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## Surveying Privacy: Library Privacy Laws in the Southeastern United States

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# Surveying Privacy: Library Privacy Laws in the Southeastern United States

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You are working at the circulation desk one rainy night when a man walks into the library. He comes up to the desk and shows you a police badge. The officer explains that he is investigating a suspected Methamphetamine manufacturer, and he would like to find out whether the person has checked out any books on manufacturing Meth. You inform the officer that your professional ethics and the library's policy demand the privacy of circulation records. In return, the officer explains that if you do not turn over the records, he will arrest you as an accessory to the crime. What do you do? And what are your rights?

According to the American Library Association, library records should be kept private and confidential.<sup>1</sup> Most states also have laws that protect the confidentiality of library records. This article will discuss the library confidentiality laws of the Southeastern United States, as well as the Family Educational Rights and Privacy Act (FERPA), and the USA PATRIOT Act (popularly known as the anti-terrorism statute). The jurisdictions whose laws will be discussed in this article include:

Alabama  
Arkansas  
District of Columbia  
Florida  
Georgia  
Kentucky  
Louisiana  
Mississippi  
North Carolina  
South Carolina  
Tennessee  
Virginia  
West Virginia.

In June of 1987, agents from the Federal Bureau of Investigation visited the libraries at Columbia University. According to Paula Kaufman, Director of Academic Information Services at Columbia University, the FBI agents "explained that they were doing a general 'library awareness' program in the city and that they were asking librarians to be alert to the use of their libraries by persons from countries 'hostile to the United States, such as the Soviet Union' and to provide the FBI with information about these activities."<sup>2</sup> In other words, the FBI was asking librarians to inform the FBI about which materials were being used by specific patrons.

The uproar that the "Library Awareness Program" created was enormous. Following the FBI's visit to Columbia, more accounts of FBI "interviews" began to emerge. Apparently, during the years 1986 and 1987, the FBI had visited a number of institutions of higher education across the country, including the libraries at New York University, University of Maryland, SUNY Buffalo, George Mason University, and the universities of Cincinnati, Michigan, Wisconsin, and Utah. Public libraries were also included in the "program."<sup>3</sup>

The "Library Awareness Program" turned out to be a public relations nightmare for the FBI. Questions were asked in Congress, and the issue of privacy related to library circulation was discussed on the front page of the New York Times.<sup>4</sup> Librarians suddenly were being interviewed by the media about their privacy policies, and librarians protected their patrons' confidentiality. According to Vartan Gregorian, President of the New York Public Library, "We consider reading a private act, an extension of freedom of thought. And our doors are open to all. We don't check IDs."<sup>5</sup>

[The FBI Library Awareness Program](#)

Many of the states have adopted library privacy laws in the wake of the FBI's library fiasco. Some of these laws relate only to public libraries, and others cover various types of libraries. Librarians need to know about the privacy laws in their own states in order to respond to questions from law enforcement officials and the media, as well as to respond to Freedom of Information/Open Records requests. Every library worker needs to be aware of the laws regarding what type of library is covered, what kinds of library records are private, and what happens in the event of a disclosure of information.

What are library records? The Tennessee privacy law is typical of the laws of most states in the region. According to the Tennessee Code Annotated, "'Library record' means a document, record, or other method of storing information retained by a library that identifies a person as having requested or obtained specific information or materials from such library. 'Library record' does not include nonidentifying material that may be retained for the purpose of studying or evaluating the circulation of library materials in general."<sup>6</sup>

Many of the code provisions in the Southeastern region have items in common. There are three kinds of legal provisions for library privacy in the Southeast: statutory law, rules of evidence, and Attorney General opinions. Most of the states have provisions in their statutes for library privacy. Georgia's provision lies within the state's Evidence Code. Kentucky's provision for library privacy is found in an Attorney General opinion. Arkansas and the District of Columbia have the most detailed code provision, while Mississippi has the briefest statute.

