

Instructions For Libraries On Reporting Suspicious Behavior To FBI

September 21, 2001

Some or all of you may have had incidents in your libraries this past year, perhaps more particularly this past summer, involving use of the Internet and library reference resources that troubled you then, or that troubles you or your staff now in light of the events of September 11, 2001, and the intense FBI push for information. As you are all aware, you are subject to the restrictions found in the Library Privacy Act, as amended. Under section 4 of the Library Privacy Act, you are prohibited from giving out "library records" without a court order. MCL §397.603.

As an initial reminder: **Behavior** is not a "library record". A "library record" is "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." MCL §397.602(i). Therefore, the fact that certain persons (unnamed by you) were behaving in a certain way in the library (using the Internet in a suspicious manner, for example) is **not** a "library record". The librarian's memory is also not a "library record". The log-in, the signed use policy, the computer history of what sites a computer has accessed - these **are** "library records".

If you are troubled by incidents that have occurred and you believe you should initiate a report to the FBI (particularly if the individuals you are concerned about match the names or descriptions of those listed in FBI's website as alleged hijackers www.fbi.gov or if the individuals are those who were arrested or sought in the Detroit search), or if you are contacted by the FBI or other federal or state investigators, we would recommend that you take the following actions:

If you wish to file a report, contact your attorney to participate in the initial filing of the report with the FBI.

- If the FBI contacts you, tell the investigator who your attorney is and contact your attorney - simultaneously with the initial investigation if possible.
- Even if you do not contact your attorney immediately, tell the investigator that you need a court order (which would include a federal grand jury subpoena) to provide a "library record", and refer the investigator to Michigan Compiled Laws 397.601 et seq.
- Cooperate with the investigator about any behavior that you can describe accurately, without giving names, addresses, or linking those names and addresses with the specific materials being sought."

For questions concerning this, you may contact either Cynthia B. Faulhaber (517-483-4903) or Saul A. Green (313-496-7535).