

The Distance Between Our Values and Actions: We Can't Be Passive When it Comes to Privacy

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In September 2021, the WOC+Lib collective published a searing “Statement Against White Appropriation of Black, Indigenous, and People of Color’s Labor (BIPOC),” decrying the exploitation and abuse of BIPOC library workers. One of the many hypocrisies the group took issue with was:

the proliferation of anti-racism statements put out by information institutions and organizations in 2020 without also taking on actions addressing the lack of Black, Indigenous, or People of Color workers or how the BIPOC within those very libraries and organizations have been ostracised and disrespected for years prior to 2020, while allowing the mistreatment to continue. (WOC+Lib, 2021)

In the midst of the international uprisings for racial justice following the murder of George Floyd, many libraries put out antiracist statements affirming their commitment to diversity, equity, and inclusion (DEI). Yet in a recent survey of library directors, only 31 percent of academic library directors agreed that their “library has well-developed equity, diversity, inclusion, and accessibility strategies for employees” (Frederick and Wolff-Eisenberg, 2021, p. 10). The lack of progress made in these areas suggests that while diversity may be a library value, dismantling systems of oppression to improve DEI is not a top priority at most institutions.



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In “On the Disparity Between What We Say and What We Do in Libraries” (2017), Baharak Yousefi explores the distance that often exists between our stated commitments and our actions in libraries. She finds that libraries frequently take action or fail to take action in ways that run directly counter to our stated values. In trying to understand the forces at work in these choices, she suggests that “our actions are also influenced by de facto forms of power that are often more consequential than our official positions” (p. 93). When we are acting in ways counter to one stated value, there is usually another value or power structure influencing that choice. So a library that puts out an antiracist statement and then does nothing substantive to address these issues in their own institution is likely prioritizing other things, like neutrality or the desire to avoid conversations that make White people uncomfortable. The key, though, is recognizing that an active choice is always being made that reflects the values and power structures that are really driving us.

Words vs Deeds in Library Patron Privacy Rights

The parallels between our commitment to DEI and our commitment to privacy are striking. The importance of protecting patron privacy is enshrined in the Library Bill of Rights and the American Library Association’s (ALA) Code of Ethics. The ALA Core Values of Librarianship states that “protecting user privacy and confidentiality is necessary for intellectual freedom and fundamental to the ethics and practice of librarianship” (American Library Association, 2019). In addition to our commitment to protecting patron privacy in our work, library workers and the ALA have a long history of protesting government spying and other forms of surveillance that impact members of their community. Our professional community venerated the Connecticut Four who resisted the FBI and took the Justice Department to court over the Patriot Act (SinhaRoy, 2021). Yet in our current information ecosystem, few libraries, if any, can claim that they ensure the privacy of their patrons.

The growth of digital collections, analytics, and social media has challenged our commitment to privacy. This is a result of both the complexity of the information environment as well as a desire to capitalize on new technologies and information sources to better understand our patrons, market ourselves, or demonstrate value. Many librarians are unaware of the extent to which their vendors violate the privacy of their patrons and lack the skills or access to understand what vendors are doing with patron data (Nichols Hess et al., 2015). In other libraries, neoliberal pressures from parent institutions have led libraries to adopt practices that are common among technology companies but not consonant with our stated values around privacy.

Third-Party Trackers from Publishers and Databases Can Harm Our Patrons

There are many reasons why library workers should be concerned about the practices of the publishers and database vendors we fund. Most concerning to me was the research of Cody Hanson (2019) at the University of Minnesota who found that 14 of the 15 publisher platforms he examined included third-party trackers in their product’s code. Many of these trackers allow third parties to view patron actions in the platform—searches, articles accessed, and so on—and, in some cases, to associate those actions with an existing individual profile (Facebook, Google, etc.). Even without a cookie that reveals their identity, third-party trackers often collect enough information about a user and their web browser through browser fingerprinting to identify them. This means these third-party apps can often reveal

a user's identity and add what they are doing on the publisher platform to the growing profile data brokers have about each of us. Data brokers develop profiles of individuals' online behavior to sell those profiles to various companies and people. Hanson rightly recognizes that the information being collected by these third-party trackers is the same type of patron information that the Connecticut Four went to court to protect from the FBI, yet a recent study by Licensing Privacy found that for library leaders "the issue of privacy does not take precedence in negotiating licenses" (Cooper, 2021).

