



Glenwood Public Library Policy

Privacy and Confidentiality Policy

2018.08.08

August 8, 2018

Approved By Glenwood Public Library Board of Trustees

Library Director Signature

Staff Signatures

<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

PURPOSE:

This policy provides information regard the laws and regulations that libraries must follow to ensure privacy and confidentiality. Violation of this policy is considered a serious offence and will be dealt with as such.

SCOPE:

This policy applies to the library director, all staff members both full and part time and to all board members. It also applies to volunteers and others who support that library that may have access to confidential information.

POLICY:

1. The Board of Trustees affirms that privacy and confidentiality of library records and transactions are essential to protect the exercise of the First and Fourth Amendment rights of the Constitution of the United States of America.
2. In accordance with these rights, and along with the Code of Iowa, and the Code of Ethics of the American Library Association, the Board of Trustees of the Glenwood Public Library expresses its respect for the privacy of users and recognizes its responsibility to protect their privacy.
3. Section 22.7, *Code of Iowa*, specifically prohibits release of circulation transactions, patron information and information maintained by the library. Records of circulation transactions and information requests maintained by the library are confidential, and such records shall not be made available to anyone including any agency of state, federal, or local government except as required by law.
4. The following information will only be shared with designated officials in the prescribed manner.
 - a. The Library Director is designated as the official custodian of the library's public record.
 - b. Access to the records shall only be granted during the hours the library is open.
 - c. Access to the records shall only be granted under the supervision of the Library Director, or a staff member specifically authorized by the Director.
 - d. Staff should immediately ask for identification if they are approached by an agent or officer, and then immediately refer the agent or officer to the library director or other designated officer of the institution.
 - e. The director or officer should meet with the agent with the city attorney or another colleague in attendance.
 - f. The city attorney will be involved in this process as much as possible.
 - g. If the agent or officer does not have a court order compelling the production of records, the director or officer should explain the library's confidentiality policy and the state's

- confidentiality law, and inform the agent or officer that users' records are not available except when a proper court order in good form has been presented to the library.
- h. Without a court order, neither the FBI nor local law enforcement has authority to compel cooperation with an investigation or require answers to questions, other than the name and address of the person speaking to the agent or officer. If the agent or officer persists, or makes an appeal to patriotism, the director or designee should 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.
 - i. If the agent or officer presents a court order, the library director or designee should immediately refer the court order to the library's legal counsel for review.
5. If the court order is in the form of a subpoena:
- a. The city attorney 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.
 - b. Through legal counsel, 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.
 - c. Require that the agent, officer, or party requesting the information submit a new subpoena in good form and without defects.
 - d. Review the information that may be produced in response to the subpoena before releasing the information. Follow the subpoena strictly and do not provide any information that is not specifically requested in it.
 - e. If disclosure is required, ask the court to enter a protective order (drafted by the library's counsel) keeping the information confidential and limiting its use to the particular case. Ask that access be restricted to those persons working directly on the case.
6. If the court order is in the form of a search warrant:
- a. A search warrant is executable immediately, unlike a subpoena. The agent or officer may begin a search of library records as soon as the library director or designee is served with the court's order.
 - b. Ask to have library counsel present before the search begins in order to allow library counsel an opportunity to examine the search warrant and to assure that the search conforms to the terms of the search warrant. The court order must have been entered for good cause.
 - c. Cooperate with the search to ensure that only the records identified in the warrant are produced and that no other users' records are viewed or scanned.
7. If the court order is either a subpoena or a search warrant issued under the Foreign Intelligence Surveillance Act (FISA) (USA PATRIOT Act amendment):
- a. The recommendations for regular subpoenas and search warrants still apply. However, subpoenas and search warrants issued by a FISA court also contain a "gag order." That

means that no person or institution served with the warrant can disclose that the warrant has been served or that records have been produced pursuant to the warrant.

- b. If it is a FISA subpoena, then the FISA judge is supposed to fix a “time to respond”, which may be a period of days or may be immediately. Like other search warrants, FISA warrants are executable immediately.
 - c. The library and its staff must comply with this order. No information can be disclosed to any other party, including the patron whose records are the subjects of the search warrant.
 - d. The gag order does not change a library’s right to legal representation during the search. The library can still seek legal advice concerning the court order and request that the library’s legal counsel be present during the actual search and execution of the court order.
 - e. FISA orders may be challenged in court. Librarians should seek legal counsel to determine if circumstances support such a challenge.
8. If the order is a National Security Letter (NSL) issued under Section 505 of the USA PATRIOT Act:
- a. The recommendations for a regular subpoena still apply. However, like a FISA order, an NSL also contains a gag order. That means that no person or institution served with the NSL can disclose that the NSL has been served or that records have been produced pursuant to the NSL. The gag order does not prevent consultation with legal counsel.
 - b. NSLs may be challenged in court. Librarians should seek legal counsel to determine if circumstances support such a challenge.
9. Regulations
- a. *USA PATRIOT Act*: The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) became law on October 26, 2001. It has gone through many changes throughout the years. The Library Director and the Board of Trustees will continually monitor legislation and change this Privacy and Confidentiality Policy accordingly.
10. Guidelines
- a. At no time will the custodian of records (the Library Director) or other staff members release records of circulation transactions or information requests except under court order.
 - b. The Board of Trustees will resist the issuance or enforcement of any such process, order or subpoena, until such time as a proper showing of good cause has been made in a court of competent jurisdiction.
 - c. All library employees should be aware that confidentiality of circulation transactions and information requests are both library policy and state law.
 - d. Failure to comply with this policy may result in termination.
11. Parent Child Information
- a. Even when parents inquire as to the titles of items their children have borrowed, library policy and state law dictate that parents may be told how many items are out and when

they are due, but may not be told the titles of the items, unless necessary for the collection of overdue fines, or loss or injury to materials or equipment.

- b. Such information may only be released to the person who has borrowed the items.