

Kentucky

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF KENTUCKY

OAG 82-149

March 12, 1982

REQUEST BY:

Mr. James A. Nelson
State Librarian and Commissioner
Department of Library and Archives
P.O. Box 537
Frankfort, Kentucky 40602

OPINION BY:

Steven L. Beshear, Attorney General; By: Carl Miller, Assistant Attorney General

OPINION:

You have requested that we clarify OAG 81-159 in which we said that a public library is not required to make available for public inspection its registration and circulation records. We said: "We think that the individual's privacy right as to what he borrows from a public library (books, motion picture film, periodicals and any other matter) is overwhelming." This conclusion was based on KRS 61.878 (1)(a) which exempts from the mandatory requirement of public disclosure "public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy."

In your recent letter you explain that librarians divide libraries into four basic types: school, public, academic and special. You ask if our opinion applies to a school library, such as a state university, and the state library.

Our opinion applies to any library which is subject to the Open Records Law as defined by KRS 61.870. This [*2] includes all tax supported libraries and all private libraries which receive as much as 25 percent of their funds from state or local authority. It does not include, of course, a private library receiving less than 25 percent of its funds from state or local authority. Our opinion, in effect, places tax supported libraries in the same position as private libraries which would not be governed by the Open Records Law. In other words, all libraries may refuse to disclose for public inspection their circulation records. As far as the Open Records Law is concerned, they may also make the records open if they so choose; however, we believe that the privacy rights which are inherent in a democratic society should constrain all libraries to keep their circulation lists confidential.

We have heard it suggested that in the case of a state university a professor might have the legitimate right to check the circulation record to see if a student hasatic socie

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April 21, 1981

REQUEST BY:

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State Librarian

Department of Library and Archives

Frankfort, Kentucky 40601

OPINION BY: