

## East Troy Lions Public Library Confidentiality of Library Records and Library Use Policy

Original Policy Approved: 05-11-2004
Policy Updated and Reviewed: 05-08-2018
Updated Policy Approved:

The East Troy Lions Public Library protects the confidentiality of library records and patron use of the library as required by Wisconsin Statute 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 materials, resources or services may *only* be disclosed:

- 1) with the consent of the individual library user, or
- 2) by court order, or
- 3) to custodial parents or guardians of children under the age of 16, or
- 4) to persons acting within the scope of their duties in the administration of the library, or
- 5) to other libraries (under certain circumstances) for interlibrary loan purposes.

Wisconsin's Personal Information Practices Act (Sections 19:62 to 19:80) requires all state and local government organizations (including libraries) to develop procedures to protect the privacy of personal information kept by the organization. Libraries 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 the 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 may include the library users name, a physical image, library card number, social security number, driver's license 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 publically disclosed, except as the records are disclosed under one of the 5 exceptions provided by Section 43.30 (see above).

### Rules to be followed by the 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:
  - disclosure to staff members of the East Troy Lions 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 library director.
  - disclosure as authorized by the individual library user.

- disclosure to custodial parents or guardians of children under the age of 16 (Section 43.30(4)... see below for handling of requests from custodial parents or guardians.
- disclosure pursuant to court order... see below for handling of different types of court orders.
- if someone's life or safety is at risk, library records may be released to appropriate individuals or officials without a court order\*

2) Library staff must refer all requests for library records and all requests for information about particular library users to the library director or the library director's designee.

3) Library staff are not allowed to share information about the 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.

### **Handling requests from custodial parents or guardians of children under the age of 16**

The requestor must be the child's "custodial parent" defined as any parent other than a parent who has been denied periods of physical placement with a child under Wisconsin Statute Section 767.24(4). The Library staff will:

1) request identification

2) if the requestor is the parent or guardian listed on the child's library record and the requestor resides at the same address, the staff may provide the requested information.

3) obtain a completed and signed "Request for Access to Child's Library Record" form to help ensure that the requestor is indeed the child's custodial parent or guardian and that the requestor has not been denied periods of physical placement with the child under Section 767.24(4).

4) The staff may then grant the request or refer the request to the library director or designee.

The Library staff will attempt to satisfy the request as soon as possible and without unreasonable delay. In most cases this would be at the time of the request. If there is a question of the requestor's guardianship, the staff person may delay the request until reviewed by the library director and/or the library board. If a request is denied by the Library staff, the requestor can appeal in writing to the Library Board.

Normal photocopying charges will be assessed to the requestor for copies of records provided.

### **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.]

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

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

2) If law enforcement officers bring a court order in the form of a **search warrant\*\*\***:

- A search warrant is executable immediately, unlike a subpoena. The law enforcement officers may begin a search of the library records as soon as they enter the library.
- Request that law enforcement officers wait until the village attorney is present before the search begins in order to allow the attorney an opportunity to examine the search warrant to assure that the search conforms to the terms of the search warrant. [Note: law enforcement officers are not required to accede to your request to delay the search]
- Cooperate with the search to ensure that only the records identified in the warrant are produced and that no other user's records are disclosed.

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

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 law enforcement officers wait until the village attorney is present before the search begins in order to allow the attorney an opportunity to examine the search warrant to assure that the search conforms to the terms of the search warrant. [Note: law enforcement officers 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 user's 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).**

\* The Attorney General's office opined, in a response dated November 27, 2006 to questions submitted by State Superintendent Elizabeth Burmaster "...if someone's life or safety is at risk, for example, if there was a child abduction at the library, the law would not require police to obtain a court order before being allowed to view any relevant (surveillance) tapes."

\*\* 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 village 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.

\*\*\* A search warrant is an order signed by a judge directing law enforcement officers 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.

\*\*\*\* 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, paper, 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."

**East Troy Lions Public Library  
Custodial Parent/Guardian Certification  
For Access to Children's Records**

\_\_\_\_\_  
Requestor's Name

\_\_\_\_\_  
Requestor's Street Address

\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
Phone

I hereby certify that I am the custodial parent/guardian of:

\_\_\_\_\_  
Child's Name

\_\_\_\_\_  
Child's Street Address

\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
Date of Birth

and furthermore, I certify that I have not been denied periods of physical placement with the child under Section 767.24(4).

Pursuant to Wisconsin Statute Section 43.30, I, the above certified parent/guardian, hereby request to review the following library records pertaining to \_\_\_\_\_'s

Child's Name

use of the East Troy Lions Public Library materials, resources or services.

What specific record(s) about your child's library use are you asking for?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**[Note: The East Troy Lions Public Library will not release personal information about this child and maintains only current records on patron use of the Library.]**