Library Privacy and Vendor Management I: A Privacy Oriented Overview of The Vendor Relationship Lifecycle

Part of the PLP Data Privacy Best Practices Training for Libraries Project

May 2020
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## Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALA</td>
<td>American Library Association</td>
</tr>
<tr>
<td>CalOPPA</td>
<td>California Online Privacy Protection Act of 2003</td>
</tr>
<tr>
<td>CCPA</td>
<td>California Consumer Privacy Act</td>
</tr>
<tr>
<td>COPPA</td>
<td>Children's Online Privacy Protection Act</td>
</tr>
<tr>
<td>Data FOMO</td>
<td>Data Fear Of Missing Out</td>
</tr>
<tr>
<td>FERPA</td>
<td>Family Educational Rights and Privacy Act</td>
</tr>
<tr>
<td>GDPR</td>
<td>General Data Protection Regulation</td>
</tr>
<tr>
<td>HTTPS</td>
<td>Hypertext Transfer Protocol Secure</td>
</tr>
<tr>
<td>IANAL</td>
<td>I Am Not A Lawyer (always a good acronym to have in your back pocket!)</td>
</tr>
<tr>
<td>ILS</td>
<td>Integrated Library System</td>
</tr>
<tr>
<td>ISO</td>
<td>International Organization for Standardization</td>
</tr>
<tr>
<td>NDA</td>
<td>Non-Disclosure Agreement</td>
</tr>
<tr>
<td>NIST</td>
<td>National Institute of Standards and Technology</td>
</tr>
<tr>
<td>PII</td>
<td>Personally Identifiable Information</td>
</tr>
<tr>
<td>RFI</td>
<td>Request For Information</td>
</tr>
<tr>
<td>RFP</td>
<td>Request For Proposals</td>
</tr>
</tbody>
</table>
Vendor Relationship Lifecycle
Quick Reference Map

<table>
<thead>
<tr>
<th>Phase</th>
<th>Best Practices and Tools</th>
</tr>
</thead>
<tbody>
<tr>
<td>Selection</td>
<td>Use Request for Information (RFI) to gather information about general vendor privacy practices</td>
</tr>
<tr>
<td></td>
<td>Include data privacy and security Functional Requirements in Request for Proposals (RFPs)</td>
</tr>
<tr>
<td>Onboarding</td>
<td>Plan strategies and identify compromise and dealbreaker items before starting contract negotiations</td>
</tr>
<tr>
<td></td>
<td>Use contract addendums and non-disclosure agreements (NDAs)</td>
</tr>
<tr>
<td>Maintaining</td>
<td>Schedule and conduct regular security and privacy audits</td>
</tr>
<tr>
<td></td>
<td>Review impact on patron privacy of major changes in contract or product functionality and choose to either renegotiate the contract or non-renewal</td>
</tr>
<tr>
<td>Separation</td>
<td>Work with vendor to export and delete patron data when the business relationship ends</td>
</tr>
</tbody>
</table>
**Patron Data Lifecycle Quick Reference Map**

<table>
<thead>
<tr>
<th>Phase</th>
<th>Question</th>
<th>Best Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Collection</td>
<td>What patron data are you collecting, and why?</td>
<td>Only collect data needed for demonstrated business cases</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Practice “The Five Whys”</td>
</tr>
<tr>
<td>Storage</td>
<td>Where is the patron data stored?</td>
<td>Limit number of data storage areas</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Limit storage of patron data in local and vendor systems</td>
</tr>
<tr>
<td>Access</td>
<td>Who has access to the patron data?</td>
<td>Limit physical and electronic access to data</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Audit vendor security and privacy practices</td>
</tr>
<tr>
<td>Reporting</td>
<td>What patron data is published to staff and to the public?</td>
<td>Aggregate data and control access to data through dashboards, database views,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>and other data reporting tools</td>
</tr>
<tr>
<td>Retention</td>
<td>How long is patron data kept?</td>
<td>Follow local and state retention regulations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ensure backups and logs are covered in retention policies</td>
</tr>
<tr>
<td>Deletion</td>
<td>How is patron data deleted?</td>
<td>Properly dispose of physical and electronic media that contained patron PII</td>
</tr>
</tbody>
</table>
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Becky Yoose
Library Data Privacy Consultant, LDH Consulting Services
Pacific Library Partnership, May 2020