### What Type of Library is Covered

The library privacy law in Tennessee is typical of such laws in the rest of the Southeastern states. Tennessee law applies confidentiality provisions to:

- (A) Libraries that are open to the public and established or operated by:
  - (i) The state, a county, city, town, school district or any other political subdivision of the state;
  - (ii) A combination of governmental units or authorities;
  - (iii) A university or community college; or
- (B) Any private library that is open to the public.<sup>7</sup>

Most of the other states in the Southeast also apply their library privacy laws to a variety of types of organizations. South Carolina states that the records of "users of public, private, school, college, technical college, university, and state institutional libraries and library systems, supported in whole or in part by public funds or expending public funds, are confidential information."<sup>8</sup> Alabama maintains that records from "public, public school, college and university libraries of this state shall be confidential."<sup>9</sup> The statute in Arkansas pertains to public, school, academic, and special libraries, as well as library systems supported entirely or partially by public funds.<sup>10</sup> The language of the Louisiana statute is almost identical to that from Arkansas and covers all public, school, academic, and special libraries which are funded in whole or part, as well as the State Library of Louisiana.<sup>11</sup> Kentucky's Attorney General opinions apply to all libraries supported at least 25% by public funds. These Kentucky decisions are discussed later in this article.

Although provisions throughout the region cover public libraries, only the statutes of West Virginia, Florida, and the District of Columbia contain wording that applies specifically to public libraries.<sup>12</sup> D.C.'s statute is more extensive than any other jurisdiction, but it only mentions the public library and the Board of Library Trustees.<sup>13</sup> The statutes of Georgia, Mississippi, and Virginia do not contain a definition of the word "libraries." These statutes are broadly worded so that they could apply to libraries of any type.

## What Type of Information is Private

The states of the Southeast are generally in agreement that registration and circulation records are confidential. The difference among the statutes is that some states also protect additional services, while others do not. Georgia's Evidence Code deals with "Circulation and similar records of a library,"<sup>14</sup> but does not mention issues such as reference transactions. Alabama,<sup>15</sup> Florida,<sup>16</sup> and West Virginia<sup>17</sup> are similarly focused on registration and circulation records. Virginia deals with "Library records which can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed."<sup>18</sup> Louisiana similarly discusses records which indicate "which of its documents or other materials, regardless of format, have been loaned to or used by an identifiable individual or group of individuals."<sup>19</sup> Louisiana does give additional protection to "records of any such library which are maintained for purposes of registration or for determining eligibility for the use of library services."<sup>20</sup>

On the other hand, several states protect not only the circulation records, but also books used within the library. For example, the library privacy statute for Washington, D.C., applies to materials that are "requested, used, or borrowed" from the library.<sup>21</sup> The law in Mississippi requires that records "which contain information relating to the identity of a library user, relative to the user's use of books or other materials at the library, shall be confidential."<sup>22</sup> The language of these laws may be broad enough to include requests for reference assistance.

South Carolina's statute describes confidential information as including: "Records related to registration and circulation of library materials which contain names or other personally identifying details regarding the users."<sup>23</sup> This statute also goes on to explain that "Records which by themselves or when examined with other public records would reveal the identity of the library patron checking out or requesting an item from the library or using other library services are confidential information."<sup>24</sup> For example, sign-up sheets for computer use would be included under this provision.

According to the Tennessee statute, "No employee of a library shall disclose any library record that identifies a person as having requested or obtained specific materials, information, or services or as having otherwise used such library."<sup>25</sup> North Carolina maintains that: "A library shall not disclose any library record that identifies a person as having requested or obtained specific materials, information, or services, or as otherwise having used the library."<sup>26</sup> Tennessee and North Carolina provide library patrons with greater privacy rights which cover a broader range of materials than the laws in many of the Southeastern states.

