

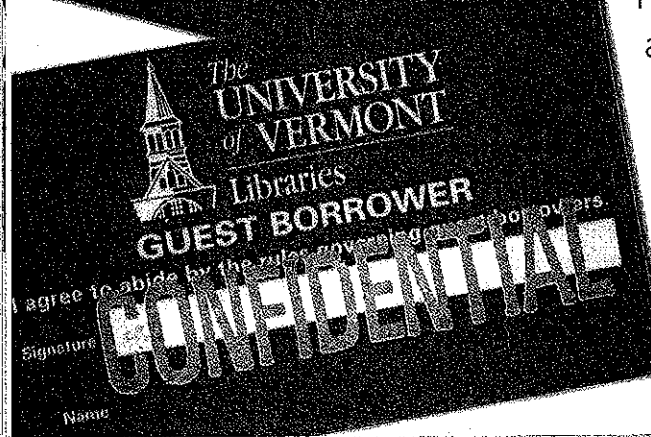
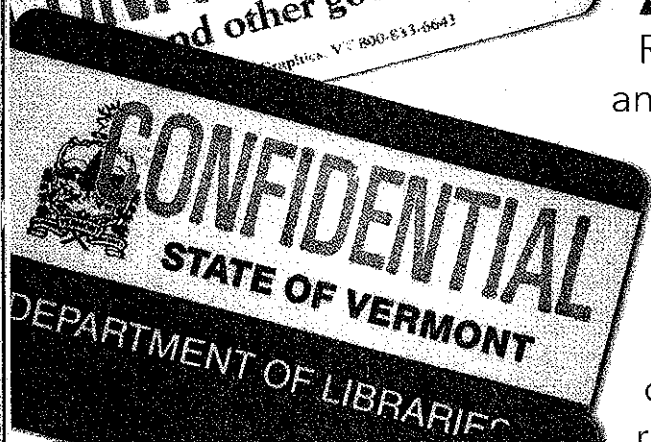
A Privacy Victory in Vermont

A new law protects patron confidentiality

by Trina Magi

A state police detective entered the tiny Kimball Public Library in Randolph, Vermont, June 26 and attempted to seize the public access computers. A 12-year-old girl was missing, and the police had received a tip that she sometimes used the terminals. Children's librarian Judith Flint demanded a search warrant, as required by the library's board-approved policy. "The lead detective said to me that they need to take the public computers and I said, 'OK, show me your warrant and that will be that,'" she told the Associated Press.

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He told her he would go file the paperwork and get a judge's signature. Instead, he returned with four additional state police officials, but no court order. "He did say he didn't need any paper. I said 'You do.' He said 'I'm just trying to save a 12-year-old girl,' and I told him, 'Show me the paper.'"

Investigators returned with a warrant about six hours later.

Flint's demands were backed up by library Director Amy Grasmick, but the pair might have had an easier time had the confrontation occurred just a week later: A new state statute that went into effect July 1 affirmatively declares patron registration and transaction records confidential in all types of libraries—public, academic, school, archives, and others open to the public.

The law prohibits sharing those records except: 1) with written permission of the library patron; 2) to library officers, employees, volunteers, and agents as necessary for library administration; 3) in response to an authorized judicial order or warrant; and 4) to custodial parents or guardians of a student by the library at the school the student attends, in accordance with the federal Family Education Rights and Privacy Act (FERPA). The Vermont law also allows any library to release information to custodial parents and guardians of patrons under age 16, a compromise provision written into the bill by a Senate committee after hearing testimony from parents, some of whom wanted the law to protect the confidentiality of all minors and others who wanted full parental access to records of their children under 18.

The Vermont Library Association (VLA) initiated work on this legislation almost two years ago to address longstanding confusion in the state about library records. While the state's open-records law said that library records were not

public documents, it fell short of explicitly saying that they were confidential. "This led to a lot of different and conflicting interpretations by state officials, members of law enforcement, librarians and others. The association has been dealing with that confusion for years, and we de-

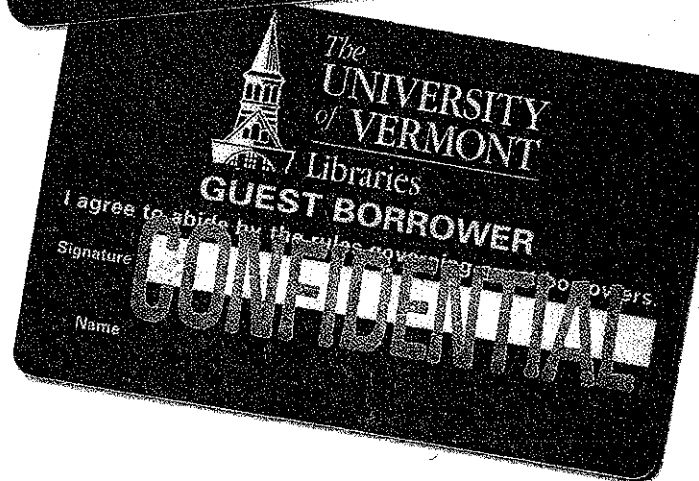
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cid to do something to address it," says Gail Weymouth, director of the Sherburne Memorial Library and current chair of the VLA Intellectual Freedom Committee.

