

***Confidentiality and
Privacy:
The Law and the Ethics***

Bob Bocher

608-266-2127

robert.bocher@dpi.wi.gov

John DeBacher

608-266-7270

john.debacher@dpi.wi.gov

**WI Dept. of Public Instruction,
Division for Libraries, Technology, and Community Learning**

Topics to Cover



- 1. An overview of privacy issues**
- 2. Federal protections**
- 3. State protections**
- 4. Library actions**

“The right to be left alone—the most comprehensive of rights, and the right most valued by a free people.”
—Justice Louis Brandeis,
Olmstead v. U.S., (1928)

Privacy Concerns and PII

(Personally Identifiable Information)



- Key privacy concerns include
 - ❑ Identity theft and fraud
 - ❑ Government or private sector misuse of PII
 - ❖ Websites selling/misusing PII
 - ❑ Security of medical and financial data
- Privacy concerns increase as
 - ❑ More people are on the Internet
 - ❑ Use of wireless communication increases
 - ❑ More people shop and conduct business via the Web

Personally Identifiable Information



- Typical PII includes
 - ❑ Name
 - ❑ Address
 - ❑ Email
 - ❑ Telephone number
 - ❑ Other ID
 - ❖ barcode, SSN, CC, etc.
- Non-PII includes
 - ❑ Demographic
 - ❑ Geographic
 - ❑ Education level, job, income
 - ❑ Personal interests, hobbies

How much of this information is in the MORE ILS or other library databases?

Privacy and the Internet



➤ Read closely a Website's privacy notice

- ❑ Opt-in vs. opt-out
- ❑ Enter only minimal data
- ❑ Many social networking sites have weak or confusing privacy policies

➤ Keep a "clean" email address

- ❑ Assume no email is private

➤ Have policy on use of work email

- ❑ Some work emails are public records
 - ❖ See WI Statutes 16.61-16.62 and 19.21
 - ❖ WI Supreme Court email ruling, exempts personal emails

Opt-in: You have the choice on whether and how any of your PII will be used.

Opt-out: Any PII you make available can be used in any manner stated. An opt-out provision may not be available.

