

# Historical Development of Confidentiality of Library Records in the United States

Yoshitaka KAWASAKI

Nancy Shzh-Chen LEE

**Abstract:** It has been widely recognized in the United States that protecting the confidentiality of user records is the priority for libraries in promoting good library services. Although the American Library Association recognized the importance of protecting users' library records according to the "Code of Ethics for Librarians" back in 1938, the issue of confidentiality did not become crucial until the 1970s. Confidentiality is becoming increasingly more important in the 21st Century in the new digital society due to vigorous increase in the amount of information. This paper presents an overview of the historical development of the confidentiality of library records in the United States.

## 1 Confidentiality and library records: the "Code of Ethics"

It becomes crucial to protect the personal information of library users in order to protect the usage of libraries. This information includes not only circulation and registration records, but also inter-library loan records, mailing addresses, computer use logs, database search records, and any information that identifies the names of library users from using different library materials, facilities, or resources.

In 1938, the American Library Association officially announced the need to protect confidential information of library users. Growing intolerant suppression of free speech in and out of the United States led ALA to adopt the first "Code of Ethics for Librarians" as well as the Library's Bill of Right published in 1939<sup>1)</sup> for libraries. The code enumerated twenty-eight principle ethical behaviors for professional librarians and was revised in 1981, 1995, and 2008<sup>2)</sup>. The most recent 2008 edition have eight principles. In the 1939 code, the eleventh principle stated that "It is the librarian's obligation to treat as confidential any private information obtained through contact with library patrons,"<sup>3)</sup> whereas in the 2008 code the third principle stated that "We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted."<sup>4)</sup>

The issue of confidentiality did not become crucial until after 1970s and it is becoming increasingly important in the 21st Century. Three specific events in the next

chapter have led ALA to adopt basic policies on the confidentiality of library records.

## 2 Anti-Vietnam War movement, Library Awareness Program and USA PATRIOT Act

### 2.1 Anti-Vietnam War movement and confidentiality of library records<sup>5)</sup>

Until July 1, 1972, the Internal Revenue Service (IRS) of Treasury Department took charge of the law enforcement responsibility for explosives. During the spring of 1970, agents of the Internal Revenue Service visited the Milwaukee Public Library and requested permission to examine the circulation records of library materials on explosives and guerrilla warfare. The library initially refused the request but later complied when the agents went to the city attorney's office and returned to the library with an opinion that circulation records are public records and agents should be allowed access to the information. Meanwhile, the Internal Revenue Service agents visited other public libraries such as Cleveland, Ohio, and Atlanta, Georgia with the similar purpose. The Office for Intellectual Freedom of ALA received reports regarding this incident from various libraries.

To cope with these situations, the Executive Board of the American Library Association issued an advisory statement "Policy on Confidentiality of Library Records" on July 21, 1970 which advocates individual libraries' formal adoption of a policy that recognizes confidentiality of the circulation records<sup>6)</sup>. The policy also urged that the circulation records should be made accessible only "pursuant to such process, order, or subpoena as may be authorized under the authority of, and pursuant to, federal, state, or local law relating to civil, criminal, or administrative discovery procedures or legislative investigatory power."<sup>7)</sup>

Following the Executive Board's advisory statement, the Council (governing body of ALA) formally adopted the "Policy on the Confidentiality of Library Records"<sup>8)</sup> on January 20, 1971 and this policy document was later revised in 1975<sup>9)</sup>. Although the 1971 document only focused on the protection of circulation records, the 1975 policy included not only the circulation records but also "other records identifying the names of library users." The 1971 policy prohibited the disclosing of "the names of library users with specific materials" and was used to justify the exposure of other kinds of library records on library users to law enforcement officers. The 1975 revision further added descriptions about the names of patrons using materials, facilities, and services into the policy.