"In 2006, a survey of library directors in Vermont showed a tremendous level of support for a new statute, so we set to work looking at laws in other states and drafting language," Weymouth explained. "This was truly a grassroots effort initiated and conducted by librarians in Vermont. Of course, many other people and groups offered assistance or information, including a faculty member and student at Vermont Law School, the Vermont Department of Libraries, the Vermont ACLU, the American Library Association, and a lobbyist that VLA had hired to work on a library funding initiative."

The 2006 survey also showed that libraries in Vermont had received at least 1,200 requests for patron information in the year before the survey. "The requests came from many different sources, including neighbors, friends, teachers, law enforcement and parents," says Barbara Doyle-Wilch, recently retired dean of library and informa-

tion services at Middlebury College and past president of Vermont Library Association. "Most of the time, people making the requests are well-meaning, such as the patron who is curious about whether her friend read and liked a certain book. But our code of ethics requires that we treat all patron information as confidential, because we can't be sure that a patron doesn't mind someone else knowing. We wanted the law to affirm [ALA's] code of ethics."

In spring 2007, VLA contacted the Vermont School Library Association (VSLA) and invited school librarians

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—Susan Monmaney

and VSLA past president. "We live in a complex society, and as our students come into discovering who they really are and determining their values, they need the confidence to explore the issues that they're concerned about. It's very healthy for them to do that," Fournier recounts, "When VLA asked us to join the effort, we were in a state of heightened awareness about intellectual freedom

to join the effort. After consulting its membership, the VSLA board decided to collaborate. "The law is very important for students," says Jean Fournier, librarian at St. Johnsbury Academy

because we had been dealing with three book challenges that year,"

Susan Monmaney, technology coordinator/teacher and former librarian at Main Street Middle School in Montpelier and current VSLA president, testified at one of the hearings regarding the bill. "It was a fascinating process, and I was pleased with the degree of respect in the room during the hearing," she says. "It was satisfying to see that the right to privacy is something people fundamentally agree with. And the process sparked some very good discussions among librarians about best practices for protecting patron confidentiality. For example, is it a good idea to have student volunteers checking out materials to their peers in the school library?"

Monmaney acknowledges that school librarians must abide by FERPA, but she is disappointed by the fact that the law doesn't give minors full confidentiality protection in the public library. "Some people seem to believe that by advocating for confidentiality for everyone, librarians were trying to take away a longstanding right of parents to access library records. That's simply not true. In reality, before recent automation of library records, it would have been a daunting task to try to figure out what a patron had checked out."

Weymouth agrees. "There are many ways parents can be involved in their

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children's use of the library. And we encourage parents to talk with their children about what they're reading and to help them choose appropriate materials," she says. "But sometimes kids are dealing with serious issues—like child abuse, an alcoholic parent, or a health question—and they need good information. We want them to be comfortable getting that information at the library. Confidentiality is important for them, just like it is for adults."

Allen Gilbert, executive director of the American Civil Liberties Union of Vermont, says he is very pleased the bill passed. "Librarians 'get it' when it comes to the importance of privacy rights. The ACLU was proud to work with VLA and VSLA on Vermont's library patron rights bill. The freedom to read without someone looking over your shoulder is a fundamental right."

VLA's Intellectual Freedom Committee views several of its actions as important to the success of the bill. The committee:

- reviewed other state statutes and drafted language that was clear and appropriately inclusive;
- presented a united front, with school, public, and academic librarians testifying together in support of the legislation;
- kept the association membership well informed

and provided materials about the bill that librarians could share with their constituents;

- had a continuous presence in the statehouse to monitor the bill's progress, and was available on short notice to testify at hearings; and

- recruited librarians in the towns of legislative committee members to call their representatives and urge action on the bill.

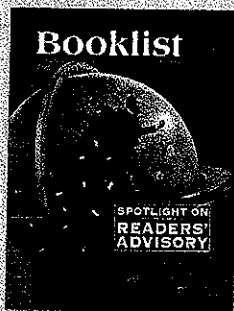
During the process, the Intellectual Freedom Committee learned that while it was important to focus on the principles of free speech, access to information, and the library code of ethics, testimony would have been strengthened by including personal stories and anecdotes to illustrate the impact of these principles on people's lives. Librarians in other states planning similar initiatives would be wise to gather such compelling stories.

VLA is now working with the Vermont Department of Libraries to assist librarians in writing and updating their confidentiality policies.

While many libraries already provided confidentiality protection for their patrons, with the new law in place, library patrons across Vermont have greater assurance that their reading habits and research interests are private matters that they alone can decide to share with others. ■

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