



Welcome to Our Law Library ... *Well, Sort Of*

Exploring the Issues That Arise When the Need for Security Meets the Desire for Open Access

By Carol D. Billings

In the final weeks of 1999, media attention focused upon fears that New Year's celebrations world-wide could be disrupted by terrorist activity. News programs featured debates among government, law enforcement, and public policy officials about how cities should react to the real and imagined threats of violence. The mayor of Seattle opted to play it safe by canceling his city's festivities, while the mayors of New York and New Orleans proclaimed that there is no such thing as perfect security and that they would refuse to satisfy would-be evil-doers by changing their celebration plans.

By the time this piece appears, we will know whether any of the fears were warranted. Sadly, the dilemma of how best to protect people and property from harm in a free society seems certain to remain a hot topic. An entire industry—apart from traditional law enforcement—has developed out of the desire for security in the home, workplace, and public facilities.

Thousands have found employment in the security business, and millions of dollars have been spent on elaborate equipment to detect and prevent violations. A belief in the necessity for security measures has become so ingrained in American society that to question certain aspects of them may open the critic to suspicion.

The Security Debate

The debates of late 1999 gave voice to a number of interesting philosophies. Several commentators espoused the belief that when institutions tighten security, they are actually satisfying would-be violators and encouraging them to

think up ways to defeat the system. The very fact that those in authority have spent so much effort and money installing security, they contend, represents victory for anti-social forces who take pleasure in causing trouble. One of the most compelling observations for me was that the mind-set of lawyers—who often hold positions of authority or advise those in authority—to do everything possible to avoid liability may result in erecting extreme safeguards that risk infringing upon citizens' rights.

Security in public buildings has recently become more than just an interesting subject for debate around the Louisiana Supreme Court building, which contains the Law Library of Louisiana. Some law-lib regulars may remember my November 1 rant in which I described the Louisiana Supreme Court's new security measures. For several years non-employees entering the building have been required to walk through a metal detector (and frequently to have a wand passed over areas of their body that emit a "beep") as well as submitting their belongings to be run through an x-ray machine. The Law Library of Louisiana, our state's only law library whose primary mission it is to serve the public as well as the judiciary and the bar, is located immediately inside the front door of the courthouse—the first thing one sees after passing through security. It has always been my unscientific contention that more citizens enter the building to use the

library than for any other reason. Unlike many of the courthouses that contain libraries, ours has but a single appellate courtroom where the justices hear arguments for several days each month. There are no prisoners, jurors, or emotional family members frequenting our premises. The courtroom, the eight justices' chambers, and the clerk's office are all on the second floor of the building, accessible by a single elevator. The library's only neighbors on the first floor are administrators and staff attorneys not customarily visited by outsiders.

New Security Measures at the Louisiana Supreme Court

In early October, I heard by the grapevine that stricter security procedures would soon go into effect. All employees were issued photo-ID badges programmed to let them through doors, into elevators, etc. Shortly thereafter, word got around that any non-employee entering the building would soon not only have to go through the metal detector/x-ray routine, but would also have to show identification, sign in, state his intended purpose, and wear a "visitor badge" while in the building. My liberal blood boiled, and I shot off a letter to the Chief Justice in which I preached the gospel of the public's right to have unfettered access to public libraries. He and his colleagues were not sufficiently moved to respond.

On the morning of November 1, I peeked out the front door of the library and observed the new procedures being implemented by our security officers. Since the advance information we had been sent was not very specific, I asked one of the officers what would happen if someone had no identification. He replied that the person would not be permitted to enter. Reckoning that picketing out in front would fail to produce the desired results, I strode to my computer, banged out my message, and posted it to the State, Court, and County Law Libraries listserv and law-lib: "Maybe I'm crazy, but I'm outraged!" I vented. I asked my colleagues whether any of their libraries have security restrictions that limit access. I also requested any access policies that libraries had adopted. Did anyone know of instances where the right of access to public libraries or other public buildings had been tested legally?

Things were rather quiet on law-lib when my message appeared; I was pleased to receive a goodly number of responses. The variety of reactions was interesting. A few good friends in other state law libraries were sympathetically as outraged

as I. But another reader replied, "Maybe I'm the crazy one, but I don't see why you're upset." It was sadly enlightening to discover that security procedures similar to ours have become commonplace. I was a little amused to learn that the Montana and Wyoming state law libraries and most Alaska public law libraries are without security. The rest of us may think of the wild and woolly west as the domain of Ted Kaczynski and paramilitary militias, but in fact it is the libraries in Newark, Atlanta, and San Diego that are manning the barricades. Clearly urban environments populated by indigent, homeless, and often mentally disturbed people are where courthouses and other public buildings have felt the need to protect their occupants, records, and equipment from harm.

