

Records Confidentiality and Disclosure Policy and Procedures **of the White Oak Library District**

A. CODE OF ETHICS (Policy 2.006)

The White Oak Library District endorses the American Library Association's Code of Ethics and abides by its principles in providing service to the general public and administering the Library.

American Library Association Code of Ethics, Adopted by ALA Council, June 28, 1995:

As members of the American Library Association, we recognize the importance of codifying and making known to the profession and to the general public the ethical principles that guide the work of librarians, other professionals providing information services, library trustees and library staffs.

Ethical dilemmas occur when values are in conflict. The American Library Association Code of Ethics states the values to which we are committed, and embodies the ethical responsibilities of the profession in this changing information environment.

We significantly influence or control the selection, organization, preservation, and dissemination of information. In a political system grounded in an informed citizenry, we are members of a profession explicitly committed to intellectual freedom and the freedom of access to information. We have a special obligation to ensure the free flow of information and ideas to present and future generations.

The principles of this Code are expressed in broad statements to guide ethical decision-making. These statements provide a framework; they cannot and do not dictate conduct to cover particular situations.

- I. We provide the highest level of service to all library users through appropriate and usefully organized resources; equitable service policies; equitable access; and accurate, unbiased, and courteous responses to all requests.
- II. We uphold the principles of intellectual freedom and resist all efforts to censor library resources.
- III. We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.
- IV. We recognize and respect intellectual property rights.
- V. We treat co-workers and other colleagues with respect, fairness and good faith, and advocate conditions of employment that safeguard the rights and welfare of all employees of our institutions.

- VI. We do not advance private interests at the expense of library users, colleagues, or our employing institutions.
- VII. We distinguish between our personal convictions and professional duties and do not allow our personal beliefs to interfere with fair representation of the aims of our institutions or the provision of access to their information resources.
- VIII. We strive for excellence in the profession by maintaining and enhancing our own knowledge and skills, by encouraging the professional development of co-workers, and by fostering the aspirations of potential members of the profession.

B. PRIVACY AND CONFIDENTIALITY OF PATRON-IDENTIFIABLE INFORMATION (Policy 4.001)

As a public library, the White Oak Library District is a government institution bound by the United States Constitution. The District's confidentiality policies aim to uphold the First Amendment, which guarantees freedom of speech, of the press, of assembly and association, and the constitutional right to privacy, protecting library patrons from government intrusion or dissemination of personal information in which they have a reasonable expectation of privacy.

The District recognizes its responsibility to protect its patrons' intellectual freedoms by maintaining the confidentiality of all records and information concerning each patron and his or her use of library materials, facilities and services. The Illinois Library Records Confidentiality Act confirms this duty with respect to District registration and circulation records.

All patron-identifiable information is strictly confidential. This includes all records, files, computers and electronic media that might contain such information.

Patron-identifiable information refers to a wide range of information kept by the Library, but most importantly includes any information that links a patron to use of particular Library materials or services, or the patron's choices, taste, interest, or research. More broadly, patron-identifiable information is any information which:

(a) Refers to a patron by any identifiable characteristic (e.g., by name, address, telephone or other contact numbers, email address, identifying numbers such as patron number, license number or social security number, or by employment information); or

(b) Provides, or could be used to determine, any information about a patron's library use. This means all types of registration and circulation records and anything that contains registration and circulation records, including computers, computer components, disks and other electronic storage media, email, temporary internet files stored in a computer, computer sign-up sheets or other facility-use logs, inter-library loan requests and records, patron requests to reserve, recall or obtain certain materials, reference librarian notes pertaining to patron requests or assistance, and correspondence with patrons; even records which do not include a patron's name, but refer to some other identifiable characteristic, such as the patron's library card number, are patron-identifiable.

Patron-identifiable information does not include statistical records relating to use of the library or its materials and services that cannot be used to identify particular patrons or information concerning behavioral issues.

Any staff member, who is unsure whether certain information is patron-identifiable, or whether a certain record or thing could contain patron-identifiable information, should contact the Director or Designated Staff Member.