Throughout 1970s, law enforcement agencies (e.g. Federal Bureau of Investigation) frequently tried to examine library circulation records. To response to these requests, the American Library Association and state library associations (the ALA's state chapter) launched state confidentiality laws of library records. The first state

confidentiality law was adopted by Virginia (1979), and followed by Indiana (1980), Iowa (1980), Connecticut (1981), Delaware (1981), Nevada (1981), New York (1981) and so on. This state law institutionalized ethical standards of the library profession. This movement was achieved only by the positive appeal and persuasion to state legislatures by the library profession.

Currently, forty-eight states and the District of Columbia have adopted laws that recognize the confidentiality of library records. The laws are different from state to state but can generally be divided into two types: states passed an amendment to the state freedom information law (Sunshine Laws or Freedom of Information Laws), or states created a section within the existing state's library laws. Most laws declare library records to be confidential and not subject to disclosure under the state's open records law or freedom of information law. Many states library confidentiality laws require a court order to reveal library records to law enforcement officers<sup>10)</sup>.

Besides Law enforcement agencies, interest parties such as journalists, parents, fund-raisers, marketing professionals and politicians continue to seek borrowing records, registration data, and other information about library users.

## 2.2 Library Awareness Program and confidentiality of library records<sup>11)</sup>

In 1987, it was discovered that the agents of the Federal Bureau of Investigation (FBI) were visiting libraries on a program called "Library Awareness Program" in order to retrieve user records of "suspicious looking foreigners" who might be foreign secret agents. ALA confronted and challenged this program by FBI. In this program, FBI insisted the possibility of foreign agents using libraries to recruit operatives and stealing important materials. In response to the Library Awareness Program, the ALA Council adopted "Resolution in Opposition to FBI Library Awareness Program"<sup>12)</sup> on July 13, 1988, which called for immediate cessation of the program, and showed ALA's willingness to combat the program using all of its available resources.

In the fall of 1989, through the Freedom of Information Act, ALA obtained documents from FBI on 266 individuals who were against the Library Awareness Program and were identified as subjects of the FBI "index checks." The ALA Council adopted the "Resolution on FBI Library Awareness Program" again on January 10, 1990. This resolution accused of the continuation of the Library Awareness Program, and requested FBI to provide the details of those 266 individuals<sup>13)</sup>.

The Council adopted the "Policy concerning Confidentiality of Personally Identifiable Information about Library Users" in 1991<sup>14)</sup>. This policy document reaffirmed that the ethical responsibilities of librarians as well as confidentiality statutes in most states made library records confidential. Regarding the disclosure of personally identifiable

information, it was stated by ALA that "the American judicial system provides the mechanism for seeking release of such confidential records: the issuance of a court order, following a showing of good cause based on specific facts, by a court of competent jurisdiction." The FBI has never publicly abandoned the Library Awareness Program, which means that the program may still be active running.

### 2.3 Digital environments, USA PATRIOT Act and confidentiality of library records<sup>15)</sup>

A more recent significant concern for many libraries is the USA PATRIOT Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism), passed down hurriedly after the terrorist attacks on September 11, 2001. This act allows liberal access to library records, which threatens the confidentiality of records, and has a chilling effect on freedom of speech and inquiry. ALA has been ever since at the forefront of the battle to reform sections of the Patriot Act in order to restore privacy protection for the millions of American library users.

In responding to the USA PATRIOT, the ALA Council adopted the "Resolution Reaffirming the Principles of Intellectual Freedom in the Aftermath of Terrorist Attacks," on January 23, 2002 which affirms the following principles: opposing government censorship, upholding a professional ethic of facilitating access to information, encouraging libraries and their staff to protect confidentiality of library records, affirming tolerance of dissent, and opposing the misuse of governmental power<sup>16)</sup>.

In the following year, the ALA Council further adopted "Resolution on the USA PATRIOT Act and related Measures That Infringe on the Rights of Library Users," which is listed as follows:

USA PATRIOT Act, ... expand the authority of the federal government to investigate citizens and no-citizens, to engage in surveillance, and to threaten civil rights and liberties guaranteed under United States Constitution and Bill of Rights.

USA PATRIOT Act, ... increase the likelihood that the activities of library users, including their use of computers to browse the Web or access e-mail, may be under government surveillance without their knowledge or consent<sup>17)</sup>.