The most detailed statute on the issue of information privacy comes from Arkansas. The Arkansas statute is very precise about which types of library services are confidential. The Arkansas statute answers many of the questions that are raised by other laws in the region, and provides a greater amount of protection to the library patron. The statute reads:

'Confidential library records' means documents or information in any format retained in a library that identify a patron as having requested, used, or obtained specific materials, including, but not limited to, circulation of library books, materials, computer database searches, interlibrary loan transactions, reference queries, patent searches, requests for photocopies of library materials, title reserve requests, or the use of audiovisual materials, films, or records.<sup>27</sup>

In addition to state library privacy laws, student records at colleges and universities are also covered by a Federal statute, the Family Educational Rights and Privacy Act (FERPA). FERPA prohibits the release of student records without the express written consent of the student involved. Although FERPA does not specifically mention library records, many institutions have interpreted the statute as including library records. As a result, librarians at academic institutions have an additional weapon to use in the fight against disclosure.<sup>28</sup> FERPA applies to all institutions, public or private, which receive federal funding.

Many of the state laws in the Southeastern United States are vague as to what types of services are covered. A few of the states discuss only circulation records. It is unclear whether these statutes cover reference inquiries or other types of non-circulation services. The Arkansas statute is the only one that specifically deals with such issues as computer use and reference queries.

### Disclosure of Private Information

As with other issues, the libraries of the Southeast are generally in agreement on the topic of disclosure of private information. Tennessee's statute<sup>29</sup> is typical of these laws. Libraries can only release records of patron transactions when the library has the written consent of the patron, unless the library has received a court order. An exception is when library officials are working within the scope of their duties, such as when the records are "used to seek reimbursement for or the return of lost, stolen, misplaced or otherwise overdue library materials."<sup>30</sup> Arkansas, Georgia, North Carolina, and South Carolina have similar provisions. The Arkansas statute further provides that "Public libraries shall use an automated or Gaylord-type circulation system that does not identify a patron with circulated materials after materials are returned."<sup>31</sup>

Mississippi's statute is very general and lacks any provisions for disclosure of records. Three states--Florida, Alabama, and Louisiana--allow parents or guardians to access the records of their minor children. West Virginia does not mention access by parents, but does allow the parents or guardian of a minor child to waive privacy. The language in the West Virginia statute suggests that parents or guardians could obtain their minor child's records; however, the statute contains no guidance on this issue.

Virginia's privacy provision is contained within that state's Freedom of Information Act, and constitutes an exception to records that may be released to the public. However, the statute does not prohibit library officials from disclosing the records, thus giving library officials the discretion to determine whether or not to disclose. It is also unclear whether libraries in Virginia would be required to turn over their records upon subpoena. Similarly, in Louisiana and Kentucky, privacy of library records provisions are only found within the context of each state's Open Records Act.

In the Southeast, the District of Columbia has the most detailed provisions relating to disclosure.<sup>32</sup> The D.C. statute ensures confidentiality of circulation records except for information related to the operation of the library, or for releases of information in response to a court order. However, the D.C. statute goes on to provide provisions for challenging court orders.

A further provision requires that D.C. public libraries send a copy of the subpoena by certified mail to the affected patrons, along with the following notice:

Records or information concerning your borrowing records in the public library in the District of Columbia are being sought pursuant to the enclosed subpoena. In accordance with the District of Columbia Confidentiality of Library Records Act of 1984, these records will not be released until 10 days from the date this notice was mailed. If you desire that these records or information not be released, you must file a motion in the Superior Court of the District of Columbia requesting that the records be kept confidential, and state your reasons for the request. A sample motion is enclosed. You may wish to contact a lawyer. If you do not have a lawyer, you may call the District of Columbia Bar Lawyer Referral Service.<sup>33</sup>

According to the statute, the required notice may be waived by court order if the presiding judge finds that:

