

➤ Hearing Records ... HR

\*\* **07hr\_sb0214\_SC-PHSILTCP\_pt01**

WISCONSIN STATE  
LEGISLATURE ...  
PUBLIC HEARING  
COMMITTEE RECORDS

**2007-08**

(session year)

**Senate**

(Assembly, Senate or Joint)

Committee on  
Public Health, Senior  
Issues, Long Term  
Care and Privacy

(SC-PHSILTCP)

(FORM UPDATED: 07/02/2010)

**COMMITTEE NOTICES ...**

➤ Committee Reports ... CR

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➤ Executive Sessions ... ES

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➤ Public Hearings ... PH

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➤ Record of Comm. Proceedings ... RCP

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**INFORMATION COLLECTED BY  
COMMITTEE FOR AND AGAINST  
PROPOSAL ...**

➤ Appointments ... Appt

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Name:

➤ Clearinghouse Rules ... CRule

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➤ Hearing Records ... HR (bills and resolutions)

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➤ Miscellaneous ... Misc

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( )

# Vote Record

## Committee on Public Health, Senior Issues, Long Term Care and Privacy

Date: 9/19/07

Moved by: Cowles

Seconded by: Kreitlow

AB \_\_\_\_\_ SB 214 Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:  
 Passage     Adoption     Confirmation     Concurrence     Indefinite Postponement  
 Introduction     Rejection     Tabling     Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Senator Tim Carpenter, Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Spencer Coggs</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Pat Kreitlow</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Dale Schultz</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Robert Cowles</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>5</u>	_____	_____	_____

Motion Carried

Motion Failed

# Vote Record

## Committee on Public Health, Senior Issues, Long Term Care and Privacy

Date: 9/19/07

Moved by: Cowles

Seconded by: Coggs

AB \_\_\_\_\_ SB 214 Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_

AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt 1

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- Passage   
  Adoption   
  Confirmation   
  Concurrence   
  Indefinite Postponement  
 Introduction   
  Rejection   
  Tabling   
  Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Tim Carpenter, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Spencer Coggs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Pat Kreitlow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Dale Schultz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Cowles	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>5</u>	_____	_____	_____

Motion Carried

Motion Failed

# Vote Record

## Committee on Public Health, Senior Issues, Long Term Care and Privacy

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Date: 9/19/07

Moved by: Kreitlow

Seconded by: Cowles

AB \_\_\_\_\_

SB 214

Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_

SJR \_\_\_\_\_

Appointment \_\_\_\_\_

AR \_\_\_\_\_

SR \_\_\_\_\_

Other \_\_\_\_\_

A/S Amdt 2

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- Passage    
  Adoption    
  Confirmation    
  Concurrence    
  Indefinite Postponement  
 Introduction    
  Rejection    
  Tabling    
  Nonconcurrence

Committee Member

**Senator Tim Carpenter, Chair**

Aye    No    Absent    Not Voting

**Senator Spencer Coggs**

**Senator Pat Kreitlow**

**Senator Dale Schultz**

**Senator Robert Cowles**

Totals:    5    \_\_\_\_\_    \_\_\_\_\_    \_\_\_\_\_

Motion Carried

Motion Failed



# WISCONSIN LEGISLATURE

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July 12, 2007

The Honorable Tim Carpenter, Chair  
Senate Committee on Public Health, Senior Issues, Long Term Care and Privacy  
Room 306 South, State Capitol  
Madison, WI 53701

Dear Tim,

Senate Bill 214 was recently referred to your committee and we are writing to request a public hearing. Current law prohibits public library records from being disclosed to any person except in certain specified circumstances. This bill requires a public library to disclose to a law enforcement officer, upon his or her request, all records produced by a surveillance device, if the officer is investigating criminal conduct alleged to have occurred at the public library.

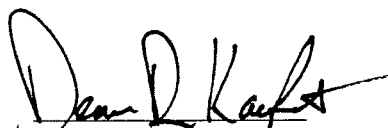
An incident at the Neenah Public Library highlighted the need to change the statute. The Neenah Public Library had video recordings of a man self satisfying himself between book aisles, but were unable to turn that video over to police to investigate without a proper court order. This legislation would allow public libraries to share these videos without a court order.

We have worked with the Wisconsin Library Association in developing this legislation and have their support for the bill.

Thank you for your consideration.