Protecting personal identifiable information is the foundation for libraries and library services. Due to the modern digital environment and introduction of the USA PATRIOT Act after September 11, 2001, the ALA Council introduced the "Privacy: An Interpretation of Library Bill of Rights" policy document on June 19, 2002<sup>18)</sup>. This document provides libraries and librarians with a framework for dealing with the

principle of intellectual freedom. The document discusses the issue on confidentiality of personal identifiable records as follows:

Confidentiality exists when a library is in possession of personally identifiable information about users and keeps that information private on their behalf. Protecting user ... confidentiality has long been an integral part of the mission of libraries.

[Every library staff] ... has a responsibility to maintain an environment respectful and protective of the privacy of all users<sup>19)</sup>.

Law enforcement agencies have been attempting to access personal identifiable information of library users since 1970s. The American Library Association and other related associations jointly confront these movements. Therefore, the defense of confidentiality of library records continues for the library professionals.

### 3 Three prominent cases about the confidentiality of library records

While the previous chapter describes events that influenced the entire library profession, the present chapter introduces three cases about the confidentiality of library records which gained wide press coverage.

#### 3.1 Assassination Attempt on President Reagan by John W. Hinckley, Jr. (1981) <sup>20)</sup>

On March 30, 1981, John W. Hinckley, Jr. fired a gun at President Reagan outside the Hilton Hotel in Washington, D.C. after an AFL-CIO conference. President Reagan was seriously injured. Hinckley arrested on the spot and police found a library card issued by the Jefferson County (Colorado) Public Library in his pocket. A reporter of the *Newsweek* and FBI agents visited the County's main library located in Lakewood in order to get Hinckley's circulation records. According to the report in *Denver Post* (May 15, 1981), Library Director William A. Knott notified the FBI that Hinckley had been a library user. Eventually an Assistant U.S. Attorney gave Knott a subpoena requesting materials which Hinckley checked out. According to this subpoena, Knott revealed Hinckley's circulation records that included, for example, Michael Selzer's *Terrorist chic: An Exploration of Violence in the Seventies* (1979), which became one of the evidences that Hinckley's assassination attempt was intentionally planned.

The November 13 issue of *Library Journal* included a reader's comments who accused Director Knott of disclosing user's circulation records. Knott later explained the situation and defended his action<sup>21)</sup>.

This incident made librarians in Colorado realized the importance of protecting confidentiality of library records. Therefore, the Colorado Library Association moved towards adopting the state library confidentiality law. Two year later on March 22,

1983, Governor Richard D. Lamm signed the bill amending the Public Records Act which made library records confidential. Colorado became the twenty-third state with a state confidential law. The "An Act concerning Privacy of Library Users Records" is as follows:

24-90-119. Privacy of user records. (1) Except as set forth in Subsection (2) of this section, a publicly-supported library or library system shall not disclose any record or other information which identifies a person as having requested or obtained specific materials or service or as otherwise having used the library<sup>22)</sup>.

Subsection (2) indicates that user records may be disclosed: (a) when necessary for the reasonable operation of the library; (b) upon written consent of the user; (c) pursuant to subpoena, upon court order, or where otherwise required by law. The protection of user records for Colorado libraries became legalized with the Hinckley incident.

### 3.2 Death Threat to President Reagan (1983) <sup>23)</sup>

Marie Bruce was a director at the Huntington Memorial Library in Oneonta (New York). On November 9, 1983, a library staff reported a book called *John Fitzgerald Kennedy Memorial Addresses in the Congress of the United States* to Bruce. The book was recently returned and was waiting for reshelving. However, the library staff found that the book had three marginal notes. The first note said "Praise Oswald. USSR will kill every Yankee plus Reagan." Another note said "Reagan (1911-84). I mean this. Reagan killed on 2-18-84 for sure.... Don't think this I'm kidding. I'm not."<sup>24)</sup>

Bruce informed the FBI of this threat the next day. A secret service agent called Bruce from Syracuse and asked for the name of library user who had checked out the book. Bruce told the agent that she would only disclose the records unless she received a subpoena because the New York State law (CPLR: S.4509) protected the confidentiality of library records. The S.4509 describes the following:

Library circulation records - Records related to the circulation of library materials which contain names or other personally identifying details regarding the users of public, private, school, college and university libraries of this state shall be confidential<sup>25)</sup>.

