



THE LIBRARY PRIVACY ACT

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Library Privacy Act

- What is covered by the Michigan Library Privacy Act?
- Section 3(1) of the Act:
 - Except as provided in subsection (2), a **library record** is not subject to the disclosure requirements of the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.



Library Privacy Act

- "Library record" means a document, record, or other method of storing information retained by a library that contains information
 - that personally identifies a library patron, including the patron's name, address, or telephone number, or
 - that identifies a person as having requested or obtained specific materials from a library.



Library Privacy Act

- Library record does not include non-identifying material that may be retained for the purpose of studying or evaluating the circulation of library materials in general.



Library Privacy Act

- Section 3(2)
 - (2) Unless ordered by a court after giving the affected library notice of the request and an opportunity to be heard on the request, ***a library or an employee or agent*** of a library shall not release or disclose a library record or portion of a library record to a person without the written consent of the person liable for payment for or return of the materials identified in that library record.



Library Privacy Act

- What is a proper Court order?



Library Privacy Act

- The Library has the opportunity for a hearing.
- The Library may be represented by counsel at the hearing.



Library Privacy Act

- Tell judge Library's concerns.
- Address issues such as scope of request and return of records.
- This option may be easier to accomplish if the Library is faced with a subpoena.



Library Privacy Act

- Written waiver.
 - Exception if a person responsible for the payment or return of the materials signs a written consent.
 - Mainly developed to assist parents in locating and returning child's materials.
 - However, the waiver is not limited to the parent/child situation. It should also be used when a spouse is picking up materials, for example.



Library Privacy Act

- Penalty.

- A library or an agent or employee of a library which improperly releases information shall be liable to the person identified in a record that is improperly released or disclosed. The person identified may bring a civil action for actual damages or \$250.00, whichever is greater; reasonable attorney fees; and the costs of bringing the action.



Library Privacy Act

Q: Is it a violation of the Library Privacy Act to give the Friends of the Library the patron address list to use in a campaign?



Library Privacy Act

Q: If a patron asks for the Director's personnel file, can we deny that request based on the Library Privacy Act?



Library Privacy Act

Q: I witnessed a man committing a “lewd act” at the computer. Is it a violation of Library privacy to call the police and give them information?



Library Privacy Act

Q: Is the footage from a video surveillance camera a “library record?”
What if the video cameras are on the outside of the building?



Library Privacy Act

Q: What if I know a patron's name because the person is my neighbor and not because she is a patron at the Library? Can I release that information to others, including the police?



Library Privacy Act

Q: If there is a crime committed in the Library, may I reveal the name of the alleged perpetrator or show the police the surveillance tapes without a court order?



Library Privacy Act

- Q: What if a Library Employee lets the police look at a document or the surveillance tape, is that a violation of the Act?



Library Privacy Act

Q: Our Library allows patrons to pick up materials on hold. We have a shelf with the material and the patrons name is clearly visible. Is that practice a violation of the Library Privacy Act?



Library Privacy Act

- Q: A library employee witnesses a purse snatching in the Library parking lot. The thief jumped into his car and sped away. The employee copied down the license plate. Is it a violation of the Library Privacy Act to give the license plate number to the police?



Police Involvement: How to Comply with the Library Privacy Act

- Library should establish a written procedure to follow when documents are requested by law enforcement.
 - Determine who will respond to a subpoena or other request.
 - Who is in charge at Library? Develop a chain of command.



Police Involvement

- Who should be contacted? Attorney?
Computer Consultants?
- Contact information should be available to any person who is designated as "in charge."
 - Library Director
 - Library Board Member



Police Involvement

○ Understand How Your Records are Kept.

- The person in charge should understand how to access records.
- Are the records kept at the Library?
 - Are the records kept with an outside vendor?
 - Do you need computer specialists to access information?



Police Involvement

- Anticipating the Search Warrant --
Procedure for Preservation of Evidence.
 - If the check out records are deleted after a book is returned, the Library needs to know how to preserve that evidence.
 - Any evidence that is the subject matter of a search warrant or subpoena or any evidence that the Library has reason to believe will be subject to a search warrant or other request.



Police Involvement

- The Police Have Just Arrived.
 - Ask for identification and contact information if you are not familiar with the officers or agents.
 - What if it is a verbal request?



Police Involvement

- What if the officer gives us a court order?
 - Immediately request that the Library be allowed to send a copy to the Library's attorney prior to the execution of the order (but, the Library may not have the opportunity).
 - If the officers insist on executing the subpoena without attorney review, review to the best of your ability. Make sure they do not take any materials not identified in the court order.



Police Involvement

- Observe what the officer is seizing or reviewing to make sure that only information set forth in the search warrant is covered.
 - Keep notes on what documents or items were seized.
 - Keep track of all costs.
 - Request copies or itemized list of everything taken.



Police Involvement

- The Library may be contacted by the media; therefore, the Library should review or adopt a media policy.
- The Library should review or consider a FOIA policy.



Internal Appeals

- Internal Enforcement and Appeal Procedure
 - Appeal to Library Board
 - Be careful of privacy issues during the appeal. For example, the Library may wish to label it Patron Appeal 2011-1 for example.
 - Maintaining confidentiality will likely lessen the risk of a defamation claim.
 - Approve minutes of meeting without identifying patron.



Enforcement and Appeal

○ Staff Training

- It is important that all Staff understand the Policies.
- Staff Training is essential.
- Equal enforcement of the policy is important in keeping the Library out of court.



Questions?

- Thank you!