Many law school libraries limit access to their services and collections by requiring identification or cards that they have issued. Although it is common for these institutions to invite the public to use their government documents depositories, it is certainly understandable that they would reserve priority for their students and faculty. But it is a different story when a library whose stated mission is to provide the public with access to the law is restricted by its parent institution's security policies. Several law-lib respondents suggested that perhaps it is impractical to house a public law library in the same building with a court. However, those of us who have a three-fold mission to serve the judiciary, the bar, and the public need to be located with our primary users, and certainly it would be extravagant to duplicate our collections for the separate constituencies. I particularly like the solution in effect at the Connecticut State Law Library, where those entering the Supreme Court's courtroom are screened by security when there is a session, but the library entrance across the lobby has no security.

Priority for Attorneys?

It is not uncommon for law libraries in courthouses—particularly urban ones housing trial courts and all of the human traffic that accompanies them—to give priority to attorneys. A number of colleagues reported that an attorney can show his bar membership card and avoid additional security screening, while a member of the public must sign in and wear an identification tag. An attorney posted a message defending priority treatment for attorneys in court libraries, contending that "when attorneys going to the court need a reference for an oral

argument or are looking up last minute shepardization, they do not need to be confronted with people sitting around reading and not reshelving books." He went on to argue that while "the public should have some right of access to court libraries. . . it is not an unfettered unregulated right. . . But the concept that because you might have to show ID, that is somehow a 'national identity card' is ludicrous paranoia."

Actual Incidents

Several librarian colleagues related with regret incidents that justify the need for security. One explained that her courthouse has banned certain people from entering because of previous disruptive behavior. She was one of few unopposed to the ID requirement on the grounds that security guards need to have a means of identifying the troublemakers. The director of a large urban county law library told how he had obtained a restraining order against a patron who shoved and cursed staff members. The same library has adopted a "one-day rule" against smelly and offensive patrons who disturb other users, as allowed under *Kreimer*—the U.S. Third Circuit decision reversing the district court's interlocutory injunction prohibiting the enforcement of the Morristown, New Jersey, Public Library's rules that prohibited offensive conduct by a homeless patron (*Kreimer v. Bureau of Police for the Town of Morristown*, 958 F.2d 1242 [3d Cir.1992]). The library does have to readmit the problem patron the next day. The single most disturbing response was sent by an urban public law school librarian who had been stalked and threatened by a patron—a situation that eventually forced her library to strengthen security.

Although incidents with unruly patrons are often more troublesome than truly dangerous, the fact that frightening and violent acts have occurred in all kinds of public and academic libraries does point to the need for written, publicly available policies that recognize both rights of security and access. *The Sourcebook for Law Library Governing Boards and Committees* produced by the Trustee's Development Committee of AALL's State, Court, and County Law Libraries SIS (Littleton, Colorado: Rothman, 1994) is an excellent model for such a project. It contains sections on security, comfort, convenience, and my favorite, "Smelly Patrons, Sleepers, Children, and Other

Noisy People." AALL's Ethical Principles, adopted in April 1999, and the American Library Association's "Policy Manual" (contained in its *Handbook of Organization*, 1999) should also be consulted for important statements on librarians' obligations to serve people of all sorts and to promote access to information.

Effects of the New Policy

After two months in effect, what has been the reaction to the tightened restrictions at the Louisiana Supreme Court? The first few days—when the security officers were not all on the same page about how to handle the unexpected—brought forth a small number of complaints to the library staff. Employees witnessed the turning away of a couple of would-be entrants, including at least one lawyer, who were carrying no identification. When this occurred, I immediately sought out the Chief of Security to inquire what the policy was on required identification. He replied that no one could be prevented from coming in simply because he lacked an ID, but would merely be asked to sign the register. The guard who had barred people from entering had misunderstood the policy, he explained.



Any non-employee entering the building would soon not only have to go through the metal detector/x-ray routine, but would also have to show identification, sign in, state his intended purpose, and wear a "visitor badge" while in the building.

A number of our regular attorneys were mildly irritated by the sign-in procedures and asked us what had prompted them. "Has there been some threat or incident?" they asked, assuming there had been. "Well, no," we admitted, "not since a disgruntled disbarred attorney threatened in letters and radio announcements to assassinate the justices. But he died years ago."

A very pleasant indigent patron, who visits the library regularly, sought me out in my office to express alarm over the procedures. In the past, he has experienced an inhospitable attitude on the part of both our security officers and the security staff at the public library (one

assumes because of his appearance). He felt that the new procedures were designed to intimidate people like him, in order to discourage them from coming in.