Privacy and the Internet



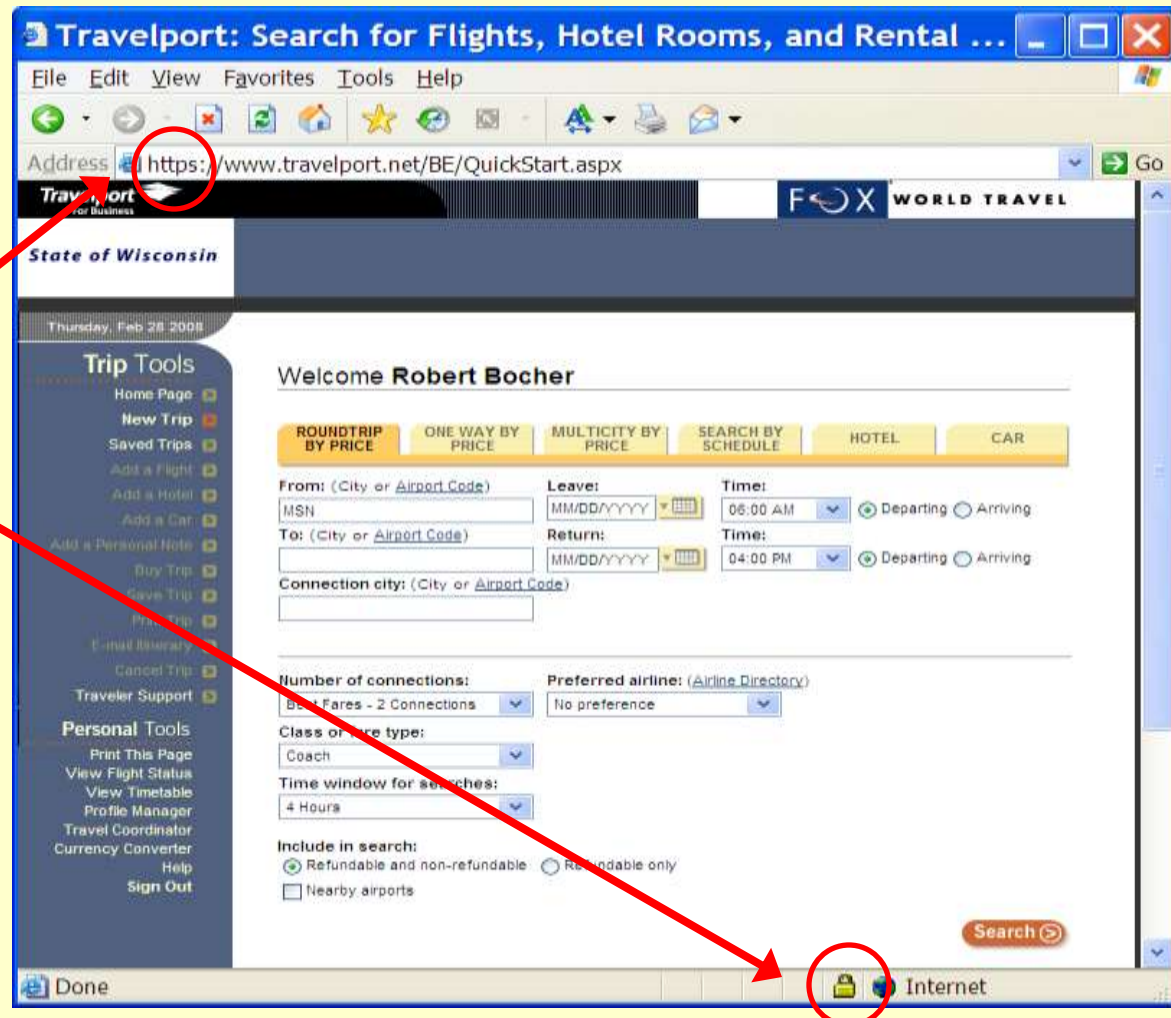
- Home cable and DSL especially vulnerable
 - ❑ Keep antivirus and anti-spyware programs updated, install a firewall
- Security enhances privacy
- Look for compliance with groups like TRUSTe and HON and CODE
- Never enter sensitive PII without a secure connection



Secure Website



Look for security protocol and “lock” icon



Federal Privacy Protections



- 4th and 5th amendments
- Many federal laws have privacy provisions, including
 - ❑ Gramm-Leach-Bliley Act (GLBA)
 - ❑ Health Insurance Portability and Accountability Act (HIPAA)
 - ❑ Children's Online Privacy Protection Act (COPPA)
 - ❑ Family Educational Rights and Privacy Act (FERPA)
- No federal act specifically protects library patron privacy
 - ❑ 48 states have state laws on patron privacy
- Federal Trade Commission (FTC) is lead agency

FTC's Fair Information Practice Principles (FIPPs)



FIPPS includes the following four areas.

1. Notice	State policy on collecting and using PII, and prominently display policy on the Website.
2. Choice	Allow you to decide how your PII is to be used, if at all (opt-in or opt-out).
3. Access	Allow you to access your PII and make any corrections.
4. Security	Take actions to ensure that your PII is secure from unauthorized access and alert you to any security breaches.