Sincerely,

  
MICHAEL G. ELLIS  
State Senate

  
DEAN R. KAUFERT  
State Assembly





Wisconsin Library Association

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www.wla.lib.wi.us  
email: wla@scls.lib.wi.us

- Association of Wisconsin Special Librarians
- Wisconsin Association of Academic Librarians
- Wisconsin Association of Public Libraries
- Wisconsin Library Trustees and Advocates

- Circulation Services
- Government Information
- Intellectual Freedom
- Library Research
- Library User Education
- Media and Technology
- Outreach Services
- Readers
- Reference & Adult Services
- Resource Sharing
- Social Responsibilities
- Support Staff
- Technical Services
- WI Genealogy & Local History
- Wisconsin Small Libraries
- Youth Services

**Testimony of Paul Nelson**  
**Member, Wisconsin Library Association (WLA)**  
**Chair, Library Development & Legislation Committee**

**Senate Committee on Public Health, Senior Issues,  
Long Term Care and Privacy**  
**SB214 (For Information Only)**

August 15, 2007

Senator Carpenter and other members of the Committee,

Thank you for the opportunity to present my testimony to you today.

My name is Paul Nelson. I've been a member of the Wisconsin Library Association for 29 years and currently serve as chair of the WLA Library Development & Legislation Committee. I present this testimony on behalf of the more than 2,000 members of the association, as well as the thousands of other library advocates across the State of Wisconsin.

We appreciate the work that Senator Ellis and Representative Kaufert and their staff members have done with a bill to address the application of s. 43.30 to library video surveillance as it applies to s. 43.30. The Wisconsin Library Association, however, has not taken a position this legislation for two reasons.

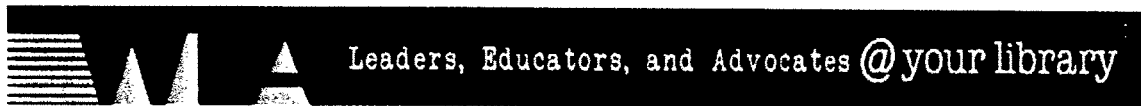
The first concern deal with what we feel is the overly broad language used in 43.30(5). WLA suggested the phrase "*that are pertinent to the alleged criminal conduct*" be added to this section, which was accepted by Sen. Ellis and Rep. Kaufert. We are still uncomfortable with the introductory clause of this section: *Upon the request of a law enforcement officer...*

A second, much larger, concern arises from the Attorney General's opinion to a request from DPI to clarify the application of s. 43.30 to library video surveillance recordings and other library records. As a result of this opinion, it became clear that certain changes needed to be made to s. 43.30. The statewide library community has worked with DPI staff to address these issues, and they are set forth in an issue paper attached to my testimony.



The WLA Library Development & Legislation Committee has not yet had a chance to review the DPI bill. This proposed legislation, however, addresses the various privacy-related issues the committee has been discussing at length this year. Speaking as a Library Director, I am more comfortable with the DPI language that refers to the disclosure of records produced by a surveillance device. This language, for example, would have clearly granted Neenah Public Library Director Stephen Proce the authority to turn over surveillance tapes without a court order.

Once again, I want to thank Sen. Ellis and Rep. Kaufert of raising the issue of video surveillance tapes in libraries. As stated in DPI's testimony, however, SB214 addresses only criminal conduct at the library. The DPI bill provides for a more comprehensive approach – one that takes into consideration all of the issues set forth in the attached WLA issue paper.



## **Amendment to Wisconsin's Library Record Confidentiality Law**

### **Recommendation in Summary**

WLA seeks an amendment to s. 43.30 that would create a new narrow exception to the court order requirement for release of library records for library administrative purposes including collection of fines and penalties, and the protection of library staff, library users, and library property.

### **Background**

Wisconsin's library record confidentiality law (s. 43.30) essentially provides that public library records indicating the identity of any individual library user may not be disclosed except by court order, or to persons acting within the scope of their duties in the administration of the library, to persons authorized by the individual to inspect the records, to custodial parents of children under the age of 16, or to other libraries for purposes of interlibrary loan.

On November 27, 2006, the Wisconsin Attorney General's office issued an informal opinion on the application of s. 43.30 to library video surveillance recordings. This opinion was in response to a request for an opinion from the State Superintendent of Public Instruction based on issues raised by the Sun Prairie Public Library. There had been situations in which local police wanted to review library video tapes, as well as situations in which library officials wanted the police to view library surveillance tapes, in one case, because the library's donation box was stolen while the library was open.

The AG opinion concludes the following:

- All library video surveillance recordings fall within the protections of s. 43.30, including recordings that may identify an individual in the library but do not identify the particular library materials or resources used by that individual.
- Also protected are recordings that only show individuals entering or exiting the building, since these recordings may identify individuals who are using the resources of the library in some fashion.
- Only with a court order may library staff disclose library video recordings or other library records to law enforcement officials (or others) for such purposes as seeking assistance with the recovery of stolen library property or the prosecution of persons who vandalize library property. The only exception to the court order requirement is if someone's life or safety is at risk, such as a child abduction at the library. In such a case, library staff could provide police with video recordings without a court order.
- Wisconsin Statutes s. 43.30 does not preclude library staff from reporting to police observations of criminal activity in the library. So, if library staff observe a patron steal library materials or assault another patron, staff may certainly report the crime to the police and identify the perpetrator. If staff observe possible

criminal activity on videotape after the fact, staff may disclose detailed information regarding the crime to police without disclosing the patron's identity. Officers may then obtain a court order to secure release of the records.