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Workshop Housekeeping - Logistics
IANAL; Consult legal staff for legal advice
Exercises and Discussions - what to expect
Toolkit tie-in
Privacy measures are only as strong as the least-knowledgeable person working with patron data
Section One: Vendors and Libraries

Vendors in the life of the library

- Integrated Library Systems (ILS)
- Print management systems
- Reference chat applications
- Public computer management systems
- Interlibrary Loan
- Web analytic software
- Social media platforms
- Security cameras
- Card reader software
- Meeting room reservation systems
- Customer Relationship Management Systems
- Data analytic systems
- Instructors contracted to teach/lead library programs

Personally Identifiable Information [PII] and Library Data

<table>
<thead>
<tr>
<th>PII 1 - Data about a patron</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
</tr>
<tr>
<td>Physical/email address</td>
</tr>
<tr>
<td>Phone number</td>
</tr>
<tr>
<td>Date of birth</td>
</tr>
<tr>
<td>Patron record number</td>
</tr>
<tr>
<td>Library barcode</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PII 2 - Activity that can be tied back to a patron</th>
</tr>
</thead>
<tbody>
<tr>
<td>Search &amp; circ histories</td>
</tr>
<tr>
<td>Computer/wifi sessions</td>
</tr>
<tr>
<td>Reference questions</td>
</tr>
<tr>
<td>Electronic resource access</td>
</tr>
<tr>
<td>IP Address</td>
</tr>
<tr>
<td>Program attendance</td>
</tr>
</tbody>
</table>
A very short list of vendor vulnerabilities

- No HTTPS support
- Unsecured server access
- Unencrypted and/or unsecured data storage
- No backups
- No record retention policy
- No database access restrictions or policy
- Improper or incomplete data scrubbing
- No strategies for data deletion when customer leaves vendor
- Collecting ALL the data
- Tracking users without consent
- Sharing patron information to third parties without consent or notification
- No public privacy policy
Exercise – Reflection

Think of a time when you found or encountered an issue with a vendor that put patron privacy at risk.

1. What was the issue?
2. When and how did you find out about the issue?
3. How did the vendor respond to the issue?
4. How was the issue resolved or addressed?

(Hold on to those thoughts for later in the presentation!)
Selection - Where to start?

**REI - Request for Information**
Used to gather information about services or products
Potential uses:
- Obtain privacy policies
- Gather information about general privacy features

**RFP - Request for Proposals**
Used to gather bids from potential vendors
Potential uses:
- Outline privacy reqs
- Gather information about specific privacy features

Selection - RFP Functional Requirements

List specific privacy functionality and features, including:
- Regular security and privacy audits
- Patron ability to opt-in/opt-out of non-essential data collection
- Sharing of patron data to subcontractors and service providers
- Ability to adjust/set data retention settings
- Vendor privacy policy
- Vendor compliance to local, state, and other regulations
- Ability to export and delete library data at time of separation
Selection - RFP Functional Requirements

List specific information security best practices and standards, including:

- Regular security and privacy audits
- Physical and electronic access controls to library data
- Encryption of data at rest and in transit
- Secure media destruction
- Industry standards, principles or certifications
  - Example - International Organization for Standardization (ISO) certifications

Section Three: Onboarding

Onboarding - Contract Negotiations

Before you begin negotiations:

- Identify any specific issues or changes to the contract based on the findings of the RFP process
- Determine what you are willing to compromise on if pushed
- Determine what will be the dealbreakers

Library Privacy and Vendor Management I

May 2020
Contracts and Legal Regulations – California Gov Code § 6267

All patron use records of any library which is in whole or in part supported by public funds shall remain confidential and shall not be disclosed by a public agency, or private actor that maintains or stores patron use records on behalf of a public agency, to any person, local agency, or state agency except as follows:

(a) By a person acting within the scope of his or her duties within the administration of the library.
(b) By a person authorized, in writing, by the individual to whom the records pertain, to inspect the records.
(c) By order of the appropriate superior court.