- (A) The investigation being conducted is within the lawful jurisdiction of the government authority seeking the records;
- (B) There is reason to believe that the records being sought are relevant to a legitimate law enforcement inquiry; or
- (C) There is reason to believe that the notice will result in:
  - (i) Endangering the life or physical safety of any person;
  - (ii) Flight from prosecution;
  - (iii) Destruction of or tampering with evidence;
  - (iv) Intimidation of potential witnesses; or
  - (v) Otherwise seriously jeopardizing an investigation or official proceeding.<sup>34</sup>

It is interesting that the District of Columbia has such detailed requirements for the execution of search warrants. This issue came to the forefront in D.C. several years ago during the Bill Clinton/Monica Lewinsky scandal when special prosecutor Kenneth Starr requested records of the books Ms. Lewinsky had purchased from the KramerBooks bookstore. KramerBooks appealed the order, and the request was eventually withdrawn. Had this request been for library circulation records, there would have been greater guidance and privacy protection. However, the D.C. statute has been affected by the anti-terrorism legislation passed by Congress in the wake of the terrorist attacks on September 11, 2001. I will discuss the anti-terrorism statute later in this article.

### Privileged Communication in Georgia

Georgia has taken a unique approach to the issue of library privacy. The confidentiality of library records is included within the Evidence Code and involves the concept of privileged communications. However, the statute reads like those of many other states, and there is some question as to whether the placement within the Evidence Code does in fact make library records privileged.

Privileges are exceptions to the general rule that a witness must answer any questions that are asked. Unless the witness has a privilege, he or she can not refuse to testify. "Privileges only exist to serve important interests and relationships, they are construed narrowly, and new ones are rarely created, at least by the courts."<sup>35</sup> The person whose information is being kept confidential can waive some privileges. The question is who "holds" the privilege, and therefore who can consent to waive it. Only the holder of the privilege can allow a witness to testify to privileged information. Courts from most Federal and state jurisdictions recognize the following privileges:

**The privilege against self-incrimination:** This privilege is guaranteed by the Fifth Amendment to the U.S. Constitution.

**The attorney-client privilege:** The attorney may not disclose any information without the consent of the client.

### Spousal and marital privileges:

A married person is not required to testify against his or her spouse. The witness can decide whether or not to testify; the spouse can not prevent the witness from testifying. Some states also recognize a privilege for confidential marital communications. The marital communications privilege belongs to both spouses, which means that both parties have to consent in order for the witness to testify. The spousal privilege and the marital privilege do not apply in situations where one spouse is suing the other, or where one spouse is charged with crimes against the other spouse.

### The Physician-patient privilege:

The patient holds this privilege, so the physician is not allowed to testify without the patient's permission. However, most states require physicians to report suspected child abuse and molestation.

### The psychotherapist-patient

**privilege:** This privilege applies to any type of counselor, including psychiatrist, psychologist, social worker, etc. As with the physician, this privilege is held by the patient. An exception to this rule is when the patient threatens harm to another person. The psychotherapist must disclose such a threat to the authorities.

### The clergyman-penitent privilege:

This privilege is held by both parties, which means that both have to agree before the communication can be divulged.

**The journalist's privilege:** This privilege is a recent addition to the law of evidence, and is the subject of a great deal of litigation. Journalists claim that they do not have to reveal their sources. Not all courts recognize this privilege.<sup>36</sup>

The inclusion of library privacy in the Georgia Evidence Code implies that information in library records is subject to a privilege. Although the statute is written in the context of evidence law, the wording does indicate that the statute might have broader application. The holder of the privilege is the user, or the user's parent or guardian. The only exception is upon an order of the court.<sup>37</sup>

The last point raises the question of whether a witness may legally refuse to testify on the grounds that he or she has a privilege. Since the statute is written in the context of evidentiary privilege, it would imply that a witness may permissibly refuse to testify. However, the statute goes on to state that disclosures may be made upon court order or subpoena. The statute contains no annotations to help resolve this problem, nor does a current search of Georgia case law or Georgia Attorney General opinions. It seems that the Georgia legislature intended to draft a general statute, similar to those of other states, regardless of its inclusion in the Georgia Evidence Code.

