

## ***Board of Library Commissioners Policy Committee (a committee of the whole)***

***May 18, 2004: MINUTES***

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### Library Commissioners Present:

- Helen Boyle
- Janet Denney
- Janet Edwards
- Barbara Garvey
- Vera O'Connor
- Rudy Ruggeri
- Bettye Webb

### Guest Speakers Present:

- Attorney Kevin O'Regan (Springfield U.S. Attorney's Office)
- Attorney Maria Puppolo (Springfield Law Department)

### Library Staff Present:

- Emily Bader, Library Director
- Lee Fogarty, Assistant Library Director

Meeting called to order at 5:02 P.M.

Privacy Policy - Commissioners reviewed the previous discussion concerning confidentiality of Library records (Mass. General Laws, Chapter 78, Section 7). Discussion focused on the issue of providing confidential information to parents of minors, particularly the "eleven years old and younger" clause in the existing policy. Emily Bader provided information on the background of the clause. A discussion ensued. Commissioner O'Connor entertained a motion to strike out "eleven years and younger" and put in place "seventeen years and younger." Commissioner Denney seconded the motion. Voting for the motion: Commissioners Boyle, Denney, Garvey, O'Connor, and Webb. Voting against the motion: Commissioner Edwards. The motion passed. Commissioner Edwards requested a review of the change to the clause since it seems to be in conflict with State Law. So noted.

Attorney Kevin O'Regan, representing the Springfield U.S. Attorney's office, gave an overview of the Patriot Act and its impact on Libraries. Attorney O'Regan stated that, in his opinion, the Patriot Act did not have any significant impact on libraries. The Patriot Act reinforces traditional law enforcement techniques used to investigate terrorism that apply to everyone and not just to libraries. The specific techniques are:

- Voluntary interviews with Library patrons and staff
- Subpoenas which compel testimony
- Search warrants which compel searches of records or premises.

According to Attorney O'Regan, Library patrons should not be concerned about the Patriot Act as an infringement on 1st Amendment rights. Libraries are the foundations of a free society and have no interest in what individuals are reading from an investigative point of view. However, there are legitimate instances when law enforcement would request patron records if they are investigating a crime or threat of a crime. If a subpoena is issued it should be

reviewed by the City Law Department before compliance. However if a warrant is issued, it must be implemented immediately. Attorney Puppolo recommended that the warrant be faxed to the Law Department immediately for verification. The Law Department could verify the legitimacy of a search warrant within five minutes. During non-business hours, someone is always on call. Attorney Puppolo provided contact information for non-business hours.

Commissioner Garvey commented on staff procedures and was especially pleased that staff is directed to refer all such requests to managers and administration. Staff present had some questions concerning photocopying ID's of law enforcement personnel. Attorney Puppolo stated that sometimes these requests could be denied. At that point staff could record the name and identification number of the Official requesting information.

Attorney O'Regan also discussed the expanded powers of the Patriot Act as they relate to subpoenas and warrants issued by the FISA Court. The Patriot Act reduces the burden of proof the FBI needs to get search warrants as they relate to Terrorist suspects. However, while it reduces the burden of proof, the authority of the court is still required in all instances.

Director Bader questioned the "Gag Order clause" contained in Section 215 of the Patriot Act. Attorney O'Regan stated that the Library would be notified in writing that a gag order was in effect, which specifically would not allow Library staff to notify a patron that their records were being searched. However, it has never been used.

Commissioner Edwards stated that she is not ready to vote on the Privacy Policy and would like to proceed further with the discussion. Commissioner Edwards moved that the Commission review the full text of the Patriot Act. Motion fails.

Commissioner Garvey requested that Attorney Puppolo:

- Review the current law
- Review the current policy in its entirety
- Report her findings at the June 1st , 2004 Library Commission meeting.

Commissioner O'Connor entertained a motion to allow Attorney Puppolo to proceed. Commissioner Ruggeri seconded the motion. Motion carried.

A discussion was held concerning a Library in Connecticut sued by a patron for allowing a search warrant to be implemented. Attorney O'Regan reviewed the article and determined that the warrant had not been signed and was therefore not a legal document.

Meeting adjourned at 6:02 p.m.

Approved: June 1, 2004