

## PRIVACY OF LIBRARY RECORDS AND LIBRARY USE POLICY

The Pewaukee Public Library [Library], as required under applicable law, is committed to protecting the confidentiality of records which may identify a Library patron and their use of the Library's materials, resources, facilities, and services. In addition, the Library Board [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 its patrons.

### LEGAL REQUIREMENTS

The relevant Wisconsin laws pertaining to the confidentiality of library records include provisions of Wisconsin's library code (Wis. Stat. § 43.30) as well as various provisions of Wisconsin law pertaining to privacy and protection of personally identifiable information (Wis. Stat. §§ 19.62 to 19.80, 134.98 to 134.99, and other applicable law, as amended from time-to-time).

Under Wis. Stat. § 43.30, library records of any library, which is in whole or in part supported by public funds, that 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) By court order, or
- (2) To persons acting within the scope of their duties in the administration of the library or library system, or
- (3) To persons authorized by the individual to inspect such records, or
- (4) Upon the request of a custodial parent (*includes any parent other than a parent who has been denied periods of physical placement with a child under s. 767.41 (4)*) or guardian of a child who is under the age of 16, or
- (5) To other libraries (under certain circumstances) for interlibrary loan purposes [see §§ 43.30(2) and (3)], or
- (6)
  - (a) Upon the request of a law enforcement officer who is investigating criminal conduct alleged to have occurred at the library, 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.
  - (b) 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.

The Library is a member of the Bridges Library System and participates in the online CAFÉ Catalog overseen by Bridges. Additional Bridges policies regarding the retention of Library Records, to which the Library is a party by virtue of its membership agreement(s) with Bridges, are hereby incorporated by reference.

Wis Stat. §§ 19.62 to 19.80 require all state and local government organizations (including public libraries) to develop procedures to protect the privacy of personally identifiable 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."

Special care must be taken to prevent the unauthorized access to or disclosure of public library records that could identify a library patron or reveal a patron's personally identifiable information, including but not limited to such records or information containing a patron's name, initials, library card number, telephone number, street address, post-office box number or 9-digit extended zip code.

In very limited cases, records held by the Library that include personally identifiable information about library patrons may also contain information that must be provided to those who request that information, as required by Wisconsin's public records law. In such cases, if production is required, as determined by the library director, personally identifiable information about library patrons must be redacted from any records that are publicly disclosed, except as the records are disclosed under one of the six 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 patrons under the following conditions:
  - a) disclosure pursuant to court order (see below for the handling of different types of court orders)
  - b) disclosure as authorized by the individual library patron
  - c) disclosure to staff members of the Pewaukee 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
  - d) disclosure to a custodial parent or guardian of a child who is under the age of 16
  - e) disclosure of all records pertinent to the alleged criminal conduct that were produced by a surveillance device under the control of the Library requested by a law enforcement officer
  
- (2) In certain cases, Library staff must refer requests for library records and requests for information about particular library patrons to the Library Director or designee.
  
- (3) Library staff members shall not access 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 the Board.

### **HANDLING OF REQUESTS BY A CUSTODIAL PARENT OR GUARDIAN (CHILDREN UNDER AGE 16)**

At the custodial parent's request, the Library will provide the following records, if they exist: items currently checked out, due dates for those items, overdue items, fines owed, as well as any records that show use of the Library's computers or other services, or attendance at Library programs. Staff will take reasonable measures to ensure that the inquiring individual is the custodial parent or guardian of the child, as defined by WI Stat 43.30 and 767.24(4).

Before reviewing any requests, staff will verify that the child is under 16 years of age. If it is determined that the child is under 16, staff will take the following reasonable measures to ensure that the inquiring individual is the custodial parent or guardian:

- (1) **Library Card Verification.** Staff may request a copy of the child's library card. If the requestor has the child's library card and can provide the child's birthdate, staff will provide the requested information.
- (2) **Requestor's ID Verification.** Staff may request a copy of the requestor's library card or unexpired photo ID. If the requestor's surname and/or address matches the child's record, staff will provide the requested information. If the requestor is listed on the child's patron record, staff will provide the requested information.
- (3) **Failure to Verify Custodial Status.** If Staff cannot verify that the requestor is a custodial parent or guardian, they will notify the Library Director or designee.
- (4) **Library Director or Designee Actions.** The Library Director or designee shall:
  - a. Obtain a completed and signed "Custodial Parent or Guardian Request and Certification for Access to Child's Library Record" in a form substantially the same as attached hereto as Addendum A. Provided such form is completed and signed, the requester's name provided on the form matches the name appearing on their photo ID, and the child's name and date of birth provided on the request form match the information in the child's Library record, the requested records may be provided.
  - b. In lieu of the above, the Library Director or designee may accept any other document or documents which, to his or her reasonable satisfaction, establish the requester as the custodial parent or guardian. Acceptable documents may include, for example a copy of the child's birth certificate or a copy of a court order indicating custody or guardianship.
  - c. If the parental relationship or guardianship cannot be verified, the Library Director or designee may refer the decision, or the requester may appeal a determination to the Library Board.
- (5) **Timeliness of Request.** The request must be acted upon as soon as practicable and without delay.

