Privacy and Confidentiality: using scenarios to teach your staff about patron’s rights

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Defend the Freedom to Read

It's Everybody's Job

Do your part - report challenges or removals confidentially to the American Library Association at: www.ala.org/challengereporting
What is privacy in the library all about?

- Professional ethic
- Intellectual freedom
- Freedom of expression [http://right2info.org](http://right2info.org)
- Legal obligation
<table>
<thead>
<tr>
<th>State/Statute(s)</th>
<th>Protection</th>
<th>Significant Exceptions</th>
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<tbody>
<tr>
<td>Pennsylvania</td>
<td>“records related to the circulation of library materials which contain the names or other personally identifying details regarding the users”</td>
<td>“court order in a criminal proceeding”</td>
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<tr>
<td>Georgia</td>
<td>“circulation and similar records of a library which identify the user of library materials”</td>
<td>written consent; court order or subpoena; “to members of the library staff in the ordinary course of business”</td>
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What is FERPA?

“FERPA is the Family Educational Rights and Privacy Act and is a federal law that was enacted in 1974. FERPA protects the privacy of student education records.

_all educational institutions that receive federal funding must comply with FERPA._

---http://registrar.psu.edu/confidentiality/FERPA_faq.cfm#2
Environmental Scan

- USA PATRIOT Act passed October 2001 in response to events of 9/11
- Concerns were being raised about the effects on libraries
- University engaged in educational programs for faculty
- Some local incidents of profiling occurred
- General anxiety about our roles as professionals and service providers
PREAMBLE:

It is the policy of the Pennsylvania State University Libraries that the privacy of all users, including employees, shall be respected in compliance with federal and state laws and professional standards of confidentiality. This policy applies to all resources regardless of their format or means of delivery as well as to all services offered by the Libraries. We maintain strict client confidentiality and will not reveal the identities of individual users or reveal what information resources they consult or services provided to them to any non-Libraries staff, individual, or entity without a court order or a valid subpoena, or under appropriate federal law.

The University Libraries comply with the American Library Association’s Code of Ethics that states:

We protect each library user’s right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.
(June 28, 1995)

We also adhere to the Pennsylvania Statute covering the confidentiality of library records that states:

Library circulation records:

Records related to the circulation of library materials which contain the names or other personally identifying details regarding the users of the State Library or any local library which is established or maintained under any law of the Commonwealth or the library of any university, college or educational institution chartered by the Commonwealth or the library of any public school or branch reading room, deposit station or agency operated in connection therewith, shall be confidential and shall not be made available to anyone except by a court order in a criminal proceeding. (24 P.S. § 4428, 2002)
Why did the policy come first?

- Codified policy sets a standard for operations
- Makes known the reason for action
- Provides authority to act
Library Bill of Rights

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.

II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.

III. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.

IV. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.

V. A person’s right to use a library should not be denied or abridged because of origin, age, background, or views.

VI. Libraries that make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

Code of Ethics

The principles of this Code are expressed in broad statements to guide ethical decision making.

I. We provide the highest level of service to all library users through appropriate and usefully organized resources; equitable service policies; equitable access; and accurate, unbiased, and courteous responses to all requests.

II. We uphold the principles of intellectual freedom and resist all efforts to censor library resources.

III. We protect each library user’s right to privacy and confidentially with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.

IV. We respect intellectual property rights and advocate balance between the interests of information users and rights holders.

V. We treat co-workers and other colleagues with respect, fairness, and good faith, and advocate conditions of employment that safeguard the rights and welfare of all employees of our institutions.

VI. We do not advance private interests at the expense of library users, colleagues or our employing institutions.

VII. We distinguish between our personal convictions and professional duties and do not allow our personal beliefs to interfere with fair representation of the aims of our institutions or the provision of access to their information resources.

VIII. We strive for excellence in the profession by maintaining and enhancing our own knowledge and skills, by encouraging the professional development of co-workers, and by fostering the aspiration of potential members of the profession.
New policy informed by:

- ALA’s Code of Ethics & Bill of Rights
- Pennsylvania Law: #24 Consolidated Statutes
- University Policy AD-20 Computer and Network Security *(you could lose your job!)*
- A policy review in 2008 led to the addition of FERPA compliance.
How to Train?