The AG opinion recommends that the statewide library community develop and propose amendments to s. 43.30 that "cure some of the statute's deficiencies". In particular, they suggest that s. 43.30 could be amended to simultaneously protect library patron privacy and still allow library staff to provide library surveillance videos (or other library records) to the police when criminal activity is suspected or witnessed.

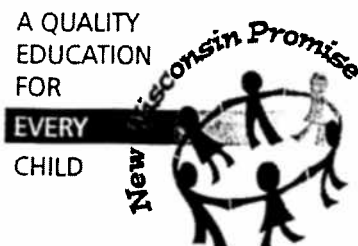
Additional issues are raised by the fact that many Wisconsin libraries currently provide law enforcement officials with library records (not video recordings) to assist with the recovery of non-returned materials, without first obtaining a court order. Other libraries use private collection agencies for these purposes. According to this AG opinion, these practices are probably not allowable.

Based on the input gathered by the Wisconsin Library Association's Library Development & Legislation Committee, we believe the following 5 points summarize what the library community wants to accomplish through an **amendment to s. 43.30 (confidentiality of library records)**:

1. Allow the library to release library records to protect against imminent threats to the life or safety of an individual. [The Attorney General's opinion said this is allowable under the current statute, but we think it would be advisable to make this explicit in the text of s. 43.30.]
2. Allow the library to release records to law enforcement officials when reporting apparent illegal activities. [These records could be surveillance video recordings as well as registration records indicating the identity/address, etc. of the suspect.]
3. Allow the library to release records to law enforcement officials or a collection agency for the purpose of recovering overdue library materials or collecting fines and penalties.
4. Allow the library to release records to a business partner of the library for management of library data, transfer of library data from one records management system to another, and statistical analysis of library use data.
5. Allow the library to release records to a business partner of the library for purposes of conducting library user surveys, educating library users, or otherwise promoting the legitimate services, programs or other interests of the library.

The library community definitely wants to protect against opening up library records to "fishing expeditions" or other releases of records that could compromise the privacy of library use.





# State of Wisconsin Department of Public Instruction

Elizabeth Burmaster, State Superintendent

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Senate Committee on Public Health, Senior  
Issues, Long Term Care, and Privacy  
August 15, 2007

## Department of Public Instruction Testimony on 2007 Senate Bill 214

Thank you Chairperson Carpenter and committee members for the opportunity to testify on Senate Bill 214. My name is Rick Grobschmidt. I am the Assistant Superintendent of the Division of Libraries, Technology, and Community Learning and am here today to speak for information only.

Wisconsin library law provides important privacy protections for library users. Free access to ideas and freedom of expression are bedrock principles of this country and are incorporated into the Bill of Rights. Libraries are institutions dedicated to the ideal of freedom of expression and inquiry. Freedom of inquiry is protected only if people can be assured that records of their library reading, research, and viewing habits are protected from inappropriate disclosure.

Increased use of video surveillance systems in libraries raised questions about the treatment of these video recordings under s. 43.30. In response, the DPI requested an Attorney General opinion to clarify the application of s. 43.30 to library video surveillance recordings and other library records. The November 27, 2006, opinion made it evident that certain changes in s. 43.30 may be desirable, and urged the DPI to work with the statewide library community to craft appropriate changes. Based on this we have had a bill drafted that incorporates recommended changes and is supported by the majority of the state's library community.

We commend Senator Ellis and Representative Kaufert for moving ahead with a bill to address the application of s. 43.30 to library video surveillance recordings; however, we believe our bill will represent a more comprehensive approach to the issues raised by the Attorney General opinion.

The DPI bill addresses three issues of concern to Wisconsin libraries:

1. Our bill would make it permissible for a library to disclose library video surveillance recordings to law enforcement officials in situations in which illegal activity may have been committed in or around the library or when an individual may otherwise have violated library regulations. Library video surveillance recording may be helpful to the police in curbing illegal behavior such as theft or damage to library property, or the theft

of personal property in the library or outside the library in the parking lot or other areas covered by library surveillance cameras.

