

## **CONFIDENTIALITY OF LIBRARY RECORDS**

In a democratic society, it is essential that citizens be able to read and explore ideas freely without fear of surveillance. The Beloit Public Library Board believes that assured confidentiality in the use of library materials is a constitutionally protected right. The sole purpose of customer identification in the circulation transaction is to ensure the return of the item. Staff members respect the privacy of library customers' use of library materials.

Circulation, registration, and information retrieval records may not be disclosed except to:

1. Persons acting within the scope of their duties in the administration of the library or library system.
2. An agency or individual or any local, state or federal government, pursuant to a court order authorized under the authority of and pursuant to federal, state, or local law relating to civil, criminal, or administrative, legislative, or investigative power. Upon receipt of any such court order the Library Director will consult with the City Attorney to determine if the court order is in proper form and if there is a valid basis for its issuance.
3. Persons authorized by the individual may inspect that individual's records.
4. Custodial parents or guardians of children under the age of 16 who may see the records of their children under the age of 16.

See attached Appendix A, "Policy concerning Confidentiality of Personally Identifiable Information about Library Users" and Appendix B, "Wisconsin State Statute Section 43.30."

History: Approved June, 1982; Revised October, 1985; Revised July, 1988; Revised June, 1994; Revised January, 1997; Revised January, 2000; Revised June 2003; Revised May 2004; Reviewed September 2006; Revised December 2011.

## Appendix A

### Policy concerning Confidentiality of Personally Identifiable Information about Library Users

"In a library (physical or virtual), the right to privacy is the right to open inquiry without having the subject of one's interest examined or scrutinized by others. Confidentiality exists when a library is in possession of personally identifiable information about users and keeps that information private on their behalf" ([Privacy: An Interpretation of the Library Bill of Rights](#)).

The ethical responsibilities of librarians, as well as statutes in most states and the District of Columbia, protect the privacy of library users. Confidentiality extends to "information sought or received and resources consulted, borrowed, acquired or transmitted" ([ALA Code of Ethics](#)), and includes, but is not limited to, database search records, reference interviews, circulation records, interlibrary loan records and other personally identifiable uses of library materials, facilities, or services.

The First Amendment's guarantee of freedom of speech and of the press requires that the corresponding rights to hear what is spoken and read what is written be preserved, free from fear of government intrusion, intimidation, or reprisal. The American Library Association reaffirms its opposition to "any use of governmental prerogatives that lead to the intimidation of individuals or groups and discourages them from exercising the right of free expression as guaranteed by the First Amendment to the U.S. Constitution" and "encourages resistance to such abuse of governmental power . . ." ([ALA Policy 53.4](#)). In seeking access or in the pursuit of information, confidentiality is the primary means of providing the privacy that will free the individual from fear of intimidation or retaliation.

The American Library Association regularly receives reports of visits by agents of federal, state, and local law enforcement agencies to libraries, asking for personally identifiable information about library users. These visits, whether under the rubric of simply informing libraries of agency concerns or for some other reason, reflect an insensitivity to the legal and ethical bases for confidentiality, and the role it plays in the preservation of [First Amendment](#) rights, rights also extended to foreign nationals while in the United States. The government's interest in library use reflects a dangerous and fallacious equation of what a person reads with what that person believes or how that person is likely to behave. Such a presumption can and does threaten the freedom of access to information. It also is a threat to a crucial aspect of First Amendment rights: that freedom of speech and of the press include the freedom to hold, disseminate and receive unpopular, minority, extreme, or even dangerous ideas.

The American Library Association recognizes that law enforcement agencies and officers may occasionally believe that library records contain information that would be helpful to the investigation of criminal activity. The American judicial system provides the mechanism for seeking release of such confidential records: a court order, following a showing of *good cause* based on *specific facts*, by a court of competent jurisdiction.<sup>1</sup>

The American Library Association also recognizes that, under limited circumstances, access to certain information might be restricted due to a legitimate national security concern. However, there has been no showing of a plausible probability that national security will be compromised by any use made of unclassified information available in libraries. Access to this unclassified information should be handled no differently than access to any other information. Therefore,

libraries and librarians have a legal and ethical responsibility to protect the confidentiality of all library users, including foreign nationals.

Libraries are one of the great bulwarks of democracy. They are living embodiments of the First Amendment because their collections include voices of dissent as well as assent. Libraries are impartial resources providing information on all points of view, available to all persons regardless of origin, age, background, or views. The role of libraries as such a resource must not be compromised by an erosion of the privacy rights of library users.

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1 See *Confidentiality and Coping With Law Enforcement Inquiries: Guidelines for the Library and its Staff*, ALA Office for Intellectual Freedom, available on the Web at <http://www.ala.org/oif/ifissues>.

Adopted July 2, 1991; amended June 30, 2004, by the ALA Council. Adopted by BPL Library Board Nov. 16, 2004.

## Appendix B

### Wisconsin State Statute Section 43.30

#### 43.30 Public library records.

- (1b) In this section:
- (a) “Custodial parent” includes any parent other than a parent who has been denied periods of physical placement with a child under s. 767.41 (4).
  - (b) “Law enforcement officer” has the meaning given in s.165.85 (2) (c).
- (1m) Records of any library which is in whole or in part supported by public funds, including the records of a public library system, indicating the identity of any individual who borrows or uses the library’s documents or other materials, resources, or services may not be disclosed except by court order or to persons acting within the scope of their duties in the administration of the library or library system, to persons authorized by the individual to inspect such records, to custodial parents or guardians of children under the age of 16 under sub. (4), to libraries under subs. (2) and (3), or to law enforcement officers under sub. (5).
- (2) A library supported in whole or in part by public funds may disclose an individual’s identity to another library for the purpose of borrowing materials for the individual only if the library to which the individual’s identity is being disclosed meets at least one of the following requirements:
- (a) The library is supported in whole or in part by public funds.
  - (b) The library has a written policy prohibiting the disclosure of the identity of the individual except as authorized under sub.(3).
  - (c) The library agrees not to disclose the identity of the individual except as authorized under sub. (3).
- (3) A library to which an individual’s identity is disclosed under sub. (2) and that is not supported in whole or in part by public funds may disclose that individual’s identity to another library for the purpose of borrowing materials for that individual only if the library to which the identity is being disclosed meets at least one of the requirements specified under sub. (2) (a) to (c).
- (4) Upon the request of a custodial parent or guardian of a child who is under the age of 16, a library supported in whole or part by public funds shall disclose to the custodial parent or guardian all library records relating to the use of the library’s documents or other materials, resources, or services by that child.
- (5)
- (a) Upon the request of a law enforcement officer who is investigating criminal conduct alleged to have occurred at a library supported in whole or in part by public funds, the library shall disclose to the law enforcement officer all records pertinent to the alleged criminal conduct that were produced by a surveillance device under the control of the library.

- (b) If a library requests the assistance of a law enforcement officer, and the director of the library determines that records produced by a surveillance device under the control of the library may assist the law enforcement officer to render the requested assistance, the library may disclose the records to the law enforcement officer.

History: 1981 c. 335; 1991 a. 269; 2003 a. 207; 2007 a. 34, 96; 2009 a. 180.