Confidentiality of patron-identifiable information is protected by the following policies:

1. Staff Members.

Staff will under no circumstances disclose any patron-identifiable information about any patron to the public, the press, or to any government agency, or even to the patron's own family members. Staff should not permit anyone access to, or a view of, any non-public computers, files, or records which might contain patron-identifiable information. Staff may disclose patron-identifiable information only under the following circumstances:

- (1) A patron may have access to any records the District holds about him or her, if the patron presents his or her library card.
- (2) If the patron is a minor, the minor's parent or legal guardian may have access to any records the District holds about the minor, if the minor's library card is presented.
- (3) A caller who provides the name and correlating library card number of a library patron can receive only the following information:
 - * The number of items on loan;
 - * The title or subject of a requested item when it becomes available for pick-up; and
 - * Outstanding charges on the record.
- (4) To provide the following information to law enforcement officers:
 - (a) the name and description, if personally known to the staff member, of any person who has committed, is committing, or threatens to commit a crime affecting District staff or members of the Board of Library Trustees, patrons or users, or District property; and
 - (b) to the extent the staff member is a witness to such a crime, any other information relevant to the crime that is personally known by the staff member.

The Director should be contacted immediately if a staff member:

- * Is approached with or learns of any subpoena, court order, warrant or other legal process directed to the District or relating to District property;
- * Learns that certain patron-identifiable information may pertain to a crime (*e.g.*, finding child pornography on a computer); or
- * Believes any patron-identifiable information has been improperly disclosed or may be at risk of being improperly disclosed; or
- * Has any questions about the confidentiality policy.

2. The Director or Designated Staff Member

Only the Director or Designated Staff Member(s) are authorized to disclose any patron-identifiable information under circumstances other than those listed above.

The District will generally refuse to disclose any patron-identifiable information unless required to do so by a subpoena, court order, warrant or other process appropriate under the circumstances which is properly issued and authorized by federal, state or local law relating to civil, criminal or administrative discovery procedures or legislative investigatory power. Any costs incurred by the District due to compliance with any such subpoena, court order, warrant or other process will be charged to the agency seeking it.

There are several limited exceptions which permit or even require the District to voluntarily disclose certain electronic communications under the Federal Electronic Communication Privacy Act.

This law *permits* the District in certain circumstances to disclose the contents of certain electronic communications, such as email, temporary Internet files, and other content transmitted, received, viewed, downloaded or printed on a library computer. The Director or Designated Staff Member(s) may divulge the contents of an electronic communication:

- (1) To an addressee or intended recipient of the communication;
- (2) In any way consistent with the consent of the originator or an addressee or intended recipient of the communication; or
- (3) To a law enforcement agency:
 - i. if the contents were inadvertently obtained by the District and appear to pertain to the commission of a crime; or
 - ii. if the District reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person requires disclosure of the information without delay.

Federal law *requires* the District to report possible violations of child pornography laws to the Cyber Tip Line at National Center for Missing and Exploited Children (www.cybertipline.com). Reports received by the Cyber Tip Line are forwarded to the appropriate law enforcement agencies. The District's attorney(s) may be consulted if there is any doubt whether certain material is child pornography or whether a certain act is a violation of child pornography laws. The District is protected from liability for good faith disclosure to the Cyber Tip Line.

If law enforcement asks the District to retain certain electronic communications in storage (such as on a computer hard drive, disk or other storage medium), it must preserve such communications for at least 90 days following the request, and for an additional 90 days if the request is renewed. However, the District will require the appropriate legal process before providing access to the preserved communications.

D. RECORD KEEPING POLICY (Policy 4.003)

1. Introduction

Privacy of personal information is an increasing concern of many Americans. Personal information about individuals has become a commodity, bought and sold by marketing concerns, as well as a tool of criminals who steal the identities of unwitting victims. Courts have found that certain law enforcement agencies have abused their powers to obtain personal information beyond their authority.

In an effort to minimize unreasonable intrusions and investigation of library patrons, and in light of the District's interest in preserving intellectual freedom and preventing self-censorship by patrons who fear that their interests may be misinterpreted or exploited, the District has adopted the following policy to reduce patron-identifiable information which may be obtained improperly and misused.