2. Our bill would make it explicit that a library may release records to “protect against an imminent threat to the life or safety of an individual.” According to the Attorney General opinion, disclosure of library records for this type of serious emergency purpose is allowable under current law. However, we believe it may be desirable to make this explicit in the statutes in order to help prevent possible confusion about the legality of the release of records in an emergency situation such as the abduction of a child in the library.
3. Our bill would make it permissible for a library to disclose library records to law enforcement officials and/or a private collection agency to help seek the return of long-overdue materials or seek compensation for the value of non-returned materials. According to the Attorney General opinion, under current law this type of disclosure of library records is only legal if a court order approves the specific disclosure.

SB 214 only addresses criminal conduct at the library, while our bill would provide for a more comprehensive approach to the release of library records for the enforcement of library regulations and local, state, and federal law; while also protecting the privacy of library use.





**MILWAUKEE**  

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**PUBLIC LIBRARY**

August 15, 2007

Committee on Public Health, Senior Issues, Long Term Care and Privacy

Testimony on SB 214

Paula Kiely, Director, Milwaukee Public Library  
414-286-3020; [pkiely@milwaukee.gov](mailto:pkiely@milwaukee.gov)

Senator Carpenter, honored committee members, thank you for the opportunity to discuss SB 214. My name is Paula Kiely and I'm the director of the Milwaukee Public Library (MPL). With me is Susan Knorr, Coordinator of Public Services and Security for MPL.

Fundamental to all public libraries is the principle of patron privacy. The library materials a person reads and uses, and the information and questions shared with librarians are held in confidence. Without this confidentiality and the protection of patron privacy, a chilling effect will result; keeping people from the information and literature they need and want. Chapter 43.30 was written to guarantee this privacy by protecting "library records."

The November 2006 Wisconsin Attorney General's opinion reinforced this protection and, in fact, strengthened it. However, in doing so, libraries have lost their ability to easily use security system surveillance information for the purpose it was intended – to protect the safety of library users and the property of libraries. SB 214 hopes to correct this, but in doing so fails to correct other deficiencies in the current statute, as noted in the Attorney General's opinion. The proposed bill only addresses police access to video surveillance images and maintains the assumption that these images are protected records.

We are pleased Senator Ellis and Representative Kaufert, along with the other co-sponsors of SB 214 recognize the need for change. We agree, change is needed and SB 214 is a step in the right direction. However, we believe it goes too far in some respects, and not far enough in others.



The Milwaukee Public Library, the Milwaukee Police Department and the Milwaukee City Attorney's Office have drafted new language in response to the Attorney General's opinion. This language was just being finalized when SB 214 was introduced. We believe Milwaukee's language better satisfies the needs and requirements of law enforcement, the privacy concerns of libraries and legal standards.

Libraries need and want to work cooperatively with law enforcement, to provide information identifying someone who violates the law, especially when we are the ones who have contacted the police. SB 214 would not allow this.

Law enforcement and libraries need to work together to ensure that the right information is shared for the right reason. SB 214 states that "...the library shall disclose to the law enforcement officer all records produced by a surveillance device under control of the library." We believe this language is overly broad and will place a burden on libraries to provide records without any limitation, restriction or guidelines.

We ask you to consider the Milwaukee revisions to SB 214, which will do these things:

1. Allow the release of video images for "illegal" as well as criminal activity.
2. Specify that illegal or criminal activities of interest to law enforcement may take place outside a library and well as inside.
3. Replace the non-specific term "library record" with "patron record" and "circulation record" – the records intended to be protected by 43.30.
4. Allow library staff to give surveillance images to law enforcement officers when initiating police assistance.
5. Allow library staff to share information with others for legitimate business purposes, such as working with a collection agency or marketing library services.
6. Allow local library boards to establish their own policies on the release of information, eliminating the administrative burden that could develop if there are no limits.

The revisions we propose recognize the changes in library security issues and technology, and address the point of the statute - respecting patron privacy. Our recommended language will also allow security surveillance systems to be used for the reasons they were installed – to enhance the safety of staff and patrons, to protect library property and to enforce policies and laws.

Thank you.





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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director*  
*Laura D. Rose, Deputy Director*

TO: SENATOR TIM CARPENTER, CHAIR, SENATE COMMITTEE ON PUBLIC HEALTH,  
SENIOR ISSUES, LONG-TERM CARE AND PRIVACY

FROM: Don Dyke, Chief of Legal Services

RE: 2007 Senate Bill 214, Relating to the Disclosure of Certain Library Records to Law  
Enforcement Officers

DATE: September 12, 2007

This memorandum describes the above-captioned bill and two amendments to the bill: Senate Amendment 1 and an unIntroduced amendment, Senate Amendment \_\_\_ (LRBa0682/1).

