

BARABOO PUBLIC LIBRARY
PRIVACY OF LIBRARY RECORDS AND LIBRARY USE
Approved by Library Board 12/18/18

The Baraboo 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 Baraboo 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.

Wisconsin's Personal Information Practices Act (§19.62, et. seq., Wis. Stats.) 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.

LEGAL REQUIREMENTS

The relevant Wisconsin laws concerning the confidentiality of library records are Wisconsin Statutes §43.30 and the Wisconsin Personal Information Practices Act, §§19.62 to 19.80, Wis. Stats. Protected library records include any record that includes personally identifiable information about a library user or patron, such as the patrons name, address, library card number, use of library materials services, and may be found in the following:

- Circulation records
- Workstation logs
- Security videos
- Information sought or received
- Materials consulted, borrowed or acquired
- Database search records
- Interlibrary loan records
- Other uses of materials, facilities, programs or services
- Reference interviews
- Program registration information
- Signup sheets
- Material complaint forms
- Emails
- Voicemails
- Correspondence about library use

Identification by sight and direct verbal communication by staff are not protected by the law. Nonetheless, staff should be mindful that the spirit of the law is to regard verbal service to patrons, such as reference interviews, as privileged, unless there is a violation of law or policy.

Records that are protected under the law may only be disclosed:

- 1) By court order (§43.30(1m), Wis. Stat.)
- 2) To persons acting within the scope of their duties in the administration of the library or library system (§43.30(1m), Wis. Stat.),
- 3) To persons authorized by the individual to inspect such records (§43.30(1m), Wis. Stat.),

- 4) To custodial parents or guardians of children under the age of 16 (§§43.30(1m) and (4), Wis. Stats.),
 - i. Parents or guardians requesting records of children under 16 may be asked to provide proof of custodial authority and that they have not been denied periods of physical placement under §767.24(4), Wis. Stat.. Examples of proof include a valid library card or government agency-issued photo ID showing the same address as the child, or other documents that demonstrate custodial responsibility. Requests will be complied with as soon as practicable. Requestors who are denied access may appeal to the Library Director or Library Board.
- 5) To another library for the purpose of borrowing materials for the individual (§§43.30(1m) and (2), Wis. Stats.), and
- 6) To law enforcement officers in these circumstances:
 - i. Upon the request of a law enforcement officer who is investigating criminal conduct alleged to have occurred at the library, in which case 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 (§43.30(1m) and (5)(d), Wis. Stats.), and
 - ii. 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 (§43.30(1m) and (5)(d), Wis. Stats.).
- 7) For purposes of collections, subject to §43.30(6), Wis. Stat.

RULES TO BE FOLLOWED BY LIBRARY STAFF

Library staff 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 library board. As required by state law, library staff may only disclose library records indicating the identity of library users when permitted by state statute, as indicated under the “Legal Requirements” section, above.

- 1) Library staff must refer all requests for library records and all requests for information about particular library user(s) or information that may contain personally identifiable information to the library director or the library director's designee.
 - i. If the request is in the form of a court order, refer to be section below titled “Handling of Court Orders.”
- 2) The library director or the library director’s designee shall review the request for information to ensure the release of the information falls within one of the exceptions in §43.30, Wis, Stats.

- 3) When library records are disclosed, personally identifiable information must be deleted or obscured, except as provided under provisions of §43.30, Wis. Stat.

HANDLING OF COURT ORDERS

All search warrants¹ 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 subpoena² 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 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:

- 1) A search warrant is executable immediately, unlike a subpoena.
- 2) The law enforcement officers may begin a search of library records as soon as they enter the library.
- 3) Request that the law enforcement officers wait until the municipal attorney 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 to delay the search.)

¹ 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.

² 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 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.

- 4) Cooperate with the search to ensure that only the records identified in the warrant are produced and that no other users' records are disclosed.
- 5) Staff will comply with nondisclosure restrictions such as those provided by the Foreign Intelligence Surveillance Act (FISA) and the USA Patriot Act provisions.

RADIO FREQUENCY IDENTIFICATION TECHNOLOGY

The Baraboo Public Library utilizes Radio Frequency Identification (RFID) technology as a materials inventory and security tool. In compliance with American Library Association best practices, the only information stored on the RFID chip/tag will be limited to a unique identifier for the item (such as the item barcode), a code that identifies whether the item can circulate or not, as well as a security bit that indicates if the item is in or out of the library. The public is unable to search by the unique identifier, therefore only persons acting within the scope of their duties in the administration of the library or library system can determine the title of the item attached to the barcode. RFID technology will not be used for library cards. All local, state or federal legislation relating to RFID and library usage will be fully complied with by library.