectrum* 11/97: 14D19).

Monaco states that the Librarians Code can perform two valuable functions. First, its very existence informs the profession itself, and those it serves, of the core values of its practitioners. Second, it favors certain values that must be consciously overcome if library policy is made to the contrary. With these two functions in mind, the goal of this article is to discuss some parameters for ethical statements regarding our duty to meet the information needs of our clientele. The parameters should accommodate the broad spectrum of individual library policies, allowing for discretionary judgment, but they should also serve as a measuring stick, allowing one to ask: "Can I justify a library practice if this is my value statement?"

To begin our discussion, let's look to our current Code of Ethics for value statements concerning our duty to our clientele and our role in providing information. The first two tenets refer to the Library Bill of Rights, stating a librarian has a "responsibility to maintain the principles of the Library Bill of Rights" and should endeavor to change institution policies "which conflict with the spirit of the Library Bill of Rights." The themes of intellectual freedom and access are affirmed in the Library Bill of Rights. Materials should not be excluded due to "origin, background, or views of those contributing to their creation" and "a person's right to use a library should not be denied or abridged because of origin, age, background, or views." I believe these basic statements are ones on which we can all agree.

The current code also speaks to privacy and confidentiality issues. The librarian should "protect the essential confidential relationship which exists between a library user and the library" and should "treat confidentially any private information

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obtained through contact with library patrons and not ... divulge any confidential information to persons representing adverse interests." Again, these are principles so basic to our profession that agreement to their inclusion would be assured.

There are three more tenets in the current Code of Ethics which touch on duty to clientele and access to information. While the individual statements might seem as basic as those previously reviewed, individual interpretations of the meaning behind the statements range over the wide spectrum of current library practice. The three tenets state that law librarians:

- ¥ have a duty neither to engage in the unauthorized practice of law nor to solicit an attorney-client relationship;
- ¥ have a duty actively to promote free and effective access to legal information; and,
- ¥ have a duty to society and the legal profession to work both individually and through their professional organizations toward improving the quality and minimizing the cost of the library component of the delivery of legal services.

No librarian wants to set up an attorney-client relationship with a patron or to "practice law," and we would all agree that information should be free if at all possible and that we should provide effective access, but we have all been party to many lively discussions trying to

define the exact meaning of those basic statements. And we have more often than not left the discussions without a consensus. If the essence of law librarianship is serving the legal information needs of a varied clientele, is there not an essence of shared meaning in statements defining this service to which we can all agree?

In his article, "Librarianship Needs a New Code of Professional Ethics (*American Libraries*, 1/91:84D92), Lee Finks writes, "A code of ethics should define the limits of acceptable conduct and give guidance as to what kind of actions are regarded as right or wrong in the occupation." Do the three tenets discussed above do this? Finks reprints some guidelines of Occupational Conduct for Librarians developed by Johan Bekker in his 1976 Ph.D. dissertation. Portions dealing with our topic of service to patrons and access to information include:

(1) Librarians should exercise their best occupational judgment on behalf of library users. They should therefore:

- ¥ Not merely comply with requests, but try to anticipate them.
- ¥ Not merely supply what is requested, but rather what is needed.

(3) Librarians should avoid even the appearance of incompetence. They should therefore:

- ¥ Do everything that can reasonably be expected to satisfy a library user.
- ¥ Seek expert assistance whenever necessary.
- ¥ Give reliable information, i.e., the best traceable or available.

(7) Librarians should help to create and maintain conditions under which scholarship can exist: freedom of inquiry, of thought, and of expression. They should therefore:

- ¥ Ensure the free flow of information between libraries.
- ¥ Allow access to the library's holdings and services to everyone in need of information.

¥ Avoid bias in the acquisitions and presentation of information.

Provided that:

¥ The survival of information sources that are impossible or very difficult to replace is not endangered.

¥ Transgression on the field of operation of other occupations does not take place.

¥ The freedom allowed is not misused to curtail the freedom of others.

Keeping in mind the value statements expressed in the current AALL Code of Ethics and the value statements expressed by Bekker, how would you rationalize the following examples of current practices going on in some libraries? Try not to categorize the practices as "good" or "bad" but think instead of how you would analyze the practice in conjunction with these value statements or those of your own design. Can you justify the practice in terms of one or more value statements?

In the world of ever-shrinking dollars some of us find ourselves in a real Catch 22 situation. How can we resolve to maintain our principles and stay solvent in a tight financial marketplace?

The first example is that of telephone reference, particularly in dealing with pro se patrons. Some libraries have policies that do not allow the exchange of information over the phone. The rationale is that by choosing bits of information for the patron, the librarian may inadvertently miss crucial information or come dangerously close to giving legal advice. Those libraries that do allow information to be provided over the phone might have the rationale that the library is there to provide a service and they cannot provide this service to patrons who cannot come in during business hours if they don't provide some sort of telephone reference. They hope to sidestep the unauthorized practice of law issue by being careful with their phrasing in order not to give legal advice and to insure the patron understands this

may not be all the information necessary for their issue, but that it is a start. Do both practices mesh with the value statements? Can a more direct value statement be written which allows both practices? Should the Code be written to deny one practice over the other?

The next example is that of access to libraries by a varied clientele. All of our libraries owe an allegiance to a parent institution. We must affirm not only the institution's value system but our profession's. These value systems can come into conflict when we look at service to groups other than our primary patron group. Let's look at the issue of citizen access to the Government Printing Office depository collection in an academic law library. Academic libraries, particularly those in private institutions, frequently have policies limiting access to their faculties, students, and staffs. If access by other groups is allowed, it may be tightly defined to specific situations. These libraries are set up with a specific mission of serving their parent organization and their family of users. They may not feel they can be all things to all people in a way that a public library can. A clash of value systems is set up when these libraries are partners in the GPO depository program, a program whose battle cry is "Documents to the People" with guaranteed access to government information. These libraries have a troubled reputation within the documents community. Is this reputation an ethical blemish on the law librarian profession? On the other hand, should not an academic institution be able to prescribe its mission and allocate its limited resources to maximize use by its primary patron group? Do our value statements allow for limited access? Should they?

Finally, the value statements speak to cost of information. They encourage free access and also encourage working toward minimizing the cost of the library component of the delivery of library services. In the world of ever-shrinking dollars some of us find ourselves in a

real Catch 22 situation. We as professionals value free access to information. If we also value our parent organization, we find that in order to minimize the cost of the library component to our parent organization we are required to find ways to charge back and recoup cost so that funding library services or at least enhanced library services does not come from the parent treasury but from user fees. How can we resolve to maintain our principles and stay solvent in a tight financial marketplace? Can we design value statements that assist us in walking this fine line?

We should take this opportunity to ask what we expect to find in our Code of Ethics in terms of public service and information access. It may be that we can never agree as a professional organization to a tighter phrasing of these values. But, to do so would make our Code more of a day-to-day practice guide and less of a dusty document lost on a shelf.

I have asked many questions in this article and provided few, if any, answers. The members of the Special Committee on Ethics want you, the membership, to give us your feedback. Take the issues presented in this and other articles in this ethics series and give us suggestions for a revised Code of Ethics that meets the needs of our profession and shows the outside world what we stand for. Please take this chance to get your views aired by contacting Margie Axtmann, the Chair of the Special Committee on Ethics, or any of the committee members: Anne Abate, Wes Cochran, Ralph Monaco, or Kay Schlueter.

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