### **CURRENT LAW**

Current law generally prohibits the disclosure of those records of any library supported in whole or in part by public funds (including records of a public library system) which indicate the identity of any individual who borrows or uses the library documents or other materials, resources, or services. Section 43.30, Stats. The disclosure prohibition does not apply to records disclosed pursuant to court order or to records disclosed to persons acting within the scope of their duties in the administration of the library system, to persons authorized by the individual to inspect such records, to custodial parents or guardians of children under 16, or to other libraries for the purpose of borrowing materials for the individual. The Attorney General, in a letter to the State Superintendent, Department of Public Instruction, dated November 27, 2006, opined that library surveillance tapes are library records protected by s. 43.30, Stats., and that library officials generally may not disclose surveillance tapes to law enforcement or others without a court order.

### **SENATE BILL 214**

Senate Bill 214 requires a public library, upon the request of a law enforcement officer who is investigating criminal conduct alleged to have occurred at the library, to disclose to the law enforcement officer all records produced by a surveillance device under the control of the library.

**SENATE AMENDMENT 1**

Senate Amendment 1 limits the required disclosure of records produced by a surveillance device to those records “pertinent to the alleged criminal conduct.”

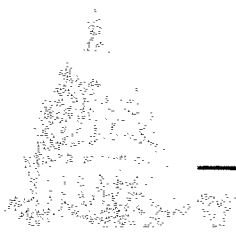
**SENATE AMENDMENT — (LRBa0682/1)**

This amendment adds a new provision to the proposal that is triggered when a library requests the assistance of a law enforcement officer. Under the amendment, if a library requests the assistance of a law enforcement officer and the library director determines that records produced by a surveillance device under the library’s control may assist the law enforcement officer to render the requested assistance, the library may disclose those records to the officer.

If you have any questions or need additional information, please contact me directly at the Legislative Council staff offices.

DD:jb:wu





WISCONSIN STATE SENATE

**TIM CARPENTER**

SENATOR – 3RD DISTRICT

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State Capitol • PO Box 7882 • Madison, WI 53707-7882 • Phone: (608) 266-8535

To: Members of the Senate Committee on Public Health, Senior Issues, Long-Term Care and Privacy.

From: Senator Tim Carpenter, Committee Chair.

Re: 2007 Senate Bill 214 and Amendments.

Date: September 17, 2007

Attached please find a copy of a Wisconsin Legislative Council memo regarding Senate Bill 214, Amendment 1 and LRBa0682/1. Copies of the amendments are attached also. Senate Bill 214 is noticed for executive session on Wednesday, September 19, 2007.





Date?

Department of Administration  
Intergovernmental Relations Division

Tom Barrett  
Mayor

Sharon Robinson  
Director of Administration

Paul Vornholt  
Director of Intergovernmental Relations

**Comments regarding Senate Bill 214 and Assembly Bill 433:**  
**Relating to the disclosure of certain library records to law enforcement officers.**

Providing library surveillance records to law enforcement has been a concern for the City of Milwaukee ever since we began to install interior and exterior surveillance cameras at our 13 Milwaukee Public Library locations. While our library staff has made every effort to be cooperative with law enforcement requests for records, state law very much limits what they are able to provide. A November 2006 opinion by the Attorney General spotlighted this dilemma and began a statewide discussion on how best to solve this problem.

This is a tricky issue because there is a clear need to balance the privacy rights of library patrons with the need to protect public safety in our city. As drafted, this legislation needs significant improvement to clearly accomplish this balance. For the reasons mentioned below, our City Librarian, Paula Kiely and our Chief of Police, Nanette Hegerty worked together to develop the following alternative language. This language has been reviewed and approved by our City Attorney's office and we believe it serves law enforcement's needs without jeopardizing the privacy rights of our library patrons.

**1) The Attorney General's opinion stated that the term "library records" included video surveillance records, requiring law enforcement officials to present a court order before the library could release a record. The term "library records" needs to be clarified. We suggest adding the following new language and inserting terms as appropriate throughout the bill:**

43.30 (1b) (c) "Registration Records" includes any information which the library requires a patron to provide in order to become eligible to use books and other materials or resources.

43.30 (1b) (d) "Circulation Records" includes any information which identifies the patron's using particular books, materials or resources.

