

TO: All library staff + Library Board

FROM: Bob Hull

DATE: 8/17/89

SUBJECT: LEGAL RESPONSIBILITY OF THE LIBRARY STAFF FOR CHILDREN AT THE LIBRARY

For anyone who's interested, here is a copy of the Town Attorney's ruling on legal responsibility of the library staff for children at the library.

At our staff meeting today, I think I gave the impression that an employee could be personally sued and have to pay damages for a negligent act. In most cases, even though the employee may be found liable, the Town will have to pay - as long as the negligent act occurred while the employee was performing her/his duties. Where you (the employee) might have to pay: for an injury caused by a "wilful or wanton" act of the employee, and for libel or slander. Read section (c) on page 2 for further discussion of this.

Even though in most cases employees would not have to pay damages, the issue of our responsibility for library patrons, especially children, is very important. You and I and the Library Board will be discussing it more in the future.

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TO: MATTHEW GALLIGAN, TOWN MANAGER and BOB HULL, LIBRARY DIRECTOR

FROM: JOHN M. GESMONDE, TOWN ATTORNEY

RE: LEGAL RESPONSIBILITY OF THE LIBRARY STAFF FOR CHILDREN AT THE LIBRARY

DATE: August 1, 1989

LO #: 008-89-NB(a)

QUESTIONS PRESENTED:

1. A young child, about 5 years old, is left unsupervised in the children's department.

- (a) Is the staff member on duty responsible for caring for that child?
- (b) Is it permissible to physically restrain the child for his own safety (i.e., keeping him off the stairs, or stopping him from playing on furniture)?
- (c) Are we allowed to gently touch the child to keep him from damaging library property?
- (d) Should we prevent him from leaving the building alone?

2. As a staff member locks up the building at closing time, she notices a child (say 10 years old) waiting for a ride, outside the library but still on Town property.

Aside from any moral responsibility the worker may feel, does she have a legal responsibility to see to it that the child is picked up safely?

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3. A child is left at the library by a parent who is not aware of our closing time. The child is still there at closing, but the parent cannot be reached by phone.

What should the staffer do - wait with the child until parents show up?

Call the police?

What if the staffer has an urgent appointment elsewhere?

DISCUSSION:

The general rule is that towns are not ordinarily liable for the negligent acts of their employees committed in the exercise of a governmental function; however, the employees themselves are certainly subject to liability and there are also several major exceptions to this so-called doctrine of governmental immunity:

- (a) when the municipality creates and maintains a nuisance;
- (b) where governmental immunity is waived by statute, as in the case of defective highways and bridges;
- (c) Section 7-465 of the Connecticut General Statutes. Under this section, the town is obligated to pay for infringement of any person's civil rights and for physical damages to person or property caused by an employee found liable while performing his/her duties within the scope of his/her employment. This obligation does not apply to:
  1. physical injuries caused by wilful or wanton acts of the employee;
  2. libel and slander actions;
  3. fellow employee injuries covered by workers' compensation;

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4. firemen (because their acts are covered under Section 7-308 of the Connecticut General Statutes).

Negligence has been defined as the breach of a duty. The duty of care may arise when the activities of two persons come so in conjunction that one's lack of care is likely to cause injury to the other. Borsoi v. Sparico, 141 Conn. 366. The test most often applied in determining whether there exists a duty to use care is the foreseeability of harm. "Would the ordinarily prudent man in the position of the defendant, knowing what he knew or should have known, anticipate that harm of the general nature of that suffered was likely to result?" Attardo v. Ambriscoe, 147 Conn. 708. With respect to children, the Supreme Court has indicated that when one is dealing with a child, he is required to use even greater care than that which would be appropriate with an adult, as he is charged with knowledge of the propensities of children. Rohloff v. Fair Haven & W.R. Co., 76 Conn. 689.

The duty owed to persons invited to use the library (including the surrounding grounds owned by the Town) include:

1. An employee may not intentionally harm the invitee.
2. The invitee is entitled to due care after his presence is actually or constructively known on the premises.
3. There is no liability owed to the invitee for the obvious condition of the premises. Thus in Mariotti v. Town of West Hartford, 5 Conn. L Trib., No. 52, 1979, the municipality was held not liable for someone who fell down a flight of library stairs; however, it should be

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noted that conditions which may be obvious to adults may not be obvious to children.