### Kentucky and the Attorney General

Kentucky alone among the Southeastern states does not have a statutory provision relating to library records. Instead the Kentucky position on confidentiality is laid out in two Attorney General opinions. In Kentucky the Attorney General opinions are considered binding law in the absence of legislative action or court interpretations; therefore, these opinions constitute the law of the state on library records.

On April 21, 1981, the Kentucky Attorney General responded to a question submitted by James A. Nelson, the State Librarian, regarding library records. The Attorney General determined that library records are not subject to disclosure under the Open Records Act because they fall under the exception for "public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy . . ." <sup>38</sup> The Attorney General opinion goes on to say:

We think that the individual's privacy rights as to what he borrows from a public library (books, motion picture film, periodicals and any other matter) is overwhelming. In fact we can see no

public interest at all to put in the scales opposite the privacy rights of the individual. We would point out, however, that Kentucky has no privacy statute and that the exceptions to mandatory disclosure of public records are permissive and no law is violated if they are not observed by the custodian. In summary, it is our opinion that the custodian of the registration and circulation records of a public library is not required to make such records available for public inspection under the Open Records Law.<sup>39</sup>

The following year<sup>40</sup> this decision was followed by a second opinion. Since the initial opinion used the term "public libraries," Nelson sought a clarification about what types of libraries were included in the opinion. The reply stated:

Our opinion applies to any library which is subject to the Open Records Law as defined by KRS 61.870. This includes all tax supported libraries and all private libraries which receive as much as 25 percent of their funds from state or local authority. It does not include, of course, a private library receiving less than 25 percent of its funds from state or local authority. Our opinion, in effect, places tax supported libraries in the same position as private libraries which would not be governed by the Open Records Law. In other words, all libraries may refuse to disclose for public inspection their circulation records. As far as the Open Records Law is concerned, they may also make the records open if they so choose; *however, we believe that the privacy rights which are inherent in a democratic society should constrain all libraries to keep their circulation lists confidential.* [Emphasis added]<sup>41</sup>

Since this opinion interpreted the law within the context of Kentucky's Open Records Act, there was no discussion of penalties or of exceptions to disclosure. Kentucky Libraries are in fact free to open their records if they wish, but are also free to keep their records closed. However, the Attorney General made it very clear in both opinions that the privacy interests of the individual were extremely strong.

### The USA Patriot Act

The terrorist attacks on the World Trade Center and the Pentagon have caused the Federal government to revise many of its laws. On October 25, 2001, Congress passed the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act)."<sup>42</sup> This statute makes many changes in the way that search warrants are issued for business records. The new law affects libraries because library circulation records are business records.

The law states that the FBI "may make an application for an 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 to the Constitution."<sup>43</sup>

This statute brings up a number of important issues. For example, the statute does not require the judge or magistrate who issues the search warrant to find probable cause. The law reads: "Upon an application made pursuant to this section, the judge *shall* enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application meets the requirements of this section."<sup>44</sup> [Emphasis added] Since the Fourth Amendment to the U.S. Constitution states that no warrants shall be issued without "probable cause,"<sup>45</sup> there is a possible conflict between the terms of the statute and constitutional principles that the Supreme Court has continually upheld. This apparent conflict remains to be decided in the courts.