**2) The current Bill is overly broad in respect to access of video records to law enforcement officers. It also does not allow library staff to share video records when they initiate contact with the police. The following change recognizes that illegal activity, not necessarily criminal activity, on or adjacent to library property, may be captured by surveillance cameras and also that police requesting film must relate it to an apparent crime. We suggest deleted (5) and revising (1m) as follows:**

~~43.30 (5) Upon the request of a law enforcement officer who is investigating criminal conduct alleged to have occurred at a library supported in whole or in part by public funds, the library shall disclose to the law enforcement officer all records produced by a surveillance device under the control of the library.~~

**43.30 (1m) Circulation and/or registration Records of any library which is in whole or in part supported by public funds, including the circulation and/or registration records of a public library system, indicating the identity of any individual who borrows or uses the particular library's documents or other particular materials, resources, or services may not be disclosed except by court order or to persons acting within the scope of their duties in the administration of the library or library system, to persons authorized by the individual to inspect such records, to custodial parents or guardians of children under the age of 16 as required under sub. (4), or to libraries as authorized under subs. (2) and (3), ~~or to law enforcement officers under sub. (5).~~ Subject to official policy, library records other than circulation and registration records, may be disclosed only to state and local law enforcement agencies for the purpose of reporting or investigating an apparent crime. Information from circulation and registration records,**



that identifies an individual or individuals, may be disclosed to state and local law enforcement by library staff when reporting violations of library policies that constitute illegal activity.

**3) Use of the term “identity” is nonspecific and does not adequately describe the source of this information. We suggest the following change:**

43.30 (2) A library supported in whole or in part by public funds may disclose an individual's identity circulation and/or registration records to another library for the purpose of borrowing materials for the individual only if the library to which the individual's identity circulation and/or registration records are is being disclosed meets at least one of the following requirements.

43.30 (2) (b) The library has a written policy prohibiting the disclosure of the identity circulation and/or registration records of the individual except as authorized under sub. (3).

43.30 (2) (c) The library agrees not to disclose the identity circulation and/or registration of the individual except as authorized under sub. (3).

43.30 (3) A library to which an individual's identity circulation and/or registration record is disclosed under sub. (2) and that is not supported in whole or in part by public funds may disclose that individual's identity circulation and/or registration record to another library for the purpose of borrowing materials for that individual only if the library to which the identity is being disclosed meets at least one of the requirements specified under sub. (2) (a) to (c).

43.30 (4) Upon the request of a custodial parent or guardian of a child who is under the age of 16, a library supported in whole or part by public funds shall disclose to the custodial parent or guardian all library circulation and/or registration records relating to the use of the library's documents or other materials, resources, or services by that child.

**4) The bill does not address the concerns of some libraries who might release information to collection agencies or who may use information for purposes of contacting patrons. We suggest the following new language:**

43.30 (5) No provision of this statute shall be construed to prohibit any library or any business operating jointly with the library from disclosing information for the purpose of

- (1) Collecting overdue books, documents, films or other items or materials owned or otherwise belonging to or controlled by the library.
- (2) Collecting fines on such overdue books, documents, films, or other items or materials; and
- (3) Contacting its patrons by telephone, mail service, or other medium for the purpose of notifying, and educating such patrons or otherwise promoting the legitimate programs, policies and other interests of the library.



# KUING freezes library video

Neenah police  
can't see alleged  
lewd act by man

By Duke Behnke  
Post-Crescent staff writer

NEENAH — The Neenah Public Library possesses surveillance video of a man who reportedly was masturbating earlier this month among the nonfiction book aisles on the library's second floor.

Library Director Stephen Procces said he wants the suspect caught. He has shown the surveillance video to library employees and directed them to call police if they see the man enter the library again.



Procces

He can't legally share the video with police without a court order, however.

"That is state law," City Atty. James Godlewski said Monday. "The library is merely following what state law says."

The attorney general's office said in a Nov. 27 opinion that library surveillance video recordings fall within the protections of the Wisconsin public library records confidentiality law.

The law generally prevents the release of public library records that indicate the identity of a library user.

The Nov. 27 opinion determined the law applies to recordings that might identify a person but not the particular library materials or resources used by that person and also to recordings that show people entering and exiting the building.

## LIBRARY: Police can't get surveillance video access

From C-1

The only exception to the law is if someone's life or safety is at risk.

The masturbation incident occurred April 2 and was witnessed by a library patron and reported to a reference librarian, who called police. The suspect left the library, 240 E. Wisconsin Ave., before he was identified.

He was described as 25 to 30 years old, 5 feet 10 inches tall, about 200 pounds and with short blond or brown hair.

"We think that this guy has been here before doing something similar but not as graph-

ic," Procces said. "This may be someone who is going from library to library doing this."

Police Chief Ray Appel said investigators would seek a court order to view the surveillance tapes, but he said he was unsure how to proceed because the offense might amount to an ordinance violation, not a crime that would be charged by the district attorney's office and heard by a circuit judge.

Appel said it is unclear whether a court order from Menasha-Neenah Municipal Judge James Gunz would carry the necessary authority to gain access to the tapes.

"This is the first time we

have ever run across this," Appel said.

Alan Lee, the assistant attorney general who wrote the Nov. 27 opinion, said he thought the confidentiality law could be amended to simultaneously protect the privacy rights of library patrons and allow tapes to provide surveillance to police when criminal activity is suspected.

