

SCLS – Legal Opinion on Driver’s License information in the ILS

As many of you know at the ILS Committee meeting on April 8, 2015, the Committee voted to remove all driver's license numbers from the LINKcat database and to create a policy that libraries no longer enter driver's license numbers into the database. As part of that decision, SCLS engaged an attorney to review the Wisconsin statutes on privacy and data collection by libraries. I am sharing the information to help all SCLS libraries whether they are on LINKcat or not. The results of the review are listed below with the main points bolded.

It is not illegal to collect driver’s license numbers if they are voluntarily given.

BUT the consequences of collecting and storing the information and then having it compromised (hacked, stolen, or lost) are substantial. This includes all data gathered whether in electronic or paper files.

An individual library (as outlined below in the relevant statutes) would have to notify all its users that the data had been compromised.

Wisconsin Statute 134.98 Notice of Unauthorized Acquisition of Personal Information
(2) Notice required.

[134.98\(2\)\(a\)](#)(a) If an entity whose principal place of business is located in this state or an entity that maintains or licenses personal information in this state knows that personal information in the entity's possession has been acquired by a person whom the entity has not authorized to acquire the personal information, the entity shall make reasonable efforts to notify each subject of the personal information. The notice shall indicate that the entity knows of the unauthorized acquisition of personal information pertaining to the subject of the personal information.

(br) If, as the result of a single incident, an entity is required under par. [\(a\)](#) or [\(b\)](#) to notify 1,000 or more individuals that personal information pertaining to the individuals has been acquired, the entity shall without unreasonable delay notify all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in [15 USC 1681a\(p\)](#), of the timing, distribution, and content of the notices sent to the individuals.

As a follow up to this, the attorney clarified that SCLS would not be held liable. The individual library would be held liable.

In the case of non-LINKcat libraries, since you are independent of LINKcat or 'stand alone' libraries you take responsibility for your data.

In the case of LINKcat libraries the *Agreement to Participate in SCLS Technology Services* specifically removes the liability from SCLS. I have included the relevant sections below.

Agreement to Participate in SCLS Technology Services

11. *All data created and stored on the ILS shall remain the shared property of SCLS and the libraries receiving applicable ILS Services for the term of this Agreement. Decisions regarding methods and standards for the creation, maintenance, purging, or archiving of data and/or the ability of member libraries to alter such data shall be made by SCLS, as advised by the ILS Committee, and shall be binding on all participating member libraries. The Library shall have a right to a copy of its own data, provided it reimburses SCLS for the actual cost of extraction and duplication of the data. Upon request from the Library, SCLS will provide an estimate of the cost of extraction and duplication of the data. Library is responsible for backup of its own data and network/systems.*

12. *Except as specifically provided herein with respect to ILS data, SCLS shall have no responsibility or liability for or arising from any loss of data or by Library or arising from any Library equipment, network, or system.*

The take away message is to be proactive and clean files before it has a chance to become a messy and time consuming issue.

As a non-LINKcat library you may weigh the attorney's opinion against your own needs and choose to continue collecting drivers' licenses data but you will be without support from SCLS in any legal action. I hope this helps clarify the issue for you. If you have questions about the attorney's opinion, contact me. If you have questions about LINKcat and its clean up process, contact Heidi Oliveresen.

Martha Van Pelt
System Director
South Central Library System
4610 S. Biltmore Lane, Suite 101
Madison, WI 53718-2153
Phone: 608.246.7975
Fax: 608.246.7958
mvanpelt@scls.info