However, records may be disclosed when: (a) necessary for the proper operation of the library; (b) upon request or consent of the user; or (c) pursuant to subpoena, court order or where otherwise required by statute. The FBI agent asserted that federal law superseded state law and referred to CPLR: S.4509 as "some silly state law."

On November 14, another agent of the Secret Service visited the library and

KAWASAKI • LEE : Historical Development of Confidentiality of Library Records  
in the United States

demanded the circulation records. Although Bruce gave the agent a copy of the New York State law (CPLR: S.4509), he threw it away on the floor. The agent not only questioned Bruce's professional ability and her patriotism, but forced her to sign a statement accepting responsibility if an attack on President Reagan really happens. Bruce refused to sign the statement with the assistance of the library board president who was a lawyer. After getting out of the library, the agent persuaded the personnel officer and the police chief to retrieve the circulation records. They telephoned Bruce to ask for her cooperation with the agent but were refused because Ms. Bruce was supported by all members of the library board as the disclosure of circulation records violated the state law.

On November 16, the agent reappeared at the library and gave Bruce a subpoena issued by the Federal Grand Jury in Syracuse. The subpoena demanded Bruce to disclose the name of the book user, but Bruce refused the agent by giving him a copy of the New York State confidentiality law. The agent refused to read the confidentiality law document and questioned the validity of the state statute.

On November 18, Bruce appeared before the Federal Grand Jury in Syracuse and disclosed the circulation records according to New York State law CPLR: S.4509. Six hours later, the secret service arrested Thomas G. Currie on charges of writing the death threats on President Regan. Thomas Currie was thirty-seven years old and an unemployed Oneonta man. According to the circulation records, Currie was the only borrower of the book and admitted for writing threats in the book.

The local newspaper, *Daily Star*, applauded Bruce by stating that "It is comforting to know that even in such extreme circumstances, people like Bruce will stand for fundamental principles and protect the public's right to freedom of thought."<sup>26)</sup> The New York Library Association, American Civil Liberties Union, ALA Office for Intellectual Freedom, and Freedom to Read Foundation supported Bruce throughout the process.

### 3.3 Fire at Random and the Use of the Public Library (1985) <sup>27)</sup>

At 2pm October 30, 1985, Sylvia Seegrist was checking out some books in the Swarthmore Public Library located at Delaware County (Pennsylvania). She had talked with director Janis M. Lee and a staff. Director Lee said "it was not a pleasant encounter." Seegrist visited the library frequently and was often agitated. Lee instructed her staff not to antagonize her as Seegrist was a "problem patron." However, Lee did not realize Seegrist is a dangerous person. Seegrist later at 3.30pm fired at random at the local shopping mall in Delaware County. This random shooting killed three people and injured at least seven people.

Lee suspected that news reporters, law enforcement agents and lawyers would request the disclosure of Seegrist's information and her circulation record. To cope with the situation, Lee made the "Important Notice to All Staff, Volunteers, and Pages," which stated: (1) All of us must be made more aware of our special duties regarding library use; (2) The Pennsylvania State Act (1984-90) protects confidentiality of users' library records; (3) It is our responsibility to do our best to hold the law and support the civil rights of library users. The Pennsylvania State Act 1984-90 which protects the confidentiality of library records is as follows:

Records related to the circulation of library materials which contain the names or other personally identifying details regarding the users of the State Library or any local library which is established or maintained under any law of the Commonwealth or ... shall be confidential and shall not be made available to anyone except by a court order ....<sup>28)</sup>

From 11pm of the same day, reporters rigorously started contacting Lee demanding the disclosure of the Seegrist circulation records. Lee was even accused of protecting the killer "who did not deserve the same civil rights as others" by a reporter when she cited Act 1984-90. The staff of the Criminal Investigation Division, District Attorney's office and defense lawyers for Seegrist frequently visited the library to obtain her personally identifiable information for three months from November 1985 to January 1986. During this period of time, Lee persistently insisted that the circulation records could not be disclosed until a court order was served.

