

Rising City Community Library Privacy of Library Records and Library Use

Rising City Community Library has established this policy in our best effort to protect the privacy of library records and the confidentiality of patron use of the library. In addition, the Rising City Community Library Board and Staff supports the principle of freedom of inquiry for library patrons, and has adopted this policy to protect against the unwarranted invasion of the personal privacy of library users.

All library records which indicate the identity of any individual who borrows or uses the library's documents or other materials, resources or services including electronic devices may *only* be disclosed:

- (1) with the consent of the individual library user, or
- (2) by court order, or
- (3) to custodial parents or guardians of children under the age of 19, or
- (4) to persons acting within the scope of their duties in the administration of the library or library system, or
- (5) to other libraries for interlibrary loan purposes.

These conditions will only be disclosed to the extent needed to satisfy the request (i.e. a social security number is not needed for an interlibrary loan and would not be disclosed to the loaning library.)

Records indicating the identity of library users include a library users name, physical image, library card number, social security number, telephone number, street address, post-office box number or 9-digit extended zip code.

Rules to be followed by library staff

- (1) Library staff may only disclose library records indicating the identity of library users under the following conditions:
 - a) disclosure to staff members of the Rising City Community Library, and the staff of other libraries and library systems only according to written procedures that comply with local and state laws and regulations as well as regulations set forth by the Nebraska Library Commission and that are approved by the Director or Board.
 - b) disclosure as authorized by the individual library user
 - c) disclosure to custodial parents or guardians of children under the age of 19 (see below for handling of requests from custodial parents or guardians)
 - d) disclosure pursuant to court order (see below for handling of different types of court orders)

- e) if someone's life or safety is at risk, library records may be released to appropriate individuals or officials without a court order in instances where time is sensitive, such as an abduction or missing child.
- (2) Library staff must refer all requests for library records and all requests for information about particular library users to the library director or board.
- (3) Library staff are not allowed to share information about use of library resources and services by identified library patrons except as necessary for the performance of their job duties and in accordance with procedures approved by the library director and/or board.

Handling requests from custodial parents or guardians of children under the age of 19
Requestor must be the child's legal parent or guardian. The Library staff will:

- (1) request identification
- (2) if the requestor is the parent or guardian listed on the child's library record and the requestor resides at the same address, the staff may provide the requested information; otherwise the staff will
- (3) obtain guardian information and contact the guardian for written permission to release the records.
- (4) The staff may then grant the request or refer the request to the Library Director or designee.

The Library staff will attempt to satisfy the request as soon as practicable and without unreasonable delay. In most cases this will be at the time of the request. If there is a question of the requester's guardianship, the staff person may delay the request until review by the Library Director and / or Library Board. If a request is denied by the Library staff, the requester can appeal in writing to the Library Board.

Normal photocopy/printing charges will be assessed to the requester for copies of records provided..

Handling of court orders

[Note: All search warrants are court orders, but *not* all subpoenas are court orders. Library staff may not disclose library records in response to a subpoena that is not a court order if those records indicate the identity of library users.]

If a law enforcement officer (or anyone else) brings a subpoena directing library staff to produce library records:

- (1) Notify the library director, or if the director is not available, notify the highest-ranking staff person on duty.
- (2) The library director or the highest-ranking staff person should ask the municipal attorney (or library counsel) to review the subpoena.
- (3) If the subpoena has any legal defects, require that the defects be cured before records are released.
- (4) If appropriate, ask legal counsel to draft a protective order to be submitted to the court keeping the requested information confidential and limiting its use to the particular case.

(5) Follow legal counsel's advice for compliance with the subpoena.

If law enforcement officers bring a court order in the form of a search warrant:

- (1) A search warrant is executable immediately, unlike a subpoena. The law enforcement officers may begin a search of library records as soon as they enter the library.
- (2) Request that the law enforcement officers wait until the municipal attorney (or library counsel) is 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. (The law enforcement officials are *not* required to accede to your request to delay the search.)
- (3) Cooperate with the search to ensure that only the records identified in the warrant are produced and that no other users' records are disclosed.

If FBI agents bring a court order in the form of a search warrant issued under the Foreign Intelligence Surveillance Act (FISA):

- (1) A search warrant is executable immediately, unlike a subpoena. The law enforcement officers may begin a search of library records as soon as they enter the library.
- (2) Request that the law enforcement officers wait until the municipal attorney (or library counsel) is 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. (The law enforcement officials are *not* required to accede to your request.)
- (3) Cooperate with the search to ensure that only the records identified in the warrant are produced and that no other users' records are disclosed.
- (4) It is illegal to disclose to any other person (other than those persons necessary to produce the tangible things sought in the warrant) that the Federal Bureau of Investigation has sought or obtained records or other items under the Foreign Intelligence Surveillance Act (FISA).

The USA Patriot Act amended the Foreign Intelligence Surveillance Act (FISA) to allow the FBI to apply for a court order requiring the "production of any tangible things (including books, records, papers, documents and other items) for an investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment..."

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