- Large institution with a common goal (620 FTE in 38 Libraries on 24 campuses)
  - Faculty
  - Staff
  - Part time employees
  - Student employees

- Uniform understanding required for consistent implementation
Basis for Training

“Staff Guidelines on Protecting the Confidentiality and Privacy of Patron Library Records”

- Added to original policy
- Provided the actions to take
- Circumstances when to take action
- Included scenarios
What is a scenario?

It is a brief case study that is drawn from experience.

For example:
How would you handle this?

A patron demands to know to whom a particular book is checked out. Insists. Grows animated and raises her voice. Threatens to lodge a complaint with administration if she is not given this information.
Why scenarios?

- Provide context
- Analytical framework allows us to apply theory to future events – stands in for a previous experience
- Problem based learning
- Retained in long term memory to be drawn upon later
- Sound pedagogical practice
Training Results

- Scenarios generated discussion and questions “What would you do if…”

- Audience questions led to:
  - Further investigation
  - Refinement of presentations
  - Clarification of other policies
Let’s try out a few:

**Caveat:**

These scenarios are based on:

- Penn State policy and Pennsylvania Law.
- My own experience.
SCENARIO 1.

A faculty member asks if a student in her class has a book checked out. She would like to put it on course reserve but she has heard from other class members that this student has the book. She would like to confront the student about withholding the book and preventing others in the class from reading the required material. What should the staff member do?
SCENARIO 3.

A man approaches the service desk and identifies himself as a police officer. He has several library books that were found at a crime scene and he requests information about who has them checked out. How should the staff member proceed?
SCENARIO 4.

A uniformed Penn State police officer approaches the service desk with a photograph. He asks the staff member if he/she has seen this individual in the library. He then proceeds to ask the staff member for more information about what the individual has been doing or if he has been asking for any assistance. How should the staff member respond?
SCENARIO 10.

A Student’s mom calls the library saying that there is a Library Fee on her son’s current term bill. She wants to know what the charges are for and if she needs to pay them. She insists that she has the right to know because she is paying for her son’s education. What, if any, information can we give her?
SCENARIO 15.

A borrower asks to be excused from paying her library fee. She indicates that she was hospitalized and could not return the book on time. The library staff asked her to prove that she was hospitalized by submitting a doctor’s note. (2005)
A borrower reports that her former friend used her library card without permission. She is trying to return everything checked out on her card. Should we tell her what the friend checked out on her card?
SCENARIO 8.

An administrator returns from lunch to find that her staff assistant has taken a phone message: An attorney at McQuaide & Blasko (University counsel) has “telephoned” and asks that she “please call” in regards to a subpoena for UMW (United Mine Workers) records stored at the Annex for legal proceedings. What should she do? (2005)
SCENARIO 7.

A supervisor receives a call from Peter Jones from Penn State’s Office of Computer Security. Mr. Jones informs him that he will be over in an hour to remove a staff member’s workstation to be examined for a possible security violation. He asks that the staff member not be informed. What should the supervisor do?
Does this method really work?

- Do staff retain the information?
- Do they take appropriate action?
SCENARIO 11.

A PSU detective brings a photocopy of a map to the Maps Library supervisor. He shows her the copy which contains the item barcode and asks if she can tell him who checked it out on June 10th. The person who was seen copying the map in a non-library location was overheard saying that he had been in the library on the day of Betsy Aardsma’s murder, November 1969. The detective wants to speak with him; he is assisting the State Police in the investigation. What can we tell him? (2008)
Can you train student staff this way?

- Yes. They are ripe for experience.
Small Group Model

- Conceived to provide training for part-time employees who work limited shifts but needed the main points
- ½ hour scripted presentations with Head, Public Services and Head, Access Services scheduled for mornings, afternoons and evenings throughout the spring semester
- Groups as small as 2, as large as 20
Program Outline for large group

- Background on Patriot Act and a brief history of libraries and law enforcement
- Highlights of Policy and Guidelines
- Scenarios drawn from actual experience
“Congress Shall Make No Law Respecting an Establishment of Religion, or Prohibiting the Free Exercise Thereof; or Abridging the Freedom of Speech, or of the Press; or the Right of the People Peaceably to Assemble, and To Petition the Government for a Redress of Grievances.”

— First Amendment; 45 words, 5 freedoms.
Policy address:

- Publicly accessible on the website

http://www.libraries.psu.edu/psul/policies/ulad08.html

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