2. Record Keeping

- (a) The District maintains records in compliance with the laws of the State of Illinois.
- (b) The District will make all practicable efforts to retain records containing patron-identifiable information only to the extent necessary to preserve library or public property or to fulfill another core District function.
- (c) To the extent that such records are necessary, the District will strive to make them non-patron-identifiable or minimally patron-identifiable.
- (d) All patron identifiable information, holdings, holds placed, and other records are contained in the shared library catalog/database.

3. Staff Responsibilities

- (a) All staff members should review their own and their department's record keeping procedures to make them conform faithfully to this policy.
- (b) Any staff member who has any questions about this record keeping policy, or believes any patron-identifiable information or record can be made to conform more faithfully to this policy, should contact the Director.

Appendices

Appendix A

Patriot Act

USA Patriot ACT ("Patriot Act") passed by Congress in October, 2001 provides Federal law enforcement agencies additional investigation tools for cases involving foreign intelligence and terrorism. The Patriot Act, which amends multiple Federal Statutes, is focused on the ability of Law Enforcement Officials to access records during an investigation.

Under the Patriot Act increased visits to Public Libraries by Law Enforcement Officials have been reported. Concerns have been expressed about how to comply with the Patriot Act and still maintain confidentiality of library records. This Memorandum is provided to assist in your development of a policy pertaining to requests for library records under the Patriot Act.

Appendix B

USA PATRIOT ACT vs. LIBRARY RECORDS CONFIDENTIALITY ACT

The Patriot Act as a federal law, and any other Federal legal request for information supercedes the state Illinois Library Confidentiality Act which states:

The registration and circulation records of a library are confidential information. Except pursuant to a court order, no person shall publish or make any information contained in such records available to the public [75 ILCS 70/I (a)].

Because the legal request for information under the Patriot Act (and any other federal search warrant or subpoena) are FEDERAL requests they supercede any state or local law (including the Library Records Confidentiality Act). A Court Order or Search Warrant is necessary under either Act for access to or release of records. Please note that the Patriot Act requires confidentiality about the issuance of a Search Warrant/Court Order and its execution. The fact that library personnel are served with a Search Warrant/Court Order should not be disclosed to anyone, especially the patron whose records are the subject of the Search Warrant/Court Order.

Appendix C

SEARCH WARRANT vs. SUBPOENA

There are differences between a Search Warrant and a Subpoena. The time frame for compliance is a key difference. Libraries may have had experience responding to Subpoenas seeking information unrelated to registration or circulation records (e.g., Subpoena for garnishment of an employee's wages). Few libraries have been the subject of a Search Warrant. With a Subpoena (with the exception of a FEDERAL subpoena or a FEDERAL request for information under the Patriot Act), a library has time to comply. With a Search Warrant, compliance can be immediate.

Subpoena: A Subpoena is a document that requires someone to give testimony and/or produce documents pertinent to a pending case. Typically, a Subpoena is issued by one of the parties in the case. A Subpoena specifies an appearance in Court or production of documents at a designated time and location. As an example, a Subpoena may be issued to someone who witnessed a traffic accident requiring the witness to appear in Court to testify.

The time period between the date a Subpoena is served and the date of compliance affords time to discuss with the Library's Attorney procedures for Subpoena compliance. The scope of the Subpoena, especially a Subpoena for production of records/documents, can be assessed. A Court Order can be obtained, if necessary, to protect both the Library and a patron as to issues of confidentiality.

Federal Subpoena or Federal Request for Information under the Patriot Act: While in many way similar to a state or local subpoena, the Federal legal requests often require immediate compliance.

Search Warrant: A Search Warrant is a Court Order issued by a Judge or Magistrate directed to a Law Enforcement Officer (e.g., FBI, Police) Authorizing the search and seizure of property described in the Search Warrant. Unlike a Subpoena, a Search Warrant may be "executed" immediately and may not allow time to evaluate the legality of the Search Warrant's issuance or assess the scope of the Search Warrant. The Officer may begin to search and seize evidence as soon as the Search Warrant is executed, i.e., when the Search Warrant is personally delivered to District Staff.