

GARFIELD COUNTY PUBLIC LIBRARY DISTRICT CONFIDENTIALITY OF LIBRARY RECORDS AND THE USA PATRIOT ACT POLICY

PURPOSE:

This policy is designed to serve three basic purposes:

1. To ensure free access to ideas and information.
2. To prevent invasion of privacy.
3. To provide access to an individual's library circulation records (to someone other than the individual) through proper legal process.

BACKGROUND:

The Board of Trustees of the Garfield County Public Library District affirms that the tax-supported public library, as a citadel of information and lifelong, independent learning, exists to provide access to information and ideas from all points of view. Improper release of circulation records would have a chilling effect on such access. Fear of public disclosure, particularly among those who read or view controversial or unorthodox materials, would result in deterring citizens from seeking information through their library.

The USA Patriot Act provides legal guidelines under which information must be shared with the requesting agency. This policy reflects those legal guidelines.

POLICY:

In accordance with Colorado law (24-90-119), the Garfield County Public Library District shall not disclose any record or other information that identifies a user of library services as requesting or obtaining specific materials or services or as otherwise using the Library. Library user records may be disclosed only in the following circumstances:

- When necessary for the reasonable operation of the library.
- Upon written consent of the user.
- Pursuant to subpoena, upon court order, or where otherwise required by law.
- To a custodial parent or legal guardian who has access to a minor's library card or its authorization number for the purpose of accessing by electronic means library records of the minor.

Any library official, employee, or volunteer who discloses information in violation of this section commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

PROCEDURE:

1. Before approaching an employee, the law enforcement agency, including the FBI, must obtain a search warrant from a court that meets in secret to hear the agency's case.
2. Staff should always immediately ask for identification if they are approached by an officer.

3. Library staff should not respond to informal requests for confidential information. If the officer does not have a court order compelling the production of records, the officer should be informed of the library's confidentiality policy and the state's confidentiality law, and that users' records are not available except when a proper court order in good form has been presented to the library.
4. Unlike a subpoena, a search warrant is executable immediately. However, even in the case of a search warrant, the library can ask to have library counsel present before the search begins in order to allow counsel an opportunity to examine the search warrant and to assure that the search conforms to the terms of the search warrant.
5. A law enforcement officer, even the FBI, may approach staff during regular working hours. Any staff member approached and requested to give information on library records or what library materials a customer is using should refer the requestor to the Library Director, Deputy Director or the Librarian-in-Charge, without furnishing any further information.
6. The Library Director, Deputy Director or Librarian-in-Charge shall immediately contact the office of the Library District Attorney at 970-625-1887. Counsel will review the document's legal sufficiency. The law enforcement officer must be told of this procedure.
7. A law enforcement officer, even the FBI, may approach staff between 5 p.m. and 8 p.m. or on weekends. In this case, the following actions should be taken:
 - a. The officer should be referred to the Librarian-in-Charge.
 - b. Librarian-in-Charge should delegate alternate staff member to attempt to reach the Library Director or Deputy Director.
 - c. The Librarian-in-Charge should take the officer into an office and hear the request. A search warrant must be produced by the officer. The Librarian-in-Charge should ask the officer for identification and carefully read the search warrant to determine the parameters of the search.
 - d. If no one of the Library management staff can be reached, then a call should be made to the District Attorney's office. If there is no one there to take a call, a voice mail message should be left for District Attorney.
 - e. After these calls have been made and if no further advice is forthcoming, the Librarian-in-Charge must comply with the warrant.
8. If the warrant lists a name which the officer wants the library staff person to search in the borrower database:
 - a. The Librarian-in-Charge should do the search personally, so as not to compromise confidential information that is not subject to the current search.
 - b. If the name appears in the borrower database, then the Librarian-in-Charge must make a screen print of the list of materials checked out to the card holder and hand it to the officer.

- c. If there is no match for the name as it appears on the search warrant, **no further action** should be taken. The database should be closed and the interview ended.
- 9. If further questions are asked by the officer, the Librarian-in-Charge may answer from personal experience, but not from the database. Or the staff member may request the officer to return when legal counsel is available to sit in on the interview.
- 10. Any inquiry from the FBI or other law enforcement must be reported to the Library Director, Deputy Director and/or Branch Manager by phone or e-mail as quickly as possible and followed up with a written Incident Report form.
- 11. No information about the search may be given to anyone other than the Library Director, Deputy Director and/or Branch Manager and the District Attorney's staff. Remember that warrants under the USA Patriot Act contain gag orders. As a result, no information can be disclosed to any other party, including the customer whose records are the subject of the search warrant. (The gag order does not prevent consultation with legal counsel.)
- 12. Any inquiries from reporters or other media must be referred to Library Administration.

Reviewed by District Attorney October 16, 2006
Approved by the Board of Trustees November 3, 2006