Contracts and Legal Regulations – California Gov Code § 6267 (con't)

As used in this section, the term “patron use records” includes the following:

(1) Any written or electronic record, that is used to identify the patron, including, but not limited to, a patron's name, address, telephone number, or e-mail address, that a library patron provides in order to become eligible to borrow or use books and other materials.

(2) Any written record or electronic transaction that identifies a patron's borrowing information or use of library information resources, including, but not limited to, database search records, borrowing records, class records, and any other personally identifiable uses of library resources information requests, or inquiries.

Contracts and Legal Regulations – California Consumer Privacy Act of 2018 (CCPA)

Regulates the sale (and to a lesser extent collection and processing) of personal information by covered businesses

Gives California residents:
- Right to access what personal information is collected and shared with service providers and other third parties
- Right to request deletion of personal information
- Right to opt out of sale of personal information
Contracts and Legal Regulations – California Consumer Privacy Act of 2018 (CCPA)

**Household information**
- Part of personal information definition
- Included as part of the response to access and deletion requests
- Possible sharing of patron information to another patron if business determines they belong to the same household

**13-16 year old affirmative consent**
- Businesses must obtain affirmative consent from 13-16 year old users to sell personal information
- Possibilities:
  - COPPA liability
  - "Age-gating" sites and services – asking for age of users

Contract Negotiations – Incident Responses and California Civil Code Section 1798.82

**Incident response (data breaches) information:**
- Who will be responsible for what
- Timeline for incident response actions
- Financial liability to the vendor
- Compliance to state data breach regulations

**1798.82 points of interest:**
- Personal information definition
- What, when, and how of notification to breach victims as well as Attorney General (if breach affects > 500 people)
- Encryption exemption... unless the key is also compromised

Onboarding - Contract Negotiations

Other areas of negotiation:
- Privacy policy - will the vendor fall under the library's privacy policy?
- Vendor data security and privacy audits, policies, procedures
- Patron opt-in/opt-out of data collection
Onboarding - Contract Addendum and NDA

<table>
<thead>
<tr>
<th>Contract Addendum</th>
<th>Non Disclosure Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal boilerplate for standard privacy and security contract language</td>
<td>AKA NDAs</td>
</tr>
<tr>
<td>Can be used in both initial contract signings and renewal periods</td>
<td>Limit or prohibit sharing of patron data to:</td>
</tr>
<tr>
<td></td>
<td>○ Subcontractors</td>
</tr>
<tr>
<td></td>
<td>○ Service Providers</td>
</tr>
<tr>
<td></td>
<td>○ Other Third Parties</td>
</tr>
</tbody>
</table>

**ADDENDUM**

Confidentiality of Seattle Public Library Records and Data

The Seattle Public Library (SPL) collects and manages records and data which require confidentiality under one or more federal or state laws, or under recognized industry standards, including but not limited to, the following:

- Health Insurance Portability and Accountability Act of 1996
- Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009
- Children's Online Privacy Protection Act of 1998 (COPPA)
- The Privacy Act 1974 (as specified in the National Institute of Standards and Technology (NIST) SP 800-122)
- Washington State RCW 42.56.310
- Family Educational Rights and Privacy Act of 1974
- The American Library Association Library Bill of Rights
- United States Constitution, including the first and fourth amendments

Addendum (con’t)

Specifically, a provider of services to SPL will not reveal or disclose any data or records, either physical or electronic, which are designated as confidential by the Library or which pertain to SPL patrons when such data or records could be used in any manner to identify a Library patron or any references or materials that a specific Library patron accesses.