State Privacy Protections



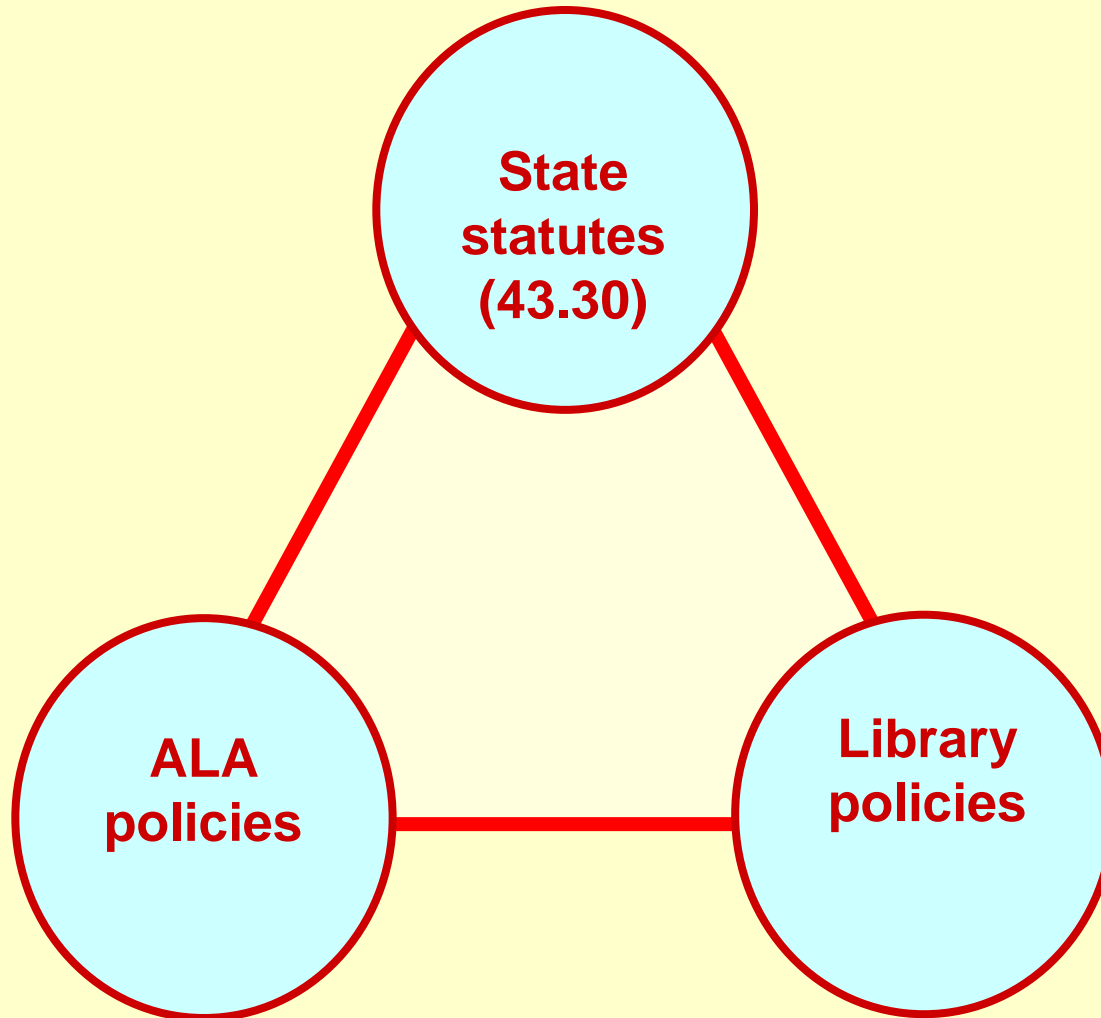
- Governor Doyle created Office of Privacy Protection (<http://privacy.wi.gov>)
 - ❑ Has fact sheets and other useful information
 - ❑ Has “alerts” on PII releases affecting state residents
- Recent state laws on privacy
 - ❑ Act 261: Prohibits sale or sharing of phone records
 - ❑ Act 138: Institutions must notify us if our PII is lost or illegally accessed

Another slip-up opens 260,000 to ID theft in Wisconsin

By Mark Pitsch
608-252-6145
January 8, 2008

The Social Security numbers of about 260,000 Wisconsin residents who participate in the Medicaid, BadgerCare or SeniorCare programs were mistakenly disclosed on an item sent through the mail, a state official said Tuesday.