On February 5, 1986, Lee gave the circulation records to the district attorney and the defense lawyers upon decision of the court order. For both of them, the circulation records were crucial for investigating the random shooting case. The district attorney interpreted the records to indicate the incident as carefully planned shooting. On the other hand, the defense lawyers interpreted the records to show Seegrist had experienced severe mental problems at the library, which made her lost control.

On June 18, 1986, Lee made her testimony in a court. Despite Lee had acted in accordance with the State Confidentiality Act, she later expressed that "as I ... saw Seegrist staring into my eyes, I felt guilty."<sup>29)</sup>

#### 4 Three court cases on the confidentiality of library records

There are three well-known court cases in dealing with confidentiality of library records.

##### 4.1 *Brown v. Johnston* (1983)<sup>30)</sup>

The first court case began when an Iowa Division of Criminal Investigation (DCI)



KAWASAKI • LEE : Historical Development of Confidentiality of Library Records  
in the United States

agent investigating cattle mutilation in Polk and other counties visited the Des Moines Public Library in November, 1979. The agent attempted to examine circulation records which contained the names of library users who had checked out materials on witchcraft and occult. However, the library refused to disclose the records. According to the official library policy adopted by the board of trustees in 1970, it specified that "staff members should not under any circumstances ever answer a third party about what a patron of the library is reading or requesting from the library's collection."<sup>31)</sup>

The DCI subsequently obtained a subpoena requiring the library to produce circulation records on sixteen titles. However, there were no clear suspects and the subpoena did not indicate the usage of books for investigation. It is believed that the DCI simply attempted "fishing expedition."

After the subpoena was issued, library user Steven Brown and the Des Moines Public Library decided to challenge the subpoena. They claimed that forced disclosure of the circulation records would violate the first amendment because such disclosure would discourage the library patrons' rights to read. The plaintiffs also asserted that the confidentiality provisions of Chapter 68A of the Iowa Code exempts library from examination by the DCI even if DCI obtains the subpoena duces tecum. Section 68A.7 lists the following statement: "The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or ...."<sup>32)</sup> The plaintiffs requested an injunction and declaratory relief against enforcement of a subpoena duces tecum.

The District Court of Polk County ruled in favor of the DCI and plaintiffs appealed to the Supreme Court of Iowa. On January 1983, the Supreme Court affirmed the lower court decision because (1) Section 68A.7 did not prevent execution of prosecutor's subpoena duces tecum, and (2) Library patrons' rights of privacy were overridden by State's interest in well-founded criminal investigation. Therefore in this case, library patrons' rights to privacy were outweighed by the state's interest in criminal investigations.

#### 4.2 *Decatur Public Library v. District Attorney's Office (1990)* <sup>33)</sup>

The second case involved the district attorney investigating a child-abandonment case serving a subpoena to Decatur Public Library (Texas) requesting library records. The subpoena sought to divulge the names, addresses, and telephone numbers of all library users who have checked out materials on childbirth in the past nine months, including the titles of the materials as well as borrowing and returning dates of the materials. Similar to the previous court case, the police was conducting "fishing

expedition" as there was no evidence that the person who abandoned the child might have checked out library materials.

The director of the Decatur Public Library refused to comply with the subpoena and the library sought to assert the constitutional right of privacy on behalf of the library patrons. The court summarized three target questions: (1) Does the library have standing to assert a constitutional privilege on behalf of its unnamed patrons? (2) If the library has standing, is there a constitutional right of library users' privacy prohibiting to reveal their names and etc.? (3) Does the state demonstrate a compelling interests to intrude those rights?