A provider of services to SPL must treat all the designated or individually identifiable SPL records as confidential and protected. Encryption of such data while in motion or at rest, and restricting access to confidential data, are typical methods of data protection. No SPL records or data shall be released by the provider to any third party without the prior written consent of the SPL.
Addendum (con’t)

In the event that the provider violates this addendum, then said provider agrees to indemnify, defend and hold harmless SPL and its employees from and against any losses, costs, expenses, liabilities (including attorney's fees), penalties and sanctions arising out of or relating to such violation. This addendum does not limit the provider's liability as specifically established under law.

The Parties hereto agree that this amendment modifies, changes, amends and has precedence over any contradictory language in the contract between the Parties.

Onboarding - Service Setup and Defaults

<table>
<thead>
<tr>
<th>Service Settings</th>
<th>Public-facing settings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Backups</td>
<td>Can all non-essential data sharing/collection be turned off by default?</td>
</tr>
<tr>
<td>System logs</td>
<td>Web trackers and patron data collection</td>
</tr>
<tr>
<td>Data retention</td>
<td></td>
</tr>
<tr>
<td>Collecting patron data</td>
<td></td>
</tr>
</tbody>
</table>

Exercise - Importing Data

• Your library purchased a customer relationship management system primarily for the email subscription management functionality
• Vendor sends your library a data workbook asking for a wide range of patron data, including emails, full names, physical addresses, phone numbers, patron record numbers, circulation histories, program attendance, computer usage, etc.

What would you do in this instance?
Onboarding - Importing Data

**How the scenario from the exercise played out in the real world:**

- Vendor sends a worksheet with list of patron data to upload
- Library staff inventories all data requested by vendor
- Library staff reviews each data point to determine:
  - Operational need for data to be included in the system
  - Privacy risk level to patron and library
- Library goes back to vendor with proposed data upload
- Vendor and Library negotiate and agree on modified data upload

Onboarding - Communications

<table>
<thead>
<tr>
<th><strong>Staff</strong></th>
<th><strong>Patrons</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>- Announcements via:</td>
<td>- Press releases or news announcements</td>
</tr>
<tr>
<td>- Email</td>
<td>- Vendor privacy notice list on public site</td>
</tr>
<tr>
<td>- Staff Intranet</td>
<td>- Update privacy notice if necessary</td>
</tr>
<tr>
<td>- Meetings</td>
<td></td>
</tr>
</tbody>
</table>

**Vendor privacy notice list**

- Update privacy policies if necessary

**Patron spot**

- Press releases or news announcements
- Vendor privacy notice list on public site
- Update privacy notice if necessary

---

Log In

- Adjust your privacy settings by clicking **No Setting** & Private. Be default, lists and photos are visible to other users.
  - Your library borrowing activity, items you browse, check out, place on hold, return, etc. remain confidential in accordance with the Library's policy.

User name or Barcode: [a]

PIN: [b]

Contact: [c]

Staff name: [d]

New to the Catalog? Create your username to get started.

Enter your library card barcode or confirmation number and your 4-digit

This is a Connected Library

If you already have an online account registered at King County, you can link your online account.
Section Four: Maintenance

Maintaining

- Regularly schedule security/privacy audits with vendors
- Privacy and security as a standing meeting topics
- Review any changes in local, state, national, or other regulations and how those changes will affect data privacy practices
  - Examples:
    - General Data Protection Regulation (GDPR)
    - California Consumer Privacy Act (CCPA)

Maintaining – Vendor Changes in Contract or Functionality

Renegotiate Contract
- Renegotiate contract with vendor, including adding an addendum
- Lots of back and forth, lots of legal counsel meetings, may end up with compromise

