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STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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Honorable Paige M. Oldshue  
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Post Office Box 2727  
Tuscaloosa, Alabama 35403

Libraries – Internet – Child Pornography –  
Crimes and Offenses – Law Enforcement –  
Tuscaloosa County

If personnel of the Tuscaloosa Public Library have knowledge of the commission of a specific criminal offense by a patron on library property, including viewing child pornography on the internet on a library computer, personnel may report the patron to law enforcement by furnishing the patron's registration records.

In making such a report of viewing child pornography, library personnel may also furnish any other information concerning computer use for that purpose.

Dear Ms. Oldshue:

This opinion of the Attorney General is issued in response to your request on behalf of the Tuscaloosa Public Library.

QUESTION

May the Tuscaloosa Public Library report a library patron's viewing of child pornography to law enforcement without violating section 41-8-10 of the Code of Alabama?

FACTS AND ANALYSIS

Your request states that one of the services offered patrons of the Tuscaloosa Public Library is computers with internet access. You further state that the library has an internet-usage policy that prohibits patrons from viewing pornographic material, including child pornography. The library maintains filters on the computers to block access to such material. This Office understands that a patron wishing to use a computer is required to write his or her name on a sign-in sheet indicating the computer he or she will use. You further state that the patron must input a membership number that identifies the patron for the purpose of confirming the user has a valid library card. This Office additionally understands that computer use is limited to one hour and inputting the number activates a one-hour timer on the computer. You further state that a patron recently circumvented the filter and was caught viewing child pornography.

“The Tuscaloosa Public Library was established pursuant to the provisions of sections 11-90-1 through 11-90-4 of the Code of Alabama, which authorizes the creation and maintenance of free public libraries by county commissions and municipalities. ALA. CODE §§ 11-90-1 to 11-90-4 (1994).” Opinion to Honorable Nancy C. Pack, Director, Tuscaloosa Public Library, dated February 11, 2009, A.G. No. 2009-043 at 2. It “was specifically established as a joint library service by the City of Tuscaloosa, the City of Northport, and Tuscaloosa County under section 11-90-4 of the Code of Alabama.” *Id.*

Section 36-12-40 of the Code is the Open Records Law, and it provides as follows:

Every citizen has a right to inspect and take a copy of any public writing of this state, *except as otherwise expressly provided by statute*. Provided however, *registration and circulation records* and information concerning the use *of the public*, public school or college and university *libraries* of this state *shall be exempted* from this section.

ALA. CODE § 36-12-40 (2013) (emphasis added).

This public-library exception to the Open Records Law is further developed in the enabling statutes for the Alabama Public Library Service found in sections 41-8-1 through 41-8-10 of the Code. ALA. CODE §§ 41-8-1 to 41-8-10 (2013). Section 41-8-10 states as follows:

It is recognized that public library use by an individual should be of confidential nature. Any other provision of general, special or local law, rule or

regulation to the contrary notwithstanding, the registration and circulation records and information concerning the use of the public, public school, college and university libraries of this state shall be confidential. **Registration and circulation records shall not be open for inspection by, or otherwise available to, any agency or individual** except for the following entities: (a) the library which manages the records; (b) the state education department for a library under its jurisdiction when it is necessary to assure the proper operation of such library; or (c) the state Public Library Service for a library under its jurisdiction when it is necessary to assure the proper operations of such library.

ALA. CODE § 41-8-10 (2013) (emphasis added).

“Registration records” are defined as “any information which a library requires a patron to provide in order to become eligible to borrow books and other materials.” ALA. CODE § 41-8-9 (2013).

The fundamental rule of statutory construction is to ascertain and give effect to the intent of the Legislature in enacting the statute. *Ex parte Ala. Dep’t of Mental Health & Mental Retardation*, 840 So. 2d 863, 867 (Ala. 2002). A literal interpretation of a statute that would defeat the purpose of the statute should not be adopted if another reasonable interpretation can be given to it. *Odum Lumber Co. v. S. States Iron Roofing Co.*, 36 Ala. App. 270, 272, 58 So. 2d 641, 643 (1951). Courts do not interpret provisions in isolation, but consider them in the context of the entire statutory scheme. *Siegelman v. Ala. Ass’n of School Boards*, 819 So. 2d 568, 582 (Ala. 2001).

The more reasonable construction of sections 41-8-9 and 41-8-10 is that the Legislature did not intend to restrict library personnel from using registration records to report patrons who commit specific criminal offenses on library property to law enforcement authorities. A contrary reading would leave the library with no recourse when faced with criminal conduct. This conclusion is supported by the legislative purpose stated in section 41-8-1. The Legislature limited its intent to development of “citizenship,” “culture and recreation,” and “education.” ALA. CODE § 41-8-1 (2013).

As to “circulation records,” they are defined as “all information which identifies the patrons utilizing particular books and any other **library materials** in any medium or format.” ALA. CODE § 41-8-9 (2013) (emphasis added). Because child pornography websites can only be accessed after circumventing the web-filter restrictions placed on the web-browser by the library and

violating the library's internet-usage policy, they are not under the control of the library and cannot be characterized as library materials.

Accordingly, it is the opinion of this Office that registration records and information concerning the use of a computer to view child pornography by a patron is not confidential under section 41-8-10 and may be reported to law enforcement.

Nonetheless, in light of the strong confidentiality accorded library records, this opinion must be read narrowly. Library personnel are cautioned not to unilaterally review material used by patrons to ensure compliance with the law. If it is brought to their attention, however, by their own observation, or otherwise, that a patron has committed a specific criminal offense on library grounds, then, in that case, they may report to law enforcement. If there is a question about the actual commission of a particular offense, personnel may wish to seek the advice of the library attorney before making a report.

#### CONCLUSION

If personnel of the Tuscaloosa Public Library have knowledge of the commission of a specific criminal offense by a patron on library property, including viewing child pornography on the internet on a library computer, personnel may report the patron to law enforcement by furnishing the patron's registration records.

In making such a report of viewing child pornography, library personnel may also furnish any other information concerning computer use for that purpose.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

LUTHER STRANGE  
Attorney General

By:



BRENDA F. SMITH  
Chief, Opinions Division