On May 9, 1990, Judge John R. Lindsey ruled in favor of the library and quashed the subpoena. Regarding the second question, Judge Lindsey affirmed the right of personal privacy by stating that it should only be violated when the government can demonstrate that an intrusion is reasonably warranted for the achievement of compelling government interests. Concerning the last question, Judge Lindsey cited the U. S. Supreme Court ruling that a subpoena in effect "a fishing expedition" was an unreasonable search and seizure and violated the Fourth Amendment" of the U.S. Constitution. Despite both cases are highly similar, the court ruled in favor of the library in the Decatur Public Library case.

#### 4.3 *QUAD/GRAPHICS v. Southern Adirondack Library System* (1997) <sup>34)</sup>

The Southern Adirondack Library System (SALS) was a cooperative system in four upstate New York counties. Its headquarters was located in Saratoga Springs and operated an electronic information service called "Library Without Walls (LWW)." Any member library of SALS could issue a personal identification number by which users could access the Internet via LWW. A library-based computer or a personally owned computer could be used to log-in online. The access was free for a period of thirty minutes.

Quad/Graphics, Inc. is a printing company in Wisconsin with a large plant in Saratoga Springs, New York. The company suspected that someone was using misusing its computers due to very high long distance telephone bills,

Quad/Graphics prohibited their employees from using company computers for personal purposes. In addition, Saratoga computer terminals could not directly access outside telephone lines. However, a computer operator in the Saratoga plant was able to log into the company's mainframe computer in Wisconsin. The terminal user could cause the mainframe by the use of a Quad/Graphics password to access long distance. By telephoning the library in Saratoga Springs and providing a correct library password, the employee-caller could access to Internet via LWW.

## KAWASAKI • LEE : Historical Development of Confidentiality of Library Records in the United States

After examining its long distance telephone billing records, the company found that unauthorized personal usage had resulted in over 23,000 dollar telephone charges to the LWW telephone line. As a result of internal investigation, the company was able to decipher nine distinct 13-digit identification numbers which were accessing LWW from the company computer system.

According to the Freedom of Information Law, Quad/Graphics made a request to the Saratoga Springs Public Library to disclose user identity of the nine identification numbers. However, the library refused the request in accordance with the State Confidentiality Law (CPLR 4509). As the result, the company filed a suit to access the names of the individuals.

The petitioner contended that SALS was bound by the Freedom of Information Law. On the other hand, SALS contended that the personal identifiable information is required to be kept confidential under the CPLR 4509 law. However, the CPLR 4509 allowed limited disclosure pursuant to court order and a court order was what the petitioner sought. The court determined that disclosure of the information should not be permitted and stated that "Were this application to be granted, the door would be open to other similar requests made, for example, by a parent who wishes to learn what a child is reading or viewing on the "Internet" via LWW."<sup>35</sup> The court found that the information was protected by the statute and its legislative history. The New York Assembly issued a supporting memorandum to the law, calling the library a "unique sanctuary of the widest possible spectrum of ideas." Overall, the court followed the clearly expressed legislative purpose of CPLR 4509.

### 5 Summary and Conclusion

1. The "Code of Ethics for Librarians" adopted by the American Library Association in 1938 recognized the importance of keeping user's library records confidential. However, the issue of confidentiality of library records did not become crucial until 1970s. The issue of library record confidentiality becomes increasingly important in the 21st Century in the new digitalized society especially after September 11, 2001.

2. The term user library record initially meant only the circulation records but became to include any personal identifiable information after 1975.

3. As government agencies such as FBI and IRS influenced the entire library profession by posing threats to confidentiality of library records, the American Library Association initiated actions by adopting statements such as the "Policy on the Confidentiality of Library Records" as well as making resolutions and guidelines to response to different requests. For example, the first state confidentiality law was adopted by Virginia in 1979. Currently, most states have laws to protect the

confidentiality of library records.

4. There were three court cases in dealing with the confidentiality of library records. All cases involved problems regarding the relationship between state confidentiality laws and the investigating power of government agencies. No definite opinion was concluded by court and different judgments were made according to the nature of each case.