The USA Patriot Act also states: "No person shall disclose to any other person (other than those persons necessary to produce the tangible things under this section) that the Federal Bureau of Investigation has sought or obtained tangible things under this section."<sup>46</sup> This section of the act appears to be in conflict with the provisions of the D.C. Code which require the library to notify their patron in the event that a warrant is issued.<sup>47</sup>

The American Library Association has addressed the issues raised by the new statute. On October 26, 2001, Don Wood, program officer with the ALA's Office of Intellectual Freedom, distributed a statement interpreting the new law. This statement was especially concerned with the provisions relating to nondisclosure of search warrants. According to the ALA's interpretation, "The existence of this provision does not mean that libraries and librarians served with such a search warrant cannot ask to consult with their legal counsel concerning the warrant. A library and its employees can still seek legal advice concerning the warrant and request that the library's legal counsel be present during the actual search and execution of the warrant."<sup>48</sup>

Because of potential conflicts with local laws and since there are some constitutional issues involved, the ALA has made an arrangement with a law firm to assist libraries in the event that a search warrant is served under the new law. According to the ALA statement, "If you or your library are served with a warrant issued under this law, and wish the advice of legal counsel but do not have an attorney, you can still obtain assistance from Jenner & Block, the Freedom to Read Foundation's legal counsel. Simply call the Office for Intellectual Freedom and inform the staff that you need legal advice without disclosing the reason you need legal assistance. OIF staff will assure that an attorney from Jenner & Block returns your call. *You do not and should not inform OIF staff of the existence of the warrant.*"<sup>49</sup> [Emphasis added]

The USA PATRIOT Act has created some new issues for librarians. However, you should remember that, under the laws that existed before September 11, libraries already had to turn over circulation records if served with a valid subpoena or search warrant. If you are faced with a problem relating to circulation records, the best thing to do is to consult with legal counsel.

## Conclusion

This brief survey of library privacy laws in the Southeastern United States shows that the state governments of this region have given library patrons many privacy protections, but that further clarifications and protections are still needed. Here are some of the major points that apply (with occasional exceptions and variations) to the entire region:

All of the states in the Southeastern United States, as well as the District of Columbia, have developed some form of privacy protection for library records, either as statutes, rules of evidence, or Attorney General opinions. The specifics of these protections vary from state to state, but all of them apply to public libraries. Although some states do not indicate what types of libraries are covered, other states apply their library privacy laws to all types of libraries that receive public funding. All of the privacy protections apply to circulation records, but the inclusion of other types of library services (including computer use, reference, and reserves) is murky. Only the Arkansas statute specifically refers to privacy protection for the use of computer materials (e-mail, web sites, chat rooms, etc.). In some of the other states, the provisions relating to non-circulation records that identify a patron might also apply to computer usage and to other non-specified library resources.

The governments of the Southeastern United States have developed methods--statutes, rules of evidence, and Attorney General opinions—to protect the privacy and confidentiality of library records, and thus of library patrons. The governments of the Southeastern states should standardize and strengthen library privacy statutes. Each state should have language applying the law to all types of libraries, and to all types of library services. The Arkansas law is a very good model for library privacy statutes.

While there could be improvement in library privacy laws in the Southeastern region, certainly the states in this region have provided protection from unwarranted intrusion. All libraries and all librarians should be aware of the state and federal laws relating to privacy. Thus, librarians need no longer fear the inquisitive visitor on a rainy night.