## **HANDLING OF COURT ORDERS**

*[Note: All search warrants signed by a judge 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 patrons.]*

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, the Director's designee.
- (2) The Library Director or designee should ask the library attorney or, if unavailable, the municipal attorney to review the subpoena.

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<sup>1</sup> A subpoena is a call to come before a court and/or to produce documents. Not all subpoenas are court orders. While some subpoenas may be signed by district attorneys, attorneys, and governmental officials for the purpose of compelling oral testimony, only subpoenas signed by a judge, clerk of court, court commissioner, or municipal judge, rise to the level of a court order for purposes of § 43.30. The library's attorney can determine if a particular subpoena is a court order. 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 patrons.

- (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) Notify the Library Director or designee immediately about the search warrant.
- (3) Request that the law enforcement officers wait until the Library attorney or 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.)
- (4) Cooperate with the search to ensure that only the records identified in the warrant are produced and that no other patrons' 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) Notify the Library Director or designee immediately about the search warrant.
- (3) Request that the law enforcement officers wait until the Library attorney or 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.)
- (4) Cooperate with the search to ensure that only the records identified in the warrant are produced and that no other patrons' records are disclosed.
- (5) 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

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<sup>2</sup> A search warrant 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.

<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..."

sought or obtained records or other items under the Foreign Intelligence Surveillance Act (FISA). This includes the patron whose records are the subject of the search warrant.

**If a law enforcement officer investigating alleged criminal conduct requests a copy of surveillance video footage:**

- (1) Promptly refer the request to the Library Director or designee.
- (2) The Library Director or designee shall take immediate steps to internally preserve the requested surveillance video.
- (3) After verifying that the request is in fact made by a law enforcement officer, the Library Director or designee shall provide the requested video record(s), as soon as practicable and without delay.

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*Drafted by Mike Cross, Wisconsin Division for Libraries, Technology, and Community Learning  
Reviewed by Attorney Garrity 10/7/03*

*Revision reviewed by Attorney James Dunlap; February 9, 2009*

*Revision adopted by the Board of Trustees: February 18, 2009; Sally Ruf, Library Board President*

*Reviewed by the Library Board of Trustees, April 27, 2011; Dawn Jones, Library Board President*

*This policy was reviewed by legal counsel for compliance with relevant local, state, and federal laws as of March, 2025.*

*REVISED April, 9, 2025.*

Addendum A  
**Custodial Parent or Guardian Request and Certification  
for Access to Child’s Library Record”**

I, \_\_\_\_\_  
(Requestor’s Name)  
\_\_\_\_\_  
(Requestor’s Street Address)  
\_\_\_\_\_  
(City/State/ZIP)  
\_\_\_\_\_  
(Phone)

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

\_\_\_\_\_  
(Child’s Name)  
\_\_\_\_\_  
(Child’s Street Address)  
\_\_\_\_\_  
(City/State/ZIP)  
\_\_\_\_\_  
(Date of Birth)

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

Signed and certified by: \_\_\_\_\_  
(Custodial Parent or Guardian) (Date)

Pursuant to Wis. Stat. § 43.30 Wisconsin Statutes, I, the above certified custodial parent or guardian, hereby request to review the following library records pertaining to \_\_\_\_\_’s (Child’s Name) use of the library’s documents or other materials, resources, or services:

Requested Records: \_\_\_\_\_  
\_\_\_\_\_ Current Items Checked Out  
\_\_\_\_\_ Current Overdue Materials  
\_\_\_\_\_ Outstanding Fines and Fees  
\_\_\_\_\_ Current Holds  
\_\_\_\_\_ Item Check-Out History (Specify date range: \_\_\_\_\_ to \_\_\_\_\_)  
\_\_\_\_\_ Other (Specify): \_\_\_\_\_

*For Staff Use Only:*

*Request submitted to:* \_\_\_\_\_ *Date:* \_\_\_\_\_  
*Request granted by:* \_\_\_\_\_ *Date:* \_\_\_\_\_  
*Request denied by:* \_\_\_\_\_ *Date:* \_\_\_\_\_