

# FEATURE



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Students rely on school librarians to protect their right to read. We stealthily deliver graphic novels to them in the hallways. We make sure there are no spine labels that reveal reading levels. We put poetry magazines in manila envelopes to shield students from bullies. As school librarians, we protect our students from censorship and go above and beyond to honor their reading choices. We must also protect their library records. It's not just the ethical thing to do, it's the law.

In his 2007 article "How Does the Family Rights and Privacy Act [FERPA] Affect You" Thomas V. Togli explained that, under the law, student records can be disclosed to third parties only with authorization from a parent if the student is under the age of eighteen (2007, 61). Although library records are not explicitly discussed in the act, they are not listed in the exemptions. Therefore, it is common practice to include library records in the definition of student records (Adams 2005). What should school librarians do when local law enforcement wants to take a peek?

### Playing Detective

On my way into school one beautiful spring morning, I was intercepted by our school secretary. "Guess what? We just got a phone call, and we get to play detective to help solve a real crime," she said. One of our school library books was found at the scene of a crime in a neighboring county. The police provided her with a barcode number and wanted me to look up who had checked out the book. She was very excited—like we were on an episode of *Law and Order*, and I was going to have the information that would crack the case wide open.

# TO PROTECT AND SERVE



**AS SERVANTS OF OUR SCHOOL  
COMMUNITY AND PROTECTORS OF OUR  
STUDENTS' RIGHTS, IT IS THE ETHICAL  
DUTY OF SCHOOL LIBRARIANS TO  
CHAMPION STUDENT PRIVACY AND  
RESIST THREATS TO IT.**

I took the barcode number back to my office and thought, "This is not right. I don't think I can or want to do this." I remembered vaguely from library school that library records were to be protected, but I was not confident about school library records. I looked up the American Library Association's "Policy on Confidentiality of Library Records." It stated that "circulation records and other records identifying the names of library users [are] to be confidential...such records shall not be made available to any agency of state, federal, or local government except pursuant to such process, order or subpoena" (ALA 1986). The American Association of School Librarians "Position Statement on the Confidentiality of Library Records" stated that "The library community recognizes that children

and youth have the same rights to privacy as adults" (AASL 2012).

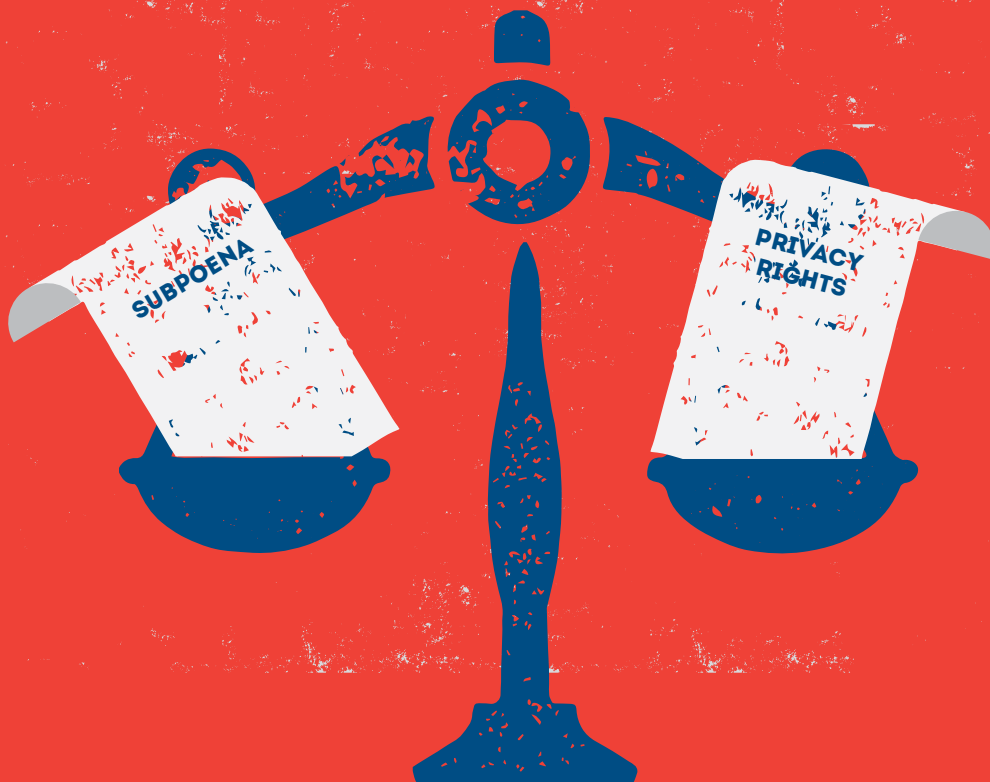
Armed with this information, I refused to call the detective back and, instead, called my library supervisor at our district office. I told her I didn't know what legal obligation I was under to disclose the identity of the student. My instinct was to do nothing. I didn't even look up the information for curiosity's sake in case I had to go to court. She blessed my actions and told me to sit tight while she discussed the matter with our district lawyers.

### **Civic Duty vs. Ethical Duty**

A few hours later my principal came to see me. She explained she had just spoken with the detective and

wanted to know if I had looked up the information yet. I told her I called my library supervisor because I didn't think I had the right to give away this information. She was perplexed and believed it was my civic duty to help the police. I explained to her it was my ethical duty as a librarian to protect my students' privacy rights. She decided not to worry about it and wait until I received direction from my library supervisor.

Later in the day, my supervisor called to say she had spoken with the district lawyers and they said not to disclose the student records until a subpoena was shown. To comply with FERPA, it is our county policy to disclose student records only with the parents' authorization (HCPS n.d.).



## The Shakedown

Days went by, and I heard nothing. Then, our school resource officer asked to speak with me. I had known this officer for a few years, and we had a nice working relationship. Imagine my surprise when this conversation turned into an interrogation about why I couldn't look up the information for him. I explained that I was instructed by our lawyers not to disclose the records without a subpoena. He asked what made library records so "sacred." As a school resource officer, he had access to all students' directory data, and all he needed was the name of the student who had checked out the book, and he would be able to trace the parent. I indicated that library records do not belong to my school and said he could go to the district office with a subpoena, and anyone there could access the records. He insisted I should comply with his request. I refused again, explaining that if a subpoena were to arrive, I would need to fax it to our lawyers for verification.

## The Subpoena Is Served

A few days later a group of detectives arrived at my school with the county police. They presented me with a subpoena and asked that I look up the checkout record. I faxed the subpoena to our lawyers for approval. They looked it over and instructed me to give the police only the name of the student. I gave them the information and never heard from them again.

## Protecting Privacy in Practice

When I became district library supervisor, one of my first changes to our handbook was adding a section on student privacy. We ensured it clearly stated that student library records should be kept confidential and librarians should

notify our district office if anyone other than the parent asks for them. We also made sure our circulation system did not keep checkout records past one previous user, and we strengthened our circulation policies to eliminate peer checkout practices.

## Conclusion

Sometimes members of law enforcement feel they are entitled to information, and librarians can feel pressure from their school communities to comply. I was fortunate enough to be in a large district with a school library supervisor who could work with our legal department on my behalf. Although the chances of being prosecuted under FERPA may be slim (McDonald 2008), as servants

of our school community and protectors of our students' rights, it is the ethical duty of school librarians to champion student privacy and resist threats to it.



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