4. The employee has the duty to warn of actual hidden hazards and to inspect the premises and erect safeguards, if necessary, to render the premises reasonably safe. Thus, if part of the ceiling falls in or a floorboard is loose or the floor is slippery, precautions are expected to be taken by the employee on duty.

In short, the librarian owes a duty to exercise reasonable care to keep the premises reasonably safe for reasonably anticipated uses, and is not liable for hazards that could not have been discovered or anticipated. The librarian (and therefore the town) is not an insurer when dealing with children who suffer an injury from a normally innocuous condition on the property. The staff member is neither bound to guard every stairway, cellar way, wall, tree or building in order that a small child cannot climb and fall, nor to stand guard over children on the premises at all times to protect them against the possible acts of often mischievous children.

With respect to the specific questions asked, it is the opinion of the undersigned that the librarian in the children's department occupies a position similar to that of a teacher who stands "in loco parentis" ("in the place of the parent") when dealing with children. According to Section 53a-18 of the Connecticut General Statutes which has recently been amended by

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Public Act 89-186 (S.B. 468) (signed by Governor, June 5, 1989), entitled "AN ACT CONCERNING THE USE OF REASONABLE PHYSICAL FORCE DEFENSE BY TEACHERS AND CERTAIN OTHER PERSONS" (emphasis added), the use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal when exercised by a teacher or other person entrusted with the care and supervision of, a minor or an incompetent person; provided, such reasonable physical force may be used by such teacher or other person when and to the extent he reasonably believes it is necessary to:

1. protect himself or others from immediate physical injury;
2. obtain possession of a dangerous instrument or controlled substance, on or within the control of the minor;
3. protect property from physical damage;
4. restrain the minor or remove the minor to another area, to maintain order.

Based on the foregoing discussion, the specific answers to the questions are as follows:

1. (a) Yes
1. (b) Yes
1. (c) Yes
1. (d) Yes

2. No, other than the staffer should confirm with the child that a parent or other appropriate adult is picking the child up

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and minimal efforts to verify this with such parent or other adult should be made.

3. In this situation, the staffer knows that the child is vulnerable and must intervene. Reasonable steps should be taken, which may include waiting a reasonable time with the child or calling the police, particularly if the staffer has an urgent appointment elsewhere that cannot be postponed.

While I have tried to give fairly absolute answers to your inquiries, it should be noted that the slightest change in any factual situation could compel a different result. Accordingly, you should refer to the general discussion and guidelines set forth in this opinion for any variations on this theme.

Lastly, the responsibility and potential liability for all three of the situations set forth could be avoided by a requirement that young children always be accompanied by a parent or other appropriate adult. Situations 2 and 3 could be avoided if parents or other appropriate adults were at least required to remain in the building while their children utilized the children's department of the library.

Respectfully submitted,

JOHN M. GESMONDE

JMG/ja

To: All Library staff  
From: Bob Hull  
Date: 7/8/94  
Subject: Patrons with special privileges

Recently it has come to my attention that certain Smith Library patrons may be enjoying special privileges, such as fine-free checkins, late video returns, and/or the ability to check out while being delinquent. I am quite sure that this type of thing has also happened at Atwater, and that some patrons have enjoyed unfair privileges without me hearing about it. So I'm making this a general note to everyone. However, I can assure you that I will follow up on this, if necessary, with specific patrons and staff members as I find out about them.

Please bear in mind that the circulation policies we have in place are very reasonable, and not overly restrictive. I have made sure that the rules I insist on make sense, and are needed for the efficient and fair operation of our libraries. Where do you draw the line when you decide who does, and who does not, have to follow the rules? Think of the difficulty you may be causing for your fellow staff members.

H. Jan

## STAFF MEETING

December 7, 1994

Present: DC, PC, MC, HG, TH, BH, NL, MP, DV, FW

Library holiday schedule: Closed for Christmas Friday Dec. 23 through Monday Dec. 26. Closed for New Year's Saturday Dec. 31 through Monday Jan. 2.

Computers and Society 101: we discussed the increasing role that computers are playing in libraries and schools, and how important it is to keep up with rapidly changing technology -- or get left in the dust.

