

## POLICY CONCERNING CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION ABOUT LIBRARY USERS

"In a library (physical or virtual), the right to privacy is the right to open inquiry without having the subject of one's interest examined or scrutinized by others. Confidentiality exists when a library is in possession of personally identifiable information about users and keeps that information private on their behalf" (Privacy: An Interpretation of the Library Bill of Rights).

The ethical responsibilities of librarians, as well as statutes in most states and the District of Columbia, protect the privacy of library users. Confidentiality extends to "information sought or received and resources consulted, borrowed, acquired or transmitted" (ALA *Code of Ethics*), and includes, but is not limited to, database search records, reference interviews, circulation records, interlibrary loan records and other personally identifiable uses of library materials, facilities, or services.

The First Amendment's guarantee of freedom of speech and of the press requires that the corresponding rights to hear what is spoken and read what is written be preserved, free from fear of government intrusion, intimidation, or reprisal. The American Library Association reaffirms its opposition to "any use of governmental prerogatives ~~which~~ that leads to the intimidation of ~~the individuals or the citizenry or groups~~ and discourages ~~them~~ from ~~the exercising the right of~~ free expression as guaranteed by the First Amendment to the U.S. Constitution" and "encourages resistance to such abuse of governmental power . . ." (ALA Policy 53.4). In seeking access or in the pursuit of information, confidentiality is the primary means of providing the privacy that will free the individual from fear of intimidation or retaliation.

~~Libraries are one of the great bulwarks of democracy. They are living embodiments of the First Amendment because their collections include voices of dissent as well as assent. Libraries are impartial resources providing information on all points of view, available to all persons regardless of age, race, religion, national origin, social or political views, economic status, or any other characteristic. The role of libraries as such a resource must not be compromised by an erosion of the privacy rights of library users.~~

The American Library Association regularly receives reports of visits by agents of federal, state, and local law enforcement agencies to libraries, ~~where it is alleged they have asked~~ ingasking for personally identifiable information about library users. These visits, whether under the rubric of simply informing libraries of agency concerns or for some other reason, reflect an insensitivity to the legal and ethical bases for confidentiality, and the role it plays in the preservation of First Amendment rights, rights also extended to foreign nationals while in the United States. The government's interest in library use reflects a dangerous and fallacious equation of what a person reads with

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what that person believes or how that person is likely to behave. Such a presumption can and does threaten the freedom of access to information. It also is a threat to a crucial aspect of First Amendment rights: that freedom of speech and of the press include the freedom to hold, disseminate and receive unpopular, minority, "extreme," or even "dangerous" ideas.

The American Library Association recognizes that, under limited circumstances, access to certain information might be restricted due to a legitimate "national security" concern. However, there has been no showing of a plausible probability that national security will be compromised by any use made of unclassified information available in libraries. Thus, the right of access to this information by individuals, including foreign nationals, must be recognized as part of the librarian's legal and ethical responsibility to protect the confidentiality of the library user. that law enforcement agencies and officers may occasionally believe that library records contain information that would be helpful to the investigation of criminal activity. The American judicial system provides the mechanism for seeking release of such confidential records: a court order, following a showing of good cause based on specific facts, by a court of competent jurisdiction.<sup>1</sup>

The American Library Association also recognizes that, under limited circumstances, access to certain information might be restricted due to a legitimate national security concern. However, there has been no showing of a plausible probability that national security will be compromised by any use made of unclassified information available in libraries. Thus, the right of access to this information by individuals, including foreign nationals, must be recognized as part of the librarian's Access to this unclassified information should be handled no differently than access to any other information. Therefore, libraries and librarians have a legal and ethical responsibility to protect the confidentiality of the library user. all library users, including foreign nationals. The American Library Association also recognizes that law enforcement agencies and officers may occasionally believe that library records contain information which that would be helpful to the investigation of criminal activity. If there is a reasonable basis to believe such records are necessary to the progress of an investigation or prosecution, the American judicial system provides the mechanism for seeking release of such confidential records: the issuance of a court order, following a showing of good cause based on specific facts, by a court of competent jurisdiction.

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<sup>1</sup> See Confidentiality and Coping With Law Enforcement Inquiries: Guidelines for the Library and its Staff, ALA-OIF (2003) available on the Web at <http://www.ala.org/oif/ifissues>.