There are very real potential harms to our patrons from their library data being incorporated into the surveillance economy. Given that surveillance regimes tend to have the greatest negative impact on BIPOC (Cyril, 2015), the largest harms will likely be felt by our most marginalized patrons. Some library vendors, like LexisNexis and Thomson Reuters, already act as data brokers for the U.S. Immigration and Customs Enforcement (ICE) and other law enforcement agencies and both "modified their privacy statements [in 2018] to clarify that they use personal data across their platforms, with business partners, and with third party service providers" (Lamdan, 2019). We've seen police and prosecutors use social media to identify, arrest, and prosecute protestors (Iboshi, 2021), so it's not a reach to imagine patron data being used to identify suspects, establish intent, or even be incorporated into big data systems that determine things like bail and sentencing (Angwin, 2016). It's also not a stretch to imagine health-related searching being used by insurance companies as many have contracts with data brokers (Sherman, 2021). My family recently started seeing ads on Hulu for a pill treating a very rare condition a member of our family has, clearly targeted to people who search for information on that condition. If information like that can be shared with drug companies and streaming providers, why not insurance companies and current or potential employers?

Libraries can make the argument that they have limited ability to impact the practices of vendors, but the same cannot be said for other choices libraries make that compromise their patrons' privacy. In 2013, I wrote in this journal about my concern with the move—after the publication of the *Value of Academic Libraries* report (Oakleaf, 2010)—away from assessment focused on improvement toward a focus on demonstrating the value of the library (Farkas, 2013). When I attended the Library Assessment Conference in 2014, the focus of the keynote speeches and many other presentations was on collecting transaction-level data tied to patron identity in order to demonstrate value, provide targeted interventions to different student populations, and "deliver the sort of personalized and responsive user experience that has become an expectation of online citizens" (Kay, 2014, p. 273). One keynote speaker argued that even if we don't yet know how we are going to use the data, we should immediately begin collecting "atomic activity data" from every library system (p. 280). What was missing from all of these presentations was *any* discussion of privacy.

The Problem with Learning and Library Analytics for Measuring Outcomes

In the ensuing years, the encroachment of neoliberal values in higher education has increased along with the use of transaction-level data by libraries to demonstrate they are a good investment and contribute to the goals of the college or university. Many libraries are using student data to show that use of the library (like checking out books, searching in a database, or asking a reference question) is tied to higher academic achievement (Jones et al., 2020). Of those libraries that are using patron-level data in this way, exceedingly few fully de-identify student data or have edited their privacy policies or statements to account for this work (Perry et al.,



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2018). Some libraries now include library usage data in college or university-wide learning analytics systems. Learning analytics systems collect data about students from many different online platforms in order to illuminate patterns or trends and suggest interventions to improve student success. These systems, by looking at academic achievement across classes, can predict ideal paths through the curriculum for different groups of students. Some of these systems alert advisors or faculty members when the data on a particular student suggests they might be struggling. Other systems actually “nudge” students toward certain behaviors, such as communicating with instructors or seeking campus resources, based on these predictions” (Jones et al., 2020, p. 572). In libraries, analytics data could allow libraries to personalize their services and identify students for outreach efforts.

Collecting and keeping large amounts of transaction-level data tied to student IDs or even demographic characteristics can help us learn a lot about our patrons, how our resources and services are used, and their impact, but the question remains whether we should collect this data if we are not also committed to the de-identification of that data. Use of the library isn't like taking a class, which is part of one's educational record. It should be no one's business but the patron's whether or not they used the library and what resources they consulted. There are many other behavioral data points that would help us improve a student's educational experience, but we don't collect that data because it would be difficult or intrusive. Just because we can easily and invisibly do something, doesn't mean we should. What's more, when we put library data into learning analytics or predictive analytics systems, we are giving access to individuals across the college or university who may not share the library's commitment to student privacy. We not only lose control over how that information might be used, but by retaining that data, we increase the risk of the information being exposed in data breaches, which have become common. Also, it doesn't take much imagination to see some higher education institutions' use of learning analytics going the way of a dystopian *Black Mirror* episode.