## Notes

- 1) American Library Association, "Code of Ethics for Librarians (1939)," Office for Intellectual Freedom, comp., *Intellectual Freedom Manual* (Seventh Edition), Chicago American Library Association, 2005, p. 255-259.
- 2) "Statement on Professional Ethics (1981)," *ibid.*, p. 262-263; "Code of Ethics of the American Library Association (1995)," *ibid.*, p. 244-245; "Code of Ethics of the American Library Association (2008)," <http://www.ala.org/ala/aboutala/offices/oif/statementspols/codeofethics/codeethics.cfm>.
- 3) American Library Association, "Code of Ethics for Librarians (1939)," *op.cit.*, p. 257.
- 4) "Code of Ethics of the American Library Association (2008)," *op.cit.*
- 5) See. *Intellectual Freedom Manual* (Seventh Edition), *op.cit.*, p. 21-22, 295-299; "Advisory Statement to U.S. Libraries from the American Library Association," *Newsletter on Intellectual Freedom*, September 1970, p. 65-67.
- 6) "Policy on Confidentiality of Library Records (advisory statement)," *Intellectual Freedom Manual* (Seventh Edition), *op.cit.*, p. 295-296.
- 7) *ibid.*, p. 296.
- 8) "Policy on the Confidentiality of Library Records (1971)," *ibid.*, p. 297-298.
- 9) "Policy on the Confidentiality of Library Records (1975)," Office for Intellectual Freedom, comp., *Intellectual Freedom Manual* (Third Edition), Chicago American Library Association, 1989, p. 106.
- 10) See. Arlene Bielefield and Lawrence Cheeseman, *Maintaining the Privacy of Library Records: A Handbook and Guide*, New York, Neal-Schuman, 1994; Mary Minow, Tomas A. Lipinski, "Library Records and Privacy," *The Library's Legal Answer Book*, Chicago, American Library Association, 2003, p. 163-221; Helen R. Adams, Robert F. Bocher, Carol A. Gordon, and Elizabeth Barry-Kessler, *Privacy in the 21st Century: Issues for Public, School, and Academic Libraries*, Westport, CT, Libraries Unlimited, 2005; Lee Ann Torrains, "Patron Privacy in the Library," *Law and Libraries: Public Library*, Westport, CT, Libraries Unlimited, 2004, p. 29-60.
- 11) See. *Intellectual Freedom Manual* (Seventh Edition), *op.cit.*, p. 22-23, Herbert N. Foerstel, *Surveillance in the Stack: The FBI's Library Awareness Program*, Westport CT, Greenwood Press, 1991.
- 12) "Resolution in Opposition to FBI Library Awareness Program," *Newsletter on Intellectual Freedom*, September 1988, p. 184-185.
- 13) "Resolution in Opposition to FBI Library Awareness Program," *Newsletter on Intellectual Freedom*, March 1990, p. 72.
- 14) "Policy concerning Confidentiality of Personally Identifiable Information about Library Users" Office for Intellectual Freedom, comp., *Intellectual Freedom Manual* (Fifth Edition), Chicago American Library Association, 1996, p. 159-160.
- 15) See. *Intellectual Freedom Manual* (Seventh Edition), *op.cit.*, p. 50-51, 408-409; Herbert N. Foerstel, *Refuge of a Scoundrel: The Patriot Act in Libraries*, Westport CT, Libraries Unlimited, 2004.
- 16) "Resolution Reaffirming the Principles of Intellectual Freedom in the Aftermath of Terrorist

KAWASAKI • LEE : Historical Development of Confidentiality of Library Records  
in the United States

