

Washington Public Library

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Release of Confidential Patron Records to Law Enforcement Personnel Policy

The Washington Public Library abides by the New Jersey Confidentiality of Library Records Law (N.J.S.A. 18A:73-43.1 et seq.), which states that: "Library records which contain the names or other personally identifying details regarding the users of libraries are confidential and shall not be disclosed except in the following circumstances:

- The records are necessary for the proper operation of the library.
- Disclosure is requested by the user, or
- Disclosure is required pursuant to a subpoena issued by a court or court order."

In keeping with the law, the Washington Public Library staff shall not respond to any informal request by a third party for personally identifiable information about any library patron. Such information includes, but is not limited to, database search records, reference interviews, e-mail requests for information, circulation records, interlibrary loan records, and other personally identifiable uses of library materials, resources, or services.

Confidential patron records may be consulted and used by library staff in the course of carrying out library operations, but shall not be disclosed to others (including law enforcement) except upon the request or consent of the library user, or pursuant to a subpoena issued by a court, a court order, or a search warrant (all of which must be signed by a judge), in accordance with the procedures that follow.

Procedure

If a staff member is approached by a law enforcement officer requesting the production of confidential library patron records the staff member shall:

1. Not disclose any information.
2. Ask for identification, photocopy identification provided, and then immediately refer the officer to the Library Director, the President of the Board of Trustees or the person in charge of the library.

The person to whom the officer is referred shall:

1. Immediately contact the Library Director or the President of the Board of Trustees to inform him/her of the situation.
2. If the officer does not have a subpoena issued by the court, a court order, or a search warrant (all of which must be signed by a judge), the Library Director or the President of the Board of Trustees should give the officer a copy of New Jersey's Confidentiality of Library Records Law (N.J.S.A. 18A: 73-43.1 et seq.), and tell the officer that the library cannot lawfully disclose library records without a subpoena, court order or search warrant signed by a judge.
3. The Library Director and/or the President of the Board of Trustees shall then contact Washington Borough's Counsel for guidance and direction.
4. If there is no subpoena, court order, or a search warrant presented, then the law enforcement officer has no authority to compel cooperation with an investigation or require answers to questions (other than the name and address of the person speaking to him/her.) If the officer makes an appeal to patriotism, the Director or the President of the Board of Trustees will explain that, as good citizens, the library staff will not respond to informal requests for confidential information, in conformity with professional ethics, First Amendment freedoms and state law.

Approved by the Board of Trustees
October 26, 2009

5. If presented by a law enforcement officer with a subpoena and/or a court order:
 - a. The Library Director or the President of the Board of Trustees should obtain the subpoena and/or the court order from the law enforcement officer.
 - b. The Library Director or the President of the Board of Trustees shall then contact Washington Borough's Counsel to obtain guidance and direction, and provide him/her with the subpoena or court order for review.
 - c. No staff member shall provide any confidential library patron information to the law enforcement officer until directed to do so by the Library Director or the President of the Board of Trustees.
 - d. Counsel should examine the subpoena for any legal defect, including the manner in which it was served on the library, the breadth of its request, its form, or an insufficient showing of good cause made to a court. If a defect exists, counsel will advise on the best method to resist the subpoena.
 - e. Through legal counsel, the Library Director or the President of the Board of Trustees will insist that any defect be cured before records are released and that the subpoena is strictly limited to require release of specifically identified records or documents.
 - f. The library may seek a protective order (drafted by Washington Borough's Counsel) from a court of competent jurisdiction requesting to keep the information requested confidential and limiting its use to the particular case and those persons working directly on the case.
 - g. If disclosure is required, prior to disclosing the documents, the information to be produced in response to the subpoena or court order must be reviewed, a catalog of the documents to be produced to the law enforcement officer prepared, and the officer's signature thereon obtained, which shall serve as a receipt.
6. When presented by a law enforcement officer with a court order in the form of a search warrant:
 - a. Obtain the search warrant from the law enforcement officer.
 - b. Verify that the warrant is signed by a judge.
 - c. Review the warrant to determine the specific documents requested.
 - d. A search warrant is executable immediately, thus the officer may begin a search as soon as the library is served with the warrant.
 - e. Immediately contact the Library Director or the President of the Board of Trustees and provide him/her with the search warrant.
 - f. The Library Director or the President of the Board of Trustees shall contact Washington Borough's Counsel to obtain guidance and direction, and provide him/her with the search warrant for review.
 - g. Cooperate with the search to ensure that only the records identified in the warrant are produced and that no other user's records are viewed, scanned, copied or removed from the library.
 - h. If disclosure is required, prior to disclosing the documents, review the information to be produced pursuant to the search warrant, prepare a catalog of the documents to be produced to the law enforcement officer, and obtain the officer's signature thereon, which shall serve as a receipt.
7. If the court order is a search warrant issued under the Foreign Intelligence Surveillance Act (FISA) (US Patriot Act Amendment):
 - a. Follow all procedures above applicable to a search warrant.
 - b. A search warrant that is issued by a FISA court contains a gag order. You must comply with this order. Do not disclose to any other party, including the patron whose records are the subject of the warrant, that this warrant has been served or that records have been produced.