"I would recommend that the Department of Public Instruction, in consultation with library associations and librarians, propose amendments to the present statute to cure some of the statute's deficiencies," Lee said.

Mike Cross, the Depart-

ment of Public Instruction's director of public library development, said he has worked with the Wisconsin Library Association to craft an amendment to create a narrow exception to the law for "the protection of library staff, library users, and library property."

"If there is some type of crime that has been committed and the library staff has observed that, they could turn over those records immediately," Cross said.

He said the association is seeking legislators to sponsor the amendment.

Duke Behnke can be reached at 920-729-6622, ext. 32, or dbehnke@post-journal.com.

SB 214?  
Date?

From: Rep. Kaufert

# Lawmaker: Give police video help

APC 4-18-07

## Surveillance footage requires a court order

By Duke Behnke  
Post-Crescent staff writer

NEENAH - State Rep. Dean Kaufert said Tuesday he wants the Legislature to change the law that prevents public libraries from sharing surveillance video with police without a court order.

The Neenah Public Library possesses surveillance video of a man who reportedly was masturbating between the book aisles on the library's second floor earlier this month.

Library officials want the suspect caught, but according to a Nov. 27 opinion by the attorney general's office, surveillance video falls within the protections of the Wisconsin public library records confidentiality law and cannot be released without a court order.

Kaufert, R-Neenah, said the issue drew his ire the moment he read about it in *The Post-Crescent*.

"It's another example where some bureaucrat is interpreting the law way too broadly," he said. "I don't want to see the police department have to jump through hoops just to do an investigation."

Kaufert said his staff would work with the state Department of Public Instruction and the Wisconsin

Library Association, which already have drafted a narrow exception to the law that would allow libraries to share surveillance video with police when criminal activity is suspected.

"We will send it around for co-sponsors in the next week," Kaufert said. "Then we will introduce it as a bill."

State Sen. Michael Ellis, R-Neenah, also wants the law changed.

"The right to privacy is important, but it should not trump the right of the public to be protected," he said.

Neenah Library Director Stephen Procs commented Kaufert and Ellis for pursuing the change.

"That is exactly what we wanted," Procs said. "I am hoping they get the amendment passed quickly."

Meanwhile, City Atty. James Godlewski drafted a court order necessary for police to view the surveillance tapes of the man suspected of masturbating in the library.

Police Chief Ray Appel said the order would be presented to Winnebago County Circuit Judge Bruce Schmidt for approval.

The attorney general's office advised Neenah to seek the order in circuit court rather than municipal court.

Duke Behnke can be reached at 920-729-6622, ext. 32, or [dbehnke@postcrescent.com](mailto:dbehnke@postcrescent.com).

# Neenah police obtain library surveillance video of suspect

By Duke Behnke  
Post-Crescent staff writer

NEENAH — Police have obtained the surveillance video that shows a man suspected of masturbating April 2 in the Neenah Public Library, but investigators have been unable to identify him.

“The images aren’t as clear as we had hoped,” Police Chief Ray Appel said Thursday. “We are not getting any kind of detail.”

Appel said the surveillance video shows the suspect entering the library, exiting a second-floor restroom and leaving the library. He said it does not

show the man masturbating among the book aisles as reported by a patron.

Appel said investigators will compare the images with the state sex offender registry in an attempt to identify the suspect. He said police might release

a photograph of the suspect taken from the video to spur leads.

“We are looking for help in identifying who he is,” he said.

The suspect is described as 25 to 30 years

old, 5 feet 10 inches tall and about 200 pounds. He has fair skin and buzz-cut blond or brown hair.

Police needed a subpoena to view the surveillance video because the attorney general’s office ruled in November that surveillance video falls within the protection of the Wisconsin public library records confidentiality law and could not be released without a court order.

The subpoena was signed Tuesday by Winnebago County Circuit Judge Bruce Schmidt and served Wednesday on Library Director Stephen Proce, who turned over

## How to contact police

Anyone with information regarding the suspect in the incident at the Neenah Public Library is asked to call the Neenah Police Department at 920-886-6000.

the video and photographs made from the video.

“It’s going to be difficult (to identify the suspect),” Proce said. “It’s pictures of a guy none of us recognize.”

Rep. Dean Kaufert, R-Neenah, and Sen. Michael Ellis, R-Neenah, said Tuesday they would introduce legislation to amend the confidentiality law to allow public libraries to share videos with police without a court order when criminal activity is suspected.

Duke Behnke can be reached at 920-729-6622, ext. 32, or [dbehnke@postcrescent.com](mailto:dbehnke@postcrescent.com).