## References

- <sup>1</sup> “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.” American Library Association. Code of Ethics of the American Library Association. <http://www.ala.org/alaorg/oif/ethics.html>
- <sup>2</sup> Foerstel, Herbert N. Surveillance in the Stacks. New York: Greenwood, 1991, p. 11. Quoting “FBI in New York asks Librarians’ Aid in Reporting on Spies.” New York Times, September 18, 1987, Section A, p.1- Section B, p. 2.
- <sup>3</sup> Foerstel, p.22.
- <sup>4</sup> “FBI in New York asks Librarians’ Aid in Reporting on Spies.” New York Times, September 18, 1987, Section A, p.1 - Section B, p. 2.
- <sup>5</sup> Foerstel, p. 59. Quoting Nightline with Ted Koppel. ABC Television, July 13, 1988.
- <sup>6</sup> Tennessee Code Annotated §10-8-101(2).
- <sup>7</sup> Tennessee Code Annotated §10-8-101(1).
- <sup>8</sup> South Carolina Code Annotated §60-4-10.
- <sup>9</sup> Alabama Code §41-8-10.
- <sup>10</sup> Arkansas Code Annotated §13-2-701(a).
- <sup>11</sup> Louisiana Revised Statutes §44:13
- <sup>12</sup> D.C. Code Annotated §37-106.2; WV ST §10-1-22; FL ST § 257.261.
- <sup>13</sup> D.C. Code Annotated §37-106.2.
- <sup>14</sup> Georgia Code Annotated §24-9-46.
- <sup>15</sup> Alabama Code §41-8-10.
- <sup>16</sup> Florida Statutes Annotated §257.261.
- <sup>17</sup> West Virginia Code Annotated §10-1-22.
- <sup>18</sup> Virginia Code Annotated §2.1-342.01.
- <sup>19</sup> Louisiana Revised Statutes §44:13(a)
- <sup>20</sup> Louisiana Revised Statutes §44:13(b)
- <sup>21</sup> D.C. Code Annotated §37-106.2.
- <sup>22</sup> Mississippi Code Annotated §39-3-365.
- <sup>23</sup> South Carolina Code Annotated §60-4-10.
- <sup>24</sup> *id.*
- <sup>25</sup> Tennessee Code Annotated §10-8-102(a).

<sup>26</sup> North Carolina General Statutes §125-19.

<sup>27</sup> Arkansas Code Annotated §13-2-701(b).

<sup>28</sup> 20 U.S.C. § 1232g

<sup>29</sup> Tennessee Code Annotated §10-8-102(b).

<sup>30</sup> Tennessee Code Annotated §10-8-102(b).

<sup>31</sup> Arkansas Code Annotated §13-2-703(b).

<sup>32</sup> D.C. Code Annotated §37-106.2.

<sup>33</sup> D.C. Code Annotated §37-106.2.

<sup>34</sup> D.C. Code Annotated §37-106.2.

<sup>35</sup> DiCarlo, Vincent. "Summary of the Rules of Evidence: The Essential Tools for Survival in the Courtroom." Findlaw for Legal Professionals. <http://profs.lp.findlaw.com/litigation/evidence13.html> (April 26, 2001).

<sup>36</sup> The list of privileges is based on DiCarlo. His list contained a number of other privileges available in California that are not widely recognized; in this paper I included the privileges which are generally recognized. See, <http://profs.lp.findlaw.com/litigation/evidence13.html>

<sup>37</sup> Georgia Code Annotated §24-9-46.

<sup>38</sup> 1981 Kentucky Attorney General Opinion 2-718, OAG 81-159. Quoting KRS §61.878(1)(a). April 21, 1981.

<sup>39</sup> 1981 Kentucky Attorney General Opinion 81-159. April 21, 1981.

<sup>40</sup> March 12, 1982.

<sup>41</sup> 1982 Kentucky Attorney General Opinion 2-164, OAG 82-149. March 12, 1982.

<sup>42</sup> "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001." Public Law Number 107-56 (October 26, 2001). Available online at <http://www.ins.gov/graphics/lawsregs/patriot.pdf>

<sup>43</sup> Pub. L. No. 107-56 §501(a)(1)

<sup>44</sup> Pub. L. No. 107-56 §501(c)(1)

<sup>45</sup> U.S. Constitution, 4th Amendment. Available at <http://caselaw.lp.findlaw.com/data/constitution/amendments.html>

<sup>46</sup> Pub. L. No. 107-56 §501(d)

<sup>47</sup> D.C. Code Annotated §37-106.2

<sup>48</sup> Don Wood <dwood@ala.org>. "ALERT: Libraries and the USA PATRIOT Act." Sent to American Library Association Member Forum <member-forum@ala.org>, (October 26, 2001). Available online at <http://www.ala.org/alaorg/oif/alertusapatriotact.html>

<sup>49</sup> Wood e-mail.