Charge for A-V items left in book return: It was decided that this charge will remain at \$.50 per item, because the computer is set up that way and many A-V items are marked.

Popular books owned by both adult depts.: When these are requested by your patrons, and your copy isn't on shelf, reserve your own copy rather than requesting the on-shelf copy from the other North Branford library. (This only applies to bestsellers and other very popular items, which shouldn't be requested from LEAP at all.)

ILL's from East Haven: Do not request new fiction (or very popular new non-fiction) from East Haven. Do not send them this stuff, either. How to tell what's new?? Look in computer for format, and don't request fiction with format h or g (14 or 7 days). For other LEAP towns, old rules still apply: books must have 2 circs. and not be bestsellers.

ILL checkout problem: When a book you have reserved at another town comes, and the computer won't let you check it out to your patron, assign your terminal to the other town and check out the book to your library. Then assign yourself back & you should be able to checkout to patron.

Vacations for full-time staff must be taken in increments of 4 hours (half an 8-hour day). So either take 4 hours off or take the whole day. This does not apply to Fridays, of course, for which the whole 3 hours must be taken off if vacation leave is being used. This policy, as per union contract & Town Manager, applies *only* to vacation leave.

New magazine policy: BH the magazine Grinch detailed new rules for magazines:

- When entered, new magazines will go directly to the new magazine shelf. Staff are not to take out magazines until they have circulated to the public at least once.
- New magazines should be entered by the day after they arrive (i.e. within 2 days).
- No holds should be placed on the newest issues of mags. (this is an old rule).
- Non-circulating magazines do not circulate to public or staff.

Staff who are scheduled to arrive at opening time - 11:00 Mon.-Thur., 9:00 Fri. & Sat. - should be careful to do so. Sometimes you're needed to open the place.

Patron entry: Be careful when you run into a "not on file as entered" patron. Don't make the number into a "c-fly record" and proceed with transaction unless you're sure this is correct. Check patron file & computer first. The patron could have found an old deleted card, and if you use the number you'll make headaches for the person who has to fix it up.

**TO: All Library Staff**  
**FROM: BH**  
**DATE: 9/29/98**  
**SUBJECT: SHELF READING**

**In the August library newsletter, I asked this question:**

**"DID YOU DO YOUR SHELF READING TODAY?"**

**The reason was that, after a busy summer, we were finding our shelves in a bad state -- out of order, and just plain messy. I wanted to remind part-time staff that shelf reading should be done every time you work a shift in a department, and encourage full-time staff to take their part in this important job.**

**We seem to have a further problem of shelves that are out of order, even after they have been read. This makes me think the job isn't being done with the care it deserves.**

**There are few tasks which are so universally disliked, and at the same time so important, as shelf reading. How many times is a "lost" or "missing" title just in the wrong shelf location? How many times are patrons discouraged from finding what they want by messy, disorganized collections? If shelves aren't read, and read *carefully*, we might as well throw our books in a big pile and let people pick through it.**

**Every few years, we seem to have to run a "get tough" policy for a while, checking staff members' work for accuracy. No one wants to do this, and it shouldn't be necessary.**

**Please remember to read shelves for 15-20 minutes each shift. When you do:**

- **Look at each book, call number and author and title if needed;**
- **Straighten the shelves you have read, so they look good and books are easy to see;**
- **Shift books (if possible!) so that each shelf has a little room at the end.**

**If we all do this, our own jobs will be easier when we shelve books, look for titles that patrons need, and search for I.L.L. requests. The most important result, of course, will be better public service.**

HG

TO: Karl Kilduff, Town Manager

FROM: Robert Hull, Library Director

DATE: 7/29/02

SUBJECT: Confidentiality of library patron records

When I got back from vacation, I researched your question about library patron records and the Freedom of Information Act.

**Library patron records are not subject to a FOIA request.** Here's the text from CT Statutes, Section 11-25b:

Notwithstanding the provisions of section 1-210, personally identifiable information contained in the circulation records of all public libraries shall be confidential.

Section 1-210, referred to above, is the section of the FOIA that lists which public records are not subject to FOIA requests. 1-210 does not refer to library patron records. However, the wording of 11-25b makes it clear this does not matter: "personally identifiable information" is confidential.

