

## **Discussion: Harassment in the Library Setting**

*Detective Jon Kindlarski, Wausau Police Department*

### **Spanking Case**

Starting in summer 2017 a male called libraries across Wisconsin asking for reference materials related to corporal punishment and the spanking of children. In some cases when the librarians located reference materials the male asked the librarians to read the titles or excerpts from the books, then asked if they had any videos, or pictures, which made the librarians uncomfortable. A number of librarians asked the male caller to stop and not to call back. Some just hung up on the caller. Some libraries had supervisors speak with the male and told him to stop calling. Some librarians then reported receiving a phone call from the same male asking for the phone number of other libraries across the state. Some librarians contacted local law enforcement with suspicions of crimes against children. Detectives made contact with the male who was told his behavior was causing librarians to become uncomfortable and instructed him to stop unless for legitimate purposes.

The behavior stopped for a couple months and then a university library in South Dakota reported multiple incidents where a male asked female staff members about corporal punishment, women's reproductive systems, and orgasms. One of the librarians asked that the caller stop his conversation but he did not. The male raised his voice and told her not to hang up. This caused the librarian to be very uncomfortable, and did not know what to do. Eventually the librarian hung up. The librarian reported she was upset by the call, and afterwards it caused her to cry, and go home sick. Based on this and several other calls to this library system the male was identified and cited for Telephone Harassment under a municipal citation. The male was found guilty and paid the fine.

### **What can a librarian do?**

Librarians provide a public service which at times (especially for reference librarians) can cause them to view materials or provide legitimate reference assistance for topics which may make them personally uncomfortable. The question posed by many librarians is when does it cross the line? And is there a clear line in the sand? Unfortunately the answer is complicated.

Our society has historically supported legitimate research. As a society we also value the importance of free speech with only minimal restrictions.

A few points I think we can all agree on:

- Everyone has dignity as a human being and that should be respected.
- A librarian's time is valuable. There are many "customers" who require legitimate assistance in addition to other managerial or facility needs that are also taken care of by today's modern librarian.
- It is appropriate for a librarian to provide reasonable assistance within their job description. However, when the patron is not reasonable in their request (i.e. "I want

you to read the entire book to me over the phone”) or it is an activity not supported by your library; it is within your authority to say you are unable to fulfill that request.

- This is where good library policies and procedures help to protect librarian’s decisions and actions.
- Just because a person has a research topic doesn’t mean you are responsible for fulfilling that person’s research needs. If that was the case I never would have done my own research while in college. It is appropriate to say here are the resources we have available in our library system, and if you wish to research this topic further you can come in and use XYZ equipment.

### **The Line in the Sand**

What is the requester’s intent? Is it for true research, or an attempt towards the requester’s self-gratification? Or perhaps an attempt to waste time, or is it to cause embarrassment to the librarian? A general rule of thumb is when a patron makes a request that becomes personal, and is outside the scope of your employment, is when the “line” becomes crossed.

- You do not have to answer personal questions, unless you have granted your consent.
  - In example: a patron asking about your sexual preferences as compared to a survey on library services. It is okay to hang up or tell a person no.
- You do not have to provide personal identifying information to a patron.
  - Think identity theft. It is appropriate to give a person your first name or contact information for your particular library.
- A patron has no right to sexualize, harass, or intimidate a librarian.
  - If a librarian is uncomfortable with a phone call or an in-person patron contact they do not have to engage in a conversation with them. It is okay to tell them to stop. It is okay to hang up or tell a person no. It is okay to report criminal behavior to law enforcement.
- A librarian can tell a patron that the librarian is busy or unavailable to help them (given your own library policies). It is okay to hang up or tell a person no.
- A librarian can advise a patron that if they have been assisted you don’t have to continue to provide the same information day after day.
  - In example: calling a librarian asking for sexual references day after day with the same questions.
- A librarian doesn’t have to listen to a person heavy breath over a phone or make sexualized noises. It is okay to hang up or tell a person no.

### **Working with Law Enforcement**

State statutes and municipal code vary from state to state and community to community.

- You do not have to put yourself at risk. In the event of any type of immediate threat to safety, whether implied or directly stated, it is important to communicate this with your local law enforcement agency.
- In situations where perhaps a clear violation of law is not made, it is still important to internally document what happened. If the matter continues to escalate or the person doesn’t stop after instructed to do so, this is another time to report to law enforcement.

## Applicable Wisconsin Statutes

### 947.01 Disorderly conduct.

- (1) Whoever, in a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance is guilty of a Class B misdemeanor.
- (2) Unless other facts and circumstances that indicate a criminal or malicious intent on the part of the person apply, a person is not in violation of, and may not be charged with a violation of, this section for loading a firearm, or for carrying or going armed with a firearm or a knife, without regard to whether the firearm is loaded or the firearm or the knife is concealed or openly carried.