Appel

APC 4-22-07

APC  
4-24-07

## Libraries should be free to share video with police

It shouldn't take a court order to allow a public library to give one of its surveillance videotapes to police if it suspects it can help identify a lawbreaker.

That's the way the law reads now, as part of Wisconsin's public library records confidentiality statute.

But, spurred by a case at the Neenah Public Library, Neenah lawmakers Sen. Mike Ellis and Rep. Dean Kaufert want to change the law.

The case involves a surveillance video the Neenah library had of a man who was suspected of masturbating in the book aisles of the library. The library had to wait for a court order to be issued before giving the tape to the Neenah police.

It shouldn't have needed to. And it's not just law enforcement that's trying to change it. The state Department of Public Instruction, which oversees public libraries, and the Wisconsin Library Association already support an exemption to the public library records law that would allow libraries to share video with police when criminal activity is suspected.

Kaufert said he and Ellis soon will introduce the proposal as a bill. It makes too much sense not to be passed into law.

# Kaufert calls for change in law after library incident

BY DUKE BEHNKE  
NEWS-RECORD STAFF WRITER

NEENAH — State Rep. Dean Kaufert wants the Legislature to change the law that prevents public libraries from sharing surveillance video with police without a court order.

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Library officials want the suspect caught, but according to a Nov. 27 opinion by the attorney general's office, surveillance video falls within the protections of the Wisconsin public library records confidentiality law and cannot be released without a court order.

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"It's another example where some bureaucrat is interpreting

the law way too broadly," he said. "I don't want to see the police department have to jump through hoops just to do an investigation."

Kaufert said his staff would work with the state Department of Public Instruction and the Wisconsin Library Association, which have drafted a narrow exception to the law that would allow libraries to share surveillance video with police when criminal activity is suspected.

"We will send it around for co-sponsors in the next week," Kaufert said. "Then we will introduce it as a bill."

State Sen. Michael Ellis, R-Neenah, also wants the law changed.

"The right to privacy is important, but it should not trump the right of the public to be protected," he said.



Kaufert



Ellis

Neenah Library Director Stephen Proces commended Kaufert and Ellis for pursuing the change.

"That is exactly what we wanted," Proces said. "I am hoping they get the amendment passed quickly."

Meanwhile, City Atty. James Godlewski drafted a court order necessary for police to view the surveillance tapes of the man suspected of masturbating in the library.

Police Chief Ray Appel said the order would be presented to Winnebago County Circuit Judge Bruce Schmidt for approval.

The attorney general's office advised Neenah to seek the order in circuit court rather than municipal court.

The attorney general's office said in its opinion that library surveillance video recordings fall within the protections of the

Wisconsin public library records confidentiality law.

The law generally prevents the release of public library records that indicate the identity of a library user.

The opinion determined the law applies to recordings that might identify a person but not the particular library materials or resources used by that person and also to recordings that show people entering and exiting the building. The only exception to the law is if someone's life or safety is at risk.

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Appel said the "this is the first time we have ever run

across this."

Alan Lee, the assistant attorney general who wrote the Nov. 27 opinion, said he thought the confidentiality law could be amended to simultaneously protect the privacy rights of library patrons and allow library staff to provide surveillance tapes to police when criminal activity is suspected or witnessed.

"I would recommend that the Department of Public Instruction, in consultation with library associations and librarians, propose amendments to the present statute to cure some of the statute's deficiencies," Lee said.

Mike Cross, the Department of Public Instruction's director of public library development, said he has worked with the Wisconsin Library Association to craft an amendment to create a narrow exception to the law for "the protection of library staff, library users, and library property."

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## Neenah police obtain library surveillance video

BY DUKE BEHNKE  
POST-CRESCENT STAFF WRITER

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"The images aren't as clear as we had hoped," Police Chief Ray Appel said last Thursday.

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Appel

### ON THE WEB

[www.ci.neenah.wi.us](http://www.ci.neenah.wi.us)

photo of the suspect taken from the video to spur leads.

"We are looking for help in identifying who he is," he said.

The suspect is described as 25 to 30 years old, 5 feet 10 inches tall and about 200 pounds. He has fair skin and buzz-cut blond or brown hair.

Police needed a subpoena to view the surveillance video because the attorney general's office ruled in November that

surveillance videos fall within the protections of the Wisconsin public library records confidentiality law and could not be released without a court order.

The subpoena was signed by Winnebago County Circuit Judge Bruce Schmidt and served the next day on library director Stephen Proces, who turned over the surveillance video and still photographs made from the video.

"It's pictures of a guy none of us recognize," Proces said. "He is not a regular library user."

Duke Behnke can be reached at 920-729-6622, ext. 32, or dbehnke@newsrecord.net.

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