The American Library Association and the Connecticut Library Association have adopted the following "Policy on Confidentiality of Library Records":

The Council of the American Library Association strongly recommends that the responsible officers of each library in the United States:

1. Formally adopt a policy which specifically recognizes its circulation records and other records identifying the names of library users to be confidential in nature.
2. Advise all librarians and library employees that such records shall not be made available to any agency of state, federal, or local law relating to civil, criminal, or administrative discovery procedures or legislative investigative power.
3. Resist the issuance or enforcement of any such process, order or subpoena until such time as a proper showing of good cause has been made in a court of competent jurisdiction.\*

\*Note: Point 3, above, means that upon receipt of such process, order, or subpoena, the library's officers will consult with their legal counsel to determine if such process, order, or subpoena is in proper form and if there is a showing of good cause for its issuance; if the process, order, or subpoena is not in proper form or if good cause has not been shown, they will insist that such defects be cured.

*(A) copy*

## All-Staff meeting

June 6, 2012

Bob discussed the note Donna sent out to everyone who works in the Atwater Juv. Dept. which coincides with a topic he had planned to discuss:

### **A back-to-basics approach to working in the library:**

He thinks perhaps we have lost sight of the basic things that need to be done and should get back to the basics—item and title paging, mending, covering, replacing labels, etc. The library is a physical place and items need to be in their place...which leads to the topic of shelf reading. It is important to read and shift shelves during our time in a department. There should be time to get the basics done if we focus. If any problems, leave a note for the department head. They should be made aware of any problem you encounter so it can be addressed. If the problem is trivial (needs a label or new cover, etc.), please do it yourself instead of leaving it for someone else to do.

### **Communication with BH:**

For immediate concerns: You should talk with Bob person-to-person. He only checks his email once or twice a day so use this only as a backup.

Cell phone: Do not call Bob on his cell phone (203 640-9468) when he is at home. He gets no coverage there and so would not get any messages you might leave. It is okay to call during his working day.

To leave a message when BH is not at work: call his home phone (203 488-7759).

Email: You must email Bob to ask for any time off even if you have already asked him in person. He keeps it in a folder so he can refer to it when making out schedules.

### **Marketing for the libraries:**

Rotating books and displays are both useful as marketing tools.

When pulling books to rotate, use the dates as a guideline. Do not pull so many books that the shelves look empty. We should publicize our book displays so people can see what the library has to offer.

### **Cataloguing issues:**

People get confused when sending out DVD requests for those series sets (True Blood, Nip/Tuck, etc.) Each item should be requested individually. If someone asks for disc 2, give them disc 2 only. Send only the item that is requested.

**Holds:** When placing holds for a patron—if they ask how many holds are on the item, do not tell them how many LION holds there are, just tell them how many NB or NT holds there are. If you do not know how to find this, ask a department head to show you.

Hunger Games: People are placing holds on the hard cover issues and not on the paperbacks, so if you see a paperback checked in without any holds, find out who is the next person on the hold list for the hardcover copy and give the paperback to them. Remember to remove the hold from the hardcover. If you place a new hold for Hunger Games, be sure to check both records to find the one with the least holds.

**Searching for titles/subjects:** Practice searching for things using keyword and the other tools. Get familiar with looking at the marc record to find subject headings to use in your search. Find records similar to what you want and look to see what subject headings were used. Use that for your search and then pick another record and do the same thing. You might find that the subject heading has changed and you could find new material with the new heading.

Meeting Part II:

(Meeting with part-time staff after all-staff meeting ended)

Discussed the overload of duties that can occur for part-time workers. BH emphasized the need for more shelf-reading and talked about how sometimes shelving or other duties might have to be only partly done in order to do at least some shelf reading.

Discussed problems when only one department is covered.

Discussed new printers and how things work for printing now. Talked about how staff doesn't have enough computer knowledge to help patrons, and how to educate ourselves more by using staff who do have knowledge of certain things

Talked about library budget, library trusts, and how they affect services and part-time staff.

Children misbehaving: if a child is endangering himself or others, this is a staff responsibility even if a parent is present. It is OK for staff to physically restrain or move a child who is in danger (standing on a table, sliding down bannister, playing with electrical equip., et.)