OR

Not Renew Contract
- Additional selection, onboarding, etc. for new vendor
- New vendor might be more willing to take into account library concerns
Exercise - To Talk or To Leave

Your reference chat application vendor included an item in their revised contract that allows them to use data collected by the application to build a cloud chatbot service that can automatically answer questions as they come into the chat queue. Chat data:

- Does not include name, email, or other data about a person
- Includes chat questions and answers

1. What are the potential privacy risks with this change?
2. What possible negotiation strategies would you use during the renewal process?
3. Would this be a dealbreaker? Why or why not?
Section Five: Separation

Separation - Ending the Relationship

- Plan for the separation before it happens
  - Contact addendum
  - RFP information
  - Privacy audits
- Export and deletion rights for:
  - The library
  - The patron
- What happens to your data when you leave?
  - Deletion or ...?

Exercise – Do-over

Knowing what you know now from the presentation, what strategies, tools, or practices might have helped in resolving the vendor privacy issue from the reflection exercise?
Section Six:
Other Types of Library-Third Party Relationships

Special Cases - School Data Sharing
Receiving student data for special programs and services offered by the library

- Common example - school student data used to create public library cards for students to access electronic resources
- Contract negotiations
  - Lay out handling policies/procedures for student data with Family Educational Rights and Privacy Act (FERPA) guidelines in mind
- Maintenance
  - Separate student data from any data exports to vendors or other third parties

Special Cases - Open Data Initiatives
City or organizational policy to publish data to the public

- Common example - Civic open data programs (San Francisco, Seattle, Chapel Hill)
- Work with initiative staff in determining security and privacy policies and procedures surrounding data selection and publication
- Some open data initiatives are "open by default", others "open by preference"
- Privacy impact assessment for potential data set publication
Section Seven: Wrap up

Next Steps, or Places to Start
- Contract addendum drafting
- Review contracts during renewal periods
- Work with staff responsible for RFI/RFP and purchasing for your library in incorporating functional requirements and contract addendums
- Data inventories of major vendor services
- Set up schedule for vendor security and privacy audits

But wait – there’s more!

Library Privacy and Vendor Management II: Exploring Practical Strategies and Best Practices
  - May 19th and May 20th
References and Further Reading

General

https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1330&context=collaborativelibrarianship.


https://librarytechnology.org/repository/item.pl?id=20425.


Green, Ben Z., Gabe Cunningham, Ariel Ekblaw, Andrew Linzer, Paul M. Kominers, and Susan Patricia Crawford. 2017. “Open Data Privacy.”
https://dash.harvard.edu/handle/1/30340010.


https://doi.org/10.1080/1941126X.2015.1059644.


https://doi.org/10.5703/1288284316487.


https://doi.org/10.1080/0361526X.2015.1017707.


https://doi.org/10.6017/ital.v32i2.3420.

AASL Resources

http://www.ala.org/aasl/advocacy/resources/statements/library-records.
ALA Resources

http://www.ala.org/advocacy/intfreedom/statementspols/otherpolicies/policyconcerning.

http://www.ala.org/Template.cfm?Section=ifresolutions&Template=/ContentManagement/ContentDisplay.cfm&ContentID=135888.

http://www.ala.org/advocacy/privacy/statelaws.

http://www.ala.org/advocacy/privacy/FAQ.

http://www.ala.org/advocacy/privacy/checklists.


https://chooseprivacyweek.org/resources/students-and-minors/.

California Law Resources

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=1.81.&part=4.&chapter=&article=.

https://www.oag.ca.gov/privacy/ccpa.
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6254.&lawCode=GOV.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6267.&lawCode=GOV.

https://www.library.ca.gov/services/to-libraries/library-laws/.


https://adexchanger.com/privacy/california-gov-newsom-signs-7-ccpa-bills-into-law/.

RFP and Contract Resources and Templates


https://forallschools.s3.amazonaws.com/static/images/forallrubrics-
Negotiation Resources


