

## **Open Public Records and Internet-Related Complaints**

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The New Jersey Legislature has enacted a new Open Public Records Law, which will take effect in July 2002. The new statute repeals portions of the old “Right to Know Law” N.J.S.A. 47:1A. The new law provides that “all government records shall be subject to public access unless exempt from such access by ... any other statute.” It also states “a public agency has a responsibility and an obligation to safeguard from public access a citizen’s personal information with which it has been entrusted when disclosure thereof would violate the citizen’s reasonable expectation of privacy.” The statute can be found on the Internet at [www.njleg.state.nj.us/2000/Bills/A1500/1309\\_R5.HTM](http://www.njleg.state.nj.us/2000/Bills/A1500/1309_R5.HTM)

### **Confidentiality of Library Records**

The legislature has recognized the right of library patrons to maintain confidentiality. N.J.S.A. 18A:73-43.2 provides that

Library records which contain the names or other personally identifying details regarding the users of libraries are confidential and shall not be disclosed except in the following circumstances:

- a. The records are necessary for the proper operation of the library;
- b. Disclosure is requested by the user; or
- c. Disclosure is required pursuant to a subpoena issued by a court or court order.

Libraries may not disclose records if they contain names, addresses or other personally identifiable information about patrons. A library record is defined by statute as “any document ...

This memorandum sets forth my personal views and is not a legal opinion letter. Accordingly, this memorandum necessarily cannot serve as the basis for any public library’s legal judgments. The law, particularly as it relates to Internet use, is changing rapidly, as new legislation is adopted and new court challenges are filed. Libraries seeking legal advice should retain counsel for analyses of their own particular situations and current law.

the primary purpose of which is to provide for control of the circulation or other public use of library materials.” N.J.S.A. 18A:73-43.1.

If a public library maintains formal records of Internet-related complaints, those records would have to be disclosed under the new open public records law, but *all personal information must be deleted*. Without a court order, no library should disclose any personal record that identifies an individual or can be associated with the individual to whom the record pertains.

If a library keeps written records of Internet-related complaints, it may very well have to disclose them, so long as it deletes all personally identifiable information. For practical purposes, it may be prudent simply not to make or keep records of Internet-related complaints. If public librarians do make formal records of Internet-related complaints, they will have to disclose those records under the Open Public Records Act. Under the library confidentiality statute, however, all personally-identifiable information must be deleted from any records that are disclosed.