Several of my like-minded liberal colleagues in neighboring court departments groused sympathetically with the library staff not only about the new procedures affecting the public, but also about the picture ID tags that we are now all required to wear. We wished that some high-powered attorney would suddenly encounter the procedures at the front door and raise a ruckus. When a well-known crusading attorney for gay rights came in, we thought we had our man. "I don't like it a bit," he confessed, "but I'm just too busy to focus on it right now." Similarly a star criminal defense lawyer who champions death-row inmates failed to throw the desired fit for us. We were delighted when two highly-respected women lawyers, one a bar association officer, expressed outrage to our staff. "The trouble is that we don't feel we can complain to the court because they could take it out on us when we have to appear before them," one said. "It's disappointing that the court would do this."

Regular visitors to the Supreme Court Building seem to have accepted the state of affairs as a routine precaution that must be endured. The security officers have become more low-key in their treatment of the public. We who work inside have learned once again that we can't beat the system. What else has the experience taught us?

Opportunity Lost

When I originally expressed my dismay about the coming changes to the Chief Justice, I wrote, "In light of all of the national emphasis on user-friendly courts that we have been exposed to in recent years, I think it would be a shame if we appeared to be moving backwards instead of forward." An opportunity to exercise good public relations was missed. Library and other court staff were informed of the new security procedures at the building entrance only a few days before they were implemented. Even then we were not told exactly what would be required of the public. Staff were not consulted for suggestions about how the public's questions should be answered or their concerns alleviated. The security officers themselves had apparently not received explicit instructions about what to say and do. There was initial disagreement among them about what to do if someone lacked an ID.

A more user-friendly approach would have been to inform regular visitors to the court and users of the library for a few weeks in advance that new entrance requirements were about to take effect. Attractive signs, fliers, or even a member of the court's community relations department stationed at a desk in the lobby could have been employed to announce the procedures in a positive way. The message then could have been that heightened security was being instituted to afford greater protection to citizens using the court's services. The security guards might have been specially trained to carry out their screening procedures in a helpful, friendly fashion to remove any sense of intimidation. Julie Andrews' "A spoonful of sugar makes the medicine go down" is good advice.

The Most Troublesome Aspect

With few exceptions, colleagues responding on law-lib found the one truly offensive aspect of our new security procedure the requirement to show identification. "What purpose does that serve?" they asked. "Does knowing someone's name make him any less likely to cause trouble?" To back up the principle that library patrons deserve equal treatment, a Utah law librarian cited a federal case in which pro se litigants were granted a preliminary injunction prohibiting the justices of that state's Supreme Court from limiting their access to the law library at night when opposing attorneys could still make use of the facilities (*O'Connor v. Mowbray*, 504 F.Supp. 139 [D. Nev., 1980]). The sign-in sheets at the front door were also a source of concern for a number of librarians. The possibility that these could be employed to discover what type of materials a library patron had been using alarmed them. A student member of AALL made the very astute observation that "one has to be careful of any 'chilling effect' that an ID requirement might have. The right to free expression includes within it the right to receive information."

When I placed my original agitated message on the list-servs, I had expected the responses to reflect the opinion of that student. I wanted to gather ammunition to

reinforce my own beliefs. The wide variety of responses soon taught me a lesson. Security is a complex issue, and depending on the circumstances of one's workplace and the problems that one has encountered with patrons, librarians may have very different attitudes about what constitutes reasonable security policies and procedures. A librarian who has experienced a death threat might be less likely to argue for uncontrolled access.

A Different Perspective

It turned out that I only had to walk to block to get a different perspective from



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my own. In preparation for writing this piece, I visited the New Orleans Public Library,

across the street, to see what they had on the subject of library security. As luck would have it, the newest, most promising-sounding book was not only checked out, but overdue an entire month. I decided to prevail upon professional courtesy and asked the reference librarian how I might get my hands on it sometime soon. He confided that none other than the assistant director was the culprit. Considering that our sister libraries have many patrons in common, I was not surprised that she was reading up on the subject. I hied myself to her office to beg for the book.

As my colleague good-naturedly rooted around an office even messier than mine looking for Bruce Shuman's *Library Security and Safety Handbook* (Chicago: American Library Association, 1999), we compared security circumstances. "Have you all had to have anyone arrested recently?" she asked. "Well, no," I replied, "but we've had some disgruntled patrons." "You're so fortunate," she opined wistfully, "I certainly wish we could afford the kind of security you have." "Funny you should say that," I said, smiling, and she looked puzzled. "I've started to understand," I explained, "that all public libraries are faced with the dilemma of how to provide a safe environment for citizens so that we can encourage them to take advantage of our resources. Every attempt to enhance one side of the equation seems to diminish the other. Just goes to show that a good librarian also has to be a good politician."

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