Library Privacy Protections



ALA Privacy Resources



➤ ALA's Privacy Tool Kit:

<http://www.ala.org/ala/aboutala/offices/oif/iftoolkits/toolkitsprivacy/privacy.cfm>

- ❑ Includes steps for drafting a privacy policy, and
- ❑ A list of practices and records to include in an audit

➤ ALA 's Office for Intellectual Freedom now hosts:

<http://www.privacyrevolution.org/>

as a resource for individuals to examine privacy in our society

WI Library Privacy Law *



WI Library privacy law covers the following:

1. Any library supported by public funds

public libraries, library systems, public K-12 schools, UW and WTCS libraries

2. Any records indicating the identity of a library user (child exception)

name, telephone no., street address, email, Internet sign-up sheets

3. Use of library materials or *other resources or services*

circulation records, Internet use, reference questions, program attendance—nearly any use of the library.

Exceptions to the Library Privacy Law



- Court order
- Anyone authorized by the patron
- Parents or guardians of minors under age 16
- Staff acting within their duties
 - For interlibrary loan
- Law enforcement request for surveillance tapes
 - Wisconsin Act 34, passed Nov 16, 2007
- *But not* release of patron PII to a collection agency

Exceptions: Custodial Children



- Sample Policy on Privacy of Library Records and Use: <http://dpi.wi.gov/pld/doc/privacypolicy.doc>

Exceptions: Observations vs. Records



- Reporting an “observation” is not necessarily in violation of library privacy law.* For instance, if the library staff knows the name of a person who snatched a purse. ***But***
- If the police need evidence that the purse-snatcher was at the library at that time, the library cannot provide circulation records without a court order
- The AG opinion from 2006 refers to emergency circumstances when releasing records without a court order may be appropriate.

* WI State Statutes 43.30

WI Personal Information Practices Law *



- Libraries must develop rules of conduct for staff involved in collecting, maintaining, using, providing access to, sharing, or archiving PII
- Libraries must ensure that the staff know their duties and responsibilities relating to protecting personal privacy, including applicable state and federal laws
- Libraries cannot sell or rent records containing patrons' PII

Library Actions

Typical Audit Questions



- What PII and non-PII is collected?
 - ❑ Is the same information collected from all patrons?
- For what reasons or purposes is it collected?
 - ❑ What library services or applications are using the data?
 - ❑ Exactly what data are they using?
 - ❑ How are data shared between services and applications?
- In what format is PII collected?
- Who has access to PII for each library service and application?

Library Actions

Typical Audit Questions



- How long is the PII retained, both real-time and archival?
- What security measures are in place to protect PII and networked systems?
- What PII is transmitted or accessed by other libraries or third parties?
- Under what circumstances can what types of PII be released, and to whom?

Library Actions

Educate and Inform



➤ Library board

- ❑ The board must support library policies and the law and be aware of their limited right to access

➤ Library staff

- ❑ Address privacy in any employee handbook, or in any new employee orientation. Be certain employees know
 - ❖ State statutory privacy protections
 - ❖ How to respond to any patron complaint
 - ❖ How to respond to any requests from law enforcement

Library Actions

Educate and Inform



- Library patrons
 - ❑ Notify patrons of their privacy rights
 - ❑ Place a privacy statement on the library's Website
 - ❑ Create a flyer outlining patron privacy rights and the policy
- Law enforcement
 - ❑ Make sure the municipal attorney and police chief is aware
- Library System
 - ❑ Encourage your consortium to adopt policies and practices to ensure patron privacy protections

Library Actions

Review and Adjust Practices



- Store only what's necessary
 - ❑ Restrict access to patron information only to appropriate library personnel—don't give access to board or municipality
 - ❑ Rather than sign-up sheets for library computers or other uses, develop more anonymous systems, or use software for booking
 - ❑ Retain information connecting a user to a transaction only as long as needed, then discard
 - ❑ On public computers, set to reboot after each user, to clear caches, temp directories, and recent history. Delete cookies or set browser to reject them.
- Avoid practices or procedures that place patron information in the public view.
- Set circ desk practices that allow discretion for patrons

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Questions??

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