### 947.012 Unlawful use of telephone.

- (1) Whoever does any of the following is guilty of a Class B misdemeanor:
  - (a) With intent to frighten, intimidate, threaten, abuse or harass, makes a telephone call and threatens to inflict injury or physical harm to any person or the property of any person.
  - (b) With intent to frighten, intimidate, threaten or abuse, telephones another and uses any obscene, lewd or profane language or suggests any lewd or lascivious act.
  - (c) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to abuse or threaten any person at the called number.
- (2) Whoever does any of the following is subject to a Class B forfeiture:
  - (a) With intent to harass or offend, telephones another and uses any obscene, lewd or profane language or suggests any lewd or lascivious act.
  - (b) Makes or causes the telephone of another repeatedly to ring, with intent to harass any person at the called number.
  - (c) Makes repeated telephone calls, whether or not conversation ensues, with intent solely to harass any person at the called number.
  - (d) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to harass any person at the called number.
  - (e) Knowingly permits any telephone under his or her control to be used for any purpose prohibited by this section.

### 947.0125 Unlawful use of computerized communication systems.

- (1) In this section, "message" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature, or any transfer of a computer program, as defined in s. 943.70 (1) (c).
- (2) Whoever does any of the following is guilty of a Class B misdemeanor:
  - (a) With intent to frighten, intimidate, threaten, abuse or harass another person, sends a message to the person on an electronic mail or other computerized communication system and in that message threatens to inflict injury or physical harm to any person or the property of any person.
  - (b) With intent to frighten, intimidate, threaten, abuse or harass another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message threatens to inflict injury or physical harm to any person or the property of any person.
  - (c) With intent to frighten, intimidate, threaten or abuse another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.
  - (d) With intent to frighten, intimidate, threaten or abuse another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.
  - (e) With intent to frighten, intimidate, threaten or abuse another person, sends a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.
  - (f) While intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to frighten, intimidate, threaten or abuse another person, sends a message on an electronic mail or

other computerized communication system with the reasonable expectation that the person will receive the message.

- (3) Whoever does any of the following is subject to a Class B forfeiture:
- (a) With intent to harass, annoy or offend another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.
  - (b) With intent to harass, annoy or offend another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.
  - (c) With intent solely to harass another person, sends repeated messages to the person on an electronic mail or other computerized communication system.
  - (d) With intent solely to harass another person, sends repeated messages on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the messages.
  - (e) With intent to harass or annoy another person, sends a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.
  - (f) While intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to harass or annoy another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message.
  - (g) Knowingly permits or directs another person to send a message prohibited by this section from any computer terminal or other device that is used to send messages on an electronic mail or other computerized communication system and that is under his or her control.

#### **947.013 Harassment.**

- (1) In this section:
- (a) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.
  - (b) "Credible threat" means a threat made with the intent and apparent ability to carry out the threat.
  - (c) "Personally identifiable information" has the meaning given in s. 19.62 (5).
  - (d) "Record" has the meaning given in s. 19.32 (2).
- (1m) Whoever, with intent to harass or intimidate another person, does any of the following is subject to a Class B forfeiture:
- (a) Strikes, shoves, kicks or otherwise subjects the person to physical contact or attempts or threatens to do the same.
  - (b) Engages in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.
- (1r) Whoever violates sub. (1m) under all of the following circumstances is guilty of a Class A misdemeanor:
- (a) The act is accompanied by a credible threat that places the victim in reasonable fear of death or great bodily harm.
  - (b) The act occurs while the actor is subject to an order or injunction under s. 813.12, 813.122 or 813.125 that prohibits or limits his or her contact with the victim.
- (1t) Whoever violates sub. (1r) is guilty of a Class I felony if the person has a prior conviction under this subsection or sub. (1r), (1v), or (1x) or s. 940.32 (2), (2e), (2m), or (3) involving the same victim and the present violation occurs within 7 years of the prior conviction.
- (1v) Whoever violates sub. (1r) is guilty of a Class H felony if he or she intentionally gains access to a record in electronic format that contains personally identifiable information regarding the victim in order to facilitate the violation under sub. (1r).
- (1x) Whoever violates sub. (1r) under all of the following circumstances is guilty of a Class H felony:
- (a) The person has a prior conviction under sub. (1r), (1t) or (1v) or this subsection or s. 940.32 (2), (2e), (2m), or (3).
  - (b) The person intentionally gains access to a record in order to facilitate the current violation under sub. (1r).
- (2) This section does not prohibit any person from participating in lawful conduct in labor disputes under s. 103.53