

The Clintonville Public Library protects the privacy of library records and the confidentiality of patron use of the library as required by relevant laws. In addition, the Clintonville Public Library Board supports the principle of freedom of inquiry for library patrons, and has adopted this policy to protect against the unwarranted invasion of the personal privacy of library users.

### **Legal requirements**

The relevant Wisconsin laws concerning the confidentiality of library records are Wisconsin Statutes Section 43.30 and the Wisconsin Personal Information Practices Act (Sections 19.62 to 19.80).

Under Section 43.30, library records which indicate the identity of any individual who borrows or uses the library's documents or other materials, resources or services may *only* be disclosed:

- (1) with the consent of the individual library user
- (2) by court order
- (3) to persons acting within the scope of their duties in the administration of the library or library system, or
- (4) to other libraries (under certain circumstances) for interlibrary loan purposes [see ss. 43.30(2) and (3)].

Wisconsin's Personal Information Practices Act (Sections 19.62 to 19.80) requires all state and local government organizations (including public libraries) to develop procedures to protect the privacy of personal information kept by the organization. Libraries (and all other government organizations) are required to develop rules of conduct for employees involved in collecting, maintaining, using, and providing access to personally identifiable information. Libraries are also required to ensure that employees handling such records "know their duties and responsibilities relating to protecting personal privacy, including applicable state and federal laws."

Records indicating the identity of library users include a library users name, library card number, social security number, telephone number, street address, post-office box number or 9-digit extended zip code.

Records held by the library that include personally identifiable information about library users may also contain information that must be provided to those who request that information, as required by Wisconsin's public records law. Personally identifiable information about library users must be redacted from any records that are publicly disclosed, except as the records are disclosed under one of the four exceptions provided by Section 43.30 (see above).

### **Rules to be followed by library staff**

- (1) As required by state law, library staff may only disclose library records indicating the identity of library users under the following conditions:
  - a) disclosure to staff members of the Clintonville Public Library, and the staff of other libraries and library systems only according to written procedures that comply with the laws cited above and that are approved by the director
  - b) disclosure as authorized by the individual library user
  - c) disclosure pursuant to court order (see below for handling of different types of court orders)
- (2) Library staff must refer all requests for library records and all requests for information about particular library users to the library director.
- (3) Library staff members are not allowed to share information about use of library resources and services by identified library patrons except as necessary for the performance of their job duties and in accordance with procedures approved by the library director and/or board.
- (4) Records that identify patrons without respect to their use of library resources, materials or services are not protected under the law. Information about the identity of persons whose behavior in or about the library violates the law or library policies is not inherently protected or confidential.
- (5) To ensure the safety and security of the public and staff the Library will monitor public behavior using staff and security equipment.

- (6) Under Wis. Stat. 43.30, the library will disclose to custodial parents or guardians any records of use by children under the age of 16. A parent or guardian requesting such records may be asked to provide proof that they are a custodial parent and have not been denied periods of physical placement under s. 767.24(4). Examples of such proof include possession of the child's library card number, a valid library card or other government agency issued photo ID showing the same address as the child, or any other set of documents that demonstrate to the library staff's satisfaction that the requestor is the custodial parent or guardian of the child whose records have been requested. Requests will be complied with as soon as practicable and without delay. Requestors who are denied access may appeal the decision to the Library Director or Library Board.
- (7) Staff is authorized to request identification from library users as necessary and appropriate for use of library services, such as issuing a card, reserving materials, using public computers, registering for a program or using the meeting room. Information communicated under these circumstances is privileged under Wis. Stat. 43.30. Refusal to identify oneself under these circumstances may be grounds for denial of service.
- (8) Staff is authorized to request identification from library users as necessary and appropriate for safety and security or when library rules have been violated. Refusal to identify oneself under these circumstances may be grounds for contacting the Police.
- (9) If the library has cause to believe that a criminal act has been committed on library property or with library resources, Administration will cooperate with law enforcement authorities to obtain proper court orders for release of such privileged library records as may be necessary for criminal investigation and prosecution.

#### **Emergency Disclosures of Communications**

If in the normal course of business, the library staff observes what could reasonably be construed as a threat of imminent danger to life, the highest-ranking person on duty is to contact law enforcement immediately. They should then immediately contact the library director.

#### **Handling of court orders**

[Note: All search warrants are court orders, but *not* all subpoenas are court orders. Library staff may not disclose library records in response to a subpoena that is not a court order if those records indicate the identity of library users.]

If a law enforcement officer (or anyone else) brings a **subpoena**<sup>1</sup> directing library staff to produce library records:

- (1) Notify the library director, or if the director is not available, notify the highest-ranking staff person on duty.
- (2) The library director or the highest-ranking staff person should ask the municipal attorney (or library counsel) to review the subpoena.
- (3) If the subpoena has any legal defects, require that the defects be cured before records are released.
- (4) If appropriate, ask legal counsel to draft a protective order to be submitted to the court keeping the requested information confidential and limiting its use to the particular case.
- (5) Follow legal counsel's advice for compliance with the subpoena.

If law enforcement officers bring a court order in the form of a **search warrant**<sup>2</sup>:

- (1) A search warrant is executable immediately, unlike a subpoena. The law enforcement officers may begin a search of library records as soon as they enter the library.
- (2) Request that the law enforcement officers wait until the municipal attorney (or library counsel) is present before the search begins in order to allow counsel an opportunity to examine the search warrant and to

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<sup>1</sup> A subpoena is a call to come before a court, and may include a direction to bring specified records. Not all subpoenas are court orders. Your municipal attorney (or library counsel) can determine if a particular subpoena is a court order. A subpoena normally indicates that a response is required within a certain number of days. Library staff may not disclose library records in response to a subpoena that is not a court order if those records indicate the identity of library users.

<sup>2</sup> A search warrant is a is an order signed by a judge directing a law enforcement officer to conduct a search of a designated person, a designated object or a designated place for the purpose of seizing designated property or kinds of property.

assure that the search conforms to the terms of the search warrant. (The law enforcement officials are *not* required to accede to your request to delay the search.)

- (3) Cooperate with the search to ensure that only the records identified in the warrant are produced and that no other users' records are disclosed.

If FBI agents bring a court order in the form of a **search warrant issued under the Foreign Intelligence Surveillance Act (FISA)**<sup>3</sup>:

- (1) A search warrant is executable immediately, unlike a subpoena. The law enforcement officers may begin a search of library records as soon as they enter the library.
- (2) Request that the law enforcement officers wait until the municipal attorney (or library counsel) is present before the search begins in order to allow counsel an opportunity to examine the search warrant and to assure that the search conforms to the terms of the search warrant. (The law enforcement officials are *not* required to accede to your request.)
- (3) Cooperate with the search to ensure that only the records identified in the warrant are produced and that no other users' records are disclosed.
- (4) **It is illegal to disclose to any other person (other than those persons necessary to produce the tangible things sought in the warrant) that the Federal Bureau of Investigation has sought or obtained records or other items under the Foreign Intelligence Surveillance Act (FISA).**

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<sup>3</sup> The USA Patriot Act amended the Foreign Intelligence Surveillance Act (FISA) to allow the FBI to apply for a court order requiring the "production of any tangible things (including books, records, papers, documents and other items) for an investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment..."