- Attacks," *Newsletter on Intellectual Freedom*, March 2002, p. 82.
- 17) "Resolution on the USA PATRIOT Act and related Measures That Infringe on the Rights of Library Users," *Intellectual Freedom Manual* (Seventh Edition), *op.cit.*, p. 50-51 (<http://www.ala.org/ala/oif/statementspols/ifresolutions/resolutionusa.htm>).
- 18) "Privacy: An Interpretation of Library Bill of Rights (2002)," *Intellectual Freedom Manual* (Seventh Edition), *op.cit.*, p. 190-194.
- 19) *ibid.*, p. 191, 193.
- 20) See. "Colo. Library Grants Access to Hinckley's Reading Records," *Library Journal*, July 1981, p. 1366.
- 21) "Letters: Preserving Intellectual Freedom," *Library Journal*, November 15, 1981, p. 2162; William A. Knott, "Letters: Confidentiality of Records," *ibid.*, p. 2162.
- 22) Heather McNeil McQuarie, "Library Confidentiality for the Other Half," *American Libraries*, May 1984, p. 332-333; Arlene Bielefield and Lawrence Cheeseman, *op.cit.*, p. 75-77.
- 23) "Bruce Defies Secret Service, Protects Library Records," *American Libraries*, January 1994, p. 6-7; "Reagan Death Threat Found in New York Library Book," *Library Journal*, February, 1, 1984, p. 128; "In Support of Confidentiality," *Newsletter on Intellectual Freedom*, January 1984, p. 5, 27, 28; "Confidentiality of Library Records," *Newsletter on Intellectual Freedom*, May 1984, p. 89-92.
- 24) "Bruce Defies Secret Service, Protects Library Records," *ibid.*, p. 6.
- 25) Arlene Bielefield and Lawrence Cheeseman, *op.cit.*, p. 125-126.
- 26) Quoted from "Bruce Defies Secret Service, Protects Library Records," *op.cit.*, p. 6.
- 27) Janis M. Lee, "Confidentiality: From the Stacks to the Witness Stand," *American Libraries*, June 1988, p. 444-450; G. Guy Smith, "A Lawyer's Perspective on Confidentiality," *American Libraries*, June 1988, p. 453.
- 28) Arlene Bielefield and Lawrence Cheeseman, *op.cit.*, p. 133-135.
- 29) Janis M. Lee, "Confidentiality: From the Stacks to the Witness Stand," *op.cit.*, p. 448.
- 30) See. *Steven Brown v. Dan L. Johnston*, 328 N.W.2d 510 (Iowa, 1983); "Iowans Seek Protection for Library Records," *Newsletter on Intellectual Freedom*, January 1980, p. 22; "Iowa Passes Pared-down Library Exemption Law," *Newsletter on Intellectual Freedom*, July 1980, p. 71; Carolyn Hinz, "Comment, *Brown v. Johnston*: The Unexamined Issues of Privacy in Public Library Circulation Records in Iowa," *Iowa Law Review*, 1984, p. 535-550; Mark K. Wilson, "Comment, Surveillance of Individuals Habits: Constitutional Limitations on Disclosure of Library Borrowers Lists," *American University Law Review*, 1980, p. 275-321; Bruce M. Kennedy, "Confidentiality of Library Records: A Survey of Problems, Policies, and Laws," *Law Library Journal*, 1989, p. 733-767; Bruce S. Johnson, " 'A More Cooperative Clerk': The Confidentiality of Library Records," *Law Library Journal*, 1989, p. 769-804.
- 31) Carolyn Hinz, "Comment, *Brown v. Johnston*: The Unexamined Issues of Privacy in Public Library Circulation Records in Iowa," *ibid.*, p. 537 (footnote).
- 32) *Steven Brown v. Dan L. Johnston*, 328 N.W.2d 511.
- 33) See. *Decatur Public Library v. The District Attorney's Office of Wise County*. No. 90-05-192 (May 9, 1990, The State of Texas 271st Judicial District Court); "From the Bench: Library : Decatur, Texas," *Newsletter on Intellectual Freedom*, September 1990, p. 167-168.
- 34) *In the Matter of QUAD/GRAPHICS, INC. v. Southern Adirondack Library System*, 664 N.Y.S.2d 225 (1997).
- 35) *ibid.*, p. 228.

付記：本稿は2010年8月24-27日に中国の杭州で開催された第5回上海国際図書館フォーラム (SILF: Shanghai International Library Forum) での発表原稿を修正したものである。