

## Strege, Karen

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**From:** Staffeldt, Darlene  
**Sent:** Friday, October 12, 2001 1:53 PM  
**To:** Strege, Karen  
**Subject:** FW: State of war question

I did not get this edited and sent to wired-Mt, I think Bette was sending something to add to it?? so I will have to let you follow up with whatever you wanted shared with Wired-Mt. I have responded to Nancy in Winnett. Thanks, Darlene

-----Original Message-----

**From:** Staffeldt, Darlene  
**Sent:** Thursday, October 04, 2001 1:49 PM  
**To:** Scheier, James  
**Subject:** RE: State of war question

Thank you Jim!

-----Original Message-----

**From:** Scheier, James  
**Sent:** Thursday, October 04, 2001 1:46 PM  
**To:** Staffeldt, Darlene  
**Subject:** RE: State of war question

Despite what President Bush said publicly several weeks ago, we are not in a "state of war." Only Congress can declare war. So we don't even get to the issue of whether state laws can be suspended during times of war, because we are not in a war.

On September 11, 2001, Governor Martz issued Executive Order No. 23-01 declaring that a state of emergency exists in Montana. 10-3-104 gives the governor certain powers that may be exercised when a state of emergency has been declared. Subsection (2)(a) of that statute authorizes the governor to "suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or orders or rules of any state agency if the strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency . . . ." The governor has not exercised her authority under this statute by suspending the provisions of any statutes.

Thus, the Library Records Confidentiality Act remains in effect, and those statutes prohibit a person from releasing or disclosing library records except as provided therein. Library records may be disclosed pursuant to a court order, which would include an investigative subpoena. 22-1-1103(1)(b). If the sheriff or the F.B.I. want to examine any records which qualify as "library records" as defined in 22-1-1102(2), they can obtain and submit to the library a court order requiring the release of those records. If the records are released other than as provided in the statutes, the person responsible for releasing them can be charged with a misdemeanor or may be subject to civil liability pursuant to 22-1-1111.

Give me a call if you have any questions.

-----Original Message-----

**From:** Staffeldt, Darlene  
**Sent:** Thursday, October 04, 2001 11:44 AM  
**To:** Scheier, James  
**Cc:** Strege, Karen  
**Subject:** State of war question

Jim, Another good question for the day!

The Librarian from one of our joint school/public libraries has called in with the following situation and question.

The Library was approached by the local sheriff and "some" FBI folks regarding finding out about use of their public access computer (because a message was sent from one of their computers that cause some concern). The library does not keep a use log of any kind and the logon password of the five public access computers is the password of the librarian who logged on.

The Librarian has explained that they do not have user records for the computer and she has also spoken about the Library Records Confidentiality Act 22-1-1103 regarding any circulation records that the Library may have.

The Superintendent is telling the Librarian that in time of war and since we are in a "state of war", that some laws will be/can be ignored i.e. give them whatever they want up to and including the computer if they "think" they can figure out who was on it! They would have to give up all five of their public access computers because there is no way of identifying from which computer it came from...at least not a "simple" way. Ouch?

Is this true? In a "state of war" we can ignore some laws? Are we (Montana, the whole country) in a "official" state of war? Any words of wisdom here...the Librarian does not want to have any part of the next "terrorism" activity but is also concerned about "wartime law".

The sheriff and FBI went away seemingly "satisfied for now, but with a promise that they may be back!"

Please let me know what you think about this one. Thanks for your help, Darlene