Given that many colleges and universities have swipe card systems that feed into their learning analytics tools, I could imagine a system that looks at everything a student does on campus and shares it with their instructors and advisors so they can advise the student on the “right path” (likely based on Whiteness norms) for them without ever needing to get to know the student. The University of Wollongong's Library Cube project—originally designed to demonstrate library value—provides patron usage data to their institution's learning analytics system, which then can alert instructors if a student's library use is concerning (Jantti, 2014). I can imagine instructors grading students based on library use or other behavioral data collected that has nothing to do with their coursework or participation. Already some instructors have sought to grade students based upon the amount of time they spend in their online classroom (Grading Students On Time Spent In The Course, 2014).

If a system can uncover ideal paths for student success and identify students who are in danger of failing, it can predict which students are less likely to be successful before they even start college. Given the racial disparities in success rates across higher education (Libassi, 2018), this could lead to the exclusion of students from already underrepresented groups. In light of the current economic outlook in higher education and news about the

closures of numerous institutions, economic interests might trump a focus on increasing diversity or even a duty of care at some institutions. Hundreds of universities already use a predictive analytics product that is far more likely to assign a high risk score for not succeeding in college to Black and Latinx students (Swauger, 2021).

Advocates for library analytics argue that libraries don't have a choice but to engage in these practices in an age of increased austerity and questions about the relevance of libraries. Cox and Jantti (2012) argue that "libraries that do not provide such evidence will be at an increasing risk of having their funding reduced or eliminated" (p. 309). However, data connecting library use to student success is correlational, not causal, and going to the gym, having a part-time job, and living on-campus have also been correlated with better student outcomes (Farkas, 2018), so it's questionable how meaningful it is to demonstrate this connection. It would be lovely if we could really distill the impact of library collections and services on our patrons, but using the library isn't like taking a pill. We are trying to rationalize and quantify something that is irrational, messy, and mostly unquantifiable; something that is better captured by using qualitative methods that uncover our patron's stories.

Libraries Can Help Patrons Protect Their Privacy Rights

It's unlikely that we will see a groundswell of activism around privacy rights at the scale that we have seen for racial justice, but surveillance capitalism has received increased media attention in recent years and awareness of these issues is growing. What is missing from the cases above is informed consent. Patrons rarely know what data is being collected and only give "consent" in that they use a particular platform. Only 10 percent of papers reporting the results of library analytics projects even mentioned consent at all (Jones et al., 2020). At a minimum, patrons deserve to know what information is collected about them and how it might be used. Ideally, they should be able to opt out of data collection entirely. Allowing this data collection, retention, and use to happen without patrons' knowledge is not only paternalistic, but potentially damaging. When we decide that the ends justify the means in these situations, we are deciding that for all of our patrons, some of whom may be legitimately harmed by the information collected about their library activities. This is in direct opposition to what most patrons expect from a library.

The rhetoric around these issues frequently makes it sound like libraries don't have a choice, but the reality is that, while the choices may be difficult, we do have agency. Library privacy advocates like Becky Yoose (2017) have demonstrated that while protecting patron privacy is time-consuming and requires staff with significant technology skills, it is possible. We could better educate ourselves on these issues in order to make well-informed ethical choices and we could utilize the power of our larger organizations (consortia, associations, and state libraries) and bodies that create standards and regulations to advocate for broader changes. Our current choices suggest that we value providing content and collecting data to show how valuable we are far more than we value protecting our patrons' information.

Libraries are driven by the fear of not being considered valuable or relevant. It's important that we, in our libraries, openly discuss the unspoken assumptions and power structures that lead us to make choices in opposition to our values. We should also consider what privacy rights and agency we feel our patrons deserve and examine how large a gulf exists between that ideal and the current reality. By uncovering the very real power structures and assumptions driving these choices, we can confront them and find new ways to operate that better center our stated values.

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